

UNIT – I

SALIENT FEATURES OF THE CONSTITUTION

The Indian Constitution has some salient features. These features give Indian Constitution a distinct identity. It is based on the features of different constitutions of the world. In the words of Dr. Ambedkar, The Indian constitution was prepared “after ransacking all the known Constitutions of the world”. The features which have been borrowed from other Constitutions have been modified in the light of the needs of our country.

The basic features of the Constitution unfold before the learners the essential features inherent in the Constitution.

1. **Longest Constitution in the World:** Indian Constitution, adopted by the Constituent Assembly on November 2, 1949 is the *longest Constitution* originally containing 395 Articles, divided into 22 parts and 9 schedules. Incorporated with 102 Amendments to the constitution. It has been a model for many developing countries.
2. **Ideals:** The ideals of socialism, secularism and democracy are enshrined and elaborated by the enacting provisions.
3. **Socialist and Secular:** The Preamble of the Constitution has incorporated the term ‘*Socialist and Secular*’ through the 42nd amendment of the Constitution in 1976. *Socialist* means the nationalisation of the means of production and equal distribution of wealth whereas *Secular* aims at the separation of religion from the State.
4. **Sovereignty Resides in the People:** The introduction to the Constitution declares that the constitution of India was adopted and enacted by the people of India and they are the custodians of the republic.
5. **Parliamentary Form of Government:** The Constitution of India establishes a parliamentary form of government both at the Centre and the States. In a Parliamentary form of government, the Prime Minister and Council of Ministers are responsible for all their actions to the government, particularly to the Lower House, *Lok Sabha*. When they lose their confidence with the people they should resign. When they refuse to resign the opposition parties will move a no-confidence motion and remove the government from power.
6. **Unique Blend of Rigidity and Flexibility:** Though India has a written constitution, the Indian constitution is not as rigid as the American constitution. It has incorporated the flexible nature in the procedures for amendments. There are three methods by which the constitution is amended. In other words, the procedure for amendment is simple, clear and well-articulated and not cumbersome.
7. **Fundamental Rights:** The Fundamental Rights are guaranteed by the constitution to all its citizens through Part III of the constitution. The Fundamental Right deals with political and civil rights. It guarantees Rights to Equality, Right to Freedom, Freedom of Religion, Right against Exploitation, Educational and Cultural rights and Rights to Constitutional Remedies. One can approach the Supreme Court directly in case of violation of Fundamental Rights.
8. **Directive Principles of the State Policy:** Part IV of the constitution deals with *Social, Economic and cultural Rights*. However, they are not justifiable in the court of law. The idea of a ‘Welfare State’ envisaged in our Constitution can only be achieved if the States endeavor to implement them with a high sense of moral duty.
9. **Quasi - federal in Nature:** The nature of the State is federal, in the sense that the powers are distributed between the Union and the State. But in times of emergency arising out

external danger the Union Government assumes a unitary character and the union is empowered to legislate for all the States.

10. **Adult Suffrage:** All adult citizens above 18 are given the right to vote.
11. **Independence of Judiciary:** The Indian judiciary is independent as per the norms of separation of powers. The features that go with the independence of Judiciary are direct appointment by the President, given decent salaries and perks on one hand, whereas judges cannot be removed, simply by executive.
12. **Judicial Review:** India borrowed this feature aspect from US. The judiciary can declare a law passed by the Union or State government as unconstitutional or null and void when it violates the rights guaranteed under the Fundamental rights to the people of India.
13. **Fundamental Duties:** The Fundamental Duties are incorporated to the amendment. A set of ten duties are incorporated under the Fundamental Duties under Article 51 A.

MAIN SOURCES OF INDIAN CONSTITUTION

India, also known as Bharat is a sovereign, socialist, secular, democratic, republic with a parliamentary system of government. The republic is governed by the constitution of India which was adopted on 26th November, 1949 and came into force on January 26th, 1950.

Since the constitution of India was adopted on November 26th, 1949, this day is observed as Samvidhan Diwas or Constitution Day in India. It came into force two months later to mark the anniversary of “poorna swaraj” hence; this day is celebrated as Republic Day in India.

The constitution of India is the lengthiest written constitution in the world. The unique feature of the constitution of India is that it has adopted provisions from various other constitutions suiting the aspirations and challenges of the Indian population.

Important Sources of Indian Constitution at a Glimpse

Government of India Act 1935	Federal Scheme Emergency Provisions Public Service Commissions Office of Governor Judiciary Administrative Details
Constitution of the United States	Preamble Fundamental Rights The federal structure of government Electoral College Independence of the judiciary and separation of powers among the three branches of the government Judicial review President as Supreme Commander of Armed Forces Equal protection under law
British constitution	Parliamentary form of government The idea of single citizenship The idea of the Rule of law

	Writs Institution of Speaker and his role Lawmaking procedure Procedure established by Law
Irish constitution (Ireland)	Directive Principles of State Policy Nomination of members to Rajya Sabha Method of Election of President
Australian constitution	Freedom of trade and commerce within the country and between the states Power of the national legislature to make laws for implementing treaties, even on matters outside normal Federal jurisdiction Concurrent List
French constitution	Republic and the ideals of Liberty, Equality and Fraternity in the Preamble
Constitution of South Africa	Procedure for amendment Election of Rajya Sabha members
Constitution of Soviet Union (USSR)	Fundamental Duties under Article 51-A A Constitutionally mandated Planning Commission to oversee the development of the economy
Constitution of Germany	Emergency powers to be enjoyed by the Union Suspension of Fundamental Rights during an emergency.
Constitution of Japan	Procedure Established by Law
Constitution of Russia	Fundamental Duties Idea of Social, Economic, and Political Justice in Preamble

POLITICAL SYSTEM AND HISTORY

Present day India is a federal state with 28 federated entities divided among seven unions. Its system of government is parliamentary and based on the Westminster model. India first came into contact with the west in the early 18th century when it was annexed by the British East India Company. In the mid-19th century, it fell under British colonial rule. The colonial administration in British India or British Raj – as it was also called - was headed by a Viceroy who also cumulated the title of Governor General until 1947 when a struggle for independence, marked by a widespread nonviolent resistance movement resulted in independence from the British Colonial Empire.

Constitutional history and development

Prior to the constituent assembly that convened in 1948 to draft the Indian constitution adopted in 1950 and still in force to date, the fundamental law of India was mostly embodied in a series of statutes enacted by the British Parliament. Key among them was the Government of India Acts of 1919 and 1935.

The Government of India Act of 1919

Passed as a measure of gratitude for India's role in world war one, the primary purpose of this act was to expand native participation in the government. Key reforms of the Act were the establishment of a dual form of government with limited powers for the major provinces. The imperial legislative council was transformed into a bicameral legislature for all India. Finally, the Act established the position of a High Commissioner with residence in London to Represent India in the United Kingdom.

The Government of India Act of 1935

This Act was adopted in response to opposition and criticisms from the National Congress of India to the 1919 Act for doing too little in terms of granting autonomy. Its key provisions included:

- Abolition of the dual form of government or diarchy and the granting of a larger degree of autonomy for the provinces
- Establishment of a Federation of India (which never came into force though)
- Introduction of direct suffrage and extension of the franchise to 37 million people from the original 5 million
- Membership of the provincial assemblies was altered so as to include more elected Indian representatives, who were now able to form majorities and be appointed to form governments
- The establishment of a Federal Court

The Constituent Assembly of 1948 and the Constitution of 1950

In 1946, the British decided to examine the possibility of granting independence to India. As a result, a British cabinet mission was dispatched to India to (1) hold discussions with the representatives of British India and the Indian States in order to agree on the framework for writing a constitution, and (2), set up a constituent body and an executive council. Following this mission and the ensuing negotiations, a Constituent Assembly was indirectly elected by the provincial legislatures comprising 278 representatives and 15 women. Parties represented in the CA were the Congress Party which had a majority, Muslim League, Scheduled Caste Federation, the Indian Communist Party and the Union Party. The CA met for the first time in December 1946 and by November 1949 the draft constitution was approved. The constitution went into effect in January 1950 and the CA was transformed into a Provisional Parliament.

The Constitution which is still in force has been amended over 90 times making it one of the most frequently amended constitutions in the world. It is also known to be one of the longest and most detailed in the world with 395 articles and 10 appendixes called schedules. Extensively modeled on western legal and constitutional practice, its key features include:

- The establishment of a federal system with residual powers in a central government
- A list of fundamental rights
- A Westminster style parliamentary system of government

Key timelines in the 1948 constitutional process

1946	Britain decides on to grant independence to India and cabinet mission is dispatched to India to discuss modalities for transfer of power
14 August 1947	Proposal for creation of committees is tabled
29 August 1947	Drafting committee is established
6 December 1947	Constituent Assembly formally convenes for the first time, following elections, to start the process of writing a constitution.
4 November 1947	Draft is finalized and submitted
1948 – 1949	Constituent Assembly meets in sessions open to the public
26 November 1949	Constituent Assembly adopts final draft making it official
26 January 1950	Entry into force of the new constitution

CITIZENSHIP

The term citizenship refers to the enjoyment of full membership of any community or state in which a citizen; enjoys civil and political rights. It can be defined as a legal relationship of an individual with a particular state which is expressed by pledging his loyalty towards state and by carrying out duties like paying taxes, serving in the army during need, respecting national principles and values etc.

Constitutional Provisions for Citizenship

The Constituent Assembly incorporated a generalized provision through Article 11 for the Parliament to regulate the citizenship by law. However, when it adopted the Constitution it brought into force Part 2 of Constitution for Citizenship with Articles 5-11 dealing with it which states as follows:

Article 5 states that “every person” who has a domicile in the territory of India and

- Who was born in the territory of India or
- Either of whose parents were born in the territory of India or
- Who has been ordinarily resident in the territory of India for not less than 5 years immediately preceding such commencement shall be a citizen of India

Article 6: Rights of Citizenship of certain persons who have migrated to India from the territory now included in Pakistan shall be deemed to be a citizen of India at the commencement of this Constitution

Article 7: Rights of Citizenship of certain migrants to Pakistan is a special provision for persons who have migrated to Pakistan after March 1, 1947, but returned to India subsequently.

Article 8: These are the Rights of Citizenship of certain persons of Indian origin residing outside India for the purpose of employment, education, and marriage

Article 9: Persons who voluntarily acquire citizenship of a foreign state will not be citizens of India.

Article 10: Every person who is a citizen of India under any provisions of this part will be subject to any law enacted by the Parliament.

Citizenship Act of 1955 and its Amendments

1. Citizenship Act of 1955 deals with the acquisition and termination of citizenship after the commencement of the Constitution. The provisions under it include:
 - A person born in India after 26th January 1950 would-be citizen of India except those of children of diplomats and enemy aliens cannot be citizens of India by birth
 - Any person born after 26th January 1950 would-be citizen of India subject to certain requirements, for example, either parent (mother or father) to be a citizen of India
 - Certain categories of citizens can acquire citizenship by registration in the prescribed manner
 - Foreigners could acquire Indian citizenship by naturalization on certain conditions
 - If any territory becomes part of India, the Government of India could specify the conditions for them becoming citizens
 - Citizenship could be lost by termination, renunciation, deprivation on certain grounds
 - Citizen of a Commonwealth country would have the status of a Commonwealth citizen in India
2. The Citizenship (Amendment) Act of 1986: This act specifically deals with the citizenship of the state of Assam. It mentions those illegal migrants to get citizenship to need to be registered with the Indian consulate in the prescribed format.
3. The Citizenship (Amendment) Act of 1992: According to this Act any person born outside India is considered a citizen of India by virtue of Citizenship by Descent if either of the parents was a citizen at the time of his birth.
4. The Citizenship (Amendment) Act of 2003: This Act introduces several provisions for overseas citizens regarding their registration, rights in India etc.
5. The Citizenship (Amendment) Act of 2005: This Act is based on the recommendations of the Parliamentary Standing Committee on Home Affairs. It provides for dual citizenship to PIO of 16 countries.

Modes of acquisition of Citizenship

1. By birth: The grant of citizenship under this clause is subject to changes according to amendments in place at that time.
2. By registration: Citizenship can be acquired by registering.
3. By Descent: Similar to citizenship by descent this provision also was subjected to changes from time to time
4. By naturalization.
5. By incorporation of territory.

Loss of Citizenship in India

The Citizenship Act of 1955 deals with the loss of citizenship also in addition to acquisition. Accordingly, it is carried by the following means:

1. By renunciation: Any person who has made a declaration stating his willingness to renounce the citizenship shall cease to be the citizen of India.
2. By termination: If a person voluntarily or knowingly becomes a citizen of any foreign country.
3. By deprivation.

Overseas Citizen of India (OCI)

According to the Citizenship (Amendment) Act of 2003, an overseas citizen of India includes a person:

- Of Indian origin being a citizen of a specified country.
- Was citizen of India immediately becoming a citizen of other country and registered as OCI by the central government.

Non-Resident Indian

An NRI is a citizen of India who holds an Indian passport and has temporarily immigrated to other countries either for employment or education or any other purpose.

Persons of Indian Origin

A PIO is a person of India origin whose parents or grandparents are citizens of India but he is not a citizen of India but of other countries. The issue of citizenship plays a vital role in a democratic nation-state and hence citizenship is a significant principle of a democratic polity.

PREAMBLE

Preamble to a constitution is the window to what is there inside the constitution. The Constitution of India has also got a preamble. It is mentioned in the beginning of the Constitution, before the main part, i.e., the part I. The Preamble, gives a glimpse about the philosophy and goals of Indian Constitution. It is a resolution which people of India have passed themselves for their overall development. It is not given to them by any other source than the people themselves. It was written on behalf of the people of India by the members of the Constituent Assembly. The Constitution of India was written by the Constituent Assembly, which consisted of the people's representatives.

The first meeting of the Constituent Assembly took place on 6 December 1946 and ended on 26 November 1949 with the adoption of the Constitution of India which commenced on 26 January 1950.

Objectives Resolution

The text of aims and objectives which were to be discussed in the Constituent Assembly first were prepared by Jawaharlal Nehru in the form of Objectives Resolution. In the Constituent Assembly, it was presented by Jawaharlal Nehru and seconded by Purushottam Das Tandon. Objectives Resolution meant to lay certain ground on which structure of the Constitution could be built after the debates and deliberations in the Constituent Assembly. Objective Resolutions were “in the nature of pledge” which the people of India through Constituent Assembly took for their fulfillment in future. The Resolution laid down certain “Fundamentals” for future constitution of India. And the most important was that Indians would have “Sovereign Indian Republic”. Indeed, it was the first time that as a “Fundamental” for Indian political structure the concept “republic” was used in the Constituent Assembly in Objectives Resolution. When Objectives Resolution was laid in the Constituent Assembly, the representatives of the States were not present, and those of the Muslim League had boycotted it. But Nehru emphasized that despite their absence, the “republic” shall include all of India.

Significance of Objectives Resolution

The Objectives Resolution identified “Fundamentals” which were to guide lines for the structure of Constitutions which the Constituent Assembly has gathered to meet. These “Fundamentals” laid foundations about nature of political system, its territorial boundaries, division of power between union and its constituent units, supremacy of the people as source of all power and authority, social justice to all, and safeguarding interests of minorities. These Foundations as given in the Objectives Resolution of Volume-I, Constituent Assembly debates are given below:

1. This Constituent Assembly declares its firm and solemn resolve to proclaim India as an Independent Sovereign Republic and to draw up for her future governance a Constitution;
2. WHEREIN the territories that now comprise British India, the territories that now form the Indian States, and such other parts of India as are outside British India and the States as well as such other territories as are willing to be constituted into the Independent Sovereign India, shall be a Union of them all; and
3. WHEREIN the said territories, whether with their present boundaries or with such others as may be determined by the Constituent Assembly and thereafter according to the Law of the Constitution, shall possess and retain the status of autonomous Units, together with residuary powers, and exercise all powers and functions of government and administration, save and except such powers and functions as are vested in or assigned to the Union, or as are inherent or implied in the Union or resulting therefrom; and
4. WHEREIN all power and authority of the Sovereign Independent India, its constituent parts and organs of government, are derived from the people; and
5. WHEREIN shall be guaranteed and secured to all the people of India justice, social, economic and political; equality of status, of opportunity, and before the law; freedom of thought, expression, belief, faith worship, vocation, association and action, subject to law and public morality; and
6. WHEREIN adequate safeguards shall be provided for minorities, backward and tribal areas, and depressed and other backward classes; and
7. WHEREBY shall be maintained the integrity of the territory of the Republic and its sovereign rights on land, sea, and air according to Justice and the law of civilized nations, and
8. This ancient land attains its rightful and honored place in the world and makes its full and willing contribution to the promotion of world peace and the welfare of mankind.”

Objectives Resolution did not mention the word “democratic”. About this, Jawaharlal Nehru opined that the word “republic” mentioned in Objectives Resolution implies democracy. He also clarified that the Objectives Resolution had not only “content of democracy” but also “content of economic democracy”. Nehru also felt that there may be objection that the Resolution did not mention attainment of “a Socialist State” among the objectives of the Resolution. To this, he responded that India would move towards “Socialist State”, and what form of Socialism would develop would depend on the nature of deliberations.

The Objectives Resolution was going to be the part of the Constitution that the Assembly was expected to make. This was not binding on the members of the Constituent Assembly. They had “perfect freedom” to draw up the Constitution. The Resolution only laid down “certain fundamentals”.

PREAMBLE: THE TEXT

The text of the Preamble to Indian Constitution is given below.

Preamble

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship; EQUALITY of status and of opportunity; and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this 26th day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

FUNDAMENTAL RIGHTS AND DUTIES IN INDIAN CONSTITUTION

Fundamental rights and duties are the basic rights of an Indian Citizen in the Indian Constitution. These fundamental duties and rights apply to all the citizens of the country irrespective of their religion, gender, caste, race, etc.

In this article, we will learn more about these Fundamental Rights and Duties in Indian Constitution.

Basic idea about Articles 12-35

Articles 12-35 constitute Part III of the Indian Constitution. Let us now have a deeper look at the articles which talk about the fundamental duties and rights of an Indian Citizen.

1. Articles 14-18: Right to Equality

These articles talk about equal rights for all the citizens of the country irrespective of their caste, class, creed, gender, place of birth, or race. It says that there shall be equal opportunities with regard to employment and other aspects.

These articles also work towards the abolition of orthodox practices that have been taking place in the country like, untouchability, etc.

2. Articles 19-22: Right to Freedom

This is one of the most vital rights in the country whose foundation is based on Democracy. The constitution of India says that the citizens of the country have freedom in various regards. The freedom rights in the Indian Constitution include freedoms of -:

1. Expression
2. Speech
3. Assembly without arms
4. Association
5. Practicing any profession
6. Residing in any part of the Country

However, these rights are subjective. This further implies that the state has the right to impose restrictions on these rights depending upon the situation.

3. Articles 23-24: Right against Exploitation

These articles talk about the exploitation of humans and their rights. It prohibits any activities that encourage child labor, human trafficking, and other forms of forced labor. This article also prevents the state from imposing any compulsory service for public purposes.

Also, while making such compulsions, the state shall not discriminate against anyone on the basis of caste, creed, gender, etc.

4. Articles 25-28: Right to Freedom of Religion

India, being a secular country, consists of people from varied religions and faiths and therefore, it becomes of utmost importance that we and the constitution of India support freedom of religion. Under these articles, the state can be prevented from making the laws that

1. Might be associated with a specific religious practice.
2. Opening Hindu religious institutions of a public character.

5. Articles 29-30: Cultural and Educational Rights

These are the articles that work towards protecting the rights of cultural, religious, and linguistic minorities by aiding them to preserve their heritage and culture. The state is supposed to have no official religion.

These articles grant all the citizens of the country the right to worship any religion of their choice. Under these articles, the state does not hold the right to discriminate against any educational institution on the basis of it being a minority-run institution.

6. Articles 30-35: Right to Constitutional Remedies

These articles bind all the previously mentioned as this right makes sure that all the other fundamental rights are not being violated in any case. If any citizen of the country feels that their rights are being violated, they have the right to approach the court and demand justice.

Under these articles, the supreme court also holds the power of issuing writs against activity that it might find unsuitable.

Herein, the parliament holds the power control the rights that are being given to –

1. Army personnel
2. Bureaucrats
3. Members in charge of maintenance of public order

FUNDAMENTAL DUTIES

Upon the recommendation of the Swaran Singh Committee, the fundamental duties of a citizen were added to the constitution under the 42nd Amendment. Article 51A consists of Part IV-A of the Constitution of India. The 11 fundamental duties that are to be obeyed by all the citizens of the country are mentioned in this article are;-

1. To abide by the Indian Constitution and respect its constitution, National Anthem, and the National Flag.
2. Follow the Noble ideals that inspired the national struggle for freedom.
3. Protect and uphold the sovereignty, integrity, and unity of the country.
4. To defend the nation and render national services when asked to do so.
5. Promote the spirit of Brotherhood and fraternity in the country.
6. To strive for excellence.

7. To protect the environment of the nation.
8. Protect the culture of the nation.
9. To be protective of public property.
10. To generate a scientific rationale for every thought.
11. Responsibility of all the parents to send their children to school between the age of 6 and

Difference between Fundamental Rights and Fundamental Duties of India

The difference between fundamental duties and fundamental rights has been explained in table below-;

FUNDAMENTAL RIGHTS	FUNDAMENTAL DUTIES
These are mentioned in Part III of the Indian Constitution in articles 12-35.	These are mentioned in Part IV A of the Indian Constitution in the article 51A.
They were taken from the Constitution of the USA.	They were borrowed from the Constitution of the former Soviet Union or USSR.
These can be controlled in conditions that are subject to basic nature.	They can be controlled in any condition.
They are political and social in nature.	These are political, social, and economic in nature.
Fundamental Rights can be enforced by the courts.	Fundamental Duties cannot be enforced by the courts.
Not all citizens have the liberty to enjoy Fundamental Rights, for example, the Indian Army.	Fundamental duties are extended to all citizens of the nation.

DIRECTIVE PRINCIPLES OF STATE POLICY

Apart from giving suggestions on the Fundamental Rights, this Sub-committee gave suggestions on Directive Principles of State Policy. Indeed, there has been a debate in the Constituent Assembly whether the rights should be divided into two parts – justiciable and non-justiciable or Fundamental Rights and Directive Principles of State Policy. They provide directives or instructions to the state to introduce the policies about the welfare of different sections of the society. Granville states that four members of the Constituent Agency played decisive role in framing Directive Principles of State Policy – B.N. Rau, A.K. Ayyar, B.R. Ambedkar and K.T. Shah. Among them B.N. Rau was “the most influential”.

In Part IV of the constitution, Directive Principles of the State policy are explained from Article 36 to 51. It is borrowed from the Irish Constitution. The objective of Directive Principles is to embody the concept of ‘welfare state’. Thus *Directives* have been held to supplement fundamental rights to achieve the ideals of welfare state. The *Directive Principles of State policy*, deals with the social, economic and cultural rights. Unfortunately, they are not justifiable in the court of law when it is violated. However, *Directive principles* are fundamental in the governance of the country. These are the directions to the State and law making bodies to keep in mind while framing policies and laws. The *Directive Principles* have not been properly classified in the Constitution. Yet they can be conveniently divided into the following categories.

I. Socialist Principles

1. Equal distribution of wealth and material resources among all classes of people so as to prevent its concentration in a few hands. (Art. 38 and 39)
2. Provision of adequate means of livelihood to all the citizens. (Art. 43)
3. Equal pay for equal similar work for both men and women. (Art. 39)
4. Right to work, education and public assistance (Art. 41)
5. To ensure just and humane conditions of work, a decent standard of living, full enjoyment of leisure and social and cultural opportunities. (Art. 42)
6. Maintenance and protection of health and strength of all citizens.
7. To make provision for public assistance in case of unemployment, old age, sickness, disability and other cases of undeserved want.
8. To raise the level of nutrition & standard of living and improve public health (Art. 47)

II. Gandhian Principles

1. Prohibition of intoxicating drinks and drugs. (Art. 47)
2. To organise village Panchayats. (Art. 40)
3. To provide free and compulsory education for children up to the age of fourteen. (Art. 45)
4. To promote with special care, the educational and economic interests of the weaker sections of the people and particularly scheduled castes and scheduled tribes and protect them from social injustice and all forms of exploitation. (Art. 46)
5. Prohibit to the slaughter of cows and calves and other milch and draught cattle and to promote animal husbandry for improving their breed. (Art. 48)
6. To organise agriculture and animal husbandry on modern and scientific lines (Art. 48)

III. Liberal Principles

1. To promote international peace and security (Art. 51)
2. To maintain just and honourable relations between nations.
3. To foster respect for international law and treaty obligations in the dealings of organised people with one another.
4. To encourage settlement of international disputes by arbitration.

IV. Miscellaneous

1. To separate Judiciary from the Executive (Art. 50).
2. To protect monuments, historical buildings and places and objects of national importance. (Art. 49)
3. To secure for the citizens Uniform Civil Code throughout the territory of India. (Art. 44)
4. Directive Principles of State Policy are significant to realize ideals of welfare state and to achieve social justice.

UNIT – II

INDIAN FEDERALISM AND CENTER-STATE RELATIONS

The Constitution of India provides a federal system of government in the country even though it describes India as ‘a union of states’. The term implies that firstly, the Indian federation is not the result of an agreement between independent units, and secondly, the units of Indian federation cannot leave the federation.

Meaning of Federal Government:

It often refers to a system of parallel government where the powers of administration are categorized into two levels.

1. Central or federal level
2. State or local level

The basic function of any government is to control and administer the life of its public, the division of these powers into two hands namely the central and state as in the case of India helps in proper governance and draws a distinct line between the areas of center and state.

Features of Indian Federalism?

The Constitution of India is the supreme law of the land and it clearly outlines the two levels of government, their powers declaring it be a ‘Union of states’.

Part XI of the Indian constitution specifies the distribution of legislative, administrative and executive powers between the union government and the States of India.

The supreme court of India is said to be the ‘**Check authority**’ and it has been given independent powers to review and settle disputes that may arise between these levels.

The fundamental provisions of the governments that are enshrined in the Constitution of India cannot be altered by any one level of government.

So, wait. Do you mean India has a federal form of government?

Well, It is one way of saying it. But in its strict sense, while our constitution was being drafted a lot of research must have gone through different forms of government that India should adopt. Finally, maybe after analysing on these various fronts the makers of the Constitution came up with the idea of a hybrid style government. It has mostly federal features but at times can turn into a unitary form of government,

For example, during the Emergency the powers of the various states are paralysed and the Union government or the central government takes over. Although it is known that the President declares the emergency in the rarest of rare cases.

However, not just these, we also happen to have single citizenship unlike in the case of united States of America where citizens are subjected to dual citizenship. Apart from these we are also subjected to an Independent system of Judiciary.

- If you have read the provisions of the Constitution carefully, the Centre is in many aspects stronger than the State government.
- Even if we have two levels of government and we could say they’re independent of each other, we cannot deny that both are governed by the single constitution.

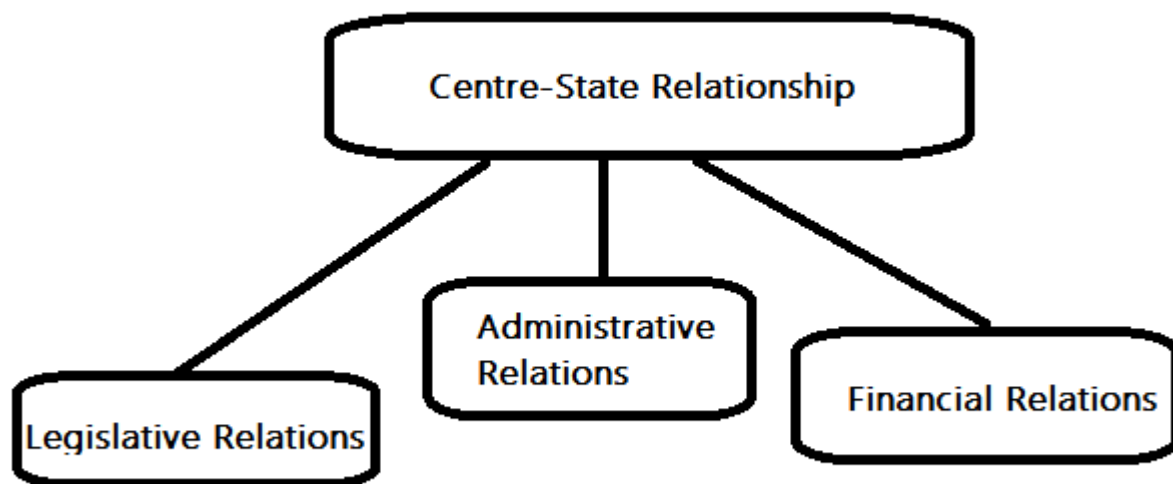
- The Rights of the Central government to make laws on state subjects on the recommendation of the Rajya Sabha.
- The Residuary powers are granted to the Central government and not the state.

On account of this differences, we can consider India to be quasi-federal in nature.

Centre-State relationship?

Any country having multiple sets or levels of government must have a way of administration that helps co-ordinates amongst themselves. The Centre-State relationship has been defined by various provisions in the Constitution of India.

Basically, these can be divided into three heads namely the (i) Legislative relations (ii) Administrative relations (iii) Financial relations.



Legislative Relations:

The Constitution of India divides the legislative relations between the union and the states viz. three lists. These lists contain the subjects on which the respective government can make laws.

1. The Union List or the List I: Contains 97 numbered items on which only the union or the central government can make laws. These include defense, foreign matters, posts, and telegraph, etc

2. The State List or the List II: Contains 66 numbered items on which the respective state government can make laws, These Include Police, administration of justice, prison, local government, agriculture and etc.

3. The concurrent List or the List III: Contains 47 numbered items on which both the centre and the state can make laws, However, If ever there's a clash on legislation, the central law shall prevail over that state law. This list includes matters like Education, population control, books, marriage and divorce and etc.

Human lives are so complicated that not all can list the problems or subject areas that can arise in the future. All the other subjects that are not covered in these three lists are often referred to as the residuary list and the union has the sole power to make laws on them.

THE PRESIDENT

At the head of the Union Executive stands the President of India. The executive power of the Union including the Supreme command of Defence Forces is vested in him. But the executive power of the Union vested in the President must be exercised in accordance with the Constitution and the Constitution prescribes that there shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions (Article 74).

Qualifications : In order to be qualified for election as President, a person must

- a) be a citizen of India;
- b) have completed the age of 35 years;
- c) be qualified for election as a member of the House of the People; and
- d) must not hold any office of profit under the Government of India or the Government of any State or under any local or any other authority, subject to the control of any of the said Governments (Article. 58).

Election of the President: The President of India is indirectly elected through an electoral college consisting of

- (a) the elected members of both the Houses of Parliament; and
- (b) the elected members of the Legislative Assemblies of the State.

The election takes place on the basis of proportional representation by means of the single transferable vote system. The voting is done by secret ballot.

Terms of Office : The President holds office for a term of five years from the date on which he enters upon his office. However, this term may be cut short if he resigns from office before the expiry of five years by writing addressed to the Vice-President; or if he is removed from office through impeachment on grounds of violation of the Constitution. Similarly, his term stands automatically extended beyond the expiry date if his successor is not elected or does not assume office.

Under the Constitution, the President is eligible for re-election. Here it may be noted that the Constitution of U.S.A. imposes a ban on the re-election of the President for more than two full terms.

Impeachment of the President : The President of India can be removed from his office before the expiry of his normal term through the process of impeachment. He can be impeached only on grounds of violation of the Constitution.

An impeachment is a quasi-judicial procedure in Parliament. Either House may prefer the charge of violation of the Constitution before the other House which shall then either investigate the charge itself or cause the charge to be investigated. But the charge

cannot be preferred by a House unless —

- (a) a resolution containing the proposal is moved after a 14 days' notice in writing signed by not less than one-fourth of the total number of members of that House; and
- (b) the resolution is then passed by a majority of not less than two-thirds of the total membership of the House.

The President shall have the right to appear and to be represented at such investigation. If, as a result of the investigation, a resolution is passed by not less than two-thirds of the total membership of the House before which the charge has been preferred declaring that it sustained, such resolution shall have the effect of removing the President from his office with effect from the date on which such resolution is passed.

Administrative Powers : In the matter of administration, the Indian President is not a real head of the executive like the American President. However, though the various Departments of Government of the Union will be under the control and responsibility of the respective Ministers in charge, the President will remain the formal head of the administration. And so, all executive action of the Union is expected to be taken in the name of the President. All contracts and assurances of property made on behalf of the Government of India are expected to be made by the President and executed in the manner as per the direction of the President.

Again, though he may not be the 'real' head of the administration, all officers of the Union are considered to be his subordinates and the President has a right to be informed of the affairs of the Union.

The President's administrative power includes the power to appoint and remove the high dignitaries of the State like the Prime Minister and other Ministers of the Union, the Attorney-General, the Comptroller and Auditor-General and so on.

However, the Indian Constitution does not vest in the President any absolute power to appoint inferior officers of the Union as is to be found in the American Constitution. The Indian Constitution, thus, seeks to avoid the undesirable 'spoils system' of America under which about twenty per cent of the federal civil officers are filled in by the President without consulting the Civil Service Commission.

In the matter of removal of civil servants (who are serving under the Union and hold office during the President's pleasure), the Constitution has provided certain conditions and procedures subject to which only the President's pleasure may be exercised, (Article 311(2)).

Military Powers : The Supreme command of the Defence Forces is vested in the President of India, but the Constitution expressly lays down that the exercise of this power shall be regulated by law.

Diplomatic Powers : The President represents the nation in international affairs, appoints Indian representatives to other countries; receives diplomatic representatives of other

States; and has the power of making treaties and implementing them, subject, of course, to ratification by Parliament.

Legislative Powers : Like the Crown of England, the President of India is a component part of the Union Parliament. The legislative powers of the President, to be exercised according to Ministerial advice, includes —

- (i) Summoning, prorogation of both Houses of Parliament, and dissolution of the lower House.
- (ii) The right to address and to send messages to either House of Parliament either in regard to any pending Bill or to any other matter.
- (iii) Nomination of members to the Houses. The President nominates 12 members to the Council of States from persons having special knowledge or practical experience in the fields of literature, science, art and social service. He is also empowered to nominate not more than two members to the House of People from the Anglo-Indian community, if he is of opinion that the Anglo-Indian community is not adequately represented in that House.
- (iv) Laying reports, etc. before Parliament like the budget, report of the Auditor-General relating to the accounts of the Government of India, recommendations of the Finance Commission, reports of the UPSC, the Special Officer for SCs and STs, Commission on backward classes, the Special Officer for linguistic minorities etc.
- (v) Previous sanction of legislation relating to formation of new States or the alteration of boundaries, a Money Bill, a bill involving expenditure from the Consolidated Fund of India, a bill affecting taxation in which States are interested or affecting the principles laid down for distributing moneys to the States and so on.

Assent to legislation and veto.

Disallowance of State legislation : There is no provision in the Constitution of India for a direct disallowance of State legislation by the President, but there is provision for disallowance of such bills as are reserved by the State Governor for the assent of the President. The President may also direct the Governor to return the Bill to the State Legislature for reconsideration; if the Legislature again passes the Bill by an ordinary majority, the Bill shall be presented again to the President for his reconsideration. But if he refuses his assent again, the Bill fails.

Ordinance-making power : The President enjoys the power to legislate by ordinance when Parliamentary enactment on the subject is not possible. An ordinance may relate to any subject in respect of which Parliament has the right to legislate and is subject to the same limitations as legislation by Parliament. Thus, an ordinance cannot contravene the Fundamental Rights any more than an Act of Parliament.

The ordinance must be laid before Parliament when it reassembles, and shall automatically cease to have effect at the expiration of six weeks from the date of re-assembly unless disapproved earlier by Parliament.

Judicial Powers, : Article 72(1) of the Constitution of India states that the President shall

have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence.

Emergency Powers : The President has extraordinary powers to deal with emergencies. He is given the power to make a proclamation of emergency on the ground of threat to the security of India or any part thereof, by war, external aggression or armed rebellion. He also has the power to make a proclamation that the Government of a State cannot be carried on in accordance with the provisions of the Constitution (i.e., breakdown of Constitutional machinery).

The President is empowered to declare that a situation has arisen whereby the financial stability or credit of India or of any part thereof is threatened (Article 360).

Discretionary Powers : There can be at least two situations in which the President may have to take a decision in his discretion, because the advice of the Ministers may not be available. Such a situation arose in 1979 after Morarji Desai's resignation as Prime Minister. The President did not invite Jagjivan Ram. He accepted the advice of Charan Singh, and dissolved the Lok Sabha. The President took his action in his discretion.

There is no mention of the term 'discretion', in the Constitution, in connection with the powers of the President. However, eminent Constitutional experts like D.D. Basu, N.A. Palkhiwala,

T.K. Tope, H.M. Seervai and V.M. Tarkunde are of the opinion that like the Queen of England, the President of India has discretion in the appointment of Prime Minister, and dissolution of Lok Sabha. In normal times, the President acts according to well established customs.

THE PRIME MINISTER AND THE UNION COUNCIL OF MINISTERS

The Union Council of Ministers, headed by the Prime Minister, is the real executive of the country. The President has to exercise all his powers in accordance with the advice tendered by the Council of Ministers.

Composition of the Union Council of Ministers :

The Council of Ministers consists of the Prime Minister and other Ministers. The number of Ministers is not fixed. It varies from time to time.

The Prime Minister and other Ministers are appointed by the President. The President has to appoint the leader of the majority party as the Prime Minister. It is in accordance with the advice of the Prime Minister that the President appoints other Ministers.

Following are the four categories of Ministers in the Council of Ministers :

- (a) **Cabinet Ministers :** Cabinet Ministers are those Ministers who hold very important portfolios like Defence, Home and Foreign Affairs, etc. They are highest in status, emoluments, and powers. It is these Ministers who constitute the Cabinet which has been described as a wheel within a wheel. Their number varies from time to time but seldom exceeds twenty.

Cabinet Ministers and senior Ministers collectively formulate the policy of the Government and are entitled to attend all meetings of the Cabinet. Occasionally, senior leaders are included in the Cabinet as Ministers without portfolio.

- **Ministers of State :** They are next in seniority and hold independent charge of a department or a sub-department generally included in the portfolio of a Cabinet Minister. They have no share in the formulation of the Government's general policy and attend Cabinet meetings only when specially invited and when affairs of their departments are to be considered.
- **Deputy Ministers :** Deputy Minister, who are next in rank to Ministers of State do not hold independent charge of any department and perform such functions as the Minister-in-charge may delegate to them.
- **Parliamentary Secretaries :** They have no independent powers or functions. They assist the Ministers to whom they are attached in the Parliamentary work. They are, in fact, probationers under training and may hope to rise to higher ranks if they make good.

Thus, we can say that whereas the Council of Ministers includes all categories of Ministers, Cabinet is only a part of the Council of Ministers and includes only some important Ministers. The Council of Ministers meets very rarely; Cabinet meets quite frequently.

Functions of the Cabinet

Policy Formulation : The Cabinet is responsible for policy formulation, both with regard to national and international problems. All policy decisions are taken by consensus and are conveyed by the Prime Minister to the President.

Control over Administration : The types of control over administration can be broadly divided into two—Internal Control and External Control. Internal controls form part of the administrative machinery and work automatically and spontaneously with the movement of the machinery. They comprise the following :

- Budgetary Control
- Personnel Management Control
- Administrative Ethics and Professional Standards
- Leadership

External controls work within the general Constitutional machinery, e.g. legislative control, executive control and judicial control. Public control is also a form of external control.

Legislative Powers : All the Ministers are members of Parliament and, thus, participate in legislation. Most of the Bills are introduced in the Parliament by the Ministers and are always passed by the Parliament because of the support they enjoy. The Bills to be introduced by the Ministers are considered by the Cabinet and approved. The Cabinet may make such changes in the Bills as it thinks are necessary.

Financial Powers : The Cabinet is responsible for all expenses of the Government and the sources of revenue to finance the expenditure. The annual budget prepared by the Finance Minister is controlled by the Cabinet.

Here, it may be noted that the budget proposals are kept strictly secret and the Finance Minister takes the Cabinet into confidence only an hour before the introduction of the budget in Parliament. The Cabinet cannot make any changes in the budget. But in the light of discussion on the budget proposals in the Parliament, the Cabinet makes alterations. The alterations thus made are subsequently announced by the Finance Minister.

The Cabinet is responsible for approving the economic and fiscal policies and also for taking decisions on the reports submitted by the Finance Commission and the Comptroller and Auditor-General of India.

Power of making Appointments : The President enjoys vast powers of appointing high dignitaries of the State. These appointments are in reality made by the President on the recommendation of the Cabinet.

The advice of the Cabinet is binding on the President and virtually all the functions of the President are performed by this body. The President may ask the Cabinet to reconsider its advice but only once. The advice given after reconsideration is binding on the President.

The Cabinet is a corporate body. It not only co-ordinates the work of various departments but also resolves the inter-departmental disputes. M.V. Pylee calls the Cabinet “the formulator of national policies, the highest appointing authority, the arbiter of inter-departmental disputes and the supreme organ of co-ordination in Government”.

Cabinet Meetings : The Cabinet, ordinarily, meets once a week, and more often if the occasion demands. The Prime Minister presides over its meetings. But in case the Prime Minister is out of town for some length of time, a senior Minister, nominated by the Prime Minister himself, presides over Cabinet meetings. After the meeting is over, the Cabinet Secretary, who remains present in it, prepares and circulates a summary embodying the decisions reached.

THE PRIME MINISTER

The Constitution of India gives formal recognition to the pre-eminent position which the Prime Minister enjoys in relation to the Council of Ministers. Article 74(1) says, “There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions.”

Functions of the Prime Minister : The Prime Minister is the key stone of the Cabinet arch. He controls the entire administration. Unlike the powers of the President which are in name only, the powers of the Prime Minister are real and vast. The Prime Minister is the central figure in the formation, existence and termination of the Cabinet. In Britain, the position of the Prime Minister has been described by Lord Morley as ‘primus inter-pares’, i.e., ‘first among equals’. In theory, all Ministers or members of the Cabinet have an equal position, all being advisers of the Crown, and all being responsible to Parliament in the same manner. Nevertheless, the Prime Minister has a pre-eminence, by convention and usage. The position of the Ministers and the Prime Minister is similar in India. Thus,

- The Prime Minister is the leader of the party in majority in the popular House of the Legislature.
- He has the power of selecting the other Ministers and also advising the President to dismiss any of them individually, or require any of them to resign.
- The allocation of business amongst the Ministers is a function of the Prime Minister.
- He is not only the chairman of the Cabinet, but is also the chairman of important Cabinet committees.
- He summons the meetings of the Cabinet and presides over them.
- While the resignation of other Ministers merely creates a vacancy, the resignation or death of the Prime Minister dissolves the cabinet.
- The Prime Minister is the link between the President and the Cabinet.
- Though individual Ministers have the right of access to the President on matters concerning their own departments, and important communication, particularly relating to policy, can be made only through the Prime Minister.
- The Prime Minister is in charge of coordinating the policy of the Government and has, accordingly, a right of supervision over all the departments.

In short, the Prime Minister is head of the ruling party, the Parliament and the Government at the same time. He is chief advisor to the President and working head of the Union of India. He is the main spokesman of the country in national and international matters. However, the actual position of the Prime Minister depends greatly upon his or her personality and political situation in the country.

THE CENTRAL SECRETARIAT

The word 'Secretariat' means the Secretary's office. The Secretary, being the principal adviser to the Minister, needs to be equipped with an office to assist him in the performance of his functions. For the purpose of good administration, the Government of India is divided into Ministries and Departments which together constitute the Central Secretariat.

Role and Objectives of the Secretariat: It assists the Ministers in the formulation of Governmental policies. The Ministers present to the electorate, broad programmes of action which need to be provided with content and shape in order to be made workable. Besides, Ministers have to finalise policies on various unforeseen problems. For the formulation of policies on all these matters, adequate precedents and other relevant information is required. The Secretariat makes these available to the Minister, thus enabling him to formulate policies.

The legislative leadership in the Parliamentary system of Government like ours rests with the Government. Thus, the Secretariat prepares drafts of legislations to be introduced in the Legislature. It is also responsible for collecting relevant information for answering Parliamentary questions and also for various Parliamentary committees. In the words of Prof. Maheswari, "the Secretariat acts as an institutionalised memory to enable the Government to examine the emerging problems in the light of precedents and past practices, which is

essential for ensuring objectivity , consistency and continuity”. The Secretariat acts as the clearing house, preliminary to Governmental decisions. This is done by carrying out a detailed scrutiny of a problem. It brings to bear an overall comprehensive viewpoint on the matter, gets the approval, if necessary, of other lateral agencies like the Ministry of Law and the Ministry of Finance, and also consults other organisations concerned with that particular matter.

The Secretariat is the main channel of communication between the States or with agencies like the Planning Commission, Finance Commission, etc. It ensures that field offices execute, with efficiency and economy, the policies and decisions of the Government.

The functions of the Secretariat may be broadly divided into two categories—general and specific.

They may be briefly mentioned as follows :

General Functions :

- Policy-making;
- Framing rules and principles of procedure;
- Exercise of financial control;
- Work associated with legislation;
- Guiding and directing the executive agencies in the performance of their tasks, and also evaluating their work.

Specific Functions :

- Assisting the Minister in policy-making and in modifying policies from time to time, as and when necessary;
- Framing legislation and rules and regulations;
- Sectoral planning and programme formulation;
- Budgeting and control of expenditure in respect of activities of the Ministry/department;
- According or securing administrative and financial approval to operational programmes and plans and their subsequent modifications;
- Supervision and control over the execution of policies and programmes by the executive departments or semi-autonomous field agencies and evaluation of the results;
- Assisting the Minister in the discharge of his Parliamentary responsibilities;
- Initiating measures to develop greater personnel and organisational competence both in the Ministry or department and its executive agencies;
- Co-ordination and interpretation of policies;
- Assisting other branches of the Government; and
- Maintaining contact with State Governments.

Central Secretariat Service: The need for a Central Secretariat Services (CSS) was felt even before 1947. A scheme for setting up of CSS was approved by the Central Secretariat Reorganisation and Reinforcement Schemes. The CSS which replaced the old Imperial Secretariat Service, was originally organised in four grades:

- a) Under Secretary Class-I
- b) Section Officer Class-I

- c) Section Officer Class-II
- d) Assistants - Class III (Non-Gazetted)

In 1959, the Section Officer Class I and II categories were merged into one continuous Class-II grade. A new selection grade above Grade-I, was also created which was to consist of the post of Deputy Secretary and above.

THE CABINET SECRETARIAT

The efficiency of the Cabinet depends, to a large extent, on the Cabinet Secretariat whose duty is

- to prepare the agenda of the Cabinet meeting,
- to provide information and material necessary for its deliberations,
- To draw up records of the discussions and decisions both of the Cabinet and its committees,
- To oversee the implementation of the necessary decisions by the Ministries concerned. This involves the calling of information from various Ministries and departments.
- To keep the President, the Vice-President and all the Ministries informed of the major activities of the Government conducted in several Ministries by undertaking the circulation of monthly summaries and brief notes on important matters.
- to service the Committees of Secretaries which meet periodically under the chairmanship of the Cabinet Secretary to consider and advise on problems requiring inter-ministerial consultation and co-ordination.
- to finalise the rules of business and allocate the business of the Government to the Ministries and departments under the direction of the Prime Minister and with the approval of the President.
- to give secretarial assistance to the Cabinet committees.

Organisation of the Cabinet Secretariat : The Cabinet Secretariat is headed by the Prime Minister who is assisted by a Cabinet Secretary and other secretariat staff. The Secretariat was re-organised in 1961 and consists of two Departments, viz., the Department of Cabinet Affairs, and the Department of Statistics.

Department of Cabinet Affairs : The Department of Cabinet Affairs is divided into four wings

(a) **Main Civil Secretariat:** The main secretariat is headed by the Cabinet Secretary. Below him, there are three Secretaries including one Secretary (Co-ordination), followed by one Additional Secretary, four Joint Secretaries and one Secretary (TPIC), an ex-officio Joint Secretary and six Deputy Secretaries.

The main civil wing is the institutional machinery through which the Cabinet Secretary provides the secretarial service to the Cabinet and its Committees. It also provides secretarial service to the Committees of Secretaries which function under the chairmanship of the Cabinet Secretary. The civil wing is divided into four sections :

1. Co-ordination Section

2. Cabinet Section
3. General Section
4. Administrative Section

INDIAN PARLIAMENT: LOK SABHA AND RAJYA SABHA

India's political system is federal in nature that means there are two tiers of the Government. The two parts are the Union Government and the State Government. The history of bicameralism goes back to 1919 through the Government of India Act 1919.

In the article below know the difference between the two houses of the Parliament.

Indian Parliament:

The Parliament of India is composed of the:

1. President
2. Lower House (Lok Sabha)
3. Upper House (Rajya Sabha)

Lok Sabha is also known as House of People and the Rajya Sabha is known as the Council of States.

The houses of Parliament are dealt with in the Constitution between articles 79-122.

Take a look at the composition of both the houses of Parliament:

Houses of Parliament:

Lok Sabha- Lower House

Strength - 552

Breakdown of seats-

1. 530 members represent the States
2. 20 are the representatives of Union Territories
3. 2 members are also nominated by the President from Anglo-Indian Community
4. At present there are just 545 members as only 13 members represent the Union Territories.
5. Recently the nomination of two anglo Indians in Lok Sabha has been abolished through enactment of 104th Constitutional Amendment Act 2019.

Rajya Sabha- Upper House

Strength- 250

Breakdown of seats-

1. 238 members indirectly elected representing the States and Union Territories
2. 12 members are nominated by the President
3. At present the strength is 245 as 233 members are inkly representing states and UTs while 12 are members of nomination.

Difference between Lok Sabha and Rajya Sabha

Take a look at the table below to understand the difference between the two houses more effectively:

Lok Sabha	Rajya Sabha
Called as House of People	Called as Council of States
It can be dissolved	It cannot be dissolved so is a permanent body
Eligible voters can elect their representative by way of direct elections	Composed of indirectly elected representatives by the elected representatives of the Assemblies of States and Union Territories

Lok Sabha is headed by the Speaker	Vice President is the Chairman of Rajya Sabha
The strength of the lower house is 552	The strength of the upper house is 250
Lok Sabha has the power of money bill and can reject it	Rajya Sabha has the power to protect the states' rights against the Union but cannot reject a money bill
The minimum age to become a member is 25 years	The minimum age to qualify as a member is 30 years.
Lok Sabha can express no confidence in the Government	Rajya Sabha has no power to express no confidence
Lok Sabha can vote on demand of grants in the Annual Budget	Rajya Sabha has no power of voting in case of Budget but can only discuss.
President can nominate 2 members from Anglo-Indian Community if they are not adequately represented	President nominates 12 members possessing special knowledge and practical experience in Arts, Literature, Science, Social Service
Universal Adult Franchise is the method of election used	Proportional Representation by means of Single Transferable Vote is the election method used

THE SUPREME COURT

The Supreme Court in India was established through an enactment passed in pre-independent India, with the introduction of the Regulating Act, 1773. The 1st Supreme Court started its function as a court of record at Calcutta, and the 1st Chief Justice Sir Elijah Impey was appointed. The court was established to resolve the disputes in Bengal, Orissa, and Patna. Consequently, in 1800 and 1834, the King George-III established the other two Supreme Courts in Bombay and Madras.

However, soon after the enactment of the Indian High Court Act, 1861, the Supreme Courts in Calcutta, Bombay, and Madras were consequently abolished and the courts in Calcutta, Bombay, and Madras resumed its functioning as High Court. In 1935, the British Parliament enacted the Government of India Act, 1935, after a resolution was passed by the Joint Select Committee, which was headed by Lord Linlithgow.

The Government of India Act, 1935, led to the establishment of the Federal Court in India, which has vested more judicial power than the High court with original, appellate, and advisory jurisdiction. After independence, the Constitution of India was adopted on 26th January 1950, and the Federal Court of India resumed functioning as the Supreme Court of India on 28th January 1950, which was presided by Hon'ble Mr. Justice Harilal Jekisundas Kania.

As per article 124(1) of the Constitution, there should be a Supreme Court in India that will be presided by the Chief Justice of India with additional seven Judges until the parliament passes precedent for increasing the number of Judges. However, currently, there are 34 judges in the Supreme Court, and the current Chief Justice of India is Mr. Justice Sharad Arvind Bodbe.

Importance of the Supreme Court in India

In the Constitution of India, part 5, chapter 6 deals with the power, function, appointment, retirement, jurisdiction, etc. from Article 124 to Article 147 of the Supreme Court. The followings are the importance of the establishment of the Supreme Court:

- 1) The Supreme Court is the highest appeal court that is also known as the apex court of India and even the last resort, where the citizens of India can seek justice if they are not satisfied with the judgment of the High court.
- 2) The citizens of India, as per Article 32 of the Constitution, can even directly sort for remedy through writs if their fundamental rights are violated.
- 3) The Supreme Court has Judicial Review power that is being vested through Article 13 of the Constitution, which means the Supreme Court has the power to strike down any legislation and executive action if such acts are found to be inconsistent with the Constitution of India.

What are the functions of the Supreme Court?

The following are the Supreme Court functions:

- a) The SC gives the final verdict against an appeal from the other subsidiary courts i.e., High courts.
- b) It acts as an institution where issues from the different governmental bodies, central government, and the state government matters are resolved.
- c) As per Article 141 of the Constitution, laws passed by the SC, apply to all courts within the Indian Territory.
- d) In some matters, the Supreme Court also acts on its own and can pass suo moto.

the powers of the SC

The Supreme Court has the following powers that are jurisdiction:

A) Original Jurisdiction: The following are the original jurisdiction of the SC:

- I) As per article 131 of the Constitution, the SC functions as original jurisdiction over matters where the disputes are either between the Central government and the state government or between two or more state governments.
- II) As per article 139 of the Constitution, the SC have the power to issue writs, order, or direction.
- III) As per section 32 of the Constitution, the SC also has the authority to enforce Fundamental Rights.
- IV) As per Article 139A of the Constitution, the SC on its discretion or at the advice of the Attorney General of India can take up the cases during the pendency of the matter from the high courts if the same issue is to be disposed of by the SC that is related to the question of law. And it can also transfer the pending cases, appeal or other proceedings to give justice from one HC to another HC.

B) Appellate Jurisdiction: As per article 132, 133, 134 of the Constitution, the SC has appellate jurisdiction in matters that are related to civil, criminal, or Constitution. Also, as per article 136, the SC has the power to issue special leave that is being by any tribunal courts in India but this does not apply to Army courts.

C) Advisory Jurisdiction: As per article 143 of the Constitution, the SC can advise the President of India that is related to the question of law, and the nature of the matter is associated with the public importance. And the President can also seek opinion in the matters that are related to Article 131 of the Constitution.

D) Review Jurisdiction: As per article 137 of the Constitution, the SC has the power to review any laws that are being passed by the legislature.

Conclusion

The Supreme Court is the highest appealing body in our jurisdiction. With its establishment, justice is being proclaimed by the citizens of India. The powers that are vested upon the SC are to ensure the fair trial in matters that are about the Constitution of India; hence it also protects the world's largest democratic state.

THE HIGH COURT

High Courts are the highest courts in a state. Presently, there are 25 High Courts in India, with some states having a common High Court. They are an important part of the judicial system in India and hence, very important from the point of view of Indian polity for the UPSC exam. High Courts and their functions, powers, jurisdiction, along with the rules for the appointment of High Court judges are fundamental concepts in the polity section of the IAS syllabus. In this article, we present this very vital information in a crisp manner for students to study easily.

Powers and Functions of the High Court

The High Court is the highest court in a state in India. Articles 214 to 231 in the Indian Constitution talk about the High Courts, their organisation and powers. The Parliament can also provide for the establishment of one High Court for two or more states.

For instance, Haryana, Punjab and the Union Territory of Chandigarh have a common High Court. The northeastern states also have one common High Court. In addition, Tamil Nadu shares a High Court with Puducherry.

Currently, there are 25 High Courts in India. For a [list of High Courts in India](#), check the linked article.

The High Courts of Calcutta, Madras and Bombay were established by the Indian High Courts Act 1861.

High Court Jurisdiction

The various kinds of the jurisdiction of the High Court are briefly given below:

Original Jurisdiction

- The High Courts of Calcutta, Bombay and Madras have original jurisdiction in criminal and civil cases arising within these cities.
- An exclusive right enjoyed by these High Courts is that they are entitled to hear civil cases which involve property worth over Rs.20000.
- **Regarding Fundamental Rights:** They are empowered to issue writs in order to enforce fundamental rights.

- With respect to other cases: All High Courts have original jurisdiction in cases that are related to will, divorce, contempt of court and admiralty.
- Election petitions can be heard by the High Courts.

Appellate Jurisdiction

- **In civil cases:** an appeal can be made to the High Court against a district court's decision.
- An appeal can also be made from the subordinate court directly if the dispute involves a value higher than Rs. 5000/- or on a question of fact or law.
- **In criminal cases:** it extends to cases decided by Sessions and Additional Sessions Judges.
 - If the sessions judge has awarded imprisonment for 7 years or more.
 - If the sessions judge has awarded capital punishment.
- The jurisdiction of the High Court extends to all cases under the State or federal laws.
- **In constitutional cases:** if the High Court certifies that a case involves a substantial question of law.

High Court Powers

Apart from the above, the High Courts have several functions and powers which are described below.

As a Court of Record

- High Courts are also Courts of Record (like the Supreme Court).
- The records of the judgements of the High Courts can be used by subordinate courts for deciding cases.
- All High Courts have the power to punish all cases of contempt by any person or institution.

Administrative Powers

1. It superintends and controls all the subordinate courts.
2. It can ask for details of proceedings from subordinate courts.
3. It issues rules regarding the working of the subordinate courts.
4. It can transfer any case from one court to another and can also transfer the case to itself and decide the same.
5. It can enquire into the records or other connected documents of any subordinate court.
6. It can appoint its administration staff and determine their salaries and allowances, and conditions of service.

Power of Judicial Review

High Courts have the power of judicial review. They have the power to declare any law or ordinance unconstitutional if it is found to be against the Indian Constitution.

Power of Certification

A High Court alone can certify the cases fit for appeal before the Supreme Court.

High Court Autonomy

UNIT – III

THE STATE GOVERNMENT

Executive: State Executive comprises the governor and the chief minister with his council of Ministers. The Governor of each state is appointed by the President for a period of five years. Executive power of the state is vested in the governor. But the actual powers for proper functioning of the state are vested in the CM and his council of ministers.

Judiciary: State high courts have jurisdiction over the whole state. In the states, the judicial setup is headed by the chief justice. He manages and controls the entire judicial system of the state pertaining to criminal, civil and all other forms of litigation. State high courts have to, however, report to the Supreme Court of India, which may override the high court's findings and judgements.

Legislature: Each state has a legislative assembly. It consists of the governor and one House or two Houses, as the case may be. In seven states, the state government's legislature is bicameral. These states are Bihar, Andhra Pradesh, Telangana, Jammu and Kashmir, Karnataka, Maharashtra and Uttar Pradesh. These states have two Houses known as legislative council and legislative assembly. The rest of the states are unicameral. There is only one House known as legislative assembly. State Legislature or State Assemblies are headed by the CM.

Legislature has two divisions Vidhan Parishad or Legislative Council

- Not more than one-third of total number of members or 40 members in legislative assembly of the state, except in J&K with 36 members.
- Elected members are called Member of Legislative Council (MLC)
- Elected by Governor, MLAs, standing graduates etc.
- No MLC can be member of Cabinet of Ministers.

Vidhan Sabha or Legislative Assembly

- Not more than 500 and not less than 60 members (an exception is the Legislative Assembly of Sikkim. It has 32 members)
- Fixed number of seats in every state.
- Different number of seats for different states
- Elected members are called Members of Legislative Assembly (MLA)
- Elected by the people of that state

Roles and Responsibilities of the state governments

State governments have separate departments for proper functioning of the state. States have jurisdiction over education, agriculture, public health, sanitation, hospitals and dispensaries and many other departments.

- **Internal security:** The state governments have to maintain the internal security, law and order in the state. Internal security is managed through state police.
- **Public order:** States have jurisdiction over police and public order
- **Education:** Providing a public education system, maintaining school buildings and colleges, employment of teachers, providing help to under privileged students all come under the education department of the state.
- **Agriculture:** The state governments have to provide support for farmers, funds for best farming practices, disease prevention and aid during disasters such as floods or droughts.

- **Finances:** State legislature handles the financial powers of the state, which include authorisation of all expenditure, taxation and borrowing by the state government. It has the power to originate money bills. It has control over taxes on entertainment and wealth, and sales tax.
- **Reservation of bills:** The state governor may reserve any bill for the consideration of the President.
- **Transport:** State government runs the rains, trams, bus and ferry services and other public transportation in the cities and towns of the States.
- **Water supply:** Water supply to cities and towns for drinking, including irrigation for farmers, is the responsibility of the State governments.
- **Budget:** State governments make budget for state.

Allocation of funds: It has the power to give funds to all its organizations like Zila Parishad, corporation, and other departments

GOVERNOR OF A STATE

The Governor is the head of a state. He is the Chief Executive in the state. He enjoys the same position in the state as the President enjoys in the Centre. However, in a way his position is slightly better. Whereas the President as the nominal executive of the Union can rarely use any discretion in the exercise of his powers, the Constitution grants some discretionary powers to the Governor.

1. Method of Appointment:

Constitution of India lays down for the office the Governor of each State.” However, one person can also function as a Governor of two or more states. The President of India appoints the Governor of each state and while doing so he acts upon the advice of the Prime Minister.

Two important practices regarding the Appointment of a Governor:

The first practice is that the person being appointed as the Governor is mostly not a resident of the state for which he is appointed.

Secondly, before appointing a Governor, the Union Governments consults the concerned State Government particularly the Chief Minister of that State. It is now a respected rule.

Along with these two healthy practices, an unhealthy practice has also developed. Sometimes ‘defeated’ or very old political leaders are appointed as Governors. Further, sometimes the unhealthy practice of wholesale transfers or removals of Governors takes place after a change of government at the Centre.

2. Qualifications for the Office of the Governor:

The following qualifications are essential for the office of the Governor of a State:

- (1) He is to be a citizen of India.
- (2) He has to be above the age of 35 years.

- (3) He is not to be a member of either House of Parliament or of the Legislature of any state.
- (4) He is not to be holding any office of profit in the Government.
- (5) He is not to be a declared bankrupt by any court of law.

Mostly persons of repute and eminence in public life or senior politicians or retired civil and military officers are appointed as Governors.

3. Tenure:

The Governor is appointed for a period of five years. However, he holds office during the pleasure of the President. The President can remove or transfer him at any time.

4. Oath or Affirmation by the Governor:

Every person appointed as Governor has to take the oath of his office. It has to be taken in the presence of the Chief Justice of the concerned State High Court.

Powers and Functions of the Governor:

1. Executive Powers:

Governor is the head of the State. The Constitution gives executive powers of the state to the Governor. He appoints the Chief Minister and other ministers on the advice of the Chief Minister. Ministers hold office during the pleasure of the Governor.

The Governor can remove the Chief Minister of the province in case he feels that his government does not enjoy the confidence of the majority in the State Legislative Assembly or is not working according to the provisions of the Constitution.

All major appointments (Advocate General, Chairman and Members of Public Service Commission, Vice-Chancellors) in the state are made by the Governor. But in doing so, the Governor depends upon the advice of the State Chief Minister and the State Council of Ministers.

The Chief Minister of the State has to keep the Governor informed about the state administration and the decisions taken by his ministry. Governor can seek from the Chief Minister any information about the state administration. He may call upon the Chief Minister to place the decision of an individual minister before the Council of Ministers for consideration. The President consults the Governor while appointing the judges of the State High Court. The Governor acts as the Chancellor of the state universities.

Normally, the Governor exercises all his executive powers in accordance with the advice of the State Council of Ministers and the Chief Minister. The ministers are responsible for all the acts of the Governor. But during a constitutional emergency in the states the Governor becomes a real executive head of the state uses all executive powers with the help of some advisors.

2. Legislative Powers:

The Governor is not a member of the state legislature and yet he is a part of it. All bills passed by the state legislature become laws only after the signatures of the Governor. He can

withhold his assent or can return a bill (other than a money bill) to the legislature for reconsideration. But if the bill is passed a second time, he cannot withhold his assent from that bill. Several legislative measures can be reserved by him for Presidential assent.

The Governor summons and prorogues the sessions of the state legislature. He can dissolve the state legislative assembly. He nominates 1/6 members of the Legislative Council from amongst persons having distinguished careers in the field of science, art, literature or social service, normally all these functions are performed by the Governor under the advice of the State Chief Minister.

When the state legislature is not in session, the Governor can issue ordinances. Any ordinance so issued by the Governor has the same force as the law of the legislature. It, however, ceases to operate after six weeks from the date on which the state legislature comes into session. It also ceases to operate when a resolution is passed by the state legislature disapproving the ordinance. The Governor issues ordinances only on the advice of the state Chief Minister and his Council of Ministers.

3. Financial Powers:

A money bill can be introduced in the state legislature only with the prior permission of the Governor. He orders that the annual budget be placed before the state legislature. The contingency fund of the state is at his disposal and he can order expenditure out of it to meet any unforeseen expenditure. In reality these powers are also exercised by him under the advice of the CM and his State Council of Ministers.

4. Judicial Powers:

The Governor of the state has some judicial powers. He can influence the appointments, postings and promotions of the district judges and other judicial officials. He has the power to grant pardon, reprieve or remission of punishment or to suspend, remit or commute the sentences of any person, convicted of any offence against any law. While appointing the Chief Justice and other judges of the State High Court, the President of India consults the Governor of the Concerned State.

Position of the Governor:

A review of the powers of the Governor brings out the view that he has got wide powers and is not a constitutional ruler. However, being the head of a state which has a parliamentary system, the Governor normally acts as a constitutional or nominal executive head the state. He carries out all his functions on the advice of the Chief Minister and his Council of Ministers.

(1) The Areas in which the Governor can act in his Discretion:

Despite being a nominal head, the Governor has some discretionary powers. These are exercised by him without the advice of the State Council of Ministers.

These are:

(i) When no political party is having a clear majority in the State Legislative Assembly, the Governor can play an active and decisive role in the appointment of the Chief Minister.

(ii) The Governor can use his discretion in dismissing a ministry when the party in power loses majority or is likely to lose majority in the state Legislative Assembly.

(iii) The Governor can act in his discretion in ordering or recommending to the President for a dissolution of the state assembly. The Governor can refuse to accept the advice of a Chief Minister for dissolving the state legislative assembly in case he feels that an alternative state government can be formed.

(iv) The Governor depends upon his discretion in advising the President for the promulgation of an emergency in the state. He has the power to judge as to whether there has been a break-down of constitutional machinery in the state or not.

(2) Governor is not merely a Golden Zero:

The Governor of a state is not merely a figure head. He can exercise some powers in his discretion, and independent of the recommendations made by the state Chief Minister. Governor is not a superfluous highness. The Constitution, as such, makes the Governor of a state an important factor in the state administration. Even in normal times, when he acts as the nominal executive head of the state, he can use some discretionary powers.

(3) Governor as a Link between the Centre and the State:

The Governor acts as the link between the Union and the state. He acts as the agent of the President in the state both when he acts as the nominal and constitutional head of the state in normal times as well as when he acts as the real head of the state during the period of President's rule in the state.

THE CHIEF MINISTER

The Chief Minister is appointed by the governor. Art. 164 of the Constitution provides that there shall be a Council of Ministers with the Chief Minister at its head to aid and advise the governor.

Once the election to the Legislative Assembly is over the task of forming the government begins. The party with the majority in the Legislative Assembly (Vidhan Sabha) is entitled to form the government. It is upon his recommendation that ministers are appointed. However, some of the important powers and functions of the Chief Minister are as under:

Powers and Functions of the Chief Minister:

The Chief Minister holds a pivotal position in the working of the State Government. He has enormous powers and vast responsibilities.

1. To Aid and Advice the Governor:

The Chief Minister is the link between the Cabinet and the Governor. It is he who communicates to the Governor all decisions of the Council of Ministers. He has to furnish such information relating to the administration of the State as the Governor may call for.

The Governor can submit to the consideration of the Council of Ministers any matter on which decision has been taken by a Minister but which has not been considered by the Council of Ministers.

The Governor appoints a large number of top officials of the State. He also summons and prorogues the sessions of State Legislature. All such powers are exercised by the Governor on the advice of the Chief Minister. The Chief Minister, however, has no right to give advice to the Governor in relation to the functions which he exercises in his discretion.

2. The Chief Minister is at the Head of the Council of Ministers:

As Head of the State Cabinet, the Chief Minister enjoys the following powers:

(i) Formation of the Ministry:

The other Ministers are appointed by the Governor on the advice of the Chief Minister. The Chief Minister has a free hand in preparing the list of his colleagues. The Governor may suggest the names of the persons to be included in the Ministry, but he cannot insist upon any person to be included in the Ministry. Assigning departments or portfolios to the Ministers is done by the Governor on the advice of the Chief Minister.

(ii) Removal of Ministers:

The Ministers hold office during the pleasure of the Governor. This, however, does not mean that the Governor can dismiss his Ministers at his will. The Government is in fact dependent on the Chief Minister. Therefore, the Chief Minister can reconstruct his Ministry as and when he likes. He may ask anyone of his colleagues to resign. If he declines, he will be dismissed by the Governor.

(iii) The Chief Minister Presides over the Meetings:

As Chairman of the Cabinet, the Chief Minister has a position which enables him to impose his decision. It is he who controls the agenda for the Cabinet meetings. It is for the Chief Minister to accept or reject proposals for Cabinet discussion.

(iv) Co-ordinates the Working of various Departments:

The Chief Minister supervises and co-ordinates policies of the several Ministers and Departments. Several ministries are involved in the formulation and implementation of a policy.

The Chief Minister must bring these activities into reasonable relationship with one-another. In matters of public order, roads and bridges agriculture, land revenue and production, supply and distribution of goods, he plays a special role in directing the policy of the Government.

3. The Chief Minister is the Leader of the House:

The Chief Minister is the leader of the State Legislative Assembly. All principal announcements of policy are made by him. The Chief Minister intervenes in debates of general importance. He can appease an angry House by promising immediate relief or concessions when needed.

Position of the Chief Minister:

The Chief Minister's position is pre-eminent in the State governmental system. In practice, his position will be imposing only when his party commands a clear majority in the State Legislature.

When it is a coalition government, it becomes difficult to safeguard the principle of collective responsibility also. Much of the time and energy of the Chief Minister will, in that case, be wasted on keeping his team united and sufficiently disciplined.

STATE SECRETARIAT

The Council of Ministers at the state level, being a body of political leaders cannot be expected to perform the detailed administrative functions themselves. Therefore, they need the advice of professional administrators in the performance of these functions. This advice is tendered to them by a body of officers known as the secretariat.

As we know that the executive functions of the State Government are divided between different departments. Each department or a number of departments are placed in charge of a Minister. The Minister is thus the political head of a department. The Minister is thus the political head of a department. To tender advice to him there is the administrative department headed by the secretary. Although each department or groups of departments has a secretary, who is called the Secretary to the Government of a state and not the secretary to the Government of a state and not the secretary to a particular department or individual Minister.

Meaning

The term "Secretariat" is used to refer to the complex of departments whose administrative heads are secretaries and political head the Ministers. The secretariat departments must be distinguished from the executive department. Not all departments attached to them. Some of the secretariat departments are engaged in advisory and controlling functions and do not, therefore have executive departments reporting to them. Generally, the head of the executive department is a specialist and the secretary, the administrative head, who supervises his work is the generalists civil servant, normally a senior member of the I.A.S.

Organisation

The number of Secretariat departments varies from State to State. The number of secretariat departments usually greater than the number of secretaries. The practice normally, is to entrust more than one department to the charge of one secretary like his counterpart at the union level.

The officers in a secretariat department are grouped into various categories—Secretary, Special/Additional Secretary, Deputy Secretary/Joint Secretary, Under Secretary.

The Secretary is in overall charge of the department. He is the principal adviser to minister and responsible for carrying out the policies and decision made by the political chief and finally, represents his departments before the committees of the legislature. When the work in a particular department becomes too heavy, some posts of Special Secretaries/Additional Secretaries may be created to relieve the Secretary of some of the burden of his work. They can

perform some of the functions of the secretary and may submit files directly to the minister in respect of the delegated functions performed by them.

The real operating level below the Secretary is the Deputy Secretary. In some of the states the post of Joint Secretaries have also been created. However, they perform the same functions. The Deputy Secretaries/Joint Secretaries are placed in charge of a definite wing of the Department. A Deputy secretary is also delegated some powers to dispose of certain routine cases at his level. Under Secretaries are the lower level officers. They are placed in charge of a number of sections each headed by a section officer.

Assistant Secretary/Section Officer is responsible for the distribution of work among the various functionaries of the section and to ensure timely submission of files to the officers. He supervises the wing of the Assistant/U.D.Cs. working in his section and makes them present the case suitable docketed and referenced.

Functions

The secretariat is a policy-making body of the government and normally performs the following functions:

1. Assisting the minister in policy-making and modifying policies from time to time, as and when necessary;
2. Framing legislation and rules and regulations;
3. Budgeting and control of expenditure in respect of activities of the ministry;
4. Supervising and control over the execution of policies and programmes by the executive departments;
5. Coordination and interpretation of policies;
6. Assisting other branches of Government and maintaining contact with central and other state governments and outside agencies;
7. Assisting the minister in the discharge of his parliamentary responsibilities;
8. The secretariat acts as the spokesman of the Government.

The Rajasthan Administrative Reforms Committee (1963) has, in its report prescribed the following functions, which are to be attended to by the secretariat. General

1. All matters of general policy;
2. Inter-department coordination;
3. Matters involving the framing of new legal enactments or rules or amendments in the existing ones. Cases involving interpretation or relaxation of existing rules or government orders;
4. Correspondences with the Government of India and other State Governments;
5. All matters relating to the preparation or adoption of new plan schemes, and important modifications in the existing schemes;
6. Review of the progress of the plan schemes both physical and financial.
7. Inspection reports and tour notes recorded by heads of departments;
8. All India conference and important conference at the state level;
9. Public accounts committee, Estimates committee, Assembly/Parliament questions;
10. Delegation of powers;
11. Litigation notice under section 80 CPC;
12. Appeals, Revision, etc., within the power of the State Government.

Financial Matters

1. Scrutiny and approval of departmental budget estimates, major appropriation of accounts, surrender of funds and supplementary grants;
2. All proposals involving new items of expenditure;
3. Financial sanctions not within the competence of the head of department;

4. Sanction of expenditure from contingency fund;
5. Write-off cases beyond the powers of heads of department and audit objections regarding the officer of the heads of department.

Service Matters

1. Approval of service rules and amendment thereto;
2. Papers relating to senior appointments/promotions/transfers of deputy heads of department and above, plus, cases of disciplinary proceedings against their officers;
3. Initial appointment of officers belonging to the state service and inflection of major punishments on them;
4. Creation of posts, their extension and continuance, re-employment, resignations, special pay and allowances and positions; not within the powers of heads of departments.

UNIT – IV

LOCAL SELF GOVERNMENT IN INDIA

It refers to governmental jurisdictions below the level of the state. India is a federal republic with three spheres of government: central, state and local. The 73rd and 74th constitutional amendments give recognition and protection to local governments and in addition each state has its own local government legislation.^[1] Since 1992, local government in India takes place in two very distinct forms. Urban localities, covered in the 74th amendment to the Constitution,^[2] have Nagar Palika but derive their powers from the individual state governments, while the powers of rural localities have been formalized under the *panchayati raj* system, under the 73rd amendment to the Constitution.

Within the Administrative setup of India, the democratically elected Local self-governance bodies are called the "*municipalities*" (abbreviated as the "*MC*") in urban areas and the "*Panchayati Raj Institutes (PRI)*" (simply called the "*panchayats*") in rural areas. There are 3 types of municipalities based on the population, Municipal Corporation (Nagar Nigam) with more than 1 million population, Municipal Councils (Nagar Palika) with more than 25,000 and less than 1 million population, and Municipal Committee (Nagar Panchayat) with more than 10,000 and less than 25,000 population. PRIs in rural areas have 3 hierarchies of panchayats, Gram panchayats at village level, Mandal or block panchayats at block level, and Zilla panchayats at district level.^[4]

Panchayats cover about 96% of India's more than 5.8 lakh (580,000) villages and nearly 99.6% of the rural population. As of 2020, there were about 3 million elected representatives at all levels of the panchayat, nearly 1.3 million are women. These members represent more than 2.4 lakh (240,000) gram panchayats, about over 6,672 were intermediate level panchayat samitis at the block level and more than 500 zila parishads at district level.^[5] Following the 2013 local election, 37.1% of councillors were women, and in 2015/16 local government expenditure was 16.3% of total government expenditure.

Types of local governance entities

The local governance entities are broadly classified into urban and rural, which are further sub-divided based on the size of population in case of the urban bodies and based on the size of population and hierarchy in case of the rural bodies.

Urban local governance bodies

3 types of MCs[edit]

The following 3 types of democratically elected urban local governance bodies in India are called municipalities and abbreviated as the "MC". These are classified based on the size of the population of the urban settlement.^[14]

- Municipal Corporation, also called the "*Nagar Nigam*", of cities with more than 1 million population.
- Municipal Councils, also called the "*Nagar Palika*", of cities with more than 25,000 and less than 1 million population.
- Municipal Committee, also called the "*Town Council*" or "*Nagar Panchayat*" or "*Town Panchayat*" or "*Notified Area Council*" depending on the state within which they lie, these are in the town with more than 10,000 and less than 25,000 population.

Functions of MCs

All municipal acts in India provide for functions, powers and responsibilities to be carried out by the municipal government. These are divided into two categories: obligatory and discretionary.

The mandatory functions of MC include the supply of pure and wholesome water, construction and maintenance of public streets, lighting and watering of public streets, cleaning of public streets, places and sewers, regulation of offensive, dangerous or obnoxious trades and callings or practices, maintenance or support of public hospitals, establishment and maintenance of primary schools, registration of births and deaths, removing obstructions and projections in public streets, bridges and other places, naming streets and numbering houses, maintenance of law and public order, etc.

The discretionary functions of MC include the laying out of areas, securing or removal of dangerous buildings or places, construction and maintenance of public parks, gardens, libraries, museums, rest houses, leper homes, orphanages and rescue homes for women, public buildings, planting of trees and maintenance of roads, housing for low income groups, conducting surveys, organizing public receptions, public exhibitions, public entertainment, provision of transport facilities with the municipality, and promotion of welfare of municipal employees.

Some of the functions of the urban bodies overlap with the work of state agencies. The functions of the municipality, including those listed in the Twelfth Schedule to the Constitution, are left to the discretion of the state government. Local bodies have to be bestowed with adequate powers, authority and responsibility to perform the functions entrusted to them by the Act. However, the Act has not provided them with any powers directly and has instead left it to state government discretion.^[15]

Rural local governance bodies

The democratically elected local self-governance bodies in the villages of rural India are called Panchayati Raj Institutions (PRIs) which are based on the vedic era native democratic panchayat (Council of five officials) system.

3 hierarchies of PRI panchayats

The following 3 hierarchies of PRI panchayats exist in states or Union Territories with more than two million inhabitants:

- Gram Panchayats at village level
- Panchayat Samiti at Community Development Block level and

- Zila Parishad at district level.

The panchayati raj system is a three-tier system with elected bodies at the village, taluk and district levels. The modern system is based in part on traditional {Panchayati raj, Panchayat governance}, in part on the vision of (Mahatma Gandhi) and in part by the work of various committees to harmonize the highly centralized Indian governmental administration with a degree of local autonomy.^[18] The result was intended to create greater participation in local government by people and more effective implementation of rural development programs. Although, as of 2015, implementation in all of India is not complete, the intention is for there to be a gram panchayat for each village or group of villages, a tehsil level council, and a zilla panchayat at the district level.

Functions of PRIs

Defined in the Part IX of the Indian Constitution,^{[19][20]} these are responsible for the 29 subjects listed in the Eleventh Schedule including the "economic development, and strengthening social justice."^[17]

Local bodies by states of India

The Constitution of India visualises panchayats as institutions of self-governance. However, giving due consideration to the federal structure of India's polity, most of the financial powers and authorities to be endowed on panchayats have been left at the discretion of concerned state legislatures. Consequently, the powers and functions vested in PRIs vary from state to state. These provisions combine representative and direct democracy into a synergy and are expected to result in an extension and deepening of democracy in India. Hence, panchayats have journeyed from an institution within the culture of India to attain constitutional status.

State or Union Territory		Local Bodies		
Map key	Name	Rural LB	Urban LB	Traditional LB
1	◇ <u>Andhra Pradesh</u>	1. Zilla Parishad 2. Mandal Panchayat 3. Gram Panchayat	4. Municipal Corporation 5. Municipality 6. Nagar Panchayat	

DUTIES AND RESPONSIBILITIES OF THE MAYOR

The Municipal Act, 2001, Section 225, identifies the Mayor's responsibilities as follows:

- To be head of the municipal council and to act as Chief Executive Officer of the Corporation.
- To preside over council meetings.
- To provide leadership to council.
- To represent the municipality at official functions.
- To carry out the duties of the Head of Council under this or any other Act.
- To perform duties of a member of council as outlined in the Municipal Act, 2001, Section 224.

The Mayor shall also serve as a member of county council and is required to attend all regular and special meetings of county council as well as any standing committees to which he/she may be appointed.

Duties and Responsibilities of the Deputy Mayor

The Deputy Mayor is required to fulfill his/her normal duties as a member of council under the Municipal Act, 2001, Section 224. The Deputy Mayor shall assist the Mayor in carrying out the Mayoral responsibilities under the Municipal Act, Section 225. The Deputy Mayor shall also serve as

a member of county council and is required to attend all regular and special meetings of county council as well as any standing committees to which he/she may be appointed.

Duties and Responsibilities of all Council Members

In accordance with the Municipal Act, 2001, Section 224, it is the role of council:

- To represent the public and to consider the well-being and interests of the municipality.
- To develop and evaluate the policies and programs of the municipality.
- To determine which services the municipality provides.
- To ensure that administrative practices and procedures are in place to implement the decisions of council.
- To ensure the accountability and transparency of the operations of the municipality.
- To maintain the financial integrity of the municipality; and
- To carry out the duties of council under this or any other Act.

C&DMA Powers & Functions

The powers and function of the Commissioner & Director of Municipal Administration mainly includes –

- 1) He is the line authority to coordinate between State and Urban Local body with regard–

The functions and taxation powers

Arrangements of revenue sharing

Release of funds from Central Government/State Government and other financial institutions and preparation of plans for economic development and social justice

Providing adequate representation for the weaker sections like Schedule Castes and Scheduled Tribes and women.

2) Supervisory and monitoring authority in implementation of various developmental schemes like Smart Cities/ Smart wards, Waste Energy Plants, Liquid Waste Management, AMRUT, IHHL etc., introduced by the Government of India and Government of Andhra Pradesh.

3) He is also supervisory and monitoring authority to timely completion of Audit and Accounts in Urban Local Bodies and also guiding the Urban Local Bodies to restrain the leakages

4) Supervisory and monitoring authority for Solid Waste Management in all the ULBs according to SWM guidelines

5) Guides and supervise the Urban Local Bodies to strengthen the financial stability of the Urban Local Bodies by improving their own resources like property tax, water tax, advertisement tax, energy saving etc

6) Election Authority for conduct of ordinary and casual elections in all Municipalities and Municipal Corporations under the superintendence of State Election Commission

7) Election Authority for conduct of election of Chairperson/Mayors/Deputy Mayors/Vice-Chairpersons of Urban Local Bodies under the superintendence of State Election Commission

8) Electoral authority for preparation of electoral rolls in all the Municipalities and Municipal Corporation

9) Authority for Constitution of ward committees and Area Sabhas in Municipalities and Municipal Corporations

10) Recommending authority for Suspension of Council Resolutions passed by the Municipal Councils and Municipal Corporations

11) Appointing Authority upto the posts of categories I to III of Andhra Pradesh Ministerial Sub-ordinate Services(APMMSS)

12) Appointing authority to the posts of Sanitary Inspectors and Sanitary Supervisors

13) Appointing Authority to the posts of Town Project Officers Gr.II and Town Project Officer, Gr.III.

14) Appointing Authority to the post of Accounts Officer, Junior Accounts Officer under APMAS Service

15) Sanction and continuance of all Non-technical posts in the Municipalities and Municipal Corporations

16) Power of transfer of employees above the cadre of Senior Assistants in Ministerial and above Health Assistants in Public Health section of Municipalities and community Organisers working under Urban Poverty Alleviation Programmes and above Senior Accountants in Accounts section

17) Sanction of leaves and increments to all the Municipal Commissioners

18) Forwarding the Budget Estimates and Annual Administration reports of Municipalities to the Government

19) Inspecting and supervising the Municipalities

20) Review of all Plan schemes

21) Appellate Authority for disposal of service appeals in respect of Senior Assistants and above in Municipalities upto Special Grade Municipalities, and of all employees of Selection grade Municipalities

22) Sanction of extra ordinary expenditure of above Rs 500/- and below Rs 5000/- in the case of 1st, IInd and IIIrd grade Municipalities and upto Rs 5000/- in respect of Special and Selection grade Municipalities

23) Sanction of retaining fees to the Municipal Standing Counsels

24) To accord permission to the Municipalities to engage or appoint two separate standing Counsels; one for civil cases and another for criminal cases

25) Sanction of T.A. Bills of Municipal Standing Counsels

26) Sanction of T.A. and D.A. to the Chairperson in Selection Grade Municipalities

27) Sanction of Commutation of pension to all the Municipal Employees(Including Corporation employees)

28) Sanction of pensions to all Municipal Commissioners and staff of DMA.

29) To accord permission to confirm the bid of condemned vehicles

30) Sanction to engage hiring of vehicles by Municipal functionaries

PANCHAYATI RAJ IN INDIA

Panchayati Raj (Council of five officials) is the system of local self-government of villages in rural India as opposed to urban and suburban municipalities. It consists of the Panchayati Raj Institutions (PRIs) through which the self-government of villages is realized.^[2] They are tasked with "economic development, strengthening social justice and implementation of Central and State Government Schemes including those 29 subjects listed in the Eleventh Schedule."^[2]

Part IX of the Indian Constitution is the section of the Constitution relating to the Panchayats. It stipulates that in states or Union Territories with more than two million inhabitants there are three levels of PRIs:

- the Gram Panchayats at village level
- the Panchayat Samiti at block level and
- the Zila Parishad at district level.^[2]

In states or Union Territories with less than two million inhabitants there are only two levels of PRIs. The Gram Sabha consists of all registered voters living in the area of a Gram Panchayat and is the organization through which village inhabitants participate directly in local government. Elections for the members of the Panchayats at all levels take place every five years. The Panchayats must include members of Scheduled Castes (SCs) and Scheduled Tribes (STs) in the same proportion as in the general population. One third of all seats and chairperson posts must be reserved for women, in some states half of all seats and chairperson posts.^[2]

The modern Panchayati Raj system was introduced in India by the 73rd constitutional amendment in 1993, although it is based upon the historical Panchayati raj system of the Indian

subcontinent and is also present in Pakistan, Bangladesh and Nepal. Following a proposal submitted in 1986 by the LM Singhvi Committee^[5] to make certain changes to the Panchayati raj institutions, which had already existed in early Indian history and which had been reintroduced, not very successfully, in the 20th century, the modern Panchayati raj system was formalized and introduced in India in April 1999 as the 73rd Amendment to the Constitution,^[citation needed] following a study conducted by a number of Indian committees on various ways of implementing a more decentralized administration. The modern Panchayati Raj and its *Gram Panchayats* are not to be confused with the extra-constitutional *Khap Panchayats* found in parts of western Uttar Pradesh and Haryana.

In India, the Panchayati Raj now functions as a system of governance in which gram panchayats are the basic units of local administration. The system has three levels: Gram Panchayat (village level), Mandal Parishad or Block *Samiti* or *Panchayat Samiti* (block level), and *Zila Parishad* (district level). Currently, the Panchayati Raj system exists in all states except Nagaland, Meghalaya, and Mizoram, and in all Union Territories except Delhi.

The Panchayats receive funds from three sources:

- Local body grants, as recommended by the Central Finance Commission
- Funds for implementation of centrally sponsored schemes
- Funds released by the state governments on the recommendations of the State Finance Commissions

History

Panchayati raj originated in 2nd millennium BCE in India during Vedic times. Since Vedic times, the village (gram) in the country is considered as the basic unit for regional self-administration.^[6]

Mahatma Gandhi advocated Panchayati Raj as the foundation of India's political system, as a decentralized form of government in which each village would be responsible for its own affairs.^{[7][8]} The term for such a vision was *Gram Swaraj* ("village self-governance"). Instead, India developed a highly centralized form of government.^[9] However, this has been moderated by the delegation of several administrative functions to the local level, empowering elected gram panchayats. There are significant differences between the traditional Panchayati Raj system, that was envisioned by Gandhi, and the system formalized in India in 1992.^[10]

The Panchayat Raj system was first adopted by the state of Bihar by the Bihar Panchayat Raj Act of 1947. It was a continued legacy of local self government started by Lord Ripon in the British era. Later it was implemented by Rajasthan in Nagaur district on 2 October 1959. Rajasthan was the first state to introduce the panchayat system in India after independence. During the 1950s and 60s, other state governments adopted this system as laws were passed to establish panchayats in various states. Maharashtra was the ninth state.

The Balwant Rai Mehta Committee, headed by MP Balwantrai Mehta, was a committee appointed by the Government of India in January 1957 to examine the work of the Community Development Programme (1952) and the National Extension Service (1953), to suggest measures to improve their work. The committee's recommendation was implemented by NDC in January 1958, and this set the stage for the launching of Panchayati Raj Institutions throughout the country. The committee recommended the establishment of the scheme of 'democratic decentralization', which finally came to be known as Panchayati Raj. This led to the establishment of a three-tier Panchayati Raj system: Gram Panchayat at the village level, Panchayat Samiti at the block level, and Zila Parishad at the district level.

On 24 April 1993, the Constitutional (73rd amendment) Act of 1992 came into force in India to provide constitutional status to the Panchayati Raj institutions. This amendment was extended to Panchayats in the tribal areas of eight states, namely: Andhra Pradesh, Gujarat, Himachal Pradesh, Maharashtra, Madhya Pradesh, Odisha, and Rajasthan beginning on 24 December 1996. This amendment contains provisions for the devolution of powers and responsibilities to the panchayats, both for the preparation of economic development plans and social justice, as well as for implementation in relation to 29 subjects listed in the eleventh schedule of the constitution, and the ability to levy and collect appropriate taxes, duties, tolls and fees.^[12] The Act aims to provide a three-tier system of Panchayati Raj for all states having a population of over two million, to hold Panchayat elections regularly every five years, to provide seats reserved for scheduled castes, scheduled tribes and women, to appoint a State Finance Commission to make recommendations regarding the financial powers of the Panchayats, and to constitute a District Planning Committee.^[13]

Gram panchayat sabha

The Sarpanch is its elected head. The members of the gram panchayat are elected directly by the voting-age village population for a period of five years.^[14]

Sources of income

- Taxes collected locally such as on water, place of pilgrimage, local *mandirs* (temples), and markets
- A fixed grant from the State Government in proportion to the land revenue and money for works and schemes assigned to the Parishads
- Donations

BLOCK LEVEL PANCHAYAT OR PANCHAYAT SAMITI

Just as the tehsil goes by other names in various parts of India, notably *mandal* and *taluka*, there are a number of variations in nomenclature for the block panchayat. For example, it is known as *Mandal Praja Parishad* in Andhra Pradesh, *Taluka Panchayat* in Gujarat and Karnataka, and *Panchayat Samiti* in Maharashtra. In general, the block panchayat has the same form as the gram panchayat but at a higher level.

Composition

Membership in the block panchayat is mostly ex-official; it is composed of: all of the *Sarpanchas* (gram panchayat chairmen) in the Panchayat Samiti area, the MPs and MLAs of the area, the sub-district officer (SDO) of the subdivision, co-opt members (representatives of the SC/ST and women), associate members (a farmer from the area, a representative of the cooperative societies and one from marketing services), and some elected members. However, in Kerala, block panchayat members are directly elected, just like grama panchayat and district panchayat members.

The Panchayat Samiti is elected for a term of five years and is headed by a chairman and a deputy chairman

Departments

The common departments in the Samiti are as follows:

- General Administration
- Finance
- Public Works
- Agriculture
- Health
- Education

- Social Welfare
- Information Technology
- Water Supply Department
- Animal Husbandry and others

There is an officer for every department. A government-appointed Block Development Officer (BDO) is the executive officer to the Samiti and the chief of its administration, and is responsible for his work to the CEO of ZP.

Functions

- Implementation of schemes for the development of agriculture and infrastructure
- Establishment of primary health centres and primary schools
- Supply of clean drinking water, drainage and construction/repair of roads
- Development of a cottage and small-scale industries, and the opening of cooperative societies
- Establishment of youth organisations in India

ZILA PARISHAD

The governing of the advance system at the district level in Panchayat Raj is also popularly known as Zila Parishad. The chief of administration is an officer of the IAS cadre and chief officer of the Panchayat raj for the district level.

Composition

The membership varies from 40 to 60 and usually comprises:

- Deputy Commissioner of the District
- Presidents of all Panchayat Samitis in the district
- Heads of all Government Departments in the district
- members of Parliament and Members of Legislative Assemblies in the district
- a representative of each cooperative society
- some women and Scheduled Caste members, if not adequately represented
- co-opted members having extraordinary experience and achievements in public service.

Functions

- Provide essential services and facilities to the rural population
- Supply improved seeds to farmers and inform them of new farming techniques
- Set up and run schools and libraries in rural areas
- Start primary health centers and hospitals in villages; start vaccination drives against epidemics
- Execute plans for the development of the scheduled castes and tribes; run ashram for Adivasi children; set up free hostels for them.
- Encourage entrepreneurs to start small-scale industries and implement rural employment schemes.
- Construct bridges, roads and other public facilities and their maintenance
- Provide employment.
- Works on Sanitation related issues

GRAM PANCHAYAT

Gram Panchayat is a basic village-governing institute in Indian villages. It is a democratic structure at the grass-roots level in India. It is a political institute, acting as cabinet of the village. The Gram Sabha work as the general body of the Gram Panchayat. The members of the Gram Panchayat are elected by the Gram Sabha.^[3] There are about 250,000 Gram Panchayats in India.

History

Established in various states of India, the Panchayat Raj system has three tiers: Zila Parishad, at the district level; Nagar Palika, at the block level; and Gram Panchayat, at the village level. Rajasthan was the first state to establish Gram Panchayat, Nagur village being the first village where Gram Panchayat was established, on 2 October 1959.^[6] The failed attempts to deal with local matters at the national level caused, in 1992, the reintroduction of Panchayats for their previously used purpose as an organisation for local self-governance.^[7]

Structure

Gram Panchayats are at the lowest level of Panchayat Raj institutions (PRIs), whose legal authority is the 73rd Constitutional Amendment of 1992, which is concerned with rural local governments.^[8]

- *Panchayat at District (or apex) Level*
- *Panchayat at Intermediate Level*
- *Panchayat at Base Level*

The Gram Panchayat is divided into wards and each ward is represented by a Ward Member or Commissioner, also referred to as a Panch or Panchayat Member, who is directly elected by the villagers.^[9] The Panchayat is chaired by the president of the village, known as a Sarpanch.^[10] The term of the elected representatives is five years. The Secretary of the Panchayat is a non-elected representative, appointed by the state government, to oversee Panchayat activities.^[11]

Meetings

According to Section. 6 (3) of the *Andhra Pradesh Panchayat Raj Act of 1994*, that state's gram sabha has to conduct a meeting at least twice a year.^[12]

Election

A Gram panchayat's term of office is five years. Every five years elections take place in the village. All people over the age of 18 who are residents of the territory of that village's Gram panchayat can vote.^{[13][3]}

For women's empowerment and to encourage participation of women in the democratic process, the government of India has set some restrictions on Gram panchayat elections, reserving one-third of the seats for women, as well as reserving seats for scheduled castes and tribes.

Functions

Administrative functions

- Public work and welfare functions, such as maintenance, repair and construction of roads, drains, bridges, and wells.
- Install and maintain street lamps.
- Provide primary education.

Social and Economic functions (not obligatory)

- Construct libraries, marriage halls, etc.

- Establish and run fair-price shops and cooperative credit societies.
- Establish of gardens, ponds, and orchards.

Judicial functions (Nyaya Panchayat; the state judicial service decides jurisdiction.)

- Ensure quick and inexpensive justice.
- Can impose fines up to Rs. 100.
- Not represented by lawyers.

UNIT – V

ELECTION COMMISSION OF INDIA (EIC)

The Election Commission of India (ECI) is a self-governing constitutional body which oversees the election process in India as per the Constitution of India. The ECI was set up on January 25 1950, with the aim of defining and controlling the multi-tiered election process in our country.

The Election Commission of India administers the election process from the President of India to the State Legislative Assembly. As per Article 324 of the Indian Constitution, ECI has the supervisory and directional control of the complete process election to Parliament and Legislature of every State and to the office of the President and the Vice-President of India.

Structure

The ECI consists of a Chief Election Commissioner and 2 other Election Commissioners. The multi-member ECI works on the power of the majority vote.

Appointment & Tenure of Commissioners

- The Chief Election Commissioner and the Election Commissioner are appointed by the President of India.
- Each of them holds their offices for a period of 6 years or up to the age of 65 years, whichever comes first.
- They receive the same perks and pay as Supreme Court Judges.
- The only way a Chief Election Commissioner can be removed from office is upon an order of the President supported by the Parliament.
- The Election Commissioner or Regional Commissioner can only be removed from office by the Chief Election Commissioner.

Advisory and Quasi-Judiciary Powers

- The Election Commission of India has advisory jurisdiction in terms of post-election ineligibility of sitting members of the Parliament and State Legislature.
- Cases, where an individual is found guilty of malpractice at elections by the Supreme Court or High Courts, are referred to the ECI for its opinion of the said person's disqualification. In such cases, the judgement passed by the ECI is final and binding on the President of India or the Governor as per jurisdiction.
- The Election Commission of India also has the power to ban any candidate who has not lodged an account of election expenses by the deadline and as per the law.
- ECI can also remove or reduce the period of disqualification as per the law.

Administrative Powers

- Allotting territorial areas for electoral constituencies in the country
- Organise and amend electoral rolls and register eligible voters
- Inform dates and schedule of elections and scrutinize nomination papers

- Give recognition to political parties and assign election symbols to them.
- ECI appoints the following seats:
 - Chief Electoral Officer
 - District Election Officer
 - Returning Officer
 - Electoral Registration Officer

Role of Election Commission of India

ECI plays a crucial role in organising elections. The most significant role of the Election Commission of India is to ensure free and fair elections as per the norms and the Model Code of Conduct. It is in charge of monitoring the actions and activities of the political parties and candidates.

Functions of the Election Commission of India

- ECI is responsible for a free and reasonable election
- It ensures that political parties and candidates adhere to the Model Code of Conduct
- Regulates parties and registers them as per eligibility to contest in elections
- Proposes the limit of campaign expenditure per candidate to all parties and monitors the same.
- It is mandatory for all political parties to submit annual reports to the ECI in order to be able to claim the tax benefit on the contributions.
- Guarantees that all political parties regularly submit audited financial reports.

The **main duties** of the Election Commission are:

- Supervise, control and conduct all elections to Parliament and State Legislatures
- Set general rules for election.
- Prepare electoral rolls
- Determine the territorial distribution of constituencies
- Give credit to political parties.
- Allot election symbols to political parties or candidates
- Appoint tribunals for the decision of doubts and disputes arising out of an election to Parliament and State Legislatures.

Model Code of Conduct

EC first issued a Model Code of Conduct for political parties at the time of the fifth general elections, held in 1971. Since then, the Code has been revised from time to time and lays down guidelines as to how political parties and candidates should conduct themselves during elections.

A provision was made under the Code that from the time the elections are announced by the Commission, Ministers and other authorities cannot announce any financial grant, make promises of construction of roads, carry out any appointments in government and public undertakings which may have the effect of influencing the voters in favor of the ruling party.

Despite the acceptance of the Code of Conduct by political parties, cases of its violation have been on the rise. It is a general complaint that the party in power at the time of elections misuses the official machinery to further the electoral prospects of its candidates. The misuse of official machinery takes different forms, such as the issue of advertisements at the cost of public exchequer, misuse of official mass media during the election period for partisan coverage of political news and publicity regarding their achievements, misuse of government transport including aircraft/helicopter, vehicles..

It is a Constitutional authority agency of Andhra Pradesh, India. It was formed under the Articles 243-K and 243-ZA of Constitution of India. It conducts the Rural and Urban Local Body Elections in the Indian state of Andhra Pradesh.

The Andhra Pradesh State Election Commission was formed in June 1994. The 1st Local body elections to Municipalities and Panchayat Raj Institutions were held in March 1995. The 2nd and 3rd Local Body elections were held in 2000-2001 and 2005-2006 respectively. The 4th ordinary elections to Gram Panchayats were held in July 2013. The 4th ordinary elections to Municipalities were held in March 2014 and to those of MPTCs and ZPTCs in April 2014. Consequent on the bifurcation of the State, the Government of Andhra Pradesh constituted a State Election Commission for the State of Andhra Pradesh on 30 January 2016.

Organization

The State Election commission is headed by a *State Election Commissioner* appointed by the Governor of Andhra Pradesh. The State Election Commissioner holds his term for three years from the date of assumption of office. Officers holding the post of Principal Secretary to Government.

Andhra Pradesh State Election Commissioner is Nilam Sawhney, retired IAS.

Functions

Elections to the Rural and Urban bodies of Andhra Pradesh are held by both direct and indirect elections.^[3] The sole controlling authority rests on the Andhra Pradesh State Election Commission.

The A.P. State Election Commission adopts the Assembly Electoral Rolls prepared under the supervision of the Chief Electoral Officer, General Administration (Elections) Department (who is the representative of the Election Commission of India in the State) for preparation of ward-wise electoral rolls for conduct of elections to Rural and Urban Local Bodies in the State.^[4] Polling stations are identified based on the rolls. Once the pre-election exercises such as delimitation and reservation of seats and offices in local bodies are completed and communicated by the State Government, the State Election Commission issues Notification for conduct of elections.

Direct elections

Elections to the following posts are held by this Commission by Direct election.

- **Rural Local Bodies :**

1. Members of the Zilla Parishad Territorial Constituency (ZPTC).
2. Members of the Mandal Parishad Territorial Constituency (MPTC).
3. Sarpanch of the Gram Panchayat.
4. Ward Member of Gram Panchayat.

- **Urban Local Bodies :**

The Urban Local Bodies consist of Municipal Corporations, Municipalities and Nagar Panchayats.

1. Corporators / Ward Members of Municipal Corporation.
2. Councillors / Ward Members of Municipality / Nagar Panchayat.

Indirect elections

Indirect elections are held for the following positions: After taking oath by the directly elected Members, indirect elections are held as per the date and time appointed by the Commission in the respective local bodies.

- **Rural Local Bodies :**

1. Upa-Sarpanch of Gram Panchayat.

2. President and Vice-President of Mandal Praja Parishad.
3. Chairperson and Vice-Chairperson of Zilla Praja Parishad.
- **Urban Local Bodies :**
 1. Mayor and Deputy Mayor of Municipal Corporation.
 2. Chairperson and Vice-Chairperson of Municipalities.

NATIONAL COMMISSION FOR SCHEDULED CASTES

Functions of the Commission

1. To investigate & Monitor matters relating to Safeguards provided for STs under the Constitution or under other laws or under Govt. Order, to evaluate the working of such Safeguards.
2. To inquire into specific complaints relating to Rights & Safeguards of STs;
3. To participate and Advise in the Planning Process relating to Socio-economic development of STs, and to Evaluate the progress of their development under the Union and any State;
4. To submit report to the President annually and at such other times as the Commission may deem fit, upon/ working of Safeguards, Measures required for effective implementation of Programmers/ Schemes relating to Welfare and Socio-economic development of STs;
5. To discharge such other functions in relation to STs as the President may, subject to the provisions of any law made by Parliament, by rule specify;
6. The Commission would also discharge the following other functions in relation to the protection, welfare and development & advancement of the Scheduled Tribes, namely:-
 - (i) Measures that need to be taken over conferring ownership rights in respect of minor forest produce to the Scheduled Tribes living in forest areas.
 - (ii) Measures to be taken to safeguard rights to the Tribal Communities over mineral resources, water resources etc. as per law.
 - (iii) Measures to be taken for the development of tribals and to work for move viable livelihood strategies.
 - (iv) Measures to be taken to improve the efficacy of relief and rehabilitation measures for tribal groups displaced by development projects.
 - (v) Measures to be taken to prevent alienation of tribal people from land and to effectively rehabilitate such people in whose case alienation has already taken place.
 - (vi) Measures to be taken to elicit maximum cooperation and involvement of Tribal Communities for protecting forests and undertaking social afforestation.
 - (vii) Measures to be taken to ensure full implementation of the Provisions of Panchayats (Extension to the Scheduled Areas) Act, 1996
 - (viii) Measures to be taken to reduce and ultimately eliminate the practice of shifting cultivation by Tribals that lead to their continuous disempowerment and degradation of land and the environment.
 - (ix) Copy of Ministry of Tribal Affairs notification dated 23.08.2005 regarding the extended terms of reference of NCST
 - (x) NCST letter dated 21/10/2008 to MTA furnishing detailed proposal for strengthening of NCST
 - (xi) D.O. Letter dated 13/01/2011 from Chairperson NCST to the Minister for Tribal Affairs

(xii) UO dated 24/05/2010 from PMO to Ministry of Tribal Affairs regarding action to be taken on important pending issues

(xiii) D.O letter dated 05/03/2010 from VC, NCST to Minister to Minister for Tribal Affairs for resolving critical issues involved in efficient performance of NCST

FUNCTIONS OF COMMISSIONS FOR THE WELFARE OF WOMEN

The commission shall perform all or any of the following functions, namely :-

- Investigate and examine all matters relating to the safeguards provided for women under the Constitution and other laws;
- present to the Central Government, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguard;
- make in such reports recommendations for the effective implementation of those safeguards for the improving the conditions of women by the Union or any state;
- review, from time to time, the exiting provisions of the Constitution and other laws affecting women and recommend amendments thereto so as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcomings in such legislations;
- take up cases of violation of the provisions of the Constitution and of other laws relating to women with the appropriate authorities;
- look into complaints and take suo moto notice of matters relating to:-
 - deprivation of women's rights;
 - non-implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development;
 - non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women, and take up the issues arising out of such matters with appropriate authorities;
- call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal;
- undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres and identify factors responsible for impeding their advancement, such as, lack of access to housing and basic services, inadequate support services and technologies for reducing drudgery and occupational health hazards and for increasing their productivity;
- participate and advice on the planning process of socio-economic development of women;
- evaluate the progress of the development of women under the Union and any State;
- inspect or cause to inspected a jail, remand home, women's institution or other place of custody where women are kept as prisoners or otherwise and take up with the concerned authorities for remedial action, if found necessary;
- fund litigation involving issues affecting a large body of women;
- make periodical reports to the Government on any matter pertaining to women and in particular various difficulties under which women toil.

NATIONAL COMMISSION FOR BACKWARD CLASSES (NCBC)

What is NCBC?

1. 102nd Constitution Amendment Act, 2018 provides constitutional status to the National Commission for Backward Classes (NCBC).
2. It has the authority to examine complaints and welfare measures regarding socially and educationally backward classes.
3. Previously NCBC was a statutory body under the Ministry of Social Justice and Empowerment.

Background

1. Two Backward Class Commissions were appointed in 1950s and 1970s under Kaka Kalelkar and B.P. Mandal respectively.
2. In Indra Sawhney case of 1992, Supreme Court had directed the government to create a permanent body to entertain, examine and recommend the inclusion and exclusion of various Backward Classes for the purpose of benefits and protection.
3. In pursuant to these directions parliament passed National Commission for Backward Classes Act in 1993 and constituted the NCBC.
4. 123rd Constitution Amendment bill of 2017 was introduced in Parliament to safeguard the interests of backward classes more effectively.
5. Parliament has also passed a separate bill to repeal the National Commission for Backward Classes Act, 1993, thus 1993 act became irrelevant after passing the bill.
6. The bill got the President assent in August 2018 and provided the constitutional status to NCBC.

Structure of NCBC

1. The Commission consists of five members including a Chairperson, Vice-Chairperson and three other Members appointed by the President by warrant under his hand and seal.
2. The conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members is determined by President.
3. Constitutional Provisions
4. Article 340 deals with the need to, inter alia, identify those "socially and educationally backward classes", understand the conditions of their backwardness, and make recommendations to remove the difficulties they face.
5. 102nd Constitution Amendment Act inserted new Articles 338 B and 342 A.

6. The amendment also brings about changes in Article 366.
7. Article 338B provides authority to NCBC to examine complaints and welfare measures regarding socially and educationally backward classes.
8. Article 342 A empowers President to specify socially and educationally backward classes in various states and union territories. He can do this in consultation with Governor of concerned State. However, law enacted by Parliament will be required if list of backward classes is to be amended.

Powers and Functions

1. The commission investigates and monitors all matters relating to the safeguards provided for the socially and educationally backward classes under the Constitution or under any other law to evaluate the working of such safeguards.
2. It participates and advises on the socio-economic development of the socially and educationally backward classes and to evaluate the progress of their development under the Union and any State.
3. It presents to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards. The President laid such reports before each House of Parliament.
4. Where any such report or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the State Government.
5. NCBC has to discharge such other functions in relation to the protection, welfare and development and advancement of the socially and educationally backward classes as the President may, subject to the provisions of any law made by Parliament, by rule specify.
6. It has all the powers of a civil court while trying a suit.