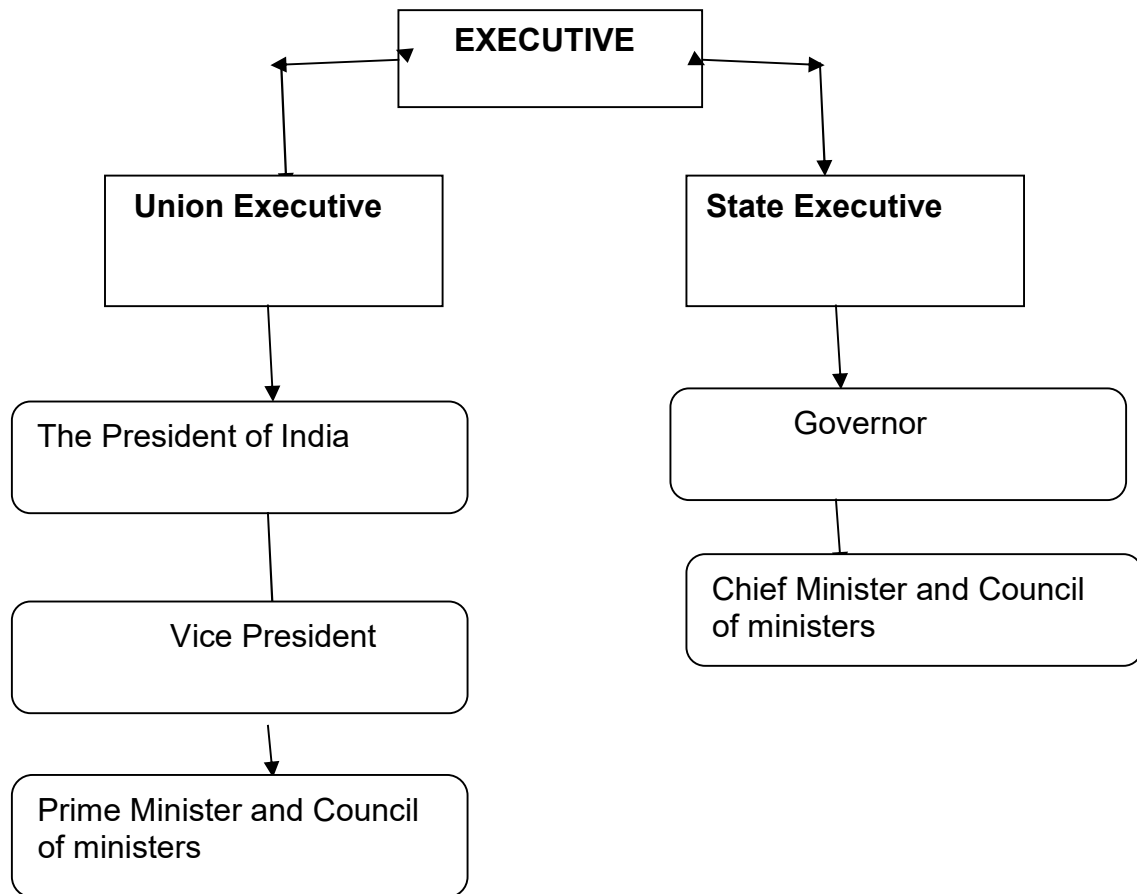


THE CONSTITUTION OF INDIA
Subject Code –HS 13/23

UNIT III

Three main organs of state.

↓ ↓ ↓
Legislature Executive Judiciary



1 Union executive

The President of India

Article 52 declares that there shall be a President of India.

The President is the first citizen and the Constitutional head of the nation.

Qualifications:

1. Shall be a citizen of India
2. Shall have completed 35 years of age.
3. Shall be qualified to be elected as a member of Lok Sabha.
4. Shall not hold any office of profit.

Powers of President

Executive power: The executive power of the Union Government is vested with the President. The PM, council of ministers, Attorney General, Comptroller and Auditor General, Chief finance commissioner, members of election commission of India, High Commissioners, governors ambassadors etc are appointed by the President.

The President is the Commander in Chief of all the armed forces.

War declaration by India shall be signed by the President.

Legislative power: Parliament can enact a new law only with the consent or assent of the President. A bill adopted by both the houses of Parliament turns into a new law only with the consent of the President. A money bill can be introduced only in Lok Sabha with the previous permission of the President.

The President can summon both the houses of Parliament and address the meetings.

President's power to veto a bill: Parliament can enact a new law only if the President gives his assent. A bill adopted by both the houses of parliament turns into a new law on receipt of the

consent of the President. In certain situations the President can withhold his assent on a bill passed by the Parliament and it is known as veto. Effect of veto is the termination of the bill after a period of time.

Ordinance making power: Article 123 empowers the President to promulgate an ordinance. When the Parliament is not in session and if there is urgency of an action, the President can promulgate an ordinance. The ordinance has got the same force of an Act made by the parliament, but it has to be adopted by both the houses within 6 weeks from the date of re assembly.

Judicial powers: The judges of SC and HCs are appointed by the President.

Transfer of High Court judges can be made only with the consent of the President.

President can pardon all the punishments imposed by the judiciary including capital punishment.

Financial powers: For introducing money bill and budget in the Parliament, the consent of President is essential

Emergency powers: When the security of the nation is threatened or if the constitutional machinery of a state is in crisis the President can proclaim emergency.

Election of President of India

The first citizen of India is the President and he shall be an elected person. The President of India is elected through an electoral college which comprises all the elected members of parliament and all the elected members of the state legislative assemblies (all the elected MPs and all the elected MLAs). The method adopted is known as the 'proportional representation by means of single, transferable, secret ballot'. The term of President is 5 years. Before assuming the office, the President has to take an oath and that will be administered by the Chief Justice of India.

The President being the first citizen of India, his office cannot be kept vacant. Before the expiration of the term of President, the successor has to be elected. If a vacancy occurs in the President's office because of his death or resignation, the Vice-President will become the acting President. Within 6 month from the date of occurrence of vacancy the new President shall be elected.

Impeachment of President of India

The process of removal of the President of India from his post is known as impeachment. The President can be impeached only for the violation of the Constitution. The proceedings can be initiated by introducing a resolution either in Rajya Sabha or in Lok Sabha. An enquiry will be conducted about the charges leveled against the President and resolution will be put to vote in both houses. If the resolution is adopted with a special majority in both houses, the President stands impeached.

Vice president of India

He is the Ex- officio chairman of the Council of States. VP can be elected through an electoral college consisting of all the members of parliament. The term is 5 years and he can resign from the position by submitting a letter of resignation to the President. In case of vacancy in the office of President, VP can act as the President.

Qualifications:

1. Shall be a citizen of India
2. Shall have completed 35 years of age.
3. Shall be qualified to be elected as a member of Rajya Sabha.
4. Shall not hold any office of profit.

Prime Minister of India and council of ministers

Article 74 of the Constitution states that there shall be a council of ministers headed by the Prime Minister to aid and advise the President.

The real executive power of the union of India is vested with the council of ministers headed by the Prime Minister. The PM is appointed by the President. Other ministers will be selected by the PM and appointed by the President. The PM is the leader of the ministry; he can decide the size of the cabinet, reshuffle it and also allot departments to the ministers. If the PM resigns, the cabinet also dissolves.

The council of ministers is collectively responsible to the lower house of parliament, Lok Sabha. For the lapse of an individual minister the entire ministry will be answerable to Lok Sabha.

The number of ministers in the council including PM shall not exceed 15% of the total number of members in Lok Sabha.

According to article 75(3) a member of Rajya Sabha or Lok Sabha only is eligible to get appointed as a minister. However a non member also can be appointed as a minister and within 6 months from the date of appointment the person shall become a Member of Parliament. Otherwise the minister ship will be terminated.

Council of ministers.

Ensuring smooth functioning of the administration of the nation is the prime most duty of the council of ministers. Framing policies for the government, drafting Bills, preparing the union budget, formulating foreign policies of the nation, suggesting amendments to the Constitution etc. are the other functions of the council of ministers. Various ministers in the council can be classified into different categories namely cabinet ministers, minister of state, deputy ministers etc.

2. State executive

Governor

The executive power of a state is vested with the Governor who is appointed by the President.

Qualifications:

Must be a citizen of India

Must have completed 35 years of age

Must not be a Member of Parliament or state legislatures.

Shall not hold any office of profit.

Powers:

1. Appoints the CM of a state and other ministers.
2. Governor has the right to know about all the administrative actions taken by the state ministry.
3. Can review, assent or dissent the bills passed by the state legislature
4. During state emergency, the administration of the state will be with the governor.
5. Governors can promulgate ordinance when the state legislature is not in session (article 213).
6. A governor can pardon all sentences imposed by the judiciary other than capital punishment.
7. Appointment of Advocate General, Vice- Chancellors of universities etc.

Term of office: The term of office of a governor is 5 years. However, the President can remove a governor from his post at any time on sufficient grounds. The same person can act as the governor of two or more states simultaneously.

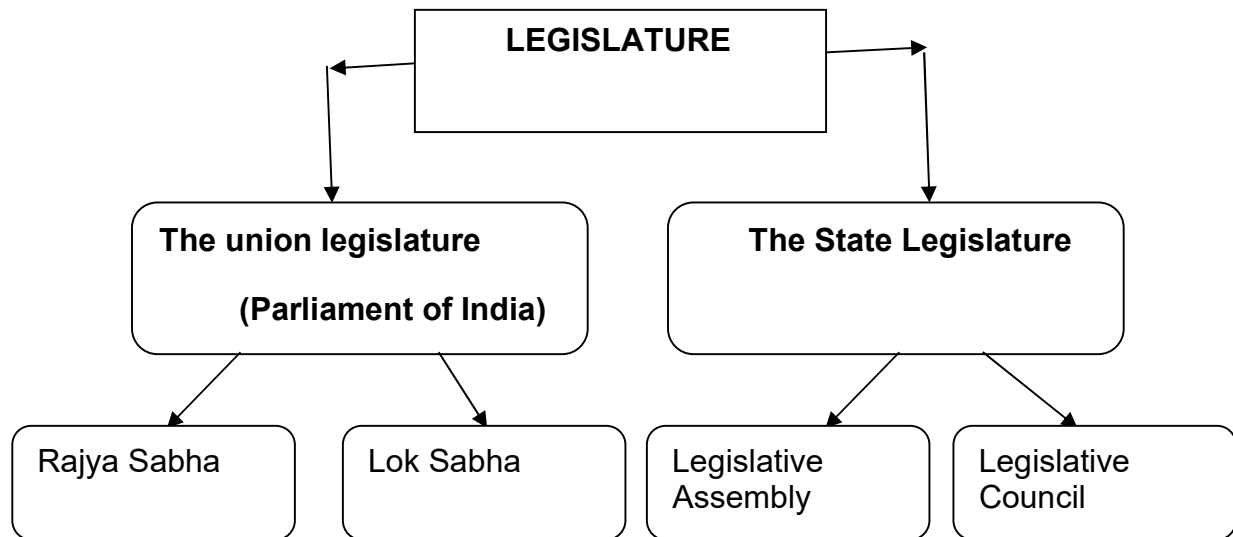
Chief Minister and Council of Ministers

Chief Minister.

The Chief Minister is the head of the state ministry and is appointed by the governor. Other ministers will be selected by the CM and appointed by the governor. The CM is the leader of the state ministry; he can decide the size of the cabinet, reshuffle it and also allot departments to the ministers. CM is empowered to supervise the functioning of the other departments. CM is also bound to maintain a good relationship with the central government.

Council of ministers

The number of ministers in the council including CM shall not exceed 15% of the total number of members in the Legislative Assembly. Ministers in the council are appointed by the governor on advice of the CM. various ministers in the council can be classified into different categories namely cabinet ministers, minister of state, deputy ministers etc.

**Division of power between Central Government and state governments****Schedule VII**

Schedule VII of the Indian Constitution divides the power of governance of the nation between central government and state governments through 3 main lists namely union list, state list and concurrent list.

Union list

Union list contains 100 subject matters. Upon the subject matters given in the union list Parliament of India alone can enact laws.

Atomic energy, defense of India etc. are items contained in the union list.

State list- contains 61 subject matters and only state legislatures can enact laws on these items.

Concurrent list- Concurrent list is regarded as a common pool for both central and state legislatures; hence parliament of India and state legislatures can enact laws on subject matters given in concurrent list. 52 items are there in this list.

Thus schedule VII divides the power of governance of the nation between central and state governments which is an important federal feature of Indian Constitution.

1. Parliament of India- The union legislature

In India, the union legislature is known as the Parliament. It can enact laws for the entire nation or any part thereof. Parliament is empowered to make laws regarding items given in union list and also in concurrent list.

The Parliament shall consist of the President of India and two houses namely:

The Rajya Sabha and

The Lok Sabha

The Rajya Sabha is also known as the Council of states. It is the upper house.

Composition of Rajya Sabha

The total membership of Rajya Sabha shall not exceed 250. Current strength is 245.

Out of the total members in Rajya Sabha, 12 are nominated by the President with special knowledge or experience in the field of science, literature, arts or social service. Then 238 members are representatives of states and union territories in India and these members are elected by an electoral college composed of MLAs of the respective states and union territories. Thus the total membership is 250. Rajya Sabha is a permanent house which is not subject to dissolution or abolition. However 1/3rd of its total members get retired every two years. The tenure of a Rajya Sabha member is 6 years. The Ex- Officio chairman of Rajya Sabha is Vice- President who is a non member of the house. Thus Rajya Sabha is the only legislative house which is presided over by a non member.

Lok Sabha or House of People is the lower house of the Parliament. The total strength of the house shall not exceed 552. Currently 543 members are there, out of which 530 members are elected directly by the people through general election. There are 13 members to represent union territories. Till the year 2020, the President of India was empowered to nominate 2 members from Anglo-Indian community into Lok Sabha. The practice was discontinued through the 104th amendment, 2020. Tenure of Lok Sabha is 5 years. However during national emergency, the President may extend the term of Lok Sabha by one year at a time.

The qualifications and disqualifications of the members of Parliament

Qualifications for membership of Parliament

To be elected as a Member of Parliament, the person must be

1. Citizen of India.
2. Not less than 30 years of age in the case of Rajya Sabha and not less than 25 years in the case of Lok Sabha.
3. Possessing such other qualifications as may be prescribed by the Parliament by law.

Disqualifications

Disqualifications under Constitution (Article 102)

1. A person holding an office of profit
2. A person who is of unsound mind and declared so by a competent court
3. An undercharged insolvent.

4. A person who relinquished Indian citizenship or voluntarily acquired the citizenship of a foreign Country.

Disqualifications under Representation of Peoples Act 1950

1. Corrupt practices in an election
2. Conviction for an offence resulting in imprisonment of two years or more.
3. Failure to lodge accounts of election expenditure with the Election Commission.
4. Having an interest in a government contract.
5. Dismissal from Govt. service
6. Absence from the sessions of Parliament for a continuance period of 60 days or more without permission of the house.

Some terms connected with Parliament.

Adjournment

If the presiding officer suspends the work of either Rajya Sabha or Lok Sabha it is known as adjournment.

Prorogation

If the President of India puts an end to the sessions of Rajya Sabha or Lok Sabha, it is known as prorogation.

Quorum

The minimum number of members to constitute a meeting of Rajya Sabha or Lok Sabha is known as quorum. 1/10th of the total membership of Rajya Sabha or Lok Sabha is regarded as the quorum.

Joint session

A joint session of Parliament can be summoned by the President of India and usually the joint session will be presided over by the speaker of Lok Sabha.

2. The state legislature

By virtue of Art.168, there shall be a legislature for every state .A state legislature can enact laws regarding items given in state list and also concurrent list in schedule VII. It shall consist of the Governor and the State Legislative Assembly. In some states there will be an additional house called Legislative council.

Legislative assembly:

The Legislative Assembly is also known as Vidhan Sabha. In a bi cameral state legislature (state legislature with both legislative assembly and council) legislative assembly is the lower house.

It shall consist of not more than 500 and not less than 60 members.

However in micro states like Mizoram, Goa, Sikkim and union territory Puducherry number of MLAs is below 60.

Members of legislative assemblies will be directly elected by the people. Till 2020, the Governor was able to nominate one member from Anglo-Indian community into the Legislative Assembly and the practice got abolished through 104th amendment 2020. Tenure of an MLA is 5 years.

Legislative council:

Legislative Council is also known as Vidhan Parishad and it is the upper house. The membership shall not exceed 1/3rd of the total strength of the Legislative Assembly in that state. However the membership shall not be below 40. Legislative Council is not subject to dissolution but can be abolished through an Act of Parliament. The tenure of legislative council members is 6 years. Legislative Council is an optional house, usually created by larger states.

Currently there are six states in India with the upper house – Karnataka, Andhra Pradesh, Telangana, Maharashtra, Bihar and Uttar Pradesh

Composition

1/3rd of the total members in a legislative council are elected by the MLAs in the state.

1/3rd is elected by the members of local bodies such as municipalities, district boards etc.

1/6th is elected by registered graduates and teachers from the state.

1/6th can be nominated by the Governor.

A Legislative Council member can hold his office for a period of 6 years.

1/3rd of total MLCs retire every two years. Legislative Council is a permanent house which cannot be dissolved but can be abolished through an Act of Parliament.

a. The total strength of legislative houses, term and age limit of MPs, MLCs and MLAs.

Name of house	No. of members	Term of members	Age limit of members
Rajya Sabha	● Not more than 250.	6 years	Must have attained 30 years.
Lok Sabha	● Maximum 552 (543 members currently)	5 years	Must have attained 25 years.
Legislative Council	● Maximum strength shall not exceed 1/3rd of total strength of legislative assembly of a state. ● Minimum 40.	6 years	Must have attained 30 years.
Legislative Assembly	● Not more than 500. ● Minimum 60	5 years.	Must have attained 25 years.

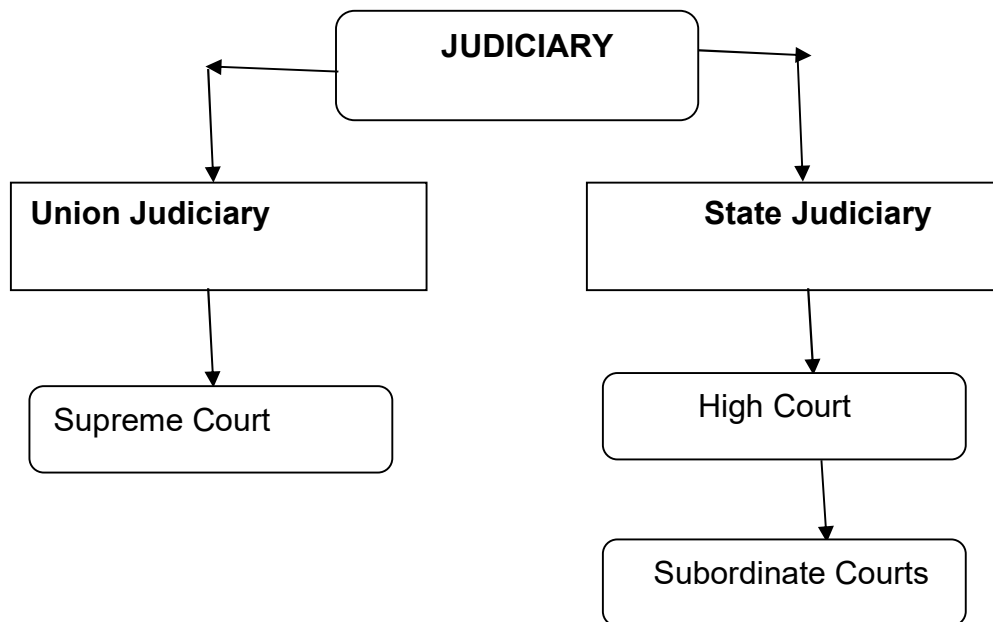
b. The tenure of houses of parliament and state legislatures.

Name of the house	Tenure.
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Rajya Sabha	Permanent, not subjected to dissolution.
Lok Sabha	5 years.
Legislative Council	Permanent, not subjected to dissolution, but can be abolished through an Act.
Legislative Assembly	5 years.

UNIT IV

1. Indian Judiciary



a. Jurisdictions of Supreme Court and High Courts

Supreme Court	High Court
Original jurisdiction	Original jurisdiction
Appellate jurisdiction	Appellate jurisdiction
Writ jurisdiction (article 32)	Writ jurisdiction (article 226)
Judicial review	Power to transfer cases
Judicial activism	Power of superintendence.

b. Qualifications and term of judges of SC and HCs.

Court	Qualifications of judges	Term
Supreme Court	<ul style="list-style-type: none"> ● A citizen of India. ● A judge of HC for at least 5 years or ● An advocate of HC at least for a period of 10 years or ● A distinguished jurist in the opinion of the President. 	Till 65 years
High Court	<ul style="list-style-type: none"> ● A citizen of India. ● An advocate of HC at least for a period of 10 years or ● 10 years of experience as a judicial officer in India. 	Till 62 years

Supreme Court of India - “The ultimate interpreter of Indian Constitution”.

The Supreme Court of India is apex court in the Indian judicial system and termed as the ultimate interpreter of the constitution. It is also termed as the guardian of the Constitution. It has got many jurisdictions.

Jurisdictions of Supreme Court of India

Original jurisdiction- This jurisdiction empowers the Sc to hear a case in the first instance. A litigation between the government of India on one side and one or more states on the other side comes under the original jurisdiction of SC. Same way a legal dispute in between two or more states is also under the purview of original jurisdiction of SC.

Example - Kaveri water dispute.

Appellate jurisdiction - Supreme court can hear appeals preferred against judgments made by High Courts. The decision taken by Supreme Court on an appeal is final hence it is regarded as the highest court of appeal.

WRIT jurisdiction- Article 32 confers vast powers on the SC to protect the fundamental rights of the people and provide remedial measures in the form of Writs namely Habeas Corpus, Mandamus, Certiorari, Prohibition and Quo Warranto.

Advisory jurisdiction – This jurisdiction can be invoked by the President of India in case of an ambiguity regarding a question of law or question of facts.

Power to review judgments - Using this jurisdiction SC can review its own judgment and rectify mistakes if any.

Power to transfer cases - If a case pending before a subordinate court involves a constitutional interpretation or a matter of general importance, it can be transferred to SC and can be adjudicated.

Over-ruling power – The decision made by SC is binding on all subordinate courts. But SC is not bound by its earlier decision. SC deviating from its own earlier decision and enunciating a new legal principle is known as over ruling.

Judicial review – SC is empowered to review the laws made by the legislatures. If a law or any provision there under is abridging the fundamental rights SC can invalidate the same, terming it as un- constitutional.

Various jurisdictions available to High Courts

Article 214 of the Constitution deals with High Courts. A High Court has various jurisdictions namely the original jurisdiction, appellate jurisdiction, WRIT jurisdiction, advisory jurisdiction, power of review, power to transfer cases, power to punish for contempt of court and power of superintendence. The High Court can exercise its original jurisdiction in matters related to election petition, admiralty etc. It can also consider appeals preferred against the judgments made by various subordinate courts in the states. Article 226 confers vast powers on the HC to protect the fundamental rights of the people and provide remedial measures in the form of Writs namely Habeas Corpus, Mandamus, Certiorari, Prohibition and Quo Warranto. It can also provide advice to the state government and governor. High Courts can supervise the functioning of other lower courts in the state.

The qualifications and tenure of Supreme Court judges and High Court judges.

Article 124 of the Constitution contains the provisions related to the Supreme Court of India. SC contains Chief Justice of India and such other judges appointed by the President.

The present CJI is N.V.Ramana.

Qualifications of SC judges:

1. A person with 5 years of experience as a High Court judge
2. A person with 10 years of experience as a High Court advocate
3. A person who is a distinguished jurist in the opinion of the President of India.
4. The person should be a citizen of India.

Tenure: A SC judge can hold his office till he attains 65 years.

Removal of SC judges

Judges of SC can be removed from their office only on two conditions

1. Proved misbehavior
2. Incapacity.

The process of removal is known as impeachment.

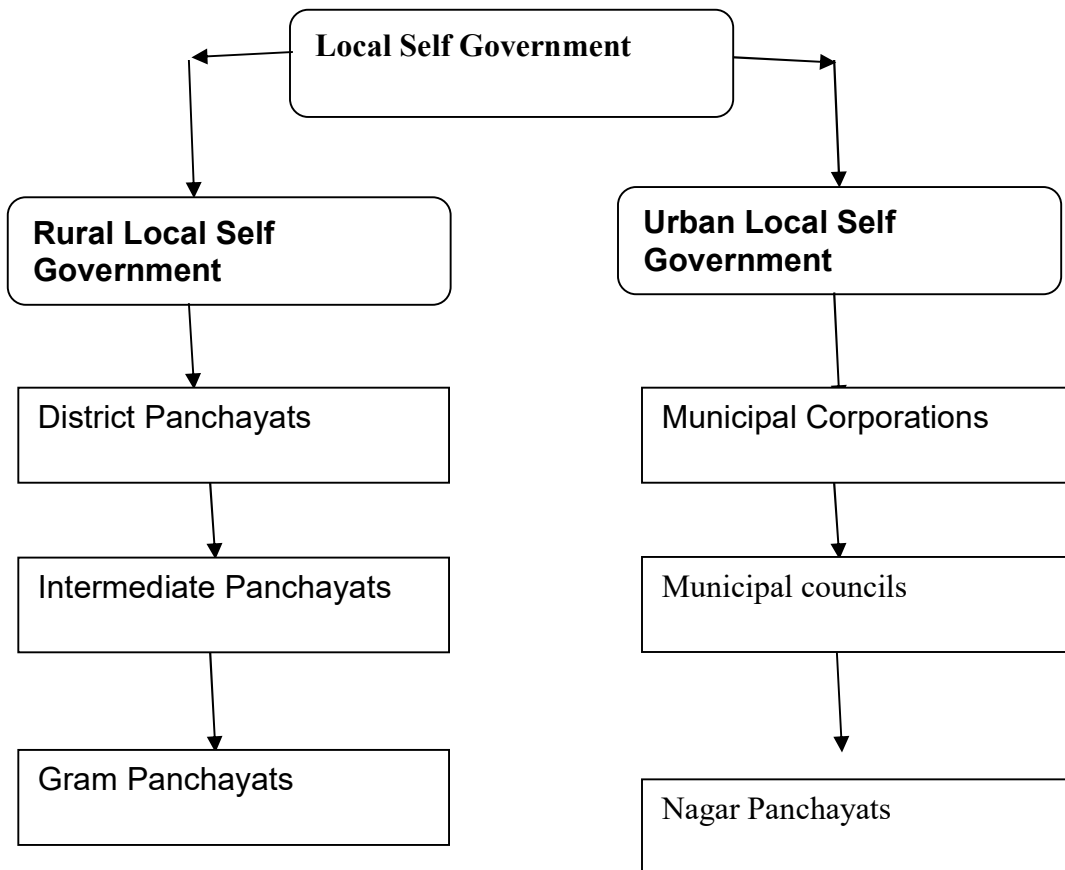
Article 214 of the Constitution contains the provisions related to High Courts. A High Court contains Chief Justice and such other judges appointed by the President.

Qualifications of HC judges:

1. A person with 10 years of experience as a judicial officer in India.
2. A person with 10 years of experience as a High Court advocate
3. The person should be a citizen of India.

Tenure: A HC judge can hold his office till he attains 62 years.

2. Local self Government



1. Local self government – Part IX

The development of Local Self Government system in India

Development of rural areas in India through the Panchayat Raj system was envisaged by Mahatma Gandhi and advocated it as the foundation of India's political system. He asserted that

‘India lives in her villages’ and national progress can be achieved only through the development of villages. For the realization of Gandhiji’s dream on rural development, article 40 has been added into Indian Constitution which serves as the basis for the Panchayat Raj system in India. Article 40 is a directive principle which states that ‘the government shall strive to establish village panchayats and provide them with the power of self governance.

The idea of establishment of local self governments got momentum immediately after India got independence. However during pre pre-independence era also some initiatives were taken by the British on local self government.

The British Viceroy ‘Lord Rippon’ made a resolution on local self government in India in 1882. The resolution was the basis of local self government till India got independence. Hence Lord Rippon is known as the father of Local Self Government system in India and the resolution made by him is known as the ‘Magna Carta of Local self Government system’ in India.

In 1952, the government devised a scheme called Community Development Program (CDP) on a pilot basis in a few states and the step is regarded as the starting point of the local self government system in India post independence. CDP turned out to be a huge success and in 1953, the government extended the program throughout the nation in the name of National Extension Service (NES).

In 1957, a committee was appointed to study the progress and efficiency of CDP and NES. The Committee was chaired by ‘Balwanth Rai Mehta’ and he recommended the creation of a three tier system of Panchayats in India. Hence Balwanth Rai Mehta is known as the ‘Chief Architect of Panchayat Raj System’ in India.

In 1959, taking inspiration from Balwanth Rai Mehta committee recommendations, Rajasthan established a three tier system of panchayats for the first time in India.

In 1986 L.M Singhvi committee was appointed for strengthening the system and the committee advocated for giving constitutional status to panchayats and municipalities. Based on the recommendations of the committee, the government enacted 73rd and 74th amendments in 1992 applicable for panchayats and municipalities respectively and turned them into constitutional bodies.

A. Panchayat Raj system (3 main tiers)

- a. Gram Panchayat – lowest rung.
- b. Intermediate Panchayat (Mandal Panchayat) – intermediate rung.
- c. District Panchayat (Zilla Panchayat) – highest rung.

Panchayats are constitutional bodies for the governance of rural areas in India. Panchayats are regarded as local rural self government bodies. Initiatives were taken by various governments for the establishment of Panchayati Raj system in India but the system got strengthened after the 73rd amendment, which provided Constitutional status to Panchayats.

The main objectives of the system include:

1. Holistic development of rural areas in India: Panchayati Raj system aims at the overall development of villages by bringing development into all areas namely education, health, agriculture, irrigation, electricity, cottage industries etc.

2. Democratic decentralization: Panchayat raj system envisages the participation of citizens in the governance of the country. This is achieved through the establishment of Gram Sabha which comprises all the adult members in a village who are eligible voters. Gram Sabha meetings are held once in six months and people directly participate in discussion of projects and activities taken up by the panchayats. The process is called social auditing.

3. Developing the nation from the grass root level and addressing the issues of the rural areas there itself with the power of self governance.

In 1992, the government enacted the 73rd amendment and provided constitutional status to panchayats. The amendment also added Articles 243-A to 243-O and schedule XI into the Constitution.

Schedule XI contains 29 items upon which panchayats can exercise the powers. Cottage industries, minor irrigation, drinking water, poverty eradication etc. are items given in 11th schedule.

Article 243 contains certain definitions pertaining to Panchayat raj.

Gram Sabha

Gram Sabha means a body consisting of all the eligible voters within the area of a Panchayat at the village levels. The members of Gram Sabha shall be registered voters as per the electoral roll of the Panchayat. Gram Sabha meetings shall be held once in 6 months and people directly take part in the decision making.

Panchayat

Panchayat means an institution of self government constituted under Article 243-B for the rural areas.

Reservation of seats- Article 243(D)

According to article 243- D seats shall be reserved in favour of women and also for people belonging to Scheduled castes and scheduled tribes. Out of the total seats in a Panchayat, 1/3rd (33.3%) shall be reserved in favour of women.

Duration of Panchayats

Every Panchayat shall continue for a period of 5 years from the date of its first meeting and no longer. Periodic elections shall be conducted for the election of new panchayats and the responsibility is vested with the state election commission. A person can exercise his voting right in the Panchayat election if has attained the age of 18 years and his name is registered in the electoral roll. To become a candidate in an election to Panchayat, the person must attain 21 years of age.

Functions and powers

The functions and powers of panchayats can be decided by the respective state legislature. Schedule 11 of the Constitution contains 29 items applicable for panchayats and the allotment of subject matters is under the discretion of the state legislature.

B. Municipalities.– Part IX-A

a. Municipal corporation.

- b. Municipal council
- c. Nagar Panchayats

By virtue of the 74th amendment municipalities attained Constitutional status in India.

These bodies are established for the administration of urban areas. There are three types of municipal bodies such as municipal corporations for the administration of larger urban areas, municipal councils for smaller urban areas and Nagar panchayats for areas which are under transitions from rural to urban. Schedule 12 contains 18 subject matters applicable to municipalities. Town planning, roads and bridges, water supply for domestic, industrial and commercial purposes etc are items given in 12th schedule.

Powers and functions can be decided by the respective state legislatures.

C. Cooperative societies.

- a. Formation- The Indian cooperative credit societies Act ,1904

D. Objectives.

- a. Render service rather than making profit.
- b. Mutual help instead of competition.
- c. Self help instead of dependence.

A cooperative society is an autonomous association of persons united voluntarily to meet their economic, social and cultural needs through a jointly owned enterprise. The members of the society join their hands for the promotion of their common goals through mutual help. The ownership of cooperative societies are vested in the hands of members.

3. Types of Emergency provisions under the Constitution

a. Emergency provisions.

Type of emergency	Article	Duration	
		Initial	maximum
National emergency	352	1 month	<ul style="list-style-type: none"> ● 6 months at a time. ● Can be extended further.
State emergency	356	2 months	<ul style="list-style-type: none"> ● 6 months at a time. ● Can be extended only upto 3 years.
Financial emergency	360	2 months	<ul style="list-style-type: none"> ● Continues indefinitely.

b. **Grounds of emergencies**

Type of emergency	Grounds
National emergency	<ul style="list-style-type: none">● War● External aggression● Armed rebellion
State emergency	<ul style="list-style-type: none">● Political instability● Breakdown of law and order● Corruption and maladministration.● External aggression● Armed rebellion.● While creating new states.
Financial emergency	<ul style="list-style-type: none">● A threat to the financial stability of India or any part thereof.

National Emergency

Article 352 of the Constitution of India deals with the provisions related to national emergency. The President of India can proclaim national emergency with the aid and advice of the cabinet ministers and PM on the following grounds namely:

War

External aggression

Armed rebellion (added through 44th amendment).

Effects: Extension of executive power: the executive power of the central government extends so as to give directions to the state governments.

Extension of legislative powers: the central government can enact laws regarding the matters given in the state list in the 7th schedule.

Term of Lok Sabha can be extended by the President by one year at a time.

All fundamental rights except article 20 and 21 may be suspended through Presidential orders.

So far national emergency has been proclaimed three times in India.

First proclamation was made in 1962 due to Chinese aggression. Second proclamation was in the year 1971 as a result of the Indo- Pak war and the third proclamation was made in 1975 by PM Indira Gandhi, on the ground of internal disturbance, which was replaced by armed rebellion through 44th amendment.

Duration of National emergency

After the proclamation, the emergency continues for 1 month. Within one month the proclamation has to be adopted by the parliament with a special majority. After the adoption the emergency continues for 6 months. It can be further extended through adoption by the parliament.

State emergency

State emergency is also known as President's rule. Article 356 deals with state emergency. The President of India can proclaim a state emergency based on the report given by the governor showing that the state cannot function according to the provisions of the constitution.

Grounds of proclamation:

- 1) Political instability or hung assembly.
- 2) Breakdown of law and order.
- 3) Corruption and maladministration.
- 4) During the formation of new states.
- 5) During armed rebellion or external aggression against the country.

Duration of state emergency

After the proclamation, the state emergency continues for 2 months. Within 2 months the proclamation has to be adopted by the parliament with a simple majority. After the adoption the emergency continues for 6 months. It can be further extended through adoption by the parliament. However the maximum duration of state emergency is 3 years.

Effects:

- 1) The state legislature will be dissolved and the powers will be assumed by the President.
- 2) The president may delegate the power of administration of the state to the Governor.
- 3) Parliament can enact laws for the state.
- 4) The President may impose control over the expenditure from consolidated fund maintained by the state.
- 5) Executive power of the central government extends in such a way that it can give directions to the states.
- 6) High Courts are not affected by state emergency proclamation and function normally.

Financial Emergency

Article 360 provides the provisions related to financial emergency. If the President of India is satisfied that the financial condition of the country or any state is under crisis, he can proclaim a financial emergency.

Effects: the central government can give directions to the state legislatures about the financial expenditures. The President may give directions to reduce the salaries and other allowances of government employees including SC and HC judges. The President may veto a money bill passed by the state legislature. The President may impose control over the expenditure from consolidated fund maintained by the states.

Duration of financial emergency

After the proclamation, the financial emergency continues for 2 months. Within 2 months the proclamation has to be adopted by the parliament with a simple majority. After the adoption the emergency continues indefinitely, till the order of revocation.

4. Electoral process.

a. Election commission.

composition	Tenure	Powers
The chief election commissioner and	6 years or till the age of 65 years.	<ul style="list-style-type: none"> • Status of SC judges. • Independent Constitutional body.

two election commissioners.		
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Composition and powers of Election Commission of India

Article 324 of the Constitution contains the provisions related to the Election Commission of India.

Election commission of India is an independent constitutional body responsible for the conduct of free and fair elections in the country. It consists of three members, the chief election commissioner and two election commissioners appointed by the President of India. The chief election commissioner is the chairman of the commission. The Chief election commissioner and other election commissioners enjoy the status of Supreme Court judges. The conditions of service cannot be varied to the disadvantage during the tenure. The election commissioners and regional election commissioners shall be removed only in consultation with the chief election commissioner. The term of office is 6 years or till the attainment of 65 years whichever is earlier.

Functions of Election Commission of India

Conduct of election to the office of President

Election to the office of Vice- President

Lok Sabha and state legislative assembly elections

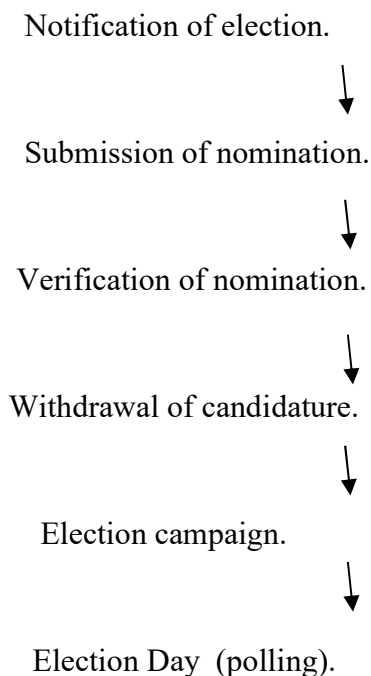
Election commission can advice President regarding the disqualifications of MPs and MLAs and also about the appointment of regional election commissioners

Allotment of voting symbols to the political parties

Preparation and maintenance of electoral rolls.

Counting of votes and declaration of results.

b. Various steps in the process of election.





Counting of votes and declaration of result.

Procedure of Election:

Notification of election date – Date of parliamentary elections will be notified by the ECI in consultation with the President of India and Legislative Assembly elections in consultation with the governors.

Filing of nominations – Candidates indenting to participate in the election can submit the duly filled nominations to the returning officer with the prescribed fees. If the candidate secures more than $\frac{1}{6}^{\text{th}}$ of the total valid votes cast in the election, the deposit amount will be refunded.

Verification of nominations – On the date fixed for verification of nominations, the candidates and their election agents shall present before the returning officer and verify the nominations filed. Candidates can also raise their objections if any. After verification, the nominations with irregularities will be rejected and the list of eligible candidates will be prepared.

Withdrawal of nominations – On the day fixed for withdrawal a candidate may withdraw his candidature by submitting a letter in writing to the returning officer.

Election campaign – Candidates can conduct election campaigns in the form of processions, rallies, meetings etc. to canvas voters. However the campaign shall come to an end at least 48 hours from the commencement of actual polling.

Election day- on the day of election voters go to the respective polling booths and cast their votes using Electronic Voting Machines (EVMs) or ballot papers.

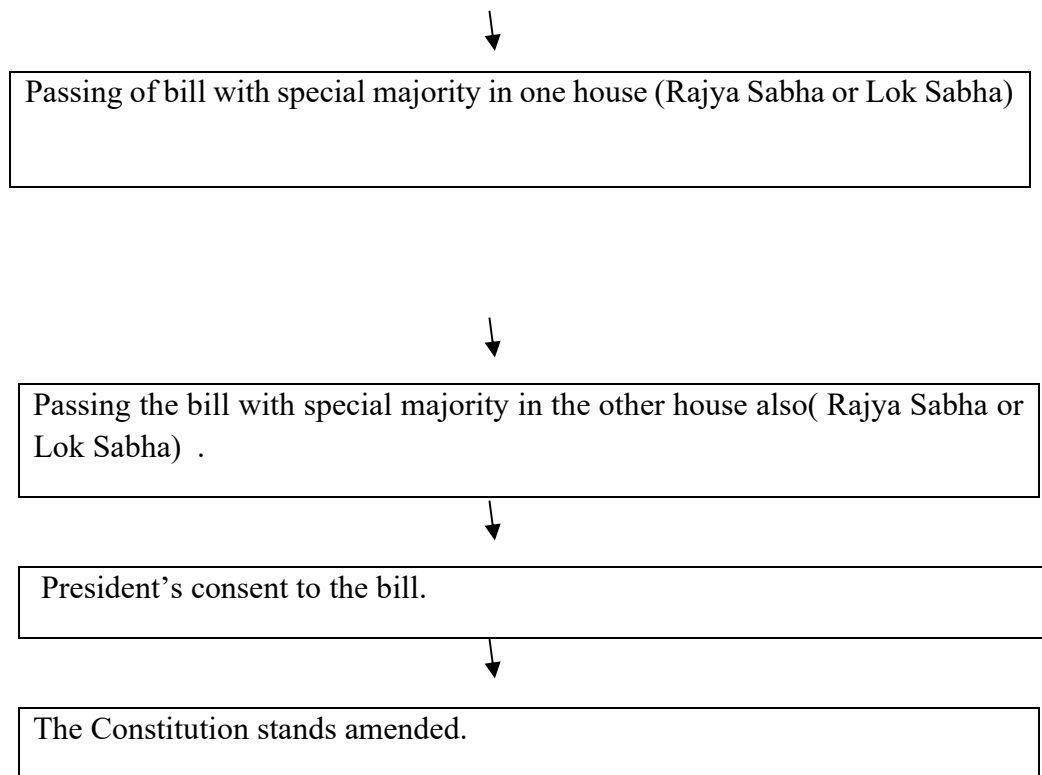
Counting of votes and declaration of results.

Universal Adult Franchise: Right to vote is the highest right possessed by a citizen in a democratic country. India is the largest democracy in the world and every citizen of India who attained the age of 18 and whose name is there in the electoral roll can exercise his or her voting right. However grounds like conviction of an offence, unsoundness of mind, corrupt practices in an election, non residence etc. can act as disqualifications to universal Adult Franchise.

5. Amendment.

a. Procedure of amendment.

Introduction of bill in either house of the Parliament
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Significance of amendment

To make the Constitution a dynamic and living document, provisions of amendment have been incorporated into it. Indian Constitution is partly flexible and partly rigid in terms of amendment. Articles can be categorized into three groups based on the method of amendment.

1. Articles that can be amended with simple majority.
2. Articles that can be amended with special majority.
3. Articles that can be amended with special majority and with ratification by more than half of the state legislatures.

Procedure of amendment: Article 368 details the procedure of amendment. According to this provision, parliament can amend the Constitution by way of addition, variation and repeal. An amendment may be initiated in either house of parliament. The bill has to be passed with the needed majority in both houses. Once the bill is passed by the parliament it shall receive the approval of the President.

A. Major Constitutional amendments.

Amendments	Major changes occurred.
42 nd	<ul style="list-style-type: none">● Amendment of preamble● Introduction of fundamental duties.

	<ul style="list-style-type: none"> ● Alteration of DPSP ● Amendment of 7th schedule.
44 th	<ul style="list-style-type: none"> ● Removal of right to property from the list of fundamental rights. ● Amendment of article 352. ● Reduction of the term of state emergency from 1 year to 6 month.
73 rd	<ul style="list-style-type: none"> ● Constitutional status to Panchayats.
74 th	<ul style="list-style-type: none"> ● Constitutional status to Municipalities.
76 th	<ul style="list-style-type: none"> ● Reservation quota in favour of backward class.
86 th	<ul style="list-style-type: none"> ● Right to education was made a fundamental right (Art 21-A). ● Art. 45 – Early childhood care and education of children upto the age of six.
101 st	<ul style="list-style-type: none"> ● Goods and Services Tax (GST)
104 th	<ul style="list-style-type: none"> ● Discontinued the Practice of nominating Anglo Indian members to Lok Sabha and Legislative Assembly

42nd Amendment, 1976: Known as the 'Mini Constitution' or the revision of Indian Constitution. It is also regarded as the most comprehensive and elaborate amendment made so far.

Changes brought through 42nd amendment:

- 1) Altogether 52 articles got affected.
- 2) The terms socialist, secular, and integrity were included in the Preamble.
- 3) The first ten fundamental duties were incorporated by the inclusion of Article 51-A.
- 4) 7th schedule was amended which contains union list, state list and concurrent list.
- 5) Article 39(A), 43(A) and 48(A) were added into DPSP.

44th Amendment, 1978: Right to property (articles 19(f)) and 31) got eliminated from the list of fundamental rights.

The term 'Armed rebellion' was included as a new ground for national emergency proclamation by replacing 'internal disturbance'.

Duration of state emergency has been reduced to 6 months from 1 year.

73rd and 74th Amendments, 1992: The Panchayathi Raj and Nagara palika constitutional amendment Acts

By virtue of 73rd and 74th amendments panchayats and municipalities attained constitutional status in India. These amendments mandate the government to establish panchayats and municipal bodies for the effective local self governance of the country. Democratic decentralization and development of the nation from the grass root level are the purposes behind these systems.

86th amendment, 2002: Article 21-A was incorporated into the Constitution which states that the right to education is a fundamental right.

Article 51(A)(k) was added which contains the 11th fundamental duty.

Article 45 was added into DPSP which directs the state to provide early childhood care and free and compulsory education to children upto the age of 6 years.

101st Amendment, 2017: Introduction of GST (Goods and Services Tax)

103rd Amendment, 2019: 10% reservation for economically backward classes in India.

UNIT

UNIT 5

Human Rights.

A. International perspective.

Significance of Human Rights

Human rights are the basic, essential rights necessary for human beings to live a dignified life. These rights are acquired by all human beings by their birth and inherent in every one. Human rights are inalienable in nature hence a person cannot recede them voluntarily or nobody can take away these rights. Human rights are universal in nature so that irrespective of factors like race, religion, place of birth, gender or nationality these rights are available for each and every human being in this world.

The Universal Declaration of Human Rights ,1948.

The **Universal** Declaration of Human Rights (UDHR) is a milestone in the history of Human Rights. During the Second World War the nations witnessed shocking crimes against humanity and recognized the importance of protection of human rights. Hence after the end of Second World War, for maintaining international peace and security, the world nations all together established the United Nations organization (UNO). The United Nations appointed a committee for drafting a document for the protection and recognition of human rights worldwide. The Universal Declaration of Human Rights (UDHR) was drafted by the committee and adopted by the general assembly of the UN on 10th December 1948 as a common standard for the protection of human rights. Henceforth 10th December is treated as international human rights day. The provisions in UDHR are applicable for all people and all nations.

In the year 1966, UNO adopted two more conventions namely, 'The International covenant on Civil and Political Rights' and 'The international covenant on Economic, Social and Cultural Rights'.

The International covenant on Civil and Political Rights has two optional protocols also.

The international Bill of Rights

The Universal Declaration of Human Rights (UDHR) 1948 ,

The International covenant on Civil and Political Rights, 1966,

The international covenant on Economic, Social and Cultural Rights, 1966 and

The two optional protocols to the International covenant on Civil and Political Rights, 1966 altogether known as the **International Bill of Rights**, the most effective documents for the protection of human rights internationally.

Protection of Human Rights in India

In the year 1993, the world conference on Human rights was held in Vienna. India was a participant and signatory to the convention. The final document of the convention stated that it is the duty of world nations to promote and protect all human rights and fundamental freedoms. The Vienna convention treaty demanded the governments all over the world to take necessary measures for the protection of human rights and also for the establishment of national institutions for the promotion of human rights.

Receiving inspiration from the convention, parliament of India enacted 'The Protection of Human Rights Act, 1993'.

Protection of Human Rights Act, 1993

Protection of Human Rights Act 1993 is the most important legislation for safeguarding the basic human rights in India. This Act extends to the whole territory of India including Jammu and Kashmir.

Objectives of the Act

1. To establish a National Human Rights Commission
2. To set up state human rights commissions.
3. To define the functions and powers of NHRC and state human rights commissions.
4. To prescribe the procedures to be followed by NHRC and state commissions while inquiring about human rights violations.
5. To establish human rights courts.

Definition of Human rights – Section 2 (d)

Section 2 (d) of the Act defines the term 'Human Rights'. According to the definition provided by the Act the elements of human rights are as follows:

1. Human rights are the rights related to the life, liberty, equality and dignity of individuals.
2. Rights recognized by the Constitution of India are regarded as human rights.
3. Rights which are guaranteed in international covenants or treaties are considered as human rights on a condition that they must be enforceable by the courts in India.

National Human Rights Commission (NHRC)

National Human Rights Commission is an independent autonomous body constituted for the protection of human rights in India.

NHRC was established based on section 3 of the Protection of Human Rights Act, 1993. Hence it is a statutory body. While inquiring about human rights violations NHRC has the power of a civil court. The annual report of NHRC shall be submitted before both the houses of parliament.

Composition of NHRC

a. Five permanent members including chairperson.

1. NHRC shall contain a chairperson, who is a retired Chief Justice of Supreme Court
2. One member who is or has been a judge of SC
3. One member who is or has been the chief justice of High Court
4. Two persons with special knowledge or experience in matters related to human rights.

b. Deemed members

Along with the permanent members, chairpersons of national commissions for SC ST, women and minorities are the deemed members of NHRC

c. Secretary General (CEO)

Term of office of NHRC members

The members of NHRC can hold their office for a period of 5 years or till the attainment of 70 years whichever is earlier. They are eligible for getting elected to NHRC for one more term.

Functions

1. NHRC can inquire into human rights violations.
2. It can interfere in cases pending before courts related to human rights.
3. NHRC members can visit jails, orphanages, hospitals etc. where people are lodged for rehabilitation or treatment, study the living condition of inmates and also provide recommendations for improvement.
4. It can review factors which adversely affect the enjoyment of human rights.
5. It can review legal provisions available for the protection of human rights in India.
6. Imparting human rights literacy among the general public.
7. Conducting research in the field of human rights.