

# CONSTITUTION

MODULE - 1

- On 29 August, 1947, the Constituent Assembly set up a Drafting Committee under the Chairmanship of Dr. B.R. Ambedkar to prepare a Draft Constitution for India. While deliberating upon the draft Constitution, the Assembly moved, discussed and disposed of as many as 2,473 amendments out of a total of 7,635 tabled.

# COMPOSITION OF CA

- Initially, there were 389 members. Following partition, several members moved to Pakistan, bringing the total to 299 people. There were 229 nominations from British provinces and 70 from princely kingdoms.
- The first temporary chairman of the Constituent Assembly was Dr. Sachchidananda Sinha. Later, Dr. Rajendra Prasad was chosen president, and Harendra Coomar Mookerjee was appointed vice president. BN Rau served as the constitutional advisor.

# FUNCTIONS OF CA

- Frame the Constitution of India and make sure that everyone in the country gets equal rights and opportunities.
- The assembly adopted the National flag on July 22, 1947.
- Enact the laws
- In May 1949 the assembly approved India's membership in the British Commonwealth.
- On January 24, 1950, Dr Rajendra Prasad was elected the first President of India through this committee.
- Adopted both the National anthem and National Song on January 24, 1950.

# 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 twenty-sixth day of November, 1949,

do **HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.**

# Objectives of PREAMBLE

- i) Description of Indian State as Sovereign, Socialist, Secular, Democratic Republic.  
(Socialist, Secular added by 42nd Amendment, 1976).
- ii) Provision to all the citizens of India i.e.,
  - a) *Justice* social, economic and political
  - b) *Liberty* of thought, expression, belief, faith and worship
  - c) *Equality* of status and opportunity
  - d) *Fraternity assuring dignity* of the individual and unity and integrity of the nation

# Features of Preamble

## ***Sovereignty***

Sovereignty is one of the foremost elements of any independent State. It means absolute independence, i.e., a government which is not controlled by any other power : internal or external. A country *cannot* have its own constitution without being sovereign. India is a sovereign country. It is free from external control. It can frame its policies. India is free to formulate its own foreign policy.

# **Socialist**

The word socialist was not there in the Preamble of the Constitution in its original form. In 1976, the 42nd Amendment to the Constitution incorporated 'Socialist' and 'Secular', in the Preamble. The word 'Socialism' had been used in the context of economic planning. It signifies major role in the economy. It also means commitment to attain ideals like removal of inequalities, provision of minimum basic necessities to all, equal pay for equal work.

# **Secularism**

In the context of secularism in India, it is said that ‘India is neither religious, nor irreligious nor anti-religious.’ Now what does this imply? It implies that in India there will be no ‘State’ religion – the ‘State’ will not support any particular religion out of public fund. This has two implications,

- a) Every individual is free to believe in, and practice, any religion he/she belongs to.
- b) State will not discriminate against any individual or group on the basis of religion

# ***Justice***

Justice promises to give people what they are entitled to in terms of basic rights to food, clothing, housing, participation in the decision-making and living with dignity as human beings. The Preamble covers all these dimensions of justice – social, economic and political. Besides, the granting of political justice in the form of universal adult franchise or the representative form of democracy. You will read socio-economic justice in next lessons.

# ***Liberty***

The Preamble also mentions about liberty of thought and expression. These freedoms have been guaranteed in the Constitution through the Fundamental Rights. Though freedom from want has not been guaranteed in the Fundamental Rights, certain directives to the State have been mentioned in the Directive Principles.

# ***Equality***

Equality is considered to be the essence of modern democratic ideology. The Constitution makers placed the ideals of equality in a place of pride in the Preamble. All kinds of inequality based on the concept of rulers and the ruled or on the basis of caste and gender, were to be eliminated. All citizens of India should be treated equally and extended equal protection of law without any discrimination based on caste, creed, birth, religion, sex etc.

Similarly equality of opportunities implies that regardless of the socio-economic situations into which one is born, he/she will have the same chance as everybody else to develop his/ her talents and choose means of livelihood.

# **Fraternity, Dignity, Unity and Integrity**

In the background of India's multi-lingual, multi-cultural and multi- religious society and keeping in view the partition of the country, the framers of the Constitution were very much concerned about the unity and integrity of our newly independent country. There was a need for harmonious co-existence among various religions, linguistic, cultural and economic groups. Inclusion of phrases like 'dignity of individuals', 'fraternity among people' and 'unity and integrity of the nation' in the Preamble highlight such a need.

# DPSP

- The **Directive Principle of State Policy** has been derived from the Irish Constitution and makers of our [Indian Constitution](#) have included these principles in Part IV of the constitution from Article 36 to Article 51. These principles were extremely important in the governance of the country which exemplify the hopes and aspirations of the people.
- The concept behind the Directive Principles of State Policy is to create a ‘Welfare State’. In other words, the motive behind creating the directive policy is not just establishing political democracy rather establishing social and economic democracy in the state. The state must follow these directive principles both in the matter of administration as well as while formulating laws because the Directive Principles aim to create a state where social and economic democracy might flourish. Read the article below to understand the meaning of directive policy clearly.

## **DPSP - FEATURES**

- DPSP are Non - Justiciable; Supported By Public Opinion:** The Directive Principles are non - justiciable. Legal sanction, these are supported by public opinion which in reality is also the legal sanction behind the law.
- DPSP Provides Welfare of People:** The Directive Principles strive to enhance the welfare of the people by attaining a social order in which social, economical, and political conditions are informed in all institutions of life as per Article (38) of the Indian Constitution.
- DSPS Act as a Yardstick for Measuring Governments Worth:** Directive Principles act as a yardstick through which the people should measure the worth of the government. A government that does not implement the Directive Principles can be rejected by the people in favour of the Government by another political party that is expected to provide the required importance and value to the task of attaining Directive Principles.
- DSPS are Source of Continuity in Policies:** Directive principles are like a source of continuity in policies, in which the Government changes after a few years and every new Government makes different policies and laws of the country. The presence of such guidelines is significant because it ensures that every Government will follow the set of rules in the form of DSPS while formulating its laws.
- DSPS are Supplementary To Fundamental Rights:** DSPS can be considered as the positive directions for the state which helps in attaining the social and economical dimensions of democracy. DSPS are supplementary to Fundamental rights which grants political rights and other freedom. Directive Principles and Fundamental rights are nothing without each other as one provides social and economical rights whereas the other provides political rights.
- DSPS Constitute Policy of Nation:** Directive Principle constitutes a policy of the nation. These principles emulate the ideas and views which were there in the mind of drafters while formulating the constitution. This reflects the philosophy behind making the constitution hence providing useful information to the court in interpreting and existing confusion and in turning up with better laws and policies.

## **SIGNIFICANCE OF DPSP**

- Directive Principles of State Policy are some instructions to the State for attaining socio-economic development.
- Directive Principles of State Policy are positive. These principles increase the power and nature of the state.
- Directive Principles aim to establish a welfare state by securing social and economic justice. These principles rely on social thinking.
- Directive principles are essential for the socio-economic development of a country because welfare and justice are dual aims of our constitution.
- Directive principles are significant in the governance of a country. The State should follow these principles for the progress of the country.
- Directive principles aim to reflect public opinion and their determination. They are incorporated in the constitution to meet the aspiration of the people.
- Directive Principles aim at establishing a welfare state by securing social and economic justice. These principles rely on social thinking.

## **SOCIALISTIC PRINCIPLES**

### **Article 38**

**State to secure a social order for the promotion of welfare of the people**

- The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life

### **Article 39**

**The State shall, in particular, direct its policy towards securing**

1. That the citizens, men and women equally, have the right to an adequate means to livelihood;
2. That the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
3. That the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
4. That there is equal pay for equal work for both men and women;
5. That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
6. That children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment

### **Article 41**

Right to work, to education and to public assistance in certain cases The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

### **Article 42**

Provision for just and humane conditions of work and maternity relief The State shall make provision for securing just and humane conditions of work and for maternity relief.

### **Article 43**

Living wage, etc, for workers The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co operative basis in rural areas.

## **Gandhian Principles**

The principles which are said to be based on the ideology of Gandhi, are known as Gandhian Principles.

### **Article 40**

The state provides for the establishment of Panchayat Raj Institutions and endows them with such powers and authority as may be necessary to enable them to function as units of self government.

### **Article 43**

The State shall endeavour to promote cottage industries on an individual or co operative basis in rural areas

### **Article 46**

The state provides for promotion of educational and economic interests of SCs, STs and other weaker sections and protects them from social injustice and all forms of exploitation.

### **Article 47**

imposes a primary duty on the state to raise the level of nutrition and standard of living, to improve public health and to prohibit consumption of intoxicating drinks and drugs injurious for health except for medicinal purposes.

### **Article 48**

directs the state to provide for the organization of agriculture and animal husbandry.

## **LIBERAL PRINCIPLES**

The principles which are said to be focused on providing equality, freedom as well as liberty in the Governance are said to be known as liberal principles.

### **Article 39 (A)**

directs the state to provide to all equal access to justice and free legal aid, by suitable legislations or schemes or in any other way, to ensure that the opportunities for securing justice are not denied to any citizen by any reason of economic or other liabilities ( added by the 42nd Constitution Amendment Act 1976).

### **Article 44**

directs the state to provide for establishment of a uniform civil code for the whole country.

### **Article 45**

This article originally provided for free and compulsory education for all children up to the age of 14.

The 86th Constitutional Amendment Act 2002 made education a Fundamental Right for children between ages 6 – 14 years, as a consequence of which article 45 was substituted by a new article providing for early child care and education to children.

### **Article 48A**

The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country (added by the 42nd Constitution Amendment Act 1976).

## **LIBERAL PRINCIPLES**

### **Article 49**

It directs the state to provide for protection of National monuments.

### **Article 50**

It directs the state to take steps to separate judiciary from the executive.

### **Article 51**

1.Promotion of international peace and Security

2.Just and honourable relations between nations

3.Respect for international law and treaty obligations

4.Settlement of international disputes. International treaties do not automatically become a part of the National Law.

# **Salient Features of Constitution of India**

- Lengthiest Written Constitution
- Drawn from Various Sources
- Blend of Rigidity and Flexibility
- Federal System with Unitary Bias
- Parliamentary Form of Government
- Synthesis of Parliamentary Sovereignty and Judicial Supremacy
- Rule of Law
- Integrated and Independent Judiciary
- Fundamental Rights

# Salient Features of Constitution of India

- Directive Principles of State Policy
- Fundamental Duties
- Indian Secularism
- Universal Adult Franchise
- Single Citizenship
- Independent Bodies
- Emergency Provisions
- Three-tier Government
- Co-operative Societies

## **Lengthiest Written Constitution**

There are two types of constitutions: written (like the American Constitution) and unwritten (like the British Constitution). The Indian Constitution holds the title of being the world's longest and most comprehensive constitution to date. In other words, of all the written constitutions in the world, the Indian Constitution is the longest. It is an extremely thorough, intricate, and extensive document.

## **Drawn from Various Sources**

The majority of the provisions of the Indian Constitution were taken from other nations' constitutions as well as from the Government of India Act of 1935 (about 250 of the Act's provisions were included into the Constitution). Dr. B. R. Ambedkar proclaimed with pride that the Indian Constitution was drafted after "ransacking all known Constitutions of the world." The Government of India Act of 1935 served as the foundation for a substantial portion of the Constitution's structural provisions. The Irish and American Constitutions, respectively, served as models for the philosophical sections of the Constitution (the Fundamental Rights and the Directive Principles of State Policy). The British Constitution served as a major inspiration for the political portion of the American Constitution, including the notion of Cabinet administration and the relationships between the executive and legislative.

## **Blend of Rigidity and Flexibility**

There are two types of constitutions: stiff and flexible. A rigid constitution, like the American Constitution, is one that must be amended through a certain process. A flexible constitution, like the British Constitution for instance, is one that can be changed in the same way that regular laws are produced. The Indian Constitution is a special illustration of how rigidity and flexibility may coexist. A constitution's amendment process determines whether it is rigid or flexible.

## **Federal System with Unitary Bias**

A federal structure of governance is established under the Indian Constitution. Every characteristic of a federation is present, including two governments, a division of powers, a written constitution, the supremacy of the Constitution, its rigour, an independent judiciary, and bicameralism. K C Wheare has alternately defined the Indian Constitution as “federal in form but unitary in spirit” and “quasi-federal”.

## **Parliamentary Form of Government**

The British Parliamentary System of Government has been chosen by the Indian Constitution above the American Presidential System of Government. The presidential system is founded on the notion of the separation of powers between the two organs, whereas the parliamentary system is based on the idea of cooperation and coordination between the legislative and executive organs. The Westminster model of governance, responsible government, and cabinet government are other names for the parliamentary system. The parliamentary system is established by the Constitution both at the Center and in the States. It is known as a “Prime Ministerial Government” since the prime minister’s position has grown so important in parliamentary systems.

## **Synthesis of Parliamentary Sovereignty & Judicial Supremacy**

The British Parliament is linked to the theory of parliamentary sovereignty, while the American Supreme Court is linked to the doctrine of judicial supremacy. The Indian Supreme Court has less judicial review authority than the US Supreme Court, much as how the Indian parliamentary system varies from the British one. This is so that it can be contrasted with the Indian Constitution's "procedure established by law" and the American Constitution's guarantee of "due process of law" (Article 21).

## **Rule of Law**

This axiom states that men are not infallible and that hence people are ruled by law rather than men. The statement is essential to a democracy. The notion that the rule of law is supreme in a democracy is more significant. The main component of law is custom, which is nothing more than the ordinary people's ingrained behaviors and beliefs over a lengthy period of time. Rule of law, in the end, refers to the supremacy of the collective knowledge of the people.

## **Integrated and Independent Judiciary**

A single, integrated judicial system exists in India. The Indian Constitution also establishes an independent judiciary by preventing the legislature and government from having any influence over it. The supreme court of the legal system is known as the Supreme Court. The state-level High Courts are superior courts to the Supreme Court. District courts and other lower courts fall within the high court's hierarchy of subordinate courts. As the highest court of appeal, the protector of people' basic rights, and steward of the Constitution, the Supreme Court is a federal court. As a result, the Constitution contains a number of safeguards that guarantee its independence.

## **Fundamental Rights**

Fundamental Rights are guaranteed to all citizens of India under Part III of the constitution. One of the key components of the Indian Constitution is the guarantee of fundamental rights. The fundamental tenet of the Constitution is that everyone has a right to certain freedoms as a fellow human being, and that the exercise of those freedoms is independent of majority or minority opinion. Such rights cannot be revoked by a majority. The purpose of the fundamental rights is to further the notion of democratic democracy.

## **Directive Principles of State Policy**

The Directive Principles of State Policy are a “new aspect,” in Dr. B. R. Ambedkar’s words, of the Indian Constitution. They are listed in the Constitution’s Part IV. For the sake of ensuring social and economic justice for our citizens, the Directive Principles were incorporated into our Constitution. According to Directive Principles, money will not be concentrated in the hands of a small number of people under India’s welfare state.

## **Fundamental Duties**

The fundamental obligations of citizens were not outlined in the original constitution. The Swaran Singh Committee’s suggestion led to the 42nd Amendment Act of 1976, which introduced Fundamental Duties to our Constitution. It outlines a list of ten Fundamental Duties that all Indian people must uphold. One more essential obligation was later added by the 86th Constitutional Amendment Act of 2002. While the duties are expectations placed on every citizen, the rights are offered to the people as guarantees.

## **Indian Secularism**

India's Constitution upholds a secular government. As a result, it does not support a specific religion as the state's official religion in India. The idea seeks to create a secular state. This does not imply that the Indian government is hostile to religion. The Indian constitution exemplifies secularism, which is the practice of treating all religions equally or providing equal protection for all of them.

## **Universal Adult Franchise**

One person, one vote is the foundation upon which Indian democracy is based. Elections are open to all Indian citizens who are 18 years old or older, regardless of caste, sex, colour, religion, or status. The mechanism of universal adult franchise set forth in the Indian Constitution establishes political equality in India.

## **Single Citizenship**

As is the case in the USA, citizens of federal states typically have dual citizenship. There is just one citizenship in India. It implies that every Indian is a citizen of India, regardless of where they were born or where they currently reside. He or she may be a resident of a Constituent State like Jharkhand, Uttarakhand, or Chhattisgarh, but they are not citizens of that state; instead, they are citizens of India. All Indian citizens have equal access to employment opportunities throughout the nation and to all of India's rights.

## **Independent Bodies**

The Indian Constitution establishes a number of independent entities in addition to the legislative, executive, and judicial branches of the federal and state governments. The Constitution views them as the cornerstones of India's democratic system of government.

## **Emergency Provisions**

The authors of the Constitution anticipated that there might be circumstances in which the government could not function as it does in normal circumstances. The Constitution elaborates on emergency provisions to deal with such circumstances. During a crisis, the state governments take complete control of the federal government, which gains absolute authority.

## **Three-Tier Government**

The Indian Constitution originally called for a dual polity and included clauses describing the structure and authority of the Centre and the States. Later, a third level of governance (local government), which is absent from all other international constitutions, was added by the 73rd and 74th Constitutional Amendment Acts (1992). By adding a new Part IX and a new schedule 11 to the Constitution, the 73rd Amendment Act of 1992 gave the panchayats (rural local governments) formal status. Similar to this, the 74th Amendment Act of 1992 provided urban local governments (municipalities) official recognition by introducing a new Part IX-A and schedule 12 to the Constitution.

## **Co-operative Societies**

The 97th Constitutional Amendment Act of 2011 granted cooperative societies a constitutional status and provided for their protection. It gives the Parliament the authority to create the necessary laws regarding multi-state cooperative societies, and it gives state legislatures the authority to do the same for other cooperative societies.

# Module

2 & 3

# **POWERS & FUNCTIONS OF HIGH COURT**

## **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



### **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.

# SUPREME COURT

- The Federal Court of India was created as per the [Government of India Act 1935](#).
- This court settled disputes between provinces and federal states and heard appeals against judgements of the high courts.
- After independence, the Federal Court and the Judicial Committee of the Privy Council were replaced by the Supreme Court of India, which came into being in January 1950.
- The Constitution of 1950 envisaged a Supreme Court with one Chief Justice and 7 puisne Judges.
- The number of SC judges was increased by the Parliament and currently, there are 34 judges including the Chief Justice of India (CJI).

# Functions of Supreme Court

- It takes up appeals against the verdicts of the High Courts, other courts and tribunals.
- It settles disputes between various government authorities, between state governments, and between the centre and any state government.
- It also hears matters which the President refers to it, in its advisory role.
- The SC can also take up cases suo moto (on its own).
- The law that SC declares is binding on all the courts in India and on the Union as well as the state governments.

# Conditions to Presidential office Election

1. He cannot be a member of Lok Sabha and Rajya Sabha. If he has been a member of either of the house, he should vacate the seat on his first day as President in the office
2. He should not hold any office of profit
3. For his residence, Rashtrapati Bhavan is provided to him without the payment of rent
4. Parliament decides his emoluments, allowances and privileges
5. Parliament cannot diminish his emoluments and allowances during his term of office
6. He is given immunity from any criminal proceedings, even in respect of his personal acts
  - Arrest or imprisonment of the President cannot take place. Only civil proceedings can be initiated for his personal acts that too after giving two months' of prior notice

## Executive powers of President

1. For every executive action that the Indian government takes, is to be taken in his name
2. He may/may not make rules to simplify the transaction of business of the central government
3. He appoints the Attorney General of India and determines his remuneration
4. He appoints the following people:
  1. Comptroller and Auditor General of India(CAG)
  2. Chief Election Commissioner and other Election Commissioners
  3. Chairman and members of the Union Public Service Commission
  4. State Governors
  5. Finance Commission of India chairman and members
5. He seeks administrative information from the Union government
6. He requires PM to submit, for consideration of the council of ministers, any matter on which a decision has been taken by a minister but, which has not been considered by the council
7. He appoints National Commissions of:
  1. Scheduled Castes
  2. Scheduled Tribes
  3. Other Backward Classes
8. He appoints inter-state council
9. He appoints administrators of union territories
10. He can declare any area as a scheduled area and has powers with respect to the administration of scheduled areas and tribal areas

# Judicial Powers of President

1. Appointment of Chief Justice and Supreme Court/High Court Judges are on him
2. He takes advice from the Supreme Court, however, the advice is not binding on him
3. He has **pardoning power**: Under article 72, he has been conferred with power to grant pardon against punishment for an offence against union law, punishment by a martial court, or death sentence.

# Legislative Powers of President

1. He summons or prorogues Parliament and dissolve the Lok Sabha
2. He summons a joint sitting of Lok Sabha and Rajya Sabha in case of deadlock
3. He addresses the Indian Parliament at the commencement of the first session after every general election
4. He appoints speaker, deputy speaker of Lok Sabha, and chairman/deputy chairman of Rajya Sabha when the seats fall vacant
5. He nominates 12 members of the Rajya Sabha
6. He can nominate two members to the Lok Sabha from the Anglo-Indian Community
7. He consults the Election Commission of India on questions of disqualifications of MPs.
8. He recommends/ permits the introduction of certain types of bill
9. He promulgates ordinances

# Financial Powers of President

1. To introduce the Money Bill, his prior recommendation is a must
2. He causes Union Budget to be laid before the Parliament
3. To make a demand for grants, his recommendation is a pre-requisite
4. Contingency Fund of India is under his control
5. He constitutes the Finance Commission every five years

## Duties of District Magistrate

- It is his duty to maintain peace and order in the district.
- He supervises the activities of other Additional magistrates under him in the district.
- It is his duty to maintain law and order within the district and also to take all the necessary actions under the preventive section of the criminal procedure code. This concerns the question of public safety, the protection of the citizens and all of his rights within the district.
- In certain cases, he may hear and decide the criminal cases, if so empowered by the State Government. Thus, the administration of criminal and civil justice may also fall under his jurisdiction.
- The District Magistrate controls the police department of the district that is under him and supervises the activities of the subordinate executive magistrates.
- He submits the annual criminal report to the government.
- He supervises the district Police Stations at least once in a year and recommends the cases for passport and visa and takes care of the movement of the foreigners within the district.
- He looks after all the election works within the district, appoints the public prosecutor of the district, gives or issues certificates to the persons belong to the Schedule Caste, Schedule Tribes and other backward communities and to the freedom fighters, appoint the village Chowkidar and punishes him for breach of discipline etc.
- As the Chief Executive Officer of the district it is the duty of the District Magistrate to implement the posting transfer and to grant the leaves of different gazetted officers within the district to implement various government orders, to submit the budget of the district to the government.

# SC/ST/OBC

MODULE -4

## **Scheduled Tribes in India -Salient Features of Constitutional Empowerment**

- According to the National Commission for Scheduled Tribes, a scheduled tribe is one that has primitiveness, geographical isolation, shyness, and social, educational, and economic backwardness.
- These characteristics separate Scheduled Tribe populations in our country from other communities.
- The definition for "Scheduled Tribes" has been kept from the 1931 Census, as has the term for Scheduled Castes, which was brought over from British-era legislation.
- Prohibition of discrimination on grounds of race, religion, caste, place of birth.
- Equality of opportunity in matters of employment .
- Promotion of education, health and economic benefits key to survival.
- Reservation or privilege of opportunities.

# Constitutional Provisions of ST

Article 342	<ul style="list-style-type: none"><li>The President must, by public notification, designate the tribes or tribal communities, or sections of or groups within tribes or tribal communities, that shall be regarded to be Scheduled Tribes for the purposes of this Constitution.</li></ul> <p>Parliament may by law include or exclude any tribe or tribal community, or part of or group within any tribe or tribal community, from the list of Scheduled Tribes specified in a notification issued under clause (1), but except as aforesaid, a notification issued under the said clause shall not be varied by any subsequent notification.</p>
Article 366	<ul style="list-style-type: none"><li>Unless the context necessitates otherwise, the following terminology in this Constitution have the meanings now ascribed to them, that is to say, "Schedule" denotes a Schedule to this Constitution.</li></ul> <p>"Scheduled Tribes" refers to tribes or tribal communities, or sections or groups within such tribes or tribal communities, that are declared Scheduled Tribes for the purposes of this Constitution under Article 342.</p>

# Constitutional Provisions of ST

Article 15(4)	<ul style="list-style-type: none"><li>The state is empowered to make any special provision for the advancement of any socially and educationally backward classes of citizens or for the scheduled castes or the scheduled tribes regarding their admission to educational institutions including private educational institutions, whether aided or unaided by the state, except the minority educational institutions.</li></ul>
Article 16	<ul style="list-style-type: none"><li>Equality of opportunity in matters of public employment</li></ul>
Article 16(4A)	<ul style="list-style-type: none"><li>Provides that the State may make any provision for reservation in issues of promotion in favour of Scheduled Castes and Scheduled Tribes if they are not properly represented in State services.</li></ul>
Article 17	<ul style="list-style-type: none"><li>The article abolishes 'untouchability' and forbids its practice in any form. The enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law.</li></ul>
Article 21 A	<ul style="list-style-type: none"><li>Free and compulsory education for all children of the age of 6 to 14 years. Article 21A was added by the Constitution (Eighty-sixth Amendment) Act of 2002.</li></ul>
Article 46	<ul style="list-style-type: none"><li>This article compels the state to 'promote with great care the educational and economic interests of the weaker parts of the population, particularly the Scheduled Castes and Scheduled Tribes, and to safeguard them from social injustice and all types of exploitation.'</li></ul>

# What is Women Empowerment?

Women empowerment implies the ability in women to take decisions with regard to their life and work and giving equal rights to them in all spheres like: personal, social, economic, political, legal and so on. We are living in an age of women empowerment where Women are working shoulder to shoulder with men. A woman also manages to balance between their commitment to their profession as well as their home and family. They are playing multiple roles - at home as a mother, daughter, sister, and wife and at working place as professionals with remarkable simplicity and compatibility.

Women empowerment is not limited to urban and even women in remote towns and villages are now increasingly making their voices heard loud and clear in society. While it is true that women, to a large extent, do not face discrimination in society today, unfortunately, many of them face exploitation and harassment which can be of diverse types: emotional, physical, mental and sexual. They are often subjected to rape, abuse and other forms of physical and intellectual violence.

Women are now claiming the socio-political rights (right to work, right to education, right to decide, etc) for them. The Parliament of India too has passed various legislations to save women from various forms of injustice and discrimination. To empower women there are some following laws : Equal Remuneration Act-1976; Dowry Prohibition Act-1961; Immoral Traffic (Prevention) Act-1956, Medical termination of Pregnancy Act-1971; Maternity Benefit Act-1961; Commission of Sati (Prevention) Act-1987; Prohibition of Child Marriage Act-2006; Pre-Conception & Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act-1994; and Sexual Harassment of Women at Work Place (Prevention, Protection and) Act-2013

# Legal Provision

To uphold the Constitutional mandate, the State has enacted various legislative measures intended to ensure equal rights, to counter social discrimination and various forms of violence and atrocities and to provide support services especially to working women. Although women may be victims of any of the crimes such as **Murder, Robbery, Cheating etc**, the crimes, which are directed specifically against women, are characterized as **Crime against Women**.

Examples:

## The Crimes Identified Under the Indian Penal Code (IPC)

1. Rape (Sec.376 IPC)
2. Kidnapping & Abduction for different purposes ( Sec. 363-373)
3. Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC)
4. Torture, both mental and physical (Sec. 498-A IPC)
5. Molestation (Sec. 354 IPC)
6. Sexual Harassment (Sec. 509 IPC)

# Constitutional Provision

## **Constitutional Provisions**

The Constitution of India not only grants equality to women but also empowers the State to adopt measures of positive discrimination in favour of women for neutralizing the cumulative socio economic, education and political disadvantages faced by them. Fundamental Rights, among others, ensure equality before the law and equal protection of law; prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth, and guarantee equality of opportunity to all citizens in matters relating to employment. Articles 14, 15, 15(3), 16, 39(a), 39(b), 39(c) and 42 of the Constitution are of special importance in this regard

# Constitutional Provision for Children

- The **Constitution of India** ensures the rights and protection of children through various provisions. **Children require** extra care and protection due to their sensitive age and undeveloped age. The **constitution recognised** children's rights and included numerous articles dealing with compulsory and **free education, liberty and development in childhood, non-discrimination** in educational spheres, and prohibition of their employment in factories, mines, and hazardous conditions. Many legislations, programmes, and programmes have been implemented to enhance the provisions of the constitution.

# ELECTION

MODULE - 5

# What is Election?

Election is a reform driven Mechanism by way of which People exercise their right to vote and Elect their Representative who would in turn would represent and protect their rights in a Responsible and Lawful manner, maintaining Peace and Development.

Elections are a significant part of the Indian democratic structure. Elections in India are held for the Lok Sabha and Rajya Sabha, the State Legislative Assemblies (Vidhan Sabha) and Legislative Council (Vidhan Parishad). Elections are conducted as per constitutional provisions and the laws made by the Parliament. Article 324 of Indian Constitution explains about the provision of election commission in India.

# Lok Sabha Election

Lok Sabha is composed of representatives of the people chosen by direct election on the basis of the adult suffrage. The maximum strength of the House envisaged by the Constitution is 552. This may include up to 530 members from the states, up to 20 members from the Union Territories. The president can nominate two members from Anglo-Indian community. The 95th Amendment Act, 2009 extended the period for further ten years till 2020.

*Direct Election:* The members of Lok Sabha are elected through direct election by the people. Every citizen of the country, who is more than 18 years of age, can vote in the election irrespective of his/her social status, religion, caste, race etc.

*Territorial Constituency:* Each state is divided into territorial constituencies for the purpose of elections. One member of Lok Sabha is elected from each constituency. That means, the number of seats for the election are equal to the number of constituencies.

*Readjustment of constituencies after each census:* After every census, there may be a need to readjust the constituencies; as the delimitation is based on population and not on area.

*Reservation of seats for SCs and STs:* The constitution provides for reservation of seats for Scheduled Castes (SCs) and Scheduled Tribes (STs) in the Lok Sabha. The 95th Amendment Act, 2009 extended the period of reservation for further ten years till 2020.

# Rajya Sabha Election

- Rajya Sabha is the Upper House of Parliament, which cannot have more than 250 members according to the Constitution of India. Members of Rajya Sabha are not elected by the people directly. They are elected by the members of the legislative assemblies of the states in accordance with the system of proportional representation by means of the single transferable vote.
- Every State is allotted a certain number of members. Representatives of union territories are chosen as prescribed in the law enacted by Parliament.
- Twelve members of the Rajya Sabha are nominated by the President, who has earned distinction in the fields of literature, art, science and social service.
- Rajya Sabha is a permanent body. It is not subject to dissolution but one-third of its members retire after every two years. At present, Rajya Sabha comprises of 245 members of whom 233 are representatives of the states and union territories and 12 are nominated by the President of India

# State Legislative Assembly (Vidhan Sabha)

- *Direct Election:* The legislative assembly is composed of representatives of the people chosen by direct election on the basis of the universal adult suffrage. The maximum strength is fixed at 500 and minimum strength at 60.
- *Nominated Member:* The governor can nominate one member from Anglo-Indian community if, in his opinion, the community is not adequately represented in the House.
- *Territorial Constituencies:* Each state is divided into territorial constituencies for the purpose of elections. One member of legislative assembly is elected from each constituency.
- *Readjustment after each census:* After each census, a readjustment is to be made in the total number of seats in the legislative assembly of each state and the division of each state into territorial constituencies.
- 87th Amendment Act, 2003 provided for readjustment of parliamentary constituencies in each state on the basis of 2001 population census without changing the number of seats allotted to each state.
- *Reservation of seats for SCs and STs:* The constitution provides for reservation of seats for Scheduled Castes (SCs) and Scheduled Tribes (STs) in the legislative assemblies.

# Legislative Council (Vidhan Sabha)

- The total number of members in the legislative council of a state having such a council shall not exceed one-third of the total number of members in the legislative assembly of the state. However, the strength of the legislative council should not be less than forty except Jammu and Kshmir. The actual strength of a council is fixed by the parliament. The composition of legislative council is partly through indirect election partly through special constituencies and partly by nomination.
- Therefore, an urgent political reform is the need of the hour, which would include referendum on electoral reform, increase in cooperation across party lines and creating a more transparent and accountable political system in India

# COMPOSITION of CEC

1. The Chief Election Commissioner and, if necessary, additional election commissioners will make up the election commission, as determined by the president from time to time.
2. The president shall appoint the chief election commissioner and the other election commissioners.
3. The chief election commissioner shall serve as the election commission's chairman whenever another election commissioner is so appointed.
4. After consulting with the election commission, the president may additionally appoint any regional commissioners he deems essential to help the election commission.
5. The President may, by regulation, establish the terms of duty and length of office for the regional commissioners and election commissioners.
6. Even though he serves as the election commission's chairman, the chief election commissioner has the same authority as the other election commissioners. The majority vote of the commission's members decides on every issue. Equal salaries, allowances, and other benefits are given to the Chief Election Commissioner and the other two election commissioners.

# DUTIES AND RESPONSIBILITIES OF CEC

1. The chief election commissioner should ensure no discrimination or biases towards anyone while on **election duty**.
2. He should ensure that elections are held under complete transparency, and nothing is hidden from the people, i.e. the citizens of India who are the backbone behind India's elections.
3. The Chief election Commissioner should make sure that there is no manipulation or partisanship
4. during the conduct of elections at his **election duty**.
5. The Chief election commissioner has to present a list of all the eligible voters.
6. They should supervise the nomination of a candidate for becoming a part of the elections or a political party.
6. Registration of different political parties

## CONTD.....

7. Monitoring an election campaign and keeping a check on misbehavior or false practices are taken up, if any, while on **election duty**.
8. Helps the media in covering the elections and the process thoroughly.
9. Keep an eye on the counting of votes.
10. Organizes polling booths for the conduct of elections and reaches the booth for **election duty**.
11. Declaration of the results of the election.
12. The chief election commissioner ensures that all **election commission rules** are followed.

# CEC- POWERS

1. Determining the territories of electoral constituencies based on the Delimitation Commission Act of the Parliament.
2. Preparing and revising electoral rolls and managing the registration of all the eligible voters.
3. Notifying the date and schedule of elections and keeping an eye on the process during **election duty**.
4. Granting recognition to different political parties and assigning election symbols to them.
5. Appointment of officers for control of disputes regarding the arrangement of elections.
6. Determination of a code of conduct that all the political parties and their candidates must follow.
7. Preparation of programs to help to publicize the policies of all the political parties during the election on social media and television.
8. Advising the President about disqualification of MPs and MLAs
9. Requesting the governor or the President for appointing staff required for conducting elections.

# IMP OF CEC

1. The conduct of national and state elections is done under the guidance and monitoring of the election commission.
2. The chief election commissioner ensures that all the political parties function during the following discipline. If parties fail to maintain inner-party democracy', it can be derecognised by the chief election commissioner.
3. A chief election commissioner keeps an eye on the conduct of fair, transparent, credible, autonomous elections while maintaining professionalism.
4. The Chief Election Commissioner and the election commission **describe the procedure of voting on the polling day.**
5. All political parties and stakeholders in the process of elections are taken care of by the Chief election Commissioner.
6. The Election Commission plays a significant role in maintaining constitutional principles and citizens' democratic rights in a democracy, just like the judiciary does. So, if you had a trouble-free voting experience, you can entirely thank the Election Commission for its efficient operation.
7. The process of developing electoral democracy can also be credited to the ECI. For instance, the Election Commission developed the Model Code of Conduct (MCC) to guarantee equal playing time for all political parties.

# Types of Election Laws

1. Representation of the People Act, 1950
2. Representation of the People Act, 1951
3. Delimitation Act, 2002

# Representation of People's Act 1950

1. Allocation of seats in the House of the People, State legislative Assemblies and the State Legislative Councils.
2. Delimitation of Parliamentary, Assembly and Council Constituencies
3. Election officers like chief electoral officers, district election officers, electoral registration officers and so on.
4. Electoral rolls for Parliamentary, Assembly and Council constituencies
5. Manner of filling seats in the Council of States to be filled by the representatives of union territories.
6. Local authorities for purpose of elections to the State Legislative Councils
7. Barring jurisdiction of civil courts.

# Representation of People's Act 1951

- 1.Qualifications and disqualification for membership of Parliament and State Legislatures
- 2.Notification of general elections
- 3.Administrative machinery for conducting elections
- 4.Registration of political parties
- 5.Conduct of elections
- 6.Free supply of certain material to candidates of recognised political parties
- 7.Disputes regarding elections
- 8.Corrupt practices and election offenses
- 9.Powers of Election Commission in connection with inquiries as to disqualification of members
- 10.Re-elections and time limit for filling vacancies
- 11.Miscellaneous provisions relating to elections
- 12.Barring the jurisdiction of civil courts

# Delimitation Commission (Act)

- The Delimitation Commission, also known as the Boundary Commission of India, was established by the Indian government in accordance with the guidelines given by the Delimitation Commissions Act. This commission, which the President of India specifically established, collaborates with the Election Commission of India to uphold the fictitious boundaries of Lok Sabha seats and local legislatures around the nation based on the most recent census.

# Delimitation Meaning

- In order to reflect population changes based on the most recent census data for the elections, delimitation is the act of redrawing the boundaries for particular geographical seats in a nation. The commission must delimitate constituencies in accordance with the Delimitation Commission Act's regulations as an impartial panel. It is a high-level or high-power entity that was established by a Parliamentary Act, and since the Commission's instructions are subject to legal action, no one may challenge them in court.
- Setting or fixing borders for constituencies across the nation is the goal of same. "One Vote One Value" is the Commission's only goal. Boundary commission is another name for the delimitation commission. The Delimitation Commission is appointed by the Indian President and collaborates with the Indian Election Commission.

# Delimitation Act

- Delimitation must be carried out in a specific way for it to perform properly. According to Article 82, the Parliament must enact the Delimitation Act when each cycle of the census is complete. Article 170 of the same Act states that following each census, States are also divided into territorial constituencies.
- The Central or Union Government must establish a Delimitation Commission after the Act is passed and put into effect. The Commission releases delimitation and related policies whenever it has the authority.

# Objectives

- The Delimitation Commission of India's primary objective is to define the boundaries or limits of state legislatures and Lok Sabha constituencies to reflect demographic fluctuations. The most current census serves as the basis for redrawing boundaries each year. For instance, the current Lok Sabha constituency delineation is based on the 2001 census.
- This constituency delineation aids in distributing the number of Lok Sabha seats to the various Indian states as well as those of each state's legislative legislatures. The Delimitation Commission's poll results could influence the seats.

# Demilitation Functions

- In order to choose the number of constituencies and their boundaries and ensure that each constituency has a population that is about equal, the boundaries are determined. Based on the most recent population census results, the Commission is in charge of modifying the representation of the various territorial constituencies in the House of People and the numerous territorial constituencies in the Legislative Assembly of each state.
- The Commission also decides whether seats for scheduled castes and scheduled tribes groups in areas with significant numbers should be awarded (Articles 330 and 332). If there are disagreements among the Commission members, the decision of the majority will be taken into account. The Indian Gazette, state gazettes, and regional language media are the means by which the Commission makes draught recommendations available to the public.
- Additionally, it offers open forums where members of the public can express their opinions orally or in writing. The draught proposal may need to be modified if necessary. When the President specifies a date, the final order is published in the Gazettes and goes into force on that day.

# ELECTORAL PROCESS

- **Notification for Election-** When the President in the case of the Lok Sabha and the Governor in the case of the State Assembly issues a notification for the election, on the advice of the Election Commission, the election process formally begins. Candidates have seven days to submit their nominations.
- **Filing of Nomination-** The nomination paper must be submitted in the proper format and include the candidate's name, age, postal address, and electoral roll serial number. At least two voters who are enrolled in the concerned constituency must properly propose and second the candidate.
- **Deposition of Security Deposit-** Each applicant is required to submit a security deposit when submitting their nomination. If the candidate does not receive at least 1/6 of all legitimate votes cast, the security deposit is lost.
- **Scrutiny and Withdrawal-** On the day set by the Election Commission, the Returning Officer examines each nomination form she receives. This is done to make sure that all paperwork is completed in accordance with the established protocol and is accompanied by the necessary security deposit. A nomination paper may be rejected by the returning officer. The last day for candidates to withdraw is the second day following the examination of nomination papers.
- **Election Campaign-** The process by which a candidate seeks to convince voters to support him as opposed to other candidates is called campaigning. All recognized national and regional parties now have free access to state-owned electronic media, including All India Radio (AIR) and Doordarshan, to conduct their election campaigning.

# Officers on Election DUTY

**OBSERVER – The aim of the post is to officiate the entire monitoring of Election right from Campaign, Nomination filing, election day to vote counting. They are responsible to record untoward events and maintain a strict vigilance to strengthen the entire system of Election to be conducted in free and fair manner.**

## **Special Officers on Election Duty:**

To ensure that elections are held in free and fair manner, the Election Commission appoints thousands of polling personnel to assist in the election work. These personnel are drawn among magistrates, police officers, civil servants, clerks, typists, school teachers, drivers, peons etc. Out of these there are three main officials who play very important role in the conduct of free and fair election. They are Returning Officer, Presiding Officer and Polling Officers.

# Officers on Election DUTY

## **Returning Officer**

In every constituency, one Officer is designated as Returning Officer by the Commission in consultation with the concerned State government. However, an Officer can be nominated as Returning Officer for more than one constituency. All the nomination papers are submitted to the Returning Officer. Papers are scrutinised by him/her and if they are in order, accepted by him/her. Election symbols are allotted by him/her in accordance with the directions issued by the Election Commission. He/she also accepts withdrawal of the candidates and announces the final list. He/she supervises all the polling booths, votes are counted under his/her supervision and finally result is announced by him/her. In fact, the

Returning Officer is the overall incharge of the efficient and fair conduct of elections in the concerned constituency.

# Officers on Election DUTY

## **Presiding Officers**

Every constituency has a large number of polling booths. Each polling booth on an average caters to about thousands of votes. Every such booth is under the charge of an officer who is called the Presiding Officer. He/she supervises the entire process polling in the polling booth and ensures that every voter gets an opportunity to cast vote freely. After the polling is over he/she seals all the ballot boxes and delivers them to the Returning Officer.

## **Polling Officers**

Every Presiding Officer is assisted by three to four polling officers. They check the names of the voters in the electoral roll, put indelible ink on the finger of the voter, issue ballot papers and ensure that votes are secretly cast by each voter.