



# PRE - CONSTITUTION OF INDIA



- ☞ We all know that on 15th August, 1947 the British rule came to an end and after partition, the power was transferred to two independent countries, namely, India and Pakistan. On 26th January, 1950 India adopted a new Constitution and became a Sovereign, Socialist, Secular, Democratic, Republic. In this unit, we shall discuss about the historical background, sources and making of the Indian Constitution.
  - ☞ Among the Europeans, the Portuguese were the first to visit India. Gradually the Dutch, the French and the British merchants came India.
  - ☞ The British came to India in 1600 as traders under the name of the **East India Company**. After defeating the rivals, the British became rulers in India.
  - ☞ They followed a policy of conquest, annexation and consolidation in India. Initially, they were busy with trade and commerce only.
  - ☞ However, after the death of Aurangzeb in 1707 the British Company took some active interest in the Political matters in India.
  - ☞ Their imperialistic attitude to rule India became clear after the Battle of Plassey in 1757. In this battle, British defeated Siraj-Ud-Daulah, Nawab of Bengal.
  - ☞ The Battle of Buxar (1764) consolidated the British imperialism in India and laid foundation for further expansion of British Empire.
  - ☞ Thus, by the middle of nineteenth century most of India was controlled by the East India Company or through the system of treaties and alliances with the Princely States.
  - ☞ During this period, certain measures of constitutional reforms were introduced. During the reign of **Warren Hastings**, the **Regulating Act** (1773) and **Pitts India Act** (1784) were passed.
- ❖ **Historical Retrospect**
    - ★ Battle of Plassey 1757
    - ★ Battle of Buxar 1764
  - ☞ After these battles the East India Company Became the rulers of Bengal, Bihar and Orissa.
- ❖ **Constitutional Development in India**
    - The company rule (1773-1858)**
    - Regulating Act 1773 :**
      - ☞ First act of British to control and regulate the affairs of the British East India Company.
      - ☞ The act designated Governor of Bengal, as Governor-General of Bengal. First Governor-General of Bengal was **Lord Warren Hastings**.
      - ☞ It made the governors of Madras and Bombay presidencies subordinate to the Governor General of Bengal.
      - ☞ The Act created executive council of four to serve with the Governor-General of the Bengal.
      - ☞ These members are Lt-Gen John Clavering, George Monson, Richard Barwell, and Philip Francis.
      - ☞ Barwell was the only one with previous experience in India. These councilors were commonly known as the '**Council of Four**'.
      - ☞ The Act provided for establishment of Supreme Court at Calcutta-Fort William with One Chief Justice and other three judges (Impey was first chief justice of Supreme Court).

- The Act prohibited the servants of the company from engaging in any private trade or accepting presents or bribes from the natives.

#### **Pitts India Act of 1784 :**

- This Act was passed to rectify the shortcomings of Regulating Act (Sir William Pitts was the Prime Minister at that time)
- It allowed the Court of Directors to manage commercial affairs but a new body called **Board of Control** (with six members) was created to control the political affairs of the company.
- For the first time, the company territories in India were called the '**British Posessions in India**'.
- The Act given British government supreme control on political affairs of Company.

#### **Act of 1786 :**

- Governor General given the power to over-ride the council and was made Commander-in-Chief of Indian forces. Cornwallis was the Governor General at that time.

#### **Charter Act of 1793 :**

- Company given monopoly of trade for 20 more years.
- Expense and salaries of Board of Control to be charged on Indian revenue.

#### **Charter Act of 1813 :**

- All laws were to be translated in Indian Languages.
- Company deprived of its trade monopoly in India. Indian trade was open to all British merchants.
- The local government in India is empowered to impose taxes and punish those who do not pay taxes.

- This Act also provided for religious and educational learning of Indians. Rupees one lakh was set apart for this purpose.

- Further, Christian missionaries were permitted to come to India and preach.
- All restrictions on European immigration into India and acquisition of land and property in India by them were removed.

#### **Charter Act, 1833 :**

- It made Governor General of Bengal as the **Governor General of India** and vested him all civil and military powers. (First Governor General of India-Lord William Bentick).
- This act deprived the presidency of Bombay and Madras of their legislative powers. Now they are subordinate to the Governor General of India.

- The Act ended the East Indian company activities as commercial body. It provided that company territories in India were held by it in trust for His Majesty, his heirs and successors.

- A law member without right to vote in Governor General Council was added. (Macaulay was the first law member).

- A law commission was constituted for codification of laws.

- The Act threw services under the company open to all, irrespective of religion, place of birth, descent and color.

#### **Charter Act of 1853**

- The Act allowed the company to retain the possession of Indian territories in trust for the British Crown, but not for any specified period.
- The number of members of the Court of Directors was reduced from 24 to 18 of which six were to be nominated by the Crown.

- ☞ The law member was made a full member of the Governor General's Executive Council.
- ☞ Legislation was treated for the first time as separate from executive functions. Separate legislative machinery was created known as **Indian Legislative Council**.
- ☞ Recruitment to **Civil Services** was based on open annual competition examination (excluding Indians)
- ☞ Separate Governor was appointed for Bengal.

**Crown rule : 1858 - 1947**

#### **Government of Indian Act 1858**

- ☞ Rule of Company in India ended and that of the Crown began. The Act was known as the '**Act for the Good Government of India**'.
- ☞ It abolished East India Company political powers, and revenues to the British Crown. It provided that India henceforth was to be governed in the name of Her Majesty.
- ☞ It created a new post Secretary of state (a member of the British cabinet and answerable to British Parliament)
- ☞ He was assisted by a 15-member council (called Indian Council, which is advisory in nature). Secretary of state was the chairman of the council.
- ☞ Governor General received the title of Viceroy. He reports Secretary state, and was assisted by an Executive Council, which consisted of high official of the Government.
- ☞ **Lord Canning** was the first viceroy.
- ☞ A unitary and highly centralized administrative structure was created.

#### **The Indian Council Act 1861**

- ☞ Vice,oy's Executive Council was enlarged

which will now have not less than 6 and not more than 12 members.

- ☞ At least half of these council were to be non official members whose tenure will be 3 years. Some of non-official seats were offered to natives of high ranks.
- ☞ Thus, a minute element of 'popular' participation was introduced in the legislative process. The additional members, though, had little powers.

- ☞ The Executive Council was now called as **Central Legislative Council**.

- ☞ It introduced the Portfolio System.
- ☞ Viceroy could issue ordinances in case of emergency.

#### **Indian Council Act 1892 :**

- ☞ Two improvements in both the Central and the Provincial Legislative Council were suggested.
- ☞ It increased the number of additional non official members though the majority of the official members was retained.
- ☞ The non-official members are nominated on the recommendations of certain bodies like Bengal chambers of commerce etc.
- ☞ The Councils were to have the powers to discuss the annual statement of revenue and expenditure (i.e the budget) without the right to vote.

#### **Indian Councils Act, 1909 :**

- ☞ Also called as Morley-Minto Reforms. (Morley- Secretary of State and, Minto Viceroy)
- ☞ Membership increased from 16 to 60 in Central Legislature. Provincial Legislative councils strength were not uniform.
- ☞ It retained official majority in central legislative council, but allowed provincial legislatures to have non-official majority.

- For the first time Indians were taken into Viceroy Executive Council.
  - First Indian entered into Viceroy Executive Council was Satyendra Prasad Sinha. He was appointed as law member.
  - Separate Communal Electorates was established for Muslims. Under this, Muslim members were to be elected by Muslim voters only. Hence, Minto was called as '**Father of Communal Electorates**'.
- Government of India Act, 1919 :**
- On August 20, 1917, the British government declared for the first time, that its objective was the gradual introduction of responsible government in India.
  - It is also called as **Montague - Chelmsford Reforms** (Montague - Secretary of State and Chelmsford - Viceroy)
  - It relaxed the of center control over provinces by demarcating separate subjects for center and provinces. The respective legislatures were authorized to make laws on their respective subjects.
  - It introduced Dyarchy (i.e. Dual Government) at Provinces by dividing Provincial subjects into two. They are,
    - i) **Transferred Subjects** - Administered by Governor with the aid of ministers responsible the legislative council.
    - ii) **Reserved Subjects** - Administered by Governor with the aid of his executive council without being responsible to the legislative council.
  - The Act for first time separated Provincial Budget from Central budget and authorized provincial legislature to enact their own budgets.
  - Secretary of state for India was to be paid by the British exchequer.
- It established the office of High Commissioner for India and to be paid by the Government of India.
  - Two House systems was introduced at center for the first time. They are,
    - ★ Upper House (Council of States with 60 members and tenure of five years)
    - ★ Lower House (Central Legislative Assembly with 143 members with a tenure of three years)
  - Direct elections were introduced for the first time to these houses. Majority members of these houses are elected members.
  - The Act not only retained communal representation, but also expanded it to Christians, Sikhs, Anglo - Indians and Europeans.
  - It has given provision for the establishment of Public Service Commission. (Estd. in 1926)
- Simon Commission, 1928 :**
- In 1927, 7 members all white statutory commission headed by Sir John Simon came to India.
  - It came to India to study the 1919 Act.
  - All the parties boycotted the commission. The commission submitted its report in 1930.
  - The commission recommended the abolition of the diarchy at provinces.
- Government of India Act, 1935 :**
- All India Federation system was introduced through this act. The Federation includes British provinces, Chief Commissioner's provinces and Princely states.
  - However, the federation never came into existence as princely states did not accept to this proposal.
  - The Act divided powers between Centre and provinces into three subjects.
    - i) Federal List (for Centre with 59 items)

- ii) Provincial list (for Provinces with 54 items)
- iii) Concurrent list (for both with 36 items)
- The Act abolished Diarchy at provinces, and introduced provincial autonomy (i.e. Provinces were to act as independent units reporting to crown, than subordinate to Viceroy)
- It introduced diarchy at Centre. Thus federal subjects were divided into reserved and transferred.
- Bi-cameral Legislature in 6 out of 11 provinces, The provinces with bi-cameral legislature are Bengal, Bombay, Madras, U.P, Bihar, Assam.
- It abolished council of India which was established by Government of India Act 1858.
- Reserve Bank of India was established as per this Act.
- The Act provided for federal court with Chief Justice and other six judges.
- The Act retained the communal representation and extended it to labour class and women.
- 70% of Indian Constitution is from this Act.
- The Act also provided for Public service commission for Federal Government and one for each provinces.

#### **Cripps Mission, 1942 :**

- It came to India to get support from Indians during World War II
- It proposed - To give Dominion Status to India and Establishment of Constituent Assembly.

#### **Cabinet Mission, 1946 :**

- The British Cabinet Mission came in 1946 to India aimed to discuss and plan for the transfer of power from the British Government to Indian leadership, providing India with independence.
- It formulated at the initiative of Clement Attlee, the Prime Minister of the United Kingdom, the mission consisted of Lord Pethick-Lawrence, the Secretary of State for India, Sir Stafford Cripps and A.V. Alexander.
- Lord Wavell, the Viceroy of India, did not participate.
- It proposed that Elections to be conducted for Constituent Assembly and elected constituent Assembly frame the Constitution for India.

#### **Government of India Act, 1947 :**

- The Indian Independence Act 1947 was last Act passed by Parliament of the United Kingdom that partitioned British India into the two new independent dominions of India and Pakistan.
- The Act received the royal assent on 18<sup>th</sup> July 1947, and Pakistan came into being on August 14, and India on August 15, as two new countries.
- The legislation was formulated by the government of Prime Minister Clement Attlee, after representatives of the Indian National Congress, the Muslim League, and the Sikh community came to an agreement with the Viceroy of India, Lord Mountbatten on, what has come to be known as the 3 June Plan or Mountbatten Plan.

#### **Features of the Act :**

- The Act ended the crown rule over Indian sub-continent.
- Provided for two independent dominions of India and Pakistan.
- Abolished the office of Viceroy and provided for Governor-General for each Dominions.
- It proclaimed the lapse of British Paramountcy and provided freedom to princely states to join either India, Pakistan or remain independent.
- It empowered the constitution assemblies of both nations to frame any constitution and repeal any law.
- It constituted an boundary commission to draw boundary between India and Pakistan which was headed by Sir Radcliff
- The India and Pakistan are free to leave the British commonwealth.

#### **Important ministers in first cabinet of free India.**

Member	Portfolios held
Jawaharlal Nehru	PM, External affairs & Commonwealth relations, Scientific research
Sardar Vallabhai Patel	Home, I & B, States
Dr. Rajendra Prasad	Food & Agriculture
Maulana Abulkalam Azad	Education
R.K. Shanmughamchettty	Finance
Dr.B.R. Ambedkar	Law

# CONSTITUTION OF INDIA

## A. MAKING OF INDIAN CONSTITUTION AND ITS SALIENT FEATURES

- ☞ 1934 - Idea of Indian Constituent Assembly for India was put forward for the first time by M.N. Roy.
- ☞ 1935 - Indian National Congress (INC) first time officially demanded Constituent Assembly for India.
- ☞ 1940 - Constitutional demand was accepted by British Government which is called '**August Offer**'.
- ☞ 1942 - Cripps commission appointed for framing of an Independent constitution for India.
- ☞ 1946 - As per cabinet mission recommendations Constituent Assembly was set up
- ❖ **Cabinet Mission 1946 Formation of Constituent Assembly :**
- ☞ The cabinet mission provided for an indirectly elected Constituent Assembly.
- ☞ The assembly consisted of total 389 members 292 to be elected from provincial legislative assemblies, 93 to be nominated from princely states, 4 to be nominated from chief commissioner provinces of Delhi, Ajmer - Marwar, Coorg and British Baluchistan.
- ☞ However, after the partition, separate Constitution assembly for Pakistan was setup and some members were transferred to it. This reduced assembly strength to 299 (i.e. 299 from Provinces and 70 from Princely states)
- ❖ **Composition of Constituent Assembly**
- ☞ The present Constitution was framed by the Constituent Assembly of India set up under Cabinet Mission Plan of May 16, 1946.
- ☞ First meeting of Constituent Assembly held on 9<sup>th</sup> December 1946.
- ☞ Muslims League party boycotted first meeting of constituent assembly and demanded separate Pakistan.
- ☞ Sachidanand Sinha was elected as interim President of the Constituent Assembly following French practice. (He was proposed by J.B. Kripalani).

- ☞ Later Dr. Babu Rajendra Prasad was elected as permanent President and H.C. Mukherjee as Vice President on 11<sup>th</sup> December, 1946.
- ☞ Sir B.N. Rao was appointed as the constitutional adviser to the assembly.
- ☞ On 13<sup>th</sup> December , 1946 Jawaharlal Nehru moved 'Historical Objective Resolution' in Constituent Assembly which was adopted by the Assembly on 22nd January, 1947.
- ☞ Total 22 committees were appointed to look after the activities of framing of the constitution.
- ☞ 13 special committees were appointed to frame the constitution.
- ☞ Dr. B. R. Ambedkar elected as Chairman of the Drafting Committee.
- ☞ Drafting Committee of Constituent Assembly was set up on 29<sup>th</sup> August 1947. It was most important committee among all the committees. It had total 7 members including chairman.
  1. B.R. Ambedkar (Chairman)
  2. N. Gopalswami Ayyangar
  3. Alladi Krishna Swami Ayyar
  4. K.M. Munshi
  5. Syed Mohammed Saadulah
  6. B.L. Mittar (replaced by N. Madhav Rao due to ill health)
  7. D.P. Khaitan (as he died in 1948, he was replaced by T.T. Krishnamachari)
- ❖ **Certain facts about Indian Constitution :**
- ☞ Indian constitution is considered as lengthiest constitution of the world.
- ☞ Originally it has 395 articles in 22 parts and 8 schedules.
- ☞ Now (as of December 2014) there are 448 articles in 24 parts and 12 schedules
- ☞ 98 Amendments

❖ **Important Committees on Indian Constitution and their chairperson**

B.R. Ambedkar	Drafting Committees
Dr. Babu Rajendra Prasad	Steering committee, Finance and staff committee
Dr. Babu Rajendra Prasad	Rules of Procedure Committee
Dr. Babu Rajendra Prasad	Ad hoc committee on the National flag
Jawaharlal Nehru	Union Powers Committee
Jawaharlal Nehru	Union Constitution Committee
Sardar Vallabai Patel	Committee on Fundamental Rights & Minorities
Sardar Vallabai Patel	Provincial Constitution Committee
K.M. Munshi	The Steering Committee

- ☞ First draft was published in February 1948, which consists 240 clauses and 13 schedules.
- ☞ 22<sup>nd</sup> July, 1947 National Flag was adopted.
- ☞ 4<sup>th</sup> November, 1948 final draft was introduced in constitution assembly by Dr. Ambedkar (first reading)
- ☞ The second reading (clause by clause) started on 15<sup>th</sup> November 1948 and ended on 17<sup>th</sup> October 1949
- ☞ The third reading of draft started on 14 November and passed on 26<sup>th</sup> November 1949 (i.e. adoption of constitution)
- ☞ 1949, November 26 - Constituent Assembly approved the new constitution and some parts of constitution came into force.
- ☞ It took 2 years, 11 months and 18 days to prepare the Indian Constitution.
- ☞ At the time of approval Indian Constitution consists of 22 parts, 395 articles, 8 schedules.

- ☞ 24th January, 1950 National Song was accepted.
  - ☞ 1950, January 26 Complete Indian Constitution came into force. (i.e. Commencement date, coinciding with January 26, 1930 of Purnaswaraj day)
  - ☞ First constitutional Amendment was taken place in 1951
  - ☞ First time Parliament elections were conducted in 1952.
- Constituent Assembly of India**
- ☞ On 14<sup>th</sup> August 1947 the Sovereign constitution assembly for Indian reassembled.
  - ☞ Dr. Rajendra Prasad was elected its President.
  - ☞ It also served as temporary parliament till 1952.
- Drafting of Constitution :**
- ☞ It took 2 years, 11 months, and 18 days in framing the Constitution.
  - ☞ The Constitution was enacted and adopted on 26<sup>th</sup> Novemeber 1949.
  - ☞ Some of the provisions relating to citizenship, elections, provisional parliament etc came into force on the same day.
  - ☞ Remaining provisions came into force on 26<sup>th</sup> January 1950.

**Sources of Indian Constitution**

**Government of India Act, 1935**

- ☞ Federal Structure,
- ☞ Office of Governor
- ☞ Administrative details
- ☞ Public service commissions

**Constitution of Britain**

- ☞ Two House system
- ☞ Parliamentary system with cabinet/ministerial responsibility to parliament
- ☞ Principle of rule of law.
- ☞ Office of Speaker of Lok Sabha and Parliamentary privileges
- ☞ Legislative procedures
- ☞ Preogative writs

**Constitution of USA**

- ☞ Written constitution and Preamble

## IMPORTANT FEATURES

1. **Lengthiest Written constitution in the world**
  - ☞ Originally it comprised 395 articles with 2 parts and 8 schedules. At present (2014), it consists of 448 articles in 24 parts and 12 schedules. It is due to Single constitution for both the central and states (except J&K)
  - ☞ Historical factors (influence of Government of India act 1935)
  - ☞ Vastness of the country and its diversity.

2. **Blend of Rigidity and flexibility in constitution**

- ☞ The Constitution of India is neither rigid nor flexible but it is a mixture of both.
- ☞ Article 368 provides for two types of amendments.
  - a) By special majority of the Parliament i.e. where two-thirds majority of the members present and voting, but not less than majority of total membership (i.e. more than 50%)

**Ex :** Fundamental rights, directive principle of state policies, fundamental duties.

- b) By special majority of the Parliament and also by ratification by half of the state legislatures by special majority

**Ex :** Change of 54th article i.e. election of president.

Change of 55<sup>th</sup> article i.e. Manner of election of president.

Change of seventh schedule (division of powers in between central and states)

At the same time some provisions amendment requires simple majority of parliament like ordinary legislature, which does not come under Article 368

### Fundamental Rights

- ☞ Removal of Supreme Court & High Court Judges
- ☞ Judicial Review & Independence of Judiciary
- ☞ President as Supreme Commander of armed forces
- ☞ Impeachment of president
- ☞ Vice President as ex-officio Chairman of council of State

### Constitution of Canada

- ☞ Distribution of powers between Union and States and placing Residual powers with Center.
- ☞ Federal set up with a strong center
- ☞ Appointment of state Governors by the centre
- ☞ Supreme Court advisory jurisdiction
- ☞ Single Citizenship

### Constitution of Australia

- ☞ Concurrent list, freedom of trade and commerce
- ☞ Joint sitting of parliament in case of dead lock.

### Constitution of Ireland

- ☞ Directive principles of state policy.
- ☞ Method of election of President.
- ☞ Nominating the members to Raja Sabha by President.

### Constitution of USSR (Russia)

- ☞ Ideals of Social and Economic Justice in the preamble.
- ☞ Fundamental Duties.

### Weimar Constitution (Germany)

- ☞ Emergency and Suspension of Fundamental rights during emergency.

### Constitution of South Africa

- ☞ Producers of constitutional amendments.
- ☞ Election of Rajya Sabha member.

### Constitution of France

- ☞ Concept of Republic -
- ☞ Ideals of liberty, equality and fraternity in the preamble

### Constitution of Japan

- ☞ Procedure established by law

**Ex :**

- ☞ Change of article 2 Admission of new states
- ☞ Change of article 3 Formation of New states and alteration of areas, boundaries or names of existing states.
- ☞ Change of article 169 Abolition or creation of legislative councils in states.
- ☞ Change of 2<sup>nd</sup> schedule i.e. salaries of various constitutional authorities.

**3. Drawn from various sources**

- ☞ Indian constitution is drawn from various sources.

**4. Federal polity with unitary characteristics**

- ☞ The Constitution of India establishes a federal system of government. It contains all the usual features of a federation, viz.
  1. Two governments (center and states) and division of powers between them
  3. Written Constitution and Supremacy of Constitution,
  5. Rigidity of Constitution,
  6. Independent judiciary
- ☞ However, the Indian Constitution also contains a large number of unitary features, viz., a strong Centre, single Constitution for center and states (except J&K), single citizenship, appointment of state governor by the Centre, All-India services, emergency provisions and so on. Moreover, the term 'Federation' has nowhere been used in the Constitution.
- ☞ Article 1, on the other hand, describes India as a '**Union of States**' which implies two things : one, Indian Federation is not result of an agreement by the states : and two, no state has the right to secede from the federation.

Hence, the Indian Constitution has been variously described as 'federal in form but unitary in spirit', 'quasi-federal' by K C Wheare, 'bargaining federalism' by Morris Jones, 'co-operative federalism' by Granville Austin, 'federation with a centralizing tendency' by Ivor Jennings, and so on.

**5. Three tier government :**

- ☞ Originally, Indian polity was two tier federation, but 73<sup>rd</sup> and 74<sup>th</sup> constitutional amendment added third tier of government (i.e. Panchayats via 73<sup>rd</sup> amendment in XI schedule and Urban local bodies via 74<sup>th</sup> amendment in XII schedule)

**6. Parliamentary form of Government**

- ☞ Parliamentary system is based on Principle of cooperation and coordination between the legislative and execution organs but the presidential system is based on the doctrine of separation of powers between legislature and executive. Some of the features are
  - a) Presence of nominal and real executives
  - b) Dissolution of the lower House (Lok Sabha or Assembly)
  - c) Collective responsibility of the executive to the legislative
  - d) Leadership of the Prime minister or the Chief minister
  - e) Membership of the ministers in the legislature
  - f) Majority party rule.

## **7. Synthesis of Parliamentary sovereignty & judicial supremacy**

Parliamentary sovereignty is associated with British Parliament, while judicial supremacy is of American concept. However, in India there is neither as Supreme Court can declare any law as unconstitutional through its power of judicial review, parliament can amend major portion of constitution (Article 368)

## **8. Integrated and independent judiciary**

Indian judiciary is independent and integrated with Supreme Court at top and High courts at the state level and under High courts, there are district courts and other lower courts. This single judiciary enforces both central and state laws.

## **9. Single citizenship**

Though Indian polity is federal, it provided for single citizenship (i.e. only Indian citizenship)

## **10. Constitutional bodies**

Indian constitution provides not only legislative, executive and judicial organs of the government, but also establishes certain independent bodies. Some of them are

- ★ Election commission to conduct free and fair elections.
- ★ Comptroller and Auditor-General of India to audit accounts of union and state.
- ★ UPSC for recruitment to various Central services and All India services.

It is an intr  
purpose of  
American  
a preamble  
It was pre  
tion' draft  
has been  
1976 and t  
& Integrity  
Te text of

## **The Pream**

"We, the p  
solved to  
SOCIALIST  
and to se  
JUSTICE,  
LIBERTY  
and wors  
EUQALIT  
to prom  
FRATERN  
and the  
ON OUR  
twenty-  
HEREBY  
SELVES T

## **Ingredie**

It states  
dia)  
It mentio  
socialist

## **INDIAN PO**

## B. PREAMBLE OF THE CONSTITUTION

### PREAMBLE

- ☞ It is an introductory statement explaining the purpose of the constitution.
- ☞ American constitution was first to begin with a preamble.
- ☞ It was prepared based on 'Objectives Resolution' drafted by Jawaharlal Nehru. However, it has been amended by 42<sup>nd</sup> amendment Act 1976 and three new words - Socialist, Secular & Integrity were added.
- ☞ The text of preamble in its present form is -

#### The Preamble explains,

"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 individual and the unity and integrity of the Nation; ON OUR CONSTITUTION ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION."

#### Ingredients of preamble :

- ☞ It states source of authority (i.e. people of India)
- ☞ It mentions nature of Indian state (sovereign, socialist, secular, democratic and republic)

☞ It mentions that justice, liberty, equality and fraternity as its objectives

☞ It mentions that constitution was adopted on November 26, 1949

#### Key words in preamble and its meaning :

**SOVEREIGN** - Means no outside authority over India and India will conduct its own affairs (both internal and external)

**SOCIALIST** - This word was added by the 42<sup>nd</sup> Constitution Amendment Act, 1976. Its aims to achieve socialistic pattern through democratic means. This is based on resolution of congress party in Avadhi session - 1955.

**SECULAR** - This was also added by the 42nd Constitution Amendment Act, 1976. India is a Secular State means all religions get equal treatment.

**DEMOCRATIC** - It means supreme power is with people, which is exercised via regular elections. India adopted indirect or representative democracy.

**REPUBLIC** - It implies that head of the state is an elected representative for fixed tenure. No hereditary rule.

**JUSTICE** - Includes Social, Economic and Political Justice.

☞ **Social Justice** means equal treatment to all citizens without any social discrimination based on caste, color, race, religion, sex.

☞ **Economic Justice** means no discrimination between people based on wealth, income and property.

☞ **Political Justice** denotes that all citizens should have equal political rights, access to all political offices and equal voice in the government.

**LIBERTY** - It means absence of special privileges to any section of the society and treating citizens equally irrespective of caste, race, sex and religion.

**FRATERNITY** - It means absence of special privileges to any section of the society and treating citizens equally irrespective of caste, race, sex and religion.

**FRATERNITY** - It means a sense of brotherhood among all citizens, which is promoted by constitution by giving single citizenship.

#### Importance of the Preamble

- ☞ The Preamble specifies the source of authority. It is indeed the Soul of constitution.
- ☞ But preamble is neither a source of power nor a prohibition upon the power.
- ☞ It is not enforceable in a court of law i.e. not justifiable and, generally, not considered as a part of the constitution.

Whether Preamble is a part of constitution or not?

1960 - In *Beruberi* case Supreme Court stated that 'Preamble is not a part of the constitution'.

1973 - In *Kesavananda Bharati Vs. Kerala Govt.* case S.C said that 'Preamble is a part of the Constitution'.

1993 - In *S.R. Bommai* case S.C said 'Preamble is an Integral Part of Constitution'.

#### Amenability of the preamble :

- ☞ Whether preamble can be amended under Article 368 of the constitution arose first time in *Kesavananda Bharati* case (1973). The supreme court declared that as Preamble is a Part of the Constitution so it is subjected to the amending power of the Parliament (without destroying the Basic structure of the Constitution).
- ☞ Until now, the preamble amended only once in 1976 via 42<sup>nd</sup> Constitutional Amendment Act. It added three new words, Socialist, Secular and Integrity to the preamble. This amendment was held to be valid.



# FUNDAMENTAL RIGHTS, DIRECTIVE PRINCIPLES OF STATES POLICY, FUNDAMENTAL DUTIES & NATIONAL SYMBOLS



Part III of the constitution Article 12 to 35 deals with fundamental rights (FRs). These are inspired from American constitution (where they are called as Bill of Rights) Article 12 & 13 explains about the definition and the Law consisting with Fundamental Rights.

Part-III of the Constitution, is called as corner stone of the Constitution and together with Part-IV (Directive Principles of State Policy) constitutes the conscience of the Constitution.

This chapter is described as Magna Carta of India.

## ❖ Historical background of FRs

- ☞ In 1895, Bala Gangadhar Tilak demanded for protection to the Indian Citizen.
- ☞ In 1927, INC met at Madras it was demanded that, Fundamental Rights to be added to the constitution.
- ☞ In 2nd Round Table Conference, 1932 Gandhi demanded for the constitutional protection to the Indian citizens.
- ☞ On 24th January, 1947 Fundamental Rights committee was formed under Sardar Vallabhai Patel.
- ☞ In February, 1947 a sub-committee was appointed under J.B. Kripalani.

## ❖ Nature of Fundamental Rights

- ☞ Fundamental rights are those rights which enjoy special position in Indian constitution.
- ☞ They were protected by Supreme Court of India.
- ☞ Article 13 provides for judicial review of all legislations in India.
- ☞ Absolute Fundamental Rights are given under Articles 17 & 24.
- ☞ These rights can be altered by an amendment of the constitution
- ☞ They are superior to ordinary laws.
- ☞ Rights outside part III are :
  - ★ Right to acquire property (Article 300A).
  - ★ Freedom of commerce & trade (Article 301)
  - ★ Right to vote (Article 326)

☞ Some of the Fundamental rights are not available to armed forces.

☞ Fundamental rights are available against state. However, in the case of Art. 15(2), Art. 17, Art. 18, Art. 23 and Art. 24 can be enforced against private individuals also.

☞ Fundamental Rights are not absolute rights and Parliament could put reasonable restrictions.

☞ These rights can be suspended during emergency.

## ❖ Classification of Fundamental Rights

☞ Originally, constitution provides seven groups of fundamental rights. However 'Right to property' was deleted by 44th amendment in 1978 and it was made as legal right under Art. 300-A in part-XII of the Constitution. Hence, presently we have six fundamental rights. They are as follows :

- 1) Right to Equality (Art. 14-18)
- 2) Right to Freedom (Art. 19-22)
- 3) Right against Exploitation (Art. 23-24)
- 4) Right to freedom of Religion (Art. 25-28)
- 5) Cultural & Educational Rights (Art. 29-30)
- 6) Right to Constitutional Remedies (Article 32)

**Article 12** : Defines the State. It includes  
a) Government and Parliament of India  
b) Government and Legislature of States  
c) All local or other authorities such as municipalities, panchayats, district boards, improvement trusts, etc. within the territory of India or under the control of Government of India.

**Article 13** - Laws inconsistent with Fundamental rights shall declared as null and void.

It includes regular legislation, ordinances, statutory instruments, bye-laws, rules, notifications etc.

This is known as Judicial review (i.e. courts will review the laws made by parliament)

#### ❖ **Right to Equality (Article 14-18)**

##### **Article 14 - Equality before law**

It says that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

The concept of equality before law was taken from British, while the concept of equal protection of laws has been originated from USA Constitution.

It is available to any person including legal persons viz. Statutory corporation, companies, etc.

The concept of equality before law is equivalent to the second element of the concept of the Dicey '**Rule of Law**'. However, under certain exceptions to it are, the President of India, State Governors, Public Servants, Judges, Foreign Diplomats, etc., who enjoy immunities, protections and special privileges.

The concept of rule of law is a negative concept. Whereas the concept of equal protection of laws is a positive concept.

**Article - 15(1)** - The state shall not discriminate against any citizen on grounds only of region, race, caste, sex, place of birth or any of them.

**Article - 15 (2)** - No Citizen shall on grounds only of religion, race, caste, place of birth or any of them be subject to any disability, liability restriction or condition with regard to  
a) Excess to shops, public restaurants, hotels and places of public entertainment.

b) The use of wells tanks, bathing ghats, roads & places of public resorts maintained wholly or partly out of the state fund (or) dedicated to the use of general public.

c) Under Article 15(3), state can make special provisions for women & children.

d) Under Article 15(4) state can make special provisions for advancement of socially and economically backward classes or SC's & ST's

**Article - 16(1)** - There shall be equality of opportunity for all the citizens in matters relating to employment or appointment to any office under state.

**Article - 16(2)** - No citizen shall on the grounds of religion race, caste, sex, place of birth, residence (or) any of them be ineligible for or discriminated against in respect of any employment (or) office under the state

**Article - 16(3)** - Residence can be mentioned as criteria for employment into certain posts.

**Article - 16(4)** -

State can provide reservations to backward classes of citizens, which in the opinion of the state, is not adequately represented in the services under the state.

**Article 16(5)** - A law can provide that the incumbent of an office related to religious institution or member of its governing body should belong to the particular religion.

**Article 17 - Abolition of untouchability** -

Untouchability abolished and its practice in any form is forbidden.

The enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law.

**Article 18-Abolition of titles :** No citizen of India shall accept any title from any foreign State, subject to the government of India's permission.

The titles conferred by the government of India may be accepted.

The awards, Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri, called as the National Awards would not amount to title within the meaning of Art. 18

❖ **Right to Freedom (Article 19-22)**

**Article 19** - It is again classified into six. All citizens have the right to

- Freedom of speech and expression (Freedom of press is implicit here)
- Assemble peacefully and without arms.
- Form associations or Unions including co-operative society (the term co-operative society was introduced via Constitutional 97<sup>th</sup> Amendment Act)
- Move freely throughout the territory of India.
- Reside and settle in any part of the territory of India.
- Practice any profession, or to carry on any occupation, trade or business.

**Article - 19(2)** - The state can impose reasonable restrictions on the exercise of this right (on sovereignty and Integrity of India, the security of the state, friendly relations with foreign states, public order, decency or morality)

**Courts will decide on the reasonableness of the restrictions.**

**Article 19** is suspended automatically during the national emergency (Article 352) declared by the presidency of India on the grounds of war (or) external aggression and not because of armed rebellion.

**Article 19** before 1978 included Right to Property, which was removed by Constitutional 44<sup>th</sup> Amendment Act-1978

**Article 20** - Protection in conviction for offenses.

**What is meant by 'double jeopardy'?**

The prohibition against double jeopardy is contained in cl(2) of Art. 20 which runs that no persons shall be prosecuted and punished for the same offence more than once.

**Article 21** - Protection of life and personal liberty.

**Article 21 A** - Compulsory education to the children of age of 6 to 14 years (86<sup>th</sup> Amendment)

**Article 22** - Protection against arrest and detention in some cases.

❖ **Right Against Exploitation(Art. 23, 24)**

**Article 23** - Prohibition of traffic in human beings and forced labour. (Begar)

**Article 24** - Prohibition of employment of children in factories etc.

❖ **Right To Freedom of Religion (Art. 25-28)**

**Article 25** - Freedom of free profession, practice and propagation of religion (subject to public order, morality and health)

**Article 26** - Freedom to manage religious affairs for religious denominations

**Article 27** - Freedom from payment of taxes for promotion of any particular religion

**Article 28** - Freedom from religious instructions or worships in educational institutions.

56

❖ **Cultural And Educational Rights (Article 29 & 30)**

**Article 29** - Protection of interest of minorities (i.e. Minorities have right to protect their distinct language, script or culture)

**Article 30** - Right of minorities to establish and administer educational institutions.

In India, only religious and linguistic minorities are recognized.

There are six religious minorities in India. They are Muslims, Christians, Sikhs, Buddhists, Jains, Parsis (Jains has been added to list in March 2014)

**Note :** Article 31-Compulsory acquisition of property (It was Omitted by 44<sup>th</sup> amendment in 1978)

#### ❖ Right to Constitutional Remedies (Article 32)

In case of violation of Fundamental Rights a citizen can directly move to the High Court (Article 226) or Supreme Court (Article 32). Courts issue various WRITS for the implementation of the Fundamental Rights. Writs are Habeas corpus, Mandamus Prohibition, Certiorari and Quo warranto

**Article 33 - Restriction of fundamental rights to armed forces and intelligence agencies.**

**Article 34 - Restriction of fundamental rights during Marshal law.**

**Article 35 - Legislation to give effect to the provisions of this part**

#### ❖ The WRITS

Under fundamental rights, Right to constitutional Remedies(article 32) guarantees to a person the Right to move to the Supreme Court directly for the enforcement of his Fundamental rights. In this regard, the Supreme Court can issue different kinds of 'WRITS' for the enforcement of these rights.

According to Dr. B.R. Ambedkar article 32 is "the very soul of the constitution and the very heart of it". These writs are of five types. They are

- a) Habeas Corpus
- b) Mandamus
- c) Prohibition
- d) Certiorari
- e) Quo-warranto

#### a) Habeas Corpus .

It is a Latin word, means 'to have a body'. It is a ready remedy to a common person when he is imprisoned without legal sanction. Can be issued against private individuals also.

#### b) Mandamus :

It is a Latin word, means 'we order' or 'We command'.

It can be issued against a public authority or inferior courts for purpose of enforcing legal right only.

Mandamus command or order a person or a public authority or a body to do his or its duty.

It can be issued against State and private individuals.

It can not be issued against President and Governors.

Mandamus is issued only by Supreme Court or High Courts.

#### c) Prohibition

Means 'Forbid'

When a subordinate court (Ex : Tribunals) exceeds its jurisdiction, Prohibition issued by Supreme Court or a High Court, before the trial of the case.

This writ forces the court to act within their jurisdiction, if they exceed their jurisdiction.

#### d) Certiorari

A writ certiorari means 'to be informed'

This writ orders issued to a subordinate court transfer a suit to a superior court.

It is issued before a trial, when a lower court acts without jurisdiction.

#### Difference between Certiorari & Prohibition

Certiorari can be issued only after the order has been made. Prohibition is available during the pending of proceeding and before the order is made.

Certiorari is of curative nature, Prohibition is of preventive nature.

(However, Supreme Court in its 1991 ruling Certiorari can be issued even against administrative authorities affecting right of individuals)

#### d) Quo warranto

- ❖ Quo warranto means 'where is your warrant of appointment?' or 'What is your authority'
- ❖ Quo warranto is a legal process, issued to ensure that the person holding a public office is duly qualified to hold the office.

#### ❖ Fundamental Rights NOT available to the Foreigners

- ❖ Prohibition of discrimination on grounds of religion, race, caste, sex, or place of birth (Article 15).
- ❖ Equal opportunities in public appointment (Article 16)
- ❖ Freedom of Speech (Under which other 6 rights also not available. Article 19)
- ❖ Cultural and Educational Rights (Article 29 & 30)
- ❖ Contest in the elections to either house at Center or State levels.
- ❖ Adult Suffrage /Voting Right (Article 326)
- ❖ Assume the post of President, Vice President, SC and HC judges, CAG, attorney General, Election Commissioner Etc.

#### ❖ Fundamental Rights Available to Any Person (Except Enemy Aliens)

1. Equality before law and equal protection of law (Art. 14)
2. Protection in respect of conviction for offences (Art. 20)
3. Protection of life and personal liberty (Art. 21).
4. Prohibition of Traffic in human beings and forced labour (Art. 23).
5. Freedom of religion(Art. 25, Art.26)
6. Freedom as to payment of taxes for promotion of any particular religion (Art. 27)

#### ❖ Amendability of Fundamental Rights :

- ❖ Shankari Prasad Vs Union of India (1952) and Sajjan Singh Vs State of Rajasthan (1965) Cases:
- ❖ Supreme Court held that Parliament can amend Fundamental Rights
- ❖ **Golaknath Vs. State of Punjab (1967) Case :** Supreme Court held that Fundamental Rights have been given a Transcendental Position by the Constitution and are not amendable.

❖ 24th Amendment Act - Amended Articles 13 and 368, and made Fundamental Rights amendable.

❖ **Kesavananda Bharti Vs. State of Kerala (1973)**  
Case : Supreme Court held that Parliament Can amend any Provision of the Constitution without changing the basic structure of the Constitution.

❖ **42<sup>nd</sup> Amendment, 1976 :**

- ❖ Inserted that Parliament can amend Fundamental Rights and Judiciary cannot interfere in it.
- ❖ **Minerva Mills Case 1980 :** Supreme Court ruled that Judicial Review the basic structure of the Constitution and cannot be amended.

#### Note :

❖ Janata Government headed by MORARJI DESAI taken out the important fundamental right RIGHT TO PROPERTY by omitting 19(1) F & 31 by 44 Amendment Act 1978 and made provision in Article 300 A.

❖ However, Article 20 and 21 cannot be suspended by any order under Article 359.

❖ **Article 20** - Protection in respect of conviction for offenses

❖ **Article 21** - Protection of life and personal liberty

❖ Part IV of the constitution , Articles 36-51 deals with Directive Principles of state policy.

❖ Directive principles of state policy are the directions given by the constitution to the government to bring about social justice by formulating suitable policies, legislations etc.

❖ This feature of the Constitution is taken from Ireland. These are a kind of directions or instructions to the State in order to grow India as a welfare State.

#### ❖ Directive Principles :

❖ Articles 36 to 51 exclusively deal with Directive Principles of State Policy. These principles are further classified as Socialist principles, Gandhian principles and Western Liberal principles.

- ❖ **Article 36 : Definition**
- ❖ **Article 38 :** State to secure and protect a social order which stands for the welfare of the people (It is a socialist principle).
- ❖ **Article 38(2) :** State to strive for minimizing inequalities in income (It is a Socialist Principle)
- ❖ **Article 39(a) :** Citizens shall have equal justice and free legal aid (It is a Socialist Principle)
- ❖ **Article 39(b) :** Ownership and control of material resources of the community shall be distributed so as to sub serve the common good. (It is a Socialist Principle)
- ❖ **Article 39(c) :** Economic system shall operate in a manner that does not result in the concentration of wealth and means of production to the common detriment (It is a Socialist Principle)
- ❖ **Article 39(d) :** Equal pay for equal work, without any discrimination (It is a liberal Principle).
- ❖ **Article 39(e) :** Health and strength of worker and tender age of children must not be abused (It is a Socialist Principle)
- ❖ **Article 39A :** Equal justice and free legal aid (It is a Socialist Principle)
- ❖ **Article 40 :** Organization of village panchayats.
- ❖ **Article 43 :** To promote cottage industries (It is a Gandhian Principle)
- ❖ **Article 41 :** Right to work, to education and to public assistance in certain cases (It is a Socialist Principle)
- ❖ **Article 42 :** Provision of just and humane conditions of work and maternity relief (It is a Socialist Principle).
- ❖ **Article 43 A :** Participation of workers in management of industries (It is a Socialist Principle)
- ❖ **Article 44 :** Uniform civil code. It covers areas like marriage, divorce, maintenance, inheritance, succession of property and adoption. It means all sections of society irrespective of their religion shall be treated equally as per a national civil code, which is uniformly applicable to all (It is a Western Liberal Principle)
- ❖ **Article 45 :** Provision for early childhood care and education to children below the age of 6 years (It is a Western Liberal Principle, inserted via Constitution Eighty-Sixth Amendment Act, 2002).
- ❖ **Article 46 :** Promotion of education and economic interests of scheduled castes, scheduled tribes and other weaker sections (It is a Gandhian Principle)
- ❖ **Article 47 :** To bring about the prohibition of intoxicating drinks and drugs that are injurious to health (It is a Gandhian Principle)
- ❖ **Article 48 :** To Prohibit the slaughter of cows, calves and other milk and drought animals (It is a Gandhian Principle).
- ❖ **Article 49 :** To preserve in national importance (It is a Western Liberal Principle)
- ❖ **Article 50 :** Separation of judiciary from executive (It is a Western Liberal Principle)
- ❖ **Article 51 :** To promote international peace and amity (It is a Western Liberal Principle)
- ❖ **Directive Principles subsequently Added By 42nd Amendment Act, 1976**
- ❖ **Article 39(g) :** To protect children against exploitation to provide opportunities for the healthy development in conditions of freedom and of dignity.
- ❖ **Article 39A :** Equal opportunity for justice and free legal aid.
- ❖ **Article 43 A :** Right of workers to participate in management of industries.
- ❖ **Articles 48 A :** To protect the environment, forest and wild animals.
- ❖ **By 44<sup>th</sup> Amendment Act, 1978 :**  
**Article 38(2) :** State shall minimize inequalities in income, status, facilities and opportunities among individuals and groups.
- ❖ **By 86<sup>th</sup> Amendment Act, 2002 :**  
**Article 45 :** The State shall endeavor to provide early childhood care and education to all children until they complete the age of 6 years.

### **Directive Principles in other parts (Not included in Part IV)**

**Article 335 :** Claims of scheduled castes & scheduled tribes shall be taken into consideration, consistently with the maintenance of efficiency to administration in the jobs and appointments to Union & States.

**Article 350 A :** To provide adequate facilities for instruction in the mother tongue at primary stage children of linguistic minorities.

**Article 351 :** To promote the spread of Hindi language Difference between Fundamental Rights and Directive Principles of State Policy.

- ☞ **Part IV A article 51 (A to K)** deals with Fundamental duties, inserted by 42<sup>nd</sup> Amendment act, 1976.
- ☞ Fundamental duties was taken from USSR as a source.
- ☞ The idea of including chapter on fundamental duties was recommended by Swaran Singh Committee.
- ☞ No provision for direct enforcement of Fundamental Duties in the Constitution.

### **Fundamental Duties (51A (A))**

- a) To abide by the constitution, respect its ideals and institution, respect the National flag & Anthem.
- b) To cherish and follow noble ideas of the freedom struggle.
- c) To Uphold and protect Sovereignty, unity and integrity of India.
- d) To defend the country and render national service when required.
- e) To promote common brotherhood and establishment dignity of women.
- f) To preserve rich heritage of the nation's composite culture.

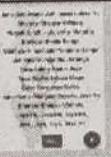
- g) To protect and improve natural environment,
- h) To develop scientific temper, humanism and spirit of inquiry,
- i) To Safeguard public property and abjure violence,
- j) To strive for excellence in all spheres of individual and collective activity,
- k) It shall be duty of every citizen of India who is a parent or guardian to provide opportunities for education to his child or ward as the case may be, between the age of 6 and 14 years, (added by 86<sup>th</sup> Constitution Amendment Act, 2002)

### **❖ The New Flag Code :**

- ☞ Earlier Flag code which contained a long string of archaic provisions. The Vice Chairman of Jindal group, Navin Jindal filed a Public Interest Litigation (PIL) in the Delhi High Court challenging the restrain on his right to fly the Flag.
- ☞ Delhi High Court gave ruling that the flying of Tricolour is a Fundamental Right and the Supreme Court subsequently recommended these to the Union Cabinet to relax the unduly stringent rules about flying the tricolour.
- ☞ No, one can fly/hoist the flag under the guidelines of new flag code. They are ↗
- ☞ One can hoist the flag only from sunrise to sunset.
- ☞ The ratio of width to length of the flag should be 2 : 3
- ☞ Do not use the flag as a shroud for funerals (except for military personals).
- ☞ Do not drop the Flag on vehicles.
- ☞ Do not hoist it upside down. It must not touch the ground.
- ☞ Must fly higher than all other flags except that of the UN or other nations.
- ☞ Do not fly a damaged flag.
- ☞ The amended code came into effect from January 26, 2003.

## Difference between Fundamental Rights and Directive Principles of State Policy

<b>Fundamental Rights</b>	<b>Directive Principles of State Policy</b>
1. Part-III, containing articles from 12 to 35 deal with Fundamental Rights.	1. Part-IV, containing Articles from 36 to 51, deal with Directive Principles of State Policy.
2. The Fundamental Rights can be enforceable by a court against the State.	2. The Directive Principles of State Policy cannot be enforceable by any Court.
3. These are primarily aimed at assuring political freedom to the citizens by protecting them against the excessive State action.	3. These are aimed at securing welfare, social and economic freedom by appropriate state action.
4. The chapter of Fundamental Rights is sacrosanct and not liable to be abridged by legislative or executive act or orders, except to the extent provided in appropriate Article in Part III.	4. The Directive Principles of State policies have to confirm and to run as subsidiary to the Chapter of Fundamental Rights.
5. Fundamental rights occupy a unique place in the lives of civilized society and have been variously described in judgment of the Supreme Court as 'transcendental', 'inalienable' and 'personal'.	5. The Supreme Court described the Directive Principles of State policy as "Conscience of our Constitution".
6. There are negative in character. The State is asked not to do certain things for the people.	6. These are positive in character. The State is directed to take certain positive steps for the welfare and advancement of the people.

Title	Symbol	Image	Notes
National Flag	Flag of India by Pingali Venkayya (Indian Tricolour)		A horizontal tricolour of saffron at the top, white in the middle, and green at the bottom. In the centre is a navy blue wheel with twenty-four spokes, known as the Ashoka Chakra
National Emblem	National Emblem of India (Lion Capital of Asoka)		It was adopted as the National Emblem of India on 26 January 1950, the day that India became a republic. The Emblem also consists the motto of India - "Satyameva Jayate" in Devnagari Script, which means "Truth Alone Triumphs".
National Calendar	Indian National Calendar (Saka Calendar)		The calendar was introduced by the Calendar Reform Committee in 1957, as part of the Indian Ephemeris and Nautical Almanac, which also contained other astronomical data, as well as timings and formulae for preparing Hindu religious calendars, in an attempt to harmonise this practice. Despite this effort, local variations based on older sources such as the Surya Siddanta may still exist. Usage officially started at Chaitra 1, 1879 Saka Era, or March 22, 1957.
National Anthem	"Jana Gana Mana" by Rabindranath Tagore		"Jana Gana Mana" was officially adopted by the Constituent Assembly as the Indian National anthem on January 24, 1950
National Song	Vande Mataram by Bakim Chandra Chatterjee		The first political occasion where "Vande Mataram" was sung was the 1896 session of the Indian National Congress.
National Flower	Indian Lotus (Nelumbo nucifera)		Lotus is a sacred flower and occupies a unique position in the art and mythology of ancient India and has been an auspicious symbol of Indian culture.
National Fruit	Mango		In India, there are over 100 varieties of mangoes, in different sizes, shapes and colours. Mangoes have been cultivated in India from time immemorial. The poet Kalidasa sang its praises. Alexander savoured its taste, as did the Chinese pilgrim Hieun Tsang. Mughal emperor Akbar planted 100, 000 mango trees in Darbhanga, Bihar at a place now known as Lakhisarai.

S  
I  
S  
tE  
D  
ED  
E

E

E

E

National River	Ganga River		Ganga is the longest river of India with the most heavily populated river basin in the world. The river is revered by Hindus as the most sacred river on earth.
National Tree	Indian Banyan or Indian fig tree (Ficusbengalensis)		The branches of Indian Banyan tree root themselves to form new trees and grow over large areas. Because of this characteristic and its longevity, this tree is considered immortal and is an integral part of the myths and legends of India.
National Animal	Royal Bengal Tiger (Pantheratigris)		The Bengal tiger can be found throughout the country except in the north-western region.
National Aquatic Animal	Gangetic Dolphin (Platanistagangetica) pure and fresh water.		Gangetic Dolphin is said to represent the purity of the holy Ganga River as it can only survive in
National Bird	Indian Peacock (Pavocristatus)		The peacock is designated as the national bird of India.
National Currency Symbol	Indian Rupee		<p>The symbol is an amalgam of Devanagari "Ra" and the Roman Capital "R" with two parallel horizontal stripes running at the top representing the national flag and also the "equal to" sign. The Indian Rupee sign was adopted by the Government of India on 15th July, 2010.</p> <p>The symbol, conceptualised and designed by Udaya Kumar, a post graduate in Design from Indian Institute of Technology Bombay.</p>
National Game	Hockey		The Ministry of Youth Affairs & Sports of India clarified that, officially, the country does not have a national game; no game, including hockey, has been notified as such. However, many sources mention hockey as a "National Game". India has won eight Olympic gold medals for hockey.



- ☞ Sarkaria Commission was set up in June 1983 by the central government of India. The Sarkaria Commission's charter was to examine the relationship and balance of power between state and central governments in the country and suggest changes within the framework of Constitution of India.
  - ☞ The Commission was so named as it was headed by Justice Rajinder Singh Sarkaria, a retired judge of the Supreme Court of India.
  - ☞ The other two members of the committee were Shri B Sivaraman and Dr Sr Sen.
- I) Administrative Relations (256 - 263) :**
- ☞ Central Government exercises administrative authority over all the matters on which the Parliament has the power to make laws, whereas the State Governments exercise authority over the matters included in the State List.
  - ☞ Article 256 of the Constitution that the executive power of the states shall be so exercised as to ensure compliance with the laws of Parliament. Also the union executive power extends to the giving of such directions to the states as may appear to the Government of India to be necessary for the purpose.
  - ☞ It is further stipulated under Article 246 of the Constitution that if the state government fails to endorse the laws passed by the Parliament within its jurisdiction, the union government can issue directions to the states to ensure their compliance.
  - ☞ This article lays down that it shall be the duty of the states to exercise its executive power so as to ensure that due effect is given within the state to every act of Parliament and to every existing law which apply in that state.
- Article 355 - Duty of the unikon to protect states against external aggression and internal disturbance.**

**Article 162** - provides that subject to provisions of the Constitution, the executive power of a state shall extend to matters with respect to which the legislature of the state has power to make laws.

**Centre - States Co-Ordination :**

- i) Inter - governmental delegation of administrative powers;
- ii) Centre's directions to the states;
- iii) All-India Services; and
- iv) Inter-State Council.

**Article 258 (I)** - provides that the president may, with the consent of the governor of the state, entrust either conditionally or unconditionally, to that government or to its officers, functions in relation to any matter to which the executive power of the Union extends.

**Article 258 (2)** - A law made by parliament which applies in any state may, notwithstanding that it relates to a matter with respect to which the Legislature of the State has no power to make laws, confer powers and impose duties, or authorise the conferring of powers and the imposition of duties, upon the State or officers and authorities thereof.

**Article 258 (3)** - Where by virtue of this article, powers and duties have been conferred or imposed upon a State or officers or authorities thereof, there shall be paid by the government of India to the State, such sum as may be agreed, or, in arbitrator appointed by the Chief Justice of India, in respect of any extra costs of administration incurred by the State in connection with the exercise of those powers and duties.

**Article 258 A** - Not notwithstanding anything in the Constitution, the governor of a state may, with the consent of the Government of India, entrust either conditionally or unconditionally,

to that government or to its officers functions in relation to any matter to which the executive power of the state extends.

### ii) Centre's Direction to the States (Article 256 & 257)

- ❖ The executive power of the union also extends to giving of direction to the state under Article 256 for their compliance.
- ❖ This power of the Union extends to the limit of directing a state in a manner it feels essential for the purpose. For instance, the union can give directives to the state pertaining to the construction and maintenance of means of communication declared to be of national or military importance or protection of railways within the state.
- ❖ This is essential to ensure the implementation of parliamentary laws throughout the country. Non-compliance of the directives might lead to a situation where the union can invoke Article 356, for imposition of President's rule in the state and take over the administration of state..

**Article 256** - The executive power of the states shall be so exercised as to ensure compliance with the laws of Parliament. Also the union executive power extends to the giving of such directions to the states as may appear to the Government of India to be necessary for the purpose.

**Article 247 (1)** - The executive powers of every state shall be so exercised as not to impede or the Union, and the executive powers of the Unions shall extend to giving of such directions to state as may appear to the Government of India to be necessary for that purpose.

**Article 257 (2) and (3)** - Centre can give directions to State in two specific manners :

- a) In respect of construction or maintenance of means of communications of national or military importance.
- b) For the protection of railways within the State.

**Article 257 (4)** - Any directions given to a state under clause (2) and as mentioned above, additional costs are incurred by the State concerned, it shall be borne by the Central Government such sum as may be agreed. In case of default of agreement, the matter is to be referred to the arbitrator appointed by the Chief Justice of India.

### iii) All India Services :

- ❖ All India Services : Besides central and state services, the Constitution under Article 31 provides for the creation of additional "All India services" common to both the union and states.
- ❖ The state has the authority to suspend the officials of All India Services. The power of appointment and taking disciplinary action against them vests only with the President of India.

**Article 263** says for establishment for an Inter-State Council which may be charged with the duty of

- a) Inquiring into and advising upon disputes which may have arisen between States
- b) Investigating and discussing subjects which some or all of the states, or the Union and one or more of the states, have common interest, or
- c) Making recommendations upon any subject and, in particular recommendations for the better co-ordination of policy and action with respect to that subject.

### ❖ Inter - State Water disputes (Article 264)

### Article 262 -

- 1) Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution and control of waters of, or in, any inter-state river or river valley.

2) Now notwithstanding anything in this constitution Parliament may by law provide that neither the Supreme Court or any other court shall exercise its jurisdiction in respect of any such dispute or complaints as referred to in Clause (1)

#### ❖ **Jurisdiction of Union in relation to territories outside India**

##### (Article 260)

The government of India may by agreement with the government of any territory not being part of territory of India undertake any executive, legislature or judicial functions vested in the Government of such territory but, every such agreement shall be subjected to, and governed by, any law relating to the exercise of foreign jurisdiction for the time being in force.

#### 2) **Legislative Relations :**

- ☞ The Constitution divides legislative authority between the Union and the States in three lists - the Union List, the State List and the Concurrent List. The Union list consists of 100 items.
- ☞ The Union Parliament has exclusive authority to frame laws on subjects enumerated in the list. These include foreign affairs, defence, armed forces, communications, posts and telegraph, foreign trade etc.
- ☞ The State list consists of 61 items on which ordinarily the States alone can make laws. These include public order, public administration of justice, prison, local governments, agriculture etc.
- ☞ The Concurrent list comprises of 52 items including criminal and civil procedure, marriage and divorce, economic and special planning, trade unions, electricity, newspapers, books, education, population control and family planning etc. Both the Parliament and the State legislatures can make laws on subjects given in the Concurrent list, but the Centre has a prior and supreme claim to legislate on current subjects.

In case of conflict between the law of the State and Union law on a subject in the Concurrent list, the law of the Parliament prevails.

Residuary powers rest with the Union government. Parliament can also legislate on subjects in the State list if the Rajya Sabha passes a resolution by two-third majority that it is necessary to do so in the national interest. During times of emergency, Parliament can make laws on subjects in the State List.

Under Article 356 relating to the failure of constitutional machinery in the state, parliament can take over the legislative authority of the state.

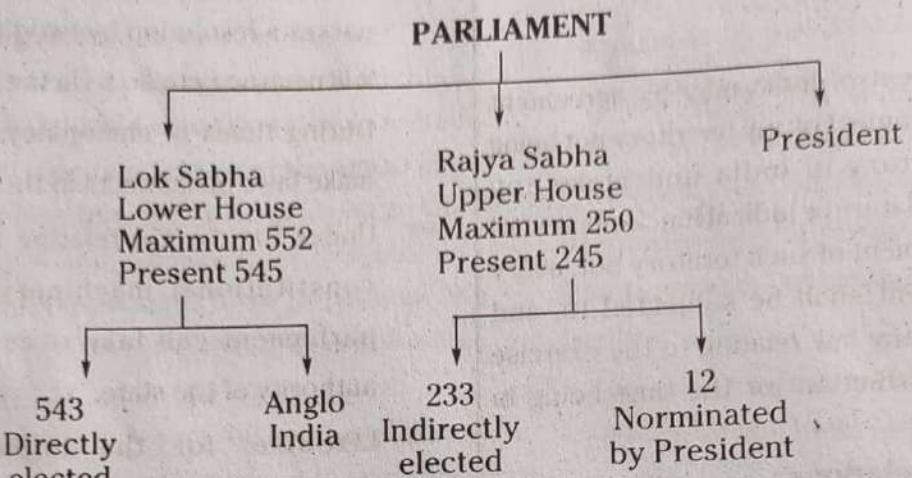
Likewise, for the implementation of international treaties or agreements, Parliament can legislate on state subjects.

Family, Parliament can make laws on subjects in the State list if two or more states make a joint request to it to do so. Thus, the Centre enjoys more extensive powers than the states.

#### **Financial Relations :**

- ☞ Both the Union government and the states have been provided with independent sources of revenue by the Constitution. Parliament can levy taxes on the subjects included in the Union list.
- ☞ The states can levy taxes on the subjects in the state list. Ordinarily, there are no taxes on the subjects in the Concurrent List.
- ☞ In the financial sphere also the States are greatly dependent on the Centre for finances. The Centre can exercise control over state finances through the Comptroller and Auditor General of India and President has the power to suspend the provision regarding division of taxes between the centre and the states.

# PARLIAMENTARY FORM OF GOVERNMENT IN INDIA



- ☞ Constitution is the supreme law of land
- ☞ State consists of 3 organs
- ☞ Part V of the constitution deals with Parliament.
- ☞ According to Article 79, there shall be a parliament for the union, which shall consists of
  - ★ President of India
  - ★ Two houses consists of Council of States (Rajya Sabha or Upper House) and the House of the People (Lok Sabha or Lower House).
  - ★ Thus, Parliament means President of India, Rajyasabha and Loksabha.

## ❖ RAJYA SABHA (Council of States)

- ☞ Rajya Sabha also known as Upper House or Council of States or House of Elders. Details of Rajya Sabha are given below :

### Composition of Rajya Sabha :

- ☞ Rajya Sabha consists not more than 238 representatives of the states and the U.Ts, and not more than 12 members nominated by the President for India (Total - 250) - (Article 80(1))
- ☞ Rajya Sabha is permanent House while 1/3<sup>rd</sup> of its members retire every 2 years by rotation. (Article 83)

At present the strength of Rajya Sabha is 245, of which 233 are elected and 12 are nominated. Uttar Pradesh has largest number of Rajya Sabha seats (31) and Maharashtra second largest (19) while all the NE States, except Assam have one seat each.

The members to be nominated by the President are persons having special knowledge or practical experience in respect of literature, science, art and social service (Article 80(3)).

### Election Procedure :

Member is elected by method of indirect elections. Indirect election means they were elected by the members of state legislative assemblies with the System of proportional representation by means of single transferable vote.

### Qualification & Age

- ☞ Must be a citizen of India. (Article 84)
- ☞ Minimum age should be 30 years (Article 84)
- ☞ He should be a registered voter in any of the Parliamentary Constituencies in India
- ☞ He should not hold any office of profit

### **Chairman of Rajya Sabha**

Vice-president is the Ex-officio chairman of Rajya Sabha. (Article 89). He presides over the proceedings of the Rajya Sabha as long as he does not act as the President of India during vacancy in the office of the President.

Powers of chairman are more or less same as those of Lok Sabha Speaker.

### **Deputy Chairman :**

Deputy Chairman work is similar to that of Dy. Speaker of Lok Sabha.

Deputy Chairman is to be chosen by the members from among themselves (Article 89). In the absence of the Chairman, Deputy Chairman presides over the functions and proceedings of the House.

Deputy Chairman shall vacate his office if he ceases to be a member of the Council and he may resign by writing to Chairman and also may be removed by a resolution of the Council passed by majority of all then members of the Council (Article 90)

Deputy Chairman or some other person appointed in his place perform duties of the office of the chairman in his obscene or the office is being vacant. (Article 91)

### **Salaries :**

Parliaments fix the salaries and allowances of the officers of parliament by law (Article 97). The salaries are charged on the consolidated fund of India, and are not voted by parliament.

### **Duration :**

It is permanent body, not to be dissolved. (Article 83(1))

Members are elected for a term of 6 years.

### **Functions of Rajya Sabha**

Some resolution can be initiated only in Rajya Sabha, e.g.

A resolution seeking the removal of the Vice-President (Article 67)

Any resolution seeking creation of one or more All-India services (Article 312)

A resolution seeking legislation on any subject of the State List (Art. 249)

In case of emergency declaration under Art. 352 and Art. 356 by the President, the resolution must be approved by both Rajya Sabha and Lok Sabha.

### **Lok Sabha (House of the People)**

Lok Sabha also known as Lower House or House of the People. Details of composition of Lok Sabha given below :

### **Composition of Lok Sabha :**

Members to Lok Sabha are elected by the method of direct election on the basis of adult suffrage. Election is based on territorial constituency.

Every citizen who is not less than 18 years entitled to vote.

As per Article 81 there shall be not more than 530 representatives from the States, 20 from the Union Territories and not more than 2 nominated members from Anglo Indian community (Article 331). Total 552.

At present there are 545 members in Lok Sabha. Out of which 530 are from States, 13 from Union Territories and 2 nominated by the President.

The Parliament has frozen the representation of States and Union Territories in Lok Sabha at 543 till 2026 AD.

The party with largest member after ruling party and having at least 1/10th of the strength of Lok Sabha is recognized as Opposition Party.

The Leader of Opposition in both Houses of Parliament is entitled to get salary, allowances and other facilities equivalent to that of a Cabinet Minister.

At present Uttar Pradesh largest number of Lok Sabha seats (80) followed by Maharashtra (48) and West Bengal (42).

### **Qualifications to Loksabha member**

He should be a citizen of India.

He should not be less than 25 years of age.

- He should be a registered voter in any of the Parliamentary Constituencies in India.
- He should not hold any office of profit.

#### **Salaries to the members :**

- Parliament fix the salaries and allowances of the officers of parliament by law (Article 97). The salaries are charged on the consolidated fund of India and are not voted by parliament.

#### **Duration of Lok Sabha**

- As per the Article 83 Lok Sabha term is 5 years.
- It may be dissolved earlier by the president.
- However, Parliament by 42nd Constitution Amendment Act, 1976 extended it to 6 years, but the 44th Constitutional Amendment Act, 1978 again fixed the original normal tenure of 5 years.
- The normal term may be extended by an act passed by parliament during a period of emergency. Such extension can only be made one year at a time. In any case, such extension cannot continue beyond a period of 6 months after the proclamation of emergency eases to operate (article 83)
- When Lok Sabha summoned to meet for the first time after general election, a member of Lok Sabha (usually a senior member) is appointed by the president as the 'Speaker proterm'.
- In the event of vacancy in the office of the both speaker and deputy speaker, their duties may be performed by a member who may be appointed by the President. (Article 95).

#### **What is the role of Protem Speaker ?**

- As soon as the new Lok Sabha is constituted, the President appoints a protom speaker who is generally the senior most member of the House for administering oath to the Lok Sabha members and presiding over the election of a new speaker.

#### **Officers in Lok Sabha**

- Speaker of Lok Sabha
- Deputy Speaker of Lok Sabha
- Speaker of Lok Sabha**
- In the status hierarchy the position of speaker

is next only to the President of India, Vice-president and Prime Minister.

Chief Presiding officer to Lok Sabha is the speaker. The Speaker is elected from the members of the Lok Sabha after the new Lok Sabha is constituted.

Speaker is being elected by the members of Lok Sabha among themselves.

He has final power to maintain order in the house.

Whenever Lok Sabha dissolves the speaker shall not vacate his office immediately. He continues as speaker until the first meeting of Lok Sabha held after the dissolution.

Speaker submits resignation to deputy speaker and vice-versa.

The speaker and deputy speaker normally holds office during the life of the house.

Immediately after Lok Sabha is elected, President appoints a Pro-tem Speaker who is senior most member in the House. He acts as the Speaker till the Speaker is elected by Lok Sabha.

#### **Nature, Powers and functions of the Speaker**

He has the responsibilities to uphold the dignity & privileges of the House.

The Speaker of Lok Sabha is neutral and does not belongs to any political party.

The speaker is the head of Lok Sabha, he presides over the meetings of the house.

He has the final power to maintain order in the house.

He interprets Lok Sabha rule or procedure.

His conduct in regulating and maintaining order in Lok Sabha will not be questioned in the jurisdiction of any court.

The speaker presides over a joint session of the two houses or parliament.

All Lok Sabha committees and all joint parliamentary committees function under the direction of the speaker.

All parliamentary bills are being sent to the president for his ascent through the speaker.

No member should speak without the permission of the speaker in Lok Sabha.

The speaker has the power to suspend a meeting of the house for part of day or for the entire salary

President of India

Vice President

Governor of State

Chief Justice of India

Chief Justice of High Court

Judge of Supreme Court

Judge of High Court

Serial

First LS

Second

Third L

Fourth

Fifth L

Sixth L

Seven

Eight

Ninth

Tenth

Eleven

Twel

Thir

Four

Fifte

Sixt

INDIAN P

The speaker has power to suspend a member from the house proceeding for a part of day or some day or for the entire session	Rupees per month
	Revised Salaries
President of Indian	1,50,000
Vice president of India	1,25,000
Governor of a State	1,10,000
Chief Justice of India	1,00,000
Chief Justice of High Court	90,000
Judge of Supreme Court	90,000
Judge of High Court	80,000

### LIST OF LOK SABHA SPEAKERS

Serial No.	Name of the Speaker	Tenure
First L.S	G.V. Mavalankar	1952-1956
	M. Ananthasayanam Ayaangar	1956-1957
Second L.S	M. Ananthasayanam Ayyangar	1957-1962
Third L.S	Sardar Hukam Singh	1962-1967
Fourth L.S	Neelam Sanjeeva Reddy	1967-1969
	Gurdyal Singh Dhillon	1969-1971
Fifth L.S	Gurdyal Singh Dhillon	1971-1975
	Bali Ram Bhagat	1976-1977
Sixth L.S	Neelam Sanjeeva Reddy	1977-1977 (4 months approx)
	K.S. Hegde	1977-1980
Seventh L.S	Balaram Jakhar	1980-1985
Eight L.S	Balaram Jakhar	1985-1989
Ninth L.S	Rabi Ray	1989-1991
Tenth L.S	Sivaraj Patil	1991-1996
Eleventh L.S	P.A. Sangma	1996-1998 (March)
Twelfth L.S	G.M.C Balayogi	1998-1999
Thirteenth L.S	G.M.C Balayogi	1999-2002
	Manohar Joshi	2002-2004
Fourteenth L.S	Somnath Chetterji	2004-2009
Fifteenth L.S	Meira Kumar	2009-2014
Sixteenth L.S	Sumithra Mahajan	2014-Incumbent

### **Deputy Speaker of Loksabha :**

Article 93 speaks about deputy speaker. He is also being elected to officiate in the absence of speaker.

### **LIST OF DEPUTY SPEAKERS OF LOK SABHA**

No.	Name	Took Office
1.	M.A. Ayyangar	30 May 1952 - 7 March 1956
2.	Sardar Hukam Singh	20 March 1956 - 31 March 1962
3.	S.V. Krishnamoorthy Rao	23 April 1962 - 3 March 1967
4.	R.K. Khadilkar	28 March 1967 - 1 November 1969
5.	G.G. Swell	9 February 1970 - 18 January 1977
6.	Godey Murahari	1 April 1977 - 22 August 1976
7.	G. Lakshmanan	1 February 1980 - 31 December 1984
8.	M. Thambi Durai	22 January 1985 - 27 November 1989
9.	Shivaraj Patil	19 March 1990 - 13 March 1991
10.	S. Mallikarjunaiah	13 August 1989 - 10 May 1996
11.	Suraj Bhan	12 July 1996 - 4 December 1997
12.	P.M. Sayeed	17 December 1998 - 6 February 2004
13.	Charanjit Singh Atwal	9 June 2004 - 18 May 2009
14.	Karia Munda	2009 - 2014
15.	M. Thambidurai	2014 - present

### **Nature and Functions of Dy. Speaker :**

- ☞ Deputy speaker is also elected by the members of Lok Sabha to officiate in the absence of the speaker (Article 93)
- ☞ He is the chairman of the budget committee, which approves the budget proposals of the secretariat of the Lok Sabha.
- ☞ He takes part in the house deliberations and vote as a member, only when the speaker is presiding.

### **Attorney - General of India**

- ☞ Article 76 of the constitution deals with Attorney General of India.

- ☞ He is the first Law officer in India. President appoints Attorney-General.
- ☞ He must be qualified to be appointed as Justice of his Supreme Court to be Attorney General for India.
- ☞ It is convention that, after the change of government, the Attorney-General resigns and the new government appoints one of its choice.
- ☞ The term of office of the Attorney-General is not fixed by the Constitution of India. He holds the office Attorney-General during the pleasure of the President of India.

### ATTORNEY GENERALS OF INDIA

No.	Attorney General	Term
1.	M.C. Setalvad	28.01.1950 - 01.03.1963
2.	C.K. Daphtry	02.03.1963 - 30.10.1968
3.	Niren De	01.11.1968 - 31.03.1977
4.	S.V. Gupte	01.04.1977 - 08.08.1979
5.	L.N. Sinha	09.08.1979 08.08.1983
6.	K.Parasaran	09.08.1983 - 08.12.1989
7.	Soli Sorabjee	09.12.1989 - 02.12.1990
8.	G. Ramaswamy	03.12.1990 - 23.11.1992
9.	Milon K. Banerji	21.11.1992 - 08.07.1996
10.	Ashok Desai	09.07.1996 - 06.04.1998
11.	Soli Sorabjee	07.04.1998 - 04.06.2004
12.	Milon K. Banerji	05.06.2004 - 07.06.2009
13.	Goolam Essaji Vahanvati	08.06.2009 to 2014
14.	Mukul Rohatgi	19.06.2014 to 18.6.2017
15.	K.K. Venugopal	30.06.2017

- Although he is not a member of either House of the Parliament, he can participate and speak in Parliament but can not vote.
- He is prohibited to take appointment as a Director in any company without a permission of the Government of India.
- He is entitled to all the privileges and immunities as a Member of the Parliament.
- The Attorney-General represents the Union and the States before the Courts but is also allowed to take up private practice provided, the other party is not the State.
- He is not paid a salary but a retainer that is determined by the President. The retainer of the Attorney-General is equal to the salary of a judge of the Supreme Court.
- He shall neither advise nor hold a brief against the Government of India in cases in which he is called upon to advise the Government of India. Nor should he defend accused persons for criminal prosecutions without the permission of the Government of India.

#### **Functions and Duties of Attorney General :**

- He give advices to the Government of India upon such legal matters, and perform such other duties of legal character, as may from time to time be referred or assigned to him by the President, and Discharge the functions conferred on him by or under the constitution or any other law for the time being in force.
- In the performance of his duties, the Attorney General shall have right of audience in all Courts in the territory of India.
- He is being assisted by two Solicitor Generals and four Assistant Solicitor Generals.

## **FUNCTIONS OF THE PARLIAMENT**

- ☞ The most important functions of parliament are providing the council of ministers.
- ☞ Law making process.
- ☞ Election of the president and vice-president.
- ☞ Right to recommend the removal of certain higher officials.
- ☞ Even president can be impeached by parliament for the violation of the constitution.
- ☞ Parliament has to approve a proclamation of emergency.
- ☞ Collective responsibility of ministers to Lok Sabha.
- ☞ Various parliament committees are formulated to check the government functions.
- ☞ Accept international treaties.
- ☞ Changing the names, boundaries and territories of states and union territories.
- ☞ During emergency, parliament enact legislation to any state at the recommendations of the president.
- ☞ Accept the national, financial, state emergencies and Presidential ordinances.

### **Sessions of the Parliament :**

- ☞ There are three sessions take place in the parliament every year. The maximum gap between two sessions of the Parliament can not be more than 6 months.
- ☞ It means, Parliament should meet at least twice a year. However, there are usually three sessions in a year.
- ☞ The sessions are :
  - ★ Budget Session (February to May)
  - ★ Monsoon Session (July to September)
  - ★ Winter Session- (November to December)  
(Winter Session is the shortest session)
- ☞ The Constitution has declared Hindi and English to be the languages for transacting business of the Houses. It can permit a member to address the House in his mother tongue (Article 120).

### **Joint Sitting**

- ☞ There is a provision of joint sitting of both Houses of the Parliament (Article 108).
- ☞ Lok Sabha speaker presides over the joint sitting (Art. 118(4))
- ☞ There are only three occasions in the history of Indian Parliament, joint sessions of the Parliament took place. They are as follows:
  - 1) In 6th May 1961, for Dowry Prohibition Bill
  - 2) In 16th May 1978, for Banking Services Commission
  - 3) In 26th March 2002 for Prevention of Terrorism Act (POTA) Bill

Joint sitting of both Houses can be convened on two occasions :

- ☞ Special address by the President at the commencement of First Session after each general election of Lok Sabha; First Session of each year (the Budget Session)
- ☞ For resolving any dead lock over the passing of a Bill.
- ☞ For resolving deadlock regarding Money Bills and Constitution Amendment Bills, joint sitting can not be called.

The president does not sit in daily sitting either of the house. The president has certain functions such as,

- ★ Summon
- ★ Prorogation
- ★ Dissolution
- ★ Addressing the houses

### **Summon**

President has the power to convene the sessions of both the Houses.

### **Prorogation**

Prorogation merely terminates a session.

The presiding officer(Speaker) declares a House adjourned 'sine die', when the business of the session is completed.

Within the next few days the President issues a notification for prorogation of the session. The President can also prorogue the House while in session.

- Dissolution
- Dissolution brings the House
- ★ On expiry of term
- ★ When no confidence motion is moved at centre
- Adjournment
- Adjournment transaction
- This is a privilege of the Parliament. the House
- Adjournment adjourns the president for a time of two weeks.
- (The adjournment a session is a session of the Parliament.)

What is  
Sine-die  
the House  
for the  
journals  
sessions

- Address
- President  
ment  
tion to
- At con
- Type  
Care
- When  
plete  
conti  
after  
Inter
- In Inc  
with  
15th

### Dissolution

- ☞ Dissolution applies only to the Lok Sabha. It brings the house of people to an end. It is two ways.
  - ★ On expiry of its term, or
  - ★ When no party is able to form government at center.

### Adjournment

- ☞ Adjournment merely postpone the further transactions of business for a specified time.
- ☞ This is a short recess within a session of the Parliament, called by the presiding officer of the House.
- ☞ Adjournment 'sine die' : It is another type of adjournment when the House is adjourned by the presiding officer without fixing any date or time of the next meeting.  
(The adjournment does not bring to an end of a session, but merely postpones the proceedings of the House to a future time and date).

### What is meant by 'Sine-die' adjournment ?

'Sine-die' adjournment terminates a sitting of the House without any definite date being fixed for the next-sitting. Usually the speaker adjourns the House sine die on the last day of its session.

### ❖ Addressing the house

- ☞ President address either house at commencement of the first session of each general election to loksabha.
- ☞ At commencement of first session of each year.

### Types of Governments

#### Caretaker Government :

- ☞ When the term of the government is completed, the outgoing Government is asked to continue in of the office till a new government after election takes the charge.

#### Interim Government

- ☞ In India, interim government came into power with the Independence of India Act, 1947 on 15th August and lasted till March 1952.

It was a full fledged government and able to take any policy decision.

#### Minority Government :

- ☞ Government which do not have full confidence in Lok Sabha on its own and survives on the support of other political parties outside government.

#### Coalition Government :

- ☞ Two or more political parties form the government to achieve their common goals.

#### National Government :

- ☞ It is 'government by consensus' or a form of coalition government in which all political parties participate with having no opposition.
- ☞ Such a Government was formed in Britain in 1940 by Winston Churchill during world war II.

#### Shadow Cabinet :

- ☞ It is a national cabinet formed by the main opposition party in Parliament where in the members are assigned certain special function to perform.
- ☞ Such members lead to the opposition during discussion in Parliament.
- ☞ It is also called as "Cabinet-in-waiting".
- ☞ It is constituted in Britain.

#### Hung Parliament

- ☞ When no political party or pre-election coalition of political parties is in a position to form a majority government. It is Hung Parliament.

#### Parliament Procedures :

- ☞ Law making is the primary function of parliament. It is supreme power and one of the primary instruments in the governance of the country under the constitution.
  - a) Legislative procedures
  - b) Financial procedures.

## Legislative Procedures

Legislature      Executive      Judiciary  
(1<sup>st</sup> Estate)    (2<sup>nd</sup> Estate)    (3<sup>rd</sup> Estate)

### (4<sup>th</sup> Estate is press)

- ❖ All legislative procedures are initiated in the parliament in the form of bills
  - ❖ A bill is the draft of a legislative proposal.
  - ❖ It can be initiated either by the minister or by any private member in either house of Parliament. The bill can broadly be categorized as
    - i) Ordinary bills
    - ii) Money bills
  - ❖ **Ordinary Bills :** All bills which are not constitutional amendment bills and money bills are called as Ordinary bills. Hence, ordinary bill means draft proposal for ordinary legislation.
  - ❖ Such Bills can be introduced in either House of Parliament without the recommendation of President. These bills are passed by simple majority in both Houses.
  - ❖ In case of deadlock of a bill arises it is resolved by both the houses sitting together.
  - ❖ The decision in a joint session is taken by majority of the total number of members presented and voted and once the bill is passed in joint sitting, the bill is sent to the President for his assent.
- Money Bill :** According to article 110, a bill is deemed to be a money bill if it contains or dealing the matters related to,
- ❖ The imposition, abolition, remission, alteration or regulate any tax, borrowings, consolidated & contingency funds, audit and accounting etc.
  - ❖ Art. 109 gives special procedure regarding Money Bills.
  - ❖ Money bill can be introduced only in the Lok Sabha, cannot be introduced in the Rajya Sabha.

❖ After a money bill has been passed by the Lok Sabha, it is sent to Rajya Sabha.

❖ Though the Bill is sent to Rajya Sabha also but even Rajya Sabha rejects/returns the Bill (within 14 days), the Bill is deemed to be passed.

❖ Any question arises whether a bill is money bill or not, the decision of the speaker of Lok Sabha shall be final.

(The Appropriation Bill and Annual Financial Bill (Budget) are Money Bills)

❖ **Constitutional Amendment Bills :** Under Art. 368 with the Powers of Parliament amend the Constitution, this Bill can be introduced in any of the two Houses without recommendation of the President.

❖ Such Bills must be passed by each House separately with a special majority (two third the members present and voting which must more than absolute majority).

❖ By 24<sup>th</sup> Constitutional Amendment Act, 1971 it is obligatory for the President to give his assent the Constitution Amendment Bills.

### How do you distinguish between a Money Bill and a Finance Bill ?

A Money Bill is related to any one or more of the provisions of Article-110. A Financial Bill may relate to any other provisions also. All Money Bills are Financial Bills, but not vice-versa.

### ❖ Financial Procedures :

❖ The unique right of parliament under any system of government not only to raise public fund but also to exercise total control over the way in which the country's revenues are spent by the executive. Hence, the constitution of India gave the principles that would guide the operation of public finance and procedure that would regulate the financial transactions of the union government.

#### ❖ **Financial Bills :**

- ☞ Any Bill dealing with revenues of expenditure but not certified as Money Bill by the Speaker is a Financial Bill.
- ☞ Financial Bill can only be introduced in Lok Sabha on the recommendation of the President & should be passed by both Houses by simple majority.

#### ❖ **The Budget :**

- ☞ Article 112 states that at the beginning of every financial year the annual financial Statement of the government of India is presented before the Parliament by the president.
- ☞ The financial statement of the government contains the statement of the estimated receipt and expenditure of the government for that year.
- ☞ This is known as 'Annual Financial Statement' or popularly known as the 'Budget'.
- ☞ In India at center there are following budgets
  - a) Railway Budget (seperated in 1921)
  - b) General Budget

#### ❖ **No tax shall be levied or collected except by authority of law (Article 265)**

#### **Appropriation Bill :**

- ☞ After the demands for grants have been passed by the Lok Sabha along with the expenditure charged on consolidated fund of India, to enact a law by parliament in this concern, a bill is introduced in Lok Sabha. This is known as 'Appropriation Bill'.

#### ❖ **Supplementary Grant :**

- ☞ According to article 115, the amount authorized to expanded for a particular service for the current financial year, or when a need arises during the current financial year for supplementary or additional expenditure which is not considered in the budget for that year.

#### ❖ **Additonal/Excess Grants :**

- ☞ According to article 115, if any money has been spent on any service during financial year in excess of the amount granted, the demand for

the excess amount is called as excess/Additonal demands for grants.

#### ❖ **Vote on Account :**

Article 116, empowered Lok Sabha to make any grant in advance through a vote on account to enable the government to carry on the voting of demands for grants and the passing of the appropriating bill and finance bill.

#### **What is vote on account ?**

Under Article 116(1) Lok Sabha has the power to grant money to the executive for the expenses of the government until the appropriation Act is passed, is called Vote-on-account.

#### **The Public Account of India :**

- ☞ Except revenue and loans, all other public money received by or on behalf of the government of India are credited to the public account of India.

#### **Consolidated Fund of India**

- ★ All revenues received for the government of India from whatever sources and; All loans raised including money received in repayment of loans are credited to a single fund known as the consolidated fund of India. (Article 266)
- ★ All the legally authorized payments on behalf of the government of India are made out of it.
- ★ No payments from consolidated fund can be made except under the authority of an appropriation law duly passed by the parliament Article 266 (3) .

#### **Contingency Fund of India**

- ★ Article 267 of constitution empowers parliament to create a Contingency Fund for India. This fund is in nature of permanent advance or imprest to the president.
- ★ These advances are made to the government to meet unforeseen or unexpected expenditure.

## ❖ Parliament Terminology

### Quorum :

- ❖ Quorum is the minimum number of members required to be present in the House before it can transact any business.
- ❖ It is  $1/10^{\text{th}}$  of the total number of members in each House including the presiding officer.
- ❖ It means that Quorum consists 55 members in Lok Sabha and 25 members in Rajya Sabha.

### Question Hour

- ❖ The first hour of every sitting in both houses is allotted to asking and answering Questions. It means the day's business normally begins with question hour.
- ❖ This timing generally from 11.00 to 12.00 Noon.
- ❖ Questions asked in both Houses of parliament can be categorized into three.
  - a) Starred questions
  - b) Unstarred questions
  - c) Short notice questions

❖ **Starred Questions** : For a starred question an oral reply is given by the concerned minister.

❖ **Un-starred Questions** : For a un-starred question, the concerned minister give answer in written and no supplementary questions can be asked.

**Short notice Questions** : Short notice questions can be asked by members on matters of public importance of an urgent nature. They can be asked with less than 10 days.

### Zero Hour :

- ❖ It was innovated in India only any following from 1962 onwards. Zero hour starts at noon.
- ❖ It follows in the question hour. It starts at 12 noon and generally goes on upto 1 P.M.
- ❖ There members raise any issue of public importance on very short or even without notice.
- ❖ During this time the matters are raised without any permission.

### Half-an-Hour

- ❖ Half-an-hour discussion arises on matters of question already answered in the house can be held in Lok Sabha.
- ❖ It is done during the last half an hour of the sitting on 3 days in a week (Monday, Wednesday and Friday)
- ❖ In Rajya Sabha it can be held on any day.

### Point of Order :

- ❖ A member raises a point of order if the proceedings of the house do not follow the normal rules.
- ❖ A member who has point of order should stand up and say "Point of Order".

### Special Mention :

- ❖ A matter which can not be raised under an established rule of the House, can be raised under the special mention in Rajya Sabha. It is similar to the Notice Mention under Rule 37 in the Lok Sabha.

### Guillotine :

- ❖ Certain "Demands for Grants" of various ministers are accepted by the Lok Sabha without any discussion. This is basically done due to paucity of time.

### Motions and Resolutions :

#### Adjournment Motion:

- ❖ Primary objective of adjournment motion is to draw attention of the house to a recent matter of urgent public importance having serious consequences.

- ❖ The consent of the Speaker and support of members of the House is required for the admittance of such motion.

#### Calling Attention Motion :

- ❖ A member may, with prior permission of the speaker call the attention of a minister to any matter of urgent public importance.

- ❖ The minister may make a brief statement regarding the matter, or ask for time to take statement.

instead "Motion of Papers".

#### Privilege Motion :

If a member feels that a minister has committed a breach of privilege of the house or any one or more of its members by withholding facts of a case, he moves the privilege motion.

#### What is a privilege motion ?

Privilege motion is a motion moved by a member if he feels that a minister has committed a breach of privilege of the house or of any one or more of its members by withholding facts of a case or by giving a distorted version of acts.

#### No-Confidence Motion :

According to the constitution, the council of ministers stays in office only so long as it enjoys the confidence of the Lok Sabha. Once the confidence is withdrawn the government is bound to resign.

At least 50 members shall rise support to permit the move of a motion.

Should be moved against entire council of ministers.

No reason required to introduce this motion.

Rajya Sabha is not empowered to entertain No-Confidence motion.

#### Censure Motion :

A censure motion is different from no-confidence motion.

No-confidence motion need not specify any ground on which it is based. Censure motion can be moved against the council of ministers or against an individual Minister.

Reasons for censure must be precisely specified.

#### Closure Motion :

To cut short the discussion on any subject a Closure Motion can be moved by any member.

**Cut motion :** It can be of three types.

that amount be reduced to Rs 1.

**Economic Cut :** It reduces the amount by a specific sum so as bring economy in the project.

**Token Cut :** It reduces amount by Rs. 100. The objective here is to voice a particular grievance for which the government is responsible.

#### ❖ Parliamentary Committees :

##### Need for Parliament Committees :

In a parliamentary system the legislature has to oversee administration.

But with the growth of public expenditure, with the increasing pressure on parliamentary time, parliamentary discussions and debates on topical issues of public importance, parliament hardly finds sufficient time for detailed examination and Scrutiny of expenditure and achievements.

Hence, in order to make parliamentary work more effective and meaningful, parliament needs an agency of its own.

They save considerable time of parliament. These committees act as liaison between parliament and the people.

##### Nature :

Parliamentary committee is elected by the house or nominated by the Speaker/Chairman.

It works under the direction of the speaker/chairman.

It presents report to the house or to the speaker/chairman.

A committee holds the office for a period not exceeding one year or for a period specified by the speaker.

The parliamentary committee ceases to exist on the dissolution of Lok Sabha.

#### ❖ Types of Committees

There are two types of committees

a) Standing Committees

b) Ad Hoc Committees

### **Ad Hoc Committees :**

- ☛ These committees are appointed as need arises and on Ad Hoc basis. They are temporary in nature.
- ☛ Their function stops as soon as they complete the task assigned to them.
- ☛ Ad Hoc committees may be broadly classified into the inquiry committees and select or joint committees on bills.

Ex : Railway convention committee.

### **Standing Committees :**

- ☛ Standing committees are elected by the house or nominated by the speaker/chairman every year or periodically. Their work goes on, more or less on a continuous basis.

- i) Committee on Estimates
- ii) Committee on Public Accounts
- iii) Committee on Public Undertakings
- iv) Committee on the Welfare of SCs, STs
- v) Business Advisory Committee
- vi) Rules Committee
- vii) Financial Committee

### **Other Committees :**

- ☛ Committee on Petitions, Privileges Committee, Committee on Government Assurance (in each house of Parliament). Each of the above committees has 15 members in Lok Sabha, 10 members in Rajya Sabha.
- ☛ Consultative committees which also consist of members of Parliament, are not Parliamentary committees. They are the committees attached to various ministers and departments of the Union Government.
- ☛ Detailed explanations of some of the above committees are given as follows.

### **Committee on Estimates :**

- ☛ The first estimates committee in the post independence era was constituted in 1950 on the recommendation of the finance minister John Mathai.
- ☛ This committee consists of 30 members only. All the members are from Lok Sabha.

☛ Originally it had 25 members, but in 1956 membership was raised to 30. Cabinet Minister can not be appointed as its member.

☛ This committee examines whether the money is well laid out within the limits of the policy implied in the estimates and it may suggest changes if it thinks so.

☛ The committee acts as the continuous economy committee.

### **Committee on Public Accounts :**

- ☛ It examines the reports of CAG which are laid in parliament by president.
- ☛ Oldest committee in India.
- ☛ It examines public expenditure not only in legal terms but also in terms of economy and efficiency.
- ☛ The Speaker appoints the Chairman of this committee from amongst its members. Until 1966-67 the Chairman of the committee belonged to ruling party. However, since 1967 the Chairman of the committee is being selected from the opposition party.

- ☛ The committee examines the Annual Financial Accounts and examines the revenue report of GAG of India.

### **Committee on Public Undertakings :**

- ☛ This committee was constituted in 1964 on the recommendation of Krishna Menon Committee. Originally it had 15 members (10 from Lok Sabha and 5 from Rajya Sabha). However in 1974, its membership was raised to 22 (15 from Lok Sabha and 7 from Rajya Sabha).
- ☛ Cabinet minister cannot be the member of this committee.
- ☛ Its composition is similar to that of Committee on Public Account.
- ☛ Only Lok Sabha member can become the Chairman of the committee.
- ☛ It examines the reports and accounts of public undertakings & their efficiency & autonomous functioning.

### **Committee on Welfare of SCs & STs**

- ❖ This committee consists of 20 members from Lok Sabha and 10 members from Rajya Sabha.
- ❖ The Chairman is appointed by the Speaker.
- ❖ Cabinet minister can not be a member of this committee.
- ❖ It examine the representation of the Scheduled Castes and Scheduled Tribes in various services and the implementation of Welfare programmes fro them.
- ❖ Examines the reports of national commission for Sc & ST.

### **Business Advisory Committee :**

- ❖ Each house has one Business Advisory Committee.
- ❖ In Lok Sabha it has 15 members including Speaker as an ex-officio Chairman and in Rajya Sabha 11 members dincluding the Chairman of Rajya Sabha as its ex-officio Chairman of the committee.

### **Rules Committee :**

- ❖ Each house has one Rules committee.
- ❖ In Lok Sabha it is consisted of 15 members, including the Speaker who is the ex-officio Chairman of the committee. Rajya Sabha committee has 16 members including the Chairman as its Ex-officio Chairman of the committee.

### **Note :**

- ❖ The Rules Committee of Lok Sabha recommended sitting up of 17 Department Related Standing Committees (DRSCs). Accordingly on 8<sup>th</sup> April 1993, 17 DRSCs were set up.
- ❖ In July 2004, rules were amended to provide for the constitution of seven more such committees. Thus, DRSCs raised the number from 17 to 24.
- ❖ Till 2004 each committee consists of 45 members (30 from Lok Sabha and 15 from Rajya Sabha)
- ❖ But from 2004, it has 31 members, 21 from Loksabha and 10 from Rajyasabha.
- ❖ 16 committees work under Loksabha and 8 under Rajyasabha.

❖ They examine the demands for grants of different ministries, their annual reports and their performances.

❖ Cabinet Ministers can neither become members of the Financial Committees nor can they be asked to appear before them for the pupose of giving evidence.

❖ If speaker or, presiding officer himself is member of the committee then he becomes the Chairman. If he is not a member but his deputy is, then is appointed as chairman.

### **Members of the Parliament**

#### **Disqualification of Members :**

- ❖ According to Article 101, 102 & 103 a member vacates his seat in case of,
- ❖ Dual membership in both houses, he should vacate his seat in one of the houses.
- ❖ If he elected to parliament (MP) as well as state legislature (MLA)
- ❖ Absence to the house without permission for a period of 60 days.
- ❖ He holds any office of profit under the union or state government.
- ❖ He is of unsound mind.
- ❖ He is of un-discharged insolvent.
- ❖ He has ceased to be citizen of India or has voluntarily acquired state citizenship.
- ❖ Disqualification of a member is decided by president in accordance with election Commission.
- ❖ He is disqualified under anti-defection law (in X schedule of Indian constitution). Here members disqualification is decided by chair of the house.
- ❖ **Powers, Functions and Privileges of the members (article 105)**
- ❖ Cabinet formulate policies, but members have right to discuss and criticize.
- ❖ Legislation or making laws is an important function of the parliament.
- ❖ Members have privilege in freedom of speech in the parliament.
- ❖ Freedom of speech providing immunity from court action for anything said in the house.

- Article 52 to 62 deals with the President of India
- ❖ Article 52 : There shall be a president of India
  - ❖ Article 53 : The executive power of the union shall be vested in the president and shall be exercised by him or through his subordinates in accordance to the constitution.
  - ❖ Electoral procedure of the President (Article 54-55)
    - ❖ Article 54 and 55 of the Indian constitution lay down the procedure for electing the President of India.
    - ❖ Article 54 : The President shall be elected by the members of an electoral college consisting of
      - a) The elected members of both houses of parliament i.e. Rajya Sabha and Lok Sabha;
      - b) The elected members of legislative assemblies of the state (which includes National Capital Territory of Delhi & the Union Territory of Pondicherry)
    - ❖ Members NOT eligible to participate in the election of the President of India
      - ❖ Nominated members of Rajya Sabha (12) and Lok Sabha (2)
      - ❖ Nominated members of State Legislative Assemblies
      - ❖ Members of State legislative Council
  - ❖ President Election :
    - ❖ For nomination of a person for the election of president, minimum 50 electors need to be proposers and 50 electors need to be seconded of the nomination papers.
    - ❖ The value of vote of an MLA and MP is such that a true federal character of the office of the President is maintained, by striking a balance between the States and the Centre.
  - ❖ To be declared elected to the office of the President, more than 50% of the valid votes are required by a Presidential candidate.
  - ❖ Amount deposited by a candidate shall be forfeited if candidate is not elected and the number of valid votes polled by such candidate does not exceed one sixth of the number of votes necessary to secure the return of a candidate at such election.
  - ❖ If the election of the President is declared void acts of the President until the declaration can not be invalidated.
  - ❖ Manner of election of the President (Article 55)
    - ❖ Election of the President shall be proportional representation by means of single transferable vote by Secret ballot system.
    - ❖ Constitution provides a formula to determine the value of vote of a Member of Parliament and Legislative Assembly of a state.

#### **Vote value of MLA**

$$= \frac{\text{Total Population of the state}}{\left( \frac{\text{Total elected members of State}}{\text{Legislative Assembly (MLAs)}} \right)} \times \frac{1}{1000}$$

#### **Vote value M.P**

$$= \frac{\text{Total Value of State MLA's votes}}{\text{Total No. of elected MPs}}$$

- ❖ All doubts and disputes in connection with president election shall be enquired and decided by the Supreme Court whose decision shall be final. (Article 71)

#### **Term of the President (Article 56)**

- ❖ The President's term of office is 5 years from the date on which he entered his office. He continues to hold office until his successor enters upon his office.

his term may terminate/removed earlier,

- a) By resignation in writing addressed to vice-president of India.
- b) He may be removed from office for the violation of the constitution, by impeachment process (Article - 61)

☞ Article 57 confirms that a President is eligible for re-election of the president.

☞ In case of vacancy caused by resignation death or impeachment a new president should be elected within 6 months.

☞ In the above cases, Vice-President acts as an acting President till the new president enters the office. During this period he receives the salary and other perquisites of President's post.

#### **Qualification (Article 58)**

☞ In order to be qualified for election of the president a person must be,

- ★ A citizen of India
- ★ Completed the age of 35 years.
- ★ Qualified for election as a member of the Lok Sabha.
- ★ Must not hold any office of profit under the Government of India or state governments or Local authority. Exception for this are a sitting President or Vice-President of India, Governor and Minister of the Union or of any state.

#### **Conditions of the Office (Article 59)**

Article 59 says that President is not to be a member of either house of parliament or of a house of any state legislature.

☞ He receives a salary of Rs. 1,50,000/- per month (Now 5 Lakh per Month)

#### **Oath of Affirmation (Article 60)**

☞ The president or a person acting as president is to take an oath

☞ In the presence of the Chief Justice of India, or in his absence a senior most judge of Supreme Court.

☞ President takes oath "to faithfully execute the office and to the best of his ability preserve, protect, and defend the constitution"

#### **Impeachment (Article 61)**

☞ President of India can be removed for violation of constitution by a procedure of impeachment (Article 61) which is decided by the Parliament. Impeachment of President is a quasi-judicial procedure in parliament. Impeachment procedure can be initiated by either house of the Parliament.

☞ Charges containing a notice signed by not less than  $1/4^{\text{th}}$  (25%) of total no. of members of either house. It is sent to President, consisting 14 days prior notice.

☞ Then a resolution containing charges has to be passed by a majority of not less than  $2/3^{\text{rd}}$  of total membership of the house. When the resolution passes to the other house, the other house then investigates the charges by setting up a committee.

☞ President shall have the right to appear and to be represented at such investigations. During this period, President can defend himself by using the services of Attorney General of India or any legal advocate of his choice.

☞ If the second house passes the charges by  $2/3$  majority again, the President is removed from the house.

#### **Vacancy of the Office (Article 62)**

☞ The event of vacancy in the office of the president caused due to death, resignation or removal. In such cases -

☞ Election should be held not later than 6 months from the date of vacancy.

☞ Until new President is elected, the vice-President acts as president. During that period Vice-President who acts as President receives the Salary and other benefits similar to that of President of India.

☞ In case the Vice-President is not available, the Chief Justice of India acts as the President.

☞ In the absence of Chief Justice of India, a senior most Judge of Supreme Court discharges the functions of the president.

#### **Powers and Duties :**

- ☞ The Indian President is a constitutional ruler. He exercises the executive powers in the name of President of India according to the advice of his council of ministers (Article 74(1)).
- ☞ Though nominal head of the state, President has,

#### **a) Executive Powers**

- ☞ All executive activities of the government done on the name of the President (Article 53 & 77)
- ☞ President of India appoints Prime Minister and on his advice appoints Council of Ministers (Article 75)
- ☞ He appoints Governor of a State(s) or for Union Territories Lt. Governor or Chief Commissioner for Chandigarh or Administrators for Dadra & Nagar Haveli and Daman & Diu
- ☞ He can ask Prime Minister to submit the report of Union Administration matters.
- ☞ Appointment of members of Union Public Service and Joint commissions.
- ☞ Appointment of Chief Election Commissioner and other Commissioners for a group of states.
- ☞ Appoints a commission of official languages
- ☞ Appoints a committee to study on SC/ST/BC classes and linguistic minorities.
- ☞ He lays down the reports of Finance Commission, UPSC, CAG, Reports of special officer of SCs, STs, BCs and linguistic minorities.
- ☞ He can appoint Inter-State Councils
- ☞ President appoints Judges of Supreme Court and High Court.
- ☞ He appoints Attorney General of India.

#### **b) Legislative Powers**

- ☞ He is a part of parliament, can summon, prorogue the parliament and dissolve the Lok Sabha (Art. 85).
- ☞ He can call for a joint session in case of deadlock between two houses on the issue of Ordinary bill (Art. 108)
- ☞ President addresses the first meet of parliament after every general elections and first session of every year (Art. 87)
- ☞ He can send messages to the houses of parliament on any bill or issue pending before parliament.

☞ Nominate 12 members to Rajya Sabha (having special knowledge or practical experience in literature, science, art and social service) and two members to Lok Sabha from Anglo Indian community.

☞ Appoints Pro tem speaker to Lok Sabha and president can appoint any member to preside over any house in case of both the chairs of the respective house fell vacant.

☞ Certain bills like Money bill, Finance bill of first class, Bill for reorganization of new states, alteration of state boundaries, a state bill imposing restriction on freedom of trade and commerce required prior approval of President of India.

☞ He can promulgate ordinances except when both houses are in session (Art. 123) but it is valid for six months of 6 weeks of reassembly of parliament.

☞ Any bill can become into act only after President's Assent. He can ask parliament to reconsider it once, but if parliament sends the bill again, he has to give his assent. (Art. 111)

#### **c) Judicial Powers :**

☞ He has powers to grant pardon, reduce or change or cancel punishments of any person in all cases verdict by Supreme court. And can grant pardon the death sentence on the advice of Council of ministers (Art. 72)

- ★ **Pardon** Completely absolves the offender
- ★ **Commutation** Substitution of one form of punishment to lighter form
- ★ **Remission** Reduction of the amount without changing its character
- ★ **Respite** Awarding a lesser punishment on special ground e.g. pregnancy.
- ★ **Reprieve** Temporary suspension of death sentence.

#### **d) Financial Powers :**

- ☞ Budget introduced in parliament on his name
- ☞ Money bills can be introduced only with his prior recommendation.
- ☞ Appoints Finance commission for every five years,

- ❖ CAG and Finance Commissions submitted the reports to him only.
- ❖ His ascent is needed for Demand for Grants.
- e) Military Powers :**
- ❖ Acts as Supreme Commander for Armed forces. However, military powers can be regulated by the Parliament (Art. 53).
- ❖ Appoints commanders of three forces.
- ❖ Declare or conclude war with the permission of the parliament
- f) Diplomatic Powers :**
- ❖ All foreign Treaties / Agreements conclude on the name of the President.

- g) Appoints High Commissioners and Ambassadors.**
- h) Welcomes other country's Diplomats and Ambassadors.**
- i) Emergency Powers :**
- ★ There are three kinds of emergencies may be imposed. They are,
- ★ National emergency (Article 352)
- ★ President rule (Article 356)
- j) Financial emergency (Article 360)**

### LIST OF PRESIDENTS OF INDIA

S.No	Name	Took office	Left office	Vice President	Notes
1.	Dr. Rajendra Prasad (1884-1963)	26 January 1950	13 May 1962	Dr. Sarvepalli Radha Krishnan	1952 election & 1957 election Prasad, from Bihar, was the first President of independent India. He was also a freedom fighter during the Indian independence movement. Prasad was the only president to serve two terms in office.
2.	Dr. Sarvepalli Radha Krishnan (1888-1975)	13 May 1962	13 May 1967	Dr. Zakir Hussain	1962 election Radha Krishnan was a prominent philosopher, writer, a Knight of the Realm and also held the position of vice chancellor of the Andhra University and Banaras Hindu University
	Dr. Zakir Hussain (1897-1969)	13 May 1967	3 May 1969	Varahagiri Venkata Giri	He died in office
3.	Varahagiri Venkata Giri (1894-1980)	3 May 1969	20 July 1969		Giri was appointed as Acting President of India following the death of Hussain. He resigned in a few months to take part in the presidential elections.
	Mohammad Hidayatullah (1905-1992)	20 July 1969	24 August 1969		Hidayatullah served as the Chief Justice of India. He served as Acting President of India until the election of Giri as the President of India.

	Varahagiri Venkata Giri (1894-1980)	24 August 1969	24 August 1974 1974	Gopal Swarup Pathak	1969 election Giri is the only person to have served as both an acting president and president of India. He was a recipient of the Bharat Ratna.	9. S
	Fakhruddin Ali Ahmed (1905-1977)	24 August 1974	11 February 1977		1974 election Fakhruddin Ali Ahmed served as a Minister before being elected as President. He died in 1977 before his term of office ended, and was the second Indian president to die in office.	10.
5.	Basappa Danappa Jatti * (1912-2002)	11 February 1997	25 July 1977		Jatti was the vice president of India during Ahmed's term of office, and was sworn in as Acting President of India upon Ahmed's death. He earlier functioned as the Chief Minister for the State of Mysore.	11.
6.	Neelam Sanjiva Reddy (1913-1966)	25 July 1977	25 July 1982	Muhammad Hidayatullah	1977 election N.S. Reddy was the first Chief Minister of Andhra Pradesh State. Reddy was the only Member of Parliament from the Janata Party to get elected from Andhra Pradesh. He was unanimously elected Speaker of the Lok Sabha on 26 March 1977 and relinquished this office on 13 July 1977 to become the 6th President of India.	12.
7.	Giani Zail Singh (1916-1994)	25 July 1982	25 July 1987	Ramaswamy Venkataraman	1982 election In March 1972, Singh assumed the position of Chief Minister of Punjab, and in 1980, he became Union Home Minister.	13.
8.	Ramaswamy Venkataraman (1910-2009)	25 July 1987	25 July 1992	Shankar Dayal Sharma	1987 election In 1942, Venkataraman was jailed by the British for his involvement in the Indian independence movement. After his release, he was elected to independent India's provisional Parliament as a member of the Congress Party in 1950 and eventually joined the central government, where he first served as Minister to Finance and Industry and later as Minister of Defence.	13.

9.	Shankar Dayal Sharma (1918-1999)	25 July 1992	25 July 1997	Kocheril Ramam Narayanan	1992 election Sharma was Chief Minister of Madhya Pradesh, and the Indian Minister for Communications. He has also served as the Governor of Andhra Pradesh, Punjab and Maharashtra
10.	Kocheril Ramam (1931-2015) Narayanan (1920-2005)	25 July 1997	25 July 2002	Krishan Kant	1997 election Narayanan served as India's ambassador to Thailand, Turkey, China and United States of America. He received doctorates in Science and Law and was also a chancellor in several universities. He was also the vice-chancellor of Jawaharlal Nehru University.
11.	A.P.J. Abdul Kalam (1931-2015)	25 July 2002	25 July 2007	Bhairon Singh Shekhawat	2002 election Kalam is a scientist who played a leading role in the development of India's ballistic missile and nuclear weapons programs. He also received the Bharat Ratna. Kalam was affectionately known as the People's President.
12.	Pratibha Patil (b. 1934)	25 July 2007	25 July 2012	Mohammad Hamid Ansari	2007 election Patil is the first woman to become the President of India. She was also the first female Governor of Rajasthan.
13.	Pranab Mukherjee (b. 1935)	25 July 2012	25 July 2017	Mohammad Hamid Ansari	2012 election Mukherjee held various posts in the cabinet ministry for the Government of India such as Finance Minister, Foreign Minister, Defence Minister and Deputy Chairman of the Planning Commission.
13.	Ramnath Kovind (1945)	25 July 2017	25 July	M. Venkaiah Naidu	2017 Election, Kovind had served as the Governor of Bihar from 2015-17 and Member of Parliament, Rajya Sabha from 1994 to 2006.

## VICE PRESIDENT

Under Part V of the constitutional (Union Executive) Article 63 to 71 deals with the Vice-President of India. There shall be a Vice-President of India (Article 63).

- ❖ **Electoral procedure of Vice-President (Article 66)**  
The vice-president is elected indirectly by the members of Lok Sabha and Rajya Sabha on Proportional representation by single transferable vote in Secret ballot system.
- ❖ Vice-President's Election disputes are decided by the Supreme Court (Article 71)

### ❖ Term & Emoluments

- The term of the Vice-president is 5 years (Article 67)
- It may be terminated earlier by resignation or removal (Article 68)
- He may be removed by a resolution by Rajya Sabha passed by a majority of members and agreed by Lok Sabha. A resolution seeking his removal can only be initiated in Rajya Sabha (Article 67)
- Vacancy caused by death or removal, to be filled by an election as soon as possible (Article 68)  
(Now 4 lakh per month)
- Vice-president gets salary of Rs. 1,25,000 per month. Vice-President gets salary for being Chairman of Rajya Sabha and not for being Vice-President.
- He submits his resignation to the President of India.

### ❖ Oath or Affirmation (Article 69)

- The vice-president takes on oath before the president or some person appointed by the president (Article 69)

### ❖ Qualifications (Article 66)

- According to article 66, to be eligible for vice-president a person must be
  - ★ A citizen of India,
  - ★ At least 35 years of age,
  - ★ Qualified to be a member of the Rajya Sabha,
  - ★ He shall not be a member of either house of parliament of the legislature of any state.
  - ★ Not hold any office of profit, under Central or State governments.

### ❖ Functions

- No functions are allotted to the office of vice-president as such.
- This normal function is to act as the ex-officio chairman of Rajya Sabha (Art.64) According to article 65.
- The vice-president acts as president or charges his function when a vacancy caused by death, resignation and impeachment during casual vacancies in the office. When vice-president acts as or discharges the functions of the president, he gets the salary of president.
- When Vice-president is an acting president, stops to perform the duties of chairman of Rajya Sabha.

## List of Vice-Presidents of India

Name	Tenure
1. Dr. Sarvepalli Radha Krishnan	1952-1962
2. Dr. Zakir Hussain	1962-1967
3. Varahagiri Venkata Giri	1967-1969
4. Gopal Swarup Pathak	1969-1974
5. B.D. Jatti	1974-1979
6. Justice Mohammad Hidayatullah	1979-1984
7. R. Venkatraman	1984-1987
8. Dr. Shankar Dayal Sharma	1989-1992
9. K.R. Narayanan	1992-1997
10. Krishnakant	1997-2002
11. Bhairon Singh Shekhawat	2002-2007
12. Mohammad Hamid Ansasari	2007-Till Date (reelected in 2012)

## PRIME MINISTER OF INDIA

- Article 74 & 75 says about Prime Minister's appointment, duration of his office and his responsibility.

Nature of P  
Prime Minis  
and other m  
on advice o  
This explai  
the counce  
equals' or  
He holds p  
President.  
He is prin  
holds emol  
He is the r  
Along with  
responsib  
listers are  
the peopl  
Prime Mi  
the cabin  
Art. 78 e  
respect o  
dent.

Constitu  
Article 7  
of Prime

To com  
of the co  
tration o  
All the c  
him.

To allo  
and ca  
another  
ministe  
Shapes  
country

Co-ord  
ments a  
Deputy

No sep  
mentio  
this po  
ing to

INDIAN P

#### ❖ Nature of Prime Minister

- ❖ Prime Minister is appointed by the President and other ministers are appointed by president on advice of Prime Minister (Article 75)
- ❖ This explains the position of Prime Minister in the council of Ministers as first among the equals' or 'primus inter pares'.
- ❖ He holds pre-eminent position, second only the President.
- ❖ He is principle adviser to the President and holds enormous powers.
- ❖ He is the real executive head.
- ❖ Along with other ministers Prime Minister also responsible to Lok Sabha (The council of ministers are collectively responsible to House of the people).
- ❖ Prime Minister is link between President and the cabinet.
- ❖ Art. 78 envisages duties of Prime Minister in respect of furnishing information to the President.
- ❖ And also link between the cabinet and the parliament and keystone of cabinet architecture.

#### ❖ Constitutional position of Prime Minister

- ❖ Article 78 clearly stipulates that it is the duty of Prime Minister.
- ❖ To communicate to the President all decisions of the council of ministers relating to administration of the union.
- ❖ All the cabinet meetings are presided over by him.
- ❖ To allocate for portfolios to various ministers and can transfer them from one ministry to another ministry and supervises all central ministers.
- ❖ Shapes the domestic and foreign polices of the country.
- ❖ Co-ordinate the policies of various departments and ministers.

#### ❖ Deputy Prime Minister :

- ❖ No separate Deputy Prime Minister position is mentioned in the Indian constitution. However, this post was created and performed according to political situations.

#### List of Deputy Prime Ministers

Sardar Vallabhbhai Patel	1947 - 1950
Morarji Desai	1967 - 1970
Charan Singh and Jagjivan Ram (both are Deputy PMs)	1977 - 1979
Vasantdada Patil	1979 - 1980
Deve Lal	1989 - 1991
L.K. Advani	2002 - 2004

#### ❖ Council of Ministers :

- ❖ The council of ministers headed by Prime Minister. The union council of ministers is composed of all the union ministers. President appoints all the ministers of all categories at the recommendations of Prime Minister.

#### ❖ Article 78 stipulates that

- ❖ The Prime Minister shall be appointed by the President. Other ministers shall be appointed by the President on the advice of the Prime Minister (Article 75(1)).
- ❖ Ministers may be taken from members of either House and minister who is member of one House has the right to speak and take part in the proceedings of the other House, but cannot vote in the House of which he is not member (Art. 88).
- ❖ A person who is not a member of either House can also become a minister but he cannot continue as minister for more than 6 months unless he secures a seat in either House of Parliament (by election or nomination) in the mean time (Art. 75(3)).
- ❖ The council of ministers shall be collectively responsible to the house of the people.
- ❖ **Collective and Individual Responsibilities**
- ❖ Art. 75(2) envisages principle of individual responsibility which says that a minister shall hold office during the pleasure of the President.
- ❖ Art. 75(3) says ministers shall be collectively responsible of House of People. It is the principle of collective responsibility.
- ❖ All the ministers hold the office only at the pleasure of the Prime Minister. If, Prime Minister resigns or passes away, entire ministry goes out automatically.
- ❖ Instead of resigning, council of ministers can advise President to dissolve Lok Sabha.

If an individual minister resigns, he alone goes out of the ministry. If Prime Minister resigns the entire ministry goes out.

#### ❖ Types of Ministers

There are four categories of ministers.

##### Cabinet Minister

It is real executive head of that ministry and he is independent.

Senior most ministers constitute the cabinet and have the right to attend all the cabinet meetings.

Only cabinet ministers deliberate and decide on the policy matter. (44th Constitutional Amendment Act, 1978 incorporated the word 'Cabinet Ministers' in Article 352 of the Constitution)

##### b) Ministers of State

A state minister's rank can be an independent rank without a Cabinet Minister.

If it is a lower in rank to Cabinet Minister assist, the latter.

They can attend the cabinet meetings or invited for any particular meeting.

##### c) Deputy Minister

Is always dependent rank either on Cabinet or State rank.

They can not hold independent charge always assist cabinet or state ministers or They never attend the cabinet meeting.

##### d) Minister without Portfolio

A parliament member can be appointed as minister without heading a ministry.

### List of Prime Ministers of India

S.	No	Name	Tenure	Party belongs
1.		Jawahar Lal Nehru (INC)	1947-1964	1st PM Died in the office & had long tenure of 16 yrs + 286 days
	a	Gulzari Lal Nanda (INC)	1964-1964	Acting PM
2.		Lal Bahadur Shastri (INC)	1964-1966	2nd PM died in office
	b	Gulzari Lal Nanda (INC)	1966-1966	Acting PM
3.		Indira Gandhi (INC)	1966-1977	1st PM was defeated during the tenure 1st Rajya Sabha member to became PM
4.		Morarji Desai (Janata Party)	1977-1979	Oldest PM & 1st to resigned from office 1st Non-congress PM
5.		Charan Singh (Janata Party (S))	1979-1980	Did not face Parliament, worked 5 months
6.		Indira Gandhi (Congress(I))	1979-1984	3rd PM died in the office
7.		Rajiv Gandhi (Congress (I))	1984-1989	Youngest P.M. at the age of 40
8.		V.P Singh (Janata Dal)	1989-1990	1st P.M. to step down due to no-confidence
9.		Chandra Sekhar (Janata Dal(S))	1990-1991	
10.		P.V. Narasimha Rao (Congrss(I))	1991-1996	1st PM from South India; became PM without Parliament membership
11.		Atal Bihari Vajpayee (BJP)	1996-1996	Short Tenure of 13 days
12.		H.D. Deve Gowda (J.Dal)	1996-1997	Became PM without Parliament membership
13.		I.K. Gujral (Janata Dal)	1997-1998	
14.		Atal Bihari Vajpayee (BJP)	1998-1999	
15.		Atal Bihari Vajpayee (BJP)	1999-2004	
16.		Dr. Manmohan Singh (INC)	2004-2009	1st Minority to become PM
17.		Dr. Manmohan Singh (INC)	2009-2014	
18.		Narendra Modi	2014-	



Jawaharlal Nehru  
Aug 15, 1889 -  
May 27, 1964



Charan Singh  
July 29, 1917 -  
Jan 14, 1992



Atal Bihari Vajpayee  
May 16, 1924 -  
June 16, 1998

# PRIME MINISTERS OF INDIA



Jawaharlal  
Nehru  
Aug 15, 1947-  
May 27, 1964



Gulzari Lal  
Nanda\*  
May 27-Jun 9,  
1964



Lal Bahadur  
Shastri  
Jun 9, 1964-  
Jan 11, 1966



Gulzari Lal  
Nanda\*  
Jan 11-Jan 24,  
1966



Indira  
Gandhi  
Jan 24, 1966-  
Mar 24, 1977



Morarji  
Desai  
Mar 24, 1977-  
July 28, 1979



Charan  
Singh  
July 28, 1979-  
Jan 14, 1980



Indira  
Gandhi  
Jan 14, 1980-  
Oct 31, 1984



Rajiv  
Gandhi  
Oct 31, 1984-  
Dec 2, 1989



Vishwanath  
Pratap Singh  
Dec 2, 1989-  
Nov 10, 1990



Chandra  
Shekhar  
Nov 10, 1990-  
June 21, 1991



P. V.  
Narasimha Rao  
June 21, 1991-  
May 16, 1996



Atal Bihari  
Vajpayee  
May 16-June 1,  
1996



H. D. Deve  
Gowda  
June 1, 1996-  
Apr 21, 1997



Inder Kumar  
Gujral  
Apr 21, 1997-  
Mar 19, 1998



Atal Bihari  
Vajpayee  
Mar 19, 1998-  
May 22, 2004



Manmohan  
Singh  
May 22, 2004-  
May 26, 2014



Narendra  
Modi  
Sworn in on  
May 26, 2014

## 2. ARTICLES, PARTS SCHEDULES & AMENDMENTS OF THE CONSTITUTION

### INDIAN CONSTITUTION IN GLANCE

Articles	Deals with
<b>PART I</b>	
<b>THE UNION AND ITS TERRITORY</b>	
1.	Name and territory of the Union
2.	Admission or establishment of new States
3.	Formation of new States and alteration of areas, boundaries or names of existing States
4.	Laws made under articles 2 and 3 to provide for the amendment of the First and the Fourth Schedules and supplemental, incidental and consequential matters
<b>PART II</b>	
<b>CITIZENSHIP</b>	
5.	Citizenship at the commencement of the Constitution
6.	Rights of citizenship of certain persons who have migrated to India from Pakistan
7.	Rights of citizenship of certain migrants to Pakistan
8.	Rights of citizenship of certain persons of Indian origin residing outside India
9.	Persons voluntarily acquiring citizenship of a foreign State not to be Citizens
10.	Continuance of the rights of citizenship
11.	Parliament to regulate the right of citizenship by law
<b>Part III</b>	
<b>FUNDAMENTAL RIGHTS</b>	
12.	Definition
13.	Laws inconsistent with or in derogation of the fundamental rights
14.	Equality before Law
15.	Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth
16.	Equality of opportunity in matters of public employment
17.	Abolition of un-touchability

18.	Abolition of titles
19.	Protection of certain rights regarding freedom of speech, etc.
20.	Protection in respect of conviction for offences
21.	Protection of life and personal liberty
22.	Right to elementary education (added by 86 <sup>th</sup> Constitution Amendment Act, 2002)
23.	Prohibition of traffic in human beings and forced labor
24.	Prohibition of employment of children in factories, etc.
25.	Freedom of conscience and free profession, practice and propagation of religion
26.	Freedom to manage religious affairs
27.	Freedom as to payment of taxes for promotion of any particular religion
28.	Freedom as to attendance at religious instruction or religious worship in certain educational institutions
29.	Protection of interests of minorities
30.	Right minorities to establish and administer educational institutions
31 A.	Saving of Laws providing for acquisition of estates, etc.
31 B.	Validation of certain Acts and Regulations
31 C.	Saving of laws giving effect to certain directive principle
32.	Remedies for enforcement of Fundamental Rights including writs
33.	Power of Parliament to modify the rights conferred by this part in their application to Forces, etc
34.	Restriction on rights conferred by this Part while martial law is in force in any area
35.	Legislation to give effect to the provisions of this Part

#### PART IV

#### DIRECTIVE PRINCIPLES OF STATE POLICY

36.	Definition
37.	Application of the principles contained in this Part
38.	State to secure a Social order for the Promotion of welfare of the People
38.	Certain principles of policy to be followed by the State
39A.	Equal Justice and free legal aid

40.	Organisation of village Panchayats	
41.	Right to work, to education and to public assistance in certain cases	59.
42.	Provision for just and humane conditions of work and maternity relief	60.
43.	Living wage, etc., for workers	61.
43A.	Participation of workers in management of industries	62.
44.	Uniform Civil Code for the Citizens	63.
45.	Provision for free and compulsory education for children	64.
46.	Promotion of educational and economic interests of scheduled castes, scheduled tribes and other weaker sections	65.
47.	Duty of the State to raise the level of nutrition and the standard of living and to improve public health	66.
48.	Organization of agriculture and animal husbandry	67.
48A.	Protection and improvement of environment and safeguarding of forests and wildlife	68.
49.	Protection of monuments and places and objects of national importance	69.
50.	Separation of Judiciary from executive	70.
51.	Promotion of international Peace and Security	71.
		72.

#### PART IV A

#### FUNDAMENTAL DUTIES

51A.	Fundmental Duties
------	-------------------

#### PART V

#### THE UNION

52.	The President of India	78.
53.	Executive power of the Union	79.
54.	Election of President	80.
55.	Manner of Election of President	81.
56.	Term of office of President	82.
57.	Eligibility for re-election	83.
58.	Qualifications for election as President	

INDIA

59.	Conditions of President's office
60.	Oath or affirmation by the President
61.	Procedure for impeachment of the President
62.	Time of holding election to fill vacancy in the office of President and the term of office of person elected to fill casual vacancy
63.	The Vice-President of India
64.	The Vice-President to be ex officio Chairman of the Council of States
65.	The Vice-President to act as President or to discharge his functions during casual vacancies in the office, or during the absence of President
66.	Election of Vice-President
67.	Term of office of Vice - President
68.	Time of holding election to fill vacancy in the office of Vice-President and the term of office of person elected to fill casual vacancy
69.	Oath or affirmation by the Vice-President
70.	Discharge of Presidents functions in other contingencies
71.	Matters relating to, or connected with, the election of a President or Vice-President
72.	Power of President to grant Pardons, etc. and to Suspend, remit or Commute Sentences in Certain Cases
73.	Extent of executive power of the Union
74.	Council of Ministers to aid and advise the president
75.	Other provisions as Ministers
76.	Attorney-General for India
77.	Conduct of business of the Government of India
78.	Duties of Prime Minister with regard to the furnishing of information to the President, etc.
79.	Constitution of Parliament
80.	Composition of the Council of States
81.	Composition of the House of the People
82.	Readjustment after each census
83.	Duration of Houses of Parliament

84.	Qualification for membership of Parliament	
85.	Sessions of Parliament, prorogation and dissolution	106.
86.	Right of President to address and send messages to Houses	107.
87.	Special address by the President	108.
88.	Rights of Ministers and Attorney-General as respects Houses	109.
89.	The Chairman and Deputy Chairman of the Council of States	110.
90.	Vacation and resignation of, and removal from, the office of Deputy Chairman	111.
91.	Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman	112.
92.	The Chairman or the Deputy Chairman not to preside while a resolution for his removal from office is under consideration	113.
93.	The Speaker and Deputy Speaker of the House of the People	114.
94.	Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker	115.
95.	Power of the Deputy Speaker or other person to perform the duties of the office of, or to act as Speaker	116.
96.	The Speaker or the Deputy Speaker not to preside while a resolution for his removal from office is under consideration	117.
97.	Salaries and allowances of the Chairman and Deputy Chairman and the Speaker and Deputy Speaker	118.
98.	Secretariat of Parliament	119.
99.	Oath or affirmation by members	120.
100.	Voting in Houses, power of Houses to act notwithstanding standing vacancies and quorum	121.
101.	Vacation of seats	122.
102.	Disqualifications for membership	123.
103.	Decision on questions as to disqualifications of members	124.
104.	Penalty for sitting and voting before making oath or affirmation under article 99 or when not qualified or when disqualified	125.
105.	Powers, privileges, etc., of the Houses of Parliament and of the members and committees thereof	126.
		131.
		132.
		133. App

106.	Salaries and allowances of members
107.	Provisions as to introduction and passing of Bills
108.	Joint sitting of both Houses in certain cases
109.	Special procedure in respect of Money Bills
110.	Definition of Money Bills
111.	Assent to Bills
112.	Annual Financial Statement
113.	Procedure in Parliament with respect to estimates
114.	Appropriation Bills
115.	Supplementary, additional or excess grants
116.	Votes on account, votes of credit and exceptional grants
117.	Special provisions as to financial Bills
118.	Rules of procedure
119.	Regulation by law of procedure in Parliament in relation to financial business
120.	Language to be used in Parliament
121.	Restriction on discussion in Parliament
122.	Courts not to inquire into proceedings of Parliament
123.	Powers of the President to promulgate ordinances during recess of Parliament
124.	Establishment and constitution of Supreme Court
125.	Salaries, etc., of Judges
126.	Appointment of acting Chief Justice
127.	Appointment of ad hoc judges
128.	Attendance of retired Judges as sittings of the Supreme Court
129.	Supreme Court to be a court of record
130.	Seat of Supreme Court
131.	Original jurisdiction of the Supreme Court
132.	Appellate jurisdiction of Supreme Court in appeals from High Courts in certain cases
133.	Appellate jurisdiction of Supreme Court in appeals from High Courts in regard to Civil matters

134.	Appellate jurisdiction of Supreme Court in regard to Civil cases	158.
134A.	Certificate for appeal to the Supreme Court	159.
135.	Jurisdiction and powers of the Federal Court under existing law to be exercisable by the Supreme Court	160.
136.	Special leave to appeal by the Supreme Court	161.
137.	Review of judgements or orders by the Supreme Court	162.
138.	Enlargement of the jurisdiction of the Supreme Court	163.
139.	Conferment on the Supreme Court of powers to issue certain writs	164.
139A.	Transfer of certain cases	165.
140.	Ancillary powers of Supreme Court	166.
141.	Law declared by Supreme Court to be binding on all courts	167.
142.	Enforcement of decrees and orders of Supreme Court and orders as to discovery etc.	168.
143.	Power of the President to consult Supreme Court.	169.
144.	Civil and judicial authorities to act in aid of the Supreme Court	170.
145.	Rules of Court etc.	171.
146.	Officers and servants and the expenses of the Supreme Court	172.
147.	Interpretation	173.
148.	Comptroller and Auditor-General of India	174.
149.	Duties and powers of the Controller and Auditor-General	175.
150.	Form of accounts of the Union and of the States	176.
151.	Audit reports	177.
	<b>PART VI</b>	
	<b>THE STATES</b>	
152.	Definition	178.
153.	Governors of States	179.
154.	Executive power of State	180.
155.	Appointment of Governors	181.
156.	Term of office of Governor	182.
157.	Qualification for appointment as Governor	183.

	Conditions of Governor's office
158.	Oath or affirmation by the Governor
159.	Discharge of the functions of the Governor in certain contingencies
160.	Power of Governor to grant pardons, etc. and to suspend, remit or commute sentences In certain cases
161.	Extent of executive power of State
162.	Council of Ministers to aid and advise the Governor
163..	Other provisions as to Ministers
164.	Advocate-General for the State
165.	Conduct of business of the Government of a State
166.	Duties of Chief Minister with regard to the furnishing of information to Governor, etc.,
167.	Constitution of Legislatures in States
168.	Abolition or creation of Legislative Councils in States
169.	Composition of the Legislative Assemblies
170.	Composition of the Legislative Councils
171.	Duration of State Legislatures
172.	Qualification for membership of the State Legislature
173.	Sessions of the State Legislature, prorogation and dissolution
174.	Right of Governor to address and send messages to the House of Houses
175.	Special address by the Governor
176.	Rights of Ministers and Advocate-General as respects the Houses
177.	The Speaker and Deputy Speaker of the Legislative Assembly
178.	Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker
179.	Power of the Deputy Speaker or other person to perform the duties of the office of, or to act as, Speaker
180.	The Speaker or the Deputy Speaker not to preside while a resolution for his removal from office is under consideration
181.	The Chairman and Deputy Chairman of the Legislative Council
182.	Vacation and resignation of, and removal from the offices of Chairman and Deputy Chairman
183.	Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman
184.	Scanned with CamScanner

185.	The Chairman or the Deputy Chairman not to preside while a resolution for his removal from office is under consideration	217.
186.	Salaries and allowances of the Speaker and Deputy Speaker and the Chairman and Deputy Chairman	218.
187.	Secretariat of State Legislature	219.
188.	Oath or affirmation by members	220.
189.	Voting in Houses, Power of Houses to act notwithstanding vacancies and quorum	221.
190.	Vacation of seats	222.
191.	Disqualifications for membership	223.
192.	Decision on questions as to disqualifications of members	224.
193.	Penalty for sitting and voting before making oath or affirmation under article 188 or when not qualified or when disqualified	224A.
194.	Powers, privileges, etc., of the Houses of Legislatures and of the members and committees thereof	225.
195.	Salaries and allowances of members	226.
196.	Provisions as to introduction and passing of Bills	227.
197.	Restriction on powers of Legislative Council as to Bills other than Money Bills	228.
198.	Special procedure in respect of Money Bills	229.
199.	Definition of Money Bills	230.
200.	Assent to bills by Governor (including reservation for President)	231.
201.	Bills reserved for consideration	232.
202.	Annual financial statement	233.
203.	Procedure in Legislature with respect to estimates	234.
204.	Appropriation Bills	235.
205.	Supplementary, additional or excess grants	236.
206.	Votes on account, votes of credit and exceptional grants	237.
207.	Special provisions as to financial Bills	238.
208.	Rules of procedure	239AA.
209.	Regulation by law of procedure in the Legislature of the State in relation to Financial business	239AB.
210.	Language to be used in the Legislature	239B.
211.	Restriction on discussion in the Legislature	240.
212.	Courts not to inquire into proceedings of the Legislature	241.
213.	Power of Governor to promulgate ordinances during recess of the State Legislature	243.
214.	High Courts for States	243A.
215.	High Courts to be courts of record	243B.
216.	Constitution of High Courts	INDIAN PO

217.	Appointment and conditions of the office of a Judge of a High Court
218.	Application of certain provisions relating to be Supreme Court of High Courts
219.	Oath or affirmation by Judges of High Courts
220.	Restriction on practice after being a permanent Judge
221.	Salaries, etc., of judges
222.	Transfer of a Judge from one High Court to another
223.	Appointment of acting Judges
224.	Appointment of additional and acting Judges
224A.	Appointment of retired Judges at sittings of High Courts
225.	Jurisdiction of existing High Courts
226.	Powers of High Courts to issue certain Writs
227.	Power of superintendence over all courts by the High Court
228.	Transfer of certain cases to High court
229.	Officers and servants and the expenses of High Courts
230.	Extension of jurisdiction of High Courts to Union Territories
231.	Establishment of a common High Court for two or more States
232.	Appointment of district judges
233.	Validation of appointment of, and judgements, etc., delivered by, certain district judges
234.	Recruitment of persons other than district judges to the judicial service
235.	Control over subordinate courts
236.	Interpretation
237.	Application of the provisions of the Chapter to certain class or classes of magistrates
	<b>PART VIII</b>
	<b>THE UNION TERRITORIES</b>
239.	Administration of Union Territories
239 A.	Creation of local Legislature or Council of Ministers or both for certain Union Territories
239AA.	Special provisions with respect to Delhi
239AB.	Provision in case of failure of constitutional machinery
239B.	Power of administrator to promulgate Ordinances during recess of Legislature
240.	Power of President to make regulations for certain Union Territories
241.	High Court for Union Territories
	<b>PART IX</b>
	<b>THE PANCHAYATS</b>
243.	Definitions
243A.	Gram Sabha
243B.	Constitution of Panchayats

	Composition of Panchayats	244A
243C	Reservation of seats	
243D	Duration of Panchayats, etc	
243E	Disqualifications for membership	
243F	Powers, authority and responsibilities of Panchayats	
243G	Power to impose taxes by, and Funds of the Panchayats	245
243H	Powers to review financial position	246
243I	Constitution of Finance Commission to review financial position	
243J	Audit of accounts of Panchayats	247
243K	Elections to the Panchayats	248
243L	Application to Union Territories	249
243M	Part not to apply to certain areas	
243N	Continuance of existing laws and Panchayats	250
243O	Bar to interference by courts in electoral matters	
	<b>PART IXA</b>	251
	<b>THE MUNICIPALITIES</b>	
243P	Definitions	252
243Q	Constitution of Municipalities	
243R	Competition of Municipalities	253
243S	Constitution and composition of Wards Committees, etc.	254
243T	Reservation of seats	
243U	Duration of Municipalities, etc	255
243V	Disqualifications for membership	
243W	Powers, authority and responsibilities of Municipalities, etc	256
243X	Power to impose taxes by, and Funds of the Municipalities	257
243Y	Finance Commission	
243Z	Audit of accounts of Municipalities	258
243ZA	Elections to the Municipalities	258A
243ZB	Application to Union Territories	260
243ZC	Part not to apply to certain areas	261
243ZD	Committee for district planning	262
243ZE	Committee for Metropolitan planning	263
243ZF	Continuance of existing Laws and Municipalities	
243ZG	Bar to interference by Courts in electoral matters	264
	<b>PART X</b>	265
	<b>THE SCHEDULED AND TRIBAL AREAS</b>	
244	Administration of Scheduled Areas and Tribal	266
		267
		INDIA

244A	Formation of an autonomous State comprising certain tribal areas in Assam and creation of local Legislature of Council of Ministers or both therefore
<b>PART XI</b>	
	<b>RELATIONS BETWEEN THE UNION AND THE STATES</b>
245	Extent of laws made by Parliament and by the Legislatures of States
246	Subject - matter of laws made by Parliament and by the Legislatures of States
247	Power of Parliament to provide for the establishment of certain additional courts
248	Residuary powers of legislation
249	Power of Parliament to legislate with respect to a matter in the State List in the national interest
250	Power of Parliament to legislate with respect to any matter in the State List if a Proclamation of Emergency is in operation
251	Inconsistency between laws made by Parliament under Articles 249 and 250 and laws made by the legislatures of States
252	Power of Parliament to legislate for two or more States by consent and adoption of such legislation by any other State
253	Legislation for giving effect to international agreements.
254	Inconsistency between laws made by Parliament and laws made by the Legislature of States
255	Requirements as to recommendations and previous sanctions to be regarded as matters of procedure only
256	Obligation of States and the Union
257	Control of the Union over States in certain cases
258	Power of the Union to confer powers, etc. on States in certain cases
258A	Power of States to entrust functions to the Union
260	Jurisdiction of the Union in relation to territories outside India
261	Public acts, records and judicial proceedings
262	Adjudication of disputes relating to waters of inter-state rivers or river valleys
263	Provisions with respect to an Inter-state Council
<b>PART XII</b>	
	<b>FINANCE, PROPERTY, CONTRACTS AND SUITS</b>
264	Interpretation
265	Taxes not to be imposed save by authority of law
266	Consolidated Funds and Public Accounts of India and of the States Contingency Fund
267	

268	Duties levied by the Union but collected and appropriated by the States	
268A	Service tax levied by Union and collected by the Union and the States	
269	Taxes levied and collected between the Union and the States	
270	Taxes levied and distributed between the Union and the States	
271	Taxes levied and distributed for purposes of the Union	301
273	Surcharge on certain duties and taxes on jute and jute products	302
274	Grants in lieu of export duty on jute and jute products	303
	Prior recommendation of President required to Bills affecting taxation in which States are interested	
275	Grants from the Union to certain States (discretionary grants)	304
276	Taxes on professions, trades, callings, and employments	305
277	Savings	307
279	Calculation of 'net proceeds', etc	
280	Finance Commission	
281	Recommendations of the Finance Commission	308
282	Expenditure defrayable by the Union or a State out of its revenues	
283	Custody, etc, of Consolidated Funds, Contingency Funds and moneys credited to the public accounts	309
284	Custody of suitors deposits and other moneys received by public servants and others	310
285	Exemption of property of the Union from State taxation	311
286	Restrictions as to imposition of tax on the sale or purchase of goods	312
287	Exemption from taxes on electricity	
288	Exemption from taxation by States in respect of water or electricity in certain cases	312A
289	Exemption of property and income of a State from Union taxation	313
290	Adjustment in respect of certain expenses and pensions	315
290A	Annual payment to certain Devaswom Funds	316
292	Borrowings by the Government of India	317
293	Borrowings by States	318
294	Succession to property, assets, rights, liabilities and obligations in certain cases	
295	Succession to property, assets, rights, liabilities and obligations in other cases	
296	Property occurring by escheat or lapse or as bona vacantia	319
297	Things of value within territorial waters or continental shelf and resources of the exclusive economic zone to vest in the Union	320
298	Power to carry on trade, etc	321
299	Contracts	322
300	Suits and proceedings	323
300A	Persons not be deprived of property, saved by authority of law (right to property)	

PART XII

TRADE, COMMERCE AND INTERCOURSE WITHIN THE TERRITORY OF INDIA

301	Freedom of trade, commerce and intercourse
302	Power of Parliament to impose restrictions on trade, commerce and intercourse
303	Restrictions on the legislative powers of the Union and of the States with regard to trade and commerce
304	Restrictions on trade, commerce and intercourse among States
305	Saving of existing laws and laws providing for State monopolies
307	Appointment of authority for carrying out the purposes of articles
PART XIV	
SERVICES UNDER THE UNION AND THE STATES	
308	Interpretation
309	Recruitment and conditions of service of persons serving the Union or a State
310	Tenure of office of persons serving the Union or a State
311	Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State
312	All-India Services
312A	Power of Parliament to vary or revoke conditions of service of officers of certain services
313	Transitional provisions
315	Public Service Commissions for the Union and for the States
316	Appointment and term of office of members
317	Removal and suspension of a member of a Public Service Commission
318	Power to make regulations as to conditions of service of members and staff of the Commission
319	Prohibition as to the holding of offices by members of Commission on ceasing to be such members
320	Functions of Public Service Commissions
321	Power to extend functions of Public Service Commissions
322	Expenses of Public Service Commissions
323	Reports of Public Service Commissions

**PART XIV****TRIBUNALS**

323A	Administrative Tribunals	346	0
323B	Tribunals for other matters	347	Spa
		348	Lan
	<b>ELECTIONS</b>	349	
324	Superintendence, direction and control of elections to be vested in an Election Commission	350	
325	No person to be ineligible for inclusion in, or to claim to be included in a special electoral roll on grounds of religion, race, caste or sex	350A	
326	Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage	350B	
327	Power of Parliament to make provision with respect to elections to Legislatures	351	
328	Power of Legislature of a State to make provision with respect to elections to such Legislatures	352	
329	Bar to interference by courts in electoral matters	353	
	<b>PART XVI</b>	353	
	<b>SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES</b>	354	
330	Reservation of seats for scheduled castes and scheduled tribes in the House of the People	355	
331	Representation of the Anglo-Indian community in the House of the People	355	
332	Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States	356	
333	Representation of the Anglo-Indian community in the Legislative Assemblies of the States	357	
334	Reservation of seats and special representation to cease after sixty years	358	
335	Claims of scheduled castes and scheduled tribes to services and posts	359	
336	Special provision for Anglo-Indian community in certain services	360	
337	Special provision with respect to educational grants for the benefit of Anglo-Indian Community		
338	National Commission for Scheduled Castes (NCSC)		
338A	National Commission for Scheduled Tribes (NCST)		
339	Control of the Union over the Administration of Scheduled Areas and the welfare of Scheduled Tribes		
340	Appointment of a Commission to investigate the conditions of backward classes		
341	Scheduled Castes	363	
342	Scheduled Tribes	363A	
		364	
	<b>PART XVII</b>	364	
	<b>OFFICIAL LANGUAGE</b>	365	
343	Official language of the Union	366	
344	Commission and Committee of Parliament on official language	367	
345	Official language or languages of a State		

346	Official language for communication between one State and another or between a State and the Union
347	Special provision relating to language spoken by a section of the population of a State
348	Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc.
349	Special procedure for enactment of certain laws relating to language
350	Language to be used in representations for redress of grievances
350A	Facilities for instruction in mother-tongue at primary stage
350B	Special Officer for linguistic minorities
351	Directive for development of the Hindi language
	<b>PART XVII</b>
	<b>EMERGENCY PROVISIONS</b>
352	Proclamation of Emergency (National Emergency)
353	Effect a Proclamation of Emergency
354	Application of provisions relating to distribution of revenues while a Proclamation of Emergency is in operation
355	Duty of the Union to protect States against external aggression and internal disturbance
356	Provisions of Emergency in case of failure of Constitutional machinery in States (President's rule)
357	Exercise of legislative powers under Proclamation issued under article 356
358	Suspension of provisions of article 19 during emergencies
359	Suspension of the enforcement of the rights conferred by Part III During emergencies
360	Provisions as to financial emergency
	<b>PART XIX</b>
	<b>MISCELLANEOUS</b>
361	Protection of President and Governors and Rajpramukhs
361A	Protection of publication of proceedings of Parliament and State Legislatures
361B	Disqualification for appointment on remunerative political post
363	Bar to interference by courts in disputes arising out of certain treaties, agreements, etc.,
363A	Recognition granted to Rulers of Indian States to cease and privy purses to be abolished
364	Special Provisions as to major ports and aerodromes
365	Effect of failure to comply with, or to give effect to, directions given by the Union
366	Definitions
367	Interpretation

**PART XX**

**AMENDMENT OF THE CONSTITUTION**

		<b>AMENDMENT OF THE CONSTITUTION &amp; procedure therefore</b>	
368	Power of Parliament to amend the Constitution	<b>PART XXI</b>	
		<b>PART XXII</b>	
		<b>TEMPORARY, TRANSITIONAL, AND SPECIAL PROVISIONS</b>	
			Part
			I
			II
370	Temporary provisions with respect to the State of Jammu and Kashmir		III
371	Special provision with respect to the States of Maharashtra and Gujarat		IV
371A	Special provision with respect to the State of Nagaland		IV-A
371B	Special provision with respect to the State of Assam		V
371C	Special provision with respect to the State of Manipur		VI
371D	Special provision with respect to the State of Andhra Pradesh		VII
371E	Establishment of central university in Andhra Pradesh		VIII
371F	Special provision with respect to the State of Sikkim		IX
371G	Special provision with respect to the State of Mizoram		IX-A
371H	Special provision with respect to the State of Arunachal Pradesh		X
371I	Special provision with respect to the State of Goa		XI
372	Continuance in force of existing laws and their adaptation		XII
372A	Power of the President to adapt laws		XIII
373	Power of President to make order in respect of persons under preventive detention in certain cases		XIV
374	Provisions as to Judges of the Federal Court and proceedings pending in the Federal Court or before His Majesty in Council		XV
375	Courts, authorities and officers to continue to function subject to the provisions of the Constitution		XV-A
376	Provisions as to Judges of High Courts		XV
377	Provisions as to Comptroller and Auditor-General of India		XVI
378	Provisions as to Public Service Commissions		XVII
378A	Special provision as to duration of Andhra Pradesh Legislative Assembly		XVIII
392	Power of the President to remove difficulties		XIX
	<b>PART XXII</b>		XX
	<b>SHORT TITLE, COMMENCEMENT, AUTHORITATIVE TEXT IN HINDI AND REPEAL</b>		XXI
393	Short title		XXII
394	Commencement		XXIII
394A	Authoritative text in the Hindi language		INDIAN

**PARTS OF INDIAN CONSTITUTION**

Part	Deals with	Articles
I	The Union and its Territory	1 to 4
II	Citizenship	5 to 11
III	Fundamental Rights	12 to 35
IV	Directive Principles of the State Policy	36 to 51
IV-A	Fundamental Duties (inserted by 42nd Constitution Amendment Act, 1976)	51A
V	The Union Governments	52 to 151
VI	The State Territories	152 to 237
VII	The Union Governments	239 to 242
IX	The Panchayats (inserted by 73rd Constitution Amendment Act, 1992)	243 to 2430
IX-A	The Municipalities (inserted by 74th Constitution Amendment Act, 1992)	243P to 243ZG
X	The Scheduled and Tribal Areas	244 to 244A
XI	Relations between the Union and the States	245 to 263
XII	Finance, Property, Contracts and Suits	264 TO 300-A
XIII	Trade, Commerce and Intercourse within the Territory of India	301 to 307
XIV	Services under the Union and the States	308 to 323
XIV-A	Tribunals (inserted by 42nd Constitution Amendment Act, 1976)	323 -A to 323-B
XV	Elections	324 to 329-A
XVI	Special Provisions to SCs, STs, OBCs and Anglo-Indians	330 to 342
XVII	Official Language	343 to 351
XVIII	Emergency Provisions	352 to 360
XIX	Miscellaneous	361 to 367
XX	Amendment of the Constitution	368
XXI	Temporary, Transitional and Special provisions	369 to 392
XXI	Short title, Commencement, Authoritative in Hindi and Repeals	393 to 395

SCHEDULES	SUBJECT MATTER	COVERAGE
First	Territories of the states and Extent of the Union Territories Salaries, Allowances etc. of Constitutional Authorities	1 & 4
Second	Part A : Provisions as to the President and the Governors of States Part B : Repealed Part C : Provisions as to the Speaker and the Deputy speaker of the house of the people and the Chairman and the deputy chairman of the council of states and the Speaker of the Legislative Council of a State Part D : Provisions as to the judges of the Supreme Court and of High courts Part E : Provisions as to the Comptroller and Auditor-general of India.	59(3), 59(3) 75(6), 97 125, 148(1) 58(3) 164(5), 18 & 22
Third	Prescribes the forms of Oath or affirmations to be taken by the Union Ministers, candidate for election to parliament, a member for election to parliament, Judges of the Supreme Court and Comptroller and Auditor-General, the ministers for a state, candidates for election to the Legislature of a State, Members of Legislature of a State, Judges of High Courts	75(4), 99 126(6), 148(2) 164(3), 18 & 219
Fourth	Allocation of seats in the Council of states	4(1) & 80
Fifth	Provisions as to the Administration and control of Scheduled areas and Scheduled Tribes Part A : General Part B : Administration and control of Scheduled areas and Scheduled Tribes Part C : Scheduled Area Part D : Amendment of the Schedule	2. 3. 244 (1)
Sixth	Provisions as to the Administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram	244(2) & 275(1)
Seventh	Division of subjects into three lists Lists I - Union List (100 entries), but last entry item is numbered 97, Entries 2A, 92A, 92B, and 92C have been added and entry 33 omitted List II - State List (61 entries; but last entry is numbered as 66. Entries 11, 19, 20, 29 and 36 (omitted)) List III - Concurrent List (52 entries, but last entry is numbered as 47, Entries 11A, 17A, 17B, 20A, and 33 A have been added)	4. 5. 246
Eight	Languages recognized by constitution, Originally 14, Presently 22	344(1) &

Ninth	Validation of certain Acts and Regulations dealing with land reforms. This schedule was added by the Constitution first Amendment Act of 1951.	31 B
Tenth	Provisions as to disqualification of members of parliament and State Legislature on ground of defection. The Constitution Fifty-second Amendment Act of 1985 added this schedule	102(2), 191(2)
Eleventh	Powers, authority and responsibilities of Panchayats. It consists 29 subjects. This schedule was added by the Constitution 73rd Amendment 1992	243 G
Twelfth	Powers, authority and responsibilities of Urban local bodies. It consists 18 subjects. This schedule was added by the Constitution 74 <sup>th</sup> Amendment	243 W
13. 1 16		

### CONSTITUTIONAL AMENDMENTS

No	Amendments	Enforced since	Objects
1.	Amend articles 15, 19, 85, 87, 174 176, 341, 342, 372, and 376. Insert articles 31 A and 31B Insert schedule 9.	18 June 1951	To fully secure the constitutional validity of zamindari abolition laws and to place reasonable restriction on freedom of speech. A new constitutional device, called Schedule 9 introduced to protect laws that are contrary to the Constitutionally guaranteed fundamental rights. These laws encroach upon property rights, freedom of speech and equality before law.
2.	Amend article 81.	1 May 1953	A technical amendment to fix the size between 650,000 and 850,000 voters.
3.	Amend schedule 7	22 February 1955	Limits maximum no of seats in Lok sabha up to 500. States would be divided into constituencies such that one member of a constituency will represent not less than every 750000 people but not more than every 500000 people.
4.	Amend articles 31, 35 and 305 Amend schedule 9	27 April 1955	Restriction on property rights and inclusion of related bills in Schedule 9 of the constitution
5.	Amend article 3	24 December 1955	Provide for a consultation mechanism with concerned states in matters relating to the amendments to the territorial matters and in the renaming of the state
6.	Amend articles 269 and 286 Amen schedule 7	11 September 1956	Amend the Union and State Lists with respect to raising of taxes

Amend articles 1, 49, 80, 81, 82, 131, 153, 158, 168, 170, 171, 216, 217, 220, 222, 224, 230, 231 and 232 7. Insert articles 258 A, 290 A, 298, 350A, 350 B, 371, 372 A and 378 A. Amend part 8	1 November 1956	Reorganization of states on linguistic lines, abolition of Class A, B, C, D states and introduction of Union Territories	16. Amend Amend
8. Amend article 334 Amend schedules 1, 2, 4, and 7	5 January 1960	Clarify state's power of compulsory acquisition and requisitioning of property and include Zamindari abolition laws in Schedule 9 of the constitution	17. Amend Amend
9. Amend schedule 1	28 December 1960	Minor adjustments to territory of Indian Union consequent to agreement with Pakistan for settlement of disputes by demarcation of border villages, etc	18. Amend
10. Amend article 240 Amend schedule 2	11 August 1961	Incorporation of Dadra, Nagar and Haveli as a Union Territory, consequent to acquisition from Portugal	19. Amend
11. Amend articles 66 and 71	19 December 1961	Election of Vice President by Electoral College consisting of members of both Houses of Parliament, instead of election by a joint Sitting of Parliament Indemnify the President and Vice President Election procedure from challenge on grounds of existence of any vacancies in the electoral college	20. Insert 21. Amend
12. Amend article 240 Amend schedule 1	20 December 1961	Incorporation of Goa, Daman and Diu a Union Territory, consequent to acquisition from Portugal	22. Amend 23. Amend
13. Amend part 21	1 December 1963	Formation of State of Nagaland, with special protection under Article 371A	24. Amend
14. Amend articles 81 and 240 Insert articles 239 A Amend schedules 1 and 4	28 December 1962	Incorporation of Pondicherry into the Union of India and creation of Legislative Assemblies for Himachal Pradesh, Tripura, Manipur and Goa	25. Amend
15. Amend articles 124, 128, 217, 222, 224, 226, 297, 311 and 316 Amend schedule 7	5 October 1963	Raise retirement age of judges from 62 to 65 and other minor amendments rationalizing interpretation of rules regarding judges etc	26.

16.	Amend articles 19, 84 and 173 Amend Schedule 3	5 October 1963	Make it obligatory for seekers of public office to swear their allegiance to the Indian Republic and prescribe the various obligatory templates
17.	Amend article 31A Amend schedule 9	20 June 1964	To secure the constitutional validity of acquisition of Estates and place land acquisition laws in Schedule 9 of the constitution
18.	Amend article 3	27 August 1966	Technical Amendment to include Union Territories in Article 3 and hence permit re-organisation of Union Territories
19.	Amend article 324	11 December 1966	Abolish Election Tribunals and enable trial of election petitions by regular High Courts
20.	Insert article 233 A	22 December 1966	Indemnify & validate judgements, decrees, orders and sentences passed by judges and to validate the appointment, posting, promotion and transfer of judges barring a few who were not eligible for appointment under article 233. Amendment needed to overcome the effect of judgement invalidating appointments of certain judges in the state of Uttar Pradesh
21.	Amend schedule 8	10 April 1967	Include Sindhi as an Official Language
22.	Amend article 275 Insert articles 244 A and 371 B	25 September 1969	Provision to form Autonomous states within the State of Assam
23.	Amend articles 33, 332, 333 and 334	23 January 1970	Extend reservation for SC/ST and nomination of Anglo Indian members in Parliament and State Assemblies for another ten years i.e. up to 1980
24.	Amend articles 13 and 368	5 November 1971	Enable parliament to dilute Fundamental rights through amendments to the constitution
25.	Amend article 31 Insert article 31C	20 April 1972	Restrict property rights and compensation in case the state takes over private property
26.	Amend article 366 Insert article 363 A Remove articles 291 and 362	28 December 1971	Abolition of privy purse paid to former rulers of princely states which were incorporated into the Indian Republic

				38.
27.	Amend articles 239 A and 240 Insert articles 239 B and 371 C	15 February 1972	Recognition of Mizoram into a Union Territory with a legislature and council of ministers	39.
28.	Insert article 312 A Remove article 314	29 August 1972	Rationalize Civil Service rules to make it uniform across those appointed prior to Independence and post independence	
29.	Amend schedule 9	9 June 1972	Place land reform acts and amendments to these act under Schedule 9 of the constitution	40.
30.	Amend article 133	27 February 1973	Change the basis for appeals in Supreme court of India in case of Civil Suits from value criteria to one involving substantial question of law	
31.	Amend articles 81, 330 and 332	17 October 1973	Increase size of Parliament from 525 to 545 seats, increased seats going to the new states formed in North East India and minor adjustment consequent to 1971 Delimitation exercise	41.
32.	Amend article 371 Insert articles 371 D and 371 E Amend schedule 7	1 July 1974	Protection of regional rights in Telangana and Andhra Regions of State of Andhra Pradesh	
33.	Amend articles 101 and 190	19 May 1974	Prescribes procedure for resignation by members of parliament and state legislatures and the procedure for verification and acceptance of resignation by house speaker	42.
34.	Amend schedule 9	7 September 1974	Place land reform acts and amendments to these act under Schedule 9 of the constitution	
35.	Amend articles 80 and 81 Insert article 2A Insert schedule 10	1 March 1975	Terms and Conditions for the Incorporation of Sikkim into the Union of India	
36.	Amend articles 80 and 81 Insert articles 371 F Remove article 2A Amend schedules 1 and 4 Remove schedule 10	26 April 1975	Formation of Sikkim as a State within the Indian Union	
37.	Amend articles 239 A and 240	3 May 1975	Formation of Arunachal Pradesh legislative assembly	

38.	Articles 123, 213, 239 B, 352, 356, 359 and 360	1 August 1975	Enhances the powers of President and Governors to pass ordinances
39.	Amend articles 71 and 329 Insert article 329 A Amend schedule 9	10 August 1975	Amendment designed to negate the judgement of Allahabad High Court invalidating Prime Minister Indira Gandhi's election to parliament. Amendment placed restrictions on judicial scrutiny of post of Prime Minister
40.	Amend article 297 Amend schedule 9	27 May 1976	Enable Parliament to make laws with respect to Exclusive Economic Zone and vest the mineral wealth with Union of India. Place land reform & other acts and amendments to these act under schedule 9 of the constitution
41.	Amend article 316	7 September 1976	Raise Retirement Age Limit of Chairmen and Members of Union and State Public Commissions from sixty to sixty two
42.	Amend articles 31, 31C, 39, 55, 74 77, 81, 82, 83, 100, 102, 103, 105 118, 145, 150, 166, 170, 172, 189 191, 192, 194, 208, 217, 225, 226 227, 228, 311, 312, 330, 352, 353, 356, 357, 358, 359, 366, 368 and 371 F	1 April 1977	Amendment passed during internal emergency by Indira Gandhi, provides for curtailment of fundamental rights, imposes fundamental duties and changes to the basic structure of the constitution by making India a "Socialist Secular Republic"
	Insert article 31D, 32A, 39A, 43A, 48A, 131 A, 139 A, 144 A, 226A, 228A and 257 A		
	Insert parts 4A and 14A		
	Amend schedule 7		
43.	Amend articles 145, 226, 228 and 366 Remove articles 31D, 32A, 131 A, 144 A, 226A and 228A	13 April 1978	Amendment passed after revocation of internal emergency in the Country. Repeals some of the more 'Anti-freedom' amendments enacted through Amendment Bill 42
44.	Amend articles 19, 22, 30, 31A, 31C, 38, 71, 74, 77, 83, 103, 105, 123, 132, 133, 134, 139A, 150, 166, 172, 192, 194, 213, 217, 225 226, 227, 239B, 329, 352, 356		Amendment passed after revocation of internal emergency in the Country. Provides for human rights safeguards and mechanisms to prevent abuse of executive and legislative authority. Annuls some Amendments enacted in Amendment Bill 42

358, 359, 360 and 371 F	Insert articles 134 A and 361 A Remove articles 31, 257A and 329 A		
Amend part 12	Amend schedule 9		
45.	Amend article 334	25 January 1980	Extend reservation for SC/ST and nomination of Anglo Indian members in Parliament and State Assemblies for another ten years i.e. up to 1990
			57.
46.	Amend article 269, 286 and 366 Amend schedule 7	2 February 1983	Amendment to negate judicial pronouncements on scope and applicability on Sales Tax
			58.
47.	Amend schedule 9	26 August 1984	Place land reform acts and amendments to these act under Schedule 9 of the constitution
			59.
48.	Amend article 356	1 April 1985	Article 356 amended to permit President's rule up to two years in the state of Punjab
49.	Amend article 244 Amend schedules 5 and 6	11 September 1984	Recognize Tripura as a Tribal State and enable the creation of a Tripura Tribal Areas Autonomous District Council
			6
50.	Amend article 33	11 September 1984	Technical Amendment a curtailment of Fundamental Rights as per part III as prescribed in Article 33 to cover Security Personnel protecting property and communication infrastructure
51.	Amend articles 330 and 332	16 June	Provide reservation to Scheduled Tribes in Nagaland, Meghalaya, Mizoram 1986 and Arunachal Pradesh Legislative Assemblies
52.	Amend articles 101, 102, 190 and 191. Insert schedule 10	1 March 1985	Anti Defection Law-Provide disqualification of members from parliament and assembly in case of defection from one party to other
53.	Insert article 371 G	20 February 1987	Special provision with respect to the State of Mizoram
54.	Amend articles 125 and 221 Amend schedule 2	1 April 1986	Increase the salary of Chief Justice of India & other Judges and to provide for determining future increases without the need for constitutional amendment
55.	Insert article 371 H	20 February 1987	Special powers to Governor consequent to formation of state of Arunachal Pradesh

56.	Insert article 371I		30 May 1987	Transition provision to enable formation of state of Goa
57.	Amend article 332	21	September 1987	Provide reservation to Scheduled Tribes in Nagaland, Meghalaya, Mizoram and Arunachal Pradesh Legislative Assemblies
58.	Insert article 394 A Amend part 22	9 December 1987		Provision to publish authentic Hindi translation of constitution as on date and provision to publish authentic Hindi translation of future amendments
59.	Amend article 356 Insert article 359 A	30 March 1988		Article 356 amended to permit President's rule upto three years in the state of Punjab, Articles 352 and Article 359 A amended to permit imposing emergency in state of Punjab or in specific districts of the state of Punjab
60.	Amend article 276	20 December 1988		Profession Tax increased from a maximum of Rs. 250/- to a maximum of Rs. 2500/-
61.	Amend article 326	28 March 1989	18	Reduce age for voting rights from 21 to 18
62.	Amend article 334	20 December 1989		Extend reservation for SC/ST and nomination of Anglo Indian members in Parliament and States Assemblies for another ten years i.e. up to 2000
63.	Amend article 356 Remove article 359 A	6 January 1990		Emergency powers applicable to State of Punjab, accorded in Article 359 A as per amendment 59 repealed
64.	Amend article 356	16 April 1990		Article 356 amended to permit President's rule up to three years and six months in the state of Punjab
65.	Amend article 338	12 March 1990		National Commission for Scheduled Castes and Scheduled Tribes formed and its statutory powers specified in The Constitution
66.	Amend schedule 9	7 June 1990		Place land reform acts and amendments to these act under Schedule 9 of the constitution

67.	Amend article 356	4 October 1990	Article 356 amended to permit President's rule up to four years in the state of Punjab
68.	Amend article 356	12 March 1991	Article 356 amended to permit President's rule upto five years in the state of Punjab
69.	Insert articles 239 AA and 239 AB	1 February 1992	To provide for a legislative assembly and council of ministers for Federal National Capital of Delhi. Delhi continues to be a Union Territory
70.	Amend articles 54 and 239 AA	21 December 1991	Include National Capital of Delhi and Union Territory of Pondicherry in electoral college for Presidential election
71.	Amend schedule 8	31 August 1992	Include Konkani, Manipuri and Nepali as Official Languages
72.	Amend article 332	5 December 1992	Provide reservation to Scheduled Tribes in Tripura State Legislative Assembly
73.	Insert part 9	24 April 1993	Statutory provisions for Panchayats as third level of administration in villages
74.	Insert part 9A	1 June 1993	Statutory provisions for Local Administrative bodies as third level of administration in urban areas such as towns and cities
75.	Amend article 323 B	15 May 1994	Provisons for setting up Rent Control Tribunals
76.	Amend schedule 9	31 August 1994	Enable continuance of 69% reservation in Tamil Nadu by including the relevant Tamil Nadu Act under 9th Schedule of the constitution
77.	Amend article 16	17 June 1995	A technical amendment to protect reservation to SC/ST Employees in promotions
78.	Amend schedule 9	30 August 1995	Place land reform acts and amendments to these act under Schedule 9 of the constitution

79.	Amend article 334	25 January 2000	Extend reservation for SC/ST and nomination of Anglo Indian members in Parliament and State Assemblies for another ten years i.e upto 2010
80.	Amend articles 269 and 270 Remove article 272	9 June 2000	Implement Tenth Finance Commission recommendation to simplify the tax structures by pooling and sharing all taxes between states and the Centre
81.	Amend article 16	9 June 2000	Protect SC/ST reservation in filling backlog of vacancies
82.	Amend article 335	8 September 2000	Permit relaxation of qualifying marks and other criteria in reservation in promotion for SC/ST candidates
83.	Amend article 243 M	8 September 2000	Exempt Arunachal Pradesh from reservation for Scheduled Castes in Panchayati Raj institutions
84.	Amend articles 55, 81, 82, 170, 330 and 332	21 February 2002	Extend the usage of 1991 national census population figures for statewise distribution of parliamentary seats
85.	Amend article 16	4 January 2002	A technical amendment to protect seniority in case of promotions of SC/ ST Employees
86.	Amend articles 45 and 51A Insert article 21A	12 December 2002	Provides Right to Education until the age of fourteen and early childhood care until the age of six
87.	Amend articles 81, 82, 170 and 330	22 June 2003	Extend the usage of 2001 national census population figures for state wise distribution of parliamentary seats
88.	Amend article 270. Insert article 268 A Amend schedule 7	15 January 2004	To extend statutory cover for levy and utilization of Service Tax
89.	Amend article 338 Insert article 338A	28 September 2003	The National Commission for Scheduled Tribes was bifurcated into the National Commission for Scheduled Castes and The National Commission for Scheduled Tribes
90.	Amend article 332	28 September 2003	Reservation in Assam Assembly relating to Bodoland Territory Area

91.	Amend articles 75 and 164 Insert article 361 B Amend Schedule 10	1 January 2004	Restrict the size of council of ministers to 15% of legislative members & to strengthen Anti Defection laws
92.	Amend article 270 Insert article 268 A Amend schedules 7 and 8	7 January 2004	Enable Levy of Service Tax & Include Bodo, Dogri, Santali and Maithali as Official Languages
93.	Amend article 15	20 January 2006	To enable provision of reservation for Other Backward Classes (O.B.C) in government as well as private educational institutions
94.	Amend article 164	12 June 2006	To provide for a Minister of Tribal Welfare in newly created Jharkhand and Chattisgarh States
95.	Amend article 334	25 January 2010	To extend the reservation of seats for SCs and STs in the Lok Sabha and states assemblies from Sixty years to Seventy years
96.	Amend schedule 8	23 September 2011	Substituted "Odia" for "Oriya"
97.	Amend Art 19 and added Part IX B	12 January 2012	<p>Added the words "or co-operative societies' after the word 'or unions' in Article 19(1)(c) and insertion of article 43 B i.e., Promotion of Co-operative Societies and added Part-IXB i.e., The Co-operative Societies.</p> <p>The amendment objective is to encourage economic activities of cooperatives which in turn help progress of rural India. It is expected to not only ensure autonomous and democratic functioning of cooperatives, but also the accountability of the management to the members and other stakeholders</p>
98.	To insert Article 371 J in the Constitution	2 January 2013	To empower the Governor of Karnataka to take steps to develop the Hyderabad-Karnataka Region
99.	To insert Articles 124 A, 124 B and 124 C Amended Articles 127, 128, 217, 222, 224 A, 231	13 April 2015	Creation of NJAC. The supreme court as null & void
100.	Amended First Schedule	1 <sup>st</sup> August 2015	Exchange of enclaves with Bangladesh

### 3. JUDICIARY SYSTEM IN INDIA

#### 1. SUPREME COURT OF INDIA

Part V of the constitution articles 124 - 147 deals with Supreme Court of India.

- ☞ The constitution provides for a single integrated system of courts for the union as well as the states.
- ☞ The Supreme Court came into being on 28<sup>th</sup> January, 1950.
- ☞ Parliament is also authorised to regulate the courts.
- ☞ At the head of the entire system stands the supreme court of India.
- ☞ Below the Supreme Court stands the High Court of the different states under each High Court there is Hierarchy of other courts. They are referred as 'Subordinate Courts'.

#### Composition :

- ☞ Supreme court consists of the Chief Justice of India (CJI) and not more than 30 other judges.
- ☞ In the beginning Supreme Court originally consisted of a chief justice and 7 other judges. Later the strength has been increased. It is as follows :

In 1956 - From 8 to 11

In 1960 - From 11 to 14

In 1978 - From 14 to 18

In 1986 - From 18 to 26

In 2008 - From 26 to 31

#### Appointment of Judges :

- ☞ The chief justice of Supreme Court appointed by the President of India from the senior most judge on the advice of National Judicial Appointment Commission (NJAC)
- ☞ In the case of appointment of other judges of supreme court, president consult National Judicial Appointments Commission Judicial

Appointments Commission (NJAC), which replaced the collegium system.

- ☞ A judge take his oath before the president or someone appointed by the president for that purpose.

#### Qualifications

- ☞ To be appointed as judge of the Supreme Court, a person must be
  - ★ A citizen of India.
  - ★ He shall have been a judge of High court for atleast 5 years; or,
  - ★ He shall have been an advocate of High court for 10 years; or,
  - ★ He shall be a distinguished jurist in the opinion of the president of India.
  - ★ No minimum age is fixed for appointment as a judge.

#### Term of Judges :

- ☞ Once a judge of Supreme court is appointed, he holds the office till he attains the age of 65 Years.
- ☞ He may leave the office earlier by addressing his resignation to the president.
- ☞ He can be removed from his office by the President on the recommendation of the Parliament. For this process an address to that effect being passed by a special majority of each of parliament. Such removal by special majority (2/3<sup>rd</sup> of that house present and voting, on the grounds of proved misbehavior or incapacity.

#### Procedure to Removal :

- ☞ The Parliament under Art. 124(5) may, by law, regulate the procedure for the presentation of an address and for the investigation and proof of the misbehavior or incapacity of a judge. Accordingly, the Parliament in 1968 passed the Judges (inquiry) Act.

Under this Act, a motion seeking the removal of a judge can be preferred before either House of the Parliament.

If it is to be introduced in the Lok Sabha, it should be signed in by not less than 100 members of Lok Sabha.

If it is to be introduced in the Rajya Sabha motion should be signed in by not less 50 members.

The motion can be moved only a prior notice of 14 days to that judge.

After being properly introduced, presiding officer of that House appoints a three member Judicial Committee to inquire into the misbehavior or incapacity of the accused judgement.

The head of the Judicial Committee shall be serving judge of the Supreme Court. Of the other two members, one should be a serving member of the Supreme Court or a High Court and another one may be an eminent jurist.

The Judge in question has the right to defend himself or through his counsel before the Judicial Committee.

The Parliament may or may not act upon the report of the Judicial Committee.

If the Judicial Committee fail to establish proof of misbehavior or incapacity, the Parliament cannot take up the motion.

If the motion is passed by the originating House with the required majority, it moves to the other House which should also pass the motion with the same majority.

After that it goes for the assent of the President in the same session of the Parliament. If the address has been passed, then the President removes the judge in question from the House.

#### **Salaries of Judges :**

Article 125 empowers parliament to determine, by law, the salaries etc. of the judges.

The chief justice gets a salary of Rs. 1,00,000 per month (Rs. 2,80,000).

A judge of Supreme Court gets a salary of Rs. 90,000 per month (Present Rs. 2,50,000).

Chief justice and justice are entitled to pension.

The salaries of the judges and other expenses of the supreme court are charged on the consolidated fund of India.

Initially, there was a Chief Justice and 30 other judges in the Supreme Court. At present there is one Chief Justice and 30 other judges in the Supreme Court. The power to alter the number of judges in Supreme Court rests with the Parliament.

#### **Vacancy and Ad-Hoc appointments :**

In case of any vacancy in the office of the chief justice of India the president is to appoint an acting chief justice from among the judges of the court to function as the chief justice.

The chief justice is free to appoint an ad-hoc judge in Supreme Court.

The chief justice may invite a retired judge of Supreme Court or a high court to act as judge in the supreme court. Previous consent of the president is required in the case of Ad-hoc appointments.

#### **Seat of Supreme Court**

The seat of supreme court of India in Delhi.

The court may hold its sitting elsewhere in India as per the chief justice's decision in consultation with the president. (Article 130)

#### **Independence/Privileges of Judges :**

The constitution of India has secured the independence of the judges in a number of ways.

The salaries of the judges are fixed and cannot be changed to their term (except during a financial emergency).

Their salaries are charged on the consolidated fund of India and hence, not votable.

Security of service is assured to the judges. They can be removed only on the grounds of proved misbehavior and incapacity.

The conduct of a judge of the Supreme Court is not to be discussed in parliament. Except when a motion for an address to the president for the removal of the judge.

The jurisdiction of the court can not be reduced by parliament.

### Jurisdiction of Supreme Court :

The constitution has secured the independence of the judges in a number of ways. The powers and functions of the Supreme Court can be studied under following heads.

- Original Jurisdiction
- Appellate Jurisdiction
- Advisory Jurisdiction

#### Original Jurisdiction :

- The function of the Supreme Court Article 131 are purely a federal and can originate with the supreme court alone. These disputes confined.
- ★ Between the government of India and one or more states.
  - ★ Between the government of India and any state or states and one side and one are other states on the other.
  - ★ Between two or more states.
  - ★ Inter-state water disputes
  - ★ Matters referred to the Finance Commission
- Adjustment of certain disputes as between the union and the states.

#### Appellate Jurisdiction :

The supreme court of India is the final and the highest appellate court in the country that the matter involves a substantial question of law (Article 133).

- ★ Civil matters
- ★ Criminal matters
- ★ Constitutional matters
- ★ Issue of Writs
- ★ Special leave to appeal

#### Advisory Jurisdiction (Article 143)

- Gives advices to President of India when he required.
  - But president is not bound act on its advice
- Misc. Powers of SC**
- Judgements of S.C applicable to all courts in India. But not applicable to himself.
  - Supreme Court has power to review its judgments.

### LIST OF CHIEF JUSTICES OF INDIA

Number	Name	Period of Office		Length of term (days)
1.	H.J. Kania	26 January 1950	6 November 1951	649
2.	M.Patanjali Sastri	7 November 1951	3 January 1954	788
3.	Mehr Chand Mahajan	4 January 1954	22 December 1954	352
4.	Bijan Kumar Mukherjee	23 December 1954	31 January 1956	404
5.	Sudhi Ranjan Das	1 February 1956	30 September 1959	1337
6.	Bhuvaneshwar Prasad Sinha	1 October 1959	31 January 1964	1583
7.	P.B. Gajendragadkar	1 February 1964	15 March 1966	773
8.	Amal Kumar Sarkar	16 March 1966	29 June 1966	105
9.	Koka Subba Rao	30 June 1966	11 April 1967	285
10.	Kailas Nath Wanchoo	12 April 1967	24 February 1968	318
11.	Mohammad Hidayatullah	25 February 1968	16 December 1970	1025
12.	Jayantilal Chhotalal Shah	17 December 1970	21 January 1971	35
13.	Sarv Mittra Sikri	22 January 1971	25 April 1973	824
14.	Ajit Nath Ray	26 April 1973	27 January 1977	1372

			21 February 1978	389
15.	Mirza Hameedullah Beg	28 January 1977	11 July 1985	2696
16.	Yeshwant Vishnu Chandrachud	22 February 1978	20 December 1986	526
17.	Prafullachandra Natwarlala Bhagwati	12 July 1985		940
18.	Raghunandan Swarup Pathak	21 December 1986	18 June 1989	181
19.	Engalaguppe Seetharamiah Venkataramiah	19 June 1989	17 December 1989	
20.	Sabyasachi Mukherji	18 December 1989	25 September 1990	281
21.	Ranganath Misra	26 September 1990	24 November 1991	424
22.	Kamal Narain Singh	25 November 1991	12 December 1991	17
23.	Madhukar Hirala Kania	13 December 1991	17 November 1992	340
24.	Lalit Mohan Sharma	18 November 1992	11 February 1993	85
25.	Manepalli Narayana Rao Venkatachaliah	12 February 1993	24 October 1994	619
26.	Aziz Mushabber Ahmadi	25 October 1994	24 March 1997	881
27.	Jagdish Sharan Verma	25 March 1997	17 January 1998	298
28.	Madam Mohan Punchhi	18 January 1998	9 October 1998	264
29.	Adarsh Sein Anand	10 October 1998	11 January 2001	824
30.	Sam Piroj Bharucha	11 January 2001	6 May 2002	480
31.	Bhupinder Nath Kirpal	6 May 2002	8 November 2002	186
32.	Gopal Ballav Pattanaik	8 November 2002	19 December 2002	41
33.	V.N. Khare	19 December 2002	2 May 2004	500
34.	S. Rajendra Babu	2 May 2004	1 June 2004	30
35.	Ramesh Chandra Lahoti	1 June 2004	1 November 2005	518
36.	Yogesh Kumar Sabharwal	1 November 2005	13 January 2007	438
37.	K.G. Balakrishnan	13 January 2007	11 May 2010	1214
38.	S.H. Kapadia	12 May 2010	28 September 2012	870
39.	Altamas Kabir	29 September 2012	18 July 2013	292
40.	P. Sathasivam	19 July 2013	26 April 2014	281
41.	R.M. Lodha	27 April 2014	27 September 2014	153
42.	H.L. Dattu	28 September 2014	2 December 2015	584
43.	T.S. Thakur	3 December 2015	Incumdent	
44.	J.S. Khehar	45 January 2017	August 2017	235
45.	Dipak Misra	28 August 2017	2 October 2018	400
46.	Ranjan Gogoi	3 October 2018	Incumbant (Till 17 November 21019)	212

## **2. State High Courts :**

The High Courts stand at the apex of the State's judicial administration, even though they form a part of the single integrated judicial system headed by the Supreme Court of India.

According to Article 214, there should be a High Court for each State.

Under the Constitution every State has a High Court which operates within the territorial jurisdiction of the State. However, the Parliament can set up common High Court for two or more States or Union Territories.

### **Composition of High Courts :**

Every High Court shall consist of Chief Justice and such other Judges as the President of India may from time to time appoint. Besides, the president has the power to appoint.

Additional Judges for a temporary period not exceeding two years.

An Active Judge, when a Permanent Judge of a High Court (Other than a Chief Justice) is temporarily absent or unable to perform his duties or it appointed to act temporarily as Chief Justice.

There is no maximum fix number of judges in High Courts.

### **Appointment of Judges (Art.214)**

The Chief Justice of High Court is appointed by the President based on recommendations of National Judicial Appointments Commission (NJAC)

Chief Justice of High Court is entitled to get salary of Rs. 90,000 (Now, 2,50,000) per month and Judge of High Court gets Rs. 80,000 (Now Rs. 2,25,000) per month.

### **Qualifications :**

A person to be qualified for appointment as Judge of a high court.

★ Must be a citizen of India, and

★ Must have held a judicial office for at least 10 years in the territory of India, or must have been an advocate of High Court for at least 10 years.

### **Tenure of Judges :**

A Judge of the High Court shall hold office until the age 62 years.

Every Judge, Permanent, Additional or Acting, may vacate his office earlier in any of the following ways :

★ By resignation in writing addressed to the President.

★ By being appointed a Judge of the Supreme Court or being transferred to any other High Court, by the President.

He can be removed only on the ground of proved misbehavior or incapacity to perform his functions by the President in the same manner like Supreme court judge.

### **The Jurisdiction of High Courts Original Jurisdiction:**

All Civil and Criminal cases (Admiralty, Will, Marriage, divorce, Company Laws and contempt of Court, they have original jurisdiction).

The presidency High Courts have original jurisdiction in which the amount involved is more than Rs. 2,000 and in criminal cases which are committed to them by the Presidency Magistrates.

Enforcement of Fundamental Rights of citizens.

### **Appellate Jurisdiction :**

All cases forwarded from sub-ordinate courts.

As Courts of appeal, all High Courts entertain appeals in civil and criminal cases from their subordinate courts as well as on their own.

They have, however, no jurisdiction over tribunals established under the laws relating to the armed forces of the country.

### **Writ Jurisdiction :**

Any violation of Fundamental Rights, High Courts may issue writs (Article 226). In exercise of this power, a High Court may issue the same type of Writs, orders or directions which the Supreme Court is empowered to issue under Article 32.

The jurisdiction to issue Writs under Article 226 is larger in the case of High Courts, for which the Supreme Court can issue them only where a Fundamental Right has been infringed. High Court can issue them not only in such cases, but also where an ordinary legal right has been infringed.

### **High Courts for Union Territories**

Parliament may by law constitute a High Court for a Union Territory or declare any Court in any such Territory to be High Court for all or any of the purposes of the Constitution (Article 241)

- The Punjab and Harayana High Court - High court for Chandigarh.
- Kerala High Court - High Court for Lakshwadweep
- The Calcutta High Court - H.C for Andaman and Nicobar Islands.

- The Madras High Court - High Court for Pondicherry.
- Bombay High Court - H.C. for Dadra and Nagar Haveli and Daman and Diu.
- Andhra Pradesh High court. For Telangana and Rayalaseema.
- Delhi has a separate High Court since 1966.

### HIGH COURTS IN INDIA

S. No	Name of the H.C & Year of establishment	Territorial Jurisdiction	Seat at	Bench (s) at
1.	Calcutta (1862)	West Bengal, Andaman & Nicobar islands	Calcutta	
2.	Bombay (1862)	Maharastra, Goa, Dadra & Nagar Haveli, Daman & Diu	Bombay	Nagpur & Panaji Aurangabad
3.	Madras (1862)	TN & Pondicherry	Madras	
4.	Allahabad (1866)	Uttar Pradesh	Allahabad	Lucknow
5.	Karnataka (1884)	Karnataka	Bangalore	
6.	Patna (1916)	Bihar	Patna	
7.	Jammu & Kashmir (1928)	J & K	Srinagar & Jammu	
8.	Orissa (1948)	Orissa	Cuttack	
9.	Guwahati (1948)	Assam, Nagaland, Mizoram and Arunanchal Pradesh	Gawhati	Imphal, Agartala, Kohima, Shillong and Itanagar
10.	Rajasthan (1949)	Rajasthan	Jodhpur	Jaipur
11.	Andhra Pradesh (1954)	Andhra Pradesh	Hyderabad	-
12.	Madhya Pradesh (1956)	Madhya Pradesh	Jabalpur	Indore and Gwalior
13.	Kerala (1958)	Kerala & Lakshdweeps	Earnakulam	
14.	Gujarat (1960)	Gujarat	Ahmedabad	
15.	Delhi (1966)	NCT of Delhi	Delhi	
16.	Himachal Pradesh (1966)	Himachal Pradesh	Simla	
17.	Punjab Haryana (1975)	Punjab, Haryana & Chandigarh	Chandigarh	
18.	Sikkim (1975)	Sikkim	Gangtok	
19.	Jharkhand (2000)	Jharkhand	Ranchi	
20.	Chattisgarh (2000)	Chattisgarh	Bilaspur	
21.	Uttarakhand (2000)	Uttarakhand	Nainital	
22.	Manipur (2013)	Manipur	Imphal	
23.	Meghalaya (2013)	Meghalaya	Shillong	
24.	Tripura (2013)	Tripura	Agartala	

# LOCAL SELF - GOVERNMENTS



- ☞ The idea of Local Government has undergone a transform through the 73<sup>rd</sup> and 74<sup>th</sup> constitutional amendment act, 1992.
  - ☞ These acts inserted Part IX (panchayats) and Part IX A (municipalities) in the Constitution respectively as well as XI<sup>th</sup> and XII<sup>th</sup> schedule respectively.
  - ☞ XI<sup>th</sup> Schedule contains 29 areas of work for the panchayats and XII<sup>th</sup> Schedule has 18 areas of work for the municipalities.
- Panchayatiraj System Balwant Rai Mehta Committee**
- ☞ In 1957, Balwant Raj Mehta Committee was appointed to examine the working of
  - ☞ Community Development Programme (introduced on October 2, 1952) and
  - ★ National Extension Service (1953)
  - ★ Balwant Rai Mehta committee submitted its report in November 1957 and recommended the establishment of Panchayati Raj Scheme. This scheme was then inaugurated by the Prime Minister Jawahar Lal Nehru on October 2<sup>nd</sup>, 1959. This scheme was first introduced district) and then in Andhra Pradesh in 1959.
  - ☞ Panchayat Raj scheme includes Three-tier system. The Three - tier system is,
  - ★ Gram Panchayats - at village level
  - ★ Panchayat Samits - at block level
  - ★ Zilla Parishad - at the district level

### Ashok Mehta Committee :

- ☞ However, in December 1977, Ashok Mehta Committee was appointed. It submitted its report in August, 1978 and suggested two-tier system in the place of three-tier system. It is
  - ★ Mandal Panchayts - at village level
  - ★ Zilla Parishad - at the district level

### Exception :

- ☞ Tamil Nadu adopted Two-tier system.
- ☞ West Bengal adopted Four-tier system
- ☞ Panchayatiraj is the biggest Community Development Programme in the world.
- ☞ State Election commission conducts free and fair Elections to panchayatiraj. Member at all levels elected by direct election.
- ☞ Term of panchayati raj is 5 years. However, it may be dissolved earlier on specific grounds.

### Mandal Panchayat :

- ☞ If the population of village below 50,000 it is called Mandal Panchayat.
- ☞ Mandal panchayat consists of president, vice-president and members.
- ☞ At Gram Samiti level the political executive is president.
- ☞ It's Ex-officio executive is Mandal Development officer/MPDO.

### Zilla Parishad :

- ☞ Zilla parishad council is the highest executive body at district level.

- It consists of all M.P's of Lok Sabha and Rajya Sabha, all MLA's and MLC's of district, Zilla Parishad chairman, all Samiti members, Co-operative members and district collector.
- District collector is non-voting member. He is the Ex-Officio Executive
- The political Executive at district level is Chairman.

#### Other Committees & Recommendations

G.V.K. Rao	Rural Development and Poverty Alleviation
Danthewalla	District Planning
L.M. Singhvi	Rennovation of Panchayat system

#### 73<sup>rd</sup> Amendment Act, 1992 :

- 1991 - P.V. Narasimha Rao govt. Rajya Sabha accepted the bill.
- 1993, After acceptance of 17 states, on 20<sup>th</sup> April, 1993 President of India signed on it.
- It gave constitutional status to Panchayati Raj system.
- After amendment, Panchayati Raj added to the 11<sup>th</sup> Schedule of the constitution .
- 29 items related to Panchayats are there in Article 243 (G)

#### Urban Local Governments

- In India, 8 types of Urban Governments are there. They are,
  - 1) Municipal Corporation
  - 2) Municipalities
  - 3) Notified Area Committees
  - 4) Town Area Committees
  - 5) Cantonment Boards
  - 6) Townships
  - 7) Port Trusts
  - 8) Special Agencies
- Urban Local Govt. was given constitutional status under 74<sup>th</sup> Amendment Act, 1992.
- Cantonment Boards are maintained under Defense Ministry.

The state governments effectively enjoy power in the holding of elections to all bodies. The 73rd and 74th amendments took away an option that the state governments previously had though it chose not to exercise it. And in politics, as in finance, options have value even if not ultimately exercised.

Until the passage of the 73rd and 74th constitutional amendments, the states were the only sub-national units officially recognized by the Indian constitution. As the constitution grants individual states considerable legislative autonomy.

Schedule Seven of the Constitution explicitly demarcates the respective legislative domains of the state legislatures and the national parliament. The functional areas over which the national parliament has exclusive domain are specified in List I, also called the "Union List".

Items on this list include among others defense, foreign affairs, currency, income tax, inter-state commerce, and key infrastructure. On the other hand, state legislatures have exclusive authority to enact legislation dealing with the items in List II, known as the "State List".

Included in this list are items such as law and order, public health, agriculture, wealth distribution, land tenure and land reforms, and most notably in the current context, functions of local governments.

List III, the "Concurrent List" includes items such as electricity, newspapers, education, price controls, etc., over which the national parliament and the state legislatures share jurisdiction.

- The legislative origins of the 73rd and 74th constitutional amendments date back to the Constitution (64th Amendment) Bill, which was introduced in the parliament in July 1989. The introduction of this bill represented the first attempt to confer constitutional status on rural local governments.
- Though the bill's broader aim of revitalizing rural local government was greeted favorably, some of the details were criticized and the bill was ultimately defeated in the Rajya Sabha. It is worth noting that the main criticism leveled against the bill was that it offered the states little discretion in the design of local government reforms.
- The 73rd and 74th constitutional amendments were introduced in parliament in September, 1991 by the government of Prime Minister Narasimha Rao of the Congress(I) Party in the form of two separate bills: the 72nd Amendment Bill for rural local bodies (also known as Panchayats) and the 73rd Amendment Bill for municipalities.
- They were referred to a Joint Select Committee of Parliament and were ultimately passed as the 73rd and 74th Amendment Bills in December, 1992. After the bills were ratified by the state assemblies of more than half the states, the President gave his assent on April 20, 1993.
- The amendments were then officially enacted through the issuance of government notifications the Constitution (73rd Amendment) Act, 1992 (commonly referred to as the Panchayati Raj Act) went into effect on April 24, 1993, and the Constitution (74th Amendment) Act, 1992 (the Nagarpalika Act), on June 1, 1993.
- With local governments being a state subject in Schedule Seven of the constitution, any legislation reforming the structure of local government has to; ultimately, be enacted at the state level.
- The first task of the states was therefore to pass conformity acts, which either introduced new legislation or amended existing legislation, to bring the state laws into line with the provisions of the amendment. Under the amendments, states had a year, from the date the amendment went into effect, to do so.
- Because the amendments contain both mandatory and discretionary provisions, the degree of flexibility afforded the states in this task varied with the provision in question.
- The distinction between mandatory and discretionary provisions is embodied in the specific language adopted in the Acts and carried over into the newly inserted articles of the Constitution.
- The mandatory provisions were those that contain the word "shall" in referring to the steps that individual states needed to take.
- In the discretionary provisions, on the other hand, the word "may" figures prominently. And so, while many of the discretionary provisions laid out a vision and created a space for individual states to legislatively innovate in reforming local government, ultimately, the design and scope of particular reforms was left to the discretion of individual state legislatures.
- Of the mandatory provisions of the Panchayati Raj Act, the most critical are those that strengthen the structure of representative democracy and political representation at the local level.

### **The key mandatory provisions are:**

The establishment in every state (except those with populations below 2 million) of rural local bodies (panchayats) at the village, intermediate and district levels (Article 243B)

- I. Direct elections to all seats in the panchayats at all levels (Article 243C)
- II. Compulsory elections to panchayats every five years with the elections being held before the end of the term of the incumbent panchayat in the event that a panchayat is dissolved prematurely, elections must be held within six months, with the newly elected members serving out the remainder of the five year term (Article 243E)
- III. Mandatory reservation of seats in all panchayats at all levels for Davits and Advises in proportion to their share of the panchayat population (Article 243D)
- IV. Mandatory reservation of one-third of all seats in all panchayats at all levels for women, with the reservation for women applying to the seats reserved for Davits and Advises as well (Article 243D)
- V. Indirect elections to the position of panchayat chairperson at the intermediate and district levels (Article 243C)
- VI. Mandatory reservation of the position of panchayat chairperson at all levels for Davits and Advises in proportion to their share in the state population (Article 243D)
- VII. Mandatory reservation of one-third of the positions of panchayat chairperson at all three levels for women (Article 243D)

VIII. In addition, the act mandates the constitution of two state-level commissions: an independent election commission to supervise and manage elections to local bodies, much as the Election Commission of India manages state assembly and parliamentary elections (Article 243K), a state finance commission, established every five years, to review the financial position of local bodies and recommend the principles that should govern the allocation of funds and taxation authority to local bodies (Article 243L).

Two other points need to be mentioned. The first is that while, for the most part, the 73rd Amendment act deals with urban local bodies, a key article contained in that amendment applies to rural local bodies as well. The article in question, Article 243M, mandates the constitution of District Planning Committees to consolidate the plans prepared by both rural and urban local bodies. In order to facilitate a well-planned usage of available resources, Panchayats and municipalities should be informed as early as possible of what they might be expected to receive by way of tied and untied funds under various budgetary heads for implementation of various schemes.

This is an essential pre-requisite for each of the Panchayati Raj system to prepare plans for its areas of responsibility, as done through Activity Mapping, and then have these plans, along with plans of municipalities, to be "consolidated" by the District Planning Committees (DPC) as mandated by Article 243ZD of the Constitution.

It needs to be underlined that the Constitution does not provide for DPCs to prepare plans on their own, but to "consolidate" area plans drawn up at lower tiers in both rural and urban areas of each district. A different provision of the Constitution covers the planning for Metropolitan areas.

## Public Policy:

- ④ Public policy is the principled guide to action taken by the administrative executive branches of the state with regard to a class of issues, in a manner consistent with law and institutional customs. There has recently been a movement for greater use of evidence in guiding policy decisions. Proponents of evidence-based policy argue that high quality scientific evidence, rather than tradition, intuition, or political ideology, should guide policy decisions.
- ④ The foundation of public policy is composed of national constitutional laws and regulations. Further substrates include both judicial interpretations and regulations which are generally authorized by legislation. Public policy is considered strong when it solves problems efficiently and effectively, serves and supports governmental institutions and policies, and encourages active citizenship.
- ④ Other scholars define public policy as a system of "courses of action, regulatory measures, laws, and funding priorities concerning a given topic promulgated by a governmental entity or its representatives."
- ④ Public policy is commonly embodied in "constitutions, legislative acts, and judicial decisions."
- ④ In the United States, this concept refers not only to the result of policies, but more broadly to the decision-making and analysis of governmental decisions.
- ④ As an academic discipline, public policy is studied by professors and students at public policy schools of major universities throughout the country. The U.S. professional association of public policy practitioners, researchers, scholars, and students is the Association for Public Policy Analysis and Management.

## Government Actions and Process:

- ④ Public policy making can be characterized as a dynamic, complex, and interactive system through which public problems are identified and countered by creating new public policy or by reforming existing public policy.
- ④ Public problems can originate in endless ways and require different policy responses (such as regulations, subsidies, import quotas, and laws) on the local, national, or international level.
- ④ Government holds a legal monopoly to initiate or threaten physical force to achieve its ends.
- ④ Public policy making is a continuous process that has many feedback loops. Verification and program evaluation are essential to the functioning of this system.
- ④ The public problems that influence public policy making can be of economic, social, or political nature.
- ④ Each system is influenced by different public problems and issues, and has different stakeholders; as such, each requires different public policy.
- ④ In public policy making, numerous individuals, corporations, non-profit organizations and interest groups compete and collaborate to influence policymakers to act in a particular way.
- ④ The large set of actors in the public policy process, such as politicians, civil servants, lobbyists, domain experts, and industry or sector representatives, use a variety of tactics and tools to advance their aims, including advocating their positions publicly, attempting to educate supporters and opponents, and mobilizing allies on a particular issue.