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## Indian Government and Politics

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# **Unit I Nature of the Constitution**

## **Learning Objectives:**

This unit devotes discussion on the nature of the Constitution of India. After studying this unit, you should be able to understand:

- Historical backgrounds of the Indian Constitution.
- Making of the Constitution and role of the Constituent Assembly
- Salient main features of the Indian Constitution.
- Preamble, Parliamentary democracy, Secularism, Socialism, Federalism, Fundamental Rights, Fundamental Duties and Directive Principles of State Policy

## **Structure:**

- 1.1 Introduction
- 1.2 Historical Backgrounds of the Indian Constitution
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## **1.1 INTRODUCTION**

Constitutions are the base of governance in all modern states. A constitution tries to establish a governmental framework based on a set of fundamental values. The Indian Constitution is referred to as the supreme law of the country. It is a dynamic document and is growing according to the needs of the society. A Constituent Assembly draughts the Indian Constitution based on the Cabinet Mission Plan's proposals. The Constitution of India, like previous written constitutions, opens with a Preamble, which serves as the Constitution's political horoscope. It is the longest written constitution having main features like Parliamentary Democracy or Parliamentary Form of Government, Secularism, Socialism, Federalism, Fundamental Rights, Fundamental Duties, State Policy Directive Principles, and so on.

## **1.2 HISTORICAL BACKGROUNDS OF THE INDIAN CONSTITUTION**

On 31 December 1600 the British East India Company established in London under a royal charter granted by Queen Elizabeth came to India for the purpose of trading. By 1690 the company had gained a strong foothold in India and their business had prospered. In order to obtain greater concessions for their trade The company's officers strewn a vast net of corruption and intrigue over India. Within a very short period the company could establish new industries and fortified themselves. After the demise of Aurangzeb, the Mughal Emperor, in 1707, the firm cleverly exploited internal division and discontent among India's princes for its own gain.

In the Plassey Battle of 1757, Lord Clive defeated Nawab Siraj-ud-Daula. Again in 1764 Mir Kasim suffered defeat in the war of Buxar. This gave the whole of Bengal to the company. The Battle of Plassey, in 1757, in a sense, set the groundwork for the British Empire in India. By the year 1858, the whole of India was under the rule of the Company. Odisha was conquered by the Britishers in 1803. In 1817 the Paikas of Khurda were organised under the leadership of Buxi Jagabandhu Bidyadhar Bhramarbar Mohapatra and revolted against the oppressive policy of the company. This upsurge is known as "Paika Bidroha." Although the revolution was suppressed, it had frightened the Britishers. Forty years after this revolution in 1857 another revolution took place in India which was started by the Indian Sepoys in the British troop. This is known as the great Sepoy Mutiny and was the first war of Indian independence.

It was unfortunate that the 1st war of Indian Independence was crushed. According to legend, between 1757 and 1857, there was not a single conflict fought between the British and the Indians in which the British army was on one side and the Indian army on the other, and the British won. There were a lot of these kinds of engagements, but the British were always defeated in them. It was usually a battle in which a portion of the Indian army joined the British side and attacked their own countrymen when the British won a battle. The Indians captured their nation with

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their own sword and ceded it to the British, rather than the British invading it with their sword., is undeniable but shameful. Conquest was entirely the fault of the conquered.

The imperialist attitude of the company and the British government was to plunder India and to put it into perils of colonial exploitation. Rather than the British entering with their sword, the Indians captured their country with their own sword and ceded it to them. Leaders like S. N. Banerjee, G. K. Gokhale, and Dadabhai Naoroji maintained a liberal view but Lala Lajpat Rai, Bal Gangadhar Tilak, Bipin Chandra Pal and Aurobindo Ghosh went to great lengths to turn the Congress into a mass movement.

Mahatma Gandhi after his return from South Africa provided a functional and forceful leadership to the Congress. After 1920 movements like Khilafat Movement, Non-cooperation, civil disobedience, and the Quit India movement have all been successful. People from all walks of life and from every nook and corner of the country joined the movements, courted arrest, suffered tortures, lost properties and lives too. Britishers tried to foil the nationalist movements in India, but failed. They however could succeed to divide India on communal lines.

### **End of Company Rule and Constitutional Development**

The 1857 upsurge was suppressed no doubt, but could make the rulers of England understand the essence of the revolt. They put all kinds of efforts but failed to hinder the progress of Indian nationalism. The British Parliament enacted a Legislation, known as the Government of India Act of 1858 gave the British Crown control over India, transferring it from the company. This Act ended the company rule in India.

In order to pacify the agitated Indians the British government took up the policy of appeasement and passed Indian Council Act, 1861 and 1892 assuring participation of Indians in the administration. But the promises were not kept. Indian Councils Act, 1909 proposed a process of decentralisation but introduced communal representation to strike the growth of nationalism at its root. The British Government in August 1917 announced its desire to associate Indians in the process of administration after the 1st world war. The war ended in 1918 and in 1919, the Government of India Act was passed. This also disappointed the Indians and the Act was not accepted. The provisions of dyarchy in the Act were resented to.

Gandhiji capitalised the dishonour of the Khalifa of Turkey and the ruthless massacre of Indians at Jallianwala Bagh by the British rulers and called for mass movement to protest.

Indian National Congress in 1920 resolved to launch Non Co-operation Movement under the leadership of Gandhiji. Gandhiji declared that the basis of the movement will be non-violence and truth. The movement not only achieved unprecedented success, it could put tremendous moral impact on the whole world.

In 1927, a statutory commission led by Sir John Simon travelled to India to submit a report to the government on the execution of the 1919 Act. Congress

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boycotted the commission. Congress decided to declare Indian Independence unilaterally from 26 January, 1930. On March 12, 1930, Gandhiji led a march to Dandi to protest the British Salt Act. The Civil Disobedience Movement put the government under pressure.

On the basis of the Simon Commission's report and due to pressure of the movements in India, the British government enacted 1935 Act of the Government of India. This Act was also not found acceptance to the Indian National Congress.

The 1935 Act was used to hold elections to the provincial legislature. The Indian National Congress was elected to power in eight regions. When World War II broke out in 1939, the British government declared India's participation in the conflict without consulting the Indian government. Indian National Congress opposed it and finally on August 1942 announced the Quit India Movement. Gandhiji's clarion call to Do or Die echoed through out the territory of India. Millions of people including all the leaders were put behind the bars, but the movement continued even without leaders. Netaji Subhash Chandra Bose's military operation also threatened the British government.

Sir Stafford Cripps came to India in a mission but could not be able to convince the Indian National Congress. The mission was also condemned by the Muslim League. There was a tremendous international pressure on the British government to grant India freedom. Internally also the British government was tired of the nationalist upsurge in India. There was a change in the government in England after the second world war. All these factors created congenial atmosphere for the Indians to get freedom. The Cabinet Mission was sent in 1946 to India to suggest administrative reforms.

On 15 August 1947, India was declared an independent state. A new state Pakistan was carved out of India.

### **1.3 CONSTITUENT ASSEMBLY**

On 15 March 1946, the Cabinet Mission visited India and made the following recommendations during their stay: (a) organise a Constituent Assembly; and (b) construct an interim government.

The Cabinet Mission suggested a plan for election to the Constituent Assembly. It should somehow represent the people and yet it had to be called at the earliest without the delay entailed by a direct election. Hence The provincial legislatures agreed that the Constituent Assembly would be selected in a roundabout way. As per the plan, (i) British India's provinces were divided into three groups, A, B, and C, (ii) each province was assigned a seat depending on its population, one member per million; and (iii) the seats allotted to a Province were divided among three communities, Muslims, Sikhs, and Hindus, in order of their numbers, and others who were not Muslims and Sikhs, (iv) representatives from each village were to elect them in their local legislative assemblies, (v) the Indian states were also to be given adequate representation on which was to be determined

in consultation with the State. The Constituent Assembly's strength, according to the Mission Plan, was as follows:

General Seats	Muslims	Sikhs	Total
210	78	4	292

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The elections for the Constituent Assembly took place in July 1946. In the general election, 202 of the 210 seats were won by the Indian National Congress, while the Muslim League got 73 of the 78 seats reserved for Muslims. Since the Cabinet, Muslims and Sikhs, the Congress Party sent directives to the Provincial legislatures to include representatives of Anglo-Indians, Christians, Parsees, Backward Classes and Women. Thus, all these section found representations in the Constituent Assembly. Finally, following the elections, the Constituent Assembly featured people who would have been good ambassadors for any organisation. The summit was attended by prominent Congress Party officials such as Nehru, Patel, Pant, Rajendra Prasad, K.M. Munshi, and C. Rajagopalachari, as well as prominent statesmen, journalists, and academics, eminent lawyers like T.T. Krishnamachari, Alladi Krishnaswamy Iyer and Gopaldaswamy Ayyangar were active members of the Constituent Assembly. Learned public men like H.V. Kamath, H.N. Kunzru, K.T. Shah, and K. Santhanam, B. Shiva Rao were among those who made a lasting impression on the deliberations of the Constituent Assembly. Dr. Radhakrishnan, philosopher statesman was also a member. One man, who guided the deliberations of the Constituent Assembly and left an indelible mark on the Indian Constituent Assembly, was Dr. B.R. Ambedkar. Thus, there was no doubt that the Assembly was as widely representative of various interests and different communities as was possible at that time.

### Withdrawal of the Muslim League

The Muslim League declined to take part in the discussions of the Constituent Assembly on December 9, 1946. By that time, there had been a major increase in demand for Pakistan, and Jinnah was certain that the British would have to give in to his demands. In June 1947, the British government declared that the Constituent Assembly's work would not be interrupted, but that no area of the country would be forced to recognise it, thereby, anticipating partition. Before the Muslim League boycotted the Constituent Assembly, the Congress constituted 60 per cent of the members and after the withdrawal of the League 82 per cent of the seats was held by the Congress and hence it was taken as a Congress Constituent Assembly. The Congress dominated the Constituent Assembly throughout. It would be right to say that the Indian Constitution was drafted by a one party assembly and majority of the choices were made outside of the assembly forum, in party circles. It is safe to say that the best men of the day gathered to discuss the future Indian Constitution.

### The Work of the Assembly

The assembly met on 9 December 1946 when Sir Sachidanand Sinha its oldest member acted as President. Rajendra Prasad was later elected as the Constituent Assembly's permanent Chairman. A number of committees were formed by the Constituent Assembly. There were primarily two sorts of committees: procedural

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committees and substantive committees. There were 10 procedural affairs committees, including a rules of procedure committee, a training and staff committee, a credentials committee, and a Hindi translation committee, among others. There were 12 committees on substantive affairs, some of which were (1) committee for the states, (2) Advisory Committee on a variety of issues, including Fundamental Rights and Minorities, (3) Union Powers Committee, (4) provincial Constitution Committee, (5) commission on linguistic provinces and (6) drafting committee etc.

Many of these committees were chaired by Nehru, Patel, Prasad, and Azad, who were joined by notable lawyers such as Gopaldaswamy Ayyangar, Pattavhi Sitaramaiaya, K.M. Munshi, Ambedkar, Alladi Krishnaswamy Iyer, and Satyanarayana Sinha. They were the glue that held the numerous committees together. The committees presented their reports, which the Assembly discussed and debated at the plenary session and arrived at the decisions. Most of the decisions were unanimous. There were, on the whole eleven plenary sessions, the second plenary session held in January 1947 accepted a proposal by Rajendra Prasad that the Constitution should be written both in Hindi and English. The objectives resolution, which was to form the basis of the new constitution, was also passed in this session. The objectives resolution contains the fundamental foundations of the constitution, as well as the political principles that should guide debates. The following were the main points of the resolution:

1. India must be sovereign, independent, and republican.
2. That it will be a democratic union in which all constituent parties have equal self-government.
3. The people gave the Union Government and the governments of the component portions complete power and authority.
4. That the constitution must seek to establish and guarantee just social, economic, and political equality for all individuals, as well as equality of opportunity and equality before the law.
5. That everyone's right to freedom of opinion, expression, religion, faith, worship, vocation, association, and action should be respected.
6. That minorities, backward and tribal peoples, and others have just rights in the constitution so that they can participate equally in social, economic, and political justice.
7. To draught a constitution that guarantees India's proper place in the international world.

All of these objectives are outlined in the Indian Constitution's Preamble.

Another resolution passed at the same session asked for redistribution of provinces to establish a homogeneous body based on linguistic, cultural, administrative, and economic criteria.

The assembly considered the report given by the Union Power Committee at its third plenary session, which took place from April 28 to May 2, 1947. The

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assembly accepted the recommendations of the committee that defence, foreign relations and finance should be vested in the Union. The Fundamental Rights Committee recommended the division of the rights to two parts as (a) justiceable and mandatory, and (b) non-justiceable and declaratory.

A special session of the Constituent Assembly was held at mid-night on 14-15 August 1947 in connection with transfer of power. The Constituent Assembly approved the report of the committee on the assembly's future operations. It became a law-making body as well as a body that framed the constitution. The two projects were supposed to be completed on different days. As a result, the Constituent Assembly became India's first Parliament and continued in that capacity till the first general election in 1952.

The Assembly, according to resolution of 29 August formed a drafting committee to develop a constitution based on the choices reached on the various committees' recommendations. Dr B.R. Ambedkar was the Chairman of Committee and he was ably assisted by seven other among who were N. Gopalaswamy Ayyangar, Alladi Krishnaswamy Iyer, K.M. Munshi, Mohammad Sadullah, and T.T. Krishnamachari. Sir B.N. Rao; who was the constitutional advisor to the Government of India, also assisted the drafting committee. The Report of Drafting Committee was submitted on 21 February 1948 allowing reasonably long opportunity for consideration to the public, the press and provincial legislatures. The proposed Constitution was presented to the Constituent Assembly for general discussion on November 4, 1948. On October 17, 1949, the Constituent Assembly completed the second reading of the proposed constitution. There were 7,635 amendments filed, but only 2,473 were moved and considered. The Constituent Assembly finally ratified the constitution on November 26, 1949, when the President signed it and declared it passed. The Constituent Assembly's final session ended on January 24, 1950 and elected Dr. Rajendra Prasad as India's first President. On January 26, 1950, the Constitution went into force. Constituent Assembly's task was over, after having worked for a long period of 2 years and eleven months. The date was chosen specially because following the vote of the Lahore Session of the Congress (Dec. 1929) to demand Complete Independence, the first Independence Day was observed on this day in 1930.

### **1.4 PREAMBLE OF THE INDIAN CONSTITUTION**

The Indian Constitution opens with a preamble that defines the nature of the Indian state and the aims that all citizens must achieve. It also contains information about the principle of popular sovereignty and the date on which the Constituent Assembly passed the Constitution. The most essential element of the Constitution is the preamble; it is the document's heart and soul, and it is essential to comprehending it. It's a priceless gem that's been enshrined in the Constitution. It is an appropriate criterion for determining the Constitution's worth.

The preamble of the Constitution reads that "WE THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN, SOCIALIST, SECULAR, DEMOCRATIC REPUBLIC and to secure all its citizens;

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JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship.

EQUALITY of status and opportunity, and to promote among them all;

FRATERNITY assuring the dignity of the individual and unity and integrity of the nation.

Do thus ADOPT, ENACT, and GIVE OURSELVES THIS CONSTITUTION in Our Constituent Assembly on the twenty-sixth day of November, 1949.

The phrases “Socialist” and “Secular” were not included in the Preamble at the time. The 42nd Amendment Act of 1976 adds these two words to the Preamble. The same revision changed ‘Unity of the Nation’ to ‘Unity and Integrity of the Nation’ in the Preamble.

### Features of the Preamble

#### 1. The Source of the Constitution

The phrase “WE THE PEOPLE OF INDIA” denotes that the people of India are the ultimate power in the country. It’s a powerful proclamation of people’s power. The constitution of India was drafted by the Indian people. The people do this through the Constituent Assembly.

#### 2. Nature of the State

The Preamble throws light on the nature of state or the types of Government in India.

- (a) **Sovereign state:** India is a sovereign state. So, it is internally supreme and externally independent. So, India is free from external control and Supreme in Internal affairs. India’s membership in the Commonwealth of Nations and the United Nations Organization has no bearing on her sovereignty.
- (b) **Socialistic State:** The Constitution also emphasised the need of established a socialist society by placing emphasis on social, economic and political justice by including specific To this end, state policy directives are in place. The Indian government is legally obligated to bring about socioeconomic improvements in order to provide a good life for all citizens.
- (c) **Secular State:** The preamble declares India as a secular state. India is neutral in religious matters and has no such thing as a state religion. All religions are treated equally in India. All citizens of India are free to profess, practise any religion. Secularism is a part of the constitution’s essential foundation.
- (d) **Democratic State:** India is declared a democratic state in the preamble. As a result, the government is led by the people’s elected representatives. All political executives starting from the President of India to “Panch” of Gram Panchayat are elected for a definite period. India is a democratic country governed by a Parliamentary system.



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- (e) **Republic:** The Preamble declares India as a Republic, which implied that the highest executive authority in India is vested in a person who shall be either directly or indirectly elected by the people. It means the Preamble does not envisage the rule of a hereditary monarch or a dictator. As a result, India's President has been elevated to the position of head of state. He is elected for a five-year term.

### 3. Objectives of the Constitution

The Preamble lists a number of important purposes and objectives that the Indian state should strive for. Both the government and the people of India have a responsibility to work toward these objectives. The main objectives emphasised in the Preamble include Justice, Liberty, Equality and Fraternity.

- (a) **Justice:** As India was subjected to injustice of all kinds – political, economic and social under the British Rule, the Preamble naturally insisted on the need of providing justice to the people of India in the political, social as well as economic spheres.
- (b) **Liberty:** The second objectives emphasised in the preamble is Liberty of thought, expression, belief, faith and worship.
- (c) **Equality:** The third objective emphasised by the Preamble is related to equality of status and opportunity. All the citizens are assured equality under Articles 14 to 18 and no discrimination is made in political, economic or legal field on the basis of the status of a person.
- (d) **Fraternity:** The Preamble promises to establish a fraternity or common brotherhood in which the dignity of the individual exists. The preamble also emphasises the need of preserving the unity and integrity of the country.

### 4. Date of Adoption

The Constituent Assembly adopted, enacted, and presented this constitution to the people on November 26th, 1949, according to the last section of the Constitution.

As a result, the Indian Constitution's preamble cites the Constitution's sources. It's a fundamental to understanding the mindset of the Founding Fathers. It is the most essential note in the Constitution. It establishes the constitution's foundation.

## 1.5 MAIN FEATURES OF THE CONSTITUTION

A close analysis of the constitution of India reveals that it contains the following salient features.

1. **Longest Written Constitution in the World:** The first distinguishing element is that the Indian Constitution is written. It is the world's longest and most detailed written constitution. There are 395 articles and 12 schedules in total. The Constitution of the United States is divided into 22 sections. It's enormous in size.

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**2. Balance between Rigidity and Flexibility:** The method for amending the Constitution is outlined in Article 368 of the Constitution. There are three ways to alter the Constitution.

- (a) A simple majority in both Houses can change some provisions of the Union Parliament.
- (b) Modifying certain statutes requires a majority of the total membership in each House of Parliament, as well as a majority of not less than two-thirds of the members present and voting in each House.
- (c) Certain categories of amendments require special majority in the both houses and ratifications by the Legislatures of at least one half of the states.

Thus, it neither flexible like the Constitution of Great Britain nor rigid like the Constitution of USA. It is a mixture of flexibility and rigidity.

**3. Democratic State:** The constitution is a document created by the people for the people. According to the text, India's sovereignty is also vested in the Indian people. The people of India hold all of the government's authority. The people can make and unmake the government. It is democracy to which the constitution of India is committed. All the governing institutions such as Gram Panchayat, Municipalities, the State Legislature and the Union Parliament are composed of the peoples representatives directly elected by the people. No policy of the state can be framed or executed without the will of the people. We have therefore made India a Popular Democratic State.

**4. An Integrated and Independent Judiciary:** In India, there is a single system of judiciary and there is uniformity in fundamental laws civil and criminal. The judiciary is organised in a hierarchical manner. The Supreme Court is at the pinnacle of the legal system. Furthermore, the judiciary is independent of the executive and legislative branches.

**5. Single Citizenship:** The Indian Constitution provides single citizenship. It declares that all Indians, regardless of their place of origin or domicile, are guaranteed to civil and political rights throughout India, including all constituent states and union territories. It's a huge step toward creating a more integrated Indian society.

**6. Emergency Provisions:** Another element of the Indian Constitution is that in the event of a national emergency, the President of India is granted extraordinary powers. The constitution envisages three types of emergencies viz, National Emergency (Art-352), Constitutional Emergency (Art-356) and Financial Emergency (Art-360) to be declared by the President of India to deal with the emergent situations.

**7. Universal Adult Franchise:** India is the biggest democracy as it possess the largest electoral machinery in the world. Article 326 of India's Constitution guarantees universal adult suffrage.

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- 8. Republicanism:** Republic is a commonwealth or a state in which the supremacy of the people or its elected representatives is formally acknowledged. There is no hereditary head. India accepts republicanism. We have followed the British Pattern of government no doubt, but we have not accepted the principles of rule by heredity. Our state's leader (India's President) is elected by the people and is, to some extent, accountable to them. He/she is elected for a period of five years after which he gets away and some body is to fill up the vacancy after being elected by the people through the procedure prescribed in the constitution.
- 9. Judicial Review and Judicial Activism:** The Indian Constitution is the country's supreme law. The Supreme Court is the Constitution's keeper, interpreter, and protector. The utilisation of judicial review authority is used to accomplish this. The Supreme Court employs it to assess the validity of all legislative and executive activities. It has the authority to declare *ultra vires* any law passed by legislatures or any executive action that is in violation of the constitution. The High courts also exercise this power.

Currently, Judicial Activism is a new feature of the Indian Judicial System. It has been becoming more and more active towards the performance of its social obligations. Particularly safeguarding the rights and freedom of the people.

### 1.5.1 Parliamentary Democracy

At both the national and state levels, the Indian Constitution established a Parliamentary system of government. The executive's entire and ongoing accountability to the legislature is the most defining feature of a Parliamentary system of government. Parliamentary democracy in India is modelled like British Parliamentary democracy. The President of India, like the Queen of England, is a constitutional ruler and the Council of Ministers, which has true executive authority, is led by the Prime Minister. Members of the Council of Ministers, who have true executive authority, are elected by the Lok Sabha and serve for as long as the Lok Sabha trusts them. The Prime Minister, who is also the chief executive, leads the Cabinet, which is made up of his senior colleagues who share responsibility for the government's policy creation and execution with him.

Under the Indian parliamentary democracy. Head of the state i.e. president of India. Occupies a position of great dignity, but practically all authority normally vested in him, is exercised by the council of ministers headed by the Prime Minister which assume full responsibility for acts performed in his name. The unity and collective responsibility of the cabinet are achieved through the Prime Minister, who is the key-stone of the cabinet arch. The chief characteristics of a Parliamentary democracy i.e. the existence of a nominal head and the real executive, collective responsibility of the council of Ministers, Ministerial responsibility, Link between the real executive and the Legislature, Leadership of the Prime Minister are found in Indian democracy.

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Along with these features of Parliamentary government, the Constitution of India also contains certain features which are generally found in a Presidential system. Thus, the President can send message to either House of Parliament, whether with respect to a bill then pending in Parliament or otherwise and the House is under an obligation to consider it as early as convenient. A non-money law can be returned to Parliament for reconsideration by the President. If a Minister makes a decision that the Council of Ministers does not consider, he might request that the Prime Minister present a proposal to the Council of Ministers for consideration. It may be observed that under the Parliamentary system prevailing in Britain such rights are also vested in the Queen, but they have not been used for almost two centuries. The incorporation of these provisions in the Constitution of India has no meaning unless they were meant to be used. However, these provisions are to be used only under special circumstances and hence do not in any way affect the Parliamentary character of Constitution.

### 1.5.2 Secularism

Another characteristic of the Indian Constitution is that it establishes India as a secular state. The word 'secular' was added to the Preamble of the Constitution by the 42nd Amendment of 1976. Religious freedom has been guaranteed to the people of India since the Constitution's inception and the State accorded equal treatment to all religions without showing preference for any particular religion. Though 'secularism' was quite clearly implied in the Constitution, the inclusion of the word 'secular' in the Preamble is significant insofar as it accorded constitutional sanctity to secularism, which was otherwise an established fact.

A secular state is neither religious, irreligious, nor anti-religious; rather, it is religiously neutral because it is free of religious dogmas and practises.

The essential principles of secularism are enshrined in the following Articles of the Constitution.

The following Articles of the Constitution enshrine the essential foundations of secularism.

**Preamble:** The word 'secular' was added in the Preamble by 42nd Amendment Act, 1976.

**No State Religion:** In India, there will be no such thing as "state religion." The state will not establish its own religion or grant any special privileges to any faith:dom.

- (i) As a result, the state will not force any citizen to pay taxes in order to promote or preserve any religion or religious institution (Article 27)
- (ii) No religious instruction will be provided in any educational institution that receives all of its funding from the government (Article 28).

**Freedom of Conscience:** Every person has the right to religious liberty, which includes the ability to profess, practise, and spread one's own beliefs.

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**Freedom to Manage Religious Affairs:** Not only does each person have the right to preach, practise, and spread their religion, but so does every religious group or denomination;

- (i) establish and maintain religious and charitable institutions,
- (ii) administer its own religious affairs,
- (iii) own and acquire movable and immovable property, and
- (iv) administer such property in conformity with the law.

**Equality before Law**

- (i) Article 14 ensures that all citizens are treated equally in the eyes of the law and are afforded equal protection under the law.
- (ii) Article 15 broadens the definition of secularism by forbidding discrimination on the basis of religion, race, caste, sex, or place of birth.
- (iii) Article 16 guarantees equal access to public job opportunities for all people.

The constitution clearly guarantees equality in all matters to all individuals and groups, regardless of faith, underscoring the fact that the state is devoid of religion.

According to D.D. Basu, “The sum total of the above provisions make our state more secular than even the USA.” In fact, religious freedom is the cornerstone of Indian secularism. The Indian Constitution clearly embodies the concept of a secular state, and it is being implemented in a significant way.

**1.5.3 Socialism**

The Preamble of the Constitution of India declared India as a socialistic state. The term ‘socialist’ was added in the Preamble by the 42<sup>nd</sup> Amendment in 1976. Though the original constitution did not use the term ‘socialist’ in the Preamble, yet the Congress Government had come to accept the principle of socialism and had been consistently working for the establishment of a socialistic pattern of society since the Avadi Session. Further, the Constitution also emphasised the need of establishing a socialist society by placing emphasis on social, economic and political justice by including specific Directive Principles of State Policy to this effect. The majority of Directive Principles are aimed at forming a socialist welfare state.

- (a) The government must ensure that all citizens, men and women, enjoy adequate living conditions.
- (b) To secure equitable distribution of national wealth with a view to ensure common good.
- (c) Managing the economy such that wealth and productive resources are not concentrated.
- (d) Equal pay for equal work is a goal shared by both men and women.

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- (e) To safeguard children and adolescents from exploitation, as well as moral and material abandonment.
- (f) To make appropriate and humane working conditions, as well as maternity leave, a reality.
- (g) To ensure that workers are involved in the management of industries.

The addition of the term “socialist” in the Preamble was significant because it meant that the government was now legally obligated to make socio-economic changes in order to provide a decent life for all citizens.

The Constitution of India is committed to a social revolution. It strives for socialisation of the environment. Not only it intends to eradicate social evils and social discriminations, but it also wants to socialise the national wealth. The Constitution has given the state adequate guidelines to ensure that national wealth is dispersed evenly and that there is no concentration of wealth in the hands of a few. Its drive is against monopoly in enterprises and for nationalisation of large-scale industries. It also strives to put the national wealth under the common ownership of the society. Mixed economy although was accepted by the framers of the Constitution, but in course of time, road was paved for planned economy and democratic socialism. In view of the liberalisation principles working throughout the world, the socialist trends in India is going to receive a set back.

## 1.6 FEDERALISM

The Indian Constitution does not utilise the term “federation,” but it does provide for a federal government system. India, on the other hand, is referred to as a “Union of States” in Article 1 of the Constitution. So, ever since the framing of the Constitution a controversy has existed among scholars whether Indian Constitution can truly be described as federation or not. In fact, there exists the difficulty of determining whether India is either a unitary state with a federal structure or a federation with a unitary spirit. To overcome this difficulty, this chapter explains both the federal and unitary features of the Constitution of India and centre-state relations.

### Federal Features of the Constitution

The main federal features of the Indian Constitution are as follows:

1. **Division of Powers:** Like other federation, the Constitution of India divides powers between Union Government and State Governments. It divides all the subjects in 3 parts: (a) Union List (99), (b) State List (61), and (c) Concurrent List (52) items. Union List subjects are enacted by the Union Legislature, State List subjects are enacted by State Legislatures, and both the Union and State governments can legislate on concurrent issues. The Central Government has residuary rights that do not appear in any of the above three lists.
2. **Dual Government:** Like other Federal states, there are two sets of Government in India, i.e., Union Government and State Governments. A

citizen of India participates in elections to the both these Governments and obeys the Central as well as State Laws.

3. **Written Constitution:** India has a written Constitution that establishes the authorities of the Union and the States. The Indian Constitution establishes the Union and State governments' structure, organisation, and powers.
4. **Rigid Constitution:** Another important feature of a federation is the requirement for a strict Constitution. The Constitution's Article 368 allows for a sophisticated technique of amending federal statutes.
5. **Independent Judiciary:** Another important aspect of the Indian federal system is the establishment of an independent judiciary. The Supreme Court of India has the authority to resolve disputes between the Union and the states, as well as disputes within the states. It is the Constitution's watchdog, with the power to declare any law or order issued by the federal or state governments as ultra-vires if it violates any provision of the Constitution. The Supreme Court ensures that the federal and state governments operate within their constitutional jurisdiction zones.
6. **Bi-cameralism:** A bicameral legislature is established under India's constitution, as it is in other federations. The Lok Sabha and the Rajya Sabha are the two houses of India's parliament. The Rajya Sabha, or upper house of parliament, is responsible for representing the interests of the Indian Union's states.
7. **Supremacy of the Constitution:** Supremacy of the Constitution, another attribute of federalism, also exists in India. Both the federal and state governments must work within the bounds of the Constitution. Both follow the law and the constitution when using their authority. The Constitution is ultimate, and no one has the authority to deviate from it.

The federal nature of the Indian Constitution may be seen in all of these elements. India qualifies to be recognised as a federal state due to the establishment of a dual polity and the division of powers between the Union and the States.

### **Non-federal or Unitary Features**

By inserting non-federal or unitary aspects in the document, the writers of the Constitution changed the fundamental essence of Indian Federalism. Let us now take a closer look at the Indian Constitution's unitary elements.

1. **A Very Strong Centre:** In the first case, the Constitution establishes a strong central authority, which is a trait of unitary administration. The following facts reflect the unduly strong position of the Union in the Indian Constitutional System.
  - (a) The Union List containing important 99 items over which the Union Government has the exclusively jurisdiction.
  - (b) The Concurrent List contains 52 items which are also virtually in the hands of the union.

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(c) The Union has residuary powers under the Indian Constitution.

The Constitution's framers established a very strong centre as they realised that "we perish if we make the centre weak."

2. **Centre can Change Name and Boundaries of States:** The Union Government has the power to amend state borders without the permission of the affected states under Article 3 of the Constitution. The federal government's ability to alter state boundaries is incompatible with the federal system. Article 3 allows the Union Parliament the power to change the territories, areas, and borders of the states through legislation.
3. **Single Constitution for Union and States:** In a federal system, states usually have their own constitutions that are different from the Union's. The Indian Constitution, on the other hand, incorporates not only the Union's constitution but also the constitutions of the states.
4. **Single Citizenship:** In most cases, there is dual citizenship under a federal government. The Indian Federation, on the other hand, is a dual polity with a single citizenship for the entire country. There is no such thing as state citizenship.
5. **Unitary in Emergencies:** In normal times, India's Constitution functions as a federal government, but in times of emergency, it functions as a unitary government. Articles 352, 356, and 360 give the President of India the power to declare a state of emergency. The parliament gains the right to create legislation on the subjects of state lists during the declaration of emergency.
6. **Single Integrated Judicial System:** The Indian Constitution established a single judicial system to serve the union as well as the states. It is also against the principle of federalism.
7. **Unequal Representation in the Rajya Sabha:** Equal representation in the upper house is assured in a true federation. States, on the other hand, have not been given equal participation in the Council of States, or Rajya Sabha.
8. **Common All India Services:** The provision for common All India Services, such as the IAS and IPS, for both the centre and the states is another unitary aspect of the Indian Constitution. Personnel from these services have important administrative positions in both the state and federal governments. On the other hand, the Union Government recruits them.
9. **Governor as the Agent of the Union:** The President of India appoints and removes the Heads of State, often known as Governors. The Governors serve as agents of the Union rather than as representatives of the states. On the Governor's recommendation, the President of India declares State Emergency or President's Rule and assumes control of the state's administration. This provision also runs counter to the core tenets of a true federation.



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10. **Centralised Election Machinery:** The Indian Constitution establishes an election commission that oversees elections to both the parliament and state legislatures. This is also another unitary feature of the Constitution of India.
11. **Flexible Constitution:** In order to be a true federation, the Constitution must be stringent. Several articles of the Indian Constitution, on the other hand, are easily amendable. The Constitution's flexibility goes against the federal system's spirit..
12. **Special Powers of the Rajya Sabha on State Subject:** When the Rajya Sabha passes a resolution designating a State List item as a matter of national significance, the Union Parliament gains the right to legislate on it (Article 249).
13. **Control over State Laws:** Under Article 200 of the Constitution, any bill adopted by the State Legislature may be reserved for review by the President by the Governor of a state. The President has the authority to give or withdraw his sanction to such legislation.
14. **Role of the Comptroller and Auditor General:** The Comptroller and Auditor General of India is appointed by the President of India and is responsible for analysing and auditing the Union and State accounts..
15. **Financial Dependence of States:** A federation's states should be financially self-sufficient to the extent possible, allowing them to exercise maximum autonomy. In India, however, the central government is responsible for all advancement. As a result, the states are perpetually in debt to the federal government.
16. **Other Provisions:** The provision of centralised planning for the states by the Planning Commission of India headed by the Prime Minister, the power of the Central Government to appoint Commission of inquiry against and State Government, existence of Union Territories, provision for the appointment of inter-state councils and Boards, etc. are the provisions against Federalism.

All these features reflect the unitary spirit or character of the Indian Union of States. According to Prof. K.C. Wheare, India is a "Quasi-Federal State." "The Constitution of India is federal in construction but unitary in spirit," according to other commentators. "The Constitution of India is neither simply federal nor unitary, but a blend of both," writes D.D. Basu. It is a composite of state of novel type." Thus, there is a centralised federalism in India.

## 1.7 FUNDAMENTAL RIGHTS

### Meaning of Fundamental Rights

"Rights are those conditions of social life without which no man can seek to be himself at his best" (Laski). However, the rights granted and guaranteed to

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Indian people by the Constitution are referred to as Fundamental for the following reasons:

1. These are essential for the personality development of the citizens.
2. They have been enshrined in the country's Fundamental Law.
3. These are enforceable by the courts and are available to all citizens.
4. They link India's public authorities, including the national government, state governments, and local governments.

Some rights, such as the right to remain untouchable (Article 17), are also applicable to private individuals.

### Nature of Fundamental Rights

The Fundamental Rights protected by the Constitution of the Indian Republic have a variety of unique characteristics, which can be summarised as follows:

1. **Integral Part of the Constitution:** The Constitution guarantees fundamental rights, which cannot be modified or repealed by regular law..
2. **Elaborate and Comprehensive:** India's fundamental rights are extensive and comprehensive in scope.

The entire Part III of the Constitution containing 24 Articles (From 12 to 35) enumerates the fundamental rights.

3. **Negative and Positive Rights:** The fundamental rights in India are both positive and negative in nature. Some rights are negative in the sense that these impose restrictions on the state and thereby protect the rights and freedoms of the people. For example, Article 15 prevents the state from making discrimination on the basis of caste, colour, creed, religion, place of birth or sex. Article 17 abolishes the concept of untouchability. Article 18 prohibits the conferral of titles, with the exception of titles awarded in recognition of military or intellectual qualities. As a result, there are negative rights. Positive rights give citizens the ability to practise certain freedoms. For example Article 19(1), which enumerates the people's six essential freedoms.
4. **Rights are Not Absolute:** Part III of the Constitution enumerates fundamental rights, however they are not absolute. Their enjoyment has been restricted in many ways. The Parliament has also been given the authority to adopt legislation that restricts rights in a reasonable manner. The Supreme Court, on the other hand, has the authority to determine whether the parliament's fundamental rights limitations are constitutional.
5. **Rights are Binding Equally upon the Union, the States and Other State Authorities:** Part III of the Constitution enumerates fundamental rights, however they are not absolute. Their enjoyment has been restricted in many ways. The Parliament has also been given the authority to adopt legislation that restricts rights in a reasonable manner. The Supreme

Court, on the other hand, has the authority to determine whether the parliament's fundamental rights limitations are constitutional.

6. **Amendable in Nature:** The Fundamental Rights enshrined in the Constitution can be changed by Parliament through the procedure outlined in Article 368. This power has been used by Parliament on various occasions. Parliament has the capacity to change fundamental rights but not the basic structure, according to a Supreme Court opinion.
7. **Suspension of Fundamental Rights:** During a state of emergency, the President has the authority to suspend all or any of the fundamental rights, as well as citizens' rights to petition the High Court and Supreme Court for fundamental rights enforcement.
8. **No Natural Rights:** Unlike the United States, where the constitution's rights are guaranteed alongside any other rights held by the people, India's constitution does not recognise inherent rights.
9. **Lack of social and Economic Rights:** The enumeration of fundamental rights in the constitution does not include social and economic rights. Part III of the Constitution does not include social and economic rights such as the right to labour, the right to leisure, the right to social security, and others.
10. **Special Rights and Protections for the Minorities:** Minorities have unique rights under the United Nations' Universal Declaration of Human Rights. Minorities, for example, have cultural and educational rights under Articles 29 and 30. The Constitution makes it illegal to be untouchable.
11. **Enforcement of Rights:** The essential rights are not only granted, but also guaranteed by the Constitution. Citizens of India can apply to the Supreme Court or the High Court to have their fundamental rights enforced under Article 32. To protect fundamental rights, the Supreme Court, in accordance with Article 32 of the Constitution, and the High Court, in accordance with Article 226 of the Constitution, issue writs like *Habeas corpus*, *Mandamus*, *Prohibition*, *Certiorary*, and *Quo-warranto*.
12. **Distinction between the Citizens and Aliens:** The Constitution distinguishes between citizens and aliens while granting rights. While all citizens have equal access to all rights, aliens only have access to a limited number of them. Aliens, for example, do not have the right to freedom of expression, assembly, or association.
13. **Constitutional Superiority of Fundamental Rights:** Ordinary legislation and the Directive Principles of State Policy pale in comparison to the fundamental rights enshrined in the Constitution.
14. **Rights to Education:** By 86th Constitutional amendment, Article 21(A) has been added which ensures that children aged 6 to 14 have the fundamental right to education.

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## Classification of Fundamental Rights

The six groups of fundamental rights guaranteed by the Indian Constitution are listed below.

### 1. Right to Equality (Articles 14 to 18)

The Right to Equality includes the following:

- (i) **Equality Before Law:** Within India's territory, the state shall not deny anyone equality before the law or equal protection under the law (Article 14).
- (ii) **Prohibition against Discrimination:** The state is prohibited from discriminating on the grounds of religion, race, gender, or birthplace, or any combination of these characteristics (Article 15).
- (iii) **Equality of Opportunity in Matters of Public Employment:** In matters relating to employment or nomination to any governmental post, all citizens must be treated equally. No citizen should be denied or discriminated against in any governmental vocation or position solely because of their religion, race, caste, sex, descent, birthplace, domicile, or any combination of these characteristics (Article 16).
- (iv) **Abolition of Untouchability:** Untouchability is against the law, and any form of it is forbidden. Untouchability is a crime that can be prosecuted (Article 17).
- (v) **Abolition of Titles:** Any title that is not military or intellectual in nature may not be bestowed by the state. Accepting a title from a foreign state is treasonous for an Indian citizen (Article 18).

### 2. Right to Freedom (Articles 19 to 22)

(i) **Article 19:** All citizens have the right to:

- (a) free speech and expression,
- (b) peaceful assembly without arms,
- (c) form associations and unions,
- (d) freely move throughout India's territory,
- (e) reside and settle in any part of the country, and
- (f) practise any profession or carry on any occupation, trade, or business.

(ii) **Article 20:** (Protection in respect of conviction for offences).

- (a) No one can be found guilty of a crime unless they have violated the law.
- (b) For the same offence, no one may be prosecuted and punished more than once.
- (c) No one who has been charged with a crime should be forced to testify against themselves.

(iii) **Article 21:** (Protection of life and liberty).

No one's life or liberty can be taken away unless the legal process is followed.

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The 86th Constitutional Amendment Act of 2002 makes free and compulsory primary education as a fundamental right. The amendment to Article 21 of the Constitution declares that the “Government will provide free and compulsory education to all children from the age of 6 to 14 in such a manner as the state may by law determine.”

**(iv) Article 22:** (Protection against arrest and detention).

- (a) No one should be detained without being informed of the reasons for their detention as soon as feasible, and no one should be refused the opportunity to be represented by a lawyer of their choice.
- (b) Within 24 hours of being arrested and detained in custody, everyone must appear before a magistrate, and no one may be retained in custody without the approval of a magistrate.

**3. Right against Exploitation (Articles 23-24)**

This right includes the following:

- (i) Human trafficking is against the law.
- (ii) Begging, as well as other forms of forced labour, are prohibited. Any breach of this provision will be prosecuted to the fullest extent of the law.
- (iii) A child under the age of fourteen may not work in a factory, mine, or in any other potentially hazardous activity.

**4. Right to Freedom of Religion (Articles 25-28)**

According to Article 25, everyone has the right to freedom of conscience and to freely proclaim, practise, and disseminate religion. According to Article 26, every religious denomination or section thereof has the right to establish and maintain religious and charitable institutions, to manage its own affairs in religious matters, to own and acquire movable and immovable property, and to administer such property according to the law. No one should be forced to pay taxes on revenues intended for a particular faith, according to Article 27. No religious instruction shall be given in any educational institution financed fully or substantially by public funds, according to Article 28.

**5. Cultural and Educational Rights (Articles 29-30)**

These include the following:

- (i) Any segment of the Indian people that has its own language, script, or culture has the right to keep it alive.
- (ii) Religious and linguistic minorities have the right to create and run their own educational institutions.
- (iii) No citizen should be refused admission to a state-run educational institution or assistance based solely on their religion, race, caste, or language, or any combination of these qualities.
- (iv) When granting aid to educational institutions, the state shall not discriminate against any educational institution governed by a minority, whether on the basis of religion or language.

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## 6. Right to Constitutional Remedies (Article 32)

It includes the following:

- (i) The right to file a case with the Supreme Court in order to have fundamental rights enforced through appropriate procedures.
- (ii) To enforce any of the rights guaranteed by this section, the Supreme Court can issue directions, orders, or writs in the form of *Habeas Corpus*, *Mandamus*, *Prohibition*, *Quo-warranto*, and *Certiorari*, depending on the situation.

### Writs

Article 32 provides constitutional remedies to protect the fundamental rights. A citizen can submit a complaint with the Supreme Court if his or her fundamental rights are violated. To enforce laws, the Supreme Court can issue writs such *Habeas Corpus*, *Mandamus*, *Prohibition*, *Certiorari*, and *Quo-warranto*. Therefore, Article 32 regarded as the ‘safety valve’ of the Constitution. The following writs can be issued by the High Court under Article 226:

- (a) ***Habeas Corpus***: “To have a body” is the literal meaning of *Habeas Corpus*. The Supreme Court and the High Court have issued a writ to safeguard citizens from wrongful arrest and imprisonment. When a person is detained without trial, the Supreme Court or the High Court can ask the detaining authority to produce him before the court to know whether he has been lawfully imprisoned.
- (b) ***Mandamus***: *Mandamus* literally means a “command”. It is issued to the authority to perform his legal duty. It is a high prerogative writ of most extensive remedial nature. This writ can be issued against a government authority.
- (c) ***Prohibition***: It is issued by a higher court to a lower court to prevent the latter from trying a case that falls outside of the latter’s jurisdiction.
- (d) ***Certiorari***: It is literally means “to be informed of.” It is given to a lower court by the Supreme Court or the High Court. Which acts without jurisdiction or which acts in excess of its authority.
- (e) ***Quo-warranto***: It means “by what authority?” It is used by the Court to oust a person from a public office which he is found to have illegally occupied. For example, if a minor has been appointed to any office, the aggrieved party will apply for a writ of *quo-warranto* and court will issue a writ of *quo-warranto*.

## 1.8 FUNDAMENTAL DUTIES

The Indian constitution includes a new provision called Fundamental Duties. The 42nd Amendment Act of 1976 amended the constitution by adding a chapter (Chapter IV-A) on Fundamental Duties. In a democratic country like India, it is the solemn responsibility of every citizen to perform certain duties towards the state besides enjoyment of rights. Negligence of duties may result in non duties are

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incorporated into the constitution. These duties are not obligatory in nature and they are enforced through several laws which were in existence much before. These are subjective and if any one does not perform to these duties he is not punished.

These duties have meaning only for the citizens and they value the rich heritage and composite culture. These duties are legal, political, social, moral and economic in nature. The Fundamental Duties enumerated in the constitution are:

1. To defend the constitution, its principles and institutions, as well as the flag and anthem of the country;
2. To cherish and uphold the core values that drove our country's freedom struggle;
3. To uphold and defend India's sovereignty, unity, and integrity;
4. To defend the country and participate in national service when called upon;
5. To promote unity and a sense of shared brotherhood among all Indians, regardless of religious, linguistic, regional, or sectional distinctions; and to eradicate conventions that degrade women's dignity.
6. To have compassion for living creatures and to safeguard and improve the natural environment, particularly woods, lakes, rivers, and wildlife;
7. To value and protect our diverse culture's distinctive heritage;
8. To foster a scientific mindset, humanism, and an attitude of inquiry and reform;
9. To safeguard public property and prevent violence;
10. To strive for excellence in all spheres of individual and collective effort so that the country continues to rise to new heights.

According to the 86th Amendment, parents or guardians are responsible for providing education to their children until they reach the age of fourteen.

### Criticisms

- (a) **Some Duties are Vague:** Some of the duties enshrined in Chapter IV-A, are vague and couched in metaphysical terms which even a highly educated man will find difficult to grasp. For example, it is difficult to identify the noble ideas that inspired our national struggle for freedom. One would have to study carefully the history of the national struggle to discover the ideals that inspired it. Besides, the ideals of all those who participated in the freedom struggle were not identical. Similarly, scientific temper, humanism and the rich heritage of composite culture are extremely vague concepts which only scholars can explain.
- (b) **Some Duties Clash with Religion:** Some fundamental duties clash with the religious principles of some religious sects in the country. No one can be forced to sing the National Anthem if they have real, profound religious convictions that take precedence over patriotism, according to the Supreme Court. The decision was made in the matter of three pupils

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from the Jehovah's Witness group who were expelled from their Kerala school for refusing to sing the National Anthem during the school assembly. Even though they always stood up politely when the National Anthem was sung, the three children did not sing it.

- (c) **No Provision for Enforcement:** Of fact, under the constitution, none of these responsibilities are directly enforced, and there are no sanctions in place to prevent their violation.

### Evaluation

As a result, inhabitants of India must undertake the eleven non-justifiable duties listed above. The Supreme Court of India, on the other hand, has ruled that citizens must carry out their responsibilities. In addition, the government should ensure that this goal is met. These tasks have been declared the ultimate goals by saints, philosophers, social reformers, and political leaders alike. These duties make the citizens conscious of their duties. They draw the attention to the citizens towards the duties they owe to the nation. Though these duties are not justifiable to have constitutional sanctity of the fundamental duties, vigilant public opinion, conscious Indian citizenship and proper environment are considered to be the conditions required. If all duties are faithfully obeyed by the citizens, India shall prosper and prosper.

## 1.9 DIRECTIVE PRINCIPLES OF STATE POLICY

The Directive Principles of State Policy in Indian Constitution provides the novel and most striking features. Part IV of the Indian Constitution has embodied a number of ideals and principles in the name of Directive Principles of State Policy. These principles are described under Articles 36-51 of the Constitution of India. These are in nature instruments of instructions to the state to do and undertake certain things for the socio-economic development of the state. As the framers of Indian Constitution could not incorporate socio-economic rights into the fundamental rights they borrowed the idea of Directive Principles from the "Irish constitution" and just after the chapter on Fundamental Rights they enshrined these principles in the name of Directive Principles of State Policy.

These directives are nothing but certain positive guidelines to the legislatures and executives of the union and of the states. It is the duty of the government to follow them while making laws or determining policies. These principles embody the ideal of a welfare state and seek to ensure socio-economic democracy in India. Though these concepts are not justiciable in a court of law, they are supported by public opinion, and every government should see them as important to constitutional governance.

### Classification of Directive Principles of State Policy

It is helpful to organise the Directive Principles into similar groupings in order to grasp their comprehensiveness. They can be divided into the following ideological groupings.



**NOTES**

**1. Socialistic Principles**

The majority of Directive Principles are aimed at forming a socialist welfare state.

- (a) It is helpful to organise the Directive Principles into similar groupings in order to grasp their comprehensiveness.
- (b) To secure equitable distribution of national wealth with a view to ensure common good.
- (c) The government must ensure that all citizens, men and women, enjoy adequate living conditions.
- (d) Equal compensation for equal work is a goal pursued by both men and women.
- (e) Exploitation, as well as moral and material abandonment, are prohibited for children and teenagers.
- (f) Establishing appropriate and humane working conditions, as well as maternity leave, is a priority.
- (g) To ensure that workers are active in industry management.

**2. Gandhian Principles**

- (a) Panchayats in rural areas should be properly organised and given more power and authority..
- (b) To establish individual or cooperative cottage businesses in rural locations.
- (c) Making it unlawful to consume intoxicating beverages and chemicals that are harmful to one's health.
- (d) To advance the educational and economic interests of society's marginalised groups, especially SCs and STs..

**3. Liberal Principles**

- (a) To secure uniform civil code for Indians.
- (b) To secure the separation of Judiciary from the executive.
- (c) To provide free and compulsory education to all children upto age of 14.
- (d) To provide free legal aid to the poor so that justice is not denied to any citizen because of poverty.

**4. General Principles**

- (a) The ecosystem, as well as the country's woods and wildlife, must be protected and improved.
- (b) Every historic property or landmark must be preserved.
- (c) To contribute to international peace and security.
- (d) Keeping international interactions fair and honourable.
- (e) The importance of adhering to international law and treaty responsibilities is emphasised.
- (f) To promote the use of arbitration to resolve international disputes.

NOTES

**Criticisms**

- The Directive Principles is not properly classified and logically arranged. They have been rather incongruously put together.
- Since they are non-justifiable they lack legal force. The Supreme Court and other courts have no power to enforce them. So, K.T. Shah said that “these principles are like a cheque on a bank payable only when the resources of the bank permit.”
- These principles are mere declaration. It is a parade of high sounding sentiments.
- These are little more than in set of moral precepts. They have no certainty of being put into practice. So these are described as “a set of New years Resolutions.”
- All principles are not practicable because of idealism. They do not fit into a sovereign state.

**Implementation of Directive Principles of State Policy**

Directive Principles are regularly employed in the country’s government, according to Article 37. The Government authorities started steps to implement the Directive Principles almost immediately after the Constitution was signed. Some of them are listed below..

- A succession of Acts were passed from time to time in order to make an effort to uphold the principles of Article 39. Employees State Insurance Act, Minimum Wage Act, Wealth Tax Act, Estate Duty Act, and others were among them.
- A slew of laws have been created to carry out Article 40’s order to organise local panchayats..
- State governments implemented legislation prohibiting the use of middlemen such as zamindari and jagirs.
- Many State Governments have initiated steps for preservation of many historical monuments and places.
- The major object of Indian foreign policy is to promote international peace and security.
- Maternity welfare and child welfare programme have been implemented.
- Five years plans have been implemented with new objectives of socio-economic importance.
- Banks have been nationalised in the best interests of backward community.
- Insurance facilities and old age support pension schemes have been introduced.
- Cottage industries have been promoted.

- Almost all the state governments are providing free primary education to all children.

### **Significance of Directive Principles of State Policy**

State Policy Directive Principles are widely recognised, and they are justified for a variety of reasons.

- The true sanction behind law is public opinion sanctions based on these principles.
- These principles explain the rationale for a welfare state and compel the government to pass welfare legislation.
- These ideas are, in fact, moral standards in nature. They establish a state-wide moral code. This has no bearing on their worth.
- Directive principles constitute a guide for the State and Union Government for making policies and laws for securing justice.
- The fundamental rights are supplemented by directive principles..
- The Directive Principles serve as a benchmark for citizens to assess the worth of governance.
- The Directive Principles also serve as a manifesto for the nation's ideals and objectives.
- Courts have given due regards to the Directive Principles during last few years of the implementation of the Constitution.
- Constitutional modifications have paid proper consideration to Directive Principles.
- Directive Principles have real worth since they include the state's affirmative pledges to its citizens.

### **Differences between Fundamental Rights and Directive Principles of State Policy**

The Directive Principles of State Policy, on the other hand, differ from the fundamental rights in Part III of the Indian Constitution in the following ways:

1. Part III of the Indian Constitution addresses fundamental rights, whereas Part IV of the Indian Constitution addresses Directive Principles.
2. Fundamental rights can be justified, while Directive Principles are inherently non-justifiable. It indicates that a person can take a case to court for a violation of fundamental rights, but not for a breach of Directive Principles.
3. Directive principles are positive commands, whereas fundamental rights are prohibitions. The former prohibits the state from doing certain things, whereas the later provides the state with specific instructions on how to attain or carry out specific goals.
4. Political democracy is addressed by Fundamental Rights, whilst socioeconomic democracy is addressed by Directive Principles.

### **NOTES**

**NOTES**

5. When Fundamental Rights and Directive Principles conflict, the Supreme Court has consistently found that Fundamental Rights take primacy.
6. Despite the fact that Fundamental Rights have been established, Directive Principles have not.
7. Prof. Siwach accurately remarked, "Fundamental Rights can be suspended during an emergency under Article 352, but Directive Principles remain in a state of continual animated suspension unless enforced."

Despite these differences the two are designed to be complementary and supplementary to each other.

**Check Your Progress**

**I. Multiple Choice Questions**

1. \_\_\_\_\_ was the Chairman of the Constituent Assembly.  
(a) Pandit Jawaharlal Nehru (b) Dr. Rajendra Prasad  
(c) Dr. B.R. Ambedkar (d) M.K. Gandhi
2. \_\_\_\_\_ was the Chairman of Drafting Committee.  
(a) Pandit Jawaharlal Nehru (b) Dr. Rajendra Prasad  
(c) Dr. B.R. Ambedkar (d) M.K. Gandhi
3. The Constitution of India was adopted on \_\_\_\_\_.  
(a) 26<sup>th</sup> November 1949 (b) 26<sup>th</sup> January 1950  
(c) 15<sup>th</sup> August 1947 (d) 26<sup>th</sup> August 1950
4. The word 'socialist' and 'secular' were added to the Preamble by \_\_\_\_\_ Amendment.  
(a) 40th (b) 42nd  
(c) 44th (d) 52nd
5. The Constitution of India borrowed Parliamentary form of government from \_\_\_\_\_ constitution.  
(a) USA (b) Canada  
(c) Switzerland (d) British
6. \_\_\_\_\_ of the following is not a feature of Indian Federation.  
(a) Division of Powers (b) Two Sets of Government  
(c) Double Citizenship (d) Written Constitution
7. Directive Principles of State Policy has been borrowed from the Constitution of \_\_\_\_\_.  
(a) Great Britain (b) USA  
(c) Canada (d) Ireland
8. Fundamental Duties are explained in Article \_\_\_\_\_ of the Constitution.  
(a) Article 50 (b) Article 51  
(c) Article 51(A) (d) Article 52

**II. True or False**

1. Dr. Rajendra Prasad was the Chairman of Drafting Committee.
2. The Constitution of India was implemented on 26<sup>th</sup> November 1949.

**NOTES**

3. The Constitution of India is federal in form but unitary in spirit.
4. The President of India is a nominal head of the Union executive.
5. Now, right to property is a fundamental right.
6. Now, there are 10 (ten) fundamental duties in Indian Constitution.

**III. Match the Following**

- |                       |                                    |
|-----------------------|------------------------------------|
| 1. Dr. B.R. Ambedkar  | (a) Article 51(A)                  |
| 2. Preamble           | (b) Part III of the Constitution   |
| 3. Fundamental Rights | (c) Chairman of Drafting Committee |
| 4. Fundamental Duties | (d) No State-owned Religion        |
| 5. Secular State      | (e) Soul of the Constitution       |

**1.10 ANSWERS TO ‘CHECK YOUR PROGRESS’**

**I. Multiple Choice Questions**

1. (b)
2. (c)
3. (a)
4. (b)
5. (d)
6. (c)
7. (d)
8. (c)

**II. True or False**

1. False
2. False
3. True
4. True
5. False
6. False

**III. Match the Following**

1. (c)
2. (e)
3. (b)
4. (a)
5. (d)

NOTES

## 1.11 SUMMARY

The country's constitution reflects the people's ambitions and dreams. The Indian Constitution included a number of measures that influence socioeconomic reforms in order to make India's independence more meaningful. The Preamble, the Chapter on 'Fundamental Rights,' and the Chapter on 'Directive Principles of State Policy' include the majority of these provisions. The Preamble pledges the country to the ideal of a welfare state, with the goal of ensuring people's socioeconomic justice. Fundamental Rights guarantee each citizen's independence and help them develop their personalities. The Directive Principles of State Policy aspire to offer social and economic justice to India's citizens and to transform the country into a welfare state.

## 1.12 KEY TERMS

- **Constitution:** Fundamental laws of the land.
- **Preamble:** Preface of the constitution.
- **Habeas Corpus:** A writ which protects Indian citizens against arbitrary arrest.
- **Mandamus:** A writ which means 'we order'.
- **Quo-warranto:** A Latin word which means 'By what authority'.

## 1.13 SELF-ASSESSMENT QUESTIONS AND EXERCISES

### Short Answer Questions

1. Name the leaders who took extreme steps to make congress mass organisation.
2. When and by whom leadership launched non-cooperation movement?
3. When was election to constituent Assembly held?
4. When is preamble to our constitution?
5. Write the meaning of fundamental rights.
6. Explain rights against exploitation with respect to article 23-24.

### Long Answer Questions

1. Explain the Preamble of the Indian Constitution.
2. Discuss the salient features of the Constitution of India.
3. Write an essay about fundamental rights in India.
4. "India is a Quasi-Federal state." Example.
5. Write an essay on Directive Principles of State Policy.

**NOTES**

**ACTIVITY**

Provide two real-life examples to prove how:

1. “India has a Parliamentary Democracy.”
2. “India is a secular state.”
3. “Directive Principles of State Policy makes India a welfare state.”

**CASE STUDY**

**“Indian Constitution is a borrowed constitution”.**

The Indian Constitution is regarded as a hodgepodge of appropriations. The British Constitution influenced the use of a parliamentary system of government. The US Constitution provides for fundamental rights and judicial review, the Irish Constitution provides for Directive Principles of State Policy, and the Canadian Constitution provides for the Supreme Court’s advisory powers. It is to its framers’ credit that they gathered the best characteristics of each existing constitution and incorporated them into the Indian Constitution with appropriate changes.

**1.14 REFERENCES**

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NOTES

## Unit II Government of the Union

### Learning Objectives:

This unit devotes discussion on Government of the Union in Indian Federation. The Union Government in India consists of the Parliament (Legislature), President, Vice-President, Prime Minister and Council of Ministers (Executive) and the Supreme Court of India (Judiciary). After studying this unit, you should be able to understand:

- Election procedures, powers and position of the President of India.
- Powers and functions of the Union Council of Ministers.
- Powers and position of the Prime Minister of India.
- Relationship between the Prime Minister and Council of Ministers.
- Composition and functions of the Parliament of India.
- Legislative and Financial Procedure in the Parliament of India and different Parliamentary Committees.
- Composition, jurisdiction and role of the Supreme Court of India.
- Nature of judicial review and its scope.

### Structure:

- 2.1 Introduction
- 2.2 President of India
- 2.3 Vice President of India
- 2.4 The Union Council of Ministers
- 2.5 The Prime Minister of India
- 2.6 Relationship between the Prime Minister and the Council of Ministers
- 2.7 Relationship between the Prime Minister and the President
- 2.8 The Parliament of India
  - 2.8.1 Salient Features of the Parliament
  - 2.8.2 Powers of the Parliament
- 2.9 The Lok Sabha
- 2.10 Speaker of the Lok Sabha
- 2.11 Rajya Sabha or Council of States
- 2.12 Legislative and Financial Procedures
- 2.13 Parliamentary Committees
- 2.14 Relationship between Lok Sabha and Rajya Sabha
- 2.15 The Supreme Court of India



- 2.16 Nature and Scope of Judicial Review
- 2.17 Judicial Activism in India
- 2.18 Answers to ‘Check Your Progress’
- 2.19 Summary
- 2.20 Key Terms
- 2.21 Self-Assessment Questions and Exercises
- 2.22 References

## NOTES

### 2.1 INTRODUCTION

The Indian Constitution established a Parliamentary system of government in which the President serves merely as a ceremonial or constitutional ruler and the Council of Ministers, chaired by the Prime Minister, exercises the Union’s true executive power.

Parliament is the name given to India’s Union Legislature. The President and two Houses, the Council of States (Rajya Sabha) and the House of the People, make up the government (Lok Sabha). The Rajya Sabha is made up of representatives from the Indian Union’s states, whereas the Lok Sabha is made up of representatives from the general public. The President of India is an important member of the Indian Parliament, despite not being a member of either House.

The Supreme Court of India, established under the Constitution, is the highest tribunal of the land. India is a federation, but it does not possess a dual judiciary, rather there is a single and integrated judicial system in India.

### 2.2 PRESIDENT OF INDIA

The Indian Constitution established a legislative government with the President serving as the union’s nominal executive. Article 52 of the Indian Constitution states, “There will be a President of India.” According to Article 53 of the Constitution, “the executive power of the union is vested in the President, to be exercised by him directly or through officers subordinate to him in accordance with the Constitution.”.

#### Qualifications for Election as President

According to the Constitution, a candidate for the presidency must meet the following requirements:

1. No person shall be eligible for election as President unless he
  - (a) is a citizen of India.
  - (b) has completed the age of thirty-five years, and
  - (c) is eligible for election to the Lok Sabha (House of People’s Assembly).

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2. He is disqualified for election as President if he works for the Government of India, the Government of any State, or any local government under the supervision of any of the aforementioned Governments.

Because he is the President or Vice-President of the United States, the Governor of any State, or a Minister of the United States or any State, a person is not considered to be in a profit-making position.

Re-election is possible for anyone who currently holds or previously held the role of President.

Citizens of our country who have been nationalised are also eligible to run for President.

### Method of Election

Articles 54 and 55 of the Constitution lay down the procedure for choosing the President of India. According to this procedure, The President is elected indirectly by an electoral college consisting of elected members of both Houses of Parliament and elected Members of the Legislative Assemblies of the States, using a proportional representation system and a single transferable vote. The number of votes cast by each member of the electoral college in this election is calculated so that the total voting strength of the two Houses of Parliament equals the combined voting strength of the state legislatures. The number of votes each member of a Legislative Assembly is entitled to is calculated by multiplying the state's population by the total number of elected Assembly members, then dividing the result by 1,000. To calculate the number of votes that an elected member of either House of Parliament can cast, divide the total number of votes to be cast by the total number of elected members of both Houses of Parliament.

$$\text{Value of vote of an MLA} = \frac{\text{Population of the State}}{\text{Total No. of elected MLAs}} \div 1000$$

$$\text{Value of votes of an MP} = \frac{\text{Total No. of votes assigned to the MLAs}}{\text{Total No. of elected MPs}}$$

### Conditions of President's Office

The President of India is entitled to free use of his official residence, Rashtrapati Bhawan, as well as any emoluments, allowances, or privileges that the Parliament may see appropriate. During his term in office, the President's emoluments and allowances are not to be diminished. The President of India receives a salary of ₹ 1,50,000/- per month, besides various allowances.

### Term of Office of President

The Indian President is chosen for a five-year term that begins on the day he takes office, but he is eligible for re-election according to Article 57 of the Constitution.

### Procedure for Impeachment of President

The President cannot be removed from office unless he resigns before the end of his term or is impeached for breaching the Constitution. A sort of Parliamentary

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trial is impeachment. Charges can be lodged by a two-thirds majority resolution in either House of Parliament. The other House will investigate the claims, and if a resolution passed by a two-thirds majority finds them to be true, the President will retire.

### **Powers of the President**

The following is a list of the powers that the President of India has:

**1. Executive Powers:** According to the constitution, the President has executive responsibility over the Union. All of the Indian government's executive functions are carried out on the President's behalf, and all executive actions are claimed to be taken in his name. On his guidance, the President chooses the Prime Minister and other Union Council of Ministers members, as well as passing laws to make government business easier. The President of India is the country's Supreme Commander, with the authority to declare war and peace. The President appoints governors of states, ambassadors and other diplomatic representatives of India, Supreme Court and State High Court Chief Justices and Judges, Attorney General of India, Comptroller and Auditor General of India, and the Chairman and members of the Union Public Service Commission. Chief Commissioners or Lieutenant Governors manage Union Territories on behalf of the President, who appoints them. The President has the authority to give pardons as well. If the Union Ministers do not resign after being defeated in the Lok Sabha on a money bill, or if they do not advise the dissolution of the Lok Sabha on this occasion, he has the authority to fire them. He also has the authority to remove Governors and transfer judges from one High Court to another.

**2. Legislative Powers:** The President has broad legislative powers under the constitution. At least twice a year, he summons Parliament. He has the power to dissolve the Lok Sabha, or House of People, and call either House of Parliament into recess. He has the authority to call a joint session if both Houses of Parliament are unable to agree on a Bill. The President appoints 12 Rajya Sabha members and, if necessary, two Anglo-Indian MPs to the Lok Sabha. He has the option of speaking to either House individually or both Houses at the same time. He has the option of communicating with either House of Representatives. The President gives an address that corresponds to the "Speech from the Throne" in the British Parliament at the start of each session of Parliament. Before becoming law, every Bill enacted by Parliament must have the President's assent. According to the constitution, the President can also enact ordinances when Parliament is not in session. An ordinance is a special emergency measure for law making. It has some force and effect as an act of Parliament.

**3. Financial Powers:** Article 112 provides the President a role in the financial realm. He should ensure that the annual Budget of the Government of India, as well as any supplementary Budgets, are tabled before the Houses of Parliament for each financial year. According to the budgetary protocol, no grant request shall be submitted until the President recommends it. Only with the President's permission may money bills be introduced in the Lok Sabha. He controls the contingency Fund

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of India. He also appoints Finance Commission which makes recommendations for the distribution of revenues between the Union and the States.

**4. Judicial Powers:** The President of India has a variety of judicial powers at his disposal. He appoints judges to the Supreme Court and the High Court. He can dismiss a judge if he receives an address to that effect from both Houses of Parliament. Anyone convicted of a crime can get pardons, reprieves, respites, or remissions of penalty from the President, as well as have their sentence suspended, remitted, or commuted.

- (i) In any case where a Court Martial is accountable for the punishment or sentence.
- (ii) In all cases when the punishment or sentence is for a violation of a law relating to a matter within the executive power of the union.
- (iii) In all cases when the penalty is the death penalty.

**5. Military and Diplomatic Power:** The Constitution gives the President Supreme Command of the Defense Forces, but he must exercise it in accordance with the law [Article 53(2)]. Over the armed forces, Parliament has sole legislative responsibility. It means that, while the President may have the right to declare war or peace, or to engage the military forces, it is up to Parliament to govern or control how those powers are exercised.

All diplomatic business is conducted in the name of the President, and the Union Government has executive responsibility over foreign and diplomatic concerns. He appoints diplomatic envoys and consular agents, as well as sending diplomatic envoys to other countries. In the name of the President, all treaties and international agreements are negotiated and signed.

**6. Emergency Powers:** Normal circumstances may or may not be a permanent aspect of a country. Abnormal situations are obvious in the life of a nation. In order to meet the abnormal conditions, a Constitution should contain an emergency provision. Keeping this in mind, the Constitution of India vests some emergency powers in the President. Part XVIII deals with the President's emergency powers. These powers were derived from pertinent clauses of the Government of India Act 1935 and the Weimer Republic of Germany's Constitution. There are three categories of emergency powers: national emergency, state emergency, and financial emergency.

**(i) National Emergency (Article 352)**

If the security of India or any portion of it is threatened by war, external attack, or armed insurrection, he may declare a National Emergency under Article 352 of the Constitution. In India, a national emergency can be declared in any section of the country. Even if there is an imminent danger of any one taking place, the President may also proclaim National Emergency. The national emergency declaration must be presented to each House of Parliament and will take effect after one month.

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It was first declared in India on 26th October 1962 during the Chinese aggression. It was declared again on the 3rd December, 1971 when Pakistan attacked India. It was declared for the third time on the 25th June 1975 on the ground of internal disturbance. The 44th Constitution Amendment Act of 1978 substituted the words “Internal disturbance” by the words “armed rebellion.”

### Effects:

- (i) The Parliament can make law with respect to item enumerated in the State List.
- (ii) The Central Government can give any direction in executive matters of the states.
- (iii) The revenue split between the Centre and the States may be changed.
- (iv) The Right to freedom under Article 19 remains automatically suspended.
- (v) The term of Parliament may be extended to 6 years.
- (vi) The Right to Constitutional Remedies may be suspended by the order of the President.

### (ii) State Emergency or President’s Rule (Art 356)

Under Article 356, the President can declare a state of emergency if he is satisfied, based on a report from a State Governor or other evidence, that a situation has emerged in a state that amounts to the breakdown of constitutional government in that state. Unless it has been authorised by both houses of Parliament, a state of emergency lasts for two months. Once it is approved it continues for six months at a time and maximum period of three years at a stretch. This type of emergency has been proclaimed in different states for more than 100 times.

### Effects:

- (i) The President assumes all functions of the state government except those of the State High Court. As a result, it’s known as “President’s Rule.”
- (ii) The Union Parliament exercises all of the powers of the state legislature.
- (iii) The President may be delegated these powers by Parliament.
- (iv) The Budget of the state is also passed by the Parliament.
- (v) The State Legislature can either be dissolved or kept in suspended animation.
- (vi) The President gets power to authorise expenditure from the consolidated fund of the State.

### (iii) Financial Emergency (Art 360)

According to Article 360 of the Constitution, if the President believes that India’s financial stability or credit, or any part of it, is in jeopardy, he may declare a Financial Emergency. Like National Emergency it has to be approved by the Parliament. Once it approved it remains in force for six months.

### Effects:

- (i) The President has the authority to provide directives to the state in order for them to follow financial propriety principles.

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(ii) The President has the authority to change the revenue distribution between the Centre and the States.

(iii) Any Union or State Government employee's salary can be lowered.

(iv) A State Legislature's money bills may be reserved for the President's consideration.

Financial Emergencies has not proclaimed in the country so far.

Emergency powers provided by the Constitution make our President very much powerful at least during the emergency. Few constitutional experts are afraid that an ambitious President can establish a despotic and personal rule by exploiting this loop-hole in our constitution with the support of the Cabinet and parliament.

**Position of the President**

After having reviewed the powers of the President, it becomes quite easy to analyse the position of the President. Ever since the inauguration of the constitution a controversy has persisted amongst scholars regarding the real position of the President. At the face value, the powers of the President of India appear to be formidable and even dictatorial (Emergency Powers). Close examination reveals, however, that the President is merely a nominal and constitutional executive head who executes practically all of his powers on the advice of the Union Council of Ministers, which is chaired by the Prime Minister. The President is obligated to follow the Prime Minister's and Council of Ministers' advice, according to the Constitution's 42nd Amendment. Even when exercising emergency powers, the President seeks counsel from the Prime Minister and his Cabinet. The President of India, like the British Queen, is a figure of great honour, respect, and status, but he or she has no real executive power. He is the President of the Republic, not the President of the Government. He is the notional executive, performing all of his duties on the Prime Minister's and his Council of Ministers' instructions. "Under our system, the President occupies the same role as the king under the English Constitution," Dr. Ambedkar said. "He is the state's leader, but not the executive's. He represents the country, but he does not rule it" Dr. Ambedkar explained.

He is the governor of the state, but not the chief executive. Despite this, the President is neither only a ceremonial figurehead or a rubber stamp in the hands of the Ministry. According to 44th Amendment of 1978, the President may request that the Council of Ministers examine its recommendations. He must, however, heed the advise received after such a review.

There are still some doubts about the President's authority and connection with the Union Council of Ministers, even after the 42nd and 44th Amendments were passed. Is it obligatory for the President to heed the advice of a Cabinet that has lost its majority in the Lok Sabha? Is he bound to dissolve the Lok Sabha as suggested by the Prime Minister, even if he has been defeated in the Lok Sabha? India will no longer have the Cabinet Government system that exists in the United Kingdom if the President is forced to accept the wrong advice of a defeated Prime Minister to dissolve the Lok Sabha.

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As a result, the Indian President bears a stronger resemblance to the British queen than the US president. He is merely the ceremonial head of the Union Executive; the real boss is the Council of Ministers. This does not, however, imply that the President is merely a symbolic figurehead or a rubber stamp. The President's position is essential in particular situations. He applies his discretion if the constitution is either silent or explicit. He has the discretionary power to appoint the Prime Minister if no party or alliance wins a majority in the Lok Sabha, or if the existing government loses its majority in the lower house.

Jawaharlal Nehru once said that the President of India is 'a man of great authority and dignity.' Without a doubt, the President has a great reputation and is a man of great dignity. However, his personality, talent, experience, relationship with the Prime Minister, and a multitude of other criteria would determine how much influence he would wield.

### 2.3 VICE PRESIDENT OF INDIA

Article 63 of the Constitution of India provides that "there shall be a vice-President of India." Although, he does not have administrative powers, his office carries much prestige, dignity and potentiality. In India, a majority of Vice-Presidents have later been elected as President and there is, therefore, a general belief that the Vice-President of today is the President of tomorrow. This makes the post of Vice-President attractive.

#### Election

In a joint session of Parliament, the two Houses of Parliament elect the Vice-President of India using a proportional representation system with a single transferable vote method. It will be seen that this method of election is different from the one followed in the election of the President in so far as State Legislatures do not play any part in it.

#### Qualification and Tenure

The following qualifications are required of a candidate for Vice-President:

1. He should be an Indian citizen.
2. By this time, he should have been thirty-five years old.
3. He should be able to contest the Rajya Sabha elections.
4. He should not hold any profit-making office under the Government of India, a State Government, or any local authority under their control; however, the President or Vice-President of the Union, the Governor of any State, or a Member of the Union or State Council of Ministers are exempt from this rule.

A person elected as Vice-President can not combine this office with a membership of the Union Parliament or a State Legislature. If, therefore, a member of Parliament or a State Legislature is elected Vice-President he is deemed to vacate such membership on the date on which he assumes charge of the office of Vice-President.

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### Term and Method of removal

The Vice-President is elected for a five-year term that begins on the day of his inauguration.

The Vice-President may resign by writing to the President under his own hand.

The Vice-President may be removed from office by a resolution of the Council of States, passed by a majority of all members of the Council of States at the time and approved by the House of the People; however, no resolution for this purpose may be moved unless at least fourteen days' notice of the intention to move the resolution has been given. The Vice-President remains in office until his successor takes over after his term expires.

**Salary:** The Vice-President of India is paid a monthly salary of '1,25,000. However, he does not get this remuneration as Vice-President; rather, he receives it as the ex-officio chairman of the Rajya Sabha. He also gets other benefits as a result of his position, such as free housing, free medical care, and so on.

### Powers and Functions of the Vice-President

In India, the Vice-President is the country's second highest official, second only to the President in terms of precedence. But no special constitutional functions have been entrusted to him. However he has to perform the following functions

- 1. As Chairman of Rajya Sabha:** He is the Rajya Sabha's ex-officio Chairman. He is the Rajya Sabha's presiding officer and is in charge of the Rajya Sabha's business. No bill, resolution or motion can be moved in the House without his permission. All the member address him and he reserves the right to allocate time for debate. He maintains order in the House and protects the privileges of its members. He is the President's and Lok Sabha's spokesman for the House. He represents the Council of States during ceremonial events. He can vote in the Council of States when there is a tie on a bill.
- 2. As Acting President:** If the President's office becomes vacant due to death, resignation, dismissal, or other reasons, the Vice-President fills the vacancy until a new President is chosen.

When the Vice-President assumes the role of President, he has all of the rights and privileges of the President, as well as the same emoluments, allowances, and benefits.

The Vice-President does not perform the duties of the Chairman of the Rajya Sabha and is not entitled to any salary or stipend paid to the Chairman of the Council of States during the period when he functions as President or exercises the powers of the President.

- 3. Cultural Function:** The Vice-President patronises many cultural institutions of India. He acts as the chancellor of Delhi University. When required, he attends International Conferences abroad. He may visit to different foreign countries during his tenure. Therefore, the Vice-President is called as moving ambassador of India.



**NOTES****Role**

The Vice-President of India occupies an office of considerable dignity, ranking next to the President in the warrant of precedence. But his effective role in the Government is rather insignificant. In the United States, the Vice-president is often described as “His Superfluous Highness.” The description fits the Vice-president of India equally well if not even better. The office of the Vice-President carries much dignity, honour and respect. He is number two citizen of India. His office can serve as a training centre for future Presidents. It would be right to describe the Vice-President as a “President in waiting” or a “shadow President.”

## 2.4 THE UNION COUNCIL OF MINISTERS

The parliamentary system is used in India’s government. The President of India is the country’s constitutional ruler, but the Council of Ministers, led by the Prime Minister, is the Indian Union’s true executive, exercising the President’s constitutional powers. According to Article 74 of the constitution, “there shall be a Council of Ministers with the Prime Minister at its head to aid and advise the President, who shall in the performance of his functions, in compliance with such advice.”

**Formation of the Council of Ministers**

“The President shall choose the Prime Minister, and the President shall appoint the Ministers on the advice of the Prime Minister,” says Article 75(1) of the Indian Constitution. Normally, the President has no say in who appoints the Prime Minister. He must name the Prime Minister as the majority party’s Lok Sabha leader. He can use his discretion and designate someone who is likely to win a majority of votes in the Lok Sabha if no party has a majority.

The Prime Minister submits a list of his Council members to the President, who simply approves it. A person must be a member of either House of Parliament at the time of their nomination as a Minister. When a Minister is not a member of either House of Parliament for six months in a row, he or she is no longer a Minister, according to the constitution [Article 75 (5)].

Cabinet Ministers, Ministers of State, and Deputy Ministers make up the three-tiered Council of Ministers. Cabinet Ministers are highest in status, power and emoluments. They are senior ministers who collectively formulate the policy of the Government. Next in seniority are Ministers of State. They hold independent charge of a department or a sub-department generally included in the portfolio of a Cabinet Minister they do not attend cabinet meetings unless especially invited when the affairs of their departments are to be considered. Deputy Ministers who are next in rank do not hold independent charge of any department and perform such functions as the Minister in-charge may delegate to them. Sometimes Parliamentary Secretaries are also appointed, but they are not ministers properly so called. The Prime Minister is in charge of appointing ministers to certain portfolios.

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**The Council of Ministers and the cabinet**

The Indian Constitution only references the council of ministers, not the cabinet, in Article 74. The cabinet is an extra-constitutional body. The following are the main point of differences between council of ministers and cabinet.

- (i) The council of ministers is made up of all Union ministers. The cabinet, on the other hand, is made up of high-ranking ministers..
- (ii) The council of ministers includes the cabinet. The cabinet is a tiny but powerful section of the council of ministers, which is a larger entity.
- (iii) All of the government's policies are developed by the cabinet, not the council of ministers.
- (iv) The cabinet meets on a regular basis under the Prime Minister's presidency. It's unusual for the council of ministers to meet in full.
- (v) The government controls both the Lok Sabha and the Council of Ministers.

**Functions of the Council of Ministers**

The powers and functions of the Council of Ministers in India can be summarised as under:

**(a) Executive Functions :** The President's powers are entrusted by the constitution to the Council of Ministers. The creation of the union's executive policy, on which the entire administration is carried out, is the Council of Ministers' most essential executive role. The Cabinet, which is a "body of the Council of Ministers," performs this function. Following the formulation of a policy, members of the Council of Ministers attempt to put it into action.

Governors, ambassadors, and other diplomatic representatives, as well as the Chief Justice and other Supreme Court Judges, Chief Justice and other High Court Judges, Attorney General and Auditor General of India, and members of various commissions such as the Finance Commission and the Election Commission, are all appointed by the President. All of these appointments have been approved by the Cabinet. State governors, the Attorney General of India, and other officials can be fired by the President. In eliminating these officers, he follows the advice of the Council of Ministers.

**(b) Legislative functions:** On the recommendation of the Council of Ministers, the President of India exercises full legislative powers. He communicates with the House of Commons and sends signals to them. The Cabinet prepares the addresses and messages. When Parliament is not in session, the President issues ordinances. On the advice of the Cabinet, he does so. The President nominates twelve Rajya Sabha members and two Anglo-Indians to the Lok Sabha on the advice of the Council of Ministers. Most legislative measures are prepared and submitted to Parliament by the Council of ministers. As the Council commands a majority in Parliament, it finds no difficulty in getting them pass. Legislative measures introduced by private members of Parliament have a chance of being passed only if the Council of Ministers extends its support to them. The President

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summons, prorogues or dissolves the parliament in accordance with the wishes of the Cabinet.

**(c) Financial Functions:** The Cabinet is in charge of preparing the Annual Budget and Supplementary Budgets. On behalf of the President, the Finance Minister submits them to Parliament. A grant request cannot be made unless the President recommends it, according to the Constitution. It means that it is the Council of Ministers that decides what taxes are to be levied and how the funds of the Union Government are to be spent. Although Parliament has the power to modify the recommendations of the Council of Ministers with regard to revenue and expenditure, in actual practice it can do so only if the council agrees. If any amendment to the recommendations of the council were to be passed by Parliament is not passed, it would be taken as a vote of no-confidence in the House, and may force the council to resign or recommend dissolution of the House of the People.

**(d) Foreign and military affairs:** Declaration of war and conclusion of peace are executive functions. They are exercised by the Council of Ministers in the name of the President. In a same way, the Council of Ministers has executive authority over international affairs. On behalf of the President, the Council of Ministers negotiates all treaties and international accords.

**(e) Judicial functions:** On the recommendation of the Council of Ministers, the President of India performs his judicial powers, such as issuing pardons and reprieves.

**(f) Emergency powers:** The President is vested with extensive emergency powers. There are three types of emergencies: (i) emergencies caused by armed revolt or foreign assault, (ii) emergencies caused by constitutional machinery breakdown, and (iii) financial emergencies. On the recommendation of the Council of Ministers, the President performs all of these duties.

**(g) Other Functions:** The Council of Ministers finalises the ordinances to be promulgated by the President when the parliament is not in session. It also finalises the proposal(s) to amend the constitution and the ministers pilot the amendments on the floor of the Parliament. During the proclamation of President's Rule in a State, the Cabinet exercises control over the State Government.

### Position of the council of ministers

The powers and functions of the Union Council of Ministers illustrate that it is the true and powerful executive in the Indian political system. The council of ministers, in particular the cabinet, is responsible for carrying out the president's executive, legislative, financial, and emergency authorities. The cabinet is in charge of directing, supervising, and controlling the development of national policy as well as India's administration. Like British Cabinet, the Cabinet of India sits as steering wheel of the ship of the state. It is the pivot round which the whole administration revolves. It is the key-stone of the political arch. It is the centre of gravity and most powerful institution of the Indian Parliamentary democracy.

The Cabinet is "a hyphen that joins, the buckle that binds the executive and legislative departments together." It dominates both policy formulation and policy

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implementation. No doubt, the cabinet is powerful, dominant and it controls the tone, pace and direction of the Government. But it would be wrong to say that there is Cabinet dictatorship in India.

## 2.5 THE PRIME MINISTER OF INDIA

The Prime Ministership was first formed in England, and the Indian Constitution writers borrowed it. According to Article 74(1) of the Constitution, the Prime Minister is “at the head” of the Union Council of Ministers. “The prime minister is the government’s lynchpin,” Jawaharlal Nehru declared. He is the government’s business manager, and he is in charge of the design and implementation of the government’s policies. As a result, he has “the authority to exercise broad control over individual ministries.” The Prime Minister is in charge of coordinating the actions of the various Ministers and, in the ultimate resort, resolving conflicts amongst them. He’s a sort of appeals court for ministers who can’t agree on anything.

### Appointment of the Prime Minister

The President’s selection of the Prime Minister is not specified in the constitution. It simply states that the Prime Minister will be appointed by the President. A person who is not a member of either House of Parliament can be named Prime Minister if the constitution is scrupulously implemented. According to the constitution, the Prime Minister does not have to be a member of the House of Commons. He now has “the authority to wield wide influence over individual ministries” as a result of this. The Prime Minister is in responsible of coordinating the operations of the several Ministers and, in the end, settling inter-ministerial disagreements. He functions as a sort of appeals court for ministers who are unable to reach an agreement.

### Powers and Functions of the Prime Minister

The Constitution of India nowhere formally states the powers and functions of the Prime Minister. However, She exercises a very large rather the largest amount of power in Indian political system as the head of the government, the chief advisor to the President, leader of the Council of Ministers and leader of the Parliament and the nation. The following are the Prime Minister’s authorities and responsibilities:

**1. Formation and control of Council of Ministers:** According to the Indian Constitution, the Prime Minister of India is the head of the Council of Ministers. Article 74 states, “There will be a Council of Ministers with the Prime Minister at its head to assist and advise the President.” Article 75 states, “The other Ministers shall be nominated by the President on the advice of the Prime Minister.” The Prime Minister appoints the members of his Council of Ministers, defines their size, distributes portfolios to individual ministers, and names the cabinet members. If the Prime Minister’s party has a clear majority in the House of Commons and he is in complete control of the party, he will have complete discretion in selecting Ministers and allocating portfolios to them. If there is someone in the party who can

challenge him, the Prime Minister's options for team selection and portfolio distribution will be constrained.

It is the right of the Prime Minister to shuffle and reshuffle his Council of Ministers as and when he likes. Indira Gandhi often used this right to consolidate her position and to ensure her full control on the cabinet. Rajiv Gandhi also followed the same practice.

Despite the fact that the constitution states that ministers must serve at the pleasure of the President, ministers serve at the discretion of the Prime Minister. The Prime Minister has the authority to ask any of his colleagues to resign. If the Prime Minister wants a certain Minister to resign, all he has to do is give him a hint. He may be fired if he does not resign.

The Prime Minister is accurate when he says that the Prime Minister is fundamental to the formation of the Ministry, its life, and its death. He is the Council of Ministers' Kingpin, the centre of gravity, and the cornerstone.

Cabinet meetings are presided over by the Prime Minister. He is in charge of setting the agenda for cabinet meetings. Although the discussions in the meetings are open and every member has the right to express his views freely, yet it is the views of the Prime Minister that prevail.

**2. Co-ordination of Administration:** The Prime Minister of India co-ordinates the policies and functions of all the Ministers. It is his right as well as his duty, to ensure that every Minister and every Department functions efficiently and carries out policies of the cabinet faithfully. Under the cabinet form of government, the Minister in Charge of each Ministry is responsible to the Prime Minister for the ministry's activities, and the Prime Minister is the highest person-in-choice of a ministry. The Prime Minister has direct authority over all Ministers. The Prime Minister has the authority to judge the Ministers. In the end, he is the one who bears responsibility.

**3. The Prime Minister and the President:** The Prime Minister is the only channel of communication with the President on all matters. All decisions made by the Council of Ministers concerning the administration of the union's affairs, as well as legislative initiatives, must go through him to the President. Any information or legislative suggestions pertinent to the administration of the union's activities must be provided to the President.

**4. Prime Minister and Parliament:** Between the Cabinet and Parliament, the Prime Minister is the major point of communication. He is the Government's chief spokesman in Parliament. He is the Speaker of the House of Representatives of the People. He makes all of the government's major policy pronouncements. He is the one to whom all queries about national and international issues are directed. He starts important debates and intervenes in others when it appears that the Government's position has to be defended. His views on government policy are often regarded as authoritative. He can correct errors made by his colleagues on the floor of the House. In critical matters the burden of defending the position and view points of the Government falls on his shoulders. No other minister is capable of

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fulfilling such a function. Only on the Prime Minister's suggestion does the President dissolve the Lok Sabha.

**5. Role of Prime Minister in International affairs & Defence:** The Prime Minister is the chief spokes person of the nation on international problems. He may not hold the charge of the External Affairs Ministry but it is he who controls the foreign policy of the nation and the appointment of diplomatic missions. The outside world looks to the Prime Minister for the authoritative pronouncements on the nation's policy on world events. In international affairs it is he who speaks for the nation. His pronouncements on the country's foreign policy are studied and scrutinised carefully in foreign affairs throughout the world. He represents the country as head of government in international gatherings. Treaties and agreements with foreign powers are negotiated and concluded directly under his supervision and guidance.

Prime Minister's relations with the Defence Ministry are very close and active. He may not hold the charge of that ministry, but he keeps a close watch on its working. In the time of war it is Prime Minister who shoulders the responsibility of the defence and foreign affairs. The role of the Defence Ministry simply amounts to assisting him.

**6. Prime Minister and States:** In reality the Prime Minister appoints and dismisses Governor of the States. He decides that the constitutional machinery in a state has failed and that the President must assume to himself the functions of the Government of that State. Because he is a member of the ruling party at the federal level, the Governor acts as a simple agent for the Prime Minister in certain areas, such as proposing a person to form a ministry in states where there are multiple parties with a shaky grip on the legislature, or in bringing about the removal of a ministry having confidence of the Legislature, because it belongs to an opposition party. In the States where the party in power is the same as that ruling at the centre, the Chief Minister is mostly a nominee of the Prime Minister. This practice of imposing upon a State a Chief Minister's choice has seriously undermined the autonomy of the States. The practice was very common in the time of Indira Gandhi and Rajiv Gandhi.

### **Emergency Provisions and Prime Minister**

The Prime Minister effectively exercises the President's emergency powers. In 1975 Indira Gandhi declared National Emergency without even consulting her cabinet colleagues. The 44th Amendment to the Constitution has limited the Prime Minister's power to some extent. According to the change, the President cannot declare an emergency unless the Union cabinet has chosen to do so and has informed him in writing of their decision.

### **Position of the Prime Minister**

The Prime Minister holds a unique role in the executive branch of government, according to the constitution. He is the President's chief counsellor as well as the leader of the Council of Ministers, *primus inter-pares*. Because of his prominent position, he has a specific responsibility to ensure that the institution performs as a

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team, that the rule of collective responsibility is effectively enforced, that policies are made objectively and realistically after due study and deliberation and motivated by national interests that they are implemented properly and effectively, that the administration is responsive to the people. In the words of Prof. Ivor Jennings, the Prime Minister is not actually the *primus-inter-pares*, he is rather a sun around which planets revolve. Once Jawaharlal Nehru described the Prime Minister as the linchpin of the Government.

### Role and Position of Prime Minister

The President is the head of state in India's parliamentary democracy, but the Prime Minister is the head of government. Although the President is in charge of the Union's executive functions, they are carried out by the Prime Minister. The President serves as the country's ceremonial leader, while the Prime Minister is the genuine leader.

The Prime Minister has been described as the "*Primus Interpares*" or "the first among equals." He has also been compared to "*Interstellas Luna Minors*" or "a moon among the lesser stars." To say that India's Prime Minister is the first among equals is an under statement of his powers and influence. There is hardly any comparison between the Prime Minister and any other Union Minister in respect of power. Other Ministers serve at the pleasure of the Prime Minister. The Prime Minister serves as a uniting force in the government and serves as the principal link between the executive and legislative institutions. According to Nehru and Ambedkar, the Prime Minister is "the Linchpin of the Government" and "the Crucial Stone of the Cabinet Arch."

However, it is difficult to judge the powers and influence of the Prime Minister by reading the constitution. The Constitution of India does not speak much about these. But an examination of the practices since independence would make us aware of the role and position of the Prime Minister. He is no doubt, the most powerful leader of the country. He enjoys tremendous power and influence both in the executive and legislative spheres. As Chairman of the Council of Ministers he plays a decisive role. The Prime Minister's talents and stature are bolstered by the fact that he also holds the title of President of India. In reality, the Prime Minister performs all of the duties that the President is granted by the constitution. In this respect the position of the Prime Minister in Great Britain and all those epithets which are used for the Prime Minister in Great Britain are applicable to him as well. Some of these epithets are "*Primus Interpares*", "the moon among the lesser stars", "steersman of the ship for the state" and "sun around which all other planets revolve."

## 2.6 RELATIONSHIP BETWEEN THE PRIME MINISTER AND THE COUNCIL OF MINISTERS

According to Article 74(1) of the Indian Constitution, the President of India will be assisted and advised by a Council of Ministers chaired by the Prime Minister. In these sentences, the Prime Minister is obviously assigned a superior

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and headship' position. He is the legitimate and designated leader of the Council of Ministers. He is the foundation of the Cabinet's organisation.

The Prime Minister is essential in the formation, survival, and dissolution of the Union Council of Ministers. His first order of business after being named Prime Minister is to assemble his cabinet. He decides who shall be included into and excluded from the Council of Ministers. He determines the size of the Council of Ministers. Without a doubt, he was instrumental in the establishment of the Council of Ministers.

The Prime Minister also has the power to appoint members of the Council of Ministers to various positions. He can also rearrange and reshuffle his Ministry at any time and for whatever long he likes.

The Prime Minister can also nominate members of the Council of Ministers to various roles within the government. He can also rearrange and reshuffle his Ministry at any time and for whatever long he likes. Without the Prime Minister's approval, no one can stay a Minister. Ministers are only in office while the Prime Minister is in office.

The Prime Minister keeps a vigilant eye on all ministries. He takes keen interest in the functioning of the Ministers. The Prime Minister gives them advice and counsel from time to time. If any minister faces any difficulty, the Prime Minister comes to its rescue. If any minister commits wrong, he would first be warned by the Prime Minister. But if that Minister repeats his mistakes, he would be punished. Either he will be dropped or he will be shifted to another ministry, generally of lesser importance.

The Prime Minister makes proper co-ordination among the different ministers. There may be disputes between different ministers or overlapping of functions. When such disputes arise, he irones out the differences and makes proper co-ordination.

The Prime Minister is the Cabinet's Chairman. The meetings of the Cabinet take place under his chairmanship. He fixes the agenda of the Cabinet meeting. He decides where and when the Cabinet is to meet.

The Prime Minister is the President's exclusive contact to the Council of Ministers. Article 78 of the constitution requires the Prime Minister to inform the President of all Council of Ministers decisions and legislative efforts. The Prime Minister has direct access to the President. Other Ministers can approach the President through the Prime Minister.

## 2.7 RELATIONSHIP BETWEEN THE PRIME MINISTER AND THE PRESIDENT

The President is the head of state in India's parliamentary democracy, but the Prime Minister is the head of government. Although the President is in charge of the Union's executive functions, they are carried out by the Prime Minister. The President serves as the country's ceremonial leader, while the Prime Minister is the genuine leader. In theory, the President is advised by the Council of Ministers,



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which is led by the Prime Minister, who has full authority “either directly or through officers subordinate to him in accordance with this constitution.” The President, on the other hand, is merely a consultant, but the Council of Ministers, notably its head, the Prime Minister, has genuine administrative authority.

The President carries out his duties in accordance with the Council of Ministers’ recommendations. The Council of Ministers, in general, and the Prime Minister, in particular, are responsible for all of the President’s acts. All acts of omission and commission, including, of course, the President’s advice, are accountable to the Lok Sabha by the actual administration, led by the Prime Minister.

Between the President and the Council of Ministers, the Prime Minister acts as a link. Article 78 of the Constitution assigns to the Prime Minister a special responsibility of keeping the President informed about governmental policies, decisions, proposals for law-making as well as to provide all other information regarding the Union administration. Thus, the constitution assigns to the Prime Minister the responsibility to act as the Chief Advisor to the President. The President of India acts upon the advice of the Prime Minister both in normal times and during emergencies.

The Constitution simply states that “the President shall appoint the Prime Minister.” As a result, the President follows the Parliamentary System’s norms and selects the Prime Minister who receives the most votes in the Lok Sabha. The Constitution simply states that “the President shall appoint the Prime Minister.” As a result, the President follows the Parliamentary System’s norms and selects the Prime Minister who receives the most votes in the Lok Sabha, or when some parties join to form a coalition under an agreed leader and this coalition enjoys a majority. Because he chooses the leader of that party or coalition as Prime Minister, the President has a minimal role in this. If no party gets a majority and many parties are unable to agree on a single candidate to lead them, the President can play a key role in appointing the Prime Minister. In such a case, the President can select a Prime Minister who is either the head of the single largest political party in the Lok Sabha, or any other group that is projected to gain majority support. While doing so, the President has the option of asking him to show his majority within a certain time frame.

The President of India has the power to dismiss the Prime Minister. But actually he can not dismiss a Prime Minister at any time in his own discretion. Only he can only dismiss a Prime Minister when the Lok Sabha passed a no-confidence motion or the Prime Minister failed to prove his majority in the Lok Sabha.

A study of the history of the working of the Indian Constitution fully brings out the fact that all the Presidents and Prime Ministers have been largely successful in maintaining a balanced and harmonious relationship between the two offices. The conflict and strains which resulted in the past were mainly due to clash of ego and personal likes and dislikes of the two authority holders and not due to any real conflict over the constitutional provisions governing these two offices.

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## 2.8 THE PARLIAMENT OF INDIA

The Union's legislative functions are vested in Parliament under the Indian Constitution. The President in Parliament wields law-making powers for the Union Government, just as he does for the United Kingdom. The House of Commons is a legislative body that is not sovereign. There are two chambers in the legislature. The lower chamber is known as the Lok Sabha, and the upper chamber is known as the Rajya Sabha. The Parliament is a powerful and active legislative body of the union. It has exclusive law-making rights over subjects on the Union List and residuary subjects, equal law-making powers over topics on the concurrent list, and restricted law-making powers over subjects on the state list in certain rare circumstances..

### 2.8.1 Salient Features of the Parliament

The Parliament of India has the following salient features.

- (i) **The President is an integral part of the Parliament:** Despite the fact that the President is not a member of either House of Parliament, he is considered an integral element of it under Article 79 of the Constitution. He calls both Houses of Parliament together and prorogues them, as well as dissolving the Lok Sabha. He has the ability to speak to both Houses at the same time or one at a time. From the Anglo-Indian community, he recommends 12 Rajya Sabha members and two Lok Sabha members. He gives his approval to laws passed by the House of Commons and announces ordinances while Parliament is not in session.
- (ii) **Bi-cameral Legislature:** India's Parliament is also divided into two chambers. The Lok Sabha, or people's house, is the lower house, while the Rajya Sabha, or council of states, is the upper house.
- (iii) **Non-Sovereign Status:** The Indian Parliament, unlike the British Parliament, is not sovereign. It can only legislate on matters that the constitution has allocated to it. The President has the authority to veto laws passed by the legislature. If the Parliament's laws are found to be ultravires, the Supreme Court may declare them ultravires once more.
- (iv) **Powers of both the Houses are not equal:** The Lok Sabha, India's lower house of parliament, has more power than the Rajya Sabha, the upper chamber. Because the Union Council of Ministers, not the Rajya Sabha, is responsible to the Lok Sabha collectively. The Rajya Sabha does not have the authority to initiate money legislation; it can only postpone their passage for 14 days. By passing a no-confidence resolution, only the Lok Sabha has the power to remove the Union Council of Ministers.
- (v) **Nominated members in both the Houses:** The President of India picks 12 Rajya Sabha members from among persons who have made significant contributions to literature, art, science, or social service. If necessary, he additionally nominates two members of the Anglo-Indian community to the Lok Sabha.

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## 2.8.2 Powers of the Parliament

The Union Parliament performs the following powers and functions.

**1. Law-making Power:** The primary function of Parliament is to enact legislation. It is responsible for enacting legislation related to the items on the union and concurrent lists. Parliament has the authority to pass laws on the topics included in the state list in some cases. The circumstances are as follows:

- (i) During the President's Rule in a state and when a National Emergency is declared.
- (ii) If a resolution is passed by the Rajya Sabha with a two-thirds majority of members, the Parliament can pass legislation relating to an item on the State List.
- (iii) The Parliament can legislate on an item on the State List if the legislatures of two or more states pass a resolution proclaiming it to be in the national interest.
- (iv) Parliament may approve legislation relating to an item on the State List in order to carry out any international agreement.

**2. Control over the Executive:** Parliamentary oversight is exercised over the Union Executive, i.e. the Union Council of Ministers. Members of both houses of Parliament have the power to sway the Council of Ministers by asking a range of questions in order to obtain information. Members have the ability to move adjournment motions, call attention motions, and motions of no confidence. If the Lok Sabha passes a no-confidence motion against the Council of Ministers, the Ministry will be forced to quit. The Parliament has a Committee on Ministerial Assurances. Its duty is to ensure that the promise made by a minister in the Parliament is kept by it.

**3. Control over the Finance:** The Parliament is very powerful in financial matters. The Parliament is the custodian of the purse of the nation. Without the approval of the Parliament, the Central Government cannot spend a single paisa. Only in the Lok Sabha the money bills can be introduced. The Parliament decides what taxes shall be imposed, what taxes shall be altered and what taxes shall be abolished.

**4. Constituent Power:** The constitution can be amended by Parliament. A constitutional amendment measure can come from either House, and the bill requires to be approved by each House. For amending certain provisions of the constitution, ratification by not less than half the State Legislatures is necessary.

**5. Judicial Power:** The Parliament has some judicial power. It has the power to impeach the President, remove the Vice President from office, Supreme Court and High Court justices, as well as a number of other high-ranking officials. The Parliament has also power to punish its members and others if they are found guilty of committing breach of its privileges.

**6. Electoral Power:** The Parliament votes on the presidential and vice-presidential elections. The Speaker and Deputy Speaker, as well as members of

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several committees, are elected by the Lok Sabha. The Rajya Sabha too elects its Deputy Chairman.

**7. Educative Power:** Parliament has the power to educate the people. The members of the Parliament come from various parts of the country and they put forth their grievances on the floor of the Parliament. Debates and discussions about these issues in the house are broadcast to the public via the press, radio, and television. People become politically conscious and enlightened. The Parliament is the 'mirror' of the whole nation. It acts as the communication link between the Government and the people.

The Parliament is the main organ of democratic India and the effectiveness of the legislature would have a considerable impact on democracy's success. Unlike the British Parliament, the Indian Parliament is not a sovereign entity.

## 2.9 THE LOK SABHA

The Lower House of Parliament, often known as the House of the People (Lok Sabha), has a role that is similar to that of the House of Commons in the United Kingdom. It is a symbol of the Indian people. It is a powerful, democratic, and democratically elected House. It contains elected representatives of the people. It enjoys a very strong position as a powerful part of the parliament of India.

### Composition

Article 81 of the Constitution of India determines the strength of the Lok Sabha. The original strength of the Lok Sabha, as laid down in the constitution was subject to a maximum of 500. This was raised to 525 and, later to 550. In addition, if the President considers the Anglo-Indian population is underrepresented in the House, he may appoint two members. The number of MPs in the Lok Sabha is currently set at 545. 525 members are elected from the states, while 20 are elected from the union territory. Odisha sends 21 members to the Lok Sabha.

### Qualifications for Membership

A individual must be an Indian citizen, at least 25 years old, and meet any extra qualifications imposed by Parliament under any statute in order to be elected to the Lok Sabha (Article 84).

### Life of the House

From the date of its first meeting, the Lok Sabha has a five-year life span, after which it must be dissolved. The House of Representatives could be dissolved before the conclusion of its tenure, and its existence may be extended for up to one year while a declaration of emergency is in effect, but not for more than six months after the proclamation has expired.

### Presiding Officer

The Speaker of the House of People is the presiding official of the House of People. He is in charge of the House's proceedings, as well as maintaining order and discipline and safeguarding the privileges of its members. In general, the

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Speaker's role is comparable to that of the Speaker of the British House of Commons. In the absence of the speaker, the House elects a Deputy Speaker to preside over its meetings.

**Powers and Functions of Lok Sabha**

**(a) Legislative Functions:** The Lok Sabha's principal role is to make laws for the country. Except for money bills, when the Lok Sabha has a near monopoly of power, it shares this function with the Rajya Sabha. In the case of non-money bills, the powers of the two Houses are co-ordinate and co-equal except that the Lok Sabha has a dominant voice in the event of difference between the Houses when the matter has to be resolved in joint sitting of the two Houses.

**(b) Financial Functions:** Controlling the Union money is another essential role of the Lok Sabha. The government cannot collect a tax or incur any expenditures unless Parliament, in this case the Lok Sabha, gives its consent and assent. The President of India, Vice-President of India, Supreme Court Judges, Comptroller and Auditor General of India, and others' salaries and allowances may be debated but not voted on in the Lok Sabha. With Parliament's consent, these products are charged to the Consolidated Fund of India. Lok Sabha is supreme in financial sphere. Rajya Sabha may discuss the Budget but it is the Lok Sabha which passes the Finance Bill and votes demands for grants.

**(c) Creation and control of the Council of Ministers:** The Council of Ministers is established by the Lok Sabha. The latter is, in fact, a committee of the former. The President appoints the Prime Minister from the Lok Sabha's majority party. Although the majority of members of the Council of Ministers are Lok Sabha members, a small number also serve on the Council of States. The Council of Ministers is held collectively responsible by the House of People. It can only stay in power as long as the House of Representatives believes in it. The House of the People exercises general control of administration by means of questions, supplementary questions, adjournment motions and censure motions. It has the power to overturn the Council of Ministers by passing a no-confidence motion against it.

**(d) Constituent powers:** The House of People has co-equal powers with the Council of Ministers when it comes to altering the constitution. Amendments can be proposed in either House of Parliament under Article 368. To be approved, it must receive a two-thirds majority of those present and voting, as well as a majority of the House's total members.

**(e) Electoral Powers:** For the role of President of India, members of the Lok Sabha contest. An electoral college selects India's Vice-President. The Electoral College is made up of members of the House of Commons. The Lok Sabha's Speaker and Deputy Speaker are elected by the Lok Sabha's members.

**(f) Power to Remove President:** According to the constitution, if the President violates the constitution, he or she can be impeached. Either House has the option of choosing the charge. If the charge is preferred by the House of People, the charge is investigated by the Council of States. The House of People

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investigates it if it is preferred by the Council of States. The President is removed from office if the investigative House votes a resolution stating that the charge has been supported by a majority of two-thirds of the total number of members.

**(g) Educative Functions:** The House of People has important educative functions to perform. It's a place where folks may air their frustrations. Its members from from all around the country and represent the demands of the people in their respective districts. The Government after hearing the grievances gives assurance to the members to solve the problems. The discussions of the Lok Sabha appear in the newspapers and television and provide education to the people. So, Lok Sabha educates and enlightens the people.

**(h) Other Powers:** Finally, to keep the President's proclamation of emergency in effect, the House of Representatives, as well as the Council of States, must agree. When a state of emergency is declared, the House of Representatives has the right to extend the declaration's period with the permission of the Council of States. When a declaration of emergency is in effect, the House has the authority to prolong its term with the approval of the Council of States. It approves the ordinances issued by the President. It can also punish any members or any citizen who is found by its quality of committing a contempt of the House.

### Position of the Lok Sabha

The Lok Sabha is the country's most powerful legislative body. The Lok Sabha, not the Rajya Sabha, is in control of the council of ministers under India's parliamentary system. Members of the council of ministers are appointed for as long as the prime minister has the Lok Sabha's support. By casting a no-confidence motion or rejecting a budget measure, the Lok Sabha has the power to remove the Prime Minister and his government. The state's finances are completely under the authority of the Lok Sabha. As a directly elected House, it really represents the sovereign will of the people of India. Like the British House of commons, the Lok Sabha is the real centre of power in the Union Parliament. According to M.P. Sharma, "If the parliament is the supreme organ of the state, the House of people is the supreme organ of the parliament. In fact, for all practical purposes, it is the parliament."

## 2.10 SPEAKER OF THE LOK SABHA

The Presiding Officer of the Lok Sabha is the Speaker of the Lok Sabha. The Speaker's Office is held in high regard and carries a considerable lot of prestige, position, and power. He wields total power on the Lok Sabha floor. He is respected by all the members to the extent when he stands in the House no other members stands, and when he speaks no one else speaks. He represents the House's dignity, as the House represents the nation. In the words of the S. Sukam Singh, a former Speaker of the Lok Sabha, "the speaker holds one of the highest offices of the land."

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### Method of Election and Removal

Article 93 of the Constitution provides, “The House of People shall as soon as may be, choose two members of the House to be respectively known as speaker and Deputy Speaker.” The House elects the speaker at its first meeting after the formation of the New Lok Sabha.

The speaker loses his post if he is no longer a member of the House or if he resigns, according to Article 94 of the Constitution. He can also be removed from office by the Lok Sabha, which can do so by a majority of its members passing a resolution. However, a prior notice of 14 days is necessary to initiate the no-confidence resolution against the speaker.

Tenure of the speaker goes side by side with that of the Lok Sabha. Even after the Lok Sabha has been dissolved, he stays in office. He will be Speaker of the Lok Sabha until a new Lok Sabha is elected.

### Powers and Functions of the Speaker

The Speaker of the Lok Sabha has the following major responsibilities.

1. He directs the work of the House and preside over its meetings.
2. He also serves as Speaker of the House of Commons.
3. He keeps the Lok Sabha in order. If a member of the Lok Sabha breaks the rules, he has the ability to expel him or her from the House.
4. In collaboration with the Prime Minister, he appoints House committees and sets the agenda for House meetings.
5. He decides and allows members to put questions in the House.
6. He is in charge of the House’s business, which includes enabling members to present legislation or move motions, giving them time to speak in the House, arranging discussions, bringing matters to a vote, and announcing the results.
7. Due to a lack of quorum or disorderly behaviour by House members, he has the right to postpone House proceedings.
8. He determines whether or not a measure is a money bill. In this case, his decision is final.
9. The Speaker does not take part in House debates or deliberations. He even refuses to vote on bills. He can use his casting vote to break a tie on any bill.
10. Members of the House possess a number of privileges that are safeguarded by the Speaker. No member of the Lok Sabha can be arrested by police without his prior permission.
11. He acts as a liaison between President and Parliament. All kinds of information are sent from the Parliament to the President by the speaker. The President if sends messages to the Parliament it is sent through the Speaker.

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12. He serves as the ex-officio chairman of a number of significant committees, including the Business Advisory Committee and the Rules Committee. In addition, he has a significant influence on the composition of House Committees.
13. He is in charge of the Lok Sabha's secretariat. He appoints the secretariat's workers, establishes service norms for them, and oversees their work.
14. He is in charge of keeping track of the House's proceedings.
15. Under the Anti-Defection Act, he disqualifies a Lok Sabha member.

### **Position of the Speaker**

The Speaker of the Lok Sabha is well-liked and respected. He serves as the House's leader, representative, and impartial chairman. Every member respects him to the point where no other member rises to speak during his time speaking in the House. In the words of Pt. Jawaharlal Nehru, "The Speaker represents the House. He is a symbol of the House's dignity, and the Speaker becomes a symbol of the Nation's freedom and liberty since the House represents the Nation in such a unique way."

## **2.11 RAJYA SABHA OR COUNCIL OF STATES**

The Council of States is the name of the upper house of parliament (Rajya Sabha). As its name suggests, this chamber embodies the federal principle because it is made up of state delegates, or the constituent parts of the Indian Union. However, unlike in the majority of conventional federations like the USA and Switzerland, India's many States do not have equal representation in the Upper House.

### **Composition**

The Council of States must have no more than 250 members, according to Article 80 of the constitution, with (a) 12 members nominated by the President and (b) the remaining members (i.e. 238) representing the States and Union Territories.

Twelve members with exceptional knowledge or practical skill in fields like literature, science, art, or social work will be chosen by the president.

The Legislative Assembly members from each state will elect its delegates using a proportional representation system.

Any legislation enacted by Parliament must be followed when choosing members for the Union Territories. Under this authority, the representatives of the Union Territories shall be indirectly elected by the members of the electoral college for such Territory, on the basis of a proportional representation system based on single transferable votes.



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**Qualification for Membership**

The requirements for membership in the Council of States are as follows.

He or she must meet the following requirements:

- (i) be an Indian citizen;
- (ii) be at least 30 years old; and
- (iii) have lived in the state where they will be elected for at least six months.
- (iv) He must meet all further requirements that the Parliament may impose.

**Tenure**

The Rajya Sabha is a never-ending chamber that will never be abolished. Members are chosen to serve terms of six years. One-third of the organization's members resign every two years. Ex-officio chairman of the Council of States is the Vice-President of the Union. The Council of States members vote to elect the Deputy Chairman. The Rajya Sabha is convened by the President of India. The quorum is one-tenth of the members of the Rajya Sabha.

**Powers of the Rajya Sabha**

The Council of States or Rajya Sabha is inferior to the Lok Sabha in power and status. Yet it performs many important functions which are given below.

**Legislative Powers**

In terms of regular legislation, the Council of States and the House of People are co-equal. Ordinary legislation can originate in any chamber of Parliament. A law is not considered adopted unless it is approved by both Houses, either without amendment or with only the amendments that both Houses agree on. In the event of a deadlock, the constitution allows for combined sittings of the two Houses. The president may call a joint sitting of the two Houses if a Bill has been passed by one House but rejected by the other, or if the Houses have finally disagreed on the amendments to be made to the Bill, or if more than six months have passed since the other House received the Bill without it being passed. The bill is deemed to have passed both Houses if a majority of the total members of both Houses present and voting at the joint session vote in favour of it.

**Financial Powers**

The Rajya Sabha has almost minimal authority over financial problems. A monetary measure cannot be introduced in the Council of States. The Council of States is consulted on a money measure passed by the House of People. The Council must respond with its suggestions within fourteen days. If the Bill is not returned within fourteen days, it is presumed to have been passed by both Houses in the form in which it was first passed by the People's House when the time restriction expired. If the Bill is returned to the House of People with amendments, it will be reconsidered. It may accept or reject any of the amendments. After that, both Houses of Parliament are regarded to have passed the Bill.

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**Constituent Functions**

The Rajya Sabha has co-equal powers with the House of People when it comes to constitutional amendments. Amendments can be proposed in either House of Parliament under Article 368. It must be approved by a two-thirds majority of members present and voting in each House, as well as a majority of each House's overall membership. The constitution does not prescribe any procedure for joint sitting differences between the two Houses in case of disagreement on an amendment.

**Control over the Executive**

Some of the Union Ministers are chosen from the Council of States. By demanding information through questions and supplements, as well as moving adjournment resolutions, the Council exerts influence over the Union executive. But it cannot throw out the Council of Ministers. The Council of Ministers is collectively responsible to the House of People, according to Article 75 of the Constitution.

**Electoral Powers**

The President is chosen by the newly elected members of the Council of States. An electoral college selects India's Vice-President. Members of the College of States make up the Council of States. A Deputy Chairman is also chosen from among the members.

**Powers to remove President**

Either House can bring an impeachment charge against the President. If the charge is preferred by the Council of States, the charge is investigated by the House of People. The council investigates the charge if it is preferred by the House of People. If the investigative House votes a resolution indicating that the charge has been upheld by a majority of two-thirds of the total number of members of the House, the President is removed from office.

**Judicial Powers**

Some judicial functions are carried out with the help of the Rajya Sabha.

- (i) It has the power to impeach the President for constitutional infractions, together with the Lok Sabha.
- (ii) It has the power to initiate a proposal for the impeachment of the Vice-President.
- (iii) It has power to pass the resolution for the removal of a judge of the Supreme Court or High Court and some high officials.
- (iv) It can punish anybody for breach of privileges.

**Special Powers**

The following functions are exclusively performed by the Rajya Sabha.

- (i) It can empower the parliament to make a law on State List by passing a resolution with 2/3 rd majority. (Article-249)

- (ii) It has power to create or abolish of an All India Services. (Article-312)
- (iii) It has the exclusive power to initiate the resolution to remove the vice-president of India.
- (iv) It approves the proclamation of emergencies or ordinances when the Lok Sabha dissolved.

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### Utility of Rajya Sabha

- (i) The Rajya Sabha checks ill-considered and hastily legislation passed by the Lok Sabha.
- (ii) There are many seasoned and experienced members in this House. Their views share seriously taken into account.
- (iii) It relieves the burden of the Lok Sabha by introducing non-controversial bills.
- (iv) It enjoys some special powers under Articles 249 and 312.
- (v) When Lok Sabha stands dissolved some important approvals like proclamation of emergency, extension of president's rule in a state and ordinances declared can be approved by the Rajya Sabha.

Thus the Rajya Sabha is neither an organisational chamber like the House of Lords nor a powerful second chamber as the USA senate. Its position is somewhat mid-way between the two. The Rajya Sabha plays an effective role as a second chamber of the Union Parliament.

## 2.12 LEGISLATIVE AND FINANCIAL PROCEDURES

The Parliament of India is the Central Legislature. Its primary function is legislation or law-making. For the goal of enacting legislation, a certain method is used. Legislative initiatives introduced in Parliament are known as 'Bills' or 'Draft Acts.' In Parliament, a bill is introduced and passes through several stages of consideration. Laws are enacted by the Parliament by the Legislative procedure discussed from Articles 107 to 122. A bill enacted by Parliament becomes an Act with the President of India's assent.

Generally, Bills are classified into two types:

- (i) Money Bill and (ii) Ordinary Bill.

### Money Bill:

A bill relates to the imposing, reducing or repealing of taxes or relating to the expenditure or income is called as money Bill. It can only be introduced in the Lok Sabha with President of India's permission. Money bills can only be introduced by ministers. The Rajya Sabha can only delay a money measure enacted by the Lok Sabha for 14 days. The President is required by law to sign the bill.

### Ordinary Bill:

A bill other than money bill is called as ordinary bill. An ordinary bill is classified under Government Bill and Private Members Bill. Ordinary legislation

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can be introduced in the House of Commons, Senate, or Lords. The president of India calls a joint session of Parliament under Article 108 if two houses of Parliament disagree on an ordinary law. The joint session is presided over by the Speaker of the Lok Sabha. A law is given to the President for signature once it has passed both Houses of Parliament. The bill is up to the President to sign or have it reconsidered. The President is required to sign the measure if it is passed by both Houses without amendment.

Before a bill is deemed to have been passed by Parliament, it must be read three times and go through five stages in each House.

**(a) First Reading:** In the first reading of a bill, The bill is introduced in Parliament and the Indian Gazette publishes it. Ordinary legislation can be introduced in the House of Commons or the House of Lords. by any member after giving a notice of one month. A copy of the bill is presented to the Secretariat of the House. Then a day is fixed by the Speaker for its title. On the appointed day, the member reads put the bill and the opposing members ask explanatory statements. If the bill is voted majority, then it is presented before the Indian Parliament and published in the Indian Gazette.

**(b) Second Reading:** In the second reading, the bill may be discussed by the whole House or may be referred to a select committee or even it can circulated by the House itself. Bill in this stage is discussed clause by clause and necessary changes can be made.

**(c) Select Committee Stage:** The members in charge of the bill and an ex-officio member from the Law Committee comprise the Select Committee. The Speaker appoints the Chairman of the Committee. The Committee considers the bill clause by clause during this stage. All informations are collected this Committee can makes any change as it pleases.

**(d) The Report Stage:** The report stage consists of the points added and the parts subtracted. The decision at the time of discussion is made by majority verdict. So the report prepared by Select Committee is presented the House by its Chairman. Necessary amendments can be proposed. But it is upto the Speaker to allow or disallow amendments.

**(e) Third Reading:** Only verbal discussion is allowed in this stage. If the law is passed by a majority of the members present and voting, the House secretary authenticates it and transmits it to the other House, which follows the same procedure.

A bill enacted by parliament can only become law with the signatures of India's president. When a bill is presented to the President for his signature, he has two alternatives. He can either sign the bill or send it back to the House of Representatives for reconsideration. The President is compelled to sign the bill if it is passed by both Houses of Parliament again, with or without amendments.

Thus, like Britain where law-making is done by the king-in-Parliament, the Law-making in India also legally takes the form of law-making by the President-in-Parliament.

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## 2.13 PARLIAMENTARY COMMITTEES

The Union Parliament carries out its work with the help of a well organised and active committee system. Committees play an important role in the smooth functioning of the parliament and these are an integral part of the legislative system. These are also regarded as mini legislatures.

The committees of the Union Parliament can be classified into following five categories.

1. **General Committees:** The General Committees deal with the conduct of the business of the House. These include: (i) Rules Committee; (ii) Business Advisory Committee; (iii) Committee on Privileges, (iv) Committee on Government Assurances, (iv) Committee on Petition and (v) General Purposes Committees.
2. **Legislative Committees:** These types of committees generally involve in the process of law making. These include: (i) Committee on private member's bills and resolutions, (ii) Committee on subordinate legislation, (iii) Select Committee and (iv) Special Committees constituted for reporting over a particular bill.
3. **Financial Committees:** In the category are included those committees which deal with financial matters. These include: (i) Estimate Committee, (ii) Public Accounts Committee and (iii) Committee on Public Undertakings.
4. **Joint Committees:** These types of committees are formed jointly by the two Houses of Parliament for undertaking a common activity or for handling a work which concerns both the Houses. These include: (i) Joint Committee on salaries and allowances of the members of Parliament and (ii) Joint Committee on offices of profit.
5. **Other Committees:** Besides these four types of committees, there are certain other committees of Parliament. For example, (i) The House Committee and (ii) The Library Committee.

Thus, "Committees are eyes, the ears and hands of Legislature and sometimes these become the very brain of the legislature also."

## 2.14 RELATIONSHIP BETWEEN LOK SABHA AND RAJYA SABHA

The Union Parliament of India is divided into two chambers: Lok Sabha and Rajya Sabha. The people are represented in the Lok Sabha, while the state is represented in the Rajya Sabha. Lok Sabha enjoys a superior status in comparison to the second as representative chamber. The relationship between the Lok Sabha and Rajya Sabha can be studied in the following heads.

**(a) In the Sphere of Ordinary Legislation:** The Indian Constitution has marked the functions of both the houses, but in the legislative field the Lok Sabha enjoys a privileged position in matters of ordinary bills. it seems to us that both

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enjoy equal and coordinate authority, but actually the Lok Sabha enjoys a dominant position. An ordinary bill can be introduced in either house, but it cannot become an Act until both houses approve it.

When an ordinary bill is passed in the Lok Sabha it is referred to the Rajya Sabha and it can keep this bill for six months within which the bill has to be approved or rejected. If the Rajya Sabha approves the measure, it becomes an Act; if it rejects it, the President must convene a joint session of both chambers to break the impasse. The bill's fate is decided by a simple majority of votes in the joint sitting. The House of People, or Lok Sabha, finally wins the contest because the entire membership of the Council of States is less than half of the overall strength of the House of People.

**(b) In the Sphere of Financial Legislation:** In the sphere of financial legislation the position of Rajya Sabha is certainly subordinate and inferior to that of Lok Sabha. Because no money bills can be submitted in the Rajya Sabha, the Lok Sabha has the pleasure of introducing them. A money bill is sent to the Rajya Sabha once it is passed by the Lok Sabha. The Rajya Sabha does not have the authority to modify currency bills; it can only approve them within 14 days unless the bill has been enacted by the Rajya Sabha. Rajya Sabha can propose amendments which may be accepted or rejected by the lower House. That is why the Lok Sabha is made superior to the Rajya Sabha in the financial field. Rajya Sabha can only touch the purse string but can neither widen its opening nor block the flow from it.

**(c) In the Sphere of Executive Control:** In the matters of control over executive also, in comparison to the Rajya Sabha, the Lok Sabha is in a better position. "The Union Council of Ministers must be jointly responsible to the House of People," according to Article 75(3) of the Constitution. As a result, the Rajya Sabha has no jurisdiction over the ministry. The Lok Sabha has the right to dismiss the government with a vote of no confidence, but the Rajya Sabha does not, and if it does, the government is not obligated to quit. The members of the Council of States can only ask questions, introduce motions and criticise the government for its policies and programmes, but it can exercise no direct control over the Union Executive. Thus, the sphere of executive control of the Lok Sabha is more real, direct and effective.

**(d) Equal Powers of Both the Houses:** In certain specific matters, both Lok Sabha and Rajya Sabha enjoy equal authority. In the sphere of constitutional amendments, ratification of treaties, approval of proclamation of emergencies and election of President and Vice-President both the houses enjoy coordinate authority.

**(e) Special powers of Rajya Sabha:** The Constitution has given some special or exclusive powers to the Rajya Sabha.

1. Under Article 312, Rajya Sabha can only authorise the Parliament to set up one or more All India Services for Centre and States.
2. By passing a resolution with a two-thirds majority of its members, the Rajya Sabha can transfer any item on the State List to Parliament's legislative competence (Article 249).

3. The only body with the capacity to offer a resolution to remove India's Vice-President is the Council of States.

From the comparative analysis of powers it can be concluded that the Lok Sabha wields significantly more authority than the Rajya Sabha. Rajya Sabha plays the role of a second chamber and its indirect representation further lowers its profile. But, nevertheless, as a permanent chamber, it provides continuity in thought and action and imports stability to Parliamentary affairs.

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### 2.15 THE SUPREME COURT OF INDIA

In India, there is a strong, independent and well-organised judiciary. The Supreme Court is a revered institution that plays a critical role in India's constitutional framework. It is entrusted with the responsibility of ensuring that laws are fairly applied and that no one is denied justice because it is at the top of a single united court. The Supreme Court's directions and guidelines control the organisation and operation of the whole legal system. Its decisions must be followed by all courts. It is the highest court of appeals.

Article 124 of the Constitution states, "There will be a Supreme Court in India." It was established on January 26, 1950, with the new Indian constitution.

#### Composition

At present, the Supreme Court consists of 26 Judges including Chief Justice. Article 127(1) of the Constitution allows for the appointment of ad hoc judges. According to the constitution, the President shall appoint each judge after consulting with as many Supreme Court or State High Court judges as the President deems necessary. When a judge other than the Chief Justice of India is appointed, the Chief Justice must always be contacted.

### 2.16 NATURE AND SCOPE OF JUDICIAL REVIEW

Judicial review is a legal measure conducted by a court to safeguard the validity of the constitution. The Constitution is considered the supreme and fundamental law of the land. There should be no attempt for its sacrilege. If a law made by the legislature or any executive order or official action comes in conflict with the provisions of constitution, the judiciary in order to protect the constitution from undue intervention can declare that law or executive order or action null and void or *ultravires* of the constitution.

The Supreme Court of United States of America enjoys this power. In 1803 Chief Justice Marshall in the case of *Marbury vs Madison* asserted that the Supreme Court of USA has the power of judicial review. Since the Supreme Court is acting as the guardian of the constitution it must see that all laws and executive orders in the state conform to the provisions of the constitution. Since the Supreme Court acts as the guardian of the constitution it reviews the laws and executive actions and to get itself assured that they do not violate any provision of constitution. The Supreme Court is also the interpreter of the constitution and as

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such it has helped the growth of the constitution. The Supreme Court of USA is therefore called the “Third Chamber” of the congress of USA as it not only alters the laws made by the congress, it also expands the constitution.

### **Judicial Review in the Context of Indian Constitution**

In view of the power of judicial review exercised by the Supreme Court in USA, it is said that there exists judicial supremacy. In England, the situation is different. Parliament is supreme there. No body, no agency, no organisation can go against parliamentary supremacy. In India, it is the constitution that is supreme. The constitution under no circumstances can be allowed to be violated or transgressed. The constitution of India in several provisions guarantees judicial review of legislation. The High Courts also enjoy this power.

The Judiciary in India declares a piece of law invalid if it finds that the law

- is not within the legislative authority of the body that passed it,
- is against the constitution, or
- infringes on the fundamental rights of Indian citizens.

The power of Judicial Review extends to the laws made by the Union Parliament and by the state legislature, the executive actions of Union government, state government and any other government in the territory of India. The courts may be obliged to interpret the provisions of the constitution and legislation while adjudicating conflicts between people, between individuals and states, and between the states and the Union. There is no appeal available against the Supreme Court’s decision.

There is a distinction between the American practice and Indian practice so far as Judicial Review is concerned. In USA, the judicial review operates under the principle of “**Due Process of Law**” and in India it is governed by the principle of **Procedure Established by Law**

In America, the court examines whether the law-making body had the power to do it and had done it in accordance with the procedure laid down. The court also examines the reasonableness of the law and whether it violated Natural Justice. There are several judgements of the American Supreme Court basing upon these considerations.

In India, the power of the Judiciary is limited. The courts in India only examine the competency of the law making body to make the law and if due procedure was followed in making the law. The question of Natural Justice and reasonableness of law is not enquired into.

There are good number of provisions in the constitution that empowers Judicial Review. But Article 13 and Article 245 are the most important provisions.

The verdict delivered by the Supreme Court in Golaknath, Bank Nationalisation, Privy Purse, Keshabananda Bharati and Minerva Mill cases declared the legislation unconstitutional. In fact the Supreme Court imposed restrictions on the parliament so far as its power to amend the constitution is concerned.



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The term Judicial Review has not been used in the constitution. The power of Judicial Review is exercised by the Indian courts by interpreting the provisions of constitution. It therefore rests upon the doctrine of Implied Powers. The critics say that the Judicial Review is an unnecessary encroachment on the powers of Parliament. The power of Judicial Review must be exercised with restraints or else the situation may lead to Judicial Tyranny. The situation may happen whereby the Supreme Court may enter into political controversy.

## 2.17 JUDICIAL ACTIVISM IN INDIA

Judicial activism has grown in favour in recent years. It refers to and includes any action taken by a court that is not subject to judicial review. However the Constitution of India does not confer any authority or jurisdiction for 'activism' as such on the Court. Judicial activism in other words means the interpretation of decisions by courts, which are in accordance with the need of the times. In a nutshell, judicial activism occurs when the Supreme Court and lesser courts become activists instead than restrained. They have the power to compel the power to act, as well as to instruct the government on policy and administrative issues.

Judicial activism is a method of assisting the poor and downtrodden. It provides a foundation for policymaking in competition with the legislative and executive branches. The judiciary has been engaged in a variety of areas, including health, child labour, political corruption, the environment, and education. In recent past it has been able to hold down the government of India in allocating coal blocks and 2G Spectrum rights in through away prices.

**Causes of Judicial Activism:** The followings are the main causes of Judicial Activism.

- (i) The executive and legislative branches' failure to act has encouraged judicial activism.
- (ii) Second, it arose from fears that the legislative and executive branches of government had failed to provide the goods.
- (iii) Third, it occurs as a result of the system's overall inefficiency and inactivity.
- (iv) In case of hung legislature where the government is weak and unstable then judicial activism becomes the rules of the day.
- (v) Finally, as a result of the misapplication and abuse of numerous constitutional provisions, judicial activism has gained importance.

Judicial activism has been a boon for the government in some cases. Directives issued by Supreme Court and High Courts enable the government to move forward despite of political pressure. On contrary, some argue that the judiciary at times oversteps its jurisdiction and interfering into the executive and legislative organs. An ideal situation is desirable where three organs of the government like executive, legislature and judiciary should enjoy jurisdictions as per constitution. But in most of the cases that situation does not exist at all. This

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compels judiciary to act upon as the custodian of the constitution which is not an over action as such.

**Check Your Progress**

**I. Multiple Choice Questions**

1. \_\_\_\_\_ among the following do not participate in the election to the post of President of India.
  - (a) Elected members of Lok Sabha
  - (b) Elected members of Rajya Sabha
  - (c) Nominated members of the Parliament
  - (d) Elected members of the State Legislature Assembly
2. \_\_\_\_\_ among the following is not appointed by the President.
  - (a) Prime Minister
  - (b) Union Council of Ministers
  - (c) Governors of the State
  - (d) Vice President of India
3. The President of India declares National Emergency under Article \_\_\_\_\_ of the Constitution.
  - (a) Article 352
  - (b) Article 356
  - (c) Article 360
  - (d) Article 362
4. The Parliament of India comprises \_\_\_\_\_ Lok Sabha and Rajya Sabha.
  - (a) Prime Minister
  - (b) Governor
  - (c) President
  - (d) Vice-President
5. How many members are nominated by President to Rajya Sabha?
  - (a) 10 members
  - (b) 12 members
  - (c) 15 members
  - (d) 20 members
6. The quorum of the Parliament is \_\_\_\_\_ of the total members of the House.
  - (a) 1/4th
  - (b) 1/3rd
  - (c) 1/10th
  - (d) 1/15th
7. The Lok Sabha has the power to remove Prime Minister by passing \_\_\_\_\_.
  - (a) Impeachment motion
  - (b) Adjournment motion
  - (c) No confidence motion
  - (d) Calling attention motion
8. \_\_\_\_\_ of the following articles deals with the advisory powers of the Supreme Court.
  - (a) Article 140
  - (b) Article 141
  - (c) Article 142
  - (d) Article-143

**II. True or False**

1. President of India is an integral part of the Parliament of India.
2. The Parliament of India is sovereign like British Parliament.
3. Vice-President of India presides the joint setting of the Parliament.
4. State emergency is otherwise known as President's Rule.
5. Supreme Court of India acts as the guardian of the Constitution.

### III. Match the Following

- |                            |                                   |
|----------------------------|-----------------------------------|
| 1. President of India      | (a) Lower House of the Parliament |
| 2. Vice-President of India | (b) Upper House of the Parliament |
| 3. Prime Minister          | (c) Constitutional Head           |
| 4. Lok Sabha               | (d) Chairman of Rajya Sabha       |
| 5. Rajya Sabha             | (e) Real Head of the Government   |

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## 2.18 ANSWERS TO 'CHECK YOUR PROGRESS'

### I. Multiple Choice Questions

1. (c)
2. (d)
3. (a)
4. (c)
5. (b)
6. (c)
7. (c)
8. (d)

### II. True or False

1. True
2. False
3. False
4. True
5. True

### III. Match the Following

1. (c)
2. (d)
3. (e)
4. (a)
5. (b)

## 2.19 SUMMARY

In general, the President of India has served as the Indian Union's constitutional head. However, he has a sliver of discretion in some situations, including as the Prime Minister's appointment (when the Lok Sabha is split with no parties), the dissolution of the Lok Sabha, and the removal of the Council of Ministers. The President's role at best may be advisory. He can be a mentor, philosopher, and friend to Ministers, but he can't take on the role of Master, which belongs to the Prime Minister.

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The Cabinet is the country's top governing authority in theory. It assists the President in the execution of all of his functions by providing legislative leadership in Parliament, political leadership in the country, and administrative leadership of government ministries. The Prime Minister of India plays various key functions and wields immense power in the Indian political system. He is the country's chief executive and the Union Government's leader.

The Indian Constitution has given the Supreme Court of India a vital role, and it has excelled as the Constitution's Guardian, Protector of Citizens' Fundamental Rights, and Legal Advisor to the President.

### 2.20 KEY TERMS

- **Parliament:** The name of the Union Legislature of India.
- **Lok Sabha:** The lower House of the Indian Parliament. It is otherwise known as House of the People.
- **Rajya Sabha:** The upper House of the Indian Parliament. It is known as Council of States.
- **Ordinance:** An emergency law declared by the President of India during the recess of Parliament.
- **Quorum:** A minimum number of members, i.e., 1/10th of the total strength of the House to be present to constitute a setting.
- **Adjustment Motion:** A motion introduced in the House of the Parliament to draw the attention of the government on matter of urgent public importance.
- **Impeachment Motion:** It is a motion placed before the Parliament to remove the President of India, judges of the Supreme Court and High Courts and other federal authorities.
- **President's Rule:** It is a state emergency declared by the President in case of failure of constitutional machinery in a state under Article 356.

### 2.21 SELF-ASSESSMENT QUESTIONS AND EXERCISES

#### Short Answer Questions

1. Write in short qualification for election of president.
2. List out the powers of the president.
3. Explain the terms and method of removal of vice president.
4. Discuss the appointment of prime minister.
5. Write the strength of Loksabha.
6. What is the position of speaker in parliament?
7. What is a bill?
8. What is meant by judicial activism in India?

## Long Answer Questions

1. Discuss the powers and position of the President of India.
2. Explain the emergency powers of the President.
3. Discuss powers and role of the prime minister of India.
4. Discuss the composition and functions of the union council of Ministers.
5. Discuss the composition and functions of the Parliament of India.
6. Discuss the relationship between Lok Sabha and Rajya Sabha.
7. Analyse the process of law making in the parliament of India.
8. Discuss the composition and Jurisdiction of the supreme court of India.
9. What is Judicial Reviews? Explain the scope of Judicial review of the supreme court of India.

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## ACTIVITY

Provide two life examples to prove for:

1. “President of India is an integral part of the Parliament.” Justify.
2. “Prime Minister is central to the formation, life and death of the Union Council of Ministers.” Justify.
3. “Advisory power of the Supreme Court of India.” Justify.

## CASE STUDY

Supreme Court of India is the custodian of the Constitution.

The Supreme Court of India, like the Supreme Court of the United States, has the authority to review legislation passed by the legislature and declare it ultravires or unconstitutional if it breaches any constitutional requirement. The Supreme Court is in charge of interpreting the United States Constitution. To put it another way, the Supreme Court is the Constitution’s defender and the highest court for its interpretation.

### Question:

1. Is the advisory jurisdiction of the Supreme Court binding?

## 2.22 REFERENCES

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## Unit III Government of the States

### Learning Objectives:

This unit devotes discussion on Government of the States in Indian Federation. After studying this unit, you should be able to understand:

- The office of the Governor, his constitutional states and powers in state administration
- Composition and functions of the State Legislature
- Powers, functions and role of the Chief Minister in the state

### Structure:

- 3.1 Introduction
- 3.2 Governor
- 3.3 State Legislature
  - 3.3.1 State Legislative Assembly
  - 3.3.2 Legislative Council or Vidhan Sabha
  - 3.3.3 Speaker of the State Legislative Assembly
  - 3.3.4 Law-making Procedure in a State Legislature
  - 3.3.5 Relations between the Legislative Assembly and Legislative Council
- 3.4 State Council of Ministers
- 3.5 The Chief Minister
- 3.6 Answers to 'Check Your Progress'
- 3.7 Summary
- 3.8 Key Terms
- 3.9 Self-Assessment Questions and Exercises
- 3.10 References

### 3.1 INTRODUCTION

The Indian Union's states follow a parliamentary government format. The Governor, who serves as the chief executive, is a constitutional monarch who follows the counsel of ministers who are answerable to the Lower House of the State Legislature. All state executive operations must be done in the name of the Governor, who has full executive authority over the state. The Governor of a state acts as a nominal executive, similar to the President of India, while the actual

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executive is the State Council of Ministers, which is chaired by the Chief Minister. In a state, the Chief Minister holds a crucial position. He represents the state's ruling power structure and is the person with the most influence.

The Governor and one or two Houses make up the State Legislature in India. According to the Constitution, there must be a Legislative Assembly in every state. Only six states currently have the Upper Houses, also known as Legislative Councils or Vidhan Parishads, as defined by Article 168 of the Constitution.

### 3.2 GOVERNOR

Article 153 of the Constitution of India says, "There shall be a Governor for each state." Of course one person can act as the Governor of more than one states. Article 154(1) says, "The Executive powers of the state shall be vested with the Governor."

#### Appointment of the Governor

According to Article 155, "the President shall appoint the Governor of the State by a warrant under this hand and seal." On the Prime Minister's recommendation, the President of India chooses the Governor.

#### Qualifications

The following credentials are necessary to serve as a State's governor, according Article 156 of the Constitution.

- (a) He must be an Indian national.
- (b) He had to be 35 years old or older.
- (c) He shouldn't have any lucrative positions.
- (d) He cannot serve in either the House of Representatives or the State Legislature.
- (e) No court of justice ought to have declared him bankrupt..

#### Tenure and Salary

The tenure for Governor is five years from the date he enters upon his office. The President has power to remove him, whenever he likes. The Chief Justice of the High Court of the State administers oath to the Governor.

He draws a monthly salary of ₹ 1,10,000 with such other allowances. He is provided with a rent free residence known as Raj Bhawan in the state capital where he serves.

#### Powers and Functions

The Governor is granted a wide range of authority under our constitution. It can be broadly categorised under the following headings: judicial, legislative, executive, and financial powers.

- (a) **Executive Powers:** According to the requirements of the constitution, the Governor has executive authority over the state, which he exercises either

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directly or through subordinate authorities. The Governor has the right to request any further information he may need about the management of the State's affairs, including updates on State Ministry decisions. He has the power to suggest that the Chief Minister present any decision made by a specific Minister to the entire Council of Ministers. The Governor appoints other ministers and state officials, such as the attorney general, the chairman and members of the state public service commission, and others, based on the Chief Minister's recommendations. Ministers are appointed to their offices by the Governor. In practise, the Council of Ministers' officer serves at the leisure of the Chief Minister. Furthermore, the State Legislative Assembly holds the Council of Ministers jointly accountable. The Governor's executive powers are confined to the administration of all items on the State list of the Constitution's Seventh Schedule over which the State Legislature has legislative responsibility. The Governor's executive powers are subordinate to the President's when it comes to matters on the Concurrent List.

- (b) **Legislative Powers:** The Governor and the Legislative Assembly make up a state's legislature. The Legislative Assembly and the Legislative Council are the two houses in various states. The Governor has the authority to call a special session of the State Legislature, prorogue one of its houses, or dissolve the Legislative Assembly. If the State has a bi-cameral Legislature, he may propose some members for the Legislative Council. If he determines that the Anglo-Indian Community is not sufficiently represented in the State Legislative Assembly, he may also propose candidates for election. He may speak before the State Legislature's two houses separately or together. He may address the Legislative Assembly or both Houses if the State Legislature is bi-cameral at the start of each session in a manner similar to the speech from the throne in the British Parliament. Before a bill enacted by the state legislature can become law, the governor must sign it. A bill may be approved or rejected by the governor, or it may be held back for review by the president. He is free to return any law to the Legislature for revision, but if it is approved a second time, he must sign it. A Money Bill may only be proposed by the Governor in the Legislative Assembly. When the State Legislature is not in session, the Governor may enact ordinances, as stated in the constitution. A Governor's ordinance has the same authority as a State Legislature act, but it expires six weeks after the State Legislature reconvenes, or sooner if the Legislature votes a resolution disapproving the ordinance. In some circumstances, the Governor cannot issue ordinances without the President's approval.
- (c) **Financial Powers:** The Governor arranges for "The Annual Financial Statement," which details the State's anticipated revenue and expenses for the upcoming fiscal year, to be presented to the State Legislature before the start of each fiscal year. Only Ministers working on the Governor's behalf may make grant requests or taxation suggestions.



- (d) **Judicial Powers:** By his judicial powers, district judges and other judicial offices may be appointed, posted, and promoted by the governor. Additionally, he has the authority to commute or commute sentences for those who have been found guilty by a court of law. Throughout his term in office, the governor has personal immunity from any civil or criminal proceedings. In other words, he cannot be charged with a crime or tried in any court in the nation.

The Governor looks to wield a great deal of power. He is, however, just the state's constitutional head, and he exercises his powers in conformity with the principles of the Parliamentary System of Government, on the recommendation of the State Council of Ministers. Even though they serve at the Governor's discretion, the Ministers are collectively responsible to the Legislative Assembly. As a result, the Governor's powers are delegated to the Council of Ministers, which is chaired by the Chief Minister.

- (e) **Discretion Power:** Article 163(i) specifically specifies that the Governor must act in accordance with the advice of the State Council of Ministers unless he is obliged to exercise his powers or any of them at his discretion by or under this constitution. Furthermore, Article 163 (2) stipulates that the Governor shall exercise his discretion if there is any doubt as to whether a situation pertains to which the Governor is required to act in accordance with or pursuant to this constitution. The Governor's choice in his discretion is final, and nothing he does can be called into doubt because of how he should or should not have acted in his discretion.

Again, Article 200 gives the Governor the power to put laws passed by the State Legislature on hold until the President signs them. Article 167, like Article 78, enables the Governor to keep himself informed of the decisions relating to the administration of the affairs of the State. Article 167 empowers the Governor to request that the Chief Minister submit any matter to the Governor for consideration on which a Minister has reached a decision but which has not been addressed by the Council. It is to strengthen the principle of collective responsibility, which is the very basis of a representative democracy. Article 163 unlike Article 74 says that the Governor may exercise his discretion in matters in which he is by or under the constitution, required to do so.

### **Position of the Governor**

The position of the Governor can be considered from dual points of view, viz., as the constitutional head of the State Government and agent of the Centre. We have adopted parliamentary structure both at the Centre and States, where there must be the presence of two heads of the Government one is nominal, titular and constitutional and another is real. The Governor has the first role to play in the capacity of constitutional head of the State Government, the real is being the Chief Minister. In that capacity the governor is to exercise the functions comes under the head of executive, legislative, financial and judicial while exercising all these

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powers, governor is required to Act under the strict advice of the Chief Minister and his cabinet colleagues who constitute the Council of Ministers.

The Governor has another important role to play. He is also the agent of the Centre, because he is appointed by the President means the Centre, transferred by him and dismissing by him. He is appointed by the Centre to act an umpire in the game of state politics. As the Central Government's agent, it is the Governor's responsibility.

- (a) If the constitutional apparatus of the state government cannot function in accordance with the Constitution, the state government must notify the federal government.
- (b) During the proclamation of President's Rule in his state, act as the President's representative and oversee the State Government's administration.
- (c) Send fortnight report to the President about the manner of administration of the State Government.
- (d) Some legislation passed by the State Legislature with the President's permission will be held in reserve.

Thus the powers and positions of the Governor is two-fold. He is required to act in dual capacity. He is expected to act as a constitutional, nominal and titular ruler when everything is normal and usual in the state. However, if the situation is extraordinary and a normal the constitution entrusted him some powers which can be exercised by his own discretion. At that time he is required to act on his own discretion instead of projecting himself as a figure head ruler.

### 3.3 STATE LEGISLATURE

The Constitution of India provides for State Legislature in each State and gives to it the power to make laws on state and concurrent subjects. The Constitution provides that the Legislature of a state shall consist of the Governor and (i) in states of Bihar, Maharashtra, Karnataka, Uttar Pradesh, Jammu and Kashmir two Houses in other states one House. Where there are two Houses of the State Legislature, the Upper House is known as Legislative Council (Vidhan Parishad) and the Lower House is known as Legislative Assembly (Vidhan Sabha). Thus, where there is only one House of the State Legislature, it is known as State Legislature Assembly.

#### 3.3.1 State Legislative Assembly

The Legislative Assembly, commonly known as Vidhan Sabha, is the lower, more popular, and most powerful chamber of the State Legislature. Its members are chosen by secret ballot by the state's citizens. It is the people's voice in the state. A State's Legislative Assembly must have a minimum of 40 and a maximum of 500 members, according to the Constitution. The number of seats in the Legislative Assembly is determined by the population of the state. The Odisha Legislative Assembly has at present 147 members.

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**Qualifications**

The following qualifications are necessary for a person seeking election to the Legislative Assembly of a state. (Article 173)

- (a) He must be a citizen of India,
- (b) He must not be less than 25 years of age, and
- (c) He must possess such other qualifications as may be by law prescribed by the Parliament.

**Terms, Quorum and Presiding Officer**

The Legislative Assembly's usual term is five years. The Governor has the authority to disband it at any moment. When a state emergency or President's Rule is in operation in the state the House gets suspended or dissolved as per the order of the Governor/President.

The quorum of the meetings of the House stands fixed at one-tenth of its total membership or 10 numbers which one is greater.

After election, the House elects its own Speaker and Deputy Speaker from among themselves. The Speaker presides over the meetings of the House and conducts its proceedings.

**3.3.2 Legislative Council or Vidhan Sabha**

At present states like Uttar Pradesh, Karnataka, Bihar, Maharashtra and Jammu and Kashmir have Legislative Councils. A Legislative Council's total membership cannot generally be less than 40 and not more than 1/3 of the entire membership of the state's Legislative Assembly. The members of the Council come from the five categories listed below.

- (a) One-third of the members of the State Legislative Assembly are chosen from among those who are not MLAs.
- (b) Local government bodies elect one-third of its members.
- (c) Persons with at least three years of experience as teachers in educational institutions not lower than secondary schools elect one-twelfth of the members.
- (d) University graduates having at least three years of experience in the state elect one-twelfth of the members.
- (e) One-sixth of the members are chosen by the Governor of the State from fields such as literature, science, social service, cooperative movement, and so on.

**Qualifications**

To be a member of the state Legislative Council a person should have the following qualifications.

- (a) He must be a citizen of India.
- (b) He must be 30 years old or older.

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- (c) He must also meet any additional requirements imposed by the Parliament.

**Term, Quorum and Presiding Officer**

Like the Rajya Sabha, the Legislative Council is a permanent House. Every two years, only one-third of its members depart after serving for six years.

The House, like the Legislative Assembly, has a quorum of ten members or one-tenth of the Council's total membership, whichever is greater.

The Chairman serves as the Council's Presiding Officer. The Legislative Council members chose him from among themselves. The Council also elects a Deputy Chairman.

**Powers and Functions of State Legislature**

The powers and functions of the State Legislature are separated into the following categories:

- (a) **Legislative Powers:** The Governor-in-State Legislature is in charge of making laws in the state. All issues on the State List and concurrent List must be passed by the State Legislature. Ordinary Bills can be introduced in either the House of Commons or the House of Representatives, and they only become law once both Houses have passed them and the Governor has signed them. The Legislative Council can only postpone a legislation passed by the Legislative Assembly for four months. On the other side, the Legislative Assembly has the authority to overturn a bill passed by the Legislative Council. The State Legislative Assembly is the sole source of legislation in a unicameral legislature. As a result, the Legislative Assembly controls the legislative process, whereas the Council exists exclusively to revise and postpone legislation.
- (b) **Financial powers:** The state's finances are managed by the State Legislature. It has the power to levy taxes on all of the items on the State List. Without the approval of the Legislature, the State Government is unable to collect any funds. Only until the State Legislature has approved the budget and the financial policies of the state government can they be implemented.

The Vidhan Sabha is in charge of all financial concerns when a state legislature is unicameral. Despite its bi-cameral nature, the Vidhan Sabha retains real financial power. A money bill can only be introduced in the Vidhan Sabha, and it can only be delayed for 14 days by the Vidhan Parishad.

- (c) **Executive Powers:** The Vidhan Sabha has control over the State Council of Ministers, and the State Legislative Council has a minor role to play. In the Vidhan Sabha, the Chief Minister is the head of the majority party. In the Vidhan Sabha, the Chief Minister and his Council of Ministers are jointly responsible. By voting no confidence in the ministry or rejecting the State Council of Ministers' budget, the Vidhan Sabha can bring it

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down. Members of the two Houses of the State Legislature can exert control over the ministry by questioning ministers and asking follow-up questions. At all times, the State Council of Ministers is supervised by the State Legislative Assembly.

- (d) **Electoral Functions:** The Speaker and Deputy Speaker of the Vidhan Sabha are elected by the members of the House. Members of the Vidhan Sabha vie for the position of India's President. The Vidhan Sabha also elects one-third of the members of the Vidhan Parishad. The member of the Vidhan Sabha also elect representatives of the state in the Council of States or Rajya Sabha.
- (e) **Constituent Power:** In terms of amending the Indian Constitution, the Vidhan Sabha has some authority. Certain constitutional revisions can only be made by the Union Parliament if half of the state legislatures agree.
- (f) **Other Powers:** The State Legislature also act as a forum for ventilation of the grievances of the people and provides remedial measures for the same. The Vidhan Sabha has the authority to pass a resolution establishing or abolishing the State Vidhan Parishad.

The above discussion proves that, as a popular House of the State Legislature the Vidhan Sabha is much more powerful than the Vidhan Parishad.

### 3.3.3 Speaker of the State Legislative Assembly

The Speaker is the Presiding Officer of the State Legislative House, or Vidhan Sabha. At the Assembly's first session, he is chosen from among its members. He is paid on a regular basis the salary and other benefits specified by the State Legislature. The speaker's term is equal to the five-year term of the State Legislative Assembly. He has the option of resigning from his position at any time before the end of his tenure. The Legislative Assembly, which must adopt a resolution by a majority of its members, can also remove him from office. Generally, the speaker of the State Legislative Assembly has to perform following functions.

- (a) He presides over the meeting of the State Legislative Assembly and adjourns the House in the absence of Quorum.
- (b) He maintains law and order in the House.
- (c) The order of the business is prepared by the speaker in consultation with the leader of the House.
- (d) He admits the questions, resolutions and motions.
- (e) He has power to certify that whether a bill is money bill or not.
- (f) He interprets the Rules of procedure of the House and gives his ruling. His ruling is final.
- (g) He has the power to disqualify a member on the ground of defection.
- (h) He protects the rights and privileges of the members of the House.

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- (i) He keeps control over the secretariat of the State Legislative Assembly.
- (j) It is his duty to execute the decision of the State Legislative Assembly.

### 3.3.4 Law-making Procedure in a State Legislature

The procedure for enacting legislation in a state legislature is identical to that of the Parliament. A bill is a legal proposal. It can be introduced by either a Minister or a State Legislature member. A Government Bill is one that is introduced by a Minister. A measure is known as a Private Member's Bill when it is introduced by a private member of the House. Both bills must go through the same process.

Before becoming an Act, a Bill must go through numerous stages. Before a bill is deemed to have been passed by the State Legislature, it must be read three times and go through five stages.

- **First Reading:** A bill is introduced in the State Legislature. The title of Bill is the only thing that is read. When the approval is given, it is subsequently published in the official gazette.
- **Second Reading:** A bill is introduced in the State Legislature. The title of Bill is the only thing that is read. When the approval is given, it is subsequently published in the official gazette.
- **Third Reading:** The Bill will be put to a vote. Clause-by-clause and article-by-article voting is used. A law is considered passed if it receives a majority of votes.
- **Assent:** The law is delivered to the Governor for signature after the Legislature has passed it. The Governor has the option of signing the law or re-referring it to the Legislature for additional consideration. The Governor is compelled to sign the Bill if the Legislature sends it back to him for reconsideration.

The law is delivered to the Governor for signature after the Legislature has passed it. The Governor has the option of signing the law or re-referring it to the Legislature for additional consideration. The Governor is compelled to sign the Bill if the Legislature sends it back to him for reconsideration.

### 3.3.5 Relations between the Legislative Assembly and Legislative Council

If a state has a bi-cameral Legislature, the Lower House is known as the Vidhan Sabha, while the Upper House is known as the Vidhan Parishad. The popular chamber is known as the Legislative Assembly. It has more power than the Legislative Council.

The Legislative Assembly is more democratic because it is directly elected by voters. The Legislative Council, on the other hand, is made up of people from various areas of life.

The Legislative Assembly, in compared to the Legislative Council, is more partisan. Members of the Legislative Assembly express themselves and vote based

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on their political allegiance. Members of the Legislative Council are frequently less partisan, though not entirely nonpartisan.

Unlike the Legislative Council, the Legislative Assembly has significantly more budgetary authority. The Legislative Assembly, not the Legislative Council, is the only place where money bills can be introduced. The Legislative Council can only postpone a Money Bill passed by the Legislative Assembly for 14 days.

Ordinary Bills can be introduced in the Legislative Assembly or the Legislative Council, however the Legislative Assembly has greater power than the Legislative Council in this situation. The Legislative Council has the right to postpone a bill passed by the Legislative Assembly for up to four months, but it cannot prevent it from becoming law. There is no provision for the joint sitting of the two House in case of differences between them regarding only Bill.

The Chief Minister's Council Ministers are only answerable to the Legislative Assembly, and the Legislative Council has no jurisdiction over them. Members of the State Council of Ministers are required to resign if a vote of no confidence is passed. By presenting questions and proposing motions and resolutions, the Legislative Council, like the Legislative Assembly, can exert influence over the government.

The Legislative Council is a second chamber and a secondary body. The Legislative Assembly is significantly more powerful and well-known. As compared to the latter, the former is of marginal utility. Sometimes it is argued that the existence of the Legislative Council is superfluous and unnecessary. However, the Legislative Council has some values, because it serves as a healthy to check the nasty and ill-considered decisions passed by the Legislative Assembly. The sober voice of the Legislative Council is a useful antidote to the rashness of the Legislative Assembly.

### 3.4 STATE COUNCIL OF MINISTERS

The Governor is the state's constitutional executive head. The Council of Ministers is a state's "true executive." "There shall be a Council of Ministers with the Chief Minister at its head to aid and advise the Governor in the execution of his powers," says Article 163 of the Constitution.

#### **Organisation, Salary and Allowances**

The Governor appoints the Chief Minister, which begins the process of forming the State Council of Ministers. In most cases, the Governor picks the Chief Minister from the party with the majority in the State Legislative Assembly. The Governor appoints other ministers on the advice of the Chief Minister. The Governor also distributes folios among the Council of Ministers on the advice of the Chief Minister.

The State Council of Ministers has following categories of ministers.

- **Cabinet Ministers:** These ministers are first rank ministers. They hold independent charge of the important departments of the State

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Government. They are in charge of determining the state's policies. They are powerful members of the ruling party and close confidants of the chief minister.

- **Ministers of State:** They enjoy number two rank ministers. Normally, they do not attend the meetings of the cabinet. They help the cabinet ministers. In some cases they may be given independent charge of some departments.
- **Deputy Ministers:** They constitute the third category of ministers. They are the lowest in the ladder. They are not in control of any departments on their own. They provide support to cabinet members and state ministers. In several states, the ministry do not have Deputy Ministers.

Ministers' salaries and allowances are set by the state legislature and hence can differ from state to state. The State cabinet Meeting held on 11th February 2011 has fixed the salaries of cabinet, ministers of state and Deputy Ministers of ₹ 58,0000, ₹ 57,000 and ₹ 56,000 respectively with other allowances. The salaries are however charged on the consolidated fund of the state.

### Powers and Functions

The State Council of Ministers, as the true executive, wields enormous power, and the state administration is under its control.

The State Council of Ministers has the following powers and functions:

- (a) Formulation of State Policies:** The Council of Ministers is responsible for creating and determining the policies of the state. It considers all policies and makes decisions on them. Only the cabinet works collectively to achieve this duty in practise. The Chief Minister's opinions, viewpoints, and impressions are reflected in each policy.
- (b) Running of Administration:** The Council of Ministers runs the state administration. Each minister has one or more departments under his control and is responsible for the administration of these departments.
- (c) Co-ordination Function:** The cabinet is also in charge of coordinating the activities of several government departments. Without co-ordination among the departments, the smooth running of the State Government can't be ensured. The cabinet is in charge of breaking down barriers between departments and resolving disputes. The cabinet's decisions have been accepted by all ministers.
- (d) Appointment-Making Powers:** The Governor, on the advice of the State Council of Ministers, appoints the Advocate General, Vice-Chancellors or Pro-Vice-Chancellors of a state's universities, the Chairman and members of the state public service commission, the Chairman of various Corporations and Boards, and so on..
- (e) Role in Law Making:** The State Council of Ministers plays a key role in the legislative sphere. The ministry is the one who makes the final decision on the legislative agenda. The majority of bills in the State



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Legislature are sponsored and piloted by ministers. When the State Legislature is not in session, the Council of Ministers can meet its legislative needs by issuing governor's ordinances. Thus for all practical purposes, the cabinet is an important law maker in the state and can carry out this role so long as it enjoys the support of a majority in the Assembly. On the advice of the Council of Ministers, the Governor summons, prorogues, and dissolves the State Legislature.

- (f) **Financial Function:** The Council of Ministers has complete responsibility over the state's finances. It determines the state's fiscal policy. All development strategies and plans are developed and implemented by the cabinet. The Finance Minister, who is in charge of developing and delivering the Budget, is a cabinet member, and he follows the cabinet's decisions when it comes to the state's finances.

**Position**

The Council of Ministers, as the real executive, has a commanding and prominent position in the State administration. It is the most powerful and influential institution in the state. It really runs the State administration, by exercising all the powers in the State Governor. It is the pivot around which the state's entire political apparatus revolves. During a State of Emergency or President's Rule in the State, however, the Governor manages the state's government independently of the State Council of Ministers.

**3.5 THE CHIEF MINISTER**

The state government's true leader is the Chief Minister. He is the state's most powerful official. He wields enormous and actual power. His responsibilities are comparable to those of India's Prime Minister. The Governor normally appoints the majority party's leader as Chief Minister after each General Election for the State Legislative Assembly. If no party secures a majority, he faces a problem. He has to exercise his discretion to appoint the Chief Minister. Then he fixes a date on which the Chief Minister will prove his majority.

**Powers and Functions**

The Chief Minister has a variety of responsibilities which are discussed below.

- (a) **Formation of the Council of Ministers:** In respect to the State Council of Ministers, the Chief Minister holds a vital position. The appointment of other Council of Ministers is one of the Chief Minister's first responsibilities after his appointment. The Governor appoints all Ministers on the Chief Minister's advice. He decides how big the Ministerial Council should be. The Ministry exists as long as the Chief Minister exists. When the Chief Minister dies or resigns, the Council of Ministers dies or resigns with him.
- (b) **Distribution of Portfolios:** Next the Chief Minister distributes portfolios among the ministers. There are servant aspirants for the various

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departments like Home, Finance, Revenue, Education, Health, Urban Development, etc. The Chief Minister has to distribute portfolios in such a way that the right man gets the right job. He has to take various factors into account while distributing portfolios. He can change the portfolios of the ministers at any time.

- (c) **Chairman of the Cabinet:** The Chairman of the Cabinet is the Chief Minister. He determines the agenda for the Cabinet meeting and presides over it. He decides when the cabinet is to meet. As the key man he plays an important role in the deliberations of the Cabinet. His voice counts in the decisions taken.
- (d) **Chief Co-ordinator:** The Chief Minister co-ordinates the work of the different ministers. There might be quarrels and overlapping of functions among the ministers. He has to see that all the ministers work as a team and help each other. He irones out differences between the different departments.
- (e) **Link between the Governor and the Council of Ministers:** The Chief Minister is the via-media between the Governor on the one hand and the Council of Ministers on the other. He communicates all decisions of the Council of Ministers to the Governor. He also conveys the views of the Governor to the Council of Ministers. He has direct access to the Governor.
- (f) **Leader of the Legislative Assembly:** The Legislative Assembly is led by the Chief Minister. His status as the leader of the party bestows upon him his role. He makes important announcements of policy in the Legislative Assembly. He is the chief spokesman for the Legislative Assembly's government.
- (g) **Leader of the State:** The Chief Minister is the leader of the State. It is his duty to see that the State Government makes all round progress of the State. He is the chief spokesman of the State Government. His utterances and assurances are deemed to be authoritative and binding on the State Government.
- (h) **Leader of the Party:** The Chief Minister is the leader of the party. The party depends upon the Chief Minister for its victory in the elections. If the Chief Minister is able, dynamic and a man of vision, people will flock around him and vote his party to power. Besides as the leader of the party, he is in a position to get any legislation passed which is within the competence of the State Legislature.

### Position

As a result, in terms of his Cabinet colleague, the Chief Minister's position in the State Administration is critical. He is more than a *Primus Inter-pares* (first among equals). He may be described as "**Inter-Stellas Luna Minors**" (Moon among lesser stars). The position of the Chief Minister of a State depends upon the following factors. To begin with, the Chief Minister's position is mostly

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determined by his personality. He can wield enormous authority over state management if he is trustworthy and has a dominating demeanour. Second, the relationship between the Chief Minister and the federal government has an impact on his position. Third, the Chief Minister's position is significantly dependant on his party's members' support. His position becomes "a bed of thorns" if the party has a big number of dissidents. As long as the State Legislature believes in him, he is powerful.

**Check Your Progress****I. Multiple Choice Questions**

1. Which one of the following is not a qualification to be a Governor?
  - (a) He must be a citizen of India
  - (b) He must have completed the age of 35 years
  - (c) He should not hold any office of profit
  - (d) He must be an inhabitant of the concerned state
2. Who administers oath to be the Governor?
  - (a) Outgoing Governor of the state
  - (b) Chief Minister of the state
  - (c) Chief Justice of the State High Court
  - (d) President of India
3. Article \_\_\_\_\_ of the Indian Constitution says that there shall be a Governor for each state.
  - (a) Article 152
  - (b) Article 153
  - (c) Article 154
  - (d) Article 155
4. \_\_\_\_\_ of the following statement is incorrect.
  - (a) Governor is the agent of the Union of the State
  - (b) Governor appoints the Judges of the State
  - (c) Governor is an integral part of the State Legislature
  - (d) Governor appoints the Chief Minister
5. \_\_\_\_\_ of the following is not correct.
  - (a) Chief Minister is the head of State Government
  - (b) Chief Minister presides the meeting of the State Cabinet
  - (c) Chief Minister links between the Governor and State Council of Ministers
  - (d) Chief Minister is an integral part of the State Legislature
6. The following state has a unicameral State Legislature.
  - (a) Andhra Pradesh
  - (b) Maharashtra
  - (c) Odisha
  - (d) Bihar

**II. True or False**

1. Governor is the real ruler of the state.
2. Chief Minister appoints other members of the State Cabinet.

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3. Legislative Council is the Upper House of the State Legislature.
4. Minimum age to be a Chief Minister is 25 years.
5. Chief Minister distributes portfolios among the State Council of Ministers.

**III. Match the Following**

- | (A)   | (B)                               |
|---|-----------------------------------|
| 1. Constitutional ruler of the state<br>Legislative       | (a) Vidhan Parishad or<br>Council |
| 2. Chairman of the State Cabinet                          | (b) Speaker                       |
| 3. Lower House of the State Legislature                   | (c) Governor                      |
| 4. Upper House of the State Legislature                   | (d) Chief Minister                |
| 5. Presiding Officer of the State<br>Legislative Assembly | (e) State Legislative Assembly    |

**3.6 ANSWERS TO 'CHECK YOUR PROGRESS'**

**I. Multiple Choice Questions**

1. (d)
2. (c)
3. (b)
4. (b)
5. (d)
6. (c)

**II. True or False**

1. False
2. False
3. True
4. False
5. True

**III. Match the Following**

1. (c)
2. (d)
3. (e)
4. (a)
5. (b)

**3.7 SUMMARY**

The Governor of a State plays a dual role as constitutional head of the state as well as a representative of the centre. He is not merely a figurehead. He can exercise some powers in his discretion and independent of the recommendations made by the State Chief Minister. The Chief Ministers occupies a powerful position in the state administration. His position in the state is similar to the one enjoyed by the Prime Minister in the centre. As Legislature of the State Government the

Vidhan Sabha or Legislative Assembly enjoys a powerful position in the state. Even if in a state having bi-cameral Legislature the Vidhan Sabha dominates and controls all the powers vested in the State Legislature by the Constitution of India.

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### 3.8 KEY TERMS

- **State Legislative Assembly:** Lower House of the State Legislature, i.e., Vidhan Sabha.
- **Legislative Council:** Upper House of the State Legislature, i.e., Vidhan Parishad.
- **Unicameral:** Having a single legislative chamber.
- **Bi-cameral:** (of a legislative body) having two chambers.
- **Amendments:** A minor change or addition designed to improve a text, piece of legislation.
- **Forum:** a gathering or medium for exchanging ideas and viewpoints on a specific topic..
- **Assent:** the expression of approval or agreement.
- **Portfolios:** A portfolio is a large, flat suitcase that is used to store papers and other loose items such as maps or artwork.
- **“A bed of thorns”:** A thoroughly unhappy time or difficult situation.
- **Dissidents:** A person who opposes official policy, especially that of an authoritarian state

### 3.9 SELF-ASSESSMENT QUESTIONS AND EXERCISES

#### Short Answer Questions

1. Who appoints governor?
2. What is the salary of governor?
3. Write the determined salary of state cabinet minister.
4. Name the two houses of state legislature.
5. What is a bill?
6. Who is the real head of state government?

#### Long Answer Questions

1. Discuss the role of Governor in State.
2. Discuss the composition and functions of the State Legislature.
3. Analyse the powers and position of the Chief Minister in a state.
4. Describe the categories of ministers in state council of minister.
5. State the procedure of a bill to pass.

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## ACTIVITY

1. “Governor is an agent of the Union/President.” Justify.
2. “Chief Minister is the sole advisor to the Governor.” Justify.

## CASE STUDY

### “The Legislative Council is only a subordinate component of the state Legislature”

The Legislative Council is the Upper House of the State Legislature. It is more consultative in terms of its powers. A measure that isn't a budget bill can originate in either chamber of the legislature. For a maximum of four months, it possesses a suspensive veto on legislative matters. Financial concerns are not completely within its control. Because it originated in the Legislative Assembly, the Legislative Council can only hold a Money Bill for fourteen days. There is no provision in the State Legislature for a joint session of both Houses to break a deadlock over legislative matters, as there is in the federal Parliament. As a result, the Legislative Council is a relatively insignificant portion of the State Legislature.

#### Question:

1. Is bicameralism necessary in State Legislature?

## 3.10 REFERENCES

1. Ferguson. (1961). *American System of Government*. McGraw-Hill.
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## Unit IV Issues in Indian Politics – I

### Learning Objectives:

This unit is meant for a detailed discussion on issues in Indian Politics. Like communalism, casteism and regionalism which are acting as obstacles on the path of nation-building and national integration in India. After studying this unit, you will be able to understand:

- Meaning, causes and remedies of Communalism in India.
- Role of caste in Indian Society and Politics.
- Meaning, causes and forms of regionalism and its remedies.

### Structure:

- 4.1 Introduction
- 4.2 Communalism
- 4.3 Casteism
- 4.4 Regionalism
- 4.5 Answers to ‘Check Your Progress’
- 4.6 Summary
- 4.7 Key Terms
- 4.8 Self-Assessment Questions and Exercises
- 4.9 References

### 4.1 INTRODUCTION

India is a country with various languages, castes, races, religions, cultures, etc. It is said to be multi-racial, multi-lingual and multi-religious country having people with different languages, habits, manners, customs and religious faiths. The quintessence of the Indian Culture is unity in diversity. Throughout Indian history, unity has been maintained in the midst of diversities. India was free from the Yoke of the British rule on the 15th August, 1947. One of the burning problems that our country has faced after independence is the problem of national integration, due to difference in language, caste, races, religions and culture.

### 4.2 COMMUNALISM

There are many causes behind the presence of communalism in India.

- (a) **Communalism is a Bad Legacy of History:** The Muslim League, the Hindu Mahasabha, and other sectarian organisations engaged communal

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politics in the early years of independent India, which was started by the British rulers and continued by the Muslim League, the Hindu Mahasabha, and other sectarian organisations. The establishment of communal electorates as a tool for carrying out the divide-and-rule programme fueled communalization of Indian politics and resulted in massive communal rioting. India's split was a direct result of this process. The legacy of communalism continues to live at present.

- (b) **Communalisation of History:** This approach has been keeping communalism alive. Several historians have been accused of playing a shady and unflattering role. They prefer to refer to India's history as the history of Hindu kings, Muslim rulers, Sikh rulers, and Maratha rulers, for example, sectorianisation of history has formed communalism.
- (c) **Economic Backwardness of the Muslims:** In India, Muslims make up a small percentage of those who attend educational, technical, medical, and other professional institutions. As a result, they are academically and economically behind their peers. This economic disparity between the two communities has created a huge divide and many misunderstandings, with one community feeling that the other is always exploiting it or that one's prosperity is obtained at the expense of the other.
- (d) **Communal Parties and Organisations:** In India, sectarian groups such as the Hindu Mahasabha, Muslim League, and Akali Dal are well-known. They are not just representatives of specific communities, but they also thrive on communal politics. Their leaders frequently utilise them to incite communal strife in order to fish in dangerous waters.
- (e) **Appeasement Policy of the Congress Party:** In democratic India, caste-based politics contributes to the perpetuation of communal divisions. The desire for votes, which has engulfed practically all political groups, adds fuel to the fire. The pro-Muslim policies of the congress and the tendency of the congress leadership to appear the Muslims in all possible ways make help them to remain in power.
- (f) **Communal Media, Literature and Textbooks:** For the growth of communal forces, there are certain newspapers like 'Akali Patrika', 'organiser', 'Marmik', etc. which are openly circulated throughout the country. They often pass on news which cause communal tensions.
- (g) **Responsibility of Fanatics:** Certain fanatics amongst the Muslims take the initiative either by strong a Hindu procession or chasing out a cow of Hindu temple or killing it in different time giving rise to communal violence. Aligarh has often been the scene of riots because it is the seat of Muslim University and the students often take the law into their own hands. If secularism is to flourish, the character of Muslim University of Aligarh and Benaras Hindu university is to change.
- (h) **Provocation from Pakistan:** The founder President of Muslim League Md. Ali Jinnah instigated the riots frequently in British India. He always



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exploited religion to gain his political ends. He did not perform the Namaz five times a day unlike Maulana Azad. So, while Maulana Azad was a true Muslim, wrote a commentary on the Holy Quran in Urdu, and worked constantly for Hindu-Muslim unity. Jinnah did not do so after he left the Congress. On the other hand, Jinnah instigated serious Hindu-Muslim riots in 1946 and 1947 especially in Calcutta, Noakhali and West Punjab to achieve Pakistan. He was entirely responsible for killing of thousands of Hindus and Sikhs in Pakistan.

- (i) **Political Opportunism:** Political opportunism is one of the key drivers of communalism. Despite its well-known dedication to secularism, the Congress leadership has frequently formed coalitions with communal groups such as the Akali Dal and the Muslim League, providing communalism political legitimacy. On the Shah Bano case, the government first caved in to Muslim fundamentalists, and then it caved in to Hindu fundamentalists. Both of these statutes were used to promote electrification. It was pure shrewdness.

Due to the above causes, communalism spread all over the state. Certain secular forces work to constant communalism by the government in recent years.

**Suggestions for Eradicating Communalism from India:** The followings are the remedies for eradicating communalism in India :

- (i) The two most important solutions to the problem are the prohibition of communal organisations and the imposition of community fines in riot-affected areas.
- (ii) A balanced development of the two communities is the best hope for reaching composite national status in the near future.
- (iii) To improve their sense of security, Muslims and other groups must be brought up to par economically with other communities.
- (iv) Both societies must learn to distinguish between religion and politics.
- (v) The criminal justice system should be depoliticized. Communal riots and other incidents in the areas under their control should be held fully responsible by the District Magistrate and the S.P.
- (vi) Preventive actions should be implemented in areas where community riots, looting, and arson have been determined to be chronic based on historical trends and numbers.
- (vii) Positive initiatives include educational activities to foster mutual respect and tolerance for all religions among the general public.
- (viii) Communal orientation is no longer included in textbooks and reading materials for schools.
- (ix) Instructions to television, radio, and the news media to avoid reporting on stories and viewpoints that are likely to foster communal prejudice and hatred.

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- (x) Educational institutions, as well as businesses, should act as “agencies” to spread this message across the community. These institutions should encourage different communities to celebrate festivals together. Furthermore, only those teachings should be included in school textbooks that emphasise the contributions made by various faiths communities in the formation of Indian culture.

### 4.3 CASTEISM

Caste is derived from the Portuguese word caste, which means “race, breed, or type.” As chevalier, Professor Blunt defines caste as a “endogamous group or collection of endogamous groups, bearing a common name, membership of which is hereditary, imposing certain restrictions on its members in matters of social intercourse, either following a common traditional occupation or claiming a common origin, and generally regarded as forming a single homogeneous community.” Prof. M.N. Srinivas explains, “A sociologist would describe caste as a hereditary, endogamous, often limited groupings, having a traditional association with an occupation and a certain rank in the local hierarchy of castes.” Caste communality is generally at its apex, and caste relations are influenced, among other things, by concepts of impurity and cleanliness. The contemporary caste system is a complicated phenomenon that should never be mistaken with Varnashrama as described in Hindu texts.

#### Role of Caste in Indian Politics

Indian social structure is based on the caste system. As a result of western education, caste relations in India began to weaken. Rapid ways of transportation and communication were created by the British in India, allowing people from all over the country to contact with one another. In railways no untouchability could be observed hence the caste began to lose its grip in India. The British authorities later realised, however, that one caste might be used against the other. As a result, they used a divide-and-rule strategy, pitting one caste against the other. In India, caste remains a fundamental influence of political life. It has been acting as a grave limiting factor of the process of national integration. Presence of caste and castism has been adversely affecting the process of National Integration. Unfortunately caste continues to be a major determinant of political participation, voting behaviour and almost all other aspects of Indian politics.

The Indian National Congress chose to remove the caste system in the constitution since it had caused so much harm to the country. Untouchability in all of its forms was abolished. Separate election districts were eliminated, and the Indian constitution was founded on the principles of justice, equality, liberty, and brotherhood. Certain castes, however, are given special safeguards and protections in the constitution. Although these safeguards were intended to be in place for a short time to allow them to improve, they were extended because no political party wanted to lose their widespread support. As a result, caste has become ingrained in Indian culture.

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Every political party in India sought to ride to power on the backs of minorities. Caste considerations were given to the candidate whose caste was prominent when awarding tickets and forming ministries. Only the voters are immune to this temptation when two or more candidates are from the same caste. This demonstrates the importance of caste in modern India.

Politics does not just influence caste; it also transforms caste and has an impact on its solidarity and hierarchy. Every caste tries to modernise itself so that it may get better status and play significant role in the modern politics. Conscious of this fact that the lower castes play as much important role in election as the higher castes, the lower castes also irrespective of their status in the society aspire to play a prominent role in the party politics. Caste politicisation has two-way traffic. The two have effected each other so much that they opened new vistas for the study of politics in India.

According to Michael Brecher, caste plays a significant impact in state and municipal politics, but not at the national level. Though no state has been immune from the impact of caste politics, yet the impact can be specially found in Bihar, Kerala, Tamil Nadu, Andhra Pradesh, Maharashtra, etc.

### **Steps for Checking Casteism in India**

There is every need to check the role of casteism in Indian politics in order maintain the unity, integrity and sovereignty of the nation.

1. Making education value-based.
2. Spread of education.
3. Adoption and popularisation of secularism as the best way of life.
4. Use of mass media, particularly TV and films to highlight the uselessness of caste distinctions and casteism.
5. To encourage inter-caste marriages.
6. To promote and develop free flow of trade, commerce and business.
7. To prevent the political parties from using caste as a basis for getting votes.
8. Casteism should be treated as a social evil and strong social movements against casteism should be encouraged.
9. Deterrent action should be taken against persons indulging in caste violence and caste communalism.
10. A stronger drive for securing social justice in the society should be undertaken.
11. More concerted action for ameliorating the social and economic conditions of the people belonging to so called lower castes should be taken.

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## 4.4 REGIONALISM

Regionalism is associated with region. In the geographical sense, it means any more or less extensive part of the earth's surface. In political science, it refers to a part of a nation state that is homogeneous in terms of language, culture, and economic and other common interests.

Regionalism as a psychological phenomenon grows when the people inhabiting a particular region inside a nation state feel that they are bound together by ties which are distinct from and stronger than the bonds which link them to other sections of the people living outside the region. In other words, regionalism is a tendency which makes the people feel that their interests – economic, political and cultural – are distinct and separate from similar interests of the people outside that region. Regionalism thus fosters among the people a sense of being a distinct territorial community with its own life and interests, and inculcates in them a desire to organise themselves into a distinct political unit for the protection and promotion of their interests.

### Development of Regionalism in India

In India's political landscape, regionalism is not a new phenomenon. It was pushed by British imperialists prior to independence, who purposefully encouraged people in various regions to think in terms of their region rather than the country as a whole in order to preserve control over India. Following independence, the leaders strove to instil a sense of belonging to a single nation among the people. The Constitution's framers intended to achieve this by establishing universal citizenship. With the same purpose in mind, a unified court, all-India services, and a powerful central government were all provided. Given the country's size and diversity of cultures, however, regionalism arose fast in India.

The earliest hazy evidence of regionalism was a request for linguistic reorganisation of states. The DMK's success over the Congress heavyweights in Tamil Nadu, however, was the most effective use of regionalism. Initially, the central government considered that regionalism was a minor political movement isolated to Tamil Nadu, and thus posed no threat to national unity. However, these expectations were incorrect. In Punjab, the Akali Movement swiftly gained traction, while in Jammu and Kashmir, Sheikh Abdullah relaunched the National Conference. Throughout these early years, all Indian political parties continued to cooperate with these regional organisations in the hopes of eventually infiltrating their bases and integrating them into their own organisations. These hopes, however, turned out to be unfounded.

The emergence of regionalism in India was aided by the Indian National Congress, which held a monopoly on power from 1947 to 1967 and had a policy of travelling back and forth with regional forces. When it was convenient, it accommodated regional forces, but when they were pitted against it, it caused a stir. Local Congress leaders backed the expansion of regionalism and boosted their influence on local party organisations in order to increase their negotiating leverage

with the central authorities. The growth of regionalism was facilitated by the tight interaction between central and regional authority.

### **Causes of Regionalism**

A lot of factors have aided the emergence of regionalism in India.

To begin with, regionalism arose in opposition to national governments' attempts to impose a certain philosophy, language, or cultural pattern on all people and groups. As a result, the introduction of Hindi as an official language has been opposed by southern states, fearing that it would lead to northern dominance. Similarly, in order to safeguard their own culture, the Assamese started an anti-foreigner movement.

Second, the ruling authority's continuous neglect of a region or territory, as well as the concentration of administrative and political power in one location, has fostered calls for decentralisation of power and the division of unilingual nations. Sons of the soil has also been used to promote the interests of marginalised groups or areas of the state.

Third, the desire of various components of the Indian federal system to preserve their sub-cultural zones, combined with expanding levels of self-government, has fueled regionalism and desires for further autonomy.

Fourth, the growth of regionalism has been fostered by regional parties' desire for power. The DMK, AIADMK, Akali Dal, Telugu Desham Party, Assam Gana Parishad, and other political parties are well recognised for supporting regionalism in order to acquire political domination.

Fifth, in India, the link between industrialisation and people participation has supported the growth of regionalism. Many organisations have struggled to connect their group interests with national ones because the country is still far from being a nation state, leading to a sense of regionalism.

Finally, individuals in underdeveloped areas are becoming more aware of their discrimination, fueling feelings of regionalism. Local political leaders have taken use of this dynamic extensively, aiming to persuade the people that the central government is attempting to perpetuate regional imbalances by disregarding specific areas' social and economic growth. Not only this, at the state level also they have tried to project themselves as the champions of the cause of certain regions in order to maintain their position of leadership. This trend has received encouragement from the tendency of the political basis at Centre as well as states to offer berths in Central and State Council of Ministers to leaders of various regions.

### **Forms of Regionalism**

The process of national integration and nation-building has been hampered by regionalism. It continues to wreak havoc on India's political system in a variety of ways.

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### **Linguistic Regionalism**

One of the most important forms of regionalism is Linguism. Regionalism in its linguistic form has asserted itself in three forms, i.e.,

- (i) In forcing the centre to reorganise the states on linguistic basis.
- (ii) In preventing the centre to make Hindi the sole official language.
- (iii) In committing violence against linguistic minorities within states.

Language is regarded as a crucial component of regionalism. This evolution can mostly be attributed to state-level language reorganisation policies. This approach was critical in laying the groundwork for the emergence of minor states in the Indian Union. As a result of this policy, linguistic riots have erupted in bilingual states. It has also resulted in state-sanctioned violence against linguistic minorities. The central government has failed to carry out the constitutional mandate of declaring Hindi as India's official language. All of this does not, however, imply that linguism is solely to blame for the growth of regionalism. In India, regionalism has been one factor, but not the only one.

### **Demands for Secession**

In its most extreme form of regionalism, a region declares its desire to secede from the Indian Union. Secessionist forces have been present in Punjab, Tamil Nadu, Jammu and Kashmir, Manipur, Nagaland, Mizoram and Tripura, and in fact, in the whole the North-East India. The DMK in Tamil Nadu, the Akali Dal in Punjab, and the Mizos and Nagas in North-East India, as well as supporters of the Khalistan movement, have all called for India's secession.

Between 1980 and 1992, a tiny segment of the Punjabi Sikh community continued to advocate for "secession from the Indian Union" and the establishment of Khalistan as the Sikh homeland where they might enjoy the light of freedom. The government, on the other hand, kept a tight grip on the movement and eventually suppressed it.

The DMK and the Non-Tamils launched a joint campaign in Madras state in 1960, calling for the state's secession from India and the creation of an independent Tamilnad or Dravidnad state. However, the Government suppressed the issue by passing Sixteenth Constitution Amendment Act-1963.

Demand for secession has been a feature of politics in Mizoram. Initially, Mizo freedom organisation demanded the session of some areas from India and their union with China. This move however failed to get public support. In 1960, Mizo National Front was formed by Mr. Ladenga and it raised the demand for a separate sovereign state of greater Mizoram. It took to terrorism and guerrilla warfare for achieving the objective. In 1987, Mizoram was given statehood. This has resolved the Mizo problem. However, some elements in Mizoram still harp on secession while others keep on crying for greater autonomy. Thus, regionalism continues to be present in Mizoram.

The Nagas, residing mostly in the hills of Assam demanded the formation of an independent state named Nagaland just after Independence. They formed Naga

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National Council under the leadership of Lepo Phizo and resorted to terrorism, insurgency and guerilla warfare for securing their professed objective. The Government of India initiated stern action against them. However, the moderate Naga leadership came forward with a demand for the integration of Naga areas into a single administrative unit to be governed by the Governor of Assam, on behalf of the President. On 1st December 1963, Nagaland was declared as the full fledged state of the Indian Union. The Naga hostiles in a small numbers, however, continued to operate in some areas of Nagaland.

### **Demands for Separate Statehood**

Another way that regionalism has manifested itself in India is that some regions have demanded independent statehood so that their people can develop their language and culture. Following the 1956 reorganisation of India's states, there are still calls for separate statehood in several sections of the nation. The increase in the number of Indian Union states from 16 in 1956 to 25 in 1989, and then to 28 in 2000, tends to support this assertion. Finally, in 2000, the states of Jharkhand, Uttaranchal, and Chhatisgarh were formed from Bihar, Uttar Pradesh, and Madhya Pradesh, respectively. However, there are still some demands for the formation of distinct states from the existing states. The people of Andhra Pradesh are demanding a separate Telangana out of the state. A resolution has been passed by the Uttar Pradesh Legislative Assembly to create four separate states by dividing Uttar Pradesh.

### **Demands for Full Statehood**

The states and union territories were the two types of units in the country after the states reorganisation act was passed. When the Union Territories wanted full statehood, regionalism found expression in the latter as well. Himachal Pradesh became a fully fledged state in 1971, followed by Manipur, Tripura, Mizoram, Arunachal Pradesh, Sikkim, and Goa. Delhi, a Union Territory, has made a similar demand. It will also encourage other union areas to seek statehood if it is granted.

### **Demand for Autonomy**

In India, another aspect of regionalism has been the demand for more autonomy. States with prominent regional political parties have voiced this issue in particular. The DMK in Tamil Nadu, the Akali Dal in Punjab, the Telugu Desham Party in Andhra Pradesh, the Biju Janata Dal in Odisha, the Trinamul Congress and forward blocs in West Bengal, and the Assam Gana Parishad in Assam have all demanded a higher share of power for the states. The Union Government, on the other hand, has not responded to their demands for state autonomy.

### **Inter-state Disputes**

In India, another kind of regionalism has manifested itself in the form of inter-state disputes. Punjab and Haryana have a territorial dispute over Chandigarh. For example, there are border conflicts between Maharashtra and Karnataka over Belgaum, Karnataka and Kerala over Kasargad, Assam and Nagaland over Rengma, and Assam and Arunachal Pradesh over the Pasighat subdivision.

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Furthermore, inter-state water disputes, such as those between Punjab and Haryana over the distribution of Ravi-Beas and Sutuj waters, as well as those between Karnataka, Kerala, and Tamil Nadu over the distribution of Cauvery River waters, and the dispute between Gujarat, Rajasthan, Madhya Pradesh, and Maharashtra over the sharing of Narmada waters. There were numerous more disagreements about the distribution of water from other rivers, although most were minor in nature.

### **Sons of the Soil Principle**

The acceptance and application of the concept of the sons of the soil has been another kind of regionalism in India. States utilise it to establish residency and domicile requirements for state administrative positions. The constitution protects this concept by allowing legislators to make residency inside their respective states a prerequisite for employment. This principle has given strength to regionalism. Guided by this principle the regional parties in some states of India are demanding 'outsiders' and 'foreigners' should quit their states.

### **Demand for Regional Autonomy within a State**

People from diverse areas have been demanding acknowledgement of their regional identities in some of the Indian union's states. The origins of such requests can be traced back to regional imbalances caused by inadequate planning. This category includes Gorkhaland, Telangana, Bodoland, and Konkan demands.

### **Militant Regionalism**

The emergence of militant regionalism in India is another facet of regionalism. Different Senas have arisen in different parts of the country, such as the Maharashtra Siva Sena, Tamil Seva in Tamil Nadu, Gujarat Sardar Sena, Kalinga Sena, and Odisha Jagannath Sena. These Senas arose mostly as a result of regional imbalances that encouraged persons with higher skill levels. As a result, residents in the region developed a negative attitude toward them and fought to safeguard their own group's interests. They began to regard migrants as adversaries of their sons of the soil. Due of regional disparities, several Senas have arisen.

### **Regionalism as Threat to National Unity**

There is a great deal of controversy among the scholars on the issue whether regionalism is a threat to national unit or not. Those who view regionalism as a positive force have tended to argue that in a vast and diverse country like India regionalism is a legitimate phenomena and represents the quest of human identity. It would be wrong to dub it as anti-national and crush it with use of state force. On the other hand it is desirable that this quest for identity should be viewed favourably and the underlying motives and aspirations of the people to be respected and effort should be made to fit the same into the large frame work of national unity. In positive sense, regionalism ensures more meaningful participation of the people in the decision making process by providing effective provincial authorities. Regionalism also curbs the trend of centralisation of administration and thus contributes to efficiency. The Administrative Reforms Commission also opposed



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the centralisation of power at a distant centre on the plea that it breeds inefficiency and resentment and turns the people against the centre.

Further, it would be wrong to predict that the emergence of large number of regional parties poses a threat to the unity of the country. The regional parties are not essentially secessionists. They merely provide expression to regional hopes and aspirations and it would certainly be wrong to say that appeal to local sentiment and seeking of regional identity pose a threat to national unity. The history of the working of the regional parties proves that they have not created any threat to the central authority. They fully realise, they they would have to seek subsidies for the various schemes and programmes from the centre and perforce to adjust their policies in such a manner that they conform with the national policies.

Due to above reasons, the scholars have tried to project that regionalism represents the expression of collective will of various sections of the people and their needs and aspiration. View thus, it is corrective of over centralisation of authority.

On the other hand, some scholars have looked upon regionalism as decisive, subversive and secessionists phenomenon. They have argued that regionalism encourages the people to think in terms of their narrow interests and ignore the national interests. For instance, regionalism in Assam, Punjab, West Bengal, etc. has encouraged separatists activities and posed a serious threat to national identity. In Assam, the agitators want to appropriate maximum of new development opportunities without taking into account the total development process. In Punjab, regionalism got mixed up with religious fanaticism and gave rise to growing terrorist activities. In West Bengal, the agitators demanded separate Gorkhaland.

Besides, the above views contain an element of truth. While it cannot be denied that extreme regionalism poses a serious threat to the unity of the country and stands as obstacle on its development and progress, it would certainly be wrong to say that all manifestations of regionalism are dangerous to the unity of the country. Hence, regionalism and nationalism are mutually complementary and can co-exist. Initiative should be taken to ensure harmonious growth of national and sub-national identities. Regionalism should be treated as a cure rather than a disease to ensure harmonious political development of the country.

**Remedies of Regionalism**

1. Secession in whatever form must be stopped by enforcing the law and implementing a well-designed socialisation process.
2. Negative regionalism is always encouraged by political parties' appeasement of minorities in order to secure electoral gains. It is necessary for political parties to stop doing so.
3. Almost all regional parties that operate at the state level are unquestionably regionalist. Efforts should be made to impress the virtues of cooperative federalism on the regionalism parties. The central government's policy of ousting a state administration constituted by a regional party must be avoided.

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4. Linguistic reorganisation of the states is also responsible for the creation of regionalism. This can be checked by developing a common national official language.
5. A key aspect of regionalism is socioeconomic backwardness, which is the cause of widespread poverty and unemployment among the populace. This can be checked by rapid economic development.
6. The safeguarding of tribal interests and the establishment of tribal belts can also be used to counter regionalism.
7. History, education, and culture have all been sources of regionalism. It has to come to an end.
8. All political parties should try to the best not to practice the feeling of regionalism for election gains.
9. The federal government should never strive to be a big brother to the states.
10. The Union Government should try to remove regional imbalances through its plans and programmes.
11. The Union and state governments should take steps to eliminate socio-economic injustices against tribals, scheduled tribes, scheduled castes, and hilly tribes.

Because regionalism is the result of everyone's efforts, all organisations and groups must band together to put an end to it.

**Check Your Progress**

**I. Multiple Choice Questions**

1. Which one of the following is not a challenge in Indian politics?  
(a) Communalism (b) Regionalism  
(c) Casteism (d) Secularism
2. Communalism means \_\_\_\_\_.  
(a) Regional conflict (b) Caste differences  
(c) Differences in language (d) Religious differences
3. Untouchability is an effect is \_\_\_\_\_ in India.  
(a) Casteism (b) Communalism  
(c) Regionalism (d) Linguism
4. Son of the soil theory is a form of \_\_\_\_\_.  
(a) Communalism (b) Regionalism  
(c) Casteism (d) Linguism

**II. True or False**

1. Communalism is basically an ideology of political allegiance to a region.
2. Social justice is an ante-dote to Casteism.
3. Regionalism promotes feeling of nationalism.
4. Social harmony is check against Casteism and Communalism.

**III. Match the Following**

- |                |                            |
|----------------|----------------------------|
| 1. Communalism | (a) Son of the Soil Theory |
| 2. Casteism    | (b) Hindu-Muslim Conflict  |
| 3. Regionalism | (c) Untouchability         |

**NOTES****4.6 ANSWERS TO ‘CHECK YOUR PROGRESS’****I. Multiple Choice Questions**

1. (d)
2. (d)
3. (a)
4. (b)

**II. True or False**

1. False
2. True
3. False
4. True

**III. Match the Following**

1. (b)
2. (c)
3. (a)

**4.6 SUMMARY**

The problem of National Integration has assumed tremendous significant in post independent India. The integration of heterogeneous national life is not a simple task in a country engaging the attention of the legislators, planners, administrators and intellectuals equality. Efforts should be taken by the Govt. as well as the Non-Govt. organisations to highlight and check the factors like Casteism, Linguism, Regionalism, Communalism, Poverty which pose a threat to national integration and unity of the country.

**4.7 KEY TERMS**

- **Communalism:** Conflict between ethnic or religion.
- **Casteism:** A social evil based on caste.
- **Regionalism:** Feeling of distinct territorial community.
- **Son of the Soil:** A form of regionalism.
- **Perpetuating:** Make something continue indefinitely.

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- **Communal Cleavage:** A cleft is a historically set social or cultural line that divides persons within a community into groups with opposing political objectives, leading to political conflict.
- **Fanatics:** A person who has an excessive and unwavering passion for a certain religious or political cause.
- **Insitigate:** Bring about or initiate
- **Blatantly:** In a completely obvious and unsubtle way.
- **Propaganda:** Information that is used to promote a political cause or point of view, especially if it is biased or deceptive.
- Endogamous of or relating to the practice of allowing marriage only within a specific tribe, caste, ethnic or religious group, or other social unit.
- **Ameliorating:** Make something bad or unsatisfactory better.

## 4.8 SELF-ASSESSMENT QUESTIONS AND EXERCISES

### Short Answer Questions

1. What problem was faced by India after independence?
2. For the growth of communal force, which newspaper was started?
3. Who is the founder of Muslim League?
4. Write the definition given by Prof. Blunt for casteism.
5. Explain in short the term Regionalism.
6. Name the state with full statehood.

### Long Answer Questions

1. What is Communalism? Discuss the causes of Communalism in India.
2. Discuss causes of Casteism and its remedies.
3. What is Regionalism? Discuss different forms of Regionalism.

## ACTIVITY

1. Provide two life examples to prove for:
  - (i) "Communalism is threat to national integration in India." Justify.
  - (ii) "Casteism is a social evil." Justify.
  - (iii) "Regionalism is a challenge to Nationalism." Justify.

## CASE STUDY

"Communalism is against nation-building in India".

Communalism, in its various forms, has taken on a very hazardous form in India, with terrifying dimensions. It throws our multi-religious community's coexistence into disarray. It is a betrayal of India's nationalist spirit. We are

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effectively murdering ourselves by eliminating the Indian nation, our bigger family, and our composite culture and secular values by killing one other in mindless sectarian strife. Communalism in Indian is a great challenge to our national unit, process of nation-building and nationalism.

**Question:**

1. Is communal harmony an antidote to communalism?

## **4.9 REFERENCES**

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## Unit V Issues in Indian Politics – II

### Learning Objectives:

This unit devotes discussion on some issues in Indian Politics like rural and urban local Self-Government in India, Party system in Indian Politics and Electoral Reforms in India. After studying this unit, you should be able to understand:

- Aims and objectives of Local Self-Government
- Composition and functions of the Panchayati Raj system in India
- Composition and functions of the Urban Local Self Government, i.e., NAC, Municipality and Corporation
- Problems of Local Self-Government
- Features of Political Parties in India
- National and Regional Political Parties in India
- Role of Opposition Parties
- Electoral Reforms in India and Election Commission of India

### Structure:

- 5.1 Introduction
- 5.2 Local Government in India (Rural)
  - 5.2.1 History of Panchayati Raj in India
  - 5.2.2 Aims and Objectives of Panchayati Raj
  - 5.2.3 Organisational Structure of Panchayati Raj
  - 5.2.4 Gram Panchayat or Village Panchayat
  - 5.2.5 Panchayat Samiti
  - 5.2.6 Zilla Parishad
  - 5.2.7 Problems of Panchayati Raj System
  - 5.2.8 73<sup>rd</sup> Amendment Act, 1992
- 5.3 Urban Local Bodies
  - 5.3.1 Municipality or the Municipal Council
  - 5.3.2 Notified Area Council (NAC)
  - 5.3.3 74<sup>th</sup> Amendment Act, 1992
- 5.4 The Indian Party System
  - 5.4.1 Features of Part System in India
  - 5.4.2 Political Parties in India

- 5.4.3 Reasons for Emergence of Regional Parties and Decline of National Parties
- 5.5 Indian Election System
- 5.6 Defects of the Indian Election System
- 5.7 Some Proposals for Electoral Reforms in India
- 5.8 Election Commission of India
  - 5.8.1 Composition of the Election Commission of India
  - 5.8.2 Powers and Functions
  - 5.8.3 Independence of the Election Commission
- 5.9 Answers to 'Check Your Progress'
- 5.10 Summary
- 5.11 Key Terms
- 5.12 Self-Assessment Questions and Exercises
- 5.13 References

## NOTES

### 5.1 INTRODUCTION

The existence and efficient operation of a system of local government at the grassroots levels is critical to the viability of a democratic society. Local government is a system in which the inhabitants of a given area are directly involved in the administration of local issues. The rural Local Self-Government in India is known as 'Panchayati Raj'. Similarly, there are also urban local bodies like Corporation, Municipality and Notified Area Council.

Modern Parliamentary democracy would not be workable in the absence of political parties. It is because political parties perform a number of vital functions in a modern democratic state. India is the world's most democratic country. In India's parliamentary democracy, political parties play an essential role. Though the Constitution of India is salient about Party system, still there is a multi-party system in India. Political parties in India are divided into three categories: (i) National parties, (ii) Regional parties, and (iii) Recognised parties.

Free and fair elections are a prerequisite for India's democracy to succeed. The Constitution of India provides for an electoral process to make the election free and fair. Still, there are certain defects in Indian electoral system, which needs some reforms. These are known as electoral reforms.

### 5.2 LOCAL GOVERNMENT IN INDIA (RURAL)

Rural Local Government in India is known by the popular name Panchayati Raj. Panchayati Raj aims at associating the rural people with the administration at the grassroots level. In this system, the people are entrusted with the responsibility of formulating and implementing their own plans and policies.

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More than 26 per cent population of India lives in Urban area. There are about 2500 towns in India. The problems of urban people are different from rural people. So, there are separate local Self-Governments for urban people like Corporation, Municipalities and Notified Area Council, Cantonment Boards, Improvement Trust, etc. Though the Urban Local Bodies have been in existence in India for long time, they did not enjoy constitutional status till very recent times. The 74<sup>th</sup> Constitutional Amendment carried out in 1992 provided constitutional sanction to the urban self-governing institutions and incorporated several provisions to ensure that regular elections are held for these bodies and they play a greater role in the development of the urban areas. This amendment adds 18 new articles and a new schedule (the Twelfth Schedule) dealing with these urban municipal governments. The Act established three forms of municipal corporations, with seats reserved for scheduled castes, scheduled tribes, and women in each type of municipality. It gave the State Legislature the authority to grant municipalities the essential authorities and responsibilities in the areas of economic development planning, taxation, and levying of duties.

**5.2.1 History of Panchayati Raj in India**

The Panchayati Raj system is not new to India. It has existed from the dawn of time. In Manusmriti, Mahabharat, and Arthasastra, we find multiple allusions to Panchayats. When testify that since the beginning of time, the village has been a basic unit of administration. During the Muslim rule, the system functioned normally as well. The Panchayats suffered a short setback when the British took power and implemented a strategy of centralisation. The British, however, recognised the importance of this institution, and in 1882, Lord Ripon published his famous resolution of local self-government. That is why Ripon is known as India's "Father of Local Self-Government." The period of provincial autonomy under the Government of India Act, 1935 was marked by a great move in the direction of democratising local bodies and strengthening them. After Independence, in some of the states, drastic changes were introduced in the system of Local Self Government. When new Constitution was framed, Article 40 of the Constitution, which directs the government to take appropriate steps to organise village panchayats as the unit of local self-governance, was incorporated by the framers. Following the Constitution's implementation, the Indian government took a number of efforts to organise local panchayats. On October 2, 1952, the Community Development Program was launched, paving the way for the formation of Panchayati Raj. The National Extension Service was established on October 2, 1953. The Second Five Year Plan also made a bid to secure the co-operation of the local people in the implementation of the plans. However, all these efforts did not yield the desired results. The Government of India established a committee to study community projects and the National Extension Service in January 1957, with Balwant Rai Mehta as its chairman. This committee presented its findings and recommendations for the Panchayati Raj system. The Panchayati Raj system was intended to serve as a tool for both rural local self-government and community development. The group suggested establishing a three-tiered system. For guaranteeing the objectives of



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local self-government and rural development, Panchayat at the village level, Panchayat Samiti at the block level, and Zilla Parishad at the district level are used.

The Balwant Rai Mehta Committee' recommendations were adopted by the Central Government as well as the majority of State Governments. Rajasthan became the first state in the Union to implement Panchayati Raj on October 2, 1959. It was adopted in Odisha on January 26, 1961.

### **5.2.2 Aims and Objectives of Panchayati Raj**

The aims and objectives of the Panchayati Raj are given below:

- 1. Rural Development:** One of the main goals of the Panchayati Raj is to make overall development of the rural area. The villages in India remained neglected for long. Unless villages are developed, India will continue to remain backward. It is expected that through Panchayati Raj villages in India will change for better.
- 2. Stimulation of Grassroot Democracy:** Another goal of the Panchayati Raj is to stimulate grass root democracy. It is not enough that we have our elected representatives in the Parliament and the State Legislature. It is equally important that we would have our elected representatives at lower levels to tackle local issues in villages.
- 3. To Solve Local Problems:** Local leaders know better the local needs and local problems. They can deal with these problems more efficiently than distant authorities operating from the national capital or state capital. Local needs and difficulties can be addressed promptly and efficiently by the local government.
- 4. Mobilisation of Rural People:** Panchayati Raj aims at mobilising people at the grassroot level for nation-building. The people in villages should not remain silent spectators. They should be actively involved in the process of rural and national development. No democracy will succeed if it is not based on people's participation.
- 5. To Make the People Conscious:** Panchayati Raj system imparts training to people in citizenship and raise their consciousness. It teaches people in self-rule and inculcates in them self-confidence.
- 6. To Make Political Experiments:** Panchayati Raj is a good democratic experiment. It instils a democratic spirit in the population and contributes to the development of a democratic culture in the country.
- 7. Decentralisation of Powers:** Decentralisation of powers is the main objective of the Panchayati Raj system. It decentralises the power from the hands of the Union and State Governments to the hands of rural bodies or rural people. This is known as democracy at grassroot.
- 8. To Create Leadership:** The Panchayati Raj system is both a place of birth and a place of training for leaders. They develop leaders and assist them in receiving essential leadership training.

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The Panchayati Raj system attempts to accelerate local development while also strengthening, spreading, and maturing democracy in the country.

### 5.2.3 Organisational Structure of Panchayati Raj

The Panchayati Raj system as recommended by the Balwant Rai Mehta Committee has been organised on a three-tier structure with the Gram Panchayat at the village level, the Panchayat Samiti at the Block level and the Zilla Parishad at the District level. In 1993, the Panchayati Raj system has been revolutionised and given a new life after the constitutional status was accorded to it through the 73<sup>rd</sup> Constitutional Amendment Act. A detailed discussion on the organisation and functions of the Panchayati Raj System is given below.

### 5.2.4 Gram Panchayat or Village Panchayat

The Gram Panchayat, also known as the Village Panchayat, is the lowest tier of the Panchayati Raj system's three tiers. Village Panchayat in Odisha are organised under the Odisha Panchayati Raj Act. A Gram Panchayat is constituted in a village or a group of villages having more than two thousand to six thousand population. It is a representative organ which is divided into eleven to twenty-five wards depending upon the population of the Panchayat. From each ward, a ward member is elected by the voters of that ward through direct election. The Sarpanch, who is also the Panchayat's head, is elected directly by the Gram Panchayat's citizens or voters. The election of the 'Sarpanch' and the 'Ward Members' is held at the same time.

The Sarpanch is the presiding officer of Gram Panchayat. All the Gram Panchayat's meetings are held in every month. In the absence of the Sarpanch, a Naib Sarpanch is elected from among the ward members. Gram Panchayats are elected for a five-year term.

#### Sarpanch

#### *Qualifications of a Sarpanch*

The person seeking the office of Sarpanch must have the following qualifications.

- (i) He must have completed 21 years of age.
- (ii) His name must have been included in the Voter's List.
- (iii) He must not be bankrupt or insolvent.
- (iv) He must not be suffering from Leprosy and T.B.
- (v) He must not be a Government servant.
- (vi) He must not be a teacher in an aided school.
- (vii) He must be able to read and write Odia.
- (viii) He must not have been penalised in election cases.

All these qualifications are required to make the Sarpanch a man of honesty, integrity, efficiency and dutiful.

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***Powers and Functions of Sarpanch***

- (i) The Sarpanch is in charge of convening and presiding over Gram Panchayat sessions.
- (ii) He convenes and presides over the meetings of the Gram Sabha to be attended by all the voters of all wards.
- (iii) He enforces Panchayat Laws.
- (iv) He controls the officials of the Gram Panchayat.
- (v) The Sarpanch is responsible for maintaining the records and property of the Panchayat.

***Removal***

On the grounds of corruption and inefficiency, the Sarpanch and the Naib Sarpanch can be removed from office by a two-thirds majority of the Gram Panchayat. The Sarpanch may be dismissed from office by the state government if he or she violates the law or abuses power. The Government can remove him only after making a due enquiry.

***Functions of Gram Panchayat***

The Gram Panchayat or Village Panchayat performs certain obligatory and optional functions which may be discussed as under:

**(a) Obligatory Functions:** These are binding on the Panchayat to perform.

- (i) Construction, maintenance, clearing and lighting of streets;
- (ii) Provision for medicare relief, sanitation and prevention of diseases;
- (iii) Registration of births and deaths;
- (iv) Construction and maintenance of common grounds, public wells, tanks and drainage, etc;
- (v) Regulation of melas, fairs and festivals;
- (vi) Provision for promotion of primary education and maintenance of village police.

**(b) Optional Functions:** These are discretionary powers of the Panchayat and are performed if the financial condition permits.

- (i) Promotion of co-operative farming and marketing of agricultural products;
- (ii) Establishment of cowsheds and dairy farms;
- (iii) Relief for famine and other natural calamity affected persons;
- (iv) Improvement of breeds and medical treatment to cattle and construction of slaughter houses;
- (v) Plantation of trees on the roadsides;
- (vi) Establishment and maintenance of libraries and reading rooms;

The Sarpanch also performs certain judicial functions in the settlement of local disputes.

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**Sources of Revenue**

The important sources of revenue of the Gram Panchayat are:

- (i) The taxes collected from the rural area, water taxes and taxes on lighting, latrine, tolls and on profession;
- (ii) The fees collected from license, registration and sale of cattle, fees for using slaughter house, rest sheds and dharmashalas;
- (iii) The fees collected from the sale-products of village markets, ghats, ponds and other property belonging to the Panchayat;
- (iv) The fines collected in respect of offence committed within the Panchayat; and
- (v) The grants available from the government constitute the main source of revenue.

With the above sources of income of the Gram Panchayat, it is in capable to provide all the requirements of it.

**5.2.5 Panchayat Samiti**

Panchayat Samiti constitutes the middle tier of the three tier Panchayati Raj system which operates at the Block level. The Mehta Committee in its report gave a place of pride to this middle-tier as most of the schemes of rural reconstruction and development are implemented at this level. In Odisha, there are 314 Panchayat Samitis.

**Composition**

Panchayat Samiti is organised in accordance with the Panchayat Samiti Act of the state government and its consists of the following members.

- (i) The non-official member elected directly by the people from each Panchayat as Panchayat Samiti member.
- (ii) Sarpanchas of the village panchayats within the Samiti's jurisdiction.
- (iii) Chairman of the Municipality with population below 20,000 situated in the Block.
- (iv) Chairman of the NAC with a population below 10,000 within the Block area.
- (v) Women are represented in half of the Panchayat Samiti seats, while SC and ST candidates are represented in proportion to their population in the Block.
- (vi) The BDO shall be the executive officer of the Samiti.
- (vii) The Local MLA and MP
- (viii) The representative of co-operative societies of the area.

The Chairman is the head of Panchayat Samiti and he is elected by the Panchayat Samiti members from amongst themselves. He presides over the meetings of the Samiti and get the resolution properly implemented by the BDO

and other officers engaged for the purpose. He supervises all the developmental works undertaken by the Samiti.

### **The Block Development Officer**

BDO is the Executive Officer of the Panchayat Samiti and the principal advisor to the Chairman. He co-ordinates the works of the extension officers and various project undertaken by the Samiti. He prepares the plans for rural development. The efficiency of the Panchayat Samiti depends upon the ability and efficiency of the BDO.

### **Functions**

The Panchayat Samiti performs a wide variety of functions as the backbone of the Panchayati Raj System. The functions undertaken by the Samiti can be discussed below:

- (i) The Panchayat Samiti is in charge of the block's community development programmes, initiatives, and projects, as well as their planning, implementation, and oversight.
- (ii) It looks after the establishment and management of schools for the spread of primary education.
- (iii) The Samiti exercises supervision over the Gram Panchayat within the block.
- (iv) The government entrusts it with the management of trusts and endowments, as well as other institutions.
- (v) It is in charge of overseeing the implementation of regulations relating to vaccination and birth and death registration.
- (vi) It approves the village panchayats' budgets.
- (vii) The Samiti takes up development oriented schemes in agriculture, animal husbandry, fisheries, health and sanitation. It takes every step to increase agricultural production. Through supply of improved variety of seeds, fertilizers, agricultural implements, and loans to the farmers.
- (viii) It establishes veterinary centres, dairy farms and poultry farms.
- (ix) It makes provisions of drinking water facilities in the villages, maintains rural health centres and takes precautionary measures against epidemics.
- (x) The Samiti constructs village roads and establishes co-operative institutions in the block.

### **5.2.6 Zilla Parishad**

The Zilla Parishad is the top tier of the Panchayati Raj system, which is divided into three levels and is the highest development agency in the state. In Odisha, the Zilla Parishad was abolished in 1968 and was revived in 1991 once again.

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**Composition**

A Zilla Parishad has the following categories of members:

1. Elected members from the zones of the Zilla Parishad within the district.
2. All MLAs and MPs of the district.
3. All Chairmen of the Panchayat Samitis within the district.
4. All Chairmen of the NACs, Municipalities, etc. within the district.
5. The Presidents of Central Co-operative Banks.
6. The Presidents of the District Land Mortgage Banks.
7. The President of the Zilla Parishad.
8. The District Collector as the Chief Executive Officer.
9. The project Director, DRDA is the ex-officio secretary.

In Zilla Parishad, some seats are reserved for SC, ST and OBC members one half of its seats reserved for women candidates. The members of the Zilla Parishad elect the President and Vice-President from amongst themselves.

The Zilla Parishad meets once in three months. The President presides over the meeting. The tenure of the Zilla Parishad is five years.

The Zilla Parishad functions through a number of standing committees elected by general body. These committees generally deal with the following subjects:

- (a) Community development;
- (b) Agricultural co-operative, irrigation and power and animal husbandry;
- (c) Industries including cottage, village and small scale industries;
- (d) Education and social welfare;
- (e) Finance and taxation; and
- (f) Public health.

**Functions**

In our state, the Zilla Parishad functions as a supervisory and co-ordinating body, the pivotal role being reserved for the Panchayat Samiti. However, in some of the states, it is an executive body, the Panchayat Samiti being merely its agent. The functions of Zilla Parishad are:

- (i) It evaluates and approves the district's Panchayat Samiti budget.
- (ii) It gives guidelines to the Panchayat Samitis to ensure that their functions are carried out efficiently.
- (iii) The Panchayat Samitis establish development plans, which it coordinates. It also co-ordinates inter block activities.
- (iv) It advises the state government on all things relevant to the district's development.
- (v) It reports any irregularities committed by any Panchayat or Panchayat Samiti in the district to the district collector and divisional commissioner.

- (vi) It distributes funds from the state government to the Panchayat Samitis in the district.
- (vii) It compiles information on the operations of local governments in the district.
- (viii) It has the authority and performs the responsibilities that the state government has delegated to it.

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### Sources of Income

Zilla Parishad has the following sources of income.

- (i) Taxes;
- (ii) Non-tax revenue;
- (iii) Grants from state government; and
- (iv) Miscellaneous.

Zilla Parishad looks to the Government for funds for meeting its expenditure. It depends upon the state government for grants-in-aid and share of local cess. Self-raised taxes and cesses constitutes only a fraction of the total income of the Zilla Parishad.

### 5.2.7 Problems of Panchayati Raj System

However, the Panchayati Raj in India has not been an outright success. Its working since the implementation has demonstrated numerous shortcoming in its working. Some of the defects of the Panchayati Raj are as follows:

1. **Illiteracy and Ignorance:** The widespread illiteracy and ignorance among the rural people remained a major hindrance in the way of the successful operation of Panchayati Raj. It prevented the people from becoming an active and willing partners in this system.
2. **Inexperienced Representatives:** The inability of the representatives elected by the rural people to comprehend fully the programmes and policies of the Panchayati Raj, and their apathy towards their duties as representatives of the people together made the working of the Panchayati Raj institutions inefficient.
3. **Groupism and Factionalism:** Socio-economic backwardness of rural India combined with groupism and factionalism to adversely affect the working of Panchayati Raj. The power struggle resulting from the efforts aimed at capturing seats in Panchayati Raj institutions as status symbol, led to further groupism and factionalism.
4. **Lack of Political Awareness:** Rural poverty, illiteracy, and ignorance were all factors contributing to a lack of political consciousness among rural residents. This made it impossible for them to adopt Panchayati Raj as a system of self-government and development.
5. **Lack of Funds for the Panchayati Raj Institutions:** The Panchayati Raj institutions were allocated limited sources of income. These were expected to perform a large number of civic and development functions.

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However, shortage of funds always hampered their efforts. Shortage of funds kept these dependent upon governmental grants-in-aid.

6. **Small Size of the Block Area:** In the structure of Panchayati Raj, the responsibility to implement development plans and programmes was largely vested with the Panchayat Samiti, which worked at the Block of Taluk or Tehsil level, Each Block was a small area and its Panchayat Samiti often found the task of formulating development plans for such a small area difficult and problematic.
7. **Party Politics:** The role of political parties in Panchayati Raj election remained negative and harmful. It acted as a source of factionalism and groupism. It was a source of intensification of social conflict into a violent conflict. Partisan attitude towards the issue of reforms and development adversely affected the working of the Panchayati Raj.
8. **Benefits Mostly to One Class:** The goal of ensuring the participation of all rural residents in the process of securing development through community initiatives was achieved, although it benefited only the wealthy landowners and the upper classes of the rural people. The rich landlords dominated the elections to the Panchayats and thereby became the dominant actors in the working of the other two institutions of the Panchayati Raj. The rural poor failed to really get involved in it.
9. **Structural Defects:** There were experienced several structural deficiencies in the organisation and working of the Panchayati Raj institutions:
  - (i) Ineffectiveness of the Gram Sabha.
  - (ii) Nominated character of the Panchayat Samitis and Zilla Parishad.
  - (iii) Lack of adequate powers, particularly for the Panchayat Samitis.
  - (iv) Lack of trained and efficient staff.
  - (v) Excessive governmental interference and control.
  - (vi) Economic dependence of the Panchayati Raj institutions upon the government.
  - (vii) Irregular elections.
  - (viii) Frequent and prolonged supersession of the Panchayati Raj institutions.
  - (ix) Small area of the Block.
  - (x) Lack of good relations between the Panchayati Raj staff and the rural people.
  - (xi) Working of Panchayati institutions more as governmental agencies and less as popular and public institutions.

All these hindrances were the main responsible for the inadequate success of Panchayati Raj in India.



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### 5.2.8 73<sup>rd</sup> Amendment Act, 1992

To eliminate the defects of the working of Panchayati Raj, the Parliament enacted the 73<sup>rd</sup> Amendment Act in 1992. This Act provided a constitutional status to Panchayati Raj and maintained the three tier system of Panchayati Raj with some amendment to their composition, functions and powers. On 23<sup>rd</sup> April, 1994, all the states of India completed the process of enacting fresh legislations for strengthening the Panchayati Raj institutions as envisaged in the 73<sup>rd</sup> Amendment. As a result the Panchayati Raj 73<sup>rd</sup> Amendment Act became operational in most of the states of the union.

This Act added Eleventh Schedule in Article 243(G) to the Constitution which contains 29 matters on which the Panchayat shall have full authority. These matters are:

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest product.
8. Small scale industries, including food processing industries.
9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.
22. Market and fairs.
23. Health and sanitation, including hospitals, primary health centres and dispensaries.
24. Family welfare.

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25. Women and child development.
26. Social welfare, including welfare of the handicapped and mentally retarded.
27. Welfare of the weaker sections, and in particular of the scheduled castes and scheduled tribes.
28. Public distribution system and
29. Maintenance of community assets.

The 73<sup>rd</sup> Amendment Act also provides for: (i) working of Gram Sabha at the village level, (ii) working of the Gram Panchayat as the executive organ of the Gram Sabha, (iii) Seats are reserved for SC and ST people in proportion to their numbers, (iv) reservation of the posts of chairpersons for the SC and ST, (v) a minimum of one-third of the elected seats in each Panchayat are reserved for women, (vi) chairpersonships for rural women should be reserved 1/3 of the time or rotated on a rotational basis. (vii) direct election to Panchayats, (viii) Fixed tenure of 5 years, (ix) Constitution of a Finance Commission to review the financial position of the panchayats and (x) The State Election Commission is in charge of supervising, directing, and controlling the production of electoral rolls and the conduct of all Panchayati Raj elections, among other things.

### 5.3 URBAN LOCAL BODIES

Municipal Corporation is the highest urban local government institution working in each large urban area. There are at work about 70 Municipal Corporations in India. At first, in 1859 the Bombay Municipal Corporation was set up. In Odisha there are three Municipal Corporation, i.e., in Cuttack, Bhubaneshwar and Berhampur.

**Composition:** Each Municipal Corporation has a set number of members based on the population of the city in question. To form a corporation the city is divided into a number of wards. From each ward, a person is elected as a councilor or corporator. Mayor is the title given to the corporation's leader. The Councilors elect the Mayor and Deputy Mayor from among themselves. The Mayor convenes and presides over its meetings. He is considered the first citizen of the city. Some of the seats are reserved for SC, ST and women candidates in every Municipal Corporation. The following are the requirements for membership in a municipal corporation:

1. He should be a citizen of India.
2. His/Her name should be in the voter's list of concerned city.
3. He/She must be at least 21 years of age.
4. He/she should not be in a position of government.
5. He/She should not be declared ineligible for contesting election for committing a crime.

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Every Municipal Corporation is elected for a five-year term. Every month, the Municipal Corporation must convene at least one meeting. The Corporation makes all decisions with a majority of members present and voting. In the event of a tie, the mayor has the option to utilise a casting vote.

Commissioner is the title of the corporation's president and CEO. The commissioner is a senior government official from the IAS cadre who is chosen by the government. The Commissioner is in charge of running the administration by carrying out the Municipal Corporation's decisions. He creates the Corporation's annual budget and ensures that it is approved. In the management of the municipal corporation, the Commissioner always plays an essential role. Ward committees are established in the municipal corporation area under the 74th Amendment to the Constitution.

**Functions:** The functions of the Corporation can be classified under two heads. (1) Obligatory and (2) Discretionary.

### **Obligatory Functions or Compulsory Functions:**

1. Supply of drinking water and maintenance of water works.
2. Supply of electricity.
3. Construction and maintenance of roads and streets.
4. Lighting, watering and cleaning of public streets and public places.
5. Maintenance of fire brigade.
6. Provision for primary education.
7. Arrangement of transport facilities.
8. Establishment and maintenance of hospitals, maternity and child welfare centres.
9. Prevention of epidemic, diseases and distribution of medicines.
10. Checking food adulteration in markets.
11. Registration of births and deaths.
12. Vaccination and inoculation.
13. Prevention of water and air pollution within the city.
14. Publication of annual reports and returns on administration of the corporation.
15. Demolition of dangerous building, etc.

### **Discretionary or Optional Functions:**

1. Construction of public parks, gardens, libraries, museums, theatres, etc.
2. Construction of public houses.
3. Relief to destitute and disabled persons.
4. Planting and care of trees on roadsides.
5. Civic reception of VIPs.

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6. Registration of marriages.
7. Survey of building and lands.
8. Organisation and management of fairs and exhibitions.
9. Playing of music for masses.
10. Opening orphan houses.
11. Destruction or detention of rabid dogs, ownerless dogs, etc.

In this way, municipal corporation is the topmost administrative system in the Urban Local Self-Government. The state government is expected to ensure such a financial autonomy for each municipal corporation as can enable it to carry out its functions in a productive and efficient manner.

### 5.3.1 Municipality or the Municipal Council

The Municipal Council, is the most popular and widely used institution of local government. A municipality is established in a town where the population is in between 10,000 to 1,00,000. In Odisha, there are 35 municipalities at present. The membership of each municipality is fixed by the state government. Every municipality has the following types of members:

- (i) Directly elected members from the municipal area.
- (ii) MLAs representing the area of municipality are ex-officio members.

Accordingly, the town is divided into a number of wards in between 11 to 30. From each ward, a person is elected as the councilor on the basis of adult franchise. There is reservation of seats for SC, ST and women categories.

The qualifications for membership of a Municipal Council are as follows:

- (i) A person must be a citizen of India.
- (ii) His name should be in the voter's list of the area.
- (iii) He must be at least 21 years of age.
- (iv) He should not hold any governmental office.
- (v) He should not have disqualified for election.

The tenure of the municipality is 5 years. The members of the council elect a chairman and vice-chairman from among themselves. All meetings are presided over by the Chairman. Once a month, the municipality holds a meeting. The municipality makes all of its decisions by majority vote. In the event of a tie, the President or Chairman can use his or her casting vote to break the tie.

As the governmental head a executive officer is appointed by the state government from O.A.S. cadre. He manages the day to day activities of the municipality. To help him a Health Officer, Engineer, Sanitary Inspector, Octroi Inspector are appointed by the state government.

### Functions of the Municipality

The functions of the municipality are of two types: compulsory and optional functions.

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**Compulsory Functions**

1. Construction and maintenance of roads.
2. Providing electricity in the streets and other important places.
3. Water supply.
4. Health services.
5. Construction and maintenance of drains, ponds, etc.
6. Primary education.
7. Providing relief to the affected people during natural calamities.
8. Registration of births and deaths.
9. Removal of obstructions on the public streets.
10. Opening shops to provide food materials at reasonable rates.
11. Opening markets and butcher houses.
12. Provision for burial grounds, etc.

**Optional Functions:**

1. Construction of Bazaar and Hat.
2. Town planning.
3. Secondary education.
4. Library and reading rooms.
5. Parks and theatre.
6. Transport Facilities.
7. Plantation of trees on the roadside.
8. Removal of dangerous buildings.
9. Providing house to low income groups, etc.

These above features are all about the composition and functions of the municipality. The municipality earns money from taxes, governmental grants and loans, etc. Although the 74th Amendment to the Constitution has given urban local governments substantial autonomy, they are not totally free of government supervision.

**5.3.2 Notified Area Council (NAC)**

Notified Area Council are created for a transitional areas or for a very small urban areas. For this purpose, several factors are taken into consideration; the density of the population, revenue for local administration, the economic importance of the area, etc.

**Composition:** The strength of the members of Notified Area Council is fixed by the government from time to time. On the basis of adult franchise, they are directly elected by the inhabitants of the area. The Notified Area Council is organised into wards, with one member elected from each ward. The member of the state Legislative Assembly (MLA) representing that area is also the ex-officio

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member of Notified Area Council. The tenure of Notified Area Council has been fixed at 5 years. Every Notified Area Council elects one President (Chairman) and one Vice-President (vice chairman) by the elected members. The President presides over the meetings.

There is reservation of seats for: (i) scheduled castes, (ii) backward classes and (iii) women. The Notified Area Council performs all the civic functions for its area. It formulates and implements plans for the development of the area.

**Functions:** The functions of Notified Area Council are as follows:

1. Planning for the development of town.
2. Planning for the economic and social development.
3. Construction and maintenance of roads and bridges.
4. Water supply for domestic, industrial and commercial purpose.
5. Public health and sanitation.
6. Provision of firefighting services.
7. Urban forestry, protection of environment and ecological balance.
8. Slum improvement.
9. Urban poverty alleviation.
10. Maintenance and establishment of parks, gardens and playgrounds.
11. Prevention of cruelty against animals.
12. Registration of births and deaths.
13. Public amenities including street lighting, parking, bus stops and public conveniences.
14. Regulation of slaughter houses and tanneries, etc.

These are all about the composition and functions of Notified Area Council, When there are special powers and adequate resource in the hand of Notified Area Council, it will be very much successful in future.

### 5.3.3 74<sup>th</sup> Amendment Act, 1992

The Twelfth Schedule of the 74th Amendment to the Constitution includes 18 issues over which a Municipality can be granted administrative jurisdiction by the State Legislature through legislation. These subjects include:

1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purpose.
6. Public health, sanitation, and solid waste management are all issues that need to be addressed.
7. Fire service.

8. Urban forestry, environmental preservation, and ecological promotion are all important.
9. Defending the interests of society's weakest members, such as the crippled and mentally challenged.
10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. Parks, gardens, and playgrounds are examples of urban amenities and facilities.
13. Promotion of cultural educational and aesthetic aspects.
14. Cremations, cremation grounds, and electric crematoriums; burials and burial grounds.
15. Cattle ponds, prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Street lighting, parking spaces, transit stations, and other public conveniences are examples of public amenities.
18. Regulation of slaughter houses and tanneries.

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### 5.4 THE INDIAN PARTY SYSTEM

Edmund Burke defines political party as “a body of men united for promoting by their joint endeavours the national interest, upon some particular principles in which they are all agreed.” According to Prof. Gilchrist, political party is “an organised group of citizens who profess to share the same political views and who by acting as a political unit try to control the government. The chief aim of a party is to make its own opinions and policy prevail.” A political party according to MacIver is “an association organised in support of some principles or policy which by constitutional means it endeavour to make the determinant of government.”

#### 5.4.1 Features of Part System in India

The following are the main features of part system in India.

1. **Multi-party System:** India is a country with a diverse social structure. It is an ideal location for a multi-party system. Since independence, India has seen the emergence of over 1600 political parties. Major Political Parties are Indian National Congress, Bharatiya Janata Party, Bahujana Samaj Party, Communist Party of India, Samajwadi Party, JMM, DMK & AIADMK, Telugu Desam Party, Assam Ganaparisad, Biju Janata Dal, RJD, Siva Sena, Janata Party, Janata Dal, etc.
2. **Single Party Dominance:** The country was for long under the dominance of a single party. Particularly, National Government comes under the single party dominance, i.e., dominance of Indian National Congress. This Party continued to dominate Indian Politics till 2014. But, in 2014, Lok Sabha election this party suffered a lot and unable recognised as an opposition party in the Lok Sabha.

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3. **Rapidly Changing Party Structures:** Due to splits, defections, alliances, and counter-alliances, India's party structure has been constantly and swiftly changing. This is a challenge that almost every political party faces.
4. **Emergence of Regional Parties:** In Indian political scenario, a number of regional parties play dominant role at present. Some of the important regional parties are Biju Janata Dal in Odisha, RJD in Bihar, Siva Sena and NCP in Maharashtra, TDP in Andhra Pradesh, DMK, AIADMK and TMC in Tamil Nadu, AGP in Assam, Trinamool Congress in West Bengal, Akali Dal in Punjab, etc.
5. **Caste and Communal Politics:** Casteism and communalism play a dominant role in the party system of India. Political parties like Muslim League, Akali Dal and Siva Sena are openly communal. The DMK and AIADMK strongly oppose Brahmins in Tamil Nadu.
6. **Lack of Ideological Differences:** In India, no political party has clear-cut ideology except Communist Party. Each party believes in Secularism, Gandhism, Social Justice and Democratic Socialism. Parties lack socio-political and economic programmes.
7. **Decline of National Parties:** The growth of regional parties is responsible for decline of national parties. No party can claim to be national having significant influence all over India. Many of the regional parties are ally of the ruling coalition at the centre. Fortunately, in 2014 Lok Sabha election, Bharatiya Janata Party got majority in the Lok Sabha and many regional parties lost their importance in national politics.
8. **Personality Cult:** It is the most important feature of the Indian political parties. Almost all parties are based on personality cult. Many of them carry the first letter of his founders. Splits occur due to personality clash. Such parties are Akali Dal (Badal), Biju Janata Dal, Congress (Indira), etc.
9. **Limited Membership:** Most parties in India have very limited membership at the grassroots. Further, that small number is also not committed to the party ideology.
10. **Defection Politics:** Defection is a chronic disease in the Indian party system. Defectors are found in every political party. They jump from one party to the another to get some rewards. For this, it is characterised as "Aaya Ram Gaya Ram" Politics.
11. **Power Hungry:** All parties in India are power hungry. Their lust for power is so intense that they sacrifice their ideology and political values. They go for coalition and alliances with other parties which have anti-national or hostile to politics and programmes.
12. **Politics of populism:** To protect their vote banks, almost all political parties formulate and follow political policies and raise populist slogans.



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- 13. Presence of a Recognised Opposition:** Initially, the Indian Party System was dominated by a single party. The lack of effective opposition was a major flaw in the multi-party system. This pattern persisted until 1969. When the Indian National Congress split in 1969, the Congress (O) was given the status of opposition party. An opposition party in India gets status recognised only when it secures a minimum of 1/10<sup>th</sup> of the total seats of a House. In the general election 2014, no party was able secured minimum 1/10<sup>th</sup> seats in the Lok Sabha to get the status of recognised opposition.
- 14. Registration of Political Parties:** A provision for the registration of political parties with the Election Commission has been in place since December 1988. The Representation of the People Act (1951) was amended to make it mandatory for each political party to register with the Election Commission. A political party that does not register is not regarded as a political party.
- 15. Power Sharing between National and Regional Political Parties:** The formation of a power-sharing process between national and regional parties is a novel trend in Indian political systems. Since June 1996, the centre has been ruled by a coalition made up of many regional and national level parties. Since 1989, India's period of coalition politics has come to an end and fortunately in the election 2014 Bharatiya Janata Party secured majority in the Lok Sabha.

### **5.4.2 Political Parties in India**

The election commission of India recognises several political parties as National Parties and Regional Parties based on their achievements.

#### **National Parties**

In a general election to the Lok Sabha, a party is recognised as a national party if it receives at least 6% of the valid votes polled in any four or more states, or if it wins at least four Lok Sabha seats from any state or states, or if it wins at least 2% seats in the Lok Sabha, i.e., 11 seats from at least three different states. Indian National Congress, Bharatiya Janata Party, Bahujan Samaj Party, CPI, CPI(M) and Janata Dal are the examples of National Parties.

#### **Regional Parties**

A party gets recognition as regional party if it secures 6 per cent of the valid votes polled in a state (either in Lok Sabha or in Legislative Assembly) or if it wins at least 3 per cent of total number of seats in the Legislative Assembly of the state whichever is more. Biju Janata Dal (Odisha), Rashtriya Janata Dal (Bihar), Jharkhand Mukti Morcha (Bihar, Jharkhand), Assam Gana Parishad, Trinamool Congress, National Conference, Akali Dal, Telugu Desham Party, DMK & AIADMK are the examples of regional parties.

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### 5.4.3 Reasons for Emergence of Regional Parties and Decline of National Parties

India is a country where pluralism is found in the social, economic, religious, cultural field. The emergence of several regional political parties is a natural development. The following factors are responsible for the emergence of regional parties and decline of national parties.

- 1. Religious Factor:** Religion also plays an important role in the organisation of regional parties in India. Various political parties are there which are formed on the basis of religion of different parts. Such political parties are Akali Dal, Muslim League, Hindu Mahasabha, etc.
- 2. Regional Imbalances:** The creation of regional economic imbalances in India is one of the factors that has led to the formation of regional parties. Some parts of India are highly developed economically. Many other parts lag behind. Backward region leaders take advantage of 'local emotions,' forming regional parties to advocate regional interests and improve their bargaining leverage with national leaders. As a result of this, the Assam Gana Parishad was formed.
- 3. Cultural Pluralism:** India has composite culture. Cultural diversity is found all over the country. People differ among themselves on their social customs, traditions, food habits, costume, etc. Culture, ethnicity, religion, language, caste groups differ in different places. This has greatly helped the process of regional political parties like DMK, JMM, MNF, GNLF, etc.
- 4. Anti-centralism of 1950-60 Period:** India is federal in structure but unitary in spirit. It is so because of Centre's dominance over states. As a reaction against this, several regional parties have come to existence earning much popularity. The DMK, Telugu Desham and Akali Dal are such parties. They are using anti-centrism to secure popularity and support. Since June 1996, change in their perceptions appear. Now, they want more autonomy for states.
- 5. Political Splits:** In several national political parties, sizeable dissident groups are found. It results in party splits. It is responsible for birth of regional political parties. On this line, many regional parties have been born like Kerala Congress, Trinamool Congress, Rashtriya Janata Dal, Biju Janata Dal, Janata Dal (Secular), Forward Bloc, Tamil Manila Congress, PMK, BJD, AIADMK, etc.
- 6. Personality Cult Politics:** In India, personality cult politics is seen. It is one of the causes for the birth of regional congress. When a party leader is able to muster support from a group of party members, he is encouraged to form a regional or local party due to his personal factor. Some of the examples are Bansi Lal's Party, Devi Lal's Party, Congress (J), Congress (S), BKU, BKKU, TDP(N), TDP (NTR), etc.

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7. **Caste Factor:** In Indian politics, caste plays a significant influence. It is also to blame for the formation of several regional, local, and sectoral political parties. In Tamil Nadu, the DMK has established itself as an anti-Brahmin party. Similarly, the Republican Party of India, the Bahujan Samaj Party, and others are based on caste.
8. **Lack of Strong Ideological Differences:** Political parties at the national level operate in a variety of ways, but they all have similar ideological principles. Because they have real support and appeal in specific states, many national level parties act as regional parties. Despite its national status, the CPM's popularity and operational base are limited to West Bengal, Tripura, and Kerala. BSP, likewise, is only popular in a few states. Many national parties have split off into regional parties that are now active at the state or municipal level.
9. **Developing Nature of the Indian Party System:** The Indian political party system is a dynamic and evolving system. It goes through political and constitutional changes on a frequent basis. According to the socio-economic environment, its party system has been changing. Many national parties have become weak or strong and *vice versa*. For example, the Indian National Congress which had dominated the entire country has suffered a great decline and splitting takes place several times in this party. This is responsible for the birth of several regional and small parties in India.

Thus, there are many causes for the emergence of regional parties in India. Now, in India, almost in all states regional parties are seen. The DMK and AIADMK are regional parties of Tamil Nadu. Shiromani Akali Dal in Punjab, National Conference in Jammu and Kashmir, Asom Gana Parishad in Assam, Biju Janata Dal in Odisha, Telugu Desham Party in Andhra Pradesh, Kerala Congress in Kerala, Tamil Manila Congress in Tamil Nadu; Trinamool Congress in West Bengal, Meghalaya Democratic Alliance in Meghalaya, Jharkhand Mukti Morcha in Jharkhand, Bihar and Odisha, INLD PDP, Oriya Congress, Bangla Congress, BKU, BKKU, Lok Shakti Party, Rashtriya Janata Dal, etc. are acting as regional parties. These were not seen prior to 6<sup>th</sup> Lok Sabha election of 1977. The Indian National Congress was the only party having hegemony in Indian politics since 1952 to 1977. But due to excesses during emergency from June 1975 to 1977 March the congress party lost its track. Since that day gradually regional parties are being formed one after another. There is, in fact, mushroom growth of regional parties in India. Regional parties have offered the most significant threat to India's one-party system, as well as having a significant impact on the character and trajectory of center-state relations.

## 5.5 INDIAN ELECTION SYSTEM

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The following features of the Indian election system highlight its well structured nature:

- 1. Delimitation of Constituencies:** In India, there is a Delimitation Commission which is appointed by the President after each census. The commission demarcates single member constituencies. The proportion of population is almost equal in all constituencies approximately. Generally, the size of a Parliamentary constituency is twice or thrice the size of an Assembly constituency. In Odisha, it is 1 : 7. However, in regard to delimitation, the decision of the Commission is final.
- 2. Preparation of Electoral Rolls:** It is the second stage in electoral process. Before election is held, the electoral roll is to be finalised. From the list, some names are deleted (dead, expatriated, renunciation of citizenship, etc.). Some new names are added who have attained 18 years of age qualifying to vote for the first time. The eligible voters have to apply for enrollment. Of course, at times, disputes arise. The returning officers are given power to settle disputes.
- 3. Notification of Election and Appointment of Returning Officers and Other Staff:** Before general election, the President sends a communication to the Election Commission. The latter announces the dates for filing nominations, withdrawal of candidature, etc. On this regard, the EC consults the State Government. Then Returning Officers are appointed by the EC. Usually, the district collectors act as Returning Officers for Lok Sabha elections whereas the Sub-collectors act as Returning Officers for Assembly Elections. The State Election Commissioner helps the EC. To conduct election, personnel are appointed who conduct election in different polling booths. They are Presiding Officers, Polling Officers, Home guards, Police Personnel, etc. For susceptible areas, extra care is taken.
- 4. Filing of Nomination Papers:** A candidate seeking to contest election has to file a nomination paper with the Returning Officer for his respective constituency. For this, a prescribed form is issued by the Election Commission. The name of the candidate is to be proposed and seconded by two voters. The candidates are sponsored by political parties. A candidate may contest as an independent candidate also. The Party candidates are allotted party symbol. The independent candidates have to opt for any symbol allotted by the EC. While filing nomination, a candidate has to make a security deposit and take oath before the Returning Officer to obey the model code of conduct.
- 5. Scrutiny of Nomination Papers:** Within the scheduled date, the contesting candidates have to file their nomination papers. Then those are scrutinised by the Returning Officer. A candidate may raise objection on filing of nomination of other candidate. The Returning Officer decides all

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such cases. If a candidate's nomination is rejected, he can petition in the High Court. The court may overrule or accept the decision of the Returning Officer.

6. **Withdrawal of Nominations:** After scrutiny, the candidates are allowed to withdraw their nominations voluntarily. For this, a time limit is fixed by the EC. For withdrawal, a candidate has to apply in writing to the Returning officer. If after withdrawal, only one candidate is left in the field, he is declared elected uncontested.
7. **Election Campaign:** The next stage in the electoral process is very big. The candidates meet the voters, draw their attention, propagate in favour of them. They are engaged in election campaign. Each party issues Election Manifesto in which its programmes, policies and promises are stated. It aims at influencing public opinion. The independent candidates organise campaigns on personal basis. The candidates use wall posters, cartoons, advertisements, press messages and make personal appeals, door to door canvassing. The recognised parties are given fixed time on the Radio and TV to make poll broadcast and telecasts. Each party spends a large sum of money for propaganda. The election campaign continues up to 48 hours before the time of actual polling.
8. **Polling of Votes:** The polling dates and hours are set by the EG. In each seat, several polling stations are set up. A Presiding Officer is in charge of each voting location. He is assisted by polling officers, polling agents, constables or police officers to conduct the poll.  
  
While a voter enters the booth, he is identified first. Then indelible ink is marked on the nail of his second finger of left hand. Then he is allowed to record his vote secretly. For voting either ballot papers or EVMs are used.
9. **Counting of Votes and Declaration of Results:** In the presence of polling agents for the candidates, the Returning Officer and his staff open the ballot boxes or EVM machines on the designated day and time. After that, the counting begins. The candidate who receives the most votes is proclaimed the winner. As a result, election victory is determined by a relative majority vote. The EC receives the results from the Returning Officer.
10. **Election Petition for Settlement of Electoral Disputes:** Following the announcement of the results, the victorious candidate's election can be disputed by either a candidate or a voter. An election petition can be filed with the High Court within a certain time frame for this reason. The petition is based on election malpractices or irregularities. The High Court gives judgement after hearing the petitioners and respondents. A candidate can appeal the High Court's decision to the Supreme Court. The Supreme Court's decision is definitive.

As a result, India's Constitution establishes a well-structured electoral system that is meant to achieve the country's goal of having regular, free, and fair elections.

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The election system has been successfully in operation since the Constitution's inception. It's been quite successful.

## 5.6 DEFECTS OF THE INDIAN ELECTION SYSTEM

In a democratic system, some people rule and others are ruled. Free and fair election is the *sine qua non* of successful democracy. The Indian political system provides for the election of the power holders. However they have felt some defects in this system. Some of the defects are described below.

### Defects of the Indian Election System

1. **Majority Victory System is Defective:** The Simple Majority Vote Victory system has been a subject of hot criticism. It is the biggest shortcoming in elections the big disproportion between the popular votes polled and the votes secured by the winning candidate. The vote-seat gap implies that a candidate is declared elected even if he secures less than 20 per cent of the total votes. Likewise, the ruling party also holds power even if it has secured 30 per cent of votes of the entire electorate. This fact can be well realised if one studies the history of elections in India.
2. **Some Imbalance:** The Indian election system tends to create imbalances. Some parties are not represented at all even if they secure some votes.
3. **Multi-cornered Election Contests:** It encourages multi-cornered contests. Large number of candidates contest and the candidate who wins has lesser margin of votes.
4. **Weak Legitimacy of the Ruling Party:** The Indian election system is the source of weak legitimacy of the Ruling Party. The legitimacy in the eyes of the people is weak.
5. **Low Voter Turnout:** Low Voter Turnout is another defect. In 1952, election only 34 per cent voters had voted which has become 65 per cent in 1996 election. This low voter turn out helps the candidates to win easily.
6. **Some Other Defects:** Some other defects are found in the electoral process. Those are:
  - (i) Besides, the electoral imbalances that are due mostly to the simple majority vote victory system and to low electoral turnouts, there are several defects.
  - (ii) The contesting candidates and their respective political parties have to individually organise the election campaigns. On the whole, the election campaign is an 'Individual Affair.'
  - (iii) The undesirable and unhealthy role of money in elections is a big drawback.
  - (iv) The provision for the adjudication of election disputes by the High Courts too is delaying, expensive and harmful system.

Finally, it can be mentioned that the prevailing illiteracy is a defect of the Indian election system.

Now, let us discuss on the electoral reforms.

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### 5.7 SOME PROPOSALS FOR ELECTORAL REFORMS IN INDIA

In order to eliminate the defects of Indian Election System, the following proposals of reforms have been made.

**1. Steps for Reducing Vote-Seats Gap:** In India, a candidate is declared elected on the basis of Relative Majority Vote Victory System. Whatever may be the number of votes polled by a candidate, it does not matter. If he has secured highest number of votes, he is declared elected. It is related to seat-vote gap. To check it, three alternatives can be considered. Those are:

- (i) The Second Ballot System;
- (ii) The Alternative Vote System; and
- (iii) Proportional Representation system.

The Second Ballot System helps to secure a government backed by a real majority. The alternative vote system may be advantageous if it can eliminate the need for repolls. The proportional representation system is definitely the best choice. In it, all the minorities can have representation. It is of two types: List System and Hare System. Any of these two can serve the purpose to arrest seat-vote gap.

**2. Some Steps for Improving Voter Turnout:** The voter's turnout in India during elections is not encouraging. For this, there are two remedial measures:

- (i) the introduction of compulsory voting and
- (ii) the grant of the right to cast a negative vote.

Definitely, introduction of compulsory voting is the best. By this, the citizens can perform their fundamental duty. It is also a positive political obligation to the state. Of course, this device cannot be operated fully. However, to increase the voter's turnout, spread of political education and vigorous direct political socialisation of masses is necessary. Special general education should be imparted. Intensification of adult mass education programme should be accelerated.

**3. Right to Give a Negative Vote: Some Practical Difficulties:** The right to grant a negative vote at the time of election is a device for the election of a really majority supported candidate is of worth consideration. In it, if a voter does not like to vote, any candidate is given the option to cast a negative vote against a candidate. If such vote out number a candidate, a

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repoll is ordered. This is a defective system because large number of repolls may be ordered.

4. **Issue of Identity Cards to All Voters:** Issue of Identity Cards with photographs is another distinctive reform. It was a long standing necessity in India. Now, about 75 per cent voters have been issued with Identity Cards.
5. **Updating the Electoral Rolls:** The electoral rolls need revising and updating. The qualifying dates for age should be statutorily fixed on 1st January, 1st April and the like. All persons who are eligible to be voters on these dates should be included in the voters list. In case of elimination of names, Identity Cards should be collected and deposited with the Election Commission.
6. **Remedies for Reducing Poll Expenses:** To reduce poll expenses of candidates and parties, the system of providing public campaign should be improved. The local governments should construct and maintain places for displaying the banners and posters. The election code of conduct should be strictly enforced.
7. **Steps for Checking Disinterested Candidates:** Frivolous candidates should be checked from contesting elections. The independent candidates who opt for joining the ruling party after victory should not be allowed. It is an undemocratic step. Thereby votes are divided. Personality cult, communal voting and opportunism should be discouraged. Security deposit may be increased. List system is of greater help for recognition of political parties. It should be encouraged.
8. **Creation of a National Poll Fund:** The Election Commission is performing its duty effectively. One Chief Election Commission observed that the task of conducting polls is unparalleled. He suggested for creation of a Poll Fund for ₹ 1,007/- crore with annual contributions of ₹ 10 crores each year from the Centre and States. It would be spent for financing the electronic machines and election campaign of the candidates. However, rules for governing election expenses of candidates should be more vigorous, honest and effective.
9. **Special Courts for Settling Election Disputes:** Election petitions should be solved immediately. For this, special courts should be set up. Each court should consist of either a sitting judge of the High Court or ad hoc judge appointed by the President. It should be obligatory for the courts to dispose election petitions within three months.
10. **Steps for Limiting the Scope of Defections:** To reduce further chances of defection, the French practice should be followed. Accordingly, in case of political defection or resignation due to ill-health, the representative shall *ipso facto* lose his seat and his running mate shall take over his seat in the legislature. By this, not only political defection but also conduct of by-election can be reduced.



All these reforms are structural in nature. However, several specific reforms may be considered.

### **Specific Reforms**

1. Steps must be taken to prevent frivolous candidates from fielding their candidates.
2. Role of money power and muscle power in elections should be checked. Preventive measures should be taken and the voters should be made politically conscious.
3. There should be reservation of seats for women. Then only their role will be increased and politics would be noble.
4. The practice of countermanding of elections at the last minute due to the death of a candidate can be done away with.
5. No candidate should be permitted to contest from more than one constituency in one election.
6. The ruling party should be prevented from using the delimitation of constituencies to its advantage.
7. The weaker sections of the society and minorities should be given special protection so that they may vote freely and without intimidation.
8. Continuous campaigning should be made. Vote-awareness campaign must be made a national campaign. Citizenship education should be given top priority which ensures successful and healthy development of democracy.
9. Post-election result alliances should not be recognised by the President because these are opportunistic in nature.
10. The political parties should give their possible partners in future well in advance.
11. Parliamentary standing committees should be constituted to examine election laws and make mandatory recommendations.
12. Election campaigns should be closely monitored.
13. For violation of code of conduct, a person must be punished.
14. Increase in the security deposits from candidates both from general as well as reserved categories should be done for checking frivolous candidates.
15. A candidate having more than two children should not be allowed to contest elections.
16. If a candidate is found to be involved in election malpractices, he should be debarred from contesting for the next years.

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## **5.8 ELECTION COMMISSION OF INDIA**

Election is a vital component of democracy. Fair election will produce a good Government; unfair election will produce a bad Government. It is, therefore, important that the election process should be fair and impartial and that it should be free of violence and bad practice. A democratic system requires that elections be held in a free and fair manner. To conduct elections properly, the constitution makers have made provision for an autonomous machinery the Election Commission at the national level. The Commission is an autonomous body being free from political and executive influence. The Indian Constitution establishes an electoral procedure to ensure that elections are free and fair. There are still some flaws in the Indian voting system that need to be addressed. These are known as electoral reforms.

### **5.8.1 Composition of the Election Commission of India**

The Constitution establishes an Election Commission, which is made up of one Chief Election Commissioner (CEC) and as many additional Election Commissioners as the President may appoint from time to time. Only the Chief Election Commissioner served on the Election Commission until 1989. In 1989, two other Commissioners were appointed. But Janata Government in 1989 relieved two commissioners. However, later on, the decision was changed and two additional commissioner's appointment was repeated. At present the Election Commission consists of a Chief Election Commissioner and two other Election commissioners.

#### **Appointment**

The President appoints the CEC and other commissioners. They are in office at the President's pleasure. They are usually selected for a six-year term, which can be increased for another one year. But they can continue in office till 65 years of age.

Election Commissioners can resign from their positions by presenting a letter of resignation to the President. Additionally, the President has the authority to dismiss them before to the end of their term. For this, a resolution must have been passed in both the Houses of Parliament by special majority. This provision is there to ensure independence of the Election Commission. Of course, no commissioner has been removed till date.

### **5.8.2 Powers and Functions**

From Articles 324 to 328, the powers and functions of the Election Commission are enumerated. The powers of the EC are as follows:

- (a) Elections to Parliament and State Legislatures, as well as local bodies, require the preparation of electoral rolls. It also updates the electoral rolls.
- (b) All matters connected to the election of the President, Vice-President, Parliament, and State Legislatures are under his supervision, guidance, and control.

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- (c) Providing guidance to the President and Governors on the issue of members of Parliament or state legislatures being disqualified.
- (d) Election officers are appointed to investigate any complaints originating from or related to the election arrangements.
- (e) Disputes over the distribution of election symbols to political parties during elections are resolved.
- (f) Ordering of central broadcasts and telecasts, as well as allocating days and time to various political parties.
- (g) Persons who are exempt from a judicially enforced disqualification.
- (h) Election dates and schedules are announced, as well as the nomination papers are scrutinised.
- (i) Obtaining the necessary personnel for the election from the state's president and government.
- (j) To establish a code of conduct for political parties and candidates to follow during elections.
- (k) To ensure that the voter's list is kept up to date at all times and that it is free of errors.
- (l) Recognize Indian political parties as well as state parties. A party is recognised as a national party if it receives at least 4% of polled votes in any general election in a state, and as a regional party if it receives at least 4% of votes in a state or region.
- (m) In the case of a split, it rules on electoral symbol issues.
- (n) If a candidate fails to submit election returns within a certain time frame, the Election Commission may disqualify him.

Thus, the Election Commission exercises all powers in regard to conduct of elections in India. Here, some of the rulings of the Supreme Court regarding the powers of the Election Commission may be discussed.

The Supreme Court prohibited the Election Commission from taking suo moto action against state governments in circumstances where it believed the code of conduct had been violated on April 4, 1994. In this case, the EC will have to go to the Supreme Court.

The Andhra Pradesh government had filed a writ suit contesting the CEC's authority over code of conduct enforcement. The Supreme Court admitted the force of the code of conduct. It went on to say that it was up to state governments to assess whether a program's implementation was in violation of the model code of conduct. It implies that the state government cannot do anything illegal relating to code of conduct.

The Supreme Court declared on April 26, 1994, that the EC might make independent judgements against states that violated the model code of conduct. The Court ruled that the code's implementation begins on the date the notification is issued.

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In July 1995, the Supreme Court in a judgement ensured the multi-member Status of the Election Commission with CEC as its head.

**5.8.3 Independence of the Election Commission**

The Election Commission, in general, has been able to maintain a high degree of fairness and impartiality in conducting elections in the country. True, it has seldom been free of criticism and controversy. At times, it has been accused of helping one political party or another. But the integrity of Election Commission has never been seriously questioned. The Commission is able to play its role in a fair and judicious way because it enjoys independence. And it is sufficiently capable of defending its independence.

The two factors which have helped the Election Commission maintain its independence and effectiveness are: (1) It is not easy to remove from office the Chief Election Commissioner and other members of the Election Commission. It is as difficult as removing a Judge of the Supreme Court. (2) Members of the Election Commission are paid from the Consolidated Fund of India, and their terms of service cannot be amended to their detriment during their tenure.

**Check Your Progress**

**I. Multiple Choice Questions**

1. Which one of the following Committees recommended for three-tier Panchayati Raj System?  
(a) Ashok Mehta Committee                      (b) Balwantrai Mehta Committee  
(c) Drafting Committee                              (d) Sarakaria Committee
2. Which ideology influences the organisation of local government in India?  
(a) Socialism    (b) Gandhism  
(c) Marxism    (d) Liberalism
3. \_\_\_\_\_ introduced local self-government in India during pre-independence.  
(a) Lord Ripon    (b) Lord Waren Hestings  
(c) Lord Canning                                        (d) Lord Dalhousie
4. \_\_\_\_\_ Constitutional Amendment has strengthened Panchayati Raj System in India.  
(a) 52<sup>nd</sup>    (b) 62<sup>nd</sup>  
(c) 73<sup>rd</sup>    (d) 74<sup>th</sup>
5. The head of the Corporation is known as \_\_\_\_\_.  
(a) Chairman    (b) President  
(c) Commissioner                                        (d) Mayor
6. Which one of the following is not a source of Income of a Municipality?  
(a) Holding Tax    (b) Income Tax  
(c) Water Tax    (d) Government Grant
7. \_\_\_\_\_ among the following is not a National Party.  
(a) Indian National Congress                      (b) Nationalist Congress Party  
(c) Bharatiya Janata Party                              (d) National Conference

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8. \_\_\_\_\_ was the founder of Indian National Congress.  
(a) A.O. Hume (b) Womesh Chandra Banerjee  
(c) Bal Gangadhar Tilak (d) M.K. Gandhi
9. Which one of the following is a largest party?  
(a) NCP (b) BJP  
(c) BSP (d) CPI
10. \_\_\_\_\_ among the following is the oldest regional party in India.  
(a) DMK (b) TDP  
(c) Akali Dal (d) Siva Sena

**II. True or False**

1. Panchayat Samiti is the middle tier of Panchayati Raj System.
2. Ashok Mehta Committee recommended for three-tier Panchayati Raj.
3. Panchayati Raj was first implemented in Andhra Pradesh.
4. The head of the Municipality is known as Mayor.
5. Now, All India Trinamool Congress is a national party in India.

**III. Match the Following**

- |                   |                    |
|-------------------|--------------------|
| 1. Zilla Parishad | (a) National Party |
| 2. Corporation    | (b) Left Party     |
| 3. DMK            | (c) Panchayati Raj |
| 4. BJP            | (d) Mayor          |
| 5. CPI(M)         | (e) Tamil Nadu     |

**5.9 ANSWERS TO 'CHECK YOUR PROGRESS'**

**I. Multiple Choice Questions**

1. (b)
2. (b)
3. (a)
4. (c)
5. (d)
6. (b)
7. (d)
8. (a)
9. (d)
10. (c)

**II. True or False**

1. True
2. False
3. False
4. False
5. True

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**III. Match the Following**

1. (c)
2. (d)
3. (e)
4. (a)
5. (b)

**5.10 SUMMARY**

According to the Eleventh Finance Commission, the 73rd Constitutional Amendment has had no substantial impact on the functional area of Panchayats at various levels. One of the Commission's major concerns is that the Centre and States have marginalised the Panchayats by funding rural development initiatives without involving these bodies in their planning and implementation. Still, the Panchayati Raj envisaged under 73rd Amendment constitutes a significant improvement over the existing system. Even the States have shown great enthusiasm and enacted necessary laws or amendments of existing Panchayat Acts to bring them in conformity with the provisions of 73rd Constitutional Amendment. Without a doubt, the 73rd and 74th Amendment Acts have made a strong endeavour to ensure the Panchayati Raj system and urban bodies' continuity, stability, and representativeness, respectively.

Despite the fact that India has a multi-party system, the Congress Party has dominated the Indian political scene to such an extent that it has been referred to be a one-party system since independence in 1947. The new developing role of regional parties has been brought into emphasis by the changing political scene after 1980. Without a doubt, the most notable aspect of India's political evolution in recent years has been the growing presence and prominence of regional parties.

**5.11 KEY TERMS**

- **Cantonment:** The Cantonment Boards, which are democratic entities, are responsible for the general municipal administration of the notified Cantonments.
- **Spectators:** A person who attends and watches a spectacle, display, or the like; an audience member.
- **Councilors:** A member of a local government who has been elected.
- **BDO:** The Block Development Officer is in charge of overseeing the implementation of all programmes connected to block planning and development.
- **NAC:** In India, a Notified Area Council (NAC) is a settlement in the process of transitioning from rural to urban, and hence a type of urban political unit akin to a municipality.

- **Hegemony:** Hegemony is political or cultural dominance or authority over others.
- **Suo moto:** Suo Moto, which means “on its own motion,” is an Indian legal word that is roughly equal to SuaSponte in English.

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### 5.12 SELF-ASSESSMENT QUESTIONS AND EXERCISES

#### Short Answer Questions

1. Name the three categories of Political Parties divided in India.
2. What are the three level of Panchayat of village?
3. List out the aims and objectives of Panchayat Raj.
4. Who is the Sarpanch and how is he elected?
5. Enumerate the work of BDO.
6. List out the source of income of zilla parishad.
7. Write the two function of corporation.
8. Which was the only one p[arty lasts for 25 years?
9. The two factors of election commission to maintain its independence.

#### Long Answer Questions

1. Explain the aims and objectives of the Panchayati Raj.
2. Write an essay on the composition and functions of Panchayati Raj.
3. Explain the powers and function of Sarpanch.
4. State the function of Zilla Parishad.
5. Discuss the composition and functions of the Municipality.
6. Discuss the features of Party System in India.
7. Discuss the reasons for growing importance of regional politics in India.
8. Explain some proposal for electoral reforms in India.

### ACTIVITY

Provide two real-life examples to prove how:

- (a) “Local Self-Government strengthens democracy.” Justify.
- (b) “Mushroom growth of political parties in India is a threat to democracy.” Explain.

### CASE STUDY

#### “Regional Parties are Found in Almost All States”

The changing political landscape in India has brought the new rising role of regional parties into sharp foreground. Without a doubt, the most notable aspect of India’s political evolution in recent years has been the growing presence and

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prominence of regional parties. Regional parties can now be found in all of India's states. The Akali Dal is one of India's most well-known and successful regional political parties. The important regional parties are Akali Dal (Punjab), Biju Janata Dal (Odisha), Assam Gana Parishad (Assam), Telugu Desham Party (Andhra Pradesh), Telangana Rashtriya Samiti (Telangana), Rashtriya Janata Dal and Janata Dal (U) in Bihar, Aam Admi Party in New Delhi, Siva Sena in Maharashtra, DMK and AIADMK in Tamil Nadu, etc.

### Question:

1. Are regional parties posing threat to Indian democracy?

## 5.13 REFERENCES

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