APPOLO STUDY CENTRE

(INDIAN POLITY)
Salient Features of Constitution
TEST - 8

Constitution of India-Preamble to constitution -Salient Features of Constitution-Union state & Union Territoty – Citizenship-Fundamental Rights & Duties-Directive Principles of State Policy		
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6th term I
Unit 2 - Achieving Equality

- The society that we live in comprises people from various social groups who are different in many ways. Since we believe in 'Unity in Diversity', we should have been living peacefully with one another irrespective of those differences. Often, we see that diversity is not accepted, and people harbour attitudes of hostility towards those who are 'diferent' from them. They form opinions about the other groups and this often leads to tension in the society. Such 'opinions' are often 'prejudiced'.

1. Prejudice

- Prejudice means to judge other people in a negative or inferior manner, without knowing much about them. It happens when people have false belief and ideas.

Prejudice -------► Pre + Judge

- The word 'prejudice' refers to prejudgement. Prejudices can be based on many things like people's religious beliefs, the region they come from, the colour of their skin, their accent or the clothes they wear. The types of prejudice are gender prejudice, racial prejudice, class prejudice, disability prejudice and so on.

- For example, urban people are more civilised than rural people in attitudes and behaviour, is one such prejudice.

Causes for Prejudice
Some common social factors that contributes to the rise of prejudice are

1. Socialization
2. Conforming behaviours
3. Economic benefits
4. Authoritarian personality
5. Ethno–centrism
6. Group closure
7. Conflicts

2. Stereotypes

- When prejudice gets stronger, it develops into a stereotype. Stereotype is a false view or idea about something. For example, girls are not good at sports. Stereotype is learned at a very early age, and children grow to have very strong ideas or opinions about things, groups or ideologies. As children grow up, the lines of like and hate for other things, people, cultures, beliefs, languages become sharper.

Example

- Ragu was hit in his eye with a soft ball and to everyone's surprise, he started to cry. The others started to laugh at him; Mani felt sad for him but started laughing along with others.Now we understand that when we fix people in our image, we create a stereotype. In the above example, we have a general opinion that girls cry and boys don't cry. When Ragu cried out of pain, others laughed at him.

- Gender-based stereotypes are often portrayed in films, advertisements and TV serials. Almost all the advertisements related to detergents, washing machines, dishwashers and others show a woman as the main lead or user of that product. On the other hand, all the stunts shown in a bike advertisement is performed by ferocious looking men.

3. Inequality and Discrimination

- Inequality means difference in treatment. The different forms of inequalities such as caste inequality, religious inequality, race inequality or gender inequality give rise to discrimination.

- Discrimination can be defined as negative actions towards people. Discrimination can happen on the basis of colour, class, religion, gender etc. Treating dark-skinned people differently from fair-skinned people, giving more importance to people of higher than to those of lower caste and thinking boys are smarter than girls are all thoughts of discrimination.

- Article 15(1) of the Constitution states that the State shall not to discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

End of Apartheid
After 27 years in prison, former South African President, Nelson Mandela, was freed in 1990 and succesfully achieved the end of apartheid in South Africa, bringing peace to a racially divided country and leading the fight for human rights around the world.

Dr. BhimraoRamjiAmbedkar
• He is popularly known as Baba Saheb.
• He was an Indian jurist, economist, politician and social reformer.
• He earned his M.A. in 1915 and then obtained a D.Sc at the London School of Economics before being awarded Ph.D by Columbia University in 1927.
He served as the chairman of drafting committee of the constituent assembly and hence regarded as the father of Indian Constitution.
He was independent India's first Law Minister.
He was posthumously awarded the Bharat Ratna in 1990.

Caste Discrimination

- Caste system is the most dominant reason for inequality and discrimination in India. In the beginning, the society was divided into diferent groups on the basis of occupation, known as Varnas.
- Many people in India have fought against caste oppression. The most prominent among them was Dr. B.R. Ambedkar. He belonged to a such depressed family and sufered discrimination throughout his childhood. He fought actively for equality among the citizens of India.

Gender Discrimination

- Gender discrimination refers to health, education, economic and political inequalities between men and women in India. For example, A girl is not allowed to go to college after fnishing her schooling. Similarly, most of the girls are not allowed to select a career of their choice rather they are forced into marriage. In some families, girls are not allowed to wear moderndresses while boys in such families often wear modern dresses.

Religious Discrimination

- Religious discrimination is unequal treatment of an individual or group based on their beliefs. Religious discrimination has been around for a long time. There have been problems between people of diferent religions for thousands of years. Some people are not allowed to enter in public places; especially the places of worship because they belong to another religion. Some religious people often end up in confict with each other because of their rituals and way of life.

Socio-Economic Inequality

- In the socio-economic feld, the benefts of growth have not been spread evenly. However, the income inequality is much higher than the inequality in human development. The low-income districts are associated with low industrial development, low agricultural productivity

Literacy rate – 2011 Census

High			Low		
s.no	District Name	Percentage	S.No	District Name	Percentage
1.	Kanyakumari	91.75%	1.	Dharmapuri	68.54%
2.	Chennai	90.18%	2.	Ariyalur	71.34%
3.	Thoothukkudi	86.16%	3.	Krishnagiri	71.46%
4.	The Nilgiris	85.20%	4.	Villupuram	71.88%

Sex Ratio – 2011 Census
Number of females per 1,000 males

High			Low		
S.no	District Name	Percentage	S.No	District Name	Percentage
1.	The Nilgiris	1041	1.	Dharmapuri	946
2.	Thanjavur	1031	2.	Salem	954
3.	Nagapattinam	86.16%	3.	Krishnagiri	956
4.	Thoothukkudi	85.20%	4.	Ramanathapuram	977

and low human development. Similarly, the Districts with literacy rate are found to be with lower sex ratio..

Remedial Measures for Abolishing Inequality and Discrimination

- The remedial measures for abolishing inequality and discrimination in Indian society are as follows.

1. Wider access to quality basic services like healthcare and education for all.
2. Be aware of current gender bias.
3. Make women more visible in public life and institution to eradicate gender disparity.
4. Be open to learning about other religions.
5. Promoting community dining in the classroom may help the students to sit together without any bias of caste, religion or gender.
6. Socialise with people of all types outside home.
7. Efective implementation of laws.

Constitution of India and Equality

- A Constitution is a set of rules and regulations guiding the administration of a country. Article 14 of the constitution of India provides equality before the law or equal protection within the territory of India and prohibits the unreasonable discrimination between persons.

- Our Constitution says ours is a land of diversity; therefore, equality has to be ensured for all. Two signifcant parameters to ensure equality in society are respecting diversity and ensuring freedom. The diferent kinds of freedom are freedom to follow their religion, speak their language, celebrate their festivals and express their views freely.

- The Constitution is a legal framework of rules and regulations by which a nation would function. Equality is where untouchability is seen as a crime. In India, as per the Article 17 of the Indian Constitution, untouchability is totally abolished and it's any form is forbidden.Even today, diferent types of discrimination are reported across the country. Women, peasants, tribes and people from lower social classes are still striving for equality in India.

6th term -II

Unit -2 -THE CONSTITUTION OF INDIA

Pathway
The Lesson speaks about the formation of the constitution of India. It gives guidelines to govern the country, while ensuring the fundamental rights and duties of the citizens and how it protects them.

- Yazhinian and Sudaroli are brothers. Yazh is student of standard six and Sudar is in standard four. Yazh was preparing for his class test. Sudar after completing his home assignments was watching an animated series on television. Sudar was watching it but the noise level disturbed Yazh. Sudar was totally engrossed in the series and laughed and clapped loudly. Yazh could not concentrate on his lessons.

- So he asked Sudar to reduce the volume. But Sudar was not ready to adhere to hiselder brother's advice. Inspite of Yazh's continuous request Sudar did not reduce the volume.

- Yazh complained to his father that Sudar did not decrease the volume of the television in spite of requesting him several times. Yazh made it clear that he had a class test the following day.

- "Isn't your brother preparing for his class test? Weren't you wrong in troubling him?" continued his father.

- "I was watching the TV. Yazh kept disturbing and stopped me from watching it." said Sudar.

- "Studying for the test and watching television are not the same" said his father.

- But Sudar was not ready to accept the fact. Sudar was consistent that he had all rights to watch a film as much as Yazh had the right to study.

- His father admitted that both had equal rights. But one must not hinder another's freedom. Sudar didn't realise the fact that he was very stubborn.

- "LookSudar. You have all rights to watch the film" said his father.

- "Yes dad"

.

- "Similarly, Yazh also has the right to listen to his favourite song on TV Coundn't he?"

- "How can that happen? When I watch the television he cannot do that."

- "When you can watch a film by increasing its volume, Yazh can also hear music loudly." said father.

- "How will I watch the movie?".

- "How willYazh study?" .

- "Oh! I didn't think of it. Okay dad, I will not watch the movie while Yazhstudies." .

- "No my child. You can watch the movie without causing trouble to anyone," .

- "Don'tbe angry Yazh. You study and I promise I will not disturb you."
- Yazhsmiled and patted Sudar's back and left the place.

- Sudar's mother was watching everything silently. She said," Even to run a small family don't we need to follow so many rules and regulations? How much more of that will we need to administer a country?" she exclaimed.

- "It is an ocean Deepa. In order to administer people who follow different religions, speak different languages and belong to different castes and culture and treat everyone equally, we need to have a good code of laws and guidelines which we call as 'The Constitution of India.'

- The next day Sudar and Yazh went to school. It was the Republic Day also.

- The celebration was a jubilant. The students and teachers were standing in line around the flag post. Immediately after the hoisting of the flag, a discussion was held with the chief guest for the day, Mr. Arumugam, an expert in social sciences.

- "Wish you a happy Republic Day!" wished Mr. Arumugam.
- "Wish you the same Sir."

- "Do you know why do we celebrate the Republic Day?"

- "Our Constitution was framed and came into existence from 26th January 1950. That is why every year we observe this day as the Republic Day." said the history teacher Malarmathi

- "Yes, it is true. There are other reasons why this constitution came into existence on 26th January 1950. When the Congress met at Lahore in 1929, the members of the Congress unofficially declared the same day as the Day of PoornaSwaraj or the Day of complete self governance. The next year, 26th January 1930 was celebrated as the Independence Day. That day has been observed as our Republic Day."

- "What do you mean by the "Constitution of India" asked Nathar.

- "Before that, let me ask a few questions. You answer me. Then I will explain in detail about the constitution of India.".

"All right sir."

(The students were prepared to answer the questions)

"Are you following any rules and regulation at home?"

"Yes sir"

"Are you following any rules at school?"

"Yes sir"

"Are both of them the same or different?"

"Mostly, they are different"

"Is it necessary to follow certain rules in public places?"

"Yes, Sir"

"Why is it necessary?"

"We should not disturb anybody in public" said Tamilselvi.

"It's true. Also no one should disturb us"saidSelva

- "Yes, I do accept it. But what if someone compels you to follow some rules? How would you feel?"

"It would be difficult to do so."

"How do you feel when you are asked to make your own rules?"

- "We would be proud and pleased to obey our own rules." (Everyone agreed and nodded their heads)

- The constitution is an authentic document co training the basic ideas, principles and laws of a country. It also definesthe rights and duties of citizens. The laws governing a country originate from theconsitutition. Every country is ruled on the basis of it constitution"

- "What are the thing that make the constitution of India?" asked Deepika.

- "The constitution of India is the ultimate law. We have to abide by it. It explains the fundamental concepts of structure, methods,powers and the duties of Government bodies. It also lists the fundamental rights and duties of the citizens. Directive Principles are also mentioned in the constitution. So it is holistic in nature."

- "When did they begin to frame the constitution?" asked Christopher.

Constituent Assembly

- In 1946, nearly 389 members of the constituent Assembly who belonged to different parties from different places came together to frame the Constitution of India. The Chairman of the committee was Mr. Rajendra Prasad.
- Jawaharlal Nehru, SardarVallabai Patel, Moulana Azad, S. Radhakrishnan, ViajalakshmiPanditandSarojini Naidu were the significant members in the Constituent Assembly.15 women members were in the Constituent Assembly
- "Who were the other significant members in the Constituent Assembly?"

"How many women members were there in the Constituent Assembly?

The Father of the Constitution of India' is Dr.B.R. Ambedkar.

"15 women members were in the Constituent Assembly"

Drafting committee

- The Drafting committee was formed with eight members and its Chairman was B.R. Ambedkar; B.N.Rao was appointed as an advisor. The committee met for the first time on 9th December 1946. On the same day, the drafting of constitution of India started.

"How did they form the Indian constitution?"

Features of Constitution

- The constitutions of nearly 60 countries including the UK, USA,former USSR, France , Switzerland etc., were thoroughly examined and their best features have been adopted by our constitution.

- No, nearly 2000 amendments were made before the draft was finalised

- It took a period of 2 years, 11 months, and 17 days. It was completed on 26th November 1949.

- The constitution was accepted by the Constituent Assembly. So, 26th November is celebrated as the Day of the Constitution.The Preamble of our constitution stresses on the justice, liberty, equality and fraternity.

- "How much was spent to frame the constitution of India?" asked Nathar.

- "They spent almost 64 lakhs".

- "What are the objectives of the Constitution?"

- "The Preamble of our constitution stresses on the justice, liberty, equality and fraternity."

"What is a Preamble?" "

PREAMBLE

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

- JUSTICE, social, economic and political;

- LIBERTY of thought, expression, belief, faith and worship;

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

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

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

- The preface of the constitution is the Preamble. According to it, India is a Sovereign, Socialist, Secular Democratic Republic.

Features of Preamble

- The constitution has granted the peoplethe right to rule. The members of the parliament and the legislative assembly are elected by the people. The right to decide is only in the hands of the representatives. Sovereignty refers to the ultimate power of the country.

- Law allows all the citizens of a country, the right to follow different faith and religious beliefs. All citizens enjoy the freedom of worship. The country does not have a religion of its own. All the religions in our country hold the same status.

Type of Government

- The Constitution of India provides a Parliamentary form of Government, both at the centre and the state. In a Parliamentary System, the Executive is collectively responsible to the Legislature. The party which has the majority forms the government.

Fundamental Rights

- "What are fundamental rights?"

Fundamental rights are the basic human rights of all citizens.

Directive Principles

- "You mentioned about Directive Principles. What do you mean by that?"

- There are certain guidelines to be followed while the governments frame law. Though these are not mandatory, they should be taken into account."

Universal Adult Franchise

"What is Universal Adult Franchise?"

- Every Indian citizen has the right to vote when they attain 18 years of age, irrespective of any caste, religion, gender or economic status.

- "Like fundamental rights, every citizen will have duties too, won't they?"

Fundamental duties

- There are duties respecting the National flag and National Anthem, respect and protect the Constitution, follow our great leaders who fought for our freedom, to protect our country, readiness to serve our country if necessary, treating everyone as brothers irrespective of their castes, religions, languages, races etc., to conserve our ancient heritage, and conserve natural elements like forests, rivers and lakes and fauna, to develop science, humanity and feelings of reformation to avoid non-violence and protect government property, parents or guardians providing educational opportunities to children between 6-14 years etc., have been added as our duties

7th term 1
UNIT 1- EQUALITY

Introduction:

- Nature has made man inequal in colour, height, talent, physical strength etc., and the natural inequalities can never be rectified. Even the twins looking like the similar are not equal in their abilities. Man made inequalities on the basis of caste, money religion etc can be rectified. It is universally accepted that people are differed in their capacity, ability, attitude etc but at the same time, it is also accepted that they should be given equal opportunities for the development of their skills and talents.

- Equality is ensuring individuals or groups that are not treated differently or less favorably on the basic of specific protected characteristic, including areas of race, gender, disability, religion or belief, sexual orientation and age.According to Prof Laski "Equality does not mean identity of treatment, the sameness of reward. It means first of all absence of social privilege, on the second it means that adequate opportunities are laid upon to all".

Importance of Equality

- Equality is a powerful moral and political ideal that has inspired and guided human society for many centuries. The concept of equality invokes the idea that all human beings have equal worth regardless of their caste, color, gender, race or nationality. The democratic ideals such as liberty, equality etcare meaningful and effective only when they are implemented with justice.

Kinds of Equality

Social equality

- Social equality means that all citizens are entitled to enjoy equal status in society. There should not be any discrimination of caste, creed, color and race. All should have equal opportunity to develop their personality and to complete goals.

Civil Equality

- **Civil equality is enjoyment of civil rights by all citizens. There should not be any discrimination of superior or inferior, the rich or the poor, caste or creed. Equal rights should be available to all the persons and nobody should be denied enjoyment of any rights. Rule of law is in force in England and in the eyes of law all are equal and equal treatment is given to all by the rule of law. In India the same rule of law is followed.**

NOTE

- Rule of law was advocated by A.V.Dicey, the British legal luminary.

Political Equality

- All the democratic countries including India have guaranteed the political rights to all citizens. It includes

  - ❖ Right to vote
  - ❖ Right to hold public Office
  - ❖ Right to criticize the government

- Citizens should have equal opportunity to actively participate in the political life. These rights can be enjoyed through the Universal Adult Franchise. In India the voting right is given to all the citizens who have attained 18years of age without any discrimination. India is the first country to give right to vote to women from the very firstgeneral election held in the year 1952. In Switzerland the right to vote is given to women in 1971. Any person who has completed the age of 25 years can contest in the election. Right to criticize the government is also very important right and the people can express their resentment through demonstrations. The value of the vote of the Prime Minister and value of vote of common man in general election is same which denotes political equality.

Gender Equality

- All human beings, both men and women, are free to develop their personal abilities and make choices without any limitations. Women were not given equal rights and they were considered as weak as compared to man and they were placed in a secondary position to men. They should be treated equally. It doesnot mean that women and men have to become the same, but that their rights, responsibilities and opportunities will not depend on whether they are born male or female.Gender Equality is the equal right of both men and women to have access to opportunities and resources. They have right to participate in the economic sphere and make important decisions. Women with their talent and hard work have proved that their ability is not less than men in any aspect. Nowadays, women are successfully working in many fields like Border security force, Indian Air Force, etc. For the uplift of women 50% reservation has been given for women in local bodies.

NOTE

- UNICEF says Gender Equality "means that women and men, and girls and boys, enjoy the same rights, resources, opportunities and prolictions. It does not require that girls and boys, or women and men, be same, or that they be treated exactly alike." As of 2017, gender equality is the fifth of seventeen sustainable development goals of the United Nations.

Equality of Opportunity and Education

- All the individuals should have similar chances to receive education. They should have similar opportunities to develop their personality. We need equality to get equal treatment in society. If we treat equality we can earn respect and dignity.

Equality in Indian constitution

- ❖ Almost the constitution all the countries in the world have guaranteed equality. Likewise, the constitution of India has also guaranteed equality to all citizens by providing Articles form 14-18.
- ❖ Article 14 – guarantees to all the people equality before law.
- ❖ Article 15 – deals with the prohibition of discrimination.
- ❖ Article 16 – provides equality of opportunity in matters relating to employment.
- ❖ Article 17 – abolishes the practice of untouchability .
- ❖ Article 18 - abolishes the titles conferred to citizen.
- ❖ Equality before law and equal protection of law have been further strengthened in the Indian constitution under Article 21.

We can promote equality by

- ❖ Treating all fairly
- ❖ Creating an inclusive culture
- ❖ Ensuring equal access to opportunities
- ❖ Enabling to develop full potential
- ❖ Making laws and policies
- ❖ Education.

Conclusion

- India is a the largest democratic country in the world. Equality and justice are the pillars of democracy. Justice can be achieved when people are treated equality. Equality is so important because it preserves the dignity of an individual. Equality is an important principle for a society to function.

NOTE

- Efforts were made by many social activists from the 19th century onwards. The noted champions of this cause were Raja Rammohan Roy, IshwarchandraVidyasagarDayanandSaraswati, MahadevGovindRanade, TarabaiShinde, BegumRokeyaSakhawatHussain. They worked hard to get equal status to the women.

8th term I
UNIT 2- CITIZENS AND CITIZENSHIP

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- The word 'Citizen' is derived from the Latin word 'Civis' which means resident of a City State of Ancient Rome. After the disappearance of City-State system, it has been used to mean a member of the State. The citizens of a state enjoy full civil and political rights.

Citizen and Citizenship

- Citizen is a person of a country who is entitled to enjoy all the legal rights and privileges granted by a state and is obligated to obey its laws and to fulfil his duties.

- Citizenship is the status given to the citizens which provide them the right to legally live in a country as long as they want.

Types of Citizen

There are two types of citizens, Natural and Naturalised citizens.
1. Natural citizens: are the citizens by birth.
2. Naturalised citizens: are the one who acquires citizenship.

Acquisition of citizenship

- The citizenship Act of 1955 prescribes five ways of acquiring citizenship. They are by birth, descent, registration, naturalisation and incorporation of territory.

1) By Birth

- A person born in India on or after 26th January 1950 but before 1st July 1987 is a citizen of India by birth irrespective of the nationality of his Parents.

A person born in India on or after1st July 1987 is considered as a citizen of India only if either of his Parents is a citizen of India at the time of his birth.

2) By Descent

- A Person born outside India on or after 26th January 1950 but before 10th December 1992 is a citizen of India by descent, if his father was a citizen of India at the time of his birth.A person born outside India on or after 10th December 1992 is considered as a citizen of India if either of his parents is a citizen of India at the time of his birth.From 3rd December 2004 onwards, a person born outside India shall not be a citizen of India by descent, unless his birth is registered at an Indian consulate within one year of the date of birth.

3) By Registration

- A Person of Indian origin who is ordinarily resident in any country or place outside undivided India.A Person of Indian origin who is ordinarily resident in India for seven years before making an application for registration.A Person who is married to a citizen of India and is ordinarily resident in India for seven years before making an application for registration

4) By Naturalisation

- The Central Government may, on an application, grant a certificate of naturalization to any personif he is not a citizen of any country where citizens of India are Prevented from becoming subjects or citizens of that countrya citizen of any country, renounce the citizenship of that country he has either resided in India or been in the service of a Government in India or throughout the period of twelve months he is a good character and has an adequate knowledge of a language specified in the Eighth Schedule to the Constitution.(presently 22 languages)

5) By incorporation of Territory

- If any foreign territory becomes a part of India, the Government of India specifies the persons who among the people of the territory shall be the citizens of India. Such persons become the citizens of India from the notified date. For example, when Pondicherry became a part of India, the Government of India issued the citizenship (Pondicherry) order, 1962.

Loss of Indian Citizenship

- Part II of the Constitution of India (Article 5-11) prescribes three ways of losing citizenship.

Renunciation: (is a voluntary act) when a person after acquiring the citizenship of another country gives up his/her Indian citizenship.

Termination: (takes place by operation of law) When an Indian citizen voluntarily acquires the citizenship of another country; he/she automatically ceases to be an Indian citizen.

Deprivation: (is a compulsory termination) The citizenship is deprived on the basis of an order of the Government of India in cases involving acquisition of Indian citizenship by fraud, false representation or being disloyal to the Constitution.

Single citizenship

- Our Indian Constitution provides for only Single citizenship, that is, the Indian citizenship. But federal states like USA and Switzerland has dual citizenship.

(National citizenship and the State citizenship). In India, all citizens irrespective of the state in which they are born or reside enjoy the same political and civil rights of citizenship all over the country.

Rights and Duties of Citizen

- Our Constitution confers the following rights for the citizen of India.

  - ❖ Fundamental Rights
  - ❖ Right to vote in the election to the LokSabha and the State Legislature
  - ❖ Right to hold certain public offices
  - ❖ Right to become the Member of Parliament and State Legislature.
  - ❖ According to 42 Amendment of our Constitution, a set of Fundamental Duties are prescribed for all citizens of India. (For e.g. paying taxes honestly, respecting the rights, beliefs and opinions of others, defending the country, respect and obey state and local laws and so on)

Qualities of a good citizen

- ❖ Loyalty to the Constitution.
- ❖ Obeys laws.
- ❖ Contributes to society and community and performs civic duty.
- ❖ Quality of goodness and justice.
- ❖ Respecting diversity.

Global Citizenship

- Global citizenship is an idea that everyone, no matter where they live is part of a worldwide community rather than as the citizen of particular nation or place. All people have rights and civic responsibilities. It is fundamental in enabling young people to access and participate in shaping modern society.

- Our Constitution of India has introduced Single citizenship and provides uniform rights for the people of India to promote the feeling of fraternity and unity among them to build an integrated Indian nation.

NOTE

Indian Citizenship Act, 1955

- This act is to provide for the acquisition and termination of Indian citizenship.

Nationality and citizenship

- Nationality is the status of belonging to a particular nation by origin, birth basically, it's an ethnic and racial concept. Nationality of a person cannot be

changed.Citizenship is granted to an individual by the government of the country when he/she complies with the legal formalities. Citizenship can be changed.

- As per the order precedence President is the first citizen of our country.Alien and immigrant are two terms that are used to refer to non-nationals of a country.Alien refers to all non-citizens or non-nationals residing in a country.eg. tourists, foreign studentsImmigrant refers to alien who has been granted the right to reside and work permanently without restriction in a particular country.Overseas Indians' DayPravasiBharatiya Divas (PBD) Sponsored by Ministry of External Affairs of Government of India is celebrated once in every two years, to "mark the contributions of Overseas Indian Community in the development of India". The day commemorates the arrival of Mahatma Gandhi in India from South Africa.

APPOLO STUDY CENTRE

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UNIT 1 - INDIAN CONSTITUTION

Introduction

- The Constitution is the fundamental law of a country which reflects the fundamental principles on which the government of that country is based. It is the vehicle of a Nation's progress. More particularly, it is concerned with institutional fabric and the framework of the distribution of powers between the various organs of the government and between the Union and the States. The concept of constitution was first originated in U.S.A.

The Need for a Constitution

- All Democratic countries have a constitution that governs them. A constitution puts down certain principles that form the basis of any kind of a state that we as citizens, desire to live in. A constitution tells us the fundamental nature of our society. A country is usually made up of different communities of people who have different beliefs; it will be helpful in fulfilling the beliefs of different segments of citizens.

Making of IndianConstitution

- The Constitution of India was framed by a Constituent Assembly setup under the Cabinet Mission Plan, 1946. The Assembly consisted of 389 members representing Provinces (292), States (93), the Chief Commissioner's provinces (3) and Baluchistan (1). The Assembly held its fi rst meeting on December 9, 1946. Dr.SachchidanandaSinha, the oldest member, was elected as the temporary President of the Assembly. While the work was in progress, Dr.SahchidanandaSinhadied. Dr.Rajendra Prasad was elected as the President of the Assembly. Similarly, both H.C. Mukherjee and V.T. Krishnamachari were elected as the Vice-Presidents of the Assembly. The Assembly met for 11 sessions along with 166 days of meetings. During the discussion, 2473 amendments were presented. Some of them were accepted. The Assembly worked through various committees and the draft of the Constitution was prepared by the Drafting Committee under the chairmanship of Dr. B.R. Ambedkar. He is recognised as the 'Father of the Constitution of India'. After the draft had been discussed by the people, the press, provincial assemblies and others, the Constitution was finally adopted on November 26, 1949, contained a Preamble, 22 parts, 395 Articlesand 8 Schedules. The drafted Constitution came into force on 26th January, 1950. Thursday is known as the Republic Day. It is being observed every year.

Salient features ofIndian Constitution

- ❖ It is the lengthiest of all the written constitutions of the world.
- ❖ It has borrowed most of its provisions from the constitutions of various countries.

- ❖ It is partly rigid and partly flexible.
- ❖ It establishes a federal system ofgovernment.
- ❖ It establishes the parliamentary system not only at the Centre but also in the states.
- ❖ It makes India as a secular state.
- ❖ It provides an independent judiciary.
- ❖ It introduces Universal Adult Franchise and accords the right to vote to all citizens above 18 years of age without any discrimination.
- ❖ It provides single citizenship.
- ❖ It makes special provisions for minorities, Scheduled Castes, Scheduled Tribes, etc.

Preamble

- The term 'preamble' refers to the introduction or preface to the Constitution. It consists of the ideals, objectives and basic principles of the Constitution. It contains the summary or essence of the Constitution. It has great value and has been described as the 'key to the Constitution'. The Preamble to the Indian Constitution is based on the 'Objective Resolution', drafted by Jawaharlal Nehru, which was adopted by the Constituent Assembly on January 22, 1947. It has been amended once by the 42nd Constitutional Amendment Act of 1976, which added three new words - socialist, secular and integrity. The Preamble begins with the phrase 'We, the People of India'. This clearly implies that the Constitution derives its authority from the People of India. Thus, we cansay that the people of India are the source of our Constitution. The Preamble of our Constitution states that India is a SovereignSocialist Secular Democratic Republic. Its aim is to secure to all Indian citizens Social, economic and political justice. The Constitution guarantees Liberty of thought, expression, belief, faith and worship to all. It gives Equalityof status and of opportunity to all. It wants to promote Fraternity among all Indians.

Citizenship

- The word 'Citizen' is derived from the Latin term 'Civis'. It means resident of a City State. The Constitution of India provides for a single and uniform citizenship for the whole of India. Articles 5 to 11 under part II of the Constitution deals with the citizenship.

Citizenship Act of 1955

- The Citizenship Act of 1955 provides for acquisition and loss of citizenship after the commencement of the Constitution. This Act has been amended so far eight times. Originally, the Citizenship Act (1955) also provided for the commonwealth Citizenship. But, this provision was repealed by the Citizenship (Amendment) Act, 2003.

Acquisition of Citizenship

- The Citizenship Act of 1955 prescribes five ways of acquiring citizenship, viz, birth, descent, registration, naturalisation and incorporation of territory: According to the Citizenship Act, 1955, the citizenship could be acquired through any of the following methods.

By Birth: All persons born in India on or after January 26, 1950 are treated as citizens by birth.

By Descent: A person born outside India on or after January 26, 1950 shall be a citizen of India by descent, if his father is a citizen of India at the time of his birth.

By Registration: A person can acquire citizenship of India by registration with appropriate authority.

By Naturalisation: A foreigners can acquire Indian citizenship, on application for naturalization to the Government of India.

By Incorporation of Territory: In the event of a certain territory being added to the territory of India, the Government of India shall specify the persons of that territory who shall be citizen of India.

Loss of Citizenship

- The Citizenship Act of 1955 prescribes three ways of losing citizenship whether acquired under the Act or prior to it under the Constitution, viz, renunciation, termination and deprivation.
- It can be voluntarily renounced by a citizen.It can be terminated if a person acquires the citizenship of some other country.

- The central government can deprive a naturalized citizen, if it satisfied that the citizenship was acquired by fraud, false representation or concealment of material facts or indulges in trade with enemy countries or if the person has been sentenced to imprisonment for a period of 2 years.

Fundamental Rights

- The Fundamental Rights are enshrined in Part III of the Constitution from Articles 12 to 35. In this regard, the framers of the Constitution derived inspiration from the Constitution of USA. Originally, the Constitution provided for seven Fundamental Rights. At present, there are only six Fundamental Rights. Part III of the Constitution is rightly described as the Magna Carta of India. While Fundamental Rights are available to all persons, certain Fundamental Rights are available only to Indian Citizens.

Right to constitutional remedies (Articles 32)

- A writ is an order or command issued by a court in writing under its seal. It is in the nature of a command or prohibition from performing certain acts that are specified in the orders of the court. Both the Supreme Court and the High Courts are empowered to issue five kinds of writs of habeas corpus, mandamus, prohibition, quo warranto andcertiorari. That is why the Supreme Court is called the "Guardian of the Constitution". According to Dr.Ambedkar, Article 32 is "the heart and soul of the Constitution".

Habeas Corpus: Safeguards people from illegal arrests.

Mandamus: It protects the petitioner who requires legal help to get his work done by respective public authorities.

Prohibition: It prohibits a subordinate court from acting beyond its jurisdiction.

Certiorari: It quashes an order issued by a subordinate court by overstepping its jurisdiction.

Quo Warranto: It prevents usurpation of public office through illegal manner.

Suspension of Fundamental Rights

- When the President makes a Proclamation of Emergency under Article 352, the freedoms guaranteed under Article 19 are automatically suspended. The President can suspend other fundamental rights through specific orders. These orders must be approved by the Parliament. But he cannot suspend the freedoms given under Arts. 20 and 21 (protection in respect of conviction for offences and protection of life and personal liberty respectively) in any circumstances.

Directive Principles of State Policy

- The Directive Principles of State Policy are enumerated in Part IV of the Constitution from Articles 36 to 51. The Constitution does not contain any classification of Directive Principles. However, on the basis of their content and direction, they can be classified into three broad categories, viz, socialistic, Gandhian and liberal-intellectual. These principles are not enforceable by the courts. But they are fundamental for the governance of the country. The Government is duty bound to apply these principles while making laws. They aim at promoting the Social Welfare of the people. Dr. B.R. Ambedkar described these principles as 'novel features' of the Indian Constitution.

Differences between Fundamental Rights and Directive Principles of State Policy

Fundamental Rights	Directive Principles of State Policy

It was derived from the Constitution of the USA.	It was drawn on the model of the Constitution of Ireland.
Even the Government cannot take away or abridge these rights.	These are mere instructions to the Government.
These are enforceable by a court of law.	These are not enforceable in any court.
These have legal sanctions.	These have moral and political sanctions.
These rights strengthen political democracy in the country.	The implementation of these principles ensures social and economic democracy.
These are natural rights.	These lead to protect human rights.

Fundamental Duties

- The Fundamental Duties in the Indian Constitution are inspired by the Constitution of former USSR. In 1976, the Congress party set up the SardarSwaran Singh Committee to make recommendations on fundamental duties. The 42nd Amendment Act of 1976 added some responsibilities of citizens to our Constitution called the Fundamental Duties. This amendment added a new part, namely, Part IVA to the Constitution. This new part consists of only one Article that is Article 51A which for the first time specified a code of ten fundamental duties of the citizens.

List of Fundamental Duties

Article 51A declares it to be the duty of every citizen of India.

a) To abide by the constitution and respect its ideals and institutions, the National Flag and the National Anthem.

b) To cherish and follow the noble ideals which inspired the national struggle for freedom

c) To uphold and protect the sovereignty, unity and integrity of India

d) To defend the country and render national service when called upon to do so

e) To promote harmony and the spirit of common brotherhood among all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women

f) To value and preserve the rich heritage of our composite culture

g) To protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures

h) To develop scientific temper, humanism and the spirit of inquiry and reform

i) To safeguard public property and to abjure violence

j) To strive towards excellence in all spheres of individual and collective activity, so that the nation constantly rises to higher levels of endeavour and achievement

k) To provide opportunities for education to his child or ward between the age of six and fourteen years. (The 86th Constitutional Amendment Act, 2002 has also introduced the 11th Fundamental Duty under 51A(k) under which all citizens of India or parents shall provide opportunities for education to their children between age of 6 and 14 years)

Centre-State Relations

- The Constitution of India, being federalin structure, divides all powers betweenthe Centre and the States. The Centre-staterelations can be studied under three heads:

Legislative relations

- The Union Parliament has the power to legislate for the whole or any part of the territory of India, which includes not only the States but also the Union Territories or any other area for the time being, included in the territory of India. The Seventh Schedule of the Constitution embodies three lists namely, the Union List, State List and Concurrent List consisting of 97, 66 and 47 items respectively. The Parliament enjoys the exclusive power to legislate on subjects enumerated in the Union List. The State Legislature has exclusive right to legislate on the State List. Both Parliament and State Legislatures have power to legislate on subjects contained in the Concurrent List. But in case of conflict between the law of the State and the Union on a subject in the Concurrent List, the law of Parliament prevails.

Administrative relations

- The Administrative power of a State extends only to its own territory and with respect to which it has legislative competence, whereas the Union has exclusive executive power over:

- The matters with respect to which Parliament has exclusive power to make laws andThe exercise of its powers conferred by any treaty or agreement.

Financial relations

- Article 268-293 in Part XII deal with the financial relations between centre and the states. The Centre and States are empowered by the Constitution to impose various kinds of taxes. And certain taxes are imposed and collected by the centre and divided between centre and states based on the recommendation of the Finance Commission appointed by the President under Article 280 of the Constitution. Late Prime Minister Indira Gandhi appointed the Sarkaria Commission in 1983 to make an enquiry into the Centre-State relations. The Central government has implemented 180 (out of 247) recommendations of the Commission. The most important is the establishment of the Inter-State Council in 1990.

Official Language

- Part XVII of the Constitution deals with the official language in Articles 343 to 351. Its provisions are divided into four heads namely, Language of the Union, Regional languages, Language of the judiciary and texts of laws and Special directives. The First language committee was appointed in 1955. It submitted its report in 1956. As a follow up of the report, parliament enacted the Official Language Act, 1963. The act laid down that even after 15 year, English may continued to be used along with Hindi for all official purposes of the Union and also for transaction of business in parliament. Again through the Official Languages (Amendment) Act, 1967, it was provided that the use of English would continue indefinitely. The Constitution also permitted certain regional languages to be used for intra-state official transactions. Initially, the Constitution recognised 14 regional languages which were included in the Eighth Schedule. At present, 22 languages are recognised.

Emergency Provisions

- The Central Government has been vested with extraordinary powers to deal with conditions of emergency. Three types of emergencies are envisaged in the Constitution:

National Emergency (Article 352)

- The President under Article 352 can declare emergency if he is satisfied that India's security is threatened due to war, external aggression or armed rebellion, or if there

is an imminent dangeror threat. When a national emergency is declared on the ground of war or external aggression it is known as external emergency. On the other hand, when it is declared on the ground of armed rebellion it is known as internal emergency. This type of emergency has been declared three times so far: in 1962, 1971 and 1975.

State emergency (Article 356)

- Under Article 356, the President can declare an emergency in a state if the Governor reports that a situation has arisen under which the government of a State cannot be carried on in accordance with the provisions of the Constitution. The continuance of such an emergency beyond one year is possible only if emergency under Art. 352 are in operation or the Election Commission certifies that there are difficulties in holding Assembly elections. Maximum duration of the emergency can be three years. In this kind of emergency, the States lose much of their autonomy in legislative and executive matters. After such an announcement state legislature is suspended and the State is governed by the Governor on behalf of the President. For the first time, the President's Rule was imposed in Punjab in 1951.

Financial emergency (Article 360)

- Article 360 authorises the President to declare financial emergency if he is satisfied that the financial stability or credit of India or of any of its parts is in danger. In this type of emergency, salaries and allowances of any class of persons serving State or Union, including judges of the Supreme Court and High Court can be reduced by an order of the President. This type of emergency has not been declared in India so far.

Amendment of the Constitution

- The term amendment denotes change, improvement and modification. Usually this term is associated with one or more changes made in the Constitution of a country. Article 368 of the Constitution in Part XX, deals with the powers of Parliament to amend the Constitution and its procedure.

Procedure of Amendment

- An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to

- The President who shall give his assent to the Bill and thereupon the Constitution shall stand amended in accordance with the terms of the Bill. The constitution

amendment can be brought about only by the Parliament. State legislatures cannot initiate for any amendment to the Constitution.

Types of Amendments

- Article 368 provides for three ways of amendments, that is, by a special majority of Parliament and also through the ratification of half of the states by a simple majority. But, some other articles provide for the amendment of certain provisions of the Constitution by a simple majority of Parliament, that is, a majority of the members of each House present and voting (similar to the ordinary legislative process). Notably, these amendments are not deemed to be amendments of the Constitution for the purposes of Article 368. Therefore, the Constitution can be amended in three ways:

  - ❖ Amendment by simple majority of the Parliament
  - ❖ Amendment by special majority of the Parliament
  - ❖ Amendment by special majority of the Parliament and the ratification of half of the state legislatures.

Constitutional Reform Commissions

- The National Commission to Review the Working of the Constitution was set up by a resolution of the Government of India in 2000 headed by M.N.Venkatachaliah. In April 2007, a three member commission headed by the former Chief Justice of India M.M.Punchchi was set up by the then Government to take a fresh look at relative roles and responsibilities of various levels of Government and their inter-relations.

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UNIT – 3 BASIC CONCEPTS OF POLITICAL SCIENCE

SOVEREIGNTY
Introduction

Let us discuss about Sovereignty

- Do you think you are powerful? How do you know you are powerful? But, you can say your country is powerful. Do you know how? It is because we are a sovereign nation.

- Sovereignty, the term has been derived from the Latin word 'superanus' which means supreme or paramount. Roman jurist and the civilians during the middle ages employed the term 'summa' potestas and 'Plenitude potestas' to designate the supreme power of the state. In political science the use of the term 'sovereignty' dates back to the publication of Bodin's'The Republic' in 1576.

- The stability of a nation depends on the supremacy of the sovereignty the nation enjoys. Sovereignty as a concept represents the legal supremacy of the state. Constitution lays down rules and laws of the state and the constitution of the state is just the representation of the sovereignty. The word sovereign in the preamble of the constitution of India means that the state has the power to legislate on any subjects in conformity with constitutional limitations.

We shall now study the characteristics of Sovereignty. What are they?
1. Permanence

- The chief characteristic of sovereignty is permanence. Sovereignty lasts as long as the state lasts. The death of the king or the overthrow of the government does not affect sovereignty. Hence, the people of England say 'King is dead, Long live the king'.

2. Exclusiveness

- Exclusiveness here implies that there cannot be two sovereign in one independent state and if it exists the unity of the state will be destroyed.

3. All comprehensiveness

- Every individual and every association of the individual is subject to the sovereignty of the state. However rich or powerful association or group may be, it cannot resist or disobey the sovereign authority.

4. Inalienability

Sovereignty is the life and soul of the state and it cannot be alienated without destroying the state itself.

5. Unity and Everlasting

The spirit of sovereignty lies in its unity. Sovereignty is not bound by time and lasts until the state lasts.

6. Indivisibility

Indivisibility is the life line of sovereignty.

7. Absoluteness

- Sovereignty is unconditional and unlimited. Sovereignty is beyond obedience and it is entitled to do whatever it likes.

8. Originality

- Sovereignty wields power by virtue of its own right and not by anybody's mercy.

What are the two aspects of Sovereignty?

- Internal sovereignty: An assembly of people in every independent state has the final legal authority to command and enforce obedience. This sovereignty exercises its absolute authority over all individuals or associations of the individuals in the state. External sovereignty: In simple terms external sovereignty means National Freedom. Every state enjoys absolute liberty to determine its foreign policy and join any power block it likes. External sovereignty implies that every state is independent of other states.

Sovereignty can no more be alienated than a tree can alienate its right to sprout or a man can transfer hi8s life or personality to another without self destruction

- Lieber

Quotable Quote

Sovereignty of the people therefore can mean nothing more the power of them the majority of the electorate, in a system of approximate universal suffrage prevails, acting through legally established channels to express their will and make it prevail.

- Dr.Garner

Types of Sovereignty

Nominal and Real Sovereignty	Legal Sovereignty	Political Sovereignty	Popular Sovereignty
a. Ancient times many states had monarchs. Kings exercised real sovereignty and were considered Real Sovereigns	a. The authority of the state has the legal power to issue final commands	a. Political Sovereign in the representative democracy is understood as the whole mass of the people, i.e. electorate or the public opinion.	a. Popular Sovereignty designates public as supreme
b. The French revolution transformed the situation	b. the power which has the legal authority to issue and enforce these law is legal sovereignty	b. Political sovereignty rests in the class of people under whose influence the mass of the people are with.	b. During ancient period popular sovereignty was used as a weapon to challenge the absolutism of the monarchs.
c. The Council of Minister were condidered the real Sovereign while the King enjoyed only nominal power.	c. The legal sovereign s always definite and determinate and the authority of sovereign is absolute and supreme.		

"De – facto and De-jure sovereignty"

De-facto sovereignty	De-Jure-Sovereignty
De-facto sovereign is one who has no legal claim to sovereignty but possesses it in fact and exercises necessary force to make and enfore its laws.	De-jure sovereignty is one who has a legal claim to sovereignty but does not possess it in fact.

What is Pluralism?

- Pluralism is a powerful protest against the monistic theory of sovereignty, which endows the state with supreme and unlimited power. The pluralistic theory originated in the writings of Otto V. Gierke. The pluralist challenges the claims of

the state to supremacy on the ground that the society consists of many associations and the state is one among them. Hence, the state cannot be endowed with sovereign power of the community. There exists many social, political, cultural and economic institutions in society and many of these institutions are prior to the state. For example, Family and church are prior to the state.

Exponents of pluralist theory

- Harold J. Laski
- J.N. Figgis
- Ernest Barker
- G.H Cole
- Maciver

Pluralist Theory

The nature of the state is such attemots to resolve the disputes or conflicts that arise between these various groups in a way the is in everyone' best interests.

The dawn of pluralist theory

- In democracy, the authority of the ruler is confined, the cabinet becomes more powerful but the state remains sovereign and supreme. With the advent of the welfare state there came a rapid increase in the functions of the state and there remained no sphere of life with which the state did not interfere, the sovereign and the supreme state also faced revolt and reaction. This reaction against the sovereign and supreme state resulted into the dawn of pluralism.

Is Pluralism important?

- Pluralism upholds the importance of associations and claim more autonomy for it.
- For democracy to flourish the sovereign state must not be subject to any legal authority.
- Division of sovereignty leads to the destruction of sovereignty and in the absence of sovereignty, anarchy will prevail in society.

What are the criticisms for Pluralism?

- It is the Sovereign state that brings about unity and regulates all the associations existing in society.
- Laws are framed by the state unlike the belief of pluralist.
- State is needed for protecting people from the excess of associations.

7th term 1 UNIT -1 - EQUALITY

Introduction

Understanding equality

- The idea that human beings are equal is enigmatic. A nation that seeks equality creates laws to bring change in its society. A law for equality is inadequate and opposed where pluralistic pattern of society has become the order of the day whether it's a developed or under developed nation. Liberty and rights lead to a third principle in political theory, which is of equality. Equality determines how rights are to be distributed amongst the individuals as citizens and groups, both whether equally or unequally. If unequally then what are the grounds for unequal treatment?. On what ground the state or the public authority relate with citizens, individuals and groups unequally. When we talk of equality, we imply different meanings at different times. In liberal perspective, legal and political equality may be emphasized more than economic equality. On the other hand, in a socialist and Marxian framework emphasis is more on economic equality. A feminist would argue that gender equality is vital while in a caste divided society like India, it could be argued that social equality is more essential, if other dimensions are to be meaningful.

Meaning of Equality

- Equality, which means state of being equal, is derived from aequs/ aequalis, meaning fair. It signifies 'having the same rights, privileges, treatments, status, and opportunities'. Equality is treated as something that relates to distributive principle because of which rights, treatments, and opportunities are distributed amongst the beneficiaries in a fair manner. Fairness does not mean all to be treated equally in all circumstances. In fact it very well means unequal treatment for those who are unequal. Essentially it relates to the principle of justice because it requires fair distributive principle.

- However those who are equal should not be treated as unequal and the unequal as equal.

Importance of Equality

Why equality is important?

- The most powerful moral and political ideal that has inspired and guided human society for several centuries is equality. Every all faith and religion invariably proclaim that all human beings are creation of God. The concept of equality as a political ideal invokes the idea that all human beings have an equal worth regardless of their color, gender, race, or nationality. It urges among human beings

equal consideration and respect because of the common humanity. The belief in this notion of humanity led us to the declaration of universal human rights.

- Equality became the slogan in the struggle against states and social institutions which uphold inequalities of rank, wealth, status or privilege, among people during the modern period. In the eighteenth century, the French revolutionaries used the slogan 'Liberty, Equality and Fraternity' to revolt against the landed feudal aristocracy and the monarchy. The demand for equality was also raised during anti-colonial struggle in Asiaand Africa during the twentieth century. It continues to be raised by struggling group such as women or dalits who feel marginalized in our society.

- Equality now has become a widely accepted ideal which is embodied in the constitutions and laws in the world. However the most visible and disturbing factor around us in the world and as well in our society is inequality. We can see in country slums existing side by side with luxury housing, schools which may lack even drinking water facilities or toilets, waste of food as well as starvation. There are visible difference between what law promises and what we see around us.

- India through its constitution attempts to fill the gap between equal and unequal with the principle of equality as enshrined in the constitution.

Dimensions of Equality

What is Equality?

- We live amidst distinctions between human beings on the ground of race and color, knowing well it is unacceptable. In fact such distinctions violate our intuitive understanding of equality which tells us that all human beings are entitled to similar respect and consideration because of their common humanity. No society treats all its members in exactly the same way under all circumstances. There can be no identity of treatment so long as men are different in wants, capacities, and needs. Injustice arises much from treating unequals equally as from treating equals unequally. And most importantly apart from the natural inequalities, there are inequalities created by the society- inequality based upon birth, wealth, knowledge and religion.

- The movement of history is not towards greater equality because as fast as we eliminate one inequality, we create another one: the difference being that the one we discard is unjustifiable while the one we create seems reasonable. Hence the social political, educational equalities are always in need of reinforcement and reinterpretation by every new generation. Like liberty, equality can also be understood in its negative and positive aspects. Negative equality was associated with the end of such privileges and positively it meant the availability of opportunity.

According to Laski equality means:

- Absence of privileges. It means that will of one is equal to the will of any other. It means equality of rights
- Adequate opportunities are laid open to all. Opportunities should be given to all to realize the implications of his personality.
- All must have access to social benefits and no one should be restricted on any ground. The inequalities by birth or because of parentage and hereditary causes are unreasonable
- Absence of economic and social exploitation

According to Barker, the concept of equality means

- Fundamental equalities of all
- Equality of opportunity
- Equality of conditions where there is an attempt to make the conditions of life equal
- Equality of outcome of results

A State divided into a small number of rich and large number of poor will always develop a government manipulated by the rich to protect the amenities represented by their property.

- Harold laski

Equality of opportunities

- The concept of equality implies that all people as human being are entitled to the same rights and opportunities to develop the skills and talents, to pursue their goals and ambitions. However, it is not the lack of equality of status or wealth or privilege that is significant but the inequality in peoples access to such basic goods, as education, health care, safe housing that make for an unequal and unjust society.

Natural inequality and social inequality

- Natural inequalities are those that emerge between people as a result of their different capabilities and talents. These kinds of inequalities are different from socially produced inequalities which emerge as a consequence of inequalities of opportunity or the exploitation of some groups in a society by others. Natural inequalities are considered to be the result of the different characteristics and abilities with which people are born with. Social inequalities on the other hand are those created by society. Unequal treatment in society based on race, color, gender and caste are of social inequalities. Women were denied equal rights for centuries similarly; Blacks were treated as slaves until the institution of slavery was questioned. Even people born with disability with modern technological innovations are able to contribute like any other normal person. Stephen Hawkings, contribution despite his disability is remarkable. Political philosophers have

contributed various theories, philosophies and ideologies for further understanding and innovation to place society on equal platform.

Types of Equality				
Civil Equality	**Political Equality**	**Social Equality**	**Natural Equality**	**Economic Equality**
No Discrimination (religion, belief, etc)	Access to authority Voting	Opportunity Privileges	Natural rights	Wealth

(i) Social Equality

- Social equality means no one should be discriminated in the distribution of rights, privileges and opportunities based on birth, caste, religion, race, colour, gender or social status. Each one should be given equal opportunity to develop his personality. Social equality implies few important aspects. They are: removal of discrimination based on social status, absence of special privileges to few and finally ensuring equal opportunity in terms of acquiring education. History reveals that certain forms of social inequality world over were rejected and the demand for social equality are being raised. Slavery in South Africa, west Asia and America, un touch ability in India, Racial discrimination in USA against Blacks, Policy of Hitler against Jews and gender related inequalities and discrimination are few examples of social inequalities with countries world over are trying to redress with the policy of government. Civil rights movement in United States of America for Blacks by Martin Luther king Jr and Dr.B.R. Ambedkar's effort for the social equality for the lower caste in India are few examples that set movement for social equality in motion.

- The American declaration announced that 'all men are created equal', French declaration of Rights of Man and citizens declared that 'men are born and always continue free and equal in their rights. The United Nations organization on 10th December, 1948, declared the charter of human rights which laid stress on social equality. However according to the report of Amnesty International, these rights have been violated frequently by a number of countries in the past and still efforts are being made to address the issues of social inequality world over.

(ii) Civil Equality

- The word 'civil' is derived from the Latin word civilis or civis, which means citizen. Civil equality means equality in which each citizen is provided with equal civil rights and liberties. Civil equality consists of similar civil liberties and civil

- There should not be any discrimination of superior and inferior, the rich and the poor, caste and creed, colour and race, clans and tribes, groups and classes. In

England, Rule of law is in force and in the eyes of the rule of law all are equal. Equal treatment is given to all by the rule of law. It is from the British constitution India had adopted the rule of law.

(iii) Political Equality

- Political Equality means equal right of all citizens, without any distinction, allowed to participate in the affairs of the state. Political right of all citizen is ensured through universal adult franchise. The other factors that ensure the political rights of citizens are:

  - Right to vote
  - Right to contest in election
  - Right to hold public office
  - Right to petition the government and criticize public policy

- Political equality guarantees the enjoyment of similar political rights to all citizens. Universal adult franchise is a means to this end. Political equality is actually the test on the experiments of democracy. It is also believed that political equality in itself is not adequate to disperse political power, it also needs socio-economic equality to achieve political equality.

"Economic Equality is the attempt to expunge all differences in wealth, allotting to every man and woman an equal share in worldly goods".

- Lord Bryce

(iv)Economic Equality

- Economic equality is justifiable only when all people have reasonable opportunities to develop themselves fully. Economic equality is meaningful only when there is an adequate scope for employment, reasonable wages, adequate leisure and equal share in the management of economic concern. Professor Laski explains economic equality, "Political equality is, therefore, never real unless it is accompanied with virtual economic liberty; political power otherwise is bound to be the hand-maid of economic power".

- Economic equality here means the provision of equal opportunities to all so that they may be able to make their economy progress. Ideologically this is possible in Socialism and not in Capitalism.

(v) Equality of opportunity and education

- Equality of opportunity and education means, all the citizens should be given equal and similar opportunities by the state. All the citizens should have similar chances to receive education and equal opportunities be given to develop their personality. Social inequalities such as race, caste, religion, language, rich, poor and gender

based discrimination should be eradicated. In India, constitution provides provisions for equal opportunities and equal education.

Relation between Liberty and Equality

- There is no value of liberty in the absence of equality. They are understood from different perspectives by political thinkers such as Lord Acton, De Tocqueville and Harold. J.Laski. Lord Acton and Alexis De Tocqueville were the ardent advocates of liberty. They were of the opinion that where there is liberty, there is no equality and vice versa."The passion for equality made vain the hope for liberty."- Lord Acton Professor H.J. Laski believed that liberty and equality should go together. If an individual is given unrestrained liberty to do whatever he likes, he may cause harm to others. Unrestrained liberty will bring only chaos in the society. In the nineteenth century, the Individualists wrongly interpreted the term Liberty. They did not attach any importance to economic equality and laid stresses on Laissez Faire to be adopted by the government said Laski.

- Professor H.J. Laski in his remark said that 'Where there are rich and poor, educated and uneducated, we always find a relation of master and servant'.

Laissez faire is an economic system in which transaction between private parties are free from government intervention such as regulation privileges, tariffs and subsidies.

- Adam Smith was the ardent supporter of the view that the Individualists maintained that there should be a free competition between the capitalists and labor leaders. They did not want the government to involve in the economic matters. Formula of Demand and Supply was adopted. It was expected that the economic difficulties will be removed by this formula, but resulted in dangerous consequences in Europe.

- The capitalists exploited the opportunity to the core and as a result of it, the gap between rich poor got wider. The labor class was worst affected and the reaction against individualism resulted in the dawn of Socialism. Socialism rose to condemn and refute the principles of Individualism. The transition made clear that Liberty is meaningless in the absence of economic equality.

- Economic equality is essential for the existence of political freedom. Otherwise it will be a capitalist democracy in which the labourers will have right to vote but they will not get their purpose served. Hence liberty is possible only in socialistic democracy where liberty and equality go together. There is only one solution to liberty. It lies in equality. Thus liberty and equality are complimentary to each other said Pollard.

Problems with Equality

1. Variety of meanings: equal treatment, equal outcomes, equal opportunities (and lots of shades of meaning within these broad categories)
2. Conflicts between each type: equal outcomes: equal outcomes violate equal treatment.
3. Equal opportunities conceptually flawed by problem of regression: is education and training an outcomes or an opportunity? Is an entry level job an outcome or an opportunity?
4. Equal treatment reinforces difference in opportunities and lacks a theory of what should count as a relevant difference and irrelevant differences eg obesity.
5. Equal outcomes are not in fact generally desires as a goal: fairness rather than egalitarianism is the model of social justice being sought. Equality is an aspect of fairness, but also in equality is desired on the ground of fairness to rewarded 'merit' and to accommodate to choose a way of life.

How Equality can be promoted

- The difference as we understood between liberals and socialist lead us to the desirable way of achieving the goal of equality. The wide debate on the means of promoting equality may lead us to few methods. They are,

  - ✓ Establishing formal equality
  - ✓ Equality through Differential Treatment
  - ✓ Affirmative action

Perspectives of various Ideologies on Equality by Andrew Heywood

- **Liberals**believe that people are 'born' equal in the sense that they are of equal moral worth. This implies formal equality, notably Legal and political equality of opportunity, but social equality is likely to be purchased at the expense of freedom and through the penalizing of tablet. Nevertheless, whereas classical liberals emphasize the need for strict meritocracy and economic incentives, modern liberals have argued that genuine equal opportunities require relative social equality.

Conservativeshave traditionally viewed society as natural hierarchical and have thus dismissed equality as an abstract and unachievable goal. Nevertheless, the new right evinces a strong industrialist belief in equality of opportunity while emphasizing the economic benefits of material inequality.

Socialist regards equality as a fundamental value and in particular, endorses social equality. Despite shifts within social democracy towards a liberal belief of opportunity, social equality, whether in its relative (social democratic) or absolute (communist) sense, has been seen as essential to ensuring social cohesion and fraternity, establishing justice or equity and enlarging freedom in a positive sense.

Anarchistsplace a particular stress upon political equality, understood as an equality and absolute right to personal autonomy, implying that all forms of political inequality amount to oppression. Anarcho-communists believe in absolute social equality achieved through the collective ownership of productive wealth.

Fascists believe that humankind is marked by racial inequality, both between leaders and followers and between the various nations or race of the world. Nevertheless, the emphasis on the nation or race implies that all members are equal, at least in terms of their core identity.

Feminists take equality to mean sexual equality, in the sense of equal rights and equal opportunities (liberal feminism) or equal social, economic power (social feminism) irrespective of gender. However, some radical feminists argued that the demand for equality may simply lead to women being 'male-identified'.

Ecologist advance the notion of bio centric equality, which emphasizes that all life forms have an equal right to 'live and blossom'. Conventional notions of equality are therefore seen as anthropocentric, in that they exclude the interest of all organisms and entities other than humankind.

Heywood, Andrew. (2004) Political Ideologies: An Introduction, 4th ed. New York: Macmillan.

Ways of establishing formal Equality

- Social, economic and political inequalities all over the world have been protected by customs and legal systems that prohibited some sections of society from enjoying certain kinds of opportunities and rewards. Poor were denied of right to vote. Women were not allowed to be a carrier oriented women in some part of the world. The caste system in India prevented people from the lower castes from doing anything except manual labour. In some countries only some families can occupy important positions. Equality cannot be achieved unless these privileges are stalled.

- For ages these systems have the sanction of law, hence for achieving equality government intervention is needed by means of law. Our constitution as a fundamental or supreme law of the land does it. The constitution of India prohibits discrimination on the grounds of religion, race, caste, sex or place of birth. Our constitution also abolishes untouchability. Most of the modern states and democratic governments have incorporated in their constitution the principle of equality.

Equality in Indian Constitution

The concept of Equality in Indian constitution

- The Indian constitution under article 14 provides for equality before law or the equal protection of laws to all persons. This is a statement of formal equality and gives meaning to what preamble seeks to ensure in terms of 'equality of status and of opportunity'. This also means that laws of the land will apply to all equally and there should not be discrimination on grounds of birth, caste, color, gender, language, race, religion, etc. in fact article 15 of the constitution substantiates article 14 further by prohibiting any such discrimination.

- Equality before law and equal protection of law have been further strengthened in the Indian constitution under article 21. It ensures that 'No Person shall be deprived of his life or personal liberty except according to procedure established by law. This means that a reasonable fair and just procedure should be followed for depriving a person of his personal liberty and life. It admits no arbitrariness, discriminatory procedure or unequal treatment for different individuals'.

Right to Equality (Article 14 – 18)

- ✓ Equality before law (Article 14)
- ✓ Prohibition of discrimination on grounds of religion (Article 15)
- ✓ Equality of opportunity in matters of public employments (Article 16)
- ✓ Abolition of Untouchability (Article 17)
- ✓ Abolition of titles (Articles 18)

- How Equality can be achieved through differential treatment? It is necessary sometime to treat people differently in order to ensure that they can enjoy equal rights. Certain differences may have to be taken into account for thisneed. Some special consideration for the disabled and protection for women employees especially in the corporate and IT industries when they travel amidst work in the night are provided. These acts should not be treated as an infringement of equality but an enhancement of equality. Similarly some of the policies are needed to overcome the hindrances of equality by the government. For example, India follows the principle of reservation and other countries follow affirmative action.

Affirmative action
Perception of Affirmative action

- Affirmative action implies that it is not sufficient to establish formal equality by law. In order to eliminate deep rooted inequalities, some positive measures are necessary and such positive measures could minimize and eliminate slowly the entrenched forms of social inequalities. Most of the policies of affirmative action are thus designed to correct the cumulative effect of past inequalities. In our country we have adopted a policy of quotas or reserved seats in education and jobs to provide equality of opportunity to deprived groups, and this has been the subject of considerable debate and disagreement. The policy has been defended on the grounds that certain groups have been victims of social prejudice and discrimination in the form of exclusion and segregation. Therefore in the interest of creating an egalitarian and just society they need to be given special protection and

help. However these measures of affirmative actions are time bound and temporary. It is expected that these special consideration will enable these communities to overcome existing disadvantages with others on equal terms.

- The critics of positive discrimination contend that the provision of reservation and quota arbitrarily denies the rights of other sections right to equal treatment. They think that reservations are of reverse discrimination where the principle of equality remained questioned. Equality is meant for treating all equals instead it creates a distinction among individuals on the basis of caste and racial prejudices. Hence this theorist wants to do away with social distinctions that divide society. Whatever the debate may be the fact is health and education for rural and slum children are glaringly deprived while comparing with the children in elite schools.

Affirmative Action Definition

A Policy or program providing advantage for people of a minority group who are seen to have traditionally been discriminated against, with the aim of creating a more egalitarian society through preferential access to education, employment, health care, social welfare, etc.

- These students face hurdles in gaining access to special coaching and fees for professional courses may also be high. Hence they cannot compete on equal terms with the more privileged sections. We all know that such social and economic inequalities of this kind remain as hinder to equal opportunities. Theorists of today acknowledge this but what they contest is not the goal of equal opportunity but the policies that the state should pursue to achieve the goal of equality.

Of equal – As it harmed me, giving others the same chances and rights as myself- As it were not indispensable to my own rights that others possess the same.

Liberty
Introduction to Liberty

- You have liberty to enjoy the freedom sanctioned as per law. The business of law is to safeguard the liberty of an individual. In the safety of an individual lies the status of one's freedom. The law and liberty are twins and are connected to each other to sanction equal treatment equally for all. Here we all know that, it is the objective of the state to safeguard the liberty of its citizens.

- Do you know something that the law of the state propels a reasonable restriction on every individual? That doesn't mean the privileges of citizens are compromised. The main objective of the state is to protect, what is due for him as his right. And in the process care for the equality of an individual becomes an agenda of state.

- Shall we take a journey into the world of liberty, we intend to enjoy

- In a classroom setting, the liberty of a student varies. In the view of some student, some teachers are strict and some are liberal, in terms of liberty and freedom he/she enjoys in the classroom. Teachers have a privilege to sanction reasonable restriction against student's undue advantage in a classroom. The sanction of reasonable restriction by teacher is actually for the smooth conduct of a student and as well for the effective learning in the classes. Understanding the concept of liberty begins in the classroom by the conduct and attitude of student towards his teacher and his classmates. Raising questions to clarify doubts to his class teacher is his/her right, but the sanction of it becomes liberty. Liberty is just the sanction of law and the restrictions imposed are also a kind of liberty. Conducive learning environment of classroom, conditions the student to understand the meaning and the purpose of liberty.

Shall we trace the origin of Liberty?

- Liberty remained an essential element for both man and state for progress. History records very well the cruelty of absolute monarchy that ignored the claims of liberty in ancient and medieval ages of England. People could no longer tolerate and rose in revolt against the absolute monarchy. The struggle continued until Emperor John had to bow down and ensure freedom for his subjects. Attempt of emperors after Tudor and Stuart, and the continued absolute monarchy resulted in civil war. King Charles was beheaded and even during the period of Cromwell people could not attain freedom.

- This resulted in the famous "Glorious revolution" in England in the year 1688, containing the absolute monarchy for some period and later led to the outbreak of French revolution in 1789.

- However it had not given a desired liberty. The successors of Napoleon behaved like monarchs. The fall of Napoleon III, resulted in establishing the Third Republic. After the fall of Third Republic in 1940 and Fourth Republic in 1958, Fifth republic was established. Struggle against countries that colonized got liberated after a long struggle for independence. Italy in nineteenth century and India in twentieth century made untold sacrifices for attaining national liberty.

Historical Context

- ✓ Response to the rationalism of the Enlightenment
- ✓ Response to the French Revolution (1789)
- ✓ The revolutionaries in France fought for "liberty, equality, and fraternity"
- ✓ Ideas of the French Revolution influenced writers in England — they were inspired by the fight for democracy and the common man
- ✓ Response to industrialism
- ✓ Longing for nature and simplicity

Meaning of Liberty

- The term 'liberty' has been derived from the Latin word 'Liber' which means free from all shackles. The Latin word 'Liber' denotes the absence of all restraints. It means one can do whatever one likes, regardless of all conditions. Liberty does not permit a person to do whatever one likes. The basic fact of liberty is that law is the condition of liberty. According to Professor Barker "Liberty is possible only in an ordered state, a state where the legal and political aspects of sovereignty coincide or nearly coincide. Laski believes that 'Historical experience has evolved for us rules of convenience which promote right living and to compel obedience to them is a justifiable limitation of freedom."

Exponents views on Liberty

- ✓ "Liberty is the positive power of doing and enjoying those things which are worthy of enjoyment and work"-**Gettel**
- ✓ "Liberty is the freedom of the individual to express without external hindrances to personality"-**Professor G.D.H. Cole.**
- ✓ "Liberty does not means the absence of restraint but it lies in development of liberty**"- Mahatma Gandhi**
- ✓ "Without right then cannot be liberty, because without rights, men are the subjects of law unrelated to the needs of personality".-**Harold. J. Laski**

Two Phases of Liberty

- Positive liberty: Positive liberty mean freedom to do something that the individual should have rights and opportunities to develop his personality. Negative Liberty: For J.S. Mill liberty means Negative liberty He submitted that there should not be any restraint imposed upon man and his actions. He also asserted that there should not be any hindrance in the path of man.

i. Natural Liberty

- The concept of Natural liberty indicates unrestrained freedom to do what ever one likes. Natural liberty means absence of all restraint –an unrestrained freedom to do whatever one likes.

- JohnLocke: In the state of Nature people enjoyed the rights to life, liberty and property.

- Critic: It is absolutely incorrect because it is only the state that guarantee the enjoyment of these rights. In the state of nature people possessed not rights, but the power of animal.

Rousseau: "Man was born free, but everywhere he is in chains"

- Critic: Rousseau does not appear sound because there is no scope for the growth of human personality. According to social contractualist, liberty looks like a license

than a liberty. If he is allowed to do whatever he likes, there will be only chaos in the society.

ii. Civil Liberty

- The concept of civil liberty reflects "Rule of law" civil liberty indicates the liberty man enjoyed in the society it prevails in the state. It denotes the enjoyment of our rights within the limits of law. The protection of civil liberty is guaranteed by the laws of the state.

iii. Political Liberty

- The concept of political liberty means liberty of citizen to participate in the political life and the affairs of the state. Leacock calls political liberty as constitutional liberty and Gilchistconsider political liberty as a concept synonymous with democracy. Political liberty includes minimum rights. These rights are the right to vote, the right to contest elections, the right to hold public views and criticize the government and right to petitions.

iv. Personal Liberty

- The concept of personal liberty means the availability of those conditions in which the individual can act as he pleases without being under any type of arbitrary and illegitimate restraint. It also means that every individual has the right not to permit any other individual to interfere in the affairs of his personal life. Every individual should have the liberty to dress, food, standard of living, marriage and education of children etc. The state should not interfere in the personal matters of the individual such liberty is essential for the free development of human society.

v. Economic Liberty

- The concept of economic liberty means the liberty to earn one's daily bread. Beyond the distinction of caste, colour, creed and gender every individual should have liberty to earn his daily bread by fair means.

Liberty unfurled

- Liberty is an important condition in a state that gives an opportunity for human beings to develop their personality.

vi. Fiscal Liberty

- According to this principle; there should be no taxation without representation. It was the slogan given by middle classes who claimed that they should be allowed to decide as to how and on whom their money was to be spent. Both civil and fiscal liberty were related to property and the rights of their owners. It was felt by the

middle classes that without fiscal and civil liberty they would not be able to exist and be exploited by arbitrary rulers.

vii. Domestic Liberty

- It covers equal right for women and children. They need to be protected against maltreatment, cruelty and exploitation. They were also having the right to education. It means the liberty of the nation or the country. National liberties exist where the nation or the community is independence and sovereign. National liberty can otherwise also call as National sovereignty. Every nation wishes to stay independent and without this independence the progress of the nation or the state is not possible. Liberation remains an ultimate slogan for all those nations enslaved by imperialistic forces. Nations colonialized by imperialist force struggled against foreign empire until freedom is restored.

- The struggle of Italy against Austria, England against Hitler and Napoleon struggle of African counties against imperialist forces and Indians struggle against England are few examples where struggle was made ultimately for restoring the liberty of the Nation. When India was attacked by China in 1962, and by Pakistan in 1965 and 1971 the Government of India made all efforts to safeguard the freedom of nation.

ix.International Liberty

- This concept implies peace and international cooperation and the formation of world federation of states. Liberals were opposed to the use of force as an instrument of national policy. Capitalism needed peace and international cooperation for the free flow of goods from one country to another and they needed all political and other barriers to be removed that stood in the way of the development of world resources.

Perspective of various ideologies on Freedom by Andrew Heywood

- Liberals give priority to freedom as the supreme individualist values. While classical liberals support negative freedom, understood as the absence of constraints or freedom of choice, modern liberals advocate positive freedom in the sense of personal development and human flourishing.Conservatives have traditionally endorsed a weak view of freedom as the willing recognition duties and responsibilities, negative freedom posing a threat to the fabric of society. The new right however, endorses negative freedom in the economic sphere, freedom of choice in the market place.

- Socialists have generally understood freedom in positive terms to refer to self-fulfilment achieved through either free creative labour or cooperative social interaction. Social democrats have drawn close to modern liberalism in treating freedom as the realization of individual potential. Anarchists regard freedom as an absolute value believing it to be irreconcilable with any form of political authority.

Freedom is understood to mean the achievement of personal autonomy, not merely being 'left alone' but being rationally self-willed and self-directed.

- Fascist rejected any form of liberty as nonsense. 'True' freedom, in contrast, means unquestioning submission to the will of the leader and absorption of the individual to the national community.Ecologists particularly deep ecologist, treat freedom as achievement of oneness, self-realization through the absorption of the personal ego into the ecosphere or universe. In contrast with the political freedom, this is sometimes seen as inner freedom, freedom as self-actualization.

- Religious fundamentalist see freedom as essentially an inner or spiritual quality. Freedom means conformity to reveal the will of god, spiritual fulfilment being associated with submission to religious authority. Heywood, Andrew. (2004) Political Ideologies: An Introduction, 4th ed. New York: Macmillan

How liberty, sovereignty and law are are related to each other?

- Liberty does not mean the complete absence of laws. Liberty exist only in a state in order. The state makes law and the sovereign state operates through these laws. There exist a close relationship between liberty, sovereignty and law. The anarchist and syndicalist wanted to abolish the states. They are of the opinion that if state is more powerful than individual liberty will also be curtailed.

Individualist views

- They regarded the control of the state as harmful to the individual and therefore supported the confinement of the authority of the state. Though this doctrine resulted in dangerous consequences in England. It is now universally accepted that laws are the protectors of liberty. Liberty ceases to exist in the absence of law.

How does law protect liberty?

i. Provides congenial atmosphere for the smooth running of civilized life in society. Law punish criminal and defends the rights of the individuals.
ii. Law guarantee the enjoyment of individual rights and duties and protect them. The state punishes the individual who causes harm to others and hinders path of others.
iii. Constitution is custodian of liberty and it confines the authority of the state and protects the fundamental right of the people.

How liberty is safeguarded?

i. Democracy

- Liberty is safer in democracy than in any other form of government. Democratic government is the government of the people where as in other forms of government

like monarchy and dictatorship all power are centralized in the hand of one person or a group of person. Opposite parties are given due respects in democracy and criticism of government is accepted and tolerated in democracy.

ii. Constitutions

- Authority of the state dwells in the constitution of the respective nation.
- Let us read the Preamble of our Constitution very carefully and understand the meaning of each of its key words.

- The Preamble of Constitution reads like a poem on democracy. It contains the philosophy on which the entire Constitution has been built. It provides a standard to examine and evaluate any law and action of government, to find out whether it is good or bad. It is the soul of the Indian Constitution.

iii. Fundamental rights

- Fundamental rights confine the authority of the state. Fundamental rights assure us that the state cannot interfere in the matters of personal life.

iv. Decentralization of powers

- Decentralization of power is required for the safeguard of liberty. Power should be divided into central, provincial and local government and such decentralization leads to efficient administration.

Independent judiciary

Safeguard of Liberty depends upon the independence of judiciary. It should be free from the control of the executive. In the communist countries or in the countries which have dictatorship, fundamental rights are given to the people but judiciary is not free from the influence of the executive. In such countries, the safeguard and security of fundamental rights, liberty and constitution is not possible.

v. Economic security

- Economic security Economic security is a condition to liberty."Where there are rich and poor, educated and uneducated, we always find a relation of master and servant". - Laski

Poverty is not an accident. Like slavery and apartheid, it is man-made and can be removed by the actions of human beings.

Nelson Mandela

vii. Rule of law

- Rule of law is established in England, USA and India Rule of law mean that there should not be any distinction of caste and creed colour and race. In the eyes of law all are equal and all are liable to be punished if they commit crime.

- The rule of law was further popularised in the 19th century by British jurist A. V. Dicey. The concept, if not the phrase, was familiar to ancient philosophers such as Aristotle, who wrote "Law should govern".

viii. Political education and eternal vigilance

- Permanent safeguard of liberty is possible. Educated are acutely aware of their rights and duties. Eternal vigilance is the prices of liberty and in it absence one can act according to his will whenever the government crosses the barrier of its authority and interference in the personal life of the people, may rise in revolt against the government.

- "It is the proud spirit of the citizens, less than the letter of the law, that is the most real safeguard" - Harold . J. Lask

Sovereign: People have supreme right to make decisions on internal as well as external matters. No external matters. No external power can dictate the government of India.

Republic: The head of the state is an elected person and not a hereditary position.

Justice: Citizens cannot be discriminated on the grounds of caste, religion and gender. Social inequalities have to be reduced. Government should work for the welfare of all, especially of the disadvantaged groups.

Liberty: There are no unreasonable restrictions on the citizens in what they think, how they wish to express their thoughts and the way they wish to follow up their thoughts in action.

Socialist: Wealth is generated socially and should be shared equally by society. Government should regulate the ownership of land and industry to reduce social-economic inequalities.

Secular: Citizens have complete freedom to follow and religion. But there is no official religion. Government treats all religious beliefs and practices with equal respect.

Democratic: A form of government where people enjoy equal political rights, elect their rulers and hold them accountable. The government is run according to some basic rules.

Equality: All are equal before the law. The traditional social inequalities have to be ended. The government should ensure equal opportunity of all.

Fraternity: All of us should behave as if were member of the same family. No one should treat a fellow citizen as interior.

We, he people of India: The constitution has been drawn up and enacted by the people through their representatives, and not handed down to them by a king or any outside powers.

Sovereignty: The supreme power which cannot be distorted and divided. The per-Independent India was ruled over by British empire and India didn't posses sovereignty a country is ruled over by other nation, sovereignty resides with the ruling one and not the ruled. In the globalized era sovereignty is under threat, since the global exchange is unavoidable.

Preamble: Like preface of any book preamble is a gist or glimpses of any constitution in the world. If you want to understand about the basic structure of a political system, preamble is an apt one to read. Our Indian constitution's preamble states, India is democratic, republic and sovereign.

Universal Suffrage: Voting rights to all the people invariable of gender, caste, color, religion, property and other divisive factors. India introduced adult suffrage immediately after the freedom. The superpowers like USA,UK have not implemented the suffrage to all the people after their freedom.

Statutes: A written law passed by the legislative body of a country. It is also added in the parliamentary laws after having had appropriate discussion.

Justice: Justice was the main concept discussed by many Greek philosophers. Justice is the main phenomenon which has to be maintained regardless of all kinds of discriminations.

Fiscal: Monetary oriented. Government of all types always used to concentrate in fiscal policy.

State of Nature: The stage of antiquity in which there was no organized form of government and society.

Anarchy: A complete chaos or the stage of confusion. Particularly in the modern era Iraq and Afghanistan haven't possess concrete government structure since they are under American occupation.

City-state: Small states in which people are considered as powerful in decision-making. It exists in Greece 2300 years back.

Vasudaivakudumbagam: One world one family. It is a global idea which interlinks the entire nation-states into on family in which there will not be any distinctions.

Inalienable: That one which cannot be separated.

Ordinances: Special orders issued by the president on adhoc occasions.

De-jure: On accordance with law.

De-facto: Factually,one who rules really and concretely.

APPOLO STUDY CENTRE

11thvol

UNIT – 4 Basic Concepts of Political Science Part-II

LAW

Introduction

- Law is the prescription of rules and regulations sanctioned by the sovereignty for the state. Law as, Bodin said, is the command of the sovereign. Similarly Aristotle has rightly pointed out that if there is no law even man will behave like a beast. In order to preserve society and protect the progressive nation, law has become an integral part of the system world over. The enormous power of law could not be a complete solution to maintain an order in the society due to the limitations it is framed with. Law is a tyrant for criminal and a guardian for its citizen.

- There is always an intense debate that happens on, why the law is lenient in some part of the world and so powerful in another part of the world. The question of leniency and powerful the law is, ascertained by its functions especially the punishment it involves. For example, law in a democratic country is much different and concerned than the law in a totalitarian state. And more, how the law unfurls freedom for its citizens matters a lot while executing and exercising it. Ignorance of law is not an excuse anywhere in the world. Hence it is pertinent to introduce the concept of law to the young minds to understand it as the basic rules and regulations as sanctioned by our constitution.

Meaning of Law

- The term 'Law' was derived from an old Teutonic root 'lag' "which means something which lies fixed or evenly. Without law life may witness utter chaos and confusion and in fact it is law that regulates life. The word law is used to denote 'uniform'. There are two kinds of laws. They are: physical and human law. Physical law regulates nature where as human law regulates human life. The term law in political science is used to mean body of rules to guide human action. The function of state is done through government and the government in turn interprets the will of the state through law.

Views on Law

- "Law is the command of the sovereign" according to John Austin
- "Law is the collection of rules which the state recognizes and applies in the administration of Justice" said Salmond
- According to krabbe"Law is the expression of the judgments of value which we human beings make by virtue of our disposition and nature"

- "Law is that portion of the established thought and habit which has gained distinct and formal recognition in the shape of uniform rules backed by the authority and power of the government." Said Woodrow Wilson
- "A law is of general rule of external human action enforced by a sovereign political authority." Said Holland

What is the purpose of Law?

- According to Maclver"A law does not become a law until and unless it is backed by the state. The purpose of law is to establish sure foundations in the certitude of which men can rebuild the many mansions of society." The term 'Law' is considered as a body of rules to govern human action and as well to regulate human life by the discipline Political Science. 'It is not the issuing of law that makes the state, it is the force of the state that makes law" believe Hocking.

What are the purposes of Law?

- Protect basic human rights
- Promote fairness
- Help resolve conflicts
- Promote justice
- Promote order and stability
- Promote desirable social and economic behaviour
- Represent the will of the majority(on some issues)
- Protecting the rights of minorities

Are you aware of the classification of Laws?
i. Private laws

The relationship of citizens and the regulation of relations among one another are determined by private laws.

ii. Public laws

The laws that determine the relation of citizens to the state are public laws. Public law perceives state as an arbiter as well as one of the parties interested in it.

iii. Constitutional laws

The common law differs from statutory law because it mainly based on precedent. Statutory law of a more formal body of the legal system that consists of written legislation. This legislation will mainly be based on rules and regulation either mandating or prohibition certain behaviours of the general public. Common law, on the other hand, will allow judges to decide cases based on the ruling of prior cases with similar circumstances.

- Constitutional laws are the basic laws according to which the government in a state conducts itself. The laws that define interpret and regulate the functions of the government are known as constitutional laws. For example, the election of President, the powers and functions of the Supreme Court and method of the appointment of the governor are constitutional affairs. The laws which are not related to the forms and functions of the government and to the fundamental rights but are related to the social and economic affairs of all citizens are known as ordinary laws. For example, the abolition of child marriage and prohibition etc come under ordinary laws.

iv. Statute Laws

- Statute laws are the laws which are framed by the Legislative Assembly or by the Parliament. Democratic Government being popular in most of the countries, the laws of those governments are framed mostly by the Parliaments in those countries.

v. Ordinances

- Ordinances are generally issued by the executive branch of the government as per the law of the state. Ordinances are temporary by nature and are issued by the President in the absence of parliament, especially to face the emergency.

vi. Common Laws

- Common laws are those laws which rest on customs but are enforced by the courts like statute law. Common laws are popular in England.

vii. Administrative Laws

- The office and responsibilities of government servants are interpreted and governed by Administrative law. It is the Administrative law that enable the public officers to separate law and procedure from private individuals. These laws also make an attempt to interpret the privileges of government officials. Administrative laws are not popular in England, U.S.A. and India. They are popular in France and a few countries of Europe. For example, When any dispute arises between a citizen and government servant the administrative court resolves the issue with administrative laws.

viii. International Laws

- The rule that determine the conduct of the civilized states in their relation with other states in international arena is otherwise called International law. There are no such framed laws that govern international relations but backed by public opinion and the rule of UNO as an international body matters for any nation to enjoy its sovereign status. There are also laws such as Sea law, where there are International

borders and as well Air law that demands aircraft of other nation to fly with permission of respective nations.

Do you want to know the sources of Law?

i. Customs

- Customs play an important role in the framing of the laws. Most of the laws that came from customs are recognized by state later. Since ancient period we can notice that the dispute among tribal were resolved by the head of the Tribes using their customs and traditions. Customs became laws when tribes extended into the formation of state. State cannot actually ignore the customs of the country. The common law of England for example sprang mainly from customs.

- For example Bull-Taming sport culture of Tamils of India resulted into the creation of Jallikattu Law in 2017. (Read the box for more information about Jallikattu Law of 2017)Read the text and write six questions, one for each of the Question word: What, where, when, which, how and why.

ii. Religion

- The religion practiced by Primitive communities played a decisive role in evolving the laws of the state later. Religion was a basis of law for most of the nation. The origin of Hindu law can be traced in the code of Manu. The origin of Mohammedian law can be traced in Shariat law. Divine law is a law revealed through man from God. God is the ultimate source of divine law. For Christians Ten Commandments were the first law given by the Lord Almighty to his people and was considered as the basis of law.

"Indeed the early law of Rome was little more than a body of technical religious rules, a system of means for obtaining religious rights through the proper carrying out of certain religious formulas".

- Woodrow Wilson

iii. Judicial decisions

- Gettellmaintains that the 'state arose not as the creator of law but as the interpreter and enforcer of custom'. The function of the Judiciary is to interpret and declare the law. While discharging its function the judiciary creates new laws. The laws later gets recognized by the state. Judicial decisions thus became an another source of law. Some time the verdict of High Court and Supreme Court are treated as laws.

iv. Equity

- When laws are ambiguous and do not fit in, the principles of equity are applied and cases are decided according to common sense and fairness.

"Equity is body of rules existing by the side of the original civil law, founded on distinct principles and claiming incidentally to superior sanctity inherent in those principles."

- Sir Henry Maine

Equity

- The name given "Equity" is the set of legal principles in countries following the English common law tradition, which supplement strict rules of law where their application would operate harshly, so as to achieve what is sometimes referred to as "natural justice"
- It also means "fairness"
- Equity has been described as "a gloss (meaning a supplement) on the common law, filling in the grapes and making the English legal system more complete

- In English Law, equity means that body of rules originally enforced only by the court of chancery.

v. Scientific commentaries

- Another source of law are scientific commentaries. when the commentary appears it is understood only as an argument, later on its authority is recognized as more authoritative than the Judicial decision.

He opinion of learned writes on law have often been accepted as correct law: in England, for instance the opinions of coke and Blackstone in America of story and ken, in India of Vijnaneswara and Apararka"

- A. Appadurai

vi. Legislature

- Most of the laws in the modern times are framed by legislature and it is one of the most important source of law. Indian constitution is a classic example where the best provisions of other constitutions are borrowed and made it available for the best of our nation

"The state is founded on the minds of its citizens, who are moral agents… a bad people means a bad state and a bad laws."

- Gilchrist

Sources of the Indian Constitution

1. **Government of India Act 1935:** The federal scheme. Office of the Governor. Role of federal judiciary. Emergency provisions

2. **UK Constitution:** Law making procedures, Parliamentary Government, Rule of Law, Single citizenship and Bicameral Legislature.
3. **US** Constitution: Fundamental Rights, Independent judiciary, Judicial Review, Impeachment of the President, Procedure for the removal of the judges of the Supreme Court, High Courts and Role of Vice President.

How law is related to state and morality?

- Law and morality are complimentary to each other. Ethics reveals its citizens the code of conduct. Similarly the laws framed by state also aim to achieve the same goal. The sole aim of the state lies in the promotion of the welfare of the people. As there is a close affinity between law and morality, there also exist a good relationship between law and state.

> He best state is that which is nearest in virtue to the individual. If any part of the body politic – suffers, the whole body suffers".
>
> **- Plato**

- A bad state will have bad citizens and a good state will have good citizens. So it is the sole function of the state to keep a good standard of morality. Government of India is trying its best to eliminate the evil of untouchability. It has framed laws against untouchability. Though there is law against social ills it is understood that it is rather a sin to adopt the policy of discrimination on the grounds of caste and creed, colour and race, clans and tribes, groups and classes. The government is taking measures to prohibit the drinking of wine and also prohibits child marriages. Generally democracy does not have any such law as opposed to morality. Wilson maintains that the aim of the law of a state is to develop morality in the state. Hence the sovereign law-making authority pays due attention to the code of the intimacy between law and morality.

> "We regard the state as the condition or morality. The state and law continually affect both public opinion and actions; in its turn law reflects public opinion and thus acts as the index or moral progress"
>
> **- Maclver**

Distinction between Law and Morality:

- Laws are enforced by the state, if not obeyed to the commands of law, he is likely to be punished by the state.
- The severe punishment one can be awarded to a person for not observing the scruples of morality is the social boycott.
- Morality is concerned with both internal and external affairs of man whereas law is concerned only with the external affairs of man. Hence, law punishes only those persons who violate laws by their external actions.
- Law punishes a person only when he commits a theft or dacoity or murder or any other physical crime.

- Law cannot punish a person for telling a lie or for abusing some one.
- Telling lies, condemning someone and being ungrateful and many other actions of man are sins but they are not crimes. Machiavelli maintained that even the immoral practices are legal, if they are applied for the benefit of the state.

What is Moral law?

- A law framed with a purpose of eliminating evils such as drinking of wine, gambling, theft, dacoity and murder are moral laws. The laws which are based on morality remain permanent

How Law and Public opinion are related to each other?

- The power of democracy lies in the participation of people in the democratic exercise of electing their representatives. People are not directly involved in the framing of laws, yet they could elect their representatives to legislature. People elect their representatives to execute the will of the electorate. The elected body are just expected to represent the will of the public. Here we can understand the close affinity of law and public opinion.

- In democracy laws are framed only based on the support of public opinion. People carry out peaceful demonstrations to express their opinion or resentment.Common welfare of the people and social progress are the primary considerations of public opinion.

The Modern state appeals to motility, to religion, and to natural law as the ideological foundation of its existence. At the same time it is prepared to infringe any are all of these in the interest of self-preservation.

- J.M.Coetzee

Quotable Quote

O turn all moral obligations, legal obligations would be to destroy morality. There is thus a legal conscience, and they do not always coincide".

- Maclver

Law and order exist for the purpose of establishing justice and when they fail in this purpose they become the dangerously structured dams that block the flow as social progress.

- Martin Luther King, Jr

8th book

UNIT 2 CITIZENSHIP

Introduction

- In political theory, citizenship refers not only to a legal status as a member of a country but also a normative ideal which means the ruled are full and equal participants in the political process. Democracy and citizenship go hand in hand. Democracy focuses on political parties, electoral systems, rule of law, etc., while citizenship focuses on the attributes of individual citizens. Citizens have certain rights that differ from one country to another. Today, we are following a modern state and citizenship connotes a status which is defined as a set of rights and duties of the people.

- Are you a natural citizen? or a naturalised citizen of your country? What are the differences between the two? Natural citizens are the citizens by virtue of their birth but naturalised citizens are the ones who acquire citizenship.Aristotle defined citizenship with reference to the birth place, family lineage and culture. Stoics viewed citizenship as a cosmopolitan ideal. Confucius emphasized it as the restoration of commonwealth, where everyone worked for harmony andwelfare. In India too, there persisted the concept of "VasudevaKutumbakam".

Citizenship and the City-state:

- Citizenship was an important theme in the ancient Greek and Roman Republics but they disappeared from the feudal systems. This was later revived as a desirable aspect of civic humanism during the Renaissance. Citizenship was considered only as participation of duties during the ancient Athens.Citizenship was considered as a pivotal importance to Aristotle as he perceives ideal state is possible only in a law-based statewhere citizens are law abiding. He states that an individual is a political animal who finds fulfilment only within the polis and hence desiring for political posts is natural. He says that citizenship is a criterion wherein the rule must be applicable to all irrespective of whether they are residents, aliens or even slaves from other countries. A citizen is one who enjoys the right to share in the deliberative and judicial offices and is able to exercise his political rights effectively under the constitutional system.

Marshall's Analysis

- Marshall, a liberal-social democrat links citizenship to social class in the context of capitalism. According to Marshall, citizenship has three essential divisions: civil, political and social. Every individual requires a right for freedom and that is what is in as civil component. This is also an important ingredient of rule of law. As a citizen we have the right to participate in political decision-making process. This is reflected in the political division. No citizen can be deprived of the prevailing

Aristotle

- defines citizenship as "he who has the power to take part in the deliberative or judicial administration of any state."Greeks enjoyed the privilege of being governed by democracy; their government was made up of commoners, and they were allowed freedom of speech to a large extent through public speaking rights.Standard of living and they have all the rights to enjoy the fruits of this. Hence, Marshall stresses upon the social services.

Citizenship and Education

In this, we shall study about the influence of education towards citizenship, according to various philosophers.Aristotle considers three qualities to be necessary for a man universally. They are:

- ❖ Loyalty to the constitution
- ❖ High degree of capacity to one's duties and
- ❖ Quality of goodness and justice.

- A democratic nation upholds political and economic equality for which identification between a good man and good citizen are always necessary. Plato considers education is a cure to corruption and political instability. Hence, he speaks for effective and responsible form of education. Aristotle, Hume and Rousseau, point out that the citizens will need knowledge of the attitudes and the expectations of their fellow citizens. J.S. Mill and Tocqueville on the other hand stress upon the need of political knowledge and in order to participate and conduct the affairs of the local government, voluntary association or jury service, education is very much necessary.

Citizenship in India

- India is a secular, democratic and nation state. Why do you think Independence Movement began? The main reason was to bind together people of different religions, regions and cultures. Though there were differences with the Muslim League during the Partition of the Country, yet this strengthened the Indian National Leaders to maintain the secular and inclusive character of the Indian Nation state.

In USA, dual citizenship system prevails where a citizen is both the citizen of the country (USA) and the respective state. IN India single citizenship system prevails where a citizen is only the citizen of the country (India).

The Maintenance and welfare of Parents and Senior Citizens Act was passed in 2007 by to provide maintenance and support to elderly parents and senior citizens.
What the Act states

- The Act established the Maintenance Tribunal to provide speedy and effectiverelief

to elderly person.

- Maintenance, according to the Act, pertains to "provision for food, clothing, residence and medical attendance and treatment''.
- The only condition for claiming maintenance under this Act is that the persons must be unable to maintain themselves from their own earnings and property.
- The Act mandates that the maximum maintenance paid will be 10,000/- per month. The maintenance amount is determined by the needs of the claimant and the aim is provide maintenance for the person to lead a normal life.
- Parents or senior citizens can avail the services of the State government appointed maintenance officer to represent their interests during proceedings before the Maintenance Tribunal. Lawyers are not allowed to present cases before the Tribunal according to the Act.
- Any person who is responsible for the protection and care of a senior citizen and intentionally abandons the senior citizen completely is liable to pay a fine of 5000/- or be imprisoned for three months or both.

Global citizenship and National citizenship

- National citizenship assumes that our state can provide us with protection and rights we need to live. However, states today are to tackle a lot of problems and hence individual rights are guaranteed to protect the safety of the people. Global citizenship on the other hand, deals with the importance of citizenship across the national boundaries. Here, one may need the cooperative action by the people and the governments of many states.

Therefore, citizenship for all can resolve many socio- economic inequalities. Moreover, global citizenship reminds us that we live in a world where the states are interconnected with each other and strengthening the links is most important.

RIGHTS AND DUTIES

Introduction

- The language of rights has formed part of our moral, legal and political vocabulary for many centuries. Rights are so common in our world that we might suppose that they are woven into a fabric of human rights. The significance of rights in the modern era is not limited to their entrenchment in the constitutions and their announcement in international declarations. If all human beings possess rights merely in virtue of being human, then all humans possess rights merely in virtue of being human, then all humans possess a certain equality of moral standing which cuts across differences of class, caste or race or religion.

Do you know about rights?

- **Rights** are important conditions of social life without which no person can generally realise his best self. It is only when people get and enjoy rights that they can develop

their personalities and contributes their best service to the society. They are the common claims of the people which every cultures society recognizes as essential claims for their development and which are therefore enforced by the state.

"Rights are powers necessary for the fulfilment of man's vocation as a moral being..."
- T.H. Green

- **Isaiah Berlin** defines rights in terms of positive liberties and negative freedoms. A positive right is an entitlement to: A right to free expression, for instance, entitles one to voice opinions publicly. A negative right is a freedom from; Freedom of person is a right to be free of bodily interference.

Features

- Rights are the important rational and moral claims of the people for the societal development.
- They are available to all the people irrespective of caste, creed, race or gender bias.
- Rights are duties are interrelated to each other. "No duties, no rights." "If I have rights it is my duty to respect the rights of others in the society".
- Rights are justiciable.
- Rights are protected and enforced by the laws of the state. It is the duty of the state to protect the rights of the people.

Let us differentiate Rights and Responsibilities

- Rights and responsibilities are inseparable. When someone is borne with a lot of responsibilities, they are automatically bestowed upon with enough rights. Rights actually enable an individual to perform their responsibilities in the different roles we play on a day to day basis.

What are your responsibilities?

- ❖ To safeguard the unity and integrity of India.
- ❖ To protect the public property.
- ❖ To conserve and protect the natural resources of the country like wildlife, lakes, forests and rivers.
- ❖ To maintain the spirit of brotherhood and create harmony among all irrespective of caste, creed, colour and economic status.
- ❖ To preserve the rich Indian culture and heritage.
- ❖ To maintain the spirit of brotherhood and create harmony.
- ❖ To respect the National Anthem and National Flag.

Are you aware of the different types of Rights?

i. Natural Rights

- a. These rights are parts of human nature and reason. Political theory explains that an individual has certain basic rights and the government cannot deny these rights. In classical political philosophy, "natural right" denotes to the objective rightness of the right things, whether the virtue of a soul the correctness of an action, or the excellence of a regime.

ii. Moral Rights

- a. Moral rights include rules of good conduct, courtesy and moral behaviour. Moral Rights include rules of good conduct, courtesy and of moral behaviour and stand for moral perfection of the people.

iii. Legal Rights

- Legal rights are equally available to all the citizens and they follow without any discrimination. Legal rights are those which are accepted and enforced by the state. Legal rights are of three types:

    - **Civil Rights:** These are the rights which provide opportunity to each person to lead a civilized social life and that which are protected by the state. Right to life, liberty and equality are civil rights.
    - **Political Rights:** These are the rights by virtue of which the people get a share in the political process. These rights include the right to vote, right to get elected, right to hold public office, etc.
    - Economic Rights: These are the rights which provide the economic security to the people. The people are empowered to make proper use of their civil and political rights. Right to work, right to adequate security, right to social security.Legal rights are what the law says there are, insofar as the law is enforced. They gain importance through legislation or decree by a legally authorized authority.

iv. Contractual Rights

- These rights originate from the practice of promise – keeping. They apply to particular individuals to whom contractual promises have been made. Thenumerous examples of contractual rights include rights to purchase a product or service, right to sell a product or service.

v. Human Rights

- Human Rights are the rights of highest order. They are morally important and are possessed in virtue of the universal moral status of human beings. They are protected and supported by international and national laws and treaties.

Have you heard of Bill of Rights and Fundamental Rights?

- The Bill of Rights, in the United States, was adopted as a single unit on December 15, 1791, and they constitute a collection of mutually reinforcing guarantees of individual rights and limitations on federal and state governments. The Bill of Rights, in the United States, was adopted as a single unit on December 15, 1791, and they constitute a collection of mutually reinforcing guarantees of individual rights and limitations on federal and state governments.

- The Bill of Rights derives from the Magna Carta (1215), the English Bill of Rights (1689), the colonial struggle against king and Parliament. The United States Bill of Rights plays a central role in American law and government, and remains a fundamental symbol of the freedoms and culture of the nation.

James Madison Proposed the Bill of Rights. Bill of Rights was influenced by George Masori's 1776 Virginia Declaration of Rights &1689 English Bill of Rights.

- James Madison

Fundamental Rights:

- India won independence from the British Imperial-colonial rule in 1947.India emerged as democratic, secular country that had high emphasis on Rights.

- On August 29, 1947, the Constituent Assembly set up a drafting committee under the chairmanship of Dr. B.R. Ambedkar. The total number of amendments that were made was approximately 7635, out of which nearly 2473 were actually moved. The 12th session of the Assembly held on January 24, 1950 elected Rajendra Prasad as the first President of the Indian Union. The legal and political luminaries of the Assembly affixed their signatures on the official copies of the Indian Constitution.

- Part-III of the Indian Constitution contains Fundamental Rights that is the critical foundation of the Democratic ethos of the Indian Constitution. The Indian Constitution in its text and scope is the most detailed and the most elaborate in the world. Every minute aspect of the fundamental rights is enumerated in the Constitution which is also one of the important aspects for it to be voluminous. The various facets of the Fundamental Rights are elaborated below:

Right to Equality

It look the constituent Assembly 2 years 11 months and 20 days to frame the constitution.

- Right to Equality guarantees equality before law to all the people irrespective of their caste, creed, gender and race, etc. It also emphasis on the prevention of discrimination to visit any public places. This permits anyone to visit temples, restaurants, hotels and places of public entertainment. It also guarantees equality of

opportunity to employment to citizens in Union or states. Right to equality forbids any form of untouchability and considers this as a serious offence.

- Right to Freedom Equality and freedom or liberties are the two kinds of rights necessary for democracy. This article assures freedom of speech and expression, freedom to assemble peacefully and without arms, freedom to form associations and to move freely throughout India. Do you know that this Article also provides you the freedom to practise any profession of your choice? Yes, you can. You can set up a clinic, a pharmacy or even a supermarket.

- Right to Life and Personal Liberty No citizen can be denied of his personal liberty. This means no person can be detained without informing the grounds of his arrest. An arrested person has also the liberty to consult and be defended by a lawyer of his choice. Besides this, he is not to be kept under custody beyond 24 hours and must be produced before the Magistrate. Preventive Detention Preventive Detention is considered as a check on the actions of the miscreants which is actually the dire need of the hour. If the State feels that a person can be a threat to law and order as well as to peace and security of the nation, it can arrest or detain that person.

- Right against Exploitation There are millions and millions in our country who are exploited and used. They are the underprivileged and the deprived, in the society. In the today's scenario, human trafficking has become a serious exploitation of human beings. Human trafficking is buying and selling of human beings and treating them as slaves. Apart from human trafficking, child labour is another problem being faced where children are put into forced labour without payment.

- This is the reason why the Constitution has provided with the Right against exploitation, wherein trafficking in human beings and beggary are forms of forced labour. It also prohibits the children below the age of 14 years from employment in any factory or mine or any kind of hazardous labour.

Right to Freedom of Religion

- In India, all the people have the right to choose their own religion and faith. None can stop them from practising their religion as well as propagating it. These rights include the social as well as the personal aspects of the religion which are enjoyed by every citizen in the country.

- Right to freedom of religion guarantees to all persons freedom of conscience and authorises them to profess, practice and propagate any religion subject to the prescribed limitations of public order, morality and health. Article 26 allows establishing and maintaining institutions related to religious affairs and charitable purposes also. You can own a movable or an immovable property and administer the property in accordance with law.

Cultural and Educational Rights

- There are certain non-political rights of religious, cultural and linguistic minorities, groups or sections of people. Constitution guarantees these rights for them.

- No citizen is denied the admission to the State or the State aided educational institutions owing to caste, creed, gender, etc. The citizens have their right to get educated in any schools or colleges of their choice. If in case the institutions are found to practise discrimination, the government will not extend aid to such institutions. Moreover, the State should not dictate the pattern of education to these institutions too and must allow them to decide in order to preserve our culture.

Right to Constitutional Remedies

- Constitutional Remedies provides the rights to the citizens to move the Supreme Court or the High Court to protect their rights. Article 32 provides the remedies to the citizens at the Supreme Court while Article 226 by the High Court. The courts can issue writs or orders in the nature of Habeas Corpus, Mandamus, Certiorari, Quo Warranto and Prohibition or Injunction. Therefore, fundamental rights are critical and instrumental in protecting the rights and liberties of the individuals in the country.By doing so, they establish the democratic way of living through these cardinal principles of equality and justice.
- Fundamental Rights therefore constitute the cornerstone of our national liberty, which are cherished and attained after trials and tribulations.

Be aware of the new rights

Right to Information

- Do you have any queries to the Government? You can very well ask them about how they work and who arethe members who aid in their working. Wondering how? Yes, Right to Information Act of 2005 provides you this with this mandate of posing queries to the working of the Government. This is to empower the citizens and initiate transparency and accountability. An informed citizen is kept more vigil on the instruments governing the functions of the government thereby making them accountable.

Right to Privacy

- People of India will surely not surrender the most precious aspects of human persona, like, life, liberty and freedom. The citizen will surely not surrender all these rights to themercy of the state. Right to privacy is moreover an integral part of human dignity. "The right to privacy is protected as an intrinsic part of the right to life and personal liberty under Article 21 and as a part of the freedoms guaranteed by Part III of the Constitution"

Rights of Transgender

- Who are transgender? Have you seen them? Yes, transgender people are individuals of any age or sex and their appearance and characteristics are different from how men and women are supposed to be. They exist in every culture, race and class, ages back. Today they are addressed as the third gender. The Supreme Court has infect directed the Union and the State Governments to grant legal recognition of their gender identity. Moreover, the fundamental rights must be available. They are also entitled with the provision of public health and sanitation and socio-economic rights.

Directive Principles of State Policy

- Part-IV of the Indian Constitution is Directive Principles of State Policy. It constitutes the most comprehensive political, economic and social programme for the welfare state. They have set up the blueprint for a humanitarian socialistic perspective. The Directive Principles are a set of rules enforced upon the State to direct policies towards securing adequate means of livelihood for men and women equally. It also enforces equal pay for equal work for both men and women. These principles ensure a decent standard of living and full enjoyment of leisure and social and cultural opportunities. The incorporation of Gandhian Principles under the Directive Principles of State Policy directs in promoting cottage industries on an individual or cooperative basis in the rural areas. These principles also endeavour in controlling the consumption of intoxicants.

- Liberal Democratic Principles of the Directive Principles helps in securing a uniform civil code throughout the country. It also seeks to provide free and compulsory education to all children between the age group of 6 and 14 years. It also ensures that no child is subjected to any physical punishment or mental harassment.

- Liberal Democratic Principles of the Directive Principles helps in securing a uniform civil code throughout the country. It also seeks to provide free and compulsory education to all children between the age group of 6 and 14 years. It also ensures that no child is subjected to any physical punishment or mental harassment.

Political Obligation

- Do you feel or expect that the Government must be transparent and accountable to the citizens of the nation? If yes, then how are you reciprocating back to the Government? This is what Political Obligation is. It is related to moral affair. Every individual has to perform certain duties such as payment of taxes, participate in voting, perform judicial and military functions, but for what? It is in order to maintain the political institutions of the country.

- Political obligation binds a person to the performance of duties as mentioned in the Constitution. An individual has to follow the rules and regulations in the society for

his own welfare and the society's welfare. When the State is responsible towards the citizen, the citizen must also reciprocate to the Government. The proper functioning of the State depends upon the proper functioning of the systems of the government.

- The word 'political' actually deals with policy and the government's administration. The framework of the political system is framed and then the limitations of the power are identified.

- T.H. Green states political obligation as, "it is intended to include the obligation of the subject towards the sovereign, the obligation of the citizen toward the state, and the obligation of the individual to each other as enforces by the political superior."

Political Obligation and Political Authority

- When the state has a political authority, it has the right to compel the non-compliers. For example if anything within the State's authority to levy the taxes, then the State has all the rights to compel the non-compliers to pay the taxes. However, even if the State does not enforce its authority, still it is the moral duty of the citizens to comply with the laws.
- Hence, every human being is subject to political obligation owing to the omnipresence of the modern nation state. Political obligation otherwise involves three major aspects:

- The identifiable authority to which political obligation is rendered: If a person has an obligation to do or refrain from doing, he has to be directed by a person who has the authority or the power to direct or instruct. However, a person's political obligation has a certain link to the citizenship of the state. A foreigner will not have political rights but will have legal obligation and protection.

- To what extent political obligation can be rendered: The State can enforce laws and expect minimum obligation. This means that the people cannot be selective about the laws but have to obey the laws. Examples to quote can be voting, military duty, etc. These are the basic duties of the citizens which have to be compulsorily implied without being selective.

- The basis of Political Obligation: Political obligations have gained momentum only after the sixteenth century. Earlier, the people considered Political obligation as the will of God. But, modern political theory differs in its explanation. This theory says that no person is forced to do a work but they voluntarily assume their own duties as their valid obligations.

- Do you know why the people assume in such a way? The reasons are self-interest and realisation of the state's basic duties. The State is providing the people with physical safety and security. People are aware that securing justice or maximizing happiness cannot happen without the political authority. When these are provided by the state, naturally the people are responsible for political obligations.

Features of Political Obligation

- There prevails a source of political spirit and social service
- Honesty and integrity are the essential aspects when it comes to the performance of public duty.
- There must prevail political legitimacy and effectiveness
- The citizens also have the responsibility of guarding their guardians

- Let us think over the kinds of Political Obligations Political Obligations are of four kinds. What are they?

Moral Obligation: Are you hospitable to the guests who come to your house? Do you help the poor? Will you not take care of your parents in their old age? These are your moral obligations. They do not legally bind the community and the individuals and if you do not behave within the moral obligations, you can also not be punished. However, this is your ethics and moral principle innate in you.

Legal Obligation: Our nation is a welfare state where the Government focuses on providing us with the infrastructural facilities. Roads, health centres, hospitals, education, etc are few of the examples of concern.

Positive Obligation: There are certain rules made by the state which cannot be disobeyed and hence they are considered as the positive obligation. Can you think of some examples related to positive obligations? Yes, paying tax and serving the defence are some of the examples under positive obligation.

Negative Obligation: This is the direct opposite of positive obligation. Here, an individual is not permissible to do what the government prevents him from doing so.

- Now, think of some examples under negative obligation. Have you seen some people get drunk and behave in a very disorderly manner? Some drink and drive, some of them cause a lot of problems to the family after being drunk. In the same way, commission of crime is also a negative obligation. Hope, you understood what negative obligations are?

The Constitution and important obligations

- The Constitution is considered as a rule book of the state and it expects the citizens to adhere to the rules. If the Constitution has to work successfully, then people's cooperation is also a must. "Law is a means to an end and never an end to itself". There is a concept called the steam roller legislature. In case a law does not serve good then it has to be changed. There are situations where some laws are framed by the Government which are harmful and yet they get a support, which is called the Steam roller legislature. It is the duty of the citizen to resist such laws too. Hence, the concept of political obligation not only informs people to obey the rules and

regulations of the authority of power but also informs to resist if the laws are found not to be good for the society.

- Theories of Political Obligation All of us have some theories, values in life. We practise whatever is right and do not follow misguiding principles. In the same way, theories are applicable for political obligations too. There are different types of theories of political obligation:

i. The Divine theory

- In the olden days, people thought that the God created the state and the king was his representative. But this theory could be popular only during the ancient and middle ages but not during the modern era.

ii. The Consent Theory

- This theory proposes that the authority of the state is based on the people's consent. Hobbes, Locke and Rousseau justified this theory on the grounds that the authority of power was dependent on the people's consent. But, later it could not be accepted because it treated state as an artificial organisation.

iii. The Prescriptive Theory

- This theory states that the respect to the political authority is based on the principle of customary rights. It is a fact that political institutions are continuous from the past, this ideahas been supported by Edmund Burke. But over a period of time, it lost its effect due to its overemphasis on the respect for the well-established practices.

iv. The Idealistic Theory

- This theory regards man and the state as two entities. "Man" is regarded as a political and rational creature while "state" is considered as a self-sufficing community. This idealistic theory propounds that when the individual receives his rights from the state, he can have no rights that can conflict with the state. However, this theory proved to be quite abstract and which could not be understood by man.

v. The Marxian Theory

- The Marxian theory is actually different from the other theories. It has been classified into three stages:

Pre- revolutionary stage: This stage explains political non-obligation
Revolutionary Stage: It is an eventual change from political non-obligation stage to a stage of total political obligation.

Post- revolutionary stage: This stage is a complete transition from total political obligation to social development.

- The Marxian theory of politics explains the state as an instrument of power in the hands of the proletariat. Towards the success of the revolution to consolidate the socialist order, it may lead to what is called as 'withering away' of the state. However, this theory was also considered to be illogical since it made man subservient to the state.

Why should we obey the State? Is it necessary?

- Though the theories mention about the political obligation, yet some seem to be abstract while some are illogical too. But, have you ever thought why should we obey the state? Is it because you fear or you have a sense of patriotism? Shall we see, what are the reasons that make an individual to obey the state?

i. Fear of Punishment: Do you fear being punished by your teacher with an imposition if you go to school with an incomplete homework? Does your father obey the traffic signals properly fearing being penalised? Yes, fear is always there if we do not perform our tasks properly. In the same way, individuals perform their functions fearing punishments. In other ways, it is actually the coercive authority of the state that compels a man to conform to the system of regulations.

ii. Patriotism: Why do we stand up for our National Anthem? It is because of patriotism. We love our nation. Hence, to keep our surroundings as well as to keep the streets and roads garbage free is also our duty. So, the members of the state are conscious about the state they live as without that they cannot live as civilized human beings. The members develop a binding towards the state.

iii. Fear of disorder and anarchy: Do you like your house to be run in a disorganised manner? Imagine you have breakfast in the afternoon everyday and the clothes are strewn here and there. Would you like if your place is unclean? We don't. It is a general principle that human beings always wish for peace and order. They not only obey the laws but also look upon the ones who do not obey.

iv. Habits and traditions: We are all brought about to follow good habits like being courteous, honest, discipline and obedient. This is what our traditional values instilled. Hence, in a nation, even the citizens wish to establish good traditions, and obedience to the state, that which becomes a habit.

- Therefore, let us understand that political obligations are necessary for the citizen to maintain a good system nationwide. Every individual hence has to abide by the laws for a good reciprocation from the state as well.

Property

- Property is considered as a natural right which is necessary for human dignity, freedom and dignity of life. Property refers to the legal relations between the persons with respect to specific things which may be material or abstract. Abstract can be the copyrights of a book or a film, etc. Property does not only refer to the private property. Private property is one of the various forms of the property. The notion of private property relies upon the following features:

i. Do you own a house? If so, it is called as your private property where you are the owner and no one can access your property or claim.

ii. As an owner you can use your property but altering or destroying the same requires the necessary authorised permission.

iii. The third feature is, if in case you wish to transfer, some forms of transfer may be forbidden or penalized by taxation, like gift tax or capital transfer tax. Other forms of property include the public property, common property or the state property. Property rights grant the owner an exclusive power to decide what will happen to a particular thing or resource. Public properties include transport, railways, etc.

Locke and the Utilitarian Justification

- According to Locke, the Government's main function is to guarantee every citizen the protection of their individual rights and secure conditions to enjoy their properties peacefully. Humans need property which is also the necessary means of life. Humans do not plan their lives from moment to moment but rather plan with future material security.

- Security is an important aspect which can provide peace and happiness in the minds of the people. Hence, the utilitarian's state that the system of property rights is necessary if the individuals is to achieve a sense of happiness. If at all the governments want to promote the happiness of its people, productivity must be encouraged by protecting individual's property rights. No government should take away the property from the people who are expected to possess and enjoy.

Twentieth Century Developments

- Most of the developed and developing nations practised social welfare policies after World War II. The main components of these policies entailed taxation on property, transfer of basic industries, and basic public amenities like health and education to state control.

Feminist Perspectives

- With the advent of women empowerment in the 20th century, women too claim equal status. Feminist scholars state that an important condition for the subjugation of women has been owing to denial of access of women to resources to income, such as land. This is owing to the prevailing patterns of male ownership and control of such resources. Owing to this, status of women has been one of the dependence on men. This dependent status has actually led to their rights to own and claim property.

- The Indian Constitution does not recognize property right as a fundamental right. In the year 1977, the 44th amendment eliminated the right to acquire, hold and dispose of property as a fundamental right. However, Article 300 (A) was inserted in another part of the Constitution. This was to affirm that no person shall be deprived of his property save by authority of law. Hence, this has become a statutory right now.

- Hence, in a civilized society, the scope for coercion and forcible acquisitions needs to be minimal. Unless circumstances are compelling, no forcible acquiring of property must be initiated. The state should neither act as brokers nor as agents of big businesses but should be in according stronger property rights to the farmers too.

APPOLO STUDY CENTRE

12thvol I
unit – 1 Indian Constitution

Meaning, Functions and Significance of the Constitution

- Nationalism during the colonial period strived not only for political independence but also for territorial integration, constitutionalism and democratization.

- India is a culturally diverse country, yet united as a political state. Indians are dependent upon each other in many ways, and they cooperate in many ways. There is a felt need to have specific agreed basic rules and regulations which could facilitate the people of this country to live together. The absence of the basic rules and regulations may imperil the very statehood of India also make the people feel insecure. Colonial rule was based on Charters, councils Acts and government of India Acts. The leaders and political movements of the newly emerging Indian nation to based on a definite written constitution. The central legislative body was converted into a constituent Assembly (i.e. a constitution waking body). The proposed constitution was meant to bind different shatter and different categories of society into one state, facilitating a union of states and co-operation and co-ordination between various segments that constitute the federal narrow.

- The most critical function of a constitution is to provide a set of basic rules that allow for optimal coordination amongst members of the state. A constitution is a body of necessary codes according to which a state is constituted and governed. The constitution specifies the necessary allocation of power between the various segments of the state. Indian diversities necessitated a Union of states, and the freedom movements favoured a democratic form of government. For example, Accordingly the Parliament in India decides laws and policies.

- Constitution empowers the government to fulfill the aspirations of a society and create conditions for a just society. The part four of the Indian Constitution has provisions for the government to make laws to address many problems prevalent in Indian society. The constitution expresses the fundamental identity of the people in a country. People in a community may have many similar ethnic identities that exist before the enactment of the constitution. The people of a country will have a political identity after the promulgation of the structure by accepting the fundamental laws of the state put forth by the constitution. The individual's objectives, aspirations, and freedoms should comply with the constitutional regulations of a country. The constitution puts forth specificfundamental laws which cannot be violated by its citizens. It also protects certain fundamental rights of the people living in a country. The constitution of a country defines who are all the citizens of a nation. It also sets the framework that illustrates the relationship between the states or parts of a country with each other and even with the central government. Most of the constitutions in the world are written documents that comprise many articles and schedules. There are still a few constitutions like that of the United Kingdom which do not have one single document, which could be called

as a district constitution. The United Kingdom, instead has a series of customs, conventions and historical precedents which are collectively referred to as its coconstitutional components.

Formulation

- Formulation refers to how a constitution comes into being, who crafted it and their authority. Indian nstitutional components.
- Constitution like the United States was drafted after a successful national movement. The Constitution of India has the legitimacy since it has been drafted by a constituent assembly consisting of people's representations. The Constitution of India reflected the consensus of most of the sections of people in India during Independence. There are instances where some countries have subjected their constitution to a full-fledged referendum.

Referendum

- A referendum is a method of referring a question or set of questions to the electorate directly rather than allowing them to be settled by the people's representatives in the legislature. The referendum is also often used to determine issues of morality which divide a government of party and to settle local matters which it is thought are best left to individual areas to decide. The referendum is seen as conferring legitimacy and popular approval on an individual and sanctions absolute authority.

- Neither Indian Constitution nor the amendments made later were subjected to a referendum which could also be seen as a setback in Indian democracy perhaps the conditions prevailing at that time were not conducive to a referendum. In this regard may be useful to study the working of referendum in Switzerland.

Provisions of a Constitution

- An ideal constitution should accommodate the aspirations of all sections of people in society. Constitutions that are discriminative based on religion, caste and language may not get the overwhelming acceptance from all in the nation. The fundamental laws of the structure would reveal the nature of a constitution. Any constitution could be successful only when it preserves the freedom and equality of all its citizens.

Secularism in India

- The 42nd Amendment enlarged the Preamble of the Indian Constitution from "Sovereign Democratic Republic" to a "Sovereign, Socialist Secular Democratic Republic," and also changed the words "unity of the nation" to "unity and integrity of the nation." Former Prime Minister Indira Gandhi enacted the 42nd Amendment in 1976, during the Emergency, obviously to emphasise the latent secular and socialist ideals as inalienable sprit of the constitution.

- Well-drafted constitution does not concentrate all powers in a single person or a single institution as it may lead to abuse of power by few or one institution. One method that may be incorporated to address this issue is to divide powers among different organs in a balanced way.

The Indian Constitution separates the power horizontally amongst institutions like the legislature, executive and judiciary that prevents any of the organs from subverting the Constitution and enhances its success and durability. Indian Constitution is not too rigid and not too flexible, which is evident from the restrictions and flexibility in the name of the basic structure of constitution and

- amending provisions respectively. A well-drafted constitution will maintain the core values and also adapt itself to changing environment. The Indian Constitution balanced the possibility to not only change the provisions but also limits on such changes. The framers of the Indian Constitution had ensured that it would survive during the test of times.

Making of Indian Constitution

- The members of Constituent Assembly drafted the Indian Constitution. The Constituent Assembly held its first meeting on 9 December 1946 and re-assembled after partition of Pakistan as Constituent Assembly for the remaining India on 14th August 1947. The members of the Provincial Legislative Assemblies indirectly elected the members of the Constitutent Assembly.

- The Constituent Assembly was composed of members along the lines suggested by the plan proposed by the Committee of the British Cabinet, also known as the Cabinet Mission.

(February 1948: some members of the Drafting Committee of the Constituent Assembly of India: (seated from left) N. MadhavaRao, Saiyid Muhammad Saadulla, Dr. B. R. Ambedkar, Sir AlladiKrishnaswamyAyyar and Sir B. N. Rao. Also in the Picture are (Standing from Left) S.N. Mukherjee. Jugal Kishore Khanna and Kewal Krishnan)

According to this plan

- Provinces and princely states or group of states were allotted seats proportional to their respective population roughly in the ratio of 1:1 million. The provinces were to elect 292 members while the princely states were to send a minimum of 93 seats.

- The seats of each province were distributed among three main communities, namely, the Hindus, Muslims, and Sikhs, in proportion to their respective populations in their province.

- Members of each community in the Provisional Legislative Assembly elected their representatives by the method of proportional representation with a single transferable vote.

- The method of selection of representatives of Princely States was to be determined by the princely states themselves.

The composition of the Constituent Assembly

- Two hundred eighty-four members were present on 26 November 1949 and appended their signature to the Constitution as finally passed.

- The 1st meeting of the Constituent Assembly took place in Constitution Hall, New Delhi, on Monday, the 9th December 1946, at Eleven of the Clock. The title of the first debate was "Election of Temporary Chairman," Acharya J. B. Kripalani (United Provinces: General) requesting **Dr. SachchidanandaSinha**to take the Chair as temporary Chairman. (Constituent Assembly Debates) The Final meeting held on 24.01.1950 with the title of "Signing of the Constitution" and **Dr. Rajendra Prasad** is the Chairman of the debate. The Constituent assembly debate consists of 12 Volume and it held between **9th December 1946 to 24th January 1950 1.2 Sources of Indian Constitution The primary sources of the Indian Constitution are as follows:** The framers of the Constitution adopted the features of the Indian Constitution from several sources. The primary sources that inspired the framers of the Indian Constitution are:

Salient Features of Indian Constitution

Longest written constitution: The Indian Constitution is considered to be the longest written constitution in the world. It contains different provisions for states and centre and their inter-relationship. The framers of the Constitution have borrowed provisions from several sources and several other constitutions of the world. The Indian Constitution contains the detailed list of individual rights as fundamental rights, directive principles of state policy and details of administrative procedures.

A unique blend of rigidity and flexibility: Indian Constitution may be called rigid as well as flexible based on its amending procedure.
Sovereign, Socialist, Secular, Democratic and Republic: Its people govern India through their representatives elected by the universal adult franchise. India as a sovereign country means it manages its internal and external affairs freely without the interference of any external factors. The term socialist was added to the Indian Constitution through the 42nd Amendment in 1976. Socialism in Indian context means achievement of socialist goals through democratic, evolutionary and non-violent means. In India, we follow the mixed model of the socialist and capitalist economy. Secularism in Indian context means that it recognizes all religions equally without having any state religion. Republic in Indian context means the head of the state in India is elected and not the monarch.

Parliamentary System of Government: Parliament controls the functioning of the Council of Ministers, and hence it is called the Parliamentary system. In a parliamentary system of government, (i.e.) the executive is responsible to the legislature and remains in power only when it enjoys the confidence of the majority legislators. The President of India, remaining in office for a five-year duration, is the nominal, titular or constitutional head, and the executive head. However, the Prime Minister in India is the real executive and head of the Council of Ministers who are collectively responsible to the LokSabha.

Single Citizenship: Indian Constitution has the provision for single citizenship provided by the union and recognized by all the states across India.

Universal Adult Franchise: The Constitution of India establishes political equality in India through the method of the universal adult franchise which operates with the principle of 'one person one vote.' All Indians who are eighteen years of age or above is entitled to vote in the elections. There is no discrimination in voting rights for the citizens of India based on caste, religion, gender, race or status.

Independent and Integrated Judicial System: In India, the judicial system is an autonomous organ kept free from the influence and intervention of the executive and the legislature in exercising its functions. The integrated Indian judicial system has the Supreme Court at the apex, the high courts and lower courts are subordinate to it.

Fundamental Rights: Fundamental Rights are significant provisions of the Indian Constitution and are inviolable and normal times. Fundamental Rights in India can be suspended during emergencies; and can be amended by extra ordinary means. The provisions of Fundamental Rights are enforceable in the court of law when it is violated.

- **"Right to Education -**The Indian Constitution (Eighty - Sixth Amendment) Act, 2002 inserted Article 21-A in the Constitution of India to provide free and compulsory education to all children in the age group of six to fourteen years as a Fundamental Right in such a manner as the State may, by law, determine. The Right of Children to Free and Compulsory Education (RTE) Act, 2009, which represents the consequential legislation envisaged under Article 21-A, means that every child has a right to full-time elementary education of satisfactory and equitable quality in a formal school which satisfies certain essential norms and standards."

Directive Principles of State Policy: Fourth part of the Indian Constitution titled the Directive Principles of State Policies provides the guidelines to be followed by the states regarding governance and are not enforceable in the court of law.

Fundamental Duties: The Fundamental Duties were added to the Indian Constitution through the 42nd Amendment. Fundamental duties provided in part IVA Article 51A are moral conscience which ought to be followed by the Indian Citizens.

- **Federal or Unitary:** India is an indestructible Union with destructible states which means it acquires a unitary character during the time of emergency. The Union is not strictly a federal polity but a quasi-federal polity with some vital elements of unitariness. Though federal in form, the Indian Constitution, unlike other federal Constitutions, is both unitary as well as federal according to the requirements of the times and the circumstances.

Balancing Parliamentary supremacy with Judicial Review:

- The Constitution recognizes the need to provide for the review of the judgment or the order of the Supreme Court by itself. Subject to the provisions of any law made by Parliament or any rules made by the Supreme Court under Artical.145, the Supreme Court has the power to review any judgment pronounced or made by it. The independent judiciary in India with the power of judicial review is a prominent feature of our constitution. The harmonization which our Constitution has effected between Parliamentary Sovereignty and a written Constitution with a provision for Judicial Review is a remarkable achievement of the framers of our Constitution.**Indian Citizenship** Citizenship identifies those who are the lawful members of a country. The Citizenship Act, 1955 regulates the determination and acquisition of citizenship after the adoption of the Indian Constitution. The Indian Constitution provides for citizenship by birth, descent, registration, naturalization and by incorporation of territory. The Constitution also provides for renunciation and termination of citizenship under certain circumstances. The Constitution contains provisions regarding registration of Overseas Citizens of India and their rights. The Citizenship (Amendment) Bill, 2015 was introduced in LokSabha by the Minister of State, Ministry of Home Affairs, on February 27, 2015 that amends the Citizenship Act, 1955. The Act allows a person to apply for citizenship by registration or naturalization if they fulfill specific qualifications. A person may apply for a certificate of naturalization if they have resided in India or have served the Government in India for twelve months immediately preceding the date of application. The Bill allows the Central Government to relax the requirement of twelve months stay or service if extraordinary circumstances exist.

Fundamental Rights:

- The Constitution of India asserts the basic principle that every individual is entitled to enjoy certain essential rights. The provisions for Fundamental Rights are mentioned in Part III of the Indian Constitution. Fundamental Rights as categorized into six heads, firstly Right to Equality, secondly Right to Freedom, thirdly Right against Exploitation, fourthly Right to Freedom of Religion, fifthly Cultural and Educational Rights and lastly Right to Constitutional Remedies. Initially there was a provision for Right to Property under Article-31 which was also a Fundamental Right. The 44th Amendment Act, 1978 had omitted Right to Property from the Fundamental Rights Part and added it as Article 300A therefore considered as a legal right. Fundamental rights provided in Part III of the Indian Constitution are judicially enforceable, thereby the individual can move the judiciary, if there is a

violation on any of these rights. The right to move straight to the Supreme Court for theenforcement of fundamental rights has been guaranteed under Article 32 that is named as Right to Constitutional Remedies. Fundamental rights in India are however not absolute and rational restrictions can be imposed keeping in view of the security requirements of the state. It ensures political justice for the people.

Directive Principles of State Policy:

- One of the unique provisions of the Indian Constitution is the chapter on Directive Principles of State Policy. These principles are like directives to the government to implement them for establishing social and economic justice in India. It comprises significant provisions for equal pay for both men and women, free and compulsory primary education, and right to work. Part IV of the Indian Constitution also has provision for public assistance in case of old age, unemployment, sickness and disablement, the organisation of village Panchayats,adequate means to livelihood, special privilege to the economically backward sections of the people and distribution of wealth. Most of these principles could help in making India a welfare state. Though the provisions given in the Directive Principles of State Policy is not justifiable, these principles are considered very significant in the governance of the country.

Panchayati Raj: Gandhi VsAmbedkar:

- Gandhi wanted the central government to have minimal power, and he wanted the villages to rule themselves traditionally with village chiefs and councilors. According to Ambedkar, village possessed a cruel reality of communalism and caste system; thus it will lead to the cornering of minorities.

- Gandhi through his social and political initiatives facilitated the country to realize that the power of people which could be facilitated only through effective local self-government. "I shall work for an India in which the poorest shall feel that it is their country, in whose making they have an effective voice." Gandhi time and again emphasized need for power in the hands of the people in India through the Panchayat Raj model. Gandhi said, "The greater the power of the people, the better for the people."

My idea of Gram Swaraj is that it is a complete republic, independent of its neighbours for its own vital wants and yet interdependent for many others in which dependence is necessary. - Mahatma Gandhi

- For Ambedkar, those villages were nothing "but a sink of localism, a den of ignorance and communalism." The dominant and influential communities would make villages their monopoly and that would render other communities voiceless. The result was that the Constitution that was drafted under his Chairmanship did not mention a word about Panchayati Raj. Many Gandhians persuaded the

committee to have a provision for the village panchayats in Part IV of the Indian Constitution titled Directive Principle of State Policy vesting the responsibility in State legislatures. Article 40 states that the State shall take steps to organize village panchayat and endow them with such powers and authority as may be necessary to enable them to function as units of self- government.

Fundamental Duties

- Part IVA of Indian Constitution defines as Fundamental duties. (51A) - It shall be the duty of every citizen of India –

(a) To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;

(b) To cherish and follow the noble ideals which inspired our national struggle for freedom;

(c) To uphold and protect the sovereignty, unity, and integrity of India;

(d) To defend the country and render national service when called upon to do so;

(e) To promote harmony and the spirit of universal brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;

(f) To value and preserve the rich heritage of our composite culture;

(g) To protect and improve the natural environment including forests, lakes, rivers, and wildlife, and to have compassion for living creatures;

(h) to develop the scientific temper, humanism and the spirit of inquiry and reform;

(i) To safeguard public property and to abjure violence;

(j) To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement;

(k) Who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

Parliamentary democracy in India.

- Under Article 79, the Parliament of the Union consists of the President and two Houses known respectively as the Council of States (RajyaSabha) and the House of the People (LokSabha). The Union Legislature is bicameral, and the need for a bicameral system of the legislature in a federation is admitted: the Upper **Activity**

House represents the units, the Lower House represents the people; the two Houses respectively at once functioning to preserve the integrity of the units and to secure the integration of the Union. The RajyaSabha consists of 250 members, where the President nominates twelve in the manner provided. The remaining 238 members will be the representatives of the States and the Union territories. The LokSabha consists of 543 members chosen by direct election from territorialconstituencies in the States and not more than twenty-five members to represent the Union territories selected in such manner as Parliament may by law provide.

Relevance of RajyaSabha

- The 'Council of States' which is also known as RajyaSabha, a nomenclature that was announced by the Chair on 23rd of August 1954 as its distinguishable feature. It is the second chamber of the Parliament. The origin of the second Chamber can be traced to the Montague- Chelmsford Report. The Government of India Act, 1919 provided for the creation of a 'Council of State' as a second chamber of the then legislature with a restricted franchise which came into existence in 1921. The Governor-General was the ex-officio President of the then Council of State. The Government of India Act, 1935, hardly made any changes in its composition. An extensive debate took place in the Constituent Assembly regarding Second Chamber and decided to have a bicameral legislature due to a vast country with immense diversities. RajyaSabha is a federal chamber where 238 members are elected by the elected members of Assemblies of the States and Union Territories. Apart from elected, the President can nominate 12 members to RajyaSabha, thus making a total of 250. The Vice-President acts as the Chairman of RajyaSabha. In his absence, the deputy chairman takes the place of the chairman who is elected by the members of RajyaSabha. The 1st sitting of RajyaSabha was held on 13th May 1952, unlike LokSabha, RajyaSabha can never be dissolved.

- The Rules of Procedure and Conduct of Business in RajyaSabha is the booklet that provides explicit conduct of its members. There are various discussions namely: half an hour discussion, short duration discussion and motions of matters in public interests.

RajyaSabha

- ❖ The RajyaSabha means "Council of States," and it is the upper house of the Parliament of India.
- ❖ The RajyaSabha held its first sitting (1st session) on 13th May 1952, and recent sitting (246th session) held on 1st August 2018.
- ❖ Generally, during a year**,** three sessions of the RajyaSabha are held, as follows: **First Session** (Budget Session) is held between mid or late February and mid-May. **Second Session** (Monsoon Session) is generally held in mid-July to end

of August. **Third Session** (Winter Session) is held from the end of November to end of December.

- □ (Leaders of the House in the RajyaSabha in 1952 to Till Date)

Important Debate 1st August 2014: Use of Tamil as court language in Tamil Nadu

Importent"India, that is Bharat, shall be a Union of States. Article 1(1)"

Constructive debates in Tamil Nadu State legislative Assemblys

- The first Assembly (1952-1957) under the constitution of India discussed the scheme of elementary education launched by the Rajaji Government and criticized by many including a few in the Congress party that it would perpetuate caste-basedsocial hierarchy. After Kamaraj succeeded him, Education Minister C. Subramaniam in May 1954 informed the House that the scheme would be dropped. The Rajaji days are remembered for landmark laws to protect tenants of farmlands and landless agriculturists. "Premier of Madras Presidency, C. Rajaji presenting his fi rst budget in 1937. Location is Madras Legislative Assembly, Senate House, Chepauk Campus of Madras University Date 1937" In 1967, the DravidaMunnetraKazhagam came to power with C.N. Annadurai as Chief Minister. Th e Hindu Marriage Act was amended to recognize "self-respect marriages" or those marriages free of religious rituals. His successor and fi ve-time Chief Minister, M. Karunanidhi, piloted several Bills and moved numerous motions. In his last bill (2006-2011), laws for exclusive reservation for Muslims and Christians within the quotaof Backward Classes and Arundathiyars within the reservation of Scheduled Castes were made.

- The 10-year-long rule (1977-1987) of the Government, headed by M.G. Ramachandran of the All India Anna DravidaMunnetraKazhagam, was noted for various measures in the area of revenue administration. Notably, the system of hereditary village officers such as "karnam" was abolished at one stroke. He upgraded the mid-day meal scheme into Nutritious Meal Scheme.

Public Accounts Committee

The Chairperson of the Public Accounts Committee is appointed by the Speaker from amongst its Members of LokSabha. The Speaker, for the first time, appointed a Member of the Opposition as the Chairperson of the Committee for 1967-68.
□ Since the Committee became a Parliamentary Committee under the control of the Speaker from January 1950, it has presented 1596 Reports till April 2018.

- After the Supreme Court delivered the Mandal Commission judgment in November 1992 for reservation in education and employment at 50 percent, the Assembly responded through legislation aimed at safeguarding the existing 69 percent quota

for Backward Classes, Most Backward Classes, Scheduled Castes, and Scheduled Tribes.

Constitutional Amendments of India

- The framers of the Indian Constitution have given provisions to amend the Constitution according to the changing needs of society. The Constitution has not lost its ideals and basic premises though many such amendments have already taken place. The Indian judiciary has played a critical role in protecting the Constitution and also in interpreting the Constitution. The Indian Constitution like many other constitutions is a document that keeps evolving and responding to changing circumstances and political upheavals. The Indian Constitution continues to function as the primary framework within which the Government of India operates. The framers of the Constitution were very farsighted that they provided for many solutions for future situations. The Indian Constitution accepts and accommodates the necessity of modifications according to changing situations of the society. There has been enough flexibility in implementing the Constitution which has made the Indian Constitution a living document than a rigid rulebook. The framers of the Constitution sought a balance to ensure that it is not a static and unalterable document and also a sacred document where the basic structure is not altered. The framers of the Constitution desired it to be 'flexible' and at the same time 'rigid' and also to protect it from unnecessary and frequent changes. Article 368 of the Indian Constitution has the provision through which Parliament may in the exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution by the procedure laid down in this article. Since the Constitution was framing a federal polity, the basic rights and powers of the States may not be changed without the consent of the States. Some features of the Constitution were so central to the spirit of it that the framers wanted to protect these from change and so made it uncompromising. These considerations by the framers of the Constitution led to different ways of amending the Constitution.

There are three types of Constitutional Amendments, they are;

1. A simple majority (requires addition)
2. Amendment can be made by a special majority of the two houses of the Parliament. (2/3 of members present and at least 50 percent of the total members)
3. The third method requires a special majority of the Parliament and consent of half of the State legislatures.

- All these types of amendments to the Constitution are initiated only in the Parliament. Based on the provisions given no referendum are required for ratification of the amendment. The amendment bill will be presented before the President for his assent. The President has no powers to send it back for reconsideration in these cases. The elected representatives of the people are empowered to consider and take final decisions of the question of amendments.

Constitution Amendment Bills
Bills seeking to amend all other provisions of the Constitution including those enumerated in the provisions to article 368(2) are called by the title 'Constitution Amendment Bills'. These Bills can be introduced in either House of Parliament

Private Member Bills:

- If any member other than a minister introduces a bill, it is called a private member bill. The bill can be introduced by both ruling and opposition party MP's. Private member bill is a bill proposed by a member who is not a member of the cabinet and executive. The session for private member bill is held at alternative Fridays from 2 pm to 6 pm.

- This bill needs a month of notice; this has no impact on the health of the government when the private member bill gets rejected. Till date, parliament has passed fourteen private member bills; the last one was passed on 1970. Most of the bill passed by the private member is not even read or discussed and dismissed. Private members bills are accepted even those are constitutional amendment bills but not that those are money bills.

The Rights of Transgender Persons Bill, 2014

- ❖ In LokSabha, the last two and half hours of a sitting on every Friday, and in RajyaSabha two and half hours, i.e., from 2.30 p.m. to 5.00 p.m. on every alternate Friday are allotted for transaction of "Private Members' Business", i.e., Private Members' Bills and Private Members' Resolutions.
- ❖ The last time a private member's Bill was passed by both Houses was in 1970.

- ❖ Till Now, only Fourteen Private Member's bill have been passed by the Parliament. **The Rights of Transgender Persons Bill, 2014:** The Rights of Transgender Persons Bill, 2014 is a private member bill introduced by Trichy Shiva, which seeks to end the discrimination faced by transgender people in India.The Bill was passed by the upper house Rajya Sabha on 24 April 2015.It was introduced in the lower house LokSabha on 26 February 2016. The Bill is considered historic as for being the first private member's bill to be passed by any house in 36 years and by RajyaSabha in 45 years.

Article 370:

- The article 370 in the Constitution is about Jammu and Kashmir region given the provision which grants special autonomous status. According to this law, except defence, foreign aff airs, communication, and fi nance, the central government requires the State Government's permission for applying all other laws. Th e State and its residents have a separate set of laws relating citizenship,property right and fundamental right from other citizens of India. The centre has no power to impose

financial emergency through article 360 over the State. An emergency is declared only during the time of war and external aggression. Therefore the central government cannot declare an emergency for a case of internal disturbance or other dangers unless the state requests the centre.

Sankarlinganar

- Sankarlinganar is a Tamil Indian Independence activist and Gandhian. He was born in Manmalai Medu in Virudhunagar District to Karuppasamy and Valliammal in 1895. He joined the Indian National Congress in 1917. He also participated in the Salt March in 1930 along with Gandhi under Rajaji's influence. The consequence of PottiSreeramalu fasted demanding for a separate state of Telugu from Madras state for Telugu speaking people and Madrascity to be its capital in 1952 led to new agitation in Madras state in need to change its name.

- In 1956, Sankarlinganar started to fast on demand for change in the name of the state from Madras to Tamil Nadu. He started his hunger strike on 27th July on 1956 in Virudhunagar for 12 demands. Despite the request of C.N.Annadurai, M.P Sivaganam, and Jeevanardham, he continued to fast and died on the 76th day on 13th October 1956.

Tamil Nadu

- ThiyagiSankaralinganar observed Fasting 76 days from 27.07.1956 to 10.10.1956, for the name conversion of Chennai Presidency as "Tamizhagam."
- The State of Madras changed the name as State of Tamil Nadu by the Madras State (Alteration Of Name) Act, 1968.
- He was the person in India History to end his life by observing fast for many days in Gandhiyan Way

Select Committee

- The Select Committee is made up of a small number of parliamentary members appointed to deal with particular aspects originating in the Westminster System of parliamentary democracy.

- Under Rule 125 of the RajyaSabha Rules and Procedures, any member may move a bill which is referred to a select committee and, when the motion is admitted, the bill shall be referred to such a committee.

- The quorum needs to be one-third of the total number of members of the committee. In case of a tie on any matter, the chairman (or any other person presiding) will cast his vote. The select committee may appoint a sub-committee to examine any particular points connected with the bill. If any doubt arises on any aspect of the

procedure the chairman may refer the point to the RajyaSabha Chairman, whose decision will be final.

Important joint sittings
6 and 9 May 1961 on Dowry Prohibition Bill, 1959 26 March 2002 on Prevention of Terrorism Bill, 2002.

- Whenever a bill passed by one house is rejected by another house or any disagreement or more than six months has elapsed, the President of India may call a joint sitting of the two Houses to resolve the deadlock. The bill will be passed in both Houses by a majority of the total number of members of both Houses present and voting. There is no provisionin the Indian Constitution for a joint sitting of both houses on a money bill or a Constitution Amendment Bill.

APPOLO STUDY CENTRE

6th term 3

UNIT 6 - LOCAL BODIES – RURAL AND URBAN

The urban local bodies are categorized into City Minicipal Corporations, Municipalities and Town Panchayats, while the rural local bodies are categorised into Village Panchayats, Panchayat Unions and District Panchyats. These are together known as local bodies."

Those areas which have a population of more than one lakh and a high amount of revenue and is found in the level below the City Municipal Corporation is called a **Municipality**.

Town Panchayat has about 10,000 population. A **Town Panchayat** is between a village and a city.

NOTE

Tamil Nadu was the first state to introduce a town Panchayat in the whole of India.

The Government of Tamil Nadu will declare certain municipalities based on population and high revenue.

The List of corporations in Tamil Nadu

1. Chennai
2. Madurai
3. Coimbatore
4. Tiruchirapalli
5. Salem
6. Tirunelveli
7. Erode
8. Thoothukudi
9. Tiruppur
10. Vellore
11. Dindigul
12. Thanjavur

Municipal Corporation

A City Municipal Corporation has a **Commissioner,** who is an Indian Administrative Service (IAS) officer. Government officials are deputed as **Commissioners** for the municipalities. The administrative officer of a Municipality is an **Executive Officer** (EO).

Village Panchayats

Village Panchayatsare the local bodies of villages. They act as a link between the people and the government. Villages are divided into wards based on their population. The representatives are elected by the people.

The Elected Representatives

1. Panchayat President

2. Ward members

3. Councillor

4. District Panchayat Ward Councillor

Panchayat Union

Many village Panchayats join to form a **Panchayat Union**. A **Councillor** is elected from each Panchayat. Those councillors will elect a Panchayat Union **Chairperson** among themselves. A **Vice Chairperson** isalso elected.

A **Block Development Officer** (BDO) is the administrative head, of a Panchayat Union. The services are provided on the Panchayat Union level.

District Panchayat

A District Panchayat is formed in every district. A district is divided into wards on the basis of 50,000 population. The ward members are elected by the Village Panchayats. The members of the District Panchayat elect the **District Panchayat Committee Chairperson.** They provide essential services and facilities to the rural population and the planning and execution of development programmes for the district.

The local bodies are governed by the representatives elected by the people. The constituencies are called wards. People elect their ward members.

The Mayor of the City Municipal Corporation and the **Municipal Chairperson** are the elected representatives of the people. The people elect them. The Corporation **Deputy Mayor** and the Municipal **Vice Chairperson** are elected by the ward councillors.

Functions of the village Panchayat

Obligatory Functions

- Water supply
- Street lighting
- Cleaning roads
- Drainage & sewage pipes system
- Laying down roads
- Activation of Central and State Government schemes

Discretionary Functions

- Parks
- Libraries
- Playgrounds, etc.

Functions of the City Municipal Corporation

- Drinking water supply
- Street Lighting
- Maintenance of Clean Environment
- Primary Health Facilities

- Laying of Roads
- Building flyovers
- Space for markets
- Drainage System
- Solid waste management
- Corporation schools
- Parks
- Play grounds
- Birth and Death registration, etc.

As per the decisions taken in the city Hall meetings, the commissioner or officers assign these works to their subordinate officers or other servants. Thus, they all work in various levels to get these public works done. The Government directly allots funds for these works. The local bodies also collect revenue.

Revenue of the Village Panchayat

- House tax
- Professional tax
- Tax on shops
- Water charges
- Specific fees for property tax
- Specific fees for transfer of immovable property
- Funds from Central and State Governments, etc.

Revenue of the City Municipal Corporation

- House Tax
- Water Tax
- Tax on shopping complexes
- Professional Tax
- Entertainment Tax
- Vehicle Charges
- Funds by Central and State Government, etc.

Grama Sabha

A Grama Sabha is formed in every Village Panchayat. It is the only permanent unit in the Panchayat Raj System. Grama Sabha meetings are held even in smaller villages. The Grama Sabha is the grass root level democratic institution in a Village Panchayat. Those who have attained the age of 18 years and whose names are found in the electoral roll of the same Panchayat can take part in a Grama Sabha meeting. The Grama Sabha meetings are conducted four times a year. Officers like the District Collector, the Block Development Officer, teachers etc., also participate in this meeting. The people can freely express their needs and grievances.

NOTE

Meetings convened on **January 26, May 1, August 15 and October 2.**

Apart from these days, the meetings can be convened as per need or during emergency

Mahatma Gandhi advocated Panchayat Raj as the foundation of India's political system, as a form of government, where each village would be responsible for its own affairs. The Panchayat Raj Act was enacted on April 24, 1992.

Special features of Panchayat Raj

- Grama Sabha
- Three tier local body governance
- Reservations
- Panchayat Elections
- Tenure
- Finance Commission
- Account and Audit, etc

NOTE

1. **April 24** is National Panchayat Raj Day.
2. **VillupuramDistrict** has the highest number of Panchayat Unions (22), while The Nilgirisand PerambalurDistricts have the lowest number (4).
3. **WalajahpetMunicipality** (Vellore District) is the first Municipality in TamilNadu.
4. **Kanchipuram**District has the most number of municipalities.

Role of women in the Local Self Government

All local bodies have a reservation of 33% for women. In the 2011 Local Bodies election, 38% seats were won by women. As per the Tamil Nadu Panchayats (Amendment) Act, 2016, 50% reservation for women is being fixed in Panchayat Raj institutions.

Local Body Election

The tenure for the representatives of local self Government is 5 years. The election to the Local Bodies is held once in five years by the State Election Commission. Every state has a State Election Commission. The Tamil Nadu State Election Commission is situated in Koyambedu, Chennai.

Tamil Nadu

Village Panchayats - 12,524
Panchayat Unions - 385
District Panchayats - 31
Town Panchayats - 561
Municipalities - 125
City Municipal Corporations – 12

Unit I
State Government

Teacher: Good Morning my dear students.

Students: Good morning teacher / sir.

Teacher: (after taking attendance) All are present today. Very good. Coming Monday we have a function in our school. All Should be present on that day without fail.

Yogitha: Do we have any cultural programme?

Teacher: Yes. We are going to open the new building of our school.

Students: Yeah! We are going to a new class room!

Muthu: Who will be the Chief guest?

Teacher: We have invited our MLA as the chief guest for the opening ceremony.

Rahim: MLA. I have heard. But I don't know who is he?

Teacher: MLAs are representatives of the people. He is one among us. He is the Member ofLegislative Assembly

Saran: What is Legislative Assembly? Will you explain in detail?

Teacher: Sure. (Showing pictures of fort St. George, Assembly session, Chief Minister and other ministers)

Meena: What is that building? Where is it? It looks like a fort.

Teacher: Yes. You are correct. It is a fort in Chennai. FirstEnglish fortress inIndia. The fort currently houses the Tamil Nadu legislative assembly and Secretariat of Tamilnadu.

Legislative Assembly has the lower house where all the MLAs meet to discuss variousmatters related to the welfare of the state

Kayal: Who will be there in that Legislative Assembly?

Teacher: Listen! India has separate system of administration for the Union, States and Unionterritories. Do you know how many states and union territories are there in India?

Ravi: Shall I tell? 29 states and 7 union territories including our capital territory Delhi?Am I right teacher?

Teacher: Exactly. As I said already power is divided between two sets of governments one at the central in Delhi and separate governments for all the states. This is called as federalsystem.

India is a Parliamentary democratic republic where the President of India is the Head of Indian Union and the Prime Minister and all the Ministers are responsible for smooth runningof the government. This is called central government.

Nila: Do we have a separate government for states?

Teacher: Yes. All the states and union territories have separate governments to run its ownadministration. Governor, Chief Minister and all the ministers constitute theGovernment. The member of the Parliament is called MP whereas the member of theLegislative Assembly is called MLA. Both the Central and State Governments work according to our constitution.

John: Oh! Is MLA going to inaugurate the function? Who appoints him?

Teacher: No my child. MLAs are not appointed. They are elected by the people through generalelection. In the previous lesson we have studied about the political parties. Do youremember? These political parties play a vitalrole in election. For election, the entire state isdivided into several constituencies on the basis ofthe population. Political parties nominate theircandidates to each constituency. All the peopleresiding in that constituency who has completed18 years of age cast their vote. The candidatewho gets the more number of votes is declaredas elected and becomes MLA. The ElectionCommission of India conducts and monitorsthe elections. After the election the party whichgets the more number of MLAs is declared as themajority party. The Governor calls the leader ofthe majority party to form the state government.In simple words a party whose MLAs has wonmore than half the number of constituencies inthe state are called ruling party and forms the government. And the party which getsthe total number of seats next to the majority party, acts as an opposition party in thelegislature. But all the MLAs of other political parties who do not belong to the ruling
party are called opposition party.

Shanmi: It's very interesting to hear. Who are all included in the State Government?

Teacher: The Governor, the Chief Minister, Council of Ministers. The Governor is appointedby the president of India for the term of five years. The leader of the majority party isappointed as the Chief Minister by the Governor. The Chief Minister in consultationwith the Governor constitutes a cabinet which includes members ofhis party as ministers. The term of the office is five years.

Laya: Teacher! Shall I become the Governor? Or Chief Minister?

Teacher: Why not? My child! That is very simple. To become a Governor, you should be the citizen of India and should have completed 35 years of age and should have sound mind.And should not hold any public office of profit

To become a Chief Minister, youshould have completed 25 years of age and should be an MLA or in case of an MLCshould have completed 30 years of age.

Arya: Who is an MLC? I never heard.

Teacher: Usually a state Legislature has two houses. Upper House and Lower House. This iscalled Bi-cameral Legislature. Upper House is called Legislative Council. The membersare called MLCs and they are not elected directly by the people. The Lower House iscalled Legislative Assembly. The members are called MLAs. As I said earlier they are
directly elected by the people.

In India some of the states have two houses in their state legislature. But in Tamil Naduwe have Lower House only. This is called unicameral Legislature.

Ammar: Oh! Now can you please tell me the powers and functions of Governor and ChiefMinister?

Teacher: Sure. The Governor is an integral part of the State Legislature. Governor is the head of the state executive and he has enormous powers. All the administration is carried on in his name. He is the chancellor of Government universities in the state. All bills become
law only after his assent. He appoints important officials of the state government suchas advocate General, Chairman and members of State Public Service Commission,State Election Commissioner, Vice chancellors of state universities etc.

The Chief Minister is the real executive head of the state administration. He allocates theportfolios among the ministers. The Council of Ministers are collectively responsibleto the State Legislature. All the ministers work as a team under the Chief Minister. TheChief Minister formulates programmes and policies for the welfare of the people of thestate. The council of Ministers is collectively responsible to the Legislative Assembly ofthe state.

The three main organs of government are the legislative, executive and judiciary. Thelegislative branch makes laws, the executive branch enforces the laws, and the judiciaryinterprets the laws.

Nandhu: Judiciary. Are you saying about the courts teacher?

Teacher: Yes. The High courts are the highest judicial organ at the State level. It is an independent body. As per the constitution there shall be a High Court in each state. The state high court consists of a Chief Justice and other judges. The number of Judges in the high court is not uniform and fixed. President appoints the Chief Justice and can hold the office until he completes the age of 62 years. Apart from High court there are district courts and tribunals. They ensure justice to the people without any bias. Apart from this, Family Courts are established to settle the disputes relating to marriages and family affairs.

Lok Adalat (people's court) also have been established by the Government of India tosettle dispute through conciliation and compromise.

Children: This topic is very interesting to hear. Thank you very much teacher.

Teacher: Thank you children. A cultural programme is being allotted to our class for the
inaugural function. So let us think. We have to practice and perform well.

APPOLO STUDY CENTRE

UNIT – I: HOW THE STATE GOVERNMENT WORKS?

There are two sets of government in our country – the central government and the state government. There are 29 state governments in our country; every State has a government to run its own administration. The States have their own executive and legislature and Judiciary. The state executive consists of the Governor and the Council of Ministers headed by the Chief Minister. The Governor is an integral part of the State legislature.

The State Executive

The Governor

The Constitution provides for the post of the Governor as the Head of a State in India. He is appointed by the President of India. He is the constitutional Head of a State. The Governor is appointed for a term of five years. But before the expiry of his full term, the President can dismiss him from office. The Governor may also resign on his own interest. His term of office may be extended and he may be transferred to another State. However, the State Government cannot remove the Governor from his post. To be the Governor, a person must be a citizen of India and should have completed 35 years of age. And he cannot be a member of the Parliament or the State legislature. He should not hold any office of profit.

Powers and functions

- The Governor is the Chief Executive in a State. All the executive powers of the State are **vested upon him and decisions are taken in his name. He appoints the Chief Minister and Council of Ministers.**
- He makes some important appointments of the State Government, such as, the Advocate general, Chairman and members of the State Public Service Commission and others.
- The President imposes emergency in a State under Article 356 on the basis of the report of the Governor. The Governor also acts as the Chancellor of State Universities.
- He summons and prorogues the sessions of the State legislature and he can dissolve the Legislative Assembly.
- Money bills can be introduced in the State Legislative Assembly only with the approval of the Governor. The Governor may promulgate ordinances when the Legislative Assembly or both the Houses of the legislature (when there are two Houses) are not in session.
- The Governor may nominate one member from the Anglo- India Community to the Legislative Assembly if there are Anglo- Indian people in a State and when they are not duly represented in the State legislature. He may also nominate 1/6 members of the Legislature Council from among persons who are experts in the fields of science, literature, arts, social service and co- operative movement.
- The annual budget of the State Government is laid before the legislature with the approval of the Governor. The Governor must give his assent to all the bills

passed in the legislature including money bills. The Contingency fund of the State is also placed at the disposal of the Governor.

Position of the Governor

The position of the Governor of a State is compared to the President of India as a nominal executive. But the Governor is not always a nominal executive. He can exercise his powers in the real sense on some occasions. He acts as an agent of the Central Government in a State. Therefore, he is responsible for maintaining relation between the Central Government and the State Government. The Governor may advise the Council of Ministers when faces difficult situations. The President declares emergency in a State on the basis of the report of the Governor regarding the law and order situation in the State. The Governor takes independent decisions while exercising discretionary powers. He may seek information from the Council of Ministers regarding various activities of the Government.

The Chief Minister

The Governor appoints the leader of the majority party in the State Legislative Assembly as the Chief Minister. He is the head of the State Council of Ministers. The Chief Minister has no fixed term of office. He remains in office so long as he gets support of the majority members of the Legislative Assembly. When he loses support in the legislature, he has to resign. The resignation of the Chief Minister means the resignation of the whole Council of Ministers in the State.

The Chief Minister must be a member of the State Legislature. If he is not a member of the State legislature at the time of his taking over charge, he must be so within a period of six months.

Powers and Functions

- The Chief Minister is the chief administrator of the State. All major decisions of the State Government are taken under his leadership.
- The Chief Minister plays an important role in the formation of the Council of Ministers. On the advice of the Chief Minister, the Governor appoints the other Ministers.
- The Chief Minister supervises the activities of different ministries and advises them accordingly. He also coordinates the activities of different ministries.
- The Chief Minister plays an important role in making policies of the State Government. He has to ensure that the policies of the government do not go against public interest. His voice is final in policy decisions of the State Government.
- He plays an important role in making higher appointments of the State Government. The Governor appoints different higher officials of the State Government on the advice of the Chief Minister and his Council of Ministers.

The Legislature

In India, the State Legislature consists of the Governor and one or two houses. The upper house is called the Legislative Council while the lower house is called the Legislative Assembly.

Legislative Council

The Constitution provides that the total strength of the Legislative Council must not be less than 40 and not more than 1/3 of the total strength of the Legislative Assembly of the State. The members of the Legislative Council are elected indirectly. One third of its members are elected by the local government bodies like the District Panchayat and Municipalities. Another one third is elected by the members of the Legislative Assembly. One twelfth is elected by the graduates of the constituency and another one twelfth by the teachers of secondary schools, colleges and universities. One sixth of the members of the Legislative Council are nominated by the Governor of the State.

The Legislative Council is a permanent house. One-third of its members retire every two years and elections are held to fill the vacant seats. The members are elected for a term of six years. To be a member of the Legislative Council, one must be a citizen of India and should have completed 30 years of age. He cannot be a member of the Legislative Assembly or either of the houses of the Parliament. The Chairman is the presiding officer of the Legislative Council. In his absence, the Deputy Chairman presides over its meetings. They are elected from among the members of that house.

Legislative Assembly

The people who make the laws of a state government are called 'Members of the Legislative Assembly' (MLA). MLAs are chosen from different constituencies. For the election of MLAs the entire state is divided into different constituencies. These constituencies are called the legislative constituencies. One legislative constituency may have one lakh or even more people. One MLA is chosen from each legislative constituency to represent that legislative assembly.

Election to the Assembly

Different political parties compete in the elections to the legislative assembly. These parties nominate their candidates from each constituency. The candidate is that person who contests for the election and asks people to vote for him. A person has to be at least 25 years old to contest for election to the legislative assembly. One person can stand for election in more than one constituency at the same time. Even if a person does not belong to any politicalparty, he can contest election; such candidate is called an independent candidate. Every party has its own symbol. Independent candidates are also given election symbol. The members of legislative assembly (MLA) are elected directly by the people. All people residing in the area of a legislative constituency who are 18 years of age can cast a vote in the legislative assembly elections.

According to the Constitution, a Legislative Assembly cannot have more than 500 members and not less than 60 members. Some seats in the Legislative Assembly are reserved for Scheduled Castes and Scheduled Tribes. The Governor can nominate one

member from the Anglo-Indian community. The members of the Legislative Assembly are elected for a term of five years. But the Governor can dissolve the house before the expiry of its term and can call for fresh elections. The meetings of the Assembly are presided over by the Speaker who is elected from among the members of the Assembly. In his absence, the Deputy Speaker conducts its meetings.

The States Council of Ministers

The leader of the majority party in the election is chosen as Chief Minister. In Tamil Nadu there are 234 legislative constituencies. The party with more than 118 elected candidates (MLA) are invited by the governor to form the Government. The Chief Minister (who also should be an MLA) chooses his ministers from the MLAs of his party. Ministers for various departments headed by the Chief Minister is called the State Government. So it is said that the party which got majority seats in the election forms the government.

The working of the State Government

After being elected to the legislative assembly the MLAs are expected to regularly participate in its sittings. The legislative assembly meets 2 or 3 times in a year. The main duty of the Legislative Assembly is to make laws for the state. It can make law on the subjects mentioned in the state list and the concurrent list. However, during state emergency, it cannot exercise its legislative power.

The assembly has control over the State council of Ministers. The State council of ministers are responsible or answerable to the Assembly for its activities. The Assembly may pass a no confidence motion against the council of Ministers and bring its downfall if it is not satisfied with the performance of the council of Ministers. The legislative Assembly has control over the finances of the state. A money bill can be introduced only in the Assembly. The government cannot impose, increase, lower or withdraw any tax without the approval of the Assembly. The elected members of the Legislative Assembly can take part in the election of the president of India and all members can take part in the election of the members of the Rajya Sabha from the state. The Assembly also takes part in the amendment of the Constitution on certain matters. So the government has three basic functions: making laws, executing laws and ensuring justice.

How laws are made in State Government?

Several kinds of rules and laws have been made for all people of our country. For instance, there is a law that you cannot keep a gun without having a licence for it. Or that woman cannot marry before the age of 18 years old and men cannot marry before the age of 21 years. These rules and laws have not been made just like that. People elected their government who thought carefully before making such laws. A lot of such laws are made by the state and central government.

In the legislative assembly meetings, MLAs discuss a number of topics like public works, education, law and order and various problems faced by the state. The MLA s

can ask questions to know the activities of ministries, which the concern ministers have to answer. The legislative assembly makes laws on certain issues. The process of law making as follows:

Executing Laws

It is the job of the state's council of ministers to execute the law. The legislative assembly of Tamilnadu is located at Chennai. The place where a state's legislative assembly is located and where its council of ministers function is called the capital of that state.

The state government has several lakhs of governmentemployees to execute the laws made by the legislative assembly- Collectors, Tahsildars, Block Development Officers, Revenue officers, Village Administrative Officers, Policemen, Teachers and Doctors, etc. All of them are paid salaries by the state government. They have to follow the orders of the state government.

Judiciary of State

High Courts

The High court stands at the apex of the State Judiciary. As per the constitution there shall be a High Court in each state. But there may be a common High Court for two or more states and Union Territories. The State High Court consists of a Chief Justice and such other Judges as the President may appoint from time to time it necessary. The number of judgesinthe High Court is not uniform and fixed. The President appoints the Chief Justice of High Court in consultation with the Chief Justice of India and the Governor of the state.

A Judge of High Court must have the following qualification:

- He must be a citizen of India
- He must have at least ten years' experience as head of the judicial office in the territory of India.
- He must have at least ten years' experience as an advocate in one or more High Courts.

A Judge of High Court holds the office until he completes the age of 62 years. A Judge of the High Court can be removed from office only for proven misbehaviour or incapacity and only in the same manner in which a Judge of the Supreme Court is removed.

Power and Functions of the High Court

- The High Court has been empowered to issue writs of Habeas corpus, Mandamus, Prohibition, Certiorari and Quo Warranto for the enforcement of the fundamental rights and for other purposes.
- Every High Court has a general power of superintendence over all the lower courts and tribunals within its jurisdiction except military courts and tribunals.
- If a case is pending before a sub – ordinate court and the High Court is satisfied that it involves a substantial question of the constitutional law, it can take up the case and decide it itself.
- The High Court controls all the subordinate courts in the State.

- Like the Supreme Court, the High Court also acts as a Court of Record.

For the purpose of judicial administration, each state is divided into a number of districts, each under the jurisdiction of a district judge. The district court Judges were appointed by the Governor. In the exercise of the above mentioned powers, the High Court enjoys full powers and freedom to act within its jurisdiction. The constitutional safeguards have ensured its independent working.

NOTE

1. While appointing the Governor, the President acts as per the advice of the Union Cabinet. Th e State Government is also consulted when the appoint- ment is to be made. Generally, a person is not appointed Governor in his own State.
2. At present, only seven states in India have Legislative Council in their legislature. They are Bihar, Uttar Pradesh, Maharashtra, Karnataka, Jammu & Kashmir, Andhra Pradesh and Telengana

3. The State legislature follows the same procedure for passing an ordinary or a money bill like that of the Parliament. In State legislatures also, the Legislative Assembly which is the lower house is more powerful than the Legislative Council which is the upper house.

APPOLO STUDY CENTRE

9th Full Book

Unit 4 – Forms of Government

- Government is the main agency of the state. It comprises of several members belonging to political and administrative wings. It serves as the instrument for delegation and execution of the state policies for the welfare of the people. It formulates expresses and realizes the will of the state. It exercises certain legislative, executive and judicial powers based on the constitution and the laws. There are three organs in government, namely – Legislature, Executive and Judiciary. These organs carry out the activities of the state. Governments are classified into unitary, federal, parliamentary and presidential forms.

Meaning

- 'Government' refers to the executive functions of the state. It denotes a body having authority to make and enforce laws applicable to the civil, corporate, religious, academic or other groups.

Unitary Form of Government

- A unitary system of government or unitary state is a sovereign state governed as a single entity. The central government is supreme and the administrative divisions exercise only powers that the central government has delegated to them.

- England, France, Japan and SriLanka are examples of Unitary Form of governments.

- In a Unitary form of government, all the authority and power is vested in a single centre, whereas in a federal form of government authority and power is distributed between centre and the constituent units. Even in a unitary form of Government, there might be a lot of decentralization of authority, but we cannot claim it as a federal system.

Merits of unitary form of government

- Suitable for small countries.
- There is no conflict of authority and responsibility.
- A unitary government will make prompt decisions and take speedy action.
- A unitary government is less expensive.
- Amendments to the constitution are easy.
- There is unity, uniformity of law, policy and administration.

De-merits of unitary form of government

- It is not suitable for big countries.

- The central government will have to tackle so many complex problems that lead to administrative delay
- The central government will not concentrate on local problems, local interest and initiative.
- The concentration of powers may pave way for the despotism of the central government.

Unitary features of the indian constitution

- Strong Centre
- Central Government's control over state territory
- Single Constitution
- Flexibility of the Constitution
- Unequal representation of states
- Emergency Provisions
- Single Citizenship
- Single Integrated Judiciary
- All India Services
- Appointment of Governor by the central government

Federal form of government

- The classification of governments into unitary and federal is based on the nature of relations between the national and the regional governments.

- A federal government is one in which powers are divided between the national government and the regional governments by the Constitution itself and both operate in their respective jurisdictions independently. U.S.A, Switzerland, Australia, Canada, Russia, Brazil, Argentina have federal form of governments. In a federal model, the national government is known as the Federal government or the Central government or the Union government and the regional government is known as the state government or the provincial government.

Merits of federal form of government

- Reconciliation of local autonomy with national unity
- Division of power between centre and states leads to administrative efficiency
- It gives rise to big states
- Distribution of powers check the despotism of central government
- More suitable for bigger countries
- It is good foreconomic and cultural progress

De-merits of federal form of government

- Federal government is weaker when compared to the unitary government.
- Federal government is more expensive
- Provincial tendencies are very common
- Lack of uniformity in Administration
- Threat to national unity
- Distribution of powers between centre and states lead to conflicts
- Double Citizenship
- Rigid constitution cannot be mended easily for changing needs
- The state governments sometimes place hindrances in the foreign policy

Country	**Name of Parliament**
Israel	Knesset
Germany	Bundestag
Denmark	Folketing
Norway	Storting
U.S.A	Congress

Federal features of the Indian constitution

- Dual Government
- Written Constitution
- Division of Powers
- Supremacy of the Constitution

Difference between Unitary Form and Federal Form of Government

Unitary Form of Government	**Federal Form of Government**
Only one level of Government or Sub units	Two levels of Government
Mostly Single Citizenship	Dual Citizenship
Sub units cannot operate independently	Federal Units are answerable to Central Government
No Division of Power	Division of Power
Centralisation of Power	Decentralisation of Power

Parliamentary form of government

- Modern democratic governments are classified into parliamentary and presidential on the basis of the nature of relations between the executive and the legislative organs of the government.

- The parliamentary system of government is the one in which the executive is responsible to the legislature for its policies and acts.

- The parliamentary government is also known as cabinet government or responsible government or Westminster model of government and is prevalent in Britain, Japan, Canada and India among others.

Features of parliamentary form of government

- Nominal and Real Executives
- Majority Party Rule
- Collective Responsibility
- Dual Membership
- Leadership of the Prime Minister
- The Constitution is the supreme law of the land. The laws enacted by the Centre and the states must confirm to its provisions.
- Rigid Constitution
- Independent Judiciary
- Bicameralism

Merits of the parliamentary form of government

- Harmony between Legislature and Executive
- Responsible Government
- Prevents Dictatorship
- Wide Representation

Demerits of the parliamentary form of government

- Unstable Government
- No Continuity of Policies
- Dictatorship of the Cabinet
- Against Separation of Powers

The Presidential form of government

- The Presidential Form Of Government is also known as non-responsible or non-parliamentary or fixed executive system of government, basically built on the principle of separation of power and is prevalent in the USA, Brazil, Russia and Sri Lanka among other.

Features of Presidential form of government

- The American President is both the head of the State and the head of government. As the head of State, he occupies a ceremonial position. As the head of government, he leads the executive organ of the government.
- The President is elected by an electoral college for a fixed tenure of four years. He cannot be removed by the Congress, except by impeachment for a grave unconstitutional act.

- The President governs with the help of a cabinet or a smaller body called 'Kitchen Cabinet'. It is only an advisory body and consists of non-elected departmental secretaries. They are selected and appointed by him, are responsible only to him and can be removed by him any time.
- The President and his secretaries are not responsible to the Congress for their acts. They neither possess membership in the Congress, nor attend its sessions. The President cannot dissolve the House of Representatives—the lower house of the Congress.
- The doctrine of separation of powers is the basis of the American presidential system. The legislative, executive and judicial powers of the government are separated and vested in three independent organs of the government.

Merits of the presidential system of government

- Democratic
- Effective Control by the President
- Facilitate decision-making
- State government

Demerits of the presidential system of government

- Can degenerate into Dictatorship
- Strain relationship between executive and legislature
- Lack of Harmony between the Legislature and Executive

Difference between the Parliamentary Form of Government and Presidential Form of Government

Presidential Form of Government	**Parliamentary Form of Government**
President is directly elected by the people	Prime Minister is from the majority party
President is Supreme	Central Legislature is Supreme
Separation of Powers	Absence of Separation of Powers Centralisation.
Independent branches	Independent branches with overlapping functions
President – Head of the State	President – Head of the State
President - Head of the Government	Prime Minister - Head of the Government
Individual Leadership	Collective Leadership
President is not accountable to Congress	Collectively and Individual Responsibility

The relationship between the Centre and the State in India

India is a union of States where the power is shared between the centre and the states, as per the procedures mentioned in the Constitution of India. Though the powers are shared between the Central and State Governments, the final decision is by the Central government in all matters. The relationship between the centre and the states are
1. Legislative relations (Articles 245-255)

2. Administrative relations (Articles 256-263)
3. Financial relations(Articles 268-293)

Both the Central and State governments have the power to make laws, but the matters differ. The centre can make laws applicable to the whole nation on certain matters called as the union list. The States have the powers to make laws in some matters only, applicable to their own state, called as the State list. The concurrent list includes the subjects on which both Central and State government have the power to make laws.
Union List: Union list has 100 subjects. These include Foreign affairs, Defence, Armed forces, Posts and Telegraphs, inter-state trade and commerce and so on.
State List: The state list consists of 61 subjects, which include Public order in the state, police, prisons, Local Governments, agriculture and so on.
Concurrent List: The Concurrent list has 52 subjects which include Criminal and Civil procedures, marriage and divorce, economic and special planning, newspapers, books and printing presses, population control and so on.

THE CONCEPT OF GOVERNANCE

From Government to Governance

- Good governance is an indeterminate term used in the international development literature to describe how public institutions conduct public affairs and manage public resources. Governance is 'the process of decision-making and the process by which decisions are implemented'.

- 'Government' and 'governance' are synonyms, both denoting the exercise of authority in an organization, institution or state.

Characteristics of good governance

- Participation
- Rule Of Law
- Transparency
- Responsiveness
- Consensus Orientation
- Equity
- Effectiveness And Efficiency
- Accountability

Gross National Happiness (GNH):

Gross National Happiness is a developing philosophy as well as an 'index' which is used to measure the collective happiness in any specific nation.The concept was first mentioned in the constitution of Bhutan, which was enacted on 18 July 2008.

The term 'Gross National Happiness' was coined by the fourth king of Bhutan, JigmeSingyeWangchuck, in the 1970s. The GNH's central tenets are: "Sustainable and

socio-economic development; environmental conservation; preservation and promotion of culture; and good governance".

GNH is distinguishable by valuing collective happiness as the goal of governance and by emphasizing harmony with nature and traditional values.

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APPOLO STUDY CENTRE

UNIT 5 - LOCAL SELF GOVERNMENT

Meaning of Local Self Government

- Local Self-Governments are institutions that look after the administration of an area or a small community such as a village, a town or a city. Local Self- Government operates at the lowest level of society. It works at the grassroot level, close to the people, touching their everyday life. Local Self-Government is the management of local affairs by such local bodies which have been elected by the local people. These local bodies provide services to the local community as well as act as an instrument of democratic self-government.

Historical Background

- The idea of local self government is a very old concept in India. It was at its peak under the later Cholas or the Imperial Cholas of Tanjore. There are historical records of references to local self government under Mauryanadministration. Local self government existed throughout the country with its own diverse characteristics of ancient India. During the medieval period, local self governments had somewhat declined due to the onslaught of feudalism. It was revived during the British period in the last quarter of the 19th century, with Western orientation of training in democracy with Lord Ripon's Resolution in 1882. Lord Ripon was known as the 'Father of Local Government for laying the foundations of local self governments in modern times.

- Under the Government of India Act, 1935 provincial autonomy was introduced. This Act came into force in 1937. In the provinces where the Congress formed its Government, rural development received special attention. It was an essential part of Gandhi's programme that PanchayatRaj institutions would be built from villages to the highest level.

- After Independence, the Gandhian ideal of GramaSwaraj (Village Republic) greatly influenced the constitution makers. India being the land of villages, the creation of village panchayats became a social movement. Restoration of panchayats has become an article of faith during our freedom struggle. Hence with the dawn of independence and framing of the constitution of India, Article 40 was incorporated in the constitution which reads as: "the State should take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as the units of self Governments."

Lord Ripon

- Lord Ripon was the one who gave Indians the first taste of freedom by introducing the Local Self Government in 1882.Ripon took some steps towards liberalizing the administration in India. He f o r m u l a t e d the local self government and made it clear that he was advocating for the decentralization of administration.

- He tried to remove obstacles in the sphere of Local Self government by his resolution of 1882. He led a series of enactments in which larger powers of the local self-government were given to the rural and urban bodies and the elected people received wider rights.

Local Self Governments since Independence

- The conceptualization of the system of local self-government in India took place through the formation and effort of four important committees from the year 1957 to 1986. The Community Development Programme (1952) and National Extension Service (1953) became a basis for 'The Great Charter on Panchayat Raj' in 1957.

Salient Features of the 73rd and 74th Constitution Amendment Acts (1992)

- Panchayats and Municipalities will be 'institutions of self-government'.
- Basic Units of Democratic System – GramaSabhas (Villages) and Ward Committees (Municipalities) comprising all the adult members registered as voters.

    - Three-tier system of panchayats at village, intermediate block/taluk/mandal and district levels. Two-tier for smaller states with population below 2 million.
    - Seats at all levels filled by direct elections.
    - Seats reserved for Scheduled Castes (SCs) and chairpersons of the Panchayats at all levels also shall be reserved for SCs and STs in proportion to their population.
    - One-third of the total number of seats reserved for women. One-third of the seats reserved for SCs and STs also reserved for women. One-third offices of chairpersons at all levels reserved for women.
    - Uniform five year term and elections to constitute new bodies to be completed before the expiry of the term. In the event of dissolution, elections must be held compulsorily within six months.

Salient Features of the Tamil Nadu Panchayati Raj Act, 1994

- The New PanchayatRaj System came into being in Tamil Nadu after the enactment of a new law for local body institutions in the year 1994. The salient features of the new Act are as follows:

1. A three-tier system
2. Gram Sabha
3. Establishment of Election Commission
4. Constitution of Finance Commission
5. Reservation of seats for SC/ST's proportionate to their population One third reservation of seats for women and
6. Constitution of District Planning Committees.

Village Panchayat

- Local governments which are function in villages are called Village Panchayats. The President and ward members are directly elected by the people. (Those who have attained the age above 18) and their term of office is five years. District Collector act as the Inspector of Village Panchayat. Village Panchayats are constituted in each and every village wherever the population is above 500.

Functions of the Village Panchayat

- Supply of drinking water
- Maintenance of street lights
- Maintenance of roads
- Maintenance of village libraries
- Maintenance of small bridges
- Granting permission to the housing plots
- Maintenance of drainage
- Construction of group houses
- Cleaning of streets
- Maintenance of burial grounds
- Maintenance of common lavatory facilities

Voluntary Functions.

- According to the Tamil Nadu Local Government Act passed in 1994, the following functions to be performed as voluntary functions by the local governments.

  - Maintenance of street lights in the villages
  - Maintenance of markets and fairs
  - Implantation of trees
  - Maintenance of play grounds
  - Maintenance of parking vehicles, slaughter houses and cattle sheds
  - Control over places of exhibition

Revenue

Village Panchayat was the only local government which was empowered to levy taxes in the three-tier system of Village Panchayat.

Taxes

- Property Tax
- Professional Tax
- House Tax
- Taxes for connection of drinking water
- Land Tax
- Taxes levied on shops

Meeting of Gram Sabha

- In each and every village, the people living within its jurisdiction will be the members of Panchayat. The President of the Panchayat will preside over its meetings. In the meeting of the GramaSabha, the income and expenditure and the beneficiary of the schemes in the village are discussed.

Meetings of the GramaSabha are conducted four times a year

1. January 26 - Republic Day
2. May 1 - Labourer Day
3. August 15 - Independent Day
4. October 2 - Gandhi Jayanthi

Panchayat Union

- Panchayat Union is formed by grouping of villages. Members of the Panchayat Union are directly elected by the people. The Chairman of the Panchayat Union is chosen from among the members.

Functions of the Panchayat Union

- Supply of drinking water
- Maintenance of Village Health Centres
- Maintenance of roads
- Establishment of Maternity Homes
- Establishment of Public fairs
- Establishment of Veterinary hospitals
- Maintenance of Social forests
- Repairing of Primary School buildings

District Panchayat

- A District Panchayat is constituted in each district. One district Panchayat is constituted for every 50,000 people and the ward members are directly elected by the people. The Chairman is elected from one among its members and their term is 5 years.

Functions of District Panchayat

- Advising the government about the developmental schemes of the Village Panchayat and Panchayat Union.
- Supervising the functions of District Planning Commission.

Urban Local Government

- Town Panchayat
- Municipality
- Corporation

Gandhi's Concept of Gram Swaraj

- Gandhi really wanted 'Swaraj', the self rule by the people of India who represent the rural mass. He observed 'India's soul lives in the village'. He dreamt of village republics in terms of Panchayat in free India. Mahatma Gandhi advocated Panchayat Raj, a decentralized form of government, where each village is responsible for its own affairs, as the foundation of India's political system. In simpler words, Gandhi's ideal village should be basically self-reliant, making provision for all necessities of life-food clothing, clean water, sanitation, housing, education, and other requirements, including government and self-defense.

Town Panchayat

- The area where more than 10,000 people live is called a Town Panchayat. Members and President of the town Panchayat are directly elected by the people. There is an Executive Officer to look after the administration of the Town Panchayat and their term of office is 5 years.

Municipality

- The area where more than 1,00,000 people live is called a Municipality. The Members and the Chairman of the Municipalities are directly elected by the people and their term of office is five years. A Municipal Commissioner is appointed by the government to administer the Municipality.

Corporation

- Municipal corporations are established in big cities where the city has many lakhs of population. The Municipal Commissioner is the Administrative Officer. The Mayor is the Chairman of the corporation. The term of office of the Mayor and other members is five years. In Tamil Nadu, there are 12 Corporations. They are in Chennai, Kovai, Madurai, Trichy, Tirunelveli, Salem, Erode, Vellore, Tuticorin, Tirupur, Tanjore, Dindigul. The Municipal Commissioner will be a person from the

Indian Administrative Service (IAS). All the decisions of the Corporation Council will be implemented by him. He will be assisted by the office of the corporation.

Important functions of the Mayor

- He acts as a bridge between the members of the corporation and the government
- He presides over the meetings of the Corporation Council
- He receives the dignitaries from foreign countries

T**ypes of other Urban Panchayats**

- Notified Area Committee
- Town Area Committee
- Cantonment Board
- Township
- Port Trust
- Special Purpose Agency

Elections to the local government in Tamil Nadu

- The State Election Commission conducts the elections to the local government like general elections. The electoral roll is prepared ward wise. Seats are reserved for the SC & ST and also for the women in proportion to the population by rotation basis.

Problems and Challenges facing the Local Self Governments

- Local self governments are the crucial basis for our democracy. The Constitutional status of local self governments adds more significance to their functioning. There are, however, a few critical concerns in the working of local self governments in India. Major problems and challenges may be mentioned as below:

  - Lack of clear demarcation of powers and functions of local bodies
  - Allocation of funds and needs assessment are not matched
  - Role of caste, class and religion in decision-making at the local self governments
  - Poor accountability of elected members and officials at the grassroot levels of democracy

Piped water supply scheme in Erode Municipality:-

- Periyar E.V.Ramasamybacame the Chairman of Erode Municipality in 1917. During his tenure in Erode Municipality, Periyar worked effectively for Providing piped drinking water supply and health facilities to the people. Piped water supply scheme was implemented in 1919 by Periyar. This scheme was said to be first of kind in the history of Indian Municipal administration.

10th std
Unit – 2 CENTRAL GOVERNMENT

The President of India

In the scheme of parliamentary system of g o v e r n m e n t provided by the constitution, the President is the nominal executive authority. The chief executive of the Indian union is the President. He is designated as the First citizen of India. He is the supreme commander of the armed forces. The President is also the Constitutional head of the Union Executive. He is also responsible for constituting the judiciary. According to Article 53 of the constitution, the executive power of the Union shall be vested in the President which shall be exercised by him directly or through officers subordinate to him in accordance with Constitution.

Qualification for the election as President

The constitution lays down qualifications for a Presidential candidate.

- He should be a citizen of India.
- He must have completed the age of thirty five years.
- He must not hold any office of profit under the Union, State or local Government.
- He should have the other qualifications required to become a member of the LokSabha.
- His or her name should be proposed by at least ten electors and seconded by another ten electors of the Electoral College which elects the President.

The President cannot be a Member of Parliament or of a State Legislature; if he is a member of any legislature, his seat will be deemed to have been vacated on the date he / she assumes the office of President.

Election of the President

The President is elected by an electoral college in accordance with the system of proportional representation by means of single transferable vote. The Electoral College consists of the elected members of both houses of Parliament and the elected members of the states and elected members of National Capital Territory of Delhi and Puducherry. Once elected as the President has to take an oath of office before the ChiefJustice of India. The President is elected for a term of five years and can be re-elected.

Powers of the President

The powers and functions of the President of India can be broadly classified under thefollowing categories.

Executive Powers

The constitution vests in the President of India all the executive powers of the Central Government. Article 77 requires that every executive action of the Union shall be taken in the name of the President. So he has to make many appointments to key-offices to run the administration.

He appoints the Prime Minister and the other members of the Council of Ministers, distributing portfolios to them on the advice of the Prime Minister. He is responsible for making a wide variety of appointments. These include the appointment of Governors of States, the Chief Justice and other Judges of the Supreme Court and high Courts, the Attorney General, the Comptroller and Auditor General, the Chief Election Commissioner and other Election Commissioners the Chairman and other Members of the Union Public Service Commission Ambassadors and High Commissioners to other countries.

He appoints a commission to investigate into the conditions of SCs, STs and other backward classes. He is the supreme commander of the defence forces of India, in this capacity the President can appoint Army, Navy, and Air Chiefs.

Legislative Powers

The President is an integral part of the Union Parliament. He inaugurates the session of the Parliament by addressing it after the general election and also at the beginning of the first session each year. This address is essentially identical in nature to a Speech from the Throne. The President summons Parliament at least twice in a year. He may send messages to either House of the Parliament with respect to a bill pending in the House. All bills passed by the Parliament become "Laws of Acts" only after getting assent of the President. Money bills cannot be introduced in the Parliament without his approval. President terminates the sessions of both or any of the Houses of Parliament. He can even dissolve the LokSabha before the expiry of the term of the House. He nominates 12 persons who are eminent in literature, science, sports, art and social service to the RajyaSabha. He can also nominate two persons belonging to Anglo-Indian Community to the LokSabha, if in his opinion, that community is inadequately represented in the House.

Financial Power

Money bill can be introduced in the Parliament only with his prior recommendation. Annual Budget of the Central Government is presented before the LokSabha by the Union Finance Minister only with the permission of the President. He causes to be laid before the Parliament the annual financial statement (the Union Budget). The Constitution of India places the Contingency Fund of India is at the disposal of the President. No demand for a grant can be made except on his recommendation. He can make advances out of the contingency fund of India to meet any unexpected expenditure. He constitutes a finance commission after every five years or on the demand of the states to recommend the distribution of revenues between the Centre and the States.

Judicial Powers

Article 72 confers on the President power to grant pardons, reprieves, respites or remissions of punishment, or to commute the sentence of any person convicted of an offence. In all cases where the punishment or sentence is by a court martial; in all cases where the punishment or sentence is for and offence against a Union law; and in all cases where the sentence is a sentence of death. The President is not answerable to any court of law for exercise of his/she power (however He can be subjected to impeachment by the Parliament).

Military Powers

Article 53(2) lays down that "the supreme command of the Defence Force of the Union shall be vested in the President and the exercise thereof shall be regulated by law". The President is thus declared to be the Supreme Commander of the defence Force of the country. In the exercise of this power, it is the President, who can declare war against a country and make peace.

Diplomatic Powers

The President appoints Indian diplomats to other countries and receives foreign diplomats posted to India. The ambassador designate becomes ambassador after calling on the President and presenting his credentials. All treaties and agreements with foreign States are entered into, in the name of the President.

Emergency Powers

The President has been empowered by the Constitution to proclaim Emergency. They are follows:

Article 352 confers power on the President to make a proclamation of Emergency on the grounds of war, external aggression, or armed rebellion. This is known as National Emergency.

Article 356 confers power on the President to make a proclamation of State Emergency by declaring that the Government in a State cannot be run on in accordance of the provisions of the Constitution.

Under Article 360, the President is vested with the power to proclaim Financial Emergency, if he is satisfied that the financial stability or, the credit of India or any part of India is threatened, by any reason.

Removal of the President

The President shall hold office for a term of five years from the date on which He enters the office. The President may by writing under his hand addressed to the Vice-President, resign his office. The President may, for violation of the Constitution, be removed from office by impeachment in the manner provided in Article 61; The Impeachment action can be brought about in the form of resolution in either house of the Parliament. It must be supported by not less than One- Fourth of the total strength of the House for its introduction. The President shall, in spite of the conclusion of his term, continue to hold office until his successor enters upon his office.

Privileges of the President

According to Article 361(1) the President, or the Governor of a state, shall not be answerable to any court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of those powers and duties.

List of Presidents of India

1. Thiru. Rajendra Prasad	1950 to 1962
2. Thiru. Sarvepalli Radhakrishnan	1962 to 1967
3. Thiru. Zakir Hussain	1967 to 1969
4. Thiru. V.V Giri	1969 to 1974
5. Thiru. Fakhruddin Ali Ahmed	1974 to 1977
6. Thiru. Neelam Sanjiva Reddy	1977 to 1982
7. Thiru. Giani Zail Singh	1982 to 1987
8. Thiru. R Venkataraman	1987 to 1992
9. Thiru. Shankar Dayal Sharma	1992 to 1997
10. Thiru. K R Narayanan	1997 to 2002
11. Thiru. APJ Abdul Kalam	2002 to 2007
12. Tmt. Pratibha Patil	2007 to 2012
13. Thiru. Pranab Mukherjee	2012 to 2017
14. Thiru. Ram Nath Kovind	2017 to till now

Vice-President

The vice-President occupies the second highest office in the country. He is accorded a rank next to the President in the official warrant of precedence. This office is modelled on the lines of the American Vice- President. Article 63 of the constitution provides for a Vice President of India. This office has been created to maintain the political continuity of the state.

Qualification for the election as Vice President

The constitution lays down qualifications for a Vice Presidential candidate.
He should be a citizen of India.
He must have completed the age of thirtyfive years.
He must not hold any office of profit under the Union, State or local Government.
He should have the other qualifications required to become a member of the RajyaSabha.

Election and term of the Vice-President

Article 66(1) the Vice- President, like the president, is elected not directly by the people but the method of indirect election. He is elected by the members of an electoral college consisting of the member of both Houses of Parliament. The term of office of the Vice

President is five years. His office may terminate earlier than the fixed term either by resignation, death or by removal. He is eligible for re-election. The Constitution does not provide a mechanism of succession to the office of the Vice – President. Under such circumstances, election to the Vice President shall be held early as possible. Till then deputy chairman of the Rajyasabha can perform the duties of the chairman of the Rajyasabha.

Removal of the VicePresident

The Vice President may be removed from his office by a resolution of the Council of States passed by a majority of all the then members of the council and agreed to by the House of the People. A resolution for this purpose may be moved only after a notice of at least a minimum of 14 days has been given of such an intention.

Functions of the Vice President

The Vice-President is Ex-Officio Chairman of the RajyaSabha. As the Chairman of the House, he carries out several functions.
He regulates the proceeding of the House.
He decides the order of the House.
He decides the admissibility of a resolution or questions.
He suspends or adjourns the House in case of a grave disorder.
He issues directions to various committees on matters relating to their functions.
When the President is unable to discharge his duties due to illness or absence from the country, he attends to the functions of the President. When the President is unable to do so due to sickness or when the post of President becomes vacant due to resignation, death, or removal by impeachment etc. the Vice-President can act as the President for a maximum period of six months.

Prime Minister

Article 74 (1) says: There shall be a council of ministers with the Prime Minster as the head to aid and advice the President. He may direct the council to reconsider their advice, but is bound by the advice given after reconsideration. The post of Prime Minister of India has adopted the Westminster (England) model of constitutional democracy. The leader of the majority party in LokSabha is appointed by the President as the Prime Minister. The other ministers are appointed by the President on the advice of the Prime Minister. If no party commands absolute majority in the LokSabha, the President can summon the leader of any party who, in his opinion, can manage to form a ministry. The President administers to the ministers the oath of office and of secrecy. The salaries and allowances of the Prime Minister and the ministers are determined by the Parliament. A person who is not a member of the Parliament can be appointed as a minister but he has toget himself elected to the Parliament within six months. Ministers are individually as well as collectively responsible to the LokSabha.

Duties and functions of Prime Minister

Article 78 mentioned the duties of the Prime Minister:
The Prime Minister decides the rankof his ministers and distributes various departments.
The Prime Minister decides the dates and the agenda of the meeting of the Cabinet which he presides.
The Prime Minister is the Head of the Cabinet and the other ministers are his colleagues.
The Prime Minister informally consults two or three of his senior colleagues when he does not convene a Cabinet meeting.
The Prime Minister supervises the work of various ministers.
To converse to the President all decisions of the Council of Ministers connecting to the government of the affairs of the Union and proposals for legislation.
The Prime Minister act as the link between the President and the Council of Ministers.
The Prime Minister is the leader of the Nation and chief spokesman of the country.
As the leader of the nation, the Prime Minister represent our nation at all international conferences like the commonwealth, summit of the non aligned nations and SAARC nations.

List of Prime Ministers of India

1. Thiru. Jawaharlal Nehru	1947–64
2. Thiru. Lal Bahadur Shastri	1964–66
3. Tmt. Indira Gandhi	1966–77
4. Thiru. Morarji Desai	1977–79
5. Thiru. Charan Singh	1979–80
6. Tmt. Indira Gandhi	1980–84
7. Thiru. Rajiv Gandhi	1984–89
8. Thiru. V.P. Singh	1989–90
9. Thiru. Chandra Shekhar	1990–91
10. Thiru. P.V. Narasimha Rao	1991–96
11. Thiru. Atal Bihari Vajpayee	May 1996
12. Thiru. D. Deve Gowda	1996–97
13. Thiru. I.K. Gujral	1997–98
14. Thiru. Atal Bihari Vajpayee	1998–2004
15. Thiru. Manmohan Singh	2004–14
16. Thiru. Narendra Modi	2014–till now

Council of Ministers
After the elections, the President of India, on the advice of the Prime Minister, appoints the council of ministers. Sometimes a non – member of the Parliament too may be appointed. However, he must get elected to either of the Houses of the Parliament within a period of six months. The Constitution of India restricts the number of the Council of Ministers including the Prime Minister to fifteen per cent of the total members of the LokSabha.

Categories of the Ministers

The ministers are classified under three ranks

(i) Cabinet Ministers
(ii) Ministers of State
(iii) Deputy Ministers.

Cabinet Ministers

The Cabinet is an informal body of senior ministers who form the nucleus of administration. Important decisions of the government are taken by the Cabinet, such as defence, finance, external affairs and home.
The Cabinet recommends to the President to promulgate an ordinance. It is instrumental in moving Amendments to the Constitution. The Finance bills have their origin in the Cabinet and then they are introduced in the LokSabha with the Presidents recommendations. The
Cabinet decides the foreign policy of the Government approves international treaties and plays a significant role in the appointment of Ambassadors to various countries.

Ministers of State

These ministers belong to the second category of ministers in the council. They are also in charge of ministries or departments but they do not participate in the meetings of the cabinet unless invited to do so.

Deputy Ministers

They are the lowest ranked ministers in the cabinet. They assist either the Ministers of Cabinet or State in the performance of the duties entrusted to them.

Attorney General of India

The Constitution (Article 76) has provided for office of the Attorney General for India. He is the highest law officer in the country. He is appointed by the President. He must be a person who is qualified to be appointed the Judge of the Supreme Court. In other words, he must be a citizen of India and he must have been a judge of some High Court for five years or an advocate of some High Court for 10 years or eminent jurist, in the opinion of the President. He holds office during the pleasure of the President. This means that he may be removed by the President at any time. He may also quit his office by submitting his resignation to the President.

Duties and Functions of Attorney General of India

To give advice to the Government of India upon such legal matters which are referred to him by the President. To perform such other duties of a legal character that are assigned to him by the President and discharge the functions conferred on him by the constitution are any other law. In the performance of his official duties, Attorney General of India has the right of audience in all courts in the territory of India. Further

he has the right to speak and to take part in the proceedings of both Houses of the Parliament or their joint sitting and any committee of
the Parliament of which he may be named a member, but without a right to vote. He enjoys all the privileges and immunities that are available to a member of Parliament.

APPOLO STUDY CENTRE

10th Volume I

Unit 3 – State Government

Introduction

- The Constitution of India envisages for afederal government, having separate systemsof administration for the union and the states.There are 29 states, 6 union territories and onenational capital territory known as Delhi inIndia. The constitution contains provisions forthe governance of both the union and the states.It lays down a uniform structure for the StateGovernment, in part VI of the constitutionfrom Article 152 to 237, which is applicableto all the states, save only the state of Jammuand Kashmir which has a separate constitutionfor its government under Article 370. Thestructure of the State Government, as formedin the Centre, consists of three branches. Theseare the Executive, the Legislature and theJudiciary.

The Executive
The Governor

- The Governor is the constitutional head ofthe state executive. The administration of aState is carried on in the name of the Governor.Generally, there is a separate Governor in eachState but if the situation warrants so, the sameperson may be appointed as the Governor oftwo or more States.

- Article 154 vests the executive power of theState in the Governor. Article 154(1) holds thatthe executive power of the State shall be vestedin the Governor and shall be exercised by him either directly or through officers subordinates to him in accordance with this Constitution.

Appointment

- The Governor of a State shall be appointedby the President. His usual term of office is fiveyears but he holds office during the pleasure ofthe President. Generally, the Governor does notbelong to the State where he is appointed. Hecan also be transferred from one state to anotherby the President. He can also resign any time by addressing his resignation to the President.

- The Legislature of a State or a High Court hasno role in the removal of a Governor. A personmay be appointed as a Governor for any numberof terms. Two conventions have been set up inthe matter of appointing a person as Governorof a State. He should not be a resident of theState concerned and, the State Governmentconcerned is consulted and its views are soughtregarding the proposed choice.

- According to Article 158 (3A), where the sameperson is appointed as Governor of two or moreStates, the emoluments and allowances payableto the Governor shall be

allocated among theStates in such proportion as the President mayby order determine.

Qualification

- Article 157 and Article158 of the Constitutionof India specify eligibilityrequirements for the post ofgovernor. They are as follows:

  - He should be a citizen of India.
  - He must have completed 35 years of age.
  - He should not be a member of Parliament or of any State Legislature. If he is a member of any of Legislature, he automatically vacates his seat on assuming the office.
  - He should not hold any other profitable occupation.

Powers and Functions of the Governor

- The Governor is the head of the state executiveand he has enormous powers. In the exerciseof functions and powers, the Governor, except in certain cases, is to be guided by the aid andadvice of the Council of Ministers headed bythe Chief Minister (under Article 163). As theexecutive head in the state level, the Governorhas following functions and powers.

Executive Powers

- The Constitution vests all executivepowers of the State Government inthe Governor. He may exercise thispower either directly or throughofficers subordinate to him. He is theconstitutional head of the State. All theadministration is carried on in his name.

The executive powers and functions ofthe Governor are:

  - He appoints the leader of the majority party in the State Legislative Assembly as the Chief Minister of the State.
  - He appoints other members of the Council of Ministers on the recommendation of the Chief Minister.
  - He appoints the Advocate - General of the state and determines his remuneration.
  - The Advocate General holds office during the pleasure of the Governor.
  - He appoints the Chairman and Members of the State Public Service Commission. However, they can be removed only by the president and not by a governor.
  - He appoints the state election commissioner and determines his conditions of service and tenure of office.
  - However, the state election commissioner can be removed only in like manner and on the like grounds as a judge of a high court.

- He acts as the chancellor of universities in the state. He also appoints the Vice Chancellors of universities in the state.
- He directly rules a State when there is the imposition of the President's rule in the State.

Legislative Powers

- The Governor is an integral part of thestate legislature. But, he is not a member inthe either house of the legislature. In thiscapacity, he enjoys the following legislativepowers and functions:

  - He has the right to summon, prorogue the state legislature and dissolve the State Legislative Assembly.
  - He can address the state legislature at the commencement of the first session after each general election and the first session of each year.
  - He can send messages to the houses of the state legislature relating to a bill pending in the legislature.
  - He can appoint any member of the Legislative Assembly to preside over its proceedings when the offices of both the Speaker and the Deputy Speaker fall vacant.
  - He can nominate one member to the state legislature assembly from the Anglo-Indian Community.
  - He nominates 1/6 of the members of the State Legislative Council from amongst the persons having special knowledge or practical experience in literature, science, art, cooperative movement and social service.
  - He decides on the question of disqualification of members of the state legislature in consultation with the Election Commission.
  - Every bill passed by the state legislature will become law only after his signature.
  - But, when a bill is sent to the Governor after it is passed by the legislature, he has the options to give his assent to the bill or withhold his assent to the bill or return the bill for the reconsideration of the legislature.
  - He has to reserve any bill passed by the state legislature which endangers the position of the state High Court, for the consideration of the President.
  - He can promulgate ordinances when the state legislature is not in session under Article 213. But, these ordinances must be approved by the legislature within six months. He can also withdraw an ordinance at anytime.
  - He has to lay the annual reports of the State Finance Commission, the State Public Service Commission and the Comptroller and Auditor General relating to the accounts of the state, before the state legislature.

Financial Powers

  - The Constitution confers on the Governor, the duty to get prepared and introduced to the State Legislature, the annual budget and also the supplementary budgets, if necessary.

- He causes the Annual Financial Statement (Budget) of the State to be presented in the Legislative Assembly.
- He presents through the Minister of Finance of the State the Supplementary Budget of the State to the Legislative Assembly if there be such a need.
- Money Bills can be introduced in the State Legislature only with his the prior recommendation.
- No demand for any grant can be made except on his recommendation.
- He can make advances out of the state Contingency Fund to meet any unforeseen expenditure.
- He constitutes a Finance Commission after every five years to review the financial position of the panchayats and the municipalities.

Judicial Powers

- He appoints the Advocate-General of the State.
- He appoints Judges to the Subordinate Courts in the State.
- He makes appointment, postings and promotions of the District Judges in consultation with the State High Court.
- The Chief Justice of the High Court in the State is appointed by the President in consultation with him.
- He can pardon, commute or reprieve punishment on receipt of appeals for mercy.

Discretionary Powers

- The Governor can reserve a bill for the consideration of the president.
- He recommends for the imposition of the President's rule in the state.
- He seeks information from the Chief Minister relating to the administrative and legislative matters of the state.
- He can call the leader of any party to form ministry in the state when there is no clear-cut majority to any party in the Legislative Assembly after the general elections.
- He can dismiss the Council of Ministers when it is unable to prove the confidence of the Legislative Assembly; and
- He can dissolve the Legislative Assembly if the Council of Ministers has lost its majority.
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Emergency Powers

- If the Governor is satisfied that thegovernment of the state is not carried onin accordance with the provisions of theConstitution, he may, under Article 356,recommend to the President to imposePresident Rule in that State. As soon as thePresident Rule is imposed, the administrationof the State is carried on by the Governor asthe representative of the President.

Privileges of the Governor

Article 361(1) provides for the followingprivileges for the Governor;

- The Governor of a State, is not be answerable to any court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of those powers and duties.
- No criminal proceedings whatsoever shall be instituted or continued against the Governor of a State, in any court during his term of office.
- No process for the arrest or imprisonment of the Governor of a State, shall issue from any court during his term of office.
- No civil proceedings in which relief is claimed against the Governor of a State.

Chief Minister

- In the scheme of Parliamentary system ofgovernment provided by the constitution, thegovernor is the nominal executive authorityand the Chief Minister is the real executiveauthority. In other words, the governor is thehead of the State while the Chief Minister is thehead of the government.

The appointment of the Chief Minister

- The Chief Minister is appointed by theGovernor of the State. The leader of the majorityparty or majority group in the State LegislativeAssembly is appointed as the Chief Minister. Incase no party commands absolute majority, inthe Legislative Assembly or the majority failsto elect its leader, the Governor can use hispower and invite the leader of the other largestparty to form the ministry. He has to prove theconfidence (majority support) in the LegislativeAssembly within the period stipulated by theGovernor.The term of the Chief Minister is not fixed.He may remain as the Chief Minister as longas he enjoys the support of the majority of themembers of the Legislative Assembly. He has toresign when he losses confidence of the majorityin the assembly. It is 'understood that normallyhe completes 5 years term like other membersin the Legislative Assembly.

Chief Ministers of Tamil Nadu from 1947	
Thiru O.P. Ramaswamy	1947-1949
Thiru P.S. Kumaraswamy Raja	1949-1952
Thiru C. Rajagopalachari	1952-1954
Thiru K. Kamaraj	1954 – 1963
Thiru M. Bakthavatsalam	1963 – 1967
Thiru C.N. Annadurai	1967-1969
Thiru M. Karunanidhi	1969-1976
Thiru M. G. Ramachandran	1977-1987

Tmt. JanakiRamachandran	January 1988
Thiru M. Karunanidhi	1989 -1991
Selvi J. Jayalalithaa	1991 – 1996
Thiru M. Karunanidhi	1996-2001
Selvi J. Jayalalithaa	2001
Thiru O. Panneerselvam	2001 -2002
Selvi J. Jayalalithaa	2002-2006
Thiru M. Karunanidhi	2006-2011
Selvi J. Jayalalithaa	2011-2014
Thiru O. Panneerselvam	2014 – 2015
Selvi J. Jayalalithaa	2015-2016
Thiru O. Panneerselvam	2016-2017
ThiruEdappadi K. Palaniswami	2017- till now

Powers and functions of the Chief Minister

The Chief Minister is the real executive head ofthe State administration. He has the followingpowers and functions.

- Relating to the council of ministers
- Relating to the Governor
- Relating to the State Legislature Other functions and powers.

Relating to the Council of Ministers

As the head of the Council of Ministers, theChief Minister enjoys the following functionsand powers.

- The Chief Minister recommends the persons who can be appointed as ministers by Governor.
- He allocates the portfolios among the ministers.
- He shuffles and reshuffles his ministry.
- He can ask a minister to resign or to advise the Governor to dismiss him in case of difference of opinion.
- He presides over the meetings of the Council of Ministers and influences its decisions.
- He can bring about the collapse of the council of ministers by resigning from office.
- He guides, directs, controls and coordinates the activities of all the ministers.

Relating to the Governor

- The Chief Minister is the principal channelof communication between the Governor andthe Council of Ministers, and he advises theGovernor in relation to the appointment of thefollowing officials:

- Advocate General of the State.
- State Election Commissioner.
- Chairman and Members of the State Public Service Commission.
- Chairman and Members of the State Planning Commission.
- Chairman and Members of the State Finance Commission.

Relating to State Legislature

- The Chief Minister advises the Governor with regard to the summoning and proroguing the sessions of the state legislature.
- He announces the government policies on the floor of the house.
- He can introduce the bills in the Legislative Assembly.
- He can recommend for the dissolution of the Legislative Assembly to the Governor anytime.

Other function and powers

- As the leader of the ruling party, the Chief Minister has to control the party and develop the disciplines.
- As the leader of the state, he has to keenly consider the demands of the different sections of the people.
- As the political head of the various services, he has to supervise, control and co-ordinate the secretaries of various departments in the state level.
- For smooth functioning of the state and for good centre-state relations, he has to develop a rapport with the union government.

Council of Ministers

- The Council of Ministers are collectively responsible to the State Legislature. All themembers of the Council of Ministers must be themembers of the State Legislature. Those who arenot the members at the time of their appointmentmust secure their seats in the Legislature withina period of 6 months. All the ministers workas a team under the Chief Minster. As long asthe Chief Minister is in office, the Council ofMinisters will also be in power. If a no-confidence motion is passed by the Legislative Assembly, the State Ministry shall resign.

- Article l63 provides for a Council of Ministersto aid and advice the Governor. Accordingto Article 163(1) there shall be a Council ofMinisters with the Chief Minister at the headto aid and advice the Governor in the exerciseof his functions, except in so far as he is by orunder this Constitution required to exercise hisfunctions or any of them in his discretion.

Other Provisions relating to Ministers

- Article 164(1) holds that the Chief Ministershall be appointed by the Governor and theother Ministers shall be appointed by theGovernor on the advice of the Chief

Minister,and the Ministers shall hold office during thepleasure of the Governor: Article 164(1A) states that the total numberof Ministers, including the Chief Minister, in the

Council of Ministers in a State shall not exceedfifteen percent of the total number of membersof the Legislative Assembly.

The functions and powers of theCouncil of Ministers

- It formulates and decides the policies of the state and implements them effectively.
- It decides the legislative programmes of the Legislative Assembly and sponsors all important bills.
- It controls the financial policy and decides the tax structure for the public welfare of the state.
- It chalks out programmes and schemes for the socio-economic changes so that the state makes headway in various interrelated fields.
- It makes the important appointments of the Heads of Departments.
- It discusses and takes efforts on the dispute with other states
- It advises the Governor on the appointment of Judges of the subordinate courts.
- It frames the proposal for incurring expenditure out of state reserves.
- It decides all the bills whether ordinary bills or money bills to be introduced in the Legislative Assembly.
- Each minister of the Council of Ministers supervises, controls and coordinates the department concerned.
- Annual Financial Statement called as the Budget is finalised by the Council of Ministers.

The State Legislature

- The Constitution provides a legislaturefor every state. Most of the States have onlyunicameral legislature i.e., Legislative assembly.Some State has bicameral legislatures (exampleBihar, Karnataka, Maharashtra, Uttar Pradesh,Andhra Pradesh, Telangana and Jammu-Kashmir). The lower house, legislative assemblyrepresents the people of the state the upperhouse; Legislative Council represents specialinterests like teachers, graduates and localgovernments.

The Legislative Assembly (Lower House)

- The Legislative Assembly is a popular house. Itis the real centre of power in the State. It consistsof members directly elected by the people onthe basis of adult franchise. The strength of theAssembly varies from State to State depending onthe population. However the maximum strengthof the Assembly must not exceed 500 or its minimum strength not below 60. The term ofoffice of the legislative assembly is 5 years. It canbe dissolved even before the expiry of its term.

- The size of the Legislative Council cannotbe more than one-third the membership of theLegislative Assembly (lower house) of that state.But its size cannot be less than 40, except in Jammu and Kashmir where there are 36 by an act of Parliament. The members draw the salary and allowances passed by the State legislature from time to time.

Composition

- The Legislative Assembly of Tamil Naduconsists of 235 members out of which 234members are directly elected by the peoplefrom the constituencies on the basis of adultfranchise and one member is nominated by theGovernor from the Anglo-Indian community.

- However, seats shall be reserved in the house forthe scheduled castes and scheduled tribes.

Cabinet and Cabinet Committees

- A smaller body called Cabinet is the nucleusof the council of minister. It consists of onlythe cabinet ministers. It is the real centre ofauthority in the state government.The cabinet works through variouscommittees called cabinet committees. They areof two types - standing and ad hoc. The formerare of a permanent nature while the latter are ofa temporary nature.

The Speaker

- The Legislative Assembly elects two of itsmembers as the Speaker and Deputy Speaker.The Speaker vacates his office, if he cannotcontinue to be a member of the Assembly.He may also resign his office at any time. Thespeaker may be removed from office by aresolution of the Assembly after giving a 14days' notice. Such a resolution must be passedby a majority of the members present at thetime of voting. The speaker does not vacatehis office, when the Assembly is dissolved. Hecontinues to be the Speaker until the first sittingof the new Assembly. While the office of thespeaker is vacant, the Deputy Speaker performshis functions.

The Legislative Council(Upper House)

- The legislative Council is the upper Houseof the State Legislature. It is constituted as a permanent House. Article 171(1) provides that the total number of members in the LegislativeCouncil of a State shall not exceed one-third ofthe total number of members in the LegislativeAssembly of that State, but not less than 40members in any case.

- The VidhanParishads (Legislative Council)forms a part of the state legislatures of India.In Seven of India's 29 states (Bihar, Karnataka,Maharashtra, Uttar Pradesh, Andhra Pradesh, Telangana and Jammu - Kashmir) the Legislative Council serves as

the indirectly elected upper house of a bicameral legislature. It is also a permanent house because it cannot be dissolved. Every Member of Legislative Council (MLC) serves for a six-year term, with terms staggered so that the terms of one-third of members expire every two years. MLCs must be citizens of India not under 30 years of age, mentally sound and not bankrupt, and his name should be in the voter's list of the state from which he or she is contesting the election.

Election to Legislative Council

- 1/3 of the members are elected by local bodies.
- 1/12 of the members are elected by Graduates of the universities in the State.
- 1 /12 of the members are elected by Graduate teachers.
- 1/3 of the members are elected by the members of the Legislative Assembly.
- 1/6 is nominated by the Governor who is eminent in the field of literary excellence, art, social services or Co-operation.

The Chairman

- The Chairman (chair person he / she) isthe Presiding Officer of the Upper house.The Members elect a Chairman and a deputychairman from among themselves. In theabsence of the chairman, the deputy chairmanofficiate the functions of the LegislativeCouncil.

Abolition or Creation ofLegislative Councils

- Article 169 deals with the creation orabolition of Legislative Council in a State.Article 169 holds that if the state LegislativeAssembly passes a resolution by a majority ofnot less than 2/3rd of the members present andvoting and by the majority of total strengthof the House, requesting the Parliament tocreate or abolish the state Legislative councilthen the Parliament may by law provide forthe abolition and creation of the LegislativeCouncil.

Functions of the State Legislature

- The powers and functions of the StateLegislature are almost the same as that ofParliament.

Legislative powers

- The State Legislature can pass laws on allsubjects mentioned in the State List as perthe constitution. It can also pass laws onconcurrent subjects. The State made law ina concurrent subject will become inoperativewhen the centre also passes a law on thesame subject. The passing of Bill into lawfollows the same procedure, as in the unionparliament. Every bill passes through threereadings. Then it becomes an Act with theGovernor's assent.

Financial Powers

- The Legislature controls the finances of theState. The Lower House enjoys greater powerthan the Upper House in money matters.Money bills can be introduced only in the Lower House or the Assembly. No new tax canbe levied without the sanction and permissionof the Assembly.

Controls over the Executive

- The Legislature controls the Executive.The Council of Ministers is responsible tothe Assembly. The Ministers have to answerquestions asked by the members of theLegislature. They can be removed from officeif the Assembly passes a vote of "no confidencemotion" against the Ministry.

Wide powers

- In State having two Houses, the LegislativeAssembly enjoys more powers than theLegislative Council. The Assembly hascomplete control over the state finance. The Council cannot vote for grants. The Council of Ministers is responsible only to the Assembly.

JUDICIARY OF STATE
High Courts

- The institution of high court originated inIndia in 1862 when the high courts were set upat Calcutta, Bombay and Madras. In the courseof time, each province in British India came tohave its own high court. After 1950, a high courtexisting in a province became the high court forthe corresponding state. The High Courts arethe highest courts at State level, but being partof integrated Indian judiciary they work underthe superintendence, direction and control ofthe Supreme Court.The Constitution of India provides for ahigh court for each state, but the SeventhAmendment Act of 1956 authorised theParliament to establish a common high courtfor two or more states or for two or more statesand a union territory.For example, the States of Punjab and Haryanaand the Union Territory of Chandigarh have acommon High Court situated at Chandigarh. Similarly, the High Court of Guwahati iscommon for seven northeastern States of Assam,Nagaland, Manipur, Meghalaya, Mizoram,Tripura and Arunachal Pradesh. Delhi, thoughnot a State, has its own separate High Court.Every High Court has a Chief Justice and anumber of judges. The number of judges variesfrom State to State. The number of judges ofeach High Court is determined by the President.At present there are 25 High Courts for 29 States(including new Andhra Pradesh High Court established in 1st January 2019 at principal seatin Amravati) and seven Union Territories.

Appointment of the Judges

- Every High Court consists of a Chief Justiceand such other Judges as appointed by thePresident from time to time (Article 216).

Jurisdiction and Powers ofHigh Court

- At present, a high court enjoys the followingjurisdiction and powers:

Original Jurisdiction

- In their judicial capacity, the High Courtsof the Presidency towns (Bombay, Calcuttaand Madras) have both original and appellatejurisdictions, while other High Courts havemostly appellate jurisdiction.Only in matters of admiralty, probate,matrimonial and contempt of Court, they haveoriginal jurisdiction. The Presidency HighCourts have original jurisdiction in which the amount involved is more than `2000 and in criminal cases which are committed to them by the Presidency Magistrates.

Appellate Jurisdiction

- As Courts of appeal, all High Courts entertainappeals in civil and criminal cases from theirsubordinate Courts as well as on their own.They have, however, no jurisdiction overtribunals established under the laws relating tothe Armed Forces of the Country.

Writ Jurisdiction

- Under Article 226 of the constitution, theHigh Courts are given powers of issuing writsnot only for the enforcement of the FundamentalRights, but also for other purposes. In exerciseof this power, a Court may issue the sametype of writs, orders or directions which theSupreme Court is empowered to issue underArticle 32.The jurisdiction to issue writs under thisArticle is larger in the case of High Courts, forwhich the Supreme Court can issue them onlywhere a Fundamental Right has been infringed,a High Court can issue them not only in suchcases, but also where an ordinary legal right hasbeen infringed.

Habeas Corpus

- The writ of habeas corpusis issued to a detaining authority, ordering thedetainer to produce the detained person inthe issuing court, along with the cause of hisor her detention, if the detention is found tobe illegal, the court issues an order to set theperson free.

Mandamus

- The writ of mandamus is issued toa subordinate court, an officer of government, ora corporation or other institution commandingthe performance of certain acts or duties.

Prohibition

- The writ of prohibition is issuedby a higher court to a lower court prohibiting itfrom taking up a case because it falls outside thejurisdiction of the lower court. Thus, the highercourt transfers the caseto it.

Quo Warranto

- The writ of quo Warranto isissued against a person who claims or usurpsa public office. Through this writ the courtinquires 'by what authority' the person supportshis or her claim.

Certiorari

- The writ of certiorari is issued to alower court directing that the record of a case besent up for review, together with all supportingfiles, evidence and documents, usually with theintention of overruling the judgment of the lowercourt. It is one of the mechanisms by which thefundamental rights of the citizens are upheld.

Supervisory Jurisdiction

- High court has the power of superintendenceover all courts and tribunals functioning in itsterritorial jurisdiction (except military courtsor tribunals) Thus, it may

    a) Call for returns from them;
    b) Make an issue, general rules and prescribe forms for regulating the practice and proceedings of them.
    c) Prescribe forms in which books, entries and accounts are to be kept by them; and
    d) Settle the fees payable to the sheriff, clerks, officers and legal practitioners of them.

Control over Subordinate Courts

A high court has an administrative control andother powers over them

a) It is consulted by the governor in the matters of appointment, posting and promotion of district judges and in the appointments of persons to the judicial service of the state (other than district judges).

b) It deals with the matters of posting, promotion, grant of leave, transfers and discipline of the members of the judicial service of the state (other than district judges).

c) It can withdraw a case pending in a subordinate court if it involves a substantial question of law that requires the interpretation of the Constitution. It can then either dispose of the case itself or determines the question of law and return the case to the subordinate court with its judgment.

d) Its law is binding on all subordinate courts functioning within its territorial jurisdiction in the same sense as the law declared by the Supreme Court is binding on all courts in India.

Court of Record

- All the decisions and decrees issued by the HighCourt are printed and are kept as a record forfuture references by the Court as well as by thelawyers, is such a need arises. Thus, it also actsas a Court of Record.

Power of Judicial Review

- Judicial review is the power of a high courtto examine the constitutionality of legislativeenactments and executive orders of both theCentral and state governments. Though thephrase judicial review has no where been usedin the Constitution, the provisions of Articles226 and 227 explicitly confer the power of judicial review on a high courtThe 42nd Amendment Act of 1976 curtailed the judicial review power of high court. It debarred the high courts from considering the constitutional validity of any central law. However, the 43rd Amendment Act of 1977 restored the original position.

11thVolume I

UNIT – 6FORMS OF GOVERNMENT

Introduction

- The Government is the main agency of the state. It comprises several members belonging to political and administrative wings. It serves as the instrument for delegation and execution of the state policies for the welfare of the people. It formulates expresses and realises the will of the state. It exercises certain legislative, executive and judicial powers based on the constitution and the laws. There are three organs in government, namely – Legislature, Executive and Judiciary. These organs carry out the activities of the state. Governments are classified under Unitary, Federal, Parliamentary and Presidential forms.

Approaches to the study of Government

- Studying governments from different approaches help us to understand government from its evolution to its performance in the contemporary times. The approaches to study the Government are

1. Comparative-Historical Approach

- This approach studied the western political institutions from ancient to modern times, this approach is descriptive in nature, Aristotle, Montesque and Locke adopted this approach to study and analyse governments in those days.

- For instance before writing his monumental work politics Aristotle studied 158 constitutions. Montesquieu studied the working of the British constitution and came to the conclusion that the stability of British constitution was due to the adherence to the principle of separation of powers.

2. Legal-Institutional Approach

- Scholars like Bentham, Austin and Dicey adopted this approach, This approach focuses on formal legal structure of political institutions. They helped to develop certain theories which explain the relationship and interconnection between government and Law. Bentham is the distinguished legal reformer in England Likewise Austin provided a legal base to sovereignty which is indivisible, inalienable and absolute. A.V.Dicey judged the government on the basis of law and its applicability to different branches of government.

3. Political Economy Approach

- This approach deals with economic aspects of the government which gives economic interpretation of politics also deals with role of market, mode of production and delivering goods to the society. This approach is classified into liberal political economy and the Marxist political economy approach.

4. Political Sociology Approach

- This approach derived its ideas from sociology and anthropology also known as systems approach. Political sociology asserts that government or political system is a sub system of a larger social system. This approach examines the interaction between the larger and the sub systems.

- Early Montesque proposed a three-fold division of Government namely Republican, Monarchical and Despotic government Republican Government: "People possess the sovereign Power".

Monarchical Government:"Rule by one single person and governed by fixed and established laws"

Despotic government: "Rule by one single person but there is no fixed rule for governance, everything conducted by his will. According to Montesquethe survival of the government depends on "persistence in given society of that particular spirit which is characteristic of the form".

Meaning, Definition and Nature of Government

- Government refers to the executive functions of the state. It denotes a body having authority to make and enforce laws applicable to the civil, corporate, religious, academic or other groups.

- The term Government is derived from an old French word "governor", derived from Latin word "gubernare" which means to direct, rule, guide, govern.

- Aristotle's Classification of Governments Aristotle identified a combination of two criteria to classify the constitution that he analysed.

- Criteria One: Number of People having Power – One, Few, Many; Thus he distinguished between Monarchy, Aristocracy and Polity Criteria Two: To whose interest the Government works for – Working in General Interest, Working in Personal Interest. The respective perverted forms of the three types are Tyranny, Oligarchy and Democracy

Unitary Form of Government

- A unitary system of government, or unitary state, is a sovereign state governed as a single entity. The central government is supreme, and the administrative divisions exercise only powers that the central government has delegated to them.

England, France, Japan, Sri Lanka are examples of Unitary Form of governments.

- In a Unitary form of government all authority and power vested in a single centre whereas in a federal form of government authority and power distributed between centre and the constituent units. Even in a Unitary form of Government there might be a lot of decentralization of authority but we cannot claim it as a federal system.

Definition:

Some leading political thinkers defined unitary form of government as follows:

A.V.DICEY: "Habitual exercise of supreme legislative authority is by one central power"

GARNER: "Where the whole power of government is conferred by the constitution upon a single central organ"

C.F.STRONG: "Two important qualities of the Unitary Government".
They are:-

- The supremacy of the central government;
- The absence of the subsidiary sovereign bodies.

- The distinction between subsidiary law-making bodies and subsidiary sovereign bodies is the distinction between the local authorities in a unitary state and constituent units in a federal state.

- Where: A constitution, Unitary and highly centralised on paper, may be almost federal in practice;

- A federal constitution may be, in practice, Unitary, as indeed are the so-called federal constitutions of Mexico, Venezuela, Brazil and Argentina".

Merits of Unitary Form of Government

a. Suitable for small countries.
b. There is no conflict of authority and responsibility.
c. A unitary government will make prompt decisions and take speedy action.
d. A unitary government is less expensive.
e. Amendments to the constitution are easy.

f. There is unity, uniformity of law, policy and administration.

De-Merits of Unitary Form Government

a. It is not suitable for big countries.
b. The central government will have to tackle so many complex problems that lead to administrative delay.
c. The central government will not concentrate on local problems, local interest and initiative.
d. The concentration of powers may pave way for the despotism of the central government.

Unitary Features of Indian Constitution
i. Strong Centre

- The division of powers is in favour of the Centre and highly inequitable from the federal angle. Firstly, the Union List contains more subjects than the State List. Secondly, the more important subjects have been included in the Union List. Thirdly, the Centre has overriding authority over the Concurrent List. Finally, the residuary powers have also been left with the Centre, while in the US, they are vested in the states. Thus, the Constitution has made the Centre very strong.

ii. Central Government's control over state territory

- Unlike in other federations, the states in India have no right to territorial integrity. The Parliament can by unilateral action change the area, boundaries or name of any state.

iii. Single Constitution

- Usually, in a federation, the states have the right to frame their own Constitution separate from that of the Centre. In India, on the contrary, no such power is given to the states. The Constitution of India embodies not only the Constitution of the Centre but also those of the states. Both the Centre and the states must operate within this single-frame. The only exception in this regard is the case of Jammu and Kashmir which has its own (state) Constitution

iv. Flexibility of the Constitution

- The bulk of the Constitution can be amended by the unilateral action of the Parliament, either by simple majority or by special majority. Further, the power to initiate an amendment to the Constitution lies only with the Centre. In India states don't have the right to propose amendment unlike in U.S.A

v. Unequal representation of states

- In a federation states are given with equal representation with regard to upper house, but in India states are not given with equal representation with regard to RajyaSabha.

vi.Emergency Provisions

- During an emergency, the Central government becomes all powerful and the states go into the total control of the Centre. It converts the federal structure into a unitary one without a formal amendment of the Constitution. This kind of transformation is not found in any other federation.

vii. Single Citizenship

- India adopted the system of single citizenship. There is only Indian Citizenship and no separate state citizenship. All citizens irrespective of the state in which they are born or reside enjoy the same rights all over the country. The other federal states like US, Switzerland and Australia have dual citizenship, that is, national citizenship as well as state citizenship.

viii.Single Integrated Judiciary

- It means that all the courts of India are in a hierarchical order from the lower courts to the Supreme Court of India. Courts in India have Original and Appellate Jurisdiction.

ix. All India Services

- It has the features of All India Services or Central Services, and the State Civil Services. The Central and All India services promotes uniform administrative system and process throughout India.

Federal Form of Government

- The classification of governments into unitary and federal is based on the nature of relations between the national government and the regional governments A federal government is one in which powers are divided between the national government and the regional governments by the Constitution itself and both operate in their respective jurisdictions independently. US, Switzerland, Australia, Canada, Russia, Brazil, Argentina have the federal form of government. In a federal model, the national government is known as the Federal government or the Central government or the Union government and the regional government is known as the state government or the provincial government.

Federal Features Of Indian Constitution

a. Dual Government

- The Indian Constitution establishes a dual polity consisting the Union at the Centre and the states at the periphery. Each is endowed with sovereign powers to be exercised in the field assigned to them respectively by the Constitution.

b. Written Constitution

- The articles of the Constitution are written and cannot be easily changed without due parliamentary approval.

c. Division of Powers

- The Constitution divided the powers between the Centre and the states in terms of the Union List, State List and Concurrent List in the Seventh Schedule.

d. Supremacy of the Constitution

- The Constitution is the supreme law of the land. The laws are enacted by the Centre and the states must confirm to its provisions.

e. Rigid Constitution

- Amendment of the Constitution is by a procedure of 2/3rd majority in each of the house and laws cannot be easily changed by any ruling party.

f. Independent Judiciary

- The Judiciary is separated from the Executive and Legislature. The Judiciary gave its national and state level jurisdictions, exercises Original, Appellate and Judicial Review functions. It functions independently of the Executive and Legislature.

g. Bicameralism

- It provides for a two-house legislature that has an Upper chamber and Lower chamber. With the Lower house having powers of enacting financial legislation.

Merits of Federal Form Government

a. Reconciliation of local autonomy with national unity.
b. Division power between centre and states leads to administrative efficiency.
c. It gives rise to big states.
d. Distribution powers checks the despotism of central government.
e. More suitable for bigger countries.

f. It is good for economic and cultural progress.
g. De-Merits Of Federal Form Government.
h. Federal government is weaker when compared to the unitary government.
i. Federal government is more expensive.
j. Provincial tendencies are very common.
k. lack of uniformity in Administration.
l. Threat to national unity.
m. Distribution powers between centre and states lead to conflict.
n. Double Citizenship.
o. Rigid constitution cannot be amended easily for the changing needs.
p. The state governments sometimes place hindrances in the foreign policy.

S.NO	Unitary Form of Government	Federal Form of Government
1	Only one Level of Government or Subunits	Two Levels of Government
2	Mostly Single Citizenship	Dual Citizenship
3	Sub Units cannot operate Independently	Federal Units are answerable to Central Government
4	No Division of Power	Division of Power
5	Centralisation of Power	Decentralisation of Power

Parliamentary form of government

- Modern democratic governments are classified into parliamentary and presidential on the basis of nature of relations between the executive and the legislative organs of the government. The parliamentary system of government is the one in which the executive is responsible to the legislature for its policies and acts. The presidential system of government, on the other hand, is one in which the executive is not responsible to the legislature for its policies and acts, and is constitutionally independent of the legislature in respect of its term of office.

- The parliamentary government is also known as cabinet government irresponsible government or Westminster model of government and is prevalent in Britain, Japan, Canada, India among others.

- Ivor Jennings called the parliamentary system as 'cabinet system' because the cabinet is the nucleus of power in a parliamentary system. The parliamentary government is also known as 'responsible government' as the cabinet (the real executive) is accountable to the Parliament and stays in office so long as it enjoys the latter's confidence.

- It is described as 'Westminster model of government' after the location of the British Parliament, where the parliamentary system originated. In the past, the British constitutional and political experts described the Prime Minister as 'primus inter pares' (first among equals) in relation to the cabinet. In the recent period, the Prime Minister's power, influence and position have increased significantly vis-a-vis the

cabinet. He has come to play a 'dominant' role in the British politico-administrative system.

Features of parliamentary form of government

- Nominal and Real Executives: The President is the nominal executive (de jure executive or titular executive) while the Prime Minister is the real executive (de facto executive). Thus, the President is head of the State, while the Prime Minister is head of the government.

- Majority Party Rule: The political party which secures majority seats in the LokSabha forms the government. The leader of that party is appointed as the Prime Minister by the President; other ministers are appointed by the President on the advice of the prime minister. However, when no single party gets the majority, a coalition of parties may be invited by the President to form the government.

Collective Responsibility: This is the bedrock principle of parliamentary government. The ministers are collectively responsible to the Parliament.
Double Membership: The ministers are members of both the legislature and the executive.

Leadership of the Prime Minister: The Prime Minister plays the leadership role in this system of government. He is the leader of council of ministers, leader of the Parliament and leader of the party in power. In these capacities, he plays a significant and highly crucial role in the functioning of the government.

Merits of the parliamentary form of government

Harmony between Legislature and Executive: The greatest advantage of the parliamentary system is that it ensures harmonious relationship and cooperation between the legislative and executive organs of the government. The executive is a part of the legislature and both are inter dependent at work. As a result, there is less scope for disputes and conflicts between the two organs.

Responsible Government: In the parliamentary system establishes a responsible government. The ministers are responsible to the Parliament for all their acts of omission and commission. The Parliament exercises control over the ministers through various devices like question hour, discussions, adjournment motion, no confidence motion, etc.

Prevents Despotism: Under this system, the executive authority is vested in a group of individuals (council of ministers) and not in a single person. This dispersal of authority checks the dictatorial tendencies of the executive. Moreover, the executive is responsible to the Parliament and can be removed by a no-confidence motion.

Wide Representation: In a parliamentary system, it is possible to provide representation to all sections and regions in the government. The prime ministers while selecting his minister scan take this factor into consideration.

Demerits of the parliamentary form of government

Unstable Government: The parliamentary system does not provide a stable government. There is no guarantee that a government can survive its tenure. The ministers depend on the majority legislators for their continuity and survival in office. A no-confidence motion or political defection or evils of multiparty coalition can make the government unstable.

No Continuity of Policies: The parliamentary system is not conductive for the formulation and implementation of long-term policies. This is due to the uncertainty of the tenure of the government. A change in the ruling party is usually followed by changes in the policies of the government.

Dictatorship of the Cabinet: When the ruling party enjoys absolute majority in the Parliament, the cabinet becomes autocratic and exercises nearly unlimited powers.

Harold J Laski says that the parliamentary system gives the executive an opportunity for tyranny.

Ramsay Muir, the former British Prime Minister, also complained of the 'dictatorship of the cabinet'.

Against Separation of Powers: In the parliamentary system, the legislature and the executive are together and inseparable. The cabinet acts as the leader of legislature as well as the executive. Hence, the whole system of government goes against theletter and spirit of the theory of separationof powers.

RajuRamachandran, senior advocate at the Supreme Court of India.

- This debate is academic. A switchover to the presidential system is not possible under our present constitutional scheme because of the 'basic structure' doctrine propounded by the Supreme Court in 1973 which has been accepted by the political class without reservation, except for an abortive attempt during the Emergency by Indira Gandhi's government to have it overturned. The Constituent Assembly had made an informed choice after considering both the British model and the American model and after Dr. B.R. Ambedkar had drawn up a balance sheet of their merits and demerits. To alter the informed choice made by the Constituent Assembly would violate the 'basic structure' of the Constitution. I must clarify that I have been a critic of the 'basic structure' doctrine.

Abuse of power worries

- A presidential system centralizes power in one individual unlike the parliamentary system, where the Prime Minister is the first among equals. The surrender to the authority of one individual, as in the presidential system, is dangerous for democracy. The over centralization of power in one individual is something we have to guard against. Those who argue in favour of a presidential system often state that the safeguards and checks are in place: that a powerful President can be stalled by a powerful legislature. But if the legislature is dominated by the same party to which the President belongs, a charismatic President or a "strong President" may prevent any move from the legislature. On the other hand, if the legislature is dominated by a party opposed to the President's party and decides to checkmate him, it could lead to a stalemate in governance because both the President and the legislature would have democratic legitimacy.

- A diverse country like India cannot function without consensus-building. This "winner takes it all" approach, which is a necessary consequence of the presidential system, is likely to lead to a situation where the views of an individual can ride roughshod over the interests of different segments.

What about the States?

- The other argument, that it is easier to bring talent to governance in a presidential system, is specious. You can get 'outside' talent in a parliamentary system too. Right from C.D. Deshmukh, T.A. Pai, Manmohan Singh, M.G.K. Menon and Raja Ramanna talent has been coming into the parliamentary system with the added safeguard of democratic accountability, because the 'outsiders' have to get elected after assuming office. On the other hand, bringing 'outside' talent in a presidential system without people being democratically elected would deter people from giving independent advice to the chief executive because they owe their appointment to him/her.

- Those who speak in favour of a presidential system have only the Centre in mind. They have not thought of the logical consequence, which is that we will have to move simultaneously to a "gubernatorial" form in the States. A switch at the Centre will also require a change in the States. Are we ready for that? Changing to a presidential system is the best way of ensuring a democracy that works.

- Our parliamentary system is a perversity only the British could have devised: to vote for a legislature in order to form the executive. It has created a unique breed of legislator, largely unqualified to legislate, who has sought election only in order to wield executive power. There is no genuine separation of powers: the legislature cannot truly hold the executive accountable since the government wields the majority in the House. The parliamentary system does not permit the existence of a legislature distinct from the executive, applying its collective mind freely to the nation's laws.

- For 25 years till 2014, our system has also produced coalition governments which have been obliged to focus more on politics than on policy or performance. It has forced governments to concentrate less on governing than on staying in office, and obliged them to cater to the lowest common denominator of their coalitions, since withdrawal of support can bring governments down. The parliamentary system has distorted the voting preferences of an electorate that knows which individuals it wants but not necessarily which parties or policies.

Failures in the system

- India's many challenges require political arrangements that permit decisive action, whereas ours increasingly promote drift and indecision. We must have a system of government whose leaders can focus on governance rather than on staying in power.

- A system of directly elected chief executives at all levels - panchayat chiefs, town mayors, Chief Ministers (or Governors) and a national President elected for a fixed term of office, invulnerable to the whims of the legislature, and with clearly defined authority in their respective domains - would permit India to deal more efficiently with its critical economic and social challenges.

- Cabinet posts would not be limited to those who are electable rather than those who are able. At the end of a fixed period of time — say the same five years we currently accord to our LokSabha the public would be able to judge the individual on performance in improving the lives of Indians, rather than on political skill at keeping a government in office.

- The fear that an elected President could become a Caesar is ill-founded since the President's power would be balanced by directly elected chief executives in the States. In any case, the Emergency demonstrated that even a parliamentary system can be distorted to permit autocratic rule. Dictatorship is not the result of a particular type of governmental system.

Direct accountability

- Indeed, the President would have to work with Parliament to get his budget through or to pass specific Bills. India's fragmented polity, with dozens of political parties in the fray, makes a U.S.-style two- party gridlock in Parliament impossible. An Indian presidency, instead of facing a monolithic opposition, would have the opportunity to build issue-based coalitions on different issues, mobilising different temporary alliances of different smaller parties from one policy to the next - the opposite of the dictatorial steamroller some fear a presidential system could produce.

- Any politician with aspirations to rule India as President will have to win the support of people beyond his or her home turf; he or she will have to reach out to different groups, interests, and minorities. And since the directly elected President will not have coalition partners to blame for his or her inaction, a presidential term will have to be justified in terms of results, and accountability will be direct and personal.

- Democracy, as I have long argued, is vital for India's survival: we are right to be proud of it. But few Indians are proud of the kind of politics our democracy has inflicted upon us. With the needs and challenges of one-sixth of humanity before our leaders, we must have a democracy that delivers progress to our people. Changing to a presidential system is the best way of ensuring a democracy that works. It is time for a change.

- UpendraBaxi, legal scholar and the former vice-chancellor of Delhi University

- I think the debate has a life cycle of its own. It has been brought up and discussed whenever there has been a super-majority government. From Jawaharlal Nehru to Indira Gandhi to the present, the presidential system has been debated extensively around two aspects: is it desirable, and second, is it feasible?

- To tackle the second aspect first, unless the Supreme Court changes its mind, any such amendment would violate the 'basic structure' of the Constitution as was decided with, and since, the KesavnandaBharthi case. There is no way to get around this unless the Supreme Court now takes a wholly different view.

Different models

- On the desirability aspect, which presidential system are we talking about when we pit the American presidential system against the Westminster model? In the American system, the President appoints his officers; they have limited tenure and their offices are confirmed by the Senate (Upper House). Then, we have the Latin American model, where some Constitutions give Presidents a term often amounting to a life tenure like in Cuba. There are plenty of models to choose from and there are arguments against each. So, which system is being argued for when the votaries of change seek a shift to the presidential system?

- Our RajyaSabha cannot be compared to the U.S. Senate where each state has its own Constitution and has the power to change it. The relationship between the states and the federal government is extraordinary; as is the status of their courts and the manner of appointment of judges. I do not think people have thought about it. Merely stating that a change to the presidential system is needed does not mean much. The Indian debate currently is not focussed on the kind of presidential system envisaged. What is the term we are seeking for the President? Should he/ she be re-elected? If so, for how many terms? Then, who decides the change?

- Parliament? All this requires a massive amendment to the 'basic structure' of the Constitution. The Supreme Court has spelt its view on the 'basic structure' of the Constitution.

- Giving an opinion is one thing. A judgment is a more carefully considered conclusion. Those who support the presidential system should do their homework when they argue against the parliamentary system. There is also the matter of separation of powers. In the U.S., the President, who is also the Supreme Commander, has the power to veto the Congress. Does India need this? The manner of removing the U.S. President through impeachment is a very complex process. There is also the possibility of aggregating more powers to the President.

- One could argue that the parliamentary system too runs a similar risk. I do not think it has been thought over. It is not on the table yet.

Reform the process

- On the other hand, there are ideas going around about reforming the electoral processes to make democracy more robust. From limiting expenditure of political parties and deciding the ceiling on the expenditure, to holding simultaneous elections, declaring the results for a combination of booths instead of constituencies — I think it is advisable to debate this and ensure that the gaping loopholes in the electoral processes are speedily plugged.

- The present parliamentary system has been tried and tested for nearly 70 years. Rather than change the system, why not reform thoroughly and cleanse the electoral processes?

- Why the framers of the Indian Constitution adopted for the Parliamentary Form of Government

- Familiarity with the System
- Preference to More Responsibility
- Need to Avoid Legislative—Executive Conflicts

1. Nature of Indian Society, India is one of the most heterogeneous States and most complex plural societies in the world. Hence, the Constitution- makers adopted the parliamentary system as it offers greater scope for giving representation to various section, interests and regions in the government. This promotes a national spirit among the people and builds audited India.

Presidential Form of Government

- The Presidential Form of Government is also known as non- responsible or non-parliamentary or fixed executive system of government basically built on the

principle of separation of power, and is prevalent in USA, Brazil, Russia, Sri Lanka among others.

Features of Presidential Form of Government

- The American President is both the head of the State and the head of government. As the head of State, he occupies a ceremonial position. As the head of government, he leads the executive organ of government.

- The President is elected by an electoral college for a fixed tenure of four years. He cannot be removed by the Congress except by impeachment for a grave unconstitutional act.

- The President governs with the help of a cabinet or a smaller body called 'Kitchen Cabinet'. It is only an advisory body and consists of non-elected departmental secretaries. They are selected and appointed by him, are responsible only to him, and can be removed by him any time.

- The President and his secretaries are not responsible to the Congress for their acts. They neither possess membership in the Congress nor attend its sessions.

- The President cannot dissolve the House of Representatives—the lower house of the Congress.

- The doctrine of separation of powers is the basis of the American presidential system. The legislative, executive and judicial powers of the government are separated and vested in the three independent organs of the government.

Difference between Parliamentary Form of Government and Presidential Form of Government

S.No	Presidential Form of Government	Parliamentary Form of Government
1	President is directly elected by the People	Prime Ministeris the leader of majority Party Central
2	President is Supreme	Legislature is supreme
3	Separation of Powers	Absence ofSeparation PowersCentralization
4	Independentbranches	Independentbranches with Overlappingfunctions
5	President - head of the State	President - head of the State
6	President -head of theGovernment	Prime Minister- head of theGovernment
7	Separation ofPowers	Centralization
8	Independentbranches	Independentbranches with Overlappingfunctions

9	IndividualLeadership	Collectiveleadership
10	President is notaccountable to Congress	Collective andIndividual Responsibility

"World Bank - World Development Report 1997 : The State In A Changing World".

- The report is devoted to the role and effectiveness of the state: what it should do, how it should do it, and how it can improve in a rapidly changing world. Governments with both centrally-planned and mixed economies are shrinking their market role because of failed state interventions.

- This report takes an opposite stance: that state's role in the institutional environment underlying the economy, that is, its ability to enforce a rule of law to underpin transactions, is vital to making government contribute more effectively to development. It argues against reducing government to a minimalist state, explaining that development requires an effective state that plays a facilitator role in encouraging and complementing the activities of private businesses and individuals.

- The report presents a state reform framework strategy: First, focus the state's activities to match its capabilities; and second, look for ways to improve the state's capability by re-invigorating public institutions.
- According to this report, five fundamental tasks are core of every government's mission, without which sustainable, shared and poverty reducing development is impossible.

They are...

- Establishing a foundation of law
- Maintaining macroeconomic stability
- Investing in basic social services and infrastructure
- Protecting the vulnerable
- Protecting the environment

The Concept of Governance from Government to Governance

- Good governance is an indeterminate term used in the international development literature to describe how public institutions conduct public affairs and manage public resources. Governance is "the process of decision-making and the process by which decisions are implemented".

"Government" and "governance" are synonyms, both denoting the exercise of authority in an organization, institution or state. Government and governance became distinguished along the following dimensions:

- What activities are encompassed in the act of governing?

- What actors are involved in governance?
- What processes have made this redefinition necessary?
- What criteria are used to evaluate good governance?
- What capacities should be developed to achieve it?

- Governance is the exercise of political, economic and administrative authority to manage a nation's affairs ...Governance embraces all of the methods - good and bad- that societies use to distribute power and manage public sources and problem (UNDP, 1997):

- Governance is the manner in which power is exercised in the management of a country's social and economic resources for development (ADB, 2000)

- The movement from government to governance is not merely a task of creating new institutions but also that of refurbishing old ones. The state has to be strengthened to play a new role. It is also for the civil society to accept that democracy is not going to polls every five years but being vigilant and monitoring institutional performance and holding them accountable throughout these years.

Partnership with civil society

- In the shift of government to governance the role of civil society has been very significant. There have been two kinds of strands in this role,
  a. Social Movements
  b. Non-Governmental Organizations

- Social Movements which works for the cause of poor and marginalized do influence the governments to be responsive to their needs through changes in institutions, laws and procedures.

- NGO's have taken up diverse roles that also involve implementation of government programmes.

- Social movements and NGO's occupied new spaces in the political process and delivering public services.

Characteristics of good governance

Participation

- All men and women should have a voice in decision-making, either directly or through legitimate intermediate institutions that represent their interests.
- Such broad participation is built on freedom of association and speech, as well as capacities to participate constructively.

Rule of Law

- Legal frameworks should be fair and enforced impartially, particularly the laws on human rights.

Transparency

- Transparency is built on the free flow of information. Processes, institutions and information are directly accessible to those concerned with them, and enough information is provided to understand and monitor them.

Responsiveness

Institutions and processes try to serve all stakeholders.

Consensus orientation

- Good governance mediates differing interests to reach a broad consensus on what is in the best interests of the group and, where possible, on policies and procedures.

GOODOVERNMENT
Equity

All men and women have opportunities to improve or maintain their well-being.

Effectiveness and efficiency

- Processes and institutions produce results that meet needs while making the best use of resources.

Accountability

- Decision-makers in government, the private sector and civil society organizations are accountable to the public, as well as to institutional stakeholders. This accountability differs depending on the organizations and whether the decision is internal or external to an organization.

Strategic Vision

- Leaders and the public have a broad and long-term perspective on good governance and human development, along with a sense of what is needed for such development. There is also an understanding of the historical, cultural and social complexities in which that perspective is grounded.

How to evaluate the performance of a government?

- It is difficult to evaluate the performance of a government with unifactor analysis; the actual assessment can be done only after considering various aspects of governance, namely Socio, Cultural, Political, Economic, and Environmental factors. To evaluate the performance of a government the following factors can be considered.

Socio Cultural factors

- Gender Parity Index
- Religious Freedom
- Equality Based on caste
- Protection of religious and Linguistic Minority Rights
- Gender Budgeting

Political factors

- Effective functioning of Democracy
- Free and fair elections
- Corruption free Politics and Administration
- Transparency in Administration Independent Press
- Independent Judiciary
- Human Rights

Economic factors

- Human Development Index (HDI)
- Gross Domestic Product (GDP)
- Purchasing Power Parity (PPP)
- Growth Vs Development
- Equal Distribution of Wealth

Environmental factors

- Sustainable Development Goals
- National Action Plan for Climate change(NAPC)
- Green Budget
- Disaster management

Gross National Happiness (GNH):

- Gross National Happiness is a developing philosophy as well as an "index" which is used to measure the collective happiness in any specific nation. The Concept was first mentioned in the constitution of Bhutan, which was enacted on 18 July 2008.

- The term "gross national happiness" was coined by the fourth king of Bhutan, JigmeSingyeWangchuck, in the 1970sThe GNH's central tenants are: "Sustainable and equitable socio-economic development; environmental conservation; preservation and promotion of culture; and good governance". GNH is distinguishable by for example valuing collective happiness as the goal of governance, and by emphasizing harmony with nature and traditional values.

Bicameral Legislature

- A legislature that comprises two parts or chambers. The USA Congress is a bicameral legislature; its two chambers are the House of Representatives and the Senate. Compare with unicameral legislature.

Capitalism

- An economic system in which the means of production and distribution are mainly in private ownership for private gain at the expenseof the non-owners.Mechanisms include free markets and freedom of contract.

Checks and Balances

- A principle of a system of government whereby each branch of the government can check the actions of the others. As originally conceived, this was true of the government of the USA.

Concurrent Powers

Powers held jointly by the national and state governments.

Confederal System

- A league of independent states, each having essentially sovereign powers. The central government created by such a league has only limited powers over thestates.

Confederation

- A voluntary association of states; usually limits central authority to foreign affairs and is less permanent than a federation. A political system where statesor regional governments retain ultimate authority, except for powers expresslydelegated to a central government.

Constitution

- The fundamental law of a nation. Defines the power of the government; specifies offices and their authority.

Consent of the People

- Governments and laws are legitimate implicitly from the consent of those governed.

Democratic Republic

- A republic in which the representatives elected by the people make and enforce laws and policies.

Devolution.

- Transfer of powers from the national or central government to state or local government. This happened in the United Kingdom in the late twentieth century.

Direct Democracy

- A system of government where political decisions are made by the people directly, rather than by their elected representatives.

Dominant Culture

- Values, customs, and language of the group(s) that control politics and government in a society.

Federal System

- A system of government where power is divided between a central government and regional, or sub divisional, governments. Each of those levels has a domain where its policies are dominant. And each has political or constitutional guarantee of authority.
-

Federalism

- A political system in which authority is shared between a central government and a state or regional government.

Federation

- An association of states; usually more permanent than a confederation. A political system where states or regional governments retain ultimate authority, except for powers expressly delegated to a central government.

Legislature

That part of government primarily responsible for making laws.

Legitimacy

Acceptance by the citizens of the right and power of a government or ruler to exercise authority.

Liberal Democracy

Democratic government that provides for the protection of individual human rights, in order to prevent a majority from oppressing a minority.

Liberalism

Advocacy of positive government action to improve the welfare of individuals, support for civil rights, and tolerance for political and social change.

Limited Government

A government whose powers are limited, particularly by institutional checks.

Parliamentary System

Representative democracy where political power is vested in an elected legislature. Used in most European countries.

Presidential System

Representative democracy where political power is vested in separately elected and appointed branches of national government. This system is used in the USA.

Representative Democracy

A form of government in which representatives are elected by the people to make and enforce laws and policies. Political decisions are made by the officials elected by the people. [Some such democracies retain a monarchy in a ceremonial role.]

Republic

A form of government in which sovereignty rests with the people (or a portion of the people), as opposed to a king or monarch or dictator. This form of Representative Democracy was created by the framers of the US constituion.

Separation of Powers

The division of governmental functions and powers among different branches of government, so that the various self-interests of each group would moderate those of the others.

Theocracy. [From Greek theos = god and krateein = to rule.]

Rule by a god, which in practice means rule by a priesthood. No separation of church and state. Compare with aristocracy.

Totalitarian

A regime of command by the government and obedience by the citizens. The regime controls all aspects of political and social life (as in George Orwell's 1984). In

contrast with an authoritarian state, all social and economic institutions are under government control.

Unicameral LegislatureA legislature that comprises a single part or chamber. In the USA (early 21st century) only the state of Nebraska has a unicameral legislature. Compare with bicameral legislature.

Unitary System

A centralized governmental system where local or regional governments exercise only the powers that the central government gives them.

Universal Suffrage.

[From Latin suffragium = voting tablet, vote.] The right and privilege of all adults to vote for their representatives.

APPOLO STUDY CENTRE

11th Volume II

Unit 12 – Local Government

Meaning, Nature and Importance of Local Government

- Local Government means, the government which manages services and amenities in our villages, towns and cities with focus on local problems. The local governments normally functions within a specified limited territory of a village, a town, a city and also a large metropolitan city. The local governments function as the basic link between the people in a village or town with the government. As and when people have problems such as road repairs, water stagnation in the streets, non functioning of street lights and construction of small water bodies recreation parks, etc. The local governments have the responsibility to attend to any emergency situations, birth or death of persons in the village or town. The local governments are the institutions, which issues certificates of proof of residence, birth, death and incomes etc to the residents in that area. In total, the local governments are the institutions which are responsible for all such local needs of the people. They are the lowest unit of administration in the administrative structure of the government. The local government has council, which is normally elected by the people of the village or town concerned, which is responsible for the representing the problems of the citizens in the council and find solutions to the problems. The council representatives are elected once in five years, or four years, depending upon the law in operation in the country.

- The local governments are representative institutions, representating people in the council. There are legally mandated to discuss and give solutions to the problems of the people of that area and also represent the problem to the higher levels of the government such as state. Since the local governments are established on the basis of democratic process, all the problems discussed by the council of the local governments should go through the process of discussion, debate and deliberations and unanimously accepted by the council. The members of the council are given freedom to discuss and also to take decisions at same time within the framework of the fundamental law of the land called Constitution.
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- The importance of the local government lies in the nature of the problems handled by the local governments, which are basically "local" in nature and also the variety of problems attended by the local governmentcannot be attended by the higher levels of the government like state or central governments. Because the local problems are specific to the local areas and the solutions found for those problems should also be relevant to the situation. An irrelevant solution to the problems may hamper the situation and also it is also concerned with the spending of the taxes collected from the people. If solutions are irrelevant to the local problems, the

resources used for that programme may by wasted and it gives more burden on the people again.

- Therefore, local governments are the institutions created for the purposes of solving the local issues and addressing the local level problems. The local governments normally consist of elected representatives drawn from the local population representing the local people and they represent the local issues in the council and try to find solutions to the problems. The local governments are the important channel of flow of resources and programmes to the people at the lowest levels normally called "grassroots" level. No country today afford to ignore local governments because of the fact that local issues at present becomes global issues. With development of Information and communication Technology (ICT), the whole world have become global village.

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Classification of local government institutions

- Local governments are classified as Rural and Urban based local governments. The Rural and Urban divide is made based on the nature of the occupation of the residents viz; agriculture based or non-agriculture based occupations. The agriculture based occupation means that almost or most of the residents of an area are engaged in agriculture related occupation and the nature of the functions normally would be farming, dairying, poultry, and other similar types of activities. Whereas, in urban areas the citizens would engaged in industrial, trade and business and other activities.

- The urban areas are the places where the people's livelihood is based on occupations in industry, trade, commercial institutions and administration like government offices and private company offices. The urban areas are the link between the outside world to the local villages. The local governments formed in rural and urban areas are called rural local governments and urban local governments respectively.

- In India, the rural local governments have given general name "Panchayati Raj" which means the system of Panchayat institutions, that is, the institutions which does the panchayat, (deliberate, discuss, and deliberate). The Urban local

governments in India are classified in to various types depending upon the political and economic basis of the formation of the urban local governments such as, Municipal Corporations, Townships, Area Planning Committees and Cantonment Boards. For example, in India the urban local governments are classified into various types such, Municipal Corporations in metropolitan cities, Municipalities in small towns, Townships in industrial towns, Cantonment Boards in military establishments.

- Types of Urban Local bodies
- Municipal Corporations
- Municipalities
- Municipal Townships
- Town Panchayats
- Cantonment Boards

- The Municipal Corporations are established in metropolitan cities with population with 1 million plus cities, which are large and need an elaborate machinery for providing amenities and services to the metropolitan population.

- The increase in the number of the population in metropolitan cities due to migration of people from rural and other small and medium towns and other metropolitan areas over the years make these cities mega polis.

- The Municipalities are established in small and medium cities and town with population of less that 1 million. The Municipalities too are reclassified as Class I, Class –II etc., depending upon the number of the population and also range of the revenue collection. The grades of the Municipalities are reviewed periodically by the higher levels of the governments to facilitate the classification of the municipalities.

- The Townships and the Notified Area Committees are emerging urban areas, where the new industries are established, the changing occupations of the residents of that area from farm employment to non-farm employment.

- The Cantonment Boards are established in military establishments, where the defense establishments such as Training institutes for defense personnel, defense industry etc. Both the Rural and Urban local governments are lowest tier in the government hierarchy.

- In various countries of the world, rural and urban local governments are organized differently. However, the basis and principles of which local governments are being established are almost same. Local governments are being established for the local people with revenue predominantly derived from local resources. The upper layer of the governments normally does the function of supervision and monitoring the local bodies

- Local Government around the world

- Local Governments are as old as that of human civilization and in many countries around the world local governments are the foundation upon which the modern state is established. A preliminary reading about the Local Governments in various countries of the world show us that large or small, developed or under developed, some form of Local governments exist to deliver amenities and services at local level.

- However they differ widely in their structure, powers, functional domain, fiscal resources etc. In many of the European countries there has been efforts on the part of the government to decentralize the powers and functions, which were otherwise centralized. The question of devolution of finances, the jurisdictional issues in policing, transport and inter-state commerce are some of the pending and irritants in the case of the developed countries. Whereas in the developing countries, there is more and more attempt on the part of the central or federal governments to centralize the powers and financial resources. In India the constant pressure is being exerted on the central government for more devolution of administrative and financial powers to state as well as local governments.

Origin and development of Local Governments in India

- In tracing the origin and development of local governments in India, one finds the evidences of the existence of local governments even before the times of Christ (BCE). The period between 600 BCE to C.E. 600 witnessed the rise and fall of republics. During this period, there emerged Mahavira (founder of Jainism) and Buddha (founder of Buddhism). Villages were classified according to size and mode of habitation in Jain and Buddhists literature.

- The religious orders founded by Buddha and Mahavira observed highly democratic procedures in arriving at decisions. Kautilya'sArthshastra (Treatise)gives a comprehensive account of the system of village administration prevailing in his time In the days of Maurya the village and the district were units of administration.

- In the South Indian peninsula, the existence of the local self governing institutions could be traced well before the period of the Christian calender. The historical period can be grouped in to early Chola period, Kalabira period, and the later Chola period, the emergence of Vijayanagara empire, entry of Muslims and Moghuls and the British. There were very little evidence available about the system of local governance in the early CholaPeriod(which dates back to Before Christ) and the Kalabira Period.

- But there were some account of existence of local governments during the times of Pandyas (rulers of deep south India) and the Pallavas (rulers of mid southindia). But Cholas (rulers who ruled mid Tamil country) period witnessed a well developed local self governments. The inscriptions of ParanthakaChola – I(919.C.E. – 922.C.E)

from Utthiramerur in Kanchipuram district of Tamilnadu state, give detailed account of local self government. They inform that each village had an assembly consisting of all adult males and their involvement in general matters. These assemblies are of two types, the "Ur" and the Mahasabha". The third kind was the nagaram (town) confined to mercantile towns(trading centers) and the fourth was the "nadu". Hence two types of institutions were mentioned one nadu (village and other areas) and nagaram (urban centers).

- In general there is little information on the functioning of any village assemblies prior to the 9th century. Both "nadu" and "Nagaram" were concerned about the control and regulation of land holdings, management of irrigation works, temples, collection and remission of taxes, floating of loans for capital works and the management of charitable institutions. The "ur" and the "mahasabha" were the two institutions that assisted the officers in executing the orders of the king.

- It has been found that Raja RajaChola, the First, ordered the "mahasabha" of the ViranarayanaChaturvediMangalam to confiscate the property of traitors. Many historians such as Sir Charles Metcalfe, Sir George Bird wood and Eliphinstone opined that a strong system of local government existed in Ancient and medieval South India. But doubts are expressed by some of the historians about the elaborate existence of the local self government in ancient and medieval South India.

- During the Moghul period A.D (C.E.)1500 to A.D (C.E.)1777), the fundamental principles of central local relationships hardly changed with change of kingdoms. When the Mughal Empire was at its zenith of glory, it was divided into provinces (Subhas), and Provinces into sub divisions (Sarkars), and Sakars into union of villages (Paraganas). At each level the government is organized and the officials were appointed by the Emperor. In the Twilight of the Mughul Empire, the self governing institutions in rural areas had been severely damaged at vital points, but they had withstood the onslaughts with remarkable tactics.

- After the Battle of Plassey in A.D (C.E.) 1757, the British East India Company derived land taxing rights (Diwani rights) from Bengal ruler (Nawab), which was the first step in the ascendency of the British rule in India. The rural and the other urban trading centers during the British East India company rule, was not under any control or supervision, except the three Presidency towns of Calcutta, Bombay and Madras. The District administration under the charge of the district collector was the king pin in the British control over vast rural areas.

- The important mile stone during the company rule was the establishment of the Municipal Corporations , as mentioned earlier at Calcutta (Kolkata), Bombay (Mumbai) and Madras (Chennai). Viceroy Lord Rippon in 1882 brought out a resolution, proposing a smaller unit for constituting rural local boards, a sub division, tehsil (taluk) and district boards to supervise.

- Lord Rippon's resolution emphasized that the institutions he proposed should have a majority of non-officials who should be elected wherever it was feasible. Nearly 500 rural boards were created with a two third majority of non officials who depended upon the district magistrate (district collector) for the favour of nomination. The main activities of the district boards till 1909 were police, public works, education and village sanitation.

- The rural local government introduced by Lord Rippon faced many criticisms and in the A.D (C.E.) 1907, the British government appointed a commission to enquire into the question of administrative and financial relations between the Government of India, Provincial governments and subordinate authorities under them so as to simplify and improve the prevalent system through devolution or otherwise. With the passing of Government of India Act, 1919, the local governments were entrusted with the elected elements of the provincial government under the diarchy system of government.

- The number of the village bodies in Tamilnadu increased from 1417 in 1926 to 6250 in 1937. There are three tier system of rural local bodies viz; District Boards, Taluk Boards, and Village Boards. The District and Taluk boards have undergone changes by 1923, the non-official chairman in all provinces replaced official chairman. In Tamilnadu, most of the District Boards came to be dominated by Justice Party members, which stood at 545 in 1927. From 1937 upto 1947, the rural local authorities faced many challenges including the national freedom movement.

- After Indian Independence in 1947, an attempt was made to revive local governments in India. Mahatma Gandhi argued for the decentralized administrative system in India entrusting responsibility of governance with the village panchayats (self sufficient Gram Swaraj). ShrimaNaryan with blessings of Gandhiji published a blue print of the Gandhian Constitution for Free India wherein panchayats are the basic institutions for organizing social, economic and political activities of the citizens. In addition to the civic, political and administrative roles, the Panchayat was to play the economic role of organizing production and distributing resources in such a way that the village communities became self sufficient for meeting most of their basic needs.

Diarchy

- The diarchy system entries that the subjects of the administration had been divided into reserved subjects and transferred subjects. The police, law and order, finance are the reserved subjects, which will be under the Governor and other subjects like education and other as mentioned earlier will be entrusted to the elected representatives.

- Thus Article 40 came to be incorporated in the Constitution, as part of the Directive Principles of the State policy (Part –IV) of the Constitution of India adopted on Nov. 26th 1949. The Art. 40. States that, " the state shall take steps to organize village

panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self government"

- In compliance with the provisions of the Directive Principles of the State Policy, an ambitious rural sector initiative, the Community Development Programme was launched in 1952 with main focus of securing social- economic transformations of village through people's own democratic and cooperative organizations with the government providing technical services, supply and credit. This programme was extended to most of the blocks as National Extensions Service aimed at transferring scientific and technical knowledge to agricultural, animal husbandry and rural craft sectors. In 1956, under the Second Five Year Plan, (1956-1961), it was recommended that village panchayats should organically link with popular organizations at higher levels and in stages, the popular body should take over the whole administration. In 1957, Government of India appointed a Committee on Plan Projects under the Chairmanship of BalwantRai Mehta. The Mehta Committee recommended two points namely, the administration should be decentralized and the administration should be placed under the control of local bodies.

- Secondly, the community development blocks should be designed as administrative democratic units with an elected Panchayat Union to operate as a fulcrum of developmental activity in the area. It also recommended for the formation of District Development Councils (ZilaParishad) at the district level consisting of all the Presidents of the Panchayat Unions (Samities), Member of legislative assemblies and Members of Parliament with district level officers of the public health, agriculture, veterinary and education departments as members and the collector as the chairman. The district body is only an advisory body. The recommendation of the Mehta Committee were generally welcomed and Panchayati Raj legislations were enacted and by 1960s about 90 per cent of the population were covered by the Panchayati Raj bodies.

- In 1977, the Government of India formed a committee under the chairmanship of Ashoka Mehta to go in to the working of the Panchayati Raj bodies and suggest measures to strengthen it. It recommended that Panchayati Raj should emerge as the system of democratic local government, discharging developmental, municipal and ultimate regulatory functions. Hence the first recommendation was to set up district Panchayat (ZillaParishad) as the directly elected body. As a temporary arrangement, the committee recommended continuation of the Panchayat union at the block level. Not as a unit of local self government but as a nominated middle level support arm for the District Development Council. The Ashoka Mehta Committee submitted it's report in 1978, which was well received and led many states to introduce appropriate amendments in their Panchayat Acts such Karnataka, Maharastra Andhra Pradesh, West Bengal and Gujarat.

- A number of committees were formed between 1978 and 1986, to look into various aspects of strengthening the local self government institutions, such as, C.H.HanumanthaRao Committee, G.V.K Rao Committee and L.M.Singhvi

Committee. Only minor changes were suggested by these committees from the Ashok Mehta committee, The next land mark was the introduction of 64th and 65th Constitutional Amendment Bills, in July 1989 by Rajiv Gandhi government, which could not be passed in the Council of States (RajyaSabha).

- After many attempts, in 1992, incorporating important features of earlier exercises on this subject, government drafted and introduced the 73rd and 74th Constitutional Amendment bills in Parliament in 1992 which was passed by the Indian Parliament in 1993. The 73rd and 74th Constitutional Amendments introduced new parts IX and IXA in the Indian Constitution containing Articles 243to 243 ZG.

73rd Constitutional Amendment – implementation and implications.

- Article 243 B of the Constitution which was inserted into the Constitution under the 73rd Constitutional Amendment, envisages that states and union territories except those with population not exceeding 20 lakhs, will have to constitute a three tier system of Panchayatie, village, intermediate and district levels. While the district has been defined as a normal district in state, the jurisdiction of village and intermediate levels have not been specifically defined in the Act.

- The territorial area of a village Panchayat can be specified by a public notification by the Governor of the state, and may consist of more than one village. Similarly, the intermediate level which can be a Taluk or Block is also to be specified by the Governor through a public notification in this regard. This provides a certain amount of flexibility to the States in constituting Panchayats at the lower and middle levels.

- A new schedule, Eleventh Schedule was inserted in to the Constitution of India, which provided for obligatory and discretionary functions of the Panchayats at three levels,

  - The Village Level
  - The District Panchayat at the district level
  - The Intermediate Panchayat which stands between the village and district Panchayats in the states where the population is above 20 lakhs

- All the seats in a Panchayat shall be filled by persons by direct election from territorial constituencies in the Panchayat area. The electorate is named as "Gram sabha" consisting of persons registered in the electoral rolls relating to a village comprised within the area of a Panchayat.

- The Chairperson of each Panchayat shall be elected according to the law passed by a State and such State law shall also provide for the representation of Chairpersons of Village and Intermediate Panchayats in the District Panchayat, as well as members of the Union and State legislature in the Panchayats above the village level.

- Hence, the new Amendment Act provided for participation of Members of Parliament and Members of Legislative Assemblies in the Panchayat Union Councils and also in the District Panchayats. The Amendment Act also provided reservation of seats in the three tiers for Scheduled Castes and Scheduled Tribes and not less than one third of the total seats for women. The tenure of the Panchayats shall be five years.

- The law provides that any person who is eligible to be elected to the state legislature shall be qualified to be chosen as a member of a Panchayat. The responsibilities of the Panchayats are clearly laid down in the Eleventh Schedule. (Box.1). Like the National Finance commission, the Constitution Amendment Act also provided for the State Finance commission for recommending the formula for transfer of the financial aid to local governments from the states.

  - There are around 2,50,000 village panchayats in India as per 2011Census

- Consequent to the 73rd Constitutional Amendment as well as the Supreme court's rulings which effectively mandate that local authorities are also to There are around 2,50,000 village panchayats in India as per 2011Census be treated as "Government or state", The Panchayats that have acquired substantial legitimacy are recognized as an instrument of the Government and have created participatory structure of grass roots democracy for the rural people. Creation of constitutional bodies like the State Election Commissions and the State Finance Commissions have also given permanency and stability to these institutions. However, most Panchayats continue to be treated as agencies of the state for implementation of prescribed schemes, even though essential services such as provision of drinking water, rural sanitation, preventive health and primary education are accepted as their legitimate core functions. The structure of district administration under the control of the Collector, characteristically by a command structure and lack of horizontal coordination at the grass roots level, has become somewhat anachronistic in the modern democratic framework of out polity. In order to make local administration more responsive transparent and accountable to citizens there is a need to have a representative government not only in the Union and States but also at the District and Village levels with an equitable division of functions among them.

- Panchayati Raj (1959 – 2009)

- Golden Jubilee Year – on 2nd October 1959, Pt. Jawaharlal Nehru laid the foundation of Panchayati Raj in Nagaur, Rajasthan; the most revolutionary step in the context of governance of rural India. The journey which commenced with the commitment of comprehensive development of villages and to put power in the hands of people.

- Three tier Panchayati Raj system under 73rd Constitutional Amendment(1993)

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- District Panchayats
- (Elected and nominated)
- Panchayat Union Councils (Elected)
- Village Panchayats (Elected)
- Gram Sabha (All Voters in a village) (Advisory Body)

74th Constitutional Amendment Implementation and Implications

- Under the 74th Constitutional Amendment, the urban areas comprise different types of municipal bodies constituted with reference to character, size and importance of different towns and cities. Municipal Corporations, Municipal Committees, Notified Area Committees, Town Area Committees, and Cantonment Boards are the usual types of municipal bodies and while the first four types were created under the state municipal laws, the Cantonment Boards owed their origin to the Central Act called the Cantonments Act, 1924.

- In most of the states, all these types of urban local bodies existed except the Town Area Committees, which had since been abolished and converted into class – III Municipal Committees. Town Area Committees were semi municipal committees constituted for small towns by a separate act of the state legislative assembly.

- After passing the Constitution (74th Amendment) Act, 1992, the Government of India notified the Amendment in June 1993. The Act of 1992 provided for a period of one year from the date of its commencement, the states were required to change amend or modify there legislations in order to incorporate the Central Amendment. Various states and union territories have enacted legislations for the governance of the urban local bodies in their respective jurisdictions. For example, the Punjab government enacted the Punjab Municipal Bill, 1998 to replace the Punjab Municipal Act, 1911.

- The GramaSabha meetings are held four times in a year ie. January, 26 (Republic Day), May, 01 (May Day) August, 15 (Independence Day) and October, 02 (Gandhi Jayanthi).

- A three tier structure of urban local bodies were proposed in the 74th Constitutional Amendment act namely, Nagar Panchayat or Town Panchayat, Municipalities and Municipal Corporations. We shall discuss briefly the details of the above three urban local bodies established under the 74th Constitutional Amendment Act.

Nagar Panchayat or Town Panchayat

- A Nagar Panchayat or Town Panchayat is constituted for a transitional area, ie. , an area in transition from a rural area to an urban area. The population of such an area is 5000 or more but less than 15,000 and the revenue generated from tax and sources

exceeds such amount per capita per annum as many be specified by the government from time to time. Every Nagar Panchayat is a body corporate and has a perpetual succession and a common seal with power to acquire and hold, or dispose of properties and may sue and sued.

- A Town panchayat shall consist of such number of elected members not less than 9 or not more than 15, as the state government may determine by rules. The members of the legislative assembly representing the constituencies comprising transitional area or any part of thereof, and two members nominated by the state government from amongst persons having special knowledge or experience in municipal administration. The nominated members shall not have the right to vote in the Town panchayat meetings. The term of a Town Panchayat shall be 5 years.

- The government shall divide a transitional area (town panchayat area) in to a number of territorial constituencies known as wards and each ward shall elect only one member. Out of the total number of seats in Town Panchayat to be filled by direct election, seats are reserved for Scheduled Castes (SC) and Scheduled Tribes (ST) in the same proportion of the population of SCs and STs to the total population of that town panchayat area. In addition, one third of the total number of seats of that area are reserved for women, including the seats reserved for SCs and STs. The town panchayat members shall be elected from amongst its members, One President and one Vice President in a meeting convened by the Deputy commissioner. Every Town Panchayat shall perform obligatory functions such as water supply, drainage, clearing the streets etc. Every town panchayat shall have an executive officer appointed by the state government

Municipal Council

- A Municipal Council or municipality is constituted for a small urban area with a population of 15,000 or more but is less than 3 lakhs and the revenue generated from the tax and other sources exceeds such amount per capita per annum as may be specified by state government from time to time.

• Municipality Grade	• Population
• Class A	• 1 Lakh or more
• Class –B	• 50,000 – • less than one lakh
• Class – C	• Less than 50,000

- A Municipal Council or Municipality for example in Class-A, not less than 20 and not more that 50 elected members; Class-B 15-30, and Class-C, 10-15. The members of State Legislative Assembly representing the constituencies lying within the municipal area are "Ex-Officio" members of the Municipal Council. Not more than 3 members are nominated by the state government. The nominated members do not

have the right to vote in the elections of the chairpersons and vice chairpersons. The members are elected through secret ballot.

- The whole municipal area is divided into wards, as per the number of councilors to be elected , say 15 or 30 or 10 . The electoral rolls of the legislative assembly in relation to municipal area are generally taken as the voters list. The candidates contesting in the elections are allotted symbols. The symbols of the recognized political parties are allotted only to the candidates sponsored or adopted by the them.

- The Deputy Commissioner has to call the meeting of the elected members within 14 days of the notification of the election results to administer the Oath of office and to hold the election of the President and Vice-President. As that of Town Panchayats, seats are reserved for the SCs and STs according to the proportion of the population of SCs and STs to the total population of the municipal area. In addition, 30 per cent of total seats are reserved for women including the SCs and STs seats.

- The 74th Amendment provide the constitution of ward committees consisting of one or more wards within the territorial area of a Municipality, having a population of 3 lakhs or more. A member of a Municipality representing a ward with in the territorial area of the ward committee shall be a member of the ward committee. The Standing Committees shall be constituted for each Municipality consisting of the President, senior Vice-President, and Vice president and 4 other members in the case of Class- A, 2 in the case of Class-B from among the elected members for a period of 2 and half years. The term of office of Municipality is five years. The elected municipality can be dissolved if it is not performing as per the provisions of law.

- The Municipal Council meets at least once in a month, presided over by the President or in his/her absence Vice- President. The Municipal Council with the increasing load of work, elects subcommittees comprising councillors from amongst itself to study a problem in depth and make recommendation for its solution. The sub committees are of two types statutory committees and, non-statutory committees. Municipal bodies also appoint special sub committees for certain specific purposes and follow the same procedure for their election as it adopts the constitution of standing sub committees.

- A Municipal Council elects its President from amongst members within one month of the constitution of Municipal Council. The Municipal Council is constituted after elections are held. The President is elected for a period of 5 years. The Municipal Council also elects one or two Vice- Presidents. The Presidents of the municipalities in various states draw monthly salary in addition to travelling allowance . The President convenes and presides over the meeting of the Municipal Council. He / She is empowered to take disciplinary action against offending councilors. The President is the chief spokesperson of the Municipal Council and represents it at official functions and also with regard to correspondence with the government.

- The state government in every municipality appoints an Executive Officer. The Executive Officer is the principal executive authority and all municipal staff is sub-ordinate to him/ her. He/ She is the important officer to execute, supervise monitor and report the activities of the Municipalities to the council. The Municipal Council is the governing body of the Municipality, responsible for Municipal Administration. It makes by laws the governing place and time of council meetings, the manner of giving notices, the conduct of meetings.

- The councilors are expected to keep themselves in touch with the citizens and enquire about their grievances against municipal staff, and bringing to the notice of the appropriate administrative head or to raise the matter in the council meetings. The powers and responsibilities of municipalities are enshrined in the Twelfth Schedule of the Constitution. (See Box-2)

- The 74th Constitutional Amendment provided the constitution of committee for district planning, to prepare a draft development plan for the district as a whole. The Committee shall consolidate the plans prepared by the panchayats and municipalities in the district. The composition of the District Planning Committee as provided in the Act of 1992, consists of that not less than 4/5th of the total members of the committee. They shall be elected by and from amongst the elected members of the Panchayats at the district level and of the municipalities in the district, in proportion to the ratio between the population of the rural areas and of the urban areas in the district.

- The Municipalities have been provided with the power to raise revenue for discharging its duties and performing its functions such as the taxes, duties and fees which could be levied and collected by the Municipalities (For example: tax on lands and buildings, scavenging tax on octroi, a tax on advertisements, a fire tax, toll on roads and bridges etc) the 74th Amendment Act made it obligatory for the state governments to Constitute State Finance Commission within one year from the commencement of Act.

Box No-2 : Twelfth Schedule of the constitution: Powers and Responsibilities of Municipalities

Subject

- Urban Planning including town planning
- Regulation of land use and construction of buildings
- Planning for economic and social development
- Roads and Bridges
- Water supply for domestic purposes,
- Public Health, sanitation conservancy, and solid waste management
- Fire services
- Urban forestry, protection of the environment, and promotion of ecological aspects

- Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded
- Slum improvement and up gradation
- Urban poverty alleviation
- Provision of urban amenities and facilities such as parks, gardens and play grounds
- Promotion of cultural, educational and aesthetic aspects
- Burials and burial grounds, cremations, cremation grounds and electric crematoriums
- Cattle ponds, prevention of cruelty to animals
- Vital statistics including registration of births and deaths
- Public amenities including street lighting , parking, bus stops and public conveniences
- Regulation of slaughter houses and tanneries

  - The State Finance Commission shall make recommendations regarding:
  - Distribution between the state government and municipalities of the net proceeds of taxes, duties, tolls and fees to be assigned or appropriated by the state;
  - Allocation of share of such proceeds between the municipalities at all levels in the states;
  - Determination of taxes, duties tolls and fees to be assigned or appropriated by the municipalities;
  - Grants-in-aid to fund the state;
  - Measures needed to improve the financial position of the municipalities.

- However in practice, the Municipalities in our country undertake only such functions which have been specifically assigned to them by respective state legislative enactments. This restrictive approach to municipal functions no longer and holds good in the changed political context and needs of the country. There has been increasing tendency on the part of the state government to take over more and more local functions either directly or by creating special purpose agencies.

- Municipal Corporations The Municipal Corporations constitute the highest or the top most form of urban local government in India. They are created for big cities by the enactments of the State Legislatures or of the Parliament in the case of Union Territory. The various categories of the cities are determined by its population, area or revenues. Municipal Corporations in the early period were established in three Presidency towns viz; Bombay, Madras and Calcutta. A Municipal Corporation is based on the democratic principle of management of local affairs by the representatives of the people of the city concerned, who are to be elected periodically on the basis of universal adult franchise with reservation of seats for SCs and STs in proportion to their population and also for women. The Municipal Corporation is marked by statutory separation of deliberative and executive wings.

- The Corporation Council and the Standing Committees Constituted the deliberative wing and the executive wing. The Council, consisting of elected representatives and a few nominated members, is responsible for the exercise of legislative powers. The Standing Committees function as an auxiliary of the Corporations. All the matters to be passed by the council pass through it after it considers the proposals and recommendation made by the Municipal Commissioner. The Municipal Commissioner is the chief executive and implementing the decisions taken by the council.

- Municipal Corporations in India are generally structured on the pattern of Bombay Municipal Corporation. The tenure of the Municipal Corporation is 5 years. The 74th Amendment provides wards committees, which shall be considered for one or more wards within the territorial areas of the Corporation. The chairperson shall be elected for one year and shall be eligible for re - election. A ward committee supervises provision of water supply, pipes and sewage, drainage connections to premises removal of accumulated water on streets or public places due to rain or other, collection and removal of solid waste, provision of health immunization, services for the civic services in slum and lighting, repair of roads, maintenance parks drains and etc.,.

- A Municipal Corporation shall have a Standing Committee constituted by it, consisting of Mayor, the senior deputy Mayor and other councilors elected by the councilors of the Corporation from amongst the members. The Mayor shall be the chairperson of the Standing Committee. The Municipal Corporation also constitutes committees to deal with subject matters such as water supply, sewage etc.,. Each subject committee shall consist of not less than three and not more than five members.

- The term of the subject committees is one year. The Municipal Corporations have been provided with financial resources to carry out its duties assigned to it by the 74th Amendment. A list of 18 functions to be performed by Municipal Corporations has been given in the 12th Schedule of the Constitution. Like the 73rd Amendment Act, the 74th Amendment Act also provided for a committee planning metropolitan area.

- The Committee consists of not less than 2/3rd of the members who shall be elected by and from the elected members of the Municipalities and chairpersons of the panchayats in the metropolitan area in proportion to the ratio between the population of Municipalities and of the Panchayats in that area.

- All Municipal Corporations are provided with the office of the Mayor and Deputy Mayor. Mayor in some states are directly elected by all the voters with in the metro city. In some states, Mayor is elected from amongst the elected councilors. The Mayor presides over council meetings, guide its deliberations to maintain decorum and exclude any objectionable portion from the record of the proceedings of the council. He/ She is also empowered to expel and even suspend members for gross

misconduct or disorderly behaviour. In case of a tie he/she exercises his /her casting vote.

- The Municipal Commissioner is the chief executive officer of the Corporation. Normally the commissioner is being appointed from officers in I.A.S (Indian Administrative Service) cadre. The commissioner's appointment vested in the state government, has been a subject of great controversy. The term of the commissioner is three years, which can be extended by the state government. He/she is one of the statutory municipal authorities to carry out the provisions of the Corporation Act.

The case of Tamilnadu

- The Tamilnadu State Election Commission established under the 73rd and 74th Constitutional Amendments, gives a brief account of the status of local government in the state of Tamilnadu.

- As stated by the Tamilnadu State Election Commission, under the 73rdConstitutional Amendment Act (Rural Local Bodies) the government of Tamilnadu as a constitutional obligation has taken into account important points including: formation of Gram Sabha in every village with powers of general supervision over the elected village Panchayat and the power to grant approval to the annual plans of the Panchayats; formation of three tier Panchayats i.e., District Panchayats, Panchayat Unions and Village Panchayats made obligatory; reservation of seats for weaker sections of society like SCs, STs and Women; powers to impose taxes and provision for grants , assignments etc., from government funds through constitution of a State Finance Commission.

  - The State of Tamilnadu has 12,564 village panchayats, 388 panchayat unions and 31 district panchayats.

- Under the 74th Constitutional Amendment Act, devolution of more functions and taxing powers; revenue sharing with state governments; regular conduct of elections; reservation of seats for SCs and STs and for women; uniform composition of the urban bodies throughout the country were provided.

- Following 73rd constitutional amendment the Tamilnadu Panchayats Act was passed in 1994, which replaced the earlier Tamilnadu Panchayats Act, 1958. The Tamilnadu Panchayats Act, 1994 was amended in 1996. The Act of 1996 provided as far as Panchayats are concerned : to plan for their developmental needs, constitution of District Planning Committee; constitution of State Election Commission and constitution of State Finance Commission. In the first elections under the 1994 Act, 1,17,000 representatives were elected for the three different tiers of local government across Tamilnadu.

- **Urban Local Governments**

- As far as urban local bodies are concerned, the 74th Constitutional Amendment Act, paved the way for setting up urban local bodies in various states. Elections were held to the rural and urban local bodies in Tamilnadu in 1996, 2001, 2006 and 2011.

Contemporary Issues

- There are many issues which are highlighted by the experts in the field of local governance from time to time. The main issues brought out by the experts are provided in the following section. First there is considerable expansion in responsibilities of local governments, which were previously state government responsibilities.

- Taking into account the capacities of the levels of government and the line of control, throughout government apparatus should be considered and reclassification of list is needed. Second, maintenance of village courts is also an important issue, where the policing is state wise centralized, which can not entrusted practically to the local governments.

- Third, urban local bodies are entrusted with many functions out of which many of them are connection with the state government departments.

- In sum, the 73rd and 74th Constitutional Amendment Acts brought reforms in local government in India. The rural and urban local bodies prior to the reforms were the creation of the British. Many new and innovative changes were brought in the amendments. So far only 18 states in India have ratified or approved the amendments in their legislative assemblies, which is required as per the law. In addition, many state government even after enacting the amendments and ratified them, have not put in to operation many provisions, because of the issues mentioned above. Unless these issues are resolved, the objectives for which the 73rd and 74th amendments were made, could not realized.

Panchayati Raj (1959 – 2009)

- The Tamilnadu Municipal Laws (Fourth Amendment) Bill, 2018 and the Tamilnadu Panchayats (Second Amendment) Bill, 2018 – for extending the tenure of the special officers of the urban and rural local bodies for a period of six more months.

- There are 12 Municipal Corporations, 148 Municipalities and 561 Town Panchayats in Tamilnadu as urban local bodies.

12th Volume I

Unit 2 – Legislature

Introduction

- Legislature is one of most important institution for the functioning of representative democracy. The basic objective of the legislature is to hold its representatives accountable, responsible for the interest of the people in the country. Legislature is generally referred as the highest law-making body, having elected representation from all the constituents of the state to make or change the laws of the country. In India, legislature at the Centre is called as Parliament and is also referred as National Legislature. The legislatures in The State and the Union Territory are called as Legislative Assemblies.

- The Parliament consists two houses namely; House of the People (LokSabha – Lower House) and Council of States (RajyaSabha - Upper House). This is known as bicameral system of Parliament, and has inspired by the British Parliamentary system and the bicameral system of the USA. Similarly, the States have Legislative Assembly and Legislative Council. But in many of the States only unicameral legislatures exist without any Legislative Councils. In India, the Parliament shares its law making function and responsibilities of implementation with twenty eight states as well as nine union territories. The Union Territories are directly governed by the Union Government.

Union Legislature: The Parliament

- The Parliament is known as Union Legislature or National Legislature, which is a supreme body of decision making and symbol of democratic governance. The Parliament is the most powerful platform with accountability for debating on the issues regarding welfare of the country and its people and enacting laws and making changes to the constitution

- It has two important powers and functions called as legislative and financial. The legislative powers are for law making and the financial powers are to prepare money bill as called as budget. Also the parliament has electoral functions with regard to elect the President and the Vice- President of India.

- The Parliament has judicial function also on the matters of the proposals for the removal of the President, Vice – President, Judges of the Supreme Court and High Courts and the process of removal is called 'impeachment'. It is the duty of the President to summon the Parliament and it must have not less than two sessions in a year. Every year, at the commencement of the first session of the parliament, the President delivers his special address which would be the future course of action of the parliament in view of giving framework for new policies, programmes and

initiatives of the government. The parliament of India has functions of legislation, overseeing of administration, passing of thebudget, ventilation of public grievances, and discussing national policies and issues of concern. The cabinet, both individually and collectively is accountable to and removable by the Loksabha.

Functioning of House of People (LokSabha)

- The parliament has two houses and both houses carry the same values and responsibilities with a few exception such as passing the finance bills. The first one is the LokSabha (Lower House or House of People) with 543 members elected from 543 Parliamentary constituencies across the country directly by the people who have attained the age of 18 and above and registered as voters. The LokSabha has 2 nominated members from the Anglo- Indian community.

Quorum of the House: One tenth of the total number of members of LokSabha / RajyaSabha constitutes the quorum for a meeting of the House.

- The grand total number of members in the LokSabha is 545, but the nominated members cannot decide the government when it proves majority on the floor of the House. The LokSabha is the highest forum for discussion, debate on public issues, interest and policies to cater to the socio-economic needs of the people.

- The members of both houses are generally called by the public as Member of Parliament. Member of Parliament, Loksabha is one who represents the constituency of the state, comprising of six Assembly constituencies, directly elected by the people through elections. The term of the LokSabha is for five years.

Roles and Responsibilities of the Speaker

- The leader of the House of the People is the Speaker – who is elected by the LokSabha, from among its members. The Speaker's duties are to conduct, facilitate the debates and discussions as well as the answers to questions, regulating the conduct of Members of the House and taking care of their privileges and rights. The Speaker of LokSabha is the administrative head of the parliamentary secretariat.

- The Speaker also ensures that the members adhere to the appropriate procedures, and to allow the members to raise question, allotting time to speak and withdraw the objectionable remarks from record and moving a motion of thanks to the President's speech. The Speaker has the power to expel the members if they flout or violate the norms and rules of the house.

- The permission of the Speaker is required to move amendments to a bill. It isup to the Speaker to decide whether the bill has to be moved or not. The Speaker plays the role of guardian of the rights and privileges of the house, its various Committees such as consultative, select, advisory and of members of that Committees. Another important power of the Speaker is to refer any question of privilege to the

Committee of privileges for examining, investigating and reporting. The questions raised by the members and answers, explanations and reports are addressed to the Speaker.

Jawaharlal Nehru, one of the chief architects of India and a driving force behind its democratic principles of the Constitution, placed the office of the Speaker in India in the proper context when he said: "The Speaker represents the House. He/she represents the dignity of the House, the freedom of the House and because the House represents the nation, in a particular way, the Speaker becomes a symbol of nation's freedom and liberty. Therefore that should be an honoured position, a free position and should be occupied always by persons of outstanding ability and impartiality".

- The Speaker is the final authority to decide on the question of point of order. Under the constitution, the Speaker enjoys special provisions and certifies money bills. The Speaker of the House of the People presides the joint sessions of the parliament in case a special occasions or in the event of disagreement between the two houses on certain legislativemeasures. The Speaker decides whether a Bill is a Money Bill or not and his decision on this question is final. It is the Speaker who decides on granting recognition to the Leader of Opposition in the House of People. Under 52^{n}d Constitution Amendment, the Speakerhas the disciplinary power to disqualify a member of the house on the grounds of defection. Even though, the Speaker also one of the members of the House and holds neutral, does not vote in the house except rare occasions when there is a tie at the end of the decision.

- The RajyaSabha or the Council of States is called as upper house. It has a total number of 250 members including 238 from all the states and union territories and 12 members nominated by the President. The council of states RajyaSabha is called as second chamber of the Parliament of India. The RajyaSabha is an institution to protect the rights and interests of the states like the senate in USA. It was constituted on 3rd April, 1952.

- The members for RajyaSabha are elected by the members of the respective State Legislative Assemblies (MLAs). Apart from the members of the states, twelve distinguished members from the Parliament Not more than 250 Members Not more than 552 Members 12 nominated Not more than 20 representatives of Union Territories Not more than 238 representatives of States and Union Territories Not more than 530 representatives of States plus not more than 2 nominated Anglo-Indians Council of the States House of the People fields of literature, science, art, and social service were nominated by the President of India. Unlike House of People, Council of States is not subject to dissolution but one third of the members retire every second year. The term of the individual member is six years. The members of the Council of States are elected by their respective state legislative assemblies in accordance with the system of proportional representation by means of the single transferable vote.

Functioning of RajyaSabha

- The Vice-President of India is the ex-officio Chairman of the RajyaSabha. The Chairman presides over the proceedings and regulates the RajyaSabha. Except the Money/Financial Bill all other bills will be placed before the RajyaSabha for discussion, questions, motions and resolutions under the rules of procedure and conduct of business. The functions of RajyaSabha may broadly be categorised as: Legislative, Financial, Deliberative and Federal. Legislation is by far the most important business of RajyaSabha, as indeed of Parliament and in this sphere, RajyaSabha enjoys almost equal powers with LokSabha. In the U.S.A, the representatives in the state council is called as Senate where every state has equal representation irrespective of size and population of the states. But in India, the representation in the RajyaSabha is based on its size of population.

- For example, Uttar Pradesh with the highest population elects 31 members to RajyaSabha; on the other hand, Sikkim, the least populated state, elects only one member to RajyaSabha. Tamil Nadu elects 18 members to the RajyaSabha. The number of members to be elected from each State has been fixed by the fourth schedule of the Constitution. Members of the RajyaSabha are electedfor a term of six years and then they can be re-elected. The RajyaSabha is known as Permanent House of the Parliament that never gets fully dissolved. Some of the important privileges and immunities are given to the Members of RajyaSabha as follows.

Who can be a Member of RajyaSabha?

- ❖ Must be a citizen of India
- ❖ Must not be less than 30 years
- ❖ Under the Representation of the People Act, 1951, a person had to be an elector in a parliamentary constituency in the State from where he seeks election to RajyaSabha.
- ❖ It may, however, be mentioned that the Representation of the People (Amendment) Act, 2003, which amended Section 3 of the Representation of the People Act, 1951, has done away with the requirement of being a resident of State or Union territory from which a person seeks to contest elections to RajyaSabha.
- ❖ He/She has to be an elector in a parliamentary constituency anywhere in India.

Powers and Privileges of Members of Parliament

1. Freedom of speech in Parliament and immunity of a member from any proceedings in any court in respect of anything said or any vote given by him in parliament or any Committee thereof.

2. Immunity to a person from proceedings in any court in respect of the publication by under the authority of either House of Parliament of any report, paper, votes or proceedings.

3. Prohibition on the court to inquire into proceedings of parliament.

4. Immunity to a person from proceedings in any court in respect of the publication in

Newspaper of a substantially true report of any proceedings of either House of Parliament unless the publication is proved to have been made with malice.

5. Freedom from arrest of members in civil cases during the continuance of the session of the House and forty days before the commencement and forty days after its conclusion.

6. Exemption of a member from service of legal process and arrest within the precincts of the House.

Parliament: LokSabha, RajyaSabha

- The of LokSabha is the most powerful political institution which reflects the political, social and economic conditions of the country, holds highest responsibility and virtually represents the entire population.
- The LokSabha is constituted with members elected directly by the people. These members represent the varied interests of the people. Thus it becomes the apex democratic institution. It is here that the nation's policies, programmes and laws emerge.
- The LokSabha makes the Laws on the matters of Union List and Concurrent List. It can exact new laws and repeal existing law or amend the same. It has an exclusive authority over money bills.
- The special power of the LokSabha is that once it passes the budget or any other money related law, the RajyaSabha cannot reject it. But the RajyaSabha can only delay the law for 14 days and if RajyaSabha suggests any changes regarding the law, it is upto the LokSabha to accept or reject it.
- One of the privileges of the LokSabha is preparing and presenting the budget and financial statement, which is an explicit expression of people's control over the nation's economy.
- The LokSabha controls the executive by asking questions, supplementary questions, passing resolutions, motions and no confidence motion.
- The LokSabha has the power to amend the constitution and approve the proclamation of emergency.
- The LokSabha involves in electing the President and Vice-President of India.
- The LokSabha has power to establish new Committees and commissions and tabling their reports for debate and discussion and further consideration for implementation.
- The LokSabha controls the council of Ministers and a Prime Minister, who enjoys the majority support of it. If the Prime Minister loses the confidence of the LokSabha, the entire government has to quit and face the election.

Powers of RajyaSabha

Position of RajyaSabha

- The Constitutional position of the RajyaSabha (as compared with the LokSabha) can be studied from three angles:

1. Where RajyaSabha is equal to LokSabha?
2. Where RajyaSabha is unequal to LokSabha?
3. Where RajyaSabha has special powers that are not all shared with the LokSabha?

Equal Status with LokSabha

- In the following matters, the powers and status of the RajyaSabha are equal to that of the LokSabha:

❖ Introduction and passage of ordinary bills.
❖ Introduction and passage of Constitutional amendment bills.
❖ Introduction and passage of financial bills involving expenditure from the Consolidated Fund of India.
❖ Election and impeachment of the President.
❖ Election and removal of the Vice- President. However, RajyaSabha alone can initiate the removal of the vice- President. He is removed by a resolution passed by the RajyaSabha by a special majority and agreed to by the LokSabha by a simple majority.
❖ Making recommendation to the President for the removal of Chief Justice and judges of Supreme Court and high courts, chief election commissioner and comptroller and auditor general.
❖ Approval of ordinances issued by the President.
❖ Approval of proclamation of all three types of emergencies by the President.
❖ Selection of ministers including the Prime Minister. Under the Constitution, the ministers including the Prime Minister can be members of either House. However, irrespective of their membership, they are responsible only to the LokSabha.
❖ Consideration of the reports of the constitutional bodies like Finance Commission, Union Public Service Commission, comptroller and auditor general, etc.
❖ Enlargment of the jurisdiction of the Supreme Court and the Union Public Service Commission.

Unequal Status with LokSabha

- In the following matters, the powers and status of the RajyaSabha are unequal to that of the LokSabha:

  ❖ A Money Bill can be introduced only in the LokSabha and not in the RajyaSabha.
  ❖ RajyaSabha cannot amend or reject a Money Bill. It should return the bill to the LokSabha within 14 days, either with recommendations or without recommendations.
  ❖ The LokSabha can either accept or reject all or any of the recommendation of the RajyaSabha. In both the cases, the money bill is deemed to have been passed by the two Houses.

- ❖ A financial bill, not containing solely the matters of Article 110, also can be introduced only in the LokSabha and not in the RajyaSabha. But, with regard to its passage, both the Houses have equal powers.
- ❖ The final power to decide whether a particular bill is a Money Bill or not is vested in the Speaker of the LokSabha.
- ❖ The Speaker of LokSabha presides over the joint sitting of both the Houses.

- ❖ The LokSabha with greater number wins the battle in a joint sitting except when the combined strength of the ruling party in both the Houses is less than that of the opposition parties.
- ❖ RajyaSabha can only discuss the budget but cannot vote on the demands for grants (which is the exclusive privilege of the LokSabha).
- ❖ A resolution for the discontinuance of the national emergency can be passed only by the LokSabha and not by the RajyaSabha.
- ❖ The RajyaSabha cannot remove the council of ministers by passing a no-confidence motion. This is because the Council of ministers is collectively responsible only to the LokSabha. But, the RajyaSabha can discuss and criticize the policies and activities of the government.

Special Powers of RajyaSabha

- Due to its federal character, the RajyaSabha has been given two exclusive or special powers that are not enjoyed by the LokSabha:

  - ❖ It can authorize the Parliament to make a law on a subject enumerated in the State List (Article 249).
  - ❖ It can authorize the Parliament to create new All-India Service common to both the Centre and states (Article 312).

- An analysis of the above points makes it clear that the position of the RajyaSabha in our constitutional system is not as weak as that of the House of Lords in the British constitutional systemnor as strong as that of the Senate in the American constitutional system. Except in financial matters and control over the council of ministers, the powers and status of the RajyaSabha in all other spheres are broadly equal and coordinate with that of the LokSabha.

Even though the RajyaSabha has been given less powers as compared with the LokSabha, its utility is supported on the following grounds:

- ❖ It checks hasty, defective, careless and ill-considered legislation made by the LokSabha by making provision of revision and thought.

- ❖ It facilitates giving representation to eminent professionals and experts who cannot face the direct election. The President nominates 12 such persons to the RajyaSabha.

❖ It maintains the federal equilibrium by protecting the interests of the states against the undue interference of the Centre.

Article 120
Hindi and English have been declared by the Constitution to be the languages for conducting business in Parliament. The Presiding Officer may, however, allow any member not proficient in either to address the House in his mother tongue (Article 120).

Law Making Process

- The law making process in Indian Parliament stands evident for its democratic credentials. In the law making process, the role of opposition parties becomes much more important to reflect upon the relevance of the bill and its context so as to streamline the democratic governance.

- The law is a guiding force to regulate the society, politics and economy for the welfare of the state and people. The law is primarily introduced in the Parliament in the form of 'bill' as proposed legislation for consideration of the legislature. The bill will be taken for thorough discussion in the parliament to have an understanding within the framework of the constitution.

- The bill will become law once the legislature passed it and approved by the President. The law becomes an act only after getting consent from the President of India. The primary function of the Parliament is to make fresh laws and bring changes in the existing laws in accordance with the constitutional procedures. The Parliament of India passes two types of bills such as:

1. Money Bill
2. Non-Money Bill or ordinary or public bills

- An ordinary bill has to pass through different stages before becoming an Act. The procedures prescribed in the Constitution for passing the bills are of twodifferent categories. These are as follows: An ordinary bill under consideration has to go through following stages and has to pass through both houses with discussions, suggestions and approval. An ordinary bill may be introduced in either House of the Parliament.

- The first stage of the bill relates to the introduction of the bill in either house as 'Reading of the Bill'. Most of the bills are introduced by the Ministers concerned. The bill is drafted by the technical experts in that particular field and then council of ministers will approve the bill. The ordinary Member of Parliament can also introduce a bill which is called as 'Private Member Bill'. For the introduction of the bill it should be informed to the Speaker of the LokSabha or The Chairman of

RajyaSabha one month in advance. Then the date of introduction for the Private Member Bill will be fixed and allowed to move the bill in the floor of house. Generally, there will be no discussion on the proposed bill at this reading stage which is only a formal affair.

- After the introduction of bill, it will be published in Gazette of India. The Speaker or the Chairman may allow some bills to be published in the Gazette even before the first reading, in that case, no motion for leave to introduce bill is necessary.

- The Second Reading of the bill usually takes place after an interval of two daysafter the first reading. At this stage, any of the four courses are adopted.

- The bill may be taken for consideration by the House at once.

- It may be sent to a select Committee of the House.

- It may be sent to a joint select Committee of the two Houses or

- It may be circulated for eliciting public opinion. Very rarely bills are taken up for consideration straight away.

- When the bill is adopted for circulation (i.e. 4th course), the secretariat of the House concerned requests the State Governments to publish the bill in the State Gazettes inviting opinions from local bodies and recognized associations. Such opinions are circulated among the members of the House.

Committee Stage

- If the bill is referred to a select Committee, the mover selects the members of the Committee, the Speaker or the Chairman of the House appoints one member of the Committee and the Chairman of the Committee. The Committee will study of the bill and reports back to the House.

Report Stage

- The report stage is the most important stage where a bill is debated clause by clause. In this stage, the report is circulated along with original bill and the report of the Select Committee. The report stage is for giving final shape to the bill. Then the bill will be submitted for the Third Reading in which the bill is to be passed with majority of votes. The Third Reading is for formal approval by the Parliament.

- After the bill is adopted at the Third Reading in either of the house, it is transmitted to the other House, where it goes through all the stages. The other house may accept the bill as it is. After coming across all the stages, it is sent to the President's assent.

- Once a bill is passed in its originating house, it also may be rejected in the other house. Otherwise, it may introduce amendments not acceptable to the original House, or may not return the bill within six months. Insuch a case, a constitutional deadlock develops between the two Houses. The President may call a joint session of the two Houses to resolve the deadlock. The Speaker or in his absence the Deputy Speaker presides over such joint sessions. The deadlock is dissolved by majority vote.

- Finally, the bill is passed by both Houses and goes to the President for his assent. If the President assents to the bill, it becomes a law. But the President may return the bill for reconsideration. If the bill is sent back to the President with or, without amendments, the President cannot withhold his assent. Such a complicated and time-consuming procedure is adopted to prevent hasty legislation.

Private Member Bills:

- If any member other than a minister introduces a bill, it is called a private member bill. The bill can be introduced by both ruling and opposition party MPs. Private member bill is a bill proposed by a member who is not a member of the cabinet and executive. The session for private member bill is held at alternative Fridays from 2 pm to 6 pm.

- This bill needs a month of notice; this has no impact on the health of the government when the private member bill gets rejected. Till date, the parliament has passed fourteen private member bills; the last one was passed on 1970. Most of the bill passed by the private member is not even read or discussed and dismissed. Private members bills are accepted even those are constitutional amendment bills but not that those are money bills.

The Rights of Transgender Persons Bill, 2014

- ❖ In LokSabha, the last two and half hours of a sitting on every Friday, and in RajyaSabha two and half hours, i.e., from 2.30 p.m. to 5.00 p.m. on every alternate Friday are allotted for transaction of "Private Members' Business", i.e., Private Members' Bills and Private Members' Resolutions.
- ❖ The last time a private member's Bill was passed by both Houses was in 1970.
- ❖ Till Now, only Fourteen Private Member's bill have been passed by the Parliament.

The Rights of Transgender Persons Bill, 2014: The Rights of Transgender Persons Bill, 2014 is a private member bill introduced by Trichy Shiva M.P. of Tamil Nadu, which seeks to end the discrimination faced by transgender people in India.The Bill was passed by the upper house RajyaSabha on 24 April 2015. It was introduced in the lower house LokSabha on 26 February 2016. The Bill is considered historic as for being the first private member's bill to be passed by any house in 36 years and by RajyaSabha in 45 years

Distribution of powers of the legislature

- The legislative powers and functions of the Union and the States are clearly demarcated in seventh schedule of the Constitution of India. The powers on which both union and the states can legislate is clearly defined. The Constitution has classified the subjects for which the legislation can be made to perform the duties and responsibilities with specific powers for division of powers to avoid the seventh schedule of the constitution which provides for trifurcation of legislative powers;

- **The Union List**
- **The State List and**
- **The Concurrent List**

- The Union List includes the subjects over which the parliament has exclusive authority to make laws and change the existing laws. The State Legislature has exclusive authority over subjects mentioned in the state list. In the subjects enumerated in the 'Concurrent List' both the Union and the States can legislate. In the event of contradictions between the Union and States, the Union's authority will prevail. The residuary power is vested in the Centre.

Difference between Ordinary Bill and Money Bill

S.No	Ordinary Bill	Money Bill
1	It can be introduced either in the LokSabha or the RajyaSabha	It can be introduced only in the LokSabhaand not in the RajyaSabha
2	It can be introduced either by a minister or by a private member	It can be introduced only by a minister.
3	It is introduced without the recommendation of the President	It can be introduced only on the recommendation of the President
4	It can be amended or rejected by the RajyaSabha	It cannot be amended or rejected by the RajyaSabha. The RajyaSabha should return the bill with or without recommendations, which may be accepted or rejected by the LokSabha
5	It can be detained by the RajyaSabha for a maximum period of six months.	It can be detained by the RajyaSabha for a maximum period of 14 days only.
6	It does not require the certification of the speaker when transmitted to the RajyaSabha (if it has originated in the LokSabha)	It is requires the certification of the speaker when transmitted to the RajyaSabha.
7	It is sent for the president's assent only after being approved by both the houses. In case of the deadlock due to disagreement between the two Houses, a joint sitting of both the	It is sent for the president's assent even if it is approved by only LokSabha. There is no chanceof any disagreement between the two Houses and hence, there is no provision of joint sitting of

	houses can be summoned by the president to resolve the deadlock.	both the houses in this regard.
8	Its defeat in the LokSabha may lead to the resignation of the government (if it introduced by a minister)	Its defeat in the LokSabha leads to the resignation of the government
9	It can be rejected, approved or returned for reconsideration by the President	It can be rejected, orapproved but cannot returned for reconsideration by the President

Lists of powers

Union	**State**	**Concurrent**
Defence	Agriculture	Education
Atomic Energy	Police	Transfer of property other than Agricultural land
Foreign Affairs	Prison	Forests
War and Peace	Local Government	Trade Unions
Banking	Public health	Adulterations
Railways	Land	Adoption and Succession
Post and Telegraph	Liquor	
Airways	Trade and Commerce	
Ports	Livestock and Animal Husbandry	
Foreign Trade	State Public Services	
Currency & Coinage		

- **An amendment of this Constitution may be initiated through the introduction of a Bill in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President who shall give his assent to the Bill.**

Amendment process and Procedure

- The Constitution of India has a unique provision to make the Constitution relevant to changing conditions and needs but without changing the basic structure. Article 368 deals with the amendment of the Constitution. As per this article, the Parliament has the Supreme power to initiate the amendment process. The
  Parliament may amend the constitution through by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this article.

The bill must be passed in each house by a special majority, that is, majority by more than 50 percent of the total membership of the house and a majority of two – thirds of the members of the house present and voting. Each house must pass the bill separately. In case of a disagreement between the two houses, on issues concerning amendment there is no provision for holding a joint-sitting of the two houses. If the bill seeks to

amend the federal provisions of the constitution, it must also be ratified by the legislatures of half of the states by a simple majority, that is, a majority of the members present and voting in such legislatures.

After duly passed by both the houses of parliament and ratified by the state legislatures wherever necessary, the bill is forwarded to the President for assent. The President must give his assent to the bill. He can neither withhold his assent to the bill nor return the bill for reconsideration of the Parliament. After President's assent, the bill becomes an Act (i.e., A Constitutional Amendment Act) and the constitution stands amended in accordance with the terms of the Act.

Types of Amendments

The Constitution can be amended in three ways;

- Simple majority of the parliament
- Special majority of the parliament,and
- Special majority of the parliament and the ratification of half of the State legislatures.

Simple Majority of Parliament:

According to Article 368 a number of provisions in the constitution can be amended by a simple majority of the two houses of parliament. These provisions include

- Admission or establishment of new states, formation of new States and alteration of areas, boundaries, or names of existing states.
- Abolition or creation of legislative councils in states.
- Second schedule - emoluments, allowances, privileges and so on of the President, the Governors, the Speakers, judges, etc.
- Quorum in parliament.
- Salaries and allowances of the members of parliament.
- Rules of procedure in parliament.
- Privileges of the parliament, its members and its members and its Committees.
- Use of English language in parliament.
- Number of judges in the Supreme Court.
- Conformant more jurisdiction on the Supreme Court.
- Use of official languages.
- Citizenship – acquisition and termination.
- Elections to parliament and state legislatures.
- Delimitation of constituencies.
- Union territories.
- Fifth schedule – administration of schedule areas and scheduled tribes
- Sixth schedule – administration of tribal areas.

By Special Majority of Parliament

- The majority of the provisions in the constitution need to be amended by a special majority of the parliament, that is, a majority (i.e., more than 50 per cent) of the total membership of each

- house and a majority of two-thirds of the members of each house present and voting. The expression total membership of the house is irrespective of fact whether there are vacancies or absentees. The special majority is required only for voting at the third reading stage of the bill. The constitution's clauses which can be amended in this way include:

  - ❖ Fundamental rights
  - ❖ Directive Principles of State policy: and
  - ❖ All other provisions which are not covered by the first and third categories

Amendments by Special Majority of Parliament and Consent of States

The basic structures of the constitution which are related to the federal structure of the polity can be amended by a special majority of the parliament and also with the consent of half of the state legislatures by a simple majority. There is no time limit within which the states should give their consent to the bill. The following provisions can be amended in this way:

- ❖ Election of the President and its manner.
- ❖ Extent of the executive power of the union and the states.
- ❖ Supreme Court and high courts.
- ❖ Distribution of legislative powers between the union and the states.
- ❖ Any of the list in the seventh schedule.
- ❖ Representation of states in parliament.
- ❖ Power of parliament to amend the constitution and its procedure (Article 368).

State Legislature: Structure, Powers and Functions

Structure of State Legislature

- The state is the second stratum of the federal structure of the Constitution. The provisions for the governance of all the state is dealt in the Part VI of the Constitution except Jammu & Kashmir because it has separate Constitution for its state government. The articles from 152 to 237 deals thoroughly on the subjects of the state legislature. The state legislature which has only Legislative Assembly as House of People is called as Unicameral. Most of the powers and functions are shared by the state legislature is almost like the same as the Union legislature. In a Bicameral system of legislature, the state legislature consists of the Legislative Assembly and Legislative Council.

The Governor

- There shall be a Governor as the Constitutional Head of the State executive, and executive power of the state vested with the Governor and all executive actions of the state has to be taken in the name of the Governor. The Governor of the State shall be appointed by the President. The Governor is appointed for a term of five years or can hold the office during the pleasure of the President or until his successor enters upon his office. The eligibility of appointment of the Governor is that he/she must be the citizen of India, shall not hold any office of the profit and should have completed thirty five years of age. The Governor can be appointed more than once and can hold office for more than one state two states in an exigency or as a transitional arrangement.

Council of Ministers headed by the Chief Minister

Position of the Chief Minister

- The Chief Minister is the head of the cabinet and the council of ministers. In practice, he is the real executive head of the state. As per Article 164(1) of the Constitution of India, the Chief Minister of a state shall be appointed by the Governor of the State.

Powers and functions of the Chief Minister

- As the real executive head of the state, the Chief Minister enjoys wide powers and performs a number of functions. The important powers and functions of the Chief Minister are:

    - ❖ As the head of the council of ministers, the Chief Minister has more powers in ministry-making. He can recommend appointment of ministers and designate them as cabinet ministers or ministers of state or deputy ministers. He can change the portfolios of the ministers. He can even recommend the removal of ministers.
    - ❖ He presides over the meetings of the cabinet and makes major policy decisions of the Government.
    - ❖ He acts as the sole channel of communication between the council of ministers and the Governor. He communicates to the Governor all the decisions of the cabinet relating to administrative and legislative proposals.
    - ❖ He scrutinizes all papers, bills, resolutions, etc. that are to be placed before the legislature.
    - ❖ Though, in theory, all major appointments are made by the Governor, in practice, all such appointments are actually made on the advice of the Chief Minister.

State Council of Ministers

Introduction

- Article 163(1) of the Constitution of India provides that there shall be a council of ministers headed by the Chief Minister to aid and advise the Governor in the exercise of his functions except when he is required by the Constitution to act in his discretion.

- The state council of ministers is formed in the same manner as the union council of ministers is formed. The leader of the majority party or coalition of parties in the legislative assembly is appointed as the Chief Minister by the Governor. The other ministers in the council of ministers are appointed by the Governor on the advice of the Chief Minister.

Term of office of the council of ministers

- As per the constitution, the council of ministers hold office during the pleasure of the Governor. But, in reality, the council of ministers hold office during the pleasure of the Chief Minister, because the Governor acts on the advice of the Chief Minister. The council of ministers are individually responsible to the Chief Minister. The council of ministers are collectively responsible to the legislative assembly of the state. That means, the council of ministers shall speak in one voice.

The State Cabinet

- Thecouncil of ministers consists of cabinet ministers, ministers of state and deputy ministers. Of the council of ministers, the cabinet ministers constitute the state cabinet. The cabinet ministers of the state cabinet are, generally, the prominent ministers of the council of ministers. It is headed by the Chief Minister. The cabinet takes decisions on behalf of the council of ministers, and so, all the ministers are bound by the decisions of the cabinet.

Officials and Committees in State Legislative Assembly
Speaker of the State Legislative Assembly:

- The Speaker is elected by the Members of Legislative Assembly itself, and is the Presiding Officer of the Assembly. The Speaker has the responsibilities and powers of conducting business of the assembly in orderly manner, maintaining decorum and regulating its procedure in terms of allowing the members to question, speak on matters of importance, budget and grants. The Speaker is the interpreter of the provisions of the Constitution, rules of procedure in the assembly proceedings, rules of procedure and legislative precedents within the Assembly. The Speaker has the power to adjourn, suspend and resume the sessions and suspend the members from participating in the session when there is a violation of rules, procedures and regulations of the assembly.

- The Speaker has to generally maintain neutrality and impartiality while conducting the business of the house. The Speaker's vote becomes more important when there is a tie on any issue regarding passing of bill, motion and resolutions. The Speaker's decision is final in regulating the conduct of members and in matters of procedure or maintaining order in the house. And in such matters the Speaker is not to be subjected to judicial intervention. The Speaker appoints the Chairmen of all the Committees and supervises their functioning. The Deputy Speaker

- The Deputy Speaker is also elected by the members of the Assembly from amongst themselves. He performs the duties and responsibilities of the Speaker as his absence and presides over the Assembly in the absence of the Speaker. The deputy Speaker has also powers on par with the Speaker within the House. Any member existing in a panel can preside over the House in case of absence of Speaker and the deputy Speaker.

Committees of the Parliament

- Broadly, parliamentary Committees are of two kinds - Standing Committee and Ad Hoc Committees. The former are permanent (constituted every year or periodically) and work on a continuous basis, while the latter are temporary and cease to exist on completion of the task assigned to them.

Standing Committees

- On the basis of the nature of functions performed by them, standing Committees can be classified into the following six categories

Financial Committees

a) Public Accounts Committee
b) Estimates Committee
c) Committee on Public Undertakings

Departmental Standing Committees (24)
Committees to Inquire

a) Committee on Petitions
b) Committee of Privileges
c) Ethics Committee

Committees to Scrutinise and Control

a) Committee on Government Assurances
b) Committee on Subordinate Legislation
c) Committee on Papers Laid on the Table
d) Committee on Welfare of SC's and ST's

e) Committee on Empowerment of Women
f) Joint Committee on Offices of Profit

Committees Relating to the Day-to- Day Business of the House

a) Business Advisory Committee
b) Committee on Private Members' Bills and Resolutions
c) Rules Committee
d) Committee on Absence of Members from Sittings of the House

Ad Hoc Committee

Ad Hoc Committees can be divided into two categories, that is, Inquiry Committees and Advisory Committees.

Committee on Estimates: The major responsibility of the Committee is to suggest the examiner, estimator and recommendation on matters related to economic related policy issues and alternative policies, administrative reform, undertaking the tours and visits within and outside the state to study various schemes under execution in regard to the estimates under examination.

Committee on Public Accounts: The important functions of the Committee are to scrutinise the Appropriation Accounts of the State and the Report of the Comptroller and Auditor-General of India (Civil). Also looks into the Revenue receipts and the disbursement of money shown in the accounts applicable to the services or purposes to which they had been applied and charged.

Committee on Public Undertakings: This Committee is to examine the Audit reports and accounts of Public Undertaking from time to time. The Committee also examines the autonomy and efficiency of the Public Undertakings. This Committee is also taking note on the affairs of the Public Undertakings are being managed in accordance with sound business principles and prudent commercial practices. The Committee also examines the Reports of the Comptroller and Auditor General of India on the Public Undertakings. The Committee examines the working of the Undertakings under its purview, hears officials or takes evidence connected with such undertakings and makes recommendations to the House.

12thvol I
Unit – 3 Executive

The Union Executive

- The President of India
- The Vice President of India
- The Council of Ministers and the Cabinet, Headed By the Prime Minister

The preamble of the constitution of India, Declares India a sovereign. Socialist secular Democratic Republic. Unlike England where a hereditary monarch, either a Queen or a king is the head of the State, India has an elected Presidentas head of the state with fixed tenure of office. The President is the supreme head of all the constitutional wings of the State, i.e the legislature. Executive, judiciary and armed forces. The President supervises their functions and ensures adherence to constitutional provisions by theses bodies. The President represents the entire nation and upholds the constitution in every sphere of State's activity. But unlike the President of the USA, Where the President of the republic wields de-facto (real, functional) executive powers, the President of Indian Republic is not vested with direct executive responsibilities; Such direct and real executive responsibilities are assigned by the Constitution, to a Council of ministers led by the prime minister, and such council of ministers,both collectively and individually responsible and accountable to the union legislature. Thus our Republican form of State is different from American form of Republic. Where it is Presidential executive.

President

The President is the head of the Indian State. He is the First Citizen of India and acts as the symbol of Unity, Integrity and Solidarity of the Nation.

Qualification and Election of the President
Article 58 says;

1. No person shall be eligible for election as President unless he is

- a citizen of India
- has completed the age of 35 years
- is qualified for election as a member of the LokSabha

2. A person shall not be eligible for election as President if he holds any office of profit under the government of India, or the government of any state, or under any local or other authority subject to the control of any of the said governments.

Article 52 of our Constitution lays down that there shall be a President of India. Article 53 lays down that the executive power of the Union shall be vested in the President and shall be exercised by him directly or indirectly.

Further Article 52 provides that the nomination of a candidate for election to the office of President must be subscribed by at least 50 electors as proposers and seconded by another 50 electors of the Electoral College. Every candidate has to make a security deposit of `15,000/- in the Reserve Bank of India.

This amount will be forfeited if the candidate does not secure 1/6 of the votes polled.

The President is elected not directly by the people but by members of Electoral College consisting of ;

The elected members of both the houses of Parliament

The elected members of the legislative assemblies of the states

The elected members of the legislative assemblies of the union territories of Delhi and Pondicherry.

The President`s election is held in accordance with the system of proportional representation by means of single transferable vote and the voting is by secret ballot. This system enures that the successful candidate is returned by the absolute majority of votes.

$$\text{Electoral Quota} = \frac{\text{Total number of valid polled in the election}}{\text{Number of electors to be elected}} + 1$$

Each member of the electoral college is given only one ballot paper. The voter, while casting his vote, is required to indicate his preferences by marking 1,2,3,4

Oath by the President

Before entering upon his office, the President has to make and subscribe an oath or affirmation.

In his oath, the President swears:

To faithfully execute the office;
To preserve, protect and defend the constitution and the law; and
To devote himself to the service and wellbeing of the people of India.

The oath of office to the President is administered by the Chief Justice of India and in his absence in the presence of the senior most judge of the Supreme Court. etc against the names of the candidates. This means the voter can indicate as many preferences as there are candidates in the fray. In the first phase, the first preference votes are counted. In case a candidate secures the required quota in this phase, he is declared elected. Otherwise, the process of transfer of votes is carried out. The ballots of the candidate securing the least number of first prefrence votes are cancelled and his second

preference votes are transferred to the first preference votes of other candidates.This process continues till a candidate secures the required quota.

Entitlement to the President

- He is entitled without payment of rent, to the use of his official residence (The RashtrapathiBhavan)
- He is entitled to such emoluments, allowances and privileges as maybe determined by the Parliament
- The President is entitled to a number of privileges and immunities. He enjoys personal immunity from legal liability for his official acts. During his term of office, he is immune from any criminal proceedings

Term, Impeachment and Succession
Term

Article 56 says that the President shall hold office for a term of 5 years from the date on which he enters upon his office. However he can resign from his office at any time by addressing the resignation letter to the Vice President. Further he can aslo be removed from the office before completion of his term by the process of impeachment. The President can hold office beyond his term of five years until his successor assumes charge. He is also eligible for re-election to that office.

Impeachment

Article. 61 of the Constitution lays down a detailed procedure for the impeachment of the President. For the impeachment of the President, first, a charge for impeachment has to be made in either House of the Parliament by a resolution signed by at least one fourth of the total number of members of the House and moved by giving at least 14 days' advance notice. Such a resolution must be passed by a majority of not less than two thirds of the total number of members ofthe House when a charge is so presented by one House, it should be investigated by the other House. After the investigation, if a resolution is passed by the other house by a majority of two thirds of its total number of members, the President stands removed by impeachment from his office from the date of passing of the resolution.

Succession

A vacancy in the President's office can occur in any of the following ways:

1. On the expiry of his tenure of five years
2. By his resignation
3. On his removal by impeachment
4. By his death

5. When he becomes disqualified to hold office or when his election is declared void

If the vacancy occurs due to resignation, removal or death then election to fill vacancy should be held within six months and the Vice President acts as the President until a new President is elected. Further when the sitting President is unable to discharge his functions due to absence, illness or any other cause, the Vice President discharges his functions until the President resumes his office. In case the office of the Vice President is vacant, the Chief Justice of India or if his office is also vacant, the senior most judge of the Supreme Court acts as the President or discharges the functions of the President.

Functions and Powers of the President

Vast are the functions and powers of the President. He convenes the parliament, addresses and prorogues the same. He nominates 12 members of eminence in different fields to the Rajyasabha and two Anglo Indian members to the LokSabha. He enjoys veto power over non-money bills of the parliament and can send back non-money bills for reconsideration of the parliament, he can convene joint sessions of RajyaSabha and Loksabha; He can promulgate ordinances for a period not exceeding six months. He can also has veto powers over certain State legislations.

He prompts and facilitates the institution of council of ministers headed by the Prime Minister, and ensures that the council of Ministers enjoy the support of the majority in the LokSabha. The President alone installs the ministers and distributes portfolios to them, he can also, dismiss the ministry, if he feels that the ministry does not enjoys the majority support in the Loksabha. He nominates members to various constitutional bodies, including the judiciary, armed forces and diplomatic corps. The President enjoys enormous powers during the periods of emergencies, can suspend any law, can dissolve ministries and legislatures for specified periods. He can commute capital punishments.

Executive	**Legislative**	**Financial**	**Judicial**	**Emergency**	**Miscellaneous**
1. Running of all administration in his name, making of rules for the conduct of government business and allocation of work among the ministers	1. Summoning and proroguing sessions of Parliament and dissolving LokSabha.	1. Introduction of money bill in LokSabha with his prior recommendation.	1. Granting commutation of sentence, reprieve or pardon, respites or remissions or suspension of punishments by virtue of holding prerogative of mercy.	1. The constitution confers extraordinary powers on the President to deal with three types of emergencies ❖ National emergency (Art.352) ❖ President's rule	1. Reference of any matter of public importance involving a question of law or fact to the advisory

				(Art.356 & 365) ❖ financial emergency (Art. 360)	opinion of the Supreme Court.
2. Having information of all important decisions of the Cabinet, referring any mater for the consideration of the Cabinet.	2. Making nomination of 12 members to the RajyaSabha and 2 to the LokSabha.	2. Keeping control over Contingency Fund of India.	2. He appoints the Chief Justice of India and other judges of Supreme Court and High Courts.	2. Art.352- President declares national emergency when security is threatened due to war, external aggression and internal rebellion.	2. Determining the strength of Judges in the High Court.
3. Making important appointments and removals.	3. Delivering inaugural addresses and sending messages to the Parliament.	3. Causing presentation of budget in the Parliament.	3. He can seek advice from the Supreme Court on any question of law or fact.	3. Provision of emergency in a State(Art 356) in the event if breakdown of constitutional machinery.	3. Making rules for the composition and working of the Union Public Service Commission.
4. Maintaining foreign relations.	4. Exercising veto power over non-money bills-absolute as well as suspensive.	4. Making appointment of Finance Commission.		4. Art 365 – enforcement of President's rule when a State does not obey the union government direction or the Indian Constitution.	4. Setting up official languages Commission and taking steps for the progressive use of Hindi for official purposes on the basis of

					its recommendations.
5. Holding supreme command of the Defence Forces.	5. Giving prior permission for introducing certain kinds of bills in Parliament.	5. Allowing determination of the shares of States in proceeds of income tax and of the amounts of grants-in-aid in lieu of jute export duty to the States of Assam, Bihar, Odisha and W.Bengal		5. The President under Art 360 has the power to declare financial emergency if he is satisfied that financial stability or the credit of India is threatened.	5. Making special regulations for the administration of the State of Jammu-Kashmir.
6. Approving rules and regulations for the working of the Supreme Court and other independent agencies.	6. Promulgating an ordinance if the Parliament is not in session.				6. Making special rules and regulations for the administration of Scheduled and Tribal Areas.
7. Sending directions and instructions to state governments and invoking Art.356 incase of breakdown of Constitutional machinery in a State.	7. Causing presentation in the Parliament of reports and recommendations of various commissions.				

8. Running of the administration of Union Territories and Scheduled and Tribal Areas.	8. Making appointment of presiding officer pro tem of the LokSabha.				
	9. Allowing extension, modification, or abrogation of law in cases of ports and aerodromes.				
	10. Exercising absolute veto power over State l				

Fact
The emergency powers of the President of India are specified in part XVIII of the Indian Constitution.

Vice President

On the pattern of the Constitution of USA, the Indian Constitution provides for the office of the Vice-President of India (Article 63). The Vice-President of India occupies the second highest office in the country.

Election

The Vice-President of India is elected by the elected members of both Houses of Parliament by secret ballot on the basis of proportional representation system, by means of the single transferable vote.

Qualification

To be eligible for election to the office of Vice-President, (a) candidate must be a citizen of India, (b) must have completed the age of thirty five years, (c) must be eligible for election as a member of the RajyaSabha, and (d) must not hold any office of profit. In this connection provisions similar to those relating to the President apply.

Terms of Office

The Vice-President is elected for a term of five years. He can voluntarily resign from his office before the completion of his term of office by writing to the President. He may also be removed from his office, if a resolution to that effect is passed by the RajyaSabha by an absolute majority of its members and agreed to by the LokSabha. However fourteen days have to be given to move such resolution.

Functions and Duties

The Vice-President is the ex-officio Chairman of the RajyaSabha (Article 64 of the Indian Constitution). He presides over the meetings of the RajyaSabha. As the presiding officer of the RajyaSabha, his functions and powers are similar to those of the speaker of LokSabha. He draws his salary as the chairman of the RajyaSabha, because the Vice-President`s office itself carries no salary. In the event of occurrence of any vacancy in the office of the President by reason of his death, resignation or removal, or otherwise, the Vice-President shall act as President until a new President is elected. This period shall not exceed six months. While acting as President the Vice-President gets salary,
allowance, emoluments etc., as may be fixed by Parliament by law, and during that time he does not perform the duties of the chairman of RajyaSabha.

The Prime Minister and Council of Ministers

He describe Prime Minister as 'primus inter pares' (first among equals) and 'key stone of the cabinet arch'. He said, "The head of the cabinet is 'primus intro pares', and occupied a position which so long as it lasts, is one of exceptional and peculiar authority".
- Lord Morely

The Prime Minister

Introduction

Executive: The Constitution provides for a collegiate executive
i.e Council of ministers under the chair members of the Prime Minister

Meaning: A body of persons having authority to initiate major policies, make decisions and implement them on basis of the Constitution and laws of the country.
There are two important organs of the Union Government.

- The Union Legislature (or) the Union Parliament
- The Union Executive

In the previous unit you have learnt about the Union Legislature. Let us now deal with Union Executive. You should remember that articles 52 to 78 in Part V of the Indian Constitution deal with "Union Executive".

India has adopted the British Parliamentary executive mode with the Prime Minister as the Head of the Government. Prime Minister is the most important political institution. But in the council of Ministers (Cabinet) the Prime Minister is primus inter pares (first among equals).

Appointment

The Constitution does not contain any specific procedure for the selection and appointment of the Prime Minister. There is no direct election to the post of the Prime Minister. Article 75 says, the Prime Minister shall be appointed by the President. Appointment is not by the choice of the President. The President appoints the leader of the majority party or the coalition of the parties that commands a majority in the LokSabha, as the Prime Minister. In case no single party gets a majority, the President appoints the person most likely to secure a majority support. The Prime Minister does not have a fixed tenure. He/she continues in power so long as he/she remains the leader of the majority party or coalition.

Functions and Position

The first and foremost function of the Prime Minister is to prepare the list of his ministers. He meets the President with this list and then the Council of Ministers is formed. Very important ministers are designated as Ministers of the Cabinet rank, others are called Ministers of State, while ministers belonging to third rank are known as Deputy Ministers. It is one of the discretionary powers of the Prime Minister to designate a minister as Deputy Prime minister. The President allocates portfolios among the ministers on the advice of the Prime Minister. The Prime Minister may keep any department or departments under his control; he may also advise the President to reshuffle portfolios of his ministers from time to time; he may bifurcate of trifurcate a department or have different departments amalgamated into one department.

The Prime Minister`s pre eminent position is evident from these points:

1. S(he)is the leader of the party that enjoys a majority in the popular House of the Parliament (LokSabha).

2. Has the power of selecting other ministers and also advising the President to dismiss any of them individually or require any of them to resign.

3. The allocation of business amongst the Ministers is a function of the Prime Minister. He can transfer a minister from one Department to another.

4. Is the Chairman of the cabinet, summons its meetings and presides over them. The Prime Minister is also the Chairman of many bodies like Inter-State Council, Nuclear command Authority and many more.

5. Is in-charge of co-coordinating the policy of the government and has accordingly a right of supervision over all the Departments.

6. While the resignation of a Minister merely creates a vacancy, the resignation or death of the Prime Minister means the end of the Council of Ministers.

7. The Prime Minister is the sole channel of communication between the President and the Ministers and between the Parliament and his Ministers. He/she is the chief spokesperson of the government in foreign affairs.

Prime Minister's Office
Meaning

Being the head of the government and the real executive authority, the Prime Minister plays a very vital role in the politico- administrative realm of our country. In order to fulfill his responsibilities, the Prime Minister is assisted by the Prime Minister`s Office (PMO). The Prime Minister`s Office is an agency meant for providing secretarial assistance and advice to the Prime Minister. It is an extra constitutional body which offers important role in the top level decision making process of the Government of India. The Prime Minister`s Office has the status of a department of the Government of India. The Prime Minister`s Office came into existence in 1947. Till 1977 it was called Prime Minister`s Secretariat (PMS). The Prime Minister`s Office is headed politically by the Prime Minister and administratively by the Principal Secretary.

The Prime Minister's office performs several functions
Functions 1. Assists the prime minister in his overall responsibilities as head of the government, in maintaining communication with the central ministries/departments and the state governments. 2. Helps the prime minister in his responsibilities as chairman of the NitiAayog and the National Development Council. 3. Looks after the public relations of the prime minister like contact with the press and general public. 4. Deals with all references, which under the Rules of Business have to come to the Prime Minister. 5. Provides assistance to the Prime Minister in the examination of cases submitted to him for orders under prescribed rules. 6. Maintains harmonious relationship with the President, Governors and foreign representatives in the country. 7. Acts as the `think- tank` of the Prime Minister. It deals with all such subjects that are not allotted to any department/ministry. 8. It is not concerned with the responsibility of the Prime Minister as the chairman of the union cabinet. The cabinet cases are directly dealt by the cabinet secretariat, which also functions under the direction of the prime minister.

Central Council of Ministers

Article 74th of the Constitution lays down that there shall be a council of ministers with the Prime Minister as the head to aid and advise the President, who shall in the exercise of his functions, act in accordance with the advice of the council of ministers. That means, there shall always be a council of ministers. The President accepts the advice of the Council of Ministers. The Council of Ministers consists of three categories of ministers, namely, cabinet ministers, ministers of state and deputy ministers. While the Cabinet ministers are involved in policy decision making, the other two categories have mere administrative responsibilities. The difference between them lies in their respective ranks, emoluments and political importance. At the top stands the Prime Minister, the supreme governing authority of the country.

Appointment of the Council of Ministers

Under Article 75th of the Constitution, the Prime Minister is appointed by the President and the other ministers are appointed by the President on the advice of the Prime Minister. The ministers hold office during the pleasure of the President. While the ministers are also appointed by the President and are said to hold office during the pleasure of the President as per the Constitution, in actual practice, the ministers are selected by the Prime Minister and the President cannot appoint any one not recommended by the Prime Minister.

Collective and Individual responsibility of the Council of Ministers

The Constitution of India provides that the Ministers are collectively and individually responsible to the LokSabha. The collective responsibility of the Council of Ministers means that the entire council of ministers is jointly responsible to the LokSabha for all the acts of the government. It also means that the ministers must not speak in public in different voices. All the ministers of the government are expected to be unanimous in support of policies on all public occasions and issues.

The Union Cabinet

A Cabinet is the council consisting of ministers of Cabinet rank. It is the inner body within the council of ministers. It is an extra constitutional authority created out of the council of ministers. The whole council of ministers does not meet to discuss business, it is the cabinet which takes policy decisions and advises the President. The Cabinet is the highest decision making executive body which looks after the administrative affairs of the Government of India. It is the nucleus of the council of ministers.

Role and functions of the Cabinet

1. The Cabinet is the highest decision making and policy formulating authority in our politico-administrative system.

2. It deals with all major legislative, financial and foreign policy matters.

3. It exercises control over higher appointments like constitutional authorities and senior secretariat administrators.

4. It recommends ordinances, when the parliament is not in session and supervises the implementation of policies.

5. It appoints enquiry commissions and resolves inter-departmental disputes.

6. It is entitled to recommend to the President declaration of emergencies, dissolution of the LokSabha, proroguing and adjourning the parliament sessions.

Cabinet Secretary

Every cabinet minister is assisted by a cabinet secretary. Among them the cabinet chief secretary is given a top place among the civil servants in the official ladder. He is the chairman Senior Selection Board that selects officers for the post of joint secretary in the central secretariat. He presides over the conference of chief secretaries which is held annually. He acts as the chief advisor to the Prime Minister on all aspects of administration and policy. He acts as the link between Prime Minister`s Office and various administrative agencies and also between civil service and the political system.

APPOLO STUDY CENTRE

Centre – State Relationship

12th vol - 1	**Unit -5 Federalism In India**
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Unit 5-Federalism in India

Meaning of Federalism

Federalism refers to a political system that possess Constitutionally provided and guaranteed distribution of powers between a national government and several regional governments. The fundamental attribute of a federal Constitution is the Constitutionally created and protected State or regional governments. If regions in a country are distinct in terms of ethnicity, language, religion etc., the ideal form of government will be the federal system. Democratic federalism is the best instrument to ensure 'Unity in diversity'. The constituent States retain and safeguard their distinct linguistic, religious or cultural identity, without compromising the unity of the federated nation. The federal system is based on distribution of powers between the federal or central or Union Government and the constituent States. This distribution is determined by the Constitution, in clear written terms. Hence in any federal system, the Constitution becomes the supreme authority.

Evolution of Federalism

In the modern world, the United States of America became the first federal State. Thereafter British colonies in Australia and Canada were also granted self government and they too adopted federal forms of government. The trilingual Switzerland similarly adopted a federal form of government. The European Union today another example of federal formation on a voluntary basis.

Rise of Federalism in India

The beginnings of federalism in modern India could be traced in the Regulating Act of 1773, which brought the three regions in India under East India Company's authority (Madras, Calcutta and Bombay). The Indian National Movement recognized

the plural character of colonial India. The Government of India Act 1919, introduced partial autonomy (Dyarchy) in the Presidencies, while the Government of India Act 1935, granted provincial autonomy to the presidencies and proposed a Dyarchical form of government at the Centre. The Nehru Committee Report in 1928 and Pandit Jawaharlal Nehru's first proposals of a Constitution favoured a federal structure with more powers for the constituent States. The Seventh Schedule of the Constitutioncontains the three lists relating to the distribution of powers between the Centre and States.

Federal features of Indian Constitution
Indian Constitution possesses several federal features

Written Constitution

Federalism requires a written Constitution. There are many governments in any federal system and for their smooth and friction free functioning their powers must be stated in crystal clear terms. There are Twenty Eight State Governments and One national government at present operating in Indian federalism and therefore their powers and functions must be clearly defined.

Supremacy of the Constitution

The Constitution must be the supreme legal document in the country. All governments must follow the terms and conditions, procedures contained in the Constitution. No government can claim powers above the Constitution.

Distribution of Powers

The distribution of powers between Centre and States is the cardinal principle of any federal system. Indian Constitution distributes powers between the two levels of governments in a comprehensive scheme. There are three lists of power distribution unlike in the classical federalism of American Constitution where there is only a single mode of distribution.

Bicameralism

The federal Constitutions provide for bicameralism. It refers to parliament having two houses. Indian Parliament is bicameral as it consists of two houses. The upper house is called RajyaSabha or Council of States while the lower house is known as LokSabha or House of the People. The Council of States is the guardian of States' rights and it consists ofthe representatives of the States. All over the world the upper house is deemed to be the protector of States' rights and interests.

Rigidity of Constitution

A Constitution will be called a rigid Constitution if its provisions can be amended only through a special process of Constitutional amendment or through a separate amendment body and not through ordinary legislative process. Federal Constitutions do not permit Constitutional changes through ordinary legislative process. They prescribe a tougher, rigid process of amendment like greater majority. The rationale behind this rigidity is the desire to protect States' rights. The article 368 in Part XX Indian Constitution provides a separate amendment procedure for amending Constitutional provisions and therefore our Constitution is rigid one and to some extent protects the States.

Supreme Court

Indian Supreme Court acts as the umpire of the federal system and protector of the Constitution. It possesses the powers of interpretation and adjudication. If any disagreement or contradiction arises among the Central and State Governments the Supreme Court resolves them. The Constitution endows the Supreme Court with Original Jurisdiction. It means that the Supreme Court alone possesses the exclusive powers to resolve any federal dispute between Union Government and State governments or among State governments. If a problem arises between Tamil Nadu and Union Government or between Tamil Nadu and any other State only Supreme Court has powers to resolve it

There are important differences between Union of States and Territory of India. Union of State refers to the twenty eight states and Central Government. Territory of India means:

1. Twenty Eight States
2. Nine Union Territories
3. Acquired Territory (Any territory acquired by India like Pondicherry, Daman Diu after they became part of India and before they were made Union Territories)

Unitary or Non-Federal Features of Indian Constitution

Indian Constitution differs greatly from the concept of federalism followed in the classical federal Constitutions like the United States

Single Constitution

India possesses only one Constitution that caters to the needs of administration both in the Centre and States. Like the United States the individual States possess their own Constitution in addition to the national Constitution.

Single Citizenship

There is only one citizenship, exists in India, i.e. national citizenship. In the United States the citizens are endowed with both national and State citizenships.

Flexibility of Constitution

Indian Constitution is partially flexible. Some of the provisions of the Constitution can be carried out by a simple majority in the Parliament.

No Right to Existence for States

Our Constitution doesn't recognize the right of the States to name and existence. The union parliament can change the nomenclature and territorial identity of the States through an ordinary law. The articles 3 and 4 of the Constitution provide the procedure for the creation of new States and abolition of the existing States. An ordinary bill is introduced in either House of the Parliament for creating a new State or changing the name on the recommendation of the President. The bill is discussed and passed in Parliament leading to the creation of new States. A simple majority in Parliament is the requirement for reshaping the identity of the States.

Anti-Federal nature of Rajya Sabha

There are three reasons and areas where critics have criticized it as being against the States' rights and federal spirit of the Constitution.

There is no equality principle followed in the distribution of seats in the Council of States. The seats are distributed on the basis of population of the individual States. The most populous State of Uttar Pradesh has 31 seats whereas the smaller States like Nagaland have only one seat. But in any ideal federalism there should be equality of seat distribution in the upper house as seen in the United States where all the fifty State have two seats each in theupper House of Congress (Parliament) the Senate.

Tamil Nadu has 18 Seats in the Rajya Sabha

Article 249 of the Constitution enables the Rajya Sabha to transfer a subject from the State List to the Union list for the purpose of legislation by parliament on grounds of national interest.

Imbalanced Distribution of Powers

The Union Government is endowed with comparatively greater powers both in terms of quantity and quality. Most of the lucrative sources of revenue have been allotted to the Union Government and the States have been rendered financially weaker and forever dependent on Central Government. The Union List has more subjects than the State List and in the Concurrent List ultimately the union power over the States will prevail. The residuary powers are given to the Union Government and not granted to the States as in federal countries like the United States.

Emergency powers

The articles 352 to 360 in Part XIII of our Constitution provide for three kindsof emergencies in India. Article 352 of the Constitution can proclaim National Emergency. Under article 356 of the Constitution the President can impose emergency in any State on the grounds of the breakdown of Constitutional machinery in the State. Under article 360 of the Constitution, the President can declare Financial Emergency.

Integrated Judiciary

India establishes a single, integrated and hierarchical judiciary. The Supreme Court is the apex judicial institution and the High Courts and the Subordinate Courts function under its supervision and power. In contrast, the classical federalism is following the United States.

Election Commission

The National Election Commission conducts elections not only to Parliament but also to the State legislatures. There is a unified election machinery in charge of both Parliament and State legislature elections. The Chief Electoral Officer under the control of the Election Commission conducts the elections to the State legislatures. In the ideal federal systems, there is a separate election machinery for conducting elections to the State legislature.

State Election Commission is not part of the federal system in India. It conducts elections to Panchayat Bodies and Urban Local Bodies in accordance with 73rd and 74th Constitutional Amendments.

Unified Auditing

India follows a unified auditing system for both the central and State governments. The Comptroller and Auditor-General as mentioned in article 148 of the Constitution controls the entire financial system of the country.

Centre-State Relations

The Centre-State Relations revolve around the fulcrum of distribution of powers between Centre and States. Distribution of powers is the foundational feature of federalism and in federal Constitutions there are three types of distributions, they are:

1. Legislative Power Distribution
2. Executive Power Distribution
3. Financial Power Distribution

Legislative Relations

There are two aspects to the distribution of legislative powers between the Centre and States in our Constitution. They are

a. Territorial Distribution of Powers
b. Subject Distribution

Territorial Distribution of Powers

The powers are distributed between the union and State governments territorially. The Union Government possess the powers over the entire territory of India while the States have jurisdiction over their own territories. The Central Government has extra territorial jurisdiction that means that its laws govern not only persons and property within India but also Indian citizens and their properties located in any corner of the world. In contrast, the State legislatures donot possess jurisdiction outside their own territory.

Subject Distribution

The Constitution distributes the legislative subjects between the Union Government and States in an elaborate scheme. There are three Lists of distribution.

List I (Union List) contains the subjects and powers exclusively allotted to the union parliament. There are 100 subjects here including defense, foreign affairs, banking, currency

List II (State List) contains the subjects that are exclusively allotted to the State governments. There are 59 items including public order, and police, public health, local government, agriculture, forests, fisheries

List III (Concurrent List) contains 52 items including criminal law and procedure, civil procedure, marriage, education. This list is called as Concurrent List. Both the union and State governments have powers over these subjects. But when there occurs a clash between the union and State governments the law of the parliament will prevail

There is also another category called residuary powers. Any subject not mentioned in the above three lists will automatically come under the jurisdiction of the Union Government. Our Constitution broadly follows the legislative distribution of powers provided in the Government of India Act 1935 enacted during the British colonial era.

Exceptions

The above scheme of legislative power distribution will be normally followed.But under exceptional circumstances the scheme will be suspended. The power of the Union Parliament will be expanded and concomitantly the powers of the State legislatures will be diminished.

National Emergency

When the President of India declares National Emergency the union parliament acquires the powers to legislate over the subjects in the State List. The emergency is declared by the president to tackle problems like war, external aggression and armed rebellion that pose a danger to the existence of our nation. For the purpose of tackling the challenges successfully and effectively, the Union Government gains control over State legislature powers too.

Agreement between States

When two or more States agree that their mutual interests will be served better if there is common law on a particular subject and request the Union Government to enact the needed law, the Parliament can enact a common law for the desiring States on that subject even if it falls in the List II (State List).

International Agreement

The Parliament will have powers of enactment on a State subject for the purpose of implementing an international agreement.

Article 356, Emergency

After the declaration of article 356 emergency in a State the President can declare that the parliament will enact on State list subjects for that State.

Executive Relations

Our Constitution distributes executive powers between the unionand State governments. The distribution is co-terminous with legislative power distribution to a great extent. The Union Government possesses executive powers over the subjects that are included in the List I, namely the Union List. The States have executive powers over the subjects that are included in the List II, namely the State List. The executive power of the Union Government extends over the territory of India while the executive power of the State governments extend over their own territories

The executive powers over the subjects in the Concurrent List is ordinarily with the State governments. Nevertheless, the Union Government retains powers to issue directions to the State governments in the execution of executive functions both in normal times and during emergencies.

Another feature in the executive powers distribution scheme in the Constitution relates to mutual delegation of functions between the union and State governments. The Union Government can entrust its functions to the State government after getting the consent of the State Government concerned. Conversely, the State Government can entrust its executive functions to the Union Government after getting the consent of the

Union Government. Moreover, the Union Government can entrust its executive function to the State Government without getting the consent of the State Government concerned but it must obtain the consent of the parliament.

Financial Relations

Finances are very fundamental in the successful operation of federal system. Indian Constitution distributes financialpowers between the union and States in a comprehensive arrangement that is broadly modeled on the 1935 Government of India Act. There are two sources of revenue distributed by the Constitution namely Tax Revenue and Non-tax Revenue.

Tax Revenue Distribution

There are five important ways in which the tax revenues are distributed between the union and State Governments.

1. Certain taxes like Corporation tax and Custom tax are exclusively allotted to the Central Government
2. Certain taxes like sales tax are exclusively allotted to the States
3. Certain taxes are levied by the Union but collected and appropriated by the concerned States and the examples are stamp duties on Bills of Exchange and Excise duties
4. Certain taxes are levied and collected by the Union Government but the proceedsare assigned to the States in which they are levied like the taxes on the sale of advertisements in newspapers.
5. Certain taxes are levied and collected by the Central Government and are distributed between the union and State Governments in a certain proportion like the tax on income other than an agricultural income

Non-tax Revenue Distribution

Both the union and State Governments are provided with non-tax revenue sources. The Union Governmentgets its revenue from the receipts from commercial and industrial undertakings relating to central subjects like Industrial Finance Corporation. It gets its revenue from Railways, Posts and Telegraphs, Broadcasting etc

The State Governments get revenue from the receipts of commercial enterprises and industrial undertakingallotted to them. The sources among others include forests, irrigation, electricity, road transport.

The Constitution understands the greater financial needs of certain States and therefore the article 275 asks the Union Government to provide Grants-in- Aid to the States like Assam, keeping in mind the imperative of the development and welfare of the tribal population.

Finance Commission

The president of India consitutes a Finance Commission once in every five years. The article 280 of the Constitution describes the composition of the Finance Commission. It will have one Chairman and four other members. The Chairman will be a person with experience in public affairs and the members will have experience in financial administration, special knowledge of economics, special knowledge of public accounts and government finances, and one member will have the qualification of a High Court judge.

Finance Commission will provide recommendations in the following manner:

1. For the distribution of net proceeds of taxes between the Centre and States
2. Principles governing grants-in-aid
3. Measures needed to increase the Consolidated Fund of India or States to supplement the resources of the Panchayat Bodies
4. Measures needed to increase the Consolidated Fund of India or States to supplement the resources of the Urban Local Bodies
5. Any other matter referred by the president

So far fourteen Finance Commissions have been constituted once in every five years

Co-operative Federalism

The Indian Constitutional expert Granville Austin described (Granville Austin, renowned scholar of the Indian Constitution, described) Indian federal system as Co-operative Federalism designed to promote co-operation between the Centre and States. The concepts of co-operative federalism applies to those federal governments like the USA where the States have more or adequate powers and the formation of the union is based on "the indestructible union composed of indestructible States". In a quasi federal State like India, the Union Government can very easily pull down any constituent State for non-cooperation or non-compliance or defiance of Union Government's will through Constitutional provisions, especially through the emergency powers assigned to the President. The Constitution does not permit States defiance to Centre.

There are many provisions, institutions and bodies created in Indian political system to promote the co-operative functioning of the central and State Governments in India. They can be classified into Constitutional, statutory and political bodies and provisions.

Constitutional Provisions and Institutions

The Constitution itself has created a number of devices to promote cooperation and co-ordination.

Inter-State Council

The article 263 of the Constitution says that the President of India can establish the Inter-State Council to serve public interests. There are three functions and duties assigned to the Inter-State Council

a. To enquire into and advise upon disputes among the States
b. To investigate and discuss the subjects that are common to the union and State Governments
c. To make recommendations to the President for better co-ordination on any particular subjects among the State Governments.

A number of councils have been created to promote cooperation on specific subjects in the past like the Central Council of Health, Transport Development Council, and Central Council of Local Self- Government.

The holistic Inter-State Council was established in early nineties to deal with general cooperation among the units of Indian federal system on the recommendation of the Sarkaria Commission. The Prime Minister functions as the chairperson of the council. The Chief Ministers of all the States and Union Territories with Legislative Assemblies, six cabinet ministers of the Union Government, administrators of the Union Territories without Legislative Assemblies and Governors of States under President's Rule are its members. A Standing Committee consisting of the Union Home Minister, five other CabinetMinisters and nine Chief Ministers also works as part of the Inter State Council to promote co-operation among the members of the federal system.

Statutory Bodies

There are certain bodies created through the statute of the parliament but not mentioned in the Constitution that function to promote cooperative federalism.

Zonal Councils

The Zonal Councils were established by the States Reorganization Act in 1956 to achieve cooperation and co-ordination among States. They were created in the backdrop of linguistic reorganization of India and the first Prime Minister of India Jawaharlal Nehru described their objective as to "develop the habit of co-operative working". Originally five Zonal Councils were created and later on in1971 one more Zonal Council was established for the North Eastern States. They are

1. Northern Zonal Council
2. Southern Zonal Council
3. Eastern Zonal Council
4. Western Zonal Council
5. Central Zonal Council

6. North Eastern Zonal Council

The Union Home Minister will be the common Chairperson of all the Zonal Councils. Additionally, each Zonal Council will consist of the Chief Minister and two other Ministers of the each State and the Administrator of the Union Territory in the zone.

The Zonal Councils will discuss and suggest measures to promote cooperation among the members in areas like economic and social planning, border disputes, inert-State transport etc.

River Board

The River Boards Act, 1956 establishes River Boards to provide advice to the concerned governments concerned for the regulation of an inter-State river or river valley.

Water disputes Tribunal

The Inter-State Water Disputes Act, 1956 was enacted in accordance with the article 262 of the Constitution that mandated that all inter-State river disputes should be resolved through negotiations. The act provides for the formation of ad hoc tribunals for resolving inter-State water disputes if repeated negotiations prove to be futile in resolving the issue.

Political or Resolution Bodies
NITI AAYOG

The Union Government created the National Commission for TransformingIndia after dissolving, 65 year old, the Planning Commission on January 2015. The Prime Minister is the ex officio chairman and the permanent members of the governing council are all the Chief Ministers of all the States, Chief Ministers of the Union Territories of Delhi and Puducherry and the Lieutenant Governor of Andaman and Nicobar Islands. One of the primary objectives of the commission is to "foster cooperative federalism through structured support initiatives and mechanisms with the States on a continuous basis". It recognizes that strong States will make strong nation. But, without Constitutionally empowering more the constituent States and adequate devolution of revenue resources, the States continue to remain over dependent on the Union Government, even in matters relating to tackling of natural calamities.

Inter – State River Water Dispute

Inter-State River Water Disputes play a crucial role in the evolution of federalism in Indian politics. There are a large number of such disputes in our country. The Cauvery dispute involving Tamil Nadu, Karnataka, Kerala and Puducherry Union Territory, Vamsadara River dispute involving Andhra Pradesh and Odisha, Sutlej

dispute involving Punjab, Haryana, Mahadayi river dispute involving Goa, Maharashtra and Karnataka are the major ones. We have the following dispute settlement mechanism in Indian federalism to solve them.

Constitution and Inter – State River Water Disputes

The article 262 of the Constitution empowers the parliament to enact a law providing for the adjudication of anydispute, complaint relating to the use, distribution and control of any inter–State river or river valley. It also provides that parliament can exclude the Supreme Court or any other court from exercising any jurisdiction over inter-State river water disputes. For this purpose, parliament is empowered to enact a law overriding any provision of the Constitution. The logic of this provision is that inter–State river water disputes contain emotional and economic implications affecting the lives and livelihood of millions of people. Judicial adjudication of the disputes may create social and economic problems. Therefore, the national legislature must have competence to evolve a mechanism for resolution of these disputes through negotiations and direct dialogue.

Inter-State River Water Disputes Act, 1956

Empowered by the article 262 of the Constitution the parliament enacted inter-State river water dispute act, 1956. This act enables the Union Government to establish a tribunal for the adjudication of an inter- State river water dispute. The Indian Constitutional and legal consensus is that all inter-State river water disputes must be resolved through peaceful negotiations. If no fruitful decisions can be reached through negotiations, the States concerned can approach the union for the Constitution of a tribunal on ad hoc basis for resolving that issue.

When the Union Government decides to constitute a tribunal, the Chief Justice of Supreme Court of India will nominate a person to head it. Earlier, the tribunal always used to consist of one person only but later on this provision was amended toinclude more members. The Chief Justice will choose a person (nominee?) from the sitting or retired Judges of the Supreme Court and High Courts. The decision of the Tribunal shall be published in the Official Gazette and there after that decision shall be final and binding on the parties to the dispute. Neither the Supreme Court nor any other court shall have jurisdiction over any inter-State water dispute referred to a tribunal under the Act. No tribunal can be constituted for any dispute that has been placed for arbitration under the River Water Board Act, 1956.

In shortly, we can say that our Constitutional, legal and political strategy advocates a dual strategy to resolve inter- State river water disputes. It advocates negotiated settlement as the first choice if negotiations fail to resolve the issues, an ad hoc tribunal based adjudication should be established.

Issues and Demands in Indian Federalism

There are many issues in Indian federalism that create disturbances in the Centre-State relations. We will focus on the major problems in this section.

Appointment and Role of the Governor

The very office of the Governor as an agent of the Central Government to monitor the State Government imperils the powers of the constituent States. The Raja Mannar Committee Report was highly critical of the office and role ofgovernor. It is often pointed out that the Union Government to arm-twist the State executive. The Dravidian parties, since the days of C.N. Annadurai, have been demanding 'genuine autonomy for the States, by reducing the Governor's power of interfering with the State executive and State legislature.

The regional parties have deprecated the practice of appointing politically active and partisan persons as governors. They have frequently demanded that the governor should be appointed in consultation with the State Government. Many political commentators and commissions have argued for the appointment of eminent persons who have contributed to India's development in diverse fields as governors.

The attitude of the Governor towards the State Governments of those ruled by parties opposed to the ruling party at the Centre is another major tension area in Centre-State relations. Whenever there is a split in a ruling State party or hung assembly, the role of the Governor becomes very crucial and in many instances, the regional and opposition parties have agitated against the decisions of the incumbents in gubernatorial office.

Education

There is a popular demand that the subject of education must be restored to the List II or State List in which originally it was located. The Parliament in 1976 enacted the 42nd Constitutional Amendment Act that transferred the subject of education to the List III or Concurrent List. The State Governments exclusively had authority over education when it was in State List and the Union Government acquire education after this transfer. As we learnt earlier when a contradiction arises between the States and the Central Government in the Concurrent List the authority of the Central Government or Parliament will prevail. Many political parties in States like Tamil Nadu are demanding the transfer of education back to the State List.

Reservation of State Bills for Presidential Consideration

The Governor of a State has discretionary power to reserve a bill of the State legislature for the consideration of the President. Whenever a money bill of the Statelegislature is reserved by the Governor the President may either declare or withhold his assent. In case of other bills, he can declare or withhold his assent. He can also direct the Governor to send the bill for reconsideration to the legislature concerned. Even if the bill is again passed by the State legislature it is not obligatory for President

to declare his assent. This provision was incorporated in the Constitution to protect the unity and integrity of India.

But many State Governments have criticized the Governors for reserving the duly passed State bills for the consideration of the President as there were alleged to have been motivated by political considerations to suppress the State Governments and to further the interests of the ruling party or coalition at the Centre.

Improper use of Article 356

The article 356 in Part XVIII of the Constitution provides for the proclamation of Emergency by the President in any State where there is a breakdown of Constitutional machinery either based on the report of the Governor or even otherwise. The article emphasizes on the supremacy of the Constitution and national unity and integrity. The State Governments ruled by the opposition parties of the ruling party at the Centre have complained against the frequent and improper use of this article by the ruling party or coalition at the Centre. More than a hundred times, the article has been used to impose emergency in States and in many instances there was a huge complaint thatpolitical and party considerations have led to the imposition of the President's Rule. Many regional parties have demanded the abolition of this article. However, since the Supreme Court's judgement in S.R. Bommai vs Union of India case, the chances for misuse of article 356 drastically reduced.

All India Services

All India Services are created under article 312 of the Constitution. The officers to these services are recruited by the Union Government and posted in the States. The State Governments have powers of posting, transfer while the Central Government alone has powers to dismiss them. As the ultimate control over the All India Services are with the Central Government the State Governments have sought changes in the system and the Rajamannar Commission of Tamil Nadu government suggested a complete revamping in the structure and position of All India Services.

Commissions on Centre-State Relations

A number of commission have been formed in past to study and provide recommendation on Centre-State relations.

Administrative Reforms Commission

There were two Administrative Reforms Commissions established in the past to provide recommendations for reviewing and reforming the administrative system of the country. Th First Administrative Reforms Commission was formed in 1966 initially under the leadership of Morarji Desai and later on by K. Hanumanthaiah. It submitted twenty reports including one in which extensive suggestions were provided in the domain of Centre-State relations. The SecondAdministrative Reforms Commission was

constituted in the new millennium in 2005 under the chairmanship of initially Veerappa Moily and later on by V. Ramachandran.

Rajamannar Commission

The Tamil Nadu government established the Rajamannar committee to analyze and provide recommendations for restructuring the Centre-State relations in our Constitution. The committee consisted of the retired Chief Justice of Madras High Court Justice. P.V.Rajamannar, former Vice- Chancellor of the University of Madras, Dr A Lakshmanaswamy and a former Chief Justice of Andhra, Dr P. Chandra Reddy. It submitted its report to the government in 1971 marking a great milestone in the history of autonomy debate in the country. The major suggestions of the committee include

The article 263 of the Constitution should be implemented and Inter-State Council should be formed to promotecooperation among central and State Governments. The proposed council must consist of the Chief Ministers of the States or their nominees and the Prime Minister as the Chairperson. All the major bills of the Parliament and decisions of the Union Government that affect the interests of one or more States must be placed and discussed in the council. Its opinion should be considered in the decision making process. The committee's made consultation with the Inter State Council is mandatory in all matters barring those related to the two subjects, namely defence and foreign affairs.

The committee recommended the elimination of articles 256, 257, 339(2) from our Constitution. The committee was against specifically these articles as they enable the Centre to issue instructions to the State Governments

It favored the shifting of the residuary powers of legislation and taxation from the Union Government to the State Governments to empower the States.

The article 356 in Part XVIII of the Constitution should be diligently used by the Union Government only as a measure of last resort in the event of a complete breakdown of the Constitutional machinery in the State and not in a mere law and order break down situation.

The committee wanted to introduce far reaching changes in All India Services. It suggested the abolition of All India Services including the elite Indian Administrative Service as they are against the spirit of federalism and State autonomy. It highlighted the concerns of the State Governments ruled by opposition partiesof the ruling party at the Centre about the All India Services acting as agents of the Union Government.

In the domain of financial resources the committee recommended greater devolution of powers and resources to the States. For the purpose of expanding the financial capacity of the States it suggested changes in certain taxes like corporation tax, customs and export taxes. The committee recognized the finances as the fulcrum of State rights and balanced federalism and therefore recommended the transfer of many

items from Union List and Concurrent List to State List in the seventh schedule of the Constitution. It argued for making the Finance Commission a permanent, impartial body devoted to the priorities of national unity, development and State rights and identities.

Sarkaria Commission

The Union Government constituted a commission under the chairmanship of Justice R.S.Sarkaria in 1983 to review the Centre-State relations. B.Sivaraman and Dr.R.S.Sen were the two other members of the commission. Five years later, it submitted a comprehensive report containing 247 recommendations.

Inter State Council

It recommended that the Inter-State Council must have the functions laid down in article 263 (b) and (c) that is to investigate subjects where many States have common interest and to make recommendationfor better co-ordination of policy in that subject. The commission argued against article 263(a) stating that the Inter-State Commission should not have powers to enquire and advise on inter State disputes. The commission also suggested the establishment of an independent, permanent secretariat for Inter-State Council to make the body more effective.

Article 356

It suggested that the article 356 must be imposed only meagerly, as a measure of last resort when there is a complete breakdown of Constitutional machinery in a State. All available and possible alternatives should be explored before the imposition of the article 356 Emergency in the State concerned.

Governor

The commission rejected the demand and suggestion of some political parties and States that the office of governor must be abolished or the concerned State Government must be consulted before the appointment of State governors. On the contrary, for smoother functioning of federalism it suggested that the politically active persons and leaders should not be appointed as governors. Only eminent persons must be appointed as governors. When differing parties are ruling at the Centre and States the leader belonging the ruling party at the Centre must not be appointed as the governor of a State.

Language

It recommended the strict adherence to the tri language formula to strengthen the unity and integrity of the country.

Punchhi Commission

The Union Government constituted a commission in 2007, under the leadership of Justice Madan Mohan Punchhi, the former Chief Justice of the Supreme Court in 2007. The commission also had three more members and a Secretary and presented its report in 2010. It recommended that the governors of the States must have fixed tenureand they should be removed only through impeachment process akin to the President of India. It wanted to introduce changes in articles 355 and 356 so that insurgency or problem afflicted areas or districts in a State rather than the entire State can be brought under emergency as a strategy to localize emergency and efficiently handle insurgency or troubles. The commission also suggested that the Union Government must have power and authority for the suomotu deployment of central forces without the consent of the concerned States in areas affected by communal violence.

Venkatachaliah Commission

The National Commission to review the working of the Constitution (NCRWC) also known as Justice Manepalli Narayana Rao Venkatachaliah Commission was set up by a resolution of the NDA Government of India led byAtal Bihari Vajpayee on 22 February 2000 for suggesting possible amendments to the Constitution of India.

6th term – 3

Unit 1 DEMOCRACY

The citizens of a country select their representatives through elections. Thus, they take part in the direct governance of a country. This is termed Democracy.

In a democratic form of government, a considerable amount of power lies with the people of that nation. People can participate in the politics of the country and decision making processes. There are different types of democracy.

1.Direct democracy

In a Direct Democracy, people have the power to frame laws.The choice of the majority will be accepted. The others will also give their consent.

In a Direct Democracy, only the citizens can make laws. All changes have to be approved by the citizen. The politicians only rule over parliamentary procedure. **Switzerland** has had a long history of a successful direct democracy.

Representative Democracy

To select these representatives, elections are held. For example, many contest for the post of the Head, Secretary and members of the administration group.
In the end, those who gain the maximum number of votes will be given the posts. On behalf of the other members, they obtain the power to take decisions in a democratic manner. This is termed as Representative Democracy.

In the system of democracy, the power to take decisions does not lie with the Head. On the contrary, a group holds the power, but adheres to the rules and regulations. All the members of the group hold open discussions and take final decisions only when everyone is convinced. This is called democratic way of decision making."

NOTE: The birth place of democracy is Greece.
In 2007, the UNO General Assembly resolved to observe 15th September as the **International Day of Democracy**.

Indian Constitution

Indian Constitution is the longest written constitution in the world. It is drafted by the Drafting Committee of the Constituent Assembly headed by **Dr. B.R. Ambedkar**. That is why we call him the '**Chief Architect of our Constitution**'

Aims of Democracy

Democracy is defined as "Government of the people, for the people and by the people."

In a democracy, the power is vested in the hands of the people. For that, the people should have rights to take decisions. Everyone cannot participate in decision making. So, the representative government elected by the people to form a democratic system, all those who attain the age of 18 are given the voting rights to elect the representatives. At the same time, the representatives have the responsibility to protect the welfare of the people.

World Democracy

New zealand is the first country to allow women to vote (1893). Voting rights to women were given in 1918 and 1920 in the UK and USA respectively. At the same time, the wealthy alone were given the voting rights in India. Many leaders like Mahatma Gandhi kept insisting on giving voting rights to all. Now in India, all the people above 18 years of age enjoy Universal Adult Franchise.

S.no	Democracy	Period	Location	Significance
1.	Greek Democracy Roman	5th century BC (BCE)	Greece	Foundation of political philosophy
2.	Empires	300 BC – 50 BC (BCE)	Italian Penninsula, Rome	Loads of expansions of the growth of civilzation
3.	San Merinos Democracy	AD (CE) 301	Italy	Earliest written constitution still in effect
4.	The Iceland Democracy	AD (CE) 930	Thingvellir	The oldest and longest functioning parliament in the world.
5.	The isle of man's Democracy	AD (CE) 927	Between Great Britain and Ireland	Self governing possessions of the crown
6.	British Democracy	13th Century AD (CE)	England	Magna Carta of 1215
7.	US Democracy	AD (CE)1789	United states of America	The oldest standing democracy

7th vol 1

UNIT 2- POLITICAL PARTIES

Political parties are the voluntary associations of individuals with broad ideological identity who agree on some policies, formulate an agenda and programme for the society. Political parties seek to implement their policies by winning people's support through election. Parties vary in size and in the ways they organize themselves as well as in their policies.

Any political party has three basic components

- the leader
- the active members
- the followers
-

Importance of political parties

Political parties are the backbone of democracy. Parties are not part of the formal arrangement of a government but they are essential elements to form the government. They formulate public opinion. They serve as intermediaries between the citizen and the policy makers.

A party is recognized if

- It has been engaged in political activity for five years.
- Its candidates secure at least six percent of total votes in the last general election.

Characteristics of Political Parties

Political parties

- Consist a group of persons of common goals and shared values.
- Haveits own ideology and programme.
- Capture power only by constitutional means.
- Endeavour to promote the national interest and national welfare.

Types of Party System

There are three major types of party system.

Single Party System

A system in which a single political party has the right to form the government. Single party is existed in the communist countries such as China. North Korea and Cuba.

Bi – Party System

In Bi –Party system the power is usually shared between two parties. Of the two parties one becomes the ruling party and the other becomes opposition. eg Bi-Party system can be seen in U.K. (the Labour Party and the Conservative Party) and in U.S.A (the Republican Party and the Democratic Party).

Multi – Party System

When the competition for power is among three or more parties, the system is known as multi party system. This type of party system is in existence in India, France, Sweden and Norway etc.

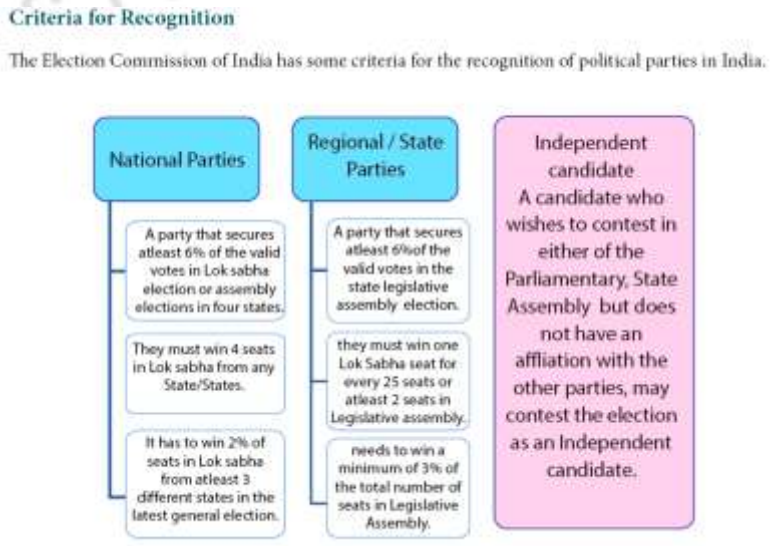
Party system in India

Countries that follow a federal system have two kinds of parties. India's party system originated in the late 19th century. In fact India has the largest number of political parties in the world. In India we find the existence of political parties at three levels. They are National parties, Regional parties, and Registered but unrecognised parties (independent candidates). Every party in the country has to register with Election Commission.

Recognized parties

Parties that fulfill these criteria are called recognized parties. They are given a unique symbol by the Election Commission.

A registered but unrecognized political party cannot contest election on its own symbol. This party has to choose one symbol form free symbol 'poll panel' announced by the Election Commission.



Free symbols 'Poll panel'

- As per the Election Symbols order 1968, symbols are either reserved or free.
- A reserved symbol is meant for a recognized political party.

- A free symbol is reserved for unrecognized party.

Majority Party

The Political Party whose number of candidates elected is more than the others is called the majority party. The Majority Party forms and runs the government. They select and appoint their ministers to run the government. They play a decisive role in making laws for the country.

Minority Party

Those with lesser number of elected candidates are called the minority party.

Opposition Party

The party which gets second largest number of seats next to the majority party in the election is called the Opposition party. An effective opposition is very essential for the successful operation of the democracy. They are as important as that of ruling party. They check the autocratic tendencies of the ruling party. They critically examine the policies and bills introduced by the government. They raise their voice on the failures and wrong policies. They highlight important issues which are not acted upon the Government. The leader of the opposition party enjoys the rank of Cabinet Minister.

Coalition Government

In a Multiparty system a single party sometimes may not secure the majority required to form the government. In such a case, some parties join together to form the government. Such government is called Coalition Government.

Electoral Symbols and its importance

An electoral symbol is a standardized symbol allocated to a political party. They play an important role in elections. Theycan be easily identified, understood, remembered and recognized by the voters. The Election commission has stopped allotting animals as symbols. The only exceptions are the lion and the elephant. The symbol of nationally recognized parties is standard throughout India. That symbol will not be allotted to any other party or individual.

State parties are allotted to certain symbols that no other party can use the symbol in that particular state but which different parties in different states can use the same symbol. (e.g Shiv Sena in Maharashtra and Jharkhand MuktiMorsha in Jharkhand use bow and arrow as their symbol).

National Party	Regional/State Party
National Parties are political parties which participate in different elections all over india.	Regional parties are political parties which participate in different elections but only within one state.

It should strong enough in at leat four states.	It should be strong enough in at least one or two states.
It has a exclusive symbol throughout the country.	A symbol is reserved for it in the state in which it is secognized. But the same symbol can be allotted to different states.
It resolves State, National and International Issues.	It promotes regional and state interest.

APPOLO STUDY CENTRE

9th Civics

UNIT 1 - Forms Of Government And Democracy

The governance of nations differs significantly based on who has power. There are different forms of government: aristocracy, monarchy, autocracy, oligarchy, theocracy, democracy and republic.

1. Aristocracy

A form of government in which power is held by the nobility.

Example: United Kingdom, Spain

2. Monarchy

A system of government in which one person reigns supreme, usually a king or queen(constitutional monarchy).

Example: Bhutan, Oman, Qatar

3. Autocracy

A system of government by one person with absolute power.

Example: North Korea, Saudi Arabia

4. Oligarchy

A small group of people having control of a country or organisation.

Example: Former Soviet Union, China, Venezuela

5. Theocracy

A system of government in which religious doctrines form the basis of government headed by a priest who rules in the name of God or proclaims himself as a God.

Example: Vatican

6.Democracy

A system of government in which eligible members in the population vote to elect their elected representatives, and the party or individual who obtains the majority votes forms the government. Example: India, USA, France

7. Republic

A state in which supreme power is held by the people and their elected representatives and which has an elected or nominated President rather than a monarch. Example: India, Australia

Democracy

- Democracy is a form of government that allows people to choose their rulers.
- Only leaders elected by people should rule the country.
- People have the freedom to express views, freedom to organise and freedom to protest.

Meaning of Democracy

Democracy is a system of government in which the supreme power is vested in the people of a country and people elect their representatives either directly or indirectly through fair and free elections, which are usually held periodically.

Definition

According to Mahatma Gandhi, "True democracy cannot be worked by twenty men sitting at the centre. It has to be worked from below by the people of every village."

Salient Features of Democracy

1. Elected representatives of people and final decision-making power to the representatives.

2. Free and fair elections.

3. Universal adult franchise with each vote having equal value.

4. Fundamental rights and protection of individual freedom.

Evolution of Democracy

Democracy began 2,500 years ago in some of the city-states of ancient Greece. It is important to know that democratic institutions existed in India as early as the Vedic period. Chanakya's *Arthashastra* tells us that in ancient India, an autonomous village community was the basic unit of the local government. In ancient Tamil Nadu, Kudavolai system was a very notable and unique feature of the village administration of the Cholas. The evolution towards a democracy is represented by the following values: freedom, equality, liberty, accountability, transparency and trust.

Types of Democracy

There are two types of democracies:

1. Direct democracy

2. Indirect (representative) democracy

The types of democracy refer to the kind of government or social structures which allow people to participate equally.

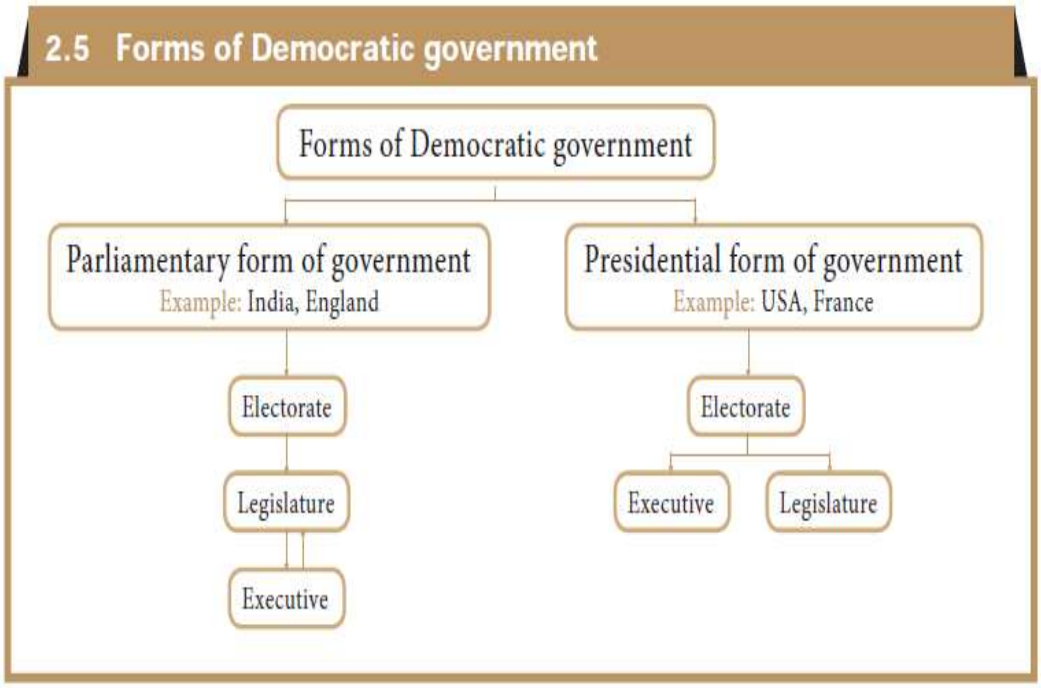
Direct Democracy

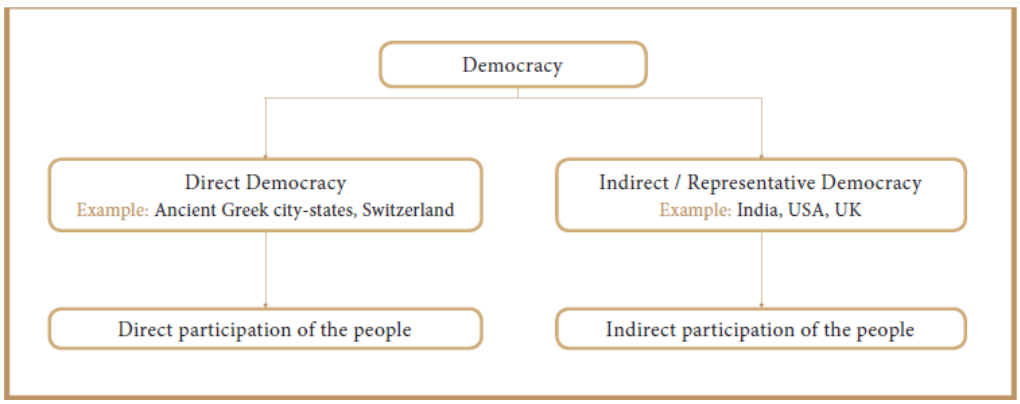
When the people themselves directly express their will on public affairs, the type of government is called pure or direct democracy.
Example: Ancient Greek city-states, Switzerland

Indirect Democracy / Representative Democracy

When the people express their will on public affairs, through their elected representatives, the type of government is called indirect or representative democracy.

Example: The prevailing system of democracy in India, USA and UK





Democracy in India

India has a parliamentary form of democracy. The Indian Parliament comprises the elected representatives of people and makes the laws for the country. The

participation of people in the decision making and the consent of citizens are the two important elements of the parliamentary form of government in India.

India is the largest democratic country in the world. Democracy in India works on five basic principles. These are sovereign, socialist, secular, democratic, republic.

Every person who is a citizen of India and who is not less than 18 years of age can exercise their right to vote in India, based on universal adult suffrage. There is no discrimination based on a person's caste, creed, religion, region, gender and education when it comes to providing the right to vote.

Merits and Demerits of Democracy

Merits

1. Responsible and accountable government
2. Equality and fraternity
3. Sense of responsibility among common people
4. Local self-government
5. Development and prosperity for all
6. Popular sovereignty
7. Sense of cooperation and fraternal feeling

Demerits

1. Indirect or representative nature of democracy
2. Lack of interest in democratic process and hence lower turnout in elections.
3. Instability in governance due to fractured mandate
4. Delay in decision-making process.

Elections in India

India has a quasi-federal government, with elected representatives at the federal, state and local levels. The general elections are conducted by the Election Commission of India. At the national level, the President of India, appoints the Prime Minister, who enjoys majority in the Lok Sabha, the lower house of the Parliament of India. All members of the Lok Sabha are directly elected through general elections, which take place once in every five years, in normal circumstances. Two Anglo Indian members can be nominated by the President of India to the Lok Sabha. Members of the Rajya Sabha, the Upper House of the Indian Parliament, are elected by an electoral college consisting of elected members of the legislative assemblies of the states and the Union Territories of India. The President of India nominates 12 members for their contributions to art, literature, science and social services.

The First Elections in Democratic India

General elections to the first Lok Sabha since independence Were held in India between 25 October 1951 and 21 February 1952. The Indian National Congress emerged victorious by winning 364 of the 489 seats. Jawaharlal Nehru became the first democratically elected Prime Minister of the country.

Major challenges to Indian Democracy

Democracy is the dominant form of government in the contemporary world. It has not faced a serious challenge or a rival so far. In the last hundred years, there has been an expansion of democracy all over the world. The various aspects of democracy and its challenges are:

1. Illiteracy
2. Poverty
3. Gender discrimination
4. Regionalism
5. Casteism, communalism and religious fundamentalism
6. Corruption
7. Criminalisation of politics
8. Political violence

Conditions for the Success of Democracy in India

- Empowerment of the poor and illiterates to enjoy the goodness of democracy.
- Willingness among the elected people not to misuse their powerful position and public wealth.
- Eradication of social evils and dangers from which democracy suffers.
- An impartial and efficient press to form public opinion.
- Presence of strong public opinion.
- Feeling of tolerance and communal harmony among the people.
- Awareness among the people of the fundamental rights that they are entitled to enjoy.
- Conscious check and vigilance on the working of the elected representatives.
- Powerful and responsible opposition.

Though democracy in India has been appreciated worldwide for its working, there is still a lot of scope for improvement. The above-mentioned steps must be taken to ensure smooth functioning of democracy in the country.

Indian democracy can be successful and vibrant only when its citizens imbibe and reflect in their behavior the basic democratic values like equality, freedom, social justice, accountability and respect for all. Their mindset, thinking and behavior are expected to be in tune with the essential conditions of democracy. They have to appreciate the opportunities for their desired roles like participation, making the system accountable, fulfilling obligations, and playing proactive roles to actualize the goals of democracy.

NOTE

1. The term 'democracy' is derived from two Greek words: *demos*meaning people and *cratia* meaning power. Thus, literally democracy means "the power of the people".
2. Abraham Lincoln, one of the Presidents of USA, defines democracy as a government of the people, by the people and for the people.
3. The Parliament House in India was designed by the British architects Edwin Lutyens and Herbert Baker in 1912-13 and construction began in 1921 and ended in 1927
4. Two Houses of Parliament
    a) Lok Sabha / Lower House / House of People.
    b) Rajya Sabha / Upper House / Council of States
5. General elections were held in British India in 1920 to elect members to the Imperial Legislative Council and the Provincial Councils. They were the first elections in the country's history.

APPOLO STUDY CENTRE

Union Judiciary

9th book	**Election, Political Parties And Pressure Groups**
11thvol 1	**Unit – 2 State**
	Unit 5 - Democracy
11thvol II	**Unit – 10 Public Opinion & Party System**
	Unit – 11 Election And Representation
12thvol 1	**Unit 4 - Indian Judiciary**
	Unit 6 – Administrative Machinery

9th book
UNIT 2 - ELECTION, POLITICAL PARTIES AND PRESSURE GROUPS

Electoral System in India

- The electoral system in India has been adapted from the system followed in the United Kingdom. India is a socialist, secular, democratic republic and the largest democracy in the world. The modern Indian nation state came into existence on **15 August 1947**.

- Articles **324 to 329 in part XV** of the Constitution makes the following provisions with regard to the electoral system in our country.

(i) Article 324 of the Indian Constitution provides for an independent Election Commission in order to ensure free and fair elections in the country. At present, the commission consists of a Chief Election Commissioner and two Election Commissioners.
(ii) The Parliament may make provision with respect to all matters relating to elections to the Parliament including the preparation of electoral rolls, the delimitation of constituencies and all other matters necessary for securing their due constitution.

(iii) The state legislatures can also make provisions with respect to all matters relating to elections to the state legislatures including the preparation of electoral rolls and all other matters necessary for securing their due constitution.

Election Process

- At the national level, the head of government, the Prime Minister, is elected by members of the LokSabha, the lower house of the Parliament in India. In

representative democracy like ours, elections are extremely important. Voting in elections is the best way to make your 'voice' heard.

Introduction of the NOTA Option

- If the people in a democratic country are not willing to elect any candidate, they can vote for the option called NOTA (None Of The Above). Rule 49-O in the Conduct of Elections Rules, 1961, of India describes this procedure.

Types of Elections in India

Elections are classified into two types:
1. Direct Elections

- People directly vote for the candidates in the fray and elect their representatives. The following are examples of direct elections in which people over the age of 18 years participate in the electoral process by casting their votes.

(i) LokSabha elections, in which the Members of Parliament are elected.

(ii) Elections to the state Legislative Assemblies, in which the Members of Legislative Assemblies are elected.

(iii) Elections to the local governing bodies, in which members of the local governing bodies like the municipal corporation or the panchayat are elected.

Merits

(i) As the voters elect their representatives directly, direct elections are considered to be a more democratic method of election.

(ii) It educates people regarding the government activities and helps in choosing the appropriate candidates. Also, it encourages people to play an active role in politics.

(iii) It empowers people and makes the rulers accountable for their actions.

Demerits

(i) Direct elections are very expensive.

(ii) Illiterate voters sometimes get misguided by false propaganda and sometimes campaigning based on caste, religious and various other sectarian consideration spose serious challenges.

(iii) Since conducting direct elections is a massive exercise, ensuring free and fair elections at every polling station is a major challenge to the Election Commission.

(iv) There are instances of some political candidates influencing the voters through payments in the form of cash, goods or services.

(v) Election campaigns sometimes results in violence, tension, law and order problems and affects the day-to-day life of people.

Indirect Elections

- Voters elect their representatives, who, in turn, elect their representatives to formal offices like the President's office.

Merits

(i) Indirect elections are less expensive.
(ii) It is more suited to elections in large countries.

Demerits

(i) If the number of voters is very small, there exists the possibility of corruption, bribery, horse trading and other unfair activities.
(ii) It is less democratic because people do not have a direct opportunity to elect, but they instead do it through their representatives. So, this may not reflect the true will of the people.

How is the President of India elected?
The President of India is elected by the members of an electoral college consisting of
1. The elected members of both Houses of Parliament
2. The elected members of the Legislative Assemblies of all the states and Union territories in India
NOTE: The members nominated to either House of Parliament or the Legislative Assemblies of states are not eligible to be included in the electoral college

Political Parties

- Political parties are an essential part of democracy. Parties are the link between government and the people.

Meaning of Political Party

- A political party is an organisation formed by a group of people with a certain ideology and agenda to contest elections and hold power in the government. A political party has three components: a leader, active members and the followers.

Types of a Party System

There are three types of party system in the world namely.

i. Single-party system in which one ruling party exists and no opposition is permitted. China, Cuba, the former USSR (Union of Soviet Socialist Republics) are the examples for the single-party system.

ii. Two-party system in which only two major parties exist, for example, USA, UK.

iii. Multi-party system in which there are more than two political parties, for example, India, Sri Lanka, France and Italy.

Types of Political Parties

Political parties in India are classified according to their area of influence into two main types :

(1)National Parties
(2) State Parties.

National Parties

- A party which is recognized as a state party in at least four states is recognized as a national party. Every party in the country has to register with the Election Commission while the Commission treats all the parties equally. It offers some special facilities to state and national parties. These parties are given a unique

symbol. Only the official candidate of the party can use that election symbol. In 2017, there were seven recognized national parties.

State Parties

- Other than the seven national parties, most of the major parties of the country are classified by the Election Commission as 'state parties'. These are commonly referred to as regional parties. A party is recognized as a state party by the Election Commission of India based on certain percentage of votes secured or a certain number of seats won in the Assembly or LokSabha elections.

Recognition to the Parties

For getting recognition as 'national party', a party has to fulfill any one of the following criteria:

i. At least 6% votes in at least four states and members to the LokSabha.

ii. In the election of LokSabha, at least 2% members from at least three states are elected to LokSabha.

iii. Recognition as a state party at least four states.

Functions of Political Parties

- Parties contest elections. In most democracies, elections are fought mainly among the candidates put up by political parties.
- Parties put forward their policies and programmes before the electorate to consider and choose.
- Parties play a decisive role in making laws for a country. Formally, laws are debated and passed in the legislature.
- Parties form and run the governments.
- Those parties that lose in the elections play the role of the Opposition to the party or a group of coalition parties in power, by voicing different views and criticising the government for its failures or wrong policies.
- Parties shape public opinion. They raise and highlight issues of importance.
- Parties function as the useful link between people and the government machinery.

Role of Opposition Parties in a Democracy

- In a democracy, there may be a two-party system like in the USA or a multi-party system like in India and France. The ruling party may have received the mandate of the majority people and the Opposition party represented the remaining people. The Leader of the Opposition party occupied a prominent place in all democratic forms of the government. He enjoys the rank of a Cabinet Minister. He opposes the wrong policies of the ruling party, which affects the general public. As the Chairman of the Public Accounts Committee questions the functioning of the government departments and examines the public money used for the well-being of the people. Similarly, he plays an important role to select the Chairman and members of the Central Vigilance Commission, Chairperson and members of the Information Commission. The Opposition Parties reflect genuine demands and concern of the people to play a constructive role in a democracy.

Pressure Groups

- The term 'pressure group' originated in the USA. A pressure group is a group of people who are organized actively for promoting and defending their common interest. It is so called as it attempts to bring a change in the public policy by exerting pressure on the government.

- The pressure groups are also called 'interest groups' or vested groups. They are different from the political parties in that they neither contest elections nor try to capture political power.

Examples for Pressure Groups

1. Federation of Indian Chamber of Commerce and Industry (FICCI)

2. All India Trade Union Congress (AITUC)

3. All India KisanSabha

4. Indian Medical Association (IMA)

5. All India Students Federation (AISF)

6. All India Sikh Students Federation

7. Young Badaga Association

8. Tamil Sangam

9. Tamil Nadu VivasayigalSangam

10. Narmada BachaoAndolan

Pressure Groups in India

- A large number of pressure groups exist in India. But, they are not developed to the same extent as in the USA or the Western countries like Britain, France, Germany and so on.

The pressure groups in India can be broadly classified into the following categories:

1. Business groups

2. Trade unions

3. Agrarian groups

4. Professional associations

5. Student organisations

6. Religious organisations

7. Tribal organisations

8. Linguistic groups

9. Ideology-based groups

10. Environmental protection groups

Functions of Pressure Groups inIndia

- Pressure groups are the interest groups that work to secure certain interest by influencing the public policy. They are non-aligned with any political party and work as an indirect yet powerful group to influence the policy decisions. Pressure groups carry out a range of functions including representation, political participation, education, policy formulation and policy implementation.

Political Participation

- Pressure groups can be called the informal face of politics. They exert influence precisely by mobilizing popular support through activities such as petitions, marches, demonstrations and other forms of political protest. Such forms of political participation have been particularly attractive to young people.

Education

- Many pressure groups devote significant resources by carrying out research, maintaining websites, commenting on government policy and using high-profile academics, scientists and even celebrities to get their views across, with an emphasis to cultivate expert authority.

Policy Formulation

- Though the pressure groups themselves are not policy-makers, yet it does not prevent many of them from participating in the policy-making process. Many pressure groups are vital sources of information and render advice to the government and therefore they are regularly consulted in the process of policy formulation.

Mobilization and People's Participation
Mobilization

- Mobilising people towards socially productive activities that lead to the overall betterment of people's lives is essential. Sometimes earthquakes, tsunamis, floods and other such natural disasters on a massive scale occur and people's immediate mobilisation for evacuation and emergency relief becomes most essential.

Democratic Participation

- Democracy can succeed only when smaller local groups and, in fact, every citizen can take action that supports the tax and revenue collection systems, observance of national norms in environmental protection, cleanliness, health and hygiene, sanitary drives and immunisation programmes like pulse polio.

- However, we must keep ion mind that there is no better form of government than Democratic government. To create a better society and nation, the people of India along with the union and state governments should come together to fight against the miseries of human life.

NOTE

1. **Kudavolai** was the system of voting followed during the **Chola** period in Tamil Nadu
2. We celebrate National Voters Day on **25th January** in India.
3. NOTA was first introduced in the General Elections held in **2014**. India is the **14th country** in the world to introduce NOTA.

4. **Voters Verified Paper Audit Trail (VVPAT)** is the way forward to enhance credibility and transparency of the election process. This system was first introduced in the **2014 General Election**.

UNIT – 2

STATE

Introduction

- Political Science is the systematic study of State. We all live in State. The world is viewed as an embodiment of many States. State as an idea or a concept is derived from a historical process of political, cultural, religious and economic contexts of a region. Today when the word 'State' is mentioned and used it usually indicate the modern State. The world today comprises of modern States. Modern State is a public order completely different from the pre-modern notion comprising of a body politics consisting of the rulers and the ruled. Hence a proper understanding of what State is and what not is quite essential to students of political science.

- Yes, we all live in 'State'. We start to interact with the State even without a proper awareness of State. The road facilities, health care, electricity, water, and sanitation are a few examples that connect us with the State. State compels us to do certain things and at the same time Any failure to obey the State will lead to punishment. Hence one can conclude that law and freedom of State are subjected to certain conditions laid by the State itself. State also ensures that our lives and property are protected. Thus whether we are interested or not, the State is certainly interested in us as its population. Should we not then study the State?

Meaning and Definition of State

- The State is the most universal and most powerful of all social institutions. The State is a natural institution. Aristotle said 'Man (Human) is a social animal and by nature s/he is a political being. To him, to live in the State and to be a man were identical. The modern term 'state' is derived from the word 'status'. It was Niccolo Machiavelli (1469 – 1527) who first used the term 'State' in his writings. The state is necessary because it comes into existence out of the basic needs of life. It continues to remain for the sake of good life. The aims, desires, and aspirations of human beings are translated into action through the State. Though the State is a necessary institution, no two writers agree on its definition. This disagreement makes the study of the State more creative and interesting. For instance, we have social Contract theory in political science. The three main thinkers associated with social contract theory are Thomas Hobbes, John Locke and Jean Jack Rousseau. The three thinkers collectively agree that humans need to be controlled by the State. At the same time, they disagree on to what extent the control can be exercised by the State on humans.

Essential Elements of State

- Thus, from the above descriptions, you can easily conclude that State should have certain essential components. The state is a set of institutions which has an

unquestionable authority over people. It is hence all modern States have their own Constitution that moderates the freedom and privileges of the citizens of the State with the coercive and unquestionable power of the State. Hence Constitution is considered as a limiting agent on the overwhelming authority of the State.

- The Montevideo Convention on Rights and Duties of States held in 1933 gave the fundamental understanding of State. A State must have a permanent population, a defined territory and a government that can control the territory and its people and conducts international relations with other States. Consequently, becomes crucial for the legitimacy of the State from an external point of view. You would be reading more when you read about Sovereignty.

Let us attempt to understand what the essential elements of State are?

- Think of India as a State and try to answer what makes India, our country to qualify for a State? Firstly, India has a well-defined territory. In India we the people, Indians live. We Indians have our Government. India is a State that has a status in the world and exists independently. India is not bound by the rules of any other State. It can enter into treaties with other States. We have our diplomats in all countries and their offices are called 'Diplomatic Mission'. An Indian Embassy in the USA is generally known as 'India in the USA'. In Puducherry, the Consulate General of France is called France in India.

Society, state and Government

State

People/population	Territory	Government	Sovereignty

CENSUS 2011
15th CENSUS of India since 1872

Cost	₹22,00Cr
Cost per person	₹18.19
No. of census functionaries	0.27Cr
No. of languages in which schedules were canvassed	16
No. of languages in which training manuals were prepared	18
Paper utilised	8,000 MTs
erial moved	10,500 MTs

The population of India at 121.01 cr is almost equal to the combined population of USA, Indonesia, Brazil, Pakistan Bangladesh and Japan	2001- 2011 is the first decade (with the exception of 1911-1921) which has added lesser population compared to the previous decade
The population has grown by more than 18.1Cr during the decade 2001-2011	Overall sex ratio at the national level has increased by 7 points since Census 2001 to

Census 2011

- The past-independence census in the country has been conducted once in ten years. Under the constitutional provisions by notification under the census Act 1948.

- In the last census, operations conducted in our country in 2011. The enumerators and supervisors has focused on the house listing and housing Census. The type of information gathered on the household its head amenities and assets. It also includes the total number of residents, use of the census house and material used for floor, wall and roof.
- Other details include the name of the head of the household, gender, community, ownership, number of dwelling rooms, number of married couples. The enumerators would also seek details on the amenities available in the household such as sources of drinking water outlet, latrine, waste water outlet, bathing facility, kitchens and fuel used for cooking.
- They would record information, on the use of banking services and assets, such as radio, TV, computer, internet connection, telephone, bicycle, motorcycle and car.

Population

- It is the people who make the State. The population is essential for the State. What should be the size of the population has been a debate by thinkers from ancient time. According to Plato, the ideal number would be 5040. According to Aristotle, the number should be neither too large nor too small. It should be large enough to be self – sufficient and small enough to be well governed. Rousseau determined 10,000 to be an ideal number for a State. Ancient thinkers view on the number was based on the small city – States like Athens and Sparta. The modern States vary in population. India has a population of 121.02 cr people according to 2011 census of India.

According to Plato, the ideal number of State is 5040. The reason is the number 5040 is divisible by numbers from 1 to 12. In the case of 11 the reminder is 2. During the time of emergency the population can be divided in various columns and instructions could be given.

Territory

- Can State be without territory? Certainly not. People need territory to live and to organize themselves socially and politically. It may be remembered that the territory of the State includes land, water, and air space. The modern States differ in their sizes. The territory is necessary for citizenship. As in the case of population, no definite size with regard to extent of the area of the State can be fixed. There are small and big States. In the words of Prof. Elliott, "Territorial sovereignty or the superiority of State, overall within its boundaries and complete freedom from external control has been a fundamental principle of the modern State life".

- India has an area of 32,87,263 sq. km. approximately India occupies 2.4% of the global area. The opening article of the Indian Constitution speaks about the Territory of India.

Government

- Government is the working agency of the State. It is the political organization of the State. Indian political scientist Prof. A. Appaduraidefined government as the agency through which, the will of the State is formulated, expressed and realized. According to C.F. Strong, in order to make and enforce laws, the State must have a supreme authority. Government is a fixed structure. Political executives who get elected to offices may change but Government as a system is a permanent body of State. The State existed before the people come to power and it will exist after these men and women in power leaves the control of the State.

Sovereignty

- The fourth essential element of the State is sovereignty. The word 'sovereignty" means supreme and final legal authority above. No legal power can exist beyond sovereignty. The concept of "sovereignty" was developed in conjunction with the rise of the modern State. The term Sovereignty is derived from the Latin word "superanus" which means "supreme". In a traditional understanding, the characteristics of sovereignty are absoluteness, permanence, universality, indivisibility, exclusiveness, and inalienability.

There is a restriction of individuals from one State to another State in the name of territorial sovereignty. But sitting in one country you can communicate to a person to another country using the internet. How do you see this to do with the sovereignty of the States? Examine why social networking websites like Facebook, twitter and YouTube are banned in some countries.

- The father of the modern theory of sovereignty was Jean Bodin(1530 – 1597) a French political thinker. According to Harold J. Laski, "It is by possession of sovereignty that the State is distinguished from all other forms of human association".

- Human Association would mean anything from family, society and even voluntary organization similar kinds through which humans identify them-selves together.

Society, State and Government – How are they interrelated?

- Each one of us lives simultaneously in family, society, and State. What does this mean? How society and State are interrelated? What is government to do with the State and the society?

- Historically when humans evolved from hunters and gatherers to a settled community, they started to produce goods. Group of families constituted a community and a group of communities constituted what we call as a society. Individuals for their emotional need that is often reciprocal lived in the family.

- Families came together under the umbrella of the community for a greater objective of security. The communities so formed made a higher level of organization called society solely to live in an organized manner where each ones' need is met out by the collective output of the whole. Thus when an individual is labouring for earning his food there arose an inevitable situation that labour results in productivity. The produced goods thus required a market supplemented by the invention of another institution called trade. When goods are produced and marketed, it is clear that the situation could turn in favour of a few who are mighty.

- When society is governed by the rule of might, then ultimately that would cause the society to disintegrate and fall apart. When society degenerates, it has a consequent effect on the communities and ultimately upon its constituent families and each and every individual would lead to suffering. Thus, it was, for this reason, humans came together, guided by reason felt the need of the State.

- State came into existence out of an imminent need that in the absence of a centralized and a coercive authority human cannot be saved from each other. This control in modern States is done legally through a set of rules and regulations. In a democracy, these rules and regulations are framed by the legislature, enforced by the executive and the judiciary adjudicates the made laws and the implemented laws on the basis of their legality and judiciousness. The function of law making, implementing and interpreting is the function of government. You will read more about this as separation of powers.

- The society consists of a large number of individuals, families, groups, and institutions. The early political thinkers considered both State and society as one. The state is a part of society but is not a form of society.

STATE	SOCIETY
State came into existence after the origin of the society.	Society is prior to the State.
The scope of the State is limited.	The scope of society is much wider
The state has fixed territory.	Society has no fixed territory.
The state is a political organization.	Society is a social organization.
The State has the power to enforce laws.	Society has no power to enforce laws.

- The membership of the State and society are the same. But they differ as regards to their purpose. The State exists for one great but single, purpose; society exists for a number of purposes; some great and some small. From the point of view of the organization, the State is a single organization – legal, whereas society comprises within itself many organizations. The State exercises its control over humans by coercion and exact obedience. On the other hand, the society employs a method of voluntary action. The purposes for which society exists makes the persuasive

methods necessary. The multiplicity of the organization of society gives ample opportunity to the members to relinquish one association and join another in the event they are subject to any coercion. Thus you must understand a State without a centralized authority of coercive force and a society without the method of persuasion will fall apart.

State and Government

- Government is often used with the 'State' as a synonym. But both the government and the State are two different entities. There are differences between the State and the government. They are explained in the table given below.

STATE	GOVERNMENT
The state consists of population, territory, government and sovereignty.	Government is part of the State.
The state possesses original powers.	Powers of the government are derived from the State.
The state is permanent and continues forever.	Government is temporary. Governments can be replaced with peoples will
State is abstract and invisible	Government is concrete and is visible.

Modern State

Before examining the functions of Modern State, you must understand what is Modernity? What is called as a Modern State?

- Modernity in historical term means the period of questioning the tradition or rejecting the age-old set of beliefs, practices and socio-cultural norms. Modernity laid the foundations of the prioritization of individualism, freedom, equality, fostering of scientific temper in every walk of life and thus modernity led humans from agrarianism towards industrialization, urbanization, and secularization. This intellectual shift drastically influenced the understanding of the society, State and government. For instance, the efforts of Raja Ram Mohan Roy to reform the Indian society are directly linked with the influence of western modernity on Indian thinkers.

- In Political science, modernity impacted on the concepts of State, liberty, equality, justice and so on. For instance, the meaning of patriots, revolution, rights, privileges, and sovereignty was understood differently given their historical context. Similarly, the term State was understood differently during the time of the Greek City State. State means completely different when it is referred to a modern State as a form of political organization evolved in modern western Europe dating to medieval ages. The rational foundation of modern State is often argued to be the treaty of Westphalia signed in the year 1648.

- The idea of modern State was exported throughout the world during the nineteenth century by the process of European Colonization. The South Asian States that became independent from colonial control after second world war can be brought under the umbrella of post-colonial States and can be compared with the post-colonial States of the other parts of the world to assess their relative merits and drawbacks for improving their governance systems.

Functions of Modern State

- The modern State is a developed State. The State should strive to keep its people secure and safe. The State should ensure that its borders are sealed and protected. The market needs to be integrated into the society by a well-knit macroeconomic structure. 'Citizen first' should be the motto of all the activities of the State. The sole principle of governance of modern State is whether the action of the State leads to the promotion of the welfare of its people. Accordingly, the State engages itself as a provider of essential services.

It is largely accepted that the modern State focuses on three main functions.

Functions		
Security and Defence	Economic	Provision of Essential Services

Security and Defence

- The States of today's world consider the meaning of security from multiple standpoints. Terms like Human Security have emerged to put citizens first. Inspired by the philosopher Immanuel Kant's idea of perpetual peace, the States of the world came together as 'league of nations' and later as the 'United Nations Organisation and have been debating the terms security and defence in terms of promoting peace.

Economic functions

- The modern state is supposed to intervene in the economic functions of the political system. The State needs to support the people, make them realize their potential for their betterment. Try understanding what Martha Nusbaum explain about 'capabilities' and what does Nobel Laureate AmartyaSen's ideas on 'capability approach'. Protecting consumers, weaker sections, investing in areas where there is no profit are those included in the economic functions of the modern state.

Provision of Essential Services

- From 'cradle to grave' modern state is supposed to care for its citizens. The fundamental needs such as food, clean drinking water, providing education, healthcare, and social security for the population are the responsibilities of the modern state. You can find the number of schemes and projects of Government of India and the various state governments to be in this direction. The noon meal

scheme and the nutrition's meal schemes in all Government schools initiated by the Government of Tamil Nadu and adopted in different parts of the country is one such example. The modern State strived for the welfare of its people and hence another concept came into existence called 'Welfare State'.

Concept of Welfare State

- Have you ever noticed that the Directive principles of the State policy of the Indian Constitution have been placarding the western European idea of the Welfare State? Have you ever thought why the propelling mechanisms of socio- economic development have been kept in Part IV of the Constitution as an advisory to the State whereas the guarantee of political and civil rights has been made as a non-negotiable guarantee as Fundamental Right? What is the reason? Why could economic rights figure as the part of Fundamental right in the constitution?

- It is a reality that the abundance of resources with a minimal population has been the main reason for the successful functioning of welfare State model. The Scandinavian countries are excellent examples of welfare State. Though the Constitution of India strives for a welfare State the non-abundance of resources and a huge population has been the impediment in realizing the goals of the Welfare State.

- The concept of welfare State has its origin in Western Europe after the Second World War. The main idea of welfare State is that the government of welfare State plays a vital role in human development. The role of the welfare State extends to the protection and promotion of the well-being of its citizens. The economic and social well-being of the citizens is based on
  1. The principle of equality of opportunity
  2. Equitable distribution of wealth
  3. Public responsibility for those who cannot afford themselves the minimal provisions for leading a good life.

India before independence was a Colonial State under British rule. Indians were subjects of the English crown. Once India attained Independence, we had our Constitution that has been deeply inspired by the western model of welfare State.

Concept of Soft State

- Nobel Laureate Karl Gunnar Myrdal identified what he called as societal indiscipline in the Asian States when compared to the western countries. He identified this societal indiscipline as the characteristics of soft State. Social indiscipline, corruption, and weak law enforcement are the main characteristics of a soft State.

- The post-colonial developing States are generally categorized as soft States where their institutions of governance are not fully developed. Our inability to adhere to

standards and to enforce law and maintain discipline makes our country as a soft State. A soft State cannot advance further in refining its democratic values. As a student identify the list of social indiscipline and the ways of correcting them from your view.

Concept of Over Developed State

- Almost all the States of South Asia are modern democracies. Yet, what makes them lag behind the western countries in development? When the institutions of governance such as the Parliament, the bureaucracy, and the planning machinery are imported and customized during colonial times, why is it that development is a slow process in these countries? Hamza Alawi, explains the case of the governability crisis of Pakistan and Bangladesh using the concept of Over Developed State

- Overdeveloped State is an explanation offered to the ineffectiveness of the functioning of post-colonial States that operate with the similar structure of bureaucratic governance before and after their independence. Despite political liberation, the transformative approach did not percolate down the administrative structure of the States after they emerged free from the colonial yoke. The colonial powers of Western Europe maintained double standards in designing the polity of the colonized States. When their respective States recognized political life, liberty and economic freedom of its citizens and in total the State was like a pet for its people, on the contrast the States were over centralized with unquestionable power in the colonized States. Such an arrangement was congenial to the colonizers to have unfretted siphoning of wealth from their colonies. This massive exploitation was effectively engineered by the bureaucracy that continued the colonial legacy even after independence with no or little change in the attitude of the political class that replaced the colonial masters.

- When the State gets increasingly modernized when the society and its economy are lagging behind without modernization the State and the society grossly mismatched each other. This creates a divide between the people and the State's apparatus. What is good for people are not decided by them in a representative democracy but by an influential few. In the case of Pakistan and Bangladesh, HamzaAlawai coins the word 'military bureaucracy oligarchy' that is similar to the license raj of India and over-centralization as a continuation of colonial legacy that has been constantly addressed by the government of India.

Concept of post-colonial State

- Do you know why police personnel in western countries are not feared as they are in the countries that were colonized by the same western countries? Can you find out the reason why Government servants in our country are looked up with utmost respect as a superior when they are looked with equal footage in the western countries? At the same time can you identify the benefits of colonization? Can you list them?

- Post-colonial State is the name of new nation States that have emerged out of the process of decolonization after the Second World War. Post-colonial State is used synonymously with developmental State. The post-colonial State has the features of colonial State as far as the political institutions are concerned but there is only a shift in the objective of these institutions.

- In general, post-colonial States exhibit a high degree of poverty, political instability and the crisis of governance. The mismatch between the society with its traditional power structure overlapping with modern States has largely resulted in such a situation.

- It is obvious that the Colonial powers that ventured into newer worlds destroyed the main parts of native traditions and cultures and further constantly replaced them with their own ones. This cultural import led to conflicts as and when they became independent as they suddenly faced the challenge of developing a new national identity and self-confidence. This is one of the aspects why the sharp divide of the ruler and ruled remained in post-colonial States whereby the State actors tend to behave with an upper hand.

Glossary

1. **State:** A nation or territory considered as an organized political community under one government.

- Government**:** The group of people who officially control a country

2. **Social Contract Theory:** The theory that advocates that persons' moral and/or political obligations are dependent upon a contract or agreement among them to form the society in which they live.
3. **Constitution:** A body of fundamental principles or established precedents according to which a state or other organization is acknowledged to be governed
4. **Security**: The state of being free from danger or threat
5. **Society:** A large group of people who live together in an organized way, making decisions about how to do things and sharing the work that needs to be done. All the people in a country, or in several similar countries, can be referred to as a society
6. **Individualism:** A social theory favoring freedom of action for individuals over collective or state control.
7. **Scandinavia:** Scandinavia is a group of countries in northern Europe. It always includes Denmark, Norway and Sweden
8. **Bureaucracy:** A system for controlling or managing a country, company, or organization that is operated by a large number of officials employed to follow rules carefully
9. **Western Countries**: Countries in the west part of the world, especially North America and countries in the west of Europe.

UNIT – 5
DEMOCRACY

Definition and types of Democracy

- The term 'Democracy' is derived from the Greek word as demo means people and cracy is referred as rule. The concept of democracy in its Greek term comes from "demos and "kratos" meaning "people" and "rule". Thus the term democracy is Rule by People.

- Democracy is one of the most important and well-debated topics in the world since the beginning of the Twentieth Century and it has increased importance in the Twenty-first century. Democracy has been defined in different terms and usage by many philosophers, rulers and scholars from time to time according to the changes taking place in socio-political and economic institutions that were there. Democracy encompasses the powerful concepts of Rights; Freedom defined in Liberty, Equality and Fraternity all religions.

- The concept and practice of Democracy in the Modern period evolved in Britain, although it's ancient concept and practice was in Ancient Greece.Democracy is based on the type of the social system of the country or nation. The social system determines the type and working of democracy. Democracy is important for creating Liberty and Equality that are adopted to bring equality in the unequal society based on political and institutional mechanisms. Democracy has become the most popular form of government and universally regarded as a meaningful political concept in the world in the present period.

Democracy defined by Philosophers

"Democracy would, it seems, a delightful form of government, anarchic and mostly, assigning a kind of equality indiscriminately to equals and unequal's alike"

- Socrates

"Freedom in democracy is the glory of the state, and therefore, in a democracy is the glory of the state, and therefore, in a democracy only will the freedom of nature design to dwell.

- Plato

"The foundation of democratic constitution is liberty. People constantly make this statement implying that only in this constitution is there any share in liberty at all".

- Aristotle

The spread of Democracy in began in the world in different countries from the beginning of the Twentieth-century.
As a concept and a system of government, Democracy is an instrument of expression of free speech.

Characteristics of Democracy

a) Democracy is a set of principles and practices that protect human freedom.
b) Democracy rests upon the principles of majority rule, along with individual and minority rights.
c) Democracies as a system guard against all-powerful central governments and it decentralizes government to regional and local levels. The right of the people to demand the Government they elected and the duty of the Government to be accessible and responsive to their needs and demands is the main function.
d) One of the primary functions of Democracies is to protect such basic Human Rights i) Equality before Law, ii) Equal Protection before Law iii) Freedom of Speech, iv) Freedom of Religion; vii) Right to organize and participate fully in the political, economic, and cultural life of society.
e) Democracies conduct regular free and fair elections open to all citizens.
f) Democracy subjects governments to the Rule of Law and it ensures that all citizens receive equal protection under the law and that their rights are protected by the Legal-constitutional system.
g) Democracies are diverse political systems, reflecting each nation's unique political, social, and cultural life.
h) Democracy ensures the citizens to participate in the political system and it protects their rights and freedoms.
i) Democratic societies are committed to the values of tolerance, cooperation, and consensus.
j) In the words of Mahatma Gandhi, "intolerance is itself a form of violence and an obstacle to the growth of a true democratic spirit."
k) Democracy is a system of government in which power and civic responsibility are exercised by all citizens, directly or through their freely elected representatives.

- Democracy underlines the Principle of Rule by the people. It ensures a form of government in which all the citizens of a nation determine public policy, the laws, and the actions of their state together either in a Direct Democracy or by Representative Democracy. Democracy ensures that all citizens have an equal opportunity to express their opinion. Democracy is generally defined as "government by the people; that form of government in which the sovereign power resides in the people as a whole, and is exercised either directly by them or by officers elected by them."

Types of Democracy

Democracy by its function has different scope and importance.

i) Political Democracy
ii) Social Democracy
iii) Industrial Democracy
iv) Economic Democracy
v) Totalitarian Democracy
vi) Radical Democracy
vii) Plebiscitary Democracy

i. Political Democracy

- Political democracy feature's the popular participation of citizens in government by which citizens elect their representatives to the Legislature of the state. The elected representatives are accountable to the citizens who elected them. As a political system of government, Democracy works either as a function by the direct involvement of the citizens in making laws and the elected legislators would introduce it in the Legislature. This is known as the process of Popular Initiative. Similarly, when the legislators elected by the people frame legislation, it is approved by a popular vote that is based on popular acceptance of the laws. This is known as Popular Referendum.

- The second type of Democracy is the Representative system of Democracy in which the elected representatives of the people (representative democracy) are elected for a term of office who determines public policy on behalf of the people. Political Democracy by Representative system of democracy is the dominant form of Democracy all over the world, whereas the Direct Democracy is practiced in the Federal Republic of Switzerland.

ii. Social Democracy

- Social Democracy is a combination of social, economic and political ideas that supports economic and social policies. It promotes social equality and social justice giving strength to economy and representative and participatory democracy. Social Democracy is based on the principle of Social equality in all aspects of gender, status, beliefs, values and customs. Alexis De` Tocqueville the eminent French thinker praised the American political system as one of the true democracies as it did not believe and encourage feudalism.

- Social Democracy believes strongly in Equality of opportunity and equality in freedom as the basis of human rights and life in a Democracy. Social Democracy enabled the individual through hard work and effort to succeed and excel.

- Social Democracy believed in the progress of equality as progress of liberty and the progress of liberty as the greatest progress of Democracy in a state.

iii. Industrial Democracy

- Industrial democracy is defined as the means to promote democratic principles in industry and labour by the provision and protection of Labour Rights and Responsibilities in the workplace. Industrial democracy encourages the participation of labour in decision making along with the management. Industrial democracy promotes dignityand decency of labour and paves way for better efficiency, harmony and unity of purposes of the management and labour.

- Industrial democracy enables the workers participate actively in the process of building both community and individual interests for the collective good of the society and state. Industrial democracy empowers workers as partners in the industry calling for their joint efforts to build community interests and welfare. Industrial democracy paves for the development and growth of the country through better productivity and greater harmony

iv. Economic Democracy

- Economic democracy is defined as the process of creating democratic conditions of economic productivity, minimising the rich-poor gap and socio-economic differences, promoting affordable economic development and the ideal of creating greater equality among various classes.

- Economic democracy believes in "workplace democracy" and "employee ownership" that is intended to promote equality and democratic redistribution of wealth.Economic democracy believes in the ability of the social system to integrate and society and economy for the betterment of human economic freedom and dignity. Economic democracy believes in social welfare and development as priority. Economic democracy is based on the importance of economic rights and social equality.

v. Totalitarian Democracy

- Totalitarian Democracy is known as populist democracy or mass democracy in which Citizens after electing the representatives have no voice in decision-making, but the elected representatives decide for the entire country. Totalitarian Democracy elevates the ruler, party and the elected legislators over the voting citizens and captures power through democratic means but runs as dictatorship. The political ideology of the ruler, party and the legislators becomes dominant over people interests. Totalitarian democracy in the name of people's rights would use internal terror against certain sections of people and also speech restrictions to keep the population under its complete control.Totalitarian democracy would have complete control of the economy of the state and would use it to control the population.

vi. Radical Democracy

- Radical Democracy was proposed by M.N.Roy a leading Indian political thinker who believed in "real rule" of the people for the term of office to which the legislators are elected. Radical democracy supports the idea of direct accountability of the legislators and executive to the people during the term of office. Radical Democracy believed in the humanism of the people who are the real masters of political authority and power and not the elected legislators.

- Radical Democracy believed in the "power of the people" in local communities known as local republics who would join in the creation of the state and

government. The local republics would finally exercise authority in the national and state levels. Radical democracy brings into Democracy the real sense of people's participation, accountability of the elected and the power of the people to change the government.

vii. Plebiscitary Democracy

Plebiscitary Democracy is defined as the process of a direct voting by the people of a candidate, or party or a public issue or the adoption of a new constitution of a state or to determine the association of the province with the state known as national self-determination. The voters have the choice to accept or reject the choice.

- Plebiscitary democracy gives the citizens the right and power to collect a sizeable number of signatures on a petition to draft a law or a public policy programme and put the proposal or draft law to vote by the citizen population. Plebiscitary democracy can by a collection of signatures could result in the recall of the elected representative because of failure to represent the real interests of the people.

Theories of Democracy

- A theory is defined as an explanation of a concept in its historical account and different stages of its development. A theory could be tested in different countries and different cultures to examine its importance and application. A theory is based on several facts that are logically connected and examined. Democracy is a theory that has various applications in different historical periods, different civilizations and cultures.

- The Ancient theory of Democracy emerged in Ancient Greece that saw the rise of several city-states (polis) which believed and applied the procedure of Direct election, Debating of public policies and Decision by the people. Greek Civilization, Culture and Language spread widely throughout Europe in the ancient historical period. And it also sawthe spread of democracy as a "form" and "system" of government initially in Europe and later into North and South America. As the Greek polis increased in size the nation of democracy by elected representatives gained importance and relevance. Representative democracy later emerged as the dominant form and system of government in the European Middle Ages, the Age of Enlightenment. The mass popular demand for Democracy was made in the American (1775-1783) and French Revolutions (1789-1799).

- Democracy has now emerged as a "universal" form of government widely accepted by several countries with various people groups, cultures and languages. It has developed in each country according to their local customs, values and ideas thus strengthening the process of democracy.

- There are various Theories of Democracy defined in terms of scope and impact:

Classical Democracy:

- Emerged as a direct form of democracy in Ancient Greece. Athens was the first city to introduce such a democracy. Direct democracy in Athens emerged in between 800-500 BCE (Before Common Era). In Athenian direct democracy, the citizens of the city-state are all as members of the assembly, who participated directly in the decision making and the process of legislation. Given the limited population they were able to gather in the city square and were able to deliberate. All citizens were free to express their different opinions, debate, and vote in a system directly and this was called as Classical Democracy.

- As population increased, the idea of representation in government was proposed. It resulted in the elected representatives participating in the governing process. Gradually it created institutions like the Assembly of the Demos, the Council, and the People's Court as the three important pillars of democracy. Classical democracy for its success should have two preconditions: a) The community must be small enough for citizens to be proficient in attending debates and voting on issues; b) the economy of the state should be sufficient for enabling the citizens to engage in politics. The principles of classical democracy are mentioned below:

  a) The chief political ideals were equality among all people, liberty and respect for law and justice.
  b) Equality before law and equal treatment of law enabled justice to prevail in almost all the spheres of society. Political life was free and open.The main subject of classical democracy was the participation of all peoples in the processes of state. Classical democracy was to bring equality among citizens in respect of rights and privileges.

Protective Democracy:

- As Classical Democracy grew it began to take shape into protective democracy in Athens which was by the emphasis on different aspects of classical democracy. In this viewpoint, democracy has been regarded as a means at the disposal of individuals which they can use to safeguard their rights and liberties. Protective democracy as a Rights-based democracy emerged in the late seventeenth and early eighteenth centuries placing it as an instrument of protecting human rights and liberties. The English thinker John Locke (1631-1704) was regarded as the great advocate of protective democracy. Locke argued that the citizen's freedom and right to vote was based on the existence of natural rights characterized by Life, Liberty and Property.

- Protective Democracy was proposed by English thinkers Jeremy Bentham (1748-1832) James Mill 1773-1836) and John Stuart Mill(1806-1873) of the Utilitarian School of Democracy and Rights. Utilitarianism was powerfully advocated in favour of protective democracy. The theme of utilitarianism was to safeguard rights, liberty

and opportunity as they were the basic principles of democracy. Safeguarding the rights was the safeguard of democracy.

- Jeremy Bentham, James Mill and John Stuart Mill emphasized that democracy alone could safeguard all individual rights and interests through the mandate of the people who could be protected and advanced. JohnLocke, James Madison, Jeremy Bentham and James Mills-supported the Rights based protective democracy as an aspect of liberal democracy. The following are the basic features of protective democracy:

  - Protective democracy believes in popular sovereignty.
  - Both the popular sovereignty and representative form of government are legitimate.
  - It is the primary duty of the state to protect the rights and liberties of citizens.
  - The authority is accountable to the People and in order to establish it elections are held on regular basis.
  - Separation of the Legislature, Executive and Judiciary are the most important means of protecting the rights, liberties and the distribution of privileges.
  - The introduction of rights-based protective democracy brought in the idea of constitutionalism that governed the ruler and the ruled by the principles laid down in constitution. The Constitution is the sole source of power for all and is the guarantor of rights and liberties. Legal provisions in the constitutions were introduced to protect, individual rights, rights of associations and groups against any violation of rights or encroachment on liberty on behalf of citizens. This brought in a competition among the Legislature, Executive and Judiciary in all spheres for the strengthening of protective democracy.It resulted in a clear distinction between state and civil society.

Marxist Theory of Democracy

- The Marxist theory views the democracy in the social context of class analysis during the era of industrial revolution. Society was divided into two classes viz: capitalists or owners of the property are called as 'bourgeois' and the working class is called as 'proletariat'. The Marxist theory of Democracy held the political position to always challenge the dominance of capitalists and against the exploitations of working class. The Marxist theory of democracy did not support electoral rights, but strongly supported economic rights and the creation of 'socialist democracy'.

- The Marxist theory of Democracy favoured the collapse of capitalism and calls for the revolutionary transformation of the society. It believes that political power is possible only through the ideals of 'socialism'; and is based on the equal distribution of economic power against the unequal wealth and ownership of production. The Marxists democrats and socialists believe in the removal of class differences and privileges are the necessary step to freedom, equal status and democracy.

- The socialists believed that with universal education people can govern themselves. The Marxist theory criticises the falseness of the liberal democracies are thus seen as 'capitalist' or 'bourgeois' democracies which are manipulated and controlled by the entrenched power of ruling class. The Marxist theory emphasises the importance of economic factor as the key factor for the class divisions and ownership and the control of the means of production. However the Marxists democrats in Europe support the strong role of electoral democracy to establish a peaceful, legal and democratic road to socialism.

- Democratic Marxists view (a) State as an agency of anti-people crimes and considered the abolition of standing army and instituting a citizen's militia, (b) Implement the election of all officials subjecting them to recall, (c) Totally remove the political attribute of police, (d) Eliminate the monarchy.

Elitist Theory of Democracy

- The role of the elites in a democracy is an unavoidable force. Elites of Leaders rule, control key resources and enforce major decision for centuries. In an industrial, agrarian society the ownership of property and control over production were the important factors. Elites from the agrarian and industrial sectors emerge as feudal landlords and owners of industry. They later take a political role to govern the state.

- Three important theorists Vilfredo Pareto (1848-1923), Gaetano Mosca(1857-1941) and Robert Michels(1876-1936) are the leading thinkers of elitist democracy. Pareto classified the elites into governing and non-governing elite from the masses. The governing elite are the power elites who are the ruling classes. They derive power from thevariety of sources such as education, social status, bureaucratic position, political connections, and wealth.

- Pareto described the Elite qualities in two psychological types (a) Foxes – who rule the masses by cunningness and manipulate their consent, (b) Lions – who achieve power through domination, coercion and violence. Elitism developed as a critique of egalitarian idea such as democracy and socialism.

- Robert Michelshad an alternative view about the democracy that even though the organization tend to be democratic but the small group of dominant figures who can organize and make decision rather than having deliberation with rank and file of the organization and called it as 'iron law of oligarchy'.

- Joseph Alois Schumpeter (1883-1950) proposed the concept of democratic elitism. Schumpeter defined that democracy was a good political method to arrive at political, legislative and administrative decisions by placing in certain individuals in power to decide on all matters of the masses as a representative means and the result of successful pursuit of people's vote. Democracy paves way for competitive pursuit means among the elites to achieve their legitimacy and power.

- The Elitist theory partly accepts the Marxian view of democracy that large corporations dominate in production and distribution of goods, however it does not agree with Marxian class analysis. The democratic Elitism theory engages with the groups and individuals to meet their endsand facilitates with their disagreements so as to meet the ends of the both.

Pluralist Theory of Democracy

- Pluralism is an inclusive concept. It addresses the interests and rights and the representation of the minorities thus forming the core content of liberal democracy. It affirms the separation of power from state and civil society and also economy from the political power. It offers the scope of institutions for the democratic process in the case of Legislature known as Bicameralism and a form of governance namely Federalism to govern the state through various set of representation. Pluralism paves way for participatory democracy that enables diverse group participation, to protect their rights. In this scheme, political power is distributed and shared to many groups in the society representing diverse interests.

- Pluralism leads to defend their particular interests through government by creating 'competitive equilibrium' that intends to benefit large sections of the society for the long run.

- Pluralism suggests that democracy in the system necessitates the conduct of regular elections that encourages political competition among parties, groups and individuals. The thinkers of Utilitarian school were the great advocates of pluralist democracy

- James Madison, John Stuart Mill and Tocqueville predicted that elections expresses the preferences of divergent competitive groups rather than the wishes of many in the majority group. This also provides the bargaining power to the minority groups to assert their rights and share in power.

- Pluralist democracy is also termed as Polyarchy, which is a rule by series of minorities within the political framework. Robert Dahl pointed out that the very essence of democracy is realized by Polyarchy that accommodates the presence of divergent groups, association, organizations in large number to enjoy relative autonomy in governmental power and jurisdiction. The preconditions for a functioning of polyarchy are consensus on the rule of procedure, range of policy options and legitimate scope of political activity.

Deliberative Theory of Democracy

- Democracy is Deliberative in its scope. It emphasizes on the form of democracy that emphasizes the need for deliberation, discourse and debate that defines the public interest. Deliberation and participation are two critical aspects of democracy. Deliberativedemocracy and participation are usually strong in the grassroots

level. India's Panchayati Raj institutions are usually strong in this process. Grass roots democracy features Panchayati Raj Institutions and civil societies that strengthen the functioning of the government. James Miller defines that deliberative democracy is built on the system of deliberation that features that decisions are reflective of the discussion among the participants. It features the willingness of the people to listen to the views and consider the interests of the others modifying their own opinions accordingly. Public interest and public opinion are the key components of the deliberative democracy. It emphasizes on the consensus built upon the acceptance from the masses rather than the influential individuals.

- Deliberative democracy is usually based on a rights-based approach of the current model of the development discourse. It provides for resolution of the scope for conflicts of interest with the democratic institutional mechanism balancing the benefits of the competing groups. Deliberative democracy is different from other forms of democracy by maintaining a person is rational enough to set aside particular interest and opinion to aspire for fairness and common interests of the collective and deliberation was based on equality, equity, and public goods. It values the decisions arrived after open discussion that heard all the points of view the most. Deliberative democracy is 'discursive' in scope. It is a type of democracy in which deliberation is central to decision making.

- Deliberative democracy differs from traditional democratic theory in authentic deliberation, not merely confined to voting. It is the primary source of legitimacy for the law making processes. Deliberative democracy is harmonious with both representative democracy and direct democracy. Rawls and Habermas famous theorists of justice and public opinion have observed that political choice, to be legitimate, must be the outcome of deliberation about ends among free, equal, and rational agents. Deliberative democracy recognises "the full and equal membership of all in the sovereign body responsible for authorizing the exercise of that power, and establishes the common reason and will of that body".

- Modern and Contemporary Democracy: Modern and contemporary democracies emerged in the late eighteen centuries in Western Europe as a result of industrial revolution, rise of labour and the social changes that emerged. Modern and contemporary democracies feature:

    - Written constitution the basic requirements and it must be kept up in everyday life by politicians and authorities:
    - Importance of Constitutionally guaranteed basic Human Rights and fundamental rights to every individual of all the social groups' especially religious minorities and other underprivileged.
    - The Separation of Powers between the institutions of the state:
    - Government (Executive Power), Parliament (Legislative Power) and Courts of Law (Judicative Power)
    - Freedom of opinion, speech, press and mass media
    - Religious liberty

- General and equal right to vote (one person, one vote) – Universal Adult Suffrage

- The "majority rule" is characterized as only important features of democracy, however the process should have free and fair competitive elections. Additionally, the importance of Rights is very important viz: freedom of political expression, freedom of speech, and freedom of the press are indispensable in the representative democracy and the masses are informed through political campaign and the manifestoes of the political parties enable to vote in their personal interests.

- Democracies have been practiced by different models of political system ranging from one party rule to multi-party system. In several countries, democracy is based on the legal principle of equal rights to vote. People in Asian and European countries use the term "democracy" as the basic expression meaning for liberal democracy, which has the salient features of political pluralism; equality before the law; civil liberties; human rights; and elements of civil society outside the government. Freedom of speech is the fundamental requirement of modern democracy.

- All democratically elected Governments are held responsible by free speech, every decision must have a reason, accountable. The free flow of information allows both people and governments to make the best informed decisions. Democracy has been described or defined broadly as

a) Political System of Competition for Power
b) Right to participation in public life
c) The Rule of Law

Types of modern democracy:

Representative Democracy:

- A representative democracy is the system of government in which all qualified citizens vote to elect their representatives based on the constituencies divided by the population or eligible voters.

- People elect their representatives to power to run the government through political parties according to their views on ideology, principle, policies and programme for their socio-political and economic development. The parties are allowed to have chosen the candidates on their own to attract the masses and winning chances.

- During the election they announce to the people about their programmes and policies are known as the 'party manifesto'. A transforming country like India, every national and regional party used to release their election manifesto to have a direction and trajectory of their future plan of action so as to win the confidence of the masses.

- The individuals are allowed to contest elections as independent candidates too, if they do not wish to belong any political party. The role of political parties is vital in a representative democratic system. The members of political parties keep the people informed about important issues by holding public meetings, for either supporting or opposing the policies of the government. Thus, the political parties mobilize the people in knowing their needs and in turn mould the public opinion. The representatives are constitutionally recognized and entitled to execute their duties and responsibilities in the people's interest, with authority.

- Representative Democracy is closely associated with Liberal Democracy which describes the political system which originated in the USA and Western Europe and has subsequently been adopted in numerous Third World countries and may gradually be well established in the former USSR and its former states in Eastern Europe. Liberal Democratic regimes may be classified as either Presidential or Parliamentary systems and there are also important variations within these broad categories. Representative democracies are based upon numerous interconnected principles:

    - The existence of regular, free, fair elections based upon universal suffrage and secret ballots under the supervision of Election Commission as an independent body.
    - The existence of competing political parties offering electoral choice.
    - The existence of electoral laws supervised by an independent judiciary.
    - Freedom of speech and association.
    - Freedom to stand as an election candidate.

More Than a Symbolic Celebration

- We must step up our common efforts to make the U.N.Declaration of the Right of Indigenous Peoples something more than a mere pledge of intent.

- The estimated 370 million indigenous peoples need and deserve more than just symbolic celebrations on August 9, when they commemorate everywhere the International Day devoted to the reaffirmation of the value and resilience of indigenous life and cultures. After centuries of repression, they need comprehensive tools to defend their human rights, their way of life, and their aspirations.

- One such tool is the U.N.Declarasion on the Rights of Indigenous peoples. It established their right to self-determination and to maintain and strengthen their district political, legal, economic, social and cultural institutions, while retaining their right to participate fully in public life. Crucially, this document underscored indigenous peoples' right to preserve or freely dispose of and trade, their traditional lands and resources.

- Following negotiations that spanned more than two decades, the Declaration was adopted in September 2007 by the General Assembly with the support of 143 Member States. This support keeps expanding. Significally, Colombia and Australia – two of the countries that originally did not approve the text have now endorsed the Declaration. These developments are encouraging, but we must continue to strive for universal acceptance of this crucial document.

- Such acceptance is key to counter the daily hardship and discrimination that indigenous people endure. It is estimated that at least one in every ten indigenous peoples in the world is facing extreme poverty. These peoples are more likely to receive inadequate health services and poor education – if any at all. Economic development plans often bypass them or do not take into sufficient consideration their particular needs and traditions. Other decision making processes are often equally contemptuous of, or indifferent to, their contribution and customs. As a result, law and policies designed by majorities with the regarded to indigenous concerns frequently lead to land disputes and conflicts over natural resources that threaten the way of life and the very survival of indigenous peoples.

- We must step up our common efforts to make the Declaration something more than a mere pledge of intent. We must translate its letter and spirit into concrete change – change that can be felt in indigenous peoples daily lives.

- In line with the United Nations Declaration of the Rights of Indigenous Peoples and other human rights instruments, States, indigenous peoples, the United Nations system and others concerned must join efforts and reach solutions based on true dialogue, mutual understanding tolerance and respect for human rights.

Courtesy: NavanethenPillay, U.N. Information Centre, New Delhi

With reference to the U.N. Declaration on the Rights of Indigenous Peoples answer the following questions:

a) Give three reason for the importance of Indigenous Rights today.
b) Write in your own words that the Indigenous rights are inalienable, interdependent and indivisible?
c) Name any four human rights included in the UN Declaration on the Rights of Indigenous Peoples which have been incorporated in the Constitution of India

Participatory Democracy:

- Participatory democracy is been promoted to achieve equity reversing the concept of equality. In the recent days participatory democracy is a process that enables and ensures the wider participation of constituents in the direction and operation of political systems. Democracy tends to support more involved forms of citizen participation than traditional representative democracy. A civil society based concept, participatory democracy attempts to create opportunities for all members

of a group to make expressive contributions to decision-making, and to increase the range of access to such opportunities. Social relations is base for its "political" operation in that it revolves around a structure of authority increasing and extending the scope of participation and political equality involves democratizing society.

- The aim of participatory democracy is to make people interested to take part in the political, legal and economic processes of the state and also to make people more responsible for the decisions made. The important feature of a participatory democracy is that people will have the opportunity to directly participate in the functions and access to the decision making institutions of state and there shall be no provision for delegating power to another body or organ. It is designed to revitalize the democratic participation in the era of economic growth, to redress the inequality among the people. The most important characteristic is the importance of political equality in democratic system a long side basic or fundamental rights, liberties that needs emphasis and to be highlighted.

5.3 Measuring and evaluating democracy

- Democracy has found to be a right, system, approach, mechanism and the profound channel of expression of consent and dissent. Measuring and evaluating democracy complement each other. As it was strongly expressed by Dr.B.R.Ambedkar, the Drafting Committee Chairman of the Constitution of India, 'In politics we will have equality and in social and economic life we will have inequality. In politics we will have inequality. In politics we will be recognizing the principle of one man one vote and one vote one value. In our social and economic life, we shall, by reason of our social and economic structure,continue to deny the principle of one man one value.' Democracy can be measured and evaluated in terms of qualitative and quantitative methods. The qualitative analysis will help to understand the dynamics of social change and the quantitative analysis will help to prove the net result of the change to accentuate the democratic process.

- The qualitative analysis of democracy can be measured through the political participation in terms of protest, demonstration, campaign, opinion making, freedom of expression and other constitutionally guaranteed rights. The social reflections are adding values to the social changes in terms of social upward mobility occurring within the caste system, religious, gender and cultural perspectives. Democracy has direct relationship with changing economic pattern of development through policies to minimize the inequality. The quantitative part of the democracy is to evaluate through human development index, per capita income and so on. The democracy can be measured and evaluated by the following criteria.

  a) Sovereignty: The degree to which a polity is able to govern itself in its domestic affairs and foreign policies and free from interference of other nations.
  b) Authority: The degree to which central governmental authority is pre-eminent throughout the territory claimed as part of the polity.

c) Elected government: The extent to which executive functions are carried forward by officials elected through election through secret ballot.
d) Universal Adult suffrage: The extent to which all the adults have been given the right to exercise vote in elections.
e) Turnout: The percentage of people's participation in voting during elections.
f) Regular elections: The extent to which elections are held in regular interval (every 5 years) and on schedule, according to the constitution of India.
g) Free and Fair elections: The extent to which parties and candidates can gain access to the ballot, and have their votes counted and allocated fairly. Also, the extent to which citizens are able to register to vote without fear and favour.
h) Access to media and campaign: The extent to which all parties/candidates are granted equal access to the media and to campaign, proportional to their support in the electorate.
i) Ensuring rule of law: The extent to which the executive follows the law, as defined by the constitution and as interpreted by the judiciary.
j) Legislative power: The extent to which the legislature controls the executive with parliamentary systems
k) Role of Opposition parties: The extent to which the opposition parties function in a parliamentary democracy to control the excess of ruling party when it moves out of the constitutional framework.
l) Independent Judiciary: The extent to which the highest judicial bodies are independent of the executive and other outside influences.
m) Judicial review: The extent to which the highest judicial bodies are able to review acts of legislation and other governmental actions in the light of constitutional provisions, and the extent to which such decisions are respected by other bodies.
n) Party strength: The extent to which parties are institutionalized and decentralized its power, functions and inclusiveness.
o) Party ideology: The extent to which parties have well-defined, consistent, and coherent ideologies.
p) Party system: The number of parties gaining seats in the legislature.
q) Freedom of Press: The extent to which major media outlets are independent, free to air their diverse political expert views, and able to reach the citizen.
r) Civil society independence: The extent to which civil society is independent of the state and able to voice opinions critical of political leaders.
s) Civil liberty: The extent to which citizens enjoy all the fundamental and human rights enshrined in the constitution.
t) Property rights: The extent to which property rights are protected.
u) Religious freedom: The extent to which freedom of religion is guaranteed to maintain religious harmony and secular content of government policies and programs.
v) Equal access to resources: The extent to which resources are redistributed to achieve economic equilibrium through income, education, and health which would make greater impact of participating in politics.
w) Equal access to natural and common property: The extent to natural and common resources to ensure their livelihood, environment and social emancipation.

x) Gender equality: The extent to which women achieve equal representation with indiscriminate dignity in the legislature, social institutions and other high positions within government.
y) Political equality to achieve socio-economic status for underprivileged: The extent to which underprivileged ethnic groups defined as caste, tribe, race, religious minority, or other ascriptive characteristics are granted constitutional rights and remedies to come up to positions of power within the government, as well as the extent to which such groups actually gain representation in the legislature and other high positions within government according to their political participation and social position.

Achievements of Indian Democracy

- The founding fathers of India and its Constitution had built strong democratic foundations in the Indian State and the Constitution thus making India a great country. The democratic constitutional foundations have strengthened the Constitution in every aspect of socio- political and economic changes. The Preamble of the Constitution laid down clear road map with Fundamental Rights and Duties, Directive Principles; Parliamentary System and Amendment Procedures; Judicial Review and Basic Structure doctrine.

Political front

- During the first general election in the 1951 India had 54 political parties and now it has grown up to 464 in the 2014 general election as an evident of deepening of the democratic process.
- In the first General election 1951, 173 million citizens were given right to vote; of these, 44.87 percent exercised their franchise. In the 16thgeneral election in 2014, the size of the electorate had increased to 814 million the voting percentage had gone up to 66.4 and of these, 67.9 percent were men and 65.6 percent women. The number of contestants was increased to 8,251.
- Since 2004, votes are recorded through (EVMs) electronic voting machines. These are manufactured in India and their accuracy is ensured and secrecy has been fully tested.
- Our electoral system known as FPTP or First-Past-The-Post system, is a single-member district, simple-plurality system in which voters cast a single ballot to choose a single representative to the lower house of parliament or the State legislative assembly, the candidate with largest number of votes, even if only a plurality, getting elected to represent the constituency.
- Since 1989, the citizens were given a chance to elect their representatives at the age of 18, this is another feather in the crown of democracy.
- India is the world's the largest democracy proved success in accommodation of group and regional demands in a complex, quasi-federal, polity.
- The 73rd and 74th amendment of the constitution has given the reservation for SC/STs, women in the Local self- governing bodies like panchayats, municipalities and corporations as members, councillors and mayors.

- India's democratic set up has been vibrant and able to keep the military out of political power. It also shows prudence on the part of military generals and defence personnel earning respect from the executive.

- **Social Front:** The democratic process has brought about a shift of political power from the middle and higher castes and classes of urban society to backward classes who are now the politically most influential ones in the country. They have won reservations for themselves in legislatures and government services as were accorded to the Scheduled Castes and Scheduled Tribes after independence through Constitutional provisions.

- India's institutions like the free press and an independent judiciary have ensured that India remains a society based on rule of law.

- The life expectancy at birth has almost doubled from 36 years in 1951 to 66 years in 2011 due to the availability of better health facilities and the health programmes consistently implemented for the well- being of the people to get away from the epidemics, endemics, communicable and non-communicable diseases.

- Similarly, diseases like smallpox and polio have been eradicated. In education, the number of universities and colleges has gone up from a minuscule 27 universities and 578 colleges in 1950-51 to an estimated 712 universities and 36,671 colleges in 2014. Similarly, literacy rates have almost quadrupled from 18.3 percent of the population in 1951 to 73 percent in 2011.

- Democracy is good. I say this because other systems are worse. So we are forced to accept democracy. It has good points and also bad. But merely saying that democracy will solve all problems is utterly wrong. Problems are solved by intelligence and hard work.

- Political democracy cannot last unless there lies at the base of it social democracy. What does social democracy mean? It means a way of life which recognizes liberty, equality and fraternity of the principles of life.

- Economic Front: These include strategic affairs and security, politico-legal democratic governance as well as society and economy. India has been able to emerge as a regional power in Asia and super power in south Asia backed by its economic, military and nuclear capabilities.

- It meant centralized planning till 2017 and a very big public sector for industries catering employment and science and technology education for the youth in the country, but soon there were inefficiencies and labour issues it resulted in a move towards a more open liberalized and market driven model of the economy starting in the 1991 reforms called as Structural Adjustment Programme. Post this, the economy has seen greater private and foreign participation found the base for the emergence of professional new middle class. The technological innovations applied

in transforming the service sector particularly Education, Health and transportation along with rural and urban infrastructure lead to digital India and reforms in banking sectors has brought a great social transformation in reality.

- India's Gross National Income (GNI) at constant prices has increased more than 35 times from 2.92 lakh crore in 1950-51 to 105.28 lakh crore 2014- 15. Similarly, the per capital income at current prices has risen from a poultry 274. In 1950-51 to a decent 88,533 in 2014-15.

- Food grain production grew from 50.8 million tonnes in 1950-51 to an estimated 264.77 million tonnes in 2014-15 that indicates more than a five- fold increase and the fact that India is food secure for the time being. It was made possible with rapid advances in agricultural technology.

- Challenges to Indian Democracy The challenges that are faced by Indian democracy ranges from individual to society as a whole the problems of Illiteracy which resulted in poor implementation of universalization of education, Poverty, corruption, Casteism, Communalism, religious fundamentalism, Sustainable development, gender discrimination, violence against women, political violence, regional disparity in development, inadequate Judicial and administrative reforms, civil society participation, civil-military relationship, criminalization of politics and growing economic offences. The challenges now and for the future include ensuring greater transparency, accountability and independence in the broad framework of checks and balances on which India's democratic framework rests.

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UNIT -10 - Public Opinion and Party System

Introduction

- This chapter focuses on the meaning and evolution of the Party system as adopted in various countries of the world. Tracing the emergence of party system in modern democracies we seek to explain the nature, characteristics, types and functions of political parties especially in a democracy. Deriving from this general background, the evolution of the party system in India at the national and regional levels are studied, with a specific focus on Tamil Nadu. The chapter also presents the meaning and importance of public opinion and its role in the effective working of a democracy

Defining Public Opinion:

- Public opinion can be defined as a psychological and social process in which the behaviour of each member of the public is conditional to that of allothers with similar beliefs. In short it is the collective views of the people, their attitudes and opinions.

- It is the people's collective preferences on matters relating to government and politics. It is based on the premise that collective individual opinions matters in a democracy and public opinion should carry more weight than individual opinion. Others opine that public opinion can be influenced and controlled by organized groups, government leaders, and media elite.

- In fact, democracy derives its authority from the people. Public opinion is not the opinion of an individual, though he or she may be a highly respected person. It is not a private opinion. It is also not an expert opinion, irrespective of the wisdom of the expert. Public opinion is an organized and considered opinion ofa section or many sections of the people on any public issue or concern.

Role of Public Opinion:

- Public opinion is an essential element for successful working of a democracy where the views of all citizens are respected and no government can survive by ignoring it.

Hindrances to formation of a genuine public opinion

- Public opinion needs to be the true reflection of the peoples` ideas and opinion, however there are some hindrances to genuine public opinion;

Selfish interests (Me above nation): The interest of the people seeking personal advancement over the affairs of their own country. People need to be sensitizedtowards important issues related to unity, commitment, integrity and progress of the nation.

Illiteracy: It is expected that literate and responsible public make good citizens by exercising their franchise without fear or favour. Illiterate masses are often misled by party workers and guided by sentiments, favours and rhetoric. A sound public opinion can be formed only in the environment of free thought and knowledge.

(a) Poverty: The poor in any country are easily influenced by the false promise of political leaders and cast their votes subjectively. Sound and objective public opinion is possible only by alleviating poverty.

(b) Racist and Caste based Discrimination: Sentiments that provoke discrimination based on caste, creed and religion create a divide among the masses that are often manipulated by political parties for their advantage. Social disharmony in the country is detrimental to the effective working of a democracy.

(c) Freedom of speech and the media: Unbiased, objective and independentmedia as well as respect for individual freedom of speech and assembly play a very significant role in the formation of healthy opinion. The vital importance of an independent and impartial media that respects peoples freedom and exercises responsible news reporting are important criteria for formation of mature and responsive public opinion.

Definition of Political Parties

- Political parties are indispensable instruments in a democratic system. They are formed with definite ideologies, and programme of action. They enlighten thegeneral public on issues concerning the society and state and they also prescribe alternatives. Through propaganda they educate people on political issues and garner their support for their policies and programme. In legislative bodies they represent organized opinion of the voters. In parliamentary democracies the party or an alliance of parties can win a majority of seats in legislature and forms the ministry (executive) examples: UK, India. In presidential democracies, the chief executives (president) are elected on party basis (USA, France). In any system political parties function as intermediaries between the government and people.

- There is consistent competition between the various political parties and this competition ensures the mature functioning of a democracy.

Functions of Political Parties

- In a democracy, political parties serve as an integral link through which government and the public can interact. Political Parties act as a foundation that orients the people towards political initiatives and public experience. Political Parties work to

influence political thought and opinion with the intention of mobilizing votes. They provide a platform for political, economic and social activism that serves as a training ground for future regional and national leadership. In the long run they hold leaders accountable for their actions through rigorous debate and queries both within the party as well as through opposition parties. Thus the people are presented with a diverse choice of candidates, ideologies and approaches to various issues governing the nation. Their confidence in democracy is thus reinforced in the knowledge that they can bring about change and transformation should a majority of the population desire a transformation in the way they are governed.

The Party System

- The party system helps to operate and stabilize governments and they are particularly relevant for the effective functioning of democracies. The party system provides a system of checks and balances against the government's policies. By soliciting popular support among the masses and providing a structure for leadership and dialogue within the partyteaccording to specific party objectives and agenda, it helps sustain good governance.

A political party is a group of people who come together to contest elections and hold power in the government. They agree on some policies and programmes for the society with a view to promote the collective good.
(Symbols or Flag of different political parties)
Three components of a Political Party – Leaders, Active Members and Followers.

Types of Party Systems

- Different types of party system have evolved in various parts of the globe depending on the particular elements of democracy practiced. By and large the quality of a democracy is determined by how the government is representative of its people, how accountable the government is to its people, how human rights and equality of status and opportunity is guaranteed to all citizens and the level of political participation exercised by the people. The various types of party system address these issues in different ways, thereby determining the quality of democracy practiced.

A. One Party System

- In a one party system, a single political party exercises its right to form the government, which is often derived from a written or unwritten constitution. In most cases under a one party system, there is less participation and weaker accountability. Examples: Communist Party of China, (CPC) the Peoples` Action Party (PAP)in Singapore, Korean Workers Party, (KWP) North Korea, Communist Party of Vietnam (CPV) Vietnam, Communist Party of Cuba (CPC) Cuba. The single party system does not provide adequate space for democratic expressions and not provide scope for alternative. For example in the 1920s fascist movements

advocating nationalistic militarism, captured power in Germany under Hitler, in Italy under Mussolini and in Spain under General Franco. They prevented other political parties to emerge.

B. Two Party System

- In the two party system, two political parties, with distinctly different interests have equal opportunity to attain a majority and form the government. The majority party is the governing party and the minority party forms the opposition party in two-party systems. The Two-Party system has far greater accountability by the political leaders and greater political participation. The threat of being voted out by the opposition hangs as a 'Damocles sword' on the incumbent thereby guaranteeing a higher degree of responsible conduct and action. However since the political atmosphere is heavily polarized, drastic changes can happen once a party loses power which mayprove detrimental to national interests. Examples of the two-party system include USA –Democrats and Republicans and UK Conservatives and Liberals.

- However, in either country there is no constitutional restriction on number of parties. The constitutional procedures and peoples' political maturity led to the emergence of two party system.

C. Multi-Party system

- In the Multi- party system, multiple political parties are capable of garnering popular support and forming a government, either as a majority party or in coalition with many non-majority parties with similar political objectives. In this system, the political leaders are constantly observed and checked by checks and balances by their coalition partners. They are also subject to rigorous accountability to the people. The multi-party system offers the electorate the multiple avenues of political participation and the ability to bring about political change for greater national development.

- The proportional representation system in France and Italy results in multi-party systems and coalition cabi- nets.

Examples of countries with multi-party systems include Canada, France, Germany, India and Sweden.

Role of Political Parties in a Democracy

- The existence of political parties is largely responsible for ensuring the quality and effectiveness of a democracy. In a federal multicultural and plural societies such as the United States of America and India, the maintenance of peace, unity and communal harmony are vital for social-economic progress. While single party system may have greater flexibility towards quicker decisions making and cohesive

action, these decisions may not represent mass opinion and thus it would create greater opposition and dissent for the government.

The Role of Political Parties in a Democracy

What are political parties?

- ❖ They recruit and run candidates for public office under the party level
- ❖ They try to organize and coordinate the activities of government officials under the party name.

Many political scientists believe that parties are essential to democracy

- ❖ The political party is seen by some as the main instrument of popular sovereignty and majority rule.
- ❖ When political parties are working properly they can be essential tools of popular sovereignty

- In the dual party system due to the nature of the party structure and leadership, this usually result in public policies and decisions blocked in political polarization rather than collaboration. While in Multi party systems, the performance is on the basis of deliberation and negotiation between coalition members, and issues are mostly settled by reaching a mutually derived consensus after debate and discussion. Thus, political parties are the drivers of a democracy that are necessary to safeguard the rights and freedoms of the people. Through effective Citizenship training and greater civic participation, youth in democratic nations can play a greater role in political parties thereby fostering more mature and wider democratization in countries.

Modern Party system

A. Party system in the United Kingdom

- In the United Kingdom, polarization of opinions on issues relating to the status and role of monarchy led to the emergence of two parties:

A. Tories or Conservatives and
B. Whigs or liberals.

In the 20th century labour party became a major force eclipsing the liberals.

B. Party System in the USA

- The founding fathers of the United States wanted to steer clear of political parties and the ensuing factional conflictbetween them. Nevertheless, after American Independence, the first parties in the newly constituted nation under the Presidency of George Washington were the Federalist Party supporting a strong national government and the Democratic Republican Party supporting state autonomy.

Two Party System

- ❖ Rare around the world
- ❖ Evenly balanced national at National and local level
- ❖ Electoral system
- ❖ Winner take all
- ❖ Wasted vote
- ❖ Priority system
- ❖ Broad coalitions form before election
- ❖ Opinion of voters
- ❖ Difficult for third parties to get on ballot

- In 1828, the democratic Republican Party was renamed as the Democratic Party which championed state rights. In 1854, the Republican Party established itself on the anti slavery platform and gained pre-dominance with Abraham Lincoln as President of USA.

- Since the United States settled for the Two-Party system, the Republican and Democratic parties have dominated the American political scene, though third party candidates have been floated on and off.

C. Party system in Europe:

- After the French Revolution (1789), democratic forces gained strength in European Nations, and political parties emerged. Political parties in Continental Europe were largely divided into Conservatives, Liberals, and ChristianitselfDemocrats. By the 19th century socialist movements gained popularity and social democratic or labor parties emerged which became popular and gained trade union support.

- In Soviet Russia, the Bolshevik Party, was responsible for the Communist Revolution in 1917 which created the USSR (Union of Soviet Socialist Republics), popularly called the Soviet Union. The COMINTERN (Communist International) was established with the task of encouraging world communist revolution by supporting Communist parties in other countries. After the end of the Cold War era, the Communist party lost its popularity in Russia, though some minor communist parties still influence governmental policies within democratic states. Communist Partieshowever continue to control authoritarian governments in China and North Korea.

- Democratic political systems are often reactive and responsive to the basic socio – economic values of their citizens. There has always been significant transformations in values and these are reflected in the political opinion of the people through political parties and their varying objectives. By late 20th century, socio-economic factors impacting Europe were reflected in the emergent types of parties some of which were more nationalistic and less open-minded, vocalizing their sentiments against immigration and the refugee influx that they see as a threat to European culture, security and economy.

D. Party System in South Africa

- In African countries, political parties were at first formed to secure decolonization. In many decolonized African countries, political parties are struggling hard against militarism.

The Constitution of South Africa

- ❖ Universal adult suffrage vote at 18
- ❖ A national common voters roll
- ❖ Regular election
- ❖ A multi-party system of democrate government to ensure accountability, responsiveness and openness

E. Party System in India

- The party system in India emerged along with the rise of nationalism and out of the freedom struggle against British rule. While Indian politics today represent a multi-party system, for long periods in Indian political history, one party has dominated the political stage. The Indian National Congress (INC) was established in 1885 by A. O Hume, as the indigenous base for the political participation of Indians in legislative and political wings. It demanded political reforms in gradual stages. After the non-cooperation movement (1921-23) Indian National Congress began to demand absolutepolitical freedom. In the 20th century, the parties with communal agenda have also come up i.e. The All India Muslim League in 1906 and Hindu MahaSabha in 1916. In the Madras Presidency the South Indian Liberal Federation (Justice Party) was formed to project their interest of the Non-Brahmins (Dravidian).

- However, the Indian National Congress represented the urban, upper caste elite, mostly western educated and provided a platform for negotiationswith the British government. Gradually the Indian National Congress evolved to play a pivotal role in the development of India's political party system. After the partition of Bengal in 1905, the Indian National Congress was divided between the Moderates (policy of petitions) and the Extremists (aggressive militant strategy). The formation of the Muslim league in 1906 resulted in the era of conflicting political bargaining, reflected the true beginnings of the Indian party system.

- The entry of Mahatma Gandhi into the political scene with his moral-ethical focus on non-violence as a political ideology and strategy, transformed the Indian National Congress to represent all sections of Indian society- the poor agriculturalists and lower caste people. Other parties that also emerged representing specific goals which included the Swaraj Party formed by Chittaranjan Das in 1922, the Congress Socialist Party, formed in 1934 by AcharyaNarendraDev and Jayaprakash Narayan and the

- Communist Party, formed in the 1920's by the efforts of M. N. Roy were the other major political parties.There were a number of political parties which carry on political campaigns and propaganda, but do not contest elections, they function as pressure groups. Till 1977, the Communist Party, the socialist parties, and the right wing Janasangh were the mentionable opposition parties at the national level.

- Until 1977, no single party could become an alternative to Indian National Congress at national level. Hence, a number of so called national parties, under the stewardship of Jayaprakash Narayan, merged to create a large national alternative party known as Janata Party. In 1977, it captured power at the centre. Yet this party lacked cohesion and unity and became shattered after 1980. The Jana Sangh was revived with a new name BhartiyaJanata Party, Meanwhile Kanshi Ram's BahujanSamaj Party emerged as national level party with social justice as its main plank. The Communist Party of India (Marxist) became very powerful in a few states like Kerala,West Bengal and Tripura.

- The 1990s was the period of an increasing quest towards coalition governments in Indian politics. The Indian Political System became more competitive, more democratized and more representative of the multicultural social nexus and diversity that is observed in contemporary India. It is observed that old parties became obsolete and defunct, andnew parties have emerged that represent and seek to address the trans formative challenges faced by various diverse sections of the people. Since the 1990's we see a federalization of politics with regional parties gaining greater influence, representative of regional aspirations against the dominance of the Centre.

- In the present period, regional alliances indicate a growing trend towards coalition governments that form an effective voice in favour of federal polity. This fragmentation is largely due to the regionalization of politics, with parties having high support base in specific areas.

Regional Parties

- ShiromaniAkali Dal in the Punjab, Samajwadi Party in the Uttar Pradesh, Telugu Desam Party in Andhra Pradesh, RashtriyaJanata Dal (RJD) in Bihar, Trinamool Congress in West Bengal, TelanganaRashtraSamithi in Telangana, AsomGanaParishad in Assam, Shiv Sena in Maharastra, National Conference, People Democratic Party in Jammu & Kashmir, DravidaMunnetraKazhagam(DMK)and All India Anna DravidaMunnetraKazhagam (AIADMK) in Tamil Nadu are some of the major regional parties.

- While there is growing political awareness among the electorate, there is also greater mobilization along lines of regional, social and religious identities. There is a widespread difference in the composition of political groups, and characteristics of political and social groups between one region and another.

Parties that gained seats in Parliament in 2009 Elections	Parties that gained seats in Parliament in 2014 Elections
Indian National Congress (INC)	BharatiyaJanata Party (BJP)
BharatiyaJanata Party (BJP)	Indian National Congress (INC)
Communist Party of India (Marxist)	All India Anna DravidaMunnetraKazhagam (AIADMK)
Samajwadi Party (SP)	All India Trinamool Congress (AITC)
BahujanSamaj Party (BSP)	BijuJanata Dal (BJD)
DravidaMunnetraKazhagam (DMK)	Shivsena (SHS)
Shivsena	Telugu Desam (TDP)
RashtriyaJanata Dal (RJD)	TelanganaRashtraSamithi (TRS)
All India Trinamool Congress(AITC)	YuvajanaSramikaRythu Congress Party (YSRC)
All India Anna DravidaMunnetraKazhagam (AIADMK)	Nationalist Congress Party (NCP)

11th

Party System in Tamil Nadu

- In Tamil Nadu, like most Indian states, the early independence period was dominated by the Congress party. However, issues of caste hierarchy, and the rising North South divide eroded the popularity of Congress leadership in the state. The Dravidian movement regenerated in Tamil Nadu under Periyar E.V Ramasamy and garnered popularity on assertion of Dravidian Rights and Dignity and through an anti-North, anti-Hindi, anti-Brahmin social agenda.

- The Party System in Tamil Nadu is a pioneer model of the pre-eminence of the regional parties in state politics ofindependent India. There are very clear socio-economic, cultural and historical reasons for this development. The long history of rationalist and social justice movements from the colonial era and the mobilization of Dravidian consciousness since the beginning of 20th century have fundamentally transformed the nature of politics and the future of party system in state politics.

Role of Political Parties in a Democracy

- For the effective functioning of a democracy, the existence of political parties that represent conflicting interests is mandatory. While they advocate various interests and policies, largely political parties adopt Rightist ideology (conservative, traditional and capitalistic) or Leftist (pro-equality, liberal and labour interests). While it is true that political parties are essential for attaining the democratic ideal, the rise of individual parties with non-democratic agenda and authoritarian leadership is a critical challenge to Democracy. This is very relevant in the case of a multicultural, multilingual, multi religious and economically diverse country like India, only political parties can truly represent the multidimensional interests of people from every corner of the country. It is vital in a democracy like India that political parties exercise maturity and maintain a secular position, the precious and

precarious unity and stability of India cannot be maintained. It is in the interests of the nation, that responsibly and principled parties show a level of maturity and responsibility in exercising their duties and functions for the sustainability of democratic institutions.

Role of Opposition in a Democracy

- The relationship between party system and democracy will be incomplete without the discussion of the role of opposition parties in democracy. Democracy has no meaning without an effective opposition party or parties in the country. The nature of democracy is not only determined by the strength of ruling party alliance but also in the role and functioning of the opposition party alliance. In fact, the leader of the Opposition party enjoys the status and privileges of the rank of cabinet minister. A weak opposition leads to either a government without accountability or the tyranny of the majority.

- Pressure or Interest groups also play an important role in special issues and events. These are organized groups, having common political and social interests, which influence decisions from outside. Pressure groups have voluntary membership and lobby for specific interests. Unlike political parties, pressure groups do not contest elections. The Pressure Groups are able to influence the government through various techniques with various public policy issues and are therefore called pressure groups. Professional pressure groups may include business interests, trade unions, Farmers, Teachers and Students, Doctors, culture groups, and institutional groups. Pressure Groups play an important role in the Indian political system by acting as a link and source of communication between the masses and the political parties. They sensitize the public towards vital socio- economic issues and through their lobbying, influence both the government and the administrative policies.

"Leadership and learning are indispensable to each other." John F. Kennedy

Psephology

- Psephology deals with the study and statistical analysis of elections and polls. Public opinion polls play an important role in psephology. They analyzeboth Opinion Polls and Exit Polls as well as election results. Opinion Polls and Exit Polls are both important indicators of voter's choice during the elections. The main difference between the two is that opinion poll is conducted before the voter actually votes and the exit poll is conducted after a voter comes out after casting his or her vote. Results of exit polls are generally considered to be more trustworthy than that of opinion polls. The result of opinion polls may or may not actually collaborate the actual results. Yet they are important in generating opinions among the unsure and undecided as well as help to sustain a balance in voting practices for all parties concerned.

Unit – XI

Election and Representation

Meaning and nature of Franchise and Representation

What is Franchise and Election?

- The right to vote in public elections. The word "Franchise" is of Anglo-French derivation-from Franc, meaning FREE. An election is the process of voting to choose someone to be their political leader or representative in government.

Part xv, Articles 324-329 deals with Elections

And what is Representation?

- It is nothing but the action of speaking or acting on behalf of someone or the state of being so represented.

- Part XV of the Indian Constitution titled "Elections" is of great importance. The constitution –makers had been anxious to safeguard this political right as an integral part of the constitution itself. It is for this important reason that the subject of elections has been accorded a constitutional recognition in our country.

Article 326 of the Indian Constitution says that the elections to the LokSabha and to the VidhanSabha of every state shall be on the basis of Adult Suffrage.

- Although elections were used in Ancient Athens, Rome and in the selection of Popes and Holy Roman Emperors, the origins of elections in the contemporary world was in the gradual emergence of representative government in Europe and North America which began in the 17th century. In a representative democracy elections are extremely important. Voting, in elections is the best way to make your voice heard. One fact that makes elections more important is when political parties try to suppress voting with the use of laws to disallow people to vote. Election and representation is the core for the formation of government.

Democratic Electoral System

- Let us study the most essential features of a democratic electoral system. A democratic electoral system can be said to be one where…

Why do we need Elections?

- Let us try to imagine a democracy without elections. A rule of the people is possible without any elections if all the people can sit together every day and take all the decisions. This is not possible in any large community nor it is possible for everyone to have the time and knowledge to take decisions in all matters. Let us presume that the people can resolve these difficulties and such a place do not require elections. In such case can we call this place a democracy?

- How do we find out if the people like their representatives or not? How do we ensure that these representatives rule as per the wishes of the people? How to make sure that those whom the people don't like do not remain their representatives? This requires a mechanism by which people can choose their representatives at regular intervals and change them if they wish to do so. This mechanism is called Election. Therefore, elections are considered essential in our times for any representative government. Hence in most democracies, people rule through their representatives.

In an election the voters make many choices:

- They can choose who will make laws for them
- They can choose who will form the government and take major decisions
- They can choose the party whose policies will guide the government and law making.

Psephology is the study of results and other statistics relating to Elections…

What makes an Election Democratic?

- Everyone should be able to choose. This means that everyone should have one vote and every vote should have equal value.
- There should be something to choose from parties and candidate should be free to contest elections and should offer some real choice to the voters.
- The choice should be offered at regular intervals. Elections should be held regularly after every few years.
- The candidate preferred by the people should get elected.
- Elections should be conducted in a free and fair manner where people can choose as they really wish.

- An election is a formal decision making process by which a population chooses an individual to hold public office. Elections fill offices in the legislatures, sometimes in the executive and judiciary and for regional and local government.

Types of Representation/ Reservation of Constituencies Election Systems-Plurality/Majority Systems

- What are Plurality / Majority Systems? The principle of plurality/ majority system is simple. After votes have been cast and totalled, those candidates or parties with the most votes are declared the winners. However, the way this is achieved in practice varies widely. Five types of plurality/majority systems can be identified.

A. First Past The Post (FPTP)
B. Block Vote(BV)
C. Party Block Vote(PBV)
D. Alternative Vote(AV)
E. Two-Round Systems(TRS)

A. First Past The Post (FPTP)

- The First Past The Post system is the simplest form of plurality/majority system, using single member districts and candidate-centered voting. FTPT systems are found primarily in the UK and those countries historically influenced by Britain. Along with the UK, the other countries are Canada, India and the USA. FPTP is also used by a number of Caribbean countries, Bangladesh, Burma, India, Malaysia, Nepal and small island countries of the South Pacific.

FPTP is the simplest form of plurality/majority electoral system.The winning candidate is the one who gains more votes than any other candidate, even if this is not an absolute majority of valid votes. The system uses single-member districts and the voters vote for candidates rather than political parties.

B. Block Vote (BV)

- The Block –Vote is common in countries with weak or non-existent political parties. The Cayman Islands, The Falkland Islands, Guernsey, Kuwait, Laos, Lebanon, the Maldives, Palestine, the Syrian Arab Republic etc use Block Vote electoral systems.

Block Vote is a plurality/majority system used in multi-member districts. Electors have as many votes as there are candidates to be selected. The candidates with the highest vote totals win the seats. Usually voters vote for candidates rather than parties and in most systems may use as many, or as few,of their votes as they wish

- The Block Vote is often applauded for retaining the voter's ability to vote for individual candidates and allowing for reasonably-organized geographicaldistricts while at the same time, increasing the role of political parties compared with FPTP

and strengthening those parties which demonstrate most coherence and organizational structure.

C. Party Block Vote (PBV)

- PBV is simple to use, encourages strong parties and allows for parties to put up mixed slates of candidates in order to facilitate minority representation. It can be used to help to ensure balanced ethnic representation. Dijibouti, Singapore, Senegal, Tunisia use the PBV method.

Party-Block Vote is a plurality/majority system using multi- member districts in which voters cast a single party-centered vote for a party of choice, and do not choose between candidates

D. The Alternative Vote (AV)

- This system enables voters to express their preferences between candidates rather than simply their first choice. Hence it is known as 'Preferential Voting'. AV is used in Australia, Fiji and Papua Guinea. By transferring ballots, it enables the votes of several candidates to accumulate, so that diverse but related interests can be combined to win representation.

The Alternative Vote is a preferential plurality system that voters use in single member districts. Voters use numbers to mark their preference on the Ballot paper.

E. The Two- Round System (TRS)

- The central feature of the Two- Round System is as the name suggests: it is not one election but takes place in two rounds, often a week or a fortnight apart. This system is used to elect national legislatures and are most common methods used worldwide for the direct election of Presidents. TRS is used by the Central African Republic, Congo, Gabon, Mali, Mauritania, Haiti, Iran, Vietnam, Tajikistan, Uzbekistan etc.

The Two-Round System is a plurality/majority system in which a second election is held if no candidate or party achieves a given level of votes, most commonly an absolute majority (50 percent plus one), in the first election round. A TRS may take a majority –plurality form where more than two candidates contest the second round and the one who wins the highest number of votes in the second round is elected regardless of whether they have won an absolute majority or not.

Is it good to have political competition?

- Elections are all about political competition. This competition takes various forms. The most obvious form is the competition among political parties. At the constituency level, it takes the form of competition among several candidates. If

there is no competition, elections will become pointless. Though an electoral competition leads to a sense of disunity and factionalism in every locality, regular electoral competition provides incentives to political parties and leaders. They know that if they raise issues that people want to raise, their popularity and chances of victory will increase in the next elections. But if they fail to satisfy the voters with their work they will not be able to win again.

Ah…..
So, elections are like exams where politicians and parties know if they have passed or failed. But who are the Examiners?!!!!!!!

What is our system of Elections?

- Can we say that Indian elections are democratic? To answer this question, let us take a look at how elections are held regularly after every five years. After five years the term of all the elected representatives comes to an end. The LokSabha or VidhanSabha stands dissolved. Elections are held in all the constituencies at the same time, either on the same day or within a few days. This is called a general election. Sometimes election is held only for one constituency to fill the vacancy caused by death or resignation of a member. This is called By–Election.

Electoral Constituencies

- You would have heard about the people of Tamilnadu electing 39 loksabha MPs. You may have wondered how they did that. Did every person in Tamilnadu vote for all the 39 MPs? You perhaps know that this is not the case. In our country we follow an area based system of representation. The country is divided into different areas for the purpose of elections. These areas are called Electoral Constituencies. The voters who live in an area elect one representative.

- For Loksabha elections, the country is divided into 543 constituencies. The representative elected from each constituency is called a member of Parliament or an MP. One of the features of a democratic election is that every vote should have equal value. That is why our constitution requires that each constituency should have a roughly equal population within it. Similarly each state is divided into a specific number of assembly constituencies. In this case the elected representative is called the Member of Legislative Assembly or a MLA. Each Parliamentary constituency has within itself several assembly constituencies. The same principle applies for Panchayat and Municipal elections. Each village or town is divided into wards that are like constituencies. Each ward elects one member of the village or the urban local body. Sometimes these constituencies are counted as Seats, for each constituency represents one seat in the assembly.

Reserved Constituencies

- Our Constitution entitles every citizen to elect its representative and to beelected as a representative. In an open electoral competition, certain weaker sections may not stand a good chance to get elected to the LokSabha and the State Legislative Assemblies. They may not have the required resources, education and contacts to contest and win elections against others.If that happens our Parliament and Assemblies would be deprived of a significant section of our population. That would make our democracy less representative and less democratic.

- So, the makers of our Constitution thought of special system of reserved constituencies for the weaker sections. Some constituencies are reserved for the people who belong to the Scheduled Castes (SC) and Scheduled Tribes (ST). This system of reservation was extended later on to other weaker sections at the district and local levels.

Delimitation

- The division of each state into as many constituencies as in the Loksabha from that state and State Legislative Assemblies is done primarily on the basis of population census. As far as practicable, geographical area of constituencies were to be delimited taking into account physical features, existing boundaries of administrative units, facilities of communication and public convenience.

Delimitation Acts

First Delimitation Commission Act, 1952
Second Delimitation Commission Act, 1963
Third Delimitation Act,1973
Fourth Delimitation Act, 2002.

Voters' List

- Once the constituencies are decided, the next step is to decide who can and who cannot vote. This decision cannot be left to anyone till the last day. In a democratic election, the list of those who are eligible to vote is prepared much before the election and given to everyone. This list is officially called the Electoral Roll or the Voters' List.

Like in Panchayat should we not have at least one-third seats in the Parliament and assemblies reserved for WOMEN?

- This is an important step for, it is linked to the fi rst condition of democratic election that everyone should get an equal opportunity to choose representatives irrespective of diff erences. In our country, all the citizens aged 18 years and above can vote in an election. Every citizen has the right to vote, regardless of his or her caste, religion or gender.

- It is the responsibility of the government to get the names of all eligible voters put on the voters' list. Names of those who move out of the place or those who are dead are deleted. A complete revision of list takes place every fi ve years. In the last few years, a new system of Electoral Photo Identity Card (EPIC) has been introduced. Th e voters are required to carry this card when they go out to vote. Not compulsory, for voting, the voters can show many other proofs like the Aadhar Card, Ration card or Driving License.

Electoral Process In India

- ❖ Delimitation of Constituencies
- ❖ Notification of the Election
- ❖ Notification by the Election Commission regarding Nomination and withdrawal
- ❖ Filing of nomination papers by the intending candidates
- ❖ Verification and the acceptance or rejection of the nomination papers
- ❖ Election campaign
- ❖ Polling process
- ❖ Counting of votes and announcement of Election Results

Provisions Regarding Elections in India

Which Amendment Act reduced the Voting age of Indian citizens from 21 to 18?

Nomination of Candidates

- In a democratic election the people should have a real choice. This happens only when there are no restrictions onanyone to contest an election. This is what our system provides. Anyone who can be a voter can also become a candidate in the elections. The only difference is that in order to be a candidate, the minimum age is 25 years, while it is only 18 years for being a voter. Political parties nominate their candidates who get the party symbol and support. Party's nomination is often called as party 'ticket'.

- Every person who wishes to fill a 'nomination form' has to give some money as security deposit. According to the direction of the Supreme Court, every candidate has to make a legal declaration, giving full details of:

- ❖ Serious criminal cases pending against the candidate
- ❖ Details of the assets and liabilities of the candidate and his or her family
- ❖ Educational qualifications of the candidate

- This information has to be made public. This provides an opportunity to the voters to make their decision on the basis of the information provided by the candidates.

Election Campaign

- The main purpose of election is to give people a chance to choose the representatives, the government and the policies they prefer. Therefore it is necessary to have a free and open discussion about who is a better representative, which party will make a better government or what is a good policy. This is what happens during election campaigns.

- In our country such campaigns take place for a two week period between the announcement of the final list of candidates and the date of polling. During this period the candidates approach their voters, political leaders address election meetings and political parties mobilise their supporters. This is also the period when newspapers, social media, televisions are full of election related stories and debates. Election campaign isnot limited to these two weeks only. Political parties start preparing for elections months before they actually take place.

- In election campaigns, political parties try to focus public attention on some big issues. They want to attract the public to that issue and get them vote for their party on that basis. In a democracy it is best to leave political parties and candidates free to conduct their election campaigns the way they want to. But it is sometimes necessary to regulate campaigns to ensure that every political party and candidate gets a fair and equal chance to compete.

According to our election law, no party or candidate can:

- ❖ Bribe or threaten voters
- ❖ Appeal to them in the name of caste or religion
- ❖ Use government resources for election campaign

- If they do so, their election can be rejected by the court even after they have been declared elected. In addition to the laws, all the political parties in our country have agreed to a model Code of Conduct for election campaigns. According to this no party or candidate can:

- ❖ Use any place of worship for election propaganda
- ❖ Use government vehicles, aircrafts and officials for elections
- ❖ Once elections are announced, Ministers shall not lay foundation stones of any projects, take any big policy decisions or make any promises of providing public facilities.

Free and Fair Elections

- The true test of any election system is its ability to ensure a free and fair electoral process. If we want democracy to be translated into reality on the ground, it is important that the election system is impartial and transparent. The system of election must allow the aspirations of the voter to find legitimate expression through the electoral results. Elections in India are basically free and fair. The party that wins an election and forms government does so because people have chosen it over its rivals. This may not be true for every constituency. A few candidates may win purely on the basis of money power and unfair means. But the overall verdict of a general election still reflects popular preference. But still if deeper questions are asked , the picture looks different. Are people's preferences based on real knowledge? Are the voters getting a real choice? Is election really a level playing field for everyone? Can an ordinary citizen hope to win elections?

Questions of this kind bring the many limitations and challenges of Indian Elections to our attention. These include:

- ❖ Candidates and parties with a lot of money may not be sure of their victory but they do enjoy a big and unfair advantage over smaller parties and independents.
- ❖ Candidates with criminal connection have been able to push others out of the electoral race and to secure a ticket from major parties
- ❖ Some families tend to dominate political parties; tickets are distributed to relatives from these families.
- ❖ Very often elections offer little choice to ordinary citizens, for both the major parties are quite similar to each other both in policies and practice.
- ❖ Smaller parties and independent candidates suffer a huge disadvantage compared to bigger parties.

- These challenges exist not just in India but also in many established democracies. These deeper issues are a matter of concern for those who believe in democracy. Hence citizens, social activists and organisations have been demanding reforms in our electoral system. In a democracy, the electoral process has a strategic role. Every ordinary man of this country would have basic elementary right to know about a candidate who is torepresent him in Parliament where laws to bind his liberty and property may be enacted.

- The right to get information in democracy is recognised all throughout and it is a natural right flowing from the concept of democracy. Article 19(1)(a) of Indian Constitution provides for freedom of speech and expression. Voters' speech or expression incase of election would include casting of votes, that is to say, voter speaks out or expresses by casting vote. For this purpose, information about the candidate to be selected is must. The ordinary man may think over before making his choice of electing law breakers as law makers.

First General Elections In India:
All You Need to Know…..

The first general election of 1951-1952 elected the first Loksabha since India became independent. The Congress had won 364 out of 489 Loksabha seats. Its vote share was 45 percent. The CPI was the second party with just 16 seats.Jawaharlal Nehru became the Prime Minister , the first of independent India. The voters' turnout was 67.6 percent. 54 parties had contested this election. Elections took around four months; October 25, 1951 to February 21, 1952. Election was held in 26 Indian states and 401 constituencies.

Election Commission of India

- For the conduct of free, fair and regular elections, Article 324 of the Indian Constitution provides for a single Election Commission which is entrusted with the superintendence, direction and control of all elections to Parliament, state legislatures and to the offices of the President and Vice –President of India.

Election Commission - An independent body.

- The Main objective of the constitution of Election Commission of India is to have a permanent and independent election machinery, which is free from political pressure of the party in power and the executive of the day, and which could be entrusted with the task of holding free and fair elections to the parliament and the state legislatures and to the offices of the President and Vice- President of India.

More than 553 million voters in our country exercised their franchise in the 16th LokSabha in 2014 in 930,000 polling stations. India's voting pool is larger than the total population of the United States of America and Western Europe combined. It is for the first time after three decades that a single party receives a majority.

Election Commission of India-Structure

Details of Legislative Assembly Elections Conducted in Tamilnadu

No. of Elections	Duration of the Assembly	Election Dates
1	1952-1957	1952 January 2, 5, 8, 9, 11, 12, 16, 21 and 25 (9days)
2	1957-1962	1957 March 1, 4, 6, 8 and 11 (5 days)
3	1962-1967	1962 February 17, 19, 21 and 24 (4 days)
4	1967-1971	1967 February 5, 16 and 21 (3 days)
5	1971-1976	1971 March 1, 4 and 7 (3 days)
6	1977-1980	1977 June 12 and 14 (2 days)
7	1980-1984	1980 May 20 and 31 (2 days)
8	1985-1986	1984 December 24 (1 day only)
9	1989-1991	1969 January 21 (1 day only)
10	1991-1996	1991 June 16 (1 day only)

11	1996-2001	1996 April 27 and May 2 (2 days)
12	2001-2006	2001 May 10 (1 day only)
13	2006-2011	2006 May 8 (1 day only)
14	2006-2011	2011 April 13 (1 day only)
15	2016-ongoing	2016 May 16 (1 day only)

Powers and functions of the Election Commission of India

- Preparation of the electoral rolls
- Revision of electoral rolls
- Allotment of seats
- Conduct of elections
- Superintendence, direction and control of all matters pertaining to the elections
- Granting of recognition of political
- parties
- Allotment of symbols
- Ensuring fair and free elections
- The Election Commission of India advises the President of India or the Governor of the concerned state regarding all electoral matters including questions relating to disqualifications of members.
- Settles disputes and petitions referred to it by the President of India or the Governor of a state.
- Decides disputes pertaining to election symbol in the event of a split in the political party.
- Has power to impose ceiling on the election expenses of the contestants.
- Entrusted with the task of collecting affidavits from the contestants to the elections regarding their assets.
- Has the power and duty to disqualify a candidate if he/she fails to submit election returns within the prescribed period.
- It issues a notification after the election is over, that the house is duly constituted.

SUPREME COURT''s Landmark Verdict To Cleanse the Polity

In a landmark judgement, the Supreme Court held on July 11, 2013 that a person, who is in jail or police custody ,cannot contest elections to legislative bodies. A day earlier, on July 10, 2013, the same Bench had held that charge-sheeted Members of Parliament (MP's), Members of Legislative Assembly(MLA's) and Members of Legislative Councils (MLC's), once they are convicted for the offences, will be immediately disqualified from holding office. The Bench struck down Section 8(4) of the Representation of the People's Act, which allowed convicted MP's and MLA's, a three-month period for filing their appeal to the High Court.

Courtesy : The Hindu, Pocket Watch, 3.5.2004

Chief Electoral Officer(CEO)

- The chief electoral officer of a state/union territory is authorised to supervise the election work in the state/union territory subject to the overall superintendence, direction and control of the election commission. The Election commission of India nominates or designates an officer of the government of the state / union territory as the chief electoral officer in consultation with the state government/ union territory administration.

District Election Officer(DEO)

- Subject to the superintendence, direction and control of the chief electoral officer, the district election officer supervises the election work of a district. The Election Commission of India nominates or designates an officer of the state government as the district election officer in consultation with the state government.

Returning Officer (RO)

- The returning officer of a Parliamentary or Assembly constituency is responsible for the conduct of elections in the Parliamentary or Assembly constituency concerned. The Election Commission of India nominates or designates an officer of the government or a local authority as the returning officer for each of the assembly or parliamentary constituencies in consultation with the state government/union territory administration. In addition, the election commission of India also appoints one or more assistant returning officers for each of the assembly or parliamentary consituencies to assist the returning officer in the performance of his functions in connection with the conduct of elections.

Electoral Registration Officer(ERO)

- The Electoral registration officer is responsible for the preparation of electoral rolls for a parliamentary/ assembly constituency. The Election commission of India, in consultation with the state/ union territory government, appoints an officer of the government or the local authorities as the Electoral registration officer. One or more Assistant electoral registration officers to assist the Electoral registration officer are appointed by the Election commission of India.

Presiding Officer (PO)

- The Presiding officer with the assistance of Polling officers conducts the poll at a polling station. The district election officer appoints the Presiding officers and the Polling officers. In the case of union territories, such appointments are made by the returning officers.

Election Observers (EO)

- The Election Commission of India nominates officers of government as Election observers (general observers and election expenditure observers) for Parliamentary

and Assembly constituencies. They perform such functions as are entrusted to them by the commission. They report directly to the commission.

Electoral Reforms, Anti-Defection Law and Committees related to Electoral Reforms

Based on the recommendations made by the above committees and commissions, various reforms have been introduced from time to time in our electoral system. Let us have a look at them.

- Lowering the voting age from 21 to 18 through the 61st amendment act of 1988.
- Officers, and staff engaged in preparation, revision and correction of electoral rolls for elections to be on deputation to the Election commission.
- Increase of number of proposers to 10% of the electors of the constituency or 10 electors, whichever is less.
- In 1989, a provision was made to facilitate the use of electronic voting machines in elections.
- In 1989, a provision was made for adjournment of poll in case of booth capturing.
- Listing the name of candidates as candidates of recognised political parties, candidates of registered–unrecognized political parties and other(independent) candidates.
- Prohibition on the sale of liquor within a polling area during the period of 48 hours ending with the hour fixed for the conclusion of poll.
- On the death of a contesting candidate, the party concerned would be given an option to propose another candidate within 7 days.
- The registered voters are entitled for a paid holiday on the polling day.
- Prohibition of arms.
- In 1998 a provision was made whereby the employees of local authorities, nationalized banks, universities, LIC, government undertakings and othergovernment aided institutions can be requisitioned for deployment on election day.
- In 1999, a provision was made for voting by certain classes of persons through postal ballot.
- In 2003, the facility to opt for voting through proxy was provided to the service voters belonging to the armed forces and members belonging to a force to which provisions of the Army Act apply.
- In 2003, the Election commission issued an order for the declaration of criminal antecedents, assets etc.

- ❖ In 2003, RajyaSabha elections were reformed by removing the domicile of the contesting candidate and further introduction of open ballot system was introduced.
- ❖ In 2003, an exemption of travelling expenditure from being included in the election expenses of the candidate was made.
- ❖ Free supply of electoral rolls by the government.
- ❖ In 2009, restrictions were imposed on conducting exit polls and publishing the results of exit polls.
- ❖ In 2009, a provision was made for the disqualification of a person found guilty of corrupt practices which provided for a three month time limit within which the specified authority will have to submit the case of the person found to be guilty.
- ❖ All officials have to be included in corrupt practice.
- ❖ Increase in security deposit.
- ❖ Appointment of appellate authorities within the district.
- ❖ Voting rights to citizens of India living abroad were provided in 2010.
- ❖ Ceiling on election expenditure was increased in 2011.

Anti-Defection Law

- The 52nd Amendment Act of 1985 provided for the disqualification of the members of Parliament and the State legislatures on the ground of defection from one political party to another. For this purpose it added the Tenth Schedule to the Constitution. This act is often referred to as "Anti-defection law". Later the 91st Amendment Act of 2003 made one change in the provision i.e., disqualification on ground of defection not to apply in case of split.

Provisions of the Act

A. Disqualification:

- A member of a house belonging to any political party becomes disqualified if he voluntarily gives up his membership or if he votes or abstains from voting contrary to any direction issued by his political party without obtaining prior permission of the party.

- An independent member of the house becomes disqualified to remain a member of the house if he joins any political party after such election.

- A nominated member of the house gets disqualified if he joins any political party after the expiry of six months from the date on which he takes his seat in the house.

B. Exceptions:

- Disqualifications on the ground of defection does not apply, if a member goes out of his party as a result of a merger of the party with another party; if a member, after

being elected as the Presiding officer of the house, voluntarily gives up the membership of his party or rejoins after he ceases to hold that office.

C. Deciding Authority:

- Any question regarding disqualification arising out of defection is to be decided by the Presiding officer of the house.

D. Rule making power:

- The Presiding officer of a house is empowered to make rules to give effect to the provisions of the tenth schedule. All such rules must be placed before the house for 30 days. The house may approve or disapprove them. Further he may direct that any willful contravention by any member of such rules may be dealt with in the same manner as a breach of privilege of the house.

Evaluation of the Act

- A. The tenth schedule of the constitution is designed to prevent the mischief of political defections motivated by the lure of office or material benefits

B. It is intended to strengthen the fabric of Indian Parliamentary democracy by curbing unprincipled and unethical political defections

C. It provides for greater stability in the body politic by checking the propensity of the legislators to change parties

D. It facilitates democratic realignment of parties in the legislature by way of merger of parties

E. It gives a clear cut constitutional recognition to the existence of political parties.

Let us learn about the RajyaSabha Elections……

- Transferable Vote System is followed for RajyaSabha elections. Every state has a specific quota of seats in the RajyaSabha. The members are elected by the respective State Legislative assemblies. The voters are the MLAs in that state. Every voter is required to rank candidates according to her or his preference. To be declared winner, a candidate must secure a minimum quota of votes, which is determined by a formula:

- For example if 4 RajyaSabha members have to be elected by the 200 MLAs in Tamilnadu, the winner would require (200/4+1=40+1) 41 votes. When the votes are counted, it is done on the basis of first preference votes secured by each candidate; If after the counting of all first preference votes, required number of candidates fail to fulfill the quota, the candidate who secured the lowest votes of first preference is

eliminated and his/her votes are transferred to those who are mentioned as second preference on those ballot papers. This process continues till the required number of candidates are declared elected.

Why did India adopt the FPTP System?

- The answer is not very difficult to guess. If you have read carefully the method of election of RajyaSabha members, you would have noticed that it is a very complicated system which may work in a small country but would be difficult to work in a sub-continental country like India. The reason for the popularity and success of the FPTP system is its simplicity. The entire election system is extremely simple to understand even for common voters who may have no specialized knowledge about politics and elections. There is also a clear choice presented to the voters at the time of elections. Voters have to simply endorse a candidate or a party while voting. Depending on the nature of actual politics, voters may either give greater importance to the party or to the candidate or balance the two.

- The FPTP system offers voters a choice not simply between parties but specific candidates too. In other electoral systems, especially Proportional Representation Systems, voters are often asked to choose a party and the representatives are elected on the basis of party lists. Asa result, there is no one representative who represents and is responsible for one locality. In constituency based system like the FPTP, the voters know who their own representative is and can hold him or her accountable. The FPTP system generally gives the largest party or coalition some extra bonus seats, more than their share of votes would allow.

- Thus this system makes it possible for Parliamentary government to function smoothly and effectively by facilitating the formation of a stable government. The FPTP system encourages voters from different social groups to come together to win an election in a locality. The FPTP system has proved to be simple and familiar to ordinary voters.

Open Ballot is a system of choosing the representative by raising one's hands!!
Secret Ballot is a system in which the voter casts his vote without the knowledge of anyone into a Ballot Box or uses an Electronic Voting Machine!!

State Funding of Elections
What is state funding?

- ❖ State funding of elections is a concept designed to reduce corruption by funding elections with government money as opposed to individual campaign contributions
- ❖ It is recommended that the state funding of elections can be the best way to achieve transparency in political funding
- ❖ It is also believed that state funding is a natural and necessary cost of democracy. It brings new and growing parties, thus ensuring fair elections

- ❖ If parties and candidates are financed with only private funds, economical inequalities in the society might translate into political inequalities in government.

Indrajit Gupta Committee on state funding of Elections, 1998

- The Indrajit Gupta Committee on State Funding of Elections, 1998, backed the idea of state funding of elections on principle, stating that "The committee see full jurisdiction constitutional, legal as well as on the ground of public interest, for grant of state subvention to political parties, so as to establish such conditions where even the parties with modest financial resources may be able to compete with those who have superior financial resources.

It added two limitations

- A. Such funds could not be doled out to independent candidates, and only to national and state parties having granted a symbol and proven the popularity among the electorate

- B. In the short –term, state funding may be given only in kind, in the form of certain facilities to the recognized political parties and their candidates.

- The committee has recommended the creation of a separate Election Fund with an annual contribution of Rs. 600 core by the centre and a matching amount contributed by all state governments together. The committee has suggested that in order to be eligible for state funding, political parties and other candidates should have submitted their income tax returns up to the previous assessment year.

"He alone, who owns the youth gains the future"

-Adolf Hitler

Role of Youth in Politics

- This must all be the exact thought running through the minds of all the political leaders in the fray to win elections. With a huge Percentage of first time voters being added to the voters' list every year, the decisions of the youth will go a big way in elections.

- Today youth has the power to transform our nation, and it will. The responsibility of transformation, progress and innovation lies on their shoulders.

Why youngsters should vote??

- ❖ Elections play a vital role in a system of representative democracy. Youngsters who are involved in the electoral process affirm their support as well as acquire a stake in the system and an appreciation that they too can affect politics and policy

- ❖ Voting is the only form of participation in which each citizen has an equal say (one person, one vote). By voting, youth have the same ability as others to exercise political influence or pressure
- ❖ Universal participation in elections ensures the faithful representation of the popular will
- ❖ Young people should vote to develop a habit of voting from the start, and thus ensure high turnout
- ❖ Young people may have political interests that differ from those of old voters. If young people don't vote, they and their distinct interests are more likely to be ignored or neglected by policy makers.

What is NOTA?

- None Of The Above - A voter's right to reject a step towards electoral reforms.

- In its efforts of cleansing the political system, the Supreme Court of India upheld the right of voters to reject all candidates contesting the elections. The apex court directed the Election Commission to have an option of "None Of The Above"(NOTA) on the electronic voting machines (EVMs).

Do you know that there was a similar provision before NOTA? It was called Negative Voting.

- Before the NOTA option was introduced, people who wanted to cast negative votes, had to enter their names in a register and cast their vote on a separate ballot paper.

- Under Section 49(O) of the conduct of election rules, 1961, a voter could enter his electoral serial number in the form 17A and cast negative vote.

Countries which allow NOTA are…

Columbia, Ukraine, Brazil, Bangladesh, Finland, Spain, Sweden, Chile, France, Belgium and Greece. USA also allows it in few cases. The state of Texas permits the provision since 1975.

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Unit – 4 - Indian Judiciary

What does the judiciary exactly do? I see people trusting the judiciary more than the legislature and the executive.. Whenever their rights are violated, they look up to the judiciary and are so confident that their rights and privileges will be safeguarded.

Supreme Court of India

- "The Supreme Court, an all-India Court, will stand firm and aloof from party politics and political theories. It is unconcerned with the changes in the Government. The Court stands to administer the law for the time being in force, has goodwill and sympathy for all, but is allied to none"- Hon'ble Sri Harilal J. Kania, First Chief Justice of India.

- The judiciary is one of the three organs of the government, the other two being the Legislature and the Executive. The judiciary is engaged in the interpretation of law and serves as a protector of the constitution. It guarantees the administration of justice and protects the individual from encroachments of rights and privileges by the government and the other individuals. The establishment of an independent and impartial judiciary is a pre-requisite for the functioning of a civilized state. The judiciary assumes greater importance in afederal polity such as India as it also acts as a protector of the federation resolving the conflicts of jurisdiction between the Centre and the States.

Thirukkural

1. Recite Thirukkural verses for bail

- In February, a Tamil Nadu court reportedly ordered three college students, arrested in an assault case, to recite 100 verses of Thirukkural treatise by poet-saint Thiruvalluvar daily for 10 days as a condition for granting bail.

- The court in Mettupalayam ordered the students, who were charged with assaulting a person, to appear before a Tamil teacher in the Government Boys High School in the area to recite the verses.

- The court also asked the head of the school to issue a certificate to the students at the end of the 10th day.

2. Madurai Bench paves way for in-depth study of Tirukkural

- One of the most significant contribution of the Madurai Bench of the Madras High Court towards promoting the cause of Tamil is a direction issued to School Education Department in 2017 to make 108 out of the 133 chapters of Tirukkural a part of school syllabus. The Madurai Bench direction led to passing of a G.O. for

teaching 1050 couplets to students from the academic year 2017-18.It also ensure that students from Class VI to XII get to learn the couplets and their intended meaning in depth and not just superficially as was being done all these years.

- Tirukkural is perhaps the only ancient secular text from India that has been translated into 60 languages the world over.

Evolution of Indian Judiciary

Judicial System in Ancient India

- India has been a Sub – Continent of different races, different cultures, different languages and a multitude of political and social systems. In ancient times, as well as in the medieval times, none of the Indian states was segregating judicial functions from the executive. During the Vedic period, the authority of the head of the family (Kulapa or Kulapato) was insulated from royal interferences; Similarly the clannish or tribal bodies like Grama, Gopa, Vishaya, Jana and Gana enjoyed autonoms powers. In the ancient Indian monarchical orders, the king was considered to be the highest judicial authority. As king's will was the law, his word was the highest and absolute verdict in disputes.

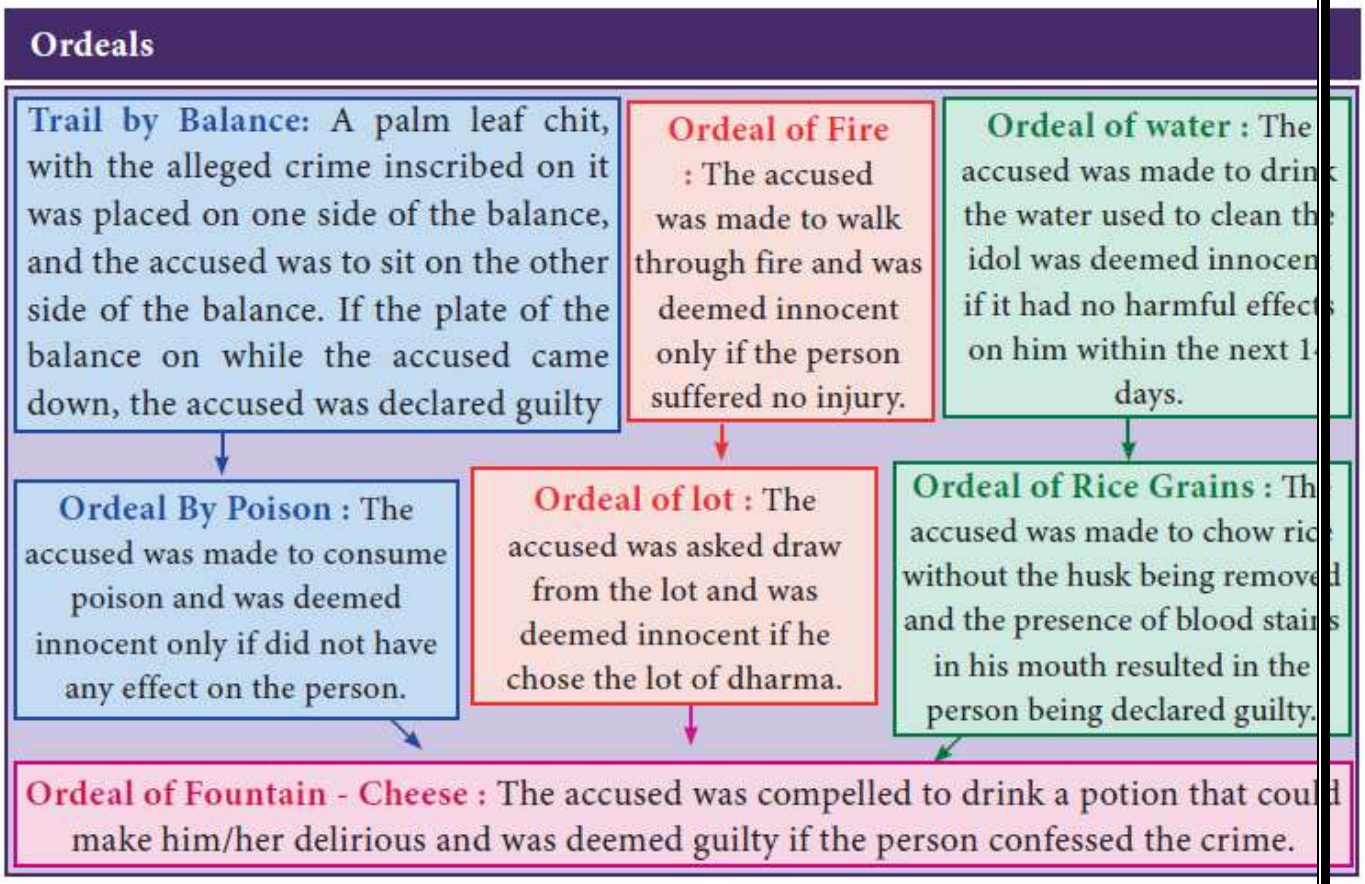
- However most of the disputes were settled and disposed of at the local level through caste bodies or local administrative bodies. Extreme cases like treason were tried in the king's court. There was no regular system of jurisprudence or judicial procedures. Most often the accused was to prove his innocence either through evidences and witnesses or through subjection to different kinds of ordeals such as ordeal by fire, ordeal by water and ordeal by poison.

- Punishments (penal system) was severe and even barbaric System if blood money was in vogue (less was to be replaced with material compensation) Whipping, flogging, amputation of limbs, impalement, rigorous imprisonment, enslavement, banishment, confiscation of property, beheading, hanging and trampling by elephants were some of the punishments meted out to the culprits. In kingdoms which came under Brahmanical influence, smritis were invoked in trial as well as in awarding punishments.

- There were a number of smritis such as Manusmrits, NaradaSmriti, and YagnavakyaSmritis : of which manuSmriti was held as a core Smriti, other smritis had certain variatious. The Smritis generally upheld the graded varna – Jati social order. There was no 'equality before law' Concept. Brahmins were mostly insulated from regular procedures and regular punishments, on any account, Brahmins, even if they committed the most heinous crimes, were to be exempted from physical torture, amputation, impalement or capital punishment. On the other hand the depressed castes were subjected to Ordealssevere ordeals and extreme punishments; changing of caste based occupations was treated (Varna Sangraha) as a serious crime.

- Arthasstra suggests disproportionate punishments for restricting instances of crimes; penalties levied on culprits, and confiscation of properties as a major source of royal income. The smritis treated women as inferior humans, and were prejudiced against them even in matters of inheritance. The Sudras, and Panchamas were ineligible for a fair trial and fair punishment. Trade disputes were mostly settled through guilds (SRENIS), Similarly each artisan group had its own guild to resolve disputes within. The Mahasabhas of the Pallava – Pandya- Chola empires insulated Brahmins from regular system of justice. The Mahasabha'svariyam (Dharma variam, Nyayavasiam) settled issues within the mahasabhas. The local bodies like Ur, Urar, Nadu, Nattar and Nagarathar had their own judicial arrangements.

- The Buddhist kingdoms (like that of Asoka) mostly disregarded smritis and enforced some sort of equal treatment to various social groups in matters of judicial disputes. Asoka removed cruel punishments, and even instructed his official to be more humane and compassionate towards prisoners. The episode involving Kovalan's execution in Silappadikaram reveals the defects in the system of judicial procedure. Though high moral stature of the adjudicating officials were insisted in literature, we very often found arbitrariness in judicial trial and in awarding exemptions or punishments. There was no rule of law but rule of the powerful authorities that we find in ancient India.



- In medieval India, the Muslim rulers had faced a peculiar situation, where the majority of their subjects were Non-Muslims. While they applied Islamic law in cases where Muslims and Muslim interests were involved, they preferred a policy of Non-intervention in the socio-religious affairs of the Non-Muslims, hence allowed the traditional system of justice in the rural areas. The Muslim rulers made a clear distinction between civil and criminal disputes and assigned deferent system for each of them. However, in cases of blasphemy extreme punishment were awarded to the accused.

Judicial System in Medieval India

- In Medieval India, the Sultan/Sultana was the supreme authority administering justice in his/her kingdom. He / She administered justice in the following capacities namely Diwan-e-Qaza (Arbitrator), Diwan-e-Mazalim (Head of Bureaucracy) and Diwan-e-Riyasat (Commander-in-Chief). There existed a systematic classification and organization of courts in Medieval India. The administrative divisions were the basis for judicial organization. The jurisdiction of courts at the Capital, Provinces, Districts, Parganas and Villages were clearly demarcated. Generally, at the Capital of Sultanate, the following six courts were established.

  - The King's Court
  - Diwan-Al-Mazalim
  - Diwan-e-Rialat
  - SadreJahan's Court
  - Chief Justice's Court
  - Diwan-e-Riyasat

- The King's Court was presided over by the Sultan and the Court had both original and appellate jurisdiction. It was the highest court of appeal and in the administration of justice, the Sultan was assisted by Muftis (legal experts). Diwan-Al-Mazalim and Diwan-e-Risalat are the highest courts of appeal in criminal and civil matters respectively. Though these Courts were to be officially presided over by the Sultan, he seldom attended the sessions of the Courts. In the absence of the Sultan, the courts were presided over by Qazi-ul-Quzat, the highest judicial officer of the State. But later, the post of SadreJahan was created making him the de-facto head of the judiciary. The SadreJahan's Court and the Chief Justice's Court remained separate for long until amalgamated later by AlauddinKhilji. The Chief Justice's Court dealt with both civil and criminal cases and the Chief Justice was assisted by judges who were men of ability and integrity and were greatly respected. Mufti, Pandit, Mohtasib (in charge of prosecutions) and Dadbak (administrative officer) were the officers attached to the Chief Justice's Court. The Diwan-e-Siyasat was primarily a court dealing with cases of high treason.

Judicial System in Modern India

- The East India Company was incorporated in 1601 by the Charter of Queen Elizabeth I. The Charter granted recognition and authority to the Company to facilitate the regulation of trade. With regard to the administration in Madras, the Charter of 1661 led to the appointment of Governor and the Council in each of its settlement. Once the company became a territorial power, especially at Madras, it introduced an adhoc system of judicial administration, in which the existing native systems were accommodated, as the company preferred a policy of non-intervention in native affairs. The Governor and the Council were empowered to decide on both civil and criminal cases in accordance with the law of England. However, in disputes involving only the natives the native traditions were continued. The year 1665 was of great significance as it witnessed the first trial by jury in Madras in the case of Mrs.AscentiaDawas during the Governorship of Fox Croft. The appointment of Streynsham Master as the Governor in 1678 resulted in the reorganization of the judicial system of Madras. The Court of the Governor and Council came to be known as the High Court of Judicature and English was declared as the court language. The Charter of 1683 led to the Company establishing Courts of Admiralty to try traders committing various crimes on high seas. The Charter of 1687 authorized the Company to create the Corporation of Madras and the Mayor's Court was attached to it. It functioned as a court of record for the Madras town.

- With regard to the administration of justice in Bombay, the Charter of 1668 authorized the Company to exercise judicialauthority over Bombay. The proclamation of 1672 introduced English Law in Bombay and the Court of Judicature and the new central court was established. The application of English law was confined to cases involving Europeans and European interests. The court exercised jurisdiction over civil, criminal and testamentary cases. Further, Justices of Peace were appointed to administer criminal law. After examining the witnesses and making an initial enquiry, the cases were moved to the Court of Judicature. However, the invasion of SidiYakub, the Mughal Admiral led to the dissolution of courts in Bombay in 1690. After 12 years, in 1718, the Court of Judicature was revived. The court had jurisdiction over civil and criminal matters. Though the court met only once a week, it was highly regarded for its speedy trial and impartial decisions.

- With regard to the Calcutta Presidency, the Governor and the Council were endowed with judicial powers. In the case of civil and criminal matters, the Company followed the already existing Mughal system of judicial administration. The Faujdari Court presided over by the English Collector decided on the criminal cases and the civil cases were referred to an arbitrator by the Collector. The Collector played a very important role in the judicial administration of Calcutta and the office dealt with civil, criminal and revenue cases.

- Thus, the Charter of 1687 applied only to Madras while the Charter of 1726 constituted a Mayor's Court in each of the three Presidencies. The Charter of 1753 further reformed certain judicialprovisions of the Charter of 1726. It also set up five courts namely the Court of Requests, the Mayor's Court, the Courts of the President and the Council, and the King-in-Council. Another landmark in the evolution of Indian judiciary was the Warren Hasting's Plan of 1772. It regulated the system of judicial administration. In 1780, he also reorganized the Provincial Adalats.

- One of the major development in the field of judiciary during the colonial period was the codification of native laws.

- The first Governor General Warren Hasting caused the codification at Hindu Law, and cornwalli's code was another major contribution. Similarly the Islamic law was also codified and adopted in courts.

- The Regulating Act of 1773 empowered the Crown to establish the Supreme Court of Judicature in Calcutta and the Charter of 1774 expounded on the jurisdiction of the court. However, the Supreme Courts were not established at Bombay and Madras during the same period. The Supreme Courts were established in Madras and Bombay in the years 1801 and 1824 respectively. In 1793, Lord Cornwallis prepared "A Set of Regulations" popularly known as the Cornwallis Code and it dealt with both civil and criminal justice. He reorganized civil courts, abolished court fees and reformed criminal courts. Lord Minto aft er being appointed as the Governor- General of Bengal in 1807 increased the powers and jurisdiction of the various courts. Lord Hastings who became Governor General in 1813, introduced many reforms in the civil and criminal judicature of the country. Eff orts were taken to curb red-tapism in the administration of justice. He wassucceeded by Lord Bentinck who reorganized and consolidated the whole system of judicial administration in India. He abolished the Provincial Courts ofAppeal and their functions were transferred to District DiwaniAdalats. Between 1834 and 1861, the King's Court and the Company's Court formed the dual system of courts with separate jurisdictions. Th e Indian High Courts Act of 1861 empowered the Crown to establish the High Courts of Judicature at Calcutta, Madras and Bombay and this also led to the abolition of Supreme Courts. This was considered a landmark in the evolution of High Courts in India. Later, the Government of India Act of 1935 effected considerable changes in the nature and jurisdiction of the High Courts. Between independence and the enforcement of the Constitution, seven High Courts at Punjab, Assam, Orissa, Rajasthan, Travancore, Mysore and Jammu and Kashmir were established. The other High Courts were established later. The Constitution of India aft er being enforced recognized all the existing High Courts and empowered the Parliament to establish High Courts for all the States or combined High Courts for two or more States and Union Territories. The 42nd Constitutional Amendment Act, 1976 brought in drastic changes in the jurisdiction of the High Courts.

- Thus, in the very beginning, there were only the three High Courts of Calcutta, Madras and Bombay. The Acts and regulations prior to independence brought in

remarkable changes in their organization and jurisdiction, thereby ensuring their independence and impartiality. After the enforcement of the Constitution, their positions have been strengthened and apart from their original and appellate jurisdiction in civil andcriminal cases they also act as the protector and interpreter of the Constitution.

Source: Sumeet Malik, V.D. Kulshreshtha's Landmarks in Indian Legal and Constitutional History, EBC Publishing Private Ltd, Lucknow, 2017.

- With respect to the establishment of the Supreme Court of India, the Government of India Act, 1935 is a landmark legislation. The Act attempted to change the structure of the Indian government. There was a shift from a 'unitary' to a 'federal' type of government necessitating the need of a Federal Court. Thus, the Act made specific provision in this regard and the Federal Court was inaugurated in the year 1937. It consisted of a Chief Justice and six judges. In 1950, the Federal Court of India was succeeded by the Supreme Court of India. The Federal Court in its short span of 12 years left an indelible impact on the legal history of India. It was the first court with a national jurisdiction. It was from this Federal Court that its successor inheritedthe traditions of independence, integrity and impartiality. Also, between 1726 and 1833, the role of the Privy Council requires special mention. It contributed immensely to the judicial system of India, laying down the fundamental principles of Indian law that serve as a beacon to the Indian Courts even today.

Sir Hari Singh Gour

- In 1921, Sir Hari Singh Gour was the first person in the legal history of India to realize the necessity of establishing an All-India Court of Final Appeal in place of the Privy Council.

- The Indian Independence Act, 1947 resulted in the transfer of political power and this necessitated the establishment of a separate and independent judicial body. With this objective, the jurisdiction of the Federal Court was enlarged and the Abolition of the Privy Council Jurisdiction Act, 1949 was passed making the Federal Court of India the highest judicial body in the country. With the enforcement of the Constitution on 26 January 1950, Article 124 provided for the establishment of the Supreme Court of India. Thus, there has been a slow and steady evolution of the Indian judicial system and it has proven to be better and wiser with time.

Supreme court of India
Uniqueness – sources of Law – Jurisdiction and powers – Organization

The Constitution of India provides for a three - tier judicial system:
1. The supreme court of India
2. The High courts in the constituent states and
3. The District and Sessions Courts in the judicial districts in every state.

- The constitution also provides for an independent judiciary i.e. independence of the Executive and the legislature. In a democratic federal polity like India. The Supreme Court assumes a much bigger note as the guardian of the constitution, as an arbitrator in disputes between States and the union Government and in disputes among the States, and as the highest appellate Courts in all civil and criminal cases. It is endowed with the onerous responsibility of safeguarding and enforcing the fundamental rights and freedoms of all citizens of India/ However, unlike the federal system in the USA, the constitution of India of India does not provide for two sets of judiciary (one asfederal, another for states). India has only a unitary judiciary system, with the Supreme Court as the apex Court, with authority over all other Courts if India.

- **The Sources of Law**: The Constitution becomes the fountain source of law in India. Statutes enacted by legislatures of the union, State or Union Territories become another sources of law as long as these are in conformity the basics of the Constitution. Besides the subordinate legislations in the form of rules, regulations as well as by – laws of any administrative body, unless and until negated by the judiciary constitute the third source of law.

Integrated Judiciary

"The Indian Federation, though a dual polity, has no dual judiciary at all. The High Courts and The Supreme Court Constitute one single integrated judiciary having jurisdiction and providing remedies in all cases under the constitutional law, The Civil law or the criminal law. This is done to eliminate all diversities in a remedial procedure"
-Dr. B. R. Ambedkar

Jurisdiction and powers on the Supreme Court:

- The Supreme Court has original, appellate and advisory jurisdiction. The original jurisdiction of the Supreme court extends to all cases which can originate in the Supreme court. These include disputes between the Government of India and one or more States, or between two or more States. In disputes involving fundamental rights, the Supreme Courts has both original and appellate jurisdiction. It can issue writs of Habeas Corpus, Writ of Mandamus, writ of prohibition, writ of Certiorari and the writ of Quo warranto.

- The Supreme Court is the highest or Apex appellate Court in India, where appeals against judgments of High Courts can be made; (in both civil and criminal cases)

- The Supreme Court of India has also been vested with certain advisory powers.

- The president can seek its advice on any legislative measure. However the advice of the Supreme Court is not binding on the president (Article - 143).

- The Supreme Court functions as the guardian of the constitution; It is the final authority to interpret the constitutional law, and has the authority to declare any law or executive action, or judgments of lower Courts 'null and void' if the Supreme court find them against the letter and spirit of the constitution. It is also the apex agency to safeguard the fundamental rights listed out in the Constitution.

Organization of the Supreme Court

- The Supreme Court of India has been established by part V, Chapter IV of the Constitution of India. Articles 124 to 147 of the Constitution lays down the composition and jurisdiction of the supreme Court of India. Originally the Constitution provided for the chief Justice and seven lower ranking Judges. The Constitution enables the Parliament to increase this number. By 2008 the number of judge have been increased (from eight) to 30.

- As to the appointment of the Supreme Court judges, The Chief Jostle of India should consult a "Collegium" of four senior most judges of the Supreme court, The Collegium makes the decision in consensus. Every Judge of the supreme Court is appointed by the President after consultation with the cabinet and the Judges of the Supreme court, and such Judges shall hold office until they attain the age of sixty five years. If any of thejudges wants to lay down office, he can do so through an hand written signed resignation letter to the president; the Parliament can remove a Judge through an impeachment. To be considered for the office of Judge, one must be a citizen of India and his qualification is per the Parliament's decision, and the should have been judge of High court at least for a period of 5 years; or an advocates of a high court or of two or more such courts in succession for at least 10 years or the person must be, in the opinion of the president, a distinguished jurist.

Impeachment
A Judge of the supreme Court try an order of the president, after an address by each House of the Parliament supported by a majority of the total membership of that house and by a majority of not less than two thirds of the members of the house present and voting in the same session.

Appointments are generally made on the basis of seniority

Justice K.G. Balakrishnan in 2000 became the first judge from the depressed class. In 2007 he became the first Dalit Chief Justice of the Supreme Court.

The Supreme Court of India under the present Constitution commenced functioning on January 28, 1950. It was placed then in the Chamber of Princes in the Parliament. It moved to the present building in 1958.

Harilal J. Kania was the first Chief Justice of the Supreme Court. The other judges who assumed office along with him wise Justices Sayid Faze Ali, M. PatanjaliSastri, Mehar Chand Mahajan, Bijan Kumar, Mukherjea and S.R.Das.

High Courts

- The High Court is the head of a State's judicial administration every constituent state in expected to have a high Court. However, at present four high courts have jurisdiction over more than one state. Among the union territories Delhi alone has a high court of its own. Other six union Territories come under the Jurisdiction of nearby state high Courts. Each High court comprises of a Chief Justice and such other Judges as the president may from time to time, appoint. The Chief Justice of the High court is appointed by the President in consultation with the Chief Justice of India and the Governor of the State. In appointing other judges, the Chief Justice of that High court is also consulted. The Judges of the High courts hold office until the age of 62 years and are removable in the same manner as a Judge of the Supreme court. To be considered for appointment as a Judge one must be a citizen of India and have held a Judicial office in India for 10 years or must have practiced as an advocate of high court.

- The High Court's too have original and appellate jurisdictions, in cases arising within the territories of the State. Each High court has powers of Super intendant over all courts within its jurisdiction. Though the High courts are the party of single and integrated judicial system, yet they are completely independent judicial institutions. The Supreme court has no direct administrative control over them, has they are in any way controlled try either the legislature or executive of the State. But the Judger may be transferred from one High court to another by the president his consultation with the chief Justice of India.

- The High Court too has the power to issue writ in cases involving 'Fundamental Rights'.

Legal Remedies for Safeguarding Fundamental Rights

- Both the Supreme court and High court have the power to issue writs with a view to ensure quicker justice and early relief to persons whose rights are violated. There are five such writs.

1. Habeas Corpus: Literally means a demand to produce the person in body. It applies in cases where a person is alleged to have been illegally detained. This writ safeguards personal liberty of every individual.

2. Mandamus is a command to act law fully and to resist from penetrothing an unlawful act, It is meant to direct any authority to perform its legal duty. Mandamus may he issued against any authority, Officers, Government or even judicial bodies that tail or refuse to perform a public duty and discharge a legal obligation.

3. Prohibition is issued by a higher Court to a lower court or tribunal for prohibiting it from exceeding its jurisdiction. Writ of Prohibition is issued only against a judicial or quasi – judicial body.

4. Certiorari too lies against judicial or quasi – judicial authorities, and it means 'to be informed'. The writ of certiorari is issued to quash illegal orders of judicial or quasi – judicial bodies

5. Quo – Warranto is a question asking 'with what authority or warrant'. This is meant ascertain the legal position in regard to claim of a person to hold a public office.

- Besides these writs, the High Court's under Article 226 may issue other directions and orders in the interests of justice to the people.

Judicial Review, Public Interest Litigation And Judicial Activism

Judicial Review

- To safeguard the liberty and rights of individuals, the judicial review power enshrined in the constitution of India becomes important. The supreme court and the high court's in India are entrusted with the power of judicial review which extends to adjudicating upon the constitutionality of legislations as well as the legality of executive action.

- Parliamentary and state legislations which contravened constitutional requirements have been struck down. The most daring and controversial exercise of judicial review was the invalidation by the supreme court of Bank Nationalization legislation. Legislations which infringed the rights of the minorities to establish and administer their educational institutions have been struck down.

- Judicial review has been extended to review ability of constitutional amendments by evolving the doctrine of the basic structure of the constitution according to which a constitutional amendment which destroys or damages an essential feature of the constitution, for example secularism, democracy and federalism, would be unconstitutional.

- In the administration of law, judicial review in India has been very active. Article 13(2) of the Indian constitution believed that countrywide shall not create any regulation, those abbreviates or takes away the rights as deliberated in part 3 of the constitution. If any rule was created against this clause of the constitution, it will come within the purview of infringement and will be declared as null and void.

- However, but in 2007 the supreme court ruled laws included in this schedule after April 24, 1973 or now open to judicial review cannot be conducted in respect of the laws incorporated in the 9th schedule of the constitution. Judicial review applies

only to the questions of law. It cannot be exercised in respect to political issues. The supreme court does not use the power of judicial review of its own. It can only use it when any law or rule is specifically challenged before it.

Public interest Litigation

- Any citizen of India can approach the courts for public case (upon the interest of the public) by filing a petition under (a) the supreme court by article 32, (b) in the high court under article 226 and (c) in the magistrate court under section 133 of the CRPC. The guidelines provide that Public interest Litigations can be filed under the following categories: 1. Bonded labour matters, 2. Neglected children, 3. Non-payment of minimum wages, 4. Petitions from jails complaining of harassment, death in jail, speedy trial as a fundamental right etc. 5. Petitions against police for refusing to register a case, harassment of Bride, Bride burning, rape, murder, kidnapping etc. 6. Petitions complaining harassment or torture of persons belonging to scheduled caste and scheduled tribes. 7. Petitions pertaining to environmental pollution.

- The Public interest Litigation jurisdiction forged by the supreme court is an extension of its jurisdiction under article 32 of the constitution. Public interest Litigation is not in the nature of adversary litigation, but it is a challenge and an opportunity to the government and its officers to make such issues as human rights meaningful to the deprived and vulnerable sections of the society and to assure them socio-economic justice which is the signature tune of the constitution. A Public interest Litigation may be filed against state and central government, municipal authority, but not against any private party.

- Recently in India, many cases from the area of Public interest Litigation has come into picture which has been filed in the court of law. As in 2005 a case was decided by the supreme court named Common cause society Vs. Union of India. In this Public interest Litigation, the petitioner filed a Public interest Litigation praying to the court to enact a road safety act in view of the numerous road accidents. Secondly, in the SangammalPandeyVs. State of UP case the Lucknow bench of the high court stayed construction activities near Kanshiram memorial up to a specific date.

- In the Peoples union for democratic rights Vs. Union of India case, the supreme court permitted Public interest Litigations at the instance of 'public spirited citizens' for the enforcement of constitutional and legal rights of any person or group of persons who because of their socially or economically disadvantaged position are unable to approach the courts for relief. Public interest Litigation is a part of the process of 'participate justice' and standing in civil litigation, of that pattern which has liberal reception at the judicial doorsteps.

- In the ParmanandKatara vs. Union of India case the supreme court held in the Public interest Litigation filed by a human rights activist fighting for general public

interest, that it is a paramount obligation of every member of the medical profession to give medical aid to every injured citizen as soon as possible without waiting for any procedural formalities.

Judicial Activitism

Judicial activism as a dynamic process of judicial outlook in a changing society. Arthur Schlesinger Jr. introduced the term judicial activism in 1947,in America in an article titled ' The Supreme court;1947'. According to Black's law dictionary judicial activism is a judicial philosophy which motivates judges to depart from the traditional precedents in favour of new progressive social policies.

- In recent years law making has assumed new dimensions through judicial activism of the courts. The judiciary has adopted a healthy trend of interpreting law in social context. Judicial activism describes judicial rulings suspected of being based on personal or political considerations rather than on existing law. The question of judicial activism is closely related to constitutional interpretation, statutory constructions and separation of powers.

- The Indian constitution, promulgated in 1950, largely borrowed its principles from western models like Parliamentary democracy and an independent judiciary from England, the fundamental rights from the bill of rights and federalism from the federal structure in the US constitution, and the directive principles of state policyfrom the Irish constitution. These modern principles and institutions were borrowed from the west and imposed from above on a semi-feudal, semi backward society of India. But these feathers are meant to facilitate transformation in every field, instead of protecting the 'status quo'.

- The Indian judiciary, being a wing of the State has thus played a more activist role than its US counterpart in seeking to transform Indian society into a modern one, by enforcing the modern principles and ideas in the constitution through court verdicts. Article 21 of the constitution has been called up frequently in the Supreme court. Judgments upon thia article suggest the trends of judicial activism.

- In the A.K. Gopalan vs. State of Madras case, the supreme court rejected the argument that to deprive a person of his life or liberty, not only the procedure prescribed by law for doing so must be fair, but reasonable and just. However, subsequently in Menaka Gandhi vs. Union of India case this requirement of substantive due process was introduced into article 21 by judicial interpretation. Thus the due process clause,which was consciously and deliberately avoided by the constitution makers, was introduced by judicial activism of the supreme court.

- In subsequent decisions, the Supreme Court has upheld death sentences in cases such as BagwanDass vs. state of Delhi case which involved honour killing of a man and woman for marrying outside their caste.

In Australia, the highest court is known as the High Court of Australia while the State Courts are known as the Supreme Court.

Constitutional Law, Administrative Law And Indian Penal Code

Constitutional Law

- It is known that everything man people do is governed by rules. For example there are rules for games and social clubs. Rules of morality and customs also play an important role to establish our day to day life. Rules that are made by legislatures, for the nation are called 'laws'. Laws in society are a must so our society can regulate its work properly. They are designed to safeguard our property and safeguard us and to ensure that every one in society behaves in a proper manner.

- Essentially, the Constitutional law is the supreme law. All other laws have to conform to the Constitutional law. Constitutional law contains laws concerning the government and its people. Constitutional law is a body of laws which defines the role, powers, and structures of different entities of the State, namely, the legislature, the executive and the judiciary, as well as the basic rights of citizens and, the relationship between the central government and state governments.

- Constitutional law is a set of rules which can either be imposing or directive. It provides a way to regulate the nation by proposing a set of laws which shall be abided by the citizens of the country. It leads the country in the right direction without fail. It includes various fundamental rights, fundamental duties and directive principles. We need constitutional laws to regulate the system that prevails in the country. It acts as an obligation on the citizens where they cannot go beyond its fundamental rights, which is a must so as to monitor the whole nation at a time.

- Constitutional law creates a sense of equality amongst the citizens. It is like a parent to a child who imposes certain conditions but its sole purpose is the well being of the child. The same way Constitutional law acts for its citizens. Constitutional laws provide to some people who can either be elected or nominated for law making depending upon the nation's Constitutional provisions. Constitutional law facilitates the head of the State to administer the whole country which is large, culturally and linguistically diverse.

Rule of Law

- The colonial regime introduced the English concept of 'Rule of Law' in India. The three major features of the Rule of Law are

1. All are equal before law
2. Nobody is above law and
3. The same law is applicable to all.

- The Rule of law ensures 'equality of all citizens in the judicial process and reduces the scope of nepotism, favoritism, arbitrariness, unhealthy executive interferences in the judicial process. Rule of Law provides an effective check to the abuse of authority by executives and administrators. The procedural laws and constitutionally guaranteed fundamental rights ensure enforcement of Rule of Law.

Administrative Law

- Administrative law is the law that governs the administrative actions. As per Ivor Jennings the administrative law is the law relating to administration. It determines the organization, powers and duties of administrative authorities. It includes law relating to the rule making power of the administrative bodies, the quasi-judicial function of administrative agencies, legal liabilities of public authorities and power of the ordinary courts to supervise administrative authorities. It governs the executive and ensures that the executive treats the public fairly.

- Administrative law is a branch of public law. It deals with the relationship of individuals and government. It determines the organization and power structure of administrative and quasi-judicial authorities to enforce the law. It is primarily concerned with official actions and procedures and puts in place a control mechanism by which administrative agencies stay within bounds. There are a few reasons for the development of administrative law in India.

- Firstly, India is a 'Welfare State'. Government activities have increased and thus the need to regulate the same. Therefore, this branch of administrative law was developed. Secondly, there is the inadequacy of the legislatures. The legislatures have no time to legislate upon the ever changing needs of the society. Even if it does, the lengthy and time taking legislation procedure would render the rule so legislated of no use as the needs would have changed by the time the rule is implemented.

- Thirdly, there is judicial delay in India. The judicial procedure of adjudicating matters is very slow, costly complex and formal. Furthermore, there are so many cases already lined up that speedy disposal of suites is not possible. Hence, the need for administrative tribunals arose.

- Fourthly, as administrative law is not a codified law there is a scope of modifying it as per the requirement of the State machinery. Hence, it is more flexible. The rigid legislating procedures need not be followed again and again. There is a basic difference between constitutional law and administrative law. A constitutional law is the supreme law of the land. No law is above the constitutional laws and hence must satisfy its provisions and not be in its violation. Administrative law is therefore subordinate to constitutional law. Constitutional law deals with the structure of the State and its various organs. Administrative laws deal only with the administration. Administrative authorities should first follow the constitutional laws and then work as per administrative law.

Indian Penal Code

- The Indian Penal Code is the criminal code of India. It is a comprehensive code intended to cover all substantive aspects of criminal law. The code was drafted in 1860 on the recommendation of the first law commission of India established in 1834. It came into force in British India during the early British Raj period of 1862. The objective of this act is to provide a general penal code for India.

- The Indian Penal Code has a basic format, it is a document that lists all the cases and punishments that a person committing any crimes is liable to be charged. It covers any person of Indian citizenship. The exceptions are the military and other armed forces, they cannot be charged based on the Indian Penal Code. They have a different set of laws under the Indian Penal Code as well. The Indian judicial system is one that has evolved into a stable and fair system of detention and penalizing, after being tested well for several years.

- The most important feature of the Indian Penal Code is the impartial nature of judgments promoted by the document. The Indian Penal Code does not include any special favours for any special person at some position. Thus, the code stands alike for government employees, as for common man, and even for a judicial officer. This builds up the faith of the common citizens in the law making and enforcing bodies in the country and prevents any sort of corruption or misuse on the part of the people in power.

- The Indian Penal Code includes all the relevant criminal offences dealing with offences against the State, offences in public, offences for armed forces, kidnapping, murder and rape. It also deals with offences related to religion, offences against property and it has an important section for offences for marriage, cruelty from husbands or relatives, defamation and so forth. Indian Penal Code also provides for group liabilities that is, group liability under section 34 in the form of a rule of evidence making each member of the group liable for the final act if he has in any manner participated in action in furtherance of the common intention of all members of the group irrespective of his individual contribution which may have been very small.

- Group liability under section 149 is envisaged making the members of the unlawful assembly vicariously liable for the criminal act which is in furtherance of the common object or what members of the unlawful assembly ought to have known is likely to be committed in given circumstances besides making each of them liable for punishment for being member of an unlawful assembly. The code also makes punishable what are described as inchoate crimes that is, amendment, attempt and criminal conspiracy etc.

- The Indian Penal Code has been amended numerous times according to the emerging needs. Concepts like sedition which were outside the purview of the

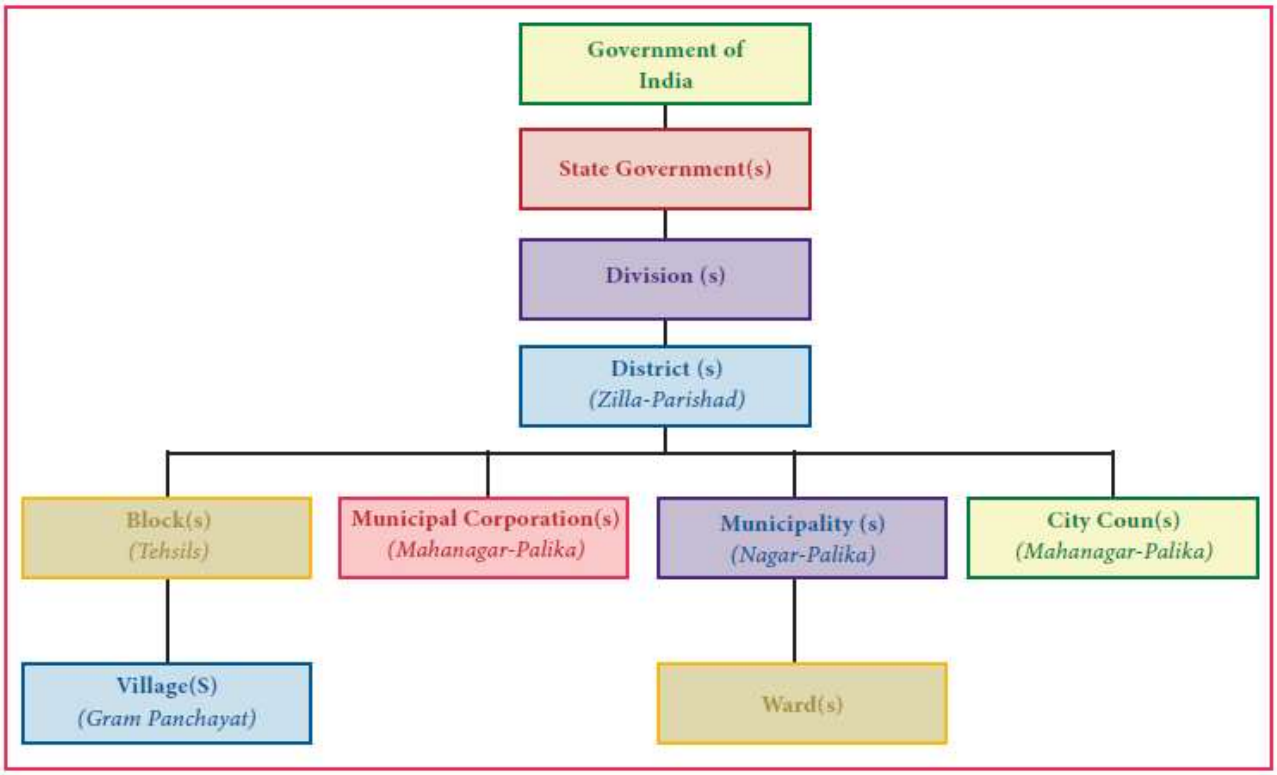
Indian Penal Code was included into it after amendments. The need to revamp the criminal justice system was felt for quite sometimes as it has come under severe stress and strain due to changing aspirations of the citizens and the resulting social transformation. The process of criminal investigation, prosecution and adjudication necessarily warrants changes and transformation in tune with the developments in science and technology.

- The information age has ushered in modern methods of criminal activities which needs new methods of investigation and prosecution. For these, new criminal laws are needed. In view of this the Indian government set up the V.S Malimath committee in 2000 to consider measures for revamping the criminal justice system in the country. The committee submitted its report in 2003. This report has been examined at various levels to consider the various measures recommend by it for revamping the criminal justice system. Some of the recommendations of the committee have been accepted by the government and have been incorporated in the criminal law of the land substantive and procedural.

APPOLO STUDY CENTRE

Unit – 6
Administrative Machinery in India

Framework of Indian Administration



Evolution of Indian Administrative System since Independence

- Modern India's administrative system had its beginnings in the colonial era. Until 1773, There was no regular system of administration in company's newly acquired territories in India. In theory the East India company acted as the agents of the Mughal Emperor, or the Nawabs. They managed the revenue affairs with nominated officials and traditional native sub staff. They gave priorities to military and policing requirements. Most of the Company's officers were ill educated, in experienced and untrained.

- As the foreign officers had no respect and sympathy for the native people, and as they were not accountable to any legislature, mal administration and corruption became order of the day. English parliamentarians like Edmund Burke brought such issues to the notice of the parliament. Such parliamentary criticisms resulted in the introduction of the regulating Act 1773 and the successive Charter Acts, through which the Company's Indian administration was brought under the surveillance of the British Parliament. The Court of Directors and the Board of Control in England war subordinated to the parliament and the British Cabinet. Thus the administration of Company's territories was systematized, regularized and made accountable to parliament.

- Thereafter the English officials to India were trained at Hailey bury College. The selected officers of the Superior cadre were known as the members of the Covenanted Service. They assisted the Governor Generals and Governors in administration. Indian were appointed for middle level and interior services. As the company was unwilling to interface in nature traditions, and as it was desirous of winning the support of the influential. And traditional classes and caster for the colonial regime, They mostly accommodated people from such classes and castes in the middle level or lower level administrative assignments. There was no regular system for appointments in the middle and lower level offices.

- Persian was retained as official language till 1840: As such the English people were having a monopolistic hold over the superior services and native elites cornered all lower level offices. Gradually there emerged a demand for accommodating Indians in superior services. The introduction of European model of education and English medium prompted the Indians educated in the Macaulay on system to plead with the colonial authorities for throwing open the higher servicer to Indians. After the Crown took over the Indian administration in 1858. The administrative system was revised, and the Indian civil Service (ICS) organized. Offices to highest administrative and judicial positions were to be chosen through a competitive (ICS) examination and training. The elite Indians wanted age relaxations for Indians, and also insisted simultaneous ICS examinations in India too. These because the early demands in the Indian national movement.

- Until the 1919 Government of India Act, Indians could not occupy the highest executive posts. The Dyarchy, under the said Act, provided the 'transferred departments' to be entrusted to the Indian ministers, chosen from the elected members of the legislature. But the Executive officials continued to be under the control of the Governors. It was during this period, the adhere appointments to lesser services was protested and a regular public service commission was contemplated. After India's independence, the existing services were reformed: ICS was replaced with Indian Administrative Service(IAS) thus the administrative system was totally India missed and recruitment through Public Service Commission because the basic feature.

Indian Administrative System in the post Independent era:

- The functions and responsibilities of the Indian administration had to undergo significant changes in the Independent India. It is made accountable to the legislature and executive. As the Government of India preferred a welfare state, the responsibilities of the administrative agencies increased manifold.

- The new Government under Jawaharlal Nehru. Opted for 'democratic Socialism' and introduced a planned economy to achieve modernization, equalization, and tester growth. 'Mixed economy' was chosen to ensure the combination of democracy and socialism. Basic industries (Like steel and iron) were developed

through Government sector. While the private sector was allowed to involve in medium industries, transport, aviation etc. The administrative system had to exert more to achieve the goals in each plan. The first three ' Five year plans' yielded tremendous results. But thereafter the Indian economy had to confront several crises. Capitalism in Its 'Corporate' facade triumphed, the tall of the Soviet union, and other socialist countries. Creation a new challenge By 1990, India has fallen in line with the trend of Globalization – Privatization – Liberalization. The Indian administrative system adopted itself admirably to the Changing conditions. Corruption is a serious issue, but Corruption at highest level involving highest administrative officers is nothing to do with the economic order that the nation Chooses from time to time, as we found similar corruption in pre – Nehru era, as well as in the current economic order. There were corruptions and corrupt officials in every order, but for that reason, we ought not condemn the whole democratic system.

- While the Colonial regime introduced modern administrative devices like Survey, Census, Creation of a number of departments to deal with exclusive issues, the post – colonial era regimes in India successfully segregated judicial functions for executive functions, and introduced a number of measures for the welfare of the people in the eradication of diseases extension of education massive irrigation schemes, electrification, for health and hygiene, in improving and expanding roads and railways.

- In every scheme of the parliamentary executive the administrative system plays a pivotal role. But for the trained, experienced and motivated administrative system, none of the developmental plans could have been materialized.

- There are now efforts to further democratize, modernize and humanize the Indian Administrative System So as to make them adequately relevant to the changing time. In a democratic system the officialdom ought not to be insulated from criticisms and responsible and lawful interventions. At the same time the officialdom cannot be degenerated as the wings of unethical and unlawful political activism. 'Checks and balances' would ensure a letter administrative system. It has to the and has to be guarded against pressures from extra- national and transnational forces.

- Our present constitution provide for a centralized administrative system. The personnel's in the State categories are subjected to twin masters, the state executive and the union executive. The administrative services created by the states are also subjected to union's supremacy. Liberalization does not mean that the bureaucracy is being relieved from excess burden, but if means reducing government's regulatory control over private sector. In the same way we now found a trend towards more centralization in policy making and policy enforcement. The Indian administrative system, which worked for the democratic socialist economy and planned economy earlier is now given the task of more privatization and more

centralized taxation system. This new arrangement now known as new public Management (NPM) movement in public administration.

- The Indian administrative system has to cope up with the enforced new economic order. It has to strive for opening domestic markets to new investors, i.e. Corporate from both India and abroad. Now the administrative system has to work for disinvestment, desubsidization, liberalizing and centralizing the tax – system in favour of trade and investors. Mining, ports, petroleum, airways are systematically being corporatized. Labour laws being revised. The Indian bureaucracy has to carry out the guidelines of transnational or globe bodies like world Bank, world Trade Organization, International monetary Fund in the domestic arena.

- The formation of regulators like IRDA,TRAI, CCI, PFRDA, SEBI, etc. have been a step in the same direction, further the idea of extending this concept to other areas is also being mooted, viz., in the infrastructure and mining sector. These reform proposals were also followed by reforms in the tax administration in the form of introduction of the VAT regime, introduction of a low and uniform tax rate regime, which is seen as the precursor to the uniform Goods and Services tax (GST). In all, these measures were received well by the industry and the markets and the numbers of economic growth started showing signs of increase and so much so that it is believed that the process of economic reform in India has been instrumental in pulling out more than 300 million out of poverty in India in a period of 20 years. Now-a-days the bureaucracy enjoys enormous powers not because it has a greed for power but because the need of the modern technological civilization has demanded this delegation. In recent times, there has been accelerated change globally brought about by technological advances, greater decentralization and social activism. The ramifications of these changes are being felt by government in the form of increasing expectations for better governance through effective service delivery, transparency, accountability and rule of law. But the public perception about the members of the civil services, who function at cutting edge and higher coordination and policy making levels, is that they are `burdensome low-performers' heading a highly bloated bureaucracy which is often perceived to be corrupt and inefficient in governing the country. The introduction of right to Information (RTI) Act, citizen charters and Social audit makes the administration more responsive and accountable to the public.

Ministry, Department, Boards and Commissions
Union Government Ministries/Department

- The main policy making institution in the Union government is the central secretariat which comprises all the ministries and departments which in turn characterized by certain patterns of structural arrangements and functional specifications.

Structure of a Ministry

Ministry of Central Government has a three tier structure consisting of

- Political Head, who is a cabinet minister assisted by minister of state and deputy minister. Sometimes a minister of state may also be a political head of a ministry/department holding an independent charge.bSecretariatorganistion headed by a secretary who is a career civil servant. He is assisted by Joint secretaries, Deputy Secretaries, Undersecretaries and office establishment.bExecutive organization under a head of the department who is known by various designations like Director, Director-Genera, Commissioner, Inspector-General, Chief Controller etc…

- A ministry is primarily divided into departments .Each department is divided into wings. Each wing is in turn divided into divisions which are further divided into branches. Each branch is divided into sections. A section is the lowest level and smallest organizational unit of a ministry/department.

Department (Secretary) Wing (Additional/Joint Secretary) Division (Deputy Secretary) Branch (Under Secretary) Section (Section Officer)

- Under the Government of India, Rules of Business, 1961, the ministries departments in the Government of India were as follows

Central Secretariat

- The central secretariat comprises of all the ministries and departments of the central Government. Article 77 of the Indian Constitution authorizes the President of India to make rules for more convenient transaction of business of Central Government and for allocation of such business among the ministries.

Role and Functions

- The Central Secretariat is a policy making body of the government and is not, to undertake work of execution, unless necessitated by the lack of official agencies to perform certain tasks. The Central Secretariat normally performs the following functions:

1. Assisting the minister in the discharge of his policy making and parliamentary responsibilities.
2. Framing legislation, rules and principles of procedure.
3. Sectoral planning and programme formulation.

4. Budgeting and control of expenditure in respect of activities of the Ministry/department.
5. Supervision and control over the execution of policies and programmes.
6. Initiating steps to develop greater personnel and organizational competence both in the ministry/department and its executive agencies.
7. Coordination and interpretation of policies, assisting other branches of government and maintaining contact with state administration.

Union Government Ministries/Department

1. **Ministry of Agriculture and Farmers Welfare**
   - Department of Agricultural Research and Education (DARE)
   - Department of Agriculture, Cooperation and Farmers Welfare
   - Department of Animal Husbandry, Dairying and Fisheries

2. **Ministry** of AYUSH
   - Ministry of Chemicals and Fertilizers
   - Department of Chemicals and Petrochemicals
   - Department of Fertilizers
   - Department of Pharmaceuticals

3. **Ministry** of Civil Aviation
   - Ministry of Coal
   - Ministry of Commerce and Industry
   - Department of Commerce
   - Department of Industrial Policy and Promotion

4. **Ministry** of Communications
   - Department of Posts
   - Department of Telecommunications (DOT)

5. **Ministry** of Consumer Affairs, Food and Public Distribution
   - Department of Consumer Affairs
   - Department of Food and Public Distribution

6. **Ministry** of Corporate Affairs
   - Ministry of Culture
   - Ministry of Defence
   - Department of Defence
   - Department of Defence Production
   - Department of Defence Research & Development
   - Department of Ex-Servicemen Welfare

7. **Ministry of Development of North Eastern Region**
   - Ministry of Drinking Water and Sanitation

- Ministry of Earth Sciences
- India Meteorological Department (IMD)

8. **Ministry of Food Processing Industries**
   - Ministry of Health and Family Welfare
   - Department of Health and Family Welfare
   - Department of Health Research, Ministry of Health & Family Welfare

9. **Ministry of Electronics and Information Technology**
   - Ministry of Environment, Forest and Climate Change
   - Ministry of External Affairs
   - Ministry of Finance
   - Department of Economic Affairs
   - Department of Expenditure
   - Department of Financial Services
   - Department of Investment and Public Asset Management
   - Department of Revenue

10. **Ministry of Consumer Affairs, Food and Public Distribution**
    - Central Armed Police Forces
    - Central Police Organisation
    - Department of Border Management
    - Department of Home
    - Department of Internal Security
    - Department of Jammu & Kashmir (J & K) Affairs
    - Department of Official Language
    - Department of States

11. **Ministry of Heavy Industries and Public Enterprises**
    - Department of Heavy Industry
    - Department of Public Enterprises

12. **Department of Atomic Energy**

    Department of Space

    http://goidirectory.nic.in/ministries_departments_view.php

13. **Ministry of Information and Broadcasting**
    - Ministry of Labour and Employment
    - Ministry of Law and Justice
    - Department of Chemicals and Petrochemicals
    - Department of Fertilizers
    - Department of Pharmaceuticals

14. **Ministry of Petroleum and Natural Gas**
    - Ministry of Power

- Ministry of Railways
- Ministry of Road Transport and Highways
- Ministry of Rural Development
- Department of Land Resources (DLR)
- Department of Rural Development (DRD)

15. Ministry of Micro, Small and Medium Enterprises

Ministry of Mines

- Ministry of New and Renewable Energy
- Ministry of Panchayati Raj
- Ministry of Parliamentary Affairs
- Ministry of Personnel, Public Grievances and Pensions
- **Department of Administrative Reforms and Public Grievances (DARPG**)
- Department of Pension & Pensioner's Welfare
- Department of Personnel and Training

16. Ministry of Science and Technology

- Department of Biotechnology (DBT), Government of India
- Department of Science and Technology (DST)
- Department of Scientific and Industrial Research (DSIR)

17. Ministry of Shipping

- Ministry of Skill Development and Entrepreneurship
- Ministry of Social Justice and Empowerment
- Department of Empowerment of Persons with Disabilities
- Department of Social Justice and Empowerment

18. Ministry of Statistics and Programme Implementation

- Ministry of Steel
- Ministry of Textiles
- Ministry of Tourism
- Ministry of Tribal Affairs
- Ministry of Water Resources, River Development and Ganga Rejuvenation
- Ministry of Women and Child Development
- Ministry of Youth Affairs and Sports
- Department of Sports
- Department of Youth Affairs

19. Ministry of Housing and Urban Affairs

- Ministry of Human Resource Development
- Department of Higher Education
- Department of School Education and Literacy

Cabinet Secretariat
Functions

- The Cabinet Secretariat functions directly under the Prime Minister. The administrative head of the Secretariat is the Cabinet Secretary who is also the ex-officio Chairman of the Civil Services Board. The business allocated to Cabinet Secretariat under Government of India (Allocation of Business) Rules, 1961 includes (i) Secretarial assistance to the Cabinet and Cabinet Committees; and (ii) Rules of Business.

Organisation of Cabinet Secretariat

The Cabinet Secretariat has three wings

- Civil wing
- Military wing
- Intelligence wing

Civil wing - It is the main wing and provides aid, advice and assistance to the Union cabinet.

Military wing - provides secretarial assistance to the defence committee of the cabinet, the military affairs committee etc.

Intelligence wing - it deals with the matters pertaining to the joint intelligence committee of the cabinet.

- Other organizations are - RAW, Director General of Security, SPG, Joint intelligence group, DG public grievances (1988), National Authority, Chemical Weapons Convention.

- The Cabinet Secretariat is responsible for the administration of the Government of India (Transaction of Business) Rules,1961 and Government of India (Allocation of Business) Rules, The Secretariat assists in decision-making in Government by ensuring Inter-Ministerial coordination, ironing out differences amongst Ministries/Departments and evolving consensus through the instrumentality of the standing/adhoc Committees of Secretaries. Management of major crisis situations in the country and coordinating activities of various ministries in such a situation is also one of the functions of the Cabinet Secretariat.

Support to Cabinet Committees

- The secretarial assistance, provided by Cabinet Secretariat to the Cabinet and Cabinet committees, includes
  - Convening of the meetings of the Cabinet & its Committees on the orders of the Prime Minister.
  - Preparation and circulation of the agenda.
  - Circulation of papers related to the cases on the agenda.
  - Preparation of record of discussions.

- Circulation of the record of discussions after obtaining the approval of the Prime Minister.
- Monitoring implementation of decisions taken by the Cabinet and its Committees.
- The Cabinet Secretariat is the custodian of the papers of the Cabinet meetings

Cabinet Secretary

- The office of cabinet secretary was created in India in 1950. The first Cabinet secretary was N.R.Pillai. The Cabinet secretary is the head of the Cabinet Secretariat. He is given a top place among the civil servants. Thus he is the senior most civil servant in India.

Union Government -Apex Bodies

- President of India
- Vice President of India
- Cabinet Secretariat
- Election Commission of India
- Union Public Service Commission (UPSC)
- National Human Rights Commission (NHRC), India
- Comptroller and Auditor General (CAG) of India,
- Indian Audit and Accounts Department
- NITI Aayog - National Institution for Transforming India
- National Commission for Women (NCW)
- National Commission for Scheduled Tribes (NCST)
- Fifteenth Finance Commission of India
- National Commission for Minorities(NCM)
- Insurance Regulatory and Development Authority (IRDA)
- Office of the Principal Scientific Adviser.

The Prime Minister's Office (PMO)

- The Prime Minister's Office (PMO) consists of the immediate staff of the Prime Minister of India, as well as multiple levels of support staff reporting to the Prime Minister. The PMO is headed by Adviserthe Principal Secretary, The PMO was originally called the Prime Minister's Secretariat until 1977, when it was renamed during the Morarji Desai ministry.

Office of Principal Scientific Adviser

The Office of the Principal Scientific Adviser to the Government of India (O/o of PSA) was set-up in November, 1999, primarily to:

- Evolve polices, strategies and missions for the generation of innovations and support systems for multiple applications,

- Generate science and technology tasks in critical infrastructure, economic and social sectors in partnership with Government departments, institutions and industry,
- Office of PSA also services the Prime Minister's Science, Technology and Innovation Advisory Council (PM-STIAC)
- Office of PSA has been placed administratively under the Cabinet Secretariat in August, 2018.

- The PMO provides secretarial assistance to the Prime Minister. It is headed by the Principal Secretary to the Prime Minister. The PMO includes the anti-corruption unit and the public wing dealing with grievances. The office houses the Prime Minister and few selected officers of Indian Civil Service who work with him to manage and coordinate government and his office. The Prime Minister through his office coordinates with all ministers in the central union cabinet, minister of independent charges and governors and ministers of state government.

Personnel Administration
Concept of Personnel Administration

- The tasks of government are increasing every day. Development and welfare orientations have led to the expansion of government and its administrative machinery. As the tasks, responsibilities and activities of organisations whether public or private multiply, the demands on personnel, at every level, in terms of efficient discharge of their duties also rise. Thus the task of personnel administration is to, assure a steady source of people who can contribute to the success of an organization and meet the growing demands of development. To understand the concept of personnel administration, it is very essential to first understand the meaning and nature of the term.

Thus personnel administration aims at:
- Effective utilisation of human resources
- Desirable working relations among all members of the organisation
- Maximum development
- Meeting the organisation's social and legal responsibilities.

Scope of Personnel Administration

- Personnel administration incorporates all aspects of management of persons in organization. The primary objective of personnel administration, is to ensure effective utilization of human resources in pursuit of organizational goals. The personnel administration departments should design and establish an effective working relationship among all the members of an organization by division of organizational tasks into jobs, defining clearly the responsibility and authority for each job and its relation with other jobs in the organization. Personnel administration must try to enthuse among the employees feelings of commitment, Involvement and loyalty to the organization. The aim is to create cordial relations

among the employees and do away with frictional situations arising out of personal jealousies, rivalries and prejudices. Personnel administration also has to curbunfavorable practices like favoritism and nepotism in an organization.

Functions of personnel administration

Some of the important functions of personnel administration are :

a. Manpower Planning
b. Recruitment
c. Training
d. Promotion
e. Salary structuring
f. Employees' welfare

Civil Services – meaning and features

Advantages of having an independent, permanent and impartial civil service are as follows:

i. The spoils system has the propensity to degenerate into a system of patronage, nepotism and corruption. Having a credible recruitment process through an impartial agency provides a defense against such abuse.
ii. Public policy today has become a complex exercise requiring in-depth knowledge and expertise in public affairs. A permanent civil service provides continuity and develops expertise as well as institutional memory for effective policy making.
iii. A permanent and impartial civil service is more likely to assess the long-term social payoffs of any policy whereas the political executive may have a tendency to look for short term political gain.
iv. A permanent civil service helps to ensure uniformity in public administration and also acts as a unifying force particularly in vast and culturally diverse nations.
v. A permanent civil service like any other reputable profession is likely to evolve over time an ethical basis for its functioning.

Citizen and Bureaucracy

- At the heart of democracy lies the citizen. In the ancient state, the purpose of state was only threefold - defending the realm from external aggression, maintaining internal order, and rendering rough and ready justice. The bureaucracy was limited, and the might of the sword prevailed. In the medieval state, land relations were critical, and a somewhat larger bureaucracy was necessary in addition to the armed forces. In modern times, the state's role in creating common infrastructure and services became critical, and the bureaucracy's role expanded. In the 20th century state, helping the citizen fulfill her potential and eliminating avoidable suffering became the norm of Notes of a civilized state. Dignity, opportunity and justice became the new watchwords, and the role of bureaucracy vastly expanded.

- But despite democracy, we still have a highly centralized state. For a country of over a billion people, India has possibly the smallest number of final decision-makers in the public realm. The PM-CM-DM syndrome still dominates both our psyche and system. There is a near complete divorce between the vote and public good as a remote, centralized government has neither the will nor the capacity to address matters of real significance to the citizen - drinking water, sanitation, schooling, health care, electricity, roads, transport, agricultural productivity, market linkage, value addition, skill promotion and myriad other needs.

- The district magistrate has become the embodiment of state power. As a result, the periodic change of governments has not altered the outcomes or quality of services. Politics has become a power game and power the source of private fortunes. The vote has become a purchasable commodity, or a means of transient assertion without real consequences. Democracy is reduced to electoral competition for power and elections about the fortunes of those who contest and not about the citizen and voter. The tax payer has no clue about the utilization of resources, nor any voice in demanding, and role in getting, better services. The remote-controlled bureaucracy is totally unaccountable to the local people whom it is supposed to serve.

Core Principles for making civil services Citizen Centric are:

1. Rule of Law
2. Making Institutions Responsive and Accountable
3. Active Citizens' Participation - Decentralization and Delegation
4. Transparency
5. Civil Service Reforms
6. Ethics in Governance
7. Periodical Reforms

All India services, Central Services and State Services

- A unique feature of the Indian Administration system, is the creation of certain services common to both - the Centre and the States, namely, the All India Services. These are composed of officers who are in the exclusive employment of neither Centre nor the States, and may at any time be at the disposal of either. The officers of these Services are recruited on an all-India basis with common qualifications and uniform scales of pay, and notwithstanding their division among the States, each of them forms a single service with a common status and a common standard of rights and remuneration.

- Like other federal polities the Centre and the constituent states, under the Indian Constitution, have their separate public services to administer their respective affairs. Thus, there are Central or Union Services to administer Union subjects, like defence, income tax, customs, posts and telegraphs, railways, etc. The officers of these Services are exclusively in the employment of the Union Government. Similarly, the states have their own separate and independent services.

All India services

- The Constitution provides for the creation of All India Services (AIS) common to the Union and the States. The All India Services Act, 1951 provides that the Central Government may make rules for regulating the recruitment and the conditions of service of persons appointed to the All India Services. Presently only the IAS, the IPS and the IFS (Indian Forest Service) have been constituted as All India Services. Recruitment to these services is made under the corresponding AIS Recruitment Rules and may be done by Direct Recruitment (through Competitive Examinations) and by promotion from the State Service . The AIS Branch is concerned with the latter mode of recruitment which is governed by the respective IAS/IPS/IFS Promotion Regulations.

What are the different modes of recruitment to the All India Services?

There are two modes of recruitment to the All India Services;

i. Direct Recruitment: Through the Civil Services Examination for IAS and IPS and the Indian Forest Service Examination for the IFS. These Examinations are conducted by UPSC.
ii. Promotion/Selection: By way of promotion of the SCS/SPS/SFS officers to the respective All India Service and by way of selection of Non-State Civil Services (NSCS) Officers to the IAS.

Indian Administrative Service

- The Indian Administrative Service (IAS) is the direct descendant of the old Indian Civil Service. As an all India service, it is under the ultimate control of the Union Government, but is divided into State cadres, each under the immediate control of a State Government. The salary and the pension of these officers are met by the States. But the disciplinary control and imposition of penalties rest with the Central Government which is guided, in this respect, by the advice of the Union Public Service Commission. On appointment, the officers are posted to different State cadres. The strength of each State cadre, however, is so fixed as to include are serve of officers who can be deputed for service under the Union Government for one or more 'tenures' of three, four or five years before they return to the State cadre. The majority of individual officers have an opportunity of serving at least one spell of duty under the Union Government; many have more than one such spell. The practice of rotating senior officers in and out of the Secretariat position is known in official parlance as the tenure system.

- Another distinctive feature of this Service is its multi-purpose character. It is composed of 'generalist administrators' who are expected, from time to time, to hold posts involving a wide variety of duties and functions; for example, maintenance of law and order, collection of revenue, regulation of trade, commerce and industry, welfare activities development and extension work, etc. In brief, the

IAS is intended to serve all the purposes formerly served by the ICS except providing officers for the judiciary. Thus, this Service is a kind of generalist service, and its officers are liable for posting in almost any branch, of the administration.

Indian Police Service

- The Indian Police Service is an original all India Service (it had pre-in dependence origins) which differs from the IAS in two ways: (i) most of the officers in this service work only in the state since there are only a few police post sat the Centre and (ii) its pay scale and status are lower than those of the IAS. The officers of the IPS are recruited from the same unified All India Civil Service examination which recruits all members of the IAS, IFS and other Central Civil Services. Recruits to the IPS are first given a five months foundational training and later special training at the Sardar Pate1 National Police Academy, Hyderabad. The subjects of study and the training is drill, handling of weapons, etc., which have a direct bearing on the normal work of a police officer. The syllabus of training includes studies of crime psychology, scientific aids in detection of crime, methods of combating corruption and emergency relief. After completing a year's training, the probationer passes an examination conducted by the UPSC. He is, then appointed as an Assistant Superintendent of Police. But, before this appointment he has to undergo a year's programme of training; he is given practical training which requires him to do the work of various subordinate officers. It is only after this that he is appointed an Assistant Superintendent of Police.

- As an all India Service it is under the ultimate control of the Union Government, but is divided into state cadres, each under the immediate control of a state government. The Indian Police Service is managed by the Ministry of Home Affairs, though the general policies relating to its personnel are determined by the Department of Personnel and Administrative Reforms.

Indian Forest Service

- The Indian Forest Service is the only all India Service that has been set up after independence. It became operational by an Act of Parliament in 1963. Its pay scale and status is lower than that of the two original all India Services - the IAS and the IPS. Its recruits are chosen from an exclusive examination conducted by the Union Public Service Commission which consists of a written test and interview. Though it is an All India Service, its nature is not that of a generalized civil service, but is specialized and functional. It is managed by the Department of Personnel and Administrative Reforms which is in charge of making rules of recruitment, discipline and conditions of service regarding all India Services.

- After selection the appointees undergo a foundational course lasting three months along with successful candidates of the other all India and Central Services. After the foundation course, the probationers move to their own Academy (Indian Forest Institute) at Dehradun for a rigorous two year training course, the end of which they

have to pass an examination before final posting. The Indian Forest Service is cadre-based as in the case of other All India Services. Like all other All India Services, a member of this Service can come to the Centre on deputation but has to go back to his cadre after the period of deputation is over.

- Unlike the all India services, the Central Civil Services are under the exclusive control of the Central Government, its member positions only in the Central Government. The Civil Services of the Central Government comprise established services known as central civil service as well as civil posts created outside the established services, which constitute the general central service. Both the established central civil services and the civil posts are classified in the descending order of importance into Class I, Class 11, Class 111 and Class IV.

- It has often been pointed out that since the appointing authority is the same, there is no justification for classifying the services into the all India and central services. Though the appointing authority is the same, yet there is a significant difference between the two. Officers of all India services are employed to serve under the central as well as the state governments. Further, the members of IAS can be appointed to any office calling for duties of a general supervisory nature, while the officers of the central services are employed in jobs of specialized nature. Therefore, the distinction can be said to be justified.

Recruitment

- Recruitment to the Central Services Class I and I1 are made by the Union Public Service Commission on the basis of the unified all India Civil Service Examination.

The Indian Foreign Service (IFS)

- The Indian Foreign Service comes under Central Civil Service - Class I and was created after Independence. It is under the exclusive control of the Central Government and its members are recruited from the top few positions of the All India Civil Services examination. Among the Central Civil Services it is the top most in prestige, status, pay and emoluments and its recruits are asked, to serve in Indian mission and embassies abroad. It is managed by the Ministry of External Affairs.

- Also, involved in the management of the IFS are the Department of Personnel which determines the conditions of service and the Ministry of Finance which is concerned with the pay scales and other financial aspects of conditions of service. In matters of allowances the members of the 1Gian Foreign Service are more fortunate compared to other services. They are entitled to foreign allowance which are fixed with reference to: (a) local cost of living, (b) other expenditure

- which an officer serving abroad necessarily incurs either at home or abroad, over and above that an officer of corresponding grade serving in India, (c)representational expenditure, i.e., expenditure which while optional for a private

individual is obligatory for a member of the service resident, by virtue of his official position.

- The recruit of the IFS undergoes a training programme which covers a period of three years. He is attached to a district for some time to enable him to pick up contact with practical work, he also undergoes a period of secretariat training.

UPSC- Organization, Powers, Functions and Role

Historical Perspective

- The origin of the Public Service Commission in India is found in the First Dispatch of the Government of India on the Indian Constitutional Reforms on the 5th March, 1919 which referred to the need for setting up some permanent office charged with the regulation of service matters. This concept of a body intended to be charged primarily with the regulation of service matters, found a somewhat more practical shape in the Government of India Act, 1919. Section 96(C) of the Act provided for the establishment in India of a Public Service Commission which should "discharge, in regard to recruitment and control of the Public Services in India, such functions as may be assigned thereto by rules made by the Secretary of State in Council".

- After passing of the Government of India Act, 1919, in spite of a prolonged correspondence among various levels on the functions and machinery of the body to be set up, no decision was taken on setting up of the body. The subject was then referred to the Royal Commission on the Superior Civil Services in India (also known as Lee Commission). The Lee Commission, in their report in the year 1924, recommended that the statutory Public Service Commission contemplated by the Government of India Act, 1919 should be established without delay.

- Subsequent to the provisions of Section 96(C) of the Government of India Act, 1919 and the strong recommendations made by the Lee Commission in 1924 for the early establishment of a Public Service Commission, it was on October 1, 1926 that the Public Service Commission was set up in India for the first time. It consisted of four Members in addition to the Chairman. Sir Ross Barker, a member of the Home Civil Service of the United Kingdom was the first Chairman of the Commission.

- The functions of the Public Service Commission were not laid down in the Government of India Act, 1919, but were regulated by the Public Service Commission (Functions) Rules, 1926 framed under sub-section (2) of Section 96(C) of the Government of India Act, 1919. Further, the Government of India Act, 1935 envisaged a Public Service Commission for the Federation and a Provincial Public Service Commission for each Province or group of Provinces. Therefore, in terms of the provisions of the Government of India Act, 1935 and with its coming into effect on 1st April, 1937, the Public Service Commission became the Federal Public Service Commission.

- With the inauguration of the Constitution of India in January 26, 1950, the Federal Public Service Commission came to be known as the Union Public Service Commission, and the Chairman and Members of the Federal Public Service Commission became Chairman and Members of the Union Public Service Commission by virtue of Clause (1) of Article 378 of the Constitution.

- The Union Public Service Commission is a Constitutional Body established under Article 315 of the Constitution of India. The Commission consists of a Chairman and ten Members.

- Union Public Service Commission is a Constitutional Body, which has been mandated the responsibilities of making recruitment by conduct of competitive examinations as well as selection through interviews, advising on the suitability of officers for appointment on promotion and transfer-on-deputation, advising the Government on all matters relating to methods of recruitment to various services, framing & amendment of Recruitment Rules, disciplinary cases relating to various Civil Services, miscellaneous matters relating to grant of extra-ordinary pensions, reimbursement of legal expenses etc, advising the Government on any matter referred to the Commission by the President of India and on the request of the Governor of a State, to serve all or any of the needs of a State relating to recruitment, with the approval of the President.

- In order to fulfill its constitutional obligations, the Commission is supported by Officers/Staff broadly known as Secretariat of the Commission, headed by the Secretary. The Administration Branch of the Commission is entrusted with the functions of administering the Secretariat of the Commission as well as looking after the personal matters of Hon'ble Chairman/ Hon'ble Members and other Officers/ Staff of the Commission.

The Mandate of Union Public Service Commission

The Mandate of Union Public Service Commission Under Article 320 and 321 of the Constitution of India, includes:

1. Recruitment by conduct of competitive examinations;
2. Recruitment by Selection through Interviews;
3. Advising on the suitability of officers for appointment on promotion as well as transfer-on-deputation;
4. Advising the Government on all matters relating to methods of Recruitment to various services and posts; framing and amendment of Recruitment Rules;
5. Disciplinary cases relating to different civil services;
6. Miscellaneous matters relating to grant of extraordinary pensions, reimbursement of legal expenses, etc.
7. Advising the Government on any matter referred to the Commission by the President of India.
8. On the request of the Governor of a State, to serve all or any of the needs of a State relating to recruitment, with the approval of the President.

Methods of Recruitment is made by one of the following four methods:

1. Direct Recruitment
2. Promotion
3. Deputation/absorption; and
4. Composite Method (Deputation + Promotion)

Direct Recruitment

Direct Recruitment is conducted broadly under the following two methods:

1. Recruitment by Competitive Examination; and
2. Recruitment by Selection. Recruitment Through Examination The Commission conducts following examinations on a regular basis at various Centers located throughout the country for appointment to various Civil/Defense services/posts:

1. Civil Services (Preliminary) Examination;
2. Civil Services (Main) Examination;
3. Engineering Services Examination;
4. Combined Medical Services Examination;
5. Indian Forest Service Examination;
6. Geologists' Examination;
7. Indian Economic Service/ Indian Statistical Service Examination;
8. Special Class Railway Apprentices' Examination [Held every alternate year];
9. Combined Defense Services Examination [Held twice a year];
10. National Defense Academy and Naval Academy Examination [Held twice a year];
11. Central Police Forces (Assistant Commandants) Examination;
12. Section Officers/ Stenographers (Grade-B/Grade-I) Ltd. Departmental Competitive Examination;

a. A Calendar of examinations is published in the Employment News / RozgarSamachar, stating name of examination, date of notification, date of receipt of application & date of commencement of examination, well in advance normally in October of the preceding year and also displayed on the websitewww.upsc.gov.in

Constitutional Provisions	
Article - 315	Public Service Commissions for the Union and for the States.
Article – 316	Appointment and term of office of members.
Article – 317	Removal and suspension of a member of a Public Service Commission.
Article – 318	Power to make regulations as to conditions of service of members and staff of the Commission.
Article – 319	Prohibition as to the holding of offices by members of Commission on ceasing to be such members.
Article – 320	Functions of Public Service Commissions.
Article – 321	Power to extend functions of Public Service Commissions.
Article – 312	Expenses of Public Service Commissions.
Article – 313	Reports of Public Service Commissions.

Functions

- Under Article 320 of the Constitution of India, the Commission is, inter-alia, required to be consulted on all matters relating to recruitment to civil services and posts. The functions of the Commission under Article 320 of the

Constitution are:

- Conduct examinations for appointment to the services of the Union.
- Direct recruitment by selection through interviews.
- Appointment of officers on promotion / deputation / absorption.
- Framing and amendment of Recruitment Rules for various services and posts under the Government.
- Disciplinary cases relating to different Civil Services.
- Advising the Government on any matter referred to the Commission by the President of India.

State Public Service Commission

- Parallel to the Union Public Service Commission (UPSC) at the Centre, there is a State Public Service Commission (State Public Service Commission) in a state. The same set of Articles (i.e., 315 to 323 in Part XIV) of the Constitution also deal with the composition, appointment and removal of members, power and functions and independence of a State Public Service Commission.

Composition

- A State Public Service Commission consists of a chairman and other members appointed by the governor of the state. The Constitution does not specify the strength of the Commission but has left the matter to the discretion of the Governor. Further, no qualifications are prescribed for the commission's membership except that one-half of the members of the commission should be such persons who have held office for at least ten years either under the government of India or under the Government of a state. The Constitution also authorizes the governor to determine the conditions of service of the chairman and members of the Commission.

- The chairman and members of the Commission hold office for a term of six years or until they attain the age of 62 years, whichever is earlier (in the case of UPSC, the age limit is 65 years). However, they can relinquish their offices at any time by addressing their resignation to the governor.

- The governor can appoint one of the members of the State Public Service Commission as an acting chairman in the following two circumstances:

  a. When the office of the chairman falls vacant; or

b. When the chairman is unable to perform his functions due to absence or some other reason.

- The acting chairman functions till the person appointed as chairman enters on the duties of the office or till the chairman is able to resume his duties.

Removal

- Although the chairman and members of a State Public Service Commission are appointed by the governor, they can be removed only by the president (and not by the governor). The president can remove them on the same grounds and in the same manner as he can remove a chairman or a member of the UPSC. Thus, he can remove him under the following circumstances:

  a. If he is adjudged an insolvent (i.e., has gone bankrupt); or
  b. If he engages, during his term of office, in any paid employment outside the duties of his office; or
  c. If he is, in the opinion of the president, unfit to continue in office by reason of infirmity of mind or body.

- In addition to these, the president can also remove the chairman or any other member of State Public Service Commission for misbehavior. However, in this case, the president has to refer the matter to the Supreme Court for an enquiry. If the Supreme Court, after the enquiry, upholds the cause of removal and advises so, the president can remove the chairman or a member. Under the provisions of the Constitution, the advise tendered by the Supreme Court in this regard is binding on the president However, during the course of enquiry by the Supreme Court, the governor can suspend the concerned chairman or member, pending the final removal order of the president on receipt of the report of the Supreme Court.

- Further, the Constitution has also defined the term 'misbehaviour' in this context. The Constitution states that the chairman or any other member of a State Public Service Commission is deemed to be guilty of misbehavior. If he (a) is concerned or interested in any contract or agreement made by the Government of India or the government of a state, or (b) participates in any way in the profit of such contract or agreement or in any benefit there from otherwise than as a member and in common with other members of an incorporated company.

Independence

- As in the case of UPSC, the Constitution has made the following provisions to safeguard and ensure the independent and impartial functioning of a State Public Service Commission:

a. The chairman or a member of a State Public Service Commission can be removed from office by the president only in the manner and on the grounds mentioned in the Constitution. Therefore, they enjoy the security of tenure.
b. The conditions of service of the chairman or a member, though determined by the governor, cannot be varied to his disadvantage after his appointment.
c. The entire expense including the salaries, allowances and pensions of the chairman and members of a State Public Service Commission are charged on the consolidated fund of the state. Thus, they are not subject to vote of the state legislature.
d. The chairman of a State Public Service Commission (on ceasing to hold office) is eligible for appointment as the chairman or a member of UPSC or as the chairman of any other State Public Service Commission, but not for any other employment under the Government of India or a state.
e. A member of a State Public Service Commission (on ceasing to hold office) is eligible for appointment as the chairman or a member of the UPSC, or as the chairman of that State Public Service Commission or any other State Public Service Commission, but not for any other employment under the Government of India or a state.
f. The chairman or a member of a State Public Service Commission is (after having completed his first term) not eligible for reappointment to that office (that is, not eligible for second term)

Functions

- A State Public Service Commission performs all those functions in respect of the state services as the UPSC does in relation to the Central services:

a. It conducts examinations for appointments in the services of the state.
b. It is consulted on the following matters related to personnel management:

i. All matters relating to methods of recruitment to civil services and for civil posts.
ii. The principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another.
iii. The suitablility of candidates for appointments to civil services and posts; for to another; and transfers from one service to another; and appointments by transfer or deputation. The concerned departments make recommendations for promotions and request the State Public Service Commission to ratify them.
iv. All disciplinary matters affecting a person serving under the government of the state in a civil capacity including memorials or petitions relating to such matters. These include:
    - Censure (severe disapproval)
    - Withholding of increments
    - Withholding of promotions
    - Recovery of pecuniary loss
    - Reduction to lower service or rank (demotion)
    - Compulsory retirement

- Removal from service
- Dismissal from service

v. Any Claim for reimbursement of legal expenses incurred by a civil servant in defending legal proceedings instituted against him in respect of acts done in the execution of his official duties.

vi. Any claim for the award of a pension in respect of injuries sustained by a person while serving under the government of the state and any question as to the amount of any such award.

vii. Any other matter related to the personnel management.

- The Supreme Court has held that if the government fails to consult the State Public Service Commission in these matters, the aggrieved public servant has no remedy in a court. In other words, the court held that any irregularity in consultation with the State Public Service Commission or acting without consultation does not invalidate the decision of the government. Thus, the provision is directory and not mandatory. Similarly, the court held that a selection by the State Public Service Commission does not confer any right to the post upon the candidate. However, the government is to act fairly and without arbitrariness or malafides.

- The additional functions relating to the services of the state can be conferred on State Public Service Commission by the state legislature. It can also place the personnel system of any local authority, corporate body or public institution within the jurisdiction of the State Public Service Commission. Hence, the jurisdiction of State Public Service Commission can be extended by an Act made by the state legislature.

- The State Public Service Commission presents; annually, to the governor a report on its performance. The governor places this report before both the Houses of the state legislature, along with a memorandum explaining the cases where the advice of the Commission was not accepted and the reasons for such non- acceptance.

Limitations

- The following matters are kept outside the functional jurisdiction of the State Public Service Commission. In other words, the State Public Service Commission is not consulted on the following matters:

  a. While making reservations of appointments or posts in favour of any backward class of citizens.
  b. While taking into consideration the claims of scheduled castes and scheduled tribes in making appointments to services and posts.

- The governor can exclude posts, services and matters from the purview of the State Public Service Commission. The Constitution states that the governor, in respect to the state services and posts may make regulations specifying the matters in which, it shall not be necessary for State Public Service Commission to be consulted. But all

such regulations made by the governor shall be laid before each House of the state legislature for at least 14 days. The state legislature can amend or repeal them.

Role

- The Constitution visualizes the State Public Service Commission to be the 'watchdog of merit system' in the state. It is concerned with the recruitment to the state services and advises the government, when consulted, on promotion and disciplinary matters. It is not concerned with the classification of services, pay and service conditions, cadre management, training and so on. These matters are handled by the Department of Personnel or the General Administration Department. Therefore, the State Public Service Commission is only a central recruiting agency in the state while the Department of Personnel or the General Administration Department is the central personnel agency in the state.

- The role of State Public Service Commission is not only limited, but also recommendations made by it are only of advisory nature and hence, not binding on the government. It is up to the state government to accept or reject that advice. The only safeguard is the answerability of the government to the state legislature for departing from the recommendation of the Commission. Further, the government can also make rules which regulated the scope of the advisory functions of State Public Service Commission.

- Also, the emergence of State Vigilance Commission (SVC) in 1964 affected the role of State Public Service Commission in disciplinary matters. This is because both are consulted by the government while taking disciplinary action against a civil servant. The problem arises when the two bodies tender conflicting advice. However, the State Public Service Commission, being an independent constitutional body, has an edge over the SVC.

- Finally, the State Public Service Commission is consulted by the governor while framing rules for appointment to judiciary service of the state other than the posts of district judges. In this regard, the concerned state high court is also consulted.

Staff Selection Commission

Function of Commission

1. To make recruitment to (i) all Group "B" posts in the various Ministries/Departments of the Govt. of India and their Attached and Subordinate Offices which are in the pay scales the maximum of which is `10,500 or below and (ii) all non-technical Group "C" posts in the various Ministries/Departments of the Govt. of India and their Attached and Subordinate Offices, except those posts which are specifically exempt from the purview of the Staff Selection Commission.

2. To conduct examinations and/or interviews, whenever required for recruitment to the posts within its purview. The examinations would be held as far as possible at different centres and successful candidates posted, to the extent possible, to their home State/Region.

3. In particular, to hold Open Competitive Examinations for recruitment to the posts of:

   i. Lower Division Clerks in the various Ministries/Departments, Attached and Subordinate Offices of the Government of India including those participating in the Central Secretariat Clerical Service /Indian Foreign Service (B), Railway Board Secretariat Clerical Service and the Armed Forces Headquarters Clerical Service;
   ii. Grade "C" and Grade 'D" Stenographers of the Central Secretariat Stenographers Service and equivalent Grades of Indian Foreign Service (B) Railway Board Secretariat Stenographers Service/Armed Forces Head quarters Stenographers Service and to the posts of Stenographers in other Departments including Attached and Subordinate Offices of the Government of India not participating in the aforesaid Services;
   iii. Assistants in the various Ministries/Departments including Attached and Subordinate Offices of the Government of India including those participating in the Central Secretariat Service/ IFS (B)/ Railway Board Secretariat Service/Armed Forces Headquarters Civil Service;
   iv. Inspectors of Central Excise in different Collectorates of Central Excise, Inspectors of Income-Tax in different charges of the Commissioners of Income-Tax, Preventive Officers and Examiners in different Custom Houses, Assistant Enforcement Officers in Directorate of Enforcement;
   v. Sub-Inspectors in, Central Bureau of Investigation and Central Police Organisations;
   vi. Divisional Accountants, Auditors and Accountants under the Office of Comptroller and Auditor General of India and other Accounts Departments and Upper Division Clerks in Attached and Subordinate Offices of the Government of India.
   vii. Junior Engineer (Civil & Electrical) in CPWD, a Group 'C' Non-Gazetted, Non-Ministerial, General Central Services (Technical) post.
   viii. Statistical Investigators, Grade IV of Subordinate Statistical Service (SSC), a Group 'C' non-gazetted, non-ministerial post in the Ministry of Statistics and Programme Implementation
   ix. Tax Assistant (a Group C non – Gazetted Ministerial post in various Commissionerates of Central Board of Direct Taxes (CBDT) and Central Board of Excise and Customs)
   x. Section Officer (Commercial Audit), a Group "B" Non-gazetted post in the Indian Audit and Accounts Department
   xi. Section Officer (Audit) , a Group B Non-Gazetted post in the Office of the Comptroller and Auditor General

4. The Commission also holds Departmental Examination for promotion from: Group "D" to Lower Division Clerk Grade of the Central Secretariat Clerical Service and equivalent grades in Indian Foreign Service (B)/Railway Board Secretariat Clerical Service/Armed Force Hqrs. Clerical Service;

   i. Lower Divisional Clerks to Upper Divisional Clerks Grade of the Central Secretariat Clerical Service and equivalent Indian Foreign Service (B)/Railway Board Secretariat Clerical Service/Armed Forces Hqrs. Clerical Service;
   ii. Stenographers Grade "D" to Stenographers Grade "C" of the Central Secretariat Stenographers Service and equivalent grades in Indian Foreign Service (B)/Railway Board Secretariat Stenographers Service/Armed Forces Hqrs. Stenographers Service.

5. The Commission conducts periodical Typewriting Tests in English and Hindi.

6. The Commission prepares schemes for recruitment to all Group "B" posts which are in the pay scale of Rs 9300 to 34800 with a grade pay of Rs 42000 or below and Group "C" non-technical posts in the Ministries/Departmental of the Govt. of India including its Attached and Subordinate Offices in consultation with the Departments concerned.

7. The Commission conducts examinations/selections for recruitment to all Group "B" posts which are in the pay scales the maximum of which is Rs.10, 500 or below and all Group "C" non-technical posts in the Ministries/Departments of the Govt. from time to time.

8. The Commission performs such other functions as may be entrusted to it by the Central Govt. from time to time.

Election Commission

- The Election Commission is a permanent and an independent body established by the Constitution of India directly to ensure free and fair elections in the country. Article 324 of the Constitution provides that the powers of superintendence, direction and control of elections to parliament, state legislatures, the office of president of India and the office of vice-president of India shall be vested in the election commission. Thus, the Election Commission is an all-India body in the sense that it is common to both the Central government and the state governments.

- It must be noted here that the election commission is not concerned with the elections to panchayats and municipalities in the states. For this, the Constitution of India provides for a separate State Election Commission.

Comptroller and Auditor General of India

- The Constitution of India (Article 148) provides for an independent office of the Comptroller and Auditor General of India (CAG). He is the head of the Indian Audit and Accounts Department. He is the guardian of the public purse and controls the entire financial system of the country at both the levels the Centre and the state. His duty is to uphold the Constitution of India and laws of Parliament in the field of financial administration. This is the reason why Dr. B.R. Ambedkar said that the CAG shall be the most important Officer under the Constitution of India. He is one of the bulwarks of the democratic system of government in India; the others being the Supreme Court, the Election Commission and the Union Public Service Commission.

Financial Administration
Financial Administration : Objectives

- The vagaries of the market in the developed countries, have led to anenlarged scope of financial administration which is characterised by deficit budgets, massive public debt and deficit financing. Similarly, in the developing countries, where governments have assumed the role of a facilitator of development, fiscal policies and administration reflect a set of multiple objectives such as stability, development, self-reliance, reduction of interpersonal inequalities in income and wealth, and balanced regional development. Interestingly these countries also utilize the same instruments of action. Even though political ideologies, or economic doctrines are of crucial importance in the management of the affairs of the state, there are certain fundamental objectives of financial administration which transcend, politico-economic compulsions.

1. Management of the finances of public household
2. Implementation of projects and programmes
3. Provision for public goods and social services
4. Growth, Employment and Price Stability
5. Capital formation
6. Productive deployment of national funds
7. Facilitating smooth flow of parliamentary processes
8. Achieving equity and equality.

Principles of Financial Administration
The following may be listed as some of the important principles of financial administration

1. The principle of primacy of public interest, public choice and public policy
2. The principle of political direction and control
3. The principle of correspondence
4. The principle of unity of organisation and management
5. The principle of stability and balance
6. The principle of simplicity and flexibility
7. The principle of conduct, discipline and regularity

8. The principle of public trust and accountability.

Four Distinct Phases- Financial Administrative History of India

Period I (1765-1858) - Creation of structure and concretisation.
Period II (1860-1919) - Development of systems and Procedures.
Period III (1919-1947) - Democratisation and Decentralisation
Period IV (1950-till date) - Development orientation.

New Emerging Trends - Financial Administration in India

1. Regulation and control of fiscal deficit
2. Cutback on non-development expenditure
3. Development of zero base perspective
4. De-emphasised public sector
5. Non-bureaucratic delivery of public goods and services
6. Focus on decentralized responsibility for financing development plans
7. Towards deregulation and liberalization

Enactment and Execution of Budget
Budgetary Cycle

- In order to allow time for the executive and legislative processes to go through, budgeting is geared to a cycle. The process of approval is very significant in are possible form of government.

The cycle consists of four phases:

Preparation and submission;
Approval;
Execution; and Audit
At any given point of time, several cycles would be in operation and would be over lapping. Nevertheless, various segments of a cycle have different operational life.

Budget Preparation

- In India, budget preparation formally begins on the receipt of a circular from the Ministry of Finance sometime during September/October, that is, about six months before the budget presentation. The circular prescribes the time-schedule for sending final estimates separately for plan and non-plan, and the guidelines to be followed in the examination of budget estimates to be prepared by the department concerned The general rule is that the person who spends money should also prepare the budget estimates. Budget proposals normally contain the following information:

i. Accounts classification

ii. Budget estimates of the current year
iii. Revised estimates of the current year
iv. Actuals for the previous year; and
v. Proposed estimates for the next financial year.

Financial Year

- When the first modern budget was presented in 1860, the financial year adopted by the government was from 1st May to 30th April. Beginning with the year 1866, however, the financial year was changed to 1st April to 31stMarch, in conformity with the practice in England.

Everything you wanted to know about the Sen-Bhagwati debate

- The debate on economic policy has never been as riveting as it is today, with two giants from the world of academic economics, AmartyaSen and JagdishBhagwati, tackling each other on what India's governance priorities should be.

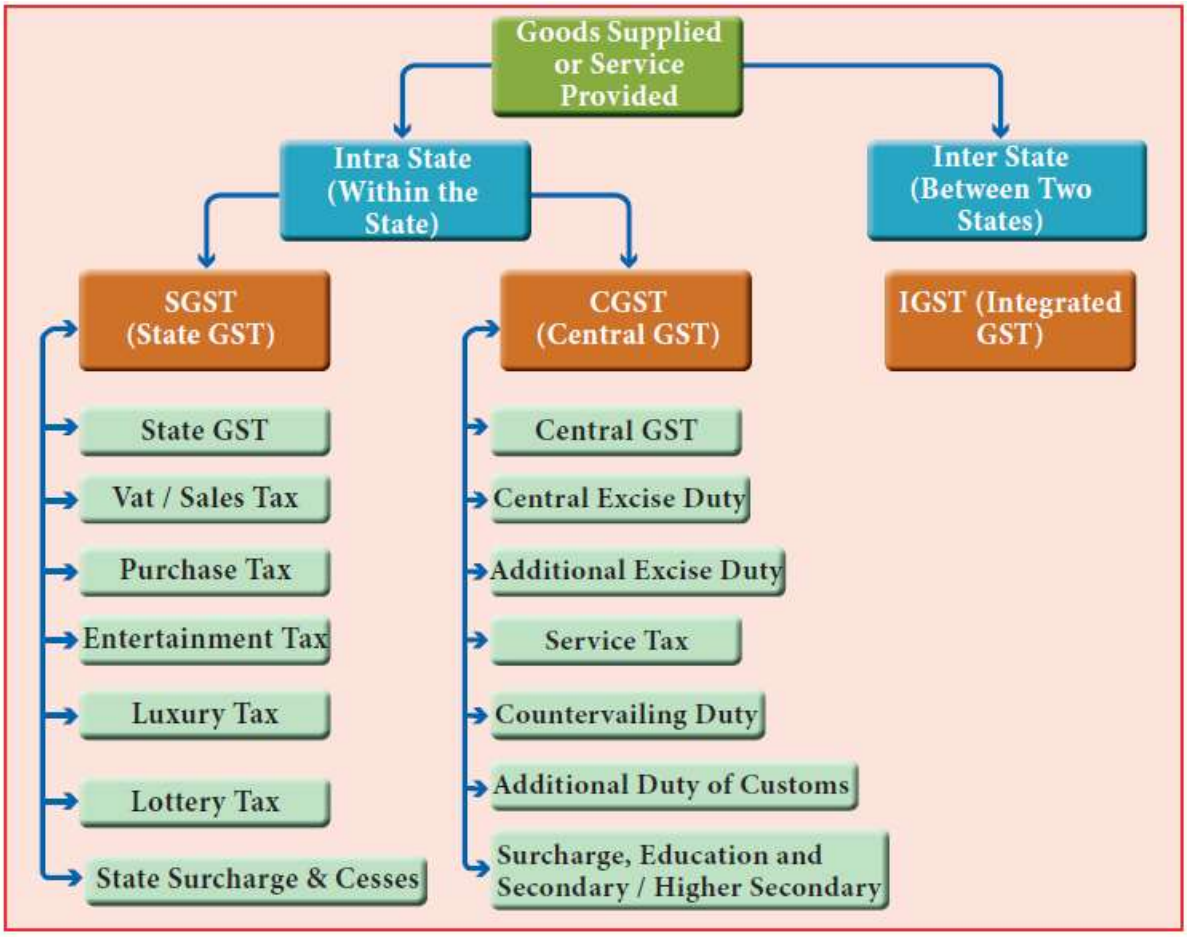
- The debate between two of the finest Indian economists AmartyaSen and JagdishBhagwati reflects the deeper question facing India's political leaders

- The debate on economic policy has never been as riveting as it is today, with two giants from the world of academic economics, AmartyaSen and JagdishBhagwati, tackling each other on what India's governance priorities should be. Sen is a Nobel Prize winner in economics and a professor of economics and philosophy at Harvard University. Bhagwati is a Columbia University professor of economics, who has been nominated for the top honour several times. Along with Sen and Avinash Dixit, he is considered to be among the three greatest Indian economists ever.

- While Sen believes that India should invest more in its social infrastructure to boost the productivity of its people and thereby raise growth, Bhagwati argues that only a focus on growth can yield enough resources for investing in social sector schemes. Investing in health and education to improve human capabilities is central to Sen's scheme of things. Without such investments, inequality will widen and the growth process itself will falter, Sen believes. Bhagwati argues that growth may raise inequality initially but sustained growth will eventually raise enough resources for the state to redistribute and mitigate the effects of the initial inequality.

- The debate on economic policy has never been as riveting as it is today, with two giants from the world of academic economics, AmartyaSen and JagdishBhagwati, tackling each other on what India's governance priorities should be.

Tax Structure in India



8th Civics	**Unit - 4**	Human Rights And Uno
9th Civics	**Unit - 3**	**Human rights**

Unit – 2
Human Rights and UNO

Introduction:

Everybody is born equal. Each individual inthe world has the right to lead a dignified life ofhis or her own choice. Human rights are related to individuals and society. Human rights denotes all those rights that are inherent and ensure that we live as free people and exercise our choices. The state's role is to ensure that people have equal rights.

What are Human Rights?

Human Rights are rights inherent to all human beings regardless of race, sex, nationality, ethnicity, language and religion. Human rights
include freedom from slavery and torture, freedom of opinion and expression and fair trial, the right to life work and education.

Where do Human Rights come from?

A set of basic rights and freedoms has deep roots in European and American countries.

a. Written Precursors of Human Rights Documents

The Magna Carta of 1215(England) - gave people new rights and made the king subject tothe law.

The Petition of Right 1628(England)- set out the rights of the people.

The Habeas Corpus Act of 1679(England)- an act for the better securing liberty of the subject

The English Bill of Rights of 1689- set out
certain basic civil rights.

The French Declaration on the Rights of Man and Citizen 1789 - a document of France, stating that all citizens are equal under the law.

The US Constitution and Bill of Rights 1791- safeguards the rights of the citizens.

b. The Birth of United Nations

The idea of human rights emerged strongerafter the Second World War. This War led tounimaginable violation of human rights. Duringthe times of war, human lives lost its value and those affected by war had to struggle till the end of their life. Atrocities during the Second World War made clear that previous efforts to protect

individual rights from government violations were inadequate. The rights of man were prevented or eliminated in several parts of the world due to several factors. It is proved that the government of some countries alone could not protect human rights. People wanted to ensure that never again would anyone be unjustly denied life, freedom, food, shelter, and nationality. These voices played a critical role in the San Francisco meeting in which the United Nations Charter was drafted in 1945. At this juncture, an International body, the United Nations Organisation (UNO) which was established on 24th October 1945 took up the issue. Human Rights is an important theme in all UN policies and programmes in the areas of peace and security, development, humanitarian assistance and economic and social affairs.

c. The Universal Declaration of Human Rights (UDHR)

One of the greatest achievements ofUnited Nations is the creation of human rightslaw. To advance this goal, the UN established a Commission on Human Rights. The Commission guided by Eleanor Roosevelt's (wife of former US president Franklin D Roosevelt) forceful leadership captured the world's attention. Finally, the Universal Declaration of Human Rights (UDHR) was adopted by the UN General Assembly in 1948. It is a milestone document in the history of Human rights. The Declaration was proclaimed by the UN GeneralAssembly in Paris, France on 10th December 1948(General Assembly resolution 217A). In remembrance of every year 10th December is observed as the Human Rights Day and its

Preamble of UDHR
All men are born free and all are equal in status and rights. They are endowed with intelligence and conscience and obliged to promote the spirit of common brotherhood amongst all men.

regular observance commenced from 1950. Itis also known as modern International Magna Carta of Human Rights. Its principles have been incorporated into the Constitutions of most of the (more than 185) nations. UDHR has been translated into more than 500 languages. It is the most translated document in the world.

The Cyrus Cylinder 539 BC (BCE)
Cyrus the Great, the first king of ancient Persia, freed the slaves and declared that all people had the right to choose their own religion and established racial equality. These and other decrees were recorded on a bakedclaycylinder in the Akkadian language in cuneiform script. It is translated into all six official languages of the United Nations and its provisions parallel the first four Articles of the Universal Declaration of Human Rights.

Human Rights are based on the values of

a. Dignity -The right to life, the right to integrity, the prohibition of enforced labour, slavery and degrading punishment.
b. Justice- The right to fair trial, proportional punishment to crime, the right not to be trialed more than once for the same crime

c. Equality- Equality before law. No discrimination on race, religion, gender, age, ability/disability etc.

Basic Characteristics of Human Rights

Inherent – they are not granted by any person or authority.
Fundamental – they are fundamental rights because without them, the life and dignity of man will be meaningless
Inalienable – they cannot be takenaway from the individual.
Indivisible – they can't be denied even when other rights have already been enjoyed .
Universal - they are universal. Theyapply irrespective ofone's origin or status. They are enforceable without national border.
Interdependent - they are interdependent because the fulfillment or exercise of one human right cannot be had without the realization of the other

Human Rights Day is celebrated annually on10th December every year. It is to honour the United Nations General Assembly for declaring the human rights universally.

Kinds of Human Rights

There are 30 Articles incorporated in theUniversal Declaration of Human Rights. These rights are broadly classified into Fiveprimary categories. They are as follows

a. Civil Rights

The term civil rightsrefers to the basic rights afforded by laws of the government to every person. This is the right to be treated as an equal to anyone else. It includes the rights to life, liberty, freedom from slavery and arbitrary arrest.

b. Political Rights

Political rights are exercised in theformation and administration of a government. The Civil and Political rights are directly related to modern democracy. They protect the individual from the misuse of political power and recognise every individual's right to participate in their country's political process. It includes the freedom of expression, and peaceful assembly, the right to take part in the government of one's country, the right to vote,the freedom of speech and obtain information.

c. Social Rights

It is necessary for an individual to fullyparticipate in the society. Social rights are those rights necessary for an adequate standard of living including the right to education, health care, food, clothing, shelter and social security.

d. Economic Rights

The right to participate in an economy thatbenefits all and to desirable work. Economicrights guarantee every person to have conditionunder which they are able to meet their needs. This includes the rights to employment and fair wage, the reasonable limitation of working hours, shelter, education and adequate standard of living, and the right to property.

e. Cultural Rights

The right to freedom of religion and to speakthe language and to practice the cultural life of the community, the right to share in scientific advancement, and right to the protection of moral and material interest.

The Difference between Human Rights and Civil Rights

Human Rights	**Civil Rights**
Human rights belong to everyone, everywhere,regardless of nationality sexuality, gender, race, religion or age.	Civil rights are those rights that one enjoys byvirtue of citizenship in a particular nation or state
Human rights are considered universal to allhuman beings and universal in all countries	Civil rights vary greatly from country to thecountry's or government to government. It is related to the Constitution.
No nation may rightfully deprive human rightsto an individual.	Different nations can grant or deny differentcivil rights and liberties.
Human rights are basic rights inherent with birth	Civil rights are creation of the society.

Human Rights Commission

The Economic and Social Council (ECOSOC), a principal organ of the United Nations was empowered to setup a commission for the promotion of human rights. National level and State level human rights commissions were established to ensure the protection of human rights.

a. National Human Rights Commission

The National Human Rights Commission (NHRC) of India was established on 12th October, 1993. It is an independent statutory,and non-constitutional body. Its headquarteris located in New Delhi. NHRC is a multimember body which consists of a Chairperson and other members. The President appointsthe Chairperson and other members. They are appointed for 5 years or till the age of 70 years whichever is earlier. NHRC has five divisions. Law Division, Investigation Division, Policy Research &

Programmes Division, Training Division and Administrative Division The National Human Rights Commission is responsible for the protection and promotion of human rights in India.

b. State Human Rights Commission

The state Human Rights Commission ofTamil Nadu was formed on 17th April, 1997.It functions at the state level. It consists of three members including a Chairperson. A state Human Rights Commission can inquire into violation of human rights related to subjects covered under State list and Concurrent list in the seventh schedule of the Indian Constitution. (not if NHRC already enquiring)

Human Rights Organisations

Many organisations around the world have taken their efforts to protect human rights and for ending human rights abuses. These Nongovernmental organisations monitor the actions of governments and pressure them to act according to human right principles. Some of these organaisations are Amnesty International, Children's Defense Fund, HumanRights Watch.

Indian Constitution Article
24 - prohibits child labour.
39(f) - provides for children to develop in healthy manner.
45 -provides that the state shall endeavor to provide early childhood care and education for all children until they complete the age of six years.

Child Rights

According to Article 1 of the United Nations Convention on the Rights of the Child 1989, 'a child means every human being below the age of eighteen years'. The Convention on the Rights of the Child was proclaimed by UN on 20th November 1989.

The child is considered as an importantnational asset. The future of a nation depends on how its children mature and develop. So protection of children from all kinds of exploitation and abuses has become the main objective of our society. There are laws in India protecting the rights of the children.

UNO has declared
1978 as International year of women.
1979 as the International year of children.

a. Right to Education Act

Article 21A provides that the state shall provide free and compulsory education to all children aged six to fourteen years.

b. The Child Labour Act (Prohibition and Regulation Act 1986)

It provides no child who has not completed 15years of age can be employed

c. The Juvenile Justice Act 2000 (Care and Protection of Children)

This Act tries to protect children deprivedof adequate care and to reform the children by adopting child friendly approach.

d. POCSO Act 2012

Protection of Children from Sexual OffencesAct regards the best interest of the child as being paramount importance in every state.

1098 Child Line This is India's first 24 hours' free emergency phone service for children in need of assistance. Special care is given for vulnerable children those affected by child labour, child marriage and children affected by any abuse.

Women Rights

Women and girl's rights are human rights.Women are entitled to the full and equal enjoyment of all of their human rights and to be free from all forms of discrimination. This is fundamental to achieve human rights, peace and security and sustainable development. The Charter of the United Nations guarantees equal rights to both women and men.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly, is described as an International bill of rights for women.

In 1995 the Fourth World Conference ofWomen, held in Beijing, developed a Platform for Action to recognise women's rights and improve women's livelihood worldwide, and follow-up meetings monitored progress towards meeting these goals. The United Nations Development Fund for Women (UNIFEM), has worked since1995 to implement the Beijing Platform forAction. Only when women and girls have fullaccess to their rights will true equality exist

Maintenance and Welfare of Parents and Senior Citizen Act 2007 This Act makes it legal obligation for children and heirs to provide maintenance to senior citizens and parents. Protection and support during old age are envisaged as human rights.

Legislations	**Provisions**
The Hindu Widow Remarriage Act 1856	Legalised widow remarriage.
The Hindu Marriage Act 1955	States that the marriageable age for women is 21.
The Hindu Succession Act 1956	Ensures the right to women to inherit their parental property.
The Dowry Prohibition Act 1961	Provides drastic punishments for those ill-treating the bride in the name of dowry
The Eve Teasing Act 1997	Gives relief to women.

Indecent Representation Act 1999	Prohibits the indecent representation of women in magazine, newspapers etc.
The Factory Act 1948, The Plantation Labour Act 1951, The Mines Act 1952 The Maternity benefit Act 1961	Protects the women workers.
Protection of Women from Domestic Violence Act 2005	Protects women from harassment by husband and family members.

Conclusion:

Human rights are about equality and fairnessfor everyone and it ensures that everyone is treated with dignity and respect. The protection of human right is everyone's responsibility. An understanding and respect for human rights provides the foundation for peace, harmony, security and freedom in our community.

APPOLO STUDY CENTRE

9th Book

UNIT 3 - HUMAN RIGHTS

The U.N.O defines Human rights as "The right inherent to all human beings, regardless of race, gender, nationality, ethnicity, language, religion or any other status. Everyone is entitled to these rights without discrimination."

Universal Declaration of Human Rights (UDHR)

The Universal Declaration of Human Rights is a milestone document in the history of human rights. It was drafted by the representatives with different legal and cultural back grounds from all regions of the world. The Declaration was proclaimed by the United Nations General Assembly in Paris on 10th December 1948 (General Assembly resolution 217A) as a common standard of achievement of all people and all nations. The first time it sets out the fundamental human rights to be universally protected and the UDHR has been translated into many languages.

There are 30 articles in the Universal Declaration of Human Rights and it guarantees freedom of expression as well as civil, political, social, economic and cultural rights. These rights apply to all people, irrespective of their race, gender and nationality, as all people are born free and equal.

This general explanation of Human Rights by UDHR is not a legally binding document; however it has a political and moral importance and many of its guarantees have become standard norms today.

Social, Economic and Cultural Rights

Social, economic and cultural rights are integral part of the human rights law that developed due to the aftermath of World War II.

Social rights are necessary for full participation in the society. Economic rights guarantee every person to have conditions under which they are able to meet their needs. They are a part of a range of legal principles through which economic equality and freedom are preserved in a State.

Cultural rights are human rights that aim at assuring the enjoyment of culture andits components in conditions of equality, human dignity and non-discrimination.

Civil and Political Rights

Civil and political rights protect an individual's freedom from infringement by the government, social organizations and private individuals. These rights ensure one's ability to participate in the civil and political life of the society and state.

The term 'Civil rights' refers to the basic rights afforded by laws of the government, to every person regardless of race, nationality, colour , gender, age, religion etc.,

Political rights exercised in the formation and administration of a government. They are given to the citizens by law. These rights give power to the citizens to participate either directly or indirectly in the administration.

Fundamental Rights in India

Fundamental rights are required for the all round development of a human being. They make the life of people meaningful by giving them rights like speech and to live in an area of their choice.

The fundamental rights are :

- Right to Equality
- Right to Freedom
- Right against Exploitation
- Right to Freedom of Conscience and Religion
- Cultural and Educational Rights for minorities
- Right to Constitutional Remedies

Right to Equality

It refers to equality before law and equal protection of law. Prohibition or discrimination on the grounds of religion, caste, races, gender or place of birth is offensive and one can seek justice from court

Right to Freedom

Six different types of freedom are mentioned in the Constitution. They are:

a. Freedom of speech and expression.
b. Freedom to assemble peacefully without arms.
c. Freedom to form associations and unions.
d. Freedom to reside and settle in any part of India.
e. Freedom to move freely throughout the territory of India.
f. Freedom to practice any profession and carry on any occupation, trade or business.

Right against Exploitation

It is against the law to employ children below 14 years of age in mines, factories or other occupations. Neither contractor nor an employer can force a worker to do a job against their will.

Right to Freedom of Conscience and Religion

This right gives the citizens freedom to follow and practice a religion of their choice. All citizens have the freedom of conscience or ideas. Th e citizens also have the freedom to follow their own ways for practicing any religion.

Cultural and Educational Rights

The Constitution gives us the right to preserve, protect and promote culture. We have the right to open schools, associations and societies to preserve and promote our tradition and culture. Similarly a group of people may open a school for imparting religious education to children. The government also promotes such activities by giving grants. However, such institutions cannot deny admission to anyone based on their caste, colour, creed or even religion.

Differences Between Human Rights and Fundamental Rights	
Human Rights	**Fundamental Rights**
• The rights that a human being deserves to survive with respect and freedoms.	• The elemental rights of the citizens of a country, which are listed in the constitution and enforceable under the law is known as fundamental rights.
• Human rights include those rights which are basic to a real life and are absolute, i.e. it cannot be taken away.	• Fundamental rights includes only those rights which are basic to a normal life.
• Human rights are recognised at international level.	• Fundamental rights are guaranteed under the constitution of the country.

Human rights as declared by the UN, suggest minimum standards of rights to be adopted by Government and these serve more or less like Directive Principles.

Right to Constitutional Remedies

Fundamental Rights are guaranteed by the Constitution. By this right, a person can adopt Constitutional means and approach a court if he is denied the Fundamental Rights. The court then issues orders which are called 'Writs' to the government to restore the rights to the citizen. The Constitutional Remedies put to right anything which may be wrong in terms of the Constitution. This right therefore protects and safeguards all other rights.

Fundamental Duties

These are in the form of duties and responsibilities of citizens. 'The original Constitution which came into force with effect from 26th January, 1950 did not contain Fundamental Duties.

These were incorporated in the Constitution by the 42nd Amendment Act in 1976. The Constitution states eleven Fundamental Duties as given below:

1. Respect for the Constitution and its ideals and institutions, the National Flag and the National Anthem.
2. To follow and cherish the noble ideals which inspired our National Struggle for freedom.
3. To uphold and protect the sovereignty, unity and integrity of India.
4. To defend the country and render national service when called upon to do so.
5. To promote harmony and spirit of common brotherhood amongst all the people of India, transcending religious, linguistic, regional or sectional diversities, to renounce practices derogatory to the dignity of women.
6. To value and preserve the rich heritage of our composite culture.

7. To protect and improve the natural environment including forests, lakes, rivers and wildlife and have compassion on living creatures.
8. To develop the scientific temper, humanism and the spirit of inquiry and reform.
9. To safeguard public property and to abjure from violence.
10. To strive towards excellence in all spheres of individual and collective activity, so that the nation constantly rises to higher levels of endeavor and achievements.
11. To provide opportunities for education by the parent and guardian to their child or ward up to the age of 14 years.

National Human Rights Commission

The National Human Rights Commission is an autonomous body constituted on **12th October 1993** under the protection of Human rights Act,1993. It consists of a chairman and few other members. NHRC is responsible for the protection and promotion of human rights in India defined by the Act as rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the international covenants.

Functions of NHRC

- To inquire into the violation of human rights or negligence in the prevention of such violation by a public servant
- To intervene in court proceedings relating to human rights
- To undertake and promote research in the field of human rights
- To engage in human rights education among various sections of society
- To encourage the effects of NGOs and institutions working in the field of human rights.

State Human Rights Commission (SHRC)

Every state in India has a **S**tate **H**uman **R**ights **C**ommission established in accordance with the power conferred on the state under section 21of the Protection of Human Rights Act, 1993. The protection and promotion of human rights constitute the principal concern of the Commission. Moreover, the procedures adopted by the Commission to conduct its proceedings, the suo motu actions taken on complaints regardless of the sources received and the transparency of the proceedings of the SHRC add strength to its functioning in a state.

Functions of SHRC

- The SHRC shall enquire into violation of human rights in respect of matters specified in the state and concurrent lists.
- Its objectives and duties are the same as NHRC, but confined only to the state. It has a chairman and two members.
- It has the power of a civil court and can take cognizance of cases if received or in suo motu.
- It can also recommend compensation to victims.

Child Rights

Apart from the fundamental rights described by the Constitution, we have to ensure certain other rights.A child is a person who has not completed the age of 18 years i.e. a minor as per UNO. This principle is exhibited in Articles 25 of the Universal Declaration of Human Rights. Based on these principles, the declaration of the Rights of the child was accepted and adopted in the UN General Assembly on 20th November, 1989 .

POCSO Act - Protection of Children from Sexual Offences Act

The Protection of Children from Sexual Offences Act, 2012 regards the best interest of the child as being of paramount importance at every stage.

Salient features of POCSO Act

- The Act defines a child as any person below eighteen years of age, to ensure the healthy, physical, emotional, intellectual and social development of the child.
- When the abuse is committed by a person in a position of trust or authority vis-à-vis the child, like a family member, neighbours or any other acquaintances.
- The statement of the child is to be recorded exactly as the child narrates.
- A child not to be called repeatedly to testify.

An ordinance providing the death penalty for rapists of girls below 12 years of age and other stringent penal provisions for rape has been promulgated in April 2018. The Criminal Law Amendment Ordinance, 2018, amended the Indian Penal Code . Another salient feature of this amendment is that the fine imposed shall be just and reasonable to meet the medical expenses and rehabilitation of the victim.

Contribution of Dr.B.R. Ambedkar

Dr.B.R. Ambedkar's contribution to labourers.

- Reduction in Factory Working Hours (8 hours a day)
- Compulsory Recognition of Trade Unions
- Employment Exchange in India
- Employees State Insurance (ESI)
- Minimum Wages
- Coal and Mica Mines Provident Fund

- Right to life
- Right to family environment
- Right to Education
- Right to benefit from Social security
- Right against sexual exploitation
- Right against sale or trafficking
- Right against other forms of exploitation like Child labour.

Right to life

A child has the right to survive even before its birth. The right to survival also includes the right to be born, the right to basic needs of food, shelter and clothing and a dignified living.

Right to Family Environment

A child has the right to live a normal childhood in a family environment. Children who have been left destitute, abandoned or orphaned also have the right to live. These children can be given for adoption to caring families.

Right to benefit from Social security

Children should get financial support from the country when their parents or guardians are unable to provide them with a good standard of living by themselves, due to any illness, disability or old age

Right to Education

Right to Education Act is an Act of the Parliament of India enacted in 2009 for free and compulsory education for children from 6 to 14 years of age as under Article 21A of the Constitution.

Right against sale or trafficking

Children should be treated as individuals with fundamental human rights. Children are vulnerable. There are root causes such as poverty, gender discrimination, broken families etc., behind the sale or trafficking of children.

Children are subjected to sale or trafficking for various reasons – economic exploitation, sexual exploitation, sexual abuse, drug trafficking and child labour.

Right against sexual exploitation

The state should protect children from sexual exploitation and abuse, when they are forced or persuaded to take part in sexual activities physically or mentally.

Right against other forms of exploitation like Child labour

Children are oft en employed in several industries. Th ese children are deprived of their childhood, health and education. Th is will lead to a life of poverty and want. These children are made to work in glass, match-box, lock-making factories, rag-picking, carpet – making industry, beedi - rolling, mining, stone quarrying, brick kilns and tea gardens etc. Work is mostly gender – specific, with girls performing more home – based work, while boys are employed as waged labour. Since these children work in agricultural fi elds, restaurants, motor repair workshops and home – based industries, elimination of child labour remains a challenge.

Women Rights

The **N**ational **C**ommission for **W**omen (NCW) is constituted in India to review the Constitutional and legal safeguards for women, recommends remedial measures and advises the government on all matters of policy affecting the welfare and development of women in the country.

In modern India, women have held high offices including that of the President, Prime Minister, Speaker of the Lok Sabha, Leader of the Opposition, Union Ministers, Chief Ministers and Governors.

Women's rights under the Constitution of India mainly include equality, dignity, and freedom from discrimination; additionally, India has various statutes governing the rights of women.

SC and ST Rights

Inorder to ensure the dignity and security of Adi Dravidars (mostly referred as Scheduled Castes in other States) and remove all forms of exclusion, marginalization, untouchability and discrimination the Government formulate policies, plans, budgets, schemes and programmes for ensuring the right to social equity, access to entitlements and right to dignity. These rights facilitate the betterment of their socio-economic conditions as well as conferring democratic and political rights.

Furthermore, the Scheduled Tribes constitute a total of 8.6 percent of India's population. They continue to practice their native norms and customs and on most occasions remain inaccessible to the rest of the world. This has become an important ground for the preservation of their rights.

Reservations

The state of Tamil Nadu provides 69% of reservation to the Scheduled Classes, Scheduled Tribes, Backward Classes, Most Backward Classes, Most Backward Classes, Denotified communities and Minorities. in employment and educational institutions. Government of Tamil Nadu provides inner reservations for Muslims in BC and for Arunthathiyar in SC category. The following table gives us a very clear picture of the percentage of reservations for various communities by the Government of Tamil Nadu.

Communities	Reservation in (%)
Backward Classes	26.5
Backward Class Muslims	3.5
Most Backward Classes/Denotified Communities	20
Scheduled Castes	18
Scheduled Tribes	3
Total	**69**

Under each reserved category and in General category 33% is reserved for women and 4% is reserved for differently abled persons. Special reservation offered to Arunthathiyars within the seats reserved for Scheduled castes. For persons studied in Tamil medium 20% seats are offered under each category on priority basis.

Right to Information Act (RTI)

The Right to Information Act is a revolutionary act that aims to promote transparency in the government institutions in India. This act was enacted in October 2005.

A common man can demand any government organization to provide information. The information must be provided within thirty days. If not, a fee will be collected as penalty from the concerned official.

It is one of the most powerful laws of the country. This act is people friendly; even an illiterate person can ask any Public Information Officer to write it down for him. All government agencies like Municipal Corporations, Government departments, Government Schools, Road Authorities, etc., come under this Act.

Through RTI one can get even copies of government documents such as records, reports, papers, etc., Personal information of individuals and organizations related to the country's defence and intelligence, such as BSF, CRPF, Intelligence Bureau are exempted from the RTI.

- Sign the Application form with your full name and address along with the date and send it through a registered post to the office of the concerned authority.
- If a reply is not received within 30 days, an appeal can be filed with the Appellate Authority.

Labour Rights

The Constitution ensures right to equality, equality of opportunity in public employment, right to form associations and unions, right to livelihood, prohibits trafficking, forced labour and child labour. Article 39(d) ensures equal wages to male and female workers for equal work.

"The rights of every man are diminished when the rights of one man are threatened" said John F. Kennedy. Civilized nations of the world insist on equality. Nations pay more attention on human rights to ensure equality. This helps in maintaining peace, harmony and development of the country.

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