LOVELY PROFESSIONAL UNIVERSITY

INDIAN POLITICAL SYSTEM

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SYLLABUS

Indian Political System

Objectives

To provide information regarding the happening in Indian Constitutional System to the students with the help of discussion and analysis on regular basis.

The main objective of this course is to make the students able to:

- Acquire information regarding the history of formation and development of Indian constitution.
- To understand the key concepts and processes related with Indian Political System.
- To apply the knowledge of Indian political system to the current political happenings of India.

S.No.	Topics
1.	Preamble of Indian Constitution.
2.	Fundamental Rights.
3.	Fundamental Duties.
4.	Directive Principles of State Policy.
5.	Union Government, Parliament and President.
6.	Prime Minister and Council of Ministers.
7.	The Judiciary: Supreme Court, High court, Judicial Review, Public Interest Litigation and Judicial Reforms.
8.	State Government: State Legislature, Governor, Chief Minister and Council of ministers.
9.	Indian Federalism: Centre-State relations; Legislative, Administrative, Financial and Political.
10.	Political Parties in India: Indian National Congress, Bhartiya Janta Party, Communist Party of India (M), Shrimoni Akali Dal.

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Unit-1: Preamble of Indian Constitution

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Objectives

After studying this unit, students will be able to:

- Understand the details of the Preamble of Indian Constitution.
- Understand the Importance of the preamble.
- Know the Date of Adoption of Constitution of India.
- Know the Interpretation of Nature of Constitution.

Introduction

Preamble of Indian Constitution is known as the Soul of our Constitution

After 42nd Constitutional amendment, the preamble stands as below:

We the people of India, commit to make and establish India a Sovereign, Socialist, Secular, Democratic Republic and further vow to attain it for the people of this country:

Justice and Right to Express Economical, Social, Political views and Right to express Opinion and Right to follow own faith;

Of Equal opportunities and level and see to increase sense of Brotherhood to enable us to attain Individual Dignity and heightened National solidarity;

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1.1 Preamble of Indian Constitution

Preamble of the constitution is the key to its Meaning and Nature. This applies on the Preamble of Constitution of India as well. **K. M. Munshi** referred to it as the Horoscope of Indian Constitution, in which Constitution's Fundamental qualities, Philosophy and Nature of Indian State is described. Preamble depicts the Fundamental Philosophy of Indian Constitution and plays a vital role in interpreting various articles of Indian Constitution.Pandit Thakur Bhargava has quoted; "Preamble is a very valuable part of our Constitution, this is the Soul of and Key to the Constitution. This is a key to look into the minds of the makers of the Constitution.This is a Diamond embedded in the Constitution. This is a beautiful Poem with lovely stanzas and complete in itself. This is an appropriate Benchmark, with which we can understand the Value of our Constitution".

Did u know? Preamble is the Heart and Soul of Indian Constitution.

We at our Constitution Making Committee, on the Day of November 26, 1949 finally make, pass and Handover our Constitution to us.

Socialism, Secularism and Integrity were not a part of Original Preamble and were included by the 42nd Amendment of Constitution in 1976.

Self Assessment

Fill in the Blanks:

1. ……is called as the Soul of Indian Constitution.
2. Socialism, Secularism and Integrity were included to the Preamble of Constitution in the year……
3. Indian Constitution was made on ……

1.2 Main Features of the Preamble

Preamble lets us know about those Objectives and Nature of the State of India, which shall be adopted and enacted by future GovernmentThis, expresses the Sovereignty of the masses and depicts the very date on which it was finally adopted by the Constitution making Committee. We can analyze the Qualities of the Preamble under following Four Heads:

(I) The Source of Authority-Popular Sovereignty

At the very first place, Preamble accepts the Principle of Sovereignty of the Masses and it starts with these words; "we the People of India", which clearly testifies the fact that Final Source of Authority lies in the People, Masses and Subjects of the Nation. Government gets its Power and Authority from the People, Masses and Subjects of the country only. Constitution's Fundamental Base and Sovereignty lies in the people of this country and its Sovereignty is assured by the people of this county only. Preamble further mentions that this is the desire of members of the houses that the Constitution's Roots, Authority and Sovereignty lie in the people of the country. According to ***Dr. Ambedkar***, in this particular aspect, Preamble of Indian Constitution is very similar to the Preamble of American Constitution and to the Preamble of Charter of United Nations.

Two members of the Constitution making Committee first refused to the use of word; "we the people of India". **H. V. Kamath** wanted to include the word; "In The Name of Lord "instead and some other members supported him as well .But after long debate and subsequent Voting done, this proposal was rejected due to it being 41 votes in favor and 68 against it. Another member Maulana Hazrat Mohani

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protested against these words that, the Constitution making Committed has been selected by small number of Voters and that too on the basis of Communal Voting Base and hence this Committee is not Comprehensively Representative to the People of the Nation. Therefore, this committee is not eligible to use these words. But Constitution committee rejected his suggestion too and it finally started as; "we the people of India "and which further throws light on the Sovereignty of the Masses. On 15th August 1947, British Rule Ceased to exist and it was necessary to have a Declaration like this after India became Sovereign Democratic Republic.

(II) Nature of State

Preamble describes Five Qualities of India as a Country. It declares India as a Sovereign, Socialist, Secular, and Democratic Republic. Initially Preamble did not have Socialist and Secular words as its part, but later on included by 42nd Amendment of 1976. We need to explain each of the five qualities of Indian State , as mentioned :

(1) India is a Sovereign State: Preamble declares India as a Sovereign State. Such a Declaration was required to put a final nail in the British Empire Coffin. It also reaffirms that India is no longer a region dependent or under British Crown nor is anymore part of its colonial territory. This further technically reaffirmed the end of Dominion State Status to India after British Empire ceased to exist on and after 15th August, 1947. Dominion Status ended after Constitution making Committee adopted it and India emerged as Sovereign State. It declared the result of struggle for Independence and emphasized that India has the Right to Decide on its Internal and External matters and is free to implement it on its masses.

But some critiques are not comfortable with India being a part of Commonwealth as it limits its Scope of Sovereignty, as British King/ Queen is the Head Designate of the Commonwealth. But this argument is not correct as after 1949, Commonwealth has now become a Group of such sovereign Nations, who try to further their national interest collectively as a group with the help of its members. India's inclusion into Commonwealth depends entirely on India and it is a Goodwill activity. There is no place for British King/Queen in Indian Constitution merely by being Head of Commonwealth. India has got nothing to do with them. Commonwealth is a Group of Independent Nations and British King/Queen is only the Symbolic Head of it (Nehru). ***Prof. Ramaswamy*** correctly quotes as; India being a part of Commonwealth is only Goodwill intent and it has got no Constitutional Importance.

Thus the Preamble of Constitution declares India as Sovereign State. Word Sovereign gives the Indian State power of Sovereignty both internally and externally. It further reaffirms that Indian State if Free to act in all Internal and External matters and is not dependent /under any External Power.

(2) India is a Socialist State: Though Indian had the feeling of Socialism from the very beginning, yet it was formally introduced in 1976 through the Constitutional Amendment. Socialism is now an important Feature and Quality of Indian Constitution. This further depicts that the State if India is committed to end exploitation by doing justful distribution of Income, Resources and Wealth and is further committed to bring the people of India Social, Economical and Political Justice. But we need to attain Socialism not by Marxist/Radicalist moves, but by adopting Peaceful, Consitutional and Democratic ways and means. Literary meaning of Socialist Nation in Indian context is that, India is a Democratic Socialist State, which further confirms its commitment towards bringing Social, Economical justice to the masses by adopting Democratic means. India is committed to bringing Social, Economical and Political Equality and to bring Universal Welfare and Development to the nation. But State of India does not approve the use of Red-Tapism to attain this goal. India is open to Political and Economic Liberalization to attain the objective of Socialist State. But 1991 liberalization has put a question mark on the future of Socialism in India.

(3) India is a Secular State: Secularism has been given a special space in the preamble of constitution by the 42nd constitutional Amendment. After its inclusion, feature of Secularism gets a boost in the Indian Constitution. As a State, India does not favor any particular Religion. There is no Official/State Religion

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in the State of India. It distances itself from the likes of Islamic Republic of Pakistan or any other Islamic Nations. Moreover, India has adopted Secularism by giving Equal Practicing Rights and Status to all its religions. This is assured by the articles from 25-28 of the constitution. It assures Rights to Equality to all its citizens without Bias and arrange to the protection of minority rights and existence. State does not interfere in the Religious Autonomy of its citizens and does not approve of any tax, cess, Levi in the name of religion. Alexandrowicks writes; India is a State which ensures religious liberty constitutionally and does not favor any particular religion. Secularism is an integral part of the Constitution and Preamble clearly mentions this particular aspect.

(4) India is Democratic State: Preamble declares India as a Democratic State and arranges for a Democratic Process in the Indian constitution. Authority of the State hinges on the Sovereignty of its citizens. People have Equal Political Rights. Common Adult Voting Rights, Right to contest elections, Right to join Government Jobs, Right to establish Institutions, Right to Criticize and protest Government policies, Freedom of Expression and Speech, Freedom of Press and Peaceful Association/gathering have been given to all of its citizens. On the basis of these political rights, people take part in Indian Politics. They get their Government elected. Government is accountable for all of its activity before the electorate. People can change the Government by elections. Government has limited powers. It can function under the ambit of the Constitution only, people are sovereign and they possess Fundamental Rights. Supreme Court of India is the Custodian of the Fundamental Rights accorded to the public. Elections are conducted as per fixed schedule and they are independent, neutral and regulated. To Protect Human Rights, Parliament passed Human Rights Bill in 1993 and a Human Rights Commission too was established.

Constitution has arranged for a Parliamentary Democracy which is based on British model. There is a strong relationship between Parliament and Executive and Executive is responsible to the Government of Parliament for all its actions. Parliament can remove the Executive by passing a No Confidence Motion. Prime Minister H.D. Devgowda had to resign in April 1997, when his Government failed to pass through a No Confidence Motion test. After this ,next Coalition Government in the leadership of Indra Kumar Gujral succeeded in securing majority in parliament and continued to be in power till March 1998 elections. After 12th parliamentary elections, BJP made a Coalition Government at Centre which lost its majority in April 1999 and UPA made Government post 2004 elections. After succeeding in 2009, UPA is enjoying its Second Term as Government and kept working as Interim Government till 13th Parliamentary elections.

It establishes the fact that India is a State where Change of Government is done through peaceful, organized and democratic process.

(5) India is a Republic State: Preamble declares India as a Republic State. India is not ruled by any King or nominated Personality. Head of the State is an Elected Head who discharges his/her duties for a stipulated time frame. **Madison** mentions while defining Republic; "it is a Government which derives its powers from the grand institution of people/masses/citizens directly or indirectly and is run by people who can continue to run till the time they are justifying it, as per the will of the masses". India fulfills those conditions and hence it is a Republic. **D.D. Basu** while explaining the word Republic in the Constitution quotes; Not only we shall have an Elected President in place of Ancestrical Leadership style, but there shall be no other special leadership category and all posts from lowest levels to highest levels (including that of president) shall be open for all irrespective of caste, creed, culture, religion, faith etc.

The Republican nature of Indian State does not confront with its Commonwealth status at all. There is no merit in the statement of former Australian Prime Minister Sir Robert Mezizz that, "we can't have a Republic which is part of Commonwealth and accepts British throne as its leader". Indian in practice and totality is a Sovereign Republic. Commonwealth membership is its willful decision. Commonwealth is similar in nature as that of United Nations and functions on the basis of Goodwill and Brotherhood and Supremeness of British Throne is only symbolic.

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(III) Objectives of the State

Preamble of the constitution mentions four major objectives, which have to be made available to all of its citizens.

(1) Justice: Indian Constitution accepts the objective of Social, Economical and political Justice to all its citizens. Main goal of Independence struggle was to attain social system based on Social, Economical and Political Justice. By social justice system it implied that there should be no special treatment category of people and the people of India should not be discriminated on the basis of caste, creed, religion, region, faith etc. India has accepted Social Justice as an Objective. For this goal, constitution gives Right to Equality to all its citizens and prohibits untouchability and ensures special support system for disadvantaged sections of the society.

Economic Justice implies that there shall be no discrimination between people on the basis on Income, Wealth and Economic levels. It will have Equitable Distribution of Wealth and commitment to have a Welfare State by eradicating monopolistic control on wealth/resources and by ensuring equal opportunity of subsistence to all its citizens. The objective of Directive Principles is to ensure a Welfare State by having Social/Economic Justice to all. Commitment to Socialism also entails having Social/ Economical Justice system.

Political Justice implies giving equal political opportunities to all its citizens in the political process irrespective of caste, colour, creed, religion, region, faith etc. Indian Constitution gives equal rights to all citizens to elect their representatives and get Government jobs, getting right to Government jobs also ensures political rights to the masses. Thus Social, Economic and Political Justice is a major objective of Constitution. Though Political Justice has been achieved by adopting liberal Democratic system, Social and Economical Justice is yet to be achieved in totality.

(2) Liberty: Preamble declares Liberty as its second major objective. It is the duty of the State to protect Liberty of people, to ensure freedom of speech, to ensure religious freedom, to ensure people follow their faith as per their own way. To confer it as a fundamental right is also carrying same notion so as to let people develop and mature as free human being, which is an integral part of living decent life.

(3) Equality: Preamble declares Equality as its third major objective. It has been presented in two parts; (i) everybody is equal in front of law (ii) under article 14 and 15, Constitution offers each Indian access to opportunity thereby ensuring Right to Equality irrespective of caste, creed, religion, and colour faith etc. Under Article 16, constitution offers each Indian similar and unbiased opportunity. Besides, it provides protection to Women and Children as being weaker component of the society.

(4) Fraternity: Preamble clearly mentions that State's duty is to promote Fraternity and Brotherhood amongst citizens, so that people can have Sentimental and Psychological Unity. It also contains Human Respect and National Unity and Integrity as an objective. Human Dignity had been given very high Importance in our freedom struggle. Our freedom struggle was inspired on the basis of equal treatment to all and ending biased treatment, which was practiced by British. Hence it has been said in the Preamble that Human Dignity and National Unity should be promoted in order to have increase Brotherhood and Fraternity. This objective is in conformity with Human Rights Declaration as well.

This way, Fraternity is an important objective of Indian constitution.

(IV) Date of Adoption and Enactment of Constitution

It has been registered in the historic last section of the Preamble that Constitution has been adopted on November 26, 1949. Same very day, head of the Constitution making Committee signed it and declared it as Enacted.

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(V) Self Made Constitution

Indian Constitution is self made constitution. It has been prepared, adopted and enacted by representatives elected by the people of India. But some critics argue that this is not a universally accepted one as it never went through plebiscite. But other Constitutional experts reject this argument on the basis that, Constitution making committee represented the people of this country and their view points absolutely and preparing, adopting and enacting the Constitution invariably meant it to be having support of entire Indian electorates and masses. Even American Constitution was never subjected to plebiscite and hence Indian Constitution is totally inspired, prepared, adopted and enacted by the people of India.

Self Assessment

Multiple Choice Questions:

4. Which word is not a part of Preamble of Constitution?
   (*a*) Casteism (*b*) Socialism
   (*c*) Integrity (*d*) Secularism
5. Word 'Socialism' was included in Preamble of the Constitution in which year?
   (*a*) 1975 (*b*) 1976
   (*c*) 1977 (*d*) 1978
6. Right to Religious Equality has been mentioned in which article?
   (*a*) Article 25 to 28 (*b*) Article 25 to 29
   (*c*) Article 28 to 35 (*d*) Article 25 to 30
7. Some words were added to the Preamble of the Constitution by the ……. amendment?
   (a) 38th (b) 42nd (c) 36th (d) 44th

1.3 Importance of the Preamble

It becomes easy to understand the importance of Preamble after understanding its qualities. It presents the philosophical aspects of the Constitution and expresses its objectives. Chief Justice **Subbarao** rightly said; "whatever objectives have been estimated and fixed in the Constitution, can be easily understood with its Preamble". It clearly depicts its ideals and hopes. Similarly Chief Justice **Hidayatullah** said; "Preamble is equivalent to the Declaration of American Independence, but it certainly is more than this". It is the soul of our constitution and it guides our political society in such a way that it declares it as Sovereign Democratic Republic. It has such a strong commitment which can't be changed unless there is a revolution. Indeed, Preamble is the key to details of Constitution. It talks about Principles, Objectives and Ideals and philosophy of the Constitution. It is an integral part of the Fundamental Constitutional Structure. On the basis of this Preamble itself, Indian Constitution commits itself for a Social Revolution. Preamble depicts those thoughts and values, which Constitution of India is committed to attain.

Is the Preamble a part of the Constitution?

While opining on suggestion asked by President concerning transfer of Berubari union and some other areas, Supreme Court said; "Preamble is a key to the thought process of its makers, but not a part of Constitution. But later on while giving verdict on Keshavanand vs. Government of India, it changed its decision and ruled that Preamble is part of the Constitution even if it is not implementable, yet it is a part. Actually it is an integral and vital part of Constitutional fundamental structure. Indian Parliament

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has accepted this fact and hence by passing 42nd Amendment of Constitution, some words have been added to it. Thus now Preamble is considered as a very pious part of our Constitution. "Preamble is the soul of our Constitutional" as it contains Fundamental Principles and it throws light on the Fundamental Construct of the Constitution. It defines the Fundamental Structure of the Constitution and therefore it itself is an important part of the Fundamental Structure.

Task Express your views on the importance of the Preamble of Constitution.

1.4 Indian Constitution: Salient Features

Indian Constitution on account of its mixture of extensive size, Unity, Federal Structure, Rigidity and Flexibility and with its blending of provisions for fighting contingency situations is a wonderful creation which has been successfully working since 1950. Constitution makers endeavored to have a more Practical Constitution, which can help the State to attain National Unity and Integrity and growth and which can provide a base for Nation Building and Social and Economical Rebuilding. Therefore they tried to adopt those qualities of other Constitutions which could help them achieve these goals as per Indian perspective and national requirement and they were quite successful in doing so. **Dr. Ambedkar** spoke in the Constitution making Committee; "as per me, this constitution is very practical, flexible and it is very strong to keep our Country United both in times of peace and war. I can honestly say that if this Constitution gets any errors, it can't be attributed to its weakness, but because of human errors".

We can describe Salient Features of the Constitution in following way:

1. Written and Detailed Constitution: Indian Constitution is a Written and Extensive Document. There are 444 Articles which are divided in to 22 parts and it includes 12 Schedules and it has been amended 103 times as well. **Jennings** calls it as "world's largest written Constitution". It is larger than American constitution which has 7 Articles and 27 Amendments and with Japan and France too which have 103 and 92 Articles respectively.

Constitution makers did not want to overlook any aspect, as they were fully aware of various Social, Economical and Political issues to come up in Independent India. Adding special and unique features like Directive principles, provisions for Contingency situations, Linguistic provisions, provisions for SC/ST and other backward classes, Election Commission, UPSC and other State Civil Services provisions, made it very lengthy and exhaustive. Common Constitution for Centre and State both also helped in making it large and lengthy. Besides, detailed description on Fundamental Rights, Centre-state Relationship, and different schedules of Constitution made it grow more in length. Due to this reason only, it went on to become a 400 page book. Thereafter, periodic amendments also caused it to grow even lengthier.

Due to its gigantic size only, it has been condemned by terming it as "Advocate paradise "and use of more and complicated words made it more complexed and rigid. But as mentioned before, its large size was due to its intent of including each subject and providing solution to various contingencies. After its enactment since 1950, it does not appear that its size has been issue in the working of the Government except some provisions like Right to property (which has been removed from part III), it has never been a problem, and rather it has provided a solid base to National Integrity and Unity both in times of war and peace.

2. Self Made and Enacted Constitution: Indian Constitution is such document which has been prepared by representatives of people's elected Constitution making Committee. This Committee was constituted in December 1946 under the aegis of Cabinet Mission. First Convention took place on December 9, 1946 and passed its Objective proposal on January 22, 1947. After this, it started working on preparing and

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adopting it rigorously and succeeded in passing and adopting it on November 26, 1949. Hence Indian Constitution is self made and has been passed rationally. Some critiques don't accept this on the basis of its low representation (less than 20% of the population) and its communal bases voting system. But scholars in large numbers don't accept this argument. They are of the view that Constitution making committee represented the masses totally and they exercised their Sovereign rights as received from the people of the country to perform this duty.

3. Preamble to the Constitution: Preamble of the Constitution is such a beautifully document which describes the philosophy and objectives of the Constitution. It declares that India is such Sovereign, Socialist, Secular, and Democratic Republic that it ensures to provide Justice, Liberty, and Equality to masses and ensures to promote and establish Fraternity, Human Dignity, and National Integrity and Unity and is committed to doing it. Initially Preamble was not considered as part of Constitution, but in the case Keshavanad Bharti Vs Government of India, it was ruled that Preamble is an integral part of our Constitution. Words like Socialism, Secularism and Integrity were included in it by the 42nd Constitutional Amendment.

4. India is a Sovereign, Socialist, Secular, and Democratic Republic: as declared in the Preamble, India is a Sovereign, Socialist, Secular, Democratic Republic. These qualities express five major features of Indian State.

(*a*) India is a Sovereign State: Preamble declares India a Sovereign State. It was essential as India attained freedom and it was no longer a part of British Empire. This helped to remove the technical effect of Dominion Status as got on 15th August, 1947. After Constitution was adopted by the Constitution making committee, this status ceased to exist and India appeared on the world map as an absolutely Independent country. India declared result of its freedom struggle and confirmed that it is free to take decision on its internal and external matters and also free to implement it.

(*b*) India is a Socialist State: though from the very beginning , preamble had the feeling of Socialism, yet to emphasize, it was officially included by the 42nd Amendment in 1976.it proves that India is committed to finish exploitation, equal and justful distribution of wealth and resources and attaining Social, Economical and Political Justice for its people. But it has to be achieved by the peaceful, democratic and constitutional means and not through Marxist/ revolutionary style. The word Socialist literally implies that India is a Democratic Socialist country. We can have an idea about the Social/Economical commitment of State by this, which has to be achieved by the Democratic Process and organized planning. But after 1991 liberalization and Globalization, it has put a question mark on the future of Socialism.

(*c*) India is a Secular State: Word Secularism has been added along with other specific words, by the 42nd Amendment to the Preamble. Including this in the Preamble also reiterates State's intention to provide Religious freedom. As a State, it does not offer any specific status to any religion. There is no Official or State Sponsored Religion. Thus it distances itself from Islamic State of Pakistan and other Islamic States. Positive aspect is that India has a Secular policy for all of its citizens and each religion has been given equal rights and liberty. From Article 25-28, Constitution provides Right to Religious Liberty to all its citizens. It provides Equal Rights to all its citizens without any bias and tries to protect the interest of minorities in a bigger way. State does not interfere in the religious affairs of the citizens and does not apply any tax, cess, Levi for fulfilling its religious objectives.

(*d*) India is a Democratic State: Preamble declares India is a Democratic State. Indian Constitution establishes a Democratic System, authority of the Government hinges on people's sovereignty. People have equal political rights for example; common adult voting right, right to contest election ,right to get Government job, right to establish Institutions and right to criticize and protest against Government policies. On the basis of these rights, people take part in the political process. They elect their own Government elections are conducted on fixed schedule and in case of need. These elections are fair, neutral and independent and Government is accountable to the public for all its activity. People can change Government through elections. In April 1997, **Devegowda** Government had to resign as it failed to secure Confidence motion in parliament. In April, 1998, headed by Shri Atal Bihari Vajpayee. B.J.P. the

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coalition Government has handled the load but also government rule-April 1999 due to shortage of one vote and thus 12th Lok Sabha was dissolved and people again got option to elect its own Government. In the elections of Sep-Oct 1999, National Democratic Alliance came to power and formed Government on Oct 13, 1999 which ruled until April 2004. Then on the basis of election results of 14th Lok Sabha, UPA formed Government in May 2004. In the elections of 2009, it again came to power and formed Government and still is ruling. Thus India has a dynamic Democratic System and it works peacefully and in an organized way to change authority. Government represent public and electoral mandate and is accountable to the people of the country for all its activities. Indian democracy has the distinction of being the largest Democracy of the world and credit goes to our Constitution for making it happen.

(*e*) India is a Republic: Preamble declares India a Republic. It is not ruled by any King or its nominated leader. President of India is elected by the electing body made up of members of Vidhan Sabha of both Centre and States and his tenure is of 5 years. There is no confrontation of being a Republic and being a member of Commonwealth.

5. India is a Union of States: Article 1 of the Constitution states that India is an amalgamation of States. It does not declare it as either a Federal or Unitary State. It brings to the fore two major points –first being that India is not such a State which has come to existence by the consent of different sovereign regions as is the case with USA and second is that, all the regional constituents of India don't have a right to separate it from the Indian State. Constitution has divided India into 29 parts from A, B; C and D. after restructuring in 1956, India was divided into 16 States and 3 Union Territories. Gradually after so many changes and Sikkim's inclusion into Indian Union, number of States has been changing. Current India has 28 States and 7 Union Territories.

6. Federal Structure and a Unitary Spirit: Indian Constitution establishes a Federal Structure with the blending of unitary sentiment only. Scholars sometimes refer India as Quasi Federation (KC wheere) or Federation with Unity base or Federal Unitary system. As a Federal State, Indian Constitution ensures the following: (a) balance of power between Centre and States (b) written and strong constitution (c) supremeness of constitution (d) independent judicial system which has the right to resolution in case of centre state dispute (e) Dual Housed parliament. But Constitution clearly ensures a Unitary Spirit alive by having strong Centre, common constitution, single citizenship, provisions for contingency situations, common election commission, common all India public services. The mixture of Federal and Unitary system has been done keeping in view the National Interest/Integrity and due to the diversity in nature and regions of the country. The first point forced it to adopt Federal Structure and second one made it essential to have Unitary Spirit alive. Thus Indian Constitution neither is totally Federal nor Unitary, rather a mixture of two. It is partially Federal and partially Unitary (**D.N. Banerjee**).

7. Mixture of Rigidity and Flexibility: on some subjects, Indian Constitution is too rigid to be amended. On subjects it can be amended only after huge and difficult exercises whereas, there are some subjects, which can be easily amended. In some cases, parliament can amend a particular part of the constitution by only passing a Bill for example; creation of new state, increasing /decreasing area of an existing State, rules related with citizenship, rules concerned with establishing or dissolving Legislative council of any State. Under Article 249, it can bring any State Subject under the purview of Centre (national importance) with a simple majority of 2/3rd in Rajya Sabha and centre can have the authority to make laws/pass bills for it for a period of 1 year. Similarly, under Article 312, it can introduce/terminate any National Level Service. This particular quality of Constitution reflects its Flexible aspect.

Under Article 368, there are provisions for amending difficult/complexed parts of Constitution:

(1) In most of the cases, amendments can be done by the majority members of both houses and by 2/3rd number of present members, by passing a bill in the parliament by both houses

(2) In some special cases, there is a very rigid process for amendment. In some cases, first it has to be cleared by majority of total parliament numbers and by 2/3rd majority of present members by passing a bill in the parliament by both houses. After this, it has to be vetted by minimum half of the total

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number of Indian State's Vidhan Sabha. These type of amendment is done for the following: (i) process of President Election (ii) Federal Executive jurisdiction of power (iii) State Executive jurisdiction of power (iv) provisions related with Federal Judicial system (v) provisions related with State judicial system (vi) Division of Constitutional powers (vii) State Representation in Parliament (viii) Process of Constitutional Amendment (ix) 7th Schedule of the constitution.

But the Constitution has proved to be very flexible which can be established by the fact that Constitution has been amended 92 times between 1950 and 2005. Due to the situational condition of Congress (1950-1977), (1980-89), Constitution has been amended many times. Further due to some emergency situations like increasing Centre Rule in Punjab and JandK also, it has been amended quite a few times. Even the Coalition Government of 1989 had to do 4 Amendments in one year of its tenure. Thus far there have been 103 Amendments and another 86 are in the pipeline.

8. Fundamental Rights: Indian Constitution provides Fundamental Rights to its citizens under Article 12-35 in part III. Initially, there were a total of 7 fundamental rights, but after the exclusion of Right to property (42nd amendment in 1976), it has been reduced to total 6 in number. Each Right has lots of liberties and powers with it. Following are the 6 fundamental rights:

(*a*) Right to Equality (article 14–18): All the citizens are equal under the article and it has been emphasized not to discriminate any citizen on any pretext. Equal opportunity to all, prohibition of untouchability and end of conferring knighthoods/Title, are part of it.

(*b*) Right to Freedom (article 19–22): under article 19, there are 6 fundamental liberties-freedom of expression and speech, liberty to establish institutions/bodies, liberty to have unarmed peaceful gathering, liberty to move in any part of the country, liberty to settle in any part of the country and to adopt any means of employment,business, profession. Article 20 ensures liberty of Individuals and Rights of the Accused. Article 21 ensures that except under any bonafide legal proceedings, no one shall be denied the Right to Live and Right to Liberty. Article 21A has been included in the Constitution after its 86th amendment, which gives Right to Education to children between age group of 6-14. Under Article 22, provisions have been made regarding Arresting any individuals, so that police can't restrict anyone's liberty in an unjustified manner.

(*c*) Right against Exploitation (article 23–24): This fundamental right prohibits sale/purchase of women, Child Labor in general and Child Labor at dangerous and haphazard places.

(*d*) Right to Freedom of Religion (article 25–28): Under this right, citizens are entitled to meditate, follow religion and liberty to worship in their own way. It permits each religion to construct its own worship centers and right to run it. Under Article 27, it has been mentioned that money collected for promoting one's religion can't be taxed and State while giving Grants, can't be biased on the basis of religion. Article 28 prohibits Government from imparting religious education and training in Government owned or aided schools and colleges.

(*e*) Cultural and Educational Rights (article 29–30): Under this, Constitution provides for protection of minority's rights, language and culture and also ensures to let them progress. It permits them to establish, sustain and run their own educational institutions.

(*f*) Right to Constitutional Remedies (article 32): This particular right is the soul of the total right paper. It ensures implementation of Fundamental Rights and their protection through Judiciary. It authorizes Supreme Court the Right to issue necessary guidance and orders to ensure implementation of Fundamental Rights.

There are total 6 Fundamental Rights available to the citizens of India now. Right of Property has been excluded from fundamental rights list and it now lies under Article 300-A, as legal right. While giving and guaranteeing fundamental rights, Constitution has also mentioned some exceptions as well. These exceptions have been applied in the context of public peace and law and order, Morality, protection of State and National Sovereignty and Territorial Integrity. Under these mentioned contextual conditions, State can amend and suspend the fundamental rights. Also under Article 352, they can be suspended during National Emergency period.

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9. The National Human Rights Commission and Protection of the Human Rights of the People: For providing better protection to the citizens of India for its all democratic and human rights, Government passed Bills pertaining to Human Rights Protection in 1993. Under this law, National Human Rights Commission has been established under the leadership of retired Judge. This is an Independent Commission and it has the right to order compensation for the people in the event of Proved Human Rights Violation and Violation in general, as it has the status of a Civil Court. For the common public Human Rights and other Interests and protection, the process of Public Interest Litigation also has become very vital tool.

10. Fundamental Duties of the Citizens: There are following 10 major duties for the citizens under part IV A, Article 51 A (included by 42nd amendment of 1976): (a) To respect Constitution, National Flag and National Anthem (b) To follow the principles of freedom struggle (c) To maintain sovereignty, unity and integrity of India (d) To protect Nation and be available to serve it when need arises (e) To promote Fraternity and condemn any act of attack on dignity of women (f) To protect National Cultural Heritage (g) To protect environment and have mercy on animals (h) To promote Scientific thought process, Humanity, Knowledge and Research (i) To protect National Property and abstain from violence (j) To be ready to participate in individual/group activities and achieve wonderfully.

After 86th amendments, it has been made mandatory for parents to make available education for their children. But these fundamental duties can't be implemented by Courts of law. Alike Directive Principles, these fundamental duties are also part of Constitutional Morality.

11. Directive Principles of State Policy: Part IV (article 36-51) of the Constitution explains Directive Principles of States. This is one of the most Idealistic qualities of our Constitution. Constitution making members got influenced by the constitution of Ireland and Gandhism and from the socialist thought process of fabian socialism.

Directive Principles directs States to roll out policies for attaining social and economical objectives. Directive Principles directs States to provide tools for subsistence, to do justful distribution of resources, to have equal work equal pay system, to protect children/women/ laborers' interest, to give Old Age Pension, to have Social Equality, constitute Autonomous bodies, protect interest of weaker sections of society and promote domestic industry, rural development, international peace, friendship and co-operation with other countries. As per **J.N. Joshi**; "there has been inclusion of elaborate Political, Social and Economic policies in the Directive Principles for a modern democratic State".

If Fundamental Rights mentioned in part III laid the foundation of Political Democracy, Directive Principles (part IV) call for the foundation of Social and Political Democracy in India. Directive Principles can't be implemented upon by any Court of Law. Even then Constitution declare that they are the fundamental principles for governing the nation and it is State's duty to implement those while passing Bills.

12. Bi-Cameral Union Parliament: Constitution provides for Bi-Cameral (two house) at Federal Level and names it as Federal parliament. It has two houses: Lok Sabha and Rajya Sabha. Lok Sabha is the Lower House of parliament and is directly elected by the people of India. It represents Indian People. Maximum Number of members for it has been fixed at 545. People from each State elect their representative in the ratio of their population. There are 80 Lok Sabha seat for UP and 13 for Punjab in parliament. Lok Sabha elections are held under these fundamentals: (a) direct election (b) secret voting (c) one voter one vote (d) simple majority victory system (e) common adult voting system (qualifying age for men/women to vote is 18 years now, before it was 21). Voters ageing 25 years and above are eligible to contest Lok Sabha election. Lok Sabha tenure is normally 5 years but President can dissolve it on the recommendation of the Prime Minister before the expiry of its tenure also.

Rajya Sabha is the Upper house of parliament and is indirectly elected. It represents member states of the Federation of India. Its maximum number of members are 250 out of which 238 are elected on the basis of Proportional Representation by Rajya Vidhan Sabha and rest 12 (accomplished personalities) are nominated by the President from the fields of Literature, Art and Science. Current Rajya Sabha has

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240 members. Rajya Sabha is a permanent house of the parliament, but 1/3rd of its members get retired every 2nd year. Each member's tenure is 6 years.

Lok Sabha is the more powerful of the two houses. It possesses financial powers and only it can remove the cabinet. Cabinet is collectively accountable to Lok Sabha. But Rajya Sabha is not that weak as that of British House of Lord nor is Lok Sabha more powerful as that of British House of Common.

Federal parliament is not a Sovereign Parliament. It is constituted under the aegis of Constitution and it can only exercise those powers, as has been vested with it.

13. Parliamentary System: Indian Constitution provides for parliamentary system at Centre and State. It is based on British parliamentary model. President of India is the Constitutional Head of the State and he merely is symbolic head. Cabinet under the leadership of Prime Minister is the actual Executive. To be a member of parliament is essential for Ministers. Members of Cabinet are collectively accountable to parliament for all their activities. Once Lok Sabha passes No Confidence motion, it can recommend President to dissolve Cabinet and Council of Ministers. Each Minister has to resign and this is the process followed by State Government also. Hence every quality of parliamentary system is incorporated in the Indian Constitution. These days discussion are happening on whether we should introduce Presidential form in place of parliamentary system or not. Some Scholars have started advocating Presidential System after seeing so many Hung Parliaments and dilution of Political Party system, so that we can have a stable Government for some period of time. Difficulties faced during May-June 1996, April 1997, March 1998, April 1999, and May 2004 have forced others to adopt at least some of the features of Presidential Form of Government But this argument still needs National Consent.

14. Adult Sufferage: Indian Constitution ensures Right to Vote to all its Adult Citizens. **Prof Srinivasan** writes; "giving voting right to all adults without any pre fixed condition is very important step taken by the Constitution of India and it is a Confidence Building Activity. Under Government of India Act, 1935 only 14% of the population had the right to vote and the share of women was almost negligible. Now under Indian Constitution, Men and Women enjoy equal voting rights. Minimum age to vote has been reduced to 18 from 21. Every Indian aged 18 and above has right to vote in every election.

15. Single Integrated Polity with Single Citizenship: Indian Constitution makes each State a component of Indian Federation equally. Our Federation is not an amalgamation of Sultanates but it is a real Federation, which has been created by the people of the nation on the basis of equality and keeping in view the fundamental commitment of sovereignty. Each citizen has been allotted equal citizenship, which in turn provides them with equal rights, liberties and equal protection from the State administration. Now Government of India is considering offering citizenship to people of Indian Origin who have settled in other countries after January 26, 1950 or have taken other countries citizenship. They can now get Dual Citizenship. They shall be able to attain Indian citizenship along with their current citizenship of other country. They shall be eligible to Dual Citizenship. They shall be getting Civil and Economic rights in India, but not Political rights.

16. Single Integrate Judiciary: Where the American Constitution has the provision of only Federal Judiciary and leaves State judicial system on its individual State constitution, Indian Constitution in contrast provides for Integrated Judiciary, in which Supreme Court functions at Apex level, High Courts work at State level and rest of the Courts operate under the State High Courts. Supreme Court is the final and last door of justice in India. It administers judicial system of the country and keeps a control over it.

17. Independence of the Judiciary: Indian Constitution makes Judiciary totally Independent which is further proved by these facts: (a) Judges are appointed by the President (b) people with exemplary legal knowledge and experience can only be appointed Judge (c) Judges of Supreme Court can be removed by a very complexed process only (d) Judges and Judicial officials salary is drawn from the Consolidate Fund of India and Legislative voting is not require for this (e) Supreme Court has the right to administer its Judicial System to maintain its Autonomy. (f) All the officials and staff of the Supreme Court are appointed by the Chief Justice or any other Judge or any designated

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authority empowered by Chief Justice. Indian Judiciary has always worked as an Independent Judicial system.

18. Judicial Review: Constitution is the Supreme Law of the Land. Supreme Court protects and defines it. It works as a Custodian of people's fundamental rights. For discharging this aspect, it uses the tool of Judicial Review. By this, Supreme Court decides on the constitutionality of every work of Legislative and Executive. If any law of parliament or works of Executives are challenged in Supreme Court, it can annul them if found unconstitutional. In past, Supreme Court has been exercising its right of judicial review very effectively and has given historical verdicts for example in cases like; Golaknath, Keshavanand Bharti, Minerva Mills, Gopalan and several others. High Courts exercise their Judicial Review Rights tool with respect to matters pertaining to State level.

Constitution does not permit Right of Judicial Review directly anywhere, yet it is based on several articles such as 13, 32 and 226. This particular quality of Constitution is similar to American Constitution.

19. Judicial Activism: At present, Indian Judiciary is getting more active towards its social responsibility. By Public Interest Litigation (PIL) and by using its power more, it is being more active to attain universal social objectives. For attaining its universal social objective, Judges can initiate Suo Moto proceedings. Supreme Court suggested to the Government of India in May 1995 and again in July, 2003 to introduce Uniform Civil Code for all of India and for all Indians, as mentioned in Article 44 of the Constitution. Judicial Activism is an important feature of Indian Judicial System.

20. Emergency Provisions: Similar to the Weimar Republic (Germany), Indian Constitution also provides for Emergency situations. It identifies three types of Emergency and accords President of India, the power to face them. Therefore, they are known as Emergency Powers of President.

Constitution mentions three types of Emergency Situation:

(1) National Emergency under Article 352, it implies war or foreign invasion, threat of foreign attack on India or threat cause by Armed Rebellion within any part or whole of India and Emergency situation thus created.

(2) State Level Emergency under Article 356, it implies failure of State Machinery and Emergency Situation thus created.

(3) Financial Emergency under Article 360, it implies financial instability arisen in the financial structure and Emergency Situation thus created.

Indian President has Rights to take appropriate steps to fight with these Emergency Situations.

But in practice, these rights of President are the rights of Prime Minister and it's Cabinet.

During National Emergency , entire administration actually becomes Unitary and President can suspend fundamental rights as mentioned in Article 19 and provisions mentioned under Article 32 and 226. But there are some riders attached with using these special powers during National Emergency situation. President can only pronounce Emergency on the written recommendation of Prime Minister and Cabinet. In the event of National Emergency (provision by 44th amendment), each declaration of emergency has to be approved by the parliament within stipulated period of time. Since 1952, use of Emergency Power (national and constitutional emergency) has been exercised by the President several times.

Objective of Emergency Powers is to protect the interest of people and nation and hence it can't be opposed, but there is always a possibility of Central Government misusing it to promote its own political objective, especially in the context of Article 356. In 1975, use of Internal Emergency by **Indira Gandhi** was one such example of political ambition and in the elections of 1977, the electorate punished Congress by voting against them. Similarly, use of Constitutional Emergency has been done sometimes by the Centre without justified reasons. Hence despite having so many riders attached, these emergency powers can be misused. But provisions related with Emergency situation can't be quoted as unnecessary and against the principles of Democracy. It has been included in the Constitution in the interest of national security, peace and stability. There is no need to remove them; rather there is

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a need to effectively implement it. As Amar Nandi rightly says; "Rights given to Central Executive to fight National Emergency is like a fully loaded Gun which can be both used to protect the liberty of its citizens or to curb it too. Hence this Gun should be used very carefully". We would like to add that use of Article 356 should be done very judiciously and rarely. Under no circumstances, it should be politically misused.

21. Special Provisions Relating to Schedule Castes and Schedule Tribes: Constitution does special provision for SC/ST category people in part XVI to protect their interests. Article 330 provides for Lok Sabha seat reservation in the ratio of their population (as far as possible). Besides, if President is of the view that people from Anglo-Indian community have not represented satisfactorily in the House, then he can nominate 2 persons from the community in Lok Sabha (article 330).

In State Vidhan Saba, the same provisions are taken care of by Article 331 and 332. After 84th amendment, the functionality of reservation has been extended up to 2010. Now the benefit of reservation has been extended to Other Backward Classes (OBC) as well, but Supreme Court has ruled that under no circumstances, reservation in Jobs should exceed the upper limit of 50%. Apart from offering reservation in Legislatives and Parliament bodies, reservation is also offered to SC/ST and OBC people in Government jobs, Universities and several Commercial establishments. Constitution also does provision for continuously measuring the progress registered among SC/ST/OBC people by constituting a Commission. In May 1990 by a special amendment to the constitution, one such Commission has been constituted to this effect. Now National Human Right Commission can also examine cases pertaining to the violation of Rights of SC/ST/OBC people.

22. Provisions Regarding Language: Constitution defines the language of Federation (centre), Regional Language areas, Supreme Court and High courts. Official Government language of the nation shall be Hindi in Devnagri Style, but it also provides for continuing the use of English Language under Article 343. Each Vidhan Sabha of different States can adopt its own Government Language. Supreme Court and High Court still continue to have English as their Official Language. Under Article 351, constitution orders Government to promote Hindi and make effort to make popularize it. Constitution under 7th Schedule recognizes 22 languages; Assamese, Bengali, Gujarati, Hindi, Kannad, Kashmiri, Malayalam, Marathi, Odiya, Punjabi, Nepali, Manipuri, Konkani, Sanskrit, Sindhi, Tamil, Telugu, Urdu, Dogri, Santhali, Maithili etc.

23. Constitution Drawn from Several Sources: Makers of the constitution used several sources while making it. Freedom struggle pressurized them to include Secularism, Liberty and Equality. They used some of the provisions of Government of India Act, 1935 and included some good features of other constitutions also. Parliamentary system and Bi-Cameral system was influenced by British Constitution. American constitution influenced them in Republicism, Liberty of Judiciary, and Judicial Review and adoption of right paper. After the Socialist Revolution of 1917, development of erstwhile USSR influenced them to adopt Socialism as one of its objectives. Similarly, they were influenced by the constitution of Canada, Australia, Ireland and Vemar Republic (Germany).

After being enacted on January 26, 1950, Indian Constitution has been developing from several sources. Parliamentary Laws, Judicial Reviews, Traditions, Scientific definitions and records of constitution making committee have been its source. Indian constitution is not a borrowed bag, nor it is imported one and nor it is a decorated and extended version of Government of India Act, 1935. Constitution makers moulded specific qualities of foreign constitutions and Government of India Act 1935 provisions to best suit the interest, requirement of Indian nation.

Due to these specific qualities only, Indian Constitution became most practical and appropriate for Indian context. Even to the extent that it's large size enabled Govt of India to handle administration in a more organized manner and led the country better in the time war and peace. Its salient features can be defined as following: Preamble, Fundamental Rights, Directive Principles, Secularism, Federal Structure, Republicsm, Liberty of Judiciary and undoubtedly, Liberal Parliamentary Democracy.

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Self Assesssment

Multiple Choice Questions:

8. What is not the feature of Indian constitution?
   (*a*) Preamble of constitution (*b*) Written and extensive
   (*c*) India is a secular country (*d*) India is Nationalist country
9. In which year, United Progressive Alliance came to power first?
   (*a*) 2004 (*b*) 2006
   (*c*) 1999 (*d*) 2009
10. Right against Exploitation has been mentioned in which article of the constitution?
   (*a*) 25–26 (*b*) 23–24
   (*c*) 25–28 (*d*) 19–22

1.5 Causes for Indian Constitutions' Extensiveness

With 444 Articles, 12 Schedules and 103 amendments, it is world's biggest constitution. We can estimate its extensiveness from the fact the American constitution has only 7 Articles, Japanese have only 103 and French have only 92 Articles. H.V. Kamath while mentioning its gigantic size in constitution committee said," this is really a constitution similar to an Elephant's size".

Now the question is that why it has been made the largest constitution? Did the makers of the constitution just wanted to make it big or was there any justified reasons?

Answer being that due to the multiple cultures, languages, and castes existing in our society, they wanted to have a permanent constitution which can incorporate maximum points covering all the aspects of Indian Diaspora.

Following features reflect Indian constitution's practicality despite being huge in size:

(1) Indian constitution is common between Union and State. It describes the institution and powers of Centre and State both. It describes in detail the relation between Centre and State.

(2) Union Constitution is always longer than the Unitary Constitution. Adding unitary aspects into the Union Constitution made it even longer.

(3) Constitution contains one detailed Rights paper and Directive principles of the State. Adding Article 51-A, which contains 10 Fundamental Duties has also contributed in making it grow bigger in size.

(4) Separate provisions have been made in the Indian constitution related to various important issues. For example. Part X includes provisions for scheduled caste and scheduled tribe and sectors, Part XIV deals with services under center and states, Part XV with tribunals, Part XVI with some special classes, for example scheduled castes, scheduled tribes, Anglo-Indian community etc, Part XVII with government language, Part XVIII with emergency situations and Part XIX with temporary/ permanent, transferrable and special arrangements.

(5) Since Indian Government Act of 1935 was already in force at the time of drafting of the Indian constitution, therefore many of its provisions had to be included into the Indian constitution after Independence.

(6) Indian constitution, like the Indian Government act of 1935, is not only a constitution but an elaborate legal code which fixes all important aspects of Indian constitutional and administrative system in a constitutional way.

(7) Since the implementation of the Indian Constitution, 103 amendments have been made and these have given the Indian constitution a huge shape. Out of these, amendments 42nd and 44th were more elaborate amendments.

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(8) Constitution mentions in detail about the formation and working of various constitutional commission like Election Commission, Finance Commission, Union Public Service Commission, State Public Service Commission, Indian Comptroller andAuditor General, Minority Commission, etc.

All these factors have made the Indian constitution a long and extensive constitution. The prevailing problems in 1947, arguments, lack of political awareness amongst the Indians, lack of definite democratic traditions and the need to keep intact the newly obtained independence compelled the makers of Indian constitution to do so to avoid giving any opportunity for the occurrence of any untoward incidence. They made every possible effort not to deprive the constitution of the definition of any aspect of country's constitutional and administrative systems. Instead of making the constitution weak in any aspect, they preferred to make it a longer one.

In this way due to various reasons, the Indian constitution was made into a voluminous and extensive constitution.

Self Assessment

Multiple Choice Questions:

11. How many articles are there in the Japanese constitution?

    (*a*) 102 articles (*b*) 103 articles

    (*c*) 101 articles (*d*) 105 articles

State True/False

12. French Constitution has a total of 92 articles.
13. Indian constitution, like the Indian Government act of 1935, is not only a constitution but an elaborate legal code.
14. The Indian constitution's amendments 42nd and 44th are less elaborate amendments.

1.6 Summary

- Preamble is an important part of the Constitution, it is the soul of the constitution, it is the key of the constitution.
- The preamble declares that India is a Sovereign country. Such a declaration was very important for putting a seal on the end of British rule in India.
- Through the 42nd amendment, secularism was given a place in the preamble in the form of a special feature of the Indian government.
- Preamble declares India as a democratic country, provides for a democratic system in the Indian constitution. Power of the government is dependent on the sovereignty of the people.
- Indian constitution for its huge shape, unitary federalism, admixture of flexibility and rigidity, andalong with various provisions for solving emergency situations is a unique constitution which has been working successfully since 1950 till date.
- The Indian constitution with its 444 articles, 12 schedules and 92 amendments is world's most voluminous and extensive constitution.

1.7 Keywords

- **Federalism:** The view that federal government is the best.
- **Act:** Rule made under the law.

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1.8 Review Questions

1. Describe the main features of the preamble to the Indian Constitution.
2. Explain the importance of the preamble of the Indian constitution.
3. When was the Indian constitution accepted and enacted? Give the dates.
4. Describe the main features of the Indian constitution.
5. What are the reasons for the huge shape of the Indian constitution?

Answer: Self Assessment

1. Soul	2. 1976
3. 26th November, 1949	4. (*a*)
5. (*b*)	6. (*a*)
7. (*b*)	8. (*d*)
9. (*a*)	10. (*b*)
11. (*b*)	12. True
13. True	14. False

1.9 Further Readings:

Books

1. Indian Political System – *U.R. Ghai.*
2. Indian Political Setup – *N. Chaabra, Abhinav Prakashan, Rohtak (Haryana*).

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Unit-2: Fundamental Rights

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Objectives

After studying this unit, students will be able to:

- Understand the meaning of Indian Fundamental Rights.
- Explain the importance of Fundamental Rights.

Introduction

The interpersonal relation between individual and state has always been complicated and this issue has gained special importance in the existing democratic setup. If on one side it is important to have a control on the lives of individuals in order to maintain peace and order then on the other hand, it is also necessary to exercise control on the state powers so that the state is unable to work in its own way against the freedom and rights of individuals. Fundamental rights are an important measure to exercise control on the powers of the states in favor of individuals' freedom and rights.

French revolution has given to the world a message of freedom, equality and humanity. After the revolution, the French National Assemblyby including the **Declaration of the Rights for Men** in the new constitution of 1789 started the process of providing a constitutional shape to some of individual rights. Later on in the constitution of United States of America the rights of individuals was made a part of the constitution through the first ten amendments in 1791. These amendments were collectively called "Bill of Rights". This affected the constitutions of other European nations. After the First World War, fundamental rights were included in the constitution of several old states as well as the newly formed states after the war. In this context, the Weimar constitution of Germany and the constitution of Ireland are explanatory. After the Second World War, the idea of fundamental rights became more popular and after the war fundamental rights was included in the constitution of all the nations like India, Burma, Japan etc whose constitution was framed. Established in 1945, the international body, United Nations Organization on 10th Dec. 1948 accepted the International rights

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letter in the name of **"Universal Declaration of Human Rights".** In India also, the International Human Rights Commission was established in 1993. In this way, the idea of fundamental rights has gained a universal resolution in present time.

Task What do you understand by Fundamental Rights?

2.1 Features of Fundamental Rights

The features of fundamental rights given in the Indian constitution are as follows:

Did u know? The Indian constitution is indebted to the American constitution for Fundamental Rights?

1. A detailed Bill of Rights: The first feature of Indian Bill of Rights is that it is an extensive bill. In the Articles 23 which have further classes, the detailed explanation of Human rights has been given. For eg. In Article 29, individuals have been given right of freedom and it has six such parts which provides detailed description of six different types of freedom and their exceptions. Similar extensive description has been given in other articles too.

2. No Right outside the Rights given by the Constitution: American constitution has a regulation that citizens not only have the rights mentioned in the constitution but they also possess the rights that the citizens have from ancient times. In other words, the American constitution indirectly provides recognition to natural rights principles.

3. Equal Rights to all: Fundamental rights are available to all individuals irrespective of their caste, creed, race, color, sex etc. These are applicable to all equally and all meant for all individuals from legal point of view. The government cannot make any discrimination while exercising control on the fundamental rights.

4. Rights are not Absolute and Unlimited: No right can be unlimited. Their use can be done only after considering the welfare of others. Rights are dependent and they can be used within the social context only. That is why our constitution provides necessary right to the government in accordance with time to exercise control on the fundamental right from the purview of states' safety, public order, public morality and public welfare.

5. Mostly Negative Rights: Most of the rights mentioned in the Indian Bill of Rights are negative. In other words through these rights regulations and boundaries have been imposed on the states. For eg. Regulation has been imposed on the states that they can neither make any discrimination on the basis of caste, color, sex etc nor any such discrimination at the time of appointment to the government. But some rights have been written in a positive way. For eg. Right to freedom provides the right to freedom of speech and expression, freedom to establishment of community, freedom to living and freedom of work.

6. Rights are binding Equally upon Union, States and other State's Authority: In the section of fundamental rights only the constitution defines the word "State" and states that the word "State" refers to community, state and local authorities - state corporation and Panchayat. All these organizations have to work under the limitations of fundamental rights. By making this clear the Indian constitution makers have overcome the deficiencies of American constitution. There even now this argument arises whether fundamental rights provided by the constitution are applicable to the units of assembly along with the fundamental rights assembly.

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7. Difference between citizens and Aliens: Indian constitution on the basis of fundamental rights differentiates between citizens and aliens. There are some fundamental rights which are provided to Indian citizens only and not to foreign nationals for example. Freedom of speech and expression, freedom of movement and freedom to live in any part of the country.

8. Rights can be suspended: Our constitution provides provision to suspend the fundamental rights during emergency.

> *Notes* President can impose emergency in entire nation or in some part in case of foreign attack or underconditions arising due to possibility of foreign attack and in such a situation rights of citizens particularly the right to freedom (Art. 19) and the right to constitutional remedies can be suspended.

Many critics have condemned this system of the constitution but in our view criticism is not wise. Welfare of the nation is the foremost. Therefore suspension of rights for the welfare of the nation is appropriate.

9. Fundamental Rights are Justiciable: Fundamental rights are implemented by the court. For the implementation of fundamental rights, constitution has several provisions. Right to constitutional remedies is included in the fundamental rights in a special way. This implies that any citizen whose fundamental rights have been violated can appeal in High court or Supreme Court for the safety of his fundamental rights. High Court and Supreme Court provides a variety of writs for the protection of citizen's rights. If violation of fundamental rights is proved, then they can declare the wrong action taken by any individual, organization or government as illegal.

10. Parliament can curtail the Fundamental Rights: According to the constitution, Parliament along with the section of Fundamental Rights can amend the entire constitution. It is worth mentioning here that the Parliament cannot make any amendment in the Fundamental Rights through ordinary law. If the Parliament makes any such rule, then it will be cancelled by the Supreme Court. This implies that it can amend the fundamental rights only through the constitutional amendment. State Legislatures are not allowed to curtail the fundamental rights. Fundamental rights can be amended by the procedure given in Clause 368. For this it is necessary to have the majority of all the members and 2/3rd majority of members present and voting in each of the two Houses. In 1952 the Chief Justice of Supreme Court, Shastri, had said that "Article 368 grants the right to the Parliament without any restriction to amend the constitution". But in 1967 in the case of Golaknath, the Supreme Court had given the judgment that the Parliament does not have the right to curtail or abolish the fundamental rights. By the 24th amendment, the Parliament gave approval to this power and on 24th April, 1973, in the case of Keshavanand Bharti, the Supreme Court directed that the parliament can make amendments in the fundamental rights.

11. Special Rights for Minorities: In the Indian Bill of Rights, interest of minorities has been given special attention. Specially two rights – Right to Freedom of Religion and Cultural and Educational Rights have been written to safeguard the interest of minorities. In an ideal democracy, majority does not crush the minority, instead provides opportunity to the minority for development. Through the Indian Bill of Rights, such a provision has been written in the form of rights for minorities.

12. Absence of Social and Economic Rights: In the Indian Bill of Rights,social and economic rights like Right to Work, Right of Rest and Leisure, Right to Social Security, etc. have not been included. Yes, these rights have been written under the Directive Principles.

13. Rights of Armed Forces can be Restricted: According to Section 33 of the Constitution, Parliament can make amendments in the Fundamental Rights in order to maintain discipline in the Armed Forces. Parliament can make suitable arrangements related to police, border security, etc.

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14. Special Constitutional Provision for the Enforcement of Fundamental Rights: According to Article 226 of the Indian Constitution, for the reinforcement of our Fundamental Rights, we can approach the High Court of our State through special procedure and as per section 32, can approach the Supreme Court through special provision. We can file a Writ in this context. For eg. Habeas Carpus, Mandamus, Prohibition, Quo-Warranto and Certiotari.

Conclusion: It is evident from the above reading that without Rights, complete development of human life is not possible. But when these can be limited by making amendments in the constitution and during the period of emergency can be abolished without making any amendments in the constitution, then why should they be called as Fundamental Rights? The answer to this was specified by the Supreme Court in its judgment, "Only Rights are fundamental, their restrictions cannot be fundamental".

Self Assessment

Fill in the blanks:

1. For Fundamental Rights, Indian Constitution is indebted to _____ Constitution.
2. Most of the Rights mentioned in the Indian Bill of Rights are _____ Rights.
3. As per the provisions given in Section _____, amendments can be made in the Fundamental Rights.

2.2 Fundamental Rights

As per the Indian Constitution, citizens of India have been given 6 Fundamental Rights. They are as follows:

1. Right to Equality (Article 14 to 18): Right to Equality is the pillar of Democracy, hence every individual has been granted Equality before Law, Equality of Employment under the government and social equality by the Indian Constitution and abolition of titles has been made for the establishment of equality.

(*i*) Equality before the Law (Article 14) – As per Article 14, amongst the Indian states, no state can deprive any individual of Equality before Law or Security by Law. In the first part of the Article the words "Equality before Law" is the legacy of British system and through this, restriction has been imposed on the states that law will be common to all individuals and will be implemented equally. According to Sir Iver Jennings this means that "Under similar circumstances, all individuals shall be treated equally before law". The sentence "Equality before Law", has been taken from American Constitution and this means that every individual can approach the court of law equally for safeguarding his rights.

Equality before law does not mean that on the basis of justification and acceptable by law, no provision for any discrimination cannot be done. If on imposing tax, law discriminates between rich and poor and between male and female in providing facilities, then this cannot be called as violation of Equality before Law.

(*ii*) Prohibition of Discrimination on Grounds of Religion, Race, Caste, Sex or Place of birth (Article 15): Alongwith Equality before Law in Article 15 it has been said that "No discrimination shall be made towards the individuals in any sphere of life by the states on the basis of religion, creed, race, sex, Birth place, etc". It has been affirmed by law that no discrimination shall be made amongst the citizens in shops, hotels and public places like wells, tanks, bathing places and roads, etc.

(*iii*) Equality of Opportunity in Matters of Public Employment (Article 16): According to Article 16, "Every individual has Equality of Opportunity in matters of public employment and under this no discrimination shall be made on the basis of Religion, Caste, Race, Sex or Birth place or any of these

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while providing employment or post". Under this state has the right to fix necessary eligibility for state services. Parliament by law can provide the right to all the states under the federation that the candidate for that post should be a domicile of that particular state. Similarly, seats can be reserved for the backward classes in the services.

(*iv*) Abolition of Untouchability (Article 17): In order to make social equality more complete, untouchability has been abolished. It has been said in Article 17 that "Implementation of any non-eligibility arising from untouchability shall be considered as a punishable offence". In order to abolish the poison of untouchability from the Hindu society 'Untouchability Offences Act' was implemented in 1955 which is applicable in entire India. According to this law, untouchability has been declared a punishable offence.

(*v*) Abolition of Titles (Article 18): In the British age titles were given on the basis of property, etc which used to create discrimination in social life, hence these were abolished from the new constitution. In Article 18 there is a provision that "States cannot provide any title other than those related to armed forces and education". Also no Indian citizen can accept any title from a foreign nation without the permission of the President.

2. Right to Freedom (Article 19 to 22): The aim of the Indian Constitution is to affirm the freedom of thought, expression, faith, religion and worship; thus citizens have been provided various degrees of freedom by the Constitution. In context to this, Article 19 is the most important. This right provides the following 6 degrees of freedom to the citizens:

(*i*) Indian citizens were provided 7 degrees of freedom by Article 19, in which 6th freedom was the freedom to acquire and sell property. But with the 44th amendment, Freedom of Property was abolished along with the Right to property and therefore, under Article 19 now citizens have only 6 degrees of freedom which are as follows:

(*a*) Right to Freedom of Speech and Expression.

(*b*) Freedom to assemble peacefully and without arms.

(*c*) Freedom to form Associations.

(*d*) Freedom to move freely throughout the territory of India.

(*e*) Freedom to reside and settle in any part of the territory of India.

(*f*) Freedom to practice any profession or to carry on any occupation, trade or business.

Articles 20 to 22 have provided the citizens individual freedom. In Britain, the basis of individual freedom is the rule of law. Same principle has been adapted by India.

Notes According to the Indian Constitution, Indian citizens were granted 7 Fundamental rights, but with the 44th amendment of the constitution Right to Property has been removed from the list of Fundamental Rights.

(*ii*) (*a*) As per Article 20, any individual has to be convicted as per the law prevailing at that particular time.

(*b*) As per Article 20, any individual cannot be convicted twice for the same crime.

(*c*) As per Article 20, no individual can be forced to give evidence against himself.

(iii) According to Article 21, no individual can be deprived of his life and his individual freedom without the Procedure Established by Law.

(*a*) No individual can be arrested without telling him about his crime.

(*b*) The arrested individual has to be presented before the Magistrate within 24 hrs of his arrest.

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(*c*) The victim cannot be detained in the jail without the permission of the Magistrate.

(*d*) The victim has full right to obtain legal advice.

3. Right Against Exploitation (Article 23 to 24): In Articles 23 and 24 of the Constitution, Right Against Exploitation has been described for the citizens. The aim of this right is that no powerful individual of the society can do injustice to a socially weaker person.

(*i*) According to Article 23, no individual can be forced into human trade, to work without pay and against his wishes. Any violation of this rule will be considered as a punishable offence.

(*ii*) According to Article 24, children below the age of 14 cannot be employed in any factory or mine nor can they be employed in any dangerous job. This indicates that children shall be imparted education rather than involving them in any work. That is why by Directive Principles in Article 4 of Indian Constitution, States are directed to arrange for compulsory and free education to all children up to the age of 14 years, Right to Education Act has also been constituted for this.

4. Right to Freedom of Religion (Article 25 to 28): In the next 4 Articles of the Constitution (25 to 28), provision has been made to make India a secular state. By the 42nd amendment along with this right given in Articles 25 and 26, the word "secular" has been included in the Preamble by the makers of Constitution.

(*i*) **Freedom to practice any Religion:** Provision has been made in Article 25 that all citizens of India have the right to believe in, follow and propagate any religion.

(*ii*) **Freedom to manage Religious Affairs:** Under Article 26, each religion has been given the right to establish and manage their religious institutions, to buy both Movable and Immovable properties and their management too as per the law of the land.

(*iii*) **Freedom as to payment of Taxes for promotion of any particular Religion:** Article 27 states that none will be forced to pay any type of tax to promote one's religion

(*iv*) **Prohibition of giving Religious Instructions in Educational Institutions:** Article 28 states that any institute owned by or aided by govt. can't impart any religious training/education. But it does not cover those Trusts which have been formed to promote any particular religion, even if it governed by Govt. Further it states that any person representing Govt. aided institutes/trust can't be forced to join any particular religious gathering or religious training/education.

5. Cultural and Educational Rights (Article 29-30): Under these rights Minority interest has been safeguarded so that they can develop themselves on the basis of their culture and language.

(*i*) Under Article 29, all those living in any part/section of India who have their own language, script, culture, have been given the Right to protect it.

(*ii*) Under Article 29, none can be denied entry to any govt. aided or owned educational institute on the basis of Religion, Caste, Creed or Language etc.

(*iii*) Under Article 30, all Minorities (based on Religion and Language both) have the right to open, run and manage their own educational institutes.

(*iv*) Under Article 30, while giving Grants/Aid, State shall not discriminate amongst them on the basis of their being Minorities (based on Religion and Language both). Under 44th amendment, it has been ensured that in case of taking over Institutes/Bodies run and managed by Minorities permanently, State would ensure that the amount thus fixed by Law does not affect them at all. This change happened as after 44thamendment (article 31 struck down), Right to Property has ceased to exist and it is now only a Legal Right.

6. Right to Constitutional Remedies (Article 32): Under Constitution, it has been emphasized to implement and execute Fundamental Rights, rather than only writing them, else they would have become of no use Makers of Constitution have thus given space to Constitutional Remedies Right with an objective of let the people of India take recourse from Supreme Court and High Court , in case in Infringement of

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Rights. These Courts can repeal/annul any law made by parliament or any work of Executives, if found unconstitutional. **Dr. Ambedkar** said while describing its importance; "if someone asks me about the most vital article of constitution without which it becomes a vacuum, then I can't refer to any other article other than this (article 32). This is the heart and soul of Constitution". Ex Chief Justice **Rajendra Gadkar** referred to it as Most Important Feature of Constitution" and "Foundation of Democratic House".

Supreme Court and High Courts can issue following 5 types of Writ to protect Fundamental Rights:

(*i*) **Habeas Corpus:** This is very vital for Individual Liberty. It is issued on the request of the person who deems that he has been arrested illegally. Under this Court orders Arresting Official to present the person at a defined place and time, so that court can analyze on the reasons of arrest. After hearing both sides, it can decide on whether the Arrest is legal or illegal and in case of it being an illegal arrest, it orders the official to release the person immediately. People arrested illegally or unfairly can take help from this Habeas Corpus paper.

(*ii*) **Mandamus:** This is issued when an official does not discharge his/her duty well. This type of writ is used to order that official to do his/her duty

(*iii*) **Certiorari:** This is issued to transfer any particular dispute from a lower court to High Court so that there is no extra usage of its powers, which can cause an impediment in the way to justice. By using this tool, higher Courts can also ask lower courts to furnish some vital information on some of the disputes.

(*iv*) **Prohibition:** this is issued by Supreme Court and High Courts to lower courts and quasi-judicial bodies instructing them to stop proceedings, as this particular case/dispute is out of their jurisdiction.

(*v*) **Quo-warranto:** When someone works on a post, to which he is not entitled to, then Courts can ask him through this tool the basis of his/her doing this particular job and can be stopped from doing so, if they fail to give a satisfactory and justified reason for doing so.

Public can approach the Courts of Law only in case of normal condition to protect their Fundamental Rights and in case of War, Foreign Invasion or Internal Disturbance, when President has pronounced the State of Emergency, no one approach the Courts of Law. Therefore, during Emergency period, constitution ensures the suspension of Fundamental Rights.

Conclusion: Above mentioned analysis drives home the point that Fundamental Rights have an important role and place in the constitution. But some Scholars have severely criticized the concept of Fundamental Rights. They opine that in Chapter 3, non inclusion of Social and Economical Rights is a big mistake and due to this, the Fundamental Rights are only and eyewash. They also criticize it on the premise that Government has immense powers to suspend these rights, but still there is no doubt that Fundamental Rights are the Foundation of our Democracy. There is no country in the world, which does not have provisions for suspension of the Fundamental Rights in justified situations. Fundamental Rights ensures the Individual Safety of our people and there have enough checks applied on Executive/parliament. In India Executive/Parliament have been controlled effectively by Constitution and Individual Safety and Liberty is ensured. We must agree at the end with **M.V. Paylee statement**," These fundamental rights, taken as a whole, remain a formidable sustaining basis of Indian Democracy".

Self Assessment

Multiple Choice Questions:

4. Right to Equality has been mentioned in which Articles of Constitution?

(*a*) 14-18 (*b*) 16-24

(*c*) 18-20 (*d*) 21-25

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5. Article 14 describes which of the following?
   (*a*) Religious liberty (*b*) Equality before law
   (*c*) Equality of opportunity (*d*) Prohibition of untouchability
6. Which Article mentions Right to Constitutional Remedies?
   (*a*) Article 23 (*b*) Article 24
   (*c*) Article 32 (d) Article 33

2.3 Summary

- Fundamental Rights are best tool to have a check on the powers of the State , so as to ensure protection of people's rights and liberties.
- On December 10, 1948 International Body United Nations (established in 1945) also accepted white paper on "Universal Declaration of Human Rights".
- In our constitution government has been authorized to curb the fundamental rights if it is required on the basis of State Protection, General administration, General Morality and Public Welfare.
- Right to Liberty, this allows people to Freedom of Expression and Speech, right to do any job/ business and right to settle in any part of the country.
- Under Article 226, we can approach High Court in the Provinces to reinstate our Fundamental Rights and the door of Supreme Court can be knocked under Article 32.
- Right of Equality before law does not imply that on a justified ground also, there can be no discrimination. If the law has a differential taxing system for Rich and Poor and Men and Women, then it can't be termed as violation of Right of Equality before Law.
- Under Article 24, any child aged 14 years or less can't be put to work in any factory or mines, nor they can be employed at any dangerous/haphazard places of work.
- Constitution emphasizes on let people exercise their Fundamental rights, rather than only talk about it, in the absence of which it will be meaningless to have them. Constitution makers have included Right of Constitutional Remedies with an objective of let people approach Courts of Law to exercise their rights.

2.4 Keywords

- **Fundamental:** Original, Real, Basic (similar to basic principles of humans).
- **Minority:** Representing less population community.

2.5 Review Questions

1. Explain salient Features of Fundamental Rights given in India?
2. Which all Fundamental Rights are available to the people of India? Explain.

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Answer: Self Assessment

1. america
2. negative
3. 368
4. *a*
5. *b*
6. *c*

2.6 Further Readings

Books

1. Indian Political System – *N Chhabra Abhinav Prakashan, Rohtak, Haryana.*
2. Indian Political System – *U. R. Ghai.*

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Unit-3: Fundamental Duties

CONTENTS

Objectives

Introduction

3.1 Fundamental Duties given in Indian Constitution

3.2 Summary

3.3 Keywords

3.4 Review Questions

3.5 Further Readings

Objectives

After studying this unit, students will be able to:

- Understand the meaning of Fundamental Duties given in the constitution.

Introduction

Mahatma Gandhi always emphasized on the concept of duties while pursuing Freedom Struggle. A comprehensive Chapter has been included in the Short Book named "A Gandhian Constitution for Free India", on Fundamental Rights and duties. Gandhi himself wrote the Introduction of this book. As per Gandhi, Right means following your duty honestly; with Right there attached is duty. Gandhi considered Right and duty to have a complementary relationship with each other. If Right is the body, then Duty is its Soul. They have the relation as that of a body with clothes. They are two facets of same coin.

In Indian Constitution Fundamental Rights have been represented enough under designated Articles , but no mention for Fundamental Duties. Probably, because Nation got free after years of slavery, political suppression and depressed human rights condition, so constitution makers went little liberal while finally drafting it under the influence of western liberal policies. At that point of time, Individual Liberty was the prime motive of Government, but after 26 years Indian National Congress felt the need of including Fundamental Duties in the Constitution. This task was handed over to **Swarn singh** committee and keeping in view the recommendations of this committee, Chapter IV has been added to the Constitution by the 42nd Amendment in 1976.

Task What do you understand by fundamental duties?

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Notes

3.1 Fundamental Duties given in Indian Constitution

There is a mention of following Ten Fundamental Duties under Part IV Article 51A of the constitution:

1. Adherance to Indian Constitution and respect its Values, Institutions, National Flag, and National Anthem: It is the supreme responsibility of every citizen to religiously adhere to the Constitution as this is the supreme law of the land. Its values(democracy, secularism), Institutions (parliament, executive) also need to be respected. To respect National Flag and Anthem are also one of the supreme duties fixed. Hence every citizen should pay respect to the nation by standing under the national flag, symbol of our pride. Besides, at the time of National Anthem being played, we should stand in Attention Position to pay respect to the nation.

2. To sustain and protect the Sovereignty, Integrity and Unity of Nation: To accept the Sovereignty of the Nation has been described as the most important Duty of its citizens. It implies that it is the duty of every citizen to follow and accept laws/legislations made by the Government.

Notes In case of foreign invasion/attack, every citizen should contribute by Physiques, Heart and money to protect its modesty. Besides , citizens should behave in a manner so that National unity and Integrity is intact and not disturbed.

3. Protect our Nation and on being called upon, serve the country: This is the supreme duty of each of its citizens to protect the nation, as citizen's interest lies in the safety of the country only. In case of National Crisis, citizens should protect the nation foregoing their own interests. If Nation needs Soldiers, then Citizens should come forward on their own and get inducted to the defense forces.

4. To keep alive the Values which influenced our freedom struggle and sustain them: This also is the duty of every citizen to sustain values (liberty, equality, fraternity) which kept our freedom struggle going and also follow them in our day to day life.

5. Build Fraternity and spirit of unity amongst all citizens of India: This is almost our foremost duty to inculcate a spirit of unity and fraternity amongst us. Each citizens of India made up with principle of Justice, Liberty and Fraternity, should consider themselves as sons/daughters of one source only, they should consider One Motherland and One Fraternity.

6. Value the Importance of Our Glorious Social Culture and sustain it: Each country has its own ancient cultural and social past. India too has its own Glorious Ancient Culture, which incorporates in itself high values such as Unity, Global Fraternity, Equal Treatment to all Religions. To understand the Glorious culture of India and keep it Intact is the Fundamental Duties of its Citizens.

7. To Improve and take Care of Forests, Ponds, Rivers, Forest Life, Ecology and have Mercy on Live Animals: To protect our Natural Ecology from being damaged and exploited, constitution makers decided on making this as fundamental duty of each citizen to protect environment and try improve it.

8. Protect National Property and Abstain from Violence: Each citizen has to protect National Property. Hence they should not do any act which can cause damage to it or there can be a risk of damage. People should stay away from Violent Agitations and such activities.

Did u know? As per recommendations from Swarn Singh Committee, Fundamental Rights were included by Central Government in constitution under 42nd constitutional amendment.

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Notes

9. Develop Scientific Thought and views: To get rid of prevalent evils and age old traditional perspective, it is imperative that we develop a scientific thought process. We should try develop a tendency of logical reasoning in diverse situations and try use our merits and resources to the betterment of the society. To understand, accept and respect Human Values and Thought Process is the Duty of mankind.

10. Proceed towards development in different subjects in matters pertaining to Individual/Group Topics: Citizens should indulge in activities of skill/knowledge improvement and research, so that efforts of nation building can reach its zenith.

Conclusion: There has been mention of Fundamental Duties along with Rights in the Constitution of Japan, Italy, China and other European Countries and now it has been included in Indian Constitution. This will enable Citizens to understand their Duties well and they will be able to adhere them well. As of now, there has been no punishment provisioning in case of its violation, but in some cases, parliament can arrange to have some legal penalties, if need be. There is only one doubt concerning these duties that there is linguistic explanatory ambiguity in some of the duties. Scientific approach, Humanity, skill/knowledge development and spirit to develop can be discussed in general, but it is very difficult to ensure implementation. Only fear is that, in the name of adherence of duties, administration may not misuse its powers. We only can hope that this situation does not arise.

Self Assessment

Fill in the Blanks:

1. …….. has written the Book ,” A Gandhism Constitution for Free India”.
2. A new Part …….. has been added by the 42nd Amendment to the constitution.
3. Fundamental Rights were added in constitution by accepting recommendations from ……..

3.2 Summary

- As per Gandhi, Right means following your Duty honestly; with Right there attached is Duty. Gandhi considered Right and Duty to have a complementary relationship with each other.
- It is the Duty of every citizen to respect National Flag and National Anthem. Hence, every citizen should pay respect to the Nation by respecting our National Flag, symbol of our glory.
- In case of National Crisis, each one of us should foregot our personal interest and save nation. If Nation needs soldiers , then we should on our own, join Defense forces.
- To understand, accept and respect Human Values and thought process is main duty of mankind.

3.3 Keywords

- **Amendment:** To Clean, To Correct, To Repair etc.
- **Liberalism:** That principle which allows everyone to live with equally being Independent (equality and liberty).

3.4 Review Questions

1. Explain the Fundamental Duties as given by the Constitution of India.
2. How Important are Fundamental Duties to an Individual.? Critically elaborate.

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Notes

Answer: Self Assessment

1. Gandhi
2. IV
3. Swarn Singh Committee

3.5 Further Readings

Books

1. Indian Political System : *N. Chhabra, Abhinav Prakashan, Rohtak , Haryana.*
2. Cosntitution of India – *Subhash Kashyap.*

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Unit-4: Directive Principles of State Policy

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4.1 Nature of Directive Principles

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4.6 Implementation and achievements with regard to Directive Principles

4.7 Difference between Directive Principles and Fundamental Rights

4.8 Summary

4.9 Keywords

4.10 Reviews Questions

4.11 Further Readings

Objectives

After studying this unit, students will be able to:

- Understand the meaning and subject matter of Directive Principles.
- Classifying the Directive Principles understanding constitutional amendment.
- Understand the importance of Directive Principles of State Policy.
- Differenciate between Directive Principles and Fundamental Rights.

Introduction

This is the uniqueness of Indian constitution that in order to guide the State, there have been provisions of Directive Principles. We find their mention in the 4th part of the constitution. Under this chapter, constitution makers have indicated a Direction which Central and State Government. should use while making and enacting Legislations and Laws.

In 1937, Ireland not only provided for Fundamental Rights in its constitution rather also introduced Directive Principles of State Policy. Besides, there has been a difference that Fundamental Rights are judicially approved, but Directive Principles are only Legal Rights.

Notes

4.1 Nature of Directive Principles

Article 37 defines the nature and scope of it as-provisions as mentioned under part 4, though can't be challenged under any court of law, yet they are fundamental in the administration of Government and use of these is essential for State while making/enacting law.

Did u know? **Dr. Ambedkar** said in Constitution Committee; "Directive Principles of State are just like orders for Governors and Governor Generals under Govt. of India Act,1935. Only differences being that under 1935 Act, these orders were meant for Executives, whereas Directive Principles are meant for State".

Therefore, our Directive Principles will influence both Executive and Legislative. Explaining the Nature and Scope of Directive Principles **Mr. G.N. Joshi** writes in his book "constitution of India", "Directive Principles should be kept in by Legislative while making Law and by Executive while enacting Law. These point out to those policies which should be adhered by the Central and State Government."

Directive Principles are a new feature of our Constitution. These contain those instructions which the present and future Government will follow irrespective of whatever political party they belong to. These principles are found in part IV (article 36-51). These Principles depict the Hope and Ambition of our constitution making members. They wanted to establish a Welfare State with the help of this, so that people can get Social, Economical and Political Justice. These clauses are the lifeline of our constitution. The makers of constitution rightly understood that Individual objectives must gel with Social objectives. They were aware of American experience and hence they put across Social Change at the forefront. They were inspired by the constitution of Ireland in this regard.

Self Assessment

Fill in the Blanks :

1. Ireland has included Directive Principles under ……. of its constitution.
2. Directive Principles of the State have been mentioned in Part IV …….. in our constitution.

4.2 Importance of Directive Principles

Directive Principles want to establish special type of social structure. As per Article 38,"The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which social, economical, political justice is available to all". These are not enforceable by any court of law. Prior to 42nd amendment, Fundamental Rights were given preference over Directive principles, even if these principles were fundamental to the governance of the nation. As per Article 37, "provisions in part IV shall not be enforceable in any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the state to apply their principles in making their laws". Post 42nd amendment, they have been given more Weightage than Fundamental Rights. After this amendment, any Law made and enacted by Parliament or State Legislature can't be challenges/ enforced in any court of law on the basis that it violates Article 14 and 19.

4.3 Classification of Directive Principles

Chapter 4 (article 36-51) mentions Directive Principles. They have not been classified in the constitution, but **Prof. M.P. Sharma** does it in 3 parts and they can be further classified in 2 more parts:

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1. Socialistic Principles: Those principles can be put under it, which strive to make India a welfare state.

(*i*) As per Article 38, state shall endeavor to have Social Structure for the development of welfare state

(*ii*) Under Article 39 have following clauses :

(*a*) Each citizen shall have the right to earn his/her livelihood.

(*b*) Physical resources should be distributed in such a way that results in maximum welfare.

(*c*) Economic structure of the nation should be such that it is not concentrated in few hands.

(*d*) Both men and women should be paid equally for same work.

(*e*) Women, children and youth should be protected against physical and moral degradation and exploitation.

(*f*) Due economic crisis men, women and children should not be allowed to do such work, which are not in conformity with their health and age.

(*iii*) As per article 41, in case of unemployment, disease, old age and limb loss, state shall endeavor to help them as per its might. Besides, state shall endeavor to arrange for employment and education.

(*iv*) As per article 42, state shall endeavor to arrange for more and justful options of work and provide for maximum Maternity Benefits.

Notes Under article 43, state shall provide for decent wages, life style and sufficient leaves for all classes of labor. States should have such arrangements so that labor can avail maximum benefit of Social and Cultural Provisions.

2. Gandhian Principles: We can include those principles in it which can be useful for building Society, a dream which was nurtured by Gandhi.

(*i*) Under article 40, villages shall have Gram Panchayat.

(*ii*) Under article 43, endeavors shall be made to promote handicraft and handmade industries.

(*iii*) Under article 46, state shall provide educational assistance to weaker sections of society and specially SC/ST and endeavor to protect them against any social Unjust and exploitation.

(*iv*) Under article 47, state shall try to prohibit sale of those alcohol and sedative products , which can have an adverse impact on health

(*v*) Under article 48, it shall endeavor to prohibit killing of milk producing animals and would try to improve the species of the live stock

3. Liberal Principles: This category contains general and great thought process principles:

(*i*) Under article 44, state shall introduce to have Uniform Civil Code in India.

(*ii*) Under article 45 , within 10 years of the enacting of constitution, state shall endeavor to provide free and compulsory education for children aged up to 14 year.

(*iii*) Under article 47, state shall endeavor to improve lifestyle and appetite of the people and further try to improve the health levels of the masses.

(*iv*) Under article 48, state shall endeavor to promote scientific farming and cattle breeding.

(*v*) Under article 50, state shall endeavor to keep judiciary independent of executive.

Notes

4. Principles relating to International Relations: These are principles which stresses on the need of Global peace and they are as following:

As per Article 51–

(*i*) State shall promote international peace and agreements.

(*ii*) State shall try to have respectful and justified relationship with other countries.

(*iii*) State shall respect international laws, treaties and agreements.

(*iv*) In case of international dispute, it shall endorse the policy of settling them arbitrarily.

5. Other Principles: Under Article 49, state shall endeavor to protect Heritage sites, Monuments etc.

(*i*) Clause no 43.1 has been added to the constitution by its 42nd amendment which asks state to ensure that labor get rightful opportunity of having justful participation in the affairs of any business or any institution, by enacting proper law or other wise.

(*ii*) Clause no 48-A has been added to the constitution by its 42nd amendment which asks state to endeavor for protecting and promoting environment, forest and forest life

Self Assessment

Fill in the Blanks:

3. Under article ……. socialist principle states that state should create justful condition for creating work and arrange for maximum possible help for maternity benefits.
4. Under article …… Gandhian principle states that Gram Panchayat should be established in villages.

4.4 Criticism of Directive Principles

Directive principles were criticized a lot both in and out of constitution making committee whilst it was being drafted. Even after the adoption of constitution, many scholars have criticized it on several basis which can be found as following :

1. Lack of Legal Sanction: At one hand constitution considers directive principles as fundamental in the governance of the nation, on the other hand they are not enforceable by any court of law nor are statutory in nature, it means courts can't intervene and ask for its implementation. Hence in the eyes of these scholars these are more of a " pious wishes", "Moral Percepts" or such political announcements which don't have any constitutional importance. Constitution committee member **Mr. Nasiruddin** termed it as, "Greetings proposal passed on the first day of New Year", **Prof. K.T. Shah said**," This is such type of cheque whose payment is at the mercy of the bank". Prof. Wheere termed them as " declaration paper of objectives and ambitions" and **Mr. N.R. Raghavachari** termed them as," pulsating emotional sentences of that beautiful poem which does not have any constitutional importance". As per **Sir B.N. Rao** ," Directive Principles of State are like Moral Percepts for the officials and they deserve to be criticized as constitution does not have space for Moral Percepts". Critics further state that if Moral Percept were to be inducted into the constitution ,then why did not we induct 10 Commandants of Holy Bible?

2. Vague and Illogically Collected: These are criticized on another basis that they are not based on any definite philosophy or logic. They are vague, they lack continuity and have repetition. For example clauses for protecting heritage/monumental sites have been mixed with vital issue like social, economical challenge As per **Prof. Srinivasan**," this chapter demonstrates abrupt mixture of traditional clauses with modern ones and logical and scientific based clauses with emotional/sentimental and request based clauses".

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3. Unnatural in Sovereign State: it looks unnatural to adopt these principles in a sovereign state. Higher level Government can direct lower level Government, as we witnessed under Act of 1935 wherein Parliament gave orders to Governors and Governor Generals, but in a Sovereign State needs to be directed like this, seems little impractical. In the opinion of Legal Scholars, this type of directions for any Sovereign State does not hold any weightage.

4. Impractical and Unsound: Some of the scholars have challenged it on the basis of being impractical and unsound. For example, clause related with prohibition of alcohol and related items have been criticized heavily by representatives from liberalized economy. They are of the view that these measures shall prove costly to the exchequer. Besides, this is also pleaded that morality can't be imposed. Alcohol prohibition instead of making people deaddicted gives birth to illegal trading of such products. This is even more impractical that most of the govt. has opened wine shops under Public Sector enterprise and hence it is in direct contrast. Under such conditions Dr. Jennings these words seem to be true," in the times to come, these principles would certainly become meaningless".

5. Basis of Constitutional Crisis: Constitutional experts have expressed concerns that there can be situations of constitutional crisis and logjam. Mr. Santhanam expressed his concern in constitution committee that there can be conflicts between President-Prime Minister and Governor-Chief Minister. Question is that if Prime Minister violates these directives, what will be the situation? One group is of the view that President can exercise Veto on any Ordinance on the ground that it violates Directive principles. Famous constitutional write Mr. Durgadas Basu also has opined appropriately. These types of confrontations can cause serious difference of opinion among President and Prime Minister and this can seriously damage parliamentary democracy.

Conclusion: It is clearly understood by above discussion that Directive Principles hold special importance in modern times. Ex chief Justice of India **K. Subba Rao** states," Directive principles have been mentioned from part IV of the constitution. It wants to create such a social structure in which justice shall form the basis of all social, economical , political national institutions. It intends to create such an Agricultural Society where there shall be no concentration of money, where there shall be plenty of opportunity, where each one shall have the right to education, work and means of subsistence and each one will have social justice.

Self Assessment

Multiple Choice Questions:

5. Who among the following has termed Directive Principles as " Greetings proposal passed on the first day of New Year?

   (*a*) Prof. K.T. Shah (*b*) Prof. Wheeler

   (*c*) Sir B.N. Rao (*d*) Mr. Nasiruddin

6. Who quoted this- "Directive principles are just like such a cheque whose payment is at the mercy of the bank".

   (*a*) Prof. K.T. Shah (*b*) Mr. N.R. Raghavachari

   (*c*) Prof. Wheeler (*d*) Mr. Nasiruddin

7. Who had this doubt that due to directive principles there can be a conflict situation between president and prime minister and governor and chief minister?

   (*a*) K. Subba Rao (b) Mr. Santhanam

   (c) Prof. Srinivasan (d) Prof. Wheeler

Notes

4.5 Usefulness of Directive Principles of State Policy

We should not consider directive principles as meaningless and of less importance, due to these being criticized. In actual, these directive principles are very important on a constitutional and practical basis. As per **Justice Hegde**," if there are any areas of constitution which needs thorough discussion, then it has to be part III and IV". These contain constitutional philosophy and in the words of a write ," These contain the Soul of the constitution". As per **Dr. Paylee**," these principles are important as they are the positive responsibility of the state towards its citizens". Importance of these elements can be described in the following manner :

1. Directive Principles are Neither Inconsistent nor out of date: Prof. Jennings and **Srinivas** argument of it being irrelevant and obsolete is totally inappropriate. In fact, many clauses about these thoughts are not foreign in nature, rather absolutely Indian in many respect and occasion. Though in the 21st century, these might become little obsolete , but in 20th century, these are absolutely useful and practical. As per **Prof. M.V. Paylee**," if these become obsolete at any point of time, then they can be easily amended as procedure to amend them is quite easy. Till the time they shall become obsolete and out of time, India would have benefitted from them majorly and roots of democracy would been strengthened in India. Constitution is made to resolve current problems and issues. If we are able construct our future on the basis of a solid foundation today, then we need not worry about future".

2. Power of Public Opinion behind the Principles: Though these are not enforceable in any court of law, these are backed by the authority of electoral mandate, which is the biggest Court of Democracy. Hence any Govt. which is accountable to the masses, can't afford to violate them. Consistent violation of these principles by the govt. would give birth to strong internal protest. Within parliament govt. has to reply to the Opposition and outside parliament it has to face the wrath of its electorate at the time of elections. There has to be plebiscite behind Directive Principles. As per **Prof. Paylee**," directive principles create fundamental layer of national awareness and whosoever violates it , does it at the risk of losing power only". Critic **Raghavachari** also accepts that," the govt. which is in power has to respect this directive paper". Mr. **Alladi Krishnnaswami Aiyar** rightly said in constitution committee," any popular cabinet can't afford to violate the clauses mentioned under part IV".

3. An Insurance against Extremes: Constitution makers were aware of the fact that there can be different leadership due to dynamic nature of electorate in different periods of time under our democracy. Sometimes it can be a Rightwing leadership and sometimes it can be a Leftwing Leadership. Directive principles would keep any type of leadership under check and would stop them from being unidirectional. As per **Mr. Amarnandi**," directive principles of the state assures of the fact that any conservative party would be able to avoid these clauses while making it policies and any aggressive party would not think of suspending constitution to fulfill its economic or other programmes. Thus directive principles safeguards us against extremes of both leftwing and rightwing leadership.

4. Importance as Moral Ideals: Even if we consider directive principles as a Moral Concept, even then they have huge importance. Magnacarta in Britain, Human and Civil Rights declaration in France and no legal rights available to preamble in America, even then these nations have been influenced by it. So we can hopefully expect these principles to influence Indian administration and policies. In the words of **Allen Gledhill**," numerous people have improved lives due to the effect of moral ideals and there is no dearth of examples, wherein these moral principles have influenced history of some nations as well.

5. Helpful in the Interpretation of the Constitution: As per constitution, directive principles are fundamental to the governance of the nation, which means each authority responsible for governing the nation shall be directed by them only. Judiciary being integral part of our governance system, It is expected that Courts will give special importance to directive principles while interpreting constitution. **Prof. Alexandrowich** is of the view that since directive principles carries the social and economic policy of our constitution makers and it also carries their desires, it becomes imperative for the courts to give special importance to directive principles while explaining clauses related with fundamental rights.

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Indian Courts have taken cue from directive principles on number of occasions while giving verdict on cases pertaining to Fundamental Rights. In case of State of Mumbai Vs. FM walsaray, Supreme Court gave verdict on the basis of article 47 that the Government rightly put a ban of the sale of Intoxicating material. Again in the case of Government of Bihar Vs. Kameshwar Singh, Supreme Court favored Government decision under article 39 by saying that the end of landlord system is actually beneficial for the society as a whole. Similarly, in the case of govt. of Ajmer vs. Vijay vastra udyog, Supreme Court upheld minimum wages act applicability under article 43. As per Sh. **M.C. Sitalwad**," directive principles even if not having constitutional backing, they continue to work as a Light House for the respective Courts".

6. Basis of the Evaluation of the Government: Directive principles provide people a benchmark to assess the success and failure of any leadership. Those in power have to explain the public about their achievement in respect of these directive principles and those desiring to come in power have to express their eagerness and willingness towards these principles in front of the masses.

7. Executive Head cannot Exploit Provisions: Finally in favor of directive principle we can say that though some constitution experts and parliamentarians have expressed their concerns of President or Governor rejecting their ordinance/bill on the basis of not being in conformity with directive principles, yet it is highly unlikely to happen, as President and Governor being symbolic head only can't afford to reject popular council of ministers proposal. In **Dr. Ambedkar** words," to reject an ordinance/bill, president or governor can't use directive principles".

In fact, directive principles are the supreme principles of Indian constitution. Supreme Court justice Mr. Kenya while giving verdict on Gopalan vs. state of Madras said that," since directive principles of the state are part of constitution, therefore they are not only temporary orders of the majority party, but they also have the wisedomfull consent of the nation, which has been expressed by the constitution committee".

Self Assessment

State whether the following statement are True/False:

8. "Directive principles even if not having constitutional backing, they continue to work as a Light House for the respective Courts". This statement is of Mr. M.C. Sitalwad.
9. Directive principles are enforceable by the court of law.

Task Describe the utility of directive principles of the state.

4.6 Implementation and Achievements with Regard to Directive Principles

Implementation of directive principles is like converting police rule into welfare rule and like converting political democracy (as established by constitution) into economic democracy. This is such a huge task that it can't be completed fast. We need long time effort, sufficient money and rapid economic, social and educational development to accomplish this.

But states have started working on it and following have been the developments:

1. There have been efforts to promote agriculture and industry, improvement in education and health standards, increment in number of jobs and related fields, national income and lifestyle upgradation with the help of five yearly plan.

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2. Numerous laws have been passed to protect the interests of children and youth. In case of disease and accident, to some extent provisions have been done for Insurance in Labor class and efforts are on to implement unemployment insurance scheme and increased availability of employment. State is cruising ahead in the direction of social welfare.
3. Barring some parts of Hindu Bill like Hindu Marriage Act 1955 and Hindu Succession Act 1956, efforts are on to introduce Uniform Civil Code.
4. There has been progress in the area of eradication of untouchability and providing education to SC/ST and other backward classes by offering them scholarship and other means.
5. Though we still have to go miles in terms of free and compulsory education and sufficient health services for all, yet we have achieved substantial success in attaining it. At the last place, by democratic decentralization and community development schemes Gram Panchayat have been empowered. To provide free legal counseling to poor, a committee has been constituted under Justice **P.N. Bhagwati**. In some of the provinces, old age pension scheme has been started for poor and helpless people. Haryana is one such state to do it.

In the recent past, lots of steps have been taken to implement directive principles. Eradication of bonded labor system and equal wages to men and women legislation has also been passed. Required laws have been passed by State Government to write off debts of rural public and weaker sections of the society. In 1976 parliament has passed Urban Land Ceiling Act, according to which urban land ceiling in Tier 4 cities has been fixed between 500 sq mt to 2000 sq mt. We hope that this act shall extend to other urban areas as well in times to come. In fact , there have been fresh efforts for the welfare of poor. Making available Land for landless, land reforms and hiking agriculture labor wages are some areas, which are seeing heightened activities.

There still is a lot of work to be done to implement directive principles fully, but state has not forgotten its duty and we can hope that there shall be increased endeavors in this regard in times to come.

Conclusion: Aforesaid discussion establishes the fact that directive principles are not meaningless. They have high importance in the constitution. Our democracy 's future hinges upon its implementation. As per **Dr. A.C. Kapoor**, "directive principles are principles which provide stability to the constitution ".

Undoubtedly , directive principles have huge importance. After 25th amendment, its importance has risen manifolds. We can refer to them as the foundation of socialist policy of Indian state. Establishment of an ideal democracy and its success depends largely upon adopting these principles in practice. There is truth in the statement of **Mr. Chagla**," if we can shape up these directive principles practically, then our country can certainly become paradise on earth". Supreme Court while delivering verdict in one of the cases quoted ," being a part of the constitutional scheme, the directive principles do not represent a temporary will of a majority but the deliberate wisdom of the nation expressed through the constituent assembly entrusted with the duty of setting the paramount and permanent law of the country".

Self Assessment

State whether the following statement are True/False:

10. After 25th amendment , importance of directive principles have decreased.
11. 'Directive Principles give stability to the Democracy'. This is Dr. A.C. Kapoor Statement.

4.7 Difference between Fundamental Rights and Directive Principles

6 Types of Fundamental rights have been mentioned under Article 12-35 of part 3 of the constitution, which help citizens develop their lives, whereas Directive principles have been mentioned under Article 35-51 of part 4 of the constitution, whose objective is to have social, economical and moral development

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of the masses and establishment of a welfare state in India. Though there seems to be a similarity between their objectives, yet both are different. We can't refer them as having same nature.

We can differentiate between Fundamental Rights and Directive Principles as per following:

1. Directive Principles are Affirmative Instructions whereas Fundamental Rights are Injunctions: First difference is that directive principles are fixed instructions given to the state which tells us to have Panchayat system, eradicate unemployment, ban Cow Slaughter, separation of Judiciary and Executive etc. In contrast , state receives Injunctions by fundamental rights. In other words , state's power has been controlled. For example, state shall not take anyone 's property without giving sufficient amount of money ; state shall not discriminate on the basis of religion, color and gender.

As per **Mr. Gledhill**," fundamental rights are Injunctions to prohibit the Govt. from doing certain things ,the directive principles are affirmative instructions to the Govt. to do certain things".

2. Fundamental Rights are Commendatory and Directive Principles are Declaratory: It has been made clear in the constitution that fundamental rights are enforceable by law and it can be protected by the judiciary. Courts can pass order to executive for the implementation of fundamental rights. Right to constitutional remedy is fundamental right, whereas directive principles can't be enforced by court of law. Article 37 clearly states that, directive principles can't be enforced by any court of law. In other words, directive principles are only instructions and not legal orders. Funamental rights are commandatory while the directive principles and declaratory. This is big difference between two.

3. Objective of Fundamental Rights is Political Liberty whereas it is Economic Liberty for Directive Principles: Whereas political democracy has been established by the incorporation of fundamental rights, economic and social democracy has been hoped to be established by the incorporation of directive principles. For a successful democracy it is imperative that political democracy is based upon social and economic democracy. Political and Economic democracy has been provisioned in part III and IV of the constitution to be adopted in Indian polity.

4. Both are Complementary to each other: Rights mentioned in part III can be termed as political rights whereas those mentioned in part IV can be termed as Social and Economic rights. Political rights can be beneficial only when they are exercised in appropriate social and economical conditions. Objective of social development and welfare can be accomplished only when social and economic democracy acts as a base for political democracy. Existence of social and economical rights is essential in society for rightful social and economic conditions. Hence fundamental rights (political rights) and directive principles(social and economical rights) can collectively develop the society. Hence they are complementary to each other.

5. Fundamental Rights have been Achieved but Directive Principles are not: People have been able to exercise fundamental rights whereas directive principles are not. Govt. is still trying to give them a practical shape.

6. Fundamental Rights are related with Individuals whereas Directive Principles with State: Objective of fundamental rights is to develop individual life and make it happier and civilized. They try to have those conditions in which an individual can develop inherent skill sets appropriately. In contrast, directive principles stresses on the development of the society. Under article 38 it is clearly mentioned that, state shall have such social structure in which each will get social and economical justice.

7. Directive Principles are more important than Fundamental Rights: Fundamental rights are such provisions which are essential for the happiness of an individual. But these pertain to only one individual whereas directive principles mentions those objectives which have been considered while fixing objective of welfare state on the basis of economic, social and political justice. Even though they can't be enforced by the court of law, they hold greater value than fundamental rights. These principles depict economic democracy alongwith parliamentary democracy. Hence in the words of **Dr. A.C. Kapoor**," directive principles give stability to the democracy". Where fundamental rights have got legal power , directive principles have got moral power. **Paylee** correctly said," there should be zero tolerance in the way of directive principles ,even if it is fundamental rights of one individual, as one individual can't be an obstacle to the growth and welfare of entire society.

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8. In case of Logjam, who will get Preference: Before 25th and 42nd amendment, fundamental rights scored above directive principles. In case of a logjam between the two, fundamental rights were favored. While delivery verdict to a case supreme court quoted," state should enact proper legislation for the implementation of directive principles, but these laws should not affect fundamental rights". Supreme court gave verdict on February 27, 1967 in the case of Golaknath vs. Punjab State that parliament has passed 42nd amendment which empowered Government to amend any part of the constitution which includes fundamental rights also. To implement directive principles, by 25th amendment Government introduced new clauses of 29 B and 39 C, which can't be revoked by supreme court on the basis that it violates fundamental rights as mentioned in article 14, 19 and 31. On April 24, 1973 Supreme Court gave verdict in case of Keshavanand Bharti by repealing verdict of Golaknath and accepted the constitutional validity of 24th amendment and was accepted that parliament can amend any part of the constitution , which shall include fundamental rights also, but it can't change the basic structure of the constitution. Supreme Court also accepted the constitutional validity of 25th amendment, but declared that part of article 31 C invalid, which said that those laws can't be challenged in court which have been enacted to implement directive principles given in 39B and 39C on the basis that they violate article 14, 19 and 31.

In November 1976 parliament provisioned that no law can be revoked which intend to implement directive principles (in part or whole)mentioned in part III and IV. But on 19 May 1980 while delivering verdict on Minerva Mills and others vs. Government of India, clause 4 of 42nd amendment was revoked.

Conclusion: after critical analysis of directive principles it becomes clear that it is not wrong to include them in the constitution looking at their importance. In the words of **M.C. Sitalwad**," these principles as a beacon would act as a torchbearer for all state to its effort of nation building so that our country can gradually become prosperous and strong and be able to find its worthy place amongst other nations of the world.

In the words of **Chief Justice Chandrachood**,"our constitution aims at bringing about a synthesis between fundamental rights and the directive principles of the state policy. Not one but both collectively are the heart and soul of the constitution".

Lastly **K.C. Mahajan** rightly said that," if a chapter of fundamental rights is a must for a state of the modern democratic type with a written constitution, chapter on the directive principles of the state policy is a must for a welfare state with written constitution".

Self Assessment

Multiple Choice Questions:

12. Declaration of directive principles has been done in which article of Part IV?.

    (*a*) Act 35–51 (*b*) Act 35–77

    (*c*) Act 35-36 (*d*) Act 51–57

13. Fundamental Rights have been achieved, whereas Directive Principles……

    (*a*) Have been achieved (*b*) Have to be achieved

    (*c*) Neither *a* nor *b* (d) None of the above

4.8 Summary

- Directive principles have been mentioned in part IV. By this chapter, constitution makers have indicated a direction which should be followed by central and state Government while making laws and policies.
- Directive Principles of State are a new feature of the constitution. They contain those directions which present and future Government would follow, irrespective of whichever political party they belong to.

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- Directive Principles intend to establish a special type of social structure. As per article 38, state shall endeavor to promote welfare of people by establishing such social structure, in which people can find social, economical and political justice in all the institutions of national stream.
- New clause 43.1 has been added to constitution by 42nd amendment which directs state to let labor have the opportunity to participate in any institution or business and its management by enacting laws.
- Constitution has, at one hand accepted, directive principles as fundamental to the governance of nation, but on the other hand, they are not enforceable by law, which implies courts can't implement them.
- Though directive principles are not enforceable in court of law, yet they have the backing of electorate and which is the biggest court of democracy.
- We still have to go miles towards attainment of directive principle's objective, but state have not forgotten their task and we can hope to see even better efforts in that direction from state.
- Fundamental Rights have been achieved and exercised by the people, but directive principles are not and state is trying to give them a practical and implantable shape.

4.9 Keywords

- Untouchability: evil of not touching lower caste people by upper caste people.
- Decentralization: deconcentration of power and delegation.

4.10 Review Questions

1. Explain Directive Principles of State Policy as mentioned in Indian Constitution.
2. Classify Directive Principles while explaining its importance.
3. Do critical analysis of Directive Principles of State Policy.
4. Clarify the difference between Fundamental Rights and Directive Principles.
5. Desribe the utility of Directive Principles of state policy.

Answer: Self Assessment

1. 1937
2. Article 36 to 51
3. 42
4. 40
5. (*d*)
6. (*a*)
7. (*b*)
8. True
9. False
10. False
11. True
12. (*a*)
13. (*b*)

4.11 Further Readings

Books

1. Indian Govt. and Politics – *Subhash Kashyap.*
2. Indian Political System – *N. Chhabra, Abhinav Prakashan, Rohtak, (Haryana).*

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Unit-5: Union Government: President, Vice President

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Objectives

After studying this unit, students will be able to:

- Understand the election of the president.
- Understand the work and power of the president.
- Know the election procedure of the vice-president.

Introduction

Indian constitution states that there shall be One President of India. Executive powers of the Union Government shall be inherent in the President and he will use it himself / through designated subordinates as per constitution. Thus Union Executive shall comprise of President and Council of Ministers. President shall be the symbolic head of the Executive and Council of Ministers, the actual Head.

While presenting the draft of the constitution **Dr. Ambedkar said**," in Indian context president enjoys same position as is held by the British king in British Constitution. He is the Head of the State and not of Executive. He represents the Nation, but does not rule. He is the symbol of our nation. He has a symbolic place in the administration of the nation".

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5.1 Method of President's Election

As per constitution, India is a Sovereign, Socialist, Secular and Democratic Republic. To fulfill the objective of making India a Democratic Republic, provisions have been made for the election of the president. But it was necessary for constitution makers to make president symbolic head due to the adoption of parliamentary style of governance. It was decided that actual powers shall lie with prime minister and his cabinet and president shall only symbolically preside over as the head of the state. Hence it was decided that president should not be directly elected by people. As per Nehru, since president is only a symbolic head, efforts of electing him through Votes of general public shall be meaningless. Also a directly elected president could have become a threat to the Govt. and to the parliamentary system. Hence it was decided to have him elected indirectly only.

Notes The Head of Union Executive shall be president. Though this nomenclature is alike the constitution of America, yet Indian president's work and power are entirely different from him.

As per Article 54, president is to be elected indirectly by elected members of both the houses of union parliament and by the elected members of State's Vidhan Sabha:

(a) Qualifications for the Post of President: following are the qualifications –

(1) He should be an Indian, but it is not mentioned that he should be Indian by birth or not.

(2) He should be minimum 35 years of age.

(3) He should have the qualifications to become member of Lok Sabha.

(4) He should not be holding any office of profit.

(5) He should not be a member of any house of the parliament or state Vidhan Sabha. "If any member of the mentioned category becomes president, then he/she has to resign his membership from the date of taking oath to the post of president".

(6) Apart from these eligibility criteria, it has been provisioned under 1974 Act that, every candidate to the post of president shall deposit an amount of Rs. 2500 as deposit along with his nomination and his nomination papers should be proposed by minimum 10 Voters and another 10 should endorse his name. After an order of 1997, the same has been revised to Rs. 15000 and number of proposers and endorsers to 50 in both cases. This has been done with a view to keep the number of contestants as low as possible and only eligible candidates should contest. If any candidate fails to get minimum $1/6^{th}$ of the total votes casted in the election, then his deposit shall be forfeited. After these changes, in 1997 only 2 candidates contested presidential elections—**Mr. K.R. Narayanan** and **Mr. T.R. Seshan**. Number of people contesting presidential elections has been decreasing consistently and normally we see only 2 contestants in it now.

(b) Composition of the Electoral Council for President's Election: President is to be elected indirectly as per constitution. He is elected by an electoral council which comprises of members of both houses of parliament and members of state Vidhan Sabha. Nominated members of parliament and state Vidhan Sabha can't take part in president elections, so that there should not be any manipulation by the contestants. On the basis of vacant seats in the electoral council, president election can't be stopped, as those elections take place every 5 years. In 1957 president election was challenged on the same basis, as there were some vacant seats in the electoral council. To remove this loophole, constitution was amended 11th time in 1961. This amendment provided in article 71 that president election can't be objected on the basis of vacant seats in the electoral council. But central government can misuse this particular aspect to stop members of Rajya Sabha from voting, which normally has Opposition majority and this type of

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malpractice can be stopped only through a healthy democracy. But the idea of fixed timely election for president has held it upright. House arrested Members of parliament and State Vidhan Sabha and those members representing those state Vidhan Sabha which are at present dissolved, also have the right to participate in president's elections.

In 1987, there were a total of 4350 members of the electoral council, out of which 702 were MPs and 3648 were MLAs. In July 1992, the same number was 4748, out of which 776 were MPs and 3910 were MLAs and a total of 4642 votes were casted. In 2002, there were a total of 4896 members of electoral council, out of which 776 were MPs and 4120 were MLAs.

(c) Method of Election: Article 54 and 55 describe the method of president election. As per article 54, president is indirectly elected by the electoral council comprising of members of both houses of parliament and members of state Vidhan Sabha. This election is done secretly under Single Transferrable voting system and by Proportional Representation System. Article 55 describes the process of election in detail. This Article lays down principles for having synergy in votes of members of parliament and as that of members of state Vidhan Sabha and for fixing other aspect related with president' s election, it proposes following principles :

(1) There shall be uniformity in the scale of representation of different states: As per constitution, value of each MLA's Vote shall be in the ratio of its population and following formula is to be used for it:

One Vote Value of an MLA

$$= \frac{\text{Population of State}}{\text{Number of Elected Members of State Vidhan Sabha}} \times \frac{1}{1000}$$

(If the remainder is not less than 500 even after taking multiple of 1000, then each member's vote can hiked by one more)

Example–

During 2002 elections in Punjab, it had a population of 1, 35,51,660 and there were total 177 MLAs and hence value of each vote was:

$$\frac{1,35,51,660}{117} \times \frac{1}{1000} = 115\,\frac{826}{1000} = 116$$

This way value of each vote is calculated for one state and subsequently for all states.

(2) There shall be Parity between votes of MPs and MLAs: To bring uniformity amongst Union and States, it has been provisioned that Value of Votes of all MPs shall be equal to Value of all MLAs and this can be achieved by the following formula:

One Vote Value of MP

$$= \frac{\text{Total Number of Votes of all Members of State Vidhan Sabha}}{\text{Total Number of Elected Members of Parliamentarians}}$$

Example–

In 1992 presidential elections, the number of votes of all members of state Vidhan Sabha was 544971 and number of MPs were 776 (543 and 233 respectively in Lok and Rajya Sabha)

Each Vote Value of Elected Member $= \frac{544971}{776} = 702\,\frac{318}{776} = 702$

In 2002 presidential elections, value of one vote was 708 and value of votes of State Vidhan Sabha was different. Value of AP MLA vote was 148, Assam 116, Bihar 173, Maharashtra 125, UP 208, Punjab 116, Haryana 112, Manipur 18, Meghalaya 17, Mizoram 8, Nagaland 9, Arunachal Pradesh 8, HP 51, WB 151, TN 176, JandK 72 and others.

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(3) Single Voting System along with Indicative Preference: Each voter (each MP and MLA) casts one vote in presidential election. Each MP vote's value is same whereas value of MLA vote differs from state to state. Each voter while casting vote registers his/her preference 1, 2, 3, 4, 5 favoring different candidates. Vote goes to the favor of preference 1, but in case that candidate gets defeated, then the vote goes in favor of other candidate in line.

Though president election is conducted under Proportional Ratio System and Single Transferrable voting system, yet it is neither of two in nature. In fact, it is a system based on Quota Preference.

(4) Fixed Quota of Votes to Win: To win, candidate needs to get a fixed quota derived as following:

$$\frac{\text{Net Casted Votes}}{\text{Total No of Seats to be Filled}} + 1$$

If the remainder is half or 1, then one vote is increased per voter.

(5) Provision for Transfer of Votes in case none achieves required Quota of Votes: If any candidate fails to get the required quota in the voting, then candidate getting lowest vote is ousted and his votes are distributed amongst other candidates basis his preference registered. This process is repeated till the time, anyone candidate does not get the required Quota numbers.

This system of voting transfer was exercised in the election in 1969 during 5th presidential elections. There were a total of 8,36,336 votes. On the basis of preference 1, Mr. V.V. Giri got 4,01,515 votes and Mr. Sanjeeva Reddy got 3,13,548 votes and this is how none of them could gather the fixed quota of 4,18,169. In that condition, third candidate Dr. Deshmukh was ousted and his votes were distributed as per voter preference and then Mr. V.V. Giri got 4,20,077 and Mr. Sanjeeva Reddy got 4,05,427 votes, herby ensuring Mr. Giri Victory with a margin of 14,650 votes. In other elections, transfer voting has not been required to be exercised.

(Presidential Elections 1952–2002)

Winner	**Second Number**					
Date	*Name*	*Eligible Votes*	*%*	*Name*	*Eligible Votes*	*%*
1952 May 2	R. Prasad	5074400	83.8	K.T. Shah	92827	15.3
1957 May 6	R. Prasad	456990	99.3	N.N. Das	2000	0.4
1962 May 7	S. Radhakrishnan	553067	98.3	C.H. Ram	6341	1.1
1967 May 6	Dr. Zakir Hussain	471244	56.2	K. Subba Rao	363971	43.4
1969 August 16	V.V. Giri	420077	50.2	N.S. Reddy	405427	48.5
1974 August 17	F.A. Ahmed	765587	80.2	T. Chaudhary	189186	10.8
1977 August 6	N.S. Reddy	Elected Undisputedly				
1982 July 12	Gyani Jail Singh	754113	72.7	H.R. Khanna	281550	27.6
1987 Sep. 7	R. Venkatraman	740148	72.3	V.R.K. Aiyar	281550	27.5
1992 July 25	S.D. Sharma	675864	64.4	G.G. Sawail	346485	33.8
1997 July 25	K.R. Narayanan	956290	91.4	T.R. Seshan	50631	8.6
2002 July 25	A.P.J. Abdul Kalam	922884	89.58	K. Lakshmi Sehgal	107366	10.4

Figures Pertaining to 12th Presidential Elections of July 2002

Total Number of Electoral Council Members	=	4896
Elected Number of MLAs of All States	=	4120
Number of Elected Members of both houses of parliament	=	776
Value of One Vote of One Elected Member of parliament	=	708

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Each State's MLA's Vote Value- AP 148,Arunachal 8, Assam 116, Bihar 173, CG 129,Goa 20, Gujarat 147, Haryana 112, HP 51, JandK 72, Jharkhand 176, Karnataka 131, Kerala 152, MP 131, Maharashtra 175, Manipur 18, Meghalaya 17, Mizoram 8, Nagaland 9, Orissa 149, Punjab 116, Rajasthan 129, Sikkim 7, TN 176, Tripura 26, Uttaranchal 64, UP 208, WB 151, Delhi 58, Pondicherry 16

Total Number of Votes = 4785 Total Value = 1075819

Rejected Votes = 174 (MPs 42 + MLAs 132)

Value of Reject Votes = 45569

Net Votes = 4611 (MPs 718 + MLAs 3893)

Total Value of Net Votes = 1030250

Total Votes of Dr. A.P.J. Abdul Kalam = 4152 (MPs 638 + MLAs 3514)

Total Value of Votes = 922884 (89.58%)

Total Votes of Captain Lakshmi Sehgal 459 (MPs 80 + MLAs 379)

Value of Total Votes = 107366 (10.4%)

Dr. A.P.J. Abdul Kalam, who is known as the "Missile Man of India" was elected as the 12th President of India with huge majority. He took oath on 25th July, 2002 to the post of President, which was the last working day of President K.R. Narayanan.

6. Stages in a Presidential Election: It happens as per the election of the President of India following stages:

1. Notification of Election and Appointment of Returning Officer: Notification about the election is issued by the president and it is conducted by the Election commission. Election commission appoints Returning Officer and fixes date of Nomination, Last date of Return of Nomination Papers and Election programme.

2. Filling of Nomination Papers, Scrutiny and Withdrawals: Each candidate has to deposit nomination papers up till a fixed date. Each candidate needs to be proposed and endorsed by 50 Voters and needs to deposit Rs 15000 as Deposit. After that, each candidature is scrutinized as per the eligibility criteria for the president's election. All incomplete and wrong nominations are disqualified. Then each candidate is given an option of withdrawal by a fixed deadline, if they want to do so.

3. Election Campaign: After this, each Candidate does canvassing for him/her self. This is normally done through one's own political party only, as this campaign is related only to the Electoral Council and role of public is negligible in this.

4. Polling: Voting takes place of the fixed date only. Each Voter casts one vote, but he can register his/her other preferences on the voting paper. An MP can cast his/her Vote in the National Capital or at the Capital of that State, which he/she represents. He has to inform 10 Days in Advance, as to where his/her would be casted. Normally MLAs cast their Vote in their own State Capital only and entire voting process is strictly confidential

5. Counting of Votes: After Voting, Counting starts. Valid Votes are counted. Quota is fixed. Each candidate's received Votes (1st preference) is computed and as per Article 55, a conclusion is drawn on the basis of each Vote Value candidate who achieves fixed Quota milestone or more, is declared Winner. In case any candidate does not get fixed quota, then as per provisions mentioned, his votes are transferred.

6. Notification of the Result: Later on results are declared in Official Gazette if India.

7. Oath-taking and Installation: New President takes Oath and Charge of Office on the last working day of his predecessor. President takes Oath in the presence of Chief justice of India. If CJI is not available, then Oath Ceremony is done in the presence of the next most Senior Judge of the Supreme court, which speaks as following:

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"I ……. in the name of lord, sincerely vow to discharge my duties and try to protect the constitution and legal system of the country. I would dedicate myself to the service and development of the people". After taking Oath, President takes charge of the post.

(d) Settlement of Dispute connected with Presidential Election: Any dispute of any nature arising after Voting commences, can be heard and settled only in the Supreme Court. Presidential election can be challenged by any unsuccessful candidate or at least by 10 or more Voters. These Objections can be raised on the basis of bungling in the election or on the basis of some erroneous unconstitutional activities. Such objections can be raised within 30 Days of the commencement of Declaration of result. In 1969, V.V. Giri election was challenged in the court and Mr. V.V. Giri himself deposed before the court. Supreme Court upheld the constitutionality and fairness of his election.

(e) Tenure of President: The Tenure of President is of 5 years and it starts from that Date on which he takes charge. Still if in case new president is not elected even after the expiry of current president tenure, then the president would continue to function, till the time new president is not elected. President can quit before his tenure by a written resignation and have it sent to the Vice President.

(f) Method of Removing President: President can be removed by Impeachment on the basis of having been found guilty of violating Constitution or for outraging the modesty of the post of president. Impeachment proceedings can originate in any house of the parliament. In America only House of Representatives can initiate the proceedings and then Senate scrutinizes the charges, but in India it can be initiated in any house of the parliament and then the other house does the scrutiny of the charges.

For Impeachment to begin, at least 1/4th of the size of the parliament has to give signed written Notice minimum 14 Days in advance from the date of proceedings. If the House passes the proposal with 2/3rd majority of total number of members after suf cient debate, then this proposal is sent to the other House. The other House then Scrutinizes the allegations in detail. President has a right to defend him/her self directly by appearing in person or can be represented by his/her Advocate. If the other House also passes the proposal with 2/3rd majority of its total numbers members, then the President is found guilty from the date of passing of Impeachment proceeding and is relinquished of his/her post. Till date, no Indian President has been Impeached.

(g) Re-election: Constitutionally there is no bar on number of times being elected as the president of India, but till now no President has been able to be elected more than 2 times. Only Dr. Rajendra Prasad has been elected twice to this post. Dr. Radhakrishnan, V.V. Giri, Sanjeeva Reddy, Gyani Jail Singh, Venkatraman, S.D. Sharma and K.R. Narayanan were only elected once. Dr. Zakir Hussain and Mr. F.A. Ahmed could not complete their 5 year tenure due to their demise.

(h) Presidential Succession: If President dies before the expiry of his tenure or due to any other reason his post becomes vacant, then Vice President shall preside over till the time next president is elected. Vice President does not take over as President alike American System. New President has to be elected within 6 months from the date of post being vacant. New President takes charge for 5 years countable from the date of his joining. If by any chance, at the time President post being vacant, the post of vice President is also vacant, then the Chief Justice of Supreme Court can take charge as an Ad hoc president and in case his being unavailable also, then next Judge senior most in order shall do the needful. In 1969, after the death of Zakir Hussain, vice president V.V. Giri took Ad hoc charge of President. After he resigned in the same very year, Chief Justice of India Mr. Hidayatullah became Ad hoc president. He continued to work till 5th Presidential election (1969)when Mr. V.V. Giri was elected as president.

(i) Emoluments: At present President monthly salary is ₹ 1,10,000 and is eligible for a monthly pension of ₹ 25,000 post retirement. Apart from salary, president gets several other perks and a nice house to live. After retirement, president is entitled to ₹ 30,000 annual for keeping an Assistant besides a nice house and free medical facility. President ' salary and other emoluments are paid from the consolidated fund of India and it can't be decreased during the tenure of the president, but it attract Income Tax.

(j) Immunities: President while discharging his/her Constitutional Rights and Duties, can't be enforced before any court of law. During presidential tenure, president can't be arrested, kept as a House Arrest

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and he can't be tried on Criminal Code proceeding basis. One must give 2 months prior notice in order to present a case against him in any civil court of law.

Self Assessment

Fill in the Blanks :

1. To become a President the minimum qualifying age is …….
2. In 1997 presidential elections, there were 2 candidates….first was KR Narayanan and the other one was …….
3. In 1987 presidential elections, the size of Electorate council was …….

5.2 Criticism of Presidential Election Method

Critics have the following as the error in the election method:

1. This is not a Proportional Representation System: Main element of proportional representation system is to elect minimum 3 candidates. In the elected body, elected members are represented in the ratio of votes casted. For which we need Multi Member Election Area so that Seats can divided proportionately. But in presidential election, this process is not followed and only one person is elected. Hence this is not Proportional Representation system of election.

2. Complexed Method: Presidential election is very complexed in which each state's MLA and MP's Voting Value is computed. Required Ratio basis, preference system and transfer of votes in case of other candidate's ouster makes it even more complicated

3. Lack of Uniformity in the Representation of States: Constitution states that as far as possible, representation should be uniformly trusted, but formula used to arrive at the value of vote of one MLA becomes the reason for different states different value of votes climax. In 1997 elections, value of one vote of MLA from UP was 208, whereas it was only 8 for Mizoram and hence those States with greater value can manipulate the elections and play a monopolistic part in it.

4. It is not Single Transferrable Voting System: Constitution wrongly puts it as single transferrable voting system. This system can be implemented only in Multi-member electorate area, where there happens to be a need of vote transfer. In presidential election, only one person is elected and hence this type of system is not feasible. We can more relevantly call it as Alternate Voting or Preferential Voting system.

5. Non Recording of Preferences can be a source of crisis: Fundamental basis of presidential election is that least voter of first voting is ousted from the contest, in case any contestant fails to get the required Quota and his votes are transferred to other candidates as per preferences mentioned, but it can be difficult to practice in case candidates don't mention their preference in their nomination papers. This type of situation can arise in case of future.

6. Holding of Elections despite Vacancies in Electoral Council: As per supreme court verdict, even in case of seats being vacant in one or more Vidhan Sabha, presidential election has to be completed before the expiry of the tenure of previous president and hence elections can't be stopped. This provision can be misused by the Central Govt. to its own advantage. Central Govt. party can dissolve his opposition in the State where it has least majority and thus can influence the elections and voting in favor of one particular candidate.

7. Provision for making Chief Justice of India as Acting President: In case of absenteeism of both President and Vice President, Chief Justice of India can take Oath as Acting President and In his absence; Senior most Justice of Supreme Court can take Oath. This provision is not in conformity with the Republican views of the constitution. In case of Vice president's unavailability, Speaker of Lok Sabha should be taking over the post of President.

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8. Participation of Nominated Members in Impeachment Proceedings: As per constitution, nominated members don't take part in the election of President, but they have a right to vote in the Impeachment proceedings against President, which is quite contradictory

9. Difficulties regarding system of Resignation: President can send his resignation to vice president, but in case of vice president not being available, it is not mentioned whom should he send his resignation to. Similarly Acting president should send resignation to whom also is unclear. This situation was created in 1969 when V.V. Giri was made Acting President after the death of Mr. Zakir Hussain. When V.V. Giri wanted to resign, then the question erupted whom should he send his resignation to. Then the Attorney General opined that Acting President should send his signed resignation to President Secretariat and send copies to the prime minister and Chief justice of India. There should be official communication soon on this topic in the Gazette of India, but still this issue needs to be resolved by amendment.

10. No Bar on Re-election: There is no constitutional Bar on number of chances for being elected to this sovereign post. Critics suggest that we should adopt American system of maximum two terms for the post of president so that one person can't be in the highest office for long period of time.

11. Only Indians by birth should be eligible to contest Presidential Elections: We don't have clarity on the nature on Indianness of a candidate and it should be by birth only. Related amendments should be done in the Constitution so that only Citizens By Birth can contest presidential elections.

But despite all above mentioned criticism, the Presidential Elections System and other related provisions have been working fine.

Until now presidential elections have been conducted in a healthy manner without any disruptions or issues. Dr. Rajendra Prasad (January 26, 1950 to May 13, 1962 first and second president elected in 1952 and 1957), Dr. S Radhakrishnan (May 13, 1962 to May 13, 1967 third election in 1967), Dr. Zakir Hussain (May 13, 1967 to May 13, 1969 forth election in 1967), V.V. Giri (August 24, 1969 August 24, 1974 fifth election in 1969), FA Ahmed (August 24, 1974 to February 11, 1977 sixth election in 1974). N.S. Reddy (July 25, 1977-July 25, 1982-seventh election in 1977), Gyani jail Singh (July 25, 1982-July 25, 1987-eightth election in 1982), R. Venkatraman (July 25, 1987-July25, 1992-ninth election in 1987), Dr. S.D. Sharma (25 July 1992-July 25, 1997-tenth election in 1992), K.R. Narayanan (25 July 1997-July 2002-eleventh election in 1997), A.P.J. Abdul Kalam (July 25,2002-twelvth election in July 2002). Thirteenth election took place in July 2007, when Pratibha Ravi Singh Patil became President. She became first women president in the history of independent India.

Self Assessment

State whether the following statement are True/False:

4. Presidential Elections System is very easy and smooth.
5. President is elected through Representation by Ratio method.
6. V.V. Giri became acting President after the demise of Dr. Zakir Hussain.

5.3 President's Power and Position

Indian president is State Head and main Executive. As per Article 53, "Union Executive powers are rested with the President and he shall use these constitutionally either himself or through any of his designated official." But under a parliamentary system, he only functions as a symbolic head of the state with having nominal powers. As per 42nd amendment it has been made mandatory in article 74, that president shall discharge his duties after taking consultation from the Cabinet, which is headed by the Prime minister. But despite all these caps, he handles the supreme post of the state, individually represents the sovereignty of the Indian state, enjoys the privilege of the highest office of the nation and

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plays an important role in Indian Politics. We can analyze president's role only by reading more about his powers and duties. His powers can be described as under:

Executive Powers of the President

As per Article 53 of the association are all executive powers to the President. The president is the supreme commander of the union's security general. His executive powers may be discussed as follows:

***(i)* Administrative Powers:** President is the head of the executive and administration which has been bestowed upon him by Article 53. As per Article 77, all executive powers of Indian state are exercised in the name of President only. He appoints Prime Minister and on his recommendation, appoints other Ministers. He makes rules to let Government function easily and smoothly. He distributes portfolio between Ministers and he can change these distributions numbers of times. He supports the system of governance through cabinet. Ministers enjoy their tenure as per President's will article 75 (2), but president exercises all his powers and performs duties after consulting Prime Minister only.

President appoints leader of the party enjoying majority in parliament as the Prime Minister. If no political party has got majority, then he can ask that Parliamentarian to form Cabinet, whom he thinks can represent maximum majority in the parliaments. President can give a deadline to prove majority in the parliament and form government. In June 1991, president Venkatraman nominated P.V. Narasimha Rao from Congress (I) which enjoyed large support, to form Government and was given 30 days to prove majority. Mr. Rao was not a member of either of the house at that point of time, even then he proved majority on July 14, 1991. In May 1997, Dr. S.D. Sharma invited largest majority holder party BJP leader Mr. Atal Bihari Bajpai to form the Government, but after 12 days he resigned as he found it difficult to muster majority. After this president offered 13 party coalition leader Mr. Devegowda to form govt. who got support from congress and CPM (outside govt.), he proved majority, but could rule for only 10months as after it, it was difficult for him to sustain majority. Congress took back support from Devegowda government on March 31, 1997. After this on 12 April, 1997 Mr. I.K. Gujral formed govt. And proved majority within 24 hrs of forming government, but he too could rule for handful of months, as congress took withdrew its support in Nov 1997.

In March 1998, elections happened for the 12th time, but none got majority. Coalition under the leadership of BJP got maximum seats (252) and president appointed Mr. Atal Bihari Bajpai as the Prime Minister, but this government also could rule till April 1999. AIADMK withdrew its support on April 14, 1999 and this government failed to prove majority on April 17, 1999 by one solitary vote. After this, president observed that none had the majority to form govt. and dissolved 12th Lok Sabha and allowed Bajpai govt. to function as caretaker government till new government is formed. In October 1999, NDA got majority in 13th Lok Sabha elections and President K.R. Narayanan invited Mr. Atal Bihari Bajpai to form govt, which remained in power till April 2004. In the 14th Lok Sabha elections, none got majority but congress and its allies got maximum seats. Then CPI and CPM and other parties decided to support congress from outside. President A.P.J. Abdul Kalam invited congress to form government on April 22, 2004 in the leadership of Dr. Manmohan singh congress formed government and proved majority.

Thus president appoints that leader as the prime minister who has the majority support in Lok Sabha. Such leader might be member of any house and might not be member of any house, even then president can appoint him as prime minister, but in this case, he has to become a member of parliament in any of the house, else his candidature shall stand annulled.

Under Article 78, it is the duty of the prime minister to update president on each matter of governance. President can ask for any information which can cause a confrontation situation. This happened in the beginning of 1987, when the then Prime Minister Rajiv Gandhi refused to share some information on Bofors Canon Deal and objected to it. President took this stand to ensure he discharges duties as per Article 78 and for this was essential that he remains informed about all central governance. But this particular conflict was more of an ego tussle between the two rather than being constitutional conflict. Other PM and President have been able to maintain this relationship quite well and at present too.

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(*ii*) Appointment-making Powers: All major appointments are done by the president. He appoints Prime minister and on his recommendation appoints other ministers, justices of Supreme Court and high courts, governors of the state, Lt. governors, commissioners of Union Territories, Attorney General of India, Comptroller and Auditor General of India, chairman of UPSC and members, election commission and other commissions and in other courtiers high commissioner, ambassadors, consulate generals etc. All high level appointments are done by president in consultation with the prime minister and cabinet. President discusses with other judges of the Supreme Court while appointing Chief justice of India, while appointing other judges of Supreme Court he discusses with Chief justice of India. While appointing other judges of high courts, consultation happens between president and chief justice of that state and its governors.

(*iii*) Role in Foreign Affairs: Being head of the state, president gives credentials to the ambassadors and others official of other nations based in India and welcomes foreign ambassadors in India. All diplomatic agreements are done in his name. Govt. of India does all bilateral and multilateral treaties and agreements in the name of the president only. Diplomatic relations with new countries are established in the name of president only.

(iv) Functions as the supreme commander of the armed forces: President is the supreme commander of our armed forces as per Article 53. He appoints and promotes all high level and other posts for defense forces, but he exercises all his powers as per the constitution only. President confers awards and ranks during war and peace times for gallantry and fine service.

(v) Powers regarding administration of Union Territories and SC/ST Areas: Areas under union territories come under the ambit of president. Article 243 authorizes president to run the affairs of UTs through governors, chief commissioners or through anyone as designated by him. He can authorize governor of any neighboring state as well to run the affairs of any UT. Such governor always works as per the advice of the president. President is also authorized to run the affairs of Scheduled Tribal areas. President can constitute an Interstate council to opine and settle dispute between states. President can also make laws for the peace, development and better governance of Union Territories like Andaman and Nicobar Islands.

President and Law Making

As per constitution, legal powers of the Union rest with parliament and president is not a member of either house of the parliament. But as per Article 79, "Union parliament will depend upon President and both the houses." It means that despite not being a member of the parliament, president is an integral part of the parliament and enjoys huge statutory powers. Without president consent, none of the ordinance can become an Act.

President enjoys following statutory powers:

1. President can call upon Session for any or both houses of the parliament and can dissolve any session of the parliament for long periods, but there can't be a gap of more than 6 months between 2 Sessions.
2. President can dissolve Parliament even before the expiry of its tenure of 5 years.
3. In case of dispute on any particular Bill/subject, president has right to call joint session of parliament.
4. President has the right to address any or both the houses of the parliament any point of time.
5. President after each general election, addresses in the first session, both the houses of parliament and each year gives speech at the first session of the parliament. President addresses first day of each new year new session of parliament which is nothing but a detail of Govt. policies.
6. If President is of the view that people from Anglo-Indian community have not been represented satisfactorily, then he can nominate two persons from that community to Lok Sabha.

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7. President can nominate 12 people from the fields of Science, Art, Literature and Social Service to Rajya Sabha.
8. President can send message to any house of the parliament and this message can relate to (a) any bill under discussion in any house (b) any other subject which needs the suggestion of the house. Such message sent by the president makes it mandatory for the respective house to respond.
9. Finance bill can only be presented in Lok Sabha after taking prior approval of the president.
10. Any change in the geographical boundaries of the states or change in the name of the states, can only be presented in parliament after taking prior approval of the president.
11. President approves all those Bills for the State, which governor keeps for president's advice.
12. Any Bill passed by the parliament can become an Act only after the signature of the president. President can refuse to approve the Bill also. Cabinet can send Bill back to parliament (article 111). In 1988, Gyani Jain Singh refused to consent the Indian Postal Bill due to some of its clauses being found objectionable. Govt. did not reiterate the demand to pass the bill under article 111. It appears that though president has to work under the consultation of the parliament, but it is not always necessary. President can return any bill to the parliament, but if parliament passes it again, then it mandatory for the president to approve it.
13. In one of the extra ordinary cases of Ex Prime minister Devegowda, which presented 1997-98 budget and fell before getting it passed, then president consulted speaker of Lok Sabha P.A. Sangma and other senior leaders and unfortunately again before Budget could be passed BJP Govt. fell and then president ordered govt. to pass the Budget and parliament was dissolved on April 25, 1999 only after Budget was passed.
14. President can issue Ordinance in between two parliamentary sessions and this ordinance has the power and effect of a bill as passed by the parliament. Such an ordinance is issued to fulfill any statutory requirement, on the recommendation of the cabinet, when parliament is not in function. All such ordinances have to be put in front of both the houses from the very new session. 6 weeks after the conclusion of the session or in case of any bill not getting consent of both the houses, in either of the condition, the said Ordinance gets repealed because there can't be more than 6 months gap between two sessions of parliament. Hence President Ordinance can be alive up to 6 months and 6 weeks, which implies 7.5 months. President can take back Ordinance at any point of time as well.

President uses all its statutory powers as per the consultations with prime minister and its cabinet.

Discretionary Powers of President

1. When no party gets majority in the parliamentary elections and there is no coalition govt. possibility being seen, then in that case, President can act on its will and call upon leader of that party, which has emerged as the singular largest party. In June 1991, President invited P.V. Narasimha Rao to form Govt. who was from Congress. At that point of time, congress emerged as the Single Largest party with 225 seats, though it did not have majority. Narasimha Rao was asked to prove majority in parliament. Similarly in March 1998, President invited Atal Bihari Bajpai to form Govt. and prove majority in parliament, which was the single largest party, though not with majority. When on 14 April, 1999 AIADMK withdrew its support from BJP govt. president asked prime minister Mr. Bajpai to prove majority in the parliament through confidence vote. On April 17, 1999 BJP Govt. failed to prove majority and then president tried to form a new Govt. and when those efforts did not bear fruit, 12th parliament was dissolved and BJP was allowed to function as Caretaker Govt. till the time new Govt. comes in place. In those situations, when no party gets majority, then president can work on his own discretion. In Indian Political sphere, the situations like Hung Parliaments have bolstered the power and position of President in terms of govt. forming process.

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2. Another area is when President can work on dissolving the Govt. at its own discretion (article 85). In normal conditions, when prime minister holding majority asks president to dissolve the parliament, then president is left with no option, but in special cases (V.P. Singh case in 1990), when the prime minister is short of majority, president can act at its discretion and may or may not dissolve parliament. In one such case, President R. Venkatraman using its discretionary powers invited Chandrasekhar (Janta Dal S) to form govt. as it was supported by congress from outside. when in February 1991, asked president to dissolve parliament, president explored the possibility of inviting the next majority holder party congress to form govt. but after Rajiv Gandhi refused to form govt. president was forced to dissolve parliament and asked Chandrasekhar to continue as caretaker govt. and ordered for the re-election. In may-June 1991, elections were conducted for the 10th Lok Sabha. Same situation arose in November 1997, when the then prime minister I.K. Gujral resigned and again president dissolved the govt. and ordered to have elections for 12th Lok Sabha. In April 1999, president decided to dissolve govt. again, even though BJP govt. wanted to continue. In February, 2004 president dissolved govt. as per the recommendation of prime minister Bajpai one year before its fixed tenure could complete. Hence, president can exercise its discretionary powers of dissolving the govt. only when the govt. is not in majority and not otherwise.

   Apart from these two exceptions, president exercises all his powers as per the recommendations of the prime minister and cabinet only.

Financial Powers of the President

President has the following financial powers:

1. No finance bill can be presented in the parliament without the prior consent of the president.
2. In the beginning of every financial year, president puts across Annual Financial Budget in the parliament, which contains Income and Expenditure of the Central Govt. In the coming financial year.
3. President controls the Contingency Fund of India. President is authorized to allow expenditure from this fund to fulfill emergency and contingency expenditures.
4. On different occasions, president constitutes Finance Commission which looks after distribution of Revenues and Income between Centre and State.

Judicial Powers of the President

President can pardon, change, decrease sentences in the following cases:

1. Those that have been given Capital Punishment.
2. In context of those Crimes which fall under the purview of Union or Concurrent List.
3. Sentences related with Military Court.

President can act discretionally while considering Mercy petitions. Besides, president can ask for advice from Supreme Court on any other Legal matter of Public Importance. Supreme Court is bound to suggest President in all such advices asked (article 43). But president is not bound by any such advices as given by Supreme Court and can act on its discretion.

Emergency Powers of the President

These are mentioned in the 18th part of the constitution and they authorize President to manage such conditions from these. These are called as the Emergency power of the President. Three type of Emergency conditions have been listed: (*i*) National Emergency under article 352, which implies War or Foreign Invasion, Internal disturbance caused by armed rebellion (*ii*) under article 356, which implies

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the failure of Constitutional Machinery in any of the State (iii) under article 360, which implies Financial Emergency.

President has the authority to declare Emergency and take active steps to deal with these Emergencies. For example; if there is an emergency under article 352, then entire Union provisions cease to function and central government can instruct any state govt. by using its executive powers. Central govt. gets the right to make laws on State subjects as well and financial relations between centre and state can be modified. In case of emergency under article 356, the concerned state governance comes under the ambit of president. Governor of the state becomes actual executive and state cabinet and govt. is dissolved. Governor runs the govt. on behalf of the president and implements all the directives of central government In case of emergency under article 360, president for the financial stability of the nation, can issue any directive to state govt. He can order to decrease salary or allowances of judges of Supreme Court, High Courts and other govt. officials. He can order states to keep all passed finance bills reserved for his consent.

Constitutionally, president enjoys vast powers to manage and fight with these emergency situations but there have been lots of checks and balances attached to it also. President exercise its emergency related powers also in consultation with prime minister and its cabinet and thus president enjoys executive, statutory, financial, judicial and emergency powers (detailed description is given ahead).

Task What is the meaning of Emergency powers of the president?

Position and Role of the President

After going through the powers of the president, it becomes easier to understand the position of the president. At the outset, it appears that president enjoys huge and somewhat autocratic powers, but a deep analysis tells us that president is only the symbolic head of the govt. and exercises all his powers as per the recommendations of the prime minister and its cabinet only. In the 42nd amendment, it has been made clear for the president to abide by the suggestions of prime minister and its cabinet. but still we can't term president as a rubber stamp head only. As per 44th amendment, president can ask the cabinet to reconsider its recommendations on a different perspective. This particular right has an important role to play in the governance of the state and it actually affects the cabinet favorably. There is no doubt that in case of reiteration by the cabinet, president has to approve their recommendation, but by this particular right, president can influence the thought process of the cabinet. We can take president's advice of reconsidering a recommendation as a general advice or a latent warning. As head of the state, president enjoys sovereign work status and because of this particular quality, he plays a vital and meaningful role in the Indian Political System.

Constitution committee wanted to make President statutory head of the govt. as it was required for the parliamentary system in India. Head of constitution committee **Dr. Ambedkar** accepted president as the Constitutional Head of the State. He quoted while saying in committee," president position shall be similar to the British king under British Constitution. He is the head of the state but not of Executive. He represents State and but does not rule the state." President of India shall be bound to abide by the recommendations of the cabinet. He can't do anything against their recommendation nor shall he do anything without their consultation, even then constitution committee decided not to express it transparently that President shall be bound to follow the recommendations and advices of the prime minister and its cabinet. But after the 42nd amendment, this was made transparent and clear that president shall abide by the recommendations given by prime minister and cabinet.

After the enactment of constitution, president has accepted its post of constitutional head and as a symbolic head of the executive.

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But while laying the foundation stone of Indian Law Institute in 1960, **Dr. Rajendra Prasad** raised the issue of President's actual work and powers in the Indian Political System, which were in contrast with the views of the then prime minister J.L. Nehru. He further stated that "we have not given any actual power to the president, but have made his position of a sovereign and of authority." Supreme court opined in the case of Ram Jivaya vs. State of Punjab that "President is the constitutional and symbolic head of the state and actual executive powers vest with cabinet."

After the enactment of the constitution, this debate got impetus that president could have played an important role in the fulfillment of executive powers due to President's vague mention of president's nominal powers. Ex member of Draft Committee of Constitution committee **K.M. Munshi** quoted, we have not made our president a symbolic head as that of a French President. He has to act independent in case of any impediment and protect constitution. As per Other supporters of this argument, president has right to issue Ordinance, declare emergency and suspending fundamental rights. He can refuse to give his consent to some of the controversial bill passed by the parliament. He can directly interact with public and send messages to the govt. As an elected constitutional head, president position is different from that of Ancestral King and it is not correct to consider president as symbolic head only.

But this argument was not supported by many scholars, politicians and constitutional experts. **Morarji Desai** once quoted, "this would be wrong to think that our president has got any governance powers. In normal times, he does not have any powers. Under constitution president is very much like British King". Adoption of parliamentary system ensures that president always works under the consultation of Cabinet and even in Emergency situation; he has to abide by the advice of the cabinet and this particular aspect has been clarified by 42nd amendment. President of India is bound to function as constitutional and symbolic head of the state. He has to follow cabinet and prime minister recommendations and that too in their presence. Indian political system remains in existence under the leadership of Prime Minister. When a Government. falls due to lack of majority and President finds it tough to choose another alternative Government., then he asks current Government to continue as caretaker Government till the time next Government. is elected and such incident happened in April 1999, when BJP lost majority on April 17 and In April 1999 when the BJP coalition Government in the Lok Sabha on April 17 confidence failed in getting and not able to form a Government after no other party could be president asked them to continue as caretaker government. In February 2004, after NDA Government. was dissolved, it continued to function till May 22, 2004 as caretaker government and after that UPA came in power. This is absolutely clear that president keeps the existence of parliament alive whether it is a normal govt. or caretaker govt. president had to exercise this tool in 1989, 1997, 1999, 2004.

After analyzing president's position since the time of enactment of constitution, it appears that president has accepted its position as the constitutional head of the state and he always abides by the recommendation of the cabinet. Though Dr. Rajendra Prasad raised the issue of presidential power and position, yet it was done in consultation of prime minister and cabinet. Similarly, other presidents like Dr. S. Radhakrishnan, Dr. Zakir Hussain, V.V. Giri, F.A. Ahmed, N.S. Reddy, and Gyani Jail Singh, R. Venkatraman, Dr. S.D. Sharma and K.R. Narayanan worked on same principles. Predecessor to our present President Pratibha Patil, A.P.J. Abdul Kalam, also worked on same path and we hope that present president Pranab Mukharjee would also continue to follow the path as shown by our constitution.

But it does not that President is merely a rubber stamp or puppet or a golden zero. President of India being elected head of the state protects the constitution as a supreme authority with grand influence and dignity. He plays vital role in Indian Political Space by giving his opinion, taking information on some issues, sending messages to parliament, returning controversial bills back to parliament and by asking request letter from public. He can influence govt. policy and decisions. From lot many angles, he can suggest or send warning to the Government President Gyani Jail Singh refused to give his consent on controversial Indian Postal Bill (amended act) could not see the light of the day. On September 25, 1998 President K.R. Narayanan returned recommendation of central government to dissolve Bihar Government under Rabri Devi leadership and since union government did not sent it back to president

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for consent, Rabri Government was saved. But when on February 10, 1999 Union Government suggested to dissolve government again to effect president rule there, president had to give his consent.

Suggestions or advices given by President have to be considered by Cabinet and Parliament. Due to sitting on the highest post of the State and having possessed individual qualities, President can play important role in the internal and external politics. After 1989 where after we saw many times hung parliament, role of president has emerged as more dynamic and crucial. In 1989–90—91–96–97, 1998 and 2004 President has played pivotal role in making government by dint of his constitutional powers and duties.

This is how; President of India is Constitutional Head of the state and not merely a rubber stamp. President plays important and active role in the Indian Political System with the help of his executive powers. He plays vital role in the political system as state and executive head, basis his individual qualities and special and sovereign status.

Self Assessment

Multiple Choice Questions:

7. Union Executive powers are vested in whom?
   (*a*) Governor (*b*) President
   (*c*) Prime Minister (*d*) Chief Minister
8. In which year 12th Lok Sabha Elections were held?
   (*a*) 1995 (*b*) 1996
   (*c*) 1997 (*d*) 1998
9. Name the President who raised the issue of president's work and powers in the Indian Political system during one of his speech?
   (*a*) Dr. Rajendra Prasad (*b*) K.R. Narayanan
   (*c*) Pratibha Devi Singh Patil (*d*) Abdul Kalam Azad

5.4 Emergency Powers of the President

These emergency powers at one point are most significant in the Indian political system, but controversial on the other. Their scope is not only too vast, but tremendous for any democratic nation. By giving these powers to the President, constitution makers had the apprehension risk of national integrity and unity on account of future national crisis due to various govt. changes, while granting theses powers to the President. They were aware of the threat to national integrity and unity and threat to the federal structure. Hence they were inclined to take effective steps to that direction. Blending of Unitary spirit in the Union structure was one such step. Second step was to give president effective powers and duties to deal with potential future threats and emergency situations. Constitution makers influenced by Germany's vemar constitution while taking second step. As per **D.D. Basu**, emergency powers enable union govt. to convert to unitary mode of power, when situation demands.

Part XVIII of the constitution mentions emergency powers and there are 3 types of emergency powers given to the President under it: (*i*) national emergency under article 352, i.e. war or foreign invasion or crisis caused by internal armed rebellion (*ii*) constitutional emergency in any state article 356, i.e. fail the constitutional machinery in the State due to the crisis, born (*iii*) financial crisis under article 360, i.e. financial stability crisis which can be a threat financial credibility of the nation.

National Emergency (Article 352)

Article 352 has the provisions to deal with any national crisis caused by war, foreign invasion or disturbance caused by internal armed rebellion, generally called as National Emergency. If President

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is convinced that due to war, foreign invasion or any internal armed rebellion can be a potential threat to the part or whole of India, he can pronounce Emergency. Armed Rebellion was included by the 44th amendment of constitution and it took the place of internal disturbance. This type of emergency is not only declared in case of actual threat to the security of the nation, but in those cases also when president feels that there can be potential threat to national security Artical 352(3). If President is convinced implies that president receives such recommendation from Cabinet. Cabinet has to give such advice in written form. After receiving such written advice, president can declare the state of emergency under Artical 352. Such emergency can be declared for any part of the whole of the country.

(a) Approval of Emergency Proclamation: Under article 352, emergency has to be approved within 30 Days of being proclaimed by both the house of the parliament. If it is not approved within 30 Days from the date of proclamation, then it automatically ceases. In case Lok Sabha is dissolved at the time of emergency is proclaimed, then Rajya Sabha has to approve it within 30 days of its proclamation and once Lok Sabha is in place, then from 1st day to 30th day of it's functioning, it has to approved by Lok Sabha. In case of it being approved by both houses within 30 Days, it can continue for a period up to 6 months. If emergency needs to be extended for another term of 6 months, then again it has to be vetted by both houses of parliament. If Lok Sabha is in dissolved state and emergency needs to be extended, then it can be done so by approval of Rajya Sabha, but after Lok Sabha comes in to existence, it has to be approved by it.

(b) Tenure of Emergency: Once Emergency is proclaimed and it is approved by both the houses of parliament, it can remain in effect for a period of 6 months, though its tenure can be extended by taking the approval of the parliament after every 6 months. But after 44th amendment, for having such approval, it should be having a majority of total members of parliament and by 2/3rd of the present and voting members of parliament.

(c) Provisions for Revocation of Emergency by Parliament: 10% of Lok Sabha members can initiate the proceedings to revoke the emergency. In case parliament is not in session, then they have to serve notice to the president in writing. In case of session in place but suspended, then they have to serve the notice to the Speaker of Lok Sabha. After such notice is served, Lok Sabha has to call the session within 14 days of such notice is served. If Lok Sabha passes the proposal with normal majority, then this proposal gets passed and emergency is revoked and President has to take back emergency declaration.

(d) Emergency under article 352 is now enforceable by law: Now supreme court can analyze the constitutional validity of such emergencies.

(e) Consequences of Emergency under Article 352: Following changes take place during such period–

(*i*) Union government gets the authority to make laws on matters State subjects. Such laws remain prevalent during emergency and cease to exist after 6th month from the date of revocation of emergency.

(*ii*) Union government gets the authority to direct the executive powers of the states.

(*iii*) President can alter the financial distribution of revenue between centre and states, but these decisions have to be presented before both houses of the parliament.

(*iv*) During emergency, fundamental rights as granted under article 17 can be suspended, to the extent that in case of emergency in any part/parts of nation, parliament can suspend fundamental rights of those area's citizens also, where emergency is not in force. After 44th amendment rights accorded under article 19 can be curbed only in the case of National Emergency of war or foreign invasion.

(*v*) President can suspend fundamental rights of the citizens except those mentioned in article 20 and 21. In other words, barring those rights to constitutional remedies, as mentioned under article 20 and 21, others can be suspended.

(*vi*) During such emergencies, tenure of Lok Sabha and Rajya Sabha can be increased. Parliament can make law to this effect. Such tenure increment can happen for one year or less in one time.

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(*vii*) If any particular State is under emergency under article 356, then in the concerned state, president rule can be extended for a maximum period of 3 years against normal 1 year tenure. All those orders as issued by the president during emergency have to be put across in the parliament for approval.

(f) Details of Emergency Proclamation under Article 352: First time emergency under article 352 was proclaimed on October 26, 1962 in view of the Chinese attack on our soil. The same emergency was in force during war with Pakistan in 1965, which was revoked on 1968. It was again proclaimed in 1971 during war with Pakistan and continued up till March 1977. On June 26, 1975 emergency was proclaimed under article 352 basis Internal Disturbance. This emergency was revoked on Mar 22, 1977 after the defeat of congress I(Indira) govt. in the Mar. 1977 elections.

Notes After 1977, emergency has not been proclaimed under article 352, even in 1999 when we had Kargil war. During Dec 2001-Sep./Oct. 2002, there was a possibility of war with Pakistan, even then it was not proclaimed.

Constitutional Emergency under Article 356

President has the right to proclaim emergency under article 356 in case of failure of constitutional machinery in any state/states, which he can do on the recommendation of the Governor or any other source on the basis that govt. is not working on constitutional principles or there is a failure of constitutional machinery and there is no possibility of Govt. Formation or effective administration. In other words, if president is convinced that constitutional machinery has failed and it is inevitable to proclaim emergency, then he declare emergency. President can declare emergency in that state also, where he is of the view that State Govt. is not following Laws, advices and policies of Union Govt. or is refusing to do so.

(*I*) Approval of Constitutional Emergency: Under article 356 emergencies, it has to be put across both houses of parliament within 60 days of its proclamation. In case it does not get parliament approval, it can't be extended for more than 60 days. It is declared that point of time when Lok Sabha is dissolved or gets dissolved within 60 days time frame, them it has to be approved by Rajya Sabha. After Rajya Sabha approval also, it has to secure Lok Sabha approval from new Lok Sabha within 30 days from 1st day of the new Lok Sabha. In case, Lok Sabha does not approve it or approval does not come within 30 days, the emergency gets revoked.

(*II*) Duration of Constitutional Emergency in a State: Under article 356, the duration of such emergency is normally 6 months once it is approved by parliament, but it can be further extended for a period of 6 more months. Such emergency can continue with parliament approval even beyond 1 year period if: (*i*) If there is proclamation of National emergence under article 352 (*ii*) if election commission proves that it is difficult to have state Vidhan Sabha elections under prevalent conditions. Such emergency can be continued for a period of 3 years, but there can be exceptions also (Punjab 1980-92, JandK 1990-96). Parliament can do special constitutional amendment to increase the tenure of constitutional emergency. In March, 1994 Supreme Court opined that the continued emergency period under article 356 are enforceable in law.

(*III*) Effects of Proclamation of Constitutional Emergency under article 356: Following are effects of president rule under article 356:

(1) President can take over any or all of the State govt. work and can use any or all of the powers as used by the Governor or the state administration. But President can't use the powers of High Court or State Vidhan Sabha.

(2) President can empower Union government to use the powers of State Vidhan Sabha. Laws made under such emergencies exist even after the expiry of such proclamation, unless they are changed, amended or revoked by eligible Vidhan Sabha or govt.

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(3) Union govt. can empower President to make laws for the state and can empower him to designate those powers to any other, whom he deems fit. President can act at his own discretion in this respect.

(4) State Vidhan Sabha can be dissolved or can be kept in suspension.

(5) In Case there is a need to pass the budget, then Central govt. takes over the right to do so.

(6) President gets the right to spend from the State's Consolidate Fund.

(7) President can take any steps as he deems fit for the fulfillment of criteria related with proclamation of emergency.

Thus, State's Individual Liberty or Autonomy can be suspended under article 356 emergency much like emergency under article 352. Unitary spirit takes over between Centre and State relationship, as Central Govt. gets control over all Executive and Statutory State Subjects.

(*IV*) Use of Article 356 in Practice: This particular article's provisions have been used for more than 100 times in the past. It was used in 1951 for Punjab and after that it is being used regularly. In 1977, it was simultaneously used in 9 places; UP, MP, Haryana, Punjab, HP, Rajasthan, Bihar, WB and Orissa. In February, 1980 this was repeated in 9 States; UP, Bihar, Rajasthan, MP, Punjab, Gujarat, Orissa, TN and Maharashtra. States like Punjab and Kerala have seen such emergencies lot many times. It was used in Nagaland in 1988. Almost all states have been subjected to such emergency to at least or more. In 1999, Rabri Govt. of Bihar was dissolved and emergency was proclaimed and Lok Sabha approved it also. But the then BJP govt. didn't have majority in Rajya Sabha, so it could present it in Rajya Sabha and thus Rabri govt. was reinstated and emergency was revoked. In May 2004, emergency was proclaimed again in Bihar as no party was in a position to form Govt. first Bihar Vidhan Sabha was kept under suspension, but later on it was dissolved in May 2005 and Election Commission was directed to conduct fresh poll.

Notes Though each political party has condemned use of emergency provision under article 356, yet each one of them have used them directly or indirectly on one or more occasions.

Financial Emergency under Article 360

If president is convinced that there is a potential threat to the financial stability or credibility to the Nation or any part/s of the Nation, then he can proclaim such emergency under article 360:

(*I*) Approval of Financial Emergency Proclamation: Both house of parliament have to approve Financial Emergency within 30 days of its proclamation and in case of non approval of the same, it gets revoked after 30 days. Once it is approved by both the houses, it can remain in force for a period of 6 months. It can be further increased every time for 6 months with the consent of the parliament.

(*II*) Effects of proclamation of Financial Emergency: Following are effects of such emergency:

(1) Union govt. gets the authority to issue directives on State Financial matters. Union govt. can ask State govt. to make such laws, which are necessary to restore the financial confidence. Union can make such laws/rules itself and can ask State to follow and abide by it.

(2) President can take steps like fixing salaries, stabilization of prices, financial stability etc. he can reduce salaries/allowances of all or some of the officials in order to restore financial confidence of the nation, he can even reduce salaries and allowances of supreme court and high court's judges and officials.

(3) President can order that all financial bill as passed by State Vidhan Sabha should be kept reserved for his consent.

(4) President can alter the division of Revenue/Income between Centre and State.

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Hence, President has vast powers to deal with all three types of emergencies and this is why they are called the Emergency Powers of the President. But President exercise these powers also under the consultation of Prime Minister and its Cabinet only.

Emergency Provisions: Critical Evaluation

There has been widespread criticism of President's vast and special Emergency powers, which in fact rest with Prime Minister and its Cabinet only. During the making of the constitution also on including them in constitution, it was opposed by many members. **H.V. Kamath** quoted,' No constitution of any Nation contains such provisions as that of Emergency powers of ours. This is a day of disgrace for us and may God help us". When Article 359, which contains the suspension of fundamental rights during emergency periods, was included in the constitution, then Prof. **K.T. Shah** termed it as the pinnacle of disorder and condemned it. Following are the main points of Emergency provision's criticism:

1. Anti-Democratic: These provisions are anti democratic as they confer vast and exhaustive powers in the hands of the president, who in turn has to abide by the advice of Prime Minister and it's Cabinet. In Fact, these powers are of Union Cabinet only. President decides on type and timing of the emergency and also decides on what steps needs to be taken to deal with such situations. As per **H.V. Kamath**," I am afraid that by doing this, we are trying to lay the foundation of a Dictatorship or a Police Raj".

2. Anti-Federal: This has been a major point of criticism against emergency powers that they are anti federal in nature and behavior. Central Govt. can take over administration of State Subjects by declaring emergency under article 352 and 356. Net effect of this step is the changed nature from Federal to Unitary. During Emergency, Indian Constitution becomes Unitary in nature.

3. Beyond Judicial Control: Objective and Constitutionality of President's declaration of emergency neither are enforceable by court of law nor can courts decide on the steps taken during emergency but on 11 March, 1994 Supreme Court started using its power of analyzing constitutional validity of emergency under article 356, but this tool of SC can be only termed as the post mortem activity.

4. Provisions on Suspension of Fundamental Rights: During emergency, fundamental rights conferred under article 32 can be suspended, which is anti democracy and autocratic. By the 44th amendment, it has been made clear that even during emergency; rights under article 20 and 21 can't be suspended. This is a welcome amendment, but it only partially safeguards fundamental rights of the people. This provision of negating fundamental rights by the inclusion of Article 359 has been condemned widely and still it is being condemned by many scholars.

5. Potential Misuse of Emergency Provisions: Ruling party can misuse these powers for its own interests. principally, president has been given huge powers to deal with emergency condition, but in practice they are exercised by the Central Cabinet and President is bound to abide by the advice of the Cabinet. All decisions like ; need of emergency, what type of emergency and what step to be taken to deal with such emergencies, are taken by the Cabinet, which is actually political Executive and can be partisan.

In the past, use of article 352 and 356 has confirmed such fears. In June 1975, it was misused by Indira Gandhi when she declared emergency on the basis of Internal Disturbance. The way President FA Ahmed was asked to proclaim emergency and powers like MISA and COFEPOSA were used, it blew the lid from the dangerous potential of misuse of emergency powers by the ruling party. Misuse of article 356 on numerous occasions has become a recognized fact of our political system. In the past, it has been misused to uproot State govt. of one opposition party by the ruling central govt. One of the major misuse example is of 1977 when Janta Dal govt. under article 356 got president to proclaim emergency and removed 8 State govt. This misuse was repeated in February, 1980 when the then congress govt. got emergency proclaimed and removed 9 State Govt. In 1991, Central govt. again misused article 356 to uproot DMK leadership State Govt. at Tamil Nadu in a hasty and irregular manner. Up till now, Emergency has been proclaimed under Article 356 for approximately 100 times.

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Misuse of Article 356 has been one of the major reasons of inciting tension between Centre and State and also made the post of Governor disputable. With 44th amendment, steps were taken to reduce such misuse of emergency powers and some shields were introduced, yet the dangerous nature of Emergency powers still exists.

6. Provisions of Article 360 Ill conceived: Under article 360, president can proclaim Financial Emergency to protect Financial Stability and Credibility, but it can have negative impact. Financial Emergency instead of improving Financial Stability can prove to be detrimental. As per **Dr. K.V. Rao**," Far from establishing financial stability, the proclamation of financial emergency would damage the financial confidence of the nation, would create an atmosphere of restlessness and in fact can cause more Financial Instability in the country".

7. Inadequate Safeguards: Even after including some safeguards against the potential misuse of emergency powers under 44th amendment, yet there is wide scope of misusing them and it can't stop central govt. to use them to its advantage. This particular aspect that president has to abide by the advice of the Cabinet, puts us in more danger of misuse of emergency powers. Impeachment process is too complexed and lengthy and it can't be easily used against president. The fact that emergency has to be approved by the parliament is merely an eyewash, as the Union govt. proposing emergency is already enjoying majority in parliament and getting such approval to its own advantage is very easy for them. Due to Anti Defection Law, cabinet has been able to control members of the ruling party. Even tenure fixation of emergency has also not been able to stop emergency period from being long. Punjab was under prolonged Emergency barring some time (1980-92). Hence, we can see that there are scanty safeguards against misuse of article 352-360.

Apart from this, critics have intensively condemned emergency provisions on the basis that they are anti federal provisions (article 356), authoritative by region (article 352) and in the form of subjects, are anti liberty and anti democracy (provisions relating to suspension of fundamental rights) and Article 360 can cause us more damage than bringing good to the political system.

Self Assessment

Fill in the Blanks:

10. Financial Emergency has been discussed in article ……
11. Declaration of Emergency can remain in force till ……
12. Article 352 is related with …… emergency.

5.5 Justification of Emergency Provisions

Despite being widespread criticism, there are enough grounds on which we can justify the inclusion and continuity of these Emergency provisions in the constitution. Many Scholars have endorsed them in order to have National Security, Stability and Interest. They have supported their inclusion.

Supporters for this part of the constitution have given following logic:

1. Historical Need: Looking at the history of India, it appears that a weak Central Govt. is always the reason for the disintegration and instability. Hence having provisions mentioned under Emergency to protect the National Security and Stability, is a Historical need. During Emergency period, it is imperative to have Centralization Power in one hand to have nation protected. **Mr. V.N. Shukla** opines," we should analyze these provisions in the light of Indian context. Whenever we had weakness in Central Leadership, we had to pass through turbulent times".

2. National Security is more important than Individual Rights: National Interests are supreme and for protecting them, individual rights and liberties can be curbed. During National Emergency, these curbs

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become even more important. Issue of Federalism vs. Unitary spirit also becomes small. Federalism or Unitary are topics which come only after the National Security and Integrity. If India is not alive, then who will live and if India is alive then who will die? Since it is the duty of the Central Govt. to deal with External and Internal threats, giving it exhaustive emergency powers are rightful in practice. As per **Dr. Ambedkar**," it is only Centre which can work collectively for entire nation. Bestowing centre with such powers during emergency is based upon this fact only".

3. Little Chances of Dictatorship: As per constitution, no single person can exercise powers mentioned in Emergency provisions. President had been given these powers which he exercises only on the advice of the Cabinet which is Democratically Elected Responsible Institution. Besides, Emergency provisions can only be in force by the consent of the parliament. This arrangement saves President or Cabinet from being Autocratic in nature.

Did u know? There is no doubt that Emergency provisions were misused by Mrs. Indira Gandhi in 1975, but she had to pay heavy price in March 1977 elections by losing elections and power.

With 41st amendment,probability of misuse of Emergency provisions has been reduced and chances of prolonged suspension of Fundamental Rights and increased Emergency period have been controlled.

4. Adequate Safeguards: While bestowing President with Emergency powers, wide arrangements have been done in the constitution to check misuse of Article 352, 356 and 360 as below:

(*a*) President is bound to abide by the recommendation of the parliament.

(*b*) Cabinet is directly responsible to Parliament and finally to the people of the nation for all its decisions, errors and orders/directives.

(*c*) President can proclaim Emergency under Article 352 only after receiving written recommendation from the Cabinet.

(*d*) Any type of Emergency has to take parliamentary approval in a stipulated period of time.

(*e*) Maximum Tenure of Emergency period has been fixed. With 44th amendment, curbs have been applied on president on increasing the Tenure of the Emergency.

(*f*) 10% of the MP can ask for Lok Sabha session and initiate to revoke the Emergency under Article 352. Such a session of Lok Sabha can pass the proposal of ending emergency by simple majority and after that Emergency gets revoked.

(*g*) Now Right to Individual Freedom under Article 20 and 21 can't be suspended during Emergency also.

(*h*) Under Emergency as per article 356, a cautious and alert president can use his powers of the post to stop political misuse of Governor's power and position.

(*i*) After a verdict in March 1994 by the Supreme Court, now Emergency proclamation can be challenged in Supreme Court and SC can analyze the constitutional validity of such proclamations.

5. Provision for Impeachment of President: Misuse of constitutional powers or violation can put president across parliament to face Impeachment proceedings. Wrong use of such powers and position can force parliament to initiate Impeachment proceedings and pass it.

6. Provisions regarding Financial Emergency are Justified: We can't ignore the possibility of using any tough steps looking at the National Financial crisis. To deal with potential threat to the Financial stability and Confidence, steps like proclamation of Financial Emergency seems to be a rightful decision. Crisis in the form of Physical, Political or Financial has to be dealt with by the Nation collectively and in such a condition, giving Central govt. responsibility is a logical decision on the basis of these logics,

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many scholars justify the existence and continuation of emergency provisions, by which president gets the powers to deal with threats as arising from three types of emergency situations.

Conclusion: We can so conclude that behind giving president huge powers by adding part XVIII are the objective of " protecting Security, Unity and Stability of the Nation and Democracy". Emergency powers are like those bitter pills or surgical operation, which one has to bear in order to protect one's own security and development. President's emergency powers are meant for dealing with potential threat to the nation caused by war, foreign invasion, internal armed rebellion and financial stability these powers are used to restore normalcy by dealing with abnormal political situations. None can and should object the use of emergency provisions for this objective.

But holding the use of such powers legitimate, one can't totally ignore the potential probability of them being misused . No one can deny those potential bad effects, which can exist by the consistent, regular and autocratic use of the vested interests. No doubt, by the 44th amendment, effective steps have been taken to check misuse of those provisions, yet there is a strong need to stop ruling party or coalition govt. from misusing these provisions. We need strong civil commitment and backing of people for this. Amar Nandi rightly says," these powers are like loaded guns which can both be used for protection of people or to destroy their liberty and therefore they should be used very carefully".

Self Assessment

State whether the following statements are True/False:

13. Inclusion of Emergency Provisions in National Emergency situation for the protections and stability of the nation, is a historical need.
14. President can't be impeached by the parliament.
15. President has Emergency powers.

5.6 Vice-President of India

Post of Vice President has been mentioned under Article 63. Initially this post was created to take care of sudden vacation of president's post temporarily or permanently.

Inclusion of this post of vice president has influence of American constitution, where there is a provision of Vice president, who becomes President in case president's post becomes vacant due to Resignation, Death or Impeachment. Fundamentally, Vice Presidential post carries the same objective in Indian constitution also. But in America, Vice President takes President's post as whole, but in India, Vice president can only become Acting President. In such conditions, new president has to be elected within 6 months time. In America also, Vice president becomes Acting President in condition of temporary unavailability of president due to Sickness or any other reasons.

We can discuss the post of Vice-President of India under following heads:

(*a*) Eligibility for the post of Vice President:

1. He should be Indian Citizen.
2. He should not be of less than 35 years of age.
3. He should possess Eligibilities required to become Member of Rajya Sabha.
4. He should not enjoying any office of profit in central or state govt. but president, vice president, governor or people working as central or state ministers are exempt from this.
5. He should not be member of any house of the parliament. If a candidate coming from the post of union parliament, state Vidhan Sabha gets elected as Vice President, and then he must resign before taking charge of the office of Vice president.

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(*b*) **Election:** Vice-presidential election is done by both the houses of parliament through Representative Ratio basis Single Transferrable System. Voting is always confidential. This is not necessary to have joint session of both houses. Vice-presidential elections also can't be cancelled on the grounds that some seats are vacant in the parliament.

In August 1997 Vice-presidential elections, there were 2 contestants; Mr. Krishnakant and Mr. Surjeet Singh Barnala. Mr. Krishnakant won the elections by getting 441 votes and Mr. Barnala got only 273 votes. Mr. Krishnakant took charge as the 10th Vice president of India on August 21, 1997 and he died during his Tenure only in July 2002. In August 2002, elections were conducted again and Mr. Bhairo singh Shekhawat was elected as the next vice president. At present, Hamid Ali Ansari is the Vice President of India.

(*c*) **Term:** Vice-president is elected for a period of 5 years and he can be re-elected also. Vice-president can resign before his term expires, as Mr. V.V. Giri did in 1969. His Resignation is sent to the President.

(*d*) **Filling of Vacancy:** As per constitution, filling of vice presidential post has to be done as soon as possible, which can happen due to Resignation, Death, Removal from post or any other reason. But this has to be done within 6 months time frame. Tenure starts from the date of taking charge. Any matters of dispute related with vice presidential elections can be heard only in SC and its verdict is final.

(*e*) **Method of Removal:** Vice-president can be removed by Rajya Sabha by passing proposal. But Lok Sabha approval is also required. He must be served 14 days prior notice for such removal process.

(*f*) **Salary:** Vice-president salary is Rs 90,000 per month, but he draws this salary as the leader of Rajya Sabha. Besides, he is eligible for free housing, Free Medical Facility.

(*g*) **Functions:** vice president plays dual role: 1. as Vice President 2. as leader of Rajya Sabha.

1. Functions as Vice President: Actually, there has been no particular duty attached with vice presidential post by the constitution. His role starts only when president's post falls vacant on account of his death, resignation or Impeachment. **Dr. V.V. Giri** became President after **Dr. Zakir Hussain** died in between his tenure itself and **Mr. B.D. Jati** took charge after the demise of **Mr. F.A. Ahmed**. Vice-President can only work temporarily on the post of President. In case of Vice president taking over as president due to president's sickness, then he works only till the time, president resumes office. In case the unavailability of president is due to Resignation, Death, Impeachment or any other reasons, then vice president continues to discharge the duties for a period of 6 months and within this period, new president has to be elected. President can assign any special task to the Vice president.

2. Functions as Chairman of Rajya Sabha: It is the duty of the Vice-president to preside over Rajya Sabha though he is not a member of Rajya Sabha, yet he is the Chairman of it. He runs the affairs of the House as the chairman of the house. He maintains decorum and discipline in the house and he has the right to initiate disciplinary proceedings against those members, who violate proceedings of the house. He conducts debate and speeches and members speak only with his permission. In normal conditions, he does not have the right to vote on any subject/bill in Rajya Sabha, as he is not a member of Rajya Sabha, but in case of Tie situation, he can cast one decisive vote.

Position: Despite the fact that Vice-president has not been given any specific powers by the constitution, yet he has a special place in the Indian political system. He possesses special status. His post is next to the post of the President. But none can deny that his actual role in government is certainly unimportant. Critiques like **T.K. Tope** and **H.M. Jain** have termed the post of Vice-president as "wasteful High Post", such statement can be used to describe the post of American Vice-President, but this is not true in Indian context. As Leader of Rajya Sabha, his post is totally recognized and admirable. Vice-president takes care of the situation in case of any untoward incident. He represents India in different National Conferences. His office functions as training centre for future Presidents Radhakrishnan, Dr. Zakir Hussain, **Dr. V.V. Giri**, **Dr. S.D. Sharma** and **Mr. K.R. Narayanan** were working s Vice-President before being elected as President. At present, **Hamid Ali Ansari**, is discharging Duties of Vice-President with great respect and dedication

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Notes

Self Assessment

Multiple Choice Questions:

16. Which Article has the provision for the post of Vice-President?
    (*a*) Article 65 (*b*) Article 63
    (*c*) Article 69 (*d*) Article 68
17. Vice-President is the Head of which of the following also?
    (*a*) Lok Sabha (*b*) Planning Commission
    (*c*) Rajya Sabha (*d*) None of the above
18. In America when President's post falls vacant (resignation, death, impeachment), Vice-President becomes which one of the following?
    (*a*) President (*b*) Acting President
    (*c*) Neither A nor B (*d*) None of the above

5.7 Summary

- Provision has been done for the indirect election to the post of President in constitution. He is elected by an Election commission, which is based on elected members of both houses of parliament and elected members of State Vidhan Sabha.
- President can be removed by the proceedings of Impeachment, if found guilty of violating constitution or outraging the modesty of his post.
- As per Article 78, it is the duty of the Prime Minister to inform President on all matters of governance. President can ask any information pertaining to the same from Prime Minister.
- President addresses both houses of parliament at first parliamentary session after general elections and starts first session of parliament each new year with his speech.
- Under Article 352, National Emergency was first declared on October 26, 1962 during Chinese Invasion on Indian Territory.
- President has to face Impeachment in case of Constitutional Violation or misuse of powers.
- Vice-president is elected by Representative Ratio with Single Transferrable Voting System.
- As per constitution, Vice-president is bound to take charge of leader of Rajya Sabha. Though he is not a member of Rajya Sabha, yet he functions as the Chairman of Rajya Sabha.

5.8 Keywords

- **Nomination:** To propose names, Register names.
- **Successor:** Right to get property or post after some one's death.

5.9 Review Questions

1. How election to the post of president takes place in India?
2. Describe Emergency powers of Indian President.
3. Mention Powers and Duties of Vice-President of India.
4. Do you agree with the Statement," President of India is just a rubber stamp". Please clarify.

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Notes

Answer: Self Assessment

1. 35
2. T.N. Seshan
3. 4350
4. False
5. True
6. True
7. (*b*)
8. (*d*)
9. (*a*)
10. 360
11. 6 Months
12. National
13. True
14. False
15. True
16. (*b*)
17. (*c*)
18. (*a*)

5.10 Further Readings

Books

1. Indian Political System – *U.R. Ghai.*
2. Indian political System – *Dr. M.P. Rai.*

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Unit-6: Union Parliament: Lok Sabha and Rajya Sabha

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Objectives

After studying this unit, students will be able to:

- Understand the Characteristics of Union Parliament.
- Understand about the powers of Rajya Sabha.
- Understand the Functions of Lok Sabha.
- Understand about the relations between Lok Sabha and Rajya Sabha.

Introduction

Constitution has handed over Law making powers to Union Parliament. They were called Central Legislature during pre Independence, but constitution committee gave it the name of Union Parliament post independence. Article 79 states that there shall be a Union Parliament comprising of a President and Two Houses, House of people (Lok Sabha) and Council of States (Rajya Sabha). Rajya Sabha has been given the status of Upper House and Lok Sabha is knows as Lower House.

Notes

Though President is not a member of either of the houses, yet he is considered as an Integral part of the parliament. Entire proceeding of the parliament functions In the name of the President and no bill can become an Act, unless it is approved by the President.

Position of Union in Indian Constitutional system and of parliament in Union government is very strong. This is not as strong as that of a British Constitution, but it possesses huge powers and its position is of great influence and strength. In many respects, its powers are even bigger than American congress, since in American system President enjoys huge powers without being accountable to the Congress, whereas in India, the real Executive i.e. Prime Minister and its Cabinet are accountable to the Union Parliament for all its actions and decisions.

6.1 Characteristics of Union Parliament

It can be described as the following:

1. President is not a member of Parliament, yet an Integral part of Parliament: President is not a member of either house of the parliament nor can he become, yet he is an integral and important part of the Union government under Article 79. President calls the Session of the Parliament, suspends them or dissolve the parliament.

Notes Any Bill passed by the Union Government can't become an Act unless approved by the President.

Some bills are required to be pre approved by the President before being presented in parliament. President can send any message to the parliament. Act is made by the President and Parliament.

2. Non Sovereign Status of Union Parliament: Indian Parliament is Non Sovereign in contrast to British Parliament since Constitution enjoys Sovereignty in India and Parliament functions on the basis of powers allotted by the Constitution only. If any Act passed by the parliament is unconstitutional or violates constitution, then Supreme Court can revoke it. In other words, Laws and Acts made by the Union Parliament are enforceable in the supreme court. Besides, Union Government can only make laws for areas under Union government

3. Parliament's Power to amend the Constitution: Parliament has been authorized to amend the constitution under Article 368 and it clearly states the mechanism of such amendments. Parliament can amend any part of constitution, but Supreme Court can decide on whether such amendment has changed the Fundamental Structure of the Constitution or not by its Judicial Review right. Supreme Court has the Judicial Review right to analyze the constitutionality of any act of parliament.

4. Bi-cameral Organization: Like America, British, Switzerland and many other country's Constitution, Indian parliament too has two houses as following (*i*) Council of States i.e. Rajya Sabha which is Upper House and which represents Units of Indian Union. Members of Rajya Sabha are indirectly elected by the State Vidhan Sabha. This is a Quasi-permanent House, whose 1/3rd members get retired every 2nd year. Each State has not been represented equally under it and this system makes it different from American Senate (*ii*) House of the people i.e. Lok Sabha, which is Lower House and represents Indian public. Its members are elected directly by the people. Strength of Lok Sabha is 545 and its tenure is 5 years. Elections take place every 5 years but President can dissolve Lok Sabha even before its expiry.

5. Lok Sabha is stronger than Rajya Sabha: Constitution has not given equal rights to its houses. Lok Sabha has been given more powers than Rajya Sabha. Council of Ministers is responsible towards Lok Sabha only and not to Rajya Sabha. Money Bills can only be presented in Lok Sabha and not in Rajya Sabha and Rajya Sabha can only delay such Money Bills for maximum of 14 days and can't reject it. Lok

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Sabha manages Public Money. In Principle, both houses are equipped with equal law making rights, but in practice Lok Sabha enjoys greater power than Rajya Sabha. Position of Rajya Sabha is weak but not as that of House of Lords and Lok Sabha is also not as strong as that of House of Commons of Britain.

6. Provision of Nomination: Lok Sabha is a house of directly elected representatives, but President can nominate 2 persons of Anglo-Indian community, if he is convinced that that community is not appropriately represented in the parliament. Similarly, President can nominate 12 persons from the field of Art, Science, Literature, Culture and Social Service, who have accomplished greater heights.

7. Union Parliament exercises Judicial and Executive power along with Legislative and Financial Powers: Indian constitution is not based on the principle of separation of powers. Indian Parliament is empowered to use some executive and judicial powers along with its Legislative and financial powers. Parliament controls Executive i.e. Prime Minister and its Cabinet. Article 75 (3) clearly mentions that Cabinet shall be collectively responsible to Lok Sabha. Lok Sabha consistently monitors and evaluates functions of Cabinet. Lok Sabha can remove Council of Ministers by bringing No Confidence Motion, rejecting Budget or by revoking any executive policy or decision. Members of Lok Sabha and Rajya Sabha elect President and Vice-President. Both house of parliament can initiate Impeachment proceedings against President and remove him. Thus Indian Parliament has several Executive, Judicial selection powers. In other words, Indian parliament has been given Executive and Judicial powers also along with Constitutional powers under Indian constitution.

8. Vice-President is Ex-officio Chairman of Rajya Sabha and Speaker is Chairman of Lok Sabha: Just like American Senate, Vice-President presides over the sessions of Rajya Sabha. Vice-President though is not a member of Rajya Sabha, yet he is the leader of Rajya Sabha and presides over its sessions. He only has the right of casting decisive vote. Speaker presides over Lok Sabha sessions and in case of his absence, Deputy Speaker presides over the session, but both Speaker and Deputy Speaker have to be from Lok Sabha only. They are elected by the members of Lok Sabha. Speaker discharges his duties neutrally alike the Speaker of House of Commons, but whereas British Speaker retires from active politics after taking charge as Speaker, Indian Speaker remains in Political Life even after taking charge as Speaker. Hence, Indian speaker position is neither of Total Neutrality like British Speaker nor of Total Political Commitment like American Speaker.

9. Committee System: Like many other countries' parliament, Indian parliament also discharges its Legislative and other functions with help of certain committees. Both the houses have their own set of committees, but there are some common committees as well. Parliament keeps control over Executive by its committees like Public Accounts Committee, Estimate Committee. These committees play vital role in Legislation in the parliament.

Hence, Indian parliament is not sovereign, but still it is a very powerful institution. Union Parliament has the Right to make Laws on 97 subjects of Union List and on Residual List as well. Union Parliament and State Vidhan Sabha both can make Laws for 47 Subjects in Concurrent List, but in case of any conflict amongst the two, Legislation of Union Parliament shall prevail. In some Emergency situation, Union Parliament can make laws for State subjects also and hence Union Parliament enjoys huge and exhaustive powers of Legislation.

Did u know? Parliament has the final control on national money. Without its consent, Union government can't introduce any tax, can't collect any tax nor can it effect any change in the taxation system.

Indian Constitution has made provisions for Parliamentary Administration System and Union Cabinet is responsible and accountable to parliament for all its activities and decisions. Union Parliament inspects the working of the Government and stops it from using despotic powers.

Thus, Indian Parliament is a very powerful Institution but it is not a sovereign parliament. In India, Constitution is the Supreme Legislation and parliament functions as per the guidance of the constitution.

Notes

Parliament has the power to amend constitution, but it can't amend its fundamental structure. This is how, we can say that Indian Parliament is well organized and powerful, but Sovereign Parliament.

Self Assessment

Fill in the Blanks:

1. No Bill passed by Union parliament can become an Act without the signature of .....
2. ..... has the right of Judicial Review on Acts made by Union Parliament.
3. Rajya Sabha can only delay ..... Bill for a period of ..... days.

6.2 Rajya Sabha-The Council of States

Rajya Sabha i.e. Council of States is the Upper house of parliament. As is clear from its name, it has been made to give representation to the states of the Indian Union. But unlike the upper house of USA and Switzerland, there is no equal representation to Indian states in Rajya Sabha. These have been given representation basis their population base.

I. Compositon of Rajya Sabha: Maximum Strength of Rajya Sabha is 250 out of which 238 are State Representatives and rest 12 are nominated by President who have done special service in the fields of Art, Science, Literature or Social Service. 238 members are elected by active State Vidhan Sabha of 28 states. Each State Vidhan Sabha elects different number of representatives. Seat distribution for States has been provisioned in the 4th List of constitution.

Table 6.1

Rajya Sabha: Division of Seats
(14th Schedule)

	Name of States	*Seats*		*Name of States/UT*	*Seats*
1.	Andhra Pradesh	18	16	West Bengal	16
2.	Assam	7	17.	Jammu and Kashmir	4
3.	Bihar	16	18.	Nagaland	1
4.	Goa	1	19.	Himachal Pradesh	3
5.	Gujrat	11	20.	Manipur	1
6.	Haryana	5	21.	Tripura	1
7.	Kerala	9	22.	Maghalaya	1
8.	Madhya Pradesh	13	23.	Sikkim	1
9.	Tamil Nadu	18	24.	Mizoram	1
10.	Maharashtra	19	25.	Arunachal Pradesh	1
11.	Karnataka	12	26.	Delhi	3
12.	Orissa	10	27.	Pandicherry	1
13.	Punjab	7	28.	Chhattisgarh	3
14.	Rajasthan	10	29.	Jharkand	6
15.	Uttar Pradesh	31	30.	Uttarakhand	3

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In other words, each State has got seats as per the ratio of their population only. For example, Punjab has 7, Haryana 5, AP 18 and Mizoram 1 seat in Rajya Sabha. At present, Rajya Sabha Strength is 245 out of which 233 are elected and 12 are nominated by the President. Constitution looks at other things like geography and other social factors along with population, while dividing number of seats amongst states.

This function of seat allocation to States has been provisioned by constitution and it can be only changed through constitutional amendment. Big states like UP and Bihar have more seats in Rajya Sabha than others, but however small a State may be, it must at least one Seat in the Rajya Sabha.

In American Constitution, each State gets equal representation (2 Seats) in the Senate(upper house) irrespective of its area and population in contrast to Indian constitution. This is understood as the Non Federal Characteristic of Indian Union. In fact, constitution makers adopted the policy of USA and Switzerland of State representation in Upper house, but ignored the principle of equal representation.

II. Method of Election: Members of State Vidhan Sabha are elected indirectly by Representative Ratio and Single Transferrable voting system. Only those Number of members are elected is as permitted by the constitution. President nominates 12 those members to Rajya Sabha from the fields of Art, Science, Literature, Social Service; who have excellent record of serving those fields.

In an All Party Meet in October 2003, it was proposed that condition of being a native of the representative state should be done away with for being elected to a particular state and system of Open Voting should be introduced, but in June 2004, Supreme Court struck down the proposal.

III. Eligibilites of Members: Following are the required eligibilities to be a member of Rajya Sabha:

(a) He should be an Indian citizen.

(b) He should have stated in the state, to which he wants to represent in Rajya Sabha.

(c) He should be more than 30 years of age and hence Rajya Sabha is called House of Elders.

(d) He should fulfill other eligibilities as fixed by parliament.

(e) He should not be holding any office of profit either in Central or State Government

(f) He should not be Insane or Bankrupt.

(g) He should not have been declared Ineligible by any act of parliament.

IV. Tenure: Rajya Sabha is Quasi-permanent body. It can't be dissolved like Lok Sabha. Every 2nd year, 1/3rd of its members get retired and fresh election is conducted. Tenure for each member of Rajya Sabha is of 6 years. A membership can be cancelled in case of Resignation or a member being proved ineligible. Those members who remain absent from the session and conference organized by the Leader of RS, for a period of 60 days without any justified reasons, can be disqualified from Rajya Sabha by the Chairman of Rajya Sabha.

V. Sessions: Normally Rajya Sabha Sessions are called alongwith sessions of Lok Sabha only by the President or in conditions if it is needed. But there can't be a gap of more than 6 months in two successive sessions. Hence, it is imperative to have minimum 2 sessions of Rajya Sabha in a year. President can call for special session of Rajya Sabha, when Lok Sabha is dissolved and he needs to take a decision on matter like Emergency Declaration. It can also be called for increasing the tenure of President rule in any particular state for approval of Ordinance. In May-June, 1999 such a special session was demanded to discuss Kargil war situation, as Lok Sabha was dissolved at that point of time, but such special session did not take place.

VI. Quorum for the Meeting of Rajya Sabha: It is imperative to have a presence of minimum 1/10th of its strength in order to have its session or have it functioning. By 42nd amendment, Rajya Sabha was empowered to fix its own Quorum, but 44th amendment reinstated earlier system of 1/10 .

VII. Privilege of Members: Members of Rajya Sabha have got many special privileges. They have the right to express their views in the house and there can be no proceedings against them for having said

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something in the house. No member can be arrested for any Civil Offense 40 days prior and post the session of the house including the session period. To protect special privileges of members, a privilege committee has been constituted since the time of Rajya Sabha existence.

VIII. Chairman of Rajya Sabha: Vice-President of India is the Ex-officio chairman of Rajya Sabha. He is neither a member of Rajya Sabha nor he casts his vote in the house, but he conducts the sessions of the house and presides over them. He does not take part in debates, but maintains discipline. In case of Tie pertaining to voting of any constitutional bill, then being the chairman of Rajya Sabha, he can cast his decisive vote. When there is a proposal in place for removal of Vice-President, in that time he can't preside over the session nor can he cast his decisive Vote. In the absence of Vice-President, Deputy Chairman of Rajya Sabha who is elected by the members of Rajya Sabha from amongst themselves, presides over the house. At present, Hamid Ali Ansari is the Vice-President of the Rajya Sabha.

IX. Salary, Allowances and Pension: Rajya Sabha members get Salary and Allowances as fixed by the act of parliament and if any members completes its term of 6 years, then he gets pension also.

Self Assessment

Multiple Choice Questions:

4. Maximum number of seats in Rajya Sabha is:

   (*a*) 250 (*b*) 238

   (*c*) 245 (*d*) 240

5. President can nominate how many members in the Rajya Sabha?

   (*a*) 18 (*b*) 16

   (*c*) 12 (*d*) 14

6. How many Seats are there for Delhi in Rajya Sabha?

   (*a*) 3 (*b*) 5

   (*c*) 4 (*d*) 2

6.3 Powers and Functions of Rajya Sabha

1. Legislative Powers: In case of general enactment, Rajya Sabha has almost equal powers as that of Lok Sabha. A normal bill can be presented in Rajya Sabha also and it can't become legislation unless it is approved by Rajya Sabha. Any bill relating to any subject of Union, State or Concurrent List except Money bill can be presented In Rajya Sabha. President calls Joint Session of Parliament in case of a logjam over any normal bill which can't be resolved within 6 months. This joint session of both houses is presided over by Speaker of Lok Sabha. If the said Bill gets cleared in the joint session, then it is sent to the President for signature and it becomes legislation. But it case deadlock is not resolved in joint session also, and then the said bill is quashed.

2. Financial Powers: In financial sphere, Rajya Sabha is much weaker than Lok Sabha. Money Bill can only be presented in Lok Sabha and the passed draft of Money Bill is sent to Rajya Sabha. If Rajya Sabha fails to pass the bill within 14 Days, then it is deemed to be passed by parliament, even if Rajya Sabha did not pass it actually. In case of some amendments as suggested by Rajya Sabha, it is returned to Lok Sabha, but it is the sole discretion of Lok Sabha to accept or reject the amendments. Budget too is Money Bill and Rajya Sabha can't delay it from being passed. It can hardly delay it for 14 days. In this respect, power of Rajya Sabha is even less than House of Lords in British Constitution, which can delay the Money Bill for at least 30 days. America's Senate is also more powerful than Rajya Sabha in financial matters, which only finalizes the final form of Money Bill.

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3. Executive Powers: As per article 75(3), "Cabinet is collectively responsible to the parliament". Only Lok Sabha can pass No confidence motion and remove Cabinet.

Did u know? Rajya Sabha has least controlling powers on Cabinet. It can't remove Cabinet from its place, but members of Rajya Sabha by asking questions pertaining to administration, by criticizing adopted policies, by asking questions and by passing adjournment motion, can control Ministers.

Now Ministers can be elected from Rajya Sabha also and tradition of taking Minister from only Lok Sabha has been broken. In 1996, Devegowda became member of Rajya Sabha and not of Lok Sabha. In April,1997 I.K. Gujral became Prime Minister and he too was member of Rajya Sabha. Current Prime Minister Dr. Manmohan singh too is member of Rajya Sabha. Therefore, now member of Rajya Sabha too can become Prime Minister, provided he is supported and elected as its leader by the party with majority in parliament, as happened with Dr. Manmohan Singh in May 2004. But in nutshell, Rajya Sabha has limited Executive powers as vested by parliament.

4. Amendment Powers: As regards amendment powers, amendment bill can be presented in any house of the parliament. If Rajya Sabha accepts it, then it goes to Lok Sabha for approval and vice versa, which means that amendment bills can't be passed without the consent of both the houses. Both houses have to pass the bill under article 368 with equality with a fixed majority. Hence as regards amendment powers both houses are at par.

5. Electoral Powers: Rajya Sabha has some Electoral powers as well. Members of Rajya Sabha along with members of Lok Sabha and State Vidhan Sabha members, partake in the election of President. Members of Rajya Sabha themselves elect their Deputy Chairman from amongst themselves. Members of Rajya Sabha alongwith members of Lok Sabha select Vice-President too.

6. Judicial Powers: Though Rajya Sabha does not have any Civil or Criminal jurisdiction, yet it performs following judicial functions:

(a) Rajya Sabha and Lok Sabha collectively can initiate Impeachment proceedings against President.

(b) Rajya Sabha can pass special proposal to remove Judges from High Court or Supreme Court.

(c) Removal proposal against Vice-President can only be brought in Rajya Sabha.

(d) It can pass proposal for removing some high profile officials like Attorney General of India, Comptroller and Auditor General of India, Chief Election Commissioner etc.

7. Miscellaneous Powers: Apart from above mentioned powers, Rajya Sabha along with Lok Sabha discharges following functions:

(a) To approve the Ordinances as issued by the President.

(b) To approve Declaration of Emergency.

(c) Power of passing bills pertaining to effecting change in the jurisdiction area of Supreme and High Court.

(d) Power of changing eligibility criteria for members of Lok Sabha and Rajya Sabha.

8. Special Powers of Rajya Sabha: We can find them as following:

(*i*) Power to declare a subject of State List as a subject of National Importance: under article 249, Rajya Sabha with a 2/3rd majority of available members can pass and declare any State Subject matter as a matter of National Importance. Due to this proposal, Union parliament can enact laws to this effect for a period of 1 year. Such a proposal can be repeatedly passed by Rajya Sabha every year. In other words, when Rajya Sabha passes such bills, then the concerned state matter becomes concurrent matter for 1 year. Union parliament can enact law to this effect.

Notes

(*ii*) Power with respect to Creation or Abolition of an All India Service: under article 312, Rajya Sabha by passing a proposal by 2/3rd majority, can create or terminate an All India Service.

(*iii*) Power to control Emergency Power of President in case of Dissolved Lok Sabha: Rajya Sabha can democratically put a check on the emergency powers of the President during emergency, if Lok Sabha is in dissolved state. In such situations, there are provisions for having the declaration through Rajya Sabha.

(*iv*) Only Rajya Sabha can initiate proceedings to remove Vice-President: only Rajya Sabha is entitled to bring a motion to remove Vice-President.

Position of Rajya Sabha

After going through powers of Rajya Sabha, we can easily understand that it is neither a Decorative Piece of House like British House of Lords nor a powerful House like American Senate. It is actually placed in between the two. It is not a shadow of Lok Sabha but not as powerful as Lok Sabha. Being Upper House, it has been given less powers, but still the role given is quite important. There is no denying the fact that as compared to Lok Sabha, Rajya Sabha is a weak House some critics have described it as secondary and useless House. **Dr. Ambedkar** was not definite about its utility. According to him, "I cannot say that I am very strongly prepossessed in favor of a second chamber. However, the Constituent Assembly decided to provide for the Rajya Sabha as a second chamber, a chamber designed to give representation to the units of Indian Federation and a chamber designed to act as a helping as well as a checking chamber". The Rajya Sabha was neither made powerless like the British House of Lords nor as powerful as the US Senate. Rajya Sabha has been given the same rights as the Lok Sabha regarding framing of common laws, election of President and Vice-President, power of impeachment and reviewing the reports of the government. But on the whole, its role has been made less important as compared to the Lower House. Lok Sabha has been given the responsibilities of the Federal Execution and Financial control.

Factors responsible for giving a Weaker Role to Rajya Sabha

1. Lack of Equal representation to the States: The composition of the Rajya Sabha is not according to the true nature of the Federation because states have not been given equal representation in it. The representation of the states has been given on the basis of population and region. In federal states like USA and Switzerland, Federal units have been given equal representation in the upper Houses of the Parliament. For this reason, Rajya Sabha could not become a real Federal House.

2. Representation of the Party Interests: Members of Rajya Sabha like the members of Lok Sabha do not represent the interest of the states but they represent Party interests. They are elected on the basis of Party lines. In the words of **Mr. Girdhari Lal**, "it is, plainly speaking, not a council of states but a council of political parties in the state assemblies". Its composition is such that it explains the importance of seats obtained by different political parties in different Legislative Assemblies.

3. Provision of Nominated Members: President nominates 12 members to the Rajya Sabha. This actually is against the democratic and federal spirit. This possibility always remains that the 12 nominated members will give their full support to the Centre instead of the State.

4. Indirect Election System: Rajya Sabha members are elected indirectly and for this reason, they are not directly responsible to the people. Apart from this, in the indirect election system there is more possibility of the use of corrupt practices as compared to direct election system.

5. Less Powerful House: The powers of the Rajya Sabha are definitely less than the Lok Sabha. To pass the money bill, Rajya Sabha can make a delay of only 14 days and it does not have a real and effective control on the executives. Ministers are responsible to the Lok Sabha and not to Rajya Sabha. In the case of general bills also, the powers of Rajya Sabha are less than that of the Lok Sabha because even in the joint session convened to resolve the hindrance between the two Houses, the view point of Lok Sabha

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prevails due to majority of its members. Even in decisions of the joint session, the members of the Lok Sabha predominate.

6. Revision of Bills not really Useful: It is an important work of Rajya Sabha to revise the bills passed by Lok Sabha but here also, due to violent party politics, discussions in the Rajya Sabha are held on the basis of party lines. The role of Rajya Sabha is limited. If the party having majority in Lok Sabha also has majority in Rajya Sabha, it is inevitable that the bill passed by Lok Sabha will be passed by Rajya Sabha also. Moreover, the working of the Committee system has made useless the role of revision of the Second House.

Rajya Sabha has not been completely successful in playing that role which the Constitution makers had handed over to it. Ordinarily, it has not played its role effectively as State representative of the Indian federation and also that of House of Elders. On the contrary, it has played the role of a divided House, working on party lines in which every political party presents its own point of view. It has also been unsuccessful in its role of putting checks on Lok Sabha. Along with this, several time states have worked along a single path to include 'Members of Elders' or defeated parties in the Parliament. In the Rajya Sabha small election constituencies, i.e., the votes of the members of the State Legislature can be easily purchased for the election of any candidate for its narrow motives.

6.4 Utility of Rajya Sabha

In spite of the fact that Rajya Sabha is a weak House, its place has been of great significance for being the counter part and Revision House of the Union parliament in the Indian Constitution system and also as an institute for working as a link between the center and the states. Describing the utility of Rajya Sabha, **Morris Jones** writes, "It has three important features: it provides extra political opportunity which is in demand; it provides for more opportunities for discussion which are needed and it helps in finding solutions to limited constitutional problems". As the upper House of the Union parliament, the importance of Rajya Sabha can be described on the following facts:

(1) Representative of Able Persons: The President of India nominates such 12 persons for the Rajya Sabha who has achieved special accomplishments in the field of art, science, literature and social services. Thus by including able and experienced persons in the federal system, due advantage can be taken of their services.

(2) Rajya Sabha's Utility as a Quasi-permanent House with Special Powers: Rajya Sabha is a Quasi-permanent House and due to its special powers, it plays an effective role in the Indian Constitutional system. As a Quasi-permanent House, it is a source of firmness. When Lok Sabha is dissolved and some special tasks are to be done, i.e., to increase the limit of President's rule in any state or there is need for approval of emergency – at that time, approval can be obtained from the Rajya Sabha. In May 1991, for obtaining the approval to increase the tenure of President's rule in Haryana, two day's special session of Rajya Sabha was held. On 21st May, 1991 due to the unfortunate and distressing assassination of Ex-Prime Minister, **Mr. Rajeev Gandhi**, and consequently the delay in the election procedure, it had also become very essential to convene the special session. Besides, the Rajya Sabha also works as an auxiliary House. It lessens the workload of Lok Sabha because uncontroversial and some other bills can be first presented in the Rajya Sabha. It also works as a House for the revision of Bills. It plays the same role as the Lok Sabha regarding the process of revision of Constitution and the election of President and Vice-President. Moreover, it has got special powers under Article 249 and 13. Hence, Rajya Sabha is not secondary or useless House like the British House of Lords.

(3) Rajya Sabha's Role: From the time of implementation of the Constitution till date, Rajya Sabha has been playing proper role as the second house of the parliament. During 1977-79, it played an investigating role in restricting some of the bills/resolutions passed by the Lok Sabha. During this period, Rajya Sabha remained an active member because at that time the Congress was in majority in the Rajya Sabha but in Lok Sabha, Janta party was in majority. It made some amendments or cancelled some provisions of the 43rd and 44th

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amendment bills, which had been passed by Lok Sabha. Similarly during 1989-90 and 1996-2003, due to such circumstances Rajya Sabha again became active. But during 1950-77 and 1980-89, the main reason of its failure to play the role assigned and pronounced in constitutional way by Rajya Sabha was the predominant nature of a single party of the Indian party system and it does not have any creative or constitutional shortcoming. As the predominance of the Congress began to decrease and the position of other political parties became more active and powerful, there was change in the role of Rajya Sabha. These days, different political parties are in majority in different states. Rajya Sabha represents all parties proportionately. None of the party can be hopeful of obtaining majority for two-third seats and for this Rajya Sabha as per its wishes, can utilize its revision power and two special powers. With this, its position has become stronger. It must be kept in mind that the Union Parliament is a Bi-Cameral body, and Rajya Sabha has to maintain its inseparable part as an Upper House. Now for submitting list of probable candidates for the appointment of Prime Minister, we can depend on Rajya Sabha.

Self-Assessment

Multiple Choice Questions:

7. In the year 1997, Mr. Indra Kumar Gujral, elected as Prime Minister was a member of .....
   (*a*) Lok Sabha (*b*) Rajya Sabha
   (*c*) Both (*a*) and (*b*) (*d*) None of above
8. By which Article of the Constitution can the Rajya Sabha pass a bill with 2/3rd majority and establish one or more all India services?
   (*a*) Article 356 (*b*) Article 256
   (*c*) Article 312 (*b*) Article 96
9. When was Rajeev Gandhi assassinated?
   (*a*) 21st May, 1992 (*b*) 21st May, 1991
   (*c*) 21st May, 1993 (*d*) 21st May, 1994

6.5 Lok Sabha: The House of the People

The House of the People, which is popularly known as Lok Sabha, is the first and lower House of the Union parliament. As is clear from its name, it represents the people of India. Its election is held directly by the people. This is a powerful, democratic and complete representative House and in this regard, its position is just like the British House of Commons. Powers given to Lok Sabha are just like those given to British House of Commons. Lok Sabha's position is so strong that many scholars like to call it the real Parliament. But this is not a right comment. Still, it explains the significance and strong position that Lok Sabha holds in the Indian Constitutional system.

I. Composition: In 1950 when the Constitution was implemented, the number of Lok Sabha members was fixed to 500. In 1956, by the 7th amendment the number was increased to 520. Again in 1963 by the 14th amendment, the number of members was increased to 525. Out of these, 500 seats were for the people living in states and 25 seats were distributed among the centrally governed states. According to the 31st Amendment Act, the maximum number of Lok Sabha seats was fixed to 550 but these days, its number is 545. Out of these, 525 are elected from the states and 20 from centrally governed states. According to Article 331 of the Indian Constitution, if the President is convinced that the Anglo-Indian Community has not been given proper representation, he can nominate two persons of this community to the Lok Sabha. The number of members of Lok Sabha has been fixed to 545 up to 2010 (By the 42nd Amendment Law of 1976). In Lok Sabha also, seats for Scheduled caste and scheduled tribes have ben reserved in certain proportion by the Constitution.

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Table 6.2

(Lok Sabha : Allocation of Seats)

States/U.T.	*Total seats*	*Reserved for the S.C.*	*Reserved for the S.T.*
STATES:			
Andhra Pradesh	5	34	3
Arunachal Pradesh	2	-	-
Assam	1	10	3
Bihar	13	22	2
Goa	1	1	-
Gujarat	14	12	-
Haryana	-	8	2
Himachal Pradesh	-	4	-
Jammu and Kashmir	-	4	2
Karnataka	18	8	2
Kerala	-	1	19
Madya Pradesh	24	4	1
Maharashtra	25	23	-
Manipur	-	1	-
Meghalaya	1	-	-
Mizoram	1	-	-
Nagaland	-	-	1
Orrisa	18	3	-
Punjab	11	2	-
Rajasthan	21	4	-
Sikkim	-	-	1
Tamil Nadu	0	35	4
Tripura	-	2	-
Uttar Pradesh	12	9	59
West Bengal	1	5	36
Chhattisgarh	10	1	-
Jharkhand	1	10	3
Uttaranchal	4	1	-
UNION TERRITORES :			
Andaman and Nicobar	-	1	-
Chandigarh	-	1	-
Dadra & Nagar Haveli	-	1	-
Delhi	1	6	-
Daman and Diu	-	1	-
Lakshadweep	1	-	-
Pondicherry	-	1	-

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II. Method of Election of the Members of Lok Sabha: Election of Lok Sabha members is done as following:

(a) Universal Adult Franchise: Any person of 18 years and above has the right to vote for the Lok Sabha elections. Previously, it was 21. But voter's name should be there in the voter's list to cast his vote.

(b) Joint Electorate System: Voters cast their vote on the basis of Joint Electorate System which means that voters cast their vote to the common candidate and not according to their alliance with different communities. The whole country is divided into electoral zones and all the voters of each electoral zone elect one representative. But some electoral zones are reserved for Scheduled castes and tribes. These are called Reserved Election Constituencies. In such constituencies, only people belonging to scheduled caste or tribes can fight election but in unreserved constituencies, all voters can cast their votes.

(c) Single Member Constituencies: The entire country is divided into that many constituencies as the members of the Lok Sabha are to be elected and from every constituency one representative is elected. The marking of constituencies is done by Delimitation Commission which is established after each Census.

(d) The Constituencies are Territorial Constituencies: The constituency's territories are fixed by the Delimitation Commission. Generally, the population of each constituency is between 5 lacs to 7.5 lacs.

(e) Secret Ballot: The election of Lok Sabha members is through Secret Ballot and no one knows in whose favor has the voter, cast his vote.

(f) Direct Election: All members of Lok Sabha are elected directly. Every voter can cast his vote in favor of the contesting candidate. The candidate who gets the maximum number of votes among all the contestants is accepted as the elected representative of that constituency.

III. Qualifications for Membership: following are the eligibilities:

(1) He should be an Indian.

(2) He should not be less than 25 years of age.

(3) He should not be working at a profitable post under the Union or State Government.

(4) He should not be insane or bankrupt.

(5) He should not have been convicted by any court of law for any crime.

(6) He should fulfill all the qualifications laid by the law of the Parliament.

IV. Term: The normal term of Lok Sabha is 5 years. During emergency, this term can be increased by one year but it is necessary to have fresh elections for the Lok Sabha within a period of six months of the end of emergency. By the 42nd amendment, the term of Lok Sabha was extended up to 6 years but by the 44th amendment this term was again fixed for 5 years. The President can dissolve the Lok Sabha even before the completion of its term as was done in 1977, 1979, 1991, 1997, 1999 and 2004. If the election to the Lok Sabha is conducted before the completion of the term of the first Lok Sabha, it is called mid-term election. But every new Lok Sabha is elected for 5 years. By dissolving Lok Sabha, the President acts according to the suggestions of the Prime Minister. So long as the Prime Minister has majority in the Lok Sabha, he can recommend any time to the President to dissolve Lok Sabha for getting fresh mandate. Such a request is accepted by the President.

V. Sessions: According to article 85 of the Indian Constitution, President can call sessions of Parliament but there should not be a gap of more than 6 months between the sittings of the two sessions. This means that at least 2 sessions of Lok Sabha are to be held in a year. The President has the power to call meetings of Lok Sabha and also to suspend or dissolve it for a long time.

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VI. Quorum: For a meeting of Lok Sabha, the presence of at least 1/10 members is compulsory. If 1/10 members of Lok Sabha are not present, the Speaker of the House can postpone the meeting for the lack of Quorum.

VII. Presiding Officer of Lok Sabha, Speaker and Deputy Speaker: The Speaker is President and the presiding officer of Lok Sabha. The selection of the speaker is made by the members of Lok Sabha from among themselves. Every new Lok Sabha in its very first session elects one as Speaker and another deputy speaker from among themselves. The Speaker presides over the sessions of Lok Sabha, conducts the working of the House and maintains discipline and dignity. His position in the House is supreme. He acts like an indifferent person in a political way in the House. In the absence of Speaker, his duties are discharged by deputy speaker. In case of absence of both the Speaker and Deputy Speaker from the Parliament, one member from the list of presiding persons can preside over the session. The 15th Lok Sabha elected **Ms. Meera Kumar** as its speaker.

VIII. Salary, Allowances and Pension of Members: The Lok Sabha members get fixed monthly salary and allowances from the Parliament. If any person remains a member of the Lok Sabha for at least 5 years, he also gets pension.

IX. Special Privileges: Lok Sabha members have got some special privileges. They have full freedom to express their views in the House. No action can be taken against them in saying anything in the House. During the session, 40 days before or after they cannot be arrested for civil crime. In criminal cases, they can only be arrested if the Speaker has been given prior information. Due to Party discipline, the numbers of Lok Sabha have to work according to the policy of its Party. As per the Whip issued by its party, he has to participate in the voting otherwise, disciplinary action can be taken against them.

X. Official Recognition to the Leader of Opposition: In England, the leader of the opposition has got special government recognition. Like Britain, in India too, a law was passed on 18th Aug. 1977 relating to the Parliament and accordingly provision was made for granting official recognition to the leader of the opposition in the House. The leader of the opposition gets the same privileges which are enjoyed by the Cabinet Ministers. The BJP leader, Mr. Atal Bihari Bajpai was officially recognized as opposition leader in the 11th Lok Sabha and in the 12th Lok Sabha, Mr. Sharad Pawar, leader of Congress (I), got recognition as opposition leader. In the 14th Lok Sabha, the BJP MP and leader, Mr. L.K. Advani rose as leader of the opposition. In the 15th Lok Sabha also, the UPA had the predominance.

Table 6.3

15th Lok Sabha General Elections 2009 Region wise Results

States and Seats	*Political Parties*	*No. of Seats Won*
Andhra Pradesh (42)	**Indian National Congress**	**33**
	Telugu Desam Party	6
	Telangana Rashtra Samithi	2
	All India Majlis-e-Ittehadul Muslimeen	1

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Arunachal Pradesh (2)	**Indian National Congress**	**2**
Assam (14)	Indian National Congress	7
	Bharatiya Janata Party	4
	Assam United Democratic Front	1
	Asom Gana Parishad	1
	Bodaland Peoples Front	1
Bihar (40)	**Janata Dal (United)**	**20**
	Bharatiya Janata Party	12
	Rashtriya Janata Dal	4
	Indian National Congress	2
	Independent	2
Chhattisgarh (11)	**Bharatiya Janata Party**	**10**
	Indian National Congree	1
Goa (2)	**Bharatiya Janata Party**	**1**
	Indian National Congress	1
Gujarat (26)	**Bharatiya Janata Party**	**15**
	Indian National Congress	11
Haryana (10)	**Indian National Congress**	**9**
	Haryana Janhit Congress	1
Himachal Pradesh (4)	**Bharatiya Janata Party**	**3**
	Indian National Congress	1
Jammu and Kashmir (6)	**Jammu and Kashmir National Conference**	**3**
	Indian National Congress	2
	Independent	1
Jharkhand (14)	**Bharatiya Janata Party**	**8**
	Jharkhand Mukti Morcha	2
	Indian National Congress	1
	Jharkhand Vikas Morcha (Prajatantrik)	1
	Independent	2
Karnataka (28)	**Bharatiya Janata Party**	**19**
	Indian National Congress	6
	Janata Dal (Secular)	3

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Kerala (20)	**Indian National Congress**	**13**
	Left Democratic Front	4
	Indian Union Muslim League	2
	Kerala Congress (Mani)	1
Madhya Pradesh (29)	**Bharatiya Janata Party**	**16**
	Indian National Congress	12
	Bahujan Samaj Party	1
Maharashta (48)	**Indian National Congress**	**17**
	Shiv Sena	11
	Bharatiya Janata Party	9
	Nationalist Congress Party	8
	Bahujan Vikas Aaghadi	1
	Swabhimani Paksha	1
	Independent	1
Manipur (2)	**Indian National Congress**	**2**
Meghalaya (2)	**Indian National Congress**	**1**
	Nationalist Congress Party	1
Mizoram (1)	**Indian National Congress**	**1**
Nagaland (1)	**Nagaland People's Front**	**1**
Orissa (21)	**Biju Janata Dal**	**14**
	Indian National Congress	6
	Communist Party of India	1
Punjab (13)	**Indian National Congress**	**8**
	Shiromani Akali Dal	4
	Bharatiya Janata Party	1
Rajasthan (25)	**Indian National Congress**	**20**
	Bharatiya Janata Party	4
	Independent	1
Sikkim (1)	**Sikkim Democratic Front**	**1**
	Dravida Munnetra Kazhagam	**18**
	All India Anna Dravida Munnetra Kazhagam	9
	India National Congress	8

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Tamil Nadu (39)	Communist Party of India	1
	Communist Party of India (Marxist)	1
	Marumalarchi Dravida Munnetra Kazhagam	1
	Viduthalai Chiruthaigal Katchi	1
Tripura (2)	**Communist Party of India (Marxist)**	**2**
Uttar Pradesh (80)	**Samajwadi Party**	**23**
	Indian National Congress	21
	Bahujan Samaj Party	20
	Bharatiya Janata Party	10
	Rashtriya Lok Dal	5
	Independent	1
Uttarakhand (5)	**Indian National Congress**	**5**
West Bengal (42)	**All India Trinamool Congress**	**19**
	Left Front	15
	Indian National Congress	6
	Bharatiya Janata Party	1
	Socialist Unity Centre of India	1
Territory (≠ of seats)	**Party**	**Seats won**
Andaman and Nicobar Island (1)	**Bharatiya Janata Party**	**1**
Chandigarh (1)	**Indian National Congress**	**1**
Daman and Diu (1)	**Bharatiya Janata Party**	**1**
Delhi (7)	**Indian National Congress**	**7**
Lakshadweep (1)	**Indian National Congress**	**1**
Puducherry (1)	**Indian National Congress**	**1**

Self-Assessment

Fill in the blanks:

10. Lok Sabha is Parliament's ..... House.
11. Presently, the number of members of Lok Sabha is .....
12. Members of Lok Sabha are elected by ..... system.
13. Minimum age limit to become a member of Lok Sabha is .....

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6.6 Powers and Functions of Lok Sabha

The powers and functions of Lok Sabha can be described under the following headings:

1. Legislative Powers: An ordinary Bill becomes Law when it is passed by both the Houses of the Parliament. It can be presented in the either house. When it has been passed by one House, then it is sent to the other House. After it is passed by both the Houses, it becomes a Law after the signatures of the President. Though a bill can be presented in either of the two Houses of the Parliament, but approximately 90% of the bills are presented in the Lok Sabha. First the Lok Sabha passes it then the Rajya Sabha. If the Rajya Sabha rejects any such bill or returns back to the Lok Sabha with amendments, then Lok Sabha reconsiders the bill. If any bill is again passed by the Lok Sabha but the Rajya Sabha is still not ready to pass it, then deadlock occurs. If such a deadlock is not solved till 6 months, then the President calls for a joint session of both the Houses and in such a session whatever decision is taken, the fate of the bill is decided accordingly. By the procedure of joint session of both the Houses to remove the deadlock, system remains in favor of the Lok Sabha because the number of members of Lok Sabha is more; approximately double, to that of Rajya Sabha. The Speaker of the Lok Sabha presides over the joint session of both the Houses. For this in terms of making ordinary law also the position of Lok Sabha is better and powerful.

2. Executive Powers: According to Article 75 (3) of Indian Constitution, "Council of Ministers shall be collectively responsible to the House of the people". Council of Ministers is responsible to Lok Sabha for each of its shortcomings, disrespect and neglect. Ministers can hold their post as long as they have confidence of majority in the Lok Sabha. Generally the prime Minister is a member of the Lok Sabha but now it is not necessary. Lok Sabha can remove ministers from their post any time by passing no confidence motion against them. Thus the decision of life and death of the Council of Ministers lies in the hands of Lok Sabha. Lok Sabha makes the Council of Ministers responsible to it through various ways. For example. By asking them questions about all administrative matters, by criticizing policies adopted by them, and by passing curtailment resolution, censure and no confidence motion and by rejecting ordinary bills of the government and bills related to finance. If Lok Sabha (*i*) rejects any policy or decision of the cabinet or does not pass any budget or bill of the government, or (*ii*) pass a vote of no confidence against the Prime Minister- it will be considered as a no confidence motion against the entire Council of Ministers and the entire Council of Ministers have to resign. On 12th April, 1997 when the no confidence motion moved by Prime Minister H.D. Devegowda was not supported by Lok Sabha the first United Front government of June, 1996 collapsed. In 1999, the BJP United government was also unsuccessful in getting one confidence motion passed and on 17th April, 1999 Prime Minister Mr. Atal Bihari Bajpai submitted the resignation of his government to the President. Thus Lok Sabha has got the power to remove government from its post.

3. Financial Powers: In financial matters, Lok Sabha has supreme position because all finance related bills are presented only in Lok Sabha. Such bills, when passed by Lok Sabha, are sent to Rajya Sabha. Any financial bill passed by Lok Sabha can be withheld for a maximum of 14 days. If Rajya Sabha is unable to pass any financial bill or 14 days elapse from the date the bill was sent to the Rajya Sabha, then it is assumed that the bill has been approved by both the Houses of parliament and it is sent to the President for his approval. Whether any special bill is a finance bill or not, it is decided by the Speaker of the Lok Sabha. His decision is final and he has the ultimate authority in matters of levying or canceling any tax pending with the Lok Sabha and also in matters relating to putting control on financial policies. Lok Sabha is the real master and patron of finance.

4. Judicial Powers: Lok Sabha also exercises many judicial powers. The President can be removed from his post by completing the process of framing charges against the President through majority vote of the Parliament. It also investigates into the charges leveled against the Vice-President by Rajya Sabha. With the co-operation of members of Rajya Sabha, it can pass resolution for the removal of any judge of High Court or the state. In a united way, it can pass the resolution of removal of special chief officials of the state like Attorney General, Chief Election Officer, Comptroller and Auditor General of India through

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special resolution to the President. It can draw disciplinary proceedings against anyone who is found guilty of defamation or contempt against the House.

5. Electoral Functions: Lok Sabha also performs some electoral functions. Lok Sabha participates in the election of the President. Members of Lok Sabha and Rajya Sabha elect the Vice-President. Members of Lok Sabha elect two members from among themselves as Speaker and Deputy Speaker.

6. Amendment Powers: Constitutional amendment bills can be presented in any House. But it is considered passed only when both the Houses pass it equally and accord and as per Article 368 of the Constitution. Both the Lok Sabha and the Rajya Sabha use the powers of constitutional amendment in a similar way.

7. Approval of the Declaration of Emergency: According to the Indian Constitution, the President of India can declare three types of emergency: National Emergency (Article 352), Constitutional Emergency in State/States (Article 356) and Financial Emergency (Article 360). But the approval of both Lok Sabha and Rajya Sabha is a must for the declaration of any type of emergency. If at the time of declaration of emergency Lok Sabha is dissolved, then the approval is taken from the Rajya Sabha, but after the new Lok Sabha comes into force it is necessary to take its approval within 30 days of the declaration of emergency. Otherwise, the declaration stands cancelled.

8. Some other Powers of Lok Sabha: Besides having the above mentioned powers, Lok Sabha performs other functions: (a) To accept or reject ordinances issued by President, (b) to make changes in the state boundaries, create new states and to change the name of any state, (c) to change the jurisdiction of Supreme and High Courts, (d) to change the qualification of members of Parliament and state legislature, (e) to make amendments in the pay and allowances of members of Parliament, (f) to establish Union Public Service Commission for two or more than two states. It can also pass a resolution to dissolve or to re-establish the upper House of State Legislature.

Position of the Lok Sabha: After studying the powers and functions of Lok Sabha, we have arrived at the conclusion that Lok Sabha, i.e., Parliament is a very powerful House. Council of Ministers is responsible to Lok Sabha and not to Rajya Sabha. Members of Council of Ministers, Lok Sabha has full control over the national finance. Even in matters of making ordinary laws, Lok Sabha has an influential position because about 90% of the bills are presented in the Lok Sabha and the process of joint meeting at the time of solving disputes between the two Houses goes in favor of Lok Sabha. Lok Sabha keeps control on the executive. Generally the Prime Minister is from the Lok Sabha. Lok Sabha can dissolve the Council of Ministers by passing no confidence motion or by cancelling the policies or laws of the government.

Since Lok Sabha is elected directly, it is the House which represents the nation and in fact it is the Lok Sabha which out shows the sovereignty of Indian people.

Self Assessment

State whether the following statements are True/False:

14. As per Article 75 (1) of Indian Constitution, Council of Ministers are collectively responsible to Lok Sabha.
15. Approximately 90% of the bills are presented in the Rajya Sabha only.

6.7 Speaker of the Lok Sabha

Speaker is a very powerful person in Lok Sabha. He is a man of highest authority in the House. He has got the 7th place amongst the highest persons of the country and he has got the same status as the Chief Justice of India. The speaker represents the pre-eminence of Lok Sabha. His post is very grand and dignified which is accepted by all the members to such an extent that when the speaker stands in

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the House, no other member can stand and when he speaks, then nobody speaks; all listen to him. In the words of **Pundit Jawaharlal Nehru**, "The Speaker represents the House. He represents the dignity of the house and because the House represents the nation, in a particular way, the Speaker becomes the symbol of Nation's freedom and liberty". Former Speaker of Lok Sabha, Hukam Singh had once said, "The speaker holds one of the highest offices of the land".

(*i*) Election of the Speaker: To preside over the meetings of Lok Sabha, its members elect one person as their leader; he is called Speaker of the Lok Sabha. According to Article 93 of the constitution, "House of the People (Lok Sabha) should elect two members of the House as Speaker and Deputy Speaker as early as possible.

After the general elections when a new government is formed, the election of the Speaker is made in its very first meeting by the House. Generally, the Speaker is elected unanimously. After having consultation with the leaders of the opposition parties, leader of the majority party proposes the name of the Speaker. This proposal is supported by the leader of the opposition. Election of the speaker is held only when the majority party of the House and other parties disagree on this point. In 1976, the candidate of Congress (I) party, Mr. Bali Ram Bhagat, was the winner for the post of Speaker. The Speaker of the 9th Lok Sabha was Mr. Ravi Rai. Shiva Raj Patil was the speaker of the 10th Lok Sabha and Mr. P.A. Sangma of the 11th and Mr. Ravi Rai. Similarly, in the 12th Lok Sabha Mr. Bal yogi and Mr. P.S. Sayed were elected as Speaker. But later when Mr. Bal yogi died in an air accident, Lok Sabha elected a new Speaker. Mr. Manohar Lal Joshi was elected as Speaker of Lok Sabha and Mr. P.M. Sayed remained Deputy Speaker as he was before (Mr. G.V. Mavlankar was the first Speaker of the first Lok Sabha.

14th Lok Sabha unanimously elected Som Nath Chaterjee as Speaker and Charanjit Singh Atwal as Deputy Speaker. The Speaker of the present Lok Sabha is Mrs. Meera Kumar.

(*ii*) Qualifications: There are no specific qualifications for the post of Speaker. The House can elect any present member of Lok Sabha as Speaker. We can say that the qualifications for the post of Speaker are the same as that required for becoming a member of the Lok Sabha. But in fact, only an experienced and popular member of Lok Sabha is elected for this high post.

(*iii*) Tenure: The tenure of the speaker is the same as that of Lok Sabha, i.e., 5 years. But even after the dissolution of Lok Sabha, he remains at his post. He holds the office till the new Lok Sabha does not elect its own Speaker. The Speaker can resign from his post anytime even before the completion of his tenure.

(*iv*) Method of Removal: It has been said in Article 94 of the Indian constitution that if the Speaker does not remain a member of the House, his services as Speaker shall come to an end. The Speaker can resign anytime from his post. Lok Sabha can also remove the Speaker from his post. In this regard, if the majority party of the House passes a resolution for his removal, the speaker has to give-up his post. But 14 days prior to bringing a no confidence resolution against the Speaker, a notice has to be given to the Parliament by the proposers of such a resolution.

(*v*) Salary and Allowances: The salary and allowances of the Speaker are fixed by the Parliament. Besides salary and allowances, he has special privileges such as free accommodation, free medical-aid, travelling allowance and many others. His salary is given from the Consolidated Fund.

Powers and Functions of the Speaker

Speaker of Lok Sabha performs the following important functions:

1. To Preside Over the Meetings of the House: Speaker presides over the meetings of the House and conducts its meetings. He also presides over the Joint session of both the Houses.

2. To Maintain Discipline in the House: Speaker maintains discipline in the House. If any member obstructs or tries to obstruct the proceedings of the House, then the Speaker can either warn him or even ask him to leave the House. If the speaker finds anyone violating the discipline, he can disqualify the membership of that member for a definite period.

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3. To Fix Agenda of the House: Speaker in consultation with other members, committees and prime minister fixes the agenda of the house. He fixes time for different type of questions.

4. To give Permission for asking Questions: Each member of house can ask different type of questions from ministers, but for this one has to take approval from the speaker. Speaker takes final decision and allows members to ask questions.

5. To Conduct the Business of the House: Speaker conducts the affairs of the house. He permits members to present Bills, cognizance motion and stop work motion. He recognizes members in the house, gives permission to speak in house, fixes time for debate in house, arranges voting on certain matters and declares result. For using unparliamentary languages, he can warn members and such comments can be deleted by his orders from the record book.

6. Interpretation of Rules: House is run as per the fixed proceeding norms. In case of any dispute about rules of the house, then Speaker interprets the rules and implements them. Such implementations by speaker is final and can't be challenged in any court of law.

7. To Adjourn the House: In case of lack Quorum, indisciplined behavior of members, any other objective or due to any serious issue, speaker can adjourn the house.

8. Decision about Money Bill: If there is a dispute about whether a bill is Money bill or not, then speaker takes the decision and his decision is final and can't be challenged in any court of law.

9. To give Permission for Introduction of Bill: To present a bill in the house, speaker permission is required and any member or minister can do so after taking his approval only.

10. To Exercise Casting Vote: Speaker never partakes in the debate and discussion of the house nor he casts vote on any bill, but in case of a Tie situation, he can use his Cast vote.

11. Protection of Privileges of the Members of the House: There are certain privileges of members, which are safeguarded by the speaker. All the disputes regarding protection of these privileges are sent to the Privilege Committee and as per the suggestions and recommendations of the committee; speaker takes decision on the same. So he is the guardian of privileges of members. He ensures that questions asked by members are reverted by ministers on time.

12. Link between President and Parliament: Members of Lok Sabha can approach President through speaker only. Therefore speaker acts as a link between President and members of house.

13. Control Over Visitor's Gallery: Speaker controls the visitors and can order them to be sent out in case they create noise or found to be doing indecent behavior.

14. Role regarding Committees of the House: Sufficient work of the house is done by various committees of the house. Speaker plays vital role in the constitution of these committees. He is also the head of some committees like Business Advisory committee, Rule Committee etc.

15. Administrative Functions: Speaker has lots of administrative responsibilities. He commands final control on Lok Sabha secretariat. He appoints secretariat staff, fixes their work conditions and monitors them. To manage the records pertaining to the functioning of the house is also the duty of Speaker.

Task Present your views on the powers possessed by the Speaker of Lok Sabha.

Position of the Speaker

After analyzing speaker's powers and functions, we reach to conclusion that he enjoys a dignified position. Speaker's responsibility is to manage the affairs of the house such that Lok Sabha can function smoothly. He works as a representative and leader of the house. He works as a Neutral Leader. After

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being elected to this post, he does not resign from his party membership, but uses his powers neutrally. Neither he behaves like representing Majority party worker nor like opposition party worker. He acts as a House member, who is committed to protect the dignity of the house.

First member of the Lok Saba **G.V. Mavlankar** once said," Though a congressman, it would be my duty and effort to deal with all members and sections of the house with justice and equality". Speaker protects the privileges of members of the house, like a head of the family protects interests of its family members. In the words of M.V. Paylee,"speaker is thus the guardian and custodian of the rights and privileges of the members in their individual capacity or on the group or party basis. In short, speaker proudly represents the house by using its powers and authority to run the house.

All speakers like G.V. Mavlankar, A Iyengar, Sanjeeva Reddy, Gurdayal Singh Dhillon, Hukam Singh, K.R. Hegde, B.R. Bhagat, Balram Jakhad, Som Nath Chaterjee, Ravi Ray, Shivraj Patil, P.A. Sangma, Bal yogi, Manohar Joshi etc have worked neutrally and without bias.At present, Mrs. Meera Kumar is discharging her duties with same neutrality, finesse and dedication.

But the political Neutrality of the Speaker is only within the house. He continues to be a member of his political party and takes part in elections after completing his tenure or in the case of dissolved Lok Sabha. Indian Lok Sabha Speaker unlike British House of Common's speaker does not retire from active politics after becoming speaker, rather takes a non partisan view while discharging the duties of the House. All the speakers have been working as per the G.P. Mavlankar's established lines and traditions of neutralism and non partisan while conducting the house and thus the dignity of the post of the speaker is still intact.

Lok Sabha speaker is neither political like American speaker nor a retired saint like British Speaker. He works without bias as Leader in house even after sustaining and strengthening his political relationship outside the house. Even continuing as a member of his political party, he stays away from party politics. In 1967 Sanjeeva Reddy distanced himself from his party and in 1969 Gurdayal Singh Dhillon too did the same.

Bothe the models of speaker of Permanent Neutral speaker of Britain and Total Political speaker of America, have their own limitations. Indian speaker is a Middle path and till now this system has worked effectively. In the Indian political system, the post of speaker has been considered as of high status and dignity. **P.M. Nehru's** words always represent the vital role of speaker- "speaker represents the house. He represents the pride and independence of the house and since house represents the nation in a very special way, he becomes a symbol of national liberty and independence. This is correct to say that he possesses a dignified post. This post should only be chaired by a person of independent, meticulous and unbiased personality". Going by the advice of Nehru, political parties should try to elect such candidates only for this dignified post.

6.8 Relations between Lok Sabha and Rajya Sabha

Article 79 of the constitution states that, "there shall be a parliament of Union, which shall depend upon President and two houses named as Council of States (Rajya Sabha) and House of People (Lok Sabha) respectively". As per it, Lok Sabha and Rajya Sabha are two houses of union parliament. Lok Sabha is Lower House and Rajya Sabha is Upper House. Members of Lok Sabha are directly elected by the people. Its seats are divided on the basis of population. It completely represents the country and its strength is 545. Rajya Sabha represents the States of the Indian Union. Its strength is 250 out of which 238 are elected by State Vidhan Sabha and rest 12 is nominated by the President. In states, Rajya Sabha seats are divided as per the constitution and population is also taken in to consideration while doing so.

A Bi-Cameral parliament always has this problem of synergies between the two, but Indian constitution makers dealt with this issue quite intelligently. They made Rajya Sabha neither as strong as American Senate nor did they make it as weak as House of Lords of Britain, rather they adopted the Middle path. They made Rajya Sabha second house, but not a house of second grade. They made Lok Sabha powerful

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but not mega powerful. While fixing relationship between both the houses constitution maker were influenced by the idea of making them more participatory. They divided powers and duties between Lok Sabha and Rajya Sabha very diligently and made Lok Sabha more powerful than Rajya Sabha.

When we analyze constitutional provisions, then we come to know that in many areas, Lok Sabha has immense powers, but in some areas, Rajya Sabha too has some special powers. Relations between two houses can be described under 3 major heads:

(a) Equal powers of Lok Sabha and Rajya Sabha

(b) Superiority of Lok Sabha over Rajya Sabha

(c) Special power of Rajya Sabha over Lok Sabha

(a) Equal powers of Lok Sabha and Rajya Sabha

1. Regarding Ordinary Bills: As far ordinary bills are concerned, both have equal powers. An ordinary bill can be presented in any of the house and without both house's consent, it can't become legislation. In case of deadlock over any bill which continues up to a period of 6 months, then President calls for the joint session of parliament. In case joint session manages to pass the bill, it is finally passed. Decision of joint session is binding on both the house, but due to the sheer size strength of Lok Sabha and having speaker of its own party, makes Lok Sabha members eligible to dominate the proceedings. Joint session is also presided over by the speaker and again this is in favor of Lok Sabha. Though, any bill can be presented in any house, yet major bills are always presented in Lok Sabha only. This is practiced due to the large member representation of Lok Sabha and also because of the fact that mostly Ministers in power are from Lok Sabha only, thereby giving more importance and Weightage to Lok Sabha.

2. Regarding Constitutional Amendments: As regards constitutional amendment, both houses enjoy similar powers. Constitutional amendment bill can be presented in any of the house and can be considered passed only when both houses approve it with same specifications under article 368. There is no provision of resolving deadlock pertaining to constitutional amendment. In the case of Shankari Prasad vs. Union of India, Supreme Court gave verdict that to resolve the deadlock; joint session of parliament can be called. But speaker of 6th Lok Sabha once gave decision that powers relating to constitutional amendment are similar for both houses. Rajya Sabha can stall any amendment proposal or can force Lok Sabha to do necessary changes.

3. Regarding Impeachment Powers: Both houses have similar powers as regards to Impeachment proceedings. Both houses individually can initiate proceedings against President and Judges of Supreme Court and High Courts. One Houses initiates with 2/3rd majority and another house scrutinizes the same. If another house also after scrutiny, passes the proposal with 2/3rd majority, then the concerned officer is considered Impeached. To remove Vice-President, proceedings can initiate only in Rajya Sabha. It goes to Lok Sabha in case Rajya Sabha passes it and then Lok Sabha takes the final decision on it. Therefore, both houses enjoy almost similar powers in Impeachment proceedings, but till now this proceeding has not been used.

4. Equal Electoral Powers: Both houses have similar Electoral powers. Members of both Lok Sabha and Rajya Sabha take part in the election of the President and Vice-President.

5. Power to Approve Emergency Proclamation: In case of President proclaiming Emergency under Article 352-356-360, it has to be approved by both houses of parliament. It can be in force only when both houses pass it. Both houses have similar powers pertaining to this provision. In case of dissolved Lok Sabha situation, President presents it in Rajya Sabha. In case of Rajya Sabha approving it, Emergency continues, else it is revoked after 30 days. But Lok Sabha approval also is mandatory and it has to be approved by new Lok Sabha within 30 days of its coming to existence.

6. Equal Powers to consider Reports: Both houses have equal powers to analyze different reports. Both houses analyze and consider reports of union Public Service Commission, Comptroller and Auditor General and Scheduled Caste and Tribe Commission.

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(b) Superiority of Lok Sabha over the Rajya Sabha

In some areas, Lok Sabha has been give more and emphatic powers and hence looks superior to Rajya Sabha, which can be analyzed as below:

1**. Superiority of Lok Sabha in Financial Matters:** Financial sector than in the Rajya Sabha Lok Sabha is more powerful. Finance bills can only be presented in Lok Sabha. Dispute arising out of the issue that whether a bill is finance bill or not, is resolved by the decision of the speaker. Each finance bill is presented In Lok Sabha and after it is passed, it moves to Rajya Sabha, which can only delay it by 14 days. After 14 days, it is considered as passed. If Rajya Sabha returns it with some amendments, then it is the discretion of the Lok Sabha to accept or reject those suggestions. It can pass the bill finally with or without these suggestions on its own. Hence, Lok Sabha has superiority as regards finance bills.

2. Lok Sabha has the Power Control the Executive: In the area of Executive powers also, Rajya Sabha possesses less powers as compared to Lok Sabha. As per article 75(3) Cabinet is responsible to the Lok Sabha. Lok Sabha can remove Cabinet by bringing No Confidence Motion. Prime Minister is the leader of majority party and he can be a member of Rajya Sabha also. Besides, most Ministers of the Cabinet are elected from Lok Sabha only. Asking questions about administration by members of Rajya Sabha has little control over Ministers. Besides, they have limited powers as regards criticizing government policies. They can under no circumstances pass No Confidence Motion against Cabinet.

3. Regarding Introduction of Important Bills: We know already that all those important bills are normally presented in Lok Sabha. Maximum Ministers are member of Lok Sabha. Discussion about Important policies also starts in Lok Sabha only. Lok Sabha is Directly elected, Democratic, popular and totally representative National house which enjoys greater support of people and Cabinet as compared to Indirectly elected, Quasi-permanent and less powerful Rajya Sabha.

(c) Special Powers of Rajya Sabha over Lok Sabha

1. Regarding Declaration of a State Subject as a Subject of National Importance: Members of Rajya Sabha can declare any state subject a subject of National Importance under article 249 by 2/3rd majority. In such condition, Union Parliament gets the authority to make laws for that subject of State List for 1 year. Rajya Sabha can continue to pass such proposal every year and thus enables the Union Parliament eligible to make laws on State List subject. This right is only with Rajya Sabha and not with Lok Sabha.

2. Regarding Creation of New All India Services: Rajya Sabha under article 312 can declare any public service an All India Service by passing it with 2/3rd majority. Similarly, it can pass proposal for creating a new All India Service or terminate any existing All India Service also. Such a provision is only with Rajya Sabha and not with Lok Sabha.

3. Regarding Approval of Emergency in the absence of Lok Sabha: if Lok Sabha is in a dissolved state or due to some reason, its session can't take place and President declares Emergency, then the concerned approval has to be taken from Rajya Sabha, though after new Lok Sabha comes into effect, its approval is also required.

Comparative analysis of positions of Lok Sabha and Rajya Sabha

After comparing the powers of Lok Sabha and Rajya Sabha, it becomes clear that Lok Sabha is more powerful than Rajya Sabha, but at the same time this would be wrong to say that Rajya Sabha is a second grade or reactive house. This too enjoys some special and almost equal powers in some areas alike Lok Sabha, by which its position becomes quite stronger. Nehru once said," in our constitution functions of both Lok Sabha and Rajya Sabha have been clearly defined. It would be improper to say any of the houses as Upper or Lower. Each house that power to exercise its rights within the constitution. Except some financial matters on which Lok Sabha has sole authority, both houses are equal before the

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constitution". There is no difference between the two constitutionally and constitution is the supreme authority. Constitution treats both the houses equally.

Still, we must remember that practically Rajya Sabha comes next to Lok Sabha. Rajya Sabha is second house, yet is not as weak as House of Lords of Britain. In the Indian constitutional system, Rajya Sabha has a dignified position and is capable of discharging its duties effectively. Though Rajya Sabha has been called as Council of States, yet it has not been constituted as a Federal House. Still this house represents units of Indian Union.

Self Assessment

State whether the following statements are True/False:

16. The Speaker of Lok Sabha has got 17thposition amongst the highest persons of the country.
17. The Speaker of 15th Lok Sabha is Mrs. Meera Kumar.
18. The head of Lok Sabha can be removed by impeachment.
19. The members of Rajya Sabha by passing a resolution with 2/3rd majority (under Article 249), can announce any subject of state list as a subject of national importance.
20. As per the Constitution at the time of imparting various important powers to the Lok Sabha in various sectors, Rajya Sabha has a second position.

6.9 Summary

- Position of Union in the Indian constitutional system and position of parliament in union Government is very powerful and emphatic.
- Money Bill can only be presented in Lok Sabha and Rajya Sabha can only delay it by 14 Day.
- Rajya Sabha comprises of 250 members out of which 238 are elected and rest 12 are nominated by President from the fields of Art, Science, Literature and Social Service, who have done dedicated service and accomplished records.
- Rajya Sabha's members are indirectly elected by the members of State Vidhan Sabha by Ratio Representation and Single Transferrable Voting System.
- President nominates 12 members of Rajya Sabha. This is actually against the spirit of Unionism and Democracy. This always remains a possibility that those 12 nominated members would extend their support to Central government in place of States.
- If Rajya Sabha fails to pass any Money/finance bill or it is delayed up to a period of 14 days, then it is considered to be passed by both the houses and is sent to President for approval.
- A normal bill can be presented in either of the houses and without both house approving it, it can't be considered as pass. In case of any deadlock over any bill between both houses which prolongs up to a period of 6 months, then a Joint session of parliament is called by President.
- After analyzing powers of both the houses, it appears that though Lok Sabha is quite stronger than Rajya Sabha, yet we can't accept that Rajya Sabha is a Second Grade House or a Reactive House.

6.10 Keywords

- Political System: State management, Governing system of the state.
- Lok Sabha: An assembly of representatives elected by public, the type of Central assembly in India.

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6.11 Review Questions

1. What is meant by Union Parliament?
2. State chief features of Union Parliament.
3. Describe the powers and functions of Rajya Sabha.
4. How are the members of Lok Sabha elected?
5. Describe the powers and functions of Lok Sabha.
6. Describe the position of the Speaker of Lok Sabha.

Answer: Self Assessment

1. President
2. Supreme Court
3. Money Bill, 14
4. (*a*)
5. (*c*)
6. (*a*)
7. (*b*)
8. (*c*)
9. (*b*)
10. Lower
11. 545
12. Adult franchise
13. 25 years
14. True
15. False
16. False
17. True
18. False
19. True
20. True

6.12 Further Readings

Books

1. Indian Political System – *U.R. Ghai.*
2. Indian Political Setup – *M.P. Roy*.

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Javeed Ahmad Bhat, Lovely Professional University
Ripudaman Singh, Lovely Professional University

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Unit-7: Committees of Union Parliament

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Objectives

After studying this unit, students will be able to:

- Tell about the Committees of Union Parliament.
- Know about the names of various Committees of Lok Sabha.
- Explain about Financial and Joint committees.
- Understand the procedure to pass the budget.

Introduction

Parliament is known by its committee system. A modern state is not a police state. It is a welfare state and due to the change in its merit and functions, there is a great extension in the works of the Parliament and consequently there is a heavy work load on it. Members of parliament due to shortage of time can't complete work by debating on each Bill. Besides, each Bill's size has grown big due to the growing dynamic industrial world and collective needs. For resolving each issue,

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parliament takes help of its modern committees. In fact, each house of parliament constitutes committees which help them in order to enact laws and take important decisions. Collectively, these committees are constituted by the Committee System of parliament. Committee system is playing vital role in the efficient discharging of duties in Indian parliamentary and have become an integral part of it. As per **Thomas Reed**," Committees are the Eyes, Ears and Hands of Legislature and many times it works as Brain of the parliament too". Many scholars while attaching great importance to these committees went on to say that, these committees are Mini Legislative bodies". **Morris Jones** opines," Legislative is known by the committee it keeps".

7.1 Committees of the Union Parliament

There is no mention pertaining to constitution of such Committees. Article 118 in general says that, both houses of parliament can in order to effectively discharge duties can constitute committees. To conclude, committees of both houses have been done on the basis of rules of functioning by parliament.

We can classify these Committees in 5 parts as following:

1. General Committee: these comprise of those committees which are related with the functioning of the parliament: (i) Rule committee (ii) Business Advisory committee (iii) Privilege committee (iv) committee on the absenteeism of members from the session of house (v) Committee on Government Assurance (vi) Committee on Petitions (vii) General purpose committee.

2. Legislative Committee: these comprise of those committees which are related with process of legislation: (i) committee on individual Members' Bill and proposal (ii) Deputy Legislative Committee or Committee on Delegated Organization (iii) Enforcement Committee (iv) Special committee on special Common bill.

3. Financial Committee: these comprise of those committees which take care of Financial matters: (i)Projection committee (ii) Public Accounts Committee (iii) Committee on Public Sector Enterprise.

4. Joint Committee: these comprise of those committees which take care of joint Action or to work for both house and constituted by both house: (i) Joint committee on Member of parliament's salary and allowances (ii) committee on welfare of Scheduled Caste and Scheduled Tribe (iii) committee on the post of profits.

5. Miscellaneous committee: apart from above 4 categories, there some more committees like: (i) House Committee (ii) Library Committee.

Self Assessment

Fill in the Blanks:

1. Enforcement Committees is ..... committee.
2. Public Accounts Committee is ..... committee.
3. Business Advisory Committee is ..... committee.

7.2 Organization of Parliamentary Committees

Let's look at any one of house's committee to analyze organization of different types of committees and let's have a look at Lok Sabha committees:

1. Nomination By Speaker: Lok Sabha committees are constituted from among the members by speaker. While nominating members for different committees, speaker ensures that each political party gets equal representation. Speaker itself is the member and chairman of some of the committees. Speaker appoints

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chairman of different committees from among the members. Deputy Speaker is made Chairman of that committee of which he is already a member. Members of joint committees are done by Chairman of both houses collectively.

2. Election on the Basis of Resolution Passed by the House: Financial committees are elected by the house. Members are elected on the basis of Representative Ratio of Single Transferrable Voting System.

3. Size of Committees: There is no fixed rule about the size of the committees and each one is different from the size of other. Normally each committee comprises of 15-30 members. Mostly a committee has 15 members. Enforcement committee has strength between 20-30. Projection committee has 20 and Public Accounts Committee has 22 members.

4. Working of Committees: Each committee has fixed obligations. Some work when parliament session is in place and some keep working even when session is not in place. A committee can have its meeting any time. Majorly, decisions are taken by consensus or by chairman of committee. Normally, such meetings take place within the boundaries of the parliament only, but with the approval of the Speaker, they can be organized outside as well.

Required Quorum is 1/3 of the members. Committees take maximum decisions by consensus only. In case of a Tie on any particular issue, Chairman of the Committee uses its Cast Vote. Committees have the right to scrutinize the records of the government and can ask for important information from different government departments. Committees can take helps of Experts for preparing their Reports, but Experts can only advise and don't have the right to vote in the committees. Committees in order to have detailed introspection and knowledge, on some important issues, can constitute Sub-Committees. Committees have to submit their reports within stipulated time frame to the parliament and that time frame is decided by Speaker. Committees have to furnish report on all matters which have been handed over to them and under no circumstance they can deny to do so.

Self Assessment

Multiple Choice Questions:

4. In general, how many members can be there in any Lok Sabha Committee?
   (*a*) 15 to 30 (*b*) 20 to 40
   (*c*) 10 to 20 (*d*) None of the above
5. How many members are there in Public Accounts Committee?
   (*a*) 20 (*b*) 22
   (*c*) 24 (*d*) 18
6. What is the quorum of total members for the meetings of committees?
   (*a*) 1/3 (*b*) 2/3
   (*c*) 3/4 (*d*) None of the above

7.3 Functions of Various Committees of Lok Sabha

General Committees: these take care of normal house proceedings:

1. Rules Committee: It comprises of 15 members which are nominated by speaker and he himself is the Chairman of it. It discusses on Rules related with house proceedings and gives decision on proposed amendments and changes. Prior to 1954, Speaker itself used to exercise this right and while do so, he represented house for suggesting recommendations of the committee. Now committee recommendations are presented before the house and are implemented only when house approves them.

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2. Business Advisory Committee: It is a permanent committee which has been constituted to extend help in running house affairs. It comprises of 15 members nominated by speaker and he himself is the chairman of it. Speaker takes suggestions from leader of house, leader of opposition in house and from the leader of other opposition parties while nominating members. its main function is to prepare agenda and timeline for all those bills, issues and suggestions which have to be presented in the house. This committee decides that which bill has to be presented on what time and how much time should be given to it for debate. In other words, this committee fixes the time table of house functions.

3. Committee on Privileges: Parliament members have got some privileges and in case of its violation by anyone, those matters are dealt with by privilege committee. This committee is constituted for 1 year from among its members of the house. It has 15 members and each political party gets equal representation in it. In general, leader of the house and Law Minister are its members. If Deputy Speaker is a member, then he becomes its chairman, else speaker appoints the chairman.

4. Committee on Absence of Members from the House: As per constitution, if any member is absent without approval for a period of 60 days and above, then his seat can be declared vacant. A committee is constituted to scrutinize all matters pertaining to absenteeism, reasons of absenteeism and to recommend the leave for members. This is called the committee on absence of members from the house and constituted by the speaker for a period of 1 year and comprises of 15 members.

5. Committee on Government Assurance: Quite often, members while replying to the house or while addressing the house do commit some promises or take house in confidence on some matters. House in order to know if those promises have been kept or not, takes help of this committee. This committee also looks in to if the assurances given by the Government have been met with or not. Committee brings it to the notice of the house, if any members fails to honor his promise or assurance on any subject. This committee also does not have more than 15 members, which are appointed for 1 year by the speaker. No Minister can be a member of this committee and in case he becomes a Minister in future, then he has to resign his membership from this committee.

6. Committee on Petitions: This committee sees that if the petitions presented to Lok Sabha have been dealt with properly or not. It scrutinizes all the petitions and sends its report to various departments with or without its recommendations. This committee also comprises of 15 members which are elected by the speaker from among members of different political parties. Its duration is also of 1 year.

7. General Purpose Committee: This committee exists since 1954. It does not deal with any special matter or issue. It comprises of 20 members. Speaker, Deputy Speaker, Members of Chairman panel and members of different recognized political parties are its members. Rest of the members are appointed by the speaker who is also the chairman of the committee. This committee discusses on any matter pertaining to the house.

7.4 Functions of Statutory Committee

1. Enforcement/Select Committee: These are important committees which are constituted to discuss on different Common Government Bills, which are presented before the house for legislation. But these committees are not permanent. After completing their tenure, they get dissolved. When Lok Sabha decides that any particular bill has to be sent to a special committee, then speaker nominates one such committee.

Did u know? There is no fixed number of members in enforcement committee. Normally it has 10-30 members. Any member who presents a Bill, is always a nominated member of Enforcement committee.

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Chairman and other members of the committee are appointed by the speaker from among different members of different political parties. Committee can take help of experts at its will, in order to have a thorough analysis pertaining to any bill. Those who are not the members of this committee can also appear before the committee and present their recommendations or suggestions. Besides, they can send their suggestions in writing as an alternate route. Normally for detailed analysis of any significant bill of public importance, both houses collectively constitute such committees. Lok Sabha and Rajya Sabha nominate members in the ratio of 2:1 for a Joint Enforcement Committee.

2. Committee on Private Member's Bills and Resolutions: Prior to 1953, bills presented by private members or normal members of the house(those who are not ministers) were decided by a Lottery system. Only those were debated who used to win Lotteries . Due to this practice, many Bills and proposals of importance and significance could not be presented in the house and bills with little importance were able to be presented. To resolve this issue, a Committee was constituted for considering all the bills of Private/ non government members . this committee now takes care of and decides on all the bills and proposals of Private Members. While doing so, it takes in to consideration the importance of the bill and its necessity. This committee classifies bills into 2 parts– (i) those bills with greater significance (ii)those bills with less significance. Committee analyses on all bills and suggests to the house that which bills should be taken up and discussed and debated. This committee comprises of 15 members and Deputy Speaker of Lok Sabha is its Chairman. Other members of the committee are elected by the speaker for a period of 1 year.

3. Committe on Delegated Organization or Deputy Legislative Committee: due to shortage of time and skilled knowledge, modern parliament passes a draft of the bill and hands it over to the Executive with authority to prepare and legislate it. Many times it happens that Legislative directly delegates its power of law making to the Executive. Under this system, Executive do the Legislation on the basis of powers given by the parliament. This system is referred to as "System of Delegation or Subordinate System". Though this system has a loophole of it being misused by the Executive, hence parliament always likes to have a control over Laws or Legislation made by the Executive and for this very purpose, it appoints a committee on Delegated Organization of Subordinate committee. This committee is entrusted with the task of Legislations enacted by Executive. In past, this exercise has been done by Indian Parliament. It comprises of 15 members, which are appointed by Speaker for a period of 1 year.

7.5 Financial Committees

1. Estimation/projection Committee: Chairman of the estimation committee is done by the speaker from among its elected members. Deputy Speaker becomes the Chairman of this committee if he is elected as a member of this committee. Chairman of the committee performs all functions as performed by other chairmen of other committees. Besides, he has to perform some special functions as well. For example, he decides on the nature and scope of investigation on financial activities of the government also.

Notes In India Estimation committee was constituted in 1950. It was based on British Model. It comprises of 30 members, which are elected Lok Sabha members from among themselves.

They are elected by Representative Ratio and Single Transferrable Voting system. This is how, representation of different political parties is ensured with Ratio based representation.

Functions of Estimation Committee: As per rule no. 310 of Lok Sabha, its main function is to analyze those estimates of the government which they have projected through Estimate Budget before house. Following are the 4 major tasks assigned to this committee:

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(a) In conformity with stated policy, to present report on the composition, efficacy or administration of Financial Improvement suggestions, so that estimate can be presented effectively.

(b) To advise on alternative policy on bringing in efficacy and cost cutting in administration.

(c) To check if the description about money estimates are in line with policy.

(d) To suggest the policy under which these bills have to be presented before the parliament.

This is how, Estimation Committee not only Scrutinizes Annual Estimates of the government but it also suggests on bringing in efficacy and smoothness in the general administration. Since the time of its inception, Estimation Committee has given hundreds of reports to various government departments and agencies. To discharge its duty effectively, committee divides itself in to Micro committees or Groups and each group is given several estimates relate with different departments to investigate. Their work starts after Budget is presented, but their work does not stop even after Budget is presented. They continue their work all through the year. It selects any Agency or Department for investigating the Estimates. It compares last year Estimates with the actual expenditures done and with New Year's Estimates. It works as a special apparatus of control over Legislative body.

2. Public Accounts Committee: It is actually the Twin Sister of Estimate committee. If estimate committee is related with the investigation of estimates, then public accounts committee is related with the style and results of expenditures done by different government departments. It comprises of 22 members out of which 7 are from Rajya Sabha and 15 from Lok Sabha. Members are elected on the basis of Ratio Representation for a period of 1 year and no Minister can be a member of this committee.

Committee's main function is to investigate all financial transaction carried out by the government and certify it. It also investigates Appropriation Accounts and the report of Comptroller and Auditor General. The committee decides on the following:

1. If expenses posted in the accounts were legally available and actually were justifiably used for the purpose for which it has been drawn or spent?
2. If the permission to spend it was granted by the ruling government?
3. If the pre-appropriation provision is in line with the process made by eligible officers?

Its duty is to also investigate Balance sheets and Profit and Loss Accounts of Public Sector Undertakings, Construction Unit, Autonomous/Semi Autonomous Bodies along with checking entries of credit and debit.

If in any financial year, there is more than parliament's permitted expenditure done on any particular matter, then it thoroughly investigates each fact and angle due to which such extra expenditure has been done. It also decides whether concerned department while spending such money was careful and justified. It can bring Errors to the forefront and recommend parliament to take necessary actions.

In contrast to Estimate Committee, Public Accounts committee has a Trained Agency and the services of Comptroller and Auditor General, which investigates each account and audits. Committee has the right to obtain information from departments which have incurred such expenditures. It would be exaggeration to say that Public Accounts Committee is the most powerful and active committee. Its proceedings as that of a Quasi-Judicial Body. It is free party politics and works neutrally as committee of Justices. Recommendations and decisions made by it has a far reaching effect on all future expenditures of Government this committee keeps the Government Machinery on its toes for better and efficient financial Management. This committee enable parliament to keep consistent and effective control on Administrative Bodies.

At times, it has been alleged that Public Accounts Committee's work is to do Post Mortem. It unveils those financial irregularities which have been committed in the past and so taking punitive actions those officials is very tough, if not impossible. Even with this demerit, we can't deny that Public Accounts Committee is a very important apparatus, which control National wealth. Its main strength depends on its ability to prepare grounds for taking action on any irregularity committed by any government department.

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3. The Committee on Public Undertaking: This committee was made in 1964 and comprises of 15 members out of which 10 represent Lok Sabha and 5 Rajya Sabha. It performs following functions:

(a) To investigate Reports and Accounts of Public Sector Undertaking

(b) To investigate and suggest on that report of CAG, which pertains to any Public Sector Enterprise.

(c) To analyze Autonomy and Efficiency of Public Sector Enterprise that, if their performance is in line with excellent commercial principles and far sighted commercial behavior. It also performs those functions which are normally done by Estimate Committee and Public Account committee. It performs all those functions as handed over by the Speaker.

Task What do you understand by Public Accounts Committee?

7.6 Joint Committees

1. Joint Committee on Salary and Allowances of Members: It was formed in 1954. It is Joint Committee comprising of members of both houses of parliament. It deals with Salary, Conveyance allowance, Daily allowance, Residence, Medical Facility and Postal Facility of Members. It comprises of 15 members out of which 10 represent Lok Sabha and 5 Rajya Sabha. Members from Lok Sabha are nominated by Speaker and from Rajya Sabha by Chairman. It is headed by Minister of Parliamentary Affairs.

2. Joint Committee on Office of Profit: It is a permanent committee comprising of 15 members out of which 10 represent Lok Sabha and 5 Rajya Sabha. It was formed in 1959. This committee consistently investigates and evaluates provisions of Parliamentary Act, 1959 and suggests on amendment related to it.

3. Joint Committee on Welfare of Scheduled Caste and Scheduled Tribe: This is also Joint committee comprising of members of both houses of parliament. It investigates report of Scheduled Caste and Tribe Commission and informs parliament on the steps taken by the government on the welfare and betterment of people representing SC/ST category.

Changes in the Working of Committee System of Union Parliament: To perform statutory functions more effectively, since April 1. 1993 so many permanent committees have been formed and as of now, there exist a total of 17 such committees. Each committee comprises of 45 members, out of which 30 represent Lok Sabha and 15 Rajya Sabha. Speaker appoints Chairman for 11 such committees while rest 6 is done by Rajya Sabha's chairman. Tenure of such committees is of 1 year. These committees considers on Grant demanded by various Ministries. It considers different Ministries and its annual reports and steps taken to enact laws related with long term National Policy. They have the right to obtain suggestions of experts/ famous personality on different bills and subjects.

Thus union parliament functions with the help of totally organized, efficient and active committees.

Self Assessment

State whether the following statements are True/False:

7. Business Advisory Committee is a permanent committee which is formed to help the proceedings of Lok Sabha.
8. Prior to 1953, Fate of those bills which were presented by private members (those members who are not minister), was decided by Lottery System.
9. Members of Joint Enforcement Committee are elected by both members of Lok Sabha and Rajya Sabha in the ratio of 2:1.

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10. Public Account Committee comprises of 22 members, out of which 15 represent Lok Sabha and 7 represent Rajya Sabha
11. Joint committee on Salary and Allowances of Members was formed in 1954.

7.7 Law Making Procedure

Power of Legislation has been recognized as the major function of every parliament across the world. For legislation, parliament adopts special approach. All those documents presented in parliament for making law, are knows and "Draft Acts or Bill". A bill is presented in Lok Sabha and is debated in several stages and is sent to President for approval after is passed by the parliament or else it rejected in case of it not being passed. Union Parliament has the right to legislate on Union and Concurrent Subjects and it also has right to make laws on Residual Subjects. Parliament can exercise its special situation right of making Law on State Subjects also. But for each of these things, parliament has to adopt special process.

For process related with passing of different bills, there takes place a debate under article 107-111 under the constitution. Before considering them, let's discuss various Bills as presented in parliament:

Kinds of Bills: there are following types of Bills:

1. Public Bill: these bills have special universal applicability and they relate to all or major part of the population.

2. Private Bill: these pertain to special section of the society or with some private companies.

3. Government Bill: any bill presented by Cabinet member is called government bill.

4. Private Member Bill: any bill which is presented by member who is not minister.

5. Money Bill: a money bill is concerned with applying taxes, reducing or revoking taxes or with income or expenditure.

General Features of Law-making by the Union Parliament

1. Union Parliament can make laws for Union and Concurrent Subjects and it can make laws for Residual Subjects as well. Under special conditions, it can make laws on state subjects also.
2. Union Parliament is not Sovereign Parliament—
   (a) Union Parliament exercises only those powers for Legislation, for which it has been authorized by the parliament.
   (b) Bills passed by parliament become Law only after being signed by the President.
   (c) Parliamentary Legislations can be enforceable in Supreme Court, which has the right to revoke it, if it is found to be unconstitutional.
   (d) Central Parliament is a Union Legislature and powers to make laws are vested with Union Parliament on one hand and with State Legislative on the other.
3. A Bill has to pass through several Stages before being passed.
4. Each Bill is evaluated by an Able Committee before it is finally being passed.
5. In case of normal enactments, both Lok Sabha and Rajya Sabha have equal rights, but in case of a deadlock on any Bill and subsequent Joint Session makes Lok Sabha more powerful than Rajya Sabha.
6. Regards Money Bill, Lok Sabha is more powerful it can be presented only in Lok Sabha. It can be only presented by a Minister. In case of a dispute on whether any bill is money bill or not, then it is decide by Speaker of Lok Sabha its decision is final and binding. Money Bill is passed by the Lok Sabha even though it is sent to Rajya Sabha, but it has limited powers in this regard. It can only delay the bill for maximum 14 days period or send it back to Lok Sabha with suggestions. But Lok Sabha has the discretion of accepting or rejecting the suggestion. If Rajya Sabha does not pass the

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bill within 14 days then, it is considered to be pass and becomes Law. Therefore, Rajya Sabha only plays the role of delaying the Money bill and nothing else.

7. Rejection of any Bill is considered to be as, No Confidence Motion against Cabinet, but in case of Bill failing in Rajya Sabha, there is no such effect on Cabinet.
8. The way in Britain, Law making functions is discharged by King-in-Parliament, similarly in India it is done by President-in-Parliament.

Procedure of Passing an Ordinary Bill

A Bill has to pass through following stages before becoming actual Law:

1. Stage One: Introduction and First Reading of Bill: A normal bill can be presented in either of the houses, but it is observed that around 90% of the bills are presented in Lok Sabha only. A Private Member has to give 30 days prior notice to the Speaker before presenting any Bill. The said notice must also contain copy of Bill, its Objective and details of probable expenditures. Date of presentation of Bill is fixed after discussions with Bill presented member. On the fixed date, member seeks permission to present Bill from Speaker while standing on his Seat. Then the concerned member reads the Heading of the Bill and presents Bill copy in the house. If the members support the bill, then it is understood that Bill has been passed in the first stage. In case, it fails to get support, then it is quashed at the very first stage only. Speaker orders to publish the Bill, if is supported and passed by the house.

As regards Government Bills, they are presented by any member of the council of ministers. There is no need to take permission from the house in this regard. Publishing of Bill in the Gazette is enough and understood as the first reading. If need be, Minister can take permission and present the bill in the house

2. Stage Two: Debate and Second Reading: Normally there is sufficient gap between stage one and two in order to print and distribute the copy of the bill amongst members. This enables members to study and prepare their suggestions about the bill. On the fixed date, concerned member stands on his seat and asks permission for second reading. After getting permission from Speaker of Lok Sabha, Bill presenter proposed any one of the following:

(*i*) Whether Bill should be immediately discussed.

(*ii*) Whether Bill should be sent to a committee.

(*iii*) Whether Bill should be sent to a Joint Committee comprising of both houses.

(*iv*) Whether Bill should be distributed amongst public for plebiscite.

Accepting any of the above proposals depends on the necessity and importance of the bill and then debates starts on the bill. Presenter of the bill behaves like a Pilot and apprises the house of the objective and principles of the bill. Members of Opposition are given ample opportunity to present their views on the same. It is sent to a Committee if Bill gets passed at this stage and is considered as Quashed, if it not passed. If Government bill is not passed at this Stage, then it is considered at Defeat of government If decision is taken for a Plebiscite, then after fulfilling required criteria, bill is sent to a committee. If house decides to consider the Bill immediately, then Debate starts at once.

3. Committee Stage: Member presenting the Bill is nominated to the Committee, to which this Bill is sent at this particular stage. This committee also has members of opposition. Normally those members are appointed who have knowledge on the subject. It comprises of 25-30 members. All the clauses of the Bill are debated thoroughly. In case if committee thinks fit to call people who are supposed to be affected by such bills, then it can call a person who might not be a member to the committee, but keeps decent knowledge on the subject. House proceedings are confidential and hence members of all political parties are free to present their views. There is no sign of hesitation by government members in accepting suggestions of opposition members. At this stage, bill is thoroughly and objectively analyzed. Each and every clause of bill is discussed and debated. Committee can recommend any one of the following:

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(*i*) Whether Bill should be amended as per suggestions.

(*ii*) Whether Bill should be Quashed.

(*iii*) Whether Bill should be passed without any amendment.

Committee prepares report on the Bill and sends to the House. Committee has to return Original Bill to the house under any circumstances, irrespective of its report, as committee does not have the right to give concluding shape to the bill. In America things are different and committee there are very powerful and they can quash the bill without giving any report to the house. In India, committee has to give its report to the house, whether it support or opposes the bill.

4. Report Stage: When Bill comes to the house with the Report of the Committee, this is known as Report Stage. On fixed data, Presenter of the bill requests the house to analyze the bill again on the basis of report given. Copy of the bill is distribute amongst members along with recommendations and amendments as suggested by committee. Each angle of the bill is debated and discussed. Suggested amendments are also discussed and debated and voting is done on each clause or group voting can also be done on clauses. Speaker can fix the deadline of discussion and debate. This is how entire bill is discussed and finally is passed. This is the decisive stage for a bill. If it crosses this stage, then it is considered as pass finally, as in third and last stage, no bill can be quashed.

5. Third Reading Stage: This is the final stage of passing of a bill. 3rd Reading stage Date is fixed after Report stage. In this stage, not all clauses of the bills are discussed. Bill in read in detail and passed. Only suggestions on the amendments related with the language of the bill are considered. Debate is normally confines up to the approval or rejection of the bill. This stage is a formality and normally Bills don't get quashed at this stage. Voting is exercised on the bill and in case, it gets majority support, it is sent to other house.

6. Bill in Other House: A Bill has to again pass through similar stages in the other house also, which it passed through first house. Other house can do the following:

(*i*) Can pass the Bill without any amendment.

(*ii*) Returns Bill with amendments to the first house.

(*iii*) Can reject the Bill.

If other house does not act upon the Bill for a period of 6 months, then it is considered to be quashed by other house. If the other house quashes the bill or returns it with amendments, then there is a conflict situation between both houses and in case of conflict carrying forward till 6th month, then President can call upon Joint Session of both the houses. It is sent to President for approval if it passed with majority in the Joint session, but in case of it not getting the majority, then the bill is considered to be quashed. In Joint Session, due to its sheer size, Lok Sabha is in a better and commanding position than Rajya Sabha.

7. Approval of President: After parliament passes the bill, it is sent to the President for his signature and approval. If President approves it, then it becomes law and gets registered in the books of law. President can return the bill to the parliament with or without recommendations. But parliament is not bound to abide by the recommendations of the President. If parliament passes the bill with or without recommendations, then President is bound to give its approval. Normally, President seldom takes the step of returning the bill. Each bill passed by parliament has majority and support of Council of Ministers. President acts on the suggestions of the cabinet only cabinet can never try to mislead President against the wishes of the parliament. Hence, Cabinet always advises President to approve Bills those are cleared by parliament.

Nutshell, a bill has to pass through several stages in both houses of parliament and it becomes legislation only after President approves it.

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Task Explain the process of passing of a normal bill.

7.8 Procedure of Passing the Budget

Description of next financial year's Income and Expenditure of Union is referred to as "Annual Financial Statement or Budget". Government has to get Budget approved by the parliament before the commencement of next financial year because without the approval of the parliament, no Money can be withdrawn from Exchequer nor can government spend any money. In India financial year starts from April 1 and finishes on March 31. Annual Budget has to be passed before April 1 each year. As per Article 112(1), President shall each year, present before the parliament, Annual Income and Expense Projection of Government of India concerning to the current financial year. The article clears the fact that it is President's duty to present the Budget before parliament. But in practice, this is the right of Union Cabinet, which prepares, presents, gets it passed and after that, Cabinet spends it and arranges to muster Incomes as per Budgetary provisions. While giving details on Income and Expenditure, Financial policies for the next financial year are also fixed.

Following are the stages in passing a Budget. In India, it is presented in two parts:

1. Railway Budget: Income and Expenditure of Railways is presented through this budget and it is presented by Railway Minister. It is presented some days before actual Budget is presented.

2. General Budget: Income and Expenditure of all other departments except Railways, is presented by this Budget. It is presented by the Finance Minster in Lok Sabha. Procedure for passing both Railway and General Budget is same as following:

(*a*) Preparation of Budget: Preparing the Budget is a very exhaustive and complexed work as it is the basis of entire Nation's Economy for next financial year. Need, Objective and development of Financial and Industrial Technical development depends on the financial policies of the government which is fixed in the budget. It charts out the process of financial policy, short term special financial policy, Tax proposal and other economic steps, according to which social and economical development process of the nation has to run. General budget is prepared by Finance Minister and Railway Budget is prepare by the Railways Minister, but in both the cases, Cabinet decides on policies comprehensively. Expense Ratios are decided and all different ratios pertaining to different departments have to reach Finance Minister minimum 4-6 months before the Budget is presented. Basis these Ratios, finance minister puts his estimate on next year's Income and Expenditure. After this, Finance Minister takes decision on applying Taxes by different means to generate Income and thus prepares Tax Proposal, thereby decided on new tax application and renewal of old taxes. Finally after preparing it, Finance Minister presents it in the Cabinet and thus it is ready to be presented.

(*b*) Main Parts of General Budget: In India there are mainly two parts of budget as following:

(*i*) **Statement of Income:** it contains Income record of last financial year of Central government (all departments).

(*ii*) **Statement of Expenditure:** it contains Expenditure record of last financial year of Central government (all departments).

(*iii*) Estimated Income and Expenditure for Central government for forthcoming financial year.

(*iv*) Proposals on changes in existing Tax structure and introduction of new taxes.

(*v*) Statement on Central Government Financial Policy for forthcoming financial year.

Government expenditure can be divided in to Two following parts:-

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(*a*) Expenses incurred out of Consolidated Fund of India (Charged Expenditure).

(*b*) General or Non Charged Expenditure

(*a*) Expenses charged on the Consolidated Fund of India: As per article 113, parliament members can debate on the different expenses charged on consolidated fund on India, but can't use their right to vote on them. These are passed by the parliament, which have to be spent by the Government only under any circumstances. Following are the expenses under this category:

1. President Salary and other Allowance Expenses.
2. Expenses incurred on Head of both the houses.
3. Expenses incurred on Salary and other Allowance of Judges of Supreme Court and High Court.
4. Expenses incurred on Salary and other Allowance of Comptroller and Auditor General.
5. Expenses incurred on Pension of Judges of Union Parliament.
6. Expenses incurred on Salary and other Allowance of Vice President.

(*b*) Non-Charged Expenses: all other expenses incurred other than above mentioned expenses come under Non Charged Expenses and they are presented before parliament in form of ratio of their Grants. These can be accepted, refused or decreased by the parliament. Parliament can't increase them.

1. Budget Presentation and Introduction Speech: As per Article 112, President arranges to present the Budget as prepared by the Finance Minister in parliament. Normally budget is presented in the last week of February, so that before passing it, parliament has at least one month time to discuss it. Budget has to be passed before March 31 of every year. Budget is presented in Lok Sabha at fixed date and time. While presenting Budget, Finance Minister gives speech over it mentioning main parts and specialty of budget. As it is a finance bill, it is always presented in Lok Sabha.

2. Budget Speech: Copies of Budget are distributed among the parliamentarians so that they can be able study details of budget. At the same time, for the benefit of public, it is broadcast on TV and Radio. Ground gets set from Introduction of Budget to debate and MPs get ready for debating the budget.

3. General Discussion on Budget: After 3-4 days of presenting budget, debate happens on its main features, wherein Finance Minister tries to justify the policies of Government at this stage, debate happens on the Charged Expenses also. Members of political parties use this occasion to criticize economic policies of the government but that debate is political and has least relation with Economic Evaluation or Reconsideration. In the words of Morris Jones," it is such an opportunity where each member is able to express his though process and government gets to know that this special proposal will go on next level at what shape.

4. Consideration of Budget Proposals by Standing Committees: There have been effected many changes in the Committee System in April, 1993. 17 permanent committees have been made and since 1994 they have been discharging their duties effectively. After presentation, budget goes to these committees. These committees give their report after thoroughly checking budget proposals, which becomes the basis of debate thereafter.

5. Voting on Demand of Grants: After general discussion, discussion takes place on the demands of various government departments. At this stage individually expenditure for the coming financial year by government departments regarding the demands of the discussion are the subject. Govternment can accept, reject or reduce any demand amount, but can't hike it. Though each department grant demand is discussed separately, but in practice, only major department grant demand is dealt with separately. Due to shortage of time, other department's grant demand is left for the joint discussion by the parliament. Each demand is presented by concerned Minister after taking approval of the President. Speaker decides on the time limit of debate and after that, voting is conducted on the grant demands. If any Grant demand is rejected or reduced, then it is considered as the defeat of council of ministers and they have to resign. This proceeding tests government majority strength in the parliament and thus government has to be very careful and be ready for any consequences.

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6. Introduction and Passing of Appropriation Bill: After the discussion on the grants demand, Appropriation Bill is created by combining all those passed demands and expenses to be incurred out of consolidated fund of India. This bill is presented in Lok Sabha and has to go through all the stages, which any bill has to go through. After passing Lok Sabha sends it to Rajya Sabha, which can pass it or return it with or without recommendations within 14 days. Lok Sabha is not bound to abide by the recommendations, if any. Therefore, Rajya Sabha can only delay the bill for 14 days. After this, it is considered to be passed by both houses and sent to President to signature. It implies the approval of Grant Demand of different government departments.

7. Passing of Finance Bill: All Tax proposal mentioned in the Budget is referred to as Finance Bill and presented after appropriation bill is passed. It has to go through the process, which is required for a Money Bill to be passed. Opposition can suggest amendment relating to reduction in taxes, which can be accepted or rejected by the government If in parliament, such an amendment is passed without the consent of Cabinet, then it is considered to be as No Confidence Proposal against Government and it has to resign. But a Government with majority does not have trouble passing the bill normally. After it is passed by Lok Sabha, it is sent to Rajya Sabha, which can only delay it for 14 days. It can return it with or without recommendations to Lok Sabha, but it Lok Sabha discretion to accept or reject the recommendations. After the expiry of 14 Days from the date bill is sent to Rajya Sabha, it is considered to be passed by both the houses and sent to President for his approval. After President signs over it, it becomes a law. President does not have the right to return it to Lok Sabha for reconsideration or reapproval. After Finance bill is passed, actually the process of passing Budget gets completed.

8. Vote on Account: In case Government is finding it tough to pass budget before April 1, then Government can take approval for necessary expenditures on Interim basis. This process is called taking Vote on Account from parliament by the Government normally, such request is accepted by the parliament always.

9. Supplementary Budget: If 3-4 months after passing Budget, finance minster is of the view that approved expenses are more than the estimate or the income is less than the estimate, then in Sep-Oct or January he presents revised budget knows as Supplementary Budget or Grant asked by the Government

10. Contingency Fund of India: As per Article 267(1), parliament can create a fund called contingency for emergency purposes by passing a law. This is under the control of the President. Money spent from this account has to be approved by both the houses of parliament.

Did u know? Budget has to be passed within 75 days from the date of its presentation in Parliament.

Therefore, passing Budget is an organized and complexed process. This is a time bound process. There are provisions to control difficulties in passing the bill, which can delay its passing. Process of passing Budget infers that Lok Sabha is in a better and powerful position than Rajya Sabha. In context of Financial bill, Lok Sabha only plays major part, while Rajya Sabha can only plays the role of delaying it. In cases, where majority is different in Lok Sabha and Rajya Sabha(majority of one party in LS and of another in RS), then Rajya Sabha can have an active role to play. Such incident happened in 1977-79 and 1989-95. If there is any difficulty due to political instability or any other crisis, then President can promulgate special order and ask parliament to pass the bill, which happened in March, 1998.

Preparing and getting the budget passed in parliament is absolutely complexed and lengthy process, which forces the Cabinet to be careful and effective while going through this process. Budget session of parliament is actually pressure time for the Government any error or negligence can be a reason for Government Fall and it can give a severe jolt to national economy. Due to the emergence of Coalition Government in India, process of passing Budget has become even tougher and complexed. But Indian

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Political System and Indian Constitution have the ability to handle difficulties coming in the way of passing of Budget. In April, 1999 after the defeat of Coalition BJP government in Lok Sabha, President tried to get it passed from parliament and it got cleared within hours. In Fact, Legislation and passing of Budget are well defined and well organized in Indian Constitution.

Self Assessment

Fill in the Blanks:

12. Bill presented by member of ..... is called as Government Bill.
13. After the signature of ..... only, bills passed by parliament become Act.
14. Third Reading of the Bill is the ..... stage of passing the Bill

7.9 Summary

- Committee system is playing an important role in the efficient working of parliament and has become an integral part of the Statutory Structure.
- As per article 118, it has been stated that both houses in order to effectively discharge statutory duties, can create their individual committees.
- Prior to 1953, fate of bills presented by private members(those who are not ministers) was decided by a Lottery and only those bills were discussed, who won the lottery.
- Railway Budget is prepared by the Railway Minister and General Budget by Finance Minister. In both cases, policies are decided by Cabinet only.
- As per article 112, President arranges to present the budget in parliament. It is normally done in last week of February, so that parliament can have enough time to study it. Budget needs to be passed by March 31.
- Bill of Appropriation is formed after combining approved Grant demands and expenses to be incurred from consolidated fund of India.
- If any amendment is passed by the Lok Sabha without the consent of Council of Ministers, then it is considered to be No Confidence Proposal against the Government and it has to resign.
- Budget Session is a pressure time for the Government and any error or negligence can cause the Government to fall and hence can give severe jolt to the National Economy.

7.10 Keywords

- Session: Sitting, Convention.
- Committee: Group of Parliament members Association, Institution.

7.11 Review Questions

1. Explain different committees of Union Parliament.
2. How are Parliamentary Committees formed?
3. Write Functions of different Committees of Lok Sabha.
4. What do you understand by Enforcement Committees?

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5. What is Public Accounts Committee?
6. Mention the process of passing the Budget.
7. What do you understand by Rail Budget?

Answer: Self Assessment

1. Statutory	2. Financial
3. General	4. (*a*)
5. (*b*)	6. (*a*)
7. True	8. True
9. True	10. True
11. True	12. Cabinet
13. President	14. Final

7.12 Further Readings

Books

1. Indian Political System – *Dr. M.P. Rai.*
2. Indian Political Process – *U.R. Ghai.*

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Unit-8: Council of Ministers and Prime Minister

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Objectives

After studying this unit, students will be able to:

- Understand the Functions, Powers and Composition of Council of Ministers and Difference from Cabinet.
- Know the Eligibility, Tenure, Powers and Position of Prime Minister of India.
- Know the difference between Powers and Position of Indian and British Prime Minister.
- Compare between Powers and Position of Indian Prime Minister and American President.

Introduction

Constitution has parliamentary system and for this it has divided Executive into two parts: (1) Namesake or Statutory Executive (2) Actual Executive. President of India is the namesake executive and Council of Ministers under the leadership of Prime Minister is actual executive. Actual executive is mentioned in article 74 as, 'To help and assist, there shall be Council of Ministers led by

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the Prime Minister and President shall work as per the advice of them'. President is bound to abide by the suggestions of the Council of Ministers. He can only ask them to reconsider their recommendations, but can't refuse if it sent again. Therefore, Council of ministers is the actual executive of India.

8.1 Structure and Tenure of Council of Ministers

It has been mentioned in Article 74(9). After 44th amendment it looks like this, "to assist and suggest the president in its functions. There shall be a Council of Ministers led by the prime minister. President shall abide by it to discharge its duties. President can ask for reconsideration of its suggestions and if again council of ministers send it back to the president, then he is bound to accept it".

There are 6 fundamental rules mentioned in article75 about the formation of Union Council of Ministers which are as following:

1. Prime Minister shall be appointed by the president and rest others shall be appointed by President on the recommendation of Prime Minister.
2. Ministers shall be on their post during the pleasure of the president.
3. Council of ministers shall be collectively responsible to Lok Sabha.
4. Before taking charge, president shall do the pledging ceremony of confidentiality and post as mentioned in Third Schedule.
5. Any Minister who is not a member of either house of parliament, has to become member of either house within 6 months, else he shall cease to be a Minister.
6. Salary and Allowance of members shall be such as fixed by parliament from time to time or shall be such as mentioned in Second Schedule, if not fixed by parliament.

We should take above mentioned clauses in the light of other sub clauses of constitution, constitutional provisions and verdicts of Supreme Court.

(a) As per article 75(1), President appoints prime minister, but he can seldom use his discretion, as prime minister has to be Leader of majority party or coalition group in Lok Sabha. As per article 75(3), Council of Ministers is collectively responsible to Lok Sabha. This also implies the same, the prime minister has to be having majority in Lok Sabha.

(b) Member of Rajya Sabha can also be elected as Prime minister, provided he has majority support of Lok Sabha and that majority elects him as leader.

(c) In general, President undoubtedly has no confusion on electing prime minister, but in special situations, he can have the right to use his discretion while electing prime minister. In case of no one having majority in Lok Sabha, then President can invite Leader of any party to form Council of Minister, provided he is confident of him forming the Council. But in these circumstances also normally he hardly gets a chance due to parties making Coalition and then electing their Leader amongst them and thus they get majority in Lok Sabha. President of the self - get the second chance to exercise discretion, when the majority of the consumer Prime Self sacrifice - not seen the letter. In this case the President an influential person Ministers - Council may be invited for construction.

(d) Other Ministers of Council are elected by President on the recommendations of prime minister. Without the consent of prime minister, president cant make any minister.

(e) Ministers are members of parliament and are collectively responsible to Lok Sabha. It clearly establishes the fact that Ministers are responsible to the parliament, whatever they do in the name of President. They can't take cushion of the name of the President for any of their illegal or unconstitutional acts.

Size and Composition of Council of Ministers: There is no hard and fast rule pertaining to composition and size of the council. It solely depends on the prime minister, who to be elected. Now there is a rule

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that numbers of ministers shall not exceed 15% of total Lok Sabha members. Normally it has 50-80 Ministers who can be divided in to following categories:

(*a*) Cabinet Minister: They are normally between 15-20 in number. Collectively they are called Cabinet which is a powerful part of Council of ministers involved in Policy and Decision making. Important Leaders of Ruling party are part of it, who are close to the prime minister. They possess vital department in the government.

(*b*) State Minister: These are another level of ministers and don't form part of Cabinet. State Minister either takes care of any small department or he is attached to any Cabinet Minister. Ministers like Home, Defence, Foreign Affairs, Agriculture, and Human Resources have 2-3 State Ministers whereas Civil Aviation, Information and Broadcasting, Labour, Railway, Public Welfare, Surface Transport and Clothes are headed by State Ministers. These ministers take part in Cabinet Meeting only when prime minister invites them for the same.

(*c*) Deputy Minister: Those Ministers who are attached with Cabinet or State Ministers are called Deputy Ministers. They don't take charge of any department as an Independent. He has to assist that Minister, under whom he is working. Normally he has been entrusted with the task of preparing answers to the questions which shall be asked in parliament, pertaining to his department and extending help in getting government. Bills passed in the parliament.

(*d*) Parliamentary Secretary: These are neither Ministers nor they have been given any administrative work. They have a solitary function of helping Ministers in the parliament. They don't take any salary. This is a post which is instrumental in training future Ministers.

(*e*) Deputy Prime Minister: Apart from these 4 categories, there has been a post of Deputy Prime minister in Indian Cabinet System since 1950. In the beginning, Sardar Ballabh Bhai Patel made Morarji Desai Deputy Prime Minister in J.L. Nehru's Leadership. After his resignation in 1969, this post remained vacant. In 1977, in the cabinet of Morarji Desai, there were 2 Deputy Prime Ministers-Chaudhary Charan Singh and Babu Jagjeevan Ram. After this, there were no Deputy PM in the cabinet of Chaudhary Charan Singh which lasted only for 6 months nor in Indira Gandhi's Cabinet (1980-84). Rajiv Gandhi (Nov 1984-Nov 1989) also did not have post of Deputy Prime minister. But in V.P. Singh (1989-90) and Chandrasekhar's tenure, Devi Lal was the Deputy Prime Minister.

Did u know? In June 1991, P.V. Narasimha Rao took charge and there was no Deputy Prime minster. After this in July 2002, Prime Minister Atal Bihari Bajpai made L.K. Advani his Deputy Prime Minister. Dr. Manmohan Singh in May 2004, decided not to have any Deputy Prime Minister in his cabinet.

Constitution does not have provision for the post of Deputy Prime minister. It only says that," there shall be a Council of Ministers under the leadership of prime minister" and it depends on prime minister or on the party politics, that a post of Deputy PM should be added or not.

Tenure of Council of Ministers: As per constitution, Ministers shall continue to work during the pleasure of the president, but this is only formality. In reality, Council of Ministers continue to work till the time they have the majority support in Lok Sabha. In case of dissolved or new Lok Sabha, new Cabinet is formed.

8.2 Distinction between Cabinet and Council of Ministers

Article 74 only mentions about Council of Ministers and there is no description of Cabinet. Cabinet is and Extra Constitutional Body. This is part of Council of Ministers comprising of 15-20 High profile Ministers. They are called Cabinet Ministers who jointly work for policy formation under prime minister's leadership. Decisions taken by Cabinet is always knows as Decision of Council of Ministers and it is the duty of each Minister to support those decisions. Those who don't agree with the decisions

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have to leave their post, as done by Mr. Ram Murti in 1991. Council of Ministers is actually the Centre of Power in the Indian Political System. Following are the distinction between Cabinet and Council of ministers:

1. Cabinet is a part of Council of Ministers. Cabinet is small body whereas Council of Ministers is big, but Cabinet is powerful and important part of Council of Ministers.
2. All Ministers collectively form Council of Ministers whereas, Cabinet is formed by 15-20 High profile Ministers only, who have got Cabinet Rank.
3. Only Cabinet ministers take part in Weekly Cabinet Meetings under Prime Minister Leadership. Other Ministers can take part only in case prime minister invites them. Entire Council of Ministers meeting happen very rarely.
4. Policy Formation is the Job of Cabinet and not of Council of Ministers.
5. Under article 74, there is provision of Council of Ministers and not of Cabinet. Style of work of Cabinet depends on traditions of Parliamentary processes. Technically, Cabinet is an Extra Constitutional body, but it is undoubtedly the most powerful institution of Indian Polity.

8.3 Powers and Functions of Cabinet

1. Policy Formation: Most mentionable work of Cabinet is to form Internal and External Policies. As per parliamentary process, Cabinet has to get its policies approved by the parliament. In case of parliament rejecting its policies, then Cabinet has to resign. This is the meaning of majority to Lok Sabha.

2. Executive Related: Though Executive powers are vested with president, in practice they are used by Cabinet only, which is responsible to the parliament for these works. Each Minister can be Head of one or more departments concerned.

3. Legislative Related: Important Bills are presented by Ministers only in parliament, which are accepted after formal debate and discussions. By Delegated Legislation also, Cabinet represents parliament in terms of Law making. Parliament does not have enough time to discuss each bill at length; hence Council of Ministers only gives final shape to bill passed by the parliament.

4. Finance Related: National Economic Policy is also decided by the Cabinet. Finance minister presents the forthcoming financial year's income and expenditure statement (budget) in parliament. Responsibility of passing budget is on Cabinet only. Cabinet has to resign In case of parliament rejecting it, but in practice normally parliament accepts the budget. Other finance bills are also presented in Lok Sabha by ministers only.

5. Miscellaneous Work: some other works of Cabinet are as following:

(*i*) **Appointment of Important Posts:** Posts like Governor, Judges of Supreme Court and High Court, Attorney General, Head of Defence Forces etc. which though are under the right of president, but in practice exercised by the Cabinet only, since president acts on the suggestion of Cabinet.

(*ii*) Pardon of Criminals.

(*iii*) To Confer Medals for distinguished Services.

(*iv*) Presenting amendment in constitution and approving them.

(*v*) Declaration of War and Peace.

(*vi*) Use of emergency powers of President.

Task Mention the Powers of the Cabinet.

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Unlimited Powers of Cabinet: under Indian political system, Union or Council of Ministers is a very powerful part of the government as per constitution, though Council of Ministers are controlled by the parliament, yet in practice parliament functions on the commands of the Council of Ministers only. By default power of its majority in Lok Sabha, Council of Ministers gets their job done by parliament. Therefore scholars state," it is only eyewash of the supremeness of parliament and Cabinet is running an Autocracy taking its Cushion". Reason for this autocracy can be attributed to the majority support of Ruling Party in Lok Sabha. This autocracy can only be stopped by an aware electorate. No Cabinet would like the electorate to reject it and subsequently face a defeat in the elections. In recent past, Judiciary also has become active to control the monarchy practiced by the Council of Ministers.

Self Assessment

Fill in the blanks:

1. Article 74(9) of the Constitution describes .....
2. Prime Minister is appointed by .....
3. ..... was Deputy prime minister during Atal Bihari Bajpai leadership.
4. Final shape to the Bill passed by parliament is given by .....

8.4 Prime Minister of India: Qualifications, Appointment, Functions and Powers

Indian Prime Minister also has vital role alike British Prime Minister. Entire administration responsibility is on him only. About British PM's power once Ramzamoor said, "He has such great powers which no other constitutional head in world enjoys, not even American President. Till the time he enjoys majority, he can perform functions which no president can do. He can promise on which Bill to be passed and on which amount shall be approved by the parliament". The same holds true for Indian Prime Minister also. He can take any decision on subjects like, foreign policy or Home affairs etc. with slightest of mistake, he can push nation in to a war and have drastic effect on the whole and can save the Nation also.

Qualifications of the Prime Minister: The Prime Minister is a member of parliament so it is only natural for MPs to be determined. In addition, they should have the confidence of the Lok Sabha.

Appointment of Prime Minister: As per constitution, president appoints Prime minister, but in practice president has limited powers relating to it. He is bound to invite the Leader of majority party or Coalition, for PM post. Reason being that Prime Minister and his cabinet must have support of Lok Sabha. The reason is that it is essential that the Prime Minister and his Ministers endorsed the board of Lok Sabha and the leader of the majority party may be recieve. Therefore, the position of the Prime Minister and the leader of the majority party may be mounted.

There are some situations in which President can use his discretion like, none gets the majority in Lok Sabha and Coalition Cabinet is required. For example, without having majority in Lok Sabha Charan singh was appointed as PM. During Emergency, President can appoint anyone a Prime Minister after dissolving Lok Sabha for some period. Prime Minister is also the Head of Planning Commission. This is not necessary that Prime minister should be a member of Lok Sabha; he can come from Rajya Sabha also, which was proved when Indira Gandhi became Prime Minister.

Notes As per constitution, President appoints Prime minister, but in practice President has nominal powers in this regard.

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Prime Minister as Central Point of formation of Council of Ministers Life and Death: Laski said for British Prime Minister," He is the centre of its formation, life and death". Same holds true for Indian Prime Minister. **Dr. Ambedkar** said in Constitution meet "collective responsibility can only be promoted by the Prime Minister," members can be in the Cabinet till the time Prime Minister wishes". Hence it is clear that the existence of Cabinet hinges on his will, qualifications and ability to take his team along. If Prime Minister resigns, then entire Cabinet has to resign.

As per **Remzamoor**, "The Cabinet is short is the Steering Wheel of the State, but Cabinet controls it".

Powers and Functions of Prime Minister

Indian Prime Minister is the key stone of the Cabinet Arch. A like British Prime Minister; he enjoys such huge powers that he can be said to be the Centre of Administration Management of the nation.

There is none who has got such powers; following are his powers and functions:

1. Formation of Council of Ministers: PM has major powers in the formation of Council of Ministers. Constitutionally also, president appoints other Ministers at the recommendation of Prime Minister only. After being elected, this is the first job of PM to elect other Ministers. He prepares the list of Ministers and sends it to President. He enjoys complete freedom in forming Council of Ministers. He only decides how many members shall be there, what shall be the number of ministers of different types and who all shall be taken in the Council of ministers. President can not force prime minister to take any person as per his liking or disliking. Even Prime minister' own party can't force him to do so. His decision is final and binding.

But in practice, prime minister has to be very careful while forming council. He has to ensure that Council should give equal representation to each State, Religion and Community. Sometimes, some eligible and expert administrators are included in the Council. sometimes, he elects people from youth also, so that they become future administrator after getting training.

2. Distribution of Portfolio: After forming the council of ministers, prime minister distributes different department for them. He also decides on which minister to head which department, who should be Cabinet minister, who should be State minister and who should be Deputy minister. He evaluates that who can do justice to any particular portfolio. While portfolio distribution also, he ensures to satisfy senior members of his party, considers their political importance and assigns special importance to different religion, regions and community. But a popular and powerful Prime Minister acts at his discretion while performing these duties.

3. Power to Remove Ministers: Theoretically the ministers hold office at the pleasure of the president, but decision of removal of ministers takes place on the advice of prime minister. So, "in practice, it is the pleasure of the prime minister during which they remain in office."

Did u know? If, in the opinion of Prime minister, any Minister is not performing well or does not agree with any decision of the prime Minister, then he can ask him to resign and he has to tender it.

Otherwise, prime Minister can get him dismissed advising to the president. In fact, this situation never arises. Whenever, a Minister comes to know that the prime minister does not wish to keep him in council of Ministers, he himself resigns.

In April, 1992, Central External Affairs Minister Mr. Madhav Singh Solanki had to resign because, he had given a secret letter to the Swiss External Affairs Minister, which was related to the Investigation of Bofors trade and due to which there was an uproar in the Lok Sabha.

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So, we can say that the prime minister appoints the ministers, distributes the portfolios among them and can remove them from the post. Prime minister is vested with such powers to inculcate a sense of collective responsibility among Ministers. As **Dr. Ambedkar** manifested in constituent assembly, "the prime minister is the key stone of the arch of the cabinet and unless and until we create that office and endow that office with statutory authority to nominate and dismiss a minister there can be no collective responsibility."

4. Leader of the Lok Sabha: Like England, the prime Minister is the leader of the Lok Sabha. He makes important announcements in the house regarding government policies and answers the questions. He initiates debate in Lok Sabha and safeguards ministers from criticism in the house. He orders and directs his party's members through whips, watches and controls them. He has a special influence over statutory functions of the house. He performs the function of the house along with the speaker and helps him to maintain discipline in the house.

5. Link between the President and the Cabinet: The prime minister works as a link between the president and the cabinet. He informs the president about decision taken by the cabinet and puts the president's view before the cabinet. The president can ask him to seek the cabinet's decision about the decision taken by a minister individually. He is the chief advisor of the president. The president has to abide by the prime minister's advice even if he does not agree with it.

6. Leadership of the Cabinet: The Prime Minister is the leader of the cabinet. He presides over the meetings of the cabinet. The President does not participate in the proceeding of the cabinet. The Cabinet performs all the functions under the leadership of the prime minister. He calls for the meeting of the cabinet, prepares a list of the issues to be discussed, conducts debate over several issues and if he deems fit, organizes voting. Mostly consensus is arrived over any policy, only when the prime minister agrees. In short, we can say that all the proceedings of the cabinet take place under supervision of the prime minister.

7. As a Link between different Departments: Being head of the cabinet he performs another important function like resolving problems, disputes and differences in such a manner so that administrative efficiency remains maintained. Cooperation and coordination among different departments of government is essential for efficient administration. For this the prime minister works as a link between different departments. He functions as a mediator and judge to resolve inter- departmental differences.

8. Chief Advisor of the President: The Prime minister is the Chief advisor to the president. The president seeks advice of the prime minister on every issues and acts according to his advice; the president is obliged to abide by his advice. If the president requires any information regarding administration, he talks to the prime minister and gets the information.

9. Leader of the Nation: The Prime Minister is not only the Leader of the majority party in the parliament but the leader of the Nation too. He becomes the most important official of the nation due to his highest post. He enjoys such an honor that no other Minister does. He is the only representative of the country. Whole country accepts his leadership in emergency. Even opposition party extends its full cooperation to face problems of emergency. In other countries, the prime minister is honored as the leader of the country.

10. Leader of the Party: The Prime Minister is not only the leader of the majority party but he is the Supreme Leader of his party also. His whole party wages with his support. General election, in fact, is the election of the Prime Minister. The prime minister plays main role in organizing party properly, preparing policies and programmes of the party and in election campaigning. No other leader of the party has such an impacts as that of the speeches given by the Prime minister at the time of election. Party's victory in the general election, in fact, is the victory of the prime Minister himself.

11. Responsible for ability of Government: The prime minister ensures that credibility of his party and government remains intact. To accomplish this responsibility he can make changes in the cabinet. He can appoint new minister and if he feels so that existence of any specific minister in the cabinet is not in the interest/confidence of the government, he can remove such minister. In Laski's word," he

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can shuffle His pack whenever he so likes." Dr. Ambedkar asserted in the constituent assembly," the prime minister is the keystone of the arch of the cabinet and unless and until we create that office and endow that office with statutory authority to nominate and dismiss a minister there can be No collective responsibility."

12. Head of the government: There is a parliamentary form of government in India. Where the president is the head of the government but real head is the prime minister. The prime minister executes the Executive, Judicial and emergency powers of the president and the president can advise, encourage and even warn if needed. He frames domestic and foreign policy. He also declares all the eminent policies on behalf of the cabinet. Budget is also prepared under his supervision. Constitutionally the president have the powers to appoint people on higher posts and to award titles, but in practice the president neither appoints nor award titles without the Consent of the prime minister. These prerogatives are enjoyed by the prime minister.

13. Chief Spokesman of Government on Foreign Policy: The prime minister has special interest in the foreign matters and controls over it. He plays important role in the formulation of the foreign policy. He makes important announcements regarding foreign policy. Although the department of external affairs is under foreign minister, but, foreign minister does not do important task without advice of the prime minister. Foreign minister is the trustiest minister of the prime minister. Perhaps, no minister has deeper relation with the Prime Minister than the foreign minister.

14. Power to get the Lok Sabha dissolved: The president use to dissolve the Lok Sabha on the advice of the prime minister. If the president thinks that dissolving Lok Sabha is not in the interest if the country, he can refuse the prime minister's advice. In 1970, President V.V. Giri dissolved the Lok Sabha on the advice of the prime minister. In 18 June 1977, President FA Ahmed dissolved the Lok Sabha on the advice of Prime Minister Mrs. Indira Gandhi. on 22 august 1979, president Sanjeeva Reddy dissolved the Lok Sabha on the advice of prime minister Chaudhary Charan singh, for which ,the janta party criticized the president's act. The janta party had to say that the president should have refused the advice of Prime Minister Chaudhary Charan Singh and should have invited Jag Jeevan Ram to form the government.

15. Prime Minister maintains Good Relations with Common Wealth Countries: India is the member of the commonwealth, so it is the duty of the prime minister to establish friendly relationship with commonwealth countries. The prime minister attends the meetings of the commonwealth. Ex-prime Minister Morarji Desai used to take part in the meetings of commonwealth. He attended the commonwealth meeting held in England on 8 June, 1977.

16. Prime Minister and the Defense: Responsibility of nation's security lies with the Prime Minister. So, he has the complete command over defense department. He takes complete Care of the needed mechanism for security. Three is intimate relationship between National security and foreign policy and he plays important role in the function of both the departments. Victory or defeat of the country is the victory or defeat of him. For example, victory over Pakistan in 1965 was credited to shri Lal Bahadur Shastri. The prime minister, with the advice of the cabinet, decides about the country to have alliance with, what type of arms should be taken from which country and which country's help be sought from in emergency.

17. Control of the Prime Minister over Economy: The prime minister has total control over the economy. The prime minister is held responsible for the failure of economy. From July 1969 to June 1970, Mrs. Indira Gandhi held the charge of finance department.

18. Chief Spokesman of the Government: The policy and decision of the cabinet,, before parliament and public, is announced by the prime Minister. He keeps information of all the departments and if any minister gets into hot water, he uses to help him to save the cabinet's boat from drowning.

19. Prime Minister and the Public Opinion: The prime minister has special relationship with public. Public is influenced by role, functions and policy of the prime minister and the prime minister is influenced by support of the public. Government has control over medium of communication such as radio, television etc.with the help of these medium he moulds public opinion in his favor. It strengthens him. Nehru and Indira Gandhi played an important role by moulding public opinion in their favor.

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20. Evaluation of the Work of States by the Prime Minister: The prime minister has the powers to evaluate the work of the states. In July 1983, Prime Minister Indira Gandhi reviewed the different areas of Madhya Pradesh.

21. Emergency Powers of the Prime Minister: Under article 352,356 and 360 of the Indian constitution the president exercises these powers as advised by the prime minister. like, the president had declared emergency on the advice of the prime minister on october, 1962 at Chinese invasion, on December 3,1971 at Pakistani invasion and on 26th June, 1975 due to failure of internal system. Likewise, under article 356 president rule is imposed in the states on the advice of the prime minister. According to 44th amendment, the president can declare emergency under article 352 only on the written advice of the cabinet to do so. In April 1977, the acting President B.D. Jati dissolved 9 Legislative assembly on the advice of the prime minister.

22. Power of Making Appointments: The president makes appointments of the higher officials on the advice and acceptance of the prime minister. Ambassadors (likely to be sent to other countries), Governor of the states, Attorney General, Comptroller and Auditor General, Chairperson and members of Union Public Service Commission and Election Commission etc. are appointed itself on the advice of the prime minister. Twelve eminent personalities from the field of literature, arts, science and social service are itself nominated in the Rajya Sabha by the president on the advice of the prime minister.

Self Assessment

Multiple Choice Questions:

5. Whom does the president invite for the post of the prime minister?
   (*a*) Leader of the majority party (*b*) The party getting minimum seats
   (*c*) Neither (a) nor (b) (*d*) None of these
6. The prime minister is also the president of which of the following?
   (*a*) Lok Sabha (*b*) Rajya Sabha
   (*c*) Planning Commission (*d*) None of these
7. There is parliamentary government in India, where the president is the head of the Country and the real head is?
   (*a*) Chief Minister (*b*) Governor
   (*c*) Prime Minister (*d*) None of these

8.5 Position of the Prime Minister

The post of the prime minister is the very important, dignified and powerful. He has got key position in the administrative fabric of the nation. If the council of ministers is the real ruler of the country , he is the master of the council of minister. He is the creator of the council of minister, centre to its life and centre death. He is the chief advisor of the president. He is the principal speaker of the nation in foreign matters. He is the most popular leader of the country. He vested with such an ample and comprehensive powers that perhaps no other constitutional head of the world has got one. His constitutional position is similar to the constitutional head of England. Constitutionally, he is the head of the council of minister and the president appoints other ministers on the advice of him.

He can be compared to the president of America also. in words of **Dr. Ambedkar**, "if, in our constitution, any official may be compared with the president of America then it is the prime minister and not the president of the union." until, the Indian prime minister has the majority in the Lok Sabha he can accomplish such a task that not even American president can do it. He can get any law passed from

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the parliament, can have alliance with any country and can spend any fortune in order to perform his duties.

Administrative reforms commission has reflected the position of the prime minister as, the constitution provides the prime minister special position in administrative frame of the government. He is not only head of the council of ministers, the first among equals but the chief advisor of the president also. His highest position delegates special responsibility to him that he must see that this institution(council of ministers) works as a team.

Conclusion: At last, we can say that the post of the prime minister is a powerful post. He is said to be the central axis of the government. life or death, efficiency or inefficiency and stability or instability of the government depends on him. As an official he is vested with so much powers that no other official.

We are in agreement with **Dr. Ambedkar's** manifestation that if, in our constitution ,any person may be compared with the president of America then it is the prime minister and not the president.

Indian prime minister cannot said to be the "first among equals." definitely he is the best official than other ministers and today he has so much powers, but it should never be meant that prime ministerial form of government has been established in India. The prime minister is the integral part of the parliamentary governance system. He is the owner of powerful and important post under this system. Indian system can be named as prime ministerial government only then, when the name of parliamentary government or cabinet system is changed as prime ministerial system.

The position of Indian prime minister is great.

In words of a famous author," prime minister's position among other ministers is same as shining moon among the lesser stars." and prime minister can said to be the "captain of the ship of the state." The prime minister cannot be the unrestrained ceasar.His words are not the last words. He can be challenged any moment. The prime minister always has to keep the opposition party into consideration. **George Bernard Shaw** has once said about opposition party of British prime minister that," the British Prime Minister knows leader of the opposition better than his own wife." this implies on Indian prime minister too.

There was a mid-term election in our country in May-June 1991 in which none of the parties got clear majority. The then president shri Ramaswami Venkatraman got administered prime ministerial oath by Mr. P.V. Narasimha Rao being leader of the biggest party and given one month period for winning the vote of confidence ,which he won in stipulated time. For information one more thing is also there that Mr. P.V. Narasimha Rao was not a member of any of the houses but he got the membership of Lok Sabha within six months.

8.6 Dictatorship of the Prime Minister

Infact, enormous powers are centralized in the hands of Indian prime minister. Observing his so much powers some thinkers have reflected their opinion that the prime minister may become dictator. In the words of **Mr. K.T. shah,** "the constitution concentrates so much powers and influence in the hands of the prime minister that there is every reason to apprehend that he may become a dictator, if he chooses to do so." likewise, Mr. V.N. Gadgil has also said, "the prime minister is invested with formidable power and influence and unless he be a genuine democrat by nature, he is likely to become a dictator."

But chances of becoming the prime minister into a dictator is very meager.

1. The prime minister is definitely a popular democratic leader by nature. He did have had a long period training in the democratic governance system and has strong belief in democratic principles. Prime minister late **JL Nehru** and **Mr. Lal Bahadur Shastri**, by nature and training, were democratic leader and they have firm belief in democratic principles. They never tried to become a dictator and always followed the democratic tradition. All the successor prime minister were democratic leader by training and nature and had unshattered belief in democratic principles except **Mrs. Indira Gandhi**.

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They never tried to become a dictator and always followed the democratic traditions. but in 1975, **Mrs. Indira Gandhi** had suspended the democracy imposing emergency. All the prime minister after 1977, including **Mrs. Indira Gandhi**, have acted according to the democratic traditions. Our existing prime minister is sailing on the same path.

2. The prime minister does not act arbitrarily. He has to act according to policies and programmes of his party. He has to keep, the thoughts and wishes of the prominent people of his party, in view. His position is due to being the leader if his party and he always tries to have cooperation of his associates.

3. No Prime Minister tries to go against public opinion. He has to read the pulse of the public. He never does such a work so that public get annoyed. If he tries to become a dictator disregarding the public opinion then he will definitely lose in next election and have to relinquish his post. Indira Gandhi's defeat in general election of 1977, is the example of it.

4. There is great Vigil on his work inside and outside Parliament. There are members of opposition also inside parliament. They are always on the lookout of criticizing Prime Minister's policy and work and thus try to win public opinion. Outside, prime minister has to face criticism from Newspapers.

Conclusion: Finally we reach to the conclusion that prime minister can't become an Autocrat in normal conditions, as he has to function within some boundaries. A lot depends on the personality of the prime minister. As per **Dr. Jennings**, "prime minister's position is just like, the way the post bearer would like it to be or what other ministers would let him to be". If he possesses strong character and can manage council of ministers well, then he would work freely, else he shall become a puppet at the hands of the ministers. Emergency period is so flexible that at that point of time, prime minister can actually become an Autocrat. During Emergency, president exercises his powers in consultation with the prime minister only, but if prime minister is an Autocrat at the time of Emergency, then it is due to the support and majority in parliament only.

Self Assessment

State whether the following statements are True/False:

8. Prime Minister can't be called "first among Equals".
9. Prime Minister can become an autocrat in normal conditions.
10. George Bernard Shaw once said, "British Prime Minister knows leader opposition better than his wife".

8.7 Comparison of Powers between British and Indian Prime Minister

We must keep this fact in mind while comparing British and Indian Prime Minister that there are a lot of similarities in the political system of India and Britain. Both countries have Parliamentary Democracy. In other words, India has formed its Political structure and nature after taking cue from British model only.

Alike Britain, in India also we have the namesake post of Head of State. In Britain King is the symbolic leader, then in India President represents the same. Only difference being that in Britain, post of kind ancestral whereas in India, it is elected by an election commission. Yet we should try to see the post and powers of prime minister in both countries in the context of Parliamentary system.

There are following similarities between British and Indian Prime Minister:

(*i*) In both the Countries, Prime Minister has the Majority Support of Lower House: In both countries, One who has the support of Lower House, is elected Prime minister. In Britain, after general elections, King invites Leader of majority in the House of Commons to form the government. If there is no party with majority, then King/Queen invites that person who is capable of getting majority in the house.

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India also has same provisions when president invites Leader of majority to form government or any other who can muster support of Lok Sabha.

(*ii*) In both the Countries Prime Minister is the Head of Actual Executive: In both countries, due to parliamentary system, namesake and real Executive exists. In Britain, all administrative and government works are performed in the name of King, but in practice they are exercised by the Prime Minister. Similarly, in India all the works of Union government are performed in the name of the president, whereas In practice, it is actually exercised by the Prime Minister.

(*iii*) In both the Countries, Resignation of Prime Ministers means Resignation of whole government: Due to parliamentary system in place, resignation of Prime Minister means resignation of entire government. After government resigns, government is dissolved. Since prime minister is the head of the government, his resignation automatically dissolves entire government.

(*iv*) In both the countries, Prime minister is responsible to Lower House for all his acts: Due to parliamentary system, prime minister is responsible for all his acts to the lower house. Though in Britain and India both, appointment of Prime minister is done by the Head of the state, yet he is not responsible to him, as per parliamentary traditions.

Distinction between Positions of British and Indian Prime Minister

Even after having so many similarities between British & Indian Prime Minister, there exists some specific distinctions. In Britain parliament is supreme. British prime minister on the basis of majority in the House of Commons, world's most powerful Democratic Leader. British parliament can amend the constitution with a normal legislation only, which means that if prime minister has the majority support of House of Commons, then he can effect any change in the constitution. British Judiciary does not have the power of Judicial Review, which means that Bills passed by parliament are outside the jurisdiction of the courts. On the other hand, Indian parliament is not supreme. Constitution is supreme and parliament can amend the constitution only up to a limit. Indian system of constitutional amendment is also very tough and complexed. Normal Laws and constitutional laws are different.

Notes All three parts of government Parliament, Executive and Judiciary work within the fixed boundaries of constitution only.

Supreme Court has the Right to Judicially review the Acts and Laws framed by the parliament and decisions taken by the Executive. This infers that Indian prime minister even after having majority in Lok Sabha is not as strong as British Prime Minister.

Self Assessment

Multiple Choice Questions:

11. In Britain, King is Namesake for what?
    - (*a*) Head of State
    - (*b*) Prime Minister
    - (*c*) Neither (*a*) nor (*b*)
    - (*d*) None of the above
12. Which of the following is a part of the government also?
    - (*a*) Judiciary
    - (*b*) BSE
    - (*c*) Subordinate Selection Board
    - (*d*) None of the above

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8.8 Comparison of Powers and Positions between Indian Prime Minister and American President

It would be better to compare powers and positions of Indian Prime Minister and American President in the context of their different political systems. In contrast to India, America has Presidential form of government where president is Head of State as well as Head of Administration. American president is an elected Head of Executive. He has wide powers in terms of administration. His post is stable and once elected, he enjoys his complete tenure. Only he can be removed by Impeachment. On the other hand, Indian Prime minister is Head of Administration, but not Head of State. He can enjoy his tenure only up till he has majority support in Lok Sabha. He completes his term on the basis of Lok Sabha support.

In American political system, constitution makers have adopted the principle of '**Balance and Control**', so that no part of the government can function as unbridled and despotic. In contrast, due to parliamentary system in place in India, there is a great level of synergy between Legislative and Executive. Indian prime minister on the basis of majority support in Lok Sabha, gets all bills, policies and decisions passed easily. With support of Lok Sabha, Indian prime minister is more powerful than American President.

Self Assessment

Fill in the Blanks:

13. American President is ..... also along with being head of state.
14. In American political system, constitution makers have adopted .....

8.9 Summary

- Article 74 mentions about Council of Ministers and nothing about Cabinet. Cabinet is an Extra Constitutional Body.
- After being elected, it is first job of Prime Minister to appoint other Ministers.
- Prime Minister leads Lok Sabha alike British PM. He declares policies relating to administration of Government and replies to queries in parliament.
- We have union government in India in which head of Nation is president and actual leader is Prime Minister.
- President exercises his powers under Article 352, 356, 360 under suggestion from the Prime Minister.
- In general, prime minister can't become an autocrat, as he has to function within the boundaries set. It depends on the personality of the Prime Minister also.
- A like Britain, India also has the provision of namesake head of state. In Britain, King is similar to the post of President of India.
- British Prime Minister on the basis of majority in House of Commons is world's most powerful Democratic Administrator. British parliament can amend constitution like general law.
- American President is also Administrative Head along with being State Head of the nation. American President is an elected Head of Executive.

8.10 Keywords

- Emergency: situation which happens all of a sudden, situation of crisis.
- Dictatorship: practice of doing things on own, monarchy.

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8.11 Review Questions

1. Clarify the difference between Cabinet and Council of Ministers while describing composition of Council of Ministers.
2. Mention powers of Cabinet.
3. Mention powers and position of Prime Minister.
4. Clarify the difference between powers of Indian and British Prime Minister.

Answer: Self Assessment

1. Council of Ministers
2. President
3. Lal Krishna Advani
4. Council of Ministers
5. (*a*)
6. (*c*)
7. (*c*)
8. True
9. False
10. True
11. (*a*)
12. (*a*)
13. Head of Administration
14. Principles of Balancing and Control

8.12 Further Readings

Books

1. Indian Political System – *N. Chhabra.*
2. Indian Administration and Politics – *P. Rastogi.*
3. Indian Political System – *U.R. Ghai.*

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Unit-9: The Judiciary: Supreme Court, High Court, Judicial Review

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Objectives

After studying this unit, students will be able to:

- Understand the Powers, Composition and Functions of Supreme Court.
- Know the Appointment, Functions and Rights of High Court Judges.
- Critical Analysis of Judicial Review while Describing it.

Introduction

Prof. Garner states while describing the necessity of judiciary in state that," we can't expect a civilized society in the absence of Justice Department. Any society can be without Legislative, but can't be without Judiciary in a civilized society". In a Union State, necessity of Independent and Supreme Court is more needed than any other system. There is clear and written distribution of power between union and state government in Union Government., but still in many cases. There can be confrontation between centre and states and between states on many issues, which can be resolved by Supreme Court only.

Supreme court works as the protector of constitution and rightful interpreter of constitution. It can revoke any bill which is unconstitutional. With this power, it protects sovereignty and supremeness of constitution. It holds right to decide in the event of any dispute on any particular article of constitution and its decision shall be final and binding.

Apart from safeguarding constitution, Supreme Court also protects the right and liberty of people. If the Legislature, Executive or any other body interferes in the rights and liberty of its citizens,

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Notes

then supreme court can issue writ (Suo Moto, Habeas Corpus, Mandamus, Certiorari etc) and protects the rights of the citizens. **Mr. M.C. Sitalwad** states," it will not be an exaggeration to refer to Supreme Court's powers as the final interpreter of constitution, whether it is a question of Fundamental Rights or issue between Centre and states or matters on Bills pertaining to Indian conditions, it works as the machinery of Social and Economic development of India".

Single Judicial System in India

Though Indian is a Union of States, still it has Single Judiciary. Alike USA, we don't have Union and State Court in separation. All Courts of Laws are part of a Single Larger chain only. At the Apex level is Supreme court of India. High Courts working at State Level are just under it and under High Courts there are Subordinate Courts at District Level. All these Courts have been established under constitution and they give verdict on the basis of Statutory Laws, State Laws, and Civil and Criminal Procedure Law. Hence India has excellently organized Judicial system based on Single judiciary.

9.1 Supreme Court: Formation, Powers and Functions

This is the Apex Judicial body of Indian Judiciary system. It is the highest court of India and its decisions are final and binding.

Did u know? Before independence, Supreme Court was called as Federal Court of India and it was established under Government of India Act, 1935.

It had jurisdiction on both Preliminary and Appeal, but this was not the Final Court of India. One could approach Privy Council of England against its verdict as an appeal.

Composition of Supreme Court: It has been constituted under Article 124 which reads as "There shall be a Supreme court of India". Initially, there were One Chief Justice and 7 other Justices in it but an act of 1957 increased the number of other Judges to 10. In 1960, this was increased to 13 by another act of parliament, but in December 1977, the number was increased to 17. Further in April, 1986 the number went up to 25 and at present, supreme court has 1 Chief Justice and 25 other Judges.

In case of work overload, president can appoint more Judges on Adhoc basis. Adhoc Judges also get same Salary and allowance as permanent judges. At times, any retired judge can also be asked to work.

Appointment of Judges: Chief justice and other Judges of the Supreme Court is done by president, but while doing so, he does not act at his discretion. He has to consult other judges of Supreme court and judges of State high court while appointing Chief Justice of India. for appointing other judges of Supreme Court, he needs to consult Chief justice of India. Appointment of Adhoc judges are done in consultation with Chief Justice.

These appointments are done without bias. to ensure neutralism, there is a seniority list of Judges, so that In case of a vacancy of Chief justice, then the senior most in the list can be appointed. But on April 15, 1973 when Chief Justice Sikri retired, this principle was violated and justice A.N. Rai was appointed as Chief Justice of India. Justice Shelet, Hegde and Grover as a protest against the decision. After M.H. Baig retired on April 22, 1978 senior most judge Y.V. Chandrachood was appointed Chief Justice of India and thus again independence of Judiciary was restored.

On January 28, 1980 Law Commission presented its 80th report in Lok Sabha. It recommended that for appointment of Chief Justice post, principle of Seniority must strictly be implemented.

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Qualifications of Supreme Court Judges

Notes

Following are qualifications as fixed by the constitution:

1. He should be an Indian citizen.
2. He should have worked as Judge in High Court or any court for minimum 5 years.

or

3. He should have practiced in any High Court for minimum 10 years or.
4. He should be a famous Jurist in the opinion of the president.

Tenure of Judges: Judges of supreme can work up till the age of 65 years and they retire after this. Parliament can increase their tenure. After retirement they are entitled for pension. They can retire before their tenure also by resigning. President can't sack them at his discretion.

Removal of Judges: They can be removed on the basis of Incapacity or proved misbehavior. They can be removed only when parliament passes a proposal by 2/3rd majority of its strength and by 2/3rd majority of its present and voting members with allegation of misconduct and send this proposal to president in same session and after president approves it. Article 124 (4) 1 has the provision of removal and is has been made complexed and tough so that Judiciary can work independently and fearlessly.

Salary and Allowances: Chief justice's salary is Rs. 1 Lac and other members get Rs 80,000 per month. Besides, each Justice gets free accommodation and Conveyance allowance in case an official tour is required. Salaries and Allowances of judges are paid from the consolidate fund of India, which parliament clears without Voting. Only in the case of Financial Emergency, president has the right to decrease them. Parliament passed a law in March 1976 which increased the pension of judges of SC.

Prohibition of Practice after Retirement: Judges of Supreme Court can't practice after retirement. But it does not mean that Government can't assign them any special task. They can be appointed Member or Head of any commission. In April, 1977 Janta Government. appointed Retired Chief Justice J.C. Shah to investigate the atrocities and wrongdoing of 1975 Emergency. Besides, many retired judges have been appointed on other government posts. **Mr. M.C. Chagla** was appointed as Ambassador to United States.

Separate Establishment: Under article 146, provisions of formation of Supreme Court is separate. Appointment of its officers and other staff, terms and conditions relating to their work is done by Chief Justice of India. Besides, expenditures of Supreme courts are incurred from Consolidate Fund of India. This is how, Supreme Court is free from intervention of any other institution and totally independent.

Oath of Office: Everybody who is appointed as Chief Justice or any other Judges of Supreme court of India takes oath as following: " I …… (name) …….. having been appointed Chief Justice of India (or a judge) do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the constitution of India as established by law that I shall dutifully and faithfully and to the best of my knowledge, ability and judgment perform the duties of my office without any fear, affection or ill-will and that I shall uphold the constitution and law".

Seat of Supreme Court: It is seated in New Delhi. It has a beautiful building in the shape of an Indian Weighing Scale, But Chief Justice with president's approval can do meeting at other places too.

Decisions of Supreme Court: To suggest president on any subject, there has to be a 5 judge bench in other matter, this number can be 3. All verdicts are given unanimously by the judges. Those judges who don't agree with majority verdict, can make their disapproval and its reasons recorded.

Immunities of Judges: To protect the independence of judiciary, all verdicts and decisions of the Justices have been kept out of scope of criticism. Even parliament can't discuss on the behavior of any judge. It can happen only when any removal proceeding is under way in parliament. This has been done to ensure fear free judiciary. To sustain the dignity of Court and to keep it free from criticism, Courts have the right to initiate Contempt of Court proceeding against any person who disrespects it.

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Notes

Jurisdiction and Powers of Supreme Court

Supreme Court is the Apex court of the nation. Its jurisdiction and powers are immense and no less than any other Supreme Court of the world. As per Ex Attorney General MC Sitalwad," powers of Indian Supreme Court is even bigger than that of American Supreme Court". Its jurisdiction can be classified as the following :

1. Original Jurisdiction: Those cases which can't be presented in any other court of law and which have to directly come to Supreme Court for hearing. They are as following:

(*i*) Cases which involves Government of India at one hand and State Governments on the other.

(*ii*) Such fights on one hand and the Government of India and one or more states are on the other sides.

(*iii*) Cases which involves State Government as one and another party.

Limitations on Original Jurisdiction

(*i*) These are those cases which are concerned with Legal or Statutory aspect of dispute and not with political aspect.

(*ii*) Those cases which are related with any Agreement, Treaty, Guarantee or any other Document which have been implemented before or after the Adoption of the Constitution. For ex. Agreement of Indian Estate with Government of India after Independence.

(*iii*) Parliament can by passing a law, can keep cases pertaining to disputes on Inter State Rivers from the ambit of Supreme Court of India.

2. Appellate Jurisdiction: These are Cases which start at any other court of law, but come finally to Supreme court as appeal against earlier verdict. They can be classified as following:

(*i*) **Constitutional:** Under article 132, if is proved by High court that there is an unsolved point regarding interpretation of constitution in any verdict, then Supreme Court can be approached against High Court verdict. Supreme court can itself pass an order if it of the same opinion (article 136) and high Court refuses to tender certificate concerning this. Resultantly, Supreme court becomes protector of constitution and final interpreter.

(*ii*) **Civil:** Under original constitution, only those cases could be appealed in Supreme court against High court orders, in which the amount of dispute is minimum of ₹ 20,000 and above or the value of property accordingly, but after the 30th amendment, this Limit has been deleted and inserted that all those against High court verdict can be presented in Supreme Court, in which High Court can prove that there is a specific question to be answered with respect to interpretation of constitution.

(*iii*) **Criminal:** following Criminal cases can be appealed against High court verdict in Supreme Court:

(*a*) If after an appeal is presented in High Court verdict is converted from Acquittal to Capital Punishment or.

(*b*) If High Court has taken over any case and Death sentence is pronounced.

(*c*) If High Court proves that a Case is fit to be heard by Supreme Court.

Under article 136, barring Military Court, there is no constitutional cap on Supreme Court to take Appeal Cases against the verdicts of High Courts. It depends on Supreme Court itself.

3. Advisory Jurisdiction: As per article 143, Supreme Court has advisory rights also. President can take consultation on any constitutional or legal matter from Supreme Court. Consultation on Interpretation of Constitution, Interpretation of Treaties with Local Estates also can be asked by him. President is not

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bound to abide by the advice of Supreme Court. Other parts of government, individuals and Court also are not bound to accept those advices. In American, Supreme Court does not have such right to give advice. Many Scholars have severely criticized this right of Supreme Court and said that due to this right, there can be peculiar conditions in the political space of Indian democracy and chances of betterment are not much.

President has asked for such advices from Supreme Court several times and Supreme Court has reciprocated as well. For example **V.V. Giri** asked Supreme Court after the dissolution of Gujarat Government. In 1974, that what will be the situation of Gujarat in the upcoming presidential election in August, 1974? Supreme Court opined on June 5, 1974 that under article 62, presidential election has to be completed before the expiry of tenure of current president, even if Vidhan Sabha is in dissolved stage.

4. Guardian of Fundamental Rights: There are several fundamental rights provisioned in the constitution for people and Supreme Court protects them. Supreme Court has primary jurisdiction in this regard. In case of violation of Fundamental rights of any individual or institution, then to get them enforced, they can directly approach Supreme Court. Supreme Court can issue many writs like Habeas Corpus, Mandamus, prohibition, Quo Warranto or Certiorari.

Verdicts of Supreme Court on fundamental rights are applicable on all courts of India. In 1967, Supreme Court gave verdict in Golaknath vs. government of India, that fundamental rights can't be changed by parliament, but later in the judgment of April 24, 1973 while considering writ petitions against 24th, 25th and 29th amendment of constitution, that parliament has the right to amend fundamental rights also under the basic tenets of our constitution. This verdict of Supreme Court has reversed its Golaknath verdict. 42nd amendment of constitution empowers parliament to do necessary amendments in the constitution without any ban and amendments done under article 368 are not enforceable in Court of Law under any circumstances.

5. Power to Interpret the Constitution: Supreme Court has the last right to interpret the constitution. Under article 141, Laws as declared by Supreme Court shall be binding on all Courts of Law across India. India has Union Administrative system and division of powers has been done between Centre and States on Statutory basis. Under such circumstances, there are bound to be differences of opinion. To resolve such difference, Supreme Court has to interpret the constitution. Such Interpretation exercise of Supreme Court is last and final and each party is bound to accept those decisions taken in this regard.

6. Power to Transfer of Cases: Under 42nd amendment of constitution in 1976, one new clause has been added in the constitution of 139(A), which empowers Supreme Court to transfer Cases from One High Court to another, in order to let Justice prevail. Besides, if Attorney General is of the view that any case pertaining to general welfare and it incorporates any important Legal angle to be discussed, then it can request Supreme Court to transfer it from High Court to Supreme Court and get it resolved.

7. Disputes Concerning Election of President and Vice-President: Prior to 39th amendment of constitution, Supreme court used to hear any dispute relating the election of president and vice president, but in 1975, this right was taken away and decided that parliament would constitute by enactment of law, any body or institution to resolve such disputes. But again with 44th amendment, this right of Supreme Court has been restored and now Supreme Court is final authority on such disputes and its decisions shall be final and binding.

8. Power to Frame Rules to Regulate Activities of Courts: Under article 145, Supreme Court has been empowered to frame rules at frequent intervals to regulate the activities, functions and process of Courts. A new clause has been added by 42nd amendment to this effect. Under this new clause, Supreme Court can use provisions mentioned in 131 A and 139 A to frame rules.

9. Power to Review its Own Decisions: Supreme Court has the right to review its own decisions. For example, Supreme Court has opined in case of Sajjan Kumar vs. Government of Rajasthan that Parliament can amend necessary in the fundamental rights. In 1967, in Golaknath case Supreme Court gave verdict that Government can't amend the constitution but in 1973 case of Keshavanand Bharti, Supreme Court gave verdict that parliament can amend the fundamental rights.

Notes

10. Court of Record: Supreme Court is considered as a Court of Record. All its proceedings and verdicts are published as a proof and are accepted as Judicial Precedent by all courts of Law. Supreme Court can penalize any person for Contempt of Court.

11. Miscellaneous Functions: Supreme Courts can perform following functions also:

(*i*) Supreme Court can appoint its Officials. This is done with the consultation with Union Public Service Commission and itself.

(*ii*) Supreme Court is the Administrative Head for all Courts of India and ensures that they are functioning correctly or not.

(*iii*) President has the power to remove Chairman and other members of Union Public Service commission, but he can do it only when Supreme Court investigates Charges as leveled against them and proves them guilty.

Notes In Case of a dispute relating to the election of President and Vice President, then Supreme Court has the authority to decided and the decision of Supreme Court shall be final and binding.

Enlargement of the Jurisdiction of Supreme Court: Parliament has the right to pass Bill under Article 138 and 139 and enlarge the jurisdiction of Supreme Court in the following aspects:

(*a*) Appeal jurisdiction on Cases related with Decision on Criminal Cases against High Court verdicts (*b*) Any subject mentioned in Union List (*c*) Any Case which Centre and States have decided collectively to hand over to Supreme Court (*d*) Any other power required to exercise its Jurisdiction (*e*) Apart from fundamental rights, issuing Writs and advices for implementing any other objective.

With the detailed analysis of the powers of Supreme Court, it is clear that Supreme Court is a very powerful and influential Institution.

Position of Supreme Court: Supreme Court is considered to be a powerful & influential part of the government it is as powerful as any other Supreme Courts of the world. It has been vested with immense powers by the Constitution. Verdicts passed by Supreme Court are applicable on all government bodies and Courts. It has the right to hear appeals on several subjects. Supreme Court also has the right to issue Special Orders on Appeal. Besides, Supreme Court protects the constitution. It has the final right of Interpretation of Constitution. It also protects the fundamental right of the people. Right of Judicial Review has made its position even more powerful and important.

Alladi Krishna Swami Aiyar states that, "Future Evolution of Indian constitution will to a large extent, thus depend on the work of Supreme Court and the directions which it gives to the nation". As per another Scholar M.C. Sitalwad," The jurisdictions and powers of Supreme Court are wider than those exercised by the highest court in the Commonwealth or of Supreme Court of America". In the same context Paylee said, "Combination of such wide & varied powers of Supreme Court not only makes it a supreme authority in judicial area, but also the Guardian of the Constitution and the law of the land".

Self Assessment

Fill in the Blanks:

1. Supreme Court of India has been constituted by .....
2. In 1986, number of Supreme Court Judges was increased from 17 to .....
3. In 1977, Janta Government appointed ..... to investigate atrocities of 1975 Emergency.
4. Supreme Court is the Guardian of ..... rights.

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Notes

9.2 State High Court

India has Single Judicial System, where Supreme Court is at its Apex Level and State High Courts functions under it. Under Article 214, there shall be a High Court for each state. As per Article 231, this has also been said that parliament can have provisions for One Combined High Court for two or more number of States or for any Union Territory. As per the Punjab Reorganization Act 1966, parliament made provisions for a Court for the States of Punjab and Haryana and for the Union Territory of Chandigarh, which is situated in Chandigarh. High courts even though being a part of the National Judicial System, are independent Units of their own. There is no control of State Legislative or Executive.

Composition: Each High Court has One Chief justice and some other Judges. Their numbers are fixed by the President by considering the need of functioning. Due to work overload, Additional judges can also be appointed in any High Court for a maximum period of 2 years. At present, Punjab & Haryana High Court has One Chief Justice and 26 other Judges. Allahabad High Court has 60 Judges at present.

Qualifications: Following are the Qualifications required to be a Judge and Chief Justice:

(*i*) He should be and Indian Citizen.

(*ii*) He should have worked on a judicial post in Indian Union for a minimum period of 10 years or

(*iii*) He should have practiced Law for a minimum period of 10 years in any or more High Courts. The Tenure worked as a judicial member of any Tribunal or any post offered by Central/State Government which required specialized knowledge of law after he started practicing Law, can be included in the required qualification of 10 years.

It was decided by 42nd amendment that anyone can be appointed Judge of High Court, who is famous specialist of law in president's view or has been appointed member of any Tribunal or has worked on a post of Central/State government which requires special understanding of Law. But after 44th amendment, it was provisioned that President can't appoint anyone as a Judge who is a famous Legal Expert, unless he fulfills other eligibility criteria.

Appointment of the Judges

President appoints Chief Justice and other Judges of High courts in consultation with the Chief Justice of India and Governor of the State concerned. While appointing other Judges of the High Court, President has to consult Chief Justice of the concerned High Court. Normally, Chief Justice is appointed on the basis of Seniority. But on May 10, 1974 Justice Narula was appointed the Chief Justice of Punjab and Haryana Court after Justice D.K. Mahajan retired, resulting in the resignation of Senior Justice Prem Chand Pandit as a protest. On January 27,1983 Central Government decided to appoint Chief justice of High Courts from outside the State and the basis of their selection shall be the Seniority and Ability in their respective courts. On July 15,1986 Supreme Court directed Central Government to implement the policy of appointment of Chief justice of High Court form outside the State.

Term of Office: High court Judges work till the age of 62 years and they can also exit by resigning before their term expires. They can't work on any other post thereafter without government's approval.

Removal: In case of Misbehavior and Incapacity, if both the house of parliament passes proposal with 2/3rd majority of their total number and with 2/3rd majority of available and voting members and sends it to president, then president can terminate the Judge .

Salary: Chief Justice of High Court gets ₹ 80,000 and other Judges ₹ 70,000 per month as Salary. Besides, they get other Allowances also. Apart from Financial Emergency, their Salary and Allowances can't be reduced under any circumstances. In March, 1976 government made provisions for the pension after retirement for Judges of High Courts.

Notes

Oath: As per Article 219, each Judge has to take Oath of his post in front of Governor or in front of any other Officer as appointed by him that, he shall have Faith in Constitution, shall discharge his Duties with Honest and shall protect Constitution and Law.

Transfer of Judges: President can transfer Judges from One State to another. During Internal Emergency, one State high court held the Transfer of 7 of its judges to another State as illegal, in a very important verdict. On January 27,1983 Central Government passed a Law, that those judges can't be transferred to another State, who only have one or less number of years left in his service.

General Provisions: after retirement, Judges of High Court can't practice in any Court of Law other than Supreme Court and other High Courts. It means that he can't practice in the High Court, from where he has retired.

Powers and Functions: powers and functions of Judges of High Court remain the same as they were before the adoption of Constitution. Main function of High Court is to give verdict on Cases, but it also has got the right to Judicial Review. Besides, it has to handle administrative work of Courts under it. These powers and functions can be described as following:

1. Original Jurisdiction: In Kolkata, Mumbai and Chennai high Courts, some Civil and Criminal Cases can be directly filed as First Petition only. For them, it is not essential that should be first filed in subordinate courts, as found in other states.

(*i*) **Admiralty:** Case like Will/Probate, Marriage Laws, Divorce Laws, Company Laws etc can also directly be filed in High Courts. In the context of Contempt of Court, All high Courts enjoy Original Jurisdiction.

(*ii*) **Guardian of citizen's Fundamental Rights:** Any citizen can directly approach High Court or Supreme Court in case of a violation in Fundamental Rights. Courts by several writs such as; Habeas Corpus, Mandamus, Prohibition, Quo Warranto, Certiorari etc protect interests of the people. These writs can be used for other objectives also. By the 42nd amendment, Courts were deprived of some of its special rights, but with 44th amendment, those have been restored .

2. Appellate Jurisdiction: Each High Court has a right to hear appeals against verdicts of its Subordinate Courts, which can be classified in to following two parts: (*i*) Civil (*ii*) Criminal

(*i*) **Civil :** in Civil Cases, any appeal can be either first or second. First Appeal means that, appeal can be made against District Court directly in High court, which is possible only when there is a vital Legal part involved which needs discussion. Second Appeal means that, when District Court has heard appeal against its verdict, even then it can be filed in high Court, but when there is a vital Legal part involved which needs discussion. If there is First and Second Appeal been heard in High Court by its Judge, even against that verdict, it can be presented in High Court again, such Cases are heard and considered by more than One judges .

This is mentionable here that Punjab Courts Amendments Ordinance, 1979 was implemented on January 9,1980. As per this Ordinance, First Appeal in District Court and Second Appeal in High Court against verdict of District Court can be directly filed, if it is a case pertaining to the amount of ₹ 20,000 to ₹ 5 Lac.

(*ii*) **Criminal:** following cases of appeal against verdict of Lower courts can be done in High Courts:

(*a*) If Sessions judge has awarded Death Sentence to any Criminal, then it has to be confirmed by High Court. The Criminal himself/herself can appeal in High Court.

(*b*) If Lower Court has awarded a Sentence of 4 years or more to any Criminal.

(*c*) Appeal against any Presidency Magistrate can be done in High Court.

(*d*) Appeal against the verdict of High court can be done In Supreme Court, but such appeal can't be done in each Cases. Legally, it is imperative that those Cases which can be appealed in Supreme Court as per Law, has to be approved by High Court. Supreme Court under Article 136 can give permission to hear any particular case without the consent of High Court also.

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Notes

3. Adminstrative Powers: Place of High Court in State Legal Framework is of paramount status. It takes care of all subordinate court's functioning and frames rules for discharging of their duties. Following are the Administrative powers of High Courts:

(*i*) It can investigate all courts and tribunal within State Boundaries except Military Courts.

(*ii*) It can frame Rules of Procedure for all its Subordinate Courts.

(*iii*) It can frame rules for subordinate courts relating to Keeping Records, Accounting and safely managing the Documents.

(*iv*) It has the right to ask for any particular File Record on Information from Lower Courts for inspection.

(*v*) It can transfer any particular Case from One Court to another.

(*vi*) High court is a Court of Record, which means that its Decisions and work style can be presented in other courts as an example.

(*vii*) It has the right to get any Case transferred from any Court of law to itself and also has the right to ask any Court of Law to pronounce Verdict sooner.

(*viii*) It has the right to see whether subordinate courts are performing duties within their jurisdiction and are discharging duties with honesty and dedication.

(*ix*) It has the right to fix Salary, Allowances and other terms & conditions of work for employees of its subordinate courts. It also is empowered with making rules and Laws concerning Promotion/ Demotion of judges, Pension etc.

(*x*) As per article 129, Chief justice appoints staff and other officials and fixes their terms and conditions of work. He consults State Public Service Commission. These Rules/Laws get implemented after securing the approval of the Governor. If High Court is situated in Central governed area, then it has to be approved by the President.

4. Right to Transfer Cases: If high court gets to know about any ongoing Case in any of subordinate court which requires Interpretation of Law, then it can take over that case. It can itself deliver verdict on it or can return to subordinate law for passing verdict after Interpreting the Law concerned. It also has the right to transfer a Case from One Court of Trial to another.

5. Court of Record: It is a court of record. All its decisions and verdicts are published and become a precedent for future. Advocates refer to them while pleading in Lower Courts. High Court also has the right to penalize people with Contempt of Court proceedings.

6. Guardian of Fundamental Rights: It protect fundamental rights of citizens and in case of its violation, it can act on those individuals or institutions who do so. it can issue several writs to protect them. Matters relating to Fundamental rights violation can be directly appealed in the supreme court also.

7. Right to Interpret the Constitution: It has right to interpret the constitution on some matters. It heards constitutional Cases and delivers verdict on them. But its verdicts are not Final and they can be challenged in Supreme Court. If any State Legislative passes any bill or State Executive issues any orders which violates constitution, then High Court held them as illegal. After 42nd amendment, provisions have been made that High Court can't consider those cases which relate to the constitutional validity of any Central Act. Such Cases can only be considered and decided by the Supreme Court.

8. Right to Certify Cases: Cases against High court verdict can be appealed in Supreme Court only when it is certified by High Court that required criteria of appeal as per constitution is fulfilled for such appeal. But Supreme Court can grant permission to consider Cases, even when High Court does not certify it in some cases.

Extension of Jurisdiction: As per Article 230,parliament can remove or add any Union Territory by enacting a law for the Judicial function purpose from the jurisdiction of High Court.

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Notes

Independence of High Court Judges

Same set of provisions have been ensured by the constitution for the independence of High Court judges, as have been done for Supreme Court judges which are as following:

1. Judges of High Court are appointed by the President and such appointments are done in consultation with people having Judicial ability.
2. Retire Judges of High court can only practice in Supreme Court and other High Courts where has not served as a Judge.
3. Salary and Allowances of judges of High Courts have been fixed by the constitution and after taking charge, there can be no reductions in their Salary or Allowances. Right to frame laws on Salary, Allowances, Pension and Leave are with parliament and not with State Legislature.
4. Tenure of High Court Judges are safe. Judges work till their retirement age and they can be removed before the expiry of their tenure only by Impeachment.
5. Officials of High Courts are appointed by the Chief Justice of High Court and fixes their Terms & Conditions also.
6. Judges Salary and other administrative expenses depends on Consolidate Fund of State or Union and hence there can be no Voting in State or Union Legislative.

Thus, independence of high Courts has been ensured completely and as regards till date working of High Courts of Indian Union, it can be said that High Courts have been able to discharge their duties in a totally independent and neutral manner.

Position

With above mentioned powers and positions, it is established that High court is the Supreme Judge of the concerned State and all other Courts function under it. Even State government does not have any control over it. State Government can't make any law on its Composition and powers. Its Judges enjoy complete safety of their Posts and government can't try to influence them by any obligation. This is the reason, Judges have been able to function with Dedication, Honesty and Independence. By the 42nd amendment, Judge's rights were curtailed to some extent, but after 43rd & 44th amendment, their previous positions have been restored.

Just like Supreme Court Judges, High Court judges are also totally free from the influence of Executive and Legislature with respect to their Posts. As per **M.C. Chhagla**, "our constitution has set up such a Judiciary by having Supreme Court and High Courts, that can't be removed and that are in no ways under the influence of Executive and Legislature".

Self Assessment

Multiple Choice Questions:

5. Judge of High Court while taking charge has to take Oath in front of whom?
   (*a*) Judge of High Court (*b*) Governor
   (*c*) President (*d*) None of the above
6. Which of the following does not come under the purview of Civil Case?
   (*a*) Divorce between Husband and Wife (*b*) Property
   (*c*) Robbery (*d*) All
7. Under which article, parliament by any act or law can include or remove areas of Union Territory for Judicial purposes from the jurisdiction of High Court?
   (*a*) Act 230 (*b*) Act 323
   (*c*) Act 320 (*d*) Act 244

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Task How does a Supreme Court Judge get appointed, Explain.

9.3 Judicial Review

Provisions of Judicial Review while understanding the importance of being used as a tool against potential Constitutional & Executive Errors and use of Excessive powers against mentioned limits, has been included in the Indian Judiciary System by the constitution makers. But instead of writing it in one particular article, they have tried to fix it by separate constitutional provisions. They tried to emulate the provisions of American constitution, but at the same time, it was moulded to suit Indian conditions. Indian constitution is Nation's Supreme Law and Supreme court of India has the right to protect and Interpret it. It also works as the Guardian of Fundamental rights of the people. For discharging this duty, it uses its power to investigate and evaluate the Statutory and Executive works and Laws. This power of Court is called as the Power of Judicial Review. During Judicial Review process, if any Law/order or part of it, is found to be Unconstitutional, then it is Quashed by the Court. State High Courts also have Judicial Review rights, but Supreme Court can improve, stop or quash it.

This is how, Supreme court of India has Absolute and Final powers of Judicial Review on all Laws/ Rules of Executive and Legislature.

Judicial Review: Meaning and Definition

This is that powers of Courts on the basis of which, Constitution is Interpreted and those work of Executive, Legislature or Administration is revoked that are found to Unconstitutional. As per **Dimok and Dimok**, " Judicial Review is that experiment of Courts through its Cases, which in fact are in front of them by the work of Executive, Administrative work or Statutory Laws and to decide that whether Constitutional provisions have been violated or is in excess to its given powers." After Interpreting Constitution, it is found that any part or whole of any law violates any article of the constitution, then Supreme Court revokes the Law or part of that Law by declaring it unconstitutional.

In general, we can say that power of judicial review is such that by which it:

(*i*) Reviews Laws of Executive and Legislature, but in those cases only which come across it.

(*ii*) Decides on the Constitutional Validity of the Acts.

(*iii*) Revokes any law or part of law, which is found to be unconstitutional.

Judicial Review is not discretionary to the Courts. It can be considered only when during any case or in any special case's context, any particular law/act is challenged. Further, if Court revokes any particular law or its part, then the decision becomes effective from the date of verdict and all those provisions done in the past are not revoked basis this particular verdict. While revoking any particular law or its part, Court has to clarify that which Constitutional Article has been violated by this Law/Act. It also has to mention the reasons of revocation. By using this power of review, Court discharge its duty to protect the rights of the people, protects violation of constitution and Interprets the constitution against Executive and Statutory 's unwarranted and excessive use of powers.

Judicial Review in India

Justice **P.B. Mukharjee** has made it clear while narrating the origin of judicial Review in India, "this is constitution only which is Supreme in India and along with parliament state legislature also has to work within the boundaries of three schedules of Schedule seven but also have to be make the fundamental

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rights as mentioned in part III of the constitution enforceable. Courts can revoke any such law which is found to be against constitution".

Constitutional Basis of Judicial Review in India

None of the Article of constitution mentions about Judicial Review provisions. Its constitutional legality and applicability appears from the fact which declares that constitution is the supreme law of India and right to Interpret and protection of constitution rests with Supreme Court of India. Many articles of constitution provide constitutional base to judicial review as following:

(*i*) **Article 13:** It provides base to the Judicial Review power of the courts. It states," State shall not make any law, which dilutes or rejects rights as mentioned in part III and laws made in violation to these articles, shall be revoked". In other words, it contemplates that laws against fundamental rights shall be revoked. Supreme Court has the authority to decide on their constitutionality.

(*ii*) **Article 32:** Gives right to approach Supreme Court to enforce fundamental rights mentioned in part III of the constitution. Supreme Court exercises right of Judicial Review to protect fundamental rights.

(*iii*) **Article 131 and 132:** These two mention Original and Appellate Jurisdiction of Supreme court. These empower Supreme Court to resolve Centre-State dispute, State-State dispute and have interpretation of constitution. Supreme Court while deciding on above uses its power of judicial review.

(*iv*) **Article 226:** This article give State high Courts power of Judicial Review, which are exercised to protect the fundamental rights of the citizens, as mentioned in part III of the constitution.

(*v*) **Article 246:** As per this article, statutory powers have been distributed among Centre and States. Supreme court has been empowered to resolve all types of issues between centre and state, which arise out of division of power. This article also provides base to Judicial Review system.

(*vi*) **Article 124(6) and Article 219:** Under these articles, judges of Supreme court and High Court have to take Oath towards Constitution as established by law.

By all these special activities, judicial review power is given strength. In words of **Dr. S.C. Dash**, "this is the duty of judiciary to keep constitution protected against the invasion of Executive and Legislature".

Apart from these, there are some more qualities of constitution, which provide strength to judicial review power of Courts:

1. The principle of Limited Government: Constitution clearly outlines powers of the Government and government can only exercise defined powers and not more. No constituent of the government can go out of its jurisdiction. It is the duty of the judiciary to see that government body is working within its defined jurisdiction and in case of violation, Courts can quash those works.

2. Federalism: In federal system, judiciary has extra work that is, protecting constitution also. As Union and State government are restricted to go out of their jurisdiction, use of Judicial Review becomes even more essential for Courts.

3. Written Rights: Whenever constitution does provision for written and relevant rights as implemented by concerned laws, foundation of Judicial Review is laid. Courts get the right to implement to protect these rights. In the constitution of India, written right's bill is included with right to constitutional remedies, which is part of fundamental structure of constitution and for which it provides Judicial Review provisions.

4. Exercise of Judicial Review power of Judiciary: Ever since 1950, judiciary has been effectively using the tool of Judicial Review consistently. It has used this power to revoke many acts/laws of Executive and Legislature which have been found to be unconstitutional. There are several verdicts given in this regard viz; Gopalan Case, Golaknath Bharti Case, Keshavanand Bharti Case, Minerva Mills Case which are evidence of Judicial Review system and its recognition is given by government and other people.

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5. 42nd and 43rd Amendment: These amendments have strengthened Judicial Review system. By 42nd amendment, some restrictions on Judicial Review power of Supreme Court and High Court were introduced, but with 43rd amendment, these were rolled back. In this process, the system of Judicial Review has got recognition as an invaluable and integral part of constitutional system.

Therefore, Judiciary enjoys the power of evaluating constitutional validity of laws/acts/rules passed by Executive and Legislature and it is called power of Judicial Review.

9.4 Judicial Review in India: Features

Following are the qualities of judicial review system in India:

1. Both Supreme and High Court exercise the power of Judicial review, but to decide the constitutional validity of any Law rests with Supreme Court and its decision is Final.

2. Judicial Review can be exercised in all Union and State Laws, Executive Orders and constitutional amendments.

3. Judicial Review can't be exercised for provisions of Schedule 9 of the Constitution.

Did u know? Judicial Review can only be used for legal matters only and not on political ones.

5. Judicial Review is not at discretion of Courts. A supreme court does not act on legal issue, unless it is challenged. When there is a question of constitutional validity during the course of any ongoing case, then only it considers it.

6. Supreme court can decide after reviewing challenged laws/orders as following:

(*i*) Law is correct, it can remain to be in force as before.

(*ii*) Law is unconstitutional. It should cease to exist from the date of verdict.

(*iii*) Only some or one part of the law is unconstitutional, that concerned part/s is revoked. but in case those found unconstitutional are so important that without them, rest of the law can't be implemented, then entire Law/Act is revoked.

7. Those decisions remain in force which has been implemented before the date of verdict when a particular Law/Act is proved unconstitutional.

8. Supreme Court can amend or annul its earlier decisions.

9. Procedure established by law vs. Due process of Law: in India the principle on which judicial review is bases is of: procedure established by law, which is in force in America. Under due process of law, judiciary does dual test for testing constitutionality of law. First, courts decide on whether institution has worked under jurisdiction for making law and followed prescribed procedure and second is that whether the law fulfills the objectives of Natural Justice and whether it is a relevant act or not? If the law does not confirm to any of the tests, then it is revoked terming it as unconstitutional. In contrast, as per procedure established by Law in India, Courts only decide whether the act has been made as per provisions of constitution and processes have been adhered to or not. In this regard, judicial review system is only related with the system of procedure established by law. Courts only see that whether the law is made as per constitution or not and its scope is limited. In Gopalan vs. State of Madras, pleas was given that there is hardly any difference in procedure established by law and due process of law. But Attorney General opined that guarantee of procedure established by law in nothing but security of procedure established by law as made by eligible Legislature and nothing else. Court got convinced by the comment of Attorney General. thus courts can revoke laws on finding that required process was not followed by Legislature while framing laws. But in practice, supreme court of India has several times

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investigated the authencity of such laws. It never hesitated in reviewing the constitutional validity of constitutional amendments and on ban on fundamental rights.

While rejecting the system of Due process of Law and accepting Procedure established by Law, Indian constitution rejects the principles of Supremeness and Sovereignty, as it is prevalent in America and Britain. It adopts the Middle Path. Legislature has supremeness but within areas as defined by constitution and is exercise its powers within the defined boundaries as set up by law.

Notes Supreme Court can judicially Review the Laws made by Legislature, but can't review the spirit behind those constitutional laws.

10. While revoking any particular Law/Act in case of being found unconstitutional, Supreme Court has to explain those clauses/article which have been violated by such act/law. Supreme Court has to prove the unconstitutionality and illegality of the law, which is being repealed.

Judicial Review Behavior and Declare Limit of Unconstitutional Legislation

Supreme Court has exercised Judicial Review tool several time since 1950. It has delivered several historical Judgments which have given direction to the Constitutional Development Behavior of India. Without working as "Third Reactive House" against Laws made by Legislature for the socio/economic development, while protecting citizen's interests on fundamental rights and the constitution itself, it has played a commendable role.

It never has been hesitant to change its own earlier verdicts. It monitored that if there is any error or due to changed Socio/Economic Environment and needs of the people, it has been become necessary to amend earlier decisions, then it is effected. Cases like Gopalan, Ramesh Thapar, Kameshwar Prasad Case, Sankari Prasad Case, Champakam Dorairajan Case, Golaknath Case, Keshavanand Bharti Case, and Minerva Mills and in many more cases, Supreme Court acted tough and quashed many acts or part of laws, which were found to be unconstitutional. It firmly opined that though parliament has the right to amend constitution under article 368, yet it can't change the Fundamental Structure of the constitution. While exercising Judicial Review tool, it never drifted towards advocating Principle of Judicial Supremacy. It has always worked as Liberal, Independent and Neutral Judiciary. It never tried to stall developmental laws/acts. It has played vital role in delivering social and economical justice to the citizens of the country. It has always recommended and issued constitutional orders to ensure interests of weaker sections and minorities and minority's rights.

When parliament tried to put control on the Judicial Review powers of Courts by adding many clauses in the 9th Schedule of the constitution, then to stop parliament in doing so, it delivered in the case of Golaknath that, Fundamental Rights are pious and parliament can't reduce or revoke it. But later on, in the case of Keshavanand Bharti, it reversed its earlier decision and accepted 24th &25th amendment as Constitutional but quashed one amendment made in Article 31. During its verdict on Minerva Mills, it upheld the removal of Right to Property (44th amendment) from the List of Fundamental Rights, but revoked some of the provisions of Article 31 C done by 42nd amendment of constitution. While accepting the superiority of Fundamental Rights over Directive Principles, it accepted parliament's power to amend some parts of Article 14, 19 and 31, in order to implement some provisions of Part IV of Directive Principles.

So, for many years Supreme Court has used its Judicial Review Powers effectively and with Just. It has used it against Constitutional and Executive Suppression to protect the Liberty and Rights of Citizens and to Interpret and Protect the Constitution also.

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Critical Evaluation of Judicial Review

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Following are some of the criticism against it:

1. Undemocratic: Critics consider Judiciary as undemocratic as it enables it to decide fate of laws made by Legislature which is elected by the people and which enjoys patronage of people full of sovereignty.

2. Lack of Clarity: There is no specific mention of Judicial Review in constitution. It depends on the Implied Interpretation based on several article and clauses.

3. Source of Administrative Problems: This system has been a source of problems. When any part of parts or complete act gets repealed by Supreme Court, then it gets implemented form the date of verdict itself. Supreme Court only considers Judicial Review when there is question of constitutionality of any law in any ongoing Case. After an Act/Law is implemented, such Cases for Judicial Review come up before Supreme Court after 5 or 10 years from the date of implementation of such Acts/Laws. Revoking it after such long period creates long list of Administrative Headaches and many times, instead of solving an issue, it creates many.

4. Reactionary: Many critics think that Judicial Review system is a Reactionary system. They are of the view that while deciding on the constitutionality of any Law, Supreme Court adopts traditional and legal approach and revokes Laws meant for giving impetus to Socio/Economic development of the nation. Thus, Judicial Review is an Orthodox barrier on the Legislature.

5. Delaying System: It has been a source of Delay and Inefficiency. Many times, when an Act comes into existence, then people and agencies responsible for implementing it act very slow and keep sitting till the time, Supreme Court decides on its constitutionality while hearing any particular case. Hence, Judicial Review in itself is a Delaying and Inefficient system.

6. Makes Parliament Irresponsible: Critics further argue that the system of Judicial Review makes the parliament less Responsible, as they think while passing any law that Supreme Court in any case will decide the constitutionality of it, so the execution of passing law becomes irresponsible.

7. Judicial Tyranny: Bench of Supreme Court hears any constitutional Case which comes across and delivers its verdict with simple majority. But many times, it has been seen that the verdict is influenced by only One Judge and decides the fate of a law, which has been made by majority of elected representatives of sovereign people.

8. Reversal of Decisions by Supreme Court: It has been seen many times that, Supreme Court repeals its own earlier decisions or changes it. In Golaknath Case it changed the earlier decisions and in Keshavanand Bharti Case it restored previous position. It first Upheld One Law, then Withheld it and then again Upheld it. Such decisions pertaining to only one case reflects Individual element of thought, as done by different Benches and verdicts.

9. Source of Strain on the Prestige of the Court: Many times, Supreme Court becomes centre of political debate while discharging its right to judicial review. After the verdict of Golaknath case, discussion in parliament on Nath Pai Bill brought it to the fore. Judicial Review hence can reduce the Dignity of the Court and bring it in to the political podium.

10. Possibility of Deadlock between Judiciary and Parliament: When Supreme Court repeals any act or law, normally Parliament tries to amend the constitution or introduce new laws to justify the repealed act and tries to take control of the situation. Such processes create friction between Judiciary and parliament. On the issue of Fundamental Rights (Part III) and Directive Principles (Part IV), there was a divide between parliament and Judiciary due to the difference in the perspective and behavior of both parties. Such incidents can occur in future as well.

So, these were some of the basis on which Critics have argued against Judicial Review System.

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Justification of Judicial Review

Number of supporters of Judicial Review System of judiciary is huge and they don't agree to the critics argument. They give logic that Judicial Review is a necessary characteristic of Liberal Democracy and Union Political System, which has seen Judicial Review System playing vital role in its growth and development.

(*i*) It is essential to keep intact Sovereignty of the Constitution and in the last 6 decades, it actually has played commendable role in keeping the spirit of our constitution alive.

(*ii*) For stopping potential misuse of powers by Executive and Legislature, it is essential to have Judicial Review System. Supreme Court has a proven record of effectively doing it.

(*iii*) For establishing Union Balance and synergy between Union and States, its role as a Mediator or Arbitrator can't be denied. Supreme Court has actually been very instrumental in creating a balance between both the parts of the Administration by dint of its Judicial Review System.

(*iv*) Having Judicial Power with judiciary also becomes necessary for the reason that as the Third and the Weakest part of the Government can be made little more strong as compared to other two parts. This is also important for ensuring the Independence of the Judiciary.

(*v*) Judicial Review system enables Supreme Court to discharge its three major constitutional duties which are as: (1) Keeping Constitutional Supremeness Intact (2) Interpretation of constitution. Protecting Fundamental Rights of people. Judicial review enables Courts to act as a Corrective apparatus to work against Executive and Statutory violations of Fundamental rights.

(*vi*) Constitution has made several provisions to not let Supreme Court misuse its judicial Review powers. Constitution has made following provisions on use of Judicial Review system to ensure that Judiciary does not become Greater Executive or Legislature:

(a) Lack of specific mention of power or Judicial Review.

(b) Judicial Review is not applicable on all areas. Parliament can include 9th Schedule which ensures Social and Economical Reforms in order to keep it out of the purview of Supreme court jurisdiction of judicial review system.

(c) Judicial Review system has also been controlled by accepting Procedure Established by Law instead of Due Process of Law.

(d) Supreme Court also functions under the written provisions of Constitution. Parliament can amend the constitution if required as constitution is very flexible in many areas.

(e) Specific mention of fundamental rights along with exceptions is also a tool by which Judicial Review has been kept bridled.

(f) In cases of Union-State power distribution and dispute settlement, there has been brief and specific provisions in the constitution, which also keeps judicial review powers controlled.

(g) Parliament can resolve problems created by Judicial Reviews by doing required amendments.

All these caps prohibit misuse of Judicial Review powers.

To add the ability of Supreme Court to have judicial review tool, is an admirably important characteristic. This is a wonderful provision and its use is exercised by the Judiciary to discharge its constitutional responsibility. Supreme Court has used it without disrupting Social and Economical reforms process. Wherever it felt that its decision was flawed or has affected the interests of common people, then it never hesitated to change its decision. It has maintained its independence and used its powers and functions effectively and firmly. Many times, Judicial Review has created some disputes, but those have been sorted by other two components of government meticulously.

Thus, arguments in favor of having judicial review system continued have rationale. Judicial review is in force since the time of adoption of constitution. Some intellectuals and specialists have demanded to

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have another Constitutional system of Judicial Review, but the meticulous and intelligent use of Judicial Review process has rejected this demand for ever. General agreement is in favor of a continued Judicial Review system and it is indeed an invaluable component of Indian constitution.

Self Assessment

State whether the following statements are True/False:

8. Article 13 provides base to the Judicial Review Power of Courts.
9. Judges of Supreme Court and High court have to take Oath of Sincerity under article 124(6) and 219 respectively against the Constitution.
10. There have been no provisions mentioned in constitution to control the misuse of judicial Review.

9.5 Summary

- Supreme Court functions as the Guardian and Official Interpreter of the Constitution.
- Under Article 145, Supreme Court has been empowered to frame periodic rules to regulate the proceedings and process of work of Courts.
- In 1967, in Golaknath case, Supreme Court delivered verdict that parliament can't amend Fundamental rights, but in 1973, in Keshavanand Bharti case, it said that Fundamental Rights can be amended.
- Under 42nd amendment it was provisioned that president can appoint any person Judge of High court who possesses Expert Legal Knowledge or who has worked on any Tribunal or a post which requires knowledge of Law, for a period of 10 years under Central or State Government.
- Constitution is the Supreme Law of the land and Supreme Court has the Supreme right to protect and interpret it. It also functions as the Guardian of Fundamental rights of people.
- When Courts revoke any particular Law by declaring it unconstitutional, then it has to mention that which Article/s of constitution have been violated. It also has to specify the reasons for revoking the law.
- Judicial Review System has been a source of delay and inefficiency. When an Act/Law comes in to force, people and agencies responsible for implementing it, act very slow or sit back.

9.6 Keywords

- Review: To analyze again, to Evaluate again.
- Mandamus: Order or Instruction given by High Court.

9.7 Review Questions

1. Explain Composition of Supreme Court of India.
2. Describe Powers and Position of High Courts.
3. What do you understand by Judicial Review?
4. Critically Evaluate Judicial Review.

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Answers: Self Assessment

1. Act of 1935
2. 25
3. Justice J.C. Shah
4. Fundamental
5. (*b*)
6. (*c*)
7. (*a*)
8. True
9. True
10. False

9.8 Further Readings

Books

1. Indian Administration and Politics – *P. Rastogi.*
2. Indian Political System – *N. Chhabra.*

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Unit-10: Public Interest Litigation and Lok Adalats

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Objectives

After studying this unit, students will be able to:

- Know about PIL.
- Know about Features of PIL.
- Know about Definition and Functions of Lok Adalat.
- Understand the Features of Judiciary in India.

Introduction

Public Interest Litigation is a new branch of Judiciary, which is being used for the past some years. To deliver Justice to people is the Major and rather First Duty of Judiciary and for this purpose it is essential to make Judiciary active, efficient and as far as possible frugal and easy. Public Interest Litigation, which is popularly known as PIL, is often called New Legal Horizons. This has been adopted to fulfill these four duties. Since very beginning, this system has started getting popularity and Justice P.N. Bhagwati and others have played pivotal role in this process. Thus this system has developed as an important component of Indian Judiciary System.

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10.1 Public Interest Litigation: Concept and Nature

We can define Public Interest Litigation as such legal system, in which courts of law can initiate proceedings or Case for protecting any Public or General Interest Issue. When any Public or General is being affected badly by any individual or institution or even there is attempt for doing so, then Courts can initiate proceedings under our legal framework. In one of its verdicts, Supreme Court has defined it as," to initiate any proceeding for enforcing any interest of general or public importance, which is violating or damaging general interests of public or section of public, then this is called Public Interest Litigation. "such public interests are upheld on the basis of public rights and in the event of there being any activity (present or potential) against them, then courts can start legal proceedings and deliver required instructions to protect those interests and can protect public rights by penalizing culprits and compensating the victims.

Under PIL system, any individual or group of people or Institution can bring any topic or issue to the notice of the court, which is violating public interest or against public interest. Any government policy or order can be brought to the notice of the court, which is deemed to be against public interest. If courts agree to the concept of written report, then it can consider it as a petition and can initiate proceedings against the Institution or Government body, which is responsible for such violation by issuing a Notice.

Even in some case, Judges on the basis of Newspaper reports themselves can take recognizance by Suo Moto and initiate legal proceedings, if they are convinced that there is threat to the interests of the public by any particular policy or activity of Government or non Government bodies. They can issue notice to the concerned individual, institution, department, and agency for protecting public interests and start legal proceedings.

For example, when in May 1995, employees of Haryana Electricity Board went on strike due to sudden & illegitimate transfer of one of their colleagues, then the Judge of Punjab and Haryana court **Mr. V.K. Jhanji** taking notice of the issue, called upon Chief Secretary, Higher officials of Haryana Electricity Board, concerned Officials and Labor Union Leaders to the court. Court ordered that electricity be resumed at once and a proper investigation be constituted for analyzing the validity of transfer of the concerned employee and a report be submitted.

He also mentioned that in case the employees and union are unable to get justice from their employers, then they should approach Court and get justice. Thus, honorable Judge clearly protected interest of the public. In April 1977, public interest litigation was filed against Ex. Head and Treasurer of Congress, as he was alleged to have collected Foreign money as donations for the party without taking prior approval from the concerned official.

Thus, any individual or group of individual or citizen association can present a petition before court in case of a violation of public interest and if court agrees to the claims of the petition, then it can try to protect public interest by initiating a legal proceeding against it. Best part is, to ensure the interests of the public, any court can issue Suo Moto writ itself and start proceedings.

10.2 Features of Public Interest Litigation

1. Objective of PIL is to protect Public Interest and to initiate legal proceedings against those present or potential activities which are seriously affecting any public interest.

2. PIL proceedings can be initiated by any individual, group of individual or association, which brings to the notice of court any such violations. A simple letter can be sent to court and if court deems fit, then it can consider it to be a petition and start proceedings.

3. Judges of courts can on their own also start proceedings on the basis of Newspaper Reports or information collected otherwise, to protect public interest.

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4. No Official Petition is required for initiating PIL. It can be started by a normal petition.

5. Court can delegate the responsibility to any Advocate/s or to some other officials to see whether court orders have been adhered to or not. Court can delegate any official to investigate any written complaint and after finding the report on the same, can initiate legal proceedings to protect public interest.

6. Courts can order compensation to any individual or institution who have been affected by any government policy or activities of any official. Courts only can decide on the amount of compensation and the mode. Such compensation has to be given by the government or any official concerned or any quasi-government body.

Did u know? Public Interest Litigation is a simple judicial process through which citizens can protect their interests without having complexed paper work procedure.

Due to these qualities, PIL has emerged as a new revolutionary and important machinery to enable our judiciary to get justice for public in a more strengthened manner. Since the decade of 1970, many people have benefitted from this provision and many have availed compensation benefit also. Normally, legal proceedings are time taking, but this system has come up as a tool of quick and efficient justice and it can be said to be a new beginning of Indian Judicial Process.

Possible Misuse of the System and Preventive Measures

But this can be misused also. Some people to fulfill their own/specific interest, can try to utilize this system. They can use it to attain their political or individual objectives. But we must understand one thing that Public Interest Litigation can only be filed when there is a violation of Public Interest. It can't be used for Individual Interests.

Notes It cannot be implemented in those cases, which are already Subjudice in any court of law.

To stop misuse of this instrument, Supreme Court has indicated that anyone in the name of Public Interest tries to fulfill his/her individual/specific interest, then Courts can penalize the person. In some cases, Supreme Court has done so.

Many Critics argue against it on the basis that there have been no specific directions given in this regard. Courts can misuse it to their advantage and can violate the jurisdiction of Executive. They are also of the view that, many times the verdicts passed in such cases are not implemented in true respect. For example; in Bonded Labor Cases, the Labors get freed by using this tool, but afterwards, there is no plan of rehabilitation for them and thus freed Bonded Labor become a victim again of Bonded Labor system.

We accept the fact the public interest litigation system is a new beginning and it is gradually developing and getting popular. Courts too are coming forward to protect public interest by using this system. Many Social Service and Non-government Organizations are coming forward to protect matters of public interest with the help of this system. People like **Mr. H.D. Shourie** have actually took advantage of this system and protected many public interests. It appears that gradually this system will mature and shall be able to deal with potential threats. In fact PIL system has opened another vital path for getting justice; by using which, general public cannot only get their common interests protected from government and non government bodies, but also claim compensation against such violation. This provision has made Indian Judiciary System even more stronger in terms of delivering Justice more emphatically to the public and has made Courts more able to discharge their Social Responsibility.

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Self Assessment

Fill in the Blanks:

1. Pubic Interest Litigation is a new branch of ..... which is practically being used in India in past some years.
2. ..... is called New Legal Horizon.
3. Under Public Interest Litigation System, Citizens can without ..... get their Public Interest protected.

10.3 Lok Adalats

In recent past year, Lok Adalats are getting lot of popularity in most of Indian States. These are totally a part of our judicial system, nor they have High Legal Status, but they get quick and economical justice to common public by working as an Assisting Agency to our Judiciary Structure. Lok Adalat by meditating or by adopting the mode of Negotiation and by creating an environment for dispute settlement, between parties in dispute try to settle cases. In other words, their main objective is to have a unanimous agreement between disputing parties and settle the case. In most of the cases, it is found that Cases are fought for ages. Lok Adalats settle them in quite less time. These have made Justice Availability to people more positive. It has also made it possible for people waiting for compensation for ages, to have it quickly. Another quality of Lok Adalats is that its verdict can't be appealed in any other court, as its verdict is based on mutual consent.

In India, Lok Adalat system is almost 30 years old and Ex. Chief Justice of India Mr. P.N. Bhagwati played a pivotal role in starting this process in India. For providing free legal help to people from weaker and poorer sections of the society, Government of Gujarat, stated Lok Adalats and gradually it was adopted by almost all the states. Till date, around 12 Lac cases have been settled by Lok Adalats across India.

The Legal and Constitutional Basis of Lok Adalats

With 42nd amendment, one new article 39(A) was introduced whose main objective was to make available free legal help to people in need and to ensure that people have equal rights to justice. On the basis of this, parliament passed Legal Services Authorities Act in 1987, under which several Legal Service Institutions were established, whose main objective was to make available Free or at a very Nominal rate, legal help to the poorer and weaker sections of the society. A Legal Assistance Fund was created to at National, Provincial and District levels. Such legal assistance institutions were asked to encourage the settlement of cases through Lok Adalats. Later on, States by passing laws or by the orders of Executives did provisions on the basis of which Lok Adalats had to be established in different provinces and Lok Adalats had to settle Cases.

Task What is the meaning of Lok Adalat?

10.4 Organization and Method of Working of Lok Adalats

Lok Adalat can be formed at Province, District or Tehsil Level but normally it is formed at District Level only. There is One Judicial Officer and 2-3 other Dignified Citizens in the Lok Adalat. Any social servant, members of women association, retired officers, doctor, advocate, journalist or social leader can be nominated in Lok Adalat. These people endeavor people to bring their disputes to Lok Adalat with

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mutual consent and get justice at Lok Adalat. Many times, in the leadership of Judges of High Court also, these Adalats function and decision is reached by mutual consent of the concerned parties.

As regards pattern of working of Lok Adalat is concerned, there are following rules adopted:

(a) Only those cases come to Lok Adalat, which are already Subjudice under any court of law.

(b) Parties involved in the Case, can bring it to Lok Adalat by a simple application.

(c) To work at District and Tehsil level, District Sessions Judge has the information about organized Lok Adalats.

(d) The day on which Lok Adalat proceeding is fixed, information is given to parties concerned and at fixed date and time, parties appear in Lok Adalat and get justice by mutual consent.

(e) When Lok Adalat with mutual consent delivers a verdict, then Judicial Officer is informed.

(f) Then of the basis of verdict passed, Judicial officer issues a Decree on the same.

(g) Since verdict of Lok Adalat is on the basis of mutual consent, no appeal can be made against it.

(h) There is neither any rigidity nor any rigid formality in the functioning of Lok Adalat. Decisions are made on the basis of mutual consent and co-operation.

Normally following cases come across Lok Adalats:

(*i*) Compensation Cases pertaining to Motor Accidents.

(*ii*) Cases pertaining to Marriage and Divorce.

(*iii*) Cases pertaining to compensation of Laborers.

But those cases can't be brought before it, where one party if Government provision.

Lok Adalats have worked admirably and its reduced burden on Judiciary and made justice process less costly and easy. It also has reduced number of appeals against Judicial Verdicts. It has made available justice for poorer and weaker sections of society. There has been a positive effort in establishing consent and co-operation as they deliver verdict by mutual consent only. Thus none of the party considers itself defeated. Certainly Lok Adalats have worked to reduce the justice delivery time of our judicial structure. The Lok Adalat which is gradually growing in past 30 years can be termed as Decent and Essential Judicial development. Even though, no big cases come across it and it majorly involves cases of compensation, yet it has helped a lot to bring down cost involved to fight legal case and increased efficiency.

Like other liberal democratic political systems, India too has an independent and effective judiciary, where Supreme Court is at Apex Level, High Courts at State Level and Subordinate courts operate at regional levels. Indian constitution makes the credibility of judiciary system independent by adopting as a necessary condition, all those qualities, which are widely recognized. It in its totality, establishes importance and supremeness of judiciary as Guardian and Interpreter, as a protector of fundamental rights of people and as a mediator of centre-state disputes. It also takes steps to ensure the existence of powerful judiciary and to keep judiciary at distance from the influence of Executive and Legislature.

Self Assessment

Multiple Choice Questions:

4. On the basis of Directive Principles, in which year Legal Services Authorities Act, was passed by parliament?

   (*a*) Year 1986 (*b*) Year 1976

   (*c*) Year 1987 (*d*) Year 1988

5. Which type of Cases come before Lok Adalat?

   (*a*) Which are not Subjudice under any court of law

Notes

(*b*) Which are Subjudice under any court of law

(*c*) Both (*a*) and (*b*) (*d*) Neither (*a*) nor (*b*)

6. Which Case normally does not come across Lok Adalat?

(*a*) Compensation Cased pertaining to Motor Accidents

(*b*) Murder Cases

(*c*) Marriage Cases

(*d*) Labourer Compensation Cases

10.5 Independence of Judiciary in India: Features

1. Separation of Judiciary from the Executive and Legislature: In India, Judiciary is neither a Branch of Executive nor a Maid of Legislature it has got independence existence and identity under constitution. Supreme Court is the Apex court of the nation and it runs Legal Administration in our nation. Judicial structure operates on the basis of Direction, Order, Decision, Directive and Laws as made by Supreme court of India. Constitution in Part IV directs State to separate Judiciary from Executive and it has achieved also by appropriate laws and enactments.

2. Appointment of Judges by the President: The way and rule of appointment of any Judge decides the level of independence of his/her liberty to a large extent. Judges of Supreme Court and High Courts are appointed by the President. While appointing other judges of supreme court, take advice of Chief Justice. Seniority is takes as a fundamental criterion for the appointment of Chief Justice. As regards, subordinate courts, those Judges are professionals. They are appointed through competitive exams and before they are inducted, they are imparted proper training.

Seniority principle in appointment of Chief justice & independent system for appointment about other judges and besides the provision that in case of other judge's appointment, promotion, transfer etc. president shall take the advice of Chief Justice, has ensured and strengthened the Independence of Judiciary.

3. High Qualifications: Constitution decides on High and Specific qualifications for Judges to be. For being a Justice he needs to be an Indian Citizen, he must have worked as Judge in high court at least 5 years or he should have worked as an advocate in any high court for at least 10 years or he should be an extremely qualified Legal expert. So only those can be appointed as judge, who possess specific experience and qualifications as fixed by constitution.

4. Long Tenure: Constitution states that Judges shall work up till the age of 65 years. This age limit ensures longevity in their tenure. Besides, if need be, then a retired judge can also be appointed by the chief justice as per the approval of president.

5. Security of Service: For the independence of judiciary, it is imperative that services of judges are safe and secure. In India, judges exercise this right. Any Judge can be removed only by Impeachment proceedings and this process is too tough. President can remove any judge only when both houses of parliament pass proposal with 2/3rd majority of its total strength and by 2/3rd majority of available and voting members. Thus, president can only appoint Judges, but not terminate them.

6. High Salary: Each judge of Supreme court takes a monthly salary of ₹ 90,000 and Chief justice of India draws a salary of ₹ 10,0000. Besides, they are entitled to other allowances and free accommodation and medical facility. Their salary and allowances can't be reduced under any circumstances except in financial emergency situation.

7. Prohibition of Practice after Retirement: Retired judges of supreme court can't do practice in any court of law or before any officer. Nonetheless, government can take their services by any means viz; any specific investigation or as a member/chairman of any specific commission constituted.

8. Power to Punish for Contempt of Court: Supreme court and other courts have the power to penalize in case of contempt of court. Under contempt of court act,1971 supreme court can punish any individual

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or institution, found guilty of contempt of court. It can pronounce 6 months simple imprisonment or a fine of ₹ 2000 or both.

9. Wide Jurisdiction and Power of Judicial Review: Indian Judiciary has wide jurisdictions. It functions as protector & Interpreter of Constitution, protector of fundamental rights of people and as a mediator between centre and states and state-state. It has the power to evaluate constitutional validity of each law/ act /order made by Legislature or Executive it is not under any of the two components of government its verdicts apply on one and all. Such a powerful situation, helps judiciary maintain its independence.

Thus, constitution of India describes all those qualities which are essential for a free judiciary. Indeed, independence of Indian Judiciary is an important and original characteristic.

Judicial Behavior

With all those qualities which are essential to make a judiciary free, Indian judiciary have worked as a Free, Effective and Efficient judicial system. Indian judiciary has always been aware about its position and esteem responsibility. It has done commendable work in its sphere. It has justified the confidence of constitution makers as expected from judiciary. It has played its role of Guardian and Interpreter of constitution, protection of fundamental rights of people and as a mediator between disputes of Centre and States, very well. It has played the role of Liberal Judiciary without being a hindrance to social change and has been committed to maintain law and justice. It never showed its hesitance to change or repeal its own decisions, in the interest of public or social and economical needs of justice. In last many years, it has decided on so many Civil, Criminal and Constitutional cases. It has delivered its verdict on such high posts such as Prime Minister and President also with liberty. The verdict of Election case of Allahabad court against Indira Gandhi was a memorable one, which threw light on Judicial independence and Rights. As an Apex court, supreme court has always maintained its position of dignity and independence. Without adopting Judicial supremacy, supreme court has played vital role in the protection and Interpretation of constitution. It has done so by staying well within the jurisdiction as set by the constitution. It never worked as committed court of law as a perspective, but it never obstructed in the way of social and economical restructuring of India. While interpreting constitution, it has adopted a positive, creative and objective perspective. In present times, Judicial Activism of courts have become major part of Indian political system. Supreme court and High court have started playing even active and dynamic role. Now it is becoming more active for protection of public interest and rights. Under public interest litigation, judges on their own are taking up cases for protecting public rights and interests and to make available justice for people. Lok Adalats have also given impetus to the process of judicial dynamism. Provision of Fast Track Court have also reduced delay in justice to a large extent.

Some Attempts and Caps on Limiting the Role of Judiciary in India

Supreme court, High Courts and subordinate courts have been working as an integral part of Judicial structure as made by constitution and laws framed later on. Indian judiciary has been playing its part objectively. But there have been effort of putting impediments in the path of judiciary, though they have not been successful. Many times, government has tried to convert its decisions of courts in its favor by making new laws. Following facts throw light on the impediments created in the path of judiciary:

1. Even though supreme court has been liberal while interpreting constitution, government has made its verdicts ineffective by introducing laws and amendments, as made clear by T.S. Rajgopal Iyengar by the example of Constitutional Amendments. For example first amendment was introduced to remove the verdict of supreme court in the case of Ramesh Thapar vs. Madras State, Champakam Dorai Rajan vs. Madras State. 4th, 17th, 25th and 26th amendments were introduced to get rid of effects of several other judgments. 26th amendment was brought in to tilt the favor in Madhav Rao Sindhia vs. government of India (Privy Purses). 39th amendment was done to tilt the case in government favor in famous Allahabad court verdict, which upheld the illegality of 1971 election of Indira Gandhi from Rai Bareli.

Notes

2. To have control on Judiciary, 42nd amendment was done in 1976. Principle of Parliamentary Supremeness was adopted In it. Constitutional amendments were kept out of judicial jurisdiction, high courts were barred from having judicial review on Union laws, by having provision of 2/3rd majority judicial review was made difficult, for any other objective, took back power of issuing orders of high courts for individual witness, in some other contexts entire legal rights of Civil courts including supreme court, high court were taken back and were handed over to Tribunals which were to be established by parliament and monitoring right of high courts were taken back as mentioned in article 227. This is how, efforts were put in to put judiciary on back burner, but fortunately with 43rd amendment, such attempts were finished.

3. In 1951, through first amendment, 9th Schedule and article 36 B were added. In this schedule such laws were listed, which could not be judicially reviewed. After 1951,number of such laws which find space in 9th schedule is increasing. Now it contains more than 200 laws and it has certainly tried to limit the power of judicial review.

4. From Executive side, the effort of appointing Junior Judges by violating principle of Seniority in Supreme Court has also been a very unfortunate. In 1973, Justice **A.N. Ray** was appointed Chief justice by violating seniority of 3 judges- Justice Shelet, Justice Hegde and Justice Grover. Besides, when Justice **H.M. Baig** was appointed as Chief Justice, then seniority of Justice **H.R. Khanna** was violated. In all these cases, other Judges resigned as a token of protest. But after 1977, there have been no case of such violations. It appears that principle of Seniority has been accepted for all Judicial appointments and promotions. In fact, government has decided to show its commitment towards adopting principle of seniority in all appointments and promotions.

5. To deal with non obliging Judges, practice of transferring them from one High court to another has been used a lot. This practice has been opposed by the judiciary and public opinion also is not in favor of this. But Executive has always used this tool, even though principally Government has accepted to use it as less as possible.

6. Criticism of Supreme Court verdict on Nath Pai case of 1969 has also been an attempt to reduce the dignity of courts.

7. Difference of opinion between parliament and Judiciary which existed on part III and part IV of constitution, was also used by many parliamentarians to tag judiciary as Reactive and Orthodox. But public opinion never considered it as an error of judiciary. Supreme court also has through its verdict behaved as per public opinion and constitutional provisions, in the interest of society desires and social and economical interests.

Many times, Executives have misused the transfer policy of judges and many such transfers have been politically motivated. Many times, retired judges have been appointed Governor. It has been tried to limit Judicial independence by such attempts. But now Executive has adopted the principle that without consultation of Supreme court, no such act, policy or transfer would be effected, which affect judicial independence. This is a decent development and has been helpful to maintain the independent nature and independence of judiciary.

In spite of such attempts of Executive and Legislature, Indian Judiciary has always behaved like an independent system. Protection of fundamental rights, guarding the constitution and justice for all has made judiciary discharge its duty effectively. Its verdict of no amendments in the fundamental fabric of the constitution has made it even more popular. In the recent past, it has taken Public Interest Litigation job in its hand. It has done several experiments to ensure social and economical justice. As per justice **P.N. Bhagwati**," supreme court has developed many new commitments. It has nurtured the system of participation of Justice. It has made processes of justice less levels. It has made justice closer to the common public." Free legal aid to weaker sections and poor community, public interest litigation system and Lok Adalats are admirable developments of our times. In India, judiciary has not only kept its independence intact, rather kept the purity of constitution also alive and also has delivered on objective of people's fundamental rights, independence and justice. It never hesitated in issuing

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warnings to Central government and its employees or State government and its employees. High courts also have followed the examples of supreme court. They also withheld those elections, appointments, promotions, jurisdictions which violated constitution, laws or principle of natural justice. Indeed Indian judiciary has played its role quite admirably. These days, a new powerful judicial activism is being brought in use by supreme court and High courts.

Self Assessment

State whether the following statements are True/False:

7. In India, judiciary is neither a branch of executive nor it is a maid of legislature. It has got its own existence and identity under constitution.
8. Any judge can be removed from his post by the process of impeachment.
9. To empower the judiciary, 42nd amendment was done in 1976. In this the principle of Parliamentary supremacy was adopted.
10. The full form of P.I.L. is Public Interest Litigation.

10.6 Summary

- Public interest litigation system can be defined as such a legal system in which court of law can start proceedings/case in matters of securing public or general interest.
- Public interest litigation system is a new initiative which is developing gradually and is becoming popular slowly.
- By the 42nd amendment of the constitution, a new Directive Principle 39 (A) has been adopted according to which states were directed to run law and order in such a way that everyone gets equal opportunity to get justice.
- The provision of Lok Adalats has done appreciating work in a trustworthy way. It has reduced the workload of judiciary and has made the process of getting justice easier and less costly.
- For the Fundamental Rights of citizens and the security of the Parliament and to provide justice to all, the Indian Judiciary has by oath performed its constitutional roles.
- Supreme Court has never shown hesitation in warning the Central government and its employees, or the State government or its employees.

10.7 Keywords

- Compensation: To provide for some loss.
- Decree: An order to provide right on property, etc., ruler having status of law or rule of executive.

10.8 Review Questions

1. What is Public Interest Litigation system?
2. Give the features of Public Interest Litigation.
3. What do you understand by Lok Adalat?
4. Specify the Independence of Judiciary.

Notes

Answers: Self-Assessment

1. Law
2. P.I.L.
3. Documented
4. (*c*)
5. (*a*)
6. (*b*)
7. True
8. True
9. True
10. True

10.9 Further Readings

Books

1. Indian Political System: *U.R. Ghai.*
2. Indian Rule and Politics: *P. Rastogi.*

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Notes

Unit-11: State Government: State Legislature, Governor, Council of Ministers and Chief Minister

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Objectives

After studying this unit, students will be able to:

- Describe about the formation, functions and powers of the State Legislature.
- Understand about the appointment, office, powers and position of the Governor.
- Understand the joint working and position of State Council of Ministers.
- Describe about the appointment of State Chief Minister and his powers, functions and position.

Introduction

The Constitution has established a Legislature for all the 28 states of the country. According to Article 168, "Every state shall have its Legislature, in which the states of Bihar, Maharashtra, Karnataka, Jammu & Kashmir and Uttar Pradesh have two Houses and other states have one House." According to the special procedure that has been fixed for the creation and abolition of the Legislative Council as per Article 169 of the Constitution, the Legislative assembly of any state by the majority of its total members and 2/3rd majority of present and voting members can create or abolish Legislative Council for its state by taking the permission of the Parliament. For this, no amendment in the constitution is required.

Notes

Legislative Assembly

Composition: The number of members of the Legislative Assemblies of different states is dependent on the estimate of population of those particular states. The number of members of any Legislative Assembly is fixed to a maximum of 500 and a minimum of 60. But by the 42nd amendment law of 1976, the number of members of each Legislative Assembly that has been fixed based on the population of 1971; no change could be made in that till the year 2000. At this time, the number of members of Haryana Legislative Assembly is 90.

The election of all the members of Legislative Assembly is usually done in the adult franchise system by Joint Electoral System on the basis of regional electoral sectors. Earlier voting rights were given to individuals of age of 21 years or above. Now this has been reduced to 18 years. Seats are fixed for the Scheduled Castes and Scheduled Tribes in the Legislative Assemblies. The states in which people from Anglo-Indian community are in good numbers and any of their representatives could not be elected in the elections, then the Governor can nominate one member of their community.

Following eligibilities are essential for becoming a member of Legislative Assembly

(*i*) He should be an Indian citizen.

(*ii*) His age should not be less than 25 years.

(*iii*) He should not be at an office of profit of the government.

(*iv*) Should fulfill the eligibilities fixed by the Parliament from time to time.

(*v*) He should not be insane, leprotic or bankrupt.

(*vi*) For being selected from the seat fixed for Scheduled Caste or Scheduled Tribe, he should belong to that caste.

Like the Lok Sabha, the election Legislative Assembly of states is also for a period of 5 years. The 42nd amendment law has increased their tenure to 6 years. But 44th amendment act has again reduced their tenure to 5 years. The Legislative Assembly can also be dissolved before this period.

The Governor has the right to call the conference of the legislative at any time. But between two conferences, time lapse of not more than 6 months should be there.

Legislative Assembly has one Speaker and one Deputy Speaker whose job is to maintain peace in the House and carry out functioning of the Houses in an orderly way. Both these members are chosen by the members of the Legislative Assembly from amongst themselves. Members have been provided with salary, allowances and several special powers.

Did u know? In India out of the 28 States, Legislative Assemblies have been established in only 5 States.

Composition of Legislative Council: According to the Constitution, the number of members of Legislative Council of any State cannot be more than 1/3rd of the number of members of Legislative Assembly and not less than 40. But in the state of Jammu & Kashmir (which has a special position provided by the constitution), the number of members in Legislative Council is 36.

The election of the members of Legislative Council is done by the following procedure:

1/3rd members are elected by the state Legislative Assembly.

1/3rd members are elected by members of local bodies in the state (Municipality, Panchayat, Panchayat Samiti, etc.).

1/12th members are selected by the graduates living in the state for at least three years.

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1/12th members are selected by the teachers, who are at least three years old, of intermediate and higher level educational institutions of the state.

Remaining 1/6th of the members selected by the State Governor are such individuals who have gained achievements in the field of history, art, science and social work.

Following eligibilities have been fixed to become a member of Legislative Council:

1. He should be an Indian citizen.
2. He should have attained the age of 30 years.
3. He should not be at an office of profit of the government.
4. Should fulfill the eligibilities fixed by the law of the Parliament.
5. He should not have any such disability that has been fixed by law.

Legislative Council is a stable House and its members are elected for a period of 6 years. Legislative Council also has a Chairman and a Deputy Chairman, who is elected by the members from amongst themselves. Chairman leads the House and maintains discipline. Members of the House have been provided with salary, allowances and several special powers also.

11.1 Functions and Powers of the State Legislature

State Legislature has the following powers:

1. Legislative Powers: State Legislature has the right to make law on the matters listed in the state list. Along with this, it also has right to make laws on the subjects listed in the joint list. The subjects given in the joint list comes under the joint jurisdiction of Union Parliament and State Legislature. Or for the subjects mentioned in the joint list if there is any contradiction about law between the state and the union, then the law of the Union is considered valid.

Ordinary bills can be presented in any of the two Houses but finance bill has to be presented in the Legislative Assembly first, not in the Legislative Council. Ordinary bills only after approval from both the Houses become an act. Legislative Council can keep a bill only up to 3 months from the date of receipt of the bill from the Legislative Assembly. When this duration gets over the bill is sent as such to the Governor for his approval. A bill rejected or amended by the Legislative Council can again be passed and sent back as such to the Legislative Council by the Legislative Assembly, which can be held by the Legislative Council for one month, but on the expiry of this duration if the Legislative Council does not pass it, then such a bill is considered as passed by both the Houses of the State Legislature and is sent to the Governor for his approval. Thus it is evident that Legislative Assembly is only the State Legislature.

Bill after being passed by the State Legislature is sent to the Governor. Governor has veto power also. He can once deny giving his approval to a bill. But if the State Legislature again passes the bill and sends to the Governor, then he has to approve the bill. Governor can send a bill to the President for his final approval. Some bills have to be sent by the Governor to the President for his approval.

2. Financial Powers: On the state bills, only State Legislature has the right but actually Legislative Assembly uses this right. Money bill can only be presented first in the Legislative Assembly and it cannot be presented in the Legislative Council. Legislative Assembly has full right on the state finances. Without its permission neither any tax can be imposed nor can any amount be spent. Money bill after being passed is sent to the Legislative Council but its approval is not necessary.

Notes Legislative-Council can make a delay of 14 days in passing a money bill.

Notes

It cannot hold it longer than this nor can it cancel it. After the signatures of the Governor 14 days after being presented in the Legislative Council, any money bill becomes an order whether the Legislative Council has passed it or not.

3. Control over the Executive: According to the Parliamentary system in the states, executive has been made answerable to the State Legislature. Actually this responsibility of the executive is towards the State Legislature. Ministers can hold their post only till they have the vote of confidence of the Legislative Assembly. As soon as they lose the vote of confidence, no confidence motion is passed against them and they give their resignation. Legislative Assembly by other ways also can ask any question to gain knowledge about ethics, and to clarify the answer complimentary questions can also be asked. By presenting 'Stop Work' resolution also explanation can be asked from the government. Thus, it can be said that Legislative Assembly has full control over the Executive.

4. **Other Functions:** (*i*) Lower House of the State Legislature, Legislative Assembly, participate in Presidential elections.

(*ii*) Members of Upper House of State Parliament, Rajya Sabha, are also elected by the members of the Legislative Assembly.

(*iii*) Though the power to amend the constitution and the right to do it first is that of the Parliament, still as per Article 368, Parliament can only make amendments in Articles 54, 55, 73, 162 and 241 of the constitution and Articles related to Supreme Court and High Courts and constitutional provisions to affix the relation between centre and states if such amendment bill after being passed in the Parliament have.

(*iv*) Legislative Assembly if passes a resolution to form Legislative Council or to dissolve it, then on the basis of this provision Parliament makes law to form or dissolve the Legislative Council.

Position: After this description of the powers and function of State Legislature, it can be said that it has a great role in its state administration. The actual use of the powers of State Legislature is done by the Legislative Assembly only. Legislative Council can put a stop at its speed but cannot put a hurdle in its way. Legislative Council can hold any ordinary bill till 3 months and finance bill till 14 days that has been passed by the Legislative Assembly. Finance bills have to be presented first in the Legislative Assembly, not in the Legislative Council. Even executive is answerable to it, not to Legislative Council. The truth is that existence of Legislative Council is dependent on the Legislative Assembly. It can form it or dissolve it whenever it so desires. The reason for giving it so much importance is that its election is done by the citizens of the state by general election in a direct way, and it is the representative House.

In the state wise parliamentary system, State Legislature has an important role but its powers in comparison to central Parliament is quite less. It has law-making right only on the 66 subjects of state list and 47 subjects of joint list, but there are many limitations on this too.

(*i*) Legislative Assembly, by passing a resolution with 2/3rd majority, can declare any subject from the state list as a subject of national importance and in this form, central parliament gets the authority to make law on that subject.

(*ii*) In matters of joint list also, Parliament has the final authority.

(*iii*) Governor can keep any bill passed by it for the approval of the President.

(*iv*) Some bills can only be presented in it by prior approval of the President.

(*v*) The right for legal restructuring on the laws made by it is given to the court, thus power of the court increases and that of State Legislature decreases.

(*vi*) President can at any time dissolve it by declaring a state of constitutional emergency (Article 356).

Thus, due to these limitations, the position of state Legislature is weak as compared to Central Parliament. But this does not mean that its position is not important. In state administration, it has an important role.

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Notes

Task Discuss about the powers of State Legislature.

Self Assessment

Fill in the blanks:

1. In passing a finance bill, Legislative Assembly can make a delay of ..... days.
2. ..... bills can be presented in any of the Houses.
3. To become a member of Legislative Assembly, the minimum age limit is .....

11.2 Governor of a State

Governor is the leader of state executive. It has same position in the state as that of President in the centre. But its position in one way is little more important. President of India is the leader of Union executive only for namesake and it does not have the power to work as per its wishes because it has to continuously work as per suggestions of the union cabinet ministers. Contrary to this, Governor of a state, in case of constitutional emergency and under some circumstances, has the right to take his own decisions. Constitution has given the Governor discretionary power:

1. Appointment: Under Article 153, Constitution proposes that "Every state shall have its Governor." But along with this, it has been proposed that one individual can work as a Governor of two or more states.

When in the constitution making assembly, it was being discussed about the post of the Governor; several proposals were given for the election of the Governor. But ultimately it was decided on the fact that because the Governor has to work as the constitutional leader of the state, therefore the appointment of the Governor by the President would be apt. It was also observed that if both the Governor and the Chief Minister are the elected representatives, then there can be a possibility of clash because an elected Governor would not prefer to work as a leader just for namesake. It was approved that in Parliamentary management, an elected Governor would be like a square particle in a round hole. It was also suggested that a panel of four members of the state legislature, who are natives of the state, should be formed and the President should appoint one of them as the Governor. But practically it was observed that while appointing this panel of 4 by the members of the state legislature, the game of politics can be played. Thus the requirement for making the Governor a communicating link between the federation and the states would become dormant. Thus it was decided that the Governor should be appointed by the President of India. Accordingly, it was written in Article 155 of the Constitution that "The appointment of the Governor of a state should be done by the orders of the President which bears his signature and seal."

2. Two Important Conventions which govern the Appointment of the Governor: First convention is that Governor should not be a native of the state for which he has been appointed as Governor.

The basis of this convention is that if the Governor is the native of the state he shall not be able to conduct his duties independently and in an unbiased way. He will have his own limitations in the state and there will be every possibility of his interference in the internal matters and politics of the State. Usually, the Governor respects this convention but there have been some exceptions to it. For example, **Dr. H.C. Mukharjee** had been appointed Governor of his home state, i.e., West Bengal. Similarly, Ujjal Singh was appointed Governor of Punjab for some time. Ex-Governor of Punjab, Lt. General (Retd.) **B.K.N. Chhibber** was a Punjabi but this could be neglected by saying that they were exceptions to the convention.

Notes

The second convention with respect to appointment of the Governor is that for the appointment of Governor for a particular state the centre is neglected before giving a final shape to the selection of a candidate. For example in 1967, the central government had not approved the views of Rao Virendra Singh, the chief minister of Haryana, regarding the appointment of Governor. The chief minister of Bihar, Mahamaya Prasad Sinha had objected to the appointment of Mr. N.N. Congo as Governor of Bihar. But the center had not accepted the advice of the chief minister. The Governments of West Bengal and Tamil Nadu had always emphasized on their role (for recommendation) regarding the appointment of Governor.

But now it has been permanently decided that while appointing Governor, the centre will always have consultations with the Council of Ministers of the concerned states and as far as possible, will accept the suggestion.

Along with these two good traditions there have been bad traditions too, i.e., to appoint the political leaders, defeated in elections, as Governors in different states. Another bad tradition is the mass transfer or their removal after the change of central government. The need is to rise above these things and the Governor should be appointed on merit basis.

3. Qualification for the Office of the Governor: Article 157 of the Constitution lays down that no person can be eligible for the post of Governor who is not a citizen of India and who is below the age of 35.

Article 158 mentions some other qualifications: (1) The Governor should not be a member of any House of Parliament or member of Legislative Assembly of any state. If any member of either House of Parliament or member of Legislative Assembly of a sate is appointed as Governor, then from that very day it would be understood that his membership of the House has come to an end, the day he takes over as charge of Governor. (2) The Governor cannot hold any office of profit. (3) He should not have been declared bankrupt by any court. Mostly only those person can be appointed as Governors who have good personality and respect in public life or any senior political leader who has left active politics or retired civil or military officers.

4. Emolument and Allowances: At present, the Governor receives money in cash, gets free accommodation, communication and conveyance facilities. Keeping in mind his post, functions and preeminence of his post, gets several different types of other allowances. All expenditure related to the post of the Governor is made from the finances of the state concerned.

Wherever any person is made Governor of two or more states his salary and allowances are distributed among the states concerned in that very proportion as per order of the President.

Governor's salary and allowances cannot be decreased during his tenure.

5. Term: The Governor is appointed for 5 years but he can hold his office till the President wishes. The President can remove him from his post any time or can transfer him. Even after the completion of 5 years, the Governor of a state remains at his post till the person appointed in his place takes charge. Such a thing was seen in Punjab in 1999. Previously when the post of Governor of Haryana and West Bengal became temporarily or became vacant after his death, then the Chief Justice of the High court of the State works an acting Governor. The Governor can resign anytime from his post. In June, 1991 the Governor of Punjab, Gen. (Retd.) **O.P. Malhotra** had resigned from his post in his opposition to the cancellation of elections in Punjab. In March 1995, Tamil Nadu assembly had demanded through a resolution, that the Governor Mr. Channa Reddy be called back but the center did not accept such a demand of State Legislature and the right of the government to present such a demand.

6. Oath or Affirmation by the Governor: Every Governor and every person performing the duties of the Governor has to take an oath or affirmation of his office in the presence of the Chief Justice of the High Court before taking charge of his post.

7. Legal Immunities of the Governor: Being head of the state, the Governor of a state has got some special legal immunities with regard to the discharging of his duties. Under Article 361 of the Constitution, the

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President or Prime Minister or Governor of any state is not responsible to any court for discharging their duties and upholding their rights related to their post or at the time of discharging their duties. Similarly, during his tenure no criminal or civil proceedings can be drawn against him. During the tenure of the Governor, no court can issue orders for his arrest and imprisonment.

Governor: Powers and Functions

Being head of a state, the Governor gets many powers and respect which can be compared to the powers and respect of the Indian President. As D.D. Basu writes, "The powers of Governor of a state are equal to the powers of the President of the country. The only difference is that the Governor has no diplomatic, military of emergency powers." But while the President of India has no discretionary powers, the Governor has got some discretionary powers which make his position very strong in the state.

The powers and functions of the Governor can be discussed under the following heads:

1. Executive Powers: Governor is the head of the state. The Constitution hands over executive powers of the state to the Governor which he has to use directly or through the officers working under him. He appoints the Chief Minister and other members on the recommendations of the Chief Minister. The ministers can retain their offices so long as the Governor wishes. If a Governor feels that the Government has not got the confidence of the majority or it is not working properly, he can remove the Chief Minister of the state from his post as was done by Mr. Jagmohan, Governor of Jammu and Kashmir in July 1984 by removing **Dr. Farooq Abdullah** from his post. All important appointments (Advocate General, Chairman and members of state public commission, Vice-Chancellor of the Universities) are made by the Governor.

But while doing so, barring the implementation of President's rule in the state, the Governor depends on the recommendations of the State Chief Minister and Council of Ministers. The Chief Minister has to continuously inform the Governor about the decisions taken by State Administration and Council of Ministers. The Governor can enquire from the Chief Minister about matters related to state administration. He can ask the Chief Minister that if any minister has taken decision prior to a decision taken by Council of Ministers, which should be discussed by the Council of Ministers. While appointing Judges for the High court, the President consults the Governor. The Governor works as Chancellor of all the Universities.

The state administration is run in the name of the Governor. He administers all subjects that come under the jurisdiction of the State Legislative Assembly. He makes rules for the efficient working of the Council of Ministers. He can ask the state government to review any of his decisions. The Governors of Assam and Sikkim have got special powers to protect the interests of the Scheduled Tribes.

Generally the Governor uses all his executive powers as per the recommendations of the State Council of Ministers. Ministers are responsible for all the duties of the Governor. But at the time of declaration of emergency, the Governor becomes the actual functional head of the executive.

2. Legislative Powers: The Governor is not a member of the State Legislature but in spite of that he is considered as its part. All the bills passed by Legislative Assembly becomes law only when the Governor puts his signature on them. He convenes the meetings of State Legislative Assemblies and can suspend them. He can dissolve State Legislature. Generally he uses these powers with the consultation of the Chief Minister. The session of State Legislature begins with the speech of the Governor. After the General Elections, he addresses the first session of State Legislature and the first session of every year of the State Legislature begins with the address of the Governor. If the Governor feels that the Anglo-Indian community has not due representation in the State Legislature, he can nominate a member of this community for the Legislative Assembly. He can hold his decision on any bill or can send back any bill (except the finance bill for recommendations to the State Legislative Assembly). But if the bill is passed second time, the Governor cannot express his views but cannot refuse to sign it. He can hold some bills passed by Legislative Assembly for getting approval of the President. It includes bills relating

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to right to property or hurting the rights of the High Court. When the session of the State Legislature is not in progress the Governor can issue ordinances. The ordinance issued by the Governor has the same power as the laws passed by Legislative Assembly. The day the session of State Legislature begins, this ordinance is not in operation, and it also comes to an end if the Legislative assembly passes resolution for its rejection.

3. Financial Powers: A financial bill can be presented in the Legislative Assembly with the prior approval of the Governor. He asks for the presentation of annual budget in state Legislative Assembly. The state contingency fund is under him and he can order for any expenditure out of it. Afterwards, its approval is sought from the state Legislative Assembly. In fact, the Governor makes use of all the powers with the consultation of state Legislative Assembly.

4. Judicial Powers: The Governor has some Judicial Powers. He influences the selection of District Judges and other judicial officers, their appointments and promotions. Under Article 161, if there is any violation of any rule which falls under the jurisdiction of Legislative Assembly, and a person is held guilty or jailed, the Governor can stay his imprisonment, pardon or lessen his punishment. While appointing Chief Justice or other judges of High Court, the President consults the Governor of the state concerned.

5. Miscellaneous Powers: Along with the above mentioned powers, the Governor performs some other duties also. He receives annual report from the state's Public Service Commission (SPSC) and presents it to the Council of Ministers for their comments. Then he hands over the reports along with the comments of Council of Ministers to the Speaker of the Legislative Assembly so that he may put it up in the Legislative Assembly. If he feels that State Government is not being run as per the Constitution and in case under section 356, President Rule is enforced the President works as the real head of the state administration. As a President, he administers the state by implementing laws and policies. The real meaning of President's Rule is the rule of Governor. He has the right to dissolve state government or state Legislative Assembly. By using his rights under Article 356, the Governor also works with his own discretion.

Position of the Governor

From the study of the powers of the Governor, it appears that he has vast powers and he is not a constitutional ruler. But being the head of the state run under the Parliamentary system the Governor works as a nominal constitutional executive under general conditions. Like Article 74 (1) of the constitution, Article 163 says, "There will be a Council of Ministers under the guidance of Chief Minister to assist the Governor in his duties and give him suggestions. But except those duties regarding which the constitution has given him power to work according to his discretion."

The constitution does not limit his discretionary powers. He can work independently only in certain fields. Generally he works as constitutional head of the state as per the recommendation of the Council of Ministers. The Council of Ministers is not responsible to the Legislative Assembly for all its work. The constitution makers wanted to make the Governor as a nominal head of the state. **Dr. Ambedkar** had clearly said, "The powers of the Governor are so limited, so nominal and his position is so decorative that to hold the election of the Governor will be a sheer wastage of money." **K.M. Munshi** had the same views. Mr. Prakash, the Governor of Madras, while explaining his position had once said, "I am fully confident that I have to do nothing but only work as a constitutional Governor and only sign papers." **H.V. Kamath** says, "As regards his rights, Governor on one hand, is a puppet of the Chief Minister and on the other hand of the President, but actually is like a puppet in the hands of the Prime Minister." Except special occasions, the Governor always acts as per the suggestions and directions of the ministers who are collectively responsible to the State Legislative Assembly." The Calcutta High Court had said in the case of Sunil Kumar Bose and Chief Minister of West Bengal, "As per the Constitution the Governor can only work on the advice of State Council of Ministers." Thus governor is only the symbolic head of the state fundamentally.

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(a) The areas in which the Governor acts under his discretion: In spite of making the Governor as a nominal head of the state, the constitution gives him some discretionary powers which he can use without the suggestions of the Council of Ministers. The Governor of Assam sends his report regarding the position of Scheduled (Tribes) Areas to the President. The Governor of Sikkim had extra responsibilities that he should look after the socio-economic development of different sections of society, to maintain peace and law and order in the state.

The Governor can work according to his discretion in the following fields:

1. Selection of C.M. in case the State Legislative Assembly is a Hung House: When a single party or group has got majority in the Legislative Assembly, the Governor plays an active and decisive role in the appointment of Chief Minister. For ex, this happened after the elections in Madras and Travancore, Kerala and Orissa in 1957, West Bengal and Orissa in 1970 and in Punjab and Haryana in 1967. In 1952 the Governor of Madras, Mr. Prakash, appointed Mr. C. Raja Gopalachari as a C.M. though he had no majority in the Legislative Assembly. In 1982, the Governor of Haryana asked Devilal to prove his majority by presenting legislatives before him but on 22nd May, 1982, he made Bhajan Lal C.M. of the state. In 1987 in Andhra Pradesh, the Governor had played a role in dissolving the government of N.T. Rama Rao. In 1996 Mr. Ramesh Bhandari, the Governor of U.P., did not invite the leader of the majority party in Lok Sabha to form government in spite of the fact that in May 1996, the President had invited the leader of Bhartiya Janta Party, Mr. Atal Bihari Bajpai to form government in the centre as leader of the upcoming largest parliamentary party. This tells us that in the case of hung state Legislative Assembly coming into existence, the Governor can appoint Chief Minister according to his discretion.

2. Dismissal of Ministry: When the majority party in power loses its majority or there is any possibility of his losing majority due to revolt or rift in the party, the Governor can use his rights to dissolve the state government. This happened in Haryana when the government of Rao Virendra Singh was dissolved when he had got the support of forty out of seventy eight members in the House. Rao Virendra Singh challenged this in the High Court. The High Court gave the verdict that the Governor has the right to use his powers and his decision is justified. In October 1970 while dissolving Charan Singh's government in U.P., the government had to use his discretionary powers.

3. Dissolution of State Legislative Assembly: For ordering the dissolution of State Legislative Assembly or for sending its recommendations to the President, the Governor can work according to his discretion. When in November 1967 Lakshman Singh Gill had changed his party and established his Janta Party, the Governor of Punjab did not dissolve the State Legislative Assembly on the recommendations of Gurnam Singh. In Punjab second time when Prakash Singh Badal's Council of Ministers resigned, then previous C.M. Gurnam Singh presented his claim to form government. Governor, Mr. Pawte, acting on his discretion, dissolved State Legislative Assembly. Similarly, if the Governor feels that an alternative government can be formed, the Governor can refuse to accept the recommendations of the C.M. for dissolving the Legislative Assembly.

4. **Advising the President for Promulgation of Emergency:** While working as per his wishes, the Governor can recommend to the President under Section 356 to promulgate an emergency in the state. He only decides whether the constitutional state machinery has failed or not in the state. While doing so, he can act according to the wishes of the central Government or give his independent judgment.

(b) Governor is not a Golden Zero: Thus the Governor is not only a nominal head. He can use some of his rights as per his wishes and can be independent of the recommendations made by the C.M. Many members in the constituent assembly had decided of granting discretionary powers to the Governor as appropriate because besides making him a government agent of the centre, he was considered more suitable for being made the head of the state. Members like Mahavir Tyagi had strongly advocated the discretionary powers. Dr. B.R. Ambedkar had said in clear words that by giving discretionary powers to the Governor nothing was done against or with the thought of rejecting a responsible government. This view prevailed over the views of Maulana Mohani, Rohini Kumar Chaudhary and other members who opposed the giving of discretionary powers to the Governor because they felt that by this, the Governor could be authoritarian and misuse his power. The majority was of the opinion that the simple way to

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remove the Governor (a simple proceeding by the President) against misusing of these powers by him is a satisfying guarantee. Thus, the Governor was given some more discretionary powers.

(c) Governor's Role in State Administration: Thus the Constitution makes the Governor a person who plays an important role in the state administration. Even under general conditions when he works as a nominal head of the state, then also he can use some of his discretionary powers. In April 1995 Tamil Nadu Governor allowed Dr. Subramanian Swami to file a case against Chief Minister Jayalalita relating to the corrupt matters. This action was very controversial and with this the Governor's post had become a controversial one. The Tamil Nadu legislative assembly by passing a resolution demanded that the Governor may be called back. It also requested that the centre should accept this demand of Legislative assembly. It became impossible for the center to take a clear stand on this matter and thus there arose constitutional emergency. Thus the Governor's post can also become a reason for dispute. Under Article 356, he plays an important role during emergency. He can play an important role in promulgating emergency. During President's rule, he plays an important role as the real executive (government head). In the 1970 case of Hargovind vs. Raghukul, the constitutional bench consisting of Chief Justice Y.P. Chandrachood and Justice P.N. Bhagwati, N.L. Untawalia, S. Murtaza Fazal Ali and R.S. Pathak made it amply clear that, "The Governor has to play real role in the state administration and for this he is neither dependent on the directions of the Indian government nor is responsible to the government in connection with the ways he adopts for discharging his functions and duties. His post is an independent constitutional one."

(d) Governor as a link between the Union and the State: The Governor works as a link between the Union and the State. In normal times, he works as a nominal and constitutional head and when under article 356 when the state comes under President's Rule, then he works as an actual head of the state. Due to these three rules, the Governor becomes a controversial figure. He tries at the same time to act as an agent of the Union Government and also as head of the state administration. Along with these, he also uses his discretionary powers. Different Governors of different states have been the center of controversies at different times. The committees formed to fix the actual role of the Governor have submitted several reports suggesting some directions to his many sided role. But in spite of that the Governor's post is the same as it was before. Therefore, his post is still controversial.

11.3 Role of Governor

In India every state has a Governor who is head of the state government but also works as an agent or representative of the centre in the state. Being the head of the state, he has vast effective powers which he undoubtedly uses according to the suggestions of the Council of Ministers and Chief Minister. In normal times, he works as a constitutional and nominal executive head of the state as it is necessary for the working of the constitutional form of government.

But the Governor has some special rights which he can use as per his wishes or discretion. If any party or allied group has no majority in the Legislative Assembly, the Governor can play an important role in the appointment of C.M. In some special circumstances, he can dissolve the state Council of Ministers and also the State Legislative Assembly. He sends report to the President about the working of the state government. While sending such a report, he works as per his wishes. In case of the failure of constitutional machinery, he can dissolve the state Council of Ministers and can establish an alternative government as the Governor of Punjab in 1967 had dissolved Gurnam Singh's Council of Ministers and established the government of Lakshman Singh Gill. He can dissolve or suspend the state Legislative Assembly with or without the consent of the President. When emergency is promulgate in the state (Article 356), the governor works as the real leader of the government and runs the state administration. He works as an agent of President in the state. His appointment and dismissal is done by the President. He can remain in his post as long as the President wishes. Under Article 200, he can hold any regional bill passed by the state Legislative Assembly for the signatures of the President. It is his duty to see that union laws are implemented in their full form in the state. If there is any neglect on the part of the

state government, he can draw the attention of the President towards him. Article 355 asks him to be confident that the state government is run as per the conditions of the constitution.

Dual Role of the Governor: The state Governor along with being the constitutional head and representative of the centre has to play a double role. The administrative reform commission (ARC) established in 1968 to evaluate the centre – state relation said, "The Governor mostly works as an organ of the State but side by side he has to keep contact with the centre. This contact and his responsibility towards the centre according to the Constitution is chiefly due to these rules that his appointment and dismissal is done by the President. Thus it is clear that the Constitution makers did not want that the Governor should only remain a part of the government at state level. They wanted that he should be an important connecting link with the centre. This type of role is an important and unique aspect of Indian Constitution which definitely makes the role of Governor difficult. He has to play both the roles simultaneously and any failure in discharging his role in any of them could put him into trouble. Administrative reform commission (ARC) while commenting on Governor's dual role had said, "There should not be a person of ordinary ability on this post and his character, capability and experience should be such that he is capable of playing his dual role towards the centre and state executive (government) of which he is the constitutional head. It will be wrong to lay emphasis on this aspect of his character at the cost of the second one and to play the role depends on the true explanation of the chances and limits of both the aspects." The Governor has to please both the centre and the state. The centre expects from him that he should look after his interest and sometimes political interest and the state government wants that he always work according to the wishes of the C.M. and Council of Ministers. When the government in the centre is under one party and the state is under the administration of another party, the position of Governor becomes very troublesome and complicated. A brief review of the working of the Governor since 1950 clearly explains this point.

Working of the Office of Governor since 1950: During the first fifteen years of the implementation of the Constitution when the Congress was in power at the centre and almost all the states, there never arose any major controversy regarding the position, role and working of the Governor. Up to 1964 due to the presence of Pandit Nehru as the Prime Minister, the monopoly of the Congress and role the appointment of important freedom fighters as Governors and political unity (same party in centre and state) there was little possibility of controversies regarding the role of the Governor. It was after the fourth general election (1967) when some non- Congress governments came into existence in some states and Congress received a jolt in the centre, the role of Governor became a subject of public discussion and controversy and the post of Governor became more pressurized and burdensome about which the Constitution makers had never thought. The elections of 1967, as H.M. Sivarao says, have generated three types of situations:

(1) Congress party got majority and it was invited to form government in Andhra Pradesh, Maharashtra and Mysore (now Karnataka).

(2) Whereas in Madras (Chennai) D.M.K. and in Kerala the alliance of opposition leaders came into power.

(3) In some other states no single party was in a position of majority. The problem became more complicated due to the presence of large number of independent members and consequently due to defectors and politics of defection.

This situation put great pressure on the Governor and it was proved from the point that different states in the same circumstances took different decisions. In Congress-governed states, the attitude of Governors was different from those where allied governments of other political parties were in power. After the fourth general election, due to his dual role (as an agent of the centre and leader of the state administration), the post of Governor became controversial. The Governor of some provinces acted differently in their respective states regarding the composition of the state government. They took different decisions under Article 365. At some places, they dissolved the Legislative assembly along with the state government and at some places only state Legislative Assembly was suspended. It was understood that the Governors had taken different decisions at the instance of the Union Government

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(Indira Gandhi's Congress Government). Due to this reason the Governor's post became very controversial during 1967-1971.

The first such Governor was Sampoorna Nand, Governor of Rajasthan. In the elections of 1967, the Congress lost its majority status but arose as the largest party in the State Legislative assembly. Under the leadership of M.L. Singh the opposition formed an alliance and they got majority. They demonstrated it before the President S. Radha Krishnan. But the Governor, Sampoorna Nand took a unique decision that he does not give recognition to the independent legislators. As the leader of the Congress, Mohan Lal Sukhadia, had expressed his helplessness in forming the Government, the Governor recommended for the promulgation of President Rule in the state which came into practice in March 1967 but it remained in force for only one month. During this one month, Mr. Sukhadia was successful in converting his minority status into majority with the help of defectors. After this the Governor recommended for putting an end to President's Rule in the state and thus way was paved for the formation of Congress government in the state. Such a behavior of the Governor was really immoral and biased and due to this anti-Congress and anti- Governor Demonstrations were held.

The second Governor to support the view point of the centre was Dharamveer, Governor of West Bengal. In 1968, he dissolved united left government of Ajay Mukharjee though it was in majority. The aim of this action was "To remove the Communist dominated government which was not liked by the centre."

In January 1971, S.S. Ansari, Governor of Orissa made no hesitation in favoring the centre when the Singh Deo Council of Ministers resigned and recommended for the dissolution of Legislative Assembly, he accepted the resignation but did not ask the C.M. to remain as supervising C.M. For two days, the administration remained zero, the state Legislative assembly was kept in suspension. Mr. Ansari enquired about the probabilities of alternative government but was unsuccessful and on 20th January, 1971 he recommended for the dissolution of State Legislative Assembly.

On 17th February, 1970 Chaudhary Charan Singh, Leader of Indian Revolutionary Party, formed government in U.P. with the help of Congress. But on 26th September, the C.M., Chaudhary Charan Singh recommended to the Governor for removing 26 members related to the Congress Party. On the contrary, the Governor asked Charan Singh to resign. When he refused to resign, the governor dissolved the government though this is a fact that C.M. Chaudhary Charan Singh had offered to prove his majority in the Legislative Assembly whose session was to be held on 6th October, 1970. President Rule was promulgated in the state and that also for 16 days only after which the Congress leader Kamla Pati Tripathi was appointed as C.M. of the state. In this respect the Governor's role was very much criticized.

In 1967, Justice Gurnam Singh, C.M. of Punjab recommended for the dissolution of State Legislative Assembly. The Governor did not accept his resignation. But afterwards, when C.M. Lakshman Singh Gill, who represented a minority government, recommended for the dissolution of Legislative Assembly, the Governor accepted the recommendation.

Thus between 1967-71, the attitude of the Governor remained a subject of great criticism. Discussions and controversies went on increasing about the real role of Governor of the state. After the general elections of 1972, the country's political atmosphere changed due to the formation of Congress governments in most of the states and the centre, which brought change in the role of the Governor. In spite of that, the discussion about the role of the Governor continued because of the controversial decisions taken by the Governor.

Did u know? In March, 1973 the Governor of Orissa Mr. B.D. Jati was very much criticized for dissolving the Legislative Assembly instead of giving an opportunity to Mr. Biju Patnayak for forming the government.

In December, 1981 the Kerala Governor appointed the Congress leader, K. Karunakaran as C.M. of the state and form the United Democratic Front minority group in the state. There was a great resentment

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against his decision. Even after the right of the Speaker to caste his decisive vote, could not save the government the Governor did not give the opposition party the right to form the government. All the political parties strongly condemned it, in 1982, the Assam Governor appointed Mr. Gogoi as C.M. who had not got the confidence of the majority. He did not accept the claim of the opposition that it had got the support of 64 legislators though Mr. Gogoi had the support of only 48 legislators. The Gogoi ministry could not remain in power and it had to resign without facing the opposition. The Left Democratic Front strongly criticized the Governor for working as an agent of a party in a non-constitutional manner.

In 1982, G.D. Tapassey, Governor of Haryana, working in a partisan way, had first asked the Lok Dal leader Devilal who had got the support of B.J.P., asked him on 24th May, 1982 to present his supporting legislators for proving his majority. But on 23rd May, 1982 he accepted the claim of Congress leader Mr. Bhajan Lal, whose party had gained majority in Legislative Assembly, and invited him to form the government though Bhajan Lal was given 30 days time to prove his majority. By not giving an opportunity to Devilal to prove his majority in a fixed time, the Governor's conduct became controversial.

In 1983, we got a glimpse of the biased and controversial roles of the Governors of Karnataka and Sikkim for their functioning. In August, 1984 the Governor of Andhra Pradesh, Mr. ram All removed N.T. Ramarao from the post of C.M. without giving him an opportunity to prove his majority ion the House and made Bhaskar Rao as the C.M. due to this conduct of the Governor, there was such a hue and cry that the President had to transfer the Governor and appoint Shankar Dayal Sharma in its place. He reestablished the government of T.N. Ramarao. In 1989, the Karnataka Governor dissolved the government of S.R. Bommai without giving him proper opportunity to prove his majority and also dissolve the state legislative Assembly.

More than this, during 1971-2011 most of the Governors simply became puppets of the centre for dissolving state governments enbloc. The centre appointed Governors as per its wishes, removed them, changed and transferred them. The Governor's post became a matter of controversy for one reason or the other. In 1967 due to continuous controversies there was a demand that either the post of Governor should be abolished or the Governor should be given appropriate guidelines (a code) or the methods of removing the Governor may be changed (so that he should be made independent of the centre) or other reforms should be made. Actually the Governor's post is still a subject of controversy. During 1998-99, the functioning of Bihar Governor Sunder Lal Bhandari remained a subject of controversy. Before that during 1996-97, the U.P. Governor, Ramesh Bhandari's post was a matter of great controversy. In 1999, there arose a controversy at the time of the appointment of a new Governor of West Bengal. In May, 2004 the Governor of Bihar, Buta Singh dissolved the Legislative Assembly overnight without giving any opportunity to Nitish Kumar of NDA to form his government. Definitely his functioning was not objective. The allegations were made against Hans Raj Bhardwaj, Governor of Karnataka for working in a partisan way. The appointment of Lok Ayukt by Kamla Beniwal, the present Governor of Gujarat, became a reason of discussion. All these facts made it clear that the Governor's role in Indian political system has been a controversial post. The main reason behind this controversy is the dual role that the Governor has to play- as an agent of the centre in the state and as an executive head in the state. Another main reason is that the central government has been working on the policy of its supporting political leaders. After change of the government in the centre, the process of removing/changing Governors clearly shows that the governor's post has got a political character and the Governors in spite of holding their high post dabble with politics and the central government expects political role from the Governor. Many times the Governor is unsuccessful to maintain balance while performing both the roles and due to this reason, his post has become controversial. Even today, demands have been made for reforms regarding the Governor's post because it is thought necessary that the Governor's post may be made controversial. Now a decision has been taken regarding the appointment of Governors that while appointing the Governor of a state, the central government will always consider the recommendations of the states concerned.

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Role of Governor: Report of Rajamannar Committee

Rajamannar Committee suggested in its report that the President should issue directions to the Governor through which the Governors should be given guidelines or principles according to which, while using his discretionary powers, should perform all his duties efficiently without any prejudice. Further, it has been said in the report that these things should have special mention in the guidelines:

(a) Governor should appoint only that person as Chief Minister who is a leader of the party having complete majority in the Legislative Assembly.

(b) When the Governor is convinced that no party has complete majority in the state Legislative Assembly, he should convene a meeting of Legislative assembly on his own which should select the Chief Minister and the candidate thus selected should be appointed as Chief Minister of the state.

(c) The recommendation of the Chief Minister for the removal of any minister should be accepted by the Governor.

(d) If at any time the Governor feels that the Chief Minister has lost the confidence of majority members of Legislative Assembly, he should immediately convene a session of the Legislative Assembly and direct the Chief Minister that he should get a vote of confidence.

(e) If the Chief Minister fails to get the confidence resolution passed, the Governor should dissolve the Chief Minister and his Council of Ministers. But these recommendations were not accepted.

Some Suggestions

Some other suggestions can be made for amending the constitutional rules relating to the post of Governor like:

(*i*) Leaders who have abandoned politics, active leaders, ex- ministers, ex- Chief Ministers, retired controversial government officers, persons having no knowledge of parliamentary system- should never be appointed as Governors. The Governor's appointment should be made from amongst social workers, legal experts, intellectuals, persons of political intelligence, advocates, retired army officials, etc.

(*ii*) To free Governor from the control of central government, the tenure of Governor, instead of being dependent on the will of the President, should be fixed either for a definite period or the impeachment system should be introduced.

(*iii*) The Governors should use his discretionary powers while keeping in view the interests of the efficient working of the state and as per the democratic conventions objectively.

(*iv*) A Governor should refuse to work according to 'central guideline' and should always work according to the regulations of the constitution.

(*v*) The central government should refrain from the process of removing Governors in a humiliating manner. It should avoid using Governors for political aims. By using the post of Governor in state administration, the central interference has a negative effect. This interference has helped in the rise of regional parties and regionalism.

(*vi*) The use of Article 356 against state governments should be made difficult. This will reduce the opportunities of centre's interference in the states. But the opportunities for the use of Governor's discretionary powers should also be reduced.

(*vii*) Generally, being the Constitutional and nominal head of the state executive (government) the Governor should work with the consultation of the state Chief Ministers.

(*viii*) Being head of the state with respect to centre-state relation, the Governor should safeguard the interests of the state as far as possible and hesitate from working as an agent of the centre.

(*ix*) With the practice of changing Governor with the change of government at the centre, there has been a special type of partisan effect on it which gave the governor a special identity. There was

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a decline in the Governor's stature and it was criticized. Hence, such a policy or function should be withheld immediately. In this context, the President should work as per the dignity of his post and should suggest and order the Union Council of Ministers not to do so.

(*x*) Article 200 and 201, which give the Governor the right to reserve some of the bills to be sent to the President for his approval, is a source of centre-state collision and making the post of Governor controversial. Therefore, they should be ended.

(*xi*) Constitutional ban should be imposed on the participation of retired Governors in active politics. No political post should be given to any retired Governor.

These suggestions and at least some of them keep the capacity to keep the post of Governor free from disputes & conflicts, which have continued over last 6 decades. Need of the hour is to take stock of their necessity and benefit. Meanwhile, Governor should start practicing those suggestions and principles, on the basis of which he is seen more as State Constitutional Head and not as an Agent of Centre in State and should take decisions also accordingly and should work according to the rules and traditions of Parliamentary form of Government as established by constitution.

As regards, post of Governor, all Governors of different states should collectively adopt a Code of Conduct and function accordingly. Post of governor is a dignified position and governor of each state should himself come forward and function neutrally and objectively as per the behavioral obligation as set by the constitution. He has to rise above politics and take decisions. By doing this, they can play vital role in making Indian Democratic Parliament and Union form of Government a greater success. Now it has been decided that while appointing Governor for a State, Central government shall try to take possible advice of Chief Minister and its Council of Ministers and it would be mandatory for Centre to take such advice. By this decision, confidence of State Government shall increase in context of governor post and resultantly it shall have increase in the dignity of governor's post. Important is that, governors should come forward on their own and try maintain dignity of their posts and should not take any decision which is influenced by any political reasons. Each decision should be taken objectively considering interest of the State concerned and Union, as a whole.

Self Assessment

Multiple Choice Questions:

4. 'Each State shall have a Governor'. Which Article does the provision for this?
   (*a*) Article 152 (*b*) Article 153
   (*c*) Article 154 (*d*) Article 159
5. Who appoints the Chief Minister?
   (*a*) Governor (*b*) Judge of High Court
   (*c*) Neither (*a*) nor (*b*) (*d*) None of the above
6. Governor should appoint Chief Minister only a person who –
   (*a*) Has maximum seats (*b*) Has majority
   (*c*) Has minimum seats (*d*) None of the above

11.4 State Council of Ministers

Indian constitution provides to have parliamentary form of Government at State Level also. It states that governor shall be the Constitutional (symbolic) head of the Executive and actual use of Executive powers shall be exercised by the Council of Ministers in the leadership of Chief Minister. As per Article 163, Constitution provides for Council of Ministers for each State. It states that," except discretionary

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powers of Governor, there shall be a Council of Ministers under the leadership of Chief minister, which shall advise and suggest the Governor in respect of using all other powers". Generally, governor discharges his duties in consultation with Chief Minister and his Council only.

Organization

1. Formation of State council of Ministers: At state level, Council of Ministers is formed just like Union Council of Ministers. After General elections, the party which gets majority in Vidhan Sabha elects its Leader. After that, Governor appoints him Chief Minister and he prepares list of Ministers and hands it over to Governor and those are appointed as Ministers formally by the Governor. Normally, all Ministers of the Council are members of Vidhan Sabha and represent party with majority seats or of the Coalition. But Chief Minister can appoint any other person also as Minister who is not a member of Vidhan Sabha, but such person has to get membership of Vidhan Sabha within 6 months from the date of election. He has to resign in case he fails to do so. He can be appointed a Minister again after sometime but this is seldom practiced, as this is considered to be undemocratic and cheap practice. Even such a person can be appointed Chief Minister provided he has been declared Leader of party or Coalition getting majority. Such an event happened in the case of Gyani Gurmukh Singh Musafir, when he was appointed Chief Minister of Punjab in November, 1966. Same happened with Sheikh Abdullah who was appointed Chief Minister of J&K even when he was not a member of State Vidhan Sabha. Similarly, N.D. Tiwari became Chief Minister of UP in 1987. But such person has to get membership of State Vidhan Sabha or Vidhan Parishad within 6 months, else he has to resign.

Normally, Chief Minister is taken from State Vidhan Sabha, though there is no constitutional provisioning for such practice. There comes no difficulty in appointing Chief Minister and forming Council of Ministers, when there is scenario of any party or Coalition getting majority in general election of State Vidhan Sabha. But in case of no majority situation, Governor acts at his discretion and can invite anyone to form government that he thinks shall be able to muster required majority and appoint him Chief Minister. Normally, Governor gives a stipulated period of time viz; 15 or 30 days to such person to prove his majority. In June, 1995 BSP came to power under leadership of Miss Mayawati, who displaced SP government under the leadership of Mulayam singh Yadav. Reason for BSP victory was BJP's external support to its leadership. Later on, Mayawati proved its majority in UP Vidhan Sabha Session and attained constitutional authority to its government normally, this is the process. In such conditions, 2 or more parties/ groups make a combined front and elect its Leader and inform the Governor that this coalition has got majority in Vidhan Sabha or other Groups/ parties have agreed to support this Coalition. Under such circumstances, Leader of such Coalition is appointed Chief Minister by the Governor. In May, 2002 Leader of BSP-BJP combine was elected Chief Minister and asked to prove majority in UP Vidhan Sabha. Coalition government under leadership of Mayawati fulfilled this condition and proved its constitutional authority and validity to govern. These days, in most of the States, Chief Ministerial appointments are happening in this fashion only. In May, 2004 in Karnataka, government could be formed only after Congress and Janta Dal(s) joined hands together. Rule is that leader of that party is appointed as Chief Minister, that has got majority. But in the absence of such situation, Leader of such part or group is appointed Chief Minister that has the ability to prove majority in the Vidhan Sabha. Such Chief Minister can only continue to operate, if he fulfills the condition of majority. In case, no part or Coalition is able to form government then in that case, Governor declares Emergency under Article 356 and President Rule comes into force, which happened in February, 2005 in Bihar.

Beginning of formation of Council of Ministers takes place with the appointment of Chief Minister and forming the Government is the duty of Chief Minister. CM uses his intelligence to form council of ministers. If he is a Leader of any Coalition, then he has to induct each coalition party members as Ministers in Council, but in case he has clear majority of his own, then he appoints Ministers only from his own party. He can appoint a person Minister, who is not a member of State Vidhan Sabha

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or Parishad, but he has to get it within 6 months, else he has to quit. Chief Minister only distributes portfolio among the Ministers and gives shape to the council.

2. Categories of Ministers in Council of Ministers: They are as following:

(a) Cabinet Ministers: Those Ministers getting Cabinet status are into this category and they handle independent charge of vital departments like Home, Education, and Finance etc. They are responsible for deciding important policies of the state. They are considered to be very close the Chief Minister and are normally elected from the Senior/Important Leaders of Ruling party only.

(b) State Minister: They get Second Status; they don't take part in Cabinet meetings nor participate in the policy decision process. They help Cabinet Ministers and they are attached with concerned departments of Cabinet Ministers. In some cases, they can be given independent charge of some deptt.

(c) Deputy Minister: They represent Third Status and are the lowers step of Council's Ladder. They never get independent charge of any deptt. They are assistants to the Ministers. They are attached with Cabinet or State or with both of them, to help them out in their functioning. Generally, in State Council of Ministers, Deputy Ministers are seldom appointed.

(d) Parliamentary Secretary: Many times, Chief Minister appoints some or any Leader of its party or Coalition as Parliament Secretary. They help Council of ministers in the State Legislature. These days, their importance and role has grown big as compared to before. Under Anti Defection Law, it has been decided that Number of Ministers in Council of Ministers shall not exceed 15% of Vidhan Sabha membership. Because of this, size of State Legislature has become small. In such conditions, to reduce the pressure of its own party members (to be made a minister), Chief Minister has started appointing Secretaries.

3. Tenure: Principally, Ministers enjoy their tenure at the pleasure of the Govenor, but in practice they enjoy it at the pleasure of the Chief Minister. Any minister can be asked to quit by CM and normally, this demand is always met. In case of a protest by the minister, CM can recommend his termination to the governor, who normally accepts all such recommendations. CM can be a reason for the dissolution of the Council by submitting his resignation. One can be a Minister up till the time; Chief Minister would want him to be or till the he enjoys CM's confidence. CM can any point of time, terminate any Minister. He can demand resignation from Minister, which one has to give. He can change their portfolio, can include others and exclude existing Ministers from the Council.

Ministers individually are responsible to Vidhan Sabha. If Vidhan Sabha passes Condemnation Proposal, No Confidence motion or Reduction Proposal against any Minister who is found to be negligent towards the deptt it heads, then he has to resign from his post. One can be a Minister only up till the point, where he enjoys trust of majority of Vidhan Sabha.

Council of Ministers is collectively responsible to the Vidhan Sabha. If Vidhan Sabha passes No Confidence Proposal against its Leader or Council itself or rejects any Bill/Budget/Policy of Government or reduces Fund of Government, then entire Council of Ministers resign. Council of Ministers enjoys tenure till the time they have the majority support in State Vidhan Sabha. Any Minister can resign any point of time.

4. Salary and Allowances: Salary and Allowances are fixed by State Legislature and hence it is different for different States. Since they are paid from the Consolidate Fund of the State, they need not be approved by the State Vidhan Sabha.

Powers and Functions of State Council of Ministers

Council of Ministers is the actual Executive (Government) at State Level. It exercises wide and unlimited Executive powers. Governor is only the Symbolic Head of the State. State Administration is run by the Council of Ministers in his name. All his functional rights except Discretionary Right as bestowed by the constitution, are practiced by the Council of ministers only. Governor in General on the advice of

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Council of Ministers and in Specific functions as per the advices and recommendations of the Chief Minister only.

We can describe Specific & Major powers and functions of State Council of Ministers as following:

1. Formation of State Policies: This is the duty of Council of Ministers to frame and fix Policies of State. All policies and matters are discussed and decided by it. Though principally it is the duty of entire Council of Ministers to frame policies, yet in practice it is done by Cabinet. Moreover, on every policy, there is an impression of Thoughts and concepts of Chief Minister.

2. Running of Administration: Second most vital duty of Council of Ministers is to run the government administration. Ministers are responsible to run government administration as per policies approved by Government and Legislature. It is their duty to ensure that administration is running as per those policies or not. Ministers handle one or more deptt. On which they have complete control and they are responsible to run their deptt/s effectively.

3. Co-ordination Functions: Cabinet is also responsible to have co-ordination among different government deptt. Government can't be run effectively in the absence of synergy between different sections of government it is the duty of the cabinet to resolve the conflicts and disputes as arising in different deptt. Each Minister is bound to abide by the decision of the Cabinet.

4. Appointment Making Powers: Cabinet does most important Appointments of the State. Advocate General, Vice Chancellors, Chairman of State Public Service Commission & its members, Chairman of different Boards& Commissions are appointed by the Governor on the recommendation of Council .

5. Role in Law Making: Though it is the duty of Legislature to make laws, yet in practice Council of Ministers also plays an important and major role. It is the Council of Ministers which decides programmes and schedules of Legislature. In approx 95% of the cases, Bills are presented and got passed by the Ministers in the Legislature, since they have the majority support. Chances of passing Bill of a Private member are rare, unless he has the support of Council of Ministers. When Vidhan Sabha Session is not in place, then Council of Ministers can ask Governor to pass an Ordinance and take care of its law making need. Such Ordinances have Legal Power and can be converted in to Law once Session starts. Therefore, in practical purposes, Council of Ministers play important role in the law making process of the State. Since Council of Ministers enjoys majority support in Vidhan Sabha, no bill can be passed without its consent. Members of Council of Ministers i.e. Ministers, are members of State Legislature and play active and vital in law making process. Governor on the recommendation of Council of Ministers only signs any Bill and accords it the status of a Law. In General, governor on the advice of Council of Ministers only calls the Session, adjourns the session or dissolves Vidhan Sabha.

6. Financial Functions: Council of Ministers control State Finance. In Fact, Cabinet only decided financial policy of the State. Cabinet forms and implements all policies/plans for the development of the State. It runs Financial Management of the State as per Policies and Budget passed by State Vidhan Sabha. Finance minister who is responsible for preparing and presenting Budget, is a member of Cabinet. Financial matters of the State are decided by the Cabinet. Only Minister can present Finance Bill in Legislature. Council of Minister runs financial administration as per the budget. Principally, State Vidhan Sabha controls State Finance, but in practice it is controlled by Council of Ministers.

Council of Ministers and the Governor: Relation

Due to adoption of Parliamentary system at both Centre and State Level, relations between Governor and Council of Ministers are the same as that of President and Union Council of Ministers. Governor also the symbolic Head of the state and possesses limited Executive powers. On the other hand, Council of ministers of State is the actual Executive. Governor and Council of Ministers are two stakeholders of the Executive, where all work is done by the Council of Ministers in the name of Governor. Article 163 of constitution provides that State Council of Ministers would advise and suggest Governor in discharging his duties, except those cases where he needs to use his discretionary powers. Powers have been vested

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with Governor, but he uses it in consultation with Council of Ministers only. Chief Minister and other minister are appointed by the Governor and they enjoy their tenure at the pleasure of the Governor. It is the right of the Governor to dissolve Council of Ministers and Chief Minister. Principally, Ministers work under Governor. Each proceeding done by the Government is done in the name of Governor only.

Even then in reality, opposite of this is true that Governor advises and decided on the Council of Ministers. There is no role played by him in the appointment of Chief Minister and it's Council. If one party has got majority in Vidhan Sabha, then Governor has to invite Leader of the party to form government as a Chief Minister and then rest of the Minister are selected by the CM and appointed by the Governor. In case, no party gets majority, then Governor can use its discretionary powers to form council or if any party fails to pass Confidence motion in Vidhan Sabha, then Governor can invite anyone to form government by using its discretionary powers or can dissolve Vidhan Sabha.

In general, Governor on all subjects acts on the advice of the Council of ministers except those where he has been give Discretionary powers by the constitution. Governor's position in State is not like President in Centre, as he has been given some Discretionary powers (for ex dissolving state government, dissolving Vidhan Sabha and rights under article 356). This is the reason, DD Basu while comparing relations between governor and State council of ministers and president and Union council of ministers, has opined that", in general relations between Governor and its ministers are almost the same as that of relations between president and union ministers, but significant difference being that while there has been no Discretionary powers given to President, Governor enjoys Discretionary powers for some of its work".

Further, there are so many ways by which Governor can play important role in State Administration. First thing is that, this is the duty of Chief Minister to update Governor about decisions as made by the Council of Ministers. Secondly, it is the right of Governor to get any information from Chief Minister on matter pertaining to State Administration and this is the duty of the Chief Minister to provide those informations as asked. Thirdly, Governor also has the right to ask Chief Minister to present any decision taken by a Minister before Council of Ministers. In fact, Governor can suggest, warn or give confidence to the Ministers.

Conclusion: Council of Ministers being the actual Executive enjoys influential and powerful position in the State. It is the strongest and the most powerful institution in the state. In reality, council of ministers runs administration by using the powers given to Governor. But in the scenario of Emergency under Article 356, Governor runs Independent administration without the existence of Council of ministers.

Self Assessment

State whether the following statements are True/False:

7. Normally Governor does all his work in consultation with council of ministers and chief minister.
8. Council of Ministers is not the real Executive (government) at state level.
9. Governor plays important role in the selection of Ministers.

11.5 Chief Minister of the State

Alike prime minister at centre, post of chief minister is also very important at state level. Chief Minister is the most important man in running the administration. He is the Head of State Council of Ministers, which is the actual Executive. So we can refer to Chief Minister as the real head of executive who exercises wide and real powers. He plays vital role in the state administration being Leader of the state, Leader of Majority party, Leader of State Council of ministers, Chief Advisor to Governor and Representative of public. He is not one among equals. Article 163 authorizes his position of head of council of ministers. His position and role in state polity is same as that of a prime minister.

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(a) Method of Appointment of Chief Minister: In both Statutory and Legal terms, appointment of Chief Minister is done by governor. Article 164(1) declares that "Chief Minister shall be appointed by Governor". But it does not mean that Governor is free to appoint anyone, he does not have any alternative except to appoint Leader of majority holder in the general elections as confirmed by political parties. He has to formally invite him to form government and appoints him as Chief Minister and asks to form his Council of Ministers. For example in 2005, congress got majority in Haryana Vidhan Sabha elections and its leader Bhupendra Singh Huda was appointed Chief Minister by the Governor and he formed his Council. After the election of State Vidhan Sabha, each governor adopts same modus operandi. Such practice in context of appointing Chief Minister has almost become a tradition and Governor only appoints Leader of the party getting majority in Vidhan Sabha as a chief minister.

But in contrast, when no party gets absolute majority in Vidhan Sabha, then Governor asks the Leader of the largest majority party to form government In most of the cases, when no party gets clear majority, then two or more parties join together to form a Coalition. After this, the coalition elects its Leader and updates Governor about it. Then Governor Invites the Leader to form Government. In such conditions, governor has the right to use its discretionary powers. For example when in November, 1967 under the leadership of Lakshman singh Gill, 16 MLAs of Akali Dal changed their parties, then outgoing Chief minister Gurnam Singh requested Governor to dissolve council of ministers, but governor did not agree and invited Lakshman Singh Gill to form government. Similarly, when in June 1971 when some Akali Dal leaders moved out of Badal government then, the then CM Prakash singh Badal suggested governor to dissolve council of ministers. On the other hand, Gurnam singh claimed support of Congress and of those MLAs who came to him after changing party. He claimed that he has majority in Vidhan Sabha and he should be invited to form government, but governor rejected his claim. After the general elections of 1967, many governors played important role in forming government at different states. For these different governors adopted different strategies. Governor of UP, Ramesh Bhandari showed a unique style in UP by rejecting the claim of BJP to prove majority, which emerged as the single largest party and thus acted in bias.

Governor can play vital roles in situations like Hung Parliament, situation of political instability due to division in parties/ defection, for the formation of government In general, he has to appoint Leader of party with majority, as Chief Minister. even so that when party with majority elects that person a Leader, who is not a member of either house of Vidhan Sabha, he has to appoint him as Chief minister. In 1980, A.R. Antulay and Jagannath Paharia were appointed Chief minister of Gujarat and Rajasthan respectively and both of them were not a member of either house. Governor can use its discretionary powers in politically instable period or in Emergency.

(b) Tenure: Principally, Chief Minister enjoys his post at the pleasure of Governor but in practice he stays on his post till the time he continues to be Leader of party/coalition with majority. If he loses majority, then governor can remove him from his post. In case of No Confidence Motion is passed against him, then entire Council of ministers has to resign immediately. In other words, resignation or Chief Minister or his removal through no confidence motion is considered to be removal of entire council of ministers. Entire council of ministers resigns as a team. Once elected a chief minister can continue to operate up till a maximum period of 5 years (tenure of state Vidhan Sabha), provided he enjoys majority support. If after new general elections, chief minister party becomes victorious again, even then Chief Minister is appointed afresh. This means that though tenure of chief minister is of 5 years, but he can be re-elected time and again if his party gets majority every time and each time he is elected as the leader of his party. Jyoti Basu of CPM continued to be CM of West Bengal for 25 years, as CPM got majority seats in State Vidhan Sabha consistently and they kept electing Mr. Basu as their Leader.

Powers and Functions of Chief Minister

Chief Minister of a state has got wide powers practically, but not less legally. He is the actual Head of State Executive. We can describe his powers and functions as following:

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1. Formation of Council of Ministers: Chief minister has the power to form council of ministers as per its will. Constitution provides for this power for him. Article 164(1) mention that "other ministers are appointed on the recommendation of chief minister by governor". Chief Minister is free to elect its own council as long as his party enjoys majority in Vidhan Sabha. He can appoint any member or non member as a minister and can give any portfolio. After Anti Defection Law, it has been decided that number of ministers in council of state can't exceed 15% of Vidhan Sabha strength. Besides, there are several other restrictions also. He has to consider various factors while electing minister. He has to give representation to different sections of the state. Similarly, he has to take one or more ministers from SC/ST category also. Moreover, he can't avoid senior and dignified leaders from his own party also or members of coalition parties. In cases, he has to appoint a person minister, who is not even a member of either house. Such members have to become a member of Legislature within 6 months time. In Coalition government, he has to make several stakeholder party's members as Ministers. Generally, ministers from respective coalition partners are decided by their own parties only and Chief minister inducts them in to his government governor of the state does not have any role to play in this and it solely depends on the chief minister only.

2. Distribution of Portfolio among Ministers: After appointment, this is second major task before chief minister to distribute portfolio among ministers. He decides on who shall be Cabinet, State or Deputy Ministers. He decides on portfolio. While doing so, he has to take care of his party member's seniority and their political standing. While deciding on important portfolios like Finance, he has to select the most eligible candidates. He keeps some deptt. with him also and he can change Minister's portfolios also any time he wishes.

Whenever he wishes, he has the right to reshuffle his council of ministers. For running government more effectively, he can change his team of ministers. He can ask any minister to resign. In fact, in this regard, chief minister only has to express his views and concerned minister tenders his resignation.

In case any minister refuses to listen and expresses his own desire, then chief minister can resign and dissolve entire council of ministers and then can restructure the council of ministers. Chief Minister is the actual maker, changer and dissolver of the council of ministers. He can remove any minister by suggesting to governor. All ministers work as per his instructions.

3. Chairman of Council of Ministers: Meeting of council of ministers is presided over by chief minister and not by president. Chief Minister prepares Agenda for each meeting and informs his ministers. He presides over Cabinet meetings. He has the right to call for Cabinet meeting any point of time. Being presiding officer of such meetings, he plays vital role in discussions and decisions taken in the meeting. On every decision of cabinet, there is an impression of chief minister's thought and concept. He can veto any decision by giving warning of his resignation. Ministers never want to make him upset.

4**. Chief Link between Governor and Council of Ministers:** He is the link between governor and council. It is his duty to inform governor about all decisions and policy relating to administration and law making for the state. He has to furnish all such details to governor, which can be demanded by governor. He has to present all that matter before council of ministers, on which any minister has taken a stand and governor wants it to be tabled in council of ministers meeting. Governor gives priority to chief minister advice more than to his ministers. In fact, rest ministers meet governor only as per the advice of chief minister only.

5. Role as Chief Co-Ordinator: It is his duty to have cohesion in various deptt. of government. He has to ensure that all minister work as a team and help each other. It is also his duty to see that one deptt of government should not harm interest of any other deptt. He works to resolve any such dispute/conflict between different government deptt. His decisions overshadow decisions of his ministers. In case of disagreement between a minister and chief minister, then the concerned minister has to resign.

6. Role as a Leader of State Legislative Assembly: Chief minister is not only leader of his party, but also the leader of Vidhan Sabha. He gets this status on being the leader of party with majority. He takes house in correct direction. He works as the spokesperson of the government and declares important

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policy and decision on behalf of the government It is his duty to help his Cabinet minister from the opposition' questions in the house, by answering the queries. He acts as the main leader in favor of government policy and their works as its protector. He can use his power to make Vidhan Sabha accept his or his ministers' decisions.

Notes All major appointments and promotions are done by the governor as per advice from chief minister.

7. Appointment making Powers: Ministers have to depend upon Chief Minister for the approval of their demands. Thus, chief minister has immense power of providing facilities and giving benefits.

8. Power to Get State Legislature Dissolved: If chief minister is of the view that state government can't be run as per constitutional provisions or if there is a possibility of losing majority by him, then he can ask the governor to dissolve the Vidhan Sabha. Such recommendations are normally done on the basis of political situation. Governor has to abide by the advice, if chief minister enjoys majority.

9. Role in Centre-State Relationship: Being head of state administration, it is the duty of chief minister to have healthy relationship with centre. He has to use his post to get Central Grant and Aids, which are essential for the development of any state. Central government and specially prime minister can be very helpful for him, if he enjoys healthy relationship. In case when both Centre and State are ruled by the same party, then he can use his influence for the betterment of the state in a emphatic manner. When he does not belong to party which functions in centre, then he at times, has to be Soft and at times, Tough spokesperson, the way ex chief minister of west Bengal had doing.

Position of Chief Minister

Chief Minister of a state enjoys huge powers. He forms the council of ministers which always works under his leadership. He is the central point of its birth and death. Formation of council of ministers starts with the appointment or nomination of chief minister. Governor while making council of ministers accepts his recommendation. He is chief advisory to the governor. He is the leader of party with majority and also very important member of his own party and represents entire state. He has wide powers of bringing benefits. Generally, governor functions as per his advice only. Chief Minister is the main architect of state policies and implementer too. State administration functions under his leadership. He enjoys similar position in state, what prime minister enjoys at centre. His post is a powerful or should we say, most powerful in the state. But actual position of his post depends on various factors as following:

(*i*) **Party Set-up:** When chief minister gets support of that one party which has majority in Vidhan Sabha, then he can use his rights and powers even more effectively and profoundly. In such condition, governor is bound to abide by all his recommendation. But here also, most depends on his individual qualities. He can also be as weak as ex chief minister of Punjab, Darbara singh. But if he is leader of a joint front or a group of parties or a Coalition party, then he has to face lot is issues and he can become weak and he has to spend lot of time to keep this Coalition intact. In his council, political monotony can make him weaker. Lack of absolute majority in Vidhan Sabha can have adverse impact on his ability, sources and qualifications. But if he possesses good qualities and merit, then he can show his mettle.

(*ii*) **Nature of Party in Power at Centre:** India is a unitary style of Union and hence states have to depend a lot on the Centre in many respects. States having cordial and co-operative relations with centre can see a new source of power for the state. If Central and State government both belong to same party, then getting help from centre becomes easy. He can use his party position in getting desired decisions

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in his favor from centre, even if he is a weak personality. In contrary, if central government belongs to some other party, then he has to toil hard in getting central help and has to face lot of direct and indirect pressures of centre. In such condition, chief minister's character and personality play vital role.

(*iii*) **Personality and Role of Governor of the State:** Governor is the symbolic constitutional head of the state, but he has been given some real and discretionary powers also. This situation can only be decided by a Judge that, if constitutional machinery is functioning in the state or not, or is a failure or not; or is going to be broken or not. When no party gets absolute majority in Vidhan Sabha, then governor can play important role. He can remove a chief minister, who in his view has lost support of the majority. He can ask chief minister to prove his majority in house or can give order in a different way. He can recommend Emergency Rule under article 356, to the president. Even without getting the consent of the president, he can dissolve State Vidhan Sabha and relinquish the government of its post. A governor hungry of power and difficult to convince, can be a source of problem for the chief minister. a governor who is not non-cooperating can hit hard on the rights of the chief minister. But even in such situations, chief minister's individual qualities to keep his party/coalition united in Vidhan Sabha, his ability keep his council of ministers together and majority support to him can make him a meritorious personality. In 1984, chief minister N.T. Rama Rao proved be stronger Vis a Vis governor **Ram Lal**. Chief Minister can use his popularity base against the governor to come out stronger.

To conclude, we can say that post of chief minister carries huge power and position, but behavior of this post mainly depends on the individual qualities and abilities of the chief minister. As long as, he enjoys support of his party and as long as his party enjoys majority support in Vidhan Sabha, his post keeps functioning as a powerful one. But in case of less majority or if he is leader of Coalition government then his position becomes little vulnerable. In fact, political environment of state, personality of governor, unity in his own party, position of his party etc affect the behavior of the chief minister to a large extent. A powerful individual only proves to be a powerful chief minister and the strength, ability and efficiency of his administration depends on his merits only.

Self Assessment

Fill in the Blanks:

10. Article 163 very clearly gives ..... the position of Head of Council of Ministers.
11. Chief Minister can restructure his ..... whenever he wishes.
12. Chief Minister prepares the ..... of meeting of Council of Ministers and informs Governor.

11.6 Summary

- Constitution has provisioned for a Legislature for all 25 States. As per article 168, each state shall have one Legislature, in which Bihar, Maharashtra, Karnataka, J&K and UP shall have Bi-Cameral system and rest all shall have one house.
- State Legislature has the right to make laws on State Subjects. Besides, it can make laws for subjects as mentioned in concurrent list also.
- Bill goes to Governor after being cleared from Legislature. Governor has Veto rights.
- Governor is the Head of Executive. Its position is similar to what President has at Centre.
- Another tradition regarding appointment of governor to any particular state is that, before giving final shape to the appointment, Central government is notified.
- In each state of India, there has to be a Governor, who is the Head of Executive and besides he functions as an Agent or Representative of Centre in the State.

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- Indian constitution at State level also arranges to have Parliament form of government. It further provisions that Governor shall be the symbolic head of the govt of state and actual powers shall be used by the Council of ministers under chief minister leadership.
- In general, Governor gives such appointed Chief ministers 15-30 days to prove majority in the house.
- Ministers are responsible to run administration as per the policy of government and Legislature.
- Chief Minister can decide his council of ministers as per his desire. Constitution gives him the right to elect ministers of his choice.
- Position of Chief Minister is very strong in the state Administration. He forms the council of ministers which always functions under his leadership. He is the at the centre of its life and death.

11.7 Keywords

- Governor: Main Administrator of the State.
- Chief Minister: Highest Minister of a State by Post.

11.8 Review Questions

1. Explain the Powers and Functions of State Legislature.
2. Describe the role of Governor in the State Politics of India.
3. Describe the Powers and Functions of Governor.
4. Describe the Powers of Council of Ministers.
5. How a Chief Minister is elected? Mention his Functions and Powers?

Answer: Self Assessment

1. 14
2. General
3. 25 years
4. (*b*)
5. (*a*)
6. (*b*)
7. True
8. False
9. False
10. chief minister
11. restructuring
12. agenda

11.9 Further Readings

Books

1. Indian Administration and Politics – *P. Rastogi.*
2. Indian Political System – *U.R. Ghai.*

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Unit-12: Indian Federalism

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Objectives

After studying this unit, students will be able to:

- Understand the meaning of Indian Federalism.
- Understand the Nature of Indian Federalism.
- Understand the meaning and element of Co-operative Federalism.

Introduction

Different States of the world have either Federal or Unitary constitution. Federal constitution is that which provides for Dual mode of administration and where power is distributed between Centre and States. Unitary constitution is that which provides for Single mode of administration and entire power rests with Central government.

12.1 Nature of Indian Federalism

This is the beauty of Indian constitution that it is a blend of both Federal and Unitary system of administration. If we see, then there seems to be signs of Federal administration system everywhere, but we can't deny the fact that on each page, we can see the spirit of unitary administration. Hence, question of nature of Indian constitution has become very interesting topic. Some refer to it as Federal

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and some as Unitary. As per them, "Indian Constitution provides for a Federal Structure with Unitary spirit".

Under Article 1, Indian has been called Union of States. There has been no mention of word, Federation. There can be understandably two reasons for this. First is that, our Union of States is not a result of mutual amalgamation as is the case with USA. In our country, creation of Union of States has happened on the lines of Canada. Here after dissolving the spirit of Unitary, states were reconstituted and jurisdiction of Centre and State were decided on the basis of constitutional division of power. Secondly, in our constitution alike Ex. USSR, states don't have the right to disassociate from the Union. A Union of State such made has to have a stronger Centre.

When constitution was adopted, Indian States were divided in to 4 categories: there were 29 states in total divided as, in part a – 10, part b- 8 in part c- 10, in part d - 1. But in 1956, after 7th amendment, states were restructured and in place of 4 categories of States, two types of units were provisioned. First one was State and second was Union Territory. At present, we have 25 states and 7 Union Territories.

In fact, the difference of opinion of the nature of constitution is caused by the constitution itself. Constitution neither names India as Federation nor unitary rather, it has been called "union of states". **Dr. Ambedkar** while clarifying the objective of using such words in constitution said," giving the name of Union of States is advantageous. Such name explains two things. First, Federal structure in India is not a result of any agreement and Second, Units in Indian Union don't have right to leave the Union. Hence our Union is a permanent and unbreakable union". Hence, as per Constitution India is a Union of States. We can only reach to final result on its nature by studying its Federal and Unitary characteristics.

Self Assessment

Fill in the Blanks:

1. Beauty of Indian Constitution is that it has a blend of Federal and ..... constitution.
2. At the time of adoption of constitution total of ..... Indian states were divided in to 4 categories.
3. Constitution of Federal Government is .....

12.2 Federal Features

All those qualities are found in Indian constitution, which are there in Federal constitution like constitution of USA. To know more about these qualities, it is essential that we know about definition of Federal State and features. In general by federal administration system, it is implied that in which division of power between central and state government is done by written constitution. Following are the characteristics of federal administration in India:

1. Dual Polity: Indian constitution provides for Dual administration system. At one hand, there is central government at centre and on the other hand, State government at state level. Each have separate jurisdiction. Main components of Central government are President, Prime minister, Council of Ministers and Parliament. Main components of State government are Governor, Chief Minister, State council of Ministers and State Legislature. Statutory, Administrative and Financial relations of both government have been decided by constitution. Central parliament can change the geography of the state, can change its name, can create another state by editing areas of one or more states, but it can't have Unitary mode of administration by erasing State's existence.

2. Division of Power: In Federal style of government, power is divided between Central or Union and States. Due to this very division, a written constitution is more required. Constitution divides entire powers in to 3 Lists: (*i*) Union List- it contains 97 subjects, power to make laws on these subjects is of Central or Union government (*ii*) State List- it contains 66 subjects. State government has right to make laws on it. (*iii*) Concurrent List- it contains 47 subjects and both central and state have right to make laws

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on these subjects. Rest is Residual List which is not in the constitution; Centre has the right to make laws on them. Centre and State are independent in their own jurisdiction.

3. Independent Judiciary: Due to division of power between centre and state, there is always a possibility of dispute. Hence, it is imperative that we have Independent Judiciary in Federal form of government Indian constitution provides for a totally independent judiciary, which has the right to settle disputes between centre and states. Judiciary has the right to interpret the constitution. Judiciary can declare any Central or State Law unconstitutional and repeal it. Judiciary is free from interference of Centre and State.

4. Bi-cameral Legislature: Indian parliament like a Federal parliament has two houses: Lok Sabha and Rajya Sabha. Lok Sabha is Lower house and its members are directly elected by the people of India. Rajya Sabha is Upper House and its members are elected by the state legislature.

5. Written Constitution: England has unitary form of government and has no written constitution, but in America, Canada, Australia, Switzerland etc have Federal form of government and they have written constitution. India too is a Union / Federal and it has extensively written constitution. It has 395 Articles and 10 Schedules. Dispute between centre and state has been adequately mentioned in the constitution. There is always a possibility of dispute between centre and state in Federal government, written constitution reduces chances of such disputes and even if there are disputes, it can be settled easily by Supreme Court under the provisions of constitution.

Did u know? Constitution of Union form of Government is written. Unitary form of Government can have written or unwritten constitution.

6. Rigid Constitution: Under federal type of government constitution is normally rigid. It is due to the reason that centre or state can't change it as per their discretion. In rigid constitution, statutory law has got supremeness over normal laws and method of changing normal law is different. Our constitution is rigid, but not as rigid as that of America's constitution. Constitutional amendment process is mentioned in article 368. There are many articles, which need absolute majority of total members of both houses and 2/3rd majority of available and voting members, for amendment. There are some articles for which one must need at least half of Indian State's Legislature approval also apart from above mentioned majority. Under such category comes; Method of president's election, Statutory Executive and Judiciary related power limit of centre and state, state representation in centre, process of amendment under article 368 etc.

7. Supremacy of Constitution: Under federal structure, constitution of the country is supreme. Alike American constitution, Indian constitution is the supreme law of the land. Any individual, institution, govt officer or govt can't work against the provisions of constitution. Parliament and state legislature can't make any law, which violates constitution. If they do so, then Supreme Court and High courts can declare them unconstitutional and repeal it. Similarly, union or state government can't pass any ordinance or order, which is against constitution. Judiciary can declare such ordinances or orders unconstitutional. Supreme Court and high court have the power of judicial review. All judges have to take oath while taking charge of their posts that, they shall respect constitution, shall their discharge their duties as per constitution, they shall protect and maintain constitution. All these prove the supremeness of our constitution.

8. Co-operation and co-ordination between Centre and States: For decisions between centre and state in any union form of government it is essential that there exists co-operation and co-ordination in the administration. Inter-state provision is also there in the constitution. At times, there are conventions of Chief Ministers and Governors by the Central Government It becomes clear by above study, that Indian constitution also like USA,Canada, Australia, and Switzerland has Federal form of Administration.

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Task Express your views on Federal form of Government.

After looking at these characteristics, it is clear that Indian Administrative system is surely a Federal form of administration. Indian constitution has done provision for Dual Polity.

Critics state that, Indian constitution provides for Federal form externally, but internally it lacks the element of Soul of Federal form of government and that is 'Autonomy of States'. As compare to Centre, states position is weak and they are dependent on Centre for many things.

Self Assessment

Multiple Choice Questions:

4. How many subjects are there in Union List?
   (*a*) 98 (*b*) 99
   (*c*) 97 (*d*) 102
5. England has which type of government?
   (*a*) Unitary (*b*) Federal
   (*c*) Neither (*a*) nor (*b*) (*d*) None of the above
6. Supreme court and High Court have –
   (*a*) Judicial review power (*b*) Impeachment power
   (*c*) Power of removing Governor (*d*) None of the above

12.3 Unitary Features

Indian constitution has features and qualities of Unitary as well as Federal style of administration. Without doing amendment in the constitution, Federal form is changed into unitary style of government As per **Dr. Jennings**," India is a Federation with strong centralized tendency". Similarly **K.M. Munshi** states," India is not a federation, but a Union. The centre is not a Federal govt .with plenary power. In India, even though structure of govt is federal, yet its main inclination is towards unitary mode only. Following are the unitary features found in the constitution of India:

1. Strong Centre: Centre has been made more powerful while dividing powers between centre and states. Majorly, important subjects have been put under Union List only. Union list has 97 subjects, State list has 66 and Concurrent List has 47 subjects. Both centre and states can make law on concurrent list, but in the event of a dispute on any particular bill, centre's law shall prevail and state law shall be repealed. Residual List power is also with centre. Whereas in the constitution of USA,Canada, Australia and Switzerland etc, Residual powers are with State government these points prove that despite having a federal structure, government inclination is towards unitary form of government only.

2. Single Citizenship: Indian constitution does not offer Dual citizenship. Each citizen of India, whether he belongs to Punjab or Madras, has got only one citizenship. In a pure Federation like America, Dual Citizenship is adopted which means people get two citizenship, one is of Centre and another one is of the province, to which he belongs to. India has Dual polity system based on Single citizenship model.

3. Single Judiciary : India has single judiciary system even though it has Federal form of government.

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Notes America has Dual Judiciary system. There each unit of union has its own judicial system and a common justice system for entire America, which is called Federal Judiciary.

In contrast, Indian constitution provides for single judiciary system. At the Apex level is Supreme Court and under it, there are State high courts for almost each province. Single Judiciary system also reflects the spirit of unitary mode of government.

4. All India Common Services: Like a unitary mode of government India has common all India services. IAS, IPS etc are common between Centre and States. Rajya Sabha has the sole right to create or terminate any all India services. Such proposal can be passed by Rajya Sabha by 2/3 majority.

5. Common Comptroller and Auditor General: Under article 148, provision of CAG has been done. It is appointed by the president. Its main duty is to investigate the expenditure incurred by Centre and State. In other words, a Union official under Indian constitution has been given the right to do financial investigation of the provinces.

6. Common Election Commission: Under constitution, for the election management of central and state government there has been a provision of common election commission. Head of the commission is appointed by the president. This commission monitors, directs and guides elections of Central parliament and State Legislature.

7. Single Constitution: In the constitution of federal government like USA, Switzerland, units have the right to adopt and amend its own constitution. But in Indian union of states, units don't have this right. Under one constitution only, both form of government (centre and state) have been mentioned. State government doesn't have the right to amend constitution as per their will. Only J&K has its own constitution.

8. Creation of New States and changes in the boundaries of old states: Under constitution, centre has the power to make a new state after editing areas of one or more old states by passing law central parliament can increase or decrease size of any state, can change the boundaries of any state or can change its name. Such provisions are against the universally acceptable principles of Federalism.

9. Emergency Provisions: During emergency, federal nature of Indian constitution changes into unitary. Whenever, president proclaims emergency due to war, foreign invasion, internal armed rebellion etc, and then autonomy of states get prohibited. Central government can make law on any state subjects then and state government has to abide by the orders of central government. During emergency, president can change the division of revenue resources among centre and state. He also gets the right to adjourn fundamental rights of the people.

10. Failure of constitutional Machinery in States: When president through governor's report or any other resource, gets the news that state can't be run as per constitution, then he can declare emergency and thus president rule starts in that state. Governor does not work as the head of the state, rather as Agent or Representative of the president. He abides by the orders of president in context of state administration. Council of ministers is dissolved and Legislature is either adjourned or broken into pieces. Under such condition, central parliament passes law and budget for the state. Hence, autonomy of the state becomes ineffective.

11. Increased Power for Centre even in Normal Times: In general conditions also, centre can have the right to makes laws on State subjects. Under article 249, if Rajya Sabha passes a proposal with 2/3rd majority that such and such subject has become a matter of national importance, then centre gets the right to enact laws on that subject for some time.

12. President Consent Required for Certain State Bills: Constitution provides for the consent of a Bill to take shape of actual law. For example, if a provincial government wants to attach property of any individual or institution, then it has to seek consent of president. Besides, if Governor is of the view that

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a certain Bill passed by provincial Legislature, has a motive of changing jurisdiction of provincial high court, then he can keep it safe for president approval.

13. Appointment and Removal of Governors by President: constitutional head of the state, Governor, is appointed by the president and enjoy their post at the pleasure of the president. President has the right to remove or replace them. Unlike USA, they are not directly elected by the people. They are considered as central government agent and keep updating Centre about the condition of state. Centre can influence state administration to a large extent by using them. It has been seen that whenever no party gets clear majority in Vidhan Sabha, then in the formation of coalition government Centre can interfere to a large extent with the help of governor. Such incidents have happened in the states of Bihar, Bengal, UP, Kerala and Punjab States.

14. State Units don't have Right to Secede from Union: In the constitution of Ex-USSR, there are provisions for provincial units to Secede through self determination, have separate foreign relations and separate Defence forces. But it is not applicable in Indian Constitution.

15. Unequal Representation in Rajya Sabha: Federal states like USA and Switzerland provide Equal representation in Upper House to all state irrespective of their sizes, but in India it does not hold true. Number of Representatives of each State has been decided on their population and thus states with bigger population have larger representation in Rajya Sabha and less for small population states. UP has 34 representatives whereas Haryana has only 5. Hence, states with more population have practically more control on Centre. In contrast, America has 50 States and 100 Seats in Upper Senate. Each State has 2 representations in Upper House.

16. Uniformity in Basic Matters: Dr. Ambedkar states," it does not matter if there is diversity in some matters in the nation. If as per local needs there is some difference in administration or style of functioning, even then it is tolerable. But if diversity increases beyond limit, then it can bring administrative disorder in the Union of States".

To handle such situations, constitution has provided for All India Common Service, Uniform civil and criminal code and Single Judiciary. To have financial uniformity, we have a Common CAG, which keeps vigil on state and central finance. Indian also has common Election Commission for centre and state both which manages president and vice president election, state Vidhan Sabha & Parishad election and parliament elections. It conducts such elections and can give any orders to State Election Commissioners in this regard.

17. State must abide by the directions of Centre: Constitution provides state to follow centre's directives. As per article 256," each state shall use its Executive powers in such a way that follows centre's policy and laws. It also states that Central Executive can issue orders to State government" article 257 states that," state government shall use its Executive powers such that it does not obstruct Executive powers of the centre. Central government can order state in this regard".

18. Constitutional Amendment: In the area of constitutional amendment also, centre has got more powers than state. Amendment proposal can only be introduced in the union parliament and state govt can 't initiate the same. There are various articles which can be amended by simple majority and some can be amended by both houses with 2/3rd majority. Only some articles are there which need needs approval and consent of at least half of Union's state Legislature. Hence, states play negligible role in amendment procedure.

In USA and Switzerland, states can also initiate amendment proceedings but not in India, which is against the principles of Federalism.

19. Weak Financial Position of States: The division which has been done between centre and states for Sources of Revenues, also has the same centralized feature as has been done in division of power. State govt don't have sufficient sources of revenues and they depend of the central govt for their Social justice objective. Due to getting economic aid from the centre, they have to be under the influence of the centre. They can't have independent economic policies.

20. Economic and Social Planning: This subject is in the concurrent list, but still centre has got complete control over it. Planning commission performs the job of making Social and Economical

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Development programmes. Planning commission not only makes the plans for central govt, but also prepares state development programmes in the 5 yearly plans. This also has a touch of Centralization. Prime minister is the head of planning commission. Planning commission works under Central government.

21. Centre's Power to Deploy Armed Forces in States: One new article 257-A has been added to the constitution by 42nd amendment, that centre shall have the right to send Armed/Police Forces in any state to handle any serious Law and Order issue. Such forces shall be under central control and state govt or any of its officer shall not have right to monitor or control. Parliament has the right to enact laws for fixing powers, privileges and duties for such forces.

22. Welfare of ST backward Classes under President's Jurisdiction: This subject comes under the ambit of president of India. He can appoint a Commission for taking stock of their situation and can issues directives to state govt on the basis of its report.

23. Abolition of Legislative Council: As per constitution, states can also have Bi-Cameral system. But if any state's Vidhan Sabha passes a proposal of abolishing the legislative council by absolute majority of its strength and by 2/3rd majority of its available and Voting members, then parliament can abolish the council by enacting a law. Similarly, if in any state there is no Vidhan Parishad and Vidhan Sabha passes a proposal to have it, then parliament can create Vidhan Parishad also.

24. National Development Council: By having such National Institutions, there has been a great increment in the Economic control of central government.

25. Administration of UT under Central Government: Central govt administers the affairs of Union Territories, which is against the principles of Federalism.

26. Appointment of Judges of High Courts by President: States are Units of Union of India and High Court is the highest Court of the States. Judges of all the High Courts are appointed by the president. These judges after working for a fixed period are transferred to Supreme Court.

27. Settlement of Inter State Dispute: Central government can present any formula for the settlement of dispute between two or more states and have it implemented. In such matters, constitution has given powers to president to form Inter State Council.

Conclusion: By the above mentioned study it is clear that Indian constitution has Federal features, but it also has symptoms which indicate the inclination towards unitary form of government. Our constitution making body apart from having Federal structure, wanted to have a strong Centre to handle any situation. As per **P.T. Chako**," what the constitution would establish will be a federation in form but in substance a unitary constitution.

Finally, we have to with Prof Alexandrowics," India undoubtedly is a Federation in which attributes of sovereignty are shared between centre and the states".

Self Assessment

State whether the following statements are True/False:

7. President does not appoint Judges of all states of High Courts.
8. During Emergency, nature of constitution increases from Federal to Unitary.
9. America has Dual Judiciary system.

12.4 Reasons to make Centre more Powerful

India has adopted Federal structure, but what is the reason that constitution makers have made Centre such powerful against Federalism. This is hard fact that strong centre is against the principles of Federalism, but centre has been made more powerful deliberately due to the following reasons:

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1. Historical Experience: History is the witness that whenever Indian Centre was in weaker times, country had to face lot of crisis and times of shame. Pages of history are filled with examples of plundering of Indian wealth and dignity by foreign invaders, whenever we had weak power at the centre. British rule also was a result of the weakness of the then Mughal Empire. To protect the independence attained by blood splattering and to protect it from disintegrating powers, it is mandatory to have a strong centre.

2. Need of Strong Centre for Social and Economical Development: Political liberty of India was meaningless without social and economical liberty. Standard of life of our citizens was very low. To have economic progress in the state, it was imperative to have economic policies. At social level also, people were discriminated on the basis of religion, color, birth, creed etc. to change traditional customs and thought process and for social welfare, many social policies were required at National level. Constitution body was aware of this reality and attainment of such objective could have only been possible with a strong centre.

3. Need of Strong Centre to deal with various issues of the Nation: When constitution was being made, country was passing through grave situation. Blood bath at the time of partition was bound to affect the nation as a whole. Communal riots, Kashmir issue, rehabilitation of displaced, protection from foreign invasion and reconstruction of a damaged economy could have been only done by a strong centre .

4. Danger to India's Unity: Due to Divide and Rule policy of British, India became a victim of communal riots. Hence a strong centre was required to maintain National Unity. India continued to be divided in to smaller states for ages, but got united in British rule. Due to the hatred against foreign rule, Indians united on single platform. Constitution body wanted to keep that spirit alive. Its need was felt more at the end of British rule, when forces of disintegration were fast emerging. Our leaders had gone through this process. They being farsighted, took lessons from history and resolved to have a much stronger centre to keep Indian Unity intact.

5. Strong Centre is the need of the Time: Constitution body was well aware of the fact that strong centre is the need of the time. They had the examples of USA, Australia, and Switzerland in front of them. But those states gave limited powers to centre by constitution and established weak states. But with the passage of times, these states increases their powers at centre so much that some critics term it as violation of Federalism. Our constitution committee was also aware that if we have a weak centre, then after sometime this would also try to have more powers, as strong centre would be the need of the hour.

6. Tradition of Strong Centre: India had strong centre since British times only. Prior to 1935, there was unitary form of govt but after 1935 Act, some autonomy was granted to provinces, but still centre enjoyed great powers. Hence it was understood to be justified to have strong centre.

7. Need of Strong Centre to resolve issues of Princely States: As per prevailing condition and to resolve issue of princely states, a strong centre was badly needed. As per Independence Act, 1947 those princely states had the right to stay independent, which could have been dangerous to India's security. It was hence necessary to have strong centre so that those estates could be merged with Indian Union .

8. Some Constitution makers were in favor of Unitary Government: At the time of constitution preparation, some were of the view that unitary form shall suit more. Being influenced with all those conditions, thought processes etc, constitution makers tried to take a Middle Path. This is the reason, our constitution is inclined towards unitary mode even being a Federal structure.

Conclusion: Above study establishes that having a strong centre was the need of the hour. If we test constitution in the light of Independent India's practical administration system, then we have to agree that there is Federalism in India. In 4th general elections, congress had govt in almost all states except Kerala and at Centre. Thus centre got consolidated and got more powers and Federal structure kept going. During 1950-66, political leadership too was very strong. Leader like Nehru, Patel, Pant, Azad and Kidwai at centre, strength increased for the centre. After 4th general elections, actual nature of Indian federalism emerged. Lastly, we can say that during peace times, India maintains Federal system, where state have the liberty to exercise their rights. But in abnormal conditions, centre has got wide and sweeping powers so that national integrity and security can be protected. After emergency

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period finishes, states resume their powers back. Hence, India has established strong centre side by side a Federal structure. Lastly, Nehru rightly says," we are unanimously of the view that it would be detrimental to the interests of the country to have a weak central leadership, which would be incapable of ensuring peace, co-ordination of vital matters on common concern and presenting the country in the international arena".

12.5 Co-operative Federalism in Indian Constitution

Indian constitution has provided for such an administration, which is neither totally Federal nor Unitary in nature. As per **Austin**." The type of Federalism adopted in India can be only called co-operative or co-coordinating Federalism". Concept of Co-operative Federalism started after Second World War, though its roots were preexistent. Indian constitution committee is the first to adopt it. **Morris Jones** has told Indian Federalism as Federation of Negotiations. As per him it is another form of Co-operative Federalism.

Meaning of Co-operative Federalism: Co-operative federalism is such a system where Central forces are stronger but state govt are not weak either. Another feature of such system is that both Union and State govt are complementary to each other and both depends on each other. Union and state govt exercise their powers to attain common national objectives. In such federalism, centre and state instead of fighting with each other, get in to servicing the public. Thus, centre-state synergy, policy integration and distribution of national income and natural resources becomes easier under this system. It is such a system where both centre and state have common objective of Public Welfare. They adopt co-operation policy instead of having difference of opinion. This is how, centre and state have partnership in administration. On this basis, we can term Co-operative Federalism as Middle path between Centralization and Decentralization.

Any govt in the world does not exhibit pure spirit of federalism, though little traces of federalism is found in the constitution of USA, Switzerland and Australia.

Elements of Co-operative Federalism in Indian Constitution

Federation of India can be rightly said to be Co-operative federalism as most of the features of co-operative federalism is found in Indian constitution barring some. **Prof Morris Jones** has termed Indian constitution as Federalism of Negotiation. He says that Indian federalism is a form of co-operative federalism. As per **Morris Jones**," whereas constitution provides for separate jurisdiction for centre and states, there exists a relationship of Co-operative bargaining between them". Following elements of co-operative federalism are found in Indian constitution:

1. Single Constitution: India does not have separate constitution for different states. Only J&K has its own constitution. Despite having diverse social, economical and cultural conditions of states, having one constitution for entire nation is an example of co-operative federalism.

2. Single Citizenship: In federal nations, people get dual citizenship. For example in America, people get citizenship for both centre and their state. But in India, people get one citizenship just like England. Single citizenship not stops difference between centre and states, but develops mutual co-operation.

3. Single Judiciary: Under federal system, normally Dual Judiciary is adopted,like in America judiciary system for Centre and states is different. But India has organized Single Judiciary. At Apex level is Supreme Court of India. At provinces level, high courts have been provisioned, which operate under Supreme Court. Single judiciary system is a symbol of Co-operative federalism in India.

4. Office of the Governor: Governor for different provinces of India is appointed by the president as per advice from central government governor works as the representative of central govt and as the constitutional head of the state. Governor in peace times, is only the symbolic head of the govt but

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during emergency he becomes real head. He informs president about failed constitutional machinery. Thus, post of governor helps to create co-operation between centre and states.

5. President Rule in States: Constitution provides for separate jurisdiction for provinces, but the onus of making constitutional system a success depends on centre. In case of failure of constitutional machinery in any state, centre takes over the administration of the state. This provision of constitution is an essential element of co-operative federalism.

6. Emergency Proclamation: Only centre can proclaim the state of emergency. Under article 352, president can proclaim emergency in case of war, foreign invasion or internal armed rebellion. Under such condition, president can take control of any state administration. Under article 360, to deal with financial crisis, president can proclaim financial emergency an disuse necessary directives to the states. Both central and state govt can fight emergency together only. This system is called essential element of Co-operative Federalism.

7. Interference in State Jurisdiction: Constitution empowers state legislature to make laws on state subjects, but in special conditions, central parliament can make laws on state subjects also. Central govt can do it at time when Rajya Sabha passes a resolution by 2/3rd majority of its strength that any subject has become a matter of national interest, then centre can make law on that subject. On request of two or more state legislature also, centre can enact law on state subjects.

8. Planning Commission: Constitution has provided for a planning commission presided over by the prime minister. Commission makes development oriented schemes for centre and states and approves them. It accords special consideration to development of most backward regions. Getting provincial support in drafting schemes for development by centre is an indication of co-operative federalism in India.

9. Finance Commission: As per constitution, each 5th year, president constitutes a finance commission. It recommends about distribution of revenue between centre and states after discussion in such a manner that ensures financial balance between the two, so that states can have resources for their development.

10. National Development Council: To ensure national development and get state support, there is a provision of National development council. It has members of central parliament, planning commission and chief minister of states as its members. It endorses policies of planning commission. In the commission, prime minister and chief minister of states discuss practicality of planning. Thus, it is a tool to have greater co-operation between centre and states.

11. Inter State Council: Constitution also provides for an Interstate council for common interests and settlement of disputes between states. This council works to establish synergy between provinces and between centre &states . This provision also reflects co-operative federalism.

12. Election Commission: Constitution provides for one election commission for entire India. It takes care of elections in centre and states both and hence co-operation develops between them.

13. All India Administrative Services: Officers working at high state administrative posts are members of all India administrative services. These officers are appointed by central govt on the recommendations of UPSC. Hence, these services are under central govt and promotion, termination and other work conditions are decided by the central govt only. Thus, these services also help to have co-ordination between centre and state.

14. Zonal Council: As per article 263, it is the duty of centre to settle difference between states by developing synergy among them. Many times, there are conflict situation due to being different political leadership at centre and state, which results in problems at both central and state levels. To solve these issues and increase co-ordination between centre and states, these councils have been established. In this context, at intervals, many such councils/ associations have been created. These councils have been quite helpful in increasing political, economical and administrative co-ordination between centre and states.

Conclusion: It is clear from study above that India has Co-operative Federalism, but some critics have

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refuted this statement. They state that it is not justified to call Indian union a co-operative federalism, on the basis of relations between centre and states as in every area, centre has been more powerful. In such situation, calling it co-operative federalism is not right. Centre is going so powerful over the years that it would be proper to call it as Centralized or Unitary Federation.

Self Assessment

Fill in the Blanks:

10. Planning Commission has been provisioned by .....
11. India has Organized ..... Judicial System.
12. India has provided Single Citizenship just like.....

12.6 Summary

- This is the special quality of our constitution that it contains features of both Federal and Unitary style.
- India has been called Union of States and not Federal or Unitary in our constitution.
- Indian constitution has all features of being a Federal constitution as found in American constitution.
- In federal system, state constitution is rigid. This is so, as both centre and state should not be able to change it as per their discretion.
- Indian constitution provides for an administration, which is neither purely Federal nor Unitary.
- As per article 263, it is the duty of the centre to resolve differences between states by having developing synergy between them.

12.7 Keywords

- Unitary: That which has become one after amalgamation, inseparable.
- Struggle: Conflict (like race between two parties, competition etc).

12.8 Review Questions

1. What do you understand by Indian Federalism?
2. Explain the nature of Indian Federalism.
3. Critically describe the characteristics of Indian Federalism.
4. What are the reasons to make centre more powerful in India?
5. Explain the elements of Co-operative Federalism in India.

Answers: Self Assessment

1. Unitary	2. 29
3. Written	4. (*c*)
5. (*a*)	6. (*a*)

Notes

7. False
8. True
9. True
10. Constitution
11. Unitary
12. England

12.9 Further Readings

Books

1. Indian Political System – *N. Chhabra.*
2. Indian Political System – *U.R. Ghai.*

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Unit-13: Centre-State Relations: Legislative, Administrative and Financial Politics

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Objectives

After studying this unit, students will be able to:

- Know about subjects of Union List.
- Know about Subjects of State List.
- Know about Subjects of Concurrent List.
- Explain Centre-State Relation.

Introduction

Indian constitution has established Dual Administration system with Union at the Centre and States at the perimeter and each has got administrative powers to exercise in subjects as approved by constitution. Constitution has clearly divided powers between centre and state. Two parts

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of constitution (part xi & xii-article 245 to 263) are dedicated to the explanation of centre-state relations. In part xi, there is mention of administrative and statutory relations between them and part xii contains financial relations. Such description totally reflects the objective of – committed and strong centre along with federal structure and it depicts the nature of Union of States, India. As per Dr. D.N. Banerjee," primary basis of our constitution is an agreement between regionalism& local loyalty and need of unitary form". This is the reason we have the characteristics of both Federal and unitary form. Indian constitution is neither totally Federal nor unitary. Its behavior or nature is Federal, but in some conditions, it is definitely of unitary nature. This gets even more clear when we analyze division of power between centre-state and study the nature of administrative, statutory and financial relations.

13.1 Legislative Relations between Union and States

Constitution part xi describes division of legislative powers between centre and states. while doing so, American constitution has not been followed. In American union, some of the powers are fixed for centre and rest have been given to states. In contrast, Indian constitution is like Constitution of Canada. In Canada's constitution there are 3 list of different subjects in 91st article: Dominion list of 31 subjects, provincial list of 16 subjects and Concurrent list of 3 subjects. Besides, Residual powers were vested with centre in contrast to constitutions of USA, Australia, Switzerland and Germany. Indian constitution also divides different subjects in three lists, which are as following:

I. Union List: it has 97 subjects, on which Central govt can make laws.
II. State List: it has 66 subjects, on which State govt can make laws.
III. Concurrent List: it has 47 subjects, on which Centre and state both can make laws.
IV. Residual Powers: all other subject come under this on which centre has the right to make laws.

Notes Union List is the largest which has 97 subjects, on which Union Parliament can make laws as per fixed process as set by constitution.

13.1.1 Union List–97 Subjects

Union list at present has 98 subjects. After 7th amendment, subject 33 was removed but under 6th amendment, a new subject 92-A and under 42nd amendment a new subject 2-A were added to the list and hence total number of subjects under it now is 98.

Main subjects of the list are: defence, foreign affairs, currency and coins, war and peace, atomic energy, national resources, preventive measures, railways, post and telegraph, citizenship, shipping and sea transport, international commerce, interstate commerce and business, banking, insurance, national highways, rights paper and secured rights, census, election, institutions of higher education etc. parliament has powers to make laws on these subjects. Article 246 clearly states that, union parliament has absolute rights to make laws on all subjects of 1st List under 7th schedule of the constitution.

13.1.2 State List–66 Subjects

It contains those subjects on which any state legislature can frame laws and such laws are effective in concerned state only. Main subject of the list are: public arrangements, police, state judicial charges, liquor, economic aid to limbless, library, means of communication, agriculture, animal husbandry,

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water supply, irrigation and canals, fish farming, road tax, goods tax, export tax etc. barring few, each state legislature has right to make laws on all subjects of list II under 7th schedule which contains 66 subjects. Under 7th amendment, subject 36 was removed and under 42nd amendment, 11, 19, 20 and 29 got removed.

13.1.3 Concurrent List–47 Subjects

Union parliament and state legislature both have right to frame laws for subjects as mentioned in list III of 7th schedule. Main subjects of the list are: criminal law, criminal code, transfer of lands barring agriculture land, contract system, punishable misconduct, preventive arrest, marriage and divorce, auction and bankruptcy, trust and trustee, judicial arrangement, witness and oath, civil code, contempt of court, insanity, atrocity on animals and prohibition, protection of forest, wild animals and birds, population control and family planning, trade union, education, labor welfare, inland shipping and sea transport, edibles, price control, stamp duty etc. this list now contains 52 subjects because, under 42nd amendment, subject 11-A, 17-A, 17-B, 20-A and 33-A were included in it.

13.1.4 Residuary Powers

Under article 248, power to frame laws for residual list has been vested with Union. As per this article," parliament has special right to make laws and implement tax on any subjects which are not covered under State and Concurrent list".

Thus there has been a clear division of powers between centre and states and while doing so, constitution of Canada has been accepted as a model.

Superior Position of Union with respect to Legislative Powers

At the time of fixing boundaries for division between centre and states for separate legislative powers, there seems to be a clear inclination towards Union. On many angles, Indian constitution appears to be of unitary spirit. Following points prove the point that under legislative powers, union is powerful:

1. Longest Union List: It is the largest of all lists, which has 97 subjects, at present it has 98 effective subjects.

2. Preference to Union Law over State Law with respect to Concurrent List: Union and state legislature both can make laws on concurrent list subjects. But in case of dispute on any subject between centre and state, then law of union shall prevail. Article 254 clearly depicts it that only under one condition state law shall prevail, if it has been made as per approval of president, even if part or entire law is against the provisions of centre's law.

But it has also been mentioned that no govt or institution can stop parliament from making law, amending law or breaking law as made by state Vidhan Sabha. Thus it ensures centre supremacy over here.

3. Residual Powers with Union Parliament: After adding subject 97 (98) and giving preference to union law over state in concurrent subjects, powers to have control over Residual subjects under article 248, has been vested with Union parliament.

4. Right of Union Parliament with respect to State List: Each state legislature has right to frame laws on state subjects, but here too are some exceptions, which empowers Union to frame laws on different state subjects, which are as following:

(a) Central Legislation in National Interest: As per article 249, Rajya Sabha can declare any State Subject, a National Importance issue by passing a bill with 2/3rd majority of available and voting members. In such conditions, union parliament gets the right to frame laws on this subject for one year. Rajya Sabha can pass such bill consistently and increase centre's power to make laws on the subject. Such law can remain in force maximum after 6 months from the conclusion of such proposal

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(b) Central Legislation during National Emergency: Union gets right to frame laws on state subjects during emergency under article 352. In such periods, State list gets converted into concurrent list. Laws made during emergency by the Union get preference over laws of state. Besides, such laws remain in force even 6 months after the expiry of emergency.

(c) Central Legislation during Constitutional Emergency: In the event of emergency under article 356, as declared by president, then state Vidhan Sabha is adjourned or dissolved and union gets the right to make laws on state subjects. Parliament, if wishes, can hand over legislative powers of the state to the president (article 375-1)or can ask president to delegate these powers to any officers as per president wish.

Did u know? Laws made by union parliament, president or any other official during emergency remain in force till the time, when eligible legislature or any other official abolishes, changes or amends it.

(d) Introduction of some State Bills with President's Approval: With prior approval of president, some specific bill like; bills related with business within state or anywhere else can be presented in state legislature.

(e) Reservation of certain State Bills for Presidential Assent: Some specific bills like; jurisdiction of high court and its effect (article 200), provisions of property in public interest, to add two or more corporation for above purpose, electricity generated from interstate river or any river and its water etc are kept reserved for president. Even some matters relating to concurrent list also can be kept reserved by governor for presidential assent. President can either approve or send it back to state legislature for consideration. When bill gets passed again by state Vidhan Sabha, it is sent again to president, but it is not mandatory for president to approve. In case of no approval, it gets quashed. President rejects it when he is of the view that his directives have not been followed by state legislature. Some examples of rejected bills are; Kerala Education Bill, 1959, Industrial Dispute Bill (West Bengal), 1969, Hindu Succession Bill (Haryana amendment), 1979, Kerala Land Reforms second amendment Bill,1980 and several others.

(f) Central Legislation with Consent of two or more States: If two or more state legislatures of any state request Union Parliament to make law on any subject of state list, then union parliament can do so. For this, concerned State Legislature have to pass a resolution. Once, such law is framed, then other state legislature can also adopt it by passing resolution.

(g) Central Legislation for giving Effect to International Agreement: Under article 253, union parliament has the right to implement any Treaty, Agreement, Contract or any International Treaty done with any nation/s, for any part or whole of India.

All these characteristics throw light on the point that union parliament as per different articles of constitution, can make laws on state subjects also under specific situations. As per J.S. Siwach" 13 subjects of state list are controlled by Union List and 4 subjects of state list are controlled by concurrent list".

5. Superior Status of Union Law: Under article 251, it has been mentioned that in case of a dispute over centre-state law, then centre law shall prevail. This system certainly gives better and superior place to laws made by Union.

6. Parliament's Power to Establish or Abolish State Legislative Council: As per constitution, states can have one housed Vidhan Sabha or two housed legislature. If any state wants two housed legislature and wants to establish Upper house (state Vidhan Parishad) then it can pass a resolution and request union parliament to pass a law on it. For abolishing the state Vidhan Parishad also, same procedure has to be followed. Only Union parliament can establish or abolish Upper House at State level.

7. Parliament's Power to determine/change Boundaries of State: Due to having powers to change state areas, it influences state Vidhan Sabha as laws made by state are only applicable on its regional

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jurisdiction. For example, when Chhattisgarh, Uttaranchal and Jharkhand were made separate states after taking areas from MP, UP and Bihar, then jurisdiction of first three state automatically got limited.

8. Parliament's power of Legislation for Union Territories: Indian union has 28 state along with 7 union territories. Union parliament has powers to make laws on UT region too, as UT does not have their own Vidhan Sabha, resulting in union having powers to make laws for them.

All these facts indicate to the point that in between union and state relationship, union position is certainly powerful and important and it reflects the spirit of unitary in the Union of India.

Self Assessment

Fill in the Blanks:

1. Both centre and ..... can make laws on subjects mentioned in Concurrent List.
2. Police, Agriculture and Animal Husbandry are subjects of ..... list.
3. There are 28 States and ..... Union Territories in Indian Union.

Task Express your views on subjects mentioned in Union List.

13.2 Administrative Relations between Union and States

Nature of administrative relations between union and state is as following:

In this context also, union has been given special preference by the constitution. Indian constitution has adopted Dual Administration system while adopting Federal system. Each state has its own government and administration, which makes laws on state subject and exercises its administrative powers. Union government has right to make laws on Residual and Union list. Constitution has given right to both union and state on concurrent list subjects.

Mention of administrative relations between union and states has been done in part XI, Chapter II, and Article 256-263. When we analyze these provisions, then we find that in administrative context also, union has upper hand and during emergency its powers increases manifold. Following facts confirm it as following:

1. Appointment of Governor and Role: Each state has a governor which is the head of the state. Right of Appointment, Transfer and Removal of governor rests with president. While appointing governor, president can take advice of state council of ministers, but he is not bound to abide by it. Though it has bee now decided unanimously that while appointing governor, union shall certainly consult state council of ministers and would respect its advice. Governor works in 2 ways:- (i) he works as an Agent of Centre in state (ii) He is also the administrative head of the state. Generally he works as constitutional head, but in emergency, he becomes actual head of administration (article 356). During national emergency, president can give any order or directive to governor and it becomes his duty to abide by it. Many times, governor works more as an Agent of Centre than the head of the state. In March, 2005 governor of Jharkhand and in May, 2005 governor of Bihar gave decisions favoring Union only.

2. Obligation of States towards Union: As per article 256, each state shall exercise its Executive powers to implement laws made by Union parliament in a way which makes it emphatic and union parliament can give such directions to state, which shall be necessary for such goals.

3. Control of Union over States in special conditions: As per article 257, it has been provisioned that use of Executive powers shall be done in such a way that it does not obstruct the use of Executive

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powers of Union or does not put blocks in the path of success or is not partisan. Union can issue such directives to state, which are necessary for the attainment of such objectives.

4. Union's power to give Directions: Such means of communication, which are of national and military importance, union can issue any directions to any state for the manufacturing and maintenance of them and such right is under the Executive Rights of Union.

5. Protection of Railways: As per article 257, union has right to issue directions to state pertaining to safety of Railways within any part of state.

6. Power of President to delegate union's power to any State: President with consent of concerned state can hand over responsibility of essential and necessary use of Executive powers of union to it or to any of its official, with or without any condition.

7. State can entrust some Functions to Union: As per article 258-A, governor with consent of state government can hand over some of the functions concerning executive powers, to union or its officials with or without conditions.

8. Union's power of Adjudication of Disputes settlement on Inter State Rivers or River valleys: As per article 262, union can make laws or issue directions on inter-state river dispute relating to use, share or control.

9. Protection of Central property in State: In the area of states, it is state' right to protect union properties. To protect union properties, centre can send Central Reserve Police Force or any paramilitary force like Central Industrial Security Force to protect its property.

10. Provisions regarding All India Services: appointment of Indian Administrative Services and Indian Police Services are done by Union, but are placed in States. Their behavior is controlled by Union government.

Notes Officers of all India services only are appointed at High level posts in states.

11. State's power to create or abolish any All India Service: As per article 312, Rajya Sabha has the power to create a new service or terminate and existing service. It can do so by passing a proposal by 2/3rd majority, to create or abolish any all India service.

12. Union's Co-ordination Powers: Under article 263, president can constitute an Interstate Council to have co-ordination among states. if president thinks that security can be maintained by having a council for public interest, then president can give following powers to the council: (a) To investigate and suggest on disputes arising between states (b) To investigate and discuss those subjects, which have common interest of some or all states or of Union or one or more States (c) To suggest on some specific issues and moreover to recommend on the policy and implementation style. Establishment of such council by president is a Law and he only can define the nature of its duty, composition and process.

13. Application of Public Acts, Records and Judicial Proceedings: As per article 261, "proceedings related to Public Accounts, Records and Judicial Proceedings shall be trusted in entire India and they shall have Legal recognition".

Besides, parliament by passing a law ensures that under which style and form, these proceedings shall be executed and completed.

14. Constitutional Emergency in a State and President Rule: As per article 356, president as per his discretion or on the recommendation of governor, can proclaim emergency in case of failure of constitutional machinery in the state. In such situation, executive of concerned state gets dissolved and state administration is controlled by president. Governor starts functioning as the real constitutional head. State administration comes under the control, monitoring and direction of union.

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15. Duty of Union to protect States from External Aggression and Internal Disturbances: As per article 355," it shall be the duty of the Union to protect each state from foreign invasion and internal disturbance and ensure that each state's executive runs as per constitutional guidance".

When president declares emergency under article 352, then executive powers of the union gets implemented on states and union can order states relating to the use of executive powers.

16. Failure to give effect to union Executive's directions can lead to declaration of constitutional Emergency: As per article 356, when any state is unable to have agreement or implement directions of union executive, then president understands that there is a situation where state can't function as per constitutional provision, then he declares emergency under article 356. But this provision can also be used against any state, which is not an ally of centre.

17. Power to Appoint Enquiry Commission against Chief Ministers: Another provision which gives power to have administrative control over state is the provision of appointment of commission to investigate corruption against chief ministers. For example, in 1963, union government first time appointed Das Commission for investigating corruption charges against chief minister Prakash Singh Kairon. After that, several such commissions were appointed: Changani commission (1972) against Punjab CM Prakash Singh Badal, Sarkaria commission (1976) against Tamil Nadu CM Karunanidhi, Vimal Dalal commission against Vengal Rao in Andhra Pradesh, Durman commission (1979) against S.M. Sengupta in Tripura etc. in 1981, union government appointed Ray commission to investigate Spirit Scandal in Tamil Nadu and Kerala. In 1993, Sri Krishna commission was appointed to investigate Mumbai Bomb Blast and subsequent communal riots. In fact, main goal of the commission was to investigate the work done by Mumbai leadership Shiva Sena during riots. Thus appointment of such commission to check irregularities or alleged misconduct against chief ministers gives such a lever in union's hands, that it can affect any state's administrative behavior.

These facts indicate union's supremacy over state in administrative matters also. These reflect the unitary style of our constitution. These provisions are not only used to have effective implementation of union policies by states, but also to have regular control over them. Objective of state autonomy is that role of union in administrative areas be reduced and state should have autonomy in internal administration.

Self Assessment

Multiple Choice Questions:

4. Power to appoint, transfer and terminate is vested with whom?
   (*a*) Chief Minister (*b*) Judge of High Court
   (*c*) Prime Minister (*d*) President
5. Which articles have description of relations between Union and States?
   (*a*) Article 257 to 264 (b) Article 256 to 263
   (*c*) Article 258 to 269 (*d*) Article 270 to 275
6. Which commission was constituted to investigate charges against Ex Punjab chief minister, Prakash singh Kairon?
   (*a*) Sarkaria Commission (*b*) Changani Commission
   (*c*) Das Commission (*d*) Ray Commission

13.3 Financial Relations between Union and States

Part XII and Chapter I of our constitution mentions in detail financial relations between union and states. It bravely and extensively tries to settle and resolve that vital issue. All those subjects which relate to division of revenues between union and states and other financial relations, have been mentioned in detail. As per constitution, revenue division has been done in following manner:

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1. Taxes and Duties Levied by Centre: Some duties have been given to centre in totality like; Import & Export duty, Income tax, Tobacco, Excise duty on Jute, Corporation tax, Tax on property cost, property tax on lands other than agriculture, Railways, post & telegraph, Telephone, wireless, other forms of communication & broadcasting, union property and its income, public debt of union, Foreign currency, Coins etc.

2. Taxes and Duties Levied & Used by States: Some duties are under the control of States like; government income from land tax, stamp duty other than mentioned in union list, succession fee, tax related with agriculturally capable land, tax levied on goods and passengers of sea vessels on road and sea, tax & surcharge on consumption of electricity, duty levied on alcohol for human use, entertainment tax etc.

3. Taxes Levied by Union, but Collected and Appropriated by States (Article 268): Following are the taxes collected and appropriated by states, though levied by union:

(a) Bills of exchange, per note, Bills of borrowing, Debt paper, Insurance policies, stamp duty on transfer of shares.

(b) Excise duty on goods related with Doctor's use, cosmetics with alcohol component, Paast etc.

All these are levied by union and collected by states and are major part of state revenue.

4. Levied and Collected by Union but assigned to States(article 269): Some taxes and duties are levied and collected by union, but later on handed over to the point where it has been collected. It contains Rail journey and goods movement from it, fare tax on air or sea travel on passengers or their goods, property tax on properties barring agricultural land.

5. Levied and Collected by Union but distributed between Centre and States (Article 270): Some articles have provision of taxes being levied and collected by union, but distributed between both of them. Ratio of division is done on the basis of law and rules prevailing. These are; income tax apart from agriculture income, excise duty on other intoxication products other than doctor use and cosmetic. Under this article, provisions have been made to distribute income as per the report of finance commission and as per order of president, after deducting income for Union and Union Territory areas.

6. Central Grant-in-Aid to States: Resources of government income of states are not sufficient to take care of their needs. For this purpose, constitution provides for central aid to states. Under it, parliament can provide aid to needy state/s as per law. Decision on amount of grant is taken by the parliament. Besides, states can take loans for their special projects from centre. Constitution also provides for giving primary aid for welfare schemes for ST and weaker sections of society. Assam, Bihar, West Bengal and Orissa get aid in return of export duty on Jute & Jute products.

7. Union government's Power to Raise Loans: Union government can take loan on the basis of guarantee of consolidated fund of India, but there are periodic controls over it by parliament laws (article 292). States too can take such loans against their consolidated fund, but they can't take loans from abroad. Government of India can grant loan to any state. As per article 292(3) there is one more rider on taking loan; "no state can take loans till the time from any other source, as long as loans taken by him from centre is still outstanding".

8. Financial Emergency and Powers of Union: Under article 360, while declaring financial emergency, president can adjourn provisions related with centre-state division of revenues and grant-in-aid given to states by union. In such situation, states only have income as generated from taxes and duties of state subjects and rest resources can be decided by centre. Union can ask states Vidhan Sabha to send its Budget proposal and other financial resource details to the consideration of the president. During financial emergency, salaries of officers and judges can be reduced by the president.

9. Control Mechanism over States by Comptroller and Auditor General: CAG is responsible for the investigation and maintenance of Accounts of both Centre and States, who is an officer of Union and appointed by the president. Decision on his powers and duties is taken by the parliament. CAG decides on the system of keeping Books of Accounts of the States. States have to follow his instructions while preparing and investigating it.

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10. Finance Commission: As per article 280 of the constitution, president has been empowered to constitute a finance commission every 5 years, or as and when he deems fit. Commission has the right to recommend on the distribution of revenue between centre and states. It also decides on Grant-in-aid and its process, to be given to states. Finance commission only decides on the division of income and taxed between union and states.

11. Centralized Planning: System of centralized planning also depicts the growing influence and control of union over states. Planning commission is a central body which makes schemes of welfare and development for states and decides on schemes related with resources and its target for the states. For establishing heavy and capital intensive industry, states are heavily dependent on Centre. After the nationalization of Bank, Insurance and General Insurance, union power in financial sector has increased manifold.

Union government has given some extra financial power & resources to Panchayat Raj Institution with Panchayat Raj Act under 73nd amendment. This has also made District Planning Board stronger.

Above details about financial relations between union and states also express union's supremacy over states. States are dependent on centre for loans and grant-in-aid. Union has more revenue resources than states. As per article 360, power to declare emergeny, constitution of finance commission, planning financial resource of state along with of union, provides better position to Union over states. In the case of West Bengal vs. Union, Supreme Court stated," in financial matters, though union and states have their own consolidate fund, but getting divided revenue of the taxes and getting financial assistance, states have to be dependent on Union. Union does not have any direct control on financial management of states, but there is always an indirect union pressure over states. Union can always pressurize states to abide by its decision on financial matters. Obviously, states depend on union for financial aid as they have limited & insufficient revenue resources to be taxed".

All three areas- legislative, administrative and financial, relations between centre and states depict unitary spirit in the Indian Union. In past, behavior of Unionism has been indicative of growing Centralization. There are only 61 subjects in state subjects against original number of 66. Union list has 98 subjects as it has one more subject added in to it and it also has major control on concurrent list, which now has 6 more subjects than original of 46, i.e. 52. Union government has many times behaved like Big Brother with states. States have been demanding autonomy especially in financial matters. Under Indian Union structure, there has been a situation of conflict between centre and states. There are differences of opinion on many subjects between both. Need of the hour is to make India a co-operative federation. Sarkaria commission while suggesting some recommendations, has accepted the concept of strong centre, but has also suggested to run administration with the co-ordination of both centre and states. Active existence of Healthy, autonomous and powerful states are necessary for Indian Union's unity and power.

13.4 Tension Areas of Indian Federal System

Unitary federation or federation with powerful centralized structure is operative in India for the past 6 decades. But even after such long period, we could not see mutually co-operative and ideal unionism in India. Union government has always been involved in trying to establish its superiority and justifying its role as per constitutional provisions. Many times at centre, ruling party has tried to use it to its own party advantage, especially in those states, which were ruled by another party. States too adopted policy of jealousy and confrontation to suit its regional interests. Those states demanded more powers for states, which were under regional party's rule for many times. Plus, demand of autonomy has always been there in Indian Union.

At one hand, Union & strong centre and on the other hand, supporters of autonomy for states, have also brought in a confrontation situation, which contained many issues of tensions. We can analyze some of the tension areas as below. States have been majorly raising voice against the Central Paternalism in all matter of centre and state relations:

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1. Revenue Resource and Financial Relation: Division of revenues and process of financial relations by the Indian constitution, have always been a bone of contention. States consider themselves dependent on centre due to limited resources and limited jurisdiction of levying tax. They have to depend on centre for grant in aid and for getting income from taxes as collected by union. Though there is no direct control of union over state financial resources, yet it keeps exerting pressure on states indirectly. Union always has been pressurizing states to abide by its decision in financial matters. The way centre has been behaving with states while giving assistance that too has been a cause of rising reaction. States consider these as a means of control over them. Those states which are ruled by another party always have been complaining of step-motherly treatment and biased approach of Union in division of income and grant in aid matters. In the past, N.T. Rama Rao in A.P., Jyoti Basu in W.B., Ram Krishna Hegde in Karnataka, Karunanidhi in T.N. have always raised their voices against biased treatment towards their state by the congress ruled centre. States consistently have been complaining about use of financial powers by centre for party politics. To make planning and policies, states don't have any autonomy and they have to depend on centre. Generally, planning commission and finance commission follow the instructions of centre only while dividing income resources and finalization of grant in aid. 80-90% of Income from Market Debt is kept with centre and rest 10-20% is left for states. As per Mrs. Aruna Chalan," Indian union has strong grip on states in financial matters. Centre only decides on fundamental financial matters and they are final. States have been demanding more revenue resources and more financial autonomy for implementing development schemes and programmes in more effective ways. They have been upset with only 25% or even less share of revenue for the state, which accrued to Union from taxes. On the other hand, union has justified current system and has been blaming states of using their resources on non productive investments and ineffective mobilization of resources, which depicts irresponsible behavior on state's part in financial matters. Another plea is given that centre apart from having duty of union administration, has the onus of internal security, internal and external debt, subsidies given on food and edibles and security of the nation. Hence, there has been tension between centre and states on division of resources, government income and financial relations.

2. Role of Governor: As per constitution, governor has two pronged role; one is of agent of union government and another is of constitutional head of state. As per his first duty, he ensures that state functions as per constitutional provisions. Besides, he also works to protect centre's rights. Such role makes him sensitive in the eyes of the states. Appointment and removal is done by president at the recommendation of central cabinet resulting in governor becoming an agent of union. Political appointment of governors, removal of governor after change of party at centre, conflict between chief minister and governor, appointing political personalities as governor of states by centre and biased behavior of some governors have been causes of confrontation between centre and states. While discharging duties as constitutional head of the state, he gets involved in the political game between centre and state. It specially happens when both centre and state are ruled by different parties. Jagmohan in J&K (1998), Ram Lal in AP (1984), governor of Assam (1990), governor of Karnataka (1990), governor of UP Mr. Ramesh Bhandari (1996), Bihar and Jharkhand governor (2005) have displayed biased behavior. Governors in J&K, AP and Karnataka in 1984, in 1989 in Karnataka and in 2005 in Jharkhand, have added fuel to the fire in the ongoing conflict of role of governors in the states. In context of getting president consideration on some state bills also, role of governors have been found to be biased and irresponsible. The role of having police action against the then C.M. Jayalalita in T.N., has been very controversial. T.N. Vidhan Sabha had almost passed proposal to call the governor back. During 1996-97, role of UP Governor Ramesh Bhandari has also been controversial. Such behaviors of governors have been source of tension between centre and states.

There have been tensions many times on the recruitment of governors also. State government at times is reluctant to accept particular individual as governor, as happened in west Bengal when state government was not ready to accept Dharamveer as governor.

Discretionary powers of governor under article 356, which empowers him to dissolve state government has also been a source of tension. In May, 2005 recommendation of governor Buta singh to dissolve Vidhan Sabha was also very controversial. Different governors have used different parameters to judge majority test of different ruling party/alliance. Generally, governors have not been playing the role of

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independent and neutral referee. They have been working as agent of Central government and have not used their intelligence neutrally. In the entire process, they become controversial. In the past, misuse of article 356 power of governors by centre has also made the post of governor controversial. Governors appointed during congress regime at centre, have several times showed biased and non neutral behavior towards some chief ministers. Some such things were done at centre during Janta regime also in March, 1977-79 and in November, 1989-91. During 1996-97 UP Governor Ramesh Bhandari's behavior was also not neutral. In fact, first combined joint front government under PM HD Devegowda, did not properly use article 356 in Gujarat and UP. After 4th general elections in 1967, governors in race of removing chief ministers became agent of central government in those conditions, they worked differently to attain targets as set by centre. Use of article 356 against unwanted party leadership in state and style of administration during, has also made his position controversial. Role of many governors in dissolving the Vidhan Sabha or role played on matter of the dissolution of Vidhan Sabha, has added fuel to the fire. States normally take governor as an administrator being controlled from outside and hence take him as imposed person. States wish that governor should function as per the advice of chief minister and public should have the right to elect its governor. At least, there should be a cap on the powers of central government on appointing, removing and transferring governors. In May, 2004 after UPA came to power, its decision to remove many governors at one go was not appropriate. It only depicted that central government wants to elect governors of its own choice. In fact, post of governor in Indian Union system has been a source of tension and dispute.

3. Misuse of Article 356: President under article 356 is empowered to decide on any fate of a state government in case of failure of constitutional machinery. He can do so on his own or on the report of governor. In fact, president has to take all his decision as per suggestion from union government and governor report carries less weight. Many time, union government also demands report from governors. A government is dissolved when president declares emergency under article 356. Till date, it has been used for almost 105 times by the centre and most of times; it has been used for political objectives only. Means, that it has been used to dismiss that state government which is ruled by another party or any other opposition party is trying to form government there and who is considered to be intolerable or unwanted for leadership at centre. Supreme Court gave verdict on March 11, 1994 that declaration of emergency & dissolution of state Vidhan Sabha, by president in 1988 in Nagaland, in 1989 in Karnataka and in 1991 in Meghalaya was unconstitutional. In May, 2005 decision of Governor Buta Singh to dissolve Bihar government was truly inspired by political motives. Article 356 seems to be a consistent danger on the autonomy of the states. This is such a weapon in the hands of the centre, that they can remove any state regime from power. States want to remove this authoritarian article by constitutional amendment, as till these provisions shall be in the system, they can't attain autonomy in real sense nor they can get free of the pressure of central government TDP, AGP, DMK, CPI, CPM, SAD and some other parties have been demanding the removal of this controversial and union oriented clauses.

4. Misuse of Powers to Amend Constitution: Only Union government has the wide powers to amend the constitution. For only few amendments, it needs approval of half of state's Vidhan Sabha consent. Union has the power to increase its own power by amending constitution and hence in last some years, powers of states have reduced and got limited. State list had 66 subjects initially, but now it has only 61 as active. Union list and concurrent list have got 1 and 5 new subjects added respectively. Union with 98 union list subjects and 52 concurrent list subjects along with having control over Residual list, has been very strong at centre in Indian union system. Constitution has given centre major and commanding powers in all three areas legislative, administrative and financial. Constitutional amendment, parliamentary laws, union policy, centralized planning and judicial decisions have played vital role in getting centre these vast powers. States have been continuously protesting giving additional powers to the Union. States want decentralization and more resources and power for them.

5. Deployment of Central Forces in States: Another bone of contention between centre and state is deployment of central forces in states like; CRPF, BSF, ITBP, CISF, Black Cat Commando etc. during crisis(communal riots, strikes) state themselves ask help from centre to send central forces and have been always complaining of getting the help late or in inadequate numbers. But whenever, centre sends

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these forces to protect national property or to maintain law and order, then state government oppose it, especially those where the ruling party is other than the party at centre. West Bengal, where for long time Left government had been in place, has always opposed such deployments. In 1968 and 1969 to protect national property and to handle strike of railway employees, use of CRPF kin Kerala was severely condemned. In Punjab, Gurnam singh government too opposed the use of CRPF. Use of central forces to handle militancy in some states has also been condemned in some states. But centre has been using CRPF in consultation/ consent or without, in states, which continues to be a source of tension.

6. The Issue of Non-implementation of Union Laws by the States: As per constitution, each state has the right to implement laws in its geographical area. Union can issue directions to states in this regard. It is constitutional duty of states to exercise their power in such a way, that it is helpful in the implementation of union rules and laws. At times, state government are not in favor of some laws to be implemented, which is considered to be as an impediment in the path of these implementation. In 1968, Kerala government refused to invoke Essential Services Act, to put off strike, as proposed by central government in 1979, Bihar, Haryana, Gujarat, Himachal, and Rajasthan (all Janta party), Tamil Nadu (AIADMK), Tripura, West Bengal(left) refused to invoke Preventive Detention Ordinance, which was meant to stop black marketing and secret money, as suggested by Charan singh Government by such activities of states, centre-state relations keep getting worse. Union has the power of article 356 to handle emergency in case of constitutional failure in any state and thus it becomes bound to use that. In 1990, DMK government at TN was dissolved on the basis of the fact that it was not seriously acting against Sri Lankan Tamil militants staying in Tamil Nadu. Such actions of union have always been condemned by states.

7. Discrimination against States: States are upset on the issue of revenue distribution and central grant in aid, by two agencies-planning commission and finance commission. Centre has been accused of favoring some states and discriminating with others. Those states where opposition ruled like Punjab, Haryana, Himachal and J&K were neglected while deciding on establishment of big industries. Punjab which has highest per capita income, got only 2 industries; Nangal Fertilizers and Rail Coach Factory. To reject the demand of writing off debts taken for fighting against terrorism as made by SAD-BJP combine, was heavily criticized and was termed as Step Motherly treatment of centre. Southern states, especially Tamil Nadu complained of less rice supply from central pool on many occasions like 1967,1975,and 1982. In the decade of 1980, discrimination observed in Food for Work programme meant for the public, was severely criticized by the Left government Even finance commission seldom has approved more than 30% share to states from union income. Planning commission always has worked as the long arm of union. By national planning, role of union has increased and tried to reduce the role of states. It increased centre's control over states. By national planning, several state subjects have been swallowed by union. For example, Community Development Scheme is a state subject, but it has been run by the programme controlled by centre. Some states have alleged that by 73rd and 74th amendment, union has limited state role in Panchayat and local urban government 's power to hand over financial resources. As per K. Santhanam,." Planning has captured federalism and our country is operating like unitary system. National development has also failed to play its role. States have been discriminated in providing central aid. This is a sustained point of tension in Indian federalism."

8. Discriminatory postponement of Elections and By-Elections to State Assemblies: It is the duty of election commission to conduct elections in India, which is an independent constitutional body and which enjoys powers as vested by constitution. But on many occasions, centre has pressurized election commission on biased ground to adjourn Vidhan Sabha election and by election. Election commission was ready to have by elections on November 23, 1980 for west Bengal Vidhan Sabha as per state government request, but under the pressure of central government under congress leadership, it had to be postponed. Similarly, central government has several times pressurized election commission to have elections on the basis of Desired Election Calendar. June, 1991 elections of Punjab were postponed under pressure from centre only, which was widely criticized.

9. Excessive Use of Radio and TV by Union: Two most powerful means of communications are controlled by the centre. Union can use them to promote its policies and it can use it to criticize or

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discourage any specific state/s government's policy or programmes also. Leaders, Chief Ministers, other Ministers can be neglected in the New Bulletin or they can be denied the right to address their own public through Radio or TV. In June,1983 All India Radio, Hyderabad did not permit Chief Minister NT Rama Rao to give speech on Radio. Radio and TV want to edit/censor speeches given by State leaders, whereas leaders are not agreeing to such censorships. Thus, use of means of communication has also been a source of tension between the two.

10. All India Services: Officers of All India Services; IAS, IPS work at important high profile posts at different states. They are recruited by UPSC and their posting states is decided by Home Ministry. Their behavior is majorly controlled by centre and states can take least actions against them. Union government can issue them orders to implement their own decisions. Such orders and directives can be opposed by state, where they are posted or has been done several times in past. In 1968, when Kerala government refused to invoke Essential Services Act, then directions of union government was implemented through Cabinet Secretary and IG, Police and CRPF was deployed in entire state. Similarly, when Tamil Nadu government was not ready to take action against those individual s who disfigured boards written in Hindi during Anti Hindi Agitation, then to make effective directions of central government, IAS and IPS officers were used extensively. Besides, use of governor post is also done to keep vigil on chief minister post . It was alleged that governor of UP, Dr. M.N. Bahuguna was asked to keep an eye on chief minister and its ministers. Thus, use of All India Services to implement union directions/orders/suggestions also has been a major reason of tension between union government and states.

11. Appointment of Enquiry Commission against Chief Ministers: Another characteristic on which states have objection is the power of union to constitute enquiry against chief ministers, to investigate alleged irregularities or misconduct during their regime. For example in 1963, this was used first time against Punjab chief minister Pratap singh Kairon with the constitution of Das commission. Thereafter, so many such commissions were constituted against several chief ministers: Changani commission against Punjab CM Prakash singh Badal (1972), Sarkaria commission against TN chief minister Karunanidhi (1976), Vimal Dalal commission against Vengal Rao in AP, Durman commission (1979) against Sengupta (Tripura) and others. Disciplinary Proceedings against several high profile public servants(IAS, IPS) of state is also done by centre only. Investigation about their work is also done by centre.

12. Inter State Dispute and Union: Delay or failure in settling disputes of high and specific nature between states also increases tension between centre and state. Chandigarh is an unsettled area between Punjab and Haryana, also allowing Hindi speaking to go with Haryana and Punjabi speaking areas with Punjab has been a controversial subject ever since. Border dispute Between Maharashtra & Karnataka, between Karnataka & Tamil Nadu and Assam & Manipur; water dispute for Krishna & Kaveri between Maharashtra & Karnataka, water dispute between Gujarat, Maharashtra and MP for Narmada, water dispute between Karnataka & Tamil Nadu for Kaveri and between Punjab, Haryana and Rajasthan; disputes for water of Ravi/Beas have been issues of interstate dispute.

13. Demand for State Autonomy: As per states, under Federal structure of constitution, there has been no balance between power assigned to centre Vis a Vis powers assigned to state. Federal structure has been working with unitary spirit. Ever since the adoption of constitution, union has tried several inappropriate attempts to tilt centre-state relations in its favor. In contrary, states have been demanding more autonomy. Some regional parties like Akali Dal in Punjab, DMK and AIADMK in TN, AGP in Assam etc have been demanding that union should have only 4-5 subjects of national importance like; Defence, Foreign Affairs etc. In July, 2000 Vidhan Sabha of J&K went on to pass a resolution of its autonomy. Some other state have been demanding for more financial resources, powers to make and implement developmental schemes and control on banking. As per them, in Indian Union, existence of strong states is the need of the hour. In 1947, due to the prevailing conditions, it was necessary to have stronger centre, but after passage of time, scenario has changed and it is necessary amend the system for giving more powers and resources to states.

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14. Dissolution of State Assemblies after Change of Guard at Centre: Another bone of contention has been the practice of dissolving state Vidhan Sabha at wide scale, whenever there is a change of guard at centre. When Janta party came to power in 1977, it presented an example by dissolving 9 state Vidhan Sabha. When congress came back to power in 1980, it repeated what Janta party did in 1977. Centre dissolved Nagaland Vidhan Sabha in 1988, Karnataka Vidhan Sabha in 1989 and Meghalaya Vidhan Sabha in 1991. Later on, such actions were held unconstitutional by a 9 member bench of Supreme Court under article 356.

Under article 356, act of adjournment or dissolution of Vidhan Sabha has been a source of tension in states. They are of the view that those parties involved in the political games at central level are using them to further their political interest.

All these topics are major source of tension between centre and states. Such topics have kept the behavior of Indian union controversial and confrontationist. Demand of states for greater autonomy and more resources are correct but, we can't totally ignore irresponsible behavior of some states also, particularly when any regional party is in power in that state. Hence, we can't' always take these activities as biased and of political use by centre. Union and states both should accept the principle of co-ordination and co-operation and try to work in mutually agreeable style on topics of national and regional importance. Both partners of Indian union should try to avoid protesting policies of each other and unreasonable demands and look forward to build up an environment of trust and co-operation. Need is that on the basis of experience, nation rebuilding, national integrity & unity should not be compromised and then we should have some amendments on centre-state relations under Indian Federation. Stronger centre is a historical necessity, but also it is the need to let states have more resources and powers to meet their necessity and also is required that centre should stay away from misusing its powers against states. Union and states should on the basis of co-operative federalism, keeping in view national interest, try to have a balance between their relations. Emergence of Coalition politics has made it necessary for all parties to adopt a positive point of view. Today, no party is in a condition to get absolute majority of its own. National parties need regional party's support consistently to come to power and regional parties can join hands with national parties and get a chance to be a partner in the administration. So it is required for each party to adopt spirit of co-operative federalism and regulate their behavior as per its requirement only.

13.5 Proposal for Centre–State Reformation

Indian federalism provides for co-operative federation as well as unitary as well. It has strong centre under federation. Almost all areas of centre-state relationship- legislative, administrative and financial(part XI and XII) ; centre has got more powerful status and position.

In Indian federal structure, powerful position of centre has always been a subject of criticism for supporters of real federalism or autonomous state or strong centre with strong states. Many regional parties like Akali Dal in Punjab, DMK in Tamil Nadu, AGP in Assam, Telugu Desam in AP etc and some factions of Left parties have been demanding more powers for states, especially in financial and planning areas. They have also taken concrete step in this direction also. Rajamannar Report 1972, Anandpur Sahib Proposal 1973 and Memory paper on centre-state relations by west Bengal government have proved to be a milestone in this direction. Indian government appointed Sarkaria commission in 1983 to analyze complete area of centre-state relationship. Its recommendations have got attention of one and all.

To analyze possible amendment in centre-state relationship, we need to study all these efforts:

I. Rajamannar Committee Report, 1972

In 1969, DMK government at Tamil Nadu appointed Rajamannar committee to review centre-state relationship**.** This committee recommended rephrasing of many articles like; 249, 257, 275, 282, 352, 360, 365 and its recommendation were as below:

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1. It recommended to have one Interstate Council and stated that in the interest of more than one states, union parliament should consult this council.
2. Finance commission should be a permanent body and state should depend less on centre. States should get financial autonomy and they should be powerful.
3. To makes states more powerful, some subjects of union list should be transferred to state list.
4. Planning commission should be an autonomous body. Centre's role in it should be curtailed.
5. It recommended that governor appointment should happen with the consent of state cabinet. If it not possible, then a high level institution should be established and entrusted with this task. To make governor post neutral, after retirement they should not be offered any other post.
6. Provision of state council of ministers tenure at the pleasure of governor should be abolished.
7. Each state, irrespective of its size, should get equal representation, as per actual federalism.
8. Each state high court should have final authority for cases pertaining to its own state. Only constitutional cases should be an exception.
9. English language should be used as a medium between centre and states.
10. Supreme court should get powers to adjudicate all Interstate river dispute.
11. Special status of J&K should be sustained.

D.M.K. Government presented this report to union government, but its recommendations were not accepted by central leaders. It was felt that for a vast country as India, existence of strong centre is a basic necessity. For socio-economic development with national planning and for national integrity & security, it was absolutely necessary and justified to have a strong centre.

II. Anandpur Sahib Resolution, 1973

To accord more autonomy, Shiromani Akali Dal raised its voice by preparing and passing a proposal. There are no specific details of actual nature and element available of the proposal, passed in 18th All India Conference in 1973 in Anandpur Sahib. As several Akali leaders and their group have been publishing different materials and thoughts. Here we are mentioning that Hindi translation which was given by Mr. Longowal on 23-10-82 (Hindustan Times, November 11, 1982).

Policy and programme of Anandpur Sahib proposal adopted on October 16-17, 1973:

(a) Principles

1. Shiromani Akali Dal is the supreme institution of Sikh faith and it has the right to represent and lead them. Basis of this institution is mutual relations, human relations with his ambition and philosophy.
2. These principles are mentioned in Guru Nanak Devji's philosophy; Naam Japo (worship god), Kirat Karo (do hard labor) and Vand Chhako (share your bread with others).

(b) Aims

1. Propagation of Sikh Religion and Faith and condemn atheism.
2. Establish independent existence of Panth and prepare such environment where Sikh sentiments can develop completely.
3. Equal economic structure- increase in property and abolition of hunger and poverty by eradicating all types of exploitation.
4. While following Sikh holy book, abolition of illiteracy, untouchability and casteism.
5. Eradication of disease and sickness, prohibition on addiction so that people can be inspired to protect the nation.

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Part–I

As per Shiromani Akali Dal thought process, encouraging religious feeling in Sikhs is its primary responsibility so that they can feel proud on their faith. For fulfilling this objective, Akali Dal shall initiate programmes as following:

1. To propagate the Principle of –God is one, to have faith on Ten Gurus and Shri Guru Granth Sahib, have belief in its philosophy and propagate, implement it amongst Sikhs.
2. To propagate Sikh philosophy, principles and Langar etc, able propagator, singer and poet should be produced by Sikh Missionary colleges, so that they can promote the faith in India and abroad, in schools & colleges and in urban & rural areas, independently.
3. Amrit prachar to be started in a big way, especially in schools and colleges. For the study of this objective, professors & students of colleges shall be organized.
4. Spirit of Dasvand (spirit of donating $1/10^{th}$ of income) to be encouraged among Sikhs.
5. Sikh historians, intellectuals, writers, propagators, Granthi etc shall be felicitated and efforts shall be made to improve their life style by training and facility to work.
6. To make Gurudwaras uniform, arrangements shall be made for employees training. Upkeep and maintenance of Gurudwaras shall be done and for this, necessary orders shall be issued to members of Shiromani Gurudwara Prabandhak Committee.
7. Correct publishing of Granth, discovery of old & new Sikh history, translation of Granth and clear and specific composition of Sikh literature shall be executed.
8. Efforts shall be put in to make an All India Gurudwara Act, under which all Gurudwaras of the country shall be managed and efforts shall be made to make old traditions like Nirmals and Udasis, an integral part of Sikhism.
9. To avail benefits from collective religious propagation, all Gurudwaras Prabandhak of the world shall be integrated in one chain.
10. Arrangements shall be made for "Khule Darshan Didar" for Shri Nankana Sahib and other Gurudwaras, which are separated from Panth.

Political aims of Panth are based on the directions of Dasham Guru, which are imprinted on pages of Sikh history and in the heart of Khalsa Panth. Its objective is: 'Khalsaji Ka Bol Bala'.

By keeping these targets in front, Shiromani Akali Dal shall strive for the following goals:

1. (a) All those areas which have been taken away from Punjab deliberately like; Dalhousie from Gurdaspur Distt., Chandigarh, Pinjore, Kalka, Ambala city from Ambala Distt., Una Tehsil from Hoshiarpur Distt., village "desh" of dist Nalagarh, Shahabad block, Guhla & Tuhana Tehsil of Karnal distt, Ratia block and Sirsa Tehsil of Hisar distt, 6 Tehsil of Ganganagar distt of Rajasthan and other Punjabi speaking Sikh dominated areas; should be immediately merged in the state of Punjab and they should be governed under one unit.

   (b) In Punjab and other states, subjects like central security, foreign affairs, post & telegraph, Currency and Railways should only be handled by centre. Rest all should be handled by state.

   (c) Required arrangements shall be made for minority Sikh community residing outside the state of Punjab, so that they should not be subjected to any discrimination.
2. Shiromani Akali Dal shall strive to make Indian constitution, a Federal in real sense and shall strive to have equal representation for each state at centre.
3. As per Shiromani Akali Dal, foreign policy of congress government was useless and detrimental for entire country. It shall strive to have better relations with all those nations particularly with those, where Sikhs live or where there are Sikh religious temples. Our foreign policy should not emulate any other's foreign policy.

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4. Justice shall be made more encouraging for Sikh employees at centre and states and raising voice against injustice shall be a vital part of Shiromani Akali Dal's programme. Especially in defence services, efforts shall be made to have Sikh tradition sustained and demands of Sikh soldiers shall be under consideration. It shall also try to make Kripaan, an integral part of uniform of Sikh soldiers.
5. For the rehabilitation of ex- soldiers, necessary and productive environment shall be prepared and they shall be accorded necessary facilities and rights, so that they can live a respectful life.
6. As per Shiromani Akali Dal, each man or woman, who has not been convicted by court of law, should be allowed to keep one weapon without license.
7. A per them, on public places, eating of tobacco or drinking should be banned, there should be a policy on prohibition of use of Intoxicables.

Recommendations made under this proposal were mainly related with state of Punjab and Sikhs.

III. West Bengal Memorandum on Centre-State Relations, 1977

In December, 1977 government of west Bengal issued one memorandum on centre-state relations and this was mainly issued against centre activities of denying resources of capital and revenues(especially in those states where different part is ruling). It was outlined against centre interference in state administration and its misuse of certain constitutional provisions. Though it did not directly demand state autonomy, yet in the nature and language of memorandum it is visible.

Following are its main characteristics:-

Preamble: "In the structure of language, culture and other diversity, security of national integrity and unity is an important question in centre-state relationship. Many linguistic and cultural group joined together to attain common objectives, before independence only. Even today they are involved in the process of getting common objectives of socio-economic, linguistic and cultural needs, by staying out of Imperialism interference, for the development of natural resources and have a prosperous life style. For the attainment of these common objectives, public & political parties understanding unity in diversity, are dependent on central and state government".

Main Features

1. Cenre is interfering unnecessarily in State's Jurisdiction: Indian constitution majorly is unitary in nature. As per it, centre has been given more powers at the cost of state's autonomy. This is the reason, concurrent list has 47 subjects. Even since adoption of the constitution, centre has been accused of interfering in the path of state's power and still today it is doing so.

2. Centre is becoming more powerful: In last two decades, on one hand there have been increasing demands for granting appropriate and effective powers to state to make it more autonomous and on the other hand, consistent efforts have been seen to limit powers given to states and to finish democratic activism of the state government For this objective, non congress government were indirectly pressurized by denying money or assistance or by putting formal pressure by use of centre power. Main leaders of congress and other organizations and administration put lot of pressure. During last 10 years, centre power has increased by establishment of CRPF, CISF, and BSF etc over states. After 42nd amendment, state subject of Education has been transferred to Concurrent list. This process has reached such as stage that states fear being relegated to a central government deptt under its ministry.

3. **Need of True Federalism:** In the changed political environment, centre-state relations have got new importance. There are different parties in states and centre. For the attainment of democratic desires of people, principles of federalism should be understood and implemented in its true sense, so that multi party democratic tradition should be kept alive.

4. **Strong States are Compatible with Strong Centre:** In a country like India with diversity in creed, religion, language and culture, national integrity can be only kept intact by active and willful efforts.

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By delegating powers, forces of disintegration stop instead of getting encouraged. There should be respect for democratic desires of each individual and not hated, in a powerful and unified India. Certainly, we need strong states, but we don't want weak centre either. The concept of strong states should not be against strong centre, rather it is required that areas of authority should be demarcated and fixed.

5.**Residuary powers should be transferred to States:** Residuary powers should not be with centre, rather it should be with states. Required amendment should be done in article 248.

6. **Abolition of Article 249:** Under article 249, parliament gets the power to make laws on state subjects for national interest, should be abolished.

7. **Co-ordination is main function of Centre along with Administration of National Issues:** While increasing rights for state, we should also strive to make centre strong and protected, as there are several subjects, which can be controlled by centre only and it can't be controlled by any one state. Subjects like Security, Foreign affairs, Foreign Trade, Currency, Means of communication and Economic synergy come under it. Centre should play a role of coordinator. In areas of planning, prices, salary etc, it should issue directives along with establishing synergy.

8.**Changes in the Financial Structure:** In matters of planning and economic synergy, centre should abide by general advice of National Development Council and states should also have opportunity of representation along with Centre. In this respect, neither Council nor planning commission should be given special rights by the constitution. This difference can be filled up by forming one new clause, which clearly should mention that decision of formation of planning commission should be done by National Development Council. To extend Debt and Grant for developmental objectives is the main function of planning commission as of now. This becomes even more important that any thought be presented for management of State commission. But foreign relations, defence, communication, currency and related subjects should be strictly under central jurisdiction only. Centre should ensure to let state grow as per their requirement and they should be provided with more resources and power.

Industrial and electricity or irrigation projects, which involve more than one states, should be kept in union list, so that these multi state projects can have common policy and common policy should be made final. Structure of these projects should be done by centre but right to implement and to complete them should rest with states.

9. Right of Law and Order should be exclusively with States: Sending central forces in state by the centre for state administration should be abolished now. Law & order and arrangement of police subjects shall be solely under state jurisdiction and centre should not interfere in state affairs by using its own central armed forces.

10. Desired Changes in the Distribution of Government Income and Finance Commission: Amendment should be introduced in articles concerning finance commission and division of government income and finance commission should distribute 75% of accumulated government income as done from different sources to states. To improve state's condition of a beggar, it is required to do the following:

(a) Finance commission should not have the right to fix the ratio of distribution between centre and states for government income, rather its work should be to fix ratio of each state, which should be divided from 75% of total national income.

(b) Clause 3, sub clause A of article 280, which has provisions of distribution of Income accrued form Taxes between centre and states, should be abolished and fresh clause should be prepared. New clause should mention that job of commission should only be to recommend president about, distribution of organized and ratio share between states.

(c) Each state should be given the right to levy tax in its jurisdiction and it should have the right to fix limits to raise debts in concerned areas also. The right of centre under article 280(clause 2 & 3)on special state subjects to put taxes on property, income should be abolished. Also under clause 302 of finance

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ministry in union, right of putting ban on trade inside state and right to interfere, should be abolished. For the attainment of these objectives, 7th Schedule of Union list, State list and Concurrent list should be properly amended.

11. Deletion of Article 356, 357, 360, 200 and 201: Article 356 and 357, which gives president right to dissolve state government or state Vidhan Sabha or both, should be abolished.

(a) Article 360 which gives right to president to interfere in state administration in the name of financial instability or national financial crisis should be abolished.

(b) Article 200 & 201, under which governor keeps bills passed by state Vidhan Sabha for president's consideration, should also be abolished.

12. Equal Representation to all States in Rajya Sabha through Direct Election: To implement principle of equality among components of union and to have state autonomy intact, it is recommended that Rajya Sabha elections should happen like Lok Sabha directly by public . Each state should have equal representation in it. Only states with less than 3 million population shall be an exception. Both house should have equal powers.

13. Separation of Union Services from State Services: All Indian services like, IAS, IPS which work in states, but are under the monitoring and disciplinary control of centre, should be abolished. Only union services should continue and their appointment should happen jointly with centre and concerned state.

14. Changes in Amendment Process: Article 368 should be such amended that for any amendment, it is mandatory to have minimum 2/3rd majority vote of both houses. Without 2/3rd majority, no amendment should be possible.

15. Parliament's right to Change Boundaries of States should be amended: As per article 3, under which centre can change boundaries of any state on its own, should be amended and should be ensured that name or boundary of any state can't be changed without concerned state's Vidhan Sabha consent. In the cases of demarcation dispute between two or more states, settlement should be sought under provisions as made under constitution for interstate dispute.

16. Use of English and other Languages: Centre and state government should have powers to work in languages as mentioned under Schedule 8. Any Indian citizen should have the right to use its mother tongue, at highest possible level in any government deptt for its purposes. English should be kept in use along with Hindi in all Union deptt, but only when non Hindi regions would like to do so. Besides, amendment is needed in schedule 8 to add some foreign languages like Nepali in to it.

Article 370 of constitution which provides special status to J&K, should be continued.

Main objective of this memorandum was to throw light on the need of curbing central interference in state administration and in the context of giving more powers to state, in order to have a true federal under Indian Federal system. This report had similarities with Rajamannar report. Central government rejected this report too to accept.

Self Assessment

State whether the following statements are True/False:

7. There are some article under which taxes are levied & collected by both centre and states.
8. Union government has right to take debt on the guarantee of consolidated fund of India, but there are certain caps (article 292) in form of parliamentary laws from time to time.
9. As per constitution governor has dual role; as an agent of centre in state and as constitutional head of the state.

Notes

13.6 Recommendations of Sarkaria Commission (1983–88)

Looking at increasing demand of autonomy and to analyze centre-state relations, government appointed Sarkaria commission in 1983. **Shri R.S. Sarkaria** (retried) was appointed chairman of this commission and **B. Shivaraman** (cabinet secretary), **S.R. Sen** (IBRD, ex executive director) and **Ramasubramanyam** (member secretary) were its nominated members.

Objective of Sarkaria commission was to analyze and test available provisions in the areas of powers, works and all areas of responsibility between centre and state and to recommend such changes or proposals, which are appropriate and necessary. It was expected from commission that it shall take in to consideration work done for years of social and economical development and shall respect fundamental structure of constitution, which was formed with great effort for the protection of national liberty, integrity and unity and public welfare.

Report of Sarkaria Commission: Sarkaria commission as per given directions, prepared and handed over its report to union government on October, 1987 after analyzing all aspects of centre-state relationship. Its main recommendations were known only in January, 1988. Its main recommendations were as following:

1. Strong Centre should continue: Sarkaria commission advocated existence of strong centre. It rejected the demand of rejection in centre's powers in the wake of national unity and integrity. "We absolutely need to have a strong centre and there is no doubt about it. Without that, everything will wither away". Commission was not in favor of effecting serious changes in the constitution. It accepted that constitution has worked perfectly in tough conditions under pressure of diverse society and adverse conditions. But it also accepted the importance of stopping unnecessary extension of centralism.

2. Rejection of demand for transfer of some subjects of State List to Concurrent List: Commission rejected the demand of transferring some subjects from state to concurrent list. On the other hand, it said that centre should consult states on concurrent subjects. Commission was not in favor of putting a ban on centre's power to deploy armed forces in states, but rather was in favor of having prehand discussion with states and centre on such issue.

3. Support for Co-operative Federalism: Report supported the need of having co-operative environment between centre and states. Commission wanted to end long running dispute between centre-state relations. It could have been possible only by continuous consultations between centre-state and by no direct and self decision by centre. Commission also wanted to have co-operation between centre-states in making and implementing plans. Commission was critical of that style, by which past government had played with democratic features and traditions and many times, gave superior space to their conservatism rather than to intelligence. Short term gains were given importance over long term gains.

4. Recommendation regarding Post of Governor: Report rejected the demand of abolishment of governor post. It also rejected the idea of electing governor from the list of names as given by states. In its views, active members of political parties should not be made governor. In case of different leadership at centre and state, governor should not come from ruling party at centre. Beside, governor should not be allowed to work on any post of profit, post retirement.

5. Recommendation regarding issue of Appointment of Chief Minister: As per Sarkaria report, leader of party in Vidhan Sabha with complete majority should be made Chief Minister. In case of no one with complete majority, governor should offer that leader the post of chief minister, who can be able to get majority in Vidhan Sabha. In such cases, he should be able to prove majority within 30 days.

6. Recommendation regarding Session of State Legislature: Generally, governor should only call for session as per recommendation from state government but under special conditions; he can call special session with his discretion also.

7. Changes in Financial Schemes: As per report, commission was not in favor of big changes in financial resources division, as set by constitution. But was in favor of bringing improvements in participation for Incorporation Tax, Batch Tax and Advertising and Broadcasting Tax.

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8. Recommendation regarding Article 356: As per Sarkaria report, demand for abolition of article 356, which provides for president rule in state in case of failure of constitutional machinery. But at the same time, following steps should be taken to control its misuse by central government

(*i*) Use of Article 356 should be restricted.

(*ii*) Reasons of president rule during emergency should be mentioned along with declaration of emergency.

(*iii*) Rajya Sabha should not be adjourned or dissolved till the time parliament accepts emergency declaration.

(*iv*) Before declaring emergency, centre should evaluate all possibilities of forming alternate government as per article 356.

9. Three Language Formula preferred: As per Sarkaria commission, three language formula was favored in entire India. As per it, efforts should be taken to make Linguistic Minorities Commission more active.

10. Existence of All India Service should Continue: Report rejected the demand of abolition of all India service on the ground that it shall damage national integrity and unity.

11. Autonomy of Mass Media: The report suggests reduction in central control over media; TV and Radio and efforts should be made to ensure government to have more decentralization. They should use compose common dictionary with mixing of normal Indian and regional language words.

12. Miscellaneous Recommendation: There were some more recommendations as below: (*i*) It recommended transfers of Judges should happen with his consent only. (*ii*) No Investigation commission against Chief Minister or any Ex Minister of the State should be constituted, till the time both houses of parliament demand it. (*iii*) No Investigation commission against any State Minister should be constituted till the time; such proposal is not approved by Interstate Council.

These are the main features of Sarkaria commission report presented to government of India. Government of India is yet to act on this report. Non Congress leaders rejected this report in a meeting in January, 1988 held at Delhi. Regional parties too rejected this report, as it failed to fulfill their demand of full autonomy.

Review of Various Reports and Suggestions on which there can be Consensus

For doing discussion on the nature of possible and desired changes on present structure of centre-state relations, we can make reports of **Rajamannar, Anandpur Sahib**, Memorandum of west Bengal government and **Sarkaria commission**. Since, many states are demanding more powers and many political parties have supported the demand of autonomy for states, there is a need to pay attention towards centre-state relations. Nobody can agree to such demands that affect the integrity and unity of nation and none can agree on the misuse of central government in the name of such issues. Besides, nobody can agree to limit union jurisdiction to only 4-5 subjects, though giving more powers can't be avoided. Need is to have spirit of co-operation, responsibility and agreement between them. Principle of strong centre with strong states seems to be correct, but having strong centre is the natural necessity of each Federal government

To encourage friendly and co-operative centre-state relations and having amendment for constitutional restructuring, in some provisions, on the basis of different reports and joint suggestions of proposals, following suggestions can be considered:

(1) There is a need to amend in curtail centre's power of fixing boundaries of states. Efforts should be made to increase a sense of agreement between concerned states and should be done in the national interest of all states only.

(2) Article 356 should be amended, to control frequent, easy and unnecessary use of centre.

(3) Directions should be made for Governor relating to his functions. Governor while appointing Chief Minister, dissolving Rajya Sabha and giving practical shape to other discretionary powers, should act as per these directions only.

Notes

(4) States should get more share of Tax income.

(5) Fixing Limit for extra constitutional powers of planning commission and National Development Council should be made more powerful against Planning Commission.

(6) Corporation Tax should be included into tax division list.

(7) There should an Institution for discussions on centre-state relations. National development council should be made more active and powerful and a constitutional status should be accorded or an Interstate co-operation council with fixed powers and of constitutional statues can be made or National Presidential Council on extended role on centre-state relations can be established. In other words, a new Institution should be established for having co-operation and synergy on centre- state relations.

(8) Post of Governor should not be nominated, but elected so that it is free from centre interference and control. Alternatively, its appointment should be done by State Council of ministers of concerned states.

(9) Wrong tradition of appointing political personality on the post of Governor should be abolished. A person, who has served as governor in any state, should not be offered any other post in the state.

(10) President can implement president rule, but it should be not done in consultation with union parliament, but on the actual participation of president himself.

(11) In context of article 356, if president is not satisfied with governor or ministers of union council of minister's advice, then he can give it to Supreme Court or any other committee for suggestion.

(12) There should be fixed medium of communication between centre-state with English, Hindi or One regional language.

(13) 40% Income of Public Corporation and National Income should be given to States.

(14) Union Government should make All India Policy and powers should be given to states for the directions and monitoring of them.

These are some of the suggestions which can be considered for having centre-state co-operation. Both proposal of having strong centre with weak states or weak centre with strong states are dangerous. We should improve system barring these two extreme proposals.

Need is to develop co-operative federalism and put ban on controversial and confrontationist Federalism. In current times, where many political parties are ruling at centre and states and regional parties are also partners to administration along with centre with national parties. Need is to have a mutual agreement by all political parties on matters and while respecting fundamental spirit of constitution, centre-states relations should be restructured. Powerful states in combination with powerful centre can only become the source to do socio-economic development.

Self Assessment

Fill in the Blanks:

10. Sarkaria commission was appointed in ..... .
11. As per Sarkaria report, Leader of majority party in Vidhan Sabha should be made ..... .
12. As per Sarkaria report, post of governor should be ..... and not nominated.

13.7 Summary

- Detailed and specific mention of distribution of constitutional powers between centre-states has been done in part XI.

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Notes

- Both Union and State can make laws on Concurrent list, but in case of dispute over it, law of union shall prevail.
- When President declares emergency under article 352, then executive powers of union gets implemented on states and can give instructions to state on the use of its executive powers.
- Union government has right to raise debt on guarantee of consolidated fund of India, but there are several periodic caps (article 292) as per parliament laws. States too can raise debt in similar fashion, but they can't raise it from outside India. Government of India can also give loans to any state.
- Under Indian Federal system, there has been a situation of confrontation between centre-states. Union and states have difference of opinion on many subjects.

13.8 Keywords

- Recommendation: Buttering, to suggest
- Commission: Appointment, give work

13.9 Review Questions

1. Indian constitution is neither totally Federal nor Unitary, but mixture of both. Do you agree? explain.
2. What is Co-operative Federalism? What are its elements?
3. Briefly mention Legislative and Financial relations between Union and State.
4. Write brief note on the following:
   (1) Rajamannar Report, 1972.
   (2) Anandpur proposal, 1973.
   (3) Recommendations of Sarkaria commission, 1988.

Answers: Self Assessment

1. State	2. State
3. 7	4. (*d*)
5. (*b*)	6. (*c*)
7. False	8. True
9. True	10. 1983
11. Chief Minister	12. Elected

13.10 Further Readings

Books

1. Indian Political System – *U.R. Ghai.*
2. Indian Political System – *N. Chhabra.*

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Notes

Unit-14: Indian Political Parties

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Objectives

After studying this unit, students will be able to:

- Understand the features of Indian Political Parties.
- Understand the role of Political Party System in India.
- Explain the Indian Political Parties.
- Explain the Regional Political Parties of India.

Introduction

"Development of the party system in India is not only contrary to the democratic institutions, but also a threat to democracy in our country." **—R.A. Gopalan**

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Modern democratic system of governance is essential for political parties. Political parties in the country seek public opinion on the issues of national importance, and impart political education to the people and thus set up the stable government. On the basis of the strength of different political parties a strong opposition party can be established so as to restrain the government from going its way which may not be in the interest of the people of the country. In fact, without any democratic country, political parties cannot rule. In addition, the creation of political parties without a strong opposition party is very hard to be successful without which democracy is impossible. Thus, we see that political parties are essential for the success of democracy. Supporting this, **Brice** wrote that "political Parties are inevitable. No free country has been without them. No one has shown how representative Government could be worked without them. They bring order out of chaos of multitude of voters. If parties cause some evils, they avert and mitigate others."

According to Prof. Monroe," independent political party is another name for democratic government." Indian political system looks like the Western system, but if we deepen the study of the system it appears that our system is mixture of both Western and Indian law. According to Prof. Norman D. Palmer, "the Indian political system is still in a state of creation and its final form is still not clear. Indian politics is now getting Indianised". Like other developing nations; the nature of politics in India is like a conflict between traditionality and modernity which is in coordination with each other. Since the adoption of Indian Constitution, multi-party system is applicable in the country. After 1977 general elections it was expected that very soon state of political polarization would arise into the Indian Politics, but for the time being two party system was established in the country, but after sometime it was noticed that all these expectations were not fulfilled and in 1979 with the dissolution of Janta Party, again multiple party system was established in the country.

14.1 Characteristics of Party System in India

Features of Indian Political Party System is mentioned under the following titles:

1. Absence of Specific Constitutional Provision: Indian Constitution has led to the establishment of Parliament democracy in the country. Political parties are essential to successfully run the parliamentary government system. But in our constitution no article or section was originally incorporated in respect of the arrangement of political parties. Indian political system has three major things which led the political parties to be activated in the country. In Part(3) of the Indian Constitution a chapter on fundamental rights is given in Article 19(C) under which all the citizens of the country have a right "to form an independent community or union". Fundamental right to independently form political party has been given. This provision automatically gives right to independently form political party to the citizens. Secondly, in part XV, provision is there for having a free and neutral election commission. In a vast country like ours, elections for successfully administering parliamentary system, can't take place in the absence of political parties. Third, in 1985, 52nd amendment of constitution unanimously barred defection. Hence, it means in constitution in a way, existence of political parties has been accepted in non written mode.

2. Multi Party System: India does not have Single party system like China nor Dual party system like America and England, rather we have Multi party system like Switzerland. In 1971 elections, 24 political parties entered parliament. In 1980, in the elections of Vidhan Sabha for 9 states, 8 political parties contested. In 1980 during Mid Term Poll of Lok Sabha, there were a total of 32 recognized parties. The same was 25 during 1984 and 29 in 1989. During May-June 1991 Mid Term Poll of Lok Sabha, the number kept increasing. There has been continuous increase in the number of regional parties. Such Multi party system is dangerous for the nation, as it is a risk to the integrity and unity of the nation and we can't establish solid, strong government As per **A.R. Gopalan**," The party system which has developed in our country, is not only against democratic institutions, but also a threat to our democracy as well".

3. Domination of One Political Party: Quality of Indian Party system has been that majorly One party has been dominant. Prior to the elections of 1967, Congress had dominance in centre and almost at all state

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level. In 1967 elections, due to congress not getting majority in almost half the states, other non congress parties/alliance made government in UP, Punjab, Haryana, Bihar, Orissa, West Bengal, Rajasthan etc, but they could not run for long. In the elections of 1971, congress(I) got absolute majority and it got 352 seats in Lok Sabha. But due to the act of suppression veted out by congress during emergency, it got only 153 seats in 1977 elections. Janta party got 272 and Congress for Democracy got 28 seats in this election. Thus, first time non-congress government came to power in centre and it appeared that single party dominance has ended. In June,1977 elections were held in 10 states, out of which 7 had Janta party government But due to internal conflict within Janta Party, Morarji Desai resigned and Chaudhary Charan Singh replaced him. But since Charan Singh did not have majority support of Lok Sabha, he resigned on August 20,1979 and advised president to dissolve Lok Sabha. In the elections of 1980, Congress(I) got major success. Congress (I) got 352, Janta party 31 and Lok Dal 41 seats. In such conditions, due to defection, Haryana and Himachal saw Congress (I) coming to power. Elections happened in May,1980 for 9 states, in which except Tamil Nadu, congress was successful in all states and formed government in the elections of December, 1984 also it got success. It got 400 seats in Lok Sabha and once again supremacy of congress was established. But in the elections of 1989 and 1991 for Lok Sabha, no party got absolute majority.

4. Loose Organization of Political Parties: Majority of political parties have loose organization and they lack discipline. Normally, leaders don't care for party discipline for their own vested interest. If any member does not get ticket, then he resigns and contest against his own party candidate. Many times, such members make their own party. We find plenty examples in the election of 1982 for Haryana and Himachal, when many party members of congress (I) resigned and contested against their own party colleague. Even worse is the practice of taking back those members, who once had been thrown out of the party. In such conditions, expecting discipline from party members is difficult. This is a major illness of our party system in India.

5. Trend of Opportunism: Opportunism always has been existent in Indian polity and in recent past, it has been growing aggressively. In 1980, congress (I) and Janta Dal contested Kerala elections together, even though were opponent in centre. In Punjab, Akali Dal and Jan Sangh formed government together. Similarly, congress (I) joined hands with DMK in Tamil Nadu, while sometimes ago during emergency, Indira Gandhi dissolved DMK government in Tamil Nadu. Similarly, leaders of Akali Dal Prakash Singh Badal and Talwandi went to Kashmir to campaign for Farooq Abdullah's party National Conference. Other examples of opportunism are like; In November,1990 Janta party got divided and subsequent emergence of Janta Dal (S) in leadership of Chandrasekhar and forming government at centre.

6. Compulsory Registration of Political Parties: After the amendment in Public Representation Bill, 1951 in December, 1988 it has become necessary for all political parties operating at regional or national level to register before election commission. While doing registration, parties have to declare their commitment towards secularism, democracy and socialism as mentioned in the preamble of our constitution and they have to pledge for the maintenance of national integrity and unity.

7. Communal and Regional Parties: Another characteristic of Indian political party system is the existence of regional and communal parties. Muslim League, Akali Dal, Hindu Mahasabha and DMK are major out of them. though they have not been very successful in last Lok Sabha elections, yet they continue to be a threat to the national integrity and unity.

Notes Many regional parties have also been formed apart from communal parties. Major parties of such category are; National conference of JandK, Telugu Desam of AP, DMK and AIADMK of Tamil Nadu, Akali Dal in Punjab, Utkal Congress of Orissa and Jharkhand Dal of Bihar.

Out of these, Telugu Desam is in power in Andhra Pradesh. This system is against national provisions, as such parties instead of looking at national interest, keep forwarding regional demands and instigate regional feeling.

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8. Absence of Clear cut Ideology: Base of political parties are their defined political thought process, idealism, principle and programmes. But in Indian polity, such things are completely missing. Majorly, political parties exist on the personality of leaders expelled from congress. Hence, Indira congresses, congress(s), Janta Dal, Janta Party, Janta Dal(S) and Lok Dal (B) have more similarities even though they are principally against. Communist revolution that follows their defined political thought process, also got divided due to their leader's confrontations, out of which CPI and CPM are main parties. End of communist presence from Soviet Russia to Eastern Europe, has put a grave question mark in front of them. Only one non congress party, BJP with its defined political thought process, is existent in Indian political space.

9. Recognized Political Parties: There was no recognized political party in Lok Sabha prior to 6th Lok Sabha elections of 1977, since no opposition party got 1/10th seat of total Lok Sabha strength in the house. First time in 1977, after the formation on non-congress government, act pertaining to salary and allowances of opposition leaders was passed and congress leader Yashwant Rao chauhan was recognized as leader of opposition and was accorded facilities like cabinet ministers. But in the elections of 1980 and 1984, again single party dominance situation came back. But in the elections of 1989, opposition party recognized by Lok Sabha again came to existence. That time, congress (I) Leader Rajiv Gandhi was leader of opposition. After elections of May, 1991 BJP got this privilege and Atal Bihari Bajpai became leader of opposition.

10. End of One Party Era: From 1947 till November,1989 congress kept its dominance in centre barring March, 1977 to December,1979(quarter to three years). but since elections of 9th Lok Sabha in November, 1989 One party dominance is fading away. But after brutal killing of Ex Prime Minister and Leader of Congress(I) Mr. Rajiv Gandhi during May, 1991 Mid Term Poll, there has been no sign of single party dominance coming back to centre. In 10th Lok Sabha elections, even no party managed to get absolute majority and in the leadership of P.V. Narasimha Rao, minority government was formed. This is the reason, since 1966 there have been only Coalition government in centre.

11. Defections: Tendency of defections in the Indian political system has been its biggest bane. During 1957-1967, there were a total of 542 defections. This defection tendency was proving to be dangerous for the nation. Time and again, effort were made to frame law against it, but no major breakthrough was achieved. Ex Prime minister Rajiv Gandhi took great step by putting cap on defection through 52nd amendment, but still this is not totally eradicated and still we find examples of defections here and there.

12. Factionalism: Another characteristic of Indian polity is prevalence of Factionalism, which is majorly found in north Indian states. there are factions in each political party. Normally, first group is in power and second unsatisfied group. All these factions oppose each other only during elections. This tendency is common across party lines. As per **Dr. Iqbal**, " in India there are many national parties, that being One from outside, have factionalism within". Due to factionalism, many state government have lost power. Congress saw its division in January, 1978 and Congress (I) was established. Janta Party was formed in 1979. Due to factionalism only, Janta Dal got divided in 1990 and as a fallout V.P. Singh government was toppled and Chandrasekhar formed government and Lok Sabha had to be dissolved and Mid Term Poll were conducted.

Notes Factionalism is an important evil of Indian Political System.

13. Independent Members: despite having such large number of political parties, there are plenty independent members in parliament and state Vidhan Sabha. These independent candidates get elected also in elections. Number of independent candidates elected for Lok Sabha was 9 in 1977, 8 in 1980 and 3 in 1984. In provincial legislature, effects of independent candidates are more. Such political system is detrimental for our democracy. As per Norman D. Palmer," till now no healthy party system had emerged and it seems difficult in near future also".

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14. Less Number of National Political Parties: Election commission of India recognized 6 political parties as National parties, while 2 out of them were given temporary recognition which are (1) Janta Dal (Bommai), (2) Janta Dal (Aijt).

6 political parties getting National party status are as following:

1. Indian National Congress (I).
2. Communist Party of India.
3. Communist Party of India (Marxist).
4. Bhartiya Janta Party.
5. Janta Dal (Bommai).
6. Janta Dal (Ajit).

15. Importance of Personality: Importance of personality in Indian Political parties is special and there is at least one individual in each party, around whom entire programme of the party revolves. As per Morris Jones, India has got some extra ordinary leadership in last some decades. Post independence, role of Nehru has been commendable and special. Shri Lal Bahadur Shastri proved his mettle in whatever little time he was in power. After 1966 till November 1984 (except March, 1977 to December, 1979), Indira Gandhi and after her Rajiv Gandhi took charge of national leadership. On June 21, 1991 P.V. Narasimha Rao took charge of the nation. Looking at present scenario of our nation, our prime minister is playing special role.

16. Less Contact with Masses: Another feature of party system is that they don't keep contact with masses. It is very surprising that many parties come to the fore like rain frogs and then vanish after election finishes. Leaders emphasize on having contact with masses only when it is election time and they forget this important task after elections are over. Majority of rural population even don't know names of political parties. As long as political parties don't have direct contact with masses, party system can't work effectively and successfully.

17. Lack of Democracy in Political Parties: Another feature is that internal structure of political parties is not based on democracy and values. Their own organized elections don't take place for years. In April, 1992 after 22 years, Congress (I) had their internal elections. In the absence of this, there develops a spirit of authority. Till the time political parties establish internal democracy, it is difficult to find democracy and values in national politics.

18. Non-Principle Alliance Between Political Parties: Another feature and demerit is that to meet their selfish motives, parties are always ready for alliance without principles, so that they get share in administration. In the Lok Sabha elections of January, 1980 almost all parties did principle less alliances. In March, 1987 Congress (I) did alliance with National conference and made coalition government in the election of 1989, Janta party did alliance with CPM and BJP. In Lok Sabha elections of 1991, all political parties did opportunistic alliances like this.

19. Use of Black Money by Political Parties: Elections are becoming costly day by day and there is no relevance of fixed upper limit for election expenditure. Political parties collect money from industrialist and companies. In return, this section takes advantage from administration and political parties. There has been no diminishing effect of the curb put on getting donations to political parties by companies. Now they give black money to parties as donations. Therefore, honest and result oriented individual can't even think of contesting elections. During election campaign of 1989, Indira Gandhi gave a contract of 75 Crores to one company.

20. Lack of Public Service Spirit in Political Parties: Now for political parties, political arena and social life is no more a tool of public service, rather it has become a tool of getting power. Hence, political parties are not hesitant of getting power even by sacrificing principles.

Conclusion: By above mentioned description, it is crystal clear that there has been no development of Indian Party system. it contains many evils which can prove to be lethal to democracy. Since 1952 till

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date, there have been so many changes in party system, that it would be proper to say about its nature that, Indian party system is actually Indian by nature, sine this party system is the child of Indian conditions. Elections of May-June, 1996 has given a new direction to Indian party system. now in India itself there has been emergence of Polarized Multi Party system and Congress (I) and BJP are two poles of it. It is essential for the success of Indian democracy that Bi-Party system develops on the lines of America and England. Lastly, as per Prof Palmer," Indian political structure is still developing and what shall be the final shape, it is not clear as yet".

Self Assessment

Fill in the Blanks:

1. There is ..... system in India.
2. In 1977, Janta party got majority, whereas ..... worked in opposition.
3. Political party works as a link between pubic and .....

14.2 Role of Party System in Indian Political System

India has adopted Parliamentary administration system. Success of democratic and parliamentary administration of each country depends on political parties only. Political parties are playing following roles in Indian polity and administration:

1. Formation of Public Opinion: In democratic government, final power of government rests with public only. Each political party to get favor of public tries to build opinion in their favor. Most of Indians are illiterate and they can't understand complex issues facing the nation. Indian political parties try to present these issues to public and suggest possible solution and thus try to get public opinion.

2. To Contest Election: Indirect democracy has been established in India. Under this system, administration is taken care of by elected representatives of public. Aim of each political party is to get power with peaceful means. Parties field their candidates and try every possible effort to make them win. they make their election manifesto, which they use in campaigning.

3. To Form Government: Party which gets majority in elections, form the government In the elections of 1980, congress (I) got majority and formed government under leadership of Indira Gandhi. After coming to power, party tries to implement that policy in national interest, which it kept before public as promises. In elections of 1984, congress (I) got majority and formed government under Rajiv Gandhi leadership. In Lok Sabha elections of 1989, none got clear majority. V.P. singh had to resign and then Chandrasekhar formed government and thereafter he also had to resign and then Mid Term Poll had to be conducted. No party got absolute majority, but on June 21, 1991 government was formed under leadership of P.V. Narasimha Rao and they also somehow managed under adverse situation.

4. To Have Discipline in Legislature: Members of legislature can't work effectively without leadership and organization and such leadership is provided by political parties only. Members of a party organize themselves under the leadership of any able and influential leader and work in legislature as per orders of party only. Thus, in the absence of discipline, legislature shall become a fighting ground.

5. Political Education to the People: Political parties do important work of imparting political education to people. Each party discusses on different issues with its perspective and tries to fixes solution for them. after that, each party propagates its point of view among masses, by which public gets to know what the issues of nation are and what can be the possible solution for it. By this, illiterate people who can't read newspaper also, get to know about nation and its problems, which increase their interest in nation, government and politics.

Notes

6. To Form Opposition: Party which loses elections, forms opposition. In 1977, Janta party got majority and formed government whereas congress (I) sat in opposition. In May-June, 1991 elections no party got clear majority, but Congress (I) formed government and BJP sat in opposition. Opposition party stops from being oppressive and in case government becomes unbridled and does not care for public welfare, then opposition party can remove government by passing No Confidence motion against it. Success of democracy also depends on the strength of opposition also. Opposition party criticizes policies of government

7. To work as Link between People and Government: Political parties keep the contact between government and public intact. They advertise government policies and works among the masses and inform them. besides, parties take public complaints to government political parties studies government policies and laws in detail and present its merit and demerit before public. Thus political parties bring public and government together.

8. Parties create Co-operation between various organs of Government: Parties create mutual co-operation between different organs and deptt of government which is required for the effective handling of government in parliamentary administration system, co-operation emerges between legislature and executive on the basis of party, which results in passing of good laws. There is least possibility of friction between these two organs of government Because the same party controls government also, this has got majority support in Vidhan Sabha.

9. Peaceful change in Government: Political parties only make change in government peaceful. During emergency under Indira Gandhi, when government did all cruelty and oppressive acts on public, it had to bite dust in elections of 1977 and Janta party came to power. When Janta party could not give stable government to nation due to its internal division, and then in it was ousted from government by public in elections of 1980. Thus entire change process happened peacefully. In the absence of political parties, we have to take help of revolution, due to which there is lot of damage and loss of life in the country.

10. To Create Harmony between Union and its Units: India has adopted union structure, under which powers are divide between centre and states. division of powers can create tension between centre and states many times. Political parties in our country have always tried to reduce this tension. When we had congress government in both centre and states, then both had nice relations. But after 1967 elections, some province had non congress government, which resulted in tension between both of them. many states have been demanding extra powers for states and more autonomy. National integrity and unity can only be maintained if there is a co-ordination between centre and state government and they work in national interest. Each political party should have same objective.

11. Social and Economic Reforms: Political parties in each nation play vital role in the social and economical development. parties try to bring reforms by eradicating social evils. Ex. Prime Minister Rajiv Gandhi ran campaign for the removal of Dowry, Caste system and Sati system at a large scale. Our nation is trying to eradicate untouchability totally.

Self Assessment

Multiple Choice Questions:

4. Indian National Congress was established in:
   (*a*) 1885 (*b*) 1884
   (*c*) 1886 (*d*) 1857
5. Bhartiya Janta Party was established in:
   (*a*) 16 April, 1980 (*b*) 6 August, 1980
   (*c*) 6 April, 1980 (*d*) 15 August, 1980

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6. Communist Party of India was established in:
   (*a*) 1925 (*b*) 1923
   (*c*) 1948 (*d*) 1924
7. When Communist Party of India got divided?
   (*a*) 1965 (*b*) 1964
   (*c*) 1968 (*d*) 1962

14.3 Indian National Political Parties

The Indian government and the political parties are playing important and admirable role Indian administration and polity and without this the democratic parliamentary system of government cannot be successful. Some of the national political parties are mentioned below:

14.3.1 Indian National Congress (I)

Congress was established by a British Civil Servant, A.O. Hume in 1885. Since then, it kept its struggle for independence on with the British. Post independence, it remained in power from 1947 to 1977. It got divided in November, 1969 and two part factions were made, Ruling Congress and Coalition Congress. It again saw a division in December, 1978. One part was called Congress and another Congress (I), but structure and programme of both congresses is similar. Congress (I) came to power in the 7th Lok Sabha elections of January, 1980. Indira was murdered on October 31, 1984 and after her Rajiv Gandhi took charge as PM. He led congress (I) in 8th Lok Sabha elections and achieved remarkable success. In the 9th Lok Sabha elections of 1989, Congress (I) did not get majority and Janta Dal formed Government in 1991, Mid Term Poll for 190th Lok Sabha took place. During the campaigning of these elections, Rajiv Gandhi was murdered. On June21, 1991 P.V. Narasimha Rao took Oath as next prime minister.

Social Base of Congress (I): Congress was the most important party at the time of independence. Other party like Muslim League, Hindu Mahasabha, and Communist were almost nonexistent. Congress instead of being a party of any specific section was endorsed by all sections and all people. Congress's doors were open for farmers, landlord, laborer, industrialist, Hindu, Muslim, Sikh, and Christian, urban and rural and even today Congress (I) is one party, which has support of all sections and religions. Its electoral symbol is Palm.

Election Manifesto of Congress (I) during 10th Lok Sabha Elections: On this occasion, Rajiv Gandhi published a huge manifesto for the social and economic structuring of the nation with 6 chapters, 52 formulas and 64 books. It is worth mentioning that during 10th Lok Sabha elections of 1980; its manifesto was only of 24 pages.

1. Political Agenda: In its political programme document, congress (I) has expressed its commitment towards democracy, socialism, secularism and factionalism. It stated as:

(*i*) Congress (I) shall take effective steps to protect national integrity and unity and would try to control disintegrating forces. It has proved its commitment by talking to terrorists within constitutional limit in Punjab. But condition is that terrorist should lay arms and come to discussion table. Involvement of public participation has been emphasized by forming public committees for solving issue of the state, till the time Vidhan Sabha comes in to existence.

(*ii*) Congress (I) has started debate of violence in election, use of money power and for the resolution of caste and communal issues.

(*iii*) It has been promised to use Electronic Voting Machine and Identity Cards for voters in the forthcoming elections in future.

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(*iv*) It also has been promised to pass Panchayati Raj and Nagarpalika bill within 100 days of coming to power and thus would try to decentralize the administration.

(*v*) During the same period it has been announce to reserve 30% seats for ladies in all autonomous bodies and each unit of Local Administration and decision has been taken to appoint one commissioner for protecting their rights.

(*vi*) It has been suggested to accept court order in relation to Ram Janmabhumi – Babri Masjid dispute, if all channels of communication fail to deliver result. Without breaking Masjid structure, promise is made to construct a Ram Temple.

(*vii*) In the manifesto, it has been declared to keep status quo of religious places of worship, as they were on August 15, 1947.

(*viii*) Recommendations have been made to form special courts to resolve communal disputes.

(*ix*) To deal with communal clashes, special forces shall be formed of all communal groups.

(*x*) People affected from communal clashes, shall be compensated as fast as possible.

(*xi*) Constitutional recognition shall be given to SC/ST commission and shall be made more stronger.

(*xii*) Financial and development corporation shall be formed for the development of SC/ST people.

(*xiii*) Programmes related to **Dr. Bhim Rao Ambedkar** University shall be implemented and a university shall be established in Lucknow.

(*xiv*) A corporation for backward classes shall be formed for the development of backward classes

(*xv*) Without taking Mandal commission, promise has been made in the manifesto to have reservation for economically backward classes.

(*xvi*) Assurance had been given for the rapid development of Assam.

(*xvii*) Freedom of press is assured to be guaranteed and promised to pass bill related with autonomy of Akaashvani and Doordarshan. It has also been said that within one year, private parties shall be authorized to broadcast radio and TV channels and thus promote fair competition.

(*xviii*) Within 2 years, congress shall decentralize planning work totally and Nagarpalika and Panchayat shall themselves get right to plan and implement.

(*xix*) Individual laws of minorities shall not be interfered and they shall be offered confirmed employment in police and other government services, in the ratio of their population.

2. Economic Agenda: Congress (I) also presented a very attractive picture of economic development in its manifesto, which are as following:

(*i*) It promised to take aggressive steps to combat price rise. Hence prices of daily use items like salt, kerosene, vanaspati ghee, diesel, stove, cotton saree, newsprint paper etc, have been promised to be brought down within 100 days to the levels of July, 1990.

(*ii*) To make Tax structure more relevant, it has been suggested to have Tax System for 1 year for Direct Taxes and 5 years for Indirect Taxes.

(*iii*) Wasteful expenditure of administration shall be controlled. Area of public productivity shall be made more effective. If profit money is spent on welfare activities related to lower and middle class on dwelling units, school buildings, drinking water facilities, construction of roads and bridges and conventional resources of energy, then the applicable tax on the profit shall be forgone.

(*iv*) Deficit economy shall be controlled and within 100 days of government formation, small savings interest rate shall be increased.

(*v*) Legal control shall be released in industrial areas and public undertakings shall be closed in areas in which non government bodies have done exceptionally well. Within 3 years, much shall be changed in public sector undertakings and foreign investment shall be promoted in industries which help increase exports.

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(*vi*) One Industrial Centre shall be established in every backward district. Special assistance shall be given to industries based on Jute, Leather and Coconut.

(*vii*) More employment opportunities shall be created under Jawahar Rojgar Yojna and each Panchayat shall be partner in it. Each year 1 Crore employment opportunities shall be created. capital investment shall be increased in agriculture and industries and more subsistence shall be provided to public.

(*viii*) Efforts shall be made for having confirmed employment. Construction of national highways and bridges shall be promoted. Public sector shall be made partners in those activities and government and private sector banks shall be assisted in collecting foreign capital.

(*ix*) Special focus will be given to agriculture. Crop and live stock shall be insured. Agriculture sector shall be provided more money and resources. Interest rate for agriculture loans shall be lowered. Land records shall be corrected and irrigation schemes shall be promoted. Each year almost 10 Lac hand pumps shall be installed.

(*x*) Within one year of forming government a formula for deciding on agriculture produce pricing, shall be derived and implemented.

(*xi*) There shall be no monopoly in the areas of area of production and system of monopoly shall be abolished in non-military areas.

(*xii*) Hand carts shall be converted in to cycle rickshaw and drivers shall have ownership for it.

3. Policy Related to International areas: The manifesto again reiterates India's commitment to zero factionalism and peaceful co-existent in matter of international relations. main features as below:

(*i*) Emphasis has been laid on having sound relations with all countries including neighbors and effort shall be made to made SAARC more powerful.

(*ii*) Promise has been made to fulfill the agreement of July, 1987 with Sri Lanka. Besides, it has been laid to have a joint forum of MPs from all across SAARC and have strong relations between them.

(*iii*) To have solid business ties with European Economic community and also to ensure that regions captured by Israel from Arab nations, should be returned and have peace in that region.

(*iv*) It expresses its solidarity with United Nations and pledges to eradicate discrimination on skin color and make United Nations more powerful.

(*v*) In the area of defence, it has been committed to follow traditional policy by increasing military production and making nation self dependent in weapons and apparatus for safety of the nation.

(*vi*) India shall abstain from the race of Atomic Bomb and atomic power should be used for human development and welfare work and peaceful objectives only.

4. Other Important Provisions: some other topics other than political, economic, defence, foreign policy have been mentioned in congress(I) manifesto, which are as following:

(*i*) Within 3 years all those civil and criminal cases shall be cleared, which are pending for 5 years or more.

(*ii*) Within 1 year of taking charge, all vacant posts in judiciary shall be filled up, which will enable public to have justice quickly. Demand of ex-servicemen of Equal Post, Equal Pension shall be respected. Posts up to Director in all public sector undertakings shall be filled.

(*iii*) Efforts shall be made to reduce Birth Rate and effective steps shall be taken for Family Planning. But, it shall not implemented by force.

(*iv*) Scientists shall be encouraged and helped to get mastery.

(*v*) Planning shall be done equality based education and improvement shall be done in education system to make it more jobs oriented.

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(*vi*) at least one adult member of each family shall be provided with employment on income level basis.

Evaluation: There is no doubt that during 10th Lok Sabha elections, congress (I) put very attractive manifesto before the public. There was no change in the manifesto released in 1991, 1996, 1998, 1999, but in 2004 and 2009 emphasis was on common man.

14.3.2 Bhartiya Janta Party

Janta party got divided on the basis of Dual membership in July, 1979 resulting in the formation of Bhartiya Janta Party and it was demanded that ex members of Jansangh should completely break their ties with Rashtriya Swayamsevak Sangh. But they refused and when on 19 march, 1980 central parliamentary board of janta party passed a proposal to this effect, then Atal Bihari Bajpai, Lal Krishna Advani and Nanaji Deshmukh called for a National Convention of the party. But party head Chandrasekhar refused it. After that, on 5-6 April, 1980 Bhartiya Janta Party was established under the leadership of Atal Bihari Bajpai.

This is worth mention that when talks were on during infamous 1975-77 emergency, for the formation of Janta party by merging all non congress national parties, the Jansangh spokesperson clearly said that their members shall not sever ties with Rashtriya Swayamsevak Sangh. If other parties agree to this, then only Jan Sangh shall merge in to proposed Janta Party. That time no one including Lok Dal, Samajvadi or congress(S), raised objection to it and agreed to Jan Sangh members demand. Thereafter, in 1979 during struggle for power/leadership in Janta party, Charan Singh, Raj Narayan and Co. raised issue of Dual membership, but then old Socialist leaders including Jagjeevan Ram and Chandrasekhar did not support it. Hence in March, 1980 this was a well thought out plan to oust Jan Sangh from Janta party. First National Convention of Bhartiya Janta party was held on December 27, 1980 at Mumbai. It was attended by 55,000 representatives with more than 6000 women, which is a record for any political party post independence.

Membership of Party: As per party constitution article 7, any Indian of 18 years or more of age and who accepts article 2 of constitution, can become a member by giving declaration in the annexure and depositing party membership fee. Membership of BJP is 55 Lac, whereas membership of Jan Sangh never went more than 12 Lac.

Aim and Objectives: As per article 2 of the party constitution," party shall be committed to furthering national integration, democracy, positive secularism, Gandhian Socialism and value bases politics. The party stands for decentralization of economic and political power".

(1) In such memorandum, dedication has been expressed in five principles-National Integration, Democracy, Positive Secularism, Gandhian Socialism and value based politics.

(2) Bhartiya Janta Party gave importance to the need of smaller states with planned development and effective administration in place of big states.

(3) While explaining the meaning of positive secularism it stated that it not only means religious perseverance, but also to respect moral values. It has been stated in the memorandum while criticizing congress's principle of secularism that, it is an eyewash for immoral, opportunist and general public as it has encouraged communal forces.

(4) Party stands for electoral reforms. It favors voting age to be brought down to 18 from 21.

(5) It supports Anti Defection law to terminate defection evil.

(6) Party Is in favor of amendment to current system of reserving jobs for different sections of society. As per party, reservation facility should be availed by economically weaker classes.

(7) In economic area, party favors analysis of Gandhian Trusteeship, Land reforms and policy of decentralization.

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(8) to make nation self dependent, solid effort should be put in science and technology.

(9) It also mentioned, that apart from those parties who practice Extra Territorial Loyalties in states, shall support all parties, that agree to oppose corrupt and anti national policies of congress (I).

Social Base of Bhartiya Janta Party: Bhartiya Janta Party is a National Party. There is no doubt that there is influence of Rashtriya Swayamsevak Sangh in the party. But it does not mean that its base is limited to RSS only. Initially, it had low base of minorities, Muslims, Christians, Harijan and Scheduled Tribes, but later on there has been an increase in their numbers and influence. Government employees and educated class is its biggest supporter. Its influence has been growing among Laborers. Bhartiya Majdoor Sangh, which has a membership of 20 Lac, is BJP supporter. Mid level business class too supports it and its logo is Lotus.

After the formation of party on April 6, 1980 it took part in 1984 elections but due to multi dimensional contest, it lost badly and got only 2 seats in Lok Sabha. Many analysts that time declared BJP's pack up. But while saying so, they forgot to consider thick vote bank of party. In the elections of November 1989, it realized its fault, as BJP got 88 seats. After that in the government of V.P. Singh's Janta Dal– National Front, its role was important. When in October, 1990 it withdrew its support from government, then V.P. Sing government was ousted. In the elections of May-June, 1991 BJP got 119 seats of its own and it became major opposition party.

Policies and Programmes of BJP

It released its manifesto of 31 pages in the 10th Lok Sabha elections and apprised public of its policy and programme. It assures of keeping secularism alive and to provide "Ram, Roti and Insaf" to each Indian. In other words, BJP aims to establish Ram Rajya in the country.

1. Political Programme: BJP promised public to implement following actions after coming to power:

(*i*) BJP is committed to construct Ram Temple at Ram Janmabhumi, as it relates to National dignity, modesty and cultural heritage and religion has got to do nothing in it. It declared that this country is known by the name of Ram and not with Babar. Hence, it pledges to remove disputed structure to other place and construct a Ram Temple.

(*ii*) It totally favors constitutional amendment in article 30, by which it can stop anti national activities running in minority educational institutions in the name of this article.

(*iii*) Description of Majority and Minority community is wrong in a secular state. Each citizen of this country is one and India is One country. This is not a gathering of many nationalities. Hence, it has expressed desire to dissolve Minorities Commission and constitute Human Rights Commission instead.

(*iv*) It has promised to constitute a Law commission on the basis of One Nation One People that shall prepare Uniform Civil Code for the every citizen of the nation.

(*v*) To improve centre-state relation, recommendations of Sarkaria Commission shall be implemented. New states like Uttaranchal and Vananchal shall be formed. Regional Council with authority shall be formed in Laddakh, Jammu and Valley in JandK and for Marathwada and Vidarbha in Maharashtra.

(*vi*) Article 370 shall be abolished, as it encourages secessionism. Besides, Pakistani forces operating shall be thrown out and fair and free elections shall be conducted on normalcy being restored.

(*vii*) To stop infiltration of Bangladeshis in the northeastern part, Fencing shall be done in the border along Bangladesh. Each voter of north east shall be provided with Identity Card. It will endeavor hard to make the return of chakma Baudh refugees back to Bangladesh and for the development of this region, comprehensive and integrative economic programme shall be rolled out.

(*viii*) To stop infiltration and arms supply into India from across Pakistan, a long defence strip shall be created on Indo-Pak border. This is necessary to stop these smuggling of arms and smugglers.

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(*ix*) Manipuri and Napali languages shall be included in the 8th schedule of constitution.

(*x*) Centre-State relations shall be improved and emergency provisions under article 356 shall be exercised only if there is a genuine failure of constitutional machinery. BJP is clearly of the view that states should also be strong alongside Centre, hence their autonomy should be ensured.

(*xi*) Military to be deployed in the sensitive areas of Punjab to restore public confidence for law and order. widows and children Victims of 1984 riots shall be organized and their rehabilitation shall be done and culprits shall be punished.

(*xii*) Provisions shall be made to take care of election expenditure by government, to know the authenticity of presidential system and to allot more rights and autonomy to Panchayat and Nagarpalika by constitution.

(*xiii*) overseas Indians shall be authorized to vote through post. Besides, BJP shall prepare a National Population policy, to control growing population and stop any type of future imbalance.

(*xiv*) Electoral reforms shall be implemented effectively and listing system shall be given preference under Ratio Representation system. Electronic Voting machines shall be used.

(*xv*) Administration shall be cleaned up and corruption shall be removed from public sector. To regulate the size of the Cabinet in house, provision shall be made in constitution to fix it on the basis of 10% of houses strength or to 15% of ruling government members.

(*xvi*) Autonomy of newspapers shall be ensured. Duty on newsprint paper and tax on the advertisement income of newspaper shall be abolished. Akaashvani and Doordarshan shall be given autonomy by making Prasaar Bharti Law, as per BJP, right to information is a vital civilized right. Besides, BJP shall try to abolish ban on using signs and logos like Om, Swastika, and Shri Chakra and also would take steps to remove ban of epics like Ramayana, Mahabharata, Bhagwat and literature of other Indian languages.

(*xvii*) For the development of women, they shall be given employment opportunities In the area of education. They shall have equal right in property and income. Women judges shall be appointed to look after cases of domestic violence and atrocities. They shall be given equal remuneration for equal work. Within 1 year, Small Scale Industries shall be established with a budget of 100 Crore. They shall be respected as Matri Shakti.

(*xviii*) For the betterment of SC/ST category, vacant posts meant for them shall be filled up immediately. Besides, a financial corporation shall be constituted to provide them with loans.

(*xix*) Keeping in view recommendations of Mandal Commission, reservation shall be implemented on the basis of economically backward class of the society and also to sections who are economically backward. Social cohesiveness shall be maintained while doing so.

2. Economic Programme: BJP in its manifesto has decided to make our economy; "For Public, By Public and Of Public". Soon after taking charge of government it shall release a detailed white paper on national economy and shall prepare a zero deficit budget in revenue and would ensure to not let financial deficit to cross more than 5%. Following is its economic agenda in brief:

(*i*) Existing Tax structure shall be made more rationale. People earning up to Rs 48,000 per annum shall be exempt from Income Tax. Maximum slab limit for Income tax shall not be more than 40%. Octroi Duty shall be abolished.

(*ii*) There shall be no increase in Excise Duty on products of consumption and uniform rates of Sales Tax across India shall be implemented.

(*iii*) Industrial sector shall be free of Bureaucracy and they shall be assisted by specialists. Productivity of public sector shall be increased. Foreign investment shall be encouraged in high technical projects and in export oriented industries, but in all other economic and industrial activities, indigenous spirit shall be made stronger and effective. Multi National Companies shall not allowed in consumer goods sector.

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(*iv*) Agriculture based Industries shall be promoted. No negligence of human manpower shall be accepted, even while accepting use of modern technique in industries. farmers shall be provided justified value for their produce. To control industries with 1000 Crore or more worth, MRTP Act shall be implemented and nonresident Indians shall be promoted to do capital investment in the country.

(*v*) provisions shall be made to spend 60% of planning budget on rural development and to start labor based rural schemes numbering 10 Lac and to implement Antyoday Scheme more effectively.

(*vi*) Drinking water, electricity, education and health services shall be made available to villages. Farm laborers shall be given justified wages. Besides, cost and price commission related with agriculture sector shall be reconstructed.

(*vii*) Separate Ministry shall be constituted for the development of Handicrafts and village Industries.

(*viii*) Strong actions shall be taken against smugglers and other economic offenders. Special concessions shall be given to authors, artists, academicians and people involved in cultural and intellectual.

(*ix*) Labor laws shall be strengthened and made easier. To give recognition to labor unions, system of secret voting shall be adopted. For the betterment of government employees, a permanent employee welfare board shall be constituted.

(*x*) To control rising prices, public distribution system shall be made stronger. Apart from providing education and jobs to youths, efforts shall be made to involve youth as partners in development activities and more youth hostel shall be established.

(*xi*) After coming to power BJP shall establish such Boarding Education institutes, where children from all sections and communities can get admission. Women teachers shall be given preference in primary schools. Public Toilets shall be made available in rural and slum areas for women.

(*xii*) A permanent Employee Board shall be established, which shall take care of matters relating to time based promotion, housing, bonus and recommendations of wages board.

(*xiii*) Development and export of energy and means of transport shall be given importance.

(*xiv*) Public Sector Units shall be made profitable. Private sector shall get encouragement.

(*xv*) Best efforts shall be done for the welfare of villagers, salaried class, old people, women, youth, and scheduled tribe, Harijan, helpless and handicapped.

3. Policy related to International Area: BJP manifesto has following points on international fields:

(*i*) National Defence Council of specialists shall be formed, which shall decide on future course of action for long term foreign policy in the changing global scenario.

(*ii*) In a polarized world, SAARC shall be made more powerful and dispute with Pakistan shall be resolved on the lines of Shimla Agreement in direct dialogue.

(*iii*) Non Resident Indian shall get Dual Citizenship. Besides, India shall try to have better relations with its neighbors and other countries.

(*iv*) Will make United Nations stronger and try to get a permanent berth in its permanent council.

(*v*) Taking lessons from Iraq War, India shall be made stronger and self dependent in defence areas. Defence forces shall be equipped with nuclear weapons. To stop misuse of resources and to increase efficiency, Para military forces shall be merged in to Army or Navy.

(*vi*) Government confidential act shall be liberalized and a navy shall be established in the marine area from Singapore to Daman, so that India can emerge as a powerful Naval force in the region.

4. Other Important Provision: There are some other declarations apart from mentioned above as below:

(*i*) Law shall be introduced to conserve Cow and Live Stock. For protecting environment, National conservation and means policy shall be framed. To conserve health factor danger from industrial

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units and drainages, effective anti pollutions schemes shall be implemented. Use of DDT shall be banned and poisonous smoke coming out of vehicles shall be effectively controlled.

(*ii*) 50% women members shall be appointed in Film censor Board to control Violence, Vulgarism and immorality in Cinema.

(*iii*) Interest rates shall be increased in Public Provident Fund.

(*iv*) Entertainment Tax from all Theatre Exhibitions shall be removed and Lok Kala should be promoted.

Evaluation: This BJP manifesto clearly tries to attract all sections of society. During elections, it heavily campaigned for Ram, Roti, and Insaf. Still, it could not get support of Muslim electorate. On the other hand, ever since 1989 elections, its major focus has been Ram Temple construction. This has enabled it to construct base in the Indian electorate. During May-June, 1991 elections, it formed government in UP. It already was in power in Himachal, MP and Rajasthan. Only time will tell, that how far can BJP go in order to fulfill its election manifesto. Reason being that it mentions extremely ambitious goal, attainment of that seems not easy. BJP got 119 seats in 1991 Lok Sabha elections and leader of BJP Mr. Lal Krishna Advani was recognized as Leader of Opposition. In 1996 elections, BJP government under leadership of Atal Bihari Bajpai ran only for some time and could not get majority. After 1998, they ran government with NDA alliance for one year. Then it remained in power from 1999 Lok Sabha elections till 2004. But in the elections of 2004, it lost power and could not come back to power even in 2009.it is difficult to predict about BJP.

14.3.3 Communist Party of India

Communist party of India was established in 1924 in India but in 1934 it was banned and its leaders were apprehended. In second world war, when Russia also joined Britain, then it started supporting British, after which ban was removed from it in 1943.

Its made rapid growth in India post independence.

It got the opportunity to form first non congress government in Kerala in 1957. But during 1962 Indo-China war, it got divided. One faction supported India and another supported china and asked government to hold peace talks with china. It formally got divided in 1964 and leftist members formed another party [CPI (M)] in the leadership of Shri Gopalan.

In the elections of 1967, it allied congress and increased its power. It got 23 seats in Lok Sabha.

In the elections of 1972, it allied congress on a national scale and got benefit of Indira Gandhi's popularity. Thus, it improved its condition very much. It was severely defeated in the Lok Sabha elections and got only 7 seats. It also bit dust in subsequent state legislative elections. Its election symbol is Scapula. In the elections of January, 1980 it got only 11 seats. In the Lok Sabha elections of December, 1984 it got only 8 seats. It got only 12 seats in Lok Sabha elections of 1989.In the elections of May-June, 1991 it contested elections in alliance with janta Dal and other Leftist organizations, but got only 13 seats.

Composition: Communist party has mainly Laborers, Farmers and intellectuals as its members. Anyone of 18 years of age or more, who is supported by existing members, can become its member.

Smallest unit of the party is Cell, which has 2 or 3 members and it can be established at factories or other places. Its main objective is to promote Communist thought process. Besides, other units are Gram, Nagar, District and provincial committees, in which there is One Minister and 5 members in each of the units. Supreme organ of the party is All India Congress, which has a Chief Secretary and a Committee that is called Central Executive Committee. There is One small committee of Chief Executive Committee, which is called Polit Bureau. This only defines the policy of the party and takes care of political functions.

Party Membership: Membership of communist party is tougher than any other party. As per its constitution adopted on october12,1971 any Indian of minimum 18 years of age who has belief on party's principle and policies, pays party membership fee and is committed to implement party decisions, can be a member. Besides, he should be endorsed by minimum 2 party members. If party's general body

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agrees to make him a member, then he is accepted as candidate member for a period of 6 months. He is watched for 6 months and given training on party principles. If after 6 months, if party considers him as eligible, then he can be made a permanent member. Each member has to give Rs 1 as annual membership fee. In June, 1975 its total membership was at 4,06,332.

Social Base of Communist Party of India: Communist party was initially very popular among laborers, youth, intellectuals and students. Since its inception Around 1936, party decided to work with congress. In 1942, congress started Leave India agitation, but communists opposed it. Almost all major congress leaders were in jail. Taking advantage of the situation, communists took control of Akhil Bhartiya Kisan Sabha and All India Trade Union. During 1946-1950, it did many public agitations, so that party base can be strengthened. In 1957, communists formed government in Kerala. Party got divided in 1964. After 1964, party's social base and influence kept receding and Marxist party's influence kept increasing. In 1971, communists contested elections with congress and they got 20 seats in Lok Sabha. Party supported the decision of emergency. Hence, in the 1977 Lok Sabha elections it got only 7 seats. In the elections of January,1980 it got only 11 seats. It got only 8 seats in the elections of December,1984. It got only 12 seats in the Lok Sabha elections of 1989. In May-June,1991 party contested with congress and other Leftists parties and got only 13 seats. Now its social base is very limited. It has support of laborers, poor in Kerala, west Bengal, Tripura and Manipur.

Manifesto of Communist party of India in 10th Lok Sabha: Communist party of India contested 9th and 10th Lok Sabha elections with National Front. Hence, their manifesto gave support to National Front manifesto in place of giving importance to its own principles.

Following are the main points of its manifesto:

1. Political Area: It has been said in the manifesto that though its objective is to establish Socialism in India, but this shall happen gradually.

(*i*) It clearly declared that they shall join National Front government for national stability, so that there can be national unity, social change and economical development.

(*ii*) It declared to fight communal and anti national forces, it is necessary to have unity between Leftist and democratic parties. Coalition government of Leftist and National Front can only provide relief to public by bringing secularism, Union relations, national integrity, social justice and economic development.

(*iii*) It supports recommendations of Mandal commission. Besides, 10% reservation to economically weaker sections and 30% for women should be reserved.

(*iv*) Policies of Congress(I) and BJP were criticized saying they have increased the problem of nation.

(*v*) While applauding National Front government's achievements, they said that they don't regret supporting national front government

(*vi*) They considered three things as most important– (a) secular democratic system (b) social justice (c) improving centre-state relations.

(*vii*) They declared struggle against Hindutva forces, Khalistani terrorism and Kashmiri separatists.

(*viii*) It further stated that issues of Punjab, Kashmir and Assam shall be resolved by political, economical, administrative and psychological manner. Besides, they promised to resolve issues of Jharkhand, Uttarakhand, Bastar and Bodo Tribes.

(*ix*) Reference Religious places, it endorsed its status quo as on August 15, 1947.

There were no change in the manifesto during 11th, 12th, 13th, 14th and 15th Lok Sabha elections. But, since the Lok Sabha elections in 1996, it has been opposing communalism.

2. Economic Area: It gave focus to following topics in economic area:

(*i*) Special focus for the development of industries in public sector, price rise to be stopped, wasteful expenditure to be curtailed, control on black money, taxation on rich living in urban and rural areas, encouragement to savings scheme.

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(*ii*) To have self dependence in economic area, debt shall be raised from International monetary Fund on Indian terms and condition.

(*iii*) Indian Industries to be developed.

(*iv*) Article 356 to be regulated.

3. Socail Area: Apart from provisioning for women protection, Dowry laws to be made more stringent.

4. Foreign Policy: Party decided to adopt anti America policy.

Conclusion: Internal conceptual conflict of party initially remained focused on personality of Nehru and thereafter continual debate on the topic has reached a situation that whether to remain neutral with Indira Gandhi or to support unified opposition or not. After division of April, 1980, party emphasized on the unity of leftist parties. Future of party is not bright. Its popularity has come down. It has little bit influence in west Bengal and Kerala.

Description of Policies and Programmes of Communist Party of India (Marxist)

Communist party of India (Marxist) came to existence in second half of 1964 as an independent political party. Those aggressive leaders of undivided communist party, which were unhappy with soft approach towards congress, created a big organization by quitting party.

History of Party: History of communist party of India (M) is basically a history of two opposite principles of undivided communist party of India. Ever since the evaluation of situation created after transfer of power to congress by British, two opposite principles of undivided communist party can be known. This struggle was prevalent at all levels; conceptual, organizational and political. In the current centenary's 5th decade only, these differences emerged in the communist party.

These two opposite point of views emerged clearly in the 4th National congress of April, 1956. Supporters of ruling congress group presented each future incident in such a manner that emphasizes the need for communist party and congress to work together. Major factor of the difference can be said to be emergence of two different points of views in International Communist agitation. After Chinese invasion, this communist group organized itself in new All India party, which is called Communist party of India (Marxist). Election commission of India has recognized it as a National party. Its election symbol is Hammer and Sickle. It got 19 seats in 4th Lok Sabha elections of 1967 and got 3.75 votes. Its influence areas are west Bengal and Kerala. It got 35 seats in 5th Lok Sabha elections of 1971. In the elections of December, 1984 it got only 20 seats. In the elections of May-June, 1991 it got 35 seats and formed government in West Bengal.

Social Base of Communist Party of India (Marxist): Social base of communist party of India (M) is more than communist party of India. It is patronized by intellectuals, youths, students and specially laborers and farmers. Though it has got support of laborers from across India, but its solid social base is only in west Bengal, Kerala, Tripura and Andhra Pradesh. These days they are in power in west Bengal, Kerala and Tripura. In the elections of 1987, CPI(M) got tremendous success in west Bengal and Kerala. It has got deep roots in West Bengal. But in other parts of the country specially; Haryana, Himachal, MP, Rajasthan, UP, Delhi, JandK, Gujarat and Maharashtra; it has got no base at all. It has got little support in Punjab. CPI (M) is closer to China than Russia.

Manifesto for 10th Lok Sabha Elections

(*i*) It asked electorate to oppose congress and BJP and support National Front. Party said that BJP is dividing country by asking for demolition of Babri Masjid and construction of Ram Temple.

(*ii*) While criticizing congress and Rajiv Gandhi it said that, due to their support, in the leadership of Chandrasekhar, there is a regime of defectionists at centre.

(*iii*) Marxist party endorsed Mandal commission recommendations, but also suggested to give reservation benefit to economically weaker sections of the society.

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(*iv*) Post Mandal commission implementation violence did not influence its manifesto declaration in west Bengal. it said that nobody can subject poor or backward classes to atrocities in west Bengal.

(*v*) It decided to support National Front government from outside.

(*vi*) Manifesto demanded centre government to fulfill 16 demands out of which major are; amendments in centre-state relations, to make right to work a fundamental right, to amend state list and concurrent list to increase revenue resources for state.

(*vii*) Nepali language to be added in 8th schedule of the constitution.

(*viii*) Economic demands are limited to rural development only.

CPI (M) mainly released this manifesto for Vidhan Sabha elections of west Bengal and it came to power for the fourth time. It remained in power till 2011, but now it lost power in Kerala and west Bengal. There has been no change in its policies. After Lok Sabha elections in 2004, it gave outside support to congress but withdrew support on the question of Atomic deal. In the 2009 Lok Sabha elections, its base reduced a lot and got very few seats.

Description of Policies and Programmes of Janta Dal

In the Indian political system, process of convergence and divergence of political parties has been continued. In 1987 leader like V.P. Singh (the then defence minister), Arun Nehru, Arif Mohammad Khan and Ram Dhan separated. they formed People's Front. This front put serious and sensational charges of corruption against Rajiv Gandhi government Thus, V.P. Singh popularity kept increasing. In June, 1988, the Bi-elections of Allahabad parliamentary seat, he got huge success and he became a symbol of non congress and he tried to present an alternative to congress (I) and Rajiv Gandhi.

Against all odds, on October 11, 1988 decision to form Janta Dal was taken in the presence of major leaders of People's Front, Lok Dal (A) and Janta party, at Bangalore. Later on, Lok Dal (B) also decided to join this new party. V.P. Singh was elected as the president of this new proposed party and it adopted constitution of Janta party. After this, both houses of parliament and different state legislatures gave recognition to Janta Dal. In between to provide a major alternative to congress(I), V.P. Singh established National Front by merging Lok Dal (A), Janta Party, Telugu Desam, DMK, Congress(S), AGP and people's front. By forming Janta Dal, V.P. Singh's power and influence increased and he became practical leader of National Front also. In Novembe 1989 Lok Sabha elections, election commission gave it National party recognition and gave Chakra as its election symbol which has 6 spokes.

Janta Dal got 141 seats in that election and with the support of other factions of National Front, Leftists and BJP, it came to power. V.P. Singh was Prime Minister. In October, 1990 BJP withdrew its support on the issue of Ram Janmabhumi. Hence, V.P. Singh could not pass Confidence Motion. At the same time, Janta Dal developed differences and a large faction in the leadership of Devilal and Chandrasekhar separated and formed Janta Dal (S). Chandrasekhar became prime minister of this minority government with congress (I) support, but they could run government for 4 months only. Ultimately, in May-June, 1991 it became necessary to have Mid Term Poll for Lok Sabha. At that point of time, S.R. Bommai was president of Janta Dal. In this election, Janta Dal lost badly and got only 54 seats.

Mentionable is that, now Janta Dal has been divided in many parties– (i) Janta Dal (United) (ii) Rashtriya Janta Dal (RJD) (iii) Biju Janta Dal (BJD). Apart from these, Lok Dal (Ajit) and Chautala Lok Dal (INLD) have been formed by separating from it.

Policies and Programmes of Janta Dal

During May-June, 1991 Mid Term Poll, Janta party did not release any separate manifesto. Janta Dal contested elections on the basis of National Front manifesto. Major principles of it are as following:

1. Political Programme: It laid emphasis on five major element; national unity, social justice, secularism, federalism and self dependence. It further states–

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(*i*) For social justice, there shall be reservation to the tune of 27% for socially and educationally backward classes in central and state government jobs and to remove errors of Mandal commission, a specialist committee shall be constituted. Besides, serious consideration shall be done for special reservation of 5% to 10% in government jobs for people from other economically backward classes.

(*ii*) Special recruitment shall be undertaken for this special proposed percentage.

(*iii*) Reservation for SC/ST candidates shall continue. They shall be provided free legal counseling and special courts shall be established in each district to deal with cases of atrocities against them.

(*iv*) Ram Janmabhumi – Babri Masjid dispute to be settled by mutual discussion of both parties or should wait for court verdict. Thus, religious and worship places status quo to be maintained as on August 15, 1947.

(*v*) To deal with communal violence, a special mixed anti riots force to be created, so that minority should feel safe and Waqf property should be out of Rent Control Act.

(*vi*) Minorities commission to be given constitutional status. Article 370 related with JandK to continue. State shall not interfere in personal laws of minorities.

(*vii*) For SC/ST category, budget shall be decided out of government funds for their welfare in the ratio of their population and it shall be used for the defined objective only.

(*viii*) All reserved vacant posts means for these categories shall be filled by enacting a special law and culprits shall be punished.

(*ix*) To improve women condition, they shall be given Equal property rights, 30% reservation in local autonomous institutions and services and maximum representation in Legislature and a special law shall be made for Mother welfare.

(*x*) As per recommendations of Sarkaria commission for defining centre-state relations, states shall be given real autonomy under federal structure. They shall be given enough economic, financial and administrative powers, so that they don't depend on centre. More money shall be allotted for development works of north east council.

(*xi*) Analysis shall be done of Governor's work and power and steps shall be taken to stop its post from being used to fulfill central government's selfish motives and after reconsidering article 356, effective steps shall be taken to stop its misuse.

(*xii*) Priority shall be given to Right to Information. Hence, government confidential act shall be abolished and replaced with Prasaar Bharti Law.

(*xiii*) Congress (I) has been held responsible for terrorism in JandK and Punjab. For its resolution, residents of those places shall be convinced to have strong faith on real federalism and democracy. Youth can join mainstream only if we achieve this. Strict actions shall be taken to deal with secessionists in north east.

(*xiv*) Judicial independence has been supported and It has been emphasized to adopt independent panels for matter of judge's appointment and transfers.

(*xv*) More money shall be spent on education and 50% of the defined amount shall be spent on primary education. Reconsideration shall happen on issues of Jharkhand citizens and analysis shall be done to look into their demand of independent state in Chhotanagpur.

2. Economic Programme: Janta Dal has pledged to remove economic inequality in its manifesto and it shall take following steps:

(*i*) Maximum limit of urban and rural shall be defined. Long term financial policy shall be decided for extracting more tax revenue from prosperous classes of society. People with lower income shall be given relief and to encourage savings, direct taxes shall be curtailed.

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(*ii*) Deficit budgeting shall be controlled and public distribution system shall be made efficient and active.

(*iii*) To control rising prices, structure of direct and indirect taxes shall be readjusted. Objective of Industrial policy is to increase opportunities of employment.

(*iv*) Village industries based out of rural areas shall be encouraged. For promoting small scale industries, special bank shall be formed and wherever possible, production of common consumer goods shall be reserved for micro and small sector industries.

(*v*) Foreign assistance shall only be taken to become self reliant.

(*vi*) Laws related with environmental resources which are against the interest of villagers, shall be amended after due analysis. Analysis shall be done for development and defence projects in the backdrop of environmental angle right from primary levels.

(*vii*) National policy on agriculture shall be defined. Agricultural produce welfare price, i.e. Minimum support price to be fixed. Land reform laws shall be implemented. Agriculture debt shall have low interest rates and an elected Agriculture council shall be established.

(*viii*) Synergy to be established between Industry and agriculture, so that agriculture produce should keep getting buyers. For rural development, each village to be connected by roads and drinking water to be made available. Government would buy crops on Minimum Support price basis to break market monopoly.

(*ix*) Industrial laborers shall be made partners in the administration of factories. On the basis of confidential voting, new Industrial Labour Relations Act shall be passed for constitution of labor unions and new laws shall be framed for farm laborers and welfare.

(*x*) Tradition of bonded labor shall be strictly eradicated. Effective schemes for their rehabilitation and development to be launched.

(*xi*) Decisions regarding welfare of Ex-servicemen shall be implemented with effect from 1 April, 1990.

(*xii*) National water grid to be formed, so that regions devoid of water can have water through major or big rivers and become prosperous.

3. International Area Policy: Manifesto says the following for international policy:

(*i*) Normal relations with Pakistan to be resumed. Initiation to be done for having friendly relation with china also.

(*ii*) Friendly relations with Soviet union to be strengthened and relations to be improved with America, members of Commonwealth nations, different countries of Europe and Japan.

(*iii*) To have cordial relations with all neighbor countries.

(*iv*) All efforts of Policy of partiality in commercial, technical and financial areas shall be opposed.

(*v*) To have strong ties with Arab nations by strengthening Non aligned movement and there shall be a solid protest against efforts to break their integrity and unity. Support for creating state of Palestine shall be continued.

4. Other Important Provisions: Apart from above mentioned topics, there are following other points:

(*i*) Up till State level administration and in every sector of education, local state language should be used and special focus shall be shown towards development of Urdu language.

(*ii*) Panchayati Raj shall be strengthened and they shall be made units of autonomy.

(*iii*) By making Inter State council and National Development council more active, harmony shall be established between states and between centre and states.

But now, as told, Janta Dal has been divided in to many parts. This happened due to difference in opinion and not due to difference in personalities. Still, JD (U) in Bihar and JD (B) in Orissa are in power.

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14.4 Indian Regional Political Parties

In the recent past, increment in the role of regional parties has become major source of change in the Indian political system. Though some regional parties like DMK, Shiromani Akali Dal, National Conference etc. came to existence pre-independence or soon after independence. But other parties like Telugu Desam, Assam Gana Parishad, Sikkim Sangram Parishad, Indian National Lok Dal etc. are new to political field. In fact, we have around 200 small or big regional and local level political parties. In the elections of 1989, close to 291 political parties sent nominations to election commission. Out of which only 8 parties got national recognition and rest all were regional or local parties. During 1998-2005 elections, 7 national parties, 30 state level parties and approximate 150 registered parties took part in the Indian political system. Regional parties are playing important role in the Indian polity and it is important and for the contemporary students of Indian politics, it is necessary to analyze and evaluate their role and perspective.

Due to the emergence of Coalition government era, today national political parties are enjoying power in collaboration with regional and state level political parties in the centre. On October13, 1999 National Democratic Alliance (NDA) formed government in India. 23 Parties that joined hands in formation of government with BJP were mostly regional or state level parties. Similarly, since May, 2004 ruling United Progressive Alliance (UPA) has been in power with support of almost 17 regional and state level parties and these parties are in power with national parties. Formation of government with regional and state level parties by national level parties is a fundamental characteristic of modern Indian political system.

What is Regional Party?: Many scholars reply to this in such fashion as a word that is used for the words of **Dr. K.R. Swarup**,"With considerable looseness as an omnibus designation for all manners of political formation, the generally accepted distinction between national and regional parties, legitimized though by the election commission, is rather unsatisfactory". To decide whether a party is national or regional, majorly two factors are considered– (i) Population of the state where party has general/electoral support or popularity and (ii) percentage of votes received during Vidhan Sabha and Lok Sabha elections. First is related with geographical and second is related to popularity chart of the party. Some scholars want to define regional parties as local- cultural or ethnic identity only. DMK and AIADMK are regional parties as they represent Tamil culture and Tamil Nationalism. Shiromani Akali Dal too is a regional party. It is a Panthak Dal also and It has support of Sikhs of Punjab and even of Haryana and Delhi as well. Telugu Desam, Assam Gana Parishad, Sikkim Sangram Parishad, National Conference, Jharkhand Mukti Morcha, Bangla Congress, Orissa Congress, Kerala Congress, Indian National Lok Dal, Mizo National Front, Manipur People's party, PMK, PDP, Trinamool Congress etc. are all regional parties. In Indian context, as Stanley, A. Kochnock state," regional parties primarily are concerned with exploring local reasons of discontent or relate to protection of fundamental demands based on language, caste, community or region". In simple words, we can say that regional parties are those which are popular in one or two states and/or are committed mainly to the interests of any special region/community or linguistic/cultural/religious group's interests.

Reasons of Emergence of Regional Parties in India: In a pluralistic country like India where so much linguistic, religious, ethnic, regional and cultural diversity is existent, presence of many regional parties is a natural phenomenon. This pluralism is such intense that even scholar like Panikar also states," no one can think of complete Indian existence without dividing it in to regions of greater mass". Rasheeduddin Khan states," India is a Union of regions and micro regions". So emergence and development of regional parties is quite natural. Tamil Nadu, Assam, Bengal, Maharashtra, Andhra Pradesh, Haryana, Punjab- these are no more territorial fragments of an undifferentiated land mass or just political units of political behemoth. Combined alchemy of history, language, culture and economy has given a unique identity to each region and each of them has become home to a distinct ethno-national community.

Besides, post 1947 different political statutory developments like; restructuring of states on language basis, split in many political parties and some administrative policies also have helped in the emergence process of regional parties. Many regional parties are byproduct of congress split like; NCP/HVP etc.

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Following are the factors which proved as torchbearers for existence of regional parties in Indian polity:

1. Cultural Pluralism of the Nation: Existence of many cultural, ethnic, religious and linguistic caste groups has helped the emergence process of regional parties like; DMK, JMM, MNF, GNLF etc.

2. Religious Factors: Existence of many religions also has helped in the formation of many religion based parties in India like; Akali Dal, Muslim League, Hindu Mahasabha etc.

3. Regional Imbalances: Regional economic imbalances too have helped regional parties to emerge. Some parts of our country are highly developed and some are very backward economically. Local leaders who relate to such economically backward or less developed areas, often in order to represent local interests and to get power as national leaders play with local sentiments and make regional parties. Assam Gana Parishad too came to existence due to this factor. RJD and Lok Jan Shakti party in Bihar too are example of this.

4. Opposition to Unionism: Indian political system is unitary spirited federalism. Centre has got important place in Indian federalism. Process against unionism too not only has brought many regional parties to existence, rather has helped them get popularity. DMK, Telugu Desam and Akali Dal etc. have been using principle of opposition to centralism to get local support. But after June, 1996 their thought are changing. They need more autonomy for states though, yet they are now resisting from anti-centre tendency. Today, DMK, Shiromani Akali Dal, Janta Dal (U), National Conference, Trinamool Congress etc are in alliance with BJP and enjoying either power at centre or as opposition. This new change has brought some difference in regional party's thoughts and it is good for Indian federalism.

5. Political Splits: Due to many political parties's internal and local difference of opinion too has given birth to some regional parties like; Kerala congress, Bangla congress, Orissa congress, forward block, Tamil Manila congress, AIADMK, Trinamool congress, Janta Dal (Biju), Janta Dal (U), National congress party (NCP) etc.

6. Cult Personality Politics: Another major reason is that in our politics, there has been dominance of Individuals or cult figures in political parties. Due to one's individual relations, calculation for taking support of any particular group to express one's personal might encourages a leader to go for his own party. Bansi Lal, Devi Lal, congress (j), congress(S), BKU, TDP (NTR) etc emerged due to this reason.

7. Caste Based Regional Parties: Caste has been an important element of Indian politics and this is actually responsible for emergence of many regional/local/block level parties. DMK came to existence on the premise of Anti Brahmanism. Republican of India, Bahujan Samaj party etc are its examples.

8. Lack of Strong Ideological Commitment: All national level political parties work differently, but their principle commitment is also same. Presence of right wing and left wing political parties in different political parties also contribute to the emergence of regional parties some times. Besides, many political parties of national level also work like regional parties because they have actual support and popularity only in some states; probably one or two. For example, CPM is a national party but its popularity is only confined to West Bengal, Tripura and Kerala. Janta Dal, Bahujan Samaj party also have got support in only one or two states. Basis of recognition of different regional parties in different states is difference of opinion in local interests and not of difference of opinion of principles ground. In real sense, today Congress (I) and BJP are the only national level parties and rest all are functioning as regional parties.

9. Dynamic Nature of Indian Political System: Indian political system is developing and dynamic. It is seeing consistently fast constitutional and political changes. Its party system is also changing as per socio-economic environment. Many national level parties are on decline and vice versa. Congress which has been dominant on Indian politics, has seen great decline between 1967-1996 and it did split many times. These divisions became the reason of emergence of many political parties. Factions separate from congress became eligible to operate only at regional level. Today, NCP is almost a national party with regional nature. Some of them have become regional parties of Indian political system.

Above mentioned factors are responsible for the emergence of regional parties in India. While commenting on the role of regional parties in India, Dr. K.R. Bombwall states," these have encouraged

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realignment of political forces and their impact on the structure and process of Indian political system has been multi directional and far reaching. Dr. Bombwall also identified various types of regionalism of Indian politics. First, regional parties have challenged the party dominance system or Party Plus system. Second, it has impacted the nature and growth of centre-state relations. Demand for greater power and autonomy for different regions of tension/states, has emerged only due to the emergence of active and powerful regional parties like DMK, AIADMK, Telugu Desam and Shiromani Akali Dal etc.

Regional leadership as per its strength is engaged in more dialogue with centre and centre is becoming more responsible towards needs and demands of regional leaders. Under liberal democratic structure, regional parties have made politics more competitive and have increased participation at lower levels in the political process. Many regional parties are today in power like; Janta Dal (Biju) in Orissa and PDP in JandK. These examples depict role of regional parties in forming government at centre and state level and their increasing importance in the Indian polity. After the emergence of Coalition era, many regional parties are either partners in government at centre or supporting central government from outside (during 1999-2004 TDP gave support to NDA) or acted as in alliance with opposition. Some are with UPA and in power like National conference and some are in opposition with NDA like Janta Dal (U).

Sincerely after 1996, co-ordination between national and regional parties is on the rise and chances are to go it even further. These days, Punjab is ruled by SAD-BJP combine, whereas Bihar has BJP-Janta Dal (U) combine and JandK has National Conference and congress in power as partners. As of now, present UPA government is working with 17 local/regional parties under congress leadership. Thus, these days a sentiment of co-operation and co-ordination is existing between national level political parties and local/regional level parties, which is a healthy sign for Indian political system and in particular for Indian federalism. In such situation, nation building can be more productive. Today, positive role of regional parties in Indian political system has been accepted as a positive unit and Indian political space has developed towards Nationalism or National Nationalism, which is a good sign.

14.4.1 Shiromani Akali Dal

Shiromani Akali Dal is a regional political party which is most active in Punjab. One faction of it is involved in Delhi politics and one small faction is active in Haryana. There are many Akali Dal in Punjab like; Akali Dal under leadership of Simranjit singh Mann, Shiromani Akali Dal (Badal), Panthak Akali Dal etc. Shiromani Akali Dal has been a very active regional political party in Punjab politics, but has always divided in many groups which limited its role. But after 1996, in the leadership of Prakash singh Badal Shiromani Akali Dal became stronger and it formed government in alliance with BJP. But in 1999, Jatthedar Gurcharan singh Tohda separated and formed new party called, Sarva Hind Akali Dal and resultantly in 1999 Lok Sabha elections, Akali Dal (Badal) lost elections badly. Whereas in 1998, Shiromani Akali Dal along with BJP and by supporting two candidates, it acquired 13 seats of Lok Sabha in Punjab and removed congress, but in 1999 elections, it got only 2 seats and congress won 8 seats. One seat each went to CPI, Shiromani Akali Dal (Mann) and BJP. Thus, Shiromani Akali Dal saw serious decline in its popularity in 1999.during 1997- February 2000, Shiromani Akali Dal and BJP combine was in power. In the Lok Sabha elections of February, 2002 Shiromani Akali Dal and BJP combine lost and again Punjab were ruled by congress now. But after 2007 elections, Akali Dal –BJP combine regained power.

History of Akali Dal: Akali Dal has its origin in 1920 during the beginning of Gurudwara Andolan. This Andolan started to get Gurudwaras rid of corrupt priests and to reinstall discipline in the pious Gurudwaras of Sikhism. Priests started using Gurudwaras as their paternal property. followers of Sikhism wanted to keep intact purity of Gurudwaras in Gurudham and of Guru Granth Sahib. Sikhs started Gurudwara Andolan, wherein they got good support also, but they were subjected to oppressive policies of the state government during the process.

But the result of sacrifices done by Sikhs and other sections of society bore fruits. Punjab government established Shiromani Gurudwara Prabandhak Committee (SGPC) under law (Sikh Gurudwara Act,

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1925) for the management of Gurudwaras. After SGPC came in to existence, Sikhs got political identity and this only paved way for Shiromani Akali Dal to be established on january24, 1921. Shiromani Akali Dal became the sole political and Panthak party for Sikhs. As per N.D. Palmer," SGPC is a major political and social organization". Its formation gave appropriate path to Sikh sentiments and exaltation.

Post independence, Akali Dal started taking active participation in Punjab politics. In the first general elections of 1952, it got major success with 14 seats. Thereafter, it has been consistently active in Punjab politics. But its activity has been limited and full of ups and downs due to internal struggle for power amongst its leaders and unnecessary conflicts.

During early years of post independence, its command was in the hands of Master Tara singh and main objective of this party was to have independent existence of the party and it should not be a part of majority section of country. For this Akali Dal started campaign for Punjabi estate, but it was a failure. After Nehru- Tara agreement, this campaign was rolled back. But in 1960-61 after the emergence of Gujarat and Maharashtra, it restarted its agitation of Punjabi estate. But during this time, there erupted conflict between two top most leaders; Tara Singh and Saint Fateh Singh. Master Tara Singh decided to work for the establishment of Sikh Motherland for Sikhs, whereas Fateh Singh wanted to form a province of Punjabi speaking individuals and he wanted to have more autonomy and power for the province. In 1966, by the reconstruction, Punjab and Haryana were divided and Punjab became Punjabi linguistic Sikh population dominated state. In the elections of 1967, Akali Dal (Fateh singh) got specific success, whereas Master Tara Singh faction had to suffer loss. Saint Fateh singh stressed on secularism and more autonomy for states and this focus only brought him closer to the masses. His neutral politics could be easily included in the contours of Indian constitution and that is why, Akali Dal in the leadership of Fateh singh got major success. But there developed a confrontationist situation with centre on the issues of Chandigarh, adding more Punjabi speaking areas to Punjab state and on centre-state relations. In 1972, central government agreed to merge Chandigarh with Punjab, but on the other hand, decided to remove some parts like Abohar to Haryana. This proposal made entire issue even more complexed and difficult. Saint Fateh Singh's demise in 1972, gave severe jolt to the power of Akali Dal.

But gradually, Akali Dal's policy shifted towards asking for more powers to the state. This demand was explicitly mentioned in Anandpur Sahib proposal, which was passed by Akali Dal Executive Committee on october17, 1973. On August 28, 1978 convention of Akali Dal approved this proposal. Finally, on October 29, 1978 All India Akali Conference endorsed it.

Anandpur sahib proposal mainly has description of principles, policies and programmes of Akali Dal. But existence of issues in its fundamental base has been a major cause of conflict. As per **Dr. Pradeep Kumar**," the resolution was drafted in Gurumukhi script and many names and meaning of those words does not have exact translation in English. However, some words were capable of being interpreted in more than one ways". This difficulty was further increased by leaders of different political parties and leaders of Akali Dal by explaining it differently. While liberals consider it as additional demand of power for Punjab, other leaders have been taking it as basis of getting sovereignty for Punjab.

Specialists believe that Akali fight only when they are not in power, but once in power, they don't pay attention to this demand. Permanent aspect of Akali Dal's policies is that it tells the path of expressing social and religious sentiments of Sikhs and presents itself as a political party of Sikh Panth.

Akali Dal also saw many splits. At present also there are two major Akali Dal are in existence-Shiromani Akali Dal(Badal) and Shiromani Akali Dal(Mann).

Performance Review of Akali Dal post 1947

In 1947, Sikhs gave proof of being true nationalists by taking side of the nation and letting fate of Sikhs be decided by the country, under the leadership of Master Tara Singh. Alike other political parties, Akali Dal also started taking part in Indian electoral politics.

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In first general elections, Akali Dal got 14 seats in Punjab Vidhan Sabha; in 1955 Akali Dal started its first agitation on Punjabi province. But Punjab government banned it. In protest, 12000 Akalis courted arrest and as a result, Punjab government had to remove ban. In 1956, Nehru called Akali leaders for a discussion. An agreement was reached under which regional formula was adopted and Master Tara Singh agreed to retire from politics. As per it, members of Akali Dal were told to join congress and Akali Dal agreed to only function as a religious and social organization. In the elections of 1957, Akalis contested elections on congress ticket, but this experiment was unsuccessful and Master Tara Sing told Akali leaders and public representatives to disassociate from congress. 8 members accepted the suggestion and quit congress.

In 1960-61, getting encouragement from the emergence of Gujarat and Maharashtra, it started a public agitation for the formation of Punjab province. Two of its leaders-Tara Singh and Fateh singh kept fast until death. But due to difference of opinion between the two, the agitation had to be taken back. In the elections of 1962, Akali Dal got 19 seats in Punjab Vidhan Sabha. Akali Dal got divided in two parts In 1965 and Saint Fateh Singh made another party; Akali Dal (sant) and Akali Dal got name of Akali Dal (Tara). In the elections of 1965 of SGC, Akali Dal (sant) got 95 out of 138 seats. The success made Akali Dal (sant) most popular among Sikhs and Akali Dal under leadership of Master Tara Singh had to suffer major defeat.

In August, 1965 Akali Dal (sant) gave ultimatum to government for the acceptance of demand of Punjabi province and was said that in the event of it not being accepted, they shall observe fast and would give self sacrifice on December10, 1965. But due to the Indo-Pak war of September, 1965 Sant singh was forced to roll back its plan. In 1965, government of India passed Punjab restructuring Act, 1965 as per which a new province of Punjab was created on November1, 1966. Akali Dal was not content with this as Chandigarh was made Union Territory and some Punjabi speaking regions were merged with Haryana.

In the general elections of 1967, Akali Dal (sant) got 24 seats. It was successful in forming government with support of Jana Sangh, AD (M), CPI, CPM, SSP and some independent candidates. But this coalition government could function only up till November, 1967. Shri Lakshman Singh Gill and 16 other Akali leaders separated and made their Gill Cabinet. But Gill government also could not function for long and it had to resign. In the Mid Term Poll of 1969, Akali Dal won 43 seats and it strengthened its position in Punjab Vidhan Sabha. It formed Akali Dal- Jana Sangh combined Cabinet, which functioned under the leadership of chief minister Gurnam Singh from February 17, 1969 to March 27, 1970 and again under leadership of Prakash singh Badal from march 27, 1970 to June 14, 1971.

In 1970, on the issue of establishment of Guru Nanak Dev University, Jana Sangh adopted rigid stand and threatened to break the alliance. At the same time, Akali Dal tried to join hands with congress. Main leader of Akali Dal Fateh Singh agreed to some of the demands of congress. He released policies and programmes of Akali Dal on June 20, 1970. As per it, "Shiromani Akali Dal is a political party pledged to the establishment of a society based on social, political and economical justice and therefore is committed to socialistic pattern of society. It stands for secularism and defence of minorities interests. It feels that some Para-military forces have become a danger to the society and would therefore, press central government to curb the activities of such organizations". As per this policy statement of the party, it is committed to land reforms, state business in grains, taxation on rich and specially committed to the help of weaker sections specially Harijan and Landless Laborers. But proposed agreement between Akalis and congress could not be finalized. On june14, 1971 Punjab Vidhan Sabha was dissolved and Badal Cabinet was removed.

In the elections of 1971, Akali Dal got only 2 seats. In 1971, Akali Dal started a new agitation on interference of government of India in the affairs of Delhi based Gurudwaras and Sikh affairs. But due to the Indo-Pak war of 1971, Akali Dal withdrew its agitation in December, 1971. This time, due to factionalism and split, three Akali Dal came in to existence: Akali Dal (sant), Akali Dal (Gurnam) and Akali Dal (Master). In the elections of 1972, Akali Dal (sant) emerged as the strongest by getting 24 seats and 27.65% votes amongst all Akali Dal.

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During 1974-75, Akali Dal supported J.P. agitation for Total Revolution. It also supported opposition party's demand of removing Indira Gandhi In the backdrop of Allahabad High Court verdict against Indira Gandhi. On the declaration of emergency on June25, 1975 it protested against it. It opened a front against emergency with support of CPM, Jansangh etc. in Punjab. Its party workers and leaders promoted its protest policy and thus improved its popularity in Punjab remarkably.

When on January 8, 1977 Lok Sabha elections were declared and Akali Workers and leaders were released, it talked to Janta Dal and had alliance with Janta Dal and CPM both. Under the alliance, it contested 9 out of 13 seats and won all 9.

In the Punjab Vidhan Sabha elections (June, 1977) it supported Janta Party and endorsed it as an alternative to congress government during elections, Akali Dal, Janta Party and CPM did an alliance. Akali Dal fielded 70 candidates and it won 58 out of 116 Vidhan Sabha seats. This coalition got 50.3% votes in this election. Janta party-Akali Dal government was formed under leadership of Prakash Singh Badal. This was a major success for Akalis, but this government could only function for 3 years.

In March, 1980 central government dissolved 9 non congress state government including Punjab. In May, 1980 elections were held again in Punjab. Akalis contested on 78 seats and could win only 37 out of it. Congress (I) won 63 seats and emerged a party with highest majority. Congress (I) formed government under leadership of Darbara Singh and continue till 1983. Then, due to government not being able to maintain law and order, president rule was implemented in Punjab. This time Akali Dal started struggle for giving Chandigarh to Punjab and to give more share of waters of Sutlej and Beas. It opposed the construction of SYS Canal in Punjab. This agitation was given name of war of religion and efforts were put in to bring all Akalis and Sikhs together on one platform. Akalis demanded to amend article 25, which defines the word Hindu, and also includes Sikhs as Hindus. In June, 1984 Akalis strongly protested against Operation Blue Star. Akalis strongly protested riots against Sikhs across India, after the assassination of Indira Gandhi.

In October, 1984, Prime Minister Indira Gandhi's assassination after the country's different - different in parts spanning the Sikh - anti The riots made by SAD harsh criticized. This time around, Akali Dal again got cracks. Resultantly, Akali Dal (Badal), Akali Dal (Longowal), Akali Dal (Babu Joginder Singh) and Akali Dal(Talwandi) came to existence. Different efforts to have co-ordination between these groups failed and as a result, two major Akali Dal emerged-Akali Dal (Longowal) and Akali Dal (Talwandi). Talwandi group had support of some factions of Sikhs, whereas Longowal faction emerged as the most popular party.

On July 24, 1985 leader of Akali Dal (Longowal) Sant Harcharan Singh Longowal signed agreement with Rajiv Gandhi on Punjab Agreement. It promised to hand over Chandigarh to Punjab by January 26, 1986 in lieu of some Hindi speaking regions to be given to Haryana. To decide boundary between Punjab and Haryana, a commission was constituted. But other Akali leaders like Prakash Singh Badal and Gurcharan Singh Tohda protested it.

Signature on Punjab agreement was a healthy sign for establishment of democratic process in the province as, it gave hope that the political process which got derailed after the dissolution of congress (I) government in October, 1983 could be re-established. But this process got even major jolt, when on August20, 1986 saint Longowal was murdered. Akali Dal (Longowal) had to face tremendous tragedy. But later on under the leadership of Surjeet singh Barnala, it was able to come up within ongoing terrorism pressure.

Due to the unruly situation caused by terrorism and the absence of any concrete programme from central government for resolution of Punjab crisis, the democratic process kept derailed for long period of time. In November, 1989 a ray of hope was seen, when Akali Dal (Mann) won 6 seats in 9th Lok Sabha elections. Four other candidates, who won had the support of this party. It appeared that Akali Dal (Mann) could be able to have dominance in Punjab political process, whereas different Akali Dal decided to join together under leadership of Simranjit singh Mann. But due to factionalism in Akali Dal, some speeches and statements of head of Akali Dal (Mann) Simranjit singh Mann and minority government at centre of National Front, it failed to attain organized political form. Akali Dal united

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failed to emerge as a united group. In fact, five Akali Dal came to existence-Akali Dal (Badal), Akali Dal (Barnala), Akali Dal (Mann), Akali Dal (Amrinder), Akali Dal (Panthak). Many other Akali factions also came in existence.

All these Akali Dal and factions decided to contest elections in June, 1991. But only 24 hours before voting, these elections were postponed till September, 1991. Elections were again postponed in September, 1991 and it was decided to have elections in February, 1992. In the elections of February, 1992 many Akali factions boycotted the elections. By this decision, congress (I) got a golden opportunity to win. But in the leadership of captain Amrinder singh, Akali Dal (Kabul), contested many seats, but it failed to get more than 2 seats in Vidhan Sabha. In fact, it won only 1 seat and the other seat candidate won without any contest. Out of 13 Lok Sabha seats, Akali Dal failed to get even 1 seat. Akali Dal decided to boycott elections and thus tarnished its image. But after this Akali Dal (Badal) contested Mid Term Polls of 1993 and won 1 seat.

Formation of Shiromani Akali Dal (Amritsar): Following the direction of supreme Sikh political place, Shri Akal Takht Sahib, many Akali Dal and factions decided to form a new political party. on May 1, 1994 six such groups dissolved their organization and finished its individual identity and joined together to form a new political party- Shiromani Akali Dal (Amritsar).

Parties or group which joined in were; Akali Dal (Kabul), Akali Dal (Mann), Akali Dal (Manjeet), Akali Dal (Panthak), Akali Dal (Babbar) and Akali Dal (Talwandi). Near April 25, 1994 all the Akali Dal dedicated themselves to Shri Akal Takht and started discussions as per its instructions for unity. Therefore, they decided to form Shiromani Akali Dal (Amritsar). But one faction of Akali Dal (Badal), related with head of Shiromani Gurudwara Prabandhak committee Jatthedar Gurcharan singh Tohda, declared to separate and it merged in to Shiromani Akali Dal (A). In contrast, Prakash singh Badal to keep intact its group identity and refused to join Akali Dal (A).

Shiromani Akali Dal (A) released a memorandum-Amritsar memorandum at the time of its establishment and maintained old demand of Akali Dal that Sikhs should be given separate state, in which community can enjoy freedom and can propagate its religious point of view freely and beside, could encourage its Punjabi culture as well. This memorandum added specialality of Anandpur Sahib Resolution and demanded that India should be reconstructed as confederation of states, where each religion and faith could freely develop and promote its culture. Warning was given that if demand for constitutional changes is not met, then there shall be no other option in front of Akali leaders other than to struggle, for the attainment of sovereign Punjab state.

Side by side, Ex chief minister of Punjab Surjeet singh Barnala declared of formation of 6 member committee to run party process. Akali Dal (Badal) decided not to join Akali Dal (A) and to exhibit its separate identity, power and popularity decided to contest two seats of Punjab Vidhan Sabha- Nakodar and Ajnala. It won Ajnala seat but lost Nakodar. Despite this, Akali Dal (Badal) was successful to exhibit its popularity among masses.

After the formation of Shiromani Akali Dal (A), efforts were started to include Akali Dal (Badal) also in to it. In April, 1995 decision was taken to form Sanyukta Akali Dal (SAD) by joining both Akali Dal (A) and Akali Dal (Badal) under the leadership of Prakash singh Badal. Three member panel was constituted to complete this exercise and to remove difference on characteristics and demands as mentioned in Anandpur Sahib proposal.

Even after the constitution of SAD, many factions and groups kept saying different things on different occasions. Mann faction kept releasing many surprising manifestos and this continued for long. On April 22, 1995 Akali Dal (A) and Akali Dal (Punjab) were formally dissolved and Shiromani Akali Dal was established under the leadership of Prakash singh Badal, which started working as a liberal party. It was decided to follow policy to ensure integrity and unity of India, while securing interest of Punjab. In 1996 Lok Sabha elections, it won 8 seats, whereas congress got only 2 seats and BSP got 3 seats. In February, 1997 during Punjab Vidhan Sabha elections, Shiromani Akali Dal allied with BJP and contested jointly. It won 75 Vidhan Sabha seats and BJP got 18. In this election, congress got 14, CPI 2, BSP 1, Shiromani

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Akali Dal (Mann) 1 and other independent got 8 seats. BJP-Akali Dal combine formed government in Punjab. On February 19, 1997 Akali Dal-BJP combine took charge of Punjab government and continued till February, 2002.

In 1997, popularity of Shiromani Akali Dal (Badal) increased too much, but while reaching 1999, there again had a split when in the leadership of Gurcharan Singh Tohda, some Akali members separated and formed another party, Sarva Hind Shiromani Akali Dal (SHSAD). Due to this split, there was a major decline in the popularity and power and in the Lok Sabha elections of October, 1999 Akalis could win only 2 seats, while BJP 1. In the februay, 2002 Punjab Vidhan Sabha elections, it had to face defeat. Akali Dal (Badal) could win only 42 out of 116 seats, whereas congress won 62. Performance of Sarva Hind Akali Dal (Tohda) and Akali Dal (Badal) was poor. Shiromani Akali Dal (Badal) got opposition role and government was formed by congress in Punjab. After this defeat, popularity of Shiromani Akali Dal declined. But after some time its situation improved when Sarva Hind Akali Dal (Tohda) again joined Akali Dal. In the Lok Sabha elections of March-April, 2004 it was able to exhibit its growing popularity to some extent, when it got 8 seats in the 14th Lok Sabha. Whereas, congress got only 2 seats. These days its base and popularity is on the rise again in the leadership of Sukhbir singh Badal and Prakash singh Badal. Akali Dal (Badal) is actually in control of SGPC, though after July, 2005 verdict of Sikh Judicial commission on Bibi Jagir Kaur's popularity and leadership has been severely damaged. Shiromani Akali Dal in Punjab has been seriously damaged by various Akali Dal and factions and still today it is happening. Existence of Akali Dal (Mann), Akali Dal (Chandumajra) etc. has been a source of weakness for Shiromani Akali Dal. But alliance with BJP since 1996 has actually consolidated its position in Punjab politics. But it can be repeated in future as well, can't be predicted.

Policies and Programmes of Akali Dal

Akali Dal supports development oriented economic policies, no interference in other's religion, protecting interests of weaker sections of society, equality of men and women, respect to human rights, no exploitation of human by human, eradication of untouchability, socialism, planned economic development, ban on intoxicating products, promotion of Panchayat Raj and decentralization of powers and autonomy, rights and financial decentralization for states. Akali Dal is a Panthak Dal and it is staunch supporter of Sikh's social, religious and political exaltation.

During elections, Shiromani Akali Dal has been releasing its manifestos, which has been detailing about its policies and programmes. Shiromani Akali Dal has been requesting Votes from public on the basis of Panthak unity, political stability, economic prosperity and social co-operation and unanimity and demanded that those principles and individuals should be defeated which are of foreign origin and are trying to take control on country leadership.

Shiromani Akali Dal has been demanding to establish a true federal structure, so that states can get more financial and legal power in order to have balanced and muti-direction development of nation. Akali Dal also said that the conflict environment between centre and state as created by congress designed union, has ended now and it is important to bring co-operative federalism in place of it. It is essential for our great country as because this process only can sustain and maintain our rich culture, languages, religious and socially different heritage.

Now, in elections there is no mention of Anandpur Sahib Proposal, even though Akali Dal is committed to its proposals. Actual federalism and autonomy to states has been always there in the election manifesto of Akali Dal.

In the manifesto of 1997 it was emphasized that Akali Dal is committed the resumption of peace in Punjab and would not let anyone disrupt peace again. It declared that the sentiment of nationalism which is currently on will certainly finish all negativism, opportunism and corrupt forces. Akali Dal alleged congress for pushing country towards political instability by doing opportunistic politics.

In the 1997 manifesto, it mentioned the achievements of Akali Dal-BJP combine government and

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demanded that to strengthen Punjabi unity, of which Akali dal is a symbol, needs to be strengthened. In fact, Akali Dal declared that BJP- Akali Dal's biggest achievement is Punjabi unity and return of peace in Punjab. Punjabi unity has given direction to national process. Shiromani Akali Dal applauded the manifesto of NDA and requested people of Punjab to strengthen leadership of Atal Bihari Bajpai by voting and supporting BJP-Akali Dal combine. In the manifesto of Shiromani Akali Dal, congress's policies were consistently condemned and NDA policies were appreciated. Akali dal pledged to put in its best possible effort to fulfill long pending demands of people of Punjab. Would try to have resolution for river water disputes and would try to include Chandigarh and other Punjabi speaking regions in to Punjab. Akali Dal would try its best to promote Punjabi language and culture in entire country, especially; in Haryana, Himachal, Rajasthan and Delhi.

In the 1997 manifesto it reiterated its commitment towards backward classes and other weaker sections of society and declared that Shiromani Akali Dal is the first party which raised Dalit issues. It also declared to do its best for the betterment of farmers and would encourage establishment of agriculture based industries in Punjab. As regards agriculture produce, it would try to make the demand accepted for open foreign trade and would ensure that farmers get better prices for their produce. Akali Dal would take special steps for the betterment of farmers, women and youths.

It would try to strengthen primary structure of electricity, roads and economy for improving the economy of Punjab.

Manifesto of Shiromani Akali Dal emphasized on following 5 major points:

1. Efforts for Adoption of real federal structure.
2. Efforts for getting more financial powers for states.
3. Commitment towards Anandpur Sahib proposal.
4. To continue supply of free electricity and water for farmers.
5. To eradicate corruption.

Main social base of Shiromani Akali Dal is followers of Sikh Panth; specially farmers and rural population. Rural development activities have been a priority area for Akali Dal. In fact, following have been always there in political agenda of Akali Dal:

(*i*) To implement land reforms laws.

(*ii*) To increase agricultural production.

(*iii*) To control rural poverty.

(*iv*) To protect farmer's interests and make available free electricity and water for them.

(*v*) Rapidly grow agriculture to make its profitable.

(*vi*) To rapidly grow areas of Hoshiarpur, Ropad and Gurdaspur.

(*vii*) To distribute surplus land among Harijan and needy Sikhs.

(*viii*) To modernize agriculture.

(*ix*) To remove impediments in the way of free trade.

(*x*) To implement Crop Insurance Scheme on a larger scale.

(*xi*) To develop agriculture based industries.

(*xii*) To increase opportunities of rural employment.

(*xiii*) To emphasize on shortages of houses in urban areas and its resolution.

(*xiv*) To provide interest free loans for self employment to scheduled caste and weaker sections.

(*xv*) To develop sufficient irrigation system for agriculture.

(*xvi*) To get rid of corruption from public sector.

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(*xvii*) To eradicate illiteracy from Punjab.

(*xviii*) To abolish quota system for residents of Punjab to join armed forces.

(*xix*) To protect interests of minorities and dalits.

Shiromani Akali Dal is a Panthak and regional party only. Naturally, it always connects itself to the prosperity and development of Punjab and forms its policies and programmes for the attainment of this objectives. After 1996, Akali Dal's role has increased in the politics of India and it has got opportunity to exercise power as well. These days, this is the policy of Akali Dal that is shall take part in Punjab and national level politics in alliance with BJP only. In Punjab politics, Akali Dal has always been against Congress. Generally, in Punjab elections, the fight is between congress and Akali Dal only.

The Anandpur Sahib Proposal

Since, Shiromani Akali Dal always commits itself to the proposal of Anandpur Sahib, it is imperative that we study is, even though there are various matters on this proposal, but we shall describe characteristic of proposal as signed by Saint Harchand singh Longowal :

(A) Principles

1. Shiromani Akali Dal is the supreme institution of Sikh Panth and hence it has the right to lead them. its base depends on mutual relations and human ambitions and its relation with god almighty.
2. It is based on Guru Nanak teachings like; Nam Japo, Kirat Karo and Vando Khao.

(B) Objectives

Akali Dal shall try to achieve following objectives:

1. To promote Sikhism and its traditions and oppose atheism.
2. To maintain independent identity of Panth and make an environment in which Sikhs can express their sentiments completely.
3. To remove poverty and increase wealth by establishing equal economic structure and end exploitation.
4. To eradicate illiteracy, untouchability and casteism, as mentioned in pious teachings of Sikhism.
5. To get rid of sickness and disease and stop use of intoxicating items, so that community can be encouraged to protect nation.

Shiromani Akali Dal considers its main duty to encourage feeling of divine power, trust on god amongst Sikhs, so that they can feel proud on being a Sikh.

Akali Dal shall begin a programme for the attainment of these objectives:

1. Shall propagate the principle of," god is one". Encouragement to be given to worship Ten Gurus and Guru Granth Sahib, to have trust on Granth sahib and to enable Sikhs to follow it, training shall be given.
2. To prepare capable propagators, singers and poets from Sikh missionary colleges for the promotion of Sikh religion, philosophy, principles, Langar etc. so that propagators can expand Sikhism in schools, colleges, urban and rural areas, within and outside country.
3. To start the work of Amrit Prachar on wide scale, especially in schools and colleges. To organize students and teachers of colleges to establish study centre for this.
4. To restart custom of Das Vand (to donate $1/10^{th}$ of income) in Sikhs.
5. Respect for Sikh historians, intellectuals, writers, propagators, Granthi etc and to make available facilities for the improvement of their life style, training and work process.

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6. To arrange for training for Sevadars, maintenance of Gurudwaras for making Gurudwara administration more active and in this respect issuance of directions to members of SGPC.
7. To have correct printing of Guru Granth Sahib and other epics, research on old and new history and translation of religious Sikhs books and creation of fresh literature on the basis of Sikh principles.
8. Maximum effort for making new All India Gurudwara Act, so that Gurudwaras across the nation can be run effectively and to have efforts to make oldies like Nirmals and Udasis integral part of Sikhism.
9. To take effective advantage of joint resources for propagating religion, Gurudwara managers across the globe to be added in one level and system.
10. To have open Darshan of Nankana Sahib or other Gurudwaras, which are now in separate condition.

Political aim of Panth is certainly based on the instructions of 10th Guru, Shri Govind Singh, which is imprint on pages Sikh history and which is the brain of Khalsa. Its aim is dominance of Khalsa.

To achieve this aim, Akali Dal shall endeavor and do the following struggle:

1. (a) All those areas which have been taken away from Punjab deliberately like; Dalhousie from Gurdaspur distt, Chandigarh, Pinjore, Kalka, Ambala city from Ambala distt. Una Tehsil from Hoshiarpur distt. village "desh" of distt. Nalagarh, Shahabad block, Guhla and Tohana Tehsil of Karnal distt. Ratia block and Sirsa Tehsil of Hisar distt. 6 Tehsil of Ganganagar distt. of Rajasthan and other Punjabi speaking Sikh dominated areas; should be immediately merged in the state of Punjab and they should be governed under one unit.

(b) In Punjab and other states, subjects like central security, foreign affairs, post and telegraph, Currency and Railways should only be handled by centre. Rest all should be handled by state.

(c) Required arrangements shall be made for minority Sikh community residing outside the state of Punjab, so that they should not be subjected to any discrimination.

2. Shiromani Akali Dal shall strive to make Indian constitution, a Federal in real sense and shall strive to have equal representation for each state at centre.

3. As per Shiromani Akali Dal, foreign policy of congress government was useless and detrimental for entire country. It shall strive to have better relations with all nations particularly with those, where Sikhs live or where there are Sikh religious temples. Our foreign policy should not emulate any other foreign policy.

4. Justice shall be made more encouraging for Sikh employees at centre and states and raising voice against injustice shall be a vital part of Shiromani Akali Dal's programme. Especially in defence services, efforts shall be made to have Sikh tradition sustained and demands of Sikh soldiers shall be under consideration. It shall also try to make Kripaan, an integral part of uniform of Sikh soldiers.

5. For the rehabilitation of ex- soldiers, necessary and productive environment shall be prepared and they shall be accorded necessary facilities and rights, so that they can live a respectful life.

6. As per Shiromani Akali Dal, each man or woman, who has not been convicted by court of law, should be allowed to keep one weapon without license.

7. A per them, on public places, eating of tobacco or drinking should be banned; there should be a policy on prohibition of use of Intoxicables.

On the basis of Anandpur proposal, Shiromani Akali Dal presented 45 demands before centre. These demands depict the policies and programmes of the party. Following are the demands:

Task Express your views on the policies of Akali Dal.

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Demands of Akali Dal

1. Interference in the religious matters of Sikhs should be stopped.
2. Control and management of Gurudwaras of Pakistan, should be given to Sikhs.
3. Protection should be given to Sikhs and their religion living in other part of India and overseas.
4. Elections should be conducted for Gurudwaras of Delhi under Delhi Act,1971 and forceful possession on Delhi Gurudwaras should be tackled.
5. No Land Ceiling Act should be implemented on Gurudwaras of Haryana.
6. Any Train going to Amritsar should be named as, Golden Temple Express.
7. Alike Hardwar, Kashi and Kurukshetra Amritsar should also be given Holy Town Status.
8. Permission should be given to install Transmitter inside Harmandir Sahib.
9. All Indian Gurudwara Act should be passed.
10. Shiromani Gurudwara Prabandhak committee should be accepted as the sole representative institution of Sikhs.
11. Shiromani Gurudwara Prabandhak committee should be accepted as the sole authority for sending pilgrims to Pakistan.
12. Interference in and violation of Sikh tradition should be stopped.
13. Promise of Autonomous status for Sikhs should be honored.
14. Constitutional structure of the nation should be changed by giving more rights to states and practical use of meaningful federal principles.
15. Ban on Punjabi Suba cities should be abolished.
16. By setting village as a unit, Punjabi regions should be merged in to Punjab after getting it vetted from linguistic specialists and control of Head works should be given to Punjab.
17. Neighboring states should given second level status to Punjabi.
18. In armed forces, quota of Sikhs recruitment should not be decreased to 1.5% from 2%.
19. Solitary Sikh Bank, Punjab and Sindh Bank should be denationalized.
20. Recognition should be given to Sikh Civil Code.
21. Wrong presentation of Sikhs in Films and TV should be stopped and more time should be allotted in Radio and TV for promoting Sikh culture.
22. Ban on taking Kripaan in National Air Traffic services should be stopped.
23. Amritsar should be declared Dry Airport.
24. Punjab should get liberal central assistance from centre.
25. Dissolution of Akali Government by unconstitutional and corrupt practices should be stopped.
26. Practice of making Punjabis armless by taking back Licensed Arms from citizens should be stopped and thus confidence should be reinstated.
27. Central policy of economic inequality should be abolished which occurred due to only 5% of public having control over economic power.
28. Poverty should be alleviated.
29. Economic exploitation of Punjab should be stopped.
30. Price rise should be checked.
31. Heavy industries should be allotted to Punjab.

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32. Exploitation of Punjabi farmers should be stopped in UP.
33. Limit of land should be fixed at 7 Hectare for Land Ceiling purpose.
34. Farmers Insurance scheme should be initiated for farmers in Punjab.
35. Farmers should get debt at same interest rates as that of Industrialists.
36. Profitable price of agricultural produce should be fixed.
37. Practice of buying agricultural produce at lower price and selling at higher price to consumers should be stopped.
38. Interests of Dalits and other weaker sections should be ensured.
39. Interests of Victims of Indo-Pak war should be protected.
40. Unemployment Allowance should be given to unemployed youths.
41. Production should be linked with price.
42. Factory laborers should get medical facilities.
43. Acquiring urban land compulsorily at low prices should be stopped.
44. Ban on sale of rural land should be introduced within 5 km from the Nagar Nigam boundary.
45. Anandpur Sahib proposal should be accepted and policy of divide and rule should be ended by instigating people.

This Demand paper was sent to central government in September, 1981. From 1981-1996, Akali Dal remained focused on these demands only. During terrorism days in Punjab, Akali Dal stuck to these demands and maintained its anti-centre stand, but in this Dark Age, Akali Dal itself could work limitedly under shadow of terrorism. Akali Dal has always advocated Anandpur sahib proposal, but such advocacy has been more of principle and less of practical. In fact, it appeared clearly far too less in the Common Minimum Programme of Akali Dal-BJP combine, under leadership of Prakash Singh Badal.

SAD-BJP: Common Minimum Programme

1. SAD-BJP combine would ensure corruption free government, will ensure fearless environment and for the resolution of every one's problems more emphatic, would ensure government of law.
2. There was no mention of Anandpur Sahib Proposal in CMP, whereas Akali Dal (Badal) manifesto did.
3. During 5 year regime of congress, no efforts were taken for the solution of issues of Punjab.
4. To encourage Hindu-Sikh unity and fraternity.
5. Major objectives of combine are– peace for all, prosperity for all and welfare of all.
6. To know about the past, that who all were involved in acts of violence and were reasons for the agony faced by Punjabis, constitution of a Judicial Commission to be established under retired Judge.
7. Within 90 days of coming to power, MLAs of Akali Dal-BJP combine would declare their assets and capital. Income from property shall be updated from time to time.
8. Lok Pal shall be empowered completely and chief minister too would be under his jurisdiction. Lok pal shall have the right to look in to matters of recruitment of all high profile posts and of corruption charges against chief minister.
9. Transparency should be brought in decision making.
10. Farmers shall be provided free electricity and water for agriculture to be given emphasis.
11. Agriculture based industries and export shall be encouraged.

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12. Inspector Raj system to be abolished and new economic policy shall be made and implemented for the development of state.
13. Conducive environment shall be created in states for Capital Investment.
14. Small and Home industries to be protected.
15. Even more conducive conditions to be created for greater Capital Investment.
16. Laborers shall be attached with Minimum Price Index.
17. Octroi to be abolished and Sales Tax system shall be made easier.
18. Roads and Transport network shall be improved and made more effective.
19. Public Transport System to be made more effective.
20. In the recruitment of staffs, practice of Nepotism shall be eradicated.
21. Scheme of free education to boys and girls up till High School and Graduation level respectively.
22. Vocations training centers shall be opened on the lines of ITI to make education job oriented and business oriented.
23. Arrangements shall be done to impart Moral Training in schools.
24. Public Distribution System shall be made stronger.
25. Demands shall be made to centre for more powers and autonomy for state.
26. Recommendations of Sarkaria commission to be implemented.
27. Punjabi Speaking and river areas shall be included in Punjab.
28. Chandigarh and other Punjabi speaking regions to be added in Punjab.
29. Employment and Self Employment schemes to be rolled out.
30. Government shall give ₹ 5000 to bride's family belonging to Scheduled caste and Dalits as Shagun.

Considering Akali Dal as a political party, we can say that Akali Dal is a regional party and it has got wider base in Punjab. It always presents itself as a representative party to Sikhs. It is such a Panthak party that is committed to the protection and attainment of social, religious and political sentiments of Sikhs. It is of the view that power and politics walk together and for the protection of religion, power is essential. Thus, mixing up of religion and politics in Akali Dal creates complexity and conflicts in it.

Akali Dal has always been in a dilemma. It has been dependent on religious fraternity for power. On the one hand, it has been a reason of its solid base, but on the other hand, it has created impediments in its path to become a stronger based regional party like DMK and AIADMK. Its effort to join hands with other political parties was never liked by Sikhs in the past. But after 1996, Shiromani Akali Dal has been successful in playing a powerful role by having alliance with BJP in Punjab. Since 1997, Akali Dal-BJP combine was in power in Punjab and it got major from Punjabis in 1998 Lok Sabha elections. But due to split in 1999(Gurcharan singh Tohda made another party Sarva Hind Akali Dal and not being able to give an efficient administration, this coalition had to face defeat. In that election, Shiromani Akali Dal and BJP could win only 2 and 1 seats respectively, whereas in 1998 elections, Akali Dal and BJP got 8 and 3 seats respectively and candidates contesting with their support – I.K. Gujral of Janta Dal and Satnam Singh Kainth of Bahujan Samaj Morcha were victorious.

After 1999 defeat, Akali Dal-BJP combine tried to regain its lost popularity, but could not succeed. In February, 2002 Punjab Vidhan Sabha elections, they had to face defeat again. Congress won 62 out of 117 seats and Akali Dal got 41 and it had to sit in opposition. But in the elections of 2007, this has again become part of power in Punjab with Akali Dal-BJP combine.

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14.4.2 Indian National Lok Dal

Indian National Lok Dal, which is popularly known as Inalo, is a regional party of Haryana. History of this party has been very shaky, which is run in the name of Ex Deputy Prime Minister Devi Lal and its present head Chaudhary Om Prakash Chautala. It has broken several times and each time it has come with a different name, symbol and flag. It is very famous about Devi Lal and Chautala that they never fought an election again with same flag, symbol or party. Till the formation of Haryana, Devi Lal was with congress only, but later on became its strong opposer.

In the elections of 1972, Devi Lal contested as independent candidate and lost. After this, he joined Indian Revolutionary Party, which later converted into Indian Lok Dal and which has plough holder inside a wheel. In 1977, Lok Dal merged in Janta party and Devi Lal joined it. Later he again went back to Lok Dal. Then thereafter, from Lok Dal (B) to Dalit Shramik Kisan Party, he formed Lok Dal again. In the elections of 1987, Lok Dal got major success by winning 85 out of 90 seats and Devi Lal became great leader of Haryana. But in 1989, Lok Dal merged into Janta Dal and contested Lok Sabha elections with wheel symbol. But approaching 1991, his attraction of Janta Dal also finished and he formed Samajvadi Dal. But due to his party not being recognized, he had to contest Vidhan Sabha election on symbol of plough holder of Samajvadi party of Subramaniam Swami. Thereafter, having a conflict with Swami, he formed Samajvadi Janta party and then Rashtravadi Samajvadi party. But contested 1996 elections with Samta party of George Fernandez. During last leg of 1999, Indian National Lok Dal came in to existence. In the February, 2000 Vidhan Sabha elections, INLD contested with Spectacles party symbol. It released its manifesto with its policy and programmes, which are as following:

1. Electricity and Water Supply: It said that there is no issue of free electricity and water for Haryana residents. Manifesto only says to provide 24 hours water and electricity supply. In manifesto Inalo (INLD) said to exert pressure on centre for Sutlej- Yamuna link canal construction and resolution of its border dispute with Punjab. It said that both in rural and urban area, drinking water shall be made in sufficient quantity.

2. Education: manifesto stated as:

(*i*) Besides having reforms in education system, Arrangement of providing English education to class I students shall be implemented. Sports shall be made part of curriculum.

(*ii*) To encourage education for girls, status of rural schools shall be increased and more schools for girls shall be opened as per need.

(*iii*) Such new courses shall be introduced in Industrial Training centers that shall provide easy employment in their own ventures.

(*iv*) Salary of non government school and colleges shall be defined.

3. Development: Manifesto stated that for the integrated development of state, Economic Development Fund shall be created. Land Development Bank shall be established in the National Capital Region on 4000 Acres land area. Crop insurance shall be started and for the benefit of small artisans, an Artisan Development Board shall be constituted on the line of Karnataka.

4. Improvement in Electricity Transmission System: It said that electricity transmission system shall be reformed, so that each consumer can get sufficient electricity. Strong actions shall be taken against electricity thieves, burnt transformers shall be replaced within 24 hours.

5. Unemployment: To solve unemployment issue, facility of loans for unemployed youths at low interest rates for buying three wheelers, four wheeler, truck, bus, taxi, jeep etc. to be provided and opening of Trade Centers near border areas of Delhi, were stressed.

6. Establishment of University Chairs: It also said to have university chairs for Lala Lajpat Rai, Chaudhary Chotu Ram, Shaheed Udham singh, Bhagat Singh, Madan Lal Dhingra, Dr. Ambedkar, Bhagwan Valmiki, Guru Ravidas, Maharana Pratap and Dada Lakshmi. Also it was told to include articles related with their life sketches to be added in the school syllabus.

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7. Sub-committee: While releasing Chautala said that to implement the promises of manifesto in the 2002 Vidhan Sabha elections, Haryana branch of INLD, shall constitute a sub-committee, which shall have government and non government members. If any promise remains to be fulfilled, then concerned deptt shall be orders to immediately fulfill it. In February, 2005 Vidhan Sabha elections, it focused on issues of Sutlej-Yamuna link canal and water sharing agreement with Punjab and assured public that the verdict shall be in Haryana favor. Then in 2004-05, it tried to get public mandate again on the basis of its achievements, but it failed. Public voted against the administrative and political corruption of Chautala government and congress got majority.

In February, 2000 it contested Vidhan Sabha elections with BJP and got majority (47 out 90 seats) on its own. On March 2, 2000 party leader Om Prakash Chautala took oath as chief minister of Haryana. It remained in power till February, 2005. But March-April 2005 elections clearly showed that popularity of INLD is on decline and February, 2005 elections proved it as well. Inalo got only 9 seats, whereas congress got 67 out of 90 seats. Congress took charge in March, 2005 under leadership of Shri Bhupendra singh Huda and still Is in power. But in the 2009 Vidhan Sabha elections, it regained some of its lost ground, but could not come in power. Inalo is purely a regional party of Haryana.

14.4.3 Dravida Munnetra Kadgam-DMK

DMK and AIADMK are two regional parties which have emerged as two most active parties in the politics of Tamil Nadu. In recent times, both these parties have started affecting national politics actively. It is beneficial to study history and performance of these two parties as we can see that how a regional party believing in separatism, staying within national interest and boundary, can convert into a committed party for the attainment of regional interests. Initially, DMK was totally a regional perspective party and its view point was inspired from separatism. But gradually, it along with AIADMK, which emerged in decade of 1970, was able to change its thought to healthy levels of national integrity and unity along with regional interests. DMK is part of National Democratic Alliance and has been a part of government at centre level also, but in the March-April, 2004 Vidhan Sabha elections, it allied with congress and due to this new alliance only, it got more success in 14th Lok Sabha elections. It got 15 seats.

Establishment of DMK and Emergence of AIADMK Due to Split in DMK

DMK has emerged as a powerful political force in Tamil Nadu politics in the last 6 decades and indications are that it has accepted a role which can have far reaching effect on entire Indian political scenario. DMK's Origin, Works and its emergence as a political party is an interesting history in itself.

To get fair idea of DMK's emergence history, we have to analyze briefly Tamil Nadu history and have to analyze those factors and conditions, which led to the creation of DMK. Since, first centenary only, Tamil Ruling Clans have been playing vital role in Indian politics. They have been important force in internal politics also. Mention of Dynasties like Cholas, Cheras, Pandiyas is found in north hand scripts of 4th century B.C. But they were not part of empires before. Thus, living independent with political liberty has been tradition of Tamil Nadu. In 17th century, Tamil Nadu spread up till Thanjavur and some bordering posts were in the hands of Muslims in 18th century. But unlike rest of India, Tamil Nadu could not present an example of cultural or political confrontation with Islam.

On the other hand, there is another type of cultural conflict existing within Tamil Nadu, which can't be seen anywhere else in India. Conflict has continue between those who stress to recite basics of religious texts and book in Sanskrit and those who prefer Tamil and these conflicts have been a conflict of cultures. People who use Sanskrit are majorly Brahmins. During the end of 19th century, in entire south India, a confrontation started between Brahmins and non Brahmins. Non Brahmins though large in numbers, were the neglected class of society. Despite being in minority, Brahmins were way ahead from non Brahmins and thus non Brahmins developed the spirit of organizing themselves with development and culture. Due to fear and jealousy with Brahmins only, a non Brahmin agitation started which was led by

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Sir C. Shankaran Nayar, Sir P. Tyagroya Shetty and Dr. T.M. Nayar. As a result of this agitation, Justice Dal was established in 1916.

E.V. Ramaswami Naykar was influential leader of the party. Justice Dal ruled Madras Presidency for 12 years between 1920-32. This time was of Diarchy and it left at least some print marks on Madras state. Those castes which made justice party were high caste non Brahmin and as per estimate of S. Saraswati, they constitute around 19% of Tamil population. As per Prof R. Bhaskaran," objectives of justice party were based on reality and were related with such interests that political structure should be such made that patriarchal citizens should be elected on authoritative and powerful posts". Main characteristic of justice Dal was that it was inspired from social reforms. Being a liberal force, it said that British rule is a divine boon in India. Justice party defined its perspective towards congress. They believed that congress is dominated by Brahmins. Alike Muslim League, Justice Party too agitated for different electorate for non Brahmins and raised this issue in the Tinuneveli convention of congress in 1920. But it was rejected as Brahmin wing under leadership of C. Raj Gopalachari, protested against it.

In 1925 the Kanchipuram convention of provincial congress, Naykar again raised this issue, but was unsuccessful. Naykar and his supporters left the convention and broke their ties with congress for ever. This incident incited self respect wave. Leaders demanded to end casteism and untouchability and spread logicality in social life. Justice Dal and self respect wave, that got immense support due to anti Hindi agitation, started working together. In 1939, both organization supported war policy as prepared by government of India and demanded creation of a separate Tamil Nadu State, which had to be directly controlled by India Secretary. Justice Dal and self respect wave also supported demand of separate Pakistan. During this time, on the podium of Justice Dal a leader came in the form of Shri C.N. Anna Dorai, who was smart, active and had practical and nationalist though process.

During Salem conference of party in 1944, Anna Dorai put across a proposal which was majorly in line with national sentiment. This policy decided to surrender Titles conferred by Britain and Justice Party should be rechristened as Dravida Kadgam or Dravida Association.

Dravida Kadgam initially opposed all those customs and rituals which were being run by Brahmins like; Veda, Purana, Ancient Hinduism and Brahmins as well. In short, it was anti Brahmin institution. D.K. not only continued its struggle against Brahmins, but started topic like Imperialism of North India over South and declared that Dravida Kadgam is committed to save south from north. D.K. continued to get popularity under leadership of Periyar (Naykar). In the Trichnapalli conference of 1945, D.K. pledged that its aim is establishment of sovereign independent Dravida republic. D.K. was firm on its Salem declaration that is shall stay away from elections and would achieve its objective by awaking public and aggravating non co-operation movement. D.K. observed Independence Day as Condolence Day and lighted National Flag at many places. This started creating rift among its members. Its practical, ambitious and legacy holder group rebelled under leadership of C.N. Anna Dorai (main colleague of Naykar) by getting united. Periyar was not ready to bow down and he started working as a dictator. On one hand, Naykar refused to respect National flag; C.N. Anna Dorai refused to accept constitution, on the other.

Anna Dorai started seeing independence as a pearl in the wig of the British Empire. He raised his voice for democratization of leadership in the party, but Naykar opposed it. When Naykar married a girl 40 years younger to him, then scathing attack started germinating on him and office bearers of DK started thinking that he had been misusing party policies. Anna Dorai could not tolerate such bad condition and major part of party was with him. DK was split on September17, 1949 when Anna and his supporters left mainstream of DK and organized themselves as a more powerful political institution; Dravida Munnetra Kadgam, which adopted its constitution within one year (DMK means Tamil Development party). This is how, DMK took birth and started playing important role in Tamil Nadu politics:-

A. Objectives of DMK Party– It can be described as following:

1. Initial Political Objective: When it came in to the shape of D.M.K. after coming out of D.K., its political idol was to establish separate Tamil State, which was supposed to be separate from Indian

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union. DMK was confident as it understood that parts of India which included Andhra Pradesh, Tamil Nadu, Karnataka and Kerala, were Dravida by culture and by origin. DMK adopted this target to protect and develop Dravida culture. For this, there should be a union based on four linguistic unit and which should be called Dravida Union and that is should get right to decide its own fate. Prime Minister Nehru said on many occasions, that if anyone wants to separate from India and if public is with them, then we shall let them go a separate way and this encouraged DMK to think on these lines. On this basis, it started demanding that these 4 linguistic units should be out of India and establish a sovereign state.

Notes When china attacked Indian in 1962, then Anna Dorai himself stopped campaigning for separation and gave full support to Indian government

But after this Anna Dorai gave up demand of a separate Dravida union and became a partner of Indian political system as a political party.

2. Unity and Not Uniformity: Anna Dorai emphasized that DMK believes in unity, but unity does not mean uniformity. Anna Dorai believed in the principle of Unity among Diversity. "If we can get unity in diversity, then it shall stand united and shall remain with us all the time during challenges of centenaries and future". For this, DMK kept its new objective as, Unity in diversity. Unity in diversity should get preference as our culture is different. What is our culture, you should understand and what is your culture, I should understand. This can be understood by exchange of students between states. If there is an exchange of students from one state to another, it can clear lot of misconception and a mutual unity can be established.

3. Official Language Policy: After the image makeover after 1962, DMK expressed its confidence in national integrity and declared that national integrity can't be achieved by making India a linguistic state, but by making all those languages as government languages, which have got recognition at state level. DMK adopted policy that all major Indian languages should be made official language and each member in parliament should have the right to give speech in his own language and such speeches should be translated in English and Hindi. But at the same time, DMK raised its voice against Hindi language and supported English to carry on as official and government language.

4. Support for More Powers to State: DMK is against the unitary style of Indian federalism under Indian constitution. DMK's policy is that Indian federalism should be given pure federal nature by giving more powers and autonomy to states.

B. Performance of DMK in Elections between 1952-67: In the general elections of 1951-52, it did not field its candidate but promised to support those candidates who agreed with demand of separate Dravidistan. It also supported candidates of Communists. Communists declared that even though they don't agree with separatist demands and agitation against Brahmins, yet they have agreed not to oppose Dravida Congress, public liberties and Russia-China friendship and this agreement provides satisfactory base for co-operation.

But, just before elections, DMK turned back from alliance. Anna Dorai Said, "DMK is in fact real communist, but it can't support communist party of India as it does not agree with demand of separate Dravidistan". Despite it, Dravidians gave influential support to communists. Communists won 13 out of 15 seats of Tamil Nadu and was construed that this victory is due to the support of DMK. Many independent candidates with DMK support also did fairly well in that election.

In 1954, supporters of Dravidistan were able to oust Shri C. Raj Gopalachari, who was Brahmin CM of Madras (Chennai). Kamraj Nadar replaced Mr. Raj Gopalachari. During his 10 years as chief minister, he brought low caste leaders in to congress and established some touch with Dravida wave. Finally, Mr. Naykar openly supported congress, especially due to the reason that Kamraj was its leader, whom he considered a "true Tamil". This support was beneficial for many times and problematic too. This

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support was given to Kamraj because Shri Naykar disliked DMK and did not want to see it in power. DMK continued to be in opposition and in 1956, Kamraj challenged it to contest elections and in the elections of 1957, DMK accepted this challenge.

In 1957, DMK's programme was congress slogans: socialism, nationalization, land ceiling and casteless and classless society. But it had separate characteristics- protest against Hindu and north vs. south. It also protested against partisan against south in planning and demanded justice. DMK got limited success in 2nd general elections (1957) and contested on 110 seats out of 205 Vidhan Sabha seats and won 15. And congress won 151 seats. But even after losing elections, many DMK candidates got %age of votes and in total this party got 14.25 of total votes, whereas congress got 45.3% votes, which contested election on almost all seats. After this, in 1959, DMK got majority in Madras City Corporation elections and proved its influence in urban areas as well, but capturing Nagarpalika administration could not increase its equity. In the years after 1957, though congress used to be in power under leadership of Kamraj in Tamil politics, yet it kept losing its popularity. In 1959, C. Raj Gopalachari established an independent party and formed an informal alliance with DMK in Tami Nadu politics. But this alliance got broken up till 1962. In the elections of 1962, congress again emerged victorious in the leadership of Kamraj when it won 139 seats of Tamil Nadu Vidhan Sabha and got 46.1% votes.

Congress won 31 Vidhan Sabha seats and DMK too improved its position. It won 50 Vidhan Sabha seats with 27.1% votes and it was also successful in winning 7 seats in 3rd Lok Sabha. After these elections, DMK again started advocating separatist principle and demanding separate Tamil Nadu from Indian Union. But in 1962, when China attacked India, it gave up its separatist demand. In 1963, DMK totally gave up separatist principles and adopted policy of All India Nationalism. Thus reaching 1967, it became a pure regional party in Indian politics, which started playing vital role in Tamil and National politics.

C. Performance of DMK between 1967-72: in the beginning of 1967, opposition parties did an agreement to make a joint front against congress. In the leadership of DMK, Independent party, CPM, Muslim League, SSP (Tamil), Arasu Kadgam and some other parties came together. In this electoral alliance, DMK played role of a unity maker. Once again in its 1967 manifesto, it reiterated its objective of protecting linguistic and cultural thoughts of south and its values. It demanded in party that constitution should be amended so that states should get more powers and autonomy.

Results of 4th general elections were truly surprising and they changed the contours of Tamil Nadu history. DMK contested on 173 out of 234 Vidhan Sabha seats and won 138 seats with 41.2% votes. DMK emerged as the largest party in Tamil Nadu Vidhan Sabha. Congress contested on 39 Lok Sabha seats, but could win only 3. On the other hand, DMK contested on 25 seats and won all. DMK formed its 9 member Cabinet in the leadership of Anna Dorai. This cabinet proved itself good administrator and got popularity.

But unfortunately, just after 2 years a tragedy happened in Tami politics, when rising politician of 20th century, Anna Dorai died in February, 1969. This actually ignited tussle for leadership between two major colleagues of Anna Dorai; Karunanidhi and V.R. Nedugechian. But due to his integrative intelligence, Karunanidhi got control over party and became Chief Minister of Tamil Nadu.

New leader of DMK started supporting government of India and taking benefit of this policy, weakened Kamarj's position in Tamil politics. In 1977 elections, DMK role strengthened a lot.

Split in DMK– in 1972, there was an internal split in DMK and reason being difference between two senior leaders; Karunanidhi and M.G. Ramachandran (MGR). In October, 1972 Karunanidhi removed MGR from party membership and issued show cause notice. But MGR emerged as more popular leader due to his popularity due to roles in movies. On october17, 1972 he declared to establish a new party and on october18, 1972 All India Anna Dravida Munnetra Kadgam (AIADMK) was established. It soon made its position more powerful than DMK. In februay, 1974 DMK along with congress (O) and congress (N), it toppled this cabinet. Thus, DMK and AIADMK became two mutually opposite party to

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each other. Later, it was being popularly known as AIADMK and is still binge carried forward. In Tamil politics, at times DMK becomes stronger and at time AIADMK.

Performance of DMK– after the establishment of AIADMK, role of DMK has been changing in Tamil politics. DMK took part in 1977 elections after split of 1974. But in March, 1977 Lok Sabha elections and June, 1970 Vidhan Sabha elections, it could not got special success. DMK got only 1 seat in Lok Sabha and 49 in Vidhan Sabha, whereas its opponent AIADMK got 19 and 29 in Lok Sabha and Vidhan Sabha respectively. In Pondicherry also, DMK got 3 out of 30 seats, AIADMK won 19 seats. Thus, in Tamil Nadu politics, role of DMK reduced a lot. In January, 1980 DMK contested along with congress and won 14 Lok Sabha seats, but in May, 1980 Vidhan Sabha elections, it got only 38 seats and AIADMK got 128. This is how, position of DMK between 1977-1989, was not good. In December, 1984 AIADMK contested elections with congress, whereas DMK contested with Janta party, CPI and CPM. DMK got only 1 seat in this election and got only 20 seats in state Vidhan Sabha. Thus, DMK position got worsened. But, Tamil Nadu Vidhan Sabha was dissolved in January, 1989 which DMK formed after winning 147 seats after 13 years. DMK was alleged that it was not taking sufficient steps to control activities of LTTE.

In May-June, 1991 elections for 10th Lok Sabha and Tamil Nadu Vidhan Sabha were held, but DMK had to face major loss. It could not win even single seat in Lok Sabha and won only 7 seats in Vidhan Sabha.

After the elections, its position even worsened after a split and a new party came to existence, which called itself, real DMK. But, DMK under Karunanidhi leadership was successful to have its influence established again. In May-June, 1996 Vidhan Sabha elections, it won 17 seats for Lok Sabha and 172 out of 235 Vidhan Sabha seats and formed government once again, DMK became a powerful force in Tamil politics. But in the 1998 elections it could only win 8 seats, whereas AIADMK got 18 seats. Position of DMK seemed to be declining, but yet again in the 1999 Lok Sabha elections, it improved its tally. This election was contested in alliance with BJP and won 12 Lok Sabha seats, whereas opponent AIADMK won 10 seats. At present, DMK is sitting in opposition and leader of AIADMK Miss Jayalalita is running the government DMK voted in favor of Bajpai government in no confidence motion on april17,1999 in Lok Sabah and continue to be a partner of NDA between 1999-2003. In the March-April, 2004 Lok Sabha elections, it partnered congress and had decent success. It got 16 Lok Sabha seats in 14th Lok Sabha elections.

Today DMK has powerful position in Tamil Nadu and National politics, but past history tells us that its situation has seen many ups and downs. This is the reason; it has been trying to do alliance with congress, BJP and other parties alternatively. During 1999-2003 it supported NDA, but in 2004 it tilted towards congress and gave its support to UPA government in congress leadership in 2004. In 14th Lok Sabha, DMK has got 16 seats and it has played vital role in arranging majority for UPA. These days, AIADMK is in power in Tamil Nadu and DMK is sitting in opposition. Corruption and family politics led to its defeat in 2011 Vidhan Sabha elections. But Tamil Nadu politics can change very fast, what we can see from its history between 1947-2004.

14.4.4. All India Anna Dravida Munnetra Kadgam (AIADMK)

It came to existence in 1972 as a result of split in DMK. Power struggle started after the demise of charismatic leader C.N. Anna Dorai, who was fondly called, 'Anna'. First it started between Karunanidhi and Nechugechian and then between Karunanidhi and M.G. Ramachandran.

After 1971 elections, struggle between Karunanidhi and MGR intensed for power. Both of them were connected with film industry in one way or other and this was one of the probable reasons for this intensed competition. MGR used to protest against the behavior of Karunanidhi against party members and also used to condemn misuse of party fund and fast spreading corruption among party members. Shri Ramachandran used to donate lot of money in party fund, especially in crisis period. There were dozens of clubs and forum in his name in Rajya Sabha. He alleged Karunanidhi of being a dictator and demanded an inquiry into the assets of all ministers and MLAs of DMK.

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On October 10, 1972 MGR was expelled from party and was issued a show cause notice and was asked to respond as to why he should not be permanently expelled from party. But this act of his expulsion brought sympathies of public for him due to being a popular leader. People were angry against actions taken against their hero and were ready to do anything at his order. Many important leaders too came in support of MGR. Chairman of executive committee Mr. C. Ramalingam, too decided to oppose the action taken against MGR and declared on october17,1972 that MGR loyalists with units of DMK shall establish a new party; Anna DMK. Supporting it, he emphasized student's wings to work under the banner of Anna Dravida Munnetra Kadgam (student). He described MGR Manarma and the loyalists units of party as Two Eyes of party. On October18, 1972 Anna DMK came in to existence. Shri Ramachandran declared that his party shall follow the principles and policies of Late Anna Dorai. He claimed that there are 20,000 Manarma in Tamil Nadu and his party membership is more than 10 lacs. Establishment of new party had wider impact on the masses of Tamil Nadu.

In February, 1974 AIDMK (initially AIADMK was known by this name only) contested Pondicherry elections and emerged as the single largest party in the house. With support of CPI, ADMK formed its first government in Pondicherry on March6, 1974 under leadership of M. Ramaswami. But this government was ousted by a coalition of congress (I), congress (N) and DMK during voting on Budget, on March6, 1974. Soon after the fall of AIDMK government DMK, to reduce the social base of MGR, started a campaign about his Malayalam origin and while doing this, the party which was known as the protector of interests of southern people, came at a selfish level at par with party of intellectuals and high profile political leaders and this is how, lost the moral right to represent itself as representative of southern interests.

In March, 1977 in Tamil Nadu elections, elections were fought by two factions of DMK. One faction was led by Karunanidhi, who was chief minister from 1969-76 and continued to keep the legacy of old DMK and other faction was led by Shri Ramachandran who became leader of new party ADMK after the split of 1972 and which was rechristened as AIADMK. Contesting elections with congress was not liked by Janta Dal. Results were that despite having support of Janta Dal, it was unsuccessful. DMK could win only 1 seat of Lok Sabha. AIADMK and its ally congress got stupendous success and got half of total Lok Sabha Seats. It got 18 out of 39 seats, whereas congress got 14.

In June, 1977 elections were held for Tamil Nadu Vidhan Sabha. This time around, AIADMK was in alliance with Janta Dal and DMK had alliance with congress. But once again, DMK was unsuccessful and got only 49 seats in Vidhan Sabha, whereas AIADMK got 143 out of 234 seats and formed its government which was led by M.G. Ramachandran as chief minister.

In the elections of 1980, situation again changed. Last 6 years of AIADMK regime had to face defeat due to the alliance between congress (I), Muslim League and DMK, which got 37 out of 39 seats of Lok Sabha. AIDMK which had 18 seats in dissolved Lok Sabha now was left with only 2 seats. But in the state Vidhan Sabha election, DMK was successful in breaking the leadership of AIADMK under leadership of Karunanidhi. In these elections, DMK won 162 out of 234 seats and DMK-congress combine could get only 69 seats. Thereafter, as per election result, AIADMK formed government under leadership of chief minister M.G. Ramachandran.

After the assassination of Smt. Indira Gandhi in 1984, elections were held for 8th Lok Sabha in December, 1984. In these elections, congress (I) and AIADMK coalition had head on fight with opposition front for 38 Lok Sabha seats. AIADMK contested only 12 seats, whereas it left balance seats for its junior partners; congress (I), Gandhi congress and national congress. Opposition front was led by DMK and it had Janta Dal and both Communist parties as allies. DMK contested on 26 seats, but could win only 1. On the other hand, AIADMK got benefit of sympathy wave created by Indira Gandhi assassination and ill health of MGR. resultantly; it won all 12 seats, where it fielded its candidates.

Besides, elections were held for Vidhan Sabha also. AIADMK allied with congress and contested and won 133 out of 235 seats and congress (I) won 62. DMK was wiped out and got only 20 seats. M.G. Ramachandran formed government in Tamil Nadu.

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But in January, 1989 AIADMK had to face defeat again by the hands of coalition led by DMK. It contested on 200 seats but could win only 27out of it. On the other hand, DMK contested on 202 and won 151 out of it. AIADMK got 17.12% and 21.63% of vote share in Lok Sabha and Vidhan Sabha election respectively. Whereas, DMK got 26.66% and 33.42% vote share. Again in November, 1989 Lok Sabha elections, AIADMK won 11 seats, whereas DMK could win only 1.

In the elections of May-June, 1991 DMK won 10th Lok Sabha elections along with Vidhan Sabha elections and settled score with DMK. AIADMK-congress combine won all 39 Lok Sabha Seats. AIADMK and Congress (I) won 11 and 28 seats respectively. DMK failed to get even one seat. In the Tamil Nadu Vidhan Sabha elections, AIADMK won 163 out of 234 seats. Its ally congress won 61 seats. DMK could win only 1 seat. AIADMK got 44.37% and18.03% vote share in Vidhan Sabha and Lok Sabha elections respectively. Congress (I) got 15.43% and 42.15% vote share respectively. AIADMK-Congress combine together got 59.80% of Vidhan Sabha votes share and 60.18% of Lok Sabha vote share. In contrast, DMK got 22.34% and 22.60% respectively in Vidhan Sabha and Lok Sabha. Coalition under DMK leadership got 29.67% and 29.92% vote share respectively in Vidhan Sabha and Lok Sabha. This was a disappointing defeat for DMK which got more than majority by winning2/3rd seats in 1989 elections. This was a tremendous victory for AIADMK and especially for its leader Miss Jayalalita.

Factors which helped AIADMK-Congress combine more than DMK led coalition were-(i) election accounting (ii) decline of DMK vote base (iii) LTTE oriented policy of DMK (iv) sympathy wave created after the killing of Rajiv Gandhi. These things went in favor of congress (I)-AIADMK combine.

Thus, AIADMK came in to victory position after May-June, 1991 elections of Lok Sabha and Tamil Nadu Vidhan Sabha. Jayalalita became chief minister of Tamil Nadu on June, 24, 1991 and AIADMK established its leadership. It remained in power from 1991-96 and it has to face a major fall later on. It could not get even one seat in March-April, 1996 elections and could get only 4 seats in Tamil Nadu Vidhan Sabha elections. Its power and base were regulated by DMK and TMC in Tamil Nadu. But in Ferbruray-March, 1998 12th Lok Sabha elections, it allied with BJP and won 18 seats, but soon after there was a rift between AIADMK and BJP because Jayalalita wanted central government to act against ruling DMK government of Tamil Nadu and force DMK government to take a softer approach in cases against Jayalalita and his colleagues, which were going on in Tamil Nadu. Jayalalita broke its ties with BJP government in April, 1999 and played a vital role in defeating BJP in Lok Sabha. 12th Lok Sabha got dissolved due to this reason only.

Elections for 13th Lok Sabha were held in September, 1999 and AIADMK allied with congress in these elections, whereas DMK tied up with BJP. AIADMK lost this election and could win only 10 seats. DMK won 12 seats and other seats were won by other supporting parties of DMK. Tamil Manila Congress too got wiped out in this election. Once again, DMK emerged as an influential party in Tamil politics.

AIADMK is an influential party in Tamil politics and in last 10 years, it has been trying to play its part in national politics as well. In September, 1999 elections, its public support got reduced a bit, but near 2001 it regained its popularity. These days, AIADMK is in power and Miss Jayalalita is the leader and chief minister of Tamil Nadu. But in March-April, 2004 elections showed that AIADMK position has become weak. In this election, DMK allied with congress and fought against AIADMK-NDA combine. Election results clearly showed that DMK position has improved and AIADMK position worsened. In 14th Lok Sabha elections, where DMK got 16 seats, congress combine got 35 seats. In 15th Lok Sabha elections, it got greater success than DMK. AIADMK has come back to power since 2011 Vidhan Sabha elections. It has got benefit of bad image of DMK in this election.

14.4.5 Telugu Desam Party

Telugu Desam is a regional party with base in Andhra Pradesh only. Majorly due to the efforts of film star N.T. Rama Rao, popularly known as NTR, this party came in to existence and succeeded as a regional party. So many factors helped the emergence of this party viz congress rule from 1956-83, continuous factionalism in congress, Telangana wave, corrupt administration, failure of congress to

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implement promises made in election manifesto, casteism in Andhra politics (strong position of Reddy fraternity against only 12.2% of its population), unregulated interference of centre in Andhra politics. These factors gave birth to an anti congress reaction and another path was looked for, when on March29, 1982 Telugu Desam party was established by N.T. Rama Rao. At the time of its formation, NTR declared that party shall support central government and would follow independent policy as regards to internal Andhra policies. But gradually, Telugu Desam drifted towards anti congress approach because this was the party which was trying to stop Telugu Desam popularity with the campaign that it a Kamas Dal (NTR and Nandela both were Kamas) and they were trying to increase Landlord tradition.

Therefore, NTR declared on March31, 1982 that their party shall support Land reforms, fixing limitation on urban income and would give priority to install industries across the state. This fetched party support of youths and weaker sections of society. It also got support of NTR film followers. Party claimed in November, 1983 that its membership is 14 Lacs out of which 2 Lacs are active members.

While clarifying need for the formation of the party, NTR said that after AP's existence and looking at its history, he has reached to a conclusion that this is the only way to resolve issue of Telugu people. A national level party can't be able to resolve local issues.

1. Objectives, Policies and Programmes: Main objectives of TDP are: to unite Telugu speaking masses, stop corruption, protecting modesty of women, make available drinking water for each village, programmes of rebuilding to be started to raise rural life style, ban on defection, maintain press freedom, ensure balanced industrialization, land reforms to help farmers, make available means of subsistence to land less laborers, raising life style of entire Andhra, more powers to Panchayati raj institutions, facility to deal with natural calamity and arrangement of public utilities . it also said that TDP is in favor of restructuring of police force so that its style of working can be improved, anti social element can be controlled, actions can be taken against corrupt officials, law and order can be maintained and availability of government fund for elections, so that role and force of money, in elections can be curtailed.

Its leaders clarified that though Desam word has been included in its name, yet it nowhere supports separatist sentiments. Telugu Desam strongly supports national integrity and unity and is totally attached to Indian republic. Besides, it wants more autonomy for state in the Indian union. Further, it is neither anti Brahmin nor anti intellectuals. But still it is committed to development of Telugu language, but while do so; it shall not let any damage to the interests of linguistic minorities living in Andhra Pradesh.

On January 8, 1983 it released a 10 point code for its newly elected Andhra Vidhan Sabha members. It was known as 10 preaching of NTR, which are as following:

1. Telugu Desam MLAs should be in constant touch with public.
2. They should not interfere in matters like appointment and transfers of government officials.
3. Party members should support government in finishing corruption and having honest and clean administration.
4. When chief minister and ministers go on any tour, there should not be any special arrangements for them nor food invitation should be given. MLAs should work to bring pubic issues to ministers.
5. MLAs should help in ending activities of selfish people, as helping poor and weaker sections of society is Telugu Desam's principle.
6. MLAs should bring issue like black marketing, hoarding and other anti social elements and their activities before concerned officials.
7. They should take active part in Vidhan Sabha proceedings and should bring public issue before house.
8. They must follow orders released by chief cautionary.
9. They should stay connected with party workers and have active interest in party programmes.

10. They must be disciplined and lead an honest and simple life. They themselves should take oath that they would work towards attainment of promises made during election.

In January, 1983 TDP government came in power under leadership of N.T. Rama Rao (NTR). But in August, 1984 governor Ram Lal removed him from his post and appointed Bhaskar Rao as chief minister. But new chief minister could not prove majority in Vidhan Sabha and in September, 1984 N.T. Rama Rao again became chief minister. this incident certainly increased popularity of TDP and its leader NTR.

In November, 1984 Andhra Pradesh Vidhan Sabha was dissolved and decision for fresh public mandate was taken. In March, 1985 elections, Telugu Desam achieved tremendous success and its public base touched pinnacle. In December, 1984 it emerged as a large opposition party in Lok Sabha with 28 seats. TDP emerged as a large party in Andhra Pradesh and started playing active role in national politics also.

But after 10 years of working, it got divided in to two parts on March13, 1992 – both at parliament and organization level. At parliament level, 5 out of 13 Lok Sabha members, made another organization in the leadership of Shri B. Vijay Kumar. Ex Cabinet minister and Rajya Sabha member Shri P. Upendra and 6 other Lok Sabha members were expelled from primary membership of party for 6 years and it expressed strong position of NTR in Telugu Desam party. After June, 1991 elections split developed in Janta Dal. It also shook TDP. Renuka Chaudhary (MP) was expelled from primary membership of party for supporting election of congress (I) chief and prime minister of India, P.V. Narasimha Rao from Nandiyal Lok Sabha constituency of Andhra Pradesh and for criticizing leaders of TDP and National Front.

In August, 1995 TDP had to again see a split. One faction supported NTR's son-in-law Chandra Babu Naidu and other kept supporting NTR. In September, 1995 Chandra Babu Naidu became Andhra Pradesh Chief Minister and by getting majority vote in Rajya Sabha, was able to strengthen his position. TDP divided in two parts-TDP (Naidu) and TDP (NTR). There was a sudden demise of NTR In January, 1996 and his wife Lakshmi Parvati became TDP (NTR) chief. But this party was unable to get majority support and TDP (Naidu) was more successful In this regard. In March, 1996 Election commission TDP (Naidu) as real TDP. In March-April, 1996 TDP won 16 seats in 11th Lok Sabha elections. Thus, TDP (Naidu) became actual TDP and emerged as a strong political party in Andhra politics.

After May, 1996 it started playing important role in national politics also. It became partner to coalition government In april, 1997 TDP paved the way for I.K. Gujral to be next prime minister. it formed a joint organization with DMK, AGP and TMC and increased its Weightage in the new organization. In the leadership of Lakshmi Parvati, TDP (NTR) tried its best to regain grounds, but it failed to provide any strength to its party. TDP (Naidu) has become actual TDP In real sense. In national politics also, it has become an important force. In 12th Lok Sabha elections, it won 12 seats. after this, TDP separated from the joint front and decided to support central government in BJP leadership from outside. Its leader Bal Yogi got the honor of becoming Speaker of 12th Lok Sabha. In September, 1999 elections were held for 13th Lok Sabha and State Vidhan Sabha also. TDP got huge success in it. By winning 29 Lok Sabha seats, it secured third place after BJP and congress. In Andhra Pradesh Vidhan Sabha also, it got major success and alone won 180 out of 294 seats and once again Chandra Babu Naidu became Andhra Pradesh chief minister.

TDP became able to play an important role in Andhra and National politics. It supported NDA government under BJP leadership from outside, formed on October13, 1999. Its leader Bal Yogi again got honor of becoming speaker of 13th Lok Sabha. In May, 2002 it decided not to announce replacement speaker name, which fell vacant after the death of Bal yogi. TDP decided to support election of APJ Abdul Kalam for presidential post, who became president of India in July, 2002. Thus, it kept working as a powerful and active party in Andhra and national politics and its leader Chandra Babu Naidu was able to get a popular leader image. But in March-April,2004 elections of Lok Sabha and Vidhan Sabha, TDP popularity went down and it faced major defeat in that election. In Andhra Pradesh Vidhan Sabha, congress-TRS combine had tremendous success against TDP-BJP combine and got more than 2/3rd seats. out of total Vidhan Sabha seats of 294, it got only 49, whereas it got 192 seats in 1999. In contrast, congress got 226 seats, whereas it got only 63 seats in 1999. TDP became an opposition party. In 14th Lok

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Sabha elections also, it got only 5 seats, whereas congress-TRS combine got 35 and other parties got 3. At present, TDP condition is very weak. Now it has decided to keep itself away from NDA. Though being a regional party, it can make its position stronger in Andhra politics. In July, 2005 TRS-Congress combine got broken, but despite the fact TDP could not get success in 15th Lok Sabha (2009) elections. In future, it can be benefitted of Jagannath Reddy's exit from congress. What will be the effect of separate Telangana, it is difficult to predict, but still we can't ignore the importance of TDP.

14.5 Summary

- Modern democratic governance is essential to the political parties. Political parties in the country seek public opinion on the issues of national importance, impart political education to the people and thus set up the stable government.
- Initially, Communist Party of India was famous amongst laborers, youths, intellectuals and students. After the commencement of the party, communists decided to work with the Congress since 1936.
- Shiromani Akali Dal is a regional political party which is working mainly in Punjab. It's one faction is working in Delhi and one small unit of it is working in Haryana as well. In Punjab too, many Akali Dal exist like under leadership of Mr.Simranjit Singh Mann of Akali Dal Mann, Shiromani Akali Dal Badal, Panthak Akali Dal etc.
- Shiromani Akali Dal is a regional party. It always connects itself to the Punjab's progress and prosperity and to fulfill this objective it has created its own policies and programmes.
- In 1972 Legislative Assembly elections Chaudhary Devi Lal, a candidate from independent party contested the elections in which he lost. After this he joined the Bhartiya Kranti Dal whose name later changed to Bhartiya Lok dal which was denoted by the symbol wheel with a Plough Holder on it.
- Legislators should follow strict discipline and live with simplicity and honesty. They should take an oath within themselves that they will work to implement all the promises which they made to the public during elections.
- T.D.P became an important part in Andhra Pradesh's politics and national politics.

14.6 Keywords

- Corruption: Corrupt and malleable morals, illegal works.
- Regional: Related to particular region.

14.7 Review Questions

1. List out important features of the Political Party System in India.
2. Briefly describe the policies and programmes of Indian National Congress.
3. Write about the organization and programmes of Communist Party of India.
4. What do you understand by 'Ram, Roti and Insaf? Describe briefly.
5. What is regional party? What are the reasons for the development of regional parties in India?
6. Briefly describe the policies and programmes of Shiromani Akali Dal.

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Answer: Self Assessment

1. Multiple party
2. Congress
3. Government
4. (*a*)
5. (*c*)
6. (*a*)
7. (*b*)

14.8 Further Readings

Books

1. Indian Political System – *U.R. Ghai.*
2. Indian Political System – *N. Chhabra.*

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