

REV-00

**SELF-LEARNING  
MATERIAL**



# **MA POLITICAL SCIENCE**

## **MPS 104- INDIAN GOVERNMENT AND POLITICS**

**w.e.f Academic Session: 2024-25**



**CENTRE FOR DISTANCE AND ONLINE EDUCATION**  
**UNIVERSITY OF SCIENCE & TECHNOLOGY MEGHALAYA**

**nirf** India Ranking-2023 (151-200)

Accredited 'A' Grade by NAAC

Techno City, 9th Mile, Baridua, Ri-Bhoi, Meghalaya, 793101

**SELF- LEARNING MATERIAL**

**M.A. POLITICAL SCIENCE**

**MPS 104**

**INDIAN GOVERNMENT AND POLITICS**

**Academic Session 2024- 25**



**CENTRE FOR DISTANCE AND ONLINE EDUCATION**

**UNIVERSITY OF SCIENCE AND TECHNOLOGY MEGHALAYA**

**ACCREDITED 'A' GRADE BY NAAC**

Self Learning Material  
**Centre for Distance and Online Education**  
**University of Science and Technology Meghalaya**

**First Edition**

Print August 2024

© CDOE- USTM

**Author(s):**

Dr. Md Nazeer Hussain,

Mrs. Rajashri Agnibashya,

Miss Akankhya Kalita

**Edited by:** Akankhya Kalita.

---

This book is a distance education module comprising of collection of learning material for students of Centre for Distance and Online Education, University of Science and Technology Meghalaya, 9<sup>th</sup> Mile G.S. Road, Ri- Bhoi, Meghalaya 793101.

Printed and Published on behalf of Centre for Distance and Online Education, University of Science and Technology Meghalaya by Publication Cell, University of Science and Technology Meghalaya- 793101.

## TABLE OF CONTENT

<b>CHAPTER NO.</b>	<b>CHAPTER NAME</b>	<b>PAGE NO.</b>
<b>CHAPTER 1</b>	<b>Making of the Indian Constitution</b> 1.1 Historical Background 1.2 Constituent Assembly: Composition, working and Debates 1.3 Framing of the Constitution	<b>1- 13</b>
<b>CHAPTER 2</b>	<b>Ideological Contents</b> 2.1 The Preamble 2.2 Features of the Indian Constitution 2.3 Basic Structure	<b>14- 25</b>
<b>CHAPTER 3</b>	<b>Organs of the Government</b> 3.1 Legislature: Parliament- Composition, Power and Functions 3.2 Executive: President, Prime Minister, Council of Ministers and Bureaucracy 3.3 Judiciary: Judicial Activism and Judicial Review	<b>26- 64</b>
<b>CHAPTER 4</b>	<b>National Integration, Party System, Pressure Groups, Interest Groups</b> 4.1 Party System: Nature and Trends 4.2 Pressure Groups and Interest Groups 4.3 Contemporary Challenges to National Integrations	<b>65- 76</b>

## **ABOUT THE COURSE STRUCTURE:**

This is the fourth paper of the M.A. first semester for the subject of Political Science. The paper, along with the entire course, is designed and structured with keeping learners in mind who have somehow disconnected from traditional methods of learning but still hold an interest in continuing their education. To make the material learner-friendly, we've attempted to replicate the presence of an instructor by including features like "sticky notes" on the 'utility of learning the topic', 'let's rewind' sections for each topic to revisit key points, 'let's sum up' sections for each chapter to solidify understanding, and 'check your progress' sections with corresponding answers to clarify concepts. Finally, each chapter concludes with model questions that can also be considered assignments. On ground of any complexities or confusion, learners may refer to the 'let's rewind' sections for clarification. References to various sources are also included to help them complete their assignments.

## **ABOUT THE CHAPTERS:**

### **Chapter 1: Making of the Indian Constitution:**

This chapter delves into the process of drafting and adopting India's Constitution. It covers the Constituent Assembly's formation, its members, and the challenges faced during the constitution-making process. The chapter also discusses the sources and influences on the Constitution, including the Government of India Act of 1935, British constitutional traditions, and other foreign constitutions. Key debates and compromises during the Constituent Assembly sessions are explored, along with the finalization and adoption of the Constitution.

### **Chapter 2: Ideological Contents:**

This chapter examines the underlying principles and values enshrined in the Indian Constitution. It focuses on the Constitution's commitment to democracy, socialism, secularism, and republicanism. The chapter analyzes how these ideals are reflected in various provisions of the Constitution, such as fundamental rights, directive principles of state policy, and the structure of government. The role of these ideological principles in shaping India's political and social landscape is discussed here in the chapter.

### **Chapter 3: Organs of the Government:**

This chapter explores the structure and functions of the three main organs of the Indian government: the legislature, the executive, and the judiciary. It delves into the composition, powers, and responsibilities of the Parliament, the President, the Prime Minister, and the Council of Ministers. The chapter also examines the structure and role of the judiciary, including the Supreme Court and High Courts. The concepts of judicial review, judicial activism are also discussed in the chapter.

### **Chapter 4: National Integration, Party System, Pressure Groups, and Interest Groups:**

This chapter focuses on the factors influencing national integration in India, including challenges posed by diversity, regionalism, and communalism. It examines the role of the Constitution, education, and mass media in promoting national integration. The chapter also explores the Indian party system, discussing the evolution of political parties, their role in democracy, and the challenges faced by the party system. Additionally, it analyzes the role of pressure groups and interest groups in Indian politics, their methods of influence, and their impact on public policy.

## **CHAPTER 1: MAKING OF THE INDIAN CONSTITUTION**

### **CHAPTER STRUCTURE:**

Learning Outcome

Utility of Learning the Topic

1.1 Historical Background

1.2 Constituent Assembly: Composition, working and Debates

1.3 Framing of the Constitution

Let's Sum Up

Further Reading

Answers to Check Your Progress

Model Questions/ Assignment

### **LEARNING OUTCOME:**

After going through this lesson, students will be able to-

- Understand the historical background of Indian Constitution
- Learn the composition, working and debates of Constituent Assembly
- Understand the Framing of the Constitution of India

### **UTILITY OF LEARNING THE TOPIC:**

By delving into the history of the Indian Constitution's creation, you'll gain a deeper understanding of the delicate balance sought between national unity and regional needs. This knowledge equips you to be a more informed citizen, actively participating in the ever-evolving narrative of Indian democracy.

### **1.1 HISTORICAL BACKGROUND**

Britain's presence in India began in 1600 with the arrival of the East India Company, initially for trade purposes. However, by 1765, the company's control over revenue and civil justice in Bengal, Bihar, and Orissa marked a shift into territorial power. The Sepoy Mutiny of 1858 prompted the British Crown to assume direct rule, which lasted until India's independence in 1947. This period, particularly from 1773 to 1947, had a profound impact on India's legal system. Events during this time laid the groundwork for how the Indian government and

administration would be structured and function, an influence that continues to be felt in the country's constitution and political system. We will now explore these key events in two distinct phases: a) The East India Company Rule (1773-1858) and b) The Crown Rule (1858-1947).

### **THE COMPANY RULE (1773-1858):**

The key events under the rule can be seen in the form of introduction of several acts for administrative purpose. The summary of those can be made as follows-

**Regulating Act of 1773:** This act marked a critical juncture in British India. For the first time, the British government intervened to regulate the East India Company. A Governor-General with an executive council was established in Bengal, exerting control over the presidencies of Madras and Bombay. A Supreme Court in Calcutta was established in 1774 under the Act and provisions were made to curb corruption and establish a centralized British administration.

**Amending Act of 1781:** This act addressed limitations in the Regulating Act. It provided legal immunity to British officials for official actions and limited the Supreme Court's authority in revenue matters. While the Court maintained power over Calcutta's inhabitants, it had to respect their personal laws. Appeals bypassed the Supreme Court, consolidating power with the Governor-General's council. Additionally, the act empowered them to regulate provincial courts and councils.

**Pitt's India Act of 1784:** This act significantly reshaped British control in India. It created a "dual government" system, separating the East India Company's commercial activities from its political role. A newly formed Board of Control oversaw political and military affairs, while the Court of Directors retained control over commercial interests. The act also introduced the term "British possessions" for the Company's territories, hinting at a growing sense of British dominion. Ultimately, it established the British government's supreme control over the Company's administration in India.

**Charter Acts (1786-1853):** This period witnessed a series of reforms and consolidation of British rule. The 1786 act granted exceptional powers to Governor-General Cornwallis, including overriding his council and commanding the military. Subsequent Charter Acts (1793 & 1813) expanded Governor-General Powers, renewed the Company's trade privileges



with exceptions, and allowed Christian missionaries and Western education in India. The 1833 act marked a culmination by creating a unified Governor-General of India with supreme authority and ending the Company's commercial activities. It aimed for an open civil service system but ultimately failed to include Indians. The Charter Act of 1853 introduced a separation of powers with a Legislative Council, open competition for civil service recruitment (elaborated upon later by the Macaulay Committee), and "local representation" in the Council. These reforms aimed for a more centralized, bureaucratic, and potentially more inclusive British administration in India.

### **THE CROWN RULE (1858-1947):**

**The Government of India Act of 1858:** The Act marked a dramatic shift. It established direct British rule under a Viceroy and a Secretary of State in London, dismantling the East India Company's governing role.

**The Indian Councils Acts (1861 & 1892):** These were incremental steps towards incorporating Indians into the governing structure. These acts allowed for the nomination of some non-official Indians to legislative councils and gradually expanded their functions.

**The Morley-Minto Reforms of 1909:** The act witnessed a significant rise in Indian participation. It enlarged the legislative councils, potentially allowing a non-official majority in provinces, and introduced a controversial system of separate electorates for Muslims.

**The Montagu-Chelmsford Reforms of 1919:** The Act aimed for a more responsible government. It established a bicameral legislature with some direct elections, increased provincial autonomy through a dual system (diarchy), and further expanded separate electorates.

**The Government of India Act of 1935:** The Act envisioned an all-India federation (which never materialized) and offered greater provincial autonomy. It abolished diarchy at the provincial level, established a federal court and the Reserve Bank of India, and introduced a three-tiered Public Service Commission system.

**The Indian Independence Act of 1947:** marked the end of British rule. It granted independence to India and Pakistan, formalized the partition, and empowered each nation's

Constituent Assembly to draft a constitution. This act brought a definitive end to the British Raj in India.

**LET'S REWIND:**

In the late 18th century, British government intervention in India began with regulating the East India Company and establishing a centralized administration. Reforms throughout the following decades expanded the Governor-General's power, limited the reach of a newly formed court, and separated the Company's commercial activities from its political role. Measures like allowing Western education and missionaries alongside attempts (initially unsuccessful) for a more inclusive civil service aimed to solidify British control in India.

British rule in India underwent a significant metamorphosis over nearly a century. In 1858, the East India Company's governance gave way to direct British control by a Viceroy. This marked a turning point. The following decades witnessed a measured inclusion of Indians in legislative bodies (1861, 1892, 1909), albeit with limitations. A pivotal shift occurred in 1919 with the introduction of a two-chamber legislature featuring some direct elections and increased provincial autonomy. The 1935 Act envisioned a federal structure (which never materialized) and further empowered provinces. Finally, in 1947, India achieved independence, bringing the British Raj to a definitive end. This summary highlights the key transitions in British control, culminating in India's independence.

**CHECK YOUR PROGRESS:**

- Name the Act under which the British Government started controlling and regulating the affairs of the East India Company in India?
- Who was the first Governor- General of Bengal?
- Name the Act that had exempted the official actions of the Governor- General and the Council from the jurisdiction of the Supreme Court.
- Name the Act that had made a distinction between the Commercial and Political functions of the East India Company in India.
- Under Which Act, the Christian Missionaries were allowed to come to India and also made provision for the spread of western education in India?
- Who was the first Governor- General of India?
- Name the Act that had separated the legislative and executive functions of the Governor- General's Council and paved the way for formation of Parliament in India.
- When did the Macaulay Committee form?
- Who was the first Viceroy of India?

- Name the Act that paved the way for the beginning of the representative institutions by associating Indians with the Law- making process.
- Under which Act, communal representation for Muslims was introduced?
- Who is known as the Father of Communal Electorate?
- Under which Act, a Central Public Service Commission for recruiting civil servants was set up in India?
- Name the Act that had provided for the establishment of an All- India Federation and bicameralism in India.
- What is Mountbatten Plan?

## 1.2 CONSTITUENT ASSEMBLY: COMPOSITION, WORKING AND DEBATES

### **Demand for a constituent assembly:**

The idea of a Constituent Assembly was first put forward by M. N. Roy in 1934 and in 1935, the Indian National Congress (INC), for the first time, officially demanded a Constituent Assembly to frame the Constitution of India. In 1938, Jawaharlal Nehru, on behalf of the INC insisted on having a Constituent Assembly elected on the basis of adult franchise which was finally accepted in principle by the British Government in 1940 and was known as the 'August Offer' of 1940. In 1942, Cripps Mission offers a Constituent Assembly after the war, but is rejected by the Muslim League. Finally, a Cabinet Mission arrives, rejecting the two-assembly idea and proposed a plan that partially satisfied the Muslim League.

### **Composition of the Constituent Assembly:**

The Constituent Assembly, established in 1946, marked a significant step towards Indian self-governance. The Cabinet Mission Plan determined its structure, with 296 seats allotted proportionally to British India's provinces and 93 to princely states. However, unlike a modern democratic election, representatives from British India weren't directly chosen by the people. Instead, provincial assemblies with limited voting rights elected them and the representatives of the princely states were to be nominated by the heads of the respective Princely states.

Despite these limitations, the Assembly reflected India's diversity. Major political parties like the INC and the Muslim League held seats, alongside representatives from various social groups, religions, and even women. This unique gathering, which brought together leading Indian figures of the day except Mahatma Gandhi, set about the historic task of writing India's constitution.

### **Working of the Constituent Assembly:**

The Constituent Assembly convened for its first meeting on December 9th, 1946. Notably absent were members of the Muslim League, who advocated for a separate state of Pakistan. This resulted in a lower attendance of only 211 members. Following a tradition established in France, the Assembly chose its oldest member, Dr. Sachchidananda Sinha, to preside temporarily. Later, Dr. Rajendra Prasad was elected as the permanent President. The Assembly also established a unique leadership structure by electing two Vice-Presidents: H.C. Mukherjee and V.T. Krishnamachari.

### **Objectives Resolution:**

On December 13th, 1946, Jawaharlal Nehru presented the foundational "Objectives Resolution" to the Constituent Assembly. This resolution outlined the core principles of India's future constitution, including its establishment as a sovereign republic, a union of its territories, and a guarantor of justice, equality, and freedom for its entire people. The resolution, later adopted in January 1947, significantly influenced the drafting process and ultimately formed the basis for the Indian Constitution's Preamble.

### **Changes by the Independence Act**

The Act significantly transformed the Constituent Assembly. Firstly, it granted the Assembly complete sovereignty, allowing it to draft any constitution it desired and even alter or repeal British-era laws concerning India. Secondly, the Assembly assumed a dual role - framing the constitution and acting as the first Parliament (Dominion Legislature) for free India. This meant separate sessions for each function, with different presiding officers. Finally, with the partition and Muslim League members withdrawing, the Assembly's size shrunk from 389 to 299. The strength of the Indian provinces (formerly British Provinces) was reduced from 296 to 229 and those of the princely states from 93 to 70 reflecting the territorial changes.

### **Other Functions Performed by the Constituent Assembly:**

Beyond crafting the constitution and acting as a legislature, the Assembly played several key roles. It officially accepted India's membership in the Commonwealth (1949), adopted the national flag (1947), anthem (1950), and song (1950), and even elected India's first President (1950). Functioning for over two years and eleven months across eleven sessions, the Assembly meticulously studied constitutions from around 60 countries and deliberated on the draft for 114 days. The total cost of creating the constitution was 364 lakh rupees. Though its final session occurred on January 24th, 1950, the Assembly continued as a provisional parliament until the formation of a new one after the first general elections (1951-1952).

### **Committees of the Constituent Assembly:**

A number of committees were appointed by the Constituent Assembly to deal with different tasks of constitution-making. Out of these, eight were major committees and the others were minor committees. The names of the major committees along with their Chairman are given below:

#### **Major Committees**

1. Union Powers Committee – Jawaharlal Nehru
2. Union Constitution Committee – Jawaharlal Nehru
3. Provincial Constitution Committee – Sardar Patel
4. Drafting Committee – Dr. B.R. Ambedkar
5. Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas – Sardar Patel. This committee had the following five sub-committees:
  - (a) Fundamental Rights Sub-Committee – J.B. Kripalani
  - (b) Minorities Sub-Committee – H.C. Mukherjee
  - (c) North-East Frontier Tribal Areas and Assam Excluded & Partially Excluded Areas Sub-Committee – Gopinath Bardoloi

(d) Excluded and Partially Excluded Areas (other than those in Assam)

Sub-Committee - A.V. Thakkar

(e) North-West Frontier Tribal Areas Sub-Committee

6. Rules of Procedure Committee - Dr. Rajendra Prasad
7. States Committee (Committee for Negotiating with States) - Jawaharlal Nehru
8. Steering Committee - Dr. Rajendra Prasad

### **Drafting Committee:**

The most crucial committee of the Constituent Assembly was the Drafting Committee, formed in August 1947 under Dr. B.R. Ambedkar's chairmanship. This seven-member committee shouldered the responsibility of drafting the new constitution. After considering proposals from other committees, they presented the first draft in February 1948. This draft was open for public discussion and amendment for eight months. Public feedback then informed a second draft, published in October 1948. Remarkably, the Drafting Committee completed their work in less than six months, holding meetings for only 141 days. The members of the Committee were:

1. Dr. B.R. Ambedkar (Chairman)
2. N. Gopalaswamy Ayyangar
3. Alladi Krishnaswamy Ayyar
4. Dr. K.M. Munshi
5. Syed Mohammad Saadullah
6. N. Madhava Rau (He replaced B.L. Mitter who resigned due to ill-health)
7. T. Krishnamachari (He replaced D.P. Khaitan who died in 1948)

### **Constituent Assembly Debates:**

The Constituent Assembly Debates offer valuable insights into India's constitution-making process. Divided into four stages, they reveal how the Assembly first established guiding

principles, then reviewed and enacted the draft constitution clause-by-clause. This meticulous process spanned over 165 days, with discussions totaling about 36 lakh words. Notably, Dr. B.R. Ambedkar participated the most actively. Fundamental rights received significant attention (14% of clause-by-clause discussions), followed by Directive Principles (4%) and citizenship (2%). Interestingly, women members, though constituting only 2% of discussions, had G. Durgabai as the most vocal among them. Finally, members from provinces dominated the debates (85%) compared to their counterparts from princely states (6%).

### **1.3 FRAMING OF THE CONSTITUTION**

#### **Enactment of the Constitution:**

Dr. B.R. Ambedkar played a pivotal role in shaping India's constitution. He introduced the final draft in November 1948, followed by a detailed clause-by-clause discussion phase that saw thousands of amendments proposed. On November 26th, 1949, the Constitution was adopted, containing a Preamble, 395 Articles, and 8 Schedules. Notably, Dr. Ambedkar, known as the "Father of the Indian Constitution," actively steered the draft's passage through the Assembly with his legal expertise and persuasive arguments.

#### **Enforcement of the Constitution:**

The Indian Constitution came into effect in two stages. Certain articles related to citizenship, elections, and the provisional parliament was enforced on November 26th, 1949. The remaining, more substantial provisions, took effect on January 26th, 1950, officially marking "the date of its commencement" and celebrated as Republic Day. This specific date held historical significance as it coincided with the celebration of Purna Swaraj Day in 1930, following the Indian National Congress' Lahore resolution. With the Constitution's commencement, the Government of India Act of 1935 and the Indian Independence Act of 1947 were repealed, except for the Abolition of Privy Council Jurisdiction Act (1949).

#### **Experts Committee of the Congress:**

Even before the Constituent Assembly elections, the Congress Party formed a committee (July 1946) to prepare groundwork. Chaired by Jawaharlal Nehru, the committee held discussions on procedures for the Assembly, committee formation, and a draft resolution outlining the constitution's objectives. This resolution heavily influenced the later Objectives

Resolution. According to Indian constitutional expert Granville Austin, this committee played a crucial role in setting the stage for India's current constitution.

### **Criticism of the Constituent Assembly:**

The Constituent Assembly has faced criticism on several grounds:

- **Representation:** Critics argue it wasn't fully democratic as members weren't directly elected by the people through universal adult franchise.
- **Sovereignty:** Some claim it lacked sovereignty due to its creation by the British and dependence on their permission for sessions.
- **Time:** Critics point to the seemingly long time taken compared to other constitutions (e.g., the US) to draft India's.
- **Dominant Party:** The Congress party's strong presence led some to view the Assembly as an extension of the party.
- **Elite Domination:** Critics argue lawyers and politicians dominated the Assembly, neglecting representation from other social groups.
- **Religious Bias:** Some allege the Assembly was Hindu-dominated, neglecting other religious communities.

### **LET'S REWIND:**

The idea of a Constituent Assembly to draft India's constitution emerged in the 1930s, finally taking shape in 1946 after the Cabinet Mission Plan. Though not directly elected by the people, the Assembly brought together a diverse group of representatives. Key figures like Nehru and Ambedkar played prominent roles. The Assembly functioned for over two years, meticulously deliberating and incorporating public feedback on the draft constitution. Committees like the Drafting Committee, chaired by Dr. B.R. Ambedkar, shouldered the responsibility of creating the final document. The Constitution was enacted in stages, with certain provisions coming into effect in 1949 and the remaining in 1950, marking India's transition to a republic. Despite its achievements, the Assembly has faced criticism regarding the indirect election of members, its dependence on British permission initially, and the dominance of certain social groups.

### **CHECK YOUR PROGRESS:**

- The Constituent Assembly was formed on the basis of the Cabinet Mission Plan. True or False?
- The Constituent Assembly was partly elected and partly nominated. True or False?
- Who was the chairman of the Constituent Assembly?



- Who was the chairman of the Drafting Committee?
- The Constitution of India was adopted on 26<sup>th</sup> November, 1946. True or False?
- The Constitution of India came into force on 26<sup>th</sup> January, 1950. True or false?

### LET'S SUM UP:

British rule in India transformed dramatically over nearly 190 years. Initially, the East India Company held power, but by 1858, direct British control under a Viceroy emerged. Gradual inclusion of Indians in legislative bodies increased, culminating in a partially-elected bicameral legislature and greater provincial autonomy by 1919. The 1935 Act envisioned a federal structure (unimplemented) and further empowered provinces. Finally, India gained independence in 1947.

Following independence, a Constituent Assembly, established in 1946, and drafted India's constitution. This diverse, representative body, though not directly elected, meticulously deliberated public feedback while creating the final document. The Constitution was enacted in stages, with certain parts coming into effect in 1949 and the remainder in 1950, marking India's transition to a republic. Despite its achievements, the Assembly faced criticism regarding the indirect election of members, its initial dependence on British permission, and the dominance of certain social groups.

### FURTHER READING

- Laxmikanth, M. *Indian Polity*. McGraw Hill Education, 2023.
- G. Austin, *The Indian Constitution: Corner Stone of a Nation*, Oxford, Oxford University Press.

### ANSWERS TO CHECK YOUR PROGRESS

- Name the Act under which the British Government started controlling and regulating the affairs of the East India Company in India?
  - The Regulating Act of 1773.
- Who was the first Governor- General of Bengal?
  - Lord Warren Hastings.
- Name the Act that had exempted the official actions of the Governor- General and the Council from the jurisdiction of the Supreme Court.
  - Amending Act of 1781.

- Name the Act that had made a distinction between the Commercial and Political functions of the East India Company in India.
- Pitt's India Act of 1784.
  - Under Which Act, the Christian Missionaries were allowed to come to India and also made provision for the spread of western education in India?
- Charter Act of 1813.
  - Who was the first Governor- General of India?
- Lord William Bentick.
  - Name the Act that had separated the legislative and executive functions of the Governor- General's Council and paved the way for formation of Parliament in India.
- Charter Act of 1853.
  - When did the Macaulay Committee form?
- In 1854.
  - Who was the first Viceroy of India?
- Lord Canning.
  - Name the Act that paved the way for the beginning of the representative institutions by associating Indians with the Law- making process.
- Indian Councils Act of 1861.
  - Under which Act, communal representation for Muslims was introduced?
- Under Indian Council Act of 1909, also known as Morley- Minto Reforms.
  - Who is known as the Father of Communal Electorate?
- Lord Minto, the then Viceroy of British India.
  - Under which Act, a Central Public Service Commission for recruiting civil servants was set up in India?
- Under the Government of India Act of 1919.
  - Name the Act that had provided for the establishment of an All- India Federation and bicameralism in India.

- The Government of India Act of 1935.
  - What is Mountbatten Plan?
- The Partition plan put forth by Lord Mountbatten, the then Viceroy of India, on June 3, 1947 is known as Mountbatten Plan.
  - The Constituent Assembly was formed on the basis of the Cabinet Mission Plan. True or False?
    - True.
  - The Constituent Assembly was partly elected and partly nominated. True or False?
    - True.
  - Who was the chairman of the Constituent Assembly?
    - Dr. Rajendra Prasad.
  - Who was the chairman of the Drafting Committee?
    - Dr. B. R. Ambedkar.
  - The Constitution of India was adopted on 26<sup>th</sup> November, 1946. True or False?
    - True.
  - The Constitution of India came into force on 26<sup>th</sup> January, 1950. True or false?
    - True.

<b>MODEL QUESTIONS/ ASSIGNMENT</b>
------------------------------------

1. Write a note on the historical background of the Indian constitution.
2. Discuss the composition and working of the Constituent Assembly of India.
3. Write a note on the framing of the Indian constitution.
4. Despite the criticisms made against the Constituent Assembly, how do you see its significance in shaping India as a free nation? Write a note on your own.

-----

## CHAPTER 2: IDEOLOGICAL CONTENTS

### CHAPTER STRUCTURE:

Learning Outcome

Utility of Learning the Topic

2.1 The Preamble

2.2 Features of the Indian Constitution

2.3 Basic Structure

### LEARNING OUTCOME

After going through this lesson, students will be able to-

- Understand the crux of the Preamble of the Indian Constitution
- Explore the unique features of the Indian Constitution
- Identify the Basic Structure of the Constitution of India

### UTILITY OF LEARNING THE TOPIC:

Learning the basics of India's Constitution is like getting introduced with a new school (India) with new environment. The Preamble works as the motto of the school that talk about the core values of the school. The whole Constitution is the rulebook, laying out all the rules and guidelines to keep things fair and running smoothly. Learning these essentials equips you to understand your rights, how India functions, and the values that make it a great school to be a part of!

### 2.1 THE PREAMBLE

The American Constitution broke new ground by introducing a Preamble, a trend followed by many nations including India. This opening section serves as a preface, outlining the core principles and objectives of the Constitution. Noted jurist N.A. Palkhivala aptly called it the Constitution's "identity card." India's Preamble draws inspiration from the "Objectives Resolution," which Pandit Nehru presented and the Constituent Assembly adopted. Notably, the 42nd Amendment of 1976 enriched the Preamble with three significant terms: Socialist, Secular, and Integrity.

**TEXT OF THE PREAMBLE:**

The Preamble in its present form reads:

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

JUSTICE, Social, Economic and Political;

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

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

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

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT ENACT AND GIVE TO OURSELVES THIS CONSTITUTION".

**INGREDIENTS OF THE PREAMBLE:**

The Preamble reveals four ingredients or components:

1. **Source of Authority:** The Preamble establishes the people of India as the ultimate source of the Constitution's legitimacy.
2. **Nature of the State:** India is declared a sovereign, socialist, secular, democratic republic by the Preamble.
3. **Constitutional Goals:** The Preamble enshrines justice, liberty, equality, and fraternity as the guiding principles of the Constitution.
4. **Date of Adoption:** The Preamble commemorates November 26, 1949, as the date of the Constitution's adoption.

**KEY WORDS IN THE PREAMBLE:**

The Preamble consists of certain key words. Those are as follows-

- **Sovereign:** India establishes itself as an independent nation, possessing the supreme authority to govern its internal and external affairs without external domination.
- **Socialist:** The Preamble enshrines the ideal of a welfare state, where the government actively endeavors to reduce economic inequality and promote social well-being for

all citizens. The word has been added by the 42<sup>nd</sup> Constitutional Amendment Act of 1976.

- **Secular:** India adopts a policy of religious neutrality, ensuring equal treatment and respect for all religions, without favoring or hindering any particular faith. The term secular has been added by the 42<sup>nd</sup> Constitutional Amendment Act of 1976.
- **Democratic:** The Preamble underscores the principle of popular sovereignty, where the ultimate power resides with the people, who exercise it through electing representatives to govern on their behalf.
- **Republic:** India is established as a republic, rejecting hereditary rule. The Head of State, the President, is chosen by the people, directly or indirectly.
- **Justice:** The Constitution aspires to create a just society, encompassing social, economic, and political justice. This entails ensuring equal opportunities for all citizens, promoting equitable distribution of wealth, and guaranteeing their political rights.
- **Liberty:** The Preamble emphasizes fundamental freedoms as essential for a democratic society. Citizens enjoy the liberty to express themselves, hold their beliefs, and practice their chosen faith.
- **Equality:** The Constitution guarantees a level playing field for all. It enshrines the principle of equal rights and opportunities for every citizen, regardless of factors like caste, religion, or gender.
- **Fraternity:** The Preamble fosters a sense of national unity and brotherhood amongst all Indians. It transcends religious, linguistic, and regional differences, promoting a cohesive national identity. The word 'integrity' has been added to the preamble by the 42<sup>nd</sup> Constitutional Amendment (1976).

## **SIGNIFICANCE OF THE PREAMBLE**

### **1. The Preamble: A Cornerstone of Indian Democracy**

The Preamble serves as the foundation of the Indian Constitution, outlining its core principles and aspirations. Envisioned by the framers as a guiding light, it embodies the nation's political, moral, and religious values.

### **2. A Matter of Interpretation**

Initially, debate surrounded the Preamble's legal status. The Berubari Union case acknowledged its significance for interpreting the Constitution, but its enforceability remained unclear. Finally, the landmark Kesavananda Bharati case declared the Preamble an integral part of the Constitution, albeit not a source of legislative power.

### 3. Amending the Core

The concept of a "basic structure" emerged from the Kesavananda Bharati case. This core structure, including principles enshrined in the Preamble, cannot be fundamentally altered through amendments. While amendments are possible, they cannot dismantle the Constitution's foundational character.

### 4. A Single Amendment

The Preamble has undergone only one amendment in 1976, adding the terms "Socialist," "Secular," and "Integrity." This modification reflected the evolving vision of Indian democracy.

Notably,

1. The Preamble is neither a source of power to legislature nor a prohibition upon the powers of legislature.
2. It is non-justiciable, that is, its provisions are not enforceable in courts of law.

#### **LET'S REWIND:**

The Preamble of the Indian Constitution, drawing inspiration from the "Objectives Resolution," establishes the people of India as the source of authority. It defines India as a sovereign, socialist, secular, democratic republic, striving to achieve justice (social, economic, and political), liberty, equality, and fraternity. Key terms like sovereign, socialist (added in 1976), secular (added in 1976), democratic, and republic outline the nature of the state. The Preamble, though not directly enforceable in courts, serves as a cornerstone for interpreting the Constitution and defining the core values of Indian democracy.

#### **CHECK YOUR PROGRESS**

- The preamble has been amended only once. True or false?
- The preamble is non-justiciable. What do you mean by that?

#### **2.2 FEATURES OF THE INDIAN CONSTITUTION:**

The Indian Constitution boasts unique features, though some have been significantly altered by amendments. Notably, the 42nd Amendment (1976) introduced sweeping changes, earning it the nickname "Mini-Constitution." However, the landmark Kesavananda Bharati case (1973) established limits on amendments, ruling that Parliament's power doesn't extend to altering the Constitution's "basic structure."

## **SALIENT FEATURES OF THE CONSTITUTION**

The salient features of the Constitution, as it stands today, are as follows:

- **Lengthy & Diverse:** The Constitution is the world's longest written one, influenced by various sources like the Government of India Act of 1935 and reflecting India's geographical and historical vastness. Originally (1949), the Constitution contained a Preamble, 395 Articles (divided into 22 Parts) and 8 Schedules.
- **Blend of Flexibility & Rigidity:** It allows amendments through a special majority vote but some provisions require ratification by states. The Constitution of India is neither rigid nor flexible, but a synthesis of both. Article 368 provides for two types of amendments- amendment by a special majority of the Parliament and amendment by a special majority of the Parliament and with the ratification by half of the total states.
- **Federal with a Centralizing Tendency:** It establishes a federal system with a strong central government, blurring the lines between federal and unitary features. It contains all the usual features of a federation, viz., two Governments, division of powers, written Constitution, and also contains a large number of unitary or non-federal features, viz., a strong Centre, single Constitution, single citizenship etc.
- **Parliamentary System:** It adopts the British model with a Prime Minister leading the Cabinet, responsible to the legislature. The parliamentary system is based on the principle of co-operation and co-ordination between the legislative and executive organs. The parliamentary system is also known as the 'Westminster' Model of Government, responsible Government and Cabinet Government. The Constitution establishes the parliamentary system not only at the Centre, but also in the states.
- **Integrated & Independent Judiciary:** The Supreme Court heads a unified judicial system, safeguarding fundamental rights with some limitations. This single system of courts enforces both the central laws as well as the state laws, unlike in USA, where the federal laws are enforced by the federal judiciary and the state laws are enforced by the state judiciary.



- **Fundamental Rights:** These outline citizens' rights and the government's social and economic goals, respectively. The Part III of the Indian Constitution guarantees six" fundamental rights to all the citizens. These rights are meant for promoting the idea of political democracy. They operate as limitations on the tyranny of the executive and arbitrary laws of the legislature. They are justiciable in nature, that is, they are enforceable by the courts for their violation. They can also be suspended during the operation of a National Emergency except the rights guaranteed by Articles 20 and 21.
- **Directive Principles of State Policy-** enumerated in Part IV of the Constitution; these principles can be classified into three broad categories -socialistic, Gandhian and liberal-intellectual. The Directive Principles are meant for promoting the ideal of social and economic democracy. They seek to establish a 'welfare state' in India. However, unlike the Fundamental Rights, the directives are non-justiciable in nature, that is, they are not enforceable by the courts for their violation.
- **Fundamental Duties:** Added later, these remind citizens of their responsibilities towards the nation. These were added during the operation of internal emergency (1975-77) by the 42<sup>nd</sup> Constitutional Amendment Act of 1976 on the recommendation of the Swaran Singh Committee. The fundamental duties serve as a reminder to citizens that while enjoying their rights, they have also to be quite conscious of duties they owe to their country, their society and to their fellow-citizens. However, the duties are non-justiciable in nature just like the directive principles of state.
- **Secular State:** India guarantees religious freedom and equal treatment for all religions. The Constitution of India stands for a Secular state. Hence, it does not uphold any particular religion as the official religion of the Indian State. However, it provides for the temporary reservation of seats for the scheduled castes and scheduled tribes to ensure adequate representation to them.
- **Universal Adult Franchise:** It means every citizen above 18 years of age has the right to vote without any discrimination of caste, race, religion, sex, literacy, wealth and so on. The voting age was reduced to 18 years from 21 years in 1989 by the 61st Constitutional Amendment Act of 1988. The introduction of universal adult franchise by the Constitution-makers was a bold experiment and highly remarkable in view of the vast size of the country, its huge population, high poverty, social inequality and overwhelming illiteracy.

- **Single Citizenship:** All Indians have the same rights throughout the country. All citizens irrespective of the state in which they are born or reside enjoy the same political and civil rights of citizenship all over the country and no discrimination is made between them.
- **Independent Bodies:** Institutions like the Election Commission ensure fair elections and financial audits; Comptroller and Auditor General of India to audit the accounts of the government etc. are there that are endowed with specific duties and functions to do. They are envisaged by the Constitution as the bulk works of the democratic system of Government in India with independence of work under the Constitution.
- **Emergency Provisions:** The Constitution allows for national (under Article 352), state (under Article 356), and financial (under Article 360) emergencies with enhanced central power in order to meet extraordinary situation effectively. The rationality behind the incorporation of these provisions is to safeguard the sovereignty, unity, integrity and security of the country, the democratic political system and the Constitution.
- **Three-Tier Government:** It includes local governments (panchayats and municipalities) alongside central and state levels. The 73rd and 74th Constitutional Amendment Acts (1992) have added a third-tier of Government (i.e., local) which is not found in any other Constitution of the world. The 73rd Amendment Act of 1992 gave constitutional recognition to the panchayats (rural local governments) by adding a new Part IX and a new Schedule 11 to the Constitution. Similarly, the 74th Amendment Act of 1992 gave constitutional recognition to the municipalities (urban local governments) by adding a new Part IX-A18 and a new Schedule 12 to the Constitution.
- **Constitutional Status for Co-operatives:** The right to form cooperatives is a fundamental right, and the Constitution promotes their development. The 97th Constitutional Amendment Act of 2011 gave a constitutional status and protection to co-operative societies.

## CRITICISM OF THE CONSTITUTION

The Constitution of India, as framed and adopted by the Constituent Assembly of India, has been criticized on the following grounds:

- **A borrowed Constitution:** Critics argue the Constitution lacks originality because of its borrowed nature. However, it must be mentioned that all the borrowed items were modified as per the requirements and needs of the country.
- **Replica of 1935 Act:** It has also been argued that a large portion of the provisions of the 1935 Act were included in to the Constitution limiting it merely as a carbon copy of the Act only.
- **Un-Indian or Anti Indian:** Some say the Constitution is too Western because it does not reflect the political traditions and the spirit of India. However, its suitability for a modern nation can be defended.
- **Gandhi's Vision Not Sole Source:** The Constitution has also been criticized for not including the philosophy and ideals of Mahatma Gandhi. However, the Constitution reflects a broader range of influence of important Gandhian ideals.
- **Lengthy in size:** Because of its borrowed nature and detail inclusions, the size of the Constitution is comparatively long creating a ground for its criticism. However, despite its size, it aims to be detailed and address various situations.
- **Paradise of the Lawyers:** According to the critics, the Indian Constitution is too legalistic and very complicated. They opined that the legal language and phraseology adopted in the constitution makes it a complex document.

#### **LET'S REWIND:**

The Indian Constitution is the world's lengthiest, reflecting its diverse influences and India's vastness. It balances flexibility for amendments with rigidity in core principles. The federal system leans towards a strong central government, while a parliamentary system with a Prime Minister leads the Cabinet. An independent judiciary protects fundamental rights, while directive principles guide the government's social and economic goals. Later added fundamental duties remind citizens of their national responsibilities. India is a secular state with universal adult franchise and single citizenship. Independent bodies oversee elections and finances. Emergency provisions allow for enhanced central power in critical situations. The Constitution is a three-tier system with local governments alongside central and state levels. It even grants constitutional status to cooperatives. Despite its merits, the Constitution has been criticized for being derivative, too lengthy, and overly legalistic.

#### **CHECK YOUR PROGRESS:**

- How many Articles, parts and schedule were contained by the Indian Constitution?

- On the recommendation of which committee, fundamental duties were included in to the Constitution?
- By which amendment act, the voting age of Indian citizen got reduced to 18 years of age?
- Under which Constitutional Amendment Act, constitutional status was given to the co-operative societies?

## 2.3 BASIC STRUCTURE OF THE INDIAN CONSTITUTION:

### EMERGENCE OF THE BASIC STRUCTURE

The debate about amending Fundamental Rights under Article 368 unfolded through a series of landmark Supreme Court cases that established the concept of the "basic structure" of the Constitution:

- **Shankari Prasad (1951):** This case challenged the validity of the First Amendment Act, which curtailed the right to property. The Court ruled in favor of the Parliament, upholding its power to amend the Constitution under Article 368. This meant Parliament could amend Fundamental Rights, although the decision did not address the question of limitations on this power.
- **Golaknath (1967):** This case reversed the Court's earlier stance. Here, the challenge was to the Seventeenth Amendment Act, which included certain state acts in a Schedule considered beyond judicial review. The Court ruled that Fundamental Rights held a "transcendental and immutable" position, and Parliament could not abridge or take them away. This significantly restricted Parliament's power to amend the Constitution.
- **Kesavananda Bharati (1973):** This landmark case introduced the "basic structure" doctrine. While upholding the validity of the 24th Amendment (which empowered Parliament to amend Fundamental Rights), the Court established a new principle. Parliament's power under Article 368 is not absolute. It cannot alter the "basic structure" of the Constitution, which includes core principles like federalism, secularism, and judicial review. This decision created a balance, allowing amendments while safeguarding the Constitution's essential character.

- **Indira Gandhi Case (1975):** This case applied the basic structure doctrine. A provision of the 39th Amendment Act sought to shield the Prime Minister's election disputes from judicial review. The Court struck down this provision, stating it violated the basic structure by undermining judicial independence.
- **Minerva Mills (1980):** The 42nd Amendment attempted to exclude judicial review of amendments altogether. The Court, applying the basic structure doctrine, invalidated this provision. Judicial review is a fundamental feature of the Constitution, and Parliament cannot remove it through amendments.
- **Waman Rao (1981):** This case clarified that the basic structure doctrine applies to amendments enacted after April 24, 1973 (the date of the Kesavananda Bharati judgment). This established a clear timeline for the application of the doctrine.

These cases established a crucial principle: Parliament can amend the Constitution, but it cannot alter its core principles. The basic structure doctrine ensures a balance between allowing necessary amendments and protecting the fundamental character of the Indian Constitution.

## **ELEMENTS OF THE BASIC STRUCTURE**

The exact definition of the "basic structure" remains undefined, but court judgments have identified several key elements. These include principles like supremacy of the Constitution, separation of powers, federalism, secularism, judicial review, and welfare state. The basic structure also encompasses elements like individual dignity, rule of law, and free and fair elections. It ensures a balance between fundamental rights and directive principles, and protects the independence of the judiciary and Parliament's limited amendment power.

### **LET'S REWIND:**

The concept of a "basic structure" in the Indian Constitution emerged through a series of Supreme Court cases. Initially, Parliament's power to amend Fundamental Rights seemed unrestricted (Shankari Prasad, 1951). Later, the Court reversed this stance, calling them absolute (Golaknath, 1967). The landmark Kesavananda Bharati case (1973) established the "basic structure" doctrine. While Parliament can amend rights, it cannot alter core principles like federalism or judicial review. Subsequent cases (Indira Gandhi Case, 1975; Minerva Mills, 1980) applied this doctrine. The exact definition remains unclear, but court judgments have identified elements like supremacy of the Constitution, separation of powers, and individual dignity as part of the basic structure. This doctrine ensures Parliament can make amendments, but not at the cost of the Constitution's essential character.

**CHECK YOUR PROGRESS:**

- The Basic Structure of the Constitution cannot be changed. True or False?
- Name at least two sources that constitute the Basic Structure of the Constitution.

**LET'S SUM UP:**

The Indian Constitution is a lengthy document shaped by various influences. It establishes India as a sovereign, socialist, secular, democratic republic with a federal system. A balance exists between amending the Constitution and upholding its core principles. The Parliament leads under a Prime Minister, while an independent judiciary protects fundamental rights. The Constitution also outlines guiding principles for the government and includes fundamental duties for citizens. Despite its strengths, the document has been criticized for its length and complexity.

The concept of a "basic structure" within the Constitution ensures that amendments cannot fundamentally alter its core character. Established through court cases, this doctrine protects principles like federalism and judicial review. The Preamble, although not directly enforceable, serves as a foundation for interpreting the Constitution and defines India's core values.

**FURTHER READING:**

- Basu, D.D. *Introduction to the Constitution of India*. LexisNexis Butterworths.
- G. Austin, *The Indian Constitution: Corner Stone of a Nation*, Oxford, Oxford University Press.
- U. Baxi, *The Indian Supreme Court and Politics*, Delhi, Eastern Book Company,.

**ANSWERS TO CHECK YOUR PROGRESS**

- The preamble has been amended only once. True or false?
  - True.
- The preamble is non-justiciable. What do you mean by that?
  - The Preamble is non-justiciable because its goals cannot be directly enforced in courts.
- How many Articles, parts and schedules were originally contained by the Indian Constitution?
  - Originally, it contained 395 Articles (divided into 22 Parts) and 8 Schedules.

- On the recommendation of which committee, Fundamental duties were included in to the Constitution?
  - The fundamental duties were added during the operation of internal emergency (1975-77) by the 42<sup>nd</sup> Constitutional Amendment Act of 1976 on the recommendation of the Swaran Singh Committee.
- By which amendment act, the voting age of Indian citizen got reduced to 18 years of age?
  - The voting age got reduced to 18 years from 21 years in 1989 by the 61st Constitutional Amendment Act of 1988.
- Under which Constitutional Amendment Act, constitutional status was given to the co-operative societies?
  - The 97th Constitutional Amendment Act of 2011 gave a constitutional status and protection to co-operative societies.
- The Basic Structure of the Constitution cannot be changed. True or False?
  - True.
- Name at least two sources that constitute the Basic Structure of the Constitution.
  - Supremacy of the Constitution and Federalism.

<b>MODEL QUESTIONS/ ASSIGNMENT</b>
------------------------------------

1. Explain the main keywords present in the Preamble of Indian Constitution.
  2. Evaluate the significance of the Preamble.
  3. Discuss the various features of the Indian Constitution.
  4. How do you assess the importance of the Indian Constitution? Write on your own words.
  5. Explain in detail the basic structure of the Indian Constitution.
-

## **CHAPTER 3: ORGANS OF THE GOVERNMENT**

### **CHAPTER STRUCTURE:**

Learning Outcome

Utility of Learning the Topic

3.1 Legislature: Parliament- Composition, Power and Functions

3.2 Executive: President, Prime Minister, Council of Ministers and Bureaucracy

3.3 Judiciary: Judicial Activism and Judicial Review

### **LEARNING OUTCOME:**

After going through this lesson, students will be able to-

- Understand the Composition, Power and Functions of the Legislature
- Know the role and function of President, Prime Minister, Council of Ministers and Bureaucracy
- Explore the Judicial Activism and Judicial Review

### **UTILITY OF LEARNING THE TOPIC:**

Understanding government is like understanding a machine. The legislature, executive, and judiciary act like its parts, each crucial. Learning about them empowers you to be an informed citizen. You'll grasp how laws are made, how they impact you, and how the system ensures fairness. It's the key to unlocking your role in a functioning democracy.

### **3.1 LEGISLATURE:**

#### **PARLIAMENT- COMPOSITION, POWERS AND FUNCTIONS**

The Indian Parliament serves as the supreme law-making body of the central government. Functioning under a parliamentary system modelled after the Westminster system, it holds a vital and central role within India's democratic framework. Part V of the Constitution (Articles 79 to 122) outlines the Parliament's structure, composition, lifespan, officials, procedures, privileges, and powers.

#### **ORGANISATION OF PARLIAMENT**



The Indian Parliament follows a bicameral structure, consisting of two houses: the Rajya Sabha (Council of States) and the Lok Sabha (House of the People). In 1954, these houses adopted Hindi names, becoming the upper house and lower house respectively. The Rajya Sabha represents the states and union territories, while the Lok Sabha directly reflects the will of the Indian people.

Interestingly, the President holds a unique position. Though not a member of either house and do not participate in sessions, the President is still considered an integral part of the Parliament. This is because their assent is required for any bill to become law. Additionally, the President fulfills other functions related to Parliament's proceedings, such as summoning or proroguing sessions, dissolving the Lok Sabha, addressing both houses, and issuing ordinances under specific circumstances. This structure reflects a parliamentary system, similar to the British model with its "Crown-in-Parliament," where the head of state (in India's case, the President) plays a role in the legislative process. This differs from the American presidential system where the President and Congress (legislature) operate as separate branches.

## **COMPOSITION OF THE TWO HOUSES**

### **Rajya Sabha:**

The Rajya Sabha has a maximum of 250 members, with 238 representing India's states and union territories. These representatives are chosen indirectly by the elected members of state legislative assemblies. A system of proportional representation using single transferable votes ensures fairer representation based on party strength within each state assembly.

Seat allocation in the Rajya Sabha reflects a balance between population and state representation. Larger states like Uttar Pradesh have more members (31) compared to smaller states like Tripura (1). This differs from the US Senate, where all states have equal representation (two members each) regardless of population.

Only three union territories (Delhi, Puducherry, and Jammu & Kashmir) currently hold seats in the Rajya Sabha. Their representatives are also chosen indirectly through an electoral college using the same proportional representation system. The remaining union territories have smaller populations and are not currently allotted seats.

The President has the power to nominate 12 members to the Rajya Sabha from individuals with distinguished knowledge or experience in fields like art, literature, science, and social service. This nomination process allows the inclusion of eminent personalities who can contribute valuable insights without facing the electoral process. It's important to note that the American Senate does not have a similar nomination provision.

### **Lok Sabha:**

The Lok Sabha has a maximum authorized strength of 552 members. The vast majority (530) represent India's states, directly elected by the people in territorial constituencies. This system embodies the principle of universal adult franchise, where every Indian citizen above 18 years old can vote (voting age lowered from 21 by the 61st Amendment in 1988).

The Constitution empowers Parliament to determine how union territories choose their Lok Sabha representatives. Following this, the Parliament enacted the Union Territories (Direct Election to the House of the People Act) in 1965, enabling direct elections for Lok Sabha members from these territories. Currently, 13 members hail from union territories.

In an effort to ensure adequate representation for the Anglo-Indian community, the President can nominate up to two members to the Lok Sabha. This provision was initially meant to be temporary, expiring in 1960, but has been extended until 2020 through the 95th Amendment Act of 2009.

## **POWERS AND FUNCTIONS OF THE INDIAN PARLIAMENT**

### **Legislative Functions:**

The Indian Parliament plays a central role in shaping the nation's laws. Its legislative authority extends across various subjects, categorized into different lists outlined in the Constitution. These are mentioned in Chapter II of Part V.

### **Primary Legislative Authority:**

- **Union List and Concurrent List:** Parliament has the primary power to make laws on matters enumerated in the Union List and the Concurrent List. The Union List covers national subjects like defense, foreign affairs, and currency. The Concurrent List

includes areas where both the central government and states can legislate, like education and environment. In case of a conflict, the Parliament's law prevails, unless a state law on the Concurrent List received earlier presidential approval. Additionally, Parliament can amend or repeal existing state laws on the Concurrent List.

### **Expanding Legislative Reach:**

- **State List under Special Circumstances:** Under specific conditions, Parliament can also legislate on subjects included in the State List, which primarily concerns internal matters of each state. These situations include:
  - **Emergencies or President's Rule:** During a national emergency or when a state is under President's Rule (direct central control), Parliament can enact laws on the State List.
  - **National Interest:** Under Article 249, Rajya Sabha, the upper house, can pass a resolution by a special majority, declaring it necessary for Parliament to make a law on a State List subject in the national interest.
  - **International Agreements:** Under Article 253, Parliament can pass laws on State List items to fulfill obligations arising from international treaties.
  - **Inter-State Cooperation:** If legislatures of multiple states request a central law on a State List subject, Parliament can enact such legislation for those states. This is practiced as per Article 252.

By these legislative powers, Parliament ensures a robust legal framework for India, addressing national concerns while accommodating state-specific needs under exceptional circumstances.

### **Executive Functions (Control over the Executive):**

In the parliamentary form of government, the executive is responsible to the legislature. Hence, the Parliament exercises control over the executive by several measures-

- **No-Confidence Vote:** Parliament's ultimate weapon, forcing the Cabinet to resign if passed. This ensures the executive remains responsive to the will of the legislature, ultimately representing the people.

- **Questioning Ministers:** MPs raise questions to ministers, exposing potential flaws in government actions. This constant scrutiny keeps the executive accountable and transparent in its decision-making.
- **Adjournment Motion (Lok Sabha):** Highlights urgent public issues by disrupting regular proceedings. This tool allows MPs to bring pressing matters to the forefront, demanding immediate government attention.
- **Committee on Assurances:** Tracks if ministers fulfill promises made to Parliament. This committee ensures the executive is held responsible for the commitments it makes to the legislative body.
- **Censure Motion (Lok Sabha):** Opposition strongly disapproves a specific government policy. While not leading to resignation, it serves as a powerful tool for the opposition to publicly criticize and pressure the executive.
- **Cut Motions:** MPs challenge specific budgetary allocations, forcing justification from the government. This allows Parliament to influence government spending and ensure efficient allocation of resources.

These parliamentary tools ensure a healthy balance of power. The executive, while formulating and implementing policies, remains accountable to the legislature, which safeguards the interests of the people.

### **Financial Functions:**

Parliament is the ultimate authority when it comes to finances. The Executive cannot spend a single pie without parliamentary approval.

- **Parliament controls spending and taxes:** The government's spending blueprint (Union Budget) and any proposed tax changes require Parliament's green light.
- **Parliament Holds Fiscal Authority:** Both the Union Budget outlining government spending and tax proposals must be approved by Parliament.
- **Parliament Maintains Oversight:** Two permanent committees (Public Accounts Committee and Estimates Committee) scrutinize how the government spends its allocated funds.
- **Money bills:** Another tool through which the Parliament exerts its control over finances is money bill. As per the Article 110, they deal solely with government revenue and spending (taxes, borrowing, public funds). Money bills are introduced

only in the Lok Sabha and hence bypass the Rajya Sabha's delay tactics and limit the President's power. This prioritizes Parliament, especially the Lok Sabha, in ensuring swift and decisive control over the government's purse strings.

### **Amending Powers:**

The Indian Constitution grants Parliament the authority to amend its provisions, ensuring the document adapts to evolving needs. Both the Lok Sabha (lower house) and the Rajya Sabha (upper house) enjoy equal footing in this process. For an amendment to become law, it must be passed by a majority vote in each house.

### **Electoral Functions:**

The Parliament takes part in the election of the President and the Vice President. The elected members of both houses (Lok Sabha and Rajya Sabha) participate in the Electoral College that elects the President.

### **Judicial Functions:**

Parliament has the authority to take action against its own members if they violate the special rights and protections granted to them, known as privileges. These privileges are essential for MPs to perform their duties effectively.

If a member believes a minister or colleague has withheld crucial information, presented false facts, or otherwise undermined the House's or individual members' privileges, they can initiate a "privilege motion." This motion formally accuses the member of wrongdoing and triggers an investigation.

A key aspect of parliamentary systems is that the courts cannot interfere with how Parliament manages its own internal affairs, including how it handles privilege motions. Similarly, the power to discipline members, even through punishment, is generally beyond judicial review.

The Parliament's reach extends beyond internal discipline. It can also exercise judicial-like functions in certain situations. One such example is the power of impeachment, which allows Parliament to formally charge high officials like the President, Vice President, or judges with misconduct.

### **Other powers/functions of the Parliament:**

- Parliament is the stage for debating crucial national and global matters. The opposition offers different perspectives, keeping the public informed.
- Parliament is often seen as a small-scale reflection of the entire country.
- Democracies rely on Parliament to carefully consider important issues before making them into laws.
- Parliament can change the size and shape of India's states and territories.
- Parliament is a key source of information, with ministers required to answer MPs' questions.

### **LET'S REWIND:**

**The Indian Parliament is the nation's supreme law-making body.** It consists of two houses, the Rajya Sabha (upper house) and the Lok Sabha (lower house), and the President. Parliament has broad powers, including lawmaking, controlling government finances, overseeing the executive, and amending the Constitution. It also plays a vital role in national debates and represents the interests of the people.

### **CHECK YOUR PROGRESS:**

- What constitutes the Parliament?
- How do the members of the Rajya Sabha get elected?
- How do the members of the Lok Sabha get elected?
- The Parliament has the jurisdiction over all matters mentioned in the Union and the Concurrent List. True or false?
- Money bills are introduced only in the Lok Sabha. True or false?
- Both the Houses enjoy equal power in terms of amendment of the Constitution. True or False?

## **3.2 EXECUTIVE: PRESIDENT, PRIME MINISTER, COUNCIL OF MINISTERS, BUREAUCRACY**

### **THE PRESIDENT**

The Indian Constitution outlines the structure and roles of the national executive in Articles 52 to 78 in Part V. This includes the President, Vice President, Prime Minister, Council of

Ministers, and Attorney General. The President is the country's ceremonial head, symbolizing national unity.

## **ELECTION OF THE PRESIDENT**

An electoral college consisting of- a) the elected members of both the Houses of Parliament, b) the elected members of the legislative assemblies of the states and c) the elected members of the legislative assemblies of the Union Territories of Delhi and Puducherry elects the President of India. Notably, a) the nominated members of both the Houses of Parliament and state legislative assemblies; b) members, both elected and nominated, of the state legislative councils (in case of the bicameral legislature) and nominated members of the Legislative Assemblies of Delhi and Puducherry do not participate in the election of the President. Where an assembly is dissolved, the members cease to be qualified to vote in presidential election, even if fresh elections to the dissolved assembly are not held before the presidential election.

The Constitution aims to ensure equal representation of states and parity between states and the Union in presidential elections. To achieve this, the voting power of each elected state legislator and parliamentarian is determined as follows:

1. **State legislators:** Each elected member of a state legislative assembly receives a number of votes equal to the numeral quotient of the state's population divided by the total number of elected members of that assembly multiplied by one thousand.
2. **Parliamentarians:** The total voting power of state legislators is divided by the total number of elected members of both Houses of Parliament to determine the number of votes for each parliamentarian.

The President of India is elected through a system of proportional representation using the single transferable vote method. Voting is conducted by secret ballot. To win, a candidate must secure an absolute majority of votes. A specific quota of votes is determined by dividing the total valid votes by the number of candidates (plus one) and adding one to the result. Each voter ranks candidates in order of preference on a single ballot paper. Initially, only first preference votes are counted. If a candidate reaches the quota, they are elected.

If no candidate secures the quota, the candidate with the fewest first preference votes is eliminated. Their second preference votes are then distributed among the remaining candidates. This process continues until a candidate attains the required quota.

The Supreme Court is the final authority for resolving disputes related to presidential elections. Notably, the absence of any Electoral College member does not invalidate the election, and actions taken by a president before their election is nullified remain valid.

While some members of the Constituent Assembly advocated for a direct election of the President as a more democratic approach, the Constitution ultimately opted for an indirect method. This decision was primarily influenced by the following factors:

- **Alignment with Parliamentary System:** Given India's parliamentary system, where the President is largely a ceremonial head of state, direct election was deemed incongruous. The real executive power resides with the Prime Minister and the Council of Ministers.
- **Practical Considerations:** Direct elections would have been logistically challenging and expensive due to India's vast population. This seemed disproportionate for a largely symbolic role.
- **Federal Representation:** Limiting the election to Parliament alone would have tilted the balance in favor of the ruling party, compromising the President's role as a representative of both the Union and the states. The chosen system ensures a broader-based electoral college.

Regarding the terminology used, the Constituent Assembly debated the accuracy of terms like 'proportional representation' and 'single transferable vote' in the context of presidential elections. As only one candidate is elected, these terms were considered misnomers. The system was more accurately described as a preferential or alternative vote system.

### **Qualifications for Election as President:**

Following qualifications make a candidate eligible to become a candidate for the election of President of India-

1. He should be a citizen of India.
2. He should have completed 35 years of age.
3. He should be qualified for election as a member of the Lok Sabha.



4. He should not hold any office of profit under the Union government or any state government or any local authority or any other public authority. A sitting President or Vice-President of the Union, the Governor of any state and a minister of the Union or any state is not deemed to hold any office of profit and hence qualified as a presidential candidate.

Further, the nomination of a candidate for election to the office of President must be subscribed by at least 50 electors as proposers and 50 electors as Seconders. Every candidate has to make a security deposit of 215,000 in the Reserve Bank of India. The security deposit is liable to be forfeited in case the candidate fails to secure one-sixth of the votes polled. Before 1997, number of proposers and seconders was ten each and the amount of security deposit was <2,500. In 1997, they were increased to discourage the non-serious candidates

#### **Oath or Affirmation by the President:**

Before entering upon his office, the President has to make and subscribe to an oath or affirmation. In his oath, the President swears:

1. to faithfully execute the office;
2. to preserve, protect and defend the Constitution and the law; and
3. to devote himself to the service and well-being of the people of India.

The oath of office to the President is administered by the Chief Justice of India and in his absence, the senior-most judge of the Supreme Court available. Any other person acting as President or discharging the functions of the President also undertakes the similar oath or affirmation.

#### **Conditions of President's Office:**

The Constitution lays down the following conditions of the President's office:

1. He should not be a member of either House of Parliament or a House of the state legislature. If any such person is elected as President, he is deemed to have vacated his seat in that House on the date on which he enters upon his office as President.
2. He should not hold any other office of profit.

3. He is entitled, without payment of rent, to the use of his official residence (the Rastrapathi Bhavan).
4. He is entitled to such emoluments, allowances and privileges as may be determined by Parliament.
5. His emoluments and allowances cannot be diminished during his term of office.

### **Term, Impeachment and Vacancy:**

The President of India serves a five-year term. They can voluntarily step down by resigning, and there's no limit to the number of terms they can serve. Unlike the United States, India does not restrict the total number of presidential terms a person can hold.

### **Presidential Impeachment:**

The President can be removed from office through a process called impeachment. This can only occur if they are accused of violating the Constitution, though the Constitution doesn't explicitly define what this means.

Either house of Parliament can initiate impeachment proceedings. One-fourth of the members in that house must sign the impeachment charges, and the President receives a 14-day notice. The house initiating the charges requires a two-thirds majority vote to pass the impeachment resolution. This resolution is then sent to the other house for investigation.

If the second house also votes in favor of impeachment with a two-thirds majority, the President is removed from office immediately. It's important to note that nominated members of Parliament participate in impeachment but not in presidential elections. Conversely, elected members of state legislative assemblies are involved in presidential elections but not impeachment proceedings.

To date, no Indian President has been impeached.

### **Vacancy in the President's Office:**

Vacancy may arise in the office of the President due to- resignation, impeachment, death, or otherwise, for example, when the person in office becomes disqualified to hold office or when the election is declared void.

A presidential election must occur before the incumbent's term ends. If delayed, the outgoing President continues until a successor is sworn in. The Vice President does not become acting President in this case. If the President's term ends prematurely due to resignation, removal, or death, a new election must be held within six months. The elected President serves a full five-year term. In case of a presidential vacancy, the Vice President becomes acting President until a new President is chosen. If the Vice President is unavailable, the Chief Justice of India assumes the role. The acting President holds the same powers and privileges as the elected President.

## **POWERS AND FUNCTIONS OF THE PRESIDENT**

The powers enjoyed and the functions performed by the President are-

### **Executive Powers:**

The President of India is the nominal head of the Indian Union. While the real executive power rests with the Prime Minister and the Council of Ministers, all executive actions are formally taken in the President's name.

The President's key executive functions include:

- **Formal Head of State:** All government orders and instruments are issued in the President's name.
- **Administrative Framework:** The President establishes rules for government operations, including workload distribution among ministers.
- **Appointments:** The President appoints the Prime Minister, other ministers, the Attorney General, Comptroller and Auditor General, Election Commissioners, Union Public Service Commission members, Governors, Finance Commission members, and administrators of Union Territories.
- **Information and Oversight:** The President can seek information about government affairs and review ministerial decisions.

- **Special Bodies:** The President can establish commissions for investigating conditions of marginalized groups and councils for inter-state cooperation.
- **Administration of Union Territories:** The President directly administers Union Territories.
- **Scheduled Areas:** The President has authority over the administration of Scheduled and Tribal areas.

### **Legislative Powers:**

The President of India, while not a member of the Parliament, holds significant legislative powers that contribute to the country's governance. These powers can be categorized as follows:

- **Summoning, Proroguing, and Dissolving Parliament:** The President has the authority to summon both houses of Parliament into session. The President can adjourn or prorogue Parliament, effectively ending a session and can dissolve the lower house, Lok Sabha, leading to general elections.
- **Presidential Address and Communication:** The President delivers addresses to Parliament at the beginning of the first session after each general election and at the start of each year. The President can communicate messages to either house of Parliament on any matter, including pending bills.
- **Appointment and Disqualification of Members:** The President can appoint members of the Lok Sabha or Rajya Sabha to preside over their respective houses if either the Speaker/Deputy Speaker or Chairman/Deputy Chairman is unavailable. The President nominates 12 members to the Rajya Sabha and 2 members from the Anglo-Indian community to the Lok Sabha. The President, in consultation with the Election Commission, decides on matters related to the disqualification of Parliament members.
- **Assent and Return of Bills:** The President must give assent to bills passed by Parliament before they become laws. In rare cases, the President can withhold assent to a bill. The President can return non-money bills to Parliament for reconsideration. However, if passed again, the President must give assent. The President has similar powers regarding bills passed by state legislatures.
- **Ordinance Making and Other Functions:** The President can issue ordinances when Parliament is not in session, but these must be approved by Parliament within six

weeks of its reassembly. The President lays various reports, including those of the Comptroller and Auditor General, before Parliament. The President has legislative powers for certain union territories.

In essence, the President plays a crucial role in the Indian legislative process, balancing the executive and legislative branches while safeguarding the Constitution.

### **Financial Powers:**

The President of India holds significant financial authority. These powers include:

1. **Initiation of Money Bills:** Money bills can only be introduced in Parliament with the President's prior approval.
2. **Presentation of the Budget:** The annual financial statement, commonly known as the Union Budget, is presented to Parliament by the President.
3. **Authorization of Expenditure:** The President's recommendation is essential for proposing any government expenditure.
4. **Contingency Fund:** The President has the authority to disburse funds from the Contingency Fund of India to address unforeseen financial needs.
5. **Appointment of Finance Commission:** The President establishes the Finance Commission every five years to recommend the distribution of revenue between the central government and the states.

### **Judicial Powers:**

The President of India exercises significant judicial authority. These include:

- **Appointment of Judges:** The President holds the power to appoint the Chief Justice and other judges to the Supreme Court and High Courts.
- **Consultative Role:** While the President can seek legal or factual opinions from the Supreme Court, such advice is not binding on the presidential decisions.
- **Pardoning Power:** The President possesses the authority to grant clemency in various criminal cases. This includes pardoning, commuting, or suspending sentences imposed by court-martials, for offenses against Union laws, or in cases where the punishment is capital.

**Diplomatic Powers:**

The President is India's chief diplomat, representing the nation in international forums. They negotiate and conclude international treaties and agreements on behalf of the country, although these require parliamentary approval. Additionally, the President is responsible for appointing and receiving diplomatic representatives, such as ambassadors and high commissioners.

**Military Powers:**

The President holds the position of supreme commander of India's armed forces. This role includes appointing the chiefs of the Army, Navy, and Air Force. While the President has the power to declare war or make peace, such actions are subject to parliamentary approval.

**Emergency Powers:**

The Constitution grants the President extraordinary authority to manage three types of emergencies:

1. **National Emergency (Article 352):** This is declared in response to war, external aggression, or armed rebellion.
2. **President's Rule (Articles 356 & 365):** This is imposed when a state's constitutional machinery breaks down.
3. **Financial Emergency (Article 360):** This is declared if the country's financial stability is threatened.

**VETO POWER OF THE PRESIDENT**

The President of India plays a crucial role in the legislative process. Under Article 111 of the Constitution, they possess the power to assent to, withhold assent from, or return a bill (excluding money bills) for reconsideration by Parliament. This is known as the veto power.

**Types of Veto:**

There are three primary types of veto:

- **Absolute veto:** The President can outright reject a bill, preventing it from becoming law. This is typically used for private member bills or government bills when the cabinet has resigned.
- **Suspensive veto:** The President can return a bill to Parliament for reconsideration. However, if Parliament passes it again, the President must grant assent. This veto does not apply to money bills.
- **Pocket veto:** The President can indefinitely withhold a decision on a bill, effectively killing it.

### **Veto over State Legislation:**

The President also holds veto power over state legislation. State bills can be reserved for presidential consideration. The President can then assent, withhold assent, or return the bill for reconsideration. Unlike at the national level, Parliament cannot override a presidential veto on state legislation.

In essence, the President's veto power acts as a check on legislative authority, ensuring careful consideration of proposed laws.

**Note:** The President cannot veto constitutional amendment bills.

### **Ordinance-Making Power of the President:**

**Article 123** grants the President the power to promulgate ordinances when Parliament is not in session. These ordinances have the same force as laws but are temporary. However, the ordinance making power has certain limitations-

- **Timing:** Ordinances can only be issued when Parliament is not in session. If both houses are in session, an ordinance is void.
- **Necessity:** The President must be satisfied of an urgent need for immediate action. The courts can review this decision for malafide intentions.
- **Scope:** Ordinances can only cover subjects Parliament can legislate on and are subject to constitutional limitations, including fundamental rights.
- **Parliamentary Approval:** Ordinances must be laid before Parliament when it reconvenes. They become laws if approved, lapse after six weeks if not, or can be revoked earlier by Parliament.

## Key Points

- The President's satisfaction regarding necessity is not absolute.
- Successive re-promulgation of ordinances without legislative action is unconstitutional.
- Ordinances are a temporary measure, not a substitute for regular lawmaking.

**Note:** The President's ordinance-making power is exercised on the advice of the Council of Ministers.

## Pardoning Power of the President:

**Article 72** grants the President the authority to pardon individuals convicted of offenses under Union laws, by court-martial, or sentenced to death. This power is independent of the judiciary and serves to correct judicial errors or offer relief from harsh sentences.

## Types of Pardons

- **Pardon:** Complete removal of conviction and sentence.
- **Commutation:** Substitution of a lighter punishment for a harsher one.
- **Remission:** Reduction of sentence duration without changing its nature.
- **Respite:** Awarding a lesser sentence due to special circumstances.
- **Reprieve:** Temporary stay of sentence execution.

## State Governor's Power:

State governors possess similar powers under **Article 161** but cannot pardon death sentences or those imposed by court-martial.

## Limitations and Considerations:

- The President's decision is not subject to judicial review unless arbitrary, irrational, or discriminatory.
- The President is not obligated to provide reasons for decisions.
- The President acts on the advice of the Council of Ministers.



Essentially, the pardoning power is an executive check on the judicial system, allowing for clemency and the correction of potential injustices.

## CONSTITUTIONAL POSITION OF THE PRESIDENT

India operates under a parliamentary system where the President is primarily a ceremonial head of state. The real executive power rests with the Prime Minister and the Council of Ministers.

### Constitutional Provisions:

- **Article 53:** Vests executive power in the President but mandates its exercise through subordinates.
- **Article 74:** Establishes the Council of Ministers to aid and advise the President, who must act accordingly.
- **Article 75:** Makes the Council of Ministers collectively responsible to the Lok Sabha.

### President's Role:

The President is bound by the advice of the Council of Ministers. However, there's a degree of situational discretion in specific circumstances:

- **Appointment of Prime Minister:** When no party has a clear majority.
- **Dismissal of Council of Ministers:** When it loses the confidence of the Lok Sabha.
- **Dissolution of Lok Sabha:** When the Council of Ministers loses its majority.

While the President's power is largely nominal, these situations highlight the office's critical role in maintaining constitutional stability. In essence, the President is a symbol of the nation, acting on the advice of the government.

### LET'S REWIND:

The President of India is the ceremonial head of state, elected indirectly by an electoral college. While the Constitution grants them executive, legislative, financial, judicial, diplomatic, and military powers, these are largely exercised nominally. The real executive power rests with the Prime Minister and the Council of Ministers. The President's role is primarily symbolic, representing national unity and acting on the advice of the government. Key responsibilities include appointing the Prime Minister, assenting to bills, and exercising clemency. However, the President does hold discretionary powers in specific

situations, such as appointing the Prime Minister in a hung parliament or dismissing the Council of Ministers.

**CHECK YOUR PROGRESS:**

- Who can take part in the election of the President of India?
- Can a bill become an Act without the assent of the President?
- Under which Article of the Indian Constitution, the President has the authority to pardon individuals convicted of offenses?

## **THE PRIME MINISTER**

Under the parliamentary system outlined in the Constitution, the President holds the ceremonial position of head of state, while the Prime Minister serves as the chief executive with actual governing authority.

## **APPOINTMENT OF THE PRIME MINISTER**

Under Article 75 of the Indian Constitution, the leader of the majority party in the Lok Sabha gets appointed as the Prime Minister by the President. In case of hung parliaments, the President might choose the leader of the largest party/coalition, who then seeks a confidence vote. The President's discretion comes into play when the Prime Minister dies or there's no clear majority.

## **OATH, TERM AND SALARY**

Prior to assuming office, the Prime Minister is bound by an oath administered by the President. This oath encompasses two primary commitments:

1. **Allegiance and Constitution:** The Prime Minister pledges unwavering loyalty to the Constitution of India.
2. **Sovereignty and Integrity:** A solemn promise to safeguard the sovereignty and unity of India.
3. **Duties and Responsibilities:** A dedication to fulfilling the duties of the office with utmost diligence and conscientiousness.

4. **Impartiality and Justice:** A commitment to treating all citizens equitably, adhering strictly to the principles outlined in the Constitution and the law, devoid of prejudice or bias.

The Prime Minister swears to maintain strict confidentiality regarding official matters, disclosing information only as required for ministerial duties. While the Prime Minister's tenure is indefinite, it is contingent on enjoying the Lok Sabha's confidence. Dismissal is possible if this support is lost. Parliamentary approval determines the Prime Minister's remuneration, including a salary, allowances, and benefits, which have been subject to adjustments, such as the 2001 increase in sumptuary allowance.

## **POWERS AND FUNCTIONS OF THE PRIME MINISTER**

The powers and functions of Prime Minister can be studied under the following heads:

### **In Relation to Council of Ministers**

As the head of the Union Council of Ministers, the Prime Minister wields substantial authority. Key powers include:

- **Ministerial Appointments:** Recommending ministerial appointments to the President, whose decisions are typically aligned with these recommendations.
- **Portfolio Allocation:** Assigning and reassigning ministerial responsibilities.
- **Ministerial Oversight:** Possessing the authority to request a minister's resignation or advise the President on dismissal in cases of disagreement.
- **Council Leadership:** Chairing Council of Ministers meetings and significantly influencing its decisions.
- **Cabinet Management:** Guiding, directing, and coordinating the actions of all ministers.
- **Government Dissolution:** Causing the collapse of the Council of Ministers through resignation.

It is essential to note that the Prime Minister's departure, whether through resignation or death, necessitates the dissolution of the entire Council of Ministers. Conversely, the resignation or death of other ministers creates vacancies that the Prime Minister may or may not choose to fill.

## **Prime Minister In Relation to the President**

The Prime Minister serves as a critical link between the President and the Council of Ministers. Key responsibilities include:

- **Communication Channel:** Acting as the primary conduit for conveying Council of Ministers decisions and legislative proposals to the President.
- **Information Provision:** Furnishing the President with requested information pertaining to Union administration and proposed legislation.
- **Presidential Consultation:** Submitting ministerial decisions to the Council of Ministers for consideration when required by the President.

Furthermore, the Prime Minister offers advice to the President on the appointment of high-level officials, such as the Attorney General, Comptroller and Auditor General, and heads of constitutional bodies like the Union Public Service Commission, Election Commission, and Finance Commission.

## **In Relation to Parliament**

As the leader of the lower house, the Prime Minister holds significant parliamentary influence:

- **Parliamentary Sessions:** Advises the President on convening and adjourning parliamentary sessions.
- **Dissolution of Lok Sabha:** Can recommend the dissolution of the lower house to the President.
- **Government Policy:** Presents government policies and initiatives to the parliament.

## **Other Powers & Functions**

In addition to the above-mentioned three major roles, the Prime Minister has various other roles. To mention some of them are- he acts as the chairman of the- NITI Ayog, National Integration Council, Inter State Council, National Water Resources Council etc. He plays a significant role in shaping the foreign policy of the country. He is the chief spokesman of the Union government. Prime Minister also acts as the crisis manager-in-chief at the political level during emergencies. As a leader of the nation, he meets various sections of people in

different states and receives memoranda from them regarding their problems, and so on. He is leader of the party in power and political head of the services.

Thus, the Prime Minister plays a very significant and highly crucial role in the politico-administrative system of the country. Dr. B.R. Ambedkar stated, 'If any functionary under our constitution is to be compared with the US president, he is the Prime Minister and not the president of the Union.'

## **ROLE DESCRIPTIONS**

Prominent political scientists and constitutional experts have likened the Prime Minister to a 'first among equals' (primus inter pares), a 'moon among lesser stars,' and even a 'sun around which planets revolve.' These analogies emphasize the Prime Minister's dominant position within the cabinet and government. In both Britain and India, the role of the Prime Minister has evolved into one of immense power and influence. The trend towards 'Prime Ministerial government' is evident, with the Prime Minister often overshadowing the cabinet and playing a dominant role in policy-making.

In essence, the Prime Minister is the chief executive, policy-maker, and public face of the government.

### **LET'S REWIND:**

In a parliamentary form of government, the President is the nominal head of the state while the Prime Minister is the real executive head of the government. Usually, the leader of the majority party in the Lok Sabha is appointed as the Prime Minister by the President. He is the head of the Union Council of Minister and act as the channel of communication between the President and the Council of Ministers.

### **CHECK YOUR PROGRESS:**

- The Prime Minister is the head of the government in Parliamentary form of government. True or false?
- How is the Prime Minister chosen in case of a hung parliament?

## **CENTRAL COUNCIL OF MINISTERS**

The Constitution of India provides a form of parliamentary system of government modelled on the British pattern, the council of ministers headed by the Prime Minister is the real

executive authority is our politico-administrative system. The principles of parliamentary system of government are not detailed in the Constitution, but two Articles (74 and 75) deal with them in a broad, sketchy and general manner. Article 74 deals with the status of the council of ministers while Article 75 deals with the appointment, tenure, responsibility, qualification, oath and salaries and allowances of the ministers.

### **Composition of the Council of Ministers:**

The Council of Ministers comprises Cabinet Ministers, Ministers of State, and Deputy Ministers. Cabinet Ministers head key ministries and are central to policymaking. Ministers of State can hold independent charge or assist Cabinet Ministers. Deputy Ministers assist senior ministers. The Prime Minister leads the Council. Parliamentary Secretaries, a now-rare category, once assisted senior ministers. Additionally, Deputy Prime Ministers may be appointed for political reasons.

## **CONSTITUTIONAL PROVISIONS**

### **Article 74: Council of Ministers to aid and advise the President**

- A Council of Ministers, headed by the Prime Minister, assists and advises the President in their duties.
- The President generally follows this advice but can ask for reconsideration.
- Court inquiries into ministerial advice to the President are prohibited.

### **Article 75: Other Provisions regarding Ministers**

- The President appoints the Prime Minister and, on their advice, other ministers.
- The total number of ministers (including the Prime Minister) cannot exceed 15% of Lok Sabha members.
- Disqualified MPs cannot be ministers.
- Ministers serve at the President's pleasure.
- The Council of Ministers is collectively responsible to the Lok Sabha.
- The President administers oaths to ministers.
- Non-MP ministers must resign after six consecutive months.
- Parliament determines ministerial salaries and allowances.

### **Article 77: Conduct of Government Business**

- Government actions are taken in the President's name.
- Presidential orders are authenticated as per rules.
- The President creates rules for government business allocation among ministers.

### **Article 78: Duties of the Prime Minister**

- Communicates Council of Ministers' decisions and legislative proposals to the President.
- Provides the President with requested administrative and legislative information.
- Presents ministerial decisions to the Council of Ministers if the President requires.

### **Article 88: Ministers' Rights in Parliament**

- Ministers can speak and participate in both houses, joint sittings, and committees.
- They cannot vote.

## **THE COUNCIL OF MINISTERS: POWERS, FUNCTIONS, AND KEY ASPECTS:**

The Council of Ministers is the core executive body of the Indian government. Headed by the Prime Minister, it is responsible for aiding and advising the President in the exercise of their functions.

### **Powers and Functions:**

- **Policy Formulation:** The Council is the primary policy-making body. It determines the government's stance on domestic and foreign affairs, economic policies, social welfare programs, and more.
- **Administration:** It oversees the implementation of government policies through various ministries and departments. Ministers are responsible for their respective portfolios and the efficient administration of their departments.
- **Legislation:** The Council introduces and guides legislation through Parliament. Ministers actively participate in parliamentary debates and discussions.

- **Collective Responsibility:** The Council is collectively responsible to the Lok Sabha. This means that all ministers share responsibility for government actions, and a vote of no confidence against the government leads to the resignation of the entire Council.
- **Executive Authority:** While the President is the nominal head of the executive, the Council of Ministers exercises real executive power. All executive actions are taken in the President's name but based on the Council's advice.

### **Important Aspects:**

- **Appointment:** The Prime Minister is appointed by the President, and other ministers are appointed on the Prime Minister's advice.
- **Size:** The total number of ministers is limited to 15% of the Lok Sabha's strength.
- **Tenure:** Ministers hold office at the pleasure of the President.
- **Cabinet:** A smaller group of senior ministers forms the Cabinet, which is the primary decision-making body within the Council.
- **Committees:** Various committees are formed within the Council to handle specific tasks and assist in decision-making.
- **Role of the Prime Minister:** The Prime Minister is the chief coordinator of the Council, and they play a crucial role in policy formulation, leadership, and maintaining party unity.

**In essence**, the Council of Ministers is the driving force behind the government's actions. Its collective responsibility, combined with the Prime Minister's leadership, ensures accountability and effective governance.

### **APPOINTMENT OF MINISTERS:**

The President appoints the Prime Minister. On the Prime Minister's advice, the President appoints other ministers. While most ministers are Members of Parliament, non-MPs can be appointed but must become parliamentarians within six months. Ministers can participate in both houses but only vote in their house of membership.

**Ministers take oaths of office and secrecy.** The oath affirms loyalty to India, constitutional duties, and impartiality. The secrecy oath binds ministers to confidentiality. While titles like Deputy Prime Minister aren't constitutional, they don't invalidate the oath. Parliament



determines ministerial salaries and allowances, which include basic pay, perks, and additional allowances.

### **Ministerial Responsibility**

The Council of Ministers is collectively responsible to the Lok Sabha. This means all ministers share responsibility for government actions, regardless of individual involvement. A no-confidence motion against the government requires the entire Council's resignation. Cabinet decisions are binding on all ministers, fostering unity. However, individual ministers can be dismissed by the Prime Minister. While British ministers face legal responsibility, Indian ministers do not.

### **Ministerial Advice to the President**

The Council of Ministers, led by the Prime Minister, advises the President. This advice is binding. Courts cannot scrutinize ministerial advice, emphasizing the confidential nature of the President-ministerial relationship. The Council's existence is mandatory, and the President must act on their advice. The President's decisions are essentially those of the Council.

### **Cabinet vs. Council of Ministers**

The Cabinet is the core decision-making body within the Council of Ministers. It comprises senior ministers and is responsible for policy formulation, administration, and crisis management. The Cabinet is the primary advisory body to the President and has authority over key appointments and foreign policy.

### **Kitchen Cabinet**

Beyond the formal Cabinet, Prime Ministers often form an informal advisory group called the "Kitchen Cabinet." This smaller group, consisting of trusted colleagues and sometimes outsiders, provides advice on key political and administrative matters. While offering efficiency and secrecy, it can undermine the Cabinet's authority and introduce extra-constitutional elements into governance. This practice is not unique to India, with similar phenomena observed in other countries like the US and UK.

## The Cabinet's Role

The Cabinet is a vital component of the political system. Various scholars have described its significance:

- The Cabinet is the central decision-making body.
- It provides leadership and direction to the government.
- It coordinates the executive and legislative branches.

The Cabinet's power is substantial, often described as a "dictatorship qualified by publicity." This characterization is applicable to both the British and Indian contexts.

### LET'S REWIND:

India's Council of Ministers, headed by the Prime Minister, forms the core executive. It advises the President, who holds nominal executive power. While the Constitution provides a framework, the parliamentary system's principles, including collective responsibility, are implied. The Council's roles encompass policymaking, administration, and legislation. The Prime Minister leads, and the Cabinet, a smaller ministerial group, aids decision-making. Key features include ministerial appointments by the President, limited Council size, pleasure-based tenure, and collective responsibility holding all ministers accountable for government actions. The Cabinet, a core group within the Council, makes key decisions. While the Council is the formal body, informal structures like the 'Kitchen Cabinet' influence decision-making. The Council's role is pivotal in policy formulation, administration, and advising the President.

### CHECK YOUR PROGRESS:

- The main function of the Council of Ministers is to aid and advise the President. True or false?
- What do you mean by collective responsibility?

## BUREAUCRACY IN A PARLIAMENTARY SYSTEM

### Understanding Bureaucracy:

Bureaucracy refers to a hierarchical system of administration characterized by division of labor, formal rules, and impersonal decision-making. It is a cornerstone of modern government, tasked with implementing policies and providing public services. In a

parliamentary system, the bureaucracy serves as the permanent executive, supporting the political executive (elected government) in its functions.

### **Selection and Composition:**

Bureaucrats are typically recruited through competitive examinations to ensure merit-based selection. This process aims to create a neutral and impartial civil service. The composition of the bureaucracy reflects the nation's diversity, with representation from various social and economic backgrounds.

### **Powers and Functions:**

The bureaucracy exercises significant power in a parliamentary system:

- **Policy Implementation:** Bureaucrats translate government policies into actionable programs and schemes. They play a crucial role in their execution at the grassroots level.
- **Rule-making:** They are involved in formulating rules and regulations necessary for policy implementation.
- **Adjudication:** In some cases, bureaucrats may have quasi-judicial powers to resolve disputes related to government programs.
- **Advice and Expertise:** Bureaucrats provide technical expertise and advice to the political executive, influencing policy formulation.
- **Continuity:** As permanent officials, bureaucrats provide continuity in administration, ensuring stability despite changes in government.

### **Relationship with the Political Executive:**

The bureaucracy and the political executive share a complex relationship:

- **Hierarchical Control:** The political executive, being elected, is theoretically superior to the bureaucracy. Ministers have the power to appoint, transfer, and dismiss bureaucrats.
- **Dependency:** The political executive relies on the bureaucracy for expertise, information, and implementation capacity.

- **Potential Conflicts:** Conflicts can arise due to differences in perspectives, time horizons, and priorities between politicians and bureaucrats.

### **Limitations and Challenges:**

The bureaucracy faces several challenges:

- **Red Tape:** Excessive rules and procedures can lead to inefficiency and delays.
- **Corruption:** Corruption can undermine public trust and hinder service delivery.
- **Neutrality:** Maintaining political neutrality can be difficult, especially in a partisan political environment.
- **Accountability:** Ensuring bureaucratic accountability is often challenging due to its complex structure.

### **Importance of Bureaucracy:**

A well-functioning bureaucracy is essential for good governance:

- **Efficiency:** It ensures efficient delivery of public services.
- **Equity:** It helps in promoting equitable distribution of resources.
- **Stability:** It provides continuity in administration.
- **Development:** It plays a crucial role in implementing development programs.

In conclusion, bureaucracy is an indispensable component of a parliamentary system. Its effective functioning is vital for the success of government policies and programs. A balance between political control and bureaucratic autonomy is essential for good governance.

#### **LET'S REWIND:**

Bureaucracy is a hierarchical system of administration crucial to parliamentary government. Bureaucrats, selected meritocratically, implement policies, make rules, and offer expertise to the political executive. While they are accountable to elected officials, they also wield significant power in policymaking and service delivery. Challenges include red tape, corruption, and maintaining neutrality. Overall, bureaucracy is essential for efficient governance but requires careful oversight to prevent abuse of power.

#### **CHECK YOUR PROGRESS:**

- What is the primary role of the bureaucracy in a parliamentary system?
- Flexible and adaptable rules are NOT a characteristic of bureaucracy. True or false?

### 3.3 JUDICIARY

The Indian Judiciary is the third pillar of the Indian democratic system, alongside the Legislature and the Executive. It is the guardian of the Constitution, interpreting laws, settling disputes, and administering justice.

#### **Structure of the Judiciary:**

India boasts a unified judicial system with a hierarchical structure. The Supreme Court sits at the apex, followed by High Courts in states and territories, and then District and subordinate courts.

#### **The Supreme Court:**

- **Composition:** The Supreme Court comprises a Chief Justice of India (CJI) and a maximum of 34 other judges.
- **Appointment:** The CJI is appointed by the President after consultation with the Chief Justice and other senior judges. Other judges are appointed by the President after consultation with the CJI and two senior-most judges.
- **Powers and Functions:** The Supreme Court is the final court of appeal, ensuring uniformity in the interpretation of laws. It has original jurisdiction in disputes between the Union and states, between states, and in cases involving fundamental rights. It also has the power of judicial review, enabling it to declare laws and executive actions unconstitutional.
- **Role:** The Supreme Court safeguards the Constitution, protects fundamental rights, and maintains the balance of power between the other two organs of government.

#### **High Courts:**

- **Composition:** Each state or union territory has a High Court with a Chief Justice and other judges.

- **Appointment:** Similar to Supreme Court judges, High Court judges are appointed by the President after consultation with the CJI, the Governor, and the Chief Justice of the High Court.
- **Powers and Functions:** High Courts are the highest courts within their respective jurisdictions, exercising original, appellate, and supervisory jurisdiction. They handle a wide range of cases, including civil, criminal, and constitutional matters.

### **Judges: Roles, Privileges, and Limitations**

- **Independence:** Judges enjoy independence to ensure impartiality. They hold office until they attain the age of 65.
- **Privileges:** Judges enjoy immunity from legal action for their judicial acts, ensuring fearless discharge of duties.
- **Limitations:** While independent, judges are bound by the Constitution and the law. They cannot interfere in political matters or usurp the functions of the executive or legislature.

### **Other Important Aspects**

- **Judicial Review:** The power of judicial review is a cornerstone of the Indian judiciary, allowing it to uphold the Constitution's supremacy.
- **Public Interest Litigation (PIL):** The judiciary has expanded its role to include PIL, enabling citizens to seek justice for public issues.
- **Challenges:** The judiciary faces challenges like case pendency, lack of infrastructure, and judicial corruption.

**In conclusion**, the Indian Judiciary plays a vital role in upholding the rule of law, protecting citizens' rights, and maintaining the delicate balance of power in the Indian democracy. Its independence and impartiality are essential for a functioning democracy.

## **JUDICIAL REVIEW**

Judicial review is the cornerstone of India's constitutional democracy, empowering the judiciary to scrutinize legislative and executive actions for their consonance with the Constitution. Rooted in the landmark *Marbury v. Madison* case, this principle was explicitly enshrined in the Indian Constitution. The Supreme Court and High Courts are vested with the

authority to declare laws or government actions unconstitutional if they infringe fundamental rights, exceed legislative competence, or contravene constitutional provisions. Notably, judicial review is considered a basic feature of the Constitution, safeguarding its integrity against erosion.

While its scope is narrower than the American model, Indian judicial review plays a pivotal role in upholding constitutional supremacy, maintaining federal balance, and protecting citizens' fundamental rights. Landmark cases have underscored its significance, emphasizing the judiciary's role as the Constitution's guardian. However, the Ninth Schedule, introduced to protect certain laws from judicial scrutiny, has faced challenges. The Supreme Court, in the *I.R. Coelho* case, asserted that laws added to the Ninth Schedule post-1973 can be challenged if they violate fundamental rights or the Constitution's basic structure.

This delicate balance between legislative supremacy and judicial oversight ensures that India's democratic framework remains robust and responsive to the evolving needs of its citizens.

### **Constitutional Basis and Scope**

The Indian Constitution, while not explicitly mentioning judicial review, implicitly grants this power to the Supreme Court and High Courts through provisions like Articles 13, 32, 131-136, 226, and others. This power is fundamental to upholding the Constitution's supremacy and ensuring that legislative and executive actions adhere to its principles.

The scope of judicial review is broad, encompassing challenges to laws and government actions on grounds of violating fundamental rights, exceeding legislative competence, or contravening constitutional provisions. However, it's essential to note that the Indian judiciary exercises this power with restraint, recognizing the primacy of the legislature in policy-making. This approach balances the need for judicial oversight with democratic principles.

### **Landmark Cases and Evolution**

Landmark cases have significantly shaped the contours of judicial review in India. The *Golaknath* case initially restricted Parliament's power to amend fundamental rights. However, the subsequent *Kesavananda Bharati* case introduced the doctrine of 'basic structure,'

asserting that while Parliament can amend the Constitution, it cannot alter its core principles. This case marked a turning point, defining the limits of parliamentary power.

Cases like *Minerva Mills* and *I.R. Coelho* further refined the understanding of judicial review. *Minerva Mills* reaffirmed the judiciary's role in protecting fundamental rights, while *I.R. Coelho* limited the immunity granted to laws under the Ninth Schedule, emphasizing the primacy of fundamental rights and the basic structure doctrine.

### **The Ninth Schedule and Judicial Review**

The Ninth Schedule was introduced to protect certain laws from judicial scrutiny, but the Supreme Court's decision in *I.R. Coelho* significantly curtailed its protective shield. The court ruled that laws added to the Ninth Schedule after 1973 can be challenged if they violate fundamental rights or the basic structure of the Constitution. This decision reaffirmed the judiciary's role as the ultimate guardian of the Constitution.

### **Importance and Challenges**

Judicial review is indispensable for safeguarding constitutional democracy, protecting fundamental rights, and maintaining the balance of power between the three organs of the state. It acts as a check on arbitrary government actions and ensures accountability.

However, the exercise of judicial review is not without challenges. Concerns about judicial overreach and the potential for politicization have been raised. Striking a balance between effective judicial oversight and respecting the democratic mandate of the legislature is crucial.

#### **LET'S REWIND:**

**Judicial review is the cornerstone of India's constitutional democracy, empowering courts to safeguard the Constitution.** It ensures laws and government actions align with fundamental rights and constitutional principles. While rooted in the Indian Constitution, its scope and limitations have evolved through landmark cases. The judiciary balances its role as the Constitution's guardian with respect for democratic processes. Challenges like potential overreach require careful consideration. Ultimately, judicial review is vital for protecting citizens' rights and maintaining the integrity of the Constitution.

#### **CHECK YOUR PROGRESS:**



- Define judicial review.
- What does the concept 'basic structure' of the constitution imply?

### **Judicial Activism:**

Judicial activism represents a departure from the traditional role of the judiciary as an impartial interpreter of law. It entails a proactive judicial approach where courts not only interpret existing laws but also actively shape public policy and societal norms. This concept gained prominence in India during the 1970s under the influence of progressive judges like Justice V.R. Krishna Iyer, who expanded the scope of judicial intervention.

### **The Rise of Judicial Activism**

Several factors contributed to the rise of judicial activism in India:

- **Constitutional Provisions:** Articles like 32 (Right to Constitutional Remedies) and 226 (Writ Jurisdiction of High Courts) granted the judiciary broad powers to protect fundamental rights.
- **Failure of the Legislature and Executive:** In instances of legislative inaction or executive overreach, the judiciary stepped in to fill the vacuum, often through Public Interest Litigation (PIL).
- **Changing Social and Economic Realities:** The judiciary responded to emerging challenges like poverty, inequality, environmental degradation, and human rights abuses by employing a more activist role.
- **Judicial Philosophy:** A growing belief among judges that the judiciary had a responsibility to protect the marginalized and promote social justice fueled judicial activism.

### **Key Features of Judicial Activism**

- **Public Interest Litigation (PIL):** This mechanism allowed individuals or groups to bring public issues before the court, bypassing traditional standing requirements.
- **Expanded Interpretation of Fundamental Rights:** The judiciary broadened the scope of fundamental rights, often reading them expansively to encompass social and economic rights.

- **Judicial Legislation:** In certain cases, the judiciary has been accused of overstepping its role by making laws rather than interpreting them.
- **Focus on Social Justice:** Judicial activism has been instrumental in addressing issues of poverty, inequality, and discrimination.

### **Criticisms of Judicial Activism**

While judicial activism has led to significant positive outcomes, it has also faced criticism:

- **Overreach:** Critics argue that the judiciary has overstepped its constitutional role by encroaching upon the domains of the legislature and executive.
- **Lack of Expertise:** Questions have been raised about the judiciary's capacity to handle complex policy matters without adequate expertise.
- **Delay in Justice:** The increased workload due to PIL and other activist cases has led to delays in the disposal of regular cases.
- **Erosion of Democratic Principles:** Concerns have been expressed about the potential for judicial activism to undermine the principle of separation of powers.

### **Balancing Act**

The challenge lies in striking a balance between judicial activism and restraint. While judicial activism can be a powerful tool for social change, it is essential to respect the boundaries of judicial power and uphold democratic principles. A judicious approach, combining activism with restraint, is crucial for the effective functioning of the judiciary and the overall health of the democratic system.

### **Judicial Restraint**

Judicial restraint is a judicial philosophy advocating for a limited role of the judiciary. Judges adhering to this principle prioritize interpreting laws rather than creating them, deferring to legislative and executive branches in policy matters.

#### **Key assumptions of judicial restraint:**

- **Democratic legitimacy:** Courts, being non-elective, should respect the decisions of elected representatives.

- **Separation of powers:** The judiciary should avoid encroaching on the domains of the legislature and executive.
- **Original intent:** Judges should interpret laws based on the original understanding of the framers.
- **Risk management:** The judiciary should be cautious not to overreach its authority and face potential backlash.

### **The Indian Supreme Court has emphasized judicial restraint:**

- Recognizing the need to uphold the separation of powers.
- Warning against judges assuming executive or legislative functions.
- Calling for modesty and humility among judges.
- Emphasizing the importance of administrative expertise and the limitations of the judiciary.
- Suggesting alternative avenues for citizens to address government failures, such as elections and protests.

Essentially, judicial restraint aims to maintain a balance of power among the three branches of government, preventing judicial overreach and respecting the democratic process.

### **LET'S REWIND:**

**Judicial activism** and **judicial restraint** are two contrasting approaches to judicial decision-making. The former involves judges actively shaping public policy and societal norms through their interpretations, often expanding rights and addressing social issues. This can lead to accusations of overreach. Conversely, judicial restraint prioritizes interpreting existing laws, deferring to the legislative and executive branches in policy matters. It emphasizes respecting democratic principles and avoiding judicial overreach. The ideal approach often lies in a balance between these two, ensuring the judiciary protects rights while respecting the separation of powers.

### **CHECK YOUR PROGRESS:**

- What do you mean by judicial activism?
- What is the key difference between judicial activism and judicial restraint

### **LET'S SUM UP:**

The Indian Parliament, consisting of the Lok Sabha (lower house) and Rajya Sabha (upper

house), is the supreme law-making body. It's responsible for passing laws, controlling finances, overseeing the executive, and amending the Constitution.

The President acts as the ceremonial head of state, with the Prime Minister wielding real executive power. The Prime Minister leads the Council of Ministers, which advises the President and executes policies.

Bureaucracy, a meritocratic system of administrators, plays a crucial role in implementing policies and offering expertise. However, challenges like red tape and corruption require vigilance.

Judicial review empowers courts to ensure laws and government actions comply with the Constitution and fundamental rights. This system of checks and balances safeguards citizens' rights.

The judiciary navigates between judicial activism, where judges actively shape social norms, and judicial restraint, where they prioritize interpreting existing laws. Striking a balance between these approaches is essential.

#### **FURTHER READING:**

- U. Baxi, *The Indian Supreme Court and Politics*, Delhi, Eastern Book Company,.
- J. P. Bansal, *Supreme Introduction to the Constitution of India*, New Delhi, Prentice Hall.
- B. Dasgupta and W. H. Morris-Jones, *Patterns and Trends in Indian Politics*, New Delhi,

#### **ANSWERS TO CHECK YOUR PROGRESS:**

- What constitutes the Parliament?
  - It is consist of three parts- the President and the two Houses- Rajya Sabha (Upper House) and Lok Sabha (Lower House)
- How do the members of the Rajya Sabha get elected?
  - The members of the Rajya Sabha get elected by the elected members of the State Legislative Assembly.
- How do the members of the Lok Sabha get elected?
  - The members of the Lok Sabha get directly elected by the people of the territorial constituencies in the states.
- The Parliament has the jurisdiction over all matters mentioned in the Union and the Concurrent List. True or false?
  - True.
- Money bills are introduced only in the Lok Sabha. True or false?
  - True.

- Both the Houses enjoy equal power in terms of amendment of the Constitution. True or False?
- True.
- The Prime Minister is the head of the government in Parliamentary form of government. True or false?
- True.
- How is the Prime Minister chosen in case of a hung parliament?
- The President might choose the leader of the largest party/coalition, who then seeks a confidence vote.
- The main function of the Council of Ministers is to aid and advise the President. True or false?
- True.
- What do you mean by collective responsibility?
- **Collective responsibility** is a principle in parliamentary government where all members of the Cabinet (Council of Ministers) are held accountable for the decisions and actions of the government as a whole, regardless of whether they personally agree with them or not.
- What is the primary role of the bureaucracy in a parliamentary system?
- Policy implementation.
- Flexible and adaptable rules are NOT a characteristic of bureaucracy. True or false?
- False.
- Define judicial review.
- It is a process to check on the arbitrary exercise of power by the executive and legislature.
- What does the concept 'basic structure' of the constitution imply?
- The core principles of the Constitution that cannot be altered through amendments.
- What do you mean by judicial activism?
- A proactive role of the judiciary in shaping public policy.
- What is the key difference between judicial activism and judicial restraint?
- The extent of judicial involvement in policy-making brings the key distinction between the two.

<b>MODEL QUESTIONS/ ASSIGNMENT</b>
------------------------------------

1. Discuss the powers and functions of the President of India.
2. Discuss the powers and functions of the Prime Minister of India.
3. Write a note on meaning and characteristics of Bureaucracy.
4. Write a note on Judicial Activism in India.

-----

**CHAPTER 4: NATIONAL INTEGRATION, PARTY SYSTEM, PRESSURE GROUPS,  
INTEREST GROUPS**

**CHAPTER STRUCTURE:**

Learning Outcome

Utility of Learning the Topic

1.1 Party System: Nature And Trends

1.2 Pressure Groups And Interest Groups

1.3 Contemporary Challenges To National Integration

Let's Sum Up

Further Reading

Answers to Check Your Progress

Model Questions/ Assignment

**LEARNING OUTCOME:**

After going through this lesson, students will be able to -

- Nature and Trends of Party System
- Understand the Pressure Groups and Interest Groups
- Know the Contemporary Challenges to National Integrations

**UTILITY OF LEARNING THE TOPIC:**

National integration, party systems, pressure groups, and interest groups – understanding these are the key to becoming an informed citizen. You'll grasp how a nation unites its diversity, how policies are shaped by competing ideas, and how citizens can influence decisions through advocacy. It's the knowledge that empowers you to play a role in building a stronger and more inclusive society.

**4.1 PARTY SYSTEM:**

**Meaning:**

Political parties are groups of people with shared political beliefs who work together to win government power through legal means and serve the nation's interests. There are four main types of political party-

- **Reactionary parties** prefer old-fashioned systems.
- **Conservative parties** want to keep things as they are.
- **Liberal parties** seek to improve existing systems.
- **Radical parties** aim to completely replace current systems.

Political scientists often place parties on a spectrum:

- **Left:** Radical parties (in terms of India, CPI and CPM fall into this category)
- **Center:** Liberal parties (Indian National Congress may fall under the category)
- **Right:** Reactionary and conservative parties (BJP can be categorized under it)

There are three main types of party systems:

- **One-party system:** Only one party is allowed without any opposition, as in former communist countries.
- **Two-party system:** Two major parties compete, as in the USA and Britain.
- **Multi-party system:** Many parties exist, often leading to coalition governments, as in France, Switzerland, and Italy.

### **Nature and Trends of Indian Political Parties:**

The following are the characteristics features of Indian Party System that symbolize the nature and trends of the Indian party system as well-

- **Multi-party system:**

India's vast geographical expanse, diverse culture, and universal adult suffrage have led to a proliferation of political parties. This multiplicity of parties reflects the country's complex social fabric and the varied interests and aspirations of its people. The presence of numerous parties has made coalition governments a common feature of Indian politics.

- **One-party dominance:**



The Indian National Congress enjoyed a dominant position in the Indian political landscape for several decades after independence. This dominance was attributed to factors like charismatic leadership, a strong organizational structure, and a nationalist appeal. However, since the 1960s, the Congress's dominance has eroded due to the rise of regional parties and other national forces.

- **Ideological vagueness:**

Most Indian political parties lack a clear and consistent ideological foundation. They often adopt a pragmatic approach, adjusting their positions based on electoral considerations and political expediency. This lack of ideological clarity has contributed to the blurring of lines between parties and made it difficult for voters to make informed choices.

- **Personality-centric:**

Indian politics is often characterized by the prominence of individual leaders rather than party organizations. The charisma and popularity of leaders can significantly influence the fortunes of a party. This personality-driven politics can lead to instability and factionalism within parties.

- **Based on traditional factors:**

Many Indian political parties are rooted in specific social and religious identities such as caste, religion, or language. These parties often mobilize support based on communal or regional sentiments rather than broader national interests. This communalization of politics can hinder national integration and exacerbate social divisions.

- **Emergence of regional parties:**

Regional parties have emerged as a powerful force in Indian politics, particularly in recent decades. They have successfully tapped into regional aspirations and grievances, gaining significant electoral support. The rise of regional parties has challenged the dominance of national parties and contributed to a more decentralized political landscape.

- **Factionalism and defections:**

Indian political parties are often plagued by internal divisions and the frequent shifting of allegiance by politicians. This instability is fuelled by factors such as personal ambitions, power struggles, and the lure of material benefits. Factionalism and defections undermine party discipline, weaken governance, and erode public trust in the political system.

- **Weak opposition:**

The development of a strong and united opposition has been a persistent challenge in Indian politics. The opposition parties have often been fragmented, lacking a coherent and compelling alternative to the ruling party. A weak opposition hampers effective checks and balances and limits the scope for constructive criticism and policy debate.

## **RECOGNITION OF NATIONAL AND STATE PARTIES**

The Election Commission registers political parties for the purpose of elections and grants them recognition as national or state parties on the basis of their poll performance. The other parties are simply declared as registered unrecognised parties.

The recognition granted by the Commission to the parties determines their right to certain privileges like allocation of the party symbols, provision of time for political broadcasts on the state-owned television and radio stations and access to electoral rolls.

### **Criteria for National Party Status:**

A political party is classified as a national party if it meets any of the following conditions based on its performance in general elections:

- **Voter share and seat count:** Securing at least 6% of valid votes polled in four or more states and winning a minimum of four Lok Sabha seats from any state(s).
- **Lok Sabha seat percentage and distribution:** Winning at least 2% of total Lok Sabha seats from at least three different states.
- **State party recognition:** Being recognized as a state party in a minimum of four states.

### **Criteria for State Party Status:**

A political party is recognized as a state party within a specific state if it fulfills any of these conditions:

- **State-level voter share and seat count:** Securing 6% of valid votes polled in the state's assembly elections and winning at least two assembly seats.
- **State-level Lok Sabha performance:** Securing 6% of valid votes polled in the state's Lok Sabha elections and winning at least one Lok Sabha seat from the state.
- **State assembly seat percentage:** Winning at least 3% of the total assembly seats or three seats, whichever is higher, in the state's assembly elections.
- **Lok Sabha seat-to-state ratio:** Winning one Lok Sabha seat for every 25 Lok Sabha seats (or fraction thereof) allocated to the state.
- **State-wide voter share:** Securing 8% of total valid votes polled in either the state's assembly or Lok Sabha elections. This criterion was introduced in 2011.

**Note:** The number of national and state parties is subject to change following each general election based on party performance. As of the 2019 Lok Sabha elections, there were seven national parties, 52 state parties, and 2354 registered but unrecognized parties in India. National and state parties are also referred to as all-India parties and regional parties, respectively.

#### **LET'S REWIND:**

Political parties are groups of people with shared political beliefs who collaborate to legally gain government power and serve the nation's interests. There are four primary types: reactionary (preferring old systems), conservative (maintaining the status quo), liberal (improving existing systems), and radical (aiming for complete system replacement). Political scientists often position parties on a spectrum: left for radical (like CPI and CPM in India), center for liberal (like Indian National Congress), and right for reactionary and conservative (like BJP). Party systems include one-party (one party allowed, e.g., former communist countries), two-party (two major competitors, e.g., USA, Britain), and multi-party (many parties, often leading to coalitions, e.g., France, Switzerland, Italy). India's party system is multi-party due to its vastness, diversity, and universal suffrage, reflecting its complex social fabric and varied aspirations. Congress once dominated but declined since the 1960s due to regional parties and other national forces. Most Indian parties lack clear ideology, often being pragmatic and personality-centric. Many are based on traditional factors like caste, religion, or language, leading to communalization of politics. Regional parties have grown, challenging national dominance. Factionalism, defections, and a weak opposition are issues. The Election Commission recognizes national and state parties based on poll performance, granting privileges like party symbols and media access. Criteria for national party status

include voter share and seat count, Lok Sabha seat percentage and distribution, or being a state party in at least four states. State party criteria include state-level voter share and seat count, state-level Lok Sabha performance, state assembly seat percentage, Lok Sabha seat-to-state ratio, or state-wide voter share.

**CHECK YOUR PROGRESS:**

- India primarily follows which type of party system?
- What is the criterion to get recognition as a party in India?

**4.2 PRESSURE GROUP/ INTEREST GROUPS**

**Meaning and Techniques**

The term 'pressure group' originated in the USA. Pressure groups, also known as interest groups, are organized bodies aiming to influence government policies. Unlike political parties, they don't seek political power but focus on specific issues. They use various methods, including lobbying, public campaigns, and sometimes, controversial tactics to achieve their goals. Their role in shaping public opinion and policy is significant in democratic systems.

Odegard identified three primary methods used by pressure groups to achieve their goals:

1. **Candidate Support:** Pressure groups can endorse and campaign for politicians who align with their interests.
2. **Direct Lobbying:** They can directly persuade government officials to adopt policies favorable to their group.
3. **Public Opinion Shaping:** By influencing public opinion, pressure groups can indirectly impact government decisions.

**PRESSURE GROUPS IN INDIA**

A large number of pressure groups exist in India. But, they are not developed to the same extent as in the US or the western countries like Britain, France, and Germany and so on. The pressure groups in India can be broadly classified into the following categories:

**Economic Groups**

- **Business Groups:** These include powerful industrial and commercial organizations like FICCI and ASSOCHAM. They lobby extensively for policies favorable to businesses, such as tax breaks, subsidies, and deregulation.
- **Trade Unions:** Representing the interests of workers, trade unions in India are often affiliated with political parties. They engage in collective bargaining, strikes, and protests to secure better wages, working conditions, and job security.
- **Agrarian Groups:** Advocating for the rights and interests of farmers, these groups play a crucial role in Indian politics, particularly in agrarian states. They often protest against issues like land acquisition, farmer suicides, and inadequate government support.

### **Professional Groups**

- **Professional Associations:** These groups represent the interests of professionals like doctors, lawyers, and teachers. They lobby for better working conditions, higher salaries, and autonomy in professional practice.
- **Student Organizations:** While primarily focused on student issues, many student organizations in India are affiliated with political parties. They often engage in protests and agitations on a range of political and social issues.

### **Religious and Caste Groups**

- **Religious Organizations:** Based on religious identities, these groups can be highly influential in Indian politics. They often mobilize voters based on religious sentiments and lobby for policies that benefit their community.
- **Caste Groups:** Caste-based organizations play a significant role in many Indian states. They mobilize voters along caste lines and influence electoral outcomes.

### **Tribal and Linguistic Groups**

- **Tribal Organizations:** Representing the interests of indigenous communities, these groups often fight for land rights, autonomy, and cultural preservation.
- **Linguistic Groups:** Based on language, these groups advocate for the promotion and protection of their language and culture.

### **Ideological Groups**

- **Ideological Groups:** These groups are driven by specific ideologies or causes. Environmental groups, human rights organizations, and civil liberties groups fall under this category. They often engage in public awareness campaigns, lobbying, and protests to promote their causes.
- **Anomic Groups:** These are spontaneous and often short-lived groups that emerge in response to specific events or crises. They can be involved in riots, protests, or other forms of civil unrest.

#### **LET'S REWIND:**

Pressure groups, or interest groups, are organized entities that aim to influence government policies without seeking political power. They operate by lobbying, public campaigns, and sometimes controversial tactics. India hosts a diverse range of pressure groups, including economic, professional, religious, caste, tribal, linguistic, and ideological groups. While some are well-organized and influential, others are less structured. These groups play a significant role in Indian politics by articulating public demands, shaping public opinion, and influencing government decision-making.

#### **CHECK YOUR PROGRESS:**

- What is the primary goal of pressure group?
- Are the pressure groups directly electorate to the people?
- What is the major difference between pressure groups and political party in India?
- Name a challenge faced by pressure groups in India.

### **4.3 CONTEMPORARY CHALLENGES TO NATIONAL INTEGRATION**

India is very diverse with many different religions, languages, and cultures. To progress and be successful, India needs everyone to work together as one nation.

#### **MEANING OF NATIONAL INTEGRATION**

**National integration** is a complex process that involves fostering a sense of unity and shared identity among diverse groups within a nation. It requires cultivating a collective consciousness prioritizing national interests over parochial ones, while respecting and valuing cultural differences. This multifaceted concept encompasses political, economic, social,

cultural, and psychological dimensions, all interconnected in shaping a cohesive society. It has been defined by scholars in various ways. Some of them are-

"National integration implies avoidance of divisive movements that would balkanise the nation and presence of attitudes throughout the society that give preference to national and public interest as distinct from parochial interests" Myron Weiner.

"National integration is not a house which could be built by mortar and bricks. It is not an industrial plan too which could be discussed and implemented by experts. Integration, on the contrary, is a thought which must go into the heads of the people. It is the consciousness which must awaken the people at large" Dr. S. Radhakrishna.

"National integrations means, and ought to mean, cohesion not fusion, unity but not uniformity, reconciliation but not merger, agglomeration but not assimilation of the discrete segments of the people constituting a political community or state" Rasheeduddin Khan.

## **OBSTACLES TO NATIONAL INTEGRATION**

India faces several challenges in achieving national integration, primarily stemming from:

- **Regionalism:** Demands for secession, separate statehood, inter-state disputes, and regional chauvinism hinder national unity.
- **Communalism:** Religious divisions, political parties based on religion, communal riots, and disputes over religious places contribute to disharmony.
- **Casteism:** Caste-based political parties, pressure groups, and conflicts exacerbate social divisions and hinder national cohesion.
- **Linguism:** Language-based demands for statehood and official language controversies create regional tensions and impede national integration.

These factors have contributed to a complex and multifaceted challenge in fostering a shared sense of national identity.

## **NATIONAL INTEGRATION COUNCIL**

**The National Integration Council (NIC)** was established in 1961 to address the challenges of national unity in India following a decision taken at a national conference on 'unity in diversity', convened by the Central government, at New Delhi. It consisted of the prime

minister as chairman, central home minister, chief ministers of states, seven leaders of political parties, the chairman of the UGC, two educationists, the commissioner for SCs and STs and seven other persons nominated by the prime minister.

It has undergone multiple reconstitutions and expansions over the years. The NIC's primary role is to examine issues related to national integration, make recommendations, and monitor the situation. Key areas of focus include communal harmony, regionalism, casteism, and terrorism. While the council has made various recommendations, their implementation has been inconsistent. The NIC continues to be a platform for dialogue and action on national integration issues.

### **NATIONAL FOUNDATION FOR COMMUNAL HARMONY**

The National Foundation for Community Harmony (NFCH) is an autonomous body under the Ministry of Home Affairs established in 1992 to foster communal harmony, national integration, and unity in diversity. Its mission is to rehabilitate child victims of violence, promote interfaith dialogue, and conduct awareness programs to prevent communal clashes.

The NFCH provides financial assistance to child victims, collaborates with institutions and NGOs, conducts research, and recognizes individuals contributing to communal harmony. It also disseminates information through publications and engages with government bodies, businesses, and civil society to achieve its goals.

Its primary objectives are:

- **Rehabilitation of child victims:** Providing financial assistance for the care, education, and training of children affected by communal, caste, ethnic, or terrorist violence.
- **Promotion of communal harmony and national integration:** Organizing awareness programs, conducting studies, and collaborating with educational institutions, NGOs, and government bodies to foster unity in diversity.
- **Awarding and recognition:** Conferring awards for outstanding contributions to communal harmony and national integration.
- **Information dissemination:** Publishing research findings, books, and other materials to spread awareness about communal harmony.



**LET'S REWIND:**

National integration in India is crucial for progress and success. It involves fostering unity and shared identity among diverse groups while respecting cultural differences. Challenges include regionalism, communalism, casteism, and linguism. The National Integration Council (NIC) was established to address these issues and promote communal harmony, but implementation of its recommendations has been inconsistent. The National Foundation for Community Harmony (NFCH) focuses on rehabilitating child victims of violence and promoting interfaith dialogue.

**CHECK YOUR PROGRESS:**

- Name a major challenge to national integration in India.
- What is the primary goal of National Integration Council?

**LET'S SUM UP:**

India's political landscape is characterized by a complex interplay of diverse factors. A multi-party system, shaped by the country's vastness and diversity, accommodates parties with varying ideologies, from reactionary to radical. While the Congress once held dominance, its influence has waned in the face of rising regional parties. Many parties prioritize caste, religion, or language over clear ideologies, contributing to a politically divided society. Pressure groups representing various interests exert influence on government policies. Achieving national integration amidst regional, communal, caste, and linguistic differences remains a challenge. Efforts like the National Integration Council aim to foster unity, but implementation remains inconsistent.

**FURTHER READING:**

- B. Dasgupta and W. H. Morris-Jones, *Patterns and Trends in Indian Politics*, New Delhi, Allied Publishers,.
- S. Kaushik (ed.), *Indian Government and Politics*, Delhi University, Directorate of Hindi Implementation.
- S. Kaviraj, *Politics in India*, Delhi, Oxford University Press.
- W. H. Morris Jones, *Government and Politics in India*, Delhi, BI Publications.

**ANSWERS TO CHECK YOUR PROGRESS:**

- India primarily follows which type of party system?

- Multi-party system
  - What is the criterion to get recognition as a party in India?
- The party's electoral performance.
  - What is the primary goal of pressure group?
- Influence public policy in favor of their interests.
  - Are the pressure groups directly electorate to the people?
- No
  - What is the major difference between pressure groups and political party in India?
- Pressure groups focus on specific issues, while political parties have broader agendas.
  - Name a challenge faced by pressure groups in India
- Lack of public awareness.
  - Name a major challenge to national integration in India.
- Linguistic diversity.
  - What is the primary goal of National Integration Council?
- Promoting communal harmony.

<b>MODEL QUESTIONS/ ASSIGNMENT</b>
------------------------------------

1. Explain the nature and trends of the Indian party system.
2. Write a critical note on pressure groups.
3. Discuss the various challenges to national integration.

-----