

F.Y.B.A.
POLITICAL PAPER - I
INDIAN POLITICAL SYSTEM

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I

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SUGGESTED READINGS:

- Abbas, H., Kumar, Ranjay, and Alam, Mohammad Aftab, Indian Government and Politics, Pearson, 2011.
- Chakravarty, Bidyut, and Pande, Rajendra Kumar, Indian Government and Politics, Sage Publications, 2008.
- Chandoke, Neera, and Priyadarshi, Praveen, Contemporary India, Pearson, 2009.
- Ghosh, Peu, Indian Government and Politics, PHI, 2012.
- Jayal, Nirja G., and Mehta, BhanuPratap, The Oxford Companion to Politics in India, OUP, 2011.
- Jha, Pravin Kumar, Indian Politics in Comparative Perspective, Pearson, 2012.
- Paranjpe, Shrikant, India's Internal Security: Issues and Perspectives, Kalinga Publications, 2009.
- Singh, M. P., and Saxena, Rekha, Indian Politics, PHI, 2011.
- Basu, Durga Das, Introduction to the Constitution of India, Lexis Nexis, 2012.
- Laxmikant, M, Indian Polity, TMH, 2015.
- Laxmikant, M., Governance in India, TMH, 2015.
- Pylee, M. V, An Introduction to the Constitution of India, Vikas Publishing, 2008.
- Sharma, Brij Kishore, Introduction to the Constitution of India, PHI Learning, 2009.



CONSTITUTION OF INDIA

Unit Structure:

- 1.1 Introduction
- 1.2 History of Indian Constitution
- 1.3 Role of the Constituent Assembly
- 1.4 Objective Resolution
- 1.5 Members of the Drafting Committee
- 1.6 Importance of Constitution
- 1.7 Preamble to the Indian Constitution
- 1.8 Philosophy and Ideals Mentioned in the Preamble
- 1.9 Importance and Significance
- 1.10 Salient Features of Indian Constitution

1.1 INTRODUCTION:

In a democratic system the power of ruling the people is in the hands of the government whom the citizens have voted. Constitution is a book of Role of Law where all citizens are given equal rights and duties to fulfill. It is a mirror which shows the rulers of the democratic how to rule govern administer control and dominate its people.

1.2 HISTORY OF INDIAN CONSTITUTION:

After the victory of the freedom struggle that Indians won from the British rulers Indian leaders were posed with the biggest challenge how and what will be source the of law in India. Laws in India was already introduces by the Britisher's in India in various form. Our learned leaders Mahatma Gandhi Dr Bhimrao Ambedkar Jawaharlal Nehru and others had travelled the world for the educational purpose around the globe and were well versed with the various world systems across. The knowledge of French |Revolution American Revolution struggle of Africa for the equal rights of its citizens gave a new path for our Indian leader's to ponder upon.

1.3 ROLE OF THE CONSTITUENT ASSEMBLY

The British government passed the Independence of India Act 1946 which is also known as the 'Cabinet Mission'. It provided for appointment of a elected members from Provincial Legislative Assembly for the constituent assembly to make the constitution. It met for the first time on 9th December, 1946 and elected the senior most members Dr. Sachchidanand Sinha as its pro- tem chairman. Latter Dr. Rajendra Prasad was elected as full time President and H. C. Mukherjee as the Vice- President of constituent assembly. Originally, it consisted of 389 members, including 93 from princely states and 296 from British India. After partition, the members from Pakistan regions have left the assembly, hence it was reorganized.

1.3.1 The main functions of the Constituent Assembly were as follows:

- a. Framing the Constitution
- b. Enacted laws and involved in the decision making process.
- c. It adopted the national flag on 22nd July, 1947
- d. It accepted and approved India's membership of the British Commonwealth in May, 1949.
- e. It adopted National anthem on 24th January, 1950.

The Constituent Assembly was sub divided into many committees to stir the task of making of the constitution. They were as follows:

- I. Constitution Making Union Powers Committee.
- II. Union Constitution Committee
- III. Provincial Constitution Committee
- IV. Drafting Committee
- V. Advisory Committee on Fundamental rights and minorities
- VI. Rules of procedure committee
- VII. Steering Committee

Among above eight major committees, Drafting Committee headed by Dr. B. R. Ambedkar was most significant, which drafted the constitution. It consisted of seven members namely B.R.Ambedkar, Alladi Krishnaswami Ayyar, N.Gopalswami Ayyangar, K.M. Munshi, Mohammad Saadulla, B.L.Mitter and D.P.Khaitan. The Drafting committee elected B .R .Ambedkar as its Chairman.

1.4 OBJECTIVE RESOLUTION

The objective resolution was moved on December, 13, 1946 by Pandit Jawaharlal Nehru. It provided the philosophy and guiding principles for framing the constitution. Later on it became the part of Preamble. The resolution was unanimously adopted by the

Constituent Assembly on 22nd January, 1947. It declared India to be a sovereign and democratic republic, which would ensure complete justice, equality, fraternity and liberty to its citizens.

1.5 MEMBERS OF THE DRAFTING COMMITTEE:

The constituent assembly appointed a committee known as Drafting committee consisting of seven members namely Alladi Krishnaswami Ayyar, N.Gopalswami Ayyangar, B.R.Ambedkar ,K.M. Munshi ,Mohammad Saadulla , B.L.Mitter and D.P.Khaitan. The Drafting committee elected B .R .Ambedkar as its Chairman.

1.6 IMPORTANCE OF CONSTITUTION:

The constitution is the most important aspect for a country because it protects individual freedom and its fundamental principles governs any Democratic country. The role of Constitution is to place the governments power in the hands of the citizen's .It limit's the power of the government and establishes a system of checks and balances. In a Democratic country the rights and duties are in the hands of irs governing authority that is the government whom the citizens have elected. Constitution lays down the limits and restrictions on the power which can be used against the citizen of its own.

Dr. Bhimrao Ambedkar who is very rightly known as The Chief Architect of the Indian Constitution. Dr Ambedkar with his immense Excellency and great contribution towards the study of various constitution's of the world. Dr Babasaheb Ambedkar always fought for equal rights for all the communities. He was aman of caliber foresightedness and of good courage. He made a deep study of various constitution of the world and his approach was very social towards the framing of the Indian constitution. He was very critical about the various social evil that prevailed in the Indian society. He had a vision for India to be a place for all and everyone without discriminating on the basis of caste gender religion or any other diversification.

1.7 PREAMBLE TO THE INDIAN CONSTITUTION:

Every constitution has a philosophy and ideals of its own. It is a general practice to express those in a compact introductory note of selective chosen words known as the preamble .The spirit and ideals for which the constitution stands are succinctly crystallized in the preamble. in this sense the preamble is the declaration of ideals and objectives underlying the constitution .The preamble is the soul of the constitution, yet legally speaking it is

not a part of the constitution To have a look in the underlying philosophy of the constitution is the Preamble is indispensable. The philosophy and the ideals which the constitution has, if India solemnly resolves to achieve has been set very beautifully and in a poetic language in the Preamble.

1.8 PHILOSOPHY AND IDEALS MENTIONED IN THE PREAMBLE:

The ideals mentioned in the preamble express the philosophy of the constitution of India .The aims objectives spirit and the ideology for which the constitution stands finds expression in the preamble .The philosophy underlying the constitution of India as appeared has its source in the historical objective resolution moved by Jawaharlal Nehru in the constituent assembly on 22 January 1947.

The preamble the most vital part of our constitution begins as follows:

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.

1.9 IMPORTANCE AND SIGNIFICANCE:

Even though the preamble is extra-legal and it cannot be enforced in a court of law, yet the preamble is the most important and significant aspect of the constitution for the reasons below:

1. The preamble is a commitment, a pledge and an undertaking that assures a rebirth of India.
2. It serves as a key to the constitution. Whenever a particular provision appears to be ambiguous the preamble is consulted so that the said provision can be explained in the light of the preamble.

3. It acts as a guiding star in the interpretation of the Constitution.
4. The Preamble specifically states the moral basis and the sources of the constitution.
5. It resolves about the nature of the Republic that the constitution seeks to establish.

1.10 SALIENT FEATURES OF INDIAN CONSTITUTION:

The constitution of India was adopted in the constituent assembly on 26th November 1949. The constitution came in to force from 26th January 1950. Many aspects from various other countries constitution was included to suit our prevailing situation in India. That is why we can say that our constitution is equipped with choicest features of other constitution. A note can be made that since the adoption of the Indian constitution several changes in the form of amendments have been made with the proper procedure followed by the Parliamentarians.

Following are various features of the Indian constitution:

1. Considered to be the lengthiest constitution of the world:

The most important feature of our Indian constitution is that it is very vast. In the entire world Indian constitution is the lengthiest and written constitution of the world. As compared to American constitution Indian constitution is considered to be longest written constitution which consists of American constitution which has 7 articles, 24 sub-articles and about 7000 words only. The Indian constitution even after so many amendments contains 395 articles, innumerable sub-articles and 12 schedules.

2. A written constitution:

Indian constitution is considered as the written constitution. It is impossible and not practical that no constitution can be totally written in a single document. We can partially say that Indian constitution mostly written in character; but not written in totality. For example the British constitutional practices with respect to parliamentary system are in vogue in India, though not written down in the constitution. Therefore Indian constitution occupies a prominent place in the category of written constitution.

3. Parliamentary system of Government:

The Indian constitution has the provision for a Parliamentary or Cabinet system of government with all its features. The Indian constitution follows similar pattern of cabinet system which Britisher's also follow. The cabinet system provides an elected President as the head in place of a hereditary king or queen.

Following are various characteristics for the parliamentary system in India:

- I] cabinet is collectively responsible to parliament which is supreme;
- II] Parliament makes laws and grants money to the government; imposes taxes and determines administrative policies;
- III] The president is the constitutional head, but the cabinet is responsible to parliament holds the real power;
- IV] There is a very close relation between parliament and cabinet.

4. Federal Structure:

There is a provision in the Indian constitution for a federal structure. We have a dual polity a government at the Centre and one for each of federated state. There is a clear cut division of the power between state and the Union governments has been made by providing three lists in the constitution-

I] Union list ii] State list iii] Concurrent list.

Subjects over these lists shall be enjoyed by the Union, the States and by both the governments respectively. Subjects which are not included in any of the three lists are dealt with by the Union government. Though India is federal in structure, it takes a quasi-federal shape due to the existence of several unitary features in the constitution.

5. Sovereign socialist secular Democratic Republic:

The preamble to the constitution resolved to constitute India is an Independent and Sovereign state. it is republic in the sense that the country is ruled not by an king or queen but is ruled by the elected representative of the people for a definite fixed term. The term socialism stands for democratic socialism and a welfare state. India very strongly affirms Secularism by guaranteeing freedom of conscience and free profession, practice and propagation of religion to all.

6. Directive Principles of state policies:

Incorporation of directive principles in the constitution is a salient feature of our constitution. It is the duty of the state to follow these principles both in the matter of administration and in making laws. These principles embody the objectives which the state should pursue in the governance of the state. The directive principles contain certain economic and social rights which are, however not justifiable in the court of law.

7. Fundamental rights:

Fundamental rights play the most vital role in a citizen's life of a country. Fundamental rights are into 6 categories' namely right to equality and individual liberty. These rights also ensure right to

religion, rights against exploitations, cultural and educational rights and right to constitutional remedies. The fundamental rights in India are however conspicuous by the absence of any economic rights.

8. Single citizen:

The constitution of India recognizes uni-citizenship. It means that India though being federal provides for single citizenship of the state to which a person belongs. In India there is no dual citizenship. We are all citizens of India.

9. Partly rigid and flexible:

It is observed that written constitutions are mostly rigid in form. Indian constitution seems to be rigid because of being written but in real it is not rigid it is flexible at the same time. Generally there are three methods which are followed for making any amendments in the constitution.

First method is in some cases amendments are made by simple majority by the Union parliament.

Second method in certain cases a two-thirds majority of the present and voting members of the Union Parliament is necessary.

Third method in some other cases the consent of at least half of the federated states are needed together a two-thirds majority of the present and voting members of Parliament.

10. Secularism:

Constitution of India declares India as a secular state. In India we do not have a state-religion and the state observes neutrality towards all religions. The state does not patronize any particular any particular religion. In India the people of different religions are treated equally by the state and they are equal in the eye of law.

11. Interests of minorities are safeguarded:

Though India follows Secularism with the whole heart but it protects the rights of several backwards castes and tribes and the backward minorities which lag behind in social and economic development. It has been observed that no other constitution other than India has safeguarded the interests of the minorities.

12. Contains emergency provision:

Constitution of India provides elaborated provision for tackling the challenges of external aggression or armed rebellion (art.352), failure of constitutional machinery in states (art.356), and financial disorder (art.360). The Indian constitution has embedded the President power to proclaim emergency under the above three

heads. Emergency provision is a special feature of the Constitution of India.

13. Language Provisions in the Constitution:

India being a multi-lingual state language poses a special problem to the makers of our Constitution. In India there are approximately more than 1018 spoken languages, including 63 non-Indian languages. Language is a very sensitive issue and hence it is needed that the problem of language should be solved peacefully. The problem of language is the complicated issue due to which Indian constitution incorporates a chapter providing the provisions for languages.

14. Supremacy of the Constitution:

Indian Constitution is considered as the supreme authority of the Law of the Land for India. The best example was when the Supreme Court held in the Golak Nath Vs the State of Punjab, 1967 and in Minerva Mills Vs Union of India, 1980 that there were certain basic features of the Constitution which could not be taken away or altered.

15. Separate Constitution for Jammu and Kashmir:

In India we have only one Constitution in which it incorporates the constitutional systems of both Union and the States. The only exceptional case is Jammu and Kashmir. Under Article 370 of the constitution of India the state of Jammu and Kashmir has a constitution of its own dealing with only the internal constitutional aspects of the state of Jammu and Kashmir. This special arrangement for Jammu and Kashmir was made under historical compulsion.

16. A Borrowed Constitution:

The Unique Feature of Indian constitution is that it is based on borrowed material. Our fundamental rights largely follow the USA model; and the Directive principles of state policy are on the lines of the provision of the constitution of the Republic of Ireland. Along with all this most of our provisions are borrowed from the British made Government of India Act, 1935. We have also adopted British system of Administration and Bureaucracy, British Parliamentary Practice etc. Therefore it is said that our constitution is part of British heritage and Legacy.

Questions for Practice:

1. Explain the role of British laws in making of Indian constitution.
2. Describe the objective resolution and preamble.
3. What are the salient features of the Indian constitution?

References :

1. Utpal Roy, Introduction to Political Science, Calcutta Book House, 2011.
2. B.K. Gokhale, Political Science, Himalaya Publishing House, 2008.
3. M. Laxmikanth, India Polity, 5th Edition.



CITIZEN AND CONSTITUTION

Unit Structure

2.1 Introduction:

2.2 Philosophy and Ideals Mentioned in the Preamble

2.3 Rights and Duties

2.4 Directive principal of State policy

2.1 INTRODUCTION:

In a democratic system the power of ruling the people is in the hands of the government whom the citizens have voted. Constitution is a book of Role of Law where all citizens are given equal rights and duties to fulfil. It is a mirror which shows the rulers of the democratic how to rule govern administer control and dominate its people

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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.

Citizenship is the status of a person recognised under the law as being a member of the state.

However, the citizenship Act of 1955 and its amendments deal with acquisition and termination of citizenship. Moreover, the Constitution has also provided citizenship rights for overseas citizen of India, Non-resident and persons of Indian Origin. The term citizenship refers to the enjoyment of full membership of any community or state in which a citizen; enjoys civil and political rights. It can be defined as a legal relationship of an individual with a particular state which is expressed by pledging his loyalty towards state and by carrying out duties like paying taxes, serving in the army during need, respecting national principles and values etc.

2.3 RIGHTS AND DUTIES:

Every state is known by the rights it maintains. Rights are those conditions of social life which are essential for the development of human personality and help man to be the best of himself. This is the end of every state. It is therefore, by maintaining rights that the state can serve the purpose for which it came into existence and continues to exist. Rights may accordingly on the words of Laski, be defined as claims recognised and if necessary enforced by the state.

Rights arise from the social nature of man. It is the recognition of common objective, good life by all. Good life is the essence of rights. It is in this context that Laski defines rights as those conditions of social life without which no man seeks, in general, to be himself at his best. If there is no society there can be no rights. The state thus recognises, maintains and co-ordinates rights of its citizens. It is the function of the state to see that everyone enjoys his rights equally and along with others.

The state in modern world believes and promotes various rights to its citizen to create faith.

Following are certain rights which are given to the citizens of a country:

1. **Civil rights:** Civil rights concern the life and property of individuals. Civil rights are generally regarded as fundamental

because they constitute elementary conditions of social life. Without them civilised life is not possible and man does not get sufficient scope for the enrichment of his life. They consist in the right to life and property the right to contract the right to worship and religion the right to speech opinion and assembly. In a democratic State civil rights are duly safeguarded against any possibility of encroachment either by government or by individuals.

2. **Political Rights:** The following are some of the political rights provided by the state to its citizen:

i] The right to vote:

Every citizen in a democratic country possesses the right to vote. This right he exercises by casting his vote at the time of election. But this right is not granted to all citizens residing in a state. Aliens and certain criminals are devoid of the right to vote.

ii] The right to be elected:

Every adult has got the right to be elected in a democratic country. He can be the representative of the people in the Parliament.

3. **The right of Public office:**

All the citizens will be provided with equal opportunity in the matter of employment. No distinction shall be made on the grounds of race, caste, sex, place of birth or religion, etc.

Following are certain freedom in a democratic country to its people:

1. **The right to criticise the government:**

For a healthy democracy the people must enjoy the right to criticise the government. A part from the ruling party opposition is the strongest weapon of a democratic government where people who are elected through democratic process have all the right to question the governments various policies.

2. **Various theories of Rights:**

Rights have always been part of any civilised society in any part of the world. In fact social contract theory is also one of the promulgator of the rights and duties of the individuals in a society. Social contract theory itself is based on give and take policy where the people or the society surrender certain rights to a group of people and in return it's the authority or group of people in authority promise to protect them and their various rights in return. The various theories of rights emphasize on right to life right to liberty and right to property. All these rights are also an important part of our fundamental right.

Let's examine what are various qualities of an Ideal Citizen:

Self control:

A good citizen is one who always controls his emotions and passion. He has to keep in mind that along with him and his family there are members in the society who also occupy a certain piece of land temporarily or permanent resident without differentiating on the basis of caste creed gender language colour.

Sincere performance of Duties:

A good and ideal citizen is one who is devoted to his duties. Whatsoever duties are assigned to him he should perform them faithfully and not with the idea of avoiding them in anyway. If he fails to perform his duties honestly he shall be doing injustice to his State.

Public service Spirit:

A good citizen is one who works with the public service spirit. He should not consider himself alone but view the nation as a whole. His education and wisdom can only be of national unity when that is used, with that end in view. If there is no spirit for public service in an individual he cannot claim himself to be a good citizen.

Demand of Rights:

Along with performing his duties a good citizen is the one who is also aware of his rights along with his duties. He suppose to remind the government if Government become or uses arbitrary power against its citizens.

Right use of Office:

A citizen who possesses a good and authoritative office due to his qualification and calibre must not make it an office of profit rather render service to his fellowmen. He is being given this right to use his power and authority for benefit of other citizen

FUNDAMENTAL RIGHTS:

Fundamental rights are the rights granted by the Constitution as special protection to the citizens of the country. Governments which are democratic are bound to ensure that fundamental rights are not denied to its citizens. Fundamental rights are those rights which are important for intellectual, moral and spiritual development of individuals. As these rights are fundamental or essential for existence and all round development of individuals, hence called as Fundamental Rights. These are enshrined in Part iii [Articles 12 to 35] of the Constitution of India. These includes individual rights common to most liberal democracies, such as equality before the law, freedom of speech and expression, religious and cultural

freedom, peaceful assembly, freedom to practice religion, and the right to constitutional remedies for the protection of civil rights by means of writs such as habeas corpus, mandamus, prohibition, certiorari and quo warranto.

Fundamentals rights apply universally to all citizens, irrespective of race, birth place, religion, caste or gender. The Indian Penal Code [IPC] and other laws prescribe punishments for the violation of these rights, subject to the discretion of the judiciary. Though the rights conferred by the constitution other than fundamental rights are also valid rights protected by the judiciary, in case of fundamental rights violations, the Supreme Court of India can be approached directly for ultimate justice as per article 32. The Rights have their origins in many sources, including England's bill of rights, the United States Bill of Rights and Frances Declaration of the Rights of Man. There are six fundamental rights recognised by the Indian constitution:

RIGHTS TO EQUALITY Articles 14 -18

RIGHT TO FREEDOM Article 19-22

RIGHT AGAINST EXPLOITATION Article 23-24

RIGHT TO FREEDOM OF RELIGION Article 25-28

CONSTITUTIONAL & EDUCATIONAL RIGHTS Article 29-30

RIGHT TO CONSTITUTIONAL REMEDIES Article 32-35

Following are the features and Characteristics of Fundamental Rights:

1. The Fundamental rights are not absolute. They are subject to reasonable restrictions. They strike a balance between individual liberty and social Security. But the reasonable restrictions are subject to Judicial review.
2. All the Fundamental Rights can be suspended except the fundamental rights guaranteed under article 20 and 21.
3. Right to freedom is automatically suspended during Emergency. Some of the Fundamental rights are of the Indian citizens only, but some can be enjoyed by both citizens and aliens.
4. Fundamental Rights can be amended but they cannot be abrogated. The abrogation of Fundamental Rights will violate the basic structure of the Constitution.
5. Fundamental Rights are both positive and negative. The negative rights prevent the state from making discrimination.
6. Some Fundamental rights are available against the state. Some rights are available against individuals.

7. Some Fundamental Rights may not be available to personnel serving in the defence forces. They cannot enjoy all the fundamental rights.
8. The fundamental rights are social and political in character. No economic rights have been guaranteed to the Citizens of India, although without them the other rights are of little or of no significance.

RIGHT TO EQUALITY Article 14-18:

The right to equality includes equality before the law, the prohibition of discrimination on grounds of religion race caste gender or place of birth equality of opportunity in matters of employment the abolition of untouchability and abolition of titles. It is the right of every citizen to be treated equal in the eyes of law without considering the social financial status. Nobody should be differentiated on the basis of male and female when the Law treats everyone equal no body no governing authority nor can any power or position make changes in the treatment.

RIGHT TO FREEDOM Article 19-22:

The right of freedom includes freedom of speech and expression assembly association or union or cooperatives movement residence and right to practice any profession or occupation. This right gives its citizen to move freely in any part of India without any restriction or hurdle. It also ensures that people can also opt for any occupation of their choice if they possess the Qualification for the same which is required. Also people can shift anywhere for their profession or occupation in any state of their choice within the boundaries of India. The most important right is speech which enables its citizens to speak for and against the policies framed by the parliamentarians for its people. The human emotions can be well articulated through their expression could be anger happiness sadness or may be aggression. It gives a confidence to then people saying that their opinions also matter in the administration. Human being is a social animal is being cited by many philosopher's and social scientist in fact forming associations based on various aspects of choice likes thinking or any other aspect is correctly protected in this right.

RIGHT AGAINST EXPLOITATION Article .23-24:

The right against exploitation prohibits all forms of forced labour, child labour and trafficking of human beings. This right also protects the rights of female's labours who were paid less wages than males even though their kind of work and working hours were same. Females are the easiest targets for a male dominant society for exploitation. They are the one who are considered as the

weakest section of the society. There are so many cases against in regard to sexual harassment at work place on women. Favours over time promotion increment are some of the reasons where females become easy targets for the Capitalist or owners of manufacturing units, seniors, managers and co-workers as well. Such right protects the females from all such exploitation.

RIGHT TO FREEDOM OF RELIGION Article. 25-28:

The right to freedom of religion includes freedom of conscience and free profession, practice, and propagation of religion, freedom to manage religious affairs, freedom from certain taxes and freedom from religious instructions in certain educational institutes. Right to religion is the most important freedom and liberty as religion is the soul of every Indian. Every individual has the right to select the religion of his own choice follow beliefs and practice. Here comes the basic right of every citizen that he or should be given freedom to select his or her belief or stay away from any religious practice which is known as [atheist] forcing an individual to follow practices hampers the right to freedom of religion.

CULTURAL AND EDUCATIONAL RIGHTS Articles .29-30:

Cultural and educational rights preserve the right of any section of citizens to conserve their culture, language or script, and right of minorities to establish and administer educational Institutions of their choice. India is a diverse country with number of culture language food pattern dressing sense because of which it ads variety to our day today life. Every culture is unique in itself and all cultures are highly rich it could be celebrating festivals beliefs [not regarding anything related to superstition]. Dialect which is language the most important aspect by which human beings connect with each other. Every region every state has its own different language and medium of communication. According to the State authority every child who is lives in India has right to free and compulsory education. It means that a child who is with the age gap of 6 to 14 is entitled to get free and compulsory education in every government run schools which is basically primary and secondary education. No one should be rejected on the basis of gender caste creed language colour or race.

RIGHT TO CONSTITUTIONAL REMEDIES. Article.32-35:

The right to Constitutional Remedies is present for enforcement of fundamental rights. This right to privacy is an intrinsic part of Article 21 [The right to Freedom] that protects the life and liberty of the citizens. Every citizen is entitled to such a provision where a citizen has the right to get solutions to his problems. It is one of the most important fundamental right to possess constitutional remedies.

Fundamental rights for Indians have also been aimed at overturning the inequalities of pre-independence social practices. Specifically, they have also been used to abolish untouchabilities and thus prohibit discrimination on the grounds of religion, race, caste, sex, or place of birth. They also forbid trafficking of human beings and forced labour [a crime]. They also protect cultural and educational rights of religious and linguistic minorities by allowing them to preserve their language's and also establish and administer their own education institutions. They are covered in Part III {Articles 12 to 35} of the Indian Constitution.

FUNDAMENTAL DUTIES:

Along with fundamental rights come fundamental duties. It plays a very important role in the proper functioning of the government where the government provides certain rights to its people and citizens follow certain duties in return. The concept of Political Obligation is very much directly related to duties. The constitution (Forty second) amendment Act, 1976, broke new grounds by introducing the innovative concept of Fundamental Duties of the Indian citizens in the Constitution. For this purpose, a new part iv A consisting of Article 51 A has been added to the constitution.

Following are various Fundamental duties:

1. To abide by the constitution and respect its ideal and institutions;
2. To cherish and follow the noble ideals which inspired our national struggle;
3. To uphold and protect the sovereignty, unity and integrity of India;
4. To defend the country and render national service when called upon to do so;
5. To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional diversities,
6. To renounce practices derogatory to dignity of women,
7. To value and preserve the rich heritage of our composite culture;
8. To protect and improve the natural environment including forests, lakes, rivers, and wild-life and to have compassion for living creatures;
9. To develop the scientific temper, humanism and the spirit of inquiry and reform;
10. To safeguard public property and to abjure violence;

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

The importance of the fundamental duties is as follows:

1. The Fundamental Duties are non-controversial in nature:

Politicians of different views agree on the utility and importance of Fundamental Duties. They are in the best interest of the country and awaken patriotism among the citizens.

2. The Fundamental Duties create consciousness among the people:

The fulfilment of the fundamental duties is voluntary and not compulsory. They will slowly awaken the conscience of the people to do their duties.

3. The Fundamental Duties are the ideals and the guidelines for the individual:

These rights are ideal in nature and lead the citizen in the right direction. The environment of selfishness is rampant in the country. There is no balance between the interests of the society and individual. This tendency is eroding the society. Fundamental duties would serve as an ideal behaviour to all of them.

A citizen of India is entitled with many rights privilege's benefits and so on but the most important part lies with his duties. Duties are the heart of citizen of any country as when the State provides various rights it also expects certain duties to be performed by the society and its people.

2.4 DIRECTIVE PRINCIPLES OF STATE POLICY:

INTRODUCTION:

Inspired by the Constitution of Ireland, the Directive Principles contain the very basic philosophy of the Constitution of India, and that is the overall development of the nation through guidelines related to social justice, economic welfare, foreign policy, and legal and administrative matters. The Directive Principles are codified versions of democratic socialist order as conceived by Nehru with an admixture of Gandhian thought.

However, the Directive Principles cannot be enforced in a court of law and the State cannot be sued for non-compliance of the same. This indeed makes the Directive Principles a very

interesting and enchanting part of the Constitution because while it does stand for the ideals of the nation, these ideals have not been made mandatory.

These lay down that the State shall strive to promote the welfare of people by securing and protecting as effectively as it may, a social order, in which justice-social, economic and political-shall form in all institutions of national life. The directive principles are not enforceable in court it plays an important role in development and progress of nation and society. Directive Principles of State Policy and Fundamental Rights under Indian Constitution provides concrete base for social and economic justice in India.

Importance of Directive Principles of State Policy:

Directive Principles of State Policy aim to create social and economic conditions under which the citizens can lead a good life. They also aim to establish social and economic democracy through a welfare state. They aim at achieving social and economic democracy for establishing a welfare state. Directive Principles are classified under the following categories: Gandhian, economic and socialistic, political and administrative, justice and legal, environmental, protection of monuments and peace and security.

The Constitution lays down certain Directive Principles of State Policy, which though not justifiable, are 'fundamental in governance of the country', and it is the duty of the State to apply these principles in making laws.

Fundamental Rights are justifiable, as they can be enforced, whereas the directive principles are non-justifiable, in that, they are not enforceable in the court of law. While fundamental rights establish political democracy, directive principles set social and economic democracy.

The vision of the five National Goals and Directive Principles compelled post-independence governments to deliver social, economic and political development with consideration to equality, economic self-reliance, national sovereignty and protection of the natural environment.

Types of Directive Principles or Division of Directive principles:

Socialist Directives:

This part contains the directives for securing the welfare of the people of India, equal distribution of the material resources of the country protection of the fundamental rights of the children and youth, equal pay for equal work, education etc.

Gandhian Directives:

Under these directives are the guidelines for organising village panchayat, prohibition of intoxicating drinks and cow slaughter, secure living wage, decent standard of life, and to promote cottage industries, to provide free and compulsory education to all the children up to 14 years of age.

Liberal Intellectual Directives: In this section there are guidelines for uniform civil code throughout the country and the legislatures to follow in issuing orders or making laws

There are a total of **21** DPSPs in the Indian Constitution.

1. An article 36 & 37 doesn't contain any directive but deal with the definition of State and significance of directive principles respectively.
2. Articles 38 to 51 actually contain the DPSPs. And then the following directives under Articles- 39A, 43A, 43B and 48A- are added by various constitutional amendments. So a total of **18** DPSPs are in Part IV of the Indian Constitution. These are divided into three broad categories: Socialistic Principles, Gandhian Principles and Liberal-Intellectual Principles.
3. **3** DPSPs are outside Part IV of the Constitution. They are contained in Articles 335, 350A and 351.

APPLICABILITY:

Directive Principles of State Policy are the guidelines or principles given to the federal institutes governing the state of India, to be kept in citation while framing laws and policies. These provisions are the Fundamental for the governance of the country and are not enforced by any court. They can be amended by Special Majority. The Rights have legal sanctions and the principles ensure moral and political sanctions. The Rights tend to secure welfare of the individual while welfare of the community is promoted by the principles. Almost all the Rights are directly enforceable but separate legislation is required for implementing the principles.

In a nutshell, the Directive Principles consist of the following guidelines for the States: The State should strive to promote the welfare of the people. Maintain social order through social, economic and political justice. The State should strive towards removing economic inequality.

Inspired by the constitution of Ireland the Directive principles contain the very basic philosophy of the constitution of India and that is the overall development of the nation through guidelines

related to social justice economic welfare foreign policy and legal administrative matters. The Directive principles are codified versions of democratic socialist order as conceived by Nehru with a combination of Gandhian thought.

Features:

In short the directive principles consist of the following guidelines for the states:

- The state should strive to promote the welfare of the people
- Maintain social order through social economic and political justice
- The state should strive towards removing economic inequality
- Removal of inequality in status and opportunities
- To secure adequate means of livelihood for the citizens
- Equal opportunity for both men and women
- Prevention of child abuse
- Ensure proper working conditions and a living wage
- Assistance to the needy including the unemployed sick disabled and old people
- The state should endeavour towards a uniform civil code for all the citizens of India

Conclusion:

However the Directive principles cannot be enforced in a court of law and the state cannot be sued for not fulfilling the guidelines. This indeed makes the Directive principles a very interesting and enchanting part of the Constitution because while it does stand for the ideals of the nation these ideals have not been made mandatory.

References:

1. Durga Das Basu: An Introduction to the Constitution of India.
2. P.M. Bakshi: Constitution of India



THE LEGISLATURE AND JUDICIARY

Unit Structure

- 3.1 Objectives
- 3.2 Introduction
- 3.3 The Union Legislature
- 3.4 The Lok Sabha

3.1 OBJECTIVES:

The objective of this Unit is to make the students understand the Union Legislature of India that is the Parliament of India consisting of the two houses the Lok Sabha and the Rajya Sabha. It becomes important to understand these topics as it is in the Parliament that the laws are formulated for the entire country. The unit tries to make the students aware about the basic organization, functions, presiding officers of both the houses.

3.2 INTRODUCTION.

The term legislature can be defined as the organized body having the authority to make laws for a political unit. India has both Union as well as State legislatures. The Parliament of India is the legislative branch of the Indian Government. There exists two models of legislature – the Parliamentary form of government and the Presidential form of government. India after Independence has adopted the Parliamentary form of government, which is also described as the ‘Westminster’ model of government.

3.3 THE UNION LEGISLATURE

The Indian Parliament according to the article 79 consists of:

- a. The President.
- b. The Lok Sabha or the House of People
- c. The Rajya Sabha or the Council of States.

1) THE RAJYA SABHA/ COUNCIL OF STATES.

1.1 - Composition of the Rajya Sabha.

The Rajya Sabha also known as the Council of States is the Upper house of the Indian Parliament. The Constitution of India has

fixed the maximum membership of Rajya Sabha at 250. Out of 250 members, 238 members are elected indirectly from the states and the Union territories of India. The elections to the Rajya Sabha are indirect in nature as the members of the various state legislative assemblies elect the members on the basis of proportional representation by means of single transferrable vote system. The seats to various states are allotted on the basis of population and hence they vary from state to state. For instance, Uttar Pradesh sends 31 members to the Rajya Sabha while Maharashtra sends 19. However, out of the seven Union territories of India only two i.e. Delhi and Puducherry have representation as the other union territories have little population to receive nomination. The President nominated 12 members who have special knowledge or practical experience in various fields like art, literature, science and social service.

1.2 - Duration.

The Rajya Sabha is a permanent body and hence it cannot be dissolved. One-third of the members of the Rajya Sabha retire every second year. Fresh elections are conducted for the vacant seats and the presidential nominations take place at the beginning of every third year. The retiring members can be re-elected or re-nominated for any number of times. The Representation of People's Act of 1951 has provided that the term of office of a member of the Rajya Sabha shall be for six years.

1.3 -Qualifications of the Members of Rajya Sabha.

1. He/ She should be a citizen of India.
2. He/ She must not be less than 30 years of age.
3. He / She must subscribe and oath or affirmation stating to bear true faith and allegiance to the Constitution of India and uphold the sovereignty and integrity of India.
4. He/ She must possess other qualifications as prescribed the Parliament from time to time.

1.4 Disqualifications of the members of the Rajya Sabha.

According to the Constitution, a person can be disqualified as an elected member if:

1. If he/ she hold any office of profit under the Union or state government.
2. If he/ she is of unsound mind and is so declared by the court.
3. If he/ she is not a Indian citizen and if he/ she has acquired the citizenship of the foreign state.
4. If he/she is so disqualified under any law made by the Parliament of India.

1.5 Rajya Sabha – Officials.

The Vice President of India is the presiding officer of the ex-officio chairman of the Rajya Sabha. The Deputy Chairman of the Rajya Sabha is elected from amongst the members of the Rajya Sabha and discharges the duties in the absence of the Chairman.

The Chairman of the Rajya Sabha can be removed from his office only if he/ she is removed as the Vice President of India. In case of any periods, when the Vice President is required to act as the President, he/ she refrain from performing the duties of the Chairman of the Rajya Sabha. The Chairman is not the member of the Rajya Sabha. He/ She however can cast a vote in case of a tie.

The Deputy Chairman of the Rajya Sabha is elected by the members of Rajya Sabha from amongst themselves. He/ She performs the duties or the functions of the Chairman when the office falls vacant or in case or absence or if the Chairman is required to act as the President.

1.6 :Special Powers of the Rajya Sabha.

The Rajya Sabha has been accorded special powers by the Constitution that is not enjoyed by the Lok Sabha.

1. According to article 249, the Rajya Sabha can authorize the Parliament to make a law on the subject enumerated in the state list.
2. According to article 312, the Rajya Sabha can authorize the Parliament to create a law relating to the All India Services.

CHECK YOUR PROGRESS

Q. Explain in detail the Upper house of the Indian Parliament?

3.4 THE LOK SABHA.

1 Composition of the Lok Sabha/ House of People.

The Lok Sabha is the lower house of the Union legislature of India. The maximum strength of the Lok Sabha is 552 members out of which 530 members are elected by the states while 20 members are elected from the Union territories, and the rest 02 members are nominated by the President from the Anglo- Indian Community. The representatives from the states are directly elected by the people on the basis of Universal Adult Franchise. According to the Union territories (Direct Election to the House of People) Act 1965, the members to the Lok Sabha are chosen directly by the people.

2. Duration

The lok sabha is not a continuing chamber. The normal term of the lok sabha is for five years from the date of its first meeting after the general elections. The president is authorized to dissolve the Lok Sabha any time. The term of the lok sabha can be extended during the period of emergency for one year at a time. However, the extension can't continue after six months after the emergency has ceased to operate.

3 Territorial Constituencies.

For the purpose of conducting direct elections to the Lok Sabha the country is divided into territorial constituencies. For this each state is allotted seats on the basis of its population. For instance, Uttar Pradesh a highly populated state sends 80 members to the Lok Sabha, Maharashtra sends 48 members while sparsely populated states like Mizoram and Nagaland send 01 member each.

4 Reservation of Seats.

The Constitution of India provides for the reservation of seats to the Schedule Caste and the Schedule Tribes on the basis of the population. Originally, the provision of reservation was made for ten years however time and again it has expanded by amendments to the constitution. The 95th Amendment to the Indian Constitution has extended it till 2020.

5 Qualifications of the members of Lok Sabha.

1. He/ She should be a citizen of India.
2. He/ She must not be less than 25 years of age.
3. He / She must subscribe and oath or affirmation stating to bear true faith and allegiance to the Constitution of India and uphold the sovereignty and integrity of India.
4. He/ She must possess other qualifications as prescribed the Parliament from time to time.

5. He/ She must possess other qualifications as prescribed the Parliament from time to time.

6 Disqualifications of the members of Lok Sabha.

According to the Constitution, a person can be disqualified as an elected member if:

1. If he/ she hold any office of profit under the Union or state government.
2. If he/ she is of unsound mind and is so declared by the court.
3. If he/ she is not an Indian citizen and if he/ she has acquired the citizenship of the foreign state.
4. If he/she is so disqualified under any law made by the Parliament of India.

7 Lok Sabha- Officials.

The Speaker and the Deputy Speaker constitute the officials of the Lok Sabha.

Speaker of the Lok Sabha.

The presiding officer of the Lok Sabha is called as the Speaker. He/ She is elected by the Lok Sabha from amongst its members. The speaker is elected for a term of five years. The speaker remains in office during the life of the lok sabha however has to vacate the office if:

- a. If he / she ceases to be the member of lok sabha.
- b. If he/ she resigns.
- c. If he/ she is removed by a resolution supported by the majority members of the Lok Sabha after giving 14 days prior notice to the speaker.

8- Role, Powers, Functions of the Speaker.

1. To preside over the house and the meetings of the Lok Sabha.
2. To maintain the order and decorum of the house for the smooth conduct of the business.
3. To interpret the provisions of the (i) the Indian Constitution (ii) the rules of procedure and the conduct of the Lok Sabha.
4. To adjourn the house and also suspend it in case of absence of the quorum i.e. one-tenth of the total membership of the house.
5. In case of a tie, he / she can cast a vote.
6. To preside over the joint sitting of the two houses.

7. To appoint the chairman of all the parliamentary committees of Lok Sabha and supervise their functioning.
8. To certify if a bill is a money bill or not.
9. He/ She is the custodian of the rights and privileges of the members of the house.
10. To disqualify a member in case of defection.
11. To accept the resignation of the members of the house.
12. All the bills, motions, reports are introduced with the prior permission of the Speaker.

9 Deputy Speaker of the Lok Sabha.

The Deputy Speaker is also elected by the members of the Lok Sabha from amongst its members. The speaker remains in office during the life of the Lok Sabha however has to vacate the office if :

- a. If he / she ceases to be the member of Lok Sabha.
- b. If he/ she resigns by addressing the resignation to the Speaker.
- c. If he/ she is removed by a resolution supported by the majority members of the Lok Sabha after giving 14 days prior notice to the speaker.

The Deputy Speaker performs the duties when the Speaker's office falls vacant or the Speaker remains absent.

CHECK YOUR PROGRESS

Q. Explain in detail the lower house of the Indian parliament?

V. Legislative Procedure

The procedure followed in both houses to pass bills into act is same. The bills go through the same stages in both houses. Bills can be public bills- introduced by minister or private bills- introduced by anyone but a minister.

Quorum: Under article 100(3) of the Indian Constitution, the one tenth of the total membership of the house is called as Quorum. If there is Quorum, only then the business of the house can be transacted.

There are generally four types of bills that are introduced in the Indian Parliament.

1. Ordinary Bills

Bills that are concerned with any matter other than Financial Bills, money Bills and Constitutional Amendment Bills.

2. Money Bills:

These Bills deal with the taxes, public expenditure, consolidated and contingency funds, audit and accounting, etc.

3. Financial Bills

A Bill dealing with revenues or expenditure but is certified as Money Bill by the Speaker is a Financial Bill.

4. Constitutional Amendment Bills

The bills that are concerned with the amendment of the provisions of the Indian constitution.

1. Ordinary bills.

First Stage/ Reading of the bill:

It can be introduced by a minister or any member of the house in either house of the Parliament. The member who introduces the bill asks for the leave of the house. If granted he/ she introduces the bill by reading its title and objectives. No debates take place at the time of the introduction of the bill. The bill is then published in the Gazette of India. If any member opposes the bill, the member is asked to give the reason to oppose the bill and the question is put to vote. If the house is in favor of the introduction of the bill it then goes to the next stage. Thus, the introduction and the publication of the bill constitute the first stage.

Second Stage/ Reading:

This stage is describes as the most important stage as not only does the bill undergo a general discussion but it also assumed a detailed scrutiny and gets the final shape. Here, the house can take the bill for:

i. The General Discussion Stage

The printed copies of the bill are given to all house members and the house has the following options:-

- a. It may take the bill for immediate consideration .
- b. It can be referred to a select committee of the house (where the bill has originated).
- c. It can be referred to a joint committee of both houses.
- d. It can be circulated for public opinion.

In the first case i.e. if the bill is taken up for immediate consideration then amendments to the bills and clause by clause considerations to the bill are undertaken and voting takes place.

ii. The Committee Stage.

In this stage the bill is generally referred to the select committee, which examines the bill in detail discusses it clause by clause. It can also amend the provisions of the bill and after the scrutiny the committee reports the bill back to the house. Then, each clause is discussed and voting takes place separately, the members can also move amendments to the bill and if accepted the bill goes for the third reading.

Third Stage/ Reading:

In this stage the discussion is limited to the acceptance and rejection of the bill. If the majority members present and voting accept the bill, then it is regarded as passed by that particular house. Then, the bill is transmitted to the second house for its consideration and approval. The second house has to undergo all the stages as in the originating house. The second house has three options:

- a. It may pass the bill as send by the first house.
- b. It may pass the bill by certain amendments and return it to the first house for reconsideration.
- c. May reject the bill.
- d. May not take any action resulting in a deadlock between the two houses.

If the originating house accepts the amendments made by the second house then the bill is deemed to have been passed and is given to the President for his/her assent.

Whereas, if the first house does not accept the amendment or the second house rejects the bill or does not take any action for six months then there is a deadlock. It is resolved by the President who has the power to summon the joint meeting of both the houses. In the joint sitting if the majority of the members pass the bill then it is sent to the President for the assent. If not, then the bill lapses.

The Assent of the President.

After a bill is passed by both the houses either separately or through a joint sitting then it goes to the President for his/her assent to the bill. The President has the following options:

- a. May give the assent to the bill.
- b. May withhold the assent to the bill.
- c. May return the bill for reconsideration to the houses.

If the President gives the assent to the bill it becomes an Act. If the President withholds the assent then it does not become an act. If the President send back the bill for reconsideration and it is again passed by both the houses then the President has to give his or her assent.

Thus, the three readings together followed by the assent of the President are described as the Legislative or the law making procedure.

2. Money Bills.

Money bill is a bill that deals with the revenue and expenditure except a financial bill is a money bill. The Speaker of the Lok Sabha has the sole power to certify whether a bill is a money bill or not. The Constitution has laid down a special procedure to pass the money bills. The money bill can be introduced in the Lok Sabha only after the recommendation of the President. Such a bill is supposed to be introduced only by a minister and is hence called as the government bill.

If the money bill is passed by the Lok Sabha it then goes to the Rajya Sabha. The Rajya Sabha does not have the power to amend the bill or reject the bill, however it has the power to make certain recommendations to the Lok Sabha. It must return the money bill back to the Lok Sabha in 14 days with or without recommendations. The Lok Sabha has the power to accept or reject the recommendations. In any case, the bill is deemed to be

passed by the Lok Sabha. If the Rajya Sabha doesn't return the bill back in 14 days, then it deemed to have been passed by it.

Once the bill goes to the President for the assent, he/ she may either give the assent and it becomes an Act. The President can however with hold his assent but cannot return it back to the house for re consideration. Usually the President gives the assent as the bill is introduced with the prior permission of the President.

CHECK YOUR PROGRESS

Q. Describe in detail the Legislative Procedure?

VI. Parliamentary Privileges.

Parliamentary privileges refer to the legal immunities, exemptions enjoyed by the members of both the houses. It also extends to the persons who can take part and speak in the proceedings of the house. Some of the privileges enjoyed by the members are:

- a. Freedom of speech in Parliament.
- b. The members enjoy freedom from arrest in any civil case 40 days before and after the adjournment of the house and also when the house is in session. It is not applicable to criminal cases and preventive detention.
- c. They are exempted from attending court as a witness or can refuse to give evidence when the Parliament is in session.
- d. No person shall be held liable for publishing any reports, discussions etc. of the house under the authority of the member of the house.

CHECK YOUR PROGRESS

Q. Explain the different Parliamentary privileges enjoyed by the Members of the Parliament?

VII Parliamentary devices to control the Executive.**1. Question Hour:**

The first hour of a sitting of house is devoted to the Questions. Asking questions is an inherent right of members of Parliament. There are questions on every aspect of administration and activity of the government. Government policies in national as well as international spheres come into sharp focus. If the member is not satisfied by the answer received, he /she can request the presiding officer to open up the issue for a discussion.

2. Zero hour

The question hour is followed by the "Zero Hour". It starts at around 12 noon and members can, with prior notice to the Speaker before 10.00am by clearly stating the issue that has to be raised and taken for discussion during the zero hour.

3. Short Duration Discussion

As per the Rule of procedure and conduct of business in Lok Sabha under rule 193 there is a provision of Short duration discussion. It is a time where the members can raise questions in urgent issues of public importance.

4. Calling Attention Motion

With the prior permission of the presiding officer a member may call the attention of a minister on a particular issue that needs urgent hearing. The questions placed mainly pertain to the Union Government.

5. Adjournment motion

The adjournment motion is moved with the consent of the speaker. It is a motion adopted to set aside the normal functioning of the house and adopt issues that are of urgent public importance.

The main motive of this motion is to take the government at a task for the recent acts that have a serious consequence.

6. No confidence motion

In the house, the government is always supposed to enjoy the majority. They demonstrate their majority by moving the Motion of Confidence. This motion pertains to the ruling party and the council of Minister as they are collectively responsible to the house. However, passing a vote of no confidence against an individual member is not permissible. If the motion is passed then the government is bound to vacate the office.

CHECK YOUR PROGRESS

Q. Describe the various legislative devices to control the Executive?

VIII Parliamentary Committees.

The Parliament has voluminous functions to perform. It also lacks expertise and has to deliver in a short span of time. Hence, the Parliament is assisted by a number of committees to scrutinize the legislative and other issues. The parliamentary committees are classified into two categories:

a. Standing Committees- It refers to the committees that are constituted periodically or yearly and are continuous in nature.

The Standing committees are divided into six types:

i. Financial Committees : The financial committees consist of three important types :-

• **The Public Accounts Committee.**

This committee examines the annual accounts of the Government and the accounts showing appropriation of different sums granted by the Lok Sabha. It scrutinizes the report of the Comptroller and Auditor General (C.A.G.) in regard to the appropriation accounts of the Government.

- **The Estimates Committee.**

It examines the estimates in order to make suggestion in regard to economy and improvement in organizational, suggest alternative policies for bringing efficiency and economy in administration, examine whether the money is well laid out within the limits of the policy and the form in which the estimates are to be presented to the Parliament.

- **The Committee on Public Undertakings.**

It examines the reports and accounts of the Public Undertakings specified in the Rules of the Lok Sabha, the reports of the C.A.G. in regard to a Government undertaking, if the Government undertakings are being run according to appropriate principles and norms and other matters which may be referred by the Speaker to the Committee.

The Rules Committee of the Lok Sabha recommended setting up of 17 department related standing committees (DRSCs) in 1993. In 2004 the number was increased from 17 to 24.

The main motive of the DRSCs is to give more accountability to the Executive i.e. the Council of Ministers and the Parliament.

Besides these committees, there are committees which are classified as Other Standing Committees. They are as follows:-

i. **Committees to Inquire** – that includes – Committee on Petitions, Committee of Privileges and Ethics Committee.

ii. **Committee to Scrutinize and Control-** that includes Committee on Government Assurance, Committee on subordinate legislation, committee on papers laid on the table, committee on welfare for SC's and ST's, committee on Empowerment of women, Joint Committee on Offices for Profit.

iii. **Committee relating to the day to Day business of the house-** it consists of the Business Advisory committee, Committee on Private members bills and resolutions, the Rules Committee, and the Committee on absence of members from the sittings of the house.

iv. **House Keeping Committee/ Service Committees-**it consists of the General Purpose Committee, the House Committee, the Library Committee, and Joint Committee on salaries and allowances of members.

b. Ad Hoc Committees :

Ad hoc committees are divided into two types: Inquiry and Advisory Committees.

Inquiry Committee- Inquiry committees are constituted from time to time by either by the two houses or by the speaker or the chairman. It includes the following: Five year plans , Railway convention committee, etc.

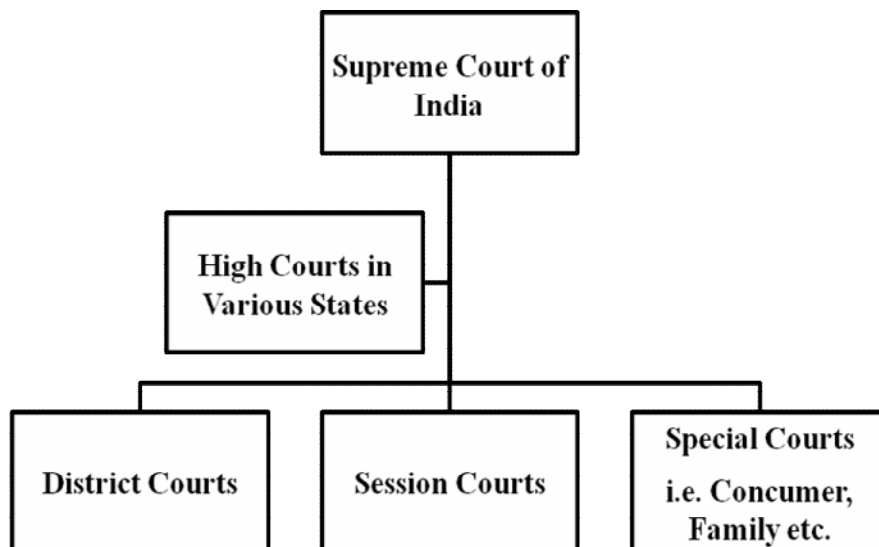
Advisory committee- it consist of select or the joint committees on bills that have to consider the report on bills. They are different from other ad hoc committees as the procedure to be followed by them is laid down in the Rules of procedure and directions by the speaker or the chairman.

CHECK YOUR PROGRESS

Q. Elaborate on the various Parliamentary Committees?

IX. The Judiciary of India

The Judicial structure of India consists of a three tier system i.e. the Supreme Court of India which is the apex court. Followed by it are the High Courts of various states whereas the last tier is the District and the Sessions court.



A. The Supreme Court of India

The inauguration of the Supreme Court of India took place on 28 January 1950. It succeeded the Federal Court of India that was set up by the Government of India Act 1935. It is the highest court of appeal in the entire country and the decisions of the court cannot be questioned. The jurisdiction of the Supreme Court of India extends throughout the country. Articles 124 to 147 of the Constitution of India deal with the Supreme Court of India and elaborate upon the organization, jurisdiction, independence etc.

i. Composition :

Initially the Supreme Court comprised of 01 Chief justice and 07 other judges. The Parliament has over the years increased the number of judges and at present the Supreme Court comprises of 01 chief justice and 30 other judges.

ii. Appointment of the Judges:

The President of India appoints the Judges and the Chief Justice of the Supreme Court of India. The President however consults other judges as he/ she deems fit before appointing the chief justice. The President is also required to consult the chief justice while appointing the judges.

The system of appointment and transfer of judges are decided by the collegiums system which came into being by the various interpretations of the constitutional provisions by the Supreme Court called as the Judges Cases. It is a system wherein appointments and transfers of judges of are decided by a collegium. The collegiums of the Supreme court comprises of the Chief Justice of India and the four senior-most judges of the Supreme Court while the High Court Collegiums consist of the Chief Justice and four senior most judges of that particular court.

The 99th Amendment to the Constitution, 2014 and the National Judicial Appointment Commission Act, 2014 (NJAC) had replaced the collegiums system and established National Judicial Appointment Commission. However, in the year 2015 the Supreme Court of India declared both of them as null and void and continued with the previous system of collegiums.

iii. Qualifications

To be appointed as the judge of the Supreme Court a person should possess the following qualifications:

- i. He / She should be a citizen of India.
- ii. He/ She should have been a judge of high court or various high courts in succession for at least five years **or** he/ she should

have been an advocate of a high court various high courts in succession for at least ten years or in President's opinion he/she should have been a distinguished jurist.

iv. Oaths

The Person appointed as the judge of the Supreme Court before entering the office has to take the following oath before the President of India:

- a. Bear true faith and allegiance to the Constitution of India
- b. Uphold the sovereignty and integrity of India
- c. Duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favor, affection or ill-will
- d. Uphold the Constitution and the laws

v. Tenure and Removal

The judge of the Supreme Court of India remains in office till he/ she attains the age of 65. The other ways when the judge vacates his/ her office before the completion of the tenure is:

- If he/ she resigns by addressing to the President of India.
If he/ she is removed by an order of the President supported by not less than 2/3 rd members present and voting of both the houses of the Parliament only in case of misbehavior or incapacity

vi. Salaries and Allowances

The salaries, pensions, privileges, etc are determined from time to time by the Parliament. They cannot be varied to their disadvantage except during the financial emergency i.e. Article 360.

vii. Seat of the Supreme Court

The Supreme Court's original seat is at Delhi; however the Constitution authorizes the chief justice to appoint another place or places as the seat of the Supreme Court.

viii. Practice after Retirement

The constitution has mandated that no person after retirement as a judge from the Supreme Court of India can practice in any court within the territory of India.

ix. Ad Hoc Judges

If there is a lack of quorum in the Supreme Court the Chief Justice can appoint a judge of the High Court as an ad hoc judge,

only after the consultation of the chief justice of that particular high court. Moreover, the judge who is appointed shall be qualified to be appointed as the judge of the Supreme Court of India.

x. Acting Chief Justice

The President of India is empowered to appoint a judge of the Supreme Court as the acting Chief Justice of India in following situations:

- a. If the office of the Chief Justice is vacant
- b. If the Chief Justice is absent temporarily
- c. The Chief Justice is unable to perform the duties allotted.

CHECK YOUR PROGRESS

Q. Describe the Structure of the Supreme Court of India?

I. Independence of the Judiciary.

The Supreme Court of India is the apex court and is also the guarantor and guardian of the fundamental rights of the citizens of India. Thus, the work assigned to the Supreme Court is very essential and so it should remain away from any encroachments, pressure and interferences of both the executive and the legislature. Hence, the Indian Constitution has made certain provisions to preserve the independence and the impartiality of the Supreme Court of India, which are as follows:

i. Appointment:

The Judges of the Supreme Court are appointed by the President of India in consultation with the judiciary. Thus, it curtails the absolute choice of the executive and makes sure that appointments are not political in nature.

ii. Tenure:

The judges of the Supreme Court enjoy a fixed tenure and can be removed by the President only on the ground mentioned in the Constitution.

iii. Service Conditions:

The salaries, allowances, privileges, leave and pensions of the judge are determined by the Parliament from time to time and cannot be changed to their disadvantage except during the financial emergency that allows them to discharge their functions impartially.

iv. Expenses on Consolidated Fund of India

The allowances, salaries, pensions, and administrative expenses are all charged from the Consolidated Fund of India which is non-votable in the Parliament.

v. Conduct of judges

The Constitution of India does not allow any discussion or debate in the parliament of India regarding the conduct of the judges in discharge to their duties. This can only be done when the impeachment motion is taking place.

vi. No practice after retirement

The judges of the Supreme Court of India are not allowed to plead before any authority or any Court in India after their retirement that preserves their dignity.

vii. Contempt of Court

The Supreme Court enjoys the power to maintain its dignity, authority and honor and therefore can punish any person for the contempt of Court. The decisions given and actions taken by the Supreme Court cannot be criticized or opposed by anyone in the country.

viii. Appointment of the staff

The executive cannot interfere in the appointments of the judges, servants. This power has been vested to the Chief Justice of India. Thus the Supreme Court is independent to decide its own staff.

CHECK YOUR PROGRESS

Q. Is the Judiciary in India independent? Explain in detail

II. Jurisdiction and the Powers of the Supreme Court of India.

The Supreme Court of India enjoys powers and extensive jurisdiction. The various jurisdictions enjoyed by the Supreme Court can be grouped as follows:

1. Original Jurisdiction

Supreme Court is the Highest Interpreter of the Constitution and settles the disputes between:

- a. Government of India and one or more states
- b. Government of India and State(s) on one side and State(s) in other side
- c. Between two or more states.

The Supreme Court has exclusive jurisdiction meaning no other court is entitled to decide such disputes in the country. However, the dispute should involve a question whether of law or fact on which depends existence of a legal right which the court is called upon to determine.

The Supreme Court is also entitled to declare nay law as null and void or unconstitutional if it is an infringement of the Fundamental Rights of the citizens.

2. Writ Jurisdiction

The Supreme Court is the guarantor and defender of the fundamental rights of the people. If the fundamental rights are violated then the writ jurisdiction of the Supreme Court permits the Court to issue various writs enumerated in the article 32 of the

Indian Constitution. It consists of Habeas Corpus, Mandamus, Prohibition, Certiorari and Quo Warranto. This writ also comes under the original jurisdiction of the Court however; it is not exclusive in nature meaning that even the High Courts in India have the power to issue such writs.

3. Appellate Jurisdiction

The Supreme Court is the highest court of appeal in the country. It hears the appeal against the judgments given by the lower courts in India. It enjoys the following appellate jurisdiction:

a. Appeal in Constitutional Cases:

An appeal can be filed in the Supreme Court against the decision given by the high court if the high court certifies that a particular case involves a substantial question of law that needs an interpretation to the Constitution of India.

b. Appeal in Civil Cases:

An appeal can be filed in the Supreme Court from any judgment of the High Court if it certifies that the case involves a question of general importance and that it needs to be decided by the Supreme Court.

c. Appeal in Criminal Cases

An Appeal can be filed in the Supreme Court against the judgment in a criminal proceeding of a high court if the high court – (i) has on appeal reversed an order of acquittal of an accused person and sentenced him/her to death (ii) has taken a case from the Subordinate Court, convicted the accused person and sentenced him to death (iii) certifies that the case is a fir one for appeal to the Supreme Court of India.

d. Appeal by Special Leave.

The Supreme Court has the power to grant a special leave in any issue from any judgment passed by a tribunal or any court in the country except Military tribunal and the Court Martial. It has four aspects: (i) it cannot be claimed a right as it is a discretionary power (ii) can be granted in any judgment both final and interlocutory.

4. Advisory Jurisdiction:

The article 143 of the Indian Constitution authorizes the President of India to seek the advice of the Supreme Court in (i)

question of a fact or law having public importance that is likely to arise or has already arisen. (ii) on any pre- constitutional treaty, agreement etc . Some examples of such an appeal are Delhi Laws Act, 1951, Sea Customs Act, 1963, Presidential Elections, 1974, Cauvery Water disputes Tribunal, 1992.

5. A court of Record :

The judgments, proceedings and acts of the Supreme Court are recognized as legal precedents and legal references. They are recorded for testimony. They are of evidentiary value and cannot be questioned when produced before any court.

6. Judicial Review

Judicial review means the power given to the Supreme Court to declare any legislative act or an executive order pertaining to both the central and the state government as null and void or unconstitutional if the act or the order contravenes any provision of the Indian Constitution.

CHECK YOUR PROGRESS

Q. Describe the powers and the jurisdiction of the Supreme Court of India?

B. The State Judiciary: High Court.

Below the Supreme Court of India, there prevails the High Courts. It has the top position in the judicial set up of the states. In 1862, the high Courts in India were set up at Calcutta, Bombay and Madras. The Indian Constitution provides for a high court in every state of India, however, the Seventh Amendment Act 1956 authorizes the Parliament for the establishment of a common court for two or more states of India. Currently, there are 24 high courts in India. Delhi is the only union territory to have a separate High Court.

Articles 214 to 231 in the VIth Part of the Indian Constitution deal with the High Courts of India.

i. Organization of high court

Every High Court consists of a Chief Justice and other judges appointed by President.

The number of judges for the High Courts is not specified in the Constitution and varies from State to State.

ii. Appointment of the Judges:

The President appoints the Chief Justice of the High Courts of India after consulting the Chief Justice of India and the Governor of that particular state. The President also appoints the judges of the High Courts in India after consulting the Chief Justice of the respective High Court. The President consults the Governor of all states in appointing the Chief Justice and Judges in case of a common High Court.

iii. Qualifications

A person can be appointed as a Judge of the High Court if:

He is a citizen of India

He has been held a judicial office for not less than 10 years in the territory of India ; or

He has been for at least 10 years an advocate of one or of two or more High Courts in succession.

iv. Oath or Affirmation

The person appointed as a judge of the High Court has to take an oath before the Governor of the particular state.

- a. Bear true faith and allegiance to the Constitution of India
- b. Uphold the sovereignty and integrity of India
- c. Duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favor, affection or ill-will
- d. Uphold the Constitution and the laws.

v. Tenure and Removal

The judge of the Supreme Court of India remains in office till he/ she attains the age of 62. The other ways when the judge vacates his/ her office before the completion of the tenure is:

- If he/ she resigns by addressing to the President of India.
- If he/ she can be removed by the President after an address supported by the special majority of each house of parliament (i.e. majority of the total membership of that house and a majority of not less than two-thirds members present and voting) only in case of proved misbehavior or incapacity.

vi. Acting Chief Justice.

The President can appoint a judge of the high court as the Acting Chief Justice if:

- The office of Chief Justice of the High Court is vacant
- If the Chief Justice is absent for a temporary period.
- If the Chief Justice of the High Court is not able to perform his/her duties.

vii. Acting Judges of the High Court.

The President of India has the power to appoint a qualified person as the acting judge of the High Court when:

- The judge of that high court is unable to perform his or her duties.
- That particular judge is appointed as the temporary Chief Justice of that High Court.

CHECK YOUR PROGRESS

Q. Describe the Structure of the High Court of India?

I. Jurisdiction and Powers of the High Court.

Like the Supreme Court of India, the High Court also enjoys extensive powers. The Indian Constitution does not lay down the detailed provisions of the High Court. It only provides that the High Court's powers and the Jurisdiction of the High Courts are to be the same as before the commencement of the Constitution. The High Court enjoys the following powers:

1. Original Jurisdiction.

It means the power of the High Courts to hear disputes in the following areas:

- Will, marriage, divorce, contempt of court etc.

- Disputes concerning the election of members to the State legislatures and the Parliament.
- Concerning revenue matters.
- Fundamental rights of the citizens and its enforcement etc.

2. Writ Jurisdiction

The Constitution of India under article 226 empowers the High Courts of India to issue writs. These writs are Habeas Corpus, Mandamus, Certiorari, Prohibition and Quo Warranto which can be issued to enforce the fundamental rights of the citizens. It signifies that if the fundamental rights of the citizens are violated then the citizen can move to the High Court directly for which the High Court can issue writs to any person, authority.

3. Appellate Jurisdiction

Apart from the Original and Writ jurisdiction the High Court also enjoys Appellate jurisdiction. It means it is a court of Appeal in both Criminal; Civil issues and hears decisions against the Subordinate Courts in its territorial jurisdiction.

4. Supervisory Jurisdiction

Over all the tribunals and the Courts (except the Military courts) in its jurisdiction the High Court enjoys the power of supervision or superintendence. It includes:

- High Court can call for returns,
- Issue and form rules and prescribe the procedure and practice for their working
- It also is authorized to describe the ways in which books, accounts etc are to be maintained.

5. Control over the Subordinate Courts

The various ways in which the High Court exercises its authority over the subordinate courts are:

- The Governor of the state consults the High Court of that State where appointments, promotions etc of the district judges etc are to be made.
- It also has the authority to withdraw a particular case which involves a substantial question of law and requires the interpretation of the Constitution from any subordinate court.

6. A Court of Record

Just like the Supreme Court of India the High Courts of India act as a Court of Record. The judgments given and the proceedings conducted are recorded for perpetual memory and

testimony. These records cannot be questioned by any subordinate courts.

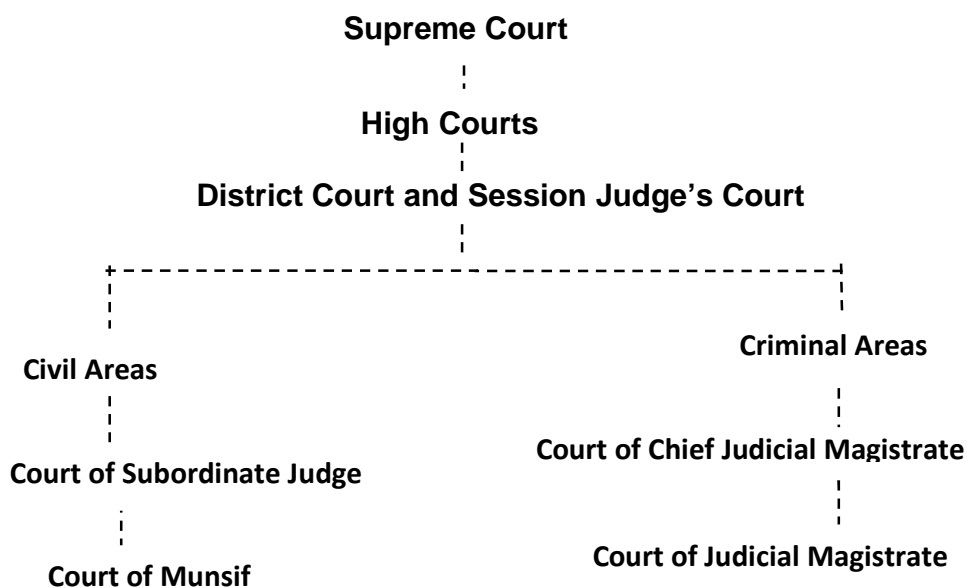
7. The Power of Judicial Review

Judicial review means the power given to the Supreme Court to declare any legislative act or an executive order pertaining to both the central and the state government as null and void or unconstitutional if the act or the order contravenes any provision of the Indian Constitution. Articles 32 and 226 describe the judicial review in the Constitution of India.

CHECK YOUR PROGRESS

Q. Describe the Jurisdiction and powers of the High Court of India?

C. Subordinate Judiciary In India



The organization of the subordinate judiciary is laid down by the States. Thus, the structure of the subordinate courts differs from state to state. Below the High Courts are the Subordinate Courts in every state. When the judge handles the civil cases, he or she is known as the district judge and when he or she handles the criminal cases he or she is called as the session's judge.

The district judge possesses not only the administrative but also the judicial powers however; he or she also has supervisory powers over the subordinate courts prevailing in the district. The Court of Subordinate Judge has all powers relating to civil suits while the Court of Chief Judicial Magistrate has all powers relating to the criminal suits. The Chief Judicial Magistrate can decide cases of imprisonment up to seven years. The Munsif Court falls below the Court of Subordinate Judge and possesses limited jurisdiction. Whereas, the Court of Judicial Magistrate can try cases with imprisonment up to three years.

CHECK YOUR PROGRESS

Q. Describe the Structure of the Subordinate Judiciary in India?

X Judicial Review.

The Indian Constitution has originally prescribed for Judicial Review in India unlike the US Constitution. The concept of judicial review came into existence for the first time in the Marbury vs Madison case 1803. Moreover, the concept of judicial review is a part of the basic structure of the Indian constitution and thus cannot be curtailed even by a constitutional amendment.

Judicial Review is the power of the judiciary to interpret the constitution and declare any law or order of the legislature and executive void, illegal or unconstitutional, if it found to violate the Constitution of India.

Need of Judicial Review:

For the following reasons there is a need of judicial review in the country.

- a. to maintain the supremacy of the Indian Constitution.
- b. to maintain the balance between the center and the states.
- c. to ensure that the fundamental rights of the citizens are protected.

Examples:

The Supreme Court has extensively used the power of Judicial Review in India. Some of the prominent examples are: The Golaknath case 1967, the Kesavananda bharti Case 1973, Minerva Mills's case, 1980. Recently, in the year 2015 the Supreme Court declared National Judicial Appointments Commission (NJAC) act, 2014 as null and void.

XI Judicial Activism and Public Interest Litigation:

The term Judicial Activism was first used by Arthur Schlesinger Jr. In India the concept of judicial activism was developed by Justice V.R. Krishna Iyer, Justice P.N. Bhagwati, Justice O. Chinnappa Reddy and Justice D.A. Desai in the 1970s.

Judicial activism refers to the proactive role played by the judiciary to promote justice in the society and protect the rights of the citizens of the country. Moreover, it also implies that the judiciary forces the Legislature and the Executive organ of the Government to discharge its duties properly.

The concept of Public Interest Litigation is closely associated with judicial activism in India. Justice V.R. Krishna Iyer and Justice P.N. Bhagwati were the pioneers of PIL in India. In case of PIL, any person or an organization can move to the court for the enforcement of right of the any person or group of persons who due to their ignorance, poverty or any other reason couldn't approach the court. Earlier, only the aggrieved person whose rights were violated could move to the court.

Thus PIL can be defined as:

Public Interest Litigation (PIL), means a legal action initiated in a court of law for the enforcement of public interest or general interest in which the public or class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected."

XII. Let's Sum Up:

Thus, in this chapter we have studied about the Legislature and the Judiciary of India. The Lok Sabha and the Rajya Sabha comprise of the Indian Parliament and make laws for the nation. Therefore it is very important to understand the functioning of both the houses. The legislative or the law making procedure is described in detail for the various types of bills that prevail etc. The privileges enjoyed by the members of the Parliament are also mentioned and the various parliamentary committees that play an important role in formulation of a law. In turn is the judiciary of India that checks if the laws made do not contravene the provisions of the Indian Constitution. Thus, the role of judiciary is pertinent as it is the guarantor of the fundamental rights of the citizens. The detailed structure of the Supreme Court the High Court and the Subordinate courts is discussed in the chapter.



THE EXECUTIVE

Unit Structure

- 4.1 Objectives
- 4.2 Introduction
- 4.3 The president
- 4.4 The Prime Minister
- 4.5 The Council Of Ministers
- 4.6 Local Self Government in India

4.1 OBJECTIVES:

The objective of this chapter is to make the students aware of the Executive branch of the Government that mainly comprises of the President, Prime Minister and the Council of Ministers. Moreover, the chapter also examines the process of democratic decentralization in the country and provides a detailed analysis of the 73rd and the 74th Constitutional Amendment Act.

4.2 INTRODUCTION

The Union executive of India comprises of the President, the Vice-President, and the Council of Ministers. The President is the first citizen of India and the head of the state. He/ She is a symbol of nation's unity and integrity. The Prime Minister is the head of the Government and exercises the real executive power as the President carries out the functions with the aid and advice of the Prime Minister and the Council of Ministers.

4.3 THE PRESIDENT.

a. Election

As per article 54 of the Indian constitution the President is supposed to be elected by an electoral college consisting of:

- The elected members of the Rajya Sabha as well as the Lok Sabha;
- The elected members of the Legislative Assemblies of the States;

- The elected members of the National Capital Territory of Delhi and Union Territory of Pondicherry.

Thus, it has to be understood that the nominated members of both the houses of Parliament, nominated members of the legislative assemblies, the legislative council (both elected as well as nominated members) , nominated members of Delhi and Pondicherry do not take part in the Presidential election process. If in case, the assembly stands dissolved, the members are not eligible to vote in the elections of the President even if the fresh elections are not conducted.

In India the system of Proportional Representation by means of Single Transferable Vote Method/System is followed in the elections of the President. Proportional representation is characterized by the fact that an electorate is directly proportional to the elected body. In Single Transferable Vote System, every elector gives first and the second preferences. If a candidate secures in the first counting absolute majority, he/ she is declared elected. However, the lowest polling candidate's second preference votes are transferred to the other candidates till the time a candidate crosses 50% of votes. According to the Constitution there shall be uniformity in the scale of representation of the different States at the election of the President and parity between the States as a whole and the Union.

b. Qualifications

The following are the qualifications needed for the office of President as per Articles 58 and 59 of the Indian Constitution.

- He/ She should be a citizen of India.
- He/ She should be 35 years of age or above.
- He/ She should be qualified to become a member of the Lok Sabha.
- He/ She shall not be a member of either House of Parliament.
- He/ She shall not be a member of a House of Legislature of any State.
- The President of India cannot hold any other office of profit under the Union, State or local governments.

In case a member of either House of Parliament or of a House of Legislature of any State is elected as the President then he shall be deemed to have vacated his seat in that House on the date he assumes the office of the President of India.

c. Term of Office

The President of India is elected for a term of five years from the date on which he enters his office. The office of the President of India may fall vacant on the following grounds:

- On the expiry of the tenure of Five years
- Addressing a letter of resignation to the Vice President of India.
- Impeachment- removal of the President.
- In case of death.

In case of a vacancy in the Office of President, the Vice-President of India acts as the President till the time a new President is elected which is within 6 months from the date of vacancy. Also, if any disputes arise due regarding the election of President they are to be settled by the Supreme Court of India. In this situation, the Vice President enjoys all the powers and immunities received by the President. Also, the President is eligible for re-election.

d. Oath

The President and every person acting as President or discharging the functions of the President before entering his/ her office make and subscribe an oath in the presence of the Chief Justice of India or, in his absence, the senior-most Judge of the Supreme Court available.

The Oath is subscribed as follows:

"I, do swear in the name of God that I will faithfully execute the office of President of India and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of India".

e. Impeachment

The procedure of impeachment or removal of the President of India is discussed in article 56 and 61 of the Indian Constitution. The constitution of India describes "Violation of Constitution" as the grounds for the impeachment process. The process can begin in any house of the Indian Parliament. The charges of impeachment should be signed by 1/4th member of the particular house where it initiated and a prior notice of 14 days has to be given to the President. Then, it has to be passed by not less than 2/3rd of the total members in the house. It is then sent to the other house which investigates the charges levied against the President. While the investigation is going, the President has the right to be present for such investigations. After the investigation, if the other house also passes the impeachment resolution by 2/3rd majority of the total membership of the house then the President stands impeached or removed from the office from the date on which the resolution is passed. However, in this process of impeachment, it has to be

noted that the nominated members of either house of the Parliament can participate while the elected members of the legislative assemblies of the states and the Union territories of New Delhi and Pond cherry cannot take part although they are a part of the election process.

f. Powers and Functions of the President.

According to article 53 of the Indian Constitution, **The executive powers of the Union shall be vested in the President and shall be exercised by him either directly or through the officers subordinate to him in accordance with this Constitution.**”

The President of India enjoys the powers and performs functions as follows:.

i. Executive Functions

The President is at the head of the Union Executive and hence all the executive powers are exercised in his name.

1. The President enjoys the power to appoint the Judges of the Supreme Court and the High Courts, the Auditor General of India, the Attorney General of India, the Governors of the states. and many other high officials, such as the members of Finance Commission, Election commission, Union Public commission, the Comptroller and Auditor General of India, the members of the Union Public Service Commission, the chief election commissioner and other election officers.
2. The President also enjoys the power to appoint the Prime Minister of India.
3. With the advice of the Prime Minister, the President appoints the Union Council of Ministers.
4. He summons the leader of the political party which has obtained an absolute majority in the Lok Sabha to become the Prime Minister and form the Ministry.
5. He/ She also enjoys the power to seek any information regarding the administration of the Union government, proposals for legislation from the Prime Minister .
6. He/ She can appoint a commission to check into the conditions of the Schedule Caste, Schedule Tribes and the Other Backward Classes.
7. The President directly administers the union territories with the help of administrators who are appointed by him/her.
8. He / she has the power to declare any area as a schedule area and enjoys the power with respect to Schedule and the tribal area.

ii. Legislative Powers and Functions

1. The President shall summon and prorogue the parliament from time to time, can dissolve the lower Chamber of Parliament, the Lok Sabha. He/ She can also call for a joint sitting of both the houses of the Parliament which shall be presided by the Speaker of Lok Sabha.
2. The President may address either or both House of Parliament, at the first session after general election and at the first session of each year.
3. The President may send messages to either House, or to both Houses of the Parliament
4. The President nominates a number of members in both Houses i.e in Lok Sabha 02 members from the Anglo Indian Community and 12 members in Rajya Sabha having special and practical knowledge of literature, science, art and social services.
5. The President also has the power to appoint a member of the Lok Sabha to preside over the house in case the office of both the Speaker and the Deputy Speaker fall vacant. Similarly, he/ she can appoint a member of Rajya Sabha to preside over the house in case the office of the Chairman and the Vice Chairman remain vacant.
6. A bill passed by both the Houses of Parliament requires the assent of the President to become an Act. The President may
 - a. Give his/ her assent to the bill.
 - b. Withhold the assent
 - c. Return the bill (except money bill) for reconsideration.
 1. But, if the President returns the bill back for reconsideration and it is passed again then he/ she does not have the option but to give his/ her assent to the bill.
 2. In certain cases, prior sanction of the President is required for initiating any bill for example the bill for formation of a new State or altering the boundaries of the existing State or States. Apart from this to introduce the Money bill prior permission is necessary of the President of India.
 3. A bill passed by a State Legislature can also be sent for the consideration of the President by the Governor of that State.

iii. **Power to Promulgate Ordinances**

When both Houses of Parliament are not session, the President enjoys the power to promulgate such Ordinances as per the needs of the circumstances. However, such an ordinance shall have the same force and effect like that of an Act of Parliament. Such an ordinance shall cease to operate unless passed by both Houses of Parliament within the stipulated period.

iv. **Financial Powers and Functions**

1. The President causes the annual budget of the Union Government to be laid before Parliament every year.

No proposal for spending money or raising revenues for purposes of government can be introduced in Parliament without previous permission of the President.

v. **Emergency Powers of the President**

Three kinds of Emergencies can be proclaimed by the President as per the Indian Constitution:

1. National Emergency (Art. 352)
2. Failure of Constitutional Machinery in a State or State Emergency (Art. 356);
3. Financial Emergency (Art. 360)

vi. **Military and Diplomatic Powers:**

The President is the supreme commander of the Armed forces and appoints the chiefs of Army, Navy and Air Force. It means that though the President has the power to take action as to declaration of war or peace or the employment of the defense force but is subjected to the approval of the Parliament.

vii. **Diplomatic Powers of the President of India:**

1. The president receives ambassadors, High Commissioners and diplomatic envoys from foreign nations.
2. All international treaties and international agreements are made in the name of the President but are subjected to the approval of the Parliament.
3. The President has the powers of appointing Indian Ambassadors to other countries.

viii. **Judicial Powers:**

The President has the power to grant pardon reprieves, respites & remission of punishment or to suspend remit or commute the sentence of any person convicted of any offence.

1. In all cases where the punishment & sentence is by court martial.

2. In all cases where the punishment or sentence for an offence against a law relating to a matter to which the, executive power of the Union extends.
3. In all cases where the sentence is a death sentence.

Check your Progress:

1. Explain the office of the President of India?
2. Describe the various powers and functions of the President of India?

4.4 THE PRIME MINISTER

The Prime Minister is the head of the Government. He/ She is appointed by the President of India. The President calls the leader of majority party in the Lok Sabha to form the government.

The powers enjoyed and functions performed by the Prime Minister are as follows:

a. In Relation to Council of Ministers

The Prime minister is the head of the council of Ministers. In case of his/her death or resignation, the entire Council of Ministers stands dissolved.

1. Although the President of India appoints the Council of Ministers, it is the Prime Minister who recommends exercises the persons to be appointed as Ministers.
2. The meetings of the council of ministers are presided over by the Prime Minister.
3. The Prime Minister has the power to ask a minister to resign or advise the President to dismiss him in case of difference of opinion.

4. Allotment and re shuffling of portfolios among the ministers is done by the Prime Minister.

b. In Relation to the President

1. He is the principal channel of communication between the president and the council of ministers.
2. He advises the president with regard to the appointment of important officials like attorney general of India, comptroller and auditor general of India, chairman and members of the UPSC, election commissioners, chairman and members of the finance commission and so on.

c. In Relation to Parliament

The prime minister is the leader of the Lower House. In this capacity, he enjoys the following powers:

1. He advises the president with regard to summoning and proroguing of the sessions of the Parliament.
2. He can recommend dissolution of the Lok Sabha to president at any time.
3. He announces government policies on floor of the House.

d. Other Powers & Functions

In addition to the above-mentioned three major roles, the prime minister has various other roles. These are:

1. He is the chairman of the Planning Com-mission (now NITI Aayog), National Development Council, National Integration Council and Inter-State Council,
2. He plays a significant role in shaping the foreign policy of the country.
3. He is the chief spokesman of the Union government.
4. 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.
5. He is the crisis manager-in-chief at the political level during emergencies. He is leader of the party in power and the political head of the services.

Check your Progress:

1. Describe the office of the Prime Minister of India?
2. Explain the different functions of the Indian Prime Minister?

4.5 THE COUNCIL OF MINISTERS

The Council of Ministers headed by the Prime Minister of India is the actual executive authority in the country. Article 74 and 75 of the Indian Constitution deal largely with the council of ministers.

Article 74 of the Constitution reads as follows:

(1) There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advises. Provided that the President may require the Council of Ministers to reconsider such advice, either generally or otherwise, and the President shall act in accordance with the advises tendered after such reconsideration

(2) The advice tendered by Ministers to the President shall not be inquired into in any court.

Article 75 on the other hand deals with the tenure, appointment, responsibility, qualifications, oath, salary and allowances of the ministers.

a. Collective Responsibility

The principle of collective responsibility is the underlying principle of Parliamentary form of government. Article 75 of the Indian Constitution states that the council of Ministers are collectively responsible to the Lok Sabha for their acts of omissions and commissions. In case the motion of no confidence has been passed in the Lok Sabha then all the council of ministers resigns alongwith the ministers in Rajya Sabha. The President can be advised by the Council of Ministers to dissolve the Lok Sabha on the ground that Lok Sabha no longer represents the views of the electorate.

Collective responsibility also implies that Cabinet decisions bind all Cabinet ministers and thus it is the duty of each and every minister to support the cabinet decisions in and out of the Parliament. If the minister disagrees then he or she can resign.

b. Individual Responsibility.

Art. 75 also talks about individual responsibility. It mentions that Ministers shall hold office during the pleasure of the President meaning that the President has the power to remove a particular minister while other ministers continue to enjoy the confidence of the Lok Sabha. This can be done only on the advice of the Prime Minister. An Individual Minister continues to be a member of the Council of Ministers till he or she enjoys the confidence of the Prime Minister. If the Prime Minister is not satisfied with the work of a Minister or when there is a difference of opinion he or she can demand resignation from any Minister or the Prime Minister may advise President to dismiss the minister.

i. Composition of the Council of Ministers.

The composition of the Council of Ministers is divided into three categories. They are the Cabinet Minister, Ministers of State and Deputy Ministers. The Prime Minister is at the apex of the Council of Ministers.

The Cabinet Ministers: The cabinet ministers are the ministers responsible for important ministries of the central government. It includes ministries like home affairs, defense, finance, external affairs etc.

The Ministers of State:

They are second category of ministers. A minister of state may hold an independent charge of a small department or is attached to a Cabinet Minister. They are required to work under the cabinet ministers in case of attachment. If they exercise an independent charge then they exercise same power and perform similar functions in relation to the ministries or departments as the cabinet ministers do. But, it is to be noted that they are not the members of the cabinet and do not attend the meetings of the cabinet unless invited.

Deputy Ministers:

The deputy ministers are attached to the Cabinet Ministers or the Ministers of State. They thus do not have an independent charge or any department or a ministry. They also do not attend the cabinet meetings.

Kitchen Cabinet

The cabinet is highest decision-making body in the formal sense is, a small body consisting of the prime minister as its head

and some 15 to 20 most important ministers. However the real center of power is inner Cabinet or Kitchen Cabinet has become real centre of power. This informal body consists of the prime minister and two to four influential colleagues in whom he has faith. It gives advises on important political and administrative issues. This body also makes crucial decisions. It is composed of not only cabinet ministers but also outsiders like friends and family members of the prime minister:

Check your Progress:

1. Write in brief about the Council of Ministers?
2. Explain the Collective and Individual Responsibility of the Council of Ministers?

73rd Amendment Act to the Constitution of India.

Mahatma Gandhi believed in Gram Swaraj and he pleaded for the decentralization of power to the villages. He believed that the villages should govern themselves by elected panchayats in order to be Self-sufficient. The Constitution of India made no provisions for establishment of local self-government. However, Article 40 in the Directive Principles of the State Policy stated for the Organization of village panchayats.

The Community Development Program was initiated in the year 1952 and in 1953 the National Extension Scheme was launched. Later the Government of India appointed various committees to suggest measures for the process of democratic decentralization. The committees that prominently contributed towards it were: Balwantraji Mehta Committee, Ashok Mehta Committee, GVK Rao Committee, LM Singhvi Committee, Thungon Committee, Gadgil Committee.

The Government of Rajiv Gandhi introduced the 64th Constitutional Amendment bill in the Lok Sabha in 1989 in order to make Panchayati Raj System a part of the Constitution. It

was not approved by the Rajya Sabha. However, the Narsimharao Government introduced the 73rd Constitutional Amendment Act, 1992 which came into force on 24th April 1993.

The act added new part IX-A to the Constitution of India and is entitled as "The Panchayats", consisting of Articles 243 to 243 O. The act also introduced Schedule XI to the Constitution which deals with the article 243 G.

i. Features of the 73rd Constitutional Amendment Act, 1992.

a. Gram Sabha :

The act provides for a Gram Sabha. Gram Sabha would be the foundation of Panchayati Raj. All the persons registered in the electoral roll of the village in the area of the Panchayat are the members of the Gram Sabha. It exercises powers and performs functions at the village level as the state legislature may determine.

b. Three Tier System:

The act establishes a three tier system of Panchayati Raj in every state of India. At the village, intermediate and district levels. According to act, a state having a population not exceeding 20 lakh can establish Panchayat at an intermediate level.

c. Election of the members and Chairpersons:

The act provides for direct elections of the members of Panchayats at the village, intermediate and district levels. However, the chairpersons of panchayats at the intermediate and district levels should be indirectly elected by the elected members.

d. Reservation of Seats:

The act provides for reservation of seats for the SC's and ST's in every Panchayat in proportion of their population to the total population. The act also requires the state legislature to provide for reservation to the office of chairperson in panchayat for the members of the SC and ST.

The act also mandates for the reservation of 1/3rd of total member of seats for women (including the number of seats reserved for women from the SC's and ST's). Also, not less than 1/3rd seats of the total number of offices of chairperson should be reserved for women.

e. Duration of Panchayats:

According to the act, the duration of office would be of five years at every level of the Panchayat. It can be dissolved before the completion of the term and fresh elections should be conducted (a) before the expiry of the duration of five years (b) if it is dissolved then before six months from the date of dissolution. Apart from this if a new Panchayat is constituted in place of dissolved Panchayat then it will be on office only for the remaining period. Thus, it would not enjoy a full term.

f. Disqualification :

A person shall be disqualified for being a member of a Panchayat, if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned; and if he is so disqualified by or under any law made by the Legislature of the State.

g. State Election Commission:

The act has vested the state election commission with the superintendence, direction and control of preparing the electoral rolls and conducting the elections to the Panchayat. For this purpose, a state election commissioner would be appointed by the Governor. The state election commissioner can be removed from office only as per the grounds prescribed for the removal of the judge of the high court of the state.

h. Powers and Functions of the Panchayats.

The State Legislatures have been given the powers to confer on Panchayats such powers and authority as may be necessary to enable them to function as institutions of self-government. They can be given the responsibility of preparing plans and implementation of schemes for economic development and social justice. The 11th Schedule of the Constitution describes the various powers and functions:

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.

9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.
22. Markets and fairs.
23. Health and sanitation, including hospitals, primary health centres and dispensaries.
24. Family welfare.
25. Women and child development.
26. Social welfare, including welfare of the handicapped and mentally retarded.
27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
28. Public distribution system.
29. Maintenance of community assets."

i. Finance Commission:

The State Government is required to appoint a finance commission every five years, to review the financial position of the Panchayat and to make recommendation on the following issues :

- a. The Distribution of the taxes, duties, tolls, fees etc. levied by the state which is to be divided between the Panchayats.
- b. Allocation of proceeds between various tiers.
- c. Taxes, tolls, fees assigned to Panchayats.
- d. Grant in aids.

j. Applications to Union Territories:

Provisions of Panchayats shall be applicable to the UTs in same way as in case of the states but the President may make any modifications in the applications of any part.

k. Exempted States and Areas :

The provisions of part IX are not applicable to the following: Entire states of Nagaland, Meghalaya and Mizoram, Hill areas in the State of Manipur for which District Councils. The provisions of the district shall not apply to the hill areas of the District of Darjeeling in the State of West Bengal which affect the Darjeeling Gorkha Hill Council.

l. Continuance of Existing laws.

The act also mandates that all state laws relating to Panchayats shall be in force until the expiry of one year from the commencement of this act. Thus, the states were required to adopt the new system of Panchayat within one year from 24th April 1993.

74th Amendment Act to the Constitution of India.

The urban local government in India signifies the governance of urban area. It is to be done by the people through their elected representatives. The system of urban governance came into practice in India by the 74th Amendment Act to the Indian Constitution.

The historical roots of Urban local government can be traced back to 1687-88 when the first municipal corporation was set up at Madras and subsequently in 1726 municipal corporations were set up in Bombay and Calcutta. 1870 Lord Mayo's resolution made arrangements for strengthening the municipal institutions in India. However, it was Lord Ripon's resolution of 1882 that is called as the Magna Carta of local self government and Lord Ripon is called as the father of local self government in India.

The Government of India Act 1919 introduced the system of dyarchy and the local self-government became a transferred subject under the charge of an Indian Minister. However, under the Government of India Act 1935, local self government was declared as a provincial subject.

On the 6th August 1989, the Government headed by Mr. Rajiv Gandhi introduced the 65th Constitutional Amendment Bill. It was passed by the Lok Sabha but got defeated in the Rajya Sabha and hence lapsed. Similarly, in 1990 the VP Singh Government introduced the revised bill but it could not be passed as the Lok Sabha was dissolved. It was the government under the leadership of PV Narsimharao that introduced the modified Municipalities bill which emerged as the 74th Constitutional Amendment Act of 1992 and came into force from 01st June 1993.

The 74th Amendment Act added a new Part IX A to the Indian Constitution. It is entitled as “The Municipalities” and contains provisions from Articles 243 P to 243 ZG. It has also inserted the 12th Schedule to the Constitution and deals with article 243- W.

Features of the 74th Amendment Act to the Indian Constitution.

1. Three Types of Municipalities :

The act provides for the constitution of the following three types of municipalities in every state.

1. A nagar panchayat for a transitional area, that is, an area in transition from a rural area to an urban area.
2. A municipal council for a smaller urban area.
3. A municipal corporation for a larger urban area.

2. Composition:

The act provides for direct elections of all the members of a municipality by the people of the municipal area. Each municipal area shall be divided in territorial constituencies known as wards. The manner of election of the chairperson of a municipality may be prescribed by the State Legislature. The representation of the following persons in a municipality is also determined by the act:

- a. Person having special knowledge or experience in municipal administration. They would however not has the rights to vote in the meeting of municipality.
- b. The members of the Lok Sabha and the state legislative Assembly representing constituencies which comprise wholly or partly the municipal area.
- c. The members of the Rajya Sabha and the state legislative council registered as electors with the municipal area.
- d. The chairpersons of committees (other than wards committees).

3. Ward Committees

The act prescribes for the constitution of a ward committee that would comprise of one or more wards in the area of the municipality having a population of 3 lakhs or more.

4. Reservation of Seats:

The Act prescribes for the reservation of seats for the scheduled castes and the scheduled tribes in every municipality in proportion of their population to the total population in the municipal area. Reservation is provided for not less than one-third of the total number of seats for women (including the number of seats reserved for women belonging to the SCs and the STs).

The state legislature has the power to provide for the manner of reservation of offices of chairpersons in the municipalities for the SCs, the STs and the women and can also make provision for the reservation of seats in any municipality or offices of chairpersons in municipalities in favour of backward classes.

5. Duration of Municipalities:

According to the act term of office for every municipality is of five years but is subjected to dissolution the completion of its term. Fresh election to constitute a municipality shall be completed (i) before the expiry of its duration, of five years; or (ii) in case of dissolution, before the expiry of a period of six months from the date of its dissolution.

6. Disqualifications:

A person shall be dis-qualified:

(i) under any law for the time being in force for the purposes of elections to the legislature of the state concerned; or (ii) under any law made by the state legislature.

7. State Election Commission:

The State Election Commission is entrusted with the superintendence, direction and control of the preparation of electoral rolls and the conduct of all elections of the municipalities.

8. Powers and Functions:

The state legislature has the power to endow the municipalities with such powers and authority as may be necessary to enable them to function as institutions of self- government.

It may contain provisions for the devolution of powers and responsibilities upon municipalities at the appropriate level with respect to (i) the preparation and implementation of plans for economic development and social justice.

The 12th Schedule of the Indian Constitution describes 18 functional items:

- 1) Regulation of land use and construction of land buildings.
- 2) Urban planning including the town planning.
- 3) Planning for economic and social development
- 4) Urban poverty alleviation
- 5) Water supply for domestic, industrial and commercial purposes
- 6) Fire services
- 7) Public health sanitation, conservancy and solid waste management
- 8) Slum improvement and up-gradation
- 9) Safeguarding the interests of the weaker sections of society, including the physically handicapped and mentally unsound
- 10) Urban forestry, protection of environment and promotion of ecological aspects
- 11) Construction of roads and bridges
- 12) Provision of urban amenities and facilities such as parks, gardens and playgrounds
- 13) Promotion of cultural, educational and aesthetic aspects
- 14) Burials and burials grounds, cremation and cremation grounds and electric crematoriums
- 15) Cattle ponds, prevention of cruelty to animals
- 16) Regulation of slaughter houses and tanneries
- 17) Public amenities including street lighting, parking spaces, bus stops and public conveniences
- 18) Vital statistics including registration of births and deaths

9. Finances:

The state legislature may (i) authorize a municipality to levy, collect and appropriate taxes, duties, tolls and fees; (ii) assign to a municipality taxes, duties, tolls and fees levied and collected by state government; (iii) provide for making grants-in-aid to the municipalities from the Consolidated Fund of the state; and (iv) provide for constitution of funds for crediting all moneys of the municipalities.

10. Application to Union Territories:

The President of India may direct that the provisions of this Act shall apply to any union territory subject to such exceptions and modifications as he may specify.

11. Areas Kept Out:

The Act does not apply to the scheduled areas and tribal areas of the Indian Constitution. It shall also not affect the functions and powers of the Darjeeling Gorkha Hill Council of the West Bengal.

12. District Planning Committee:

Every state shall have at the district level, a District Planning Committee to consolidate the plans prepared by Panchayats and municipalities in the district, and to prepare a draft development plan for the district as a whole.

13. Metropolitan Planning Committee:

Every metropolitan area shall have a Metropolitan Planning Committee to prepare a draft development plan. Metropolitan area is an area having a population of 10 lakh or more, comprised in one or more districts and consisting of two or more municipalities or Panchayats or other contiguous areas

14. Continuance of Existing Laws and Municipalities:

The act prescribed that all the state laws concerned with municipalities shall continue to be in force until the expiry of one year from the commencement of this Act. The states were required to adopt a new system of municipalities in maximum period of one year from 1st June 1993.

However, all municipalities existing immediately before the commencement of this Act shall continue till the expiry of their term, unless dissolved by the state legislature sooner.

II. Types of Urban Governments:

The act also prescribes for the constitution of eight kinds of urban local bodies for administration of the urban areas. The types of bodies are Municipal Corporations, Municipality, Notified Area Committees, Town Area Committee, Cantonment Board, Township, Port Trust, Special Purpose Agency.

Conclusion

Thus, the executive of India consisting mainly of the President, Prime Minister and the Council of Ministers have a huge responsibility dealing with various aspects of the execution of the policies. On the other hand the 73rd and the 74th Amendments to the Indian Constitution have strengthened the process of decentralization in the country and has improved the working of both the rural and urban local governments in the country.

QUESTIONS;

1. Explain in detail the provisions of the 73rd Amendment to the Indian Constitution?
2. Describe the various functions of the Panchayats as prescribe by the 73rd Amendment?
3. Write a note on the 74th Amendment to the India Constitution?
4. Explain in detail the 12th Schedule of the Indian Constitution?



INDIAN FEDERAL SYSTEM

Unit Structure

5.1 Objectives

5.2 Introduction

5.3 Meaning and Definition

5.4 Characteristics of Indian Federalism

5.1 OBJECTIVES:

- To study and understand the concept of federalism.
- To understand the difference between Union and Federal governments
- To understand the Nature of Federalism
- To understand main features of Indian Federalism

5.2 INTRODUCTION:

Federalism is a type of government in which the power is divided between the national government and other governmental units. It contrasts with a unitary government, in which central authority holds the power and a confederation, in which state for example are clearly dominant. That is why the unitary and federal government is the most popular form of political administration. In unitary form of governments, all the powers are concentrated in national government. The regional or provincial units derive their power from national government. Whereas, in a federal system of government the power have been divided between central and federating units or states. The power in a federal government is divided by the constitution itself, and both in their respective jurisdiction independently. Norway, China, Britain, France, Japan, Italy, Belgium, Sweden, Spain etc. are some of the examples of the unitary government. Whereas, Brazil, Russia, Canada, Argentina, Switzerland, Australia, US are some of the examples of the federal form of government.

It depends up to the administrative and political suitability of a country to adopt federal or unitary model of polity. However, India has adopted a mixed model comprising the best features from both

types of systems. The very first Article 1 of the Indian constitution terms, 'India, that is Bharat shall be the union of the states.' Thus the constitution describes India, as the 'Union of States'. According to Dr. B. R. Ambedkar, 'the phrase 'Union of States' have been preferred to 'Federation of States' to indicate two things:

- (a) the Indian federation is not the results of an agreement among the states like the American federation,
- (b) The state has no right no right to secede from the federation. The federation is union because it is indestructible.ⁱ

That is why it is regarded as a 'quasi - federal' country. It is federal in form because of dual governments at at centre and state, dual legislature being Indian parliament and states legislature but unitary in spirit for having single constitution, citizenship, judiciary, role of governor etc.

5.3 MEANING AND DEFINITION:

The Indian federal system is based on Canadian model and not on American model.ⁱⁱ Some of the leading experts of Indian constitution have defined the Indian federal system as under:

1. Dr. B. R. Ambedkar observed that, 'the constitution if a Federal constitution in as much as it establishes a dual polity. The Union is not a league of states, united in a loose relationship, nor are the states the agencies of the union deriving powers from it'.ⁱⁱⁱ
2. K. C. Where described the constitution of Indian, 'Quasi Federal'. Further, he remarked that, 'Indian Union is a unitary state with subsidiary federal features rather than a federal state with subsidiary unitary features'.^{iv}

Thus, Indian federalism is an unique blend of the federal and unitary ideas. Granville Austin called the Indian federalism as 'cooprative federalism'.^v A new kind of federation to meet India's peculiar needs.

5.4 CHARACTERISTICS OF INDIAN FEDERAL SYSTEM:

The federal system in India has been adopted mainly due to its large size, social- cultural diversity and needs of the people across the length and width of the nation. Following points can be enumerated as the salient features of the Indian federalism:

1. Political Dualism:

Indian federal system makes of two levels of political authority. The first level is federal of Centre and then the states as a peripheral or federating unit at provincial levels. The central government is custodian of national sovereignty, whereas the state governments look after the local and regional matters of law and order, development, civic facilities etc. The central government is run by the council of ministers, headed by the prime minister. At the state level it is done by the council of ministers, headed by the chief minister. The president of India is the head of the country, whereas the governor nominated by him heads the states. There is a union parliament to discharge legislative functions at central level and legislative assemblies for the states. Thus, Indian polity is designed as dual polity for structural and functional purposes.

2. Division of Power:

In a federal system of government, it is necessary to divide the power between centre and state governments. The constitution of India has very clearly divided the legislative, administrative and financial powers. The list of legislative powers between centre and state are divided as the Union list, State list, Concurrent list and Residuary powers. Administrative machinery is jointly as well as separately looked after by the staff of All India Services and State Government officers. The allocation of financial resources is done as per the guideline of the finance commission of India, which is a Constitution body.

3. Bicameralism:

The Indian parliamentary system is inspired by the Westminster model (British Parliament), which provides of two chambers in parliament. In Britain it is known as the House of lords (Upper House) and House of Commons (Lower house). In India also we have Upper House (Rajysabha) and Lower house (Loksabha). The members of the Lok sabha are directly elected by the people. However, the members of the Rajysabha are elected by the state assemblies for respective states. At the state level there is provision of a assembly, with exception of a few states with a bicameral arrangements, i.e. Maharashtra, UP, Bihar, Andhra Pradesh, Telangana Karnataka and erstwhile state of Jammu and Kashmir. Under Article 169 of the Constitution, the parliament may by a law create or abolish the legislative council of a state, if the state assembly also passes such resolution. In 1986 the Assembly of Tamil Nadu state has abolished the legislative council of the state.

4. Strong Centre:

The federal system of India has a federal character with unitary bias. The balance of power between both is clearly tilted in favour of the Union government. Through Legislative, Executive and

Financial controls the Union government dominates the power and will of the states, i.e. Role of Governor, list of legislative powers, Role of All India Services officers, Finance Commission, NITI ayog etc.

5. Integrated and Independent Judiciary:

The constitution provides for establishment of of an independent judiciary. It is single integrated institution, without any federal features. The apex judiciary that is Supreme Court of India heads all the judicial institutions. Right from District or Session court to High Court to Supreme Court the judicial system functions as one single hierarchy. The judiciary has got the power to review and interpret the Constitution. It settles the disputes between the states and centre or between the states. Judges are secured from any kind of political or administrative interference. They enjoy fixed tenure and perks as per the Constitutional guideline. Hence they act freely and fearlessly.

6. No Equality of states representation:

In US the principle pf equality of representation of states in the Upper house is fully recognized. Thus the American senate has 100 members, two from each state. This principle is not followed in India, neither in Upper House nor in lower house. Indian Constitution provides for representation on the grounds of population. That is why we have states like Sikkim with single member in Lok Sabha and UP with 80 members. At the same time there representation in the Rajya Sabha also varies, as per the strength of the state assembly. Therefore, the principle of equality are not followed. We have followed more practical method of quantifying the demography over geography as the principle of representation for the states.

Check Your Progress:-

1. Explain the concept of Union and Federal governments.
2. What are the main characteristics of Indian Federal system?

II. Centre - State Relations in India

Chapter Scheme:

1. Introduction
2. Legislative Relations
3. Administrative relations
4. Financial Relations
5. Conclusion

Introduction:

The constitution of India is federal in nature with unitary bias. It has carefully laid down the procedure of separation of Legislative, Administrative and Financial power between centre and state. However, there is no separation of Judicial power. Hence, India has a single integrated judiciary. The centre and state are given full liberty in their areas of functions. But in case of any excess or violation of the constitution it is possible to restrict them. Thus, the constitution provides a detailed roadmap for the conduct of the centre - state relation in India. The centre - state relations can be studied as follows:

- **Legislative Relations (Art. 245 to 255 of Part XI)**
- **Administrative Relations (Art. 256 to 263 of Part XI)**
- **Financial Relations (Art. 268 to 293 of Part XII)**

The scheme for demarcation of powers through three list. The union list details the subjects on which Parliament may make laws. The state list gives details of subjects under state legislature and the concurrent list has subjects in which both Parliament and state legislature have jurisdiction. The constitution also provides primacy to Parliament on concurrent list items. If there is a conflict, a central law will override a state law.^{vi} Still there are laws enacted by the Union Parliament which leads to conflict between the centre and state. For example, the Right to free and compulsory Education Act. Was passed by Parliament in 2009. The provision of financial burden on states is a matter of concern and dispute. Another challenge before the centre arises is of maintaining the uniformity of law while implementing it in different states with different conditions. The centre - state relationship, thus can be examined as under:

1. Legislative Relations (Art. 245 to 255 of Part XI) :

Article 245 to 255 of Part XI of the Indian Constitution provides for the main provisions of the centre- state legislative relations. Besides, these articles, there are other provisions as well regulating this area. The Centre - state legislative relations cover the territorial extent of this legislation. In that, the states have been authorized to legislate within the territorial limit of that particular region. Also the

President of India and Governor of the state have power to direct the government to not to apply any particular law in the state.

It provides for distribution of the legislative subjects as:

(I) Union List: Parliament has exclusive powers to make laws with respect to any of the matters enumerated in the list. The union list has 100 items (originally 97) like defense, banking, foreign affairs, atomic energy, communications, census etc. The state does not have power to make laws in the union list. However, if any such legislation required by more than two states, it can be represented in Rajya Sabha for the purpose of making laws therein.

(II) State List: The state list has got 61 subjects (originally 66 subjects). 'in normal circumstances' the state has exclusive power to make laws in this list. Sometimes in case of emergency, the Union Parliament or the President of India through an ordinance make a law in the state list also.

(III) Concurrent List: There are certain subject who is important for both Centre and State governments. Such subjects have been kept under the concurrent list. At present 52 subjects are kept in this list (originally 47 subjects).

Also there are provisions for Parliamentary legislation in the state list, in cases of issue being a matter of national or international importance or the subjects between two or more states.

2. Administrative Relations (Art. 256 to 263 of Part XI)

Art. 256 to 263 deals with the provisions of administrative relations between the centre and the states. It has specifically distributed the administrative power as following:

I. The state has absolute liberty over its administration, except in case of 'special circumstances'. The state has their own cadre of staff, recruited for this purpose. Also the union government is duty bound to manage the administrative affairs of central government, with the help of All India Services officers.

II. As per Art. 365 of the constitution, the state are under obligation to follow the central governments administrative guideline. Also, 'if the president is satisfied that the constitutional machinery in the state has failed, through a report of governor or otherwise' he may impose President rule under Art. 356 of the constitution.

III. Center may also issue directives and advisory to the states for cooperating with the centre government and following the laws made therein

IV. As per Art. 263 the President can establish an inter- state council to investigate and discuss the subjects of common importance.

3. Financial Relations (Art. 268 to 293 of Part XII)

The financial powers of the centre are greater than those of the states. However, the extent of power to legislate laws is as following:

- I. The union Parliament has only got the power to levy taxes on the subjects, which is mentioned in the list.
- II. The state government can impose taxes on the subjects it deals with state subjects only.

Nevertheless, the clear cut division of sources of revenue between the federal and the state governments makes each other financially independent of each other. Therefore, the Constitution has made elaborate provisions regarding distribution of the revenue between centre and the states. They are as under:

1. Duties levied by the Union but Collected and appropriated by the states:

Stamp duties and toilet preparations are levied by the Government of India, collected and appropriated by the states, within their territorial jurisdiction. Union territories are exempted from such provisions under Art. 268.

2. Taxes Levied and Collected by the Union but Assigned to the states, within which they are imposed. It includes Succession duty on non- agricultural property, Estate duty on non- agricultural land, Terminal taxes on goods and passengers carried by railways, air or sea.

3. Taxes Levied and collected by the union and distributed between the union and the states: It aims at the equitable distribution of the revenue. For example income tax - other than agricultural income, excise duties as per Union list etc.

4. Surcharges: The parliament is however, authorized to levy surcharge on the taxes mentioned above.

5. Grants in aid: Parliament may make grants in aid from the consolidated fund of India to such states as are in need of assistance, particularly for the promotion of welfare of tribal areas, including special grants to Assam.^{vii}

6. Loans: The Union government may make loan to any state or give guarantee with respect to loans raised by any states.

7. According to Art. 301, freedom of trade, commerce and intercourse throughout the territory of India is guaranteed, but the Parliament has the power to impose reasonable restrictions in public interest.

Finance Commission: Although the constitution has made efforts to allocate every possible source of revenue either to the union or the states. However, they are very broad classifications. Therefore, the Constitution provides that, "Finance Commission is to be constituted by the President every 5 years. The Chairman must be a person having 'experience in public affairs'. other four members must be appointed from amongst the following:

- I. A Judge of High Court or any person who is qualified to be a judge in a High Court.
- II. A person having knowledge of the finances and accounts of the government.
- III. A person having work experience in financial matters and administration.
- IV. A person having special knowledge of economics.

Conclusion

The centre- state relations are at the core of the Indian federal system. The centre and state governments are duty bound to cooperate with each other in order to secure the welfare of the people and give them a good government. The centre and states work together in the matters like environment, education, infrastructure development and welfare of the backward sections of the society. Thus it can be safely said that, Indian constitution is essentially federal in formation but unitary in functioning. It is one of the unique political system that exists and has strengthen over the period of tie since Independence.

Question for exercise:

1. Write a detailed note on the concept and essential features of federalism.
2. What are the important features of the centre - state relations in India?
3. Examine the areas of conflicts and cooperation between the centre and states.

III. Union Budget

Chapter Scheme:

1. Introduction
2. Objectives and functions of Budgeting
3. Types and classifications
4. Preparation and Presentation

1. Introduction:

The term 'Budget' has been derived from the French word 'Bougette' means a long leather pouch in which the treasurer of the Kingdom carried funds to pay the expenses of the court. Afterwards, the term is popularly known as the 'statement of total annual expenditure and receipts of the government.' gradually, it has widened its scope beyond mere a statement of expenditure and receipts to planning of economy, development of the country and welfare of the people. It is indeed a policy instrument for the governments in power to implement their agenda and programmes of development. Also, the budget forms the basis of both the 'budgeting' and 'budgetary control'. whereas, 'budgeting connotes to the process of budget preparation and budgetary control signifies the financial control over the working of the organisation.

Budget was not only practiced and known in ancient and medieval India. Kautilya, the **founder of Mauryan empire in 'Arthshastra'** said, ***'if the treasury is full of wealth, the plans for social benefit can be executed easily. Mere handwork does not bear fruit or we can say a person without means is unable to accomplish his tasks. Efforts and wealth both are needed for attaining objects of life.'***

2. Meaning:

Budget is a tool of planning and control. Budgeting involves the steps of setting short- term objectives, specifying programmes, and expressing them in the budget for that particular year. It is the back bone of any government and nation. No government can function without having money in their hands.

3. Definitions:

1. According to Article 112 to 117 of the Indian constitution, 'the Union Budget of a year, also referred to as the annual financial statement, is a statement of the estimated receipt and expenditure of the government for the particular year'.

2. According to Cambridge Dictionary, the budget is, 'a plan to show how much money a person or organisation will earn and how much they will need or be able to spend'.

3. Aaron Wildavsky defined the budget as, 'In the most general definition, budgeting is concerned with the translation of financial resources into human purposes.'^{viii}

As per Wildavasky (1975)^{ix} Budget is:

- a - A record of the past
- b - A plan, a statement about the future
- c - A mechanism for allocating resources
- d - An instrument of pursuing efficiency
- e - An engine of economic distribution
- f - A result of political bargaining
- g - The most operational expression of national policies in public sector.

4. Principles of Budgeting

Budget making is a very important process. Therefore, certain principles has to be kept in mind in order to prepare a balanced and relevant budget.

4.1 Principle of Annuality:

The budget should be on annual basis. It should be prepared for a particular financial year only. This attracts the principle of 'rule of lapses'. which means if the money granted in previous budget has not been utilised by the concerning department, it shall be returned through same channel.

4.2 On Cash Basis:

The budget is always prepared on the basis of cash in hand. It can not be prepared on any speculative grounds.

4.3. Single Budget:

There should be only one budget for whole financial transactions during particular year. It gives a clear picture to the nation about its resources and requirements. Previously, the Railways budget was presented separately but now it is merged with the general budget itself.

4.4. Gross not net:

The budget should reflect gross transactions of the government for a particular financial year. It should include detailed information about the receipts and expenditure of each department. This principle provides a Parliamentary control over the budget. If this provision is not followed in any of the budgets, such budget should be considered as Net not Grass.

4.5. Close to Estimates:

The budget can not be a guess work or speculation of people. It should be very close to the amount of receipts and expenditure. If this principle is not followed, it may lead to improper and disproportionate allocation of funds.

4.6. Accounting Heads:

The budget should have a clear mention of accounting heads for allocation. It enables in calculating the department wise receipts and expenditures.

Check your progress:

1. Define the concept and main principles of the budget.
2. what are the main Principles of budgeting in India?

5. The Structure of Government of India's Accounts:

The budget in India shows annual receipts and expenditures in following parts:

- i - Consolidated Fund of India
- ii - Contingency Fund, and
- iii - Public Account

5.1 Consolidated Fund of India

All revenues received by government, loans raised by, it, and also its receipts from recoveries of loans granted by it by consolidated fund of India. All the expenditure of government is incurred from consolidated fund and no amount can be withdrawn from the fund without authorization from the Parliament.^x

5.2 Contingency Fund:

This is the fund meant to be used during any kind of emergency or unforeseen situation. It does not require immediate approval from parliament. However, later its approval is mandatory. The president of India is incharge of this fund. It is dispel by him only.

Parliamentary approval and withdrawal of equivalent amount from consolidated fund is done subsequently. Thus the amount spent from contingency fund is returned to it.

5.2.1 Public Account:

This account includes the transactions relating to Provident Fund, Small savings, collections and other deposits. The money received under these heads are kept in public account. Generally, this fund doesn't belong to the government. But if the government utilities any amount of such fund, it has to return it.

Check your progress:

1. Explain various types of accounts of government of India.

6. Budgetary Process in India

In a democratic country the process of budgeting is very important activity. It has to be done with utmost care and sincerity. Therefore, the budget in India undergoes following processes:

6.1 Preparation and Estimation

The process of budget preparation begins with issuance of a circular by the Ministry of Finance somewhere in the month of Sept./Oct.. It is given about six month before the presentation of budget. The circular prescribes a detailed guideline, to the departments about time - schedule, preparation of plan- and - non-plan expenditure for the ensuing year. It also requires them to submit the statement of the ongoing year in a time bound manner. Basically, the budget circular requires following details from the departments:

- i. Accounts classification
- ii. Budget estimate of the current year
- iii. Revised estimates of the current year
- iv. Actual for the previous year, and
- v. Proposed estimates for the upcoming financial year

6.2 Approval of demands

The Finance Ministry receives the completed formats from departments by the end of December. It is thoroughly scrutinized at this stage. Also the estimates of revenue is finalized by the finance ministry. The final draft of the budget is presented in the parliament by the during the last days of the February. At this stage, there can some general discussions on broad policy measures of the government. However, the detailed discussion takes place in the second stage of the budget. All the members of parliament participate in debate and discussion on budget. Each and every policies are given a detailed attention before approval or disapproval. At this stage various kinds of motions can be moved by the members. Generally, it is:

- i. Policy Cut motion, seeks to reduce the demand by Rs. 1
- ii. Economy cut motion, seeks to reduce the demand by a specific amount
- iii. Token cut motion, seeks a normal cut of Rs. 100

After detailed discussion, the finance minister requests Parliament to grant the demands raised under various heads. If some items in the budget can not be covered during discussion it can be clubbed together and put to vote as guillotine. The budget is always presented in the Lok Sabha only. However, after getting passed from Lok - Sabh, it is sent to Rajy - Sabha for approval. The Rajy Sabha can hold or discuss the budget for 14 days only. After that, it is deemed to be passed by the house. After passing from both the house the budget is sent to the President of India in the form of a money bill. The president is bound by constitution to sign the budget at first instance itself.

6.3 Execution

After passing from the parliament and receiving ascent of the President, the budget goes to the executive branch of the government for implementation. The Ministry of Finance gets charge of execution of the Appropriation Act. The departments are advised to implement their individual funds. This process is monitored by the disposing authority, who does not gives any excess fund without prior approval. The department of revenue, Tax and GST are incharge of monitoring of the expenditures. The Reserve Bank of India (RBI) and other nationalised banks act as the custodians of the funds received as revenue or expenditure. They perform the role of collection and disbursement for the various departments of the government.

6.4 Audit.

The executive branch of the government spends money as per the approvals of the legislature. However, in order to maintain accountability and transparency in the financial transactions, there are authorities to ensure that the money is utilized for the right purpose, by the right persons and in the right manner. The constitution of India provides for the position of a Comptroller and Auditor General of India. However, later on the Auditor's office is separated from the Comptroller's office. Their reports are tabled before the Parliament.

Check your progress:

1. Write a detailed note on preparation of the budget.
2. Explain the execution and audit process of the budget.

References

1. ¹Ambedkar, B. R. dr. 'Constituent Assembly Debates', Vol. VII, P. 43.
2. ¹Laxmikanth, M (2016) : Indian Polity, 4th Edi. McGraw Hill Education PVT. LTD. New Delhi, p. 13.2.
3. ¹Ambedkar, B. R. dr. (1949): Speeches in the constituent assembly on 25.11.1949 reproduced in 'The Constitution and Constituent Assembly' Lok Sabha Secretariat, 1990, p. 176
4. ¹K. C. Wheare (1951): Federal Government, p. 28
5. ¹Austin, Granville(1966): : The Indian Constitution - Cornerstone of a Nation, oxford, pp. 186 - 88
6. ¹PRS Legislative (2012): centre - state relations, available on www.prsindia.org, accessed on 3.9.2019, at 12:16pm.

7. ¹Concept of Federalism, www.cliffsnotes.com, accessed on 31/8/2019, 11.00am
8. Centre - State relations www.legalservicesindia.com accessed on 2/9/2019, 5.00pm
9. ¹Wildavasky, Aaron B. (1984): 'The Politics of Budgetary Process', Little Brown & Co.
10. ¹Wildavasky, Aaron B. (1975): 'Budgeting: A Comparative Theory of Budgetary Process', Boston/Toronto, Little Brown & company, pp 7 - 10
11. ¹IGNOU notes from Shodhganga, Chapter 2, 'Indian Union Budget' p. 56



PARTY AND PARTY POLITICS IN INDIA

Unit Structure

- 6.1 Objectives:
6.2 Introduction:

6.1 OBJECTIVES:

- To understand the concept of political party in democracies
- To understand the role of political parties in Indian democracy
- To understand the rules and provision of regulation and registration of parties
- To understand the conditions of recognition of national, regional and registered political parties.

6.2 INTRODUCTION:

“Party Politics in India displays numerous paradoxical features, which reveals the blending of western and modern forms of bureaucratic organization participatory politics with indigenous practices and institutions, India’s leading political party, the Indian National Congress, is one of the oldest in the world, yet it has not succeeded in providing the nucleus for an institutionalized party system which can be fitted easily into any one of the conventional categories of party systems known in the West” (363-80, 2001) Thus Political parties are the voluntary organizations of the people believe in same ideology, programme and agenda for politics of the country. Together, they try to mobilise the masses and capture political power. The party system in India started its evolution since 1885 with the establishment of India National Congress by A. O. Hume. However, during its initial phase India’s independence was not on its agenda. Later on Gradual entry of nationalist leaders like G.K. Gokhale, Dadabhai Naoroji, Lokmanya Bal Gangadhar Tilak have infused the agenda of nationalism in INC programmes.

Thus INC remained single largest party in India during freedom movement. Later on Communist Party of India (1925), Hindu Mahasabha (1915), Shiromani Akali Dal (1920) Muslim League (1906) were also established as political parties in pre independence India. After Independence Indian State has adopted Westminster model of Parliamentary Democracy and adhered to multi –party system for the purpose of representation of the people.

According to M. Laxmikanth, 'There are four types of political parties in Modern Democratic States:

- (i) Reactionary parties which cling to the old socio- economic and political institutions,
- (ii) Conservative parties which believe in maintaining the status – quo,
- (iii) Liberal parties which aim at reforming the existing institutions, and
- (iv) Radical parties which aim at establishing a new order by overthrowing the existing institutions.

Ideological Orientations of Political Parties:

Political parties often claim to adhere to some or other ideology. It helps them to make their agenda and programme to appeal the masses for support. Thus, ideology works as one of the strongest tool of political mobilization around a political party. There are different types of political ideologies, namely Nationalism, Communist, Capitalism, Fascism etc. They play important role in shaping of political views of the citizens. In adherence to above ideologies the political parties can be classified as:

- a. Left Wing Political Party: Champions the cause of socialism and communism. i.e. Communist Party of India (CPI), CPM, CPML, Forward Block
- b. Right wing political party: Nationalism, cultural and traditional, racial, and other identity based orientations, BJP, Shiv Sena, Akali Dal, SP, BSP etc.
- c. Centrist Political party: Has liberal and inclusive orientation. Indian National Congress, NCP, JD (U), DMK, AIADMK etc

The political parties in India emanates and adheres to different political ideologies as per there convenience. Attaining power and implementation of this manifesto can be said to be the main goals of political parties in India.

Party System in India:

India is a multi – party democracy. Though our constitution is silent about the nature and structure of the political parties, there are rules and procedures made through People's Representation Act. 1951, guidelines of Election Commission of India for the registration of Political parties, Anti- Defection Act. 1985 and guidelines of Supreme Court of India, provides for the nature, quality and character of the political parties.

The seeds of political parties in India were shown by the formation of the Indian National Congress in 1885 by A. O. Hume as its founder and Womesh Chunder Bonnerjee (or Umesh Chandra Banerjee) as its first president at Mumbai. The main objective of this organization was to act as an intermediary between Indian and the British Empire. Initially it was not against colonial rule in India. Indian leaders like Pherozeshah Mehta, Baduruddin Tayyabji, Madam Cama, Gopal Krishna Gokhale, Dada Bhai Naoroji, Bal Gangadhar Tilak, Bipin Chandra Pal, Lala Lajpatrai became very critical of the British policies in India. Thus Congress started raising the voice for swaraj or self- rule. Under the leadership of Mahatma Gandhi, INC was instrumental in gaining the freedom for the nation. After independence the Indian National Congress was the main political party, with other parties like Jan Sangh (1954), Communist Party, Hindu Mahasabha etc. Article 19 of the Indian constitution provides under Art. 19 (1) freedom to form and join any union or association of their choice. Thus, every Indian is free to found a political party or join any political party of their choice.

The election commission of India provides detailed guidelines for the registration of any political outfit as a political party. After registration as a political party, they can contest election as a political party. However, they do not get a common symbol until they contest all the seats in a particular election. Therefore, election commission has set of following guidelines for the political parties to get the of their status as a national, regional or registered political party. Following are the criteria to get the status of National, Regional or registered party.

Eligibility of National Political Party

To be eligible for a '**National Political Party of India**,' the Election Commission has set the following criteria –

- It secures at least **six** percent of the valid votes polled in any **four** or more states, at a general election to the House of the People or, to the State Legislative Assembly; and
- In addition, it wins at least four seats in the House of the People from any State or States.

OR

- It wins at least two percent seats in the House of the People (i.e., 11 seats in the existing House having 543 members), and these members are elected from at least three different States.

Eligibility of State Political Party

To be eligible for a '**State Political Party**,' the Election Commission has set the following criteria

- It secures at least six percent of the valid votes polled in the State at a general election, either to the House of the People or to the Legislative Assembly of the State concerned; and
- In addition, it wins at least two seats in the Legislative Assembly of the State concerned.

OR

- It wins at least three percent (3%) of the total number of seats in the Legislative Assembly of the State, or at least three seats in the Assembly, whichever is more.

Registered Party

The political party which fulfills all the guidelines of ECI gets recognition as a registered party. They do not get permanent symbol until they secure required vote percentage in an election at state or national level. However, they are allowed to contest elections as a political party.

- The following table illustrates the major National Political Parties of India –

Political Party Name	Abbreviation	Founded in	Current Leader
Indian National Congress	INC	1885	Sonia Gandhi
Communist Party of India	CPI	1925	Suravaram Sudhakar Reddy
Communist Party of India (Marxist)	CPI -M	1964	Sitaram Yechury
Bharatiya Janata Party	BJP	1980	Amit Shah
Bahujan Samaj Party	BSP	1985	Mayavati

1. Bille, Lars. 'Democratizing Democratic Procedures: Myth or Reality', *Party Politics*, 7 (3): 363-80. 2001.
2. Brass, P. 'Ethnic Conflict in Multiethnic Societies: The convocational Solution and its Critics', in P.Brass, *Ethnicity and Nationalism: Theory and Comparison*.
3. Paul R. Brass, *The Politics of India since Independence* (Cambridge: Cambridge University Press, 1994).
4. Paul R. Brass, "Democracy and Political Participation in India," in Myron L. Cohen, ed., *Asia: Case Studies in the Social Sciences: A Guide for Teaching* (New York: M.E. Sharpe, 1992).
5. Myron Weiner, *Party-Building in a New Nation: Indian National Congress* (Chicago: University of Chicago Press, 1967).



SOCIAL DYNAMICS

Unit Structure

7.1 Objective

7.2 Introduction

7.3 Characteristics of Caste and the Caste System

7.1 OBJECTIVE:

The objective of the unit is to make the student aware of the phenomenon of caste and caste system in the Indian Society and Politics. The unit also aim to make student understand the role of religion in vote bank politics and what are the reasons for the rise of communalism in the country. It also aims to understand the role of gender in political process and to examine the causes for low participation of women in politics.

Caste (with reference to reservation)

- **Introduction**
- **Definition and characteristics of Caste and the Caste System**
- **Role of caste in Indian Politics**
- **Constitutional Provisions regarding the caste-based reservation**

7.2 INTRODUCTION:

The Phenomenon of caste has probably evoked more controversy than any other aspects of Indian social, political and economic life. Caste system is perhaps the world's longest surviving and most rigorously enforced system of social hierarchy. Its origin is in the Varna system which divided the society into four main groups – Brahmins, Kshatriyas, Vaishyas and Shudras which is a complex ordering of social group. More commonly caste is understood as a ranked order of precedence, with Brahmins sitting at the top of the hierarchy and Dalits or so-called untouchables at the very bottom.

- The varna of Brahmins, commonly identified with those fulfilling the callings of priest and spiritual preceptors;

- The varna of Kshatriya usually identified with rulers and warriors and responsible for governance;
- The Varna of Vaishyas basically identified with commercial livelihoods and wealth creators.
- The Varna of Shudra often identified as a labourer which is considered to be at the lowest.
- So called untouchables and also the hill and forest populations who are now commonly called as Tribals, occupy a place below or outside varna system.

Since ages caste system is seen and experienced as a major cause of a disparity and inequality in the Indian society. India has made an unimaginable progress in nearly all the sphere of human life but one thing has still remained below par is the status of Dalits and backward communities in the country.

Dr. B. R. Ambedkar in an address to member of Constituent Assembly on November 25, 1949, declared:

We must take our political democracy as a social democracy as well. Political democracy cannot last unless there lies at the base of it social democracy. What does social democracy mean? It means a way of life which recognises liberty, equality and fraternity as the principle of life... On the 26th of January 1950, we are going to enter into a life of contradictions. In politics we will have equality and in social and economic life we will have inequality. In politics, we will be recognising the principle of one man one vote and one vote one value. In our social and economic life, we shall by reason of our social and economic structure, continue to deny the principle of one man- one value.

7.3 MEANING AND CHARACTERISTICS OF CASTE AND THE CASTE SYSTEM

S. V. Ketkar – in his book 'History of caste in India' defines "Caste is a social group having two characteristics (a) membership is confined to those who are born of members & includes all persons no born (b) the members are forbidden by an inexorable social law to marry outside the group."

Caste system is a system of social stratification in which communities are defined by thousands of endogamous hereditary group called Jatis

Characteristics of Caste and caste system:**1. Endogamy:**

Prohibitions on inter-caste marriages are not only a hallmark feature of the caste system designed to ensure rigid social norms of purity and pollution but are also essential for maintaining its very own existence. As a result, intercaste marriages between Dalits and non-Dalits has become a question of honour which can lead to extrajudicial punishment that include honour killings, public lynching or killing of couple etc.

The digital era had witnessed the endogamy culture in its own form. The online match making sites exclusively offers to match individual according to their caste which is a clear example of the practice of endogamy in its new version.

2. Untouchability:

The practice of untouchability is the imposition of social disabilities and social exclusion of a person because of their birth into untouchable caste. Practice of untouchability had prohibited Dalits from walking on the public streets as their shadow may pollute the upper caste Hindus. To identify Dalits, they were asked to wear a black bracelet, string a broom around their waist, or hang an earthen pot around their neck so that their spit should not fall on earth which may pollute an upper caste Hindu who might unknowingly walk on it.

India after independence has improved in a way of untouchability practices. Article 17 of Indian Constitution has abolished the practice of untouchability. But still there are cases where Dalits are prohibited from entering temples, where inter dining with upper caste is prohibited which has forced Dalits to self-affirm their inferior status in the society.

3. Segmental division of society:

Caste system segregates the society into small groups on the basis of individual castes. Caste denotes a system of rigid social stratification into ranked groups decided by descent and occupation. Caste is descent based and hereditary in nature. Individuals caste is determined by one's birth into a particular caste.

4. Hierarchy:

Castes are arranged in the hierarchical order entitled to maximum rights from at the top of the order to least rights at the bottom of the order. While the particular ranking of caste may differ from region to region but the extremes of the pyramid is fix with

Brahmins sitting atop of the pyramid and Dalits and untouchables at the very bottom.

5. Restricted choice of occupation:

Choice to choose the profession or occupation completely lies of individual choice is prohibited in caste system. Each caste is associated with particular occupation and occupations were hereditary and were obliged to follow the same occupation.

The upper three caste in the order had overtime enjoyed significant occupational mobility but the bottom most continued to involuntarily inherit occupations assigned to the caste in which they are born.

7.1.3 Role of caste in politics:

Caste politics is said to “signify a wide range of political activity and theorising founded in the shared experience of injustice to a member of certain social groups.” The role of caste in the Indian Political System can be discussed as follow:

1. Caste factor in political mobilization and leadership recruitment:

In India, caste plays an important role in mobilizing people during elections. It is easier to earn votes from people by playing a caste card during election. Caste interest influence the voters to vote for the candidate belonging from their caste. Majority of the time caste has been the matter of pride and thus in the process of choosing the leader or leaning towards any political parties, leader’s belief or parties’ approach towards a particular caste also plays a crucial role.

2. Propagation of Casteism during election:

The political behaviour of the member of different political parties is caste oriented. The values and principles of different political parties are caste based. The propaganda should be based on caste or not during the election depends on the population of particular caste in a particular region. The selection of the candidates for a constituency is based on whether he will be able to get the support of a particular caste or castes. Even the caste of those recommending a candidate plays an important role. When a single caste is not likely to be effective alliance are formed on caste basis by the candidates or by the voters: Even the office bearers of a party are appointed on the basis of caste to please a caste group in the party and in the constituency.

The present political System encourages the use of caste as a means of mustering support as well as a means to enable the

illiterate and politically ignorant masses of India to participate in the modern democratic process

3. Caste factor in local self-government:

Caste plays a crucial role in the functioning of Panchayati Raj institutions. Caste based division in the rural parts of India has been the biggest hindering factor in the effective functioning of Panchayati Raj institution. Caste also functions, as a pressure group in politics. Political bargaining is also done on the caste lines. Caste organizations have emerged to organize caste members for collective bargaining with each other.

4. Caste as a dividing and uniting force of Indian Politics:

The present political System encourages the use of caste as a means of mustering support as well as a means to enable the illiterate and politically ignorant masses of India to participate in the modern democratic process. But at the same time it leads to unhealthy struggle for power and acts as a dividing force.

7.1.4 Constitutional provision regarding the caste-based reservation:

Reservation in Indian law is a form of affirmative action whereby **a percentage of seats are reserved in the public sector units, union and state civil services, union and state government departments and in all public and private educational institutions**, except in the **religious/ linguistic minority educational institutions**, for the socially and educationally backward communities and the Scheduled Castes and Tribes who are inadequately represented in these services and institutions. The reservation policy is also **extended for the Scheduled Castes and Scheduled Tribes** for representation in the Parliament of India.

Constitutional Provisions:

Reservation refers to an act of withholding, reserving or keeping back some of the seats for the upliftment of status and standard of living socially and educationally backward sections, classes or groups. In a legal understanding, reservation in Indian law is a form of affirmative action whereby a percentage of seats are reserved in the public sector units, union and state civil services, union and state government departments and in educational institutions, except in the religious or linguistic minority educational institutions, for the socially and educationally backward communities and the Scheduled Castes and Tribes who are inadequately represented in these services and institutions.

- **Article 15(4) and 16(4)** of the Constitution enabled both the state and Central Governments to reserve seats in public services for the members of the SC and ST, thereby, enshrining impartiality of opportunity in matters of civic service.
- **Article 16(4 A)**: it makes provisions for reservation in the matter of promotion to any class or classes of posts in the services under the State in favour of SCs and STs (**Constitutional 77th Amendment, – Act, 1995**)
- **Article 16 (4 B)**: It enables the state to fill the unfilled vacancies of a year which are reserved for SCs/STs in the succeeding year, thereby nullifying the ceiling of fifty percent reservation on total number of vacancies of that year. (**Constitutional 81st Amendment, – Act, 2000**).
- **Article 330 and 332**: It provides for specific representation through reservation of seats for the SCs and the STs in the Parliament (Article 330) and in the State Legislative Assemblies (Article 332), as well as, in Government and public sector jobs, in both the federal and state Governments (Articles 16(4), 330(4) and 335).

Questions:

1. Describe the characteristics of Caste and Caste system
2. What are the constitutional provision for caste based reservation?
3. Explain the role of caste in Indian Politics.

RELIGION (WITH REFERENCE TO COMMUNALISM)

- **Concept of Secularism**
- **Concept of Communalism**
- **Communalism in modern India**
- **Communal violence in post-independence period**
- **Causes of Communalism**
- **Measures to overcome communalism**
- **Role of religion in vote bank politics**

7.2.1 Concept of Secularism:

India is a multi-cultural, multi religious, multi linguistic country. Having different caste, language, religion etc. could be a divisive factor in some way or the other and if not handled carefully which can cause a threat to the unity and integrity of the nation.

In S.R. Bommai vs. UOI “It was held that Religious tolerance and equal treatment of all religious group and protection of their life and property and the places of their worship are an essential part of secularism enshrined in our constitution. while the citizen of this country are free to profess, practice and propagate such religion, faith or belief as they choose, so far as the state is concerned i.e. from the point of view of the state, the religion, faith or belief of a person is immaterial to it, all are equal and all are entitled to be treated equally.” Further the Court while emphasizing upon the significance of Secularism declared it as the basic structure of the Constitution.

The concept of secularism was not expressly incorporated in the constitution at the stage of its making. The term ‘Secular’ was added to the Indian Constitution by 42nd Amendment. However, its operation was visible in the fundamental rights and directive principles. The concept of secularism, though not expressly stated in the constitution, was, nevertheless deeply embedded in the constitutional philosophy. The concepts of secularism are not static; it is elastic in connotation. In this area, flexibility is most desirable as there cannot be any fixed views in this concept for all time to come. The courts decide from time to time the contours of the concepts of secularism and enforce it in practice. In. **M Ismail faruqui vs. UOI**, it was held that it is clear from the constitutional scheme that it guarantees equality in the matters of religion to all individuals and groups irrespective of their faith emphasizing that there is no religion of the state itself. The preamble of the constitution read in particular with articles 25 to 28 emphasis this aspect and indicates that it is in this manner this concept of secularism embodied in the constitutional scheme as a creed adopted by the Indian people has to be understood while examining the constitutional validity of any legislation on the touch stone of the constitution.

7.2.2 Concept of Communalism:

Communalism is referred in the western world as a “theory or system of government in which virtually autonomous local communities are loosely in federation”. But in the Indian sub-continent context, communalism has come to be associated with

tensions and clashes between different religious communities in various regions.

Communalism is a political philosophy which advocates followers of a particular religion to have political allegiance to their own religious community. As a matter of fact, a person's mere affiliation to the social, cultural and service aspects of a religious community would not amount to communalism. Communalism preaches the followers of a particular religion to have hatred against the followers of other religious communities. It assumes that the followers of a particular religion will have common interests that differ from other religions. In essence, communalism is opposed to secularism and even humanism.

Communalism is basically an ideology which consists of three elements: -

- A belief that people who follow the same religion have common secular interests i.e. they have same political, economic and social interests. So, here socio-political communalities arises.
- A notion that, in a multi-religious society like India, these common secular interests of one religion are dissimilar and divergent from the interests of the follower of another religion.
- The interests of the follower of the different religion or of different 'communities' are seen to be completely incompatible, antagonist and hostile.

Communalism is political trade in religion. It is an ideology on which communal politics is based. And communal violence are conjectural consequences of communal ideology

7.2.3 Communalism in Modern India:

Communalism in India is result of the emergence of modern politics, which has its roots in **partition of Bengal in 1905** and feature of separate electorate under **Government of India Act, 1909**. Later, British government also appeased various communities through **Communal award in 1932**, which faced strong resistance from Gandhi ji and others. All these acts were done by the British government to appease Muslims and other communities, for their own political needs. This feeling of communalism has deepened since then, fragmenting the Indian society and being a cause of unrest.

It may be noted that tension has existed not only among the Hindus and the Muslims but sometimes even amongst the members of the same community. For example, there have been numerous clashes between the Sawarna Hindus and the

Scheduled Caste and Scheduled Tribes or conflicts of Suinni-Shia Muslims.

In the last few years the intensity of communalism has increased and has also spread to those states which were comparatively free from communal tensions and riots. Social media is playing the role of one of the dominant factor in propagation of communalism.

7.2.4 Communal Violence in Modern India:

- **Partition of India, 1947**

After partition, millions of populations were forced to move from both sides of the border. Hindus in Pakistan and Muslims in India were killed in masses, women were raped, and many children lost their parents. There was hatred everywhere, violence didn't see anything except bloodshed. Later, it turned in the problem of refugees and their rehabilitation became one of the biggest challenges for independent India.

- **Anti-Sikh riots, 1984**

This is one of the bloodshed in India, where Sikhs in large number were massacred by anti- Sikh mob. This massacre took place in response to the assassination of Prime Minister Indira Gandhi by his own Sikh body Guard in response to her actions authorising the military operation.

- **Ethnic cleansing of Kashmiri Hindu Pundits in 1989**

Kashmir is known as the heaven of India and was known for its *Kashmiryat*, i.e. the reflection of love, peace and harmony through brotherhood and unity of Hindu, Muslims and other communities living together. But, the brotherhood saw a serious blow due to Extremist Islamic terrorism in the Kashmir valley, which led to mass killing and large scale exodus of Kashmiri Pundits from the valley to the various regions and corners of the India, giving them the status of refugee in their own country. Since then, the valley is under the grip of communal violence and the ongoing unrest has become a problem for the development of the people.

- **Babri masjid demolition in Ayodhya, 1992**

According to Hindu mythology, Ayodhya is birth place of Lord Rama and therefore it is sacred place for Hindu religion. But in medieval period Mughal general Mir Baqi, built a mosque, named after Mughal ruler Babur. There were disputes since then and riots also took place. But in 1990, due to some political mobilisation, there was atmosphere of protest by Hindu religious groups and in

large scale “karsevak” visited Ayodhya from all parts of India, in support of demolishing Babri masjid and building Ram temple there. These movements caused huge amount of bloodshed and since then it is a disputed matter.

After this, violence was followed by the Godhra incident in 2002, when “karsevak” returning from Ayodhya in a Sabarmati Express were killed by fire in the coaches of train. This act was followed by the extended communal violence in Gujarat. That violence is like black spot in the history of the Gujarat and nation too, as people were killed without any mercy. Hindu and Muslim community became antagonist to each other. Till now people are fighting for justice in Supreme Court, with a ray hope from the Indian Judiciary.

- **Assam Communal violence, 2012**

North eastern states are known for its distinguished tribal population & ethnic diversity and large scale Bangladeshi immigration has changed the demography of North eastern states, which often becomes reason for clashes. In 2012, there were ethnic clashes between Bodos (Tribal, Christian & Hindu faith) and Muslims. Ethnic tensions between Bodos and Bengali-speaking Muslims escalated into a riot in Kokrajhar in July 2012, when unidentified miscreants killed four Bodo youths at Joypur.

- **Muzaffarnagar violence, 2013**

The cause of this ethnic clash between Jat and Muslim community is very much disputed and has many versions. According to few, it was started after some suspicious post on Social media platform Facebook. According to some, it was escalated after the eve teasing case in Shamli. Let the reasons be unknown, but what matters is, the nature and scale of loss to the country with respect to human resource and peace.

7.2.5 Causes of Communalism:

Communalism in India has not emerged due to a single factor. Various factors are responsible for the existence of communalism in India. The following factors are:

1. Legacy of the past.

On the basis of the “Two Nation” theory of Jinnah, India was partitioned. Communal politics had played its nasty game during the immediate past of independent India. The “Divide and Rule” policy of the British Government served their colonial interest. The partition of India was the ultimate outcome of their politics. Though India has adopted the principles of secularism and

equality of the people. But communalism as a legacy of past, is continuing and expressing itself in various form.

2. Communalist Leaders.

Communalism has flourished in India, because the communalist leaders of both the Hindu and Muslim communities desire to flourish it, in the interest of their communities.

3. Presence of Communal parties and organization.

Religion in India has become an important agency of political socialization and it is also reflected in the ideology of a number of political parties. A number of communal and sectarian political parties and organisations are present in India. Muslim League, Jamaat Islami, Hindu Mahasabha, Akali Dal, Vishwa Hindu Parishad and AIMIM are directly or indirectly responsible for the emergence of communalism. The so called secular political parties also enter into alliance with communal forces for electoral benefit. Candidates are selected by different political parties taking into account the communal composition of the constituency.

4. Tendency of the minorities.

The minorities fail to be intermingled in the national mainstream. Most of the members of minority communities do not participate in the secular nationalistic politics and insist on maintaining their separate entity. They also demand security of life and property, reservation for minorities in services etc. This tendency of minorities has kept them isolated from the main stream of India.

5. Orthodoxy and Obscurantism.

The orthodox and obscurantist members of the minorities feel that they have a distinct entity with their own cultural pattern, personal laws and way of thinking. Such a feeling has prevented them from accepting the concept of secularism and religious tolerance. Hindu chauvinism is also equally responsible for non-acceptance of secular principles which has resulted in resistance from the Muslim community and revival of demand for separate electorates and the formation of different political parties organised in the line of fundamentalism.

6. Poverty.

Mass poverty and unemployment create a sense of frustration among the people. It generates backwardness, illiteracy, ignorance, etc. The unemployed youth of both the communities can be easily trapped by religious fundamentalists and fanatics. They are used by them to cause communal riots. Moreover, in

comparison with the Muslims, Hindus are better placed in service, industry and trade which cause a sense of contempt among them. The weak economic status often breeds communalism.

7. Cross border factor.

Communal tensions in India sometimes are highly intensified due to the rule of two neighbouring theocratic countries. These countries try to create communal problems in the border states. The communal problems of Punjab and Jammu Kashmir are caused due to provocation of Pakistan. So long as this cross-border factor is not removed, communal problems are likely to stay in India.

8. Failure of Government.

Both the Union and the State Governments often fail to prevent communalism in the country. Due to lack of prior information, they fail to take any preventive measures. So the communal violence can easily take innocent lives and destroys property. Failure of immediate and effective steps has been a cause of the continuance of communalism.

7.2.6 Measures to overcome communalism:

The solution of such problems cannot be one or two steps by government. Apart from legislative support, administrative efficiency and alertness with the help of modern tools and technology, the major onus lies on the citizens themselves by avoiding communal violence. Though its bit philosophical in nature, as it's not a concrete solution, but the sustainable changes can be brought only by those steps.

Each of us, have to make a balance between our own religious community and national interests, we have to unite with nationalism, and then should move forward. The teachings of a religious community may be great, but the followers of the community concerned should understand that nationalism is greater. If they do not become familiar with this fact, they will be away from national stream; they will suffer. This fact relates not only to India but also to many other countries of the world.

We have to be rational while making decisions. Each and every religious community has been founded on the basis of certain values that were best and necessary for circumstances of the country and times. Goodness likes adjustment with others, or co-operation, or consistency can be found in their teachings. But by not moving according to the teachings of their religious community those who depend upon fundamentalism and conservative

practices, or those who use their co-religionists taking advantage of their poverty, illiteracy or innocence, are dishonest towards their own self, their co-religionists and also towards those great leaders who founded the religious community. Everyone must understand this fact also. Along with this, leaders of all communities, by knowing it, must come forward for an atmosphere surcharged with harmony, in which lies their welfare too. The religious teachers should promote rational and practical things through religion promoting peace and security.

Policies like appeasement, fun and frolic with the sentiments of people for individual and party interests, and selection of candidates on the basis of religious community or sect by keeping aside the qualifications, one, certainly, does the things against national interest or nationalism; are reflections of lower national thinking. That is why; these kinds of acts should be stopped at government level and also at the level of political parties.

There is a great need to work towards eradicating the problem of unemployment among the youths, illiteracy and poverty and that too with honesty and without any discrimination. This will help in solving many problems, and will create awakening. The result will be in checking on communalism to a great extent. That is why it is expected that a lot of work have to be done at government level in this direction.

Thus, in order to get rid of the problem of communalism in India, there is a need of collective efforts. All will have to discharge their duties.

7.2.7 Role of Religion in Vote Bank Politics:

Vote bank politics is one of the widely practiced amongst all the political parties across the party lines. Political parties mostly give tickets to the candidates after analysing the population proportion of particular religion in a specific constituency. These candidates divide the vote of their caste or caste cluster, and each of them is forced to gather support from other castes. In such a situation, the winner will naturally be from the same dominant group. To gain the attention of people many a time's religion issues are included in the election manifestos. As far as political party concerned, political parties' resort to various tactics to woo voters. Sometime political parties target a particular religious' community as their voters by mean of scaring or appeasing them.

Questions:

1. What are the causes of communalism in India?
2. What are the measures to overcome communalism in India?
3. Explain the concept communalism and secularism.

GENDER (WITH REFERENCE TO POLITICAL PARTICIPATION)

- Introduction
- Women Empowerment
- History of women's political participation in India
- Nature of Political Participation of women
- Constitutional rights of women
- Causes of low representation of women in Parliament and State Legislature
- Women participation in local self-government – 73rd and 74th Amendment
- Debates on Reservation for women in the Lok Sabha and Legislative Assemblies
- Conclusion

7.3.1 Introduction:

Politics is essentially an art of acquiring and exercising power. Power is necessary to influence the decision-making process and the policies, to reverse the existing situation wherever they are disadvantageous and to bring the necessary changes. Participation from all the section of society, particularly from the disadvantaged group, in this instance the women is important for the effective function of democracy. But then politics is all about power relations. Every social arrangement in a professional, public or private sphere is an instance of power relationship. As all the institutions such as family, religion or caste or public institutions are not less than political institutions. The broader political operation and the nature of political ideology in the public sphere have its

corresponding implications for the women in the domestic and private relations. The low participation of women in a formal political institution is a matter of concern. The lack of sufficient participation of women in politics and at the decision-making level, are themselves the result of their poor social and domestic status and their exclusion from certain positions of status and levels of power. The government, activists and non-government organisation have worked in constant strive to make the political system as beneficial to women as much it is to men.

7.3.2 Women Empowerment

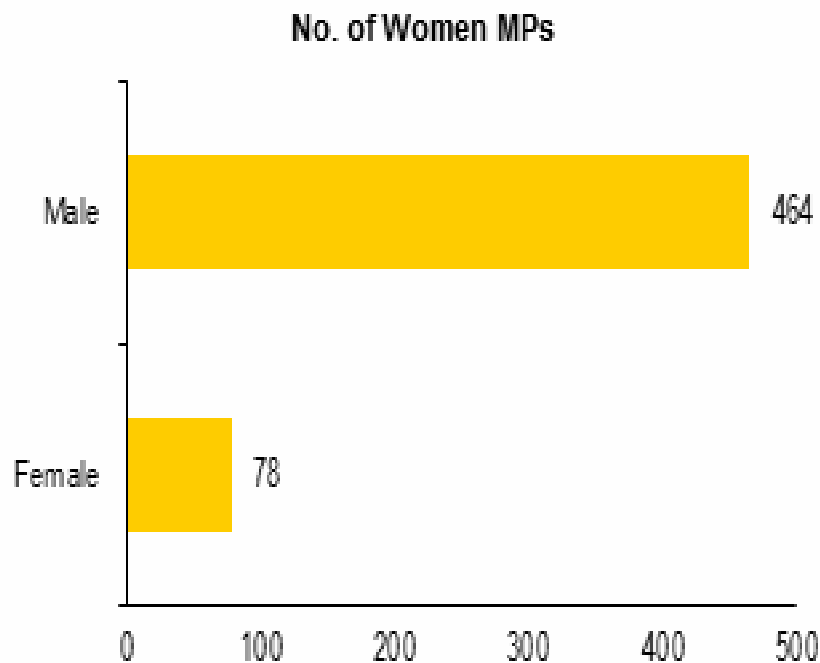
Women empowerment means equal status to women, opportunity and freedom to develop themselves. Women empowerment and gender equality are essential for development of an inclusive, sensitive and a better off society. India in particular has inherently been a patriarchal society, where women for years have been deprived of rights, are subjected to discrimination and targeted by evil customs and rituals. Empowerment is giving voice to the powerless. Empowerment can be social, political and economical. In India, government bears a distinct responsibility to play an active role in women empowerment. Ever since independence, government has taken many measures in form of laws, scheme and other policy measures for gender equality. Though, these measures were in right faith and improved women condition, but still there are many spheres where women participation in India is far behind than what should be. Women empowerment requires changing the patriarchal thinking, involving them in the decision making process and giving them increased access to resources in form of employment, property, education opportunities among others.

7.3.3 History of women's political participation in India –

After decades of suppression faced by women, the question of women empowerment was first taken up in India during the social reformation movement in the 18th century. Many social reformers like Raja Ram Mohan Roy, Jyotiba Phule, Savitribai Phule, MG Ranade worked for the improvement of women condition in India. They worked for spreading awareness against evil customs like the practice of sati, child marriage, advocated education for women and widow remarriage. Their efforts culminated into legislations Widow Remarriage and Abolition of Sati. The social reformation movement also saw participation of women like Pandita Ramabai, Sarala Debi Goshal and Manorama Majumdar. By 19th century women's own organisations spread all over the country. Swarna Kumari Debi organised the Sakhi Samiti

in 1886 for widows and Sarala Devi Chaudhrani organised Bharat StreeMahamandal in 1910 to promote female education.

Women contributed in the freedom struggle in various forms. They picketing liquor and foreign goods shops, participated in political protests, giving shelter and food to the political activists working underground. They also acted as messengers and carried messages to political prisoners. MK Gandhi was a staunch proponent of women emancipation. Sarla Devi, Muthulaxmi Reddy, Susheela Nair, Rajkumari Amrit Kaur, Sucheta Kripalani and Aruna Asaf Ali are some the women who participated in the Non-Cooperation Movement. Usha Mehta, a committed patriot set up a



radio transmitter, called The "Voice of Freedom" to disseminate the "mantra" of freedom-war. Annie Besant was elected the president of the Indian National Congress and launched the Home Rule Movement. Madam Cama or Bhikaji Cama unfurled the flag of Indian Independence in Stuttgart Germany and advocated the right to freedom. Kalpana Dutta was influenced by Subhash Chandra Bose and joined the Chittagong armoury raids.

7.3.4 Nature of Political Participation of Women

- **Participation of women in 16th Lok Sabha –**

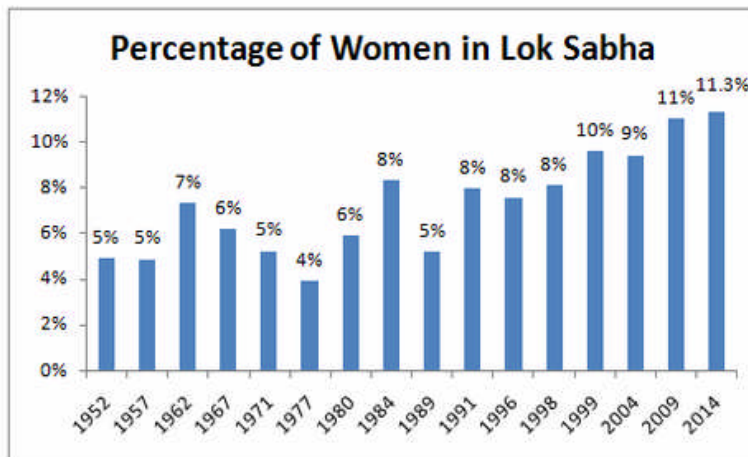
Of the 543 MPs elected, 62 are women. 58 women were elected to the 15th Lok Sabha in the 2009 general elections.

- **Participation of women in 17th Lok Sabha –**

716 women candidates contested the General Election. Out of which, 78 women MPs have been elected to the 17th Lok Sabha. The representation of women MPs in Lok Sabha is slowly improving from 5% in the 1st Lok Sabha to 14 % in the 17th Lok Sabha.

17th Lok Sabha – Women Participation
Source – PRS Legislative Research

Though the percentage of women MPs has increased over the years, it is still lower in comparison to some countries. These include Rwanda (61%), South Africa (43%), UK (32%), USA (24%), Bangladesh (21%).



Source – PRS Legislative Research

7.3.5 Constitutional Rights of Women:

The rights and safeguards enshrined in the constitution for women in India are listed below:

- The state shall not discriminate against any citizen of India on the ground of sex [Article 15(1)].
- The state is empowered to make any special provision for women. In other words, this provision enables the state to make affirmative discrimination in favour of women [Article 15(3)].
- No citizen shall be discriminated against or be ineligible for any employment or office under the state on the ground of sex [Article 16(2)].

- Traffic in human beings and forced labour are prohibited [Article 23(1)].
- The state to secure for men and women equally the right to an adequate means of livelihood [Article 39(a)].
- The state to secure equal pay for equal work for both Indian men and women [Article 39(d)].
- The state is required to ensure that the health and strength of women workers are not abused and that they are not forced by economic necessity to enter avocations unsuited to their strength [Article 39(e)].
- The state shall make provision for securing just and humane conditions of work and maternity relief [Article 42].
- It shall be the duty of every citizen of India to renounce practices derogatory to the dignity of women [Article 51-A(e)].
- One-third of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women [Article 243-D(3)].
- One-third of the total number of offices of chairpersons in the Panchayats at each level shall be reserved for women [Article 243-D(4)].
- One-third of the total number of seats to be filled by direct election in every Municipality shall be reserved for women [Article 243-T(3)].
- The offices of chairpersons in the Municipalities shall be reserved for women in such manner as the State Legislature may provide [Article 243-T(4)].

7.3.6 Causes of low representation of women in the parliament and state legislature

- **Domestic responsibilities:** Traditional role of women in India is generally perceived to be as a household caretaker. This perception restricts the access of women to education, job opportunities and also to politics. Women role is generally apolitical in the society.
- **Prevailing cultural attitudes** regarding roles of women in society: the patriarchal thought process and the orthodox view of women restricts their opportunities.

- **Lack of support from family:** Being shackled by the household responsibilities, women do not generally receive the support and motivation from their family. There is also a view prevalent that politics would require compromising on principles and ethics.
- **Lack of confidence:** women are made to believe that their existence is only due to male members of the family. There is lack of full psychological development and lack of confidence to take on the challenges involved in politics.
- **Lack of finance:** women generally face the problem of inadequate financial resources to take on the expenses of the election propaganda and other such expenses involved. The expenses of male candidates of party are generally sought to cover, leaving meagre resources for women.
- **Lack of will of Political Parties** to provide adequate number of party tickets to women candidates for their better representation.
- **Delay in passing of Women Reservation Bill** providing 33% reservation in Lok Sabha and state legislative assemblies. The bill was first introduced in 2010 but even today it has not been passed due to the lack of political will of the successive governments.
- **Lack of leadership training and limited involvement in decision making process:** there is lack of training among the women candidates. Even though there is appreciable participation of women in local self government as a result of reserved seats, the lack of training renders their election futile.
- **Male-dominant nature of Indian politics:** the male dominant nature of our society, from households to Indian politics is responsible for lack of opportunities to women. The party also favour male candidates as compared to women.
- **Corruption and criminalisation of politics:** the increasing involvement of criminals in Indian politics has made women more vulnerable and disadvantaged.
- **Role of government officials:** the political representatives have to constantly work with the government officials. However, women representatives often face resistance and non-cooperation by the government officials due to gender insensitivity.

- **Poverty and unemployment:** Poverty is a barrier to women participation in politics. Due to poverty women are forced to work in unorganised sector with poor working conditions and meagre wages. This also restricts the participation in political process.
- **Caste:** The women from lower caste are more vulnerable and ignored and have lesser access to public institutions. Their voices are shut down by the dominant castes. The caste divide also prevents them from uniting and creating a common political ground for women.

7.3.7 Women participation in Local Self Government - 73rd and 74th amendments

In 1989, the central government introduced two constitutional amendments. These amendments aimed at strengthening local governments and ensuring an element of uniformity in their structure and functioning across the country. Later in 1992, the 73rd and 74th constitutional amendments were passed by the Parliament. The 73rd Amendment is about rural local governments (which are also known as Panchayati Raj Institutions or PRIs) and the 74th amendment made the provisions relating to urban local government (Nagarpalikas). The 73rd and 74th amendments came into force in 1993.

States/UTs wise numbers of Elected Women Representatives at Panchayat Level:

Sl. No.	Name of the States/ UTs	Elected Women Representatives (EWR)			
		Gram Panchayat	Block Panchayat	District Panchayat	Total
1	Andhra Pradesh	71996	5699	330	78025
2	Arunachal Pradesh	2966	625	67	3658
3	Assam	12100	1100	210	13410
4	Bihar	51998	5341	548	57887
5	Chhattisgarh	91469	1595	223	93287
6	Gujarat	68880	2582	526	71988
7	Haryana	28060	1258	181	29499
8	Himachal Pradesh	13409	862	127	14398
9	Jammu & Kashmir	11169	--	--	11169
10	Jharkhand	27664	2812	281	30757
11	Karnataka	48335	2018	539	50892
12	Kerala	8360	1102	168	9630
13	Madhya Pradesh	192669	3395	426	196490
14	Maharashtra	118496	1989	1005	121490
15	Manipur	836	0	32	868
16	Mizoram	828	--	--	828
17	Odisha	49840	3273	438	53551
18	Punjab	31373	910	110	32393
19	Rajasthan	66823	3118	586	70527
20	Sikkim	493	--	55	548
21	Tamil Nadu	37310	2426	239	39975
22	Tripura	2760	192	54	3006
23	Telangana	48267	3249	219	51735
24	Uttarakhand	34106	1633	218	35957
25	Uttar Pradesh	246038	25664	1031	272733
26	West Bengal	24991	4743	423	30157
27	Dadra & Nagar Haveli	43	--	4	47
28	Daman & Diu	82	--	10	92
29	Goa	499	--	17	516
30	Chandigarh	49	6	3	58
31	Lakshadweep	32	--	9	41
32	A & N Island	262	28	12	302
	Total	1292203	75620	8091	1375914

Source: MoPR Compilation as on 27.03.2018

7.3.8 Debate on reservation for women in the Lok Sabha and Legislative assemblies

The Constitution (One Hundred and Eighth Amendment) Bill, 2008

- It seeks to reserve one-third of all seats for women in the Lok Sabha and the state legislative assemblies. The allocation of reserved seats shall be determined by such authority as prescribed by Parliament.
- One third of the total number of seats reserved for Scheduled Castes and Scheduled Tribes shall be reserved for women of those groups in the Lok Sabha and the legislative assemblies.
- Reserved seats may be allotted by rotation to different constituencies in the state or union territory.
- Reservation of seats for women shall cease to exist 15 years after the commencement of this Amendment Act.

Arguments for Women Reservation in Parliament:

- **Constitutional rights:** Although the Constitution has provided for various provisions to ensure gender equality and women emancipation, these do not match the ground situation. There are more guarantees needed for political empowerment of women which is provided for in this bill.
- **Redistribution of resources:** Political reservation facilitates a more equal distribution and access to resources for the weaker sections of the society. A guaranteed representation of women in Parliament would ensure equitable distribution of resources.
- **Previous experience:** Studies have showed that the reservation for women in panchayats ensures more investment in the public goods closely linked to women's concerns. They are better equipped to address the issues related to women and facilitate their development.
- **Gender equality:** A sizeable proportion of women representatives perceive an enhancement in their self-esteem, confidence and decision-making ability.
- **Where women constitute half the population, the meagre representation in Parliament is against the principle of fair and equal representation of all sections of society.**

Arguments against Women Reservation in Parliament:

- It is argued that the reservation of women in parliament would perpetuate the inequality against them as they would not be perceived to be competing on merit
- When the seats are reserved for women, they are not usually considered to fight for the unreserved general seats however competent they may be.
- It diverts the attention from the larger issues in politics like the increasing criminalisation, need for electoral reforms and more transparency.
- Rotation of reserved constituencies in every election may reduce the incentive for an MP to work for his constituency as he may be ineligible to seek re-election from that constituency.

7.3.9 Conclusion

Inclusive development is one of the most important development goals of Indian government. This can be ensured only by an equal participation of all stakeholders in the decision-making process. Despite the difficulties and competition faced by women, they have made massive inroads into business, science and all other sectors of world economy. There is also an increased participation of women in politics. Especially in India, in recent years women have held one of the most important positions in Indian government. There has been rise of many important women leaders in Indian politics like Sushma Swaraj, Pratibha Patil, Mayawati, Mamata Banerjee, Jayalalitha, Nirmala Sitharaman, among others. The 17th Lok Sabha witnessed the largest proportion of women Parliamentarians. These demonstrate a positive scenario and future potential for an increase women involvement in Indian politics.

Questions:

1. What are the causes of low participation of women in politics?
2. Discuss the history and nature of women's participation in politics.
3. Comment on Reservation of women in Loksabha and Legislative Assemblies.



CRIMINALISATION OF POLITICS

Unit Structure

- 8.0 Objective
- 8.1 Criminalisation of Politics
- 8.2 Internal threat to security (with reference to Naxalism and Insurgency)
- 8.3 Global Terrorism

8.0 OBJECTIVE:

The objective of the unit is to make student understand various challenges to National Security through criminalization of politics. It also aims to comprehend various internal threats to National Security such as naxalism and insurgency. It also aware students to the concept of global terrorism.

8.1 CRIMINALISATION OF POLITICS

- Introduction
- Causes of criminalization of politics
- Consequences of criminalization of politics
- Legal framework
- Way forward

8.1.1 Introduction:

Politics is the most important phenomenon in democracy. India is a representative democracy and our legislators are elected by the people through elections. Criminalisation of politics refers to increasing participation of criminals in the electoral process and their selection as the elected representatives of people. The Vohra Committee Report in 1993 and the report of National Commission to Review the Working of the Constitution in 2002 confirmed that there is increasing trend of criminal's participation in Indian politics.

8.1.2 Causes of criminalization of Politics:

- Vote bank Politics: Money and muscle power of criminals help political parties gain votes. Since, in India electoral politics is more about caste, ethnicity, religion and several other factors,

candidates overcome the reputational loss due to criminal charges and come out as victorious in elections.

- Lack of adequate deterrence: Due to the low levels of convictions of MPs and MLAs, and delays in trials political parties are not deterred from giving tickets to criminals.
- Lack of Intra-party democracy: Political parties in India largely lack intra-party democracy and the decisions on candidature are largely taken by the elite leadership of the party. Thus, the politicians with criminal records often escape the scrutiny by local workers and organisation of the party.
- Black money in elections: Electoral politics is largely dependent on the money and the funding that it receives. Since candidates with criminal records often possess greater wealth, they ensure greater inflow in money, labour and other advantages that may help a party in successful campaign, and also possess greater 'winnability'
- Civil society in India has failed to check criminalization of politics due to resistance from establishment, prevalent use of money and muscle power and lack of voter awareness
- Lack of ethics and values in Indian politics further accentuates the problem of criminalization. The political parties have been reluctant in checking criminalization for own vested interests.

8.1.3 Consequences of criminalization of politics:

- The presence of people with criminal backgrounds in politics and law-making of the country has negative impacts on the quality of democracy
- Enormous amounts of illegal money flow into the electoral process due to extensive links with the criminal underworld
- Criminalization of politics also has the consequence of obstructing the process of justice and causing further delays in trials.
- Criminals entering politics further increases corruption in public life and has an adverse negative impact on the state institutions including the bureaucracy, the executive, the legislature and the judiciary.
- Criminalization of politics introduces a culture of violence in the society and sets a bad precedence for the youth to follow.

8.1.4 Legal Framework:

Constitutional Provisions:

Article 102 states that a person shall be disqualified from being chosen and from being a member of either House of Parliament if:

- he holds an office of profit,
- if he is of unsound mind and so declared by a competent court,
- if he is an undischarged insolvent,
- if he is not a citizen of India and if he is disqualified by any other law made by Parliament

Corresponding provisions for members of State Legislative Assemblies are found in **Articles 173 and 191**.

Representation of People's Act, 1951:

- Parliament through the RPA has prescribed further qualifications and disqualifications for membership to Parliament or to a Legislative Assembly.
- **Section 8** of the Act lists certain offence which, if a person is convicted of any of them, disqualifies him from being elected or continuing as, a Member of Parliament or Legislative Assembly.
- A candidate to any National or State Assembly elections is required to furnish an affidavit, in the shape of **Form 26** appended to the Conduct of Election Rules, 1961. Failure to furnish this information, concealment of information or giving of false information is an offence under Section 125A of the RPA.

Law Commission in its 244th report on Electoral Reforms titled "Electoral disqualifications" had put forward recommendations on de-criminalization of politics. The main recommendations include:

- Expediting trials in relevant courts where a case is led against a sitting MP/MLA and to conduct the trial on a day-to-day basis with an outer limit of completing the trial in one year.
- Retroactive application- from the date the proposed amendments come into effect, all persons with criminal charges (punishable by more than five years) pending on that date are liable to be disqualified subject to certain safeguards

- The punishment for filing false affidavits under Section 125A be increased to a minimum of two years, and that the alternate clause for ne be removed.
- Conviction under Section 125A should be made a ground for disqualification under Section 8(1) of the RPA, 1951.
- The filing of false affidavits should be made a corrupt practice under Section 123 of the RPA.

Election Commission Recommendations: The Election Commission in its “Proposed Electoral Reforms” (2016) recommended that: Persons charged with cognisable offences should be de-barred from contesting in the elections, at the stage when the charges are framed by the competent court provided the offence is punishable by imprisonment of at least 5 years, and the case is led at least 6 months prior to the election in question

8.1.5 Way Forward:

- The legal framework needs to be reformed to effectively curb the steady flow of criminals into the political process.
- The issues of the limited deterrence posed by disqualification upon conviction, and the delays in trials of influential persons that result in a subversion of the process of justice needs to be urgently addressed.
- The Election Commission must take adequate measures to break the nexus between the criminals and the politicians. The most important step in this direction would be checking the use of black money in party and election funding.
- Intra-party democracy should be strengthened for better scrutiny and selection of candidates.
- A strong political will is required on the part of government to decriminalize the entire political system by enactment of required legislations and taking adequate measures.
- Politics can only be decriminalized through larger public awareness and public participation in elections, politics and governance. Further, electoral process should be made more inclusive through wider participation from all sections of the society

Questions:

1. What are the reasons of criminalization of politics?
2. What is the legal framework to check and prevent criminalization of politics?

8.2 INTERNAL THREAT TO SECURITY (WITH REFERENCE TO NAXALISM AND INSURGENCY)

- Introduction
- Origin of Naxalism in India
- Factors responsible for rise and spread of Naxalism
- Aims, objectives and Modus Operandi of Naxalites
- Effects of Naxalism
- Government Strategy to fight Naxalism
- Insurgency in North East
- Insurgency in Jammu & Kashmir

8.2.1 Introduction

A state is at risk from four kinds of threats – Internal, External, Internal-aided external and External-aided internal. India faces a mix of all these threats. While internal security is the security of a country within its borders, external security is country's security against external aggression i.e. aggression by other countries. Among the major challenges India faces in terms of its internal security, Naxalism and Left-Wing Extremism are the most pressing ones.

NAXALISM

8.2.2 Origin of Naxalism in India –

The term 'Naxal' originated from the name of village Naxalbari of district Darjeeling in West Bengal. It originated in 1967 under the leadership of Charu Majumdar, Kanu Sanyal and Jangal Santhal. In November 1967, left-wing extremist from all over country founded 'All India Coordination Committee' in Kolkata (later

renamed as 'All India Coordination Committee of Communist Revolutionaries'.

In 1969, AICCCR founded revolutionary party CPI Marxist-Leninist (ML) based on the ideology of Mao Zedong, a Chinese revolutionary leader. Soon the movement spread to other parts of the country.

Extent of Naxalism –

- The highly affected areas include – Jharkhand, Chhattisgarh, Odisha and Maharashtra.
- Other affected areas are – Andhra Pradesh, Karnataka, Tamil Nadu, Madhya Pradesh

Phases of Naxalism –

1. **Preparatory Phase** – survey of new areas to identify issues on which masses can be mobilised
2. **Perspective Phase** – demonstrations against government based on local public grievances
3. **Guerrilla Phase** – converting the public movement into violent guerrilla warfare
4. **Base Phase** – establish their base and change guerrilla zone into liberalised zone
5. **Liberated Phase** – establishment of people's government

8.2.3 Factors responsible for rise and spread of Naxalism –

1. Forest and Land related issues –

- Evasion of land ceiling laws
- Land acquisition without appropriate compensation and rehabilitation
- Disruption of the age old relation between the tribes and the forests

2. **Exploitation** – tribal were exploited by the landlords, traders and industrialist due to lack of literacy, awareness and backwardness among them. They were exploited for land, forest produce and other commercial purposes because of which the tribal shifted towards radical leftist ideology.

3. **Lack of development** – the tribal areas faced large developmental deficit. There were rampant problems of unemployment, poverty, lack of infrastructure, no education and lack of health facilities. While the non-tribal regions saw rapid development, the tribal regions were neglected.

4. **Disconnect with mainstream society** – due to lack of education and backwardness, the tribal were dissociated from the mainstream developing society. They felt neglected by the government as well as the society. The feeling of unity prevalent in other parts of country had not penetrated to these regions due to disconnect with the society.
5. **Poor implementations of special laws** – the government has formulated various laws for the welfare of the forest dwellers and tribal. However, these laws are plagued with loopholes that prevent the benefit from reaching these beneficiaries and thus leaving them deprived of welfare needs and support and exposing them to exploitation.
6. **Mismanagement and corruption in government schemes** – over the years, government has implemented various schemes for the welfare of the tribal, to educate them and to integrate them with the society. But these schemes have failed to achieve their desired objective due to poor management, implementation and corruption.
7. **Geographical terrain** – Naxalism is mostly spread in the forest area which makes it difficult for the administration and police to fight it. But it helps Naxalites to fight against the police by the method of guerrilla warfare.

8.2.4 Aims, objectives and Modus Operandi of Naxalites

Aim –

- To destroy the legitimacy of the state.
- To create mass base with certain degree of acceptability

Objective –

- Establish 'The India People's Democratic Federal Republic'

Modus Operandi –

- Attack police and their establishment
- Attack infrastructure like rail and road transport, power transmission
- Oppose execution of development work
- Front organisations and civil society groups on issues like land acquisition, land reforms, displacement, etc. and acquire support of intellectual elite

8.2.5 Effects –

Positive Impacts –

1. **Protection from eviction and forest officers:** As per the Forest (Conservation) Act 1980, the reserved forests could not be utilized without the prior permission of the central government. This led to eviction of many adivasis from forests and abuse by the forest officials. Naxalites protected the adivasis from eviction and exploitation by forest officers
2. **Support to the victims of displacement:** Often the displaced forest dwellers face the ire of administration. They tend to re-settle in same forest region which is prohibited. Naxalites have helped these victims. Example, due to an irrigation project in Orissa, many adivasis were displaced and migrated to Andhra Pradesh. They would have been evicted from Andhra as well save for the Naxalite intervention.
3. **Infrastructure:** The Naxalites have rendered support to many development projects like roads, school buildings around their regions. But at the same time they have opposed them in fear of police and paramilitary forces interference in their regional affairs.
4. **Bonded Labour:** Naxalites have successfully waged against bonded labour or 'begar'. The efforts of government coupled with Naxalites efforts have led to bonded labour to be nearly abolished
5. **Wages:** the Naxalites have ensured the payment of decent wages to the labourers. Though, the government had provided for minimum wages through the Minimum Wages Act, the legislation was made a reality by the Naxalites.
6. **Landlordism:** Even after many years of Independence and many land reforms being initiated, landlordism was rampant in many parts of India and is prevalent even today in some areas. Naxals reallocated the land from the rich landlords to the peasants who cultivated. This reallocation helped the peasants improve their situation
7. **Social sector development:** the threat of Naxals has ensured the proper attendance of teachers, doctors, etc. in regions of Maharashtra, Andhra Pradesh and Chattisgarh. This factor has led to better social development and catering to the needs of the tribal who were hitherto not given the requisite attention.

Negative Impact –

1. **On GDP growth** – all Naxalism affected states excluding Andhra Pradesh and Maharashtra have low GDP growth. The threat of Naxalism prevents industrialisation in these regions, thus affecting production as well as income.
2. **On tax revenues** – the parallel government run by Naxals prevents the governing agencies from appropriation of taxes resulting in low tax revenues.
3. **Expenditure on defence** – the lower domestic investment is coupled with heavy expenditure on defence. This has a bearing on the investments and expenditure that could have been made on education and health sector.
4. **On trade flows and foreign direct investment inflows** – the Naxal violence, extortion and lack of good transportation facility affect the foreign direct investments and trade results in lower imports, thereby affecting the economy.
5. **On tourism** – lower tourist attraction and lower tourism market share affect the income potential of the region.
6. **Other impacts –**
 - Lower job availability
 - Less investment on agriculture
 - Effect on education and other opportunities
 - Range of acts of violence harming the masses. Incidents of burning schools, trains and rail lines in turn hurt the masses instead of creating conditions for their development
 - The disruption of elections hampers the right of people to choose their leaders
 - In fight against the security forces and the Naxalites, the brunt is borne by the villagers and tribal

8.2.6 Government Strategy to fight Naxalism –

As per the Indian Constitution, 'Police' and 'Public Order' are state subjects, thus the maintenance of law and order lies mainly in the domain of State Governments. But as expressed by the former Prime Minister Dr. Manmohan Singh, Naxalism is the most significant threat to internal security; the successive Central Governments closely monitor the situation and supplement the efforts of State Governments in several ways. These include –

- Providing Central Armed Police Forces (CAPFs) and Commando Battalions for Resolution Action (CoBRA)
- Modernisation and upgradation of State police under scheme 'Modernisation of Police Forces'

- Reimbursement of security related expenditure
- Training of state police
- Sharing of intelligence
- Facilitate inter-state coordination, community policing and civic action
- A National Policy and Action Plan put in place – adopting a multipronged strategy in areas of security, development, rights and entitlements of tribal, etc.

Schemes for affected states –

1. Special Central Assistance (SCA) – for 30 most LWE affected districts. It was launched in 2017 by government under the umbrella scheme of Modernisation of Police Forces. Objective of this scheme is to fill the critical gaps in public infrastructure and services
2. Scheme of Fortified Police Stations
3. Assistance to Central Agencies for LWE Management Scheme – assistance is provided to Central Agencies like CAPF for strengthening of infrastructure
4. Road Requirement Plan-I (RRP – I) for LWE affected areas – scheme implemented by the Ministry of Road Transport & Highways for improving road connectivity in affected areas
5. Civic Action Programme (CAP) – it aims to bridge the gap between Security Forces and local people through personal interaction. The funds are given to CAPF deployed in affected areas for conducting various civic activities for welfare of the people in those areas
6. Aspirational Districts Programme – the Ministry of Home Affairs monitors the Aspirational districts programme in 35 affected districts.

8.2.7 INSURGENCY IN NORTH EAST –

The Northeast region of India comprises of seven states – Assam, Nagaland, Manipur, Arunachal Pradesh, Mizoram, Tripura and Sikkim. The region holds key importance for India in terms of resources, cultural diversity, natural heritage and biodiversity. With all the states having international borders, sharing borders with China, Bangladesh and Myanmar, these states are hold strategic importance in terms of security, internal and external and it is held as one of the key aspects in India's foreign policy and diplomacy with neighbouring countries.

North Eastern India has been witnessing the problem of insurgency for the past half century. Insurgency is an armed

rebellion against a constituted authority. Initially the states facing insurgency included Nagaland, Manipur, Assam and Tripura during the 1950s and 1960s which started decreasing during the 1990s. The demand of the insurgents has varied from greater autonomy, a separate state to some extreme demands like complete independence.

The reasons for insurgency can be attributed to many factors. Historically, the regions were loosely administered by the British and they remained largely detached from the mainland India. The extent of integration that climaxed during the freedom movement and furthered during independence, was not supplemented by the same level of integration with the north east. After independence, there were tension between the central government and the states. These tensions were intensified due to the surge of immigrants into these states. The geographical separation and lack of connectivity for a long period of time hampered the integration of these states with mainland India. These states were largely neglected for the larger part of post-independent period. The lack of funds, developmental assistance and continued deprivation in face of the increasing development of the other regions of the country deepened the already existing problems. The region is subjected to various environmental extremities. Further the intense biodiversity, forest resources while hampering access to the region, has also hampered its development.

There is a presence of many insurgent groups in these regions.

Nagaland – the state, earlier a part of Assam was the first one to witness the rise of militancy. The demand was for a greater autonomy. It was carved out as a separate state from Assam in 1963 and became the 16th state of Union of India. There is National Socialist Council of Nagaland (N.S.C.N.) two factions: Isak-Muivah faction (N.S.C.N.-I.M.) and the Khaplang faction (N.S.C.N.-K.) present in Nagaland. The state exhibits a rich ethnic, religious and tribal diversity. The insurgency in Nagaland is considered to have inspired insurgency in many other ethnic groups in the region.

Mizoram – the state was part of Assam before it attained statehood in 1987. The rise of insurgency in the state was a response to the neglect of the central government to the demands of the state. Lack of development, employment opportunities and education has deprived the people and deepened the grievances. In Mizoram there is Mizo National Front (M.N.F.).

Assam - The United Liberation Front of Assam (U.L.F.A.), Bodo Liberation Tigers, National Democratic Front of Bodoland (N.D.F.B.) and the United People's Democratic Solidarity (U.P.D.S.)

have presence in Assam. It has witnessed militancy from various groups for many years. There has been a demand of creation of separate state – Bodoland by carving out areas from Assam and West Bengal.

Manipur – It was accorded statehood in 1972 while the struggle of independence in the region has been pursued since 1964. The groups have a socialist inclination. Their demands are due to the neglect by the central government and lack of development in the region. The strong military presence and the overriding powers granted to them as a result of the Armed Forces Special Powers Act (AFSPA) have added to the discontent of the people. The United National Liberation Front is present in Manipur.

Meghalaya - the Garo National Liberation Army (GNLA) and Hynniewtrep National Liberation Council (HNLC) are having a presence in this state. It was carved out of Assam owing to the unique needs of the tribes of this region, the Garo, the Khasi and the Jaintias.

Arunachal Pradesh – the state has more or less remained peaceful for most part of the history. But due to its proximity to Myanmar and Nagaland makes it prone to insurgency. The history of indigenous insurgency movement was the rise of the Arunachal Dragon Force (ADF), which later became East India Liberation Front (EALF) in 2001

Tripura – the insurgency in the state has been due to immigration in the state and the reduction of the indigenous groups in the state to a minority status. There were ethnic tensions with the Bengali immigrants post the 1971 Bangladesh Liberation war. Militant groups were formed that demanded restoration of tribal rights from the Bengali population.

In the recent years, realising the strategic, economic, political and environmental importance of the region, the successive governments have approached the north east region with a renewed focus. There are many steps taken by the governments and the civil society for a greater inclusion of the region with rest of the country. A Ministry of Development of North Eastern Region (DoNER) responsible for the matters relating to the planning, execution and monitoring of development schemes and projects in the North Eastern Region has been set up. Restrictions are imposed on the entry of outsiders to maintain the original identity of indigenous people of Mizoram, Nagaland and Arunachal Pradesh entry of outsiders are not allowed without Inner Line Permit (ILP). The active steps taken by the government has significant curbed the violence in north east. But the groups continue to be present and carry out illicit activities often leading to

law and order crisis in these regions. While corrective steps have been taken, these steps need to be intensified and effectively implemented.

8.2.8 INSURGENCY IN JAMMU AND KASHMIR –

The roots of insurgency in Jammu and Kashmir lie in the post-Independence Partition of India. Kashmir, a princely state, initially decided to remain an independent kingdom, neither acceding to India nor to Pakistan. The invasion into Kashmir by the Pakistani troops urged the ruler of Kashmir, Maharaja Hari Singh to seek India's help and consequently signed the Instrument of Accession with India. The president subsequently issued constitution order extending the Union constitution to the state with some exception. The state of Jammu and Kashmir was granted a special status by the enactment of Article 370.

One part of Kashmir at the time of accession came to be occupied by India and the other part by Pakistan. Despite UN contravention, there has been no conciliation between the two countries over this dispute. In later years of post-independence period, during early 1990s there were increasing anti-India separatist tendency in the state.

Role of Pakistan: the Pakistan-occupied-Kashmir (PoK) has been the base of many terrorist camps which are also supported by the Pakistan Government and military. Pakistan sponsored-terrorism in India is a part of Pakistan's strategy of bleeding India by thousand cuts. While it keeps nuclear threat as a means of deterrence on the front, it pursues terrorism at the back to arrest India's attention in the resolution of this problem and endanger its unification.

The problem of insurgency in Kashmir is multipronged. There is involvement of Pakistan, there is presence of separatist forces in the state, there is lack of integration of the state with rest of India, lack of development and opportunities and many other factors. There has been a shift in government's strategy for resolving the insurgency problem in India. Firstly, there is a shift in the pattern of diplomacy of India with respect to Pakistan with India adopting many hardliners in respect of terrorism. India has engaged with many countries on international platform for their support in India's fight against Pakistan sponsored terrorism. Secondly, counter strikes are increasingly being conducted by the Indian armed forces in Pakistan-occupied-kashmir territories in retaliation to the terrorist attacks in India to stop such attacks by destroying their base camps.

Recently in an historic step, the President has passed a presidential order repealing the Article 370 that grants special

status to the state of Jammu and Kashmir. Moreover, the Parliament has passed the Jammu and Kashmir Reorganisation Bill 2019 which has bifurcated the state of Jammu and Kashmir into two union territories – the union territory of Jammu and Kashmir and the union territory of Ladakh. The removal of Article 35A (that gave special rights to the permanent residents of the state over others in matters like property rights) has paved way for greater integration of the state with rest of India. With removal of special status to the state, the scheme, laws and development programs of the central government shall now be extended to the state and can prove to be the stimulus for robust development that the state is in need of.

Questions:

1. What are the factors responsible for the rise of Naxalism?
2. What are the positive and negative effects of Naxalism?
3. Critically examine the insurgency in North East.
4. Examine the insurgency in Jammu & Kashmir.

8.3 GLOBAL TERRORISM

Changing nature of global terrorism in the era of globalization and India's response, organization having impact in India.

- **Definition**
- **Changing nature of global terrorism**
- **Factors responsible for origin of terrorism in India**
- **Organization having Impact on India**
- **Institutional framework to tackle terrorism**
- **Legal framework to tackle terrorism**
- **Difference between terrorism, insurgency and naxalism.**

8.3.1 Definition of Terrorism –

- It may be defined as the planned, organised and systematic use of violence as a means of coercion for political, religious or ideological purposes.

- It is a state of terror, panic and fear psychosis, created by an individual or a group of people in order to force, coerce or blackmail the authorities, using violent methods to accept their demand or to attain political, religious or ideological goals

8.3.2 Changing nature of global terrorism –

Terrorism is a global phenomenon. There has been a general ambivalence regarding what actually constitutes terrorism. There have been many instances when the states have encouraged various criminal acts in another state. The difficulty in defining what constitutes terrorism has hampered the international community from coming together in fight against terrorism.

The coming of globalisation has made the world a global village. There is exchange of goods, services, people, ideas, culture and many other elements. However, while such elements are mutually beneficial for the countries, there are many non-desirable elements that have propagated across borders of the countries. One such element is terrorism. Often terrorism in one country has ideological and financial source in another country. The absence of borders is not only in trade of goods and services but also in spread of terrorism.

The increasing technological advancement has helped the countries to gain new heights of development. Research and development in new technologies in one country is globalised and has benefitted billions of people. However, this advancement of technology has also percolated to terrorist organisations which are now stronger than ever.

The increasing use of information technology, social media, mobile phones have connected people in two corners of the world. But it is also used to spread terrorism by radicalising the youth.

Terrorism can be classified into two categories –

1. **Terrorism by External State Actors** – when a government indulges into terrorism against the people of its own country or against people of another country. Support to terrorism can be by the means of financial funding, arms supply, training, etc. The terrorism in Kashmir is the due to Pakistan state policy and ISI.
2. **Terrorism by Non-state Actors** – individuals or organisations that indulge in act of terrorism and are not associated with or financed by any government. Organisations in India like Lashkar-e-Taiba and Indian Mujahideen (IM) claim to be non-

state actors. However, the possibility of association with state actors cannot be completely ruled out.

Terrorist attacks in India –

- Bomb blast in Mumbai in 1993
- Attack on Red Fort in 2000
- Attack on Jammu and Kashmir Assembly in 2001
- Attack on Indian Parliament in 2001 by Lashkar-e-Taiba and Jaish-e-Mohammed
- Attack in Mumbai in 2008
- German Bakery, Pune Bomb blast 2010
- Pathankot attack in 2016
- Uri attack by Jaish-e-Mohammad in 2016
- Attack on Amarnath Yatra in 2017
- Pulwama attack in 2019 by Jaish-e-Mohammad

8.3.3 FACTORS RESPONSIBLE FOR ORIGIN OF TERRORISM IN INDIA

- India's borders with most neighbours are porous (not protected) which are extremely easy to cross.
- Complexity makes these borders difficult to protect by security forces.
- Methods of security ambivalent and lack of strategic thinking.
- Complex relations of India with neighbours.
- Support to terrorism by internal forces due to reasons like identical ethnic affiliation, monetary requirements, fear of life, lack of education, dissatisfaction from present governance system etc.
- Long sea border makes India vulnerable to host of problems like piracy.
- Globalisation and social media has made propagation of ideas, people and extremism easy and rapid.
- Lack of international cooperation to put up an anti-terrorism front and undertake anti-terrorist actions.

8.3.4 ORGANISATIONS HAVING IMPACT ON INDIA

Organisations in India –

1. **Indian Mujahideen (IM)** – It is an Islamist terrorist group based in India. It has taken responsibility of many blasts in India. Police investigation has revealed it to be a front of Lashkar-e-Taiba. It was declared a terrorist organisation by Indian government in 2010. It has also been declared as terrorist organisation by New Zealand, United Kingdom and United

States of America. Its aim is to create an 'Islamic Caliphate' across South Asia.

2. **Hizbul Mujahideen** – the group was founded in 1989 and is based in Kashmir
3. **Student Islamic Movement of India (SIMI)** – the organisation was formed in 1977 and is an Islamic student organisation. It was originally formed with the aim of liberating India from the western cultural influences and to nurture living among Muslims as per the Islamic code of conduct. After the violence between Hindus and Muslims in 1980s and 1990s it turned more radical.
4. **AQIS (Al-Qaeda in Indian Subcontinent)** – it is an affiliate of Al-Qaeda created in 2014. It is banned by the United Nations. It aims to draw together the jihadists from India, Pakistan, Bangladesh, Myanmar

International Organisations –

Al Qaeda –

Founded in 1988, Al Qaeda is a militant Sunni Islamist multinational organization. It was founded in 1988 during the Afghan-Soviet. It has been declared a terrorist organisation by the United Nations Security Council, North Atlantic Treaty Organization (NATO), India, United States of America, the European Union and various other countries. They are responsible for many terrorist attacks like September 11 attacks, and United States Embassy attacks among others. In the 'War on Terror' launched by the United States government, led to deaths of major leaders of Al-Qaeda including Osama Bin Laden.

Lashkar-e-Taiba –

Operating mainly from Pakistan and Pak-Occupied-Kashmir (PoK) it is one of the largest and most active organisations in South Asia. It was founded in 1990 by Hafez Saeed. They are responsible for many terrorist attacks in India including the attack on Indian Parliament, attack on Akshardham Temple and blasts in Mumbai in 2006 and 2008.

Jaish-e-Mohammad –

A Pakistan-based terrorist organisation aiming to undermine the Indian control over the Indian administered Kashmir. It operates through attacks on government and security with the support of Pakistan's ISI in the form of funding, training and strategy of conduct. It was founded by Masood Azhar who was fighting under Harkat-ul-Mujahideen and has been linked to Al Qaeda. After founding Jaish-e-Mohammad in 2000, it has carried some of the most critical attacks on India. These include the attack on Indian

Parliament in 2001, Pathankot airbase attack in 2016, Pulwama attack on CRPF personnel of Indian army in 2019.

Harkat-ul-Jihad-al-Islami (HUJI) –

It is based in Pakistan and Bangladesh. It began operations in Afghanistan after the withdrawal of Soviet Union from the country. It has taken the responsibility of Banaras bombing in 2006 and Delhi Bombing in 2011.

Islamic State (IS)

The group was founded by Abu Musab al-Zarqawi, a Jordanian radical in 1999. In 2004, al-Zarqawi swore loyalty to Osama bin Laden. Several insurgent groups and factions merged in 2006 to form the Islamic State of Iraq. Later having expanded their roots to Syria, the group renamed itself as 'Islamic State of Iraq and Syria'. Their ideology is based on the return of golden age of Islam and their aim is to establish a Caliphate state based on the Sharia law and all Muslim are required to pledge allegiance to it. Radicalisation of Indian youth and their recruitment is a threat to India's national security and sovereignty.

8.3.5 INSTITUTIONAL FRAMEWORK TO TACKLE TERRORISM:

- **National Investigation Agency (NIA)** - central agency established by Government after the 2008 Mumbai attacks to combat terror in India. It deals with terror activities across states without prior permission by states. It is a statutory body that came into existence with the enactment of the National Investigation Agency Act 2008 by the Parliament of India on 31 December 2008.
- **NATGRID (National Intelligence Grid)** – an intelligence sharing network that connects database of cores security agencies in India. It hosts information from government databases. The Mumbai 2008 attacks exposed weakness in India's intelligence and NATGRID was established to address it.
- **National Security Guard (NSG)** - a Special Forces unit under the Ministry of Home Affairs (MHA). New NSG hubs were opened in Mumbai, Kolkata, Chennai and Hyderabad to ensure faster and efficient reaction to crisis situations.
- **Anti-Terrorism Squad (ATS)** - is a special police force raised to combat terror. It is set up in several states - Maharashtra, Gujarat, Kerala, Uttar Pradesh, Rajasthan and Bihar.

8.3.6 LEGAL FRAMEWORK TO TACKLE TERRORISM:

- **Terrorist and Disruptive Activities (Prevention) Act:** It was anti-terrorism law which was in force between 1985 and 1995

under the background of the Punjab insurgency and was applied to whole of India.

- **Prevention of Terrorism Act, 2002 (POTA):** It was an Act passed by the Parliament in 2002 to strengthen anti-terrorism operations. It replaced the Terrorist and Disruptive Activities (Prevention) Act. The Act was repealed in 2004 by government.
- **National Security Act, 1980:** It is a stringent law that allows preventive detention for months, if authorities are satisfied that a person is a threat to national security or law and order.
- **Unlawful Activities (Prevention) Act, 1967:** It is aimed at effective prevention of unlawful activities associations in India. Its main objective is deal with activities directed against the integrity and sovereignty of India

WHAT MORE IS NEEDED

- There needs to be a strong political consensus in country that national interest stands supreme. Anything that is detrimental to national interest must be addressed by government, intelligentsia and the civil society together.
- We need stringent laws against terrorism.
- The proceedings deciding on terrorism should be speedy. For this, there can be fast track courts established.
- There are changes needed in the criminal justice system to deal with the cases related to terrorism within months of the arrests while the memory is still fresh in the minds of the people.
- The state police need to be empowered. There should be enhanced training and providing modern equipments for investigation, surveillance and operations.
- There needs to be proper check imposed on the extent and nature of use of social media.
- The general public needs to be educated about the evils of terrorism and how the neighbouring countries use it to weaken our country.
- We need to promote harmony among the various religions, sects and sub-sects of our society and pose a untied stand against such divisive forces.

8.3.7 DIFFERENCE BETWEEN TERRORISM, INSURGENCY AND NAXALISM

- Terrorism is planned and systematic use of violence as a means of coercion for political, religious or ideological purpose.
- Insurgency is an act of rebellion and armed struggle by a section of society with intent of overthrowing the government.
- Naxalism refers to use of violence to destabilise the state through communist guerrilla warfare. In India it is mostly based on Maoist ideology. They intend to overthrow the government and install people's government.

Questions:

1. Discuss global terrorism and its impact on India.
2. Comment on the activities of terrorist organization in India.
3. What are the institutional and legal frameworks to tackle terrorism?
4. What are the factors responsible for the origin of terrorism in India?

