

Indian Polity - Part 1

1] Introduction Of India

Notes

- India is the World's Biggest parliamentary democratic country. It is the country of **Sovereign, Equality, Secular, People Governance Democratic**.
- India democracy is administered by our Indian Constitution.
- An **Individual person can control the Government** and lead the administration is called as **Autocracy**.
- India is placed **World level 7th biggest country** based upon the **surface and World level 2nd place** based upon **Population which is next to China**.
- Indian boundaries are **Himalayas in the North, Bay of Bengal in the South, Indian Ocean in the East, Arabian sea in the west**.
- India placed **World level 6th in the Space research**.
- **Anandamath** is a Bengali fiction, written by **Bankim Chandra Chattopadhyay** and published in **1882**. The national song of India, **Vande Mataram**, was first published in this novel.

National Flag of India:

- The **national flag of India was adopted** in its present form during a meeting of the Constituent Assembly held on **22 July 1947**, when it became the official flag of the Dominion of India.
- The **flag was designed** by **Pingali Venkayya**, an agriculturist and Indian freedom fighter.
- The national flag of India, by law, **is to be made of khadi, a special type of hand-spun cloth of cotton or silk made popular by Mahatma Gandhi**.

- The right to manufacture the national flag of India is held by the **Khadi Development and Village Industries Commission**, who in turn allocates it to the regional groups.
- The national flag of India is also known by the term '**tricolour**', **Tirangā** in **Hindi**. The reason for this is the three dominant colors in the flag, **saffron, white and green**. These two terms in India always refer to the national flag.
- The three colors have different representations each.
 - ✓ **Saffron represents courage and sacrifice.**
 - ✓ **White represents truth, peace, and purity.**
 - ✓ **Green represents prosperity.**
- According to the Flag code of India, the Indian flag has a ratio of two by three, where the length of the **flag is 1.5 times that of the width and all three stripes of the flag - Saffron, White, and Green - should be equal in width and length. Also, the chakra should be printed on both sides of the flag.**
- There are nine different sizes in which the Indian flag is made. The **smallest one is 6×4 inches** and the **biggest one, hoisted on buildings and forts with high mast, is 21×14 feet.**
- But totally the flag consist of **four colours i.e.Saffron , ehite , green and Navy blue (Ashok chakra)**
- The flags hoisted on Red Fort, Rashtrapati Bhavan, and **medium-sized** government buildings are **12×8 feet.**
- The size of the Ashoka Chakra was not specified in the Flag code, but the **Ashoka Chakra must have twenty-four spokes** that are evenly spaced. The **Ashoka Chakra** is rendered in a **Navy-blue color** on the white stripe of the flag.
- The **Ashoka Chakra** or wheel is from the **Lion Capital of Ashoka**. According to **Sarvepalli Radhakrishnan, second President of the Republic of India**, the **chakra was chosen as it was representative of Dharma and Law.**

- The meaning of **Ashok Chakra** in our National Flag is **Dharma and Non violence**.
- The right most flag is the Indian flag and **no flag should be flown higher than Indian Flag**
- Our **National flag** was **granted in August 14 , 1947 to the country**.
- We have to **brought down** our National flag **before the sunset**.
- If **our country leader or our neighbourhood Country leader is passed away**, our **National flag must be half past**.
- In our National flag, the diameter of the **Chakra is equal to the Breadth of the white band**.
- National flag's **Ashok Chakra mentions the active and leadership**.
- National flag's **Darkish blue Ashoka Chakra encourage to go in the Non-Violence path and reach the goal of Peace and Prosperous**.
- All Independent countries in the World are having the specialized unique symbols. The symbols are called National Symbols.
- Strong Constitution, National Symbols are featured to developing our Nations integrity.

National Bird of India:

The **peacock**, commonly known as **Indian peafowl** was declared the **national bird** of India in **1963**, because it was entirely a part of Indian custom and culture. A peacock is a **symbol of grace and beauty**. Another reason why the peacock was chosen as the national bird was because of its presence across the country, so much so that even common people are familiar with the bird. Moreover, no other country had the peacock as its national bird either. The peacock fulfilled all these and hence became the national bird of India.

National Animal of India:

The **tiger is known as the Lord of the Jungle** and displays India's wildlife wealth. Also **strength, agility and power** are the **basic aspect of the tiger**. The **Bengal Tiger** was declared as the **national animal** of India in **April 1973**, with the initiation of Project Tiger, to protect the tigers in India. Prior to this, the lion was the national animal of India. Our National Animal Tiger represents the Strength, Talent, will Power. The **lion** was selected as the **national animal first** and later it was declared as tiger.

National Anthem of India:

The **national anthem** of India is the **Hindi version of an anthem which was originally composed in Bengali by Rabindranath Tagore**. It was **adopted** as the **national anthem of India on 24 January 1950**. Since the **Bengali song 'Vande Mataram'** faced **opposition from non-Hindu segments of society**, the **Jana Gana Mana was adopted as the national anthem of India**. National Anthem is written in Bengal language is having 5 stanzas. Our National Anthem is aim to Propagating our country's Unity, Strength, tolerance, Pride. **20 seconds** is the time period of singing the National Anthem in **short version**.

National Flower of India:

The **lotus flower** has a very significant position in Indian mythology. It is the **flower of goddess Laxmi and symbolises wealth, prosperity, and fertility**. Also, it grows very uniquely in dirty water with its long stalk far above the water, bearing the flower on the top. The lotus flower remains untouched from impurity. It **symbolises purity, achievement, long life, and good fate**.

The National Fruit of India:

Mangoes are native to India and thus truly Indian. Since time immemorial, mangoes have been cultivated in India. In ancient times as well, deliciousness of mangoes have been defined by many renowned poets. The great Mughal

emperor **Akbar** had planted about 1,00,000 mango trees in **Lakhi Bagh** in **Darbhanga**.

The National Song of India:

India's national song was composed in Sanskrit by **Bankimchandra Chatterjee**. It has inspired many freedom fighters during the freedom struggle. Initially '**Vande Mataram**' was the national anthem of India, but after independence '**Jana Gana Mana**' was adopted as the national anthem. This was done because non-Hindu communities in India had considered Vande Mataram as biased. These communities felt that the nation was represented by 'Maa Durga' in the song. So that is why it was made the national song of India and not the national anthem. Our National song is having equal value with National Anthem. **National song was introduced in Indian National Congress, Calcutta session 1896.**

The National Game of India:

In spite of cricket's huge popularity in India, **hockey** is still the **national game** of India. Hockey when declared as the national game was very popular. **The game has seen a golden era during 1928-1956, when India won 6 consecutive gold medals in the Olympics.** Hockey was considered as the national game because of its unmatched distinction and incomparable talent at the time. **At that time India had played 24 Olympic matches and won all of them.**

The National Tree of India:

The **Banyan tree** represents **eternal life**, because of its ever-expanding branches. The **country's unity is symbolised by the trees huge structure and its deep roots.** The tree is also known as **Kalpavriksha**, which means '**wish fulfilling tree**'. The Banyan tree is called so, because the Banyan tree has immense medicinal properties and is associated with longevity. The Banyan tree also gives shelter to many different kinds

of animals and birds, which represent India and its people from different races, religions and castes. Indian National tree Banyan is **symbolizing** that to get the **all Indian people beneath an Umbrella**.

The National Emblem of India:

In January 26 , 1950 our National Emblem was accepted. The Lion Capital of Ashoka at Sarnath is the national emblem of India. It consists of four Asiatic Lions standing back to back on a circular abacus. The abacus has sculptures of an elephant, a horse (Power and Speed), a bull (Hard work and Strong) and a lion. These are separated by wheels in between. **The national emblem stands on a full bloomed inverted lotus flower. The meaning of Lions in our Indian National Emblem is Empower and , magnificance.**

National River of India:

The Ganges or Ganga is the national river of India. According to the Hindus, this is the most sacred river on the earth. In fact, they perform many rituals on the bank of this river. **The Indian cities which are famous for this river are Varanasi, Allahabad and Haridwar. Ganga flows over 2510 km of mountains, plains and valleys, and is the longest river in the country.**

National Currency of India:

Indian Rupee is the official currency of the Republic of India. The flow of this currency is controlled by the **Reserve Bank of India**. The symbol of Indian rupee is derived from the Devanagari consonant “र” (ra). The Indian rupee is named after silver coin, which is called rupiya. It was **first issued by Sultan Sher Shah Suri in the 16th century** and later the Mughal Empire continued it.

National Heritage Animal of India:

The **national heritage animals** of India is **Elephant**. The Indian elephant is a subspecies of the Asian elephant and found in the mainland Asia. It is listed as one of the endangered animals by IUCN. It can be spotted at four different regions in the country.

National Aquatic Animal of India:

The national aquatic animal of India is River Dolphin, which is also called as the **Ganges river dolphin**. The mammal once used to **live in the Ganges, Brahmaputra and Meghna, Kamaphuli and Sangu rivers of India, Bangladesh and Nepal**.

However, the species is no more found in its early distribution ranges. The river dolphin is essentially blind and lives only in freshwater.

National Reptile of India:

With its length up to **18.5 to 18.8 ft (5.6 to 5.7 m)**, **King Cobra** is the national reptile of India. This venomous snake is found in forests in India through Southeast Asia. It preys on other snakes, lizards and rodents. It has its cultural significance as Hindus worship this reptile.

National language :

- **Hindi** is the **official language** of Indian Union.
- Many believe that languages printed on Indian Rupee Notes are our national languages but the truth is India has no national language.
- **The Indian Constitution does not give any language the status of National Language.**
- **Hindi is only the official language , not the national language.**
- **Only 14 languages were there when our constitution is framed.**
- **The 22 national languages** are as follows: Bengali, Hindi, Maithili, Nepali, Sanskrit, Tamil, Urdu, Assamese, Dogri, Kannada, Gujarati, Bodo, Manipuri

(otherwise known as Meitei), Oriya, Marathi, Santali, Telugu, Punjabi, Sindhi, Malayalam, Konkani and Kashmiri.

- The meaning 'TRUTH ALONE TRIUMPH' Which is written below the National Emblem Sathyameve Jayathe is written in Devanagiri language.

National Calendar

- Name: **Saka Calender**
- Introduced in: **79 CE**
- Adopted in: **1957**
- Starts on: **March 22**
- Number of days: **365**
- Number of months: **12**
- Basis of Calender: **Luni-solar**
- Perused by: **Gazette of India, All India Radio News Broadcast, Government of India**
- National Calendar of a country is designated with deference to the cultural impact that the calendar or its system represents. It almost always is tied in with the country's history and reminds of a certain golden period therein. The national calendar of India is based on the Saka Calendar which has been adopted as the official civil calendar besides the **Gregorian calendar**.

Structure

- The **Saka Calender is based on luni-solar reckoning of time**. The calendar consists of **365 days and 12 months like the normal Gregorian calendar**.
- Chaitra is the **first month of the year beginning on March 22 which is the day after the Spring Equinox**.
- During leap years, the starting day of Chaitra corresponds with March 21.

- Official usage of the **Saka Calendar** was mandated to start from **March 22, 1957.**

Census Report

- Population Total : 1,210,193,422
- Males : 623,724,568
- Females : 586,469,294
- Literacy Total : 74%
- Males : 82.10%
- Females : 65.50%
- Density of population per Km^2 : 382
- Sex ratio per 1000 males 943 females
- Child sex ratio (0 - 6 age group) per 1000 males 919
- Most populous state Uttar Pradesh (199,812,341)
- Least populous state Sikkim (610,577)

Indian Polity - Part 2

2] Indian Constitution

Notes

1946 Cabinet Mission to India

- The Mission held talks with the representatives of the **Indian National Congress and the All-India Muslim League**, the **two largest political parties in the Constituent Assembly of India.**
- The idea for a **Constituent Assembly for drafting a constitution for India** was **first provided by Bal Gangadhar Tilak in 1895.**
- In 1934, the demand for a constituent assembly was raised for the first time, which later became an **Official Demand in 1935.** This demand was **accepted in August 1940 offer by the British.**

- The **constituent assembly** was formed on the recommendation of the **Cabinet Mission** which visited India in **1946**
- The **first meeting of Constituent Assembly** was held on **December 9, 1946**— its **temporary president** was **Dr Sacchidanand Sinha**
- The **second meeting** was held on **December 11, 1946**. Its **president** was **Dr Rajendra Prasad**.
- The **Objectives Resolution** was passed under the **chairmanship** of **J.L. Nehru**. on **13 December 1946**.
- The Draft of Indian Constitution was presented in October 1947. **President of the Drafting Committee** was **Bhim Rao Ambedkar**
- The **total time consumed to prepare the draft** was **2 years, 11 months, 18 days**.
- The **Constituent Assembly** was the **First Parliament of Independent India**.
- The **Indian Constitution** was enacted on **November 26, 1949**, and put into **force on January 26, 1950**.
- On that day, the Constituent Assembly ceased to exist, transforming itself into the Provisional Parliament of India until a new Parliament was constituted in 1952

Functions performed by Constituent Assembly:-

- Enacting of ordinary laws
- Adopted national flag- 22-07-1947
- Adopted national anthem- 24-01-1950
- Adopted national song- 24-01-1950
- Elected Dr. Rajendra Prasad first President of India: 26-01-1950

Facts about constituent assembly

- Had 11 sessions over 2 years, 11 months and 18 days
- Constitution makers visited 60 countries.

- Total expenditure - Rs 64 lakh

Major Committees

- Union Powers Committee - Jawaharlal Nehru
- Union Constitution Committee - Jawaharlal Nehru
- Provincial Constitution Committee - Sardar Patel
- Drafting Committee - Dr. B.R. Ambedkar
- Advisory Committee on Fundamental Rights and Minorities - Sardar Patel
- This committee had Two sub-committees:
 - ✓ Fundamental Rights Sub-Committee - J.B. Kripalani
 - ✓ Minorities Sub-Committee - H.C. Mukherjee
- Rules of Procedure Committee - Dr. Rajendra Prasad
- States Committee (Committee for Negotiating with States) - Jawaharlal Nehru
- Steering Committee - Dr. Rajendra Prasad
- The Assembly has **last session on 24 January, 1950**, when the members appended their signatures to the Constitution of India

Constitution Of India

- The Democratic Political System of our country is based on the values and principles enshrined in the constitution.
- After the **long dark night** of foreign domination. India entered in to a **new era** on **15th August, 1947**.
- The Constitution which was formed for the free India was based on the issues raised during the freedom struggle and on the vision of towering leaders like Jawarlal Lal Nehru, Sardar Patel and Dr. B.R. Ambedkar, he is regarded as the Chief Architect of the Indian Constitution. Constitution is most powerful in India
- **Power are distributing among center Government and state Government** it is Called **Distribution of power**.

- **Supreme court** has the **power of nullify an act** which is not in respective with the indian constitution.
- **Judiciary department** is listening to the **legislation and Enactment, both of their activities are working in responsible of constitution.** It is called power of judiciary.
- **President of India** is the **Head of the Union Executive and the Supreme Commander of the Indian Armed Forces.**
- A Council of Ministers Headed by Prime Minister Aids and Advises the President in the exercise of his function. Article 53 of the Constitution of India states that the President can exercise his powers directly or by Subordinate Authority
- The **14th** and **Current President is Ram Nath Govind**, who took office on **25 July 2017.**
- **Federalism** is the **mixed or compound mode of government**, combining a general government with regional governments in a single political system.
- The **pillar of the people's Democracy is Election.**
- Features of Indian federal constitution were
 - ✓ Reasons of National Interest, the Parliament have power to make legislations.
 - ✓ Central control of finance.
 - ✓ Parliament only can create state, redraw boundary , change a state's name.
- The **day of acceptance of Indian constitution is November 26 , 1949.**
- **Jawaharlal Nehru** pronounced the **Preamble of constitution** in behalf of the **drafting commission.**
- **The advisor of constitution assembly is B.N.Rao.**
- India is following secularism.
- The word '**Democracy**' is formed by the words '**Demos**' , '**Cratos**'
- '**Demos**' means ruling power and '**Cratos**' means people.

- The features of Union rule in the Indian federal system were
 - ✓ Appointment of state governor
 - ✓ Integrated Judiciary system
 - ✓ Law Amendments
- On 26th January 1930 the 'Purna Swaraj' day was celebrated, following the resolution of the Lahore session of Indian National Congress in 1929. So, the 26th January was chosen to implement the Constitution in 1950.
- Federal system is called the centre and states United Governance.

Drafting Committee

- The drafting committee was entrusted with the responsibility to prepare the Draft constitution. Drafting committee was set up on 29 August 1947 under the chairmanship of Dr. B R Ambedkar.
- The constituent assembly took 2 years , 11 months and 17 days to frame the constitution. It spent 6.4 crore Rupees in the preparation.
- There were 22 parts, 395 articles and 8 schedules. The constitution had got ready on 26th November 1949 and some provisions relating to Citizenship, Elections, provisional parliament, temporary & transitional provisions were given immediate effect.
- Rest of the constitution came into force on 26 January 1950. 26 January 1929 marked the "Poorna Swarajya "resolution of Indian National Congress under Jawahar lal Nehru and so the date was chosen in 1950 to be our republic day. Our constitution is unique. It is unique in many ways.
- The idea was put forward by MN Roy in 1934. MN Roy or Manabendra Nath Roy was a Bengali Indian revolutionary, internationally known political theorist and activist. He is the pioneer of communist movement in India. The idea put forward by MN Roy was officially raised by Congress in 1935 and the British Government accepted this demand.

- This **demand** of constituent assembly was accepted in the August offer of **1940**.
- The members of drafting committee were **N. Gopal Swamy Ayyangar , Allaady Krishnaswamy Iyer, N. Madhava Rao,K.M. Munshi , Syed Muhammed Sathulla , D.D.Krishnaamachary**

Borrowed features of Indian Constitution

Government of India Act of 1935

1. Federal Scheme
2. Office of governor
3. Judiciary
4. Public Service Commissions
5. Emergency provisions
6. Administrative details

Britain

1. Parliamentary government
2. Rule of Law
3. Legislative procedure
4. Single citizenship
5. Cabinet system
6. Prerogative writs
7. Parliamentary privileges

8. Bicameralism

Ireland

1. Directive Principles of State Policy
2. Nomination of members to Rajya Sabha
3. Method of election of president

Unites States of America

1. Impeachment of the president
2. Functions of president and vice-president
3. Removal of Supreme Court and High court judges
4. Fundamental Rights
5. Judicial review
6. Independence of judiciary
7. Preamble of the constitution

Canada

1. Federation with a strong Centre
2. Vesting of residuary powers in the Centre
3. Appointment of state governors by the Centre
4. Advisory jurisdiction of the Supreme Court

Australia

1. Concurrent List

2. Freedom of trade
3. Commerce and intercourse
4. Joint sitting of the two Houses of Parliament

Soviet Constitution (USSR, now Russia)

1. Fundamental duties
2. The ideal of justice (social, economic and political) in the Preamble

France

1. The ideals of Republic in the Preamble
2. The ideals of liberty in the Preamble
3. The ideals of equality in the Preamble
4. The ideals of fraternity in the Preamble

Weimar Constitution of Germany

1. Suspension of Fundamental Rights during Emergency

South African Constitution

1. Procedure for amendment of the Constitution
2. Election of members of Rajya Sabha

Japan

1. Concept of “procedure established by Law”

Notes

- **The preamble** has been **amended only once** so far. On **18 December 1976**, during the Emergency in India, **the Indira Gandhi government** pushed through **several changes in the Forty-second Amendment of the constitution**.
- The words **Socialist, Secular, and Integrity were not in the original constitution** and have been inserted by **42nd amendment act 1976**. Thus, the express declaration that India is a **secular state** came only with **the 42nd amendment**. Currently, the word “**secular appears** in constitution for **two times - in Preamble and then in Article 25**.
- **The Preamble** is like an **introduction of the Indian Constitution**, it is not a part of the contents but it explains the purposes and objectives with which the document has been written. It provides the guide lines of the Constitution and explains the objectives of the Constitution in two ways:
 - ✓ about the structure of the governance
 - ✓ about the ideals to be achieved in independent India. Therefore, the Preamble is considered key of the Constitution.

The objectives laid down in the Preamble are:

- Description of Indian State as Sovereign, Socialist, Secular, Democratic Republic. (Socialist, Secular were added by 42nd Amendment, 1976).

Provision to all the citizens of India of -

- A) Justice social, economic and political ;
- B) Liberty of thought, expression, belief, faith and worship ;
- C) Equality of status and opportunity ;
- D) Fraternity assuring dignity of the individual and unity and integrity of he nation.

- The struggle for freedom was not only against the British rule but their struggle was also for restoring the dignity of men and women, removal of poverty and end to all types of exploitation. Such strong motivations and cherished ideals had prompted the framers to lay emphasis on the provisions of Justice, Liberty and Equality to all the citizens of India.

Sovereignty

- **Sovereignty** is one of the essential elements of any independent State. It means absolute independence, i.e., **a government which is not controlled by any other power : internal or external.**
- A country cannot have its own constitution without being sovereign.
- India is a sovereign country free from external control and can frame its policies. India is free to formulate its own foreign policy.
- The word socialist was not there in the Preamble of the Constitution originally. In 1976, the 42nd Amendment to the Constitution included **'Socialist'** and **'Secular', in the Preamble.**

Socialist

- The word **'Socialism'** had been used in the context of economic planning. It also means commitment to attain ideals like **removal of inequalities, provision of minimum basic necessities to all, equal pay for equal work. This plays a major role in the economy.**
- These ideals have been incorporated and **implemented in the Constitution by the means of the Directive Principles of the State Policy.**

Secularism

- **Secularism in India is unique to the country**, it is said that **‘India is neither religious, nor irreligious nor anti-religious.’** Now what does this means? It means that **in India there will be no ‘State’ religion – the ‘State’ will not support any particular religion out of public fund.** This has two implications :
 - ✓ Every individual is free to believe in, and practice, any religion he/she belongs to,
 - ✓ State will not discriminate against any individual or group on the basis of religion.

Democratic Republic

- **The Democratic principles** of the country flow from reading **of the last line of the Preamble.** Democracy is generally known as **government of the people, by the people and for the people.**
- Effectively this means that the Government is elected by the people, it is responsible and accountable to the people.
- The **democratic principles** are highlighted with the provisions of **universal adult franchise, elections, fundamental rights, and responsible government.**
- **The Preamble** also declares **India as a Republic** which means that the head of the **State is the President who is indirectly elected and he is not a hereditary ruler as in case of the British Monarch.**

Justice

- **Justice promises** to give people what they are entitled to in terms of **basic rights to food, clothing, housing, participation in the decision-making and living with dignity as human beings.**
- The **Preamble covers** all these dimensions of **justice – social, economic and political.**

- Besides, the granting of political justice in the form of universal adult franchise or the representative form of democracy. Socio-economic justice is to be achieved through directed policies and their effective implementation.

Liberty

- The **Preamble mentions about liberty of thought and expression**. These freedoms have been guaranteed in **the Constitution through the fundamental Rights**.
- Certain directives to the State have been mentioned in the Directive Principles in this regard.

Equality

- **Equality** is considered to be the **essence of modern democratic ideology**.
- The **Constitution makers placed the ideals of equality in a place of pride in the Preamble**.
- All kinds of **inequality based on the concept of rulers and the ruled or on the basis of caste and gender, were to be eliminated**.
- All citizens of India should be treated equally and extended equal protection of law without any discrimination based on caste, creed, birth, religion, sex etc
- Similarly equality of opportunities implies that regardless of the socio-economic situations into which one is born, he/she will have the same chance as everybody else to develop his/her talents and choose means of livelihood.

Fraternity

- With the background of **India's multi-lingual, multi-cultural and multi-religious society and keeping the partition of the country** in view, the framers of the Constitution were much **concerned about the unity and integrity of our newly independent country**.

- There was a need for harmonious coexistence of various religions, linguistic, cultural and economic groups. Inclusion of phrases like **'dignity of individuals'**, **'fraternity among people'** and **'unity and integrity of the nation'** in the **Preamble highlight such a need.**
- All these ideals were considered important for achieving an egalitarian society in our country.
- **One vision embodied by the Indian National Congress (Congress party), which was established in 1885**, centered on the creation of a modern secular democratic state along Western lines.
- **Secularism forced French revolution in the year of 1789.** Secularism is **the source of unity in diversity.**
- The **Parliamentary form of government** is also known as the **Cabinet system or Cabinet Form of Government** because the cabinet is the link between the two departments.
- It is also called a responsible government because executive department is responsible and answerable to the legislative.
- There are **two types of democracy is direct and Indirect**
- Direct democracy was happened in the Ancient Greek and Roman Countries.
- **India is following Parliamentary Democracy.**
- India, England, France, America are the countries following Indirect democracy.
- Equality, Right, Independent are the basics of Democracy.
- Direct democracy happens in the least population countries.
- Parliament cannot override the constitution. It was adopted by the **Constituent Assembly on 26 November 1949, and came into effect on 26 January 1950.**
- The word secularism is included in the **42nd amendment of the Indian Constitution Preamble on 18.12.1976.**
- Indian Government didn't announced any of the religion as a Government religion.

- **Every Citizen had freedom to worship and follow their religion and they can enjoy the Social, Political rights with equality.**
- Our constitution Preamble explains that Justice, Freedom, Equality, Fraternity are the aim of our people.
- **Preamble is a part of Constitution**, as the result of **S.R.Bommai case 1994**.
- Elected representatives are the responsible for Legislative assemblies, doing their duties by the way of legislative assemblies.
- India is following Federalism by having States.
- By conducting Elections people are selecting their representatives in the Representative democracy or Indirect.
- **In 1791 France constitution recognized France Government as Secularism Government.**
- Secularism was famous when the Khilafath movement started.
- **Maharaja Ranjith Singh is the first to implement the idea of Secularism.**
- In the **BERUBARI CASE of 1960 HONOURABLE SUPREME COURT** had held that the preamble isn't the part of **INDIAN CONSTITUTION**.
- In that case supreme court said that the Preamble shows the general purposes behind the several provisions in the Constitution and is thus a key to the minds of the makers of the Constitution.
- Further where the terms used in any of the article of **INDIAN CONSTITUTION** are equivocal or ambiguous. These terms are capable of in more than one meaning. Some aids at interpretation may be taken from the objectives treasured in the **PREAMBLE**, the **SUPREME COURT** specifically gives an instruction that **PREAMBLE isn't a part of the CONSTITUTION**.
- On the other side in the **KESAVANANAD BHARTI CASE of 1973 HONOURABLE SUPREME COURT** rejected the earlier opinion or the earlier instruction which was taken under **BERUBARI UNION CASE** and held that **PREAMBLE is an important part of INDIAN CONSTITUTION**.

- It observed that the Preamble is of extreme importance and the Constitution should be read and interpreted in the light of the grand and noble vision expressed in the PREAMBLE.
- In the **LIC OF INDIA Vs CONSUMER EDUCATION & RESEARCH CENTRE of 1995** also the **SUPREME COURT** again held that the preamble is an integral part of the **CONSTITUTION**.
- In the light of Kesavanad Bharti Case as well as other judgments, there are some key points about the constitution which must be remembered as far as the importance of the knowledge of PREAMBLE for every country people & for examination's point of view is concerned. These key things are as follows:-
 - ✓ **Preamble is an integral Part of the Constitution.**
 - ✓ **Preamble Indicates basic structure of the Constitution (SR Bommai Case).**
 - ✓ **Preamble can be amended by Parliament using its amendment powers as per article 368.** We note here that preamble has been amended only once so far through the **42nd Constitution Amendment Act 1976**. The words Secular, Socialist and Integrity were added to the constitution.
 - ✓ Preamble enshrines the ideas and philosophy of the constitution, and NOT the narrow objectives of the governments.
 - ✓ It also does NOT provide any legal framework of constitutional law.
 - ✓ Preamble is neither a source of power nor a source of limitations.
 - ✓ It neither provides any power nor imposes any duty.
 - ✓ Its importance is in role to be played in interpretation of statutes, also in the interpretation of provisions of the Constitution.
 - ✓ Constitution should be read and interpreted in the light of grand and novel vision expressed in the preamble.

- ✓ Preamble is neither enforceable nor justifiable in a court of law. This implies that courts cannot pass orders against the government in India to implement the ideas in the Preamble.

Indian Polity - Part 4

4] Union And Its Territories

Part-1 of the Constitution deals with the union and its territories from Article-1 to 4

Article 1 (1) describes that; “India that is Bharat shall be the Union of States”.

- This was deliberately done by the drafting committee to make it clear that the Union is not the result from an agreement with the states rather it is the union which created the states. The states have no right to secede under the constitution.
- Though the union is indestructible but the states are destructible in the sense that Parliament can change their name, boundary or create new states.
- The **Constitutional provision in 1949**, established a **three-tier state system** under which the constituent units of the **Union had no uniform status**. They were recognized under four separate categories: Part A, B, C and D of the first schedule.
- **Part-A states comprised governor’s provinces of British India.**
- **Part-B states consisted to nine princely states with legislatures.**
- **Part-C states comprised chief commissioner’s provinces of British India and some princely states.**
- **Part-D states consisted of the Andaman & Nicobar Island.**
- The Union of India consists of all the states excluding the Union Territories and the Territories of India consists of states as well as union territories.

- **Dhar Commission (1948):** During this period (1948-49) the southern states were particular on re-organisation of states on linguistic basis. SK Dhar committee was constituted in 1948 that recommended that the rationale for re-organisation of the states should be on the basis of administrative conveniences rather linguistic factors.
- **JVP Commission (1949):** The Dhar committee recommendation was not accepted by all and to reconsider the recommendation JVP committee was constituted with the Prime Minister Jawaharlal Nehru as a member and Vallabhbhai Patel and Pattabhi Sitaramayya as other two members.
- However, JVP Committee also did not favour the linguistic ground. The only exclusion was creation of Andhra Pradesh which had a fair share of geographical area that was dominated by Telugu speaking people from Madras Constituency.
- It suggested that the security, unity, and economic prosperity of the nation as the criteria of reorganisation.

Formation of new states and alteration of boundaries: The Procedure (Art - 2, 3 and 4):

- **Article 2:** says that the Parliament may by law admit into the Union or establish new states on such terms and conditions as it thinks fit.
- **Article 3:** empowers Parliament to form new states and can alter the area, boundaries or names of the existing states by a law passed by a simple majority. The bill to the same effect requires prior president's recommendations.
- The President before introducing the Bill shall refer it to the State Legislature concerned for its opinion within a specified time limit which can be extended.
- The Bill may be introduced even if the opinion has not come. The Parliament is not bound to accept or act upon the views of the State Legislature.

- If the original Bill is intended to be amended it is not necessary to refer the amendments to the State legislature again.
- **Article 4:** deals with the supplemental, incidental and consequential provisions as may be deemed necessary. By this Parliament may reduce the total number of members of Legislative Assembly even below the limit prescribed in Art 170 (60 members) as done in Goa and Uttarakhand. But now Uttarakhand has increased its seats.
- Article 4 also says that the changes made under Art 2 and 3 shall not be deemed to be an amendment of this Constitution for the purpose of Article 368.

The State Reorganisation Commission (SRC) 1953:

- The recommendation of JVP Committee further accelerated the demand for new states on linguistic basis particularly in Telugu speaking area under the leadership of Potti Sriramalu. The agitation took a violent turn with the death of Potti Sriramalu. The Congress ceded the reorganisation of Telugu speaking area in the State of Andhra Pradesh in 1953.
- To make an exhaustive study of the problem, the Government of India set-up the State Reorganisation Commission in 1953 headed by Fazal Ali (with members K M Pannikar and H N Kunzru) which submitted its report in 1955 and suggested linguistic reorganisation of the states.
- This resulted into 7th Amendment to the constitution and passing up of **The State Reorganisation Act in 1956** to give effect to the **recommendations of the commission.**

The recommendations of SRC:

- It suggested the **reorganisation of 29 states of various categories into 16 states and 3 union territories abolishing the categories Part-A, B, C and D.**

- The general control vested in **Government of India by Article 371 (Special provision with respect to the States of Maharashtra and Gujarat)** should be abolished.
- **The Present Structure of the Union:** At present India consists of **29 States and 7 Union Territories with Delhi as National Capital Region (NCR).**

Indian Polity - Part 5

5] Citizenship

- **India** is following the citizenship of **single citizenship**. If an Indian **citizenship** acquired any of the other countries citizenship, he/she will lose the Indian citizenship. **the parliament has the power to regulate the citizenship act.**
- From **England's constitution** the **concept of single citizenship** was borrowed.

Constitution Part II has the following articles:

- **Article 5.** Citizenship at the commencement of the Constitution.
- **Article 6.** Rights of citizenship of certain persons who have migrated to India from Pakistan.
- **Article 7.** Rights of citizenship of certain migrants to Pakistan.
- **Article 8.** Rights of citizenship of certain persons of Indian origin residing outside India.
- **Article 9.** Persons voluntarily acquiring citizenship of a foreign State not to be citizens.
- **Article 10.** Continuance of the rights of citizenship.
- **Article 11.** Parliament to regulate the right of citizenship by law.

Acquisition of Indian Citizenship

Indian Citizen Ministry of Home Affairs states that Indian citizenship can be acquired by birth, descent, registration and naturalization. The conditions and

procedure for acquisition of Indian citizenship as per the provision of the Citizenship Act, 1955 are given below:

1. By Birth (Section 3)

- A person born in India on or after 26th January 1950 but before 1st July, 1987 is citizen of India by birth irrespective of the nationality of his parents.
- A person born in India on or after 1st July, 1987 but before 3rd December, 2004 is considered citizen of India by birth if either of his parents is a citizen of India at the time of his birth.
- A person born in India on or after 3rd December, 2004 is considered citizen of India by birth if both the parents are citizens of India or one of the parents is a citizen of India and the other is not an illegal migrant at the time of his birth.
- An 'illegal migrant' as defined in section 2(1)(b) of the Act is a foreigner who entered India.
- Without a valid passport or other prescribed travel documents.
- With a valid passport or other prescribed travel documents but remains in India beyond the permitted period of time.

2. By Descent (Section 4):

- A person born outside India on or after 26th January 1950 but before 10th December 1992 is a citizen of India by descent, if his father was a citizen of India by birth at the time of his birth. In case the father was a citizen of India by descent only, that person shall not be a citizen of India, unless his birth is registered at an Indian Consulate within one year from the date of birth or with the permission of the Central Government, after the expiry of the said period.
- A person born outside India on or after 10th December 1992 but before 3rd December, 2004, is considered as a citizen of India if either of his parents was a

citizen of India by birth at the time of his birth. In case either of the parents was a citizen of India by descent, that person shall not be a citizen of India, unless his birth is registered at an Indian Consulate within one year from the date of birth or with the permission of the Central Government, after the expiry of the said period.

- A person born outside India on or after 3rd December, 2004 shall not be a citizen of India, unless the parents declare that the minor does not hold passport of another country and his birth is registered at an Indian consulate within one year of the date of birth or with the permission of the Central Government, after the expiry of the said period.

3. By Registration (Section 5(1))

- Indian Citizenship by registration can be acquired (not illegal migrant) by: -
- Persons of Indian origin who are ordinarily resident in India for SEVEN YEARS before making application under section 5(1)(a) (throughout the period of twelve months immediately before making application and for SIX YEARS in the aggregate in the EIGHT YEARS preceding the twelve months).
- Persons of Indian origin who are ordinarily resident in any country or place outside undivided India under section 5(1)(b).
- Persons who are married to a citizen of India and who are ordinarily resident in India for SEVEN YEARS (as mentioned at (a) above) before making application under section 5(1)(c).
- Minor children whose both parents are Indian citizens under section 5(1)(d)
- Persons of full age whose both parents are registered as citizens of India under section 5(1)(a) or section 6(1) can acquire Indian citizenship under section 5(1)(e).
- Persons of full age who or either of the parents were earlier citizen of Independent India and residing in India for ONE YEAR immediately before making application under section 5(1)(f).

- Persons of full age and capacity who has been registered as an OVERSEAS CITIZEN OF INDIA (OCI) for five years and residing in India for ONE YEAR before making application under section 5(1)(g).

4. By Registration (Section 5(4))

Any minor child can be registered as a citizen of India under Section 5(4), if the Central Government is satisfied that there are 'special circumstances' justifying such registration. Each case would be considered on merits.

5. By Naturalization (Section 6)

Citizenship of India by naturalization can be acquired by a foreigner (not illegal migrant) who is ordinarily resident in India for TWELVE YEARS (throughout the period of twelve months immediately preceding the date of application and for ELEVEN YEARS in the aggregate in the FOURTEEN YEARS preceding the twelve months) and other qualifications as specified in Third Schedule to the Act.

Loss of Indian Citizenship:

The **Citizenship Act, 1955** prescribes whether acquired under the act or prior to it under the Constitution viz. **renunciation, termination and deprivation**.

1. Renunciation:

It is a **voluntary act by which a person, after acquiring the citizenship of another country, gives up his Indian Citizenship**. This provision is subject to certain conditions.

2. Termination:

It takes place **by operation of law when an Indian citizen voluntarily**. He **automatically ceases to be an Indian citizen**.

3. Deprivation:

- It is a **compulsory termination of Indian citizenship by the Central government**, if
 - ✓ The citizen has obtained the **citizenship by fraud**.
 - ✓ The citizen has shown **disloyalty to the Constitution of India**.
 - ✓ The citizen has **unlawfully traded or communicated with the enemy during a war**.
 - ✓ The citizen has, **within five years after registration or neutralization, been imprisoned in any country for two years**.
 - ✓ The citizen has been **ordinarily resident out of India for seven years continuously**.

Indian Polity - Part 6

6] Fundamental Rights

Notes

Fundamental Rights : Part III (Articles 12-35)

Initially, Seven Fundamental Rights were enshrined in the Constitution of India. Thereafter, the Right to Property has been eliminated from the list of Fundamental Rights by the 44th Amendment Act of the Constitution in the year 1976. Since then, it has been made a legal right. There are now six Fundamental Rights:

- Right to Equality
- Right to Freedom - Recently by the 86th Amendment Act, the Right to Education has been included in the list of Fundamental Rights as part of the Right to Freedom by adding Article 21(A).
- Right against Exploitation
- Right to Freedom of Religion

- Cultural and Educational Rights
- Right to Constitutional Remedies.

Article 12 : Definition

In this Part, unless the context otherwise required, “the State” includes the Governmental and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

Article 13 : Laws inconsistent with or in derogation of the fundamental rights

- (1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.
- (2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.
- (3) In this article, unless the context otherwise required, - (a) “law” includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law;
(b) “laws in force” includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas.
- (4) Nothing in this article shall apply to any amendment of this Constitution made under article 368.

Right To Equality (Articles 14-18) :

Right to Equality means that all citizens enjoy equal privileges and opportunities. It protects the citizens against any discrimination by the State on the basis of religion, caste, race, sex, or place of birth. Right to Equality includes five types of equalities.

Equality Before Law :

Under Article 14 of the Constitution, “The State shall not deny to any person equality before law or equal protection of laws within the territory of India”. ‘Equality before law’ simply means that no person is above law and all are equal before law, every individual has equal access to the courts.

No Discrimination on Grounds of Religion, Race, Caste, Sex, Place of Birth or any of them:

- (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.
- (2) No citizen shall, on ground only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to -
 - (a) Access to shops, public restaurants, hotels and places of public entertainment; or
 - (b) The use of wells, tanks, bathing ghats, roads and places of public resort maintained whole or partly out of State funds or dedicated to the use of general public.
- (3) Nothing in this article shall prevent the State from making any special provision for women and children.
- (4) Nothing in this article or in clause (2) or article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

Equality Of Opportunity In Matters Of Public Employment:

Article 16, guarantees equality of opportunity in matters relating to employment or appointment to public services to all citizens. There shall be no discrimination on the basis of religion, race, caste, sex, place of birth or residence in matters relating to employment in public services. Merit will be the basis of employment.

Abolition of Untouchability:

Under article 17 the Constitution abolishes untouchability and its practice in any form is forbidden.

Abolition of Titles:

Under Article 18, All national or foreign titles which create artificial distinctions in social status amongst the people have been abolished. Titles like 'Rai Sahib', 'Rai Bahadur' are against the doctrine of equality before law.

To recognise excellent service by individual citizens to the country or mankind, the President of India can confer civil and military awards on those individuals such as : Bharat Ratna ; Padma Vibhushan, ;Padam Sri, ;Param Veer Chakra, ;Veer Chakra etc., but these cannot be used on 'titles'.

2) Right To Freedom(Articles 19-22) :

A) Freedom is the basic characteristic of a true democracy. Hence, Our Constitution in Article 19 guarantees the following six Fundamental Freedoms against state action and not private individuals:

- Freedom of Speech And Expression :
- Freedom to assemble peacefully without arms.
- Freedom to form associations or unions.
- Freedom to move freely throughout the territory of India.

- Freedom to reside and settle in any part of the territory of India.
- Freedom to practise any profession or to carry on any occupation, trade or business.

These freedom ensures free speech, discussion and exchange of opinions, including freedom of the press. However these freedom are not absolute. The state can impose reasonable restrictions on the exercise of these freedoms, they can be suspended during National Emergency.

B) Protection in Respect of Conviction for Offences :

The article 20 ,assures protection against arbitrary arrest and excessive punishment to any person who is alleged to have committed an offence. No person shall be punished except for the violation of law which is in force when the crime was committed. An accused cannot be compelled to be a witness against himself/herself. No person shall be punished for the same offence more than once.

C) Protection of Life and Personal Liberty:

Article 21 assures , no person shall be deprived of his/her life or personal liberty except according to the procedure established by law. It guarantees that life or personal liberty shall not be taken away without the sanction of law. It ensures that no person can be punished or imprisoned merely at the whims of some authority. He/she may be punished only for the violation of the law.

D) Right to Education:

This is recently added by the 86th Amendment , and a new article 21-A has been added. "The State shall provide free and compulsory education to all children of the age of six to fourteen in such a manner as the State may by law determine". It also states that it is the responsibility of the parent or guardian to provide opportunities for education to their child or ward between the age of six to fourteen years.

E) Prevention against Arbitrary Arrest and Detention:

Article 22 gives certain rights to the arrested person. No person can be arrested or detained in custody without being informed of the grounds for detention. He /she has the right to consult and be defended by a lawyer of his/her choice. The accused has to be produced before the nearest magistrate within a period of twenty-four hours of arrest. But, these safeguards however are not available to foreigners as well as to those citizens detained under Preventive Detention Act.

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

Right against exploitation prohibits all forms of forced labour as well as human trafficking. Any violation of this provision is an offence punishable under law. Traffic in human beings means sale and purchase of human beings as goods and commodities for immoral purposes such as slavery and prostitution.

Prohibition on employment of children below the age of fourteen years in any factory, mine or hazardous occupations.

4. Right to Freedom of Religion (Article 25-28):

The Constitution guarantees to every person freedom of conscience and the right to practice and propagate any religion. It also permits every religious group, the right to manage its own affairs in matters of religion. Constitution lays down that no religious education can be imparted in any educational institution which is wholly maintained out of the state funds. Right to Freedom of Religion is not absolute and can be restricted on the grounds of public order, morality and health. But, the state shall not impose restrictions arbitrarily.

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

Our constitution, under article 29 and 30, provides guarantees to preserve maintain and promote culture and language of its citizens. The Constitution allows minorities to establish and maintains educational institutions of their own. It also provides that the state shall not discriminate against any educational institution while granting financial aid on the grounds that it is being run by a minority community. These rights ensure that minorities will get assistance by the state in the preservation of their language and culture.

Article 31 : Compulsory acquisition of property

Article 31A : Saving of laws providing for acquisition of estates, etc.

- (1) Notwithstanding anything contained in article 13, no law providing for -
- (a) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights, or
 - (b) the taking over of the management of any property by the State for a limited period either in the public interest or in order to secure the proper management of the property, or
 - (c) the amalgamation of two or more corporations either in the public interest or in order to secure the proper management of any of the corporations, or
 - (d) the extinguishment or modification of any rights of managing agents, secretaries and treasurers, managing directors, directors or managers of corporations, or of any voting rights of share-holders thereof, or
 - (e) the extinguishment or modification of any rights accruing by virtue of any agreement, lease or licence for the purpose of searching for, or winning, any mineral or mineral oil, or the premature termination or cancellation of and such agreement, lease or licence, shall be deemed to be void on the ground that it is inconsistent with,

or takes away or abridges any of the rights conferred by article 14 or article 19: Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent:

Provided further that where any law makes any provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be lawful for the State to acquire any portion of such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, unless the law relating to the acquisition of such land, building or structure, provides for payment of compensation at a rate which shall not be less than the market value thereof.

(2) In this article, -

(a) the expression “estate” shall, in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenure in force in that area and shall also include -

(i) any jagir, inam or muafi or other similar grant and in the States of Tamil Nadu and Kerala, any janmam right;

(ii) any land held under ryotwari settlement;

(iii) any land held or let for purposes of agriculture or for purposes ancillary thereto, including waste land, forest land, land for pasture or sites of buildings and other structures occupied by cultivators of land, agricultural labourers and village artisans;

(b) the expression “rights”, in relation to an estate, shall include any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure-holder, raiyat, under-raiyat or other intermediary and any rights or privileges in respect of land revenue.

Article 31B : Validation of certain Acts and Regulations

Without prejudice to the generality of the provisions contained in article 31A, none of the Acts and Regulations specified in the Ninth Schedule nor any of the provision thereof shall be deemed to be void, or even to have become void, on the ground that such Act, Regulation or provision is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this part, and notwithstanding any judgment, decree or order of any court or tribunal to the contrary, each of the said Acts and Regulations shall, subject to the power of any competent Legislature to repeal or amend it, continue in force.

Article 31C : Saving of laws giving effect to certain directive principles

Notwithstanding anything contained in article 13, no law giving effect to the policy of the State towards securing all or any of the principles laid down in Part IV shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14 or article 19; and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy:

Provided that where such law is made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.

Article 31D : Saving of laws in respect of anti-national activities**6. Right To Constitutional Remedies (Articles 32) :**

Article 32 of our Constitution provides for legal remedies for the protection of all these rights against their violation by the State or other institutions or individuals. It entitles the citizens of India to move the Supreme Court or High Courts for the enforcement of these rights. Any law that may be in conflict with the Fundamentals

Rights stands null and void. The Constitution empowers the Supreme Court and High Courts to issue orders or writs like HABEAS CORPUS , MANDAMUS, PROHIBITION, QUO WARRANTO, CERTIORARI. These writs play an important role in protecting the rights of the individuals against encroachment by the legislature, the executive or any other authority.

- Habeas Corpus - Protect the Individual Freedom
- Mandamus- To do the Public Duty
- Certiorari- out of bounds work
- Quo-Warranto writ is prohibits the acquisition of public buildings

Article 33 : Power of Parliament to modify the rights conferred by this Part in their application to Forces, etc.

Parliament may, by law, determine to what extent any of the rights conferred by this Part shall, in their application to, -

- (a) the members of the Armed Forces; or
 - (b) the members of the Forces charged with the maintenance of public order; or
 - (c) persons employed in any bureau or other organisation established by the State for purposes of intelligence or counter intelligence; or
 - (d) persons employed in, or in connection with, the telecommunication systems set up for the purposes of any Force, bureau or organisation referred to in clauses (a) to (c),
- be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.

Article 34 : Restriction on rights conferred by this Part while martial law is in force in any area

Notwithstanding anything in the foregoing provisions of this Part, Parliament may by law indemnify any person in the service of the Union or of a State or any person in respect of any act done by him in connection with the maintenance or restoration or order in any area within the territory of India where martial law was in force or validate any sentence passed, punishment inflicted, forfeiture ordered or other act done under martial law in such area.

Article 35 : Legislation to give effect to the provisions of this Part

Notwithstanding anything in this Constitution, -

(a) Parliament shall have, and the Legislature of a State shall not have, power to make laws -

(i) With respect to any of the matters which under clause (3) of article 16, clause (3) of article 32, article 33 and article 34 may be provided for by law made by Parliament; and

(ii) for prescribing punishment for those acts which are declared to be offences under this part, and Parliament shall, as soon as may be after the commencement of this Constitution, make laws for prescribing punishment for the acts referred to in sub-clause (ii);

(b) any law in force immediately before the commencement of this Constitution in the territory of India with respect to any of the matters referred to in sub-clause (i) of clause (a) or providing for punishment for any act referred to in sub-clause (ii) of that clause shall, subject to the terms thereof and to any adaptations and modifications that may be made therein under article 372, continue in force until altered or repealed or amended by Parliament.

Indian Polity - Part 7**7] Directive Principles Of State Policies**

Notes

Directive Principles of Our State Policy : Part IV (Articles 36-51)

Part IV of Indian Constitution deals with Directive Principles of our State Policy (DPSP). The provisions contained in this Part cannot be enforced by any court, but these principles are fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws. The concept of Directive Principles of State Policy was borrowed from the Irish Constitution. While most of the Fundamental Rights are negative obligations on the state, DPSP are positive obligations on the state, though not enforceable in a court of law.

Article 36 : Definition

In this Part, unless the context otherwise requires, “the State” has the same meaning as in Part III.

Article 37 : Application of the principles contained in this Part

The provisions contained in this Part shall not be enforced by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

Article 38 : State to secure a social order for the promotion of welfare of the people

(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

(2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only

amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

Article 39 : Certain principles of policy to be followed by the State

The State shall, in particular, direct its policy towards securing -

- (a) that the citizen, men and women equally, have the right to an adequate means of livelihood;
- (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- (d) that there is equal pay for equal work for both men and women;
- (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- (f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

Article 39A : Equal justice and free legal aid

The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

Article 40 : Organisation of village panchayats

The State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.

Article 41 : Right to work, to education and to public assistance in certain cases

The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

Article 42 : Provision for just and humane conditions of work and maternity relief

The State shall make provision for securing just and humane conditions of work and for maternity relief.

Article 43 : Living wage, etc., for workers

The State shall endeavor to secure, by suitable legislation or economic organisation or in any other way, to all workers agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.

Article 43A : Participation of workers in management of industries

The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisation engaged in any industry.

Article 44 : Uniform civil code for the citizen

The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

Article 45 : Provision for free and compulsory education for children

The State shall endeavor to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

Article 46 : Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections

The State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

Article 47 : Duty of the State to raise the level of nutrition and the standard of living and to improve public health

The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purpose of intoxicating drinks and of drugs which are injurious to health.

Article 48 : Organization of agriculture and animal husbandry

The State shall endeavour to organize agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.

Article 48A : Protection and improvement of environment and safeguarding of forests and wild life

The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

Article 49 : Protection of monuments and places and objects of national importance

It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by or under law made by Parliament to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.

Article 50 : Separation of judiciary from executive

The State shall take steps to separate the judiciary from the executive in the public services of the State.

Article 51 : Promotion of international peace and security

The State shall endeavor to -

- (a) Promote international peace and security;
- (b) Maintain just and honorable relations between nations;
- (c) Foster respect for international law and treaty obligations in the dealings of organized people with one another; and
- (d) Encourage settlement of international disputes by arbitration.

State of Madras vs. Champakam Dorairajan

(AIR 1951 SC 226) is a landmark decision of the Supreme Court of India. This judgment led to the First Amendment of the Constitution of India. It was the first major judgment regarding reservations in Republic of India. In its ruling the Supreme Court upheld the Madras High Court judgment, which in turn had struck down the Communal Government Order (G.O) passed in 1927 in the Madras Presidency. The Communal G.O had provided caste based reservation in government jobs and college seats. The Supreme Court's verdict held that providing such reservations was in violation of Article 16 (2) of the Indian Constitution. It gives the result between the Fundamental Rights and Directive Principles of State policy will be considered higher priority for Fundamental Rights.

Minerva Mills Ltd. and Ors. v. Union Of India and Ors. (case citation: AIR 1980 SC 1789)

is a landmark decision of the Supreme Court of India that applied and evolved the basic structure doctrine of the Constitution of India. The Supreme court held that balance between the Fundamental rights and the Directive Principles.

The 42nd Amendment of Indian Constitution is most comprehensive amendment to the Constitution and carried out major changes. It is also known as “mini constitution”.

- According to the statement of objects and reasons of the 42nd CAA, the following are the reasons for the enactment of 42nd CAA:
- A Constitution to be living must be growing. For removing the difficulties which have arisen in achieving the objective of socio-economic revolution, which would end poverty and ignorance and disease and inequality of opportunity etc., amendment of the Constitution is needed.
- As Parliament and the State Legislatures embody the will of the people so it is essential to establish the parliamentary supremacy in enacting Constitutional amendments.

Important Provisions

- It amended articles 31, 31C, 39, 55, 74, 77, 81, 82, 83, 100, 102, 103, 105, 118, 145, 150, 166, 170, 172, 189, 191, 192, 194, 208, 217, 225, 226, 227, 228, 311, 312, 330, 352, 353, 356, 357, 358, 359, 366, 368 and 371F.
- It inserted articles 31D, 32A, 39A, 43A, 48A, 131A, 139A, 144A, 226A, 228A and 257A and parts 4A and 14A. It also amended Schedule 7.
- The scope of article 31C was widened to cover all the directive principles laid down in the Constitution. Earlier Article 31C saved only laws giving effect to the directive principles of State policy specified in article 39(b) and 39(c).
- New directives were added by new articles 39A, 43A, 48A which, respectively, provide for equal justice and free legal aid to economically backward classes, participation of workers in the management of industries, and protection and improvement of environment and safeguarding of forests and wildlife.
- New article 31D provides for the making of a Parliamentary law to prevent or prohibit anti national activity and anti-national associations. Further it was provided that article 31D will not be deemed to be void on the ground that it takes away or abridges any of the fundamental rights conferred by article 14, article 19 and article 31.
- New article 32A was added to provide that the Supreme Court will have no jurisdiction to decide the constitutional validity of a State law in any writ proceedings under article 32.
- New Part IVA containing article 51A was added to provide lists of fundamental duties of citizens.
- Article 74(1) was amended to make the President to act in accordance with the advice of the Council of Ministers.
- Article 77 and article 166 relating to the Union government and State government have been amended to provide that no court or other authority will be entitled to

require the production of any rules framed for the transaction of Government business.

- Article 102(1)(a) was amended to provide that a person will be so disqualified if he holds any such office of profit under the Government of India or the Government of any State as is declared by Parliamentary law to disqualify offices will vest in Parliament instead of in the State Legislature.
- It amended the articles 83 and 172 to increase the duration of the Lok Sabha and every Legislative Assembly from five to six years during a situation of emergency.
- It provided the Union Government to deploy personnel of armed forces in any state to deal with a 'grave situation of law and order'
- Supremacy of the Parliament was established by this 42nd CAA with regard to the amendment of the Constitution. Article 368 has been amended to provide that no constitutional amendment will be called in question in any court on any ground.
- It transferred subjects like forests, education, weights and measures except establishments of standards, protection of wild animals and birds from the State List to the Concurrent List. New entry 20A was added in Concurrent List which is "Population control and family planning".
- Article 356 was amended to enlarge the period of operation of proclamation of failure of constitutional machinery in a State which has been approved by Parliament and the period for which the approved Proclamation can be renewed at a time was increased from 6 months to one year.

The Constitution (Ninety Seventh Amendment) Act 2011 relating to the co-operatives is aimed to encourage economic activities of cooperatives which in turn help progress of rural India. It is expected to not only ensure autonomous and democratic functioning of cooperatives, but also the accountability of the management to the members and other stakeholders.

97th Amendment Act, 2011 As per the amendment the changes done to constitution are:-

- In Part III of the constitution, after words “or unions” the words “Cooperative Societies” was added.
- In Part IV a new Article 43B was inserted, which says: The state shall Endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of the co-operative societies”.
- After Part IXA of the constitution, a Part IXB was inserted to accommodate state vs centre roles.

Indian Polity - Part 8

8] Fundamental Duties

Notes

Fundamental Duties : Part IVA (Article 51A)

It is widely believed that Rights and Duties are two sides of a coin. There are no rights without duties, no duties without rights. In fact, rights are born in a world of Duties.

A major **difference** between **the fundamental rights** and **duties** mentioned in the Indian constitution is that- while **fundamental rights** are **justiciable**, **fundamental duties** are **non-justiciable** in nature - which means if a citizen does not performs his/her fundamental duties, they can still enjoy the fundamental rights enshrined the Indian constitution.

The **original Constitution** was **enforced** in **1950**, but it **did not mention Fundamental Duties of the citizens**. It was hoped that citizens would perform their duties willingly.

But, **42nd Amendment to the Constitution** added a new list **consisting of 10 duties in chapter IV under Article 51-A of the Constitution.**

The **Fundamental Duties were added to the constitution** on the **recommendations of the Swaran Singh Committee.**

There were **ten fundamental duties** at the **time of incorporation** but the **eleventh was added by the 86th Amendment Act in 2002.**

It is said about Fundamental Duties that - The "Fundamental Duties" come as moral obligations of all citizens of India for national integration, growth and development of society.

Though these duties are not themselves enforceable and their violation is also not punishable. But still, these fundamental duties can serve as a reference point for cases regarding enforcement of fundamental rights. Courts can consider refusing enforcement of a fundamental right in view of violation of fundamental duties. This in a way curtails emphasis from fundamental rights in the constitution.

Duties Enlisted under Article 51-A of PART IV are:

- To abide by the Constitution and respect our National Flag and National Anthem.
- To follow the noble ideals that inspired our national freedom movement.
- To protect the unity and integrity of India.
- To defend the country when the need arises.
- To promote harmony and brotherhood among all sections of the people and to respect the dignity of women.
- To preserve our rich heritage and composite culture.
- To protect and improve our natural environment including forests, rivers, lakes and wildlife.

- To develop scientific outlook and humanism.
- To protect public property and not to use violence.
- To strive for excellence in all spheres of individual and collective activity

New Addition: Under RTE - Art 51A Amendment Act 86th 2002. “a parent or guardian to provide opportunities for education of his child or as the case may be ward between the age of six and fourteen years.

Criticism:

- Fundamental Duties for citizens are in nature of a code of conduct. A few of these duties are even vague and unrealistic.
- The non-justiciable character of these duties makes them rather redundant.
- Their ambiguous language is another hindrance in their being obeyed e.g. a citizen does not know how to maintain sovereignty, integrity and glorious heritage of the country.
- Objectives mentioned under these are too broad for targeted implementation.

Counter - argument:

But on the flip side, even though there is a lot of truth in the argument of the critics, yet it would not be proper to call these duties as only pious declarations. As mentioned in the beginning - Rights and Duties are two sides of the same coin. In the interest of the well-being and progress of the society, Rights and Duties must be adhered to equally by all to achieve an egalitarian nation.

Indian Polity - Part 9

9) Central Government

President: Qualification, Election, Powers, Removal

President

- Elected for 5 year term & eligible for re-election
- Executive head of India & all the executive powers of the union shall be vested in him
- Supreme commander of the arm forces
- 1st citizen of India & occupies 1st position under warrant of precedence

Executive powers vested in president shall be exercise on advice of COM responsible to the parliament, however, 42nd amendment made it obligatory for the president to accept advice of COM

Election of President: Article 54

The President of India is elected indirectly by the Electoral College according to secret ballot by the system of proportional representation through single transferable vote. The President of India is elected by an electoral college consisting of:

- Elected members of the two Houses of Parliament and Legislative Assemblies of the States
- States includes national capital territory of Delhi and the Union territory of Pondicherry

Do Not Participate

- Nominated members of both the houses of the parliament & of state legislative assemblies
- All the members of legislative council of states

There shall be uniformity in the scale of representation of the different states at the election of the President as follows:

- Value of vote of an MLA of a state: $(\text{Population of state} / \text{Total number of elected members of state legislative assembly}) * 100$
- Value of vote of an MP: $(\text{Total value of votes of MLA's of all states} / \text{Total number of elected members parliament}) * 100$
- Hence, value of vote of MLA of UP is highest & value of vote of MLA of Sikkim is lowest
- By 42nd amendment, census of 1971 was to be followed till 1st census after 2000, but in 2000, Union cabinet extended the same till 1st census after 2026 by 81st amendment 2001

For a candidate to be President, one must fulfill electoral quota

Electoral Quota: $(\text{Total number of valid votes polled} / 2) + 1$

- Candidate with last position gets eliminated & 2nd preference of all ballots, who ranked eliminated candidate 1st, is added to all accordingly. This process is followed till someone fulfill electoral quota
- Dispute regarding election of president (Article 71) or vice president is inquired & decided by supreme court whose decision is final
- Article 71 further states that no such disputes can be raised on the grounds of any vacancy in electoral college

Article 58 → Qualification for election of President

- Must be citizen of India
- Must be of 35 yrs of age
- Must be qualified for election for member of house of the people (LS)
- Must not hold any office of profit under Gov. of India or Gov. of any state or any local or other authority

Following persons shall not be deemed to hold any office of profit, hence are qualified for being a candidate for presidential election:

- President
- Vice President
- Governor of any state
- MP / MLA
- Nomination of a candidate for election to the office of President must be subscribed by at least 50 electors as proposers & 50 electors as seconders
- Every candidate has to make a security deposit of Rs. 15000 in RBI, liable to be forfeited in case candidate fails to secure 1/6th of the votes polled

Conditions to Presidential Office

- Shall not be member of any house of the parliament or state legislature & if he is, then must vacate the seat
- Shall not held any other office of profit
- Parliament law 2008 : Pay of Rs. 1,50,000 monthly & official residence without pay
- Pension of 9 lakhs / annum

Immunities to the President

- Personal immunity from legal liabilities for his official acts
- Immune from any criminal proceeding during his terms of office means cannot be imprisoned or arrested , However, civil proceedings can be instituted in his term of office with respect to his personal acts, giving 2 months of notice prior to the proceedings

Oath by President (Article 60)

- President takes oath in presence of chief justice of Supreme Court “ To preserve, protect & defend the constitution & law”

Terms of office of President (Article 56)

- President shall hold the office for terms of 5 years from the date he enters upon his office. Even after expiry of his terms, he shall continue in office until his successor enters upon his office
- May resign his office before the expiry of his normal terms of 5 years by writing to the vice president

Article 61 (Impeachment of the President)

Power of impeachment of president lies in parliament only for violation of the constitution & can be removed from his office before the period of 5 years (Quasi-judicial process)

- Impeachment resolution can be initiated in any house of the parliament
- Resolution initiated must be signed by 1/4th of the candidate of the initiating house
- Before the resolution is passed, a 14 days' notice must be given to the president
- Such a resolution must be passed by majority of not less than 2/3rd of total membership of the initiating house
- Then the other house of the parliament also called investigating house investigates the charges by itself
- President has the right to appear & to be represented at such investigation to defend himself
- If as a result of investigation, other house also passes a resolution supported by not less than 2/3rd of total membership of the house, President stands removed from his office, from the date investigating house passed the resolution
- Other than impeachment, no other penalty can be imposed on the president for violation of the constitution

Process of impeachment of President is deficient on following accounts:

- Term 'violation of constitution is very vague term & has not been defined anywhere in the constitution'
- Elected members of legislative assemblies have no role to play in impeachment proceeding while they have a role in election of the president
- Nominated members of parliament have the right to deliberate & vote when the resolution of impeachment is under consideration while they have no vote in election of president
- Procedure & authority to investigate the charges against president have not been specified nor any definite time period has been specified

Vacancy in President's Rule

- In case, office of president falls vacant due to death, resignation or removal of President, Then Vice president or in his absence Chief justice of India or in his absence Senior most judge of SC becomes the president until next elections are held & new president assumes the office
- President's office can remain vacant for max. of 6 months
- If president is not able to discharge his duties due to sickness or absence or due to any other reason than the vice president discharges the functions of President (VP is entitled to the same allowances & privileges of President during this period)

Article 53: Executive powers of the union shall be vested in president & shall be exercised by him either directly or indirectly or through officers subordinate to him, But always in accordance with the constitution

Executive powers → Powers of carry out administration of affairs of the state, except functions of legislature & judiciary

Administrative Powers of president

Powers to appoint

- Prime minister of India
- Attorney General of India
- Comptroller & Auditor general of India
- Judges of Supreme Court & High court
- Governor of the states
- Finance commissioner & its members
- Members of UPSC & Joint commissions for group of states
- Chief election commissioner & its members
- Chairman & members of SC & ST of commissions
- In fact every appointment of union government is made in the name of president or under his authority.
- He directly administers the Union territories through administration appointed by him
- President can declare any area as scheduled area & has powers w.r.t administration of schedule areas & Tribal areas.

Power to remove

- His ministers' individually
- Attorney general of India
- Governor of the state
- Chairman of UPSC or state administration on report of SC
- Judges of SC or HC
- Chief election commissioner
- Comptroller & auditor general of India
- Finance commissioner

(Removal mainly based on the address of the parliament)

Legislative Powers

- Summons the houses of parliament at least twice a year, Prorogue either house & can dissolve Lok Sabha
- Nominates 12 members of Rajya Sabha & may nominate 2 representatives of Anglo Indian community to Lok Sabha
- May address either house separately or jointly or can send messages to them. At the commencement of 1st session of parliament annually, President delivers an address corresponding to queens speech from the throne in British parliament
- Every bill passed by parliament must receive presidential assent before it can become an act. President may give his assent or withhold or return it for reconsideration along with his own suggestions (Except money bill and constitutional amendment bill)
- But if the bill is passed again with or without the amendments President is bound to give his assents to it

President makes certain reports & statements to be laid before parliament as stated below:

- Annual financial statement (Budget) & supplementary statement
- Auditor General Report relating to accounts of government of India
- Recommendation made by finance commission
- Report of UPSC, explaining the reasons where any advice of the commission has not been accepted
- Report of National commission for SCs & STs
- Report of special officers for linguistic minorities

Certain bills (Bill for formation of new states or alteration of boundaries of states, money bill, financial) needs presidential recommendations for introduction in parliament

Veto powers of the President

Absolute Veto: Power of president to withhold his assent to a bill passed in parliament. The bill then ends & does not become an act. If before passing assent to a bill, ministry resigns & a new COM is formed, then on its advice President can use his veto powers against the bill . (In 1954, Rajendra prasad withheld his assent to PEPSU appropriation bill)

Suspensive Veto: Power of president to return a bill passed in parliament for reconsideration (except money Bill)

Pocket Veto: No time frame for President to give his assent or refuse i.e. pocket a bill for infinite times (Not for constitutional amendment bill as 24th amendment 1971, made it obligatory for the president to give his assent to constitutional amendment bill)

Ordinance making powers of the President

Ordinances - interim or temporary legislation laws → President can issue ordinances only on subjects' parliament can legislate or make laws with same limitations as of parliament

President promulgate ordinances (authoritive order) under article 123 mainly when either or both the houses of parliament are not in session & immediate action is needed

A Presidential ordinance has same force & effect as an act of parliament. However, it must be laid down before both the houses of the parliament & must be approved by

both the houses within 6 weeks from re-assembly of houses. Failure to comply with this condition or parliamentary disapproval within 6 weeks period will make ordinance invalid

Judicial Powers (Basically Pardoning Powers)

- Where the punishment or sentence is by court martial
- Where the punishment is for offence against union law
- In all cases where sentence is death sentence “Only authority for pardoning a death sentence”

Pardon: Can rescinds both conviction & sentence + can absolve the offender from all offences & disqualification

Reprieve: Can make stay of execution of a sentence (esp. of death) for pardon or commutation

Remission: To reduce amount of sentence without changing its character (ex. 6 months for 1 yr)

Respite: Awarding a lesser sentence instead of a prescribed penalty in view of special facts (ex. in case of pregnant women offender)

Commutation: Substitutes one form of punishment for another or lighter character

Emergency Powers

National Emergency → Article 352 → On grounds of threat to security of India or any part of it , By war, external aggression or armed rebellion

Presidential Rule → Article 356 → Proclamation for taking over the administration of a state, when state government cannot carry out administration in state in accordance with provisions of the constitution

Financial Emergency → Article 360 → When financial stability of credit of India or any part thereof is threatened

“Any proclamation under the emergency powers of the president, in order to be in operation beyond a certain period, should be approved by parliament within the period so specified by parliament”

Financial Powers

- It is only on the permission of president that annual financial statement (Budget) is laid down before the parliament
- Recommends the introduction of money bill & financial bill in parliament
- Constitutes finance commission after every five years
- Controls contingency fund for unforeseen expenses like flood, drought, war etc.
- Places report of CAG before parliament & recommendations of Finance commission

Military Powers

- Supreme commander of armed forces
- Has power to declare war & peace
- But, His military powers are subjected to the regulations of law, therefore, parliament has the real power to regulate or control the exercise of such powers

Diplomatic Powers

- Sends & receive ambassadors & other diplomatic representatives
- All treaties & international agreements are negotiated & amended in the name of president, though subjected to ratification by parliament

President's Position

- Whenever constitution requires the satisfaction of the president, it is not his personal satisfaction, but is the satisfaction of COMs
- It is obligatory for the president to always have a C.O.M
- Even after dissolution of lower house (Lok Sabha) of parliament, COM is in existence to aid & advice the president in exercise of his executive powers
- If he ignores the advice of COMs or acts contrary to advice of COMs, he can be impeached for violation of constitution

42nd amendment, 1976 → Amended article 74 & made advice of COMs binding for the president

44th amendment 1978 → Further amended 74th article that President may require COMs to reconsider an advice, but is bound to act after reconsideration

Though president is not connected with decision making power of the cabinet, yet article 78 A, casts on PM to keep President informed of all cabinet decisions, concerning administration of affairs of the union & proposal for legislation. Under some circumstances, president has to act as per his own wisdom, sense of justice & discretion:

- Appointment of PM, under situation when no single political party commands clear majority support of lok sabha
- Appointing a PM in case of vacancy due to sudden death & availability of no acknowledged leader, due to inability of legislature party to do so and absence of settled seniority among cabinet members; name of PM is proposed from outside
- Dissolution of Lok sabha on advice of COMs which has lost the support of majority members of lok sabha or against whom a motion of no confidence has been passed

- Dismissing ministries, in case COMs has lost the confidence of lower house of the parliament but still refuses to resign

The Vice-President Of India (Articles 63-73)

Part V of the Constitution of India under Chapter I (Executive) also discusses about the office of the Vice-President of India. The Vice-President of India is the second highest constitutional office in the country. He serves for a five-year term, but can continue to be in office, irrespective of the expiry of the term, until the successor assumes office. Let's see the articles 63-73 which deal with the qualifications, election and removal of Vice-President of India.

Article 63 : The Vice-President Of India

There shall be a Vice-President of India.

Article 64 : The Vice-President to be ex-officio Chairman of the Council of States

The Vice-President shall be ex-officio Chairman of the Council of States and shall not hold any other office of profit:

Provided that during any period when the Vice-President acts as President or discharges the functions of the President under article 65, he shall not perform the duties of the office of Chairman of the Council of States and shall not be entitled to any salary or allowance payable to the Chairman of the Council of States under article 97.

Article 65 : The Vice-President to act as President or to discharge his functions during casual vacancies in the office, or during the absence, of President

(1) In the event of the occurrence of any vacancy in the office of the President by reason of this death, resignation or removal, or otherwise, the Vice-President shall act

as President until the date on which a new President elected in accordance with the provisions of this Chapter to fill such vacancy enters upon his office.

(2) When the President is unable to discharge his functions owing to absence, illness or any other cause, the Vice-President shall discharge his functions until the date on which the President resumes his duties.

(3) The Vice-President shall, during, and in respect of, the period while he is so acting as, or discharging the functions of, President have all the powers and immunities of the President and be entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.

Article 66 : Election of Vice-President

(1) The Vice-President shall be elected by the members of an electoral college consisting of the members of both Houses of Parliament in accordance with the system of proportional representation by means of a single transferable vote and the voting at such election shall be by secret ballot.

(2) The Vice-President shall not be a member of either House of Parliament or of a House of the Legislature of any State, and if a member of either House of Parliament or of a House of the Legislature of any State be elected Vice-President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Vice-President.

(3) No person shall be eligible for election as Vice-President unless he –

(a) Is a citizen of India;

(b) Has completed the age of thirty-five years; and

(c) Is qualified for election as a member of the Council of States.

(4) A person shall not be eligible for election as Vice-President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

Article 67 : Term of office of Vice-President

The Vice-President shall hold office for a term of five years from the date on which he enters upon his office:

Provided that - (a) A Vice-President may, by writing under his hand addressed to the President, resign his office;

(b) A Vice-President may be removed from his office by a resolution of the Council of States passed by a majority of all the then members of the Council and agreed to by the House of the People; but no resolution for the purpose of this clause shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution;

(c) A Vice-President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

Article 68 : Time of holding election to fill vacancy in the office of Vice-President and the term of office of person elected to fill casual vacancy

(1) An election to fill a vacancy caused by the expiration of the term of office of Vice-President shall be completed before the expiration of the term.

(2) An election to fill a vacancy in the office of Vice-President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after the occurrence of the vacancy, and the person elected to fill the vacancy shall, subject to the provisions of article 67, be entitled to hold office for the full term of five years from the date on which he enters upon his office.

Article 69 : Oath or affirmation by the Vice-President

Every Vice-President shall, before entering upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation in the following form, that is to say - “I, A.B., do swear in the name of God /solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will discharge the duty upon which I am about to enter.”

Article 70 : Discharge of President’s functions in other contingencies

Parliament may make such provision as it thinks fit for the discharge of the functions of the President in any contingency not provided for in this Chapter.

Article 71 : Matters relating to, or connected with, the election of a President or Vice-President

(1) All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final.

(2) If the election of a person as President or Vice-President is declared void by the Supreme Court, acts done by him in the exercise and performance of the powers and duties of the office of President or Vice-President, as the case may be, on or before the date of the decision of the Supreme Court shall not be invalidated by reason of that declaration.

(3) Subject to the provisions of this Constitution, Parliament may by law regulate any matter relating to or connected with the election of a President or Vice-President.

(4) The election of a person as President or Vice-President shall not be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him.

Article 72 : Power of President to grant pardons, etc., and to suspend, remit or commute sentences in certain cases

(1) The President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any persons convicted of any offence - (a) in all cases where the punishment of sentence is by a Court Martial;

(b) in all cases where the punishment or sentence is for an offence against any law relating to a matter to which the executive power of the Union extends;

(c) in all cases where the sentence is a sentence of death.

(2) Nothing in sub-clause (a) of clause (1) shall affect the power conferred by law on any officer of the Armed Forces of the Union to suspend, remit or commute a sentence passed by a Court martial.

(3) Nothing in sub-clause (c) of clause (1) shall affect the power to suspend, remit or commute a sentence of death exercisable by the Governor of a State under any law for the time being in force.

Article 73 : Extent of executive power of the Union

(1) Subject to the provisions of this Constitution, the executive power of the Union shall extend—

(a) To the matters with respect to which Parliament has power to make laws; and

(b) To the exercise of such rights, authority and jurisdiction as are exercisable by the Government of India by virtue of any treaty or agreement:

Provided that the executive power referred to in sub-clause (a) shall not, save as expressly provided in this Constitution or in any law made by Parliament, extend in

any State to matters with respect to which the Legislature of the State has also power to make laws.

(2) Until otherwise provided by Parliament, a State and any officer or authority of a State may, notwithstanding anything in this article, continue to exercise in matters with respect to which Parliament has power to make laws for that State such executive power or functions as the State or officer or authority thereof could exercise immediately before the commencement of this Constitution.

Removal of Vice-President of India

A Vice-President may be removed from his office by a resolution of the Council of States passed by a majority of all the then members of the Council and agreed to by the House of the People; but no resolution for the purpose of this clause shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

COM, Prime Minister and Attorney General (Articles 74-78)

Chapter I (Executive) of Part V of the Constitution (Union) deals with President, Vice-President, Council of Ministers (COM) headed by Prime Minister and Attorney General. Having already discussed about President and Vice-President, let's concentrate now on COM, Prime Minister and Attorney General. While Indian President is the head of the state, Indian Prime Minister is the head of the government.

Council of Ministers

Article 74 : Council of Ministers to aid and advise President

(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 advice:

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 advice tendered after such reconsideration.

(2) The question whether any, and if so what, advice was tendered by Ministers to the President shall not be inquired into in any court.

Article 75: Other provisions as to Ministers

(1) The Prime Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Prime Minister.

(1A) The total number of Ministers, including the Prime Minister, in the Council of Ministers shall not exceed fifteen per cent. of the total number of members of the House of the People.

(1B) A member of either House of Parliament belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or where he contests any election to either House of Parliament before the expiry of such period, till the date on which he is declared elected, whichever is earlier.

(2) The Ministers shall hold office during the pleasure of the President.

(3) The Council of Ministers shall be collectively responsible to the House of the People.

(4) Before a Minister enters upon his office, the President shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

(5) A Minister who for any period of six consecutive months is not a member of either House of Parliament shall at the expiration of that period cease to be a Minister.

(6) The salaries and allowances of Ministers shall be such as Parliament may from time to time by law determine and, until Parliament so determines, shall be as specified in the Second Schedule.

The Attorney-General for India

Article 76 : Attorney-General for India.

(1) The President shall appoint a person who is qualified to be appointed a Judge of the Supreme Court to be Attorney- General for India.

(2) It shall be the duty of the Attorney-General to give advice to the Government of India upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the President, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.

(3) In the performance of his duties the Attorney-General shall have right of audience in all courts in the territory of India.

(4) The Attorney-General shall hold office during the pleasure of the President, and shall receive such remuneration as the President may determine.

Conduct of Government Business

Article 77. Conduct of business of the Government of India

(1) All executive action of the Government of India shall be expressed to be taken in the name of the President.

(2) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the President, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.

(3) The President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business.

Article 78 : Duties of Prime Minister as respects the furnishing of information to the President, etc.

—It shall be the duty of the Prime Minister—

(a) To communicate to the President all decisions of the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation;

(b) To furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and

(c) If the President so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

Parliament (Articles 79-88/122)

Though Article 79-122 deals with Chapter II (Parliament) of Part V (Union), we shall break the topic into sub-sections. In this post, we are covering only articles 79-88, which deals with the General provisions regarding the Parliament. Parliament consists of the President of India, Lok Sabha and Rajya Sabha. Normally, three Sessions of

Parliament are held in a year: (i) Budget Session (February-May); (ii) Monsoon Session (July-August); and (iii) Winter Session (November-December).

Chapter II Parliament

Article 79 : Constitution of Parliament

There shall be a Parliament for the Union which shall consists of the President and two Houses to be known respectively as the Council of States and the House of the People.

Article 80 : Composition of the Council of States -

- (1) The Council of States shall consists of -
 - (a) Twelve members to be nominated by the President in accordance with the provisions of clause (3); and
 - (b) Not more than two hundred and thirty-eight representatives of the States and of the Union territories.
- (2) The allocation of seats in the Council of States to be filled by representatives of the States and of the Union territories shall be in accordance with the provisions in that behalf contained in the Fourth Schedule.
- (3) The members to be nominated by the President under sub-clause (a) and clause (1) shall consists of persons having special knowledge or practical experience in respect of such matters as the following, namely: -Literature, science, art and social service.
- (4) The representatives of each State in the Council of States shall be elected members of the Legislative Assembly of the State in accordance with the system of proportional representation by means of the single transferable vote.

(5) The representatives of the Union territories in the Council of States shall be chosen in such manner as Parliament may by law prescribe.

Article 81 : Composition of the House of the People

(1) Subject to the provisions of article 331, the House of the People shall consist of -

(a) not more than five hundred and thirty members chosen by direct election from territorial constituencies in the States, and

(b) Not more than twenty members to represent the Union territories, chosen in such manner as Parliament may by law provide.

(2) For the purposes of sub-clause (a) of clause (1), -

(a) There shall be allotted to each State a number of seats in the House of the People in such manner that the ratio between that number and the population of the State is, so far as practicable, the same for all States; and

(b) Each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it is, so far as practicable, the same throughout the State:

Provided that the provisions of sub-clause (a) of this clause shall not be applicable for the purpose of allotment of seats in the House of the People to any State so long as the population of that State does not exceed six millions.

(3) In this article, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in this clause to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2000 have been published, be construed as a reference to the 1971 census.

Article 82 : Readjustment after each census

- Upon the completion of each census, the allocation of seats in the House of the People to the States and the division of each state into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:
- Provided that such readjustment shall not affect representation in the House of the People until the dissolution of the then existing House:
- Provided further that such readjustment shall take effect from such date as the President may, by order, specify and until such readjustment takes effect, any election to the House may be held on the basis of the territorial constituencies existing before such readjustment:
- Provided also that until the relevant figures for the first census taken after the year 2000 have been published, it shall not be necessary to readjust the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies under this article.

Article 83 : Duration of Houses of Parliament

(1) The Council of States shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

(2) The House of the People, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of 5 years shall operate as a dissolution of the House:

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and

not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

Article 84 : Qualification for membership of Parliament

A person shall not be qualified to be chosen to fill a seat in Parliament unless he -

- (a) Is a citizen of India, and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;
- (b) Is, in the case of a seat in the Council of States, not less than thirty years of age and, in the case of a seat in the House of the People, not less than twenty-five years of age; and
- (c) Possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

Article 85 : Sessions of Parliament, prorogation and dissolution

- (1) The President shall from time to time summon each House of Parliament to meet at such time and place as he thinks fit, but six months shall not intervene between its lasting sitting in one session and the date appointed for its first sitting in the next session.
- (2) The President may from time to time -
 - (a) Prorogue the Houses or either House;
 - (b) Dissolve the House of the People.

Article 86 : Right of President to address and send messages to Houses

- (1) The President may address either House of Parliament or both Houses assembled together, and for that purpose require the attendance of members.

(2) The President may send messages to either House of Parliament, whether with respect to a Bill then pending in Parliament or otherwise, and a House to which any message is so sent shall with all convenient dispatch consider any matter required by the message to be taken into consideration.

Article 87 : Special address by the President

(1) At the commencement of the first session after each general election to the House of the People and at the commencement of the first session of each year the President shall address both Houses of Parliament assembled together and inform Parliament of the causes of its summons.

(2) Provision shall be made by the rules regulating the procedure of either House for the allotment of time for discussion of the matters referred to in such address.

Article 88 : Rights of Ministers and Attorney-General as respects Houses

Every Minister and the Attorney-General of India shall have the right to speak in, and otherwise to take part in the proceeding of, either House, any joint sitting of the Houses, and any committee of Parliament of which he may be named a member, but shall not by virtue of this article be entitled to vote.

Indian Parliament

President

Council of states (Rajya Sabha)

House of the people (Lok Sabha)

- Though President is not the member of either house of the parliament, he is an integral part of it.

- Principle function of Parliament is to legislate i.e. to make laws on all subjects enumerated in Union and Concurrent list (also on residuary subjects) & in some cases on state list subjects for the benefit of the country
- COM as a body is responsible to parliament for general affairs of the government.
- As a result, a vote of no confidence against any one minister is tantamount to vote of no confidence against whole COM
- Lack of parliamentary confidence in the government may be expressed by house of the people by -
 - ✓ Passing motion of no confidence in COM
 - ✓ Passing a censure motion
 - ✓ Passing an adjournment motion
 - ✓ Defeating the government on financial measures

Rajya Sabha

- VP is ex-officio chairman of Rajya Sabha
- Total membership is 250
- 238 members elected as representative of state & UTs
- 12 members nominated by president (Veterans from art, science, literature & social services)
- There is no difference b/w elected & nominated members except only elected members can participate in elections of President
- Office term for RS is 6 years with 1/3rd of members retiring every 2 years
- RS members are elected by legislative assembly of states & UTs by means of single transferable vote through proportional representation (Based on population)
- Only 4 members are elected from UTs
- 3 from Delhi

- 1 from Pondicherry
- No seat is reserved for SCs & STs
- Retired members of RS are eligible for re-election & re-nomination
- RS meets in continuous sessions & is not subjected to dissolution
- Salary & other benefits are same as Lok sabha
- RS have equal footings in all the areas of legislation compared to Lok sabha except in area of supply, where Lok sabha has overriding powers

Qualifications

- Must be citizen of India & have attained 30 years of age
- Must be a registered voter in parliamentary constituency in any of the state
- Subscribe before election commission an oath, as prescribed by 3rd schedule

Working Hours

- 11 am - 12P.M
- Q & A hour
- 1st hour of working days i.e. Monday to Friday

Special Powers

- A resolution seeking removal of VP can be originated only in Rajya Sabha
- Under article 249, it can shift an item of state list to union or concurrent list
- If RS passes a resolution by majority of not less than 2/3 rd of members present & voting, then it is expedient for parliament to make laws wrt any matter enumerated in state list for whole or any part of territory of India on that matter for a period of not less than 1 year.
- However, RS can extend the law by passing same resolution with same majority for 1 year continuously

- If RS passes a resolution by 2/3rd of majority of members present & voting, then it is expedient in national interest to create one or more all India services

Limitations

Money Bill

- If Rajya Sabha returns the bill to Lok Sabha opposing the bill, then it is deemed to have passed.
- Rajya Sabha can send recommendations to Lok Sabha, but Lok Sabha is not bound to act on it.
- Also Rajya Sabha does not have pocket veto & if it does not pass the bill within 14 days, it is again deemed to have been passed by the house
- No confidence Motion
- Unlike Lok Sabha, it cannot pass motion of no confidence against the government

Lok Sabha

- Also known as lower house of parliament or house of the people
- Members are directly elected by the people for 5 years
- Lok Sabha can be dissolved by the President
- Total strength is 552
 - ✓ 530 → Representatives of the state,
 - ✓ 20 → Representatives of UT's
 - ✓ 2 from Anglo Indian community nominated by President)
- Parliament has frozen the representation of states & UTs at 543 till 2026 by 84th amendment in 2001
- Seats are allotted to every state on the basis of population as far as possible
- Based on 2001 census i.e. in ratio b/w no. of seats allotted to its population
- Provision does not apply to states having Population < 6 million

- Certain seats are reserved for SCs & STs → According to 87th amendment 2003 viz.
- 2001 census as delimitation of constituencies of Lok Sabha
- State legislative assemblies within the state for SC / ST population
- 42nd amendment 1976, extended the normal life of Lok Sabha to 6 years but 44th amendment 1978 again reversed it to a period of 5 yrs
- Duration of Lok Sabha can be extended by a max. of 1 year at a time during proclamation of national emergency - Article 352, But if proclamation comes to end then not more than 6 months

Qualifications

- Must be a citizen of India & must have attained age of 25 years
- Must be a registered voter in parliamentary constituency of India
- Must subscribe by an oath administered by Election Commission as mentioned in 3rd schedule

Special Powers

- Motion of no confidence can only be initiated & passed in Lok Sabha
- Money & Financial bill can only be originated in Lok Sabha
- RS cannot amend or reject money bill
- Under article 352, Lok Sabha in special sitting, can disapprove the proclamation of President, regarding continuance in force of national emergency. Hence, President has to revoke the emergency in this case

Rajya Sabha & Lok Sabha

Disqualifications (RS & LS)

- Must not hold any office of profit
- Must not of unsound mind & undischarged solvent

- Must not acquire citizenship of foreign country
- Must not be disqualified under any law made by the President

Resignation (RS & LS)

- May submit resignation to the speaker of Lok Sabha / Chairman of Rajya Sabha respectively
- Disqualified if absent for 60 days without the permission of the house
- Penalty of Rs. 500 / Day as a debt to Union for sitting & voting when a person is not qualified or has been disqualified or not affirmed by oath.

Privileges & Immunities of Parliament

- Freedom of speech to each MP which means no action shall be taken on any words or speech spoken by him during the proceedings of the house
- No action for any public speech
- Absolute immunity from any action & for anything stated within the house
- Protected from any disclosure that one makes in parliament

Freedom from arrest

- Cannot be arrested & put in prison for any civil action within a period of “40 days before & after the commencement & termination of a session of the house”
- Immunity does not extend to arrest in criminal proceedings or contempt of court or preventive detention
- Right to refuse to give evidence & appear as a witness in a case pending in court of law when parliament is in session

Inquiries within House

- Each house has the power to institute enquiries & order attendance of the witnesses. In case of disobedience, may order to bring witnesses in custody to bar of the house

Disciplinary Powers

- For offending conduct of the house may impose disciplinary action on the member
- May expel a member for ill conduct inside or outside of the house

Privacy of debate & Right to exclude others

- Proceedings & sitting in camera
- Publication of proceedings on media
- Powers to punish a member or outsider for contempt of the house

Committee of Privileges

- To look after powers, privileges & immunities of the house & its members
- Lok Sabha → 15 members as nominated by the speaker
- Rajya Sabha → 10 members as nominated by the chairman

Limitations

- Restrictions imposed by the rules of procedure of the house
- No discussion can take place in parliament wrt conduct of any judge of SC or HC in discharge of his duties except upon a motion for removal of a judge

LEGISLATIVE POWERS OF THE PRESIDENT

Article 123 Power of President to promulgate Ordinances during recess of Parliament

(1) If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require.

(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of Parliament, but every such Ordinance -

(a) shall be laid before both Houses of Parliament and shall cease to operate at the expiration of six weeks from the reassembly of Parliament, or, of before the expiration of that period resolutions disapproving it are passed by both Houses, upon the passing of the second of those resolutions; and

(b) May be withdrawn at any time by the President.

(3) If and so far as an Ordinance under this article makes any provision which Parliament would not under this Constitution be competent to enact, it shall be void.

Article 124: Establishment and Constitution of Supreme Court

(1) There shall be a Supreme Court of India consisting of a Chief Justice of India and, until Parliament by law prescribes a larger number, of not more than seven other Judges.

(2) Every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose and shall hold office until he attains the age of sixty-five years:

Provided that in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of India shall always be consulted:

Provided further that -

(a) A Judge may, by writing under his hand addressed to the President, resign his office;

(b) A judge may be removed from his office in the manner provide in clause (4).

(2A) The age of a Judge of the Supreme Court shall be determined by such authority and in such manner as Parliament may by law provide.

(3) A person shall not be qualified for appointment as a Judge of the Supreme Court unless he is a citizen of India and -

(a) Has been for at least five years a Judge of a High Court or of two or more such Courts in succession; or

(b) Has been for at least ten years an advocate of a High Court or of two or more such Courts in succession; or

(c) Is, in the opinion of the President, a distinguished jurist.

(4) A Judge of the Supreme Court shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting has been presented to the President in the same session for such removal on the ground of proved misbehavior or incapacity.

(5) Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the misbehavior or incapacity of a Judge under clause (4).

(6) Every person appointed to be a Judge of the Supreme Court shall, before he enters upon his office, make and subscribe before the President, or some person appointed

in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

(7) No person who has held office as a Judge of the Supreme Court shall plead or act in any court of before any authority within the territory of India.

Article 125: Salaries, etc., of Judges

(1) There shall be paid to the Judges of the Supreme Court such salaries as may be determined by Parliament by law and, until provision in that behalf is so made, such salaries as are specified in the Second Schedule.

(2) Every Judge shall be entitled to such privileges and allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such privileges, allowances and rights as are specified in the Second Schedule:

Provided that neither the privileges nor the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.

Article 126: Appointment of acting Chief Justice

When the office of Chief Justice of India is vacant or when the Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other Judges of the Court as the President may appoint for the purpose.

Article 127: Appointment of ad hoc Judges

(1) If at any time there should not be a quorum of the Judges of the Supreme Court available to hold or continue any session of the Court, the Chief Justice of India may, with the previous consent of the President and after consultation with the Chief

Justice of the High Court concerned, request in writing the attendance at the sittings of the Court, as an ad hoc Judge, for such period as may be necessary, of a Judge of a High Court duly qualified for appointment as a Judge of the Supreme Court to be designated by the Chief Justice of India.

(2) It shall be the duty of the Judge who has been so designated, in priority to other duties of his office to attend the sittings of the Supreme Court at the time and for the period for which his attendance is required, and while so attending he shall have all the jurisdiction, powers and privileges, and shall discharge the duties, of a Judge of the Supreme Court.

Article 128: Attendance of retired Judges at sittings of the Supreme Court

Notwithstanding anything in this Chapter, the Chief Justice of India may at any time, with the previous consent of the President, request any person who as held the office of a Judge of the Supreme Court or of the Federal Court or who has held the office of a Judge of a High Court and is duly qualified for appointment as a Judge of the Supreme Court to sit and act as a Judge of the Supreme Court, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that Court:

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a Judge of that Court unless he consents so to do.

Article 129: Supreme Court to be a court of record

The Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.

Article 130: Seat of Supreme Court

The Supreme Court shall sit in Delhi or in such other place or places, as the Chief Justice of India may, with the approval of the President, from time to time, appoint.

Article 131: Original jurisdiction of the Supreme Court

Subject to the provisions of this Constitution, the Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute -

- (a) Between the Government of India and one or more States; or
- (b) Between the Government of India and any State of States on one side and one or more other States on the other; or
- (c) Between two or more States.

if and in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends:

Provided that the said jurisdiction shall not extend to a dispute arising out of any treaty, agreement, covenant, engagement, sanad or other similar instrument which, having been entered into or executed before the commencement of this Constitution, continues in operation after such commencement or which provides that the said jurisdiction shall not extend to such a dispute.

Article 131A: Executive jurisdiction of the Supreme Court in regard to questions as to constitutional validity of Central laws

Article 132: Appellate jurisdiction of Supreme Court in appeals from High Court in certain cases

(1) An appeal shall lie to the Supreme Court from any judgement, decree or final order of a High Court in the territory of India, whether in a civil, criminal or other proceeding, if the High Court certifies under article 134A that the case involves a substantial question of law as to the interpretation of this Constitution.

(2) Where such a certificate is given, any party in the case may appeal to the Supreme Court on the ground that any such question as aforesaid has been wrongly decided.

Article 133: Appellate jurisdiction of Supreme Court in appeals from High Courts in regard to civil matters

(1) An appeal shall lie to the Supreme Court from any judgement, decree or final order in a civil proceeding of a High Court in the territory of India if the High Court certifies under article 134A -

- (a) That the case involves a substantial question of law of general importance; and
- (b) That in the opinion of the High Court the said question needs to be decided by the Supreme Court.

(2) Notwithstanding anything in article 132, any party appealing to the Supreme Court under clause (1) may urge as one of the grounds in such appeal that a substantial question of law as to the interpretation of this Constitution has been wrongly decided.

(3) Notwithstanding anything in this article, no appeal shall, unless Parliament by law otherwise provides, lie to the Supreme Court from the judgement, decree or final order of one Judge of a High Court.

Article 134: Appellate jurisdiction of Supreme Court in regard to criminal matters

(1) An appeal shall lie to the Supreme Court from any judgement, final order or sentence in a criminal proceeding of a High Court in the territory of India if the High Court -

- (a) Has on appeal reversed an order of acquittal of an accused person and sentenced him to death; or

(b) Has withdrawn for trial before itself any case from any court subordinate to its authority and has in such trial convicted the accused person and sentenced him to death; or

(c) Certified under article 134A that the case is a fit one for appeal to the Supreme Court:

Provided that an appeal under sub-clause (c) shall lie subject to such provisions as may be made in that behalf under clause (1) of article 145 and to such conditions as the High Court may establish or require.

(2) Parliament may by law confer on the Supreme Court any further powers to entertain and hear appeals from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India subject to such conditions and limitations as may be specified in such law.

Article 134A: Certificate for appeal to the Supreme Court

Every High Court, passing or making a judgment, decree, final order, or sentence, referred to in clause (1) of article 132 or clause (1) of article 133, or clause (1) of article 134, -

(a) May, if it deems fit so to do, on its own motion; and

(b) Shall, if an oral application is made, by or on behalf of the party aggrieved, immediately after the passing or making of such judgment, decree final order or sentence, determine, as soon as may be after such passing or making, the question whether a certificate of the nature referred to in clause (1) of article 132, or clause (1) of article 133 or, as the case may be, sub-clause (c) of clause (1) of article 134, may be given in respect of that case.

Article 135: Jurisdiction and powers of the Federal Court under existing law to be exercisable by the Supreme Court

Until Parliament by law otherwise provides, the Supreme Court shall also have jurisdiction and powers with respect to any matter to which the provisions of article 133 or article 134 do not apply if jurisdiction and powers in relation to that matter were exercisable by the Federal Court immediately before the commencement of this Constitution under any existing law.

Article 136: Special leave to appeal by the Supreme Court

(1) Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India.

(2) Nothing in clause (1) shall apply to any judgment, determination, sentence or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces.

Article 137: Review of judgements or orders by the Supreme Court

Subject to the provisions of any law made by Parliament or any rules made under article 145, the Supreme Court shall have power to review any judgment pronounced or order made by it.

Article 138: Enlargement of the jurisdiction of the Supreme Court

(1) The Supreme Court shall have such further jurisdiction and powers with respect to any of the matters in the Union List as Parliament may by law confer.

(2) The Supreme Court shall have such further jurisdiction and powers with respect to any matter as the Government of India and the Government of any State may by

special agreement confer, if Parliament by law provides for the exercise of such jurisdiction and powers by the Supreme Court.

Article 139: Conferment on the Supreme Court of powers to issue certain writs

Parliament may by law confer on the Supreme Court power to issue directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for any purposes other than those mentioned in clause (2) of article 32.

Article 139A: Transfer of certain cases

(1) Where cases involving the same or substantially the same questions of law are pending before the Supreme Court and one or more High Courts or before two or more High Courts and the Supreme Court is satisfied on its own motion or on an application made by the Attorney-General of India or by a party to any such case that such questions are substantial questions of general importance, the Supreme Court may withdraw the case or cases pending before the High Court of the High Courts and dispose of all the cases itself:

Provided that the Supreme Court may after determining the said questions of law return any case so withdrawn together with a copy of its judgment on such questions to the High Court from which the case has been withdrawn, and the High Court shall on receipt thereof, proceed to dispose of the case in conformity with such judgment.

(2) The Supreme Court may, if it deems it expedient so to do for the ends of justice, transfer any case, appeal or other proceedings pending before any High Court to any other High Court.

Article 140: Ancillary powers of Supreme Court

Parliament may by law make provision for conferring upon the Supreme Court such supplemental powers not inconsistent with any of the provisions of this Constitution as may appear to be necessary or desirable for the purpose of enabling the Court more effectively to exercise the jurisdiction conferred upon it by or under this Constitution.

Article 141: Law declared by Supreme Court to be binding on all courts

The law declared by the Supreme Court shall be binding on all courts within the territory of India.

Article 142: Enforcement of decrees and orders of Supreme Court and orders as to discovery, etc.

(1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Supreme Court shall, as respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents, or the investigation or punishment of any contempt of itself.

Article 143: Power of President to consult Supreme Court

(1) If at any time it appears to the President that a question of law or fact has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the

question to that Court for consideration and the Court may, after such hearing as it thinks fit, report to the President its opinion thereon.

(2) The President may, notwithstanding anything in the proviso to article 131, refer a dispute of the kind mentioned in the said proviso to the Supreme Court for opinion and the Supreme Court shall, after hearing as it things fit, report to the President its opinion thereon.

Article 144: Civil and judicial authorities to act in aid of the Supreme Court

All authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court.

Article 144A: Special provisions as to disposal of questions relating to constitutional validity of laws

Article 145: Rules of Court, etc.

(1) Subject to the provisions of any law made by Parliament, the Supreme Court may from time to time, with the approval of the President, make rules for regulating generally the practice and procedure of the Court including -

- (a) Rules as to the persons practising before the Court;
- (b) Rules as to the procedure for hearing appeals and other matters pertaining to appeals including the time within which appeals to the Court are to be entered;
- (c) Rules as to the proceedings in the Court for the enforcement of any of the rights conferred by Part III;
- (d) Rules as to the entertainment of appeals under sub-clause (c) of clause (1) of article 134;

(e) Rules as to the conditions subject to which any judgment pronounced or order made by the Court may be reviewed and the procedure for such review including the time within which applications to the Court or such review are to be entered;

(f) Rules as to the costs of and incidental to any proceedings in the Court and as to the fees to be charged in respect of proceedings therein;

(g) Rules as to the granting of bail;

(h) Rules as to stay of proceedings;

(i) Rules providing for the summary determination of any appeal which appears to the Court to be frivolous or vexatious or brought for the purpose of delay;

(2) Subject to the provisions of clause (3), rules made under this article may fix the minimum number of Judges who are to sit for any purpose, and may provide for the powers of single Judges and Division Courts.

(3) The minimum number of Judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution or for the purpose of hearing any reference under article 143 shall be five:

Provided that, where the Court hearing an appeal under any of the provisions of this Chapter other than article 132 consists of less than five Judges and in the course of the hearing of the appeal of the Court is satisfied that the appeal involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the appeal, such Court shall refer the question for opinion to a Court constituted as required by this clause for the purpose of deciding any case involving such a question and shall on receipt of the opinion dispose of the appeal in conformity with such opinion.

(4) No judgment shall be delivered by the Supreme Court save in open Court, and no report shall be made under article 143 save in accordance with an opinion also delivered in open Court.

(5) No judgment and so such opinion shall be delivered by the Supreme Court save with the concurrence of a majority of the Judges present at the hearing of the case, but nothing in this clause shall be deemed to prevent a Judge who does not concur from delivering a dissenting judgment or opinion.

Article 146: Officers and servants and the expenses of the Supreme Court

(1) Appointments of officers and servants of the Supreme Court shall be made by the Chief Justice of India or such other Judge or officer of the Court as he may direct:

Provided that the President may by rule require that in such cases as may be specified in the rule, no person not already attached to the Court shall be appointed to any office connected with the Court, save after consultation with the Union Public Service Commission.

(2) Subject to the provisions of any law made by Parliament, the conditions of service of officers and servants of the Supreme Court shall be such as may be prescribed by rules made by the Chief Justice of India or by some other Judge or officer of the Court authorized by the Chief Justice of India to make rules for the purpose:

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances leave or pensions, require the approval of the President.

(3) The administrative expenses of the Supreme Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court, shall be charged upon the Consolidated Fund of India, and any fees or other moneys taken by the Court shall form part of that Fund.

Article 147: Interpretation

In this Chapter and in Chapter V of Part VI, references to any substantial question of law as to the interpretation of this Constitution shall be construed as including references to any substantial question of law as to the interpretation of the Government of India Act, 1935 (including any enactment amending or supplementing that Act), or of any Order in Council or order made there under, or of the Indian Independence Act, 1947, or of any order made there under.

Indian Polity - Part 10**10] State Government****Notes****Governor of the State**

The Constitution of India mentions that, there has to be a Governor for each State. If requirement arises, one person can be appointed Governor for even two or more States. Since the executive authority of every State is vested in the Governor of the State, he is a very important part of the State executive.

Appointment :

The Governor of a State is appointed by the President of India. It must be noted that there is no bar on re - appointment of a Governor, either in the same State or in other State.

Qualifications:

For becoming a Governor, an individual must have following qualifications:

1. He must be a citizen of India;
2. He should be at least 35 years;

3. He cannot hold any office of profit during the tenure.

But, if a person is a member of either of the House of the Parliament or the Legislature of any State is appointed as a Governor, he will cease to be a member of the Legislature or the Council of Ministers.

Tenure:

The Governor is appointed for a term of five years. However, he normally holds office during the pleasure of the President. He/she can resign before the expiry of the term or may be removed by the President earlier than completion of his term. It must be noted that, while appointing or removing the Governor, the President has to follow the advise of the Prime Minister .

Emoluments:

He/she is entitled to a rent-free residence which is usually called the Raj Bhawan. His/her emoluments, allowances and privileges are specified under the law. But, the emoluments and allowances of the Governor cannot be changed during his tenure.

Powers, Position and Role:

The powers and functions of the Governor are categorised under two heads namely,

1. As the head of the State - Executive, legislative, financial as well as pardon powers.
2. As the representative of the Union Government.

(A) Executive Powers:

- ✓ All the executive functions in the State are carried on in the name of the Governor.

- ✓ He/she appoints the Chief Minister and on his/her advice appoints the members of the Council of Ministers of the State.
- ✓ He/she allocates portfolios among the ministers on the advice of the Chief Minister.
- ✓ He/she appoints the Advocate- General , and also the Chairman and members of the State Public Service Commission on advice of the Chief Minister.
- ✓ He/she has the power to appoint judges of the courts, other than the High Court. According to procedures established under the law.
- ✓ He/she is consulted by the President when the judges of the State High Court are appointed.
- ✓ While discharging all his/her functions as the Head of the Executive in the State, the Governor like the President, is advised by the Council of Ministers headed by the Chief Minister.

(B) Legislative Powers:

The legislative powers, like the executive powers are exercised by the State Council of Ministers, headed by the Chief Minister.

- The Governor summons and prorogues the State Legislature.
- He/she can dissolve the State Legislative Assembly on the recommendation of the Council of Ministers headed by the Chief Ministers .
- He/She may address the session of the State Legislative Assembly.
- He can send messages to either or both Houses.
- He/She may nominate one member of the Anglo Indian Community to the State Legislative Assembly, if he/she is satisfied that, the said community is not adequately represented.
- He/she nominates one-sixth members of the total strength of the Legislative Council if the Council exists in a State. Such nominated members

are individuals possessing special knowledge in the field of literature, science, cooperative movement, social service as well.

- The assent of the Governor is necessary for a bill to become a law. In this regard, the Governor has the following options when he receives a bill for his consideration:
 - ✓ He/she may give his assent to the bill, in which case the bill becomes a law;
 - ✓ He/she can withhold the assent, in which case the bill fails to become a law;
 - ✓ He/she can return the bill with his message to the State Legislature, if it passes the bill in its original shape again or in a modified form, the Governor has to give the assent to the bill;
 - ✓ He/she can reserve the bill for the consideration of the President.
- The Governor also has the power to issue ordinances when the State Legislature is not in session. But, the ordinance has to be placed before the State Legislature when it assembles again for the next session. Such ordinance ceases to be effective after six weeks. The Legislative Assembly is empowered to replace the ordinance by a law within the said period to continue it.

(C) Financial Powers:

- Money bill cannot be introduced in the State Legislative Assembly without the prior permission of the Governor.
- The annual and supplementary budgets are introduced in the Assembly in the name of the Governor.
- The Governor has the control over the State Contingency Fund, without his assent the fund cannot be drawn upon.

(D) Power of Pardon:

The Governor possesses the power to grant pardon, reprieve, respites or remission of punishment or to suspend, remit or commute the sentence of any person convicted by the Courts of any offence against any law relating to matters of the State.

(E) Discretionary Powers:

The executive, legislative, financial and judicial powers the Governor are exercised on aid and advise of the Council of Ministers, headed by the Chief Minister.

However, there are a few more powers which the Governor possesses as the representative of the Central or Union Government. These powers are known as discretionary powers.

Under special circumstance that the Governor can act without the advice of the Council of Ministers. This means, these powers of the Governor are exercised in his/her own discretion. They are mentioned below:

1. When in the opinion of the Governor there is breakdown of the constitutional machinery in the State. In that case, the Governor can report the situation to the President for imposition of the President's Rule in that State. In case the Governor's report is accepted by the President, and he/she proclaims emergency under Article 356, the State Council of Ministers stands removed, and the State Legislative Assembly is either dissolved or suspended. During such emergency, the Governor rules on behalf of the President as his agent.
2. When the Governor may reserve a bill for the consideration of the President. Since the Governor exercises these powers on his own, they are called the discretionary power of the Governor. The discretionary powers of the Governor were introduced in the Constitution for extraordinary and emergency situations. But, in practice, these powers have also been abused in certain situations. This has led to tension between Union and State relations.

Governor of States (Article 152-162)

PART VI of the Constitution deals with the other half of Indian federalism, ie the States. Article from 152-237 deals with various provisions related to States. It covers the executive, legislature and judiciary wings of the states. Article 152 clarifies about the definition of state, while the next set of articles lists the roles and responsibilities of the Governors of states.

Article 152 : Definition**The Governor****Article 153: Governors of States**

There shall be a Governor for each State:

Provided that nothing in this article shall prevent the appointment of the same person as Governor for two or more States.

Article 154: Executive power of State

(1) The executive power of the State shall be vested in the Governor and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.

(2) Nothing in this article shall—

(a) Be deemed to transfer to the Governor any functions conferred by any existing law on any other authority; or

(b) Prevent Parliament or the Legislature of the State from conferring by law functions on any authority subordinate to the Governor.

Article 155: Appointment of Governor

The Governor of a State shall be appointed by the President by warrant under his hand and seal.

Article 156: Term of office of Governor

- (1) The Governor shall hold office during the pleasure of the President.
- (2) The Governor may, by writing under his hand addressed to the President, resign his office.
- (3) Subject to the foregoing provisions of this article, a Governor shall hold office for a term of five years from the date on which he enters upon his office:
Provided that a Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

Article 157: Qualifications for appointment as Governor

No person shall be eligible for appointment as Governor unless he is a citizen of India and has completed the age of thirty-five years.

Article 158: Conditions of Governor's office

- (1) The Governor shall not be a member of either House of Parliament or of a House of the Legislature of any State specified in the First Schedule, and if a member of either House of Parliament or of a House of the Legislature of any such State be appointed Governor, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Governor.
- (2) The Governor shall not hold any other office of profit.
- (3) The Governor shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that

behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.

(3A) Where the same person is appointed as Governor of two or more States, the emoluments and allowances payable to the Governor shall be allocated among the States in such proportion as the President may by order determine.

(4) The emoluments and allowances of the Governor shall not be diminished during his term of office.

Article 159: Oath or affirmation by the Governor

Every Governor and every person discharging the functions of the Governor shall, before entering upon his office, make and subscribe in the presence of the Chief Justice of the High Court exercising jurisdiction in relation to the State, or, in his absence, the senior most Judge of that Court available, an oath or affirmation in the following form, that is to say—“I, A. B., do swear in the name of God that I will solemnly affirm faithfully execute the office of Governor (or discharge the functions of the Governor) of(name of the State) 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(name of the State).”

Article 160: Discharge of the functions of the Governor in certain contingencies

The President may make such provision as he thinks fit for the discharge of the functions of the Governor of a State in any contingency not provided for in this Chapter.

Article 161: Power of Governor to grant pardons, etc., and to suspend, remit or commute sentences in certain cases

The Governor of a State shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State extends.

Article 162: Extent of executive power of State

Subject to the provisions of this Constitution, the executive power of a State shall extend to the matters with respect to which the Legislature of the State has power to make laws:

Provided that in any matter with respect to which the Legislature of a State and Parliament have power to make laws, the executive power of the State shall be subject to, and limited by, the executive power expressly conferred by this Constitution or by any law made by Parliament upon the Union or authorities thereof.

Council of Ministers in States (Articles 163-164)**Article 163: Council of Ministers to aid and advise Governor**

(1) There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion.

(2) If any question arises whether any matter is or is not a matter as respects which the Governor is by or under this Constitution required to act in his discretion, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion.

(3) The question whether any, and if so what, advice was tendered by Ministers to the Governor shall not be inquired into in any court.

164: Other provisions as to Ministers

(1) The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister, and the Ministers shall hold office during the pleasure of the Governor:

Provided that in the States of Bihar, Madhya Pradesh and Orissa, there shall be a Minister in charge of tribal welfare who may in addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work.

(1A) The total number of Ministers, including the Chief Minister, in the Council of Ministers in a State shall not exceed fifteen per cent. of the total number of members of the Legislative Assembly of that State:

Provided that the number of Ministers, including the Chief Minister in a State shall not be less than twelve:

Provided further that where the total number of Ministers including the Chief Minister in the Council of Ministers in any State at the commencement of the Constitution (Ninety-first Amendment) Act, 2003 exceeds the said fifteen per cent. or the number specified in the first proviso, as the case may be, then the total number of Ministers in that State shall be brought in conformity with the provisions of this clause within six months from such date* (7.1.2004: vide Notification No. S.O. 21(E), dated 7.1.2004.) as the President may by public notification appoint.

(1B) A member of the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the

Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or where he contests any election to the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council, as the case may be, before the expiry of such period, till the date on which he is declared elected, whichever is earlier.

(2) The Council of Ministers shall be collectively responsible to the Legislative Assembly of the State.

(3) Before a Minister enters upon his office, the Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

(4) A Minister who for any period of six consecutive months is not a member of the Legislature of the State shall at the expiration of that period cease to be a Minister.

(5) The salaries and allowances of Ministers shall be such as the Legislature of the State may from time to time by law determine and, until the Legislature of the State so determines, shall be as specified in the Second Schedule.

The Chief Minister: Appointment, Power, Function and Position

The Chief Minister is appointed by the governor. Art. 164 of the Constitution provides that there shall be a Council of Ministers with the Chief Minister at its hand to aid and advise the governor.

Once the election to the Legislative Assembly is over the task of forming the government begins. The party with the majority in the Legislative Assembly (Vidhan Sabha) is entitled to form the government. It is upon his recommendation

that ministers are appointed. However, some of the important powers and functions of the Chief Minister are as under:

Powers and Functions of the Chief Minister:

The Chief Minister holds a pivotal position in the working of the State Government. He has enormous powers and vast responsibilities.

1. To Aid and Advice the Governor:

The Chief Minister is the link between the Cabinet and the Governor. It is he who communicates to the Governor all decisions of the Council of Ministers. He has to furnish such information relating to the administration of the State as the Governor may call for.

The Governor can submit to the consideration of the Council of Ministers any matter on which decision has been taken by a Minister but which has not been considered by the Council of Ministers.

The Governor appoints a large number of top officials of the State. He also summons and prorogues the sessions of State Legislature. All such powers are exercised by the Governor on the advice of the Chief Minister. The Chief Minister, however, has no right to give advice to the Governor in relation to the functions which he exercises in his discretion.

2. The Chief Minister is at the Head of the Council of Ministers:

As Head of the State Cabinet, the Chief Minister enjoys the following powers:

(i) Formation of the Ministry:

The other Ministers are appointed by the Governor on the advice of the Chief Minister. The Chief Minister has a free hand in preparing the list of his colleagues. The Governor may suggest the names of the persons to be included in the

Ministry, but he cannot insist upon any person to be included in the Ministry. Assigning departments or portfolios to the Ministers is done by the Governor on the advice of the Chief Minister.

(ii) Removal of Ministers:

The Ministers hold office during the pleasure of the Governor. This, however, does not mean that the Governor can dismiss his Ministers at his will. The Government is in fact dependent on the Chief Minister. Therefore, the Chief Minister can reconstruct his Ministry as and when he likes. He may ask anyone of his colleagues to resign. If he declines, he will be dismissed by the Governor.

(iii) The Chief Minister Presides over the Meetings:

As Chairman of the Cabinet, the Chief Minister has a position which enables him to impose his decision. It is he who controls the agenda for the Cabinet meetings. It is for the Chief Minister to accept or reject proposals for Cabinet discussion.

(iv) Co-ordinates the Working of various Departments:

The Chief Minister supervises and coordinates policies of the several Ministers and Departments. Several ministries are involved in the formulation and implementation of a policy.

The Chief Minister must bring these activities into reasonable relationship with one-another. In matters of public order, roads and bridges agriculture, land revenue and production, supply and distribution of goods, he plays a special role in directing the policy of the Government.

3. The Chief Minister is the Leader of the House:

The Chief Minister is the leader of the State Legislative Assembly. All principal announcements of policy are made by him. The Chief Minister intervenes in

debates of general importance. He can appease an angry House by promising immediate relief or concessions when needed.

Position of the Chief Minister:

The Chief Minister's position is pre-eminent in the State governmental system. In practice, his position will be imposing only when his party commands a clear majority in the State Legislature.

When it is a coalition government, it becomes difficult to safeguard the principle of collective responsibility also. Much of the time and energy of the Chief Minister will, in that case, be wasted on keeping his team united and sufficiently disciplined.

Formation of the Council of Ministers

- The person who commands the majority support in the State Legislative Assembly (Vidhan Sabha) is appointed as the Chief Minister by the Governor.
- The Chief Minister advises the Governor to appoint other ministers of the Council of Ministers.
- A person who is not a member of the State legislature can also be appointed as a minister, but he/she ceases to hold ministerial office if he/she is not elected to the State legislature within six months of his/her appointment.
- The portfolios to the members of the Council are allocated by the Governor, on the advice of the Chief Minister.

Functions of the Chief Minister

The constitutional position of the Chief Minister is broadly similar to that of the Prime Minister of India. Chief Minister serves as the head of the Council of

Ministers of the State. Hence, the Chief Minister plays an important role in the administration of the State. His functions are mentioned as follows:

1. Chief Minister acts as the real executive of the State Government. Ministers are also appointed by the Governor on the advice of the Chief Minister. The Governor even allocates portfolios to these ministers on the advice of the Chief Minister.
2. Chief Minister presides over the Cabinet meetings. He coordinates the functioning of different ministries in his/her state.
3. He/she guides the functioning of the Cabinet according to their vision.
4. Chief Minister plays an important role in framing the policies and laws of the State Government. Also the bills are introduced by the ministers in the State legislature with his/her prior approval.
5. He/she is the chief spokesperson of the policies of his/her government, both inside and outside of the State Legislature.
6. The Constitution provides that “the Chief Minister shall communicate all decisions of the Council of Ministers relating to the administration and the affairs of the State and proposals for legislation to the Governor.”
7. The Chief Minister has to furnish information related to the administration of the State and also about the proposals for legislation to the Governor.
8. “If the Governor requires, the Chief Minister has to submit for consideration of the Council of Ministers any matter on which a decision has been taken by a minister but which has not been considered by the Cabinet.”
9. The Chief Minister is the sole link of communication between the Cabinet and the Governor. The Governor has the right to be informed by the Chief Minister about the decisions taken by the Council of Ministers.

These above mentioned functions show that the real authority in the state administration is vested with the Council of Ministers headed by the Chief

Minister. Therefore, the Council of Ministers is the real executive of the State. It must be noted that the position of the Council of Ministers largely depends upon the strength of the ruling party in the State Assembly and also on the personality of the Chief Minister.

Relationship of the Governor with the Chief Minister:

- Since the Governor is the constitutional head of the State, all executive actions in the State are taken in his name.
- The Governor appoints the Chief Minister and other ministers in the Council of ministers.
- The Governor is hence, responsible for smooth running of the State administration because its his/her duty to oversee that the State administration is carried according to the provisions mentioned in the Constitution.
- If the Governor finds that the constitutional machinery of the State has broken down or the administration cannot be carried in accordance with the provisions of the Constitution, he/she can recommend proclamation of emergency in the State to the President.
- The Governor in his/her report can advise the President to impose President's Rule in the State. If the President agrees with the Governor, he/she is empowered to declare emergency under Article 356, popularly known as President's Rule in the State.
- After the proclamation, the State comes under the control of the Central Government and the Governor acts as the Centre's agent. The Council of Ministers stands dismissed and Assembly (Vidhan Sabha) is dissolved or suspended.
- When the Chief Minister enjoys the confidence of the State legislature, the Governor's capacity to exercise his/her discretionary powers gets limited to a

large extent. In such situation, the Chief Minister acts as the real head of the State administration and the Governor acts as the constitutional head only.

Conclusion:

1. The Chief Minister acts as the real head of the Government at the State level.
2. The Governor appoints the Chief Minister based on the majority support in Legislature.
3. Other Ministers of the Council are appointed by the Governor by the aid and advice of the Chief Minister.
4. The Chief Minister is the presiding authority over the Cabinet meetings. Therefore, he/she is responsible for laying down the policies of the State Government.
5. He/she acts as the sole link between his Council of ministers and the Governor.
6. He/she coordinates the functioning of different ministries in the State government.
7. The Chief Minister communicates the concerns of the State to the Union government.

The State Legislature - in General (Article 168-177)**Article 168: Constitution of Legislatures in States.**

(1) For every State there shall be a Legislature which shall consist of the Governor, and—

(a) In the States of Andhra Pradesh, Telengana, Uttar Pradesh, Bihar, Maharashtra, Karnataka and Jammu and Kashmir, two Houses;

(b) In other States, one House.

(2) Where there are two Houses of the Legislature of a State, one shall be known as the Legislative Council and the other as the Legislative Assembly, and where there is only one House, it shall be known as the Legislative Assembly.

Article 169: Abolition or creation of Legislative Councils in States.

(1) Notwithstanding anything in article 168, Parliament may by law provide for the abolition of the Legislative Council of a State having such a Council or for the creation of such a Council in a State having no such Council, if the Legislative Assembly of the State passes a resolution to that effect by a majority of the total membership of the Assembly and by a majority of not less than two-thirds of the members of the Assembly present and voting.

(2) Any law referred to in clause (1) shall contain such provisions for the amendment of this Constitution as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions as Parliament may deem necessary.

(3) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 368.

Article 170: Composition of the Legislative Assemblies.

(1) Subject to the provisions of article 333, the Legislative Assembly of each State shall consist of not more than five hundred, and not less than sixty, members chosen by direct election from territorial constituencies in the State.

(2) For the purposes of clause (1), each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the State.

(3) Upon the completion of each census, the total number of seats in the Legislative Assembly of each State and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:

(i) The total number of seats in the Legislative Assembly of each State as readjusted on the basis of the 1971 census; and

(ii) The division of such State into territorial constituencies as may be readjusted on the basis of the 2001 census, under this clause.

Article 171: Composition of the Legislative Councils.

(1) The total number of members in the Legislative Council of a State having such a Council shall not exceed one third of the total number of members in the Legislative Assembly of that State:

Provided that the total number of members in the Legislative Council of a State shall in no case be less than forty.

(2) Until Parliament by law otherwise provides, the composition of the Legislative Council of a State shall be as provided in clause (3).

(3) Of the total number of members of the Legislative Council of a State—

(a) As nearly as may be, one-third shall be elected by electorates consisting of members of municipalities, district boards and such other local authorities in the State as Parliament may by law specify;

(b) As nearly as may be, one-twelfth shall be elected by electorates consisting of persons residing in the State who have been for at least three years graduates of any university in the territory of India or have been for at least

three years in possession of qualifications prescribed by or under any law made by Parliament as equivalent to that of a graduate of any such university;

(c) As nearly as may be, one-twelfth shall be elected by electorates consisting of persons who have been for at least three years engaged in teaching in such educational institutions within the State, not lower in standard than that of a secondary school, as may be prescribed by or under any law made by Parliament;

(d) As nearly as may be, one-third shall be elected by the members of the Legislative Assembly of the State from amongst persons who are not members of the Assembly;

(e) The remainder shall be nominated by the Governor in accordance with the provisions of clause (5).

(4) The members to be elected under sub-clauses (a), (b) and (c) of clause (3) shall be chosen in such territorial constituencies as may be prescribed by or under any law made by Parliament, and the elections under the said sub-clauses and under sub-clause (d) of the said clause shall be held in accordance with the system of proportional representation by means of the single transferable vote.

(5) The members to be nominated by the Governor under sub-clause (e) of clause (3) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely:— Literature, science, art, co-operative movement and social service.

Article 172: Duration of State Legislatures.

(1) Every Legislative Assembly of every State, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no

longer and the expiration of the said period of five years shall operate as a dissolution of the Assembly:

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

(2) The Legislative Council of a State shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

Article 173: Qualification for membership of the State Legislature.

A person shall not be qualified to be chosen to fill a seat in the Legislature of a State unless he—

(a) Is a citizen of India, and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;

(b) Is, in the case of a seat in the Legislative Assembly, not less than twenty-five years of age and, in the case of a seat in the Legislative Council, not less than thirty years of age; and

(c) Possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

Article 174: Sessions of the State Legislature, prorogation and dissolution.

(1) The Governor shall from time to time summon the House or each House of the Legislature of the State to meet at such time and place as he thinks fit, but six

Months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) The Governor may from time to time—

(a) Prorogue the House or either House;

(b) Dissolve the Legislative Assembly.

Article 175: Right of Governor to address and send messages to the House or Houses.

(1) The Governor may address the Legislative Assembly or, in the case of a State having a Legislative Council, either House of the Legislature of the State, or both Houses assembled together, and may for that purpose require the attendance of members.

(2) The Governor may send messages to the House or Houses of the Legislature of the State, whether with respect to a Bill then pending in the Legislature or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

Article 176: Special address by the Governor.

(1) At the commencement of the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year, the Governor shall address the Legislative Assembly or, in the case of a

State having a Legislative Council, both Houses assembled together and inform the Legislature of the causes of its summons.

(2) Provision shall be made by the rules regulating the procedure of the House or either House for the allotment of time for discussion of the matters referred to in such address.

Article 177: Rights of Ministers and Advocate-General as respects the Houses.

Every Minister and the Advocate-General for a State shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly of the State or, in the case of a State having a Legislative Council, both Houses, and to speak in, and otherwise to take part in the proceedings of, any committee of the Legislature of which he may be named a member, but shall not, by virtue of this article, be entitled to vote.

About Article 370

Article 370 is an article of the Constitution of India, Part XXI: Temporary, Transitional and Special Provisions. Moreover, it grants a special status of autonomy to the state of Jammu & Kashmir.

Article 370's Inclusion in the Constitution

- Originally, all princely states, including Jammu & Kashmir, merged with India on three matters: defense, foreign affairs and communications.
- Princely states had to draft their own constitutions which would govern other aspects of society.
- However, most states rejected the necessity of a separate constitution and adopted the Indian Constitution.
- Hence, this made those princely states equivalent to other Indian provinces.

- However, Jammu & Kashmir made its own constitution and asked for Indian Constitution to apply only on the three matters of original merger.
- Thus, Article 370 was included in the Indian Constitution according to which other articles of Indian Constitution will apply to Jammu & Kashmir with the agreement of State's constituent assembly.
- Moreover, this Article was only temporary.

Article 370's Permanence

- Article 370 was meant to be a temporary provision applied to the state of Jammu & Kashmir.
- The Constituent Assembly of Jammu & Kashmir had the authority to repeal or modify the state constitution. Hence, no external body could make any changes to the clauses.
- The Jammu & Kashmir Constituent Assembly dissolved on 25 January 1957 without any decision.
- Article 370 has become a permanent provision in Indian Constitution according to Jammu & Kashmir High Court.
- Therefore, Jammu & Kashmir has a special autonomous status in the country.

Original Implications of Article 370

Article 370 included six special provisions for the state of Jammu & Kashmir at the time of Preparation:

1. Exempting the State from completely applying the Indian Constitution. The state could have its own Constitution.
2. Limitation of central legislative powers over the State at the time of framing, to matters of defense, foreign affairs and communications.
3. Extension of other constitutional provisions of Central Government to State only with State Government's agreement.

4. The 'concurrence' (agreement) was only provisional. It required State's Constituent Assembly's consent.
5. State Government's authority to give 'concurrence' lasted only until the State Constituent Assembly was assembled. After the Assembly finalized the scheme of powers and dispersed, no further changes were possible.
6. Thus, Article 370 could be repealed or amended only upon the recommendation of the State's Constituent Assembly.

Major Presidential Orders Regarding Article 370

- Presidential Order - 1950: Specifies which articles of Indian Constitution applies to the state through the original agreement.
- Presidential Order - 1952: Represents abolition of monarchy in Jammu & Kashmir.
- Presidential Order - 1954: Includes
 - Allowing Indian citizenship to permanent residents of Jammu & Kashmir
 - Extending Supreme Court of India's jurisdiction over the state.

Current Implications of Article 370

- Residual Power remains with the state of Jammu & Kashmir.
- Central government has applied various provisions with the consent of State government.
- However, this State Government cannot repeal Article 370's implications.

High Court Of India

The High Court of a State is the highest court of the State and all other courts of the State work under it. Normally there is one High Court in every State but there can be only one High Court for two or more States as well, according to the constitution. There is one High Court at Chandigarh for Punjab, Haryana

and Union Territory of Chandigarh. Similarly there is one High Court at Guwahati which serves Assam, Meghalaya, Manipur, Tripura and Nagaland.

Composition:

In every High Court, there is a Chief Justice and many other judges whose number is defined by the President of India.

Appointment of the Judges: The Chief Justice of a High Court is appointed by the President with the consultation of the Chief Justice of the Supreme Court and the Governor of the State. The other judges are appointed by the will of President, Governor and the Chief Justice of High Court.

Qualifications for the Judges

(a) He should be a citizen of India.

(b) He should have been an advocate in one or more High Courts in India or a judge for at least 10 years in subordinate courts in India.

Tenure: Originally the age of the retirement of the judges of the High Courts was fixed at 60 but it was raised to 62 in 1963 according to the 15th amendment of the Constitution.

Removal of the Judges: A judge may leave his office by resigning. He will send his letter of resignation to the President. His office would be considered to have been vacated if he is appointed as a judge of the Supreme Court or is transferred to some other High Court. A judge of a High Court may also be removed like a judge of the Supreme Court. A judge of High Court may be removed by the President if the Parliament passes a motion against him by an absolute majority and 2/3rd majority of the members present and voting, both the Houses sitting separately.

Salary:

The pay of the Chief Justice of a High Court is rupees 90,000/- per month and that of the other judges is rupees 85,000/- per month.

Powers and Functions

Original Jurisdiction:

The original jurisdiction of the High Court is restricted.

(a) Every High Court under Article 226 is empowered to issue writs, orders, directions including writs in the nature of Habeas Corpus, Mandamus, Prohibition, Quo-warranto and Certiorari or any of them to any person or authority within its territory for the enforcement of the Fundamental Rights and for any other purpose.

(b) The original jurisdiction of High Court extends to matters of admiralty, matrimonial, contempt of court and cases ordered to be transferred to High Court by lower court.

(c) The High Courts of Mumbai, Kolkata and Chennai have original jurisdiction on hearing straightway cases involving the Christians and Parsies.

(d) The High Courts of Mumbai, Kolkata and Chennai exercise original civil jurisdiction when the amount involved is more than two thousand rupees.

Appellate Jurisdiction:

The appellate jurisdiction of the High Courts extends so:

(a) The High Court can hear appeals in civil cases if the amount involved in the case is at least Rs. 5000.

(b) The High Court in criminal cases hears the appeal in which the accused has been sentenced to four years imprisonment by the Sessions Judge. v

(c) The death sentence awarded by Sessions Judge is subject to approval by the High Court.

(d) The High Court hear the cases involving interpretation of the Constitution or Law.

(e) The High Court hears the cases on income tax, sales tax etc.

Power of Judicial Review:

The States High Courts like the Supreme Court has the power of Judicial Review. A High Court has the power to strike down any law of the State or any order of the executive if it violates any provision of the constitution or curtails or takes any of the Fundamental Rights of the people.

Administrative and Supervisory Power:

The State High Court performs many administrative functions within its Territorial Jurisdiction. It exercises the power of superintendence and control over all courts and tribunals throughout the territory except the military tribunals.

Indian Polity - Part 11

11] Union Territory

Notes

Article 239 {Administration of Union territories}

1. Save as otherwise provided by Parliament by law, every Union territory shall be administered by the President acting, to such extent as he thinks fit, through an administrator to be appointed by him with such designation as he may specify.
2. Notwithstanding anything contained in Part VI, the President may appoint the Governor of a State as the administrator of an adjoining Union territory, and where a Governor is so appointed, he shall exercise his functions as such administrator independently of his Council of Ministers.

Article 239A {Creation of local Legislatures or Council of Ministers or both for certain Union territories}

1. Parliament may by law create for the Union territory of Pondicherry -
 - a) A body, whether elected or partly nominated and partly elected, to function as a Legislature for the Union territory, or
 - b) A Council of Ministers, or both with such constitution, powers and functions, in each case, as may be specified in the law.
2. Any such law as is referred to in clause (1) shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending this Constitution.

Article 239AA {Special provisions with respect to Delhi}

1. As from the date of commencement of the Constitution (Sixty ninth Amendment) Act, 1991, the Union territory of Delhi shall be called the National Capital Territory of Delhi (hereafter in this Part referred to as the National Capital Territory) and the administrator thereof appointed under article 239 shall be designated as the Lieutenant Governor.

- a) There shall be a Legislative Assembly for the National Capital Territory and the seats in such Assembly shall be filled by members chosen by direct election from territorial constituencies in the National Capital Territory.
- b) The total number of seats in the Legislative Assembly, the number of seats reserved for Scheduled Castes, the division of the National Capital Territory into territorial constituencies (including the basis for such division) and all other matters relating to the functioning of the Legislative Assembly shall be regulated by law made by Parliament.
- c) The provisions of articles 324 to 327 and 329 shall apply in relation to the National Capital Territory, the Legislative Assembly of the National Capital Territory and the members thereof as they apply, in relation to a State, the Legislative Assembly of a State and the members thereof respectively; and any reference in articles 326 and 329 to "appropriate Legislature" shall be deemed to be a reference to Parliament.
- d) Subject to the provisions of this Constitution, the Legislative Assembly shall have power to make laws for the whole or any part of the National Capital Territory with respect to any of the matters enumerated in the State List or in the Concurrent List in so far as any such matter is applicable to Union territories except matters with respect to Entries 1, 2 and 18 of the State List and Entries 64, 65 and 66 of that List in so far as they relate to the said Entries 1, 2 and 18.
- e) Nothing in sub-clause (a) shall derogate from the powers of Parliament under this Constitution to make laws with respect to any matter for a Union territory or any part thereof.
- f) If any provision of a law made by the Legislative Assembly with respect to any matter is repugnant to any provision of a law made by Parliament with respect to that matter, whether passed before or after the law made by the Legislative Assembly, or of an earlier law, other than a law made by the Legislative Assembly,

then, in either case, the law made by Parliament, or, as the case may be, such earlier law, shall prevail and the law made by the Legislative Assembly shall, to the extent of the repugnancy, be void: Provided that if any such law made by the Legislative Assembly has been reserved for the consideration of the President and has received his assent, such law shall prevail in the National Capital Territory: Provided further that nothing in this sub-clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislative Assembly.

2) There shall be a Council of Ministers consisting of not more than ten per cent of the total number of members in the Legislative Assembly, with the Chief Minister at the head to aid and advise the Lieutenant Governor in the exercise of his functions in relation to matters with respect to which the Legislative Assembly has power to make laws, except in so far as he is, by or under any law, required to act in his discretion: Provided that in the case of difference of opinion between the Lieutenant Governor and his Ministers on any matter, the Lieutenant Governor shall refer it to the President and pending such decision it shall be competent for the Lieutenant Governor in any case where the matter, in his opinion, is so urgent that it is necessary for him to take immediate action, to take such action or to give such direction in the matter as he deems necessary.

3) The Chief Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Chief Minister and the Ministers shall hold office during the pleasure of the President.

4) The Council of Ministers shall be collectively responsible to the Legislative Assembly.

a) Parliament may, by law, make provisions for giving effect to, or supplement the provisions contained in the foregoing clauses and for all matters incidental or consequential thereto.

b) Any such law as is referred to in sub-clause (a) shall not be deemed to be an amendment of this constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending this constitution.

5) The provisions of article 239B shall, so far as may be, apply in relation to the National Capital Territory, the Lieutenant Governor and the Legislative Assembly, as they apply in relation to the Union territory of Pondicherry, the administrator and its Legislature, respectively; and any reference in that article to "clause (1) or article 239A" shall be deemed to be a reference to this article or article 239AB, as the case may be.

Article 239AB {Provision in case of failure of constitutional monarchy}

If the President, on receipt of a report from the Lieutenant Governor or otherwise, is satisfied -

a) That a situation has arisen in which the administration of the National Capital Territory cannot be carried on in accordance with the provisions of article 239AA or of any law made in pursuance of that article; or

b) That for the proper administration of the National Capital Territory it is necessary or expedient so to do, the President may by order suspend the operation of any provision of article 239AA or of all or any of the provisions of any law made in pursuance of that article for such period and subject to such conditions as may be specified in such law and make such incidental and consequential provisions as may appear to him to be necessary or expedient for administering the National Capital Territory in accordance with the provisions of article 239 and article 239AA.

Article 239B {Power of administrator to promulgate Ordinances during recess of Legislature}

1. If at any time, except when the Legislature of the Union territory of Pondicherry is in session, the administrator thereof is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require: Provided that no such Ordinance shall be promulgated by the administrator except after obtaining instructions from the President in that behalf: Provided further that whenever the said Legislature is dissolved, or its functioning remains suspended on account of any action taken under any such law as is referred to in clause (1) of article 239A, the administrator shall not promulgate any Ordinance during the period of such dissolution or suspension.

2. An Ordinance promulgated under this article in pursuance of instructions from the President shall be deemed to be an Act of the Legislature of the Union territory which has been duly enacted after complying with the provisions in that behalf contained in any such law as is referred to in clause (1) of article 239A, but every such Ordinance -

a) Shall be laid before the Legislature of the Union territory and shall cease to operate at the expiration of six weeks from the reassembly of the Legislature or if, before the expiration of that period, a resolution disapproving it is passed by the Legislature, upon the passing of the resolution; and

b) May be withdrawn at any time by the administrator after obtaining instructions from the President in that behalf.

3. If and so far as an Ordinance under this article makes any provision which would not be valid if enacted in an Act of the Legislature of the Union territory made after

complying with the provisions in that behalf contained in any such law as is referred to in clause(1) of article 239A, it shall be void.

Article 240 {Power of President to make regulations for certain Union territories}

1. The President may make regulations for the peace, progress and good government of the Union territory of -

a. The Andaman and Nicobar Islands;

b. Lakshadweep;

c. Dadra and Nagar Haveli;

d. Daman and Diu;

e) Pondicherry: Provided further that when ever the body functioning as a Legislature for the Union territory of Pondicherry the President shall not make any regulation for the peace, progress and good government of that Union territory with effect from the date appointed for the first meeting of the Legislature:

Provided further that when ever the body functioning as a Legislature for the Union territory of Pondicherry is dissolved, or the functioning of that body as such Legislature remains suspended on account of any action taken under any such law as is referred to in clause (1) of article 239A, the President may, during the period of such dissolution or suspension, make regulations for the peace, progress and good government of that Union territory.

2. Any regulation so made may repeal or amend any Act made by Parliament or any other law, which is for the time being applicable to the Union territory and, when promulgated by the President, shall have the same force and effect as an Act of Parliament which applies to that territory.

Article 241 {High Courts for Union territories}

1. Parliament may by law constitute a High Court for a Union territory or declare any court in any such territory to be a High Court for all or any of the purposes of this Constitution.
2. The provisions of Chapter V of Part VI shall apply in relation to every High Court referred to in clause (1) as they apply in relation to a High Court referred to in article 214 subject to such modifications or exceptions as Parliament may by law provide.
3. Subject to the provisions of this Constitution and to the provisions of any law of the appropriate Legislature made by virtue of powers conferred on that Legislature by or under this Constitution, every High Court exercising jurisdiction immediately before the commencement of the Constitution (Seventh Amendment) Act, 1956, in relation to any Union territory shall continue to exercise such jurisdiction in relation to that territory after such commencement.
4. Nothing in this article derogates from the power of Parliament to extend or exclude the jurisdiction of a High Court for a State to, or from, any Union territory or part thereof.

69th constitutional amendment of india

According to article 239 of India constitution Union territory shall be administered by the President. Article 239AA of the Indian Constitution, enacted as per 69th Amendment Act of 1991, confers special provisions for National Capital Territory of Delhi. It will be administered by Lieutenant Governor.

The Constitution (36th Amendment) Act, 1975

1. By this Act, Sikkim became the 22nd State of the Indian Union.

Indian Polity - Part 12

12] Local Self Government / Panchayats Notes

Notes

Article 243 (Definitions)

In this Part, unless the context otherwise requires,-

- "District" means a district in a State;
- "Gram Sabha" means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level;
- "Intermediate level" means a level between the village and district levels specified by the Governor of a State by public notification to be the intermediate level for the purposes of this Part;
- "Panchayat" means an institution (by whatever name called) of self-government constituted under Article 243B, for the rural areas;
- "Panchayat area" means the territorial area of a Panchayat;
- "Population" means the population as ascertained at the last preceding census of which the relevant figures have been published;
- "Village" means a village specified by the Governor by public notification to be a village for the purposes of this Part and includes a group of villages so specified.

Article 243A (Gram Sabha)

A Gram Sabha may exercise such powers and perform such functions at the village level as the Legislature of a State may, by law, provide.

Article 243B (Constitution of Panchayats)

1. There shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part.

2. Notwithstanding anything in Clause (1), Panchayats at the intermediate level may not be constituted in a State having a population not exceeding twenty lakhs.

Article 243C {Composition of Panchayats}

1. Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the composition of Panchayats: Provided that the ratio between the population of the territorial area of a Panchayat at any level and the number of seats in such Panchayat to be filled [by] election shall, so far as practicable, be the same throughout the State.

2. All the seats in a Panchayat shall be filled by persons chosen by direct election from territorial constituencies in the Panchayat area and, for this purpose, each Panchayat area shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the Panchayat area.

3. The Legislature of a State may, by law, provide for the representation -

- Of the Chairpersons of the Panchayats at the village level, in the Panchayats at the intermediate level or, in the case of a State not having Panchayats at the intermediate level, in the Panchayats at the district level;
- Of the Chairpersons of the Panchayats at the intermediate level, in the Panchayats at the district level;
- Of the members of the House of the People and the Members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly Panchayat area at a level other than the village level, in such Panchayat;
- Of the members of the Council of States and the members of the Legislative Council of the State, where they are registered as electors within -

- ✓ A Panchayat area at the intermediate level, in Panchayat at the intermediate level;
- ✓ A Panchayat area at the district level, in Panchayat at the district level.

4. The Chairperson of a Panchayat and other members of a Panchayat whether or not chosen by direct election from territorial constituencies in the Panchayat area shall have the right to vote in the meetings of the Panchayats.

5. The Chairperson of -

- A Panchayat at the village level shall be elected in such manner as the Legislature of a State may, by law, provide; and
- A Panchayat at the intermediate level or district level shall be elected by, and from amongst, the elected members thereof.

Article 243D {Reservation of seats}

1. Seats shall be reserved for -

- The Scheduled Castes; and
- The Scheduled Tribes, in every Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat.

2. Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

3. Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat.

4. The offices of the Chairpersons in the Panchayats at the village or any other level shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide: Provided that the number of offices of Chairpersons reserved for the Scheduled Castes and the Scheduled Tribes in the Panchayats at each level in any State shall bear, as nearly as may be, the same proportion to the total number of such offices in the Panchayats at each level as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State: Provided further that not less than one-third of the total number of offices of Chairpersons in the Panchayats at each level shall be reserved for women:

Provided also that the number of offices reserved under this clause shall be allotted by rotation to different Panchayats at each level.

5. The reservation of seats under Clauses (1) and (2) and the reservation of office of Chairpersons (other than the reservation for women) under Clause (4) shall cease to have effect on the expiration of the period specified in Article 334.

6. Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Panchayat or offices of Chairpersons in the Panchayats at any level in favour of backward class of citizens.

Article 243E {Duration of Panchayats, etc.}

1. Every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.
2. No amendment of any law for the time being in force shall have the effect of causing dissolution of a Panchayat at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in Clause (1).
3. An election to constitute a Panchayat shall be completed -
 - Before the expiry of its duration specified in clause (1);
 - Before the expiration of a period of six months from the date of its dissolution: Provided that where the remainder of the period for which the dissolved Panchayat would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Panchayat.
4. A Panchayat constituted upon the dissolution of a Panchayat before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Panchayat would have continued under Clause (1) had it not been so dissolved.

Article 243F {Disqualifications for membership}

1. A person shall be disqualified for being chosen as, and 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: Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;
 - If he is so disqualified by or under any law made by the Legislature of the State.

2. If any question arises as to whether a member of a Panchayat has become subject to any of the disqualifications mentioned in Clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

Article 243G {Powers, authority and responsibilities of Panchayats}

Subject to the provisions of the Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority and may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level; subject to such conditions as may be specified therein, with respect to -

- The preparation of plans for economic development and social justice;
- The implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

Article 243H {Powers to impose taxes by, and Funds of, the Panchayats}

The Legislature of a State may, by law, -

- Authorise a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;
- Assign to a Panchayat such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;
- Provide for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State; and

- Provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Panchayats and also for the withdrawal of such moneys there from , as may be specified in the law.

Article 243I {Constitution of Finance Commission to review financial position}

1. The Governor of a State shall, as soon as may be within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992, and thereafter at the expiration of every fifth year, constitute a Finance Commission to review the financial position of the Panchayats and to make recommendations to the Governor as to -

- The principles which should govern -
 - ✓ The distribution between the State and the Panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Panchayats at all levels of their respective shares of such proceeds;
 - ✓ The determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Panchayats;
 - ✓ The grants-in-aid to the Panchayats from the Consolidated Fund of the State;
- The measures needed to improve the financial position of the Panchayats;
- Any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Panchayats.

2. The Legislature of a State may, by law, provide for the composition of the Commission, the qualifications which shall be requisite for appointment as members thereof and the manner in which they shall be selected.

3. The Commission shall determine their procedure and shall have such powers in the performance of their functions as the Legislature of the State may, by law, confer on them.

4. The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

Article 243J {Audit of accounts of Panchayats}

The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Panchayats and the auditing of such accounts.

Article 243K {Elections to the Panchayats}

1. The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.

2. Subject to the provisions of any law made by the Legislature of a State, the conditions of service and tenure of office of the State Election Commissioner shall be such as the Governor may by rule determine: Provided that the State Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment

3. The Governor of a State shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by Clause (1).

4. Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Panchayats.

Article 243L {Application to Union territories}

The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under Article 239 and references to the Legislature or the Legislative Assembly of a State were references, in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly: Provided that the President may, by public notification direct that the provisions of this Part shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

Article 243M {Part not to apply to certain areas}

1. Nothing in this Part shall apply to the Scheduled Areas referred to in Clause (1), and the tribal areas referred to in Clause (2), of Article 244.

2. Nothing in this Part shall apply to -

- The States of Nagaland, Meghalaya and Mizoram;
- The Hill Area in the State of Manipur for which District Councils exist under any law for the time being in force.

3. Nothing in this Part -

- Relating to Panchayats at the district level shall apply to the Hill areas of the District of Darjeeling in the State of West Bengal for which Darjeeling Gorkha Hill Council exists under any law for the time being in force;

- Shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under such law.

4. Notwithstanding anything in this Constitution, -

- The Legislature of a State referred to in Sub-clause (a) of Clause (2) may, by law, extend this Part to the State, except the areas, if any, referred to in Clause (1), if the Legislative Assembly of that State passes a resolution to that effect by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting;
- Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in Clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of Article 368.

Article 243N {Continuance of existing laws and Panchayats}

Notwithstanding anything in this Part, any provision of any law relating to Panchayats in force in a State immediately before the commencement of the Constitution (Seventy-second Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Provided that all the Panchayats existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

Article 243O {Bar to interference by courts in electoral matters}

Notwithstanding anything in this Constitution, -

- The validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under Article 243K, shall not be called in question in any Court;
- No election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.

Article 243P {Definitions}

In this Part, unless the context otherwise requires, -

- "Committee" means a Committee constituted under Article 243S;
- "District" means a district in a State;
- "Metropolitan area" means an area having a population of ten lakhs or more, comprised in one or more districts and consisting of two or more Municipalities or Panchayats or other contiguous areas, specified by the Governor by public notification to be a Metropolitan area for the purposes of this Part;
- "Municipal area" means the territorial area of a Municipality as is notified by the Governor;
- "Municipality" means an institution of self-government constituted under Article 243Q;
- "Panchayat" means a Panchayat constituted under Article 243B;
- "Population" means the population as ascertained at the last preceding census of which the relevant figures have been published.

Article 243Q {Constitution of Municipalities}

1. There shall be constituted in every State,

- A Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area;
- A Municipal Council for a smaller urban area; and
- A Municipal Corporation for a larger urban area, in accordance with the provisions of this Part:

Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit by public notification, specify to be an industrial township.

2. In this article, "a transitional area", "a smaller urban area" or "a larger urban area" means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Part.

Article 243R {Composition of Municipalities}

1. Save as provided in Clause (2), all the seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area and for this purpose each Municipal area shall be divided into territorial constituencies to be known as wards.
2. The Legislature of a State may, by law, provide -
 - For the representation in a Municipality of -
 - Persons having special knowledge or experience in Municipal administration;

- The members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area;
- The members of the Council of States and the members of the Legislative Council of the State registered as electors within the Municipal area;
- The Chairpersons of the Committees constituted under Clause (5) of Article 243S: Provided that the persons referred to in paragraph (i) shall not have the right to vote in the meeting of the Municipality;
- The manner of election of the Chairperson of a Municipality.

Article 243S {Constitution and composition of Wards Committees, etc.}

1. There shall be constituted Wards Committees, consisting of one or more Wards, within the territorial area of a Municipality having a population of three lakhs or more.
2. The Legislature of a State may, by law, make provision with respect to -
 - The composition and the territorial area of a Wards Committee;
 - The manner in which the seats in a Wards Committee shall be filled.
3. A member of a Municipality representing a ward within the territorial area of the Wards Committee shall be a member of that Committee.
4. Where a Wards Committee consists of -
 - ✓ One ward, the member representing that ward in the Municipality; or
 - ✓ Two or more wards, one of the members representing such wards in the Municipality elected by the members of the Wards Committee, shall be the Chairperson of that Committee.

5. Nothing in this article shall be deemed to prevent the Legislature of a State from making any provision for the Constitution of Committees in addition to the Wards Committees.

Article 243T {Reservation of seats}

1. Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the Municipality area or of the Scheduled Tribes in the Municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Municipality.

2. Not less than one-third of the total number of seats reserved under Clause (1) shall be reserved for women belonging to the Scheduled Castes or as the case may be, the Scheduled Tribes.

3. Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality.

4. The offices of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.

5. The reservation of seats under Clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under Clause (4) shall cease to have effect on the expiration of the period specified in Article 334.

6. Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favor of backward class of citizens.

Article 243U {Duration of Municipalities, etc.}

1. Every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer:

Provided that a Municipality shall be given a reasonable Opportunity of being heard before its dissolution.

2. No amendment of any law for the time being in force shall have the effect of causing dissolution of a Municipality at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in Clause (1).

3. An election to constitute a Municipality shall be completed, -

- Before the expiry of its duration specified in Clause (1);
- Before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Municipality for such period.

3. A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under Clause (1) had it not been so dissolved.

Article 243V {Disqualifications for membership}

1. A person shall be disqualified for being chosen as and for being, a member of a Municipality -

- 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:
Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;
- If he is so disqualified by or under any law made by the Legislature of the State.

2. If any question arises as to whether a member of a Municipality has become subject to any of the disqualifications mentioned in Clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

Article 243W {Powers, authority and responsibilities of Municipalities etc.}

Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow -

- The Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to -
 - ✓ The preparation of plans for economic development and social justice;
 - ✓ The performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;
- The Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.

Article 243X {Power to impose taxes by, and Funds of, the Municipalities}

The Legislature of a State may, by law, -

- Authorise a Municipality to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;
- Assign to a Municipality such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;
- Provide for making such grants-in-aid to the Municipalities from the Consolidated Fund of the State; and
- Provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Municipalities and also for the withdrawal of such moneys therefrom, as may be specified in law.

Article 243Y {Finance Commission}

1. The Finance Commission constituted under Article 243I shall also review the financial position of the Municipalities and make recommendation to the Governor as to -

- The principles which should govern -
 - ✓ The distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Municipalities at all levels of their respective shares of such proceeds;
 - ✓ The determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Municipalities;
 - ✓ The grants-in-aid to the Municipalities from the Consolidated Fund of the State;
- The measures needed to improve the financial position of the Municipalities;

- Any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.

2. The Governor shall cause every recommendation made by Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

Article 243Z {Audit of accounts of Municipalities}

The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Municipalities and the auditing of such accounts.

Article 243ZA {Elections to the Municipalities}

1. The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipalities shall be vested in the State Election Commission referred to in Article 243K.
2. Subject to the provisions of the Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Municipalities.

Article 243ZB {Application to Union territories}

The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under Article 239 and references to the Legislature or the Legislative Assembly of a State were references in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly: Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

Article 243ZC {Part not to apply to certain areas}

1. Nothing in this Part shall apply to the Scheduled Areas referred to in Clause (1), and the tribal areas referred to in Clause (2), of Article 244.
2. Nothing in this Part shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under any law for the time being in force for the hill areas of the district of Darjeeling in the State of West Bengal.
3. Notwithstanding anything in this Constitution, Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in Clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of Article 368.

Article 243ZD {Committee for district planning}

1. There shall be constituted in every State at the district level a District Planning Committee to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole.
2. The Legislature of a State may, by law, make provision with respect to -
 - The composition of the District Planning Committees;
 - The manner in which the seats in such Committees shall be filled:

Provided that not less than four-fifths of the total number of members of such Committee shall be elected by, and from amongst, the elected members of the Panchayat at the district level and of the Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district;

- The functions relating to district planning which may be assigned to such Committees;
 - The manner in which the Chairpersons of such Committees shall be chosen.
3. Every District Planning Committee shall, in preparing the draft development plan, -
- Matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;
 - The extent and type of available resources whether financial or otherwise;
4. The Chairperson of every District Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

Article 243ZE (Committee for Metropolitan planning)

1. There shall be constituted in every Metropolitan area a Metropolitan Planning Committee to prepare a draft development plan for the Metropolitan area as a whole.
2. The Legislature of a State may, by law, make provision with respect to -
- The composition of the Metropolitan Planning Committees;
 - The manner in which the seats in such Committees shall be filled:

Provided that not less than two-thirds of the members of such Committee shall be elected by, and from amongst, the elected members of the Municipalities and Chairpersons of the Panchayats in the Metropolitan area in proportion to the ratio between the population of the Municipalities and of the Panchayats in that area;

- The representation in such Committees of the Government of India and the Government of the State and of such organisations and institutions as may be deemed necessary for carrying out the functions assigned to such Committees;
- The functions relating to planning and coordination for the Metropolitan area which may be assigned to such Committees;
- The manner in which the Chairpersons of such Committees shall be chosen.

3. Every Metropolitan Planning Committee shall, in preparing the draft development plan, -

- Have regard to -
 - ✓ The plans prepared by the Municipalities and the Panchayats in the Metropolitan area;
 - ✓ Matters of common interest between the Municipalities and the Panchayats, including co-ordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;
 - ✓ The overall objectives and priorities set by the Government of India and Government of the State;
 - ✓ The extent and nature of investments likely to be made in the Metropolitan area by agencies of the Government of India and of the Government of the State and other available resources whether financial or otherwise;
- Consult such institutions and organizations as the Governor may, by order, specify.

4. The Chairperson of every Metropolitan Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

Article 243ZF {Continuance of existing laws and Municipalities}

Notwithstanding anything in this Part, any provision of any law relating to Municipalities in force in a State immediately before the commencement of the Constitution (seventy-fourth Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Provided that all the Municipalities existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

Article 243ZG {Bar to interference by Courts in electoral matters}

Notwithstanding anything in this Constitution, -

- The validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies made or purporting to be made [under] Article 243ZA shall not be called in question in any Court;
- No election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.

Balwant Rai Mehta Committee Report

In 1957, the Balawant Rai Meheta Committee recommended for the introduction of three-tier Panchayat Raj System in India. Following the recommendations of this committee report the then government of India and the State Governments too took different measures to strengthen the Panchayat-raj system existing at that time. It

was with this purpose the Balwant Rai Mehta Committee was appointed by the Central Government of India in 1957.

The committee recommended for the three-tier Panchayat Raj system in India. These three-tiers are

- ✓ The Gram-Panchayats at the village level or at the bottom,
- ✓ The Panchayat Samiti at the block level or in the middle and
- ✓ The Zilla Parishad at the district level.

It was recommended that these three-tiers would have to be related with each other. The committee also discussed about the philosophical basis of the Panchayat-Raj-system. Through the Panchayat Raj system acts as a link between the local leadership and the government. The local leadership always enjoys the trust of the local people and it is this local leadership which translates the governmental policies and decisions into action. That is why the Gram-Panchayat is considered as the lowest unit of the government.

Its aim is to use the panchayat as the means or medium for proper implementation of the governmental policies and programme. It may be mentioned in this regard that the basic idea of Mahatma Gandhi was to establish the Panchayat Raj as an independent self-government system or as independent republic. However, in course of time, the Panchayat Raj system lost much of its popularity and popular participation in it also became insignificant.

Ashok Mehta Committee

In December 1977, the Janta Government appointed a committee on Panchayati Raj institutions under the chairmanship of Ashok Mehta. It submitted its report in August 1978 and made 132 recommendations to revive and strengthen the declining Panchayat Raj System in the country. Its main recommendations are:

1. The three-tier system of Panchayat Raj should be replaced by the two-tier system, that is, Zilla Parishad at the district level, and below it, the Mandal Panchayat consisting of a group of villages covering a population of the 15000 to 20000.
2. A district should be the first point for decentralization under popular supervision below the state level.
3. Zilla Parishad should be the executive body and made responsible for planning at the district level.
4. There should be an official participation of political parties at all levels of Panchayat elections.
5. The Panchayat Raj institutions should have compulsory powers of taxation to mobilize their own financial resources.
6. There should be a regular social audit by a district level agency and by a committee of legislators to check whether the funds allotted for the vulnerable social and economic groups are actually spent on them.
7. The state government should not supersede the Panchayat Raj institutions. In case of an imperative supersession, election should be held within six months from the date of supersession.
8. The Chief Electoral Officer of state in consultation with Chief Election Commissioner should organize and conduct the Panchayat Raj elections.
9. Development functions should be transferred to the Zilla Parishad and all development staff should work under its control and supervision.
10. A minister for Panchayat Raj should be appointed in the state council of ministers to look after the affairs of the Panchayat Raj institutions.
11. Seats for SC and ST should be reserved on the basis of their population.

Due to the collapse of the Janta Government before the completion of its term, no action could be taken on the recommendations of the Ashok Mehta Committee at the central level.

Recommendations of L. M. Singhvi Committee -

- Rajiv Gandhi government in 1986 appointed a committee on 'Revitalisation of Panchayat Raj Institutions for Democracy and Development'.
- It was under the chairmanship of L. M. Singhvi.

Its recommendations were -

1. Constitutional recognition to the Panchayat Raj institutions.
2. For it, a new chapter should be added in the Constitution of India.
3. Thus their identity and integrity will be reasonably and substantially inviolate.
4. Constitutional provisions to ensure regular, free and fair elections to the Panchayat Raj bodies.
5. Nyaya Panchayats should be created for a cluster of villages.
6. Reorganize villages to make Gram Panchayats more viable.
7. Emphasized importance of the Gram Sabha; called it as the embodiment of direct democracy.
8. More financial resources for Village Panchayats
9. Judicial tribunals in each state to adjudicate controversies about election to the Panchayat Raj institutions, their dissolution and other matters related to their functioning.

Attempt by Rajiv Gandhi Government -

1. To constitutionalise Panchayat Raj institutions, the Rajiv Gandhi Government introduced the 64th Constitutional Amendment Bill in the Lok Sabha in July 1989.
2. The Lok Sabha passed the bill in August 1989, but Rajya Sabha rejected.
3. The bill was opposed by the Opposition on the basis that it tried to strengthen centralization in the federal system.

Attempt by V P Singh Government -

1. The National Front Government, under the Prime Minister V. P. Singh, in June 1990, held a conference of the state chief ministers to discuss the issues relating to the strengthening of the Panchayati raj bodies.
2. The conference approved the proposals for the introduction of a new constitutional amendment bill.
3. A constitutional amendment bill was introduced in the Lok Sabha in September 1990.
4. But, the fall of the government led to lapse the bill.

Attempt by Narasimha Rao Government -

1. The Congress Government, under the prime minister P. V. Narasimha Rao, once again considered constitutionalisation of Panchayati Raj bodies.
2. It deleted the controversial aspects and introduced a constitutional amendment bill in the Lok Sabha in September, 1991.
3. This bill finally became the 73rd Constitutional Amendment Act, 1992.
4. It came into force on 24 April, 1993.

13] Municipalities

Notes

PART -IX- A

Article 243P {Definitions}

In this Part, unless the context otherwise requires, -

- "Committee" means a Committee constituted under Article 243S;
- "District" means a district in a State;
- "Metropolitan area" means an area having a population of ten lakhs or more, comprised in one or more districts and consisting of two or more Municipalities or Panchayats or other contiguous areas, specified by the Governor by public notification to be a Metropolitan area for the purposes of this Part;
- "Municipal area" means the territorial area of a Municipality as is notified by the Governor;
- "Municipality" means an institution of self-government constituted under Article 243Q;
- "Panchayat" means a Panchayat constituted under Article 243B;
- "Population" means the population as ascertained at the last preceding census of which the relevant figures have been published.

Article 243Q {Constitution of Municipalities}

There shall be constituted in every State,

- A Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area;
- A Municipal Council for a smaller urban area; and

- A Municipal Corporation for a larger urban area, in accordance with the provisions of this Part:

Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit by public notification, specify to be an industrial township.

In this article, "a transitional area", "a smaller urban area" or "a larger urban area" means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Part.

Article 243R {Composition of Municipalities}

1. Save as provided in Clause (2), all the seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area and for this purpose each Municipal area shall be divided into territorial constituencies to be known as wards.
2. The Legislature of a State may, by law, provide -
 - For the representation in a Municipality of -
 - ✓ Persons having special knowledge or experience in Municipal administration;
 - ✓ The members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area;

- ✓ The members of the Council of States and the members of the Legislative Council of the State registered as electors within the Municipal area;
 - ✓ The Chairpersons of the Committees constituted under Clause (5) of Article 243S: Provided that the persons referred to in paragraph (i) shall not have the right to vote in the meeting of the Municipality;
- The manner of election of the Chairperson of a Municipality.

Article 243S {Constitution and composition of Wards Committees, etc.}

1. There shall be constituted Wards Committees, consisting of one or more Wards, within the territorial area of a Municipality having a population of three lakhs or more.
2. The Legislature of a State may, by law, make provision with respect to -
 - The composition and the territorial area of a Wards Committee;
 - The manner in which the seats in a Wards Committee shall be filled.
3. A member of a Municipality representing a ward within the territorial area of the Wards Committee shall be a member of that Committee.
4. Where a Wards Committee consists of -
 - ✓ One ward, the member representing that ward in the Municipality; or
 - ✓ Two or more wards, one of the members representing such wards in the Municipality elected by the members of the Wards Committee, shall be the Chairperson of that Committee.
5. Nothing in this article shall be deemed to prevent the Legislature of a State from making any provision for the Constitution of Committees in addition to the Wards Committees.

Article 243T {Reservation of seats}

1. Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the Municipality area or of the Scheduled Tribes in the Municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Municipality.
2. Not less than one-third of the total number of seats reserved under Clause (1) shall be reserved for women belonging to the Scheduled Castes or as the case may be, the Scheduled Tribes.
3. Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality.
4. The offices of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.
5. The reservation of seats under Clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under Clause (4) shall cease to have effect on the expiration of the period specified in Article 334.
6. Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favor of backward class of citizens.

Article 243U {Duration of Municipalities, etc.}

1. Every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer:

Provided that a Municipality shall be given a reasonable Opportunity of being heard before its dissolution.

2. No amendment of any law for the time being in force shall have the effect of causing dissolution of a Municipality at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in Clause (1).

3. An election to constitute a Municipality shall be completed, -

- Before the expiry of its duration specified in Clause (1);
- Before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Municipality for such period.

4. A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under Clause (1) had it not been so dissolved.

Article 243V {Disqualifications for membership}

1. A person shall be disqualified for being chosen as and for being, a member of a Municipality -

- 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:

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;

- If he is so disqualified by or under any law made by the Legislature of the State.

2. If any question arises as to whether a member of a Municipality has become subject to any of the disqualifications mentioned in Clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

Article 243W {Powers, authority and responsibilities of Municipalities etc.}

Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow -

- The Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to -
 - ✓ The preparation of plans for economic development and social justice;
 - ✓ The performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;
- The Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.

Article 243X {Power to impose taxes by, and Funds of, the Municipalities}

The Legislature of a State may, by law, -

- Authorise a Municipality to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;
- Assign to a Municipality such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;
- Provide for making such grants-in-aid to the Municipalities from the Consolidated Fund of the State; and
- Provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Municipalities and also for the withdrawal of such moneys there from, as may be specified in law.

Article 243Y {Finance Commission}

1. The Finance Commission constituted under Article 243I shall also review the financial position of the Municipalities and make recommendation to the Governor as to -

- The principles which should govern -
 - ✓ The distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Municipalities at all levels of their respective shares of such proceeds;
 - ✓ The determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Municipalities;
 - ✓ The grants-in-aid to the Municipalities from the Consolidated Fund of the State;
- The measures needed to improve the financial position of the Municipalities;

- Any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.
2. The Governor shall cause every recommendation made by Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

Article 243Z {Audit of accounts of Municipalities}

The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Municipalities and the auditing of such accounts.

Article 243ZA {Elections to the Municipalities}

1. The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipalities shall be vested in the State Election Commission referred to in Article 243K.
2. Subject to the provisions of the Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Municipalities.

Article 243ZB {Application to Union territories}

The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under Article 239 and references to the Legislature or the Legislative Assembly of a State were references in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly: Provided that the President may, by public notification, direct that the provisions of this Part

shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

Article 243ZC {Part not to apply to certain areas}

1. Nothing in this Part shall apply to the Scheduled Areas referred to in Clause (1), and the tribal areas referred to in Clause (2), of Article 244.
2. Nothing in this Part shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under any law for the time being in force for the hill areas of the district of Darjeeling in the State of West Bengal.
3. Notwithstanding anything in this Constitution, Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in Clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of Article 368.

Article 243ZD {Committee for district planning}

1. There shall be constituted in every State at the district level a District Planning Committee to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole.
2. The Legislature of a State may, by law, make provision with respect to -
 - The composition of the District Planning Committees;
 - The manner in which the seats in such Committees shall be filled:

Provided that not less than four-fifths of the total number of members of such Committee shall be elected by, and from amongst, the elected members of the

Panchayat at the district level and of the Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district;

- The functions relating to district planning which may be assigned to such Committees;
- The manner in which the Chairpersons of such Committees shall be chosen.

3. Every District Planning Committee shall, in preparing the draft development plan, -

- Matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;
- The extent and type of available resources whether financial or otherwise;

4. The Chairperson of every District Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

Article 243ZE (Committee for Metropolitan planning)

1. There shall be constituted in every Metropolitan area a Metropolitan Planning Committee to prepare a draft development plan for the Metropolitan area as a whole.

2. The Legislature of a State may, by law, make provision with respect to -

- The composition of the Metropolitan Planning Committees;

- The manner in which the seats in such Committees shall be filled:

Provided that not less than two-thirds of the members of such Committee shall be elected by, and from amongst, the elected members of the Municipalities and Chairpersons of the Panchayats in the Metropolitan area in proportion to the ratio between the population of the Municipalities and of the Panchayats in that area;

- The representation in such Committees of the Government of India and the Government of the State and of such organisations and institutions as may be deemed necessary for carrying out the functions assigned to such Committees;
- The functions relating to planning and coordination for the Metropolitan area which may be assigned to such Committees;
- The manner in which the Chairpersons of such Committees shall be chosen.

3. Every Metropolitan Planning Committee shall, in preparing the draft development plan, -

- Have regard to -
 - The plans prepared by the Municipalities and the Panchayats in the Metropolitan area;
 - Matters of common interest between the Municipalities and the Panchayats, including co-ordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;
 - The overall objectives and priorities set by the Government of India and Government of the State;

- The extent and nature of investments likely to be made in the Metropolitan area by agencies of the Government of India and of the Government of the State and other available resources whether financial or otherwise;
 - Consult such institutions and organizations as the Governor may, by order, specify.
4. The Chairperson of every Metropolitan Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

Article 243ZF {Continuance of existing laws and Municipalities}

Notwithstanding anything in this Part, any provision of any law relating to Municipalities in force in a State immediately before the commencement of the Constitution (seventy-fourth Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Provided that all the Municipalities existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

Article 243ZG {Bar to interference by Courts in electoral matters}

Notwithstanding anything in this Constitution, -

- The validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies made or purporting to be made [under] Article 243ZA shall not be called in question in any Court;
- No election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.

Indian Polity - Part 14

14] CO - OPERATIVE SOCIETIES

Notes

CONSTITUTION OF INDIA - PART IX - B

Article 243ZH (Definitions)

In this Part, unless the context otherwise requires, -

- "Authorized person" means a person referred to such as in Article 243ZQ;
- "Board" means the board of directors or the governing body of a co-operative society, by whatever name called, to which the direction and control of the management of the affairs of a society is entrusted to;
- "Co-operative society" a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State;
- "Multi-state co-operative society" a society with objects not confined to one State and registered or deemed to be registered under any law for the time being in force relating to such co-operatives;
- "Officer bearer" means a President, Vice-President, Chairperson, ;

- "Registrar" means a central registrar appointed by Central government in relation to the multi-state co-operative society and registrar appointed by state government in relation to the co-operative societies ;
- "State Act" means any law made by the legislative of the state;
- "State level co-operative society" means co-operative society having aids area of operation extending to the whole of the state and defined in any law made by the legislature of the state;

Article 243ZI {In-corporation of Co-operative Societies}

1. Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the incorporation, regulation and winding up of co-operative societies based in the principles of voluntary formation, democratic member-control, member-economic participation and autonomous functioning.

Article 243ZJ {Number and term of members in board and its office bearers}

The board shall consist of such number of directors as may be provided by the Legislature of a State, by law: Provided that the maximum number of directors of a co-operative society shall not exceed twenty-one: Provided further that the Legislature of a State shall, by law, provide for the reservation of one seat for the Scheduled Castes or the Scheduled Tribes and two seats for women on board of every co-operative society consisting of individuals as members and having members from such class or category of persons.

The term of office of elected members of the board and its office bearers shall be five years from the date of election and the term of office bearers shall be conterminous with the term of the board: Provided that the board may fill a casual vacancy on the board by nomination out of the same class of members in respect of which the casual vacancy has arisen, if the term of office of the board is less than half of its original term

Article 243ZK {Election of members of board}

1. Election of members of board

Article 243ZL {Suppression and suspension of board and interim management}

1. Suppression and suspension of board and interim management

Article 243ZM {Audit and accounts of co-operative societies}

1. Audit and accounts of co-operative societies

Article 243ZN {Convening of general body meetings}

1. Convening of general body meetings -

Article 243ZO {Right of a member to get information}

Right of a member to get information

Article 243ZP {Returns}

Returns

Article 243ZQ {Offences and penalties}

1. Offences and penalties

Article 243ZR {Application to multi-state co-operative societies}

Application to multi-state co-operative societies

Article 243ZS {Application to Union Territories}

Application to Union Territories

Article 243ZT {Continuance of exiting laws}

Notwithstanding anything in this Part, any provision of any law relating to co-operative societies in force in a State immediately before the commencement of the Constitution (Ninety-seventh Amendment) Act, 2011, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is less.'

Constitution (97th Amendment) Act, 2011

The Constitution (Ninety Seventh Amendment) Act 2011 relating to the co-operatives is aimed to encourage economic activities of cooperatives which in turn help progress of rural India. It is expected to not only ensure autonomous and democratic functioning of cooperatives, but also the accountability of the management to the members and other stakeholders.

Reasons of Failure of Cooperative Sector

- The cooperative sector has been playing a distinct and significant role in the country's process of socio-economic development. The failure of cooperatives in the country is mainly attributable to:
- Dormant membership and lack of active participation of members in the management of cooperatives.
- Mounting overdue in cooperative credit institution
- Lack of mobilization of internal resources and over-dependence on Government assistance,

Lack of professional management.

- Bureaucratic control and interference in the management, political interference and over-polarization have proved harmful to their growth.

- Predominance of vested interests resulting in non-percolation of benefits to a common member, particularly to the class of persons for whom such cooperatives were basically formed, has also retarded the development of cooperatives.
- These are the areas which needed to be attended to by evolving suitable legislative and policy support with proper political will and financial support.

97th Amendment Act, 2011

- As per the amendment the changes done to constitution are:-
- In Part III of the constitution, after words “or unions” the words “Cooperative Societies” was added.
- In Part IV a new Article 43B was inserted, which says: The state shall Endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of the co-operative societies”.
- After Part IXA of the constitution, a Part IXB was inserted to accommodate state vs centre roles.

Salient features Part IXB

- It makes Right to form cooperatives is a fundamental right.
- Reservation of one seat for SC/ST and two seats for women on the board of every co-operative society.
- Cooperatives could set up agency which would oversee election.
- Uniformity in the tenure of Cooperative Board of Directors.
- Provisions for incorporation, regulation and winding up of co-operative societies based on the principles of democratic process and specifying the maximum number of directors as twenty-one.
- Providing for a fixed term of five years from the date of election in respect of the elected members of the board and its office bearers;

- Providing for a maximum time limit of six months during which a board of directors of co-operative society could be kept under suspension;
- Providing for independent professional audit;
- Providing for right of information to the members of the co-operative societies;
- Empowering the State Governments to obtain periodic reports of activities and accounts of co-operative societies; which have individuals as members from such categories;
- Providing for offences relating to co-operative societies and penalties in respect of such offences.

Implications

- The amendment of the Constitution to make it obligatory for the states to ensure autonomy of cooperatives makes it binding for the state governments to facilitate voluntary formation, independent decision-making and democratic control and functioning of the cooperatives.
- It also ensures holding regular elections under the supervision of autonomous authorities, five-year term for functionaries and independent audit. Significantly, it also mandates that in case the board is dissolved, the new one is constituted within six months. Such a constitutional provision was urgently required as the woes of the cooperative sector are far too many, long-lasting and deep-rooted to be addressed under the present lax legal framework

However, it fails to establish what constitutional amendments can't do in reviving institutions and may be victim of rival political institutions at the state level as happened in case of 73rd amendments. It is feared that state-level politicians will do to this amendment on cooperatives what they did to the one on panchayats. Barring exceptions in a few sectors and states, the cooperative sector, particularly cooperative credit societies numbering over 120 million, has for a long time been in a

shambles with all kinds of vested interests using them as personal fiefdoms and ladders to political power and means of personal aggrandizement.

Indian Polity - Part 15

15] The Scheduled and Tribal Areas

Notes

Article 244 {Administration of Scheduled Areas and Tribal Areas}

- The provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any State other than the States of Assam, Meghalaya, Tripura and Mizoram.
- The provisions of the Sixth Schedule shall apply to the administration of the tribal areas in the States of Assam, Meghalaya, Tripura and Mizoram.

Article 244A {Formation of an autonomous State comprising certain tribal areas in Assam and creation of local Legislature or Council of Ministers or both therefore}

- Notwithstanding anything in this Constitution, Parliament may, by law, form within the State of Assam an autonomous State comprising (whether wholly or in part) all or any of the tribal areas specified in Part I of the table appended to paragraph 20 of the Sixth Schedule and create therefore -
 - ✓ A body, whether elected or partly nominated and partly elected, to function as a Legislature for the autonomous State, or
 - ✓ A Council of Ministers, or both with such constitution, powers and functions, in each case, as may be specified in the law.
- Any such law as is referred to in clause (1) may, in particular, -
 - ✓ specify the matters enumerated in the State List or the Concurrent List with respect to which the Legislature of the autonomous State shall have

- power to make laws for the whole or any part thereof, whether to the exclusion of the Legislature of the State of Assam or otherwise;
- ✓ define the matters with respect to which the executive power of the autonomous State shall extend;
 - ✓ provide that any tax levied by the State of Assam shall be assigned to the autonomous State in so far as the proceeds thereof are attributable to the autonomous State;
 - ✓ provide that any reference to a State in any article of this Constitution shall be construed as including a reference to the autonomous State; and
 - ✓ make such supplemental, incidental and consequential provisions as may be deemed necessary.
- An amendment of any such law as aforesaid in so far as such amendment relates to any of the matters specified in sub-clause (a) or sub-clause (b) of clause (2) shall have no effect unless the amendment is passed in each House of Parliament by not less than two-thirds of the members present and voting.
- Any such law as is referred to in this article shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending this Constitution.

Indian Polity - Part 16

16] Relation Between Union And States

Notes

PART - XI

Chapter I {Legislative Relations}

Article 245 {Extent of laws made by Parliament and by the Legislatures of States}

1. Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State.
2. No law made by Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation.

Article 246 {Subject-matter of laws made by Parliament and by the Legislatures of States}

1. Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the "Union List").
2. Notwithstanding anything in clause (3), Parliament, and, subject to clause (1), the Legislature of any State also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the "Concurrent List").
3. Subject to clauses (1) and (2), the Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the "State List").
4. Parliament has power to make laws with respect to any matter for any part of the territory of India not included in a State notwithstanding that such matter is a matter enumerated in the State List.

Article 247 {Power of Parliament to provide for the establishment of certain additional courts}

Notwithstanding anything in this Chapter, Parliament may by law provide for the establishment of any additional courts for the better administration of laws made by Parliament or of any existing law with respect to a matter enumerated in the Union List.

Article 248 {Residuary powers of legislation}

1. Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List.
2. Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists.

Article 249 {Power of Parliament to legislate with respect to a matter in the State List in the National interest}

1. Notwithstanding anything in the foregoing provisions of this Chapter, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution, it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter while the resolution remains in force.
2. A resolution passed under clause (1) shall remain in force for such period not exceeding one year as may be specified therein: Provided that, if and so often as a resolution approving the continuance in force of any such resolution is passed in the manner provided in clause (1), such resolution shall continue in force for a further period of one year from the date on which under this clause it would otherwise have ceased to be in force.

3. A law made by Parliament which Parliament would not but for the passing of a resolution under clause (1) have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the resolution has ceased to be in force, except as respects things done or omitted to be done before the expiration of the said period.

Article 250 {Power of Parliament to legislate with respect to any matter in the State List if a Proclamation of Emergency is in operation}

1. Notwithstanding anything in this Chapter, Parliament shall, while a Proclamation of Emergency is in operation, have power to make laws for the whole or any part of the territory of India with respect to any of the matters enumerated in the State List.

2. A law made by Parliament which Parliament would not but for the issue of a Proclamation of Emergency have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period.

Article 251 {Inconsistency between laws made by Parliament under articles 249 and 250 and laws made by the legislatures of States}

Nothing in articles 249 and 250 shall restrict the power of the Legislature of a State to make any law which under this Constitution it has power to make, but if any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament has under either of the said articles power to make, the law made by Parliament, whether passed before or after the law made by the Legislature of the State, shall prevail, and the law made by the Legislature of the State shall to the extent of the repugnancy, but so long only as the law made by Parliament continues to have effect, be inoperative.

Article 252 {Power of Parliament to legislate for two or more States by consent and adoption of such legislation by any other State}

1. If it appears to the Legislatures of two or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the States except as provided in articles 249 and 250 should be regulated in such States by Parliament by law, and if resolutions to that effect are passed by all the Houses of the Legislatures of those States, it shall be lawful for Parliament to pass an Act for regulating that matter accordingly, and any Act so passed shall apply to such States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House or, where there are two Houses, by each of the Houses of the Legislature of that State.
2. Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner but shall not, as respects any State to which it applies, be amended or repealed by an Act of the Legislature of that State.

Article 253 {Legislation for giving effect to international agreements}

Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body.

Article 254 {Inconsistency between laws made by Parliament and laws made by the Legislatures of States}

1. If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in

the Concurrent List, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.

2. Where a law made by the legislature of a State with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State: Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State.

Article 255 {Requirements as to recommendations and previous sanctions to be regarded as matters of procedure only}

No Act of Parliament or of the Legislature of a State, and no provision in any such Act, shall be invalid by reason only that some recommendation or previous sanction required by this Constitution was not given, if assent to that Act was given -

- Where the recommendation required was that of the Governor, either by the Governor or by the President;
- Where the recommendation required was that of the Rajpramukh, either by the Rajpramukh or by the President;
- Where the recommendation or previous sanction required was that of the President, by the President.

Chapter II {Administrative Relations}

Article 256 {Obligation of States and the Union}

The executive power of every State shall be so exercised as to ensure compliance with the laws made by Parliament and any existing laws which apply in that State, and the executive power of the Union shall extend to the giving of such directions to a State as may, appear to the Government of India to be necessary for that purpose.

Article 257 {Control of the Union over States in certain cases}

1. The executive power of every State shall be so exercised as not to impede or prejudice the exercise of the executive power of the Union, and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.
2. The executive power of the Union shall also extend to the giving of directions to a State as to the construction and maintenance of means of communication declared in the direction to be of national or military importance: Provided that nothing in this clause shall be taken as restricting the power of Parliament to declare highways or waterways to be national highways or national waterways or the power of the Union with respect to the highways or waterways so declared or the power of the Union to construct and maintain means of communication as part of its functions with respect to naval, military and air force works.
3. The executive power of the Union shall also extend to the giving of directions to a State as to the measures to be taken for the protection of the railways within the State.
4. Where in carrying out any direction given to a State under clause (2) as to the construction or maintenance of any means of communication or under clause (3) as to the measures to be taken for the protection of any railway, costs have been incurred in excess of those which would have been incurred in the discharge of the

normal duties of the State if such direction had not been given, there shall be paid by the Government of India to the State such sum as may be agreed, or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India, in respect of the extra costs so incurred by the State.

Article 257A {Assistance to States by deployment of armed forces or other forces of the Union}

{Repealed by 44th amendment,1978}

Article 258 {Power of the Union to confer powers, etc., on States in certain cases}

- Notwithstanding anything in this Constitution, the President may, with the consent of the Government of a State, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of the Union extends.
- A law made by Parliament which applies in any State may, notwithstanding that it relates to a matter with respect to which the Legislature of the State has no power to make laws, confer powers and impose duties, or authorize the conferring of powers and the imposition of duties, upon the State or officers and authorities thereof.
- Where by virtue of this article powers and duties have been conferred or imposed upon a State or officers or authorities thereof, there shall be paid by the Government of India to the State such sum as may be agreed, or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India, in respect of any extra costs of administration incurred by the State in connection with the exercise of those powers and duties.

Article 258A {Power of the States to entrust functions to the Union}

Notwithstanding anything in this Constitution, the Governor of a State may, with the consent of the Government of India, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the exclusive power of the State extends.

Article 259 {Armed Forces in States in Part B of the First Schedule}

{...}

Article 260 {Jurisdiction of the Union in relation to territories outside India}

The Government of India may by agreement with the Government of any territory not being part of the territory of India undertake any executive, legislative or judicial functions vested in the Government of such territory, but every such agreement shall be subject to, and governed by, any law relating to the exercise of foreign jurisdiction for the time being in force.

Article 261 {Public acts, records and judicial proceedings}

1. Full faith and credit shall be given throughout the territory of India to public acts, records and judicial proceedings of the Union and of every State.
2. The manner in which and the conditions under which the acts, records and proceedings referred to in clause (1) shall be proved and the effect thereof determined shall be as provided by law made by Parliament.
3. Final judgments or orders delivered or passed by civil courts in any part of the territory of India shall be capable of execution anywhere within that territory according to law.

Article 262 {Adjudication of disputes relating to waters of inter-State rivers or river valleys}

1. Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley.
2. Notwithstanding anything in this Constitution, Parliament may by law provide that neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint as is referred to in clause (1).

Article 263 {Provisions with respect to an inter-State Council}

If at any time it appears to the President that the public interests would be served by the establishment of a Council charged with the duty of -

- Inquiring into and advising upon disputes which may have arisen between States;
- Investigating and discussing subjects in which some or all of the States, or the Union and one or more of the States, have a common interest e.g. Research in agriculture ,forestry.
- Making recommendations upon any such subject and, in particular, recommendations for the better co-ordination of policy and action with respect to that subject, it shall be lawful for the President by order to establish such a Council, and to define the nature of the duties to be performed by it and its organization and procedure.

PART - XII

Article 264 {Interpretation}

In this Part, "Finance Commission" means a Finance Commission constituted under article 280.

Article 265 {Taxes not to be imposed save by authority of law}

No tax shall be levied or collected except by authority of law.

Article 266 {Consolidated Funds and public accounts of India and of the States}

(1) Subject to the provisions of article 267 and to the provisions of this Chapter with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties to States, all revenues received by the Government of India, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled "the Consolidated Fund of India", and all revenues received by the Government of a State, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled "the Consolidated Fund of the State".

(2) All other public moneys received by or on behalf of the Government of India or the Government of a State shall be credited to the public account of India or the public account of the State, as the case may be.

(3) No moneys out of the Consolidated Fund of India or the Consolidated Fund of a State shall be appropriated except in accordance with a law and for the purposes and in the manner provided in this Constitution.

Article 267 {Contingency Fund}

(1) Parliament may by law establish a Contingency Fund in the nature of an imprest to be entitled "the Contingency Fund of India" into which shall be paid from time to time such sums as may be determined by such law, and the said Fund shall be placed at the disposal of the President to enable advances to be made by him out of such Fund for the purposes of meeting unforeseen expenditure pending authorization of such expenditure by Parliament by law under article 115 or article 116.

(2) The Legislature of a State may by law establish a Contingency Fund in the nature of an imprest to be entitled "the Contingency Fund of the State" into which shall be paid from time to time such sums as may be determined by such law, and the said Fund shall be placed at the disposal of the Governor of the State to enable advances to be made by him out of such Fund for the purposes of meeting unforeseen expenditure pending authorization of such expenditure by the Legislature of the State by law under article 205 or article 206.

Article 268 {Duties levied by the Union but collected and appropriated by the States}

(1) Such stamp duties and such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied by the Government of India but shall be collected -

(a) in the case where such duties are leviable within any Union territory, by the Government of India, and

(b) in other cases, by the States within which such duties are respectively leviable.

(2) The proceeds in any financial year of any such duty leviable within any State shall not form part of the Consolidated Fund of India, but shall be assigned to that State.

Article 269 {Taxes levied and collected by the Union but assigned to the States}

(1) The following duties and taxes shall be levied and collected by the Government of India but shall be assigned to the States in the manner provided in clause (2), namely:

-

- Duties in respect of succession to property other than agricultural land;
- Estate duty in respect of property other than agricultural land;
- Terminal taxes on goods or passengers carried by railway, sea or air;

- Taxes on railway fares and freights;
- Taxes other than stamp duties on transactions in stock-exchanges and futures markets;
- Taxes on the sale or purchase of newspapers and on advertisements published therein;
- Taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce;
- Taxes on the consignment of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter-State trade or commerce.

(2) The net proceeds in any financial year of any such duty or tax, except in so far as those proceeds represent proceeds attributable to Union territories, shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that duty or tax is leviable in that year, and shall be distributed among those States in accordance with such principles of distribution as may be formulated by Parliament by law.

(3) Parliament may by law formulate principles for determining when a sale or purchase of, or consignment of, goods takes place in the course of inter-State trade or commerce.

Article 270 {Taxes levied and collected by the Union and distributed between the Union and the States}

(1) Taxes on income other than agricultural income shall be levied and collected by the Government of India and distributed between the Union and the States in the manner provided in clause (2).

(2) Such percentage, as may be prescribed, of the net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to

Union territories or to taxes payable in respect of Union emoluments, shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that tax is leviable in that year, and shall be distributed among those States in such manner and from such time as may be prescribed.

(3) For the purposes of clause (2), in each financial year such percentage as may be prescribed of so much of the net proceeds of taxes on income as does not represent the net proceeds of taxes payable in respect of Union emoluments shall be deemed to represent proceeds attributable to Union territories.

(4) In this article -

(a) "Taxes on income" does not include a corporation tax:

(b) "Prescribed" means -

- until a Finance Commission has been constituted, prescribed by the President by order, and
- after a Finance Commission has been constituted, prescribed by the President by order after considering the recommendations of the Finance Commission;

(c) "Union emoluments" includes all emoluments and pensions payable out of the Consolidated Fund of India in respect of which income-tax is chargeable.

Article 271 {Surcharge on certain duties and taxes for purposes of the Union}

Notwithstanding anything in articles 269 and 270, Parliament may at any time increase any of the duties or taxes referred to in those articles by a surcharge for purposes of the Union and the whole proceeds of any such surcharge shall form part of the Consolidated Fund of India.

Article 272 {Taxes which are levied and collected by the Union and may be distributed between the Union and the States- Repealed by the eightieth Constitution amendment Act}

Union duties of excise other than such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied and collected by the Government of India, but, if Parliament by law so provides, there shall be paid out of the Consolidated Fund of India to the States to which the law imposing the duty extends sums equivalent to the whole or any part of the net proceeds of that duty, and those sums shall be distributed among those States in accordance with such principles of distribution as may be formulated by such law.

Article 273 {Grants in lieu of export duty on jute and jute products}

(1) There shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of the States of Assam, Bihar, Orissa and West Bengal, in lieu of assignment of any share of the net proceeds in each year of export duty on jute and jute products to those States, such sums as may be prescribed.

(2) The sums so prescribed shall continue to be charged on the Consolidated Fund of India so long as any export duty on jute or jute products continues to be levied by the Government of India or until the expiration of ten years from the commencement of this Constitution, whichever is earlier.

(3) In this article, the expression "prescribed" has the same meaning as in article 270.

Article 274 {Prior recommendation of President require to Bills affecting taxation in which States are interested}

(1) No Bill or amendment which imposes or varies any tax or duty in which States are interested, or which varies the meaning of the expression "agricultural income" as defined for the purposes of the enactments relating to Indian income-tax, or which

affects the principles on which under any of the foregoing provisions of this Chapter moneys are or may be distributable to States, or which imposes any such surcharge for the purposes of the Union as is mentioned in the foregoing provisions of this Chapter, shall be introduced or moved in either House of Parliament except on the recommendation of the President.

(2) In this article, the expression "tax or duty in which States are interested" means -

- A tax or duty the whole or part of the net proceeds whereof are assigned to any State; or
- A tax or duty by reference to the net proceeds whereof sums are for the time being payable out of the Consolidated Fund of India to any State.

Article 275 {Grants from the Union to certain States}

1. Such sums as Parliament may by law provide shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of such States as Parliament may determined to be in need of assistance, and different sums may be fixed for different States: Provided that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of a State such capital and recurring sums as may be necessary to enable that State to meet the costs of such schemes of development as may be undertaken by the State with the approval of the Government of India for the purpose of promoting the welfare of the Scheduled Tribes in that State or raising the level of administration of the Scheduled Areas therein to that of the administration of the rest of the areas of that State: Provided further that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of the State of Assam sums, capital and recurring, equivalent to -
 - The average excess of expenditure over the revenues during the two years immediately preceding the commencement of this Constitution in respect of

the administration of the tribal areas specified in Part I of the table appended to paragraph 20 of the Sixth Schedule; and

- The costs of such schemes of development as may be undertaken by that State with the approval of the Government of India for the purpose of raising the level of administration of the said areas to that of the administration of the rest of the areas of that State.

1A. On and from the formation of the autonomous State under article 244A,—

- Any sums payable under clause (a) of the second proviso to clause (1) shall, if the autonomous State comprises all the tribal areas referred to therein, be paid to the autonomous State, and, if the autonomous State comprises only some of those tribal areas, be apportioned between the State of Assam and the autonomous State as the President may, by order, specify;
- There shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of the autonomous State sums, capital and recurring, equivalent to the costs of such schemes of development as may be undertaken by the autonomous State with the approval of the Government of India for the purpose of raising the level of Administration of that State to that of the administration of the rest of the State of Assam.

2. Until provision is made by Parliament under clause (1), the powers conferred on Parliament under that clause shall be exercisable by the President by order and any order made by the President under this clause shall have effect subject to any provision so made by Parliament: Provided that after a Finance Commission has been constituted no order shall be made under this clause by the President except after considering the recommendations of the Finance Commission.

Article 276 {Taxes on professions, trades, callings and employments}

1. Notwithstanding anything in article 246, no law of the Legislature of a State relating to taxes for the benefit of the State or of a municipality, district board, local board or other local authority therein in respect of professions, trades, callings or employments shall be invalid on the ground that it relates to a tax on income.
2. The total amount payable in respect of any one person to the State or to any one municipality, district board, local board or other local authority in the State by way of taxes on professions, trades, callings and employments shall not exceed two thousand and five hundred rupees per annum.
3. The power of the Legislature of a State to make laws as aforesaid with respect to taxes on professions, trades, callings and employments shall not be construed as limiting in any way the power of Parliament to make laws with respect to taxes on income accruing from or arising out of professions, trades, callings and employments.

Article 277 {Savings}

Any taxes, duties, cesses or fees which, immediately before the commencement of this Constitution, were being lawfully levied by the Government of any State or by any municipality or other local authority or body for the purposes of the State, municipality, district or other local area may, notwithstanding that those taxes, duties, cesses or fees are mentioned in the Union List, continue to be levied and to be applied to the same purposes until provision to the contrary is made by Parliament by law.

Article 278 {Agreement with States in Part B of the First Schedule with regard to certain financial matters}

{...}

Article 279 {Calculation of "net proceeds", etc.}

1. In the foregoing provisions of this Chapter, "net proceeds" means in relation to any tax or duty the proceeds thereof reduced by the cost of collection, and for the purposes of those provisions the net proceeds of any tax or duty, or of any part of any tax or duty, in or attributable to any area shall be ascertained and certified by the Comptroller and Auditor-General of India, whose certificate shall be final.
2. Subject as aforesaid, and to any other express provision of this Chapter, a law made by Parliament or an order of the President may, in any case where under this Part the proceeds of any duty or tax are, or may be, assigned to any State, provide for the manner in which the proceeds are to be calculated, for the time from or at which and the manner in which any payments are to be made, for the making of adjustments between one financial year and another, and for any other incidental or ancillary matters.

Article 280 { Finance Commission}

1. The President shall, within two years from the commencement of this Constitution and thereafter at the expiration of every fifth year or at such earlier time as the President considers necessary, by order constitute a Finance Commission which shall consist of a Chairman and four other members to be appointed by the President.
2. It shall be the duty of the Commission to make recommendations to the President as to (a) the distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them under this Chapter and the allocation between the States of the respective shares of such proceeds; (b) the principles which should govern the grants in aid of the revenues of the States out of the Consolidated Fund of India; (c) any other matter referred to the Commission by the President in the interests of sound finance
3. The Commission shall determine their procedure and shall have such powers in the performance of their functions as Parliament may by law confer on them

Article 281 {Recommendations of the Finance Commission}

The President shall cause every recommendation made by the Finance Commission under the provisions of this Constitution together with an explanatory memorandum as to the action taken thereon to be laid before each House of Parliament.

Article 282 {Expenditure defrayable by the Union or a State out of its revenues}

The Union or a State may make any grants for any public purpose, notwithstanding that the purpose is not one with respect to which Parliament or the Legislature of the State, as the case may be, may make laws.

Article 283 {Custody, etc., of Consolidated Funds, Contingency Funds and moneys credited to the public accounts}

(1) The custody of the Consolidated Fund of India and the Contingency Fund of India, the payment of moneys into such Funds, the withdrawal of moneys there from, the custody of public moneys other than those credited to such Funds received by or on behalf of the Government of India, their payment into the public account of India and the withdrawal of moneys from such account and all other matters connected with or ancillary to matters aforesaid shall be regulated by law made by Parliament, and, until provision in that behalf is so made, shall be regulated by rules made by the President.

(2) The custody of the Consolidated Fund of a State and the Contingency Fund of a State, the payment of moneys into such Funds, the withdrawal of moneys therefrom, the custody of public moneys other than those credited to such Funds received by or on behalf of the Government of the State, their payment into the public account of the State and the withdrawal of moneys from such account and all other matters connected with or ancillary to matters aforesaid shall be regulated by law made by

the Legislature of the State, and, until provision in that behalf is so made, shall be regulated by rules made by the Governor of the State.

Article 284 {Custody of suitors' deposits and other moneys received by public servants and courts}

All moneys received by or deposited with -

- Any officer employed in connection with the affairs of the Union or of a State in his capacity as such, other than revenues or public moneys raised or received by the Government of India or the Government of the State, as the case may be, or
- Any court within the territory of India to the credit of any cause, matter, account or persons, shall be paid into the public account of India or the public account of State, as the case may be.

Article 285 {Exemption of property of the Union from State taxation}

1. The property of the Union shall, save in so far as Parliament may by law otherwise provide, be exempt from all taxes imposed by a State or by any authority within a State.

2. Nothing in clause (1) shall, until Parliament by law otherwise provides, prevent any authority within a State from levying any tax on any property of the Union to which such property was immediately before the commencement of this Constitution liable or treated as liable, so long as that tax continues to be levied in that State.

Article 286 {Restriction as to imposition of tax on the sale or purchase of goods}

1. No Law of a State shall impose, or authorize the imposition of, a tax on the sale or purchase of goods where such sale or purchase takes place -
 - Outside the State; or

- In the course of the import of the goods into, or export of the goods out of, the territory of India.
2. Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in any of the ways mentioned in clause (1).
3. Any law of a State shall, in so far as it imposes, or authorises the imposition of, -
- A tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce; or
 - A tax on the sale or purchase of goods, being a tax of the nature referred to in sub-clause (b), sub-clause (c) or sub-clause (d) of clause (29A) of article 366, be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as Parliament may by law specify.

Article 287 {Exemption from taxes on electricity}

Save in so far as Parliament may by law otherwise provide, no law of a State shall impose, or authorize the imposition of, a tax on the consumption or sale of electricity (whether produced by a Government or other persons) which is -

- Consumed by the Government of India, or sold to the Government of India for consumption by that Government; or
- Consumed in the construction, maintenance or operation of any railway by the Government of India or a railway company operating that railway, or sold to that Government or any such railway company for consumption in the construction, maintenance or operation of any railway, and any such law imposing, or authorizing the imposition of, a tax on the sale of electricity shall secure that the price of electricity sold to the Government of India for consumption by that Government, or to any such railway company as aforesaid for consumption in the construction, maintenance or operation of any railway,

shall be less by the amount of the tax than the price charged to other consumers of a substantial quantity of electricity.

Article 288 {Exemption from taxation by States in respect of water or electricity in certain cases}

1. Save in so far as the President may by order otherwise provide, no law of a State in force immediately before the commencement of this Constitution shall impose, or authorise the imposition of, a tax in respect of any water or electricity stored, generated, consumed, distributed or sold by any authority established by any existing law or any law made by Parliament for regulating or developing any inter-State river or river-valley. Explanation: The expression "law of a State in force" in this clause shall include a law of a State passed or made before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas.

2. The Legislature of a State may by law impose, or authorise the imposition of, any such tax as is mentioned in clause (1), but no such law shall have any effect unless it has, after having been reserved for the consideration of the President, received his assent; and if any such law provides for the fixation of the rates and other incidents of such tax by means of rules or orders to be made under the law by any authority, the law shall provide for the previous consent of the President being obtained to the making of any such rule or order.

Article 289 {Exemption of property and income of a State from Union taxation}

1. The property and income of a State shall be exempt from Union taxation.

2. Nothing in clause (1) shall prevent the Union from imposing, or authorising the imposition of, any tax to such extent, if any, as Parliament may by law provide in respect of a trade or business of any kind carried on by, or on behalf of, the

Government of a State, or any operations connected therewith, or any property used or occupied for the purposes of such trade or business, or any income accruing or arising in connection therewith.

3. Nothing in clause (2) shall apply to any trade or business, or to any class of trade or business, which Parliament may by law declare to be incidental to the ordinary functions of Government.

Article 290 {Adjustment in respect of certain expenses and pensions}

Where under the provisions of this Constitution the expenses of any Court or Commission, or the pension payable to or in respect of a person who has served before the commencement of this Constitution under the Crown in India or after such commencement in connection with the affairs of the Union or of a State, are charged on the Consolidated Fund of India or the Consolidated Fund of a State, then, if -

- In the case of a charge on the Consolidated Fund of India, the court or Commission serves any of the separate needs of a State, or the person has served wholly or in part in connection with the affairs of a State; or
- In the case of a charge on the Consolidated Fund of a State, the court or Commission serves any of the separate needs of the Union or another State, or the person has served wholly or in part in connection with the affairs of the Union or another State, there shall be charged on and paid out of the Consolidated Fund of the State or, as the case may be, the Consolidated Fund of India or the Consolidated Fund of the other State, such contribution in respect of the expenses or pension as may be agreed, or as may in default of agreement be determined by an arbitrator to be appointed by the Chief Justice of India.

Article 290A {Annual payment to certain Devaswom Funds}

A sum of forty-six lakhs and fifty thousands rupees shall be charged on, and paid out of the Consolidated Fund of the State of Kerala every year to the Travancore Devaswom Fund; and a sum of thirteen lakhs and fifty thousand rupees shall be charged on, and paid out of the Consolidated Fund of the State of Tamil Nadu, every year to the Devaswom Fund established in that State for the maintenance of Hindu temples and shrines in the territories transferred to that State on the 1st day of November, 1956, from the State of Travancore-Cochin.

Article 291 {Privy purse sums of Rulers}

{Rep. by the Constitution (Twenty-sixth Amendment) Act, 1971, s. 2.}

Chapter II {Borrowing}**Article 292 {Borrowing by the Government of India}**

The executive power of the Union extends to borrowing upon the security of the Consolidated Fund of India within such limits, if any, as may from time to time be fixed by Parliament by law and to the giving of guarantees within such limits, if any, as may be so fixed.

Article 293 {Borrowing by States }

1. Subject to the provisions of this article, the executive power of a State extends to borrowing within the territory of India upon the security of the Consolidated Fund of the State within such limits, if any, as may from time to time be fixed by the Legislature of such State by law and to the giving of guarantees within such limits, if any, as may be so fixed.
2. The Government of India may, subject to such conditions as may be laid down by or under any law made by Parliament, make loans to any State or, so long as any limits fixed under article 292 are not exceeded, give guarantees in respect of loans raised by

any State, and any sums required for the purpose of making such loans shall be charged on the Consolidated Fund of India.

3. A State may not without the consent of the Government of India raise any loan if there is still outstanding any part of a loan which has been made to the State by the Government of India or by its predecessor Government, or in respect of which a guarantee has been given by the Government of India or by its predecessor Government.

4. A consent under clause (3) may be granted subject to such conditions, if any, as the Government of India may think fit to impose.

Chapter III {Property, Contacts, Rights, Liabilities, Obligations and Suits}

Article 294 {Succession to property, assets, rights, liabilities and obligations in certain cases}

As from the commencement of this Constitution -

- All property and assets which immediately before such commencement were vested in His Majesty for the purposes of the Government of the Dominion of India and all property and assets which immediately before such commencement were vested in His Majesty for the purposes of the Government of each Governor's Province shall vest respectively in the Union and the corresponding State, and
- All rights, liabilities and obligations of the Government of the Dominion of India and of the Government of each Governor's Province, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations respectively of the Government of India and the Government of each corresponding State, subject to any adjustment made or to be made by reason of the creation

before the commencement of this Constitution of the Dominion of Pakistan or of the Provinces of West Bengal, East Bengal, West Punjab and East Punjab.

Article 295' {Succession to property, assets, rights, liabilities and obligations in other cases}

1. As from the commencement of this Constitution -
 - all property and assets which immediately before such commencement were vested in any Indian State corresponding to a State specified in Part B of the First Schedule shall vest in the Union, if the purposes for which such property and assets were held immediately before such commencement will thereafter be purposes of the Union relating to any of the matters enumerated in the Union List, and
 - all rights, liabilities and obligations of the Government of any Indian State corresponding to a State specified in Part B of the First Schedule, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations of the Government of India, if the purposes for which such rights were acquired or liabilities or obligations were incurred before such commencement will thereafter be purposes of the Government of India relating to any of the matters enumerated in the Union List, subject to any agreement entered into in that behalf by the Government of India with the Government of that State.
2. Subject as aforesaid, the Government of each State specified in Part B of the First Schedule shall, as from the commencement of this Constitution, be the successor of the Government of the corresponding Indian State as regards all property and assets and all rights, liabilities and obligations, whether arising out of any contract or otherwise, other than those referred to in clause (1).

Article 296 {Property accruing by escheat or lapse or as Bona vacantia}

Subject as hereinafter provided, any property in the territory of India which, if this Constitution had not come into operation, would have accrued to His Majesty or, as the case may be, to the Ruler of an Indian State by escheat or lapse, or as bona Vacantia for want of a rightful owner, shall, if it is property situate in a State, vest in such State, and shall, in any other case, vest in the Union:

Provided that any property which at the date when it would have so accrued to His Majesty or to the Ruler of an Indian State was in the possession or under the control of the Government of India or the Government of a State shall, according as the purposes for which it was then used or held were purposes of the Union or of a State, vest in the Union or in that State.

Article 297 {Things of value within territorial waters or continental shelf and resources of the exclusive economic zone to vest in the Union}

1. All lands, minerals and other things of value underlying the ocean within the territorial waters, or the continental shelf, or the exclusive economic zone, of India shall vest in the Union and be held for the purposes of the Union.
2. All other resources of the exclusive economic zone of India shall also vest in the Union and be held for the purposes of the Union.
3. The limits of the territorial waters, the continental shelf, the exclusive economic zone, and other maritime zones, of India shall be such as may be specified, from time to time, by or under any law made by Parliament.

Article 298 {Power to carry on trade, etc.}

The executive power of the Union and of each State shall extend to the carrying on of any trade or business and to the acquisition, holding and disposal of property and the making of contracts for any purpose:

Provided that -

- The said executive power of the Union shall, in so far as such trade or business or such purpose is not one with respect to which Parliament may make laws, be subject in each State to legislation by the State; and
- The said executive power of each State shall, in so far as such trade or business or such purpose is not one with respect to which the State Legislature may make laws, be subject to legislation by Parliament.

Article 299 {Contracts}

1. All contracts made in the exercise of the executive power of the Union or of a State shall be expressed to be made by the President, or by the Governor of the State, as the case may be, and all such contracts and all assurances of property made in the exercise of that power shall be executed on behalf of the President or the Governor by such persons and in such manner as he may direct or authorise.
2. Neither the President nor the Governor shall be personally liable in respect of any contract or assurance made or executed for the purposes of this Constitution, or for the purposes of any enactment relating to the Government of India heretofore in force, nor shall any person making or executing any such contract or assurance on behalf of any of them be personally liable in respect thereof.

Article 300 {Suits and proceedings}

1. The Government of India may sue or be sued by the name of the Union of India and the Government of a State may sue or be sued by the name of the State and may, subject to any provisions which may be made by Act of Parliament or of the Legislature of such State enacted by virtue of powers conferred by this Constitution, sue or be sued in relation to their respective affairs in the like cases as the Dominion

of India and the corresponding Provinces or the corresponding Indian States might have sued or been sued if this Constitution had not been enacted.

2. If at the commencement of this Constitution -

- Any legal proceedings are pending to which the Dominion of India is a party, the Union of India shall be deemed to be substituted for the Dominion in those proceedings; and
- Any legal proceedings are pending to which a Province or an Indian State is a party, the corresponding State shall be deemed to be substituted for the Province or the Indian State in those proceedings.

Chapter IV {Right to Property}

Article 300A {Persons not to be deprived of property save by authority of law}

No person shall be deprived of his property save by authority of law.

{Earlier this was a fundamental right. Parliament converted this fundamental right into legal right by 44th amendment act, 1978}

Indian Polity - Part 17

17] Services Under Central And State Government

Notes

Chapter I {Services}

Article 308 {Interpretation}

In this Part, unless the context otherwise requires, the expression "State" does not include the State of Jammu and Kashmir.

Article 309 {Recruitment and conditions of service of persons serving the Union or a State}

Subject to the provisions of this Constitution. Acts of the appropriate Legislature may regulate the recruitment, and conditions of service of persons appointed, to public services and posts in connection with the affairs of the Union or of any State:

Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union, and for the Governor of a State or such person as he may direct in the case of services and posts in connection with the affairs of the State, to make rules regulating the recruitment, and the conditions of service of persons appointed, to such services and posts until provision in that behalf is made by or under an Act of the appropriate Legislature under this article, and any rules so made shall have effect subject to the provisions of any such Act.

Article 310 {Tenure of office of persons serving the Union or a State}

(1) Except as expressly provided by this Constitution, every person who is a member of a defence service or of a civil service of the Union or of an all-India service or holds any post connected with defence or any civil post under the Union holds office during the pleasure of the President, and every person who is a member of a civil service of a State or holds any civil post under a State holds office during the pleasure of the Governor of the State.

(2) Notwithstanding that a person holding a civil post under the Union or a State holds office during the pleasure of the President or, as the case may be, of the Governor of the State, any contract under which a person, not being a member of a defence service or of an all-India service or of a civil service of the Union or a State, is appointed under this Constitution to hold such a post may, if the President or the Governor, as the case may be, deems it necessary in order to secure the services of a

person having special qualifications, provide for the payment to him of compensation, if before the expiration of an agreed period that post is abolished or he is, for reasons not connected with any misconduct on his part, required to vacate that post.

Article 311 {Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State}

(1) No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.

(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges:

Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed:

Provided further that this clause shall not apply -

- Where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction of a criminal charge; or
- Where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or
- Where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold such inquiry.

(3) If, in respect of any such person as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final.

Article 312 {All-India services}

(1) Notwithstanding anything in Chapter VI of Part VI or Part XI, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest so to do, Parliament may by law provide for the creation of one or more all-India services (including an all-India judicial service) common to the Union and the States, and, subject to the other provisions of this Chapter, regulate the recruitment, and the conditions of service of persons appointed, to any such service.

(2) The services known at the commencement of this Constitution as the Indian Administrative Service and the Indian Police Service shall be deemed to be services created by Parliament under this article.

(3) The all-India judicial service referred to in clause (1) shall not include any post inferior to that of a district judge as defined in article 236.

(4) The law providing for the creation of the all-India judicial service aforesaid may contain such provisions for the amendment of Chapter VI of Part VI as may be necessary for giving effect to the provisions of that law and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.

Article 312A {Power of Parliament to vary or revoke conditions of service of officers of certain services}

(1) Parliament may by law -

- Vary or revoke, whether prospectively or retrospectively, the conditions of service as respects remuneration, leave and pension and the rights as respects disciplinary matters of persons who, having been appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India before the commencement of this Constitution, continue on and after the commencement of the Constitution (Twenty-eighth Amendment) Act, 1972, to serve under the Government of India or of a State in any service or post;
- Vary or revoke, whether prospectively or retrospectively, the conditions of service as respects pension of persons who, having been appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India before the commencement of this Constitution, retired or otherwise ceased to be in service at any time before the commencement of the Constitution (Twenty-eighth Amendment) Act, 1972:

Provided that in the case of any such person who is holding or has held the office of the Chief Justice or other Judge of the Supreme Court or a High Court, the Comptroller and Auditor-General of India, the Chairman or other member of the Union or a State Public Service Commission or the Chief Election Commissioner, nothing in sub-clause (a) or sub-clause (b) shall be construed as empowering Parliament to vary or revoke, after his appointment to such post, the conditions of his service to his disadvantage except in so far as such conditions of service are applicable to him by reason of his being a person appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India.

(2) Except to the extent provided for by Parliament by law under this article, nothing in this article shall affect the power of any legislature or other authority under any other provision of this Constitution to regulate the conditions of service of persons referred to in clause (1).

(3) Neither the Supreme Court nor any other court shall have jurisdiction in -

- Any dispute arising out of any provision of, or any endorsement on, any covenant, agreement or other similar instrument which was entered into or executed by any person referred to in clause (1), or arising out of any letter issued to such person, in relation to his appointment to any civil service of the Crown in India or his continuance in service under the Government of the Dominion of India or a Province thereof;
- Any dispute in respect of any right, liability or obligation under article 314 as originally enacted.

(4) The provisions of this article shall have effect notwithstanding anything in article 314 as originally enacted or in any other provision of this Constitution.

Article 313 {Transitional provisions}

Until other provision is made in this behalf under this Constitution, all the laws in force immediately before the commencement of this Constitution and applicable to any public service or any post which continues to exist after the commencement of this Constitution, as an all-India service or as service or post under the Union or a State shall continue in force so far as consistent with the provisions of this Constitution.

Article 314 {Provision for protection of existing officers of certain services}

{...}

Chapter II {Public Service Commissions}

Article 315 {Public Service Commissions for the Union and for the States}

(1) Subject to the provisions of this article, there shall be a Public Service Commission for the Union and a Public Service Commission for each State.

(2) Two or more States may agree that there shall be one Public Service Commission for that group of States, and if a resolution to that effect is passed by the House or, where there are two Houses, by each House of the Legislature of each of those States, Parliament may by law provide for the appointment of a Joint State Public Service Commission (referred to in this Chapter as Joint Commission) to serve the needs of those States.

(3) Any such law as aforesaid may contain such incidental and consequential provisions as may be necessary or desirable for giving effect to the purposes of the law.

(4) The Public Service Commission for the Union, if requested so to do by the Governor of a State, may, with the approval of the President, agree to serve all or any of the needs of the State.

(5) References in this Constitution to the Union Public Service Commission or a State Public Service Commission shall, unless the context otherwise requires, be construed as references to the Commission serving the needs of the Union or, as the case may be, the State as respects the particular matter in question.

Article 316 {Appointment and term of office of members}

(1) The Chairman and other members of a Public Service Commission shall be appointed, in the case of the Union Commission or a Joint Commission, by the President, and in the case of a State Commission, by the Governor of the State: Provided that as nearly as may be one-half of the members of every Public Service Commission shall be persons who at the dates of their respective appointments have held office for at least ten years either under the Government of India or under the Government of a State, and in computing the said period of ten years any period before the commencement of this Constitution during which a person has held office

under the Crown in India or under the Government of an Indian State shall be included.

(1A) If the office of the Chairman of the Commission becomes vacant or if any such Chairman is by reason of absence or for any other reason unable to perform the duties of his office, those duties shall, until some person appointed under clause (1) to the vacant office has entered on the duties thereof or, as the case may be, until the Chairman has resumed his duties, be performed by such one of the other members of the Commission as the President, in the case of the Union Commission or a Joint Commission, and the Governor of the State in the case of a State Commission, may appoint for the purpose.

(2) A member of a Public Service Commission shall hold office for a term of six years from the date on which he enters upon his office or until he attains, in the case of the Union Commission, the age of sixty-five years, and in the case of a State Commission or a Joint Commission, the age of sixty-two years, whichever is earlier: Provided that -

- A member of a Public Service Commission may, by writing under his hand addressed, in the case of the Union Commission or a Joint Commission, to the President, and in the case of a State Commission, to the Governor of the State, resign his office;
- A member of a Public Service Commission may be removed from his office in the manner provided in clause (1) or clause (3) of article 317.

(3) A person who holds office as a member of a Public Service Commission shall, on the expiration of his term of office, be ineligible for re-appointment to that office.

Article 317 {Removal and suspension of a member of a Public Service Commission}

(1) Subject to the provisions of clause (3), the Chairman or any other member of a Public Service Commission shall only be removed from his office by order of the President on the ground of misbehavior after the Supreme Court, on reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf under article 145, reported that the Chairman or such other member, as the case may be, ought on any such ground to be removed.

(2) The President, in the case of the Union Commission or a Joint Commission, and the Governor in the case of a State Commission, may suspend from office the Chairman or any other member of the Commission in respect of whom a reference has been made to the Supreme Court under clause (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything in clause (1), the President may by order remove from office the Chairman or any other member of a Public Service Commission if the Chairman or such other member, as the case may be, -

- Is adjudged an insolvent; or
- Engages during his term of office in any paid employment outside the duties of his office; or
- Is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body.

(4) If the Chairman or any other member of a Public Service Commission is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Government of India or the Government of a State or participates in any way in the profit thereof or in any benefit or emolument arising there from otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of clause (1), be deemed to be guilty of misbehavior.

Article 318 {Power to make regulations as to conditions of service of members and staff of the Commission}

In the case of the Union Commission or a Joint Commission, the President and, in the case of a State Commission, the Governor of the State may by regulations

- Determine the number of members of the Commission and their conditions of service; and
Make provision with respect to the number of members of the staff of the Commission and their conditions of service:

Provided that the conditions of service of a member of a Public Service Commission shall not be varied to his disadvantage after his appointment.

Article 319 {Prohibition as to the holding of offices by members of Commission on ceasing to be such members}

On ceasing to hold office -

- The Chairman of the Union Public Service Commission shall be ineligible for further employment either under the Government of India or under the Government of a State;
The Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of any other State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State;
- A member other than the Chairman of the Union Public Service Commission shall be eligible for appointment as the Chairman of the Union Public Service Commission or as the Chairman of a State Public Service Commission, but not

for any other employment either under the Government of India or under the Government of a State;

- A member other than the Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of that or any other State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State.

Article 320 {Functions of Public Service Commissions}

(1) It shall be the duty of the Union and the State Public Service Commissions to conduct examinations for appointment to the services of the Union and the services of the State respectively.

(2) It shall also be the duty of the Union Public Service Commission, if requested by any two or more States so to do, to assist those States in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualifications are required.

(3) The Union Public Service Commission or the State Public Service Commission, as the case may be, shall be consulted -

- On all matters relating to methods of recruitment to civil services and for civil posts;
- On the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers;
- On all disciplinary matters affecting a person serving under the Government of India or the Government of a State in a civil capacity, including memorials or petitions relating to such matters;

- On any claim by or in respect of a person who is serving or has served under the Government of India or the Government of a State or under the Crown in India or under the Government of an Indian State, in a civil capacity, that any costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the Consolidated Fund of India, or, as the case may be, out of the Consolidated Fund of the State;
- On any claim for the award of a pension in respect of injuries sustained by a person while serving under the Government of India or the Government of a State or under the Crown in India or under the Government of an Indian State, in a civil capacity, and any question as to the amount of any such award, and it shall be the duty of a Public Service Commission to advise on any matter so referred to them and on any other matter which the President, or, as the case may be, the Governor of the State, may refer to them:

Provided that the President as respects the all-India services and also as respects other services and posts in connection with the affairs of the Union, and the Governor, as respects other services and posts in connection with the affairs of a State, may make regulations specifying the matters in which either generally, or in any particular class of case or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted.

(4) Nothing in clause (3) shall require a Public Service Commission to be consulted as respects the manner in which any provision referred to in clause (4) of article 16 may be made or as respects the manner in which effect may be given to the provisions of article 335.

(5) All regulations made under the proviso the clause (3) by the President or the Governor of a State shall be laid for not less than fourteen days before each House of Parliament or the House or each House of the Legislature of the State, as the case

may be, as soon as possible after they are made, and shall be subject to such modifications, whether by way of repeal or amendment, as both Houses of Parliament or the House or both Houses of the Legislature of the State may make during the session in which they are so laid.

Article 321 {Power to extend functions of Public Service Commissions}

An Act made by Parliament or, as the case may be, the Legislature of a State may provide for the exercise of additional functions by the Union Public Service Commission or the State Public Service Commission as respects the services of the Union or the State and also as respects the services of any local authority or other body corporate constituted by law or of any public institution.

Article 322 {Expenses of Public Service Commissions}

The expenses of the Union or a State Public Service Commission, including any salaries, allowances and pensions payable to or in respect of the members or staff of the Commission, shall be charged on the Consolidated Fund of India, as the case may be, the Consolidated Fund of the State.

Article 323 {Reports of Public Service Commissions}

(1) It shall be the duty of the Union Commission to present annually to the President a report as to the work done by the Commission and on receipt of such report the President shall cause a copy thereof together with a memorandum explaining, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before each House of Parliament.

(2) It shall be the duty of a State Commission to present annually to the Governor of the State a report as to the work done by the Commission, and it shall be the duty of a Joint Commission to present annually to the Governor of each of the States the needs of which are served by the Joint Commission a report as to the work done by

the Commission in relation to that State, and in either case the Governor, shall, on receipt of such report, cause a copy thereof together with a memorandum explaining, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before the Legislature of the State.

Indian Polity - Part 18

18] Tribunals

Notes

Article 323 {Tribunals}

Article 323A {Administrative tribunals}

Parliament may, by law, provide for the adjudication or trial by administrative tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government.

- A law made under clause (1) may -
 - ✓ Provide for the establishment of an administrative tribunal for the Union and a separate administrative tribunal for each State or for two or more States;
 - ✓ Specify the jurisdiction, powers (including the power to punish for contempt) and authority which may be exercised by each of the said tribunals;
 - ✓ Provide for the procedure (including provisions as to limitation and rules of evidence) to be followed by the said tribunals;

- ✓ Exclude the jurisdiction of all courts, except the jurisdiction of the Supreme Court under article 136, with respect to the disputes or complaints referred to in clause (1);
 - ✓ Provide for the transfer to each such administrative tribunal of any cases pending before any court or other authority immediately before the establishment of such tribunal as would have been within the jurisdiction of such tribunal if the causes of action on which such suits or proceedings are based had arisen after such establishment;
 - ✓ Repeal or amend any order made by the President under clause (3) of article 371D;
 - ✓ It contain such supplemental, incidental and consequential provisions (including provisions as to fees) as Parliament may deem necessary for the effective functioning of, and for the speedy disposal of cases by, and the enforcement of the orders of, such tribunals.
- The provisions of this article shall have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.

Article 323B {Tribunals for other matters}

The appropriate Legislature may, by law, provide for the adjudication or trial by tribunals of any disputes, complaints, or offences with respect to all or any of the matters specified in clause (2) with respect to which such Legislature has power to make laws.

- The matters referred to in clause (1) are the following, namely: -
- ✓ Levy, assessment, collection and enforcement of any tax;
 - ✓ Foreign exchange, import and export across customs frontiers;
 - ✓ Industrial and labour disputes;

- ✓ Land reforms by way of acquisition by the State of any estate as defined in article 31A or of any rights therein or the extinguishment or modification of any such rights or by way of ceiling on agricultural land or in any other way;
 - ✓ Ceiling on urban property;
 - ✓ Elections to either House of Parliament or the House or either House of the Legislature of a State, but excluding the matters referred to in article 329 and article 329A;
 - ✓ Production, procurement, supply and distribution of food-stuffs (including edible oilseeds and oils) and such other goods as the President may, by public notification, declare to be essential goods for the purpose of this article and control of prices of such goods;
 - ✓ Rent, its regulation and control and tenancy issues including the right, title and interest of landlords and tenants;
 - ✓ Offences against laws with respect to any of the matters specified in sub-clauses (a) to (h) and fees in respect of any of those matters;
 - ✓ Any matter incidental to any of the matters specified in sub-clauses (a) to (i).
- A law made under clause (1) may -
- ✓ Provide for the establishment of a hierarchy of tribunals;
 - ✓ Specify the jurisdiction, powers (including the power to punish for contempt) and authority which may be exercised by each of the said tribunals;
 - ✓ Provide for the procedure (including provisions as to limitation and rules of evidence) to be followed by the said tribunals;
 - ✓ Exclude the jurisdiction of all courts, except the jurisdiction of the Supreme Court under article 136, with respect to all or any of the matters falling within the jurisdiction of the said tribunals;

- ✓ Provide for the transfer to each such tribunal of any cases pending before any court or any other authority immediately before the establishment of such tribunal as would have been within the jurisdiction of such tribunal if the causes of action on which such suits or proceedings are based had arisen after such establishment;
- ✓ Contain such supplemental, incidental and consequential provisions (including provisions as to fees) as the appropriate Legislature may deem necessary for a effective functioning of, and for the speedy disposal of cases by, and the enforcement of the orders of, such tribunals.
- The provisions of this article shall have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.

Indian Polity - Part 19

19] Election

Notes

Article 324 {Superintendence, direction and control of elections to be vested in an election commission}

- The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution shall be vested in a Commission (referred to in this Constitution as the Election Commission).
- The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix and the appointment of the Chief Election Commissioner

and other Election Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President.

- When any other Election Commissioner is so appointed the Chief Election Commissioner shall act as the Chairman of the Election Commission.
- Before each general election to the House of the People and to the Legislative Assembly of each State, and before the first general election and thereafter before each biennial election to the Legislative Council of each State having such Council, the President may also appoint after consultation with the Election Commission such Regional Commissioners as he may consider necessary to assist the Election Commission in the performance of the functions conferred on the Commission by clause (1).
- Subject to the provisions of any law made by Parliament, the conditions of service and tenure of office of the Election Commissioners and the Regional Commissioners shall be such as the President may by rule determine:
 - ✓ Provided that the Chief Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court and the conditions of service of the Chief Election Commissioner shall not be varied to his disadvantage after his appointment:
 - ✓ Provided further that any other Election Commissioner or a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner.
- The President, or the Governor of a State, shall, when so requested by the Election Commission, make available to the Election Commission or to a Regional Commissioner such staff as may be necessary for the discharge of the functions conferred on the Election Commission by clause (1).

Article 325 {No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex}

There shall be one general electoral roll for every territorial constituency for election to either House of Parliament or to the House or either House of the Legislature of a State and no person shall be ineligible for inclusion in any such roll or claim to be included in any special electoral roll for any such constituency on grounds only of religion, race, caste, sex or any of them.

Article 326 {Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage}

The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage; that is to say, every person who is a citizen of India and who is not less than eighteen years of age on such date as may be fixed in that behalf by or under any law made by the appropriate Legislature and is not otherwise disqualified under this Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled to be registered as a voter at any such election.

Article 327 {Power of Parliament to make provision with respect to elections to Legislatures}

Subject to the provisions of this Constitution, Parliament may from time to time by law make provision with respect to all matters relating to, or in connection with, elections to either House of Parliament or to the House or either House of the Legislature of a State including the preparation of electoral rolls, the delimitation of constituencies and all other matters necessary for securing the due constitution of such House or Houses.

Article 328 {Power of Legislature of a State to make provision with respect to elections to such Legislature}

Subject to the provisions of this Constitution and in so far as provision in that behalf is not made by Parliament, the Legislature of a State may from time to time by law make provision with respect to all matters relating to, or in connection with, the elections to the House or either House of the Legislature of the State including the preparation of electoral rolls and all other matters necessary for securing the due constitution of such House or Houses.

Article 329 {Bar to interference by courts in electoral matters}

Notwithstanding anything in this Constitution -

- The validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 327 or article 328, shall not be called in question in any court;
- No election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature.

Article 329A {Special provision as to elections to Parliament in the case of Prime Minister and Speaker}

{...}

The Sixty-first Amendment' of the Constitution of India, officially known as The Constitution (Sixty-first Amendment) Act, 1988, lowered the voting age of elections to the Lok Sabha and to the Legislative Assemblies of States from 21 years to 18 years.

List of Chief Election Commissioners

No.	Name	Took office	Left office
1	Sukumar Sen	21 March 1950	19 December 1958
2	Kalyan Sundaram	20 December 1958	30 September 1967
3	SP Sen Verma	1 October 1967	30 September 1972
4	Nagendra Singh	1 October 1972	6 February 1973
5	T. Swaminathan	7 February 1973	17 June 1977
6	S. L. Shakdhar	18 June 1977	17 June 1982
7	R. K. Trivedi	18 June 1982	31 December 1985
8	R. V. S. Peri Sastri	1 January 1986	25 November 1990
9	V. S. Ramadevi	26 November 1990	11 December 1990
10	T. N. Seshan	12 December 1990	11 December 1996
11	M. S. Gill	12 December 1996	13 June 2001
12	J. M. Lyngdoh	14 June 2001	7 February 2004
13	T. S. Krishnamurthy	8 February 2004	15 May 2005
14	B. B. Tandon	16 May 2005	29 June 2006
15	N. Gopaldaswami	30 June 2006	20 April 2009
16	Navin Chawla	21 April 2009	29 July 2010
17	S. Y. Quraishi	30 July 2010	10 June 2012
18	V. S. Sampath	11 June 2012	15 January 2015

19	H. S. Brahma	16 January 2015	18 April 2015
20	Nasim Zaidi	19 April 2015	5 July 2017
21	Achal Kumar Jyoti	6 July 2017	22 January 2018
22	Om Prakash Rawat	23 January 2018	Incumbent

Indian Polity – Part 20

20] Special Provisions Relating to Certain Classes

Notes

Special Provisions Relating to Certain Classes Notes - Part XVI

Article 330 {Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People}

- Seats shall be reserved in the House of the People for -
 - ✓ The Scheduled Castes;
 - ✓ The Scheduled Tribes except the Scheduled Tribes in the autonomous districts of Assam; and
 - ✓ The Scheduled Tribes in the autonomous districts of Assam.
- The number of seats reserved in any State or Union territory for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State or Union territory in the House of the People as the population of the Scheduled Castes in the State or Union territory or of the Scheduled Tribes in the State or Union territory or part of the State or Union territory, as the case may be, in respect of which seats are so reserved, bears to the total population of the State or Union territory.

- Notwithstanding anything contained in clause (2), the number of seats reserved in the House of the People for the Scheduled Tribes in the autonomous districts of Assam shall bear to the total number of seats allotted to that State a proportion not less than the population of the Scheduled Tribes in the said autonomous districts bears to the total population of the State.
- In this article and in article 332, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published:
- Provided that the reference in this Explanation to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2000 have been published, be construed as a reference to the 1971 census.

Article 331 {Representation of the Anglo-Indian community in the House of the People}

Notwithstanding anything in article 81, the President may, if he is of opinion that the Anglo-Indian community is not adequately represented in the House of the People, nominate not more than two members of that community to the House of the People.

Article 332 {Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States}

- Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, except the Scheduled Tribes in the autonomous districts of Assam, in the Legislative Assembly of every State.
- Seats shall be reserved also for the autonomous districts in the Legislative Assembly of the State of Assam.

- The number of seats reserved for the Scheduled Castes or the Scheduled Tribes in the Legislative Assembly of any State under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State or part of the State, as the case may be, in respect of which seats are so reserved, bears to the total population of the State.
- Notwithstanding anything contained in clause (3), until the taking effect, under article 170, of the re-adjustment, on the basis of the first census after the year 2000, of the number of seats in the Legislative Assemblies of the States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly of any such State shall be, -
 - ✓ If all the seats in the Legislative Assembly of such State in existence on the date of coming into force of the Constitution (Fifty-seventh Amendment) Act, 1987 (hereafter in this clause referred to as the existing Assembly) are held by members of the Scheduled Tribes, all the seats except one;
 - ✓ In any other case, such number of seats as bears to the total number of seats, a proportion not less than the number (as on the said date) of members belonging to the Scheduled Tribes in the existing Assembly bears to the total number of seats in the existing Assembly.
- Notwithstanding anything contained in clause (3), until the re-adjustment, under article 170, takes effect on the basis of the first census after the year 2000, of the number of seats in the Legislative Assembly of the State of Tripura, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly shall be, such number of seats as bears to the total number of seats, a proportion not less than the number, as on the date of coming into force of the Constitution (Seventy- second Amendment) Act, 1992, of members belonging

to the Scheduled Tribes in the Legislative Assembly in existence on the said date bears to the total number of seats in that Assembly.

- The number of seats reserved for an autonomous district in the Legislative Assembly of the State of Assam shall bear to the total number of seats in that Assembly a proportion not less than the population of the district bears to the total population of the State.
- The constituencies for the seats reserved for any autonomous district of Assam shall not comprise any area outside that district.
- No person who is not a member of a Scheduled Tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district.

Article 333 {Representation of the Anglo-Indian community in the Legislative Assemblies of the States}

Notwithstanding anything in article 170, the Governor of a State may, if he is of opinion that the Anglo-Indian community needs representation in the Legislative Assembly of the State and is not adequately represented therein, nominate one member of that community to the Assembly.

Article 334 {Reservation of seats and special representation to cease after fifty years}

Notwithstanding anything in the foregoing provisions of this Part, the provisions of this Constitution relating to -

- ✓ The reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the People and in the Legislative Assemblies of the States; and
- ✓ The representation of the Anglo-Indian community in the House of the People and in the Legislative Assemblies of the States by nomination, shall cease to

have effect on the expiration of a period of fifty years from the commencement of this Constitution:

Provided that nothing in this article shall affect any representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the then existing House or Assembly, as the case may be.

Article 335 {Claims of Scheduled Castes and Scheduled Tribes to services and posts}

The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State.

Article 336 {Special provision for Anglo-Indian community in certain services}

- During the first two years after the commencement of this Constitution, appointments of members of the Anglo-Indian community to posts in the railway, customs, postal and telegraph services of the Union shall be made on the same basis as immediately before the fifteenth day of August, 1947. During every succeeding period of two years, the number of posts reserved for the members of the said community in the said services shall, as nearly as possible, be less by ten per cent, than the numbers so reserved during the immediately preceding period of two years: Provided that at the end of ten years from the commencement of this Constitution all such reservations shall cease.
- Nothing in clause (1) shall bar the appointment of members of the Anglo-Indian community to posts other than, or in addition to, those reserved for the community under that clause if such members are found qualified for appointment on merit as compared with the members of other communities.

Article 337 {Special provision with respect to educational grants for the benefit of Anglo-Indian community}

- During the first three financial years after the commencement of this Constitution, the same grants, if any, shall be made by the Union and by each State for the benefit of the Anglo-Indian community in respect of education as were made in the financial year ending on the thirty-first day of March, 1948.
- During every succeeding period of three years the grants may be less by ten per cent, than those for the immediately preceding period of three years:
- Provided that at the end of ten years from the commencement of this Constitution such grants, to the extent to which they are a special concession to the Anglo-Indian community, shall cease:
- Provided further that no educational institution shall be entitled to receive any grant under this article unless at least forty per cent of the annual admissions therein are made available to members of communities other than the Anglo-Indian community.

Article 338 {National Commission for Scheduled Castes, Scheduled Tribes}

- There shall be a Commission for the Scheduled Castes and Scheduled Tribes to be known as the National Commission for the Scheduled Castes and Scheduled Tribes.
- Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and five other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.
- The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.
- The Commission shall have the power to regulate its own procedure.

- It shall be the duty of the Commission -
 - ✓ To investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;
 - ✓ To inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes and Scheduled Tribes;
 - ✓ To participate and advise on the planning process of socio-economic development of the Scheduled Castes and Scheduled Tribes and to evaluate the progress of their development under the Union and any State;
 - ✓ To present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;
 - ✓ To make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes and Scheduled Tribes; and
 - ✓ To discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes and Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule specify.
- The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

- Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.
- The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:
 - ✓ Summoning and enforcing the attendance of any person from any part of India and examining him on oath;
 - ✓ Requiring the discovery and production of any documents;
 - ✓ Receiving evidence on affidavits;
 - ✓ Requisitioning any public record or copy thereof from any court or office;
 - ✓ Issuing commissions for the examination of witnesses and documents;
 - ✓ Any other matter which the President may by rule determine.
- The Union and every State Government shall consult the Commission on all major police matters affecting Scheduled Castes and Scheduled Tribes.
- In this article, references to the Scheduled Castes and Scheduled Tribes shall be construed as including references to such other backward classes as the President may, on receipt of the report of a Commission appointed under clause (1) of article 340, by order specify and also to the Anglo-Indian community.

Article 338A (National Commission for Scheduled Tribes)

- There shall be a Commission for the Scheduled Tribes to be known as the National Commission for the Scheduled Tribes.
- Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.
- The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.
- The Commission shall have the power to regulate its own procedure.
- It shall be the duty of the Commission-
 - ✓ To investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;
 - ✓ To inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Tribes;
 - ✓ To participate and advise on the planning process of socioeconomic development of the Scheduled Tribes and to evaluate the progress of their development under the Union and any State;
 - ✓ To present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;
 - ✓ To make in such reports recommendation as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Tribes; and

- ✓ To discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule specify.
- The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any such recommendations.
- Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.
- The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:-
 - ✓ Summoning and enforcing the attendance of any person from any part of India and examining him on oath;
 - ✓ Requiring the discovery and production of any document;
 - ✓ Receiving evidence on affidavits;
 - ✓ Requisitioning any public record or copy thereof from any court or office;
 - ✓ Issuing commissions for the examination of witnesses and documents;
 - ✓ Any other matter which the President may, by rule, determine.
 - ✓ The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Tribes.

Article 339 {Control of the Union over the administration of Scheduled Areas and the welfare of Scheduled Tribes}

- The President may at any time and shall, at the expiration of ten years from the commencement of this Constitution by order appoint a Commission to report on the administration of the Scheduled Areas and the welfare of the Scheduled Tribes in the States. The order may define the composition, powers and procedure of the Commission and may contain such incidental or ancillary provisions as the President may consider necessary or desirable.
- The executive power of the Union shall extend to the giving of directions to a State as to the drawing up and execution of schemes specified in the direction to be essential for the welfare of the Scheduled Tribes in the State.

Article 340 {Appointment of a Commission to investigate the conditions of backward classes}

- The President may by order appoint a Commission consisting of such persons as he thinks fit to investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labour and to make recommendations as to the steps that should be taken by the Union or any State to remove such difficulties and to improve their condition and as to the grants that should be made for the purpose by the Union or any State and the conditions subject to which such grants should be made, and the order appointing such Commission shall define the procedure to be followed by the Commission.
- A Commission so appointed shall investigate the matters referred to them and present to the President a report setting out the facts as found by them and making such recommendations as they think proper.

- The President shall cause a copy of the report so presented together with a memorandum explaining the action taken thereon to be laid before each House of Parliament.

Article 341 {Scheduled Castes}

- The President may with respect to any State or Union territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State or Union territory, as the case may be.
- Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

Article 342 {Scheduled Tribes}

- The President may with respect to any State or Union territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State or Union territory, as the case may be.
- Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

89th Constitutional Amendment Act, 2003: Provided for the establishment of a separate National Commission for Scheduled Tribes by the existing National Commission for Scheduled Castes and Scheduled Tribes. The commission shall consist of a Chairman, Vice- Chairman and three other members. They shall be appointed by the President of India.

Indian Polity - Part 21

21] Official Language

Notes

Official Language Notes - Part XVII

Chapter I {Language of the Union}

Article 343 {Official language of the Union }

- The official language of the Union shall be Hindi in Devanagari script. The form of numerals to be used for the official purposes of the Union shall be the international form of Indian numerals.
- Notwithstanding anything in clause (1), for a period of fifteen years from the commencement of this Constitution, the English language shall continue to be used for all the official purposes of the Union for which it was being used immediately before such commencement:
- Notwithstanding anything in this article, Parliament may by law provide for the use, after the said period of fifteen years, of -
 - ✓ The English language, or
 - ✓ The Devanagari form of numerals, for such purposes as may be specified in the law.

Article 344 {Commission and Committee of Parliament on official language}

- The President shall, at the expiration of five years from the commencement of this Constitution and thereafter at the expiration of ten years from such commencement, by order constitute a Commission which shall consist of a Chairman and such other members representing the different languages specified in the Eighth Schedule as the President may appoint, and the order shall define the procedure to be followed by the Commission.
- It shall be the duty of the Commission to make recommendations to the President as to -
 - ✓ The progressive use of the Hindi language for the official purposes of the Union;
 - ✓ Restrictions on the use of the English language for all or any of the official purposes of the Union;
 - ✓ The language to be used for all or any of the purposes mentioned in article 348;
 - ✓ The form of numerals to be used for any one or more specified purposes of the Union;
 - ✓ Any other matter referred to the Commission by the President as regards the official language of the Union and the language for communication between the Union and a State or between one State and another and their use.
- In making their recommendations under clause (2), the Commission shall have due regard to the industrial, cultural and scientific advancement of India, and the just claims and the interests of persons belonging to the non-Hindi speaking areas in regard to the public services.
- There shall be constituted a Committee consisting of thirty members, of whom twenty shall be members of the House of the People and ten shall be members of the Council of States to be elected respectively by the members of the House of the People and the members of the Council of States in accordance

with the system of proportional representation by means of the single transferable vote.

- It shall be the duty of the Committee to examine the recommendations of the Commission constituted under clause (1) and to report to the President their opinion thereon.
- Notwithstanding anything in article 343, the President may, after consideration of the report referred to in clause (5), issue directions in accordance with the whole or any part of that report.

Chapter II {Regional Languages}

Article 345 {Official language or languages of a State }

Subject to the provisions of articles 346 and 347, the Legislature of a State may by law adopt any one or more of the languages in use in the State or Hindi as the Language or Languages to be used for all or any of the official purposes of that State; Provided that, until the Legislature of the State otherwise provides by law, the English language shall continue to be used for those official purposes within the State for which it was being used immediately before the commencement of this Constitution.

Article 346 {Official language for communication between one State and another or between a State and the Union }

- The language for the time being authorized for use in the Union for official purposes shall be the official language for communication between one State and another State and between a State and the Union:
- Provided that if two or more States agree that the Hindi language should be the official language for communication between such States, that language may be used for such communication.

Article 347 {Special provision relating to language spoken by a section of the population of a State}

On a demand being made in that behalf the President may, if he is satisfied that a substantial proportion of the population of a State desire the use of any language spoken by them to be recognized by that state, direct that such language shall also be officially recognized throughout that State or any part thereof for such purpose as he may specify.

Chapter III {Language of the Supreme Court, High Courts, etc}**Article 348 {Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc.}**

- Notwithstanding anything in the foregoing provisions of this Part, until Parliament by law otherwise provides -
 - ✓ All proceedings in the Supreme Court and in every High Court,
 - ✓ The authoritative texts -
 - (i) Of all Bills to be introduced or amendments thereto to be moved in either House of Parliament or in the House or either House of the Legislature of a State.
 - (ii) Of all Acts passed by Parliament or the Legislature of a State and of all Ordinances promulgated by the President or the Governor of a State, and
 - (iii) Of all orders, rules, regulations and bye-laws issued under this Constitution or under any law made by Parliament or the Legislature of a State, shall be in the English language.

- Notwithstanding anything in sub-clause (a) of clause (1), the Governor of a State may, with the previous consent of the President, authorize the use of the Hindi language, or any other language used for any official purposes of the State, in proceedings in the High Court having its principal seat in that State: Provided that nothing in this clause shall apply to any judgment, decree or order passed or made by such High Court.
- Notwithstanding anything in sub-clause (b) of clause (1), where the Legislature of a State has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by, the Legislature of the State or in Ordinances promulgated by the Governor of the State or in any order, rule, regulation or bye-law referred to in paragraph (iii) of that sub-clause, a translation of the same in the English language published under the authority of the Governor of the State in the Official Gazette of that State shall be deemed to be the authoritative text thereof in the English language under this article.

Article 349 {Special procedure for enactment of certain laws relating to language}

During the period of fifteen years from the commencement of this Constitution, no Bill or amendment making provision for the language to be used for any of the purposes mentioned in clause (1) of article 348 shall be introduced or moved in either House of Parliament without the previous sanction of the President, and the President shall not give his sanction to the introduction of any such Bill or the moving of any such amendment except after he has taken into consideration the recommendations of the Commission constituted under clause (1) of article 344 and the report of the Committee constituted under clause (4) of that article.

Chapter IV {Special Directives}**Article 350 Language to be used in representations for redress of grievances**

Every person shall be entitled to submit a representation for the redress of any grievance to any officer or authority of the Union or a State in any of the languages used in the Union or in the State, as the case may be.

Article 350A {Facilities for instruction in mother-tongue at primary stage }

It shall be the endeavor of every State and of every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups and the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities.

Article 350B {Special Officer for linguistic minorities }

- There shall be a Special Officer for linguistic minorities to be appointed by the President.
- It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for linguistic minorities under this Constitution and report to the President upon those matters at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament, and sent to the Government of the States concerned.

Article 351 {Directive for development of the Hindi language }

It shall be the duty of the Union to promote the spread of the Hindi language, to develop it so that it may serve as a medium of expression for all the elements of the composite culture of India and to secure its enrichment by assimilating without interfering with its genius, the forms, style and expressions used in Hindustani and in the other languages of India specified in the Eighth Schedule, and by drawing, wherever necessary or desirable, for its vocabulary, primarily on Sanskrit and secondarily on other languages.

Indian Polity – Part 22

22] Emergency Provisions

Notes

Emergency Provisions Notes - Part XVIII

Article 352 {Proclamation of Emergency}

- If the President is satisfied that a grave emergency exists where by the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or armed rebellion, he may, by proclamation, make a declaration to that effect in respect of the whole of India or of such part of the territory thereof as may be specified in the proclamation. President can declare the emergency.
- A Proclamation issued under clause (1) may be varied or revoked by a subsequent Proclamation.
- The President shall not issue a Proclamation under clause (1) or a Proclamation varying such Proclamation unless the decision of the Union cabinet (that is to say, the Council consisting of the Prime Minister and other Ministers of Cabinet rank appointed under article 75) that such a Proclamation may be issued has been communicated to him in writing.
- Every Proclamation issued under this article shall be laid before each House of Parliament and shall, except where it is a Proclamation revoking a previous Proclamation, cease to operate at the expiration of one month unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament
- Provided that if any such Proclamation (not being a Proclamation revoking a previous Proclamation) is issued at a time when the House of the People has been dissolved, or the dissolution of the House of the People takes place during

the period of one month referred to in this clause, and if a resolution approving the Proclamation has been passed by the Council of States, but no resolution with respect to such Proclamation has been passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution, unless before the expiration of the said period of thirty days a resolution approving the Proclamation has been also passed by the House of the People.

- A Proclamation so approved shall, unless revoked, cease to operate on the expiration of a period of six months from the date of the passing of the second of the resolutions approving the Proclamation under clause (4):
 - ✓ Provided that if and so often as a resolution approving the continuance in force of such a Proclamation is passed by both Houses of Parliament the Proclamation shall, unless revoked, continue in force for a further period of six months from the date on which it would otherwise have ceased to operate under this clause:
 - ✓ Provided further that if the dissolution of the House of the People takes place during any such period of six months and a resolution approving the continuance in force of such Proclamation has been passed by the Council of States but no resolution with respect to the continuance in force of such Proclamation has been passed by the house of the people during the said period, the proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days, a resolution approving the continence in force of the Proclamation has been also passed by the House of the People.
- For the purposes of clauses (4) and (5), a resolution may be passed by either House of Parliament only by a majority of the total membership of that House

and by a majority of not less than two-thirds of the members of that House present and voting.

- During emergency proclamation the state government will not function temporarily.
- Where a notice in writing signed by not less than one-tenth of the total number of members of the House of the People has been given, of their intention to move a resolution for disapproving, or, as the case may be, for disapproving the continuance in force of, a Proclamation issued under clause (1) or a Proclamation varying such Proclamation, -
 - ✓ To the Speaker, if the House is in session; or
 - ✓ To the President, if the House is not in session, a special sitting on the House shall be held within fourteen days from the date on which such notice is received by the Speaker, or, as the case may be, by the President, for the purpose of considering such resolution.
- The power conferred on the President by this article shall include the power to issue different Proclamations on different grounds, being war or external aggression or armed rebellion or imminent danger of war or external aggression or armed rebellion, whether or not there is a Proclamation already issued by the President under clause (1) and such Proclamation is in operation.
- To avoid further misuse of this provision as it happened in 1971 under Indira Gandhi. This type of Emergency has been proclaimed three times in 1962, 1971, and 1975. Emergency in 1962 and 1971 were made on the ground of “External Aggression” and in 1975 was made on the ground of “Internal disturbance”.

Article 353 {Effect of Proclamation of Emergency}

- While a Proclamation of Emergency is in operation, then -

- ✓ Notwithstanding anything in this Constitution, the executive power of the Union shall extend to the giving of directions to any State as to the manner in which the executive power thereof is to be exercised;
- ✓ Provided that where a Proclamation of Emergency is in operation only in any part of the territory of India, -
 - (i) The executive power of the Union to give directions under clause (a), and
 - (ii) The power of Parliament to make laws under clause (b), shall also extend to any State other than a State in which or in any part of which the Proclamation of Emergency is in operation if and in so far as the security of India or any part of the territory thereof is threatened by activities in or in relation to the part of the territory of India in which the Proclamation of Emergency is in operation.

Article 354 {Application of provisions relating to distribution of revenues while a Proclamation of Emergency is in operation}

- The President may, while a Proclamation of Emergency is in operation, by order direct that all or any of the provisions of articles 268 to 279 shall for such period, not extending in any case beyond the expiration of the financial year in which such Proclamation ceases to operate, as may be specified in the order, have effect subject to such exceptions or modifications as he thinks fit.
- Every order made under clause (1) shall, as soon as may be after it is made, be laid before each House of Parliament.

Article 355 {Duty of the Union to protect States against external aggression and internal disturbance}

It shall be the duty of the Union to protect every State against external aggression and internal disturbance and to ensure that the government of every State is carried on in accordance with the provisions of this Constitution.

Article 356 {Provisions in case of failure of constitutional machinery in States}

- If the President, on receipt of a report from the Governor of a State or otherwise, is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of this Constitution, the President may by Proclamation -
 - ✓ Assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor or anybody or authority in the State other than the Legislature of the State;
 - ✓ Declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament;
 - ✓ Provided that nothing in this clause shall authorize the President to assume to himself any of the powers vested in or exercisable by a High Court, or to suspend in whole or in part the operation of any provision of this Constitution relating to High Courts.
- Any such Proclamation may be revoked or varied by a subsequent Proclamation.
- Every Proclamation under this article shall be laid before each House of Parliament and shall, except where it is a Proclamation revoking a previous Proclamation, cease to operate at the expiration of two months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament: Provided that if any such Proclamation (not being a Proclamation revoking a previous Proclamation) is issued at a time when the House of the People is dissolved or the dissolution of the House of the People

takes place during the period of two months referred to in this clause, and if a resolution approving the Proclamation has been passed by the Council of States, but no resolution with respect to such Proclamation has been passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the Proclamation has been also passed by the House of the People.

- A Proclamation so approved shall, unless revoked, cease to operate on the expiration of a period of six months from the date of issue of the Proclamation:
 - ✓ Provided that if and so often as a resolution approving the continuance in force of such a Proclamation is passed by both Houses of Parliament, the Proclamation shall, unless revoked, continue in force for a further period of six months from the date on which under this clause it would otherwise have ceased to operate, but no such Proclamation shall in any case remain in force for more than three years:
 - ✓ Provided also that in the case of the Proclamation issued under clause (1) on the 11th day of May, 1987 with respect to the State of Punjab the reference in the first provision to this clause to "three years" shall be construed as a reference to Five years.
- Notwithstanding anything contained in clause (4), a resolution with respect to the continuance in force of a Proclamation approved under clause (3) for any period beyond the expiration of one year from the date of issue of such Proclamation shall not be passed by either House of Parliament unless -

Article 357 {Exercise of legislative powers under Proclamation issued under article 356}

- Where by a Proclamation issued under clause (1) of article 356, it has been declared that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament, it shall be competent -
 - ✓ For Parliament to confer on the President the power of the Legislature of the State to make laws, and to authorize the President to delegate, subject to such conditions as he may think fit to impose, the power so conferred to any other authority to be specified by him in that behalf;
 - ✓ For Parliament, or for the President or other authority in whom such power to make laws is vested under sub-clause (a), to make laws conferring powers and imposing duties, or authorizing the conferring of powers and the imposition of duties, upon the Union or officers and authorities thereof;
 - ✓ For the President to authorize when the House of the People is not in session expenditure from the Consolidated Fund of the State pending the sanction of such expenditure by Parliament.
- Any law made in exercise of the power to the Legislature of the State by Parliament or the President or other authority referred to in sub-clause (a) of clause (1) which Parliament or the President or such other authority would not, but for the issue of a Proclamation under article 356, have been competent to make shall, after the Proclamation has ceased to operate, continue in force until altered or repealed or amended by a competent Legislature or other authority.

Article 358 {Suspension of provisions of article 19 during emergencies}

- While a Proclamation of Emergency declaring that the security of India or any part of the territory thereof is threatened by war or by external aggression is in operation, nothing in article 19 shall restrict the power of the State as defined in Part III to make any law or to take any executive action which the

State would but for the provisions contained in that Part be competent to make or to take, but any law so made shall, to the extent of the incompetency, cease to have effect as soon as the Proclamation ceases to operate, except as respects things done or omitted to be done before the law so ceases to have effect

- Nothing in clause (1) shall apply -
 - ✓ To any law which does not contain a recital to the effect that such law is in relation to the Proclamation of Emergency in operation when it is made; or
 - ✓ To any executive action taken otherwise than under a law containing such a recital.

Article 359 {Suspension of the enforcement of the rights conferred by Part III during emergencies}

- Where a Proclamation of Emergency is in operation, the President may by order declare that the right to move any court for the enforcement of such of the rights conferred by Part III (except articles 20 and 21) as may be mentioned in the order and all proceedings pending in any court for the enforcement of the rights so mentioned shall remain suspended for the period during which the Proclamation is in force or for such shorter period as may be specified in the order.
- While an order made under clause (1) mentioning any of the rights conferred by Part III (except articles 20 and 21) is in operation, nothing in that Part conferring those rights shall restrict the power of the State as defined in the said Part to make any law or to take any executive action which the State would but for the provisions contained in that Part be competent to make or to take, but any law so made shall, to the extent of the incompetency, cease to have effect as soon as the order aforesaid ceases to operate, except as respects things done or omitted to be done before the law so ceases to have effect

- Nothing in clause (1A) shall apply -
 - ✓ To any law which does not contain a recital to the effect that such law is in relation to the Proclamation of Emergency in operation when it is made; or
 - ✓ To any executive action taken otherwise than under a law containing such a recital.
- An order made as aforesaid may extend to the whole or any part of the territory of India: Provided that where a Proclamation of Emergency is in operation only in a part of the territory of India, any such order shall not extend to any other part of the territory of India unless the President, being satisfied that the security of India or any part of the territory thereof is threatened by activities in or in relation to the part of the territory of India in which the Proclamation of Emergency is in operation, considers such extension to be necessary.
- Every order made under clause (1) shall, as soon as may be after it is made, be laid before each House of Parliament.

Article 359A {Application of this Part to the State of Punjab}

Repealed

Article 360 {Provisions as to financial emergency}

- If the President is satisfied that a situation has arisen whereby the financial stability or credit of India or of any part of the territory thereof is threatened, he may by a Proclamation make a declaration to that effect.
- A Proclamation issued under clause (1) -
 - ✓ May be revoked or varied by a subsequent Proclamation;
 - ✓ Shall be laid before each House of Parliament;

- ✓ Shall cease to operate at the expiration of two months, unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament: Provided that if any such Proclamation is issued at a time when the House of the People has been dissolved or the dissolution of the House of the People takes place during the period of two months referred to in sub-clause (c), and if a resolution approving the Proclamation has been passed by the Council of States, but no resolution with respect to such Proclamation has been passed by the House of the People before the expiration of that period, the proclamation shall cease to operate at the expiration of thirty days from the date on which the house of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the Proclamation has been also passed by the House of the People.
- Administration department has most power during the emergency proclamation.
- Till now financial emergency is not passed.
- Notwithstanding anything in this constitution -
 - ✓ It shall be competent for the President during the period any Proclamation issued under this article is in operation to issue directions for the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of the Union including the Judges of the Supreme Court and the High Courts.

44th Constitutional Amendment, 1978

The 44th amendment to the Indian Constitution was passed after the revocation of internal emergency in 1977. It annulled many anti-democratic provisions of the 42nd amendment enacted during the emergency. It also tried to ensure that in future, an

emergency would not be easily imposed, also added some features to prevent any future misuse of power.

Important changes made are as follows-

- Article 20 & Article 21 will be never suspended even during emergency and other fundamental rights won't suspend automatically, it needs separate order by president.
- Proclamation of Emergency requires "written advise" of the cabinet and not the prime minister alone.
- Proclamation of Emergency has to be approved within one month of the reassembly of Parliament.
- Term 'Internal disturbances' was replaced with 'armed rebellion' as a cause for imposing emergency.
- Special Session of Lok Sabha can be called if 1/10 member request the President for the purpose of revoking the emergency. Revoking of emergency can be done by simple majority.
- President allowed to return once the advice tendered by the Council of Ministers for their review.
- Restored the term of Lok Sabha and State Legislative Assembly to original terms (i.e 5 Years)
- Emergency Provisions are made subject to challenge in court and also made certain procedural safeguards with respect to national emergency and President's rule.
- Deleted the provision which made the satisfaction of the President, Governor and administrators final issuing ordinances.
- Omitted the provisions which took away the power of court to decide the election disputes of the president, Prime-minister, the speaker etc.
- Article 31, the Right to Property taken out of Fundamental Rights.

- Within 14 days the disapproval of the Emergency with the special sitting of the House.

Indian Polity - Part 23

23] Constitutional Amendment

Notes

Constitutional Amendment - Part XX Notes

Article 368 {Power of Parliament to amend the Constitution and procedure therefore}

- Constitutional amendment is the protector of the constitution. The article 368 of the constitutional amendment is borrowed from South Africa. There are three types of amendment in the Indian Constitution. The power extension of the center and State administration. Articles related to Supreme court and High Courts. Article related to the Legislative power distribution between Center and States.
- Notwithstanding anything in this Constitution, Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this article. Parliament has the power to amend the constitution.
- An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President who shall give his assent to the Bill and thereupon the Constitution shall stand amended in accordance with the

terms of the Bill: Provided that if such amendment seeks to make any change in -

- ✓ Article 54, article 55, article 73, article 162 or article 241, or
- ✓ Chapter IV of Part V, Chapter V of Part VI, or Chapter I of Part XI, or
- ✓ Any of the Lists in the Seventh Schedule, or
- ✓ The representation of States in Parliament, or
- ✓ The provisions of this article, the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent.
- ✓ In Rajya Sabha the amendment bill is introduced.
- ✓ Individual Majority and acceptance of state constitution is required for the processed for the changes of Presidential election and amendment for the seventh schedule.
- ✓ Simple majority is required to pass the Constitutional amendment for about Citizenship act.
- ✓ In the Indian Constitutional Amendment the Individual majority is Not less than three of two part members.
- ✓ Simple majority is required for the articles 4 , 5 , 6.
- Nothing in article 13 shall apply to any amendment made under this article.
- {No amendment of this Constitution (including the provisions of Part III) made or purporting to have been made under this article whether before or after the commencement of section 55 of the Constitution (Forty-second Amendment) Act, 1976 shall be called in question in any court on any ground.} Invalidated by the Sup. Court ruling on Minerva Mills Ltd. and Others Vs. Union of India.
- {For the removal of doubts, it is hereby declared that there shall be no limitation whatever on the constituent power of Parliament to amend by way

of addition, variation or repeal the provisions of this Constitution under this article.) Invalidated by the Sup. Court ruling on *Minerva Mills Ltd. and Others Vs. Union of India*. Article 368 {Power of Parliament to amend the Constitution and procedure therefore}

Indian Polity - Part 24

24] Temporary, Transitional and Special Provisions

Temporary, Transitional and Special Provisions - Part XXI Notes

Article 369 {Temporary power to Parliament to make laws with respect to certain matters in the State List as if they were matters in the Concurrent List}

- Notwithstanding anything in this Constitution, Parliament shall, during a period of five years from the commencement of this Constitution, have power to make laws with respect to the following matters as if they were enumerated in the Concurrent List, namely: -
 - ✓ Trade and commerce within a State in, and the production, supply and distribution of, cotton and woollen textiles, raw cotton (including ginned cotton and unginned cotton or kapas), cotton seed, paper (including newsprint), food-stuffs (including edible oilseeds and oil), cattle fodder (including oil-cakes and other concentrates), coal (including coke and derivatives of coal), iron, steel and mica;
 - ✓ Offences against laws with respect to any of the matters mentioned in clause (a), jurisdiction and powers of all courts except the Supreme Court with respect to any of those matters, and fees in respect of any of those matters but not including fees taken in any court, but any law made by Parliament, which Parliament would not but for the provisions of this article have been competent to make, shall, to the extent of the incompetency, cease to have effect on the expiration of the said period,

except as respects things done or omitted to be done before the expiration therefore.

Article 370 {Temporary provisions with respect to the State of Jammu and Kashmir}

- Notwithstanding anything contained in this Constitution,—
 - ✓ The provisions of article 238 shall not apply in relation to the state of Jammu and Kashmir;
 - ✓ The power of Parliament to make laws for the said state shall be limited to—
 - (i) Those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State; and
 - (ii) Such other matters in the said Lists as, with the concurrence of the Government of the State, the President may by order specify.

Article 371 {Special provision with respect to the States of Maharashtra and Gujarat}

- Notwithstanding anything in this Constitution, the President may by order made with respect to the State of Maharashtra or Gujarat, provided for any special responsibility of the Governor for -
 - ✓ The establishment of separate development boards for Vidarbha, Marathwada, and the rest of Maharashtra or, as the case may be, Saurashtra, Kutch and the rest of Gujarat with the provision that a report on the

working of each of these boards will be placed each year before the State Legislative Assembly;

- ✓ The equitable allocation of funds for developmental expenditure over the said areas, subject to the requirements of the State as a whole; and
- ✓ An equitable arrangement providing adequate facilities for technical education and vocational training, and adequate opportunities for employment in services under the control of the State Government, in respect of all the said areas, subject to the requirements of the State as a whole.

Article 371A {Special provision with respect to the State of Nagaland}

- Notwithstanding anything in this Constitution, -
 - ✓ No Act of Parliament in respect of -
 - (i) Religious or social practices of the Nagas,
 - (ii) Naga customary law and procedure,
 - (iii) Administration of civil and criminal justice involving decisions according to Naga customary law,
 - (iv) Ownership and transfer of land and its resources, shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides;

Article 371B {Special provision with respect to the State of Assam}

Notwithstanding anything in this Constitution, the President may, by order made with respect to the State of Assam, provide for the constitution and functions of a committee of the Legislative Assembly of the State consisting of members of that Assembly elected from the tribal areas specified in Part I of the table appended to

paragraph 20 of the Sixth Schedule and such number of other members of that Assembly as may be specified in the order and for the modifications to be made in the rules of procedure of that Assembly for the constitution and proper functioning of such committee.

Article 371C {Special provision with respect to the State of Manipur}

- Notwithstanding anything in this Constitution, the President may, by order made with respect to the State of Manipur, provide for the constitution and functions of a committee of the Legislative Assembly of the State consisting of members of that Assembly elected from the Hill Areas of that State, for the modifications to be made in the rules of business of the Government and in the rules of procedure of the Legislative Assembly of the State and for any special responsibility of the Governor in order to secure the proper functioning of such committee.

Article 371D {Special provisions with respect to the State of Andhra Pradesh}

- The President may by order made with respect to the State of Andhra Pradesh provide, having regard to the requirements of the State as a whole, for equitable opportunities and facilities for the people belonging to different parts of the State, in the matter of public employment and in the matter of education, and different provisions may be made for various parts of the State.
- The President may, by order, provide for the constitution of an Administrative Tribunal for the State of Andhra Pradesh to exercise such jurisdiction, powers and authority including any jurisdiction, power and authority which immediately before the commencement of the Constitution (Thirty-second Amendment) Act, 1973, was exercisable by any court (other than the Supreme Court) or by any tribunal or other authority as may be specified in the order with respect to the following matters, namely: -

- ✓ Appointment, allotment or promotion to such class or classes of posts in any civil service of the State, or to such class or classes of civil posts under the State, or to such class or classes of posts under the control of any local authority within the State, as may be specified in the order;
- Notwithstanding any judgment, decree or order of any court, tribunal or other authority, -
 - ✓ No appointment, posting, promotion or transfer of any person -
 - (i) Made before the 1st day of November, 1956, to any post under the Government of, or any local authority within, the State of Hyderabad as it existed before that date; or
 - (ii) Made before the commencement of the Constitution (Thirty-second Amendment) Act, 1973, to any post under the Government of, or any local or other authority within, the State of Andhra Pradesh; and
- The provisions of this article and of any order made by the President there under shall have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.

Article 371E {Establishment of Central University in Andhra Pradesh}

Parliament may by law provide for the establishment of a University in the State of Andhra Pradesh.

Article 371F {Special provisions with respect to the State of Sikkim}

- Notwithstanding anything in this Constitution, -
 - ✓ The Legislative Assembly of the State of Sikkim shall consist of not less than thirty members;

- ✓ As from the date of commencement of the Constitution (Thirty-sixth Amendment) Act, 1975 (hereafter in this article referred to as the appointed day) -
 - (i) The Assembly for Sikkim formed as a result of the elections held in Sikkim in April, 1974 with thirty-two members elected in the said elections (hereinafter referred to as the sitting members) shall be deemed to be the Legislative Assembly of the State of Sikkim duly constituted under this Constitution;
 - (ii) The sitting members shall be deemed to be the members of the Legislative Assembly of the State of Sikkim duly elected under this Constitution; and
 - (iii) The said Legislative Assembly of the State of Sikkim shall exercise the powers and perform the functions of the Legislative Assembly of a State under this Constitution;

Article 371G {Special provision with respect to the State of Mizoram}

- Notwithstanding anything in this Constitution, -
 - ✓ No Act of Parliament in respect of -
 - (i) Religious or social practices of the Mizos.
 - (ii) Mizo customary law and procedure,
 - (iii) Administration of civil and criminal justice involving decisions according to Mizo customary law, Provided that nothing in this clause shall apply to any Central Act in force in the Union territory of Mizoram immediately before the commencement of the Constitution (Fifty-third Amendment) Act, 1986;

Article 371H {Special provision with respect to the State of Arunachal Pradesh}

- Notwithstanding anything in this Constitution, -

- ✓ The governor of Arunachal Pradesh shall have special responsibility with respect to law and order in the state of Arunachal Pradesh and in the discharge of his functions in relation thereto, the Governor shall, after consulting the Council of Ministers, exercise his individual judgment as to the action to be taken: Provided that if any question arises whether any matter is or is not a matter as respects which the Governor is under this clause required to act in the exercise of his individual judgment, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in the exercise of his individual judgment.
- ✓ The Legislative Assembly of the State of Arunachal Pradesh shall consist of not less than thirty members.

Article 371I {Special provision with respect to the State of Goa}

Notwithstanding anything in this Constitution, the Legislative Assembly of the State of Goa shall consist of not less than thirty members.

98th Constitutional Amendment 2012 Constitutional Amendment added the Article - 371 -J.

Article 372 {Continuance in force of existing laws and their adaptation}

- Notwithstanding the repeal by this Constitution of the enactments referred to in article 395 but subject to the other provisions of this Constitution, all the law in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a competent Legislature or other competent authority.

Article 372A {Power of the President to adapt laws}

- For the purposes of bringing the provisions of any law in force in India or in any part thereof, immediately before the commencement of the Constitution (Seventh Amendment) Act, 1956, into accord with the provisions of this Constitution as amended by that Act, the President may by order made before the first day of November, 1957, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law.

Article 373 {Power of President to make order in respect of persons under preventive detention in certain cases}

Until provision is made by Parliament under clause (7) of article 22, or until the expiration of one year from the commencement of this Constitution, whichever is earlier, the said article shall have effect as if for any reference to Parliament in clauses (4) and (7), thereof there were substituted a reference to the President and for any reference to any law made by Parliament in those clauses there were substituted a reference to an order made by the President.

Article 374 {Provisions as to Judges of the Federal Court and proceedings pending in the Federal Court or before His Majesty in Council}

- The Judges of the Federal Court holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become on such commencement the Judges of the Supreme Court and shall thereupon be entitled to such salaries and allowances and to such rights in respect of leave of absence and pension as are provided for under article 125 in respect of the Judges of the Supreme Court.

Article 375 {Courts, authorities and officers to continue to function subject to the provisions of the Constitution}

All courts of civil, criminal and revenue jurisdiction, all authorities and all officers, judicial, executive and ministerial, throughout the territory of India, shall continue to exercise their respective functions subject to the provisions of this Constitution.

Article 376 {Provisions as to Judges of High Courts}

- Notwithstanding anything in clause (2) of article 217, the Judges of a High Court in any Province holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become on such commencement the Judges of the High Court in the corresponding State, and shall thereupon be entitled to such salaries and allowances and to such rights in respect of leave of absence and pension as are provided for under article 221 in respect of the Judges of such High Court. Any such Judge shall, notwithstanding that he is not a citizen of India, be eligible for appointment as Chief Justice of such High Court, or as Chief Justice or other Judge of any other High Court.

Article 377 {Provisions as to Comptroller and Auditor-General of India}

The Auditor-General of India holding office immediately before the commencement of this Constitution shall, unless he has elected otherwise, become on such commencement the Comptroller and Auditor-General of India and shall thereupon be entitled to such salaries and to such rights in respect of leave of absence and pension as are provided for under clause (3) of article 148 in respect of the Comptroller and Auditor-General of India and be entitled to continue to hold office until the expiration of his term of office as determined under the provisions which were applicable to him immediately before such commencement.

Article 378 {Provisions as to Public Commissions}

- The members of the Public Service Commission for the Dominion of India holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become on such commencement the members of the Public Service Commission for the Union and shall, notwithstanding anything in clause (1) and (2) of article 316 but subject to the proviso to clause (2) of that article, continue to hold office until the expiration of their term of office as determined under the rules which were applicable immediately before such commencement to such members.

Article 378A {Special provisions as to duration of Andhra Pradesh Legislative Assembly}

Notwithstanding anything contained in article 172, the Legislative Assembly of the State of Andhra Pradesh as constituted under the provisions of sections 28 and 29 of the States Reorganization Act, 1956, shall, unless sooner dissolved, continue for a period of five years from the date referred to in the said section 29 and no longer and the expiration of the said period shall operate as a dissolution of that Legislative Assembly.

Article 379 — Article 391

{ Articles 379 to 391 have been repealed in 1956. }

Article 392 {Power of the President to remove difficulties}

- The President may, for the purpose of removing any difficulties, particularly in relation to the transition from the provisions of the Government of India Act, 1935, to the provisions of this Constitution, by order direct that this Constitution shall, during such period as may be specified in the order, have effect subject

to such adaptations, whether by way of modification, addition or omission, as he may deem to be necessary or expedient:

- Every order made under clause (1) shall be laid before Parliament.
- The powers conferred on the President by this article, by article 324, by clause (3) of article 367 and by article 391 shall, before the commencement of this Constitution, be exercisable by the Governor-General of the Dominion of India.

Part XXII Short Title, Commencement, Authoritative Text in Hindi and Repeals

Indian Polity - Part 25

25] Short title, commencement, authoritative text in Hindi and repeals

Part XXII Short title, commencement, authoritative text in Hindi and repeals

Notes

Article 393

Short title.

Article 394

Commencement.

Article 394A

Authoritative text in the Hindi language.

Article 395

Repeals.

- Part 5, 6, 7 of the Indian Constitution is come into existence immediately.
- On 26.01.1950 the Indian Constitution came into force.

- Indian Independent act 1947 and were cancelled while Indian Constitution came into force Indian Government Act 1935.

Indian Polity - Part 26

26] Schedules

Notes

First Schedule

List of States & Union Territories . It contains (Articles 1 and 4).

Second Schedule

Salary of President, Governors, Chief Judges, Judges of High Court and Supreme court, Comptroller and Auditor General. It contains (Articles 59(3), 65(3), 75(6), 97, 125, 148(3), 158(3), 164(5), 186 and 221).

Third Schedule

Forms of Oaths and affirmations . It contains (Articles 75(4), 99, 124(6), 148(2), 164(3), 188 and 219).

Fourth Schedule

It contains (Articles 4(1) and 80(2)).Allocate seats for each state of India in Rajya Sabha. Maharashtra has the most number of rajya sabha seats.

Fifth Schedule

It contains (Article 244(1)). Administration and control of scheduled areas and tribes

Sixth Schedule

It contains (Articles 244(2) and 275(1)). Provisions for administration of Tribal Area in Assam, Meghalaya, Tripura, Mizoram & Arunachal Pradesh

Seventh Schedule

It contains (Article 246). Gives allocation of powers and functions between Union & States. It contains 3 lists

Union List (For central Government):

The Union List or List-I is a list of 100 numbered items (the last item is numbered 97) given in Seventh Schedule in the Constitution of India on which Parliament has exclusive power to legislate.

The following are the Subjects defined and enlisted under the List - I of the Seventh Schedule of the Constitution of India, which form the exclusive domain of the Central Government of the Union of India excluding all the states and the union territories.

1. Defence of India and every part thereof including preparation for defence and all such acts as may be conducive in times of war to its prosecution and after its termination to effective demobilisation.

2. Naval, military and air forces; any other armed forces of the Union.

2-A) Deployment of any armed force of the Union or any other force subject to the control of the Union or any contingent or unit thereof in any State in aid of the civil power; powers, jurisdiction, privileges and liabilities of the members of such forces while on such deployment.

3. Delimitation of cantonment areas, local self-government in such areas, the constitution and powers within such areas of cantonment authorities and the regulation of house accommodation (including the control of rents) in such areas.

4. Naval, military and air force works.
5. Arms, firearms, ammunition and explosives.
6. Atomic energy and mineral resources necessary for its production.
7. Industries declared by Parliament by law to be necessary for the purpose of defence or for the prosecution of war.
8. Central Bureau of Intelligence and Investigation.
9. Preventive detention for reasons connected with Defence, Foreign Affairs, or the security of India; persons subjected to such detention.
10. Foreign affairs; all matters which bring the Union into relation with any foreign country.
11. Diplomatic, consular and trade representation.
12. United Nations Organisation.
13. Participation in international conferences, associations and other bodies and implementing of decisions made thereat.
14. Entering into treaties and agreements with foreign countries and implementing of treaties, agreements and conventions with foreign Countries.
15. War and peace.
16. Foreign jurisdiction.
17. Citizenship, naturalisation and aliens.
18. Extradition.
19. Admission into, and emigration and expulsion from, India; passports and visas.

20. Pilgrimages to places outside India.
21. Piracies and crimes committed on the high seas or in the air; offences against the law of nations committed on land or the high seas or in the air.
22. Railways.
23. Highways declared by or under law made by Parliament to be national highways.
24. Shipping and navigation on inland waterways, declared by Parliament by law to be national waterways, as regards mechanically propelled vessels; the rule of the road on such waterways
25. Maritime shipping and navigation, including shipping and navigation on tidal waters; provision of education and training for the mercantile marine and regulation of such education and training provided by States and other agencies.
26. Lighthouses, including lightships, beacons and other provision for the safety of shipping and aircraft.
27. Ports declared by or under law made by Parliament or existing law to be major ports, including their delimitation, and the constitution and powers of port authorities therein.
28. Port quarantine, including hospitals connected therewith; seamen's and marine hospitals.
29. Airways aircraft and air navigation; provision of aerodromes; regulation and organisation of air traffic, and of aerodromes; provision for aeronautical education and training and regulation of such education and training provided by States and other agencies.
30. Carriage of passengers and goods by railway, sea or air, or by national waterways in mechanically propelled vessels.

31. Posts and telegraphs, telephones, wireless, broadcasting and other like forms of communication.
32. Property of the Union and the revenue therefrom, but as regards property situated in a State subject to legislation by the State, save in so far as Parliament by law otherwise provides.
33. Omitted
34. Courts of wards for the estates of Rulers of Indian States.
35. Public debt of the Union.
36. Currency, coinage and legal tender; foreign exchange.
37. Foreign loans.
38. Reserve Bank of India.
39. Post Office Savings Bank.
40. Lotteries organised by the Government of India or the Government of a State.
41. Trade and commerce with foreign countries import and export across customs frontiers definition of customs frontiers.
42. Inter-State trade and commerce.
43. Incorporation, regulation and winding up of trading Corporations, including banking, insurance and financial corporations but not including Co-operative Societies.
44. Incorporation, regulation and winding up of corporations, whether trading or not, with objects not confined to one State, but not including universities.
45. Banking.

46. Bills of exchange, cheques, promissory notes and other like instruments.
47. Insurance.
48. Stock exchanges and futures markets.
49. Patents, inventions and designs; copyright; trade-marks and merchandise marks.
50. Establishment of standards of weight and measure.
51. Establishment of standards of quality for goods to be exported out of India or transported from one State to another.
52. Industries, the control of which by the Union is declared by Parliament by law to be expedient in the public interest.
53. Regulation and development of oilfields and mineral oil resources; petroleum and petroleum products; other liquids and substances declared by Parliament by law to be dangerously inflammable.
54. Regulation of mines and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.
55. Regulation of labour and safety in mines and oil-fields.
56. Regulation and development of inter-State rivers and river valleys to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.
57. Fishing and fisheries beyond territorial waters.
58. Manufacture, supply and distribution of salt by Union agencies; regulations and control of manufacture, supply and distribution of salt by other agencies.

59. Cultivation, manufacture, and sale for export, of opium.

60. Sanctioning of cinematograph films for exhibition.

61. Industrial disputes concerning Union employees.

62. The institutions known at the commencement of this Constitution as the National Library, the Indian Museum, the Imperial War Museum, the Victoria Memorial and the Indian War Memorial, and any other like institution financed by the Government of India wholly or in part and declared by Parliament by law to be an institution of national importance.

63. The institutions known at the commencement of this Constitution as the Benares Hindu University, the Aligarh Muslim University and the Delhi University; the University established in pursuance of Article 371-E; any other institution declared by Parliament by law to be an institution of national importance.

64. Institutions for scientific or technical education financed by the Government of India wholly or in part and declared by Parliament by law to be institutions of national importance.

65. Union agencies and institutions for -

(a) Professional, vocational or technical training, including the training of police officers; or

(b) The promotion of special studies or research; or

(c) Scientific or technical assistance in the investigation or detection of crime.

66. Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.

67. Ancient and historical monuments and records, and archaeological sites and remains, declared by or under law made by Parliament to be of national importance.
68. The Survey of India, the Geological, Botanical, Zoological and Anthropological Surveys of India; Meteorological organisations.
69. Census.
70. Union public services; all-India services; Union Public Service Commission.
71. Union Pensions, that is to say, pensions payable by the Government of India or out of the Consolidated Fund of India.
72. Elections to Parliament, to the Legislatures of States and to the offices of President and Vice-President; the Election Commission.
73. Salaries and allowances of members of Parliament, the Chairman and Deputy chairman of the Council of States and the Speaker and Deputy Speaker of the House of the People.
74. Powers, privileges and Immunities of each House of Parliament and of the members and the Committees of each House enforcement of attendance of persons for giving evidence or producing documents before committees of Parliament or commissions appointed by Parliament.
75. Emoluments, allowances, privileges, and rights in respect of leave of absence, of the President and Governors salaries and allowances of the Ministers for the Union; the Salaries, allowances, and rights in respect of leave of absence and other conditions of service of the Comptroller and Auditor-General.
76. Audit of the accounts of the Union and of the States.

77. Constitution, organisation, jurisdiction and powers of the Supreme Court (including contempt of such Court). and the fees taken therein persons entitled to practice before the Supreme Court.

78. Constitution and organisation (including vacations) of the High Courts except provisions as to officers and servants of High Courts; persons entitled to practice before the High Courts.

79. Extensions of the jurisdiction of a High Court to, and exclusion of the jurisdiction of a High Court from any Union territory.

80. Extension of the powers and jurisdiction of members of a police force belonging to any State to any area outside that State, but not so as to enable the police of one State to exercise powers and jurisdiction in any area outside that State without the consent of the Government of the State in which such area is situated; extension of the powers and jurisdiction of members of a police force belonging to any State to railway areas outside that State.

81. Inter-state migration; inter-State quarantine.

82. Taxes on income other than agricultural income.

83. Duties of customs including export duties.

84. Duties of excise on tobacco and other goods manufactured or produced in India except -

(a) Alcoholic liquors for human consumption

(b) Opium, Indian hemp and other narcotic drugs and narcotics; but including medicinal and toilet preparations containing alcohol or any substance included in subparagraph (b) of this entry.

85. Corporation tax.

86. Taxes on the capital value of the assets, exclusive of agricultural land. of individuals and companies; taxes on the capital of companies.
87. Estate duty in respect of property other than agricultural land.
88. Duties in respect of succession to property other than agricultural land.
89. Terminal taxes on goods or passengers, carried by railway, sea or air; taxes on railway fares and freights.
90. Taxes other than stamp duties on transactions in stock exchanges and futures markets.
91. Rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts.
92. Taxes on the sale or purchase of newspapers and on advertisements published therein.
- 92-A) Taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce.
93. Offences against laws with respect to any of the matters in this List.
94. Inquiries, surveys and statistics for the purpose of any of the matters in this List.
95. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List admiralty jurisdiction.
96. Fees in respect of any of the matters in this List, but not including fees taken in any court.
97. Any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists

States List (Powers of State Government):

The State List or List-II is a list of 61 items (Initially there were 66 items in the list) in Schedule Seven to the Constitution of India.

The following are the Subjects defined and enlisted under the List - II of the Seventh Schedule of the Constitution of India, which form the exclusive domain of each one of the State Governments within India, and thus effectively ousting the domain of the Central (Union) Government in framing laws under these subjects.

1. Public order (but not including [the use of any naval, military or air force or any other armed force or the Union or of any other force subject to the control of the Union or of any contingent or unit thereof] in aid of the civil power).
2. Police (including railway and village police) subject to the provisions of Entry 2-A of List-I.
3. Officers and servants of the High Court; procedure in rent and revenue courts; fees taken in all courts except the Supreme Court.
4. Prisons, reformatories, Borstal institutions and other institutions of a like nature and persons detained therein; arrangements with other States for the use of prisons and other institutions.
5. Local government, that is to say, the constitution and powers of municipal corporations, improvement trusts, district boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration.
6. Public health and sanitation; hospitals and dispensaries.
7. Pilgrimages, other than pilgrimages to places outside India.

8. Intoxicating liquors, that is to say, the production, manufacture, transport, purchase and sale of intoxicating liquors.
9. Relief for the disabled and unemployable.
10. Burials and burial grounds; cremations and cremation grounds.
11. Omitted.
12. Libraries, museums and other similar institutions controlled or financed by the State ancient and historical monuments and records other than those [declared by or under law made by Parliament] to be of national importance.
13. Communications, that is to say, roads, bridges, ferries, and other means of communication not specified in List I; municipal tramways, ropeways inland waterways and traffic thereon subject to the provisions of List I and List III with regard to such water-ways; vehicles other than mechanically propelled vehicles.
14. Agriculture, including agricultural education and research; protection against pests and prevention of plant diseases.
15. Preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice.
16. Ponds and the prevention of cattle trespass.
17. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power subject to the provisions of Entry 56 of List I.
18. Land, that is to say, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans; colonization.
19. Omitted.

20. Omitted.
21. Fisheries.
22. Courts of wards; subject to the provisions of Entry 34 of List I; encumbered and attached estates.
23. Regulation of mines and mineral development subject to the provisions of List I with respect to regulation and development under the control of the Union.
24. Industries subject to the provisions of [Entries 7 and 52] of List 1.
25. Gas and gas-works.
26. Trade and commerce within the State subject to the provisions of Entry 33 of List III.
27. Production, supply and distribution of goods subject to the provisions of Entry 33 of List III.
28. Markets and fairs.
29. Omitted.
30. Money-lending and money-lenders; relief of agricultural indebtedness.
31. Inns and inn-keepers.
32. Incorporation, regulation and winding up of corporations, other than those specified in List I, and universities; unincorporated trading, literary, scientific, religious and other societies and associations; co-operative societies.
33. Theatres and dramatic performances; cinemas subject to the provisions of Entry 60 of List I; sports, entertainments and amusements.
34. Betting and gambling.

35. Works, lands and buildings vested in or in the possession of the State.
36. Omitted.
37. Elections to the Legislature of the State subject to the provisions of any law made by Parliament.
38. Salaries and allowances of members of the Legislature of the State, of the Speaker and Deputy Speaker of the Legislative Assembly and, if there is a Legislative Council, of the Chairman and Deputy Chairman thereof.
39. Powers, privileges and immunities of the Legislative Assembly and of the members and the committees thereof and, if there is a Legislative Council, of that Council and of the members and the committees thereof; enforcement of attendance of persons for giving evidence or producing documents before committees of the Legislature of the State.
40. Salaries and allowances of Ministers for the State.
41. State public services; State Public Service Commission.
42. State pensions, that is to say, pensions payable by the State or out of the Consolidated Fund of the State.
43. Public debt of the State.
44. Treasure trove.
45. Land revenue, including the assessment and collection of revenue, the maintenance of land records, survey for revenue purposes and records of rights, and alienation of revenues.
46. Taxes on agricultural income.
47. Duties in respect of succession to agricultural land.

48. Estate duty in respect of agricultural land.
49. Taxes on lands and buildings.
50. Taxes on mineral rights subject to any limitations imposed by Parliament by law relating to mineral development.
51. Duties of excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in India-
 - (a) Alcoholic liquors for human consumption
 - (b) Opium, Indian hemp and other narcotic drugs and narcotics but not including medicinal and toilet preparations containing alcohol or any substance included in subparagraph (b) of this entry.
52. Taxes on the entry of goods into a local area for consumption, use or sale therein.
53. Taxes on the consumption or sale of electricity.
54. Taxes on the sale or purchase of goods other than newspapers, subject to the provisions of Entry 92-A of List I.
55. Taxes on advertisements other than advertisements published in the newspapers and advertisements broadcast by radio or television.
56. Taxes on goods and passengers carried by road or on inland waterways.
57. Taxes on vehicles, whether mechanically propelled or not, suitable for use on roads, including tram-cars subject to the provisions of Entry 35 of List III.
58. Taxes on animals and boats.
59. Tolls.

60. Taxes on professions, trades, callings and employments.
61. Capitation taxes.
62. Taxes on luxuries, including taxes on entertainments, amusements, betting and gambling.
63. Rates of stamp duty in respect of documents other than those specified in the provisions of List I with regard to rates of stamp duty.
64. Offences against laws with respect to any of the matters in this list.
65. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this list.
66. Fees in respect of any of the matters in this list, but not including fees taken in any court.

Concurrent List (Both Union & States):

The Concurrent List or List-III(Seventh Schedule) is a list of 52 items (though the last item is numbered 47) given in the Seventh Schedule to the Constitution of India.It includes the power to be considered by both the central and state government.

The following are the Subjects defined and enlisted under the List - III of the Seventh Schedule of the Constitution of India, which form the joint domain of both the State Governments and the Union territories of India as well as the Central Government of India under these subjects.

1. Criminal law, including all matters included in the Indian Penal Code at the commencement of this Constitution but excluding offences against laws with respect to any of the matters specified in List I or List II and excluding the use of naval, military or air forces or any other armed forces of the Union in aid of the civil power.

2. Criminal procedure, including all matters included in the Code of Criminal Procedure at the commencement of this Constitution.
3. Preventive detention for reasons connected with the security of a State, the maintenance of public order, or the maintenance of supplies and services essential to the community; persons subjected to such detention.
4. Removal from one State to another State of prisoners, accused persons and persons subjected to preventive detention for reasons specified in Entry 3 of this list.
5. Marriage and divorce; infants and minors; adoption; wills, intestacy and succession; joint family and partition; all matters in respect of which parties in judicial proceedings were immediately before the commencement of this Constitution subject to their personal law.
6. Transfer of property other than agricultural land; registration of deeds and documents.
7. Contracts including partnership, agency, contracts of carriage, and other special forms of contracts, but not including contracts relating to agricultural land.
8. Actionable wrongs.
9. Bankruptcy and insolvency.
10. Trust and Trustees.
11. Administrators-general and official trustees.
- 11-A) Administration of justice; constitution and Organisation of all courts, except the Supreme Court and the High Courts.
12. Evidence and oaths; recognition of laws, public acts and records, and judicial proceedings.

13. Civil procedure, including all matters included in the Code of Civil Procedure at the commencement of this Constitution, limitation and arbitration.
14. Contempt of court, but not including contempt of the Supreme Court.
15. Vagrancy; nomadic and migratory tribes.
16. Lunacy and mental deficiency, including places for the reception or treatment of lunatics and mental deficient.
17. Prevention of cruelty to animals.
- 17-A) Forests.
- 17-B) Protection of wild animals and birds.
18. Adulteration of foodstuffs and other goods.
19. Drugs and poisons, subject to the provisions of Entry 59 of List I with respect to opium.
20. Economic and social planning.
- 20-A) Population control and family planning.
21. Commercial and industrial monopolies, combines and trusts.
22. Trade unions; industrial and labour disputes.
23. Social security and social insurance; employment and unemployment.
24. Welfare of labour including conditions of work, provident funds, employers' liability, workmen's compensation, invalidity and old age pensions and maternity benefits.

25. Education, including technical education, medical education and universities, subject to the provisions of Entries 63, 64, 65 and 66 of List I; vocational and technical training of labour.
26. Legal, medical and other professions.
27. Relief and rehabilitation of persons displaced from their original place of residence by reason of the setting up of the Dominions of India and Pakistan.
28. Charities and charitable institutions, charitable and religious endowments and religious institutions.
29. Prevention of the extension from one State to another of infectious or contagious diseases or pests affecting men, animals or plants.
30. Vital statistics including registration of births and deaths.
31. Ports other than those declared by or under law made by Parliament or existing law to be major ports.
32. Shipping and navigation on inland waterways as regards mechanically propelled vessels, and the rule of the road on such waterways, and the carriage of passengers and goods on inland waterways subject to the provisions of List I with respect to national waterways.
33. Trade and commerce in, and the production, supply and distribution of,-
 - (a) The products of any industry where the control of such industry by the Union is declared by Parliament by law to be expedient in the public interest, and imported goods of the same kind as such products
 - (b) Foodstuffs. Including edible oilseeds and oils
 - (c) Cattle fodder, including oilcakes and other concentrates

(d) Raw cotton, whether ginned or unginned, and cotton seed; and

(e) Raw jute.

33-A) Weights and measures except establishment of standards.

34. Price control.

35. Mechanically propelled vehicles including the principles on which taxes on such vehicles are to be levied.

36. Factories.

37. Boilers.

38. Electricity.

39. Newspapers, books and printing presses.

40. Archaeological sites and remains other than those 2b[declared by or under law made by Parliament to be of national importance.

41. Custody, management and disposal of property (including agricultural land) declared by law to be evacuee property.

42. Acquisition and requisitioning of property.

43. Recovery in a State of claims in respect of taxes and other public demands, including arrears of land-revenue and sums recoverable as such arrears, arising outside that State.

44. Stamp duties other than duties or fees collected by means of judicial stamps, but not including rates of stamp duty.

45. Inquiries and statistics for the purposes of any of the matters specified in List II or List III.

46. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List.

47. Fees in respect of any of the matters in this List, but not including fees taken in any court.

Eighth Schedule

It contains (Articles 344(1) and 351).

List of 22 languages of India recognized by Constitution

1. Assamese 2. Bengali 3. Gujarat 4. Hindi 5. Kannada 6. Kashmiri 7. Manipuri 8. Malayalam
9. Konkani
10. Marathi 11. Nepali 12. Oriya 13. Punjabi 14. Sanskrit 15. Sindhi 16. Tamil 17. Telugu 18. Urdu
19. Santhali 20. Bodo 21. Maithili 22. Dogri

Sindhi was added in 1967 by 21 Amendment

Konkani, Manipuri and Nepali were added in 1992 by 71 amendment Santhali, Maithili, Bodo and Dogri were added in 2003 by 92 amendment.

So far the eighth schedule is amended for 4 times.

There were only 14 languages while commencement of constitution.

Ninth Schedule

It contains (Article 31-B) . Added by 1st amendment in 1951. Contains acts & orders related to land tenure, land tax, railways, industries. {Right of property not a fundamental right now}

Tenth Schedule

It contains (Articles 102(2) and 191(2)) . Added by 52nd amendment in 1985. Contains (Articles 102(2) and 191(2)) - "Anti-defection" provisions for Members of Parliament and Members of the State Legislatures. Speaker has the power to disqualify the anti defection law.

Eleventh Schedule

The 73rd Amendment 1992 added a new Part IX to the constitution titled "The Panchayats" covering provisions from Article 243 to 243(O); and a new Eleventh Schedule covering 29 subjects within the functions of the Panchayats.

Twelfth Schedule

Constitution (Seventy Forth Amendment) Act, 1992 has introduced a new Part IXA in the Constitution, which deals with Municipalities in an article 243 P to 243 ZG covering 18 subjects. This amendment, also known as Nagarpalika Act, came into force on 1st June 1993. It has given constitutional status to the municipalities and brought them under the justifiable part of the constitution. States were put under constitutional obligation to adopt municipalities as per system enshrined in the constitution.

The name of Union territory of Pondicherry has been changed to Puducherry vide the Pondicherry (Alteration of name) Act, 2006 w.e.f. 01.10.2006. Accordingly, an amendment is needed in the Constitution (Pondicherry) Scheduled Castes Order, 1964 to this effect.

Constitution 96th Amendment Act, 2011 pertains to change of the entry of Oriya Language to Odiya in the 8th Schedule of Constitution of India.

President has the power to announce the schedule area.

Governor has the power to announce a district as a self-governance zone while it has individual governance and having various kind of tribal people who lives there.

Indian Polity – Part 27**27] Society****Notes**

2. A society is a group of individuals involved in persistent social interaction, or a large social group sharing the same geographical or social territory, typically subject to the same political authority and dominant cultural expectations. Family is the basic of society. School is the second basic of society.
3. “Man is by nature a social animal; an individual who is unsocial naturally and not accidentally is either beneath our notice or more than human. Society is something that precedes the individual. Anyone who either cannot lead the common life or is so self-sufficient as not to need to, and therefore does not partake of society, is either a beast or a god.”— Aristotle
4. The soul of india lives in tiny villages - Mahatma Gandhi
5. A teacher is a person who helps others to acquire knowledge, competences or values. Teachers are working as a rootstock of the society
6. In India Teacher's Day is celebrated on 5th of September as a tribute to the contribution made by the teachers towards the community. Since 1962 the day commemorates the birthday of Dr Sarvepalli Radhakrishnan, a great teacher and a staunch believer of education, known for his contribution towards the education system of India. According to Dr Radhakrishnan, “teachers should be the best minds in the country”.
7. The birthday of Dr. Sarvepalli Radhakrishnan came to be celebrated as Teachers Day when some of his students requested him to allow them to celebrate his birthday '5th September'. Dr. Radhakrishnan said, “instead of celebrating my birthday separately, it would be my proud privilege if September 5 is observed as Teachers' day”. Since then 5th September is observed as Teachers Day throughout India.

8. Government officials (Office workers) are working like connecting as a bridge in between Government and common public.
9. There are 2 basic elements for our social life.
10. Family and school both are learning the best path ways of social life to children.
11. Society can changes depend upon the time. Reason of Science and Technology development, Information Technology development has made many social changes.
12. Sports center, Entertainment hub , Hospital , School, College were the examples of social organizations.
13. Most of the Indian People are living in Villages. Their important work is agriculture.
14. To eliminate the idiocy and illiterate 'Arivoli foundation' , 'Education for everyone' like startups are introduced.
15. People of society are divided by their occupation.
16. Social formation is a bridge to combine the people.
17. The fulfilled society will have the ethics of Judicial and discipline.

Indian Polity - Part 28

28] Villages And Cities

- City and municipality consists of more people. The population density is higher in the municipalities.
- A village is a clustered human settlement or community, larger than a hamlet but smaller than a town, with a population ranging from a few hundred to a few thousand.
- Municipalities areas are around 25 mile radius around the city.
- A city is a large human settlement. Cities generally have extensive systems for housing, transportation, sanitation, utilities, land use, and communication. Their

density facilitates interaction between people, government organizations and businesses, sometimes benefiting different parties in the process.

- Peoples occupation in the rural areas of agriculture, housing, agriculture, rice, rice and fishing.
- A rural area or countryside is a geographic area that is located outside towns and cities. Rural areas is the name called by if the villages are surrounded by the cities.
- Unemployment is the situation of actively looking for employment but not being currently employed.
- The unemployment rate is a measure of the prevalence of unemployment and it is calculated as a percentage by dividing the number of unemployed individuals by all individuals currently in the labor force.
- Unemployment is the main reason for migrating to cities from villages.
- Agriculture is the occupational work in the townships.
- To promote the education for the children who is belonging to the family of Economically backward class, the scheme name is called “Sarva Shiksha Abhiyan” (SSA)
- To promote the Higher secondary education the welfare scheme name is “Rashtriya Madyamik Shiksha Abhiyan” (RMSA).

Indian Polity - Part 29

29] Republic Notes

- Democracy is considered to be the best in recent times.
- In a direct democracy, which is also called pure democracy the decisions are not taken by representatives. All decisions are voted on by the people. When a budget or law needs to be passed, then the idea goes to the people. Large governments rarely make decisions this way.

- Democracy is a government system and scheele states that all people are participating in that .
- In the 4 or more states, the party should have to get 6 percent of the votes in the parliamentary election to recognize the National Party.
- The party should get at least 6 percent of votes and win at least 2 seats in the assembly election to recognize the state party.
- 18 is the minimum age to vote in the election.
- Direct election is a system of choosing political officeholders in which the voters directly cast ballots for the person, persons, or political party that they desire to see elected.
- An indirect election is an election in which voters do not choose between candidates for an office, but elect people who then choose. It is one of the oldest forms of elections, and is still used today for many presidents, cabinets, upper houses, and supranational legislatures.

Multiparty system

- ✓ A multi-party system is a system in which multiple political parties across the political spectrum run for national election, and all have the capacity to gain control of government offices, separately or in coalition.
- ✓ Examples: Taiwan, Germany, Denmark, India, Indonesia, France, soiree Leone, brazil, Canada Kosovo and Israel are the nations that used multi-party system effectively in their democracies.

One Party System

A one-party state is a form of government where the country is ruled by a single political party, meaning only one political party exists and the forming of other

political parties is forbidden. For example, in China all power is vested in the Communist Party of China.

Merits of one-party system:

(1) It helps in the establishment of stable administration which further helps in the progress of the country. The progress of the Soviet Union is a glaring example in this regard.

(2) In this system, formation and execution of long-term planning is possible.

(3) The country achieves remarkable economic progress as the Government ends the conflicts among all the classes and it devotes its entire energy, towards the increase of production in the country.

(4) The administration becomes efficient because all the powers are concentrated in the hands of one leader and there favouritism, nepotism and black-marketing are banished altogether.

(5) There is a unity and discipline in the country.

(6) Time is not wasted in unnecessary criticism and propaganda.

Demerits of one-party system:

(1) Since there is only one party in this system, there is no freedom of expression.

(2) Democracy is eroded and dictatorship emerges.

(3) There is no regard for the views of different classes and interests.

(4) The Government becomes absolute and the administration becomes irresponsible.

(5) The development of the personality is hindered because all social freedoms are crushed.

(6) In this system there is an overbearing influence of terrorism, and the opponents are crushed with a heavy hand.

(7) The dictators make enormous military preparations for maintaining their honor and position, and they adopt the policy of war and victory which is quite harmful for the country.

Two Party System

A two-party system is a party system where two major political parties dominate the government. One of the two parties typically holds a majority in the legislature and is usually referred to as the majority or governing party while the other is the minority or opposition party. Around the world, the term has different senses. For example, in the United States, Jamaica, and Malta, England the sense of two party system describes an arrangement in which all or nearly all elected officials belong to one of the only two major parties, and third parties rarely win any seats in the legislature.

Merits of a Two Party System

1. Political information is much easier to understand.
2. Balance is achieved because multiple interests and opinions are accommodated.
3. Political stability is achieved.
4. Governing them is much more simpler.
5. There are fewer voting choices.

Demerits of a Two Party System

1. It brings government to a standstill.
2. It offers limited options.
3. It promotes corruption.
4. It ignores alternative voices.

Indian Polity - Part 30

30] Unity In Diversity - National Integration Notes

Notes

- Indian states are separated by several states based on language in the year of 1956.
- A great tamil poet **Umar** done an islamic tamil literature about **nabigal nayagam** story in an effective tamil poem form called viruttham .That is popularly known as **Seerap puraanam**.
- **Brihadishvara Temple**, also called **Rajarajesvaram** or **Peruvudaiyar Kovil**, is a Hindu temple dedicated to Shiva located in **Thanjavur**, Tamil Nadu, India.It is one of the largest South Indian temples and an exemplary example of a fully realized Tamil architecture.It is called as **Dhakshina Meru of south**. Built by **Raja Raja Chola I** between **1003 and 1010 AD**, the temple is a part of the UNESCO World Heritage Site known as the "**Great Living Chola Temples**", along with the Chola dynasty era **Gangaikonda Cholapuram temple** and **Airavatesvara temple** that are about 70 kilometres (43 mi) and 40 kilometres (25 mi) to its northeast respectively.
- **Meenakshi Temple**, also referred to as **Meenakshi Amman** or **Minakshi-Sundareshwara Temple**,is a historic Hindu temple located on the southern bank of the Vaigai Riverin the temple city of **Madurai**, Tamil Nadu, India. It is dedicated to Meenakshi, a form of Parvati, and her consort, Sundareshwar, a form of Shiva.

- The **kanchi Kailasanathar temple** is the oldest structure in **Kanchipuram**. Located in Tamil Nadu, India, it is a Hindu temple in the Dravidian architectural style. It is dedicated to the Lord Shiva, and is known for its historical importance. The temple was built from 685-705AD by a **Rajasimha (Narasimhavarman II)** ruler of the Pallava Dynasty.
- The **Tirukkural** or shortly the **Kural**, is a classic Tamil text consisting of **1,330 couplets or Kurals**, dealing with the everyday virtues of an individual. Considered one of the greatest works ever written on ethics and morality, chiefly secular ethics, it is known for its universality and non-denominational nature. It was authored by **Valluvar**, also known in full as **Thiruvalluvar**. The text has been dated variously from 300 BCE to 7th century CE. The traditional accounts describe it as the last work of the third Sangam, but linguistic analysis suggests a later date of 450 to 500 CE.
- **Thembavani** , one of the Tamil classics, a poetical work of **Veeramamunivar** (Constanzo Beschi), on the life of St. Joseph, earthly father of Jesus Christ. This Tamil Divina Commedia is divided into thirty-six cantos, containing 3,615 stanzas. "It is," says Baumgartner, "the noblest epic poem in honor of St. Joseph written in any literature, East or West". It begins with the birth of Joseph and ends with his "coronation" by the Triune God in heavenly glory.
- **Guru Nanak Gurpurab**, also known as **Guru Nanak's Prakash Utsav**, celebrates the birth of the **first Sikh Guru**, Guru Nanak. This is one of the most **sacred festivals in Sikhi**.

National Integration Day

19th November, is celebrated as national Integration Day in India, an honour to **India's first Woman Prime Minister, Indira Gandhi**. Commonly known as **Iron Lady of India**, this day is the birth anniversary of Indira Gandhi. India observes National Integration Day, **also known as Quami Ekta Divas**, each year on **19th November**.

Factors affecting the National Integration

1. Casteism
2. Communalism
3. Linguistic Fanaticism
4. Regionalism
5. Social Disparity
6. Economic Inequalities

Indian Polity – Part 31**31] Socio-Economic Problems Notes****National Policy on Education**

The National Policy on Education (NPE) is a policy formulated by the Government of India to promote education amongst India's people. The policy covers elementary education to colleges in both rural and urban India. The first NPE was promulgated in 1968 by the government of Prime Minister Indira Gandhi, and the second by Prime Minister Rajiv Gandhi in 1986. The government of India has appointed a new committee under K. Kasturirangan to prepare a Draft for the new National Education Policy in 2017. In 1992 Karumpalagai Thittam was introduced.

Tamil Nadu Population 2011

As per details from Census 2011, Tamil Nadu has population of 7.21 Crores, an increase from figure of 6.24 Crore in 2001 census. Total population of Tamil Nadu as per 2011 census is 72,147,030 of which male and female are 36,137,975 and

36,009,055 respectively. In 2001, total population was 62,405,679 in which males were 31,400,909 while females were 31,004,770.

The total population growth in this decade was 15.61 percent while in previous decade it was 11.19 percent. The population of Tamil Nadu forms 5.96 percent of India in 2011. In 2001, the figure was 6.07 percent. 1/3 people were below the poverty line in the population.

- Literacy 80.09 %
- Male Literacy 86.77 %
- Female Literacy 73.44 %
- Total Literate 51,837,507
- Male Literate 28,040,491
- Female Literate 23,797,016

International Literacy Day

September 8 was declared International Literacy Day by UNESCO on October 26, 1966 at 14th session of UNESCO's General conference. It was celebrated for the first time in 1967. Its aim is to highlight the importance of literacy to individuals, communities and societies.

World Population Day

World Population day is an annual event, observed on July 11 every year, which seeks to raise awareness of global population issues. The event was established by the Governing Council of the United Nations Development Programme in 1989.

Jawahar Rozgar Yojna

- Jawahar Rozgar Yojna was launched on April 1, 1989 by merging National Rural Employment Program (NREP) and Rural Landless Employment Guarantee Programme (RLEGP). At the end of Seventh Five Year Plan
- So this was a consolidation of the previous employment programs and it was largest National Employment Program of India at that time with a general objective of providing 90-100 Days Employment per person particularly in backward districts. People below Poverty Line were main targets.
- The Yojna was implemented on rural scale. Every village was to be covered through Panchayati Raj Institutions. The village got aide and support from District Rural Development Authority. Expenditures were born by central & state in 80:20 ratios.
- Since 1993-94 the Yojna was made more targets oriented and expanded substantially through increased budgetary allocations. It was divided into 3 streams:

First Stream:

Comprising general works under JRY and also two sub schemes Indira Awas Yojna and Million Wells Scheme. This stream got 75% of the total allocation. In Indira Awas Yojna the allocation was increased from 6% to 10 % and in Million Wells Scheme from 20% to 30 % during that period.

Second Stream:

This was also called intensified JRY and was implemented in selected 120 backward districts. It got 20% allocation.

Third Stream:

This was left with 5 % allocation for Innovative programs which included Prevention of labor migration, drought proofing watershed etc. programs.

List of all Five Year Plans of India

The concept of economic planning in India is derived from the Russia (then USSR). India has launched 12 five year plans so far. First five year plan was launched in 1951. Now the present NDA government has stopped the formation of five year plans. So 12th five year plan would be called the last five year plan of India.

First Five Year Plan:

- ✓ It was made for the duration of 1951 to 1956.
- ✓ It was based on the Harrod-Domar model.
- ✓ Its main focus was on the agricultural development of the country.
- ✓ This plan was successful and achieved growth rate of 3.6% (more than its target)

Second Five Year Plan:

- ✓ It was made for the duration of 1956 to 1961.
- ✓ It was based on the P.C. Mahalanobis Model.
- ✓ Its main focus was on the industrial development of the country.
- ✓ This plan was successful and achieved growth rate of 4.1%

Third Five Year Plan:

- ✓ It was made for the duration of 1961 to 1966.
- ✓ This plan is called 'Gadgil Yojna' also.
- ✓ The main target of this plan was to make the economy independent and to reach self active position of take off.

- ✓ Due to china war, this plan could not achieve its growth target of 5.6%

Plan Holiday:

- ✓ The duration of plan holiday was from 1966 to 1969.
- ✓ The main reason behind the plan holiday was the Indo-Pakistan war & failure of third plan.
- ✓ During this plan annual plans were made and equal priority was given to agriculture its allied sectors and the industry sector.

Fourth Five Year Plan:

- ✓ Its duration was from 1969 to 1974.
- ✓ There were two main objective of this plan i.e. growth with stability and progressive achievement of self reliance.
- ✓ During this plan the slogan of “Garibi Hatao” is given during the 1971 elections by Indira Gandhi.
- ✓ This plan failed and could achieve growth rate of 3.3% only against the target of 5.7%.

Fifth Five Year Plan:

- ✓ Its duration was 1974 to 1979.
- ✓ In this plan top priority was given to agriculture, next came to industry and mines.
- ✓ Overall this plan was successful which achieved the growth of 4.8% against the target of 4.4%.
- ✓ The draft of this plan was prepared and launched by the D.P. Dhar. This plan was terminated in 1978.

Rolling Plan:

This plan was started with an annual plan for 1978-79 and as a continuation of the terminated fifth year plan.

Sixth Five Year Plan:

- ✓ Its duration was from 1980 to 1985.
- ✓ The basic objective of this plan was poverty eradication and technological self reliance.
- ✓ It was based on investment yojna, infrastructural changing and trend to growth model.
- ✓ Its growth target was 5.2% but it achieved 5.7%.

Seventh Five Year Plan:

- ✓ Its duration was from 1985 to 1990.
- ✓ Objectives of this plan include the establishment of the self sufficient economy, opportunities for productive employment.
- ✓ For the first time the private sector got the priority over public sector.
- ✓ Its growth target was 5.0% but it achieved 6.0%.

Annual Plans:

Eighth five Plan could not take place due to volatile political situation at the centre. So two annual programmes are formed in 1990-91& 1991-92.

Eighth Five Year Plan:

- ✓ Its duration was from 1992 to 1997.
- ✓ In this plan the top priority was given to development of the human resources i.e. employment, education, and public health.
- ✓ Duing this plan Narasimha Rao Govt. launched New Economic Policy of India.

- ✓ This plan was successful and got annual growth rate of 6.8% against the target of 5.6%.

Ninth Five Year Plan:

- ✓ Its duration was from 1997 to 2002.
- ✓ The main focus of this plan was “growth with justice and equity”.
- ✓ It was launched in the 50th year of independence of India.
- ✓ This plan failed to achieve the growth target of 7% and grew only at the rate of 5.6%.

Tenth Five Year Plan:

- ✓ Its duration was from 2002 to 2007.
- ✓ This plan aims to double the per capita income of India in the next 10 years.
- ✓ It aims to reduce the poverty ratio 15% by 2012.
- ✓ Its growth target was 8.0% but it achieved only 7.2%.

Eleventh Five Year Plan:

- ✓ Its duration was from 2007 to 2012.
- ✓ It was prepared by the C. Rangarajan.
- ✓ Its main theme was “faster and more inclusive growth”
- ✓ Its growth rate target was 8.1% but it achieved only 7.9%

Twelfth Five Year Plan:

- ✓ Its duration is from 2012 to 2017.
- ✓ Its main theme is “Faster, More Inclusive and Sustainable Growth”.
- ✓ Its growth rate target is 8%.
- ✓ It is the current five year plan of India.

Poverty

Poverty is the scarcity or the lack of a certain (variant) amount of material possessions or money. Poverty is a multifaceted concept, which may include social, economic, and political elements. Absolute poverty, extreme poverty, or destitution refers to the complete lack of the means necessary to meet basic personal needs such as food, clothing and shelter

Regional imbalance

Regional imbalance is the disparity in economic and social development of two regions. One region/city/area is stronger than another region/city/area. Regions develop when investments are made to set up industries, service sectors, educational institutions, health care facilities etc. It is also called as socio-economic imbalances are seen in people living in different areas socio-economic imbalances are seen in people living in different areas.

International Literacy Year

In 1987, the United Nations General Assembly proclaimed 1990 as International Literacy Year. The event intended to be not so much as a celebration of progress as an urgent call to action as part of a worldwide campaign to eradicate illiteracy by the year 2000.

Sarva Shiksha Abhiyan

Education for All Movement or SSA, is an Indian Government programme aimed at the universalisation of elementary education "in a time bound manner", as mandated by the 86th Amendment to the Constitution of India making free and compulsory education to children between the ages of 6 to 14 (estimated to be 205 million children in 2001) a fundamental right. The

programme was pioneered by former Indian Prime Minister Atal Bihari Vajpayee.

Above 300 people should be there in a place according to the program of education for everyone to create a school. "Minimum Learning level" was introduced by Thave.

National Child labor policy

The Child Labour Prohibition and Regulation Act was enacted based on the recommendations of the committee in 1986. A National Policy on Child Labour was formulated in 1987 to focus on rehabilitating children working in hazardous occupations.

Plantation Labour Act, 1951

The Plantation Labour Act, 1951 provides for the welfare of plantation labour and regulates the conditions of work in plantations. According to the Act, the term 'plantation' means "any plantation to which this Act, whether wholly or in part, applies and includes offices, hospitals, dispensaries, schools, and any other premises used for any purpose connected with such plantation, but does not include any factory on the premises to which the provisions of the Factories Act, 1948 apply."

The Child and Adolescent Labour (Prohibition and Regulation) Act of 1986: As per the Child Labour (Prohibition and Regulation) Act, 1986, amended in 2016 ("CLPR Act"), a "Child" is defined as any person below the age of 14 and the CLPR Act prohibits employment of a Child in any employment including as a domestic help (except helping own family in non-hazardous occupations). It is a cognizable criminal offence to employ a Child for any work. Children between age of 14 and 18 are defined as "Adolescent" and the law allows Adolescent to

be employed except in the listed hazardous occupation and processes which include mining, inflammable substance and explosives related work and any other hazardous process as per the Factories Act, 1948.

Twenty Point Programme

The Twenty Point Programme was initially launched by Prime Minister Indira Gandhi in 1975 and was subsequently restructured in 1982 and again on 1986. With the introduction of new policies and programmes it has been finally restructured in 2006 and it has been in operation at present. The Programmes and Schemes under TPP-2006 are in harmony with the priorities contained in the National Common Minimum Programme, the Millennium Development Goals of the United Nations and SAARC Social Charter. The restructured Programme, called Twenty Point Programme - 2006 (TPP-2006), was approved by the Cabinet on 5th October, 2006 and operated w.e.f 1.4.2007.

Indian labour law

Indian labour law refers to laws regulating labour in India. Traditionally, Indian governments at federal and state level have sought to ensure a high degree of protection for workers, but in practice, form of government and because labour is a subject in the concurrent list of the Indian Constitution. Indira Gandhi launched this law.

Indian Polity - Part 32

32] Children And Women Welfare Acts Notes

Notes

Right to education act

- The Right of Children to Free and Compulsory Education Act or Right to Education Act (RTE) is an Act of the Parliament of India enacted on 4 August 2009, which describes the modalities of the importance of free and compulsory education for children between the age of 6 to 14 years in India under Article 21A of the Indian Constitution.
- Rajiv Gandhi Child care plan was launched on 2006.
- National award for the best children come into effect in 1996.
- Citation Act No. 35 of 2009
- Enacted by Parliament of India
- Date assented to 26 August 2009
- Date commenced 1 April 2010

Dr. Muthulakshmi Reddy

- Born 30 July 1886
- Died 22 July 1968 (aged 81)
- Known for Social reformer, women's rights activist and writer
- Awards Padma Bhushan (1956)
- Avvai Home & Orphanage was established in 1931 by late Dr. Muthulakshmi Reddy to shelter, protect and educate the orphan girls, deserted women-irrespective of caste, creed or social status.
- Her sole objective was to provide empowerment and economic independence to poor girls and women and ultimately to be trained to lead a normal life with dignity and self respect.

International Women's Year

International Women's Year (IWY) was the name given to 1975 by the United Nations. Since that year March 8 has been celebrated as International Women's Day, and the United Nations Decade for Women, from 1976 to 1985, was also established.

Cradle Baby Scheme

- In 1992, Jayalalitha government introduced the "Cradle Baby Scheme".
- At that time the ratio of male to female in some parts of Tamil Nadu was skewed by the practice of female infanticide and the abortion of female foetuses.
- The government established centres in some areas, these being equipped to receive and place into adoption unwanted female babies.
- The scheme was extended in 2011.

Integrated Child Development Services

- Launched 2 October 1975
- Integrated Child Development Services (ICDS) is a government programme in India which provides food, preschool education, and primary healthcare to children under 6 years of age and their mothers.
- The scheme was launched in 1975, discontinued in 1978 by the government of Morarji Desai, and then relaunched by the Tenth Five Year Plan.

Widow Remarriage Act, 1856

- The Widows' Remarriage Act, 1856, also Act XV, 1856, enacted on 26 July 1856, legalised the remarriage of widows in all jurisdictions of India under East India Company rule.
- To protect what it considered family honour and family property, upper-caste Hindu society had long disallowed the remarriage of widows, even child and adolescent ones, all of whom were expected to live a life of austerity and abnegation.
- The Widows' Remarriage Act of 1856, enacted in response to the campaign of Pandit Ishwar Chandra Vidyasagar, provided legal safeguards against loss of

certain forms of inheritance for remarrying a widow, though, under the Act, the widow forsook any inheritance due her from her deceased husband.

- Especially targeted in the act were child widows whose husbands had died before consummation of marriage.

Indian Polity - Part 33

33] Inequality in Society Notes

C. Natesa Mudaliar

- C. Natesa Mudaliar (1875–1937), also known as Natesan, was a politician and activist of the Dravidian Movement from the Indian state of Tamil Nadu.
- He was one of the founders of the Justice Party along with Theagaroya Chetty and Dr. T. M. Nair.
- In 1912, the Madras United League was formed. Natesa Mudaliar was one of the founders of the league and served as its Secretary.
- The league was largely composed of government employees and concentrated on improving the literacy of non-Brahmins by conducting adult education classes.
- In 1914, the Madras United League was renamed as the Madras Dravidian Association and Panaganti Ramarayaningar, later the Raja of Panagal was elected President.
- As a part of its programme, the Madras Dravidian Association conducted a hostel called "Dravidian Home" for the benefit of non-Brahmin students. Natesan was the caretaker of this hostel.

Dr. Muthulakshmi Reddy

- Dr. Muthulakshmi Reddy (30 July 1886, Madras – 22 July 1968) was an eminent medical practitioner, social reformer and Padma Bhushan awardee in India.

- She was the first female legislator in India and first women doctor.
- Muthulakshmi Reddy was appointed to the Madras Legislative Council in 1927.

Periyar E. V. Ramasamy

- Erode Venkatappa Ramasamy (17 September 1879 - 24 December 1973), was commonly known as Periyar also referred to as Thanthai Periyar, was an Indian social activist, and politician who started the Self-Respect Movement and Dravidar Kazhagam.
- He also introduced self-esteem marriages apart from Progitha Marriages.

Vaikom Satyagraha (1924-1925)

- The movement started on 30th March 1924.
- There was a board outside the Vaikom Mahadeva Temple which prohibited entry of avarnas (lower castes).
- The Satyagrahis moved to enter the temple in batches of three.
- They were resisted and arrested by the police. Gandhiji, Chatampi Swamikal and Sree Narayana Guru lend their support to the movement.
- The movement gained all-India prominence and support came from far and wide.
- The Akalis of Punjab lend their support by setting up kitchens to provide food to the Satyagrahis.
- Even Christian and Muslim leaders came forward for support. This was shunned by Gandhiji who wanted the movement to be an intra-Hindu affair.
- On advice from Gandhiji, the movement was withdrawn temporarily in April 1924. After the talks with caste-Hindus failed, the leaders resumed the movement.
- Leaders T K Madhavan and K P Kesava Menon were arrested. E V Ramaswamy (Periyar) came from Tamil Nadu to give his support.

- He was arrested. On 1st October 1924, a group of savarnas (forward castes) marched in a procession and submitted a petition to the Regent Maharani Sethulakshmi Bai of Travancore with about 25000 signatures for temple entry to everyone.

Untouchability

- Untouchability is a menace and social evil associated with traditional Hindu society.
- Mahatma Gandhi tried to abolish untouchability .
- It is being practiced since times immemorial and despite various efforts made by social reformers such as Dr. B. R. Ambedkar; and despite there being provision on abolition of untouchability in our Constitution under Article 17, the evil is still in practice in our country.

The Justice Movement

- The justice party represented the non Brahmin movement and engineered a social revolution against the domination of Brahmins in the sphere of public service and education.
- The justice party , officially known as south indian liberal federation was a political party in the madras presidency of british india.
- This party was established in 1916 by T.M.Nair and thiyagaraya chetty.
- This party published 'Dravidan' in tamil , ' Andhra prakasika ' in telugu and 'justice' in English.Hence it came to be called as the 'justice party'.

Rule Of The Justice Party

- In the election of 1920 , the justice party secured a majority and subbarayalu reddy formed the ministry.
- In 1923 election again justice party won and formed the ministry.
- In the election of 1926 , the swarajya party got success but refused to form the ministry.

- With the support of swarajya party , A.Subbarayalu , an independent candidate constituted the government.
- In 1930 elections again the justice party won and B.Mnisamy naidu formed the ministry.
- In 1932 he was replaced by Raja of Bobhill.
- In 1934 elections congress party won but refused to constitute the party. So again the justice party formed the ministry.
- In 1937 justice party failed miserably and never recovered from the defeat. Then the justice party came under the leadership of periyar and his self respect movement.
- In 1944 ,at salem conference , periyar transformed the justice party into a social organization called dravidar kazhagam and withdrew it from the electoral politics.

Achievements Of The Justice Party

- The communal G.O's of 1921 and 1922 provided reservation of appointments in local bodies and educational institutions for non - Bhramins
- The justice party government set right the imbalances in the representation of different communities and improved the status of depressed classes
- To avoid nepotism , favouritism and other influence in the process of selection , this government created a staff selection board in 1924 and it became public service commission in 1929.
- For the benefit of all communities , college committees were created to regulate the higher educational institutions.
- In 1925 andhra university and in 1929 annamalai university were opened.
- To regulate temple accounts , temple committees were created. In 1926 the hindu religious endowment bill was passed.
- The women were granted the right to vote in 1921 , abolished devadasi system , prevented immoral traffic of women and passed industries act.

- The system of giving free pattas for housing sites to the poor was introduced.
- By way of introducing midday meal schemes at thousand lights thiyagaraya chettiarstrengthened the school.
- It gave encouragement to ayurveda , siddha and unani medical education.

Decline Of Justice Party

- In the election of 1937 , justice party failed miserably and the congress party constituted the ministry under Rajagopalachari.
- The justice party never recovered from its defeat. There were many causes for its failure.
- The justice party came to power when the world was in economic depression.
- The nationalist movement was popular and heading freedom.
- Caste and wealth played vital role. Hence the party lost its hold.
- The rise of congress under the leadership of Gandhi became a formidable challenge to justice party.
- Tamil Nadu was the only state to officially grant third gender status to the Transgender.

Indian Polity - Part 34

34] Consumer Rights Notes

Right to Information Act, 2005

- Right to Information (RTI) is an Act of the Parliament of India to provide for setting out the practical regime of the right to information for citizens and replaces the erstwhile Freedom of information Act, 2002.
- Under the provisions of the Act, any citizen of India may request information from a "public authority" which is required to reply expeditiously or within thirty days.

- The Act also requires every public authority to computerize their records for wide dissemination and to proactively certain categories of information so that the citizens need minimum recourse to request for information formally.
- ✓ Citation Act No. 22 of 2005
- ✓ Territorial extent Whole of India except Jammu and Kashmir
- ✓ Enacted by Parliament of India
- ✓ Date enacted 15-June-2005
- ✓ Date assented to 22-June-2005
- ✓ Date commenced 12-October-2005

Consumer Protection Act, 1986

- Consumer Protection Act, 1986 is an Act of the Parliament of India enacted in 1986 to protect the interests of consumers in India.
- An Act to provide for better protection of the interests of consumers and for that purpose to make provision for the establishment of consumer councils and other authorities for the settlement of consumers' disputes and for matters connected there with.
- ✓ Citation Act No. 68 of 1986
- ✓ Enacted by Parliament of India
- ✓ Date commenced 24 December 1986

National Consumers Right Day - 24 December

- National Consumers Right Day was observed across India on 24 December 2013.
- The day is being observed on 24 December, since the Consumer Protection Act, 1986 was enacted on this day in 1986.
- The Consumer Protection Act was enacted in 1986 with the objective of providing better protection of consumer's interest.

- Effective safeguards are provided to the consumer, against various types of exploitations and unfair dealings, relying mainly on compensatory rather than a disciplinary or preventive approach under the Act.
- It applies to all goods and services unless specifically exempted, which covers the private, public and cooperative sectors.
- It also provides speedy and inexpensive adjudication.

Consumer Protection Act, 1986

- The rights under the Consumer Protection Act, 1986 flow from the rights enshrined in Articles 14 to 19 of the Constitution of India.
- The Right to Information Act (RTI), which has opened up governance processes of our country to the common public, also has far-reaching implications for consumer protection.
- The Act envisages the promotion and protection of following rights for the consumers:
 - ✓ Right to Safety
 - ✓ Right to be informed
 - ✓ Right to Choose
 - ✓ Right to be heard
- The World Consumer Rights Day is observed on 15 March.

The Father Of Consumer Advocacy - Ralph Nader

- Ralph Nader (born February 27, 1934)is an American political activist, author, lecturer, and attorney, noted for his involvement in consumer protection, environmentalism and government reform causes.
- International Organization for Standardization

- The International Organization for Standardization (ISO) is an international standard-setting body composed of representatives from various national standards organizations.
- Founded on 23 February 1947, the organization promotes worldwide proprietary, industrial and commercial standards. It is headquartered in Geneva, Switzerland, and works in 162 countries.
- It was one of the first organizations granted general consultative status with the United Nations Economic and Social Council.
- The food and agriculture sector started in the year of 1963.

World Health Organization

- The World Health Organization is a specialized agency of the United Nations that is concerned with international public health.
- It was established on 7 April 1948, and is headquartered in Geneva, Switzerland.
- The WHO is a member of the United Nations Development Group. Its predecessor, the Health Organization, was an agency of the League of Nations.
- The constitution of the World Health Organization had been signed by 61 countries on 7 April 1948, with the first meeting of the World Health Assembly finishing on 24 July 1948.
- Since its creation, it has played a leading role in the eradication of smallpox. Its current priorities include communicable diseases, in particular HIV/AIDS, Ebola, malaria and tuberculosis; the mitigation of the effects of non-communicable diseases such as sexual and reproductive health, development, and aging; nutrition, food security and healthy eating; occupational health; substance abuse; and driving the development of reporting, publications, and networking.
- The WHO is responsible for the World Health Report, the worldwide World Health Survey, and World Health Day.

- The current Director-General of WHO is Tedros Adhanom, who started his five-year term on 1 July 2017.
- ✓ Formation 7 April 1948;
- ✓ Type Specialized agency of the United Nations
- ✓ Headquarters Geneva, Switzerland
- ✓ Head Tedros Adhanom, Director-General

Indian Polity - Part 35

35] Road Safety Notes

Motor Vehicles Act, 1988

- The Motor Vehicles Act, 1988 is an Act of the Parliament of India which regulates all aspects of road transport vehicles.
- The Act came into force from 1 July 1989. It replaced Motor Vehicles Act, 1939 which earlier replaced the first such enactment Motor Vehicles Act, 1914.
- The Act provides in detail the legislative provisions regarding licensing of drivers/conductors, registration of motor vehicles, control of motor vehicles through permits, special provisions relating to state transport undertakings, traffic regulation, insurance, liability, offences and penalties, etc.
- For exercising the legislative provisions of the Act, the Government of India made the Central Motor Vehicles Rules 1989.
- The Road safety commission was started in 1986.

Vehicle registration certificate

- A vehicle registration certificate is an official document providing proof of registration of a motor vehicle.
- It is used primarily by governments as a means of ensuring that all road vehicles are on the national vehicle register, but is also used as a form of law

enforcement and to facilitate change of ownership when buying and selling a vehicle.

Vehicle Excise Duty

Vehicle Excise Duty (VED) (also known as "vehicle tax", "car tax" or "road tax", and formerly as a "tax disc") is a tax that is levied as an excise duty and which must be paid for most types of vehicles which are to be used (or parked) on public roads.

Motor Vehicles Tax in India

- Motor Vehicles Tax in India is imposed by state governments.
- It is calculated on the basis of various factors including engine capacity, seating capacity, unladen weight and cost price.
- Motor vehicle insurance law in India
- Motor vehicle insurance law in India is governed by the Motor Vehicles Act, Insurance Act and aspects of insurance contracts governed by the Indian Contract Act, Transfer of Property Act and a few others.
- Motor vehicle insurance is the insurance coverage of the risk of third party arising out the use of motor vehicle and also for covering the risk of damage caused to the vehicle.
- Taking insurance policy for coverage of certain risks are made compulsory and coverage for other risks are optional at the instance of the owner.
- Accordingly, motor vehicle insurance policies can be divided into two, namely, compulsory insurance policy (Act policy) and comprehensive policy.

Road Traffic Signs - Signals

Basic Rules of the Road

- The rules enlisted under this category are to be meant for all the people sharing the roads.

- The idea behind formulating such rules is that the roads are meant not only for the drivers (including motorists/cyclists/motorcyclists), but are shared by the pedestrians and animals by the road side.
- The rules belonging to these categories are mandatory to be followed while using the roads.

Traffic Signals

- A traffic light, traffic signal or a stop light is a signaling device positioned at a road intersection to indicate when it is safe to wade through.
- The traffic signal passes on its information using a universal color code.
- Red means stop. Wait behind the stop line. Do not go through the intersection.
- Yellow (amber) means stop. You can enter the intersection if you are so close that sudden braking might cause a crash.
- Green means proceed through the intersection carefully.

Road Signals

Signs form a vital and integral part of the trafficking system for the safety of the road users. As per IRC (Indian Roads Congress) Road Signs are for indications on the road the road signs are categorized into 3 types:

- ✓ Mandatory Signs or Regulatory Signs
- ✓ Cautionary Signs or Warning or Precautionary
- ✓ Informatory Signs

Hand Signals

- Hand Signals or Manual Regulation Signs are the gestures used to regulate traffic on the road using the hand movements.

- Traffic policemen use these actions to Regulate traffic particularly at intersections while the drivers use these signals to Notify the other users on the road about his intentions.
- Based on the person these Can be categorized as:
 - ✓ Hand Signals by Policeman
 - ✓ Hand Signals by Drivers

Road Markings and Pavement Markings

- Road markings or pavement markings were introduced in 1920s. Initially, they were used to indicate the road's centerline.
- But, as they traffic increased, so did the roads and the lanes and later with the multi lane roads they were used to define lanes.
- With the times, they too have evolved a lot adorned with the information to aid motorists in passing safely.

Pedestrian crossing

- Pedestrian crossings are safer places for pedestrians to cross the road and where they are given priority.
- There are various different types of pedestrian crossings, these are: Zebra, Pelican, Puffin, Toucan, Pegasus (also known as Equestrian crossings).The yellow lines laid on roads were for pedestrian crossing.
- Road safety week was followed in first week of January.
- Policy for National Road safety was created by road safety commission.
- In India around 60% of roads were tar rods.

Indian Polity - Part 36

36] India And World Peace Notes

Panchsheel Agreement Between Indian and China

- Emphasized by Jawaharlal Nehru (PM), in Asian Prime Ministers Conference in Colombo
- Five principles subsequently incorporated in a statement of ten principles issued in April 1955 at Asian-African Conference in Bandung, Indonesia.
- Originated from five principles of the Indonesian state proclaimed by Sukarno, the Indonesian nationalist leader in June 1945 and subsequently Indonesia became independent in 1949.
- The same Five Principles formed the basis of the Non-Aligned Movement, established in Belgrade, Yugoslavia in 1961.
- Put at start of negotiations in Delhi from December 1953 to April 1954 on disputed territories of Aksai Chin (China calls South Tibet and India Arunachal Pradesh).
- Nepal and India call it as the Panchsheel Treaty
- Considered to be bedrock of relationship between India and the People's Republic of China (PRC).
- Codification in treaty was done in 1954.

The Five Principles of Peaceful Coexistence

Enunciated in preamble to the “Agreement on trade between Tibet Region of China and India”, signed in Peking on 29 April 1954:

- Mutual respect for each other's territorial integrity and sovereignty.
- Mutual non-aggression.
- Mutual non-interference in each other's internal affairs.
- Equality and cooperation for mutual benefit.
- Peaceful co-existence.

Arms Reduction Resolution

- Some of the countries in the world are developing a nuclear bomb and a nuclear war on other countries.
- If it does not stop this, the world will be destroyed.
- India is not only a opposition to nuclear weapons, but also against nuclear weapons production.
- In UNO India was the first country in the history to the arms reduction resolution in 1956.
- India played a major role in the creation of the Arms Treaty in 1963.

Nelson Mandela

- Nelson Rolihlahla Mandela (18 July 1918 – 5 December 2013) was a South African anti-apartheid revolutionary, political leader, and philanthropist, who served as President of South Africa from 1994 to 1999.
- He was the country's first black head of state and the first elected in a fully representative democratic election.
- His government focused on dismantling the legacy of apartheid by tackling institutionalized racism and fostering racial reconciliation.
- Ideologically an African nationalist and socialist, he served as President of the African National Congress (ANC) party from 1991 to 1997.

South Asian Association for Regional Cooperation

- The South Asian Association for Regional Cooperation (SAARC) is the regional intergovernmental organization and geopolitical union of nations in South Asia.
- Its member states include Afghanistan, Bangladesh, Bhutan, India, Nepal, the Maldives, Pakistan and Sri Lanka. SAARC comprises 3% of the world's area, 21% of the world's population and 3.8% (US\$2.9 trillion)[3] of the global economy, as of 2015.

- The first SAARC summit was held in Dhaka on 7-8 December 1985 and hosted by the President of Bangladesh Hussain Ershad.
- The declaration signed by King of Bhutan Jigme Singye Wangchuk, President of Pakistan Zia-ul-Haq, Prime Minister of India Rajiv Gandhi, King of Nepal Birendra Shah, President of Sri Lanka JR Jayewardene, and President of Maldives Maumoon Gayoom.
- There have been 12 democratically elected holders of the office of Secretary-General of the South Asian Association for Regional Cooperation (SAARC). Bangladesh held the first summit in Dhaka, where the Bangladeshi diplomat, Abul Ahsan was elected its first Secretary-General.
- Afghanistan was the eighth country to join the SAARC.

Delhi-Lahore bus service

The commercial bus service was launched with much fanfare on March 16, 1999 after Prime Minister Atal Bihari Vajpayee's historical bus inaugural visit to Pakistan on February 20, 1999.

India - China

In 1949, India was the first country to recognize the province of China, and the two countries were trying to find a way to save their country. India has become a member of the UN.

India - Bangladesh

In 1971, the Bangladesh Liberation War broke out between East Pakistan and West Pakistan, India intervened in December 1971 on behalf of East Pakistan and helped secure East Pakistan's independence from Pakistan as the country of Bangladesh.

37] United Nation Notes

United Nations

- 1 January 1942 - The name "United Nations" is coined
- The name "United Nations", coined by United States President Franklin D. Roosevelt was first used in the Declaration by United Nations of 1 January 1942, during the Second World War, when representatives of 26 nations pledged their Governments to continue fighting together against the Axis Powers.
- 24 October 1945 - The United Nations officially comes into existence
- In 1945, representatives of 50 countries met in San Francisco at the United Nations Conference on International Organization to draw up the United Nations Charter.
- On 25 April 1945, the United Nations Conference on International Organization began in San Francisco.
- The United Nations member states are the 193 sovereign states that are members of the United Nations (UN) and have equal representation in the UN General Assembly.
- All organs of the United Nations are based in New York City, except the International Court of Justice which is located at The Hague in Netherlands
- A white UN emblem (world map surrounded by two olive branches) on a blue background and five rings. The flag of the United Nations was adopted on December 7, 1946, and consists of the official emblem of the United Nations in white on a blue background.
- The U.N. has only six official languages: Arabic, Chinese, English, French, Russian, and Spanish. These languages represent the five languages of the original member nations.
- Arabic was added later by popular request. The six official languages are used at U.N. meetings and for official documents.

- General Assembly is the Important wing of United Nations Organization .
- Security Council is working as a administration for United Nations Organization also the second organization of the UN.
- The Council is composed of 15 Members: five permanent members: China, France, Russian Federation, the United Kingdom, and the United States, and ten non-permanent members elected for two-year terms by the General Assembly. General assembly is also called human parliament.
- The public meeting will be held annually once.

Aims of the United Nations:

The objectives of the United Nations, according to its Charter, are:

- To maintain international peace and security.
- To develop friendly relations among nations on the basis of equality and the principle of self-determination.
- To foster worldwide cooperation in solving economic, social, cultural and humanitarian problems.
- To promote human rights and fundamental freedom for the people of the world.
- To serve as a centre where various nations can coordinate their activities towards the attainment of the objectives of the United Nations.
- To save succeeding generations from the scourge of war.

International Court of Justice

- The International Court of Justice is the principal judicial organ of the United Nations (UN).
- It settles legal disputes between member states and gives advisory opinions to authorized UN organs and specialized agencies.

- It comprises a panel of 15 judges elected by the General Assembly and Security Council for nine-year terms.
- It is seated in the Peace Palace in The Hague, Netherlands.

President

Currently Abdulqawi Yusuf

Since 6 February 2018

Lead position ends 5 February 2020

Vice President

Currently Xue Hanqin

Since 6 February 2018

Lead position ends 5 February 2020

United Nations High Commissioner for Refugees

- UNHCR, the UN Refugee Agency, is a United Nations programme with the mandate to protect refugees, forcibly displaced communities and stateless people, and assist in their voluntary repatriation, local integration or resettlement to a third country.
- UNHCR stands for the Office of the United Nations High Commissioner for Refugees and was created in 1950, during the aftermath of World War II.
- Its headquarters are in Geneva, Switzerland and it is a member of the United Nations Development Group.
- The UNHCR has won two Nobel Peace Prizes, once in 1954 and again in 1981.

Members of the United Nations Economic and Social Council

- The United Nations Economic and Social Council has 54 member states which are elected by the United Nations General Assembly for overlapping three-year terms, with terms ending on 31 December of the third year.
- Seats on the Council are based on United Nations Regional Groups, with fourteen seats allocated to the African Group, eleven to the Asia-Pacific Group, six to the Eastern European Group, ten to the Latin American and Caribbean Group, and thirteen to the Western European and Others Group.

Atlantic Charter

- During World War II (1939-45), the United States and Great Britain issued a joint declaration in August 1941 that set out a vision for the postwar world.
- In January 1942, a group of 26 Allied nations pledged their support for this declaration, known as the Atlantic Charter.
- The document is considered one of the first key steps toward the establishment of the United Nations in 1945.

Atlantic Charter Issued: August 14, 1941

- The Atlantic Charter included eight common principles. Among them, the United States and Britain agreed not to seek territorial gains from the war, and they opposed any territorial changes made against the wishes of the people concerned.
- The two countries also agreed to support the restoration of self-government to those nations who had lost it during the war.
- Additionally, the Atlantic Charter stated that people should have the right to choose their own form of government. Other principles included access for all nations to raw materials needed for economic prosperity and an easing of trade restrictions.

- The document also called for international cooperation to secure improved living and working conditions for all; freedom of the seas; and for all countries to abandon the use of force.

Allied Nations Support Atlantic Charter

On January 1, 1942, at a meeting in Washington, D.C., representatives of 26 governments (the United States, Great Britain, the Soviet Union, China, Australia, Belgium, Canada, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, El Salvador, Greece, Guatemala, Haiti, Honduras, India, Luxembourg, Netherlands, New Zealand, Nicaragua, Norway, Panama, Poland, South Africa, Yugoslavia) signed a “Declaration by United Nations” in which they pledged their support for the Atlantic Charter’s principles.

Indian Polity – Part 38

38] Human Rights - United Nations Notes

International Year of the Child

- UNESCO proclaimed 1979 as the International Year of the Child.
- The proclamation was signed on January 1, 1979 by United Nations Secretary General Kurt Waldheim.
- A follow-up to the 1959 Declaration of the Rights of the Child, the proclamation was intended to draw attention to problems that affected children throughout the world, including malnutrition and lack of access to education.
- Many of these efforts resulted in the Convention on the Rights of the Child in 1989.

The Universal Declaration of Human Rights

- The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights.

- Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A) as a common standard of achievements for all peoples and all nations.
- It sets out, for the first time, fundamental human rights to be universally protected and it has been translated into over 500 languages.
- Bosanko claimed that rights would be politically recognized by government.

National Human Rights Commission of India

- Formed 12 October 1993
- General nature • Federal law enforcement
- Headquarters New Delhi, India
- Tenure of the members is 5 years.
- The National Human Rights Commission (NHRC) of India' is an autonomous public body constituted on 12 October 1993 under the Protection of Human Rights Ordinance of 28 September 1993.
- It was given a statutory basis by the Protection of Human Rights Act, 1993 (TPHRA).
- The NHRC is the National Human Rights Commission of India, responsible for the protection and promotion of human rights, defined by the Act as "rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants".
- "Human Rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the constitution or embodied in the International covenants and enforceable by courts in India.
- "Commission" means the National Human Rights Commission constituted under section of All human beings are born free and equal in dignity and rights known as Human rights, as commonly understood, are the rights that every

human being is entitled to enjoy freely irrespective of his religion, race, caste, sex and nationality, etc.

State Human Rights Commission Tamil Nadu

- The State Human Rights Commission of Tamil Nadu become functional vied notification G.O.Ms: 1466 on 17 March 1997.
- As it was constituted by the earlier notification G.O.Ms 1465 Dt: 20 December 1996.
- The members of state election commission of tamilnadu has been appointed by that state governor under the reference of following
 - ✓ The chief Minister (Chairperson)
 - ✓ The Home Minister of that state
 - ✓ The Leader of the Opposition in (Lower House)
 - ✓ The Leader of the Opposition in (Upper House)
 - ✓ The Speaker of (Lower House)

Hindu Widows' Remarriage Act, 1856

- The Hindu Widows' Remarriage Act, 1856, also Act XV, 1856, enacted on 26 July 1856, legalised the remarriage of Hindu widows in all jurisdictions of India under East India Company rule.
- To protect what it considered family honour and family property, upper-caste Hindu society had long disallowed the remarriage of widows, even child and adolescent ones, all of whom were expected to live a life of austerity and abnegation.
- The Hindu Widows' Remarriage Act of 1856, enacted in response to the campaign of Pandit Ishwar Chandra Vidyasagar, provided legal safeguards against loss of certain forms of inheritance for remarrying a Hindu widow,

though, under the Act, the widow forsook any inheritance due her from her deceased husband.

- Especially targeted in the act were Hindu child widows whose husbands had died before consummation of marriage.

International Women's Year

- International Women's Year (IWY) was the name given to 1975 by the United Nations.
- Since that year March 8 has been celebrated as International Women's Day, and the United Nations Decade for Women, from 1976 to 1985, was also established.