

POLITICAL SCIENCE - I

TEXT BOOK FOR FIRST YEAR P.U.C

**2018 - 2019
(Revised)**

Department of Pre-University Education

Malleshwaram, Bangalore - 12

www.pue.kar.nic.in

© *Department of Pre-University
Education* 2014-2015.

All Rights Are Reserved

No part of this publication may be reproduced, stored in a retrieval system or transmitted, in any form or by any means, electronic, mechanical, photo copying, recording or otherwise without the prior permission of the publisher.

Revised Edition - 2018

This book is sold subject to the condition that it shall not, by way of trade, be lent, resold, hired out or otherwise disposed of without the publisher's consent, in any form of binding or cover other than that in which it is published.

The correct price of this publication is the price printed on this page/cover page. Any revised price indicated by a rubber stamp or by a sticker or by any other means is incorrect and should be unacceptable.

Printed on 70 GSM Maplitho paper

Director's Message

Dear Students,

We at the Department of Pre-university Education, Karnataka strive to empower each student to dream big and equip them with the tools that enable them to reach new heights and successfully deal with the challenges of life. As Swami Vivekananda said, **"Real education is that which enables one to stand on one's own legs"**.

The course contents in this book are designed with the objective of equipping you well for the next level of study.

We wish you well on your journey and look forward to you becoming a responsible citizen of the nation and give back to the betterment of the society.

With best wishes,

Sd/-

C. Shikha, IAS

Director

Department of Pre University Education
Bengaluru

PREFACE

The National Curriculum Framework (NCF) 2005 recommends that children's life at school should link life outside the school. The curriculum and content developed on the basis of NCF make an attempt to implement the basic ideas of upholding values imbibed in the constitution, providing quality education for all, reducing the load of content, encourage learning through activities and inculcate creativity.

The Department of Pre University Education in Karnataka has guided Text Book Committee to provide ample scope for inculcation of National, Social and personal values, participatory learning, focus on the local culture, history and help learner make a living out of it.

Keeping these guidelines in mind, for the students of I P.U, who have so far studied Civics as a part of Social studies and now are studying political science as an Independent Discipline. Curriculum is framed and developed not only to provide the knowledge of political theory and Indian government but also to understand, analyse the political system in India.

Every chapter is introduced with a catchy statement and learning objectives which gives an idea of the concept and content of the chapter. List of activities is also suggested for the guidance of teachers and students to develop content and make the process of learning more participatory rather than rote learning. At the end of each chapter there is question bank on the basis of which the learning outcome can be evaluated.

This Text Book is not only the outcome of the efforts of members of Text Book Committee but also by the cooperation and contribution of academicians and esteemed colleagues.

The Committee acknowledges Smt. Beena G. Principal, Reva Independent PU College, CBI, Bangalore for scrutinizing the language part of the text.

Constructive suggestions are welcome from our readers and fraternity to undertake further improvements in Text Book.

Co-Ordinator
Dr. N. Prabhakar

Chairperson
Dr. N. Vijayalakshmi

TEXT BOOK COMMITTEE

CHAIRPERSON:

Dr. N. Vijayalakshmi

Principal, Government P U College, Jakkur, Bangalore- 64

REVIEWER:

Smt T. K. Durgakumari

Principal, Sree Balaji P U College, Hanumanthanagar, Bangalore-19

MEMBER CO-ORDINATORS

Dr. N. Prabhakar

Lecturer, Govt. P U College for Girls, Basavanagudi, Bangalore-04

Sri DoddaBoraiah

Lecturer, Govt. P U College, Hannuru, Maddur Tq. Mandya Dist.

MEMBERS:

Sri Gowrishankara Swamy

Principal, Sree Basaveshwara P U College, Bidadi, Ramanagara Dist.

Sri P H Mahendrappa

Principal, Govt. P U College for girls, Sira, Tumkur Dist.

Ms Shamala Jogaiah.S

Principal, Sir M.V. P U College, HAL Road, Bangalore

Smt Nalini.V

Lecturer, Govt. P U College, Domlur, Bangalore

Dr. Mangalamurthy.S

Lecturer, Govt. P U College, T Narasipura, Mysore Dist.

Sri John Wilson

Lecturer, SJR P U college, Baalehonnur, Chickamagaluru Dist.

Sri Kumaraiah

Lecturer, Govt. P U College, Kunigal, Tumkur Dist.

Sri Gurubasavaraj

Principal, Govt. P U College, Hoovinahadagali, Bellary Dist.

Sri Ujjanagoudra Ananda ,

Lecturer, Govt. P U College , Haveri

CONTENTS

1. UNIT – 1 POLITICAL SCIENCE AS A DISCIPLINE	8 Hrs
1.1. Meaning, definition Nature and Scope	6 Hrs
1.2. Relevance of the study of political science in the contemporary world	2 Hrs
2. UNIT – 2 STATE	7 Hrs
2.1. Meaning, Definition and elements of state	4 Hrs
2.2. Meaning and distinction between	
a) State and Society	Hr
b) State and Associations	1 Hr
c) State and Nation	1 Hr
3. UNIT – 3 BASIC POLITICAL CONCEPTS	12 Hrs
3.1. Introduction	1 Hr
3.2. Sovereignty – Meaning, definition and Features	2 Hrs
3.3. Law – Meaning, definition and Kinds	2 Hrs
3.4. Liberty – Meaning, definition and Kinds	2 Hrs
3.5. Equality – Meaning, definition and Kinds	2 Hrs
3.6. Rights – Meaning, definition and Kinds	3 Hrs
4. UNIT – 4 CONSTITUTION AND GOVERNMENT	21 Hrs
4.1. Constitution – Meaning definition and significance	2 Hrs
4.2. Constitutional Government – Meaning, definition and Features	1 Hr
4.3. Kinds of constitutions	
a) Written & Unwritten – Meaning definition & Features	2 Hrs
b) Rigid & Flexible – Meaning & Features	2 Hrs
4.4 Essentials of an Ideal constitution	2 Hrs
4.5 Forms of Government:	
a) Democratic and Dictatorial:- Meaning definition & Features	4 Hrs
b) Parliamentary and Presidential: Meaning & Features	4 Hrs
c) Unitary and Federal: Meaning definition & Features	4 Hrs

5. UNIT – 5 CONSTITUTION OF INDIA	5.1. Constituent Assembly 5.2. Drafting Committee 5.3. Preamble of Indian Constitution 5.4. Salient features of Indian constitution 5.5. Fundamental Rights & Duties of Indian citizen & RTE	11 Hrs 1 Hr 1 Hr 2 Hrs 3 Hrs 4 Hrs
6. UNIT – 6 LEGISLATURE	6.1. Meaning & Significance 6.2. Legislature in India <ul style="list-style-type: none"> a) Union legislature-Loksabha and Rajya sabha -Composition, powers and functions b State legislature - State Legislative Assembly and State Legislative Council- Composition, powers and functions c) Procedure of law – Making 	15 Hrs 2Hrs 6 Hrs 6 Hrs 1 Hrs
7. UNIT – 7 EXECUTIVE	7.1. Meaning & Significance 7.2. Union Executive in India: <ul style="list-style-type: none"> a) President:- Election, Tenure, Removal, Powers and Functions b) Vice President:-Election, Tenure,Removal, Powers and Functions c) Prime Minister & Council of Ministers- Powers & Functions 7.3 State Executive: <ul style="list-style-type: none"> a) Governor – Appointment, Power & Functions b) Chief Minister & Council of Ministers – Powers & Functions 	16 Hrs 2 Hrs 3 Hrs Hrs 1Hrs 2 Hrs 4 Hrs

8. UNIT – 8 JUDICIARY	<p>8.1. Meaning & Significance</p> <p>8.2. Judiciary in India</p> <p>a) Supreme Court:- Appointment, Tenure, Privileges, Qualification, Removal, Powers & Functions</p> <p>b) High Court:- Appointment, Tenure, Privileges, Qualification, Removal, Powers & Functions.</p> <p>8.3 Subordinate Courts:-</p> <p>a) District Courts: Civil & Sessions Courts</p> <p>b) Revenue Courts</p> <p>c) Consumer Courts</p> <p>d) Family Courts</p> <p>e) Lok Adalat</p> <p>8.4 Public Interest Litigation</p> <p>8.5 Independence of Indian Judiciary</p>	<p>16 Hrs</p> <p>2 Hrs</p> <p>Hrs</p> <p>2 Hrs</p> <p>5 Hrs</p> <p>2 Hrs</p> <p>2 Hrs</p>
	<p>9. UNIT – 9 DEMOCRATIC DECENTRALI SATION</p> <p>9.1 Introduction, Meaning, Importance</p> <p>9.2 73rd & 74th Constitutional Amendment Acts</p> <p>9.3 Panchayath Raj System (With special reference to Karnataka)</p> <p>a) Rural Local Self Government (Zilla Panchayats, Taluk Panchayats, Village Panchayats) Composition, Powers and Functions</p> <p>b) Urban Local Self Government (Corporations, City Municipal Councils, Town Municipal Councils) Composition, Powers & Functions</p>	<p>14 Hrs</p> <p>2 Hrs</p> <p>2 Hrs</p> <p>5 Hrs</p> <p>5 Hrs</p>
	<p>Total teaching hours-</p> <p>Maximum marks -</p>	<p>120 hour</p> <p>100 hour</p>

INDEX

Sl. No.	CONTENTS	Page
1.	UNIT – 1 POLITICAL SCIENCE AS A DISCIPLINE	1-13
2.	UNIT – 2 STATE	14-25
3.	UNIT – 3 BASIC POLITICAL CONCEPTS	26-48
4.	UNIT – 4 CONSTITUTION AND GOVERNMENT	49-73
5.	UNIT – 5 CONSTITUTION OF INDIA	74-92
6.	UNIT – 6 LEGISLATURE	93-117
7.	UNIT – 7 EXECUTIVE	118-148
8.	UNIT – 8 JUDICIARY	149-171
9.	UNIT – 9 DEMOCRATIC DECENTRALISATION	172-196
	BLUE PRINT	197
	MODEL QUESTION PAPERS	198-211

Unit – 1

POLITICAL SCIENCE AS A DISCIPLINE

1.1 Meaning, definitions Nature and Scope

1.2 Relevance of the Study of Political Science in the Contemporary World

“A civilisation can be protected only by political science.”

George Bernard Shaw

Learning objectives

1. To have knowledge about the discipline.
2. To understand the nature of the subject.
3. To gain knowledge of the scope of the subject.
4. To gain knowledge about the significance of political science and become a good citizen.

The world has witnessed many mysteries, changes and developments. Creation of human race is one among them. It is beyond our imagination to record the beginning and end of the world. But of late, man has discovered new techniques and methods to explore the evolution of mankind and has made endless efforts to achieve this goal. In his exploration, he has achieved a great deal, but is still trying to know about the world and in its different dimensions. In this regard science has helped us tremendously. Today, science has revealed the role of ‘God particle’ in the creation of universe.

Thus, man became aware of the developments and changes in the Nature with the help of science. Science is classified into different divisions such as Physical Sciences, Biological Sciences and Social Sciences. Social Science includes History, Economics, Sociology, Political Science, Geography, Psychology, Ethics, and Philosophy etc. Political Science is

one of the important branches of Social Science and occupies a very significant role in understanding man's evolution as a political being.

INTRODUCTION TO THE CONCEPT OF POLITICAL SCIENCE

The subject matter of political science is an ancient one. The ancient Greek philosophers have laid a good foundation for political science. In fact, the ancient Indian thinkers have referred to the concepts of political science in their works and historical documents. Reference is made on the state administration in the works of **Kautilya** in '**Arthashastra**' and of **Kamandaka** in '**Neethisara**'. Political awareness of Indians is visualised in the **Rigveda**, **Yajurveda**, **Shukraneethisara** and **Manusmrithi**. But these works focussed more on religious consciousness rather than political awareness. Hence, the study of political science was neither systematic nor scientific during that period. The credit of developing the theory of political science on a systematic and scientific basis rightly goes to the Greeks. Socrates (470 B.C.-399 B.C.) a great ancient Greek philosopher contributed his political thinking through dialogues. Plato (427 B.C.-347 B.C.) emphasized his political views in his work "**The Republic**". Whereas, Aristotle (384 B.C. - 322 B.C.) went a step ahead and made his approach to the study of political science more realistic. He laid a scientific foundation to the study of political science and regarded it as the "Supreme Science" or Master of all social sciences. He expressed his political thinking in his familiar work "**The Politics**". For his invaluable contribution to the discipline of political science, he is regarded as the "Father of Political Science". **Socrates, Plato** and **Aristotle** are regarded as '**Greek Philosopher Trio**'. In the modern times **Machiavelli** of Italy added a new dimension to the study of political science in his great work "**The Prince**".

MEANING OF POLITICAL SCIENCE

The term political science is derived from the Greek word "**Polis**" which means "**city-states**". Greek philosophers opined that, politics is the study of city-states and its administration both in theory and practice. Aristotle was the first to consider political science as an absolute science. Hence, Fredrick Pollock said "**the study of political science begins with Aristotle.**"

In ancient Greece, the city-states were not as big as the modern states. The city-states were surrounded by hills, valleys, rivers, lakes. Due to lack of transportation, the city-states had to take care of its needs and requirements on its own. Some of the main city-states were Sparta, Athens, Macedonia and Stagira. Direct democracy was practiced in Sparta and indirect democracy in Athens. Later on due to innovations in transport and communication, people of similar languages, customs and traditions united together and developed close cultural affinity among them. As a result, they developed a sense of oneness and a feeling of unity among them. Thus state was born out of such city-states and Politics means the study of such states. Hence, political science deals with the state and the organization of government and its operation.

The term political science is called by different names by different thinkers. Aristotle regarded it as “politics”, **Gettell** called it “**science of state**” and Sir Fredrick Pollock opined the term as “**Science of politics**”. It was first used by **Goudwin and Merry Walstone Craft**. Finally, the international political scientists conference held at Paris under the aegis of UNESCO in 1948 approved and accepted the term political science.

NATURE OF POLITICAL SCIENCE

According to Aristotle, man by nature is a social animal. He should continue to live in society. A man, who is unable to live in society, must be either a beast or God. He organized society to fulfill his needs and lead his life happily and comfortably. Hence, society ensures him social security as he depends on the society.

Man is a social being at the same time he is a political being. By nature he is selfish, egoist and quarrelsome too. While leading social life in society his conflicting nature, jealousy and hatred lead to anarchy. So man cannot lead his life happily and peacefully because of such nature. In order to regulate such behaviour of individuals and establish a good system, society requires an organization called state, which functions through its agency “The Government”.

Order in society is established through laws, enacted and enforced

by government. So the state regulates human activities by framing and implementing laws. The subject which studies about state, government, laws and political activities of human beings is called political science.

Though the subject matter of political science is as old as history, it got a new dimension to strengthen its study only in 20th century. Before that, it was a part of all other social sciences. At that time people were not able to participate in any political activity and analyze the political system. The political activities were in the hands of the kings, emperors, hierocrats, theocrats, seers, philosophers and only certain sections of the society. Common people neither directly nor indirectly participated in such system. The subject became popular and gained importance only after the origin, evolution and development of the principles of democracy in the modern era. Here people can participate and thus acquire political education and also get an opportunity to participate in the administration of the state. Since, political science created a consciousness about the administration, law and political activities among people, it has evolved greatly in its concept. Today political science occupies a distinct position in social sciences and the credit goes to Max Weber.

Over the years political science has developed into an independent discipline.

IS POLITICAL SCIENCE A SCIENCE?

The question is whether political science is a science or an art. Political thinkers like **Aristotle, Bodin, Hobbes, Machiavelli, Montesque, Lewis, Bluntschli** and others argued that political science is a science. In this regard Aristotle, the Father of political science called it 'Master of all sciences' and applied scientific methods in studying the politics of the Greek city-states.

Other political thinkers like **J.S. Mill, Buckle, August Compte, Maitland, James Bryce, and Charles A. Bryde** asserted that political science is not a science and opposed to give the status of science. According to **Buckle**, 'In the present state of knowledge, politics far from being a science is one of the most backward of all arts'.

Group of thinkers who claim that political science is not a science list their arguments as follows:

1. As there is no consensus among political thinkers regarding the subject matter of study, methods and generalisation, political science is denied to be called a science.
2. Political science is not a science, because the political theories lack universally accepted definition, scope and terminology as in Physics, Chemistry, Biology and other Natural sciences. For example terms like Imperialism, Democracy, Communism, Socialism, Liberalism and Nationalism do not have uniform definitions.
3. Difficulty in adopting scientific methods of investigation, conducting experiments and lack of measuring rod and even the subject matter of study, hinders it from being called an exact science.
4. Exact predictions are not possible as in natural sciences, because it deals with human beings.
5. Unable to arrive at definite and precise conclusions also contribute it from not being called as science.

There is one more School of thought which argues that, political science is a systematized body of knowledge and summarize their views in the following way.

1. Political science may justly claim to be a science as
 - (i) Observation (Political Phenomenon like voting behaviour)
 - (ii) Collection of data (How voters behave during voting)
 - (iii) Classification of data (Based on voting pattern)
 - (iv) Analysis (Why some people vote for party A and some people for party B and so on)
 - (v) Interpretation and conclusion (How many of them voted for party A and B, justification for their behavior are deduced). Hence political science can be justified as a science.

2. They defend their argument that, experimentation is also possible in political science as the whole world is a Laboratory. For example, Russian Revolution of 1917 proved that, the conflict between Have's and Have-not's results in the emergence of a Government of Proletariat which is not an end in itself. Aristotle contributed his political ideas through his greatest work "Politics" on his study of the working of 158 constitutions. **B.N. Rao**, the Legal Advisor to the Constituent Assembly of India, visited many countries and placed the results of his comparative study of the various constitutions before the Constituent Assembly while framing the constitution.
3. Fitting reply could be given for the argument that prediction is not possible in political science. By conducting pre-poll and exit-poll survey, prediction can be made possible as to which party may come to power.
4. With regard to the criticism of not having measuring rod we may contend that public opinion formed during the term of government is reflected in elections.
5. Formation of theory and derival of universal truth is also possible in political science. French Revolution of 1789 proved that Liberty, Equality and Fraternity are the lifeblood of any country. Totalitarianism, suppression, exploitation definitely leads to war of independence.

Political science is not only a science but also an art. It inculcates the features of art by making repeated efforts on a specific topic with continuous refinement. An artist only through his continuous efforts becomes successful. Likewise, in political science good governance, able administration, successful leadership, concept of welfare state and hollow-state, popular judgments, sources of law etc., prove that political science definitely is an art.

Hence political science is science though inexact and also an art.

DEFINITIONS OF POLITICAL SCIENCE

1. **Sir John Seeley:** "Political science investigates the phenomena of government as Political Economy deals with wealth, Biology with

life, Algebra with numbers and Geography with space and magnitude.”

2. **Prof. Garner:** “The study of political science begins and ends with the State.”
3. **Paul Janet:** “Political science is that part of social science which treats of the foundations of the state and principles of government.”
4. **Garries:** “Political science deals with the origin, development, purpose and all political problems of state.”
5. **Catalin:** “Political science is the study of the political activities of human being.”

By studying the above definitions, we can come to the conclusion that, political science is the study of state, government and the political activities of human beings in an organized society.

SCOPE OF POLITICAL SCIENCE

The term ‘scope’ refers to the boundary or the province or the sphere of a subject. Here, the scope of political science means, the subject matter of the study. There are different views regarding the scope of political science. Three such views - are that it is a

- 1) study of the state
- 2) study of the government
- 3) study of both the state and the government

The first group of scholars like **Garries, Garner, Goodnow** and **Bluntschli** argue that political science is the study of only the state. The study of state obviously includes origin, evolution, types, its powers and functions.

The second group of scholars like **Sir John Seeley, Stephen Leacock** and **Robson** contend that political science is the study of Government alone. Here the subject absolutely includes the origin, evolution, types and its powers and functions.

The third group of scholars like **H.J. Laski, Gettell, Gilchrist** and **Paul Janet** present a more balanced view of the scope of political science and conclude that political science is the study of both the State and the Government. This view is universally accepted. The State cannot exist without the Government and Government cannot operate without the State. Hence the State and the Government are interdependent.

Long ago, the function of State was limited to police functions. The main responsibility of such a State was to protect the lives and property of the people. But Modern States are welfare States and provide the basic requirements to all the people from cradle to grave. The Welfare State has to promote the progress and prosperity of all the people. As a result the responsibilities of the Welfare State have increased. Since political science deals with the study of such States, the scope of political science has also widened.

The political scientists from all over the world who gathered at the UNESCO conference in Paris held in 1948, divided the subject matter of political science as follows:

1. POLITICAL THEORY:

The study of political science begins with the political theory. Here we study the origin and evolution, objectives and functions of a State and mainly concentrate upon the views, ideologies and theories of the political philosophers. In political theory we also study about origin, evolution, differences, utilities and comparison of different theories like democracy, socialism, communism, individualism, liberalism, utilitarianism etc.

2. POLITICAL INSTITUTIONS:

Here we study about different forms of governments, constitutions, which are most essential to the State. It also concentrates on the organization and functioning of the government at different levels and comparative study of the government and constitutions.

3. POLITICAL PARTIES:

This refers to the study of the origin, formation, organization and functions of political parties. Political debates, public opinion, pressure

groups, influence of pressure groups on politics, elections, electorate, participation of citizen in public administration etc.,

4. INTERNATIONAL RELATIONS:

Inter national relations deals with the foreign policies among the world countries, international law, organization of UNO and its objectives, commonwealth, which are established to promote world peace and also deal with the strengths and weaknesses of these organizations. It also includes war, peace, international treaties, diplomacy, International Court of Justice etc.,

With the changing phenomenon of the world in matters of life style, attitude and ethical values, the study of political science has adopted new techniques, new dimensions and innovative methods.

RELEVANCE OF THE STUDY OF POLITICAL SCIENCE IN THE CONTEMPORARY WORLD

Since times immemorial, the study of political science occupied a pivotal role in the day-to-day life of man. As **George Bernard Shaw** rightly said “A civilisation can be protected only by political science”. **Kautilya** in his great work “**Arthashastra**” has given a very respectful and significant place to political science. A study of political science is inevitable to all the citizens in the contemporary world. **Robert Dahl** views that “politics is inevitable for the existence of human kind.” The study of political science is essential to all groups of individuals in modern world and thus the relevance of the study of political science is listed as follows:

1. INCULCATES POLITICAL AWARENESS:

In this democratic era everyone is participating in politics directly or indirectly. Here people themselves are the rulers as well as the ruled. Being responsible citizens, they should know the political developments and administrative machinery. The democratic system can be successful only when the people elect best representatives. People can gain awareness about the democratic principles and procedures only by the study of political science.

2. IMPARTS KNOWLEDGE OF STATE AND GOVERNMENT:

People can understand the origin, evolution, aims and objectives, elements and responsibilities of the state through basic study of political science. It also creates awareness about the organization of the government, its nature, functions and responsibilities.

3. HELPS TO ACQUIRE KNOWLEDGE OF POLITICAL THEORIES:

We can understand the various political theories like Democracy, Socialism, Individualism, Marxism, Nazism, Fascism etc., only by the study of political science. It enables the people to know about the origin of these theories and the circumstances under which they emerged and their impact on society. The citizens can understand the utility of these theories. For example Rousseau and Voltaire's inspiration to the French Revolution (1789). Marx's contribution to socialism and establishment of communism in Russia (1917) and China, the decline of communism throughout the world after 1990's. The successful implementation of the democratic principles is more relevant for discussion at this juncture.

4. EXTENDS KNOWLEDGE OF COMPARATIVE POLITICS:

The world harbours people of different culture, civilization and lifestyle. Such worlds possess divergent political systems. Every state adopts its own constitution and government and caters to the needs and aspirations of citizens. The study of political science enables us to understand different types of constitutions and governments and through which people can assess the best among them.

5. PROVIDES TRAINING TO POLITICIANS:.

Most of the modern countries have adopted the democratic system since the people themselves have an opportunity to participate in the administration. In such a system, the study of political science provides detailed information to the representatives about framing of laws, implementing of the plans and programs of the government and other responsibilities related to legislation.

6. REGULATES MISUSE OF POWER:

Modern democratic states emerged on the basis of the concept of welfare state which has major responsibility to provide basic requirements to all the people. Hence, the functional jurisdiction of the government has widened. Under such circumstances, citizens have a major role in controlling the activities of Government and thus political science makes them aware of such responsibilities.

7. PROMOTES GOOD CULTURE:

In order to lead a good and civilized life in society, people need qualities like humanity, tolerance, sacrifice, discretion etc. Study of political science helps them to become good citizens and to involve themselves in Nation-building and such citizens are assets of a Nation.

8. PROVIDES KNOWLEDGE OF THE CONSTITUTION:

Constitution is essential to every state because the organization of government its powers and functions, the objectives of constitution, its role and responsibilities in fulfilling the aspirations of the people should be well known to all citizens. Such valuable information can be obtained only by the study of political science.

9. DEVELOPS KNOWLEDGE ABOUT RIGHTS AND DUTIES:

The success of a state is analyzed on the basis of rights and duties guaranteed to all its citizens. Rights are essential for the development of individual personality. These rights are privileges given to citizens by state in a civilized society. Duties imply rendering of service to Nation. Rights and duties are the two faces of the same coin. People should be keen on duties rather than rights. Study of political science enables us to understand the relevance of rights and duties.

10. RENDERS GUIDANCE TO BUREAU CRATS:

Civil Service which is considered as the fourth organ of the government has responsibilities to implement all the plans and programs. Accordingly, the progress of a nation depends upon the integrity, honesty and efficiency of the civil service which is regarded as the backbone of the government. The civil service can discharge the

duties effectively with the help of knowledge of public administration resulting in the progress of the country.

11. CREATES AWARENESS OF INTERNATIONAL RELATIONS:

Political science enlightens about contemporary world politics, international law, international organizations and relationship among the countries of the world. The world has already witnessed two world wars which were most destructive. Mankind throughout the world realized the necessity of establishing world peace through international co-operation. Study of political science can instill in the minds of the people, a global-view and remove narrow nationalism from their mindset.

12. BUILDS A BETTER WORLD:

The study of political science as an intellectual discipline will make the people more vigilant, co-operative, tolerant and democratic. It leads them to become good citizens and paves the way for a better world in future.

The study of above aspects enable us to understand the state, government, administration, rights, duties, law, constitution, foreign relations etc., But the study of political science is useful in the contemporary world only when people are committed, sincere, honest and punctual, without which political awareness, realization of laws etc., will become futile.

Suggested Activities

1. Observe political awareness of the public before, during and after election.
2. Participate in national festivals like Independence day and Republic day

QUESTION BANK

I. One mark questions.

1. Who is the 'Father of political science'?
2. Who studied political science first scientifically?
3. Name the book written by Aristotle.
4. Name any one city-state of Ancient Greece.
5. What is political science?
6. Who said that political science is a supreme science?
7. Who said, 'Man is a social animal'?
8. How many constitutions did Aristotle study prior to writing 'The Politics'?
9. Which is the root word of politics?
10. What is the meaning of word 'polis'?

II. Two marks questions

1. Define political science.
2. Name the divisions of the scope of political science.
3. What is the subject matter of political science?
4. How is man a social animal?
5. What is the scope of political science?
6. Write about Greek city-states.
7. In which of the ancient Indian works do we find references of state administration?
8. When and where was the International political science conference held?
9. Who are called the Greek Philosopher Trio?

III. Five marks questions

1. Discuss the evolution of political science.
2. Explain the nature of political science.
3. Explain the scope of political science.
4. Is political science a science? Explain.
5. Is political Science an art ? Explain.

IV. Ten marks questions

1. Explain the nature and scope of political science.
2. Explain the relevance of the study of political science in the contemporary world.
3. Is political science a science or an art? Explain.

UNIT-2

STATE

2.1 Meaning, definition and elements of the State

2.2 Meaning and distinction between

A.State and Society

B.State and Associations

C.State and Nation

“The State comes into existence originating in the bare needs of life and continuous in existence for the sake of good life.”

Aristotle

Learning objectives

1. To know the meaning of the state
2. To understand the difference between the State, Society, Associations and Nation.

The State is the most important human association. The father of Political Science Aristotle said that man is a social and also a political animal. Hence everyone has to live together in society. By nature man is selfish. This selfishness may cause disputes among people. Therefore, to control the behavior of people and establish social peace, the state came into existence.

Every one accepts that the state is an essential organization but regarding the origin of state there is no common opinion among political scientists. There are many schools of thought like Divine Theory, Power Theory, Social Contract Theory and Natural Theory. However we can conclude that state emerged gradually.

Meaning and Definitions:

The term state is derived from the Greek word ‘Polis’ which means city state. City States existed in ancient Greece, such as Athens and Sparta which were small in size. Ancient Romans called the state as “Civitas”. Even in ancient Indian literature we can find reference to the concept of state. For instance **Kautilya’s** Arthashastra. The term **‘STATE’** was first introduced by Nicolo Machiavelli a great Italian Political thinker in his work **‘The Prince’** in 1513.

2018 - 2019

Definitions-

1. **Woodrow Wilson:** “The state is people organized for law within a definite territory”.
2. **Bluntshli:** “The state is politically organized people in a definite territory”.
3. **G.D.H Cole:** “The state is whole community of its members regarded as organised Social unit”.
4. **Aristotle :** “state is a union of families and villages having for its end a perfect and self sufficient life, we mean a happy and honorable life”.

The above definitions imply that, the state is politically organized people in a definite territory.

Society consists of many associations. Among them, the state is supreme. The Greek thinkers considered the state as a natural and moral institution. Aristotle opined that the state emerged for the sake of people and it is continuing for their good. Further he said that everyone should live in the state and if he lives outside the state he must be either God or beast. Therefore we cannot think of civil society without the state.

Importance of State

1. The State ensures internal & external security to people.
2. It maintains law and order.
3. It provides justice to people.
4. It regulates the activities of people and establishes peace.
5. The State safeguards the rights and liberty of people.
6. It guarantees basic facilities to people such as health, education etc.
7. It extends social security to people.

Thus, the modern state is a welfare state which serves people from birth to death.

Elements of the State

The State is the most important political association of people. It consists of certain essential elements. Ancient Indian political philosopher Kautilya in his book ‘Arthashastra’ advocated Sapthanga theory and said

that the state should have seven organs such as Swamin(King), Amatya(Minister), Janapada(Population and territory), Kosha(Treasury), Durga(Fort), Bala(Military) and Mitra(Friend). In general the state consists of four essential elements:

1. Population
2. Territory
3. Government
4. Sovereignty

1. Population:

The State is organized for the sake of people. Therefore it is highly impossible to imagine a state without people. Everyone accepts that, population is an important element of the state but regarding the size of population there is no common opinion among political experts.

According to Plato, population of an ideal state should be 5040. Rousseau said it should be 10,000. Aristotle opined that there should be a balanced population. Thus, political scholars of early days advocated small size of population. But in modern days it is impossible to think of state with small population.

Countries like China (145 crore), India (121 crore) and some states have large number of population. Whereas countries like Nauru (9,000) Vatican City (25000) and some other states have less population. Anyhow huge population is advantageous in the view of man power but limited population is advantageous to avoid poverty, unemployment and other problems. Hence population of the state should be balanced according to the necessity. Here quality of the people is significant rather than quantity. For instance, Japan in spite of its small population is developing in all walks of life. As **J.S.Mill** opined "*Significance of a state depends on ability of the people*". Aristotle said "Good people build a good state". Therefore learned people with quality can construct a model state.

2. Territory

The second important element of the state is territory. Territory includes a definite land, water and air space within it. The wanderers or nomads cannot be called as state. Hence it is clear that we cannot think of a state without definite territory. But regarding size of territory there

is no common opinion among the scholars. Political philosophers like Aristotle and Rousseau are of the opinion that territory of a state should be small, whereas Lord Acton, Trotsky and others have suggested state should have large territory.

A small area of land may be advantageous in respect of effective administration and harmonious relationship between the state and the people. But a large territory may be good in respect of natural resources and international status.

However the size of a territory is not very important. There are many states with small territory such as Vatican city (0.17 sq.miles), Monaco (0.76 sq.miles) Sanmarino (24 sq.miles), where as the states like Russia (17075000 sq.miles), Canada (9.984670 sq.miles) U.S.A. (962,9091 sq.miles) and India (1,269,210 sq miles) have large territory. Therefore the model state can be established by people with quality and suitable territory with sufficient natural resources.

3. Government

The state cannot be organized only by population and territory. It needs another important element that is the government. It is the government which works to fulfill the goals of the state. The State without government leads to anarchy. Hence the government is considered as machinery of the state. It governs the people and maintains law and order in the state. Government consists of three organs:

1. Legislature - enacts the laws.
2. Executive - enforces the laws.
3. Judiciary - interprets the laws

Thus the state should have its own government which may be in any form like democratic, dictatorial, monarchical or socialist and likewise.

4. Sovereignty

The most important element of state is sovereignty. It is the supreme power of state. According to **Bodin**, "Sovereignty is the supreme power over citizens and subjects unrestrained by law". Hence we cannot think of a state without sovereignty. It is the heart and soul of the state. Sovereignty has two aspects:

1. **Internal Sovereignty**: - It implies the supreme power of the state

over all people, associations and everything within its territory. It has power to maintain law and order and protect the life and property of people.

2. **External Sovereignty:** It implies independence or freedom of the state. It ensures that the state is externally independent and free to adopt its own foreign policy and international relations. India was not a sovereign state before August 15, 1947.

Thus all the above four elements are essential to organize a state. In addition to the above four elements, the modern political experts argue that the state should be internationally recognized and it should have permanent existence.

2.2 Meaning and distinction between :

A. State and Society

The State is a well organized political system. Its primary function is to maintain law and order and protect the lives and property of people. Welfare functions are also shouldered by the state. It is a sovereign political organization of people with in a definite territory.

Society is a social system which consists of individuals, families, organized and unorganized institutions. As **Max Weber** said "Society is a web of social relationships". Hence the state and society are not synonymous.

However there is close interrelation and interdependence between the state and society. There is no state without society, likewise we cannot think of a harmonious society without the state. As **Ernest Barker** rightly said that, both state and society have common moral purpose that is the welfare of people.

The distinction between State and Society

1. Society is prior to state.

It is the society which came into existence first and then the state. Society is as old as mankind, but the state developed gradually as an essential part of human society.

2. Society is wider than state.

Society is a comprehensive concept. It includes individuals, families, culture, conventions, organized and unorganized institutions. In

brief the whole world is a society. Whereas, the state is a part of society, As **MacIver** said, 'The state exists within society'.

3. State needs a definite territory but not society.

It is impossible to imagine a state without a definite territory but there can be a society without a definite territory. Nomads or wanderers form society but not a state.

4. State has sovereignty.

The State has sovereign power. It can punish those who go against its will. But society has no such powers. Society controls its people through customs, traditions, folk ways and even expulsion.

5. State is an organized institution.

The state is a well organized political institution, whereas, society consists of both organized and unorganized institutions.

State

1. State came into existence after society.
2. State is a part of society.
3. State needs a definite territory.
4. State is an organized institution.
5. State has sovereignty.
6. Government is the machinery of state.

Society

1. Society is prior to state.
2. Society is wider than state.
3. Society can exist even without definite territory.
4. Society includes both organized and unorganized groups.
5. Society has no such power.
6. Society does not have government.

State and Associations

Man by nature is a social animal. He fulfils his different interests by forming various associations. The State is one of such associations. Society consists of innumerable associations with some specific purposes. As **MacIver** said, "Association is a group of persons or a group of interests in common."

Association is nothing but organized group of people which have some specific objectives and principles. Associations may be social, economic, religious, cultural etc. for Ex. Rotary Club, Lions Club, Commerce and Trade unions, Brahma Samaja, Arya Samaja, cultural and linguistic associations, etc. Among various associations, the state is the most important political association which works for the welfare of people. It is the supreme association. Hence it is also called **‘Association of associations’, and the ‘crown association’**.

Distinction between state and associations:

1. The state is a sovereign association.

The state is a sovereign association which enjoys supreme power both internally and externally. It has coercive power over its members and associations. Whereas other associations though do not have such powers, it can control its members through its bye-laws, impose fine and expel them from primary membership.

2. Membership of the state is compulsory.

Membership of the state is compulsory and inevitable. Every individual should be the member of one or the other state. But the membership of other association is voluntary.

3. The State needs territory.

Each and every state should have its own territory but an association has no such condition. It can spread from local to global level. For example Red Cross, Amnesty International etc.

4. Membership of state is limited.

Every individual is the member one or the other state, but not more than one state. Exceptionally dual citizenship may be granted under some special circumstances. In contrast membership of association is unlimited. A person is free to get membership of any number of associations.

5. The State is permanent.

State is permanent till the existence of individual and society. But associations are not permanent. They may disappear soon after the fulfillment of their goals and objectives.

6. Purpose of the state is wider.

The State works for the welfare and well being of people, but the associations are formed to fulfill their specific purposes.

7. The State is the supreme association.

The State is the greatest association which can regulate all other associations. Hence, each and every association comes under the jurisdiction of the state.

The State

1. State has sovereignty.
2. Membership of state is compulsory.
3. State requires a definite territory.
4. Membership of state is limited to one state.
5. State is permanent.
6. The purpose of state is wider. It works for the welfare of people.
7. State is the supreme association.

Association

1. Association has no sovereignty.
2. Membership of association is voluntary.
3. Association does not require definite territory.
4. Membership of associations is unlimited.
5. Association is temporary.
6. Purpose of association is limited.
7. Associations do not have such power.

State and Nation

Quite often the words 'State' and 'Nation' are used synonymously, but they are different. The State is a politically organized group of people with a definite territory. But Nation is an emotional concept. It is derived from a Latin word 'Natio' which means the people belonging to a common stock, race or blood relationship. It is the feeling of oneness among people which may be developed by certain factors such as the common history, religion, culture, language, political system etc.

According to **Gilchrist** “The Nation is State Nationality”. However nation is psychological and requires emotional feeling of oneness among the people. The concept of nation has its own significance. It binds the people together. This spirit of nationality and devotion glorifies the state.

The state essentially needs sovereignty both internally and externally. Nation need not have political independence. For instance, until 1947 August 15th India was not a state but it was a Nation.

THE DISTINCTION BETWEEN THE STATE AND NATION

SL No	State	Nation
1.	State is politically organized.	Nation is emotional feeling of oneness among the people who belong to common stock.
2	The concept of the state is limited to a definite territory	The concept of Nation is wider than the state.
3	Governmental machinery is essential.	It is not required for nation.
4	The State has sovereignty.	Nation does not have sovereignty.
5	The State is objective.	Nation is subjective.

Thus, the state is the most essential human organization. It is a sovereign association which is established for the sake of people. It serves the people from womb to tomb.

Suggested Activities

1. Prepare list of voluntary organizations.
2. Find out the requirements of nationalism.

QUESTION BANK

I. One marks questions.

1. Which is the most essential human organization?
2. What is a state?
3. What is the main purpose of a state?
4. Who said that man is a social and also a political animal?
5. What is the root word of state?
6. Give an example of a city state.
7. who called the state as 'Civitas'?
8. Who introduced the term state for the first time?
9. Who is the author 'The prince'?
10. Which is the supreme of all the associations ?
11. Who advocated Sapthanga theory of the state?
12. According to Plato what should be the population of state?
13. Who said that population of the state should be 10,000?
14. Who is the author of the book 'Arthashastra'?
15. Name a state with highest population in the world?
16. Name a state with lowest population in the world?
17. Who said that 'Good people build a good state'?
18. What is territory?
19. What is government?
20. Which is called as an agent of the state?
21. Which organ is called as the 'Heart and soul' of the state?
22. What is sovereignty?
23. What is an association?
24. Which is called as 'The association of associations'?
25. What is society?
26. Who said "society is the web of social relationship"?
27. Which is known as the 'crown association'?
28. What is the root word of the term 'Nation'?
29. Who said 'Nation is state + Nationality'?
30. What is Nation?

II. Two marks questions

1. Write the meaning of State?
2. Name any two theories of the origin of the State?
3. Define the State.
4. What is welfare state?
5. Name the four elements of a State.
6. Write any two advantages of limited population
7. Name any two states which have large population.
8. Name any two advantages of small territory.
9. Write any two advantages of large territory.
10. Name any two states with large territory.
11. Name any two states which have small territory.
12. Write the meaning of Government.
13. Mention the organs of Government
14. Write any two forms of Government.
15. What is the meaning of Sovereignty?
16. Name the aspects of sovereignty.
17. What is internal sovereignty?
18. What is external sovereignty?
19. Write the meaning of Society.
20. Write any two differences between the State and society.
21. What is an association? Give an example.
22. Write any two differences between the State and association.
23. Write the meaning of Nation.
24. Write any two differences between the State and Nation.

III. Five marks questions

1. Explain the importance of State.
2. What is sovereignty? Explain the two aspects.
3. What are the differences between State and society?
4. Distinguish between State and Association.
5. Explain the distinction between State and Nation.

IV. Ten marks questions

1. What is State? Explain its elements.
2. What is State? Explain its importance.

UNIT-3

BASIC POLITICAL CONCEPTS

- 3.1 Introduction
- 3.2 Sovereignty- Meaning, definition and Features
- 3.3 Law – Meaning definition and kinds
- 3.4 Liberty - Meaning, Meaning, kinds
- 3.5 Equality- Meaning, Meaning, kinds
- 3.6 Rights - Meaning, Meaning, kinds

“Man when perfected, is the best of animals, but when separated from the law and justice, is the worst of all”.

- **Aristotle**

Learning objectives

1. To know the meaning of the term sovereignty, law, liberty, equality and rights.
2. To understand their classifications.

It is imperative on the part of students of political science to study the key concepts of the subject. It enables to know the significance of the state and to create awareness about their rights, duties, responsibilities, laws, power and authority of the state. Therefore, we study in this chapter about sovereignty, law, liberty, equality and rights.

Sovereignty is the key concept which is very important element of the state. Without it there can be no state. It gives individual status to state. With the sovereign power, the state acts independently, internally as well as externally.

Law is the rule of the state. It regulates the external behaviour of the people, without which social life is impossible. As law is the vehicle of sovereignty, it is formulated and enforced by the government.

Liberty is another concept of our study. It means freedom of a person to do what he likes with regard to others freedom with some restrictions. It is very much essential for the development of one's personality.

Equality due to imperfection of social order, gross disparities and inequalities is figured in our study. Equality and Liberty are the vanguard of democracy. It provides each and every one an opportunity, equal treatment and absence of special privileges and facilities to individuals and groups.

Right is another important concept, which co-exists with duties and allegiance to state. Rights are claims that are recognised socially and they aim at the development of the individual and also of society. Therefore state maintains rights for its interest and the interests of the people.

3.2 SOVEREIGNTY

Sovereignty is the most important element of the state. It is the supreme power of the state. As such, without sovereignty there can be no state. Sovereignty is one of the fundamental concepts of our study. It is an attribute of the state and by virtue of sovereignty, state becomes most powerful association.

Definitions:

1. **Hugo Grotius:** "Sovereignty as the supreme political power vested in him whose acts are not subject to any other and whose wills cannot be overridden"
2. **Burgess:** "Sovereignty is original, absolute and unlimited power over the individual subject and over all associations of subjects"
3. **Professor Willoughby:** "Sovereignty is the supreme will of the state".
4. **Duguit:** "Sovereignty is the commanding power of the state, it is the will of the nation organised in the state, it is the right to give unconditional orders to all individuals in the territory of the state"

Origin and development of the term sovereignty

The term sovereignty is derived from the Latin word '**superanus**', which means supreme. The concept of sovereignty signifies the supreme power of the state. The idea of sovereignty was discussed first by the French thinker **Jean Bodin** in his book '**Six Books on the Republic**' popularly known as '**de Republica**' published in 1576. He defined sovereignty as "supreme power over citizens and subjects unrestrained by law". **Jean Bodin** recognised the importance of the '**internal sovereignty**' and **Hugo Grotius** developed '**external sovereignty**'.

In 17th century **Thomas Hobbes** of England further developed this concept and propounded the '**Legal Sovereignty**'. He justified the authority of the king as highest in the legal sense. Later it is understood that king was the part of governmental machinery and as such he is subordinate to the state and exercised only delegated powers. There were protests against monarchy.

The Glorious Revolution of 1688 and the French Revolution of 1789 gave a new dimension to the concept of sovereignty. The spirit of Democracy made the people that they have every right in the political life of the state. An English philosopher **John Locke** justified the two revolutions and criticised monarchy and its unlimited power. He is rightly considered as an exponent of '**political sovereignty**'. **Jean Jacques Rousseau**, the French philosopher propounded the concept of '**popular sovereignty**'. He made the people sovereign and his sovereign was absolute, indivisible, infallible and inalienable.

Later on thinkers like **Hegel, Jeremy Bentham, H.J.Laski, Maitland, Duguit, G.D.H Cole, MacIver** and others further developed this concept.

Aspects of sovereignty-

The sovereignty of the state has two aspects. They are INTERNAL and EXTERNAL sovereignty.

Features of sovereignty

1. Absolute

The sovereignty of the state is absolute that is unlimited. It means internally and externally there is no other power to control the state. The sovereignty of the state is not subject to any legal limitations and without sovereignty no state can exist. Therefore, it implies the absence of any type of restrictions on the authority of the state.

From the legal point of view, sovereignty is absolute and unlimited, but in reality it has internal and external limitations. Sovereign power is internally limited by customs and traditions, religion, education, public opinion and constitution. Externally it is limited by international laws, treaties and agreements. The restrictions may be ignored by the state at its will.

2. Universal

Sovereignty is universal in character. It extends to all the individuals

and associations within the territory of the state. No one is superior to the state and can claim exemption from its control. But externally, exemptions are given to diplomatic representatives' like- Ambassadors, Envoys, High commissioners and Consuls. These exemptions are '**diplomatic immunities**'. This is to gain international courtesy and mutual advantages.

3. Inalienable

When sovereignty is absolute and unlimited it should also be inalienable. That is, it cannot be transferred or given away. Since sovereignty is one of the essential elements of the state it cannot be given up or transferred without destroying itself. The state and sovereignty are necessary to each other. In this regard, an American writer **Leiber** says: "Sovereignty can no more be alienated than a tree can eliminate its right to sprout or man can transfer his life and personality without self destruction".

If a state gives a part of its territory to another state, it loses its authority over that part. By this there exist two sovereign powers. Transfer or shifting of sovereign power from one government to another does not mean destruction of sovereignty. It means change in the form of government and nothing else.

4. Permanent

Sovereignty is as permanent as the state. That is, it continues to exist as long as the state exists. State and Sovereignty are inseparable. Any change in the government or death of a king or president does not mean loss of the Sovereignty, but only shifting of power from one person to another. The ruler or the government exercises the power on behalf of the state. They are the agents of the state. Therefore, sovereignty is permanent attribute of the state.

5. Indivisible

Sovereignty is indivisible. That is, it cannot be divided. It exists as a whole. **Gettell** said "If sovereignty is not absolute no state exists, if sovereignty is divided more than one state exists". **Calhoun** is of the view that sovereignty is entire thing; to divide it, is to destroy it. Division of sovereignty means destruction of sovereignty.

In a federal state there can be division and distribution of governmental

powers but not of sovereignty. In this regard **Jellinick** says “divided, fragmented, diminished sovereignty is the negation of sovereignty”. Division of sovereignty gives way for the possibility of two or more states or sovereigns. Hence, we cannot think of divided sovereignty.

6. Original

Sovereignty is the original power of the state. It is state's own authority neither delegated nor transferred to state. It is an entire thing of the state and inherent right of the state.

To conclude, sovereignty is one of the most important concepts of political science and important element of the state. State is identified only because of its sovereign power it possesses. Sovereignty is an independent and ultimate authority of the state. The modern state is a sovereign state and it is universally accepted and without it there can be no state. The sovereignty is always definite, determinate and organised and its existence can be seen in the form of laws of the state.

The obedience and respect to the laws are compulsory and its violation is met with punishment. These laws are judicially enforceable. The rights and liberty of the people emanate from the law and which can be changed and replaced by the state. Therefore sovereignty is the key basis of the state and both are inseparable. Sovereignty is permanent, inalienable, original, indivisible, absolute and universal in character. It is the highest power of the state. Hence it is absolute and unlimited. It gives legal and political status to the state. No one is above the state and has the right to question the authority of state.

3.3 LAW

Meaning

Law is a rule, regulation or principle of state which is formulated and enforced by the government. Modern government is composed of three organs namely legislature, executive and judiciary. These three organs function closely in relation to law.

Legislature enacts the laws, executive executes the laws made by the legislature and judiciary interprets the laws. On the basis of these laws it delivers the judgement and protects the rights and liberties of people.

The term law is derived from the old Teutonic root ‘LAG’ which means

‘something fixed’ or ‘even’ or ‘uniform’. Thus law is a uniform set of rules and regulations enacted and enforced by the state.

In political science we study political law, which regulates the activities of man as a member of the state. Political law deals with the external behaviour of man. Though political law is the creation of the state customs, traditions, religion and equity are the foundations. Hence laws are recognised and enforced by the state.

DEFINITIONS

1. **John Austin**, an English Jurist defines “Law as a command given by superior to an inferior.”
2. **Woodrow Wilson**: “Law is that portion of the established habit and thought of mankind which has gained distinct and formal recognition in the shape of uniform rules backed by the authority and power of the government”.
3. **T.H. Green**: “The system of rights and obligations which the state enforces”
4. **Prof. Holland**: “Law is a general rule of external human action enforced by a sovereign political authority.”

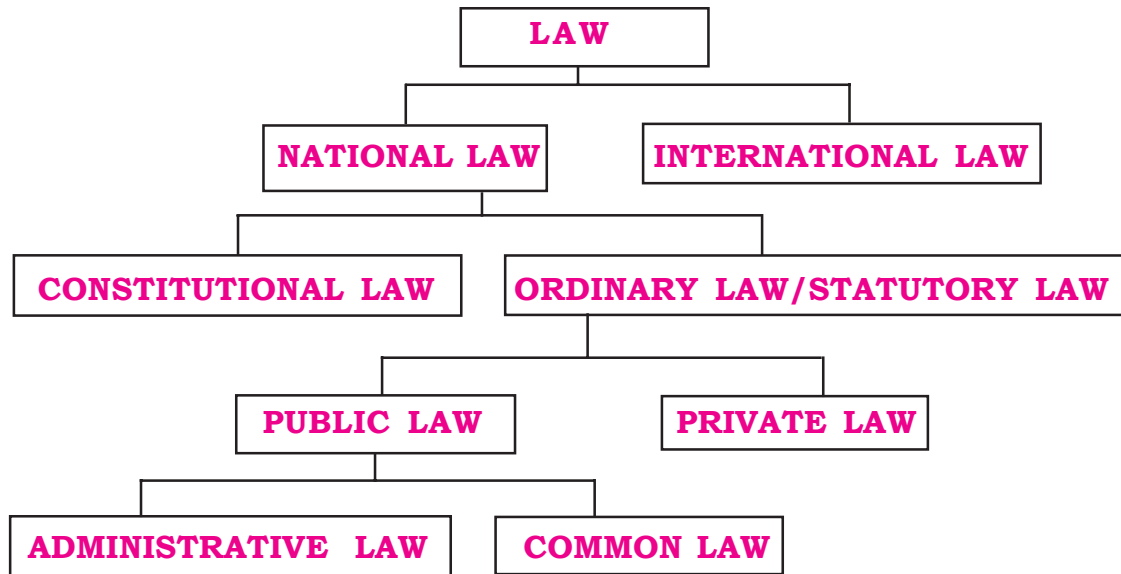
From the above definitions some important characteristics of law can be generalised. They are:

1. Law exists in an organised political society that is state, where it regulates the external behaviour of people.
2. It is universal and applicable to all individuals and groups within the state.
3. It is uniform, general and official.
4. It is precise, definite, written and well published.
5. It mirrors the wishes of the people.
6. It expresses the will of the state.
7. It is coercive and disobedience to law invites punishment.
8. It is meant for the welfare of the people and ensures justice.

KINDS OF LAW

Law has been classified on the basis of opinions and thoughts of different writers, thinkers and jurists. Broadly speaking there are two kinds of law that is, National and International laws.

Prof. Mac I ver classified laws in the following way



National Law

A law formulated by the state and applicable to all the people within the territory of the state is national or municipal law. The word 'Municipal law' was used in ancient times. It deals with the individuals and associations. It is the combination of public and private laws and determines the private and public relations of the people living in a state. The National Law is enforced by the authority of the state through Government.

1. Constitutional Law

Constitutional law is the fundamental law of the land. It determines the functions of the government, rights of the citizens and the relationship between the government and the people. This law may be written and unwritten. Constitutional law is the supreme law of the state. It is framed by the representative body called "Constituent Assembly". It represents the will of the people

2. Ordinary or Statutory Law

Ordinary law is enacted by the legislature of the country. Day to day administration is carried on with the help of this law. It determines the relationship between citizens and between citizens and the state. Violation of the law leads to punishment. The court recognises this law and applies the same to decide the cases of dispute.

1. Public Law

It regulates the relation between state and citizens. Public law is enforced by the government in the name of the state.

2. Private Law

Private law regulates the relations between the citizens. Private law includes Law of contract, Law of property, and Law of succession.

1. Administrative Law

It settles the disputes of civil servants in administrative matters through administrative tribunals. In union government, Central Administrative Tribunal and in state, State Administrative Tribunal conducts enquiries relating to service matters.

2. Common Law

Common Law is also known as customary law which is based on customs, usages, and traditions. **It is an integral part of laws of the state since customs and usages are embedded in the social life.**

Ordinances

Ordinances are executive orders. The Head of the state issues ordinances to meet unforeseen situations or exigencies, when parliament is not in session. It holds the same force as the laws passed by parliament. The life of ordinance is six months.

International Law

International law is the body of rules and principles of action which are binding upon sovereign states in their relation with one another. Unlike national law, international law has no coercive power. They are followed voluntarily to a certain extent. It specifies the rights, duties and responsibilities of the countries both in times of peace and war.

Other important laws which are taken as precedence by courts and legislature while enacting and delivering judgement are as follows:

Law can be classified into moral law and legal law.

9. Moral Law

Moral laws guide the matter of what is right and wrong, good and bad. E.g. one should always speak truth, help poor and the needy. There is no sanction of the state behind this. Violations of these laws are not punishable. It is based on ethical code, customs, usages and public opinion.

Legal Law : It has sanctions of the state when legal law is violated.... it is met with punishment example - Tax payment.

Law is of great importance. As **Mac I ver** rightly said, “Without law there is no order and without order men are lost, not knowing where they go and not knowing what they do. A system of orderly relationship is a primary condition of human life at every level”.

3.4 LIBERTY

There is no universally accepted meaning and definition for the concept ‘liberty’. In Political Science it denotes freedom to participate in the affairs of the state and to have voice in the self-determination of the state that is freedom from foreign control. In Economics, it means freedom from want and starvation and to bridge the gap between the rich and the poor and equal treatment. Here liberty means, how socially, economically, politically an individual can avail the facilities, rights and privileges in the development of his personality.

Liberty is a great ideal principle and an objective which has inspired every generation in the history of mankind. History provides information with facts and figures for which many wars, revolutions, demonstrations, movements and agitations were fought by the people to possess and enjoy to the fullest extent to protect their life, property and liberty. Liberty enables man to develop his personality and to make his life meaningful. The ‘French revolution of 1789’ upholds the ideals of “Liberty, Equality and Fraternity”.

Meaning

The term liberty has been taken from the Latin word “Liber” which means freedom. Thus it means freedom of a person to do whatever he likes without any restraint. There are the two aspects of liberty.

Positive Aspect

This concept developed during the later half of the 19th Century. Everyone is entitled to equal opportunities to develop their personality provided by the state. Every individual has similar kind of liberty and no one should harm or injure anyone’s freedom. Hence liberty of an individual must correspond with social welfare, It emphasizes that liberty can exist only when the state maintains those conditions with which the citizen can raise to the full potential of his personality. This view was supported by the humanists, socialists and Marxists like **Kant, Hegel, T.H.Green, Bosanquet, Barker and H.J.Laski.**

Negative Aspect

It implies that an individual has freedom to do whatever he likes. It treats liberty as a claim of the individual in the state. The state should not impose any restraints on the actions of the individual. This is called as the negative liberty.

Every man is free to do what he likes provided he does not interfere in others freedom. This view is supported by Thomas Hobbes, John Locke, Thomas Jefferson, E. Burke, Adam Smith, Bentham, J.S. Mill and others.

DEFINITIONS

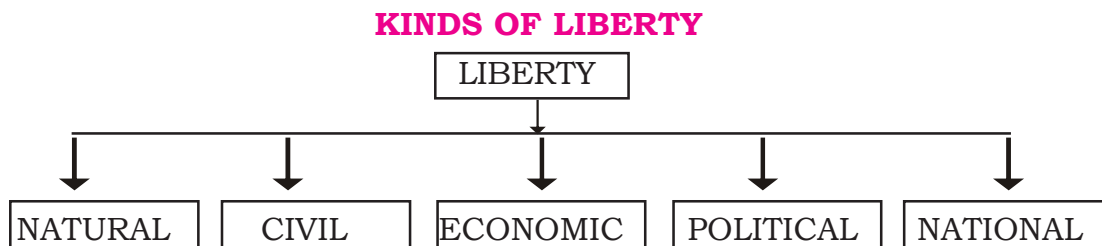
1. **Gettell:** “Liberty is the positive power of doing and enjoying those things which are worthy of enjoyment and work”.
2. **Seeley:** “Liberty is the opposite of over Government”.
3. **G.D.H. Cole:** “Liberty is the freedom of an individual to express without external hindrances to personality”.
4. **Prof Laski:** “The eager maintenance of that atmosphere in which men have the opportunity to be their best selves”.
5. **Universal Declaration of Human Rights:** “Liberty is the power of a man to do anything that does not injure others”.

On the basis of above definitions we can highlight the characteristics of liberty as follows:

1. Liberty implies the presence of certain conditions which are essential for the development of individual's personality.
2. It thrives best when rights are guaranteed to all without any distinction of gender, colour, creed, status etc... in society.
3. When there is an opportunity to enjoy rights, liberty compels citizens to perform their duties.
4. Liberty and law are closely related and law promotes the enjoyment of liberty by all.
5. Liberty is against the authoritarian, dictatorial and autocratic government.

KINDS OF LIBERTY:

As **R.M. MacIver** observed, "Liberty itself is not one but manifold". Liberty includes variety of opportunities and conditions.



1. Natural Liberty

Man in the state of Nature was completely free that is in pre-civil society, there were no restraints on his actions and behaviour. As a result, there was no peace and harmony in society. It was full of confusion and chaos. To control such unrestrained behaviour of man and to bring peace, gradually state came into existence

In the state of natural liberty the weak were oppressed and suppressed and were at the mercy of the stronger ones. Natural liberty was synonymous with injustice and complete anarchy. But with the emergence of society and the state, the natural liberty was curtailed and several restraints were imposed. Rousseau said 'man is born free and but everywhere he is in chains'. It implies that the natural liberty of

people was curtailed. As such this liberty cannot be applicable in the civil life.

2. Civil liberty

Civil or personal liberty consists of certain rights and privileges created and protected by the state. This is provided to every individual in society to lead a civilised life. It is opposed to natural liberty.

Civil liberty is enjoyed by individuals in the form of right to life, freedom of action and movement, right to property, equality before law, freedom of speech and expression, right to education etc. These rights are available to all the people residing in the state, including resident foreigners. Certain limitations are imposed upon this liberty by law.

3. Political Liberty:

Political liberty is available only to citizens of a state. An individual enjoys this in his capacity as a citizen. As a member of a state he has the right to elect and control the government. This liberty is available only in a democratic state where citizens participate in political activities. This is done through the universal franchise where all citizens elect their representatives to form government of their choice. Political liberty is enjoyed by people in the form of political rights like:

4. Economic Liberty

Economic liberty means security and the opportunity to find the earning of one's daily bread. Individual should be free from constant fear of unemployment, underemployment and starvation.

State has to provide to all its citizens adequate means of livelihood. It implies democracy in industry that is in the absence of this liberty worker has to work at the behest of others. This is secured through the economic rights like:

5. National Liberty

National liberty means the political independence of state. All other kinds of liberties depend on the national liberty. If a country is under the control of some foreign power, it cannot grant other liberties to its people. For example before 1947, people of India did not enjoy political liberty, but only after the attainment of national independence people

are truly enjoying other liberties. National liberty is the foundation of civil, political, and economic liberties.

Liberty has occupied important place in democratic government and only in the democratic state people enjoy complete liberty. Different kinds of liberties enable individual to lead happy and honourable life. It implies positive freedom and provision for equal opportunities to all.

3.5 EQUALITY

Meaning

Equality is an important Pillar of democracy. In political science equality means every individual should be given adequate opportunities for self development. No special privileges are given to any class, caste or group. There should not be any discrimination among the people before law. Hence equality is a levelling process.

Equality like liberty is complex term to define. Different scholars have assigned a different meaning to it. The popular meaning of the term 'equality' is used for identical treatment and identical rewards that is all men are equal and all should be entitled to identical treatment and rewards. It means nature itself created all men as equals. However this is not correct, because nature itself has not created all men equally. Some are tall, strong, fair in complexion, intelligent, bright and others are short, weak, dark, brown and dull. Therefore absolute equality is not at all possible.

Social inequality existed from the time of Plato and Aristotle that is from the ancient time to medieval period to the modern age. The rich and noble class dominated social life and society. To remove the social inequality and injustice the concept of equality was formulated.

Many agitations, movements and wars were fought and led to erase the inequality in the social web of the civilisation. The Renaissance and Reformation movements in Europe challenged the dominance of feudal, noble and clergy. The 'American Declaration of Independence of 1776', the 'French Revolution of 1789' helped the cause of equality. The above movements emphasised equality as a positive condition to provide equal opportunities to all.

Now liberty and equality have become the watchword of modern democracy.

In brief, equality means provision of equal opportunities to all and absence of special privileges and facilities

No discrimination is made on the basis of caste, colour, class, creed, gender, education etc.

DEFINITIONS

1. **H.J. Laski** “equality means absence of all privileges as well as adequate opportunities for all.”
2. **The French Declaration of Rights** of man and citizen declared “All human beings are born free and equal in dignity and rights.”
3. **The American Declaration of Independence** reads “All men are created equal; they are endowed by their creator with certain unalienable rights.”

KINDS OF EQUALITY

1. Natural Equality:

It implies that Nature has created all men equally and all should be treated alike. Yet, absolute equality cannot be found. If we look around we find that men differ in their height, intelligence, physical capacity, complexion etc., but in the wider context, it implies that all man-made and artificial inequalities should be removed by the laws of the state.

2. Civil Equality:

It implies that all are equal before law and entitled equal protection and opportunities. All citizens irrespective of their status, colour, gender, class have to be treated equally and no discrimination of any kind should be made. The right to civil equality is the basic principle of all modern democratic systems. For eg; Equality in matters of life, education, forming association etc,

3. Political equality:

It ensures citizen's right to participate in the activities of the state without any discrimination on the ground of caste, colour, creed, gender, education, class etc. The doors of power are kept open

to all and all have to enjoy the similar political rights. It implies all citizens enjoy equality in matters of voting, contesting for election, criticise the government and to hold public offices.

4. Economic equality:

Political equality becomes real only when it is accompanied by economic equality. In modern times economic equality has gained greater importance. It means removal of inequalities of wealth and no concentration of economic power in the hands of a few. Basic needs and minimum wage to all are assured. Otherwise, small number of rich would exploit large number of poor.

5. Social Equality :

Social and Economic equality is the base for the democracy. Social equality means removal of inequality based on caste religion gender. It threatens all the people equal without any The ideology behind this is casteless and classless society. Removal of caste system, untouchability, apartheid oppose social equality.

The idea of equality is fundamentally a levelling process. It emphasizes civil, economic and political equality to all and to enjoy rights and discharge duties for the development of individual and nation.

3.6. RIGHTS

Meaning

Rights are the conditions or opportunities essential for the development of personality of individual.

The state creates those conditions called rights to protect the life, liberty and property of the people and enable them to develop their personality.

Rights aim at the enrichment of the individual as well as of the society. Therefore state maintains rights. That's why **H.J. Laski** said 'State is known by the rights that it maintains'.

Rights are claims which are socially recognised to make man's life

happy, harmonious and worth living. They are prior to the state and fulfil the basic conditions of social life. Rights are not absolute and unlimited. Restrictions are imposed to maintain wellbeing of the society.

DEFINITIONS

1. **T.H.Green:** “Rights are powers, necessary to the fulfilment of man’s vocation as a moral being.”
2. **Bosanquet:** “A right is a claim recognised by the society and enforced by the state,”
3. **H.J.Laski:** “Rights, in fact are those conditions of social life without which no man can seek in general to be himself at his best”.

CLASSIFICATION OF RIGHTS

Rights are broadly classified into two categories, Moral and Legal rights.

Moral Rights

Moral Rights are based on code of morality of society. It is usually based on customs, usages and public opinion. There is no sanction of the state to enforce them. Its sanction is the moral opinion of the public. Violation of moral rights does not invite punishment. The real force behind moral principles is the fear of social boycott. When moral rights are recognized by the state they become legal rights.

Legal Rights

Legal rights are recognized and maintained by the law of the state. These rights are guaranteed and enforced by courts of law. Encroachment upon these rights invites punishment.

KINDS:

- 1) Civil Rights,
- 2) Political Rights
- 3) Economic Rights.

1) Civil Rights

Civil rights are those conditions which are essential to lead a civilized

life. These rights fulfill the basic requirements of the social life. Enjoyment of these rights is guaranteed to one and all. Civil rights include:

1) Right to life:

This is a basic right. Enjoyment of all other rights depends upon this right. The State protects the life of its people from all possible threats. However some restrictions are imposed from the state like:

- v when a citizen is called to defend his/her country in case of an attack,
- v State itself can sentence an accused to death and also punish those who attempt suicide, etc...

As everyone is a part of the society, unnecessary death leads to loss of valuable assets of the society.

2) Right to family:

Every individual has a right to marry and have his own family. Family is the cradle of civilization and the state may impose certain restrictions to this right for the well being of society.

3) Right to freedom of speech and expression:

This right enables citizens to express one's views and thoughts freely to others. This is guaranteed only in democratic countries and is essential for the smooth functioning of democracy. Citizens can criticize the policies of government which are against the interests of the society. This is a limited right and during extraordinary situations the state may impose further restrictions.

4) Right to form associations and move about freely:

Man is a social being and his needs are multifarious. To satisfy his various needs he can form associations. E.g.: cricket association, women's organisation, self help groups etc.

He can also move freely and reside anywhere in the country.

5) Right to religion:

Every citizen is free to believe, profess and practice any religion and the state does not interfere in the exercise of this right. It is not absolute.

6) Right to equality:

This right is granted to remove the inequalities and discriminations prevailing in the society. All citizens are treated equally and provided equal rights and privileges without discrimination on the grounds of colour, creed, religion, gender etc.

7) Right to education:

This right enables the individuals to develop their potential. In most of the countries secondary education is made compulsory. For example in India children between the age of six to fourteen have the right to education as fundamental right. Right to Education Act (RTE) came into force on 1st April 2010.

8) Right to freedom of press:

This right enables every citizen to express his views through press and electronic media. This right is not absolute.

9) Right to freedom of press:

.....

POLITICAL RIGHTS

These rights are enjoyed by the citizens of the state which enables them to participate in the political activities of the state. These are guaranteed only in a democratic state. The important political rights are:

- v Right to vote,
- v Right to contest for elections,
- v Right to hold public office,
- v Right to criticize the government &
- v Right to petition.

1. Right to vote:

This is the most important and sacred political right, which enables citizens to participate in the government through their representatives. Every citizen who has attained prescribed age gets the right to vote. Honest and judicious exercise of this right results in formation of good government.

2. Right to contest for election:

Every citizen in a democracy is eligible to contest for election to various representative bodies. But the contestants must possess prescribed qualifications such as citizenship, age, residence etc.

3. Right to hold public offices:

Every citizen of a state is assured equal opportunity to hold government office provided he has required educational qualifications for the post.

4. Right to petition

Every citizen has the right to bring his grievances to the notice of the government and to seek redressal of grievances by submitting petitions to concerned authorities.

5. Right to criticise the Government:

In a democratic state citizens are given the right to criticise the government when it fails to perform its functions and when its policies and decisions affect the interests of the general public. In the light these criticisms government takes necessary measures to change or modify its policies and execution.

ECONOMIC RIGHTS

These rights are necessary for the individual to be free from hunger, poverty and unemployment. These rights are related to man's engagement in gainful employment so as to avail the basic necessities of food, clothing, and shelter. These rights ensure minimum standard of living.

The economic rights are as -

1. Right to work:

This right implies that every person is free to select any work of his choice and it is the duty of the state to provide employment to all. This right guarantees minimum wages.

2. Right to property:

This right enables all citizens to acquire, hold and dispose property as he likes. Property gives security to the life of an individual and provides incentive to work.

3. Right to contract:

This right gives freedom to an individual to enter into agreement with other individuals or associations in furthering his business activities. This right is enjoyed within the framework of the laws.

4. Right to rest and leisure:

It enables individual to lead good life by getting adequate wages and leisure. To improve the capacity and quality of work, rest and leisure is very much required. Hence modern states have fixed eight hours of work to perform one's duty.

5. Right to material security:

Modern states provide material security against old age, sickness, disability, unemployment etc.

As Aristotle said **“life is not merely living but living well”**. Each individual should be conscious of his wellbeing as well as others and develop his power of action to realise it. He must also be conscious of the good of others and help in creating those conditions which lead to development of their powers of action. This realisation is possible when individual is provided rights and they are available to man only in an organised society. Rights enrich the life of an individual and the entire society. Therefore it is in the interest of state to maintain rights.

The key concepts of the study are not only helpful and essential to the students of political science in particular but also to the citizens in general. Being a citizen of a state everyone is entitled to develop his personality with the utilisation of available opportunities and privileges and at the same time discharge his duties and obligations sincerely for the development and progress of the country.

Constitution is a body of rules and regulations which may be either written or unwritten. It is related to the state and its authority in relation to people of the state. Constitution is the fundamental law of the land.

Suggested Activities 1. Prepare flow chart of kinds of Rights.

-QUESTION BANK**I. One Mark Questions:**

1. What is sovereignty?
2. Which is the most essential element of the state?
3. Which is the root word of sovereignty?
4. Name the two aspects of sovereignty?
5. Who developed the concept of sovereignty in the modern sense?
6. Name the book written by Jean Bodin?
7. Who was the proponent of internal sovereignty?
8. Who was the proponent of external sovereignty?
9. What is law?
10. Which is the root word of law?
11. What is the basis of moral law?
12. What is the other name of municipal law?
13. What is ordinance and who issue it?
14. What is administrative law?
15. Who makes laws in India?
16. What is liberty?
17. Which is the root word of liberty?
18. Which revolution upheld the ideals of liberty, equality and fraternity?
19. What is the meaning of equality?
20. What is economic right?

II. Two mark questions

1. Define sovereignty.
2. What are the two aspects of sovereignty?
3. Define law.
4. Mention any 2 kinds of law.
5. What is the meaning of liberty?

6. Mention any two economic liberties.
7. What is right?
8. Mention any two political rights.
9. What is national law?
10. Write the meaning of ordinance.
11. What is administrative law?
12. What is rule of law?
13. What is internal sovereignty?
14. What is external sovereignty?
15. Define rights
16. Name any two political rights
17. What is equality?

III.Five Marks Questions

1. Explain the features of sovereignty.
2. Write a note on economic liberty.
3. Discuss kinds of equality
4. Explain the kinds of law.
5. What are the kinds of law? Explain

IV.Ten Marks Questions.

1. What is law? explain its kinds
2. Explain meaning and kinds of rights.
3. Explain the meaning and kinds of liberty.
4. Describe political rights.
5. Explain economic rights.

~~~~~



## UNIT- 4

### CONSTITUTION AND GOVERNMENT

- 4.1 Constitution –Meaning definition and significance
- 4.2 Constitutional government –Meaning and features
- 4.3 Kinds of Constitutions
  - A. Written and unwritten –Meaning definition and Features
  - B. Rigid and flexible – Meaning definition and Features
- 4.4 Essentials of an Ideal Constitution
- 4.5 Forms of Government - Meaning and Features
  - A. Democratic and Dictatorial : Meaning and Features
  - B. Parliamentary and Presidential : Meaning and Features
  - C. Unitary and Federal : Meaning and Features

“Constitution is the way of life the state has chosen for itself”.

- **Aristotle.**

#### Learning objectives

1. To know the meaning and importance of Constitutions.
2. To know the meaning of Constitutional government.
3. To understand the classifications of Constitution.
4. To analyse the essentials of Ideal Constitution.
5. To understand about the different forms of Government

#### 4.1 Constitution

##### **Meaning:**

A constitution is a body of rules and regulations which may be either written or unwritten. It is related to the state and its authority in relation to people of the state. Constitution is the fundamental law of the land.

A brief history of the concept helps us to understand the meaning and nature of the constitution. The word **constitution** was used by King Henry II of England in the 16<sup>th</sup> century, when he issued a set of rules with the title '**constitution of Clarendon**'. The USA adopted its constitution in 1789. This has earned the distinction of being the first written '**constitution**' of the world.

The root word of the term **constitution** is derived from the Latin word '**constitute**' which means an act of establishing something or to frame or to compose. In political science, **constitution** means the basic structure, organization of the state and government. It contains the fundamental principles of the government.

## DEFINITIONS

**Aristotle:** "The arrangement of powers in the state especially of the supreme power".

**Lord Bryce:** "A constitution is a set of established rules embodying and directing the practice of government".

**K.C. Wheare:** "That body of rules which regulates the ends for which and the organs through which governmental power is exercised".

**Prof. A.V.Dicey:** "The constitution of the state consists of all rules which directly or indirectly affect the distribution or exercise of sovereign power in the state".

**Woolsey** "A constitution is the collection of the principles according to which the powers of government and the rights of the governed and the relationship between the two are adjusted".

Generally constitution provides a list of aims and objectives in the form of preamble. It is found in one or many documents and in written or unwritten form.

It determines the nature of government whether Parliamentary or Presidential and form of government whether Democratic or Dictatorial. It also defines the relation between government and people, along with a list of fundamental rights and duties. The constitution includes powers, functions and relation of different organs of government.

### Significance

As **Schulz** rightly points out “A state without constitution is unthinkable”. Hence modern states are constitutional states.

It is essential for the internal and external security of the nation, to maintain law and order and smooth running of administration.

It regulates the arbitrary authority of the government and helps for the development of the people.

The sovereignty of the country is expressed through national and international policies to gain a place in the world forum.

By incorporating the provisions in the constitution, it protects the fundamental rights of the people.

It is a standard of reference for the generations to come and acts as a mirror of the country.

It makes the people wiser to formulate necessary laws for the changing condition without harming the basic structure by providing the procedure for amendment.

To sum up, in the words of **C.F.Strong**: “The objects of a constitution, in short, are to limit the arbitrary actions of the government, to guarantee the rights of the governed, and to define the operation of the sovereign power”.

### 4.2 CONSTITUTIONAL GOVERNMENT

A Constitutional government is a government in which rules and policies are limited by constitution. The authority and organization of government is determined by constitution. Exercise of governmental power, protection of individual liberties and interests of the citizens in general, go in accordance with the constitution.

Constitutions are normally in written form. It is a set of principles known as the fundamental law of the land. This effectively controls the exercise of political power.

A government that is run purely on the basis of the constitutional provisions is called a constitutional government. The core element of this is the exercise of Rule of Law.

Constitution defines the nature of the state, the form of government and the relation between the state and individual. The government operates within a set of legal and institutional framework which limits the exercise of powers of the government and also protects individual liberty.

The concept of constitutional government has taken a long time to evolve from the times of ancient Greece to the present. An important stage in the evolution of constitutional government is Magna Carta the Great Charter of 1215, limited the authority of monarchy and made provisions for the protection of individual liberty. The Bill of Rights of the constitution of the USA asserted the basic rights of citizens.

## FEATURES

1. **Supremacy of the constitution:** Government functions according to the provisions and principles of the constitution. The powers and functions of the government are well defined and limited by the constitution.
2. **Equality before law:** Rule of Law is applicable for both the rulers and the ruled. The rules and regulations are applied equally, irrespective of gender, caste, creed, religion etc.
3. **Protection of individual liberty:** The constitution ensures rights and liberties to the individual. They are well protected and cannot be abused by others or encroached by the government. In such a case citizen can approach a court of law.
4. **Representative government:** A dictatorial Government is based on coercion, monarchy on heredity, whereas constitutional government is based on consent of the people. Constitutional government is elected on the basis of adult franchise. The representatives are elected by the people and are governed by the constitution.

All individuals and associations come under the jurisdiction of the state. Organs of the government frame execute and interpret the laws in accordance with the constitution. Hence it is called a constitutional government or limited government.

### 4.3 Kinds of Constitution

1. Written and Unwritten
2. Rigid and Flexible

### 4.3 A Written Constitution:

A written constitution is one which has been deliberately written by the constituent Assembly. The basic principles, organisation of the Government and rights of citizens are written down. It consists of one document as in India, USA and in several documents as in Sweden and France. It comes to effect from a particular date. It is also called an enacted constitution. Most of the modern countries have written constitutions. A written constitution may be enacted either by a Constituent Assembly or by a Convention. For example, the constitution of India was framed and adopted by the Constituent Assembly of India (1946-1949). The constitution of USA was adopted by the Philadelphia Convention (1787).

### Definitions

**Prof. Garner:** “A written constitution is, one in which most of the provisions are embodied in a single formal written instrument or instruments”.

**C.F. Strong:** “A written constitution is in the form of a document which has a special sanctity”.

### Features:

1. A written constitution is deliberately drafted by a Constituent Assembly and comes in to force from a particular date.
2. A written constitution is precise and definite as the provisions are written down and reduced to documentation.
3. As the provisions for amendment are rigid, it cannot be amended easily and frequently.
4. The fundamental rights are made a part of the constitution and guaranteed.
5. It ensures the independence of judiciary from Legislature and Executive.

### Un written constitution:

In an written constitution, most of the provisions are not written down but, the administration of the country is carried on by the customs, traditions, usages, conventions and practices. It is a product of history and has been evolved over a period of time. Hence it is regarded as an evolved constitution. It is not framed by any Constituent Assembly and does not come in to force from a particular date.

The constitution of UK is the only example for an unwritten constitution. It is generally called the 'child of accidents'.

### Definitions

1. **Sir Ivor Jennings:** "An unwritten constitution consists of institutions and not paper documents. It is not made; but has grown from time to time by a process of evolution".
2. **Prof. C.F. Strong:** "A constitution is generally called unwritten if it was grown up on the basis of customs, rather than written law".

### Features:

1. Unwritten constitution is not clear, it is ambiguous and unsettled.
2. The fundamental principles of organisation and powers of Government are not codified in document. It is not the product of a Constituent Assembly but evolved through customs, conventions, charters and judicial decisions.
3. Unwritten constitution can be amended easily and frequently.
4. A few examples for written documents in an unwritten constitution are: Magna Carta, the Great Charter of 1215, and Petition of Rights of 1628.

### 4.3 B. RIGID AND FLEXIBLE CONSTITUTION

Lord Bryce was the first person who used the terms 'rigid' and 'flexible' in 1884 in his book "Studies in History and Jurisprudence". The basis of this classification is:

- A. The method of amendment of the constitution
- B. Difference and relation between constitutional law and ordinary law.

**Rigid constitution:**

A constitution which cannot be amended easily in the same way as that of passing an ordinary law is known as a rigid constitution. In this type, a special method for amendment is adopted. There is a distinction between constitutional law and ordinary law. A rigid constitution is written and enacted by the Constituent Assembly. The Parliament of the country can frame laws within the limits of the constitution and the executive must act accordingly. The constitution of USA, Russia, and Switzerland are the best examples for rigid constitution.

**Definitions:**

1. **A.V. Dicey** “A rigid constitution is one under which certain laws generally known as constitutional or fundamental laws cannot be changed in the same manner as the ordinary laws”.
2. **Prof. Garner** “Rigid constitutions are those which legally stand over and above ordinary laws and which may be amended by different process”.

**Features:**

1. In a rigid constitution, the constitutional law is superior to an ordinary law.
2. Constitutional law is made by a Constituent Assembly and not by the parliament.
3. There is a special procedure to amend the constitution.
4. Here the powers of the Government are defined and limited by the constitution.
5. Judiciary interprets the laws made by the parliament.

**Flexible constitution:**

A constitution which can be amended easily in the same way as that of passing the ordinary laws is known as flexible constitution. In this type, a special method for amendment is not required. It does not make any difference between constitutional law and ordinary law and both the laws are made by the Parliament by following a common law-making procedure. The parliament of the country is the sovereign law-making body. A flexible constitution may be written or unwritten. The constitution of UK is the best example of flexible constitution. 2018 - 2019

**Definitions:**

1. **Sait:** “The flexible constitution places constitutional law and ordinary law on the same level, in the sense that both are enacted in the same way and both proceed from the same source”.
2. **Prof. Garner:** “The flexible constitution places constitutional law and ordinary law on the same footing”.

**Features**

1. In a flexible constitution, there is no distinction between constitutional law and ordinary law.
2. Constitutional law and ordinary law are made by the parliament.
3. There is no special procedure to amend the constitution.
4. Powers of the Government are defined and limited by the parliament.
5. Judiciary cannot interpret the law made by the parliament.

**4.4 ESSENTIALS OF AN IDEAL CONSTITUTION:**

An ideal constitution contains certain essential features. Such as -

**1. Aims and objectives:**

An Ideal Constitution contains aims and objectives of the state. The preamble of the Constitution serves this purpose.

**2. Clarity and precision:**

An ideal Constitution is characterised by clarity and precision. It has to be drafted carefully so that its principles are laid down with clarity. The language used in the constitution should not lead to ambiguity.

**3. Comprehensive and Brief:**

An ideal Constitution must be comprehensive enough to include the details of the powers and functions of the government and rights and obligations of the people.



An ideal constitution should be brief enough that it should not contain unnecessary details, because too many details would lead to complications and controversies.

#### 4. Structure of the State:

The Constitution determines the structure of the state whether it is unitary with single govts. like the UK or federal with dual govts. like the USA.

#### 5. Form of Government:

It prescribes the form of government either parliamentary like India or Presidential like the USA.

#### 6. Organs of Government:

An Ideal Constitution contains the outline of the organization, powers and functions of the legislature, executive and judiciary.

#### 7. Fundamental Rights:

An ideal Constitution contains a list of fundamental rights of the people, which are guaranteed to the citizens for their overall development.

#### 8. Method of amendment:

The framers of the Constitution cannot anticipate the changes that are likely to take place in course of time. An ideal Constitution should represent the needs of the people and to meet these needs it provides for a method for its amendment. As **Edmond Burke** observed “a constitution which does not provide for its amendments, do not provide for its preservation”.

#### 9. Ensure the independence of judiciary:

An independent judiciary is essential for the success of democracy. The independence of judiciary must also be guaranteed by the constitution. It should be free from the legislative and executive control. Otherwise impartiality cannot be expected.

## 4.5 FORMS OF GOVERNMENT

### 4.5.A DEMOCRATIC AND DICTATORIAL FORMS OF GOVERNMENT

Modern governments have been classified as Democratic and Dictatorial.

#### Democratic Government:

##### Meaning:

The word democracy conveys different meanings and ideas. As C.D. Burns states, “Democracy is a word with many meanings and some emotional colours”. The word democracy is known to all but it cannot be explained clearly and comprehensively. Hence the meaning and implications of democracy is to be discussed in its own connotation.

Democracy is a form of government in which the people rule themselves either directly or indirectly through their representatives. The term democracy is derived from the Greek words ‘**demos**’ and ‘**kratos**’ which means people and power. Thus democracy means power of the people.

#### DEFINITIONS

**Abraham Lincoln:** “It is a government of the people, by the people and for the people”.

**Lord Bryce:** “Democracy is the form of government in which the ruling power is largely vested not in any particular class or classes but in the members of the community as a whole”.

**John Seeley:** “Democracy is a government in which everyone has a share”.

**Gettell:** “Democracy is that form of government in which the mass of the population possesses the right to share in the exercise of sovereign power”.

**Mazzini:** “The progress of all through all under the leading of the best and wisest”.

As a form of government, there are two types of democracy – Direct and Indirect democracy.

Direct democracy is a form of government where people directly participate and express their will on public affairs. This type can exist and function only in small states with limited population. It existed in ancient Greek City-states. Direct democracy though not in practice now assumes the form of Referendum, Initiative, Plebiscite and Recall. Eg. A few Cantons of Switzerland are following direct democracy.

In large areas where the population is huge, direct democracy is impracticable. People elect their representatives and delegate their power to them for exercising authority. Such democracies are called Indirect or Representative Democracy. Ex. India, U.S.A., Australia etc.

### **Features:**

#### **1. Government of the people**

Democracy is a government of the people, where the people themselves are the rulers as well as the ruled. The will of the people is expressed through their representatives. In a representative democracy the ultimate source of authority rests with the people.

#### **2. Liberty, Equality & Fraternity**

Democracy stands for liberty, equality and fraternity. In this system every individual is free to express his views on all issues of the state. It treats every individual equally, recognizes the worth and dignity of all individuals without any discrimination. The brotherhood of man is the basis of a democratic state; all its members stand equal in common fraternity. Birth, wealth, caste or creed does not determine the status of man in democracy.

#### **3. Elections are mandatory**

Periodical elections are a must for democracy. The government derives its authority from the people through elections. Through free and fair elections the fate of the government is determined by the electorate constitutionally.

#### **4. Fixed tenure**

Democratic government is constitutionally elected for a fixed period. In Presidential form, the term of the office of the President is fixed for four years, but in Parliamentary system, though the term of the government is fixed for five years, the continuance of the government depends upon the confidence of the Legislature.

## 5. Peaceful transformation of government

Unlike Dictatorship, Democracy ensures peaceful transformation of government through elections. Once the term is completed, elections are declared and the ruling party paves the way for the winning party to occupy the seat of power. In this way, democracy guarantees harmonious relation between the ruling and the opposition.

## 6. Spirit of tolerance

The ruling and the opposition are the two wheels of the cart. The criticism made by the opposition is to be taken positively by the ruling party to a certain extent and the opposition also has to make constructive criticisms and support the government in its functioning. The majority has to regard the interests of the minorities and act in responsible manner. A rational and understanding majority party always considers the interests and aspirations of minorities.

## DICTATORIAL GOVERNMENT

### Meaning

A dictatorship is a government based on force and coercion. It is form of government in which all the powers of the government are concentrated in a person or group of persons or a party. These are non-constitutional regimes which do not recognize individual freedom.

### DEFINITIONS

**Alfred:** “**Dictatorship** is the government of one man who has not obtained his position by inheritance but either by force or by consent, and normally by a combination of both. He must possess absolute sovereignty. All political powers must ultimately emanate from his will and it must be unlimited in scope. It must be exercised more or less frequently in an arbitrary manner by decree rather than by law. Finally, it must not be incompatible with absolute rule”.

**Ford:** “Dictatorship is the assumption of extra legal authority by the head of the state”.

**Merriam Webster:** “Dictatorship is a form of government in which absolute power is concentrated in a person or a group”.

**Dictatorship can be classified as ancient and modern.**

Ancient dictatorships were temporary in nature. For ex. The Romans used to appoint a dictator granting him supreme powers to meet the crisis. Once the crisis was solved, his powers were discarded. However modern dictatorship is permanent. They capture power as a result of revolution or force and remain in power as long as they are powerful. For ex. Kamal Pasha of Turkey, Mussolini of Italy, Hitler of Germany, Polpot of Cambodia, Junta of Burma(Myanmar) Bolsheviks of Russia, Fascist party of Italy, Nazi of Germany.

**Features:****1. State is absolute:**

As dictators are staunch opponents of democracy, they glorify the state and declare it all powerful. They suspend the existing constitution and form a revolutionary council of their own. Everything is subordinate to the state. All within the state, nothing outside the state and none against the state.

**2. No distinction between state & society:**

Dictators do not distinguish between the state and society, to them society exists for the sake of the state. The state is all inclusive and all pervasive. They never consider the state as a means to an end but an end in itself.

**3. Suspension of rights & liberties:**

In dictatorship the state has every right to interfere in the affairs of individuals. They are deprived of the fundamental rights and liberties and regulate every sphere of human life and dwarf intelligence and initiative of people. The individual becomes a mere tool in the hands of the dictator.

**4. Force and fear:**

Force and fear are the foundations of dictatorship. They consider force as the stabilizing basis of the state. The dictator adopts coercive measures to suppress the opposition and become stronger.

**5. Iron discipline:**

By bringing about strict discipline in all walks of life, the dictator makes the people to work for the progress of the state. Public life is completely controlled and directed as per the will of the dictator.

**6. Opposition not allowed to exist:**

This system suppresses opposition with force, everyone has to submit to the will of the dictator. It does not depend on the consent of people, any kind of opinion or opposition is severely punished and penalized.

**7. Control over media:**

Dictators never allow the press to exercise the liberty of criticizing the government. Instead they themselves exercise full control over the press and use them to seek their own glorification.

**8. Extreme nationality:**

Glorification of national power is the essence of dictatorship. It stands for purity of race, language, literature and culture. The dictators also believe in the policy of economic self sufficiency.

**9. Hostile to internationalism:**

It is opposed to international peace and advocates aggression to bring internal peace. The dictatorial methods are disastrous to international peace and harmony.

**4.5 B PARLIAMENTARY AND PRESIDENTIAL GOVERNMENT****Meaning:-Parliamentary Government**

The parliamentary system originated in the UK. This system is also known as Responsible Executive as the executive is the creation of the parliament and is responsible to it. It is also called as Non Fixed Executive as the executive remains in power so long as it enjoys the confidence of the legislature.

**Features:****1. Presence of Titular or Nominal Executive:**

Under the Parliamentary system, there are two types of executives: Nominal and Real. The chief executive that is the Head of the state and possesses only nominal powers. In theory, all powers and privileges belong to him. But in actual practice, he exercises these powers on the aid and advice of the council of ministers headed by the Prime Minister. He is the head of the state, but not the head of the government. The Queen of England and the President of India are examples for nominal executives.

**2. Cabinet is the real Executive:**

The real executive power rests with the council of Ministers headed by the Prime Minister, called the Cabinet. The cabinet commands vast powers and actually rules the country.

**3. Cabinet is the creation of the Parliament:**

The members of the council of ministers including prime minister have to be the members of Parliament. The leader of the majority party in Parliament becomes Prime Minister and he in turn selects his council of Ministers. Hence it is the creation of the Parliament.

**4. Individual Responsibility:**

Individual Responsibility is the essence of parliamentary system. Every Minister is responsible to the legislature for all the policies and official decisions taken in his portfolio. It is this element of responsibility that gives the parliamentary government the name of responsible government.

**5. Collective Responsibility:**

Each minister is individually and Cabinet is collectively responsible to legislature. They sink or swim together. The Cabinet Ministers work as a team. They work with perfect harmony and understanding. They hold the same opinion on policy matters and speak in Parliament and outside in single voice. They continue in office till they enjoy the confidence of the Parliament.

**6. The role of prime Minister:**

The Prime Minister Heads the council of ministers. He is the captain of the team. He holds the real authority. As the Head of the Cabinet, he commands great power and prestige. In fact he is the political leader of the country. Even though the President appoints the Ministers, It is the prime minister who selects his colleagues, distributes portfolios among them, supervises and coordinates their work.

The Prime Minister, in the words of **Laski**, is central to the formation of a cabinet, central to its life and central to its death. He is the keystone of the cabinet arch. As **Jennings** says, he is like

the Sun around which the planets rotate. However, the success of the prime minister depends upon the calibre and charisma of the person in office.

### 7. Political Homogeneity:

Normally all the ministers belong to the same political party, which enjoys majority in the Parliament. It ensures homogeneity. However in a coalition government since different political parties come together, such homogeneity is not possible.

### 8. Role of Opposition:

In this system the parties other than the ruling party are called opposition parties. The leader of the opposition is officially recognized and given the status of cabinet rank. The opposition plays a significant role by being vigilant of ministerial lapses and if necessary removes the ministry by a vote of no confidence and forms an alternative government.

### 9. Link between Parliament and executive:

As **Walter Bagehot** aptly remarked "A cabinet is a combining committee..... which fastens the legislative part of the state to the executive part of the state. In its origin it belongs to the one, in its functions belongs to the other".

This link ensures harmony and co-operation between the two organs of the government.

### 10. Executive subordinate to legislature:

In a parliamentary system the executive is under the control and influence of legislature as it is the creation of legislature. Hence Legislature is superior to executive.

## THE PRESIDENTIAL GOVERNMENT

**Meaning:-** Presidential system originated in the USA. It is called the presidential government because in this system, President is the supreme Head of the State in other words, the office of the Head of the government and Head of state are combined together. This system is also known as non- parliamentary because there is no relation between the legislative



and executive branch of Government. It is also called as fixed executive as the tenure of the President is fixed and he cannot be terminated before the stipulated term of four years. Another name for this is Non-responsible executive as executive is not the creation of congress and hence not responsible to it.

### **Features:**

#### **1. Head of the state real executive:**

In the presidential system, there is no distinction between nominal and real executive. There is only one real executive that is the president who is the real as well as the constitutional Head of the state. The Head of the state is also the Head of the government, for Example: The President of the USA.

#### **2. Separation of Powers:**

The presidential system is based on the theory of separation of powers of Montesquieu. The concept contends that legislature, executive and judiciary must be independent of each other and function in their respective jurisdiction.

The President has no power to summon, prorogue and dissolve Congress. He does not attend the meetings of Congress and cannot initiate bills.

Thus Congress and the President are independent of each other and also do not exercise control over one another.

#### **3. Checks and Balance:**

Though the theory of separation of powers is adopted and the three organs are kept independent of each other, they are connected by the theory of checks and balances. Reasonable limitations are imposed upon the three organs of the government. Each organ exercise control on the other organ to bring balance to the system. The budget prepared by the President and treaties entered upon by him require the sanction of the Congress. The laws passed by the Congress are subject to the exercise of veto power by the president. Similarly the Federal court by Judicial Review checks unconstitutional laws.

**4. Fixed Tenure:**

The President is directly elected by people for a fixed term of four years as specified in the constitution. His continuance in office does not depend upon the majority support or confidence of the congress. This ensures stability of government.

**5. Elected Representative:**

Under this system, the chief executive that is the President is the elected representative of the people and elected by the people through an electoral college.

**6. Executive is not a member of Legislature:**

Ministers in parliamentary system should be members of Parliament. On the contrary in presidential system the President is not a member of congress.

**7. Secretaries subordinate to president:**

The nine Secretaries are appointed by the President and are responsible to him. In fact they are merely his personal assistants. They are not the members of the legislature and not responsible to it.

## **4.5 C. UNITARY AND FEDERAL GOVERNMENT**

### **UNITARY GOVERNMENT**

#### **Meaning**

In Unitary Government, there is only one central government and provincial governments. It is entrusted with most important functions such as Home, Defence, External Affairs, Currency and Coinage etc., whereas provincial governments are left with matters of local importance such as drinking water, roads and bridges, education, agriculture and powers etc., For e.g. The U.K., France, Italy, Japan, Srilanka.

Prof. A.V. Dicey says “Unitary government is a habitual exercise of supreme legislative authority by one central power”.

H. Finer defines “Unitary government is one in which all authority and power are lodged in a single centre whose will and agents are legally Omni potent over the whole area”.

From the analysis of the above definitions, it is clear that in a Unitary government the powers are drawn from the central government and obviously central government is stronger. For administrative convenience, the country is divided in to several units which are not independent administratively. They are at the mercy of the central government.

### **Features**

#### **1. Concentration of powers:**

Central government is the source of administrative powers. It is vested with all the powers and retains most important powers like Home, Defence, Finance, External Affairs, Civil Aviation, Railways, Army, Customs, Excise Etc.,

#### **2. Units are the creation of centre:**

Local units are created by the central government as per the administrative convenience. The boundary of the units can be altered at any point of time. Delegation of the powers to the local units depends upon the discretion of the centre.

#### **3. Units are not autonomous:**

Units get their powers from the central government. They are at the mercy of the central government with regard to powers. They are responsible for their administrative actions to the central government. At any point of time the powers granted by the central government can be withdrawn.

#### **4. Single government:**

In this system, only one set of government functions. Single Legislature to legislate for the whole country: Single Executive to enforce these laws: Single Judiciary to interpret the laws.

#### **5. Constitution is not supreme:**

In Unitary government powers are vested in the Union government

and units are granted powers from the centre. As such powers are not divided and enlisted in the constitution, hence constitution is not supreme. Here Legislature occupies central position.

### 6. Written and unwritten constitution:

There is no division of powers between centre and units. The local units derive powers from central government. Thus the units and their powers do not have any constitutional sanction. As such, a unitary government may have written or unwritten constitution. Ex: The U.K. has unwritten and France has written constitution.

### 7. No special judiciary:

As there is no division of powers between central government and units, disputes regarding powers does not arise. As a result unitary system does not require special judiciary to settle disputes.

### 8. Dependency on Bureaucracy:

The absence of different levels of government has lead to over dependency on bureaucracy. As there is no decentralization of powers, the whole system is governed by single administrative machinery, hence bureaucracy occupies dominant position.

## FEDERAL GOVERNMENT

### Meaning:-

In Federal government two sets of governments are found. Powers are divided between Union government and Federating states. They draw their powers from the constitution of the country.

The term federation is derived from the latin word 'foedus' meaning 'treaty' or 'agreement'. Federation comes in to existence either as a result of centripetal or centrifugal forces.

To defend foreign aggression and overcome economic hazards, federation is formed by means of **centripetal** force. For eg. U.S.A., Australia, Switzerland etc. States with large area which needs unity out of its diversity divides its powers into two sets of governments with

autonomous local units. Such federations are formed by means of centrifugal force. For e.g. India, Canada etc.

### DEFINITIONS:

**A.V. Dicey:** “A federal state is nothing but a political contrivance intended to reconcile national unity with the maintenance of state rights”.

**Hamilton:** “Federation is an association of states that forms a new ones”. **Montesquieu:** “Federal government is a convention by which several similar states agree to become members of a larger one”.

### Features

#### 1. Division of powers:

In a federation the powers are divided between the union and the state governments, they derive their powers from the constitution. Usually matters which are of national importance are given to union and those which are of local importance are given to state governments.

#### 2. Dual government:

A federation has two sets of government functioning simultaneously central and state. Both the governments derive their powers from the same constitution.

#### 3. Written constitution and Rigid constitution

A federation is a result of agreement among the sovereign states. As a result it is essential to list the terms and agreements in a written constitution. It also defines the sphere of functioning of both the governments. As the federal constitution includes the authority and powers of both the governments, it should be rigid to safeguard the interests of the federating units.

#### 4. Supremacy of the constitution:

In a federation constitution holds supreme authority. If the laws enacted by legislatures do not go in accordance with the provisions of the constitution, it is declared as unconstitutional.

#### 5. Bicameralism

In a federation the union legislature is bicameral. The legislature has two houses, the lower house provides representation for the entire nation and the upper house provides representation for the states to protect the interests of the state in the centre.

## **6. Special & Independent Judiciary**

The judiciary is special for two reasons. To examine the constitutionality of the laws enacted by both the governments, special judiciary is needed. Since there is division of powers between centre and states, disputes regarding the powers are to be settled by independent and impartial judiciary.

## **7. Dual citizenship**

Citizens of a federal government enjoy dual citizenship. One for the federating unit in which he resides and the other for the whole nation. Ex : USA and Switzerland.

### **Suggested Activities**

1. Write a report on the presidential election held recently in India and the US
2. Prepare a list of Unitary and Federal Governments
3. List out the existing dictatorial governments in the world

---

## QUESTION BANK

### I. One mark questions

1. Write the root word of constitution.
2. What is constitution?
3. What is constitutional government?
4. What is written constitution?
5. What is unwritten constitution?
6. What is rigid constitution?
7. What is flexible constitution?
8. Give the best example for written constitution.
9. Give the best example for unwritten constitution.
10. Give the best example for rigid constitution.
11. Give the best example for flexible constitution.
12. What is democratic government?
13. Give the meaning of direct democracy.
14. Give an example for direct democracy.
15. Give the meaning of indirect democracy.
16. Give an example for indirect democracy.
17. What is dictatorial government?
18. Give an example for dictatorial government.
19. What is ancient dictatorship?
20. Give an example for ancient dictatorship.
21. What is modern dictatorship?
22. Give an example for modern dictatorship.
23. What is the root word of democracy?
24. What is parliamentary government?
25. Give an example for parliamentary government.
26. What is presidential government?
27. Give an example for presidential government.

28. What is the root word of federation?
29. What is a federal government?
30. Give an example for federal government.
31. What is unitary government?
32. Give an example for unitary government.

## **II. Two marks questions**

1. Define constitution.
2. Write the meaning of constitutional government.
3. Define written constitution.
4. Define unwritten constitution.
5. Define rigid constitution.
6. Define flexible constitution.
7. Write the meaning of democratic government.
8. What do you mean by dictatorial government?
9. What is the meaning of parliamentary government?
10. What is the meaning of presidential government?
11. What do you mean by federal government?
12. Write the meaning of unitary government.

## **III. Five marks questions**

1. Explain the significance of constitution.
2. Describe the characteristics of constitutional government.
3. Explain the features of written constitution.
4. Explain the features of unwritten constitution.
5. Explain the features of rigid constitution.
6. Explain the features of flexible constitution.
7. Describe the essential elements of Ideal constitution.
8. Explain the features of unitary government.
9. Explain the features of federal government.



**IV. Ten marks questions**

1. Write the meaning and significance of constitution.
2. Distinguish between written and unwritten constitution.
3. Distinguish between rigid and flexible constitution.
4. Describe the features of democratic government.
5. Explain the features of dictatorial government.
6. Explain the features of parliamentary government.
7. Explain the features of presidential government.
8. Distinguish between democratic and dictatorial Government.
9. Distinguish between parliamentary and presidential government.
10. Distinguish between federal and unitary government.

V V V V V

## UNIT – 5

### CONSTITUTION OF INDIA

- 1.1 Constituent Assembly
- 1.2 Drafting Committee
- 1.3 Preamble of Indian Constitution
- 1.4 Salient features of Indian Constitution
- 1.5 Fundamental Rights and Duties of Indian Citizen and Right to Education (RTE)

“Indian constitution is a social document”

**GRANVILLE AUSTINE**

#### Learning objectives

1. To know the context and sources of the Indian constitution.
2. To know the background of constituent assembly and drafting committee.
3. To understand and analyse the philosophy of preamble.
4. To know the text of preamble of the constitution.
5. To understand the salient features of the Indian constitution.
6. To know fundamental rights, duties and RTE

The constitution of India was enacted on November 26 ,1949 and put into force on January 26 1950.Originally there were 395 articles and 8 schedules in 22 parts. The current form consists of preamble with 25 parts containing 463 articles, 12 schedules and 97 amendments. Although it is federal in nature it also has a strong unitary basis. The constitution of India provides an in-depth look at the intricacies and as such is the lengthiest written constitution in the world.

The Indian constitution came in to force on January 26, 1950 and has undergone several amendments since the enactment. It is written both in English and in Hindi version. The original version is hand-written and

has beautiful calligraphy. Durgadas Basu an eminent jurist has attempted to interpret its individual articles for the benefit of the layman. His book 'Introduction to the constitution of India', aims to take the reader through every detail of the Indian constitution.

Constitution of India deals with the historical background of the Indian constitution, fundamental rights and duties of citizens, directive principles of state policy, procedures of amendments, union and the state governments and the administration of union territories, the functioning of local self government through panchayaths, judicial system, federal structure, provisions for emergencies, inter-state relation, elections etc.,

### 1.1 Constituent Assembly

The Constituent Assembly of India was constituted in November 1946 under the cabinet mission plan.

In India the demand for the Constituent assembly implied the demand for national freedom through India's struggle for independence. One of the earliest demands for a constituent assembly was made in the Nehru Report of 1928. Its task was mainly to end the British rule in India and to establish an independent Republic of India. It was in 1934 that M N Roy demanded for Constituent Assembly. In 1935 Indian National Congress officially demanded for a constituent Assembly. The demand was finally accepted by the British Government, it is known as the 'August offer' of 1940. Even after the 2<sup>nd</sup> world war, the constituent assembly continued to work as provisional parliament from June 1950 to April 1952.

The total strength of the constituent assembly was supposed to be 389. Of these 296 seats were to be allotted to British India and 93 seats to the princely states. It is thus clear that the constituent assembly was a partly elected and partly nominated body, more over the members were to be elected indirectly by the members of the provincial assemblies. The assembly consisted of representatives of all sections of Indian society and important personalities of India. The Constituent assembly held its first meeting on December 9<sup>th</sup>, 1946 **Dr. Sachidananda Sinha** was nominated as acting president of the assembly, on December 11<sup>th</sup>, 1946. **Dr. Rajendra Prasad** and **H.C.Mukherjee** were elected as the president and vice president respectively. The constituent assembly took 2 years 11 months and 18 days with 11 sessions to draft the constitution. The last session was held on Jan 24<sup>th</sup>, 1950.

The constituent Assembly appointed 22 committees to deal with different tasks of constitution making. Out of these 10 were on procedural affairs and 12 on substantive affairs. These committees submitted their reports between April and August 1947 which were considered by the constituent assembly. The final shape was given by “Dr. B R Ambedkar and members of the Drafting Committee. Dr Babu Rajendraprasad gave credit to Pt. Nehru and Sardar Patel for their guidance and inserting the main points from the debates of the constituent assembly, provisions of previous enactments, opinions of the constitutional jurists and the decisions of the judiciary were also included.

## 1.2 Drafting Committee

Among all the committees of the constituent Assembly the most important committee was the Drafting committee, set up on August 29<sup>th</sup> 1947. It was the committee that was entrusted with the task of preparing the draft of the new constitution. It consisted of a chairman seven members. **Dr.B.R.Ambedkar is a Chairman, other one members B L Mitter, N.Gopalaswamy Ayyangar, Alladi Krishna Swamy Ayyar, Dr.K.M.Munshi, Saiyid Mohd Saadullah, D P Khaitan.**

Due to the demise of B L Mitter and D P Khaitan N.Madhav Rao and T.T.Krishnamachari were nominated.

The drafting committee after taking into consideration the proposals of various committees prepared the first draft which was published in February 1948. The people of India were given eight months to discuss the draft and propose amendments, in the light of public comments, criticisms and suggestions, the drafting committee prepared a second draft which was published in October 1948.

Both in the Drafting committee and constituent Assembly Dr. B.R.Ambedkar's presence and prominent role were visible. Several members of constituent Assembly and the constitutional experts have paid tributes to him for his outstanding contribution.

Dr. Ambedkar gave satisfactory and convincing replies and clarifications to several questions posed by the members. He showed real devotion as the chairman of the Drafting committee. He is the chief architect and the father of the Indian constitution.

On 26<sup>th</sup> November 1949 the constituent Assembly declared on behalf of the people of India that “We do hereby adopt, enact and give to ourselves

this constitution". It embodied all the objectives of democracy, secularism, economic and social justice.

### Preamble of the Indian constitution

The term preamble refers to the introduction to the constitution. It contains the essence of the constitution which is key to its spirit and meaning. **K.M.Munshi** described it as the political horoscope of the constitution. Preamble lists the basic features and philosophy for which it is considered as the soul of the constitution.

American constitution was the first to introduce the preamble. Many countries including India followed this practice.

The preamble to the Indian constitution is based on the "Objectives of Resolution" drafted and moved by Pt Nehru and adopted by the constituent assembly. It has been amended by the 42<sup>nd</sup> Constitutional Amendment Act of 1976 which added three new words **Socialist, Secular and integrity**.

### Text of the preamble

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

**JUSTICE**, social, economic and political;

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

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

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

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

The preamble expresses the political moral, economic and religious values which our constitution is committed to promote. It specifies the source of authority the system of government and objectives to be affirmed by the political system. It constitutes the philosophy embodying the ideals

and aspirations to which the national movement committed itself.

In 1949 Dr. B.R.Ambedkar observed in the constituent Assembly : I say that preamble embodies what is the desire of every member of the House, that this constitution should have its root, its authority the so..... from the people.

### **1. We the people of India :**

The term has been borrowed from the UN charter. It implies that ultimate authority in India rests with the people. It also implies that betterment of masses, raising their social and economic standard is the aim of the constitution.

### **2. Sovereign:**

The word sovereign implies that India has the sole authority within its territory over all its individuals and associations. Externally it is free from all outside control.

### **3. Socialist:**

The term socialist has been added as per the 42<sup>nd</sup> amendment in 1976. It means the government is constitutionally bound to bring about socio-economic changes to ensure decent life to Indian citizens.

### **4. Secular:**

This term is also added by the 42<sup>nd</sup> Constitutional Amendment Act of 1976, secularism implies.

- ✓ The State would have no official religion of its own.
- ✓ It would not extend special favour to any particular religion.
- ✓ The people of India are free to accept, practice and propagate any religion of their choice.

### **5. Democratic:**

Democracy implies that all governmental authority is derived from the people and is exercised by the government consisting of their representatives elected on the basis of universal adult franchise. Democracy in its broad sense embraces not only political democracy but also social and economic democracy.

**6. Republic:**

The head of the state is elected by the people directly or indirectly for a fixed period. And the system is quite opposite to hereditary principle.

**7. Justice:**

The term implies social, economic and political justice. It ensures that people of India get justice through various provisions of the constitution.

**8. Liberty:**

Liberty is an essential pre-requisite for the existence of democracy. The preamble assures all the citizens of India, Liberty of thought, expression, belief, faith and worship.

**9. Equality:**

The term equality means absence of special privileges to any sections of society and the provisions of adequate opportunities for all the individuals without any discrimination.

**10. Fraternity:**

Fraternity means sense of brotherhood. The constitution promotes this feeling of fraternity by the system of single citizenship. Fraternity assures dignity of the individual unity and integrity of the nation.

The preamble embodies the basic philosophy and fundamental values of political, moral and religious on which constitution is based. It contains the grand and noble vision of the constituent assembly. It reflects the dreams and aspirations of the founding fathers of the constitution.

The draft of the constitution after several discussions was amended and adopted by the constituent assembly. In doing so it worked through settled parliamentary procedures and carried out its assigned task most systematically.

**1.4 SALIENT FEATURES OF INDIAN CONSTITUTION.****1) Longest written constitution.**

The constitution of India is the longest of all the written

constitutions of the world. It is a very comprehensive, elaborate and detailed document.

Originally the constitution contained the preamble, 395 Articles, 8 Schedules divided into 22 parts. Presently, it consists of the Preamble, 463 Articles and 12 Schedules. No other constitution in the world has so many articles and schedules. This is much bigger than the American constitution with its 7 Articles and 26 amendments, the Japanese constitution with 103 Articles and the French constitution with 92 Articles.

## 2) The Preamble:

The Indian constitution has a well drafted preamble. The preamble is an introduction which reflects the spirit or philosophy of the constitution. It defines the aims and objectives of the framers of the constitution and is also an expression of the aspirations of the people of India.

According to the preamble, India is **“A Sovereign, Socialist, Secular, Democratic, Republic”**. It secures to its citizens Justice, Liberty, Equality, Fraternity, Unity and Integrity of the nation.

## 3) Fundamental rights :

Part III of the Indian constitution embodies six fundamental rights from Article 12 to 35. They are termed as **Magna carta** of the Indian people. However fundamental rights are not absolute but are subject to the reasonable restrictions.

Fundamental rights guaranteed under the Indian Constitution deals with Right to equality, Right to freedom, Right against exploitation, Right to freedom of Religion, cultural and educational rights, Rights to constitutional remedies.

## 4) Fundamental Duties:

Originally the constitution did not contain fundamental duties. These were incorporated by the 42<sup>nd</sup> amendment in 1976. The newly inserted part IV A of the constitution consists of only one article 51A which specifies the eleven fundamental duties.



**5) Parliamentary form of Government.**

Indian constitution provides for a parliamentary form of government both at the centre and the state. President and Governors are constitutional Heads. The real executive is created by and responsible to legislature both at the centre and state.

**6) Federal structure with unitary spirit.**

The constitution of India establishes a federal system of government with features like dual government, written constitution, division of powers etc, But Indian constitution also contains unitary features like strong central Government, single citizenship, common national anthem, flag and emblem.

**7) Directive principles of state policy:**

They are enumerated in the part IV of the constitution. They can be classified into three broad categories Socialistic, Gandhian and Liberal. They promote the ideals of Social and Economic democracy.

**8) Independence of judiciary :**

The framers of the constitution were aware of the fact that democracy is meaningless in the absence of an independent judiciary. Thus independent and impartial judiciary with the power of judicial review was established.

The Indian constitution has established single integrated judicial system with the Supreme Court at the apex and High court at the state level.

**9) Single citizenship:**

India is a union of states and there is single citizenship for everyone. All Indian citizens owe allegiance to the state. Citizenship entitles them to equal rights and freedom and equal protection.

**10) Emergency powers:**

The Indian constitution contains an emergency provision which empowers the president to meet any extraordinary situations effectively. Emergency powers of the president are enumerated

in

1. Article 352- National emergency
2. Article 356- State emergency
3. Article 360- Financial emergency.

### **11) Universal adult suffrage:**

The Indian constitution has made provision for universal adult suffrage. Citizens who have attained the age of 18 years are provided with the right to vote without any discrimination of caste, colour, creed, sex or place of birth.

### **12) Panchayath Raj System :**

The 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment Act of 1993 have added three tier local self government which is not found in any other constitution of the world. The 73<sup>rd</sup> amendment provides for rural local self government and the 74<sup>th</sup> for urban local self government.

### **13) Method of Amendment:**

The constitution of India provides for the rigid and flexible methods of amendment. The three methods of amendment enumerated in article 368 of the constitution are

- 1) Certain provisions can be amended by the union parliament by simple majority.
- 2) Certain other provisions can be amended by a difficult method. The bill must be passed by 2/3 majority in each house of the parliament.
- 3) Remaining provisions can be amended by a difficult method. The bill must be passed by a 2/3 majority in each house of the parliament and ratified by more than 1/2 of state legislatures.

### **14) All India Services :**

This is another feature which is a pointer to the unitary character of the Indian constitution. There is provision for common All India Services like IAS, IPS, and IFS. The recruitment and control of these services are vested in the central government.

**15) Division of powers:**

The legislative powers of union and states are divided in three lists. They are

- (i) Union list contains 97 subjects like external affairs, defence, currency, income tax etc., the union parliament alone is authorized to legislate.
- (ii) State list contains 66 subjects like police, jails, P.W.D, land revenue etc., on which state legislatures can legislate.
- (iii) Concurrent list has 47 subjects. They include labour, welfare, printing press education, news paper etc., on which both union and state legislatures can legislate.

These are some of the important salient features of Indian constitution.

**1.5 Fundamental Rights**

The fundamental rights are enshrined in part III of the constitution from Articles 12 to 35. In this regard the framers of the constitution derived inspiration from the Bill of Rights of the constitution of USA.

Fundamental Rights contain a comprehensive list of 'Justifiable' rights. They are guaranteed by the constitution to all the citizens. They uphold the equality and dignity of the individual, which are most essential for their all round development.

- |                                     |               |
|-------------------------------------|---------------|
| 1. Right to equality                | (Art . 14-18) |
| 2. Right to freedom                 | (Art. 19-22)  |
| 3. Right against exploitation       | (Art. 23-24)  |
| 4. Right to freedom of Religion     | (Art. 25-28)  |
| 5. Cultural and Educational rights  | (Art. 29-30)  |
| 6. Right to constitutional remedies | (Art. 32)     |

Originally the constitution provided for seven fundamental rights. Of these 44th Amendment Act of 1978 eliminated the right to property from the list of fundamental rights. It is made a legal right under article 300-A in part XII of the constitution. At present there are six fundamental rights. Fundamental Rights can be suspended during the National

Emergency and external aggression except the rights guaranteed by Art.20 and 21.

### **I. Right to Equality:**

Art. 14 to 18 of the Indian constitution have been devoted to Right to Equality. They ensure equality to the citizens. The right to equality reads as follows -

- a) Art. 14 guarantee that all are equal before the law and equal protection of laws within the territory of India.
- b) Art. 15 prohibits discrimination against any citizen on the grounds of religion race caste, gender or place of birth.
- c) Art. 16 guarantees equality of opportunity in matters of public employment.
- d) Art. 17 state that, practice of untouchability in any form is a punishable offence.
- e) Art. 18 states that no title, not being a military or academic distinction shall be conferred upon by the state. Citizens of India are prohibited from accepting titles from foreign states without prior permission of the union government.

### **II. Right to freedom**

Art.19 guarantees six fundamental freedoms. They are:

- i) Freedom of speech and expression.
- ii) Freedom to assemble peacefully and without arms.
- iii) Freedom to form associations or unions.
- iv) Freedom to move freely throughout the territory of India.
- v) Freedom to reside and settle in any part of the territory of India.
- vi) Freedom to practice any profession or to carry on any occupation trade or business.

Art. 20 states protection in respect of conviction for offences which covers -

- a) No person shall be prosecuted and punished for the same offence more than once.

- b) No person who is accused of any offence shall be compelled to a witness against himself.

Art. 21 states, that no person shall be deprived of his life or personal liberty except according to law.

Art. 21.A States free and compulsory education to all children of the age of 6 to 14 years.

Art. 22 state about protection against arbitrary arrest and detention.

### **III Right against exploitation**

Art. 23 states the prohibition of forced labour and traffic in human beings.

Art. 24 states the prohibition of employment of children in factories, mines etc.

### **IV. Right to freedom of Religion**

Art. 25 provides for freedom of conscience, free profession, practice and propagation of religion.

Art. 26 provide every religious section thereof shall have the right -

- 1) To establish and maintain institutions for religious and charitable purposes;
- 2) To manage its own affairs in religion;
- 3) To own and acquire movable and immovable property;
- 4) To administer such laws in accordance with law.

Art. 27 states that no person shall be compelled to pay any taxes the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

Art. 28 states that:

1. No religious instruction shall be imparted in any educational institution wholly maintained out of state funds.
2. No person attending any educational institutions recognized by the state or receiving aid out of the state funds can be forced

to take part in any religious instructions or that may be imparted in such institutions or to attend any religious worship that may be conducted in such institution unless consented by the guardian.

## **V . Cultural and Educational rights**

Art. 29 states that any citizen residing in the territory of India having distinct language, script or culture of its own has the right to conserve it.

No citizen be denied admission into any educational institution maintained by the state or receiving aid out of state funds on grounds only of religion, race, caste, language or any of them.

Art. 30 states that all minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

The state shall not discriminate in granting aid to educational institution on the ground that it is under the management of a minority, whether based on religion or language.

## **VI. Right to constitutional remedies.**

Art.32 states that the citizen has the right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by the constitution. Dr. B.R.Ambedkar said this Art 32 is the heart of the constitution.

The Supreme Court shall have the power to issue directions or order or writs including writs in the nature of Habeas corpus, Mandamus, Prohibition, Quo warranto and Certiorari may be appropriate for the enforcement of any of the rights conferred by the constitution.

## **Habeas Corpus**

It means ‘to produce the body’ and it is an order issued by the court to a person who has wrongly detained or restricted. The courts can order for the concerned authorities to produce the person physically who has been detained. But it does not apply in case of criminals.

### **Mandamus**

It means 'we command', it is a command issued by the court to an official asking him to perform his official duties that he has failed or refused to perform. It can also be issued against any public body.

### **Prohibition**

It means 'to forbid', it is issued by a higher court to lower court or tribunal to prevent the later from exceeding its jurisdiction or usurping a jurisdiction that it does not possess. The writ of prohibition can be issued only against judicial and quasi-judicial authorities.

### **Certiorari**

It means 'to be certified' or 'to be informed', it is issued by a higher court to a lower court or tribunal either to transfer a case pending with the latter to itself or to squash the order of the latter in a case. The writ of certiorari could be issued only against judicial and quasi-judicial authorities and not against administrative authorities.

### **Quo-warranto**

It means 'by what authority or warrant'. It is issued by the court to enquire into the legality of claim of a person to public office. Hence, it prevents illegal usurping of public office by a person.

## **FUNDAMENTAL DUTIES**

The fundamental duties of the Indian constitution are inspired by the constitution of erstwhile USSR. In 1976 the union government formed **Sardar Swaran Singh** Committee to go into the details of fundamental duties. It suggested the incorporation of eight duties. The 42<sup>nd</sup> constitutional Amendment Act of 1976 included Ten Fundamental Duties. In 2002 one more fundamental duty was added to the list.

### **LIST OF FUNDAMENTAL DUTIES**

Art.51A of Part IV-A reveal the following fundamental duties of Indian citizen -

1. To abide by the constitution and respect its ideals and institutions, the National Flag and National Anthem.
2. To cherish and follow the noble ideals that inspired the national

struggle for freedom.

3. To uphold and protect the sovereignty, unity and integrity of India.
4. To defend the country and render national service when called upon to do so.
5. To promote harmony and the spirit of common brotherhood amongst all the people of India – transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women.
6. To value and preserve the rich heritage of our composite culture.
7. To protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures.
8. To develop scientific temper, humanism and the spirit of inquiry and reform.
9. To safeguard public property and to abjure violence.
10. To strive towards excellence in all spheres of individual and collective activity, so that the nation constantly rises to higher levels of endeavour and achievement.
11. To provide opportunities for education to his child or ward between the age of six and fourteen years. This duty was added by the 86<sup>th</sup> constitutional Amendment Act 2002.

## **5.5 RIGHT TO EDUCATION : THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION**

Universal Elementary Education Plays an Important role in strengthening social fabric and democracy. The Directive principles of the state policy enumerated in the constitution of India lays down that the state shall provide free and compulsory education to all children up to the age of 14. Over the years there has been an increase in the number of elementary schools but the goal of universal elementary education is not yet achieved. Particularly children from disadvantaged groups and weaker sections are largely affected.

Hence, by the 86<sup>th</sup> Amendment Act of 2002, Article 21-A was inserted



to the constitution which provides for free and compulsory education to all children in the age group of 6 to 14 as a fundamental right.

Consequently the Right of children to free and compulsory education Act 2009 was passed by the parliament. In compliance of the central act, the Government of Karnataka framed rules which were notified and came into force from 28<sup>th</sup> April 2012.

Free education means that no child (other than a child admitted by his parents), shall be liable to pay any fee or charges or expenses which may prevent him from completing elementary education.

**Compulsory** education casts an obligation on the concerned government

- A. To provide and ensure admission, attendance and completion of Elementary Education.
- B. To ensure availability of neighbour-hood school
- C. To ensure the child belonging to weaker section and the child belonging to disadvantaged group are not discriminated against and prevented from pursuing and completing elementary education.

### **DUTIES OF CONCERNED GOVERNMENT**

- 1. The central and state governments have concurrent responsibility for providing funds for carrying out the provisions of this Act.
- 2. For implementing the provisions of this Act the central /state/ Local governments shall establish school in the neighborhood.
- 3. The central government shall prepare estimates of capital and recurring expenditures and shall provide revenue to the state governments as grant- in-aid.
- 4. The government shall notify per-child expenditure every year and shall reimburse fees of children admitted to private unaided schools.
- 5. The concerned authorities (BEO, DDPI) are empowered to ensure admission to children from weaker sections and disadvantaged groups in the neighbourhood privileged schools.

### **DUTY of parents and guardians:**

The act says that it shall be the duty of every parent or guardian to admit his child to an elementary education in the neighbour-hood school.

### **PROTECTION OF RIGHTS OF CHILDREN**

The National commission for protection of child rights and the state (Karnataka) commission of protection of child rights shall-

- a. Examine and review the safeguards for rights under this Act.
- b. Inquire into complaints relating to RTE.
- c. Take necessary steps for protection of RTE.

Any person having any grievance relating to RTE may make a written complaint to the BEO of the block, DDPI of the district and the CEO of Zilla panchayath who shall examine the matter and pass orders as deemed fit.

Therefore, The Right of children to free and compulsory education is believed to achieve equality and social justice and strengthen democracy through universal education.

#### **Suggested Activities**

1. Prepare a list of constitutions that inspired the framers of Indian Constitution
2. Make a list of constitutions and members of the Constituent assembly and the drafting committee
3. Prepare a flowchart of fundamental rights and duties of Indian Citizen
4. Compare and Contrast constitutions of our neighboring countries
5. Write a report on the effective implementation of RTE in your locality.

---

## QUESTIONS BANK

### I One Marks Questions :

- 1) When did the Indian constitution come in to force?
- 2) Who was elected as a temporary president of the constituent assembly?
- 3) Who was the chairman of Indian constituent assembly?
- 4) Who was the chairman of drafting committee?
- 5) How many members were there in the constituent assembly?
- 6) When did the drafting committee submit the draft of the Indian constitution?
- 7) When did the constituent assembly accept the draft of Indian constitution?
- 8) How many articles exist in the original constitution?
- 9) How many articles exist now in our constitution?
- 10) Which is the lengthiest constitution in the world?
- 11) Which is the shortest constitution in the world?
- 12) How much time has been taken by the constituent assembly to make the Indian constitution?
- 13) Who described the preamble as the 'Political horscope' of the constitution?
- 14) Mention the word which was added to the preamble by the 42<sup>nd</sup> amendment.
- 15) Name the part which contains the directive principles of state policy.
- 16) Name the part which contains the fundamental rights.
- 17) Which amendment removes the right to property from fundamental rights?
- 18) Which article refers to right to constitutional remedies?
- 19) How many fundamental duties were there in the constitution?

**II Two Marks Questions :**

- 1) What is a preamble?
- 2) Name the two structure of sovereignty.
- 3) What is the meaning of socialist state.
- 4) State the meaning of secular state.
- 5) What do you mean by republic state?
- 6) What do you mean by parliamentary form of government?
- 7) What do you mean by fundamental rights?
- 8) What do you mean by directive principles of state policy?
- 9) Give the meaning of single citizenship.
- 10) State the emergency powers of the president.
- 11) List out the fundamental rights.
- 12) Name the different kind of writs.
- 13) What do you mean by universal adult franchise?
- 14) Name the freedoms mentioned in article 19 of the constitution.

**III. Five Marks Questions :**

- 1) Give an introductory note on Indian constitution.
- 2) Write a note on the constituent assembly.
- 3) Write about the drafting committee.
- 4) Write the text of the preamble of the Indian constitution.
- 5) Explain the principles of the preamble.
- 6) List out the fundamental duties of Indian citizens.
- 7) Explain the different kinds of writs.
- 8) Write a short note on RTE.

**IV. Ten Marks Questions :**

- 1) Explain the salient features of the Indian constitution.
- 2) Explain the fundamental rights of Indian citizens.

vvvvv

## UNIT- 6

### LEGISLATURE

6.1 Meaning and Significance

6.2 Legislature in India

A. The Union Legislature

Rajya Sabha - The Council of States

Lok Sabha - The House of the People

Composition, Powers and Functions

B. The State Legislature

Vidhana Parishad - The Legislative Council

Vidhana Sabha- The Legislative Assembly

Composition, Powers and Functions

C. Law Making Procedure.

**“The Parliament is a Temple of power”**

**- Dr. B.R. Ambedkar**

#### Learning objectives

- 1.To understand the historical development of Parliament.
- 2.To know the meaning and significance of legislature
- 3.To know the basic structure of the Indian Parliament.
- 4.To understand the Classifications of Indian Legislature.
- 5.To know the functions of the union and the state legislatures.

#### **6.1 Meaning and significance :**

The three organs of government are the legislature, the executive and the judiciary, and their functions are enacting, executing and interpreting the laws.

The legislature unquestionably occupies the most important place as it formulates and expresses the will of the state. It provides the base for the working of the executive and judiciary.

The word legislature in general refers to the Parliament in democratic form of government. The word Parliament is originally derived from the French word “**Parlor**” (to speak). It means talk, discuss and take decision at a meeting hall.

In ancient times laws were made on the basis of tradition and customs of the ruling class in the State. Gradually, it converted into an Assembly of Ministers headed by the king to make necessary laws.

Even in India during ancient times ‘**Sabha**’ and ‘**Samithi**’ system prevailed. **Parliament** in modern sense refers to those powers and functions which are similar to the **Westminster system** of the United Kingdom.

The Government of India Act.1935 provided for the federal legislature consisting of two Houses. This system is adopted in the Indian constitution which was enacted on 26<sup>th</sup> January 1950.

The legislature in England is called the Parliament, it consists of the House of Lords and the House of Commons and in USA the legislature is called as Congress which consists of the Senate and the House of Representatives.

**Some other examples of modern National Legislatures are as follows:**

|           |                              |
|-----------|------------------------------|
| India     | The Parliament               |
| USA       | The Congress                 |
| Spain     | The Cortes                   |
| Australia | The Federal Parliament.      |
| Israel    | The Knesset                  |
| Ireland   | The Dail Eireann             |
| France    | The National Assembly        |
| Germany   | The Bundestag                |
| Maldives  | The Majilis                  |
| Russia    | The supreme soviet.          |
| China     | The Yuan (National Assembly) |
| Nepal     | The National Panchayath.     |
| Denmark   | The Folkwring                |

**Significance of Legislature:**

In modern times the legislature is the most important source of law making. The Legislature frames new laws, amends the laws and repeals outdated laws.

**a) Law Making:**

In democratic form of government the body of representatives enact laws in accordance with the constitution of the state. The sovereign power to make laws in the legislature is vested in the form of collective responsibility of the cabinet. The whole responsibility lies in the legislature to formulate and adopt any kind of laws for good governance.

**b) Formation of Government:**

In a Parliamentary system the legislature plays key role in forming the government. The party that obtains clear majority in the general election forms the government.

**c) Amending the Constitution:**

The legislature has the power to amend, retrieve and repeal laws of the constitution. It may follow either rigid or flexible methods of amendment.

**d) Redressal of Grievances :**

As a deliberative body, the legislature discusses matters of public importance. The elected members can utilise the time to raise the issues using question hour, zero hour and calling attention motions. Through this, it provides a platform for redressal of public grievances.

The Legislature in a democratic government enacts the general rules of society in the form of laws and determines the manner in which the work of the executive is to be fulfilled. It also formulates and expresses the will of the state.

**6.2 Legislature in India:**

The founding fathers of the Indian constitution adopted the Parliamentary system of government and also made provisions for

Bicameralism at the Union and State level.

### 6.2A Union Legislature:

Chapter II of Part V of the Indian Constitution deals with the Indian Parliament. Article 79 of the Constitution states that, the Indian Parliament consists of, the President and the two Houses of Parliament namely the Council of States (Rajya Sabha) and the House of People (Lok Sabha).

Bicameralism is thus an integral part of the Indian Parliament. It is necessary to put an end to hasty legislation which helps in bringing balanced and equitable legislation.

The Lok Sabha represents the Nation and the Rajya Sabha represents the States. These two Houses sit and function separately and are constituted on different principles.

Though the President is not a member of either House of Parliament yet he is an integral part of the Indian Parliament. He summons, prorogues both Houses and dissolves the Lok Sabha.

The Parliament of India is a magnificent manifestation of the democratic ethos of our Nation. As repository of the constituent powers of the Union, Parliament occupies a central position in Indian democracy. The powers of the Parliament are derived from the Constitution of India which is the supreme authority.

Both Houses of Parliament enjoy powers and status as per the constitution. Article 118 of the Indian constitution empowers each house of Parliament to make rules for regulating its procedure and conduct of its business.

Parliament holds three Sessions in a calendar year. They are,

- \* Budget Session
- \* Monsoon Session and
- \* Winter Session

### The Rajyasabha (The Council of States)

The Upper House of the Union Parliament is called the Rajya Sabha or the Council of States. The members of the Rajya Sabha are elected by the elected members of State Legislative Assemblies to represent the

2018 - 2019



respective States of India. However, the Indian states have not been given equal representation in the Upper House as in the Senate of USA

### **Composition:**

The Rajya Sabha consists of 250 members. Out of this 238 members are representatives of states and union territories and the remaining 12 are nominated by the President from amongst the distinguished persons in the field of literature, science, art and social service [Art.80(3)]. The nominated members do not participate in the election of the President of India.

### **The Chairman of Rajya Sabha:**

The Vice-president of India is the ex-officio Chairman of the Council of the States. The Chairman of the Rajya Sabha enjoys a dignified position. He presides over the Rajya Sabha, maintains discipline and decorum of the House.

He introduces members to the floor, allots time to discuss, decides points of order, presents questions and announces results. The chairman of the Rajya Sabha conducts the proceedings according to rules and regulations of the House.

He is not a member of the Rajya Sabha but he is entitled to cast vote in case of a tie.

### **The Deputy Chairman of Rajya Sabha:**

The Rajya Sabha shall elect a Deputy Chairman from amongst its members [Art.89]. In the absence of the Chairman, he presides over the House.

### **Qualifications for the Members of Rajya Sabha:**

1. He must be a citizen of India.
2. Must have attained the age of 30 years.
3. He must not hold any office of profit.
4. He must have other qualifications as prescribed by the Parliament.

### **Election:**

Members of the Rajya Sabha are elected by the elected members of

Legislative Assemblies of States, in accordance with the system of Proportional Representation by means of the single transferable vote system.

### **Tenure**

The Rajya Sabha is a permanent House. It **cannot** be dissolved. Its members are elected for a term of six years. 1/3 of its members, who have completed six years of term, retire every two years.

The Rajya Sabha was constituted for the first time on 3<sup>rd</sup> April 1952.

### **FUNCTIONS OF THE RAJYA SABHA:**

#### **1. Legislative Functions:**

All ordinary bills can be originated in the Rajya Sabha except Money Bills. Both Houses of Parliament enjoy co-equal powers on ordinary legislation.

When a bill is passed by the Rajya Sabha, it is sent to the Lok Sabha for concurrence. When there is disagreement between the two Houses, the President summons a joint sitting of both the Houses for the purpose of deliberating and voting on the bill. Any bill is to be passed by the majority of the total number of members of both the houses present and voting then bill will be forwarded to the President for his assent.

#### **2. Financial Functions:**

The Rajya Sabha does not enjoy any powers on financial matters. Money bill cannot be introduced in the Rajya Sabha. After a Money bill is passed by the Lok Sabha it is sent to the Rajya Sabha for consideration. The Rajya Sabha cannot keep that bill for more than 14 days, in case if it is not sent within the said time it is deemed to be accepted.

#### **3. Administrative Functions:**

The Rajya Sabha does not have the powers to bring about No Confidence Motion. When the Parliament is in session, the members can criticize the policies of the government by raising questions

related to issues of national importance, and thereby control the Executive. They can get information about the functioning of the government from the concerned Ministers.

#### **4. Judicial Functions:**

The Rajya Sabha has certain judicial powers. It can conduct enquiry into the impeachment moves made against the President, Vice-President, Judges of both Supreme Court and High Court and Chief Election Commissioner. The Members of the Rajya Sabha enjoy co-equal powers with the Lok Sabha in the judicial functions.

#### **5. Electoral Functions:**

The members of the Rajya Sabha participate in the election of the President and Vice-President of India.

#### **6. Special Powers of Rajya Sabha:**

The Rajya Sabha which represents the States enjoys certain special powers as per the Constitution. Article 249 provides that the Rajya Sabha may pass a Resolution, by a majority of not less than 2/3 of the members present and voting to any matter enumerated in the state List.

Article 312 states that the Rajya Sabha can adopt a Resolution to create and abolish new All India Services. It has the power to initiate the process for the removal of Vice-President of India.

When the ordinance is proclaimed by the President, it is necessary to get the concurrence of the Rajyasabha.

### **THE LOK SABHA (THE HOUSE OF PEOPLE:**

#### **Composition:**

The Lok Sabha is the popular House. Its members are directly elected by the voters. At present the chamber has 543 elected members and two nominated members to represent Anglo-Indian community. The total strength of Lok Sabha is 545. Under Article 81, not more than 20 Lok Sabha members represent the Union Territories. Hence the strength of

the Lok Sabha has not been changed by the delimitation commission headed by **Justice Kuldeep Singh** in 2008.

The Republic of India consists of 28 States and 7 Union Territories. There are 543 Parliamentary constituencies. The State of Uttar Pradesh has maximum representation of 80 members in the Lok Sabha, Karnataka has 28 seats. Under Article 334 of the Indian constitution, the Lok Sabha seats are reserved for Scheduled Caste - 79 and Scheduled Tribes - 41.

### **Election:**

Each State is allotted seats in the Lok Sabha. It has also been provided that each representative single member constituency shall not represent less than 5 lakhs or maximum 7.5 lakhs of population. The population for this purpose will be ascertained on the basis of the previous census. The eligible voters who have attained 18 years of age can elect the Members of the Lok Sabha by the method of Adult Franchise.

### **Tenure:**

The tenure of Lok Sabha is five years from the date of commencement of its first session. This term can be extended for one year during emergency. The President of India dissolves Lok Sabha on the recommendation of the Cabinet headed by the Prime Minister after the completion of the term of five years or lack of majority in the House.

### **Qualification:**

In order to be chosen as a Member of Lok Sabha a person

- a) Must be a citizen of India,
- b) Must not be less than twenty five years of age,
- c) Should possess such other qualifications as may be prescribed by the Parliament.
- d) Must not hold any office of profit under the union or state government.

## DISTRIBUTION OF SEATS AMONG THE STATES & UNION IS AS FOLLOWS.

**Total Strength of Loka Sabha is 550 and Rajya Sabha is 250**

| States & Union Territories |                                                | Lok Sabha Seats | Rajya Sabha Seats |
|----------------------------|------------------------------------------------|-----------------|-------------------|
| 1.                         | Andhra Pradesh                                 | 42              | 18                |
| 2.                         | Arunachal Pradesh                              | 2               | 1                 |
| 3.                         | Assam                                          | 14              | 7                 |
| 4.                         | Bihar                                          | 40              | 16                |
| 5.                         | Chhattisgarh                                   | 11              | 5                 |
| 6.                         | Goa                                            | 2               | 1                 |
| 7.                         | Gujarat                                        | 26              | 11                |
| 8.                         | Haryana                                        | 10              | 5                 |
| 9.                         | Himachal Pradesh                               | 4               | 3                 |
| 10.                        | Jammu & Kashmir                                | 6               | 4                 |
| 11.                        | Jharkhand                                      | 14              | 6                 |
| 12.                        | Karnataka                                      | 28              | 12                |
| 13.                        | Kerala                                         | 20              | 9                 |
| 14.                        | Madhya Pradesh                                 | 29              | 11                |
| 15.                        | Maharashtra                                    | 48              | 19                |
| 16.                        | Manipur                                        | 2               | 1                 |
| 17.                        | Meghalaya                                      | 2               | 1                 |
| 18.                        | Mizoram                                        | 1               | 1                 |
| 19.                        | Nagaland                                       | 1               | 1                 |
| 20.                        | Orissa                                         | 21              | 10                |
| 21.                        | Punjab                                         | 13              | 7                 |
| 22.                        | Rajasthan                                      | 25              | 10                |
| 23.                        | Sikkim                                         | 1               | 1                 |
| 24.                        | Tamil Nadu                                     | 39              | 18                |
| 25.                        | Tripura                                        | 2               | 1                 |
| 26.                        | Uttarakhand                                    | 5               | 3                 |
| 27.                        | Uttar Pradesh                                  | 80              | 31                |
| 28.                        | West Bengal                                    | 42              | 16                |
| 29.                        | Five Members are not allotted for Rajya Sabha. | -               | 05                |

|                              |            |            |
|------------------------------|------------|------------|
| Union Territories            |            |            |
| 1. Andaman & Nicobar Islands | 1          | —          |
| 2. Chandigarh                | 1          | —          |
| 3. Dadra & Nagar Haveli      | 1          | —          |
| 4. Daman & Diu               | 1          | —          |
| 5. Delhi                     | 7          | 3          |
| 6. Lakshadweep               | 1          | —          |
| 7. Puducherry                | 1          | 1          |
| Nominated Members            | 2          | 12         |
| <b>Total</b>                 | <b>545</b> | <b>245</b> |

### **Oath of affirmation:**

Before taking seat in the House every member has to take an oath of affirmation before the president.

Form of oath or affirmation to be made by a member of Parliament:

“I, A.B……, having been elected (or nominated) a member of the Council of States (or the House of the People) 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, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter.”

### **FUNCTIONS OF THE LOK SABHA:**

The legislature plays a very significant role in Parliamentary System of government. The executive remains accountable to the legislature for all its actions. Continuing in power on the part of the executive depends on the satisfaction and support of the legislature.

#### **1. Legislative Functions:**

The most important function of the Lok Sabha is enacting new laws, amend the existing laws, and repeal the outdated laws.

The Lok Sabha is empowered to make laws on all subjects, which are in the Union List and Concurrent List. No Bill can become a law unless it is passed by both the Houses and get the assent

of the President. When a bill is recommended for reconsideration by the President, and passed again by both Houses of Parliament with or without amendment and again presented to the President it would be obligatory upon him to give his assent. [Art.111]

## **2. Financial Powers:**

According to Article 109 of the Constitution a Money bill originates only in the Loksabha. However, when it is passed by the Loksabha and sent to the Rajyasabha for its consideration it has to return the same within 14 days with or without recommendations to the Lok Sabha. Otherwise, the bill is deemed to be accepted and will be sent to the president for his assent.

An annual statement of estimated income and expenditure for the ensuing financial year is commonly known as Budget. It is presented by the finance minister in Loksabha.

No tax shall be levied or expenditure be incurred without the approval of the Loksabha, as it acts as the guardian of the national purse.

## **3. Control over the Executive:**

The parliamentary form of government is also called the Cabinet form of government. In India the cabinet is the real executive and it is responsible and answerable to the Lok Sabha with regard to the policies and programmes of the government and administration of the nation. If the government fails to fulfil its responsibilities in satisfactory manner, Lok Sabha can move the No Confidence motion against it and bring it down.

The legislature exercises its control over the executive by -

- a) Asking questions to the Ministers to elicit important information relating to matters of administration and matters of public importance.
- b) It can move Adjournment Motions or Calling Attention motion to raise debates to point out specific lapses of the government.
- c) Any member of opposition can move No Confidence Motion and

express its lack of confidence in the government then it forces the party in power to resign.

#### **4. Deliberative Functions:**

The Lok Sabha is a deliberative body and facilitates determination of policies and legislation through a process of debate and discussion. This discussion provides with opportunities to each member to present the view and perception of his party.

#### **5. Judicial Functions:**

The Lok Sabha also exercises some judicial functions. Under the constitutional provisions, Lok Sabha has power to remove the President, Judges of Supreme and High courts and other Constitutional bodies through the Motion of Impeachment, after fulfilling certain constitutional formalities.

#### **6. Constitutional Functions:**

The Parliament also has constitutional functions to perform. Under Article 368, the Lok Sabha has entrusted with the powers to amend the Constitution. Amendment means change, modification, revision, addition, and deletion of any provision of the constitution.

#### **7. Electoral Functions:**

Members of the Lok Sabha participate in electoral functions. The Indian Parliament takes part in the election of the President and Vice-President of India. It elects its Speaker and Deputy speaker.

#### **8. Discussion of Reports:**

The reports of the UPSC, Comptroller and Auditor General, Finance Commission, Election Commission, Scheduled caste, scheduled Tribe and Other Backward Classes Commissions etc, are placed in both the Houses of Parliament for discussion and necessary follow up action will be made within the Parliament.

#### **Salaries, Allowances and pension of Members of Parliament:**

Under Article 106 of the constitution, Members of either House of Parliament are entitled to receive such salaries and allowances as may be determined by Parliament by law from time to time.



**Privileges and immunities of Members of Parliament:**

The Parliamentary privileges consist in certain powers, privileges and immunities enjoined by the two Houses.

As provided: Art .105 Subject to the provision of the constitution and to the rules and standing orders regulating the procedure of parliament, there shall be privileges enjoyed by the members individually are ,

- i) Freedom of speech,
- ii) Freedom from arrest
- iii) Exemption from attendance as jurors and witnesses.

**The Speaker of Lok Sabha:**

The House of the people is presided over by the Speaker. Article 93 of the Constitution of India makes provision for the office of Speaker. He is elected by the members of the Lok Sabha. After the speaker has been elected he fixes a date for the election of the Deputy Speaker.

As the name suggests, the speaker is the chief spokesperson of the House. His authority is derived from the constitution, such as the rules of procedure and conduct of business of the House, the traditions and conventions of his office, and lastly, from the confidence reposed in him by members of the House.

**Term of Office:**

The tenure of the Speaker goes side by side with that of the Loksabha that is 5 years. He is eligible for re-election. The Speaker can be removed from office only on a resolution of the House passed by a majority of all the then members of the House. Even after his term of office is completed the speaker holds the office until the first meeting of new House.

The Speaker is the constitutional and ceremonial head of the House. He has certain inherent and implied powers, apart from those expressly conferred upon him by the constitutional provisions. He has regulatory, administrative, supervisory and miscellaneous powers and functions.

**Powers and Functions of the Speaker:**

1. The Speaker of the Lok Sabha conducts the business in the House, maintains order in the House and allocates time for various kinds of business.

2. He regulates the discussions, decides admissibility of questions, resolutions and motions.
3. Permits the moving of various kinds of motions and resolutions.
4. Maintains discipline and decorum in the House and can punish members for their unruly behavior by suspending them from the House.
5. Decides whether it is Money Bill or Non-Money Bill or Government or Private Bill.
6. It is his duty to keep up the honor and dignity of the committees and members.
7. He exercises a casting vote in case of tie during the voting of a bill in the House.
8. He decides the disqualification of members.
9. Adjourns the House either for a few minutes or for the whole day or for a few days for various reasons. Sometimes the House may be adjourned sine die (indefinitely).
10. Adjourns the session in the event of unruly scene or in the absence of quorum.

### **The Deputy-Speaker:**

Article 93 provides for the office of the Deputy Speaker. The deputy speaker of the Lok Sabha is also elected by the members of House in the same manner as the Speaker. He acts as the Speaker when the office is vacant and presides over the sittings of the House.

## **6.2B THE STATE LEGISLATURE**

Part VI and Chapter III of the Constitution contains provisions relating to State Legislatures from Articles 168-212.

The constitution of India provides for legislature in all the states. The legislature consists of the Governor, the Legislative Assembly and Legislative Council. All the states have unicameralism except states like-Karnataka, Andhra Pradesh, Bihar, Maharashtra, Uttar Pradesh, Jammu and Kashmir who have adopted bicameralism.

With reference to the State of Karnataka the state Legislative Council and the Legislative Assembly is called as Vidhana Parishad and Vidhana Sabha respectively.

Under article 169 the Parliament has the power to create legislative council in any state or for its abolition on the basis of the resolution passed by the legislative assembly of the State.

### **Composition:**

Article 171 contains provisions relating to composition of the Legislative council. The maximum number of members of Legislative council shall not exceed  $1/3^{\text{rd}}$  of the total members in the Legislative Assembly and the minimum shall not be less than 40. The legislative council of Karnataka consists of 75 members.

According to Article 171 (3) its members are elected and nominated as follows.

- a)  $1/3^{\text{rd}}$  of the members are elected by electorate consisting of members of local bodies in the state as specified by parliament.
- b)  $1/12^{\text{th}}$  of members of the council are elected by the graduate's constituency consisting of graduates who have completed 3 years after graduation.
- c)  $1/12^{\text{th}}$  are elected by teachers constituency consisting of teachers working in not lower than secondary school for at least 3 years.
- d)  $1/3^{\text{rd}}$  members of the council are elected by MLAs of the state from amongst persons who are not members of the legislative assembly.
- e)  $1/6^{\text{th}}$  members of council are nominated by the Governor from distinguished persons in the field of literature, science, art, cooperative movement and social service.

The elections to the council are held in accordance with the system of proportional representation by means of single transferable vote.

### **Tenure:**

Vidhana Parishad is the permanent House and it cannot be dissolved.  $1/3^{\text{rd}}$  of its members retire every 2 years after completing their term of 6 years.

**Qualifications:**

- a) Must be a citizen of India.
- b) Must have attained the age of 30 years.
- c) Must have other qualifications as prescribed by the Parliament.

**The Chairman:**

The members of Legislative Council elect their Chairman and Deputy Chairman. They perform the duties as per the constitutional norms and rules.

**Functions of the Legislative Council:****1) Legislative powers:**

Other than Money Bill, all ordinary bills can be introduced in the Legislative council. No Bill can become law without the consent of both the Houses. The council can keep ordinary bills in abeyance for 3 months. The bills which are rejected by the council are sent back to the same house for reconsideration. Even if it does not give its consent within a month, such bills shall be deemed to be accepted by the Council.

**2) Financial Powers:**

The Money bill cannot be introduced in the Legislative Council. When a money bill is received in the Council after it is passed by the Legislative Assembly, it gets only 14 days time to consider it. And also it is not obligatory on the part of the Vidhana Sabha to accept the suggestions or recommendations made by the Vidhana Parishad.

If no decision is taken by the council within 14 days the Bill shall be deemed to be accepted by it and sent to the Governor for his assent. It is evident that, the council has no control over the Money Bills.

**3) Administrative Functions:**

The state Cabinet is responsible to Vidhana Sabha but not to

Vidhana Parishad. Even if the Parishad moves a motion of confidence, it does not have any effect on the government. Hence, the legislative council has little control over the government. It controls the ministers through questions, motion, and discussions only.

## **THE LEGISLATIVE ASSEMBLY:**

### **(Vidhana Sabha)**

#### **Composition:**

The Legislative Assembly is called as the Vidhana Sabha. The Legislative Assembly is the Lower House. The members of this House are elected directly by the voters on the basis of universal adult franchise.

The number of members of Legislative Assembly depends on the population of the state. But no state can have more than 500 and not less than 60 members in its legislative Assembly [Art. 170(1)].

Article 332 of the Indian constitution provides provisions for reservation of seats for the SCs / STs in the state legislative assembly. Article 333 of the constitution empowers the Governor of a state to nominate one member of the Anglo-Indian community to the state legislative assembly if he feels that they are not adequately represented.

#### **Qualifications of a Member:**

- a) He must be a citizen of India.
- b) Must have attained the age of 25 years.
- c) Must have other qualifications as prescribed by the Parliament.

#### **Tenure:**

The Tenure of the Vidhana Sabha is five years. On the advice of the Chief Minister the Governor can dissolve the Assembly before its completion. During National Emergency the term of the House may be extended by 6 months at a time and not exceeding one year.

The business of the House cannot be conducted unless there is the requisite quorum of 1/10<sup>th</sup> of the total membership of the House.

#### **Salary and Allowances:**

Member of a state legislature shall be entitled to receive such salaries

and allowances as may from time to time be determined by the Legislature of the state by law.

## **Powers and Functions**

### **1. Legislative powers:**

The state legislatures have the power to make laws on the subjects included in the State List such as police, judicial system, agriculture, public health and local self government etc. It can also make laws on subjects of the concurrent list such as criminal and civil procedure code, marriage and divorce, forest, economic and social planning etc;

- a. But the laws made by the Legislative Assembly should go in conformity with any law already enacted by the union parliament on the state subject. In case if it is so, the law made by the state goes invalid.
- b. In Bicameralism where two Houses exist, the bill originates in either of the two Houses, passed in one house and sent to the other and finally sent to the Governor for his consent.

### **2. Financial Powers:**

- a. The Assembly holds supreme position in the State. The Money bill can only be originated in the House. Article 198 states that a Money Bill is passed by Assembly will be sent to the Council. The Council must return the bill within 14 days with or without its recommendation.
- b. It is left to the discretion of the Assembly to accept or reject the recommendation made by the council. In case the council does not return the bill within 14 days, it shall be deemed to be accepted.
- c. The Cabinet presents an estimated account of income and expenditure for the ensuing financial year, that is budget in the House.

### **3. Administrative Powers:**

- a. The Chief Minister and the Council of Ministers are responsible

to the Vidhana Sabha for all the policies, programmes and decisions of the government.

- b. As long as the Council of Ministers enjoy the confidence of the Assembly, it remains in power.
- c. It controls the ministers through questions, calling attention motions, adjournment motions and discussions.

#### **4. Electoral Powers:**

- a. The members of the Vidhana Sabha participate in the election of the Speaker and the Deputy Speaker.
- b. The elected members of the House participate in the election of the President of India.
- c. The members elect 1/3<sup>rd</sup> of the members of the Vidhana Parishad.
- d. They take part in the elections of the members of the Rajya Sabha representing the respective state.

#### **Dissolution of the Assembly:**

In normal situation the House cannot be dissolved till five years. When the government has lost the majority and no alternative government is possible, the Governor may dissolve the House.

#### **The Speaker of the House:**

The speaker is elected from amongst the members of the Legislative Assembly.

The speaker does not vacate his office on the dissolution of the assembly. He continues in office until a new speaker is elected. He can be removed from his office by a resolution adopted by the House.

#### **Powers and Functions:**

- 1) The speaker presides over the meetings of the House.
- 2) Regulates proceedings of the House.
- 3) Maintains the decorum in the House.
- 4) Interprets the rules of the Assembly.

- 5) Suspends or adjourns the sessions of the House in case of disorder.
- 6) Certifies whether it is Money Bill or not.
- 7) Identifies whether it is a Private Bill or Public Bill.
- 8) Acts as an impartial arbitrator in its proceedings.

### **The Deputy Speaker:**

He is elected from amongst the members of the Legislative Assembly after the election of the Speaker. The deputy speaker performs the duties of the speaker in his absence. He is removed from the office by a resolution adopted by the House.

### **6.2C Law Making Procedure:**

The process of legislation begins in parliament with the introduction of a Bill. It may be introduced in either House of Parliament. However money Bill cannot be introduced in the upper House. Introduction of a Bill by a member is followed by one month's notice. The notice is accompanied by a copy of the Bill and an explanatory statement of the objectives and reasons which does not contain any argument. The Union Parliament can make laws over the subjects of the union List and the concurrent List and residuary matters. The state legislature can make laws over the subjects of the State List and also the concurrent List.

A Bill has to pass through three readings in each House before it becomes an Act.

### **First Reading:**

Ordinary Bills can be introduced in either House of legislature. A member submits the bill along with a copy to the speaker. Then the speaker fixes the date of the introduction of the bill.

The introduction of the Bill is called First Reading which means the member or Minister reads loudly and clearly the title of the Bill which contains the statement of its objectives. When the House has given its approval the bill is published in the Gazette.

### **Second Reading:**

At this stage the copy of a bill is distributed among the members of the House for debate and deliberations. Then it is referred to a select



committee or joint committee of both the Houses and finally it is circulated among the members.

### Select Committee Stage:

After being approved by the House, the bill enters committee stage. The members of such committee vary from 25 to 30, where the bill is examined and modified by the committee. A detailed discussion on all the clauses of the bill takes place in the committee.

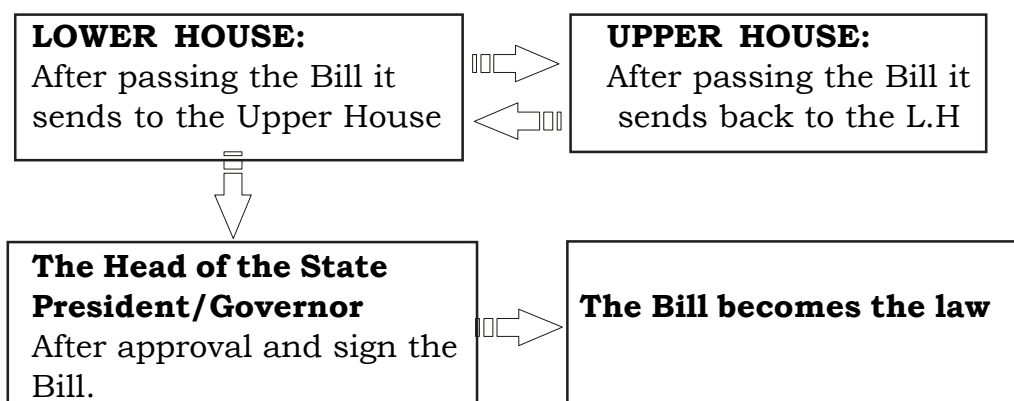
### Report Stage:

The report of the committee along with the bill is circulated among the members. It is the crucial stage of the bill. It is discussed clause by clause and referred to voting or may be sent to select committee for additional provisions.

### Third Reading:

After the report stage, the date for the third reading is fixed. At this stage bill is put to vote. If the bill is passed by a majority of members present and voting then it is sent to the other House.

The same procedure is followed in the second House. After both the Houses pass the bill, it is sent to the President for his approval. With the assent of the President the bill becomes Law.



**Kinds of Bills :**

**Public Bill:** The bill is introduced by a minister in the interest of general public. It is also called as Government Bill.

**Private Bill:** This Bill is introduced by a member of Parliament other than a member of the ruling party to protect the interest of a particular region and issue.

**Suggested Activities**

1. Prepare a list of legislatures of different countries.
2. Make a list of legislative controls over the government like calling attention motion, question hour, zero hour etc.,
3. Make a list of states in which Bicameral legislature is in practice.
4. Write a note on the role of speaker both in Lok Sabha and Vidhana Sabha.

---

## QUESTION BANK

### I. One mark questions :

1. Which is the root word of Parliament?
2. State the primary function of the legislature.
3. What are the two Houses of the Indian Parliament?
4. Name any One House of the United Kingdom?
5. Who is an integral part of the Indian Parliament?
6. Who summons the Parliament in India to meet from time to time?
7. Who can promulgate ordinance having the same effect as a law passed by Parliament?
8. What is the maximum gap permissible between two sessions of Parliament?
9. Who presides over the joint sitting of the two Houses?
10. Which is popularly elected House of Indian Parliament?
11. Who presides over the proceedings of the Loksabha?
12. Who elects the speaker of the Lok Sabha?
13. What is the strength of the Lok Sabha?
14. How many seats are reserved for the Union Territories in Lok Sabha?
15. How many nominated members are representing in the Lok Sabha?
16. What is the normal tenure of the Lok Sabha?
17. When can be extended the term of the Loksabha?
18. Where the Money Bill is to be introduced?
19. What is the total strength of the Rajya Sabha?
20. How many members are nominated by the President to Rajya Sabha?
21. Who presides over the Rajya Sabha?
22. What is the tenure of the members of the Rajyasabha?
23. Which Union Territory does not have representation to the Rajya Sabha?

24. Which House of the Parliament has exclusive power to create of new All India services?
25. Which state of the Legislative Assembly has the maximum strength?
26. What is the term of members of the legislative Assembly?
27. What is the term of members of the legislative Council?
28. What is the minimum strength of the legislative council?
29. Who dissolves the Loksabha ?

## **II. Two Marks questions :**

1. What is legislature?
2. Name the two houses of the American Congress/
3. Which part of the constitution deals with the Indian Parliament?
4. Write qualifications for membership of the Loksabha.
5. Write two important functions of the speaker.
6. Mention any two the functions of the Deputy speaker?
7. What is a quorum of the House?
8. Who can abolish or create the Legislative Councils of a state?
9. Who dissolve the legislative assembly?
10. Mention the three types of legislative procedures.
11. What are the responsibilities of joint sitting of the House?
12. Write two functions of the speaker of the Vidhana Sabha.
13. Mention qualifications of members of Rajya Sabha.

## **III. Five Marks questions :**

1. Write the meaning and significance of legislature.
2. Write a short note on the Indian Parliament.
3. Write briefly about the composition of the Lok Sabha.
4. Describe the composition of Rajya Sabha.
5. Explain powers and functions of the Lok Sabha..
6. Explain powers and functions of the Rajya Sabha.
7. Discuss the financial powers of both the Houses of Parliament.

8. Write a short note on the composition of the Vidhana Sabha
9. Write a short note on the composition of the Vidhana Parishad.
10. Discuss the powers and functions of the Vidhana Sabha.
11. Discuss the powers and functions of the Vidhana Parishad.
12. Discuss the powers and functions of the speaker of the Lok Sabha.
13. Discuss the role of the ex-officio chairman of the Rajya Sabha.
14. What are the three readings of the law making process? Explain.
15. Write a brief note on the powers of the President in the approval of law.

#### **IV. Ten Marks Questions :**

1. Discuss the composition, powers and functions of the Lok Sabha.
2. Discuss the composition, powers and functions of the Rajyasabha.
3. Discuss the composition, powers and functions of the Vidhana Sabha.
4. Discuss the composition, powers and functions of the Vidhana Parishad.
5. What are the special powers of the both the Houses of the Parliament?
6. Explain the role, powers and functions of the Speaker of the Lok Sabha.
7. Explain the role, powers and functions of the Speaker of the Vidhana Sabha.

V V V V V

## UNIT -7

### THE EXECUTIVE

7.1 Meaning and significance

7.2 Executive in India

7.2 A Union Executive

President: Election, Tenure, Removal, Powers & Functions

Vice President: Election, Tenure, Removal, Powers & Functions

Prime Minister & Council of Ministers: Appointment, Powers & functions

7.2 B State Executive

Governor: Appointment, Powers & functions

Chief Minister & Council Of Ministers: Appointment, Powers & functions

**“Mankind will never see an end of trouble until lovers of wisdom come to hold political power, or the holders of power become lovers of wisdom”.**

**-PLATO**

#### Learning objectives

1. To know the meaning and significance of the executive
2. To understand the Election, Tenure, Removal, Powers & Functions of Union Executive
3. To understand the Election, Tenure, Removal, Powers & Functions of the State Executive

#### 7.1 Meaning and significance :

The executive is one of the most important organs of the Government along with the legislature and judiciary. It is the branch of government entrusted with the execution and enforcement of laws and policies and the administration of public affairs. The term executive can be used in two senses, in its broader sense, the executive consists of all government officials concerned with the execution of the state's will as expressed in terms of law, from Head of the state, his advisors and all officials from

higher level to lower level. In a narrower sense it refers only to the Head of the state and his advisors.

## **SIGNIFICANCE**

### **EXECUTION OF LAWS**

The executive is concerned with the enforcement of laws and implementation of the policies. Efficiency in administrative functions require prompt and energetic action by all concerned. If the laws have to reach people, sincere implementation is essential which makes the role of the executive very important.

### **ROLE OF EXECUTIVE IN MODERN STATE**

The evolving concept of welfare state and liberal democracy has increased the roles and responsibilities of the executive.

In ancient period, the role of the state was limited. However, today the states are concerned with all round development of individuals. The womb to tomb concept of the welfare state has burdened the executive with numerous functions. It not only implements but also participates in initiating welfare policies. It performs innumerable functions for the welfare of the people like employment guarantee, social security, health, education, insurance etc. The concept of participatory democracy has ensured transparency in the functioning of the executive, especially in public administration. Today, people have the right to information which ensures efficiency in the functioning of the executive.

### **LEADERSHIP AND DIRECTION**

The executive provides leadership and direction to the nation. People look forward to solve their problems through the executive. It is the national voice of people on international stage. A dynamic visionary and resourceful executive can lead the nation overcoming all hurdles.

The demand for vigour and efficiency in government has given an impetus to the expansion of the powers of the executive all over the world. Today, it can be seen that the powers of the executive and administrative branches of government has expanded markedly over that of the legislature and judiciary.

## **EXECUTIVE IN INDIA**

The Indian constitution has adopted the Westminster model in which we find both the Head of the state and Head of the government enjoying executive powers. The President is the nominal Head and the Prime Minister and his council of ministers enjoy real powers at the union level. Likewise the Governor is the nominal Head, the Chief Minister and his Council of ministers forms the real executive at the State level.

## **7.2 A UNION EXECUTIVE**

### **THE PRESIDENT OF INDIA**

The President of India is the Head of the state of the Republic of India and he is the formal Head of the executive.

Article 52 provides for the post of the President of India. Article 53 states the executive power of the union shall be vested in the President and shall be exercised by him either directly or through officers subordinates to him in accordance with the constitution. Theoretically all executive powers are vested in the President and in practice, it is exercised by popularly elected Government of India headed by the Prime Minister and his Council of Ministers who are popularly elected.

### **QUALIFICATIONS**

Article 58 (1) of the constitution sets the principal qualifications. A person must.

- a) be citizen of India
- b) Have completed the age of 35 years
- c) A person must be

Qualified to become a member of Lok Sabha

A person shall not be eligible for election as President if he holds any office of profit under Union, State or local authority subject to the control of the said Governments.

### **ELECTION**

The President is chosen by an electoral college consisting of the elected members of both Houses of the Parliament and elected members of the State legislative assemblies and the Union Territories of Delhi and



Pondicherry.

The nomination of a candidate for election to the office of the President must be proposed by at least 50 electors and seconded by the same number of members. The contesting candidate has to keep a security deposit of Rs. 15,000/- in the Reserve Bank of India. It is liable to be forfeited in case the candidate fails to secure 1/6<sup>th</sup> of the votes polled.

Article 55 envisages that there shall be uniformity in the scale of representation among states in the election of the President. The election is held in accordance with the system of proportional representation by means of single transferrable vote. The voting takes place by secret ballot system.

Each elector casts different number of votes. The general principle is that the total number of votes cast by members of Parliament equals the total number of votes cast by the state legislators.

Every elected member of the legislative assembly of the state shall have as many votes as there are multiples of one thousand and the quotient is obtained by dividing the population of the state by the total number of elected members of the assembly.

In order to maintain balance of the representation between the members of the Parliament and the members of the state Legislature, Article 55 of the Constitution has devised a special method to decide the value of the representation. According to it, the value of the vote cast by a member of the Parliament is decided with the help of the following formula:

$$\frac{\text{Total votes of the members of the Vidhana Sabha.}}{\text{Total number of the elected members of the Parliament}}$$

= The value of the vote cast by a member .

Method used to decide the value of the vote cast by each member of the Vidhana Sabha is as follows:.

$$\frac{\text{Population of the state}}{\text{Total number of the elected members of the Vidhana Sabha of the respective state}} + 1000 = \text{the value of the vote cast by a member of Vidhana Sabha}$$

The election for the post of the President is conducted through the method of Secret Ballot [(Article -55(3))]. The voting is done in accordance with the method called **“Proportional representation by means of single transferable vote system”**. devised by Thomas Hare. The voters voting in this election should suggest their preferences by writing the numbers before the names of the candidates in their preferential order. For example a voter may indicate his preference before the candidates names as shown below.

| <b>Candidate</b> | <b>Preference.</b> |
|------------------|--------------------|
| A                | 2                  |
| B                | 4                  |
| C                | 1                  |
| D                | 3                  |
| E                | 5                  |

If a candidate has to win he must get the number of votes (Quota) worked out by the following formula :

$$\frac{\text{Total No. of votes cast in the election}}{\text{No. of the candidates to be elected} + 1} = + 1 = \text{Quota}$$

For example, let us assume that the above candidates have secured votes as shown below :

| <b>Candidates</b> | <b>Votes Secured</b> |
|-------------------|----------------------|
| A                 | 12,500               |
| B                 | 10,800               |
| C                 | 8,400                |
| D                 | 6 ,300               |
| E                 | 2,000                |
| Total votes       | 40,000               |

$$\text{Then the Quota will be } \frac{40,000}{1+1} = 20,000 + 1 = 20001 \text{ (Quota)}$$

A candidate has to get 20001 votes or more to be declared elected as President.

Only a single candidate has to be elected in the election. And he has to obtain the number of votes fixed as quota or more than that. If all the

candidates fail to obtain the Quota by the First Preferential votes in the first round of counting, the Second Preferential votes will be taken into account. In this process, the name of the candidate who has obtained the least First Preferential votes will be eliminated and the Second Preferential votes from his ballot papers will be transferred to the other candidates. This process continues till a candidate obtains the required quota.

The candidate who secures the required quota gets elected. According to Article 60, every President or every person acting as President shall before entering upon his office must take oath of office which is administered by the Chief Justice of the Supreme Court. The President of India receives salary of Rs. 1.5 lakhs per month the Rastrapathi Bhavan is the official residence.

### **TERM AND REMOVAL**

Article 56 prescribes that the President of India shall hold office for a term of 5 years.

President can be removed for violation of constitution. Article 61 of the constitution lays down the procedure for impeachment of the President.

This process may start in either of the two Houses of the Parliament. The House initiates the process by framing the charges against the President. The charges are contained in a notice that has to be signed by at least 1/4<sup>th</sup> of the total members of that House. The notice is sent to the President and it is taken up for consideration after 14 days.

A resolution to impeach the President has to be passed by a special majority that is two thirds majority of the total members present and voting and simple majority of the total members of the originating House. After framing the charges and passing it, the impeachment bill is sent to the other House and that House investigates the charges that have been made. During this process, the President has the right to defend himself. If the second House also approves the charges, the President stands impeached. Other than impeachment, no other penalty can be imposed on the President for the violation of the constitution. So far the above provisions have never been used.

## **IMMUNITIES AND PRIVILEGES**

Article 361 (1) and (2) provides for certain immunities for the President of India.

- v The President is not answerable to any Court for the exercise of powers and performance of duties of his office.
- v No criminal proceedings whatsoever shall be instituted.
- v No process of arrest or imprisonment shall be issued from any court during his term of office.
- v No civil proceedings in which relief is claimed against the President shall be instituted during his term of office.

In the event of vacancy due to death, resignation, impeachment or otherwise Article 65 of the constitution says that the Vice President of India will have to discharge the duties.

When the President is unable to carry on the duties because of illness or any other cause, the Vice President discharges the President's functions until he resumes office.

The Vice President who acts or discharges the functions of the President has all the powers and immunities of the President and is entitled to the same emoluments as the President.

In the absence of both the President and the Vice President, the Chief Justice of India or senior most judge of the Supreme Court may discharge the functions of the President until a newly elected President assumes office (1969 Act).

## **POWERS AND FUNCTIONS**

### **1. LEGISLATIVE FUNCTIONS:**

The legislative power is constitutionally vested in Parliament of India and the President is at the apex.

The legislative powers of the President can be enumerated as:

- a) The President summons both the Houses of Parliament and prorogues them. He can also dissolve the Lok Sabha.
- b) The President inaugurates the Parliament by addressing it after the general elections and also the beginning of the first session

each year. The Presidential address on these occasions generally gives an outline of the new policies of the Government.

- c) Money bills cannot be introduced in Lok Sabha without the prior consent of the President.
- d) All bills passed by the Parliament can become laws only after the assent of the President. However, the President has the power to exercise veto or he may return the bill for reconsideration. After reconsideration, the bill is passed and presented before the President, with or without amendments; the president is bound to give his assent.
- e) When the Parliament is not in session and if the Government feels the need for immediate procedure or to meet unforeseen exigencies, the President can promulgate ordinances which have the same force and effect as laws passed by the Parliament. Their continuance is subject to Parliamentary approval within 6 months.
- f) The President nominates twelve members to Rajya Sabha from fields of arts, science, literature or social service. He can also nominate two members of Anglo-Indian community to Lok Sabha, if he finds that the community is not adequately represented in the popular House.

## **II. EXECUTIVE POWERS:**

Article 53 of the Indian constitution vests all Executive powers in the President of India. Article 77 says that all executive actions of Government of India shall be expressed in the name of the president.

- a) The President appoints the Prime Minister and then appoints the Council of Ministers on his advice.
- b) The President is also responsible for making appointments of Governors of states, the Attorney General of India, the Comptroller and Auditor General of India, the Chief Election Commissioner and other Election Commissioners, the Chief Justice and other judges of the Supreme Court and High Courts of India, the Chairman and members of UPSC, Ambassadors and High Commissioners to other countries.

---

### 3. FINANCIAL POWERS:

Money bills can be introduced in Lok Sabha only with President's consent as per Article 117.

- a) The President should see that the Annual financial statement or budget including a supplementary budget is laid before the parliament for its approval (Art 112).
- b) The President has the authority to appoint Finance Commission from time to time.
- c) The consolidated Fund of India is at the disposal of the President, withdrawal from this fund is done only with the permission of President.

### 4. JUDICIAL POWERS:

- a) The President appoints the Chief Justice of Supreme Court and other judges of Supreme Court on the advice of Chief Justice. He also appoints Chief Justice and other judges of High Courts.
- b) If the President considers a question of law or a matter of public importance has arisen, then, he can seek for the advice of the Supreme Court.
- c) Article 72 empowers the President the power to grant pardon, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence.

### 5. DIPLOMATIC POWERS:

- a) All international treaties and agreements are negotiated and concluded on behalf of the President. However in practice, such negotiations are usually carried out by the Prime Minister along with his cabinet, such treaties are subject to the approval of the Parliament.
- b) The President represents India in international forums where such function is mainly ceremonial.
- c) The President appoints ambassadors and envoys to other countries

and also receives diplomats from other countries by giving credence to their appointments.

## **6. MILITARY POWERS:**

- a) The President is the supreme commander of the Defence Forces of India. The President appoints Heads of all three wings of Defence Forces, the Army, Navy and Air force.
- b) The President can declare war or conclude peace, subject to the approval of the Parliament.

## **7. EMERGENCY POWERS:**

The President is empowered to declare three types of emergencies. They are National, State and Financial.

### **1. National emergency:**

Article 352 states that if the President is satisfied that a grave emergency exists whereby security of India or any part of the territory thereof is threatened whether by external aggression or armed rebellion, he may proclaim national emergency. Such a declaration can be made only on the basis of a written request by the Prime Minister and his Council of Ministers. Such a proclamation must be approved by the Parliament within one month. It can be imposed for six months and can also be extended by another six months by repeated Parliamentary approval up to a maximum of three years.

In such emergencies, Fundamental Rights of Indian citizens are be suspended except the right to life and personal liberty.

### **2. State emergency**

According to Article 356 of the Indian constitution, the state emergency also known as President's rule is declared when ever there is breakdown of constitutional machinery in the state, based on the report of the Governor. It can be imposed from 6 months to a maximum period of 3 years with repeated Parliamentary approval every six months.

### **3. Financial emergency:**

If the President is satisfied that there is an economic situation in which the financial stability or credit of India is threatened then he

can proclaim a financial emergency as per Article 360. Such an emergency must be approved by the Parliament within 2 months.

The Indian President is the Head of the state with nominal authority. He is the friend, philosopher and guide to the Government. The President viz-a-viz his position can act as a guardian of Indian political system and he can exercise his right to advice, to encourage, get information and send messages to the Parliament.

There are some areas where the President has to use his discretion in matters of appointment of Prime Minister, formation of coalition government, dissolution of Lok Sabha etc.

Today, the role of President has assumed a new significance in view of the fact that the system of coalition Government has come to stay. Hence, the President has to play a very responsible and memorable role in times of crises and see that the stability of Indian polity is safeguarded.

### List of Indian Presidents

| Sl.No. | Name                         | Period     |            |
|--------|------------------------------|------------|------------|
| 1.     | Dr. Babu Rajendraprasad      | 26.01.1950 | 13.05.1962 |
| 2.     | Dr. Sarvepalli Radhakrishnan | 13.05.1962 | 13.05.1967 |
| 3.     | Dr. Zakir Hussain            | 13.05.1967 | 03.05.1969 |
| 4.     | Shri Varahagiri Venkatagiri  | 03.05.1969 | 20.07.1969 |
| 5.     | Shri Mahammad Hidayatulla    | 20.07.1969 | 24.08.1969 |
| 6.     | Shri Varahagiri Venkatagiri  | 24.08.1969 | 24.08.1974 |
| 7.     | Shri Fakhruddin Ali Ahmed    | 24.08.1974 | 11.02.1977 |
| 8.     | Shri Basappa Danappa Jatti   | 11.02.1977 | 25.07.1977 |
| 9.     | Shri Neelam Sanjeeva Reddy   | 25.07.1977 | 25.07.1982 |
| 10.    | Shri Giani Zail Singh        | 25.07.1982 | 25.07.1987 |
| 11.    | Shri Ramaswamy Venkataraman  | 25.07.1987 | 25.07.1992 |
| 12.    | Shri Shankar Dayal Sharma    | 25.07.1992 | 25.07.1997 |
| 13.    | Shri Kocheri Raman Narayanan | 25.07.1997 | 25.07.2002 |
| 14.    | Shri A.P.J. Abdul Kalam      | 25.07.2002 | 25.07.2007 |
| 15.    | Smt. Prathibha Patil         | 25.07.2007 | 25.07.2012 |
| 16.    | Shri Pranab Mukharjee        | 25.07.2012 |            |
| 17.    | Shri Ramanath Kovind         |            |            |



---

## VICE PRESIDENT OF INDIA

The Vice President of India is the second highest office in India after President. He is the ex-officio chairman of Rajya Sabha. Article 63 of the constitution provides for the position of Vice President of India.

### QUALIFICATION

In order to be elected as Vice President, a person must

- a) be a citizen of India
- b) must have completed 35 years of age
- c) not hold any office of profit
- d) be qualified for election as a member of the Rajya Sabha.

### ELECTION

The Vice president is elected by an electoral college consisting of members of both the Houses of parliament. The nomination of a candidate for election to the office of the Vice President must be proposed by at least 20 electors and seconded by 20 electors.

Every candidate has to keep a security deposit of Rs. 15,000/- in the Reserve Bank of India.

The mode of election is by proportional representation by means of single transferable vote by secret ballot.

The Vice President receives the salary of the Chairman of the Rajya Sabha which is currently Rs. 1,25,000/- p.m. and there are no additional emoluments for the office.

The constitution provides that when the Vice President acts as President he is entitled to salary and privileges of the President of India.

### TERM AND REMOVAL

Article 67 states that the Vice President shall hold office for a period of five years and can be re-elected for any number of times.

The Vice President can be impeached for violation of constitution. Such a resolution is moved only in Rajya Sabha. No Vice President has faced removal proceedings so far.

## POWERS AND FUNCTIONS

### 1. Chairman of the Rajya Sabha:

The Vice President is the ex-officio Chairman of Rajya Sabha. Constitutionally the Chairman is empowered to preside over the meetings of Rajya Sabha. He is empowered to adjourn the House or to suspend its sitting in the event of absence of a quorum.

### 2. Acting President of India:

Article 65 says that in the event of vacancy in the office of President, by reason of his death, resignation, removal or otherwise the Vice President shall act as President until a new President is elected.

### List of Vice Presidents of India

| Sl.No. | Name                          | Period     |            |
|--------|-------------------------------|------------|------------|
| 1.     | Dr. Sarvepalli Radhakrishnan  | 13.05.1952 | 12.05.1962 |
| 2.     | Dr. Zakir Hussain             | 13.05.1962 | 03.05.1967 |
| 3.     | Shri Varahagiri Venkatagiri   | 03.05.1967 | 03.05.1969 |
| 4.     | Shri Gopal Swarup Pathak      | 31.08.1969 | 30.08.1974 |
| 5.     | Shri Basappa Danappa Jatti    | 31.08.1974 | 30.08.1979 |
| 6.     | Justice Muhammad Hidayatullah | 31.08.1979 | 30.08.1984 |
| 7.     | Shri Ramaswamy Venkataraman   | 31.08.1984 | 24.07.1987 |
| 8.     | Shri Shankar Dayal Sharma     | 03.09.1987 | 24.07.1992 |
| 9.     | Shri Kocheri Raman Narayanan  | 21.08.1992 | 24.07.1997 |
| 10.    | Shri Krishnan Kanth           | 21.08.1997 | 27.07.2002 |
| 11.    | Shri Bhairon Singh Shekhawat  | 19.08.2002 | 21.07.2007 |
| 12.    | Shri Mohammad Hamid Ansari    | 11.08.2007 |            |
| 13.    | Shri M. Venkaiah Naidu        |            |            |

## PRIME MINISTER

India follows a Parliamentary form of Government. In such a model the Prime Minister assumes a pivotal role. The constitution of India does not mention about the position or role of the Prime Minister. But the way Prime ministers have acted shows that the office of Prime Minister is very significant, as it commands great importance and authority.

The Prime Minister is the most important and powerful executive in India. He is the Head of the Council of Ministers and all the powers of the president are actually exercised by him and his Council of Ministers.

The Prime Minister is the chief architect of the Government.

### **Appointment and tenure**

Article 75 states that the Prime Minister shall be appointed by the President. After general elections, the President invites the leader of the majority party in the Lok Sabha to form Government. If no political party gets majority, he can invite the leader of the party having largest number of members in the House to form the Government. However he has to prove his majority on the floor of Lok Sabha within the stipulated period.

The Prime Minister must be a member of either Lok Sabha or Rajya Sabha, if not he needs to get elected within 6 months to either of the Houses.

The Prime Minister remains in office till he enjoys majority. Usually the tenure is 5 years. However, it is subject to the confidence of Lok Sabha.

The salary and other allowances are fixed by the Parliament from time to time.

### **Powers and functions**

The Prime Minister of India is the Head of the Government, adviser to the President, Head of the Council of Ministers, leader of his party in Parliament and he actually leads the executive branch of Government.

#### **1. Formation of Council of Ministers**

After assuming power the Prime Minister prepares a list of ministers according to his will and advises the President to appoint them. He has a free hand in selection of ministers.

The total number of ministers including the Prime Minister in the Council of Ministers should not exceed 15% of the total number of members of Lok Sabha.

#### **2. Control over Council of Ministers**

The Prime Minister allocates portfolios to ministers and controls their working. If the Prime Minister is not satisfied with the working of a minister or if he finds him inefficient, then he can ask for his resignation. The Prime Minister can shuffle and reshuffle his ministry according to his requirement.

### **3. Leader of the cabinet**

The Prime Minister is the leader of the cabinet. He can call the meetings of cabinet whenever necessary. He prepares the agenda for the meeting and controls it. All the decisions in the cabinet are taken under his leadership. The Prime Minister co-ordinates the policies of his ministers, in case of conflict he tries to resolve it. If not he may ask for the resignation of the concerned minister.

### **4. Link between Cabinet and President**

Article 78 states that it is the duty of Prime Minister to communicate to the President all decisions of the cabinet meeting and furnish details relating to administration of the Union and proposals of legislation if asked for by the President. Hence he is the link between the cabinet and the President.

### **5. Leader of the House**

The Prime Minister is usually the leader of the House to which he is elected. The Prime Minister lays down the national and foreign policies of his Government in the House for discussion. He seeks the support of opposition on important national issues. All announcements regarding the policies are made by him.

When the concerned minister fails to answer question raised in legislature, it is the responsibility of the Prime Minister to provide a suitable reply to the House.

### **6. Power of appointment**

The Prime minister has an important role in matters of appointment. Though it is the President who makes all appointments, it is done on the recommendation of Prime Minister.

Appointement of the Chief Justice of India, other Judges of Supreme Court and High Courts, the Attorney General of India, the Chiefs of three wings of Defence forces, Governors of States, Ambassadors, Chairman and other Members of various Commissions etc.,

### **7. Leader of The Nation**

The Prime Minister is the Head of the Government and as such he represents the nation in various delegations and international organizations. He addresses the nation on various issues of national importance. All major decisions about war and peace are taken by him. The Prime Minister has to take responsibility for success or

failure of the policies of his Government.

## 8. Other Powers

The Prime Minister exercises special responsibility in matters of Foreign affairs, Defence, Finance, Home and economic affairs.

He is the chief spokesperson of the Government on all International matters. All major decisions on War and Peace are taken by him. The Prime Minister can recommend the President to declare emergency on the grounds of War, external aggression or armed rebellion.

The Prime Minister is the chairman of Planning Commission, National Development Council, National Integration Council and Inter-state Council.

In the words of **Lord Morley**, “The Prime Minister is the key stone of cabinet arch”.

The constitution accords the Prime Minister a special position in the executive machinery of the Government. The entire machinery of administration, its stability and policy of continuity depends on him.

As **H.J. Laski** says, “Prime Minister is central to the life and death of the cabinet”.

The Prime Minister is the central figure who decides the crucial internal and external policy. He is the Captain of the Cabinet Government and his personality has an effect on Government.

The Nation looks to the Prime Minister for leadership, but it is the democratic leadership, which really counts. He is the leader of the Council of Ministers and should see that it functions as a team, that the rule of collective responsibility is effectively enforced, that the policies are made realistically after due study and deliberation.

The Prime Minister must also ensure effective implementation of the policies. As long as the Prime Minister has control over his ministry he functions successfully.

### List of Prime Ministers of India

| Sl.No. | Name                    | Period      |              |
|--------|-------------------------|-------------|--------------|
| 1.     | Sri Jawahar Lal Nehru   | 15-Aug-1947 | 27-May-1964  |
| 2.     | Sri Gulzarilal Nanda    | 27-May-1964 | 9 June 1964* |
| 3.     | Sri Lal Bahadur Shastri | 9-Jun-1964  | 11-Jan-1966  |
| 4.     | Sri Gulzarilal Nanda    | 11-Jan-1966 | 24 Jan1966*  |
| 5.     | Smt Indira Gandhi       | 24-Jan-1966 | 24-Mar-1977  |

|     |                            |             |             |
|-----|----------------------------|-------------|-------------|
| 6.  | Sri Morarji Desai          | 24-Mar-1977 | 28-Jul-1979 |
| 7.  | Sri Charan Singh           | 28-Jul-1979 | 14-Jan-1980 |
| 8.  | Smt. Indira Gandhi         | 14-Jan-1980 | 31-Oct-1984 |
| 9.  | Sri Rajiv Gandhi           | 31-Oct-1984 | 2-Dec-1989  |
| 10. | Sri Vishwanath PratapSingh | 2-Dec-1989  | 10-Nov-1990 |
| 11. | Sri Chandra Shekhar        | 10-Nov-1990 | 21-Jun-1991 |
| 12. | Sri P. V. Narasimha Rao    | 21-Jun-1991 | 16-May-1996 |
| 13. | Sri Atal Bihari Vajpayee   | 16-May-1996 | 1-Jun-1996  |
| 14. | Sri H. D. Deve Gowda       | 1-Jun-1996  | 21-Apr-1997 |
| 15. | Sri Inder Kumar Gujral     | 21-Apr-1997 | 19-Mar-1998 |
| 16. | Sri Atal Bihari Vajpayee   | 19-Mar-1998 | 22-May-2004 |
| 17. | Dr. Manmohan Singh         | 22-May-2004 | May-2014    |
| 18. | Sri Narendra Modi          | May-2014    |             |

### **COUNCIL OF MINISTERS**

Article 74(1) of the constitution of India provides that, there shall be a council of ministers with the Prime Minister as its head to aid and advice the President in the exercise of his functions.

The total number of ministers including the Prime Minister, in the council of ministers, shall not exceed 15% of the total number of members of the Lok Sabha.

Usually, the Council of Ministers comprises of different kinds of ministers. They are:

- v Ministers of Cabinet rank
- v Ministers of state and Ministers of state with independent charge
- v Deputy Ministers

### **POWERS AND FUNCTION:**

#### **1. Administrative Functions**

The cabinet is the real executive in the country. It is the chief machinery to run administration of the nation. For this purpose it advises the President to make appointments of high functionaries. It

discusses and decides all national and international problems and formulates the policy accordingly. The cabinet supervises and directs the work of all the ministers. The Ministers are responsible for the implementation of the decision taken in the Cabinet. They are also responsible for the effective functioning of their individual departments.

## **2. Legislative functions:**

The Cabinet decides the agenda of the Parliament and advises the same to the President. The cabinet plans the legislative programme at the beginning of each sessions of the parliament and introduces Government bills. The cabinet decides which bills should be introduced and debated. All questions and problems which are likely to focus the attention of Parliament are considered in the cabinet and decisions are taken accordingly.

It is the responsibility of the cabinet to defend the Bill when the House raises questions regarding them.

## **3. Collective responsibility:**

The council of ministers are collectively responsible for all the decisions taken and implemented by all the ministers. The Prime Minister and his Council of Ministers have to tender their resignations when the Lok Sabha passes a no-confidence motion against them. They swim or sink together.

## **4. Individual responsibility:**

Individual responsibility refers to those of each and every department of the ministry. The concerned minister is responsible for the effective and efficient working of their respective port folio. They are individually responsible and answerable to the legislature. If a minister is found to be inefficient the Prime Minister can seek his resignation or he may even advise the President to remove the minister in case he does not obey his wishes.

## **5. Financial functions:**

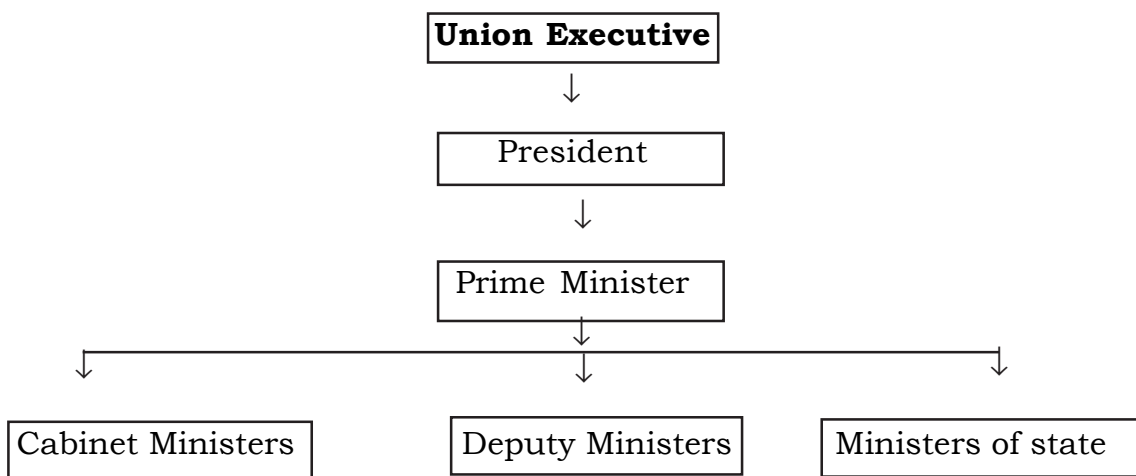
The cabinet is entirely responsible for the Income and Expenditure of the Nation. It prepares the Annual Financial Statement or budget and presents it in Lok Sabha. It formulates budget on the basis of economic policy of the nation.

## 6. Co-ordination:

It is the responsibility of the cabinet to bring co-ordination among all the departments. The cabinet must co-ordinate the functions for the effective implementation of welfare policies of the Government.

## 7. Secrecy:

It is a constitutional obligation not to disclose any cabinet decision. Rational and independent policy making is possible only when secrecy of the cabinet proceedings are ensured. If collective responsibility is to be really effective, the cabinet proceedings must remain highly confidential.



### 7.2.B THE STATE EXECUTIVE

The executive in the state comprises of the Governor, Chief Minister and his council of Ministers. The Governor is the constitutional head of the state whereas the Chief Minister along with his council of ministers form real executive.

## THE GOVERNOR

Article 153 of the constitution states that there shall be a Governor for each state and sometimes a person can be appointed as Governor for one or more states.

## APPOINTMENT:

Article 155 states that the Governor is appointed by the President on



the advice of the prime minister. Actually, he is appointed by the Union cabinet.

## **QUALIFICATIONS**

Article 157 specifies the qualifications of the Governor.

- ✓ He must be a citizen of India
- ✓ Must be not less than 35 years of age
- ✓ He must not be a member of either parliament or state legislature
- ✓ Must not hold any office of profit

## **TERM**

Article 156 states that Governor will hold office during the pleasure of the President, subject to this provision his tenure will be five years. He may be recalled by the President before the expiry of his term. The President also has the right to extend the term.

## **IMMUNITIES**

Article 361 of the constitution provides protection to the Governors

- ✓ He is not answerable to any Court for the exercise and performance of the powers and duties of his office
- ✓ No criminal proceedings can be initiated against him during his term
- ✓ No process for the arrest and imprisonment shall be issued from any Court during his term.

## **POWERS AND FUNCTIONS**

### **1. EXECUTIVE POWERS**

Article 154 states that the executive power of the state shall be vested in the Governor. All executive functions of the state are run in his name. He makes rules for the transaction of business in the state.

The Governor appoints the Chief Minister and on his advice, the council of ministers.

The Governor makes appointments such as Advocate General, Chairman and members of State Public Service Commission, Vice-Chancellors of different Universities. The Governor is consulted by the President of India while appointing Chief Justice and other judges

of state High court.

The Governor has to be kept informed about the administration of the state, if not he may seek information from the Chief Minister.

The Governor sends his report to the president regarding the failure of the constitutional machinery of a state. When the President proclaims emergency or declare President's rule under Article 356, the Governor acts as the representative of the Central government:

## **2. LEGISLATIVE POWERS**

Although the Governor is not a member of state legislature, he is an integral part of state legislature and performs numerous functions.

The Governor summons, prorogues the session of state legislature and he can also dissolve the assembly.

The first session after the General Election and the first session of the New Year starts with the address of the Governor.

The Governor can address both the Houses of the state legislature independently or jointly.

The Governor nominates members to the legislative council from the fields of art, literature, social service etc. He also nominates one member belonging to Anglo-Indian community to assembly, if he feels that the community is not represented adequately.

The Governor draws attention of the legislature towards the problem facing the state. He can send messages to the legislature from time to time.

The bill passed by the legislature cannot become law without the assent of the Governor. He can reject an ordinary bill or send it to the Assembly for reconsideration. He can also reserve certain Bills for the approval of the President.

When the Legislative assembly is not in session, to meet the unforeseen contingencies the Governor can proclaim ordinances, these have the same force of laws, but they must be approved by the legislature within a period of six weeks.

Annual reports of various bodies such as State Public Service Commission, State Finance Commission etc., which are submitted to Governor, are laid before the legislature by him.

### **3. FINANCIAL POWERS**

A money bill can be introduced in the legislature with prior recommendation of the Governor. It is the duty of the Governor to see that budget proposals are introduced in the Assembly. Demands for grants or proposals for taxation cannot be made without his assent. The contingency fund of the state is at his disposal and he can make advances out of it to meet unforeseen expenditure.

### **4. JUDICIAL POWERS:**

The Governor enjoys certain judicial powers. The Chief Justice and other judges of the state High Court are appointed on the advice of the Governor. The judges of other subordinate courts are also appointed by him. He has the power to pardon, reprieve and commute punishment. Such powers extend only in respect of cases over which the state legislature has power to make laws.

### **5. DISCRETIONARY POWERS:**

Apart from the above mentioned powers, the Governor also enjoys certain discretionary powers by means of which he can act on his own without the aid and advice of the Chief Minister and his Council of Ministers.

Some of them are

- a) When no party gets absolute majority, the Governor can use his discretion in the selection of the Chief Minister, he can ask the leader of single largest party to form Government and prove his majority within a stipulated time.
- b) The Governor can use his discretion while submitting a report to the President on the breakdown of constitutional machinery in a state. When President's rule is imposed, the role of Governor gains significance. During such times he acts as a representative of the centre.
- c) The Governor can withhold assent to a Bill and send it to the President for his approval.
- d) He can dissolve the Assembly if he finds that the Chief Minister ceases to command a majority and in his opinion no one can provide alternate Government.

- e) The Governor can seek to submit information relating to legislative and administrative matters from the Chief Minister.
- f) Before promulgating ordinances, the Governor can seek instruction from the President.
- g) The Governors of Assam, Sikkim, Meghalaya, Tripura, Mizoram, Manipur are provided with special responsibility, for ensuring social and economic development of different sections of population where, large numbers of tribal settlements exist.

The Governor of a state is the nominal Head and the Chief Minister and his Council of Ministers actually exercise the real power. The discretionary powers place him in a very significant and sensitive position. While exercising these powers the Governor is bound by rule of reason and law. He uses this power honestly, judicially and substantial reasons within the frame work of constitution. The Governor has to keep himself away from party politics and act accordingly. Good relations between Governor and Chief Minister ensures not only stability but also progress of the State.

### **THE CHIEF MINISTER**

Article 163 of the constitution says that there shall be a council of ministers with the Chief Minister at the head to aid and advice the Governor in exercise of his functions. The position of the state Chief Minister is similar to that of Prime Minister at the centre.

### **APPOINTMENT**

The Chief Minister is appointed by the Governor (Art 164) usually Governor invites the leader of majority party in the Assembly to form the Government, if no party has majority then the Governor uses his discretion he can call the leader of the single largest party and ask him to prove majority in stipulated time.

Usually Chief Minister is a member of the state legislature. If not, he should get elected within six months.

### **TERM**

The Chief Minister's term is generally 5 years. The Chief Minister resigns when he loses the majority in the House.

The salary and allowances of the Chief Minister are fixed by the state legislature from time to time.

## **POWERS AND FUNCTIONS**

The Chief Minister holds the executive power of the state government.

### **1. Formation of ministry**

After assuming power, the Chief Minister prepares a list of ministers and advises the Governor to appoint them. The size of his council will not be more than 15% of the total members of the assembly.

He allocates portfolios and can shuffle and reshuffle the ministry according to his requirement.

### **2. Control over council of Ministers**

The Chief Minister controls the working of all ministries. The ministers keep the Chief Minister informed regarding the working of their departments. They get advice of the Chief Minister whenever necessary. He presides over the meetings of his cabinet. If the Chief Minister is not satisfied with the working of a minister or if he finds him inefficient then he can seek for his resignation.

### **3. Link between cabinet and Governor**

The Chief Minister is the sole channel of communication between Governor and his ministers. The Chief Minister has to convey the decisions of the cabinet to the Governor, he furnishes such information relating to administration of the state affairs, proposals of legislation and decisions of his ministry.

### **4. Leader of the Cabinet**

The Chief Minister is the leader of the cabinet. He calls the meetings of cabinet whenever necessary and presides over the meetings. He prepares the agenda and controls it. All decisions of the cabinet are taken under his leadership.

### **5. Power of appointment**

The Chief Minister has an important role in matters of appointment. Though it is the Governor who makes all appointments, it is done on the recommendation of the Chief Minister. The Chief Minister appoints Advocate General, Chairman and Members of State Public Service Commission etc.,

The Chief Minister is the leader of the people and is supported by the majority party in the House. The Chief Minister occupies a pivotal position in a state. He symbolizes power structure and wields more authority than anybody else in the state. Against his wishes neither a bill can be passed nor can a tax be levied. The high position invests him with the responsibility to see that the policies are made objectively and implemented effectively.

If his party enjoys a thin majority in the House or it lacks solidarity, the position of Chief Minister is vulnerable, when the chief minister leads a single party with a huge majority his dominance is unquestionable.

## **COUNCIL OF MINISTERS IN A STATE**

Article 163 of the Indian constitution provides for a council of ministers headed by Chief Minister to aid and advice the Governor in exercising his functions.

The total number of ministers including the Chief Minister in the council of ministers shall not exceed 15% of the total number of members in the Legislative Assembly.

The council of ministers is the most powerful body in the Governmental machinery.

## **POWERS AND FUNCTIONS**

### **1. Administrative Powers**

Administration of the state is carried out by the cabinet ministers. They lay down the policy of the Government and execute the decision taken by the cabinet. They are responsible for maintaining order and peace in the state. It is the highest policy making body in the state and all important decisions relating to administration are taken in the cabinet. The Ministers are responsible for the implementation of the decisions taken in the cabinet. They are also responsible for the effective functioning of their individual ministry.

### **2. Legislative powers**

The policies are formulated by the council of ministers. They introduce the bills, participate in discussions and cast their votes. The cabinet decides on those Bills to be introduced in the House before the session begins. It is their responsibility to defend the Bills when the House

raises questions regarding them. The legislature is summoned and adjourned on the advice of the cabinet. Bills are passed or rejected in accordance with the will of the cabinet.

### **3. Financial powers**

The cabinet is entirely responsible for the Income and Expenditure of the State. The annual financial statement or budget is prepared by the council of ministers and presented in the House by the Finance Minister. No tax can be levied without the permission of council of ministers within the state.

### **4. Responsibility**

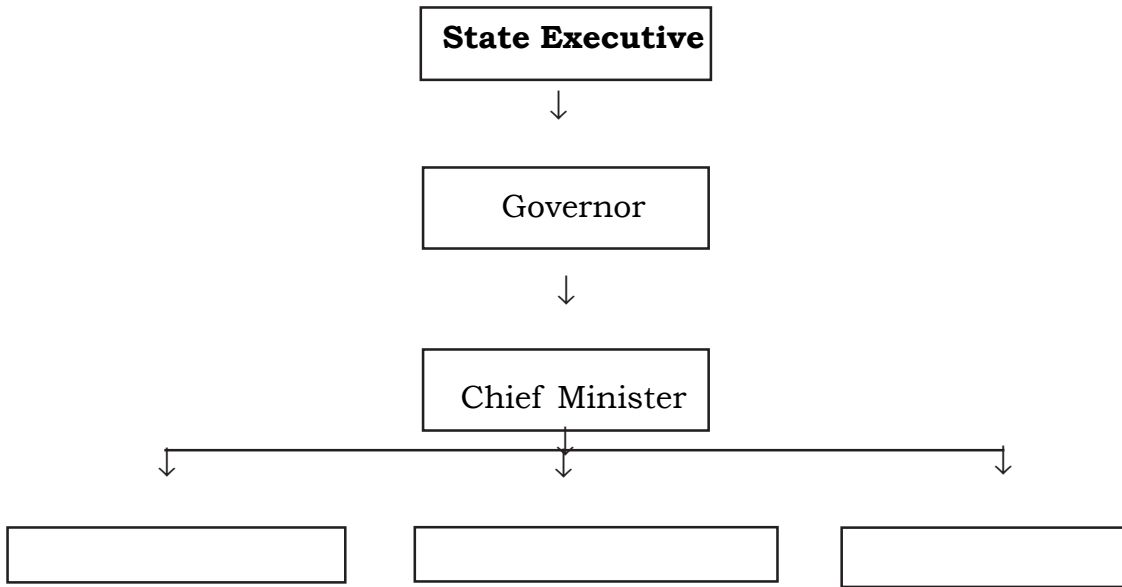
The council of ministers are both collectively and individually responsible for all the decisions taken and implemented. They are individually and collectively answerable to the legislature for their acts of omission and commission in the capacity of a minister and as a team as well. If the legislature ceases to have confidence in them, they can be removed by no confidence motion.

### **5. Co-ordination**

It is the responsibility of the cabinet to bring co-ordination among all the departments. No department can function independently, hence cabinet has to co-ordinate the functions of all the departments for effective implementation of welfare policies of the Government.

### **6. Secrecy**

Secrecy is one of the main features of cabinet system. The cabinet proceedings must remain highly confidential and it is the responsibility of all the ministers to maintain secrecy which enables mature and independent functioning of the council of ministers.



### **Suggested Activities**

1. Prepare a list of our Presidents and Prime Ministers since independence
2. Record and reproduce Joint session by the president
3. Write a note on cabinet committee meetings
4. Prepare a list of National Emergency Powers of the President
5. Role of Prime Minister in a coalition Government



## QUESTION BANK

### I. One mark questions

1. What is executive?
2. What is a term of office of the President of India?
3. Who appoints the Prime Minister in India?
4. Who is the Ex-officio Chairman of Rajya Sabha?
5. What is the term of office of Governor?
6. Who appoints Chief Minister of a state?
7. Who appoints Governors to the state?
8. Who appoints the Chief Justice of India?
9. What is a term of Vice President of India?
10. Who appoints the chiefs of Defence forces in India?

### II. Two Marks questions

1. Give the meaning of Executive.
2. What are the qualifications required for the President of India?
3. Who elects the Vice President of India?
4. Name the qualifications necessary for Governor
5. Name the three types of emergencies which the President can promulgate.
6. What are the qualifications required for the Vice President?
7. Who participates in election of the President of India?
8. What should be the strength of Council of Ministers in Loksabha?
9. What should be the strength of Council of Ministers in State Assembly?
10. What are the financial functions of the Governor?

### III. Five Marks questions

1. Explain the significance of Executive.
2. Explain the method of election to the office of the President of India.
3. Bring out the Legislative powers of the President.
4. Explain are the executive powers of the President? Explain.
5. Explain the emergency powers of the President.
6. Explain the functions of Vice President of India.
7. Describe the role of Prime Minister in India.

8. Briefly explain the powers and functions of Prime Minister of India.
9. Briefly explain the powers and functions of Union Council of Ministers.
10. Briefly explain the powers and functions of Council of Ministers in a state.
11. Explain the discretionary powers of Governor.
12. Explain the functions of Chief Minister.

#### **IV. Ten marks questions**

1. What is executive? Explain its significance.
2. Explain the powers and functions of the President of India.
3. Write a note on the Vice President of India.
4. Explain the powers and functions of the Prime Minister of India.
5. Explain the powers and functions of the Union Council of Ministers.
6. Explain the powers and functions of the Governor of a state.
7. Explain the powers and functions of the Chief Minister of a state.
8. Explain the powers and functions of the Council of Ministers of a state.

~~~~~

UNIT- 8

JUDICIARY

8.1 Meaning and Significance.

8.2 Judiciary in India.

A) Supreme Court:

1. Appointment, Tenure, Privileges,
2. Qualification, Removal, Powers and Functions

B) High court: -

1. Appointment, Tenure, Privileges,
2. Qualification, Removal, Powers and Function.

8.3 Subordinate Courts

- a) Districts Courts
- b) Revenue Courts
- c) Consumer Courts
- d) Family Courts
- e) Lok Adalat

8.4 Public Interest Litigation

8.5 Independence of Judiciary

“There is no better test of the excellence of a government than the efficiency of a judicial system”.

Lord Bryce.

Learning objectives

- 1 To know the meaning and significance of Judiciary
- 2 To understand the appointment, tenure, powers and functions of union and state Judiciary
- 3 To know about the Jurisdiction and functioning of the subordinate courts system in India
- 4 To understand the procedure of filing a PIL
- 5 To analyse the measures taken to protect independence of Judiciary

Meaning

Judiciary is an important organ of the government. The primary duty of judiciary is to interpret the laws passed by legislature and settle disputes. It also imposes punishment for the violation of law. It consists of Supreme Court which is a court of final appeal and other subordinate courts for the administration of justice through judges and other judicial officers.

Definitions

George Washington: *“Administration of justice is the firmest Pillar of government. Law exists to bind together the community; it is sovereign and cannot be violated with impunity.”*

Jeremy Bentham: *“The administration of justice by the state must be regarded as a permanent and essential element of civilization and as a device that admits of no substitute”.*

Every state has its own judicial system which represents not only the government as its third organ but also helps people to live freely and without fear. It shows great deal of sensitivity and understanding in handling some of the sensitive personal issues of people like divorce, alimony, inheritance of the property, child custody etc. The judicial system tries to settle them out of the court so that the image of the contesting parties is protected in the public. The sensitivity shown by the judicial system in dealing these issues is noteworthy

Significance.

1) Interpreter of the Constitution

It is through the judiciary that law of the land is determined, because judiciary is the authorized interpreter of the Law of the Land. The laws enacted by the legislature are interpreted by the judiciary. There is a saying in the USA that, it is not the people who govern America but five out of nine judges of Supreme Court of America decide what the law of the country is. The Judiciary sees that laws should be applied on the basis of fairness to settle disputes. Hence as an interpreter it clears the ambiguity of laws and helps to understand them easily.

2) Guardian of the Constitution:

Highest priority of the judiciary is to see that law made by the legislature is in accordance with the constitution and executive is not exercising its power arbitrarily. We cannot think of a state without separate judicial organ. The Judiciary not only interprets the constitution but also acts as its guardian.

3) Protector of rights and liberties of the citizens

James Bryce rightly said, “there is no better test of the excellence of a government than the efficiency of judicial system.”

The welfare and security of people depends upon the speedy and impartial dispensation of justice. The courts administer justice honestly and impartially to protect the rights and liberties of the citizen and ensures equality.

4) Protects federal structure

Written constitution is the fundamental law of a federal state and the judiciary is essential in a federation. There is a possibility of conflicts between central government and the state government over distribution of powers. The Judiciary with its power of judicial review checks the arbitrary exercise of the powers of the union government and also protects the federal structure.

5) Custodian of democracy-

Its role is evident for the success of democracy and to protect the rights and liberties of the citizen. If unruly elements are not controlled and offenders are not severely punished, the situation of the state would be like as mentioned by **Lord Bryce** “if the lamp of justice goes out in darkness, how great is that darkness.”

It is the judiciary that enables people to have trust in the system with its independent and impartial administration of justice.

8.2 Judiciary in India

The British established a well organised and systematic judicial system in India in pre-independence period. Before 1935 they established high courts in Calcutta, Bombay, Madras provinces and later in Lahore,

Allahabad, Patna and Rangoon. The Indian government act of 1935 created a federal court for the entire country and the same judicial system has been continuing till now.

The two important features of Indian judicial system are

1. The integrated judicial system
2. Independence of the judiciary

These two systems are very important for safeguarding the federal structure of Indian political system, unity and integrity of the nation, protection of the constitution and fundamental rights and liberties of the people. An independent and impartial judiciary ensures that the federal government and the state government function within their boundaries. Hence the framers of constitution provided for single, independent, integrated and impartial Judiciary. The Supreme Court stands at the apex and the 21 High Courts at the subordinate level exercise their powers and functions as specified in the constitution.

Supreme Court of India

The Supreme Court is the highest and final judicial court in India. Art. 125 of the constitution states “there shall be a supreme court of India consisting of a Chief Justice and a number of other judges.” The number of Judges is fixed by the parliament from time to time. The original strength of the Supreme Court was 7 including chief justice. At present it consists of 30 Judges including Chief Justice. The Supreme Court came into existence on 26th January 1950.

The appointment of Judges

The Judges of Supreme Court are appointed by the president of India. While appointing the Chief Justice, the President may consult the judges of the Supreme Court and in case of appointing judges he consults Chief Justice. Every Judge is appointed by the President by warrant with his hand and seal.

Qualifications-

He must be a citizen of India.

Must have experience as Judge in one or more High Courts for five years, or

Must have been a practicing advocate of one or more high courts for at least ten years, or must be a distinguished jurist in the opinion of the President.

Salary and other allowances

The salary of the judges is fixed as per the constitution and the allowances, leave and pension are determined by the law of parliament. These shall not be altered to the disadvantage of the judges. They are entitled for rent free residential accommodation.

Currently, the salary for Chief Justice is Rupees 1,00,000/- and for other Judges, it is Rupees 90,000/-. The salaries of the Judges are charged on consolidated fund of India.

Term of Office of Removal:

The Chief Justice and other Judges hold office till they attain the age of 65 years. They can be removed through the process of impeachment by the parliament on grounds of proven misbehavior or incapacity or misuse of authority or acting against the provisions of constitution.

Powers and Functions :

The powers of Supreme Court are listed as follows:

1. Original Jurisdiction
2. Appellate Jurisdiction
3. Advisory Jurisdiction

Original Jurisdiction:

Supreme Court can exercise original Jurisdiction in instances like -

- a. **Centre-State Disputes:** Disputes between central government and one or more states.
- b. **Inter-State Disputes:** Disputes between states
- c. **Disputes Related to Fundamental Rights:** According to Art 32, the Supreme Court is empowered to protect the fundamental rights of the citizen by issuing orders and writs. In case of violation of the Fundamental Rights citizens can approach the court as these rights are justifiable.

- d. Cases Related to the Constitution:** The Supreme Court is the final interpreter of the constitution and Cases related to this are resolved by it.
- e. Constitutional Validity of Law:** To review the laws of legislature and executive orders that are in accordance with the constitution, if not, declare them as unconstitutional or null and void.

It decides the disputes relating to the election of the president and vice president.

It also hears the cases related to the dissolution of state legislative assemblies.

Appellate Jurisdiction:

Being the Highest Court for appeal, Supreme Court settles cases involving constitutional, civil and criminal matters. It has the power to grant special leave petition against the judgement delivered by any High Court. The Supreme Court is empowered to hear appeal against the following cases

(I) Civil Cases

1. If the high court certifies that the cases involve a substantial question of law of general importance and in its opinion the said question needs to be decided by the Supreme Court.
2. In some cases the concerned parties have a right to appeal to the Supreme Court on the ground that substantial question of law and interpretation has been wrongly done.
3. The cases related to property and have the high court certificate to that effect.

(II) Criminal Cases.

An appeal to the Supreme Court is made with or without certificates of the High Court.

Without a certificate of the High Court :

1. When the High Court reverses the order of the District Court of an accused person sentenced to death.

2. If the high court withdraws a criminal case from any Subordinate Court and convicts the accused person and sentence him to death.

With a certificate of the High Court :

1. An appeal is made to the Supreme Court against the decision of the High Court and it should accompany the certificate of the High Court ins respect of certain cases involved substantial question of law and its interpretation.
2. If a high court withdraws a case from the subordinate court and in its trial it can convict the accused person and sentence him to life imprisonment or for a period of ten years, then appeal can be made to the Supreme Court within a month from the date of judgement.

(III) Constitutional Cases.

Cases involving the interpretation of the constitution are appealed to the Supreme Court with the certificate of the high court.

(IV) Special Leave to appeal

According to Art -136, the Supreme Court has the power of granting special leave to appeal against any judgement, decree or final order of subordinate courts or tribunals.

Advisory Jurisdiction:

On important questions relating to the constitution the President may seek the advice of the Supreme Court. The advice or opinion of the Supreme Court is however not binding.

Other Functions:

- (i) Court of records:-** The Supreme Court is the court of records. The records preserved in the court have the value of evidence and also useful for future guidance.
- (ii) Contempt of court:-** Non compliance of the verdicts, criticism against judiciary and showing disrespect to the Judgements of the court are treated as contempt of court and legal proceedings are initiated for the same.
- (iii) Makes Rules of the Court:-** It regulates the practice and procedure of the court with the approval of the president. It makes rules

with regard to the practicing before the court, procedure for hearing appeals, proceedings in the court for the enforcement of the fundamental rights and reviewing of judgements pronounced by the courts.

(IV) Control over its Establishments:

Appoints staff for its own establishment and for subordinate courts for better and speedy disposal of cases.

The Supreme Court is the highest federal court and the highest court of appeal in all matters. In one respect the Indian Supreme Court has more powers than the American Supreme Court, because ours is an integrated judicial system, whereas USA has a dual system. The supreme court of India stands at the apex of the judicial system. Indian supreme court has extensive powers on appellate and advisory jurisdiction.

High Courts

Art. 214 of the Indian constitution state that there shall be a High Court in each state. The Parliament has the power to establish a common High Court for two or more states or union territories as per Art 231 of the Constitution. At present there are 21 High Courts in the country.

Composition:

Every High Court consists of a Chief Justice and other judges. The strength of the judges vary from state to state and is fixed by the Parliament form time to time.

Appointment:

The President of India appoints the Chief Justice of the High Court after consulting the Chief Justice of India and the Governor of the state. Other judges are appointed in consultation with the Chief Justice of India. The judges remain in office till they reach the age of 62 years.

Qualifications-

Should be a citizen of India.

Should have worked as a judge in any High Court in India for not less than 10 years, or

Should have worked as an advocate for 10 years standing in any High

Court or

Should be in the opinion of the President of India, an Eminent Jurist.

Salary and Allowances –

The Chief Justice and other judges of the High Courts draw monthly salary and other allowances and it cannot be reduced during their term of office. But their salary, pension and other rights are determined by the Parliament. At present the Chief Justice of the High Court draws Rs.90,000/- and other judges Rs.80,000/- as salary.

Removal

A judge of the High Court is removed from his office in the similar way as that of the judge of the Supreme Court. They hold their office during 'good behaviour' [Art.217 (1)]. By an address of both Houses of Parliament by a 2/3rd majority of the total membership of the House and by a vote of not less than 2/3rd majority of the members present on the grounds of proven misbehavior or incapacity. This procedure is known as impeachment.

Powers & Functions

1. Original Jurisdiction-

The cases brought before the High Courts at the first instance with having been heard by the lower courts imply the original jurisdictions. In relation to this jurisdiction -

The High Courts of Bombay, Calcutta and Madras are the oldest courts of the country. They have original jurisdiction on all civil and criminal cases of their territory. The High Courts can withdraw cases from the lower courts.

High Courts can issue orders, decrees or writs in the nature of Habeas Corpus, Mandamus, Prohibition, Quo-warranto and Certiorari to protect the rights and liberties of the citizens as mentioned in Art.32 of the constitution. The original jurisdiction also related to state revenues and its collections, wills, marriage laws, company laws and contempt of the court.

2. Appellate Jurisdiction-

The High Courts have the power to accept appeals from the lower courts on all civil and criminal cases of their defined jurisdictions. On the civil side an appeal to the High Court is either a first appeal or a second appeal. The appeal from the decisions of the District Judges and from subordinate judges may go directly to the High Court.

A person can appeal against the decisions of a Sessions Judge or an Additional Sessions Judge, where the sentence is of imprisonment exceeding seven years. A person can also appeal against the decisions of Judicial Magistrate in certain specified cases other than petty cases.

3. Power of supervision-

The High Court has the power to supervise all courts and tribunals that come under its jurisdiction. It is also the duty of the High Court to see that the courts discharge duty according to the constitution. It also gives the authority to intervene in case of any grave injustice or abuse of jurisdiction. It can also issue rules, prescribe proceedings, books and accounts to be maintained.

4. Court of Records -

A High Court is a court of records. Its proceedings and decisions have reference value; it means they are referred to the similar cases in future by the subordinate courts.

List of High Courts and Their Jurisdiction			
High Courts	Established years	Jurisdiction	Seat of the court
Allahabad	1866	Uttar Pradesh	Allahabad
Andhra pradesh	1954	Andhra pradesh	Hyderabad
Bombay	1862	Maharashtra,	Bombay
Maharashtra,		Goa, Daman & Diu & Dadra & Nagarhaveli	
Kolkata	1862	West Bengal	Kolkata
Delhi	1966	Delhi	New Delhi

Guwahati	1958	Assam, Tripura, Manipur, Nagaland, Meghalaya, Mizoram, Arunachal Pradesh	Guwahati
Gujarat	1960	Gujarat	Ahmedabad
Himachal Pradesh	1971	Himachal Pradesh	Shimla
Jammu & Kashmir	1957	Jammu & Kashmir	Srinagar & Jammu
Kerala	1956	Kerala & Lakshadweep	Ernakulam
Karnataka	1950	Karnataka	Bangalore
Madhya Pradesh	1956	Madhya Pradesh	Jabalpur
Chennai	1862	Tamil Nadu & Pondicherry	Chennai
Orissa	1950	Bihar	Cuttack
Patna	1916	Bihar	Patna
Punjab & Haryana	1966	Punjab, Haryana	Chandigarh
Rajasthan	1950	Rajasthan	Jodhpur
Sikkim	1975	Sikkim	Gangtok
Chhattisgarh	2000	Chhattisgarh	Bilaspur
Jharkhand	2000	Jharkhand	Ranchi
Uttaranchal	2000	Uttaranchal	Nainital

Hierarchical Structure of Subordinate Courts

Article 233 to 237 of the constitution provides for the establishment of the subordinate courts. The District Courts include

1. The Civil Courts
2. The Sessions Courts

1. The Civil Courts

The State Government in consultation with the high court establishes a District Court. The district court is the highest civil court in the district. It exercises both judicial and administrative powers. It has the power of supervision over the courts under its control and has both original and appellate jurisdiction.

The court of the district judge is located at the district headquarters. It has the powers of trying both civil as well as criminal cases. Thus he is

designated as the district and sessions judge. The Governor in consultation with the high court appoints judges to the district court.

1. At the Taluk level the court of civil judge (senior division) and the court of civil judge (junior division) are presided over by a principal civil judge and additional civil judge and have jurisdiction over every revenue taluk of the district.
2. The Munsiff courts at Taluk level,
3. The small cause courts function at metropolitan cities and it is presided by the most junior magistrate.

2. The Criminal Court:

- a. District Session's court- it is the highest criminal court in every district. The District Civil Court Judge also heads this court but he is called a Session's Court Judge. It deals with cases of criminal nature like robbery and murder. Sessions court awards punishment, including death sentence, which should be approved by the high court.
- b. First Additional District and Sessions court
- c. Second Additional District and Sessions Court
- d. Chief Judicial Magistrate Court
- e. First Additional Chief Judicial Magistrate Court
- f. Second Additional Chief Judicial Magistrate Court

At the Taluk level civil cases are dealt by principal senior division and criminal cases by Principal Junior Division Courts.

Other Special Courts

Special courts established and presided over by district and sessions judge, metropolitan magistrate (mobile) courts and additional chief metropolitan magistrate courts are presided over by civil judges (senior division). Fast track courts are presided by civil judge (senior division).

2. Revenue Courts

Revenue courts deal with cases relating to the maintenance of land

records, its assessment and collection of land revenue. These courts are of four kinds-

- A. THE BOARD OF REVENUE:** This is the highest court of revenue in every district. It is under the control and supervision of high court. It receives appeals from lower revenue courts.
- B. THE COMMISSIONER'S COURT:** This court is headed by the commissioner of a division and he is assisted by three to four deputy commissioners. It looks into collection of taxes and other charges, assessment of land, maintenance of land records.
- C. THE COLLECTOR'S COURT:** The Deputy Commissioner is the district magistrate and performs judicial functions in addition to administrative functions. The court deals with cases relating to the assessment of land, maintenance of record etc.
- A. TAHSILDAR'S COURT:** The Tahsildar is the magistrate of the taluk and is in charge of collecting revenue at the taluk level and assisted by a Deputy Tahsildar.

2. Consumer Courts

Consumer courts are established to protect the interests of consumer. Consumer protection Act of 1986 has established consumer courts at District, State and National level to redress the grievances of consumers. Relief is provided in the form of replacement of goods and services, refund, compensation for expenses borne by the consumer.

Consumer courts are constituted at three levels-

- a. Central Consumer Protection Council at National level consists of Chairman, Vice Chairman, Official and Non-Official members.
- b. State Consumer Protection Council at State level consists of Chairman, Vice Chairman and other members.
- c. Consumer Dispute Redressal Forum at District level consists of Chairman and members.

Appeals from the district forum are taken to the state council and from the state council to the central council and from central council to the

Supreme Court. Complaints to the above Forum may be filed by consumer himself or representatives of consumer or through recognized consumer association. Awareness of this right protects consumers from being cheated.

3. Lok Adalat

The existing courts are overburdened, legal procedures are complex and expensive, dispensation of justice is delayed and out of reach of the common man. To make it simple, easier and affordable to the poor, to settle disputes promptly and to reduce the burden of courts, Lok Adalat came into existence.

These courts are established by the Supreme Court of India. Lok Adalat have statutory status under the Legal Services Authorities Act of 1987. These courts are constituted to provide social justice for the weaker section of the society and to provide free assistance to the poor in legal matters. Lok Adalats are constituted at Taluk, District, State and National levels.

- a. Authorities at Taluk level service Committee consists of senior legal officers and other officers appointed by the government.
- b. District level service Authority consists of a retired or in-service judicial officers, well established advocates, social activists and others.
- c. State Legal Service Authority is composed of Chief Justice of High Court and other members appointed by the Governor, government officials as ex-officio members and other nominated members.
- d. Central legal service Authority is consisted of the Chief Justice of Supreme Court and other members appointed by the President with the advice of Chief Justice of Supreme Court.

It settles cases by means of compromise, conciliation, arbitration, mediation rather than following legal technicalities. If the parties concerned are not satisfied with the settlement, they are free to approach the court of law. Settlements done in Lok Adalats are not questionable in any court.

4. Family Court

The Family court is created to decide matters and make orders on family issues such as marriage, divorce, child custody etc. These courts are created by law. The family courts were first established in the USA in 1910.

The Establishment of Family court was due to the pressure from several women's organisations social and welfare organisations and individuals for the speedy settlement of family disputes.

The Family Courts Act was enacted on 14th September 1984. Family courts are established by the state governments in consultation with the High Court to promote conciliation and secure speedy settlement of family disputes.

According to the act of 1984, it is mandatory for the state government to set up a family court in every area of city and a town whose population exceeds ten lakhs.

Family courts deal with matters such as dissolution of marriage, judicial separation, divorce, declaration of marital status of a person, matrimonial property, claim of maintenance, guardianship, custody of children, access of children etc.

At present there are 190 family courts functioning in India and 12 in Karnataka.

8.4 Public Interest Litigation :

Public interest litigation (PIL) means litigation filed in a court of law for the protection of public interest against matters such as pollution, terrorism, road safety, environment protection, educational reforms, employment benefits etc.

A PIL can be filed not only by the aggrieved party but initiative can be taken by the court itself or by any other private party. PIL is the power given to the public by courts through judicial activism. Any person who is a victim of any type of violation may not be in a position to approach the court due to his or her freedom to move court being suppressed or he is economically or physically unable to appear before the court. Then the courts take cognizance of the matter and proceed 'suo motu' or cases can be initiated by any public spirited person.

According to **Black's** law dictionary; "*PIL means a legal action initiated in a court of law for the enforcement of public interest in which the public or class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected*"

A PIL protects people from cruel and insensitive treatment at the hands of fellow human beings. It can also bring transparency in public life and initiate fair judicial action to check the violation of legal rights.

A PIL is not defined in any law or act; it has been interpreted by the judges for public good and interest. It represents the first attempt by developing common law. It has radically altered the traditional judicial role so as to enable the court to bring justice within the reach of the common man. In essence, the PIL develops a new jurisprudence of accountability of the state for constitutional and legal violations adversely affecting the interests of the weaker elements in the community. The hope once expressed by **Justice V.R. Krishna Iyer** in relation to the essence and responsibility of PIL was - "*the judicial activism gets its highest bonus when its orders wipe some tears from some eyes*".

Original and Development of PIL :

PIL originated in USA in mid 1980s. Various public meetings, movements in 19th century contributed for the growth of public interest law and to provide legal aid and help to the public. The first legal office was started in New York in 1876, the movement started with financial support from the office of 'economic opportunity'. This encouraged public spirited individuals to take up cases for the poor and to fight dangers of environment, public health, exploitation of the weaker sections etc. PIL started to provide legal representation to the previously unrepresented groups and interests.

PIL had begun its journey in India towards late 70s and was known to everyone by 80s. **Justice V.R. Krishna Iyer** and **Justice P.N. Bhagwati** by delivering landmark judgements opened the gates of PIL in India. Both of them voiced their views in favour of obtaining justice for all by approaching the courts and to find legal solution to their problems, to protect human rights for all the sections of the society especially the weaker sections and underprivileged to get social and economic justice as envisioned in the Indian constitution.

The PIL jurisdiction forged by the Supreme Court is an extension of its jurisdiction under article 32. It is now considered as a centre for social change. It has made the legislature and executive a constitutional obligation to protect the public against the violation of basic human rights.

Some of the rulings of Supreme Court in relations to the PIL are as follows.

1. Parmanand Katara vs. Union of India

- AIR1989, SC 2039: The Supreme Court held in the public interest litigation filed by a human right activist fighting for general public interest that it is a paramount obligation of every member of medical profession to give medical aid to every injured citizen as soon as possible without waiting for any procedural formalities

2. Shriram Food & Fertilizer Case

- AIR (1986) 2 SCC 176 SC through public interest litigation directed the co. Manufacturing hazardous & lethal chemical and gases posing danger to life and health of workmen & to take all necessary safety measures before re-opening the plant.

3. In the case of M.C Mehta Vs. Union of India (1988)

1 SCC 471 - in public interest litigation brought against Ganga water pollution so as to prevent any further pollution of Ganga water. The Supreme Court held that petitioner although not a riparian owner is entitled to move the court for the enforcement of statutory provisions, as he is a person interested in protecting the lives of the people who make use of Ganga water.

Issues related to PIL

Issues relating to the following matters can be taken in to PIL

1. Basic amenities such as roads, water, medicines, electricity, primary school, primary health centre, bus service, etc,
2. Rehabilitation of displaced persons.
3. Identification and rehabilitation of bonded and child labourers.
4. Illegal detention of arrested persons.

5. Torture of persons in police custody
6. Custodial Deaths.
7. Protection of prisoners' rights.
8. Jail reforms
9. Speedy trials of under trials.
10. Ragging in colleges.
11. Atrocities by the police.
12. Atrocities against SCs/STs
13. Neglect of inmates of government welfare homes
14. Children in custody
15. Adoption of children.
16. Corruption charges against public servants.
17. Maintenance of law and order
18. Payment of minimum wages.
19. Legal aid to the poor
20. Starvation deaths.
21. Indecent Television Programmes.
22. Prohibition.
23. Environmental pollution.
24. Unauthorised eviction
25. Protection of pavement and slum dwellers.
 - a. 28. Dowry deaths.
26. Implementation of welfare laws
27. Reform of illegal social customs such as sati, child marriage, Devadasi system, etc.
28. Violation of fundamental rights of the weaker sections

PIL can be filed in the Supreme Court and in the High Court in following ways-

1. Sending letter petitions with relevant facts and documents to the chief justice of the concerned court. (The matter must be sent by registered post.)
2. By directly filing the PIL in the court through the free legal service committee of the court.
3. Directly filing the case with the help of any PIL lawyer.
4. Filing the case through NGOs or PIL firms.

8.5 Independence of the Judiciary

Independence of the judiciary is a significant factor in any state. Judiciary needs to be free from the influence of legislature and executive so that it can function in an unbiased manner.

While framing the constitution of India, Dr. B.R. Ambedkar spoke on independence of *the judiciary* “*there can be no difference of opinion in the house that our judiciary must be both independent of legislature and executive and must also be competent in itself. And the question is how these two objects can be secured*”.

Independence of judiciary implies that it should act without any fear or favour. Decisions should not be subject to any influence of the government or any private interests. Independence of judiciary is also necessary to uphold democratic society based on rule of law. It acts as a watchdog and checks whether the legislature and executive function within the framework of constitution.

The following measures have been taken to ensure the independence of the judiciary**1. Mode of Appointment :**

There are three methods of appointing the judges. They are election by people, election by legislature and appointment by executive, out of which the method of appointment by the executive is opted by many countries. In India the chief justice is appointed by the president on the advice of prime minister and his cabinet and while appointing other judges, the chief justice is consulted. This prevents the executive from having complete discretion in

appointment. This method ensures the appointment of judges on the basis of merit and secures judicial independence.

2. Security of Tenure :

The judges of the Supreme Court and high courts have security of office. Once appointed, they continue to remain in office till they reach the age of retirement. They can be removed from the office only on the grounds of proven misbehavior and incapacity. This resolution has to be accepted by both the houses of legislature with 2/3rd majority. The procedure is so complicated it makes the removal very difficult which secures their tenure and this ensures independence of judiciary.

3. Salary and Allowances:

The salary and allowances of the judges is also a factor to secure independence. The salary and allowances are fixed and are not subject to change by vote of the legislature. They are charged on the consolidated fund of India.

4. Powers and Jurisdiction of the Supreme Court:

The Parliament can only add to the powers and jurisdiction of the Supreme Court but cannot curtail them. The parliament can enhance appellate jurisdiction and confer supplementary powers.

5. Separation of the Judiciary from the Executive:

Article 50 says that there shall be a separate judicial service free from executive control. Judges are not a part of the executive branch. They are constitutionally independent. This secures separation of the judiciary from the executive.

6. No discussion on conduct of Judge in State Legislature / Parliament:

Art. 211 provide that there shall be no discussion in the legislature of the state with respect to the conduct of any judge of Supreme Court or of a high court in the discharge of his duties.

7. Power to punish for contempt:

Both the Supreme Court and the high court have the power to punish any person for contempt of court.

8. Bar on practice after retirement:

Judges are barred from practicing after retirement to ensure impartial and independent functioning of judiciary. The above provisions help in securing independence of the judiciary. These help in dispensing honest and impartial justice and safeguard the democratic and federal fabric of our constitution.

SUGGESTED ACTIVITIES

1. Prepare a list of states with and without the High Court.
2. Visit a court in your place and observe the proceedings
3. Collect news paper reports on consumer disputes and settlements
4. Observe the functioning of Lok Adalat in your place

QUESTION BANK

I. One Mark Questions:

1. What is Judiciary?
2. What is the meaning of integrated judicial system?
3. Who appoints the Chief Justice of Supreme Court of India ?
4. Who appoints the judges of High Courts?
5. Which is the apex court?
6. What is an appeal?
7. Who appoints the District Court Judge?
8. Which is the final court of appeal?
9. How many High Courts are there in India?
10. Who is the guardian of the constitution?
11. What is Lok Adalat?
12. Expand PIL.
13. What is meant by independence of the Judiciary?
14. Who is the chief justice of the Supreme Court of India?
15. Who is the chief justice of High Court of Karnataka?
16. In which country did PIL originate ?
17. Where was family court first established?
18. When was family courts act enacted in India?
19. How many family courts are there in India?
20. How many family courts are there in Karnataka?
21. When did the supreme court of India come into existence?

II. Two Marks Questions:

1. What is judicial review?
2. Mention the qualifications required to become a district judge?
3. Write about the salary and benefits given to the Supreme Court judge.
4. Name subordinate courts.
5. What is a Consumer Court?
6. What is Revenue Court?
7. What is Family Court?
8. Mention the qualifications required to become a judge of High Court.

9. What are the qualifications of the Supreme Court Judges?
10. What is contempt of court?
11. How is PIL filed?
12. What is Lok Adalat?
13. What is the advisory function of the Supreme Court?

III. Five Marks Questions:

1. Write about the removal procedure of the Supreme Court judges?
2. Explain the original jurisdiction of the Supreme Court?
3. Explain the appellate jurisdiction of the Supreme Court?
4. Mention the measures necessary to ensure the independence of the judiciary?
5. Write a note on Lok Adalat.
6. What is a revenue court?
7. What is PIL? Explain its significance.
8. What is a family court? Explain its functions.
9. Write a note on the consumer court.
10. Name any ten issues on which PIL can be filed?

IV. Ten Marks Questions:

1. Explain the meaning and significance of the judiciary.
2. Describe the composition and powers of the supreme court of India.
3. How is independence of the judiciary ensured? Explain the measures.
4. Describe the composition and powers of the High Court.
5. Explain the organisation and working of subordinate courts.

v v v v v

UNIT- 9

DEMOCRATIC DECENTRALISATION

- 9.1 Introduction, Meaning, Significance
- 9.2 73rd and 74th Constitutional Amendment Acts
- 9.3 Panchayath Raj Systems With Special Reference to Karnataka
 - A. Rural Local Self Government
 - Zilla panchayath, Taluk panchayath, Grama panchayath:
 - Composition Powers and Functions
 - B. Urban Local Self Government
 - Corporations, City Municipal Councils, Town Municipal Councils:
 - Composition Powers and Functions.

“Our democracy can be truly and firmly led in the development of local self government”.-

G.V. Mavalankar

Learning objectives

1. To know about democratic decentralization.
2. To understand how Local bodies act as administrative units at local level.
3. To develop leadership qualities at local level.

9.1 Introduction, Meaning and Significance :

India's democratic structure has three levels of governance – national or federal, state or regional and local or grassroots level. This system is popularly known as democratic decentralization. The local government covers Panchayath Raj system and Nagara palika system which is also known as Rural local self government and Urban local self government respectively. Under the democratic decentralization, constitutional power has been extended to village, Taluk, Zilla, in rural local government.

Whereas, Town Municipal Council, City Municipal Council and Corporation in urban local government.

In India the local governments existed from ancient times. Democracy at the grassroots is the key to understand the traditional pattern of governance. Ancient and Medieval Indian polity consisted of representative bodies called panchayats, a Council of five persons. It existed at the local level having decision making power both executive and judicial on several aspects of community. Especially during the time of Rigveda (1700 BC) evidences show that self governing village bodies called 'Sabhas' existed. The Arthashastra of Kautilya describes about the 'Samities' that is Assemblies. With the rise of Mauryan Empire (324 BC) and Guptas Empire (320-511AD) even under Mughal rule the village panchayats lost their importance.

During the British rule the autonomy of the panchayath got neglected as they were interested in the creation of controlled local bodies which could help them in their trade and tax collection. When the British administration came under severe financial pressure after the Sepoy Mutiny of 1857, the remedy sought was decentralization. Though responsibility of public works was transferred to local bodies that is Municipal administration, yet it never restored the autonomy of the local bodies.

Viceroy Lord Mayo's Resolution of 1870 became a landmark in the evolution of colonial policy towards local self government. Later the father of local self government of India Lord Rippon who in his famous resolution on local government in May 18, 1882, recognized the two essentials of local government as

- (i) Administrative efficiency
- (ii) Political education.

In 1907 the Royal Commission on decentralization recognized the importance of panchayath at village Level. Montague Chelmsford Reforms of 1919 brought significant developments by establishing the village panchayats in many of the provinces. The Government of India Act of 1935 marked the evolution of panchayats in India.

While framing the Indian Constitution, there was no consensus among the top leaders of the Indian National Congress regarding the status and role to be assigned to the rural local self government. Gandhiji favored 'GRAMA SWARAJ' which strengthens the village panchayats, whereas Dr.B.R.Ambedkar opposed the idea and believed that the village represented regressive India, a source of oppression, a den of ignorance, narrow mindedness and communalism. Eventually as acceptance of the Gandhian point of view of the village panchayats as the foundation of self - government in India, the Constituent Assembly made a provision in non- justiciable part of the constitution Directive principles of state policy in Article – 40.

After Independence in 1952, the first Prime Minister Pt. Jawaharlal Nehru introduced the Community Development Programme (CDP) for the participation of people in rural development. The central government appointed Balwant Rai Mehta Committee in 1957 to review the whole programme. The National Development Council accepted the report in 1958 and recommended three tier structure of local government-

1. Gramsabha at village level,
2. Panchayatsamitis at Blocklevel
3. Zillapanchayat at District level,

With these recommendations the Government of India directed the state governments to activate the process of democratic decentralisation. On 2nd October 1959 Jawaharlal Nehru officially inaugurated the establishment of Panchayati Raj bodies in Nagaur Taluk of Rajasthan for the first time in India. Thus the idea of 'Democratic decentralization' got definite shape in the form of Panchayath Raj institution.

In 1963 K.Santhanam Committee recommended on financial decentralization of the panchayath Raj institutions. In 1978 Ashok Mehta Committee recommended for two tier system with four years of term and participation of the political parties in the panchayath Raj election. In 1985 GVK Rao Committee and in 1986 L.M. Singhvi committee recommended in their reports that panchayath Raj institutions must play pivotal role in looking into people's problems and the Gramsabha

must be considered as the base of decentralised democracy. In 1993 the 73rd and 74th constitutional Amendment Acts came into force to ensure the effective participation of rural and urban people in local self government.

Meaning

Local self Governments are the administrative units which are created by the statutory law to meet the local needs at the local level by the local people. It facilitates the local people to take effective part in their local affairs and give solution to the problems which are affecting their local interests. It also enables people to assume responsibility in developing their local area with proper planning and to protect the interests of the locality.

Significance

Democratic decentralisation makes the people to realize and avail the complete benefits of the democratic system. Decentralisation is considered as the corner stone of Democracy which promotes administrative efficiency at the grass roots level.

Under this system it is possible to devote greater attention to local needs and problems effectively as the people are able to manage their local affairs without outside interference.

The local government by providing mass education trains them for future leadership. **H.J.Laski** opined “*The institution of local self government is educative*”. By participating in local administration and contesting election, people will be made aware of the art of administration.

It creates political awareness by paving the way for fulfilling their immediate needs.

Decentralisation reduces the burden of central and state governments. Democracy at the top will not be a success, unless there is a strong foundation from below.

The success of any programme depends upon proper channelisation and implementation of the set goals.

Finally in the words of Lord Bryce “The best school for democracy and the best guarantee for its success is the practice of local self government”.

73rd and 74th Amendments – 1993

When Rajiv Gandhi was the Prime Minister after long discussions and deliberations of more than 4 years, to bring changes to article 234, 73rd and 74th Constitutional Amendment Bills were introduced and eventually passed in 1993, to ensure and effective participation of rural and urban people in the institutions of local self government.

The new amendment granted more power and responsibility, functional and financial autonomy, regularity in election and organization and constitutional recognition for both the institutions.

The 73rd Constitutional Amendment Act came into force on 22nd April, 1993 with the provisions related to Panchayath Raj bodies in rural areas and made it mandatory to hold periodical elections.

- (i) It makes provisions for the reservation of seats at all the three levels for women, the scheduled castes, scheduled tribes and other backward classes.
- (ii) The power and responsibility has given panchayats to plan and mobilize their own resources at local level.
- (iii) Elections shall be held within a period of 6 months from the dissolution of the body.
- (iv) State legislatures will have the power to constitute Taluk level committees.
- (v) Members of parliament and state legislatures will have the ex-officio membership with voting rights in both Block and Taluk level panchayats.
- (vi) The members of these bodies are directly elected by the people.
- (vii) Women have been given 1/3rd reservation in panchayats.
- (viii) The minimum age required to become member is 21 years
- (ix) Power to States, to establish State Election Commission and

conduct elections to panchayats.

- (x) The panchayats have been given power to levy, and collect appropriate taxes, duties, tolls and fees in accordance with the provision made by the state government.
- (xi) Provision was made to establish State Finance Commission every 5 years, to review the finances of panchayats and to make recommendations as to what amount of grants are to be given to panchayats by the state governments.
- (xii) Panchayats have been given power and responsibility to prepare and implement the plans for economic development and social justice in relation to matters listed in the 11th schedule.
- (xiii) Panchayats have been given powers and responsibility to prepare and implement the plans in Union Territories with necessary modifications in terms of peculiar conditions of the Scheduled areas and Tribal areas.
- (xiv) Some States have been kept outside the purview of the provisions of this Amendment act.

The 74th constitutional amendment came into force on 20th April 1993, with provisions related to urban local bodies as incorporated in Part IX-A of the constitution.

- (i) The Act establishes the firm relationship between state government and urban local bodies, particularly with respect to taxation powers and arrangements of revenue sharing.
- (ii) It ensures the State Government conduct elections regularly.
- (iii) It provides adequate reservation for scheduled castes, scheduled tribes, other backward classes and women.
- (iv) It empowers the state legislature to make laws relating to reservation of seats in urban local bodies.
- (v) The members of urban local bodies directly elected by the people from the different Wards for a tenure of 5 years.
- (vi) Election shall be held within a period of 6 months from the dissolution of the local body.

- (vii) Members of parliament and state legislatures will have the ex-officio membership with right to vote in urban local bodies.
- (viii) State has the power to nominate five members to urban local bodies, who have reputation in the field of education, municipal administration and social service under this act.
- (ix) The state legislature has the power and responsibility to prepare the plan for economic development, social justice and its implementation.
- (x) Provision is made to establish Finance Commission every 5 years to review the finances of the urban local bodies and to make recommendations as to what amount of grants are to be given to urban local bodies by the state government.
- (xi) The urban local bodies have been given power to levy and collect appropriate taxes, duties, tolls in accordance with the provision made by the state government.
- (xii) This amendment also added the 12th schedule to the constitution with 18 provisions relating to urban local bodies.

9.3 PANCHAYAT RAJ SYSTEM WITH SPECIAL REFERENCE TO KARNATAKA

9.3 A RURAL LOCAL SELF GOVERNMENT.

The local self government existed in Karnataka since the ancient time. There are historical documents that many dynasties of Karnataka ruled with good administration by establishing local government. The Mysore local self government Act -1902 in the pre-independence period and Venkatappa committee in 1950, Chandrashekaraiah committee in 1954, State Reorganisation committee in 1956, Kondajji Basappa committee in 1963 played an important role to establish the local government in Karnataka after independence. The Panchayat Raj Act of 1983 is considered as a milestone in the Karnataka local self government. At present, according to Panchayat Raj Act of 1993 a three tier local self government functions in rural areas.

- (i) Grama panchayat
- (ii) Taluk panchayat
- (iii) Zilla panchayat.

GRAMA PANCHAYAT

According to Karnataka Panchayat Raj Act, on the basis of population between 5000 - 7000 one or more villages is considered as one Grama panchayat. Regions of Uttarakannada, Dakshinakannada and Malnadu Taluks will have one Gramapanchayat for every 2000 population. Each member represents 400 people, members are elected from the voters directly for 5 years. The members of the Gramapanchayat elect President and Vice-President for a term of 30 months. Reservation is provided to Scheduled castes, Scheduled tribes, other backward classes and women.

Gramapanchayat meeting must be held at least once in 2 months, a quorum of $1/3^{\text{rd}}$ members is necessary to take any decision in the meeting. The President presides over the meetings of Gramapanchayat. The Vice-President presides over the meeting in his absence. Standing committees are formed for the effective administration of the Gramapanchayats.

The Gramapanchayat Secretary and his staff is appointed to look after the executive work. An officer called Panchayat Development Officer (PDO) is appointed by the State government for effective administration in every Gramapanchayat. Currently 5659 Gramapanchayat function in the state.

Gram Sabha:

Gramsabha is a village council. All people above 18 years of age can take part in the Gramsabha meetings. The President of Gramapanchayat presides over the meeting. All members of Gramapanchayat attend the meeting to discuss the local problems and take decisions. It is held at least once in six months.

Functions of Gramapanchayat.

Karnataka Panchayath Raj Act -1993 made provisions to discharge the following functions.

A. General functions.

- v Preparation of annual plan for the development of villages within the purview of Gramapanchayat.
- v Preparation of annual budget of Gramapanchayat.
- v To provide compensation to the victims of natural calamities
- v To control the trespassers of public property.

B. Optional functions.

1. To undertake statistics plan pertaining to villages within the purview of Gramapanchayat.
2. Promotion of agricultural plan.
3. Promotion of animal husbandry, livestock and poultry.
4. To encourage Fisheries.
5. To promote rural and cottage industries.
6. Construction and maintenance of wells, ponds for drinking water.
7. To control water pollution.
8. Construction and maintenance of roads, bridges and connecting facilities.
9. Rural electrification and proper supply of the same.
10. To undertake development of non-conventional energy sources.
11. Promotion of adult education and informal education.
12. Construction and maintenance of library facilities
13. To undertake programmes pertaining to enlightening people in poverty alleviation.
14. To encourage people regarding the importance of primary and secondary education.
15. Maintenance of cattle fair and festivals.
16. To undertake and implement public health and family welfare programmes.
17. To ensure the welfare of physically and differently abled.
18. To undertake plans and implement women and children welfare and development.

19. To protect and maintain public parks and play grounds.
20. Proper supervision of Public Distribution System.

STANDING COMMITTEES OF GRAMAPANCHAYATS

- i) Production committee** – Execution of agricultural products, live stock, rural industries and poverty alleviation programmes.
- ii) Social justice committee** – This committee must have at least one member each from scheduled castes, scheduled tribes and women. Its main function is to protect the social, economic, educational interests of these classes.
- iii) Amenities committee** – Maintenance of education, public health, sanitation work.

Financial Sources of Gramapanchayat:

- a) Grants, loans, contributions from the State government.
- b) Taxes, tolls and tariffs imposed by Gramapanchayat.
- c) Income received from rents.

Taluk Panchayath:

Karnataka Panchayath Raj Act-1993 provides an opportunity to have Taluk Panchayath in every Taluk of state. On the basis of population of the Taluk, members are elected, each member represents 10000 people. Their tenure is 5 years. Reservation is provided to Scheduled castes, Scheduled tribes, other backward classes and women. 1/5th of the Presidents of Gramapanchayat within the Taluk serve as members of Taluk panchayath. The President is chosen through lottery system on the basis of rotation for one year. MPs, MLAs, and MLCs of the jurisdiction can attend the meetings with voting rights.

Taluk panchayath meeting must be held at least once in two months. There is Provision to conduct emergency meetings. President and vice-president are elected for 20 months from amongst the members. The President presides over the Meetings, in his absence the vice-president presides over the meeting. A Quorum of 1/3rd members is necessary for important decisions.

The government appoints Executive Officer (E.O) to look after the routine work of the Taluk panchayath with his staff. Currently 176 Taluk panchayats function accross different taluks.

Functions of Taluk panchayath

A. General functions.

- v The Taluk panchayath must prepare plans in accordance with the plans assigned to them by the State government or Zilla panchayath.
- v The Taluk panchayath consolidates all the annual plans of Gramapanchayat within its jurisdiction and submit the same to Zilla panchayath.
- v Preparation and submission of Taluk panchayath annual budget report to Zilla panchayath.
- v Provision of compensation to the victims of natural calamities.
- v Supervision and direction of all developmental functions of Taluk.
- v Preparation of plan for the development of Taluk.

B. Optional functions

1. Promotion of agriculture and horticulture.
2. Execution of land development and soil conservation supporting plans.
3. Execution of small irrigation plans.
4. Promotion of animal husbandry, livestock and poultry.
5. Encourage fisheries.
6. Promotion of rural and cottage industries.
7. Implementation of rural housing programmes.
8. Construction of roads, bridges and other link facilities.
9. Development of non-conventional energy sources.
10. To undertake programme pertaining to enlightening people in Poverty alleviation.
11. Promotion of educational activities at the Taluk level by establishing primary and secondary education institutions.
12. Promotion of rural artisan industries and opening training centers.

13. Execution of activities relating to adult education and informal education.
14. Maintenance of markets, fairs, festivals in the Taluk
15. Electrification of rural areas.
16. Implementation of health and family welfare.
17. Execution of women and children welfare programmes.
18. Promotion of welfare activities for differently abled challenged and evacuees.
19. Protection of education, economic and social interest of scheduled castes, Scheduled tribes and other backward classes.
20. Protection of community property.
21. Promotion of social and cultural activities in the Taluk.
22. Effective implementation of Public Distribution System.
23. Promotion of co-operative activities.
24. Construction and maintenance of libraries.
25. Drinking water supply and promotion of rural health.
26. Promotion of small scale industries.
27. Promotion of other activities on the order of state government.
- 28.
- 29.

Taluk panchayath standing committees

Taluk panchayath consists of three standing committees –

1. General committee –

It is incharge of communication, building, rural housing, development project of Taluk and management of natural calamities etc.,

2. The finance, Auditing and planning committee

– It looks after the preparation of annual budget of Taluk panchayath, financial function, expenditure, management and economic development.

3. Social Justice Committee

- promotion of educational and economic interests of scheduled castes, scheduled tribes and other backward classes, welfare and protection of women and providing social justice to the depressed classes.

Financial Sources of Taluk panchayath:

- a) Grants, loans, contributions from the State government.
- b) Taxes, tolls and tariffs imposed by Taluk panchayath.
- c) Income received from the deposits and assets.
- d) Income received from rents.

Zilla Panchayath

Zilla Panchayats are constituted in Karnataka at the district level to look after the development of the district. According to Karnataka Panchayath Raj Act-1993, the number of members will be decided on the basis of population of the district, but it varies from district to district. Every 40,000 population is represented by one member but 30,000 in Uttara Kannada and 18,000 in Kodagu and Chikmagalur districts. The members are directly elected by the voters. There is reservation for Scheduled castes, Scheduled tribes, Other backward classes and women. The term of the members is 5 years. All Presidents of Taluk Panchayats, MPs, MLAs, MLCs, of the district can attend the Zilla panchayath meetings and have the right to vote. President and Vice-President is elected for a term of 30 months. The meeting is held at least once in two months, the President presides over the meeting, in his absence the Vice-President presides over the meeting. A Quorum of 1/3rd of total members is necessary to take important decisions. Five standing committees ensure efficient administration of Zilla panchayath.

Zilla Panchayath has Chief Executive Officer (CEO) to look after the administration. He is from The IAS cadre. Deputy Secretary and Gazetted Chief Accountant assist him in the administration of Zilla Panchayath. Now there are 30 Zilla panchayats functioning in Karnataka.

FUNCTIONS OF ZILLA PANCHAYATH.**A. General functions.**

- v The Zilla panchayath has to prepare annual plans in accordance with the state government plans.
- v Preparation and submission of Zilla panchayats' annual budget report to Government.
- v To provide compensation to the victims of natural calamities.
- v Supervision and direction of all development functions of district level.
- v Preparation of plan for the development of district.

B. Optional functions.

1. Promotion of agriculture and horticulture.
2. Execution of land development and soil conservation supporting plans.
3. Execution of small irrigation plans
4. Promotion of animal husbandry, livestock and poultry.
5. Encouragement of fisheries.
6. Promotion of the rural and cottage industries.
7. Implementation of rural housing programmes.
8. Construction of roads, bridges and other link facilities.
9. Development of non-conventional energy sources.
10. To undertake programme pertaining to enlightening the people in poverty alleviation.
11. Promotion of educational activities at the district level by establishing primary and secondary education institutions.
12. Promotion of rural artisan industries and opening the training centers.
13. Execution of activities relating to adult education and informal education.
14. Maintenance of markets, fairs, festivals in the district.
15. Electrification of rural areas.

16. Implementation of health and family welfare.
17. Execution of women and children welfare programmes.
18. Promotion of the welfare activities for differently abled and evacuees.
19. Protection of social, economic educational interest of scheduled castes Scheduled tribes and other backward classes.
20. Protection of community property.
21. Promotion of social and cultural activities of district.
22. Effective implementation of Public Distribution System.
23. Promotion of co-operative activities.
24. Construction and maintenance of libraries.
25. Drinking water supply and promotion of rural health.
26. Promotion of small scale industries.
27. Performance of other activities on the order of state government.

Standing committees:

Zilla panchayath consists of five standing committees which are as follows-

1. General committee

- It is incharge of communication, building, rural housing development project of villages and management of natural calamities etc.,

2. The Finance, Auditing and planning committee

- This committee looks after, the preparation of annual Budget of Zilla panchayath, financial functions, expenditure management and economic development.

3. Social justice committee

Promotion of education and economic interests of Scheduled castes, Scheduled tribes and other backward classes. Welfare and protection of women, providing social justice to the depressed classes.

4. Education and Health committee

- Maintenance of educational activities of panchayats in the district. Execution of provisions of National Education Policy, Adult Education

Programmes, management of hospitals, health activities and family planning.

5. Agricultural and Industry committee

Promotion of agriculture, animal husbandry, cottage industry and development of Industries in the district.

These standing committees comprises of Chairman and members who are elected from amongst themselves.

Financial Sources of Zilla panchayath:

- a) Grants, loans, contributions from the State government.
- b) Taxes, tolls and tariffs imposed by Zilla panchayath.
- c) Income received from the deposits and assets.
- d) Income received from rents.
- e) Finance transferred from the State Contingency.

Urban Local self Government

The 74th Constitutional Amendment rules relating to administration of the urban local bodies are incorporated from Article 243P to Article 243ZG of Schedule IX-A. It came into force from 1993. In Karnataka, through the amendments to previous Karnataka Municipal Act-1966 and Karnataka Municipal Corporation Act-1976, necessary changes were brought. There are three types of urban local bodies.

1. Corporations (Mahanagarapalikas) in major cities.
2. City Municipal Council (NagaraSabha) and Town Municipalities (PuraSabha) in cities and towns.
3. Cantonment areas-under the control of Defence.

Corporation (Mahanagara Palika)

Corporations are constituted to function in major cities according to Karnataka Municipal Corporation Act-1976. Wards are constituted on the basis of population. 30 to 100 members are directly elected. Bangalore is called as Bruhat Bengaluru Mahanagara Palika (BBMP), there are 198 Wards. Generally a city which has more than three lakhs population is

considered as a corporation, the members are called as Corporators. The term of the corporators is 5 years and term can be extended up to one year by the state government in special occasions. Reservation is provided to scheduled castes, scheduled tribes, other backward classes and women. State government nominates five members to the body, who are distinguished in the fields of social service, education, municipal administration. They can attend the meeting but do not have voting right. MPs, MLAs, MLCs of the jurisdiction can attend the meetings with voting right. The elected members elect the Mayor and Deputy Mayor for a term of One year. The Mayor presides over the meetings. The Deputy Mayor presides over the meetings in his absence. The Mayor takes initiation to implement the decisions of meetings. Standing committees are constituted for the effective and efficient administration. In Karnataka 1.Mysore 2.Hubli-Darwad 3.Mangalore 4.Belagaum 5.Gulbarga 6.Davanagere 7.Bellary have Mahanagarapalikas.

The state government appoints a senior IAS Officer as Commissioner of the Corporation, he is considered as administrative chief of Corporation, his term of office is three years. He will have the responsibility of implementing the decisions of the Corporation with his staff.

Functions of Mahanagara Palikas

Corporation performs three types of functions- General, Compulsory and Optional functions according to Karnataka Municipal Corporation Act-1976.

A. General functions.

1. Maintenance of city corporation administration.
2. Preparation of corporation budget and to get the approval of the council.

B. Compulsory function.

1. Construction and maintenance of hospitals, public roads, bridges and markets.
2. Supply of water for drinking and other purposes.
3. Naming roads and providing numbers to houses.

4. Construction and maintenance of buildings, complexes, markets and stores.
5. Electrification of public roads and market places.
6. To undertake measures to control street dogs menace, birds and other dangerous animals.
7. To ensure protection of public health and vaccination.
8. To control and curb food adulteration and maintain the marketing of food, medicine and milk.
9. Registration of births and deaths, proper disposal of dead bodies.
10. Granting permission to build structures.
11. Maintenance and protection of monuments, forts, land and other public structures.
12. Construction and maintenance of cemetery and crematoriums.
13. To undertake construction and maintenance of public parks and play grounds.
14. Planting and protection of trees.
15. Construction and maintenance of public toilets.
16. To maintain cleanliness by providing proper sewage system.
17. Establishment and protection of primary schools.
18. Construction and maintenance of library and reading rooms.

C. Optional functions.

1. Construction and maintenance of museums and rest houses.
2. To undertake demography of the city.
3. Maintenance of transport system.
4. Promotion of live stock.
5. To establish the institutions for the welfare of weaker section, helpless and patients.
6. Establishment and maintenance of maternity home and children welfare centers.
7. Construction and maintenance of veterinary hospitals.
8. To undertake accumulation of economic resources to provide remedy and compensation to affected victims of natural calamity.

9. Construction and maintenance of drinking water facility to animals in the city.

Standing Committees of Mahanagara palika.

They are:

1 Taxation, Finance and Appeal Committee -

This committee functions with the responsibility to impose, plan and collect the taxes.

2. Public health, Education and Social justice committee -

Supervision of hospitals, sanitation and public health, promotion of primary and secondary education. Providing social justice to scheduled castes, tribes and women.

3. Town planning and Improvement committee:

To look after proper town planning and improvement.

4. Accounts and Audit committee:

Supervision of comprehensive expenditure of Mahanagara Palika.

Financial Sources.

- (i) Taxes on assets, water, professions and advertisements
- (ii) Rent from markets, complexes and other properties.
- (iv) Grants and contributions from the State government.
- (iv) Income collected for providing drainage and sanitary facilities.
- (v) Loan raised from the public with government approval.

City Municipal Council and Town Municipalities.

City Municipal Council and Town Municipalities are constituted on the basis of population of the city or town. According to Karnataka Municipal Act -1964 for every city with population of 50,000 to 3 lakhs City Municipal Council is constituted. Towns with population of 20,000 to 50,000 Town Municipalities are constituted. City Municipal Council usually consists of 31 to 37 members and Town Municipalities consists of 23 to 27 members. The tenure of the members is 5 years and the

government can extend its term for one year under special circumstances. The members are directly elected from the Wards. The state government nominates five members who are distinguished in social and administrative field, they can attend the meetings with elected member but they do not have voting right. MPs, MLAs and MLCs can participate in the meetings with voting right.

Scheduled castes, scheduled tribes, other backward classes and women have reservation. Elected members elect President and The Vice-President. President presides over the meetings, in his absence vice-president presides over the meetings. There is provision to constitute standing committees for efficient administration. Currently 44 City Municipal Councils and 94 Town Municipal Councils are existing currently.

State government appoints Commissioner to City Municipal Council, Chief Officer to town municipalities as an administrative heads. They are responsible to execute the decisions of the council.

Functions of City Municipal Council

Functions are divided into three types general, compulsory and optional.

A. General functions

1. Maintenance of city municipal council and town municipal council administration.
2. To prepare the budget of City Municipal Council / town municipal council and to get the approval of the council.

B. Compulsory Functions.

1. Construction and maintenance of hospitals, public roads, bridges and markets.
2. Supply of water for drinking and other purposes.
3. Naming roads and provide numbers to houses.
4. Construction and maintenance of buildings, complexes, markets and stores.

5. Electrification of public roads and market places.
6. To undertake measures to control the menace of street dogs, birds and other dangerous animals.
7. To ensure the protection of public health and vaccination.
8. To control and curb food adulteration and maintain the marketing of food, medicine and milk.
9. Registration of births and deaths, proper disposal of dead bodies.
10. Granting permission to build structures.
11. Maintenance and protection of monuments, forts, land and other public structures.
12. Construction and maintenance of cemetery and crematoriums.
13. To undertake construction and maintenance of public parks and play grounds.
14. Planting and protection of trees.
15. Construction and maintenance of public toilets.
16. To maintain cleanliness by providing proper sewage system.
17. Establishment and protection of primary schools.
18. Construction and maintenance of library and reading rooms.

C. Optional Functions.

1. Construction and maintenance of museums and rest houses.
2. To undertake demography of the city.
3. Maintenance of transport system.
4. Promotion of livestock.
5. To establish the institutions for the welfare of weaker section, helpless and sick.
6. Establishment and maintenance of maternity home and children welfare centers.
7. Construction and maintenance of veterinary hospitals.

8. To undertake accumulation of economic resources to provide remedy and compensation to victims of natural calamity.
9. Construction and maintenance of drinking water facility to animals in the city.

Standing Committees of NagaraSabha / PuraSabha

They are:

1. Taxation, Finance and Appeal Committee -

This committee has the responsibility to impose levy and collect taxes.

2. Public health, Education and Social justice committee-

Supervision of hospitals, sanitation and public health, promotion of primary and secondary education. Providing social justice to scheduled castes, tribes and women.

3. Town planning and Improvement committee.

To look after proper Town planning and improvement.

4. Accounts and Audit committee:

Supervision of comprehensive expenditure of NagaraSabha / PuraSabha.

Financial Sources.

- (i) Taxes on assets, water, professions and advertisements.
- (ii) Rents from markets, complexes and other properties.
- (iii) Grants and contributions from the State government.
- (iv) Income collected for providing drainage and sanitary facilities.
- (v) Loans raised from the public with government approval.

Cantonment Boards

These Boards function in Defence area, where defence forces are stationed. These are controlled by Ministry of Defence directly. The top military officials are nominated to Board. The officer of Brigadier rank functions as President.

Pattana Panchayath :

74th Constitutional amendment act provides an opportunity to have

Pattana panchayath in the rural area which has the city/town features. In Karnataka places with population of 10,000 to 20,000 Pattana panchayats are constituted. Usually members are elected directly for the period of 5 years. Members elect President and Vice-president for the term of 30 months. Reservation is provided to scheduled castes, scheduled tribes, other backward classes and women. There are 68 Pattana Panchayats constituted in the state.

State government appoints chief officer and his staff to look after the administration. Pattana panchayath discharges the powers and functions as NagaraSabha/PuraSabha.

Suggested Activities

1. Visit Panchayaths at your place
2. Meeting with the Local Leaders and Representatives with reference to local needs
3. Prepare flow chart on Urban and Rural local self government

vvvvv

QUESTION BANK

1. One mark questions

1. Who is called as father of Local self government in India?
2. Which state implemented Local self government at first in India?
3. Which constitutional amendment related to Rural Local bodies?
4. Which constitutional amendment related to Urban Local bodies?
5. What is the term of President of Grama Panchayath?
6. Expand P.D.O.
7. What is the term of President of Taluk Panchayath?
8. What is the tenure of Zilla Panchayath?
9. What is the term of President of Zilla Panchayath?
10. Who is the Administrative Chief of Zilla Panchayath?
11. Expand B.B.M.P.
12. What is the tenure of Mayor?
13. Who is the Administrative Chief of Mahanagara palika?
14. How many members nominated to Mahanagara palika?
15. How many Mahanagara palika are there in Karnataka?

2. Two marks questions

1. What is Democratic decentralization?
2. Name the three stages of Local self government according to Balwant Ray Mehta committee
3. Where and when the Panchayath raj system came in to force?
4. What is the importance of 73rd and 74th constitutional amendments?
5. What is Local self government?
6. Which are the three stages of Rural Local self government?
7. Who elect the President and Vice president of Gram Panchayath?
8. Who will cast the vote in the election of President and Vice president of Taluk Panchayath?
9. Who elect the President of Zilla Panchayath?

10. Name any two standing committees of Zilla Panchayath.
11. Name any two Mahanagara palikas.
12. Who elect Mayor?

3. Five marks questions

1. Explain the meaning and importance of Democratic decentralization system.
2. Explain the 73rd constitutional amendment Act.
3. Explain the 74th constitutional amendment Act.
4. Explain the constitution of Gram Panchayath.
5. Explain the constitution of Taluk Panchayath.
6. Explain the standing committees of Grama Panchayath.
7. Explain the constitution of Mahanagara palika.
8. Explain the standing committees and financial sources of PuraSabha.

4. Ten marks questions

1. Explain the functions of Gram Panchayath.
2. Explain the functions of Taluk Panchayath.
3. Explain the functions and constitution of Zilla Panchayath in brief.
4. Explain the powers and functions of Mahanagara palika.
5. Explain the functions and constitution of NagaraSabha in brief.

vvvvv

Blue Print of Question paper

1 Year PUC

Political Theory and Government

Total No. of Hrs : 120

Max. Marks : 100

C h n o.	Title of the Chapter	No. of teachi ng hrs	Marks allott ed	Knowledge 40%				Understanding 30%				Application 20%				Skill 10%				Total	
				1	2	5	10	1	2	5	10	1	2	5	10	1	2	5	10		
1	Political Science	8	10	1	1						1			1							10
2	Sate	7	8	1		1				1											08
3	Basic Political Concepts	12	15	1	1	1				1					1						15
4	Constitution and Government	21	25		1	1				1			1		1		1				25
5	Indian Constitution	11	13		1	1		1													13
6	Legislatur e	15	18									1			1		1				18
7	Executive	16	19	1		1	1		1								1				19
8	Judiciary	16	19	1	1		1								1		1				19
9	Democratic Decentralization	14	17			1						1			1				1		17
Total		120	144	75				39				21				09				144	

Note: 1. Weightage = Total marks / no. of teaching hrs = $144/120 = 1.28$ (i.e., for 1 hr – 1.28 marks)
 2. Choice: - Out of 40 Questions given, only 32 Questions are to be answered.

Model Question paper-1

I. Answer the following questions in one sentence each. 10x1=10

1. Who is the author of the book 'politics'?
2. Which is the most populous country in the world?
3. Which is the root word of 'Law'?
4. Give an example of presidential Government?
5. Who is the chairman of the Drafting committee of the Indian Constitution?
6. Which is the Upper House of the parliament?
7. What is the term of Office of the President of India?
8. Who appoints the Prime minister?
9. Who is the present Chief Justice of the Supreme Court of India?
10. Which state introduced panchayath raj system for the first time in India

II. Answer any 10 of the following in 2-3 sentences. 10x2=20

11. 'Man is a social being', how?
12. Who used the term state for the first time? and in which book?
13. Name two aspects of Sovereignty?
14. What is an unwritten Constitution? give an example.
15. Write any two features dictatorship?
16. Write any two fundamental Rights?
17. What are the qualifications to become a Member of Lok Sabha?
18. Define political science?
19. Write any two discretionary powers of the Governor.
20. Name any two writ petitions under Art 32.
21. Name any two city corporations in Karnataka?
22. 'Political Equality is meaningless without Economic Equality', why?

III. Answer any eight of the following in 5-10 sentences each. 8x5=40

23. Write the meaning and definitions of State.

24. Distinguish between State and Society.
25. Explain the kinds of Liberty.
26. Explain the features of Unitary Government.
27. Write the text of the preamble of the Indian Constitution.
28. Explain the composition of Rajyasabha.
29. 'Political Rights are the foundation of democracy', how?
30. Explain the legislative powers of the President of India.
31. Explain the features of the Constitutional Government.
32. Explain the composition and powers of District Courts.
33. Explain the original jurisdiction of Supreme Court.
34. What are the functions of Gram Panchayathi?

IV. Answer any two of the following in 30-40 sentences each.

2x10=20

35. Explain the composition, powers and functions of Lok Sabha.
36. Explain the meaning and features of democratic government.
37. Explain the role, powers and functions of the Prime Minister of India.
38. Describe the powers and functions of Mahanagara Palikas.

V. Answer any two of the following.

2x5=10

39. Write about the life and achievements of a local politician

or

Write a note on the Family Courts.

40. Write a note on the life and achievements of a freedom fighter.

or

Write the importance of PIL.

KEY ANSWERS FOR MODEL QUESTION PAPER 1

I

- Aristotle
- China
- Lag
- USA
- Dr B R Ambedkar
- Rajya Sabha
- Five years
- President of India
- Justice Althumus Kabir
- Rajasthan

II

- To fulfil his needs and desires
- Machievalli in his book 'The Prince'.
- Internal and external sovereignty
- Based on customs and traditions and evolved over a period of time: for ex: The United Kingdom.
- Concentration of political power in a single person or a party, curbs individual liberty, force and coercion, bloodshed etc.,
- Right to Equality, Liberty, Religion, constitutional remedies, Against exploitation etc.,
- Indian Citizenship, above 25 years of age and any other qualifications prescribed the parliament from time to time.
- 1. **Prof. Garner:** *"The study of political science begins and ends with the State."*
 - 2. **Paul Janet:** *"Political science is that part of social science which treats of the foundations of the state and principles of government."*

3. **Garries:** *“Political science deals with the origin, development, purpose and all political problems of state.”*

Or any other.

- Appointment of Chief Minister, breakdown of constitutional machinery in state, during President’s rule, during dissolution of state legislative assembly.
- Habeas corpus, Mandamus, Certiorari, Quo-warranto and others
- Bangalore, Mangalore , Mysore, Gulbarga etc.,
- Political equality is the basis of democracy and economic equality implies equitable distribution of income and wealth. Without providing minimum standard of living to the mass, people cannot think of political equality.

III

- People organised in a particular territory ruled by a government which possesses sovereignty.
Definitions of Aristotle, Garner, Janet, Garris or any other.,
- 1. State came into existence after the society
- 2. State is organised where as society covers both organised and unorganized groups.
- 3. State requires definite territory, society does not require
- 4. State is politically organised where as society socially organised.
- 5. Sovereignty is inevitable and it is not required to society to society.
- Natural, Social, Economic, Political and National- explain.
- Supremacy of central government, concentration of power, units are not independent, supremacy of legislature, no provision for special courts- Explain.

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

JUSTICE, social, economic and political;

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

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

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

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

- Permanent House- Consists of 250 Members, tenure of members 6 years, 238 member to be elected by MLAs of the respective state and 12 are nominated by the president. 1/3rd of members will retire every two years on rotation basis.
- Political rights enable citizens to participate in and to regulate the affairs of the state. They are available only in democratic countries and they are – right to vote, contest for election, to hold public office, to petition and to discuss and criticize the policies of government.
- As a part of parliament, the president summons, prorogues both houses of parliament and dissolves Loksabha- summons joint session of parliament, send messages, and nominate members. Gives his assent to the bills passed by the parliament.
- Supremacy of the constitution- Equality before law-Protection of individual liberty-Representative government,- and Explain
- District, Civil and Sessions Court – Deals with Civil and Criminal

cases works under state High Courts- Judges are appointed on the basis of number of pending cases – explain.

- It can hear cases directly from the parties to the dispute, such disputes must be between 1.The centre and one or more states. 2. The Centre along with a state or states 3. Two or more states - explain
- 1. General standing committee, 2. Finance, Audit and Planning Committee, 3. Social Justice Committee, 4. Educational health committee and 5. Agriculture and industries committee-explain

IV

- Loksabha has 545 members, 2 nominated by President from Anglo Indian Community and others are directly elected by voters. Entire country is earmarked into 545 LS segments and consisting of approximate 5 to 8 lakhs. A few seats are reserved for SCs and STs.

Contestant must be Indian Citizen, aged above 25 years and eligible as a voter from one of the Loksabha constituencies and a resident of his constituency or state. Term – 5 years.

Legislative, Financial, Constitutional functions along with control over the executive and explain.

- Government by the people- definitions-liberty and equality – protection of rights. People’s participation. Decentralisations of power, supremacy of the constitution - explain.
- Leader of the Majority party, Leader of Loksabha and country-determines the destiny of the nation.

Chairman of the cabinet – executive, legislative, financial and other functions-explain.

- Based on population, wards are extended to 3200, corporators are directly elected by the people for a term of 5 years. Mayor and Deputy Mayor’s Term 1 year. Commissioner – IAS officer.

V

Ordinary, compulsory and optional functions – details.

- Education and Life style, Contributions to the society of any local politician of your choice with details.

or

Family court- matters dealt with dissolution of marriage, judicial separation, divorce, declaration of marital status of a person, matrimonial property, claim of maintenance, guardianship, custody of children, access of children etc explain.

- Education and Life style, Contributions to the freedom struggle of any freedom fighter of your choice with details.

or

Obtaining justice for all by approaching the courts and to find legal solution to their problems, to protect human rights for all the sections of the society especially the weaker sections and underprivileged to get social and economic justice as envisioned in the Indian constitution.

- Issues related to Basic amenities of roads, water, medicines, electricity, primary school, primary health centre, bus service, etc,
- Rehabilitation of displaced persons.
- Identification and rehabilitation of bonded and child labourers.
- Illegal detention of arrested persons.
- Torture of persons in police custody.
- Custodial Deaths.
- Protection of prisoner's rights etc

Model Question paper-2

I. Answer the following questions in one sentence each. 10x1=10

1. Which is root word of 'Politics'?
2. Who used term 'State' for the first time?
3. What is Sovereignty?
4. Name the Dictator of Germany.
5. When the constitution of India came into existence?
6. Who is the present of Speaker of Vidhana Sabha?
7. What is Term of Office of the Prime Minister of India?
8. How many High Courts are functioning in India?
9. Who is the guardian of constitution?
10. When the consumer protection act came into existence?

II. Answer any 10 of the following in 2-3 sentences. 10x2=20

11. Name any two city-states of ancient Greece.
12. Name two most populous countries.
13. Why State is inevitable?
14. What are the aspects of Sovereignty?
15. What are the bases of Moral Rights?
16. What is evolved constitution? Give an example.
17. Name any two differences between unitary and federal Governments,
18. What is Republic?
19. What is decisive vote?
20. How the President of India is elected?
21. What is judicial review?
22. What is Pattana panchayath?

III. Answer any eight of the following in 5-10 sentences each.**8x5=40**

23. Explain the scope of political science.
24. Distinguish between State and Nation
25. Explain the kinds of law
26. Explain the features of sovereignty.
27. Explain the features of democratic government.
28. Distinguish between parliamentary and presidential Governments.
29. Describe the law making procedure in parliament.
30. How the Right to Education is advantageous to the economically weaker section of the society.
31. Write the composition of Vidhana Parishad
32. Explain the discretionary powers of the governor
33. Explain the original jurisdiction of the Supreme Court.
34. Write the composition of Gram Panchayath.

IV. Answer any two of the following in 30-40 sentences each.**2x10=20**

35. Describe the meaning and features of the Unitary and Federal Government
36. Explain the composition, powers and functions of Rajya Sabha
37. List out the main features of 73rd constitutional amendment act.
38. What are the measures taken to protect the independence of judiciary?

V. Answer any two of the following. 2x5=10

39. Write a note on the birth anniversary of Swami Vivekananda celebrated in your college.

Or

Write a note on the emergency powers of the President of India.

40. Write the importance of Voting in Democracy.

Or

What is the Impact of coalition government on the administration of the State?

V V V V V V

KEY ANSWERS FOR MODEL QUESTION PAPER 2**I**

- Polis
- Machiavelli
- Supreme Power of the state
- Adolf Hitler
- 26th January 1950
- Mr. Kagodu Thimmappa
- 5 Years
- 22
- Judiciary
- 1986

II

- Athens and Sparta
- China and India
- State fulfils the bare needs of the people.
- Internal and External Sovereignty
- Customs and traditions.
- Based on customs and traditions and evolved over a period of time. Ex: United Kingdom
- Unitary : Sole central government and local units for administrative convenience, No special court
- Federal: Central and State Governments with autonomy, provision for special courts or any other.
- Any common man can contest for election for the highest position in the country.
- Vote exercised by the speaker in case of a tie.

- Elected by an electoral college consisting of members of both houses of parliament, legislative assemblies of states and union territories by means of single transferable vote and secret ballot.
- This is the power of Supreme Court to declare laws made by the parliament as null and void, when they are not in accordance with the constitution.
- This is a local self government consisting of 10000 to 20000 population with features of rural area.

III

- 1. Related to State and State alone
- 2. Related to state and Government
- 3. Related to State, Government and laws – give details
- State is politically organised consisting population, territory, government and sovereignty.
Nation is emotionally organised does not require the above elements.
- National and international, constitutional and ordinary law, public and private law, administrative and general law – give details.
- Absolute-indivisible-inalienable-permanent-exclusive-universal-original: explain
- Government of the people- Liberty, Equality & Fraternity- Elections are mandatory-Fixed tenure- Peaceful transformation of government- Spirit of tolerance:- explain
- Parliamentary: nominal and real executive, no fixed tenure, fusion of powers-individual and collective responsibility.
Presidential: Sole executive, fixed tenure, separation of powers, responsible only to people- explain.
- Introduction of bill, first reading, second reading, select

committee stage, Report stage, third reading – goes to second house – assent of president – Procedure explain.

- Age of six to fourteen have right to education as fundamental right. Access to nearby schools, free education, if not admitted can approach the court of law: Give details
- Total members 75, $1/3^{\text{rd}}$ of the members retire every two years after completion of 6 years. Bi-annual elections held as follows:
 1. $1/3^{\text{rd}}$ of the members of Vidhana Parishad are elected by the members of municipalities and other local bodies
 2. $1/3^{\text{rd}}$ of members are elected by the members of Vidhana Sabha
 3. $1/12^{\text{th}}$ of the members are elected by Graduate Constituencies.
 4. $1/12^{\text{th}}$ of the members are elected by Teachers Constituencies.
 5. $1/6^{\text{th}}$ are nominated by the Governor.
- Appointment of Chief Minister, breakdown of constitutional machinery in state, during President's rule, during dissolution of state legislative assembly.
- 1. Constitutional, 2. Civil Appellate, 3. Criminal Appellate, 4. Special Appellate Jurisdiction.
- A village /group of villages having population of not less than 5000 and not more than 7000 is called Gram Panchayaths. One member is elected for a population of 400, Reservation of seats for SCs, STs, OBCs and Women. Term -5 years.

IV

- Unitary : Constitution may be written or unwritten – Sole central government Strong centre – No Constitutional division of powers – No Special course & judicial Review, Single Citizenship.

Fed: Written & rigid cons – Dual Government – Decentralisation of powers – Autonomy to States- Special Judiciary – Dual citizenship.

- Permanent House- Consists of 250 Members, tenure of members 6 years, 238 member to be elected by MLAs of the respective state and 12 are nominated by the president. 1/3rd of members will retire every two years on rotation basis.
 - A) Makes provisions for the reservation of seats at all the three levels it for women, the scheduled castes, scheduled tribes and other backward classes.
 - B) The power and responsibility has given panchayats to plan and mobilize their own resources at local level.
 - C) Elections shall be held within a period of 6 months from the dissolution of the body.
 - D) State legislatures will have the power to constitute Taluk level committees.
 - E) Members of parliament and state legislatures will have the ex-officio membership with voting rights in both Block and Taluk level panchayats.
38. Mode of appointment of judges- high qualifications – security of service – salary – separation of judiciary from executive – Explain
39. Invocation – welcome speech – speech by guest. It covered Swami's brought up, education , attitude towards nation building, Chicago Conference, vote of thanks – National Anthem

OR

National emergency, State emergency and financial emergency- Explain

- 40 Democracy – Representation – Voters – Voting – Control on government based on the assessment of the government- Peaceful transformation of government

OR

Though likeminded parties join together to form the government, each party try to consolidate events for its advantage. In case of differences, the threat of withdrawal and related complications definitely affect administration adversely.

v v v v v