

INDIAN CONSTITUTION

WEEK 1

Introduction to Constitution

The Constitution means:

1. A set of laws governing a country
2. Body of fundamental principles by which a state or other body is governed.
3. System laws and principles according to which union and state is governed (is controlled and administrated).

For Example : Great Britain has an un-written constitution.

United States of America has a written constitution.

Our constitution has a written constitution. given by Bharat Ratna Dr B.R Ambedkar, as a chairman of the drafting committee in 1947 to 1950.

- The term constitution is a historical word and is derived from Latin word (constitution)- “constitutio” meaning is to establish, to form to regulate or to order i.e., used for regulation and orders.
- Therefore, constitution refers to the “Establishing or formation of the fundamental laws that determine the basic structure of the political system of the state under which its people are to be governed.”

Introduction to Constitution of India

The Constitution of country establish the basic structure of political system (say Indian polity, British polity, Canadian polity etc..) under which its people (citizens of the country) are being governed.

The Constitution:

The constitution is defined as “**A fundamental body of rules that govern a State or a Nation.**”

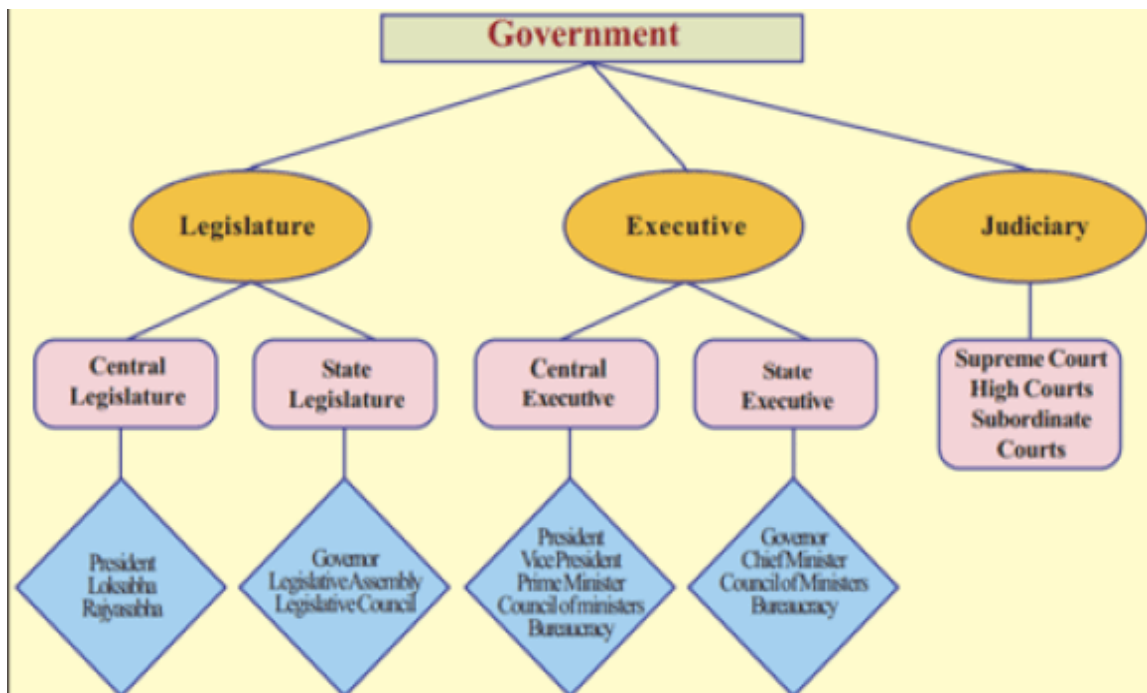
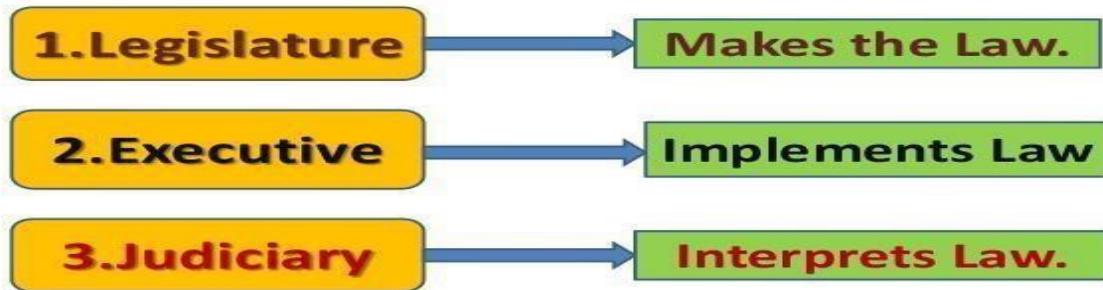
Constitution provides necessary guidelines for good governance of the state. The constitution is called as rule of the state or fundamental law of the state without which a state cannot exist. Because constitution provides necessary guidelines for good governance of the state. The importance of constitution is that it plays a vital role in the social, economical, political and administrative structure, the government and its functions, organs of the state and their relationships with the government etc.

The constitution establishes 3-main **organs** of the state

- The Legislature
- The Executive

- The Judiciary

ORGANS OF GOVERNMENT.



And defines their powers, demarcates their responsibilities and control these organ's relationships and interactions with each other and as well as with the people of the state.

Formation and Composition of the Constituent Assembly: For framing of the Indian Constitution. Before 1947 August 15th, India was under British ruling for more than two centuries.

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- In the late 1920s and mid of 1930s decade-the Congress and other national parties like Muslim League increased their severity of demand for a **Constituent Assembly** of Indians to frame the **Constitution of India**. British cabinet mission headed by secretary of state Pethick Lawrence, the president of the board of trade Sir Stafford Cripps the first lord of admiral A.V. Alexander was in India from march 1946 to may 1946 to discuss the independence to India, which suggested to have election of members to the proposed constitution making body called as **Constituent Assembly**.
- This strong demand for constituent assembly was accepted, for the first time by British Government in its August offer of 1940.
- This Constitution Assembly was regulated by British Cabinet Mission Plan of 1946.
- Indian political parties in 1946 decided to elect the Constituent Assembly which should be elected by the members of recently elected to the legislative assemblies of the provinces. **The Constituent Assembly came into existence in November 1946. After passing of the Independence Act 1947, The Constituent Assembly become an independent body.**
- The Constituent assembly had an initial total strength of **389 members**. Out of which **296** representatives were from British India and remaining **93** representatives were from the princely states in India.
- During election held in 1946 for British provinces the congress won **208** seats and Muslim League won **73** seats.
- The first Constituent Assembly thus formed had its **first sitting session on 9th December 1946**. **Dr. Sachidanada Sinha** was elected as the **interim president of the Constituent Assembly**.
- But on **11th December 1946** **Dr. Rajendra Prasad** was elected as **President of Constituent Assembly on permanent basis**.
- **On 13th December 1946** **Jawaharlal Nehru** moved the historic Objectives Resolution in the Constituent Assembly and was adopted by the **Constituent Assembly on 22nd January 1947**, There after this objectives resolution become the guiding principles and philosophy in making of the **INDIAN CONSTITUTION**.

Drafting Committee and its Contributions:

Committees of the Constituent Assembly The Constituent Assembly appointed a total of 22 committees to deal with different tasks of constitution-making. Out of these, Nine were major committees and the others were minor committees.

Major Committees

1. Drafting Committee – [B. R. Ambedkar](#)
2. Union Power Committee – [Jawaharlal Nehru](#)
3. Union Constitution Committee – [Jawaharlal Nehru](#)
4. Provincial Constitution Committee – [Vallabhbhai Patel](#)
5. Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas – [Vallabhbhai Patel](#).

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This committee had the following subcommittees:

- a) Fundamental Rights Sub-Committee – [J. B. Kripalani](#)
 - b) Minorities Sub-Committee – [Harendra Coomar Mookerjee](#),
 - c) North-East Frontier Tribal Areas and Assam Excluded & Partially Excluded Areas Sub-Committee – [Gopinath Bordoloi](#)
 - d) Excluded and Partially Excluded Areas (Other than those in Assam) Sub-Committee – [A V Thakkar](#)
6. Rules of Procedure Committee – [Rajendra Prasad](#)
 7. States Committee (Committee for negotiating with states) - [Jawaharlal Nehru](#)
 8. Steering Committee – [Rajendra Prasad](#)
 9. National Flag and HOC Committee – [Rajendra Prasad](#)
 10. Committee for the function of the Constitution Assembly - [G V Mavlankar](#)
 11. House Committee - [B Pattabhi Sitaramayya](#)
 12. Language Committee - [Moturi Satyanarayana](#)
 13. Order of Business Committee - [K M Munshi](#)

On 29th August 1947 Drafting Committee appointed with Dr. B. R. Ambedkar as the chairman. Other 6 members of the committee were: K.M. Munshi, Muhammed Saadulah, Alladi Krishnaswamy Iyer, Gopala Swami Ayyangar, N. Madhava Rao (He replaced B.L. Mitter who resigned due to ill-health).and T.T Krishnamachari.

On 21st February 1948, the Drafting Committee submitted the of the Draft of the text of the constitution to the President of the Constituent Assembly. It was published in all leading English News Papers of the country to elicit the opinion. It was placed before the constituent assembly and discussed the draft over 2 years 11 months 18 days finally. It was passed and signed by Dr.

Rajendra Prasad The president of the constituent assembly on 26th November 1949. The constitution of India came into force from 26th, January 1950.

Special feature of our Indian Constitution

- Indian constitution is quite lengthy and longest written constitution of any sovereign country in the world.
- Indian constitution contains
 - ★ 444 Articles (395 initially)
 - ★ 12 Schedules (8 initially).
 - ★ 94 Amendments.
- With a total of 1,17,369 words in English Language.

INDIAN CONSTITUTION

- Whereas the constitution of the United States (USA) is the shortest written constitution in the World.
- Constitution of India was framed by an elected Constituent Assembly of the Indian people.
- This group consisted of eminent people and was popularly elected and this group of people together was called constituent Assembly.
- The constituent assembly headed by Dr. Rajendra Prasad as president in turn appointed 17 different committees to frame the constitution.
- One such committee is called Drafting Committee consisted of 6 members and headed by Dr. Babasaheb Ambedkar as chairman of the committee.
- It is observed that nearly about 75% of the constitution contents are said to be a reproduction of the Govt. of India Act, 1935.
- The sources for our Indian constitution frame work are diverse and many and are both indigenous and foreign as well.
- Some of the sources include
 - ★ Irish Constitution.
 - ★ British Constitution.
 - ★ U.S. Constitution
 - ★ Constitution of German Reich
 - ★ Motilal Nehru Committee, 1928
 - ★ Indian National Congress Convention, 1925.
 - ★ Karachi Congress Resolution, 1931.
 - ★ Ancient Indian Institutions of Self-Governments
 - ★ Any many more.

Indian constitution is the fundamental and supreme law of this land which creates Legislature and under which all the laws of this union territories and states are to be enacted and prove their validity and/or legitimacy.

Salient Features of the Constitution

The Constitution of India is a comprehensive document and it has several outstanding salient features of Indian Constitution can be short-listed as follows:

1. Longest written Constitution in the world.
2. Written Constitution.
3. Partly Rigid and Partly Flexible.
4. A federation with a strong centralizing tendency.
5. Parliamentary form of Government.
6. A secular state.

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7. Single Citizenship.
8. Fundamental Rights.
9. Directive Principles of state policy.
10. Establishment of welfare state.
11. Universal Adult Suffrage or Adult Franchise.
12. Fundamental Duties
13. An Independent Judiciary.
14. Official Language.
15. Creation of All India Services.
16. Special status to Jammu and Kashmir.

1. Longest Written Constitution

The Indian Constitution is a Lengthiest and most detailed Constitution written document with 443 pages. It is also known as the longest written constitution in the world.

- Our Indian constitution in its original contained 22 parts/chapters, spread over in 395 Articles and **8 schedules** without any amendments.
- But as on now with periodical amendments, our Indian constitution comprises : 444 Articles.
12 Schedules.
94 Amendments
With 1,17,369 words in English language.

2. Written Constitution.

Indian constitution is Longest written Constitution. The documented text of Indian Constitution narrates every small detail of 3 organs of the state. All the provisions made inclusions increased the size of our Indian Constitution as lengthy and bulky.

3. Partly Rigid and Partly Flexible

The Constitution of India is neither wholly rigid nor wholly flexible. It is partly rigid and partly flexible. It is because of the fact that for the purpose of amendment, our constitution has been divided into three parts.

1. Certain provisions of the constitution can be amended by a simple majority in Parliament. (Flexible).
2. Certain provisions can be amended under Article 368 by a two-third majority in Parliament and ratified by at least 50 % of the states Legislatures (Rigid).
3. The remaining provisions can be amended by Parliament by two-third majority. (Rigid)

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4. Federalism: A Federation with a strong Centralizing Tendency.

The Indian Constitution provisions have provided us the existence of two governments:

1. State and 2. Central, Indian constitution has been described as Quasi-Federal.

That is federal with a strong unitary or pro-centre bias, federal in structure but unitary in spirit, federal in normal times but with possibilities of being converted into a purely unitary one during emergency

5. Parliamentary form of government

The Indian constitution has provided us with parliamentary form of government both at centre as well as at states.

Accordingly In centre The President is the Constitutional Head. but real power is given to the council of ministers with Prime minister as the Head. In the State The Governor is the Constitutional Head. But real power is given to the council of ministers with Prime minister as the Head. All get their democratic powers of execution from the legislative form of government

6. A secular state.

In India all religions are treated alike. Our Constitution guarantees to every person the freedom of conscience and the right to profess, practice and propagate religion and worship god according to their own conscience.

7. Single Citizenship.

Even though the constitution of India has dual polity (centre and state), The Indian constitution has introduced the principle of one constitution and one citizenship.

So irrespective of place of stay across India in any state, everyone enjoys the single citizenship of Indian union.

That is every Indian irrespective of in which state they live in and belong to have the same rights of citizenship throughout India.

8. Fundamental Rights.

These are distinguished features of our constitution established fundamental rights of Indian citizens. Fundamental rights are inseparable parts of civilized society, for the individuals self-respect, dignity and honors to be preserved. Therefore fundamental rights are inviolable rights granted to the citizens of India.

9. Directive Principles of state policy.

An important feature of the constitution is the Directive Principles of State Policy incorporated in the Constitution. The directive principles ensure that the State shall strive to promote the welfare of the people by securing a social order in which social, economic and political justice is animated/informed in all institutions of life. These are the ideals that the State should keep in mind while formulating policies and enacting laws. Directive Principles of State Policy are asserted to be "fundamental in the governance of the country," **they are not legally enforceable.**

10. Establishment of welfare state.

Constitution has extensive provisions to ensure **social** and economic **welfare** of the people of **India**. In this regard The Preamble

The Preamble of our constitution and the Directive Principles of State Policy of our constitution aim to create social and economic conditions under which the citizens can lead a good life. They aim to establish "social and economic democracy through a welfare state".

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11. Universal Adult Suffrage or Adult Franchise

According to which all the adult citizens of India irrespective of caste, creed, religion language and gender vote to choose their Representatives. The parties that win majority support will form the government and the others will sit in opposition.

The minimum eligible age of man or woman casting the votes was 21 years. But 61st constitutional amendment Act of 1989 has reduced or brought down the voting age from 21 years to **18** years.

12. Fundamental Duties

The 42nd constitutional amendment act of 1976 has added to our constitution 10 fundamental duties of a citizen of India. When fundamental rights are granted then there must some duties that are obligatory for citizens. To act in accordance with basic norms of democratic conduct and behavior for the benefit of the society and welfare of the nation. To conclude fundamental right and fundamental duties complement each other to preserve citizenship authoritatively.

13. An Independent Judiciary

Our constitution has established a single unified impartial judicial system which functions independently from other two organs i.e., The Executive and the Legislature. That is judiciary maintains an Equal-distance from legislature and the executive in order to ensure judicial independence.

The highest court of law in our country is the Supreme Court. The High Courts functions under the authority of Supreme Court.

Our judiciary system protects fundamental rights of the people and safeguards the human rights of the citizens.

Official Language.

In our Constitution there are many languages, but our Constitution has declared the Hindi as the official language to bring all people on a common platform for all purpose. Besides every state is authorised to use their regional language and also English language can be allowed to use for official purposes.

15. Creation of All India Services.

Our constitution has provided for the Establishment of all India services like IAS(Indian Administrative Service),IFS(Indian Foreign Service),IPS(Indian Police Service),etc. These officials are appointed by Central government to all different states.

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16. Special status to Jammu and Kashmir

After the independence the princely state of Jammu and Kashmir opted to remain independent and signed an accession agreement with India on 27th October 1947, to grant a special status to Jammu and Kashmir. According to our constitution a separate constitution was drawn for Jammu and Kashmir. It came into effect from 26th January 1957. This is mentioned in our Indian Constitution.

Preamble is a sort of **an** introductory part of a constitution or statute and many a time very helpful to understand the policy and legislative intent. It declares the aims and objective of the constitution.

Main Objectives of Preamble:

The main objectives of the preamble of the constitution. represent we, the people of India having solemnly resolved to constitution of India into a sovereign socialist secular democratic republic.

1. To represent the social, economic and political justice to all citizens of India.
2. To represent liberty of thought, expression, belief, faith and worship.
3. To represent the equality of status and opportunity to all citizens.
4. To represent fraternity i.e., assuring dignity of the individuals and unity and integrity of the nation.
5. To represent the aspirations and wishes of the people of India.
6. To declare the aims and objectives of the constitution of India.
7. To express philosophy and fundamental values on which the constitution is based.

Preamble To The Indian constitution and its Objectives

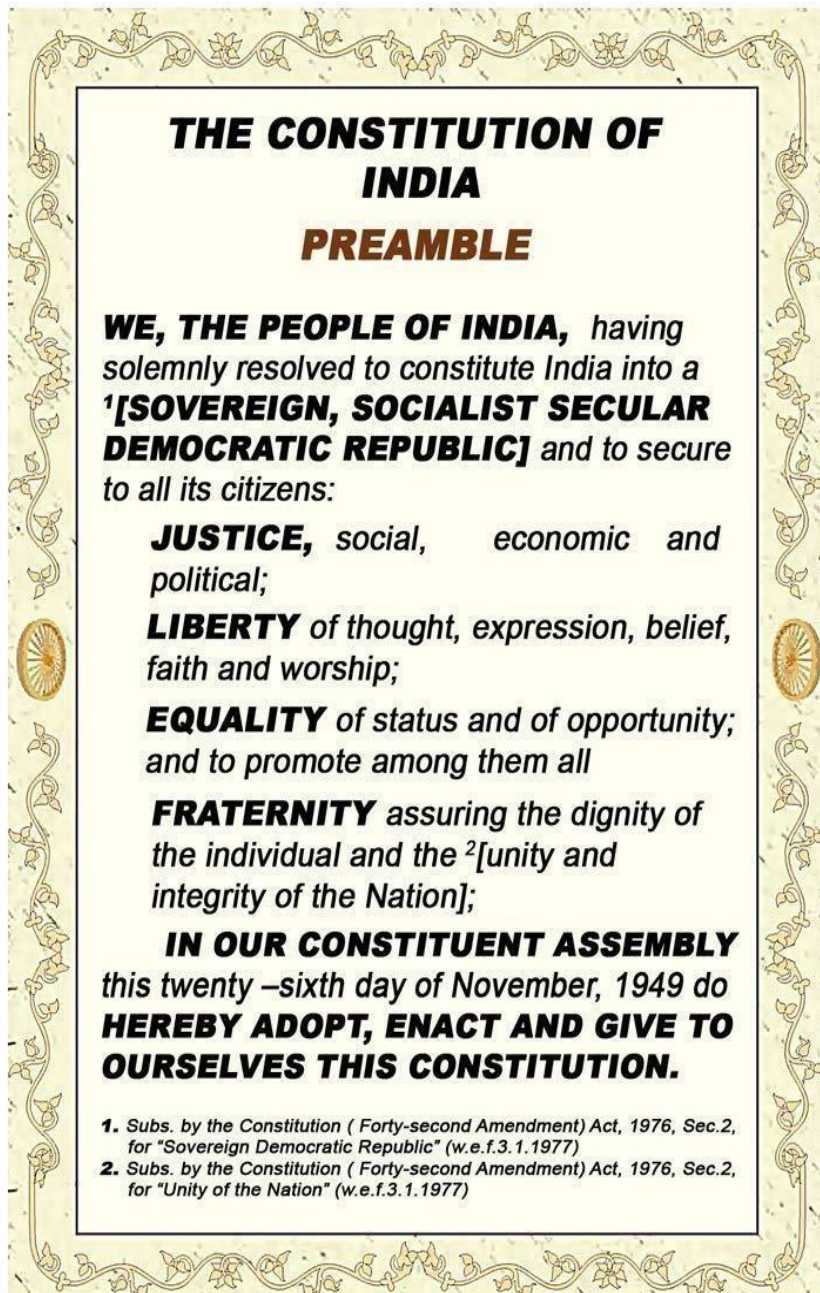
Declaration contained in the Preamble of The Indian constitution

Preamble declares India to be a sovereign, socialist, secular and democratic republic. The objectives stated by the Preamble are to secure justice, liberty, equality to all citizens and promote fraternity to maintain unity and integrity of the nation.

Sovereign:

Sovereign State means supremacy, self-government and complete Independence. India enjoys the supreme powers to decide both its internal and external policies and affairs.

Here after independence any right to interfere either in internal or external matters of our Indian nation and can form our own laws.



Socialist:

India is a socialist nation. A socialist system provides an equal opportunity to all people to share the nation's wealth. The Indian government will attempt to provide measures and schemes through which people will be protected from Exploitation, Inequality and Poverty.

Secular:

India is a secular nation, It means that there is no state religion. The state treats all religions as same and equal and protects all religions equally.

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There is religious freedom for all and people are free to follow and practice the religion of their choice.

Democratic:

India is a democratic nation. As a democratic nation the people of India can elect members from among themselves to form their own government and for their own welfare purposes. Democratic government suggests a form of government which is **“of the people, by the people and for the people.**

Republic :

India is a Republic country. That is our constitution has provided an elected head of the state called **President.**

A republic form of government is not ruled by a King or Queen or not by a Hereditary monarch. So, The President of India is the head of Indian Republic.

Justice:

Our constitution highlights that the state will have to treat all its citizens as Equal before Law. Accordingly, it's the duty of all citizens in society to maintain Law and Order. Therefore to support these views- our Indian Constitution assures 3 forms of justice.

1. Social Justice
2. Economic Justice
3. Political Justice

Liberty:

Our constitution assures all its people the liberty i.e., the basic rights from freedom such as freedom of thought, belief, expression, faith and worship.

Our citizens have been granted with an opportunity to choose their own way of life and can express their feelings without any fear and practice their beliefs.

Equality:

Our constitution assures all its citizen the Right to Equality of status and attempts to provide an opportunity for individual growth.

Fraternity :

Fraternity means a sense of common brother hood/belongingness Our constitution states that all its citizens should be like brothers and sisters and should be brought together under common brother hood.

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WEEK 2

Fundamental Rights

Rights are those freedoms which are essential for personal good as well as the good of the country. Fundamental Rights are an essential charter of rights for the development of human personality in the country to lead a respectful and dignified life by every member of all communities irrespective of their castes, religions. Hence our constitution has given certain rights to citizens of our country, which are called Fundamental Rights. The Supreme Court is the guardian of fundamental rights.

The **six Fundamental Rights** guaranteed by our constitution are:

1. The Right to Equality. (Articles 14 to 18)
 2. The Right to Freedom. (Articles 19 to 22)
 3. The right against Exploitation. (Articles 23 to 24)
 4. The Right to Freedom of Religion. (Articles 25 to 28)
 5. The Cultural and Educational. (Articles 29 and 30)
1. The Right to Constitutional Remedies. (Articles 32 and 32A)The Right to Equality – Equality before Law, Equal opportunity in matters of Employment, Prohibition of discrimination on any citizen on grounds of caste, religion, sex, race. and The Right to Freedom religion.
 2. The Right to Freedom – Freedom of speech and expression, Right to practice any profession or occupation.
 3. The Right against Exploitation – Prohibiting all kinds of forced labour, child labour, beggary.
 4. The Right to Freedom of Religion – Right to practice one’s religion and no forced conversions and harming other communities.
 5. The Cultural and Educational Rights – Protect and promote minorities language, literature, culture and open their educational institutions.
 6. The Right to Constitutional Remedies – Provisions for the courts to protect people’s fundamental rights and for the enforcement of public duties (Writ petitions like Habeas Corpus, Mandamus, Quo Warranto).

The Fundamental Rights characteristics are, they are justiciable , integral part of the constitution, universal in nature, available to all citizens., maintains proper balance between individual liberty and social media.

The significance of Fundamental Rights are, they act as check on arbitrary action of the state, make people life more meaningful, maintains an internal peace and order, helps in proper functioning of democracy, help in abolition of oppressed people.

The Rights of citizens guaranteed by constitution are fundamental and are incorporated in a court of law. If the fundamental rights are violated/obstructed by an individual, organisation or by the government, the people can directly approach the Supreme Court or High Court. The Supreme Court is the guardian of fundamental rights. The fundamental rights are guaranteed by the constitution of India, they cannot be taken away unless the constitution is amended.

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Fundamental Duties

Fundamental Duties and Fundamental Rights are like two faces of a coin. That is if people did not realize their duties and responsibilities then overall development and progress of the country cannot be attained. Therefore Fundamental Duties serves as a code of conduct to the citizens of India in their day to day routine affairs.

➤ Fundamental Duties of Individual citizens are listed as below:

1. To abide by the constitution and respect the national flag and national anthem.
2. To cherish and follow the noble ideals which inspired our national struggle for freedom.
3. To protect the sovereignty, unity and integrity of India.
4. To defend the country and render national service when called.
5. To promote harmony and spirit of common brotherhood amongst all the people of India.
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 wild life.
8. To safeguard public property and to curb violence. To develop a scientific temper, humanism, spirit of inquiry and reform.
9. To strive towards excellence in all spheres of individual and collective activity. So that the nation constantly rises to higher levels of endeavor and achievement.

Directive Principles of State Policy

Directive principles of the state policy are the guidelines to the central and state governments of India to promote and uphold the morale of an welfare state.

Directive principles of the state policy are embodied in Part IV of our constitution with 16 articles from article 36 to 51.

Directive Principles of State Policy aims to create social and economic conditions under which the citizens can lead a good life. They also aim to establish social and economic democracy through a welfare state. A welfare state is one in which government stresses upon the health and wellbeing of its citizens by extending grants and pension benefits, for social reforms and equalities to be preserved ,DPSP are essential in addition to fundamental rights and fundamental duties .It is the duty of the state to apply and consider these directive principles in the governance.

Directive Principles of State Policy have been grouped into four categories. These are: (1) the economic and social principles, (2) the Gandhian principles, (3) Principles and Policies relating to international peace and security and (4) miscellaneous.

Various Directive Principles of State Policy

1. Definition of state: Article 36 defines the term state.
2. Obligation of the state to apply Directive Principles in making law(Article 37).
- 3, Article 38 provide obligation to provide livelihood to all citizens (equal work, equal pay, health, strength to workers).
4. Social order based on justice.
5. Equal justice and free legal aid to economically weaker classes.
6. Organisation of village panchayats.

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7. Employment ,education and public assistance to all citizens.
8. Living wage for workers.
9. Participation of workers in management of industries.
10. Uniform civil code.
11. Free and compulsory education for children.
12. Promotion of educational and economic interests of weaker sections.
13. Raising the level of nutrition and standard of living.
14. Organisation of agriculture and animal husbandry on modern and scientific lines.
Modern.
15. Protection and improvement of environment and safeguarding of forest and wildlife.
16. Protection monuments and places and objects of national importance.
17. Separation of judiciary from executive.
18. Promotion of international peace and security.

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Week-04

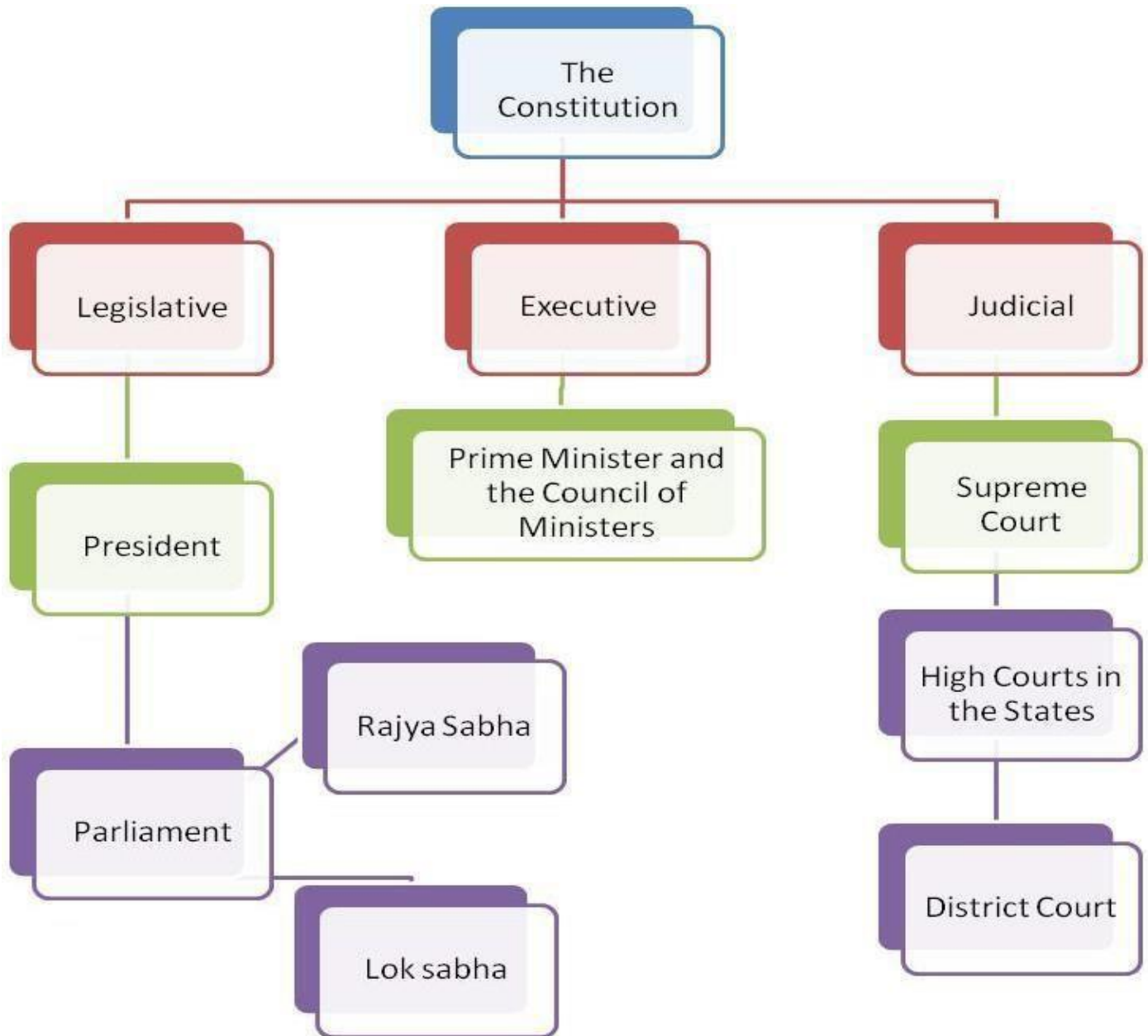
Parliamentary system of governance- Structure of Parliament- Lok Sabha and Rajya Sabha.
Functions of parliament- Legislative, Executive, Financial Function Powers of Lok Sabha and Rajya Sabha.

Parliamentary system of governance:

- In India the “Parliament” refers to a “body of people’s representatives having supreme powers of making laws and governing the state under the Constitution of India”
- Therefore, Parliament refers to the Union Legislature
- As in natural in a system of parliamentary democracy, the Parliament of India occupies a place of primacy in the governance of the country.
- India is a union of 28 states and 7 union territories that have people of different races, castes, religions, cultures and who speak different languages as their mother tongue.
- To administer these states and union territories our constitution has provided a scope for the creation of state and central governments.
- The Central Government is also called the Union Government. A government is essential to protect the will and wish of its people, to maintain law and order and internal peace.

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The Three organs of Indian Constitution:



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The Legislature

- This organ makes the laws. The Parliament of India consists of the President of India and two houses of parliament.
- The two houses are Lok Sabha and Rajya Sabha
- Lok Sabha represents the people and the Rajya Sabha represents the states of India
- The Rajya Sabha protects the regional interests of the states.
- These two houses serve as the guardian to safeguard the rights of the people and the states comprise legislatures to make laws.
- The President is the head of the Union Legislature.
- The sessions of the Parliament are held in the Parliament House at New Delhi.

The Executive:

- This organ implements the laws made by the legislature.
- The President of India is the highest authority for executive body.
- However, the Prime Minister and the council of Ministers are the real executives on behalf of President and on behalf of people of states.
- They are responsible to enforce the laws made by legislature.

The Judiciary

- This organ safeguards the constitution and the fundamental rights.
- The Judiciary in India is not influenced by the legislature and the executive.
- The judicial system or courts of laws in India protects the rights of people and interprets the laws.

Lok Sabha: -

The Lok Sabha is the lower house of the parliament. The Lok Sabha is called the house of people of the union legislature. It is directly elected by the people.

Composition.

Members of Lok Sabha are directly elected by the people of India through a system of universal adult franchise.

- That is citizen of India aged 18 years and above can elect the members of Lok Sabha by casting their votes.
- The Lok Sabha is formed through general election.

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The maximum number of seats (members) in the Lok Sabha is 552.

■ 530 seats/members	: Elected from different constitution of various states.
■ 20 seats/members	: Elected from union territories.
■ 02 seats/members	: Nominated from Anglo-Indian Community by the president of India if he feels that this community is not adequately represented.
■ 552 seats/members	: is the maximum strength of Lok Sabha.

At present Lok Sabha consists of 545 members.

It is to be noted that certain seats are reserved for Scheduled Castes and Scheduled Tribes in Lok Sabha state wise on the basis of population ratios.

Term: -

- Lok Sabha has a fixed term of 5 years but can be dissolved by president at any time.
- However, under certain circumstances, the Lok Sabha may be dissolved before the expiry of the full term by the president on the recommendation of the prime Minister.
- When an Emergency is declared (proclaimed) – the term of Lok Sabha can be extended one year at a time (maximum) and not exceeding in any case a period of six months after the proclamation of Emergency has ceased (terminated) to operate.
- In normal conditions Lok Sabha is dissolved on the expiry of its Full term of 5 years. There for Lok Sabha is not a permanent body!

Election: Qualifications/Eligibility

- The Lok Sabha members are elected for a term of five (5) years.

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- To contest for Lok Sabha the members must have the following
- Citizen of India.
- Not less than 25 years of Age.
- Must not hold any office of profit under Government.
- Must not have been imprisoned.
- Must not have been declared as a person of unsound mind and insolvent by the court of Law.

Presiding Officer of Lok Sabha: Speaker

- The Speaker is the presiding officer of Lok Sabha.
- The Speaker and Deputy Speaker are elected by the members of Lok Sabha. The Speaker presides Over the meeting/ Sessions of the the Lok Sabha. In the absence of Speaker, the deputy Speaker will have to carry out the functions of the Speaker at the Lok Sabha.
- The Speaker is the head of Lok Sabha. He is the competent authority for the smooth and orderly conduct of the activities of the Lok Sabha, as the provisions of the constitution.
- Rajya Sabha: -

The Rajya Sabha is the Upper House of the parliament. The Rajya Sabha is also called the House of Elders or council of States . The members are not directly elected by the people (citizen).

Composition

- Members of Rajya Sabha are elected by the members of the state legislative assembly.

238 Seats/members: Elected from the States Through indirect elections by Single non-transferable vote.

12 Seats/members : Nominated by President of India from among those person having special Knowledge and practical Experience in the fields of Arts, Science, Music, Culture, Literature, Social Service etc.

250 Seats/members are the maximum Strength of Rajya Sabha.

- The Maximum number of Seats (Members) in Rajya Sabha is 250.
- At present Rajya Sabha consist of 245 members out of which 233 are elected and 12 members are nominated.

Term

- Lok Sabha has a fixed term of 5 years but can be dissolved by president at any time.

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- But please note that Rajya Sabha is a permanent House. It cannot be dissolved.
- The term of individual members of Rajya Sabha is Six (06) years.
- 1/3 (one-third) of total members of Rajya Sabha retire once in two (2) years. In their place new members are elected.

Election : Qualification / Eligibility

- The retired members of Rajya Sabha can contest for a second term.
- To contest for Rajya Sabha – the members must have the following eligibility criteria :
- Citizen of India.
- Not less Than 30 years of Age.
- Must not hold any office of profit under government.
- Must not have been declared as a person of unsound mind and insolvent by the court of law.

Functions of parliament

1. Legislative Powers.
2. Financial Control.
3. Administrative Control (Control over the Executive).
4. Constitutional (Constituent Powers).
5. Authority to secure information (White Paper).
6. Electoral functions (To elect president/vice - president of India).
7. Judicial Functions (Process of Impeachment).
8. Training Leaders at Parliament Houses.
9. Conflict Resolution/Redressal of Grievances.

Legislative, Executive, Financial Function Powers of Lok Sabha and Rajya Sabha.

1. Executive powers

- The president exercises his powers through various administrative officers appointed for the purpose.
- As head of state it is he who appoints the “Prime minister” i.e., leader of a majority party or group in the Lok Sabha.
- The president appoints
 - Governors of the state, Auditor general
 - Judges of Supreme Court and high courts.
 - Attorney general, chief election commissioner
 - Chairman and members of unions public service commission.
- The president also appoints heads of Armed forces and president is the Commander-in- chief of the Armed forces (army, navy and air force).

2. Legislative powers

- The president has power to summon (call authoritative) the parliament.

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discontinue the session and even dissolve the lok sabha.

- He can address the joint sessions of the parliament (Both houses).
- A bill passed by both houses of parliament becomes an Act only after it receives the assent (consent) of the president.
- President has powers and/or right to send back the bills for reconsideration.
- When the parliament is not in session, the president has the power to legislate on the recommendation of the union cabinet. Such legislation (making laws) is known as an Ordinance.

3. Financial powers

- A money bill can be introduced in the lok sabha only after obtaining the sanction (consent) of the president.
- The budget also needs the consent (approval) of the president.
- The members of finance commission and planning commission are appointed by the president.

Difference between Bill and Act

Bill	Act
<ul style="list-style-type: none"> ● A bill is a proposal on a subject of union list, concurrent list or state list 	<ul style="list-style-type: none"> ● An act is law approved or ratified by due procedures called as legislative procedures
<ul style="list-style-type: none"> ● Bill is proposed draft legislation which is not yet finalized 	<ul style="list-style-type: none"> ● An act is adopted and effective legislation
<ul style="list-style-type: none"> ● Bill is to be ratified by both the houses with necessary amendment 	<ul style="list-style-type: none"> ● An act is another need for law. It can be list of law
<ul style="list-style-type: none"> ● The bill is passed by a both the houses of parliament must be approved by a president 	<ul style="list-style-type: none"> ● The Law or act comes into effect once the president assented the bill passed by the parliament

How Law is made? Procedure for making Law

- ❖ Law making is defined as converting bill into act.
- ❖ Every Bill has to pass through three distinct stages called as three readings.
- ❖ First reading-A Bill is proposed and published in Gazette and moved in the house.
- ❖ Second reading-In second reading detailed examination of the bill and referred to select committee of both houses or circulated for the purpose of collecting public opinion.
- ❖ Third reading-The Bill is discussed for verbal amendments and the whole is put to vote in the both the houses.

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Definition: Article 112 of the Constitution requires the government to present to Parliament a statement of estimated receipts and expenditure in respect of every financial year, from April 1 to March 31. This statement is called the **annual financial statement**. As required by the Constitution; the annual financial statement distinguishes expenditures on revenue accounts and expenditures on other accounts. Combined, the revenue and capital components of the Union Budget constitute the Annual Financial Statement, which is the government's budget. It directs the President of India to present an Annual Financial Statement of the Government of India's expenditure - popularly known as the Union Budget - to the Parliament of India

Procedure in Parliament with respect to estimates.-

(1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of India shall not be submitted to the vote of Parliament, but nothing in this clause shall be construed as preventing the discussion in either House of Parliament of any of those estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the House of the People, and the House of the People shall have power to assent, or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the President.

(4) **An appropriation bill** is a bill that authorizes the government to withdraw funds from the Consolidated Fund of India for use during the financial year. Although Appropriation Acts are not included in any official list of central laws, they technically remain on the books.

A **vote on credit** is a financial grant provided to the executive from Indian resources to satisfy financial requirements, the contents of which cannot be disclosed in the budget. **Vote on Account** addresses the Central Government's short-term expenditure demands from the Indian Consolidated Fund

WEEK -6

Structure of Union Executive:

The structure of union executive consists of:

1. President
2. Vice president
3. Council of ministers
4. Prime minister.

1. THE PRESIDENT OF INDIA:

Position: In parliament, the president is the head of the state having all executive, legislative and judicial powers and it is one of the highest honors, dignity and position.

Appointment or Election of the President:

According to the article 58, a person should have the following eligibility

- a) Must be a citizen of India.
- b) Should be completed 35 years.
- c) Should be qualified to the election as member of house of people.
- d) Should not hold any office of profit in any government and not disqualified for election as a president on any ground.
- e) The presidential candidate should deposit a Rs. of 15,000/-.
- f) The presidential candidate should be proposed by 50 electors and seconded by another 50 electors of the Electoral College.

The president of India has a term of 5 years. But however, before the completion of the term he may be removed through impeachment motion. Article 61 gives detailed information regarding impeachment motion.

Functions and Powers of President:

Under the article 53, the president has the following powers:

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1. Executive powers :

- i. Execution of laws enacted by the legislature and the administration affairs of the government.
- ii. He carries out all executive actions and he controls union territories.
- iii. He appoints prime minister and ministers of union cabinet as per Prime minister's recommendations.
- iv. He appoints judges of supreme and high courts, attorney general of India, election commissioners, governors, ambassadors, members of UPSC, etc.

2. Legislative powers:

- i. He assents the bills passed by the two houses of parliament.
- ii. He command and discontinue the sessions of the two houses of the parliament and may dissolve the lower house i.e., Lok sabha.
- iii. He addresses the members of two houses together at the beginning of the first session of every year and after each general election.
- iv. He nominates 12 members of Rajya sabha and also nominates Anglo-Indian members to the Lok sabha.

3. Judicial powers:

- i. He has a power to make ordinance and circulate ordinances (rule), when the parliament is not in session.
- ii. He has the power to grant pardons, cancel or postpone the punishment or suspend the sentence against any person of all classes.

4. Financial powers:

- i. He approves the budgets.
- ii. He approves the annual estimates of income and expenditure of parliament, the recommendations of the finance commission and charge on emergency fund, sanctioning the money bill, etc.

5. Emergency powers:

- i. By the act 352, the president may declare the national emergency under worst condition due to war, external aggression etc.
- ii. By the article 356, he may impose the president rule in the state.

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- iii. By the article 360, he can declare financial emergency.
- iv. He can declare the war.

6. Diplomatic powers:

- i. He may send or receive the ambassadors and other diplomatic representatives.
- ii. He can sign the international treaties and agreements.

2. THE VICE-PRESIDENT OF INDIA:

Position: Under the article 63 of constitution, India has provided with vice-president. It is one of the second highest honours, dignity and position.

Election or Appointment: To become a vice-president a person should be –

- i. Citizen of India.
- ii. Completed age of 35 years.
- iii. Qualified for election as a member of the Rajya sabha.
- iv. Must not hold any office of profit under any government.

The vice-president of India is elected by the members of an electoral college having members of both the houses of parliament. The vice-president is elected for the term of 5 years.

Functions:

- i. He looks after the proceedings of the Rajya sabha.
- ii. In the absence of president, the vice-president acts as a president of India.
- iii. He certifies the bills passed by the Rajya sabha.
- iv. He can adjourn the house.

3. The Council of Ministers:

Under the article 74 of the constitution there shall be a council of ministers with the prime minister as a head to aid and advise the president.

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Appointment:

- Under the article 75 of the Constitution the council of ministers are appointed by the president on the advice of the prime minister.
- The ministers hold the office during the pleasure of the president.
- The selection of the ministers is done by the prime minister only.

Cabinet:

A cabinet is council consisting of ministers of cabinet rank i.e., cabinet is a council of cabinet ministers. It is the inner body within the council of ministers. The council of ministers is usually called as ministry consisting of all different ministers.

Functions:

- i. All ministers are to perform their work of responsible department.
- ii. All ministers have to answer the questions regarding the activities of his department.

Functions of Cabinet:

- i. It approves all the proposals for the legislative enactments.
- ii. It makes all major appointments.
- iii. It frames the foreign policies of the country.
- iv. It resolves the inter-departmental disputes.
- v. It co-ordinates all activities of different departments.
- vi. It proclaims ordinances, when the parliament is not in session.
- vii. It appoints the inquiry commissions, whenever it is necessary.
- viii. It also discusses the dissolution of the lok sabha.
- ix. It takes the decisions of declaring the emergencies.
- x. It is responsible for the adjournment of parliamentary sessions.

4. THE PRIME MINISTER OF INDIA:

According to the constitution of India, the prime minister becomes the head of council of ministers in the parliament of India.

Appointment:

- After the lok sabha election, the elected representatives of the leading party sit at one place and choose their leader by expressing their confidence in him.
- The chosen leader will be considered and proposed by the party high

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command to the president for appointment as a prime minister.

- The president appoints the prime minister as a head of council of ministers.

Functions:

- i. The prime minister has the control over the ministers as head of union minister.
- ii. He selects the ministers for his government, allots the works and can change the portfolio (range) as per his desire.
- iii. He communicates to president for all decisions of the council of ministers.
- iv. He fixes the dates for parliamentary sessions and its programs.
- v. He acts as a leader of ruling party and the parliament. Hence, he has to perform many political functions.
- vi. He takes all the members into confidence; he is the chairman of planning commission and makes the economic plans. He represents all national and international conferences and summits; he is the chief spokesman of government in foreign affairs, the diplomats, delegates, high commissioners etc.

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WEEK-7

STRUCTURE OF JUDICIARY:

- Our Indian constitution of India has provided an integrated single judiciary system.
- The supreme court of India is at the apex (at the top) is the highest judicial authority.
- The high court's at the state level are subordinate to the Supreme Court.
- The subordinate courts at district level are supervised by the high courts.

Structure:

Supreme Court High
Court

District Court (Subordinate Courts)

1. Civil Court
2. Criminal Court
3. Revenue Court.

THE SUPREME COURT OF INDIA:

- It is the apex (top) court in Indian judicial system.
- According to the article 124 of the constitution, the parliament of India determines the number of judges for the Supreme Court.
- Today the supreme court of India has 25 judges and a chief justice.
- The judges of the Supreme Court including the chief justice are appointed by the president of India as per the advice of the union cabinet headed by prime minister.
- The judges will retire after 65 years of age.

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Qualifications of the Judges:

- i. He should be a citizen of India.
- ii. He should have served as judge of high court for at least 5 years.
- iii. He should be an excellent jurist.
- iv. He should have an experience as an advocate for at least 10 years.

Functions:

- 1) Original jurisdiction - the power to hear and determine a dispute in the first instance between the states or centre and state.
- 2) Appellate jurisdiction the power to hear cases on appeal.
- 3) Handles the cases of violation of fundamental rights.
- 4) The Supreme Court has original jurisdiction in many disputes arising out of election to the office of president and vice-president of India.
- 5) Supreme Court has appellate jurisdiction in the civil cases, criminal cases and constitutional matters.
- 6) The Supreme Court has an advisory jurisdiction on any question of law or fact of public importance, when president referred it to SC for its opinion.
- 7) Under the article 137, Supreme Court can review any judgment pronounced or order made by it.
- 8) Under the article 129, the Supreme Court is a court of record; it maintains the records of proceedings, acts and decisions.
- 9) It acts as guardian of the fundamental rights of citizens.
- 10) It acts as a guardian of our constitution.

HIGH COURT:

- These are at the middle level court and are subordinate to the Supreme Court.
- The high courts have full control over subordinate courts in the state.
- Our constitution establishes a high court in each state, but the parliament may

establish by law a common high court for two or more states or union

territories, for example, there is a single court in Chandigarh for Punjab and Haryana states.

Composition and Appointments:

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- Every high court consists of a chief justice and other judges if they are required.
- The judges of high courts are appointed by the president of India by consulting Chief justice of India, the governor and chief justice of the concerned state.
- The chief justice and other judges hold their office up to 62 years of age and he may be removed by president of India.

Qualification:

- He should be citizen of India.
- He should have served as judicial officer or judge of the lower court.
- He should have been an advocate of a high court.

Functions:

- i. These courts have no original jurisdiction in criminal cases and also minimum in civil cases, but under article 226 a high court can issue writs in the nature of habeas corpus, mandamus, prohibition, certiorari and quowarranto for enforcement of human rights.
- ii. It will issue writs in all cases of violation of any rights.
- iii. It has appellate jurisdiction - appeals against the judgments of subordinate courts in the state.
- iv. It has an administrative control over subordinate courts in the state.
- v. It maintains the records of proceedings, acts and decisions of high court.
- vi. It also deals with the cases of interpretation of the constitution.

SUBORDINATE COURTS:

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□ Article 233 of the Indian constitution provides an appointment of a person to be, and the posting and promotion of district judges in any state by the governor of the state in consultation with the high court.

□ A person to be a district judge should have an experience of minimum 7 years as an advocate and should be recommended by the high court.

□ Other than district judges a person can be selected under the article 234 in consultation with UPSC and with the high court of the state by the governor of the state or UPSC may conduct a competitive examinations for the recruitment to the judicial service of the state.

□ Article 235 provides the control over the district and other subordinate courts by the high courts.

Types of subordinate courts are:

i. Civil courts

ii. Criminal courts

iii. Revenue courts.

i) Civil courts: The district court is a civil court presided over by a district judge who is also a session's judge. Below district court there are courts of subordinate judges.

Appeals from subordinate civil courts lie first in district court and then to the high court.

Functions:

1) It exercises both original and appellate jurisdiction in civil cases.

2) It supervises the subordinate courts in the district.

ii) Criminal courts: It is also called session court and presided over by a sessions judge. He can pass the death sentence but it has to be confirmed by the high court before execution. Below this court, there are munsiff courts.

iii) The revenue courts: These are headed by a district collector, assistant commissioner and tahasildar. They hear revenue cases of the district at different levels.

WEEK-8

Federalism in the Indian Constitution:

Article 1 of the Indian constitution declares that, India shall be a union of state. Part XI of the Indian constitution defines the power distribution between the federal government (the centre or union) and the states in India.

The power is divided between legislative, administrative and executive powers. The legislative section is divided into three lists and these are:

1. Union list
2. State list
3. Concurrent list.

Division of Powers:

According to the Indian constitution the division of the powers are defined in the following ways:

- 1) Union list
- 2) State list and
- 3) Concurrent list
- 4) Residuary subjects.

1) Union List:

The union list consists of 100 items on which the parliament has exclusive power to legislate and these are:

Defense, armed forces, arms and ammunition, atomic energy, foreign affairs, citizenship, extradition, railways, shipping and navigation, airways, posts and telegraphs, wireless and broadcasting, currency, foreign trade, interstate trade and commerce, banking, insurance, central of industries, regulation and development of mines, mineral and oil resources, electronics, audit of

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government accounts, constitution and organization of the supreme court, high courts and union public service commission, income tax, custom duties and export duties, duties of excise, corporation tax, taxes on capital value of assets, estate duty, terminal taxes.

2) State List:

The state list consists of 61 items on which the state has exclusive power to legislative and these are:

Maintaining law and order, police forces, health care, transport, land policies, electricity in the state, village administration etc., the state has exclusive power to make laws on these subjects. But in certain circumstances, the parliament can also make laws on subject mentioned in the state list, then the parliament has to pass a resolution with 2/3rd majority that it is expedient to legislate on this state list in the national interest.

3) Concurrent List:

In this case, both the parliament and the states will be going to have the powers as per the directions from the constitution of India.

The concurrent list consists of 52 items, and these are: Marriage and divorce, transfer of property other than agricultural land, education, contracts, bankruptcy and insolvency, trustees and trusts, civil procedure, contempt of court, adulteration of food stuffs, drugs and poisons, economic and social planning, trade union, labor welfare, electricity, newspapers, books and printing press, stamp duties.

4) Residuary Subjects: Parliament and the state legislature have exclusive powers to legislate on items in the union list and state list respectively. Both can legislate on items in the concurrent list.

However, foreseeing the possibility of a situation in which legislation might be required on matters that are not mentioned in any of the three lists. Therefore a provision has been made i.e., Residuary provisions in article 248 of the Indian

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Constitution and entry 97 of the union list. The residuary powers of legislation are rested in parliament over residuary subjects, such as

Making any law imposing a tax not mentioned in either of those lists. If there is any difference between the parliament and state legislatures over the matter of residuary subjects, then, the court can also decide whether a subject matter falls under the residuary power or not.

STRUCTURE OF STATE LEGISLATURE:

According to the constitution of India the state legislature consists of a governor of the state and one or two houses of state legislature. Most of the states in India consist of only one house called the legislative assembly and in few states like Karnataka, UP, Maharashtra, etc., consist of two houses called the legislative assembly and legislative council.

Functions of State Legislature:

- 1) It can make the laws on all matters of the state.
- 2) It controls the financial matters i.e., all the revenues and expenditures, it passes money bills etc.
- 3) It can ratify the amendment bills passed by the union government concerned to state.
- 4) To control work of all the ministry of state.
- 5) It can remove the council of ministers by passing no confidence motion.
- 6) It can elect the speaker and deputy speaker.
- 7) It can take part in the president's election.
- 8) Bills other than money bills may ordinate in legislative council or legislative assembly.
- 9) The legislative council may pass or may not pass the bills passed by the legislative assembly.
- 10) Legislative assembly(Vidhan Sabha)
It is a popular house consisting of members who are directly elected by the People from different constituencies in the state.

Composition:

It consists of not more than 500 and not less than 60 members. The strength is fixed on the basis of population in the state. Governor can nominate one member from Anglo-Indian community in the states like WB, MP, UP, Karnataka, Maharashtra, TN, AP, etc., and some seats are reserved for SC and ST.

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Election:

Citizen of India.

The age not less than 25 years.

Must have qualifications as prescribed by parliament at that time.

Term:

These are directly elected by the people for a term of 5 years from the date first meeting fixed unless it is dissolved earlier. These members elect the speaker and deputy speaker.

The speaker presides over the meetings of the legislative assembly and in the absence of speaker; deputy speaker presides over the legislative assembly.

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WEEK-9

Powers and Functions:

- 1) Legislative powers: It can frame the laws on all matters of the state.
- 2) Financial powers: It can control the financial matters i.e., all the revenues and expenditures should be approved by legislative assembly. No Tax can be imposed or withdrawn without the approval of legislative assembly. It will also pass the money bills.
- 3) Constitutional powers: It can ratify the amendment bills passed by the union government concerned to state.
- 4) Control over executives: Legislative assembly supervises the work of ministry and it can remove the council of ministers by passing no confidence motion.
- 5) It can elect the speaker and deputy speaker.
- 6) It can take part in the president's election.

LEGISLATIVE COUNCIL (VIDHAN PARISHAD):

It is the upper house of the state legislature and it is not present in all the states only we can find in Karnataka, UP, Bihar, Maharashtra, J & K.

As per the constitution of India, the legislative council can be created or abolished by the following procedure. First the resolution should be passed by the legislative assembly for creation or abolition of legislative council and it is passed by two-third majority of the members, then it is presented to the union parliament. The union parliament in turn passes an act to create or abolish the parishad.

Composition:

The strength of vidhan Parishad should not be less than 40 members and should not exceed the two-third of the total members in legislative assembly of the state.

It consists of both elected and nominated members of five different categories:

1/3 members are elected by members of legislative assembly from amongst who are not the members of the legislative assembly.

1/3 members are elected by members of local self-governing bodies like (municipalities, panchayaths, etc.

1/12 members are elected by teachers of secondary schools and colleges. 1/12 members are elected by registered graduates.

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1/6 members are nominated by the governor of the state from persons who have involved in science, art, co-operative movement and social service etc.

Election:

A person to be a member of legislative council he should be –

- i. A citizen of India.
- ii. Not less than 30 years of age.
- iii. Not be an undercharged insolvent.
- iv. Should have qualification as prescribed by the parliament at that time.

Term:

The members of legislative council are elected for six years.

Presiding officer:

The presiding officer is the chairman of the legislative council elected by the members of the legislative council. He presides over the meetings of the legislative council. There is also deputy chairman who presides over the meetings of the legislative council in the absence of the chairman.

Powers and Functions:

- i. Bills other than money bills may ordinate in legislative council or legislative assembly.
- ii. He can withhold an ordinary bill passed by the legislative assembly for a maximum period of four months.
- iii. He can withhold a money bill for 14 days. After this the bill is deemed to be passed by legislative council and sent for assent of the governor.

Structure of the State Executives: The state executives consists of :

- 1)Governor
- 2)Chief Minister
- 3)Council of ministers.

1) THE GOVERNOR:

Position:

Article 153 of the constitution provides the governor for each state. It is one of the highest, honor, dignity and position in each state.

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Appointment: The governor of the state has been appointed by the president of India and a person to be governor he should be -

- i. A citizen of India.
- ii. Completed the age of 35 years.
- iii. Should not hold any office of profit.
- iv. Not a Member of Parliament or state legislature.

Term:

He will be appointed for a period of 5 years but can be removed at any time by the president i.e., no security of term. The governor may be transferred by the president from one state to another state.

Powers and Functions of the Governor

- 1) He exercises all executive powers to all executive actions of the state.
- 2) He appoints the leader of majority party as a chief minister in the legislative assembly.
- 3) He appoints all other ministers of the council to the advice of the chief minister.
- 4) He gives the oath of office to the chief minister and to all ministers.
- 5) Governor appoints advocate general of the state, the chairman and members of public service commission and supervises the work of these people.
- 6) He looks after the smooth running of the government.
- 7) He dissolves the legislative assembly on the advice of CM.
- 8) He summons and prorogues the legislative assembly.
- 9) He addresses the members of the state assembly.
- 10) He gives assent to the bills passed by the government and he may reject it for reconsideration.
- 11) He gives the permission to the money bills to be introduced in the legislative assembly.
- 12) He recommends the grants and manages the contingency fund of the state.
- 13) He determines the questions of appointments, postings, promotions, etc. of subordinate courts.
- 14) He appoints the judges of high court in consult with president.
- 15) He can pardon, suspend, commute the sentence of any person convicted any offence against any law.
- 16) He appoints a new chief minister in hung assembly.
- 17) He dismisses the ministry when they refuse to quit even after losing their majority.
- 18) Sending report of political situation in the state to the president time to time to impose

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president rule.

2) THE CHIEF MINISTER:

Position: The chief minister of the state becomes the head of the council of ministers, cabinet, and legislative assembly

Appointment: chief minister of the state is appointed by the governor of the state after he has been elected as a leader of legislative assembly of major party.

Powers and Functions of the Chief Minister:

The chief executive of the state is the chief minister and he performs the following functions:

- i. He appoints the ministers of the state.
- ii. He allots the portfolio to all ministers and he can appoint them as cabinet ministers or deputy chief minister among them.
- iii. He can recommend the removal of ministers.
- iv. He presides over the meetings of the cabinet and makes the major decisions.
- v. He is the communicator between council of ministers and governor.
- vi. He approves all major financial bills, resolutions, etc.
- vii. He maintains the order and discipline in the legislative assembly.
- viii. He can approve the major appointments in the state.

3) COUNCIL OF MINISTERS IN THE STATE:

According to the constitution of India there should be a council of ministers headed by a chief minister under the article 163(1) to aid and advise the governor during the exercise of his functions.

Appointment: The council of ministers are appointed by the governor as per the recommendation of chief minister and hold their office during pleasure of the governor. It consists of cabinet ministers, ministers of state and deputy ministers.

Powers and Functions of Council of Ministers: The council of ministers of the state performs the following functions:

- 1) They perform individual work which has been assigned by CM.
- 2) The cabinet of ministers can take major decisions on the behalf of the council of ministers.

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WEEK 10

Local Self Government:

The constitution of India provided the provisions for local self-government to have an effective development in the country from the gross route level.

Meaning:

The local self-government means the management of local affairs by the representatives of a locality itself. It deals mainly with the problems concerned to local area, like water supply , sanitation , education , road development , health agricultural woks , construction etc.

Importance:

1. It solves the local problems effectively.
2. It gives effective foundation to the democratic structure of the country.
3. It contributes to have economically and educationally develop the country.
4. It will contribute to have gross route level development.

Types of local self governing institutions :

There are of two types of local governing institutions these are :

1. Rural self-governing institutions.
2. Urban self-governing institutions.

Rural self governing institutions :

The rural self-governing institutions are also called as panchayat raj or panchayati raj institutions . The panchayat raj institutions consist of three-tier system i.e.,

1. Panchayat at village level
2. Panchayat at taluk level
3. Panchayat at district level.

This system is only for the state having population of about 20 lakhs. If the state having population of less than the 20 lakhs, there will not be panchayat raj institution at the taluk level.

Urban self governing institutions:

The urban self-governing institutions will look after the affairs of urban areas, it is provided with municipal corporation for a larger urban areas, municipal council for small urban areas and Nagar panchayat for a transitional area i.e., the area bigger then village and smaller than city .

Village panchayat:

Usually, a village having a population of not less than 5000 and not more than 7000 is declared as the village panchayat.

Formation:

For the village panchayat, the electorates are the gram sabha. It consists of the persons registered in the electoral rolls of the village. The members of the village panchayat are directly elected by the people during election through territorial constituencies, one member for a population of 400 is elected and seats will be reserved for women and for SC and ST.

The village panchayat is elected for a period of 5 years. It is headed by a president or a chairman elected among the members and a vice-president to assist the president. It will hold the sessions once in a two months.

Staff of the village panchayat:

The state government appoints an officer as a secretary and he has the executive powers and the office bearers of village panchayat render a honorary services.

The different activities of the village panchayat are carried out by a number of standing committees, among them the important are:

1. Production committee
2. Social justice committee
3. Amenities committee.

The financial resource for this village panchayat is the amount sanctioned as a grant-in-aid by zilla panchayat, taluk panchayat and a state government. The amount is also earned through taxes and fees etc.

Functions:

1. Agricultural development.
2. Land improvements, land reforms, land consolidation and soil conservation.
3. Water shed development and irrigation developments.
4. Fisheries works.
5. Minor forest development. Animal husbandry, poultry farming.
6. Social forestry and farm forestry.
7. Khadi, cottage and small scale industry development.
8. Rural housing and drinking water supply works.
9. Libraries, cultural activities, family welfare, health and sanitation developments.
10. Public distribution system and maintenance of community assets.
11. Rural electrification and distribution system development.

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Taluk Panchayat:

According to the constitution of India the taluk panchayat has been established at taluk level.

Composition:

- In taluk panchayat for every 10000 population one member is elected by election and a taluk having more than 1 lakh population is going to have minimum of 11 members.
- Members of lok sabha and state legislative assembly, whose constituencies fall in a particular taluk are also nominated as members of the taluk panchayat.
- Members of rajya sabha and the legislative council who have enrolled themselves as voters in the taluk are also nominated as members of the taluk panchayat.
- 1/5th of the presidents of the village panchayat of that taluk are also nominated as members of taluk panchayat for 1 year.
- President and vice-president of the taluk panchayat are elected from the elected members.

Terms:

The taluk panchayat has a term of 5 years.

Staff of taluk panchayat:

Assistant commissioners of state services are appointed as the executive officer by state government.

The financial resource for the taluk panchayat is the grand-in-aid by government or zilla panchayat to which it belongs, loans from government, income from taxes and fees collection etc.

Functions:

It does all functions as the village panchayat at taluk level in large scale depends on population and according to the 11 schedule of the constitution.

Zilla Panchayat:

The zilla panchayat are established at zilla level in every state.

Composition:

For every 40,000 population, one member is elected through election.

- Members of lok sabha and state legislative assembly whose constituencies fall in particular district will also be ex-officio members of zilla panchayat.
- Members of rajya sabha and legislative council who are from that district and enrolled as voters are also be ex-officio members of zilla panchayat.
- 1/5th of the presidents of the taluk panchayat are also nominated as members of zilla panchayat for 1 year.
- President and vice-president are elected from the members of zilla panchayat.

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Terms:

These members are elected for a period of 5 years.

Committees:

Every zilla panchayat has following committees:

1. General standing committee.
2. Finance, audit and planning committee.
3. Education and health committee.
4. Social justice committee.
5. Agricultural and industrial committee.

Staff:

The state government appoints DC as the chief executive of the zilla panchayat.

Financial Resources:

1. Grant-in-aid by state government.
2. Income from tax and fees.
3. Loans and other contributions etc.

Functions:

Zilla panchayat performs all the functions as village and taluk panchayat in large scale at district level as per 11th schedule of the constitution of India.

City Bodies:

Municipality:

The constitution of India provides the municipality or municipal council for the city having a population of more than 50,000 and less than 3 lakhs.

Composition:

The municipality consists of councilors who are directly elected by the people from different wards in the city area. The number of councilors is determined on the basis of population of the city.

Along with the councilors, it has also –

1. A state government nominates 5 members who are residents of the city and have the knowledge of municipal administration.
2. Members of lok sabha and state legislative assembly whose constituencies fall in that city are also a ex-officio members.
3. The members of rajya sabha and state legislative council who have enrolled their names as the voters in that municipality are also ex-officio members.

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4. The elected members of municipal council will elect the president and vice president. The president presides over the meetings of the council and in the absence of president, the vice president will take his charge.

Terms and Sessions :

The municipal council has a term of 5 years and municipal council meets once in six months.

Committee:

The municipal council has the following committees:

1. Town planning and development committee.
2. Education, social justice and public health committee.
3. Finance, taxation and appeals committee.
4. Accounts and audit committee.

Functions :

1. Town planning activities.
2. Building and repair of roads and bridges.
3. Regulation of land use and construction of building.
4. Economic and social development planning and implementary.
5. Sanitation, sewage, waste, public health, conservancy and pollution management.
6. Water supply management for domestic, commercial and industrial purposes.
7. Safety and security services, fire services, etc.
8. Promotion of cultural, aesthetic and educational aspects.
9. Development of gardens, parks, play grounds, cremation grounds etc.
10. Taxes, penalties and fees collection and utilization for city development.
11. To safeguard the interests if SC, ST and other backward class people.
12. Public amenities include street lighting street lighting, parking areas, bus stands etc.

City Corporation or Municipal Corporation (Bruhath mahanagar palike) :

As per the constitution of India the corporations are formed in big cities having a population more than 3 lakh people. It is established under a specific laws passed by the state legislature.

Composition:

It consists of corporators i.e., representatives of the people who are elected by the people of different wards of the municipal corporation. The total number of these corporators is not more than 100 and should not be less than 30 and depends on the population of the city. It also includes:

- i. The state government nominates 5 members to Municipal Corporation who are the residents of that city and have the experience in that field.
- ii. The members of lok sabha and legislative assembly whose constituencies fall in that city are

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also ex-officio corporators.

- iii. The members of rajya sabha and legislative council who have enrolled as voters in that municipal corporation area are also the ex-officio corporators.
- iv. Mayor and deputy mayor are elected by corporators in first meeting for 1 year. The mayor presides over the meetings of the council of the city corporation and the deputy mayor presides over the meetings in the absence of the mayor.

Term:

These are elected for a period of 5 years, but the nominated members may be removed as and when the government needed.

Staff and Commissioner:

The IAS officer is appointed as commissioner and he is the officer head. These are number of staff who will work under the commissioner in the office.

Committees:

The city corporation has the following committees:

1. Finance, taxation and appeals committees.
2. Education, social justice and public health committees.
3. Accounts and town planning committees.

Functions of Municipal Corporation :

1. To plan activities.
2. Building and repair of roads and bridges.
3. Regulation of land use and construction of building.
4. Economic and social development planning and implementing.
5. Sanitation, sewage, waste, public health, conservancy and pollution management.
6. Water supply management for domestic, commercial and industrial purposes.
7. Safety and security services, fire services, etc.
8. Promotion of cultural, asthetic and educational aspects.
9. Development of gardens, parks, play grounds, cremation grounds etc.
10. Taxes, penalties and fees collection and utilization for city development.
11. To safeguard the interests if SC, ST and other backward class people.

10.2 Election Commission of India :

The article 324 in our constitution of India has provided a single permanent election commission of India for conducting free, fair and regular elections to set a democratic government in the center, in the different states of the country and elections to the president and vice-president of India. It is an independent body which performs its work without the influence and interference of political parties and executives.

Composition :

It consist if chief election commissioner and other such number of election commissioners as the president may fix from time to time. The chief election commissioner shall be the chairman of the election commission. Today the election commission of India consists of three members including its chief commissioner.

Term :

The election commissioner holds the office for six years but they have to retire if they attain a age of 65 years.

Functions :

The elections commission of India performs the following important functions:

1. Preparation of the electoral rolls.
2. Delimitation of the constituencies' i.e., determination of boundaries of each constituencies for parliament and state elections.
3. Allotment of seats.
4. Conduct of elections – fixing the dates for different activities for completing the elections.
5. Granting or recognition to political parties, for election purposes.
6. Allotment of symbols to the political parties and independent candidates for election.
7. Ensuring free and fair election through code of conduct.
8. It sends central observers to all constituencies for supervision.
9. It can cancel or postpone the polling under sensitive conditions.
10. It can advice the president or governor of concerned state regarding the electoral matters.
11. It can settle disputes and petitions referred to it by president or governor of a state.

UPSC :

In our constitution article 315 provides that there should be a public service commission for the union and for each state. It is an independent body and not influenced by political parties and executives with the responsibility of recruitment and management of public services.

Objectives :

1. To appoint civil servants on the basis of merit and efficiency.
2. To maintain efficiency in administration and the unity in the country by servants.

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3. To preserve the democracy by servants.

Composition :

The UPSC consists of a chairman and other members appointed by the president of India. The chairman and other members of the state public service commission are appointed by the governor of the state. At present UPSC has got 8 members and for the state the governor of the state will decide.

According to article 316 they hold the post for a term of 6 years or until they attain an age 65 years, whichever is earlier.

Functions :

The public service commission performs the following functions :

1. To conduct the examination for appointment to the services to the union and to the state.
2. They make recommendations to the union government by UPSC and to the state by SPSC for appointment of persons to its services.
3. They advise union by UPSC and state by SPSC on all matters relating to the methods and principles to be followed during appointments, promotions and transfers from one service to another.
4. To assist two or more states in regard to schemes of joint recruitment.
5. The public service commission has to perform any function which the parliament or state assembly may by law assign to it.
6. To send report annually to the president of India about the work carried out by UPSC or to the governor by state public service commission.

Karnataka Public Service Commission :

Karnataka public service commission simply known as KPSC is a government agency of Karnataka state, aimed to make recruitments to various civil services through competitive and departmental examination in its jurisdiction under the area of 191,791 km.

Duties and Functions :

The commission performs its duties and functions in accordance with article 320 and government of India Act 1935. In case, the commission lack recruitment transparency or perform its duties arbitrarily, it is responsible to follow the judicial proceedings in order to determine and enforce legal rights.

The organization releases notifications to fill different positions throughout the year. Karnataka public service commission offers employment in various ministries and departments under the control of the Karnataka Government.

1. To conduct examinations including civil and departmental for appointments in the state.
2. To advise the state government on all matters relating to the methods of recruitment.
3. To make appointments to civil services and promotions.

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4. To advise the state government in transferring the officers from one service to another.
5. To grant pensions and awards in respect of injuries sustained by a person while serving under the government in a civil capacity.
6. To consult the union public service commission in framing the rules and recruitment procedures.

Amendments of the Constitution:

Amending the constitution of India is the process of making changes in the nation's fundamental law or supreme law; it means changes in the some provisions in the Indian constitution according to the current needs of the country according to the procedure prescribed in the constitution.

- Constitution of India is living document as it provides for its amendment in order to adjust itself to the changing conditions and needs.
- Amendability provides flexibility and adaptability to constitutional framework to align itself with contemporary developments, thus makes it more relevant document of the time.
- Article 368 in Part XX of the constitution deals with the powers of Parliament to amend the constitution.
- The above provision states that, parliament in its constituent power amend, by way of addition variation or repeal any provision of the constitution in accordance with the procedure laid down for the purpose.
- However, in Keshavananda Bharati judgment, it was ruled that Parliament cannot amend those parts which are part of the 'Basic Structure of the constitution.

Amending Procedure:

1. Amendment can be initiated only by the introduction of a bill for the purpose in either house of the Parliament.
2. The bill can be introduced either by a minister or by a private member and does not require the permission of the President.
3. The bill must be passed in each house by a special majority, that is, a majority of the total membership of the house and a majority of two-thirds of the members of the house present and voting.
4. Each house must pass the bill separately. If there is any disagreement, there is no provision for joint sitting of the houses.
5. If the bill seeks to amend the provisions of the constitution, it must be ratified by the legislatures of half of the states by a simple majority.
6. After passage of the bill by both the houses, it is presented to the President for this assent.
7. The president must give his assent to the bill. He can neither withhold his assent to the bill nor return the bill for reconsideration of the Parliament.
8. After the President's assent, the bill becomes an act. As of October 2021. there have been 105 amendments of the Constitution of India since it was first enacted in 1950. There are three types of amendments to the constitution of India of which second and third type of amendments are governed by Article 368.

Definition and Introduction to Human Rights:

Definition: Human rights can be defined as moral entitlements that place obligations on other people to treat one with dignity and respect.

Introduction:

Human beings are rational beings; by virtue of their being human possess certain basic and inalienable rights which are commonly known as human rights. Since these rights belong to them because of their very existence, they become operative with their birth.

Human rights, being the birth rights, are therefore, inherent in all the individuals irrespective of their caste, creed, religion, sex and nationality. These rights are essential for all the individuals as they are constant with their freedom and dignity and are conducive to physical, moral, social and spiritual welfare.

Human rights are also sometimes, referred as the fundamental rights, inherent rights, natural rights and birth rights.

Characteristics of Fundamental Rights:

The fundamental rights have the following characteristics:

1. These are integral part of the constitution.
2. These are universal in nature.
3. These are available to all citizens of India.
4. These are comprehensive and detailed.
5. These are positive and negative.
6. These are justiciable.
7. These are available only against state action and not against private action.
8. Maintains proper balance between individual liberty and social need.
9. Suspension of fundamental rights is possible by the constitution.
10. Amendable, but cannot be abrogated.

Importance of Human Rights :

The significance of fundamental rights are as follows:

1. These act as check on arbitrary action of the state.
2. These make the life of the people meaningful.
3. These will maintain internal peace and order.
4. These will help in proper functioning of the democracy.
5. They will help in abolition of oppressed people.

Constitutional Provisions under Human Rights:

Organizations and engineers are to be familiar with the minimum provisions under the human rights, so that the engineers and organizations for a firm base for understanding and productivity. Following are the various provisions under the human rights:

1. Right to make a living (right to life).
2. Right to pursue legitimate personal interest (right to liberty).
3. Right to privacy.
4. Right to property.
5. Right of non-discrimination.
6. No sexual harassment.
7. Right to debate.
8. Right of speech.

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9. Freedom from torture.
10. Sexual and reproductive rights.
11. Right of movement.

Right to Life and Liberty:

Right to Life:

According to the constitution of India, Article 6 of the part III deals with the specific rights of individuals and obligations of the state's parties. According to Article 6, every human being has the inherent right to life.

This right shall be protected by law. No one shall be arbitrarily deprived of his life. Any one sentenced to death shall have the right to seek pardon or commutation of the sentence, Amnesty pardon or commutation of the sentence of death may be granted in all cases.

Right to Liberty:

Everyone has the right to life and liberty and security of person. Everyone is entitled to all the rights and freedoms set forth in this declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion national or social origin, property, birth or other status.

Everyone has the freedom of thought and religion. Everyone has the right to freedom of opinion and expression. Everyone has the right to freedom of peaceful assembly and association.

Human Rights of Women:

United Nations since the drafting of the universal declaration of Human Rights as guided the organisation in its activities for the promotion and protection of human rights ever since. The human rights of women are not different from human rights in general. It is necessary to maintain all the rights contemplated in the UDHR 1948 (Universal Declaration of Human Rights). There are 30 articles in the declaration. These are as follows:

1. All human beings are born free and equal in dignity and rights.
2. All human beings are endowed with reason and conscience.
3. Right to life liberty and security of person.
4. Prohibition of slavery and slavery trade.
5. Prohibition of torture, cruel, inhuman or degrading treatment or punishment.
6. Right to be recognized as person before law.
7. Equality before law, equal protection of law against any discrimination in violations of the declaration.
8. Right to effective remedy by the competent national tribunals.
9. Prohibition of arbitrary arrest, detention or exile.
10. Right to full equality to a fair and public hearing by an independent and impartial tribunal.
11. Right to education.
12. Freedom from ex-post facto laws.
13. Freedom from arbitrary interference with privacy, family, home, correspondence or attack on honor or reputation and right to protect by law against such interference.
14. Right to freedom of movement and residence within the borders of state.
15. Right to leave any country including his own, and return to his country.
16. Freedom to change nationality.
17. Right to marry.
18. Right to freedom of thoughts, conscience and religion.
19. Right to freedom of opinion and expression.
20. Right to freedom of peaceful assembly and association.
21. Right to take the part in the government of the country.

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22. Right to equal access to public service in the country.
23. Right to social security and right to realization of the economic, social and cultural rights.
24. Right to work and favorable conditions of work.
25. Right to equal pay for equal work.
26. Right to just and favorable remunerations.
27. Right to form and to join trade unions.
28. Right to rest and leisure.
29. Right to living wages.
30. Right to all children to enjoy same social protection.

Discrimination against Women:

Meaning:

Discrimination against women means any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Steps taken to Eliminate Discrimination against Women:

As per Article 11 of this convention, the state parties are required to take all the appropriate measures to eliminate discrimination against women:

1. To establish adequate legal protection for equal right by abolishing discriminatory laws, customs, regulations and practices, etc.
2. Limiting equality of rights with men is unjust and constitutes an offence against humandignity.
3. Appropriate measures shall be taken to educate public opinion towards the eradication of prejudice against women.
4. Child marriage before puberty shall be prohibited.
5. Appropriate measures shall be taken to unmarried or unmarried equal rights with men in field of property. Equal rights in the field of education.
6. Equal protection in employment and professional advancement.
7. Women shall have the same rights as of men to acquire, change or retain their nationality in case of marriage.
8. To ensure to women right to vote, to be eligible for election, to hold public office etc.
9. Discriminatory penal laws shall be replaced.
10. Combat all forms of traffic in women.
11. To establish legal protection of the rights of women on an equal basis with men.
12. To take all the appropriate measures to eliminate discrimination against women by any person, organisation or enterprise.

Eliminate Discrimination against Women in Education :

To eliminate the discrimination against woman in education, state parties have undertaken all appropriate measures in order to ensure the women in the field of education.

The declaration reaffirmed that states are duty-bound to ensure that education is aimed at strengthening the respect human rights and fundamental freedoms.

Ultimately state parties shall take all appropriate steps to eliminate the discrimination against women in the field of education to ensure them equal rights with men and to ensure, on a basis of equality of men and women, and also strengthening the potential of women.

Following steps are taken to eliminate the discrimination against women:

1. The same condition for career and vocational guidance, for a access to studies and for the

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achievement of diplomas in educational establishments of all categories in rural as well as in urban areas, this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training.

2. Reservation of seats under special quota to the women.
3. Giving awareness about the higher education and technical programs
4. Access to the same curricula, the same examination, teaching staff with qualifications of the same standard and school premises and equipment of the same quality.
5. Encouraging the co-education and other types of the education which will help to achieve the aim, in particular by the revision of text books, school programs and the adaptation of teaching methods.
6. The same opportunities to benefit from scholarships and other study grants.
7. The opportunities to access adult and functional literacy programs at the earliest possible time.
8. Reduction of female student drop-out rates.
9. The awareness programs for girls and women who have left school prematurely.
10. The same opportunities to participate actively in sports and physical education.
11. Access to specific educational information to help to ensure the health and wellbeing of families, including information and advice on family planning.

Eliminate the Discrimination against Women in Employment:

In order to ensure, the following rights on the basis of equality of men and women in employment have been taken to eliminate the discrimination against women in employment:

1. The right to the same employment opportunities including the application of the same criteria for selection in the field of employment.
2. The right of free choice of profession and employment. The right to promotion, job security and all the benefits and conditions of service.
3. Right to receive the vocational training including apprenticeship, advanced vocational training and recurrent training.
4. The right to equal remuneration for equal work.
5. Equal treatment in respect of work of equal values, as well as equality of treatment in the evaluation of equality of work.
6. Right to social security, particularly in cases of retirement, unemployment, sickness, old age and other capacity to work, as well as right to paid leave.
7. Right to protection of health, to safety in working conditions including maternity benefits, (maternity leave etc.). Reservation in all kinds of employment.
8. Provide special protection to women during pregnancy in those types of work proved to be harmful to them.

Discrimination against Women in the field of Health Care :

The following measures have taken into consideration in the view of health care and to eliminate the discrimination against women in the field of health care:

1. Employed women should be provided the health care centre.
2. Employed women should be provided baby care centres
3. On the basis of medical grounds she should have medical leaves along with medical claims and benefits.
4. Women should be enjoyed with maternity leaves remuneration.
5. Measures taken to protect women in certain types of work, for reasons inherent in their physical nature, shall not be regarded as discriminatory.
6. Awareness program to the women about health care.

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7. Measures should be taken to standard of living adequate for the health.
8. Provision of smokeless chullas to a rural woman.
9. Providing emergency first aid provisions.
10. Providing security of employment during pregnancy, confinement, illness due to pregnancy or confinement.
11. She should not be dismissed for absent from her work for a longer period as a result of illness medically certified.
12. Provision of maternity benefit taken into account during the event of miscarriage. And every insured woman claiming the benefits.
13. Extraordinary expenses incurred in case of sickness, maternity and death.
14. For the health point of view separate latrine and urinals should be provided to a woman.
15. Separate enclosed accommodation shall be provided for female workers.

Discrimination against Women in the field of economic and Social Life :

Following are the economic and social Wing are the measures taken in the field of social life to avoid the discrimination against women.

1. On the eve of economic life, free choice of professional and employment advance.
2. The right to leave with pay.
3. Retirement privileges and provisions for security in respect of unemployment.
4. The right to leave with pay during sickness.
5. The right to leave with pay during old age or other incapacity to work.
6. The right to receive family allowance on equal terms, with men.
7. Socially the most important measures have taken to eliminate discrimination against women as below:
 - a) Fundamental freedoms on a basis of equality with men.
 - b) Appropriate measures including legislation to suppress all forms of traffic in women and exploitation of prostitution of women
 - c) The same right to enter marriage.
 - d) The same right freely to choose a spouse and enter into marriage only with their free consent.
 - e) The same right for both spouses in respect of the ownership, acquisition, management, administration, enjoyment, and disposition of property whether free of charge or valuable consideration.
 - f) Participation in the public function at all levels of government.
 - g) To participate in the work of international organizations
 - h) To participate in the formulation of government policy.
 - i) Right to vote in all elections.
 - j) Every woman has the right to social security.
 - k) Every woman has the right to rest and leisure and periodic holiday.
 - l) Every woman has the right to education.
 - m) Provide the necessary social service including child care.

Status of Women in India :

Religious attitudes probably entered much deeper regions of the human psyche than social values, and this is the complexity of the Hindu mind which is systematically contributing the crude ideas about women's incapacities. The roots of Hindu society are the "Aryan" society the birth of son was especially well-come in the Aryan family, as the son's presence was essential at the important celebrations. According to our ancient shastras woman was regarded as the embodiment of "SHAKTI" She was equal with goddess in our religions worship and she is a symbol of fertility However "Manu the world's greatest law giver" (women's peculium) or "a primeval legislator" said that women had to be dependent before marriage on her parents and after her marriage on her husband. This concept is a great damage to the position of women in India. In ancient days women are most suppressed and most neglected group in the society mainly in the rural areas. In Vedic period, the women enjoyed equal status with men. They were respected and honored. The miseries faced by the women in nineteenth and twentieth centuries are child marriage, purdah sati, kulin polygamy and enforced widowhood which are "unknown in ancient times" The present day Constitution of India provided equality between sexes and equality before law based on Human Rights of U N declaration.

Present Status of Women in India:

The United Nations have actively involved for several years in promoting and strengthening the potential of women.

As a result of this revolution, the constitution of India provide the following :

1. Right to equality.
2. Right against exploitation.
- 3 Directive principles of state policy
4. Fundamental duties.
5. Elections.

12.1 Constitutional Safeguards:

According to the Indian Constitution, some Acts which are having special provisions to safeguard women and their interest, and these are:

- 1 The Employees State Insurance Act 1948.
- 2 The Plantation Labour Act 1951.
- 3 The Family Court Act 1954.
- 4 The Special Marriage Act 1954.
- 5 The Hindu Marriage Act 1955.
6. The Hindu Succession Act 1956.
- 7 Immoral Traffic Act 1956.
- 8 The Maternity Benefit Act 1961.
- 9 Dowry Prohibition Act 1961
- 10 The Medical Termination of Pregnancy Act 1971.
- 11 The Equal Remuneration Act 1976.
- 12 The Child Marriage Restraint Act 1979.
13. The Criminal Law Act 1983.
- 14 Indecent Representation of Women Act 1986.

15 Commission of Sati Act 1987.

16. Protection of Women from Domestic Violence Act 2005.

Human Rights of Children:

Who is a Child (Meaning):

Biologically a child (plural children) is a human between the stages of Birth and Puberty. The legal definition of child generally refers to "a minor otherwise known as a person younger than the age of majority".

Child defines child as a "human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier".

Biologically, a child is generally anyone between Birth and puberty In many cultures, a child is considered an adult after undergoing a rite of passage, which may or may not correspond to the time of puberty.

Children generally have fewer rights than adults and are classed as unable to make serious decisions and legally must always be under the care of responsible adult Recognition of childhood as a state different from childhood.

Human Rights of The Child:

The Universal Declaration of Human Rights had stipulated under para 2 of the Article 25 that childhood is entitled to special care and assistance The above principle along with other principles of the Universal Declaration concerning the child were incorporated in the declaration of the rights of the child adopted by the General Assembly on November 20, 1959.

The International Covenant made provisions for the care of the child. A number of rights have been stipulated in the convention which includes the following

1. Right to life (Article 6 para 1)
2. Right to acquire nationality
3. Right to freedom of expression.
4. Right to freedom of thought, conscience and religion.
5. Right to freedom of association and to freedom of peaceful assembly
6. Right to education.

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7. Right to benefit from social security.
8. Right to standard of living adequate for the child's physical, mental, spiritual, and social development
9. Right to the employment
10. Right to the facilities for the treatment of illness and rehabilitation of health
11. Right to protection of the law against arbitrary or unlawful interference with his or her privacy, family home or correspondence

Right to Education:

The Constitution (Eighty sixth Amendment) Act, 2002 inserted Article 21 A in the Constitution of India to provide free and compulsory education of all children in the age group of six to fourteen years as a Fundamental Right in such a manner as the State may, by law determine.

The Right of Children to Free to Compulsory Education (RTE) Act, 2009, which represents the consequential legislation envisaged under Article 21 A, means that every child has a right to full time elementary education of satisfactory and equitable quality in a formal school which satisfies certain essential norms and standards.

Article 21-A and the RTE Act came into effect on 1 April 2010. The title of the RTE Act incorporates the words 'free and compulsory' 'Free education' means that no child, other than a child who has been admitted by his or her parents to a school which is not supported by the appropriate Government, shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing elementary education. Compulsory education" casts an obligation on the appropriate Government and local authorities to provide and ensure admission attendance and completion of elementary education by all children in the 6-14 age group With this. India has moved forward to a rights based framework that casts a legal obligation on the Central and State Governments to implement this fundamental child right as enshrined in the Article 21 A of the Constitution, in accordance with the provisions of the RTE Act.

The RTE Act provides for the:

- 1 Right of children to free and compulsory education till completion of elementary education in a neighborhood school .
2. It clarifies that 'compulsory education' means obligation of the appropriate government provide free elementary education and ensure compulsory admission, attendance and completion of elementary education to every child in the six to fourteen age group 'Free' means that no child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing elementary education.
3. It makes provisions for a non-admitted child to be admitted to an age appropriate class.
4. It specifies the duties and responsibilities of appropriate Governments, local authority and parents in

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providing free and compulsory education, and sharing of financial and other responsibilities between the Central and State Governments.

It lays down the norms and standards relating inter alia to Pupil Teacher Ratios (PTRs), buildings and infrastructure, school-working days, teacher working hours.

5. It provides for rational deployment of teachers by ensuring that the specified pupil teacher ratio is maintained for each school, rather than just as an average for the State or District or Block, thus ensuring that there is no urban-rural imbalance in teacher postings. It also provides for prohibition of deployment of teachers for non-educational work, other than decennial census, elections to local authority, state legislatures and parliament, and disaster relief.

6. It provides for appointment of appropriately trained teachers, i.e. teachers with the requisite entry and academic qualifications.

7. It prohibits (a) physical punishment and mental harassment, (b) screening procedures for admission of children; (c) capitation fee. (d) Private tuition by teachers and (e) running of schools without recognition.

8. It provides for development of curriculum in consonance with the values enshrined in the Constitution, and which would ensure the all-round development of the child, building on the child's knowledge, potentiality and talent and making the child free of fear, trauma and anxiety through a system of child friendly and child centred learning.

WEEK 13

13.1 National Human Rights Commission (NHRC)

Constitution:

The strength of a national institution is one of the most effective means to perform the various functions relating to the implementation of human rights.

The commission empowered to carry out studies, make recommendations and drafts. The commission could investigate the allegations of human rights violations and could take action when presented with evidence of large scale violations. It was also empowered to establish sub commissions.

The commission began its work in January 1947. India has shown keen interest in the past establishing or strengthening a National Institution for the promotion and protection of human rights before the Third Committee of the General Assembly.

National Commission on Human Rights (NCHR) was set up in India on September 27, 1993, when the President of India promulgated an ordinance. Provisions for the setting up of similar commissions at state level were also made in the ordinance later; the Lok Sabha passed the protection of Human Rights Bill on December 18, 1993 to replace the presidential ordinance.

According to the National Human Rights Commission Act, main provisions relating to it are as follows:

1. Rights relating to the life.
2. Rights relating to the privacy.
3. Rights relating to the liberty.
4. Right relating to the equality.
5. Right to dignity of individuals.

Constitution:

Section 3 of the Act lays down the Central Government shall constitute a body to be known as the (NHRC) National Human Rights Commission which shall have eight members will be headed by the former chief justice of the Supreme Court. The other members of the commission shall be a sitting or retired judge of the Supreme Court, a serving or a retired chief justice of the

High Court, two prominent persons having knowledge or practical experience in the sphere of human rights and the chairpersons of the National Commission for Minorities, the Scheduled Castes and Scheduled Tribes and Women. The chairperson and members of the commission shall be appointed by the president on the recommendation of six member committee headed by the prime minister. The chairperson and members hold the office for a period of 5 years from the date of which they enter upon their office. They shall be eligible for re-appointment for another term.

The president may remove from office the chairperson or any other member.

13.2 Powers and Functions of NHRC:

The functions of the commission are laid down under section 12 of the Act which are as follows:

1. The commission can inquire a violation of human rights or negligence in the prevention of such violation by a public servant.
2. The commission may intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court.
3. The commission shall visit, under intimation to the State Government, any jail or any other institution under the control of State Government.
4. The commission shall review the safeguards, provided by or under the constitution for the protection of the human rights.
5. The commission shall review the factors, including acts of terrorism that inhibit exercise of one's human rights as well as the safeguards currently in force and make appropriate recommendations.
6. The commission study the other international instruments on human rights for their effective implementation.
7. The commission will undertake and promote researching the field of human rights.
8. The commission shall spread the human rights literacy among various sections of society, and promotes awareness of safeguards.
9. The commission encourage the non-government organizations and institutions working in the field of human rights.
10. The commission shall submit an annual report to the Central Government and to the State Government concerned and may at any time submit special reports on any matter.
11. The commission may perform any other function as it may consider necessary for the promotion of human rights

Employee Rights:

Employee rights are the moral and legal rights that are obtained by the status of being an employee.

Various provisions made under the employee rights are:

1. Professional Rights (Provisions under Professional Rights):

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Following are the various provisions made under the professional rights:

1. Right to form and express professional judgment.
2. Right to refuse to participate in unethical activities.
3. Right to fair recognition and to receive remuneration and to receive remuneration for professional services.
4. Right to warn the public about dangers.
5. Right to talk publicly about the job.
6. Right to engage in the activities of professional societies.

1. Right to form ad express professional Judgment:

It is also known as the right of professional conscience. This right empowers one to form and exercise the professional judgment, while pursuing the professional responsibilities. It includes both moral and technical judgments.

2. Right to refuse to participate in unethical Activities:

It is also known as right of conscientious refusal. The employer cannot force or threaten the employee to do something which is unethical in the view of employee, for example taking bribe or giving bribe, altering the test results, falsifying data, forging documents, etc.

It is the right to refuse to engage in unethical actions and to refuse to do so solely because in his view it is! Unethical. There may be situations such as, Doctors have a right not to participate in abortions. Similarly, the engineers must have a right to refuse assignments that violate their personal ethical feelings.

3. Right to fair recognition and to receive remuneration for professional Services:

Engineers have a right to professional recognition for their work and achievements. This right helps to motivate themselves to concentrate their energy on jobs and to update their knowledge and skills through continuing education. This will prevent the engineers from diversion such as bother on money matters. Based on the resources of the organization and the bargaining power of the engineers, the reasonable salary or remuneration for patent discovery can be worked out.

4. Right to warn the public about Dangers:

It should be done without damaging the reputation of the employer. The views can be expressed through the professional society to get a backing.

5. Right to talk publically about the Job:

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This one within the limits of decency, confidentiality should be done within and loyalty.

6. Right to engage in the activities of professional Ties:

Attending membership seminars and campaign typical activities to promote the professional society

7. Basic human rights (discussed already).

8. Institutional Rights or Contractual Employee Rights:

This includes the rights to the institution due to the organizational policies or contracts, right to receive specified salary and annual increments and profit sharing.

The quantum of such benefits, scale of pay etc., are fixed and reviewed periodically by the employers and employees.

9. Non-contractual Employee Rights :

These are the rights provided in common, besides the contractual ones. They are :

1. Right to privacy.
2. Right to choose outside activities.
3. Right to due process from employer.
4. Right to equal opportunity - non-discrimination.
5. Right to equal opportunity - sexual harassment in the workplace.
6. Right to equal opportunity - affirmative action or preferential treatment.

1. Right to Privacy:

It is the right to control the access to and use of information about oneself. This right is limited in certain situations by employers' rights. But who among the employers can access the personal information is again restricted. Only duly authorized persons can get the personal information.

For example,

- a) The Pay Bill Section can access the information on insurance premium paid, medical reimbursement etc. but one's immediate boss need not get this data.
- b) Persons who have applied for the jobs of cashier are required to report if there are any criminal or civil cases pending against them. Those persons may mishandle the money. Hence, that information may be sought from them.
- c) A supervisor might suspect a worker and conduct a search in his cupboard when the worker is absent. But the supervisor is to have another officer as witness, in such cases. Otherwise the supervisor may plan-in some evidences against the worker.

d) Upon frequent pilferage reported from the stores, the company may install surveillance cameras or bugging devices to monitor personal conversations, without notifying the employees. Prior notice to the employees on the intentions of such a step along with the proposed date of implementation should have been communicated to all concerned.

2. Right to Choose Outside Activities:

This is also interpreted as a right to personal privacy as that means a right to have a private life outside the job. There are some situations when this right can be curbed.

For example,

1. When those activities lead to violation or found detrimental to the duties of their job.
2. When the activities of the employees form a conflict or interest (e.g., when moonlighting).
3. When the interest of the employer is getting damaged (if the employee transfers some vital information on plans or strategies to the competitor).

3. Right to Due Process from Employer:

It is the right to fair process or procedures in firing, demotion and in taking any disciplinary actions against the employees. Written explanation should be initially obtained from the charged employee and the orders are given in writing, with clearly stated reasons. Simple appeal procedures should be framed and made available to all those affected. Fairness here is specified in terms of the process rather than the outcomes.

4. Right to Equal Opportunity - Non-Discrimination:

Discrimination because of caste, sex, religion, creed and language are regressive actions. Discrimination which means a morally unjust treatment of people in the workplace is damaging to the human dignity.

For example,

- a) A senior manager post is vacant. There is competent and proven candidate from outside the state. A local engineer with lesser competence is promoted.
- b) Prize amounts for the winners in the word sport events are not the same for men and women.

5. Right to Equal Opportunity - Sexual Harassment in the Workplace:

The sexual harassment is a display of arrogance and misuse of power through sexual means. It is against the moral autonomy i.e., freedom to decide on one's own body. It is also an assault on one's human dignity and trust.

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Sexual harassment may be defined as the unwanted compulsion or attack on sexual requirements (gratification) in the context of unequal power. It includes physical as well as psychological attack or coercion and indecent gestures by men shown on women or by women on men. Two such forms of harassment are found to exist. In one type called 'exchange of favors', senior officers demand sexual favor as a condition for giving a job, or granting a promotion or increment. It may be either in the form of physical or verbal threat or sexual offer. In another type called 'hostile work environment', it is the sexually oriented work environment that threatens the employee's right to equal opportunity. Undesirable sexual proposals, advances, lewd remarks, mailing obscene photographs are some of the typical examples of this type of harassment.

A rights ethicist interprets this as a serious violation of human right to pursue one's job free from extraneous force, compulsion, punishment or threat or insult. A duty ethicist would call it as a blatant violation of duty to treat human being with dignity and individual freedom, and non to treat as inanimate object for immoral gratifications. The utilitarian would expose the effect on the happiness and the welfare of the victims, especially of women.

Pro-and against preferential treatments

1. Compensatory justice: Violations of right in the past must be compensated. Usually this. treatment is extended to all in the group rather than individuals	1. It violates the rights to equal opportunity for majority, to compete on merits.
2. Racial and sexual violation and violence still exist today. To counter-balance this reverse preferential treatment is necessary to ensure equal opportunity to minorities and women.	2. Compensation may be given only to specific individuals and not for all.
3. It has produced desirable consequences it has raised the social and economic status and provided them role models and have promoted self-esteem.	3. Provide special funding and education for the disadvantaged but jobs should not be used as a compensatory tool.
-	4. Reduces the productivity, as the merit is the casualty. Self-doubts and Indecision affect others morale and efficiency.

6. Right to Equal Opportunity- Affirmative Action or Preferential Treatment :

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It means giving a preference or advantage to a person of a group that was denied equal treatment in the past. Such treatments are given especially to women and minorities all over the world. It is also called 'reverse preferential treatment', because it reverses the historical preferences.

There are arguments in favor of as well as against such treatments, all over the world. Table 5.1 presents a comparison of these views.

A compromising stand is to permit reverse preferential treatment within organizations, where the bias against women and minorities existed. Alternatively, the weak form of reverse treatment instead of the strong form, may be accepted.

For example, in India, the admissions and employment in government organizations and all educational institutions are given on the preferential (community quota) basis, namely scheduled, backward and most backward castes etc. The article 15(5) of the Constitution effective from January 20, 2006, provides for the advancement of socially and educationally backward classes of citizens in matters of admission - including reservation of seats. The reservation in state run educational institutions including I.I.T.s and I.I.M.s is planned to be fixed at 22.5% for Scheduled Castes and Tribes and 27% for the other backward classes, from June 2007 onwards.

This is being suggested for implementation in the private organizations also. But the Indian private sector and multinational organizations and industries prefer to follow the system of affirmative action where the deprived are raised to required levels of competence.

13.3 Features of the Employee Rights:

Following are the main features of Employee Rights:

1. They uphold the interest of all employees.
2. It prevents and punishes the crime against employee.
3. Eliminate all forms of discrimination in workplace.
4. Provides the scope for employee privacy.
5. Provides the protection to have a private life outside the job.
6. Elimination of employee torture.
7. It works for mutual benefits
8. It works for preventing and combating the domestic violence against women at workplaces.
9. It eliminates all forms of racial discrimination against women at workplace.
10. Provides security in the job.

11. Promotes all forms of minimum comforts to all category employees.
12. It protects the human dignity at the workplace.
13. Promotes fair process in firing, demotion and taking any disciplinary actions against the employees.

13.4 Whistle Blowing:

13.4.1 Definition :

Whistle blowing can be defined as conveying the information by an employee, on an important moral problem to somebody in a position to take action on the problem. Further, this is done outside the approved organizational channels.

13.4.2 Aspects

Normally there are four aspects of whistleblowing these are :

1. **Basis of disclosure:** The basis of disclosure may be Intentional or under pressure from superiors or others not to disclose.
2. **Relevance of topic:** The whistleblower believes that the information is about a significant problem for the recognition or its business alloy. It can be a threat to the public or employees health, safety and welfare or a criminal activity, or unethical policies or practices, or an injustice to the workers within the organization.
3. **Agent:** The person disclosing the information may be a current or former employee or person having close link to the organization.
4. **Recipient:** The person or organization, who receives the information, is in a position to remedy the problem or alert the affected parties. Usually, the recipients are not aware of the information fully or even partially.

Types of Whistle Blowing:

Whistle blowing can be classified on the following:

1. Based on destination (recipient) :

- a) Internal whistle blowing.
- b) External whistle blowing

2. Based on source or origin (agent):

- a) Open whistle blowing.

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b) Anonymous whistle blowing.

c) Partly anonymous whistle blowing.

a) Internal whistle blowing: In this case, the information is conveyed to a person within the organization, but beyond the approved channels.

b) External whistle blowing: This happens when information is transmitted outside the organization. The recipient may be MP or MLA. It becomes severe if the information reaches the press and to public. The damage is more and sometimes situation may go out of control.

c) Open : The originator reveals his identity as he conveys the information. This information is reliable and true, but sometimes partially true.

Anonymous: The identity is concealed. The information may or may not be true. But the agent anticipates perhaps some repression or threat, if identity is revealed.

d) Partly anonymous (or partly open): Such a situation exists when the individual reveals his identity to the journalist, but insists that the name be withheld from others.

13.4.3 Instruction to be followed before Whistle Blowing:

1. One should familiarize with the rules for appealing within the organization. Normal organizational channels, up to the ombudsman or top ethics committee, should be tried, except when extreme urgency conditions exist.
2. Consult the trusted colleagues for advice and to avoid isolation.
3. Use polite and tactful language. Avoid any personal criticisms that may antagonize and divert the attention towards solving the problems.
4. Keep the supervisors informed of your actions, through informal discussion and formal memorandum.
5. Keep your observations and claims precise and accurate. Prepare formal records of events in support of your claims
6. Before going outside the organization, consult the ethics committee of your professional society.
7. If necessary consult a lawyer regarding potential litigations.

8. Offering to resign is one of the peaceful and effective methods of blowing your views. Whether you are relieved from the specific project or from the organization, either way your autonomy and self-respect are recognized.

Intellectual Property Rights:

Meaning:

Intellectual property rights are the rights given to persons over the creations of their minds!

It is the information and original expression that derives its original value from creative ideas with commercial value. Intellectual property permits people to have fully independent ownership for their innovations and creativity, like that of own physical property

It encourages the IP owners towards innovation and benefit to the society. It is an asset which can be bought or sold, licensed and exchanged. It is intangible i.e., it cannot be identified by specific parameters.

The agreements with World Trade Organization (WTO) and Trade Related aspects of Intellectual Property System (TRIPS) have been adopted from January 2005. Besides the minimum standards set for protection of IP rights. Appropriate laws were formed by the member countries to reduce distortions and barriers, and to promote the international trade. The global IPR system strengthens protection, increases the incentives for innovations and rises! returns on technology transfer. However, it could increase the cost of acquiring new technology and products, shifting the global terms of trade in favour of technology producers.

13.4.4 Need for Protection of IP:

Very essential to have the proper protection of IP because IP plays an important role to stabilize and the economy of a nation, this protection actually creativity, research and innovation by ensuring to individuals and organizations to benefits from their creative intellectual investment

The IP serves the following Purposes:

- i) It prevents others to use it.
- ii) Prevents using it for financial gain.
- iii) Prevents copying of ideas.
- iv) Fulfill obligation to funding agency, ICICI Bank has advanced loan against IP as security to shoppers' stop, New Delhi.
- v) Provides a strategy to generate steady income.

Challenges in the Acquisition of IP are:

- i) Shortages of man power in the industry. Educational institutions play a very vital role in providing the same.
- ii) High cost of patenting and lengthy procedure. This was being considered by the Government and a simpler and faster procedure is expected, and iii) Lack of strong enforcement mechanism.

Types of Intellectual Properties (IP):

Following are the types of intellectual properties:

1. Patents.
2. Copyright.
3. Trademark.
4. Trade secret.
5. Industrial design rights.

1. Patent and its Concept:

Patent is a contract between the individual (contractor) and the society (all other). Patent is a form of right granted by the government to an inventor, giving the ownership and the right to exclude others from making, using, selling or offering to sell, without permission of the patent holder.

Patent holder has the legally-protected monopoly power as one's own property. The validity is 20 years from the date filing the application for the patent. It is the territorial right and needs registration. After the expiry of the duration of patent, anybody can make use of the invention.

The owner of the patent can sell this property. He can also grant licences to others to exploit the invention. The above provisions have been made according to the patent (Amendment) Act 2002.

Patent is given to a product or a process, provided it is entirely new, involving an inventive method and suitable for an industrial applications. While applying for a patent, it is essential to submit the documents in detail regarding the problem addressed, its solution, extent of novelty or innovation, typical applications, particulars of the inventor and the resources utilized. Inventors are patentable and the discoveries are not.

Salient Features of the Patent Act 2002:

Following are the some salient features of Patent Act 2002.

A) Patent outside India:

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1. Applications for patent outside India, on defense purposes or related to atomic energy are prohibited.
2. For other patents, an innovator should apply for a patent within India and then seek clearance for filing patents abroad.

B) Licensing:

1. The controller of a patent grants the license upon verification by some terms and conditions.
2. The articles manufactured under the patent shall be available to public at the lowest price at the same time the patentees have to get reasonable gain from their patent rights.

C) Negative Right:

1. The grant of patent does not guarantee the merit or any other commercial value for an innovation.
2. The state which grants the patent does not also guarantee the validity of the patent granted.

D) First to File Rule:

1. Indian like many other countries follows the system of first to file or first to resister system to determine priority.
2. Accordingly, a patent or invention which is filed or registered first in the patent office will have precedence to the patent or invention, which is filed later in the date, even if it had been invented earlier.

E) Burdon of Proof of Infringement:

1. Legal rights of patent cannot be enforced automatically. In a suit for infringement of a patent, the patentee must move to the court.
2. The court may direct the defendant to prove that the process used by him to obtain the product, identical to the product of the patented process, is different from the patented process.

Types of Patents:

1) Utility patent.

ii) Industrial design patent.

1) Utility patent: It is granted to anyone who invents or discovers any new and useful process, machine, manufacture or chemical composition of any manner or any new useful and improvement therefore. The utility time is 20 years.

Industrial design patent: It is an idea or regarding features of shape, configuration, pattern, ornamental with lines or colours applied to any two or three dimensional, may be any industrial

and is judged by the eye or a product. It has a term of article, two or three process and is judge of 14 years.

2. Copyright :

The copyright is a specific and exclusive right, describing rights given to creators for their literary and artistic works. Literary and artistic creation is a unique feature of human beings. This intellectual creativity has been recognized and protected by law in the form of copyright. It is an exclusive right given by law for a certain term to an author, composer etc., to print, publish and sell copies of his original work.

This copyright protects literary material, aesthetic material, music, film, sound recording, broadcasting, software, multimedia, printing, sculptures and drawings including maps, diagrams, engravings or photographs from copying or duplicating by others. There is no need for registration and no need to seek lawyer's help for settlement. The life of the copyright protection is the life of the inventor or author plus 50 years.

Copyright gives protection to particular expression and not for the idea. Copyright is effective in

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- i) Preventing others from copying or reproducing or storing the work.
- ii) Publishing and selling the copies.
- iii) Performing the work in public, commercially.
- iv) To make film
- v) To make translation of the work.
- vi) To make any adaption of the work.

The objective of copyright law is to encourage authors, composers and artists to create original works by rewarding them with exclusive right for a limited period to reproduce the work for the benefit of the public. On the expiry of the term copyright, the work belongs to public domain and any one may reproduce them without the permission.

Features of Copyright:

- Terms of copyright for different categories.
- Broadcasting rights.
- International copyrights.
- Author's special rights. Provisions relating to performing rights of works
- Provisions to determine the first ownership of copyright in various categories of works.

Characteristics of Copyright:

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Following are the characteristics of copyright:

1. Creation of written law.
2. Multiple rights
3. The work must be original.
4. Copyright exists in expression of idea and not the idea itself.

3. Trademark:

Trademark is a wide identity of specific goods and services, permitting differences to be made among different trades. It is a territorial right, which needs registration. Registration is valid for 10 years and can be renewable. The trademark or service mark can be registered in the form of a label, a letter, a device, a word or words, a heading, a number or any combination of these, designs, logos, symbols and sounds.

Trademark is not for a design, for example, the shape of a bottle in which a product is marketed, will not be registered as a trademark.

Functions of Trademark:

1. The goods are identified by their trademarks. Ex : "Santoor" is a trademark of Santoor soap.
2. Trademark carries an indication of quality of goods and customer's satisfaction.
3. Trademark acts as silent promoter of sales.
4. It serves as a medium for advertising the goods.

The trademarks should be distinctive, i.e., it must be able to distinguish from one good to the other. The term generally used for trademarks are generic, descriptive and suggestive.

The terms which are not distinguishing the goods or services from others are called generic terms and are eligible for protection under trademarks.

The terms which are descriptive should clearly indicate the specific purpose, physical characteristics, functions and the end use of the product.

The suggestive terms do describe the goods at the first sight, but with an element of imagination or perception the nature of the goods can be understood. Therefore, the suggestive marks are distinctive and are protected as trademarks. Arbitrary marks and fanciful marks are distinctive and hence accepted for registration.

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Besides this, there is also a certification mark by Bureau of Indian Standards (BIS or ISI) which guarantees that the holder's product bearing the mark has met certain standards or requirements which adds considerably to the market value and to a great value in the export trade.

Characteristics of Trademark:

Based on various judicial verdicts, certain essential characteristics of trademark may be highlighted as under:

1. The definition of "trademark" and "mark" includes within itself trade name under which articles, goods are sold. For ex: Kirloskar. Bajaj. Godrej etc.
2. Trademark is a kind of property and it is entitled to protection under law.
3. A trademark is generally transmitted in connection with the goodwill of a business.
4. A trademark may be registered or unregistered Registration ensures ownership of trademark and it enables him to avoid proving his title against any infringement or the mark. But in case of unregistered trademark the only way in which the owner can protect the infringement is the passing off action.
5. Trademark has many species such as service marks, certification marks, collective marks and well known trademarks.
6. Distinctiveness is the basic quality of a trademark,

Features of a Trademark:

Trademark should possess the following features:

1. It should be easy to pronounce and remember".
2. The device should be described by a single word.
3. It should be spelt correctly and write readably.
4. It should be short.
5. It should be attractive to eye.
6. It should satisfy the requirement of registration.

Various Forms of Trademark:

A trademark can be found in various forms:

1. Brand - For ex. PERRY brand rice, TORTOISE Mosquito coil etc.
2. Letters - For ex. LG, GM, IBM letter marks.
3. Label and Ticket - For ex. WRANGLER Jeans, PENTLOON Shirts, ZODIAC ties.
4. Numerals - For ex. 303 capsules, 555 cigarettes.
5. Symbol or Logos - For ex. TATA, IDBI, ICICI, LIC
6. Containers - A container in a three dimensional form may be treated as a mark.
7. Shape of goods - For ex. Shape of soap, shape of toothbrush.
8. Packaging - A packaging, can also get trademark for ex. A pouch containing tooth paste or cream with a distinctive feature.

9. Title - A title of book or magazine is also qualified to be a valid trademark, for ex. India Today, Outlook, Femina.

4. Trade Secret:

A trade secret is the information which is kept confidential as a secret. This information cannot be accessed by any other people than the owner and this gives valuable commercial advantages over the competitors. Generally, the trade secrets are not registered but only kept confidential.

These are given limited legal protection, against abuse by the employee or contractor, by keeping confidentiality and trust.

The trade secrets may be formulae or programs or methods or process or data collected or test results or any analysis. These may be related to technical processes, designs, list of suppliers, plant facilities or customers etc. This information should not be disclosed or used by any other person.