

POLITICAL SCIENCE

Standard 11



PLEDGE

India is my country.

All Indians are my brothers and sisters.

I love my country and I am proud of its rich and varied heritage.

I shall always strive to be worthy of it.

I shall respect my parents, teachers and all my elders and treat everyone with courtesy.

I pledge my devotion to my country and its people.

My happiness lies in their well-being and prosperity.

રાજ્ય સરકારની વિનામૂલ્યે યોજના હેઠળનું પુસ્તક



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PREFACE

Gujarat State Board of School Textbooks has prepared new textbooks as per the new curricula developed by the Gujarat State Secondary and Higher Secondary Education Board and which has been sanctioned by the Education Department of the Government of Gujarat. A panel of experts from Universities/Colleges, Teachers Training Colleges and Schools have put lot's of efforts in preparing the manuscript of the subject. It is then reviewed by another panel of experts to suggest changes and filter out the mistakes, if any. The suggestions of the reviewers are considered thoroughly and necessary changes are made in the manuscript. Thus, the Textbook Board takes sufficient care in preparing an error free manuscript. The Board is vigilant even while printing the textbooks.

The board expresses the pleasure to publish the Textbook of **Political Science** for **Std. 11** which is a translated version of Gujarati. The Textbook Board is thankful to all those who have helped us in preparing this textbook. However, we welcome suggestions to enhance the quality of the textbook.

P. bharathi (IAS)

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FUNDAMENTAL DUTIES

It shall be the duty of every citizen of India :*

- (a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- (b) to cherish and follow the noble ideals which inspired our national struggle for freedom;
- (c) to uphold and protect the sovereignty, unity and integrity of India;
- (d) to defend the country and render national service when called upon to do so;
- (e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- (f) to value and preserve the rich heritage of our composite culture;
- (g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
- (h) to develop the scientific temper, humanism and the spirit of inquiry and reform;
- (i) to safeguard public property and to abjure violence;
- (j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement;
- (k) who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

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Introduction

Political Science may be identified as a Science amongst Social Sciences. Political Science is also a science like different sciences. For example, Economics, Sociology, Psychology, History etc. which study society. All these social sciences touch different aspects of social life of human. So, they are called Social Sciences. Political Science has a special position among all these sciences which study specifically and comprehensively various aspects of social life. The word 'Political' is derived from the word 'Polity' of Greek language. People of Greece called their town or city as 'Polity'. Thus, it was believed, Political Science means Science which discusses the city life. It can be said that at that time there were city-states, in recent time city-states are not in existence and they are replaced by small-large or huge States. Aristotle a renowned philosopher, states that, human by nature is a social animal, obviously they wish to live in group. Isolation is impossible for human; we know that, a person is attached with human society from very birth till death. Thus human and society are closely related. In addition to social animal, human is also a political animal. Various activities are being run in the society, wherein political activities are also included and political activities are connected with politics. In short, where there is human society, politics enters.

Meaning of Political Science

Political Science studies the State systematically and scientifically. It discusses the principle matters of the State. Wherein, State, its origin, types of Government, relations between States and International Organizations are being studied. Simple definition Political Science can be given as :

'Political Science means a Science which has relation with activities and problems of States. The object of any discipline is to give explanation what it studies. In this sense, it attempts to explain systematically how political events occurs, in which manner it occurs, which are the forces and reasons responsible for it. In addition to it, it attempts to give concept of State and politics, its institution, function etc. the concept of Political Science is changing. Concept changes time to time. not only that, it seems its area is also expanding. In this manner we can see the changing meaning as well as forms of Political Science.

Ancient Ages

In ancient times political science was considered to be a part of Philosophy or moral science. What is known as "Political Science" today was known as "Rajnitishastra" in the ancient age This word makes absolutely clear the relationship between Political Science and moral science. Kautilya identified it as 'Dandniti'. Scholars like Plato had discussed politics for governments as central part of moral practices of man. Separating it from moral science and moral practices and establishing it as an

independent branch of knowledge was done by Aristotle and so he is considered to be the father of modern Political Science. The great philosopher Kautilya who separated it from moral science and established it as an independent branch of knowledge in his book "Arthshastra".

Medieval Period

Influence of theology were the most in medieval period, so Political Science was considered to be a part of theology. King holds unlimited powers because, he was considered to be part or representative of God. After that, during the time of renaissance and reformation, there was unprecedented revolution in the field of ideas and laid foundation in modern Political Philosophy. Instead of discussion on religious points, discussions were held on realistic issues like power of State, social organization, unity of nation. Thus, the concept of Political Science became more realistic.

Modern Period

The systematic study of Political Science, as an independent discipline began from the latter half of 19th Century. In the beginning of 21st Century, various universities have started study of Political Science as a separate subject. With that, important changes were come in approach of its study. Until then, study of State and subsequent matters were made by and large with idealistic approach, instead weightage were given to study of practical aspects and political behaviour in politics. This concept was known as behavioral approach. In addition to that, special weightage was given to prepare scientific approach to study of Political Science.

Nature of Political Science : Art or Science ?

Whether Political Science is a science or not is a controversial question. In the word Political Science, the word 'Science' is used as synonym of the science. So many times a question arises that, is Political Science a science like Physics or Chemistry ? The student of physics can do experiment in laboratory and arrive at generalization but the student of Political Science cannot do the same. So, it is believed that political science many not called science in this sense.

Political science can not be an exact like physics in which the principles are precise and non-controversial. In physics one can arrive at generalization very precisely but not so in the case of Political Science.

A Physical Scientist can make prediction with a great degree of precision where as a social scientist can not do the same. For example, a physical scientist can make a clear, accurate and universal prediction that a substance, when heated, would expand where as a political scientist can not make the prediction which says that democracy is unlikely to succeed where voters are illiterate. Because Political Science is related with man and men are variable by nature. And their nature are not the same irrespective of condition and so political science is not a accurate or pure science.

However, some political scientists believe that as science understood in a broader sense, Political Science is also a 'science'. Knowledge of any subject based on systematic study is called 'science'. Even though, in political science one may not arrive generalization by laboratory experiments as physics yet it is a science because it is studied in scientific way. The findings or principle are based on the

study of observation and analysis of events which take place in various States of huge laboratory of World. For example, after the study of Government of the world, it is generalized that democracy is better than dictatorship. This principle is accepted at global level. At Present, political scientists are trying to give definite identification as 'science' to Political Science using various methods and techniques of behavioral approach. And from this point of view the scholars of Political Science are known as political scientists.

On the other hand, Political Science is also known as 'Art' because the principles of political science are implemented in practice also. And so, some scholars prefer to see political science as 'Art' rather than science. Like a born artist creating skillfully a piece of architectural beauty, a politician, even without any systematic knowledge of general principles of political science can become a master in the art of governance through common sense, institution, imagination or a sense of discrimination and become a successfully politician. In active politics one can come across many examples of individual's having great achievements to their credit without any formal study of political science. This is true for many of our politicians. Many people consider 'compromise' to be the art to politics. However, we must not forgot that like an artist with systematic knowledge of this art, a politician can also become a good and successful politician through the acquisition of systematic knowledge of political science and practical politics.

Subject Matter of Political Science

After discussing the definition, meaning and nature of political science we will get an idea about the subject matter or subject of study of Political Science.

(1) Study of State : Political science studies the state (a) It studies about the theories related to rise of State. (b) It studies fundamental elements of state like, population, territory, government and Sovereignty. (c) The study of function and role of the state what the state should or should not do and different political theories like - Individualism, Anarchism, Liberalism, Socialism, Communism, Totalitarianism etc. is included. (d) Besides, it also studies basic ideas of Political Science like Law, Freedom, Equality, Justice, Human Rights and Fraternity etc.

(2) Study of Government: Political Science studies the most important part of the state, i.e. government It studies constitution which determines, the government, its composition, nature, power and functions. It is concerned with the definition of constitution, its types and its formation etc. It also studies the relationship between the three organs of a government namely, executive, legislature and judiciary and their composition, function, roles etc. Study of democracy, dictatorship, military rule, their nature, characteristics, features, merits and demerits and the changes like revolution or change of power etc. is also the part of the study of politics. The distribution of power and due to it the rise of Unitary Government, Federal government, its composition nature, merit demerits etc. are discussed. One component of Government Executive, how its formed and the rise of different types of government, like, Parliamentary Government Presidential Government, their theories, formation, relationship between legislature and executive, their characteristic, merits–demerits are also discussed. The study of institutions of local government, municipal corporations, and infrastructure of Panchayatiraj in rural areas and its institutions which are originated due to decentralization of powers, is also include in it.

(3) Study of Administrative Department : Political Science studies executive and administrative department. The implementation of laws which are passed by legislature and different policies and programmes is the function of executive, but in practice, the administration of the same is done by administrative department. So Study of various issues of public administrative is included in Political Science. State or government implements their decisions through administrative department, so it has much importance. In the study of Political Science, study of administration is also included.

(4) Study of Law : Political Science studies Law. Any government has to function within the broad framework of law. Therefore, political science studies law, its origin, nature-types, formulation, its scope and limitations etc.

(5) Study about Citizenship : Any state ultimately consists of its citizens, therefore, political science studies citizenship and its principles, the relationship between state and citizen and his rights and duties are part of political science.

(6) Study of Electoral Systems : Participation by citizens in the governance of state specially in a democracy is considered to be indispensable. Adult franchise, the necessary qualifications for that, electoral system and its types, representation and ideas about it relationship between a political representative and voters also form part of the study of Political Science.

(7) Study of Political Parties : Like citizens play an important role as the voter in management of State, political parties also play their role for capturing the power. So, the political science studies political parties, tries to define them and their role and functions. Party System, its characteristic feature, its merits and demerits limitations, its importance and role all are studied in political science. The study of political science also includes pressure groups and interest group as they try to influence political processes.

(8) Study of Nation and Nationality : In modern times the state has assumed the form of a nation- state. The study of Political science, therefore, includes study of nation and nationality, its definition, meaning, nature and factors shaping them, their merits and demerits and their pitfalls. Thus, Political Science studies nation and nationally.

(9) Study of International Politics : The relations between nation- state and relations between other nation-state which are known as International Relations or International Politics, is also studied in political science. It studies international politics, its meaning and nature, related principle of the theories, foreign policy and its formulation, diplomacy, national security, problems of war and peace international institutions like United Nations, their role and composition etc.

In short, the scope and study of the field of political science is very wide, i.e., it studies from Grampanchayat to international issues and day-by-day its scope is increasing.

Political Science and Politics

Very often the words political science and politics are used as synonym to each other, infect it is not proper. There is a big difference between Political Science and Politics. Political Science is discussing about the State. Its component and principles of Government. It gives the knowledge about the State. Politics in an activity which takes place near the centre of Power. Politics is the struggle to get Power.

We may understand the word Politics in narrow and broader both the sense : In the narrow sense

“By which activities or works the government is elected and by it the political program or policy get accelerated are called Politics”. Where as in broader sense “Politics means those activities which are related to administration of Public works. In other words Political Science is about the public work or activity. The Persons who take interest in the works of state or problems of states activity are known as Politicians, means one who is related to politics. In the competition to get power, many intrigues are used and so, many-a-times, it is called that politics is the game of intrigues. Apart from this, Politics is also identified as the practical science because besides a science, politics is an art also.

We may define Political Science in detail as, “Political Science gives the knowledge or information about state, is objectives and its relations with States.

There is also an opinion that, Political Science is related to Government, and according to this meaning, it studies the base of State and Principles of government. The scholars of political science are identified as Political Scientist.

The stream of politics is continuous changing. In Modern times, the influence of Politics is increasing in ones life. There may be hardly any person who is detached from Politics.! Every person is connected with politics either knowingly or unknowingly. There is politics every where, i.e. in family, group, caste group or other institutions. Today, due to the development of technology and fast means of communication, people are familiar with the politics of state and foreign state. Thus, at present politics becomes an important feature of civic life. Whether we desire it or not, Politics touches almost all aspects of our life in one or other way and influences them. There is not any field where the politics does not get entry. Thus, politics enters in our life very deeply.

The Importance of the Study of Political Science

The importance or the significance of the study of Political Science is as below :

(1) Preventing intervention by the State : The State’s sphere of action is increasing day by day leading to increasing intervention by it in the life of citizens also. The individual comes into contact with politics through his government, city, school, religious place, trade union, business organization, clubs, Political parties etc. Politics is an undeniable fact of human existence. Thus, by the study of Political Science we understand as how far the state interferes in our lives.

(2) Becoming aware of rights and duties : The study of Political Science enables us to know about our rights and duties. It also makes us aware of what the provisions are about to protect these rights. It is for this reason that the study of a country’s constitution and its Government, is compulsory in the Western States.

(3) Knowledge about Types of Government : The study of political science is about different forms of government as well as comparative study of it. By this type of study we get an idea about that which type of government is better. At present, it is generally accepted fact that of different forms of government, democracy is the best possible one. Since in this form of government the ultimate power is with the people, the study of Political Science becomes necessary.

(4) Knowledge about organs of Government : Three organs of government : legislature, executive and judiciary are studies deeply through the study of political science. Being a good citizen,

the information of this type is inevitable, because through it, we have the information like what is the function of the government and which are the functions of each organs of the state which we follow.

(5) Knowledge of Decentralization of Power : By the study of political science we have an idea about the local government bodies, its duty and the scope of power. Not only so, but we may know the relations between center and these organs. The study of political science enables us to participate in Panchayats, Municipalities, Corporation etc. local government institutions. And only because of this, local government institutions are identified as the 'training school of democracy'.

(6) Participation in decision making Process : In democracy, Participation of each and every citizen is desirable. So all those who are affected by these decisions have to participate in decision-making process is inevitable. Thus, the study of Political Science is necessary for effective Participation in decision making process.

(7) Knowing about Various Processes of Political Power : Political Science systematically studies politics and the processes related to political power around organized life. It is politics that takes binding decisions as to how scarce resources should be distributed among different segment of the society and these decisions affect us all in one way or other. It is necessary for us to know as to how these decisions are taken. This makes the study of political science necessary.

(8) To become informed about International Affairs : Every State has to maintain relations with other states which give rise to international politics. Political science explains the international politics by giving information about international laws, international institutions, global trend etc. International Politics is abundant with political as well as different problems. To explain and to solve these problems, the study of political science becomes inevitable.

(9) Knowing basic Values : Freedom and liberty equality, fraternity, justice etc. are basic values of man's social life. This knowledge can be acquired only through the study of political science Therefore, the study of Political Science is necessary.

Thus, the study of Political Science simply cannot be underestimated. Since political science in a broader sense, prepares human for such good life, its study becomes necessary. After all a good citizen is the best wealth of any State. Study of political science helps an individual to become a good citizen. So everyone should study the Political Science.

Relationship of Political Science with other Social Sciences

Being a social science, political science has relations with other social sciences. Various tendencies of human being are associated with different social sciences and therefore, to understand proper meaning of political science, it is necessary to know its relationship with other social sciences. We will study in which manner political science is associated with other social science specially with economics, sociology geography, psychology and history.

Political Science and Economics : Political Science is related with functions of state, its problems and objectives where as Economics is the science of means and wealth, so it studies with the resources, distribution, their exchange and their consumption. In fact, the relationship between these two is accepted from ancient age.

The relationship between these two sciences become more strong specially after Industrial Revolution. Since last few years the influence of economics on political science has increased. The relationship between these two sciences may be shown as bellow :

- (i) In political science, the State and in Economics the means and wealth are the center point, with a ultimate objective of public welfare. If there is peace and proper administrative system in the state, than there is the development of trade and commerce, industries and economical activities in State. Preliminary work of the State is only to keep peace and proper administration.
- (ii) The state has to take care that, there should not prevailed economic dissatisfaction among people. Economic dissatisfaction give rise to revolution and violent revolution is also possible and because of it the stability of the state is also imperiled.
- (iii) Many states had suffered from economic problems during the time period after the Second World War period and so Government started intervention in the field of production, distribution and exchange. At present, the Government owned the price control policy and the import export policy. Thus, today most of the problems have become economic problems and state has to get ready ever to solve it. The State machinery is depended upon the economic machinery. The state which has strong economy, possess more power. For example, because of strong economy, USA became powerful in the world.
- (iv) Economic principles are the basics of Political ideologies like Sociology, Communalism etc. and to explain them, the study of economic helps us. We should not forget that only because of economic reasons, the Britain had entered in India.
- (v) How far these two sciences are closely connected is cleared by the quick implementation of economic liberalization since from last few years.

Despite the fact there is a close relationship between Political Science and Economics, their field of study are different. Both the social discipline have contributed significantly to each others growth and development but the subject of the study and thinking are different.

Political Science and Sociology : Being social animal, human's religious, political, economic educational, culture etc. relations are considered as social relations The scope of sociology is very wide and so it covers political science also. The relations between these two can be explained as below :

(i) The study of sociology help us to study Political science, because it gives us the information about the rise and development of the state. Apart from this, we must not forget that when the state system was started, it was known as a social institution rather than political institution.

(ii) History of human life, states that humans' social life has started earlier than his political life. Thus, as per the point of view of time, sociology is ancient than political science human were lived wandered life in starting, they started stable life after to many centuries through discovery of agriculture. Due to this, community life and social life started and after a gap of long time their political life started and was accepted.

(iii) Sociologists consider state as a social institution. Because it has the capacity to guide the society. Also regulate social behavior and practice. Thinkers like Aristotle, Hegal, Karlmarks and Mark Weber has analyzed both in Political and Sociology.

(iv) The close relationship between political science and social science has given birth to a new discipline called 'Political Sociology'. Political Sociology has made significant theoretical contribution to Political Science in terms of concepts like political development, political modernizatoin, political culture etc.

(v) Relationship concerned with marriage, family, property, caste, inheritance etc. are part of the study of sociology. However, decisions regarding all these social questions have to be taken by the state.

(vi) In order to study, nature and function of State, it is necessary to study nature, specialty and function of a society. To study Indian society; its nature, its specialty etc. must be studied. To hold powers and in election, issues like cast or religion connect Political Science with various organs and aspects of the society.

State takes decisions on behalf of the whole society and binding to all and social institutions and forces are influenced by these decisions. Social change in desired direction and formation of desired social arrangement, it is accepted that State power to be used in modern time.

Political Science and Geography : While considering both these sciences, it seems that there is a close relation between them. Population, territories, Government and sovereignty are included in the elements of State so State is associated with definite geographical territory. Definite territory and Government are the physical support of the State. Many thinkers have stated about the political effect of geographical conditions. In which starting from Aristotle to the scholars of modern times are included in it.

In ancient Greece, there were many islands and due to absence of geographical unity, political unity could not established and city states were formed. Because of geographical location, its history and its institution of Switzerland holds special position. It can be said because of geographical formation of Britain, it has become great marine power. Germany is considered as the heart of Europe but it does not have any natural borders and so the leaders and thinkers of Germany had kept though in front to get great military power. In the same manner, America is protected by oceans in East and in West, at southern side also there is a sea.

India has oceans at three sides and in north, because of Himalayan mountain range, good amount of Geographical protection is available. Due to these type of borders sufficient time for defence is made available. In past, in the attacks on Soviet Russia, by Napoleon of France and Hitler of Germany both were defeated. Because of huge territory, by allowing enemy army in interior part of country Russian Army was more comfortable to besiege it.

In other sense, geographical area is considered as an important basic element of the State. The part of beneath of the land surface of state, space above the land and if the state is at seashore, than 12 mile of water territory from the seacoast is included in this area.

The minerals and chemical materials which are found in land area of States have an important position at national and international level. Economic prosperity of many states is depended on such natural wealth. For example, the prosperity of Saudi Arabia, Iran, Kuwait is only because of petroleum. The prosperity of the country is also increasing due to minerals and oil well in India. To acquire control over these States many wars took place.

The geographical matters are considered important in international Politics also. The powerful states are always eager to influence or to conquer strategically significant area to increase their area.

Thus, in reference to geography, in recent times Geo politics hold an important position in International Politics. In Geo-Politics the significant point is about land. In other words, it decides political life-specially in inter-state relation. In this manner, the relation between Political Science and geography is very old.

Political Science and Psychology : In modern times, the authors of Political Science have tried to explain many matters of political science with the help of Psychology. Its time to think through psychology. Both these sciences are connected with each other in a good manner. We can understand

the relation between these two as :

(i) As and when democracy is extensively accepted, the importance of study of Psychology has been increasing because in democracy, the public opinion is at important position. Every political party continuously tried to divert the mass psychology in to its favour by using different means of propaganda. Ruling political party formed its program with an eye on public opinion to hold power. Where as opposition party is continuously trying to divert public opinion in to its favour. Thus, for the formation of public opinion, the study of psychology is very useful.

(ii) The help of psychology is also taken for cultivation of the feeling of nationalism. Because, the emotions or feelings play an important role in the psychological unity for the formation of nation. Thus, Psychological concept lies in the base of national unity.

(iii) Whenever, Government formulate new programs or laws, the mass psychology has to be take in to consideration. The power may be lost by avoiding the mass psychology.

(iv) The major reason of revolution is psychological dissatisfaction, because the revolutionaries believe that, the ruling Government is not right and there is no way democratic way to dismissed it, their Psychological unrest inspires them to revolt. The success of leaders is based an other merits as well as on the merit of knowing the mass psychology.

Thus, at present, the psychological study is increasing. It has showed that behind the human behavior, the intelligence as well as mental attitudes are also playing an important role. In his book 'The Human Nature in Politic', Professor Greham Walles said that, apart from intelligence, habits tendencies suggestions, imitations, emotions etc. play an important role in Political behaviour and practice. From all these points, on this basis, it can be said that Political Science and Psychology are supplementary to each other.

Political Science and History : knowledge of history is considered to be necessary for the study of political science History is the collection of events which happened in the past during different time period Through history we may know that, how the state were created, when it was created as well as what was its nature. The authentic information through history helps us to construed definite ideas about state.

As we have discussed earlier, there is no scope for experiments in political science like Physics or Chemistry, and so, precise or perfect principles cannot be selected. In Political Science the subject matter is living human being. As a result, the help of history is necessary to establish principles. For example, the help of history is necessary to take decision about the replacement of government either by violent revolution or by the non-violent electoral system. History states that non-violent system is far better than violent. As a result, it is accepted. So, history becomes a laboratory for the student of political scientist.

History is written on many subjects as if history of language-literature, history of art and Culture, history of discoveries etc. Each of these histories does not touch political science directly. But in fact all these matters occur in State only and final decision related to this are taken by state only. The writings of historians give much information to the student of Political Science. For example, until history of Europe of 19th century does not explain the significance of Anarchism, Individualism, socialism etc. till then it is considered as mere description of fact. In this manner, unless important history of India freedom movement is not understood, it remains meaning less.

Thus, in spite of basic difference between Political Science and History, both are closely connected subjects. The study of history is like raw material for the student of Political Science. The events noted by history are useful directly or indirectly to the student of Political Science. History is the discipline which explains past where as Political Science is concerned with Past, Present and Future. So, in Political Science there is the place for concrete facts as well as the expectations of future. Political Science is concerned with how is the state and how it should be. Whereas history is concerned with how was the State. Thus the study of Political science and history is supplementary to each other. Study area of history is very wide, where as in comporision with history, study area of Political Science is limited.

EXERCISE

1. Answer the following question in detail :

- (1) Discuss in detail the meaning of Political Science
- (2) Explain the nature of Political Science **OR** Explain that Political Science is an art or science.
- (3) Discuss about the purview and Scope of Political Science.
- (4) Discuss in detail about Political Science and Politics.
- (5) Explain the importance of the study of Political Science.

2. Write the Short Note on the following :

- (1) Relation between Political Science and History.
- (2) Relation between Political Science and Economic.
- (3) Relation between Political Science and Sociology.
- (4) Relation between Political Science and Geography.
- (5) Relation between Political Science and Psychology.

3. Answer the following question in brief (five to seven sentences) :

- (1) Why does the human being identify as Social-Political animal?
- (2) Clarify the idea of Political Science in the context of modern time.
- (3) Politics is an art. – Explain it.
- (4) Why should every citizen should study Political Science?
- (5) In which manner Political Science is connected with economics?
- (6) What study do the Political Sociology?
- (7) What is the role of Psychology in the study of Political Science.

4. Answer the following questions in one–two sentences :

- (1) Why human called a social animal?
- (2) Give the short and simple definition of Political Science.
- (3) Why does Political Science not a pure Science?
- (4) Give simple definition of Politics.
- (5) Political Science have relation with which other Social Sciences?
- (6) What is studied by Economics?
- (7) Which are the organs of the Government?

5. Write correct option in the given box :

- (1) Who was the father of Political Science? ☐
(a) Herold Laski (b) Aristotle (c) Karlmarks (d) Jhon Lock
- (2) What does Greece People called to a city or town? ☐
(a) Polity (b) office (c) organization (d) assembly
- (3) What is the name of the famous book of Kautilya? ☐
(a) Kind and Population (b) law
(c) Arthshastra (d) Development
- (4) What is identified as compromise or an adjustment? ☐
(a) History (b) Politics (c) idealism (d) geography
- (5) What is connected with Geo-Politics? ☐
(a) Land (b) Morality (c) psychology (d) sociology
- (6) What is the limit of State Marine Boundary? ☐
(a) 48 miles (b) 36 miles (c) 12 miles (d) 4 miles
- (7) Is Politics a game of tactics? ☐
(a) True (b) false
(c) none from a and b (d) both a and b
- (8) Whose book is – “The human nature in Politics” ☐
(a) Socrates (b) Max Weber
(c) Greham Wales (d) Jean Jack Rousseau

Activity

- Arrange the discussion - Utility of Study of Political Science in the formation of a Citizen.

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In this lesson, we will study about the basic values of democracy such as liberty, equality and social justice.

Some issues were raised with the beginning of man's social life. The institution of State has been originated and developed as the other institutions of society in order to solve these issues. The four elements of State are Population, Area, Government and Sovereignty. In which sovereignty is a very important element. It makes the State paramount or supreme in internal matters and independent in external matters in taking decisions. This sovereignty restricts the freedom of an individual partly or fully. Since man is a rational animal by nature, he aspires for freedom.

Meaning of Freedom : Many political scientists have tried to clarify the meaning of liberty. Clarifying the normal meaning of liberty it can be said that it is the freedom of behavior without harming any person. In the words of Prof. Laski, "meaning of liberty is an establishment of such an atmosphere in which a person can get the opportunities of his own development." Thus, liberty is one type of atmosphere; it is a positive power which provides the opportunities for the development of the person. It allows the individuals to behave as they wish or desire. But it does not mean uncontrolled freedom. As a member of society and a citizen of State he cannot behave licentiously. Thus, we can say the freedom of behaviour within limitations is liberty.

Liberty (Positive and Negative):

According to political scientists there are two aspects of liberty (a) negative and (b) positive.

(a) Negative Liberty : Some social scientist believe that there are two aspects of individual's life. The first is the personal and private life of individual. The State should not interfere in this life. Because others are not harmed by such life.

(b) Positive Liberty : On thinking of a positive aspect of liberty, it is found that it is necessary to have commodious to do what is to be done as an individual. A person can enjoy various pleasures of life. Liberty which nourishes the comprehensive development of individuality of a person who has suitability to make his life leisure is the positive independence.

Types of liberty : To understand the meaning of liberty at length, it is necessary to understand various types of liberty, which are as follows :

(1) Natural Liberty : The meaning of natural liberty is that a man enjoys a right to freedom since his birth. The philosophers like John Lock and J. J. Rousseau have clarified the natural life in their Theories of Social Contract. According to them a person enjoys a right to freedom in this natural life. Thus an individual enjoys a right to freedom naturally i.e. since birth. This concept has strengthened the idea, that society or State can not take away the right to freedom of a person.

(2) Moral Liberty : Since man is an rational animal. So he should have some freedom to behave with discretion. By this freedom a person gets a right of determining good or bad. Political scientists,

individualists and anarchists vindicate this matter. These philosophers believe that a person should have freedom to prevent immoral behavior and to raise voice against it.

(3) Social and Civic Liberty : As a member of society and citizen of the State a person has some freedom. Social scientists have classified this social and citizen independence into four sub-categories.

- (1) Individual and Civic Liberty :** The philosopher like John Stuart Mill believes that a person should get freedom in his personal life. According to this concept a person should get basic freedom about how a person should live? What to eat? What to drink? How should dressup ? Which religion should be followed? Society or State should not interfere in these matters.

A person gets civic freedom under a legal protection and as member of the State civic liberty to the person: (a) protects the person against misbehavior of others. (b) protects against the unjust actions of Government. These freedoms are given against the State. However, the State can put some limits in this freedom. If this freedom is improper, a person can ask for review from court and protection under right to constitutional remedies.

- (2) Political Liberty :** Political liberty provides an opportunity to a person to take part in the administrative activities of the State in which he lives. By such public partnership a citizen can take part in the formation of the public policy by his own ideas. Political liberty incarnates democracy. This freedom includes a right to vote, candidature in elections, propaganda for party and candidates of his own choice, support or oppose the Government.
- (3) National Liberty :** Every group of people aspire to have a national unity and to have freedom of its management on the grounds of various reasons such as religion, language, emotional unity. With this the nations which are not independent have right to fight for their independence. They can become Nation-State by getting independence. In fact the liberties we have discussed earlier can flourish only in an independent Nation-State.
- (4) Economic Liberty :** Economic liberty includes the matters of satisfying economic requirement of a person and his family. It includes the right of a person such as right to work, right to get proper salary, right to collect property and its disposal and formation of union for his own profession. Political and civic liberty becomes meaningless without the economic liberty.

Why liberty is necessary?

The philosophers have thought at length about why independence is necessary for mankind? According to these philosophers, liberty is the best value, it is an aim in itself. A man can get happiness and satisfaction only by freedom. So many nations fought for freedom against foreign rulers. The comprehensive development of individual is possible only in free atmosphere. It is necessary to have liberty for search of truth, scientific investigations and formation of equitable society.

Social and political concept of liberty

A man by nature is a social animal. There is no meaning of freedom without group or society. Hence, a man as a citizen of State, should enjoy the freedom with certain limits and proper standards so that others can also enjoy the freedom.

When we think of the political concept of liberty, it is found that as member of State a citizen has certain freedoms against this State which are also protected by the State itself. Hence, a citizen should experience these freedoms by abiding in limitations of law of State.

Relationship between liberty and law

As we considered further, a man is a social animal. Accomplishment of a persons' liberty is possible only in his social life. Social life demands management. The State has been established and developed for this management. State has evolved laws for administration. As a member of the State a citizen can enjoy the freedom only within the limitations of law. By abiding laws a person himself can experience freedom and can also get others to experience freedom.

The individualists have concerned and raised voice against these limitations of law of State that the State should control minimum. Individualists say that State should constitute laws with the consent of people. thus, law and order is necessary for protection and growth of freedom of individual.

Equality

A concept of equality along with liberty is also important for democracy. With the independence, equality was also emphasized in the great revolutions of the world like, French revolution, American freedom struggle and Bolshevik revolution of Russia and also emphasized equality along with liberty. A right to equality has been incorporated in the Fundamental Rights of Constitution of India and Directive Principles of the State Policy.

Meaning of Equality

Different social scientists have tried to define the meaning of equality. According to Prof. Laski, meaning of equality is that there should not be any groups having any special rights and all should get proper opportunities for development. In simple words, equality is such a condition in which every person living in society can achieve his excellence. For this some basic conditions and situations must be ensured. The following points get clarified by this definition of equality.

- (1) There is some similarity in all human beings also. He is different from animals i.e. man is a discerning animal.
- (2) It is also the meaning of equality that all get equal opportunity for development.
- (3) "Equal behaviour with all in similar circumstances" should be the rule. However, it does not mean mechanical equality. A separate arrangement of seats in the train or bus for women and physically handicapped is not a violation of equality.

Positive and Negative Equality

From the definition of equality we get two aspects of equality i.e. Positive equality and Negative equality. Positive equality is one which provides equal opportunities to individual for his development without any discrimination. Positive equality is coherent with the concept of justice. For example, system of reservation given in Constitution of India to Scheduled Caste and Scheduled Tribes in government jobs is the positive equality. Where as, the meaning of negative equality is that the government can constitute the prohibitive laws to prevent accumulation of property and land in the hands of few people. Such prohibitive system is meant for the principle of equality.

Types of Equality :

The social scientists have described the following types of equality :

(1) Natural Equality : The nature has made all men equal. Hence they cannot be discriminated on the grounds of race, color, caste, birth or religion. This is the meaning of natural equality. Political philosophers like Hobbes, Locke and Rousseau have supported the concept of natural equality.

Natural equality means that there is no difference between man and man, but these natural differences should not be the basis of social discrimination.

(2) Social Equality : As a member of the society all the people get some fundamental rights equally. This is the meaning of social equality. In order to establish social equality the Constitution of India declares that the practice of untouchability is an offence . In U.S.A., the system of slavery has been abolished by law, and the black people have been given equal rights. Women have got a right to equality after the long struggle in the most of the countries of the world. Many great leaders like, Rajarammohan Ray, Gandhiji and Dr. B. R. Ambedkar have tried for social equality in India. Education is an important means for bringing social equality.

(3) Political Equality : An equality of opportunity to the citizens of the State to take part in formation of decisions and public works or public matters of State is a political equality. Citizens can express their views in the public matters by their right to freedom of speech and expression. They have right to equality of an opportunity on the base of equal qualification in the services of State, to do candidature, voting by universal adult suffrage. In that case he embodies the political equality. Democracy can give such equality additionally. Dr. Rajendra Prasad the first President of India said, “Now all are Kings and all are subjects.”

(4) Economic Equality : The meaning of economic equality is the condition which can satisfy basic requirements to the persons adequately. The freedom to join the economic system of the country and equal right to all to get adequate economic standard of life by that system expresses the meaning of economy equality. The State constitutes the laws to prevent economic centralization to achieve an economic equality and it is emphasized that community property is used for prosperity of all. In the words of Prof. Laski, ‘economic equality does not mean equality of income or equality of behavior.’ Finally economic equality is a process of leveling to certain rights.’ Law of land to one who cultivates, and the land creating Act and laws of adequate wages to the laborers in India are the efforts of economic equality.

(5) Legal Equality : Legal equality was demanded against outrages of feudalism in 18th Century. It talks about ‘equality before law’ and ‘equal protection of law’. Rich or poor all are equal by law. Equality of law does not mean that to have equal laws for every people, law permits intelligible difference. For example, a State constitutes laws by considering interest of laborers, farmers, children, women and old. Rule of law is the base of legal equality. Legal equality has also relationship with equal opportunity to get justice from court and neutrality of courts.

(6) International Equality : According to International Law, all states are equal. In practice U.S.A. is a super power. But for membership of the United Nations (UN), the principle of equality of sovereignty is accepted. Every State has equal representation in the General Assembly of the United Nations. Each member State can cast only one vote in it.

Relationship between Equality and Liberty

Social scientists are not unanimous about relationship between equality and liberty. Some believe that equality and liberty are opposite to each others. While others believe that equality and liberty are supplementary to each other. According to those who believe equality and liberty are opposite concepts, there should be some restrictions over equality; and restrictions are against the concept of liberty.

Some social scientists believe that liberty and equality are not opposite to each other. According to them, privileges are created without equality, which is against the principle of liberty. They also believe that there is no meaning of political equality in the absence of economic requirements.

Thus, equality and liberty are supplementary to each other. Both are necessary for development of individual. However, efforts of bringing equality at the cost of liberty is in vain. The experience of communist countries has proved it.

Social Justice

Spirit of justice has been seen from ancient time. Hence, the contemplation for justice is found in most of the countries of the world from the ancient times. 'Social, economic and political justice' have been incorporated in the Preamble of the Constitution of independent India. Right to equality is incorporated in the Fundamental Rights. It is also insisted to establish social justice in Directive Principles of the State Policy. Judiciary has also delivered some important judgments regarding this.

Besides, the modern philosopher of principle of justice, John Rawls, has called more partiality for deprived classes of society by laws of State is justice. India has accepted the policy of special protection for that positive equality seats are reserved in local government, Legislative Assembly and Parliament for the backward class of society, Scheduled Caste and Scheduled Tribes. Now free and compulsory education to the children of 6 to 14 years of age is accepted as Fundamental Rights. The steps are being taken not only for protection to women but also for making them self-reliant. 33% seats are reserved for women in Panchayatiraj and Urban Local Governments under 73rd and 74th Constitutional Amendments. These reserved seats for women are extended from 33% to 50% from the year 2015, in Gujarat.

It is also recommended in the report of Sachar Committee for special care for welfare of backward people of Muslim and Christian minorities. Social justice committee of Panchayatiraj in Gujarat village area is working for doing justice to depressed class. Amendments have been made in Panchayatiraj for protection of interests of tribal groups with enforcement of recommendations of Dilipsingh Bhuriya Committee.

Thus, it is being concerned to deliver the social justice to all the needy people of the society in India. a lot of work in this field is remaining.

EXERCISES

1. Answer the following questions :

- (1) What is liberty? Discuss the types of liberty.
- (2) Explain why the liberty is necessary? And explain social and political concept of liberty.
- (3) What is the meaning of equality? Discuss the types of equality.

2. Write short notes :

- | | |
|--|---|
| (1) Types of Equality. | (2) Relationship between liberty and law. |
| (3) Positive and Negative aspects of Liberty. | (4) Positive and Negative Equality. |
| (5) Relationship between Equality and Liberty. | |

3. Answer the following questions in two or three sentences :

- (1) What is called the positive liberty?
- (2) What is called the negative liberty?
- (3) What is called the natural liberty?
- (4) What is moral liberty?
- (5) What is called the political liberty?
- (6) What is economic equality?
- (7) What is called the political equality?
- (8) What do you mean by legal equality?
- (9) What is inter-nations equality?

4. Write answer against the box selecting correct option :

- (1) How many aspects of liberty are there? ☐
(a) Two (b) Three (c) Four (d) Six.
- (2) How many aspects of equality are there? ☐
(a) Three (b) five (c) seven (d) two.
- (3) In which revolution equality was emphasized? ☐
(a) Islamic Revolution of Iran (b) French Revolution
(c) Afghan Revolution (d) ISIS
- (4) In which year women reservation has been made 50% from 33% in Gujarat? ☐
(a) 2000 (b) 2010 (c) 2012 (d) 2015
- (5) Against with system of outrages legal equality was demanded? ☐
(a) System of feudalism (b) System of slavery
(c) System of Sati (d) System of Taliban

Activity

- Arrange discussion on Liberty and Equality.



The concept of Nationalism and Secularism both are important for the study of Political Science. For any state the feeling of nationalism is important for the unity of the nation. But for the strength of democratic state the concept of secularism is equally important. For the embodiment of democratic values without any discrimination where all citizens get equal right irrespective of their religion is accepted by the state. The Constitution of India has accepted this fact. With acceptance of secularism, all citizen can play an important role in the formulation of the State Policy. This helps in formation of a strong nation. In this chapter we will understand the importance and concept of nationalism and secularism which are basic pillars of Indian democracy.

Nationalism : Before understanding nationalism its important to understand the word Nation The English word Nation is derived from word 'Nesio' from Latin which has a meaning like caste According to Lord Brice, a nation is a nationality which is a politically organised institution and is either independent or has a desire to be independent. Every nation aspires to get independence so it can become a nation.

Thus when a collective experience and feeling of language, religion, caste and territorial unity play an important role in the formation of a Nation. Every Nation aspire to be a State. A nation which has become a State is called a nation-state. There is a difference between State and Nation. Let us now discuss the difference.

(a) By meaning : When a community experiences a feeling of unity because of ethnicity language, religion, beliefs, tradition and historical heritage, it is called a Nation. All these factors help in experiencing national unity but none of these are indispensable. When such community desire to get political independence then it is called a Nation. It is important to understand that in one nation there can be group of people with different language, religion and caste.

For any state these four elements are indispensable - Population, Territory, Government and Sovereignty.

(b) By Structure : Nation is essentially a cultural. It has a political element, but its place is secondary, whereas a State is a human community politically organized in a definite territory with sovereign power. Before 15th August, 1947 India was a Nation but not a State. After getting independence it became a sovereign state.

(c) By Strength : In order to be called a state, sovereign power has to be there. While for Nation the sovereign power may or, may not be there. Sovereign power is not an essential component for a Nation.

(d) By Scope : The word State suggests that it is a politically organized human community living in a definite territory, whereas the word Nation has a wider meaning. For example before 1948, Jews were spread in various countries of the world, but they had a feeling of National Unity.

(e) By Component : For the formation of Nation there is no need of component like language, religion as we have discussed earlier. But for a State the four components population territory, government and sovereignty are a must.

(f) By Concept : The State is intimately associated with certain notion of law whereas a nation is associated with unity and feeling of oneness.

Thus there is a conceptual difference between State and Nation. State and Nation are often used in the same sense and same meaning, but this is not correct because of the difference between the two. For example the establishment of United Nations in 1945, where there are many States in one union which are sovereign in nature. But these States are known as United Nations. In the same way India has many States but as a country it is one State.

In nationalism the feeling of belongingness is important. Nationalism is a philosophy which gives a feeling of greatness of our Nation and considers our Nation as great. Within any nation which is not independent the feeling of nationalism creates a desire to be independent. When a Nation-State faces any crises than the same feeling gives strength and a feeling to do or die for the Nation.

Characteristics of Nationalism : Certain characteristics of nationalism as given by various scholars are given below :

(1) Common habits and communication methods : Common habits and communication among large group is paramount. In communication things like language, script and symbols brings unity in society.

(2) It is a Mental Status : Nationalism is a feeling of unity and emotional integration towards the Nation. Citizens feel responsible toward nation. It may be a personal feeling toward nation but it is related with feeling of nationality.

(3) It is a recent Phenomena : Love and respect for our country is not new phenomena. We all know the history of Bhamasha Sheth who offered jewellery worth crores to the defeated King Maharana Pratap. We can find such examples in other countries of the world also. But the feeling and awareness about nationalism was for the first time felt during treaty of "Westphalia". The feeling of Nationalism was expressed in various acts. Way back in 18th century during the period of freedom movement of America, they gave slogan like no representation, no taxation and during the time of French Revolution National Unity was seen.

(4) State is not a necessary Component for Nationalism : The feeling of nationalism can occur even without State. We know that when India was ruled by Britishers, in the year 1885 Indian National Congress was established in the absence of the State. This was the first step towards the Institutionalisation of Indian Nationalism.

(5) In one nation there can be many States but Nationalism is one : Political thinker like J. S. Mill and American President - Woodrow Wilson favoured One Nation One State. After first world war many countries adopted this principle of one nation one state.

But later it was realised that one nation one state formula is not very practical and difficult to implement. The concept of many Nations can be seen in countries like USA, China, India and Russia. Here unity in diversity can be seen and this has given a very strong feeling of nationalism.

(6) Nationalism is Liberal or Extremist : When citizens are proud of their Nation with acceptance of co-existence of other nation it is called Liberal Nationalism.

Fascism under the leadership of Mussolini in Italy and Nazism under the leadership of Hitler in Germany are the best examples of extremists nationalism. Both of these ideologies believed that only the Aryan race is Great and all other races in the world are inferior to them. This feeling of Aryan superiority was one of the important causes of the second World War.

(7) Liberal Nationalism brings unity in Society : Liberal ideology of nationalism brings unity in the society crossing all banner of different religion, languages, classes and caste. People become more faithful toward the Nation-State.

(8) It gives strength to fight Against Calamities : When State and Society faces natural calamities like earthquake, flood, storm and man made calamities like foreign aggression the feeling of Nationalism gives moral strength to fight against them.

(9) It provides Economic Strength to the Nation : The slave countries under European nations suffered because of colonilism and imperialism, which led to emergence of a feeling of economic independence. It was rightly said by the economic thinker Dadabhai Navroji that the reasons for poverty in India is due to economic exploitation by Brtishers The Gandhian philosophy and thoughts about boycott of foreign goods, Swadeshi Movement and making villages self dependent were instrumental in the development of Indian Nationalism.

Inspite of the fact that nationalism is an obligation toward the State, in the time of globalization, more emphasis is given to internationalism. Eventhough, every nation expects Nationalism from all its citizens. Keeping this in mind a chapter on Fundamental Duties was incorporated in the Constitution of India by passing the 42nd Constitutional Amendment. Citizens also feel proud when their nation-state gets respect from other countries.

Meaning of Secularism (with reference to Global and Indian Context)

To know the meaning of secularism in the global context we will have to look into the history of secularism in the period between 17th to 18th centuries. That was the period when the concept of State was in the initial Stage. Middle Age were the period of religious influence and the king was dependent on the Church for his power and Kingship. Emphasis on thinking about man and this worldliness rather than other worldliness was a distinguishing feature of this period. The newly formed states were not dependent on religion or religious institution for their power. These states emerged an independent political state. Later on such states become regular in nature Along with development of state secularism become an acceptance factor an ideal State. In present time most of the democratic and communist countries have accepted the philosophy of secularism. The concept of secularism at international national level is as follows :

- (1) The state remains neutral with religion. The state does not give importance to any religion
- (2) Citizens are free to follow any religion and religious freedom is given by state. So all citizens have right to follow, propogate and make any association for religious purposes.
- (3) There cannot be discrimination among citizens on the ground of religion. All religions are equal before law. The state will not interfere with religion except in public interest.

In India we have accepted secularism by giving the Right to Religious Freedom The concept of secularism is a western concept like Parlimentry form of Government, independent and neutral judiciary and voting right to all adults. But the concept of secularism is as old as our cultural heritage. Indian culture is a blend of unity among diversity. So the state has accepted the concept of equality of all religion and tries to embrace all religion. With the 42nd ammendment of the constitution in 1976, it included the word 'Secular' in the Preamble to the Constitution and asserted that India is a secular nation and all religions are equal for the State.

Inspite of that India accepted secularism as an integrated part of democracy, it does not advocate a society without religion or antireligion. The constitution never advocates to remove religion from life rather it has given equal status to all religions.

Need of Secularism in Modern Times

The present time is a democratic era where the rights given by constitution are of great value. Among all rights, the right to freedom is the heart of democracy. For overall development citizen's physical and spiritual freedom is necessary. Such spiritual freedom is an integral part of democracy and democratic life. The acceptance of secularism can only be possible if religious freedom is accepted. The life of any individual is ruled by two powers; one religion and second State power. Both powers must remain in their own separate domain. The philosophy of secularism should be seen with above meaning. Moreover in a democratic system, the opportunities for development become more easy with acceptance of secularism. It helps in physical, spiritual and religious development of personality of citizens. Secularism is not a State Policy but an attitude which is life style of citizens. There is no place for intolerance. All individuals are free to live their life as per their desire. With acceptance of secularism the state considers religion as an individual matter and secondary aspect of life. The state gives more emphasis on public policy rather than religion. At the time of national crises, all religious heads leaving their religions aside support the state.

In some of the traditional states which do not consider individual as unit, create problem in acceptance of the concept of secularism. Such a state considers groups based on region, religion or language as unit which is not right. Instead, the state should accept an individual as a unit, which is necessary for development of the state as well as of the individual. In such a situation the group of citizens with anti state feeling, will lose their influence on state. Such a feeling of secularism provides security and inspiration for growth of citizens through state and life of citizens and society at large become excellent.

Relevance of Secularism in India

In the year 1857, Hindu and Muslim king unitedly fought to liberate India from British East India Co. To curb the Hindu-Muslim unity Britishers adopted the policy of divide and rule and thus the feeling of opposition among Hindus and Muslims increased and they became apart from each other. Thus Pakistan was born on religious grounds. Today Pakistan is known as an Islamic Republic State.

India has accepted secularism as a State Policy. India has given equal status to all citizens, irrespective of caste, colour, sex or religion for over all development of citizen as well as of the nation. After a long battle of freedom, on 15th August, 1947, India became independent with a dream to promote the ideologies of brotherhood and tolerance. This was possible only due to the inspirational leadership of Mahatma Gandhi, Pandit Jawaharlal Nehru and Sardar Patel.

But with passing of time, the occurrence of communal riots started due to social and economic reasons. Looking at this the word 'Secularism' was introduced in the Preamble of Constitution of India, and this secularism was accepted for development of modern India, national unity and for one India.

Independent India has accepted Parliamentary Democratic form of Government. In Indian democracy individuals are considered as a unit rather than religion or religious groups. This process of individual or citizens development will create a path for national development at last. At the same time, for development of an individual religious freedom has been guaranteed through Fundamental Rights. For India the acceptance of secularism is the only way for overall development of the nation.

From 1991, India has accepted the policy of liberalization, privatization and globalization. Under this condition, Indian society can develop only when all citizens get equal status. The opportunity of economic development is given to all citizens irrespective of religion. India has always belived in

‘Vasudhevkutumbkam’ and it is in practice from ancient times. This philosophy will further strengthen the flow of globalization with acceptance of secularism at global level and an Indian citizen can easily set an example for ideal international citizen.

The philosophy of secularism can develop the feeling of brotherhood and co-operation among citizens and can protect human rights. These are fundamental requirements for universal peace and co-existence.

The development of Information Technology and globalization has crossed the state boundaries and universal state has been created. But at the same time we should not forget international politics. The invention of long range missiles and automatic weapons have made our borders with Pakistan and China more vulnerable. There is a great threat to our national security. Also the extremists and militants are creating problems in the valley of Jammu and Kashmir. These militants are getting support from our neighboring countries. In such a situation internal security, peace and unity become issue of grave concern. For internal strength of our country, the co-operation between various groups, tolerance and feeling of brotherhood are not only necessary but also required to be further strengthened. This can only be achieved through secularism and hence secularism is a need of present time.

EXERCISE

1. Answer the following questions in detail :

- (1) What is a Nation ? Explain difference between a State and a Nation.
- (2) What is Nationalism ? Explain the characteristics of Nationalism.
- (3) Write the meaning of Secularism and explain the need for Secularism.
- (4) Explain the concept of Secularism in India.

2. Write short notes on the following :

- (1) Concept of State
- (2) Characteristics of Nationalism
- (3) Importance of Secularism in present time.
- (4) Secularism in Context to Globalisation
- (5) Secularism in Context to India.

3. Write the correct option in the given box :

- (1) The word nation which is used for nationalism is derived from which language
(a) Urdu (b) Latin (c) French (d) Italian ☐
- (2) Who said that when there is a feeling among the people that we are all one, a nation gets created.
(a) Lord Curzon (b) Lord Rippen ☐
(c) Lord Brice (d) Lord Mount Batten

(3) The concept of secularism

(a) Historical event

(b) Controversial event

☐

(c) Medieval event

(d) Modern event

(4) When the concept of secularism become of international importance

(a) Between 17th and 18th century

(b) Between 12th and 13th century

☐

(c) Between 9th and 10th century

(d) Between 4th and 5th century

(5) By which Article the word 'Secularism' was introduced in Indian constitution

(a) 40th

(b) 35th

(c) 45th

(d) 42nd

☐

Activity

- Prepare a Chart Showing Secularism.
- Arrange street play to promote National Unity.



In modern times, members of a democratic state are known as citizens. The link which establishes a relationship between the state and its citizens are rights and duties.

In the long history of mankind and culture, the acceptance of human rights is a magnificent step. Such rights enable the citizens to lead a respectable and honourable life. Mankind has sacrificed a lot to get these rights. Even the United Nations has declared and promulgated the International Human Rights.

Meaning and Concept of Rights : The very fact that a man is born as man entitles him to certain rights which are known as human rights. The desired socio-political conditions to lead a respectful life for human being are known as rights. In other words a desirable situation and condition which helps in development of individuals are known as rights. Not merely that, human rights are necessary for the society which are made of group of individuals. Prof. Herold Laski has rightly defined rights as those conditions of social life without which no man can develop himself, in general to be himself at his best.

All societies and civilizations have developed the principles for human rights as per their convenience and in appropriate manner as per the prevailing socio-economic conditions of the society. Human rights is the recognition of basic individual dignity and work and these are as old as human civilization. On 10th December, 1948, the General Assembly of the United Nations gave its consent to Universal Declaration of Human Rights which includes almost all those rights which are today accepted as fundamental rights. Worldwide this day of declaration is celebrated as Human Rights day. Rights are those claims on the society and state which are accepted by both and their protection is guaranteed. Any such demand or desire by individual which is not accepted by society or state and there is no guarantee for protection of such rights are not considered as rights in the terms of political science.

Importance of Rights

Universal Declaration of Human Rights on 10th December, 1948, was a pioneer declaration of Rights at global level. However this Universal Declaration of Human Rights is not a binding document. To provide legal protection to this human rights declaration in meeting which was held on 16th December, 1966 at the United Nations. It accepted two international charters which were signed by all member states. These declarations made member states morally bind to protection of human rights. In these declarations certain rights like status of displaced people, bonded system, discrimination against women and protection of citizen's rights are included. India has signed these charters from the beginning. India has incorporated all these rights in our Constitution which are known as Fundamental Rights and the Judiciary is empowered to protect such rights. In many states at state level, Human Right Commissions are constituted. Many non-government organizations are also working toward this mission.

Group Rights :

Generally rights are given to individuals. Apart from that many special groups are given certain rights. The United Nations has also provided such rights to people belonging to special groups by passing resolutions. In India, such rights are given by the Constitution, law and various judicial judgments for women, children, prisoners and refugees etc. Such rights are known as group rights. These rights are as follow :

- A pregnant woman cannot be hanged to death. But this can be converted into life time imprisonment.
- A child cannot work as labourer.
- All the children between the age 6 to 14 have the right to education.
- Minorities by religion, language or by caste have the right to protect their cultural and religious life.
- An accused has a right to know the reasons for arrest in the language known to him.
- Prisoners have the right to meet his family member and writing and reading of news papers.
- For rehabilitation of refugees, The United Nations has constituted a special body called United Nation High Commission for Refugees.

Meaning and Concept of Citizen : In modern times there has been a great change in the idea and concept of citizen and his role. Today every member of democratic state is considered to be a citizen. Besides, there is also an additional meaning in relation to the citizen as follows :

- (1) Citizen participates in the administration of the state
- (2) Citizen obeys the laws of the state
- (3) Citizen is politically obedient to state
- (4) Citizen has certain rights and observes some duties

Since democracy is a government of the people, by the people and for the people, its success or failure depends on its citizens.

Definition of Citizen : "Citizens are members of a political community. The state is made up of citizens and they depend on the state for the protection of their individual and collective rights and observe their duties."

In modern times a citizen is a good citizen who enjoys freedom and helps in making laws himself or through his representative and obeys them. He considers obedience to be his duty and yet, as he is aware of the dangers associated with it, he protests against those decrease which are not worthy of being obeyed by using his rights.

Citizenship : It is also necessary to think about citizenship from legal point of view.

Citizenship is a legal status given to the citizens by various provisions made under the constitution or given various rights and duties by law. Citizenship generally goes with birth. We are citizens of the state in which we are born.

All citizens are bound to remain loyal to the state and follow the rules and regulation of the state. In return they get the protection of the state for their freedom and property within and outside the

state. If a citizen returns from any country, the state is bound to accept him as its citizen. Generally, no citizen can have dual citizenship. In special case some prominent personalities are given honorary citizenship of other countries. But in real sense such citizenship is only for namesake and is accepted by both the countries. Contrary to this, the refugees due to war or from place which is occupied by enemy remain without any citizenship. The Constitution of India has clearly defines who can be a citizen of India.

How can Citizenship be Acquired

Citizen can be acquired as follows :

- (1) Citizenship generally goes with the birth. We are citizens of the state in which we are born.
- (2) In order to acquire the citizenship of some other states, one has to apply for it after having stayed in that state for some time.
- (3) If the citizen of a state marries to a citizen of other state, he becomes the citizen of that state. Some states provide for such arrangement.
- (4) If an application is made to the government of other state and if it is accepted then such an individual becomes a citizen of that state.

Loss of Citizenship

- (1) An individual loses his citizenship if he has committed a treasonable act.
- (2) If an individual accepts the citizenship of another state, he loses the citizenship of his own state.
- (3) If an individual gets married to an individual, of another state, he loses the citizenship of his own state.

Dual Citizenship : In some federal States, citizens are given dual citizenship-one of the component unit and another of the Federal State. Such citizenship is known as dual citizenship. For example, in the U.S.A., the citizens are given dual citizenship. While in India there is provision for only single citizenship except for the state of Jammu and Kashmir. In August 2005, the Govenment of India ammended the citizenship Act of 1955 and a new law for citizenship, Overseas Citizenship of India was enacted. This law came into force from 9th January 2006. Since then, 9th January is celebrated as Non Residencial India Day.

Under this act any Indian having citizenship of another country can enjoy certain rights in India also. Such person can do business in India in professions like Doctors, Dentist, Nurses, Pharmacist, Advocates, Architects etc.

But such citizens will not get political rights and also will not enjoy right of equality guaranteed under section-16 of the Constitution of India. They cannot buy land for the purpose of agricultural activities.

This law will not be applicable to the citizens having citizenship of Pakistan and Bangladesh.

EXERCISE

1. Answer the following questions in detail :

- (1) Meaning and concept of Right.
- (2) Importance of Rights.
- (3) Define the term Citizen and explain the term citizenship
- (4) Procedure for getting citizenship

2. Write short notes on the following :

- (1) What is Right ?
- (2) Meaning of Citizen.
- (3) What is Citizenship.
- (4) How citizen losses their citizenship.

3. Write short notes on the following :

- (1) Group Rights (2) Dual Citizenship

4. Answer the following questions in one-two sentences :

- (1) Definition of Right by Prof. Laski.
- (2) Which organization declared International Human Rights.
- (3) In which part the concept of Human Right are included by constitutional authors.
- (4) When the law on OCI (overseas citizenship of India) came into force.
- (5) What type of business can be done by OCI citizens.

5. Write the correct option in the given box :

- (1) On which date United Nation declared the Human Right

- | | | |
|-------------------------------------|-------------------------------------|--------------------------|
| (a) 10 th December, 1948 | (b) 10 th December, 1950 | <input type="checkbox"/> |
| (c) 10 th December, 1955 | (d) 10 th December, 1915 | |

- (2) When the Human Right days is celebrated

- | | | |
|-------------------------------|------------------------------|--------------------------|
| (a) 14 th February | (b) 15 th August | <input type="checkbox"/> |
| (c) 10 th December | (d) 26 th January | |

- (3) Which of the following are included in Fundamental Rights and Directive principles of state policy

- | | | |
|--------------------------|--------------------|--------------------------|
| (a) Human Rights | (b) Traffic Rules | <input type="checkbox"/> |
| (c) Law relate to manage | (d) Income Tax Law | |

- (4) If we are born in a state then what we are called

- | | | |
|------------------------|--------------|--------------------------|
| (a) Surpanch | (b) Chairman | <input type="checkbox"/> |
| (c) Legislative member | (d) Citizen | |

Activity

- A lecture of any Lawyer can be arranged for students.



Constitution means fundamental principles by which a form of the State is determined. These principles provide for three different bodies namely – Legislature, Executive and Judiciary. The relationship between these three bodies, their functions and power, and how to use it collectively is called constitution.

In short Constitution means fundamental law of the State.

The Constitution of India came into force from 26th January, 1950. 26th November, 1949 was the day on which the Constitution of India was born. But its seeds were sown during British time. Hence, here we shall discuss the story of the development of the Constitution of India because except its introduction study of Constitution of India would be incomplete.

In 1928 the Motilal Nehru Committee articulated the future aspirations and competence by giving report like blew print of future India on constitutional framing. In reference to Lahore Convention of 'Poorna Swrajya' 1920, Dandi March Movement 1930, Round Table Conferences were held for future constitutional amendments of Hind during 1930-1932 in which attempts to disrupt the unity of the people of India were also made by communal Judgments.

Period from 1935-1940 : Following provisions were made by India Act, 1935 :

- (1) Provisions relating to Federalism were main, in which British Provinces and Princely States were two types.
- (2) The central executive came to comprise Governor General, an advisory committee and the Council of Ministers. It had wide legislative powers. Provision was also made for central Council of Ministers. The Governor General was given the status of the constitutional head.
- (3) The central Legislature was bicameral : (a) Lower House or Federal Assembly (b) Upper House Rajya Sabha. Both had equal powers.
- (4) There was a partial acceptance of provincial autonomy in accordance with provisions related to provinces.
- (5) The central judiciary consisted of a chief justice and six other judges.
- (6) Besides, there were also provisions for railway board, attorney general and financial advisor.

In 1939 the Second World War broke out. India, without the consent of elected representatives was made of party to it. The Congress ministers in the provinces resigned. To win the heart of India an august offer was given and for the first time framing of Constitution was voiced.

Period between 1942-1950

Cripps Proposals (1942) : The British prime Minister Churchill announced Cripps proposal on 11th March 1942 when the Britain was retreating in Second World War. These proposals essentially included creation of a constituent assembly for framing the constitution, liberty to frame a new constitution for the Union and Provinces, liberty to form a separate Union etc. Giving authorities to the members of Council of Ministers for matters other then defence were the principle matters. However, Congress and Muslim league refused to accept this. The strong reaction of people was seen in 1942 'Quit India' movement.

Cabinet Mission (1946) : The Second World War came to an end in 1945 and Britain became victorious from it. Elections were held. Churchill was defeated and Mr. Atlee of the Labour party became the Prime Minister. His attitude was to give independence to India. The plan he presented became to be known as the Cabinet Mission. Which had two major aspects – future constitutional form and an interim plan.

(1) To form Union of British Hind and Princely States and to allocate them important portfolios
(2) To create three groups in Provinces. (3) Members of the constituent assembly were to be elected by the elected provincial legislatures which is to be known as Constituent Assembly. (4) To form interim Government by way of interim arrangement before independence, a Council of Ministers under the leadership of Nehru was framed on 2nd September, 1946.

Framing of Constituent Assembly

The Process of framing Constitution : The process of creating a constituent assembly got underway as per the Cabinet Mission Plan. But the country could not afford to waste time by ordering fresh elections on the basis of adult franchise. It was therefore decided that the elected members of the Provincial Legislatures of July 1946 election should elect the members of the constituent assembly. This is how the constituent assembly which was in charge of framing India's constitution came to be indirectly elected. In all, there were 389 members out of which 292 were from the British provinces, 4 belonged to the provinces under the British high commission and 13 were representative of Princely States.

Working of the Constituent Assembly : The process of framing the Constitution began on 9th December, 1946, in the constituent assembly. In all 207 members were present. Muslim league boycotted it. Dr. Rajendra Prasad, as the senior most member was elected as the Chairman of the constituent assembly. On 13th December Pandit Jawaharlal Nehru presented a resolution expressing high constitutional ideals and aspirations of people which K. M. Munshi called "Principal key of Democracy". The Constitution had been drafted in accordance with the principles only.

On 29th August, 1947, Draft Committee consisting of 7 members with Dr. Ambedkar as its Chairman was constituted. This committee studied various constitutions in the world and pulled out the best elements and prepared a draft consistent with India's social, cultural and political conditions.

Various committees : There were other sub-committee apart from the Draft committee mentioned above under the chairmanship of leading personalities. These included (1) Special Committee, (2) Process Committee (3) Management Committee (4) Advisory Committee (5) Committee for Central Power (6) Union Constitutional Committee (7) Committee for Fundamental Rights (8) Committee for Minority Rights (9) Committee for Supreme Court, and (10) Committee for Financial Relation between Centre and States etc.

Since Jawaharlal Nehru, Sardar Vallabhbhai Patel and Dr. Rajendra Prasad were the important members and chairpersons of most of the committees, their influence was predominant. The major contributors to the process of constitution making were Dr. Ambedkar, Shri Krishnaswamy Iyer, Shri N. Gopalswamy Ayenger, Shri K.M.Munshi, Shri T.T. Krishnamachari, Sir B.N.Rao, Shri K.T. Shah, Shri Mahavir Tyagi, Shri H.N. Kunjru, Shri Jaipal Singh and Smt. Durgabai, a women representative.

The working of the Constituent Assembly was spread over a period of 165 days and 12 sittings and the actual process of drafting Constitution took 114 days.

The working of the Constituent Assembly was characterized by democratic ambience and there was no taboo on length, discussion, deliberations and criticism. Total expenditure was about sixty four lakh rupees. The whole process consumed 2 years, 11 months and 18 days for this process.

The constituent assembly adopted the constitution by passing through three readings on 26th November, 1949. On 24th January, 1950, Dr. Rajendra Prasad became the first acting President and he signed that Bill. With this one of the lengthiest and most detailed Constitution of the world came into existence with 395 Articles and 8 Schedules. The Constitution was officially promulgated on 26th

January, 1950. This day is known as the 'Republic Day' all over India. Dr. Rajendra Prasad's words are significant in their context, "There is no king and there are no people in India, now all are king and all are people."

The important features of the Indian Constitution

(1) A written and documented Constitution : Barring Britain and partly Israel, all other democratic countries in the world have a written constitution. As India has adopted a democratic system, the constituent Assembly took maximum care in framing it. The members of the constituent Assembly were greatly influenced by the concept of western liberalism. In spite of the fact of our association with Britain and the influence that it has had on us, the framers of the constitution took into consideration our peculiar social set-up, history, diversities and such other factors while preparing the constitution and thought it fit to make it a written document.

(2) A very lengthy Constitution : The Constitution of India is the lengthiest and exhaustively written constitution in the world. The original Constitution of India was divided into 22 Parts with 395 clauses of Articles and 8 Schedules. The issues which could not be included into constitution are included into Schedules. At present there are 12 Schedules. During last 65 years, new Articles have been added to the Constitution of India while a few have been deleted but the sequence of the Articles has remained unchanged. In our constitution many things have been included, that is why Constitution of India has become lengthy.

(3) Sovereign, Democratic, Republic, Secular, Socialist : The Constitution of India declares India as sovereign, democratic, republic, secular and socialist in nature. The words 'socialist' and 'secular' were not incorporated into the original Constitution. These words were subsequently added during the emergency in the year 1976 by 42nd Constitutional Amendment. India is free from any external or internal controls. The main characteristic of a sovereign country is its absolute power to run the Government. In that respect, India is completely free now and does not have to depend upon any other external power.

(4) Parliamentary Democracy : Articles 79 to 122 and Articles 153 to 167 of the Constitution of India specify that at the Centre as well as in the States, respectively, parliamentary form of Governments would be constituted. In this regard, India has adopted the British model. This was so because we already had a direct experience of having a democratic form of Government. That is responsible to the Legislature. The main characteristic of a parliamentary form of Government is that the real power of governance vests in the council of ministers who are representatives of the people. The members of the Council of Ministers are drawn from the Members of Parliament or that of the State Legislature and such a Council of Ministers is responsible to the Parliament or to the State Legislature which is elected by the people. It remains in power only so long as it enjoys the confidence of the Lower House – Lok Sabha. A parliamentary Government functions on the principle of collective responsibility. So it is called a 'Responsible Government'.

(5) Fundamental Rights : Part III of the Constitution of India includes the Fundamental Rights. Six Fundamental Rights are guaranteed to the people of India being the citizens of independent nation to live life with dignity. These rights are necessary for all-round development of the individual's personality. It is a unique and essential feature of a democratic State. There is a constitutional provision for the protection of Fundamental Rights.

(6) Directive principles of State Policy : Directive Principles of State Policy are enshrined in our constitution which is an innovative step. Such principles are also seen in the Constitution of Ireland. Such principles being ethical in nature, their implementation is not obligatory for Government. But it is desired that all government should implement these principles. All Governments irrespective of their political parties are bound ethically to follow these principles. The principles incorporate the ideology of Socialism and Gandhism.

(7) A Federalism with strong Centre : A very important lesson that the country has learned its history that whenever the central polity of the country was weak, it invited aggression from an outside power resulting in the enslavement of the country. The only alternative to avoid or prevent such an eventuality was to make the centre strong and powerful. At the same time it was also necessary to protect and preserve the diversities

emanating from existence of different languages, cultures, religions etc. with this realization in their mind, the framers of our constitution have evolved a special type of federalism for modern India in which the centre has been allotted such powers as would make it a strong political force. In addition, a uniform pattern of administration for the entire country has been adopted. Not only that but special provisions have also been made in the Constitution by virtue of which the centre can assume extraordinary powers in the times of emergency when the very existence of the country and the constitution is at stake. In view of this, many thinkers have described our political system as a 'quasi federal polity'. It can be easily converted from a federal State into a unitary one.

(8) Bicameral Legislature : The Constitution of India has accepted the system of bicameral Legislature at the Centre. The Lok Sabha is the Lower House of the Parliament of India which comprises the elected representatives of the people. The Upper House is called the Rajya Sabha comprises such members as are elected by the Legislative Assemblies of the States and represent their respective States. As compared with the power of the Lok Sabha, the upper house of the parliament i.e. the Rajya Sabha enjoys limited powers. So much so that it enjoys no power as far as financial matters are concerned. The powers of the Lok Sabha are superior to those of the Rajya Sabha.

As far as the state legislature are concern, it has been left to the sweet will be of the State concerned either to have a unicameral Legislature or a bicameral Legislature. Most State have preferred a unicameral system of Legislature in which there exists a single house called the Legislative Assembly. But a few states have preferred bicameral Legislature, the Lower House is called the Legislative Assembly while the Upper House is called the Legislative Council.

(9) Secularism : It is the most notable characteristic of the Constitution of India.

- (i) India is a secular state. This has been discussed in the preamble of the constitution.
- (ii) The secular characteristic is reflected in the various Articles of the Constitution of India.
- (iii) The State shall not discriminate against a citizen on grounds of religion.
- (iv) Religions minorities have been given special rights and privileges by the Constitution.
- (v) Being a secular State the State will not follow any particular religion or principle based on religious belief.

(10) Constitution begins with the Preamble : The Preamble with which the Constitution of India begin can also be called the preface or foreword of the document. The Preamble briefly states some of the main characteristic of Constitution of India.

(11) Provisions for amending the Constitution : A written Constitution necessitates special provisions for introducing amendments in the context of the changing times and requirements of the country. If a Constitution can be amended by a simple majority in the Parliament, it is a flexible Constitution. If amendments can be introduced and passed with a special majority or with concurrence of the states or through a referendum, such a Constitution is considered rigid in nature. Flexibility and rigidity have both been combined in the Constitution of India.

(12) The provision of judicial review : It is one of the salient features of the Constitution of India. The Indian judiciary has been empowered to review the validity or otherwise of the laws passed by the Parliament of India , the laws passed by the Legislatures of the States, the ordinance and executive orders issued by the central and State Governments, the judgments delivered by the Supreme Court of India as well as delivered by the High Courts of the States, and the amendments made in the Constitution of the country. All these are subject to judicial review. This means that if the judiciary comes to the conclusion that the law passed by the Legislatures, orders and ordinance issued by the executive authorities and amendments to the Constitution of the country are inconsistent with the basic structure of the constitutional law, the reviewing judicial body can declare any of them ultra-vires of the Constitution of the country and therefore null and void.

(13) Unified, Integrated and Independent Judiciary : The Constitution of India provides a pyramid type, unified / integrated judiciary / Judicial structure. At the top of the pyramid is the Supreme Court, in the middle are the High Courts of the States, lower than that are the District Courts and down below are the Trial Courts. In the United States of America, where the federal polity exists, the Central and the States, have a unique and parallel judicial system.

In India the Judiciary is completely separate and independent of the Executive and the Legislature. Special provisions have been incorporated in the Constitution to ensure the independence of the Judiciary from the other two wings. An independent Judiciary is a special feature of a democratic form of Government.

(14) Special provisions for Backward Classes : Our Constitution has incorporated special provisions for backward classes, scheduled caste and scheduled tribe. Such special provisions include reservation of seats in the Parliament and Legislatures, reservation of quotas in the Government jobs for candidates belonging to them, reservation of seats in admission in educational institutions, special provision for scholarship, facilities like freeship etc. to students belonging to these castes and tribes.

(15) Universal Adult Suffrage : The Constitution of India provides the right to vote to all those citizens who have attained the age of 18. The provision of universal adult franchise under Article 326 of the Constitution is indeed a very bold step. It is a progressive step in the context of the fact that a large number of the population of the country suffers from poverty and illiteracy and yet a uniform criteria of age ensures equality between them by giving them the right to vote without any discrimination. The total numerical strength of voters in India is far greater than what it is in other democratic countries of the world- not only in terms of the ever increasing number of the voters but also in term of the democratic experiment that is being made in India.

Process for Amending the Constitution

Transformation of society is a continuous process and the State is a social institution. The Constitution which gives status of State accepts the necessity of modification according to the changing needs of the society. The Constitution of India is written and documented then also it is flexible. It has been rightly observed by M.V. Payee that Constitution of India is more flexible than rigid.

Method for introducing amendment in the Constitution : For amendment in the Constitution under Article 368 of the Constitution of India Parliament can follow three methods. These amendments can be made by passing the bill in any house. Any such amendment can be made by three readings and if required, can be send to the Select Committee. But for any amendment, it is not required to get public opinion. Methods for amending the Constitution are as follows :

(a) By simple majority : Under which the Constitution can be easily amended by the simple majority of the members of the Parliament present and voting the amendment related to issues like eligibility for citizenship, formation of Upper House in state and dismissal, salary of Chief Justice of India and other judges, creation of new States and change in the boundaries of the State etc. can be made by this method.

(b) By two third majority : In the case of few other amendments it is the members of the both the houses of parliament present and participating, provided the said amendment is carried by 2/3rd majority of those present and voting.

(c) By Special majority and Consent of States : Similarly in the case of some other amendments, it requires a majority vote of the total members of both the houses of the parliament, provided the said amendment is carried by 2/3rd majority of those present and voting and in addition the said amendment in approved by more than 50% legislative assemblies of the state of the Union e.g. Presidential election, distribution of power between centre and state, representation of state in parliament, etc.

After passing the bill from parliament it goes the President for his assent. After that the amendment is introduced.

As per Article 356 of Indian constitution, on recommendation of Governor from State or any other method the President feels that Government of a State cannot or does not function in accordance with the constitutional provisions, than he can declare emergency in the State. After declaration of emergency, entire or partial power of legislative and executive assembly are placed under the President. The President has power to suspend or dissolve the assembly. During such a period Parliament has power to form new law for state and also prepare the budget. The President has power to income expenditure from State treasury. Such rules are known as 'Presidential Rule' and the governor works under the President as his representative.

The President has to get the approval of Parliament on Bill within two months.

EXERCISE

1. Answer the following question in detail :

- (1) Write in detail the process for formation of constitution of India.
- (2) Explain the working of the Constituent Assembly.
- (3) Write the special features of Indian Constitution.

2. Write short notes on following :

- (1) Cripps proposal
- (2) Cabinet Mission
- (3) Various committees of Constituent Assembly

3. Answer the followings in one-two sentences :

- (1) On which day Indian constitution was promulgated ?
- (2) Who is the founder of constitution ?
- (3) Who was appointed as chairman of Constituent Assembly and when ?
- (4) When the process of drafting of the constitution began by constituent Assembly ?

4. Write correct option in the given box :

- (1) Which is the lower house.

(a) Parliament (b) Rajya Sabha
(c) Vidhan Sabha (d) Vidhan Parishad

☐

- (2) When was the Quit India movement started ?

(a) 1930 (b) 1942 (c) 1947 (d) 1950

☐

- (3) When did the world war II ended ?

(a) 1969 (b) 1930 (c) 1945 (d) 1950

☐

- (4) How many members were there in Constituent Assembly ?

(a) 389 (b) 395 (c) 391 (d) 292

☐

- (5) How much time was taken in drafting of India's constitution ?

(a) 114 days (b) 124 days (c) 224 days (d) 165 days

☐

- (6) When the Indian constitution was promulgated ?

(a) 1947 (b) 1950 (c) 1949 (d) 1930

☐

Activities

- A lecture can be organized on the role of Dr. Babasaheb Ambedkar's contribution in drafting of Indian constitution.
- Collect information related to role of Sardar Patel in formulation of Indian constitution.
- Arrange to celebrate 'Constitution day' on 26th November.

In democracy, the rights in the life of the citizens have acquired an important position. A human being staying in the society has various types of needs. His some of the needs are so important that if these needs are not satisfied then it can be said that a human being is not living his own life in true sense. In addition to the primary needs of food, cloth and shelter, a human being has various other needs also. A human being has been trying to satisfy that. Because, by doing that only, a human being can achieve his overall development. Moreover, an Individual has also been given certain strength from the nature for the development of his personality. The rights are inevitable for getting this strength blossomed. Therefore, the rights are borne or they are created. Every person staying in the society having needs and every one having natural strength, every person has to behave keeping in view the needs and strength of others, therefore, in addition to his own right, every one has to consider other matters also and that is duty. The concept of duty is associated with the right. Our right is a duty from another towards us. And their right is a duty from us towards them. Thus, right and duty is equal to two sides of a coin.

Meaning of Fundamental Rights

Rights can be identified as inevitable needs of social life of a human being. To say in the words of Prof. Laski, a human being can acquire his excellence only through rights. A person who does not enjoy the rights cannot develop himself and as a result his life becomes retarded. Our rights do not originate independent of the society but in the society. No society no rights. State does not create rights but it merely preserves the rights accepted by the society and assures their protection through Court. Briefly speaking, those social circumstances, the existence and continuation of which are absolutely necessary for the overall development of person, they are generally known as rights of the person. To say in other words, rights are those necessities of social life that without which any human being cannot achieve his excellence.

Thinking in another manner, it can be said that absence of rights makes the human being slave. Immediately upon the birth as human being, a person becomes entitled to certain rights. Therefore, these rights are known as human rights. On 10th December, 1948, the General Assembly of United Nations Organization accepted the Universal Declaration of Human Rights in which all these rights are included. The principal objective behind this is to create such a situation that upon accepting these important rights, the States of the World give them to their own citizens. Acceptance of Human Rights at International level shows the importance of rights. Therefore, we are celebrating 10th December as Human Rights day. Amongst Human Rights, certain important rights are by State and an undertaking is given for their protection and for that purpose a respectable position has been given to them in the Constitution of a Country. These rights are called fundamental rights.

Importance of Fundamental Rights

After acquiring the understanding relating to rights, we can certainly say that rights are inevitable in the life of human being. Every democratic State gives fundamental rights to its citizen which are considered necessary to become citizen in true sense. It is impossible to think of life of human being without rights. This way, the importance of rights is self clear. The importance of the utility of the rights can be shown as follows:

(1) All Round Development of A Person Takes Place: The Status of a person is considered most important in democracy. Therefore, the State is taking the responsibility of accepting personality and its protection for allround development of a person and his expression. As a result State is accepting rights so that the circumstances are created for the allround development of a person. We have seen earlier that the rights are such necessities of social life without which the excellence residing in a person can not be achieved. In this view, rights are very essential for the allround development of a person.

(2) Freedom Of A Person Is Protected: Freedom of a person is very valuable in democracy and person enjoys various freedoms through rights. In that, no body can interfere unnecessarily. This way, the person can achieve his development by satisfying his needs through the use of various freedoms.

(3) Restriction Is Imposed On The Power Of Government: A restriction is imposed on the power of the Government by accepting the rights so that the Government occupying a position of a power cannot misuse its power. Because, when the rights are accepted, then the Government can not interfere unreasonably in the life of the citizens. Both the branches of the Government, Executive and Legislature also have to perform their functions carefully. While framing the law, the Legislature is continuously keeping in mind that it is not violating any of the right inappropriately by its own law? Similarly, Executive also cannot take such a step that can violate rights inappropriately. Thus, while exercising the respective powers, both the branches have to keep rights in front of the view. Then also, if in any manner it seems that the rights are violated then the judiciary can declare such steps unconstitutional and void. Thus, by accepting the rights, a restriction is put on the power of the Government.

(4) Interests Of The Minorities Are Protected: Democratic State is having existence of minorities like, religious, regional, linguistic, cultural etc. Minorities are given assurance for the protection of their interests by acceptance of rights and therefore, they experienced free from anxiety which can be considered welcomed for democracy. In India also due to various types of minorities by fundamental rights of religious freedom, educational freedom, culture related freedom etc. assurance is given for the protection of interest of minorities.

(5) Value of the State is determined: Whether the State is good or bad is determined on the basis of the rights which are given to its citizens. State undertakes the responsibility of protection of people through rights. In a State accepting the rights in true sense centralization of power does not take place and implementation of democracy in good manner is made possible. Thus, each State is known by its acceptance of rights.

(6) Citizens Get Awareness: Due to acceptance of rights, a political awareness is created in the citizens. Because, a citizen continuously keeps attention that restriction are not put on those rights which are accepted. This matter is very important. Because, if a citizen is awakened then only he can protect his freedoms. Awakened citizen opposes improper control imposed on his rights. As a result, there is a possibility of public opinion going against the Government. In a democracy, the governments are formed and stabilized only on the basis of public opinion.

In this manner, due to the great importance of rights or their utility they are accepted. It is difficult to imagine of a democracy without the acceptance of rights. Right is not a gift from the State but it is inevitable condition precedent for the development of the personality of a person. Therefore, how so ever the importance of the right is measured, it is always less.

Fundamental Rights

The fundamental rights have been placed in part three of the Constitution of India which are as follows :

(1) Right to Equality (Article 14 to 18)

- (2) Right to Freedom (Article 19 to 22)**
- (3) Right against Exploitation (Article 23-24)**
- (4) Right to Freedom of Religion (Article 25 to 28)**
- (5) Cultural and Educational Right (Article 29-30)**
- (6) Right to Constitutional Remedies (Article 32)**

In the beginning, besides above referred six rights, a right to property was also included in the Constitution. However, due to disputes and confusions being created in it by passage of time, it is continued only as statutory right by deleting it as fundamental right. Thus, in the present time, six fundamental rights are included in our Constitution. Let us know about these rights in detail :

(1) Right to Equality (Article 14 to 18) : Equality being the foundation of democracy, Constitution has made provision for acquiring equality for every citizen.

- (i) According to Article 14 all persons residing in India are entitled to have 'equality before law' or 'equal protection of law'. It means that equal treatment by State to everyone in equal circumstances. Precisely, law will be applied to all equally and protect everyone equally.
- (ii) Article 15 states that State shall not discriminate any citizen on the grounds of religion, race, caste, sex, place of birth or any of them.
- (iii) By Article 16, an assurance is given to the citizens of equality of opportunity in the public employments.
- (iv) By Article 17, untouchability is abolished. Adoption or practice of untouchability in any form has been declared unconstitutional and punishable offence.
- (v) By Article 18, titles or awards creating artificial inequality in the society have been abolished. Especially during British reign, the titles like Sir, Knighthood, Khan Saheb, Rao Bahadur, Kaiser - e- Hind, Baronet etc. were used to be conferred by the British Crown on certain people helpful to the British Government as a part of appreciation for their loyalty, which used to create artificial discrimination in the society. After independence, by Article 18, a citizen of India is clearly prohibited from accepting any foreign title or award. Despite that, by way of exception, different awards can be conferred on the great people as a part of appreciation for giving their special service in the field of knowledge, education or service like Padma Shree, Padma Bhushan, Padma Vibhshan, Bharat Ratna etc.

In the context of right to equality, it is necessary to clarify that if the State makes a special provision for women, children, scheduled caste and scheduled tribe and socially and educationally backward classes like reservation of seats or other special privileges or arrangement, then, it will not be considered violation of right to equality.

Thus, the object of right to equality is to establish 'rule of law' in India.

(2) Right to Freedom (Article 19 to 22) :

Right to Freedom equal to life of democracy has been provided in the Constitution. Amongst it, the freedoms given under Article 19 are of special importance. These freedoms are as follows :

- (i) Freedom of Speech and Expression.
- (ii) Freedom to assemble peaceably and without arms.

- (iii) Freedom to form Associations, Institutions or Unions.
- (iv) Freedom to move freely in any part or area of India.
- (v) Freedom to reside and permanently settle in any part of India.
- (vi) Freedom to carry on any trade, business, profession or occupation.

As we are staying in a State and a society so these freedoms can not be used as desired or arbitrarily therefore Constitution has imposed on this every freedom certain reasonable restrictions. Constitution has also clarified which freedom is to be enjoyed under which restrictions.

A citizen can enjoy freedom of speech and expression subject to certain restrictions. For example, keeping in mind public interest, a State can impose reasonable restrictions on the freedom of speech and expression on the grounds of security of State, friendly relation with foreign State, public order, decency and morality, contempt of court, defamation or incitement to an offence etc. Similarly in the interest of public order, the State can impose reasonable restriction on the freedom to assemble peaceably and without arms. Similarly on that basis, a restriction can be imposed on the freedom to form associations, institutions or unions. Beside this, the State can also in the public interest impose reasonable restriction on the freedom to move freely throughout the Country. In the public interest restrictions can also be imposed on freedom to carry on any trade, business or profession. State can determine necessary qualifications and standards for carrying on relevant business-profession. Thus, confining within the appropriate restrictions, citizens have to enjoy freedoms.

Article 20, 21 and 22 are related to the protection of liberty of person. Under article 20, a person has been given four protections, (a) a person can be convicted only if the law in force at the time of commission of an offence is violated. (b) A punishment cannot be imposed greater than the one which is prescribed in the law in force at the time of commission of an offence. (c) He cannot be punished for the same offence more than once (d) an accused cannot be compelled to be a witness against himself.

Article 21 assures the protection of life and personal liberty. While interpreting this right to life and personal liberty under article 21, the Supreme Court of India has stated that life does not mean mere sustaining and existence but it means 'to live with human dignity'. How can a human being live a life with human dignity without education? Therefore, by 86th constitutional amendment in the year 2002, Article 21 (A) has been included and right of a child to have primary education has been given a status of fundamental right. In the year 2009 it has been given the shape of law and a provision has been made to provide 'free and compulsory' education by State to a child of six to fourteen years. In this way, Right To Education (RTE) got the status of fundamental right. Thus, right to live a life has been made more wider.

Under Article 22 the provision has been made for protection against arrest and detention : (a) right to know the reason of arrest (b) right to engage and to be defended by the advocate of his choice (c) person arrested or detained is required to be produced before the nearest magistrate within the 24 hours. By exception, these rights are not given to a person of enemy State at the time of arrest. Besides this, these rights are also not available to the one who is arrested under preventive detention law.

In this manner, for the protection of basic freedoms of persons, the rights given under these articles are important.

(3) Right Against Exploitation (Article 23-24) :

Establishment of exploitation free society is one of the aims of our Constitution. In this context, right against exploitation has been included as a fundamental right. Under Article 23, system of bonded labour and trafficking in human beings are prohibited. This right prevents private person or organization

from implementing bonded labour system, began other similar kind of forced labour and declares an offence punishable under law. However, the State can demand compulsory services for public purpose. For example, compulsory military training.

This right prevents the action of purchasing, selling or letting on hire women and children for illegal or immoral purposes.

Article 24 provides protection against exploitation of children and adolescents. This Article prohibits employment of children below 14 years of age in any type of work. In this context, the Parliament of India has also passed Child Labour Abolition Act. Thus, Article 24 provides protection to the children.

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

We have seen in the discussion of characteristics of Constitution and in the Preamble that India is a secular State. It means that State of India is not operating on the basis of principles or beliefs of any religion or sect. State does not have its own religion. In our country many religions are being followed. Therefore, right to freedom of religion has been recognized. The State is absolutely impartial in the matter of religion or religious beliefs or faiths of a person. According to Article 25 every citizen has a freedom of conscience and a freedom to profess practice and propagate any religion of his choice. With that, it has also been clarified that a Government can impose necessary regulations on economic, financial and political activities related to the matters of religion. Moreover, the State can impose necessary restrictions on this right on the ground of public order and morality.

Under Article 26, every religious denomination has a right to establish and maintain religious institutions, to own, manage and administer movable and immovable properties. According to Article 27 a citizen cannot be compelled to pay any tax for promotion or maintenance of religious institutions. According to Article 28 any special religious education cannot be imparted in any educational institution run with the aid of the State and no student can be compelled to act in accordance with religious ceremony. Here it has also been clarified that this will not apply to institutions established under any endowment or trust for the purpose of imparting religious education.

(5) Cultural and Educational Rights (Article 29-30) :

India has many diversity for example, different language, script, religion, cast, race, culture etc.. Thus, rights for the conservation of these diversities have been protected in the Constitution. Article 29 and 30 give rights to different classes to protect and conserve their own language, script or culture. According to Article 29 any minority having distinct language, script or a culture has a right to conserve them. Moreover, an assurance is also given that no discrimination shall be made on the basis of religion, race, cast, language or any other like matter while giving admission in any educational institution run with the aid of the State.

Under Article 30 all minorities based on religion or language have been given right to establish and administer educational institutions of their choice. Moreover, the State cannot discriminate against any educational institutions merely because certain institutions are minority institutions.

In a country like India, where there are different kinds of minorities, these rights have special importance.

Right to Property (Article 31) and Its Abolition

A right to property was also included in the fundamental rights with the commencement of the Constitution. A citizen of India was having a fundamental right to hold, acquire and dispose of the property. However,

many disputes were created in relation to its interpretation. In order to make right to property clear, various amendments were also made in the Constitution. Lastly, by 44th Constitutional amendment in the year 1978, this right is placed in new Article 300 (A) by removing it from the list of fundamental rights. However, old wordings in that are kept intact. Now, this right is merely having a status of legal right. That means, any person can not be deprived of his property without the support of law.

(6) Right to Constitutional Remedies (Article 32) :

By conferring the status of fundamental right to the right of constitutional remedies for the protection and enforcement of the fundamental rights, the framers of the Constitution have made these rights more protective. If any citizen of India feels that his fundamental rights are not enforced or they are violated, then, he can challenge it in the Supreme Court by this right. Thus, this right gives the citizen a right to go to the Courts. Then, on the other hand under this right, it becomes the duty of the Supreme Court that they protect these rights of the citizens. Dr. Bhimrao Ambedkar of the Constituent Assembly has stated about this right that “it is the spirit of the Constitution and a centerpiece of the Constitution”.

For the protection of the rights of the citizens, the Supreme Court has been given powers under Article 32 to pass certain orders.

Protection of Fundamental Rights

For the protection of the rights of the citizens, a provision has been made for the law of the State. If any person or an institution infringes the fundamental right of another person then the law of the State protects the right of that person and punishes the infringer of the right. Many times it may happen that attempts have been made to limit the rights of the citizens by Government. In this circumstances, how to protect these rights from the State was also considered. In modern democracy, certain provisions have been made for the protection of rights. Like, by giving fundamental rights in the form of writing in the Constitution, protection by judiciary. Moreover, awareness of the citizens and effective public opinion also play an important role in the protection of rights.

Fundamental Duties

In our Constitution, fundamental rights have been included but fundamental duties have not been given any place. However, subsequently, 42nd constitutional amendment was made in 1976 in the Constitution and by this amendment fundamental duties have been included under Part 4-A and new Article 51(A) in the Constitution. In this manner, Indian Constitution attracts special attention amongst the Constitutions of democratic States providing for fundamental duties.

Under Article – 51(A) of the Constitution, every citizen shall have following duty:

- (1) To abide by the Constitution and respect its ideals and the national flag and the national anthem.
- (2) To cherish heartily and follow the noble ideals which inspired our national struggle for freedom.
- (3) To uphold and protect the sovereignty, unity and integrity of India.
- (4) To defend the country and render national service when called upon to do so.
- (5) To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious linguistic, regional or sectional diversities and to renounce practices derogatory to the dignity of women.
- (6) To value and preserve the rich heritage of our composite culture.
- (7) To protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures.

- (8) To develop the scientific temper, humanism and the spirit of inquiry and reform.
- (9) To safeguard public property and to abjure violence.
- (10) To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.
- (11) To provide opportunities for education to his child or ward between the age of six to fourteen years by a parent or guardian.

Thus, all these duties are self explanatory.

Generally it is said with regard to the rights and duties that they are like two sides of a same coin. It is said that 'right of one is the duty of other'. However, same cannot be said about fundamental duties. Certain duties are such that rights are created through their performance. In fact, these duties are towards society and nation. We have certain duties towards the society and a Nation in which we live.

Moreover, these duties do not bind to the citizens automatically, but if the law is framed for the enforcement of any duty then it is binding to obey the same and its infringer can be punished or fined. For example, laws have been framed for the conservation of environment or protection of wild life and a person infringing them can be punished. In the same manner person damaging the public properties or resorting to violence is punishable. Certain duties talk about conservation of ideals and values for which it is extremely difficult to frame laws. For example, to develop scientific temper, to have the spirit of reform, to follow the values of humanism in life etc.

These fundamental duties give us the clear guidance as to what is to be done by us as a awakened and responsible citizen of the nation. The utility of these duties is in continuously remembering and practicing that we owe towards the society and the nation. A matter of special importance is that these duties are referred to on the initial page of the text books from the primary school. If the wider propaganda is made about these duties and they are continuously talked that the spirit of social and national responsibilities can be made more stronger in the citizen of future.

Directive Principles of State Policy

Directive principles of State policy have been included in part-4 of the constitution. In very few Constitutions of the countries this kind of directive principles has been included. Taking inspiration from the Constitution of Ireland, the framers of our Constitution have included these principles in our Constitution. The principle objective of inclusion of directive principles in the Constitution is to give guidance to the Governments in relation to frame which kind of policies and in different fields. Therefore, they are called 'directive principles of State policy'. At the time of framing the policy, these principles are to be kept in mind. And policies have to be framed and they are to be executed. In this sense, they can also be called 'principles of policy direction'. The objective of these principles is to provide clear direction as to what kind of society and nation do we want to create after independence, what is our goal etc. In other words, they are the agenda of social reformation.

Some rights are included in our Constitution in fundamental rights but, there are many other rights which are included in the directive principles.

Directive principles of State policy have been included from 36th Article to 51st Article in Part four of the Constitution of India.

Now, we will have detailed understanding as to which are the principles included as directive principles.

(1) Principles Related to Political and Foreign Relations :

- (i) The State shall endeavour to organize village panchayats for the development of rural life and to give more and more independence or to give more and more self reliance.
- (ii) The State shall endeavour to frame a uniform civil code for all citizen residing in India.
- (iii) The State shall necessary take steps to separate the judiciary from the Executive to establish the rule of law.
- (iv) The State shall endeavour to maintain international peace and security.
- (v) The State shall endeavour to maintain just and honourable relations with other nations.
- (vi) State shall endeavour to foster respect for international law and perform international treaty.
- (vii) The State shall encourage settlement of international disputes by arbitration.

(2) Principles Related to Social-Economic Policies :

The State shall make special efforts for protection and promotion of interest of scheduled cast, scheduled tribe and other weaker and deprived classes of the society. Besides directive principles, similar provisions have been made giving a State a liberty under the fundamental right to equality.

The State shall, within the limits of its economic capacity, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement and in other cases of underserved want. State shall make laws for the welfare of agricultural and industrial workers and in particular female workers. A living wage, leisure and cultural activities and proper use of leave and other facilities are also included in them. State shall make provision for cottage industries and cooperative activities in rural areas and compulsory education for children, nutrition and health related services and to impose prohibition on intoxicating substance.

In the area of economic policy also many important principles have been included which are as follows :

- (i) The ownership and control of material resources of the nation are so distributed as best to subserve the common good.
- (ii) The State shall take precaution that a concentration of wealth and means of production does not result.
- (iii) It is the function of the State to see that all citizens get a right to have adequate means of livelihood.
- (iv) A provision to be made for equal wages for equal work of men and women.
- (v) Protection of health of men and women workers and tender age of children. State shall take care that on account of their economic necessities, they are not forced to do any work contrary to their age and capacity.
- (vi) State shall endeavour participation of workers in the management of industries.
- (vii) State shall take special steps for giving children opportunities and facilities to develop in a healthy manner and their childhood and youth are protected against exploitation.
- (viii) State shall take steps in the direction of making available to the citizens right to work and to make available assistance from the State to them in old age or in the state of disablement.

- (ix) It shall be the function of the State to see that circumstances of just and humane conditions of work have been created for the worker at the place of employment and to provide necessary maternity relief to women.
- (x) State shall make such arrangement that agriculture and industrial workers get adequate living wages and cottage industries and home industries are promoted by the states.
- (xi) Agriculture and animal husbandry should be developed on modern and scientific basis and the State should try to prevent slaughter of milch animals.
- (xii) The judicial system should work in such a way as to make it possible to get justice for all and the State should make arrangement for free legal aid for the needy.

Thus, the objective of these principles is to establish equalitarian, non-exploitative, welfarist society and socialist system of economy. In other words it aims at establishing social and economic democracy along with political democracy.

(3) Principles Related to Educational and Cultural Policies :

- (i) The State shall endeavour to ensure that children upto the age of fourteen years get free and compulsory education within ten years from the commencement of the Constitution.
- (ii) The State shall protect memorials, artifacts, buildings and places which are important from the historical and national point of view and takes steps to prevent these from being spoiled, distorted or destroyed.

Thus, the purpose behind these principles is to enable children upto the age of fourteen years to have universal education and to preserve the cultural and historical heritage of the nation.

(4) Policies Related to Health :

- (i) The State shall endeavour to ensure improvement in the level of health and nourishment of the people and take the necessary steps for public health and general wellbeing.
- (ii) The State shall prohibit the use of intoxicating substances, drinks and drugs which are harmful for the health. The State shall make provisions for liquor prohibition. For example, in the State of Gujarat prohibition of liquor is in force and recently Kerala and Bihar has also introduced prohibition of liquor.
- (iii) The State shall endeavour to protect the environment in the country and ensure that it improves and must make special provisions to protect the forests and their flora and fauna.

Thus, State shall strive to take steps for the preservation of health of its citizens and improvement in it. Besides, the State is also expected to make special effort to conserve and improve the environment.

By these principles, the framers of the Constitution have put before us the objective of new social and economic arrangement of India. These principles are directives for establishment of economic and social democracy. The directive principles of State policy are represented broadly to express objective of democracy in the preamble in respect of political, social and economic. In this spirit of modern welfare State is also expressed. In these principles. Important elements of different schools of thoughts have been coordinated. In this, some elements of Socialist Ideology, Liberalized Ideology and Gandhian Ideology are accepted. A dream of arrangement of just society free from exploitation and injustice is also presented. The responsibility to fulfill this dream is placed on the head of a 'State'.

For not having the support of law behind the directive principles, they are made subject matter of criticism from the stage of framing of Constitution. In spite of having many criticisms, these principles are not certainly meaningless. State can be compelled to implement them if public opinion is active and awakened. State is also compelled to implement directive principles on account of judicial activism.

Ideal of equal pay to woman and man workers is put in force. The functions of amelioration of people have been done through group development scheme. Local institutions have been made self reliant through the establishment of Panchayati Raj. For prevention of exploitation of children various laws have been made besides Child Labour Abolition Act. A provision has been made for free and compulsory education at primary level. Many steps have been taken for the promotion of classified casts. Provisions of various laws and schemes have been made for the welfare and development of woman. Continuous and solid attempts are also been made in the direction of woman empowerment. India has performed important functions for maintaining peace and security at international level.

Difference Between Fundamental Rights and Directive Principles :

After studying fundamental rights and directive principles, now we will obtain the concept of difference that is existing between them:

1. Due to legal support behind the fundamental rights, they can be enforced by the courts. In case of abrogation on fundamental rights, any citizen can take the shelter of court. Therefore, they are justiciable in form. Whereas, directive principles do not have legal supports so a relief can not be claimed for their enforcement in the court. Thus, they are non justiciable in form. These principles are merely directives. Then also they are not of least importance. In the words of Babasaheb Ambedkar "Directive Principles are like basic Principles of Governance of the Nation."
2. Fundamental rights put limitations on the State and mandate not to perform certain functions. Whereas, directive principles of State policy are affirmative. They direct the State to perform certain functions.
3. State can not ignore fundamental rights. Whereas, State is not responsible for the enforcement of directive principles. These principles being in the nature of light house are directive for Government.
4. To some extent, fundamental rights establish political democracy in the country. In that, special emphasis is put on independence of citizen. Whereas, directive principles are having the objective of establishing social and economic democracy. In that, emphasis is put on social equality and economic rights.

Lastly, it can be said that fundamental rights and directive principles of State policy, both, are important. Both are useful for the development of person and society. Both are substitute of each other.

EXERCISE

1. Answer the following Questions in detail :

- (1) What is Fundamental Rights? Explain their importance.
- (2) Discuss the fundamental right to equality under various articles.
- (3) Give in detail the concept of the fundamental right of freedom.
- (4) Describe the fundamental duties of the citizen in the Indian Constitution.
- (5) Explain directive principles of State policy.
- (6) State the directive principles relating to social - economic policies.

2. Write short notes on the following :

- (1) Right against exploitation.
- (2) Right to freedom of religion.
- (3) Cultural and educational right.
- (4) Right to constitutional remedies.
- (5) Difference between fundamental rights and directive principles.

3. Answer the following questions in one-two sentences :

- (1) What is human rights?
- (2) Which are the fundamental rights given by our Constitution?
- (3) Which are the protections available to a person under Article 20?
- (4) Which provisions have been made under Article 21(A)?
- (5) State the full name of RTE.
- (6) What are the provisions under Article 22?
- (7) Under which Articles right against exploitation is available?
- (8) Under which Article of the Constitution can the Child Labour Prohibition Act be considered as included?
- (9) Which are the various Articles of right to freedom of religion?
- (10) Why was right to property omitted as fundamental right?
- (11) By which constitutional amendment was the right to property removed from the list of fundamental rights?
- (12) While showing the importance of right to constitutional remedies what was said by Dr. Bhimrao Ambedker?
- (13) What does Article 32 show?
- (14) How do directive principle of State policy differ from fundamental rights?
- (15) Why are titles abolished?

4. Write the correct option in the given box :

- (1) Which day is celebrated as Human Rights' Day?

(a) 7th October (b) 5th March (c) 10th December (d) 3rd February

☐

- (2) What is necessary for the overall development of a person?

(a) Religion (b) Rights (c) Principles (d) Activity

- (3) In which part of the Constitution have the fundamental rights been placed?

(a) One (b) Two (c) Three (d) Four

☐

- (4) RTE Right to Education is included in which Article?

(a) 10-A (b) 21-A (c) 40-A (d) 55-A

☐

- (5) Whose absence can make a human being slave?

(a) Rights (b) Culture (c) Family (d) Health

☐

- (6) Which of the Articles of the Constitution give a cultural and educational rights?
 (a) 23- 24 (b) 29-30 (c) 34-35 (d) 38-39 ☐
- (7) Which right is now merely a statutory right in place of fundamental right?
 (a) Of equality (b) Of Property (c) Against exploitation (d) Against freedom ☐
- (8) In which year was the fundamental right to property made void?
 (a)1978 (b) 1986 (c)1994 (d)2001 ☐
- (9) In which Article of the Constitution has the provision is made of fundamental duties?
 (a) 15-C (b) 25-B (c) 51-A (d) 75-D ☐
- (10) What is referred to in the first page of the textbook?
 (a) Rights (b) Fundamental Duties (c) Federalism (d) Foreign Policy ☐
- (11) Taking inspiration from which Constitution of the nation have we included directive principle of State policy in our Constitution?
 (a) China (b) Ireland (c) Britain (d) Indonesia ☐
- (12) In which part of the Constitution have the directive principle of State policy been included?
 (a) Second (b) Third (c) Fourth (d) Fifth ☐
- (13) Presents ideals before the legislatures and is a guide in the administration of India.
 (a) Directive principle of State policy (b) Duties ☐
 (c) Political leaders (d) Institutions
- (14) Who said that directive principles are the fundamental principles of the governance of the country.
 (a) Jawaharlal Nehru (b) Gandhiji ☐
 (c) Dr. Ambedker (d) Sardar Patel
- (15) By which article is untouchability abolished?
 (a) Article 17 (b) Article 37 (c) Article 47 (d) Article 57 ☐
- (16) In which of the following States is there a prohibition of liquor in force?
 (a) Rajasthan (b) Gujarat (c) Maharashtra (d) Andhra Pradesh ☐

Activity

- Repeated reading and study of Fundamental Duties and attempts to bring them in behaviour - practice.
- Frequently organize meetings for discussion in relation to Fundamental Rights.

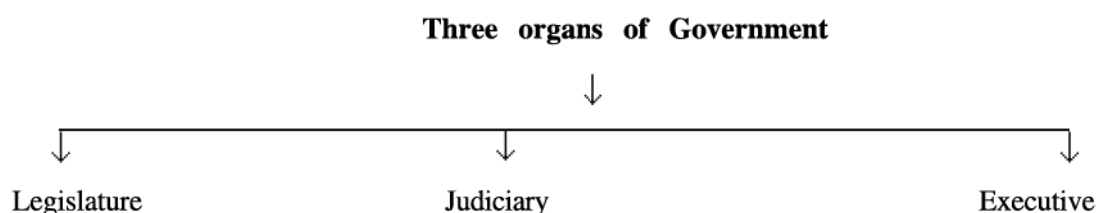


In previous time, King used to frame laws, King used to get the laws executed or get executed through his officers and the King used to give justice. As and when the States expanded, it was not possible for the King to perform these three functions single handedly. So these functions were performed through officers selected by him and responsible to him, but in this the wish of the king was considered superior and final. If the authority to perform these three functions is centralized in the hand of one person (King or the Emperor), there is a possibility of its misuse. After all King has to govern the kingdom for public interest and welfare.

Doctrine of Division of Powers

If authority of the State (Government) is divided into three branches or organs then possibility of misuse of this authority is reduced, in this context, Western Philosophers like Montesquieu presented the doctrine of 'division of powers'. According to this doctrine, Government performs functions on behalf of the State. They are different from each other. Therefore, these functions are required to be performed by different organs. Every organ has to perform its own function, not to interfere in the function of another, if this is done then it does not centralize the authority in particular person or some persons. As a result, the possibility of misuse of authority is reduced.

Organs of Government



Every State wants to achieve definite objects or purposes. In order to enable the Government to achieve purposes-objectives of the State properly and conveniently, it is divided into three branches. These three branches or organs are: (1) Legislature (2) Executive and (3) Judiciary. To this every branch Specific function has been assigned.

Main function of Legislature is to frame law. Main function of Executive is to implement the laws framed by Legislature and main function of Judiciary is to give justice by interpreting the laws. From these three branches, we shall study Legislature in detail in this chapter.

In reference to three branches of the Government, Legislature has been accepted as the most important branch. Because it prepares the law in the form of the wishes of the people. And thus by enacting law it provides foundation for the function of Executive and Judiciary.

Despite existence of Legislature in every State, the Legislature is known by different names in every State. For example, Legislature is addressed in Britain as 'Parliament', in America 'Congress', in India 'Parliament' (Sansad), in Switzerland 'Federal Assembly' and in Japan 'Diet'. Generally the word Parliament is more famous. This word is derived from the word 'Parlement' in French language. Meaning of that word is: 'A place for discussion.' Thus, Parliament is a place where representatives of the people sit to discuss and deliberate. Legislature is also meant assembly which meets to enact the laws-acts.

With this, a fact is to be noted that Britain had become largest empire of the world by passage of time. As a result, when many of its Provinces became independent, their Legislature were established by British Parliament and many States followed British Parliament accepting Bicameral Legislature while creating their own Legislature, So British Parliament is known as 'Mother of Parliaments'.

Meaning and Types of Legislature

Mainly two types of Legislatures are accepted: (1) Unicameral Legislature and (2) Bicameral Legislature.

Meaning of Unicameral Legislature : Unicameral Legislature means the Legislature which is made up of one House only. In past, Great Britain, France etc. were having Unicameral Legislature. But by passages of time, all States have accepted Bicameral Legislature. Today, Unicameral Legislature is almost not in existence.

Meaning of Bicameral Legislature : Bicameral Legislature means a Legislature which is having two Houses. In modern Democracy, the House where representatives directly elected by the people sit is called First House and the House in which the members of Legislature are sent by indirect election, appointment or by system of hereditary is addressed as the Second House.

Functions of Legislature

As an important organ of Government Legislature performs various functions. These are as follows:

(1) **Legislative function :** The main function of Legislature is to frame laws/acts. In accordance with changing time and circumstances, it enacts new laws, amend the existing laws and repeals unwanted laws. It also approves or disapproves the Ordinance.

(2) **Financial function :** Legislature is considered as custodian of public money. Approval of Legislature is necessary for sanction of budget and tax proposals, financial expenditure.

(3) **Judicial Function :** Legislature also performs some judicial functions. For instance, in India, it has the authority to remove President, Vice President, Judges of Supreme Court and High Courts, Election Commissioner etc. by impeachment from their offices.

(4) **Electoral Function :** Legislature performs the function of the electorate for the election of Principal ranked officers of the States like President-Vice President.

(5) **Function of Constituent Assembly :** Legislature performs this function in two forms. By (i) framing a Constitution of Independent Nation and (ii) Constitutional Amendments.

(6) **Function of control / regulation over Executive :** In Parliament, Legislature can compel the Government to resign by passing questions-sub questions, proposal of reprimand , proposal of no confidence.

(7) **Discussion-deliberation and formation of public opinion :** These representatives reflect aspiration and expectations of the people while representing people in the Legislature. Public opinion is expressed there. By this way, it plays an important role of 'Safety Valve', which expresses, people's aggression by discussion and deliberation.

Thus, function of Legislature is not restricted or limited only in framing laws but it also performs many other important functions.

Importance of Legislature

In Democratic countries, Legislature is having special importance. Legislature is not merely the institution of framing laws, but it is also the important centre of all democratic political processes. Many scenes can be seen in the Legislature. In that, discussion, boycott, protest, demonstration, unanimity, co assistance, cooperation, etc. make it continuously throbbing and live.

However, it is also impossible to imagine about true Democracy without real representative, skilled and dignified Legislature. Legislature gets determined duties towards citizen, responsibilities of representatives of the people. This way Legislature is the foundation of representative democracy.

In this chapter, we will have the concept of (A) Legislature at Central level (Parliament) and (B) Legislature at State level (Legislative Assembly).

(A) Legislature at Central Level (Parliament) : When Constitution of Republic India came in to force on 26th January of 1950 , the Constituent Assembly was converted into temporary Legislature. It continued functioning till the first general election in 1952. By first General Election, First Lok Sabha came into existence through members of Parliament elected by adult suffrage in accordance with the constitutional provisions. The provisions relating to Parliament have been made through Article 79 to Article 123 in our Constitution. Indian Parliament is consisting of two Houses including the President. It is necessary to pass the Bill in both the Houses after reading thrice for making an Act. Thereafter, it becomes an Act on assent of the President. Indian Parliament is not having that much supremacy as British Parliament.

Structure of Indian Parliament

Our Parliament is consisting of two Houses. These two Houses are : (1) House of People (Lok Sabha) and (2) Council of States (Rajya Sabha).

House of People is also known as First House or Lower House. It consists of directly elected representatives of the People. Whereas Council of State is known as Second House or the Upper House. It consists of representatives elected by the Legislative Assemblies of the State. In both these Houses, House of People is having special importance.

(1) House of People : This House of representatives directly elected by the People is known as Lok Sabha. Since its members are elected by voters through direct election, it is also known as House of People. The First House of People was formed on 17 April, 1952. Since then, till May 2014, total 16 House of People have been formed.

The number of members of House of People has also been determined by the Constitution. By 42nd Constitutional Amendment of 1976, it is made clear that a number of members of House of People shall be kept by allocating representatives on the basis of population of each State. According to the provision of the Constitution of India, the number of maximum members of House of People can be 552. Amongst this, 530 members are elected from the unit States through direct election whereas rest 20 members are elected from Union Territories. Besides this, if it seems to the President that, Anglo Indian community has not received proper representation, he has power to appoint two persons of this community at House of People.

Qualifications of Membership

Qualifications of membership of House of People are as under, that person,

- (i) Must be a citizen of India.
- (ii) Must have completed 25years of age.

- (iii) Must be possessing such qualifications as may be determined by the Parliament by Law from time to time in this regard.
- (iv) Must not have been declared by Court as insolvent or of an unsound mind.
- (v) Must not be holding any office of profit with the Central Government or State Government.
- (vi) Must not have been convicted of an offence by the Court.

Quorum : The business of the House can be carried on only if 1/10th of the total number of members of the House of People are present. This number is called 'Quorum'.

Duration of House of People : Generally, the duration of this House is of five years. In special circumstances, the President may extend the duration for one year. The duration can also be extended when there is an emergency in the country. However, the duration can not be extended for more than six months after the end of the emergency. In the national emergency of 1976, the duration of House of People was extended for one year and in the same year that is in 1976, the duration of House of People was fixed for six years by 42nd Constitutional Amendment. But, by 44th Constitutional Amendment in 1978, its duration was again fixed for five years.

In spite of duration of House of People being fixed for five years, if no-confidence motion is passed during the term of the House or the Prime Minister and his Council of Ministers are of the opinion that the House cannot function and so advise the President then the President dissolves the House and orders fresh election. This has happened many times in the history of our House of People and it is dissolved before the expiry of the duration of House of People.

Session : Sessions of the House are required to be called for minimum two times in a year. More than six months period should not lapse between two sessions. Generally, we have the custom of calling the sessions thrice in a year. The President has a right to call sittings, to increase or decrease the duration of the sitting and also to adjourn or dissolve the sittings. On his name, the Speaker of the House declares this in the House. The President can call urgent sitting at the time of emergency. Sometimes, Speaker can also call the special session as per the command of the President. Just like Golden Jubilee Celebration of fifty years of independence. Generally, every time the President remains present in the initial sitting and delivers his speech. The proceeding of this House is normally conducted in English and Hindi language. Members of Parliament may use their mother tongue with the previous permission of the Speaker of the House.

Privileges of Members of Parliament

Being public representatives, Members of Parliament give voice to the public questions. To allow them to perform their duties without anybody's fear or influence, certain privileges have been conferred upon them. Like, right to freedom of speech, right to vote fearlessly, right to publication activity and under certain circumstances a privilege of exemption from being arrested is conferred.

After the election of House of People, if it seems to the President that Anglo Indian community has not received adequate representation then he has a power to nominate in the House of People two persons from this community.

Officers of House of People (Speaker and Deputy Speaker) : With a view to carry on the proceeding of this House smoothly, the provisions of Speaker and Deputy Speaker have been made

in accordance with Article 93 of the Constitution. In the first sitting of the House of People, the Members of the House elect the Speaker and Deputy Speaker by majority. According to the custom, a member of a party having majority is elected as Speaker and a member of opposition party is elected as Deputy Speaker. Sometimes, the election of both the offices is conducted unanimously. In the absence of Speaker, the duties of his office are performed by the Deputy Speaker.

Position and functions of the Speaker of House of People : The office of the Speaker of the House of People is honourable and his position is kept independent and impartial like a judge. Main function of the Speaker is to conduct the session of House of People. It is the responsibility Speaker that the proceeding of the House does not get interrupted. After becoming the Speaker of the House, he is above the party politics. His position is like an umpire of a Cricket. In case of equality of votes in the House, he exercises his Casting Vote. He also has the authority to give certificate whether the Bill is Money Bill or not. He has the authority to permit the discussion for different proposals and to interpret the rules of procedure. A permission is also given to the Members of the House to express their opinion in order. Members can be dismissed from the House for misbehavior.

In the absence of the Speaker, the Deputy Speaker conducts the procedure of the House. In the absence of the Speaker and the Deputy Speaker, a panel of senior of different parties, experienced, expert of Parliamentary procedures of the members of the House has been prepared relating to the conduct of the House. This is called 'Speaker Panel'. Its members look after the proceeding of the House in the absence of both.

Procedure of Making Law : Legislature performs many functions in which the function of making law is very important. The Bill introduced in the Legislature passes through specific procedure before it takes the form of the Act. The Procedure for law is different in Parliamentary and Presidential systems. Where Parliamentary System is accepted e.g. Britain and India, there, to make an Act, Bill has to pass through this type of procedure.

Where the Legislature is bicameral, any Bill except Financial Bill can be introduced in any House. However, mostly the Bill is introduced in the First House of the Legislature. For this, firstly, draft of the Bill is been prepared.

First Reading

Mostly Bills are introduced by Ministers only. Minister asks for permission of the House for the introduction of a Bill. Upon permission being received, the Speaker of the House tells him to introduce the Bill. In that, Title of the Bill, its objective etc. are clarified. Upon completion of this procedure, the First Reading of the Bill is regarded as completed. At this stage the Bill is not specially discussed. It is only the concept that is given that the Bill is touching with which subject matter.

Second Reading

The day for Second Reading is fixed during First Reading itself. As a Result, the Second Reading is conducted on the day it is fixed. This stage is considered most important. Because at this stage, lot of discussion and deliberation take place and an attempt is made to give final shape to the extent possible. During the discussion, those who oppose the Bill, suggest amendments. Whereas the supporters of the Bill accept the amendments which are acceptable. Or accepts up to that extent which are acceptable. Or also reject it. At the end of discussion and deliberation, the Speaker presents the Bill for voting. If the Bill gets majority support, then is considered that it is passed from Second Reading.

If the Bill is relating to Government Policy and not passed in Second Reading then it is proved that the Government is not having majority in the House and according to custom of Parliamentary Government, it is necessary to resign.

Committee Stage

Because of the workload of the House it is not possible to discuss and deliberate the Bill in detail during the Second Reading. Therefore, the Bill is sent to the Select Committee of the House. During the Committee Stage the members of the Committee undertake the discussion in detail on the Bill. Committee suggests amendments and prepares its report.

Report Stage

Thereafter, Select Committee sends to the House, the Bill and its report on it. Members of the House discuss the recommendations in the report. Recommendations of the Committee which are found acceptable are accepted and then Bill is permitted for Third Reading.

Third Reading

Like First Reading the Third Reading is also formal. Till this stage whatever form is given to the Bill, the final change is to be made at this stage. Generally, no changes are done in the Bill and it is approved.

In this manner, after passing the Bill in the First House, it is sent to the Second House, that is, Council of State. There also, the Bill passes through the abovementioned stages. Thereafter, it is sent for the sanction of the Head of the State, that is, President at Centre level, and Governor at State level and on getting their sanction Bill becomes an Act. The President or the Governor can return the Bill for reconsideration. However, if the Parliament passes the Bill in the same form and send it back then the President has to sign.

Leader of Opposition Party

The place of Opposition Party is very important in democracy. Opposition Party is considered very important organ of the Parliamentary Democracy. We have also conferred honour to the office of Leader of Opposition Party.

In House of People, Leader of the Opposition Party is considered equivalent to the Prime Minister. In the eventuality of the passing of proposal of no confidence motion or in eventuality of Government resigning in the House, the responsibility to form a new Government is on him. Thus, he inspires the Prime Minister to rule in appropriate form and in turn he gets the constitutional sanction to oppose.

The party which has acquired majority seats in election forms the Government and the party which has acquired lesser seats then it occupies the position of opposition party. To acquire the status of Opposite Party the general rule is that it must have acquired 10% seats of total number of members. However, Speaker can give recognition of opposite party. At present in 16th House of People the recognized opposition party does not exist. Probably, in the history of Parliament this has happened for the first time. A provision is made for the seat of the Leader of Opposition Party in the first row in the left side of the Speaker. He also acquires certain privileges.

(2) Council of States : Election of members of Council of States known as second house or upper house is conducted according to the system of proportional representation of the members of the Legislative Assemblies of the State.

According to provision of the Constitution of India, the maximum number of members of Council of State is fixed at 250. Constitution also clarifies that President has authority to nominate 12 members out of 250 members. From out of persons having special knowledge in the field of literature, science, arts, sport and social service or having practical experience, 12 members are nominated. Remaining 238 members sit in the Council of States as representatives of States and Union Territory, elected by indirect system of election.

Every State and Union Territories are allocated seats in proportion to their population. Thus, every State elects members of Council of States in different numbers. Every members of the Legislative Assembly of the State elect such number of members in the Council of States as are allocated to the

State. Thus, Members of Council of State are elected by Indirect Election. Whereas, for Union Territories, the Members of Council of States are selected as decided by Parliament by the law.

Qualifications for Membership

These are the qualifications to become a member of the Council of States: (i) He must be a citizen of India. (ii) Must be having minimum of 30 years of age. (iii) Must not be holding any office of profit in the Centre or State Government. (iv) He must be possessing all the qualifications which are determined for the contestant of House of People. (v) No citizen shall hold the membership of Council of State and House of People at a time, if any citizen is elected in both the Houses then he has to give up as a member from any of the Houses. (vi) He must not have been declared as a person of unsound mind or insolvent.

Quorum : The business of the Council can be carried on only if minimum 1/10 of members from out of total members of the Council of State are present. This number is called quorum.

Duration of the House: Council of States is a permanent House, it means that this House is never dissolved or it abolished completely. The members of this House are elected for six years. In every second year 1/3 members of the House are retired and in the same proportion new elections are held to that extend. Thus, the aggregate decided members are maintained.

Any member remains absent for continues 60days, without the prior permission of the Chairman, then his membership comes to an end.

Sitting : Like House of People, sitting is also to be called twice in a year in the Council of States. Not more then six months period should lapse between two sittings. However, we have the custom of calling the sittings thrice in a year.

Chairman : Chairman is appointed to manage the working of Council of States. According to the constitutional provision, Vice President of India, by virtue of his office, holds the office of Chairman of the Council of States. Like Speaker of House of People, the Chairman of the Council of States also has the power to exercise Casting Vote in case of equality of votes in the House.

When the Chairman of the House is absent, the Deputy Chairman manages the working of the House. Members of Council of States elect the Deputy Chairman from amongst their own members. The Deputy Chairman vacates the office by giving resignation or upon losing the membership. Members of the House can remove him from the office by giving fourteen days notice in writing and by a resolution passed by majority.

Generally, both the Houses of Parliament perform their functions independently but when there exists a difference of opinion between them, a provision is made for joint sitting. In 1961, for the first time, a joint sitting was called to resolve the difference of opinion in relation of Dowry Prohibition Act. However, thereafter, such joint sittings have been called rarely.

For maintaining security and respect of Members of Council of States, they are having certain privileges just like the Members of House of People.

Frequently the questions have arisen about the utility or its importance of the Council of States being the Second House of the Parliament. In majority of democratic countries, the position of the Second House of the legislature has remained secondary than the position of the First House.

Residence and Salary Allowances : Members of both the Houses of Parliament are given appropriate salary, allowances and residence and also perquisites of transportation from time to time by law.

(B) Legislature at State Level : By Article 168 to Article 193 in our Constitution, the introduction to the provisions of the Legislature of the States is given. Just as Parliament in the Centre,

in the same manner the arrangement has been made for the Legislature of the States. Thus, at Centre and State level, a uniform system of Legislature is accepted. However, we do not have bicameral Legislature in every State. In some States it is unicameral and in some States it is bicameral. Bicameral Legislature exists in Andhra Pradesh, Bihar, Madhya Pradesh, Tamilnadu, Maharashtra, Karnataka and Uttar Pradesh. Whereas in Gujarat, there is unicameral Legislature.

A State which has bicameral legislature, its First House is known as Legislative Assembly and the Second House is known as Legislative Council. By the resolution of the majority of the members of the legislature of the concerned State, a State can be converted from Unicameral to Bicameral or from Bicameral to Unicameral. When this change takes place then it is not considered as constitutional amendments and it is passed in the same manner like general law.

Composition of Legislative Assembly

Legislative Assembly of the State reflects the wish of the people of the State. Like House of People, the Legislative Assembly is also formed by direct election. Voters having right of adult suffrage give votes to that candidate whom they feel appropriate from out of candidates contesting the election from their respective constituencies. A Candidate elected with maximum votes becomes the member of Legislative Assembly. We know him as Member of Legislative Assembly.

According to the provision of the Constitution of India, as such, the number of members of the Legislative Assembly is determined on the basis of population. In spite of that also, a ceiling is put on them. And accordingly minimum 60 and maximum 500 can be kept as the number of Members of the Legislative Assembly.

According to the provision of Article 333 of the Constitution, if the Governor is of opinion that the Anglo-Indian community needs representation in the Legislative Assembly of the State and is not adequately represented therein, then, he can nominate one member of that community. The time limit for this kind of nomination was fixed for ten years from the commencement of the Constitution. Along with that a reservation of seats for Schedule Casts and Schedule Tribes were also included. However, thereafter, at every ten years this time limit is extended for further ten years by amendment in the Constitution.

Term of the House

According to the provisions of the Constitution, the duration of the Legislative Assembly of the States is also kept for five years like House of People. In emergency or in case of special circumstances, one year can be extended in this duration. Only the Legislative Assembly of the State of Jammu – Kashmir has a duration of 6 (six) years.

Qualifications for Membership :

By Article 173 of the Constitution, following qualifications have been determined for a Member of the Legislative Assembly and the Legislative Council:

(i) Must be a citizen of India. (ii) To become a member of Legislative Assembly, a citizen must be of minimum 25 years of age and to become a member of Legislative Council, a citizen must be of 30 years of age. (iii) Must be possessing such qualifications as may be determined by the Parliament in this regard.

Calling of Session, Prorogation of Session and Dissolution of Session

According to the Constitutional provision, generally, the sessions of the Legislative Assembly are required to be called twice in a year and not more than six months period should lapse between two sessions. We have the custom of calling the sessions of Legislative Assembly also thrice in a year like

Parliament. In this regard, the Governor of the State is having same kind of powers as the President has. Governor has a right to call the session, to extend or curtail the duration of the session and also to prorogue or dissolve the session.

Address of the Governor

The Governor can address each House of the State Legislature or joint sitting of its both the Houses. The Governor may send messages with respect to the Bill not passed in the Legislative Assembly or otherwise. And the respective House immediately pays attention to them. The Governor addresses the Legislative Assembly at the commencement of the first session after general election.

During the term of five years of the Legislative Assembly, if the Governor is of the opinion that the Legislative Assembly of the State can not be carried on in accordance with the Constitution, then in that circumstance, he sends his report to the President and recommends for Presidential Rule according to Article 356 of the Constitution. As a result, fresh elections are held there.

Quorum

As seen earlier, one-tenth of the total number of members of the House is called Quorum. The number of the members equivalent to quorum are not present then Chairman or Speaker may either adjourn the House or may postponed the Session until there is a quorum.

For example, the total number of members in the Gujarat Legislative Assembly is 182 and therefore the presence of 19 members is necessary for the quorum.

Speaker and Deputy Speaker

Earlier, we have acquired in detail the concept of Speaker and Deputy Speaker of the House of People. Those provisions which are made for them are also made for the Speaker and Deputy Speaker of the Legislative Assembly. Therefore, we will not repeat in that regard.

Powers of the Legislative Assembly

Position and importance of the Legislative Assembly are the same as that of House of People. Its powers are as under.

(1) Legislative Power :

- (i) Legislative powers of the Legislative Assembly are very wide and result oriented.
- (ii) It can frame law on any of 66 subjects of State List and 47 subjects of Concurrent List.
- (iii) In case of emergency, President may put limitation on the powers of this House. In normal situation, this House is having effective and decisive powers.

(2) Financial Power :

- (i) Annual Budget and any Finance Bill are first introduced in this House.
- (ii) In financial matters, domination of this House is maximum. The Governor has to sign this kind of Bill passed by it.
- (iii) Whether the Bill is Financial or Non-financial, the decision of the Speaker of the Legislative Assembly is considered final.

(3) Executive Power :

- (i) According to the custom of Parliamentary System, the party or parties having majority in Legislative Assembly forms or form joint Council of Ministers.

- (ii) According to the Principle of collective Responsibility, it is unavoidable for the Council of Ministers to maintain individually or jointly the confidence of the Legislative Assembly.
- (iii) Entire Council of Ministers as a team is collectively responsible to the Legislative Assembly.
- (iv) If the members of the Legislative Assembly pass no-confidence motion against the Council of Ministers, the entire Council of Ministers has to resign.
- (v) Members of the Legislative Assembly can ask questions and sub-questions to Ministers relating to administration and important matters of policy and thereby keep a control over them.
- (vi) Through the medium of various Committees of the Legislative Assembly like, Public Account Committee, Budget Committee, Public Undertaking Committee, Privileges Committee etc., the Council of Ministers is kept under check.
- (vii) By virtue of office, the Members of Legislative Assembly take interest in the administration of State as a co-member of District Planning Committee, Co-ordination Committee, Municipality, Taluka Panchayat, District Panchayat.

Thus, the Members of the Legislative Assembly can remain continuously active while remaining inside and outside of the Legislative Assembly and contribute to the development of the State.

EXERCISE

1. Answer the following question in detail :

- (1) Describe the composition of House of People.
- (2) Describe the composition of Council of States .
- (3) Describe the composition of Legislative Assembly.
- (4) State the procedure of framing of law.
- (5) State the powers of Legislative Assembly.

2. Write the short not on the following :

- (1) Functions of Legislature.
- (2) Functions of Speaker of House of People.
- (3) Leader of Opposition of Party.

3. Answer the following questions in brief (five to seven sentences) :

- (1) State the qualifications for the membership of Legislative Assembly and Legislative council of State.
- (2) State the qualifications for the membership of both the Houses of the Parliament.
- (3) State the types of Legislature.
- (4) State the privileges of the members of the Parliament.
- (5) State the importance of Legislature.

4. Answer the following questions in one-two sentences :

- (1) Which house can not be dissolved?
- (2) Which is the only Legislative Assembly of the State in the country having duration of six year?
- (3) In which circumstances is the duration of the House of People extended for one year?
- (4) Which is the principal function of the Legislature?
- (5) What is Quorum?

5. Write the correct option in the given box :

- (1) What is the term of House of People? ☐
(a). 3 years (b). 4 years (c) 5 years (d) 6 years.
- (2) Which House can be dissolved? ☐
(a) House of People (b) Council of States
(c) Legislative Council (d) House of Lords
- (3) Whose position is important in Legislative Houses? ☐
(a) Leader of Opposition (b) Judge
(c) Secretary (d) Under Secretary
- (4) Who is having the power of Casting vote? ☐
(a) President (b) Prime Minister
(c) Judge (d) Speaker of the Legislature
- (5) Who is competent to conduct impeachment proceedings? ☐
(a) Parliament (b) Supreme Court
(c) High Court (d) Legislative Assembly
- (6) Whose signature makes the Bill an Act after the Bill passes through three readings in the Parliament? ☐
(a) President (b) Vice President
(c) Prime Minister (d) Speaker.
- (7) In House of People, Bill is presented before this committee ☐
(a) Select (b) Judicial (c) Social (d) Financial
- (8) Which House is permanent ? ☐
(a) Council of State (b) House of People
(c) Legislative Assembly (d) Gram Sabha

Activity

- Direct visit of the proceeding of the Legislative Assembly and House of People – Council of States.
- Arrange discussion – dialogue of local Member of Parliament.
- Prepare the chart of list of names of Speakers and Deputy Speakers of House of People.
- Plan a Mock Legislature.
- Collect details of Voting Proceedings.



After Second World War modern States accepted the concept of Welfare State. Therefore, the field of work of the State is expanding day to day. It is expected that the State works as an instrument of people's welfare. State through the instrument in the form Government continues to strive to achieve objective of the State. To achieve this objective Government is divided into three organs: (1) Legislature (2) Executive (3) Judiciary

Executive is a very important organ of the Government. Its main function is execution of laws framed by the Legislature. It also performs the function of framing the policy of governance and taking steps in that regard.

Executive : Meaning and Definition :

Executive can be defined in two ways. The simple meaning is the one which runs the business (administration) of the State is Executive.

While explaining the meaning of Executive in broader sense, Prof. J. W. Garner writes that, Executive includes all officers, employees, and institutions implementing the desire of the State, policy, and objective expressed by law. In this broader sense, Executive includes from the head of the State to ministers, bureaucrats, employees etc.

In India, Executive includes President, Vice President, Prime Minister and Council of Ministers.

Main two kinds of Executive:

(1) Parliamentary Executive : Meaning: The system in which Legislature and Executive are connected with each other very closely and Executive is considered as the creation of Legislature and also it is responsible to Legislature, that Executive is called Parliamentary Executive. Britain provides ideal model of Parliamentary Executive. In India we have also accepted Parliamentary Executive.

(2) Presidential Executive : Presidential Executive is established in accordance with the doctrine of Separation of Power given by French philosopher Montesquieu.

Meaning : when the system in which Legislature and Executive are not connected with each other very closely and Executive is not responsible to Legislature, but independent, that Executive is called Presidential Executive. America (U.S.A.) provides the ideal model of Presidential Executive.

Functions of Executive

Generally, principal function of Executive is to execute laws framed by the Legislature. However, as modern States have accepted the ideal of welfare State the horizons of the field of work of the State is expanding day by day. Functions of the State have been increasing.

(1) Administration related functions : General business or management of the State is run by the Executive. This function is very important. The aim of the State is the overall development of the State and to accomplish the desires and expectations of people. This aim is fulfilled only when the law-order and peace is maintained in the State. Due to failure in internal management restlessness, chaos, anarchy prevails in the State. As a result, the development of the State is obstructed. Thus, stable and healthy management is the precondition for the development of the State and the society.

(2) War or defence related functions : Function of protection of territory of the nation is performed by Military under the guidance of Executive. By maintaining integrity of nation, executive performs the function of providing security to the people.

President is the supreme commander of all armed forces in India. He has the authority to declare war. Military readiness demands continuous preparations, precaution, vigilance. In the civic life or non-war circumstances like flood, communal riots as abnormal circumstances of internal disturbance, military plays an important role.

(3) Foreign policy related functions : No State is absolutely self reliant in the world. In order to meet with the needs of its own State, it has to tie relation with other States. This function is performed by Executive through its ambassadors or high commissioner appointed abroad.

(4) Justice related functions : The Executive head of the nation holds the authority to appoint judges and also to commute the sentence of criminal, to suspend the punishment, to amend it or to pardon him. This way certain judicial functions are also performed.

(5) Finance related functions : The work area of the State is expanding day by day. For that, the need of financial instruments is also increasing. Executive creates new instruments of income for the development of the nation. On behalf of the head of the Executive the State, generally, Finance Minister of the State prepares budget for that year. And presents in the Parliament. Allocates finance between the Centre and the unit States.

(6) Legislative functions : Though, legislative functions are performed by the Legislature, Executive also performs some legislative functions. For example, by and large Executive performs the function of preparing the Bill.

Thus, by performing various functions Executive is continuously working to fulfill objectives of the State.

Executive at Centre and State Level

In this chapter we will discuss (A) Executive at Central level and (B) Executive at State level.

We have seen that the main function of Legislature is to frame laws and to impose control over the Executive. In Parliamentary governance system, Executive has to rely upon the legislature for its creation and to remain in the power. In that sense, legislature is at most important position in this governance system. Main function of the Executive is to take policy related decisions and execution of laws framed by the Legislature.

(A) Executive at Central Level

Executive at central level includes President, Vice President, Prime Minister- Council of Ministers. Now we will get detailed information regarding all of them.

President

Like Great Britain, parliamentary type of Government is accepted in India. But in Britain, Crown (king or queen holding the Crown) is the supreme head of the State. The king or queen holding the Crown possess that position by hereditary. Whereas, India is a republic State and President is the Constitutional head of the State. We do not have hereditary position of President but he is elected through the system of indirect election.

According to the provision of Indian Constitution, President has the powers of Executive. He executes this power directly or through the officers subordinate to him.

Qualifications for the Post of President

A person contesting for the position of the President, must possesses the following qualifications.

- (i) That person must be a citizen of India,
- (ii) He has completed the age of thirty-five years,
- (iii) He must be qualified for election as a member of the House of People,
- (iv) He must not hold office of profit under the Centre or State Government.

Procedure of Election of President

India is a republic nation. Moreover, we have accepted Parliamentary Governance System so the election of the President, the supreme head of the State, is done by indirect system.

Election of the President is conducted by secret ballot, showing order of selection. For his election two specific Electoral College is created. In this electoral college, (a) the elected members of both the Houses of the Parliament and (b) the elected members of the Legislative Assemblies of the States, are included.

Oath Ceremony

President shall, before holding the office make, in the presence of the Chief Justice of the Supreme Court or, in his absence, the senior-most Judge of the Supreme Court, an oath for secrecy and shall subscribe the pledge. By this oath, President affirms to protect Constitution, laws and to serve and to remain engaged in the welfare the people of India.

Time Limit

According to the provisions of the Constitution, he shall hold office for a term of five years from the day on which he enters upon his office.

When Does The Office of The President Become Vacant ?

(a) while holding office he dies, or (b) he resigns from the office, or (c) his election is held unconstitutional. Or (d) he is removed from the office by impeachment procedure according to Article-61 of the Constitution. When the office of the President becomes vacant, his election has to be held within six months. During that Vice President performs the function as President.

Powers of the President

President is the supreme constitutional head of the nation. He is given pervading and wide powers by Constitution. He can use these powers only on the aid and advice of Prime Minister – Council of Ministers. These powers can be divided into five parts. (1) Legislative Powers (2) Executive Powers (3) Justice Related Powers (4) Financial Powers (5) Emergency Related Powers.

(1) Legislative powers : President is considered as undivided organ of the Parliament and according to that he possesses some legislative powers.

- (i) He has power to call the meetings of both the Houses of Parliament, conclude the Session and dissolution of the House of People.
- (ii) After the assent of the President any Bill takes the form of an Act.
- (iii) Has the power to issue ordinances to meet any important or emergency situation when the Parliament is not in session. These ordinances are required to be introduced in any of the house within six weeks after the Parliament meets next. The effect of such ordinances are as if the law passed by the Parliament.
- (iv) Can return the Bill to the Parliament for reconsideration any bill other than money bill.
- (v) He can summon the joint sessions of both the Houses in case of difference of opinion, in the matter of any Bill between both the Houses.

(2) Executive Powers : From the constitutional point of view, President of India is the head of the Executive. According to Article 53 of the Constitution, all executive powers of the union are in the hands of President which he exercises directly or indirectly through his officers.

President is holds the power to make all important appointments. In which,

- (i) Appointment of Prime Minister and after consultation with him appointments of members of Council of Ministers are included.
- (ii) Appoints Chief justices and other Judges of the Supreme Court and of the High Courts.
- (iii) Appoints Governors of the States. He appoints Lieutenant Governors of the Union Territories.
- (iv) Appoints Attorney General, Comptroller and Auditor General of India. In addition to this, appoints the Chairman and members for Finance Commission, Public Service Commission, Election Commission, Language Commission, Policy Commission etc.
- (v) Appoints Commissioners for Schedule Casts, Schedule Tribes and Socially-Educationally Backward Casts, Minorities.
- (vi) Appoints Indian ambassadors and High Commissioners in foreign countries and accepts recognition of foreign ambassadors. A treaty or an agreement is entered into with other countries in his name.
- (vii) Pursuant to his office, the President is the Commander-in-Chief of the Defence. He appoints the chiefs of all the three wings of defence, Army, Naval, Air Force.

Prime Minister and Council of Ministers enjoy all the above powers in the name of the President. The President is having formal powers. In practice, Prime Minister, Cabinet and Council of Ministers enjoy all these powers. These powers are to be enjoyed by the President not on the bases of his wish but as per the aid and advice of the Prime Minister and Council of Ministers.

(3) Financial Powers : President holds following powers in the financial field.

- (i) Any money bill can not be introduced in the House of People without his recommendation.
- (ii) Finance Minister presents general annual budget of the nation and Railway Minister presents annual budget of the railway in the House of People in the name of the President.
- (iii) He appoints Finance Commission for recommendation in relation to distribution of income of taxes between the Union and the States.

Thus, he holds financial powers on in name. He can not stop the financial bill by rejecting it. He can not send it for reconsideration to the Parliament. In financial matters, the final power is with lower house- House of People.

(4) Justice Related Powers :

Certain important judicial powers of the President are as follows:

- (i) He can pardon any sentence of the criminal imposed by any court except Military Court. He can also reprieve the sentence of the criminal.
- (ii) Taking into consideration unusual circumstances of the criminal, the President has the power to respite the sentence. For example respite in sentence for upbringing of infant or pregnant women.

President of India is enjoys legal protection. No proceedings can be carried on against him in any court for exercise of his powers during his term of office. No criminal proceeding can be carried on against him. A court cannot pass any order for his arrest or imprisonment.

(5) Emergency Related Powers

In the Constitution of India, powers of emergency are given to the President to meet with the peculiar circumstances. In that three types of emergencies are included.

(i) Emergency (ii) Constitutional Emergency (iii) Financial Emergency

(i) Security Related Emergency : This type of emergency can be imposed in two ways. (a) External Emergency and (b) Internal Emergency.

Where it appears to the President that due to war, external aggression, or armed rebellion serious situation has occurred and to meet that National emergency or Security related emergency can be imposed. For example, in 1962 during the war between India-China emergency was imposed. Whereas, for the first time, in 1975, internal emergency was imposed/proclaimed.

Security related emergency mainly affects Centre-State relationship. Because, the whole territory converts into the arrangement of unicameral system. And certain fundamental rights shall be suspended. Where it seems to the President of India that now the situation is such that emergency can be revoked then by issuing declaration emergency can be put to an end.

(ii) Constitutional Emergency : If the President, on receipt of a report from the Governor of a State or otherwise, is satisfied that a Government of the State cannot be carried on in accordance with the provisions of this Constitution, the President may, by declaration, impose Constitutional Emergency in that State and on that bases that State is put under the President rule. (This is called Presidential Ruling.)

Effects

- Administration of the State, where Presidential Ruling is imposed, comes under the Central Government.
- Legislative Assembly of that State will kept suspended or can be dissolved though its duration is not ended.
- Governor of the State administer the State as a representative of the Central Government.
- During this period, he can make laws for the State on the subjects of State List and can also approve the Budget of that State.

Proclamation of Constitutional Emergency shall be laid before both the Houses of the Parliament, within two months and if is permitted shall remain in force for six months.

(iii) Financial Emergency : If the President is satisfied that in any part of the nation, the financial stability or credit is threatened, may declare Financial Emergency. Though, threatened financial stability or credit is not specially clarified. During this emergency, Central Government can give orders for financial transactions to the State Government. Salary and allowances of Government, quasi Government employees of the State and also of judges of the Supreme Court and of high courts can be reduced. This type of Financial Emergency is yet not imposed in India.

Self Discretionary Powers of the President

The President is not merely a rubber stamp. In some circumstances it holds the discretionary power Which he has to use as per his determination. These powers make his position more strong.

- (i) President holds the discretionary power to decide to which party or to which leader of the consolation, the invitation is to be given to form the Government where any party has not acquired clear majority in the House of People.
- (ii) In any circumstance, after so many attempts if it seems that no government can be formed then he may come to the conclusion that present House of People has failed to represent the people then he may declare the House of People dissolved.

Position of the President of India

Wide powers are given to the President of India. Wide powers relating to emergency creates the threat that, if, he thinks can become a dictator. Many disputes are created relating to his position and powers. But according to the framers of our Constitution, he is a constitutional head and he can not use his own powers as per his wish. He is bound to behave according to the advice of Prime Minister – Council of Ministers. During the framing process of the Constitution Dr. Ambedker explained his position that “like the position of the king in Britain, President in India holds the same position. He is the head of the State. But not the real head of the Executive. Though he represents the nation, but does not rule the nation. He is the symbol of unity of the nation.”

Vice-President of India

According to the designation, Vice President of India is the Chairman of Council of States. Dr. Sarvapalli Radha Krushnan was the first Vice President of India.

Election

His election is conducted by the system of secret ballot by the electoral college of the members of both the Houses of Parliament.

Qualifications for the office of Vice-President : It is necessary for the person contesting for this office that,

- (i) That person must be a citizen of India,
- (ii) He must have completed the age of thirty-five years,
- (iii) He must be having the qualification for election as a member of the Council of States,
- (iv) He must not hold office of profit under the Union or State Government.
- (v) He must not be the member of either house of the Parliament or State Legislative Assembly. Such person has to resign from other office if he is elected in the office of Vice President.

Duration of Office

The duration of this office is generally of five years. Before this duration, he may submit the resignation addressed to the President. He can be removed from his office by a resolution of Council of States passed with the majority of the members of the Council of States and consented by the House of People. There is a constitutional provision that election should be conducted as expeditiously as possible of the vacant post of the Vice-President.

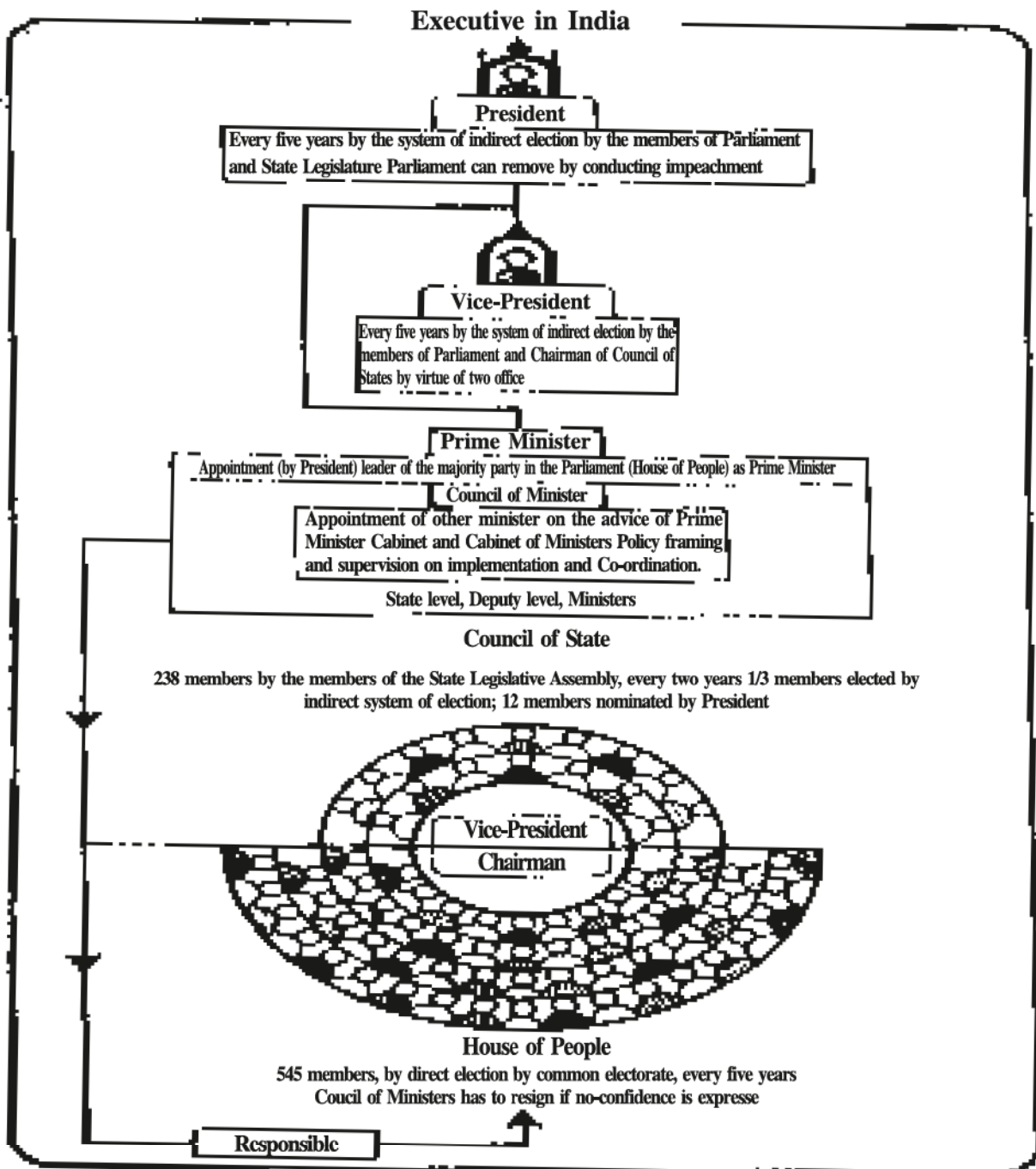
Oath Ceremony

Before accepting the office, the Vice-President has to take oath before the President or any person appointed by him for this purpose and has to subscribe the pledge.

Powers or Duties of Vice-President : In order of rank of Central Government, he comes second next to the President. In the absence of President, Vice President is performing all the duties of the President.

Vice-President can perform the duties as the President only for six months. At that time he enjoys the salary- allowances-perquisites, privileges available to the President. At that time he cannot perform the duties as the Chairman of the Council of States. That duty is performed by the Deputy Chairman of the Council of States. If the President is intending to give resignation then he has to submit the resignation address to the Vice President.

Executive at Central Level in India



Prime Minister and Council of Ministers

The role and importance of the Prime Minister and Council of Ministers are unique and special in the parliamentary Government. All real powers of the Executive are vested with the Prime Minister and Council of Ministers. Prime Minister and Council of Ministers are considered real Executive.

According to the provision of the Constitution, there is a Council of Ministers under the leadership of Prime Minister to aid and advice the President in his functions. President is bound by their advice. In this matter, dispute relating to any advice given by the Council of Ministers can not be raised in any court of law of India.

Formation of Council of Ministers

- (i) The President appoints the leader of the party, as a Prime Minister, that has got the majority after general or midterm election.
- (ii) Where any party has not acquired clear majority in the House of People then, coalition government of common ideology can also be formed. He appoints its selected leader as a Prime Minister.
- (iii) According to the advice of the Prime Minister, the President nominates other members of the Council of Ministers.
- (iv) The President administers the oath of secrecy and position to the Prime Minister and the Council of Ministers.
- (v) The President distributes or reorganise the departments to the ministers according to the advice of the Prime Minister.

Qualification for Minister

- (i) Membership of any of the house of the Parliament is necessary for ministership.
- (ii) That person can be appointed as a Minister or Prime Minister, though he is not a member of any of the house. But it is mandatory that he has to acquire membership within six months. Otherwise has to resign from Council of Ministers.
- (iii) Selection of ministers is the privilege of the Prime Minister. He can select a person as a member of the Council of Ministers, who is not even in the party.

Sometimes ministers, by self, are deserted from the Prime Minister due to difference of opinion. Sometimes they are suspended or compelled to resign by the Prime Minister.

Cader of the Ministers

Council of Ministers of Central Government has three types of ministers. (1) Cabinet Minister (2) Minister of State (3) Deputy Minister.

Cabinet ministers form the policy. It is the small political board, guiding the Government. Other cader ministers help the Cabinet ministers. Sometimes minister of State is given independent charge of any department. Some minister of State is answerable to cabinet minister.

Duration of Time

The duration of Council of Ministers is of five years like House of People. Council of Ministers comes to an end upon death or resignation of Prime Minister and new Council of Ministers comes in to the power. In case no-confidence motion is passed in House of People, the entire Council of Ministers resigns as a team.

Salary-Allowances-Perquisites

Parliament by resolution determines their salary-rent-allowances from time to time. It can not be reduced except emergency.

Functions of Prime Minister

According to the recommendations of Sarkaria Commission and constitutional amendment, total number of members of Council of Ministers shall not be more than 15% of total number of members of the House of People. In Indian Constitution certain powers have been given to the President, head of the State. The principal function of the Prime Minister is to aid and advice in the functions of the President. But it is the reality that Prime Minister takes decisions in the parliamentary system of Government. He is the principal spoke person of the Governance. The functions and powers of the Prime Minister of India are as follows.

(1) Executive Functions : According to the provisions of the Indian Constitution, the power to appoint members of the Council of Ministers is with the President. However, it is merely a formality. In reality, selection of the members of the Council of Ministers is the privilege of the Prime Minister. In that, for continuation and balance of the Government, it is taken into consideration that representation of different classes, interests, religions, areas is maintained.

It depends upon his wish that which person is to be given which Ministry or Department. He can remove any member from the Council of Ministers. He is having the power of reconstitution of Council of Ministers, reconstitution of Ministry or Department, dropping of incompetent Ministers. Any Minister who disagrees with the decision of the Council of Ministers then he asks him to resign or recommends to the President to remove from Council of Ministers.

He chairs the meetings of the Council of Ministers. In that, cabinet is of special importance in the process of policy framing. In that, Prime Minister is also playing an important role. He is the framer of national and international policies of the Nation. He is playing a role of coordination or a link of communication between Ministers and between Council of Ministers and the President.

(2) Legislative Functions : Prime Minister plays an important role in legislative procedure. He also possesses parliamentary leadership. He holds an important position in the House of People as a leader of majority party. After keeping in contact with speaker, he is getting determined the session of the House of People to be called, time, date, process of expiry of session by the President on his advice.

He gets the bill to be presented in the Parliament finally shaped by the concerned minister of the ministry. He plays a decisive role in explanation of the objects, purposes, provisions of the bill. If necessary, calls opposition party and all the parties for sitting and take in to confidence. He is the main spoke person of the Government. He declares in the Parliament, the policy related decisions of the Council of Ministers. And also gives necessary explanations.

(3) Financial Functions : Under the guidance of Prime Minister, Finance minister introduces the annual budget in the Parliament. In financial policy and economic policy his viewpoint is very decisive. It is finalise in the cabinet meeting. As per the designation, Prime Minister of India is considered as the Chairman of Policy Commission. In case of necessity, grants special relief package for the development of any State or any area of it out of central funds. In natural or manmade calamities, he provides help to the concern State, out of Prime Minister's fund.

(4) Administrative Functions : Prime Minister holds predominance over the whole administrative system. He activate the administrative system by directing the administrative system towards implementation of national and international policies framed by him. In the administrative appointments by the President his opinion is decisive. Questions asked in the Parliament relating to administration are answered by him. His opinion is impressive in treaties or agreement with other States. Thus, he applies, in real manner, the powers of the President in internal and external foreign policy. Thus, the Prime Minister is having a key position in parliamentary Government.

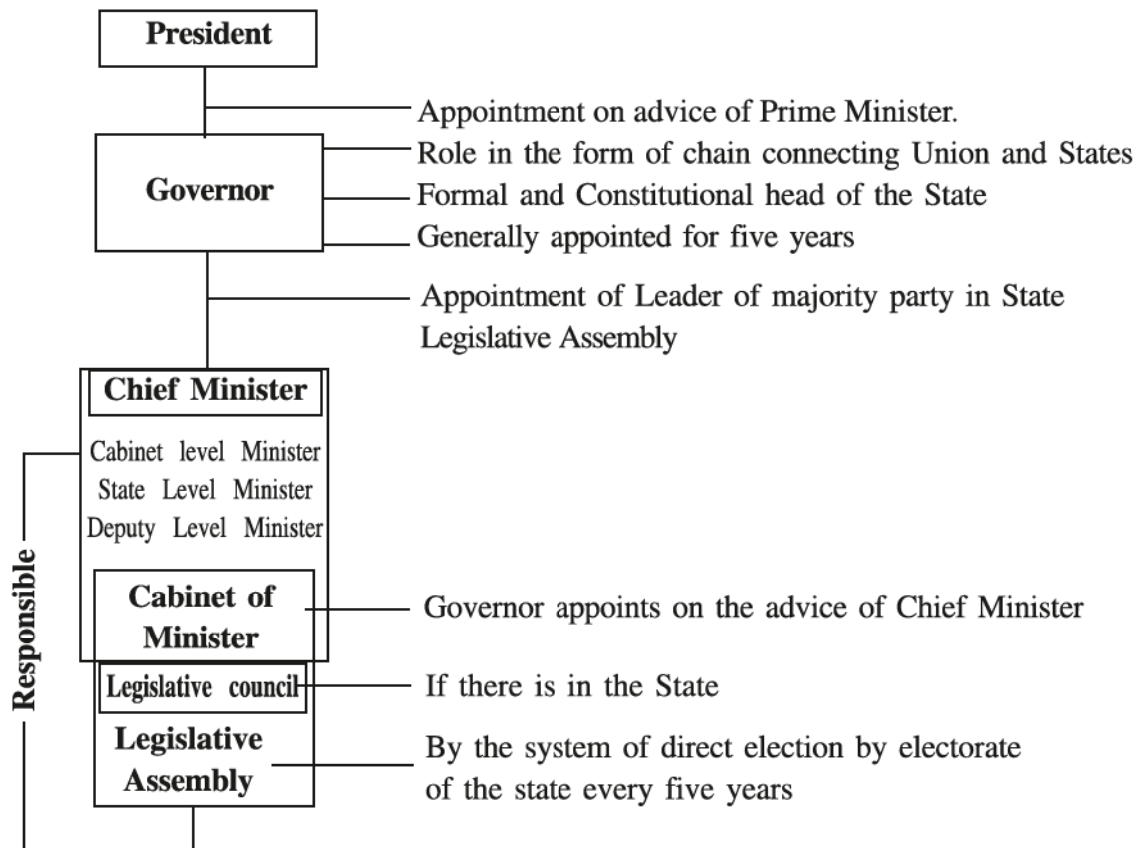
Position of the Prime Minister

Prime Minister of India has various powers. He is the real head of the Executive and has the support of majority in Parliament.

Prime Minister is the captain of the Council of Ministers of the Central Government. In parliamentary Government his position is supreme. He is considered as the real Executive. He is the captain of the cabinet kind of ship. Anchor of the national authority. He is the leader of the party in power or coalition. Also the leader of the House of People as the first house. In legal and constitutional meaning he is not the superior or head of the ministers. But his position is 'first amongst the equal'.

(B) Executive at State Level :

Government of State



Governor : According to special provision of federal system of India, the Governor enjoys the special position as a link in the relationship between the Centre and the State and in the Executive of the State. According to the Indian Constitution, one Governor is provided for each State. Some times one person is appointed as a Governor for one or more states.

Appointment :

Governor is appointed by the President.

Qualifications :

- (i) The person must be a citizen of India.
- (ii) He must be of 35 or more years of age.
- (iii) He must not be the member of either house of the Parliament or either house of the State Legislative Assembly. If he is a member of any of the house, then he has to resign from other office if he is elected in the office of Governor.

(iv) He must not hold office of profit under the Union Government or State Government.

Governor holds the office at the pleasure of the President. Normally, his appointment is made for five years. This period starts from the day he assumes his duty. President can remove the Governor from his office. He can be transferred as a Governor of another State.

Governor has to address his resignation to the President of India.

Oath Ceremony

Governor shall, before holding the office make, in the presence of the Chief Justice of the High Court of the State and in his absence, the senior-most Judge of that Court take an oath and shall subscribe the pledge. Salary-allowances and other perquisites :- Being a constitutional head of the State, residence, salary, allowances are given.

Powers of the Governor

Position of the Governor in the State is same as of the President at the central Government.

(1) Executive Powers : Governor possesses some appointment powers. For example, after general election, to appoint the leader of the majority party as a Chief Minister and also as per his advice appoints other ministers and also advocate general, chairman of State Public Commission and also appointment of Vice Chancellors of the university of the concern members is main. In constitutional emergency in the State, administers the whole State as a representative of the Centre.

(2) Legislative Powers : Governor is the inseparable organ of the State Legislature.

Governor holds the political powers to summon and address separate sitting (there two houses then) both the houses of newly formed Legislature, to dissolve the Legislature on the expiry of the session, by signing and framing the law from the Bill passed through three readings in both the houses and to send the bill back for reconsideration, to grant the bill sent for reconsideration, if necessary, can send the bill to the Centre for the permission of the President, to appoint in the Legislative Council of the State, the experts of literature, art, science, social service, cooperative activities and also where the session of the State Legislature is not in action and if it seems of immediate necessity, in that circumstances to take steps then, to issue ordinance.

(3) Financial Powers : With the prior consent of the Governor, annual budget of the concern year, also supplementary demands, provisions of expenditure, is presented by the Finance Minister of the State.

In addition, under the subordination of the permission of the State Legislature, to coop up the unexpected or accidental expenditure he holds the financial power to withdraw the amount from the State Contingency Fund.

(4) Justice Related Powers : Governor has the justice related powers to appoint judicial officers of the State, their recruitment, promotion, suspension and also to grant pardons to the criminal punished for the violation of the law, to reprieve, respite, remit or commute the punishment.

(5) Discretionary Powers of the Governor : Due to the use of discretionary powers, the Governor of the State, receives the position more then the formal or head or constitutional head of the State, in which, when any political party has not acquired the majority in general election then in this liquid situation selection of Chief Minister and oath ceremony, where Council of Ministers has lost the confidence of the Legislature and resigns then, and also when the Council of Ministers are involved in the corruption then in that situation, with the advice of the President, can suspend the Council of

Ministers and when deterioration of the Council of Ministers occurs then, has the power to dissolve the Legislature.

Thus, for the application of the aforesaid powers he can not be challenged in any court of law.

Position of the Governor

As we have adopted parliamentary kind of Government in Union as well as in unit States, Governor of the State possesses the same position as of the President in the Union. He is the constitutional and formal head of the State.

Even though this position has a glowing side. If the Governor is senior, experienced, skilled, politician and having foresighted then an effective impression can be created in the State.

Governor of the State is not a ruler but is a protector of the Constitution.

Chief Minister – Council of Ministers of the State

Prime Minister and Council of Ministers is the real Executive in union Government. In the same manner, Chief Minister and Council of Ministers is the real Executive in the State.

According to the constitutional provisions, under the guidance of the Chief Minister, Council of Ministers is provided to aid and assist the Governor. But in practice, according to the customs of parliamentary Government customs, Governor has to appoint the leader of the majority party elected in the election, as a Chief Minister.

Governor appoints other ministers in accordance with the advice of the Chief Minister. Ministers can hold office as long as there is a support of majority in the legislative assembly. Any person appointed as a Chief Minister or a Minister should be the member of either house of the Legislature, Legislative Assembly or Legislative Council. If it is not so, then he is required to get elected as a member of either house within a period of six months otherwise, he has to resign from that office.

Oath Ceremony

Governor administer the oath of office and secrecy to the Chief Minister and other Ministers and thereafter makes them subscribe the pledge.

Categories of Ministers

Categories of State ministers are of four types:

(a) Cabinet (b) State level (c) Deputy level (d) Parliamentary Secretary.

Chief Minister has the privilege of selection of any person relating to this category.

Salary-rent-allowances and other perquisites of Chief Minister and members of the Council of Ministers of the State are determined by law by Legislature of the State.

Functions of Chief Minister

The Chief Minister and his Council of Ministers actually hold the reins of administration in the State. Chief Minister has to perform certain duties which are as follows:

- (1) Selection of the members of the council of Minister and distribution of portfolios to them and its redistribution, removal of a minister and a new minister are the privileges.
- (2) Performs the function of maintaining administrative coordination between Governor of the State and Council of Ministers.

- (3) Chairs the meeting of Council of Ministers and holds all responsibilities as the leader of ruling party in the house.
- (4) Creates a role of political leadership by making effective representation at the central level for the promotion and protection of the objectives of the State.
- (5) Provides leadership to the Government as a team between ruling and opposite party.
- (6) Provides effective leadership by taking immediate decisions for providing relief to the people in man made and natural calamities in the State.
- (7) He makes the people benefited in new policies and decisions taken by the State Government so that acquires larger confidence of the people.

Thus, by performing various function as the Executive of the State Chief Minister makes special contribution in the development of the State.

Status of the Chief Minister

Position of Chief Minister in the Executive of the State is most important. Just as the position of Prime Minister is at Central Level same is the position of the Chief Minister at the State Level. He is the leader of a party holding majority, leader of the house and chairperson of the Council of Ministers. He is whole and sole and a driving force of Council of Ministers. He provides leadership to the Government. A competent captain and guide relating to policy. He is the foundation stone of Council of Ministers. He is the chain of communication between a Minister and Minister, between Minister and Legislature, between Minister and Citizens between Government and Citizens and between Ministers and Governor. He is an announcer of matters relating to policy. His voice is of important in the Government as well as in the process of administrations of the State.

Collective Responsibility of Council of Ministers

The entire Council of Ministers seldom meets. Mostly, it is the cabinet minister who meet very frequently and all important and policy related decisions are taken by them. However, the entire council of Ministers is collectively responsible for policy related decisions so taken. Principle of joint responsibility is at the core of parliamentary system. The entire ministry is supposed to defend the decisions of the cabinet as one single group both inside and out side of the legislature. If any Minister personally disagrees with the decision of the cabinet then he is order to resign. For any decision taken by the cabinet, no Minister can express his opinion against it in public. He simply has to defend it in public.

We have discussed various issues of Executive at Central level and State level. In both these, that is in reference to Executive of the Central and State level there is no major difference.

EXERCISE

1. Answer the following questions in detail :

- (1) State the functions of Executive.
- (2) State the functions of Prime Minister.
- (3) State the legislative powers of the President of India.
- (4) State the powers of the President of India relating to emergency.

2. Write short notes on the following :

- (1) Position of President of India.
- (2) Powers of the Governor.
- (3) Functions of the Chief Minister of the State.
- (4) Executive powers of the President.

3. Answer the following questions in brief (In five to seven sentences) :

- (1) State the qualifications for the office of President of India.
- (2) Refer the qualifications for the office of Vice President of India.
- (3) State the formation and category of Council of Ministers of India.
- (4) Explain procedure of election of the President of India.
- (5) State the position of Governor and the position of Chief Minister.
- (6) What is Parliamentary Executive?
- (7) What is Presidential Executive?

4. Answer the following questions in one-two sentences :

- (1) How many are the organs of Government and which are they?
- (2) What is the principal function of the Executive?
- (3) Give simple meaning of Executive.
- (4) How many are the types of Executive and which are they?

5. Write the correct option in the given box :

- (1) How many members are appointed by the President of India in Council of States?

(a) 9 (b) 10 (c) 11 (d) 12

☐

- (2) According to which article of the Constitution is the impeachment of proceeding against the President conducted?

(a) Article-63 (b) Article-62 (c) Article-61 (d) Article-60

☐

- (3) Till today, this type of emergency has not been declared in India.

(a) Financial (b) Internal (c) External (d) Constitutional

☐

- (4) Who administer an oath of office and secrecy to the President of India?

(a) Chairman (b) Judge of the Supreme Court
(c) Governor (d) Vice-President

☐

- (5) How much is the time duration of the office of President-Vice President? ☐
- (a) 3 years (b) 4 years (c) 5 years (d) 6 years
- (6) President has power to appoint two members of Anglo Indian in this House. ☐
- (a) House of People (b) Council of States
- (c) Legislative Assembly (d) Legislative Council
- (7) Appoints Attorney General of India. ☐
- (a) Chief Justice (b) Governor (c) Vice-President (d) President
- (8) Appoints Advocate General of the State. ☐
- (a) Governor (b) Chief Minister (c) Vice-President (d) President
- (9) In how many organs is Government divided? ☐
- (a) Two (b) Three (c) Four (d) Five
- (10) Ideal Example of Parliamentary Government. ☐
- (a) India (b) Great Britain (c) Canada (d) Brazil

Activity

- Arrange the visit of Rashtrapati Bhavan of India.
- Visit Raj Bhavan of Gujarat.
- Prepare a chart of list of President, Vice-President, Prime Minister, Governor, Chief Minister.

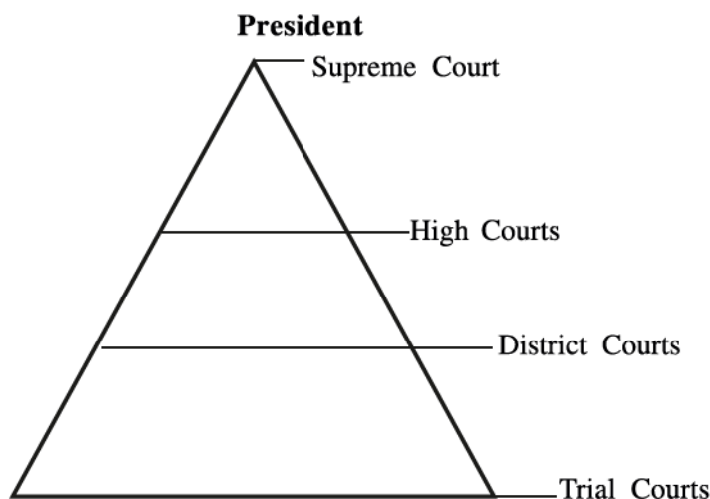


Legislature, Executive and Judiciary are the three organs of the Government. In this chapter we will have the detail concept of the Government's third organ, Judiciary.

The principal function of the Judiciary is to give justice. The function of the Judiciary is to punish or fine the violator if the law is violated at the time of its execution by the Executor and laws framed by the Legislature. Secondly, interpretation of the fundamental law of the nation means the Constitution is also the function of the Supreme Court. In this manner, the Judiciary is important for protection of independence of citizens and other rights.

It is necessary that for the protection of the rights of the citizens that judges should be independent, impartial and fearless in democratic countries.

Judiciary of India : Judiciary of India is formed by uniform system. For the whole nation single, common and integrated Judiciary is provided.



Structure of Judiciary in Pyramid Shape

According to the above diagram, the Supreme Court is at the top of the Judiciary amongst courts which sits at Delhi.

President is the constitutional and formal head of entire judiciary so the convict can file Mercy Petition before the President against the punishment ordered by the Supreme Court. According to Article 72 of the Constitution of India, the President has power to pardon the punishment given to any person, to suspend the execution of punishment, to reprieve it or to remit the punishment. Our President holds the highest position in structure of judiciary.

Judiciary at Central Level and State Level

In this chapter we will have the concept of (A) Judiciary at Central Level and (B) Judiciary at State Level.

(A) Judiciary at Central Level : Supreme Court is at Central level in Judiciary.

Structure of Supreme Court

According to Article 124 of the Constitution of India Supreme Court is the superior court of India. In the year 2015 the number of judges of our Supreme Court is 28(1 Chief + 27). Parliament may prescribe increase in the number of other judges by Act. If it seems to the President that the work load relating to justice has increased in Supreme Court then for that extent President can appoint required judges.

Procedure for Appointment of Judges : President appoints the Judges of Supreme Court and High Courts.

Qualification of a Judge of Supreme Court : According to our Constitution a person to be appointed as a judge of a Supreme Court.

- (1) Must be a citizen of India.
- (2) He must have served, for at least five years as a Judge of any High Court of India.
- (3) He must have practiced law for at least ten years in any High Court of India.
- (4) Must have been a distinguished jurist, in the opinion of the President.
- (5) He must not be of more than 65 years of age.

Duration of Service of Judges : Age of retirement of Supreme Court Judge is fixed at 65 years. However, before this period if the Judge so desires then by addressing to the President a resignation in writing, resigns his office. Besides this, upon death, proved incapable, compulsory retirement on account of misbehavior or on account of breach of constitutional limitations, judge can be removed from the office by the impeachment proceedings.

According to the Constitution, a judge after retirement can not practice law in any court of India.

Generally, a retired senior Supreme Court judge is selected as Chairman of National Human Right Commission.

Oath : Every judge of the Supreme Court shall, before he accepts the office, make and subscribe before the President, an oath for faithfulness towards the Constitution of India and for its protection.

Salary and Perquisites : A great responsibility as the protector of independent judiciary, protection of fundamental rights of citizens and protection of the Constitution is on the Judges. For this, to make them anxiety free, to keep them away from allurements and temptation, salary, rent-allowances, pension and other court expenditure are sanctioned from Consolidated Fund of Centre. That cannot be reduced during their service tenure. Their salary, rent-allowance, perquisites, etc. can be reduced only when the emergency is declared. They are also provided with fully furnished residence during service tenure.

Powers and jurisdiction of the Supreme Court : The powers and jurisdiction of Supreme Court of India are very wide. These powers and jurisdiction can be divided into four parts.

(1) Original jurisdiction : According to our Constitution, Supreme Court has original jurisdiction on the following matters. According to this authority, Supreme Court has the power to decide following disputes.

- (a) To dispose of the dispute or conflict between Central (Union) Government and one or more States.
- (b) Power to decide disputes between States or Union and one or more States on one side and one or more other States on the other. For example, disputes relating to distribution of water of rivers.
- (c) This court has the authority to give judgment on the question relating to constitutionality or otherwise of law made by the Central Government.
- (d) Supreme Court has the power to protect fundamental rights of the citizens. High Courts also have this power.

(2) Appellate Jurisdiction : According to Constitution, an appeal shall lie to the Supreme Court of India against judgments of different High Courts. Its judgments are final. Judgment rendered by it can not be challenged before any other court of the nation.

Appellate jurisdiction includes following matters.

- (a) **Matters of interpretation of Constitution :** A power to give final decision in the matter

of interpretation of constitution is only with the Supreme Court.

(b) Appeal in civil suits :

- (i) In this matter, the High Court must have granted the certificate of leave to appeal in the Supreme Court.
- (ii) Decision of high court must contain the point of interpretation of the law.

(c) Appeals in criminal cases : Following conditions must be fulfilled to appeal in Supreme Court.

- (i) If the trial court has acquitted the accused from the death punishment but high court has convicted the accused for death punishment, then
- (ii) If the High Court has withdrawn for trial before itself any case from any court subordinate to its authority and has in such trial convicted the accused and sentenced him to death;
- (iii) When the High Court certifies that this dispute deserves review.

(d) Power of Special Leave to Appeal : According to the Constitution, Supreme Court has the power to grant leave to appeal, only when, there is a question of removing gross injustice or there is a need of clarifying further of any principle of justice.

(3) Advisory Jurisdiction : If the question of law or fact has arisen or is likely to arise and it appears to the President that the question is of public importance then he may refer that question to the Supreme Court for its advice and for that question the court may, after conducting such hearing as it may feel appropriate, advise the President. Opinion given by the Court is only an advice. It depends upon the wish of the President to accept it or not.

(4) Other Powers :

- (a) The Supreme Court has the power to review its own judgment.
- (b) The Supreme Court can punish for the contempt of court.
- (c) Has the power to resolve the dispute relating to the election of President or Vice-President.
- (d) For the protection of the rights of the citizens, the Supreme Court has the power to declare unconstitutional or void any step, order, decision of the Executive not consistent with the Constitution. As an exception, no appeal can lie before the Supreme Court against the decisions or judgment of Military Court under the Martial Law.

Court of Record : The Supreme Court is regarded as Court of Record. The decisions or judgments given by it for the subordinate courts are considered as permanent document and those decisions are considered as binding on the head of the subordinate courts. Its decisions are used as reference in cases of High Courts and subordinate courts and its regulations are binding to the subordinate courts.

(B) Judiciary at State Level : Judiciary at State Level includes High Court, District Courts and Subordinate Courts.

High Court : In the Pyramid shaped of judiciary of India in the form of continuous chain next to the Supreme Court is the High Court which is superior in the territory of the State and is performing the function of giving justice by interpreting the laws.

According to our Constitution, a provision is made for a High Court for every Unit State. The President has the power to establish one common High Court for two or more States.

Structure of High Court : According to the Constitution, High Court shall consist of one Chief Justice and such other Judges as the President may appoint from time to time.

Under some circumstances, on account of increase in the work of the High Court temporarily or on account of pendency of cases, the President can appoint additional acting judges on a temporary basis in the number of judges of the High Court.

Appointment : The President appoints judges of the High Court after consultation with the Chief Justice of India, Governor of that State in which appointment of a judge of the High Court of the State is to be made and the Chief Justice of the High Court in case of appointment of Judges other than the Chief Justice.

Duration : The tenure of Judges of High Courts is 62 years. They may resign from the post by addressing it to the President. The President may remove any judge of the High Court in accordance with the Constitution if proved guilty by the Parliament in the impeachment proceeding. The President can transfer him in any State of India.

Qualifications of a Judge : According to the Constitution, for the appointment of a Chief Justice or any judge of the High Court, a person.

- (1) Must be a citizen of India.
- (2) Must have held for minimum ten years a judicial office in the State territory in India.
- (3) Must have practiced law for minimum ten years in the High Court.
- (4) Must have been jurist or a distinguished constitutionalist in the opinion of the President.
- (5) He must be of less than 62 years of age.

Oath : Every person appointed to be a Judge of a High Court shall, before he enters upon his office, make and subscribe before the Governor of the State or some person appointed in that behalf of him, signs the pledge.

Salary and Other Perquisites : According to the Constitution, the Chief Justice and other Judges of High Court have been paid appropriate salary. Besides, like other officers of Government, rent-allowance, pension, facility of fully furnished residence and vehicle facility are given in the context of service. Except in financial emergency, any kind of reduction can not be put on it. After retirement they can not practice as an advocate in the High Court where they have served.

Jurisdictions : Jurisdictions of High Court can be divided in to four divisions as follows.

(1) Original Jurisdiction : According to the Constitution, for the violation of fundamental rights of the citizens, it has the power to issue orders-directions and writs like habeas corpus and quo warranto against any person, authority or Government.

(2) Appellate Jurisdiction : An appeal can lie in the High Court against the judgments of any court falls within the jurisdiction of the High Court within the territory of the State. It is called right to appeal. According to this right (a) an appeal can be made in the High Court when the judge of the Criminal Court of District and has punished for his offence for a period more then four years (b) an appeal can be made in the High Court when the judge of a District Session Court against the judgment of the Criminal Court subordinate to it has sentenced the accused to death holding the accused responsible for the charge of murder.

(3) Superintendence Jurisdiction :

- (i) According to the Constitution, High Court keeps supervision and control over all subordinate courts and tribunal commissions throughout the entire territory of the State.
- (ii) It can call for returns and files from the subordinate courts.
- (iii) Issue general rules for judicial practice and proceeding for subordinate courts.
- (iv) Provide guidance to the subordinate courts on how to maintain account and entries.

- (v) Appoint employees and officers of the subordinate courts and fix the standard of court fees.
High Court does not have power to supervise or control over Military Courts and Commissions.
- (vi) State Government in consultation with the judge of High Court appoints judges in the Courts of District.

Position of High Court : High Court is the connecting ring between its subordinate courts and the Supreme Court. Just as Supreme Court holds the status and prestige at the Central (Union) level, the High Court holds the same status and prestige at State level.

According to the provision of the Constitution, the High Court of the State enjoys the status of Court of Records like Supreme Court. The judgments, decisions given by the High Court are published in an appropriate and codified in proper form.

Subordinate Courts : Just as High Court is subordinate to Supreme Court, District and Taluka Courts are subordinate to High Court of States. Every State is divided into administrative unit – district in which are included criminal, civil courts.

District Judge

Appointment: According to Article 233 of the Constitution, persons are appointed as District Judge of any State and promoted on that place by the Governor after consultation with the High Court exercising jurisdiction in relation to that State.

Qualifications

A person appointed as District Judge –

- (1) Must be a citizen of India.
- (2) Must be having minimum seven years of experience as advocate or Vakil.

Transfer of District Judges and Promotion are made in accordance with the rules framed after consultation with the High Court and appointment of other judges are made in accordance with the rules framed after consultation with State Public Service Commission and High Court.

(A) Civil Court: Civil Judge (Senior Judge) has power to try a suit exceeding rupees five lakhs, suit by or against Government, suit relating to divorce, cases relating to land acquisition (relating to compensation). Civil Judge (Junior Division) has powers to try suit up to rupees five lakhs, suits by or against Government.

(B) Criminal Courts: In Section 6 of the Criminal Procedure Code, classification has been made of criminal courts as (i) Session Court (ii) Judicial Magistrate First Class - Metropolitan Magistrate Court.

In addition to Session Judge in the Session Court, additional and assistant session judges are also appointed who can impose punishment of death, imprisonment for life, imprisonment exceeding 10 years.

Now, with a view to provide justice at the door-step of a house, additional District Courts have also been established under the control of District Court.

Judicial Magistrate First Class is having the power to punish up to three years of imprisonment and a fine upto Rs. 10000/-

Besides this, City Civil and Sessions Courts and Small Cause Courts are also constituted. Labour Courts are also constituted for dispute of labourers.

City Civil Court and Small Cause Court are established in metropolitan city which are determining civil cases. At present, such Courts are in big cities like Mumbai, Kolkata, Chennai, Ahmedabad etc.

Special Courts are also constituted for cases of land revenue. Some special tribunals have also been constituted like Motor – Accident Tribunal, Debt Recovery Tribunals, Consumer Dispute Resolution Forum also plays the role of the Court and disposes of the suit relating to damage caused to the consumers.

Consumer Protection Act : This Act has been framed with the objective of providing punishment by speedy procedure against the traders cheating the consumers by deceitfully gaining confidence on the basis of false representation and for providing expeditious legal system for compensation to be paid to the consumers victimized of damages.

After passing of the Consumer Protection Act by the Parliament, the assent of the President was received on day of 24th December 1986. Therefore, the day of 24th December is celebrated as National Consumer's Right Day in India. We have three tier judicial system in force for the protection of the consumers. Consumer Courts known as District Forum at district level, State Commission at State level, National Commission at national level are operational. In which consumer can complaint.

The rights available to the consumers from this Act in brief are as follows.

- (1) Right of protection against the sale of things which are injurious to property and life.
- (2) Right to information with regard to standard, quality, measurement, weight, purity and price of goods.
- (3) Right to receive goods-service and facility by competition at reasonable rates.
- (4) Right to get compensation against the cheating and unfair practice of the trader.
- (5) Right of consumers to represent complaint.
- (6) Right to acquire necessary information and expertise to become vigilant consumer.

Legal Service Authorities : In Part-4 of our Constitution, a provision is made in the Directive Principles of State Policy of equal justice and free legal aid to the citizens. Any citizen of India does not remain deprived of opportunity for getting justice due to poverty or any other incapability, Legal Services Authorities are necessary besides arranging Lok Adalats. For the formation of these legal authorities, Legal Services Authority Act, 1987 is made in India. Today, in Gujarat the main centre of legal aid authority is at Shahibaugh, Ahmedabad. That became the first 'Law Clinic' in the entire Asia.

Lok Adalat : A main function of the State Legal Service Authority is to conduct Lok Adalats. Lok Adalat is an alternative medium for disposal of cases. In every Lok Adalat, assistance of sitting judges or retired judges, advocates, law teachers or social worker can be availed.

In the courts of entire country the cases have been accumulated in greater scale. In these circumstances, it was inevitable to find the way to dispose the case by explanation and skill, without expense or delay. Lok Adalat is such a medium where parties forget their difference of opinion and compromise with the help of sitting or retired judges, advocates or social workers. This is the slogan of Lok Adalat – 'None's victory, None's defeat.' Orders of Lok Adalats are not less significant than the orders of the courts. As a result, there is statutory provision that orders disposing the cases in the Lok Adalats can be executed through Courts.

National Legal Service Authority has emphasised upon the establishment of permanent Lok Adalat in every district. As a result, in some districts of some States such Lok Adalats are functioning. In some districts of State of Gujarat permanent Lok Adalat has been established. Some functions for every fifteen days in a month or once in a month.

Lok Adalat has a jurisdiction to hear only those cases which are capable of compromise pursuant to law.

In this Lok Adalat judges do not sit as a judge and advocates do not appear as an advocate. It does not have any fixed proceedings. A conversation takes place between the parties informally. And reducing the difference of opinion a compromise is arrived at which is acceptable to the parties. This experiment is proved quite successful in India. For the first time the experiment of Lok Adalat has took place in the Gujarat State. The concept of Lok Adalat was initiated from the Ashram of Sarvodaya worker Shri Harivallabh Parikh at Rangpur. Its proper initiation was taken place on the day of 14/2/1982 at Una of Junagadh district.

Woman Courts : A woman court is an informal structure runs by Gujarat State Woman Commission and through Woman “Samkhyā” for joining women of the society in the process of justice to get a neutral justice to women by a woman, it is an informal alternative arrangement for a justice in a short time.

Gujarat Government has undertaken the initiative of this Woman Court by Women for woman for bringing happy disposal of their questions in their own Taluka so that the ladies of the remote and internal villages have not to go far away. Till today 144 woman courts are functioning in Gujarat. In these courts problems relating to women are getting solved. In addition to that, literature having information of planning and legal information are distributed to them free of cost. State Woman Commission has organised legal awareness camp at district level for awareness in women. Structure of woman court is of three layers, at State level, at District level and at Taluka level.

EXERCISE

1. Answer the following questions in detail :

- (1) State the structure of judiciary at Central level
- (2) State the structure of judiciary at State level.
- (3) State the powers and jurisdiction of the Supreme Court.
- (4) State the jurisdiction of High Court.

2. Write short notes on the following :

- (1) Structure of Indian judiciary.
- (2) Position of High Court.

3. Answer the following questions in brief (five to seven sentences) :

- (1) Function of judiciary.
- (2) State the qualifications of a judge of the Supreme Court.
- (3) When can an appeal relating to criminal case lie in the Supreme Court?
- (4) State the original jurisdiction of the Supreme Court.
- (5) What is Court of Record?
- (6) State the qualification of a judge of the High Court.
- (7) State the original jurisdiction of the High Court.
- (8) State the administrative jurisdiction of the High Court.
- (9) What is Consumer Protection Act?
- (10) What is legal service authority?
- (11) What is Lok Adalat? What is its object?
- (12) Give information on Woman Courts.

4. Answer the following questions in brief (one to two sentences) :

- (1) Who is the supreme head of judiciary of India?
- (2) When can an appeal relating to civil suits lie in the Supreme Court?
- (3) Who is appointing the judges in the District Court?
- (4) State the slogan of Lok Adalat.
- (5) State the objective of Woman Court.

5. Write the correct option in the given box :

- (1) What is the principal function of the judiciary? ☐
- (a) to do justice (b) to deliver judgments
(c) to punish (d) to give good advice
- (2) Which type of structure has the judiciary of India? ☐
- (a) square (b) circular
(c) pyramid (d) cylindrical
- (3) How many year of age a judge of a Supreme Court should not have more then? ☐
- (a) 60 (b) 55 (c) 30 (d) 65
- (4) For how many minimum years of service should a judge has served in any of the High Courts of India for qualification of judge of a Supreme Court? ☐
- (a) Five (b) Six (c) Seven (d) Eight
- (5) In which court will the dispute of two Unit States proceed? ☐
- (a) Supreme Court (b) High Court (c) woman court (d) Lok Adalat
- (6) To whom shall our Supreme Court give legal advice? ☐
- (a) President (b) Prime Minister (c) Commander (d) Legislature
- (7) When is National Consumer Right day celebrated in India? ☐
- (a) 24th December (b) 24th January (c) 26th January (d) 15th August
- (8) Where is the centre of Legal Service Authority situated in Gujarat? ☐
- (a) Gh-5, Gandhinagar (b) Shahibaugh, Ahmedabad
(c) Rajkot (d) Bhavnagar.
- (9) "None's victory, none's defeat." This statement is of which court? ☐
- (a) Woman Court (b) Supreme Court
(c) Lok Adalat (d) High Court
- (10) in which State in India was the Lok Adalat experimented for the first time? ☐
- (a) Gujarat (b) Maharashtra
(c) Bihar (d) Uttar Pradesh
- (11) Which court is established for joining women in the process of justice, for giving neutral justice to women by women? ☐
- (a) Lok Adalat (b) Woman Courts
(c) Rural Courts (d) High Courts

Activity

- Take the students for the visit of nearest court.
- A lecture can be arranged of a lawyer.



The word 'Sthaanik' is derived from the Sanskrit word 'Sthaana'. Self-Government means own governance. The place where peoples settled is known as village, town or city. People settled in village or city govern their village or city by own or by their representatives is called peoples' governance or 'Local self governance'. In this manner, the institutions which govern the local transaction of the village or city are known as Institutions of Local Self Governance. In rural area Gram Panchayat, in urban areas Municipalities or Nagar Panchayat and in cities like Ahmedabad, Mumbai Municipal Corporation are considered as Local Self Governance.

These institutions of Local Self Governance administer the functions of village or town people's health and services of local necessity. Generally, these institutions perform the functions like, to provide to the people of its area, provide water for Drink and use to build good road, take care of them, make them clean, to arrange the facility of lights on the public roads, to provide health service, to arrange the facility of primary education etc.

In our nation, institutions of Local Self Governance are in existence since ancient time. Gradually it was destroyed. Recent Local institutions present in the country were started from British governance. It was developed in the country in the time of fighting for independence. Modern Local Self Governance institutions have been started after Balavantray Mehta committee.

Beginning of Local Institutions

Modern states hold large area and huge of population, so responsibilities of Central Government has increased tremendously. It is very tough and difficult to govern the whole nation from one place by the Central Government only. Problems and questions of different parts of the nation are also of different kinds. The Central Government cannot be expected to be very familiar and informed about all these problems or it may not have enough time to solve these problems in a proper and systematic way, from these situations the concept of decentralisation of democracy was immersed.

Where the federal system is in force, there provision for centre and unit States are provided. Unit governments have also developed the concept of decentralisation of powers and functions for the purpose of administrative convenience. Thus, due to the approach of decentralization, institutions of Local Self Governance are immersed and developed. These institutions are considered as 'Third Government'.

Self Governance : Meaning and Concept

Meaning : Local self government refers to the governance of village, town or city, where people have been settled, by elected representatives of them. The institutions which are established for this are called institutions of local self government.

Every local unit government of the State divides the territory of the State in small regional territories according to the local situations for convenient administration. And by handing over the local responsibility and functions to it, administering it, is known as local government or local self government.

Institutions of Local Self-Government are of Two Types

- (a) Rural area institutions includes mainly Gram Panchayat, Taluka Panchayat and District Panchayat.
- (b) Institutions of urban area includes Municipality, Municipal Corporation and Mega City.

Importance of Local Self-Government

In the dream of self-governance of the father of the nation, Gandhiji, village has always remained the centre point. For preservation of Indian culture and indinity, for the strength of large society and its welfare, decentralisation of power in the country should be done. He had said, “at present the centre of power is in big cities like Delhi, Kolkata and Mumbai. If I could, I would distribute these centers of power in the seven lakh villages of India.”

The following points explain the importance of Local Self Government.

- (1) Decentralization of powers is achieved.
- (2) Local citizens become conscious for their responsibilities.
- (3) These institutions are considered as the training school of democracy.
- (4) Administrative expenditure is economised.
- (5) Prove to be the laboratory of administrative reforms.
- (6) Citizens participate enthusiastically in local functions. Continuous awareness comes.
- (7) Citizens' interest in local functions increase and their concern increases.
- (8) Impression of Bureaucracy reduces at local level.
- (9) Workload of centre and unit governments reduces.

Such institutions breathe soul or life into the democratic body politic. And nurtures constantly the roots of democracy and keep them active and live. Local people perform the role of active citizen by performing local responsibilities. Local Government works maximum for public education then any other branch of Government.

While explaining the importance of these institutions, Late Prime Minister Jawaharlal Nehru has told that, Local Self Government is the true foundation of democracy. As long as sufficient importance is not given to the local Government in democracy till then democratic system can not succeed.

Development of Institutions of Local Self-Government

Origin and Development : Since ancient times village is the smallest and important unit of administration in India. Regarding this authentic information are available in Vedas and Buddhist Jatak-katha before 4th and 5th centuries. Arayans had established Janpadas after settling in the Saptasindhu region of India. The Rigveda has mentioned of 'Gramin' as the elected head of the village.

Famous Panchayati Raj writer S.K. Dey writes in 'Panchayati Raj' that, in ancient India, each village was a small type of republic. Village was ruled by Panchayat. Panchayat means the arrangement of administration of a village by five people, selected by the villagers. Panchayats acquired proper position in the period of Gupta period. At that time, they were known as Panchayata or Panchmandal.

It was nicely developed during British Period. From the view of administrative decentralisation and political education, the Government of the Lord Mayo took an important step in this direction by framing law in 1870 by distributing the responsibilities of education, medical treatment, and construction of roads to the Provincial Government. In 1871, the provincial Government in Madras, Punjab, Bengal and Uttar Pradesh enacted laws for the establishment of the institutions of Local Self Government. In 1882 Lord Rippon laid down the principles for future institutions of Local Self Government by passing a bill to that effect. With this bill the institutions of local self Government came to be truly established.

Therefore, Lord Rippon is called the father of Local Government Institutions. In Mumbai, new law on local board came in to force. Government of Mumbai by framing a law in 1889, provided for the establishment of sanitation boards in villages.

Royal Commission appointed in 1907, recommended in detail for work area – decentralisation of local institution. In that context, Government of India in 1915, by passing a resolution, decided the directive principles for institutions of local Government. The centralized Government in India made Local Self Government a subject for the provincial Government in 1919. As a result, some province framed laws for the establishment of Panchayat, for example, the Bombay Village Panchayati Act of 1920. For provincial autonomy gave further impetus to this.

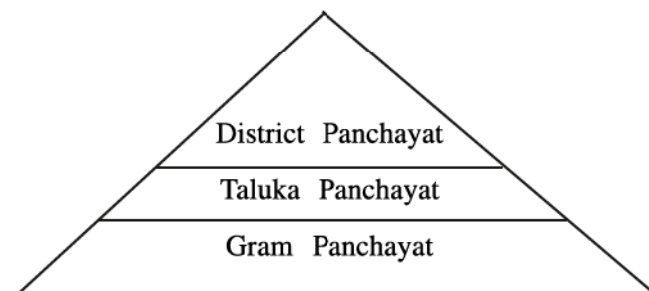
In 1946-47, that was included in Directive Principles of State policy in constituent assembly. Government of India constituted an administrative structure with the title 'community development'. For comprehensive evaluation of its application and result, in 1956, national development committee gave the report which became the base for democratic decentralization. Thus, 'democratic decentralization' became famous as its option. That is a synonym for 'Panchayati Raj'.

In 1977, Ashok Mehta Committee was formed for its evaluation. In 1984 also, under the chairmanship of C. H. Hanumanrav, a committee was formed. With reference to its recommendation, in 1992, by 73rd and 74th constitutional amendment provisions were made for equal Panchayati Raj in the whole nation and also for institutions of urban self government.

(a) Institutions Of Local Self-Governance At Rural Level :

These institutions are established in three layers. Which are like this:

Three Tiered Structure



Formation of Panchayati Raj

The word 'Panchayat' is formed of two words. 'Panch' and 'Aayat'. 'Panch' means five. Whereas, the meaning of 'Aayat' is a place. Thus, Panchayat means 'place of five'. In Indian culture the proverb is famous, meaning of which is five people represent the God. Thus, Panchayat means the institutions of five wise men for the solution of local questions.

Beginning

According to the Article 40 of the Constitution of India, the State will take the necessary steps to create Village Panchayats and devolve upon them the necessary powers and rights so that they can function as a unit of Self Government.

In the reference of recommendations of Balvantrai Mehta Committee the Panchayat Raj system began in Rajasthan on 2-10-1959. Since 1960, State of Gujarat was formed, and from 1963 Panchayat

Raj was started. From 1946, the concept of Panchayat Raj has become firm. This is a novel experiment from the point of view of democratic decentralization and has created a revolution of sorts at the local level through participation by the people.

There is a two-tier panchayat system for the States with a population of less than 20 lakh and a three-tier panchayat system for States having a population of more than that.

By passing 73rd and 74th constitutional amendments in 1992, Indian Parliament has given constitutional status to the rural and urban institutions of Local Self Government. Now both these types of local Government institutions have been accepted as the third tier of governance. In both these type of institutions 1/3 seats are kept reserved for women. Besides this, for the post of chairman of it, 1/3 seats are also kept reserved for women. Regular elections to these institutions have also been provided for. There is also a provision from the State finance commission to allocate the necessary grant to these institutions from the State Government. Lists of functions to be performed by these types of institutions are also included in the Constitution.(Entry 11 for village local Government institutions and Entry 12 for urban local self Government institutions). Thus, now, Institutions of local self governance has established as the third and basic layer of Indian Administrative system. According to the 73rd constitutional amendment of 1992, detailed provisions in this regard have been made.

(1) Gram Panchayat :

Composition :

- (a) Gram Panchayat is an established association of the village. For the establishment of it, minimum population of 500 is necessary. Gram Panchayat can also be established for a population of 15000. Some times group of Panchayat is also established for some villages collectively.
- (b) It consists of 7 members till the population of 3000 and with the increase of every thousand or a part thereof two more members and maximum upto 15 members.
- (c) A village ward is created on the basis of distribution of the total population of the village equally according to the figures published in the last census. The election of the members takes place ward wise on the basis of adult suffrages through direct election system of secret ballots. As per the latest sub-rule of the Government of Gujarat, a citizen cannot contest election from more than two wards. The minimum age of contesting elections is of 21 years of age.

There is a provision, at Gram Panchayat, Taluka Panchayat and District Panchayat, for the reservation of seats for the members belonging to scheduled casts, and scheduled tribes, socially and educationally backward classes and women, in proportion to the number of seats. For women 33% of reservation is made and seats are allocated through rotation system. Since 2015 in Gujarat the number of this reservation is increased to 50% from 33%.

Any citizen of India whose name is covered in voters list of the village, is capable to contest for the member of Gram Panchayat or for a Sarpanch.

The Government of Gujarat has declared an 'award of Samrasta' for the villages where uncontested elections are conducted. At Gram Panchayat level, two kinds of awards systems are in force, that are, 'samras' and 'mahila samras'.

Sarpanch : The President of Gram Panchayat is called Sarpanch. The sarpanch is directly elected

under the supervision of the commission by the voters of the entire village. All meetings of the Gram Panchayat are conducted under the chairmanship of the sarpanch. His term of office is for 5 years but members of the Gram Panchayat can bring no-confidence motion against him.

The Panchayat Raj Rules also provide for reservation for the post of sarpanch for members of scheduled castes and scheduled tribes, Backward communities and women.

The Panchayat law has made it compulsory for the sarpanch to call a meeting of Gram Sabha at least twice a year. This Gram Sabha is the heart of the Gram Panchayat. The Gram Panchayat throbs and pulsates due to Gram Sabha. Some thinkers, by knowing the importance of Gram Sabha, know it as Legislature of the village.

Deputy Sarpanch : The Deputy Sarpanch of the Gram Panchayat is elected by the elected members of the Gram Panchayat in the first general meeting. Thus, this election conducted indirectly. Generally, he is elected for five years. But he can be removed from his office by passing no confidence motion against him.

Administrative Officials : The official of the Gram Panchayat is called a Talati-cum-Mantri. Who works as a secretary to the sarpanch. By residing locally he keeps the functions of Gram Panchayat in motion. He has to be in constant contact with the Taluka-District Panchayat in the context of Government officers, land revenue and Panchayat Raj schemes. Financial transactions such as daily-accounts and accounts are to be done under the subordination of the Sarpanch.

Committees : To facilitate the work of Gram Panchayat, the following committees are generally constituted.

Committees are constituted for (1) Executive (2) Appeal (3) Social justice (4) Education (5) Water (6) Construction (7) Sanitation (Cleanliness) (8) Health.

Financial Source : According to the Section 243 of the Panchayat Act, there is a State Finance Commission to provide financial aid to panchayats. Apart from this, the other sources of income of this institution are aid of State Government, house tax, educational cess, vehicle tax, water tax, income from fairs and festivals, income of planning, electricity tax and octroi and land revenue. Though, Government of Gujarat and some other States have abolished octroi duty for Gram Panchayat; but they give special grant for that income.

Functions of Gram Panchayat

There are main two important objectives of allocation of the functions of Panchayat Raj as held by the Constitution :

(1) Panchayat of every level should prepare plans for the economic development of its area and implement them.

(2) Panchayat of each level should also prepare plans for the establishment of social justice in its area and implement them.

The main function of Gram Panchayat is the responsibility to prepare plan for the development at village level. It also has to undertake those development functions that a Taluka and District Panchayat asks it to perform as a part for the fulfillment of their own development goals. Functions to be performed by Gram Panchayats are divided into two parts : obligatory functions and voluntary functions.

Duration : Generally, the duration of Taluka Panchayat is of five years but the Government can extend or dissolve that duration.

(A) Obligatory Functions:

(1) Arrangement of water for drinking and household use. (2) repairing and maintenance of public

wells and lakes (3) arrangement for lightings (4) repairing and cleaning of roads (5) maintaining health (6) maintenance of crematory (7) functions for the development of agriculture and cooperative activities (8) registration of birth, death and marriage (9) maintenance of property of Gram Panchayat (10) establishment of Home Guards and its functions (11) recovery of land revenue and Government debt (12) animal husbandry, animal breeding and its care (13) assistance in census and functions of social education (14) to take steps for the prevention of infectious diseases.

(B) Voluntary Functions :

(1) plantation of trees (2) construction of dharmshala, rest houses, bathing places (3) arrangement for gymnasium, library, garden (4) arrangement for grain storages (5) functions in the time of natural calamity (6) to run community centers (7) other functions of public services.

Duration : Generally, the duration of Gram Panchayat is of five years; but State Government can increase-decrease it. If necessary, can dissolve it also.

In Gujarat in the year of 2015 there are 13996 Gram Panchayats are in existence.

(2) Taluka Panchayat :

Taluka Panchayat is the middle tier of the Panchayat Raj system.

Composition : Taluka Panchayat consists of minimum 15 members and maximum 31 members. It consists of 15 members till the population of one lakh and with the increase of every 25,000 or more then that, two more members are included according to the provisions. The members of legislative assembly from this area are also co-members of Taluka Panchayat but they do not have a right to vote.

The population of the entire taluka is divided equally and the constituency is created accordingly. One member is elected for each constituency. 21 years of age limit is for contesting election. Their election is conducted under the supervision of State election commission on the basis of adult suffrage by direct election system. 50% reservation for women is provided there. Candidatures of political parties are made.

President-Vice-President

Election of officials of Taluka Panchayat means President and Vice President held indirectly by elected members on indirect bases. Meetings of Taluka Panchayat meet under the Chairmanship of President. Vice President supports the President in development functions of Taluka Panchayat. Vice President takes over the charge of President when the post of President becomes vacant in some circumstances.

There is a provision in The Panchayat Act for reservation of the seat of President, for women, scheduled cases, scheduled tribes or socially or educationally backward class. Out of the total number of Taluka Panchayat of the State 50% seats of President of Taluka Panchayat is kept reserved for women. If in the population of a taluka 15% is of Baxi panch or scheduled cast or tribe then 15% seats are kept reserved for them.

If no confidence motion is passed against the President and Vice President then has to resign form the post. The Anti Defection Act of 1986 is applicable to the members of Taluka Panchayat. If the President is not successful in passing the budget then it is considered as no confidence motion.

Administrative Official : Officer of the Taluka Panchayat is called as Taluka Development Officer (T.D.O.). He serves as a secretary of the President. He is the head of the administrative Executive of the Taluka Panchayat. Appointment, promotion, transfer of TDO and other employees is done in accordance with the Government and District Panchayat.

Committees : In this institution two committees are formed from the elected members, namely, Executive Committee and Social Welfare Committee, by the elected members. Number of members of it is in accordance with the number of members of Taluka Panchayat. Members of the Executive Committee elect one of its members as the Chairman. Whereas in the Social Welfare Committee the position and selection of members and the chairman are reserved for the members of Scheduled Cast. In other committees, education, agriculture, co-operation, minor irrigation, sanitation, health etc. committees are constituted.

Financial Resources

The financial resources of Taluka Panchayat are part of Government grant, aid, income of stamp duty, land revenue are major.

In Gujarat in the year of 2015 there are 249 Taluka Panchayat.

‘Dilipsinh Bhuriya Committee’: The report of this committee is accepted. If any village, taluka or district is having 51 per cent population of schedule tribes, out of the total population, there the position of Sarpanch, chairmanship of Taluka Panchayat, District Panchayat will remain permanently reserve for Schedule Tribes. An initiative has already been made in this direction. The region from Amirgarh to Ahawa is included in this.

Functions of Taluka Panchayat

(1) Health, sanitation (2) construction (3) social education (4) cultural education (5) collective development (6) agriculture – irrigation (7) animal husbandry (8) development of village industries and small industries (9) co-operative sector (10) woman welfare (11) social welfare (12) relief sectors (13) collection of statistics (14) forest development (15) information – entertainment .

Duration : Generally, the duration of Taluka Panchayat is of five years; but State Government can increase or dissolve it.

(3) District Panchayat :

District Panchayat is at the top of the three layered structure of Panchayati Raj.

Composition : In this institution the minimum number of member is 31 and maximum number of member is 51. The district is divided into different regional electoral on the basis of last census and members are elected. Age limit to contest in the election is 21 years.

The composition is this institution

(a) Members elected by electorate.

(b) Presidents of Taluka Panchayat.

(c) Residents of district – established by invited members like elected Members of Legislature, members of Parliament. These invited members have right to take part in the discussion but can not take part in voting.

President – Vice-President : Election for President and Vice President of District Panchayat is conducted in the first general meeting. Generally, his term is of five years; but before that tenure, development commissioner can compel for removal of his office on the issue of low confidence motion or moral turpitude. In the absence of the President Vice President holds the charge on the basis of his post.

Financial Resources : The main source of income are from land revenue, stamp, duty, organization of fair and festivals, Government grant and aid and special aid from finance commission.

Administrative Officials : Class one officer is appointed to help and to give advice to the President of District Panchayat in the development works. He is called the District Development Officer (D.D.O). His appointment is made by State Government. He functions as the secretary of the President. Appointment, promotion, transfer or suspension of other officers and employees connected with him is also done by the State Government.

Committees : following are the committees in the District Panchayat for the development of District :

(1)Executive (2) education (3) public health (4) social welfare (5) constructions (6) appeal (7) production and co-operation welfare (8) woman-child welfare (9) irrigation (10) committee for the construction of residence of land less agriculture laborer (11) financial estimation committee (12) since 1986 committee of 20 points implementation is also formed. Arrangement of members and chairman in that is made in accordance with The Panchayat Act.

Functions of District Panchayat: (1) health sanitation (2) construction (3) education-culture (4) administrative (5) social development (6) agriculture (7) animal husbandry (8) development of village industry and small industries (9) social welfare (10) relief – help (11) small irrigation planning (12) woman-child welfare (13) co-operative area (14) forest development (15) collection and maintenance of statistics.

Duration : Generally, the duration of District Panchayat is of five years. Dissolution can take place before duration. If a budget cannot be passed because a situation might attract The Anti-defection Act, 1986 because of the reality of party position in the Panchayat or a motion of no confidence is likely to fall short of the requisite 2/3 majority support needed for it, a Panchayat can be kept in dormant state and an administrator can be appointed. District Panchayat completes and implements the development tasks through the subordinate institutions like Gram Panchayat and Taluka Panchayat.

There are 33 District Panchayats in Gujarat as on the year 2015.

Thus, Institutions of Local Self Government work-area covers local matters widely.

(b) Institutions Of Local Self Governance At Urban Level :

According to the 74th constitutional amendment, provision is made for Local Self Governance means institutions of Local Self Government in urban areas. First unit of local self Government in urban areas is Municipality.

(1) Municipality (Nagarpalika) : Municipality started functioning for the first time in 1888 from Chennai.

Composition : On the basis of the last declared census the total population of the town is equally divided into ward. The minimum number of members shall be 21 and maximum number of members shall be 51 for Municipality. Four members are elected from each ward. In that also, according to the rules, the seats are kept reserve, as per the number of seats, for the women, scheduled cast, scheduled tribes and for Baxipanch. Electoral is prepared on the basis of the last census and elections by direct election system, through adult suffrage, is conducted under the supervision of State Election Commission by district collector and regional officer. Member of Legislative Assembly and Member of Parliament residing in the area of concern town or city consider as co-members of that Municipal Corporation; but they do not possess the voting right.

Office Bearers : Members Elected In First General Sitting, Elect The President And Vice President. President is considered as the 'First Citizen' of concern city. In Gujarat these rank officers hold office for two and half years. The post of the President is kept reserve for women, scheduled cast and scheduled tribes as per the Government declared rotation system.

Administrative Officials : Chief Administrative Officer is appointed by the Government for the supervision of the entire administration of the Municipal Corporation. He functions as the secretary of the President.

Committees : Following committees are formed by Municipal Corporation for its smooth administration and for the fulfillment of public facilities and appoints its members and chairman. In that :

(1) Administrative committee (2) Education Committee (3) Water facility committee (4) Electric facility committee (5) Octroi committee (6) Sanitation-health committee (7) Garden development committee (8) Town planning committee (9) Construction – Road committee etc. are included.

Recently, the process to undertake primary education, governed by education committee by the District Panchayat.

Financial Resources : Its main sources of income are : entertainment duty , electricity tax, water tax, stamp duty, vehicle tax, Government grant or aid and the grants of Member of Legislative Assembly or Member of Parliament and also the aid from planning board.

There are 259 Nagarpalika existing in Gujarat.

Government of Gujarat has abolished the Octroi at Municipality level; but the Government gives, in lieu of it, a special grant in three annual installments. And as ad hoc salary seven and half percent of the decided grant is paid till first three years.

(2) Municipal Corporation :

This is the supreme institution in urban area. Which is known as Municipal Corporation. The city having more than 3 lac population acquires the position of Municipal Corporation. For example, recently, Junagadh city has acquired the status of Municipal Corporation. At present in Gujarat Municipal Corporations are in Ahmedabad, Vadodara, Surat, Rajkot, Jamnagar, Bhavnagar, Junagadh and Gandhinagar.

City having population more than twenty lac acquires the status of Mega City. Mumbai, Chennai, Delhi, Kolkata enjoy the status of Mega City. Government of India provides special development grant to these cities. The power to give the status of Mega City is with the Government of India.

Composition

According to the statistics published in the last census equal divided wards are established in the city. According to the new amendment of Government of Gujarat, no member can contest an election for more than two wards at a time.

There are 192 corporators in Ahmedabad Municipal Corporation.

Any citizen who is of 21 years of age and whose name is included in voters' list can contest election of this institution. According to the Government rules-regulations in this regards, seats are kept reserved for women and scheduled cast and scheduled tribes. In Gujarat, a person having maximum two children can only holds membership in all the institutions of local self Government. In addition to that, there must be lavatory in house.

Ranked Officer

Election of President and Vice President is held during first general meeting among elected members. President can be known as Nagarpati or Mayor. Vice President can be called Deputy Mayor. Mayor is considered to be the first citizen of city. The post of Mayor kept reserve for women and backward class by rotation. 'Chairperson' word become famous for Woman Mayor. Tenure of two and half years fixed for Mayor and Deputy mayor in Gujarat.

Officials : The officer who is provided for the administration of the Municipal Corporation is called Municipal Commissioner. According to the necessity departmental Deputy Commissioners are also appointed. State Government appoints them amongst the first class (Class I cadre) officers. Their promotion, transfer, removal depend upon the wish of the Government. He is helpful to Mayor in budget and in other process.

Committees : For the public facilities following committees are forms by this institution. In which :

(1)Executive Committee (2) Education Committee (3) Water Supply Committee (4) Power Supply Committee (5) Public Health Committee (6) Hospital Committee (7) Octroi Committee (8) Garden Committee (9) Sanitation Committee (10) Transportation Committee (11) Construction Committee.

Financial Resources : The main source financial of this institution include house tax, octroi, sales tax, entertainment tax, Government grants and grants allotted to the Members of Legislative Assembly and Members of Parliament for the development works. The provision is made for Metropolitan Planning Committee for the development of cities having population of more than 10 lac.

Duration: Generally, the duration of Municipal Corporation is of five years. Though, it can be superseded if it proved inefficient in discharging duties. Election for such a superseded institution must be conducted within six months. In short, the State Government has the full control over it.

Functions :

All the institutions of Local Self Government of the urban area has to perform the following duties. According to 74th constitutional amendment they are mentioned under 12th list of the Constitution.

(1)Town planning under the scheme of town planning (2) land acquisition and building construction (3) plans for economic and social development (4) construction of roads and bridges (5) arrangements for water supply for households, industrial campus, trade and commerce campus (6) arrangements for public facilities, sanitation, cleaning and sewage (7) to provide fire brigade services (8) to increase dimensions of urban forestry, environment protection (9) protection of interests of handicapped and mentally retarded people under the development of under privileged class of the society (10) abolition of unhygienic settlements and development of housing schemes, reduction of slums like, Indira Housing Scheme, Sardar Housing Scheme and Dr. Ambedker Housing Scheme (11) Elimination of poverty from the town (12) to facilitate the people of town creation of facilities by special park-gardens, play-sports grounds like stadium , chopati of Mumbai (13) to increase cultural, educational and beautification dimensions, for example, town hall, city primary school and 'clean city' status of Surat (14) establishment and maintenance of crematories, electric crematories and places of burial (15) abolition of washing places and cruelty towards animals (16) registration of birth-death and maintenance of its register (17) with respect to public purpose development of facilities of lights on roads, parking places, bus services (18) maintenance of slaughter houses and tannery industries.

In Gujarat under the head of urban development Ahmedabad Urban Development Authority, and in that manner RUDA for Rajkot, SUDA for Surat, BUDA for Bhavnagar, GUDA for Gandhinagar are

provided and Government allocates special grant for them.

In this manner Institutions of Urban Local Self Governance at the local level perform the aforesaid functions for the betterment of the people and to provided them facilities for comfort life and people also participate in self governance with enthusiasm by paying their taxes.

Woman Empowerment In The Institution of Local Self-Government

The history shows that, in the self development women are left back. Not only that but they are becoming the part of manipulation. Some times knowing they are kept backward. So as a part of the step of women upliftment the process of women empowerment has taken in hand.

Women and men are almost equal in the population of the society, women must get the equal opportunities of her self development and expression. But till date their status has remained in margin due to the partial behaviour. As 2001 year has been declared as woman empowerment year, status of woman and real situations of the woman in the world are the centre point.

Women Empowerment means a demand for inclusion of women in all political decision making institutions from Panchayat to Parliament, Government structures and in all fields. This is a movement of making women a partner in decision making process and its execution. This empowerment must come in all fields , social, economic, political, cultural and religious.

In the area of political partnership of women, equal voting right has been given in democracy. There are equal opportunities that women can come in the places of power by contesting election as a candidate and by wining it. However, in reality, women are seen in the field of politics in less number. Partnership of women of every stage of the society in appropriate proportion is not seen. Women are not permitted to participate in the power politics to some extent. Even today, inspite of having woman Sarpanch in some of the Panchayat, her husband, son, father or any male family member is seen functioning as Sarpanch in her place. In short, their problems can be solved only when, the women will register their active participation in institutions of Local Self Government and other higher political institutions.

In the preamble of the Constitution of India, ideal of equal opportunity to woman-man and equal social justice has been expressed. In directive principles of State policy also, certain provisions have been made for giving effect to the objective of women empowerment. Even to the extent that in our fundamental duties also practices have been directed to be made so as to protect the dignity of women.

Institutions of Local Self-Government in the Context of Social Justice

Prior to the existence of present Panchayati Raj, a monopoly of power was prevailing in the rural societies at local level. Specially, upper cast of the society was having the majority of powers. As a result, poor and deprived class of people was not having any place in the structure of power that was existing at local level. As a result, higher casts were holding the monopoly of power in the society. This position was fundamentally obstacle in the development of the society because in the structure of power, lower level casts were not getting a partnership at local level. As a result, leaders of higher casts having authority used to become superior authority in the decision making process at local level. That used to give bad results. In this circumstance, lower level casts had to suffer gross injustice and discrimination. This situation can not be considered proper for healthy society. Under this circumstances, the principle objective under the initial consideration that took place for new Panchayati Raj was that

equal participation must be available to all the classes of the society in the decision making process in the structure of power.

EXERCISE

1. Answer the following Questions in detail :

- (1) What is Local self Government? Explain it in detail.
- (2) Explain the importance of Local self Government.
- (3) Discuss the origin and development of Local Self Government.
- (4) Write a detail note on the procedure for establishment of Panchayati Raj.
- (5) Explain the establishment and functions of Gram Panchayat in Panchayati Raj.
- (6) Explain the establishment and functions of Taluka Panchayat.
- (7) Explain the establishment and functions of District Panchayat.

2. Write short notes on the following :

- (1) Write an establishment of Municipal Corporation.
- (2) Discuss the main source of finance of Municipal Corporation.
- (3) Write a note on women empowerment in the institutions of Local Self Government.

3. Answer the following questions in brief (five to seven sentences) :

- (1) What is decentralisation?
- (2) What is the importance of Local Self Governance?
- (3) What is the decentralisation of the power?
- (4) How the election of Deputy Sarpanch is held?

4. Answer the following questions in one or two sentences :

- (1) What is local Government ?
- (2) What is the standard for formation of village panchayat ?
- (3) What is called social Justice ?
- (4) State two compulsory functions of village panchayat.
- (5) What is women Empowerment ?

5. Write the correct option in the given box :

- (1) Who is the father of Local Self Governance?

(a) Lord Rippon (b) Gandhiji (c) Jawaharlal Nehru (d) Sardar Patel

☐

- (2) From where the word 'Sthanik' is derived?

(a) City (b) Village (c) Town (d) Sthaan

☐

- (3) Which kind of Government is Institutions of Local Self Government?

(a) First (b) Second (c) Third (d) Fourth

☐

(4) What does the Local Self Government do?

- (a) Work of public education (b) Primary Education
(c) Higher Education (d) Foundation Education

☐

(5) How many layers are there in the Institutions of Panchayat Raj?

- (a) four (b) two (c) one (d) three

☐

(6) What is the age of voting in election of Panchayats?

- (a) 20 years (b) 18 years (c) 21 years (d) 25 years

☐

(7) How many Gram Panchayats are there in Gujarat in the year of 2015?

- (a) 10,000 (b) 13,996 (c) 13,550 (d) 13,151

☐

(8) How many Taluka Panchayats are there in Gujarat?

- (a) 249 (b) 241 (c) 233 (d) 251

☐

(9) How many Municipalities are there in Gujarat?

- (a) 260 (b) 259 (c) 233 (d) 241

☐

(10) How many Corporatores are there in Ahmedabad Municipal Corporation?

- (a) 192 (b) 190 (c) 182 (d) 191

☐

Activity

- To observe the election of Village Panchayat.
- To make direct visit of Gram Sabha.
- To watch meeting of Panchayat.
- To arrange the conversation of the President of District Panchayat.
- To visit the general meeting of Municipality and Municipal Corporation.
- To arrange conversation from Village Panchayat to Corporation.

