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INDIAN POLITY

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INDIAN POLITY

JUDICIARY

The Supreme Court

The Constitution of India has the following provisions regarding the Supreme Court of India:

Article 124:

Establishment and constitution of Supreme Court.

- (1) There shall be a Supreme Court of India consisting of a Chief Justice of India and, until Parliament by law prescribes a larger number, of not more than seven.
- (2) Every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose and shall hold office until he attains the age of sixty-five years:
Provided that in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of India shall always be consulted. Provided further that
 - (a) a Judge may, by writing under his hand addressed to the President, resign his office;
 - (b) a Judge may be removed from his office in the manner provided in clause (4).

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

- (3) A person shall not be qualified for appointment as a Judge of the Supreme Court unless he is a citizen of India and
 - (a) has been for at least five years a Judge of a High Court or of two or more such Courts in succession; or

- (b) has been for at least ten years an advocate of a High Court or of two or more such Courts in succession; or
 - (c) is, in the opinion of the President, a distinguished jurist.
- (4) Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of a Judge under clause (4).
- (5) Every person appointed to be a Judge of the Supreme Court shall, before he enters upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.
- (6) No person who has held office as a Judge of the Supreme Court shall plead or act in any court or before any authority within the territory of India.

Article 125:

Salaries, etc., of Judges.

- (1) There shall be paid to the Judges of the Supreme Court such salaries as may be determined by Parliament by law and, until provision in that behalf is so made, such salaries as are specified in the Second Schedule.]
- (2) Every Judge shall be entitled to such privileges and allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such privileges, allowances and rights as are specified in the Second Schedule:

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

Article 126:***Appointment of acting Chief Justice.***

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

Article 127:***Appointment of ad hoc Judges.***

- (1) If at any time there should not be a quorum of the Judges of the Supreme Court available to hold or continue any session of the Court, the Chief Justice of India may, with the previous consent of the President and after consultation with the Chief Justice of the High Court concerned, request in writing the attendance at the sittings of the Court, as an ad hoc Judge, for such period as may be necessary, of a Judge of a High Court duly qualified for appointment as a Judge of the Supreme Court to be designated by the Chief Justice of India.
- (2) It shall be the duty of the Judge who has been so designated, in priority to other duties of his office, to attend the sittings of the Supreme Court at the time and for the period for which his attendance is required, and while so attending he shall have all the jurisdiction, powers and privileges, and shall discharge the duties, of a Judge of the Supreme Court.

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

Notwithstanding anything in this Chapter, the Chief Justice of India may at any time, with the previous consent of the President, request any person who has held the office of a Judge of the Supreme Court or of the Federal Court 2[or who has held the office of a Judge of a High Court and is duly qualified for appointment as a Judge of the Supreme Court] to sit and act as a Judge of the Supreme Court, and every such person so requested

shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that Court:

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

Article 129:***Supreme Court to be a court of record.***

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

Article 130:***Seat of Supreme Court.***

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

Article 131:***Original jurisdiction of the Supreme Court.***

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

- (a) between the Government of India and one or more States; or
- (b) between the Government of India and any State or States on one side and one or more other States on the other; or
- (c) between two or more States, if and in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends:

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

Article 132

Appellate jurisdiction of Supreme Court in appeals from High Courts in certain cases.

- (1) An appeal shall lie to the Supreme Court from any judgment, decree or final order of a High Court in the territory of India, whether in a civil, criminal or other proceeding, if the High Court certifies under article 134A that the case involves a substantial question of law as to the interpretation of this Constitution.
- (3) Where such a certificate is given, any party in the case may appeal to the Supreme Court on the ground that any such question as aforesaid has been wrongly decided.

Explanation.- For the purposes of this article, the expression "final order" includes an order deciding an issue which, if decided in favour of the appellant, would be sufficient for the final disposal of the case.

Article 133:

Appellate jurisdiction of Supreme Court in appeals from High Courts in regard to civil matters.-

- (1) An appeal shall lie to the Supreme Court from any judgment, decree or final order in a civil proceeding of a High Court in the territory of India 7 [if the High Court certifies under article 134A.
 - (a) that the case involves a substantial question of law of general importance; and
 - (b) that in the opinion of the High Court the said question needs to be decided by the Supreme Court.
- (2) Notwithstanding anything in article 132, any party appealing to the Supreme Court under clause (1) may urge as one of the grounds in such appeal that a substantial question of law as to the interpretation of this Constitution has been wrongly decided.
- (3) Notwithstanding anything in this article, no appeal shall, unless Parliament by law otherwise provides, lie to the Supreme Court from the judgment, decree or final order of one Judge of a High Court.

Article 134:

Appellate jurisdiction of Supreme Court in regard to criminal matters.

- (1) An appeal shall lie to the Supreme Court from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India if the High Court-
 - (a) has on appeal reversed an order of acquittal of an accused person and sentenced him to death; or
 - (b) has withdrawn for trial before itself any case from any court subordinate to its authority and has in such trial convicted the accused person and sentenced him to death; or
 - (c) 8[certifies under article 134A] that the case is a fit one for appeal to the Supreme Court:

Provided that an appeal under sub-clause (c) shall lie subject to such provisions as may be made in that behalf under clause

- (1) of article 145 and to such conditions as the High Court may establish or require.
- (2) Parliament may by law confer on the Supreme Court any further powers to entertain and hear appeals from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India subject to such conditions and limitations as may be specified in such law.

Article 135:

Jurisdiction and powers of the Federal Court under existing law to be exercisable by the Supreme Court.-

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

Article 136:

Special leave to appeal by the Supreme Court.

- (1) Notwithstanding anything in this Chapter, the Supreme Court may, in its discre-

tion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India.

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

Article 137:

Review of judgments or orders by the Supreme Court.

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

Article 138:

Enlargement of the jurisdiction of the Supreme Court.

- (1) The Supreme Court shall have such further jurisdiction and powers with respect to any of the matters in the Union List as Parliament may by law confer.
- (2) The Supreme Court shall have such further jurisdiction and powers with respect to any matter as the Government of India and the Government of any State may by special agreement confer, if Parliament by law provides for the exercise of such jurisdiction and powers by the Supreme Court.

Article 139:

Conferment on the Supreme Court of powers to issue certain writs.

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

Article 140:

Ancillary powers of Supreme Court.

Parliament may by law make provision for conferring upon the Supreme Court such supplemental powers not inconsistent with any of

the provisions of this Constitution as may appear to be necessary or desirable for the purpose of enabling the Court more effectively to exercise the jurisdiction conferred upon it by or under this Constitution.

Article 141:

Law declared by Supreme Court to be binding on all courts.

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

Article 142:

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

- (1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order¹ prescribe.
- (2) Subject to the provisions of any law made in this behalf by Parliament, the Supreme Court shall, as respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents, or the investigation or punishment of any contempt of itself.

Article 143:

Power of President to consult Supreme Court.

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

- (2) The President may, notwithstanding anything in the proviso to article 131, refer a dispute of the kind mentioned in the 3[said proviso] to the Supreme Court for opinion and the Supreme Court shall, after such hearing as it thinks fit, report to the President its opinion thereon.

Article 144:

Civil and judicial authorities to act in aid of the Supreme Court.

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

Article 145:

Rules of Court, etc.

- (1) Subject to the provisions of any law made by Parliament, the Supreme Court may from time to time, with the approval of the President, make rules for regulating generally the practice and procedure of the Court including
 - (a) rules as to the persons practising before the Court;
 - (b) rules as to the procedure for hearing appeals and other matters pertaining to appeals including the time within which appeals to the Court are to be entered;
 - (c) rules as to the proceedings in the Court for the enforcement of any of the rights conferred by Part III;
 - (d) rules as to the entertainment of appeals under sub-clause (c) of clause (1) of article 134;
 - (e) rules as to the conditions subject to which any judgment pronounced or order made by the Court may be reviewed and the procedure for such review including the time within which applications to the Court for such review are to be entered;
 - (f) rules as to the costs of and incidental to any proceedings in the Court and as to the fees to be charged in respect of proceedings therein;
 - (g) rules as to the granting of bail;
 - (h) rules as to stay of proceedings;

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

- (j) rules as to the procedure for inquiries referred to in clause (1) of article 317.

- (2) Subject to the rules made under this article may fix the minimum number of Judges who are to sit for any purpose, and may provide for the powers of single Judges and Division Courts.
- (3) The minimum number of Judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution or for the purpose of hearing any reference under article 143 shall be five:

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

- (4) No judgment shall be delivered by the Supreme Court save in open Court, and no report shall be made under article 143 save in accordance with an opinion also delivered in open Court.
- (5) No judgment and no such opinion shall be delivered by the Supreme Court save with the concurrence of a majority of the Judges present at the hearing of the case, but nothing in this clause shall be deemed to prevent a Judge who does not concur from delivering a dissenting judgment or opinion.

Article 146:

Officers and servants and the expenses of the Supreme Court.

- (1) Appointments of officers and servants of the Supreme Court shall be made by the

Chief Justice of India or such other Judge or officer of the Court as he may direct:

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

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

Provided that the rules made under this clause shall, so far as they relate to salaries,

allowances, leave or pensions, require the approval of the President.

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

High Courts

In each state there is a High Court, which exercises powers within the territorial jurisdiction of the state concerned. A High Court consists of a Chief Justice and such other judges as the President may, from time to time, determine. Since the number of the judges of the State High

THE FOLLOWING ARE THE TWENTY-ONE HIGH COURTS SORTED BY NAME, YEAR OF ESTABLISHMENT, JURISDICTION, PRINCIPAL SEAT (HEADQUARTERS) AND BENCHES.

Court name	Established	Jurisdiction	Seat	Benches
Allahabad High Court	1866	Uttar Pradesh	Allahabad	Lucknow
Andhra Pradesh High Court	1954	Andhra Pradesh	Hyderabad	
Bombay High Court	1862	Maharashtra, Goa, Dadra and Nagar Haveli, Daman and Diu	Mumbai	Nagpur, Panaji, Aurangabad
Calcutta High Court	1862	West Bengal, Andaman and Nicobar Islands	Calcutta	Port Blair (circuit bench)
Chhattisgarh High Court	2000	Chhattisgarh	Bilaspur	
Delhi High Court	1966	National Capital Territory of Delhi	New Delhi	
Gauhati High Court	1948	Arunachal Pradesh, Assam, Manipur, Meghalaya, Nagaland, Tripura, Mizoram	Guwahati	Kohima, Aizwal & Imphal. Circuit Bench at Agartala & Shillong
Gujarat High Court	1960	Gujarat	Ahmedabad	
Himachal Pradesh High Court	1971	Himachal Pradesh	Shimla	
Jammu and Kashmir High Court	1943	Jammu & Kashmir	Srinagar & Jammu	
Jharkhand High Court	2000	Jharkhand	Ranchi	
Karnataka High Court	1884	Karnataka	Bangalore	Circuit Benches at Hubli-Dharwad & Gulbarga
Kerala High Court	1956	Kerala, Lakshadweep	Kochi	
Madhya Pradesh High Court	1936	Madhya Pradesh	Jabalpur	Gwalior, Indore
Madras High Court	1862	Tamil Nadu, Pondicherry	Chennai	Madurai
Orissa High Court	1948	Orissa	Cuttack	
Patna High Court	1916	Bihar	Patna	
Punjab and Haryana High Court	1947	Punjab, Haryana, Chandigarh	Chandigarh	
Rajasthan High Court	1949	Rajasthan	Jodhpur, Jaipur	
Sikkim High Court	1975	Sikkim	Gangtok	
Uttaranchal High Court	2000	Uttarakhand	Nainital	

courts has not been fixed by the constitution, it varies from court to court. Appointments of the judges of the High Court shall be made by the President by warrant under his hand and seal. The President consults the Chief Justice of India and the Governor of the state and the Chief Justice of the High Court concerned in making the appointment. In case, of the appointment of the Chief Justice of the High Court, the President will consult the Chief Justice of India and the Governor of the state concerned.

Qualifications and Conditions of Service

A person shall not be qualified for appointment as a judge of High court unless he is a citizen of India and has either held for at least ten years a judicial office in the territory of India or has for at least ten years been an advocate of a High court in any state. The salary allowance and other amenities enjoyed by the judges of High Courts cannot be modified to their disadvantage during their tenure of office. However, the President is authorised to reduce their salaries during the proclamation of financial emergency. As the salaries and other expenses of the judges and the maintenance of state High Courts are charged to the Consolidated Fund of the state, they are to subject to the vote of the state legislature.

A judge shall hold office till he attains the age of sixty two years. However, he may resign his office by writing to the President. He can be removed from his office by the President, in the manner provided for the removal of a judge of the Supreme Court. A judge can be removed from his office before the expiry of his term on grounds of proved misbehaviour or incapacity. However, such an action can be taken by the President only if both the House of Parliament pass a resolution by a two thirds majority of the members present in each House which should also be the majority of the total membership of the House.

How a Judge of the Supreme Court or High Courts can be removed?

A complex procedure for removal of judges is usually laid down in the constitution. The framers of Indian Constitution were conscious of the value of an independent judiciary and made elaborate provisions to secure the same.

Article 124 of the Constitution provides for the

establishment and Constitution of the Supreme Court of India. The article lays down that the Supreme Court shall consist of Chief Justice of India and not more than such number of judges as Parliament may by law prescribe. It further provides that every judge shall be appointed by the President by warrant under his hand and seal after consultation with such of the judges of the Supreme Court and of the High courts in the States as the President may deem necessary for the purpose and shall hold office until he attains the age of 65 years. The Supreme Court judge may resign his office by writing in his hand addressed to the President. Clause (4) of article 124 provides that a judge of Supreme court shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority off total membership of that House and by a majority of not less than two-third of the Members of that House present and voting presented to the President in the same session for such removal on the ground of proved misbehaviour or incapacity. Provision to article 217(1) and article 218 indicate that provisions of clauses (4) and (5) of article 124 equally apply for the removal of a judge of the High Court.

Clause (5) of article 124 empowers Parliament to regulate the procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of a judge by law. A suggestion in the Constituent Assembly that the matter may first be investigated by a judicial committee was rejected. Article 124 is an attempt to make the judiciary totally independent of the executive or legislature so that the judiciary can adjudicate constitutional and legal questions fearlessly and impartially.

Jurisdiction of High Court

The High Court of a state enjoys the following powers:-

1. **Original:** The original criminal jurisdiction of the High Court has been completely taken away by the criminal procedure Code, 1973. The original civil jurisdiction has been retained by the courts in respect of actions of higher value.

2. **Appellate:** The appellate jurisdiction of the High Court is both civil and criminal. Appeals from the decisions of the District Judges and from those of Subordinate Judge in case of a higher value, lie direct to the High Court. On questions of fact as well as law when any court subordinate to the High Court decides an appeal from the decision of an inferior court, a second appeal lies to the High Court from the decisions of the lower appellate court but only on question of law and procedure. The criminal appellate jurisdiction of the High Court extends to appeals from the decisions of a Sessions Judge or an Additional Sessions Judge, where the sentence of imprisonment exceeds seven years and from the decisions of an Assistant Session Judge.
3. **Power of Superintendence:** According to Article 227, every High Court has the power of superintendence over all courts and tribunals, except those dealing with the armed forces functioning with its territorial jurisdiction. Interpreting the scope of this power, the Supreme Court said that all types of tribunals including the election tribunals operating within a state are subject to the superintendence of the High Courts and further, that the "superintendence is both judicial and administrative.
4. **Control over Subordinate Court:** As the head of the judiciary in the state, the High Court has got an administrative control over the subordinate judiciary in the state in respect of certain matters, besides its appellate and supervisory jurisdiction over them. Article 228 empowers the High Court to transfer constitutional cases from lower courts. Thus, if the Court is satisfied that a case pending in one of its subordinate courts involves a substantial question of law as to the interpretation of the constitution, the determination of which is necessary for the disposal of the case, it shall then withdraw the case and may either dispose of the case itself or determine the constitutional question and then send the case back to the court where from it was withdrawn.
5. **The Writ Jurisdiction of High Court:** Every High Court shall have power throughout the territories in relation to which it exercises jurisdiction to issue to any person or authority including the Government within those territories, orders or writs including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari or any of them for enforcement of the fundamental rights guaranteed by the constitution, and for any other purposes (Article 226). The power may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such government or authority or the residence of such person is not within those territories.
6. **Power of Appointment:** According to Article 229, the Chief Justice of the High Court, is empowered to appoint officers and servants of the Court. The Governor may in this respect require the Court to consult the Public Service Commission of the state. He also consults the High Court in the appointment, posting, and promotion of district judges and along with the state Public Service Commission in appointing person to the judicial service of the state. The Chief Justice is also authorised to regulate the conditions of service of the staff subject to any law made by the state legislature in this respect. The power of the Chief Justice to appoint any member of the staff of the High Court also includes his power to dismiss any such member from the service of the court. The powers of posting and promotions and grant of leave to persons belonging to the judicial service is also vested in the High Court. The constitution also provides for charging all the administrative expenses of the High Court on the Consolidated Funds of the State.

Subordinate Courts

As mentioned earlier, the judiciary of a state consists of a high court and a hierarchy of

subordinate courts, also known as lower courts. The subordinate courts are so called because of their subordinate to the state high court. They function below and under the high court at district and lower levels.

Articles 233 to 237 in Part VI of the Constitution make the following provisions to regulate the organisation of subordinate courts and to ensure their independence from the executive.

1. Appointment of District Judges

The appointment, positing and promotion of district judges in a state are made by the governor of the state in consultation with the high court.

A person to be appointed as district judge should have the following qualifications:

- (a) He should not already be in the service of the Central or the state government.
- (b) He should have been an advocate or a pleader for seven years.
- (c) He should be recommended by the high court for appointment.

The expression 'district judge' includes judge of a city civil court, additional district judge, joint district judge, assistant district judge, chief judge of a small cause court, chief presidency magistrate, additional chief presidency magistrate, sessions judge, additional sessions judge and assistant sessions judge.

2. Appointment of other Judges

Appointment of person (other than district judges) to the judicial service of a state are made by the governor of the state after consultation with the State Public Service Commission and the high court.

The expression 'judicial service' means a service consisting exclusively of persons intended to fill the post of district judge and other civil judicial posts inferior to the post of district judge.

3. Control over Subordinate Courts

The control over district courts and other subordinate courts including the posting, promotion and leave of person belonging to the judicial service of a state and holding any post inferior to the post of district judge is vested in the court. This control is vested in the high court to

secure the independence of the subordinate judiciary.

The Constitution also empowers the governor to apply the above provisions regarding subordinate courts to any class or classes of magistrate in the state.

RULE OF LAW

The Rule of Law- is a basic requirement for a democratic government. And for the maintenance of rule of law, there must be an independent and impartial judiciary. It is embodied in the concept of rule of law that equality before the law or equal protection of the laws is ensured to all citizens, and every citizen is protected from arbitrary exercise of power by the State. Thus in a state professing the rule of law, the aim should be to provide for a system which secures to its citizens adequate procedure for the redress of their grievances against the state before forums which are able to administer justice in an impartial manner without any fear or favour.

Rule of Law in India

Each country has devised its own system to ensure the maintenance of the rule of law. The Indian Constitution embodies the modern concept of the rule of law with the establishment of a judicial system which should be able to work impartially and free from all influences. The rule of law pervades over the entire field of administration and every organ of the State is regulated by the rule of law. The concept of the rule of law would lose its vitality if the instrumentalities of the state are not charged with the duty of discharging their function in a fair and just manner. It has been held that the rule of law pervades the Constitution as its basic feature and cannot be taken away even by an amendment of the Constitution.

Constitutional Provisions for Rule of Law

Fundamental Rights: Indian Constitution enshrines the fundamental rights to individuals which operate as limitations on the exercise of powers by the government. If there is an infringement of the Fundamental Rights of a citizen, the rule of law requires that there should be a proper forum for the address of his grievances. For this purpose, it is provided that an aggrieved

person may even move the Supreme Court directly by appropriate proceedings for the enforcement of his fundamental rights. The rule of law under the Constitution thus serves the needs of the people. It recognises the social reality and tries to adjust itself to it from time to time avoiding the authoritarian path.

It is specifically provided that the state shall not deny to any person, equality before the law or the equal protection of law. The absence of arbitrary power is the first essential of the rule of law upon which the Indian constitutional system is based. In a system governed by the rule of law, discretion, when conferred upon executive authorities, must be confined within clearly defined limits. This means that decision should be made by the application of known principles and rules and, in general, such decisions should be predictable and the citizen should know where he stands.

Directive Principles: The Indian Constitution lays down in Part IV the Directive Principles of State Policy. It enjoins to bring about a social order in which justice, social, economic and political, shall prevail all the institutions of national life. It directs it to work for an egalitarian society where there is no concentration of wealth, where there is plenty, where there is equal opportunity for all, to education, to work, to livelihood, and where there is social justice.

It is true that the representatives of the people are charged with the responsibility of realising the aims and objectives of the Constitution, but left to themselves there is a possibility that uncontrolled and unrestricted power might lead to an authoritarian State. It is here that the DPSPs. come into picture & serve as the beacon lights for both the politicians as well as the judiciary who is responsible for ensuring that the govt. of the day respects the rights of the people & acts as per rule of law.

JUDICIAL REVIEW

Judicial Review means the power of the courts to declare a law made by legislature beyond the powers given to it by the Constitution as ultravires of the Constitution and hence void. Judicial review is a powerful weapon to restrain any unconstitutional exercise of power by the Legislature and the Executive. The only check on the exercise of power by the judiciary, however,

is the self-imposed discipline of judicial restraint. The doctrine of judicial review does not permit the court to direct or advise the executive in matters of policy or to sermonize vis-à-vis any matter which under the Constitution lies within the sphere of Legislature or the Executive, provided those authorities do not transgresses their constitutional limits or statutory powers.

Judicial Review in India

The phrase "judicial review" is not anywhere used in the Indian Constitution. But, the framers of Indian Constitution intended this power to be exercised by the courts while interpreting any law passed by the Parliament or State-legislatures.

Till 1967 the Supreme Court had exercised the power of judicial review with restraint. But in *S. Golaknath* case, 1967, the Supreme Court overruled previous decisions and declared that the Parliament could not amend the Constitution to take away or abridge any of the Fundamental Rights. This decision resulted in a public controversy over the sovereignty of Parliament. Then, came two other judgments of the Supreme Court - the *Bank Nationalization* case and the *Privy Purses* case. These cases also questioned the supremacy of the parliament. Soon thereafter in a newly elected Lok Sabha following the 1971 elections, the Parliament passed 24th, 25th and 26th constitution Amendment bills to neutralise the effect of the three above-mentioned Supreme Court judgments. In the famous *Keshavanand Bharati* Case, 1973, the Supreme Court reversed the *Golaknath* Case ruling and upheld Parliament's right to amend the Constitution including the Fundamental Rights, but not the 'basic structure or framework' of the Constitution. The Supreme Court holds the view that the Parliament is not omnipotent to change the basic structure of the Constitution.

Impact of the 42nd Amendment

The 42nd Amendment enacted during the Emergency made far-reaching changes to curtail the powers of the courts and to make the Parliament sovereign. Firstly, the 42nd Amendment stated that no amendment to the Constitution could be questioned in a Court of Law. And "for the removal of the doubts, it is hereby declared that there shall be no limitation what ever on the

constituent power of Parliament to amend by way of addition, variation or repeal the provisions of this constitution." In this manner, through this Amendment the Supreme Court's power to judicial review of constitutional amendments was taken away to establish the complete and total sovereignty of Parliament. The Amendment stated that:

- (a) A High Court cannot pronounce invalid any Central law,
- (b) The Supreme Court shall not pronounce a State law as unconstitutional unless a Central law has also been challenged.

Further, the minimum number of judges of the Supreme Court who shall sit to determine the constitutional validity of any Central or State law shall be seven and in the case of High Court, five. It was also stated that a majority of not less than two-thirds of the judges hearing such a case must agree before a law is declared invalid. But after this the 43rd Amendment was passed which restored the pre-emergency position of the Supreme Court's power of judicial review over laws passed by state legislatures and Parliament. As far as Parliament's sovereignty with regard to amending the Constitution is concerned, there is no change. The power of Parliament to amend the Constitution exists as under the 42nd Amendment, however the judgment of the Supreme Court in the *Minerva Mills* case in May 1980 was a setback to the position of unlimited powers claimed by the Parliament to amend any part of Constitution. This judgment recognized only limited powers of the Parliament to amend the Constitution without altering the basic structure.

Constitutional Provisions

Article 32 of the Constitution makes the Supreme Court the ultimate guardian of the Fundamental Rights of the citizens and clothes it with the power to issue writs for their enforcement. Article 142 gives the Apex Court wide powers to pronounce orders as are necessary in the interest of justice for doing complete justice in any cause or matter before it, in addition to its powers to make decisions under article 131 to 136. Article 142 contains no words of limitation and has enabled the court to intervene in a wide variety of cases. Starting with *Union Carbide Corpn. v. Union of India*, (1991) Supreme Court has made

significant strides to maintain the rule of law, which is the bedrock of our Constitution.

Significance of Judicial Review

It is said that there is a shift from the traditional judicial role to judicial activism, from passivity to creativity, in that the courts are taking judicial notice of the changing needs of the society and evolving new tools for redressing public wrongs. Public Interest Litigation based on the enlarged concept of locus standi, has developed on account of judicial activism. In several matters, the Courts have provided relief through the 'judicial review', such as, in cases concerning the deprived or disadvantaged sections of the society, prisoners, environmental degradation, closure of polluting industries in Delhi, encroachments and unauthorised constructions, immediate medical aid by government hospitals to seriously injured persons, reparations to riot-victims, professional college admissions, contempt involving disobedience or imperviousness to court orders, corruption in high places, or malfeasance of public servants (including Ministers) involving breach of public trust, etc.

Conclusion

Undoubtedly, the maxim "the King can do no wrong" or absolute immunity of the government is not recognised in our legal system, rather independence and impartiality which are the two basic attributes essential for proper discharge of judicial functions are emphasized upon. In fact, "judicial activism" is nothing but Judiciary's insistence that the rule of law must guide the Legislature and the Executive in enacting or enforcing the laws of the land. Judicial review is a constitutionally embraced concept, which has been stressed upon in cases like *Minerva Mills Ltd. v. Union of India*, *S.P. Sampath Kumar v. Union of India*, *Subhesh Sharma v. Union of India*, etc. Judicial review, in India is a power born from the first principles of democratic constitutionalism & is today an area of great promise. It is an essential part of the rule of law.

However, it must also be kept in view that the actual governance of the country is certainly the sphere of the Executive which is accountable to Parliament. Neither the Executive nor the Judiciary should exceed their legitimate functions. Only

WHAT QUESTIONS ARE RAISED AGAINST JUDICIAL REVIEW?

Following are the main questions raised by the critics of Judicial Review:

- Is the judiciary expanding its powers at the expense of the executive?
- Are the courts reaching the boundaries of the rule of separation of powers?
- Do the new dimensions, which the judicial review has brought in, are attempts to tread on territory hitherto reserved for the Executive?
- Is there a government by the Judiciary, unsupported by any popular mandate?
- What is the line where the courts will stop?

These questions often agitate the minds of thinking people. The public opinion is divided on these issues and the biggest question that remains unanswered is - "whether the judiciary has exceeded the limits of its legitimate functions?"

then the two organs of the State can function harmoniously. Self restraint is the key to the whole issue.

JUDICIARY VS. LEGISLATURE

Conflict between legislature and the judiciary has often given rise to anxiety and grave concern to the governments at the Centre and the States. The executive heaves a sigh of relief when the conflict gets resolved or the matter is put in the cold storage after initial heat over the powers each of these wings of the States enjoy under the Constitution subsides. There are a number of cases where friction between the two has arisen. There has been a perennial conflict not only in India but also in England about the respective rights and privileges of Members of Parliament and the Judiciary.

The Indian Scene

In India, under the written Constitution, the three organs of the Government, viz. the Legislature, judiciary and the executive, have to function within their respective powers and none of them can exceed its powers. Whether, any one of these organs has exceeded its powers or not, is a matter of judicial interpretation. In several decisions of the Supreme Court, it has been held that the Supreme Court is the ultimate interpreter

of the Constitution and its interpretation is binding on all courts, tribunals and authorities in this country. Under article 141 of the Constitution, the law declared by the Supreme Court is binding on all parties. So, if there is any doubt that any particular organ of Government has exceeded its powers, the interpretation ultimately rests with the Supreme Court.

Even the powers granted by the Constitution to the Members of Parliament and the Assembly are subject to other provisions of the Constitution. They cannot act arbitrarily; nor can they deprive the citizens of their fundamental rights arbitrarily. There is a provision in the Constitution for codifying the laws relating to the privileges of legislatures and if Parliament makes such a law that infringes with Article 13 of the Constitution; validity of the same can be tested before the Supreme Court in the same manner as any other legislation. So, the scheme of the Constitution does not contemplate that Parliament or a State Legislature is not at all liable to be questioned for any violation of law since rule of law is the corner-stone of the Constitution of India. Though Legislatures in India have plenary powers they function within limits prescribed by the material and relevant provisions of the Constitution.

Main areas of conflict

Following are the Main areas of conflict between the Legislature and the Judiciary:

- (a) Existence, extent and scope of Parliamentary privileges and power of Legislatures to punish for contempt,
- (b) Interference in the proceedings of Parliament/Legislatures,
- (c) Decisions given by the Presiding Officers of Legislatures under the Anti-defection law; and
- (d) Decision given by the Presiding Officers of Legislatures in administration of their Secretariats.

Conclusion

With an aim to reduce the conflict between the Legislature and Judiciary, it is recommended that the Presiding Officers should not be made party personally in a suit pertaining to the administrative matters of their Secretariats. The suit, in turn, could be filed against the concerned Legislature

WHAT ARE THE POWERS, PRIVILEGES AND IMMUNITIES OF MEMBERS OF LEGISLATURES?

The relevant provision of the Constitution relating to powers, privileges and immunities of the members of Parliament and State Legislatures is incorporated under Article 105 & Article 194 respectively. These Articles provide that:

- (1) Subject to the provisions of the Constitution and to the rules and standing orders regulating the procedure of the Legislatures, there shall be freedom of speech in the Legislature of the Union and of every State.
- (2) No member of any Legislature shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of a House of such a Legislature of any report, paper, votes or proceedings.
- (3) In other respects, the powers, privileges and immunities of a House of any Legislature, and of the members and committees of a House of such Legislature, shall be such as may from time to time be defined by that Legislature by law, and until so defined, shall be those of that House and of its members and committees immediately before the coming into force of section 26 of the Constitution (Forty-fourth Amendment) act, 1978.

It must be noted that although the Constitution (Forty-fourth amendment) Act, 1978 omitted reference to the British House of Commons for the purpose of determining the powers and privileges of Houses of Parliament in India, in the absence of enactment of any law defining them, these privileges, in effect, remained the same as those of the British House of Commons at the commencement of the Constitution.

through the Secretary of the Legislature who could represent the legislature in the Court and if necessary, appear personally in the case. But, it is NOT recommended to enlarge the scope of article 361 to provide the same protection to the Presiding Officers as enjoyed by the President of India and the Governors of States. Some critics opine that there was no need to codify the privileges of the Legislature. This argument is understandable as it is based on the apprehension that it will give rise to more judicial interference. On the other hand, from the point of view of citizens, the codification

of privileges of Legislatures may be highly desirable, a view-point which is strongly supported by the press and the media. It is a matter of satisfaction that there have not been too many cases where the Legislature was called upon to exercise its powers for punishing for the breach of privilege and contempt of the House. But, the relations between legislature and judiciary in the context of privileges and immunities would continue to cause some uneasiness till the time grammar and spirit of democratic form of government became the grain of Indian society.

Anyways, it is needless to say that the strength of the democracy lies in the existence of harmonious relations among different organs of the State, in particular, Legislature and Judiciary. These relations can be harmonized through informal mechanisms and mutual understanding. After all, every detail relating to the functioning of democracy cannot be put in black and white.

PANCHAYAT & MUNICIPALITIES

Rural Local Bodies

The Constitution (73rd Amendment) Act, 1992 has added a new Part IX consisting of 16 Articles and the Eleventh Schedule to the Constitution. The 73rd Amendment Act envisages the Gram Sabha as the foundation of the Panchayati Raj System to perform functions and powers entrusted to it by the State legislatures. The amendment provide for a three tier Panchayati Raj System at the village, intermediate and district levels. Small states with population below twenty lakh have been given the option not to constitute the Panchayats at the intermediate level. The Act provides that the Panchayat bodies will have an assured duration of five years, with elections mandatory after this period. However, one thing is to be noted that under the Amendment Act the establishment of Panchayats and the devolution of necessary powers and authority on the Panchayati Raj institutions are vested in the State Governments. In view of this it may be said that the success of the Panchayati Raj institutions as a unit of democracy and thereby ushering an all around development of rural areas will much depend on the intention and

support of the State Governments. Without honest intention, these institutions would be misused by rural rich and poor and illiterate masses will remain a mute supporters as it is happening in Parliamentary and State Assembly elections in the Country.

The salient features of the Seventy-Third Constitutional Amendment Act may be summarised as follows:

Gram Sabha: Article 243A provides that the Gram Sabha may exercise such powers and perform such functions at the village level as the legislature of a State may by law provide. The 73rd amendment thus envisages the Gram Sabha as the foundation of Panchayati Raj System. 'Gram Sabha' means a body consisting of persons registered in the electoral rolls relating to village comprised within the area of Panchayat at the village level.

Constitution of Panchayats: Article 243B visualises a three-tier Panchayati Raj System. It provides that in every State there shall be constituted Panchayats at the village, intermediate and district levels. Small states having a population not exceeding twenty lakhs have been given an option not to constitute the Panchayats at the intermediate level.

Composition of Panchayats: Article 243C provides that, subject to the provisions of this part the legislature of a State may by law make provisions with respect to the composition of Panchayats. However, the ratio between the population of the territorial area of a Panchayat at any level and the number of seats in such Panchayats to be filled by election shall, so far as practicable, be the same throughout the State.

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

The legislature of a State may by law provide for representation of following persons in Panchayats :

- (a) **the Chairpersons (Chairman) of the Panchayats at the village level**, in the Panchayats at the intermediate level or in the case of a State not having Panchayats at the intermediate level, in the Panchayats in the district level;
- (b) **the Chairpersons of the Panchayats at the intermediate level**, in the Panchayats at the district level;
- (c) **the members of the Lok Sabha and the Legislative Assembly** of the State representing constituencies which comprise wholly or partly a Panchayat area at the level other than the village level, in such Panchayats;
- (d) **the members of the Rajya Sabha and Legislative Council of the State** where they are registered as electors.

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

The Chairperson of a Panchayat at the village level shall be elected in such a manner as the legislature of a State may by law, provide. The Chairperson of a Panchayat at the intermediate level or district level shall be elected by, and amongst, the elected members thereof.

Disqualifications for Membership: A person shall be disqualified for being chosen as, and for being a member of Panchayats:

- (a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the legislature of the State concerned;
- (b) if he is so disqualified by or under any law made by the legislature of the State.

But no person shall be qualified on the ground that he is less than 25 years of age, under clause (a), if he has attained the age of 21 years.

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

Reservation of Seats in Panchayats: Article 243D provides that in every Panchayats seats shall be reserved for the Scheduled Castes and Scheduled Tribes. The number of seats so reserved shall be, as nearly as may be, in the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the SCs and STs in that Panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat.

Out of total number of seats reserved under clause (1) not less than 1/3 seats shall be reserved from women belonging to the SCs and STs. [Clause (2)] Out of total number of seats to be filled by direct election in every Panchayat not less than 1/3 (including the number of seats reserved for SC's and ST's women) seats shall be reserved for women. Such seats may be allotted by rotation to different constituents in a Panchayat. [Clause (3)]

The office of the Chairpersons in the Panchayats at the village or any other level shall be reserved for SCs, STs, and women in such manner as the legislature of a State may, by law, provide. But the number of offices of Chairpersons reserved for the SCs and STs in the Panchayats at each level in any State shall be, as nearly as possible, in the same proportion to the total number of such offices in the Panchayats at each level in proportion of the total population of the SCs and STs in the State. However, not less than 1/3 of the total number of the offices of Chairperson in the Panchayat at each level shall be reserved for women. The number of offices reserved under this clause shall be allotted by rotation to different Panchayats at each level.

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

Reservation for Backward Classes : The legislature of a State is empowered under clause (6) to make provision or reservation of seats in any Panchayat or office of Chairpersons in the

Panchayats at any level in favour of backward classes of citizens.

Duration of Panchayats : According to Article 243E every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting. No amendment of any law in force shall have effect of causing dissolution of a Panchayat at any level which is functioning before such amendment till the expiration of its normal period of five years.

An election to constitute a Panchayat must be completed :

- (a) before the expiry of its duration;
- (b) before the expiration of a period of six months from the date of its dissolution.

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

Powers, Authority and Responsibility of Panchayats : Article 243G, provides that subject to the provisions of this Constitution the legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as an institution of self government. Such law may contain provision for the devolution of powers and responsibilities upon Panchayats subject to such conditions as may be specified therein, with respect to :

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

The matters listed in the Eleventh Schedule are as follows:

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.

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

It is to be noted that Article 243G is subject to the provisions of the Constitution. This means that the normal distribution of powers under Article 245 and 246 cannot be effected by the State legislature while vesting with powers and authorities upon the Panchayats.

Powers to Impose Taxes and Funds of Panchayats : Article 243H empowers a State legislature to make by law provision for imposing taxes etc. by the Panchayats, such a law :

- (a) authorize a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;
- (b) assign to a Panchayat such taxes, duties,

tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;

- (c) provide for making such grants-in-aid to the Panchayats from the Consolidated Fund for the State; and
- (d) provide for constitution of such funds for crediting all moneys received, by or on behalf of the Panchayats and also for the withdrawal of such money therefrom.

Finance Commission : Article 243-I provides for the establishment of a Finance Commission for reviewing financial position of the Panchayats. The Governor of a State shall within one year from the commencement of the Constitution (73rd Amendment) Act, 1992 and thereafter at the expiration of every fifth year, constitute a Finance Commission. The legislature of the State may by law, provide for the composition of the Commission, the qualifications requisite for appointment of its members and the manner in which they shall be selected.

It shall be the duty of the Finance Commission to review the financial position of the Panchayats and to make recommendations to the Governor as to:

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

The commission shall determine its procedure and shall have such powers in the performance of its functions as the State legislature may, by law, confer on it.

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

“The Governor shall cause every recommendation made by the Commission together with an explanatory memorandum as to the action taken thereon to be laid before the legislature of the State

“The State Finance Commission under Panchayatri Raj Law is designed to ensure regional balance in the distribution of State and Central Funds.”

Audit of Accounts of Panchayats : The legislature of a State may, by law, make provision with respect to the maintenance of accounts by the Panchayats and the auditing of such accounts.

Elections to the Panchayats : Under Article 243K the superintendence, direction and control of the preparation of electoral rolls and conduct of all elections to the Panchayats shall be vested in a State Election Commission consisting of the State Election Commissioner to be appointed by the Governor. Subject to the provisions of any law made by the State legislature, the conditions of service and tenure of office of the State Election Commissioner shall be such as the Governor may by rule determine. The State Election Commissioner shall not be removed from his office except in like manner and on like grounds as a Judge of a High Court. The conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.

The Governor of State shall, when so requested by the State Election Commissioner, make available to Commission such staff as may be necessary for the discharge of its functions.

The State legislature may, subject to the provisions of this Constitution, by law, make provision with respect to all matters relating to or in connection with elections to the Panchayats.

Part not to apply to Certain Areas : Article 243M provides that Part 9 shall not apply to the following areas :

1. the scheduled areas referred to in clause (1) and tribal areas referred to in clause (2) of Article 244;
2. the State of Nagaland, Meghalaya and Mizoram;
3. the hill areas in the State of Manipur for which District Councils exist under any law for the time being in force;
4. to Panchayats at the district level of the hill areas of the District of Darjeeling in the State of West Bengal for which Darjeeling Gorkha Hill Council exists under any law for the time being in force;
5. shall affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under such law.

Notwithstanding anything in this Constitution:

- (a) The State Legislature of Nagaland, Meghalaya and Mizoram may, by law, extend this Part to that State, except the areas referred to in clause (1) if the Legislative Assembly of that State passes a resolution to that effect by a majority of the total membership of that House and by a majority of not less than two-third of the members of that House present and voting;
- (b) Parliament may, by law, extend the provisions of Part 9 to the Scheduled areas and Tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, such law shall not be deemed to be amendment of this Constitution for the purposes of Article 368.

Continuance of Existing Laws and Panchayats : Article 243N provides that notwithstanding anything in Part 9 or any provision of any law relating to Panchayats in force in a State immediately before the commencement of the Constitution (73rd Amendment) Act, 1992, which is inconsistent with the provisions of Part 9, shall continue to be in force until amended or repealed by a competent legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier.

However, all the Panchayats existing immediately before such Government shall

continue till the expiration of their duration, unless sooner dissolved by resolution passed by the Legislative Assembly of that State or in a State having a Legislative Council, by each House of the Legislature of the State.

Courts not to interfere in Electoral Matters: Article 243-O bars the interference by courts in electoral matters of Panchayats. It provides that notwithstanding anything in this Constitution the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies made under Article 243K shall not be called in question in any court.

The validity of an election to any Panchayat can be challenged only through an election petition presented to such authority and in such manner as provided by any law made by the legislature of a State.

Financial Powers of Panchayati Raj Institutions

Article 243-G of the Constitution of India—introduced by the 73rd Amendment—deals with the question of powers, authority and responsibilities of Panchayats. It reads thus :

“Subject to the provisions of the Constitution, the legislature of the State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to—(a) the preparation of plans for economic development and social justice; and (b) the implementation of such schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.”

While Article 243-G of the Constitution visualises Panchayats as institutions for self-government, it subjects the extent of devolution of powers and functions to the will of the State Legislatures.

As per Article 243-H of the Constitution, State Legislatures have been empowered to enact laws;

- to authorise a Panchayat to levy, collect and appropriate some taxes, duties, tolls and fees;
- to assign to the Panchayat, some taxes, duties, tolls levied and collected by the State Government;
- to provide for making grants-in-aid to the Panchayats from the Consolidated Fund of the State; and
- to provide for constitution of such funds for Panchayats for crediting all money received by or on behalf of Panchayats and also the withdrawal of such money therefrom.

Article 243-I of the Constitution provides for constitution of a State Finance Commission (SFC) to review the financial position of Panchayats and to make recommendations to the Governor regarding the principles governing the major issues mentioned in Article 243-H.

Urban Local Bodies

The Narsimha Rao Government introduced a Constitution Amendment Bill pertaining to urban local bodies in the Lok Sabha on September 16, 1991. With a few modifications, it was essentially based on the 65th Amendment Bill brought by the then Prime Minister, Rajiv Gandhi and which was defeated in the Rajya Sabha in October 1989. The Bill was passed by both the Houses in December 1992. It received the assent of the President on April 20, 1993 and was published in the gazette on the same day as the Constitution 74th Amendment Act, 1992.

Part IX-A has been added to the constitution. This amendment has added 18 new articles and a new twelfth schedule relating to urban local bodies in the constitution.

The objectives of 74th Constitution Amendment Act include decentralization of power and ensuring popular participation in planning management and delivery of civil services. It introduces some fundamental changes in the system of municipal governance. Duration of elected municipal governments, participation of women and weaker sections in urban affairs and enabling framework for efficient delivery of public services were regarded as appropriate subject covered by constitutional provisions.

Accordingly, the 74th Constitutional Amendment Act provided for:

Definitions:

In this Part, unless the context otherwise requires,

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

Constitution of Municipalities:

- (1) There shall be constituted in every State:
 - (a) A Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area;
 - (b) A Municipal Council for a smaller urban area; and
 - (c) A Municipal Corporation for a larger urban area.

In accordance with the provisions of this Part:

Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such

other factors as he may deem fit, specify by public notification for the purpose of this Part.

Composition of Municipalities:

- (1) Save as provided in clause (2), all the seats in Municipality shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area and for this purpose each Municipal area shall be divided into territorial constituencies to be known as wards.
- (2) The Legislature of a State may, by law, provide:
 - (a) For the representation in a Municipality of:
 - (i) Persons having special knowledge or experience in Municipal administration;
 - (ii) The members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area;
 - (iii) The members of the Council of States and the members of the legislative Council of the State registered as electors within the Municipal area;
 - (iv) The Chairpersons of the Committees constituted under clause (5) of article 243S:

Provided that the persons referred to in paragraph (i) shall not have the right to vote in the meetings of the Municipality;

- (b) The manner of election of the Chairperson of a Municipality.

Constitution and Composition of Wards Committees:

- (1) There shall be constituted Wards Committees, consisting of one or more wards, within the territorial area of a Municipality having a population of three lakh or more.
- (2) The Legislature of a State may, by law, make provision with respect to:
 - (a) The composition and the territorial area of a Wards Committee;

- (b) The manner in which the seats in a Wards Committee shall be filled.
- (3) A member of a Municipality representing a ward within the territorial area of the Wards Committee shall be a member of that Committee.
- (4) Where a Wards Committee consists of:
 - (a) One ward. The member representing that ward in the Municipality; or
 - (b) Two or more wards, one of the members representing such wards in the Municipality elected by the members of the Wards Committee, shall be the Chairperson of that Committee.
- (5) Nothing in this article shall be deemed to prevent the legislature of a State from making any provision for the constitution of Committees in addition to the Wards Committee.

Reservation of Seats:

- (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the Municipal area or of the Scheduled Tribes in the Municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Municipality.
- (2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.
- (3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality.

- (4) The offices of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the legislature of a State may, by law, provide.
- (5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clauses (3) shall cease to have effect on the expiration of the period specified in article 334
- (6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favour of backward class of citizens.

Duration of Municipalities:

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

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

- (2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Municipality at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in class (1).
- (3) An election to constitute a Municipality shall be completed:
 - (a) Before the expiry of its duration specified in clause (1).
 - (b) Before the expiration of a period of six months from the date of its dissolution:

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

- (4) A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only

for the remainder of the period for which the dissolved Municipality would have continued under clause (1) had it not been so dissolved.

Disqualification for Membership:

- (1) A person shall be disqualified for being chosen as, and for being, a member of a Municipality:
 - (a) If he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned:

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

- (b) If he is so disqualified by or under any law made by the legislature of the State.
- (2) If any question arises as to whether a member of a Municipality has become subject to any of the disqualifications mentioned in clauses (1), the question shall be referred to for the decision of such authority and in such manner as the legislature of a State may, by law, provide.

Powers, Authority and Responsibilities of Municipalities:

Subject to the provisions of this Constitution, the legislature of a State may, by law, endow:

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

conferred upon them including those in relation to the matters listed in the Twelfth Schedule.

Power to impose taxes by, and Funds of, the Municipalities:

The Legislature of a state may, by law,

- (a) Assign to a Municipality such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;
- (b) Assign to a Municipality such taxes, duties tolls and fees levied and collected by the State Governments for such purposes and subject to such conditions and limit;
- (c) Provide for making such grants-in-aid to the withdrawal for such moneys therefrom, as may be specified in the law,
- (d) Provide for constitution of such funds for crediting all moneys received, respectively, by or on behalf of the Municipalities and also for the withdrawal for such moneys therefrom, as may be specified in the law.

Finance Commission:

- (1) The Finance Commission constituted under Article 24-I shall also review the financial position of the Municipalities and make recommendations to the Governor as to:
 - (a) The principles which should govern:
 - (i) The distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Municipalities at all level of their respective shares of such proceeds;
 - (ii) The determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Municipalities;
 - (iii) The grant-in-aid to the Municipalities from the Consolidated Fund of the States;
 - (b) The measure needed to improve the financial position of the Municipalities;

(c) Any other matter referred to the Finance Commission by the Governor in the interest of sound finance of the Municipalities.

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

Audit of Accounts of Municipalities:

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

Elections to the Municipalities:

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

Application to Union Territories:

The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were reference to the Administrator of the Union territory appointed under Article 239 and references to the Legislature or the Legislative Assembly of a State were references in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly.

Provided that the President may, by public notification, direct that the provisions of this Part apply to any Union territory or part thereof subject to such exception and modification as he may specify in the notification.

Part not to apply to certain areas:

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

(2) Nothing in this Part shall be construed to affect the function and powers of the Darjeeling Gorkha Hill Council constituted under any law for the time being in force for the hill areas of the district of Darjeeling in the State of West Bengal.

(3) Notwithstanding anything in this Constitution, Parliament may, by law, extend the provision of this Part to the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exception and modifications as may be specified in such law, and no. such law shall be deemed to be an amendment of this Constitution for the purposes of Article 368.

Committee for District Planning:

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

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

- (c) The functions relating to district planning which may be assigned to such Committees;
- (d) The manner in which the Chairpersons of such Committees shall be chosen.
- (3) Every District Planning Committee shall, in preparing the draft development plan,
 - (a) Have regard to :
 - (i) Matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and

other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(ii) The extent and type of available resources whether financial or otherwise;

(b) Consult such institutions and organizations as the Governor may, by order, specify.

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

Committee for Metropolitan Planning:

(1) There shall be constituted in every Metropolitan area a Metropolitan Planning Committee to prepare a draft development plan for the Metropolitan area as a whole.

(2) The Legislature of a State may, by law, make provision with respect to:

(a) The composition of the Metropolitan Planning Committee;

(b) The manner in which the seats in such Committees shall be filled;

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

(c) The representation in such Committees of the Government of India and the Government of the State and of such organizations and Institutions as may be deemed necessary for carrying out the functions assigned to such committees;

(d) The function relating to planning and coordination for the Metropolitan areas which may be assigned to such Committees;

(e) The manner in which the Chairpersons of such Committees shall be chosen.

(3) Every Metropolitan Planning Committee shall, in preparing the draft development plan,

(a) Have regarded to:

(i) The plans prepared by the Municipalities and the Panchayats in the metropolitan area;

(ii) Matters of common interest between the Municipalities and the Panchayats, including co-ordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(iii) The overall objectives and priorities set by the Government of India and the Government of the State;

(iv) The extent and nature of investments likely to be made in the metropolitan area by agencies of the Government of India and of the Government of the State and other available resources whether financial or otherwise;

(b) Consult such institutions and organizations as the Governor may, by order, specify.

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

Continuance of existing laws and Municipalities:

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

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

Council, by each House of the Legislature of that State.

Bar to interference by courts in electoral matters

Notwithstanding anything in this Constitution,

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

Thus, the 74th Constitution Amendment Act] 1992 aims at constitutional guarantees to safeguard the interests of urban local governments to enable them function as effective democratic and self-governing institutions at grass-root level. It provides a constitutional status to the structure and mandate of these bodies. The Act also provides for public participation through elected Municipalities, Wards Committees and Planning Committees, with the Committee members being mostly from elected representatives.

ELECTORAL SYSTEM AND ITS REFORM

The more the elections are free and fair, the stronger the allegiance the people will have towards democratic institutions. Thus, the Constitution of India provides for an independent Election Commission to safeguard the faith of people towards democracy. Specific constitutional provisions regarding Elections are as follows:

Article 324:

Superintendence, direction and control of elections to be vested in an Election Commission.-

- (1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of

President and Vice-President held under this Constitution shall be vested in a Commission (referred to in this Constitution as the Election Commission).

- (2) The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix and the appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President.
- (3) When any other Election Commissioner is so appointed the Chief Election Commissioner shall act as the Chairman of the Election Commission.
- (4) Before each general election to the House of the People and to the Legislative Assembly of each State, and before the first general election and thereafter before each biennial election to the Legislative Council of each State having such Council, the President may also appoint after consultation with the Election Commission such Regional Commissioners as he may consider necessary to assist the Election Commission in the performance of the functions conferred on the Commission by clause (1).
- (5) Subject to the provisions of any law made by Parliament, the conditions of service and tenure of office of the Election Commissioners and the Regional Commissioners shall be such as the President may by rule determine:

Provided that the Chief Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court and the conditions of service of the Chief Election Commissioner shall not be varied to his disadvantage after his appointment:

Provided further that any other Election Commissioner or a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner.

- (6) The President, or the Governor of a State, shall, when so requested by the Election

WHY REFORMS ARE NEEDED IN THE ELECTORAL SYSTEM?

Parliament has made a law to ensure free and fair elections and a very comprehensive system of elections has been developed in the country. The experiences of the last Elections have shown the merits and demerits of the system to the people. Minor changes have since been made in the system, still our electoral process is beset with many problems:

- First, is the mounting expenditure of elections, incurred both by the Government on organising them and, more particularly, by the parties and candidates on fighting them. The political parties and their candidates have, therefore, come increasingly to rely on business sources. The business contributions are mostly in cash and from unaccounted money. Another source is the wealth amassed by the gangs of anti-social elements, smugglers, dacoits, and industrial mafias.
- Secondly, even more than money power factor which vitiates the elections is the muscle power, acting in aid of the candidates belonging to dominant castes and communities in a constituency.
- Thirdly, it has also been observed that due to large number of candidates, the winner candidate very often wins by minority votes. The percentage of votes polled by political parties also does not correspond to their percentage of seats. The majority party generally wins with minority votes.
- Fourthly, the dependence of the Election Commission on the central and state governments for the conduct of the polls is another serious defect in the existing electoral system. Many Presiding Officers at the polling booths have been caught stamping the ballot papers and putting them inside the ballot boxes during the night before the poll.
- Fifthly, candidates with criminal records are contesting elections and getting elected by using strong arms.

Commission, make available to the Election Commission or to a Regional Commissioner such staff as may be necessary for the discharge of the functions conferred on the Election Commission by clause (1).

Article 325:

No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll

on grounds of religion, race, caste or sex.- There shall be one general electoral roll for every territorial constituency for election to either House of Parliament or to the House or either House of the Legislature of a State and no person shall be ineligible for inclusion in any such roll or claim to be included in any special electoral roll for any such constituency on grounds only of religion, race, caste, sex or any of them.

Article 326:

Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage.- The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage; that is to say, every person who is a citizen of India and who is not less than [eighteen years] of age on such date as may be fixed in that behalf by or under any law made by the appropriate Legislature and is not otherwise disqualified under this Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled to be registered as a voter at any such election.

Article 327:

Power of Parliament to make provision with respect to elections to Legislatures.- Subject to the provisions of this Constitution, Parliament may from time to time by law make provision with respect to all matters relating to, or in connection with, elections to either House of Parliament or to the House or either House of the Legislature of a State including the preparation of electoral rolls, the delimitation of constituencies and all other matters necessary for securing the due constitution of such House or Houses.

Article 328:

Power of Legislature of a State to make provision with respect to elections to such Legislature.-Subject to the provisions of this Constitution and in so far as provision in that behalf is not made by Parliament, the Legislature of a State may from time to time by law make

provision with respect to all matters relating to, or in connection with, the elections to the House or either House of the Legislature of the State including the preparation of electoral rolls and all other matters necessary for securing the due constitution of such House or Houses.

Article 329:

Bar to interference by courts in electoral matters.-Not withstanding anything in this Constitution -

- (a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 327 or article 328, shall not be called in question in any court;
- (b) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature.

Electoral Reforms: Suggestions

Electoral reforms and other measures have become imperative to overcome the threat to democracy and carry democratic process forward. To improve the drawbacks and loopholes in the electoral system, many reforms have been proposed. Some of them are as follows:

1. Independent Election Machinery

The Election Commission should have its own administrative machinery at the state level and its powers should be considerably augmented. At present, the Election Commission is completely at the mercy of the Central and State governments. It cannot even maintain the electoral rolls up-to-date without assistance from the state government. In these circumstances, the independence of the election system would always be under constant threat from the vested interests dominating the party in power which in fact controls the administration. Unless, the Commission is provided with an independent cadre and enjoys the same degree of autonomy as the judiciary, its impartiality will remain a theoretical concept.

2. Simultaneous Elections

To curb the election expenditure, it would help much if elections are simultaneously held for the Lok Sabha, State Assembly and also the local bodies (through constitutional amendments their term can be easily made uniform). This would drastically reduce election expenditure of all kinds and would incidentally promote development of a healthy party system at all levels of administrative structure.

3. State Funding

In addition to the simultaneous holding of elections, some system of funding of electoral campaigns is absolutely necessary. A simple procedure can be adopted:

Candidates of a recognised political party and independents, who have received more than, say 25 per cent of the valid votes polled in a particular constituency in a previous election, should be entitled to receive a fixed contribution in two installments equal to three-fourth of the limit imposed by the Election Commission on the election expenditure. The amounts should be given directly to qualified candidates seeming re-election and not to the parties. Bossism prevails in all parties, and, if the funds are distributed through the parties, blatant discrimination would be practised. The accounts should be indicated by machinery set up by the Election Commission. There should be limit on leaflets and posters issued and advertisements contributed by the candidates and parties during the elections.

4. Election Time Table

In order to help reduce the heavy expenses incurred by the candidates in electioneering, the scrutiny of nomination should be taken up on the day after the last date for making nominations, the interval allowed after the scrutiny of nominations for the withdrawal of candidatures should be reduced to 2 days and the minimum period prescribed for the election campaign should be reduced to 15 days.

5. Election Machines

There is a need to use electronic machines in the voting process. The only difference here is the voter has to press a button instead of marking a ballot paper. The use of electronic

gadgets for election purpose will in the long run add to the savings.

6. Speedy disposal of election disputes

Election petitions also take a long time to be disposed of. Although, it is inquired by law that the election petition should be disposed of within 6 months of its filing, yet seldom this is done. The J.P committee, while agreeing that the election petitions should be filed only in High Courts also recommends that the cases should be so distributed among a large number of judges that they are expeditiously disposed of (at least within the stipulated period of 6 months)

7. Proportional Representation with List System

The present majority system should be replaced by a system of proportional representation. Of all the system of representation, proportional representation will be best suited to our conditions to ensure that legislative bodies, i.e. the Lok Sabha and the state Assembly - more correctly reflect the popular support, the different political parties enjoy in a state or in the country as a whole. The legislative bodies will mirror the correlation of the political forces and trends. Seats should be allotted in proportion to the valid polled votes of the different political parties. Of the various form of the proportional representation, the most democratic and feasible for our conditions will be list system. The electorate votes for the party list as a whole.

8. Caretaker Government at the Centre and in the States

In the case of Lok Sabha and Assembly elections, the Central Government as well as the State Governments should function only as caretaker governments during a minimum period immediately preceding the election and it should include some leaders of the opposition parties.

9. Delay in Elections

Many times there is an inordinate delay in holding by-elections or elections to Assembly after their dissolution. These create a lot of bitterness and suspicion. Even though it is the discretion of the Government to announce the election schedule, it will be disastrous to utilise such discretion-

ary power for unfair and improper political gains. A mandatory provision should, therefore, be made to hold such elections within six months from the day of vacancy or dissolution.

10. Election Expenditure

Expenses incurred by the candidates and the party be taken into consideration while accounting for election expenditure. Having regard to the present costs, proper limits on expenditure should be fixed in consultation with the opposition parties. Expenditure incurred by some voluntary organisations should also form part of the election expenses. All these expenses must be required to be examined by chartered accountants and any false entries should be made rigorously punishable

Recommendations of Famous Committees

Tarakunde Committee (Joint Parliamentary Committee)

In August, 1974, Jaya Prakash Narayan appointed a committee to study and report on a scheme for election reform. The following were the recommendations:

1. The Election Commission should be appointed by the President on the advice of a Committee consisting of the PM, the leader of the opposition in the Lok Sabha and Chief Justice.
2. The Election Commission should be a three-member body.
3. The minimum age for voting should be 18 years.
4. The TV and Radio should be placed under the control of autonomous statutory corporation.
5. The Committee recommended the formation of Voters Council in as many constituencies as possible which can help in free and fair election.

Goswami Committee

In January 1990, the then Prime Minister Vishwanath Pratap Singh convened a meeting of political parties in Parliament and set up the Dinesh Goswami Committee on electoral reforms under the chairmanship of the Law Minister. The Dinesh Goswami Committee completed its work in five months in May 1990 and made far-reaching recommendations encompassing the

Election Commission, delimitation and enrolment of eligible candidates including that a person should not be allowed to contest elections from more than two constituencies of the same class. Other important recommendations of the Committee are as follows:

1. On booth capturing, the committee felt that even after the 1988 amendment of the Representation of the People's act the evil persisted and recommended a series of legislative measures to eradicate booth capturing, rigging and intimidation. The recommended steps include ordering of repoll or countermanding not only on the report of the returning officer but even otherwise and giving the Commission the power to appoint investigation agencies, prosecuting agencies and ask for the constitution of special courts.
2. The power of deciding the legal aspect of disqualification should be taken away from, the Speaker or Chairman and entrusted to the President or Governor who will act according to the Election Commission's recommendations. Nominated members of the House should also incur disqualification, if they joined any political party at any period of time.
3. A person should not be allowed to contest election from more than two constituencies. Age qualification for contesting elections to Legislative Assemblies and Lok Sabha should be reduced to 21 years and Legislative Councils and Council of States to 25 years.
4. For discouraging non-serious candidates, the security deposit in their cases should be Rs.5,000 for Lok Sabha election and Rs.2,500 for Assembly elections. This will be forfeited if they fail to secure one-fourth of the votes instead of one sixth as at present. The number of proposers to a nomination paper filed by them should be ten, drawn from different Assembly segments.
5. The committee has said that there should be statutory backing for some of the important provisions of the model code of conduct like use of official machinery and personnel, including aircraft and vehicles, issue of advertisement matter at

the cost of the exchequer, use of official media for partisan coverage of political news, announcement or sanctioning of financial grants in any form or making payments out of discretionary funds and laying of foundation stones for projects.

6. It called for a ban on transfer of officials and staff connected with election work and giving the commissions observers statutory powers.
7. The panel called for fixing of a six month time limit for holding by-elections.
8. It also said that a standing committee of Parliament should be constituted to go into all matter from time to time as electoral reforms were a continuous process.
9. The committee said that it was satisfied that the electronic voting machine was free from any scope of manipulation of temporability and should be used in all future general and by-elections.

Indrajit Gupta Committee

It was in June 1998 that the Indrajit Gupta Committee was set up to go into the central issue of election funding. Preceded by an all-India party meet a month earlier in May 1998, the Indrajit Gupta Committee finalised its report on December 30, 1998.

The committee headed by the late CPI stalwart stressed that the state funding of elections was fully justified - constitutionally and legally. It observed that such funding should be confined to parties recognised as national or state parties by the Election Commission. To begin with only a part of the financial burden of political parties may be shifted to the state. A greater burden could be progressively shifted to the states so that ultimately all their legitimate expenses become a charge on the state. The committee suggested that state funding be in kind not cash.

It desired the creation of a separate election fund for meeting the expenses on state funding of elections. To begin with the Central Government may contribute Rs 600 crore annually at the rate of Rs 10 per elector for the total electorate of 60 crore in the country (which has since gone up to 68-70 crore). The state governments all taken together may contribute a matching amount proportionately or Rs 600 crore annually according with the present fi-

nancial arrangement between the Centre and the states whereby all capital expenses on election items are shared by them on a 50:50 basis.

The Indrajit Gupta Committee said each candidate of a recognised political party be provided the following:

- specified quantity of petrol or diesel for vehicles used for an election campaign,
- specified quantity of paper for printing election literature and unofficial identity slips for distribution to voters,
- postal stamps of a specified amount,
- five copies of electoral roll of the constituency,
- a set of loudspeakers for every Assembly constituency or for every Assembly segment of a parliamentary constituency,
- subject to a maximum of six such sets for the entire parliamentary constituency,
- one deposit-free telephone with specified number of free calls for the main campaign office in every Assembly constituency/segment (subject to a maximum of six such telephones for the entire parliamentary constituency); and
- minimum arrangements for his camps outside each polling station on the day of poll.

The committee noted that political parties must submit their annual accounts regularly to the income tax authorities showing details of receipts and expenditure. No state funding should be provided to any party or its candidates if annual returns for the previous assessment year have not been filed under the Income Tax Act.

CENTRAL AND STATE “PUBLIC SERVICE COMMISSION

Union Public Service Commission

The Union Public Service Commission (UPSC) is a constitutional body in India authorized to conduct examinations for appointment to the various Civil Services of India. The Indian Constitution (Part XIV - Services under the Union and the states - Article no. 315 to 323) provides for a Public Service Commission for the union and a Public Service Commission for each state.

Indianization of the superior Civil Services became one of the major demands of the politi-

cal movement compelling the British Indian Government to consider setting up of a Public Service Commission for recruitment to its services in the territory. Thus, the first Public Service Commission was set up on 1 October 1926 by the then British Indian Government in response to the demands of Indian politicians that the superior Civil Services be Indianized. The functions of this Public Service Commission were largely advisory and, because of this limitation, it failed to satisfy the demands of Indian political parties associated with the struggle for freedom. The British Indian government then set up a Federal Public Service Commission and provided for the formation of provincial level Public Service Commission under the Government of India Act 1935.

The Constituent Assembly, after independence, saw the need for giving a secure and autonomous status to Public Service Commission both at Federal and Provincial levels for ensuring unbiased recruitment to Civil Services as also for protection of service interests. With the promulgation of the new Constitution for independent India on 26th January, 1950, the Federal Public Service Commission was accorded a constitutional status as an autonomous entity and given the title – Union Public Service Commission.

Constitutional Provisions

The Union Public Service Commission (UPSC) is the central recruiting agency in India. It is an independent constitutional body in the sense that it is directly created by the Constitution of India. The Constitution contains elaborate provisions regarding the composition, appointment and removal of members, powers and functions and independence of the UPSC. Apart from UPSC, the Constitution also provides for a State Public Service Commission (SPSC) for each state and a Joint State Public Service Commission (JSPSC) for two or more states. While the SPSC is created, like UPSC, directly by the Constitution, a JSPSC can be created by an act of Parliament on the request of the legislature of the States concerned. The UPSC can also serve the needs of a state on the request of the state Governor and with the approval of the President of India.

There shall be a Public Service Commission for the Union and a Public Service Commission for each State or a Joint Public Service Commission for a group of States if the Parliament provides for the establishment of such a Joint Public Service Commission in Pursuance of a resolution to that effect being passed by the State Legislatures concerned. The Union Public Service Commission also may, with the approval of the President, agree to serve the needs of a State, if so requested by the Governor of that State [Art. 315].

The number of members of the Commission and their conditions of service shall determined (a) by the President in the case of the Union or a Joint Commission, and (b) by the Governor of the State in the case of a State Commission; provided that the conditions of service of a member of a Commission shall not be altered to his disadvantage after his appointment.

Appointment and Term of office of Members

The appointment of the Chairman and members of Commission shall be made—(a) in the case of the Union or a Joint Commission, by the President; and (b) in the case of a State Commission, by the Governor of the State. Half of the members of a Commission shall be persons who have held office under the Government of India or of a State for at least ten years [Art. 316].

The term of service of a member of a Commission shall be six years from the date of his entering upon office, or until he attains the age of sixty five years in the case of Union Commission or of sixty two years in the case of a State or a Joint Commission. But a member's office may be terminated earlier, in any of the following ways:

- (i) By resignation in writing addressed to—the President in the case of the Union or a Joint Commission, or the Governor in the case of a State Commission.
- (ii) By removal by the President—
- (a) If the member is adjudged insolvent; or engages himself during his term in paid employment outside the duties of his office; or is in the opinion of the President infirm in mind or body;

- (b) On the ground of misbehaviour according to the report of the Supreme Court which shall hold an enquiry on this matter on a reference being made by the President.

Thus, even in the case of a State Commission, it is only the President who can make a reference to the Supreme Court and make an order or removal in pursuance of the report of the Supreme Court. The Governor has only the power to pass an interim order of suspension pending the final order of the President on receipt of the report of the Supreme Court [Art. 317(1)—(2)].

If a member's term comes to an end while a reference under Art. 317(1) is pending in the Supreme Court the reference does not become infructuous and the court must answer it.

A member shall be deemed to be guilty of misbehaviour—

- (i) if he is in any way concerned or interested in any contract made on behalf of the Government of India or of a State; or
- (ii) if he participates in any way in the profit of such contract or agreement or in any benefit therefrom otherwise than as a member and in common with other members of an incorporated company. [Art. 317 (4)].

The Constitution seeks to maintain the independence of the Public Service Commission from the Executive in several ways—

Independence of the Commission

The Constitution seeks to maintain the independence of the Public Service Commission from the Executive in several ways—

- (a) The Chairman or a member of a Commission can be removed from office only in the manner and for the grounds specified in the Constitution.
- (b) The condition of service of a member of the Public Service Commission shall not be varied to his disadvantage after his appointment [Proviso to Art. 318]
- (c) The expenses of the Commission are charged on the Consolidated Fund of India or of the State (as the case may be) [Art. 322].

- (d) Certain disabilities are imposed upon the Chairman and members of the Commission with respect to future employment under the Government [Art. 319].

Thus, on ceasing to hold office—

1. The Chairman of Union Public Service Commission shall be ineligible for further employment either under the Government of India or Under the Government of a State;
2. The Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of any other State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State;
3. A member other than the Chairman of the Union Public Service Commission shall be eligible for appointment as the Chairman of the Union Public Service Commission or as the Chairman of a State Public Service Commission, but not for any other employment either under “the Government of India or under the Government of a State”;
4. A member other than the Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of that or any other State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State.

In short, the bar against employment under the Government is absolute in the case of the Chairman of the Union Public Service Commission; while in the case of the Chairman of a State Public Service Commission or of the other members of the Union or State Commission, there is scope of employment in a higher post within the Public Service Commission but not outside.

The Public Service Commission are advisory bodies. It is open to the government to accept the recommendation or depart from it.

Functions of Public Commission

The following are the duties for Union and the State Public Service Commission—

To conduct examination for appointment to the service of the Union and the service of the State respectively.

To advise on any matter so referred to them and on any other matter which the President or, as the case may be, the Government of a State may refer to the appropriate Commission [Art. 320].

To exercise such additional functions as maybe provided for by an act of Parliament or of the Legislature of a State—as respects the service of the Union or the State and also as respect the service of any local authority or other body corporate constituted by law or of any public institution [Art 321].

To present annually to the President or the Governor, a report as to the work done by the Union or the State Commission, as the case may be [Art. 323].

It shall be the duty of the Union Public Service Commission, if requested by any two or more States so to do, to assist those State in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualification are required [Art. 320 (2)].

The Public Service Commission for the Union, if requested so to do by the Governor of a State, may, with the approval of the President, agree to serve all or any of the needs of the State.

The additional functions relating to the Services of the Union can be conferred on UPSC by the Parliament. It can also place the personnel system of any local authority, corporate body or public institution within the jurisdiction of the UPSC. Hence the jurisdiction of UPSC can be extended by an act made by the Parliament.

The rules and regulations made and orders issued by the Union executive can entrust certain functions to the UPSC. This is done without any reference being made to the Parliament.

The UPSC also performs certain functions on the basis of the conventions. For instance, it has been conducting, since 1948, written exami-

nations for the selection of armed forces. It has also been selecting scientists and technicians who are deputed to various fields.

To sum up, UPSC derives its functions from four sources namely, the Constitution, Acts of Parliament, executive rules and orders, and conventions. These functions of UPSC can be broadly classified into three categories, that is, executive, regulatory and quasi-judicial.

The Union Public Service Commission or the State Public Service Commission, as the case may be, shall be consulted—

- (a) on all matters relating to methods of recruitment to civil services and for civil posts,
- (b) on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointment, promotions or transfers;
- (c) on all disciplinary matters affecting a person serving under the Government of India or the Government of a State in a civil capacity, including memorials or petitions relating to such matters;
- (d) on any claim by or in respect of a person who is serving or has served under the Government of India or the Government of a State or under the Crown in India or under the Government of an India State, in a civil capacity, that any costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the Consolidated fund of India, or, as the case may be, out of the Consolidated Fund of the State;
- (e) on any claim for the award of a person in respect of injuries sustained by a person while serving under the Government of India or the Government of a State or under the Crown in India or under the amount of any such award [Art.320 (3)].

But—

- (i) The President or the Governor, as the case may be, as respects the service and posts in connection with the affairs of the Union

or of a State, may specify the matters in which either generally, or in any particular of cases, or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted. But all such regulations must be laid before the appropriate Legislature and be subject to such modifications as may be made by the Legislature.

- (ii) It has been held by the Supreme Court that the obligation of the Government to consult the Public Service Commission in any of the matters specified above does not confer any right upon any individual who may be affected by any act of the Government done without consulting the appropriate Commission as required by the Constitution. The reason assigned by the Court is that the consultation prescribed by the Constitution is to afford proper assistance to the Government, in the matter of assessing the guilt of a delinquent officer, the merits of a claim for reimbursement of legal expenses and the like; and that the function of the Commission being purely advisory, if the Government fails to consult the Commission with respect to any of the specified matters, the resulting act of the Commission is not invalidated by reason of such omission and no individual who is affected by such act can seek redress in a Court of law against the Government for such irregularity or omission.

Report of Public Service Commissions

As stated already, it shall be the duty of the Union Commission to present annually to the President a report as to the work done by the Commission and on receipt of such report the President shall cause a copy thereof together with a memorandum explaining, as respect the cases, if any, where the advice of the Commission was not accepted, the reason for such non-acceptance, to be laid before each House of Parliament [Art. 323 (1)]. A State Public Service Commission has a similar duty to submit an annual report to the Governor and the latter has a duty to lay a copy of such report before the State Legislature with a memorandum explain-

ing the case, if any, where the advice of the Commission was not accepted by the Government [Art. 323 (2)].

How far Commission's advice is binding on the Government

As stated earlier, the function of the Public Service Commission is only advisory and the Constitution has no provision to make it obligatory upon the Government to act upon the advice of the Commission in any case. The reason is that, under the Parliamentary system of Government, it is the Cabinet which is responsible for the proper administration of the country and its responsibility is to Parliament. They cannot, therefore, abjure this ultimate responsibility by binding themselves by the opinion of any other body of persons. On the other hand, in matters relating to the recruitment to the Service and the like, it would be profitable for the Ministers to take the advice of a body of experts.

Notwithstanding the above safeguard, there are criticisms from certain quarters that patronage is still exercised by the Government by resorting to some devices—

- (a) One of these is the system of making ad hoc appointments for a temporary period without consulting the Public Service Commission, and then approaching the Commission to approve of the appointment at a time when the person appointed has already been in service for some time and the recommendations of his superiors are available to him, in addition to the experience already gained by him in the work, which puts him at an advantage over the new candidates. The Supreme Court has been deprecating this practice of making ad hoc appointment. The Supreme Court did not allow the services of the employees appointed *de hors* the rules, although officiating for a long period of 14 years; that of the ad hoc appointment by bypassing the process of recruitment through open competition and a temporary appointee on monthly basis during the period of strike, to be regularized.

- (b) Sometimes the rules laying down the qualifications for the office to which such appointment has been made are changed retrospectively to fit in the appointee.
- (c) Another complaint is that sometimes the Reports are presented before Parliament (or State Legislature as the case may be) long after the year under review. This, however, does not appear to be permissible under the Constitution. So far as the duty of the Commission to report to the President or the Governor is concerned, the Constitution says that it must be done 'annually'. Hence, his obligation cannot be postponed for more than a few months from the end of the period under Report. The duty of the President or the Governor is to present the Report to Parliament or the State Legislature "on receipt of such Report". Though no specific time-limit is imposed, it is clear that it must be done as soon as possible after the receipt of the annual Report and it cannot be construed that the obligation is discharged by presenting the Report two or three years after the receipt or by presenting the Reports for two or three years in a lump. The presentation before the Legislature must also be annual affair, and if the President or the Governor makes delay, it should be the concern of the appropriate Legislature to demand an explanation for such delay presentation, apart from anything else. If the Legislature slumbers, the entire machinery of Parliamentary government will succumb, not to speak of any particular object of scrutiny by the Legislature.

Matters on which UPSC is not consulted

It is not necessary to consult the Commission with regard to the representation given to scheduled castes and scheduled tribes in the civil service. Provisions for this are made in Article 335, which mentions that "the claims of the members of the Scheduled Castes and Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appoint-

ments to services and posts in connection with the affairs of the Union or a State. "The UPSC is not called upon of the Act of 1935, which kept communal representation outside the purview of the Federal Public Service Commission.

Besides, there are certain other matters on which the UPSC is not consulted. They are:

- (1) Chairmanship or membership of tribunals or commission;
- (2) Post of the highest diplomatic nature, and
- (3) Appointments to a bulk of Class III and Class IV employees, who constitute about 98 percent of the total number of the Central government employees.

Further, it is not necessary for the government to consult the Commission in regard to the selection for temporary or officiating appointment to a post, if the person appointed is not likely to hold the post for more than a year, and if it is necessary in public interest to make the appointment immediately and a reference to the Commission in this respect is likely to cause undue delay. Though the Commission is to be informed of the action taken by an executive agency in this respect, there are instances where this facilitating provision has been misused, thus violating the spirit of the law.

EMERGENCY PROVISIONS

The term 'Emergency' may be defined as "a difficult situation arising suddenly and demanding immediate action by public authorities under powers specially granted to them by the Constitution or otherwise to meet such exigencies".

Types of Emergency

Broadly, the Emergency provisions of the Constitution envisage two kinds of emergencies, viz.

- (i) a National Emergency under article 352 due to threat of war, external aggression or armed rebellion and
- (ii) Financial Emergency under article 360.

The third kind of situation, that is, the one under article 356 arising from a failure of the constitutional machinery in any particular State and necessitating President's rule.

National Emergency (Art.352)

Article 352 provides that if the President, after receiving a written communication of a Cabinet decision, is satisfied that a grave emergency exists whereby the security of India or any part thereof is threatened by war, external aggression or armed rebellion, he may issue a Proclamation of Emergency for the whole of India or part thereof. Every Proclamation of Emergency is required to be laid before each House of Parliament, and is to cease to operate at the expiration of one month from the date of its issue by the President unless it has in the meantime been approved by resolutions of both the House. However, once approved by Parliament, the Proclamation may continue in operation for six months at a time unless revoked by the President earlier by a subsequent Proclamation. Resolutions approving the Proclamation of Emergency or its continuance have to be passed by either House of Parliament by a majority of the total membership and not less than two third of those present and voting. Also, if the Lok Sabha passes a resolution disapproving the Proclamation or its continuance, it shall be revoked forthwith. If notice of a resolution signed by not less than one-tenth of the total membership is given to the President Speaker, a special sitting of the House shall be held within 14 days to consider it. . During the periods of Emergency, extraordinary powers may be assumed by the Union Government.

Executive powers of the Union during Emergency

Article 353, read with article 365 provides that once Emergency is proclaimed, the executive power of the union extend to giving of directions to any State in regard to the exercise of the executive power of the State and failure to comply with the directions would constitute enough justification for imposition of President's rule under Article 356. During the operation of Emergency, the legislative power of Parliament also extends to conferring powers and imposing duties by law on Union authorities in matters not otherwise included in the Union List. Under article 354, the application of provisions relating to distribution of revenues articles (268 to 279) may be suitably modified during the period of the operation of Emergency. Article 358,

HOW MANY NATIONAL EMERGENCIES HAS INDIA EXPERIENCED?

There have been three proclamations of National Emergency in India-

- In October 1962 at the time of the Chinese aggression,
- In December 1971, in the wake of the war with Pakistan and
- In June 1975 on ground of internal disturbance

provides for the suspension of the provisions of article 19 during emergencies while article 359 authorises the President to suspend by ordering the enforcement of all the Fundamental Rights guaranteed in Part III of the Constitution except the rights of protection in respect of conviction for offences and protection of life and liberty in articles 20 and 21.

The effect of the exercise of powers under articles 358 and 359 is that not only the legislature but also the executive can interfere with the Fundamental Rights of individuals except those under articles 20 and 21. Any law passed under articles 358 and 359 in order to be valid must contain a recital to the effect that it is in relation to the Proclamation of Emergency in operation. Also, all such laws shall cease to have effect to the extent of incompetency under the Fundamental Rights as soon as the Emergency ceases or the Presidential order ceases to have effect.

Proclamation of President's Rule (Art. 356)

It is the constitutional duty of the Union to protect its States against external aggression and internal disturbance and to ensure that the Government of every State is carried on in accordance with the Constitution (Article 355). If on receipt of a Report from the Governor or otherwise, the President is satisfied that the Government of the State cannot be carried on in accordance with the Constitution or that the constitution taking over any of the functions and powers of the State Government including those of the Governor and other State authorities. The satisfaction of the President, of course, means the satisfaction of the Union Government and President's rule is actually rule by the Union Government. If any State fails to comply with directions issued by the Union under article 256,

257 or 353, the President may hold that there has been a failure of constitutional machinery in that State and may take over the State Government under article 356.

Every Proclamation under Article 356 must cease to operate at the expiry of two months unless approved by resolutions of the two Houses of the Parliament. After Parliament's approval also, a Proclamation may continue for not more than six months at a time and not for more than a total of three years (except Punjab)

How the President's Rule affects State Legislatures?

The powers of the State Legislature may under the Proclamation become exercisable by or on the authority of Parliament. The State Assembly may be dissolved or kept under suspended animation. The president may take all other steps that may be necessary including suspension of the operation of any constitutional provisions relating to any body or authority in the State except the High Courts. During the operation of President's rule under article 356, Parliament may confer the legislative power of the State on the President and authorise him to delegate these powers to other President and other authorities (Article 357)

Financial Emergency (Art. 360)

The President is authorised by article 360 of the Constitution to declare by a Proclamation, Financial Emergency, if he is satisfied that the financial stability or credit of India or of any part of its territory is threatened. Such a Proclamation may be revoked or varied by a subsequent Proclamation. It has to be laid before both Houses of Parliament and ceases to operate at the expiration of two months unless meanwhile approved by resolutions of the two House. Once approved by Parliament, unlike Proclamation under article 352, it may continue indefinitely until revoked or varied.

During the operation of Financial Emergency, the executive authority of the Union extends to the giving of directions to any State to observe certain specified canons of financial propriety and such other directions that the President may find necessary or adequate. These directions may include reduction of

salaries and allowances of all those serving a State and reserving for the President's consideration all money Bills and other Bills under article 207 after these are passed by State legislatures. The President may also direct reduction in salaries and allowances of all those serving in connection with the affairs of the Union including judges of the Supreme Court and the High Courts.

OFFICIAL LANGUAGE

Part XVII of the Constitution deals with the official language in Articles 343 to 351. Its provisions are divided into four heads—Languages of the Union, Regional languages, Language of the judiciary and texts of laws and Special directives.

Language of the Union

The Constitution contains the following provisions in respect of the official language of the Union.

1. Hindi written in Devanagari script is to be the official language of the Union. But, the form of numerals to be used for the official purposes of the Union has to be the international form of Indian numerals and not the Devanagari form of numerals.
2. However, for a period of fifteen years from the commencement of the Constitution (i.e., from 1950 to 1965), the English language would continue to be used for all the official purposes of the Union for which it was being used before 1950.
3. Even after fifteen years, the Parliament may provide for the continued use of English language for the specified purposes.
4. At the end of years, and again at the end of ten years, from the commencement of the Constitution, the president should appoint a commission to make recommendations with regard to the progressive use of the Hindi language, strictions on the use of the English language and other related issues.
5. A committee of Parliament is to be constituted to examine the recommendations of the commission and to report its views on them to the president.

Accordingly, in 1955, the president appointed in Official Language Commission under the chairmanship of BG Kher. The commission submitted its report to the President in 1965. The report was examined by a committee of Parliament constituted in 1957 under the chairmanship of Gobind Ballabh Pant. However, another Official Language Commission (as envisaged by the Constitution) was not appointed in 1960.

Subsequently, the Parliament enacted the Official Language Act in 1963. The act provides for the continued use to English (even after 1965), in addition to Hindi, for all official purposes of the Union and also for the transaction of business in Parliament. Notably, this act enables the use of English indefinitely (without any time-limit). Further, this act was amended in 1967 to make the use to English, in addition to Hindi, compulsory in certain cases.

Regional Languages

The Constitution does not specify the official language of different states. In this regard, it makes the following provisions:

1. The legislature of states may adopt any one or more of languages in use in the state or Hindi as the official language of that state. Until that is done, English is to continue as official language of that state.

Under this provision, most of the states have adopted the major regional language as their official language. For example, Andhra Pradesh has adopted Telugu, Kerala-Malayalam, Assam-Assamese, West Bengal-Orissa-Oriya. The six northern states of Himachal Pradesh, Uttar Pradesh, Madhya Pradesh, Bihar, Haryana and Rajasthan have adopted Hindi. Gujarat and Punjab have and adopted Hindi in addition to Gujarati and Punjabi respectively. Goa has adopted Konkani in addition to Marathi and Gujarati. Jammu and Kashmir has adopted Urdu (and not Kashmiri). On the other hand, certain north-eastern States like Meghalaya, Arunachal Pradesh and Nagaland have adopted English. Notably, the choice of the state is not limited to the languages enumerated in the Eighth Schedule of the Constitution.

2. For the time being, the official language of the Union (i.e., English) would remain the link language for communications between the Union and the states or between the Union and the states or between various states. But, two or more states are free to agree to use Hindi (instead of English) for communication between themselves. Rajasthan, Uttar Pradesh, Madhya Pradesh and Bihar are some of the states that have entered into such agreements.

The Official Language Act (1963) lays down that English should be used for purpose of communication between the Union and the non-Hindi states (that is, the states that have not adopted Hindi as their official language). Further, where Hindi is used for communication between a Hindi and a non-Hindi state, such communication in Hindi be accompanied by an English translation.

3. When the President (on a demand being made) is satisfied that a substantial proportion of the population of a state desire the use of any language spoken by them to be recognised by the state, then he may direct that such language shall also be officially recognised in that state. This provision aims at protecting the linguistic interests of minorities in the states.

Language of the Judiciary and Texts of Laws

The constitutional provisions dealing with the language of the courts and legislation are as follows:

1. Until Parliament provides otherwise, the following are to be in the English language only:
 - (a) All proceedings in the Supreme Court and in every high court.
 - (b) The authoritative texts of all bills, acts, ordinances, orders, rules regulations and bye-laws at the Central and state levels.
2. However, the governor of a state, with the previous consent of the president, can authorise the use of Hindi or any other official language of the state, in the proceedings in the high court of the state, but not with the respect to the judgments,

decrees and orders passed by it. In other words, the judgments, decrees and orders of the high court must continue to be in English only (until Parliament otherwise provides).

3. Similarly, a state legislature can prescribe the use of any language (other than English) with respect to bills, acts, ordinances, orders, rules, regulations or bye-laws, but a translation of the same in the English language is to be published.

The Official Language Act of 1963 lays down that Hindi translation of acts, ordinances, orders, regulations and bye-laws published. Under the authority of the president are deemed to be authoritative texts. Further, every bill introduced in the Parliament is to be accompanied by a Hindi translation. Similarly, there is to be a Hindi translation of state acts or ordinances in certain cases.

The act also enables the governor of state, with the previous consent of the president, to authorise the use of Hindi or any other official language of the state for judgments, decrees and orders passed by the high court of the state but they should be accompanied by an English translation. For example, Hindi is used in Uttar Pradesh, Madhya Pradesh, Bihar and Rajasthan for this purpose.

However, the Parliament has not made any provision for the use of Hindi in the Supreme Court. Hence, the Supreme Court hears only those who petition or appeal in English. In 1971, a petitioner insisted on arguing in Hindi a habeas corpus petition in the Supreme Court. But, the Court cancelled his petition on the ground that the language of the Court was English and allowing Hindi would be unconstitutional.

Special Directives

The Constitution contains special directives to protect the interests of linguistic minorities and to promote the development of Hindi language. There are:

Protection of Linguistic Minorities

In this regard, the Constitution makes the following provisions:

1. Every aggrieved person has the right to submit a representation for the redress of any grievance to any of the languages used in the Union or in the state, as the case may be. This means that a representation cannot be rejected on the ground that it is not in the official language.
2. Every state and a local authority in the state should provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups. The president can issue necessary directions for this purpose.
3. The president should appoint a special officer for linguistic minorities to investigate all matters relating to the constitutional safeguards for linguistic minorities and to report to him. The president should place all such report before the Parliament and send to the state government concerned.

Development of Hindi Language

The Constitution imposes a duty upon the Centre to promote the spread and development of the Hindi language so that it may become the lingua franca of the composite culture of India.

Further, the Centre is directed to secure the enrichment of Hindi by assimilating the forms, style and expressions used in Hindustani and in other languages specified in the Eighth Schedule and by drawing its vocabulary, primarily on Sanskrit and secondarily on other languages.

At present, the Eighth Schedule of the Constitution specifies 18 languages (originally 14 languages). These are Assamese, Bengali, Gujarati, Hindi, Kannada, Kashmiri, Konkani, Malayalam, Manipuri, Marathi, Nepali, Oriya, Punjabi, Sanskrit, Sindhi, Tamil, Telugu and Urdu. Sindhi was added by the 21st Amendment Act of 1967 while Konkani, Manipuri and Nepali were added by the 71st Amendment Act of 1992.

In terms of the Constitution provisions, there are two objectives behind the specification of the above regional languages in the Eighth Schedule:

- (a) the members of these languages are to be given representation in the Official Language Commission; and

- (b) the forms, style and expressions of these languages are to be used for the enrichment of the Hindi language.

IMPORTANT COMMISSIONS

(a) National Commission for Scheduled Castes

The National Commission for Scheduled Castes, a Constitutional body monitors the safeguards provided for Scheduled Castes and also reviews issues concerning their welfare.

The SCs constitute 16.23% of India's population spread all over the country, with 80% of them living in the rural areas. They constitute more than a fifth of the population of UP, Punjab, Himachal Pradesh and West Bengal. Punjab has the highest proportion of SCs to the State population. More than half of the SC population is concentrated in the five States of Uttar Pradesh (35.1 million), West Bengal (18.4 million), Tamil Nadu (11.8 million), Andhra Pradesh (12.3 million) and Bihar (13.0 million).

Due to their social disability and economic backwardness, they were grossly handicapped in getting reasonable share in elected offices, Government jobs and educational institutions and, therefore, it was considered necessary to follow a policy of reservations in their favour to ensure their equitable participation in governance.

Functions and duties of the commission are:

- To investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguard.
- To inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes;
- To participate and advise on the planning process of socio-economic development of the Scheduled Castes and to evaluate the progress of their development under the Union and any State;
- To present to the President, annually and at such other times as the Commission may

deem fit, reports upon the working of those safeguards;

- To make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes; and
- To discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

The Commission presents an annual report to the President. The President places all the reports before the Parliament along with memorandum explaining the action taken on the recommendations made by the Commission. The memorandum also contains the reasons for the non acceptance of any recommendation.

(b) National Commission on Scheduled Tribes

The National Commission for Scheduled Tribes was first formed by the Government of India in 1978 as a Non-statutory Multi-Member Commission. Initially, the Commission was set up through a resolution for both the Schedule Castes and Schedule Tribes. In the year 1987, the Government of India re-structured the duties of the Commission by authorizing it to advice on the Broad Policy Issues and Levels of Development of SCs and STs. The National Commission for Scheduled Tribes (NCST) was established by amending Article 338 and inserting a new Article 338A in the Constitution through the Constitution (89th Amendment) Act, 2003. By this amendment, the erstwhile National Commission for Scheduled Castes and Scheduled Tribes was replaced by two separate Commissions namely- (i) the National Commission for Scheduled Castes (NCSC), and (ii) the National Commission for Scheduled Tribes (NCST) in 2004.

Scheduled Tribes live in contiguous areas unlike other communities. It is, therefore, much

simpler to have an area-approach for development activities and also regulatory provisions to protect their interests. In order to protect the interests of Scheduled Tribes with regard to land alienation and other social factors, provisions of "Fifth Schedule" and "Sixth Schedule" have been enshrined in the Constitution.

Functions of the Commission are:

- To investigate and monitor all the matters relating to the safeguards provided for the SCs and STs under the Constitution of India or under any other law and to evaluate the working of such safeguards.
- To enquire into specific complaints with respect to the deprivation of the rights and the safeguards of the SCs and the STs.
- To participate and advise on the planning process of socio-economic development of the Scheduled Castes and the Scheduled Tribes and to evaluate the progress of their development under the Union and any State.
- To present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;
- To make in such reports or recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those the protection, welfare and socio-economic development of the Schedule Castes and the Schedule Tribes as the President may by rule specify.

The term Scheduled Tribes is defined in the Constitution of India under Article 366(25) as such tribes or tribal communities or parts of groups within such tribes or tribal communities as are deemed under Article 342 to be Scheduled Tribes for the purposes of this Constitution.

According to the Article 342(1), the President may, with respect to any State or Union Territory, and where it is State, after consultation with the Governor thereof, notifies tribes or tribal communities or parts thereof as Scheduled Tribes. This confers on the tribe or part of it a Constitutional status invoking the safeguards provided for in the Constitution, to these communities in their respective States/UTs.

Thus only those communities who have been declared as such by the President through an initial public notification will be considered as Scheduled Tribes. Parliament may, by law, include in or exclude from the list of Scheduled Tribes, any tribe or tribal community or parts of thereof. The list of Scheduled Tribes is State-specific. In other words, a community declared as Scheduled Tribe in one State need not be so in another State.

The Commission presents an annual report to the President. The President places all the reports before the Parliament along with memorandum explaining the action taken on the recommendations made by the Commission. The memorandum also contains the reasons for the non acceptance of any recommendation.

(c) National Commission for Backward Classes

National Commission for Backward Classes came into effect on the 2nd April, 1993. The Act provides that the Commission shall consist of five Members, comprising of a Chairperson who is or has been a judge of the Supreme Court or of a High Court; a social scientist; two persons, who have special knowledge in matters relating to backward classes; and a Member-Secretary, who is or has been an officer of the Central Government in the rank of a Secretary to the Government of India.

Functions of the Commission:

- The Commission shall examine requests for inclusion of any class of citizens as a backward class in the lists and hear complaints of over-inclusion or under-inclusion of any backward class in such lists and tender such advice to the Central Government as it deems appropriate.
- The advice of the Commission shall ordinarily be binding upon the Central Government.

Powers of the Commission:

The Commission shall, while performing its functions have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely:-

- summoning and enforcing the attendance of any person from any part of India and examining him on oath;

- requiring the discovery and production of any document;
- receiving evidence on affidavits;
- requisitioning any public record or copy thereof from any court or office;
- issuing commissions for the examination of witnesses and documents; and
- Any other matter which may be prescribed.

The Commission prepares its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government. Annual report and audit report to be laid before Parliament. The Central Government shall cause the annual report, together with a memorandum of action taken on the advice tendered by the Commission and the reasons for the non acceptance, if any, of any such advice, and the audit report to be laid as soon as may be after they are received before each House of Parliament.

(d) National Commission for Women

The National Commission for Women was set up as statutory body in January 1992 under the National Commission for Women Act, 1990 to :

- review the Constitutional and Legal safeguards for women ;
- recommend remedial legislative measures ;
- facilitate redressal of grievances and
- Advise the Government on all policy matters affecting women.

In keeping with its mandate, the Commission initiated various steps to improve the status of women and worked for their economic empowerment during the year under report. The Commission completed its visits to all the States/UTs except Lakshdweep and prepared Gender Profiles to assess the status of women and their empowerment. It received a large number of complaints and acted suo-moto in several cases to provide speedy justice.

It took up the issue of child marriage, sponsored legal awareness programmes, Parivarik Mahila Lok Adalats and reviewed laws such as Dowry Prohibition Act, 1961, PNDT Act 1994, Indian Penal Code 1860 and the National Com-

mission for Women Act, 1990 to make them more stringent and effective. It organized workshops/consultations, constituted expert committees on economic empowerment of women, conducted workshops/seminars for gender awareness and took up publicity campaign against female foeticide, violence against women, etc. in order to generate awareness in the society against these social evils.

NCW has adopted a Multi-Pronged strategy to tackle the problem:

- Generation of legal awareness among women, thus equipping them with the knowledge of their legal rights and with a capacity to use these rights.
- Assisting women in redressal of their grievances through Pre-litigation services.
- Facilitating speedy delivery of justice to women by organizing Parivarik Mahila Lok Adalats in different parts of the country.
- Review of the existing provisions of the Constitution and other laws affecting women and recommending amendments thereto, any lacunae, inadequacies or short comings in such legislation's.
- look into complaints and take suo moto notice of matters;
- special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women;
- undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres and identify factors responsible for impeding their advancement;
- advice on the planning process of socio-economic development of women;
- inspect or cause to inspected a jail, remand home, women's institution or other place of custody where women are kept as prisoners or otherwise and take up with the concerned authorities for remedial action, if found necessary etc.

Further NCW has launched Women's Rights campaign along with NGOs for the upliftment of dalit women. Dalit women are positioned at the bottom of India's caste, class and gender hierarchies. As a result, many Dalit women face exploitation both in and out of the

home, often resulting in sexual assault and other forms of violence. Thus Women's Rights Campaign has been launched to create awareness among the women rights.

The objectives of the Women's Rights campaign include:

- To empower women by generating awareness of their rights so they can seek justice and dignity within their families and communities.
- To train and build strong women who will become leaders in the movement.
- To formulate and develop tools and programs for serving the specific needs of women for their growth and development.
- To create space for women through strategic intervention wherever and whenever needed.
- To foster gender sensitivity within Navsarjan through concrete policies.
- To dilute discriminatory patriarchal culture, making non-negotiable the belief and practice of equality.

National Commission for Women regularly brings out a monthly newsletter Rashtra Mahila in Hindi and English to create awareness about the women rights in the society.

(e) National Human Rights Commission

The National Human Rights Commission is a statutory (and not a constitutional) body. It was established under a legislation enacted by the Parliament, namely, the Protection, namely, the Protection of Human Rights Act, 1993.

The commission is the watchdog of human rights in relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the international covenants and enforceable by courts in India.

The specific objectives of the establishment of the commission are :

- (a) To strengthen the institutional arrangement through which human rights Issues could be addressed in their entirety in a more focussed manner;
- (b) To look into allegations of excesses, independently of the government, in a manner that would underline the

government's commitment to protect human rights; and

- (c) To complement and strengthen the efforts that have already been made in this direction.

Composition of the commission

The commission is a multi-member body consisting of a chairman should be a retired chief justice of India, and other members should be a serving or retired judge of the Supreme Court, a serving or retired chief justice of a high court and two persons having knowledge or practical experience with respect to human rights. In addition to these full-time members, the commission also has three ex-officio members-the chairmen of the National Commission for Minorities, the National Commission for SCs and STs, and the National Commission for Women.

The chairman and members are appointed by the president on the recommendations of a six-members committee consisting of the prime minister as its head, the Speaker of the Lok Sabha, the Deputy Chairman of the Rajya Sabha, leaders of the Opposition in both the Houses of Parliament and the Central home minister. Further, a sitting judge of the Supreme Court or a sitting chief justice of a high court can be appointed only after consultation with the chief justice of India.

The chairman and members hold office for a term of five years or until they attain the age of 70 years, whichever is earlier. After their tenure, the chairman and members are not eligible for further employment under the Central or a state government.

The president can remove the chairman or any other member from the office under the following circumstances:

- If he is adjudged an insolvent; or
- If he engages, during his term of office, in any paid employment outside the duties of this office; or
- If he is unfit to continue in office by reason of infirmity of mind or body; or
- If he is of unsound mind and so declared a competent; or
- If he is convicted and sentenced to imprisonment for an offence.

In addition to these, the president can also remove the chairman or any other member on the ground of proved misbehaviour or incapacity. However, in these cases, the president has to refer the matter to the Supreme Court for an inquiry. If the Supreme Court for an inquiry in these cases, the president has to refer the matter to the Supreme Court for an inquiry. If the Supreme Court, after the inquiry, upholds the cause of removal and advises so, then the president can remove the chairman or a member.

The salaries, allowances and other conditions of services of the chairman or a member are determined by the Central government. But, they cannot be varied to his disadvantage after his appointment.

All the above provisions are aimed at securing autonomy, independence and impartiality in the functioning of the Commission.

Functions of the commission

The functions of the Commission are:

- To inquire into any violation of rights or negligence in the prevention of such violation by a public servant, either suo motu or on a petition presented to it.
- To intervene in any proceeding involving allegation of violation of human rights pending before a court.
- To visit jails and detention places to study the living conditions of inmates and make recommendation thereon.
- To review the constitutional and other legal safeguards for the protection of human rights and recommend measures for their effective implementation.
- To review the factors including acts of terrorism that inhibit the enjoyment of human rights and recommend remedial measures.
- To study treaties and other international instrument on human rights and make recommendations for their effective implementation.
- To undertake and promote research in field of human rights.
- To spread human rights literacy among the people and promote awareness of the safeguards available for the protection of these rights.

- To encourage the efforts of non-governmental organisations (NGOs) working in the field of human rights.
- To undertake such other functions as it may consider necessary for the promotion of human rights.

(f) Central Information Commission

The Right to Information (RTI) Act, 2005, which came into force on 12 October 2005, marked a new and higher level of evolution of India's parliamentary democracy.

The Supreme Court has, in various judgments, held that the right to information is a part of the fundamental right to freedom of speech and expression under Article 19 (1) of the Constitution, since the right cannot be properly exercised if the people did not have the right to information.

The clearest enunciation of the fundamental right to information was seen in the Supreme Court ruling in the State of U.P vs. Raj Narain in which Justice K.K. Mathew said:

"The people of this country have a right to know every public act, everything that is done in a public way, by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearing. The right to know, which is derived from the concept of freedom of speech, though not absolute, is a factor which should make one wary, when secrecy is claimed for transactions which can, at any rate, have no repercussion on public security..."

Thus the Right to Information (RTI) Act, 2005 is designed to set up a practical regime for citizens to access information available with public authorities, in order to promote transparency and accountability in their working. This Act provides for the constitution of the Central Information Commission (CIC) to be responsible for the implementation of the Act.

Central Information Commission was constituted by the Central Government through a Gazette Notification in October 2005. The Commission includes 1 Chief Information Commissioner (CIC) and not more than 10 Information Commissioners (IC) who are appointed by

the President of India. Oath of Office is administered by the President of India according to the form set out in the First Schedule.

CIC defines "information" as any material in any form including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

Powers and Functions of the Central Information Commission

- The CIC is empowered to receive and inquire into complaints from any person relating to access to information under the control of public authorities and to decide appeals against the decisions of designated appellate officers.
- The Commission shall impose penalties on erring Central Public Information Officers and recommend disciplinary action against those who have, without any reasonable cause, denied access to information under the provisions of the Act.
- The quantum of penalty liable to be imposed is Rs. 250 each day till the application is received or information is furnished subject to the total amount not exceeding Rs. 25,000.
- The decision of the Commission on an appeal is binding and is not subject to further appeal in a court of law.
- The Commission may make recommendations to public authorities not conforming to the provisions or the spirit of the Act, specifying the steps which, in its opinion, they ought to take for promoting such conformity.
- The Commission may, during the inquiry into any complaint, examine any record under the control of the public authority, and no such record may be withheld from it on any grounds.
- The Commission shall recommend to the Government every year, reforms on any "matter relevant for operationalising the right to access information".

(g) Central Vigilance Commission

The Central Vigilance Commission (CVC) is the agency for preventing corruption in the Central government. It was established in 1964 by an executive resolution of the Central government. Its establishment was recommended by the Santhanam Committee on Prevention of Corruption (1962-64).

Thus, originally the CVC was neither a constitutional body nor a statutory body. Recently, in September 2003, the Parliament enacted a law conferring statutory status on the CVC.

Composition

The CVC is a multi-member body consisting of a Central Vigilance Commissioner (chairperson) and not more than two vigilance commissioners. They are appointed by the president by warrant under his hand and seal on the recommendation of a three-member as its head, the Union minister of home affairs and the Leader of the Opposition in the Lok Sabha. They hold office for a term of four years or until they attain the age of sixty five years, whichever is earlier. After their tenure, they are not eligible for further employment under the Central or a state government.

The president can remove the Central Vigilance Commissioner or any vigilance commissioner from the office under the following circumstances:

- (a) If he is adjudged an insolvent; or
- (b) If he has been convicted of an offence which (in the opinion of the Central government) involves a moral turpitude; or
- (c) If he engages, during his term of office, in any paid employment outside the duties of his office; or
- (d) If he is (in the opinion of the president), unfit to continue in office by reason of infirmity of mind or body; or
- (e) If he has acquired such financial or other interest as is likely to affect prejudicially his official functions.

In addition to these, the president can also remove the Central Vigilance Commissioner or any vigilance commissioner on the ground of

proved misbehaviour or incapacity, however, in these cases, the president has to refer the matter to the Supreme Court for an enquiry. If the Supreme Court, after the enquiry, upholds the cause of removal and advises so, then the president can remove him. He is deemed to be guilty of misbehaviour, if he (a) is concerned or interested in any contract or agreement made by the Central government, or (b) participates in any way in the profit of such contract or agreement or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members or an incorporated company.

The salary, allowances and other conditions of services of the Central Vigilance Commissioner are similar to those of the Chairman of UPSC and that of the vigilance commissioner are similar to those of a member of UPSC. But they cannot be varied to his disadvantage after his appointment.

Functions

The functions of the CVC are:

1. To inquire or cause an inquiry or investigating to be conducted on a reference made by the Central government wherein it is alleged that a public servant being an employee of the Central government or its authorities, has committed an offence under the Prevention of Corruption Act, 1988,
2. To inquire or cause an inquiry or investigating to be conducted into any complaint against any official belonging to the below mentioned category of officials wherein it is alleged that he has committed an offence under the Prevention of Corruption Act, 1988:
 - (a) Member of all-India services serving in the Union and Group 'A' officers of the Central government; and
 - (a) Specified level of officer of the authorities of the Central government.
3. To exercise superintendence over the functioning of Delhi Special Establishment (which is a part of Central Bureau of Investigation) in so far as it relates to the investigation of offences alleged to have

been committed under the Prevention of Corruption Act, 1988. The Delhi Special Police Establishment is required to obtain the prior approval of the Central government before conducting any inquiry or investigating into an offence committed by officers of the rank of joint secretary and above in the Central government and its authorities.

4. To give directions to the Delhi Special Police Establishment for the purpose of discharging the responsibility entrusted to it under the Delhi Special Police Establishment Act, 1946.
5. To review the progress of investigations conducted by the Delhi Special Police Establishment into offences alleged to have been committed under the Prevention of Corruption Act, 1988.
6. To review the progress of applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, 1988.
7. To tender advice to the Central government and its authorities on such matters as are referred to it by them.
8. To exercise superintendence over the vigilance administration in the ministries of the Central government or its authorities.

Some initiatives taken by the CVC to combat corruption

(a) Project Vigeye

CVC has launched the Project Vigeye which is a citizen-centric initiative, wherein citizens join hands with the Central Vigilance Commission in fighting corruption in India.

Project Vigeye is the platform through which vigilance information flows freely through common public, the government agencies and the vigilance commission, making it possible to achieve a step jump in improving the corruption index of the nation.

Salient features:

- Citizens have multiple channels to air their grievances and complaints to CVC
- Through their mobile phones: by downloading the mobile application from the CVC website. The complaints can be better articulated with additional data like

audio/ video/ photo evidence from their mobiles directly.

- Through the internet: by filling up the complaint form online they can attach audio/ video/photo evidence.
- Through telephone: help line have been setup
- The entire complaint processing is done online, in digital form, enabling fast and accurate processing of complaints.
- The concerned CVO will interact with the complainant directly over phone/email or in person, as the case may be, to take it forward.
- Status of the complaint is communicated back to the complainant - the communication loop becomes complete.

(b) Awareness Campaign

The Commission has initiated a project to create awareness and educate the public on anti-corruption. The aim is to reduce people's tolerance for corruption and reduce its social acceptability. Media agencies are being engaged to create the campaign in the electronic and print media besides various outreach activities. The campaign is slated to start from January, 2011.

(c) Provision for Whistleblowers

The provision for whistle blowers and their protection is already in place since 2004 under the Public Interest Disclosure & Protection of Informers' Resolution (PIDPIR) wherein CVC is the designated authority to handle the "whistle blower complaints" and provide protection to the "whistle blowers". Commission has been paying special attention to complaints received under this Resolution to investigate them in a time bound manner with due protection to the complainants. A bill has been initiated in the Parliament to convert the Resolution into an Act which would further empower the CVC in protecting the whistleblowers.

TRIBUNALS

Central Administrative Tribunal

It has been established for adjudication of disputes with respect to recruitment and conditions of service of persons appointed to public

services and posts in connection with the affairs of the Union or other local authorities within the territory of India or under the control of Government of India and for matters connected therewith or incidental thereto. This was done in pursuance of the 42nd amendment of the Constitution of India by Articles 323A. In the statement of objects and reasons on the introduction of the Administrative Tribunals Act, 1985, it was mentioned that the setting up of such Administrative Tribunals exclusively would go a long way in reducing the burden on the various courts and reduce pendency and would also provide to the persons covered by the Administrative Tribunals a speedy and relatively cheap and effective remedy. In addition to Central Government employees, the Government of India has notified 45 other organizations to bring them within the jurisdiction of the Central Administrative Tribunal.

The provisions of the Administrative Tribunals Act, 1985 do not, however, apply to members of paramilitary forces, armed forces of the Union, officers or employees of the Supreme Court, or to persons appointed to the Secretariat Staff of either House of Parliament or the Secretariat staff of State/Union Territory Legislatures. Besides the Chairman, who has been a sitting or retired Judge of a High Court, the authorized strength of CAT consists of 16 Vice-Chairmen and 49 Members.

State Administrative Tribunals

The 42nd Amendment Act, 1976 also provided for the establishment of State Administrative Tribunals with an Act of Parliament to deal with the cases pertaining to the conditions of service of the State employees. SATs play the same role at state level as played by CAT at the Centre.

Water Disputes Tribunal

The Water Disputes Act, 1956 provides for the reference of an inter-state dispute for arbitration by a Water Disputes Tribunal, whose award would be final according to Art. 262 (2A).

COUNCILS

National Development Council

It is an extra-constitutional and legal body which was formed in 1952. Constituted of the

Union Prime Minister and the Chief Ministers of States, the functions of the Council are "to strengthen and mobilize the efforts and resources of the nation in support of the plans; to promote common economic policies in all vital spheres and to ensure the balanced and rapid development of all parts of the country" and in particular,

- (a) to review the working of the National Plan from time to time; and
- (b) to recommend measures for the achievement of the aims and targets set out in the National Plan.

Zonal Councils

Zonal Councils have been established by the State Reorganization Act, 1956. They advise on matters of common interest to each of the five zones into which the territory of India has been divided such as Northern, Southern, Eastern, Western and Central. It is also an extra constitutional body. Each Zonal Council consists of the Chief Minister and two other Ministers of each of the State in the Zone and the Administrator in the case of the Union Territory. There is also provision for holding joint meetings of two or more zonal councils. The Union Home Minister is the common chairman of all the zonal councils.

The Zonal Councils discuss matters of common concern to the states and Union Territories comprised in each Zone, such as, economic and social planning, border disputes, inter-state transport, matters arising out of the reorganization of States and the like, and give advice to the Government of the State concerned as well as the Government of India.

Now the whole of India is divided under six zones and the states covered under each zone are as follows :

1. **Eastern Zone** : Bihar, Jharkhand, Orissa, West Bengal, Sikkim
2. **Western Zone** : Gujarat, Maharashtra, Goa, Daman, Diu & Dadra & Nagar Haveli.
3. **Northern Zone** : Punjab, Haryana, Himachal Pradesh, J & K, Rajasthan, Chandigarh and Delhi.
4. **Southern Zone** : Andhra Pradesh, Kerala, Karnataka, Tamil Nadu and Pondicherry.

5. **Central Zone** : U.P., Chhatisgarh, Uttaranchal and M.P.
6. **North Eastern Zone** : Assam, Meghalaya, Nagaland, Manipur, Tripura, Mizoram, Arunachal Pradesh.

North-Eastern Council was set up under the North-Eastern Council Act, 1971.

National Security Council

On August 24, 1990, the Prime Minister Mr. V.P. Singh announced the formation of National Security Council to take comprehensive and coordinated view of all matters relating to the country's security. It is headed by the Prime Minister and will include the Ministers of Defence, Finance, Home Affairs, External Affairs etc.

Following are the subjects to be considered by the Council :

- External threats scenario, strategic defence policies.
- Other security threats, especially those involving energy, space and high tech.
- Internal security covering insurgency, counter-terrorism & counter intelligence.
- Patterns of alienation likely to emerge within the country, esp. those with a social, communal or regional dimension.
- Security implications of evolving trends in the world economy on India's economic and foreign policies.
- External economic threats in areas such as energy, commerce, food & finance.

CONSTITUTIONAL AMENDMENT

Procedure for amendment

The procedure for the amendment of the Constitution as laid down in Article 368 is as following:

1. An amendment of the Constitution can be initiated only by the introduction of a bill for the purpose in either House of Parliament and not in the state legislature.
2. The bill can be introduced either by a minister or by private member and does not require prior permission of the president
3. The bill must be passed in each House by a special majority, that is, a majority (that

is, more than 50%) of the total membership of the House and a majority of two-thirds of the members of the House present and voting.

4. Each House must pass the bill separately. In case of a disagreement between the two Houses, there is no provision for holding a joint sitting of the two Houses for the purpose of deliberation and passage of the bill.
5. If the bill seeks to amend the federal provisions of the Constitution, it must also be ratified by the Constitution, it must also be ratified by the legislatures of half of the states by a simple majority, that is, a majority of the members of the House present and voting.
6. After duly passed by both the Houses of Parliament and ratified by the state legislatures, where necessary, the bill is presented to the president for assent.
7. The president must give his assent to the bill. He can neither withhold his assent to the bill nor return the bill for reconsideration of the Parliament.
8. After the president's assent, the bill becomes an Act (i.e., a constitutional amendment act) and the Constitution stands amended in accordance with the terms of the Act.

Some important constitutional amendments are:

Amendments	Objectives
1st amendment	To fully secure the constitutional validity of zamindari abolition laws. To place reasonable restriction on freedom of speech. A new constitutional device, called Schedule 9 introduced to protect laws that are contrary to the Constitutionally guaranteed fundamental rights. "These laws encroach upon property rights, freedom of speech and equality before law.

2nd amendment	A technical amendment to fix the size of each parliamentary constituency between 650,000 and 850,000 voters.		Union Territory after acquisition from Portugal.
3rd amendment	Limits maximum no of seats in lok Sabha up to 500. "States to be divided into constituencies such that one member of a constituency represents between 500000 and 750000 people.	11th amendment	Election of Vice President by Electoral College consisting of members of both Houses of Parliament, instead of election by a Joint Sitting of Parliament. Indemnify the President and Vice President Election procedure from challenge on grounds of existence of any vacancies in the electoral college.
4th amendment	Restrictions on property rights and inclusion of related bills in Schedule 9 of the constitution.	12th amendment	Incorporation of Goa, Daman and Diu as a Union Territory, after acquisition from Portugal.
5th amendment	Provides for a consultation mechanism with concerned states in matters relating to the amendments to the territorial matters and in the re-naming of the state.	13th amendment	Formation of State of Nagaland, with special protection under Article 371A.
6th amendment	Amended the Union and State Lists with respect to raising of taxes.	14th amendment	Incorporation of Pondicherry into the Union of India. "Creation of Legislative Assemblies for Himachal Pradesh, Tripura, Manipur and Goa.
7th amendment	Reorganization of states on linguistic lines Abolition of Class A, B, C, D states "Introduction of Union Territories.	15th amendment	Raise retirement age of judges from 60 to 62 "Other minor amendments for rationalizing interpretation of rules regarding judges, etc.
8th amendment	Clarify state's power of compulsory acquisition and requisitioning of private property "Include Zamindari abolition laws in Schedule 9 of the constitution.	16th amendment	Make it obligatory for seekers of public office to swear their allegiance to the Indian Republic and prescribe the various obligatory templates.
9th amendment	Minor adjustments to territory of Indian Union consequent to agreement with Pakistan for settlement of disputes by demarcation of border villages, etc.	17th amendment	To secure the constitutional validity of acquisition of Estates and place land acquisition laws in Schedule 9 of the constitution.
10th amendment	Incorporation of Dadra, Nagar and Haveli as a		

18th amendment	Technical Amendment to include Union Territories in Article 3 and hence permit reorganisation of Union Territories.		princely states which were incorporated into the Indian Republic.
19th amendment	Abolish Election Tribunals and enable trial of election petitions by regular High Courts.	27th amendment	Reorganization of Mizoram into a Union Territory with a legislature and council of ministers.
20th amendment	Indemnify & validate judgments, decrees, orders and sentences passed by judges.	28th amendment	Rationalized Civil Service rules to make it uniform across those appointed prior to Independence and post independence.
	Validate the appointment, posting, promotion and transfer of judges except those not eligible for appointment under article 233.	29th amendment	Places land reform acts and amendments to these act under Schedule 9 of the constitution.
	Amendment was needed to overcome the effect of judgement invalidating appointments of certain judges in the state of Uttar Pradesh.	30th amendment	Changes the basis for appeals in Supreme Court of India in case of Civil Suits from value criteria to one involving substantial question of law.
21th amendment	Included Sindhi as a National Language.	31th amendment	Increased size of Parliament from 525 to 545 seats. "Increased seats went to the new states formed in North East India and minor adjustment consequent to 1971 Delimitation exercise.
22nd amendment	Provision to form Autonomous states within the State of Assam.	32nd amendment	Protection of regional rights in Telangana and Andhra regions of State of Andhra Pradesh.
23rd amendment	Extend reservation for SC / ST and nomination of Anglo Indian members in Parliament and State Assemblies for another ten years i.e. up to 1980.	33rd amendment	Prescribes procedure for resignation by members of parliament and state legislatures "Prescribes procedure for verification and acceptance of resignation by house speaker.
24th amendment	Enable parliament to dilute fundamental rights through amendments to the constitution.	34th amendment	Place land reform acts and amendments to these act under Schedule 9 of the constitution.
25th amendment	Restrict property rights and compensation in case the state takes over private property.	35th amendment	Terms and Conditions for
26th amendment	Abolition of privy purse paid to former rulers of		

	the Incorporation of Sikkim into the Union of India.	43rd amendment	Amendment passed after revocation of internal emergency in the Country.
36th amendment	Formation of Sikkim as a State within the Indian Union.		Repeals some of the more 'Anti-Freedom' amendments enacted through Amendment Bill 42.
37th amendment	Formation of Arunachal Pradesh legislative assembly.	44th amendment	Amendment passed after revocation of internal emergency in the Country.
38th amendment	Enhances the powers of President and Governors to pass ordinances.		Provides for human rights safeguards and mechanisms to prevent abuse of executive and legislative authority.
39th amendment	Negated the judgement of Allahabad High Court invalidating Prime Minister Indira Gandhi's election to parliament.		Annuls some Amendments enacted in Amendment Bill 42.
	Amendment placed restrictions on judicial scrutiny of post of Prime Minister.	45th amendment	Extend reservation for SC / ST and nomination of Anglo Indian members in Parliament and State Assemblies for another ten years i.e. up to 1990.
40th amendment	Enable Parliament to make laws with respect to Exclusive Economic Zone and vest the mineral wealth with Union of India.	46th amendment	Amendment to negate judicial pronouncements on scope and applicability on Sales Tax.
	Place land reform & other acts and amendments to these act under Schedule 9 of the constitution.	47th amendment	Place land reform acts and amendments to these act under Schedule 9 of the constitution.
41th amendment	Raised Retirement Age Limit of Chairmen and Members of Union and State Public Commissions from sixty to sixty two.	48th amendment	Article 356 amended to permit President's rule up to two years in the state of Punjab.
42nd amendment	Amendment passed during internal emergency by Indira Gandhi. Provides for curtailment of fundamental rights, imposes fundamental duties and changes to the basic structure of the constitution by making India a "Socialist Secular" Republic.	49th amendment	Recognize Tripura as a Tribal State and enable the creation of a Tripura Tribal Areas Autonomous District Council.
		50th amendment	Technical Amendment to curtailment of Fundamen-

	tal Rights as per Part III as prescribed in Article 33 to cover Security Personnel protecting property and communication infrastructure.	59th amendment	Article 356 amended to permit President's rule up to three years in the state of Punjab“Articles 352 and Article 359A amended to permit imposing emergency in state of Punjab or in specific districts of the state of Punjab.
51th amendment	Provide reservation to Scheduled Tribes in Nagaland, Meghalaya, Mizoram and Arunachal Pradesh Legislative Assemblies.	60th amendment	Professional Tax increased from a maximum of Rs. 250/- to a maximum of Rs. 2500/.
52nd amendment	Anti Defection Law - Provide disqualification of members from parliament and assembly in case of defection from one party to other.	61th amendment	Reduce age for voting rights from 21 to 18.
53rd amendment	Special provision with respect to the State of Mizoram.	62nd amendment	Extend reservation for SC / ST and nomination of Anglo Indian members in Parliament and State Assemblies for another ten years i.e. up to 2000.
54th amendment	Increase the salary of Chief Justice of India & other Judges.	63rd amendment	Emergency powers applicable to State of Punjab, accorded in Article 359A as per amendment 59 repealed.
	Provisions for determining future increases without the need for constitutional amendment.	64th amendment	Article 356 amended to permit President's rule up to three years and six months in the state of Punjab.
55th amendment	Special powers to Governor consequent to formation of state of Arunachal Pradesh.	65th amendment	National Commission for Scheduled Castes and Scheduled Tribes formed and its statutory powers specified in The Constitution.
56th amendment	Transition provision to enable formation of state of Goa.	66th amendment	Place land reform acts and amendments to these act under Schedule 9 of the constitution.
57th amendment	Provide reservation to Scheduled Tribes in Nagaland, Meghalaya, Mizoram and Arunachal Pradesh Legislative Assemblies.	67th amendment	Article 356 amended to permit President's rule up to four years in the state of Punjab.
58th amendment	Provision to publish authentic Hindi translation of constitution. Provision to publish authentic Hindi translation of future amendments.		

68th amendment	Article 356 amended to permit President's rule up to five years in the state of Punjab.
69th amendment	To provide for a legislative assembly and council of ministers for Federal National Capital of Delhi. Delhi continues to be a Union Territory.
70th amendment	Include National Capital of Delhi and Union Territory of Pondicherry in electoral college for Presidential Election.
71th amendment	Include Konkani, Manipuri and Nepali as National Languages.
72nd amendment	Provide reservation to Scheduled Tribes in Tripura State Legislative Assembly.
73rd amendment	Statutory provisions for Panchayat Raj as third level of administration in villages.
74th amendment	Statutory provisions for Local Administrative bodies as third level of administration in urban areas such as towns and cities.
75th amendment	Provisions for setting up Rent Control Tribunals.
76th amendment	Enable continuance of 69% reservation in Tamil Nadu by including the relevant Tamil Nadu Act under 9th Schedule of the constitution.
77th amendment	A technical amendment to protect reservation to SC/ST Employees in promotions.
78th amendment	Place land reform acts and amendments to these act

	under Schedule 9 of the constitution.
79th amendment	Extend reservation for SC / ST and nomination of Anglo Indian members in Parliament and State Assemblies for another ten years i.e. up to 2010.
80th amendment	Implement Tenth Finance Commission recommendation to simplify the tax structures by pooling and sharing all taxes between states and The Centre.
81th amendment	Protect SC / ST reservation in filling backlog of vacancies.
82nd amendment	Permit relaxation of qualifying marks and other criteria in reservation in promotion for SC / ST candidates.
83rd amendment	Exempt Arunachal Pradesh from reservation for Scheduled Castes in Panchayati Raj institutions.
84th amendment	Extend the usage of 1971 national census population figures for state wise distribution of parliamentary seats.
85th amendment	A technical amendment to protect seniority in case of promotions of SC/ST Employees.
86th amendment	Provides Right to Education until the age of fourteen and Early childhood care until the age of six.
87th amendment	Extend the usage of 1971 national census population figures for state wise distribution of parliamentary seats.
88th amendment	To extend statutory cover for levy and utilization of Service Tax.

89th amendment	The National Commission for Scheduled Castes and Scheduled Tribes was bifurcated into The National Commission for Scheduled Castes and The National Commission for Scheduled Tribes.
90th amendment	Reservation in Assam Assembly relating to Bodoland Territory Area.
91st amendment	Restrict the size of council of ministers to 15 % of legislative members & to strengthen Anti Defection laws.
92nd amendment	Enable Levy of Service Tax.
	Include Bodo, Dogri, Santali and Maithili as National Languages.
93rd amendment	To enable provision of reservation for other backward classes (O.B.C.) in government as well as private educational institutions.
94th amendment	To provide for a Minister of Tribal Welfare in newly created Jharkhand and Chhattisgarh States.
95th amendment	Extended the reservation of seats in Lok Sabha and State Assemblies for SC and ST from sixty to seventy years.
96th amendment	Substituted "Odia" for "Oriya".
97th amendment	Added the words "or co-operative societies" in Article 19(l)(c) and inserted article 43B i.e, Promotion of Co-operative Societies and added Part-IXB i.e, THE CO-OPERATIVE SOCIETIES.

MISCELLANEOUS TOPICS

Separation of Powers

Meaning

The doctrine of separation of powers, ascribed to a Frenchman, Montesquieu has come to mean an organic separation or separation of government powers, namely, the legislative, the executive, and the judicial powers. Any two of these powers should not fall in the same hands. They should not assume or combine functions essentially belonging to each other. This is necessary to ward off any kind of tyrannical government. Thus, doctrine of separation of powers stated in its rigid form means that each of the branches of government, namely, executive or administrative, legislative and judicial should be confined exclusively to a separate department or organ of government. There should be no overlapping either of functions or of persons.

A distinction may be necessary between essential and incidental powers of an organ of government. Government is a living thing. Its life is dependent upon cooperation of its organs, which are interdependent. An organ may exercise some of the incidental powers of another organ. However, no organ of government is supreme. Each organ is limited to the exercise of the powers confided to it under the law of its creation, viz., the Constitution.

'Separation' in USA

The Constitution of the United States is usually quoted as the leading example of a constitution embodying the doctrine of separation of powers. While Constitution of the U.S.A. does not expressly provide for a separation of power, the doctrine has been incorporated into the Constitution by the provisions that:

- All legislative powers shall be vested in a Congress
- All executive power shall be vested in President
- All judicial power shall be vested in one Supreme Court, and in such inferior courts as Congress may from time to time ordain and establish.

'Separation' in India

Under the Indian constitution only execu-

tive power is 'vested' in the President while provisions are simply made for a Parliament and judiciary without expressly vesting the legislative and judicial powers in any person or body. Moreover, India has the same system of parliamentary executive as in England and the Council of Ministers consisting as it does of the members of legislature is, like the British Cabinet, a hyphen which joins a buckle which fastens the legislative part of the State to the executive part. Even, though the Constitution of India does not accept strict separation of powers it provides for an independent judiciary with extensive jurisdiction over the acts of the legislature and the executive.

The Cabinet, the Supreme Court of India has said, is a hyphen which joins, or a buckle which fastens, the Legislative part of the State to its executive part. The Constitution in article 50, however, specifically ordains separation of the Judiciary from the Executive. The vitality and importance of the doctrine of separation of powers lies not in any rigid separation of functions, but in a working synthesis with the guarantee of judicial independence.

Accordingly, the Indian Constitution has not recognised the doctrine of separation of powers in its absolute form but the functions of the different parts or branches of government have been sufficiently differentiated and consequently it can very well be said that our Constitution does not contemplate assumption by one organ or part of the State, of functions, that essentially belong to another. The executive indeed can exercise the powers of departmental or subordinate legislation when such powers are delegated to it by the legislature. It can also, when so empowered, exercise judicial functions in a limited way.

Conclusion

Though the Constitution of India does not formally recognize the doctrine of separation of powers in its absolute rigidity, framers have meticulously differentiated functions of various organs of the government. Each organ has to function within its own sphere demarcated under the Constitution. The principle of "checks and balances" obtaining in our democracy necessitated this. The doctrine of separation of powers

has been held by the Supreme Court of India as one of the basic features of the Constitution, which cannot be impaired even by amending it (vide *Kesavananda v. State of Kerala*, 1973)

Anti-defection Law

The Constitution (52nd Amendment) Act, 1985, amended Art. 101, 102, 190, and 191 of the Constitution regarding vacation of seats and disqualification from membership of Parliament and the State Legislatures, and added a new Schedule (Tenth Schedule) to the Constitution setting out certain provisions as to disqualification on grounds of defection. The Tenth Schedule inter alia provides that:

- (i) An elected member of Parliament or a State Legislatures, who has been elected as a candidate set up by a political party, and a nominated member of Parliament or a State Legislature who is a member of a political party at the time he takes his seat would be disqualified on the ground of defection if he voluntarily relinquishes his membership of such political party or votes or abstains from voting in the House contrary to any direction of such party;
- (ii) An independent member of Parliament or a State Legislature will be disqualified if he joins any political party after his election;
- (iii) A nominated member of Parliament or a State Legislature who is not a member of a political party at the time of his nomination and who has not become a member of any political party before the expiry of six months from the date on which he takes his seat shall be disqualified if he joins any political party after the expiry of the said period of six months;
- (iv) No disqualification would be incurred where a member claims that he belongs to a group representing a faction arising from a split in a party or merger of a party in another, provided that in the event of a split the group consists of not less than one-third of the members of the legislature party and in case of a merger of not less than two-third of the members of the legislature party and in case of a merger of not less than two-thirds of the members of the legislature party concerned;

- (v) No disqualification is incurred by a person who has been elected to the office to the Speaker or the Deputy Speaker of the House of the People or of the Legislative Assembly of a State or to the office of the Deputy Chairman of the Council of States or the Chairman, the Deputy Chairman of the Legislative Council of a State; if he severs his connection with his political party;
- (vi) The question as to whether a member of a House of Parliament or State Legislature has become subject to disqualification will be determined by the Chairman or the Speaker of the respective House, where the question is with reference to the Chairman or the Speaker himself, it will be decided by a member of the concerned House elected by it on that behalf;
- (vii) The Chairman or the Speaker of a House has been empowered to make rules for giving effect to the provisions of the Schedule. The rules are required to be laid before the House and are subject to modifications/disapproval by the House;
- (viii) All proceedings in relation to any question as to disqualification of a member of a House under the Schedule will be deemed to be proceedings in Parliament within the meaning of Art. 122 or, as the case may be, proceedings in the Legislature of a State within the meaning of Article 212; and
- (ix) Notwithstanding anything in the Constitution, no Court will have any jurisdiction in respect of any matter connected with the disqualification of a member of a House.

Paragraph 7 of the Tenth Schedule which bars the jurisdiction of the courts was held ultra vires of the Constitution by the High Court of Punjab and Haryana, and an appeal against this order was preferred by the government in the Supreme Court. The Supreme Court (*Kohota Holloian v. Zaccchulliu & Others*, 1991) found that there were legal infirmities in the passage of the Anti-defection law inasmuch as the Constitution Amendment Bill had not been rectified by the requisite number of State Assemblies before being presented for the President's assent. Also, the Speaker's functions under the Tenth Schedule called for a judicial determination of issues under the law. The process of determining the question of disqualification could not be considered part of the proceedings of the House and, as such, was not amenable to judicial review. The Supreme Court struck down Paragraph 7 of the Schedule barring the jurisdiction of the Courts and declared that while operating under the Anti-defection law, the Speaker was in the position of a tribunal, and therefore, his decisions like those of all tribunals were subject to judicial review.



1. Consider the following about the doctrine of severability and select the correct answer:

- The doctrine of severability means severing part of a statute which is inconsistent with any of the constitutional provisions and particularly the provisions of fundamental rights.
- Supreme Court of India considered the doctrine of severability for the first time in Kesavananda bharati Case.
- The severability of the valid and invalid provisions of a Statute does not depend on whether provisions are enacted in same section or different section; it is not the form but the substance of the matter that is to be considered.

Codes : -

- (a) All of the above (b) i and ii
(c) i and iii (d) i only

2. Match the following:

List I

1. Article 111

2. Article 123

3. Article 200

4. Article 213

List II

I) assent to the bills/veto power of President to the bill passed by parliament

II) ordinance making power of Governor.

III) Presidential veto over state legislation.

IV) ordinance making power of President.

Codes:

- (a) 1-I, 2-IV, 3-III, 4-II
(b) 1-I, 2-IV, 3-II, 4-III
(c) 1-IV, 2-I, 3-III, 4-II
(d) 1-IV, 2-I, 3-II, 4-III

3. The parliament of India consists of the President and the two Houses known as the Council of States (Rajya Sabha) and the House of the People (Lok Sabha). The Parliament has been vested with different powers. Match the

following powers with the correct article mentioned in the Constitution.

List A

- A. Parliament's Control over Legislation
B. Parliament's Control over Executive
C. Parliament's Control over Finance

List B

- I. Article 266 (3)
II. Article 75
III. Article 253

Codes:

- (a) A-III; B-II; C-I (b) A-II; B-I; C-III
(c) A-III; B-I; C-II (d) A-II; B-III; C-I

4. A Bill becomes an Act after being duly passed by both the houses of Parliament and given an assent by the President. According to the Indian Constitution the President has the veto powers over the Bills passed by the Parliament. Match the followings:

List A

(Veto powers)

A. Absolute veto

B. Suspensive veto

C. Pocket veto

List B

(provisions)

I. President returns the Bill or part of it for the reconsideration.

II. President is withholding the assent to a Bill.

III. President is not taking any action for an indefinite time.

Codes:

- (a) A-II; B-I; C-III (b) A-I; B-II; C-III
(c) A-II; B-III; C-I (d) A-I; B-III; C-II

5. Consider the following statements regarding forming of new State or altering the boundaries of an existing State

- A. No Bill for the purpose can be introduced except on the recommendation of the President.
B. The President shall, before giving his recommendation, refer the bill to the Legislative of the State which is going to be af-

affected by the changes proposed in the bill, for expressing its views on the changes.

- C. The Legislative of the State should express its views within the period specified by the President.
- D. The President is bound by the views of the State Legislature.

Which of the following statement is/are correct?

- (a) A, B and C (b) A and B only
 - (c) B only (d) All of them
6. Which of the following statements regarding the President of India is false?
- 1. The President shall be elected by the members of an electoral college consisting of the elected members of both Houses of Parliament; and the elected members of the Legislative Assemblies of the States.
 - 2. The supreme command of the Defence Forces of the Union shall be vested in the President and the exercise thereof shall be regulated by law.
 - 3. Every elected member of the Legislative Assembly of a State shall have as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of the elected members of the Assembly.
 - 4. The election of the President shall be held in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by open ballot.

Codes:

- (a) 1, 2 and 3 (b) 3 and 4
 - (c) Only 4 (d) None of the above
7. Which of the following pairs is/are correctly matched?
- I. Parliament can provide for grants-in-aid to states by the Centre. Such sums are charged on the Consolidated Fund of India.-----
-----Article 275
 - II. The Centre can grant loans to states and also give guarantee in respect of loans raised by them. -----Article 282
 - III. Parliament can impose restrictions on Intra-state trade and commerce in the public

interest.-----Article 301

Select the answer from the code given below:

- (a) Only I is correct (b) Only II is correct
 - (c) Only III is correct (d) All are correct
8. In which of the following important matters in respect of that both Houses (Rajya Sabha And Lok Sabha) enjoy equal powers?
- I. Election and impeachment of the President
 - II. Election and impeachment of the Vice-President
 - III. Approving the Proclamation of emergency and the the Proclamation regarding failure of constitutional machinery in States

Select the correct answer from below:

- (a) Only I and II (b) Only I and III
 - (c) Only II and III (d) All I, II and III
9. The Council of Ministers and Cabinet are often used interchangeably though there is a definite distinction between them. Which of the following is NOT included in the Council of Ministers?
- I. The Council of Ministers is collectively responsible to the Lower House of the Parliament.
 - II. It deals with all major legislative and financial matters.
 - III. It is a constitutional body, dealt in detail by the Article 74 and 75 of the Constitution.
 - IV. It was inserted in the Article 352 of the Constitution in 1978 by the 44th Constitutional Amendment Act.

Select the correct answer from below:

- (a) Only I, II and III (b) Only II and IV
 - (c) Only I, II and IV (d) All II, III and III
10. The Indian Parliament exercises final control on Public Finance through ...
- (a) Public Accounts Committee
 - (b) Ministry of Finance
 - (c) Comptroller and Auditor General of India
 - (d) Estimates Committee
11. Which of the following statements is not correct regarding the functions and powers of the Comptroller and Auditor General of India?

- (a) He examines the accounts of the Union Government and submits his report to the President.
- (b) He examines the accounts of the state governments and submits his reports to the Governors.
- (c) He does not exercise any administrative control over the offices of the auditors working in the states.
- (d) Any information asked by the Parliament can only be given by CAG through PAC.

12. Consider the following statements:

- (i) The governor has the power to suspend, remit or commute a sentence of death, if conferred by law.
- (ii) President has the pardoning power in respect of all cases of punishment by a Court Martial.
- (iii) As regards law in the concurrent sphere, the jurisdiction of President is concurrent with that of the governor.
- (iv) The only authority for pardoning a sentence of death is the President.

Which of the above statements are correct?

- (a) (ii), (iii) and (iv)
- (b) (i), (ii) and (iv)
- (c) (ii) and (iv)
- (d) All are correct.

13. Consider the following two statements regarding Consolidated Fund of India:

- 1. The estimates that relate to the expenditure charged upon the consolidated fund of India shall not be submitted to the vote of the Parliament.
- 2. Parliament is not empowered to discuss expenditure charged upon the consolidated fund of India.

Which of the options is correct?

- (a) 1 only
- (b) 2 only
- (c) Both are correct
- (d) Both are incorrect

14. Consider the following statements about the Finance Commission and select the correct ones:

- 1. The Finance Commission consists of a Chairman and four other members to be appointed by the President on the advice of the Council of Ministers.
- 2. The chairman should be a person having specialised knowledge of Finance and the members should have experience in public affairs.
- 3. Finance Commission also makes recommendations to the President on the matters relating to the principles that should govern the grant-in-aid to the states by the centre.
- 4. Recommendations made by the Finance Commission are binding on the government.

Codes:

- (a) 1 and 2 (b) 2 and 4
- (c) 3 and 4 (d) 1 and 3

15. Consider the following provisions regarding administration of Union Territories and Acquired Territories:

- (i) All the Union Territories are administered by an Administrator as the agent of the President and not by a Governor acting as the head of the state.
- (ii) The Government of Delhi has all the legislative power in the state list except on Public order, Police and land.
- (iii) Provisions relating to the Union Territories extend to the administration of Acquired Territories.
- (iv) Parliament may, by law, constitute a High Court for a Union Territory.

Which of the above statements are correct?

- (a) (i), (iii) and (iv) (b) (ii), (iii) and (iv)
- (c) (i), (ii) and (iv) (d) All are correct.

16. Which of the following financial powers are enjoyed by the Governor?

- (i) All the demands for grants are presented before the state legislature on the recommendation of the Governor.
- (ii) He is in charge of the Contingency Fund of the state and can make advances out of it to meet unforeseen expenditure.
- (iii) The supplementary grants, if any, are presented before the state legislature on the

recommendation of the governor.

- (iv) He can order the reduction of salaries and allowances of the state civil servants during the President's rule in the state.

Codes:

- (a) (i) and (iv)
(b) (ii), (iii) and (iv)
(c) (i), (ii) and (iii)
(d) (i), (ii) (iii) and (iv)

17. Which of the following statements regarding ministers is NOT correct?

- (a) A minister can be a member of either House of the Parliament, but he is liable to vote only in the house to which he belongs.
(b) Deputy Minister cannot hold independent charges but is paid salary equal to that of Cabinet Ministers.
(c) Minister of States cannot attend cabinet meeting unless invited.
(d) A person, not a member of any House, can be made minister for 6 months.

18. In which of the following aspects, does the Finance Commission differ from the Planning Commission?

1. Legal status
2. Composition
3. Tenure
4. Form of organisation
5. Functions

- (a) 1, 2, and 5 (b) 1, 2, 3 and 5
(c) 1, 2, 4 and 5 (d) 1, 2, 3, 4 and 5

19. Consider the following regarding Article 41 of the Constitution. It does not include....

- (a) Securing just and humane conditions of work.
(b) Securing right to work.
(c) Securing public assistance in case of unemployment.
(d) Provision of assistance in case of disabled people.

20. When the Vice-President is acting as President, he...

- (i) Will have all powers and functions of both

the President and the Vice-President.

- (ii) Will get all allowances and privileges of the President.
(iii) Should continue to work as the Chairman of Rajya Sabha

Which of the above statements is/are correct?

- (a) (i), (ii) and (iii) (b) (i) and (ii)
(c) (ii) and (iii) (d) (ii) only

21. What are the Rights Implicit under Art (19).

1. Right of a convict to express himself before media.
2. Right to commercial advertisement.
3. Furling of National Flag.
4. Voters have right to know / Rights to information
5. Rights to Bandh.

Codes:

- a. 1,2,3,4,5 b. 1,2,3,4
c. 2,3,4,5 d. 3,4,5

22. Which of the following statements is/are correct?

- 1- Estimates Committee comprising of 30 members, all from Lok Sabha, is a Committee of Lok Sabha.
- 2- Public Accounts Committee and Committee on Public Undertaking which though comprise of members from both the houses of Parliament are also Committees of Lok Sabha only.

- a. 1 only B. 2 only
c. Both 1 & 2 D. None

23. Which of the following features of Indian Constitution is not an aberration to federal nature of it?

- a. Absence of dual citizenship
- b. Independent judiciary
- c. All India services
- d. Unequal representation of states in Council of State

24. Match the following:

List -I	List-II
(Schedules in the Constitution)	(Provisions)

I. Sixth Schedule	1. Administration and control of scheduled areas and scheduled tribes.
II. Second Schedule	2. Administration of tribal areas in states of Assam, Meghalaya, Tripura and Mizoram.
III. Twelfth Schedule	3. Provisions as to the Speaker and Deputy Speaker of State Legislative Assemblies.
IV. Fifth Schedule	4. Powers, authority and responsibilities of Municipalities.

	I	II	III	IV
a.	2	4	3	1
b.	1	4	3	2
c.	1	3	4	2

d. 2 3 4 1

25. Which of the following statements is/are correct regarding the rights of minorities to establish and administer their own educational institutions?

- A. To choose its governing body in whom the founder of the institute have faith and confidence to manage the affairs of the institution.
- B. To appoint teaching staff as also non-teaching staff, and to take action if there is dereliction of duty on the part of the employees.
- C. To admit eligible students of their choice and to set up a reasonable fee structure.
- D. To use its properties and assets for the benefit of the institution.

Codes:

- (a) A, B and C
- (b) A, B and D
- (c) B, C and D
- (d) All of them



1 (a)

2 (a)

3 (a)

4 (d)

5 (c)

6 (a)

7 (b)

8 (e)

9 (a)

10 (a)

11 (a)

12 (b)

13 (d)

14 (c)

15 (c)

16 (a)

17 (d)

18 (d)

19 (a)

20 (b)

21 (b)

22 (c)

23 (b)

24 (b)

25 (b)



1. What will follow if a Money Bill is substantially amended by the Rajya Sabha?
- The Lok Sabha may still proceed with the Bill, accepting or not accepting the recommendations of the Rajya Sabha.
 - The Lok Sabha cannot consider the Bill further.
 - The Lok Sabha may send the Bill to the Rajya Sabha for reconsideration.
 - The President may call a joint sitting for passing the Bill.

2. Which one of the following statements is correct?
- In India, the same person cannot be appointed as Governor for two or more States at the same time.
 - The Judges of the High Court of the States in India are appointed by the Governor of the State just as the Judges of the Supreme Court are appointed by the President.
 - No procedure has been laid down in the Constitution of India for the removal of a Governor from his/her post.
 - In the case of a Union Territory having a legislative setup, the Chief Minister is appointed by the Lt. Governor on the basis of majority support.

3. Consider the following statements
1. An amendment to the Constitution of India can be initiated by an introduction of a bill in the Lok Sabha only.
 2. If such an amendment seeks to make changes in the federal character of the Constitution, the amendment also requires to be ratified by the legislature of all the States of India.

Which of the statements given above is/are correct?

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

4. Consider the following statements:

Attorney General of India can

1. take part in the proceedings of the Lok Sabha.
2. be a member of a committee of the Lok Sabha.
3. speak in the Lok Sabha.
4. vote in the Lok Sabha.

Which of the statements given above is/are correct?

- (a) 1 only
- (b) 2 and 4
- (c) 1, 2 and 3
- (d) 1 and 3 only

5. Which of the following bodies does not/do not find mention in the Constitution?
1. National Development Council
 2. Planning Commission
 3. Zonal Councils

Select the correct answer using the codes given below.

- (a) 1 and 2 only
- (b) 2 only
- (c) 1 and 3 only
- (d) 1, 2 and 3

6. The Parliament can make any law for whole or any part of India for implementing international treaties
- (a) with the consent of all the States.
 - (b) with the consent of the majority of States.
 - (c) with the consent of the States concerned.
 - (d) without the consent of any State.

7. The Government enacted the Panchayat Extension to Scheduled Areas (PESA) Act in 1996. Which one of the following is not identified as its objective?

- (a) To provide self-governance.
 - (b) To recognize traditional rights.
 - (c) To create autonomous regions in tribal areas.
 - (d) To free tribal people from exploitation.
8. Under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, who shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both?
- (a) State Forest Department
 - (b) District Collector/Deputy Commissioner
 - (c) Tahsildar /Block Development Officer / Mandai Revenue Officer
 - (d) Gram Sabha
9. 'Economic Justice' the objectives of Constitution has been as one of the Indian provided in
- (a) the Preamble and Fundamental Rights.
 - (b) the Preamble and the Directive Principles of State Policy.
 - (c) the Fundamental Rights and the Directive Principles of State Policy.
 - (d) None of the above.
10. According to the Constitution of India, which of the following are fundamental for the governance of the country?
- (a) Fundamental Rights
 - (b) Fundamental Duties
 - (c) Directive Principles of State Policy
 - (d) Fundamental Rights and Fundamental Duties
11. In the areas covered under the Panchayat (Extension to the Scheduled Areas) Act, 1996, what is the role/power of Gram Sabha?
1. Gram Sabha has the power to prevent alienation of land in the Scheduled Areas.
 2. Gram Sabha has the ownership of minor forest produce.
 3. Recommendation of Gram Sabha is required for granting prospecting license or mining lease for any mineral in the Scheduled Areas.

Which of the statement given above is/are correct?

- (a) 1 only
- (b) 1 and 2 only
- (c) 2 and 3 only
- (d) 1, 2 and 3

12. In the Parliament of India, the purpose of an adjournment motion is
- (a) To allow a discussion on a definite matter of urgent public importance
 - (b) To let opposition members collect information from the ministers
 - (c) To allow a reduction of specific amount in demand for grant
 - (d) To postpone the proceedings to check the inappropriate or violent behaviour on the part of some members.
13. Consider the following provisions under the Directive Principles of State Policy as enshrined in the Constitution of India:
1. Securing for citizens of India a uniform civil code
 2. Organizing village Panchayats
 3. Promoting cottage industries in rural areas
 4. Securing for all the workers reasonable leisure and cultural opportunities
- Which of the above are the Gandhian Principles that are reflected in the Directive Principles of State Policy?
- (a) 1, 2 and 4 only
 - (b) 2 and 3 only
 - (c) 1, 3 and 4 only
 - (d) 1, 2, 3 and 4

14. Consider the following statements:
1. Union Territories are not represented in the Rajya Sabha.
 2. It is within the purview of the Chief Election Commissioner to adjudicate the election disputes.
 3. According to the Constitution of India, the Parliament consists of the Lok Sabha and the Rajya Sabha only.

Which of the statements given above is/are correct?

- (a) 1 only
- (b) 2 and 3
- (c) 1 and 3
- (d) None

15. Regarding the office of the Lok Sabha Speaker, consider the following statements:
1. He/she holds the office during the pleasure of the President.

2. He/she need not be a member of the House at the time of his/her election but has to become a member of the House within six months from the date of his/her election.
3. If he/she intends to resign, the letter of his/her resignation has to be addressed to the Deputy Speaker.

Which of the statements given above is/are correct?

- (a) 1 and 2 only (b) 3 only
(c) 1, 2 and 3 (d) None

16. Which of the following are included in the original jurisdiction of the Supreme Court?

1. A dispute between the Government of India and one or more States
2. A dispute regarding elections to either House of the Parliament or that of Legislature of a State
3. A dispute between the Government of India and a Union Territory
4. A dispute between two or more states

Select the correct answer using the codes given below:

- (a) 1 and 2 (b) 2 and 3
(c) 1 and 4 (d) 3 and 4

17. Which of the following special powers have been conferred on the Rajya Sabha by the Constitution of India?

- (a) To change the existing territory of a State and to change the name of a State
- (b) To pass a resolution empowering the Parliament to make laws in the State List and to create one or more All India Services
- (c) To amend the election procedure of the President and to determine the pension of the President after his/her retirement
- (d) To determine the functions of the Election Commission and to determine the number of Election Commissioners

18. Which of the following are the methods of Parliamentary control over public finance in India?

1. Placing Annual Financial Statement before the Parliament
2. Withdrawal of moneys from Consolidated

Fund of India only after passing the Appropriation Bill

3. Provisions of supplementary grants and vote-on-account
4. A periodic or at least a mid-year review of programme of the Government against macroeconomic forecasts and expenditure by a Parliamentary Budget Office
5. Introduction Finance Bill in the Parliament

Select the correct answer using the codes given below:

- (a) 1, 2, 3 and 5 only (b) 1, 2 and 4 only
(c) 3, 4 and 5 only (d) 1, 2, 3, 4 and 5

19. Which of the following provisions of the Constitution of India have a bearing on Education?

1. Directive Principles of State Policy
2. Rural and Urban Local Bodies
3. Fifth Schedule
4. Sixth Schedule
5. Seventh Schedule

Select the correct answer using the codes given below:

- (a) 1 and 2 only (b) 3, 4 and 5 only
(c) 1, 2 and 5 only (d) 1, 2, 3 4 and 5

20. In India, other than ensuring that public funds are used efficiently and for intended purpose, what is the importance of the office of the Comptroller and Auditor General (CAG)?

1. CAG exercises exchequer control on behalf of the Parliament when the President of India declares national emergency/financial emergency.
2. CAG reports on the execution of projects or programmes by the ministries are discussed by the Public Accounts Committee.
3. Information from CAG reports can be used by investigating agencies to press charges against those who have violated the law while managing public finances.
4. While dealing with the audit and accounting of government companies, CAG has certain judicial powers for prosecuting those who violate the law.

Which of the statements given above is/are correct?

- (a) 1, 3 and 4 only (b) 2 only
(c) 2 and 3 only (d) 1, 2, 3 and 4

21. The Prime Minister of India, at the time of his/her appointment:

- (a) Need not necessarily be a member of one of the Houses of the Parliament but must become a member of one of the Houses within six months.
(b) Need not necessarily be a member of one of the Houses of the Parliament but must become a member of the Lok Sabha within six months
(c) Must be a member of one of the Houses of the Parliament.
(d) Must be a member of the Lok Sabha.

22. With reference to the Delimitation Commission, consider the following statements:

1. The orders of the Delimitation Commission cannot be challenged in a Court of Law.
2. When the orders of the Delimitation Commission are laid before the Lok Sabha or State Legislative Assembly, they cannot effect any modifications in the orders.

Which of the statements given above is/are correct?

- (a) 1 only (b) 2 only
(c) Both 1 and 2 (d) Neither 1 nor 2

23. According to the Constitution of India, it is the duty of the President of India to cause to be laid before the Parliament which of the following?

1. The Recommendations of the Union Finance Commission.
2. The Report of the Public Accounts Committee.
3. The Report of the Comptroller and Auditor General.

4. The Report of the National Commission for Scheduled Castes.

Select the correct answer using the codes given below:

- (a) 1 only (b) 2 and 4 only
(c) 1, 3 and 4 only (d) 1, 2, 3 and 4

24. A deadlock between the Lok Sabha and the Rajya Sabha calls for a joint sitting of the Parliament during the passage of

1. Ordinary Legislation
2. Money Bill
3. Constitution Amendment Bill

Select the correct answer using the codes given below:

- (a) 1 only (b) 2 and 3 only
(c) 1 and 3 only (d) 1, 2 and 3

25. How do District Rural Development Agencies (DRDAs) help in the reduction of rural poverty in India?

1. DRDAs act as Panchayati Raj Institutions in certain specified backward regions of the country.
2. DRDAs undertake area-specific scientific study of the causes of poverty and malnutrition and prepare detailed remedial measures.
3. DRDAs secure inter-sectoral and inter-departmental coordination and cooperation for effective implementation of anti-poverty programmes.
4. DRDAs watch over and ensure effective utilization of the funds intended for anti-poverty programmes.

Which of the statements given above is/are correct?

- (a) 1, 2 and 3 only (b) 3 and 4 only
(c) 4 only (d) 1, 2, 3 and 4



**POLITY UPSC QUESTIONS
(ANSWERS)**

1 (a)

2 (c)

3 (d)

4 (c)

5 (d)

6 (d)

7 (a)

8 (d)

9 (b)

10 (c)

11 (d)

12 (a)

13 (d)

14 (d)

15 (b)

16 (c)

17 (b)

18 (a)

19 (a)

20 (c)

21 (a)

22 (c)

23 (c)

24 (a)

25 (b)

