

13

The Constitution, Government System and their Social Concerns

In the last chapter, we learnt about the Indian constitution. We tried to build our understanding of the historical context in which it was drafted and the drafting process itself – the series of debates in the constituent assembly and the values and principles articulated in the preamble that formed the basis of the constitution.

In this chapter we shall learn about the structure of political organisations, the opportunities the constitution provides for social change and the way in which the constitution is evolving and developing.

13.1 The structure of political institutions in the constitution

Decentralisation of power: When power is centralised, it is beyond the reach of the common people as a result of which their needs and aspirations are not given priority. Democracy must be decentralised to become strong. The people should have the power to take decisions through the representatives they elect at the community, village/town, district and state levels. Gandhiji visualised more power being given to the village *panchayats* in his concept of *swarajya* or self-rule.

One of the debates during the time the constitution was being drafted was about whether the states should be given more powers, with the central government only being responsible for matters such as defence and foreign policy. The constituent assembly decided that India should have a strong central government to protect the unity and integrity of the country and usher in social change. It also gave the states the power to decide on a wide range of subjects.

At the time of independence, India was visualised as a union or amalgamation of states. Hence, power was distributed at two levels – the union or central level and the state level. At both levels, the representatives elected by the people were given the right to take decisions. In 1992, the 73rd amendment of the constitution decentralised power to a third level – the village *panchayats*.

If all decisions are taken by the central government, what kind of problems would the common people face?

If all decisions are taken at the *panchayat* level, what impact would it have? Discuss in class.

Separation of powers: The state or government has three kinds of power: to enact laws, implement them and dispense justice according to the law. But concentrating all these three powers in a single body could lead to authoritarian rule. Hence, these powers should reside in separate and independent organisations. This is what separation of power means. As you learnt in the previous class, such separation was a major objective of most democratic revolutions. So most modern governments have three

arms or branches: the **legislature**, which enacts laws and formulates policies, the **executive**, which implements these laws, and the **judiciary**, which dispenses justice in accordance with these laws.

The principle of separation of power ensures that the three branches of government – legislature, executive and judiciary – are independent, have their specific responsibilities, and don't interfere with or try to control each other. But this is not always possible in practice, because their work depends on each other so they have to cooperate and work together. That is why India adopted the principle of limited separation of powers. We have a parliamentary democracy in which the judiciary is independent, but the legislature and executive depend on each other because the executive (council of ministers) is itself a part of the legislature (parliament). Since the members of the council of ministers are also members of the parliament, the executive and legislature are closely intertwined.

Now recall the main points about the central government and the parliament that you learnt in the previous classes.

What are the names of the two houses of parliament?

Which of these houses has members who are elected by all adult voters?

How are laws enacted by the parliament?



Figure 13.1: Parliament house

13.1.1 Union Legislature (Parliament)

Our union legislature is called the parliament. It is composed of the president and the two houses (Lok Sabha and Rajya Sabha). A special feature of the Indian constitution is that the executive – council of ministers – is a part of the parliament and is answerable to it. The parliament represents the will and supremacy of the people. It is the foundation of the country's political system and the voice of the nation.

The parliament has representation from all classes of society and all regions of the country. It also has a system of reservation to ensure representation of the scheduled castes and tribes. But the representation of women is much lower than what one would expect in a parliamentary democracy. This is a matter of national concern. That is why a bill to amend the constitution to reserve at least 33 percent of the seats in parliament for women has been under consideration for several years.



Figure 13.2: A parliamentary debate

The representatives, who are elected either directly or indirectly, present the problems of the people in parliament, where they are discussed. The parliament also discusses policy matters, law-related proposals and cabinet proposals before approving them. In addition, it discusses the performance of the ministers who are expected to answer all queries posed to them. In this way, the parliament plays an important role, keeping a watch on the government and controlling any authoritarian tendencies that could lead to the concentration of power in the government.

Watch the parliamentary proceedings on TV and discuss them in class.

Why do you think so few women contest parliamentary elections?

Lok Sabha and Rajya Sabha

India has two legislative houses – the Lok Sabha and the Rajya Sabha. The Lok Sabha members are directly elected to the house by the people of India whereas the Rajya Sabha members are elected by the members of the state legislatures. This is a ‘two house’ or ‘bicameral’ system of legislature.

Why are two houses needed? If there was only a Lok Sabha, how would things change? We read earlier that India is a union in which power is divided between the centre and the states. The parliament is the supreme law-making body of the country so it has to work with the state legislatures to perform its functions. This interactive cooperation is ensured by the Rajya Sabha whose members are elected by the state legislatures.

There are many advantages of having two houses in parliament. For one, the parliament needs experts, especially subject experts and professionals who are accomplished in their fields (like scientists, legal experts, industrialists, writers, artists etc) if it has to perform its functions properly. It is not always possible for such experts to win an election to enter parliament. The state legislatures can choose such

experts and send them to the Rajya Sabha. The parliament, thus, benefits from their expertise and the second advantage is that any proposed law is debated twice before being enacted. If you recall the law-making process, you will remember that all laws are debated by both houses before they are approved. So a law cannot be made in haste. This lengthy procedure helps to prevent a flawed law from being passed.

Most state legislatures have only one house, the Vidhan Sabha. Is it necessary to have two houses in the states? If yes, then why?

Federal rule: Many states came together constitute the country. Hence the constitution divides legislative power into two levels – the union and the states. The central government and the state governments function independently but stay within their defined limits. That means the centre cannot have absolute control over the nation nor are the states absolutely free to do whatever they want.

Direct elections: The people vote to elect their representatives, for example, Lok Sabha members.

Indirect elections: The representatives elected by the people elect other representatives. For example, the president of India is elected by the members of parliament and the state legislatures, who are elected by the people.

Collect newspaper reports about the Rajya Sabha proceedings and discuss them in class.

We shall now study how the parliament is constituted with the help of the following table:

Table 13.1: Constituting the parliament

	Rajya Sabha	Lok Sabha
No of members	Maximum: 250 Elected by the states and union territories: 238 Nominated by president: 12	Maximum: 552 Direct election: 550 Nominated by president: 2
Age of candidates	Must be over 30 years old	At least 25 years old
No of annual sessions	Three sessions: Winter, Monsoon and Budget. (The Budget session is in two parts.)	Three sessions: Winter, Monsoon and Budget
Chairperson	Vice president of India (Ex-officio chairperson)	Chosen by the members (Speaker)
Quorum (minimum presence to make the proceedings valid)	1/10 of total membership	1/10 of total membership

President: The president convenes the sessions of both houses of parliament and can dissolve the Lok Sabha under special circumstances. But the president usually takes this decision on the advice of the prime minister.

Answer the following questions on the basis of the information contained in Table 13.1:

1. The election to which house requires extensive campaigning, with voting taking place in every neighbourhood?
2. What is the minimum age of a candidate to become a member of the Lok Sabha and the Rajya Sabha?
3. Which house has the most members? What is the reason for the difference?

We saw how the legislature is constituted. Now we shall learn about its powers and functions.

Parliament's powers and Functions

1. Legislative Function: The parliament makes laws for the entire country or for a part of the country. But, in practice, the council of ministers and the bureaucracy (executive) perform the function of drafting the laws. So the parliament's role is usually limited to approving a law even though it is the supreme body. Any important bill (proposed law) cannot be presented in the parliament without getting the approval of the cabinet. A private member can also propose a bill, but without the support of the government, it is unlikely that the bill will be passed.

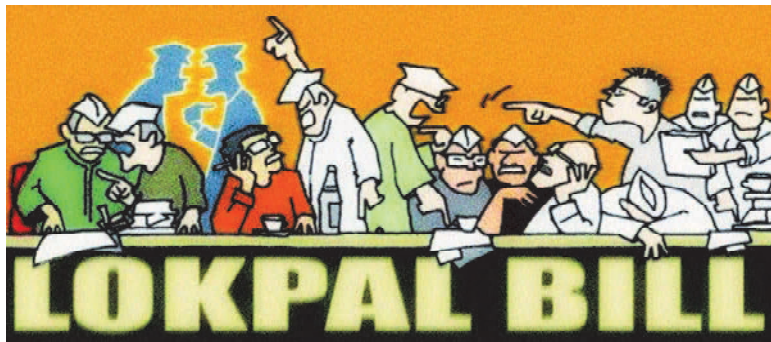


Figure 13. 3: A debate on the Lokpal bill in the Parliament

After a bill is presented, it is first examined by a parliamentary sub-committee. So most debates on bills usually happen in the sub-committee, which sends its recommendations to the parliament. All political parties are represented in the sub-committees. That is why they are also called 'mini legislatures'.

Once a bill is presented, it is debated in both houses before being passed and sent to the president for approval. If the council of ministers enjoys a majority in parliament, then it is almost certain that the law will be passed.

How is the parliament dependent on the executive for enacting laws?

Do you think this has a positive or a negative effect on the proposed law?

2. Controlling the executive and making it answerable: The government is answerable to the parliament. This essentially means that the council of ministers, who are also members of parliament, is answerable to the parliament. Any member of parliament can ask the ministers questions relating to their ministry and the ministers are obliged to give proper answers. If they give wrong answers, they can be removed from their posts.

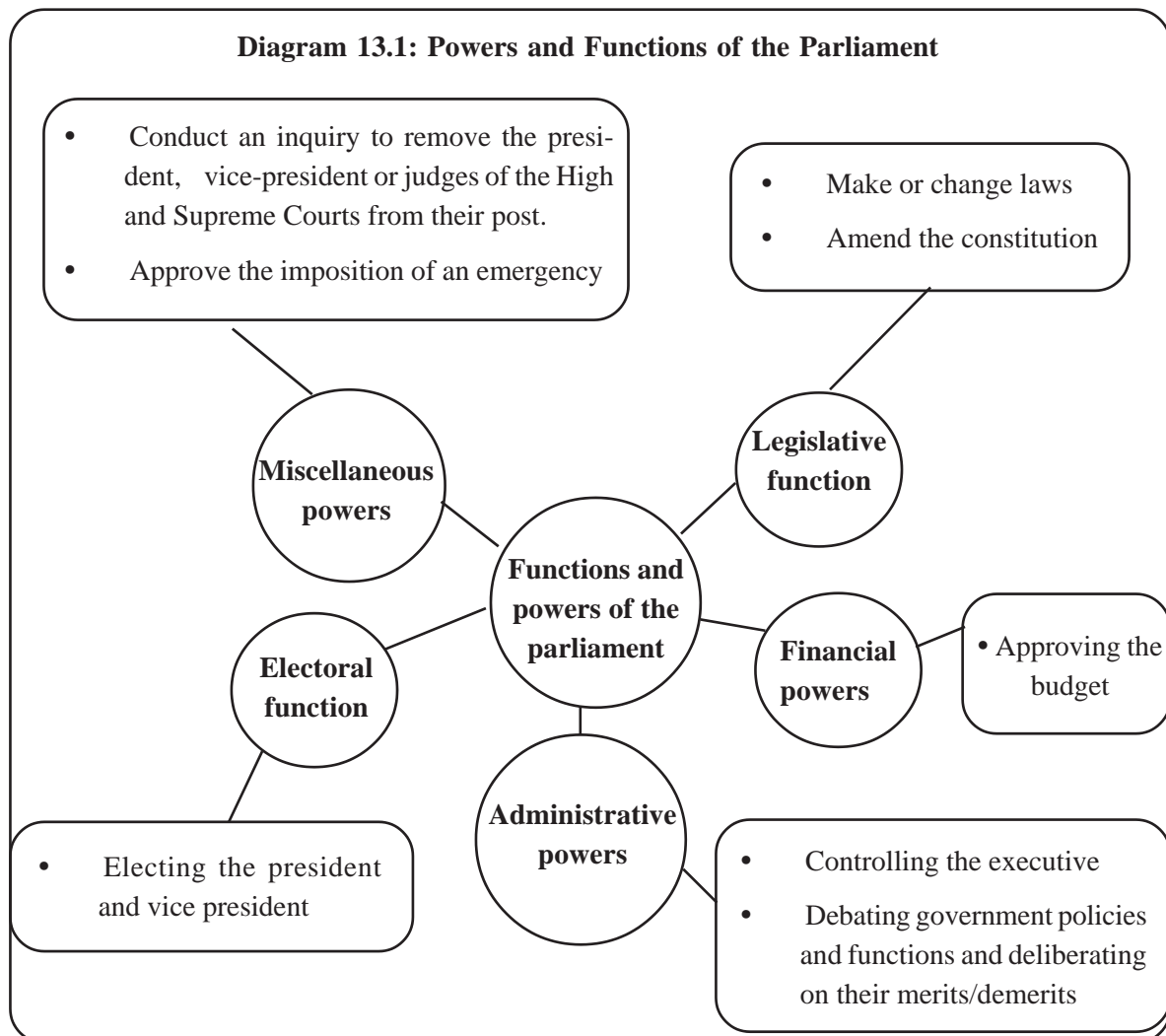
Questions can be asked and comments made at any stage of the parliament proceedings - when a policy is being formulated, when a policy or law is being implemented, and even after it is implemented. If the house is not satisfied with an answer given by the government, it can pass a no-confidence motion to dismiss the government.

As people's representatives, members of parliament and the state assemblies have the power and freedom to work in an effective and fearless manner. For example, a member cannot be prosecuted in a court for anything she/he says in parliament. This is called parliamentary privilege.

3. Financial powers: All governments levy and collect taxes to generate resources to cover their expenses. In a democracy, levying taxes and utilising tax revenues are controlled by the parliament. Every year, the finance minister presents a budget on behalf of the cabinet, which gives details of the expenditure the government plans to incur and its tax proposals to generate the required revenue. The Lok Sabha approves the income and expenditure proposals for the year. Only after the approval can the government levy taxes or spend state funds. The parliament, thus, has the right to provide or stop funds for the government's budgeted expenditure. The government also has to account for its expenditure in the parliament.

4. Forum for debate: The parliament is the highest forum for debate in the country. No one can curb this power for discussion. The members have the freedom to state their views on any subject without fear. The house can, thus, debate any topic that is presented to it. These discussions are not confidential or secret. The proceedings of the house are presented on TV and newspapers to inform the people.

Diagram 13.1: Powers and Functions of the Parliament



5. Amending the constitution: The parliament has the power to amend the constitution. Both houses have equal constitutional powers. Each amendment has to be passed by a two-thirds majority of each house before being sent to the president for approval.

6. Electoral functions: The parliament performs some electoral functions, such as participating in the election of the president and electing the vice president.

7. Judicial functions: One of the parliament's judicial functions is to debate any proposal to remove the president, vice president or any high court or Supreme Court judge from their post.

Which functions do you think are the most important for protecting democracy?

What will happen if the parliament does not pass the budget?

Who are the chairperson and vice chairperson of the current Lok Sabha and Rajya Sabha?

How many seats are there in the Chhattisgarh for the Lok Sabha ? Make a region-wise list with the help of your teacher.

How many seats are there in the Chhattisgarh for the Rajya Sabha ? Find out with the help of your teacher.

Project work: Collect newspaper during a parliamentary session and look for reports of the parliament's work. Classify them according to parliament's functions. Which function of the Parliament is each report related to? Discuss in class.

13.1.2 Union executive (president and council of ministers)

The branch of government that implements the policies and laws approved by the legislature and performs administrative functions is called the executive. As we saw earlier, the executive also plays



Figure 13.4: Rashtrapathi Bhavan

Table 13.2: Union Executive

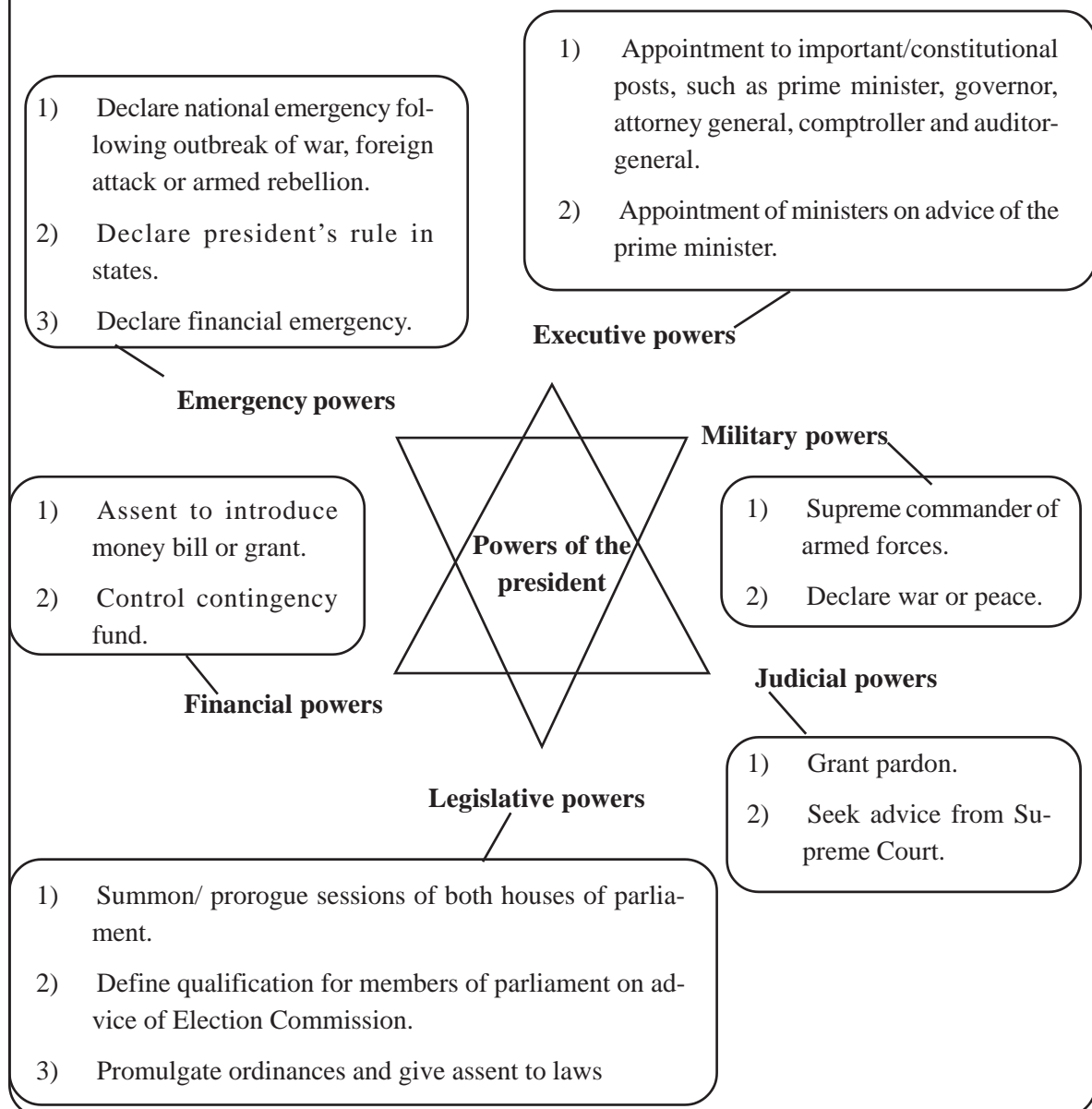
S. No	Particulars	President	Vice president	Prime minister
1	Minimum age	35 years	35 years	25 years
2	Election and appointment procedure	Indirect method Proportional representation by single transferable vote – by elected members of both houses of parliament and state legislatures	Indirect method by parliament in Lok Sabha	Appointed by president after securing majority
3	Educational qualifications	Not specified	Not specified	Not specified
4	Other qualifications	Qualified to be member of Lok Sabha	Qualified to be member of Rajya Sabha	Endorsed by majority in Lok Sabha
5	Oath	Sworn in by chief justice of Supreme Court	Sworn in by president	Sworn in by president
6	Tenure in office	Five years from swearing in	Five years from swearing in	Till the confidence of Lok Sabha or dissolution of Lok Sabha
7	Method of removal	Impeachment – which can be brought by any house of parliament	Majority of members present in Rajya Sabha and endorsed by Lok Sabha	If no majority in Lok Sabha, can be removed by president

(Note: The teacher should discuss any point in the table that arouses the students' interest)

an important role in policy formulation and law making. We shall now study the role of the president, council of ministers and prime minister in the executive.

The executive powers conferred by the constitution officially rest with the president, who is, thus, the head of the three military forces (army, navy and air force), the first citizen and the constitutional head. All constitutional appointments are done by the president. We saw earlier that the president also convenes the sessions of parliament. In addition, the president declares war or emergency.

The president exercises these powers through the council of ministers under the leadership of the prime minister. Amendment 74-1 of the constitution states that “there shall be a council of ministers with the prime minister at the head to aid and advice the president in the exercise of his functions”. Its intention is to ensure that the president, who is supreme but is not directly elected by the people and is not answerable to parliament, does not exercise power at his/her own discretion but only under advice of the council of ministers. Thus, in reality, the head of government is the prime minister.

Diagram 13.2: Powers of the president

Attorney general:	The government's primary law official who gives legal advice to the government.
CAG:	The Comptroller and Auditor General audits the accounts of the government and oversees the propriety/impropriety of the executive's financial dealings.
Ordinance:	When the parliament is not in session and a law needs to be passed, the president promulgates an ordinance on the recommendation of the council of ministers. The ordinance lapses within six weeks of the start of the next session if it is not made into an act.

But the president can exercise his/her discretion in some situations. For example, if the Lok Sabha doesn't have a clear majority, the president can appoint the prime minister at his/her discretion. The president can also return a bill passed by parliament for reconsideration, although he/she has to approve the bill if the parliament passes it again. Similarly, the president can return a recommendation made by the prime minister and the cabinet for reconsideration, but will have to approve it if the cabinet passes the recommendation again.

Even though the president is formally the supreme authority, why are his/her powers so limited in practice?

Prime minister and council of ministers

The president is supported and advised by the council of ministers, which is headed by the prime minister. The president appoints the leader who has the majority in the Lok Sabha (the support of more than half the total members) as the prime minister. The prime minister chooses the council of ministers. In practice, however, the prime minister has supreme authority. As we read earlier, the president can



Figure 13.5: Prime minister's office

exercise most of his/her powers only on the recommendations of the prime minister and the council of ministers. It is unconstitutional for the president to act without the advice of the council of ministers. In a way, the prime minister is the bridge between the Lok Sabha and the president. Since the prime minister enjoys a majority in the Lok Sabha, he/she controls both the legislature and the executive. Even after the Lok Sabha is dissolved, the council of ministers continues to advise the president until the next government is formed.

A majority in the Lok Sabha is needed to appoint a prime minister and form a government. A majority means having the support of more than half the total members of the Lok Sabha. The current Lok Sabha has 543 members, and it is mandatory to have the support of at least 272 members to become the prime minister.

The Lok Sabha members belong to different political parties, such as the Congress Party, Bharatiya Janata Party, Samajwadi Party, Bahujan Samaj Party, Communist Party, etc. Several parties are regional parties, such as the AIADMK, Trinamool Congress, Shiromani Akali Dal and Asom Gana Parishad. Each party has its ideology and policies on the basis of which they contest elections. Candidates from these parties enter the Lok Sabha after winning the election. If any single party wins 272 or more seats in the Lok Sabha, then its leader is appointed the prime minister. However, if no party has a majority, then two or more parties can join hands to form a coalition to form a government. The president then appoints the leader of the coalition as the prime minister.

Which of the following statements is true? Discuss, giving reasons.

- a) **Always the leader of the largest party is chosen as the prime minister.**

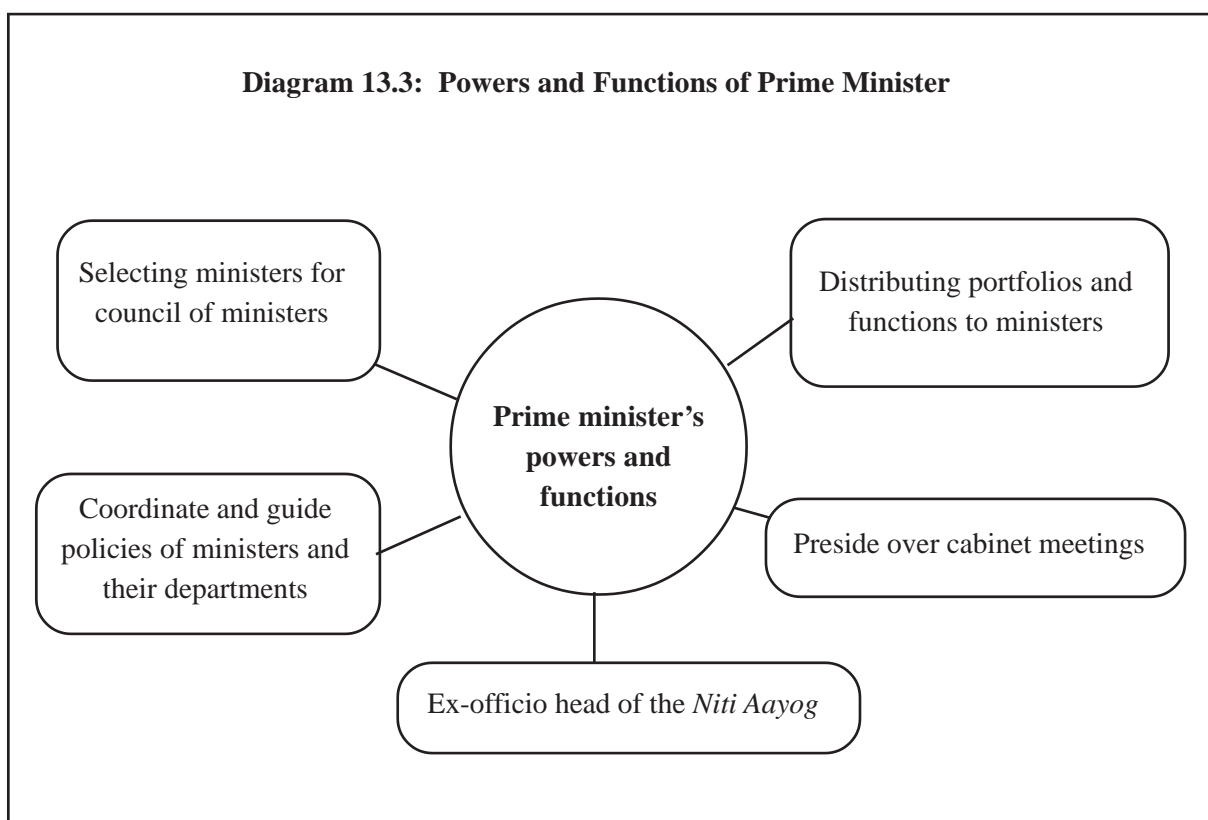
- b) **Only the person who has the support of more than half the members of the Lok Sabha can become the prime minister.**
- c) **Only the person who has the support of all the parties in the Lok Sabha becomes the prime minister.**

The prime minister chooses ministers from his/her party and other supporting parties and assigns portfolios according to their ability and experience. The cabinet works under the leadership of the prime minister. We can say that the prime minister is the pivot around which the government revolves because he/she is involved in all important government decisions and also decides the government's policies.

The council of ministers is collectively answerable to the Lok Sabha. If a government loses the confidence of the Lok Sabha, it is forced to resign. Collective responsibility means all the ministers have to support each other's work and cannot criticise one another either in the Lok Sabha or in public forums. So they work in cooperation with each other and with the prime minister. If the Lok Sabha expresses no confidence in any one minister, then the entire council of ministers has to resign.

Cabinet members are political leaders who become ministers for a limited period of time. Their main task is to make policy decisions and work as a link between the people and government departments. The cabinet is called the political executive, while the large body of government servants, police etc is called the administrative executive. They are long-term employees who are well versed in their work and support the government in carrying out its executive responsibilities.

Diagram 13.3: Powers and Functions of Prime Minister



13.1.3 The Judiciary

The main function of the judiciary is to protect the rights of citizens, to ensure that the legislature does not enact unconstitutional laws, and to examine the legality of work done by the executive. Our constitution also provides for an extensive and many-layered judicial system. Courts have been established from the district to the national level. Each state has a high court, with the Supreme Court being the apex court of the country.

In every society, there are conflicts between individuals, between groups, and between individuals and the government. It is essential to have an independent organisation that can resolve such conflicts by principle of 'rule of law'. The underlying principle in the 'rule of law' is that everyone – rich or poor, woman or man, elite or backward – are equal before the eyes of the law and are subjected to the same law.

The main function of the judiciary is to protect the 'rule of law' and ensure the supremacy of law. The judiciary protects the rights of individuals, resolves conflicts according to the law, and ensures that no individual or group derails democracy to establish despotic rule. For this, it is crucial that the judiciary is free from any political pressures or influence. This can be seen in the provisions for appointing judges and deciding their tenure.

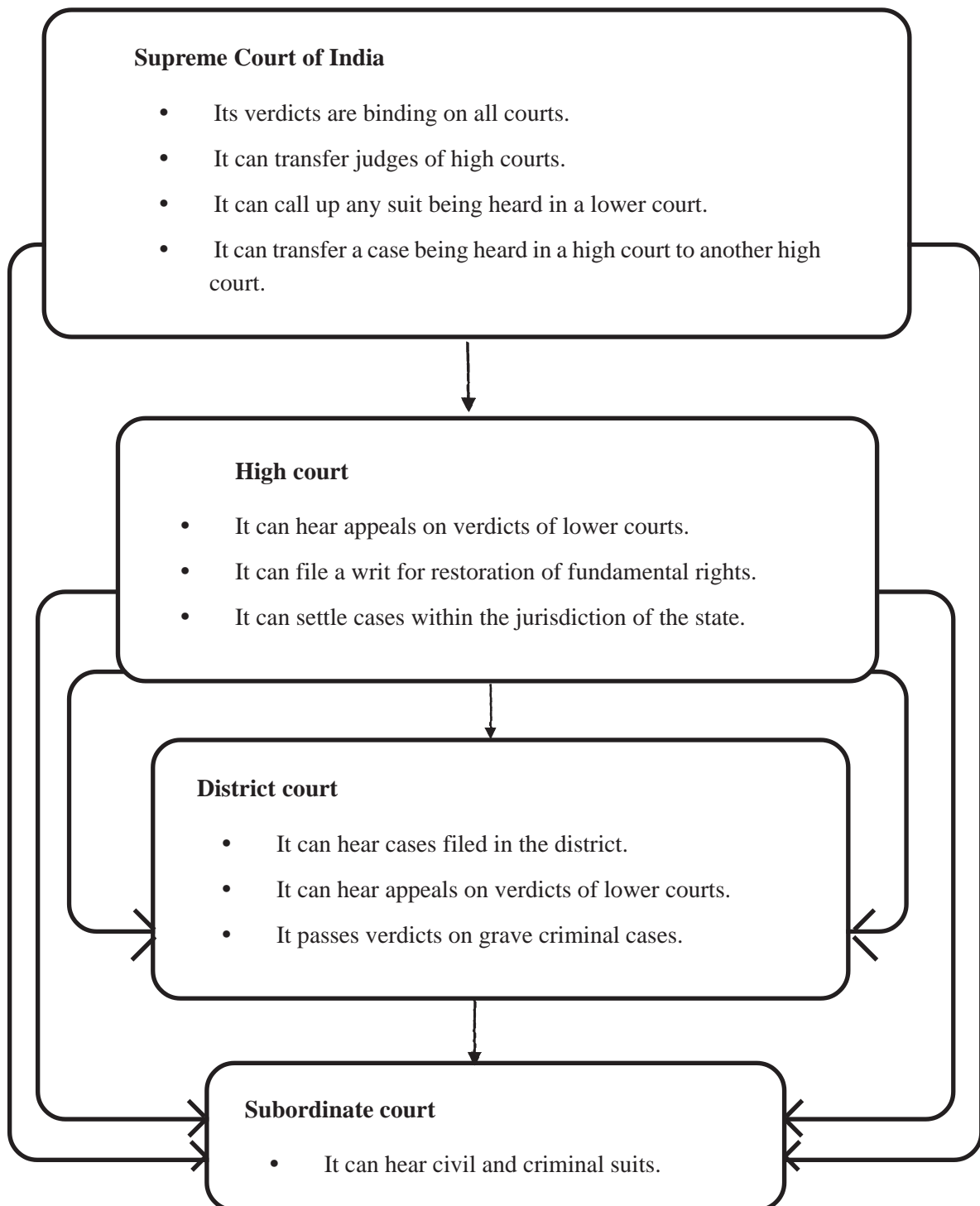
Judges of the Supreme Court and high courts are appointed by the chief justice on the advice of the presidential council of ministers. It has been a tradition followed over the years for the president to appoint judges on the advice of the chief justice. A collegium system has been put in place to ensure that the chief justice represents the views of all judges of the apex court, not just his/her personal views. Under this system, the chief justice presents the names of potential candidates to the president after taking the advice of four senior judges of the Supreme Court. The president chooses the judges from among the proposed names. The advantages/disadvantages of this system are currently being debated and attempts are being made to reform it.

Judges have a fixed tenure. They serve until their retirement. They are removed from their post only under exceptional circumstances. The legislature has no role to play in their appointment or in fixing their remuneration. Thus, the judiciary is free from party politics and other pressures and can function independently.



Figure 13.6: Supreme Court

The judiciary in India has a pyramidal structure. At the apex is the Supreme Court, then come the high courts, with the district and subordinate courts at the base (see Diagram 2.4). The lower courts function under the supervision of the upper courts.

Diagram 13.4: Judicial system in India

Supreme Court of India

The Supreme Court has a special place in the constitution. Being the apex organisation of the judiciary, as depicted in the diagram, it can advise all other courts and also reverse their decisions. Its decisions define the law.

Some of the main functions of the Supreme Court include the following:

1. Hear appeals of civil, criminal and constitutional suits on verdicts given by the subordinate courts.
2. Settle disputes between the centre and the states and between states.
3. Advise the president on any law or matter of public importance.
4. Hear petitions for protecting the fundamental rights of individuals and issue writs to enforce fundamental rights.

We can see that the judicial system, especially the Supreme Court, plays a crucial role in protecting the democratic rights of citizens, maintaining the supremacy of law, and ensuring that the activities of the state fall within the ambit of the constitution.

What are the advantages of having a multi-tiered judicial system?

Why is it important to keep the judiciary independent from the influence of the legislature and the executive?

How has the role of the council of ministers and the legislature been limited in the appointment of judges?

What tradition has been established to ensure that no individual dominates the process of appointing judges?

Which are the courts that can be approached to protect the fundamental rights of citizens?

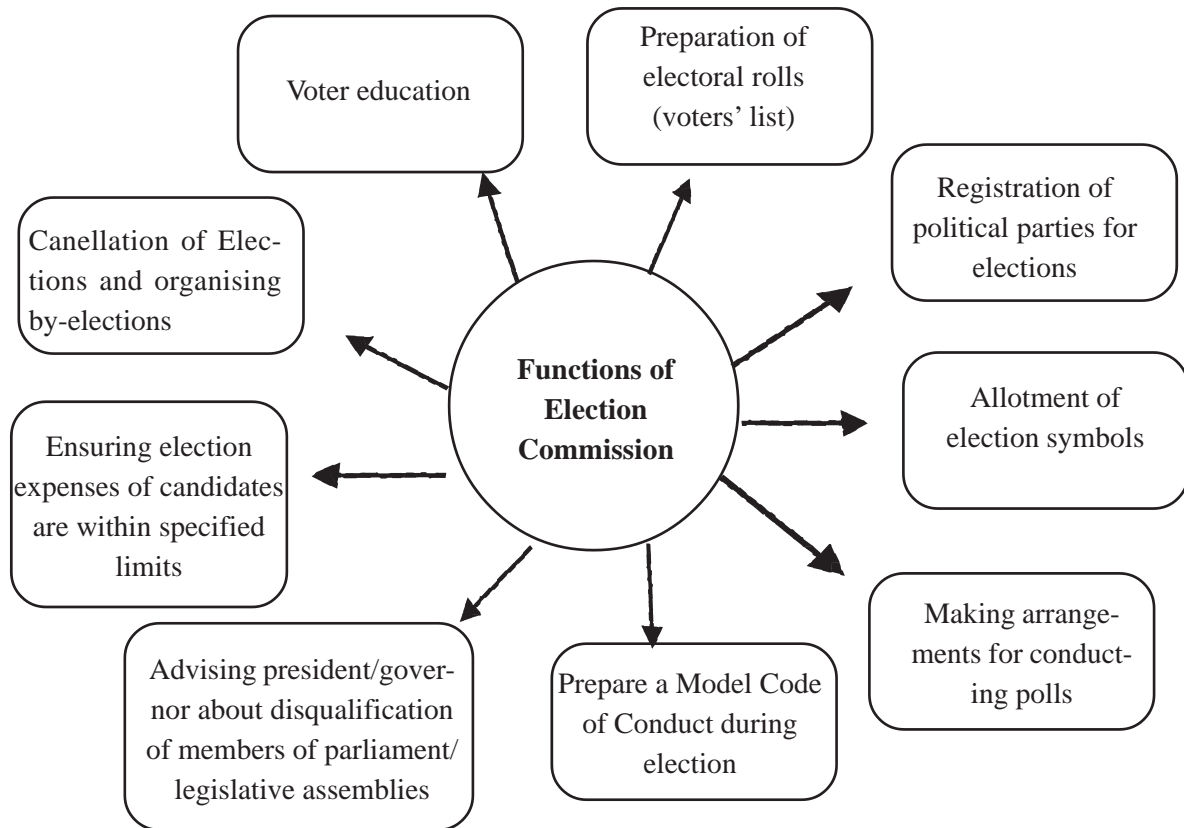
Who can settle the dispute between Chhattisgarh, Telangana and Andhra Pradesh on sharing of waters of the Polavaram project?

There is a dispute between the central government and a state government on a law related to education. Which court can hear this suit?

Election Commission

Elections are important in a democracy. Apart from members of the Lok Sabha and legislative assemblies, the president, vice president and members of the Rajya Sabha are also elected. These elections are conducted by the Election Commission, which is a constitutional body (which has been provided for in the Constitution). The members of the Election Commission are the Chief Election Commissioner and three Election Commissioners. They are appointed by the president on the advice of the prime minister. The Election Commission has special powers to conduct impartial elections.

Each state also has an Election Commission. The State Election Commission conducts elections to local self-government organisations such as the *panchayats*, municipalities etc – for example, Panchayati Raj elections.

Diagram 13.5: Functions of Election Commission

13.2 Constitution as an instrument of social change

According to Granville Austin, a leading authority on the Indian constitution, three concepts are woven into the heart of the constitution: national unity, democracy and social change. The vision of national unity cannot be achieved without democracy and social change, which, in turn, cannot be achieved without national unity and democracy.

Presenting the constitution to the constituent assembly, Dr Ambedkar said we must acknowledge two dangers facing Indian society - inequality and casteism, both of which were leading to a loss of social cohesion and fraternity.

"... we have in India a society based on the principle of graded inequality ... a society in which there are some who have immense wealth as against many who live in abject poverty. On 26 January 1950, we are going to enter into a life of contradictions. In politics we will have equality and in social and economic life we will have inequality ..."

"How long shall we continue to deny equality in our social and economic life? If we continue to deny it for long, we will do so only by putting our political democracy in peril. We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will blow up the structure of political democracy, which this assembly has so laboriously built up ..."

“... in believing that we are a nation, we are cherishing a great delusion. How can people divided into several thousands of castes be a nation? ... The castes are anti-national ... because they generate jealousy and antipathy between caste and caste. But we must overcome all these difficulties if we wish to become a nation in reality.” (Constituent Assembly Proceedings, November 25, 1949)

Dr Ambedkar said that unless and until we establish freedom, equality and fraternity in our society, political democracy would continue to remain unstable.

The makers of the constitution were unanimous that we must use constitutional methods to bring about fundamental social change – and the constitution must make this change possible and decide its direction. They were also unanimous that if there was any provision that stood in the way of social change, the constitution should be amended in a suitable manner.

In countries like the USA, the constitution focuses on strengthening individual freedom and democracy. In contrast, the constitutions of countries like Soviet Russia and China focus on strengthening the state in order to achieve social change. The makers of the Indian constitution sought to consolidate the state to make social change possible while, at the same time, strengthening democracy and individual rights. They did not see their work as being limited to only to the legal framework of the country but imagined an India free of the inequalities that have existed for generations. They also took up the challenge of reforming the 200-year-old economic system inherited from the colonial rulers.

To ensure the realisation of these objectives, they included a list of fundamental rights in the constitution and added a unique chapter called the ‘Directive Principles of State Policy’. Article 37 of the constitution states that “the principles ... are ... fundamental in the governance of the country and it shall be the duty of the state to apply these principles in making laws.” These principles include the following:

Securing the welfare of the people, Promote social justice in all areas by eliminating inequalities in income, status, facilities and opportunities.

Securing equality between men and women, Ensuring equitable distribution of physical and productive resources, proper working conditions and equal wages in factories, and protection of children’s rights, including the right to free education till the age of 14 years, access of scheduled castes, tribes and weaker classes to educational and economic rights, etc.

Amending the constitution for social change

At the time the constitution was being drafted, it was made clear that the fundamental rights of citizens would not be limitless but could be controlled, keeping in mind the needs of the state. After the constitution was finalised, many people who were against the social changes that it envisaged, approached the courts for justice. Some of them were unhappy with the laws made to protect the interests of the scheduled tribes. Others were distressed by the abolition of the zamindari system. These bitter conflicts led to the first amendment of the constitution in 1951 to protect the rights of the backward classes.

At that time, many states had made reservations in educational institutions for scheduled castes and tribes because it was felt that they should be given equal opportunities. But seen from another perspective, these reservations were considered to be against the principle of equality.

For this reason, the first amendment introduced a provision in the articles relating to fundamental rights, which stated that “nothing in this article ... will prevent the state from making any special provision for

the advancement of any socially and educationally backward classes of citizens or for the scheduled castes and the scheduled tribes.”

The other area of conflict that the first amendment addressed was land reforms. The government had enacted laws to abolish the zamindari system and the system of forced labour in 1947 itself. It had also begun the process of distributing land among the landless. Armed revolts had broken out in many parts of the country as the peasants and landless began putting more and more pressure on the government for land distribution. Hence, land reforms could not be put off any more. But the big landowners approached the courts and were able to get a stay on implementing these laws.

So the first amendment had a provision to ensure that any law approved by the president under Schedule 9 of the constitution could not be overturned by any court of law. Most of the land reform laws were included in this schedule and accepted by the courts.

However, the amendment did not fully resolve the problem. Even after the zamindari system was abolished many legal and administrative hurdles prevented the smooth redistribution of land acquired from the big landowners for redistribution among the peasants and landless. The landowners argued that the constitution clearly protects the right to private property so seizing their property was a violation of their fundamental rights.

So several more constitutional amendments had to be made. Among them was the 44th amendment of 1976, which excluded the right to property from the list of fundamental right.

Right to education: As we read earlier, the directive principles of the constitution include free and compulsory education for all children up to the age of 14 years. But, even 70 years after independence, the government has not been able to provide free, quality education to all children. The Supreme Court passed an important judgment in 1993, declaring free and compulsory education to all children aged up to 14 years as a fundamental right. The court observed that the right to life is meaningless unless people get proper education.

Keeping this verdict in mind, in 2002, the 86th amendment of the constitution included the right to free and compulsory education for all children aged up to 14 years in the list of fundamental rights. The amendment made the state responsible to provide regular education for every child aged from 6 to 14 years.

These examples show how the provision to amend the constitution to maintain the momentum for social change has been fruitfully utilised.

If economic inequalities are not eradicated, what impact will it have on national unity?

To what extent have social inequalities increased or decreased over the past 60 years?

Find out about the ‘gauntiya’ (landlord) system prevalent in your region. How was it eradicated? Does it still exist in some form even today?

The right to property and acquisition of land by the government are once again a current topic of discussion. Collect newspaper reports on this issue and present a synopsis of these reports in class for discussion. What are the differences/similarities in land acquisition during the 1950-1980 period and today?

What difference has been made by converting the right to education from a directive principle to a fundamental right? How does it help in social change?

13.3 Evolving nature of the constitution

The Indian constitution is constantly evolving and acquiring a new character. We have seen some examples of this change, such as the right to education getting the status of a fundamental right. Alternatively, the right to property was converted from a fundamental rights into a legal right. Such changes in the constitution are called amendments. These amendments are made by parliament. We can understand the developing nature of the constitution better from the following examples.

Several amendments were made in 1976. The words 'socialist' and 'secular' were added in the preamble. The introduction of 'socialist' made it clear that the government would strive for the equality of the Indian people. 'Secular' clearly showed that the state would treat all individuals as citizens without any form of discrimination on the basis of religion. These values were already being practised by the government but the 1976 amendment enshrined them in the constitution.

Similarly, a provision for the state to provide free legal aid was also included. This amendment gave the economically weak sections of society, who earlier couldn't even reach the doors of the courts, the right to justice. It is now the responsibility of the government to provide them free legal aid. In the same way, industrial workers were ensured social justice and freedom from exploitation by factory owners through workers' participation in management.

Another key amendment was made in 1992 to redistribute power within the states. Until then, the constitution had distributed power at two levels - the centre and the states. The 73rd and 74th amendments introduced a third level – the *panchayats*. The Panchayati Raj system was put in place for local self-government at the *panchayat* level in rural areas and the municipality level in urban areas. We studied these systems in detail in the previous classes. This change provided for reservation of seats in the self-government organisations at the local level for scheduled castes, scheduled tribes, women, etc, thus giving these depressed classes the opportunity to participate in government in every village and town.

The constitution of India continues to evolve and develop. It shows the direction in which our society should develop and how we can achieve such development. It, thus, plays a crucial role in our democratic society. We saw how the constitution was periodically amended, giving it a new character from the time it was first conceived.

We learnt in the previous chapter how the preamble defines the objectives of the society we want to create. The amendments help us along this path. They reflect how our society is changing and how the needs of the people are changing. Like, for example, in 1989, the age for citizens to exercise their vote was reduced from 21 years to 18 years. But every citizen needs to play his or her part and contribute to achieve a just and equitable society.

EXERCISES

1. Why is it important to distribute and decentralise power in a democracy? At how many levels has power been decentralised in India?
2. What judicial role does the parliament perform? Why has this work been given to the parliament and not to the Supreme Court?

3. Alok feels that all countries need an effective government that works for the good of the people. Hence, if we directly elect the prime minister and the council of ministers and leave the work of governance to them, we don't need to elect a legislature. Do you agree with him? Give reasons for your answer.
4. Read the following arguments outlining the advantages/disadvantages of a two house parliamentary system and state whether you agree/disagree with them:
 - a) A two-house system does not achieve any objectives.
 - b) Experts need to be nominated to the Rajya Sabha.
 - c) If a country has no provinces, it does not require a second house.
5. The Lok Sabha is not just a body to exercise control over the executive but a forum to express the aspirations and feelings of the people. Do you agree with this statement? Give reasons for your answer.
6. Some proposals to make the parliament more effective are given below. State whether you agree/disagree with each of them. Also, explain what impact these suggestions could have if they are accepted.
 - a) Parliament should work for longer hours than scheduled.
 - b) Attendance in parliament should be made compulsory for all members.
 - c) The chairperson should have the authority to punish anyone who creates obstacles in the functioning of the house.
7. If the ministers propose most of the important bills and the majority party ensures that the bill is passed, then what role does rest of the parliament play in enacting laws?
8. What is the relationship between the Indian parliament and the executive? Choose between the following options:
 - a) Both are fully independent of each other.
 - b) The executive is elected by parliament.
 - c) Parliament works as the executive.
 - d) The executive depends on majority support in the parliament.
9. Which of the following two statements do you agree with and why:

Rama: The president appoints the prime minister. Hence, he/she also has the authority to remove the prime minister.

Rajesh: We do not need a president. After the election, the parliament can meet to elect its leader, who becomes the prime minister.
10. Find out about any two bills that the president has returned to parliament for reconsideration. Find out why the president returned the bills and what eventually happened.
11. The prime minister is the pivot around which Indian democracy revolves. What are the methods that have been put in place to ensure that the prime minister does not function in an authoritarian manner and do as he/she pleases?

- 12 Who is the administrative executive answerable to – the political executive or the parliament?
- 13 What are the different methods that have been put in place to ensure the independence of the judiciary? Which of the following options do not comply with these methods?
 - a) Supreme Court judges are appointed on the advice of the chief justice.
 - b) Judges are not normally removed before they reach the retirement age.
 - c) High court judges cannot be transferred to another high court.
 - d) The parliament does not interfere in the appointment of judges.
- 14 Does the independence of the judiciary mean that it is not answerable to anyone? Write your answer in not more than 100 words.
- 15 What are the different provisions in the constitution to ensure the independence of the judiciary?
- 16 The constitution gives many powers to the Indian state to usher in social change. Do you think these powers are being exercised in a proper manner? Are they being exercised in favour of the deprived and poor sections of our society or for the privileged and influential sections?

Project Work

1. Visit any nearby government institution like hospital, post office or anganwadi and find out about posts, work and challenges faced by the people working in them. Give your suggestions for improvement of those institutions. Present your findings in a chart and present it in the class.
2. Visit any institution of local governance like Panchayat, Municipality etc and find out how many women, persons of scheduled castes and tribes are there in them. Find out about their work and experiences. Present your findings in a chart form in the class.
3. Collect reports of decisions of high courts and the supreme court from the newspapers and prepare a chart based on them.