

# **Tamil Nadu Public Service Commission**

## **COMBINED CIVIL SERVICES EXAMINATION**

### **General Studies**

#### **(Degree Standard) (Objective Type)**

#### **Subject Code: 003**

## **UNIT-V: INDIAN POLITY**

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## **Government of Tamilnadu**

### **Department of Employment and Training**

Course : TNPSC Group II Exam  
Subject : Indian Polity  
Topic : **Constitution of India**

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**Commissioner,  
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# CONSTITUTION OF INDIA

The British came to India in 1600 as traders, in the form of East India Company, which had the exclusive right of trading in India under a charter granted by Queen Elizabeth I. In 1858, in the wake of the 'sepoy mutiny', the British Crown assumed direct responsibility for the governance of India. In 1765, the company got rights over revenue and Civil Justice of ie. Diwani Rights, over Bengal, Bihar and Orissa. In 1934 Constituent Assembly was formed by the suggestion of Mr. M.N. Roy.

## **COMPANY RULE (1773 - 1858) :**

### **REGULATING ACT OF 1773 :**

#### ***Features of the Act :***

- ❖ It designated the Governor of Bengal as the 'Governor-General of Bengal'. The first such Governor-General was Lord Warren Hastings.
- ❖ It provided for the establishment of a Supreme Court at Calcutta (1774) comprising one chief justice and three other judges.
- ❖ It prohibits the servants of company for accepting presents.

### **Pitt's India Act of 1784:**

- ❖ In a bid to rectify the defects of the Regulating Act of 1773, the British Parliament passed the Amending Act of 1781, also known as the Act of Settlement. The next important act was the Pitt's India Act of 1784.

#### **Features of the Act :**

- ❖ It distinguished between the commercial and political functions of the company.
- ❖ It allowed the Court of Directors to manage the commercial affairs but created a new body called Board of Control to manage the political affairs. Thus, it established a system of double government ie. Dyarchy.
- ❖ The British government got the Supreme control over the company's affairs.

### **Charter Act of 1833 :**

- ❖ This Act was the final step towards centralisation in British India.

## Constitution of India

### ◆.....◆ **Features of the Act :**

- ❖ It made the Governor-General of Bengal as the Governor-General of India and vested in him all civil and military powers. Lord William Bentinck was the first governor general of India.
- ❖ The charter Act of 1833 attempted to introduce a system of open competition for selection of civil servants.
- ❖ East India Company became as a purely administrative body.

### **Charter Act of 1853 :**

This was the last of the series of Charter Acts passed by the British Parliament between 1793 and 1853.

### **Features of the Act :**

- ❖ It separated, for the first time, the legislative and executive functions of the Governor General's council. It provided for addition of six members called legislative councillors to the council.
- ❖ Out of the six members four members were selected from local government of Madras, Bombay Bengal & Agra.

- ❖ It introduced an open competition system of selection and recruitment Civil servants. The covenanted civil service was thus thrown open to the Indians also. Accordingly, the Macaulay Committee (the Committee on the Indian Civil Service) was appointed in 1854.

### **THE CROWN RULE (1858-1947) :**

#### **Government of India Act of 1858:**

This Significant Act was enacted in the wake of the Revolt of 1857- also known as the First War of Independence or the 'sepoy mutiny'. The act known as the Act for the Good Government of India, abolished the East India Company rule, and transferred the powers of government, territories and revenues to the British Crown.

#### **Features of the Act of 1858 :**

- ❖ It changed the designation of the Governor-General of India to that of Viceroy of India. He (viceroy) was the direct representative of the British Crown in India. Lord Canning thus became the first Viceroy of India.

## Constitution of India

- ❖ It ended the system of double government by abolishing the Board of Control and Court of Directors.
- ❖ It created a new office, Secretary of State India, vested with complete authority and control over Indian administration.
- ❖ It established a 15-member to assist the secretary of state for India. The council was an advisory body.
- in the council. It also gave a recognition to the 'portfolio' system, introduced by Canning in 1859.
- ❖ It empowered the Viceroy to issue ordinances, without the concurrence of the legislative council, during an emergency. The life of such an ordinance was six months.

### **INDIAN COUNCILS ACT OF 1861,**

#### **1892 AND 1909 :**

##### ***Features of the Act of 1861 :***

- ❖ It made a beginning of representative institutions by associating Indians with the law-making process. In 1862 Lord Canning nominated 3 Indians to his council, the Raja of Benaras, Maharaja of Patilula and Sir Dinakar Rao.
- ❖ It also provided for the establishment of new legislative councils for Bengal, North-Western Frontier Province (NWFP) and Punjab, which were established in 1862, 1866 and 1897 respectively.
- ❖ Decentralisation process started.
- ❖ It empowered the Viceroy to make rules and orders for more convenient transaction of business

##### ***Features of the Act of 1892 :***

- ❖ It increased the number of additional (non-official) members in the Central and provincial legislative councils, but maintained the official majority in them.
- ❖ It increased the functions of legislative councils and gave them the power of discussing the budget and addressing questions to the executive.
- ❖ Indirect provision for election was used.

##### ***Features of the Act of 1909:***

- ❖ This Act is also known as Morley-Minto Reforms (Lord Morley was the then Secretary of State for India and Lord Minto was the then Viceroy of India).

## Constitution of India

- ❖ It considerably increased the size of the legislative councils, both Central and provincial. The number of members in the Central Legislative Council was raised from 16 to 60. The number of members in the provincial legislative councils was not uniform.
  - ❖ It retained official majority in the Central Legislative Council but allowed the provincial legislative councils to have non-official majority.
  - ❖ It enlarged the deliberative functions of the legislative councils at both the levels. For example, members were allowed to ask supplementary questions, move resolutions on the budget, and so on.
  - ❖ It provided (for the first time) for the association of Indians with the executive Councils of the Viceroy and governors **Satyendra Prasad Sinha** became the first Indian to join the Viceroy's Executive council. He was appointed as the law member.
  - ❖ It introduced a system of communal representation for Muslims by accepting the concept of 'separate electorate'. Under this, the Muslim members were to be elected only by Muslim voters. Thus, the Act 'legalised communalism' and Lord Minto came to be known as the **Father of Communal Electorate**.
  - ❖ Provided separate representation for Presidency, Corporations, Chambers of Commerce, University, Zamindars.
- GOVERNMENT OF INDIA ACT OF 1919 :**
- ❖ On August 20, 1917, the British Government declared, for the first time, that its objective was the gradual introduction of responsible government in India.
  - ❖ The Government of India Act of 1919 was thus enacted, which came into force in 1921. This Act is also known as Montagu-Chelmsford Reforms (Montagu was the Secretary of State for India and Lord Chelmsford was the Viceroy of India).
- Features of the Act :***
- ❖ The central and provincial legislatures were authorised to make laws on their respective list of

## Constitution of India

subjects. However, the structure of government continued to be centralised and unitary.

- ❖ It further divided the provincial subjects into two parts-transferred and reserved. The transferred subjects were to be administered by the governor with the aid of ministers responsible to the legislative Council. The reserved subjects, on the other hand, were to be administered by the-governor and his executive council without being responsible to the legislative Council. This dual scheme of governance was known as 'dyarchy'
- ❖ It introduced, for the first time, bicameralism and direct elections in the country.
- ❖ It created a new office of the High Commissioner for India in London
- ❖ It provided for the appointment of a statutory commission to inquire into and report on its working after ten years of its coming into force.

### Simon Commission:

- ❖ In November 1927 itself (i.e., 2 years before the schedule), the British Government announced the appointment a seven-member

statutory commission under the chairmanship of Sir John Simon to report, on the condition of India under its new Constitution.

- ❖ All the members of this commission were British hence all parties boycott the commission.
- ❖ In Tamilnadu the boycott was headed by Thiru. Sathyamoorthy.

### Communal Award In August 1932 :

Ramsay MacDonald, the British Prime Minister, announced a scheme of representation of the minorities, which came to be known as the Communal Award. The award not only continued separate electorates for the Muslims, Sikhs, Indian Christians, Anglo-Indians and Europeans but also extended it to the depressed classes (scheduled castes).

Gandhiji was distressed over this extension of the principle' of communal representation to the depressed classes and undertook fast unto death in Yeravada Jail (Poona) to get the award modified. At last, there was an agreement between the leaders of the Congress and the depressed classes. The agreement, known as Poona Pact, retained the Hindu joint electorate and

## Constitution of India

◆.....◆  
have reserved seats to the depressed classes.

### **GOVERNMENT OF INDIA ACT OF 1935 :**

The Act marked a second milestone towards a completely responsible government in India. It was a lengthy and detailed document having 321 Sections and 10 Schedules.

#### ***Features of the Act :***

- ❖ It provided for the establishment of an All-India Federation consisting of provinces and princely states as units. The Act divided the powers between the Centre and units in terms of three lists-Federal List for Centre, with 59 item), Provincial List for provinces, with 54 items) and the Concurrent List for both, with 36 items).
- ❖ Residuary powers were given to the Viceroy. However, the federation never came into being as the princely states did not join it.
- ❖ It abolished dyarchy in the provinces and introduced 'provincial autonomy' in its place.

- ❖ It provided for the adoption of diarchy at the Centre.
- ❖ It introduced bicameralism in six out of eleven provinces.
- ❖ It further extended the principle of communal representation by providing separate electorates for depressed classes (scheduled castes), women and labour (workers).
- ❖ It abolished the Council of India, established by the Government of India Act of 1858.
- ❖ It provided for the establishment of a Reserve Bank of India to control the currency and credit of the country.
- ❖ It provided for the establishment of not only a Federal Public Service Commission but also a Provincial Public Service Commission and Joint Public Service Commission for two or more provinces.
- ❖ It provided for the establishment of a Federal Court, which was set up in 1937.

### **INDIAN INDEPENDENCE ACT OF 1947 :**

- ❖ On February 20, 1947, the British Prime Minister Clement Atlee

## Constitution of India

declared that the British rule in India would end by June 30, 1948; after which the power would be transferred to responsible Indian hands ended the British rule in India and declared India as an independent and sovereign state from August 15, 1947.

- ❖ It provided for the partition of India and creation of two independent dominions of India and Pakistan with the right to secede from the British Commonwealth.
- ❖ It abolished the office of viceroy and provided, for each dominion, a governor general, who was to be appointed by the British King on the advice of the dominion cabinet.
- ❖ It empowered the Constituent Assemblies the two dominions to frame and adopt constitution for their respective nations and to repeal any act of the British Parliament, including the Independence itself.
- ❖ It granted permission to princely states to join India or Pakistan or remain Independent.

❖ It empowered the Constituent Assemblies with the dominions to legislate for their respective territories till the new constitutions were drafted and enforced. No Act of the British Parliament passed after August 15, 1947 was to extend to either of the new dominions unless it was extended thereto by a law of the legislature of the dominion.

❖ It abolished the office of the secretary of the state for India and transferred his functions to the secretary of state for Commonwealth Affairs.

❖ It dropped title of Emperor of India from royal titles of the king of England.

❖ Lord Mountbatten became the first governor-general of the new Dominion India. He swore in Jawaharlal Nehru as the first prime minister of independent India. The Constituent Assembly of India formed in 1946 became the Parliament of the Indian Dominion.

Constitution of India

◆.....◆  
**INTERIM GOVERNMENT (1946)**

Sl.No.	Members	Portfolios Held
1.	Jawaharlal Nehru (Head)	External Affairs & Commonwealth Relations
2.	<i>Sardar Vallabhbhai Patel</i>	Home, Information & Broad casting
3.	Dr. Rajendra Prasad	Food & Agriculture
4.	Dr. John Mathai	Industries & Supplies
5.	Jagjivan Ram	Labour
6.	Sardar Baldev Singh	Defence
7.	C.H. Bhabha	Works, Mines & Power
8.	Liaquat Ali Khan	Finance
9.	Abdur Rab Nishtar	Posts & Air
10.	Asaf Ali	Railways & Transport
11.	C. Rajagopalachari	Education & Arts
12.	I.I. Chundrigar	Commerce
13.	Ghaznafar Ali Khan	Health
14.	Joginder Nath Mandal	Law

**Note:** The members of the interim government were members of the Viceroy's Executive Council. The Viceroy continued to be the head of the Council. But, Jawaharlal Nehru was designated as the Vice-President of the Council.

**FIRST CABINET OF FREE INDIA – 1947**

Sl.No.	Members	Portfolios Held
1.	Jawaharlal Nehru	External Affairs, Common Wealth relations, Scientific Research
2.	Sardar Patel	Home, Information and Broad casting, states
3.	Rajendra Prasad	Food, Agriculture
4.	Johnmathai	Railways and Transport
5.	Jagjivan Ram	Labour

## Constitution of India

6.	Sardar Baldev Singh	Defence
7.	CH Bhaba	Commerce
8.	RK. Shunmugachetty	Finance
9.	B.R. Ambedkhar	Law
10.	Raj kumari Amritkaur	Health
11.	Dr. Shyam Prasad Mukherji	Industries and supply
12.	V.N. Gadgil	Work Mines and Power
13.	Rafi Ahmed Kidwar	Communication
14.	Maulana Abul Kalam Azad	Education

### MAKING OF THE CONSTITUTION

Constitution is a legally sanctified document of people's faith and aspirations. It was the fundamental law of a country and all other laws and customs of the country in order to be valid must conform to it.

- ❖ The constitution of India was framed and adopted by the constituent assembly of India.
- ❖ The task of framing a constitution of a sovereign democratic nation is performed by a representative body of its people. Such a body elected by the people for the purpose of considering and adopting a constitution may be known as constituent assembly.

- ❖ 1938, Jawaharlal Nehru, declared that the constitution of free India must be framed without outside interference.
- ❖ In 1934, Indian National Congress (INC) officially demanded for of the constitution constituent Assembly for making of the constitution.
- ❖ British accepted the demand in 1940, known as 'AUGUST OFFER' 24 March 1946.
- ❖ 1942, Sir Stafford Cripps came to India, with a proposal of, framing the constitution after world war.
- ❖ Cabinet mission was sent to India.
- ❖ 6<sup>th</sup> May 1946 - Cabinet Mission made a declaration.

### CABINET MISSION:

## Constitution of India

- ◆.....◆
- It consist of three members:
1. Lord Pethick Lawrence
  2. Sir Stafford Cripps
  3. A.V.Alexander arrived India on March 24, 1946.
- ❖ Elections held in August 1946. The INC won 209 seats, Muslim League 73 seats, Independents 15 seats.
  - ❖ Princely states stay away from the constituent Assembly.
  - ❖ Mahatma Gandhi didn't participate in the assembly.

### COMPOSITION OF THE CONSTITUENT ASSEMBLY:

- ❖ The total strength of constituent assembly was to be 389.

Total Strength	– 389
British India	– 296
Princely States	– 93
11 Governors province	– 292
Chief commissioners provinces	– 4

- ❖ Seats are allocated in proportion to their respective population
- ❖ 296 British Indian Representative of each community were elected and that of princely states were nominated.
- ❖ Seats were allocated to three communities - Muslims, Sikhs and general - in proportion to their population. (10 Lakh member per population).
- ❖ Method of proportional representation by means of single transferable vote.

### WORKING OF THE CONSTITUENT ASSEMBLY:

- ❖ On December 9, 1946, constituent Assembly held its first meeting with Dr. Sachchidanand Sinha as temporary president. Meeting attended by 211 members.
- ❖ Muslim League boycotted the meeting insisting on a separate state of Pakistan, only 211 members attended.
- ❖ On December 11, 1946, Dr.Rajendra Prasad and H.C.Mukherjee were elected as President and Vice-President of Assembly.
- ❖ Sir B.N.Rau as constitutional Advisor.
- ❖ On 13 December 1946, Jawaharlal Nehru moved the historic 'Objectives Resolution' in the Assembly. It envisage the constitutional structure.

## Constitution of India

- ❖ After partition of 1947, (due to withdrawal of Muslim League) members reduced to 299. (90 Muslim members).
- ❖ Constituent Assembly has two functions,
  1. Formulation of constitution - Chaired by Dr.Rajendra Prasad.
  2. Law making Body - Chaired by G.V.Mavlankar.
- ❖ Total sessions: - Eleven (11)
  - 1.December 9 to 23, 1946 - First Session.
  - 2.November 14 to 26, 1949 - Final Session (11<sup>th</sup>).
- ❖ It took 2 years, 11 months, and 18 days to frame constitution.
- ❖ The draft constitution was considered for 114 days.
- ❖ The Constituent Assembly of India was converted into the Provisional Parliament of India on November 26, 1949.
- ❖ The Objective Resolution was adopted by the constituent assembly on January 22, 1947.

### OTHER FUNCTIONS PERFORMED

- ❖ It ratified the India's membership of the Commonwealth in May 1949.
- ❖ It adopted the national flag on July 22 1947
- ❖ It adopted the national anthem on January 24, 1950
- ❖ It elected Dr Rajendra Prasad as the first President of India on January 24, 1950.

### COMMITTEES OF THE CONSTITUENT ASSEMBLY:

- ❖ Totally 22 committees, out of these 8 were major committees.

S.No.	Committee	Chairman
1.	Union Power Committee	Jawaharlal Nehru
2.	Union Constitution Committee	Jawaharlal Nehru
3.	States Committee	Jawaharlal Nehru
4.	Rules of Procedure Committee	Dr. Rajendra Prasad
5.	Steering Committee	Dr. Rajendra Prasad

## Constitution of India

6.	Provincial Constitution Committee	Sardar Patel
7.	Advisory Committee on Fundamental Rights and Minorities	Sardar Patel
8.	Drafting Committee	Dr.B.R.Ambedkar
9.	Negotiating Committee	Jawaharlal Nehru
10.	Business Committee	K.M.Munshi

## MINOR COMMITTEES

S.No.	Committee	Chairman
1.	Order of Business	KM. Munshi
2.	House Committee	B. Pattabhi Sitaramayya
3.	Ad-hoc Committee on National Flag	Rajendra Prasad
4.	Special Committee to examine Draft Constitution	Alladi Krishnaswamy Ayyar
5.	Credentials Committee	Alladi Krishnaswamy Ayyar
6.	Finance and staff Committee	A.N.Sinha
7.	Hindi Translation Committee	
8.	Urdu Translation Committee	
9.	Press Gallery Committee	
10.	Adhoc Committee on Scheduled Castes	

6. N.Madhava Rau (Replaced B.L.Mitter - due to ill health)

### DRAFTING COMMITTEE:

(Dr.B.R.Ambedkar - Head)

7. T.T.Krishnamachari

❖ Set up on August 29, 1947.

(Replaced D P Khaitan, died

❖ Task of preparing draft of the New Constitution

in 1948).

#### ❖ Members:

1. Dr.B.R.Ambedkar (Chairman)
2. N.Gopalaswamy Ayyangar
3. Alladi Krishswamy Ayyar
4. Dr.K.M.Munshi
5. Syed Mohammed Saadullah

❖ Constitution was adopted on November 26, 1949, and received signatures from 284 out of 299 members.



## ENACTMENT OF THE SALIENT FEATURES OF INDIAN CONSTITUTION :

- ❖ The constitution as adopted contained a Preamble, 395 articles, 8 schedule.
- ❖ Dr.B.R.Ambedkar, Law Minister is recognised as “Father of the Constitution of India” and ‘Chief Architect of the Constitution of India’.

### ENFORCEMENT:

- ❖ Some parts effect from November 26, 1949 like citizenship, elections, provisional parliament, temporary and Transitional provision - immediate effect.
- ❖ Major part of constitutional came into force on January 26, 1950.
- ❖ 26<sup>th</sup> January 1950, Date of Commencement of the Constitution.
- ❖ Mahatma Gandhi and Mohammad Ali Jinnah were not members of the Constituent Assembly.

1. Preamble
2. Lengthiest written constitution
3. Drawn from various sources
4. Blend of Rigidity and flexibility
5. Federal system with unitary bias
6. A Secular state
7. Parliamentary form of government
8. Fundamental rights
9. Directive Principles of state policy
10. Fundamental duties
11. Synthesis of Parliamentary Sovereignty and Judicial Supremacy
12. Integrated and Independent Judiciary
13. Universal Adult Franchise
14. Single Citizenship
15. Independent Bodies
16. Emergency provisions
17. Three-Tier Government

Constitution of India

**Provisions of the constitution and their source**

Major part of the our constitution has taken from Government of India act , 1935

SL.No.	Sources	Features Borrowed
1.	<ul style="list-style-type: none"> <li>Government of India Act – 1935</li> </ul>	Federal Scheme office of Governor Judiciary, Public service Commission Emergency provisions administrative Details
2.	<ul style="list-style-type: none"> <li>Independence of Judiciary</li> <li>Judicial Review</li> <li>President as the Executive Head</li> <li>President as Supreme Commander of the Armed Forces</li> <li>The Vice-President as the ex-officio Chairman of the Council of States</li> <li>Fundamental Rights</li> <li>Preamble</li> <li>Removal of Supreme Court and High Court Judges</li> </ul>	USA Constitution
3.	<ul style="list-style-type: none"> <li>Law making procedures</li> <li>Rule of Law</li> <li>System of single citizenship</li> <li>Parliamentary system with ministerial responsibility</li> </ul>	UK Constitution
4.	<ul style="list-style-type: none"> <li>Federation with ministerial responsibility</li> <li>Distribution of powers between the Union and the States and placing residuary powers with the Centre</li> <li>Appointment of state governors by the</li> </ul>	Canadian Constitution

**Constitution of India**

	centre	
5.	Directive Principles of state policy, Method of Election of the President Nomination of members to the Rajya Sabha by the President	Irish Constitution
6.	Emergency and its effect on Fundamental Rights	Weimar Constitution of Germany
7.	Concurrent List, Provision regarding trade, commerce and intercourse and joint sitting of the two houses of parliament	Australian Constitution
8.	Constitutional Amendments	South African Constitution
9.	Fundamental Duties and the ideal of Justice (social, Economic and political) in the Preamble	Russian Constitution
10.	Republic, Liberty, Equality, Fraternity	French Constitution
11.	Procedure established by Law	Japanese Constitution



## **Government of Tamilnadu**

### **Department of Employment and Training**

Course : TNPSC Group II Exam  
Subject : Indian Polity  
Topic : **Preamble of the Constitution**

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# PREAMBLE OF THE CONSTITUTION

- ❖ The American constitution was the first to begin with a preamble.
- ❖ It refers to the introduction to constitution.
- ❖ The Preamble of the Indian Constitution is based on the 'Objective Resolution' drafted and moved by Pandit Jawaharlal Nehru and adopted by the constituent Assembly.

## TEXT OF THE PREAMBLE :

The preamble in its present form reads:

"We, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a

SOVEREIGN SOCIALIST  
SECULAR  
DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, Social, Economic and Political;

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

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

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

## IN OUR CONSTITUENT

### ASSEMBLY

this twenty-sixth day of November, 1949,

do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION"

- ❖ Adopted on 26 November 1949 and amended only once in 1976.
- ❖ People is the source of preamble.

## KEY WORDS OF PREAMBLE:

- ❖ Sovereign, Socialist, Secular, Democratic, Republic, Justice, Liberty, Equality, Fraternity.

## PREAMBLE RELATED CASES:

a) BERUBARI UNION: (1960)  
Supreme Court said "Preamble is not a part of constitution".

Preamble of the Constitution

◆.....◆

**b) KESAVANANDA BHARATI CASE**

**: (1973)**

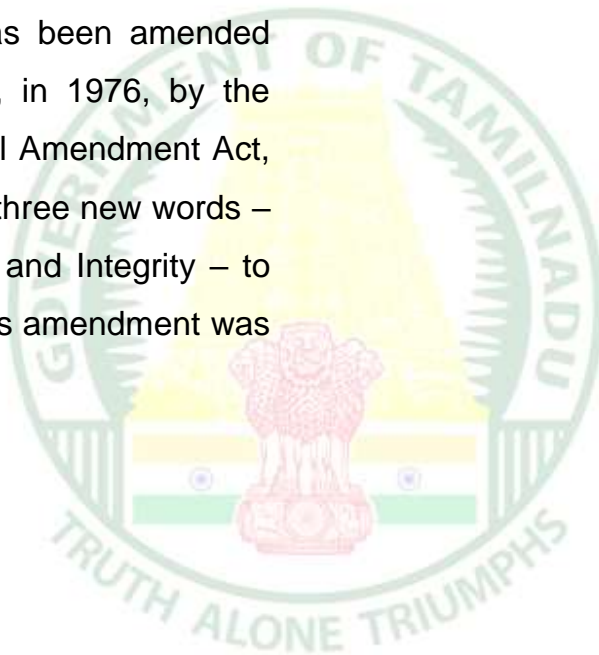
“Preamble is a part of the constitution”  
(without altering the Basic structure)

**c) LIC OF INDIA CASE : (1995)**

“Preamble is the Integral Part of  
Constitution” (without altering the Basic  
structure of the constitution).

**AMENDABILITY OF THE PREAMBLE**

- ❖ The Preamble has been amended only once so far, in 1976, by the 42<sup>nd</sup> Constitutional Amendment Act, which has added three new words – Socialist, Secular and Integrity – to the Preamble. This amendment was held to be valid.





## **Government of Tamilnadu**

### **Department of Employment and Training**

Course : TNPSC Group II Exam  
Subject : Indian Polity  
Topic : **Salient Features of Constitution**

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# SALIENT FEATURES OF CONSTITUTION

## SALIENT FEATURES OF INDIAN CONSTITUTION:

1. Preamble
2. Lengthiest written constitution
3. Drawn from various sources
4. Blend of Rigidity and flexibility
5. Federal system with unitary bias
6. A Secular state
7. Parliamentary form of government
8. Fundamental rights
9. Directive Principles of state policy
10. Fundamental duties
11. Synthesis of Parliamentary Sovereignty and Judicial Supremacy
12. Integrated and Independent Judiciary
13. Universal Adult Franchise
14. Single Citizenship
15. Independent Bodies
16. Emergency provisions
17. Three-Tier Government]

**Salient Features of Constitution**

***Provisions of the constitution and their source***

Major part of the our constitution has taken from Government of India act , 1935

SL.No.	Sources	Features Borrowed
1.	<ul style="list-style-type: none"> <li>Government of India Act – 1935</li> </ul>	Federal Scheme office of Governor Judiciary, Public service Commission Emergency provisions administrative Details
2.	<ul style="list-style-type: none"> <li>Independence of Judiciary</li> <li>Judicial Review</li> <li>President as the Executive Head</li> <li>President as Supreme Commander of the Armed Forces</li> <li>The Vice-President as the ex-officio Chairman of the Council of States</li> <li>Fundamental Rights</li> <li>Preamble</li> <li>Removal of Supreme Court and High Court Judges</li> </ul>	USA Constitution
3.	<ul style="list-style-type: none"> <li>Law making procedures</li> <li>Rule of Law</li> <li>System of single citizenship</li> <li>Parliamentary system with ministerial responsibility</li> </ul>	UK Constitution
4.	<ul style="list-style-type: none"> <li>Federation with ministerial responsibility</li> <li>Distribution of powers between the Union and the States and placing residuary powers with the Centre</li> </ul>	Canadian Constitution

### Salient Features of Constitution

	<ul style="list-style-type: none"> <li>Appointment of state governors by the centre</li> </ul>	
5.	Directive Principles of state policy, Method of Election of the President Nomination of members to the Rajya Sabha by the President	Irish Constitution
6.	Emergency and its effect on Fundamental Rights	Weimar Constitution of Germany
7.	Concurrent List, Provision regarding trade, commerce and intercourse and joint sitting of the two houses of parliament	Australian Constitution
8.	Constitutional Amendments	South African Constitution
9.	Fundamental Duties and the ideal of Justice (social, Economic and political) in the Preamble	Russian Constitution
10.	Republic, Liberty, Equality, Fraternity	French Constitution
11.	Procedure established by Law	Japanese Constitution

### 1. PARTS

Parts	Subject Matter	Articles Covered
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II	Citizenship	5 to 11
III	Fundamental Rights	12 to 35
IV	Directive Principles of State Policy	36 to 51
IV-A	Fundamental Duties	51-A
V	The Union Government	52 to 151
	Chapter I - The Executive	52 to 78
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**NOTES:** Part VII (dealing with Part – B states) was deleted by the 7<sup>th</sup> Amendment Act (1956). On the other hand, both Part IV-A and Part XIV-A were added by the 42<sup>nd</sup> Amendment Act (1976), while Part IX-A was added by the 74<sup>th</sup> Amendment Act (1992), and part IX-B was added by the 97<sup>th</sup> Amendment Act (2011).

# SCHEDULE

## PARTS

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### SCHEDULES OF THE CONSTITUTION

Numbers	Subject Matter	Articles Covered
<i>First Schedule</i>	<ol style="list-style-type: none"> <li>Names of the States and their territorial jurisdictions.</li> <li>Name of the Union Territories and their extent.</li> </ol>	1 to 4
<i>Second Schedule</i>	Provisions relating to the emoluments, allowances, privileges and so on of: <ol style="list-style-type: none"> <li>The President and the Governors of the States</li> <li>The Speaker and the Deputy Speaker of the Lok Sabha</li> </ol>	59, 65, 75, 97, 125, 148, 158, 164, 186 & 221

	<ol style="list-style-type: none"> <li>3. The Chairman and the Deputy Chairman of the Rajya Sabha</li> <li>4. The Speaker and the Deputy Speaker of the Legislative Assemblies in the States</li> <li>5. The Chairman and the Deputy Chairman of the Legislative Councils in the States</li> <li>6. The Judges of the Supreme Court and of the High Courts</li> <li>7. The Comptroller and Auditor-General of India</li> </ol>	
<i>Third Schedule</i>	<p>Forms of the Oaths or Affirmations for:</p> <ol style="list-style-type: none"> <li>1. The Union Ministers</li> <li>2. The candidates for election to the Parliament</li> <li>3. The Members of the Parliament</li> <li>4. The Judges of the Supreme Court</li> <li>5. The Comptroller and Auditor General of India</li> <li>6. The State Ministers</li> <li>7. The candidates for election to the State Legislature</li> <li>8. The members of the State Legislature</li> <li>9. The Judges of the High Courts</li> </ol>	75, 84, 99, 124, 146, 173, 188 and 219
<i>Fourth Schedule</i>	Allocation of the seats in the Rajya Sabha to the States and the Union Territories.	4 and 80
<i>Fifth Schedule</i>	Provisions relating to the administration and the control of the Scheduled Areas and the Scheduled Tribes.	244
<i>Sixth Schedule</i>	Provisions relating to the administration of the Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram.	244 and 275
<i>Seventh Schedule</i>	Division of the powers between the Union and the States in terms of List I (Union List), List II (States List), List III (Concurrent List). Presently, the Union List contains 100 subjects (originally 97), the state list contains 61 subjects (originally 66) and the concurrent list contains 52 subjects (originally 47)	246
<i>Eighth Schedule</i>	Includes the languages recognised by the Constitution. Originally, it had 14 but presently there are 22	344 and

	languages, <b>They are:</b> Assamese, Bengali, Gujarati, Hindi, Kannada, Kashmiri, Konkani, Malayalam, Manipuri, Marathi, Nepali, Oriya, Punjabi, Sanskrit, Sindhi, Tamil, Telugu and Urdu. Sindhi was added by the 21 <sup>st</sup> Amendment Act of 1967. while Konkani, Manipuri and Nepali were added by the 71st Amendment Act of 1992. The 92nd Amendment Act, 2003 added Bodo, Dogri, Maithili and Santhali	351
<i>Ninth Schedule</i>	Validation of certain Acts and regulations, mostly relating to the land reforms. There are 284 such Acts. This Schedule was added to the Constitution by the First Amendment Act of 1951 which provided that by incorporating any law into it. The State would make it immune from judicial scrutiny.	31 – B
<i>Tenth Schedule</i>	Provisions relating to the disqualification of the legislators on grounds of defection. This Schedule was added by the 52nd Amendment Act of 1985. It is also known as the Anti-defection Law.	102 and 191
<i>Eleventh Schedule</i>	Specifies the powers authority and the responsibilities of the Panchayats. It has 29 matters. This schedule was added by the 73rd Amendment Act of 1992.	243 – G
<i>Twelfth Schedule</i>	Specifies the power. authority and the responsibilities of the Municipalities. It has 18 matters. This Schedule was added by the 74th Amendment Act of 1992.	243 – W

# AMENDMENTS TO CONSTITUTION

- ❖ Article 368 in Part XX of the Constitution deals with the powers of Parliament to amend the Constitution and its procedure.
- ❖ The Parliament cannot amend those provisions which form the 'basic structure' of the Constitution. This was ruled by the Supreme Court in the Kesavananda Bharati case (1973).

## **Procedure for Amendment:**

- ❖ 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 legislatures.
- ❖ The bill can be introduced either by a minister or by a private member and does not require prior permission of the president.
- ❖ The bill must be passed in each house by a special majority, (more than 50 percent of the total membership of the house and a majority of two-thirds of

the members of the house present and voting).

- ❖ 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.
- ❖ If the bill seeks to amend the federal provisions of 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.
- ❖ 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.

## Amendments to Constitution

- ◆.....◆
- ❖ 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.
  - ❖ 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.

### **Type of amendments:**

- ❖ Amendment by simple majority of the Parliament
- ❖ Amendment by special majority of the Parliament, and
- ❖ Amendment by special majority of the Parliament, and the ratification of half of the state legislatures.

### **By Simple Majority of Parliament**

1. Admission or establishment of new states
2. Formation of new states and alteration of areas, boundaries or names of existing states.
3. Abolition or creation of legislative councils in states.

4. Second Schedule – emoluments, allowances, privileges and so on of the president, the governors, the Speakers, judges, etc.
5. Fifth Schedule – administration of scheduled areas and scheduled tribes.
6. Sixth Schedule – administration of tribal areas.
7. Quorum in Parliament.
8. Salaries and allowances of the members of Parliament.
9. Rules of procedure in Parliament.
10. Privileges of the Parliament, its members and its committees.
11. Use of English language in Parliament.
12. Conferment of more jurisdiction on the Supreme Court.
13. Use of official language.
14. Citizenship acquisition and termination.
15. Elections to Parliament and state legislatures.
16. Delimitation of constituencies.
17. Union territories.
18. Number of puisne judges in the Supreme court.

## Amendments to Constitution

### ***By special Majority of Parliament***

1. Fundamental Rights
2. Directive Principles of State Policy
3. All other provisions which are not covered by the first and third categories.

### ***By simple Majority of Parliament and Consent of States:***

1. Election of the President and its manner

2. Extent of the executive power of the Union and the states
3. Supreme Court and High Courts
4. Distribution of legislative powers between the Union and the states
5. Any of the lists in the Seventh Schedule.
6. Representation of states in Parliament.
7. Power of Parliament to amend the Constitution and its procedure (Article 368 itself).

## LIST OF CONSTITUTIONAL AMENDMENTS AND THEIR PROVISIONS

SL. No	Amendment	Important Provisions
1	1st Amendment Act: 1951	<ul style="list-style-type: none"> <li>• Added Ninth Schedule to protect the land reform and other laws included in it from the judicial review.</li> <li>• Added three more grounds of restrictions on freedom of speech and expression, viz., public order, friendly relations with foreign states and incitement to an offence. Also, made the restrictions 'reasonable' and thus, justiciable in nature.</li> <li>• Empowered the state to make special provisions for the advancement of socially and economically backward classes</li> </ul>
2	2nd Amendment act: 1952	Readjusted the scale of representation in the Lok Sabha by providing that one member could represent even more than 7,50,000 persons.

### Amendments to Constitution

3	3rd Amendment act: 1954	Empowered the Parliament to control the production, supply and distribution of the foodstuffs, cattle fodder, raw cotton, cotton seed and raw jute in the public interest
4	4th Amendment act: 1955	Made the scale of compensation given in lieu of compulsory acquisition of private property beyond the scrutiny of courts.
5	5th Amendment Act: 1955	Empowered the president to fix the time-limit for the state legislatures to express their views on the proposed Central legislation affecting the areas, boundaries and names of the states
6	6th Amendment Act: 1956	Included a new subject in the Union list i.e., taxes on the sale and purchase of goods in the course of inter-state trade and commerce and restricted the state's power in this regard
7	7th Amendment Act: 1956	<ul style="list-style-type: none"> <li>• This constitutional amendment act was brought to give effect to recommendations of state reorganisation commission.</li> <li>• Provided for the establishment of a common high court for two or more states.</li> <li>• Abolished the existing classification of states into four categories i.e., Part A, Part B, Part C and Part D states, and reorganised them into 14 states and 6 union territories.</li> <li>• Extended the jurisdiction of high courts to union territories.</li> <li>• Provided for the appointment of additional and acting judges of the high court.</li> </ul>
8	8th Amendment Act: 1960	Extended the reservation of seats for the SCs and STs, and special representation for the Anglo-Indians in the Lok Sabha and the state legislative assemblies for a period of ten years (i.e., up to 1970).

**Amendments to Constitution**

9	9th Amendment Act: 1960	Facilitated the cession of Indian territory of Berubari Union (located in West Bengal) to Pakistan as provided in the Indo-Pakistan Agreement (1958).
10	10th Amendment Act: 1961	Incorporated Dadra and Nagar Haveli in the Indian Union
11	11th Amendment Act: 1961	<ul style="list-style-type: none"> <li>• Changed the procedure of election of the vice-president by providing for an electoral college instead of a joint meeting of the two Houses of Parliament.</li> <li>• Provided that the election of the president or vice-president cannot be challenged on the ground of any vacancy in the appropriate electoral college.</li> </ul>
12	12th Amendment Act: 1962	Incorporated Goa, Daman and Diu in the Indian Union.
13	13th Amendment Act: 1962	Gave the status of a state to Nagaland and made special provisions for it.
14	14th Amendment Act: 1962	Incorporated Puducherry in the Indian Union
15	15th Amendment Act: 1963	Increased the retirement age of high court judges from 60 to 62 years
16	16th Amendment Act: 1963	Included sovereignty and integrity in the forms of oaths or affirmations to be subscribed by contestants to the legislatures, members of the legislatures, ministers, judges and CAG of India.
17	17th Amendment Act: 1964	Prohibited the acquisition of land under personal cultivation unless the market value of the land is paid as compensation.
18	18th Amendment Act: 1966	Made it clear that the power of Parliament to form a new state also includes a power to form a new state or union territory by uniting a part of a state or a union territory to another state or UT.
19	19th Amendment Act: 1966	Abolished the system of Election Tribunals and vested the power to hear election

### Amendments to Constitution

20	20th Amendment Act: 1966	Validated certain appointments of district judges in the UP which were declared void by the Supreme Court.
21	21st Amendment Act: 1967	Included sindhi as the 15th language in the Eight Schedule.
22	22nd Amendment Act: 1969	Facilitated the creation of a new autonomous State of Meghalaya within the State of Assam.
23	23rd Amendment Act: 1969	Extended the reservation of seats for the SCs and STs, and special representation for the Anglo-Indians in the Lok Sabha and the state legislative assemblies for a further period of ten years (i.e., up to 1980).
24	24th Amendment Act: 1971	<ul style="list-style-type: none"> <li>• Affirmed the power of Parliament to amend any part of the constitution including fundamental rights.</li> <li>• Made it compulsory for the president to give his assent to a Constitutional Amendment Bill.</li> </ul>
25	25th Amendment Act: 1971	<ul style="list-style-type: none"> <li>• Curtailed the fundamental right to property.</li> <li>• Provided that any law made to give effect to the Directive Principles contained in Article 39 (b) or (c) cannot be challenged on the ground of violation of the rights guaranteed by Articles 14, 19 and 31.</li> </ul>
26	26th Amendment Act: 1971	Abolished the privy purses and privileges of the former rulers of princely states.
27	27th Amendment Act: 1971	Empowered the administrators of certain union territories to promulgate ordinances.
28	28th Amendment Act: 1972	<ul style="list-style-type: none"> <li>• Abolished the special privileges of ICS officers and empowered the Parliament to determine their service conditions.</li> <li>• Twenty-Ninth Amendment Act, 1972</li> <li>• Included two Kerala Acts on land reforms in the Ninth Schedule.</li> </ul>
29	30th Amendment Act: 1972	Did away with the provision which allowed

**Amendments to Constitution**

		appeal to the Supreme Court in civil cases involving an amount of `20,000, and provided instead that an appeal can be filed in the Supreme Court only if the case involves a substantial question of law.
30	31st Amendment Act: 1972	Increased the number of Lok Sabha seats from 525 to 545.
31	32nd Amendment Act: 1973	Made special provisions to satisfy the aspirations of the people of the Telangana region in Andhra Pradesh.
32	33rd Amendment Act: 1974	Provided that the resignation of the members of Parliament and the state legislatures may be accepted by the Speaker/Chairman only if he is satisfied that the resignation is voluntary or genuine.
33	34th Amendment Act: 1974	Included twenty more land tenure and land reforms acts of various states in the Ninth Schedule.
34	35th Amendment Act: 1974	Terminated the protectorate status of Sikkim and conferred on it the status of an associate state of the Indian Union. The Tenth Schedule was added laying down the terms and conditions of association of Sikkim with the Indian Union.
35	36th Amendment Act: 1975	Made Sikkim a full-fledged State of the Indian Union and omitted the Tenth Schedule.
36	37th Amendment Act: 1975	Provided legislative assembly and council of ministers for the Union Territory of Arunachal Pradesh.
37	38th Amendment Act: 1975	Empowered the president to declare different proclamations of national emergency on different grounds simultaneously.
38	39th Amendment Act: 1975	Placed the disputes relating to the president, vice-president, prime minister and Speaker beyond the scope of the judiciary. They are to be decided by such authority as may be determined by the

**Amendments to Constitution**

		Parliament.
39	40th Amendment Act: 1976	Empowered the Parliament to specify from time to time the limits of the territorial waters, the continental shelf, the exclusive economic zone (EEZ) and the maritime zones of India.
40	41st Amendment Act: 1976	Raised the retirement age of members of State Public Service Commission and Joint Public Service Commission from 60 to 62.
41	42nd Amendment Act: 1976	<ul style="list-style-type: none"> <li>• It is also known as Mini-Constitution. It was enacted to give effect to the recommendations of Swaran Singh Committee.)</li> <li>• Added three new words (i.e., socialist, secular and integrity) in the Preamble.</li> <li>• Added Fundamental Duties by the citizens (new Part IV A).</li> <li>• Made the president bound by the advice of the cabinet.</li> <li>• Added three new Directive Principles viz., equal justice and free legal aid, participation of workers in the management of industries.</li> <li>• Shifted five subjects from the state list to the concurrent list, viz, education, forests, protection of wild animals and birds, weights and measures and administration of justice, constitution and organisation of all courts except the Supreme Court and the high courts.</li> <li>• Empowered the Centre to deploy its armed forces in any state to deal with a grave situation of law and order.</li> </ul>
42	43rd Amendment Act: 1977	Restored the jurisdiction of the Supreme Court and the high courts in respect of judicial review and issue of writs
43	44th Amendment Act: 1978	<ul style="list-style-type: none"> <li>• Empowered the president to send back once the advice of cabinet for</li> </ul>

### Amendments to Constitution

		<p>reconsideration. But, the reconsidered advice is to be binding on the president</p> <ul style="list-style-type: none"> <li>• Replaced the term 'internal disturbance' by 'armed rebellion' in respect of national emergency.</li> <li>• Made the President to declare a national emergency only on the written recommendation of the cabinet.</li> <li>• Deleted the right to property from the list of Fundamental Rights and made it only a legal right.</li> </ul>
44	45th Amendment Act: 1980	Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha and the state legislative assemblies for a further period of ten years (i.e., up to 1990).
45	46th Amendment Act: 1982	Enabled the states to plug loopholes in the laws and realise sales tax dues.
46	47th Amendment Act: 1984	Included 14 land reforms Acts of various states in the Ninth Schedule.
47	48th Amendment Act: 1984	Facilitated the extension of President's rule in Punjab beyond one year without meeting the two special conditions for such extension.
48	49th Amendment Act: 1984	Gave a constitutional sanctity to the Autonomous District Council in Tripura.
49	50th Amendment Act: 1984	Empowered the Parliament to restrict the Fundamental Rights of persons employed in intelligence organisations and telecommunication systems set up for the armed forces or intelligence organisations.
50	51st Amendment Act: 1984	Provided for reservation of seats in the Lok Sabha for STs in Meghalaya, Arunachal Pradesh, Nagaland and Mizoram as well as in the Legislative Assemblies of Meghalaya and Nagaland
51	52nd Amendment Act: 1985	<ul style="list-style-type: none"> <li>• This amendment popularly known as Anti-Defection Law</li> </ul>

### Amendments to Constitution

		<ul style="list-style-type: none"> <li>Provided for disqualification of members of Parliament and state legislatures on the ground of defection and added a new Tenth Schedule containing the details in this regard.</li> </ul>
52	53rd Amendment Act: 1986	Made special provisions in respect of Mizoram and fixed the strength of its Assembly at a minimum of 40 members
53	54th Amendment Act: 1986	Increased the salaries of the Supreme Court and high court judges and enabled the Parliament to change them in future by an ordinary law.
54	55th Amendment Act: 1986	Made special provisions in respect of Arunachal Pradesh and fixed the strength of its Assembly at a minimum of 30 members.
55	56th Amendment Act: 1987	Fixed the strength of the Goa Legislative Assembly at a minimum of 30 members.
56	57th Amendment Act: 1987	Reserved seats for the STs in the legislative assemblies of the states of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland.
57	58th Amendment Act: 1987	Provided for an authoritative text of the Constitution in Hindi language and gave the same legal sanctity to the Hindi version of the Constitution.
58	59th Amendment Act: 1988	Provided for the declaration of national emergency in Punjab on the ground of internal disturbance.
59	60th Amendment Act: 1988	Increased the ceiling of taxes on professions, trades, callings and employments from Rs 250 per annum to Rs 2,500 per annum
60	61st Amendment Act: 1989	Reduced the voting age from 21 years to 18 years for the Lok Sabha and state legislative assembly elections.
61	62nd Amendment Act: 1989	Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha and

**Amendments to Constitution**

		the state legislative assemblies for the further period of ten years (i.e., up to 2000).
62	63rd Amendment Act: 1989	Repealed the changes introduced by the 59th Amendment Act of 1988 in relation to Punjab. In other words, Punjab was brought at par with the other states in respect of emergency provisions.
63	64th Amendment Act: 1990	Facilitated the extension of the President's rule in Punjab upto a total period of three years and six months
64	65th Amendment Act: 1990	Provided for the establishment of a multi-member National Commission for SCs and STs in the place of a Special Officer for SCs and STs.
65	66th Amendment Act: 1990	Included 55 more land reforms Acts of various states in the Ninth Schedule.
66	67th Amendment Act: 1990	Facilitated the extension of the President's rule in Punjab up to a total period of four years.
67	68th Amendment Act: 1991	Facilitated the extension of the President's rule in Punjab up to a total period of five years
68	69th Amendment Act: 1991	Accorded a special status to the Union Territory of Delhi by designing it as the National Capital Territory of Delhi.
69	70th Amendment Act: 1992	Provided for the inclusion of the members of the Legislative Assemblies of National Capital Territory of Delhi and the Union Territory of Puducherry in the Electoral College for the election of the president.
70	71st Amendment Act: 1992	Included Konkani, Manipuri and Nepali languages in the Eight Schedule. With this, the total number of scheduled languages increased to 18.
71	72nd Amendment Act: 1992	Provided for reservation of seats for the STs in the Legislative Assembly of Tripura
72	73rd Amendment Act: 1992	1.Granted constitutional status and protection to the panchayati raj institutions.

### Amendments to Constitution

		2. For this purpose, the Amendment has added a new Part-IX entitled as 'the panchayats' and a new Eleventh Schedule containing 29 functional items of the panchayats.
73	74th Amendment Act: 1992	<ul style="list-style-type: none"> <li>• Granted constitutional status and protection to the urban local bodies.</li> <li>• For this purpose, the Amendment has added a new Part IX-A entitled as 'the municipalities' and a new Twelfth Schedule containing 18 functional items of the municipalities.</li> </ul>
74	75th Amendment Act: 1994	Provided for the establishment of rent tribunals for the adjudication of disputes with respect to rent, its regulation and control and tenancy issues including the rights, title and interest of landlords and tenants
75	76th Amendment Act: 1994	Included the Tamil Nadu Reservation Act of 1994 (which provides for 69 per cent reservation of seats in educational institutions and posts in state services) in the Ninth Schedule to protect it from judicial review. In 1992, the Supreme Court ruled that the total reservation should not exceed 50 percent.
76	77th Amendment Act: 1995	Provided for reservation in promotions in government jobs for SCs and STs. This amendment nullified the Supreme Court ruling with regard to reservation in promotions.
77	78th Amendment Act: 1995	Included 27 more land reforms Acts of various states in the Ninth Schedule. With this, the total number of Acts in the Schedule increased to 282. But, the last entry is numbered 284.
78	79th Amendment Act: 1999	Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha and

**Amendments to Constitution**

		the state legislative assemblies for a further period of ten years (i.e., up to 2010).
79	80th Amendment Act: 2000	Provided for an 'alternative scheme of devolution' of revenue between the Centre and states. This was enacted on the basis of the recommendations of the Tenth Finance Commission which has recommended that out of the total income obtained from Central taxes and duties, twenty-nine per cent should be distributed among the states.
80	81st Amendment Act: 2000	Empowered the state to consider the unfilled reserved vacancies of a year as a separate class of vacancies to be filled up in any succeeding year or years. Such class of vacancies are not to be combined with the vacancies of the year in which they are being filled up to determine the ceiling of 50 per cent reservation on total number of vacancies of that year. In brief, this amendment ended the 50 per cent ceiling on reservation in backlog vacancies.
81	82nd Amendment Act: 2000	Provided for making of any provision in favour of the SCs and STs for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to the public services of the Centre and the states.
82	83rd Amendment Act: 2000	Provided that no reservation in panchayats need be made for SCs in Arunachal Pradesh. The total population of the state is tribal and there are no SCs.
83	84th Amendment Act: 2001	<ul style="list-style-type: none"> <li>Extended the ban on readjustment of seats in the Lok Sabha and the state legislative assemblies for another 25 years (i.e., up to 2026) with the same</li> </ul>

### Amendments to Constitution

		<p>objective of encouraging population limiting measures.</p> <ul style="list-style-type: none"> <li>• In other words, the number of seats in the Lok Sabha and the assemblies are to remain same till 2026.</li> <li>• It also provided for the readjustment and rationalisation of territorial constituencies in the states on the basis of the population figures of 1991 census.</li> </ul>
84	85th Amendment Act: 2001	<p>Provided for 'consequential seniority' in the case of promotion by virtue of rule of reservation for the government servants belonging to the SCs and STs with retrospective effect from June 1995.</p>
85	86th Amendment Act: 2002	<ul style="list-style-type: none"> <li>• Made elementary education a fundamental right. The newly-added Article 21-A declares that "the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may determine".</li> <li>• Changed the subject matter of Article 45 in Directive Principles. It now reads—"The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years".</li> <li>• Added a new fundamental duty under Article 51-A which reads—"It shall be the duty of every citizen of India who is a parent or guardian to provide opportunities for education to his child or ward between the age of six and fourteen years".</li> </ul>

**Amendments to Constitution**

86	87th Amendment Act: 2003	Provided for the readjustment and rationalisation of territorial constituencies in the states on the basis of the population figures of 2001 census and not 1991 census as provided earlier by the 84th Amendment Act of 2001.
87	88th Amendment Act: 2003	Made a provision for service tax (Article 268-A). Taxes on services are levied by the Centre. But, their proceeds are collected as well as appropriated by both the Centre and the states in accordance with the principles formulated by parliament
88	89th Amendment Act: 2003	Bifurcated the erstwhile combined National Commission for Scheduled Castes and Scheduled Tribes into two separate bodies, namely, National Commission for Scheduled Castes (Article 338) and National Commission for Scheduled Tribes (Article 338-A). Both the Commissions consist of a Chairperson, a Vice-Chairperson and three other members. They are appointed by the President.
89	90th Amendment Act: 2003	Provided for maintaining the erstwhile representation of the Scheduled Tribes and non- Scheduled Tribes in the Assam legislative assembly from the Bodoland Territorial Areas District (Article 332 (6)).
90	91st Amendment Act: 2003	<ul style="list-style-type: none"> <li>The total number of ministers, including the Prime Minister, in the Central Council of Ministers shall not exceed 15% of the total strength of the Lok Sabha (Article 75(1A)).</li> <li>The total number of ministers, including the Chief Minister, in the Council of Ministers in a state shall not exceed 15% of the total strength of the legislative Assembly of that state. But, the number of ministers, including the Chief Minister, in a state shall not be</li> </ul>

**Amendments to Constitution**

		<p>less than 12 (Article 164(1A)).</p> <ul style="list-style-type: none"> <li>The provision of the Tenth Schedule (anti-defection law) pertaining to exemption from disqualification in case of split by one-third members of legislature party has been deleted. It means that the defectors have no more protection on grounds of splits.</li> </ul>
91	92nd Amendment Act: 2003	<p>Included four more languages in the Eighth Schedule. They are Bodo, Dogri (Dongri), Maithili (Maithili) and Santhali. With this, the total number of constitutionally recognised languages increased to 22</p>
92	93rd Amendment Act: 2005	<p>Empowered the state to make special provisions for the socially and educationally backward classes or the Scheduled Castes or the Scheduled Tribes in educational institutions including private educational institutions (whether aided or unaided by the state), except the minority educational institutions (clause (5) in Article 15). This Amendment was enacted to nullify the Supreme Court judgement in the Inamdar case (2005) where the apex court ruled that the state cannot impose its reservation policy on minority and non-minority unaided private colleges, including professional colleges. The court declared that reservation in private, unaided educational institutions was unconstitutional.</p>
93	94th Amendment Act: 2006	<p>Freed Bihar from the obligation of having a tribal welfare minister and extended the same provision to Jharkhand and Chhattisgarh. This provision will now be applicable to the two newly formed states and Madhya Pradesh and Orissa, where it has already been in force (Article 164(1)).</p>

**Amendments to Constitution**

94	95th Amendment Act: 2009	Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha and the state legislative assemblies for a further period of ten years i.e., upto 2020 (Article 334).
95	96th Amendment Act: 2011	Substituted "Odia" for "Oriya". Consequently, the "Oriya" language in the Eighth Schedule shall be pronounced as "Odia"
96	97th Amendment Act: 2011	<ul style="list-style-type: none"> <li>• Gave a constitutional status and protection to co-operative societies. In this context, it made the following three changes in the constitution:</li> <li>• It made the right to form co-operative societies a fundamental right (Article 19)</li> <li>• It included a new Directive Principle of State Policy on the promotion of co-operative societies (Article 43-B).</li> <li>• It added a new Part IX-B in the constitution which is entitled as "The Co-operative societies" (Articles 243-ZH to 243-ZT).</li> </ul>
97	98th Amendment Act: 2013	To empower the Governor of Karnataka to take steps to develop the Hyderabad-Karnataka Region
98	99th Amendment Act: 2014	It provided for establishment of National judicial commission
99	100th Amendment Act: 2015	This amendment is Land Boundary Agreement (LBA) between India and Bangladesh
100	101st Amendment Act: 2016	Goods and Services Tax (GST) has commenced with the enactment of the 101st Constitution Amendment Act, 2016 on 8th September, 2016 and the subsequent notifications



## **Government of Tamilnadu**

### **Department of Employment and Training**

Course : TNPSC Group II Exam  
Subject : Indian Polity  
Topic : **Union & Its Territory**

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# UNION & ITS TERRITORY

- ❖ Article 1 to 4 under Part-I of the constitution deals with union and its territories.

## ARTICLE 1:

Describe India, that is, Bharat as a 'UNION OF STATES', rather than a 'Federation of States'.

- ❖ The states have no right to secede from the federation. The federation is an Union because it is indestructible. India is a indestructible union of destructible states.
- ❖ Article 1, the territory of India can be classified into 3 categories,
  - a) Territories of States
  - b) Union territory
  - c) Acquired territory
- ❖ At present there are **29 states**, 7 union territories.
- ❖ Special provisions under part XXI, applicable to the states of Maharashtra, Gujarat, Nagaland, Assam, Manipur, AP, Sikkim, Mizoram, Arunachal Pradesh, Goa.

## ARTICLE 2:

Empowers the parliament to admit into the Union of India, or establish, new States on such terms and conditions as it thinks fit'.

- ❖ Not applicable for union territories, as per this article.
- ❖ Union territory can admitted only through Constitutional Amendment Act - (Article 368) Eg.: Goa, Diu, Daman.
- ❖ Empowers the parliament to admit into the Union of India or for establishment of New States.

## ARTICLE 3:

- ❖ Formation of new States and alteration of areas, boundaries (or) names of existing states.
- ❖ It authorises the parliament to, Form a new state by separation of territory from any state or by uniting 2 or more states or parts of states or by uniting any territory to a part of any state.

## UNION TERRITORIES

**Article 239 to 241 in Part VIII of the Constitution deal with the union territories:**

- ❖ Every union territory is administered by the President through an Administrator appointed by him.
- ❖ In Delhi, Daman-Diu, Dadra and Nagar Haveli and Pondicherry – administered by Lt. Governor
- ❖ Andaman & Nicobar and Chandigarh Chief Commissioner
- ❖ Lakshadweep - Administrator
- ❖ There are Legislative assemblies and council of ministers in Pondicherry & Delhi
- ❖ The president can make regulations for the peace, progress and good government of the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, and Daman and Diu.

### **Special Provisions for Delhi:**

- ❖ The 69<sup>th</sup> constitutional Amendment Act of 1991 provided a special status to the Union Territory of Delhi, and redesignated the National Capital Territory of Delhi and designated the administrator of Delhi as the lieutenant (Lt).
- ❖ According to the 69th Amendment Act, 1991, Union Territory of Delhi shall be called the National Capital Territory and it shall have a Legislative Assembly to which members shall be directly chosen by the people.
- ❖ The Assembly shall make laws on the matters enumerated in State List (except on matters relating to Public order, Police, Land).
- ❖ Strength of Assembly - 70

Increase the area of any state

1. Diminish the area of any state
2. Alter the boundaries of any state
3. Alter the Name of any state

**BILL** : Can be introduced in the parliament only with the Prior recommendation of president.

1. Before it, the president has to refer the same to the state legislative

Union & its Territory

concerned for expressing its views  
within a specified period.

**ARTICLE 4 :**

2. President or Parliament is not bound by the views of the state legislature.

1. Article 2 and 3 are not to be considered, as amendment of constitution under article - 368.

**IN CASE OF UNION TERRITORY:**

3. No reference need be made to the concerned legislature and the parliament can itself take any action as it deems fit.

2. Such laws can be passed by a SIMPLE MAJORITY and by ORDINARY legislative process.

**NEW STATES CREATED AFTER 1950:**

Andhrapradesh	-	1953	
Kerala	-	1956	} State (Reorganisation) Act, 1956.
Karnataka	-	1956	
Gujarat	-	1960	} Bombay (Reorganisation) Act, 1960.
Maharastra	-	1960	
Nagaland	-	1962	- State of Nagaland Act, 1962
Haryana	-	1966	- Punjab (Reorganisation) Act, 1962.
Himachal Pradesh	-	1970	- State of Himachal Pradesh Act, 1970.
Meghalaya	-	1971	} - North Eastern Areas (Reorganisation) Act, 1971.
Manipur	-	1971	
Tripura	-	1971	
Sikkim	-	1975	- 36 <sup>th</sup> Amendment Act, 1975.
Mizoram	-	1986	- State of Mizoram Act, 1986.
Arunachal Pradesh	-	1986	- State of Arunachal Pradesh Act, 1986.
Goa	-	1987	- Goa, Diu, Daman Reorganisation Act, 1987.
Chattisgarh	-	2000	} - Constitutional Amendment Act, 2000.
Uttarkhand	-	2000	
Jharkhand	-	2000	
Telanghana	-	2014	- Andhra Pradesh Reorganisation Act – 2014

## Union & its Territory

### Change of Names

- ❖ The names of some states and union territories have also been changed. The United Provinces was the first state to have a new name. It was renamed 'Uttar Pradesh' in 1950. In 1969, Madras was renamed 'Tamil Nadu'. Similarly, in 1973, Mysore was renamed 'Karnataka'. In the same year, Laccadive, Minicoy and Amindivi Islands were renamed 'Lakshadweep'. In 1992, the Union Territory of Delhi was redesignated as the National Capital Territory of Delhi (without being conferred the status of a full-fledged state) by the 69<sup>th</sup> Constitutional Amendment Act, 1991. In 2006, Uttaranchal was renamed as 'Uttarakhand'.
- ❖ In the same year, Pondicherry was renamed as 'Puducherry'. In 2011, Orissa was renamed as 'Odisha'.

called the JVP Committee. (Jawaharlal Nehru, Vallabhbhai Patel and Pattabhi Sitaramayya)

- ❖ JVP Committee submitted its report in April 1949, they rejected language as the basis for reorganisation of states.
- ❖ However, in October 1953, the GOI was forced to create the 1<sup>st</sup> linguistic state, known as Andhra state. This followed a Prolonged Popular agitation and the death of potti sriramulu, after a 56 day hunger strike for Andhra state.
- ❖ State Reorganisation Commission (1953) created under Fazal Ali as Chairman, its other members are K. M. Panikkar and H.N. Kunzru.
- ❖ It accepted language as basis of reorganisation of states.
- ❖ Recommended 16 States and 3 centrally administered territories.
- ❖ As a result, 14 states and 6 union territories were created on November 1, 1956.

### REORGANISATION OF STATES:

- ❖ Constituent Assembly appointed S.K.Dhar Commission in November 1948. Purpose - To study the issue of reorganisation of States on linguistic Basis.
- ❖ Submitted their Report in December 1948 and recommended reorganisation of states on the basis of administrative convenience rather than linguistic factor
- ❖ This led to appointment of another Linguistic Provinces Committee by the Congress in December 1948,



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## Unit - 2

# Citizens and Citizenship



### Learning Objectives

Students acquire knowledge in

- ▶ Meaning, definition of citizens and citizenship
- ▶ The Constitutional Provisions of India
- ▶ Acquisition and termination of Indian citizenship
- ▶ Nature of overseas citizenship of India
- ▶ Rights and responsibility of a citizen



### Introduction

Civics is the study of government. The word 'Citizen' is derived from the Latin word 'Civis' which means resident of a City State of Ancient Rome. After the disappearance of City-State system, it has been used to mean a member of the State. The citizens of a state enjoy full civil and political rights.

### Citizen and Citizenship

Citizen is a person of a country who is entitled to enjoy all the legal rights and privileges granted by a state and is obligated to obey its laws and to fulfill his duties.

Citizenship is the status given to the citizens which provide them the right to legally live in a country as long as they want.

### Types of Citizen

There are two types of citizens, Natural and Naturalised citizens.

1. Natural citizens: are the citizens by birth.
2. Naturalised citizens: are the one who acquires citizenship.

### Indian Citizenship Act, 1955

This act is to provide for the acquisition and termination of Indian citizenship.



### Acquisition of citizenship

The citizenship Act of 1955 prescribes five ways of acquiring citizenship. They are by birth, descent, registration, naturalisation and incorporation of territory.

#### 1) By Birth

- a. A person born in India on or after 26th January 1950 but before 1st July 1987 is a citizen of India by birth irrespective of the nationality of his Parents.
- b. A person born in India on or after 1st July 1987 is considered as a citizen of India only if either of his Parents is a citizen of India at the time of his birth.





- c. Those born in India on or after 3rd December 2004 are considered citizens of India or one of whose parents is a citizen of India and the other is not an illegal migrant at the time of their birth.

## 2) By Descent

- a. A Person born outside India on or after 26th January 1950 but before 10th December 1992 is a citizen of India by descent, if his father was a citizen of India at the time of his birth.
- b. A person born outside India on or after 10th December 1992 is considered as a citizen of India if either of his parents is a citizen of India at the time of his birth.
- c. From 3rd December 2004 onwards, a person born outside India shall not be a citizen of India by descent, unless his birth is registered at an Indian consulate within one year of the date of birth.

## 3) By Registration

- a. A Person of Indian origin who is ordinarily resident in any country or place outside undivided India.
- b. A Person of Indian origin who is ordinarily resident in India for seven years before making an application for registration.
- c. A Person who is married to a citizen of India and is ordinarily resident in India for seven years before making an application for registration

## 4) By Naturalisation

The Central Government may, on an application, grant a certificate of naturalization to any person

- a. if he is not a citizen of any country where citizens of India are Prevented from becoming subjects or citizens of that country
- b. a citizen of any country, renounce the citizenship of that country
- c. he has either resided in India or been in the service of a Government in India or throughout the period of twelve months

- d. he is a good character and has an adequate knowledge of a language specified in the Eighth Schedule to the Constitution. (presently 22 languages)

## 5) By incorporation of Territory

- a. If any foreign territory becomes a part of India, the Government of India specifies the persons who among the people of the territory shall be the citizens of India. Such persons become the citizens of India from the notified date. For example, when Pondicherry became a part of India, the Government of India issued the citizenship (Pondicherry) order, 1962.


## Loss of Indian Citizenship

Part II of the Constitution of India (Article 5-11) prescribes three ways of losing citizenship.

**Renunciation:** (is a voluntary act) when a person after acquiring the citizenship of another country gives up his/her Indian citizenship.

**Termination:** (takes place by operation of law) When an Indian citizen voluntarily acquires the citizenship of another country; he/she automatically ceases to be an Indian citizen.

**Deprivation:** (is a compulsory termination) The citizenship is deprived on the basis of an order of the Government of India in cases involving acquisition of Indian citizenship by fraud, false representation or being disloyal to the Constitution.



### Nationality and citizenship

Nationality is the status of belonging to a particular nation by origin, birth basically, it's an ethnic and racial concept. Nationality of a person cannot be changed.

Citizenship is granted to an individual by the government of the country when he/she complies with the legal formalities. Citizenship can be changed.

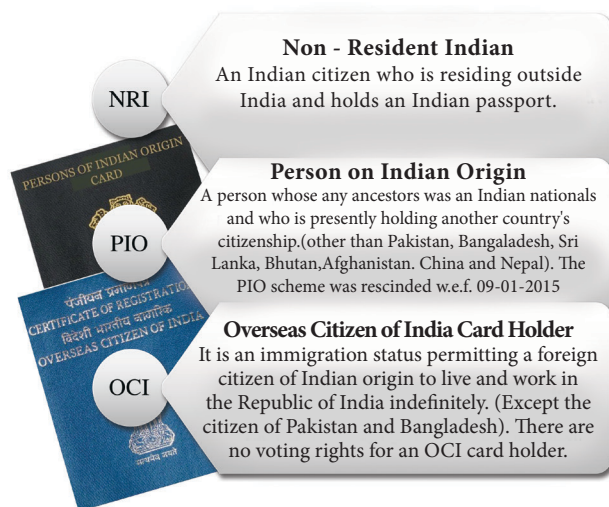
## Single citizenship

Our Indian Constitution provides for only Single citizenship, that is, the Indian citizenship. But federal states like USA and Switzerland has dual citizenship. (National citizenship and the State citizenship). In India, all citizens irrespective of the state in which they are born or reside enjoy the same political and civil rights of citizenship all over the country.



As per the order precedence President is the first citizen of our country.

## Overseas Citizenship of India



## Rights and Duties of Citizen

Our Constitution confers the following rights for the citizen of India.

- Fundamental Rights
- Right to vote in the election to the Lok Sabha and the State Legislature
- Right to hold certain public offices
- Right to become the Member of Parliament and State Legislature.

According to 42 Amendment of our Constitution, a set of Fundamental Duties are prescribed for all citizens of India. (For e.g. paying taxes honestly, respecting the rights,

beliefs and opinions of others, defending the country, respect and obey state and local laws and so on)

Alien and immigrant are two terms that are used to refer to non-nationals of a country.

Alien refers to all non-citizens or non-nationals residing in a country. eg. tourists, foreign students

Immigrant refers to alien who has been granted the right to reside and work permanently without restriction in a particular country.

## Qualities of a good citizen

- Loyalty to the Constitution.
- Obeys laws.
- Contributes to society and community and performs civic duty.
- Quality of goodness and justice.
- Respecting diversity.

## Global Citizenship

Global citizenship is an idea that everyone, no matter where they live is part of a worldwide community rather than as the citizen of particular nation or place. All people have rights and civic responsibilities. It is fundamental in enabling young people to access and participate in shaping modern society.





### Overseas Indians' Day

Pravasi Bharatiya Divas (PBD) Sponsored by Ministry of External Affairs of Government of India is celebrated once in every two years, to "mark the contributions of Overseas Indian Community in the development of India". The day commemorates the arrival of Mahatma Gandhi in India from South Africa.

## Conclusion

Our Constitution of India has introduced Single citizenship and provides uniform rights

for the people of India to promote the feeling of fraternity and unity among them to build an integrated Indian nation.

## Recap

- Citizen is a person of a country who is entitled to enjoy all the legal rights and privileges granted by a State.
- Part II of the constitution of India, Articles 5 – 11 deals with the Citizenship of India.
- Indian Citizenship Act of 1955 provides for the acquisition and termination of Indian citizenship.
- Our Indian Constitution provides for Single Citizenship.

## Glossary

<b>acquisition</b>	act of acquiring	முயன்று அடைதல்
<b>amendment</b>	a minor change	திருத்தம்
<b>Constitution</b>	Law determining the fundamental political principles of a government	அரசியலமைப்பு
<b>fraternity</b>	brotherhood	சகோதரத்துவம்
<b>Resident</b>	inhabitant	குடியிருப்பவர்



## Evaluation

### I. Choose the correct answer.

- Which of the following is not a condition for becoming the citizen of India?
 

a. Birth  
c. descent

b. acquiring property  
d. naturalization
- \_\_\_\_\_ of the Constitution of India deals with the Citizenship.
 

a. Part II  
c. Part II Article 5-6

b. Part II Article 5-11  
d. Part I Article 5-11
- Who is called the first citizen of India?



- The Prime Minister
- The President
- The Chief Minister
- The Chief Justice of India

### II. Fill in the blanks.

- \_\_\_\_\_ of a state enjoy full civil and political rights.
- Our Indian Constitution provides for only \_\_\_\_\_ citizenship.
- An Indian citizen who is residing outside India and holds an Indian passport are called \_\_\_\_\_.
- All have right and \_\_\_\_\_ responsibility citizens.
- \_\_\_\_\_ is an idea enabling young people to access and participate in shaping modern society.

### III. State true or false.

## 1.5 Citizenship

The word 'Citizen' is derived from the Latin term 'Civis'. It means resident of a City State. The Constitution of India provides for a single and uniform citizenship for the whole of India. Articles 5 to 11 under part II of the Constitution deals with the citizenship.

### 1.5.1 Citizenship Act of 1955

The Citizenship Act of 1955 provides for acquisition and loss of citizenship after the commencement of the Constitution. This Act has been amended so far eight times. Originally, the Citizenship Act (1955) also provided for the commonwealth Citizenship. But, this provision was repealed by the Citizenship (Amendment) Act, 2003.

### 1.5.2 Acquisition of Citizenship

The Citizenship Act of 1955 prescribes five ways of acquiring citizenship, viz, birth, descent, registration, naturalisation and incorporation of territory:

According to the Citizenship Act, 1955, the citizenship could be acquired through any of the following methods.

1. **By Birth:** All persons born in India on or after January 26, 1950 are treated as citizens by birth.
2. **By Descent:** A person born outside India on or after January 26, 1950 shall be a citizen of India by descent, if his father is a citizen of India at the time of his birth.
3. **By Registration:** A person can acquire citizenship of India by registration with appropriate authority.
4. **By Naturalisation:** A foreigners can acquire Indian citizenship, on application for naturalization to the Government of India.
5. **By Incorporation of Territory:** In the event of a certain territory being added to the territory of India, the Government of India shall specify the persons of that territory who shall be citizen of India.

### 1.5.3 Loss of Citizenship

The Citizenship Act of 1955 prescribes three ways of losing citizenship whether acquired under the Act or prior to it under the Constitution, viz, renunciation, termination and deprivation.

1. It can be voluntarily renounced by a citizen.
2. It can be terminated if a person acquires the citizenship of some other country.
3. The central government can deprive a naturalized citizen, if it satisfied that the citizenship was acquired by fraud, false representation or concealment of material facts or indulges in trade with enemy countries or if the person has been sentenced to imprisonment for a period of 2 years.

## 1.6 Fundamental Rights

The Fundamental Rights are enshrined in Part III of the Constitution from Articles 12 to 35. In this regard, the framers of the Constitution derived inspiration from the Constitution of USA. Originally, the Constitution provided for seven Fundamental Rights. At present, there are only six Fundamental Rights. Part III of the Constitution is rightly described as the Magna Carta of India. While Fundamental Rights are available to all persons, certain Fundamental Rights are available only to Indian Citizens.



'Magna Carta' is the Charter of Rights issued by King John of England in 1215 under pressure from the barons. This is the first written document relating to the Fundamental Rights of citizens.

### Right to constitutional remedies (Articles 32)

A writ is an order or command issued by a court in writing under its seal. It is in the nature of a command or prohibition from performing certain acts that are specified in



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5. **By Incorporation of Territory:** In the event of a certain territory being added to the territory of India, the Government of India shall specify the persons of that territory who shall be citizen of India.

### 1.5.3 Loss of Citizenship

The Citizenship Act of 1955 prescribes three ways of losing citizenship whether acquired under the Act or prior to it under the Constitution, viz, renunciation, termination and deprivation.

1. It can be voluntarily renounced by a citizen.
2. It can be terminated if a person acquires the citizenship of some other country.
3. The central government can deprive a naturalized citizen, if it satisfied that the citizenship was acquired by fraud, false representation or concealment of material facts or indulges in trade with enemy countries or if the person has been sentenced to imprisonment for a period of 2 years.

## 1.6 Fundamental Rights

The Fundamental Rights are enshrined in Part III of the Constitution from Articles 12 to 35. In this regard, the framers of the Constitution derived inspiration from the Constitution of USA. Originally, the Constitution provided for seven Fundamental Rights. At present, there are only six Fundamental Rights. Part III of the Constitution is rightly described as the Magna Carta of India. While Fundamental Rights are available to all persons, certain Fundamental Rights are available only to Indian Citizens.



'Magna Carta' is the Charter of Rights issued by King John of England in 1215 under pressure from the barons. This is the first written document relating to the Fundamental Rights of citizens.

### Right to constitutional remedies (Articles 32)

A writ is an order or command issued by a court in writing under its seal. It is in the nature of a command or prohibition from performing certain acts that are specified in

## I. RIGHT TO EQUALITY



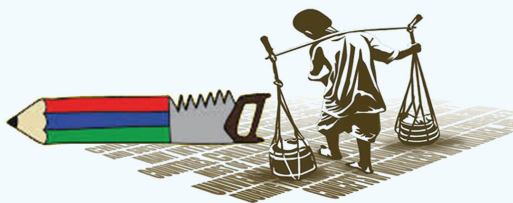
- Art. 14 - Equality before law.
- Art. 15 - Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.
- Art. 16 - Equality of opportunity in matters of public employment.
- Art. 17 - Abolition of Untouchability.
- Art. 18 - Abolition of titles except military and academic.

## II. RIGHT TO FREEDOM



- Art. 19 - Freedom of speech and expression, assembly, association, movement, residence and profession.
- Art. 20 - Protection in respect of conviction for offences.
- Art. 21 - Protection of life and personal liberty.
- Art. 21A - Right to elementary education.
- Art. 22 - Protection against arrest and detention in certain cases.

## III. RIGHT AGAINST EXPLOITATION



- Art. 23 - Prohibition of traffic in human beings and forced labour.
- Art. 24 - Prohibition of employment of children in factories, etc.

## IV. RIGHT TO RELIGION



- Art. 25 - Freedom of conscience and free profession, practice and propagation of religion.
- Art. 26 - Freedom to manage religious affairs.
- Art. 27 - Freedom from payment of taxes for promotion of any religion.
- Art. 28 - Freedom from attending religious instruction or worship in certain educational institutions.

## V. CULTURAL & EDUCATIONAL RIGHTS



- Art. 29 - Protection of language, script and culture of minorities.
- Art. 30 - Right of minorities to establish and administer educational institutions.

## VI. RIGHT TO CONSTITUTIONAL REMEDIES



- Art. 32 - It allows individuals to seek redressal for the violation of their fundamental rights.



**Right to Property (Art. 31)** was deleted from the list of Fundamental Rights by the 44<sup>th</sup> Amendment Act, 1978. It is made a legal right under Article 300-A in Part XII of the Constitution.



Violation of which Fundamental right is associated with the theme depicted in the stamps?

the orders of the court. Both the Supreme Court and the High Courts are empowered to issue five kinds of writs of habeas corpus, mandamus, prohibition, quo warranto and certiorari. That is why the Supreme Court is called the “Guardian of the Constitution”. According to Dr. Ambedkar, Article 32 is “the heart and soul of the Constitution”.

- (a) **Habeas Corpus:** Safeguards people from illegal arrests.
- (b) **Mandamus:** It protects the petitioner who requires legal help to get his work done by respective public authorities.
- (c) **Prohibition:** It prohibits a subordinate court from acting beyond its jurisdiction.
- (d) **Certiorari:** It quashes an order issued by a subordinate court by overstepping its jurisdiction.
- (e) **Quo Warranto:** It prevents usurpation of public office through illegal manner.

## Suspension of Fundamental Rights

When the President makes a Proclamation of Emergency under Article 352, the freedoms guaranteed under Article 19 are automatically suspended. The President can suspend other fundamental rights through specific orders. These orders must be approved by the Parliament. But he cannot suspend the freedoms given under Arts. 20 and 21 (protection in respect of conviction for offences and protection of life and personal liberty respectively) in any circumstances.

## 1.7 Directive Principles of State Policy

The Directive Principles of State Policy are enumerated in Part IV of the Constitution from Articles 36 to 51. The Constitution does not contain any classification of Directive Principles. However, on the basis of their content and direction, they can be classified into three broad categories, viz, socialistic, Gandhian and liberal-intellectual. These principles are not enforceable by the courts.



The 86<sup>th</sup> Amendment Act of 2002 changed the subject-matter of Article 45 and made elementary education a fundamental right under Article 21 A. The amended directive requires the State to provide early childhood care and education for all children until they complete the age of six years.

But they are fundamental for the governance of the country. The Government is duty bound to apply these principles while making laws. They aim at promoting the Social Welfare of the people. Dr. B.R. Ambedkar described these principles as ‘novel features’ of the Indian Constitution.

## Differences between Fundamental Rights and Directive Principles of State Policy

Fundamental Rights	Directive Principles of State Policy
It was derived from the Constitution of the USA.	It was drawn on the model of the Constitution of Ireland.
Even the Government cannot take away or abridge these rights.	These are mere instructions to the Government.
These are enforceable by a court of law.	These are not enforceable in any court.
These have legal sanctions.	These have moral and political sanctions.
These rights strengthen political democracy in the country.	The implementation of these principles ensures social and economic democracy.
These are natural rights.	These lead to protect human rights.



## **Government of Tamilnadu**

### **Department of Employment and Training**

Course : TNPSC Group II Exam  
Subject : Indian Polity  
Topic : **Fundamental Duties**

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**Commissioner,  
Department of Employment and Training.**

# FUNDAMENTAL DUTIES

In 1976, the Fundamental Duties of citizen were added in the constitution by the recommendations of Sardar Swaransingh Committee

- Included by 42<sup>nd</sup> Amendment Act, 1976, *Source – USSR*
- Article 51-A in Part IV A of our Constitution.
- One more duty was added by 86<sup>th</sup> Amendment Act, 2002.
- They are enforceable by law.
- Totally at present 11 duties.

## Eleven Fundamental Duties for Citizens

1. To abide by and respect the Constitution, the National Flag and the National Anthem.
2. To cherish and follow the noble ideals of the freedom struggle.
3. To uphold and protect the sovereignty, unity and integrity of India.
4. To defend the country and render national service when required.
5. To promote common brotherhood and establish dignity of women.
6. To value and preserve the rich heritage of the nation's composite culture.
7. To protect and improve natural environment.
8. To develop scientific temper, humanism and spirit of inquiry.
9. To safeguard public property and abjure violence.
10. To strive for excellence in all spheres of individual and collective activity.
11. It shall be duty of every citizen of India who is a parent or guardian to provide opportunities for education to his child or as the case may be, ward, between the age of 6 and 14 years (Added by 86<sup>th</sup> Amendment 2002).



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## 8 Directive Principles of State Policy

**T**he Directive Principles of State Policy are enumerated in Part IV of the Constitution from Articles 36 to 51<sup>1</sup>. *The framers of the Constitution borrowed this idea from the Irish Constitution of 1937, which had copied it from the Spanish Constitution.* Dr. B.R. Ambedkar described these principles as 'novel features' of the Indian Constitution. The Directive Principles along with the Fundamental Rights contain the philosophy of the Constitution and is the soul of the Constitution. Granville Austin has described the Directive Principles and the Fundamental Rights as the 'Conscience of the Constitution'<sup>2</sup>.

## FEATURES OF THE DIRECTIVE PRINCIPLES

1. The phrase 'Directive Principles of State Policy' denotes the ideals that the State should keep in mind while formulating policies and enacting laws. These are the constitutional instructions or recommendations to the State in legislative, executive and administrative matters. According to Article 36, the term 'State' in Part IV has the same meaning as in Part III dealing with Fundamental Rights. Therefore, it includes the legislative and executive organs of the central and state governments, all local authorities and all other public authorities in the country.
2. The Directive Principles resemble the 'Instrument of Instructions' enumerated in the Government of India Act of 1935. In the words of Dr. B.R. Ambedkar, 'the Directive Principles are like the instrument of instructions, which were issued to the Governor-General and to the Governors of the colonies of India by the British Government under the Government of India Act of 1935. What is called Directive Principles is merely another name for the instrument of instructions. The only difference is that they are instructions to the legislature and the executive'.
3. The Directive Principles constitute a very comprehensive economic, social and political programme for a modern democratic State. They aim at realising the high ideals of justice, liberty, equality and fraternity as outlined in the Preamble to the Constitution. They embody the concept of a 'welfare state' and not that of a 'police state', which existed during the colonial era<sup>3</sup>. In brief, they seek to establish economic and social democracy in the country.
4. The Directive Principles are non-justiciable in nature, that is, they are not legally enforceable by the courts for their violation. Therefore, the government (Central, state and local) cannot be compelled to implement them. Nevertheless, the Constitution (Article 37) itself says that these 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.

5. The Directive Principles, though non-justiciable in nature, help the courts in examining and determining the constitutional validity of a law. The Supreme Court has ruled many a times that in determining the constitutionality of any law, if a court finds that the law in question seeks to give effect to a Directive Principle, it may consider such law to be 'reasonable' in relation to Article 14 (equality before law) or Article 19 (six freedoms) and thus save such law from unconstitutionality.

## CLASSIFICATION OF THE DIRECTIVE PRINCIPLES

The Constitution does not contain any classification of Directive Principles. However, on the basis of their content and direction, they can be classified into three broad categories, viz, socialistic, Gandhian and liberal-intellectual.

### Socialistic Principles

These principles reflect the ideology of socialism. They lay down the framework of a democratic socialist state, aim at providing social and economic justice, and set the path towards welfare state. They direct the state:

1. To promote the welfare of the people by securing a social order permeated by justice—social, economic and political—and to minimise inequalities in income, status, facilities and opportunities<sup>4</sup> (Article 38).
2. To secure (a) the right to adequate means of livelihood for all citizens; (b) the equitable distribution of material resources of the community for the common good; (c) prevention of concentration of wealth and means of production; (d) equal pay for equal work for men and women; (e) preservation of the health and strength of workers and children against forcible abuse; and (f) opportunities for healthy development of children<sup>5</sup> (Article 39).
3. To promote equal justice and to provide free legal aid to the poor<sup>6</sup> (Article 39 A).
4. To secure the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement (Article 41).
5. To make provision for just and humane conditions of work and maternity relief (Article 42).
6. To secure a living wage<sup>7</sup>, a decent standard of life and social and cultural opportunities for all workers (Article 43).
7. To take steps to secure the participation of workers in the management of industries<sup>8</sup> (Article 43 A).

8. To raise the level of nutrition and the standard of living of people and to improve public health (Article 47).

## **Gandhian Principles**

These principles are based on Gandhian ideology. They represent the programme of reconstruction enunciated by Gandhi during the national movement. In order to fulfil the dreams of Gandhi, some of his ideas were included as Directive Principles. They require the State:

1. To organise village panchayats and endow them with necessary powers and authority to enable them to function as units of self-government (Article 40).
2. To promote cottage industries on an individual or co-operation basis in rural areas (Article 43).
3. To promote voluntary formation, autonomous functioning, democratic control and professional management of cooperative societies<sup>8a</sup> (Article 43B).
4. To promote the educational and economic interests of SCs, STs, and other weaker sections of the society and to protect them from social injustice and exploitation (Article 46).
5. To prohibit the consumption of intoxicating drinks and drugs which are injurious to health (Article 47).
6. To prohibit the slaughter of cows, calves and other milch and draught cattle and to improve their breeds (Article 48).

## **Liberal-Intellectual Principles**

The principles included in this category represent the ideology of liberalism. They direct the state:

1. To secure for all citizens a uniform civil code throughout the country (Article 44).
2. To provide early childhood care and education for all children until they complete the age of six years<sup>9</sup> (Article 45).
3. To organise agriculture and animal husbandry on modern and scientific lines (Article 48).
4. To protect and improve the environment and to safeguard forests and wild life<sup>10</sup> (Article 48 A).

5. To protect monuments, places and objects of artistic or historic interest which are declared to be of national importance (Article 49).
6. To separate the judiciary from the executive in the public services of the State (Article 50).
7. To promote international peace and security and maintain just and honourable relations between nations; to foster respect for international law and treaty obligations, and to encourage settlement of international disputes by arbitration (Article 51).

## **NEW DIRECTIVE PRINCIPLES**

The 42nd Amendment Act of 1976 added four new Directive Principles to the original list. They require the State:

1. To secure opportunities for healthy development of children (Article 39).
2. To promote equal justice and to provide free legal aid to the poor (Article 39 A).
3. To take steps to secure the participation of workers in the management of industries (Article 43 A).
4. To protect and improve the environment and to safeguard forests and wild life (Article 48 A).

The 44th Amendment Act of 1978 added one more Directive Principle, which requires the State to minimise inequalities in income, status, facilities and opportunities (Article 38).

The 86th Amendment Act of 2002 changed the subject-matter of Article 45 and made elementary education a fundamental right under Article 21 A. The amended directive requires the State to provide early childhood care and education for all children until they complete the age of six years.

The 97<sup>th</sup> Amendment Act of 2011 added a new Directive Principle relating to cooperative societies. It requires the state to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies (Article 43B).

## **SANCTION BEHIND DIRECTIVE PRINCIPLES**

Sir B.N. Rau, the Constitutional Advisor to the Constituent Assembly, recommended that the rights of an individual should be divided into two categories—justiciable and non-justiciable, which was accepted by the Drafting Committee. Consequently, the Fundamental Rights, which are justiciable in nature, are incorporated in Part III and the Directive Principles, which are non-justiciable in nature, are incorporated in Part IV of the Constitution.

Though the Directive Principles are non-justiciable, the Constitution (Article 37) makes it clear that ‘these 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’. Thus, they impose a moral obligation on the state authorities for their application, but the real force behind them is political, that is, public opinion. As observed by Alladi Krishna Swamy Ayyar, ‘no ministry responsible to the people can afford light-heartedly to ignore the provisions in Part IV of the Constitution’. Similarly, Dr. B.R. Ambedkar said in the Constituent Assembly that ‘a government which rests on popular vote can hardly ignore the Directive Principles while shaping its policy. If any government ignores them, it will certainly have to answer for that before the electorate at the election time’<sup>11</sup>.

The framers of the Constitution made the Directive Principles non-justiciable and legally non-enforceable because:

1. The country did not possess sufficient financial resources to implement them.
2. The presence of vast diversity and backwardness in the country would stand in the way of their implementation.
3. The newly born independent Indian State with its many preoccupations might be crushed under the burden unless it was free to decide the order, the time, the place and the mode of fulfilling them.

‘The Constitution makers, therefore, taking a pragmatic view, refrained from giving teeth to these principles. They believed more

in an awakened public opinion rather than in court procedures as the ultimate sanction for the fulfilment of these principles'<sup>12</sup> .

## **CRITICISM OF THE DIRECTIVE PRINCIPLES**

The Directive Principles of State Policy have been criticised by some members of the Constituent Assembly as well as other constitutional and political experts on the following grounds:

### **1. No Legal Force**

The Directives have been criticised mainly because of their non-justiciable character. While K.T. Shah dubbed them as 'pious superfluities' and compared them with 'a cheque on a bank, payable only when the resources of the bank permit'<sup>13</sup>, Nasiruddin contended that these principles are 'no better than the new year's resolutions, which are broken on the second of January'. Even as T.T. Krishnamachari described the Directives as 'a veritable dustbin of sentiments', K C Wheare called them as a 'manifesto of aims and aspirations' and opined that they serve as mere 'moral homily', and Sir Ivor Jennings thought they are only as 'pious aspirations'.

### **2. Illogically Arranged**

Critics opine that the Directives are not arranged in a logical manner based on a consistent philosophy. According to N Srinivasan, 'the Directives are neither properly classified nor logically arranged. The declaration mixes up relatively unimportant issues with the most vital economic and social questions. It combines rather incongruously the modern with the old and provisions suggested by the reason and science with provisions based purely on sentiment and prejudice'<sup>14</sup>. Sir Ivor Jennings too pointed out that these principles have no consistent philosophy.

### **3. Conservative**

According to Sir Ivor Jennings, the Directives are based on the political philosophy of the 19th century England. He remarked: 'The ghosts of Sydney Webb and Beatrice Webb stalk through the pages of the text. Part IV of the Constitution expresses Fabian

Socialism without the socialism'. He opined that the Directives 'are deemed to be suitable in India in the middle of the twentieth century. The question whether they are suitable for the twenty-first century cannot be answered; but it is quite probable that they will be entirely out moded.<sup>15</sup>

#### **4. Constitutional Conflict**

K Santhanam has pointed out that the Directives lead to a constitutional conflict (a) between the Centre and the states, (b) between the President and the Prime Minister, and (c) between the governor and the chief minister. According to him, the Centre can give directions to the states with regard to the implementation of these principles, and in case of non-compliance, can dismiss the state government. Similarly, when the Prime Minister gets a bill (which violates the Directive Principles) passed by the Parliament, the president may reject the bill on the ground that these principles are fundamental to the governance of the country and hence, the ministry has no right to ignore them. The same constitutional conflict may occur between the governor and the chief minister at the state level.

## UTILITY OF DIRECTIVE PRINCIPLES

In spite of the above criticisms and shortcomings, the Directive Principles are not an unnecessary appendage to the Constitution. The Constitution itself declares that they are fundamental to the governance of the country. According to L.M. Singhvi, an eminent jurist and diplomat, 'the Directives are the life giving provisions of the Constitution. They constitute the stuff of the Constitution and its philosophy of social justice'<sup>16</sup>. M.C. Chagla, former Chief Justice of India, is of the opinion that, 'if all these principles are fully carried out, our country would indeed be a heaven on earth. India would then be not only democracy in the political sense, but also a welfare state looking after the welfare of its citizens'<sup>17</sup>. Dr. B.R. Ambedkar had pointed out that the Directives have great value because they lay down that the goal of Indian polity is 'economic democracy' as distinguished from 'political democracy'. Granville Austin opined that the Directive Principles are 'aimed at furthering the goals of the social revolution or to foster this revolution by establishing the conditions necessary for its achievement'<sup>18</sup>. Sir B.N. Rau, the constitutional advisor to the Constituent Assembly, stated that the Directive Principles are intended as 'moral precepts for the authorities of the state. They have at least an educative value.'

According to M.C. Setalvad, the former Attorney General of India, the Directive Principles, although confer no legal rights and create no legal remedies, are significant and useful in the following ways:

1. They are like an 'Instrument of Instructions' or general recommendations addressed to all authorities in the Indian Union. They remind them of the basic principles of the new social and economic order, which the Constitution aims at building.
2. They have served as useful beacon-lights to the courts. They have helped the courts in exercising their power of judicial review, that is, the power to determine the constitutional validity of a law.

3. They form the dominating background to all State action, legislative or executive and also a guide to the courts in some respects.
4. They amplify the Preamble, which solemnly resolves to secure to all citizens of India justice, liberty, equality and fraternity.

The Directives also play the following roles:

1. They facilitate stability and continuity in domestic and foreign policies in political, economic and social spheres in spite of the changes of the party in power.
2. They are supplementary to the fundamental rights of the citizens. They are intended to fill in the vacuum in Part III by providing for social and economic rights.
3. Their implementation creates a favourable atmosphere for the full and proper enjoyment of the fundamental rights by the citizens. Political democracy, without economic democracy, has no meaning.
4. They enable the opposition to exercise influence and control over the operations of the government. The Opposition can blame the ruling party on the ground that its activities are opposed to the Directives.
5. They serve as a crucial test for the performance of the government. The people can examine the policies and programmes of the government in the light of these constitutional declarations.
6. They serve as common political manifesto. 'A ruling party, irrespective of its political ideology, has to recognise the fact that these principles are intended to be its guide, philosopher and friend in its legislative and executive acts'<sup>19</sup>

## CONFLICT BETWEEN FUNDAMENTAL RIGHTS AND DIRECTIVE PRINCIPLES

The justiciability of Fundamental Rights and non-justiciability of Directive Principles on the one hand and the moral obligation of State to implement Directive Principles (Article 37) on the other hand have led to a conflict between the two since the commencement of the Constitution. In the *Champakam Dorairajan* case<sup>20</sup> (1951), the Supreme Court ruled that in case of any conflict between the Fundamental Rights and the Directive Principles, the former would prevail. It declared that the Directive Principles have to conform to and run as subsidiary to the Fundamental Rights. But, it also held that the Fundamental Rights could be amended by the Parliament by enacting constitutional amendment acts. As a result, the Parliament made the First Amendment Act (1951), the Fourth Amendment Act (1955) and the Seventeenth Amendment Act (1964) to implement some of the Directives.

The above situation underwent a major change in 1967 following the Supreme Court's judgement in the *Golaknath* case<sup>21</sup> (1967). In that case, the Supreme Court ruled that the Parliament cannot take away or abridge any of the Fundamental Rights, which are 'sacrosanct' in nature. In other words, the Court held that the Fundamental Rights cannot be amended for the implementation of the Directive Principles.

The Parliament reacted to the Supreme Court's judgement in the *Golaknath Case* (1967) by enacting the 24th Amendment Act (1971) and the 25th Amendment Act (1971). The 24th Amendment Act declared that the Parliament has the power to abridge or take away any of the Fundamental Rights by enacting Constitutional Amendment Acts. The 25th Amendment Act inserted a new Article 31C which contained the following two provisions:

1. No law which seeks to implement the socialistic Directive Principles specified in Article 39 (b)<sup>22</sup> and (c)<sup>23</sup> shall be void on the ground of contravention of the Fundamental Rights conferred by Article 14 (equality before law and equal

protection of laws), Article 19 (protection of six rights in respect of speech, assembly, movement, etc) or Article 31 (right to property).

2. No law containing a declaration for giving effect to such policy shall be questioned in any court on the ground that it does not give effect to such a policy.

In the *Kesavananda Bharati* case<sup>24</sup> (1973), the Supreme Court declared the above second provision of Article 31C as unconstitutional and invalid on the ground that judicial review is a basic feature of the Constitution and hence, cannot be taken away. However, the above first provision of Article 31C was held to be constitutional and valid.

**Table 8.1** *Distinction Between Fundamental Rights and Directive Principles*

Fundamental Rights	Directive Principles
1. These are negative as they prohibit the State from doing certain things.	1. These are positive as they require the State to do certain things.
2. These are justiciable, that is, they are legally enforceable by the courts in case of their violation.	2. These are non-justiciable, that is, they are not legally enforceable by the courts for their violation.
3. They aim at establishing political democracy in the country.	3. They aim at establishing social and economic democracy in the country.
4. These have legal sanctions.	4. These have moral and political sanctions.
5. They promote the welfare of the individual. Hence, they are personal and individualistic.	5. They promote the welfare of the community. Hence, they are societal and socialistic.
6. They do not require any legislation for their	6. They require legislation for their implementation. They

implementation. They are automatically enforced.	are not automatically enforced.
7. The courts are bound to declare a law violative of any of the Fundamental Rights as unconstitutional and invalid.	7. The courts cannot declare a law violative of any of the Directive Principles as unconstitutional and invalid. However, they can uphold the validity of a law on the ground that it was enacted to give effect to a directive.

Later, the 42nd Amendment Act (1976) extended the scope of the above first provision of Article 31C by including within its protection any law to implement any of the Directive Principles and not merely those specified in Article 39 (b) and (c). In other words, the 42nd Amendment Act accorded the position of legal primacy and supremacy to the Directive Principles over the Fundamental Rights conferred by Articles 14, 19 and 31. However, this extension was declared as unconstitutional and invalid by the Supreme Court in the *Minerva Mills* case<sup>25</sup> (1980). It means that the Directive Principles were once again made subordinate to the Fundamental Rights. But the Fundamental Rights conferred by Article 14 and Article 19 were accepted as subordinate to the Directive Principles specified in Article 39 (b) and (c). Further, Article 31 (right to property) was abolished by the 44th Amendment Act (1978).

In the *Minerva Mills* case (1980), the Supreme Court also held that 'the Indian Constitution is founded on the bedrock of the balance between the Fundamental Rights and the Directive Principles. They together constitute the core of commitment to social revolution. They are like two wheels of a chariot, one no less than the other. To give absolute primacy to one over the other is to disturb the harmony of the Constitution. This harmony and balance between the two is an essential feature of the basic structure of the Constitution. The goals set out by the Directive Principles have to be achieved without the abrogation of the means provided by the Fundamental Rights'.

Therefore, the present position is that the Fundamental Rights enjoy supremacy over the Directive Principles. Yet, this does not mean that the Directive Principles cannot be implemented. The Parliament can amend the Fundamental Rights for implementing the Directive Principles, so long as the amendment does not damage or destroy the basic structure of the Constitution.

## **IMPLEMENTATION OF DIRECTIVE PRINCIPLES**

Since 1950, the successive governments at the Centre and in the states have made several laws and formulated various programmes for implementing the Directive Principles. These are mentioned below:

1. The Planning Commission was established in 1950 to take up the development of the country in a planned manner. The successive Five Year Plans aimed at securing socio-economic justice and reducing inequalities of income, status and opportunities. In 2015, the Planning Commission was replaced by a new body called NITI Aayog (National Institution for Transforming India).
2. Almost all the states have passed land reform laws to bring changes in the agrarian society and to improve the conditions of the rural masses. These measures include (a) abolition of intermediaries like zamindars, jagirdars, inamdars, etc; (b) tenancy reforms like security of tenure, fair rents, etc; (c) imposition of ceilings on land holdings; (d) distribution of surplus land among the landless labourers; and (e) cooperative farming.
3. The Minimum Wages Act (1948), the Payment of Wages Act (1936), the Payment of Bonus Act (1965), the Contract Labour Regulation and Abolition Act (1970), the Child Labour Prohibition and Regulation Act (1986), the Bonded Labour System Abolition Act (1976), the Trade Unions Act (1926), the Factories Act (1948), the Mines Act (1952), the Industrial Disputes Act (1947), the Workmen's Compensation Act (1923) and so on have been enacted to protect the interests of the labour sections. In 2006, the government banned the child labour. In 2016, the Child Labour Prohibition and Regulation Act (1986) was renamed as the Child and Adolescent Labour Prohibition and Regulation Act, 1986.
4. The Maternity Benefit Act (1961) and the Equal Remuneration Act (1976) have been made to protect the interests of women workers.

5. Various measures have been taken to utilise the financial resources for promoting the common good. These include nationalisation of life insurance (1956), the nationalisation of fourteen leading commercial banks (1969), nationalisation of general insurance (1971), abolition of Privy Purses (1971) and so on.
6. The Legal Services Authorities Act (1987) has established a nation-wide network to provide free and competent legal aid to the poor and to organise lok adalat for promoting equal justice. Lok adalat is a statutory forum for conciliatory settlement of legal disputes. It has been given the status of a civil court. Its awards are enforceable, binding on the parties and final as no appeal lies before any court against them.
7. Khadi and Village Industries Board, Khadi and Village Industries Commission, Small-Scale Industries Board, National Small Industries Corporation, Handloom Board, Handicrafts Board, Coir Board, Silk Board and so on have been set up for the development of cottage industries in rural areas.
8. The Community Development Programme (1952), Hill Area Development Programme (1960), Drought-Prone Area Programme (1973), Minimum Needs Programme (1974), Integrated Rural Development Programme (1978), Jawahar Rozgar Yojana (1989), Swarnajayanti Gram Swarozgar Yojana (1999), Sampurna Grameena Rozgar Yojana (2001), National Rural Employment Guarantee Programme (2006) and so on have been launched for raising the standard of living of people.
9. The Wildlife (Protection) Act, 1972 and the Forest (Conservation) Act, 1980, have been enacted to safeguard the wildlife and the forests respectively. Further, the Water and Air Acts have provided for the establishment of the Central and State Pollution Control Boards, which are engaged in the protection and improvement of environment. The National Forest Policy (1988) aims at the protection, conservation and development of forests.
10. Agriculture has been modernised by providing improved agricultural inputs, seeds, fertilisers and irrigation facilities.

Various steps have also been taken to organise animal husbandry on modern and scientific lines.

11. Three-tier panchayati raj system (at village, taluka and zila levels) has been introduced to translate into reality Gandhiji's dream of every village being a republic. The 73rd Amendment Act (1992) has been enacted to provide constitutional status and protection to these panchayati raj institutions.
12. Seats are reserved for SCs, STs and other weaker sections in educational institutions, government services and representative bodies. The Untouchability (Offences) Act, 1955, which was renamed as the Protection of Civil Rights Act in 1976 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, have been enacted to protect the SCs and STs from social injustice and exploitation. The 65th Constitutional Amendment Act of 1990 established the National Commission for Scheduled Castes and Scheduled Tribes to protect the interests of SCs and STs. Later, the 89<sup>th</sup> Constitutional Amendment Act of 2003 bifurcated this combined commission into two separate bodies, namely, National Commission for Schedule Castes and National Commission for Schedule Tribes.
- 12a. Various national-level commissions have been established to promote and protect the social, educational and economic interests of the weaker sections of the society. These include the National Commission for Backward Classes (1993), the National Commission for Minorities (1993), the National Commission for Women (1992) and the National Commission for Protection of Child Rights (2007). Further, the 102<sup>nd</sup> Amendment Act of 2018 conferred a constitutional status on the National Commission for Backward Classes and also enlarged its functions.
- 12b. In 2019, the central government issued orders providing 10% reservation to the Economically Weaker Sections (EWSs) in admission to educational institutions and civil posts and services in the Government of India. The benefit of this reservation can be availed by the persons belonging to EWSs who are not covered under any of the existing

schemes of reservations for SCs, STs and OBCs. This reservation was facilitated by the 103<sup>rd</sup> Amendment Act of 2019.

13. The Criminal Procedure Code (1973) separated the judiciary from the executive in the public services of the state. Prior to this separation, the district authorities like the collector, the sub-divisional officer, the tehsildar and so on used to exercise judicial powers along with the traditional executive powers. After the separation, the judicial powers were taken away from these executive authorities and vested in the hands of district judicial magistrates who work under the direct control of the state high court.
14. The Ancient and Historical Monument and Archaeological Sites and Remains Act (1951) has been enacted to protect the monuments, places and objects of national importance.
15. Primary health centres and hospitals have been established throughout the country to improve the public health. Also, special programmes have been launched to eradicate widespread diseases like malaria, TB, leprosy, AIDS, cancer, filaria, kala-azar, guineaworm, yaws, Japanese encephalitis and so on.
16. Laws to prohibit the slaughter of cows, calves, and bullocks have been enacted in some states.
17. Some states have initiated the old age pension schemes for people above 65 years.
18. India has been following the policy of non-alignment and panchsheel to promote international peace and security.

In spite of the above steps by the Central and state governments, the Directive Principles have not been implemented fully and effectively due to several reasons like inadequate financial resources, unfavourable socio-economic conditions, population explosion, strained Centre-state relations and so on.

## DIRECTIVES OUTSIDE PART IV

Apart from the Directives included in Part IV, there are some other Directives contained in other Parts of the Constitution. They are:

1. *Claims of SCs and STs to Services*: The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or a State (Article 335 in Part XVI).
2. *Instruction in mother tongue*: It shall be the endeavour of every state and every local authority within the state to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups (Article 350-A in Part XVII).
3. *Development of the Hindi Language*: It shall be the duty of the Union to promote the spread of the Hindi language and to develop it so that it may serve as a medium of expression for all the elements of the composite culture of India (Article 351 in Part XVII).

The above Directives are also non-jus-ticiable in nature. However, they are also given equal importance and attention by the judiciary on the ground that all parts of the constitution must be read together.

**Table 8.2** *Articles Related to Directive Principles of State Policy at a Glance*

Article No.	Subject Matter
36.	Definition of State
37.	Application of the principles contained in this part
38.	State to secure a social order for the promotion of welfare of the people
39.	Certain principles of policy to be followed by the

	State
39A.	Equal justice and free legal aid
40.	Organisation of village panchayats
41.	Right to work, to education and to public assistance in certain cases
42.	Provision for just and humane conditions of work and maternity relief
43.	Living wage, etc., for workers
43A.	Participation of workers in management of industries
43B.	Promotion of co-operative societies
44.	Uniform civil code for the citizens
45.	Provision for early childhood care and education to children below the age of six years
46.	Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections
47.	Duty of the State to raise the level of nutrition and the standard of living and to improve public health
48.	Organisation of agriculture and animal husbandry
48A.	Protection and improvement of environment and safeguarding of forests and wildlife
49.	Protection of monuments and places and objects of national importance
50.	Separation of judiciary from executive
51.	Promotion of international peace and security

## NOTES AND REFERENCES

1. Actually, Directive Principles are mentioned in Articles 38 to 51. Article 36 deals with the definition of State while Article 37 deals with the nature and significance of Directive Principles.
2. Granville Austin, *The Indian Constitution—Cornerstone of a Nation*, Oxford, 1966, P. 75.
3. A 'Police State' is mainly concerned with the maintenance of law and order and defence of the country against external aggression. Such a restrictive concept of state is based on the nineteenth century theory of individualism or laissez-faire.
4. This second provision was added by the 44th Constitutional Amendment Act of 1978.
5. The last point (f) was modified by the 42nd Constitutional Amendment Act of 1976.
6. This Directive was added by the 42nd Constitutional Amendment Act of 1976.
7. 'Living wage' is different from 'minimum wage', which includes the bare needs of life like food, shelter and clothing. In addition to these bare needs, a 'living wage' includes education, health, insurance, etc. A 'fair wage' is a mean between 'living wage' and 'minimum wage'.
8. This Directive was added by the 42nd Constitutional Amendment Act of 1976. 8a. This Directive was added by the 97<sup>th</sup> Constitutional Amendment Act of 2011.
9. This Directive was changed by the 86th Constitutional Amendment Act of 2002. Originally, it made a provision for free and compulsory education for all children until they complete the age of 14 years.
10. This Directive was added by the 42nd Constitutional Amendment Act of 1976.
11. *Constituent Assembly Debates*, volume VII, P. 476.
12. M.P. Jain, *Indian Constitutional Law*, Wadhwa, Third Edition (1978), P. 595.
13. *Constituent Assembly Debates*, volume VII, P. 470.
14. N. Srinivasan, *Democratic Government in India*, P. 182.
15. Sir Ivor Jennings, *Some Characteristics of the Indian Constitution*, 1953, P. 31–33.

16. *Journal of Constitutional and Parliamentary Studies*, June 1975.
17. M.C. Chagla, *An Ambassador Speaks*, P. 35.
18. Granville Austin, *The Indian Constitution—Cornerstone of a Nation*, Oxford, 1966, P. 50–52.
19. P.B. Gajendragadker, *The Constitution of India (Its Philosophy and Postulates)*, P. 11.
20. *State of Madras v. Champakam Dorairajan*, (1951).
21. *Golak Nath v. State of Punjab*, (1967).
22. Article 39 (b) says: The State shall direct its policy towards securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common good.
23. Article 39 (c) says: The state shall direct its policy towards securing that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.
24. *Kesavananda Bharati v. State of Kerala*, (1973).
25. *Minerva Mills v. Union of India*, (1980).



## **Government of Tamilnadu**

### **Department of Employment and Training**

Course : TNPSC Group II Exam  
Subject : Indian Polity  
Topic : **Union Executive**

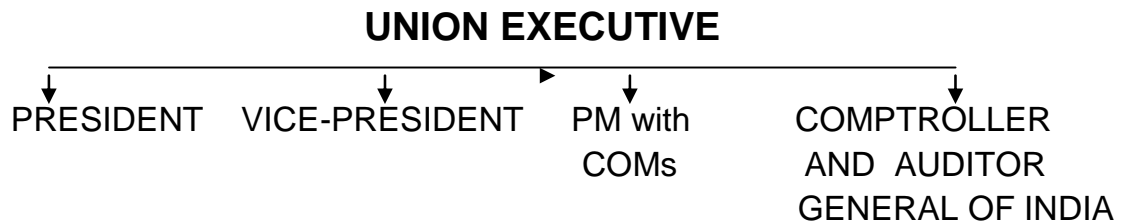
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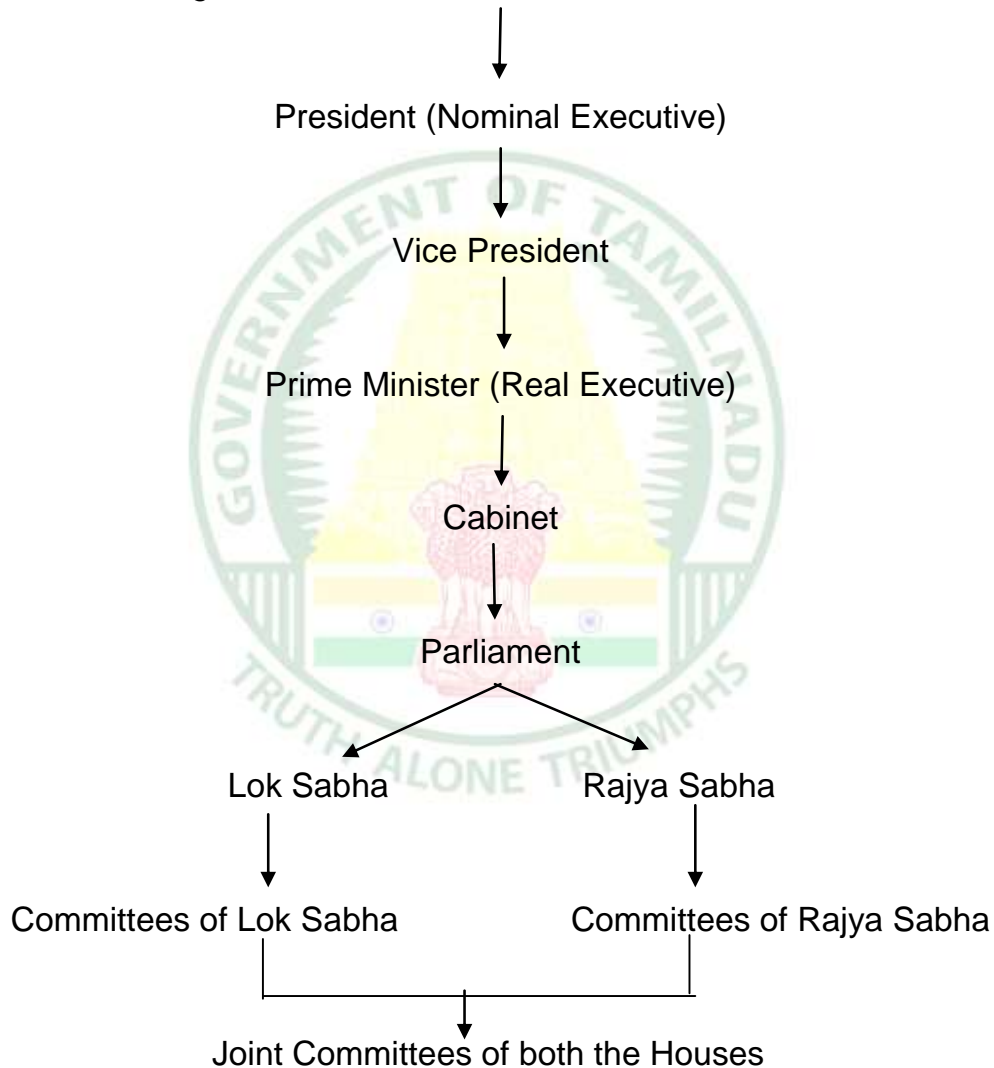
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# UNION EXECUTIVE



## Organisational Structure of Union Government



## PRESIDENT

1. Article 52-78 in Part V of the constitution, deals with Union Executive.
2. The President is the head of the Indian State.
3. He is the first Citizen of India.

4. He should not hold any office of profit under the Government.
5. He must be supported by atleast 50 elector as proposer and 50 electors as seconders.
6. Security deposit - Rs.25,000, Lost deposit if the person got less than  $\frac{1}{6}^{\text{th}}$  of vote.

PART V: The Union	
CHAPTER I - The Executive	
Article 52	The President of India.
Article 54	Election of President.
Article 55	Manner of Election of President.
Article 61	Procedure for impeachment of the President.
Article 72	Power of President to grant pardons, to suspend, remit or commute sentences in certain cases.

### Election: (Article 54 and 55)

### Qualifications: (Article 58)

1. He should be a Citizen of India.
2. He must have completed the age of 35 years.
3. He should be qualified to become the member of the Lok Sabha.

1. Indirect Election.
2. Not directly elected by the people, but by the members of electoral college. The Electoral college consists of
  - ❖ Elected members of both the Houses of parliament.
  - ❖ Elected members of legislative assemblies of the state.
  - ❖ Elected members of the legislative assemblies of Union territories of Delhi and Puducherry.
  - ❖ Nominated members should not in the came under electoral college.

3. Value of vote of an MLA.

$$= \frac{\text{Total Population of State}}{\text{Total Number of Elected members in the State Legislative Assemblies}} \times \frac{1}{1000}$$

**Union Executive**

4. Value of vote of an MP

$$= \frac{\text{Total value of votes of all MLA's of all states}}{\text{Total numbers of elected members of parliament}}$$

❖ In his absence senior most Judge of the Supreme Court available.

5. Electoral Quota

$$\frac{\text{Total Number of Valid Votes Polled}}{1+1=(2)} + 1$$

**Salary :**

❖ Salary and privileges are determined by Parliament.

6. Secret ballot, system of proportional representation by means of single transferable vote.

**Resignation :**

❖ Address his Resignation letter to Vice-President of India .

7. All doubts and disputes in connection with election of President are inquired into and decided by Supreme Court, whose decision is final.

❖ Vice-President communicate it to the Speaker of Lok Sabha about his resignation.

**Removal:**

❖ Impeachment for violation of constitution.

**Term of Office: (Article 56)**

1. The president hold office for a term of 5 years.
2. He can hold office beyond his term until his successor assumes charge.
3. He is eligible for re-election to that office.
4. He may be elected for any number of times.

**Vacancy:**

1. In case the office falls vacant due to death, resignation or removal, the Vice-President act as President. (If he is not available then Chief Justice, if not then senior - most judge of Supreme Court).
2. The election is to be held within six months of vacancy.

**Oath of Office: (Article 60)**

❖ Oath is administered by Chief Justice of India.

### Impeachment of the President (Art. 61)

- Under Art.61 of the Constitution, The President of India can be impeached for the violation of the Constitution, which is solely to be decided by the Parliament.
- The impeachment procedure is quasi-judicial in nature. Impeachment can be initiated in either house. Originating House passes Resolution to this effect by a 2/3<sup>rd</sup> majority of the strength of the House (resolution supported by not less than 25%) of the members of the House.
- It will be moved only after a prior notice of 14 days to the President).
- The other House sets up a Committee to investigate the charges against the President.
- The President can defend himself by taking service of the Attorney General of India or any other lawyer of his choice.
- If the second house also passes the resolution with the same 2/3<sup>rd</sup> majority of the strength of the house, the President stands impeached.
- So Far no President Impeached.
- Nominated members of either House of Parliament can participate in the impeachment of the president though they do not participate in his election.
- The elected members of the legislative assemblies of states and Union Territories of Delhi & Puducherry do not participate in impeachment though they participate in election.

#### List of Presidents:

Sl. No.	Period	Victorious Candidate	Special Features
1.	1952 - 1962	Dr.Rajendra Prasad	Only President to secure two terms in office
2.	1962 – 1967	Dr.S.Radhakrishnan	He received Bharat Ratna Award in 1954 before becoming the President

**Union Executive**

3.	1967 – 1969	Dr.Zakir Hussain	1 <sup>st</sup> Indian President died in office.
4.	3 <sup>rd</sup> May 1969 – 20 <sup>th</sup> July 1969	V.V.Giri	Only Person served both an acting President and President of India
5.	20 <sup>th</sup> July 1969 – 24 <sup>th</sup> August 1969	Mohammed Hidayatullah	Chief Justice of India, who acted as President of India
6.	24 <sup>th</sup> August 1969 – 24 <sup>th</sup> August 1974	V.V.Giri	
	1974 – 1977	Fakhruddin Ali Ahmed	Second Indian President to die in office
	1977 – 1982	N. Sanjeeva Reddy	1 <sup>st</sup> Chief Minister of Andhra Pradesh
7.	1982 - 1987	Giani Zail Singh	
8.	1987 – 1992	R.Venkataraman	
9.	1992 – 1997	Dr.Shankar Dayal Sharma	
10.	1997 - 2002	K.R.Narayanan	
11.	2002 – 2007	Dr.A.P.J.Abdul Kalam	Affectionately known as people's President
12.	2007 - 2012	Ms.Pratibha Patil	1 <sup>st</sup> Woman to become the President of India. She was also the first female governor of Rajasthan
13.	2012 to till date	Pranab Mukherjee	

**POWERS:**

**Executive Powers:**

1. All executive actions of the Government of India are formally taken in his name.

2. He can make rules for more convenient transaction of business of the Union government, and for allocation of the said business among the ministers.

**Union Executive**

- ◆.....◆
3. He can declare any area as scheduled area and has powers with respect to the administration of scheduled areas and tribal areas.
  4. He appoints : PM, Ministers, Chief Justice and Judges of Supreme Court and High Court, Chairman and members of UPSC, Comptroller and Auditor General, Attorney General, Chief Election Commissioner and Other members of Election Commission, Governors, Members of Finance Commission, Ambassadors.
  5. He directly administers the Union Territories through the Lt.Governor, Commissioner, Administrator.
  - bill pending in the parliament or otherwise.
  5. Appoint any member of the Lok Sabha as the Speaker or Deputy Speaker when the year office fall vacant (same way in Rajya Sabha).
  6. In persons having special knowledge in literature, science, Art and social Service. Nominates: 12 members - Rajya Sabha. 2 Members to Lok Sabha (Anglo-Indian Community).
  7. Prior Recommendation is needed to introduce certain type of bills in Parliament. (Ex. Bill having expenditure from

**Legislative Powers:**

1. Can summon and prorogue the session of the two houses and can dissolve Lok Sabha.
2. Can address both the houses jointly or separately.
3. Addresses the first session after general election and at the commencement of the first session of a each year.
4. Can send messages to both the houses, whether with respect to a
- (i). Consolidated fund of India
- (ii) alteration of boundaries
- (iii) creation of new states
- a) Assent to the bill
- b) With hold his assent
- c) Return (if it is not a money bill or a constitutional amendment bill).
8. He enjoys 3 type of veto - powers
- 1) Absolute Veto
- 2) Suspense Veto
- 3) Pocket Veto
9. Enact laws through ordinance Article 123 when the parliament

*Union Executive*

is not in session (Ordinance must be approved by Parliament within 6 weeks of reassembly). Also withdraw ordinance at any time.

10. Lays the report of Comptroller and Auditor General, UPSC, the Finance Commission and others before the parliament.

**Financial Powers:**

- ❖ All money bills can originate in Parliament (prior recommendation of President).
- ❖ No Demand for grant can be made except on his recommendation.
- ❖ Make advances out of the Contingency Fund of India to meet any unforeseen expenditure.
- ❖ Appoints finance commission. (Every 5 years).
- ❖ He can laid before the Annual financial statement before parliament.

**Judicial Powers: Art. 72**

Appoints Chief Justice of Judges of SC & HC. The President's pardoning power comprises a group of analogous powers.

- 1) **Pardon** : It removes both the sentences and the conviction and

completely absolves the offender from all punishments and disqualifications.

- 2) **Reprieve**: It means a stay of the execution of a sentence for a temporary period.

- 3) **Remission**: The power of remission reduces the period of sentence without changing its character. E.g., a sentence of imprisonment for one year may be remitted for six months.

- 4) **Respite** : The power to grant respite means awarding a lesser sentence instead of the prescribed penalty in view of some special facts E.g. pregnancy of the woman offender.

- 5) **Commutation**: It merely substitutes one form of the punishment for a lighter character - death by transportation, transportation by rigorous imprisonment, rigorous imprisonment by simple imprisonment, and simple imprisonment by fine and so on.

**Military Powers:**

**Union Executive**

- ◆.....◆
- ❖ President, the Supreme Commander of the Defence Forces of India.
  - ❖ Appoints Chiefs of Army, Navy & Air Force.
  - ❖ Declares war or conclude peace, subject to the approval of the Parliament.
  - ❖ vested in him to deal with unforeseen or urgent matters. But, the exercises of this power is subject to the following four limitations:
  - ❖ He can promulgate an ordinance only when both the Houses of Parliament are not in session or when either of the two Houses of Parliament is not in session.

**Diplomatic Powers:**

- ❖ Represents country in international forums.
- ❖ Sends ambassadors & receives diplomats.
- ❖ International treaties & agreements are concluded on his behalf.
- ❖ He can make an ordinance only when he is satisfied that the circumstances exist that render it necessary for him to take immediate action. The 38<sup>th</sup> Constitutional Amendment Act of 1975 made the President's satisfaction final and conclusive and beyond judicial review. But, this provision was deleted by the 44<sup>th</sup> Constitutional Amendment Act of 1978.

**Ordinance-Making Power of the President**

1. Article 123 of the Constitution empowers the President to promulgate ordinances during the recess of Parliament. These ordinances have the same force and effect as an act of Parliament, but are in the nature of temporary laws.
2. The ordinance-making power is the most important legislative power of the President. It has been
- ❖ His ordinance-making power is coextensive as regards all matters except duration, with the law-making powers of the Parliament. This has two implications:
  - a) An ordinance can be issued only on those subjects on

which the Parliament can make laws.

– Financial Emergency - Art. 360

b) An ordinance is subject to the same constitutional limitation as an act of Parliament. Hence, an ordinance cannot abridge or take away any of the fundamental rights.

❖ Every ordinance issued by the President during the recess of Parliament must be laid before both the Houses of Parliament when it reassembles. If the ordinance is approved by both the Houses, it becomes an act. If Parliament takes no action at all, the ordinance ceases to operate on the expiry of six weeks from the reassembly of Parliament. The ordinance may also cease to operate even earlier than the prescribed six weeks, if both the Houses of Parliament pass resolutions disapproving it.

❖ **Emergency Powers:** President can Declare

- National Emergency - Art. 352
- State Emergency - Art. 356

## VICE PRESIDENT

- ❖ The Vice-President occupies the second highest office in the country.
- ❖ This office is modelled on the lines of the American Vice-President.
- ❖ Article 63 : Vice President of India
- ❖ Article 66 : Election of Vice President
- ❖ Elected by both the houses (Electoral College) of parliament
- ❖ The Supreme Court has the final and exclusive jurisdiction for resolving disputes and doubts relating to the election of the Vice-President.

### ***Qualification:***

- ❖ Citizen of India.
- ❖ More than 35 years of age.
- ❖ Possess the qualification for membership of Rajya Sabha.
- ❖ Not hold any office of profit.

### **Term of Office: (Article 67)**

- ❖ Holds office for 5 years.

*Union Executive*

- ♦.....♦
- ❖ Can be re-elected.
  - ❖ He is the chairman of Rajya Sabha.
  - ❖ He is not a member he has no right to vote but in case of equality of votes he can use casting vote.
- Oath: (Article 69)** - is administered by the President or some person appointed in that behalf by him.

**LIST OF VICEPRESIDENT:**

Sl. No.	Period	Victorious Candidate
1.	1952 - 1962	Dr. Sarvepalli Radhakrishnan
2.	1962 – 1967	Dr. Zakir Hussain
3.	1967 – 1969	V.V.Giri
4.	1969 – 1974	Gopal Swarup Pathak
5.	1974 – 1979	B.D. Jatti
6.	1979 – 1984	Justice Muhammad Hidayatullah
7.	1984 – 1987	R. Venkataraman
8.	1987 – 1992	Dr. Shankar Dayal Sharma
9.	1992 – 1997	K.R. Narayanan
10.	1997 – 2002	Krishan Kant
11.	2002 – 2007	Bhairon Singh Shekhawat
12.	2007 to 2017	Mohd.Hamid Ansari
13.	2017 onwards	Venkaiah Naidu

- ❖ Being the Vice President of India, he is not entitled for any salary; but draws the salary and allowances payable to the Chairman of the Rajya Sabha.
- ❖ All bills, resolution, motion can be taken in Rajya Sabha after his consent.
- ❖ Can discharge the function of President if the post falls vacant. (For 6 months).

◆.....◆  
The Vice President takes over the office of the President when the situation arises due to

1. death of the President;
2. resignation of the President;
3. removal of the President;
4. absence, illness or any other cause, When he discharges the functions of the President, the Vice President does not perform the duties of the office of the Chairman of Rajya Sabha and shall not be receive the salary of the Chairman of Rajya Sabha. During this period, he is entitled for the privileges of the President of India.
5. Present salary is Rs. 1,25,000/- per month. Pension is 50% of the salary

## **PRIME MINISTERS**

In the scheme of parliamentary system of government, the President is the nominal executive authority (de jure executive) and Prime Minister is the real executive authority (de facto executive).

### ***Appointment of the Prime Minister:***

- ❖ Article 75 says only that the Prime Minister shall be appointed by the President and other minister are appointed on PM's advice.
- ❖ The President has to appoint the leader of the majority party in the Lok Sabha as the Prime Minister. But, when no party has a clear majority in the Lok Sabha, then the president may exercise his personal discretion in the selection and appointment.

### ***Oath, Term and Salary:***

- ❖ President administers the oaths of office and secrecy.
- ❖ The term of the Prime Minister is not fixed and he holds office during the pleasure of the President.
- ❖ He gets the salary and allowances that are payable to a member of parliament.

### **Powers and Functions:**

#### ***In Relation to Council of Ministers***

- ❖ He recommends persons who can be appointed as ministers by the president.

### *Union Executive*

- ❖ He allocates and reshuffles various portfolios among the ministers.
- ❖ He can ask a minister to resign or advise the President to dismiss him in case of difference of opinion.
- ❖ He presides over the meeting of council of ministers
- ❖ He can recommend dissolution of the Lok Sabha to President at any time.
- ❖ He announces government policies on the floor of the house.

### **Other Powers & Functions**

#### ***In Relation to the President***

- ❖ He is the principal channel of communication between the President and the council of ministers.
- ❖ He advises the president with regard to the appointment of important officials like attorney general of India, Comptroller and Auditor General of India, chairman and members of the UPSC, election commissioners, chairman and members of the finance commission and so on.
- ❖ He is the chairman of the Planning Commission, National Development Council, National Integration Council, Inter-State Council and National Water Resources Council.
- ❖ He plays a significant role in shaping the foreign policy of the country.
- ❖ He is the chief spokesman of the Union government.
- ❖ He is the crisis manager-in-chief at the political level during emergencies.

#### ***In Relation to Parliament***

- ❖ He advises the president with regard to summoning and proroguing of the sessions of the Parliament.

### **COUNCIL OF MINISTERS**

- ❖ The council of ministers headed by the prime minister is the real executive authority in our politico administrative system.
- ❖ Article 74 deals with the status of the council of ministers while, Article 75 deals with the appointment, tenure, responsibility,

qualification, oath and salaries and allowances of the ministers.

- ❖ The council of ministers shall be collectively responsible to the Lok Sabha.

#### **Article 74 – Council of Ministers to aid and advise President:**

1. There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice.
- ❖ The advice tendered by Ministers to the President shall not be inquired into any court.

#### **Article 75 – Other Provisions as to Ministers:**

- ❖ The total number of ministers, including, the Prime Minister, in the Council of Ministers shall not exceed 15% of the total strength of the Lok Sabha. The provision was added by the 91<sup>st</sup> Amendment Act of 2003.
- ❖ A member of either house of Parliament belonging to any political party who is disqualified on the ground of defection shall also be disqualified to be appointed as a minister. This provision was also added by the 91<sup>st</sup> Amendment Act of 2003.

#### **Nature of Advice by Ministers:**

- ❖ Article 74 provides for a council of ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions. The 42<sup>nd</sup> and 44<sup>th</sup> Constitutional Amendment Acts have made the advice binding on the President.
  - ❖ The council of ministers consists of 3 Categories of Ministers namely,
    - 1) Minister of Cabinet Rank
    - 2) Minister of State
    - 3) Deputy Minister.
  - ❖ It is a team & its members sink or swim together. (Article 75).
  - ❖ The cabinet ministers head the important ministries of the Central government like home, defence, finance, external affairs and so forth. They are members of the cabinet, attend its meetings and play an important role in deciding policies.
2. The ministers of state can either be given independent charge of

*Union Executive*



ministries/departments or can be attached to cabinet ministers. However, they are not members of the cabinet and do not attend the cabinet meetings unless specially invited when something related to their ministries/departments are considered by the cabinet.

- ❖ Next in rank are the deputy ministers. They are not given independent charge of ministries / departments. They are attached to the cabinet ministers or ministers of state and assist them in their administrative, political, and parliamentary duties. They are not members of the cabinet and do not attend cabinet meetings.

**Cabinet Committees:**

- ❖ They are of two types – standing and adhoc. The former are of a permanent nature while the latter are of a temporary nature. The ad hoc committees are constituted from time to time to deal with special problems. They are disbanded after their task is completed.

**Kitchen Cabinet:**

- ❖ The cabinet, a small body consisting of the prime minister as its head and some 15 to 20 most important ministers, is the highest decision-making body in the formal sense. However, a still smaller body called the 'inner Cabinet' or 'Kitchen Cabinet' has become the real centre of power.



## **Government of Tamilnadu**

### **Department of Employment and Training**

Course : TNPSC Group II Exam  
Subject : Indian Polity  
Topic : **Parliament**

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# PARLIAMENT

## PARLIAMENT

- ❖ According to Article 79, the Parliament consists of the President, the Council of States (Rajya Sabha) and the House of the People (Lok Sabha).

### ***Session of the Parliament:***

- ❖ At the discretion of the President
- ❖ Gap should not be more than six months.
- ❖ Budget Session (Longer session) (February - May)
- ❖ Monsoon Session (July - September)
- ❖ Winter Session (November - December)

### **Lok Sabha**

- ❖ Maximum strength - 550 + 2 [530 - States/ 20 - Union Territories].
- ❖ Present strength of Lok Sabha - 545. [530 - States, 13- Union Territories, 2 - Anglo-Indian members are nominated by the President]

- ❖ The Ninety First Amendment, 2001, extended freeze on Lok Sabha and State Assembly seats till 2026.

### ***Tenure:***

- ❖ Lok Sabha - 5 years. (Extended for 1 year each time at the time of National emergency).

### ***Qualification :***

- ❖ Citizen of India.
- ❖ At least 25 yrs of age.
- ❖ Not hold any office of profit.
- ❖ No unsound mind / insolvent.
- ❖ Has registered as voter in any Parliamentary constituency.

### ***Disqualification:***

- ❖ If he voluntarily gives up the membership of party.
- ❖ If he over - rules the 'whip'.
- ❖ Absent for 60 days without intimation.

### ***Oath:***

- ❖ By Pro-Tem Speaker.

## Parliament

### **Presiding Officer:**

- ❖ Speaker (In his absence Deputy Speaker)
- ❖ Member among themselves elect him.
- ❖ The Speaker continues in office even after the dissolution of the Lok Sabha till a newly elected Lok Sabha meets.

### **Salary:**

- ❖ From Consolidated Fund of India.

### **Resignation:**

- ❖ He resigns by writing to the Deputy Speaker.

### **Removal:**

- ❖ Majority of the total membership can remove Speaker after giving a 14 days notice (he doesn't preside over the meetings).
- ❖ After his removal, continues till his successor takes charge.

### **Rajya Sabha:**

- ❖ Maximum Strength - 250 (238 – States and Union Territories 12 – nominated by the President).

- ❖ President nominates 12 persons having special knowledge or experience in the fields of literature, science, art and social service.
- ❖ Present strength of Rajya Sabha – 245.
- ❖ 233 seats for the state and the union territories.
- ❖ All the States and the Union Territories of Delhi and Pondicherry are represented.
- ❖ Proportional representation through a single transferable vote.
- ❖ No seats reserved for Scheduled Castes and Scheduled Tribes in Rajya Sabha.

### **Qualification:**

- ❖ Citizen of India
- ❖ Age - 30 years

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

- ❖ Vice President is the ex-officio chairman of Rajya Sabha.
- ❖ Removal of the Vice-President can originate only in the Rajya Sabha.
- ❖ Any resolution- creation of one or more All India Services (All

India Judicial Services - Article 312)

- ❖ Any resolution seeking legislation on any subject of the state list can originate in Rajya Sabha (Article 249)
- ❖ He presides over Rajya Sabha as long as he does not act as the President of India, a vacancy in the office of the President of India.

### ***Different Stages In The Passage Of Bills (Other Than The Money Bills):***

#### ***Introduction of the Bill:***

- ❖ It involves introduction of Bill accompanied by the Statement of Objects and reasons.
- ❖ If a private member wishes to introduce a Bill, he must give one month notice of his intention to introduce the Bill.
- ❖ The introduction of the Bill and its publication in the Gazette constitutes the First Reading of the Bill.

#### ***Second Reading of the Bill:***

- ❖ Discussion of clauses, schedules and amendments.

#### **There are four alternate courses:**

1. The Bill may be taken into consideration immediately or on some other fixed date
  1. The Bill may be referred Select Committee of the House.
  2. The Bill may be referred to a Joint Committee of the House.
  3. The Bill may be circulated for the elicit public opinion.
- ❖ If the Bill is referred to the Select Committee or Joint Committee, it is to give its report within a specified date.
  - ❖ The Committee submits its report to the House, which were printed and made available for the members of the House. This is called the report stage of the Bill (discussion clause by clause).

#### ***Third Reading of the Bill:***

- ❖ The third reading is the final reading.

#### **Bill in the Second House:**

#### **Four Alternatives of Second House:**

- i. It may pass the Bill with no amendments - have been passed by both the Houses

## Parliament

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- ii. It may pass the Bill with amendments. The Bill will be returned to the originating House, accepts then the bill is considered to be passed.
  - iii. If the originating House does not agree to the amendments made by the other House and if there is final disagreement amendments between the two Houses, the President summons the Joint session;
  - iv. It may reject the Bill altogether. Again the President can summon Joint Session;
  - v. It may take no action on the Bill by keeping it lying on the table, (six months passes from the date of reception of the President summons for the Joint Session).
- ❖ In case, a bill remains pending un passed for more than 6 months, Joint session is presided over by the Speaker of Lok Sabha (or in his absence Deputy Speaker or by the Deputy Chairman of the Rajya Sabha)
  - ❖ The Lok Sabha is dissolved, before the President notifies a Joint sitting, the bill lapses (no joint sitting is possible).
  - ❖ The deadlock over a Bill is resolved by a majority of the total number of the members of both the Houses present and voting.
  - ❖ No fresh amendments can be done in Joint session.

### ***Prorogation Of House:***

#### **Joint Sitting:**

Can be ordered by President to consider a particular bill in case:

- ❖ A bill passed by one house is rejected by other.
- ❖ The amendments made by the other house are not acceptable to the house, where the bill originated.

- ❖ Means ending the session
- ❖ Pending bills or business does not lapse, they are taken in the next session.

#### **Budget:**

- ❖ The annual financial statement of the Government.

- ❖ It is presented to the Lok Sabha upon the recommendation of the President.
- ❖ It is presented by the Finance Minister.
- ❖ It is the statement of the estimated receipts and expenditures of the Government of India following Financial Year.
- ❖ All the expenditures approved through various demands for grants and expenses charged on the Consolidated Fund of India, are then presented in the form of a single Bill called the Appropriation Bill.
- ❖ The proposals for taxation to raise revenue are presented in form of 'Finance Bill'.

#### ***Dissolution Of The House:***

##### **Only of Lok Sabha.**

- ❖ By President on advices of PM
- ❖ Bill pending in Rajya Sabha, passed by Lok Sabha also lapses unless President call a Joint sitting of the two houses.
- ❖ Bills pending in Rajya Sabha, not passed by Lok Sabha don't lapse.

#### **Conduct Of Business In Parliament:**

##### ***Ordinary Bills:***

All bills, except money bills, are introduced in either house. [Speaker of Lok Sabha decides whether the bill is a money bill or not].

##### ***Money Bills:***

- ❖ It deals with the imposition or abolition of taxes, matters pertaining to borrowing of money by the government custody & maintenance of consolidated funds etc.
- ❖ It can originate only in Lok Sabha on the recommendation of the President. The Rajya Sabha can only delay it by 14 days. Its final authority lies with Lok Sabha only.

#### ***Consolidated Fund of India: (Article 266)***

- ❖ It is fund to which all the revenue, loans raised and income of the Government of India are deposited.
- ❖ Similarly no money can be spent out of this Fund except through the grants made by the Parliament and expenditures charged on the Consolidated Fund of India.

## Parliament

### ◆.....◆ **Contingency Fund Of India (Article 267):**

- ❖ Through an act of parliament in 1950, Contingency fund of India exists for disasters and related unforeseen expenditures.
- ❖ In 2005 it was raised from Rs. 50 crore to Rs. 500 crores.
- ❖ It is at the disposal of the President. He can make advances out of this fund to meet unforeseen expenses (no need of Parliament's approval)
- ❖ The states have their own Consolidated and Contingency Funds.

### **Question Hour:**

- ❖ The First hour of every sitting in both houses (11 am - 12 noon).
  - ❖ In this questions are asked by members & answered by ministers.
1. Starred Questions (I member can ask only one/day) for which oral answers is required.
  2. Unstarred Questions for which written answer (10 days notice) is required.
  3. Short Notice Questions are the ones which relates to matters of urgent public importance and

can be asked by members with notice shorter than the ten days prescribed for an ordinary question.

### **Zero Hour:**

- ❖ 12-1 PM daily. Time allotted everyday for miscellaneous business is call-attention notices, questions on official statements & adjournment motions.

### **Motion:**

- ❖ It is a proposal brought before the house for its opinion/decision.

### **Types:**

#### **a. Privilege Motion**

- ❖ A resolution introduced by the opposition that a minister has mislead the house by giving wrong information.

#### **b. Censure Motion**

- ❖ Moved only in Lok Sabha only by the opposition.
- ❖ It can be brought against the ruling government or against any minister (failure to act or seek disapproval of their policy).
- ❖ A censure motion must specify the charges against the

government for which it is moved (no leave of the House is required).

- ❖ If a censure motion is passed in the Lok Sabha, the Council of Minister is bound to seek the confidence of the Lok Sabha as early as possible.

**c. No Confidence Motion:**

- ❖ Can be moved only in Lok Sabha and only by the opposition. It can be brought only against the Council of ministers and not against any individual minister.
- ❖ If the motion is adopted by the house, the council of Ministers is bound to resign.
- ❖ It needs 50 members support in Lok Sabha.

**d. Call- Attention Motion:**

- ❖ A member (after permission from Speaker) calls the attention of the Minister to any matter of 'urgent public importance'.
- ❖ There is no Call-Attention motion in the Rajya Sabha. Instead there exist a motion called 'Motion for Papers'.

**e. Adjournment Motion:**

- ❖ Leads to setting aside the normal business of the House for discussing a definite matter of urgent public importance.
- ❖ Its available only for Lok Sabha.

**f. Cut Motions:**

- ❖ They are moved in the Lok Sabha only. They are part of the Budgetary Process which seeks to reduce the amounts for grants.

**Cut Motions can be divided into three categories:**

- Policy Cut:** A cut motion which says "The amount of the demand be reduced to Re. 1.
- Economy Cut:** The object of the motion is to reduce the amount of the expenditure and the form of the motion is "The amount of the demand reduced by Rs .... (a specified amount)".
- Token Cut:** Where the object of the motion is to ventilate a specific grievance within the sphere of responsibility of the Government of India form is "The amount of the demand be reduced by Rs.100".

◆.....◆

**1. Whip:**

A directive issued by any political party to ensure the support of its members voting in favour or against a particular issue on the floor of the House. A person may lose the membership of the party and the legislature if he votes against the whip or abstains from voting.

**2. Lame duck session:**

This refers to the last session of the old parliament which is held after a new Lok Sabha has been elected after the general election (not eligible for re-election).

**3. Snap vote:**

Refers to a vote taken unexpectedly without voters being briefed or informed about it in advance.

**4. Speaker Pro-tem:**

As soon as the new Lok Sabha is constituted a President appoints a Speaker Pro-tem who is usually the senior most member of the House. (Two members are equally qualified, weightage given to members age)

**Functions:**

- ❖ Include administering the oath to the newly elected Lok Sabha members and presiding over the election of the new Speaker.
- ❖ His term ceases as soon as the Speaker is elected.

**5. Guillotine:**

- ❖ When due to lack of time, demand for grants are put to vote whether they are discussed or not in the House on the last day of the allotted time, it is called Guillotine and it concludes the discussion on demands for grants.

**6. Quorum:**

- ❖ A Quorum is the Minimum number of members of a deliberative assembly necessary to conduct the business of that group. Quorum for either house (Article 100(c) is  $\frac{1}{10}$  the of the total numbers of members)

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**COMMITTEES IN PARLIAMENT:**

- ❖ Appointed to save time
- ❖ Most of them functions under the direction of Speaker

***Classified under two heads:***

- a. Standing Committees
- b. Ad hoc Committees
- ❖ Members of the Rajya Sabha are associated with all committees (Except estimate committees).
- ❖ Strength 1/3 of members on each committee
- ❖ Either elected by Rajya Sabha or nominated by the Chairman of Rajya Sabha.
- ❖ The members of the Committee are generally elected for not more than one year
- ❖ Chairman of all the Committees (except the Joint Committee on Salaries and Allowances of MPs) are appointed by the Speaker from amongst the members of the Committee.
- ❖ Joint Committee on Salaries and Allowances appoints its own Chairman.

**Public Accounts Committee**

- ❖ This committee was setup first in 1921 under the provisions of the Government of India Act of 1919 and has since been in existence.
- ❖ At present, it consists of 22 members (15 from the Lok Sabha and 7 from the Rajya Sabha). The term of office of the members is one year.
- ❖ The function of the committee is to examine the annual audit reports of the comptroller and auditor general of India (CAG), which are laid before the Parliament by the president.

**Estimates Committee**

- ❖ The origin of this committee can be traced to the standing financial committee set up in 1921.

***The functions of the committee are :***

1. To report what economies, improvements in organisation, efficiency and administrative reform consistent with the policy underlying the estimates, can be affected.

## Parliament

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2. To suggest alternative policies in order to bring about efficiency and economy in administration.
  3. To examine whether the money is well laid out within the limits of the policy implied in the estimates.
  4. To suggest the form in which the estimates are to be presented to Parliament.
- ❖ To exercise such other functions vested in the public accounts committee and the estimates committee in relation to public undertakings which are allotted to it by the Speaker from time to time.

### Committee on Public Undertakings

This committee was created in 1964 on the recommendation of the Krishna Menon Committee. Originally, it had 15 members ( 10 from the Lok Sabha and 5 from the Rajya Sabha). However, in 1974, its membership was raised to 22 (15 from the Lok Sabha and 7 from the Rajya Sabha).

The functions of the committee are :

- ❖ To examine the reports and accounts of public undertakings.
- ❖ To examine the reports of the comptroller and auditor general on public undertakings.
- ❖ To examine whether the affairs of the public undertakings are being managed in accordance with sound business principles and prudent commercial practices.

### Departmental Standing Committees

- ❖ On the recommendation of the Rules Committee of the Lok Sabha, 17 departmentally related standing committees were set-up in 1993. In 2004, seven more such committees were set up, thus increasing their number from 17 to 24.

#### ***The functions of each of the standing committees are:***

1. To consider the demands for grants of the concerned ministries / departments before they are discussed and voted in the Lok Sabha. Its report should not suggest anything of the nature of cut motions.
2. To examine bills pertaining to the concerned ministries departments.
3. To consider annual reports of ministries/departments.
4. To consider national basic long-term policy documents presented to the Houses.



## **Government of Tamilnadu**

### **Department of Employment and Training**

Course : TNPSC Group II Exam  
Subject : Indian Polity  
Topic : **State Executive Legislation Assembly**

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# STATE EXECUTIVE & LEGISLATION ASSEMBLY

## GOVERNOR

- ❖ Nominal Executive Head.
- ❖ Articles 153 to 167 in Part VI of the Constitution deal with the state executive.
- ❖ The state executive consists of the governor, the chief minister, the council of ministers and the advocate general of state.
- ❖ Each state has its own governor
- ❖ Under the Seventh Amendment Act, 1956 the same person can be appointed as Governor of one or more states or Lt. Governor of the Union Territory.
- ❖ Appointed by the President on the recommendations of Union Council of Ministers.
- ❖ Must possess the qualification or membership of State Legislature.
- ❖ Must't hold any office of profit.

### Other Points

- ❖ Term - 5 yrs subject to (Pleasure of President). Can hold office beyond his term until his successor assumes charge.
- ❖ Resignation & Removal: By President
- ❖ Legislature of a State or a High Court has no role in the removal of a Governor.

### Salary:

- ❖ Consolidated Fund of the State (Rs.1,10,000 per month)
- ❖ Has no right to vote of the State Legislature.
- ❖ When the same person is appointed as the Governor of two or more States, the emoluments and allowances payable to him shall be allocated

### Qualification

- ❖ Citizen of India.
- ❖ Completed 35 yrs of age.
- ❖ He Should not be a member of either house of parliament or the state legislature.

State Executive & Legislation Assembly



among the States in such proportion as determined by the President of India.

**Oath:**

- ❖ By Chief Justice of the concerned State High Court (in his absence, the senior-most judge of that Court)

**Powers**

**a. Executive Powers:**

- ❖ All executive actions of the government of a state are formally taken in his name.
- ❖ He can make rules specifying the manner in which the Orders and other instruments made and executed in his name shall be authenticated.
- ❖ Acts as chancellor of universities.
- ❖ Appoints Chief Minister, Council of Ministers, Chairman & members of State Public Service Commission, Advocate General of the State and Election Commissioner of the State.
- ❖ Recommend the imposition of constitutional emergency in a state.

**b. Legislative Powers:**

- ❖ Summons, Prorogues & dissolves the State Legislative Assembly.
- ❖ Addresses the first session of State Legislature after election and at the beginning of each new session.
- ❖ Sends messages to State Legislature on bills pending before it.
- ❖ Appoints 1/6th members of Legislative Council having special knowledge in literature, Science Art cooperative Social Service.
- ❖ Nominates one member from the Anglo-Indian community (if not proper representation).
- ❖ Makes laws through ordinances.
- ❖ Gives assent to the Bills so that they become laws.

**The Governor has three alternatives:**

- ❖ assent to the Bill;
- ❖ Return (if it is not a Money Bill), for reconsideration suggesting alternations. But such Bills when passed again have to be given assent;

State Executive & Legislation Assembly

- ❖ Reserve the Bill for the assent of the President.

**c. Financial Powers:**

- ❖ Ensures that the budget is laid, all money bills can be introduced on his recommendation only.
- ❖ Make advances out of contingency fund of the state to meet any unforeseen expenditure.
- ❖ Constitute Finance Commission every 5 years.

**d. Judicial Powers:**

- ❖ President consults Governor while appointing Chief Justice and other judges of High Court.
- ❖ Appoints judges of courts below the High Court, and grant pardon, reprieve or remission of punishment for offence against State laws, (Cannot grant pardon in cases of death sentences).

**e. Emergency Powers:**

- ❖ Reports to the President if the State Government is not running constitutionally and

recommends the President's Rule (Article 356).

- ❖ When the President's Rule is in progress, he becomes the Agent of the Union Government in the State.
- ❖ He takes over the reins of administration directly into his own hands and runs the State with the aid of the Civil Servants.

**Other Powers:**

- ❖ Receives & tables the report of State Auditor General.
- ❖ Tables the report of State Public Service Commission.
- ❖ Acts as Chancellor of State Universities & appoints Vice-chancellor.
- ❖ Can appoint any members as Chief Minister if no party has, clear-cut majority.
- ❖ Can refuse to sign an ordinary bill passed by State Legislature.

**CHIEF MINISTER**

- ❖ Real executive head of the Government at the State level.

### State Executive & Legislation Assembly



- ❖ The position is analogous to the position of the Prime Minister at the Centre.

3. Karnataka
4. Maharashtra
4. Uttar Pradesh
5. Andhra Pradesh
6. Telangana

### Appointment:

- ❖ Appointed by Governor Art 164.
- ❖ Other Ministers are appointed by the Governor on the advice of the Chief Minister.
- ❖ The Chief Minister is the chief link between the Governor and the Council of Ministers.
- ❖ It is he who keeps the Governor informed of all decisions of the Council of Ministers.
- ❖ If CM resigns, entire ministry resigns.
- ❖ A person who is not a member of State Legislature can be appointed, but he has to get himself elected within 6 months, otherwise he is removed.

- ❖ Legislative Council can be created or abolished on the recommendations of Legislative Assembly.
- ❖ The Parliamentary Standing Committee on Law and Justice, headed by E.M. Sudarsana Natchippan, has recommended revival of the Legislative Council in Andhra Pradesh, 20 years after it was abolished in 1985.
- ❖ Tamilnadu Legislative council was abolished in 1986.

### Legislative Council [Vidhan Parishad]

- ❖ Upper House,
- ❖ Like Rajya Sabha (Permanent house (sort of) and cannot be dissolved).

### STATE LEGISLATURE

- ❖ Can be
  - UNICAMERAL - One House
  - BICAMERAL - Two House

### Bicameral States (7):

1. Bihar
2. Jammu & Kashmir

### Strength:

- ❖ The total strength cannot exceed 1/3rd of the strength of Legislative Assembly
- ❖ Minimum of 40 members.
- ❖ The strength varies as per the population of state.

State Executive & Legislation Assembly

**Creation and Abolition:**

- ❖ As per Article 169, if the Legislative Assembly passes a resolution for abolishing creating of the Legislative Council by a majority of the total membership of assembly and by a majority of not less than two-third of the members present and voting, the Parliament may approve the resolution by a simple majority.

**Tenure:**

- ❖ 6 years term with 1/3<sup>rd</sup> members retiring every two years.

**Qualification:**

- ❖ Same as that of Lok Sabha
- ❖ Age - 30 years.

**Election :**

- ❖ 1/3<sup>rd</sup> of the members are elected by local bodies, 1/3<sup>rd</sup> by legislative assembly.
- ❖ 1/12<sup>th</sup> by university graduates of at least 3 years standing, similar proportion by teachers (not less than secondary school) of at least 3 years standing & 1/6<sup>th</sup> nominated by the Governor from persons who distinguish in

literature, science or social service

**Chairman:**

- ❖ The Council elects a Chairman & a Vice-chairman from amongst its members.

**Legislative Assembly [VIDHAN SABHA]**

- ❖ Lower House (just like the Lok Sabha).
- ❖ Consists of directly elected representatives.
- ❖ Term - 5 years, dissolved by the Governor earlier. (Term can be extended by one year during national emergency).
- ❖ The Council of ministers is collectively responsible to the Assembly.
- ❖ The Chief Minister is the leader of the house.

**Strength:**

- ❖ Consists of not more than 500 members & not less than 60 members.
- ❖ The strength varies according to the population of the State.
- ❖ The Legislative assembly of Sikkim, Goa, Mizoram, Arunachal Pradesh and

**State Executive & Legislation Assembly**

- ◆.....◆
- ❖ Pondicherry have less than 60 members.
  - ❖ passing the no - confidence motion).

**Qualification :**

- ❖ Same as that of the Lok Sabha or Legislative Council, (Except age 25 years).
- ❖ Participates in the Election of President

**Speaker / Deputy Speaker:**

- ❖ Every legislative assembly chooses its 2 members to be the Speaker and Deputy Speaker.
- ❖ Their functioning, resignation, removal procedures are exactly the same as the speaker / Deputy Speaker of the Lok Sabha.
- ❖ Has a share in the amendment of constitution as some provisions can be amended after ratification by the Legislatures of half of the State.

**Legislative Procedure :**

- ❖ For money bill the position is the same at union and state level.
- ❖ In case of ordinary bill, with hold for 3 months.

**Powers of State Legislature:**

- ❖ Can legislate on subjects contain in the State list, Concurrent list.
- ❖ Exercise Control over State Expenses, State Council of Ministers (can remove it by



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# LOCAL GOVERNMENT

## PANCHAYATI RAJ

- ❖ The term Panchayati Raj in India signifies the system of rural local self-government.
- ❖ It was constitutionalised through the 73<sup>rd</sup> Constitutional Amendment Act of 1992.
- ❖ It is in State List, Eleventh Schedule.
- ❖ Ensures the direct participation of people at the grass root level.

### ***Evolution of Panchayatiraj:***

#### ***Balwant Rai Mehta Committee***

- ❖ In January 1957, the Government of India appointed a committee to examine the working of the community development programme (1952) and the National Extension Service (1953).
- ❖ The chairman of this committee was Balwant Rai G Mehta
- ❖ The Committee submitted its report in November 1957 and recommended the establishment

of the scheme of 'democratic decentralisation, which ultimately came to be known as Panchayati Raj.

- ❖ It recommended:

- a) A 3-tier structure consisting of Zila Parishad at the District Level, Panchayat Samiti at the Block Level and Gram Panchayat at the Village Level.
- b) Genuine transfer of power & responsibility to these institutions.
- c) To provide Adequate resources to them.
- d) All social & economic development programmes channelized through these bodies.
- e) The 3-tier system of Panchayat Raj was 1<sup>st</sup> adopted by Rajasthan (Nagaur District) on Oct 2, 1959. This was followed by Andhra Pradesh, Bihar, Gujarat, Himachal Pradesh, Maharashtra, Punjab, Tamil Nadu, UP & West Bengal.

## Local Government

### Three Tier System

- ❖ It envisages Panchayat at the village level, Panchayat Samitis at the block level and Zilla Parishad at the district level.

### Village Panchayat:

- ❖ Consists of elected representatives of the people.
- ❖ Membership varies from 5-31.
- ❖ Seats reserved for SC, ST, women, etc.
- ❖ Chairman is elected from among its members, known as 'Sarpanch'.
- ❖ The Panchayat is accountable for all its actions to the Gram Sabha, the general body of villagers.
- ❖ Gram Sabha consists of all the adults residing within the jurisdiction of the Panchayat.
- ❖ It exercises general supervision over the working of the Panchayat & lays down necessary guidelines for its working.

### Block & Panchayat Samiti:

- ❖ The block, consisting of 20-60 villagers is administered through a Panchayat Samiti consisting of indirectly elected members of village panchayat.

- ❖ The chairman of Panchayat Samiti is called 'Pradhan'.

### Zila Parishad:

- ❖ It is the top level of the 3-tier structure.
- ❖ Elect its chairman from amongst its members who is known as the District Collector.
- ❖ Nyaya Panchayat – It is a Judicial Panchayats to try petty civil and criminal cases.

### Ashok Mehta Committee:

- ❖ Appointed in Dec, 1977 by the Janata Government.
- ❖ Submitted its report in 1978, which said :-
  - a. Replacement of 3-tier system by 2-tier system consisting of Mandal Panchayats at the base (consisting of a group of villages comprising a population of 15,000 to 20,000) & the Zilla Parishad at the top.
  - b. To reduce the dependence of Panchayati Raj Institutions on State Government by giving them powers to collect certain taxes like profession tax, entertainment tax, etc in their areas.

## Local Government

- c. Suggested the setting up of Social Justice Committee in each Zila Parishad to protect the interests of vulnerable sections of society.
- d. Favoured the open participation of political parties in the working of Panchayati Raj Institutions.

Narasimha Rao once again considered the matter of the constitutionalisation of panchayati raj bodies.

- ❖ This bill finally emerged as the 73<sup>rd</sup> Constitutional Amendment Act, 1992 and came into force on 24 April, 1993.

### 73<sup>rd</sup> Amendment Act of 1992:

#### G.V.K. Rao Committee:

- ❖ The committee on Administrative Arrangement for Rural Development and Poverty Alleviation Programmes under the chairmanship of G.V.K. Rao was appointed by the Planning Commission in 1985.

- ❖ This act has added a new Part – IX to the Constitution of India.
- ❖ Article 243 to 243 O – Panchayats and its provisions
- ❖ It also added a new Eleventh Schedule to the Constitution. It contains 29 functional items of the Panchayats.

#### L.M. Singhvi Committee:

- ❖ In 1986, Rajiv Gandhi government appointed a committee on 'Revitalisation of Panchayati Raj Institutions for Democracy and Development under the chairmanship of L M Singhvi.

### Salient Features

#### Gram Sabha (Article 243 A):

- ❖ The act provides for a Gram Sabha as the foundation of the panchayati raj system.

## CONSTITUTIONALISATION

#### Narasimha Rao Government:

- ❖ The Congress Government under the prime ministership of P.V.

### Three-Tier System:

- ❖ The act provides for a three-tier system of panchayati raj in every state, that is, panchayats at the village, intermediate, and district levels.

## Local Government

◆.....◆

### **Election of Members and Chairpersons:**

- ❖ All the members of panchayats at the village, intermediate and district levels shall be elected directly by the people.
- ❖ However, the chairperson of a Panchayat at the village level shall be elected in such manner as the state legislature determines.

### **Reservation of seats (Article 243 D):**

- ❖ The act provides for the reservation of not less than one-third of the total number of seats for women (including the number of seats reserved for women belonging the SCs and STs)

### **Duration of Panchayats (Article 243E):**

- ❖ The act provides for a Five – year term of office to the Panchayat at every level.

### **Disqualifications (Article 243 F):**

- ❖ A person shall be disqualified
  - i. under any law for the time being in force for the purpose of elections to the legislature of the state concerned, or

- ii. under any law made by the state legislature.

### **State Election Commission (Article 243 K):**

- ❖ The superintendence, direction and control of the preparation of electoral rolls and the conduct of all elections to the panchayats shall be vested in the state election commission.
- ❖ Powers and Functions:
  - a) the preparation of plans for economic development and social justice.
  - b) the implementation of schemes for economic development and social justice as may be entrusted to them, including those in relation to the 29 matters listed in the Eleventh Schedule.

### **Finances (Article 243 H):**

- ❖ The state legislature may
  - a) authorise a Panchayat to levy, collect and appropriate taxes, duties, tolls and fees.
  - b) provide for making grants-in-aid to the panchayats from the consolidated fund of the state.

**Local Government**

c) provide for constitution of funds for crediting all moneys of the panchayats.

Nagaland, Meghalaya and Mizoram and certain other areas.

**Finance Commission (Article 243 I):**

- ❖ The governor of a state shall, after every five years, constitute a finance commission to review the financial position of the panchayats.

**Continuance of Existing Laws and Panchayats (Article 243 N):**

- ❖ All the state laws relating to Panchayats shall continue to be in force until the expiry of one year from the commencement of this act.

**Audit of Accounts (Article 243 J):**

- ❖ The state legislature may make provisions with respect to the maintenance of accounts by the panchayats and the auditing of such accounts.

**Bar on Interference by Courts (Article 243 O):**

- ❖ The act bars the interference by courts in the electoral matters of panchayats.

**Application to Union Territories (Article 243 L):**

- ❖ The president of India may direct that the provisions of this act shall apply to any union territory subject to such exceptions and modifications as he may specify.

**TAMILNADU PANCHAYAT ACT:**

The Government of Madras enacted Madras Panchayats Act, 1958 and Madras District Development Council Act, with the following major features:

**Exempted States and Areas (Article 243 M):**

- ❖ The act does not apply to the states of Jammu and Kashmir,

- i) Creation of Panchayat Unions Coterminous with Development Blocks
- ii) Abolition of District Boards
- ii) Creation of District Development Council to play an advisory role
- iii) Entrustment of development and social welfare functions to Village Panchayats and

## Local Government



Panchayat Unions. However, the enactments deleted certain powers of Village Panchayats like judicial powers.

1/3<sup>rd</sup> of the total number of seats and offices is reserved for women.

❖ The rotation of offices in all three tiers will be once in 10 years.

❖ Election shall be conducted within 6 months from the date of occurrence of any vacancy and the tenure is fixed as 5 years for all the members and Chairpersons.

❖ Tamil Nadu State Election Commission was constituted.

❖ State Finance Commission is being constituted quinquennially.

❖ District Planning Committee has been constituted to consolidate the Development Plans of Panchayats and Urban Local Bodies in the Districts.

The Government of Tamil Nadu enacted Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994) which came into force on **22.4.1994**.

The 1994 Act brought in a number of changes in the Tamil Nadu Panchayat Raj structure:

❖ Three Tier System came into existence

❖ Members of the three tiers of Rural Local Bodies and Village Panchayat Presidents were directly elected whereas the Chairpersons of Panchayat Union Councils and District Panchayats were elected from among the elected ward members.

❖ All the three tiers of Panchayats are independent of each other and the Village Panchayat Presidents are not members in the Panchayat Union Council.

❖ Reservation of seats and offices for SCs/STs in proportion to their population has been made and

### Grama Sabha:

i) All the registered voters of a Village Panchayat constitute Grama Sabha, which is provided with specific powers and functions.

i) Grama Sabha shall statutorily be conducted in such a way that the intervening period between two Grama Sabhas shall not exceed a period of 6 months.

## Local Government

- ii) However, the Government of Tamil Nadu has made it mandatory to convene Grama Sabha a minimum number of 4 times i.e. on 26<sup>th</sup> January, 1<sup>st</sup> May, 15<sup>th</sup> August and 2<sup>nd</sup> October of every calendar year.
- iii) Besides, the Grama Sabha can be convened as and when the necessity arises.

the people through their elected representatives.

- ❖ There are eight types of urban local governments in India – municipal corporation, municipality, notified area committee, town area committee, cantonment board, township, port trust and special purpose agency
- ❖ Lord Ripon is called the father of local self-government in India.

The Grama Sabha performs the following functions:

- ❖ Approves the Village Development Plan.
- ❖ Approves the Village Panchayat Budget.
- ❖ Approves the Audit Report.
- ❖ Reviews the progress of scheme implementation.
- ❖ Approves the list of beneficiaries, intended to be benefitted under various schemes.
- ❖ Promotes communal and social harmony among various groups of people.

### 74<sup>th</sup> Amendment Act of 1992:

- ❖ The act has added a new Part IX-A to the Constitution of India.
- ❖ Articles 243-P to 243-ZG – Municipalities
- ❖ It contains 18 Functional Items.

### Three Types of Municipalities (Article 243 Q):

- ❖ A Nagar Panchayat – transitional area
- ❖ A municipal council – smaller urban area
- ❖ A municipal corporation – larger urban area

## URBAN LOCAL GOVERNMENTS

- ❖ The term 'Urban Local Government' in India signifies the governance of an urban area by

### Composition (Article 243 R):

- ❖ All the members of a municipality shall be elected directly by the people of the municipal area.

## Local Government

### ◆.....◆ **Wards Committee (Article 243 S):**

- ❖ There shall be constituted a wards committee, consisting of one or more wards, within the territorial area of a municipality having population of three lakh or more.

### **Reservation of Seats (Article 243 T):**

- ❖ The act provides for the reservation of seats for the scheduled castes and the scheduled tribes in every municipality in proportion of their population to the total population in the municipal area.

### **Duration of Municipalities (Article 243 U):**

- ❖ The act provides for a five-year term of office for every municipality.

### **Disqualifications (Article 243 V):**

- ❖ A person shall be disqualified for being chosen as or for being a member of a municipality if he is so disqualified
  - i. under any law for the time being in force for the purposes of elections to the

legislature of the state concerned

- ii. under any law made by the state legislature.

### **State Elections Commission:**

- ❖ The state legislature may make provision with respect to all matters relating to elections to the municipalities.

### **District Planning Committee:- Article 243- ZD**

- ❖ Every state shall constitute at the district level, a district planning committee to consolidate the plans prepared by panchayats and municipalities in the district, and to prepare a draft development plan for the district as a whole.
- ❖ The act lays down that four-fifths of the members of a district planning committee should be elected by the elected members of the district Panchayat and municipalities in the district from amongst themselves.

## Local Government

### **Metropolitan Planning Committee:-**

#### **Article – 243-ZE**

- ❖ Every metropolitan area shall have a metropolitan planning committee to prepare a draft development plan.
- ❖ The act lays down that two-thirds of the members of a metropolitan planning committee should be elected by the elected members of the municipalities and chairpersons of the Panchayats in the metropolitan area from amongst themselves.

### **Types of Urban Governments:**

1. Municipal Corporation
2. Municipality
3. Notified Area Committee
4. Town Area Committee
5. Cantonment Board
6. Township
7. Port Trust
8. Special Purpose Agency

### **DISTRICT ADMINISTRATIVE STRUCTURE**

- ❖ District is the basic unit of administration in India.

- ❖ The five types of the district in India are the rural district, urban district, industrial district, backward district and the hills district.

### **Features of District Administration:**

Generally, the district administration has the following features.

- ❖ It is at district level that the State Government comes into contact with the people.
- ❖ District administration is a field work as opposed to staff or secretariat functions.
- ❖ The problems at the district level are local relating to the district.
- ❖ At district level, policy formulation ends and the implementation begins.
- ❖ The District Officer is the last agent of the state government and the 'man of the spot' for any activity or incidence in the district; and
- ❖ At the district, there is functional aggregation of units. A large number of departments have their field agencies located in the district.

## Local Government

### ◆.....◆ **District Level Functionaries:**

- ❖ The District Collector is the head of district administration. The office of the collector at first was created by Warren Hastings in 1772 for the dual purpose of collecting revenue and dispensing justice.

- ❖ The general roles and the functions of the district collector are following:

1. As Collector, he has to collect land revenue.
2. As District Magistrate, he has to maintain law and order in the district.
3. As District Officer, he has to deal with the personnel matters like salary, transfer, etc within the district.
4. As Development Officer, he is responsible for the implementation of rural development programmes.
5. As the Returning Officer, he is the chief for the elections to the Parliament, the State Legislative Assembly, and the local Government in the district. Hence, he co-ordinates the election works at the district level.

6. As the District Census Officer, he conducts the census operations once in ten years.
7. As the Chief Protocol Officer, he has to protect the VIPs in their tour and stay in the district.
8. As the co-ordinator, he supervises the district level other functionaries and departments.
9. He presides over the District Plan Implementation Committee.
10. He acts as the official representative of the state government during the ceremonial functions in the district.
11. He acts as the Public Relations Officer of the State Government.
12. He acts as the Crisis Administrator in chief during the natural calamities and other emergencies.
13. He supervises and controls, the local government institutions.
14. He handles the work pertaining to civil defence; and
15. He is responsible for civil supplies, food and other essential commodities.

## Local Government

❖ The District Collector is the multi-functionary in the district level.

This is for the Revenue Administration.

❖ The District Collector is the hero of the district administration. The other important district level functionaries are following:

1. Superintendent of Police
2. District Medical Officer
3. District Health Officer
4. District Forest Officer
5. Assistant Registrar of Co-operative Societies
6. District Agricultural Officer
7. District Industries Officer
8. District Judges
9. Backward Class Welfare Officer
10. Superintendent of Jails
11. District Labour Officer

### **Firka Level:**

❖ Revenue Inspector is the head of Firka level revenue administration. Every taluk is divided to the many firkas in Tamil Nadu. But, the nomenclature of this level differs from state to state.

### **Village Level:**

- Village Administrative Officer is the head of village level administration.

### **Division Level:**

❖ In Tamil Nadu, Revenue Divisional Officer is the head of divisional administration especially for revenue administration and for the maintenance of law and order.

District Rural Development Agency (DRDA) to oversee the implementation of anti-poverty programmes of the ministry of rural development. This agency was created to implement the IRDP. From 1 April 1999 a separate DRDA administration has been introduced.

IN TN, DRDA is chaired by the District Collector

### **Taluk Level :**

❖ Tahsildar is the head of taluk level administration in Tamil Nadu. For assisting him, the Deputy Tahsildars are there in the Tahsil.



## **Government of Tamilnadu**

### **Department of Employment and Training**

Course : TNPSC Group II Exam  
Subject : Indian Polity  
Topic : **Indian Federalism Centre State Relations**

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Department of Employment and Training.**

# INDIAN FEDERALISM

## CENTRE & STATE RELATIONS

### CENTER STATE RELATIONS

- ❖ The Centre-State relations can be studied under three heads:
  1. Legislative relations
  2. Administrative relations
  3. Financial relations

### Distribution of legislative subjects (Article 246)

- ❖ The Constitution divides the subject into the-
  1. Union List (100 subjects)
  2. State List (61 subjects)
  3. Concurrent List (52 subjects)

### LEGISLATIVE RELATIONS:

- ❖ Articles 245 to 255 in part XI of the Constitution deal with the legislative relations between the Centre and the states.

***There are four aspects in the Centre-States Legislative relations.***

***Viz.,***

1. Territorial extent of Central and state legislation (Article 245)
2. Distribution of legislative subjects (Article 246)
3. Parliamentary legislation in the state field (Article 249)
4. Centre's control over state legislation

- ❖ Parliament has exclusive power on Union list (contains subjects like defence, foreign affairs, Currency, communication, citizenship, inter-state trade & commerce, banking, atomic energy, posts and telegraphs, etc).
- ❖ The State List contains subjects on which ordinarily the States alone can make laws, The include public order, police, administration of justice, prisons, local government agriculture, public health and sanitation, irrigation, etc. but under certain conditions the Constitution authorizes the Central

## Indian Federalism Centre & State Relations

Government to extend its jurisdiction over matters formally included in the State list. In fact, when a proclamation of emergency is in operation, Parliament can legislate on matters enumerated in all the three lists.

- ❖ Both Parliament & State Legislature can legislate on subjects contained in the concurrent list. (contains subjects like criminal and civil law, forest, education, marriage & divorce, drugs, trade unions, labour welfare, newspapers, books & printing press, population control and family planning, etc).
- ❖ Residual powers (i.e. subjects not included in any of the lists) rest with union government.
- ❖ Article 200 directs the Governor to reserve a Bill passed by the State Legislature for the consideration of the President, if in his opinion, if 'passed into law, would derogate the powers of the High Court.

### **ADMINISTRATIVE RELATIONS:**

Articles 256-263 in Part XI of the Constitution deal with the administrative relations between the Centre and the states.

- ❖ The Indian Constitution has a strong bias towards the Centre to make it strong. The Central administration prevails over the State administration.
- ❖ The executive powers of the State should be so exercised as to ensure compliance with the laws of the Union Parliament and not impede or prejudice the executive power of the Union.
- ❖ If the State does not comply with the directives of the Centre, the latter may invoke Art. 356 and take-over the administration of the State to itself.

### **FINANCIAL RELATIONS:**

Articles 268-293 in Part XI of the Constitution deal with Centre-State Financial relations.

### **DISTRIBUTION OF TAX REVENUES:**

- ❖ The 80<sup>th</sup> Amendment of 2000 and the 88<sup>th</sup> Amendment of 2003 have

Indian Federalism Centre & State Relations

introduced major changes in the scheme of the distribution of tax revenues between the centre and the states.

- ❖ The 88th Amendment has added a new Article 268-A dealing with service tax. It also added a new subject in the Union List – entry 92-C (taxes on services). Service tax is levied by the centre but collected and appropriated by both the centre and the states.

**A. Taxes Levied by the Centre but Collected and Appropriated by the States (Article 268):** This category includes the following taxes and duties:

- i) Stamp duties on bills of exchange, cheques, promissory notes, policies of insurance, transfer of shares and others.
- ii) Excise duties on medicinal and toilet preparations containing alcohol and narcotics.

The proceeds of these duties levied within any state do not form a part of the Consolidated Fund of India, but are assigned to that state.

**B. Service Tax Levied by the Centre but Collected and Appropriated by the Centre and the States (Article 268-A):**

- i) Taxes on services are levied by the Centre. But, their proceeds are collected as well as appropriated by both the Centre and the states. The principles of their collection and appropriation are formulated by the Parliament.

**C. Taxes levied and Collected by the Centre but Assigned to the States (Article 269):** The following taxes fall under this category:

- i) Taxes on the sale or purchase of goods (other than newspapers) in the course of inter-state trade or commerce.
- ii) Taxes on the consignment of goods in the course of inter-state trade or commerce.
- iii)

The net proceeds of these taxes do not form a part of the Consolidated Fund of India. They are assigned to the concerned states in accordance with the principles laid down by the Parliament.

**CONCURRENT LIST (LIST – III)**

- Criminal Law and procedure, Civil procedure
- Marriage and divorce
- Population control and family planning
- Electricity
- Newspapers, books and printing presses, etc...

The 42<sup>nd</sup> Amendment Act of 1976 transferred five subjects to Concurrent List from State List, that is,

- Education
- Forests
- Weights and measures
- Protection of wild animals and birds
- Administration of all courts except the Supreme Court and the high courts.

**D. Taxes Levied and collected by the Centre but distributed between the Centre and the States (Article 270):** This category includes all taxes and duties referred to in the Union List except the following:

- Duties and taxes referred to in Article 268, 268-A and 269 (mentioned above):
- Surcharge on taxes and duties referred to in Article 271 (mentioned below); and
- Any cess levied for specific purposes.

The manner of distribution of the net proceeds of these taxes and duties is prescribed by the President on the recommendation of the Finance Commission.

**A. Surcharge on Certain Taxes and Duties for Purposes of the Centre (Article 271):** The parliament can at any time levy the surcharges on taxes and duties referred to in Articles 269 and 270 (mentioned above). The proceeds of such surcharges go to the Centre exclusively. In other words, the states have no share in these surcharges.

**B. Taxes Levied and Collected and Retained by the States:** These are the taxes belonging to the states exclusively. They are enumerated in the state list and are 20 in number.

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**Administrative**

**Reforms**

- ❖ All-India services (IAS, IPS and IFS) should be abolished.

**Commission:**

The Central government appointed a six-member administrative Reforms commission (ARC) in 1966 under the chairmanship of Morarji Desai

**The important recommendations are:**

- ❖ Establishment of an Inter-State Council under Article 263 of the Constitution.
- ❖ Appointment of persons having long experience in public life and administration and non-partisan attitude as governors.

**Rajmanner Committee:**

In 1969, the Tamil Nadu Government (DMK) appointed a three-member committee under the chairmanship of Dr P V Rajamanner to examine the entire question of Centre-state relations.

**The Important recommendations of**

- ❖ An Inter-State Council should be set up immediately
- ❖ Articles 356, 357 and 365 (dealing with President's Rule) should be totally omitted

**Sarkaria Commission:**

- ❖ In 1983, the Central government appointed a three-member Commission on Centre-state relations under the chairmanship of **R S Sarkaria**, Members – Sivaraman, S.R. Sen a retired judge of the Supreme Court.
- ❖ The final report was submitted in October 1987, the Important recommendations are mentioned below:
  - a) A permanent Inter-State Council called the Inter-Governmental Council should be set up under Article 263.
  - b) The institution of All-India Services should be further strengthened and some more such services should be created.

**Punchhi Commission**

A new commission on Centre-State Relations was set-up by the Government of India in April 2007 under the Chairmanship of Madan Mohan Punchhi, former Chief Justice of India.

## **GST**

### **Introduction**

Goods and Services Tax is a comprehensive indirect tax which is to be levied on the manufacture, sale and consumption of goods and services in India. This is so far the biggest tax reform in the country. GST eliminates the cascading effect of taxes because it is taxed at every point of business and the input credit is available in the value chain.

### **Historical Background**

France was the first country to introduce GST system in 1954. More than 140 countries have implemented the GST. Genesis of GST occurred during the previous NDA Government under Atal Bihari Vajpayee Government when it set up the *Asim Dasgupta committee* to design a model for GST. The UPA Government took the matter further and announced in 2006 that this tax would be introduced from April 1, 2010. However, so far it was not introduced. All the GST bills including Constitution (101<sup>st</sup> Amendment) Act have been passed now and GST is set to come into force from July 1, 2017.

### **Tax Replaced by GST**

GST would replace almost all vital indirect taxes and cesses on Goods & services in the country. Among the taxes levied by centre, GST will subsume the following:

- ❖ Central Excise duty & Service Tax
- ❖ Duties of Excise (Medicinal and Toilet Preparations)
- ❖ Additional Duties of Excise (Goods of Special Importance)
- ❖ Additional Duties of Excise (Textiles and Textile Products)
- ❖ Additional Duties of Customs (commonly known as CVD)
- ❖ Special Additional Duty of Customs (SAD)
- ❖ Central Surcharges and Cesses so far as they relate to supply of goods and services

Among the state taxes that would be replaced by GST include:

- ❖ State VAT
- ❖ Central Sales Tax c. Luxury Tax
- ❖ Entry Tax (all forms)
- ❖ Entertainment and Amusement Tax (except when levied by the local bodies)
- ❖ Taxes on advertisements
- ❖ Purchase Tax

### Indian Federalism Centre & State Relations

- ❖ Taxes on lotteries, betting and gambling. State Surcharges and Cesses so far as they relate to supply of goods and services.

#### Commodities Not Under GST

- ❖ Potable alcohol
- ❖ Five petroleum products viz. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel
- ❖ Electricity

#### Constitution 101<sup>st</sup> Amendment Act, 2016

- ❖ This is the enabler act for GST and it amends several important articles and schedules of the constitution of India so that necessary constitutional. You can read in detail about this here. Here are important notes for your examinations.
- ❖ The *new articles* added by this amendment to Indian Constitution are Article 246-A (Special provision with respect to goods and services tax); Article 269-A ((Levy and collection of goods and services tax in course of inter-State trade or

commerce) and Article 279A (GST Council).

- ❖ Two schedules have been changed viz. 6<sup>th</sup> schedule and 7<sup>th</sup>
- ❖ As per article 246-A:
- ❖ Both Union and States in India now have “concurrent powers” to make law with respect to *goods & services*
- ❖ The intra-state trade now comes under the jurisdiction of both centre and state; while inter-state trade and commerce is “exclusively” under central government jurisdiction.

#### As per Article 269-A:

- ❖ In case of the inter-state trade, the tax will be levied and collected by the Government of India and shared between the Union and States as per recommendation of the GST Council.
- ❖ The article also makes it clear that the proceeds such collected *will not be credited to the consolidated fund of India or state* but respective share shall be assigned to that state or centre. The reason for the same is that under GST, where centre collects the tax, it assigns state's

### Indian Federalism Centre & State Relations

- ◆.....◆
- share to state, while where state collects tax, it assigns centre's share to centre. If that proceed is deposited in Consolidated Fund of India or state, then, every time there will be a need to pass an appropriation tax. *Thus, under GST, the apportionment of the tax revenue will take place outside the Consolidated Funds.*

#### Article 279-A:

- ❖ There will be a GST council constituted by President, headed by finance minister as its chairman and one nominated member from each state who is in charge of finance or taxation. GST Council has been discussed in detail here.
  - ❖ All decisions taken at the GST council will be taken based on voting. Process of voting is clearly articulated in detail in the constitutional amendment bill.
- passed by Rajya Sabha, the Parliament will have powers to make necessary laws with respect to GST in national interest.
- ❖ Article 250 has been amended so that parliament will have powers to make laws related to GST during emergency period.
  - ❖ Article 268 has been amended so that excise duty on medicinal and toilet preparation will be omitted from the state list and will be subsumed in GST.
  - ❖ Article 268A has been repealed so now service tax is subsumed in GST.
  - ❖ Article 269 would empower the parliament to make GST related laws for inter-state trade / commerce.

#### Other Changes

- ❖ The residuary power of legislation of Parliament under article 248 is now subject to article 246A.
- ❖ Article 249 has been changed so that if 2/3rd majority resolution is

#### Important Facts and Notes about GST

- ❖ GST is a Destination Based Tax
- ❖ In GST, CGST and SGST will be simultaneously levied
- ❖ Both States and Centre have a say in GST rates
- ❖ GSTN is the Special Purpose Vehicle for GST administration

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- ❖ GST provides for a Compliance rating mechanism for tax payers
- ❖ GST Provides for an Anti-Profiteering measure
- ❖ For GST to be levied – there must be business and quid-pro-quid
- ❖ GST differentiates between composite supply and mixed supply

### Reverse Charge Mechanism

- ❖ In Normal Charge Mechanism, generally service tax is payable by the provider of Service.
- ❖ For eg:- When a service is provided by an Accountant to his client then in this case the service provider i.e the Accountant is liable to pay Service tax
- ❖ The accountant collects the tax from the client and compensates. But nevertheless only the accountant is liable to pay Service

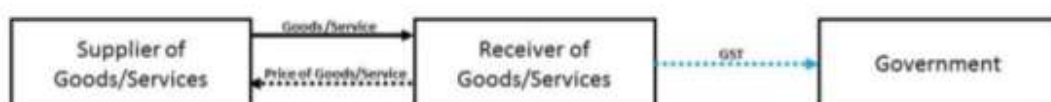
tax and comply with other general provisions of return filing etc.

- ❖ Similarly the GST has to be typically paid by the supplier of goods and services.
- ❖ But in some cases, the liability to pay the tax falls on the buyer.
- ❖ This reverse charge is applicable only under certain circumstances. Some are-
  - ❖ The most common instance is when a business buys goods or services from a supplier who is not registered to pay GST.
  - ❖ e.g Let's assume that business A that buys goods worth Rs.100 from business B that is not registered to pay GST.
  - ❖ If the GST on the goods supplied is Rs.5, then business A, instead of business B, will have to pay Rs.5 to the Government.

### NORMAL GST PAYMENT PROCESS



### GST PAYMENT IN CASE OF REVERSE CHARGE



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- ❖ Business A can, however, claim input tax credit of the GST payment of Rs.5, when it sells the goods to its client.
- ❖ An importer is also liable to pay the GST under the reverse charge mechanism.
- ❖ Also government departments making payments to vendors above a specified limit (Rs.2.5 lakh under one contract) are required to deduct tax (TDS) and e-commerce operators are required to collect tax (TCS) on the net value goods or services supplied through them.

to promote interstate cooperation and coordination.

#### **Inter-State Water Disputes:**

Article 262 of the Constitution provides for the adjudication of inter-state water disputes.

#### **Inter-State Councils:**

Article 263 contemplates the establishment of an Inter-State Council to effect coordination between the states and between Centre and states.

#### **Establishment of Inter-State Council:**

### INTER – STATE RELATIONS

***The Constitution makes the following provisions with regard to interstate community:***

- ❖ Adjudication of inter-state water disputes.
  - ❖ Coordination through inter-state councils.
  - ❖ Mutual recognition of public acts, records and judicial proceedings
  - ❖ Freedom of inter-state trade, commerce and intercourse
  - ❖ In addition, the zonal councils have been established by the Parliament
- ❖ The Janata Dal Government headed by V.P. Singh established the Inter-State council in 1990. It consists of
    - a) Prime Minister as the chairman
    - b) Chief Ministers of all the states
    - c) Chief Ministers of union territories having legislative assemblies
    - d) Administrators of union territories not having legislative assemblies.
    - e) Six Central cabinet ministers, including the home minister to be nominated by the Prime Minister.

Indian Federalism Centre & State Relations

Sl. No	Name	Members	Headquarters
1	Northern Zonal Council	Punjab, Rajasthan, Haryana, J&K, Uttarakhand, Himachal Pradesh, Chandigarh & National Capital Territory of Delhi	New Delhi
2	Central Zonal Council	Uttar Pradesh, Uttarakhand, Chhattisgarh and MP.	Allahabad
3	Eastern Zonal Council	Bihar, Jharkhand, West Bengal, Orissa	Kolkata
4	Western Zonal Council	Goa, Gujarat and UTs of Dadar and Nagar Haveli and Daman Diu	Mumbai
5	Southern Zonal Council	Andhra Pradesh, Tamil Nadu, Karnataka, Kerala and UT of Pondicherry	Chennai

❖ The Council is a recommendatory body on issues relating to inter-state, Centre-state and Centre-union territories relations. The council may meet at least thrice in a year

**Zonal Councils:**

❖ The zonal councils are the statutory (and not the constitutional) bodies. They are established by an Act of the Parliament, that is, States Reorganisation Act of 1956. The act divided the country into five zones (Northern, Central Eastern, Western and Southern) and provided a zonal council for each zone.

**Inter – State Trade and Commerce:**

Articles 301 to 307 in Part XIII of the Constitution deal with the trade, commerce and intercourse within the territory of India.

### Indian Federalism Centre & State Relations

- ❖ The home minister of Central government is the common chairman of the five zonal councils. Each chief minister acts as a vice-chairman of the council by rotation, holding office for a period of one year at a time.
- ❖ The zonal councils aim at promoting cooperation and coordination between states, union territories and the Centre.

#### **North Eastern Council:**

- ❖ In addition to the above Zonal Councils, a North-Eastern Council was created by a separate Act of Parliament the North-Eastern Council Act of 1971. Its members include Assam, Manipur, Mizoram, Arunachal Pradesh, Nagaland, Meghalaya, Tripura and Sikkim.

#### **SPECIAL STATUS OF JAMMU & KASHMIR**

- ❖ The special status guaranteed in Article 370.
- ❖ This status has been provided on the basis of an agreement concluded at the time of Jammu

and Kashmir accession to the Indian Union.

- ❖ The following are some of the special features of the special relationship between the Union of India and Jammu and Kashmir :
  1. J&K has its own constitution, apart from the Indian Constitution. Its constitution was framed by a Constituent Assembly of its own and came into being on the 26th January, 1957.
  2. The Parliament cannot make law with regard to J & K on subjects in the State List.
  3. The residuary powers lie with the legislatures of J & K and not with the Parliament.
  4. It follows dual citizenship. Only the citizens of J & K can take part in the elections to the State Assembly and acquire, own and dispose immovable property in J & K.
  5. Only National Emergency proclaimed on grounds of war and external aggression shall have automatic extension to J & K. National Emergency proclaimed on the basis of armed rebellion shall

**Indian Federalism Centre & State Relations**

- not be automatically extended to J & K.
6. Apart from the President's Rule, the Governor's Rule can also be imposed for a maximum period of six months, in case of constitutional breakdown in the State.
  7. The Parliament cannot change the name, boundary or territory of J & K, without the concurrence of State Legislature.
  8. The State Government shall be consulted by the Centre before appointing a person as the Governor of J & K.
  9. No preventive detention law made by the Parliament can have automatic extension to J & K.
  10. The Union has no power to proclaim a Financial Emergency to J & K.
  11. J & K autonomy Resolution – June 26, 2000 but rejected on July 14, 2000 by Central Government.



# EMERGENCY PROVISIONS

- ❖ The Emergency provisions are contained in Part XVIII of the Constitution, from Article 352 to 360.
- ❖ This kind of transformation of the political system from federal during normal times to unitary during Emergency is a unique feature of the Indian Constitution.

## ***National Emergency:***

- ❖ First emergency was declared in 1962 due to Chinese aggression
- ❖ Second emergency was declared in 1971 due to Indo-Pakistan war
- ❖ Third emergency was declared in 1975, on the grounds of Internal disturbance

## ***The Constitution stipulates three types of emergencies:***

- ❖ An emergency due to war, external aggression or armed rebellion (Art 352). This is popularly known as 'National Emergency.'
- ❖ An Emergency due to the failure of the constitutional machinery in the states (Art 356). This is popularly known as 'President's Rule'. It is also known by two other names, State Emergency or constitutional Emergency.
- ❖ Financial Emergency due to a threat to the financial stability or credit of India (Art 360).

## ***Financial Emergency:***

- ❖ So far, no emergency declared

## ***Grounds of Declaration:***

- ❖ Under Article 352, the President can declare a national emergency when the security of India or a part of it is threatened by war or external aggression or armed rebellion.
- ❖ The President can also issue different proclamations on grounds of war, external aggression, and armed rebellion.
- ❖ When a national emergency is declared on the ground of 'war' or 'external aggression', it is known as 'External Emergency',

## Emergency Provisions



it is declared on the ground of armed rebellion', it is known as 'Internal Emergency.'

- ❖ The 44<sup>th</sup> Amendment Act of 1978 substituted the words 'armed rebellion' for 'internal disturbance.'
- ❖ The President, however, can proclaim a national emergency only after receiving a written recommendation from the cabinet by 44<sup>th</sup> Amendment Act of 1978.

special majority, introduced by the 44<sup>th</sup> Amendment Act of 1978.

### ***Revocation of Proclamation:***

- ❖ A Proclamation of emergency may be revoked by the president at any time by a subsequent proclamation. Such a proclamation does not require the parliamentary approval.
- ❖ Further, the President must revoke a proclamation if the Lok Sabha passes a resolution disapproving its continuation, this safeguard was introduced by the 44<sup>th</sup> Amendment Act of 1978

### ***Parliamentary Approval and Duration:***

- ❖ Approved by the both the Houses of Parliament within one month from the date of its issue. Originally, it was two months, but was reduced by the 44<sup>th</sup> Amendment Act of 1978.
- ❖ The emergency continues for six months, with an approval of the Parliament for every six months, added by 44<sup>th</sup> Amendment Act of 1978.
- ❖ Every resolution approving the proclamation of emergency or its continuance must be passed by either House of Parliament by a

### ***Effects of National Emergency:***

1. Effects on the Centre-state relations.
2. Effect on the life of the Lok Sabha and State assembly, and
3. Effect on the Fundamental Rights.

### ***1. Effects on the Centre-State Relations***

#### **(a) Executive**

The Centre becomes entitled to give executive directions to a state on 'any' matter. Thus the state

## Emergency Provisions

governments are brought under the complete control of the Centre, though they are not suspended.

### **(b) Legislative**

The normal distribution of the legislative powers between the Centre and state is suspended, though the state Legislatures are not suspended.

### **(c) Financial**

The president can either reduce or cancel the transfer of finances from Centre to the states.

### **2. Effect on the life of the Lok Sabha and State assembly**

The life of the Lok Sabha may be extended beyond its normal term (Five years) by a law of parliament for one year at time. This extension cannot continue beyond a period of six months after the emergency has ceased to operate.

### **3. Effect on the Fundamental Rights**

- ❖ Article 358 – Suspension of the Fundamental Rights guaranteed by Article 19.
- ❖ The six fundamental rights under article 19 are automatically

suspended. No separate order for their suspension is required. When the national emergency ceases to operate, it automatically came into force.

- ❖ Article 359 - Suspension of the other Fundamental Rights guaranteed except Article 20 and 21
- ❖ Under this fundamental rights as such are not suspended, but only their enforcement. The suspension of enforcement relates to only those specified in the Presidential order.
- ❖ Declarations made so far
- ❖ This type of emergency has been proclaimed three times so far-in 1962, 1971, 1975

### **PRESIDENT RULE:**

#### ***Grounds of imposition***

The President rule can be proclaimed under Article 356 on two grounds

1. Article 365 empowers the President to issue a proclamation, if he is satisfied that a situation has arisen in which the government of a state

### Emergency Provisions

- .....◆
- cannot be carried on in accordance with the provisions of the constitution.
  - 2. Article 365 says that whenever a state fails to comply with or to give effect to any direction from the centre

#### **Parliamentary approval and duration:**

- ❖ Approved by the both the Houses of Parliament within two months from the date of its issue.
- ❖ If approved by both the houses of parliament, the President's rule continues for six months. It can be extended for a maximum period of three years with the approval of the parliament, every six months.
- ❖ Every resolution approving the proclamation of President's rule or its continuation can be passed by either house of parliament only by simple majority.

#### **Consequences of President's Rule:**

- ❖ When the President's Rule is imposed in a state, the President dismisses the state council of

ministers headed by the chief minister.

- ❖ The state governor, on behalf of the President, carries on the state administration with the help of the chief secretary of the state or the advisors appointed by the President.
- ❖ 356 is popularly known as the imposition of 'president's rule' in a state
- ❖ Further, the President either suspends or dissolves the state legislative assembly.

#### **Scope of Judicial Review:**

- ❖ The 38<sup>th</sup> Amendment Act of 1975 made the satisfaction of the President in invoking Article 356 final and conclusive which could not be challenged in any court on any ground.
- ❖ But, this provision was subsequently deleted by the 44<sup>th</sup> Amendment Act of 1978 implying that the satisfaction of the President is not beyond judicial review.

### Emergency Provisions

#### **Financial Emergency:**

##### **Grounds of Declaration:**

- ❖ Article 360 empowers the president to proclaim a Financial Emergency if he is satisfied that a situation has arisen due to which the financial stability or credit of India or any part of its territory is threatened.

- ❖ A resolution approving the proclamation of financial emergency can be passed by either House of Parliament only by a simple majority.

#### **Parliamentary Approval and**

##### **Duration:**

- ❖ Financial emergency must be approved by both the Houses of Parliament within two months from the date of its issue.
- ❖ Once approved by both the Houses of Parliament, the Financial Emergency continues indefinitely till it is revoked. This implies two things.
  - a) there is no maximum period prescribed for its operation; and
  - b) repeated parliamentary approval is not required for its continuation



## **Government of Tamilnadu**

### **Department of Employment and Training**

Course : TNPSC Group II Exam  
Subject : Indian Polity  
Topic : **Elections, Election Commission**

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**Commissioner,**  
**Department of Employment and Training.**

# ELECTION COMMISSION

## ELECTION

### Articles Related to Elections

Article No.	Subject - Matter
324	Superintendence, direction and control of elections to be vested in an Election Commission
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
326	Elections to the House of the People and to the Legislative Assemblies of states to be on the basis of adult suffrage
327	Power of Parliament to make provision with respect to elections to Legislatures
328	Power of Legislature of a state to make provision with respect to elections to such Legislature
329	Bar to interference by courts in electoral matters
329A	Special provision as to elections to Parliament in the case of Prime Minister and Speaker (Repealed)

## ELECTION MACHINERY

### Election Commission of India (ECI)

- ❖ Under Article 324 of the Constitution of India, the Election Commission of India is vested with the power of superintendence, direction and control of conducting the

elections to the Lok Sabha and State Legislative Assemblies.

- ❖ The Chief Electoral Officer of a state / Union Territory is authorised to supervise the election work in the state / Union Territory subject to the overall superintendence, direction and

## ELECTION COMMISSION

♦.....♦

control of the Election Commission.	officer of the state Government as the Direct Election Officer in consultation with the state government
-------------------------------------	--

### **Composition:**

- |   |  |
|---|--|
| <ol style="list-style-type: none"><li>1. Chief election commissioner &amp; 2 Election Commissioners.</li><li>2. Appointed by President.</li><li>3. Tenure decided by President.</li><li>4. From 1950 to 15 October 1989 - functions as a single member body.</li><li>5. 16 October 1989 two more election commissioners appointed.</li><li>6. All the three members have same emoluments and allowances as those of a Judge of the Supreme Court.</li><li>7. They can hold office for a term of 6 years or until they attain the age of 65 years whichever is earlier.</li><li>8. No prescribed qualification of the members in the constitution.</li></ol> | <ul style="list-style-type: none"><li>❖ The Returning Officer of a Parliamentary or assembly constituency is responsible for the conduct of elections in the Parliamentary or assembly constituency concerned.</li><li>❖ The Election Commission of India nominates or designates an officer of the Government or a local authority as the Returning Officer for each of the assembly and parliamentary constituencies in consultation with the State Government / union Territory Administration.</li></ul> |
|---|--|

### **District Election Officer (DEO)**

- |   |  |
|---|--|
| <ul style="list-style-type: none"><li>❖ Subject to the superintendence, direction and control of the Chief Electoral Officer, the District Election Officer supervises the election work of a district.</li><li>❖ The Election Commission of India nominates or designates an</li></ul> | <ul style="list-style-type: none"><li>❖ The Electoral Registration Officer is responsible for the preparation of electoral rolls for a Parliamentary / assembly constituency.</li><li>❖ The Election Commission of India, in consultation with the state / UT government, appoints an officer of the government or</li></ul> |
|---|--|

## ELECTION COMMISSION

the local authorities as the Electoral Registration Officer.

- ❖ The Presiding Officer with the assistance of polling officers conducts the poll at a polling station.
- ❖ The District Election Officer appoints the Presiding Officers and the Polling Officers.
- ❖ The Election Commission of India nominates officers of Government as Observers (General Observers and Election Expenditure Observes) for Parliamentary and assembly constituencies.



ELECTION COMMISSION

- ◆.....◆
- |                            |                                |
|----------------------------|--------------------------------|
| 1. Largest Constituencies  | : Ladakh - Jammu & Kashmir     |
| 2. Smallest Constituencies | : Chandni Chowk - NCT of Delhi |

**Electronic Voting Machines: (EVM)**

EVM are being used in Indian General and state elections. Electronic voting is partly implemented from 1999 elections and in total since 2004 elections.

- ❖ The EVMs were first used in 1998 in the by – election at North Paravur Assembly Constituency in Kerala for a limited number of polling stations.
- ❖ The EVMs were used for the first time in the general elections (entire state) to the Assembly of Goa in 1999.
- ❖ Election Commission decided to introduce EVMs with Voter – verified paper audit trail (VVPAT) system. The VVPAT system was introduced in 8 of 543 parliamentary constituencies as a pilot project in Indian General Election, 2014.

**NOTA – None Of The Above**

- **NOTA** was designed to allow the voter to indicate disapproval of all of the candidates in a assembly constituency.
- On September 27, 2013 –Supreme court directed Election commission to introduce a NOTA button.
- NOTA symbol – ballot paper with a black cross across it. Introduced – September 18, 2015.
- Before NOTA – Rule 49-0 of “The Conduct of Elections Rules, 1961” was used by election commission.

## ELECTION COMMISSION

### ELECTORAL REFORMS

#### Electoral Reforms Before 1996

- ❖ **Lowering of Voting Age** – The 61<sup>st</sup> Constitutional Amendment Act of 1988 reduced the voting age from 21 years to 18 years for the Lok Sabha as well as the assembly elections.
- ❖ **Deputation to Election Commission** – In 1988, a provision was made that the officers and the staff engaged in preparation, revision and correction of electoral rolls for elections are deemed to be on deputation to the Election Commission for the period of such employment.

#### **Composition:**

- ❖ Consists of Chief Election Commissioner + 2 Election Commissioners. They all enjoy equal powers.

#### **Appointment :**

- ❖ The Chief Election Commissioner is appointed by the President and the other Election Commissioners are appointed by the President (after consultation with the Chief Election Commissioner).
- ❖ President also appoints Regional Commissioners at the time of General Elections after consultation with the Election Commission.

#### **Term and Tenure:**

- ❖ Election Commissioners are appointed for a term of 6 years or until they attain the age of 65 years, whichever is earlier.
- ❖ They are not eligible for re-appointment. Also, they cannot hold any office of profit after their retirement. Salary – equal to judge of Supreme Court

### ELECTION COMMISSION OF UNION AND STATE

- ❖ Article 324 of the constitution provides that the power of superintendence, direction and control of elections to parliament, state legislatures, the offices of President of India and the office of Vice-President of India shall be vested in the election commission.

## ELECTION COMMISSION

### 1. Election Commission of India

- Formed - January 25, 1950
- Head quarters – New Delhi.
- Chief Election Commissioner – Syed Nazim Ahmad Zaidi (from April 19, 2015)

### 2. Tamil Nadu Election Commission

It is an autonomous, independent Constitutional and Statutory authority of Tamil Nadu.

- Formed - July 15, 1994
- Head quarters – Chennai.
- Function - The conduct of elections to Rural and Urban bodies of Tamil Nadu.
- TN Election Commissioner - P. Seetharaman, I.A.S (from March 2015)

#### **Removal:**

- ❖ The Chief Election Commissioner can be removed from office before expiry of his term by the President on the basis of a resolution passed by the Parliament by a special majority on the ground of proven mis-behaviour or incapacity (same as that of Judge of Supreme Court). The other Election Commissioners may be removed by the President on the recommendation of the Chief Election Commissioner.

#### **Functions:**

- ❖ Preparation of electoral rolls & keep voters list updated.

- ❖ The electoral roll is normally revised every year to add the names of those who have turned 18 on the 1st. January of that year or have moved into a constituency and to remove the names of those who have died or moved out of a constituency.
- ❖ Preparation of code of conduct for all political parties.
- ❖ Recognition of various political parties & allotment of election symbols.
- ❖ Appointment of election officers to look into disputes concerning election arrangements.
- ❖ To examine the returns of election expenses filed by the candidate

ELECTION COMMISSION

**Chief Election Commissioners**






The following have held the post of the  
Chief Election Commissioner of India.

❖ Election Commissioners – Sh.









A.K. Joti, Sh.Om Prakash Rawat

❖ Chief Election Commissioner –  
Dr. Nasim Zaidi

**List of Chief Election Commissioners**

SL.No.	Name	Portrait	Took Office	Left Office
1	Sukumar Sen		21 March 1950	19 December 1958
2	KVK Sundaram		20 December 1958	30 September 1967
3	S. P. Sen Verma		1 October 1967	30 September 1972
4	Nagendra Singh		1 October 1972	6 February 1973
5	T. Swaminathan		7 February 1973	17 June 1977

ELECTION COMMISSION

6	S. L. Shakdhar		18 June 1977	17 June 1982
7	R. K. Trivedi		18 June 1982	31 December 1985
8	R. V. S. Peri Sastri		1 January 1986	25 November 1990
9	V. S. Ramadevi		26 November 1990	11 December 1990
10	T. N. Seshan			
11	M. S. Gill		12 December 1996	13 June 2001
12	J. M. Lyngdoh		14 June 2001	7 February 2004
13	T. S. Krishnamurthy		8 February 2004	15 May 2005

ELECTION COMMISSION

14	B. B. Tandon		16 May 2005	29 June 2006
15	N. Gopalaswami		30 June 2006	20 April 2009
16	Navin Chawla		21 April 2009	29 July 2010
17	S. Y. Quraishi		30 July 2010	10 June 2012
18	V. S. Sampath		10 June 2012	15 January 2015
19	<u>H. S. Brahma</u>		15 January 2015	Incumbent
20.	Nasim Zaidi		15 April 2015	Incumbent
21.	Achal Kumar Jyoti		6 <sup>th</sup> July 2017	22 Jan 2018
22.	Om Prakash Rawat		23 Jan 2018	Present

## ELECTION COMMISSION

### FINANCE COMMISSION

- ❖ Article 280 of the Constitution of India provides for a Finance Commission as a quasi judicial body. It is constituted by the president of India every fifth year or at such earlier time as he considers necessary.

- |             |                  |                    |
|-------------|------------------|--------------------|
| ❖ Presently | 15 <sup>th</sup> | Finance Commission |
| ❖ Chairman  | N.K.Singh        |                    |

#### **Composition:**

- ❖ It consists of a Chairman & 4 other members. They are eligible for re-appointment.
- ❖ The Chairman is selected from persons who have had experience in public affairs while the members are selected from the persons who. Qualified to be appointed judges of High Court.
  - ❖ Have special knowledge of the finance & accounts of govt.
  - ❖ Wide experience in financial matter & in administration. Have special knowledge of Economics.

#### **Functions:**

- ❖ To recommend to the President distribution of net proceeds of the taxes which are divisible between Union and States.  
To recommend the principles which should govern the Grants of the revenues of the State out of the Consolidated Fund of India.
- ❖ The recommendations made by it are only of advisory nature and hence not binding on the Government.
- ❖ To tender advice to the President on any other matter referred to the Commission in the interest of sound finance.

### ANTI- DEFECTION LAW

- ❖ To curb political defection, added by 52nd amendment in 1985 in Tenth Schedule.
- ❖ Any member of Parliament belonging to any political party can be disqualified.
  - If he voluntarily gives up the membership of that political party. If he votes or abstains from voting according to the party 'whip'.

## ELECTION COMMISSION

- Any independent member can be disqualified if he joins any political party after election.
- Any nominated member can be disqualified if he joins any political party after the expiry of 6 month from the date of his joining.

### ***This law shall not apply:***

- ❖ To a situation of 'merger' in which atleast 2/3 members of any party are involved.
- ❖ To person who resigns membership of his party after becoming the Presiding officer of the house & \_he rejoins the party after laying down that office.
- ❖ 91<sup>st</sup> amendment act – 2003 omitted exception provision i.e. disqualification on ground of defection not to apply in case of split.



## **Government of Tamilnadu**

### **Department of Employment and Training**

Course : TNPSC Group II Exam  
Subject : Indian Polity  
Topic : **Judiciary**

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**Commissioner,  
Department of Employment and Training.**

# JUDICIARY

## SUPREME COURT OF INDIA

- ❖ Stands at the apex of the judicial system of India
- ❖ Consists of Chief Justice and 30 other judges

### **Appointment:**

Senior most judge of the Supreme Court is appointed as the Chief Justice of India.

### **Qualification:**

- ❖ Must be a Citizen of India
- ❖ Has been a judge of High Court for five years or an advocate of High Court for ten years minimum.
- or in President's view a distinguished jurist of the country.

### **Terms and Salary:**

- ❖ The chief Justice and other Judges hold office till 65 years of age.

### **Resignation & Removal:**

- a. Can give resignation in writing to the President.

- b. Can be removed by the Parliament
- c. After retirement, a Judge of Supreme Court cannot lead or act before any authority.

### **Salary:**

- ❖ Chief Justice - 1 Lakh
- ❖ Judges - 90,000

### **Removal Of Judges:**

- ❖ A motion can be preferred before either house of the Parliament.
- ❖ If it is introduced in Lok Sabha, it should be signed by not less than 100 members.
- ❖ If it is introduced in Rajya Sabha, then it should be signed by not less than 50 members.
- ❖ Resolution - supported by a majority of total membership of the houses & by 2/3 majority of the members present & voting.

### **Other Points:**

- ❖ Chief Justice can appoint adhoc judges in the Supreme Court with the (Consent of President)

◆.....◆  
**INDEPENDENCE OF JUDGES**

- ❖ The Constitution has ensured this by:
  - a) Salaries from Consolidated Fund.
  - b) Salaries cannot be changed to their disadvantage.
  - c) Removal difficult.
  - d) Cannot practice after retirement.
  - e) Decision & actions of judges cannot be criticized & the person doing so can be punished
  - f) Conduct of judges cannot be discussed in parliament.
  - g) President cannot appoint judges of the Supreme Court himself, he has to consult the judges also.
  - h) Separation From Executive – Article 32.

***Jurisdiction Of The Supreme Court:***

- a) **Original Jurisdiction:** The Supreme Court settles all disputes between Centre - State, etc.
- b) **Writ Jurisdiction:** Every individual has the right to move the Supreme Court, (directly enforcement of his Fundamental Rights). The Supreme Court is empowered to issue writs including habeas corpus, etc. this is a Original Jurisdiction.

**c) Appellate Jurisdiction:**

- It has appellate jurisdiction in both civil and criminal matters
- The appellate jurisdiction of a high court is wider than its original jurisdiction.

d) **Advisory Jurisdiction:** President seeks the advice of Supreme Court, on any question of law or fact it is duty bound to give its opinion. (Its opinion isn't a binding on President) Art 143.

e) **Revisory Jurisdiction:** The Supreme Court under Article 137 is empowered to review any judgement or order made by it with a view to removing any mistake or error that might have crept in the judgement or order.

- f) It is a court of record as its decisions are of evidentiary value and cannot be questioned in any court.
- g) Supreme Court enjoys the power of judicial review.
- h) Supreme Court decides disputes regarding the election of the President and the Vice President.

## Judiciary

- ◆.....◆
- i) Supreme Court recommends the removal of Members of UPSC to the Parliament.

### **Public Interest Litigation (PIL):**

- ❖ Any member of the public can now initiate a proceeding on behalf of the aggrieved person (especially if the person is too poor or unable to move the court on his or her own) in either the High Court or the Supreme Court for the enforcement of Constitutional Rights.
- ❖ This derives from the right to be heard, as implied by Article 32.
- ❖ Justice PN Bhagwati and Justice V.R. Krishna Iyer were among the first judges to admit PIL in the court.

## **HIGH COURT**

- ❖ Each state has a High Court.
- ❖ Highest Judicial organ of the State.

**Presently there are 24 High Courts in India.**

### **Composition:**

- ❖ Consist of the Chief Justice and others such judges as appointed by President.

- ❖ Constitution does not fix any maximum Number of Judges for a High Court.
- ❖ A judge of High Court can be transferred to another High Court, (Without President consent).
- ❖ Delhi is the only UT that has High Court of its own.

### **Appointment of Judges:**

Chief Justice is made after consultation with the Chief Justice of Supreme Court and the Governor of the State by the President.

### **Qualification:**

- ❖ Must be a citizen of India.
- ❖ Should have been an advocate of a High Court or of 2 such courts in succession for atleast 10 years
- ❖ Or should have held Judicial Office in India for a period of atleast 10 years.

### **Term and Salary:**

- ❖ Continues his office till 62 years of age.

## Judiciary

### Salary

- Rs.90,000/- per month - Chief Justice.
- Rs.80,000/- per month - Other Judges.

- ❖ Supervises the working of all subordinate courts & frames rules & regulations for the transaction of business.
- ❖ It can examine the records of subordinate courts.

### Removal:

- ❖ The President can remove a judge of High Court only if the Parliament passes the resolution.
- ❖ Majority of 2/3 members present and voting in each house.
- ❖ The conduct of the judges cannot be discussed in Parliament, except on a motion for the removal of the Judge.

### Restriction on Legal Practice:

- ❖ He is not allowed to practice law before the authority of the same court except the Supreme Court and any other High Court.

### Jurisdiction of High Court :

- ❖ Court of record and has power to punish for its contempt.
- ❖ Under Article 226, the High Courts are given powers of issuing writs for the enforcement of Fundamental Rights and for other purposes.

## SUBORDINATE COURTS

- ❖ Judiciary in States consists of a High Court and subordinate courts.
- ❖ The organisation of the Subordinate Courts is uniform.
- ❖ Two types of law courts in every district - Civil and Criminal Court.
- ❖ They function under the superintendence and control of the High Court of that particular state.
- ❖ The highest civil court in a district is the court of the District Judge. The court decide civil and criminal cases.

### Appointment

- ❖ By the Governor (consultation with the Chief Justice of the High Court).
- ❖ He hears the appeals against the decision of the sub-judges.
- ❖ Besides the District Court, there are courts of sub-judges, munsiff courts and small causes.

## Judiciary

- ❖ Below the Session Courts are the courts of First Class Magistrates.
- ❖ In Metropolitan cities like Kolkata, Chennai, Mumbai and Delhi Magistrates are known as Metropolitan Magistrates.
- ❖ There are courts of 2<sup>nd</sup> Class and 3<sup>rd</sup> Class Magistrates also.

### THE HIGH COURTS - SEATS AND JURISDICTION

Name	Year of Establishment	Territorial Jurisdiction	Seat
Allahabad	1866	Uttar Pradesh	Allahabad (Bench at Lucknow)
Andhra Pradesh	1954	Andhra Pradesh	Hyderabad
Mumbai	1862	Maharashtra, Dadra & Nagar - Haveli, Goa, Daman & Diu	Mumbai (Benches at Nagpur, Panaji, Aurangabad)
Kolkata	1862	West Bengal, Andaman & Nicobar Islands	Kolkata (Bench at Port Blair)
Delhi	1966	Delhi	Delhi
Guwahati	1948	Assam, Manipur, Meghalaya, Nagaland, Tripura, Mizoram and Arunachal Pradesh	Guwahati (Benches at Kohima, Imphal, and Agartala & Shillong)
Gujarat	1960	Gujarat	Ahmedabad
Himachal Pradesh	1966	Himachal Pradesh	Shimla
Jammu & Kashmir	1928	Jammu & Kashmir	Srinagar & Jammu

**Judiciary**

Karnataka	1884	Karnataka	Bangaluru
Kerala	1958	Kerala & Lakshadweep	Ernakulam
Madhya Pradesh	1956	Madhya Pradesh	Jabalpur (Bench at Indore, Gwalior)
Madras	1862	Tamil Nadu & Puducherry	Madras
Orissa	1948	Orissa	Cuttack
Patna	1916	Bihar	Patna
Punjab & Haryana	1975	Punjab, Haryana, Chandigarh	Chandigarh
Rajasthan	1949	Rajasthan	Jodhpur (Bench-Jaipur)
Sikkim	1975	Sikkim	Gangtok
Chhattisgarh	2000	Chhattisgarh	Bilaspur
Uttaranchal	2000	Uttaranchal	Nainital
Jharkhand	2000	Jharkhand	Ranchi
Tripura	2013	Tripura	Agartala
Manipur	2013	Manipur	Imphal
Meghalaya	2013	Meghalaya	Shillong

# ADMINISTRATIVE REFORMS & TRIBUNALS

- ❖ 42nd Constitutional Amendment Act in 1976 added a new Part XIV-A to the Constitution. This part is entitled as 'Tribunals' and consists of only two Article 323 A dealing with administrative tribunals and Article 323 B dealing with tribunals for other matters.
- ❖ Many States are also provided with the State Administrative Tribunals.
- ❖ The Chairman and the Vice-Chairman of the tribunal enjoys the status of a High Court Judge and his/her retirement age is 65 years)
- ❖ The Chairman must be a Judge of the High Court or one who served for at least two years as the High Court Judge or the Vice-Chairman of Tribunal.

## ***Administrative Reforms:***

Generally, many areas of Indian administration are based on British legacy. At the time of independence, India inherited a colonial administration which was primarily designed for the performance of limited functions of an imperial government, and naturally unsuited to serve the needs of a secular, independent, democratic and socialistic republic of India. Hence, the founding fathers of India independence, took several steps to

reform Indian administration. Actually, the administrative reforms are the developments of administration in India. Here, let us discuss some committees which recommended for the reforms and development of Indian administration.

### **1. Ayyangar Committee, 1949:**

The first committee setup to undertake a comprehensive review of the machinery of central government towards the end of 1949 was Gopalaswami Ayyangar Committee, which dealt with organisational changes, improvement in calibre of personnel and improvement in methods of transaction of governmental business. The committee recommended a distinction between a Ministry and a Department. It recommended that the central secretariat should be divided into 37 primary units of organisation consisting of 28 departments, 8 central administrative offices and a cabinet secretariat. It also recommended for setting up of an organisation and methods division in each department.

### **Gorwala Committee, 1951:**

The government of India set up the planning commission in 1950. The

## Administrative Reforms & Tribunals

◆.....◆  
commission felt that there were many problems in public administration. Hence, the commission requested Mr. Gorwala, a retired IAS officer to make a study and suggest measures for bringing about reforms in public administration, especially in relation to the implementation of the development programmes of the central and the state governments. He mainly recommended that parliamentary government with a cabinet system on the British model cannot be effective unless there is the standard of morality of the functionaries.

### 2. Appleby Report, 1953 and 1956:

At the end of 1952, C.D. Deshmukh, then Finance Minister, invited Paul H. Appleby, a noted authority on public administration in USA, to make a survey of public administration in India. Appleby felt the government of India was making the best effort in the world to bring development through democracy. He analysed the factors making for unity and disunity. He suggested a strong central government for the administration of programmes.

He commented on the lack of action-mindedness in India administration and lack of capacity to take action in situations. He mainly recommended that there should be an all-India institute for training the personnel. He also recommended that the number of levels in hierarchy should be increased. As a result, an O & M Division was set up in the central

secretarial and the India Institute of public Administration was also established in New Delhi in 1954.

### 3. Administrative Reforms Commission (1966-70)

The appointment of Administrative Reforms Commission (ARC) was an important landmark in the history of administrative reforms in India. The commission was setup on January 5, 1966, under the chairmanship of Morarji Desai, with five members. The Commission submitted its 20 reports containing 578 recommendations to the central Government.

### Central Administrative Tribunal (CAT):

- ❖ It was established in 1985 under the Administrative Tribunals Act (1985) of the Parliament. (Statutory body).
- ❖ The CAT exercises original jurisdiction in relation to recruitment and all service matters of public servants covered by it.
- ❖ Its jurisdiction extends to the all-India services, the Central civil services, civil posts under the Centre and civilian employees of defence services.
- ❖ However, the members of the defence forces, officers and servants of the Supreme Court and the secretarial staff of the Parliament are not covered by it.
- ❖ Its objective is to provide speedy and inexpensive justice to the aggrieved Civil Servants.

### Administrative Reforms & Tributes

- ❖ It is a multi-member body consisting of a Chairman, 16 Vice-Chairmen and 49 Members.
- ❖ They are not eligible for re-appointment
- ❖ The term of the Chairman and the Vice Chairman is 5 years or until they attain the age of 65 years, whichever is earlier.
- ❖ The term of the members is 5 years or until they attain the age of 62 years, (whichever is earlier).
- ❖ They are appointed by the President.
- ❖ They are drawn from both the Judicial and the Administrative streams.
- ❖ It is not bound by the procedure laid down in the Civil Procedure Code (1908).
- ❖ Its jurisdiction extends to the members of the All-India Services, Central Services and Posts.
- ❖ It works under the administrative control of Department of Personnel and Training - one of the three departments of Ministry of Personnel, Public Grievances, and Pensions.

#### **State Administrative Tribunal (SAT):**

- ❖ The Administrative Tribunals Act of 1985 empowers the Central government to establish the State Administrative Tribunals (SATs) on specific request of the concerned state governments.
- ❖ Like the CAT, the SATs exercise original jurisdiction in relation to

recruitment and all service, matters of state government employees.

- ❖ The chairman, vice-chairman and members of the SATs are appointed by the president after consultation with the governor of the state concerned.
- ❖ The act also makes a provision for setting up of joint administrative tribunal (JAT), for two or more states. The chairman, vice-chairman and members of a JAT are appointed by the president after consultation with the governors of the concerned states.

#### **Tribunals For Other Matters:**

Under Article 323 B, the parliament and the state legislatures are authorised to provide for the establishment of tribunals for the adjudication of disputes relating to the following:

- a) Taxation,
- b) Foreign exchange, import and export
- c) Industrial and labour
- d) Land reforms
- e) Ceiling on urban property
- f) Elections to parliament and state legislatures
- g) Food stuffs
- h) Rent and tenancy rights

Administrative Reforms & Tribunals

**Name And Jurisdiction Of Benches Of CAT**

Sl.No.	Bench	Territorial Jurisdiction of the Bench
1	Principal Bench, Delhi	Delhi
2	Allahabad Bench	Uttar Pradesh (except the districts covered by Lucknow Bench)
3	Lucknow Bench	Uttar Pradesh (except the districts covered by the Allahabad Bench)
4	Chuttak bench	Orissa
5	Hyderabad Bench	Andhra Pradesh
6	Bangalore Bench	Karnataka
7	Madras Bench	Tamil Nadu and Puducherry
8	Ernakulam Bench	Kerala and Lakshadweep
9	Bombay Bench	Maharashtra, Goa, Dadra and Nagar Haveli, and Daman and Diu
10	Ahmedabad Bench	Gujarat
11	Jodhpur Bench	Rajasthan (except the districts covered by the Jaipur Bench)
12	Jaipur Bench	Rajasthan (except the districts covered by the Jodhpur Bench)
13	Chandigarh Bench	J & K, Haryana, Himachal Pradesh, Punjab and Chandigarh
14	Jabalpur Bench	Madhya Pradesh
15	Patna Bench	Bihar
16	Calcutta Bench	West Bengal, Sikkim and Andaman and Nicobar Islands
17	Guwahati bench	Assam, Meghalaya, Manipur, Tripura, Nagaland, Mizoram and Arunachal Pradesh



## **Government of Tamilnadu**

### **Department of Employment and Training**

Course : TNPSC Group II Exam  
Subject : Indian Polity  
Topic : **Rule of Law**

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## **RULE OF LAW**

The colonial regime introduced the English concept of 'Rule of Law' in India.

The three major features of the Rule of Law are

1. All are equal before law
2. Nobody is above law and
3. The same law is applicable to all.

The Rule of law ensures 'equality of all citizens in the judicial process and reduces the scope of nepotism, favoritism, arbitrariness, unhealthy executive interferences in the judicial process. Rule of Law provides an effective check to the abuse of authority by executives and administrators. The procedural laws and constitutionally guaranteed fundamental rights ensure enforcement of Rule of Law.

The concept of 'equality before law' is an element of the concept of 'Rule of Law', propounded by A.V. Dicey, the British jurist. His concept has the following three elements or aspects:

- (i) Absence of arbitrary power, that is, no man can be punished except for a breach of law.
- (ii) Equality before the law, that is, equal subjection of all citizens

(rich or poor, high or low, official or non-official) to the ordinary law of the land administered by the ordinary law courts.

(iii) The primacy of the rights of the individual, that is, the constitution is the result of the rights of the individual as defined and enforced by the courts of law rather than the constitution being the source of the individual rights.

The first and the second elements are applicable to the Indian System and not the third one. In the Indian System, the constitution is the source of the individual rights.

The Supreme Court held that the 'Rule of Law' as embodied in Article 14 is a 'basic feature' of the constitution. Hence, it cannot be destroyed even by an amendment.

Civil equality is enjoyment of civil rights by all citizen. There should not be any discrimination of superior or inferior, the rich or the poor, caste or creed. Equal rights should be available to all the persons and nobody should be denied enjoyment of any rights. Rule of law is in force in England and in the eyes of law all are equal and equal treatment is given to all by the rule of law. In India the same rule of law is followed.

**Rule of law was advocated by A.V.Dicey, the British legal luminary.**

such as Aristotle, who wrote "Law should govern".

The word 'civil' is derived from the Latin word civilis or civis, which means citizen. Civil equality means equality in which each citizen is provided with equal civil rights and liberties. Civil equality consists of similar civil liberties and civil rights by all the citizens. Civil laws should treat all the individuals equally.

There should not be any discrimination of superior and inferior, the rich and the poor, caste and creed, colour and race, clans and tribes, groups and classes. In England, Rule of law is in force and in the eyes of the rule of law all are equal. Equal treatment is given to all by the rule of law. It is from the British constitution India had adopted the rule of law.

Rule of law is established in England, USA and India Rule of law mean that there should not be any distinction of caste and creed colour and race . In the eyes of law all are equal and all are liable to be punished if they commit crime.

The rule of law was further popularised in the 19th century by British jurist A. V. Dicey. The concept, if not the phrase, was familiar to ancient philosophers



## **Government of Tamilnadu**

### **Department of Employment and Training**

Course : TNPSC Group II Exam

Subject : Indian Polity

Topic : **Corruption & Central Vigilance Commission Lok Adalat's – Controller and Auditor General of India**

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## CORRUPTION & CENTRAL VIGILANCE COMMISSION LOK ADALAT'S - CONTROLLER AND AUDITOR GENERAL OF INDIA

### CORRUPTION

**CORRUPTION** - Latin word "to break"

#### Definition:

It is the use of public power for private profit in a way that constitutes a breach of law or a deviation from the norms of society.

#### Forms of Corruption:

1. Bribery : Accepting gift /cash using power.
2. Misappropriation : Using public money for private gain.
3. Patronage : Wrong support / encouragement
4. Favouritism : undue favour to preferred person
5. Nepotism : Favour Relatives

#### Impact of Corruption:

1. Retarded economic development of country.
2. Violence and lawlessness.
3. Gives rise to casteism, linguism, communalism

4. black money in country.

5. Destabilized government

6. Widen imbalance between rich & poor

**International Anti-Corruption Day** has been observed annually, on 9 December, since the passage of the United Nations Convention Against Corruption on 31 October 2003

### THE CENTRAL BUREAU OF INVESTIGATION

**CBI – Director – Alok Kumar Verma**

#### Origin:

- ❖ The Central Bureau of Investigation traces its origin to the Special Police Establishment (SPE) which was set up in 1941 by the Government of India.
- ❖ The functions of the SPE then were to investigate cases of bribery and corruption in transactions with the War &

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|--|---|
| Supply Department of India during World War II.  | a) Chief Vigilance Commissioner – chairperson   |
| ❖ The DSPE (Delhi special police establishment) acquired its popular current name, Central Bureau of Investigation (CBI), through a Home Ministry resolution dated 1.4.1963. | b) Vigilance Commissioners – members  |
|  | c) Secretary, Home Ministry – member  |
|  | d) Secretary (Coordination and Public Grievances) in the Cabinet Secretariat – member |

### **Organisational structure:**

The CBI is headed by a director, an IPS officer with a rank of Director General of Police or Commissioner of Police (State). The director is selected based on the CVC Act 2003, and has a two-year term. Other ranks in the CBI which may be staffed by the IPS or the IRS are Special director, Additional director, Joint director, Deputy inspector general of police, Senior superintendent of police and Superintendent of police.

### **Selection Committee:**

According to the CVC Act 2003, the committee recommends a panel of officers for director of the CBI. It consists of:

When making recommendations, the committee considers the views of the outgoing director. Final selection is made by the Appointments Committee of the Cabinet from the panel recommended by the selection committee.

### **Jurisdiction, powers and restrictions:**

- ❖ The legal powers of investigation of the CBI are derived from the DSPE Act 1946, which confers powers, duties, privileges and liabilities on the Delhi Special Police Establishment (CBI) and officers of the Union Territories.
- ❖ The central government may extend to any area (except Union Territories) the powers and

jurisdiction of the CBI for investigation, subject to the consent of the government of the concerned state. Members of the CBI at or above the rank of sub-inspector may be considered officers in charge of police stations. Under the act, the CBI can investigate only with notification by the central government.

### ***Relationship to state police***

Maintaining law and order is a state responsibility as "police" is a State subject, and the jurisdiction to investigate crime lies with the state police exclusively. The CBI being a Union subject may investigate:

- ❖ Offenses against central-government employees, or concerning affairs of the central government and employees of central public-sector undertakings and public-sector banks
- ❖ Cases involving the financial interests of the central government

- ❖ Breaches of central laws enforceable by the Government of India
- ❖ Major fraud or embezzlement; multi-state organised crime
- ❖ Multi - agency or international cases

## **COMPTROLLER & AUDITOR**

### **GENERAL (CAG)**

- ❖ The constitution of India (Article 148) provides for an independent office of the Comptroller and Auditor General of India (CAG). He is the head of the Indian Audit and Accounts Department. He is the guardian of the public purse. Appointed by the President.
- ❖ Holds office for 6 years or till 65 years of age.
- ❖ The President can remove him only on the recommendation of the two houses of Parliament (as in case of judge of Supreme Court).
- ❖ He is not eligible for further office, either under the Government of India or of any state, after he ceases to hold his office.
- ❖ His salary is equal to that of a judge of the Supreme Court.

**13<sup>th</sup> – CAG of India**  
**(Rajiv Mehrishi)**  
**Present – Shashikant Sharma**

***Duties and Powers:***

- ❖ His duties are to audit the accounts of the Union and the States and to ensure that nothing is spent out of the Consolidated Fund of India or of the States without the sanction of the Parliament or the respective State Legislatures.
- ❖ The Constitution (Article 149) authorises the Parliament to prescribe the duties and powers of the CAG in relation to the accounts of the Union and of the states and of any other authority or body.
- ❖ He advises the President with regard to prescription of the form in which the accounts of the centre and the states shall be kept (Article 150).
- ❖ He submits an audit report of the Union to the President who shall lay it before the Parliament and the audit reports of the States to
- ❖ the respective Governors who shall lay it before the respective State Legislatures (Article 151).
- ❖ The CAG submits three audit reports to the President – audit report on appropriation accounts, audit report on finance accounts, and audit report on public undertakings. The president lays these reports before both the Houses of Parliament.
- ❖ He is responsible only to the Parliament. In short the CAG acts as the custodian & trustee of public money.

**ATTORNEY-GENERAL**

- ❖ The Constitution (Article 76) has provided for the office of the Attorney General for India. He is the highest law officer in the country. Appointed by the President.
- ❖ The person should be qualified to be appointed a judge on these.

***Present – K.K. Venugopal***

No.	Comptroller and Auditor General of India	Year tenure began	Year tenure ended
1	V. Narahari Rao	1948	1954
2	A. K. Chanda	1954	1960
3	A. K. Roy	1960	1966
4	S. Ranganathan	1966	1972
5	A. Bakshi	1972	1978
6	Gian Prakash	1978	1984
7	T. N. Chaturvedi	1984	1990
8	C. G. Somiah	1990	1996
9	V. K. Shunglu	1996	2002
10	VN Kaul	2002	2008
11	Vinod Rai	2008	2013
12	Shashi Kant Sharma	2013	Incumbent (6 years tenure or 65 years of age, whichever is earlier]

### ***Rights and Limitations:***

- ❖ He is entitled to audience in all courts of the country & can take part in the proceedings of the Parliament and its committees. However, he is not given the right to vote.
- ❖ He is also allowed to take up private practice provided the other party is not the State. Because of

this, he is not paid salary but a retainer to be determined by the President.

- ❖ The Attorney General is assisted by two Solicitors-General and four Additional Solicitors-General.
- ❖ The Attorney General gets a retainer equivalent to the salary of a judge of the Supreme Court.

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**Functions:**

- ❖ Gives advice on all such legal matters which may be referred or assigned to him by the President.
- ❖ Appears before the Supreme Court and various High Courts in cases involving the Govt. Of India. [Every state shall have an Advocate-General to advice the govt. On legal matters – Article 165].

first State to introduce the institution of Lokayukta in 1971. There are no Lokayuktas in Arunachal Pradesh, Jammu Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tamil Nadu, Tripura and West Bengal. The process to set up Lokayukta in Goa is in progress.

- ❖ Karnataka's Lokayukta is considered one of the strongest..

**LOKAYUKTA**

- ❖ The Lokayukta is an anti-corruption authority ombudsman (An ombudsman is an official, appointed by the government or by parliament to represent the interests of the public). He works along with the Income Tax Department and the Anti Corruption Bureau. The Lokayukta (sometimes referred to the institution itself) investigates allegations of corruption and mal-administration against public servants and is tasked with speedy redressal of public grievances.

**Appointment**

- ❖ The Lokayukta is usually a former High Court Chief Justice or former Supreme Court judge and has a fixed tenure.

**Roles**

- ❖ Any citizen can make his/her complaints of corruption directly to the Lokayukta against any government official or elected representative. Lokayukta's power varies from State to State. In some States, the Lokayukta inquires into allegations against public functionaries including Chief Minister, Ministers and MLAs. While some has the power to investigate into civil servants/bureaucrats, judiciary and police.

**States that have this authority:**

- ❖ Only 19 Indian States have Lokayukta. Maharashtra was the

## CENTRAL VIGILANCE COMMISSION

- ❖ The Central Vigilance Commission (CVC) is the main agency for preventing corruption in the Central governments. It was established in 1964 by an executive resolution of the Central government and it 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 Commission shall consist of

- ❖ A Central Vigilance Commissioner - Chairperson;
- ❖ Not more than two Vigilance Commissioners - Members;

### **Appointment:**

By the President on the recommendation of a three-member committee consisting of

1. The prime Minister as its head

2. The Union Minister of Home affairs
3. The Leader of the Opposition in the Lok Sabha

### **Present, CVC**

- **Shri KV Chowdary**

### **Other Vigilance Commissioners**

- **Shri Rajiv**
- **Tejendra Mohan Bhasin**

### **Term and Tenure:**

- ❖ 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.

### **Salary:**

Similar to those of the Chairman of UPSC and that of the vigilance commissioner are similar to those of a member of UPSC.

### **Functions:**

- ❖ To inquire or cause an inquiry or investigation to be conducted on a reference made by the Central government wherein it is alleged

## CCVCLA

- ◆.....◆
- 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.
- ❖ To exercise superintendence over the functioning of Delhi special police establishment.
- ❖ 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.
- ❖ To tender advice to the Central government and its authorities on such matters as are referred to it by them.
- ❖ To exercise superintendence over the vigilance administration in the ministries of the Central Government or its authorities.
- president a report on its performance. The president places this report before each House of Parliament.

### **Working:**

- ❖ The CVC conducts its proceedings at its headquarters (New Delhi).
- ❖ It has all the powers of a civil court and its proceedings have a judicial character.
- ❖ The CVC, on receipt of the report of the inquiry undertaken to the

**Unit  
09****Corruption in Public Life, Anti-Corruption measures, Lokpal and Lok Ayukta****Central Vigilance Commission (CVC) - 1964****Introduction**

- Agency for preventing corruption
- Established on recommendation of Santhanam Committee - 1964
- The Central Vigilance Commission will have been received the assent of the president on 11 september 2003.
- Neither constitutional nor statutory body.
- In 2003 - Statutory status
- CVC is not Investigating Agency
- CVC is a Advisory body
- CVC is a Autonomous body

**Contents:**

- Composition
- Appointment & Term
- Removal
- Salary
- Powers & Functions
- Administrative Vigilance Division
- Whistle Blowers Act (2011)

**Composition**

- Multimember body (Chairman not more than 2 members.

**Chairman**

- Central Vigilance Commissioner
- All appointed by presided under the recommendation of 3 member committee. (PM, Union minister of home affairs & leader of opposition in Lok sabha)
- First CVC Commission of India - Nittoor Srinivasa Rau
- Now (2020) - Shri Sharad Kumar.

**Term**

- 4 years or 65 years
- Not eligible for further employment in Govt.

**Removal - By President**

**Misbehaviour -** Can refer Supreme Court.

**Salary**

- Similar to Chairman of UPSC other vigilance commissioner - As member of UPSC
- Headquarters - Delhi

**Organisation**

1. Secretariat.
2. Chief Technical Examiners' Wing (CTE).
3. A wing of Commissioners for Departmental Inquires (CDIs).

**Functions**

- To inquire or cause an inquiry or investigation of Public servant. Committed an offence under the Prevention of Corruption Act, 1988.
- To superintendence over the functioning of the Delhi Special Police Establishment.
- To give directions to the Delhi Special Police Establishment (CBI).
- To tender advise to the Central government.
- To superintendence over the vigilance administration in the ministries.
- Central Government is required to consult the CVC in making rules and regulations governing the vigilance and disciplinary matters relating to the members of Ventr Services and All-India Services.

**Working**

- Power to regulate its own procedure.
- Have All the powers of a civil court and its proceedings have a judicial character.
- May call for information or report from the Central government or its authorities.

Submits reports to President

**Administrative Vigilance Division**

- Set up in the Ministry of Home affairs in 1955
- Central agency & Anti-corruption Measures
- Now AVD is Under CVC

## Chief Vigilance Officers

### Duties :

1. Preventive Vigilance,
2. Punitive Vigilance,
3. Surveillance
4. detection

### Code & Criminal Procedure act, 1973

- Public Interest Disclosure and Protection & Informer Resolution

### Vigilance Units in the Ministries

- All ministries/departments in the Union Government have a Chief Vigilance Officer (CVO).

### Vigilance Functions

- Collecting intelligence about corrupt practices of the employees of his organisation.
- Investigating verifiable allegations reported to him.
- Processing investigation reports for further consideration of the disciplinary authority concerned.
- Referring matters to the Central Vigilance Commission for advice wherever necessary.

### Whistle Blowers Act (2011)

- Government introduced "The Public Interest Disclosure and Protection to Persons Making the Disclosure Bill, 2010" in the Lok Sabha on 26.08.2010.

sure and Protection to Persons Making the Disclosure Bill, 2010" in the Lok Sabha on 26.08.2010.

- Renaming it as "The Whistle Blowers Protection Bill, 2011".

- Received the assent of the President on 9th May, 2014.

### Features

- To protect the identify of whistle blowers.
- Whistle blowers (a term given to people who expose corruption).
- To encourage people to disclose information about corruption or the wilful misuse of power by public servants, including ministers.
- A person can make a public interest disclosure on corruption before a competent authority-which is at present the Central Vigilance Commission (CVC).
- For false or frivolous complaints. Two years /Rs 30,000
- Disclosures can be made in writing or by email.
- No action shall be taken on a disclosure if it does not indicate the identity of the complaint or public servant or if "the identity of the complaint or public servant is found to be incorrect."
- Information related to national security has been kept out of the purview of the Act.

## Central Bureau of Investigation

### Moto :

- Industry, impartiality and integrity

### Introduction

- Set up in 01.04.1963.
- The special police establishment is the forerunner of CBI
- Originally under Ministry of Home Affairs.
- Now Ministry of Personnel.
- Delhi special Police Establishment setup in 1941 was also merged with the CBI.
- Santhanam Committee recommendations not a statutory body.
- It derives its powers from the Delhi Special Police Establishment Act, 1946.
- CBI is the main investigating agency of the Central Government.
- CBI act as the "National central Bureau" of Interpol in India.
- Important role in the prevention of corruption.

- Provides assistance to the Central Vigilance Commission and Lokpal.
- Motto: Industry, Impartiality and Integrity.

### Contents:

- Organisation of CBI
- Composition
- Appointment & Term
- Powers & Functions
- CBI Academy

### Organisation of CBI

At present (2019), the CBI has the following divisions:

- Anti-Corruption Division.
- Economic Offences Division.
- Special Crimes Division.
- Policy and International Police Cooperation Division.
- Administration Division.
- Directorate of Prosecution.
- Central Forensic Science Laboratory.

**Composition of CBI**

- Headed by a Director.
- Assisted by a special director or an additional director.
- Director of CBI as Inspector-General of Police, Delhi Special Police Establishment.
- Two-year tenure.
- As per The Lokpal and Lokayuktas Act (2013)
- Appointment of director of - Central Government.
- Recommendation of a three-member committee.
  1. Prime Minister as Chairperson,
  2. The Leader of Opposition in the Lok Sabha
  3. The Chief Justice of India or Judge of the Supreme Court.

**Directorate of prosecution**

- headed by a Director
- At present (2020) CBI director : Rishi Kumar Shukla
- For conducting the prosecution of cases under the Lokpal and Lokayuktas Act, 2013.
- Officer not below the rank of Joint Secretary.
- Under the overall supervision and control of the Director of CBI.
- Appointed by the Central Government in consultation with CVC
- Two years. - Tenure

**Officers of the rank of SP and above in the CBI**

- Recommendation of a committee.
  1. Central Vigilance Commissioner as Chairperson,
  2. Vigilance commissioner
  3. The secretary of Home Ministry
  4. Secretary of the Department of Personnel.
- The Delhi Special Police Establishment (Amendment) Act, 2014.
- A change in the composition of the committee related to the appointment of the Director of C.B.I.
- Where there is no recognized leader of opposition in

the Lok Sabha, then the leader of the single largest opposition party in the Lok Sabha would be a member of that committee.

**Functions of CBI**

- Investigating cases of corruption, bribery and misconduct of Central government employees.
- Investigating serious crimes.
- Coordinating the activities of the anti-corruption agencies and the various state police forces.
- Taking up, on the request of a state government, any case.
- Maintaining crime statistics and disseminating criminal information.

**Provision of Prior Permission**

- CBI is required to obtain the prior approval of the Central Government.
- Before conducting any inquiry or investigation.
- By officers of the rank of joint secretary and above.
- However, on May 6, 2014, the Supreme Court held as invalid.
- Section 6A of the Delhi Special Police Establishment Act, was violative of Article 14.

**CBI Academy**

- At Ghaziabad, Uttar Pradesh.
- Started in 1996
- Vision "Excellence in Training in the Fields of Crime Investigation, Prosecution and Vigilance Functioning".
- Three regional training centres.
- At Kolkata, Mumbai and Chennai.
- Two kinds of training courses.
  1. **Short Term In-service Courses:** For officers of the CBI, state police, central para-military forces and central government undertakings.
  2. **Long Term Basic Courses:** For directly recruited deputy superintendents of police, sub-inspectors and constables of CBI.

## Comptroller and Auditor General of India

**Introduction**

- Part-V
- Article 148-151
- Head of the Indian Audit and Accounts Department.
- Guardian of the public purse.
- Controls the entire financial system of the country
- at both the levels the Centre and the state
- To uphold the Constitution in the field of financial administration.
- Dr B R Ambedkar said "one of the bulwarks of the democratic system of government in India".
- Others being the Supreme Court, the Election Commission and the UPSC

THOOTHUKUDI  
99445 11344

TIRUNELVELI  
98942 41422

RAMANATHAPURAM  
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MADURAI  
98431 10566

336

**Contents:**

- Appointment & Term
- Removal & Salary
- Powers & Functions
- Role of CAG
- CAG and Corporations
- Audit Board
- Appointment of Terms
- Appleby's Criticism
- First CAG : V. Nara Hari Rao
- Appointed by the president (art : 148)
- Six years or upto the age of 65 years.
- Resignation letter to the president.
- Removed by the president
- Same manner as a judge of the Supreme Court.
- His salary and other service conditions are determined by the Parliament.
- Salary is equal to that of a judge of the Supreme Court. (Salary of Supreme Court judges - 2.50 lakhs/ monthly(2018))
- No minister can represent the CAG in Parliament (both Houses)
- No minister can be called upon to take any responsibility for any actions done by him.

**Duties and powers of the CAG.**

- Article 149
- The CAGs (Duties, Powers and Conditions of Service) act, 1971.
- He audits the receipts and expenditure of the following:
  1. All bodies and authorities substantially financed from the Central or state revenues;
  2. Government companies; and
  3. Other corporations and bodies, when so required by related laws.
- He submits his audit reports of the Centre to President. He submits his audit reports of a state to governor. Article 151
- He ascertains and certifies the net proceeds of any tax or duty (Article 279).
- The 'net proceeds' means the proceeds of a tax or a duty minus the cost of collection.
- Acts as a guide, friend and philosopher of the Public Accounts Committee of the Parliament.

- The CAG submits three audit reports to the President
  1. Audit report on appropriation accounts
  2. Audit report on finance accounts
  3. Audit report on public undertaking.
- The appropriation accounts compare the actual expenditure with the expenditure sanctioned by the Parliament through the Appropriation Act.
- The Finance accounts show the annual receipts and disbursements of the Union Government.

**Role of CAG**

- Agent of the Parliament
- Conducts audit of expenditure on behalf of the Parliament.
- He is responsible only to the Parliament.
- The CAG is fulfilling the role of an Auditor- General only and not that of a Comptroller.
- **1976-** Accounts separated from Audit (Departmentalisation of accounts)
- **Controller - General of Accounts** - Established as a part of Ministry of Finance.
- Agent of parliament & conducts audit of expenditure on behalf of parliament. (Responsible only to parliament)

**IAAS (Indian audits and Account service)**

- Under the CAG

**PAC (Public Accounts Committee)**

- 15 member from Lokhsabha
- 7 member from Rajya sabha
- Chairman of PAC is opposite leader
- CAG report submitted to PAC
- Art 148 : CAG of India
- Art 149 : Duties & power of CAG
- Art 150 : Form of Accounts of the union & states
- Art 151 : Central government audit report to president state government audit report to Governor.

**CAG and Corporations**

- The role of CAG in the auditing of public corporations is limited
- Some corporations are audited totally and directly by the CAG.
- Some other corporations are audited by private professional auditors who are appointed by the Central Government in consultation with the CAG.

- If necessary, the CAG can conduct supplementary audit.

#### Audit Board

- In 1968, an Audit Board was established.
- To associate outside specialists and experts to handle the technical aspects of audit of specialised enterprises like engineering, iron and steel, chemicals and so on.

- Recommendations of the Administrative Reforms Commission of India.

- Chairman and two members
- Appointed by the CAG.

#### Appleby's Criticism

- Paul H Appleby
- Recommended the abolition of the office of CAG.

## Lok Adalat (1987)

#### Contents:

- National Legal Services Authority (NALSA)
- Free legal services
- The persons eligible for getting free legal services
- Lok Adalats
- Matters taken up in Lok Adalats
- Permanent Lok Adalats
- Family Courts
- Gram Nyayalayas

#### National Legal Services Authority (NALSA)

- Article 39 A
- For free legal aid to the poor and weaker sections of the society
- Ensures justice for all
- Legal Services Authorities Act, 1987
- Came into force on 9<sup>th</sup> November, 1995.
- In every State - a State Legal Services Authority
- In Every High Court - a High Court Legal Services Committee
- In every districts - District Legal Services Authorities, Taluk Legal Services Committees

#### Main functions

- To provide free and competent legal services to the eligible persons.
- To organize Lok Adalats for amicable settlement of disputes.
- To organize legal awareness camps in the rural areas.

#### Free legal services

- Payment of court fee, process fees
- All other charges payable or incurred in connection with any legal proceedings.
- Providing service of lawyers
- Obtaining and supply of certified copies of orders and other documents

- Preparation of appeal, paper book including printing and translation of documents

#### The persons eligible for getting free legal services

- Women and children
- Members of SC/ST
- Industrial workmen
- Victims of mass disaster, violence, flood, drought, earthquake, industrial disaster
- Disabled persons
- Persons in custody
- Persons whose annual income does not exceed Rs. 1 lakh (in the Supreme Court Legal Services Committee the limit is Rs.1,25,000/-).
- Victims of trafficking in human beings or begar.

#### Lok Adalats

- Lok Adalat is a forum where the cases (or disputes) which are pending in a court or which are at prelitigation stage (not yet brought before a court) are compromised or settled in an amicable manner.
- Lok Adalat's means 'People's Court'
- Based on Gandhian principles.
- ADR (Alternative Dispute Resolution) system
- Provides alternative resolution or devise for expeditious and in expensive justice.
- The idea of Lok Adalat was mainly advocated by Justice P.N. Bhagwati, a former Chief Justice of India.
- First Lok Adalat camp In Gujarat in March 12, 1982.
- Given statutory status under the Legal Services Authorities Act, 1987.

#### Composition

- A judicial officer as the chairman
- a lawyer (advocate) and a social worker as members.

#### Matters taken up in Lok Adalats

- Matrimonial / Family Disputes, Criminal (Compound-

able Offences) cases, Land Acquisition cases, Labour disputes, Workmen's compensation cases, bank Recovery cases, Pension cases, Housing Board and Slum Clearance cases, Housing Finance cases, Consumer Grievance cases, Electricity matters, Disputes relating to Telephone Bills, Municipal matters including House Tax cases, Disputes with Cellular Companies etc.

- Same powers as Civil Court
- Under
  1. Code of Civil Procedure (1908).
  2. Indian Penal Code (1860)
  3. Code of Criminal Procedure (1973).
- Judgement Final and binding to all
- No appeal shall lie to any court

#### Benefits

- No court fee
- If court fee is already paid the amount will be refunded if the dispute is settled at Lok Adalat.
- Procedural flexibility
- Speedy trial of the disputes.
- The focus in Lok Adalats is on compromise
- No advocate or pleader is allowed, even witnesses are not examined.
- No strict application of procedural laws like the Civil Procedure Code and the Evidence Act
- The parties to the dispute can directly interact with the judge.

#### Permanent Lok Adalats

- Legal Services Authorities Act, 1987
- Was amended in 2002.
- To provide for the establishment of the Permanent Lok Adalats
- To deal with cases pertaining to the public utility services.

#### Composition

- Chairman and two other persons having adequate experience in public utility services.
- The Permanent Lok Adalat shall exercise jurisdiction in respect of one or more public utility services such as transport services of passengers or goods by air, road and water; postal, telegraph or telephone services; supply of power, light or water to the public by any establishment; public conservancy or sanitation; services in hospitals or dispensaries; and insurance services.
- Jurisdiction shall be up to rupees ten lakhs.
- Judgement final and binding on all the parties thereto.

#### Family Courts

- The Family Courts Act, 1984
- To promote conciliation and secure speedy settlement of disputes relating to marriage and family affairs.

#### Features

- To set up a Family Court in every city or town with a population exceeding one million

#### Jurisdiction of the Family Courts.

- matrimonial relief, including nullity of marriage, judicial separation, divorce, restitution of conjugal rights, or declaration as to the validity of marriage or as to the matrimonial status of any person;
- the property of the spouses or of either of them;
- declaration as to the legitimacy of any person;
- guardianship of a person or the custody of any minor; and
- maintenance of wife, children and parents.
- Only one right of appeal To the High Court.
- At present (2016), a total of 438 Family Courts

#### Gram Nyayalayas

- Gram Nyayalayas Act, 2008.
- Court of Judicial Magistrate of the first class.
- Its presiding officer (Nyayadhikari)
- Appointed by the State Government
- In consultation with the High Court.
- Established for every Panchayat.
- Shall be a mobile court
- Shall exercise the powers of both Criminal and Civil Courts.
- Seat of the Gram Nyayalaya will be located at the headquarters of the intermediate Panchayat.
- They will go to villages, work there and dispose of the cases.
- Not bound by the rules of evidence provided in the Indian Evidence Act, 1872
- Guided by the principles of natural justice
- Appeal in criminal cases shall lie to the Court of Session, which shall be heard and disposed of within a period of six months from the date of filing of such appeal.
- Appeal in civil cases shall lie to the District Court, which shall be heard and disposed of within a period of six months from the date of filing of the appeal.

## Lokpal and Lokayuktas

### Tagline

- Do not be greedy for anyone's wealth
- Emblem of Lokpal created by Prashanth Mishra (prakyaraj - Uttar Pradesh)

### Introduction

- Earliest democratic institution created in the world
- Lokpal - Sanskrit word, meaning : caretaker of People.
- For the redressal of citizens grievance.
- Scandinavian institution of Ombudsman.
- Ombudsman was adopted from freedom.
- First created in Sweden in 1809.
- Finland (1919),
- Denmark (1955) and
- Norway (1962).
- 'Ombud' is a Swedish term.
- Refer to a person who acts as the representative or spokesman of another person.
- New Zealand is the first Commonwealth country in the world.
- Ombudsman in India is called Lokpal/Lokayukta.
- Donald C. Rowat, Ombudsman refers to "an officer appointed by the legislature to handle complaints against administrative and judicial action."
- Donald. C. Rowat. "Bulwark of democratic government against the tyranny of officialdom".
- Gerald E. Caiden described the Ombudsman as "institutionalised public conscience".

### Contents:

- Lokpal
- History of Lokpal
- Lokpal and Lokayukta act 2013
- Lokayuktas
- TN Lokayukta Act, 2018

### Lokpal

- Administrative Reforms Commission (ARC) of India (1966-1970) recommendations.
- 'Lokpal' abd 'lokyukta' for the redressal of citizens' grievances.
- Pattern of Ombudsman in Scandinavian countries.
- Lokpal would deal with complaints against ministers and secretaries at Central and State levels.

- The lokayukta (one at the Centre and one in every state) would deal with complaints against other specified higher officials.

### History of Lokpal

- The term lokpal was coined by Dr.L.M.Singhvi in 1963
- Concept of ombudsman introduced in parliament Ashok kumar sen.
- First Jan lokpal bill was proposed by Shanti Bhusan in 1968 passed in L/S but jailed in R/S.
- Bills were introduced in the Parliament in the following years:1968, 1971, 1977, 1985, 1989, 1996, 1998, 2001, 2005, 2008, passed in 2013.

### Jan Lokpal movement

- Anna Hazare (2011)

### Lokpal and Lokayukta act 2013

- 116th Amendment Bill, 2011
- Lokpal and Lokayuktas Bill, 2011
- The Bill as passed by both Houses
- Received assent of president on 01.01.2014.
- Effect from 16th January, 2014.

### Salient features of the Lokpal and Lokayuktas Act (2013)

- To establish the institution of the Lokpal at the Centre and the Lokayukta at the level of the State.
- To provide a uniform vigilance and anti-corruption road map for the nation both at the Centre and at the States.

### Composition

- Chairperson with a maximum of 8 members 50% shall be judicial members.
- At present Chairman of Lokpal - Pinaki Chandra Boss
- 50% of the members SCs, the STs, the OBCs, minorities and women.
- Selection Committee -
  - The Prime Minister,
  - The Speaker of the Lok Sabha,
  - The Chief Justice of India or a sitting Supreme Court Judge nominated by the Chief Justice of India and an eminent jurist.
- 50% of Search Committee -SCs, the STs, the OBCs, minorities and women.
- Prime Minister has been brought under the purview of the Lokpal.

- Lokpal's jurisdiction will cover all categories of public servants, including Group A, Group B, Group C, and Group D officers and employees of Government.
- Power of superintendence and direction over any investigating agency, including the CBI.
- It incorporates provisions for attachment and confiscation of property of public servants.

#### It lays down clear timelines

- For preliminary enquiry, it is three months extendable by three months.
- For investigation, it is six months which may be extended by six months at a time.
- For trial, it is one year extendable by one year.
- Special courts to be set up.

#### Punishment

- Maximum punishment under the Prevention of Corruption Act from seven years to ten years.
- The minimum punishment under sections 7,8,9 and 12 of the Prevention of Corruption Act will now be three years.
- The minimum punishment under section 15 (punishment for attempt) will now be two years.
- Institutions which are financed fully or partly by Government.
- It provides adequate protection for honest and upright public servants.
- Donations from foreign source in the context of the Foreign Contribution Regulation Act (FCRA) in excess of Rs.10 lakhs per year are brought under the jurisdiction of Lokpal.
- A mandate for setting up of the institution of Lokayukta through enactment of a law by the State Legislature within a period of 365 days from the date of commencement of this Act.

#### Drawbacks

- Lokpal cannot suo motu.
- Emphasis on form of complaint rather than substance.
- Heavy punishment for false and frivolous complaints.
- Anonymous complaints not allowed.
- Legal assistance to public servant against whom complaint is filed.
- Limitation period of 7 years to file complaints.
- Very non-transparent procedure for dealing with complaints against the PM.

**Formed** 19 March 2019

**Headquarters** New Delhi, India

**Motto** Ma Gridhah Kasyasvidhanam  
(Sanskrit) Do not be greedy for anyone's wealth

- The current Chairperson of Lokpal is Pinaki Chandra Ghose.

#### Lokayuktas

- First in Maharashtra in 1971.
- Although Odisha had passed the Act in this regard in 1970,
- It came into force only in 1983.
- There are no Lokayuktas in Jammu and Kashmir, Puducherry and Telangana.
- Lokayukta was established in Tamil Nadu.
- On 9 July 2018, the Arunachal Pradesh assembly passed a Lokayukta bill.
- On 28 February 2019, the Mizoram assembly passed a Lokayukta Bill
- Tamil Nadu Legislative Assembly finally passed the Tamil Nadu Lokayukta act 2018 through voice vote.

#### Structural Variations

- Not same in all the states.
- Rajasthan, Karnataka, Andhra Pradesh and Maharashtra have created the lokayukta as well as upalokayukta.
- Bihar, Uttar Pradesh and Himachal Pradesh have created only the lokayukta.
- Punjab and Orissa that have designated officials as Lokpal.

#### Appointment

- By the governor of the state.
- No specific qualifications.

#### Tenure

- 5 year duration or 65 year of age.
- Not eligible for reappointment for a second term.

#### TN Lokayukta Act, 2018

- on 9 July, 2018
- Introduced by The minister for personnel and administrative reforms D. Jayakumar
- The Tamil Nadu Governments move came ahead of the Supreme Court's deadline to establish a Lokayukta by July 10.

- At Present Chairman of TamilNadu Lokayukta P.Devadass (2020)
- The Act would look into graft charges against government Servants including current and former elected representatives (including Chief Ministers and Cabinet Ministers).

**Features of Act:**

- Lokayukta consists of Chairperson and four members.
- Chairperson would be current or former judge of High Court or person with 25 years of experience in any field in anti-corruption policy, public administration, vigilance, finance and law.
- Appointments by the Governor
- Select committee
  - Chief Minister, the
  - The leader of the Assembly and the
  - The leader of the opposition in the Assembly.
- False complaints- Rs 1 lakh and an imprisonment of upto one year.
- Chief Minister and his Cabinet comes under the purview of the Act,
- Local administration and government contracts do not.
- Retirement age is 5 years or 70 years.

- Removed by order of Governor.
- Should not be an elected Member of Parliament (MO) or a Member of Legislative Assembly
- Should not have been convicted by a court of law.
- Should not be a member of the local administration or corporation
- Should not have been removed from a state or central government service.
- Should not hold an office of profit
- Should not have any relationship with political parties.
- The Lokayukta complaint can be filed on corruption which has taken place within four years' period.

**Lokayukta's powers**

- The Lokayukta's powers include summoning and examining any person and receiving evidence of affidavits.
- The investigation wing of the body shall have all the powers of a civil court under the CrPC, 1908,
- Section 63 of the Lokpal and Lokayuktas Act, 2013, states that every state shall establish a body to be known as the Lokayukta.
- Tamil Nadu Lokayukta - P.Devadass



**"Don't dream  
of Winning..  
Practice for it"**



**SURESH'**  
**IAS ACADEMY**

THOOTHUKUDI  
99445 11344

TIRUNELVELI  
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## **Government of Tamilnadu**

### **Department of Employment and Training**

Course : TNPSC Group II Exam  
Subject : Indian Polity  
Topic : **Right to Information**

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**Commissioner,  
Department of Employment and Training.**

# RIGHT TO INFORMATION

## The Right to Information Act, 2005:

- ❖ The Right to Information Act received the assent of the President on the 15<sup>th</sup> June, 2005.
- ❖ It extends to the whole of India except the State of Jammu and Kashmir.
- ❖ Subject to the provisions of this Act, all citizens shall have the right to information.
- ❖ Every public authority shall –  
Maintain all its records duly catalogued and indexed so that access to such records is facilitated;

### **a) Publish**

- i. The particulars of its organisation, functions and duties;
- ii. The powers and duties of its officers and employees;
- iii. The procedure followed in the decision making process, including channels of supervision and accountability.

- ❖ Every public authority shall, designate as many officers as the Central Public Information Officers or State Public Information Officers, as the case may be in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under this Act.

## ***Exemption from disclosure of information:***

1. Information disclosure of which would prejudicially affect the sovereignty and integrity of India, or lead to incitement of an offence;
2. Information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;
3. Information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature.

Right to Information Day –  
September 28

# CENTRE & STATE COMMISSION

## CENTRAL INFORMATION

### COMMISSION (CIC)

- ❖ CIC is constituted by the Central Government through a gazette notification.

#### **Composition:**

- ❖ One Chief Information Commissioner and not more than 10 Information Commissioners.

#### **Appointment:**

- ❖ By President on the recommendation of a committee consisting of
  1. The Prime Minister as chairperson
  2. The Leader of Opposition in the Lok Sabha
  3. Union Cabinet Minister nominated by the Prime Minister.

#### **Term and Tenure:**

- ❖ Five years or until they attain the age of 65 years whichever is earlier. They are not eligible for reappointment.

#### **Removal:**

- ❖ The Chief Information Commissioner or any information Commissioner shall be removed from his office only by order of the President, however in the case of proved misbehaviour or incapacity President has to refer the matter to the Supreme Court for an enquiry. If the Supreme Court after the inquiry, upholds the cause of removal and advises so, then the President remove him

#### **Salary:**

- ❖ For Chief Information Commissioner it is similar to those of the Chief Election Commissioner and for the information Commissioner it is similar to those of an Election Commissioner.
- ❖ Head Quarters – Delhi

Present – CIC – Radha Krishna Mathur

**Centre & State Commission**

◆.....◆  
**Powers and functions of the Composition:**

**Information Commissions:**

- ❖ It shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person.

- a) Who has been unable to submit a request to a Public Information Officer by reason that no such officer has been appointed under this Act, or
- b) Who has been refused access to any information requested under this Act;
- c) Who has not been given a response to a request for information or access to information within the time limit specified under this Act.

- ❖ It consists of a State Chief Information Commissioner and not more than ten State Information Commissioners.

**Appointment:**

- ❖ By the Governor on the Recommendation of Committee consisting of
  1. The Chief Minister as Chairperson
  2. The Leader of Opposition in the Legislative Assembly
  3. State Cabinet Minister nominated by the Chief Minister

**Term and Tenure:**

- ❖ Five years or until they attain the age of 65 years, whichever is earlier. They are not eligible for reappointment.

**STATE INFORMATION COMMISSION (SIC)**

- ❖ Every State Government shall constitute a body to be known as the State Information Commission.

**Removal:**

- ❖ The State Chief Information Commissioner or any State information Commissioner shall be removed from his office only by Governor, however in the case of proved misbehaviour or incapacity Governor has to refer

**Centre of State Commission**

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 governor remove him

**Salary:**

- ❖ State Chief Information Commissioner-similar to those of Election Commissioner
- ❖ State Information commissioner-similar to those of Chief Secretary of the state government

- Tamilnadu Information Commission - It consisting of State Chief Information Commissioner and two State information Commissioners.
- **Current Chief Information Commissioner – Thiru. S. Ramakrishnan**



## **Government of Tamilnadu**

### **Department of Employment and Training**

Course : TNPSC Group II Exam  
Subject : Indian Polity  
Topic : **Empowerment of Women**

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**Commissioner,  
Department of Employment and Training.**

# EMPOWERMENT OF WOMEN

## Definition:

Empowerment is the degree of equality and freedom in all spheres of life at par with men.

- International Women's Year (IWY)- 1975 by the United Nations
- March 8-International Women's Day
- United Nations Decade for Women, from 1976–1985

- ❖ The Mission goes beyond '3 R's (i.e. Reading, Writing & Arithmetic) for it also seeks to create awareness of social disparities and a person's deprivation on the means for its amelioration and general well being.

## ***The Mahila Samakhya Programme (1987-89)***

## Central Government schemes:

### Education

#### ***Saakshar Bharat (8 September 2009)***

- ❖ It was launched by Prime Minister, Dr. Manmohan Singh to create a literate society through a variety of teaching learning programmes for non-literate and neo-literate of 15 years and above.
- ❖ It aims to recast India's National Literacy Mission to focus on literacy of women, which is expected to increase the literate population by 70 million adults, including 60 million women.

- ❖ To translate the goals of NPE and POA into a concrete programme for the education and empowerment of women in rural areas, particularly of women from socially and economically marginalised groups.
- ❖ Mahila Samakhya (Education for Women's Equality) was launched as a pilot project in 10 districts of Karnataka, Gujarat and Uttar Pradesh in 1989 with Dutch assistance.

*Empowerment of Women*

◆.....◆

**The Kasturba Gandhi Balika Vidyalaya scheme (2004).**

the poverty line in Educationally Backward Blocks.

❖ It is now integrated in the Sarva Shiksha Abhiyan program, to provide educational facilities for girls belonging to Scheduled Castes, Scheduled Tribes, Other Backward Classes, minority communities and families below

❖ The objective of KGBV is to ensure access and quality education to the girls of disadvantaged groups of society by setting up residential schools with boarding facilities at elementary level.

**WOMEN EMPOWERMENT PROGRAMMES**

SL. No.	Women Empowerment Programmes	Year of Establishment	Function
1	Support to Training and employment Programme for Women (STEP)	2003-04	To increase the self-reliance and autonomy of women by enhancing their productivity and enabling them to take up income generation activities.
2	Rashtriya Mahila Kosh (RMK)	1993	To promote or undertake activities for the promotion of or to provide credit as an instrument of socio- economic change and development through the provision of a package of financial and social development services for the development of women.
3	Rashtriya Mahila Kosh	1993	To facilitate credit support or micro-finance to poor women to start income generating activities such as dairy, agriculture, shop-keeping, vending, handicrafts etc.

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4	Rajiv Gandhi Scheme for Empowerment of Adolescent Girls (RGSEAG)- 'Sabla'	2010	It aims at empowering Adolescent girls of 11 to 18 years by improving their nutritional and health status, up gradation of home skills, life skills and vocational skills.
5	Central Social Welfare Board (CSWB)	1953	To promote social welfare activities and implementing welfare programmes for women and children through voluntary organizations.
6	Rashtriya Mahila Kosh - (National Credit Fund for Women)	1993	It extends micro-finance services through a client friendly and hassle-free loaning mechanism for livelihood activities, housing, micro-enterprises, family needs, etc to bring about the socio-economic upliftment of poor women.
7	Indira Gandhi Matritva Sahyog Yojana (IGMSY)	----	To improve the health and nutrition status of pregnant, lactating women and infants
8	Swayam Siddha	2001	At organizing women into Self-Help Groups to form a strong institutional base.
9	Short Stay Home for Women and Girls (SSH)	1969	To provide temporary shelter to women and girls who are in social and moral danger due to family problems, mental strain, violence at home, social ostracism, exploitation and other causes.
10	Swadhar	1995	To support women to become independent in spirit, in thought, in action and have full control over their lives rather than be the victim of others actions.
11	Support to	1986	To mobilise women in small viable groups

### Empowerment of Women

	Training and Employment Programme for Women (STEP)		and make facilities available through training and access to credit, to provide training for skill up gradation, etc.
12	Development of Women and Children in Rural Areas (DWCRA)	1982	To improve the socio-economic status of the poor women in the rural areas through creation of groups of women for income-generating activities on a self-sustaining basis.
13	Tamil Nadu Corporation for Development of Women	1983	Aims at the socio-economic empowerment of women

### Health

#### **Janani Suraksha Yojana (JSY):**

- ❖ It is a safe motherhood intervention under the National Rural Health Mission (NRHM) being implemented with the objective of reducing maternal and neo-natal mortality by promoting institutional delivery among the poor pregnant women.
- ❖ The Yojana, launched on 12th April 2005, by the Hon'ble Prime Minister, is being implemented in all states and UTs with special focus on low performing states.
- ❖ The Yojana has identified ASHA, the accredited social health activist

as an effective link between the Government and the poor pregnant women in 10 low performing states, namely the 8 EAG states and Assam and J&K and the remaining NE States

#### **Rajiv Gandhi Scheme for Empowerment of Adolescent Girls (RGSEAG) Sabla**

- ❖ It is a centrally sponsored program of Government of India initiated on April 1, 2011 under Ministry of Women and Child Development.

*Empowerment of Women*

**The objectives of the program are:**

- Enable the Adolescent girls for self-development and empowerment
- Improve their nutrition and health status.
- Promote awareness about health, hygiene, nutrition, adolescent reproductive and sexual health (ARSH) and family and child care.
- Upgrade home-based skills, life skills and integrate with the National Skill Development Program (NSDP) for vocational skills.
- Mainstream out of school adolescent girls into formal/non formal education.
- Provide information/guidance about existing public services such as PHC, CHC, Post Office, Bank, Police Station, etc.

**Eligibility Criteria**

- ❖ The program would cover adolescent girls 11–18 years old under all ICDS projects in selected 200 districts in all states/UTs in the country. The target group would be subdivided into 11-15 and 15–18 years.

**Indira Gandhi Matritva Sahyog Yojana (IGMSY) – Conditional Maternity Benefit (CMB) scheme**

- ❖ It is a Conditional Cash Transfer scheme for pregnant and lactating women to contribute to better enabling environment by providing cash incentives for improved health and nutrition to pregnant and nursing mothers.
- ❖ It is being implemented initially on pilot basis in 52 selected districts using the platform of ICDS

**Political:**

- ❖ 33% reservation in Panchayat and Municipalities under 73rd amendment Act & 74th amendment Act 1992.
- ❖ Women's Reservation Bill or the The Constitution (108th Amendment) Bill is a pending bill in India which proposes to amend the Constitution of India to reserve 33 per cent of all seats in the Lower house of Parliament of India, the Lok Sabha, and in all state legislative assemblies for women.
- ❖ The Upper House Rajya Sabha passed the bill on 9 Mar

### *Empowerment of Women*



2010. As of March 2013, the Lower House Lok Sabha has not yet voted on the bill

#### **Legal provisions:**

- Dowry prohibition Act - 1961
- Immoral traffic prevention Act - 1956
- Equal right to property Act- 1956
- Equal remuneration Act - 1976
- Protection from Domestic Violence Bill - 2002
- National commission for women - 1990
- Domestic Violence Act - 2005

#### **Other Schemes:**

- **UJJAWALA** : A Comprehensive Scheme for Prevention of trafficking and Rescue, Rehabilitation and Re-integration of Victims of Trafficking and Commercial Sexual Exploitation
- Dhanalakshmi - Conditional cash transfer scheme for girl child.

❖ The Moovalur Ramamirtham Ammaiyar Ninaivu Marriage assistance scheme was launched in the year 3rd June 1989. This scheme focused in helping poor parents for getting their daughters married. It also promoted educational status of poor girls up to 10th standard. The financial support was enhanced on continuous basis from Rs.5000/- to current annual support of 25,000/- during the 1st April 2010, as an Educational support for the poor girls.

#### ***E.V.R Maniammaiya Ninaivu Marriage Assistance Schemes For Daughters of Poor Widows:***

❖ The Maniammaiya Ninaivu marriage assistance scheme for the daughters of the poor widows was launched in the year 1981-1982. Initially during the launch Rs.1000/- was provided and has been enhanced to Rs.20, 000 in the year 20th November 2008, to perform the marriage of the poor widows daughters.

### **WOMEN WELFARE SCHEMES**

#### **IN TAMIL NADU**

***Moovalur Ramamirtham Ammaiyar Ninaivu Marriage Assistance Scheme:***

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**Anjugam Ammiar Ninaivu Intercaste Marriage Assistance Scheme:**

- ❖ This scheme was launched in the 1st July 1967, with the aim to abolish discrimination on caste grounds and also to eliminate dowry harassment. Even the intercaste marriage assistance has been included in the scheme. There is no income limit to avail this assistance. Under this scheme the intercaste marriage scheme, the married couples are financially benefited.

**Sathyavani Muthu Ammiyar Ninaivu Free Supply of Sewing Machines Scheme:**

- ❖ Sathyavani Muthu Ammiyar was Indian politician and influential dalit leader. She was a Member of the Legislative Assembly of Tamil Nadu, Rajya Sabha member and Union Minister. She began her political career as a member of Dravida Munnetra Kazhagam, began her own party, Thazhthapattor Munnetra Kazhagam and later joined the Anna Dravida Munnetra Kazhagam.

**Sivagami Ammaiyar Ninaivu Girl Child Protection Scheme:**

- ❖ This scheme was launched in the year April 1992 in order to lift the status of the girl children in the society and to abolish the practice of female infanticide. In the fond memory of the then Chief minister of Tamilnadu “Thiru Kamarajar”, the scheme was renamed as Sivagami Ammaiyar ninaivu girl child protection scheme in the year 2006. By the year 31st March 2010, 6192 girl children in the State of Tamilnadu are benefited.

**Dr.Dharmambal Ammaiyar Ninaivu Widow Remarriage Assistance Scheme:**

- ❖ This scheme was launched in the year 1975 with the focus to rehabilitate the widows and to encourage the widow remarriage. The financial support was gradually enhanced from Rs.5000/- to Rs.20.000/- from November 2009. Also no income ceiling was fixed to avail the scheme. The applications to avail the scheme will be processed within 15 days.

***Empowerment of Women***

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- ❖ From 17.5.2011 onwards, the scheme of giving 4 gms 22 carat gold coin for Thirumangalyam is extended to beneficiaries under this scheme with financial assistance of Rs. 25,000/.
  - which are likely to receive female children which are abandoned by their parents due to social circumstances like debts, future financial commitments, females are prone to sexual violations etc.

***Annai Therasa Ninaivu Marriage Assistance Scheme For Orphan***

***Girls:***

- ❖ This scheme was launched in the year 1984-1985 to support the orphan girls for getting married. In the year 1999 the scheme was named as Annai Therasa Ninaivu marriage assistance scheme for orphan girls. The financial assistance was increased from Rs.1000/- to Rs.20,000/- gradually under this scheme.

***Cradle Baby Scheme:***

- ❖ The “Cradle Baby Scheme” was introduced in the year 1992 in the Salem district of Tamilnadu. This scheme has been recognized all over India and other countries. Under this scheme, cradles are placed at locations like Hospitals, Primary Health Centers, Orphanages and Children Homes

***Integrated Child Development Services (ICDS):***

- ❖ The project was launched on 2nd October 1975. ICDS is a symbol of uniqueness in the field of early childhood development, and is considered to be World’s largest program. In Tamil Nadu, the Integrated Child Development Services Scheme (ICDS) has 434 Projects with 47,265 Children Centers and 3168 Mini centers, totalling 50,433 centers
- ❖ The objectives of the scheme are as follows:
  - ❖ To enhance the capability of the mother to look after the normal health and nutritional needs of the child through proper nutrition and health education.
  - a. To ensure Tamilnadu as a malnutrition free state, and to provide the whole life cycle nutrition security program, with a

*Empowerment of Women*

- focus on nutrition for the pregnant and lactating mothers, infants, children and adolescent girls
  - b. To improve the nutritional and health status of the children in the age group of 0 to 6 years
  - c. To lay the foundation for psychological, physical and social development of the child to reduce the incidence of mortality, morbidity and malnutrition
  - d. To enhance the capability of the mother to look after the normal health and nutritional needs of the child through proper nutrition and health education.
  - e. To ensure Tamilnadu as a malnutrition free state, and to provide the whole life cycle nutrition security program, with a focus on nutrition for the pregnant and lactating mothers, infants, children and adolescent girls
  - f. To improve the nutritional and health status of the children in the age group of 0 to 6 years
  - g. To lay the foundation for psychological, physical and social development of the child
  - h. To reduce the incidence of mortality, morbidity and malnutrition
- ❖ The beneficiaries under this scheme are as follows:
- a. Children under the age group of 0 to 72 months
  - b. Adolescent girls
  - c. Pregnant women and lactating mothers
  - d. Old age pensioners
- ❖ **International agencies are involved under this scheme**
- a. United Nations International children' Emergency fund (UNICEF)
  - b. Cooperative of assistance and relief everywhere (CARE)
- ❖ World food program (WFP)
- Awards Women and Children Sree Shakti Puraskars:**
- ❖ on International Women's Day 8<sup>th</sup> of March, the Government of India presents this award
  - ❖ to individual women in the field of social development
  - ❖ 6 awards given, in the name of following eminent women from Indian history

### Empowerment of Women



Devi Ahilya Bai Holkar <b>Queen of the Maratha ruled Malwa kingdom, India. Second half of 1700s.</b>	
Kannagi	<ul style="list-style-type: none"> <li>Kannagi is the central character of the South Indian epic Silapathikaram (100-300 CE).</li> <li>King of Madurai had got her husband killed for false accusation of theft.</li> <li>She took revenge by burning the Madurai city with a curse.</li> <li>Now Worshipped as Goddess.</li> </ul>
Mata Jijabai	Shivaji's mother.
Rani Gaidenlou Zeliang	<ul style="list-style-type: none"> <li>Naga woman leader.</li> <li>Ran movement against Britishers in Manipur.</li> <li>Nehru called her Rani of Nagas.</li> </ul>
Rani Laxmibai	<ul style="list-style-type: none"> <li>Lord Dalhousie took away her kingdom under Doctrine of Lapse.</li> <li>Fought and died in the Mutiny of 1857.</li> </ul>
Rani Rudramma Devi	<ul style="list-style-type: none"> <li>Queen of Kakatiya dynasty in the Deccan Plateau</li> <li>Second half of 1200s.</li> </ul>

### Award Children Related

National Child award for exceptional achievement	given to children aged between 4 to 15 years for outstanding achievement in various fields including academics, arts, culture, sports etc.
Rajiv Gandhi Manav Seva Award	<ul style="list-style-type: none"> <li>given to 3 individuals</li> <li>for outstanding contribution to child development / welfare / protection</li> </ul>

### First Women in India:

- ❖ 1848: Jyotirao Phule, along with his wife Savitribai Phule, opened a school for girls in Pune, India.

Savitribai Phule became the first woman teacher in India.

- ❖ 1879: John Elliot Drinkwater Bethune established the Bethune

*Empowerment of Women*

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- School in 1849, which developed into the Bethune College in 1879, thus becoming the first women's college in India.
- ❖ 1883: Chandramukhi Basu and Kadambini Ganguly became the first female graduates of India and the British Empire.
- ❖ 1886: Kadambini Ganguly and Anandi Gopal Joshi became the first women from India to be trained in Western medicine.
- ❖ 1916: The first women's university, SNDT Women's University, was founded on 2 June 1916 by the social reformer Dhondo Keshav Karve with just five students.
- ❖ 1917: Annie Besant became the first female president of the Indian National Congress.
- ❖ 1919: For her distinguished social service, Pandita Ramabai became the first Indian woman to be awarded the Kaisar-i-Hind Medal by the British Raj.
- ❖ 1925: Sarojini Naidu became the first Indian born female president of the Indian National Congress.
- ❖ 1927: The All India Women's Conference was founded.
- ❖ 1944: Asima Chatterjee became the first Indian woman to be conferred the Doctorate of Science by an Indian university.
- ❖ 1947: On 15 August 1947, following independence, Sarojini Naidu became the governor of the United Provinces, and in the process became India's first woman governor.
- ❖ 1951: Prem Mathur of the Deccan Airways becomes the first Indian woman commercial pilot.
- ❖ 1953: Vijaya Lakshmi Pandit became the first woman (and first Indian) president of the United Nations General Assembly

*Empowerment of Women*

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- ❖ 1959: Anna Chandy becomes the first Indian woman judge of a High Court (Kerala High Court)
  - ❖ 1963: Sucheta Kriplani became the Chief Minister of Uttar Pradesh, the first woman to hold that position in any Indian state.
  - ❖ 1966: Captain Durga Banerjee becomes the first Indian woman pilot of the state airline, Indian Airlines.
  - ❖ 1966: Kamaladevi Chattopadhyay wins Ramon Magsaysay award for community leadership.
  - ❖ 1966: Indira Gandhi becomes the first woman Prime Minister of India
  - ❖ 1970: Kamaljit Sandhu becomes the first Indian woman to win a Gold in the Asian Games
  - ❖ 1972: Kiran Bedi becomes the first female recruit to join the Indian Police Service.
  - ❖ 1979: Mother Teresa wins the Nobel Peace Prize, becoming the first Indian female citizen to do so.
  - ❖ 1984: On 23 May, Bachendri Pal became the first Indian woman to climb Mount Everest.
  - ❖ 1989: Justice M. Fathima Beevi becomes the first woman judge of the Supreme Court of India.
  - ❖ 1997: Kalpana Chawla becomes the first India-born woman to go into space.
  - ❖ 1992: Priya Jhingan becomes the first lady cadet to join the Indian Army (later commissioned on 6 March 1993)
  - ❖ 1994: Harita Kaur Deol becomes the first Indian woman pilot in the Indian Air Force (IAF), on a solo flight.
  - ❖ 2000: Karnam Malleswari became the first Indian woman to win an Olympic medal (bronze medal in the 2000 Summer Olympics at Sydney).

### *Empowerment of Women*

- ❖ 2002: Lakshmi Sahgal became the first Indian woman to run for the post of President of India.
- ❖ 2004: Punita Arora became the first woman in the Indian Army to don the highest rank of Lieutenant General.
- ❖ 2007: Pratibha Patil becomes the first woman President of India.
- ❖ 2009: Meira Kumar became the first woman Speaker of Lok Sabha, the lower house in Indian Parliament.

### **Social Injustice to Women:**

#### **Dowry**

- ❖ It is a gift / payment made by the brides family to the groom at the time of marriage.

#### **III Effects**

- ✓ Female Infanticide
- ✓ Low esteem of women
- ✓ Girls married to old men
- ✓ Affects morale & strength of women

#### **Measures**

- ✓ Dowry prohibition Act - 1961

- ✓ This Act was introduced and taken up by then Indlaw minister Ashoke Kumar Sen,
- ✓ Domestic Violence Act (2005/2006)
- ❖ For the purpose of this act, Domestic Violence includes the demand for dowry:
- ❖ For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it –
- ❖ harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or
- ❖ (b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or
- ❖ (c) has the effect of threatening the aggrieved person or any person related to her by any

### *Empowerment of Women*

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- conduct mentioned in clause (a) or clause (b); or(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.
- ❖ This act empowered the lower courts to issue "protection orders" on the complaint of a woman against her male relatives. The protection orders could include restraining orders on the husband and others, monetary compensation, and residence orders.
  - ❖ Though it is a civil remedy, violation of protection orders result in criminal penalties (including imprisonment).
- ✓ **Section**
- IPC 304B
  - IPC 406
  - IPC 498A
- ❖ **Electoral reforms:** The Committee recommended the amendment of the Representation of People Act, 1951. Currently, the Act provides for disqualification of candidates for crimes related to terrorism, untouchability, secularism, fairness of elections, sati and dowry. The Committee was of the opinion that filing of charge sheet and cognizance by the Court was sufficient for disqualification of a candidate under the Act. It further recommended that candidates should be disqualified for committing sexual offences.
- ❖ **Education reforms:** The Committee has recommended that children's experiences should not be gendered. It has recommended that sexuality education should be imparted to children. Adult literacy programs are necessary for gender empowerment.
- ❖ **Female infanticide**

### **Sexual Harassment**

- ❖ Justice Verma Committee was constituted to recommend amendments to the Criminal Law so as to provide for quicker trial and enhanced punishment for criminals accused of committing sexual assault against women.



## **Government of Tamilnadu**

### **Department of Employment and Training**

Course : TNPSC Group II Exam  
Subject : Indian Polity  
Topic : **Consumer Protection Forums**

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**Commissioner,**  
**Department of Employment and Training.**

## Unit - 2

# Market and Consumer Protection



### Learning Objectives

- ❖ To identify four different types of market structures.
- ❖ To know the differences between each type of market structure.
- ❖ To understand why consumers need protection.
- ❖ To understand the rights of consumers.



### Introduction

When we talk about a market we generally visualise a crowded place with a lot of shops and consumers. People are buying different types of goods like groceries, clothing, electronics, etc in the market.

And the shops are also selling a variety of products and services as well. So in a traditional sense, a market is where buyers and sellers meet to exchange their goods and services.

But what is a market in economics? In economics, we do not refer to a market as a physical place. Economists described a market as coming together of the buyers and sellers, i.e. an arrangement where buyers and sellers come in direct or indirect contact to sell/buy goods and services. For example, the market for books will constitute all the sellers and buyers of books in an economy. It does not necessarily refer to a geographic location.

A set up where two or more parties engaged in exchange of goods, services and information is called a market. Ideally a market is a place where two or more parties are involved in

buying and selling. The two parties involved in a transaction are called seller and buyer. The seller sells goods and services to the buyer in exchange of money. There has to be more than one buyer and seller for the market to be competitive.

### Features of a Market

In economics, the term market refers to the shops for one commodity or a set of commodities. For example a market for rice, a market for cloth, a market for electronics goods, etc.



1. A market is also not restricted to one physical or geographical location. It covers

a general wide area and the demand and supply forces of the region.

2. There must be a group of buyers and sellers of the commodity to constitute a market. And the relations between these sellers and buyers must be business relations.
3. Both the sellers and buyers must have access to knowledge about the market. There should be an awareness of the demand for products, consumer choices, and preferences, fashion trends, etc.
4. At any given time only one price can be prevalent in the market for the goods and services. This is only possible in the existence of perfect competition.

## Classification of Markets



Broadly there are two classifications of markets – the product market and the factor market. The factor market refers to the market for the buying and selling of factors of production like land, capital, labour, etc. The other classification of markets are as follows,

### I. On the Basis of Geographic Location

**Local Markets:** In such a market the buyers and sellers are limited to the local region or area. They usually sell perishable goods of daily use since the transportation of such goods can be expensive.

**Regional Markets:** These markets cover a wider area than local markets like a district, or a cluster of few smaller states

**National Market:** This is when the demand for the goods is limited to one specific country. Or the government may not allow the trade of such goods outside national boundaries.

**International Market:** When the demand for the product is international and the goods are also traded internationally in bulk quantities, we call it as an international market.

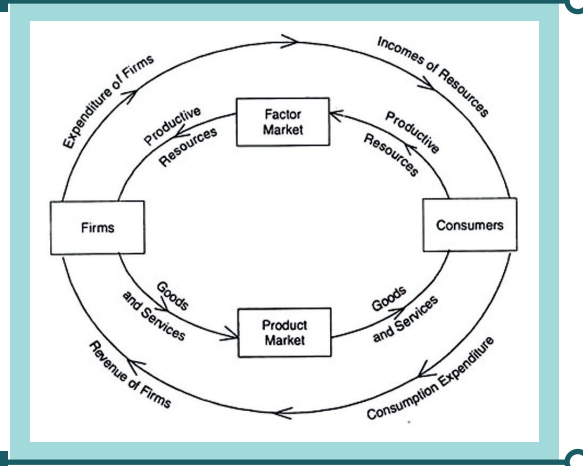
### II. On the Basis of Time

**Very Short Period Market:** This is when the supply of the goods is fixed, and so it cannot be changed instantaneously. Say for example the market for flowers, vegetables. Fruits etc. The price of goods will depend on demand.

**Short Period Market:** The market is slightly longer than the previous one. Here the supply can be slightly adjusted. Example:

**Long Period Market:** Here the supply can be changed easily by scaling production. So it can change according to the demand of the market. So the market will determine its equilibrium price in time. Example:

### III. On the Basis of Nature of Transaction



**Spot Market:** This is where spot transactions occur, that is the money is paid immediately. There is no system of credit.

**Future Market:** This is where the transactions are credit transactions. There is a promise to pay the consideration sometime in the future.

#### IV. On the Basis of Regulation

**Regulated Market:** In such a market there is some oversight by appropriate government authorities. This is to ensure there are no unfair trade practices in the market. Such markets may refer to a product or even a group of products. For example, the stock market is a highly regulated market.

**Unregulated Market:** This is an absolutely free market. There is no oversight or regulation, the market forces decide everything. Example:

#### V. On the basis of nature of competition

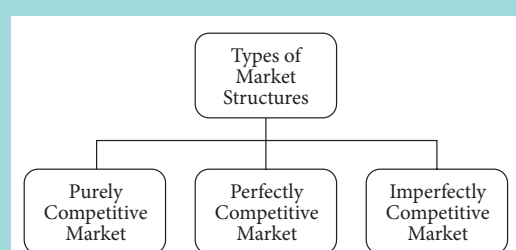


Figure-1: Types of Market Structures

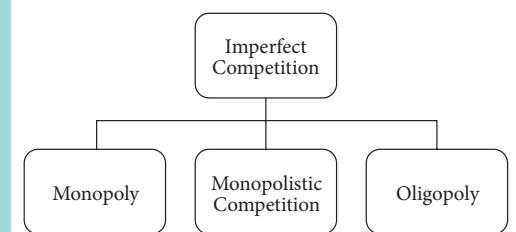


Figure-2: Types of Imperfect Competition

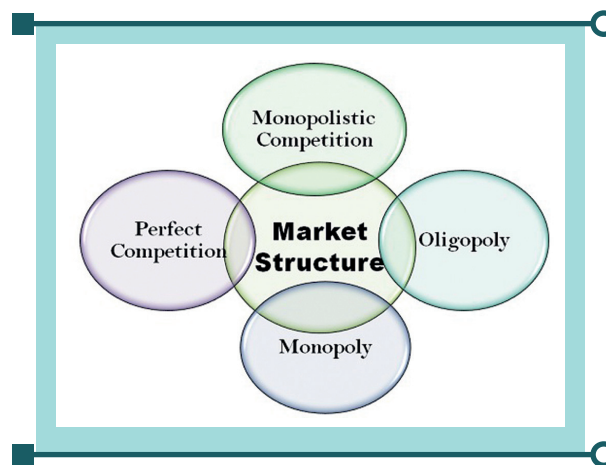
#### Monopoly:

Monopoly refers to a market structure in which there is a single producer or seller that has a control on the entire market. This single seller deals in the products that have no close substitutes.

#### Monopolistic Competition:

The term monopolistic competition was given by Prof Edward H. Chamberlin of Harvard University in 1933 in his book Theory of Monopolistic Competition. The term monopolistic competition represents

the combination of monopoly and perfect competition. Monopolistic competition refers to a market situation in which there are a large number of buyers and sellers of products. However, the product of each seller is different in one aspect or the other.



#### Oligopoly:

The term oligopoly has been derived from two Greek words, Oligoi means few and poly means control. Therefore, oligopoly refers to a market form in which there are few sellers dealing either in homogenous or differentiated products.

#### 1. Who is a Consumer?

A Consumer is a person who purchases a product or avails a service for a consideration, either for his personal use or to earn his livelihood by means of self employment.

The consideration may be:

- ✓ Paid
- ✓ Promised
- ✓ Partly paid and partly promised.

It also includes a beneficiary of such goods/services when such use is made with the approval of such person.

#### 2. Who is not a Consumer ?

A person is not a consumer if he/she:

- ✓ Purchases any goods or avails any service free of charge;
- ✓ Purchases a good or hires a service for commercial purpose;
- ✓ Avails any service under contract of service.

## What is Unfair Trade Practice?



An “unfair trade practice” means a trade practice, which, for the purpose of promoting any sale, use or supply of any goods or services, adopts unfair method, or unfair or deceptive practice. Some of these practices include:

- ♦ False representation
- ♦ When goods and services are not of stated standard, quality or grade;
- ♦ When second hand, renovated goods are sold as new ones;
- ♦ When goods and services do not have the claimed use, usefulness or benefit;
- ♦ When products / services do not have the claimed warranty / guarantee;
- ♦ When the price of product or service is misleading.
- ♦ False and misleading advertisement of selling at bargain price.
- ♦ Offering gifts, prizes, etc. to lure customers with no intention of providing them.
- ♦ Selling goods which do not fall within the safety standards set up by competent authority.
- ♦ Hoardings or destroying goods with the intention of raising the cost of these or similar goods manufactured in greater number so as to manipulate higher prices.
- ♦ Manufacturing or offering spurious goods or adopting deceptive practices in the provision of services.

**DO YOU KNOW?**

“Goods once sold will not be taken back”  
or  
“No exchange”,  
or  
“No refund under any circumstances”

It amounts to Unfair Trade Practice and does not carry any legal weight.

## Consumer protection

Consumer protection is a group of laws enacted to protect the rights of consumers, fair trade, competition and accurate information in the market place. The laws are designed to prevent the businesses that engage in unfair practices from gaining an advantage over competitors. They may also provide additional protection for those most vulnerable in society. Consumer protection laws are a form of government regulations that aim to protect the rights of consumers. For example, a government may require businesses to disclose detailed information about products—particularly in areas where safety or public health is an issue, such as food.



Consumer protection is linked to the ideas of consumer rights and to the formation of consumer organisations, which helps consumers make better choices in the marketplace and get help with consumer complaints. Other organisations that promote consumer protection include government organisations and self-regulating business organisations.



**Example:**

Telecom Regulatory Authority of India – **TRAI**.  
Insurance Regulatory and Development  
Authority of India – **IRDAI**.

**The Eight Basic Consumer Rights**

1. The Right to Basic Needs.
2. The Right to Safety.
3. The Right to Information.
4. The Right to Choose.
5. The Right to Representation.
6. The Right to Redress.
7. The Right to Consumer Education.
8. The Right to a Healthy Environment.

**The Consumer Protection Act, 1986 (COPRA)**

This Act enacted in 1986 in the Parliament of India to protect the interests of consumers. It makes for the establishment of consumer councils and other authorities for the settlement of consumer's grievances and for matters connected there with it. The act was passed in Assembly in October 1986 and came into force on December 24, 1986.

COPRA is regarded as the 'Magna Carta' in the field of consumer protection for checking unfair trade practices, 'defects in goods' and 'deficiencies in services' as far as India is concerned. It has led to the establishment of a widespread network of consumer forums and appellate courts all over India. It has significantly impacted how businesses approach consumer complaints and has empowered consumers to a great extent.

Consumer Protection Councils are established at the national, state and district level to increase consumer awareness. To increase the awareness of consumers, there are many consumer organisations and NGOs that have been established.

**Consumer Disputes Redressal Agencies**

National Consumer Disputes Redressal Commission (NCDRC): Established by the

Central Government. It deals with matters of more than 10 million.

State Consumer Disputes Redressal Commission (SCDR): Also known as the "State Commission" established by the State Government in the State. It is a state level court that takes up cases valuing less than ₹10 million.

District Consumer Disputes Redressal Forum (DCDRF): Also known as the "District Forum" established by the State Government in each district of the State. The State Governments may establish more than one District Forum in a district. It is a district level court that deals with cases valuing up to ₹2 million.

**Consumer protection Act of 2019**

Indian Parliament, in August 2019, passed the landmark Consumer Protection Bill, 2019 which aims to provide the timely and effective administration and settlement of consumer disputes in this Digital Age. The New Act will come into force on such date as the Central Government may so notify. The New Act seeks to replace more than 3 (three) decades old Consumer Protection Act, 1986 (Act).



**Highlights of the New Act:**

1. **E-Commerce Transactions:** The New Act has widened the definition of 'consumer'. The definition now includes any person who buys any goods, whether through offline or online transactions, electronic means, teleshopping, direct selling or multi-level marketing.

## 2. Enhancement of Pecuniary Jurisdiction:

Revised pecuniary limits have been fixed under the New Act. Accordingly, the district forum can now entertain consumer complaints where the value of goods or services paid does not exceed INR 10,000,000 (Indian Rupees Ten Million). The State Commission can entertain disputes where such value exceeds INR 10,000,000 (Indian Rupees Ten Million) but does not exceed INR 100,000,000 (Indian Rupees One Hundred Million), and the National Commission can exercise jurisdiction where such value exceeds INR 100,000,000 (INR One Hundred Million).

## 3. E-Filing of complaints:

The New Act contains enabling provisions for consumers to file complaints electronically and for hearing and/or examining parties through video-conferencing.

## 4. Establishment of Central Consumer Protection Authority:

The New Act proposes the establishment of a regulatory authority known as the Central Consumer Protection Authority (CCPA), with wide powers of enforcement. The CCPA will have an investigation wing, headed by a Director-General, which may conduct inquiry or investigation into consumer law violations.

## 5. Unfair Trade Practices:

The New Act introduces a specific broad definition of Unfair Trade Practices, which also includes sharing of personal information given by the consumer in confidence, unless such disclosure is made in accordance with the provisions of any other law.

## 6. Penalties for Misleading Advertisement:

The CCPA may impose a penalty of up to INR 1,000,000 on a manufacturer or an endorser, for a false or misleading advertisement. The CCPA may also sentence them to imprisonment for up to two years for the same. In case of a subsequent offence, the fine may extend to INR 5,000,000 and imprisonment of up to five years. The CCPA can also prohibit the endorser of a misleading advertisement from endorsing that particular product or service for a period of

up to one year. For every subsequent offence, the period of prohibition may extend to three years.



## Consumer courts in India

**National Consumer Disputes Redressal Commission (NCDRC):** A national level court works for the whole country and deals compensation claimed exceeds rupees one core. The National Commission is the Apex body of Consumer Courts; it is also the highest appellate court in the hierarchy. The National Consumer Disputes redressal Commission (NCDRC), is a quasi-judicial commission in India which was set up in 1988 under the Consumer Protection Act of 1986. Its head office is in New Delhi. The commission is headed by a sitting or retired judge of the Supreme Court of India.

**State Consumer Disputes Redressal Commission (SCDRC):** A state level court works at the state level with cases where compensation claimed is above 20 lakhs but up to one core. The State Commission also has the appellate jurisdiction over the District Forum.

**District Consumer Disputes Redressal Forum (DCDRF):** A district level court works at the district level with cases where the compensation claimed is up to 20 lakhs.

### Important Acts

- ✓ The Consumer Protection Act, 1986
- ✓ The Legal Metrology Act, 2009
- ✓ The Bureau of Indian Standards Act, 1986
- ✓ The Essential Commodities Act, 1955
- ✓ The prevention of Black Marketing and maintenance of supplies of essential
- ✓ Commodities Act, 1980





## UNIT VI

# CONSUMER PROTECTION



## 16

### CHAPTER

## CONSUMERISM

அழக்கொண்ட எல்லாம் அழப்போம் இழப்பினும்  
பிற்பயக்கும் நற்பாலவை.

—குறள் 659

### COUPLET

All that has been obtained with tears (to the victim) will  
depart with tears (to himself); but what has been by fair  
means; though with loss at first, will after words yield fruit.



### Learning Objectives

To enable the students to understand the

- Exploitation of consumers
- Meaning and definition of consumerism
- Evolution of consumer movements
- Consumer Protection Act, 1986

### Chapter Synopsis

- 16.01 Consumer
- 16.02 Consumer Exploitation
- 16.03 Consumerism and Need for Consumerism
- 16.04 Importance of Consumerism
- 16.05 Origin, Evolution and Growth of Consumerism
- 16.06 Consumer Protection
- 16.07 Need for Consumer Protection
- 16.08 Consumer Legislation
- 16.09 The Consumer Protection Act, 1986
- 16.10 Caveat Emptor
- 16.11 Caveat Vendor

The nature of society was monoistic and its needs were very limited. Before industrial revolution most of the people lived in rural areas and the farmers produced the substantial portion of the goods consumed by them. Businesses were small and the manufacturers produced only those items which could not be produced in agriculture. As the nation became industrialised and the society becoming pluralistic, the raw materials changed their characters through advanced technology. New products appeared and consumers' dependence of business increased. Consumer dependency and business responsibility are the two sides of a coin. The producer, the consumer and the government are the three constituent elements of business. The consumer is the most exploited constituent in the business world. This lesson explains about the consumer exploitation and consumer protection.

## 16.01 Consumer

A consumer is one who consumes goods manufactured and sold by others or created (air, water, natural resources) by nature and sold by others. One, who avails services such as banking, transport, insurance, etc., is also called a consumer. In other words, a consumer is an individual who consumes goods- manufactured by firms or created by nature air, water etc. and services offered by government or firms, hospitals, educational institutions etc.,

### Meaning of Consumer under The Indian Consumer Protection Act, 1986

A person who buys any goods or services for a consideration which has been paid or promised or partly paid and partly promised or under any system of deferred payment is a consumer.

A person who obtains such goods for resale or for any commercial purposes will not be a consumer. However, if such goods are bought by a person exclusively for the purpose of earning his livelihood by means of self-employment then such a person will be considered a consumer.

In theory, all business enterprises consider consumer's satisfaction as their main objective. A consumer is said to be the king and the businessmen are primarily supposed to serve and satisfy customers. The consumer occupies the central position in the entire scheme of free economy; consumers have not always received the attention they deserve. In reality consumers are cheated and exploited in many ways. In the practical world, a consumer is a 'slave' and not the 'sovereign' as described.

The consumer's well-being or the welfare lies in the fulfilment of their normal, legitimate, interests, expectations and aspirations as to goods and services they need. Each and every

customer is worried, and harmed till buried about the quality, quantity, price and the timeliness of the supply of goods and services they need.

## 16.02 Consumer Exploitation

Some of the ways in which consumers are being exploited are enumerated hereunder:

### 1. Selling at Higher Price

The price charged by the seller for a product service may not be commensurate with the quality but at times it is more than the fair price. Even though sellers have surplus or adequate goods they create artificial scarcity in the market with an intent to push up the prices. As a result, consumers are forced to buy the short supply of goods at higher prices in the black market.

### 2. Adulteration

It refers to mixing or substituting undesirable material in food. This causes heavy loss to the consumers. This will lead to monetary loss and spoil the health. But adulterators make illegitimate profit while prudent businessmen aim at normal profit whenever unscrupulous traders seek to reap higher profit out of greed, they seek to adulterate the products. Adulteration is quite common in food articles. It is a crime which cannot be pardoned as it spoils the very health of consumers



### Example:

1. Chemicals, detergent chalk, urea caustic soda, etc. are added to make the milk dense and white.
2. Mixing of stones with grains
3. Mixing of coconut oil with palmolein
4. Honey is adulterated with water and table sugar to enhance the quantity
5. powdered rice/wheat is adulterated with starch
6. Coffee powder is adulterated with tamarind seed
7. Spices like turmeric powder is adulterated with methanol
8. Papayas seed is added to black pepper
9. Chilli powder is adulterated with brick powder



### 3. Duplicate or Spurious goods

Duplicate products of popular products are illegally produced and sold. Duplicates are available in plenty in the market for every original and genuine parts or components like automobile spare parts, blades, pens, watches, radios, medicines, jewellery, clothes and even for currency notes. Duplicate medicines are sold in large measure, from Cape to Kashmir. A consumer is not in a position to distinguish duplicate from the original.

### 4. Artificial Scarcity

There are certain situations where the shop-keepers put up the board 'No Stock' in front of their shops, even though there is

plenty of stock in the store. In such situations consumers who are desperate to buy such goods have to pay hefty price to buy those goods and thus earning more profit unconscientiously. Even in Cinema houses, board may hang in the main entrance 'House Full' while cinema tickets will be freely available at a higher price in the black market.

### 5. Sub-standard

On opening a packet or sealed container one may find the content to be of poor quality. If defective or damaged items are found in a pack, a consumer finds it difficult to exchange the defective one for good one and consumers have to blame for lack of attention one cannot return it and the consumers have tendency to blame their carelessness or fate for having bought such sub-standard product. Whenever goods are bought, seller try to avoid raising bill or consumers do not demand bill as a matter of right. This prevents the consumers from escalating the complaint against the seller where the product happens to be sub-standard. Some seller give bills which contain a stipulation that goods sold cannot be taken back. Thus gullible consumers are easily and legally cheated.

### 6. Product Risk



Whenever the usage of goods is likely to cause danger or hurts to customers, manufactures have to forewarn the consumers of various sources of dangers involved in the products and the precautionary measures to be taken by the consumers. In absence of such information or warnings consumers are more

likely to encounter risks while using the risky products.

## 7. Warranty and Services

In case of consumer durable goods like televisions, washing machines, refrigerators, cars, two wheelers and air conditioners etc. free service is guaranteed only for few years called warranty period. But in reality free service are denied on flimsy grounds even during the warranty period. Customer care service is likely to be rendered the shorter warranty period only for select few items which the manufacturers know pretty well that they do not get damaged during such period. Warranty service may not be extended to many parts/components of the product sold. Thus consumers may be charged exorbitant charges in the name of repair costs.

## 8. Unsuitability of Products

The product quality, durability and suitability may come under the category of product fitness. What is claimed by the product advertiser must correspond to the products sold. But in actual practice, it is not so. Items unsuitable for human consumption are sold in the market. Some items marked as “unbreakable” break while using them. Battery having a label ‘leak proof’ is more likely to leak. In all these eventualities users/consumers have to bear the consequences while producers/manufacturers escape utilising the loopholes in the legal system.

## 9. False Advertisements

The main purpose of advertisement is to educate the consuming public and customers of various aspects of the products/service. In reality, advertisements convey very little information about the product. Many times it makes false representation about the quality, price, grade, composition, utility guaranteed, performance etc. Consumers who buy the products on the faith of claims made in advertisements are cheated.



Thus consumerism has emerged and evolved out of outcome of sufferings and exploitation of consumers, whose sole aim is to secure protection from commercial terrorism and exploitative practices and thereby safeguarding their interest by establishing the rights and powers against producers and sellers.

## 16.03 Consumerism and Need for Consumerism

### Concept of Consumerism

It is the social force protecting the consumer and aiding the consumer. In other words, it is an organised effort to fight against the unfair marketing practices with a view to secure consumer protection. Consumerism is the society's attempt to bring back the balance in the exchange between the buyers and sellers as the strength of power is normally in favour of sellers rather than buyers.

The term consumerism came into existence in the early 1960s when it was coined by the business community in the western world particularly in America. It is the social force designed to protect the interest of consumers by organising the consumers to bring pressure on the business community to ensure protection.

Producers, sellers and service providers give importance to the consumers. In a sense every one of us is a consumer. It may be individuals, families and institutions. They consume a variety of products and avail a number of services almost every day. You buy



textbooks, notebooks, pen and other stationery items for your studies. Sometimes one-quire notebooks you buy do not contain 192 pages and the pencil is not of a good quality. Have you not been dissatisfied and heated over these when you have paid a fair price? Thus, a consumer is one who consumes goods manufactured and sold by others

The term consumerism was first coined by businessmen in the mid 1960s as they thought consumer movement as another “ism” like socialism and communism threatening capitalism.

**“Consumerism is an attempt to enhance the rights and powers by buyers in relation to sellers”**

**-L. Massie**

**Consumerism means “the actions of individuals and organisations (consumer, government, and business) in response to consumer’s dissatisfaction arising in exchange relationship”.**

**– William Stanton**

**“Consumerisms not limited to organised efforts only but, is a social movement seeking to augment the rights and powers of buyers in relation to sellers”.**

**– Philip Kotler**

**“Organised efforts of consumers seeking redress, restitution and remedy for dissatisfaction they have accumulated in the acquisition of their standard of living”.**

**-Richard H Buskirk and James**

In other words, consumerism refers to protest against business injustices and to efforts at correcting these injustices. Consumerism as a protest against unfair business practices and injustices, aims at removing or uprooting them or reducing them if not eliminating them totally. There are countless injustices and unfair practices on which the business community

stuffs its profits and guff the consumer satisfaction. To illustrate a few of this kind, these can be – supply of unsafe products, adulteration, fictitious pricing, defective and deceptive packing and packaging, false and misleading advertisements and sales literature, hoarding, profiteering, black-marketing, price collusion, misuse of brands, planned obsolescence, short measures and weights, release of those goods which are not really wanted by the consumer nor can they afford, face lifting of products and the like.

## **SIGNIFICANCE OF CONSUMERISM**

### **16.04 Importance of Consumerism**

Importance of consumerism lies in

1. Awakening and uniting consumers.
2. Discouraging unfair trade practices.
3. Protecting against exploitation.
4. Awakening the government.
5. Effective implementation of consumer protection laws.
6. Providing complete and latest information.
7. Discouraging anti-social activities

### **16.05 Origin, Evolution, and Growth of Consumerism**

#### **Origin**

In the beginning of 20<sup>th</sup> century industrial economy reached a boom state. The early 20<sup>th</sup> century marked a period of reform and expansion in many areas as well. Advertising and consumer consumption would become big areas of reform and expansion with the growth of industry and consumer reform societies to the outcry for more truthful advertisement. Progressives, Women’s movements and Henry Ford and his assembly line would become characteristic icons of the time. As consumers



took a closer look into the products they were buying and working class persons began to demand better working conditions, America hit a cross roads between industry and consumer satisfaction. Industrial reform for consumers would be an answerable to inconsistencies that existed between product, price, and consumer satisfaction. The first consumer wave marked a shift toward recognition “the centrality of consumers to the nation’s economy and polity (Cohen)” The companies began to make efforts towards targeting consumers on a more massive scale.

Progressives, as well as other American citizens began to realise the value in fighting for better quality goods. Consumers should be guaranteed for some type of accountability from industries in their quality for food and goods quality. Middle class progressive women began organisation like ‘The National Consumers League’ (NCL) in response to the substandard quality of goods and the lack of involvement by the government in protecting consumers against terrible food and other goods conditions.

The majority of the consumers in advanced countries are well educated, well – informed and are in a position to protect them. But our Indian situation is entirely different from the western, where adequate production and proper distribution of products exist. In India, industries have not achieved the level of affluence of technology and the existing markets of products run in shortages, adulteration, and black market prices. Indian people have less money at their disposal. The profit making attitude of the business failed to discharge social responsibilities of maintaining fair price, quality of goods and providing services etc. In short, consumerism is an outcome of sufferings and exploitation of consumers and some businessmen aim to make abnormal profit, which is at the cost of consumer’s safety and health. However, it has been accepted and agreed that “A consumer is a king of the

market,” but in fact he is not. The majority of the Indian problems relating to consumers are adulteration, artificial scarcity, unreasonable prices etc.

There are different religious customs, traditions, and languages in India; and about three fourth of population live in rural areas, where cultivation is the source of livelihood, and there is wide disparity in the income of people. Majority of the people are mostly illiterate and have low income. In order to save or protect them, against exploitative practices of trade, consumerism has emerged and has been accepted as a defensive force to safeguard the interest of the customers.

### Evolution of Consumerism

The major causes of consumerism in India have been identified as rising prices, poor product performance and service quality, product shortages and deceptive advertising and inflation. Government has been very responsive to the consumer needs through legislative actions. Economic discontent has been generated out of spiralling inflation. Thus it has become necessary for the consumers to stand up for their rights through effective organisation in order to redress the grievances. The word consumerism came into existence in the year 1960.

### Growth

Consumerism or consumer movement is an outcome of sufferings, and exploitations of consumers. It intends to shield the consumers from commercial terrorism and exploitative practices. Its aim is to safeguard their interests by establishing their rights and powers in relation to products and sellers.

Mr. Ralph Nader pioneered the fight against monopoly and unethical trade practices of large companies in the United States. He is considered to be the father of the Consumer Movement. He initially fought against automobile industry for violating safety standards and



pollution control norms. But today, in almost all countries the consumer movement is well developed. Countries like Britain, Sweden, Netherlands, Denmark and even in Kenya have stringent laws against consumer exploitation in their respective countries. The United Nations General Assembly has adopted a set of general guidelines for consumer protection.



## 16.06 Consumer Protection

Consumer protection is a form of social action which is designed to attain the well-being of the society namely consumers. A consumer is said to be a king in a free market economy. The earlier approach of caveat emptor, which means “Let the buyer beware,” has now been changed to caveat venditor (“Let the seller beware”). However, with growing competition, manufacturers and service providers may be tempted to engage in unscrupulous, exploitative and unfair trade practices like defective and unsafe products, adulteration, false and misleading advertising, hoarding, black-marketing etc in an attempt to expand their market share in a competitive environment. As a consequence, consumers may have to buy unsafe products, may have to suffer from various health disorders, due to adulteration; may have to pay higher price due to hoarding and have to get duped by misleading advertisement. In this situation there is a need to provide adequate protection to consumers against all such malpractices of sellers/vendors.

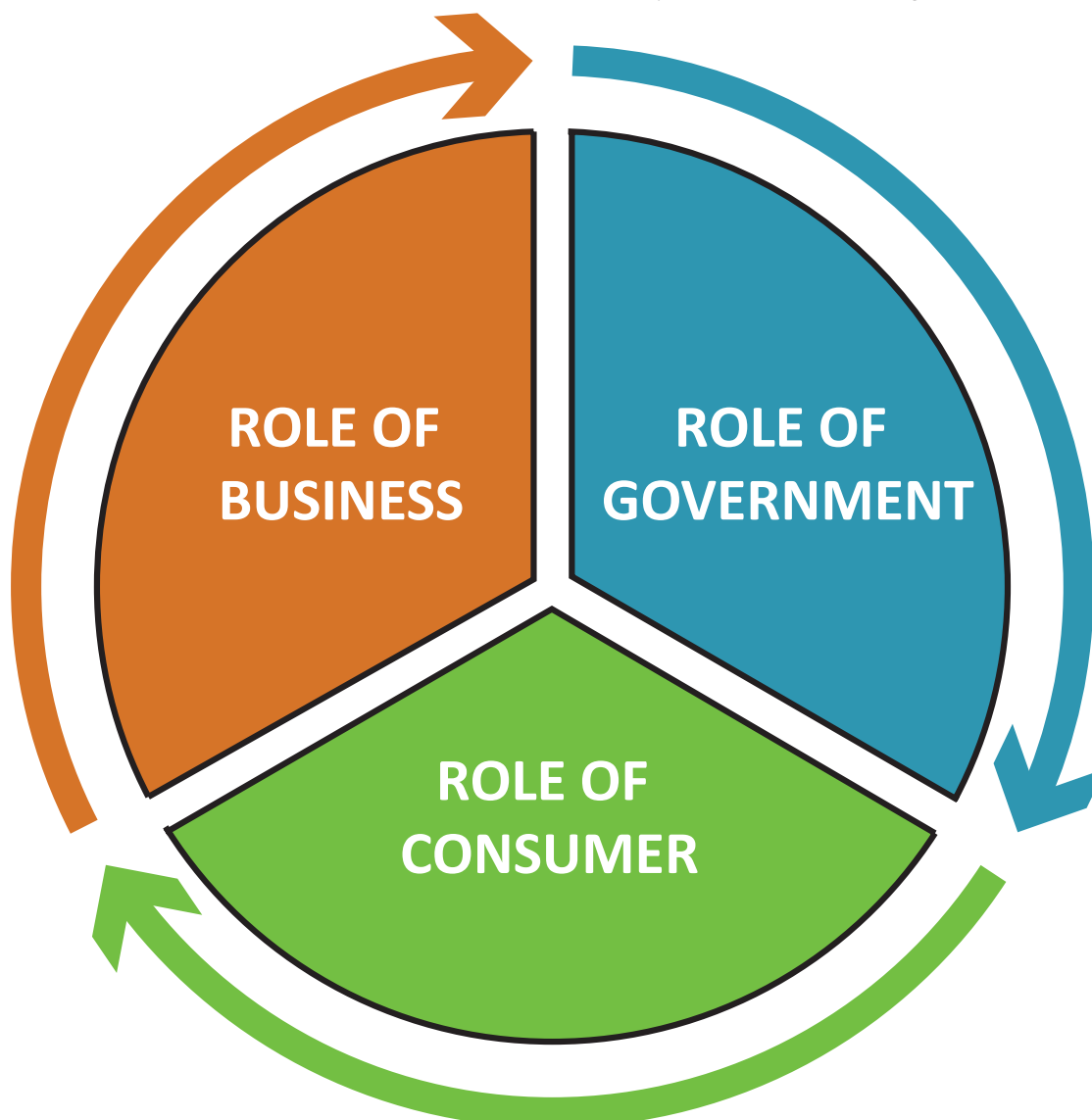
Both voluntary measures and law serve as tools to protect consumer's interest. Self-regulation, Consumer Associations, Alert consumer, and State Support are some of the means of consumer protection. Individual consumer is considered more vulnerable, in the modern world, to exploitation and harassment by the manufacturers and distributors or sellers because of environmental complexities of business operations, technological changes, application of mass production techniques, vast resources, man-power and acrimonious advertising. Hence it is necessary to protect and promote the consumer interest. Satisfaction and well being of the consumer should be the main objective of all business units. In real practice, consumer is not protected or safeguarded but, consumer is cheated and looted. Thus, there is a need for consumer movement to safeguard their interest.

## 16.07 Need for Consumer Protection



Though consumer is said to be the king of entire business sphere, his interests are virtually neglected. Shortage of goods makes the consumers to be content with whatever is offered for sale. Quality is sacrificed: warranty of performance has no meaning; health hazard is never considered; profit maximisation turns out to be sole consideration of business enterprises. In such a context, consumer protection remains a vital importance.

There are three parties involved in the sphere of business transactions viz. the Government, business and the consumers. Let us discuss what each party has to do in this regard



### **Role of Business in Consumer Protection**

Business enterprises should do the following towards protecting consumers.

#### **1. Avoidance of Price Hike**

Business enterprises should desist from hiking the price in the context of acute shortage of goods /articles.

#### **2. Avoidance of Hoarding**

Business enterprises should allow the business to flow normally. It should not indulge in hoarding and black marketing to earn maximum possible profit in the short term at the cost of consumers.

#### **3. Guarantees for Good Quality**

Business enterprises should not give false warranty for the products. It should ensure supply of good quality.

#### **4. Product Information**

Business enterprises should disclose correct, complete and accurate information about the product viz. size, quality, quantity, substances, use, side effects, precautions, weight, exchange, mode of application etc.



### 5. Truth in advertising

Business enterprises should not convey false, untrue, bogus information relating to the product through the advertisements in media and thus mislead the consumers.

### 6. Protection from the Hazard

Business enterprises should not market the product which is potentially hazardous and harmful. It should test the safety of the product before they are marketed. As regards food items, business enterprises should withdraw spoiled and contaminated food items.

### 7. Money Refund Guarantee

Where the product becomes defective, business enterprises should replace it with new one or refund the purchase price. If the product causes injury or harm to consumers, it should reimburse the expenditures done by the consumers concerned.

### 8. Consumer Grievances

Where the business enterprises have customer care department, it should handle the grievances of consumer immediately or within a definite time frame.

### Role of Government

Since most of consumers including academically educated are illiterate about their rights and hence passive. Government should assure an active role in safeguarding the consumers. Government both the central and the state have brought out a number of legislations to protect the interest of consumers across the country. Other statues have been listed out in the 'Do you know' segment of this lesson. Despite the existence of legal system to protect the consumers, consumers in India are still illiterate and passive. Mere statue book will not address the problem. Law enforcement authorities should see that penal clause is not mere paper jaws-they should sting the offenders mercilessly.

### Role of Consumers

Ultimately it is the consumer who alone can put an end to all their unethical trade practices. Business enterprises may break the codes and Government may rest content with mere enactment of laws and do little to protect consumers. In this context consumers have to be vigilant and organise themselves into a movement for concerted action.

### Activation of Consumer Action Councils

1. Consumer action councils established at village levels should educate consumers of the right.
2. Consumer protection agencies should take necessary steps to investigate consumer complaints and grievances and arrange to forward them to correct forum.
3. It should regulate business enterprises according to the rules of the industry.
4. Voluntary consumer groups should provide information so as to educate consumers on matters affecting them through media.
5. It should organise movement against the malpractice of manufacturers and traders.
6. Consumer cooperatives need to be strengthened.
7. Consumer groups should contact the legislators to raise the consumer issues in Assembly and Parliament.
8. There should be testing laboratories at each district to test the purity of goods.
9. Voluntary consumer organisations should publicise the malpractices of manufacturers and traders by media.
10. It should take initiation to report such officials and authorities who let the offender to go scot free to follow enforcement agencies.



### United Nations Guidelines for Consumer Protection

The General Assembly of the United Nations passed a Resolution on April 9, 1985 adopting a set of guidelines for consumer protection to persuade the member countries to adopt policies and laws for better protection of the interests of the consumers. The guidelines provided that the governments should develop or maintain a strong consumer protection policy, taking into account the guidelines.

#### Objectives of United Nations Guidelines for Consumer Protection

- i. To assist countries in achieving or maintaining adequate protection for their population as consumers
- ii. To facilitate production and distribution patterns responsive to the needs and desires of consumers
- iii. To encourage high levels of ethical conduct for those engaged in the production and distribution of goods and services to consumers
- iv. To assist countries in curbing abusive business practices by all enterprises at the national and international levels which adversely affect consumers
- v. To facilitate the developing of independent consumer groups

- vi. To further international co-operation in the field of consumer protection
- vii. To encourage the development of market conditions which provide consumers with greater choice at lower prices.

### 16.08 Consumer Legislation

- i. The Indian Contract Act, 1982 was passed to bind the people on the promise made in the contract.
- ii. The Sale of Goods Act, 1982: This Act protects consumers against sellers not complying with expressed and implied warranties in the sale contract.
- iii. The Essential Commodities Act, 1955 protects the consumers against artificial shortages created by the sellers by hoarding the goods and thus selling the goods at high prices in black market in respect of essential commodities.
- iv. The Agricultural Products Grading and Marketing Act, 1937 ensures the supply of agricultural commodities at high quality.
- v. The Prevention of Food Adulteration Act, 1954 checks the adulteration of food articles and ensures purity of goods supplied and thus protects the health of consumers.
- vi. Weights and Measures Act, 1958 protects the consumer against malpractices of underweight or under measurement. This Act has been replaced as the Legal Metrology Act, 2009.
- vii. The Trademark Act, 1999 prevents the use of fraudulent marks on the product.
- viii. The Competition Act, 2002 protects the consumers against unhealthy competition.
- ix. Indian Standard Institution (Certification marks) Act, 1952 (Now ISI is known as Bureau of Indian Standards) provides



- special marks to products fulfilling minimum quality standards and thus ensures supply of quality products to consumers.
- x. The Drugs and Magic Remedies (advertisements) Act, 1954 prohibits advertisement of drugs and remedies claiming to have magical properties.
  - xi. The Drugs and Cosmetics Act, 1940 ensures the safety of drugs and cosmetics sold in India.
  - xii. The Food Safety Standard Act, 2006 regulates the manufacture, storage, and distribution of food in safe and wholesome condition to consumers.
  - xiii. The Air (Prevention and Control of Pollution) Act, 1981 controls and prevents pollution in India.
  - xiv. The Public Liability Insurance act, 1991 provides immediate relief to persons affected by accidents securing while handling hazardous substance.
  - xv. The Narcotic Drugs and Psychotropic Substances Act, 1985 prevents the production of narcotic drugs except for educational use.

## 16.09 The Consumer Protection Act 1986 (COPRA)

Nowadays, the consumers' grievances and dissatisfactions grow largely. Consumers themselves did not have any effective mechanism or institutional arrangement for the speedy redressal of their grievances. Lack of effective popular movement isolated the consumer and so his plight is increased. Sensing the pressure mounting from various consumer protection groups and consumers themselves, the Central Government enacted a comprehensive law called the Consumer Protection Act in 1986. This Act came into force with effect from

15.04.1987. This Act was further amended in 1993. The Act is referred in short as 'COPRA'.

The Consumer Protection Act 1986 seeks to protect and promote the interests of consumers. The act provides safeguards to consumers against defective goods, deficient services, unfair trade practices, and other forms of their exploitation. The object of the act is to provide for the better protection of the interests of the consumer courts for the settlement of consumer's disputes and all matters connected there with. The Consumer Protection Act is of great importance. It is the latest to be adopted. It is applicable to public sector, financial, and cooperative enterprises. Recently even medical services have been brought under its scope. The Act shall apply to all goods and services across board.

The Consumer Protection Act 1986 does not create rights or liabilities, but it has emerged as new forum for the settlement of disputes relating to the sale of goods or services. The loss claimed by the consumers must be a loss resulting from on some "deficiency of service" or "defect in the goods." The Act provides for the setting up of a three tier-machinery, consisting of District Forums, State Commissions, and the National Commission. It also lays down rules for formation of consumer protection councils in every District and State and at the apex level.

### Salient features of The Indian Consumer Protection Act, 1986

The salient features of the Indian Consumers Protection Act, 1986 are listed below

- i. Protecting consumers against products and services which are harmful to the health of consumers.
- ii. Protecting consumers from the breach of contract by sellers /manufacturers.



- iii. Ensuring consumers with supply of goods at fair quality.
- iv. Safeguarding consumers against misleading and untrue messages communicated through advertisement.
- v. Ensuring that consumers are charged fair price.
- vi. Ensuring uninterrupted supply of goods.
- vii. Ensuring the availability of goods in correct quantity and right size.
- viii. Protecting the consumers against unfair trade practices of unscrupulous trader
- xi. Protecting the consumers against pollution of various kinds
- x. Protecting consumers against the evil effect of competition.

### Importance of Consumer Protection

Consumer protection has a wide agenda. It not only purports to educate consumers about their rights and responsibilities, but also helps in getting their grievances redressed. It provides judicial machinery for protecting the interests of consumers to come together and organise themselves into consumer associations for protection and promotion of their interests. Consumer protection has a special significance for business too.

### Objectives of the Consumer Protection Act 1986

Following are the objectives of Consumer Protection act 1986

- i. Protection of consumers against marketing of goods which are hazardous and dangerous to life and property of consumers.
- ii. Providing correct and complete information about quality, quantity, purity, price and standard of goods purchased by consumers.
- iii. Protecting consumers from unfair trade practices of traders.
- iv. Empowering consumers to seek redressal against exploitation
- v. Educating the consumer of their rights and duties
- vi. Ensuring better standard of living for consumers by providing them with quality products at fair price.
- vii. Putting in place right mechanism like councils and other authorities to enable the consumers to enforce their rights.

## 16.10 'Caveat Emptor'

'Caveat emptor' is a Latin term that means "let the buyer beware." Similar to the phrase "sold as is," this term means that the buyer assumes the risk that a product fails to meet expectations or have defects. In other words, the principle of caveat emptor serves as a warning to the buyers that they have no recourse with the seller if the product does not meet their expectations.

The term actually means that 'let a purchaser beware', for he ought not to be ignorant of the nature of the property which he is buying from another party. The assumption is that buyers will inspect and otherwise ensure that they are confident with the integrity of the product before completing a transaction. This does not, however, give sellers the green light to actively engage in fraudulent transactions.

### Caveat Emptor in Practice

Under the principle of caveat emptor, a consumer purchases a coffee mug and later discovers that it has a leak he has no choice other than to keep it with him. According to their principle, the buyer should have been cautious and should have thoroughly examined the product to check the defect if any.

A more common example is a used car transaction between two private parties (as opposed to a dealership, in which the sale is subject to an implied warranty). The buyer must assume the responsibility of thoroughly researching and inspecting the car by taking it to a mechanic for a closer look before finalizing the sale. If something comes up after the sale, maybe a transmission failure or something, it is not the seller's responsibility. But 'caveat emptor' principle cannot be applied where the car is bought afresh as a brand new car from showroom as the deal is governed by warranty of certain years.

### 16.11 Caveat Venditor

Caveat emptor was the rule for most purchases and land sales prior to the Industrial Revolution, although sellers assume much more responsibility for the integrity of their goods in the present day.

Today, most sales in the U.S. fall under the principle of caveat venditor, which means "let the seller beware," by which goods are covered by an implied warranty of merchantability. Unless otherwise advertised (for example, "sold as is") or negotiated with the buyer, nearly all consumer products are guaranteed to work, if used for their intended purpose



#### What are the functions of the Consumer Clubs in schools?

The following basic structure of functioning is recommended:

- Monthly meetings and demonstrations for one hour after school hours on the First Thursday of each month. Each month a topic / activity may be scheduled as in the model calendar.
- Days of National and International importance to consumers may be celebrated in the School / College. Poster / Speech / Essay competitions can be organised at school level by the Consumer Club to sensitise the students on the importance of the day.

- Field visits to local markets / Consumer Courts and door to door campaign in the local community etc., may be organized for at least 4 days in a year. It can be done on Saturdays with prior arrangement.
- Minutes of each activity have to be recorded by the Student and Teacher Co-ordinator jointly as properly document.

#### Mahatma Gandhi's quote about Consumerism

"What is a man if he is not a thief who openly charges as much as he can for the goods he sells?"



#### For own learning

Students should go to the nearest consumer court and watch the activities of the consumer court



#### For Future learning

Students may collect further details regarding Consumer Protection. For this purpose, they may contact their District Collector and the Chairman, District Consumer Protection Council and also the Voluntary Consumer Organisation of locality with valid reputation to learn more about actual implementation of Consumer Protection Act in practice,



#### Case Study

Mr.Narasimachary bought a refrigerator of a familiar brand with a warranty for seven years. He uses the fridge as per the guidelines given by the manufacturer. After the completion of two years the fridge went out of order. He was shocked, and approached the dealer. But the dealer refused to service the fridge at free of cost. What is your suggestion to Mr. Narasimachary to this grievance?



### Live example:

A Mumbai based consumer purchased a pair of shoes from the dealer of a well-known brand after going through its advertisement assuming 50% off. Consumer paid Rs.1345/- for the purchase. After the purchase, the consumer came to know that it had two price tags, one printed at MRP Rs.1345/- and another sticker for Rs.2690/-. On complaining by E-mail, the dealer gave reply that discount had been included in MRP, and the consumer was not satisfied. Then he came to show room and took refund from the dealer.

### Why is it Interesting-

- Attracting consumers by misleading advertisement of 50% discount.
- Putting another sticker, double of actual MRP which is illegal.
- Wrong excuse that discount is included in MRP. Discount should be on MRP and as per the Legal Metrology (Packaged Commodities) Rules, 2011: "No wholesale dealer or retail dealer or other person shall obliterate, smudge or alter the retail sale price, indicated by manufacturer or the packer or the importer, as the case may be, on the package or on the label affixed thereto."

#### Key words

Consumer Protection Consumerism Consumer Consumer movement Caveat Emptor Caveat Venditor Buyer Beware Consumer Grievances



### Exercise



### I. Choose the Correct Answers:

- The term 'consumerism' came into existence in the year -----.  
a) 1960  
b) 1957  
c) 1954  
d) 1958
- Who is the father of Consumer Movement?  
a) Mahatma Gandhi  
b) Mr. Jhon F. Kennedy  
c) Ralph Nader  
d) Jawaharlal Nehru
- Sale of Goods Act was passed in the year?  
a) 1962  
b) 1972  
c) 1982  
d) 1985
- The main objective of all business enterprises is -----  
a) Providing service  
b) Providing better standard of life  
c) Providing necessities to the society  
d) Earn profit
- The Consumer Protection Act came into force with effect from  
a) 1.1.1986  
b) 1.4.1986  
c) 15.4.1987  
d) 15.4.1990
- of every year is declared as a Consumer Protection Day to educate the public about their rights and responsibilities.  
a) August 15  
b) April 15  
c) March 15  
d) September 15



## **Government of Tamilnadu**

### **Department of Employment and Training**

Course : TNPSC Group II Exam  
Subject : Indian Polity  
Topic : **Human Rights Charter**

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**Commissioner,  
Department of Employment and Training.**

# HUMAN RIGHTS CHARTER

## Definition:

Human Rights are moral claims that are inalienable and inherent to all individuals by virtue of being human.

## HR Covers:

1. Dowry system, Purdah system
2. Sexual harassment & Domestic violence
3. Custodial death
4. Untouchability
5. Social discrimination
6. Bonded & child labour
7. Religious violence & caste violence

four members. The 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 four ex-officio members – the chairman of the National Commission for SCs, the National Commission for STs and the National Commission for Women.

## NATIONAL HUMAN RIGHTS COMMISSION

- ❖ The National Human Rights Commission is a statutory body. It was established in 1993 under a legislation enacted by the Parliament, namely, the Protecting of Human Rights Act, 1993. This Act was amended in 2006.

## Composition:

- ❖ The commission is a multi-member body consisting of a chairman and

## Appointment:

- ❖ By the president, on the recommendations of a six-member committee consisting of the
  1. prime minister as its head,
  2. the speaker of the Lok Sabha
  3. the Deputy Chairman of the Rajya Sabha
  4. Leaders of the Opposition in both the Houses of Parliament

## Human Rights Charter

- ◆.....◆
5. Parliament and the Central home Ministers. inmates and make recommendation thereon.

### ***Term and Tenure:***

- ❖ The chairman and members hold office for a term of five years or until they attain the age of 70 years, whichever is earlier.

### ***Functions:***

- ❖ To inquire into any violation of human rights or negligence in the prevention of such violation by a public servant, either suo motu or on a petition presented to it or on an order of a court.
- ❖ 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

### ***Working of the Commission:***

- ❖ The commission's headquarters is at Delhi and it can also establish offices at other places in India.
- ❖ It has all the powers of a civil court and its proceedings have a judicial character.
- ❖ The commission is not empowered to inquire into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed.
- ❖ The functions of the commission are mainly recommendatory in nature.
- ❖ Its recommendations are not binding on the concerned

- The **United Nations Commission on Human Rights (UNCHR)** was a functional commission within the overall framework of the United Nations from 1946 until it was replaced by the United Nations Human Rights Council in 2006.
- It was a subsidiary body of the UN Economic and Social Council (ECOSOC), and was also assisted in its work by the Office of the United Nations High Commissioner for Human Rights (UNHCHR).
- It met for the first time in January 1947 and established a drafting committee for the Universal Declaration of Human Rights, which was adopted by the United Nations on December 10, 1948.
- **Human Rights Day** – December 10.

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government or authority. But, it should be informed about the action taken on its recommendations within one month.

The chairperson should be a retired Chief Justice of a High Court and members should be a serving or retired judge of a High Court or a District Judge in the state with a minimum of seven years experience as District Judge and a person having knowledge or practical experience with respect to human rights.

## STATE HUMAN RIGHTS

### COMMISSION (SHRC)

- ❖ A State Human Rights Commission can inquire into violation of human rights only in respect of subjects mentioned in the State List (List – II) and the Concurrent List (List – III) of the Seventh Schedule of the Constitution.

#### **Composition:**

- ❖ It is a multi-member body consisting of a chairperson and two members.

#### **Appointment:**

- ❖ By the Governor on the recommendations of a committee consisting of

### FORMER CHAIRPERSONS

Sl No	Name	Tenure
1.	Justice Ranganath Misra	12 October 1993 - 24 November 1996
2.	Justice M N Venkatachaliah	26 November 1996 - 24 October 1999
3.	Justice J S Verma	4 November 1999 - 17 January 2003
4.	Justice A S Anand	17 February 2003 - 31 October 2006
5.	Justice Shivaraj Patil (Acting Person)	From 1 <sup>st</sup> November 2006 - 1 <sup>st</sup> April 2007
6.	Justice S. Rajendra Babu	2 April 2007 - 31 May 2009
7.	Jusice G P Mathur (Acting Person)	From 1 <sup>st</sup> 2009 – 6 <sup>th</sup> June 2010
8.	Justice K G Balakrishnan	7 June 2010 - 11 May 2015
9.	Justice H.L. Dattu	29 February 2016

## Human Rights Charter

1. Chief Minister as its head
2. The Speaker of the Legislative Assembly
3. The State Home Minister
4. The Leader of opposition in the Legislative Assembly
5. The chairman of the Council and the Leader of the opposition in the Council (Incase the state have legislative Council)

- ❖ 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.

### **Working:**

- ❖ It has all the powers of a civil court and its proceedings have a judicial character.
- ❖ The Commission is not empowered to inquire into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed.

### **Term and Tenure:**

- ❖ The chairperson and members hold office for a term of five years or until they attain the age of 70 years, whichever is earlier.

### **Removal:**

- ❖ By the president

### **Functions:**

- ❖ To inquire into any violation of human rights or negligence in the prevention of such violation by a public servant, either suo motu or on a petition presented to it or on an order of a court.

### **TAMILNADU HUMAN RIGHTS COMMISSION**

Chair person – Mrs. Justice  
**T. Meenakumari**