

CONSTITUTION

Compiled by Surya

- ▶ A Constitution is "a Fundamental legal document according to which the government of a country functions".
- ▶ Its basic objective is to establish a democratic, socialist, secular republic with a view to securing justice, liberty, equality and fraternity to all its citizens.
- ▶ A constitution, thus is superior to all other laws of the country & no law can be enacted which is not in conformity with the constitution.
- ▶ Constitutions are of two types - "unwritten and written". The constitution of the U.K and New Zealand are unwritten where as the constitution of all other countries of the World are written.

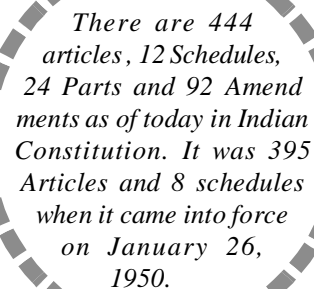
Constituent Assembly

- ▶ The Constitution of India was framed and adopted by the Constituent Assembly of India.
- ▶ The Constituent Assembly was set up in November 1946 as per the Cabinet Mission Plan of 1946.
- ▶ The idea of a Constitution for India was first expressed by M.N. Roy (communist leader) and it was supported by Gandhiji & Nehru.
- ▶ The demand for the Constituent Assembly to draft the Constitution of India was, for the first time, raised by the Congress in 1935.

- ▶ The Constituent Assembly was in session between December 9, 1946 and November 26, 1949.
- ▶ Total duration of the making of the Constitution was 2 years, 11 months and 17 days. The Constituent Assembly had 389 members originally. Of which, 292 were to be elected from provinces, 93 were to be nominated from princely states and four members were to be nominated from Chief Commissioner's Areas. Each province was allocated seats in proportion to its population. Later reduced to 299 as League withdrew after partition of the country.
- ▶ On the inaugural day of the assembly on December 9, 1946, **Dr. Sachidananda Sinha** was elected as the first temporary President to chair the meeting

Basic structure of the Constitution

- ▶ Independence of judiciary
- ▶ Free and fair elections
- ▶ Rule of law
- ▶ Limited power of Parliament to amend the Constitution
- ▶ Parliamentary system
- ▶ Harmony and balance between Fundamental Rights and Directive Principles
- ▶ Judicial review
- ▶ Freedom and dignity of the individual
- ▶ Welfare state
- ▶ Unity and integrity of the nation
- ▶ Federal character of the Constitution
- ▶ Separation of powers between the legislature, the executive and the judiciary
- ▶ Secular character of the Constitution
- ▶ Sovereign, democratic and republican nature of the Indian polity
- ▶ Supremacy of the Constitution



There are 444 articles, 12 Schedules, 24 Parts and 92 Amendments as of today in Indian Constitution. It was 395 Articles and 8 schedules when it came into force on January 26, 1950.

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and on December 11, 1946, Dr. **Rajendra Prasad** was elected as the permanent President of the Constituent Assembly.

- ▶ The Vice President of the constituent Assembly was Professor Harendra Coomar Mukherjee.
- ▶ Constituent Assembly worked by constituting more than 13 committees and the most prominent committee was the Seven member **Drafting Committee** of the constitution.
- ▶ **Dr. B.R. Ambedkar** was the **Chairman of the Drafting Committee of the Constitution**.
- ▶ He was the Chief Architect of the Constitution and later became the first Law Minister of India. In 1990 Government awarded him Bharat Ratna posthumously.
- ▶ Total sessions of the Constituent Assembly - 11
- ▶ The Constitution of India was adopted on November 26, 1949. The assembly met again on Jan 24, 1950 when the members appended their signatures to the constitution of India. It came into force on January 26, 1950.
- ▶ The date **January 26**, was chosen to inaugurate the Constitution in memory and honour of the Lahore session of the Indian National Congress on 31st December 1929.
- ▶ The Constituent Assembly formed 13 important committees

The only state having Constitution of its own is Jammu & Kashmir

The Constitution of India was drafted by the Constituent Assembly. It came into effect on January 26, 1950. The constitutional head of the Executive of the Union is the President. As per Article 79 of the Constitution, Indian Parliament consists of the President and two Houses known as the Council of States (Rajya Sabha) and the House of the People (Lok Sabha). Article 74(1) of the Constitution provides that there shall be a Council of Ministers with the Prime Minister as its head to aid and advise the President, who shall exercise his functions in accordance to the advice.

The Constituent Assembly adopted our National Flag on July 22, 1947.

The Constituent Assembly adopted our National Anthem on January 24, 1950.

- for framing the Constitution.
- ▶ The historic 'Objective Resolution' (purpose and aim) was moved in the Constituent Assembly by Pt. Jawahar Lal Nehru on 13th December 1946.
- ▶ Objective resolution constituted on the basis of the Preamble of the Constitution.
- ▶ Shri. **B.N. Rao** was appointed as Legal Advisor to the Constituent Assembly.
- ▶ The Constituent Assembly took 2 years, 11 months and 18 days to frame the Constitution.
- ▶ **Dr. Bhim Rao Ambedkar** is recognised as "**Father of Indian Constitution**".

Drafting Committee

- ▶ In the August 14, 1947 meeting of the Constituent Assembly, a proposal for forming various committees were presented.

On August 15, 1947, India became an independent nation, and the Constituent Assembly became India's Parliament.

- ▶ Such committees include Committee on Fundamental Rights, the Union Powers Committee and Union Constitution Committee.
- ▶ On August 29, 1947, the Drafting Committee was appointed, with Dr. Ambedkar as the Chairman along with six other members.
- ▶ Six members of the drafting committee were **N. Gopalaswami Iyengar**, **Alladi Krishna Swamy Iyer**, **K.M. Munshi** (founder of Bharatiya Vidya Bhavan), **Syed Mohammad Saadullah**, **B.L. Mittar** (replaced by N. Madhav Rao) and **D.P. Khaitan** (who died in 1948 and was replaced by T.T. Krishnamachari).
- ▶ A Draft Constitution was prepared by the committee and submitted to the Assembly on November 4, 1947.

January 26 was selected as the date of commencement of the Constitution of India because on this date in 1930, Indian people observed 'Independence day', following the resolution of 'Purna Swaraj' of the Congress session held in the midnight of December 31, 1929 at Lahore.

- ▶ The Drafting Committee finalised the Draft Constitution of India in February 1948 and the second reading of the same by the Assembly was completed on October 17, 1948. For the third reading of the constitution, Assembly met on Nov. 14, 1949 and finished it on Nov. 26, 1949.

Committees under the Constituent Assembly

- Committee on the Rules of procedure - **Rajendra Prasad**
- Steering Committee **Rajendra Prasad**
- Finance and Staff Committee - **Anugrah Narayan Sinha**
- Credential Committee - **Alladi Krishnaswamy Iyer**
- House Committee - **B. Pattabhi Sitaramayya**
- Order of Business Committee - **K.M. Munshi**
- Ad hoc Committee on the National Flag - **Rajendra Prasad**
- Committee on the Functions of the Constituent Assembly **G.V. Mavalankar**
- States Committee - **Jawaharlal Nehru**
- Advisory Committee on Fundamental Rights, Minorities
- Tribal and Excluded Areas - **Vallabhai Patel**
- Minorities Sub-Committee - **H.C. Mookherjee**
- Fundamental Rights Sub-Committee - **J.B. Kripalani**
- North-East Frontier Tribal Areas and Assam. Excluded & Partially Excluded Areas Sub-Committee - **Gopinath Bardoloi**
- Excluded and Partially Excluded Areas (Other than those in Assam) Sub-Committee - **A.V. Thakkar**
- Union Powers Committee- **Jawaharlal Nehru**
- Union Constitution Committee - **Jawaharlal Nehru**
- Drafting Committee - **B.R. Ambedkar**

Sources of Indian Constitution

1. **Govt. of India Act 1935:** Federal System, Office of the Governor, Power of federal judiciary, Emergency power, Public Service Commissions, Administrative details.
2. **United Kingdom:** Law making procedure, Rule of Law, Provisions of Single Citizenship, Parliamentary Govt., Bicameralism, Prerogative writs, Office of the C.A.G.
3. **USA:** Independent Judiciary, Judicial Review, Fundamental Rights, Removal of Supreme & High Court Judges (Impeachment), Preamble, Functions of Vice- President.
4. **Canada:** Federation with a strong centre, Residuary powers with the centre, Appointment of State Governors by Center, Advisory/Review of supreme court.
5. **Ireland:** Directive Principles of State Policy, Method of Presidential election, Nomination of members of Rajya Sabha by the President.
6. **Germany:** Emergency Provision and Suspension of Fundamental Rights.
7. **Australia:** Concurrent list & Freedom of trade.
8. **South Africa:** Amendment procedure.
9. **France:** Republic
10. **Russia (U.S.S.R.):** Fundamental Duties (44 Amendment) & Preamble.
11. **Japan:** Procedures established by law.

The landmarks of the Constitution

Regulating Act, 1773

This was the first step taken by the British Government to control and regulate the affairs of the East India Company in India.

- ▶ It designated the Governor of Bengal as the Governor-General of Bengal.
- ▶ The first Governor-General was Lord Warren Hastings.
- ▶ It subordinated the Governors of Bombay and Madras to the Governor-General of Bengal.
- ▶ The Supreme Court was established at Fort William (Calcutta) as the Apex Court in 1774.

Pitt's India Act, 1784

- ▶ It was introduced to remove the drawbacks of the Regulating Act.
- ▶ Was named after the then British Prime Minister.
- ▶ Placed the Indian affairs under the direct control of the British Government.
- ▶ Established a Board of Control over the Court of Directors.

Charter Act, 1813

- ▶ Monopoly of Company's trade abolished except trade in tea & trade with China.
- ▶ One way free trade was imposed on India.
- ▶ An annual sum of Rs. One Lakh earmarked for education, marking the beginning of British interest on educating the Indians.

Charter Act, 1833

- ▶ It made the Governor-General of Bengal as the Governor-General of India.
- ▶ First Governor-General of India was Lord William Bentick.
- ▶ All civil and military powers were vested in him.

- ▶ Inclusion of a Law member in the council of Governor General (Macaulay - first law member).
- ▶ Governments of Bombay and Madras were deprived of their legislative powers.
- ▶ This was the final step towards centralisation in the British India.
- ▶ The Act ended the activities of the East India Company as a commercial body. Company's monopoly of trade completely abolished.

Charter Act, 1853

- ▶ The legislative and executive functions of the Governor-General's Council were separated.
- ▶ It introduced a system of open competition as the basis for the recruitment of civil servants of the Company.

Government of India Act, 1858

- ▶ This Act transferred the Government territories and revenues of India from the East India Company to the British Crown.
- ▶ In other words, the rule of Company was replaced by the rule of the Crown in India.
- ▶ The powers of the British Crown were to be exercised by the Secretary of State for India.
- ▶ The Secretary of State was a member of the British Cabinet.
- ▶ He was assisted by the Council of India, having 15 members.
- ▶ This act was declared to be an act of "good government" for India.
- ▶ SOS was vested with complete

authority and control over the Indian administration through the Governor-General as his agent.

- ▶ He was responsible ultimately to the British Parliament.
- ▶ The Governor-General was made the Viceroy of India.
- ▶ Lord Canning was the first Viceroy of India.

Indian Councils Act, 1861

- ▶ It introduced for the first time the representative institutions in India.
- ▶ It provided that the Governor-General's Executive Council should have some Indians as the non-official members while transacting the legislative businesses.
- ▶ Initiated the process of decentralisation by restoring the legislative powers to the Bombay and the Madras Presidencies.
- ▶ It accorded the statutory recognition to the Portfolio System.

Indian Councils Act, 1892

- ▶ Introduced the principle of elections, but in an indirect manner.
- ▶ Enlarged the functions of the Legislative Councils and gave them the power of discussing the Budget and addressing questions to the Executive.

Indian Councils Act, 1909

- ▶ This Act is also known as the Morley-Minto Reforms (Lord Morley was the then Secretary of State for India and Lord Minto was the then Governor-General of India).
- ▶ Introduction of an element of

direct elections to the Legislative Councils.

- ▶ The act provided the so called 'Representative Govt'. in India.
- ▶ It changed the name of the Central Legislative Council to the Imperial Legislative Council.
- ▶ Introduced a system of communal representation for Muslims by accepting the concept of 'Separate Electorate'. (Communal Electorate)

Government of India Act, 1919

- ▶ This Act is also known as the Montague Chelmsford Reforms.
- ▶ Montague was the then Secretary of State and Lord Chelmsford was the then Governor General of India.
- ▶ The act was meant to provide "Responsible Govt". in India.
- ▶ The Central subjects were demarcated and separated from those of the Provincial subjects.
- ▶ The scheme of dual governance, 'Dyarchy', was introduced in the Provinces.
- ▶ Division of Provincial subjects into Reserved subjects (like police, jails, land revenue, irrigation, forests etc to be administered by the Governor & his Executive Council) and Transferred subjects (like education, local self Government, public

health & sanitation, agriculture, industries to be looked after by the governor and his ministers).

- ▶ The Act introduced, for the first time, bicameralism and direct elections in the country.
- ▶ The Act also required that the three of the six members of the Governor-General's Council (other than the Commander-in-Chief) were to be Indians.

Government of India Act of 1935

- ▶ The Act provided for the establishment of an 'All-India Federation' consisting of the Provinces and the Princely States as the units.
- ▶ The Act divided the powers between the Centre and the Units in terms of three lists, namely the Federal List, the Provincial List and the Concurrent List.
- ▶ The Federal List for the Centre consisted of 59 items, the Provincial List for the Provinces consisted of 54 items and the Concurrent List for both consisted of 36 items.
- ▶ The residuary powers were vested with the Governor-General.
- ▶ The Act abolished the Dyarchy in the Provinces and introduced 'Provincial Autonomy'.
- ▶ It provided for the adoption of

Dyarchy at the Centre.

- ▶ Introduced bicameralism in 6 out of 11 Provinces.
- ▶ These six Provinces were Assam, Bengal, Bombay, Bihar, Madras and the United Province.

Indian Independence Act of 1947

- ▶ Till 1947, the Government of India functioned under the provisions of the 1919 Act only, the provisions of 1935 Act relating to Federation and Dyarchy were never implemented.
- ▶ The Executive Council provided by the 1919 Act continued to advise the Governor General till 1947.
- ▶ It declared India as an Independent and Sovereign State.
- ▶ Established responsible Governments at both the Centre and the Provinces.
- ▶ Designated the Governor-General of India and the Provincial Governors as the Constitutional Heads (nominal heads).
- ▶ It assigned dual functions (Constituent and Legislative) to the Constituent Assembly and declared this dominion legislature as a sovereign body.
- ▶ Two Dominions were constituted-India and Pakistan.
- ▶ The King would appoint a Governor General for each Dominion.

Cabinet Mission of 1946

The British Cabinet Mission of 1946 to India aimed to discuss and plan for the transfer of power from the British Raj to Indian leadership, providing India with independence under Dominion status in the Commonwealth of Nations. Formulated at the initiative of Clement Attlee, the Prime Minister of the United Kingdom, the mission consisted of Lord Pethick-Lawrence, the Secretary of State for India, Sir Stafford Cripps and A. V. Alexander. The Mission's purpose was to hold preparatory discussions with elected representatives of British India and the Indian states in order to secure agreement as to the method of framing the constitution. Set up a constitution body. Set up an Executive Council with the support of the main Indian parties.

The Preamble

Soul of Constitution

Key of Constitution

Identity Card of Constitution

- ▶ The Preamble or the preface gives in a nutshell the aims and purposes of the Constitution of India. It also embodies the ideals and aspirations.
- ▶ The Preamble is considered to be **the key** to open the edifice of **the Constitution**.
- ▶ Almost all the constitutions of the world have a preamble.
- ▶ Jawaharlal Nehru is the architect of the preamble.
- ▶ It was adopted by the Constituent Assembly on January 22nd 1947.
- ▶ The preamble serves three purposes -
 - i. It indicates the source from which the constitution derives its authority,
 - ii. States the objects that the constitution seeks to establish and promote.
 - iii. The date of its adoption.
- ▶ The importance of the utility of the Preamble has been pointed out in several decisions of the Supreme Court.
- ▶ In the Kesavananda Bharathi case 1973 the Supreme Court held that Preamble is a part of the Constitution.
- ▶ **Sovereign** : There is no authority outside India on which the country is anyway dependent.
- ▶ **Socialist** : Achievement of Socialistic pattern of Society through democratic needs.
- ▶ **Secular** : The state shall not

- 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.

discriminate against the citizen in any way on the basis of religion.

- ▶ **Democratic** : The rulers elected by the people only.

▶ **Republic** : All the authorities of the State are directly or indirectly elected by the people for a fixed term, not hereditary.

- ▶ **K.M. Munshi** termed it as 'the Political Horoscope'.
- ▶ **Earnest Barker** calls it the 'key to the Constitution'.
- ▶ **Thakurdas Bhargava** called it as the 'Soul of the Constitution'.
- ▶ The term 'Socialistic pattern of society' was adopted as a goal of the Indian State by the Congress in 1955 in Avadi Session.
- ▶ The Preamble is a part of the Constitution statute but it is not a part of the Constitution. It is its identity card." : **N.A. Palkhivala**.

Forty-second Amendment

On 18 December 1976, during the Emergency in India, the Indira Gandhi government pushed through several changes in the Forty-second Amendment of the constitution. A committee under the chairmanship of Sardar Swaran Singh recommended the amendments. Through this amendment the words "socialist" and "secular" were added between the words "sovereign" and "democratic" and the words "unity of the Nation" were changed to "unity and integrity of the Nation". Preamble was amended only once in the history of the Indian Constitution

IS THE PREAMBLE A PART OF THE CONSTITUTION ?

The Supreme Court in the Kesavananda Bharati vs State of Kerala (1973) case overruled its earlier decision of 1960 and made it clear that it is a part of the Constitution and is subject to the amending power of the Parliament as any other provisions of the Constitution, provided the basic structure of the Constitution as found in the Preamble is not destroyed. However, it is not an essential part of the Constitution.

Nature of the Constitution

Written/ Unwritten

- ▶ A **Written Constitution** is one in which most of the fundamental or basic rules of government organisations are contained in a document.
- ▶ The Constitution of India is the longest written Constitution in the world.
- ▶ India is described by the Constitution as a Union of States.
- ▶ America has the shortest as well as the oldest written Constitution in the world.
- ▶ The Constitution of U.S. was framed by the delegates meeting in the Philadelphia Convention.
- ▶ Swiss Federation was formed in 1867.
- ▶ Canadian Federation was formed in 1848.
- ▶ Australian Federation was formed in 1901.
- ▶ An **Unwritten Constitution** is one in which most of the fundamental rules and principles of governmental organisations have not been reduced to writing by any authorised body or persons.
- ▶ The best example of an unwrit-

ten Constitution is the British Constitution.

- ▶ Israel is another country without a written Constitution.

Flexible / Rigid

- ▶ If a Constitution can be amended easily by the simple majority of the member of parliament, it is said to be **flexible**.
- ▶ If the procedure of amending or repealing ordinary laws is difficult, the Constitution is said to be **rigid**.
- ▶ The Indian Constitution is rigid in so far as its basic principles are concerned. Some of its provisions can be amended by a simple majority of parliament while others require a two third majority of parliament besides the consent of majority of state legislature. So it is said that the **Indian Constitution is partly flexible and partly rigid**.
- ▶ The examples of Rigid Constitution are United States, Canada, Switzerland and Australia.
- ▶ British Constitution is a flexible Constitution.

Unitary / Federal

- ▶ A Constitution is said to be **unitary** if it concentrates all authority at the centre, making the various regions subservient to the central government.
- ▶ Britain and France have unitary Constitutions.
- ▶ A **Federal** Constitution divides government authority between the centre and the regions conferring on the latter an autonomous status.
- ▶ The US Constitution, the Canadian Constitution and the Indian Constitution are examples of Federal Constitutions.
- ▶ **Indian Constitution is described as federal in term but unitary in spirit.**
- ▶ The difference between American federation and Indian federation is that the Indian federations are functioning under the strong central Government.
- ▶ Indian Constitution is Quasi - Federal.
- ▶ The word **Federal** is however **absent in the Indian Constitution**.

Opinions

1. "Quasi federal" - K.C. Wheare
2. "Federation with a centralising tendency" - Ivor Jennings
3. "Cooperative federalism" - Granville Austin
4. "Unitary as well as federal" - Ambedkar.

Important Dates in Indian Constitution

- ▶ **1687** The first Municipal Corporation in India was set up in Madras.
- ▶ **1772** Lord Warren Hastings created the Office of District Collector.
- ▶ **1829** The office of the Divisional Commissioner was created by Lord William Bentick.
- ▶ **1859** The Portfolio System was introduced by Lord Canning.
- ▶ **1860** A system of Budget was introduced.
- ▶ **1870** Lord Mayo's resolution on financial decentralisation, visualised the development of local self-government institutions in India.
- ▶ **1872** First Census in India was conducted during Lord Mayo's period.
- ▶ **1881** First regular Census was conducted during Lord Mayo's period.
- ▶ **1882** Lord Ripon's resolution was hailed as the 'Magna Carta' of local self-government. He is regarded as the 'Father of local self-government in India'.
- ▶ **1905** The tenure system was introduced by Lord Curzon.
- ▶ **1905** The Railway Board was set up by a resolution of the Government of India.
- ▶ **1921** Public Accounts Committee was created at the Centre.
- ▶ **1921** Railway Budget was separated from the General Budget.
- ▶ **1935** Reserve Bank of India was established by an Act of the Central Legislature.
- ▶ **1935** The Government of India Act 1935 prescribed a federation for India.
- ▶ **1946** The elections to the Constituent Assembly under the Cabinet Mission Plan.
- ▶ **Dec. 9, 1946** The Constituent Assembly held its first meeting.
- ▶ **Dec. 11, 1946** Dr. Rajendra Prasad was elected president of the Constituent Assembly.
- ▶ **Nov. 26, 1949** Constituent Assembly approved the Constitution.
- ▶ **Jan. 26, 1950** The Constitution of India came into force.
- ▶ **1951** The first Constitutional Amendment.
- ▶ **1952** The first general election (1951-1952) to the Lok Sabha was held.
- ▶ **1953** The first linguistic state of Andhra Pradesh was created.
- ▶ **1959** Panchayat Raj was introduced in Rajasthan.
- ▶ **1962** First emergency declared.
- ▶ **1963** The first no confidence motion was moved in the Lok Sabha after independence.
- ▶ **1975** Emergency due to internal disturbances
- ▶ **1976** The Fundamental Duties of Indian citizens were incorporated in the Constitution.
- ▶ **1978** Through the 44th amendment Right to Property has been deleted from the list of Fundamental Rights.
- ▶ **1989** Reduced the voting age from 21 to 18 years for the Lok Sabha as well as Assembly elections.
- ▶ **1991** Created the National Capital Territory of Delhi.
- ▶ **1992** Formation of present day Panchayati Raj.
- ▶ **1999** Extended the reservation of Scheduled Castes, Scheduled Tribes and Anglo Indians in Lok Sabha and State Assemblies for 10 more years ie. up to 2010.
- ▶ **2000** The creation of new states of Jharkhand, Chattisgarh and Uttarakhand.
- ▶ **2002** In the field of free and compulsory primary education for children Right to Education for Children has been made a Fundamental Right.

Salient Features of the Constitution of India

- ▶ The Constitution of India is the **lengthiest** or bulkiest written Constitution in the world.
- ▶ The Constitution at present contains **444** Articles and **12** Schedules.
- ▶ The Constitution has **24** parts. The first part has four Articles.
- ▶ Originally our Constitution contained 395 Articles and 8 Schedules.
- ▶ It is designed to work as federal Constitution in normal times and as a unitary one in emergency.
- ▶ It establishes a parliamentary system of Government both at the centre and in the states.
- ▶ The **President** is the Constitutional Head of the State (Country).
- ▶ The Constitution of India introduces adult franchise and also the system of joint electorates.
- ▶ Our Parliamentary system is based on **universal adult franchise** ie, every adult above 18 years of age has (61st Constitution Amendment 1989) the right to vote.
- ▶ The Constitution of India guarantees Fundamental Rights to all citizens of India.
- ▶ It lays down the Directive Principles of State Policy for the guidance of the governmental authorities in the country.
- ▶ It provides for an independent judiciary.
- ▶ The **Supreme Court** acts as the **guardian of the Constitution**.

Citizenship (Article 5 - 11)

- ▶ The Part II (Article 5-11) of the Constitution deals with the Citizenship, of India.
- ▶ Articles 5 – 8 deals with the citizenship at the time of commencement of the Constitution.
- ▶ Article 9 - citizenship will be terminated if the person acquires citizenship of another country.
- ▶ A person can become a citizen of India even if born outside India if his/her father or mother is a citizen of India at the time of person's birth.
- ▶ The citizenship can be lost by renunciation, termination, or deprivation.
The period of acquisition of citizenship through registration has been increased from 6 months to 5 years.

Constitutional Rights for Indian Citizens

- ▶ Fundamental rights that are only given to Indian citizens like – article 15, 16 and 19, 30.
- ▶ Some important posts are only for Indian citizens like President, Vice-president, Chief Justice of India, Judges of High Courts, Attorney General, Governor etc.
- ▶ Right to vote for constituency and assembly elections. There is provision for Indian citizens only to be a parliamentarian or member of legislative assembly.
- ▶ **Citizenship (Amendment) Bill 1992** provide that a person

Dual Citizenship

With the passage of Citizenship (Amendment) Act 2003, India decided to grant dual citizenship to Person of Indian Origin (PIO) / NRI's in 16 nations, subject to the laws of their countries. However in 2005 the Indian Govt. stated that all PIO / NRI's, who migrated from India on or after January 26, 1950, will be granted dual citizenship. Dual Citizenship allows a person to live in India indefinitely (so far PIO card for 6 months). They can avail all benefits of a citizen of India. However they cannot have the right to vote, and be elected or appointed to public offices. They can also travel to India without a Visa. However persons from Pakistan, Bangladesh, and any other country that the govt may notify cannot have dual citizenship. Pravasi Bharatiya Divas celebration is a platform where PIO/NRI's and Indians meet and share their aspiration. It is celebrated on 9th January in remembrance of Gandhiji's return from South Africa in 1915.

born outside India would be deemed to be an Indian citizen if either of his/her parents were Indian.

- ▶ **Citizenship Act 2004** - to grant dual citizenship to the People of Indian Origin (PIO). The concept of dual citizenship, now phrased as overseas citizenship will be granted to persons of Indian origin belonging to certain countries. At present this facility is extended to PIOs of 16 specified countries.
- ▶ **The Citizenship Act, 1955** provides for acquisition and termination of citizenship after the commencement of the Constitution.

Persons entitled to Indian Citizenship

- ✧ One who has domicile in India.
- ✧ One who was born in the territory of India.
- ✧ One, either of whose parents was born in the territory of India.
- ✧ One who has been ordinarily resident in the territory of India for not less than five years. Immediately preceding the commencement of the constitution.

Ways to acquire citizenship

The Citizenship Act of 1955 enumerates five ways.

1. By birth
2. By descent
- Natural means
3. By Registration
 - ☆ 5 Years continual Stay (originally 6 months)
 - ☆ For only P.I.Os
 - ☆ Also for foreign spouses of Indians.

4. By Naturalization
 - ☆ Only for foreigners
 - ☆ 12 months continual stay.
5. Incorporation of Territories.

Loss of Citizenship

1. By Renunciation
 - ☆ by one's own will.
2. By termination
 - ☆ due to acquisition of citizenship of other country.
3. By Deprivation
 - ☆ due to false means

Fundamental Rights (Article 14 to 35)

- ▶ The concept of Fundamental Rights has its origin in the "Bill of Rights" of USA.
- ▶ Part III of the Constitution deals with Fundamental Rights.
- ▶ Fundamental Rights are **justiciable**

- ▶ The Fundamental Rights are protected by the supreme court & the high court as the guardians of the Constitution.
- ▶ The main objective of the inclusion of Fundamental Rights in the Constitution is to establish a **government of law and not of man**.
- ▶ Fundamental Rights can be suspended during an emergency by the Parliament.
- ▶ The Constitution abolishes untouchability (Article 17) and its practice in any form is punishable with the term of 2 years imprisonment.
- ▶ Article 32 empowers the supreme court **to issue writs** for the enforcement & protection of fundamental rights of a person if these rights are violated mostly by the state.

- ▶ The original Constitution classified the Fundamental Rights into seven categories. But now there are only six categories. They are
 - ▶ (1). Right to Equality (Article 14 - 18)
 - ▶ (2) Right to Freedom (19 - 22)
 - ▶ (3) Right against Exploitation (23 - 24)
 - ▶ (4) Right to Freedom of Religion (25 - 28)
 - ▶ (5) Cultural and Educational Rights (29-30)
 - ▶ (6) Right to Constitutional Remedies (31-35)
 - ▶ The Right to Property, one of the Fundamental Rights, was taken away and it is only a legal right by the 44th Amendment (1978).

Types of Writs

► *Types of writs are*

- ◆ Habeas Corpus
- ◆ Mandamus
- ◆ Certiorari
- ◆ Quo Warranto
- ◆ Prohibition.

► **Habeas Corpus**

(to have the body)

It is an order calling upon the person who has detained another, to produce the latter before the court in order to let the court know on what ground he has been confined and to set him free if there is no legal justification for the imprisonment.

► **Mandamus (we command)**

Commands a person to whom it is addressed to perform some public or quasi public legal duty which he has refused to perform and the performance of which cannot be enforced by any other adequate legal remedy.

► **Certiorari**

(to be certified)

Is issued directing the subordinate court to send up certain records for review.

► **Quo Warranto**

(on what authority)

Is a proceeding whereby the court enquires into the legality of the claim which a party asserts to public office, and to oust him from its enjoyment if the claim is not well founded.

► **Prohibition**

This writ is issued by the Supreme Court or a High Court to an inferior court forbidding the latter to continue proceedings in a case in excess of its jurisdiction or to usurp a jurisdiction with which it is not legally vested.

- The Supreme Court exercise the power to issue writs under Article 32 and High Court applies such a power under Article 226 of the Constitution

- Supreme Court & High Court alone have power to issue writs.

Fundamental Duties (Article 51-A)

- The Fundamental Duties of Indian citizens were incorporated in the Constitution by 42nd Amendment in 1976 to curb subversive and unconstitutional activities.

- Fundamental Duties are modelled on the Russian Constitution.

- Under the new Article 51-A, a list of ten duties are enumerated .

1. To abide by the Constitution and respect its Ideals and Institutions, the National Flag & the National Anthem.
2. To cherish and follow the noble ideas which inspired our national struggle for freedom.
3. To uphold and protect the sovereignty, unity and integrity of India.

4. To defend the country and render national service.

5. To promote harmony and spirit of common brotherhood among all people transcending religious linguistic, regional or sectional diversities, to renounce practises derogatory to the dignity of women.

6. To value and preserve the rich heritage of our composite culture.

7. To protect and improve natural environment including forest, lakes, rivers and wild life and to have compassion to living creature.

8. To safeguard public property and objure violence.

9. To develop scientific temper, humanism and spirit of enquiry.

10. To strive towards excellence in all fields of individual and collective activity.

11. Every citizen who is a parent or guardian, to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years. The 11th Fundamental Duty was added by the 86th Constitutional Amendment Act of 2002.

- **Swaran Singh Committee** recommended the idea of **including charter on Duties.**

Executive

The Constitution of India states that the Indian Executive is a major branch of the Parliamentary form of government. The President, Vice President, Council of Ministers, Governor and Attorney General of India are some of the prominent heads in the Executive Branch.

The President

- ▶ The President is the head of the Indian State.
- ▶ He is also called the 'de-jure' head of the State.
- ▶ He is the first citizen of India and is the symbol of unity, integrity and solidarity of the nation.
- ▶ Each and every executive action is taken in his name, though he has no direct power over the execution of policies.
- ▶ He is elected for a term of 5 years.
- ▶ The President of India is the Constitutional head of India.
- ▶ The supreme commander of the defence forces of India is the President.
- ▶ **Powers of the President**
Executive powers, Legislative powers, Financial powers, Judicial powers, Diplomatic powers, Military powers and Emergency powers.
- ▶ The President of India represents India in international forums, sends and receives cre-

dentials of Ambassadors and High Commissioners.

- ▶ The President summons, prorogues the House of Parliament and dissolves the Lok Sabha.
- ▶ The President has the power to nominate 12 members to the Rajya Sabha and 2 members of the Anglo-Indian community to the Lok Sabha.
- ▶ Presidential assent is essential before a bill becomes an Act.
- If the President returns a bill to the parliament for reconsideration, the passage of the bill by ordinary majority will compel him to give his assent.
- ▶ It is the Parliament that passes the state budget during the President's rule in a state.
- ▶ The President has the power to legislate by ordinance at a time when it is not possible to have a parliamentary enactment. But to become an Act, the ordinance should be passed within six weeks of re-assembly of Parliament
- ▶ In the Constitution of India, the power of dissolving the Lok Sabha rests with the President.
- ▶ The term of office of the President is five years unless he is removed by impeachment or resigns before expiry of the full term. He is eligible for re-election.
- ▶ Most important legislative power of the president is the Ordinance making power (Art 123).

- ▶ An ordinance made when both the houses are in session is void.
- ▶ The maximum life of an ordinance can be six months and six weeks in case of non approval by the Parliament.
- ▶ At present the President's salary is fixed at Rs. 1,50,000 and he is eligible for other allowances charged on Consolidated Fund of India.

Election of the President (Art. 54)

The President of India is elected by an electoral college consisting of the following members.

- Elected members of both the Houses of Parliament.
- Elected members of the Legislative Assemblies of the States.
- Elected members of the Legislative assemblies of the Union Territories of Delhi and Pondicherry.
- The nominated members of the State Legislative Councils and the nominated members of the legislative assemblies of Delhi and Pondicherry do not participate in his election.
- The election is done on the bases of proportional representation by single transferable vote.
- The value of the vote of an MLA is decided as follows.

Value of the vote of an MLA =

$$= \frac{\text{Total population of state}}{\text{Total number of elected members in the State Legislative assembly}} \times \frac{1}{1000}$$

- The value of the vote of an

Prime Minister, Union Ministers, Attorney - General, Comptroller and Auditor General, Judges of the Supreme Court and High Courts, Governor of a state, UPSC Chairman, Chief Election Commissioners, Ambassadors, Deputy Chairman of members of planning commission etc. are appointed by President.

Qualifications

- ▶ Citizen of India.
- ▶ Not less than 35 years of age.
- ▶ Qualified for election as member of Lok Sabha.
- ▶ Not holding any office of profit under the government.
- ▶ Not a member of Parliament.

The value of the vote of an MP can be decided as follows

- Value of the vote of an MP=

$$= \frac{\text{Total population of votes of all MLA's of all States}}{\text{Total number of elected members of Parliament}}$$

- A candidate, in order to be declared elected to the office of President, must secure a fixed quota of votes.
- The quota of votes is determined by dividing the total number of valid votes polled by the number of candidates to be elected, plus one and adding one to the quotient electoral quota =

$$= \frac{\text{Total number of valid votes polled}}{1 + 1 = (2)} + 1$$

- ▶ It is also provided in the Constitution that the candidate to be declared elected as President must receive more than **50% of the polled valid votes.**
- ▶ To be a candidate for the office of the President, nomination must be proposed by atleast 50 elected members and to be seconded by another 50 electors. This procedure was introduced during the Presidential election in 1997, when Mr. K. R. Narayanan was elected.

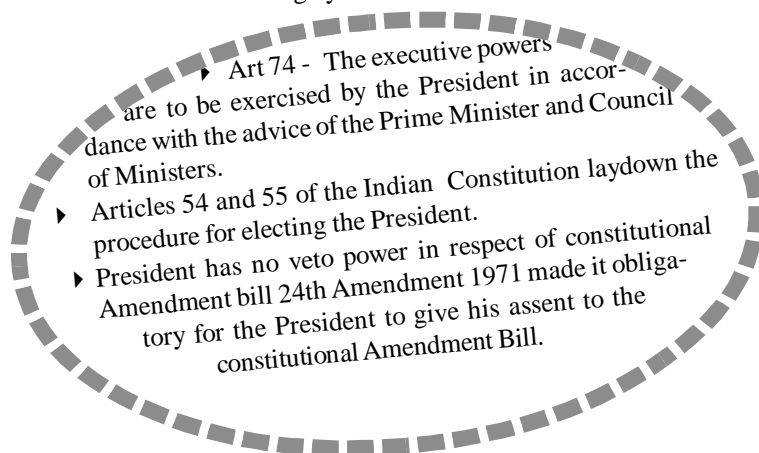
- Any dispute regarding the election of the president or vice-president is decided by the Supreme Court under article 71 of the Constitution.

The procedure for impeachment (Art. 61)

- ▶ The President can be removed from office by adopting an address by not less than $\frac{2}{3}$ rd majority of the members of the House and to be approved by a similar majority of the members of the other house.
- ▶ The President can also be removed from office on the ground of violation of Constitution by the process of **impeachment** (Article 61) by giving 14 days notice signed by atleast $\frac{1}{4}$ th of the member of the House (either Rajya Sabha or Lok Sabha).
- ▶ 14 days notice to be given to the President in writing by ei-

ther house signed by not less than one-fourth of the total number of the house which has made the charges.

- ▶ After 14 days, a resolution has to be passed in the same house with a $\frac{2}{3}$ majority of the total strength of the house.
 - ▶ Then the other House shall investigate the charges.
 - ▶ Meanwhile the President has the right to be represented in such investigation.
 - ▶ If after the investigation, a resolution is passed by $\frac{2}{3}$ majority of the total strength of the House (investigating) the president stands impeached.
- If a sudden vacancy occurs due to resignation, death or impeachment, the elections are held within six months and the Vice-President acts as President till new President assumes office.



Powers

He is the Chief Executive head of the Indian Union and Supreme Commander of the armed forces. His powers can be classified as under.

Executive Powers

He appoints the senior officials of the state like the Prime Minister, Ministers, Attorney General, Comptroller and Auditor General, Chief Justice, Judges, Governors, Financial Commissioner, UPSC members, Chief Election Commissioner and other Election Commissioners. All executive action is taken in his name. All Union territories are under the President of India.

Legislative Powers

- ▶ Nominates 12 members of the Rajya Sabha from amongst the persons having special knowledge or practical experience in respect of literature, science, art and social service.
- ▶ He nominates two members to the Lok Sabha from the Anglo-Indian community.
- ▶ Summons and Prorogues the Parliament and dissolve the Lok Sabha.
- ▶ He addresses the Parliament at the commencement of the first session after each general election and the first session of each year.
- ▶ He summons a joint sitting of both the houses of Parliament which is President over by the Speaker of the Lok Sabha.
- ▶ Assents or with holds his assents to any Bill passed by the Parliament or return the bill (if its is not a money bill or a Constitutional Amendment Bill) for reconsideration of the Parliament.

- ▶ According to article 123, President can promulgate ordinances when both the Houses of the Parliament are not in session. These ordinances must be approved by the Parliament within the six weeks of its re-assembly. The ordinance can be effective for a maximum period of six months and six weeks.

Financial Powers

- ▶ Sanctions introduction of money bill in the Parliament.
- ▶ The President lays the Union budget before the Parliament. To meet the unfore seen expenditure, the President can make advance out of the contingency fund of India.

Judicial Powers

- ▶ He can grant pardon, reprieve, remit the sentences or suspend remit or commute punishment.
- ▶ He appoints the Chief Justice and Judges of Supreme Court and High Courts.

Veto power of the President (Art. 111)

- ▶ When a bill is presented to President for his assent, he may give his assent, may withhold his assent, or may return the bill.
- ▶ The objective of veto power is to prevent hasty and ill-considered legislation and to prevent a legislation which may be unconstitutional. There are four types of veto — Absolute veto, Qualified veto, Suspensive veto, Pocket veto.
- ▶ President of India enjoys the exercise of absolute veto, suspensive veto and pocket veto.
- ▶ **Absolute veto:** It is the power

of the President to withhold his assent to a bill and the bill does not become an act.

- ▶ It is used in two cases, with respect to private member's bill and the government bill when the cabinet resigns and a new cabinet advises the president not to give assent to that bill.
- ▶ Examples are, in 1954, Dr. Rajendra Prasad withheld his assent to the PEPSU Appropriation Bill.
- ▶ In 1991, R. Venkataraman withheld his assent to the Salary, Allowances and Pension of members of Parliament Bill.
- ▶ **Suspensive veto:** It is exercised when the president returns the bill for reconsideration.
- ▶ If the Parliament sends back the bill with or without amendments, it is obligatory for the president to give assent.
- ▶ This veto is not exercised in the case of money bill because money bill is introduced in the parliament on the recommendation of the president.
- ▶ **Pocket veto:** It is the power of the president not to take any action on the bill, pending it for an indefinite period. Examples are in 1986, Zail Singh exercised the pocket veto with respect to Indian Post Office (Amendment) Bill.
- ▶ The 24th amendment act of 1971 made it obligatory for the president to give his assent to a constitutional amendment bill.

Emergency

The Constitution of India provides for three types of Emergencies:

- ▶ arising out of civil war, external aggression or armed rebellion (Article 352);

- ▶ arising out of failure of Constitutional machinery in the States (Article 356);
- ▶ arising due to financial crisis (Article 360).

National Emergency Under Article 352

- ▶ The Emergency is declared by the President.
- ▶ During the emergency the State can suspend the fundamental rights conferred in Part III of the Indian Constitution.
- ▶ Any proclamation by the President is valid only for one month unless it is approved by both houses of the Parliament.
- ▶ An emergency provision, unless revoked, ceases to operate on the expiration of a period of six months.

Emergency due to failure of constitutional machinery in states

Article 356 (1) states that if the President on receipt of a report from Governor of a State, or otherwise, is satisfied that a situation has arisen in which the government of the State cannot be carried in accordance with the provisions of the

Financial Emergency (Article 360)

The Constitution provides that if there is a financial crisis in the country or in any part of the country, the President can declare a Financial Emergency. This type of Emergency so far has never been declared.

Constitution, he can proclaim this emergency. The President may do the same when any State has failed to comply with, or to give effect to, any directions given by the Union (Article 365).

- ▶ Justice M. Hidayatullah is the only person to perform the functions of the President two times in two different capacities, the first time in 1969 being the Chief Justice of the Supreme Court and the second time being the Vice-President of India in October 1982.
- ▶ In the History of Presidential elections, V.V. Giri is the only person who won the election



The Rashtrapati Bhavan

official residence of the President of India

The Rashtrapati Bhavan is the official residence of the President of India, located in New Delhi. Until 1950 it was known as "Viceroy's House" and served as the residence of the Viceroy of India. It is at the heart of an area known as Lutyens' Delhi. It is the largest residence of any Head of the State in the world.

- ▶ First Presidential election – 1962, to elect Dr. Radha Krishnan
- ▶ First acting President – V.V. Giri
- ▶ Longest term in office – Dr. Rajendra Prasad (12 years)
- ▶ Shortest term in Office – Dr. Zakir Hussain
- ▶ Oldest President in Office – R. Venkata Raman (76 years)
- ▶ Youngest president in office – Neelam Sanjiva Reddy (64 years)
- ▶ Acting Presidents – V.V. Giri, Justice Mohammad Hidayatullah, B.D. Jatti.
- ▶ Died while in office – Dr. Zakir Hussain, Fakhruddin Ali Ahmed.
- ▶ Only Chief Justice to act as president – Justice Hidayatullah.
- ▶ 42nd amendment states that the President is bound by the advice of the council of ministers.
- ▶ 44th amendment states that the President can ask the council of ministers to reconsider its advice.
- ▶ Disputes regarding presidential/vice-presidential election are decided by the Supreme Court.

of the President as an independent candidate in 1969.

- ▶ In July 1977, Neelam Sanjeeva Reddy was elected unopposed as no one else filled nomination for the post of the President.

The Vice President

- ▶ The Vice-President of India is the second-highest ranking government official after the President.
- ▶ Vice President is the ex-officio Chairman of the Rajya Sabha.
- ▶ Article 63 of the Constitution of India provides for a Vice-President.
- ▶ The office of Vice President is modelled on the times of American vice-president.

Vice President is elected by an electoral college of members of both the Houses (Rajya Sabha and Lok Sabha) of the parliament by single transferable vote by secret ballot of the Parliament. Nomination of the candidate for election to the office of Vice-president must be subscribed by atleast 20 electors as proposers and 20 electors as seconders.

- ▶ The Vice President shall act as the President during the latter's absence.
- ▶ The term of Vice President is 5 years.
- ▶ If the President resigns or dies in office the Vice President shall act as the President for a maximum period of 6 months

and before the end of that period a new President will be elected.

- ▶ Vice Presidents VV Giri and B.D. Jatti acted as President.
- ▶ A formal impeachment is not required for the removal of Vice President. He can be removed by a resolution of the Rajya Sabha passed by an absolute majority (ie. a majority of the total members of the House) and agreed to by the Lok Sabha.
- ▶ Krishna Kant was the first Vice President to die in office.
- ▶ Election is the only constitutional remedy on the death of a Vice President. There is no provision for temporary filling of the post. The most important duty of the vice president is to act as the Chairman of Rajya Sabha.
- ▶ Vice President draws his regular salary in the capacity as the ex-officio Chairman of the Rajyasabha.
- ▶ Present salary is Rs.1,25,000

per month.

- ▶ However when he acts as the president, he can enjoy the salary and allowance of the President.
- ▶ Vice President is also eligible for re election to that office. He may be elected for any number of times (Dr. S. Radha Krishnan was elected for a second term).

Removal of Vice-President

- ▶ He can be removed by a resolution of the Rajya Sabha passed by an absolute majority. (Majority of the total members of the House).
- ▶ This resolution however must be agreed to by the Lok Sabha. Before moving such a resolution a 14 days advance notice has to be given.
- ▶ The vice-president can hold office beyond his term of five years until his successor assumes charge.
- ▶ He is also eligible for re-election (Dr. S. Radhakrishnan was elected for a second term).

Officials	Term of Emoluments Office	Salary (per month)
President	5 years	1,50,000
Vice President	5 Years	1,25,000
Governor	5 years	1,10,000
Chief Justice of the Supreme court	5 years/Till he attains the age of 65 years (which comes first)	1,00,000
Judge of the Supreme Court	5 years/ Till he attains the age of 65 years (which comes first)	90,000
Chief Justice of the High Court	Till he attains the age of 62 years	90,000
Judge, High Court	Till he attains the age of 62 years	80,000

Functions

- ▶ Chairman of Rajya Sabha
- ▶ Presides over the meetings of Rajya Sabha.
- ▶ Maintains decorum and decency in Rajya Sabha.
- ▶ Allots time to members to speak.
- ▶ He is not a member of Rajya Sabha.
- ▶ Makes use of casting vote (in case of tie).
- ▶ Acts as President in case of vacancy in the presidential office for a maximum period of 6 months. (Then he does not do his functions as the chairperson of Rajya Sabha).
- ▶ The constitution however has not assigned any significant function to the vice-president in that capacity.
- ▶ This office in actuality was created with a view to maintain the political continuity of the Indian State.
- ▶ With regard to emoluments the constitution has not fixed any amount for the Vice-President in that capacity.

Qualifications

- ▶ Citizen of India. More than 35 yrs of age. Possess the qualification for membership of Rajya Sabha. Not hold any office of profit under union, state or local authority. However, for this purpose, the President, Vice-President, Governor of a State and a Minister of the Union or a State, are not held to be holding an office of profit.

Comptroller & Auditor General (Article 148)

- ▶ **Comptroller and Auditor General (CAG):** Appointed by the

President. He holds the office for 6 years or till he attains the age of 65, whichever is earlier. Procedure of removal of Comptroller and Auditor General and Supreme Court judge is same. Both of them are removed by the President, on recommendation of both the Houses of Parliament.

- ▶ Comptroller and Auditor General of India

Vinod Rai

- ▶ Main Function of CAG is to monitor the expenditure, or in other words he can be called the *guardian of public purse*. In case of state, the report is submitted before the Governor.
- ▶ The Constitution provides for the Comptroller & Auditor General the guardian of public finances and to serve as the Chief Accounts Officer of the Government of India. He is a senior administrative official appointed by the President, retiring at 65 years.
- ▶ Removal by the President only in accordance with the procedure mentioned in the Constitution. Thus he does not hold his office till the pleasure of the President, though he is appointed by him.
- ▶ CAG is not eligible for further office either under Government of India or of any state, after he ceases to hold his office.
- ▶ His salary and other service conditions are determined by the Parliament. His salary is equal to that of Judge of the Supreme Court.

His primary functions are:

- ▶ To examine and satisfy that the money allotted by the Parliament to the various departments through the budget has been properly spent.
- ▶ To present the proforma in which the accounts of the governments should be shown.
- ▶ To direct, supervise and control the activities of Accountant General in states whose duty been to examine and satisfy that the money allotted by the legislative assembly of the state to various departments is to be properly spent.
- ▶ To secure as the Friend, Philosopher & Guide of the Public Accounts Committee of the Parliament.
- ▶ CAG submits three Audit reports to the President - Report on appropriation accounts, Audit Report on final accounts, Audit Report on Public undertakings.
- ▶ CAG is an agent of Parliament and conducts audit of expenditure on behalf of the Parliament. Therefore, he is responsible only to Parliament.

Attorney General (Art. 76)

- ▶ Art. 76 provides for the officer of the Attorney General of India.
- ▶ Give advice to the Govt. on legal matter when referred to him by the President.
- ▶ He appears in the Supreme Court on behalf of the Govt. of India.
- ▶ Highest law officer of India.
- ▶ Appointed by the President.
- ▶ He must be qualified to be appointed as judge of the Supreme Court.

- ▶ Usually he resigns when the Govt. resigns or replaced.
- ▶ His remuneration is not fixed but determined by the President.
- ▶ Has the power to speak and take part in the proceedings of the parliament, without the right to vote.
- ▶ Present A.G.: Goolam E. Vahanvati

The Prime Minister

- ▶ The Prime Minister is appointed by the President [Article 75 (1)]
- ▶ Prime Minister is the real executive authority (de facto executive)
- ▶ The President invites the leader of the majority party or the leader of the coalition to form the Government.
- ▶ India, as a Parliamentary democracy, the real power vests in the hands of Prime Minister.
- ▶ The Council of Ministers in India is presided over by the Prime Minister.
- ▶ The Prime Minister is the ex-officio Chairman of the Planning Commission.
- ▶ The Prime Minister is the leader of the Lower House of the Parliament.
- ▶ President can appoint only those persons as ministers who are recommended by the Prime Minister.
- ▶ Pandit Jawaharlal Nehru had the longest tenure as Prime Minister for nearly 17 years and Vajpayee the shortest (13 days).
- ▶ Article 74 (1) state that the Prime Minister shall be 'at the head' of the Council of Ministers.
- ▶ As a chairman of the cabinet, he summons its meeting and presides over them.
- ▶ The resignation or death of an incumbent Prime Minister automatically dissolves the council of ministers. But the resignation or death of any other ministers merely creates a vacancy which the Prime Minister may or may not like to fill.
- ▶ The position of the Prime Minister in the Council of Ministers is described as *Primus Inter Pares* i.e. first among equals.
- ▶ Article 78 expounds the duties and functions of the Prime Minister.
- ▶ He advises the President with regard to the summoning and proroguing of the sessions of the Parliament.
- ▶ Youngest Prime Minister of India: **Rajeev Gandhi**
- ▶ The Prime Minister who ruled for the shortest term: **Charan Singh**
- ▶ Oldest to be the Prime Minister: **Morarji Desai**
- ▶ First woman prime minister of India: **Indira Gandhi**
- ▶ (Sirimavo Bandaranaike of Sri Lanka was the first woman prime minister in the world).
- ▶ Prime Minister who did not face parliament: **Charan Singh**
- ▶ First acting Prime Minister: **Gulzarilal Nanda** (Interim PM on two occasions - After the demise of Jawaharlal Nehru and again after the sudden demise of Lal Bahadur Shastri)
- ▶ Longest term as Prime Minister: **Jawaharlal Nehru**
- ▶ Shortest term as Prime Minister: **A.B. Vajpayee**
- ▶ First Bachelor Prime Minister: **A.B. Vajpayee**
- ▶ First minority Government: **V.P. Singh government**
- ▶ First non-Congress government: **Morarji Desai government (Janatha Party)**



Ministers is described as *Primus Inter Pares* i.e. first among equals.

- ▶ Article 78 expounds the duties and functions of the Prime Minister.
- ▶ He advises the President with regard to the summoning and proroguing of the sessions of the Parliament.

In relation to the Parliament

- ▶ He is usually leader of the lower house.
- ▶ He influences the foreign policy of the country.
- ▶ He meets various people and listens to their problems.
- ▶ He is the leader of the party in power.
- ▶ He is the political head of the Civil Services.

In relation to the President

- ▶ He is the 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, Chairman and members of UPSC, Election Commissioners, Chairman and members of Finance Commission etc.

***In relation to the
Council of Ministers***

- ▶ He recommends ministers to the President.
- ▶ He allocates and reshuffles various portfolios among ministers.
- ▶ He may ask a minister to resign or advice the President to dismiss a minister.
- ▶ He presides over the meeting of the Council of Ministers.
- ▶ He guides, directs and controls the Council of Ministers.
- ▶ He may bring the collapse of the Council of Ministers by resigning.

FIRST IN INDIA

- First Budget of Free India By R.K. Shanmukham Chetty in 1947, Nov. 26
- First General Budget presented by C.D. Deshmukh on May 23, 1952
- First dissolution of Lok Sabha. 4th Lok Sabha in 1971.
- First Rajya Sabha adjournment In December 1995 for want of quorum (25 members need for a sitting)
- Most confidence motions. 11th Lok Sabha saw four confidence motions
- First Speaker to address the House - P.A. Sangma
- First vice chairman of Rajya Sabha: S.V. Krishnamoorthy (1952)
- Longest term as Rajya Sabha chairman: Dr. S. Radhakrishnan (1952 - 1962)
- First woman General Secretary of Rajya Sabha: V.S. Rama Devi
- Longest tenure in one portfolio : Rajkumari Amrit Kaur (Health Minister) 1947-1957

First Union Cabinet (Important Persons)

Prime Minister Jawaharlal Nehru
 Deputy Prime Minister Vallabhai Patel
 Home Minister Vallabhai Patel
 Finance Minister RK. Shanmugham Chetti
 Industry Minister M. Visweswaraiha
 Defence Minister Baldev Singh
 Railway Minister L.B. Sastri
 External Affairs Minister Laxmi N. Menon.
 Education Minister Abdul Kalam Azad
 Health Minister Rajkumari Amrit Kaur (Princess of Kapurthala)
 Law Minister Dr. B.R. Ambedkar

Non Congress Member in the First Council of Ministers.

Ambedkar, Shyama Prasad Mukerjee, John Mathai, C.H. Bhabha, Shanmugam Chetti.

LEGISLATURE

Union Council of Ministers

- ▶ In India there are two types of executives:
 1. constitutional or ceremonial (President)
 2. the real executive namely the Union Council of Minister headed by Prime Minister.
- ▶ Our system of government is called as parliamentary because the real executive namely the Union Council of Minister emerges out of parliament and is answerable and responsible to it, it shall continue in office so long as it continues to command the majority of the house and shall go out of office if it loses its majority there.
- ▶ **Article 74** - says that the President shall exercise his power on the aid and advice of the union council of ministers with the Prime Minister as its head.
- ▶ In case, a no-confidence motion is passed against any minister, the entire Council of Ministers resign.
- ▶ A minimum of 50 members support is required to present a no-confidence motion in the floor of the house.
- ▶ In India, there are 3 types of Ministers in the Union Council of Ministers namely, the Ministers with Cabinet rank, Ministers of the State and the Deputy Ministers.
- ▶ **The Cabinet** consists of the Prime Minister and other cabinet ranking ministers and its meeting are presided over by the President.
- ▶ The salaries and allowances of ministers are determined by Parliament from time to time.
- ▶ The Primary function of the union council of ministers include supervision of the day to day administration of the country, preparation of the bills and the budget, answering questions raised on the floor of the house, advising the President on the matter of administration etc.
- ▶ When the Lok Sabha passes a no-confidence motion against the council of ministers all the ministers have to resign including those ministers who are from Rajya Sabha.

Cabinet vs Council of Ministers

Council of ministers

- It is a wider body consisting of 60 to 70 ministers.
- It includes all the three categories of ministers, that is, cabinet ministers, ministers of state, and deputy ministers.
- It does not meet, as a body, to transact government business. It has no collective functions.
- It is vested with all powers but in theory.
- Its functions are determined by the cabinet.
- It implements the decisions taken by the cabinet.
- It is a constitutional body, dealt in detail by the Articles 74 and 75 of the Constitution. Its size and classification are, however, not mentioned in the Constitution. Its size is determined by the prime minister.
- It is collectively responsible to the Lower House of the Parliament.

Cabinet

- It is a smaller body consisting of 15 to 20 ministers.
- It includes the cabinet ministers only. Thus, it is a part of the council of ministers.
- It meets, as a body, frequently and usually once in a week to deliberate and take decisions regarding the transaction of government business. Thus, it has collective functions.
- It exercises, in practice, the powers of the council of ministers and thus, acts for the latter.
- It directs the council of ministers by taking policy decisions which are binding on all ministers.
- It supervises the implementation of its decisions by the council of ministers.
- It was inserted in Article 352 of the Constitution in 1978 by the 44th Constitutional Amendment Act. Thus, it did not find a place in the original text of the Constitution.
- It enforces the collective responsibility of the council of ministers to the Lower House of Parliament.

THE PARLIAMENT OF INDIA (THE UNION LEGISLATURE)

Lok Sabha (Art. 81)

- ▶ It is the third integral part of Indian Parliament. It is also known as the lower house, first chamber or popular House. It represents the people of India as a whole.
- ▶ The Lok Sabha held its first sitting on May 13, 1952
- ▶ A non member of the house (Lok Sabha) can also be nominated as the Prime Minister on condition that he should qualify to become a member of either house of parliament within a period of 6 months.
- ▶ The Lok Sabha can be dissolved by **The President**.
- ▶ A person can be debarred from taking his seat in the house if he has been absent without the permission of the House for more than 60 days.
- ▶ The Lok Sabha is the lower house or the first chamber and Rajya Sabha is the upper house or the second chamber. The first no confidence motion moved in the Lok Sabha after Independence was in 1963.
- ▶ The Present Lok Sabha is the 14th, the total members is 545. (530 from states, 13- from union territories, 2 from Anglo Indian community).
- ▶ A recent legislation by Parliament has fixed that upto 2026 the existing number of the members of the Lok Sabha should not be raised and that this figure shall continue.
- ▶ Constitutionally the maximum number in Lok Sabha is 552 (530 from states, 20 from UTs,

The Parliament is the highest law making body of India and is bicameral with two houses namely (i) Lok Sabha (House of people) (ii) Rajya Sabha (Council of States)

The Lok Sabha is also known as the “House of the People” or the Lower house. The Rajya Sabha is also known as “Council of States” or the Upper house. Unlike Lok Sabha, it is not subject to dissolution. Three sessions of Lok Sabha take place in a year: Budget session: February to May, Monsoon session: July to September, Winter session: November to December.

The term Parliament originated from the French word 'parler' which means 'to discuss', 'to talk' etc.

2 from Anglo Indian community = 552)

- ▶ Population is the basis of Lok Sabha constituencies. A constituency is for 10 lakh voters. But it is difficult to keep this limit.
- ▶ The Lok Sabha is popularly elected whereas the Rajya Sabha is indirectly elected and nominated.
- ▶ The 61st Amendment (1989) reduced the voting age from 21 years to 18 years.
- A member of Lok Sabha must have the following basic qualifications.
 - ▶ He must be a citizen of India. Must be 25 years of age. Must possess qualifications prescribed by the Parliament.
- The major functions that the Lok Sabha does are
 - ▶ Enactment of Laws.
 - ▶ Passing of Vote of Confidence.
 - ▶ Controlling the finance of the Union Government
 - ▶ Eliciting information by asking questions and

supplementaries.

- ▶ Moving of adjournment motion and criticize the Government
- ▶ Impeachment of the President.
- ▶ Introduction of the Money bill with the prior permission of the President.

Lok Sabha General Election

1st Lok Sabha	1951
2nd Lok Sabha	1957
3rd Lok Sabha	1962
4th Lok Sabha	1967
5th Lok Sabha	1971
6th Lok Sabha	1977
7th Lok Sabha	1980
8th Lok Sabha	1984
9th Lok Sabha	1989
10th Lok Sabha	1991
11th Lok Sabha	1996
12th Lok Sabha	1998
13th Lok Sabha	1999
14th Lok Sabha	2004
15th Lok Sabha	2009

The Lok Sabha has its own TV channel, Lok Sabha TV, headquartered within the Parliament premises.

Functions of the Parliament

- ▶ The most important function of the Parliament is to legislate i.e, make legislations for the development which benefits the society.
- ▶ The second most important function is to exercise control over the Executive.
- ▶ The Parliament provides the Council of Ministers as the Ministers are the Members of the Parliament.
- ▶ It has financial control over the Executive. The Parliament is the sole authority to raise taxes.
- ▶ It provides an opportunity to deliberate on various policies and measures before their implementation. Thus, the Parliament is also an authoritative source of information, collected and disseminated through the debates and through the specific medium of Questions to the Ministers.

Rajya Sabha (Article 80)

- ❑ The Rajya Sabha was first constituted on April 3, 1952.
- ▶ Rajya Sabha is also known as upper house, second chamber, or the House of Elders.
- ▶ The time - gap between two sessions of Parliament must not exceed **6 months**
- ▶ The name “Rajya Sabha” was adopted by the Council of States in 1954.
- ▶ The Fourth Schedule of the constitution deals with the allocation of seats in the Rajya Sabha to the States and Union territories.
- ▶ The Council of States (the upper house) is composed of not more than 12 members nominated by the President and not more than 238 representatives of the States and the Union Territories elected by the method of indirect election. Total number of members is 250.
- ▶ Rajya Sabha cannot be dissolved. It is a permanent body.
- ▶ Its one-third members retire

- after every two years and the same number of members are elected after every two years.
- ▶ The members of Rajya Sabha are elected for a term of six years.
- ▶ Chairman of the Rajya Sabha can be removed from his office only if he is removed from the office of the Vice President.
- ▶ Each state get a representation in Rajya Sabha on the basis of its population of the previous census.
- ▶ Puducherry and the NCT of Delhi are the UTs having representation in the Rajya Sabha. Puducherry has one member and Delhi has three.
- ▶ UP has the largest membership, i.e, 31
- ▶ Rajya Sabha can exercise a special power in relation to a subject included in the state list.
- ▶ Deputy Chairman of

The original Constitution, under Art. 83, envisaged the normal tenure of the Lok Sabha to be 5 years. However, Parliament by 42nd Amendment extended it to six years, but the 44th Amendment Act again fixed the original normal tenure of five years.

Presiding Officers

- ▶ Both Houses of Parliament have their respective presiding officers.
- ▶ Lok Sabha has the Speaker, the deputy speaker and panel of chairpersons.
- ▶ Rajya Sabha on the other hand has a Chairman, a Vice-Chairperson and a panel of Vice- Chairpersons.

Rajyasabha K. Rahman Khan Chairman

The Vice-President of India is the ex-officio chairman of the Rajya Sabha. He presides over the proceedings of the Rajya Sabha as long as he does not act as the President of India during a vacancy in the office of the President.

Deputy Chairman

The Deputy Chairman is elected by the Rajya Sabha from amongst its members. In the absence of the Chairman, Deputy Chairman presides over the functions and proceedings of the House.

Panel of Vice Chairpersons

- ▶ The Chairman of the Rajya Sabha nominates a panel of Vice- Chairpersons under the Rules of Rajya Sabha.
- ▶ Any one of them can preside over the house, when both chairman and vice- chairman are absent.

Speaker

- ▶ The Presiding officer of the Lower House is the Speaker.
- ▶ The Speaker is the ex-officio chairman of the Business Advisory Committee and the Rules Committee.
- ▶ The Speaker is elected by the members of the Lok Sabha from among themselves.
- ▶ If the office of the speaker falls vacant the Lok Sabha elects another member. The date of election of Speaker is fixed by the President.
- ▶ He resigns by writing to the Deputy Speaker.
- ▶ If there is a dead lock between the two houses in passing a bill other than a money bill, the President shall call for a joint sitting of the two houses for resolving the difference and in such a joint sitting the Speaker shall preside the meeting.
- ▶ Normally the Speaker has no right to vote in the house, but he can exercise a casting vote if there is a tie in passing a bill, resolution etc.
- ▶ Whenever Lok Sabha is dissolved, the speaker does not vacate his office and continues till the newly elected Lok Sabha meets.
- ▶ Speaker decides whether a bill is a money bill and his decision in this question is final.
- ▶ He decides the questions of disqualification of a member of the Lok Sabha on the ground of defection under the provisions of the Tenth Schedule.
- ▶ In the absence of the Speaker, the Deputy Speaker shall exercise his duties and that he is

Lok Sabha Constituencies in states

Delhi (State)	7
Andhra Pradesh	42
Arunachal Pradesh	2
Assam	14
Bihar	40
Chandigarh (Union Territory)	1
Chhattisgarh (State)	11
Dadra and Nagar Haveli (Union Territory)	1
Daman and Diu (Union Territory)	1
Andaman and Nicobar Islands (Union Territory)	1
Goa	2
Gujarat	26
Haryana	10
Himachal Pradesh	4
Jammu and Kashmir	6
Jharkhand	14
Karnataka	28
Kerala	20
Lakshadweep (Union Territory)	1
Madhya Pradesh	29
Maharashtra	48
Manipur	2
Meghalaya	2
Mizoram	1
Nagaland	1
Orissa	21
Puducherry (Union Territory)	1
Punjab	13
Rajasthan	25
Sikkim	1
Tamil Nadu	39
Tripura	2
Uttarakhand	5
Uttar Pradesh	80
West Bengal	42

Official Documents

Blue Book	Britain
Grey Book	Japan & Belgium
Green Book	Italian & Persian
Orange Book	Netherlands
White Book	Portugal & China
Yellow Book	France
White Paper	India

Comparison between Rajya Sabha and Lok Sabha

Rajya Sabha

1. It is the Council of the Upper House of Parliament.
2. Maximum strength is 250. 12 members who have distinguished themselves in art and culture are nominated by the President.
3. To become a member, a candidate must be over 30 years old.
4. The Vice President presides over the Rajya Sabha.
5. Members of the Rajya Sabha have a tenure of six years. One third of its members retire every two years.
6. It is a permanent body. It has no power over a money bill.
At the most it can withhold the money bill for over 14 days.

Lok Sabha

1. It is the Council of the Lower House of Parliament.
2. Maximum strength is 552, out of which 530 represent the states and 20 represent Union Territories. 2 members are nominated from the Anglo-Indian community.
3. To become a member one must not be below 25 years.
4. The Presiding Officer is the Speaker.
5. The Lok Sabha usually has a tenure of five years.
6. The Lok Sabha can be dissolved by the President. Money bills are introduced only in Lok Sabha. It is the Speaker of Lok Sabha who decides whether a bill is a money bill or not.

- ▶ elected by the members of the house from among themselves.
- ▶ Second Lok Sabha speaker to die in harness - G.M.C Balayogi. First one to die in harness was the first speaker G.V. Mavlankar.
- ▶ The Speaker derives his power from the constitution, the Rules of Procedure and conduct of business of Lok Sabha and Parliamentary Conventions.
- ▶ The term of the Speaker is from the date of election to that office to the date of the commencement of the first session of the new parliament.
- ▶ The speaker tenders his resignation just before the beginning of the first session of the new parliament.

The early termination of the Speaker's tenure can be brought in by three factors.

- ▶ If he ceases to be a member of

the Lok Sabha.

- ▶ If he resigns by writing to the deputy Speaker.
- ▶ If he is removed by the resolution passed by a majority of the members of Lok Sabha (14 days notice with a support of 50 members).
- ▶ Whenever the house meets to remove the Speaker, he cannot preside over the sitting of the house.
- ▶ However he may take part in the proceedings and vote (not in case of equal vote).

Protem Speaker

- ▶ Since the Speaker vacates his office when the new Lok Sabha meets, the constitution provides that the President may appoint a member as the Speaker Protem (Usually the senior most member).
- ▶ The President himself administers oath of office to him.
- ▶ In the new Lok Sabha he ad-

ministers oath of office to the newly elected members.

The major functions of the Speaker are

- ▶ To maintain order and decorum.
- ▶ To interpret the provisions of (a) the constitution, (b) Rules of Procedure and conduct of Business in the Lok Sabha, (c) the Parliamentary conventions within the house.
- ▶ To adjourn or suspend the meeting of the House.
- ▶ To exercise casting vote in case of tie.
- ▶ To preside over joint sitting.
- ▶ To allow a 'secret' sitting of the House.
- ▶ To decide the questions of disqualifications of a member of Lok Sabha.
- ▶ To decide whether a bill is money bill or not.
- ▶ To act as the ex-officio chairman

of the Indian Parliamentary Group of the Inter-Parliamentary Union.

- ▶ To appoint the chairman of all the Parliamentary Committees of Lok Sabha.
- ▶ To act as the Guardian of the privileges of Lok Sabha members.

Deputy Speaker

- ▶ Deputy Speaker is also elected by the Lok Sabha and his date of election is fixed by the speaker.
- ▶ He assumes Speaker's office in the absence of the Speaker.
- ▶ However he is not subordinate to the Speaker because he is directly responsible to the House.
- ▶ **Panel of Chairperson :** The Speaker under the Rules of Lok Sabha nominates a panel of ten chairpersons.
- ▶ Any of them may preside over the House in the absence of both Speaker and Deputy Speaker.
- ▶ However a member of this panel cannot preside over the House when the offices of the

Speaker and Deputy Speaker fall vacant.

- ▶ In this case the President may appoint a person for presiding over the House.

SESSIONS OF PARLIAMENT

The President of India summons each House of Parliament to meet.

- ▶ The maximum gap between two sessions of Parliament cannot be more than six months.
- ▶ Thus the Parliament meets twice a year.
- ▶ There are usually three sessions in a year. (1) The Budget sessions (February to May) (2) The Monsoon sessions (July to September) (3) The Winter Session (November to December).
- ▶ A session of Parliament is the period spanning between the first sitting of House and its prorogation or dissolution. There are various terms in relation to the parliamentary sessions. They are

Recess

- ▶ It is the period, spanning between the prorogation of a House and its reassembly in a

new session.

Adjournment

- ▶ A sitting of Parliament can be terminated by adjournment.
- ▶ An adjournment suspends the work in a sitting for specified time which may be days or weeks.

Adjournment Sine die

- ▶ It means terminating a sitting of Parliament for an indefinite period.
- ▶ The Presiding officer usually declares it when the business of a session is completed.

Prorogation

- ▶ It is the power of the President to terminate a session of the House.
- ▶ It does not however affect the bills pending before the House; but the notices lapse.

Dissolution

- ▶ Dissolution ends, the very life of a House.
- ▶ Rajya Sabha, being a permanent body is not affected by it.
- ▶ All bills, motions, resolution notices, petitions, and its committees lapse when the House is dissolved.

Quorum

- ▶ It is the minimum number of mem-

Article 108: Joint Sitting of the Parliament

It is an extraordinary device to resolve a deadlock between the two Houses over the passage of a bill. It is the President who summons the joint sitting and it is presided over by the Speaker of Lok Sabha. This device is applicable to ordinary bills and finance bills only. A deadlock over bills comes into being in the following situations.

- ▶ If the bill is rejected by the other House.
- ▶ If the Houses have finally disagreed as to the amendments to be made in the bill.
- ▶ If more than six months have lapsed from the

date of receipt of the bill by the other house without the bill being passed by it.

- ▶ Article 108 of the Constitution makes provisions for the Joint Sitting of both houses in order to remove deadlock or differences between the two houses with respect to ordinary bills.
- ▶ Lok Sabha speaker presides over the joint sitting.
- ▶ Since 1950, the provision regarding the joint sitting of the two houses has been invoked only three times for passing Dowry Prohibition Bill 1960, Banking Service Commission (Repeal) Bill 1977, POTA Bill 2002.

bers required to be present in the House before it transacts any business. Quorum is fixed at one tenth of the strength in each House (Lok Sabha -55, Rajya Sabha-25)

Lame -Duck - Session

- ▶ It refers to the last sessions of the existing Lok Sabha after a new Lok Sabha has been elected.

Lame Ducks

- ▶ It refers to those members of the existing Lok Sabha who could not get elected to the new Lok Sabha.

Law making procedure of Indian Parliament

- ▶ Every bill before becoming law has to undergo five stages within the House of the Parliament.
- ▶ The five stages are
- ❑ **1st stage:** At the first stage the bill will be introduced by the concerned minister and it will be given first reading.
- ❑ **2nd stage:** The bill is printed and a copy of each is supplied to the members of the house and bill will be given the second reading and will be followed by a general discussion of the bill.
- ❑ **3rd stage:** The bill will be passed on to a Select Committee generally comprising of 15 to 30 members and this stage is called **Committee Stage**.
- ❑ **4th stage:** The committee collects all data, interviews persons and reports the bill back to the house and this stage is called **Reporting Stage**. At this stage there is a thorough and

detailed discussion of the bill and often every sentence is passed with the approval of the members and voted.

- ❑ **5th stage:** This is the **final stage**. The bill will be given a third reading, oral amendment can be introduced which may or maynot be accepted and after a general voting of the bill it will be declared as passed and the presiding officer of the house shall sign it.

- ▶ A similar process takes place in the other house also and then the bill will be presented before the President for his assent. Once the bill gets his assent, it becomes an Act.
- ▶ By a verdict given by a division bench headed by former Chief Justice V.K. Sabarwal the parliament has given Supreme power to oust MPs.

Budget (Article 112)

- ▶ Budget is known as the, Annual Financial Statement.
- ▶ It is an estimate of all anticipated receipts and expenditure of the union for the coming financial year.
- ▶ Budget is laid before parliament in the name of the parliament.
- ▶ It is the key responsibility of the Parliament to pass the national budget.
- ▶ Budget is presented on last working day of February of every year.

- ▶ First budget of free India – by R.K. Shanmukham Chetty on November 26, 1947.
- ▶ First General budget – by C.D. Deshmukh on May 23, 1952.
- ▶ First dissolution of Lok Sabha – 4th Lok Sabha in 1971.

- ▶ Railway Budget is prepared by the Railway Minister and General Budget is prepared by the Finance Minister.
- ▶ Line - item Budgeting, Performance Budgeting, Programme Budgeting and Zero-based Budgeting are the types of budgeting.
- ▶ The financial year commences in India on 1st April each year.
- ▶ The Budget speech of the Finance Minister is usually in two parts. Part A deals with general economic survey of the country while Part B relates to taxation proposals.

Vote on Account (Art. 116)

This empowers the Lok Sabha to make any grant in advance for a part of any financial years to meet the expenditure of the Govt. between the introduction and passage of budget. It is passed usually after the General discussion on the Budget. Normally, the Vote on Account is taken for two months only. But during election year or when it is anticipated that the main Demands and Appropriation Bill will take longer time than two months, the Vote on Account may be for a period exceeding two months.

Public Bill vs Private Bill	
<i>Public Bill</i>	<i>Private Bill</i>
<ol style="list-style-type: none"> 1. It is introduced in the Parliament by a minister. 2. It reflects of the policies of the government (ruling party). 3. It has greater chance to be approved by the Parliament. 4. Its rejection by the House amounts to the expression of want of parliamentary confidence in the government and may lead to its resignation. 5. Its introduction in the House requires seven days' notice. 6. It is drafted by the concerned department in consultation with the law department. 	<ol style="list-style-type: none"> 1. It is introduced by any member of Parliament other than a minister. 2. It reflects the stand of opposition party on public matter. 3. It has lesser chance to be approved by the Parliament. 4. Its rejection by the House has no implication on the parliamentary confidence in the government or its resignation. 5. Its introduction in the House requires one month's notice. 6. Its drafting is the responsibility of the member concerned.

- ▶ The 'Annual Financial Statement' is laid on the Table of Rajya Sabha at the conclusion of the speech of the Finance Minister in Lok Sabha.

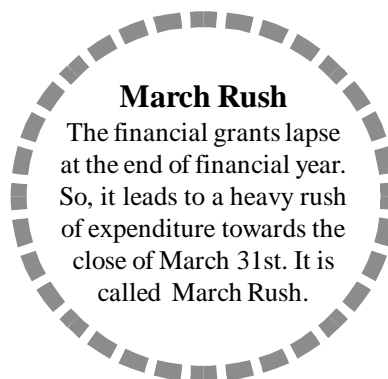
Enactment of Budget

Stages

1. Presentation of Budget and Budget Speech.
2. General discussion.
3. Voting on demands (general budget has 109 demands, 103 for civil expenditure, 6 for defence expenditure- Railway budget has 32 demands.)
4. Passing of Appropriation Bill
5. Passing of Finance Bill.

Appropriation Bill

- ▶ After the demands for grants are approved by the Lok Sabha an appropriation bill is introduced in the House.
- ▶ Appropriations out of the Consolidated Fund of India can be made only after the passage of appropriation bill.
- ▶ It may be noted that the introduction of such bill is



never opposed in the Lok Sabha.

Ordinary Bill

All the bills, other than Financial Bills, Money Bills and the Constitutional Amendment Bills are ordinary Bills.

It can be introduced in either house. It has to under go the following stages.

1. **First Reading** : Title of the bill is read and a speech is made.
2. **Second Reading** : The Principle of the bill is discussed as a whole.
3. **Committee stage** : The bill is referred to the appropriate committee.

4. **Report stage** : The committee submits report to the House. Voting takes place at this stage. Amendment possible.
5. **Third Reading** : A general discussion takes place. No amendment is possible at this stage.

Money Bill (Art. 110)

Conditions

1. Anything regarding tax and taxation.
 2. Regulation of the borrowing of money by the Govt.
 3. Custody of C.F.I. & Contingency Fund.
 4. Appropriation of money from C.F.I.
 5. Declaration of expenditure.
 6. Custody of money
- ✳ The Speaker decides if a bill is a money Bill.
 - ✳ Money bill can be introduced only in Lok Sabha.
 - ✳ Rajya Sabha has no say on Money Bill and has to return within 14 days.

Important Parliamentary Committees

THE STANDING COMMITTEES

- ▶ The work of the Parliament is made easy and efficient by the operation of various committees.
- ▶ There are various committees functioning in the Parliament particularly the Lok Sabha.
- ▶ The leading committees of Lok Sabha are listed below.

❑ The Business Advisory Committee

- ◆ Concerned with planning and regulation of the business of the house.
- ◆ Consists of 15 members.

Parliamentary committees are of two kinds

Standing Committee & Adhoc Committees.

The Standing Committee are permanent in nature, whereas the Adhoc Committees are constituted for a particular function and get dissolved automatically after the completion of their work. The principal Ad hoc Committees are the Select and Joint Committees on Bills.

- ◆ Speaker of Lok Sabha is the ex-officio Chairman.
- ◆ In the Rajyasabha the Business Advisory Committee has 11 members including the chairman as its ex-officio chairman.
- ❑ **The Rules Committee**
 - ◆ It lays down and amends rules of procedure for conducting the functions of the house.
 - ◆ 15 members are in the committee.
 - ◆ The ex-officio chairman - Speaker of Lok Sabha.
 - ◆ In Rajyasabha the Rules committee has 16 members including the chairman as its ex-officio chairman.

Ordinary Bill Vs Money Bill

Ordinary Bill

1. It can be introduced either in the Lok Sabha or the Rajya Sabha.
2. It can be introduced either by a minister or by a private member.
3. It is introduced without the recommendation of the president.
4. It can be amended or rejected by the Rajya Sabha.
5. It can be detained by the Rajya Sabha for a maximum period of six months.
6. It does not require the certification of the Speaker when transmitted to the Rajya Sabha (if it has originated in the Lok Sabha).
7. It is sent for the president's assent only after being approved by both the Houses. In case of a deadlock due to disagreement between the two Houses, a joint sitting of both the houses can be summoned by the president to resolve the deadlock.
8. Its defeat in the Lok Sabha may lead to the resignation of the government (if it is introduced by a minister).
9. It can be rejected, approved, or returned for reconsideration by the President.

Money Bill

1. It can be introduced only in the Lok Sabha and not in the Rajya Sabha.
2. It can be introduced only by a minister.
3. It can be introduced only on the recommendation of the president.
4. It cannot be amended or rejected by the Rajya Sabha. The Rajya Sabha should return the bill with or without recommendations, which may be accepted or rejected by the Lok Sabha.
5. It can be detained by the Rajya Sabha for a maximum period of 14 days only.
6. It requires the certification of the Speaker when transmitted to the Rajya Sabha.
7. It is sent for the president's assent even if it is approved only by Lok Sabha. There is no chance of any disagreement between the two Houses and hence, there is no provision of joint sitting of both the Houses in this regard.
8. Its defeat in the Lok Sabha leads to the resignation of the government.
9. It can be rejected or approved but cannot be returned for reconsideration by the president.

❑ **The Select Committee**

- ♦ A bill introduced in the house at its committee stage goes to a committee called Select Committee and it is meant for a particular bill. As soon as it completes its entrusted work, the committee is dissolved.

❑ **Committee on Petition**

- ♦ Examines petition made by the member of the house and give its opinion for remedial measures.

- ♦ It has 15 members.

- ♦ **No minister** can be its member.

❑ **Committee on Privileges**

- ♦ Primary purpose is to protect the privileges or special rights of the members of the house.

- ♦ It has 15 members, nominated by the Speaker.

- ♦ Chairman: Deputy Speaker of Lok Sabha.

❑ **Committee on Subordinate Legislature**

- ♦ It ensures the rule making power delegated to the ministers and top officials is not misused and that the executive faithfully executes the law passed by the Parliament.

- ♦ 15 members.

- ♦ No minister can be a member of this committee. It is constituted every year.

❑ **Joint Committee on Offices of profit**

It examines the composition and character of committees and other bodies appointed by the Central, State and Union Territory.

It recommends whether person holding these offices should

Public Accounts Committee and Estimate Committee together called *the pillars of public finance.* They are the two eyes which guard the public finance.

be disqualified from being elected as members of Parliament or not.

It has 15 members (10 from Lok Sabha and 5 from Rajya Sabha)

❑ **Committee on empowerment of Women.**

It was constituted in 1997, 30 members (20 from Lok Sabha and 10 from Rajya Sabha)

It considers the reports of the National Commission for women.

❑ **Committee on Public undertaking**

- ♦ Created in 1964 on the recommendation of the Krishna Menon Committee.

- ♦ Originally it had 15 members (10 from Lok Sabha and 5 from the Rajya Sabha). In 1974 membership was raised to 22 (15 from Lok Sabha and 7 from Rajyasabha).

- ♦ It examines and sometimes supervises the functioning of Government owned companies or public undertaking including their finances.

- ♦ The Chairman of the Committee on Public Undertaking is appointed by the Speaker from the Lok Sabha members elected to the committee.

- ♦ Every year, one fifth members

of the committee are retired and new members are elected in their place.

❑ **Committee on the Absence of Members**

- ♦ It examines the leave application of the members for their absence from the house.

- ♦ 15 members.

- ♦ Rajyasabha has no such committee.

❑ **Public Accounts Committee (PAC)**

- ♦ The P.A.C committee was set up first in 1921 under the provisions of the government of India Act of 1919.

- ♦ Public Accounts Committee is a joint committee consisting of 22 members (15 from L.S. & 7 from R.S.)

- ♦ A member of the Council of Ministers cannot be elected as member of this committee.

- ♦ The Chairman of the PAC shall be **the leader of the opposition** of the Lok Sabha.

- ♦ The term of office of the committee is one year.

- ♦ Primary function of PAC are:

- (i) To examine and satisfy the money allotted by the Parliament to the various departments through the budget has been properly spend and that no public money is wasted.

- (ii) To recommend the measures to be taken for streamlining public finance.

- ♦ The Comptroller and Auditor General of India serves as the **friend, philosopher and guide** of Public Accounts Committee.

❑ **Estimate Committee**

- ♦ Committee of 30 members (all from Lok Sabha) are elected on the principle of proportional representation, for one year term. A minister can't be elected to the committee.
- ♦ Its chairman is nominated by the Speaker belongs to the opposition in the Lok Sabha
- ♦ However, if the Deputy Speaker of the Lok Sabha, is also a member of the Committee, he automatically becomes the Chairman of the Committee.
- ♦ The functions of the Estimate Committee is to scrutinize the **budget estimates** for the year, to suggest economy in expenditure, improvement in organisations and other

subjects to increase efficiency.

- ♦ **Public Accounts Committee, Estimate committee and Committee on Public Undertaking are the three financial committees of the Parliament.**

- ♦ Parliamentary Committees are appointed by the respective Houses themselves or by their presiding officers.
- ♦ The Speaker appoints the Chairman of all the Parliamentary Committees.
- ♦ In addition to these committees there are 17 Department Related Committees. Its primary function is to study in detail the first part of the Budget dealing with the expenditure of the government which is introduced normally on 20th February every year.

Department related committees

Out of the 17 Committees, 6 Committees are serviced by the Rajya Sabha Secretariat and 11 Committees by the Lok Sabha Secretariat.

Rajya Sabha Committees

1. Committee on Commerce
2. Committee on Home Affairs
3. Committee on Human Resource Development
4. Committee on Industry
5. Committee on Science & Technology, Environment & Forests
6. Committee on Transport, Culture and Tourism.

Lok Sabha Committees

7. Committee on Agriculture
8. Committee on Information Technology
9. Committee on Defence
10. Committee on Energy
11. Committee on External Affairs
12. Committee on Finance
13. Committee on Food, Civil Supplies and Public Distribution
14. Committee on Labour and Welfare
15. Committee on Petroleum & Chemicals
16. Committee on Railways
17. Committee on Urban and Rural Development

Ad hoc Committees

The Railway Convention Committee is an ad-hoc Committee. The main function of the Committee is to review the Rate of Dividend payable by the Railways undertaking to General Revenues as well as other ancillary matters in connection with the Railway Finance vis-a-vis the General Finance and make recommendations thereon.

The Committees on the Draft Five Year Plans and the Hindi Equivalents Committee were appointed for specific purposes.

General Purposes Committee

Members (In both Houses)

1. Speaker / chairman
2. Deputy speaker / deputy chairman
3. Members of panel of chair persons.
4. Chairperson of all departmental standing committee.
5. Leaders of recognised parties and groups in the House.
6. Such other members as nominated by the perioding officer.

Ethics Committee

- ✧ Created in R.S (Rajya Sabha) in 1997.
- ✧ Created in L.S. (Lok Sabha) in 2000.
- ✧ It enforces the code of conduct of members of Parliament.

Departmental Standing Committees

- ✧ In 1993, 17 D.S.C. (Dept. Standing Committee) were created.
- ✧ Each committee has 45 members (30m from L.S. nominated by speaker and 15 from R.S. nominated by the chairman)

PARLIAMENTARY DEVICES AND MOTIONS

In a Parliamentary System Parliamentary devices are of much importance for the smooth running of the Houses. They are :

Question Hour

- ▶ The first hour of every parliamentary sitting is allotted for this.
- ▶ During this time members ask questions and the ministers usually give answers.
- ▶ According to the nature of the answers they are classified into (a) starred question (It requires an oral answer and hence supplementary questions can follow. It is identified by an asterik) (b) Unstarred question (It requires a written answer and hence supplementary questions cannot follow) (c) Short notice question.

Zero Hour

- ▶ It is an Indian innovation and has been in existence since 1962.
- ▶ It is the time gap between the question hour and the agenda.
- ▶ It starts immediately after the question hour and lasts until the agenda for the day is taken up.
- ▶ Zero hour is an informal device available to the MPs to raise matters without any prior notice because it is not mentioned in the Rules of Procedure.

Half - an - Hour Discussion

- ▶ It is meant for discussing a matter of sufficient public im-

portance.

- ▶ The Speaker can allot three days in a week for such discussions.

Short Duration Discussion

- ▶ The members can raise it to discuss on a matter of urgent public importance.
- ▶ It is also called two- hour discussion as the time allotted for it is two hours.
- ▶ The Speaker can give two days in a week for such discussions.

MOTIONS IN PARLIAMENT

- ▶ Discussions on matters of general public importance are taken up only if a motion is made to its effect with the permission of the presiding officer.

Closure Motion

- ▶ It is moved by a member seeking to cut short the debate on a matter.
- ▶ If adopted, the matter is immediately put to vote.
- ▶ They are of four kinds. (i) Simple Closure : It is moved by a member stating that the matter having been sufficiently discussed be now put to vote (ii) Closure by compartment. The clauses of a bill or a lengthy resolution are here grouped into parts before the commencement of the debate. The debate covers a part and the entire part is put to vote . (iii) Kangaroo Closure : Here, only important

clauses are taken up for debate and voting and the intervening clauses are taken as passed (iv) Guillotine closure: It takes place when the undiscussed clauses of a bill or a resolution are also put to vote along with the discussed ones due to want of time.

Privilege Motion

- ▶ It is moved by a member when a minister has committed a breach of privilege of the House of member by withholding facts and information or by giving wrong information.

Calling Attention Motion

- ▶ It is introduced by a member to call the attention of a minister to a matter of urgent public importance and to seek an authoritative statement from him.
- ▶ It is an Indian innovation and has been in existence since 1954.
- ▶ It is however mentioned in the Rules of Procedure.

Motion of Papers

- ▶ As the exercise of calling attention is not allowed in Rajya Sabha, it has 'Motion of Papers' by which a member calls the attention of a minister to a matter of urgent importance.

Adjournment Motion

- ▶ It is introduced in the Parliament to draw attention of the House to definite matter of urgency with the support of 50 members.
- ▶ It is an extra ordinary device as it interrupts with normal

business of the House.

- ▶ It is not exercised in the Rajya Sabha as it involves an element of censure against the government.

No - confidence Motion

- ▶ The Lok Sabha can remove the ministry from office by passing a no- confidence motion as the latter is responsible to the House of People. However the motion requires the support of 50 members to be admitted.

Censure Motion

- ▶ It is moved for censuring the Council of Ministers for specific policies and actions.
- ▶ It can be moved against individual Ministers, group of Ministers or the entire Council of Ministers.

Point of Order

- ▶ It is raised when the proceedings of the House do not follow the normal rules of procedure.
- ▶ It is related to the interpretation of enforcement of the Rules of the House.

Motion of Thanks

- ▶ Whenever the President addresses the sessions of the Parliament, his speech is discussed in both the Houses of Parliament on a motion.
- ▶ This procedure is called Motion of Thanks. This motion is to be passed otherwise it will be the defeat of the Government.

No - Day - Yet - Named Motion

- ▶ It is admitted by the Speaker, without specifying the date of discussion.
- ▶ The day is fixed in consultation with the leader of the House or on the recommendations of the Business Advisory Committee.

Special Motion

- ▶ A matter that can't be raised during the time of any other parliamentary device can be raised under the special mention in Rajya Sabha.

- ▶ The same procedure in Lok Sabha is called "Notice Motion" under Rule 377.

Resolution

- ▶ The members of the Parliament can move resolution to draw attention of the House on the Government to matters of general public interest.
- ▶ It is however different from motion that all resolutions come under substantive.
- ▶ All resolutions are necessarily put to vote where as all motion are not necessarily put to vote.
- ▶ Resolutions are of three types (i) Private member Resolution : It is moved by the members of the House other than Ministers. It is discussed only on alternative Fridays and in the afternoon sitting. (ii) Government Resolution : It is moved by a Minister and it is taken upon any day from Monday to Thursday. (iii) Statutory Resolution : It can be moved either by a private member or a minister.

JUDICIARY

Supreme Court of India (Article 124 to 147)

- ▶ The apex of the entire judicial system in India is the Supreme Court of India.
- ▶ Part V, Articles 124 to 147 deal with the structure, powers and functions of the Supreme Court.
- ▶ The Supreme Court now comprises of the Chief Justice and not more than 30 other judges.
- ▶ The Chief Justice is appointed by the President in consultation with such other judges of the Supreme Court and High Court.
- ▶ **On 21st February 2008, the Union Cabinet gave its nod to increase the number of judges in the Supreme Court from 26 to 31.**
- ▶ The Chief Justice of India administer the oath of affirmation to the President and the President administers the oath of office to the Vice-President.
- ▶ The Salaries of the judges of the Supreme Court (Article 125) are drawn from the Consolidated Fund of India.
- ▶ The salary of Chief Justice is Rs. 1,00,000 per month (according to Sixth Pay Commission Revision 2008).
- ▶ To be a judge of the Supreme Court, one has to be a
 - (i) Citizen of India
 - (ii) He should be a distinguished jurist and has been a High Court judge for at least five years or an advocate of a High Court for at least ten years.
- ▶ The Supreme Court Judge can

- ▶ Guardian of the constitution
- ▶ Court of record
- ▶ One Chief Justice and 30 other judge
- ▶ Federal Court
- ▶ Court of appeal

continue in his post until he attains sixty five years of age.

- ▶ The power of Judicial Review is vested in the Supreme Court and High Court.
- The Chief Justice and other judges of the Supreme Court can be removed from their office only on grounds of proved misbehaviour or incapacity by an order of the President passed after an address by each House supported by a majority of total membership of that House and not less than $\frac{2}{3}^{\text{rd}}$ of members present and voting has been presented to the President. (Article 124 (4).
- ▶ The Supreme Court has the power to review the acts and orders of the legislature and executive wings of the government and to declare them null and void if they are against the provisions of the Constitution.
- ▶ Supreme Court is known as **the Court of Record** (Article 129).
- ▶ The Judge of the Supreme

- ▶ Supreme Court came into force in 1950.
- ▶ Harilal J. Kania was the first Chief Justice of the Supreme Court.
- ▶ Supreme court is located at New Delhi.
- ▶ Supreme Court Judges retire upon attaining the age of 65 years.
- ▶ Supreme Court Rules, 1966 are framed under Article 145 of the Constitution to regulate the practice and procedure of the Supreme Court.
- ▶ The Supreme Court of India comprises the Chief Justice and not more than 25 other Judges appointed by the President of India.

Court can resign his office by writing a letter to the President in own his handwriting.

- ▶ A Judge of the Supreme Court can also be removed from office on the ground of proved misbehaviour or incapacity by the process of impeachment.
- ▶ In 1996 Supreme Court curbed the working of children in hazardous industries.
- ▶ The Supreme Court exercises three types of jurisdiction namely:

On the 28th of January, 1950, two days after India became a Sovereign Democratic Republic, the Supreme Court came into being. The inauguration took place in the Chamber of Princes in the Parliament building which also housed India's Parliament. It was here, in this Chamber of Princes, that the Federal Court of India had sat for 12 years between 1937 and 1950. The Court moved into the present building in 1958.

(i) Original (ii) Appellate
(iii) Advisory

- ▶ **Original Jurisdiction (Art. 131)** is meant for that cases involving a dispute between the Union Government and State Government or a dispute among the State Governments themselves. Supreme Court settles such case by interpreting the Constitution.
- ▶ **Appellate Jurisdiction:** It meant that appeal petition can be taken before the Supreme Court from the judgement or decision of the high court on cases involving civil, criminal, etc matter after its judgement.
- ▶ **Advisory Jurisdiction (Art: 143) :** It is meant that the President of India can refer to the Supreme Court for its advice or opinion if he has some doubt on a law or Constitution or a fact.
- ▶ Art 138 provides for the enlargement of the jurisdiction of the Supreme Court by the Parliament.
- ▶ The Chief Justice of India is Justice K.G. Balakrishnan.
- ▶ The jurisdiction and powers of the Supreme Court to the matters in the Union List can be enlarged by Parliament. But its jurisdiction and powers with respect to other matters can be enlarged by a special agreement of the Centre and the States.
- ▶ The first law officer of the Government of India is the Attorney General.
- ▶ **Advocate General:** Advocate General is the Principal law officer of the state. He is appointed by the Governor.

Judicial Activism

- ▶ Superior court issuing direction to the government officials or executives to perform certain duties in time if they fails to do so. Such directions issued by the court on the strength of public interest litigation to serve the general interest of the society.

Judicial Review

- ▶ The power of Supreme Court to review or examine a law passed by the Parliament and see whether that law is within the framework of the Constitution or not.
- ▶ The Supreme Court of India exercise this power as the principle of procedure established by law.

Administrative Tribunals

- ▶ According to the provision of Article 323 (A), the Administrative Tribunals Act, 1985 was enacted by Parliament.
- ▶ The tribunals are to adjudicate disputes and complaints relating to recruitment and condition of service of persons appointed to public services and posts in connection with affairs of the Union Government.
- ▶ A Tribunal can be checked by a High Court for exceeding its jurisdiction or if its order is contrary to natural justice.

Family Courts

- ▶ Courts aim at promoting conciliation in and securing speedy settlement of disputes relating to marriage and family affairs.
- ▶ A high powered committee

constituted under the chairmanship of Justice **P.N. Bhagawati** formulated model scheme, which every citizen whose annual income from all sources does not exceed a certain sum, is eligible for free legal aid.

Public Interest Litigation

- ▶ Any member of the public can 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 enforcement of Constitutional rights.

SUPREME COURT REGISTRY

- ▶ The Registry of the Supreme Court is headed by the Registrar General.
- ▶ Article 146 of the Constitution deals with the appointments of officers and servants of the Supreme Court Registry.

SUPREME COURT ADVOCATES

- ▶ There are three categories of Advocates who are entitled to practise law before the Supreme Court of India:- **Senior Advocates, Advocates-on - record and other Advocates.**
- ▶ Only **Advocates-on -record** are entitled to file any matter or document before the Supreme Court.
- ▶ Senior Advocates who are designated as Senior Advocates by the Supreme Court of India or by any High Court. A Senior Advocate is not entitled to appear without an Advocate-on-Record in the Supreme Court or without a junior in any other court or tribunal in India.

Comparison between the Supreme Court and the High Courts

Supreme Court

1. The Supreme Court is a federal Court. Its only seat is located at Delhi. Its bench can be established at other places also but so far it has not been established.
2. The Judges of the Supreme Court are appointed by the President.
3. A person shall have the following qualification to become eligible *for* the appointment as a Judge of the Supreme Court-if:
 - i) He has been a Judge of a High Court for not less than five years in succession; or
 - ii) has been an advocate of a High Court for not less than 10 years in succession; or
 - iii) He is a distinguished Jurist in the opinion of the President.
4. The Judges of the Supreme Court retire from their office after attaining the age of 65 years.
5. The, President can remove the Chief Justice and the other judges on the basis of impeachment motion passed in the Parliament.
6. The salary of the Chief Justice is Rs. 1,00,000 and that of the other judges is Rs. 90,000 per month.
7. The judges of the Supreme Court after their retirement and during their term of office are not eligible to plead before any court/ authority within the territory of India.
8. The Judges of the Supreme Court cannot be transferred nor can they be demoted in office.
9. The Supreme Court is not bound to abide by the decisions of the High Courts.
10. The salary and the allowances of the Judges of the Supreme Court are charged upon the Consolidated Fund of India.
11. The cases involving the interpretation of the Constitution are decided only by the Supreme Court.

High Court

1. There is a provision for a High Court in each State and each Union Territory but two or more States or two or more Union Territories or States and Union Territories, together, may establish a common High Court.
2. The Judges of the High Court are also appointed by the President.
3. A person shall not be eligible to become a Judge of a High Court unless such a person-i) has been a judicial officer for not less than 10 years within the territory of India; or ii) has been an advocate for not less than 10 years in a High Court in India.
4. The Judges of the High Courts retire from their office after attaining the age of 62 years.
5. The judges and the Chief Justice of the High Courts' are removed from the office by the President in the same manner as adopted in the case of the Supreme Court.
6. The salary of the Chief Justice is Rs. 90,000 and that of other judges is Rs. 80,000 per month.
7. The judges of the High Courts cannot plead before any Court during the term of their office. After retirement they cannot plead before any Court below the High Court. That means they can plead only before other High Courts and the Supreme Court.
8. The judges of the High Courts can be transferred from one High Court to the other High Court and may be promoted as the Judges of the Supreme Court.
9. The High Courts are bound to abide by the decisions of the Supreme Court.
10. The salary and other allowances of the Judges of the High Courts are charged upon the Consolidated Fund of the States.
11. The cases involving the interpretation of the Constitution are not decided by the High Courts.

● *“The Supreme Court of India has more powers than any other Supreme court in any part of the world” says Alladi Krishnaswamy Ayyar, a member of the Drafting Committee of the Constitution. Because, Supreme Court of India is not only a Federal Court like American Supreme Court but also a final court of appeal like the British House of Lords.*

●

Impeachment of a Judge

1. A motion addressed to the President signed by at least 100 members of the Lok Sabha or 50 members of the Rajya Sabha is delivered to the Speaker or the Chairman.
 2. The motion is to be investigated by a committee of three (two judges of the Supreme Court and a distinguished jurist)
 3. If the committee finds the judges guilty of misbehaviour or that he suffers from incapacity the motion together with the report of the committee is taken up for consideration in the House where the motion is pending.
 4. If the motion is passed in each House with required majority (special), the address is presented to the President.
 5. The Judge will be removed after the President gives his order for removal on the said address.
- ✦ The procedure was for the first time started against Shri. R. Ramaswamy in the Supreme Court in 1991 - 93. The committee found him guilty but the address failed because the congress abstained from voting.
 - ✦ Since in appointments of Supreme Court Judges, the opinion of the C.J.I. (Chief Justice of India) has supremacy, a nine-Judge Bench ruled that the opinion of the CJI must be formed on the basis of consultation with the collegium, comprising of

the CJI and four senior most Judges of the Supreme Court. The Judge who is to succeed the CJI should also be included, if he is not one of the four senior most judges in the Collegium.

Jurisdiction of the Supreme Court

- ▶ The Jurisdiction of the Supreme Court are five-fold viz. Original, Writ, Appellate, Advisory and Revisory Jurisdictions.

Original Jurisdiction

- ▶ The Original Jurisdiction of the Supreme Court is purely federal in character.

Writ Jurisdiction

- ▶ Article 32 imposes duty on the Supreme Court to enforce the Fundamental Rights.
- ▶ Under this Article, every individual has a right to move the Supreme Court directly if there has been any infringement on his Fundamental Rights.

Appellate Jurisdiction

- ▶ The Appellate Jurisdiction of the Supreme Court is three fold: **Constitutional, Civil and Criminal.**

Advisory Jurisdiction

- ▶ One of the salient features of the Supreme Court of India is its consultative role Art, 143.

Revisory Jurisdiction

- ▶ The Supreme Court under Article 137 is empowered to review any judgement or order made by it with a view to remove any mistake or error that might have crept in the judgement or order.

HIGH COURTS

- ▶ Article 214 provide that there shall be a High Court for every state.
- ▶ The institution of High Court (HC) originated in India in 1862 when the high courts were set up at Calcutta, Bombay and Madras.
- ▶ In the independent India, the constitution provides for a high court for each State, but the seventh amendment act of 1956 authorized Parliament to establish a common high court for two or more states or for two or more states and a Union Territory.
- ▶ At present there are twenty one high courts in India.
- ▶ Out of them, three are common high courts.
- ▶ Delhi is the only Union Territory with a high court of its own from 1966.
- ▶ Three new High Courts were set up in November 2000, following the creation of states of Chattisgarh, Uttaranchal and Jharkhand. These High Courts are located at Bilaspur, Nainital and Ranchi respectively. At present there are 21 High Courts.
- ▶ Which High Court has the highest number of benches in India?

Ans: Guwahati - Five. The benches are at Kohima, Aizwal, Imphal, Shillong and Agarthala

- ▶ Originally known as Assam High Court, renamed as Guwahati High Courts in 1971.

The High Courts are the principal civil courts of original jurisdiction in the state. The work of most High Courts consists of Appeals from lower courts and writ petitions in terms of Article 226 of the Constitution of India.

The Calcutta High Court is the oldest High Court in the country, established on 2 July 1862.

- ▶ Article 231 also provides Parliament with the power to establish a common High Court for two or more states.
- ▶ The judges of a High court are appointed by the President. The Chief Justice is appointed by the President after consultation with the Chief Justice of India and the Governor of a State concerned.
- ▶ Guwahati High Court has the most member of territorial jurisdiction (7 states) - Assam, Manipur, Meghalaya, Nagaland, Tripura, Mizoram, Arunachal Pradesh. It established in 1948.

- ▶ The District Judges are appointed by the Governor of the state
- ▶ The subordinate courts are more popularly known as District Court.
- ▶ The National Judicial Academy was set up in 1993. It is

located at Bhopal with its registered office in New Delhi.

Subordinate Courts

Three types of Subordinate Courts.

1. Criminal Courts

There are courts which handle only criminal cases. These are different kinds of criminal courts in succession.

- a) **Sessions Court** : It is at the district level.
- b) **First Class Magistrate** : Just below the sessions court there is the 1st Class Magistrate. It hears appeals against lower courts decisions.
- c) **Second Class Magistrate** : Does not entertain appeals. It can punish upto 6 months imprisonment and fine upto 200/-

The High Courts: Seats and Jurisdiction

Name	Year of Estb.	Territorial Jurisdiction	Seat
1. Allahabad	1866	Uttar Pradesh	Allahabad (Bench at Lucknow)
2. Andhra Pradesh	1954	Andhra Pradesh	Hyderabad
3. Bombay	1862	Maharashtra, Dadar & Nagar Haveli, Goa, Daman & Diu	Bombay (Benches at Nagpur, Panaji, Aurangabad)
4. Kolkata	1862	West Bengal, Andaman & Nicobar Islands	Kolkata (Bench at Port Blair)
5. Delhi	1966	Delhi	Delhi
6. Guwahati	1948	Assam, Manipur, Meghalaya, Nagaland, Tripura, Mizoram and Arunachal Pradesh	Guwahati (Benches at Kohima, Imphal, Agartala & Shillong)
7. Gujarat	1960	Gujarat	Ahmedabad
8. Himachal Pradesh	1966	Himachal Pradesh	Shimla
9. Jammu & Kashmir	1928	Jammu & Kashmir	Srinagar & Jammu
10. Karnataka	1884	Karnataka	Bangalore
11. Kerala	1958	Kerala & Lakshadweep	Ernakulam
12. Madhya Pradesh	1956	Madhya Pradesh	Jabalpur (Bench at Indore, Gwalior)
13. Madras	1862	Tamil Nadu & Pondicherry	Madras
14. Orissa	1948	Orissa	Cuttack
15. Patna	1916	Bihar	Patna
16. Punjab & Haryana	1975	Punjab, Haryana, Chandigarh	Chandigarh
17. Rajasthan	1949	Rajasthan	Jodhpur (Bench-Jaipur)
18. Sikkim	1975	Sikkim	Gangtok
19. Chhattisgarh	2000	Chhattisgarh	Bilaspur
20. Uttaranchal	2000	Uttaranchal	Nainital
21. Jharkhand	2000	Jharkhand	Ranchi

Tribunals

Appellate Trib. for Electricity
Central Administrative Trib.
Central Excise Ser. Tax App.
Debt Recovery Trib., Coimbatore
Debts Recovery Trib.-II, Chennai
Debts Rec. Trib.-I, Chennai
Intellectual Pro. App., Chennai
Income Tax Appellate Trib.
Railway Claims Tribunal

First Law Commission of Independent India established in 1955 with the then Attorney-General of India, Mr. M. C. Setalvad, as its Chairman.
Nineteenth Law Commission Chairman (2009-2012)
Justice P. V. Reddi

- d) **Third Class Magistrate** : It handles minor cases. Gives punishment upto one months imprisonment fine upto 50/-
- e) **Panchayat** : Its decisions are non appealable.
Note : The IInd and IIIrd Class Magistrates have only original jurisdiction.

Civil Courts

These are courts dealing with Civil Cases. There are a number of Civil Courts in succession.

- a) **District Judge** : Hears appeals against the courts subordinate to it.
- b) **Senior Subjudge** : Entertain cases involving any amount.
- c) **IInd class small case court (S.C.C)** : Presided over by subjudge.
- d) **III Class S.C.C** : Presided over by a subjudge.
- e) **IV Class S.C.C** : Presided over by a subjudge.

FIRST IN INDIA

1. First empire to define and demarcate civil and criminal law - Gupta Empire
2. First Court (of judicature) was established in Calcutta on August , 1672
3. First Law Commission was constituted in 1834 under the Charter Act of 1833. It was chaired by Lord Macaulay.
4. First I.P.C. and CRPC were introduced in Bengal in 1862 by John Beames.
5. First Federal Court established in 1937. Sir. Maurice Gwyer was the first Federal Court chief justice.
6. Supreme Court was established on March 26, 1774 in Calcutta as a result of Regulating Act of 1773.
7. Oldest High Court - Calcutta High Court (1862)
8. First Indian High Court Judge - Shambhunath Pandit.
9. Youngest Judge - Prasanta Behari Mukherjee at the age of 38.
10. High Court with most judges - Allahabad High Court (60 Judges)
11. First Woman Chief Justice (High Court) - Justice Leila Seth (Delhi)
12. First Indian President of International Court of Justice- Dr. Nagendra Singh (First Indian recipient of World Justice Award)
13. First Chief Justice of Independent India - Justice Harilal J. Kania.
14. First Woman judge of Supreme Court- Meera Sahib Fatima Beevi.
15. First woman judicial officer - Anna Chandy
16. First woman advocate - Cornelia Sorabji
17. "Green Bench" decides on environmental issues. (set up by the Calcutta Court)
18. First Law giver - Manu
19. Largest prison - Tihar Jail.

- f) **Small Case Court** : In big towns; Decisions of the Small Case Court is not ordinarily appealable.

3. Revenue Courts

- a) **Board of Revenue / Finance Commission** : It hears appeals against the decisions of the District Collectors Court.
- b) **Commissioner's Court** : It hears appeals against the decisions of the Tahasildar's Court.
- c) **District Collectors Court** : It hears appeals against the Tahsildar's Court decision.

- d) **Tahsildar's Court** : It is the smallest unit as far as Revenue Courts are concerned.

Administrative Tribunals

- The 42nd Constitutional Amendment Act in 1976 introduced Article 323 A, enabling the setting up of Central and State Administrative tribunals, to adjudicate cases related to recruitment, promotion, transfer and conditions of service of persons appointed

to the public services of the Union and the State Governments.

- ▶ In pursuit of the provision, the Parliament enacted the Administrative tribunal Act, 1985 to set up Central Administrative Tribunal (CAT)
- ▶ By a notification, the service matters related to employee of the Public Sector Undertaking (PSUs) can be brought under the CAT or SATs, as the case may be.
- ▶ 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.
- ▶ The President appoints the Chairman and other members of the CAT and the SATs after consulting the Chief Justice of India.

National Human Rights Commission

- ▶ The National Human Rights Commission (NHRC) of India is an autonomous statutory body.
- ▶ It is established on October 12, 1993, under the provisions of The Protection of Human Rights Act, 1993.
- ▶ The Chairperson and members of the NHRC are appointed by

The Solicitor General for India is subordinate to the Attorney General of India and also the second law officer of the country. There are four Additional Solicitors Generals for India.

- the President of India.
- ▶ The NHRC consists of a Chairperson who has been a Chief Justice of the Supreme Court of India.
One Member who is, or has been, a Judge of the Supreme Court of India.
One Member who is, or has been, the Chief Justice of a High Court.
Two Members to be appointed from among persons having knowledge of, or practical experience in, matters relating to human rights.
- ▶ Former Chief Justice **K G Balakrishnan** is the present chairperson of the commission.

The National Commission for Women

- ▶ NCW is a statutory body for women, set up in 1992, by Government of India, under specific provisions, National Commission for Women Act, 1990.
- ▶ The present head of the Commission is **Girija Vyas**.

- ▶ The objective of the NCW is to represent the rights of women in India and to provide a voice for their issues and concerns.

National Knowledge Commission

- ▶ National Knowledge Commission constituted in 2005.
- ▶ The Commission was to recommend reform of the education sector, research labs, and intellectual property legislation; as well as consider whether the Government could itself upgrade its use of the latest techniques to make its workings more transparent.
- ▶ The present chairman of the Knowledge Commission is **Sam Pitroda**.

Lok Pal Bill

- ▶ Lok Pal Bill has been introduced to provide for setting up of a Lok Pal that would enquire into the charges of corruption against public functionaries in the central government level.

Right to Information Act 2005

- ▶ The Right to Information Act, 2005 (RTI) is a law enacted by the Parliament of India.
- ▶ This law was passed by Parliament on 15 June 2005 and into force on 12 October 2005.
- ▶ The Act applies to all States and Union Territories of India, except the State of Jammu and Kashmir.
- ▶ Under the Act, any citizen may request information from a "public authority" (a body of Government or "instrumentality of State") which is required to reply expeditiously or within thirty days.
- ▶ Jammu & Kashmir, has its own Right to Information Act of 2009, the successor to the repealed J&K Right to Information Act, 2004 and its 2008 amendment.
- ▶ The RTI Laws were successfully enacted by the various state governments of India.

Lok Ayukta

- ▶ The LokAyukta is an anti-corruption government organization in the Indian states.
- ▶ Lok Ayukta is a state level institution set up to enquire into the charges of corruption against public functionaries in the state.
- ▶ Orissa is the first state to present a bill on establishment of Lokayukta in 1970, however, Maharashtra is the first state to have established the institution in 1972.
- ▶ Some states have Upa Lokayukta under Lokayukta and in some states, the

Ombudsman

Ombudsman is an officer appointed to hear and investigate complaints by private citizens against government officials or agencies. He helps and protects the common man against official oppression. Now various agencies and public sectors have realised the need of setting up the office of Ombudsman to redress the grievances for the public who are the customers or clients of these organisations.

- ▶ Banking Ombudsman is a quasi judicial authority functioning under India's Banking Ombudsman Scheme 2006.
- ▶ In India, Ombudsman is called as Lokpal or Lokayukta.
- ▶ Kerala State has an Ombudsman for Local Self Government institutions like Panchayaths, Municipalities and Corporations.

Lokayukta doesn't have suo moto powers of instigating an enquiry.

- ▶ It does not have binding pow-

ers to punish anyone.

- ▶ Chairman of Kerala Lok Ayukta is Justice M. Pareeth Pillai.

The Election Commission (Article 324)

- ▶ The Election Commission of India is set up by Article 324 of the Constitution of India.
- ▶ Election Commission of India is a permanent Constitutional Body.
- ▶ The Election Commission was established in accordance with the Constitution on 25th January 1950. The Commission celebrated its Golden Jubilee in 2001.
- ▶ Election Commission became a 3 member body in Oct 1, 1993.
- ▶ The appointment of Chief Election Commissioner and other election Commissioners shall be made by the President for a term of 6 years.
- ▶ State Election Commission conducts elections to Panchayats and municipalities in the states.
- ▶ At the state level, the election work is supervised, subject to overall superintendence, direction and control of the Commission by the Chief Electoral Officer of the State.
- ▶ The first Chief Election Commissioner of India was Sukumar Sen (1950-58).
- ▶ **S.Y.Quraishi** is the present Chief Election Commissioner of India. Other two Commissioners are Harishankar Brahma and V.S. Sampath.
- ▶ **Nirvajan Sadan** is the headquarters of Election Commission in New Delhi.

The Finance Commission (Article 280)

- ▶ The Finance Commission is quasi judicial body.
- ▶ The Finance Commission has the following primary functions:
 - (i) To recommend to the President, the principles and manner by which the revenue arising out of the union budget may be shared between the Union and States.
 - (ii) To recommend to the President the principles and the properties by which the grand-in-aid is to be provided to the states by the Union Government.
 - (iii) To recommend to the President on any other matter in the interest of public finance.
- ▶ The grand-in-aid is extended to the state by the union out of the Consolidated Fund of India to meet the cost of development scheme approved by the Union Government.
- ▶ The first Finance Commission was constituted in 1951. First Chairman : K.C. Neogy.
- ▶ **Vijay Kelkar** heads the 13th Finance Commission . (2010-2015)
- ▶ Article 280 of the Constitution provides that at the end of every five years, the President shall appoint a finance commission with a chairman and four other members.
- ▶ The Finance Commission of India came into existence in 1951.
- ▶ The Finance Commission is formed to define the financial relations between the centre and the state.

Finance Commission

Number	Chairman
I.....	K.C. Neogy
II.....	Mr. K.S. Santhanam
III.....	A.K. Chanda
IV.....	P.V. Rajamannar
V.....	Mahavir Tyagi
VI.....	Brahmananda Reddy
VII.....	J.M. Shelat
VIII.....	Y.B. Chavan
IX.....	N.K.P. Salve
X.....	Mr. K.C. Pant
XI.....	Prof. A.M. Khusru
XII.....	Dr. C. Rangarajan
XIII.....	Vijay Kelkar

Union Public Service Commission (Article 315-323)

- ▶ The Constitution provides that there shall be a Public Service Commission for each state and for Unions.
- ▶ The Chairman and other members of the UPSC are appointed by the President.
- ▶ The members of the UPSC are appointed for a term of six years or till they attain the age of 65 years.
- ▶ UPSC Chairman :D.P.Agrawal
- ▶ SPSC (State Public Service Commission) - Chairman and members are appointed by the Governor. But they can be removed only by the president (and not by the governor).
- ▶ The members of the SPSC are appointed for a term of six years or they attain the age of 62 years whichever is earlier.
- ▶ The UPSC is entrusted with the selection of candidates to higher civil services.
- ▶ SSC (Staff Selection Commission) is a centralised agency responsible for recruiting personal to middle and lower services of Central Government. SSC established in 1975.

Special Status to Jammu and Kashmir (Article 370)

- ▶ The Constitution of Jammu and Kashmir came into existence on 26th January 1957.
- ▶ The state of Jammu and Kashmir was accorded special status under Article 370 of the Constitution.
- ▶ The Parliament can make laws with respect to Jammu and Kashmir only in subjects in the Union List.
- ▶ On the failure of constitutional machinery, the Governor shall have the power of the President.
- ▶ Jammu and Kashmir has the distinction of being the only state of the Indian Union which has its own Constitution.
- ▶ N.N. Vohra is the Present Governor of J & K.
- ▶ The President can declare that Art 370 ceases to be operative only on the recommendation of constituent Assembly of the state.
- ▶ J & K constitution declares Urdu as the official language of the state. It also permits the use of English for official purposes.
- ▶ Part III (dealing with Fundamental Rights) is applicable to the state with some exceptions and conditions. The Fundamental Right to property is still guaranteed in the state.
- ▶ Part IV (dealing the Directive Principles of State Policy) and Part IVA (dealing with Fundamental Duties) are not applicable to the state.
- ▶ Jammu and Kashmir has a bicameral legislature.
- ▶ The Bill for the special status of J & K became Act in 1982.
- ▶ J & K is excluded from the list of other states. As per the article 152.
- ▶ Jammu and Kashmir has been given the special status to fulfill the condition put forward by the Maharaja of Jammu & Kashmir for signing the instrument of accession with India.

ALL INDIA SERVICES

1. Indian Administrative Service (IAS) is the administrative civil service of the Indian government. (1947)
2. Indian Police Service (IPS) (1947)
3. Indian Forest Service (IFS) (1966)
 - ▶ There are 34 group 'A' Central Services and 25 group 'B' Central services.
 - ▶ The present system of recruitment is based on the recommendations of Macaulay committee (1854), Kothari Committee (1974) and Satish Chandra Committee (1988)
 - ▶ The latest Commission on Civil Services is Hota Commission.
 - ▶ Art.312 allows the Rajya Sabha to create any other All India Services with two by third majority.
 - ▶ The recruitment to these services is made through the Union Public Service Commission on the basis of the annual Civil Services Examination.

Official Languages (Article 343 to 351)

- ▶ India is the country where largest number of languages are spoken.
- ▶ Sindhi was added by the 21st Constitutional Amendment Act, 1967.
- ▶ The Constitution declared Hindi in Devanagari script as the official language of India.
- ▶ B.G Kher was the Chairman of the first official language Commission appointed by the President in 1955.
- ▶ The Constitution allows the use of English language for official purposes.
- ▶ India has 22 officially recognised languages in the 8th schedule of the Constitution.
- ▶ Originally the Constitution recognised 14 languages.
- ▶ Official language Act (1963) lays down that English should be used for purposes of communication between Union and the States that have not adopted Hindi as their Official Language.
- ▶ **Languages in the Constitution:** Assamese, Bengali, Hindi, Urdu, Marathi, Gujarathi, Punjabi, Sanskrit, Kashmiri, Telugu, Tamil, Malayalam, Kannada, Oriya, Sindhi, Konkani, Nepali, Manipuri, Bodo, Maithili, Santhali and Dogri.
- ▶ The Parliament passed the 92nd Amendment (100th Amendment Bill) of constitution on 22nd December 2003 which recognises Bodo, Maithili, Santhali and Dogri languages in the 8th Schedule.

National Commission for SCs & STs (Art. 338)

- ▶ Amendment Act 65th replaces the officer for S.C. and ST with National Commission for SC & ST.
- ▶ Investigate and monitor all matters relating to the constitutional and other legal safeguard for SCs and STs is the main function.
- ▶ Art. 338 originally provided for Special Officer for SC & ST.
- ▶ The commission consists of a chairman, a vice - chairman and five other members.
- ▶ They are appointed by the President.
- ▶ Service Conditions and Tenure are also determined by the President.

NON CONSTITUTIONAL BODIES

Planning Commission

**Super Cabinet
Economic Cabinet
Parallel Cabinet
Fifth Wheel of the Coach**

- ▶ Established in 1950 by an executive resolution of the Govt. of India.
- ▶ It was recommended by the Advisory Planning Board of 1946, under the chairmanship of K.C. Neogi.
- ▶ Supreme Organ of Planning for Social and economic development.
- ▶ **Prime Minister** is the chairman of the commission.
- ▶ Deputy Chairman is the de facto or full time functional head of the commission.

- ▶ The finance minister and planning minister are the ex-officio members of the commission.
- ▶ Planning Commission formulates India's Five-Year Plans, among other functions.
- ▶ Make an assessment of material capital and human resources of the country and investigate the possibilities of augmenting them.
- ▶ Formulate a plan for the most effective and balanced utilization of the country's resources.
- ▶ Determines priorities and to define stages in which the plan should be carried out.
- ▶ **Montek Singh Ahluwalia** is the current Deputy Chairman of the Planning Commission of India.

National Development Council

- ▶ NDC established in August 1952 by an executive resolution.

Composition

- ▶ Prime Minister as its head.
- ▶ All Union Cabinet Ministers are members from 1967.
- ▶ Chief Ministers of all states.
- ▶ Chief Ministers and administrators of all Union Territories.

Functions

- ▶ Prescribe guidelines for preparation of the national plan.
- ▶ Consider the national plan as prepared by the Planning Commission.
- ▶ Consider important questions

of social and economic policy affecting national development.

- ▶ Review the working of the national plan from time to time.
- ▶ Recommend measures for achievement of the aims and targets set out in the national plan.
- ▶ N.D.C is the highest body below parliament responsible for policy matters with regard to planning for social and economic development.

Central Vigilance Commission

- ▶ Established in 1964 on the recommendation of the Santhanam Committee on prevention of Corruption (1962-64)
- ▶ In 2003, statutory status was given to the C.V.C.
- ▶ Central Vigilance Commissioner and other two commissioners appointed by the President on the recommendation of a three - member committee. (Prime Minister, Home Minister and Leader of Opposition in the Lok Sabha)
- ▶ It conduct enquiry into the corruption cases against Civil Servants on a reference by the Central Govt. (All India servants, Class 'A' servants of Central Govt., Specified level of Officers)
- ▶ It enjoys the powers of a Civil Court.