

Making of the Indian Constitution

1. It was M.N Roy who proposed the idea of an independent constituent assembly for India in 1934.
2. The constituent assembly was formed as per the guidelines suggested by the Cabinet Mission Plan, 1946. The mission was headed by Pethick Lawrence and included two other members apart from him – Stafford Cripps and A.V Alexander.
3. The total strength of the assembly was 389. However, after partition only 299 remained. It was partly elected and partly nominated body.
4. The elections to form the assembly took place in July-August 1946 and the process was completed by November 1946. The first meeting of the assembly took place on 9th December 1946 and was attended by 211 members.
5. Dr. Sachhidanand Sinha became the temporary President of the assembly following the French practice.
6. On 11th December 1946, Dr. Rajendra Prasad and H.C Mukherji were elected as President and Vice-President respectively.
7. Sir B.N Rau was appointed as the constitutional advisor to the assembly.
8. On 13th December 1946, Pt. Nehru moved the Objectives resolution which later went on to become the Preamble of the constitution in slightly modified form. The resolution was unanimously adopted on 22nd January 1947.
9. The Constituent Assembly ratified India's membership of the commonwealth in May 1949. Also, it adopted National Song and National Anthem on 24th January 1950. Adopted the National Flag on 22nd July 1947.
10. The assembly met for 11 sessions, took 2 years, 11 months and 18 days to frame up the final draft, sat for 141 days in total and the draft constitution was considered for 114 days. Total amount incurred was around rupees 64 lakhs.
11. The assembly had 15 women members which were reduced to 9 after partition.

12. Some important committees of the constituent assembly along with their respective chairpersons are as follows:

- Union Powers Committee - Jawahar Lal Nehru
- Union Constitution Committee - Jawahar Lal Nehru
- Provincial Constitution Committee - Sardar Patel
- Drafting Committee - B.R Ambedkar
- Rules of Procedure Committee - Dr. Rajendra Prasad
- Steering Committee - Dr. Rajendra Prasad
- Flag Committee - J.B. Kripalani

13. The following were the members of the Drafting Committee-

- Dr. B.R Ambedkar (Chairman)
- Alladi Krishnaswamy Ayyar
- Dr. K.M Munshi
- N. Gopaldaswamy Ayyangar
- Syed Mohammad Saadullah
- N Madhava Rau
- TT Krishnamachari

14. The final draft of the constitution was adopted on 26th November 1949 and it contained 8 schedules, 22 parts, and 395 articles.

VARIOUS SOURCES OF THE INDIAN CONSTITUTION

1. Government of India Act of 1935 - Federal Scheme, Office of the governor, Judiciary, Public Service Commissions, Emergency provisions and administrative details.
2. British Constitution - Parliamentary government, Rule of Law, legislative procedure, single citizenship, cabinet system, prerogative writs, parliamentary privileges, and bicameralism.

3. US Constitution - Fundamental rights, independence of the judiciary, judicial review, impeachment of the president, removal of Supreme Court and high court judges and post of vice-president.
4. Irish Constitution - Directive Principles of State Policy, the nomination of members to Rajya Sabha and method of election of the president.
5. Canadian Constitution - Federation with a strong Centre, vesting of residuary powers in the Centre, the appointment of state governors by the Centre, and advisory jurisdiction of the Supreme Court.
6. Australian Constitution - Concurrent List, freedom of trade, commerce and intercourse, and the joint sitting of the two Houses of Parliament.
7. Weimar Constitution of Germany - Suspension of Fundamental Rights during Emergency.
8. Soviet Constitution (USSR, now Russia) - Fundamental duties and the idea of justice (social, economic and political) in the Preamble.
9. French Constitution - Republic and the ideals of liberty, equality, and fraternity in the Preamble.
10. South African Constitution - Procedure for amendment of the Constitution and election of members of Rajya Sabha.
11. Japanese Constitution - Procedure established by Law.

THE PREAMBLE

1. The term 'preamble' refers to the introduction or preface to the Constitution. It's a kind of summary or essence of the Constitution.
2. The American Constitution was the first, to begin with, a preamble.
3. N.A Palkiwala has termed preamble as 'the identity card of the constitution'.
4. The Preamble is somewhat based on the 'Objectives Resolution' moved by Nehru in the Constituent Assembly.

5. The Preamble has been amended only once so far, that is by 42nd Amendment Act of 1976. Three words were added by that amendment – SOCIALIST, SECULAR, INTEGRITY.
6. The Preamble reveals four ingredients or components:
7. Source of the authority of the Constitution: The Preamble states that the Constitution derives its authority from the people of India.
8. Nature of Indian State: It declares India as a sovereign, socialist, secular democratic and republican polity.
9. Objectives of the Constitution: To provide justice, liberty, equality and fraternity to the citizens of India.
10. Date of adoption of the Constitution: 26th November 1949.
11. In *Berubari Union* case (1960) - the Supreme Court said that the Preamble isn't a part of the Constitution.
12. In *Kesavananda Bharati* case (1973) - the Supreme Court rejected the earlier opinion and held that Preamble *is* a part of the Constitution.
13. The Preamble is neither a source of power to legislature nor a prohibition upon the powers of the legislature. Provisions in the preamble are non-enforceable in the court of law, that is, it's non-justiciable.

THE UNION & ITS TERRITORY

1. Articles 1 to 4 under Part-I of the Constitution deal with the Union and its territory.
2. Article 1 declares India, that is, Bharat as a 'Union of States'.
3. Article 2 empowers the Parliament to 'admit into the Union of India, or establish, new states on such terms and conditions as it thinks fit'. Thus, Article 2 grants two powers to the Parliament: (a) the power to admit into the Union of India new states; and (b) the power to establish new states.
4. Article 3 relates to the formation of or changes in the existing states of the Union of India. In other words, Article 3 deals with the internal re-adjustment *inter se* of the territories of the constituent states of the Union of India.

5. Some committees that were important in the reorganization of states in the Indian Union – Dhar Commission, JVP Committee, Fazl Ali Commission and States Reorganization Commission (1st one was in 1956).
6. New states that were created after 1956 with year - Maharashtra and Gujarat In 1960, Goa, Daman and Diu India acquired these three territories from the Portuguese by means of a police action in 1961. They were constituted as a union territory by the 12th Constitutional Amendment Act, 1962. Later, in 1987, Goa was conferred a statehood, Nagaland In 1963, Haryana, Chandigarh and Himachal Pradesh In 1966, Manipur, Tripura and Meghalaya In 1972, Sikkim in 1974-75, Mizoram, Arunachal Pradesh and Goa In 1987, Chhattisgarh, Uttarakhand and Jharkhand In 2000, and now most recently Telangana on 2nd June, 2014.

Fundamental Rights (FR) & Fundamental Duties (FD)

These rights are fundamental in the sense that any law passed by the legislature in the country would be declared as null and void if it is in contravention to the rights guaranteed by the constitution. If any of these rights are violated, the individual affected is entitled to move the Supreme Court or High Court for the protection and enforcement

of his rights. However, The rights are not absolute and can be curtailed during the emergency.

Part–3 Fundamental Rights (Article-12-35)

- Fundamental Rights have been described as the Magna Carta of India.
- The concept has been taken from the US' bill of rights. Earliest known evidence of rights was also present in ancient India, Iran etc.
- The Fundamental Rights are named so because they are guaranteed and protected by the Constitution, which is the fundamental law of the land. They are 'fundamental' also in the sense that they are the most essential for the all-round development (material, intellectual, moral and spiritual) of the individuals.
- The original constitution contained seven fundamental rights, however, after the 44th constitutional amendment act, 1978, right to property was repealed and now only six fundamental rights remain.
- Following are the articles related to the fundamental rights-
 - A. 12- Definition of the State
 - B. 13- Laws inconsistent with part-3 or Fundamental Rights
- Following is the segregation of the Fundamental Rights
 - C. Right to equality (Articles 14–18)
 - (a) Equality before the law and equal protection of laws (Article 14).
 - (b) Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth (Article 15).
 - (c) Equality of opportunity in matters of public employment (Article 16).
 - (d) Abolition of untouchability and prohibition of its practice (Article 17).
 - (e) Abolition of titles except military and academic (Article 18).
 - D. Right to freedom (Articles 19–22)
 - (a) Protection of six rights regarding freedom of (Article 19):
 - i. Speech and Expression
 - ii. Assembly
 - iii. Association
 - iv. Movement,

v. Residence, and

vi. Profession

(b) Protection in respect of conviction for offences (Article 20).

(c) Protection of life and personal liberty (Article 21).

(d) Right to elementary education (Article 21A).

(e) Protection against arrest and detention in certain cases (Article 22).

- Right against exploitation (Articles 23–24)
 - (a) Prohibition of traffic in human beings and forced labour (Article 23).
 - (b) Prohibition of employment of children in factories, etc. (Article 24).
- Right to freedom of religion (Article 25–28)
 - (a) Freedom of conscience and free profession, practice and propagation of religion (Article 25).
 - (b) Freedom to manage religious affairs (Article 26).
 - (c) Freedom from payment of taxes for promotion of any religion (Article 27).
 - (d) Freedom from attending religious instruction or worship in certain educational institutions (Article 28).
- Cultural and educational rights (Articles 29–30)
 - (a) Protection of language, script and culture of minorities (Article 29).
 - (b) Right of minorities to establish and administer educational institutions (Article 30).
- Right to constitutional remedies (Article 32)- Heart and Soul of the Constitution.
Right to move the Supreme Court for the enforcement of fundamental rights including the writs of
 - (i) *habeas corpus*, (ii) *mandamus*, (iii) prohibition, (iv) *certiorari*, and (v) *quo warranto* (Article 32).
- Article 33 deals with the power of Parliament to modify the fundamental rights.
- Article 34 deals with Martial Law
- Article 35 deals with legislation required to deal with fundamental rights
- Fundamental Rights which are available to only citizens - 15, 16, 19, 29 and 30.
- Fundamental Rights those are available to both citizens as well as non-citizens – 14, 20, 21, 21A, 22, 23, 24, 25, 26, 27 and 28.

Prat-4 Fundamental Duties (Article-51A)

- They are a set of 11 guidelines to the citizens.
- The original constitution did not mention about the FDs.
- The idea has been taken from the former Soviet Constitution and now even Russia does not have them. Probably only Japan is one such major country which has an exclusive chapter on fundamental duties.
- In 1976, the fundamental duties of citizens were added in the Constitution. In 2002, one more Fundamental Duty was added.
- They were added on the recommendations of the Swaran Singh Committee which was constituted by Indira Gandhi in 1975. It recommended only 8 fundamental duties than with pecuniary punishments as well. However, the government did not welcome the punishments part.
- A new part – 4A, A NEW ARTICLE 51A was added by virtue of 42nd constitutional amendment act, 1976. Ten duties were added to 51A. Presently there are eleven duties.
- The 11th Fundamental Duty was added by 86th amendment act, 2002.
- Following is the list of FDs:
 - (a) To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
 - (b) To cherish and follow the noble ideals that inspired the national struggle for freedom;
 - (c) To uphold and protect the sovereignty, unity and integrity of India;
 - (d) To defend the country and render national service when called upon to do so;
 - (e) To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women;
 - (f) To value and preserve the rich heritage of the country's composite culture;
 - (g) To protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures;
 - (h) To develop scientific temper, humanism and the spirit of inquiry and reform;

- (i) To safeguard public property and to abjure violence;
- (j) To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement; and
- (k) To provide opportunities for education to his child or ward between the age of six and fourteen years. This duty was added by the 86th Constitutional Amendment Act, 2002.

Directive Principles of the State Policy

1. They have been mentioned in Part-4 and cover articles from 36-51 of the Constitution of India.
2. Called as Novel Features of the Constitution.
3. Inspired by the Irish constitution.
4. Similar to the Instruments of Instructions mentioned in the Government of India Act, 1935.
5. Together with fundamental rights, they are termed as the conscience of the constitution.
6. 'Directive Principles of State Policy' denotes the ideals that the State should keep in mind while formulating policies and enacting laws. These are the constitutional instructions or recommendations to the State in legislative, executive and administrative matters.
7. The DPSPs constitute a very comprehensive economic, social and political programme for a modern democratic State. They aim at realizing the high ideals of

justice, liberty, equality and fraternity as outlined in the Preamble to the Constitution. They embody the concept of a 'welfare state'.

8. The Directive Principles are non-justiciable in nature, that is, they are not legally enforceable by the courts for their violation. Therefore, the government (Central, state and local) cannot be compelled to implement them. Nevertheless, the Constitution (Article 37) itself says that these principles are fundamental to the governance of the country and it shall be the duty of the State to apply these principles in making laws.

9. The provisions of the Directive Principles are broadly classified into-

(a) Socialist principles

(b) Gandhian principles

(c) Liberal intellectual principles

10. Some Important Articles in DPSPs are :

- a. To promote the welfare of the people by securing a social order permeated by justice— social, economic and political—and to minimise inequalities in income, status, facilities and opportunities (Article 38).
- b. To secure (a) the right to adequate means of livelihood for all citizens; (b) the equitable distribution of material resources of the community for the common good; (c) prevention of concentration of wealth and means of production; (d) equal pay for equal work for men and women; (e) preservation of the health and strength of workers and children against forcible abuse; and (f) opportunities for healthy development of children (Article 39).
- c. To promote equal justice and to provide free legal aid to the poor (Article 39 A). This was added by 42nd constitutional amendment act, 1976.
- d. To secure the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement (Article 41).

- e. To make provision for just and humane conditions for work and maternity relief (Article 42).
- f. To take steps to secure the participation of workers in the management of industries (Article 43 A). Also added by 42nd constitutional amendment act, 1976.
- g. To organise village panchayats and endow them with necessary powers and authority to enable them to function as units of self-government (Article 40).
- h. To promote cottage industries on an individual or co-operation basis in rural areas (Article 43).
- i. To prohibit the consumption of intoxicating drinks and drugs which are injurious to health (Article 47).
- j. To prohibit the slaughter of cows, calves and other milch and draught cattle and to improve their breeds (Article 48).
- k. To secure for all citizens a uniform civil code throughout the country (Article 44).
- l. To provide early childhood care and education for all children until they complete the age of six years (Article 45). Also, amended by the 86th constitutional amendment act, 2002.
- m. To separate the judiciary from the executive in the public services of the State (Article 50).
- n. To promote international peace and security and maintain just and honourable relations between nations; to foster respect for international law and treaty obligations, and to encourage settlement of international disputes by arbitration (Article 51).

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

11. The 97th Amendment Act of 2011 added a new Directive Principle relating to co-operative societies. It requires the state to promote voluntary formation, autonomous

functioning, democratic control and professional management of co-operative societies (Article 43B).

12. The DPSPs are instructions to the State.

President of India

(1) Article 52 – There shall be a President of India

(2) Article 53 – the Executive power of the Union: The executive power shall be vested in the President and shall be exercised by him either directly or through officers' subordinate to him.

(3) He is the supreme commander of the defense forces in India.

(4) Though he's only the constitutional head, or titular head, *de jure head* or nominal executive or just a symbolic head.

Election of the President

1. The President shall be elected by the members of an ELECTORAL COLLEGE consisting of:

(a) The Elected MPs

(b) The Elected MLAs of the states

(c) The Elected MLAs of National Capital Territory of Delhi (added by 70th Amendment Act, 1992 and with effect from 1-06-1995) and Union territory of Puducherry.

2. Thus, nominated members of parliament and legislative assemblies and members of legislative councils do not participate in the presidential election.
3. Article-55 provides for the manner of election and there should be uniformity and representation throughout the Nation as per the constitution. Hence, MPs and MLAs have been assigned votes as per their representation.
4. The election is held in accordance with the system of proportional representation by means of single transferable vote and voting is done by secret ballot.
5. All doubts and disputes arising out of the Presidential elections are decided into and enquired by the Supreme Court whose decision is final.
6. The elections are monitored and conducted by the Election Commission of India.
7. Only one President, that is, Neelam Sanjiva Reddy has been elected unopposed so far.
8. Dr. Rajendra Prasad is the only President to have been elected twice.
9. Two Presidents – Dr. Zakir Hussain and Fakhruddin Ali Ahmed have died in the office.

Term of office (Article 56) and Re-election (Article 57)

1. Term – 5 years.
2. Resignation is addressed to the Vice-President.
3. The President is eligible for re-election for any number of terms.

Qualification (Article 58), Conditions (Article 59) & Oath (Article 60)

1. Eligibility -
 - (a) Citizen of India

(b) 35 years

(c) Is eligible for election as an MP of the House of the People.

2. Shouldn't hold any office of profit.
3. The President shall not be a member of either House of Parliament of any Legislature. Even if such a member is elected, he is deemed to have vacated that seat.
4. The nomination of a candidate for election must be subscribed by at least 50 electors as proposers and 50 electors as seconders.
5. Oath administered by the Chief Justice of India or in his absence the senior-most judge of the Supreme Court available.
6. Emoluments, allowances and privileges etc. as may be determined by the parliament and which can't be diminished during his term.
7. He is immune from any criminal proceeding during his term. He can't be arrested or imprisoned. However, after two-month' notice civil proceedings can be initiated against him during his term in respect of his personal acts.

Impeachment of the President (Article 61)

1. A formal removal of the President from his post by constitutional means.
2. He is impeached for the 'Violation of the Constitution'. However, the term is defined nowhere in the constitution.
3. The charges can be preferred by either house of the parliament. However, a 14-days' notice shall be served to the President before the acceptance of such a resolution.
4. Also, that notice must be signed by at least one-fourth members of the total members of that house which initiated the charges.
5. After the acceptance of that bill in that house, that impeachment bill must be passed by the majority of $2/3^{\text{rd}}$ of the total membership of that house.
6. Then that bill goes in another house which should investigate the charges and the President shall have the right to appear and to be represented at such an investigation.

7. If another house sustains the charges and finds the President of violation, and passes that resolution by 2/3rd of the total membership of that house, the President stands removed from the date the resolution is so passed.
8. Hence, impeachment is a quasi-judicial process. And though, the nominated members of Parliament do not participate in his election, they take part in the impeachment process. Also, states' legislatures do not have a role in the impeachment process.

Powers of the President

Executive Powers

1. All executive actions are taken in his name. He is the formal, constitutional, titular head or *de jure* head of the Government.
2. Appoints the P.M and other ministers on P.M's advice.
3. Appoints the Attorney General of India, CAG, Chief Election Commissioner and other Commissioners, the chairman and members of UPSC, Governors of states, Chairman and members of Finance Commission etc.
4. He appoints Inter-State Council and he is the one who can declare any area as scheduled area and decides on the matter of the declaration of any tribe as the scheduled tribe.

Legislative Powers

1. Summons and Prorogues the Parliament and dissolves the Lok Sabha.
2. Summons the joint sitting of the two houses of Parliament (which is presided over by the Speaker of Lok Sabha).
3. Nominates 12 members to Rajya Sabha from amongst people having achievements in art, literature, science and social service and may nominate 2 members to Lok Sabha from the Anglo-Indian Community.
4. His prior recommendation is required in case of presentation of certain types of bills such as money bills, bills seeking expenditure from the consolidated fund of India etc.

5. He can withhold his assent to bills, return the bills to the legislatures, apply pocket veto to bills etc.
6. He can promulgate ordinances when the parliament is not in session.
7. He presents the reports of Finance Commission, CAG, and UPSC etc. before the Parliament.
8. No demand for the grant can be made except on his recommendation. Also, he constitutes a Finance Commission every five years for distribution of revenues between center and states.

Judicial Powers

1. Appoints the Chief Justice and other judges of the Supreme Court and High courts.
2. Seeks advice from the Supreme Court on any question of law.
3. He can grant pardon etc.

Emergency Powers

1. National Emergency (Article 352)
2. President's Rule (Article 356)
3. Financial Emergency (Article 360)

Veto Powers

The President of India has three types of Veto powers, namely

1. **Absolute Veto**- Withholding the assent to the bill. The bill then ends and does not become an Act. Example- in 1954, Dr. Rajendra Prasad withheld his assent to the PEPSU Appropriation Bill. Also, in 1991 R. Venkataram withheld his assent to the MPs Salaries, allowances bill.
2. **Suspensive Veto**- Returning the bill for reconsideration. In 2006, President APJ Abdul Kalam used the suspensive veto in the office of profit bill. However, the

President can return the bill for reconsideration to the legislature only once, after which he has to give his consent.

3. **Pocket Veto**- Taking no action on the bill sent to the President. There's no time limit provided in the constitution within which the President has to give his assent or sign the bill. Hence, he has a 'bigger pocket' than the American President. In 1986, President Zail Singh applied Pocket Veto to Indian Post Office Amendment bill.

NOTE: The President has no veto power in case of a constitutional amendment bill. He is bound to give his assent to such bills.

Ordinance Making Powers (Article 123)

1. An ordinance can be issued by the President only when both houses of Parliament are not in session or when only one house is in session.
2. The ordinance must be approved by the Parliament within six weeks of its reassembly.
3. Hence, the maximum life of an ordinance is – six months + six weeks.
4. He can issue an ordinance only on the advice of the council of ministers headed by the P.M

Pardoning power of the President (Article 72)

1. The President has the power to grant pardon, reprieve, commutation, remission, respite to any persons convicted in any Union Law, or by a court-martial or in cases of death penalty.
2. It is an executive power. And the Governor also has those powers under Article 161, however, the Governor can't pardon a death sentence nor can he interfere in court-martial cases.
3. The President exercises this power on the advice of the Union Cabinet.

Discretionary Powers of the President

1. Appointment of the P.M when no party has a clear majority in the Lok Sabha or when the P.M in office dies suddenly and there's no obvious successor.
2. Dismissal of the council of ministers when it can't prove the confidence of the Lok Sabha.
3. Dissolution of the Lok Sabha if the council of ministers has lost its majority.
4. Use of Suspensive Veto in case of bills.

Vice-President of India

Vice-President

Part V of the Constitution of India under Chapter I (Executive) also discusses the office of the Vice-President of India. The Vice-President of India is the second highest constitutional office in the country.

The Vice-President is to be an ex-officio Chairman of the Council of States.

- The Vice-President shall be ex-officio Chairman of the Council of States and shall not hold any other office of profit:
- The first Chairperson of the Rajya Sabha - Dr. Sarvepalli Radhakrishnan
- Provided that during any period when the Vice-President acts as President or discharges the functions of the President under article 65, he shall not perform the duties of the office of Chairman of the Council of States and shall not be entitled to any salary or allowance payable to the Chairman of the Council of States under article 97.
- This is the second most important function of the V.P. He can act as the President in case of the death, impeachment, resignation or otherwise of the President of India. However, he can act as the president only for a maximum period of six months (question asked) within which a new president has to be elected.
- The V.P gets the salary, allowance etc. of the President when he acts as the president, not as the chairperson of the Rajya Sabha.

- The salary, emoluments etc. of the chairperson of the Rajya Sabha is mentioned in the second schedule of the Constitution of India.

Article 66: Election of Vice-President

- The Vice-President of India is elected by an electoral college consisting of:
Elected and nominated members of both house (Lok Sabha and Rajya Sabha) of parliament.
- Vice-President of India is elected by proportional representation system by means of the single transferable vote.
- Voting in Vice-President election is done by secret ballot.
- A candidate to be elected to the office of Vice-President, He/she must secure a fixed quota of Votes.
- Each member of the electoral college is given one ballot paper and He/she is required to indicate his preference by marking against the names of candidates.
- In first counting, if a candidate secures required quota, he is declared elected. Otherwise, the transfer of votes in motion (In this Ballots of candidates who secures least number of votes are canceled for next counting and his second preference votes transferred to the first preference votes of the other candidates.) and the process continues till a candidate secures the required quota.
- All disputes related to the election of Vice-President are inquired into and decided by the supreme court whose decision is final.

Eligibility Criteria for Vice-President

- He/She should be the citizen of India
- He/She has completed the age of 35 years.
- He/She should be qualified for the member of Rajya Sabha
- Does 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. (An office of profit is an office that would give its occupant the opportunity to gain a financial advantage or benefit).

Important Points

- The Election Commission of India conducts the election to the office of the Vice-President.
- The election of the next Vice-President is to be held within 60 days of the expiry of the term of office of the outgoing Vice-President.
- Any person qualified to be elected and intending to stand for election as Vice-President is required to be nominated by at least 20 MPs as proposers and at least 20 MPs as seconders.
- A candidate seeking election as Vice-President is required to make a security deposit of Rs.15,000/-.
- All doubts and disputes arising in connection with the election of the Vice-President are enquired into and decided by the Supreme Court of India whose decision is final.(Art.71)

Parliament of India (Articles 79-122)

Organization of the Parliament

1. The Parliament consists of the President, the Lok Sabha and the Rajya Sabha.
2. Lok Sabha is the Lower House (First Chamber or Popular House) and Rajya Sabha is the Upper House (Second Chamber or House of Elders).

Composition of Rajya Sabha

1. The maximum strength of the Rajya Sabha is fixed at 250, out of which, 238 are to be the representatives of the states and union territories (elected indirectly) and 12 are nominated by the president.

2. At present, the Rajya Sabha has 245 members. Of these, 229 members represent the states, 4 members represent the union territories and 12 members are nominated by the president.
3. The Fourth Schedule of the Constitution deals with the allocation of seats in the Rajya Sabha to the states and union territories.
4. The representatives of states in the Rajya Sabha are elected by the elected members of state legislative assemblies. The seats are allotted to the states in the Rajya Sabha on the basis of population.

NOTE – Population as ascertained on the basis of 2001 census as per 87th Amendment Act, 2003.

Composition of Lok Sabha

1. The maximum strength of the Lok Sabha is fixed at 552. Out of this, 530 members are to be the representatives of the states, 20 members are to be the representatives of the union territories and 2 members may be nominated by the president from the Anglo-Indian community.
2. At present, the Lok Sabha has 545 members.
3. The representatives of states in the Lok Sabha are directly elected by the people from their respective constituencies.
4. The voting age was reduced from 21 to 18 years by the 61st Constitutional Amendment Act, 1988.

Duration of the two Houses of Parliament

1. The Rajya Sabha is a permanent body and not subject to dissolution. However, one-third of its members retire every second year. The retiring members are eligible for re-election and re-nomination any number of times.
2. Unlike the Rajya Sabha, the Lok Sabha is not a continuing chamber. Its normal term is five years from the date of its first meeting after the general elections, after which it automatically dissolves.

Qualification, disqualifications etc. to be an MP

1. Eligibility

- (a) Citizen of India.
- (b) Minimum age – 30 years in Rajya Sabha and 25 years in Lok Sabha.
- (c) He must possess other qualifications prescribed by Parliament. (Hence, the Representation of People Act, 1951).

2. Criteria for disqualifying an MP:

- (a) If he holds any office of profit under the Union or state government
 - (b) If he is of unsound mind and stands so declared by a court.
 - (c) If he is an undischarged insolvent.
 - (d) if he is not a citizen of India or has voluntarily acquired the citizenship of a foreign state or is under any acknowledgement of allegiance to a foreign state; and
 - (e) If he is so disqualified under any law made by Parliament (RPA, 1951).
3. The Constitution also lays down that a person shall be disqualified from being a member of Parliament if he is so disqualified on the ground of defection under the provisions of the Tenth Schedule.
 4. Double Membership - A person cannot be a member of both Houses of Parliament at the same time.
 5. A House can declare the seat of a member vacant if he is absent from all its meetings for a period of sixty days without its permission.

Speaker of the Lok Sabha

1. The Speaker is elected by the Lok Sabha from amongst its members (as soon as may be, after its first sitting). The date of election of the Speaker is fixed by the President.
2. The Speaker offers his resignation to the Deputy Speaker and he can be removed by a resolution passed by a majority of members of Lok Sabha, however, only after giving him a 14-day notice.
3. He presides over a joint sitting of the two Houses of Parliament. Such a sitting is summoned by the President to settle a deadlock between the two Houses on a bill.
4. He decides whether a bill is a money bill or not and his decision on this question is final.
5. He can't vote in the first instance, though can vote in the event of a tie. When his removal motion is under consideration, he can take part and speak in the proceedings and can vote as well but not in the case of a tie. He can't preside in that case. However, his motion can be passed by an absolute majority only and can be considered only if it has the support of at least 50 members.
6. G.V Mavalankar was the first Speaker of Lok Sabha.
7. The longest serving Speaker of Lok Sabha so far has been Balram Jakhar.
8. NOTE – There's also a post known as *Speaker Pro Tem*, appointed by the President himself. He is usually the oldest member of the last Lok Sabha and he presides over the first session of the incoming Lok Sabha. President administers him the oath.

Deputy Speaker of the Lok Sabha

1. Like the Speaker, the Deputy Speaker is also elected by the Lok Sabha itself from amongst its members.
2. The date of election of the Deputy Speaker is fixed by the Speaker. The removal process is the same as that of the speaker and he offers his resignation to the Speaker of the Lok Sabha.
3. Madabhushi Ananthasayanam Ayyangar was the first Deputy Speaker of Lok Sabha.

4. He presides over the joint sitting in case of absence of the Speaker.

Sessions of Parliament

A 'session' of Parliament is the period spanning between the first sitting of a House and its prorogation (or dissolution in the case of the Lok Sabha). The time period between the prorogation of a House and its reassembly in a new session is called 'Recess'.

There are usually three sessions. The budget session is the longest and winter is the shortest.

1. The Budget Session (February to May);
2. The Monsoon Session (July to September); and
3. The Winter Session (November to December).

The maximum gap between two sessions of Parliament cannot be more than six months

The President summons and prorogues the two houses of parliament.

Indian Judiciary

Supreme Court

1. The present-day Supreme Court of India started functioning on January 28, 1950. Its predecessor was the Federal Court of India, which was created as per the Government of India Act of 1935.
2. Articles 124 to 147 mentioned in Part V of the Constitution deal with the organisation, independence, jurisdiction, powers, and procedures and so on of the Supreme Court.

3. At present, the strength of the Supreme Court's judges stands at thirty-one judges (one chief justice and thirty other judges).
4. Originally, the strength of the Supreme Court was fixed at eight (one chief justice and seven other judges).
5. **Appointment-** The judges of the Supreme Court are appointed by the president. The appointment of the Chief Justice is made by the president after consultation with such judges of the Supreme Court and high courts as he deems necessary. The other judges are appointed by the president after consultation with the chief justice and such other judges of the Supreme Court and the high courts as he deems necessary. The consultation with the chief justice is obligatory in the case of appointment of a judge other than Chief justice.
6. In 2015 the National Judicial Appointments Commission was declared Ultra Vires by the Supreme Court and hence the collegium system still holds the ground mentioned above.
7. **Qualification-** A person to be appointed as a judge of the Supreme Court should have the following qualifications:
 - (i) He should be a citizen of India.
 - (ii) (a) He should have been a judge of a High Court (or high courts in succession) for five years, or (b) He should have been an advocate of a High Court (or High Courts in succession) for ten years; or (c) He should be a distinguished jurist in the opinion of the president.
8. **Oath-** The oath to the judges and CJI is administered by the President or any other person appointed by him for this purpose.
9. **Tenure of Judges** - A. He holds office until he attains the age of 65 years. B. He can resign his office by writing to the president. C. He can be removed from his office by the President on the recommendation of the Parliament.
10. **Removal of Judges** A judge of the Supreme Court can be removed from his Office by an order of the President. However, he can do so only after an address by Parliament has been presented to him in the same session for such removal. The address must be supported by a *special majority* of each House of Parliament - a majority of the total membership of that House and a majority of

not less than two-thirds of the members of that House present and voting. The grounds of removal are —proved misbehaviour or incapacity.

11. The removal process of both the Supreme Court and High courts are same.
12. The jurisdiction and powers of the Supreme Court can be classified into- Original Jurisdiction, Writ Jurisdiction, Appellate Jurisdiction, Advisory Jurisdiction, A court of Record and so on.
13. **Original Jurisdiction** - when the case is involved between centre and states or two or more states or centre and two or more states being anti. The first such instance came in 1961 in West Bengal VS the centre.
14. The Constitution has constituted the Supreme Court as the guarantor and defender of the fundamental rights of the citizens. The Supreme Court is empowered to issue writs including *habeas corpus*, *mandamus*, prohibition, *quo-warranto* and *certiorari* for the enforcement of the fundamental rights of an aggrieved citizen. The difference between the supreme court's and high court's writ jurisdiction is that the supreme court can issue writs in cases involving only fundamental rights and the high courts can issue writs otherwise as well.

High Court

1. The institution of high court originated in India in 1862 when the high courts were set up at Calcutta, Bombay and Madras. The fourth one was established at Allahabad in 1866 and subsequently in other provinces in British India and then as they were called states after independence.
2. As per the Seventh Amendment Act of 1956, the Parliament can establish a common high court for two or more states or for two or more states and a union territory.
3. At present, there are 24 high courts in the country. Out of them, three are common high courts. Delhi is the only union territory that has a high court of its own (since 1966). The other union territories fall under the jurisdiction of different state high courts.
4. Appointment of Judges The judges of a high court are appointed by the President. The chief justice of the High Court is appointed by the President after

consultation with the chief justice of India and the governor of the state concerned. For appointment of other judges, the chief justice of the concerned high court is also consulted. In case of a common high court for two or more states, the governors of all the states concerned are consulted by the president.

5. Qualifications of Judges A person to be appointed as a judge of a high court should have the following qualifications: A. He should be a citizen of India. B. (a) He should have held a judicial office in the territory of India for ten years, or (b) He should have been an advocate of a high court (or high courts in succession) for ten years.
6. Oath or Affirmation Oath to the judge is administered by the governor of the state or some person appointed by him for this purpose.
7. Tenure of Judges - A. He holds office until he attains the age of 62 years. B. He can resign his office by writing to the president. C. He can be removed from his office by the President on the recommendation of the Parliament. D. He vacates his office when he is appointed as a judge of the Supreme Court or when he is transferred to another high court.

Constitutional Bodies

ELECTION COMMISSION

1. Article 324 of the Constitution mentions about the election commission mentioned in part XV.
2. The institution of Election Commission presently consists of the chief election commissioner and two other election commissioners, appointed by the President.
3. They hold office for a term of six years. The age of retirement is 65 years, whichever comes earlier.
4. The first election commissioner of India was Sukumar Sen.

UNION PUBLIC SERVICE COMMISSION

1. Mentioned under articles 315 to 323 in Part XIV of the Constitution (Article 315 mentions about the public service commission for the union and the states).
2. The UPSC consists of a chairman and other members appointed by the president of India.
3. The term is of six years or the retirement age is 65 years, whichever is earlier.
4. The chairman of UPSC (on ceasing to hold office) is not eligible for further employment in the Government of India or a state.

STATE PUBLIC SERVICE COMMISSION

1. A State Public Service Commission consists of a chairman and other members appointed by the governor of the state.
2. The term of office is 6 years or retirement age is 62 years, whichever is attained earlier. They offer their respective resignations to the governor.
3. The chairman and members can be removed only by the President, though they're appointed by the Governor. The ground for removal is same as that of a chairman or a member of the UPSC.
4. NOTE – There is a provision for the establishment of a Joint Public Service Commission (JPSC) for two or more states under the constitution.
5. A JPSC is/can be created by an act of parliament on the request of the respective states, unlike UPSC and SPSC which are constitutional bodies. Hence, a JPSC is a statutory body not a constitutional one.
6. The chairman and members of a JSPSC are appointed by the president. The term of office is again six years or the age of retirement is 62 years, whichever comes earlier.

FINANCE COMMISSION

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

2. The Finance Commission consists of a chairman and four other members to be appointed by the president. They hold office for such period as specified by the president in his order. They are eligible for reappointment.
3. It is majorly an advisory body though and it advises on the distribution of net proceeds of taxes to be shared between the centre and the states and the allocation between the states the respective shares of such proceeds.
4. The Chairman of the first finance commission was K.C Neogi and presently it is the 15th F.C whose chairman is N.K Singh.

NATIONAL COMMISSION FOR SCs

- Mentioned in Article 338 of the Constitution of India.

NATIONAL COMMISSION FOR STs

- Mentioned in Article 338-A of the Constitution of India.

SPECIAL OFFICER FOR LINGUISTIC MINORITIES

- It is mentioned in 350-B in Part XVII of the Constitution.

COMPTROLLER and AUDITOR GENERAL of INDIA

1. The Constitution of India (Article 148) provides for an independent office of the Comptroller and Auditor General of India (CAG).
2. He is the head of the Indian Audit and Accounts Department.
3. He is the guardian of the public purse and controls the entire financial system of the country at both the levels—the Centre and the state.
4. This is the reason why Dr. B R Ambedkar said that the CAG shall be the most important Officer under the Constitution of India.
5. The CAG is appointed by the president of India by a warrant under his hand and seal.

6. He holds office for a period of six years or up to the age of 65 years, whichever is earlier.
7. He can be removed by the President either on the grounds of proven misbehavior or incapacity. The method of removal is the same as that of a judge of the Supreme Court.
8. He is not entitled to hold any further employment after he retires or is removed, either at the center or at the state government level.
9. The administrative expenses of the office of the CAG, including all salaries, allowances, and pensions of persons serving in that office are charged upon the Consolidated Fund of India. Thus, they are not subject to the vote of Parliament.
10. He audits the accounts related to all expenditure from the Consolidated Fund of India, consolidated fund of each state and consolidated fund of each union territory having a Legislative Assembly.
11. He audits all expenditure from the Contingency Fund of India and the Public Account of India as well as the contingency fund of each state and the public account of each state.
12. He submits his audit reports relating to the accounts of the Centre to President, who shall, in turn, place them before both the Houses of Parliament (Article 151).
13. He submits his audit reports relating to the accounts of a state to the governor, who shall, in turn, place them before the state legislature (Article 151).
14. The President lays the reports submitted by CAG before both the Houses of Parliament. The Public Accounts Committee then scrutinizes them and reports the findings to the Parliament.

ATTORNEY GENERAL OF INDIA

1. Mentioned in Article 76 of the Constitution of India.
2. Titled as the highest law officer in the country.
3. Appointed by the President.
4. An AGI is one who is qualified to be appointed a judge of the Supreme Court.
5. The term is not fixed and he holds office during the pleasure of the President.

6. In the performance of his official duties, the Attorney General has the right of audience in all courts in the territory of India. Further, he has the right to speak and to take part in the proceedings of both the Houses of Parliament or their joint sitting and any committee of the Parliament of which he may be named a member, but without a right to vote. He enjoys all the privileges and immunities that are available to a Member of Parliament.
7. NOTE- In addition to the AG, there are other law officers of the Government of India. They are the solicitor general of India and additional solicitor general of India. They assist the AG in the fulfillment of his official responsibilities. It should be noted here that only the office of the AG is created by the Constitution. In other words, Article 76 does not mention about the solicitor general and additional solicitor general.
8. The first and the longest serving AGI of India was Motilal Chimanlal Setalvad.

ADVOCATE GENERAL OF THE STATE

1. The Constitution (Article 165) has provided for the office of the advocate general for the states. He is the highest law officer in the state. Thus he corresponds to the Attorney General of India.
 2. The advocate general is appointed by the governor. He must be a person who is qualified to be appointed a judge of a high court.
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