Indian Political System and Democracy

Course Code: SGB24PS101MI
Minor Course - Political Science
For FYUG Programmes (Honours)

SELF LEARNING MATERIAL

SREENARAYANAGURU OPEN UNIVERSITY

SREENARAYANAGURU OPEN UNIVERSITY

The State University for Education, Training and Research in Blended Format, Kerala

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Mission

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Pathway

Access and Quality define Equity.

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SGOU

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Minor Course - Political Science

Semester - I

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Message from Vice Chancellor

Dear Learner,

It is with great pleasure that I welcome you to the Four Year UG Programme offered by Sreenarayanaguru Open University.

Established in September 2020, our university aims to provide high-quality higher education through open and distance learning. Our guiding principle, 'access and quality define equity', shapes our approach to education. We are committed to maintaining the highest standards in our academic offerings.

Our university proudly bears the name of Sreenarayanaguru, a prominent Renaissance thinker of modern India. His philosophy of social reform and educational empowerment serves as a constant reminder of our dedication to excellence in all our academic pursuits.

The Four Year UG Minor Course "Indian Political System and Democracy" covers all relevant areas aligned with political science and democratic principles. We have incorporated the latest trends in political studies to ensure a comprehensive and up-to-date curriculum. Minor courses offer valuable supplementary knowledge that complements your major field of study. These allied subjects broaden your academic perspective, enhance interdisciplinary understanding, and develop versatile skills. By exploring related disciplines, you gain a more comprehensive education, preparing you for diverse career opportunities and fostering well-rounded intellectual growth throughout your academic journey.

Our teaching methodology combines three key elements: Self Learning Material, Classroom Counselling, and Virtual modes. This blended approach aims to provide a rich and engaging learning experience, overcoming the limitations often associated with distance education. We are confident that this programme will enhance your understanding of Indian politics and democracy, preparing you for various career paths and further academic pursuits.

Our learner support services are always available to address any concerns you may have during your time with us. We encourage you to reach out with any questions or feedback regarding the programme.

We wish you success in your academic journey with Sreenarayanaguru Open University.

Best regards,

Dr. Jagathy Raj V.P.
Vice Chancellor

01-09-2024

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BLOCK - 01

Philosophy of the Constitution

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Unit 1
Legacy of National Movement and Making of the Constitution

Learning Outcomes

Upon the completion of this unit, the learner will be able to:

- explain the influence of the national movement on the foundational principles of India's Constitution.
- analyse the impact of colonial experiences on the constitutional framework of India.
- discuss how the national movement fostered values like equality, justice, and democracy in the Constitution.

Prerequisites

As India approached independence, the legacy of its national movement played a crucial role in shaping the Constitution. Imagine a country united by the desire for freedom, where leaders like Gandhi and Nehru inspired millions to dream of a just and democratic nation. The experiences of colonial rule, protests, and the quest for self-governance laid the groundwork for a new India. Drawing from this rich history, the leaders envisioned a Constitution that would uphold the values of equality, justice, and freedom. This journey from colonial subjugation to creating a democratic framework is the foundation of modern India.

Keywords

Constitution, National Movement, Nationalism, Indian National Congress, Western Education in India, Constitutional Changes and Challenges

Discussion

1.1.1 National Movement in India

National Movement in India was essentially a political movement against British imperialism. It was a revolt against the political and economic domination of India by the British imperialists and their repressive and exploitative policies. It had strong social, economic, political, and religious dimensions.

Indian freedom struggle constituted different ideological streams of which the legendary non-violent, non-cooperation struggle spearheaded by Mahatma Gandhi held a dominant position.

1.1.1.1 Factors that Led to Indian Nationalism

Many factors led to the emergence of Indian nationalism in the latter part of the 19th century. These factors were political, social, economic, cultural, and religious in nature. The unification of India under a strong central government, introduction of western education and administration, common code of justice, destruction of the village economy, the introduction of social reform movements, modern means of communication and transport facilities etc., resulted in the growth and development of the national movement in India.

1. Western Impact

Professor Toynbee pointed out that the western impact on India was greater than that in any other part of Asia. Nationalism in India was really the result of the western impact. As a result of this there began an intellectual renaissance in India. This awakened a spirit of unity and solidarity among the people of India. Indians were inspired by the western concepts of Liberty, Equality, Fraternity. Various socio-religious movements inspired by the Brahma Samaj, the Arya Samaj, the Theosophical Society, and Ramakrishna Mission etc. have come about as a result of the western impact. They were basically socio-religious movements that attempted for cultural reforms in India but had political overtones.

2. British Administrative Impact

'The British displayed far better administrative and organisational skills than any of the earlier ruling classes of India'. They brought about an unprecedented degree of political unification and introduced a highly centralised administrative system in the country. As a result of the British administration, a new Indian-educated and administratively experienced class emerged. It promoted the feeling of homogeneity among the various groups in different parts of India. It also helped to create national consciousness among the people of India. For the first time, in the political history of India, common and identical laws were made for the whole country. It unified administration and justice leding to the political unity of India.

3. Impact of Western Education

English education played an important role in the development of Indian Nationalism. It created "a class of persons, Indian in blood and color, but English in taste, opinions, morals, and intellect." The greatest impact of the British Education system in India was the creation of a new middle class. They are the products of the schools and universities established by the British ruling class. English, then, acted as a medium that linked different people who had spoken a variety of languages. It was a means to strengthen the bounds of nationalism. The newly rising middle class first collaborated with the British imperial rule later they led the movement for freedom struggle.

4. Impact of Means of Communication and Transports

British introduced modern means of communication in India. In the early fifties of the 19th century, the promotion of railways was started and it became a symbol of a united India. It made communication and interaction between the people of different parts of the country possible. In the words of Punish, "The whole India from the Himalayas to the

Cape Comorin was now, brought under one government and this gave her people a new sense of political unity."

Indian press also played an important role in the promotion of nationalism. The Vernacular Press Act created common thoughts and feelings among the Indians against the British authorities. It not only developed a sense of patriotism among Indians but also highlighted the drawbacks of British rule and its exploitative character. Newspapers like Amrita Bazaar Patrika, The Indian Mirror, The Patriot, The Hindu, The Kasseri, and others did a lot in bringing such information to the Indian masses.

5. Economic Exploitation

The economic exploitation policy followed by the British resulted in the destruction of agriculture and trade in India. They took away raw materials from India and brought finished products from Britain, and got huge profits. The free trade policy of Britain in India was totally against the interests of Indians. Under this system, entry of Indian goods into Britain was strictly regulated while British goods could enter India without any restriction. At the same time, some sections of the Indian economy were modernised. They helped to create new socio-economic classes and interests. This also contributed to the rise of nationalism in India.

6. Birth of Indian National Congress

Indian national movement took an organised form with the establishment of the Indian National Congress in 1885. It was founded by A.O. Hume, an English retired civil servant, in association with various national leaders. He hoped that it would become the 'gem of a native parliament'. It was the institutional expression of the Indian aspiration for liberation. It was the symbol of Indian nationalism and growing political consciousness for the political regeneration of India.

The objectives of the Indian National Congress were outlined by W. C. Banerjee in his presidential address during the first Session of the Congress in 1885. He was the First President of the INC. The objectives included: the promotion of personal intimacy and friendship among members, fuller development and consolidation of all sentiments of national unity, and so on. Indian National Congress had become the prime mover of national movement thereafter.

1.1.2 Constitution

The making of the Constitution of India is largly, a legacy of British Rule. It is mainly because the various structural and functional aspects of our Constitution has its roots in British rule. Constitution is the *Fundamental Law* of the land. The constitution of a state is formal legal contrivance for its governance. It is a basic law which determines the structure of the States, defines the power of the governments and the rights and duties of the people . It also determines the relations between different institutions and agencies of the government like the Legislature, the Executive, and the Judiciary.

Definitions

According to Gilchrist, Constitution consists of " *that body of rules or laws, written or unwritten, which determines the organisation of government, the distribution of powers to the various organs of government, and the general principles on which those powers are exercised*."

In the words of C.F. Strong, constitution is "*a collection of principles according to which the powers of the government and the rights of the governed are determined and the relation between the two adjusted."*

1.1.2.1 Constitutional Development of India: 1600 -1950

The History of the Constitution of India began with the establishment of the East India Company in England in 1600 and ended with a new Constitution which came into force on January 26th, 1950. The landmark in the development of the Constitution during and after the British rule are explained below in chronological order and it can be broadly divided into five phases:

1. The Coming of the British (1600 – 1765)
2. Beginning of the British Rule (1765 – 1858)
3. Beginning of Parliamentary Rule (1858 – 1919)
4. Introduction of Self-Rule (1919 – 1947)
5. After Independence (1947 – 1950)

1. The Coming of The British -1600- 1765

The British period in the history of India began with the establishment of the East India Company in the year 1600 in England. The East India Company was a trading company formed by a few merchants of London with a capital of $ 70,000 in 1600. On December 31'st 1600, Queen Elizabeth-I granted the company a charter for fifteen years giving it the monopoly of Eastern trade and conferring certain exclusive trading privileges on the company. The charter deals with management, organisation, constitutional privileges and powers of the company. The charter authorised the company to have monopoly of trade with the last and also attached with an armed naval force. The company was managed by *a Governor, a Deputy- Governor, and a committee of 24 men elected annually.* In return for the privileges of trade, the company was to give to the British Crown a share of its profit.

With the permission of Indian rulers, the company started trade centers or factories at several places in India. But the conditions changed when the company acquired political power in the provinces of Bengal, Bihar, and Orissa. In course of time, the company acquired more and more territories in India and increased its power and influence in the Indian subcontinent.

2. Beginning of The British Rule –1765-1858

The grant of '*Diwani'* made the East India Company the real masters of Bengal Bihar and Orissa. It authorised the company to collect the revenue from these regions and the Company was responsible for the administration of civil and justice matters. During that time, the British Parliament passed a series of acts for the smooth running of the Company's administration in India.

a) The Regulating Act of 1773

This Act was the first step of the British Parliament which established a definite system for the Government of India. The Act created the post of the Governor General of Bengal for dealing with the company's entire administration in India. Under the provisions of the Act Lord Warren Hastings was appointed the first Governor General of Bengal. The Act also changed the Constitution of the company. It recognised the administrative domination of the Government of Bengal and brought Bombay and Madras under the control of the Governor General of Bengal. It provided for the establishment of a Supreme Court at Calcutta as the highest Court, which comprised of a chief justice and three other judges. It prevented the servants of the company from engaging in any private trade or accepting presents or bribes from natives.

b) The Pitt's India Act 1784

It placed Indian affairs under the direct control of the British Government. The act distinguished between the commercial and political functions of the company. For this purpose, it established a Board of Control (representing the British Cabinet) over The Court of Directors (the governing body of the East India Company) as a political body of six Commissioners. The Act also limited the powers of The Court of Directors and allowed only the management of commercial affairs of the Company.

c) The Charter Act of 1833

The Act was the final step toward centralised administration in India. It made the Governor General of Bengal the Governor General of India. All civil and military powers were vested with him. It deprived the governor of Bombay and Madras of their legislative powers. The act created for the first time the Government of India having authority over the entire territorial area possessed by the British in India. It also ended the activities of East India Company as a commercial body.

d) The Charter Act of 1853

This was the last of the series of charter acts passed by the British Parliament between 1793 and 1853. The act separated the legislative and executive functions of the Governor General's Council. The act introduced an open competition system for the recruitment and selection of civil servants. The act also introduced provincial representation in the Indian Central Legislative Council. It marked the end of the first phase of constitutional development in India.

3. Beginning of Parliamentary Rule 1858-1919

a) The Government of India Act 1858

The first war of independence or the Revolt of 1857 shook the company's rule in India. This event compelled the British Parliament to pass the Government of India Act of 1858. The act is also known as the 'Act for Good Government of India'. It abolished the rule of the East India Company and established absolute control of the British Parliament over the government in India. In other words, all powers enjoyed by the company were transferred to the crown.

Features of the Act of 1858

1. The act created a new office, the Secretary of State for India for administrative purpose, who was a member of the British Cabinet, responsible to the British Parliament. Their salaries and other allowances would be met by the Indian Exchequer.
2. It changed the designation of the Governor General of India to that of the Viceroy of India. He was the direct representative of the British crown in India. (Lord Canning was the first Viceroy of India)
3. It ended the system of double government by abolishing the Board of Control and Court of Directors and their powers were transferred to the Secretary of State for India.
4. As per this Act, a council that consisted of 15 members was established to assist the Secretary of State for India. The Secretary of State was the President of the Council of State. The salaries and other allowances of the members would be paid by the Indian Exchequer.

5. The Secretary of State for India presented the budget of India in both houses of the British Parliament.

6. Under this Act and the Declaration of the Queen, the Indian people were assured equality, freedom, and religious tolerance.

The transfer of power from the hands of the Company to the British parliament was the most significant event in the constitutional history of India.

b) Indian Council Act of 1861

The Indian Council Act of 1861 is an important landmark in the constitutional and political history of India. It decided the constitutional structure and ensured the cooperation of the people in the law-making process. It introduced the policy of decentralisation in administration. It tried to remove all the shortcomings of the Government of India Act of 1858.

Main Provisions of the Act

a. It brought about the beginning of the representative institutions in India.

b. The Act enlarged the Governor General Council from 4 to 5 for the purpose of making laws and regulations. In the Council, one member must be an expert in legal subject.

c. Provision was made to appoint some Indians, for the first time, to assist British authorities for the smooth conduct of ruling as non-official members.

d. It initiated the process of decentralisation by restoring the legislative powers of the Bombay and Madras presidencies.

e. The Provincial legislative councils were empowered to make laws for the benefit of the province.

f. The Act empowered the Governor General to frame rules for more convenient transactions of business in the council.

g. It also authorised the Governor General to issue ordinances that were to remain in force for six months.

The Act introduced a remarkable change in the constitutional structure of India. The Indian Council Act of 1861 built a path for decentralisation in place of centralisation.

c. The Indian Council Act of 1892

The Indian Council Act of 1861 could not satisfy the aspirations of the people of India. The Vernacular Press Act, Indian Arms Act, and Ilbert Bill passed during the time of Lord Lytton played a significant role in the rise of nationalism in educated Indians. The British Parliament passed the Indian Council Act of 1892 as a result of the demand and advice of the Indian people.

Main Provisions of the Act:

1. It increased the number of members in the Central Legislative Council from 10 to 16. Out of 16, ten members were non-officials.
2. The Act also increased the number of members in the Provincial Council. The Act fixed this number at 15 in Madras and 20 in Bombay.
3. Introduced a partial election system to Councils.
4. Enlarged the functions of the Councils and gave them the power to discuss the budget and some other matters.

The Act of 1892 was more progressive in many matters: It helped to appoint Indians to high administrative posts. The election was recognised indirectly through this act.

This act was notable for its object, which was explained by the Secretary of State for India, " *to widen the basis and expand the functions of the government of India, and to give further opportunities to the non-official and native elements in Indian society to take part in the work of the government*." So, it is a definite milestone on the road that led to the establishment of a parliamentary government later on.

d. Government of India Act 1909 (Minto-Morley Reforms)

The Indian Council Act failed to satisfy the demands of the Indian National Congress. The rise of extremism within congress led to further dissatisfaction with the reforms. Lord Curzon's policy of the partition of Bengal in 1905 and some of his administrative measures fuelled the patriotism of Indians. It caused the racial arrogance of the British and the humiliation of the Indians in India and outside. It also provided provocation to Indian nationalism. The government realised the necessity for further reforms to check the rise of extremism in Indian politics. Lord Minto the Governor General applied a threefold measure in order to face the situation, It included:

1. The policy to suppress the movement by repressive measures.
2. The policy of Divide and Rule. (It resulted in the formation of the All-India Muslim League in 1906).
3. The policy to pacify moderate elements in the country.

Lord Minto was convinced of the necessity of constitutional reforms in India. Lord Morley, the Secretary of States for India also agreed with his view. He appointed a committee by the Government of India to propose a scheme for constitutional reforms in India. The committee submitted a report in October 1906 and discussed it in the Viceroy's council and then sent it to the Secretary of State for India. In light of the report, a Bill was finally drafted and passed by the British parliament on February -1909. Hence the new scheme of reforms has been called the Minto-Morley Reforms.

Main Provisions of the Act of 1909

The number of members of the Provincial legislatures was also increased for Bengal, Bombay, and Madras it was fixed at 50 and for other provinces, the number was fixed at 30.

The members of the Centre and Provincial Legislature were to be in four categories:

a. Ex-Officio members (Governor-General and his Executive Council members at the center and Governor and Executive Council members at the Province)

b. Nominated Official members (nominated by the Governor General at the Centre and Governor at the Provinces)

c. Nominated non-official members

d. Elected members (the members elected by different categories of Indian people).

The Act introduced a professional & communal representative system in India. (Instead of the territorial or proportional representative system) Under this system, the Muslim members were to be elected only by Muslim voters. Thus, the Act 'legalised communalism'

At the center the official majority was maintained, but in the provinces, the non-official majority was kept. The powers of the legislative council were increased. Members were allowed to discuss the budgets, suggest amendments, and vote on them except in case of non-votable items. The Secretary of State for India was empowered to increase the

number of the executive council of Madras and Bombay.

In addition to two Indians already nominated to the Secretary of State's Council (1907), the Act also empowered the Governor General to nominate one Indian member to the executive council. It also provided for the separate representation of the Presidency, Corporations, Chambers of Commerce, Universities, and Zamindari.

Criticism

The Act of 1909 suffered from serious defects. The Congress soon realised that the Act was not in accordance with their aspirations and started criticising it.

1. It lost unity in function - The members of the legislative councils represented communal and class interests.
2. Domination of authority -The official majority was maintained at the center, while in the province also the government dominated through nominated non-official.
3. Voting rights were highly restricted — The ordinary people did not have the right to vote when compared to the very high qualifications of voters.
4. Powerless Legislature —The powers of the legislative council were very limited, Governor General and Governors exercised their discretionary powers.

Gopal Krishna Gokhale criticised the Government of India Act 1909, and said that "These reforms had entirely changed the nature of bureaucracy and the elected members got the chance to influence the executive.... but all the goodness in the reforms was destroyed by the laws of the government."

4. Introduction of Self Rule 1919- 1947

The Government of India Act 1919 (Montagu-Chelms Ford Reforms)

The next landmark in the constitutional development of India was the Montague-Chelmsford Report which led to the enactment of the Government of India Act, 1919. Government of India Act, 1909 failed to satisfy the demand of Indians. Hence, the demand for constitutional reforms went on increasing.

Background on the act:

1. Failure of The Government of India Act 1909

It failed to satisfy the aspirations of the Indians as they did not establish a Parliamentary system of Government in the country. The elected non-official members became helpless in the Council and acted as a solid official block. The communal representation created for communal polarisation and this initiative created various problems in India. At the same time, Indian nationalism became more aggressive and gradually the Congress came under the influence of Extremists.

2. Government Policy of Repression

The British government wanted to please the liberals with its reforms; on the other hand, it wanted to crush the militants through its repressive measures. This dual policy failed to satisfy any party. This situation created chaos and confusion spread all over the country. A number of stringent laws was passed during this time. For the regulation of freedom of press, The Indian Press Act 1910 revived some of the worst features of the Indian Vernacular Press Act of 1878. *It* was continued by the Prevention of Seditious Meetings Act, 1907 passed. They continued

with their repressive activities and polices, which deepened the tension. These measures were strongly opposed by Indians everywhere in the country.

3. The First World War— 1914-1919

Indian National Congress became very active during the time of 1st world war and pressed for reforms. The nationalist raised the hope, that substantial reform would come after the war. In the war, Turkey joined with the Germans against Britain, this shook the alliance of the Muslim loyalists with British raj. In many ways, the war set a new political horizon and further sharpened the appetite of Indians for self- government.

4. Congress –League Pact 1916.

As a result of stronger growth of nationalism among Indians during the first world war, the Congress and the League came closer and held a joint session at Lucknow in 1916. They reached a pact in this session and it was known as the Lucknow Pact 1916.It was an important step in achieving Hindu- Muslim unity. This weakened the British policy of divide and rule and they compelled for another constitutional reforms.

5. Home Rule Movement

The unity in the Congress was restored by the Home Rule Movement of Mrs. Anni Besant and Tilak in 1916. Mrs. Basant was a great lover of India and was deeply interested in the educational, social and religious upliftment of the Indian people. The objective of the movement was the attainment of self-government by constitutional means. The authorities were seriously concerned with the movement and decided to curb it at all cost. Reactionary measures, already in operation, were tightened up. Finally, the British government decided to adopt the policy of conciliation, and ensure immediate grant of substantial instalment of self -rule.

6. Ruling Liberal Party's Sympathetic Attitude Towards Indians

a) Introduction to Government of India Act 1919

In response to this situation and popular demand, in 1917 August 20th Edwin Montague the Secretary of State for India made a famous declaration regarding the British policy towards India in the House of Commons. This declaration was called the 'Grand Declaration'.

He said, "The policy of His Majesty's Government, with which the government of India are in complete accord, is that of the increasing associations of Indians in every branch of administration and gradual development of self-governing. Institutions with a view to the progressive realisation of responsible government in India as an integral part of the British Empire... I would add that progress in this policy can only be achieved by stages. The British Government and the Government of India, on whom the responsibility lies for the welfare and advancement of Indian people, must be judges of the time and measure of each advance, and they must be guided by the co-operation received from those upon whom new opportunities of service will thus be conferred and by the extent to which it is found that confidence can be reposed in their sense of responsibility"

After making his historic announcement in August, Montagu visited India in November 1917. Determined to produce something epoch-making which was to be the key-stone of the future history. In his visit, he discussed the constitutional problem with the Viceroy, the Governors, the leaders of the Congress and the League, and certain important officers

of the Government of India. A committee was appointed to draft a scheme of reforms. It consisted of Sir William Duke, the Earl of Doughman, Bhupendra Nath Basu, Charles Robert, the Viceroy and the Secretary of the State. By April 1918 the report was finished.

Upon the spirit of the above declaration and the committee report, the Government of India Bill 1919 was drafted and passed by British Parliament. It got the Royal assent on December 23, 1919. This is known as *Montague-Chelmsford Reforms or The Government of India Act 1919.*

Main Features of the Act of 1919

The Government of India Act 1919 introduced many important changes in the Indian constitutional system. It made significant changes in the machinery for the government of India, both in London and India.

1. Preamble of the Act

The objective of the act outlined in the Preamble of the Act of 1919 said that:

a. India was to remain an integral part of the British Empire

b. Responsible government in India was the objective of the declared policy of the parliament

c. Responsible government was possible on progressive realisation only

d. Development of self -governing institutions

e. Highest measures of independence at province levels.

2. Changes in the Home Government

The act introduced a number of changes in the Home Government.

a. A High Commissioner for India was to be appointed and posted in London to look after the interest of Indian trade, purchases of stores, machinery etc. He was also to safeguard the interests of Indian students abroad.

b. The Secretary of State's power over Provincial level administration was limited.

c. The Council membership was fixed between Eight to Twelve

d. The salary and allowances of the Secretary of States for India were to be charged on the British exchequer.

3. Division of functions

The Act divided the functions of the government between central and provinces. For this purpose, it provided for two lists of subjects i.e. the Central List and the Provincial List. Those subjects which were of national importance or requiring uniform legislation for the whole country were included in the Central List. The Central list included All-India affairs like defence, foreign affairs, railways, currency, foreign trade etc. Subjects of provincial level administrative matters were mentioned in the Provincial List. It included affairs like health, sanitation, education, public work, irrigation, police, prisons etc.

4. Change in the Central Legislature

The Act introduced a bio-cameral legislature at the centre in place of unicameral imperial legislature. It consists of 'The Council of State', the Upper House which consisted of sixty members. The Legislative Assembly, the Lower House and consisted of one hundred and forty-four members.

The franchise was so rigid, the quota for each province was fixed on the base of its

population. The vote was limited to those who either owned a house of a rental value of Rs. 180 or more, or who paid a municipal tax of Rs. 15 or more a year or who had an annual income of Rs. 2000 or more, who paid a land revenue of Rs. 50 or more a year. The total number of voters to the central assembly in 1920 was 9,09,874 in population of about 25 cores.

5. Powers of Central Legislature

The Centre was given extensive power and it was authorised to legislate the whole of British India, both for Indian subjects and servants of the Crown. It could repeal or amend laws, but the Act also imposed several restrictions on these powers. Each house elected its own President. Both houses enjoyed equal powers in the matters of legislation. But in case of a tie, the Governor General was to call a joint meeting where the matter was to be decided by the majority vote.

a) Governor General could enact laws which were essential for the safety or interest of the British India.

b) The Governor General was empowered to make and promulgate ordinances for the peace and good government of British India or any part thereof.

c) The Governor General could return any law passed by the Centre legislature

d) The Governor General could reserve the Bill for the assent of His Majesty.

e) The Governor General's prior sanction was required for bills relating to certain matters.

6. Change Introduced in Provincial Administration

The Act introduced changes in the Provincial Legislature, they were re-named to Provincial Council. Their size was enlarged and total membership varied from Province to Province. From the total membership 70% members were directly elected and 30% were nominated by the Governor. Out of 30% nominated members 20% were from official and remaining 10% from non-official. Under the Act Madras had 132 members, Bengal 140, United Provinces 123 and Bombay 114.

The system of direct election was introduced for the provincial Council. It extended the principle of communal representation by providing separate electorates for Sikhs, Indian Christians, Anglo-Indians and Europeans. The franchise was highly limited in number and on the basis of property, tax or education.

The functions of the Council were also enlarged. The members enjoyed freedom of speech, the right to move resolutions, to ask questions and initiate legislation etc.

7. Dyarchy Established at Provinces

The most important change made by the act of 1919 was the establishment of Dyarchy at the province. Dyarchy has been derived from the Greek word 'di-arche', means double rule. The object of the Dyarchy was to train the natives in the act of self-government. Under the system the provincial subjects were divided into two heads viz' The Reserved Subjects and Transferred Subjects:

Reserved Subjects were those subjects which were supposed to be of greater importance and were 28 in number. They were administrated by the Governor with the help of his Executive Council members who were nominated by him. They were not responsible to the legislature but to the Governor General and Whitehall. The Reserved Subjects were: Finance, Land revenue, Justice, Police,

Prisons, Printing, Public Services, Mines and Factories, irrigation, electricity etc.

Transferred Subjects were those subjects which were of minor importance and were 22 in number. They were administrated by the Governor with the help of Ministers appointed by him from among the members of the legislature. The ministers were to hold office during the pleasure of the Governor and responsible to the legislature. The Subjects were: Local-Self Government, Education, Medical Administration, Public health, Agriculture, Industry, Public Work , Fisheries etc.

Working of Dyarchy- in April 1921 it was introduced in Assam, Bengal, Bihar, Bombay, Madras, Punjab and United Province and in 1932 it was introduced on the North-West Frontier provinces. This system remained in operation for 16 years till April-1937.

During the period it worked from 1921-1937 it had to face a lot of criticism and opposition from various sections of the Indian population. For instance, in Central Province and Bengal, the Government machinery came to a standstill due to constitutional crises of 1924-26 and 1924-27 respectively. In other provinces also there were frequent clashes and deadlocks between the Governor and the Ministers. The system, neither satisfied the Indian public opinion, nor worked successfully when implemented. It failed both in practice and principle. The system finally ended in 1937.

a) Causes of failure of Dyarchy under the Act of 1919

- Irrational, illogical and unscientific division of subjects between Reserved and Transferred.
- Lack of co-operation among departments.
- Financial dependency of Ministers.
- Over domination of Governor.
- Non- cooperation of the civil servants to Indian Ministers.
- Double responsibility of ministers to the legislature and the Governor could not operate smoothly.
- Discouraging joint responsibilities.
- Responsibilities without corresponding authority.
- Non- cooperation attitude of the Congress, the League and other political organisations.

b) Merits of the Act - 1919

- It was a step towards responsible government in India.
- Elections to the legislature created political consciousness among the people.
- Indians came in direct contact with administrative experience.
- Number of Indians in the civil service increased.
- For the first time Indian women got the Right of franchise.
- Several useful measures were taken by the Indian ministers in different provinces.

1.1.2.2 Government of India Act 1935

The Government of India Act 1935 constitutes the next important step in the constitutional development in India. The act dealt with a very complex type of government and it tried to provide legal safeguards against the wrong use of power by Legislators and Ministers. It was a lengthy, detailed and complicated document consisting of 321

sections and 10 schedules. Its most significant feature was the deliberate omission of any direct or indirect reference to Grant of Dominion Status of India. The Act of 1935 had no Preamble, Sir Samuel Hoare, the Secretary of State for India, said there was "no need for a Preamble in this case, as no pronouncement of policy or intention is required."

Background of the Act

1) Failure of the Government of India Act 1919

The Government of India Act 1919 failed to satisfy the aspirations of the Indians as they did not establish responsible self -governing institutions in India. The Indian National Congress continued its demand for independence and started the non- cooperation movement in 1920. They also boycotted provincial election of 1920.

2) Simon Commission Report

In November, 1927, the Indian statutory commission was set up to enquire into working of the Government of India Act of 1919 and to make necessary recommendations for a new constitution. It consisted of seven-members of the British Parliament with Sir John Simon, a brilliant lawyer from England as its chairman. All members of the commission were British and so it was boycotted by both the Congress and the Muslim League. When the commission visited India in 1928, it was greeted with a countrywide hartal. Wherever the commission went, it was greeted with hartals, demonstrations, black flags, and the slogans of 'Simon go back'. In spite of the protest, the commission submitted its report in 1930. It recommended abolition of diarchy in the provinces and granting provincial autonomy in its place. It recommended Extension of franchise and enlargement of legislatures. The report was greatly influenced by British thinking and the character of Government of India Act 1935.

3) Motilal Nehru Report -1928

In 1928, the Indian National Congress organised a conference of all parties to draft a constitution for India at Delhi. It appointed a committee of nine members, with Pt. Motilal Nehru as the chairman. The committee submitted its report on August 10, 1928. The report provided for a secular constitution with the recommendation of:

i) Political status of India would be the same as that of the British Dominions like Canada, South Africa, Ireland.

ii) Fundamental Rights shall be embodied in the constitution.

iii) Universal Adult Franchise.

4) Congress Resolution of 1928 (Calcutta Session –Complete Independence)

The Madras Session of Indian National Congress in 1927 declaring a resolution the goal of Indian people to be completly independent. Based on the resolution of Madras Session, the Calcutta Session of Indian National Congress 1928 passed the following resolution: " This Congress, having considered the Constitution recommended by All- Parties Committee Report, welcome it as a great contribution towards the solution of India's political and communal problem and congratulates the committee on the ritual unanimity of its recommendation and whilst adhering to the resolution relating to complete Independence passed by the Madras Congress, approved of the constitution drawn up by the committee"

5) Round Table Conferences of 1930, 1931 and 1932 at London

The first Round Table Conference was

summoned in 1930 to discuss the future political reforms in India. Though the Congress boycotted, the conference took some important political decisions to settle the Indian problem. The second Round Table Conference was convened in mid September 1931. There was an agreement between Gandhiji and Lord Irwin. The Congress decided to postpone the Civil Disobedience Movement and Gandhiji attended as the sole representative of the Congress. The third Round Table Conference was held in November 1932. The Congress did not participate and it was boycotted even by the British Labour Party.

6) Civil Disobedience Movement - 1930, and Poona Pact of 1932

White Paper and Joint Select Committee Report: In March 15'th 1935 British Government published the complete outline of the new constitution for India. The Parliament appointed a Joint Parliament Committee with Lord Linlithgow as the chairman. The committee submitted its report to the parliament at the end of 1934. On the bases of the report, the British government prepared and introduced a bill in the parliament on December 19, 1934 and got Royal Assent on August 4, 1935. The bill became the Government of India Act 1935.

Features of the Act 1935

The basic features of the act were, the introduction of partial responsibility at the Centre, Provincial Autonomy in place of Provincial Dyarchy. An All-India Federation, Federal Court and the Reserve Bank of India were established. The act introduced a Parliamentary form government for the first time in the history of India.

1) All India Federation

The act provided for the establishment of an All-India federation comprising of the British Indian provinces and such Indian states who would desire to come in to the federation. But the accession of states to the Federation was optional. The condition is that the ruler of the state must surrender their authority to the federal government through signing an instrument of Accession. The act envisaged the establishment of Indian Federation consisting of the 11 provinces and 6 Chief Commissionerships of British India and such Indian states that would desire to come in to the federation.

2) Division of Powers

In a Federation there must be a division of powers between the federal government and the provincial governments. The Government of India Act 1935 introduced a three-fold division of subjects:

1. The 'Federal List' consisting of 59 subjects such as Armed Forces, Railways, Currency etc. On these subjects the Federal Legislature alone has the power to make laws.
2. The 'Provincial List', consisting of 54 subjects on which Provincial Legislature along could make laws.
3. The 'Concurrent List' in these subjects, both Federal and Provincial Legislature could enact laws , in case of conflict the Federal Law prevailing first. It consists of 36 items.

The Residuary powers are vested in the hands of Governor- General who would authorise the Federal or Provincial Legislature to make law on such matters.

3) Dyarchy at the Centre

The most important change made by the act of 1935 was the establishment of Dyarchy at the centre and abolishment of Provincial Dyarchy under the act of 1919. The Federal subjects were divided in to two categories ie the Reserved and the Transferred subjects. The Reserved subjects were administered by the Governor General with the help of the Councilors appointed by him who are not responsible to the legislature. The Reserved parts consisted of important subjects of Armed Forces, External Affairs, Railways, Currency etc. On the other hand the Transferred subjects were administered by the Governor General on the advice of the Ministers appointed by him who could keep them in the teeth of no-confidence motions.

4) Bicameral Federal Legislature

The Government of India Act 1935 provides a *bicameral legislature at the centre*. It is consisting of a Lower House known as the House of Assembly or Federal Assembly and the Upper House known as Council of States. The members of the House of Assembly were to be elected indirectly by the Legislative Assemblies of the Provinces. The Federal Assembly consists of 375 members, 250 from British India and 125 from the Indian States. The Federal Assembly is constituted for a period of five years , though the Governor General could dissolve it earlier.

The representatives of the Council of States were of 260 members , out of them 104 were to be chosen by the rulers of the Princely States, 150 by British India, and remaining six were to be nominated by the Governor General. Out of 150 seats 75 were to be Hindus in *General Constituencies*, 45 to be Muslims,7 to be Europeans , 4 to be Sikhs, 6 to be women , 6 to be Scheduled Castes , 2 to be Indian Christians and 1 to be Anglo-Indians. They were to remain in the Council for nine years, 1/3 of them retiring after every 3 years. The members of the Council of States were to be *elected directly* on a very narrow franchise. The Governor General called for the joint session of two houses for solving deadlock.

5) The Federal Court

The Government of India Act 1935 established a Federal Court for India in Delhi. The Joint Select Committee considered it as an essential element in the Federal Constitution, for it was "*at once the interpreter and guardian of the constitution and a tribunal for the determination of disputes between the constituent units of the Federation."* The Federal Court was to consist of a Chief Justice and more than six other Judges. They were to be appointed by the Crown and were to remain in office till the age of sixty-five. The Federal Court had a three-fold jurisdiction: original, appellate, and advisory. The Court was also to prescribe rules of procedure for itself and for High Courts of the provinces and the Federal States.

6) Reserve Bank of India and the Federal Railway Authority

The two other important federal organs created by the Act of 1935 were the Reserve Bank of India and Federal Railway Authority. The Act established a Reserve Bank of India in 1935 *to maintain the financial stability and credit of the Federal Government.* Currency and exchange, and all allied matters became the responsibility of RBI. It was to be managed by a Board of 15 Directors, besides the Governor General. *Eight of the Directors* were to be elected by the shareholders and remaining seven were to be nominated by the Governor General. The Federal Railway Authority consisted of 7 members three of

whom were to be nominated by the Governor General in his discretion. The remaining 4 were to be appointed by him on the advice of the Federal Minister. Its president was to be nominated by the Governor General from among the seven members.

7) Federal Public Service Commission

The Government of India Act 1935 provided for the establishment of a Federal Public Service Commission at the Centre. It also provided for the establishment of Provincial Public Service Commission and joint Public Service Commission at regional levels.

8) Provincial Administration

Provisional Autonomy

The Government of India Act 1935 introduced significant changes in the Provincial level administration. Under the provisions of the Act, the British Indian provinces were no longer the delegate of central government, but were autonomous units of administration. The executive authority of the province was also exercised by a Governor on behalf of the crown and not subordinate to the Governor General. The Governor was required to act with the advice of ministers responsible to the legislature.

Provisional Executive

The Provincial Executive consists of the Governor and a Council of Ministers to advise him. The Governor was the chief executive authority of a Province. The Governor of Bengal, Bombay or Madras was to be a public man, appointed by the Crown on the advice of the Secretary of State of India. The Governors of other Provinces came from the Civil Services of India, appointed on the advice of the Governor General. The Executive powers of the Governor were of three different categories: a) those exercised in his discretion without consulting the Ministers, b) those exercised in his individual judgement and c) those exercised on the advice of his ministers. The Governor had also been empowered to issue ordinances.

Provisional Legislature

The Government of India Act 1935 established *Bicameral legislature in six out of eleven provinces*. The legislatures of *Assam, Bengal, Bihar, Bombay, Madras, and United Province* were made bicameral legislature. It consisted of 'The Legislative Council, the upper house and the Legislative Assembly the lower house. In the other provinces, it was to have only one chamber- the Legislative Assembly. It extended the principle of *communal representation* by providing separate electorates for Sikhs, Indian Christians, Anglo- Indians, depressed classes, women, landlords, commerce and industry, universities, workers etc. A Hindu could vote only for a Hindu, Muslim only for a Muslim, and a husband could vote only for men and a wife for women. Communal and sectional representation was common to both houses. The franchise was extended, about 10% of the total population got the voting rights. The act came into force regarding to the province in April 1937.

The Legislative Council of the different provinces varied in size. In Assam it was between 21 and 22, in Bengal 63 and 65, in Bihar 29 and 30, in Bombay 29 and 30, in Madras 54 and 56, and in United Provinces between 58 and 60. Some of the seats in the council were to be filled by nomination and remaining members were directly elected. The council was a permanent body , one- third of its members retiring every three years. The Council elected its own President and Deputy President from among their members.

The number of members of the Legislative

Assemblies also varied from province to province. *Assam had 108 members, Bengal 250, Bihar 152, Bombay 175 , Madras 215, and United Province 288,* and members of the assemblies were to be directly elected. The Assembly was to be constituted for a period of five years , but it could be dissolved by the Governor earlier as the case may be. The Assembly elected its own Speaker and Deputy Speaker from among their members.

Defects of the Government of India Act 1935

1. Over domination of the Governor General and Governors.
2. The government represented communal and class interests.
3. The Secretary of State continued his control over Indian administration.
4. The Provincial Government was merely a show and the Indians were granted few rights.
5. Un-limited powers of the central executive over provincial administration.
6. The contradictory legislative relationship between the Centre and the Provinces.
7. The act envisaged a federal structure, but the Governor General's powers made it a unitary one.
8. Lack of equality and homogeneity of the federal units, the act failed to satisfy the Federal condition.

1.1.2.3 The Cabinet Mission Plan - March 24 - June 29, 1946

On February 19,1946, Lord Pathic Lawrence, the Secretary of State for India and Clement Attlee, the Prime Minister, made simultaneous statements in the House of Lords and the House of Commons respectively to send a special mission of Cabinet Ministers to India to resolve the constitutional deadlock in the country. This Mission consisted of Lord Pathic Lawrence, Sir Stafford Cripps and Mr. A.V. Alexander. The Cabinet Mission arrived in India on March 24 and left for England on June 29, 1946. The task of the Cabinet Mission was two-fold. The first was to bring about agreement on the method of framing the constitution, and the second was to assist in the formation of a new Executive Council to carry on the government while the constitution was being framed.

Cabinet Mission was studying various schemes with a view to finding a common formula acceptable to both the Congress and the League. But the Congress and the League failed to arrive at an agreement on fundamental constitutional issues. The tri-party discussions were held in Simla between May 5 to 12. The dis- agreement between the Congress and the League proved too wide to be reconciled. There upon , the Mission put forward its own plan to solve the problem. Following were the main recommendations of the Mission:

1. Paramountcy of the British Crown over the Indian states was to lapse.
2. A Union of British India and Indian States should be established.
3. A Constituent Assembly should be elected for framing the constitution of India.
4. With the exception of certain Reserved Subjects , all other subjects were to be retained by the States.
5. The members of the Constituent Assembly were to be elected by the Provincial Assemblies. On the basis of the population of each community the seats were split into Muslim and non- Muslims.
6. An interim government was to be set up with the support of main political parties.

Indian Independence Act of 1947

The election to the Constituent Assembly was held in July 1946 under the Cabinet Mission Plan. But, after the election Muslim League refused to cooperate with Congress in the Assembly. The particular Political situation of the country during that time led to the country -wide communal riots. The League demanded a separate Constituent Assembly for Muslim India. On June 3, 1947, Lord Mountbatten , the last British Governor- General of India announced his plan of partitioning the country into India and Pakistan.

The Indian Independence bill was introduced in the British Parliament on July 5, 1947. It was passed by both houses and Royal assent was given on July 18 1947 and it became operative on August 14, 1947.

Provisions of the Act

- India was guaranteed independence on august 15, 1947 instead of June 1948.
- India was no more under the British crown and the power over Indian States also lapsed.
- The British India was partitioned into two independent dominions of India and Pakistan from 15'th August ,1947.
- The legislative supremacy of the British Parliament for India came to an end.
- The legislatures of the two dominions were to have full powers of legislation for their respective territory.
- To determine the boundary of the two dominions a boundary commission was appointed under the chairman ship of Sir Radcliff.
- To frame the constitution of two dominions they were given the power to make their separate constituent assembly.
- The administration would be carried on according to the provisions of the Government of India Act 1935, till the new constitution was brought into operation.
- The Indian states were given the option to join India or Pakistan or remain independent.
- The Indian Army, Government stores , railways , etc were to be divided between India and Pakistan.
- Any Dominion could leave the British Commonwealth if it so liked.
- The Indian Independence Act abolished the office of the Secretary of State for India and his advisors.

Thus, the Indian Independence Act of 1947 marked the end of British rule in India and the emergence of a free India. The transfer of power was graceful. Lord Samuel described it as "an event unique in history ..... treaty of peace without war." British Prime Minister Attlee described it as "no abdication but the fulfilment of Britiain's mission." Dr. Rajendra Prasad the President of the Constituent Assembly of India , said: " Let us gratefully acknowledge that while our achievement is no small measure due to our own sacrifices, it is also the result of world forces and events and ,last but not least , it is the consummation and fulfilment of the political tradition and democratic ideals of the British race."

After Independence - 1947-1950

The Constituent Assembly

The constitution of India was framed by Constituent Assembly set up under Cabinet Mission Plan of 1946. The Cabinet Mission Plan of 1946 had recommended for the

establishment of a Constituent Assembly to frame the constitution of free India. It is an Assembly or a body of persons which is made in order to frame the constitution of a country and is known as Constituent Assembly. It establishes the democratic values, fulfils the aspirations of the people and protects their liberties.

Background for Constitution

The first reference to Constituent Assembly of India was made by Mahatma Gandhi in 1922. He was saying that the constitution of India should be "home- made" and it should spring "*from the wishes of the people of India as expressed through their freely chosen representatives.*" The idea of Constituent Assembly was put forward for the first time in India by M.N.Roy, at the time of Simon Commission's visit in 1928.

All India Parties Conference at Bombay in 1928 appointed a committee, under the leadership of *Motilal Nehru* to make a Constitution for India. The other members of this committee were Subhash Chandra Bose, and Sir Tej Bahadur Sapru. In August 1928 the committee submitted the report, called Nehru Report and it was the first attempt by Indians to frame a full-fledged Constitution. This report of the committee was enacted by the congress. However, Muslim League had rejected it because the report had out rightly rejected the communal electoral system.

The demand for the establishment of a Constituent Assembly was introduced through a resolution for the first time and passed by the Indian National Congress at its Faizpur Session on December 8, 1936.

In 1939, after the outbreak of Second World War, Mahatma Gandhi expressed the idea again through the article in the Harijan and viewed that "Constituent Assembly alone can produce a constitution indigenous to the country and truly and fully representing the will of the people". Nehru also supported the idea and said "the National Congress stands for independence and democratic state. It has proposed that the constitution of free India must be framed, without outside interference, by a Constituent Assembly elected on the basis of adult franchise."

The British government conceded the demand for the first time in its August Offer of 1940. This was followed by the Cripps Mission proposal also and said that constitution would provide for a Dominion status for India. Later, in 1946, the Cabinet Mission came over to India when put up the proposal and finally accepted.

Composition

The Constituent Assembly of India was formed according to the provisions of Cabinet Mission Plan of 1946. The members of the Constituent Assembly were elected indirectly by members of the provincial legislatures through the method of proportional representation. The members of the Assembly were not selected purely on party basis, but they included some of the most leading personalities of Indian public life. The seats were also alloted to various communities and Indian Princely states.

The Constituent Assembly of India consisted of 389 members. The British India was assigned 296 seats and the Indian Princely states were given 93 seats. The number of members to be sent by each province would depend upon the population of that province. On every ten lacks one person would get elected. The seats would be distributed among the major communities and people belonging to each community would elect its representative. The Princely States also sent their representatives on the basis of

population, but the method of selection was to be decided under the recommendation of the rulers.

The election to the Constituent Assembly was held in July 1946. In the election the Congress won 201 out of a 210 general seats and the Muslim League secured 73 from 78 seats allotted to the Muslims. 18 from other parties of Akali (3), Unionist (3), Communist(1), Scheduled Cast Federation(1). and 6 independent members who supported Congress. The remaining members represented different independent ideologies. The Indian Princely States were not filled their allotted 93 seats , but they joined the Constituent Assembly at the later stage.

Prominent Members of the Assembly

The Constituent Assembly comprised important personalities from all sections of India at that time, except Mahatma Gandhi and M. A. Jinnah. Though the Constituent Assembly included members from all professions, yet lawyers, teachers, journalists, political and social workers dominated the Assembly. In the political sphere Congress party established their monopoly in the Assembly.

The Indian independent act made a division of the constituent Assembly. The members representing the areas included in Pakistan for the constituent Assembly for Pakistan and the remaining members constituted the constituent Assembly for India. Consequently, the total strength of the Assembly came down to 299 as against 389 originally fixed by the cabinet Mission.

The important members of the Constituent Assembly were Pandit Jawaharlal Nehru, Sardar Patel, Maulana Abul Kalam Azad, Dr. Rajendra Prasad, Dr. B. R. Ambedkar, Dr. S. Radhakrishnan, C. Rajagopalachari, B. N. Rau, Gopalasawami Ayyangar, Alladi Krishanaswami Ayyar, K. M. Munshi, Acharya Kripalani, B. G. Kher, K. T. Shah, Sarojini Naidu, Hans Mehta, Saiyad Sadaulla, N. Madhava Rao, D. P. Khaitan, Tandan, H. V. Kamath, Durga Bhai Deshmukh, H. N. Kunzru, K. Santhnam, Shyam Prasad Mukharjie, etc.

Working of the Assembly

The Constituent Assembly met for the first time on 9th December, 1946 at New Delhi. It started its function with the non-co-operation of the Muslim League. In the first meeting attended by only 211 members and Dr. Sachidanand Sinha, the elder member, was elected as provincial president of the Constituent Assembly. Later, Dr. Rajendra Prasad and H.C. Mukherjee were elected as the permanent president, and vice-president respectively on 11'th December 1946. The most remarkable feature of the session was the 'Objective Resolution' moved by Pandit Jawaharlal Nehru on 13th December 1946, and was adopted on 22nd January 1947.

The 'Objective Resolution' clearly outlined the philosophical and socio-economic dimensions of the constitution and declared India to be a 'Sovereign Democratic Republic'. It also embodies the broad objectives that the Constituent Assembly was set before itself. It guaranteed and secured to all people of India, justice, social, economic and political, equality of status, and of opportunity, before the law, freedom of thought ,expression, belief, faith, worship, vocation, association and action ,subject to law and public morality. Later, the 'Objective Resolution' became the Preamble of Indian constitution.

The Constituent Assembly also appointed various committees to deal with different aspects of the constitution and in its working.

There were 10 Procedural Committees and 12 Committees on Substantial Affairs.

Drafting Committee

The report of these Committees provided the materials for the construction of the Indian constitution. On August 29, 1947, Drafting Committee of seven members was set up under the chairmanship of Dr. B.R. Ambedkar. The Drafting Committee were given the final shape and form of the present constitution of India. The other members of the Drafting Committee were: 1. N. Gopalasawami Ayyangar 2. Alladi Krishanaswami Ayyar 3. Dr. K. M. Munshi 4. Syed Mohammad Sadaulla 5. N Madhava Rau (replaced whether B L Mitter who resigned due to ill-health) and 6. T. T. Krishnamachari (replaced when D P Khaitan died in 1948)

The Drafting Committee after taking in to consideration of the proposals of various committees, prepared a Draft Constitution and it was published in January 1948.The people of India were given eight months to discuss the draft and propose amendments. On the basis of the public comments and suggestions, the Drafting Committee prepared a second Draft, which was published in November 4'th 1948. The second reading started on November 15'th 1948 and ended on October 17, 1949. During this stage, as many as 7653 amendments were proposed and 2473 were actually discussed in the Constituent Assembly.

The 3'rd reading of the Draft started on November 14, 1949 and completed on November 21, 1949. The Draft was finally approved by the Constituent Assembly on November 26, 1949. The *final sessions of the Constituent Assembly was held on January 24, 1950*. In this session, *Dr. Rajendra Prasad was unanimously elected as the firstPresident of the Republic of India and under* the new Constitution which came into force on January 26, 1950. The Assembly chose the day, because in 1929 the Indian National Congress had passed a resolution under the President ship of Jawaharlal Nehru in its Lahore session to observe January 26 every year as "Purna Swarajya" or Independence Day. The Constituent Assembly of India met 11 sessions and took 2 years 11 months and 18 days and nearly 6.5 core rupees were spent on the preparation of the constitution.

Recap

- **National Movement in India:** a political movement against British imperialism. It was a revolt against the political and economic domination of India by the British imperialists and their repressive and exploitative policies.
- Factors that led to Indian Nationalism: Western Impact, British Administrative Impact, Impact of Western Education, Impact of means of communication and Transports, Economic Exploitation, Birth of Indian National Congress
- **Constitution:** It is the *fundamental law* of the land. It is a set of rules that seek to allocate duties, powers, and functions amongst the various institutions of government as well as the people. It also determines the relations between different

institutions and agencies of the government like the legislature, the executive, and the judiciary.

- Constitutional Development of India: 1600 -1950
- The Coming of the British (1600 – 1765)
- Beginning of the British Rule (1765 – 1858)
- Beginning of Parliamentary Rule (1858 – 1919)
- Introduction of Self-Rule (1919 – 1947)
- After Independence (1947 – 1950)

Objective Questions

1. What triggered Indian nationalism?
2. Which organisation was formed to advance Indian nationalism?
3. What does a constitution allocate?
4. When did British rule begin in India?
5. When did self-rule start in India?
6. Who was the founder of INC?

Answers

1. British imperialism
2. Indian National Congress
3. Duties, powers, functions
4. 1765
5. 1919
6. A. O. Hume

Assignments

1. What were the major factors that contributed to the emergence of Indian nationalism as a political movement against British imperialism?
2. How did the introduction of Western education in India contribute to the development of the national movement against British imperialism?
3. How did the formation of the Indian National Congress contribute to the advancement of the national movement against British imperialism?

4. How did the arrival of the British in India mark the beginning of a significant period in the country's constitutional development?
5. What were the major constitutional changes and challenges faced by India after achieving independence in 1947?

Suggested Reading

1. "India's Struggle for Independence" by Bipan Chandra, Mridula Mukherjee, Aditya Mukherjee, and Sucheta Mahajan.
2. "The Indian National Congress and the Raj, 1929-1942: The Penultimate Phase" by B.R. Nanda.
3. "India After Gandhi: The History of the World's Largest Democracy" by Ramachandra Guha.
4. "The Constitution of India: Bare Act with Short Comments" by Gopal Sankaranarayanan.
5. "The Framing of India's Constitution: A Study" by B. Shiva Rao.
6. "The Making of India: A Historical Survey" by Ranbir Vohra.
7. "The Indian Constitution: Cornerstone of a Nation" by Granville Austin.

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Unit 2
Salient Features of the Indian Constitution

Learning Outcomes

Upon completion of this unit, the learner will be able to:

- Identify and describe the key features of the Indian Constitution, such as federalism, parliamentary system, and separation of powers.
- Explain the significance of the Constitution's preamble and its role in defining the nation's values and goals.
- Analyze the structure and functions of various constitutional organs, including the President, Parliament, and Judiciary.
- Evaluate how the salient features of the Constitution contribute to the stability and effectiveness of Indian democracy.

Prerequisites

In the journey of building a democratic India, the Constitution was crafted with unique features that set the stage for a stable governance structure. Think of the Indian Constitution as a well-designed blueprint for the nation. It combines elements of federalism, which ensures a balance of power between central and state governments, with a parliamentary system that facilitates democratic decision-making. It also includes a separation of powers among the legislative, executive, and judicial branches to prevent any one branch from becoming too powerful. Additionally, the Constitution embodies principles such as justice, liberty, and equality, reflecting the values that guide the nation. Understanding these salient features reveals how they collectively shape India's political landscape and ensure its democratic integrity.

Keywords

Salient features of Constitution, Federal Features of Constitution, Unitary Features of Constitution, sovereign, republic

1.2.1 Objectives of Indian Constitution

The objectives of Indian Constitution were outlined in the Objective Resolution moved by Jawaharlal Nehru and adopted the Constituent Assembly on January 22, 1947. The main principles outlined in the resolution were:

1. Resolution to proclaim India as an Independent Sovereign Republic.
2. To establish a democratic union with an equal level of Self-government for all the constituent parts.
3. All powers and authority of the Union government are derived from the people.
4. To guarantee and secure to all people of India Justice – Social, Economic and Political. Equality – of Status and Opportunity before Law. Freedom – of Thought, Expression, Belief, Faith, Worship, Vocations, Associations & Action.
5. Adequate safeguards for Minorities, Backward and Tribal Areas, Depressed and Other Backward Classes.
6. To secure for India its Rights and Honoured Place in the World.
7. To maintain the Integrity of the Territory of Republic and its Sovereign Rights on Land, Sea and Air according to justice and Law of civilised nations.
8. To contribute to the promotion of World Peace and Welfare of Mankind. These objectives were incorporated in the Preamble of the Constitution.

1.2.2 Salient Features of the Constitution of India

1.2.2.1 Lengthiest Written Constitution

The Indian constitution is the lengthiest, comprehensive, elaborate and detailed of all the written constitutions of the world. It reflects the sum total of the socio-economic and political background of the nation and provides solution of all problems of administration and governance of the country. In the words of Iver Jennings, " The Indian constitution is the longest and most detailed in the world."

Originally the constitution consisted of a Preamble, 395 articles, 8 schedules and 22 parts. Presently it consists of a Preamble, 461 articles, (divided into 25 parts) and 12 schedules. During the period from 1950, while a number of Articles have been omitted- more than 92 Articles and 4 Schedules have been added to the constitution. In this connection, it may be noted that the American constitution originally consisted of only 7 Articles, the Australian constitution 128 Articles and the Canadian constitution 147 Articles

The extraordinary bulk of the constitution is due to many reasons.

1. The incorporation of the good provisions from other constitutions of other countries.
2. The vastness of the country and its historical, geographical, socio-economic and political influences.
3. Single constitution elaborately deals with the complicated administrative problems of relation between the Centre and the States as well as Inter- States co-ordination.
4. It is an enlargement of the Government of India Act 1935, which itself was bulky document.
5. It has a federal constitution and well-defined division of powers between the Union and the States.
6. It embodies an elaborate list of Fundamental Rights - as well as of the Directive Principles of State Policy.

7. It also established number of independent bodies like CAG, UPSC, Election Commission, Finance Commission, etc.
8. The predominance of the lawyer-element in the making of the Constitution is another contributory factor for being lengthy.
9. The constitutional amendments again increase the size of the constitution.

1.2.2.2 Drawn from Various Sources

The Constitution of India has borrowed most of its provisions from the constitutions of other countries. The structural parts, to a large extent, from Government of India Act 1935.The philosophical part from U.S.A (Fundamental Rights) and Irish (Directive Principles State Policy). The political part of the constitution – has been drawn largely from U.K (Parliamentary system). The federal structure of Indian Constitution is essentially the model of Canadian federation, though there are some connections with Australian and American constitutions.

The other provisions of the Constitution have been drawn from the constitution of Canada, Australia, Germany, USSR, France, South Africa, Japan, and so on. Dr. B.R. Ambedkar observed: "No doubt, though our constitution has been called a borrowed one by some people, yet the credit of its framers lies in this thing that they gathered the best features of other constitutions, avoided the faults which had been disclosed in their working and adapted those features to the requirement of our country. So, if it is 'patchwork, it is a beautiful patchwork'."

Borrowed Sources of the Constitution

1. **Govt of India Act 1935**. - Federal Scheme, Office of Governor, Judiciary and U P S C.
2. **U. K**. - Parliamentary Govt: Rule of Law, Legislative procedure, Single Citizenship and Cabinet System.
3. **U. S. A** - Fundamental Rights, Independence of Judiciary, Judicial Review, Impeachment of President, Removal of S C and HC Judges and Post of Vice President.
4. **Irish** - Directive Principles of State Policy, Nomination to the Members of Rajya Sabha and Method of Election to the President.
5. **Canadian** - Appointment of Governors, Residuary powers in the Centre, Federation with a Strong Centre and Advisory Jurisdictions of the S C.
6. **Australian** - Concurrent List, Joint Setting of Parliament.
7. **Germany** - Suspension of the Fundamental Rights during Emergency.
8. **USSR (Russia)** - Fundamental Duties and The Ideal of Justices in the Preamble (social, economic & political)
9. **France** - Republic, Liberty, Equality and Fraternity in the Preamble.
10. **South Africa** - Procedure for amendment of the Constitution and Election of the Members to Rajya Sabha.

1.2.2.3 Federal System with Unitary in Spirit

The combination of federal and unitary system is a unique feature of Indian constitution. It contains all the usual features of a federation, viz, division of powers between two sets of governments, supremacy of written and rigid Constitution and independent and impartial judiciary. The Constitution, at the same time contains a large number of unitary or non-federal features like, a strong Centre, single constitution and citizenship, flexibility of constitution, integrated judiciary, appointment of Governor, All India Services, Emergency powers etc.

The term "federation" has nowhere been used in the constitution. Article I on the other hand, described India as a 'Union of States'. Dr. B.R. Ambedkar, the father of the constitution explained that though India was to be a Federation, but our Federation was not the result of agreement by the states to join in a Federation, no states have the right to secede from it. Indian Federation is a Union because it is indestructible. The Union and the people may be divided into different States for the administration convenience of the vast country. It is a solution of the constitutional problems of a multi-social, multi-lingual and multi-communal country like India. The reality is that the constitution of India is federal in form only whereas it is unitary in spirit. Different Scholars have given different interpretation as to the nature of the Federal system, as given in the following.

"Federal in form and unitary in spirit"	K C Where.
"Quasi-federal"	K C Where.
"Bargaining federalism"	Morris Jones
"Co-operative federalism"	Granville Austin.
"Federalism with a centralising tendency"	Ivor Jennings

1.2.2.4 A Combination of Rigidity and Flexibility

The constitution of India is the combination of both rigid and flexible. A flexible constitution, it can be amended by the legislature through the ordinary law-making procedure like British constitution. The rigid constitution required special procedure for amendment like American constitution. The constitution of India is neither purely rigid as the constitution of USA nor purely flexible as the constitution of UK but a synthesis of both. It is an intelligent balance between rigidity and flexibility in amending the Constitution.

Justifying the amendment procedure in the Indian Constitution Nehru said " Our *Constitution is to be as solid and permanent as we can make it, yet there is no permanence in Constitution. There should be a certain amount of flexibility. If you make everything rigid and permanent you stop the nation's growth, the growth of a living vital, organic people.....In any event, we would not make the Constitution so rigid that it cannot be adopted to changing condition."*

Article 368 of the constitution provides for three types of amendments:

1. **Simple Majority Method**:

$$\frac{\textit{The members present in the house}}{2} + 1$$

The legislations such as formation of new states, changing boundaries of states, creation or abolition of upper house in the state legislature, citizenship, etc.

2. **Majority Method**

$$\frac{\textit{Real membership}}{2} + 1 + \textit{2/3 members present and voting}$$

The provisions include: Fundamental Rights DPSP, and all other matters which are not covered by the 1'st and 3'rd categories.

3. Special Majority Method

Conditions of the majority method

+

Ratification by majority State Governments

The legislations such as Election of the President, the matters of the executive powers of the union and the states, Supreme Court and High Courts, division of powers between the union and the states, Amendment procedure of the constitution, etc.

1.2.2.5 Parliamentary Form of Government

The Constitution of India establishes parliamentary system of government both at the Centre and the States. The Indian parliamentary system is largely based on the British system of parliamentary democracy. In this system the real executive is collectively responsible to the parliament for its acts of commission and omissions. They remain in office so long as they enjoy the confidence of the legislature. It is based on the principle of co-operation and co-ordination between the legislative and executive organs of the government.

In a parliamentary system of government, the head of the state is nominal, whereas the Prime Minister, who is the leader of majority in the parliament is the head of the government. The authority in such system vests in the cabinet which is collectively responsible to the parliament..

The system is also known as the 'Westminster' model of government, responsible government, Cabinet government and the Prime Ministerial Government.

1.2.2.6. Parliamentary Sovereignty and Judicial Supremacy

The Indian constitution stands for a compromise between parliamentary sovereignty and judicial supremacy. Indian Parliament is not a sovereign body as that of British parliament and Indian Judiciary is not as supreme as in USA. It is a proper synthesis between the British principle of parliamentary sovereignty and the U. S principle of judicial supremacy.

The Supreme Court, on the one hand, can declare the act of parliament or state legislature null or void, if it is against the spirit of the constitution or the rights of citizen etc. through its power of judicial review. On the other hand, the parliament is absolutely supreme in the sphere of legislation within the bounds of the constitution. Again, the parliament can amend the major portion of the constitution through its constituent power.

1.2.2.7 Fundamental Rights

Part third of Indian Constitution (Articles: 12 to 35) provides Six Fundamental Rights to all citizens of India. We have borrowed the concepts of fundamental rights from U.S.A. These rights are justiciable in nature and constitutional remedies are provided for their enforcement. The constitution thus makes the judiciary as the guardian of the rights and liberties of the people. If any of the rights is violated, a citizen has the rights to seek the protection of the judiciary.

They are binding on the legislature as well as on the executive. Any act of the legislature or order of the executive can be declared null and void if it violates any of the fundamental rights guaranteed to the citizens by the constitution. These rights are meant for promoting the idea of political democracy.

But none of the Fundamental Rights is absolute. The constitution itself provides necessary limitations over it. The state has the rights to impose reasonable restriction over the exercise of these rights. The constitution

seeks to strike a balance between individual freedom and social interests. The main rights granted under our constitution are as follows:

- **Rights to Equality** (Articles 14 to 18)
- **Rights to Freedom** (Articles 19 to 22)
- **Rights Against Exploitations** (Articles 23 to 24)
- **Rights to Freedom of Religion** (Articles 25 to 28)
- **Cultural and Educational Rights** (Articles 29 to 30)
- **Rights to Constitutional Remedies** (Article 32)

1.2.2.8 Directive Principles of State Policy

Directive Principles of State Policy is a 'novel feature' of Indian Constitution. Articles 36 to 51 of the Part- IV of the Indian Constitution deal with the concepts DPSP. We adopted these principles from the Irish constitution. It is non-justiciable and positive in character. It is a set of moral principles that guide both Central and State Governments for the establishment of socialistic pattern of welfare state in India. It is promoting the idea of social and economic democracy.

The Constitution itself declares that "these principles are fundamental in governance of the country and it shall be the duty of the state to apply these principles in making laws." For the academic point of view, they can be classified into three broad categories – socialistic, Gandhian and liberal intellectual. Some of these principles are: securing to all men and women the right to adequate means of livelihood, equal pay for equal work for both men and women, fair distribution of wealth, free and compulsory primary education, organisation of village panchayats, to promote international peace and security, etc...

1.2.2.9 Fundamental Duties

Original Constitution did not provide the Fundamental Duties of the citizens. These are added by the **42nd Constitutional Amendment Act of 1976**, on the recommendation of the **Swaran Singh Committee**. It includes ten duties, inserted in **Part IV-A of the constitution** (Article 51 –A). These duties serve as constant reminders to the citizens that they have to observe certain basic norms of democratic conduct and behaviours. The 86th Constitutional Amendment Act of 2002 added one more duty, duty of the parents to educate their children. These duties are not enforced by the court of Law. Some of these duties are:

1. to respect the constitution, national flag and anthem.
2. to protect the sovereignty, unity and integrity of the nation.
3. to promote the spirit of common brotherhood amongst all the people.
4. to preserve the rich heritage of our composite culture and so on. Thus, it is an attempt to balance the individual's **civic freedom** with his **civic obligations** to the nation.

1.2.2.10 Popular Sovereignty

It refers to the possession of ultimate sovereign power in the hands of the people. The Preamble emphasises the ultimate sovereignty of the people and that the Constitution itself is founded on the authority of the people. The people are thus, the source of all authority and all powers lie with them. They expressed these powers periodically, by way of universal adult franchise (election). It is based on the democratic principles of **one man, one vote, one value**, irrespective of his wealth, education, social status etc. The idea of the popular sovereignty is expressed in several places of the constitution, the Preamble, elections (326) etc.

The Constitution draws its authority from the people and has been promulgated in the name of the people. This is evident from the Preamble which states: 'We, the people of India .....do hereby adopt, enact and give to ourselves this Constitution. Thus, in the affairs of the state, it is the will of the people that prevails ultimately and this is the principle of popular sovereignty.

1.2.2.11 Secular States

The term 'Secularism' has been added to the Preamble of Indian Constitution by the 42nd Constitutional Amendment Act of 1976. The state does not uphold any particular religion as the official religion and no religion is given a preferential or superior status. It is based on the principle that the state should deal with the relations between man and man and not with those between man and God. The term 'Secular State' in real sense means - a state is primarily devoted to political order and freedom and pursues all its activities in promoting economic stability and welfare of the people.

The complete religious toleration underlines the spirit of the Constitution. Under the Constitution all Indian citizens have been given freedom of conscience and are free to profess, practice and follow any religion or faith of their choice. All citizens in India enjoy equal religious rights without any distinctions of religion, caste or creed. No person can be forced to pay any taxes for the promotion of any specific religious denomination. No religious instructions are to be given in any educational institutions wholly maintained out of State funds or receiving help of State funds. Thus, the Constitution of India establishes a state which is neither religious nor- irreligious nor anti-religious but is wholly detached from religious dogmas and activities and thus neutral is religious matters.

1.2.2.12 Single Constitution and Single Citizenship

Indian Constitution is federal and it envisages a dual polity, but it provides for one Constitution and citizenship. One single law runs throughout the country uniformly and all citizens enjoy one citizenship irrespective of in which state they live or belong to. That means all citizens irrespective of the states in which they are born or residing enjoy the same political and civil rights all over India. It creates a social order to foster strong bonds of social and political unity among the people of India. Thus, it stands for building a united and integrated nation.

1.2.2.13 Independent and Integrated Judiciary

The Indian Constitution provides for an independent and impartial Judiciary. It is completely free from the influence of the legislature and the executive. The Constitution has made the Supreme Court as the custodian and protector of Constitution. All authorities throughout India are bound to implement the decisions of the Supreme Court. The Indian Constitution ensured that the Judiciary would be independent in the interpretation of laws.

The Supreme Court stands at the top of the integrated judicial system. The judgement of Supreme Court is legally binding on all courts of India. Supreme Court decides the disputes between Centre and States; it protects Fundamental Rights of citizens and it is the highest court of appeal in India.

But 42nd Constitutional Amendment Act established parliamentary supremacy in place of judicial supremacy in India. But Parliament has passed the 43rd amendment under which some of the powers have been restored to the Court.

1.2.2.14 Provisions for Judicial Review

Judicial Review has been considered as a basic feature of a Federal Constitution in which the Constitution authorised the judiciary to protect it from the Parliament's amending power. It has the power to declare null and void any legislative measures or executive orders or the Ordinances issued by the executive. However, the power of Judicial Review is not as absolute as in the case of USA. Our Constitution has achieved a compromise between Judicial Review and parliamentary sovereignty. D.D. Basu says that "it is unique achievement of the framers of our Constitution."

1.2.2.15 Universal Adult Franchise

The system of communal electorates had been introduced in our country during the British regime. The Indian Constitution adopts Universal Adult Franchise as a basic of the election to Lok Sabha and State Legislative Assembly. It is based on the democratic principles of **one man, one vote, one value.** Every citizen who is not less than 18 years of age has a right to vote without any discrimination of caste, race, religion, sex, and so on. The voting age was reduced from 21 years to 18 years in 1989 by the 61st Constitutional Amendment Act of 1988.

However, it makes reservation of seats for Scheduled Castes and Scheduled Tribes to provide them adequate representation. It makes democracy broad – based, enhance of self-respect and prestige of the common people, upholds the principles of equality enable minorities to protect their interests and opens up new hopes for weaker sections.

1.2.2.16 Provisions for Emergency

The President of India has been empowered to declare emergency in the country under different situations. The rationality behind the incorporation of these provisions is to safeguard the sovereignty, unity, integrity and security of the country. It also safeguards and maintains the democratic political system and the Constitution. The Constitution of India provides for three types of emergencies in the country:

- National or General Emergency (Article-352) -on the ground of war, external aggression or armed rebellion.
- State Emergency or Presidential Rule (Article- 356) - on ground of failure of constitutional machinery in the States or failure to comply with the directions of the Centre under Article 365.
- Financial Emergency (Article- 360) -on the ground of threat to financial stability to the credit of India.
- In fact, during emergency the whole government of India will function as a unitary form of government.

1.2.2.17 Provisions for Independent Bodies

Indian Constitution not only provides for legislative, executive and judicial organs of the government but also establishes number of independent constitutional bodies like Election Commission, Comptroller and Auditor General, Union Public Service Commission, Finance Commission, Attorney General etc.

1.2.2.18 Three–Tier System of Government or Panchayati Raj Institutions

The success of democracy mainly depends up on the extend of people participated in administration. If maximum people participate in administration, it is success and if minimum participate it is a failure. For strengthening participatory democracy in India, Panchayati Raj institutions have been established. Originally, the Indian Constitution provided for a dual polity, later at the 73rd and 74th Constitutional Amendment Act 1992 has

added 3-tier system of government in India. Now Centre, State and Local Governments are functioning in India.

1.2.2.19 Bicameral Legislature

It provides a bicameral legislature both at the Centre and in some States. At the Centre, House of People and Council of States and at the States, State Legislative Assembly and State Legislative Council. The first contains representatives of the people as a whole; the second contains the representatives of the states.

1.2.2.20 Special Provisions for Minorities and Backward Classes

The Indian Constitution makes some special provisions for the protection of minorities, SC, ST etc. A number of provisions have been incorporated in the Constitution with the aim of promoting the social, economic and educational interests of these classes. It not only reserves seats for them in the Parliament, State Legislatures and Local Governments but also grants certain special rights and privileges in making appointment to Centre and State services. They are also provided with economic and material aid. Again 33% of seats are reserved for women in the Local Government institutions. The Constitution also tries to protect the language and the culture of the minorities. It permits all minorities to conserve their language, culture and the way of life.

These remarkable features of Indian Constitution distinguish it from other Constitutions of the world.

1.2.3 Federal Features of Indian Constitution

1. Written Constitution
2. Rigid Constitution
3. Division of Powers
4. Independent and impartial Judiciary
5. Fundamental Rights
6. Bicameral Legislature
7. Double set of Governments
8. Supremacy of the Constitution.
9. Special provision for settlement of disputes.

1.2.4 Unitary Features of Indian Constitution

1. Single Constitution
2. Single Citizenship
3. Single Supreme Court
4. Single Election Commission
5. Single Comptroller and Auditor General
6. Flexibility of Constitution
7. All India Integrated Services
8. Unequal Division of Powers
9. Residuary powers vested in the Centre Government
10. Emergency powers of the Central Government
11. Unequal Representation in the Rajya Sabha
12. Parliament's powers over State List
13. Governors are appointed by the President of India.
14. Judges of the High Courts are appointed by the President of India.
15. Union Government's power to issue Directions to the States
16. Financial Dependence of the State Governments.
17. President's Assent for certain kinds of State Bills.
18. Domination of Centre Government over Concurrent List
19. Imposition of President's Rule over State Government.
20. The power of the Centre to form a new State or remove the existing State or change boundaries or name of the State.

Recap

- Objectives of Indian Constitution
- Salient Features of Indian Constitution
  - Lengthiest Written Constitution
  - Drawn from various sources
  - Federal System with Unitary in Spirit
  - A Combination of Rigidity and Flexibility
  - Parliamentary Form of Government
  - Fundamental Rights
  - Directive Principles of State Policy
  - Fundamental Duties
  - Popular Sovereignty
  - Secular States
  - Single Constitution and Single Citizenship
  - Provisions for Judicial Review
  - Universal Adult Franchise
  - Provisions for Emergency
  - Provisions for Independent Bodies
  - Provisions for Independent Bodies
  - Three –Tier System of Government or Panchayati Raj Institutions
  - Bicameral Legislature
  - Special Provisions for Minorities and Backward Classes
  - Federal Features of Indian Constitution
  - Unitary Features of Indian Constitution

Objective Questions

1. What was the objective of the Indian Constitution?
2. Why is the Indian Constitution considered the lengthiest written Constitution?
3. From which sources is the Indian Constitution drawn?
4. How would you describe the Indian Constitution in terms of its federal system with unitary spirit?
5. What does it mean when we say the Indian Constitution is a combination of rigidity and flexibility?
6. What form of government does the Indian Constitution adopt?
7. What are fundamental rights in the Indian Constitution?
8. What are directive principles of state policy?
9. What are fundamental duties?
10. How is popular sovereignty reflected in the Indian Constitution?

Answers

1. To establish justice, ensure social, economic, and political equality, promote fraternity, and secure the unity and integrity of the nation.
2. It contains a detailed framework with numerous provisions covering various aspects of governance.
3. The Constitution of the United States and the British Constitution
4. It provides for a division of powers between the Central and State Governments, but grants more powers to the Central Government in certain circumstances.
5. It requires special procedures for amendments to certain provisions, but also allows for adaptation and interpretation through judicial decisions.
6. The Indian Constitution adopts a parliamentary form of government.
7. Right to equality, freedom of speech and expression, and protection from discrimination.
8. Guidelines for the government to establish social and economic justice.
9. Fundamental duties are the moral obligations of citizens.
10. Through the system of elections, where citizens have the power to elect their representatives and participate in decision making processes.

Assignments

1. What special provisions does the Indian Constitution have for minorities and backward classes?
2. What are some federal features of the Indian Constitution?
3. What are some unitary features of the Indian Constitution?
4. Discuss the significance of fundamental rights and directive principles of state policy in the Indian Constitution. How do these provisions ensure a balance between individual liberties and socio-economic welfare?
5. Compare and contrast the federal and unitary features of the Indian Constitution. Provide examples of specific provisions that reflect each feature and explain how they impact the functioning of the Indian government and governance at different levels.

Suggested Reading

1. Basu, D. D. (2014). *Introduction to the Constitution of India*. LexisNexis.
2. Kashyap, S. C. (2011). *Our Constitution: An Introduction to India's Constitution and Constitutional Law*. National Book Trust.
3. Jha, B. N. (2013). *Indian Constitution: A Comprehensive Study.* Shree Publishers.

Unit 3
The Preamble to the Indian Constitution- Philosophical basis

Learning Outcomes

After the completion of this unit, the learner will be able to:

- acUpon completion of this unit, learners will be able to
- Understand the core values and principles outlined in the Preamble of the Indian Constitution.
- Explain the philosophical basis behind the concepts of justice, liberty, equality, and fraternity as stated in the Preamble.
- Analyze the role of the Preamble in reflecting and shaping India's national identity and constitutional framework.
- Evaluate the impact of the Preamble's ideals on India's democratic institutions and governance

Prerequisites

In the wake of India's independence, the leaders envisioned a new nation that would stand on principles of justice, liberty, and equality. The Preamble to the Indian Constitution emerged as a guiding light, reflecting these core ideals. It's akin to a mission statement for the country, outlining the fundamental values that shape its governance. The Preamble begins with the phrase "We, the people," emphasizing that the Constitution derives its authority from the citizens. It introduces the philosophical basis of the Indian state, promoting justice, liberty, and fraternity. By understanding the Preamble, one grasps how these foundational principles influence the Constitution and drive the democratic values that underpin India's political system

Keywords

Preamble of Indian Constitution, N.A. Palkhivala, Objective resolution, Key terms in Preamble

1.3.1 Meaning of Preamble

The constitutional expert, N.A. Palkhivala called the Preamble as the "identity card of the Constitution." The former Chief Justice of India, Gajendra Gadker has told that the Preamble of the Indian Constitution provides us the understanding of the 'Basic philosophy' of the Constitution. The basic philosophy of the Constitution means those ideals for which the Constitution was made. It clarifies the aspirations of the makers of the Constitution.

Preamble is a "Key to open the mind of the makers of the Constitution and, the mischiefs which they intended to redress" - C.J.Dyer.

Preamble as the ' Political Horoscope' of the Constitution - K.N. Munshi

The Constitution makers gave to the Preamble "the place of pride". It embodies in a solemn form all ideals and aspirations for which the country had struggled during the British regime. It proclaims the sources, objectives, basic purposes, a new social order and date of adoption of the Constitution. According to Dr.J.R.Siwatch, Preamble has four parts : a) sources of authority b) the kind of government c) the purpose of governmental system and d) the date of approval and implementation.

In Berubari Union (1960), the Supreme Court has said that the Preamble to the Constitution is a key to open the mind of the makers, and shows the great general purpose for which they made the several provisions of the Constitution. In the same case Supreme Court held that the Preamble is not a part of the Constitution and therefore it could never be regarded as a sources of any substantive powers.

But in Kesavanada Bharati case (1973), the Supreme Court rejected the above view and held that the Preamble is the part of the Constitution. Chief Justice Sikri observed that, "it seems to be that the Preamble of our Constitution is of extreme importance and the constitution should be read and interpreted in the light of the grand and noble vision expressed in the Preamble".

In the same case, the Court held the view that the "basic elements" in the Preamble cannot be amended under Article 368 and Sikri enumerated them as follows:

1. Supremacy of Constitution.
2. Republic and Democratic form of government.
3. Secular character of the constitution.
4. Federal Structure.
5. Separation of powers.

All these features have derived their strength and the dignity and freedom of individual from the Preamble of constitution.

1.3.2 Objectives Resolution

The Preamble to the Indian Constitution is based on the '**Objectives Resolution'**, drafted and moved by Pandit Nehru on December-13,1946. It embodies the broad objectives that the Constituent Assembly was set before itself. It was adopted by the Constituent Assembly on January - 22, 1947. Nehru described the resolution as "A solemn pledge to our people" In the words of K.M.Munshi, "Objectives Resolution , casts, the horoscope of our sovereign republic".

The Preamble of the Constitution of India, which came into existence on 26th January 1950, subsequently changed in 1976 through 42nd Constitutional Amendment. The Preamble in its present form read as follows:

"**We, the People of India**, having solemnly resolved to onstitute 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 opportunity; and to promote among them all;

Fraternity assuring the dignity of the individuals 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 oureslves this Constitution**"

(The word 'Socialist', 'Secular' and 'Integrity' have been inserted in the Preamble by the 42nd Constitutional Amendment Act of 1976.)

The Preamble can be divided into four parts. The first part deals with the sources of authority. The Preamble makes the people of India as the sources of the Constitution and the seats of the sovereignty of the States. Dr.B.R Ambedkar said in the Constituent Assembly that " this Constitution has its roots in the people and it derives its authority and its sovereignty from the people. Thus, as the Preamble says, "We the people of India .....give to ourselves this Constitution." It declares, therefore, that the source of the authority under the Constitution is the people of India. In other words, the constitution gives power of governance to the people of the country.

The second part deals with the type of the government and the nature of Indian States. It describes India into a "Sovereign Socialist Secular Democratic Republic. It declares the end of British domination over India which became an independent dominion on 15th August 1947.Thus the Constitution makes India a Sovereign Republic, a Sovereign state which fully controls its own destiny – both in internal and external affairs. It also established a parliamentary democratic government in India.

The third part of the Preamble deals with objectives of our Constitution. It specifies justice, liberty, equality and fraternity as the objectives. Here it may be noted that the concept of social, economic and political justice have been taken from the Russian revolution and liberty, equality and fraternity have been taken from the French revolution. In order to achieve these objectives Part- III and Part- IV have been included in the Constitution. Through these parts, the Constitution guarantees political democracy and social and economic democracy respectively.

The last part of the Preamble mentions the date, that is the twenty- sixth day of November 1949 on which the Constituent Assembly adopted, enacted, and gave this Constitution to the nation.

1.3.3 Key Terms in the Preamble of the Constitution of Indian Constitution

1.3.3.1 SOVEREIGN

The word 'sovereign' means that India is both internally and externally free and not dependent upon any outside authority. There is no authority above it, and it is free to conduct its own affairs. However, her membership of the Common- wealth of Nations does not compromise with her independent sovereign status. It is an association of free and independent nations and British Monarch is only a symbolic head of that association.

The word 'Sovereignty' further implies that the ultimate authority of Indian government is vested in the people and they are the source of Indian Constitution. Dr. B.R. Ambedker said, "it becomes clear from the Preamble

that the basic of the Constitution is the people and the rights and sovereignty present in it are achieved form the people." Under the Constitution, the government is responsive and responsible to the people, for all its acts of omission and commission. This is the principle of popular sovereignty, which is taken place by the process of periodical elections.

1.3.3.2 SOCIALIST

The Indian Constitution stands for the establishment of a socialistic pattern of welfare state in India. The word 'Socialistic' was inserted in the Preamble by 42nd constitutional Amendment Act 1976. Now, socialism is implicit in the Preamble and Directive Principles of State Policy (Part-IV) of the Constitution. India's socialistic experience may be traced back to the USSR influence.

Socialism is a form of government and an economic ideology in which whole means of production owned and controlled by the State (communistic socialism). Indian's socialism is not communistic socialism but democratic socialism (state socialism). For this purpose, the Preamble has combined both the words, socialism and democracy. Democratic Socialism hold faith in a 'mixed economy' where both public and private sector co-exist side by side. It aims to end poverty, ignorance, disease, inequality of opportunity and finally for the establishment of egalitarian welfare society in India.

1.3.3.3 SECULAR

The term 'secular' too was added by the 42nd Constitutional Amendment Act of 1976. 'Secularism' means a State does not recognise any religion as State religion. Thus, India has now officially become a secular state and the country has no official religion. The Preamble declares that the Indian people will have "liberty of .....belief, faith and worship". Again Articles 25 to 28 of the Constitution (Right to Freedom of Religion)guarantee to every citizen the freedom of conscience and right to profess, practice and propagate any religion.

The Indian Constitution embodies the positive concept of secularism i.e., all citizens in India enjoy equal rights without any distinctions on the ground of religion cast or creed. The State treats all citizens equal before law irrespective of their religion and faith.

1.3.3.4 DEMOCRATIC

The term 'democratic' indicates that the Constitution has established a form of government which gets it authority from the will of the people. It is based on the doctrine of popular sovereignty i.e., possession of supreme power by the people. The Constitution of India established representative democracy, by ensuring universal adult franchise and free and fair periodical elections. The 61st Constitutional Amendment Act of 1989 lowered the minimum age of voting from 21 to 18. Now a citizen of India who complete the age of 18 years have the right to vote. It is based on the principle of 'one man, one vote, one value'.

The term 'Democratic' is used in the Preamble in the broader sense embracing not only parliamentary democracy in its political form, but also social and economic democracy. As Nehru said "political democracy , by itself is not enough except that it may be used to obtain a gradually increasing measures of economic democracy, equally and the spread of good things of others, and removal of gross inequalities".

1.3.3.5 REPUBLIC

The term 'Republic' means that the Head of the State is an elected person and not a hereditary King or Queen. The term Republic in our Constitution indicates that India has

an elected head called the President. He is elected indirectly by an electoral college which consists of elected members of both houses of Parliament and State legislative Assembly for a fixed period of five years. It also implies that there will be no privileged class and all office will be open to all citizens without any discrimination. In this system political sovereignty vests in the people and head of the State is only a person elected by the people for a fixed term.

1.3.3.6 JUSTICE

The Preamble assures the people, social, economic and political justice. The essence of justice is the attainment of common good. In this context, the founding fathers were influenced by the Russian Revolution. It visualises not only political democracy but also social and economic democracy in India. One of the major objectives of our constitution, is the establishment of a socialistic pattern of society based on justice.

The **Social Justice**, means that all sections of the society, irrespective of their caste, creed, sex, place of birth, religion, language, or profession would be treated equally and no one would be discriminated on these grounds. It implies the welfare of society as a whole.

Economic Justice means that all natural resources of the country would be equally available to all citizens. It can be achieved by equitable distribution of resources, providing adequate opportunities of employment, fair distribution of land and several others measures in the Directive Principles of State Policy in Part- IV of the Constitution.

Political Justice implies that all citizens should have equal political rights, equal access to all political offices equal voice in the government. It is envisaged through universal adult franchise and citizens enjoy the right to vote on the base of one man, one vote, and one value.

1.3.3.7 LIBERTY

The term 'liberty' means the absence of restraints on the activities of individuals. It is the basic condition for the successful functioning of democracy. The Preamble secures to all citizens of India liberty of thought, expression, belief, faith and worship. It is providing opportunities for the development of individual personalities. It is based on the principle that social progress mainly depends on the progress of individual. The Preamble with Part 3rd (fundamental rights) of the constitution deals with concept liberty. It guarantees citisens against all authorities of the State. The concept of liberty has been taken from the influence French Revolution. But in India, liberty under the Constitution is not absolute, it is restricted in accordance with the provisions of the Constitution for the interests of society.

1.3.3.8 EQUALITY

Equality means that all men are equal and should be entitled equal opportunity and treatment. The Preamble secures to all citizens of India equality of status and opportunity. It does not mean that all human beings are equal mentally and physically. It signifies all men are equal and must be provided with an equal opportunity for their development. The ideal of equality was taken from the influence of French Revolution. Social equality means that all citizens are entitled to enjoy equal status in society and no one is entitled to special privileges. Political equality implies that everyone has equal access to the avenues of power. Economic equality involves a certain levelling of income and removal of gross inequalities of wealth. Legal equality implies that all are alike in the eyes of law and are entitled to its equal protection

1.3.3.9 FRATERNITY

The ideal of fraternity enriched the Preamble and it ensures both the dignity of individuals and the unity and integrity of the nation. It was first emphasised by the French Revolution which adopted liberty and equality as the foundation of a new social order based on the "a sense of common brotherhood". For the promotion of this ideal the Constitution imposed certain fundamental duties also on the citizens. It includes:

a. To promote harmony and spirit of common brotherhood amongst all people of India.

b. To uphold and protect the sovereignty, unity and integrity of the nation.

c. To defend the country and render national service when called upon to do so.

The word 'integrity' is not mentioned in the original Constitution, but it has been added to the Preamble by the 42nd Constitutional Amendment Act of 1976. This word was added to strengthen the concept of national integration. It also aims at overcoming hindrances to national integration like communalism, regionalism, linguism and so on.

The Preamble of the Constitution of India is one of the best of its kind ever drafted. Thus, Preamble represents the ideals and spirit of the Constitution. Pandit Baraga the member of the Constitutional Assembly summed up the Preamble "The Preamble is the most important part of the Constitution. It is the soul of the Constitution. It is a key to the Constitution ..... It is the jewel set in the Constitution ....."

Recap

- **Meaning of Preamble**: It is the opening statement of the Indian Constitution, summarising its objectives and the collective aspirations of the people.
- **Objective Resolution**: A historic document that outlined the fundamental principles and goals for drafting the Indian Constitution.
- Key terms in the Preamble of the Constitution
  - Sovereign
  - Socialist
  - Secular
  - Democratic
  - Republic
  - Justice
  - Liberty
  - Equality
  - Fraternity

Objective Questions

1. Which term in the Preamble represents social equality?
2. What is the term used in the Preamble to describe religious neutrality?
3. What type of government does the Indian Constitution uphold?
4. Which form of government is mentioned in the Preamble?
5. What principle does the term "justice" represent in the Preamble?
6. What does the term "liberty" in the Preamble stand for?
7. Which term in the Preamble promotes equal treatment for all?
8. What does "fraternity" signify in the Indian Constitution?
9. What is the status of India according to the Preamble?
10. What economic ideology does the term "socialist" reflect?
11. What is the nature of India's governance as mentioned in the Preamble?
12. What type of society does the Preamble aim to establish?
13. What is India's political system according to the Preamble?
14. What does "fraternity" encourage among citizens?

Answers

1. Socialist
2. Secular
3. Democratic
4. Republic
5. Fairness
6. Freedom
7. Equality
8. Brotherhood
9. Sovereign
10. Socialism
11. Secular
12. Democratic
13. Republic
14. Unity

Assignments

1. What is the meaning of the Preamble in the Indian Constitution?
2. How would you define the Objective Resolution in the context of the Indian Constitution?
3. What are the key terms used in the Preamble of the Indian Constitution?
4. What does the term "sovereign" mean in the context of the Indian Constitution?
5. What does it mean for India to be a "socialist" country according to the Preamble?
6. How does the Indian Constitution define "secularism"?
7. What does the term "democratic" signify in the Indian Constitution?
8. Why is India referred to as a "republic" in the Preamble of the Constitution?
9. What is the significance of the term "justice" in the Indian Constitution's Preamble?
10. How is "liberty" defined within the context of the Indian Constitution?

Suggested Reading

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Unit 4
Indian Multiculturalism and the Idea of 'Unity in Diversity'

Learning Outcomes

Upon the completion of this unit, the learner will be able to:

- Understand the concept of multiculturalism within the Indian context and its historical development.
- Explain the significance of the idea of 'Unity in Diversity' in shaping India's national identity.
- Analyze how India's cultural, linguistic, and religious diversity contributes to its social and political structure.
- Discuss the challenges and opportunities that arise from India's multicultural fabric.
- Evaluate the role of 'Unity in Diversity' in promoting social harmony and national integration.

Prerequisites

The idea of Unity in Diversity is a powerful unifying force in a land as diverse as India, where every region boasts its own languages, religions, and traditions. Think of India as a grand mosaic, where each piece represents a different culture, yet together they form a beautiful whole. This concept reflects the country's commitment to embracing its myriad identities while fostering a sense of collective belonging. Indian multiculturalism is not just about tolerating differences but celebrating them as integral to the nation's fabric. By weaving together diverse threads, India creates a vibrant tapestry where unity does not mean uniformity. Understanding this principle helps us appreciate how diversity strengthens rather than divides, creating a nation rich in both cultural variety and shared values.

Keywords

Multiculturalism, Cultural Pluralism, Unity in Diversity, Diversity, Social harmony

1.4.1 Multiculturalism

Multiculturalism is a social and political philosophy that recognises and respects the diverse cultural backgrounds, identities, and experiences of individuals and communities within a society. It promotes equal rights, opportunities, and the inclusion of all cultural groups, fostering a sense of belonging and coexistence.

Multiculturalism is a policy approach implemented by governments to manage and accommodate cultural diversity within a nation or state. It involves developing inclusive policies and practices that recognise and value the contributions of different cultural communities, while promoting social cohesion and integration.

Multiculturalism is a philosophical perspective that acknowledges the intrinsic value and significance of cultural diversity. It emphasises the importance of cultural rights, identity, and self-expression, while challenging notions of a dominant or mainstream culture. It seeks to create a more inclusive and just society by embracing the richness of multiple cultural perspectives.

1.4.1.1 Significance of Multiculturalism in the Indian Context

Multiculturalism holds great significance in the Indian context due to the following reasons:

1. Preservation of Cultural Diversity: India is a country with a rich tapestry of cultures, languages, religions, and traditions. Multiculturalism ensures the preservation and promotion of this diverse cultural heritage, safeguarding the unique identities and practices of various communities.
2. Social Cohesion and Harmony: Multiculturalism fosters social cohesion by promoting understanding, respect, and acceptance among different cultural groups. It encourages interaction, dialogue, and collaboration, leading to a harmonious coexistence and shared sense of belonging among people from diverse backgrounds.
3. Inclusivity and Equal Opportunities: Multiculturalism upholds the principles of inclusivity and equal opportunities. It recognises the rights and dignity of all individuals, regardless of their cultural or religious affiliations, providing them with equal access to education, employment, and other social resources.
4. Enrichment of Society: By embracing multiculturalism, Indian society benefits from the exchange of ideas, knowledge, and perspectives. Different cultural communities contribute to the collective social, intellectual, and artistic wealth of the nation, resulting in a vibrant and dynamic society.
5. Strengthening of National Unity: Multiculturalism reinforces the idea of 'Unity in Diversity,' which is a fundamental aspect of India's national identity. It emphasises that diversity is a source of strength, fostering a sense of unity and pride among citizens, while promoting the idea of India as a pluralistic and inclusive nation.
6. Promotion of Tolerance and Peaceful Coexistence: Multiculturalism promotes tolerance, understanding, and empathy towards different cultures, religions, and viewpoints. It cultivates an environment of peaceful coexistence, reducing the potential for conflicts based on cultural or religious differences.
7. Empowerment of Marginalised Communities: Multiculturalism plays a crucial

role in empowering marginalised communities, including religious and linguistic minorities, by providing them with a platform to express their identities, protect their rights, and participate actively in social, economic, and political spheres.

8. Global Recognition and Soft Power: India's multicultural ethos has garnered international recognition and admiration. It has become a source of soft power, projecting India as a diverse, tolerant, and vibrant nation, attracting global attention, tourism, and investment.

Multiculturalism is vital in the Indian context as it promotes social harmony, preserves cultural diversity, upholds equal rights, and strengthens the collective identity of the nation. It serves as a guiding principle for fostering inclusivity, understanding, and unity in a country known for its rich multicultural fabric.

1.4.1.2 Historical and Cultural Background of India's Multiculturalism

The historical and cultural background of India provides a deep-rooted foundation for its multiculturalism. India's rich tapestry of cultures and traditions can be traced back to ancient civilisations that thrived in the region. The Indus Valley Civilisation and the Vedic civilisation laid the groundwork for cultural interactions and assimilation. These civilisations had connections with various cultural groups, resulting in the exchange of ideas, practices, and traditions that continue to shape India's multicultural landscape.

India's indigenous tribal communities also contribute significantly to its multicultural heritage. Spread across different regions, these tribes possess distinct cultural practices, languages, and art forms that have evolved over centuries. Their unique identities and contributions enrich the cultural mosaic of the country.

The history of India is intertwined with trade and cultural exchanges. The strategic location of India on ancient trade routes, such as the Silk Road and the Spice Route, facilitated interactions with neighbouring regions and distant lands. Traders, travelers, and conquerors brought their own cultural influences, which intermingled with the local traditions, resulting in a vibrant mix of cultural expressions.

Religion has played a crucial role in shaping India's multicultural identity. India is the birthplace of several major world religions, including Hinduism, Buddhism, Jainism, and Sikhism. The coexistence and interplay of these religions have influenced Indian culture, art, literature, and philosophy, making religious diversity a defining characteristic of Indian society.

The Mughal Empire's reign in India left a significant impact on its cultural heritage. The fusion of Persian, Central Asian, and Indian traditions gave rise to an Indo-Islamic culture that found expression in architecture, art, music, and cuisine. The Mughal period further added to the multicultural fabric of India.

During the colonial era, India came under British rule, bringing European influences to the Indian subcontinent. This period witnessed the assimilation of Western education, institutions, and cultural practices, further enriching India's multicultural landscape.

India's regional and linguistic diversity is another significant aspect of its multicultural heritage. The country is divided into various states and union territories, each with its distinct language, culture, and traditions. The linguistic diversity of India, with over 1,600 languages spoken across the country, contributes significantly to its multicultural fabric.

India is renowned for its colorful and vibrant festivals that are celebrated throughout the year. Festivals like Diwali, Eid, Holi, Durga Puja, and Christmas bring together people of different religions and regions, showcasing the multicultural essence of India. These festivities serve as platforms for cultural exchange, fostering unity and understanding among diverse communities.

Art, music, and dance play vital roles in India's multicultural tapestry. India's classical music, dance forms like Bharatanatyam, Kathak, Odissi, and Manipuri, and artistic traditions such as painting, sculpture, and handicrafts reflect the diverse cultural expressions found across the country. These artistic forms contribute to the richness and vibrancy of India's multicultural heritage.

India's multiculturalism is deeply rooted in its historical and cultural background. The interactions of ancient civilisations, the influence of religions, the impact of empires, and the amalgamation of regional and linguistic diversity have shaped India into a diverse and culturally vibrant nation. It is this multicultural heritage that continues to define India as a nation that celebrates and embraces its 'Unity in Diversity.'

1.4.1.3 Indian Constitution and Multiculturalism

The Indian Constitution, adopted on January 26, 1950, is the supreme law of India. It provides the framework for governance, sets out the fundamental rights and duties of citizens, establishes the structure of government, and enshrines the principles of justice, equality, and democracy. One of the significant aspects of the Indian Constitution is its recognition and promotion of multiculturalism.

Secularism is a cornerstone of the Indian Constitution, embodying the principle that the state maintains an equal distance from all religions and treats all citizens, irrespective of their faith, equally. The Constitution upholds and protects the freedom of religion, ensuring that individuals have the right to practice, profess, and propagate any religion of their choice. Fundamental rights are guaranteed to all Indian citizens, regardless of their religion, caste, gender, or any other identity. These rights, enshrined in the Constitution, include the right to equality, freedom of speech and expression, freedom of religion, cultural and educational rights, and the right to protection of language, script, and culture. These provisions ensure that individuals have the freedom to practice and preserve their cultural and religious traditions.

The Indian Constitution recognises the importance of preserving and promoting the cultural and educational rights of different communities. It includes provisions that protect the rights of minorities to conserve their distinct language, script, and culture. Additionally, it grants minority communities the right to establish and administer educational institutions that preserve and promote their culture and language. To address historical injustices and social inequalities, the Constitution incorporates provisions for reservations and affirmative action. It provides for reservations in educational institutions and public employment for socially and educationally backward classes, Scheduled Castes (SCs), Scheduled Tribes (STs), and other marginalised communities. These measures aim to ensure equal opportunities and representation for all sections of society.

India is a linguistically diverse country, and the Constitution recognises this diversity by providing for the use of multiple languages at the state and union levels. While Hindi and English are designated as the official

languages of the central government, the Constitution also protects the rights of states to use their regional languages for official purposes. This language policy reflects the commitment to preserving linguistic diversity. The Indian Constitution also includes Directive Principles of State Policy, which are non-justiciable guidelines for the government to promote social justice, economic welfare, and the overall well-being of the people. These principles emphasise the importance of inclusive development, eradication of poverty, and the promotion of cultural and educational institutions.

The Indian Constitution upholds multiculturalism through its provisions on secularism, fundamental rights, cultural and educational rights, reservations, language policy, and Directive Principles of State Policy. By recognising and protecting the diverse cultural, religious, and linguistic identities of its citizens, the Constitution ensures that India remains a vibrant and inclusive multicultural society.

1.4.1.4 Constitutional Provisions for Preserving Multiculturalism

The Indian Constitution incorporates several provisions to preserve and promote multiculturalism. These provisions are designed to protect the rights and interests of diverse communities and ensure their participation and representation in society. Here are some key constitutional provisions for preserving multiculturalism in India:

1. Fundamental Rights: The Indian Constitution guarantees fundamental rights to all citizens, irrespective of their religion, caste, gender, or other identities. These rights include the right to equality, freedom of speech and expression, freedom of religion, cultural and educational rights, and the right to protect language, script, and culture. These provisions ensure that individuals have the freedom to practice and preserve their cultural and religious traditions.
2. Right to Freedom of Religion: The Constitution upholds the right to freedom of religion, allowing individuals to practice, profess, and propagate any religion of their choice. It ensures that the state remains neutral in religious matters and treats all religions equally. This provision fosters a climate of religious tolerance and allows for the coexistence of various faiths.
3. Cultural and Educational Rights: The Constitution recognises the significance of cultural and educational rights in preserving multiculturalism. Article 29 protects the rights of minorities to conserve their distinct language, script, and culture. It allows minority communities to establish and administer educational institutions that preserve and promote their culture and language.
4. Reservations and Affirmative Action: To address historical injustices and social inequalities, the Constitution includes provisions for reservations and affirmative action. It provides for reservations in educational institutions and public employment for socially and educationally backward classes, Scheduled Castes (SCs), Scheduled Tribes (STs), and other marginalised communities. These measures aim to ensure equal opportunities and representation for all sections of society.
5. Language Policy: India's linguistic diversity is recognised and protected by the Constitution. While Hindi and English are designated as the official languages at the central government level, the Constitution respects the rights of states to use their regional languag-

es for official purposes. This language policy safeguards the linguistic diversity and heritage of different regions in India.

6. Directive Principles of State Policy: The Constitution includes Directive Principles of State Policy, which are guidelines for the government to promote social justice, economic welfare, and the overall well-being of the people. These principles emphasise the importance of inclusive development, eradication of poverty, and the promotion of cultural and educational institutions.
7. Right to Cultural and Educational Heritage: The Constitution recognises and protects the right of citizens to conserve their cultural and educational heritage. It encourages the preservation and promotion of cultural diversity through measures such as supporting the development of cultural institutions and protecting historical monuments and places of national and historical importance.

These constitutional provisions demonstrate the commitment of the Indian Constitution to preserve multiculturalism and uphold the rights and interests of diverse communities. By providing legal safeguards, promoting inclusive policies, and protecting cultural and educational rights, the Constitution aims to foster a society where different cultures, religions, languages, and traditions can coexist and thrive.

1.4.2 Diversity in Indian Society

Diversity is a defining characteristic of Indian society, encompassing various aspects such as culture, religion, language, ethnicity, and regional identities. Here, we explore the different dimensions of diversity in Indian society:

1. Linguistic Diversity: India is known for its linguistic diversity, with over 1,600 languages spoken across the country. The Constitution recognises 22 official languages, including Hindi, Bengali, Tamil, Telugu, and Urdu, among others. Each state and region often has its own primary language, leading to a rich tapestry of linguistic expressions.
2. Religious Diversity: India is home to multiple religions, including Hinduism, Islam, Christianity, Sikhism, Buddhism, Jainism, and others. People of different faiths coexist and practice their religious beliefs freely. Religious diversity is evident in the presence of diverse places of worship, religious festivals, and rituals celebrated throughout the country.
3. Cultural and Traditional Diversity: India boosts a multitude of cultures and traditions. Each region has its unique customs, art forms, music, dance, attire, and cuisine. From the vibrant festivities of Diwali, Eid, Holi, and Christmas to the various classical dance forms like Bharatanatyam, Kathak, Odissi, and Manipuri, cultural diversity is prominently displayed across the nation.
4. Regional Identities: India is geographically diverse, encompassing mountains, plains, coastlines, and forests. Each region has its own distinct identity shaped by geography, climate, history, and cultural practices. North India, South India, East India, West India, and Northeast India exhibit distinct regional characteristics, languages, and traditions.
5. Ethnic Diversity: India is a melting pot of different ethnic groups and communities. From the indigenous tribal communities to migrant communities settled in different regions, ethnic di-

versity adds to the multicultural fabric of the country. Each community brings its unique customs, traditions, and contributions to the larger Indian society.

6. Socio-Economic Diversity: India is marked by socio-economic diversity, with varying levels of income, education, and social status. Economic disparities exist between urban and rural areas, as well as among different social groups. Efforts are being made to bridge these gaps through inclusive policies and welfare programs.
7. Gender and Caste Diversity: Gender diversity is an integral part of Indian society, with efforts being made to promote gender equality and empower women. The caste system, although legally abolished, still influences social dynamics in some communities, adding another layer of diversity to Indian society.
8. Political and Administrative Diversity: India follows a federal structure with states and union territories, each having its own governance and administration. This decentralisation of power allows for regional representation and decision making, contributing to the political and administrative diversity of the country.

The diversity in Indian society reflects the pluralistic ethos of the nation. While it can sometimes present challenges, India celebrates its diversity as a source of strength, unity, and cultural richness. Efforts to promote inclusivity, equal rights, and social harmony continue to be essential for nurturing a society that values and respects its diverse populace.

1.4.3 Unity in Diversity

1.4.3.1 Meaning and Essence of 'Unity in Diversity'

Unity in Diversity is a concept that celebrates the coexistence of different cultures, religions, ethnicities, and social backgrounds within a unified society or community. It recognises and respects the differences among people while emphasising the importance of finding common ground, fostering understanding, and promoting inclusivity. The phrase "Unity in Diversity" encapsulates the idea that despite our varying backgrounds and beliefs, we can come together as one harmonious whole.

In diverse societies, individuals bring their unique perspectives, traditions, customs, languages, and values. This diversity enriches the cultural fabric and offers an opportunity for mutual learning, growth, and appreciation. Unity in Diversity acknowledges the value of this diversity and seeks to create an inclusive environment where everyone feels respected, valued, and empowered.

This concept finds expression in various aspects of society, including education, politics, economics, and the arts. It calls for the recognition and protection of individual rights and freedoms, as well as the promotion of equality and social justice. Unity in Diversity encourages dialogue, collaboration, and the breaking down of barriers between different groups, fostering social cohesion and creating a sense of belonging for all members of society.

Many countries and communities around the world embrace the principle of Unity in Diversity as a fundamental pillar of their national identity. It serves as a reminder that despite our differences, we share a common humanity and can work together for the greater good. By embracing diversity and promoting unity, societies can harness the collective strengths of their members and build a stronger, more resilient future.

In a world that is increasingly interconnected and interdependent, the concept of Unity in

Diversity becomes even more relevant. It challenges us to embrace cultural differences, bridge divides, and celebrate the beauty of our collective heritage. By promoting understanding, tolerance, and cooperation, Unity in Diversity has the potential to create a more inclusive and peaceful world where people of all backgrounds can thrive and flourish together.

1.4.3.2 Role of 'Unity in Diversity' in Shaping Indian Society

The concept of Unity in Diversity has played a significant role in shaping Indian society and its national identity. India is known for its remarkable diversity, encompassing a multitude of languages, religions, cultures, and traditions. The principle of Unity in Diversity has helped India navigate the complexities of its diverse society and establish a strong sense of unity and national identity. Here are some key ways in which Unity in Diversity has influenced Indian society:

1. Cultural Pluralism

Unity in Diversity has played a crucial role in enabling India to embrace and celebrate its cultural pluralism. India is a land of immense diversity, with a plethora of cultures, traditions, languages, and artistic expressions coexisting harmoniously. This diversity is seen as a source of strength and vitality, reflecting the richness of India's heritage. India's cultural landscape is composed of different customs, rituals, art forms, music, dance, and languages. Each region and community in India has its unique cultural expressions, contributing to the vibrant mosaic of the nation. From the classical dance forms like Bharatanatyam, Kathak, Odissi, and Kathakali to the diverse folk dances such as Bhangra, Garba, and Manipuri, India boasts a vast array of traditional dance forms that showcase the distinct identities of various regions. Similarly, India's music traditions are incredibly diverse, ranging from Hindustani classical music in the north to Carnatic classical music in the south, with countless regional folk music styles in between. The melodic richness and varied instrumentation in Indian music reflect the country's multicultural heritage.

India's cultural diversity extends to its customs, rituals, and festivals. The country celebrates a multitude of religious and cultural festivals throughout the year, including Diwali, Eid, Christmas, Navratri, Pongal, Holi, and many more. These festivals bring people together, fostering a sense of unity and shared celebrations, while also highlighting the distinct traditions and practices of different communities. Languages play a vital role in India's cultural diversity. The country is home to numerous languages, with Hindi and English recognised as the official languages at the central government level. In addition to these, there are 21 officially recognised regional languages, each with its own script, literature, and linguistic nuances. The Constitution protects the rights of linguistic minorities and promotes the development and preservation of regional languages.

By celebrating this diversity, India has forged a unique cultural identity that is inclusive and representative of its people. The acceptance and recognition of various cultural expressions have helped shape India's national ethos, which emphasises unity, tolerance, and respect for all. It has allowed Indians to appreciate and learn from different cultural practices, promoting cross-cultural understanding and fostering social harmony. India's cultural pluralism is not only a source of pride for its citizens but also a significant attraction for tourists and visitors from around the world. The diverse cultural experiences offered by India make it an incredible destination for exploring and immersing oneself in the country's rich

tapestry of traditions, art forms, music, dance, and languages.

2. Social Harmony

India's diverse population encompasses individuals belonging to various religious backgrounds, including Hinduism, Islam, Christianity, Sikhism, Buddhism, Jainism, and many more. This religious diversity is a significant characteristic of Indian society, and Unity in Diversity has played a crucial role in fostering social harmony and religious tolerance among its people.

Unity in Diversity promotes the idea that despite religious differences, individuals can coexist peacefully and respectfully. It recognises the inherent value of each religion and emphasises the importance of understanding, acceptance, and mutual respect among different religious communities. The Indian Constitution guarantees religious freedom as a fundamental right for all citizens. Article 25 to 28 of the Constitution safeguard the freedom of conscience, the right to profess, practice, and propagate any religion. These provisions ensure that individuals have the liberty to follow their own religious beliefs and practices without any discrimination or coercion.

Furthermore, India has a long-standing tradition of interfaith dialogue and coexistence. Throughout its history, the country has witnessed interactions and exchanges among various religious communities, leading to a rich cultural and religious syncretism. This syncretism is visible in festivals, traditions, and rituals that often incorporate elements from multiple religious practices. Interfaith dialogue initiatives in India aim to promote understanding, respect, and harmony among different religious communities. These dialogues provide platforms for individuals from diverse religious backgrounds to come together, engage in meaningful conversations, and address shared concerns. They help bridge gaps, foster empathy, and create a sense of unity among religiously diverse groups.

India's pluralistic society also nurtures a spirit of religious tolerance. While conflicts and tensions do arise, the majority of Indians believe in the coexistence of different religious beliefs and practices. Many religious festivals are celebrated by people of various faiths, transcending religious boundaries and promoting communal harmony. Additionally, religious leaders, scholars, and organisations in India actively promote interfaith dialogue and tolerance. They work towards dispelling misconceptions, promoting understanding, and fostering cooperation among different religious communities. These efforts contribute to the overall social harmony and peaceful coexistence in the country.

3. Linguistic Unity

India is a linguistically diverse country, with a rich tapestry of languages spoken across its vast expanse. While Hindi and English are recognised as the official languages of India, the country's linguistic landscape goes far beyond these two languages. Unity in Diversity has played a pivotal role in promoting and preserving the regional languages of India, allowing people to communicate and express themselves in their native tongues. The recognition and promotion of regional languages are integral to fostering a sense of inclusivity and cultural pride. India is home to 22 officially recognised languages, including Bengali, Telugu, Marathi, Tamil, Urdu, Gujarati, Punjabi, Kannada, Odia, Malayalam, Assamese, and more. Each of these languages has its own distinct grammar, vocabulary, and script, reflecting the diverse cultural identities of different regions.

Unity in Diversity recognises the

importance of linguistic diversity and encourages the preservation and promotion of regional languages. Efforts have been made to ensure that no language is marginalised or neglected, and steps have been taken to provide support for the development and enrichment of regional languages. The Indian Constitution protects the linguistic rights of citizens and acknowledges the significance of regional languages in preserving cultural heritage. Article 29 and Article 30 of the Constitution safeguard the rights of minorities to conserve their language, script, and culture. This recognition ensures that individuals have the freedom to use, learn, and promote their regional languages without any discrimination.

Language diversity is embraced and celebrated in India, with various initiatives promoting the use and study of regional languages. Educational institutions in different states often incorporate the regional language into their curriculum, allowing students to learn and communicate in their mother tongue. Efforts are made to develop language learning materials, literature, and digital resources to support the growth and dissemination of regional languages. Additionally, regional language literature, music, films, and theatre play a vital role in preserving and promoting linguistic diversity. These creative mediums help in the preservation and propagation of regional languages, enabling people to express their ideas, emotions, and cultural nuances in their own language. India's linguistic diversity is also reflected in its media landscape. Several regional language newspapers, television channels, radio stations, and online platforms cater to the linguistic preferences of different regions. This ensures that information, news, and entertainment are accessible to people in their native languages, strengthening cultural identity and linguistic pride.

4. Political Integration

India's journey towards independence and the subsequent formation of a democratic nation were deeply influenced by the principle of Unity in Diversity. Leaders like Mahatma Gandhi and Jawaharlal Nehru recognised the importance of national unity while respecting the diverse identities that existed within the country.

During the freedom struggle, Mahatma Gandhi advocated for a united India that transcended divisions of religion, caste, and language. He believed that the strength of the nation lay in its ability to harness the collective power of its diverse population. Gandhi promoted non-violent resistance and sought to create a sense of unity among people of different backgrounds, emphasising the need for mutual respect, understanding, and cooperation. Jawaharlal Nehru, India's first Prime Minister, was a staunch advocate of Unity in Diversity. He envisioned India as a pluralistic society that celebrated its cultural, linguistic, and religious diversity. Nehru firmly believed that India's strength as a nation resided in its ability to accommodate and embrace the multitude of identities and beliefs that existed within its borders.

The Indian Constitution, which was adopted in 1950, reflects the ideals of Unity in Diversity. It enshrines principles of secularism, equality, and justice, providing a framework for safeguarding the rights of all citizens while promoting national cohesion. The Constitution guarantees religious freedom, ensures the right to equality before the law, and prohibits discrimination based on religion, caste, gender, or any other grounds. Secularism is a fundamental principle of the Indian Constitution, emphasising that the state should maintain equal distance from all religions. It upholds the principle of religious freedom, allowing individuals to practice and profess their faith without interference from the state. This commitment to secularism has

played a significant role in fostering religious harmony and respecting the diverse religious identities of Indian citizens.

The Constitution also incorporates provisions for affirmative action and reservations to address historical inequalities and social injustices. These measures aim to uplift marginalised communities, ensuring that the benefits of development reach all sections of society. By promoting inclusivity and equal opportunity, the Constitution contributes to national unity and social cohesion. Furthermore, the Constitution acknowledges and protects the linguistic and cultural diversity of India. It recognises numerous regional languages and provides for their use in education, administration, and communication. This recognition ensures that diverse linguistic identities are preserved and respected, contributing to the overall fabric of Unity in Diversity.

5. Economic Growth

India is known for its remarkable diversity, encompassing various aspects such as culture, language, religion, and geography. This diversity is not limited to its social and cultural fabric; it extends to the economic landscape as well. India's economic diversity is evident in the regional variations in industries, agricultural practices, and overall economic development across different states and regions. One of the key factors contributing to India's economic diversity is its vast geographic expanse. India is geographically diverse, comprising mountains, plains, coastal areas, and deserts. This geographical variation has given rise to different natural resources and ecosystems, which in turn have influenced the types of industries and economic activities that thrive in each region. For example, coastal areas have a greater focus on fishing, maritime trade, and tourism, while regions with fertile land and water resources are more conducive to agriculture. Furthermore, India's economic diversity can be attributed to its historical, cultural, and political factors. Over centuries, various regions in India have developed specialised industries based on their unique resources, traditional knowledge, and skills. For instance, the textile industry in Gujarat, the IT sector in Bengaluru, and the film industry in Mumbai (Bollywood) have emerged as economic hubs due to historical factors, local expertise, and favourable business environments.

The concept of "Unity in Diversity" is deeply ingrained in Indian society. Despite the diverse economic landscape, there is a sense of collaboration and mutual cooperation among different states and regions. This unity allows for the sharing of resources, knowledge, and expertise. For example, states with a surplus of agricultural produce can share their surplus with regions that have a higher demand, ensuring food security and stability across the country. Similarly, states with advanced industrial sectors can assist and collaborate with regions that are in the process of economic development. This collaborative approach and the sharing of resources and expertise have contributed significantly to the overall economic growth of India. It has facilitated the transfer of technology, best practices, and innovations between different regions, fostering economic development and reducing regional disparities. Additionally, this unity in diversity has created a large domestic market, enabling businesses to cater to diverse consumer preferences and requirements. However, it is important to note that while India's economic diversity offers opportunities for growth and development, it also presents challenges. The disparities in economic development across states and regions highlight the need for inclusive policies, infrastructure development, and targeted interventions to ensure balanced

growth and equitable distribution of resources and opportunities.

6. National Integration

Unity in Diversity has played a crucial role in fostering national integration in India, a country known for its rich linguistic, religious, and cultural diversity. Despite the challenges posed by these differences, India has been able to maintain a strong sense of national unity through various means and celebrations. One of the significant ways in which India promotes national integration is through the celebration of national festivals. These festivals serve as occasions to bring people from diverse backgrounds together, celebrating the unity of the nation while respecting its diversity. Two prominent examples of such festivals are Independence Day and Republic Day. Independence Day, celebrated on August 15th, commemorates India's freedom from colonial rule. It is a day when people across the country come together to pay homage to the freedom fighters and leaders who fought for independence. The celebrations include flag hoisting ceremonies, parades, cultural performances, and patriotic songs. These activities not only instill a sense of national pride but also create an environment of togetherness and unity among people of different linguistic, religious, and cultural backgrounds.

Republic Day, celebrated on January 26th, marks the adoption of the Indian Constitution and the establishment of India as a sovereign republic. The highlight of Republic Day is the grand parade in the capital city of New Delhi, showcasing the country's diverse cultural heritage through various state representations, folk dances, and military displays. This celebration underscores the idea that India's strength lies in its unity amidst diversity and highlights the importance of upholding democratic principles and values. In addition to national festivals, India celebrates various regional and religious festivals throughout the year. These festivals provide opportunities for people to come together, exchange cultural practices, and appreciate the diversity that exists within the country. Diwali, Eid, Christmas, Holi, Navratri, and Pongal are some examples of such festivals celebrated across different communities, fostering mutual understanding and respect.

Moreover, the Indian Constitution guarantees fundamental rights and freedoms to all citizens, irrespective of their religion, language, or culture. The principle of secularism is enshrined in the Constitution, emphasising the equal treatment and protection of all religions. This commitment to secularism and the promotion of religious harmony further strengthen the sense of national integration and unity. Education also plays a vital role in promoting national integration in India. The education system emphasises the values of tolerance, inclusivity, and respect for diversity. Students are exposed to various cultures, traditions, and languages, fostering an understanding and appreciation for different perspectives. Educational institutions often celebrate cultural events and conduct activities that promote intercultural interactions, fostering a sense of unity among students from different backgrounds. However, it is important to acknowledge that national integration in India is an ongoing process and faces challenges at times. Linguistic and regional tensions, communal conflicts, and socio-economic disparities can pose hurdles to unity. Efforts are continuously made to address these challenges through dialogue, inclusive policies, and initiatives that promote social harmony and equality.

In short, Unity in Diversity has been a guiding principle in shaping Indian society and national identity. It has helped India

embrace its cultural, linguistic, religious, and ethnic diversity, fostering social harmony, political integration, and economic growth. By recognising and celebrating the uniqueness of each individual and community, while also emphasising the unity that binds them together, Unity in Diversity has contributed to the strength and resilience of Indian society.

Recap

- Multiculturalism
  - Significance of multiculturalism in the Indian context
  - Historical and cultural background of India's multiculturalism
  - Indian Constitution and multiculturalism
  - Constitutional Provisions for Preserving Multiculturalism
- Diversity in Indian society
- Unity in Diversity
  - Meaning and essence of 'Unity in Diversity'
  - Role of 'Unity in Diversity' in shaping Indian society and national identity

Objective Questions

1. What is the significance of multiculturalism in the Indian context?
2. Historical and cultural background of India's multiculturalism?
3. Indian Constitution and multiculturalism?
4. Constitutional Provisions for Preserving Multiculturalism?
5. How would you describe the diversity within Indian society?
6. Meaning and essence of 'Unity in Diversity'?
7. Role of 'Unity in Diversity' in shaping Indian society and national identity?

Answers

1. Cultural Harmony
2. Diverse Heritage
3. Secularism Principle
4. Fundamental Rights
5. Linguistic, Religious, Cultural
6. Unity Amidst Differences
7. National Integration

Assignments

1. What is the significance of multiculturalism in the Indian context?
2. How does the historical and cultural background of India contribute to its multiculturalism?
3. In what ways does the Indian Constitution address and promote multiculturalism?
4. What are some constitutional provisions in India aimed at preserving multiculturalism?
5. How would you describe the diversity within Indian society?
6. What is the meaning and essence of 'Unity in Diversity'?
7. How has 'Unity in Diversity' played a role in shaping Indian society and its national identity?
8. Can you provide examples of how 'Unity in Diversity' is manifested in various aspects of Indian culture?
9. How does 'Unity in Diversity' foster inclusivity and social cohesion in India?
10. What are some challenges that India faces in maintaining unity amidst its diverse society?
11. How do educational institutions in India promote the idea of 'Unity in Diversity' among students?
12. What initiatives or policies are in place to ensure the preservation of multiculturalism in India?

Suggested Reading

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BLOCK - 02

Rights of Individuals and Directives to the State

SGOU

Unit 1
Fundamental Rights and its Role in Strengthening the Indian Democracy

Learning Outcomes

Upon the completion of this unit, the learner will be able to;

- Identify and describe the Fundamental Rights enshrined in the Indian Constitution and their significance.
- Explain how Fundamental Rights protect individual freedoms and contribute to democratic governance.
- Discuss the role of Fundamental Rights in maintaining a balance of power and preventing abuse by the state.

Prerequisites

In the vibrant tapestry of Indian democracy, Fundamental Rights act as the bedrock of individual freedom and justice. These rights are like a protective shield for every citizen, ensuring they can express their thoughts, practice their beliefs, and seek fair treatment. Enshrined in the Constitution, these rights are crucial for maintaining a balanced and democratic society. They prevent any misuse of power by the state and guarantee that citizens have the means to challenge injustices. By safeguarding personal freedoms and promoting equality, Fundamental Rights play a key role in reinforcing democratic values and ensuring that the voice of every individual contributes to the strength and integrity of India's democracy.

Keywords

Fundamental Rights, Indian Constitution, Democracy, Individual Liberties, Constitutional Remedies

Discussion

2.1.1 The Concept of Fundamental Rights

In all modern civilized societies, certain rights have been considered fundamental to living well and happily, and people have struggled to maintain them everywhere. These rights are considered fundamental because they are essential for individuals to achieve their full intellectual, moral, and spiritual potential. Nowadays, Fundamental

Rights are an integral part of any democratic political system. The fundamental rights, which form the essence of every democratic constitution, seek to embody and protect the conditions of life that are crucial for an individual's development. They propose a purposeful human existence and aim to align the organizational structure of society with the fundamental needs of civilized human existence.

Now, let's address the misconception regarding the origin of rights. While the Magna Carta signed by the Kingdom of England in 1215 holds historical importance, the concept of fundamental rights is relatively new. During the 17th and 18th centuries, there was a pressing need to define and protect the rights necessary for an individual's well-being.

Almost all European states established after World War I incorporated fundamental rights into their written constitutions. The French Declaration of the Rights of the Man and of the Citizen of 1789, the Bill of Rights of the U.S. Constitution, and the Universal Declaration of Human Rights by the U.N provided valuable guidance to the framers of various constitutions worldwide when selecting a set of rights that best suited their social and political circumstances.

It is crucial to acknowledge that fundamental rights continue to evolve as societies progress and face new challenges. The interpretation and application of these rights may vary across different cultures and legal systems, but their essence lies in ensuring the protection and well-being of every individual within a democratic society.

2.1.2 The Indian Demand for Fundamental Rights

Indians, like people in other parts of the world, have fought for their rights and freedoms. The establishment of the Indian National Congress in 1885 was, in part, an endeavor to secure for Indians the same rights and privileges enjoyed by the British in their own country.

One interesting anecdote that exemplifies the Indian demand for fundamental rights is the story of Bhimrao Ramji Ambedkar. Born into a socially marginalized community, Ambedkar faced immense discrimination and barriers throughout his life. However, he dedicated himself to the pursuit of education and became one of the most influential figures in the fight for the rights of marginalized communities in India. His tireless efforts and advocacy led to the inclusion of several provisions in the Constitution of India, aimed at protecting and promoting the fundamental rights of all citizens.

The first organized demand for fundamental rights was put forth through the Constitution of India Bill in 1895. Subsequently, several resolutions were passed, and committees were formed to represent Indian perspectives on the nature and extent of the fundamental rights they sought. One such committee that played a pivotal role in this process was the Advisory Committee for Reporting on Minorities, Fundamental Rights, and Tribal and Excludable Areas, chaired by Sardar Patel. The committee worked diligently to consider the aspirations and concerns of various sections of Indian society and helped to formulate a comprehensive framework of fundamental rights that would protect the rights and liberties of all citizens.

It is important to note that the recognition of fundamental rights in the Indian Constitution was a significant milestone in the country's history. These rights serve as the bedrock of democracy and ensure the protection of

individual liberties, equality, and justice for all. They empower citizens to participate actively in the governance of the nation and hold the government accountable for its actions.

2.1.3 Meaning of Fundamental Rights

Rights are the essential conditions of social life that enable individuals to express their true selves and flourish. Without these rights, no person can aspire to reach their full potential. The significance of these rights, known as Fundamental Rights, was elucidated by Dr. B. R. Ambedkar, the Chairman of the Drafting Committee, when he explained the status of the Constituent Assembly. Dr. Ambedkar highlighted three key reasons why these rights were labelled as Fundamental Rights:

1. These rights are bestowed with a distinctive status in the Constitution, which restricts the State's ability to abolish or modify them arbitrarily.
2. Any legislation enacted by the government that diminishes or abolishes fundamental rights holds no legal validity. It is considered null and void to the extent that it infringes upon these rights.
3. In the event of a violation of these rights, citizens have the right to approach the courts seeking protection and restoration of their fundamental rights.

Therefore, these rights enjoy a privileged position within our Constitution, and it is not easily within the state's purview (as defined in Article 12) to seize or curtail these rights under normal circumstances.

2.1.4 Fundamental Rights in Indian Constitution

The Fundamental Rights are enshrined in Part III of the Indian Constitution, specifically from Articles 12 to 35. The framers of the Constitution drew inspiration from the United States' Constitution, particularly the Bill of Rights. Part III of the Indian Constitution is often referred to as the Magna Carta of India. It encompasses an extensive and comprehensive list of 'justiciable' Fundamental Rights.

Originally, the Constitution provided for seven Fundamental Rights, namely:

1. Right to Equality (Articles 14–18)
2. Right to Freedom (Articles 19–22)
3. Right against Exploitation (Articles 23–24)
4. Right to Freedom of Religion (Articles 25–28)
5. Cultural and Educational Rights (Articles 29–30)
6. Right to Property (Article 31)
7. Right to Constitutional Remedies (Article 32)

However, through the 44th Amendment Act of 1978, the Right to Property was removed from the list of Fundamental Rights. It was subsequently transformed into a legal right under Article 300-A, which is now a part of Part XII of the Constitution. Consequently, at present, there are only six Fundamental Rights recognized.

2.1.4.1 Right to Equality

The right to equality, encompassed in Articles 14 to 18 of the Indian Constitution, establishes a set of rights aimed at eliminating discrimination and promoting equality among citizens. Let's delve into each article and explore their significance:

Article 14 serves as the cornerstone, guaranteeing equality before the law and

equal protection of law. This means that the state is prohibited from discriminating against any citizen based on their religion, caste, gender, or place of birth. It ensures that every individual is treated impartially by the legal system, irrespective of their personal characteristics.

Moving on, Article 15 prohibits discrimination on various grounds, including religion, race, caste, sex, and place of birth. This provision aims to eliminate prejudice and biases prevalent in society, ensuring that every individual is treated fairly and without bias. By preventing discrimination, Article 15 fosters an inclusive and harmonious environment where all citizens have equal rights and opportunities.

Article 16 focuses on providing equality of opportunity in matters of public employment. It ensures that individuals are not discriminated against when seeking employment in the public sector solely based on their religion, caste, gender, or place of birth. This article promotes a merit-based system that values talent, skills, and qualifications, creating a level playing field for all citizens to secure public employment.

Article 17 is a significant provision as it abolishes the abhorrent practice of untouchability. This inhumane practice, deeply rooted in the caste system, relegated certain individuals to the lowest strata of society, subjecting them to social exclusion and discrimination. Article 17 not only denounces untouchability but also criminalizes its enforcement. It sends a clear message that such discriminatory practices have no place in a modern and egalitarian society.

Lastly, Article 18 addresses the issue of titles. It abolishes titles and prohibits the State from conferring any titles on citizens, except military and academic distinctions. By doing so, Article 18 ensures that societal hierarchies based on titles are dismantled, fostering a more egalitarian society where individuals are not judged or valued based on titles but on their character, achievements, and contributions to society.

2.1.4.2 Right to Freedom

The Right to Freedom encompasses a set of liberties or freedoms provided to individuals, safeguarding them from interference by the State authority. This right extends from Article 19 to 22 of the Constitution of India. Let's explore these articles and their significance in upholding individual freedoms.

Article 19

Article 19 guarantees six valuable freedoms to the citizen of India.

(a) **Freedom of speech and expression:** This right grants individuals the freedom to express their thoughts, opinions, and ideas without fear of censorship or retribution. It allows for the free exchange of information, fostering a vibrant democratic society.

(b) **Right to assemble peacefully and without arms:** Individuals have the right to gather peacefully and protest, allowing citizens to voice their concerns and grievances collectively. Peaceful assemblies are crucial for social and political participation.

(c) Right to form associations or unions or co-operatives: This right enables individuals to come together and form associations, unions, or organizations, allowing them to collectively advocate for their interests and work towards common goals.

(d) Right to move freely throughout the territory of India: Individuals have the freedom to travel and move within the country

without undue restrictions. This ensures mobility and the ability to explore different regions of the nation.

(**e) Right to reside and settle in any part of the country:** This right ensures that individuals can choose their place of residence and settle anywhere within the country's borders, promoting social integration and cultural diversity.

(f) Right to practice any profession or carry on any occupation, trade, or business: Individuals have the freedom to choose and pursue their desired professions, trades, or businesses, fostering economic opportunities and entrepreneurship.

While these rights are provided to all citizens, it is important to note that the State can impose reasonable restrictions on them in the interest of the sovereignty and integrity of India. Balancing individual freedoms with the welfare of the nation is a delicate task.

Article 20

Article 20 ensures a fair trial and freedom from arbitrary conviction by the State. It emphasizes that no person can be convicted except for an offense under the law prevalent at the time of the commission of the act charged as an offense. This provision safeguards individuals from retroactive or ex post facto laws, ensuring fairness and justice in the legal system.

Article 21

Article 21 guarantees the protection of life and personal liberty to all individuals. It states that no one can be deprived of their life or personal liberty without the procedure established by law. This article ensures the fundamental right to life and encompasses the principle of due process, providing individuals with legal safeguards and protection from arbitrary state actions.

The 86th Amendment in 2002 further added Article 21A, which declares that the State shall provide free and compulsory education to all children between the ages of six and fourteen years. This amendment aimed to ensure equal access to education for every child and shifted the provision from Article 45 of the Directive Principles of State Policy to a justiciable fundamental right.

Article 22

Article 22 deals with the protection against arbitrary arrest and detention in certain cases. It establishes safeguards for individuals detained by the State. These safeguards include the right to be informed of the grounds for arrest, the right to legal representation, and the right to be produced before a magistrate within twenty-four hours of arrest. These provisions aim to prevent arbitrary arrests and protect individuals' rights during their detention.

2.1.4.3 Right against Exploitation

The right against exploitation is a crucial aspect of human rights that aims to safeguard individuals from various forms of exploitation and abuse. It serves as a protective shield, ensuring the dignity and well-being of every person. Articles 23 and 24 of the Constitution address specific areas of concern related to this right. Let's delve into the details of these articles and understand their significance in combating exploitation.

Article 23: Prohibition of Trafficking, Labor

Article 23 of the Constitution focuses on preventing practices that exploit individuals against their will. It strictly prohibits trafficking in human beings, begar and any other forms of forced labor. These exploitative practices strip

individuals of their fundamental rights and subject them to a life of servitude.

Article 24: Protection of Children's Rights

Article 24 of the Constitution addresses the critical issue of child labour. It forbids the employment of children below the age of 14 in factories, mines, or any hazardous occupations. The article acknowledges that children are entitled to a safe and nurturing environment where they can develop both physically and mentally.

2.1.4.4 Right to Freedom of Religion

Articles 25 to 28 of the Constitution of India are dedicated to the right to freedom of religion, which is granted to both individuals and communities. Let's delve into each article and make the necessary modifications while ensuring accuracy.

Article 25 guarantees that all individuals are equally entitled to freedom of conscience and the right to freely profess, practice, and propagate religion, subject to public order, morality, and health, as well as other provisions of this part. This fundamental right allows individuals to have their own beliefs and express them openly. For instance, the story of Ravi, a young artist who belonged to a religious minority, showcases the significance of this right. Despite societal pressures, Ravi was able to freely practice and propagate his unique art form, contributing to the rich diversity of religious expression in his community.

Article 26 empowers every religious denomination or any section thereof with the freedom to manage their religious affairs. This includes the establishment and maintenance of institutions for religious and charitable purposes, self-governance in matters of religion, ownership and acquisition of movable and immovable property, and administration of such property in accordance with the law. However, the state can regulate or restrict this freedom on the grounds of public order, morality, and health. This article ensures that religious communities can independently manage their affairs and contribute to the welfare of society while maintaining accountability.

Article 27 states that no person shall be compelled to pay taxes for the promotion and maintenance of any religion or religious denomination. This provision ensures that individuals are not coerced into financially supporting a religion or religious organization against their will. It upholds the principle of freedom of conscience and prevents any form of religious discrimination in the allocation of public funds.

Article 28 says, no religious instruction shall be provided in an educational institution wholly or partly maintained by the state. However, this provision shall not apply to an educational institution administered by the state but established under any endowment or trust.

2.1.4.5 Cultural and Educational Rights

Cultural and educational rights are fundamental to the diversity and inclusivity of a nation. In India, these rights are enshrined in Articles 29 and 30 of the Constitution, which aim to protect the interests of both citizens and minorities. Let's explore these rights and their significance in fostering a pluralistic society.

Article 29: Safeguarding Minority interests

Article 29(1) ensures that any section of citizens, residing in any part of the Indian territory, has the right to conserve and protect its culture, language, and script. This provision specifically protects the interests of minorities, allowing them to preserve their unique

heritage and traditions. Article 29(2) ensures that no citizen can be denied admission to any educational institution, maintained by the State or receiving state aid,on the ground of religion, race, caste, language, or any of them. This provision promotes equality in education by preventing discrimination. It encourages inclusivity and a level playing field for all students.

Article 30: Rights of Minorities to establish and administer educational institutions

Article 30(1) emphasizes the right of minorities, regardless of their minority status, to establish and administer educational institutions of their own choices. This provision recognizes the importance of empowering minority communities to preserve their culture, language, and identity through education.

Furthermore, Article 30(2) explicitly prohibits discrimination by the State while granting aid to educational institutions on the ground that it is under the management of a minority be it religion or language. This provision promotes equal opportunities for all educational institutions, fostering an inclusive environment.

Cultural and educational rights, as enshrined in Articles 29 and 30, play a crucial role in upholding the principles of diversity, inclusivity, and equality in India. These rights ensure that every citizen, particularly minorities, can conserve and protect their culture, language, and identity while receiving equitable access to education. By respecting and promoting these rights, we strengthen the fabric of our nation, celebrating its rich cultural tapestry.

2.1.4.6 Right to Constitutional Remedies

Right to Constitutional Remedies is a fundamental right enshrined in the Indian Constitution. It is often regarded as the heart and soul of the Constitution because it ensures the protection and enforcement of all other fundamental rights. This right empowers citizens to approach the Supreme Court (Article 32) or High Courts (Article 226) in case of any violation of their rights guaranteed in the Constitution.

The courts, through the power vested in them, can issue various directions, orders and writs to safeguard these rights. These include:

1. Habeas Corpus: This writ ensures that no person is unlawfully detained or imprisoned. For instance, if someone is held in custody without any legal justification, a writ of habeas corpus can be sought to secure their release.

2. Mandamus: This writ is issued by the court to compel a public official or a government body to perform their duties. For example, if a government officer fails to issue a passport even after fulfilling all the required criteria, the affected individual can seek a writ of mandamus to compel the officer to act.

3. Prohibition: This writ is issued by a higher court to lower courts or tribunals to prevent them from exceeding their jurisdiction or acting against the principles of natural justice. It ensures that the courts stay within their lawful boundaries.

4. Certiorari: This writ is issued by a higher court to a lower court or tribunal either to transfer a case pending with the latter or to quash the order of the latter in a case. The writ is issued on the ground of excess of jurisdiction or lack of jurisdiction or error of law.

5. Quo Warranto: This writ is issued to inquire into the legality of a person's claim to

hold a public office. If someone is unlawfully holding a public office, a writ of quo warranto can be sought to challenge their authority.

Furthermore, the right to constitutional remedies guarantees the principle of judicial review under Articles 32 and 226. Judicial review empowers the courts to examine the constitutionality and legality of legislative and executive actions. It ensures that the government acts within the confines of the Constitution and upholds the rights and freedoms of the citizens. This concept of judicial review is considered a basic feature of the Indian Constitution, which cannot be amended or altered.

However, it is important to note that the President has the authority to suspend and render ineffective all these rights except right to life and liberty (Article 20 and 21) during National Emergency. During such times, the right to constitutional remedies can be temporarily suspended in the interest of national security or public emergency. This power is granted to the President to maintain stability and restore normalcy in exceptional circumstances.

2.1.5 Features of Fundamental Rights

The Fundamental Rights guaranteed by the Constitution are essential principles that safeguard the rights and freedoms of individuals in India. Let's go through each point and make the necessary modifications:

1. Integral part of the Constitution: Fundamental rights are an integral part of the Constitution and, therefore, cannot be altered or taken away by ordinary legislation. They are considered as the cornerstone of democracy and provide a strong foundation for the protection of individual rights.

2. Negative and Positive Rights: Some fundamental rights are negative in nature, as they limit the authority of the State and prevent it from infringing upon individual liberties. For example, the right to freedom of speech and expression restricts the government from suppressing the opinions of its citizens. On the other hand, certain fundamental rights are positive in nature, granting specific privileges to individuals. An illustration of a positive right is the right to education, which ensures that every child has access to quality education.

3. Justiciable rights: Fundamental rights are justiciable, meaning that individuals can approach the courts for their enforcement if they are violated. The Supreme Court of India acts as the guardian of fundamental rights and plays a vital role in protecting and guaranteeing these rights.

4. Not absolute but qualified: While fundamental rights are crucial for safeguarding individual liberties, they are not absolute. The State can impose reasonable restrictions on them in the interest of public order, morality, or the sovereignty and integrity of the country. The judiciary plays a pivotal role in determining the reasonableness of these restrictions, ensuring a delicate balance between individual rights and the welfare of society.

5. Some rights are guaranteed only to citizens: Some fundamental rights are exclusively guaranteed to the citizens of India, while others are extended to both citizens and aliens residing in the country. For instance, freedom of speech and expression is limited to Indian citizens, whereas rights such as the right to life and the freedom of religion apply to all individuals within Indian territory, whether citizens, foreigners or legal persons like corporations or companies.

6. Against the arbitrary action of the State: Certain fundamental rights protect

individuals against the arbitrary actions of the State. However, some rights are applicable only when the State violates them, while others can also be invoked when private individuals infringe upon these rights. When fundamental rights violated by private individuals, constitutional remedies may not be available, and individuals may need to seek recourse through ordinary legal remedies.

7. Amendment and permanence: Fundamental rights can be curtailed or repealed by the Parliament, but only through a constitutional amendment act and not through an ordinary act. However, any amendment must not infringe upon the 'basic structure' of the Constitution, which includes its fundamental principles and values.

8. Suspension of Rights during National Emergency: During the operation of a National Emergency, certain fundamental rights can be suspended, with the exception of rights guaranteed by Articles 20 and 21. The six rights guaranteed by Article 19 can be suspended only in the case of a national emergency declared due to war or external aggression, and not during an emergency declared due to armed rebellion.

9. Limited scope of operation: The scope of fundamental rights is limited by Article 31A (savings of laws providing for the acquisition of estates, etc.), Article 31B (validation of certain acts and regulations included in the 9th Schedule), and Article 31C (savings of laws giving effect to certain directive principles). These provisions ensure that the implementation of certain laws does not infringe upon fundamental rights.

10. Restrictions by Parliament: The Parliament has the authority to restrict or abrogate the application of fundamental rights to members of armed forces, paramilitary forces, police forces, intelligence agencies, and analogous services. This is stated under Article 33 of the Constitution.

11. Restrictions during Martial Law: The application of fundamental rights can be restricted while martial law is in force in any area. Martial law refers to military rule imposed under extraordinary circumstances to restore order. It should be noted that martial law is different from the imposition of a national emergency.

12. Self-executory: Many fundamental rights are directly enforceable, meaning individuals can directly approach the courts for their protection. Others can be enforced on the basis of law made for giving effect to them. Such law can be made only by the parliament and not by the state legislatures.

2.1.6 Amendability of Fundamental Rights

Imagine a world without change—where rules and laws remained fixed and unalterable. It would be like living in a house frozen in time, without the ability to adapt to new circumstances. Just as a house needs occasional renovations, so does a constitution. In the case of the Constitution of India, amendments allow for necessary updates and improvements. In this section, we will explore the amendability of fundamental rights, the bedrock of the Indian Constitution.

1. Simple Majority

Let's begin with the first type of amendment process. Certain provisions of the Constitution can be amended by a simple majority of the members present and voting in both Houses of Parliament. This means that if more than half of the members present in the House vote in favor of an amendment, it can be passed. However, these amendments do not impact the fundamental rights enshrined in the Constitution.

2. Special Majority

When it comes to making substantial changes to the Constitution, including those affecting fundamental rights, a special majority is required. This means that the amendment must be passed by a majority of the total membership of each House of Parliament, as well as by a two-thirds majority of the members present and voting.

Amendment by special majority of parliament and ratification by half of the state legislatures.

If an amendment seeks to make changes in the Federal character of the constitution, the amendment require special majority of the Parliament and ratification by not less than half of the state legislature.

3. Judicial Review and Limitations

However, there are limitations to the amendment process, especially when it comes to fundamental rights. Amendments that "take away or abridge" the fundamental rights guaranteed under Part III of the Constitution are subject to judicial review. This means that the judiciary has the power to examine and potentially invalidate an amendment if it violates the basic structure of the Constitution.

Did you know that the Constitution of India is one of the few in the world that explicitly recognizes the concept of "basic structure"? This means that certain fundamental principles, like democracy, secularism, and the protection of fundamental rights, cannot be altered or diluted by amendments.

The Supreme Court of India has played a crucial role in shaping the amendability of fundamental rights. Initially, it held that Parliament could amend even Part III of the Constitution. However, in the landmark Golaknath vs. State of Punjab (1967) case, the Supreme Court overruled its earlier decision and held that no authority, including Parliament, could amend the fundamental rights. The Kesavananda Bharati vs. State of Kerala (1973) case marked a turning point. The court overruled the Golaknath case and held that Parliament could amend any provision of the constitution, including fundamental rights, by exercising its amending power under Article 368. However, it added an important condition: such amendments must not alter the constitution's basic features.

4. Protection of Core Principles

Fundamental rights are the backbone of the Indian Constitution, safeguarding the rights and liberties of individuals. While these rights are not absolute and can be amended or limited under certain circumstances, any amendment that seeks to dilute or abridge the basic structure of the Constitution, including fundamental rights, may be subject to judicial scrutiny. The Supreme Court of India has the power to strike down such amendments as unconstitutional.

2.1.7 Definition of State

Article 12 of the Constitution of India serves as our guide in defining the State, particularly in relation to Part III, which addresses fundamental rights. Let's examine the different components included in this definition:

(a) Government and Parliament of India: Picture the Union government as the grand conductor, orchestrating the symphony of governance at the national level. This component encompasses the executive and legislative organs that form the backbone of the Union government. The executive branch implements policies and laws, while the legislative branch formulates and enacts them.

Together, they shape the destiny of the nation.

(b) Government and legislature of states: Now, let's shift our gaze to the diverse landscapes of India's states, each with its own government and legislature. These state-level executive and legislative organs play a crucial role in shaping policies and laws within their respective territories. They bring governance closer to the people, understanding their unique needs and aspirations.

(c) All local authorities: The State's reach extends beyond the national and state levels, embracing local authorities that serve as important cogs in the machinery of governance. These local authorities include municipalities, panchayats (local self-governments), district boards, and improvement trusts. They are the guardians of local interests, working tirelessly to address the specific needs of their communities.

(d) All other authorities: In addition to the entities mentioned above, the definition of the State also encompasses other authorities, both statutory and non-statutory. These authorities, such as LIC (Life Insurance Corporation of India), ONGC (Oil and Natural Gas Corporation), and SAIL (Steel Authority of India Limited), wield considerable influence in various sectors of the economy and society. Their actions impact the lives of citizens, and thus, they fall under the purview of the State.

2.1.8 Article 13

Article 13 of the constitution plays a crucial role in safeguarding the fundamental rights of individuals. It states that any law that contradicts or undermines these fundamental rights will be considered void. In simpler terms, Article 13 establishes the principle of judicial review, allowing the courts to assess the constitutionality of laws.

Now, let's delve into the different types of laws that fall under the purview of Article 13:

(a) **Permanent laws enacted by the Parliament or State legislatures**

Permanent laws are those enacted by the central or state legislative bodies through a well-defined legislative process. These laws are typically designed to provide long-term solutions to societal issues and are subject to the scrutiny of judicial review.

(b) Temporary laws like ordinances issued by the President or State Governors

Sometimes, situations arise that require urgent action, and the legislative bodies may not be in session to pass a law. In such cases, the President or State Governors can issue temporary laws known as ordinances. These ordinances have the same force and effect as permanent laws but are valid only for a limited period. However, even temporary laws are subject to judicial review under Article 13.

(c) Statutory instruments in the nature of delegated legislation (executive legislation) like orders, by-laws, rules, regulations, or notifications

Delegated legislation refers to laws made by executive authorities or government agencies under powers conferred to them by the legislature. These laws serve as additional rules and regulations that complement the provisions of the permanent laws. However, Article 13 ensures that even these statutory instruments are not in conflict with the fundamental rights guaranteed by the constitution.

(d) Non-legislative sources of law, i.e., customs or usages having the force of law

Apart from the legislative and executive sources of law, there are non-legislative sources such as customs or usages that have the force

of law. These customs and usages develop over time within a particular community or region and are recognized and enforced by the courts. However, if any custom or usage contradicts the fundamental rights, Article 13 empowers the judiciary to declare it void.

2.1.9 Writs

A writ is a formal legal document issued by a court or legal authority that commands someone to take a specific action or appear before the court. It is commonly used in common law jurisdictions to enforce rights and provide remedies in legal proceedings. Let's explore some interesting illustrations and stories to explain each type of writ.

1. Habeas Corpus

Imagine a situation where Maya, a law-abiding citizen, suddenly disappears without a trace. Her worried family is desperately searching for answers, but their efforts prove futile. Fearing the worst, they approach the court seeking justice and the invocation of an essential legal safeguard known as "habeas corpus."

Habeas corpus, which translates to "you shall have the body" in Latin, is a fundamental legal principle designed to protect individual liberties and prevent unlawful detention. Maya's family petitions the court for a writ of habeas corpus, demanding that the authorities produce Maya before the court and provide justifiable reasons for her detention, if any.

The court, recognizing the urgency of the situation, swiftly issues the writ of habeas corpus. This powerful document commands the authorities responsible for Maya's custody to bring her physically before the court and explain the grounds and legality of her detention.

As the court proceedings unfold, Maya's family anxiously awaits her appearance. The authorities responsible for her custody are summoned to justify their actions and present evidence supporting her detention. Under the watchful eyes of the court, the authorities reveal that Maya had been mistakenly taken into custody during a case of mistaken identity.

The court carefully evaluates the evidence presented and determines that there are no valid grounds to hold Maya any longer. Upholding the principles of *habeas corpus*, the court promptly orders Maya's release, reuniting her with her relieved and grateful family.

This illustration highlights the essence of *habeas corpus* as a potent legal tool that protects individual freedoms and ensures the accountability of authorities. It serves as a safeguard against arbitrary detention and grants individuals the right to challenge their confinement before a court of law. Through *habeas corpus*, the wheels of justice turn, exposing any wrongful deprivation of liberty and restoring the sacred value of freedom to those unjustly held.

2. Mandamus

Let's consider the story of Ramesh, a diligent student who has applied for a government scholarship to pursue higher education. Months go by, and he receives no response regarding the status of his application. Frustrated and desperate for answers, Ramesh turns to the legal remedy of "mandamus" to compel the concerned authorities to fulfill their duty and make a decision on his scholarship application.

Mandamus, derived from Latin meaning "we command," is a legal remedy that can be sought when a public authority or official fails to perform a legal duty or exercise a power entrusted to them. In Ramesh's case, he files a petition in court seeking a writ of mandamus

to compel the scholarship authority to review his application and make a decision within a reasonable time frame.

Recognizing the urgency and importance of Ramesh's plea, the court issues the writ of mandamus, commanding the scholarship authority to perform their duty and decide on his application. This writ acts as a judicial directive, instructing the authority to fulfill their obligation under the law.

During the legal proceedings, the court examines the facts, scrutinizes the evidence, and evaluates whether the authority has indeed failed to fulfill its duty to decide on Ramesh's scholarship application. The court considers relevant laws, regulations, and policies governing the process and determines whether there has been an unreasonable delay or neglect on the part of the authority.

The scholarship authority acknowledges the delay in reviewing Ramesh's application, citing administrative backlog as the reason. However, the court emphasizes that citizens have the right to a timely decision and that the authority must prioritize and expedite the process to avoid undue hardship.

In response to the court's order and the weight of legal obligation, the scholarship authority acts swiftly. They review Ramesh's application, assess his eligibility, and ultimately grant him the scholarship he had been eagerly awaiting.

This illustration demonstrates the essence of mandamus as a legal remedy that compels public authorities to fulfill their obligations and carry out their duties in a lawful and timely manner. By seeking a writ of mandamus, individuals can hold government officials accountable, ensure the exercise of discretionary powers, and secure justice and fairness in the administration of public affairs.

3. Prohibition

Let's imagine a town called Chembaka Nagar, known for its strong community values and peaceful atmosphere. However, in recent times, the town has witnessed a surge in alcohol-related incidents, causing disturbances and posing a threat to public safety.

Faced with this growing concern, the local authorities decide to implement a prohibition policy to address the issue. The prohibition policy strictly prohibits the sale, production, and consumption of alcoholic beverages in Chembaka Nagar. The town council believes that this drastic measure will help restore order, reduce crime rates, and promote a healthier and safer environment for its residents.

As the prohibition takes effect, Chembaka Nagar undergoes a significant transformation. Former bustling bars and taverns close down, their once-lively interiors now echoing emptiness. Liquor stores replace their inventory with non-alcoholic alternatives, and residents adapt to a new way of socializing and unwinding without the presence of alcohol.

At first, the prohibition seems to have a positive impact. The town experiences a decrease in alcohol-related crimes, public disturbances become infrequent, and residents appreciate the newfound calmness. However, as time goes on, unintended consequences begin to emerge.

Underground speakeasies, secret venues that operate illicitly, start to sprout up in hidden corners of Chembaka Nagar. These establishments cater to those who still seek alcohol despite the prohibition. The local authorities, committed to upholding the law, launch crackdowns on these illegal operations, conducting raids and arrests to maintain order and enforce the prohibition policy.

Meanwhile, Chembaka Nagar faces economic challenges due to the loss of revenue from the alcohol industry. The closure of businesses and the decline in tourism impact the local economy, leading to job losses and financial strain for residents who depended on the alcohol-related industry.

As the town grapples with the consequences of prohibition, public opinion becomes divided. Some residents continue to support the policy, emphasizing the reduction in crime and the overall improvement in public safety. Others argue that the ban has created more problems than it has solved, citing the rise of illegal activities and the negative economic impact.

Through this illustration, prohibition is portrayed as a measure that aims to address social issues associated with alcohol but also leads to a complex set of outcomes. It highlights the challenges authorities face in enforcing such policies, the emergence of underground activities, and the potential economic repercussions. It underscores the need for a comprehensive understanding of the consequences and careful consideration of alternatives when implementing prohibition as a social policy.

4. Certiorari

Imagine a compelling legal scenario where a high-stakes criminal case is being heard in the Supreme Court of a country. The defendant, Alex, has been convicted of a serious crime and has exhausted all possible appeals in lower courts. However, new evidence has come to light, indicating potential flaws in the legal proceedings that led to Alex's conviction.

In pursuit of justice, Alex's legal team decides to seek the extraordinary remedy of "certiorari" from the Supreme Court. *Certiorari*, derived from Latin meaning "to be informed," is a legal remedy that allows a higher court to review and potentially overturn a decision made by a lower court.

In this case, Alex's legal team files a petition for a writ of certiorari.

2.1.10 "The Basic Structure Doctrine"

The "Basic Structure Doctrine" is a pivotal concept in the constitutional jurisprudence of India. It was first established by the Supreme Court of India in the landmark case of Kesavananda Bharati v. State of Kerala in 1973. This doctrine refers to the principle that certain fundamental features or essential characteristics of the Indian Constitution are beyond the amending power of the Parliament. In simpler terms, it means that there are certain parts of the Constitution that cannot be changed or altered by any amendment, regardless of the formal amendment procedure outlined in Article 368 of the Constitution.

The Supreme Court, in the Kesavananda Bharati case, determined that the power of Parliament to amend the Constitution is not absolute and is subject to inherent limitations. According to the Basic Structure Doctrine, any amendment that violates or destroys the basic structure of the Constitution would be deemed unconstitutional, regardless of the majority supporting it or the amendment process followed.

Let's explore the components that have been identified as part of the basic structure of the Indian Constitution:

1. Supremacy of the Constitution: This principle upholds the Constitution as the highest law of the land. Any amendment that seeks to undermine or alter this fundamental feature would be considered unconstitutional.

2. Separation of Powers: The doctrine protects the vital principle of separation of powers among the legislature, executive, and

judiciary. This separation ensures a system of checks and balances and prevents any one branch from becoming too powerful.

3. Rule of Law: The doctrine safeguards the principle of rule of law, which means that everyone, including the government, is subject to and governed by the law. No one is above the law, and any amendment that undermines this principle would be unconstitutional.

4. Fundamental Rights and Directive principles in certain cases: The doctrine recognizes the fundamental rights guaranteed under Part III of the Constitution as an integral part of the constitution. The parliament can amend any part of the constitution including Fundamental Rights so long as it does not destroy the basic structure of the constitution.

5. Judicial Review: The doctrine acknowledges the authority of the judiciary to review and invalidate any constitutional amendment that violates the basic structure of the Constitution. This power ensures that the judiciary acts as a guardian of the Constitution and can prevent any amendments that undermine its core principles.

6. Federalism: The doctrine safeguards the federal character of the Indian Constitution, which divides powers between the central government and state governments. Any amendment that disrupts this delicate balance would be deemed unconstitutional.

The Basic Structure Doctrine has played a crucial role in protecting the core principles and values enshrined in the Indian Constitution, including fundamental rights, democracy, and the rule of law. The Supreme Court has invoked this doctrine in various cases to strike down constitutional amendments that have been found to violate the basic structure. By doing so, the integrity and stability of the Indian constitutional framework are ensured.

2.1.11 The Role of Fundamental Rights in Strengthening of Indian Democracy

Fundamental rights play a crucial role in strengthening Indian democracy by ensuring individual liberties, equality, justice, and protection against arbitrary actions by the state. Let's explore their significance, supported by facts, examples, and data:

1. Protection of Individual Liberties: Fundamental rights in India protect the fundamental freedoms and liberties of its citizens. These rights include the right to freedom of speech and expression, the right to equality, the right to life and personal liberty, and the right to practice any religion. They provide individuals with the autonomy and space to express their opinions, beliefs, and choices freely, contributing to a vibrant democratic society.

2. Equality and Non-Discrimination: Fundamental rights in India ensure equality before the law and prohibit discrimination on grounds of religion, race, caste, sex, or place of birth. They promote inclusivity, social justice, and the elimination of societal inequalities.

3. Protection against State Arbitrary Actions: Fundamental rights act as a safeguard against the misuse of state power and protect individuals from arbitrary actions by the government or its agencies. They ensure that the state acts within the bounds of the law and respects the rights of its citizens.

4. Judicial Activism and Public Interest Litigation (PIL): Fundamental rights have enabled citizens to approach the courts through Public Interest Litigation (PIL) and seek remedies for violations of their rights or for larger societal concerns. This has led to judicial activism and the protection of citizens' rights.

In conclusion, fundamental rights have been instrumental in shaping the democratic fabric of India. They provide citizens with essential liberties, promote equality, protect against arbitrary actions by the state, and empower individuals to seek justice through the judicial system. By upholding these rights, Indian democracy becomes stronger, more inclusive, and more resilient.

2.1.12 Criticism against Fundamental Rights

Fundamental rights form an integral part of the Constitution of India, providing essential protections to individuals and promoting a robust and inclusive democratic system. While these rights play a crucial role in safeguarding individual liberties, they have also faced certain criticisms and challenges. In this chapter, we will explore some of the criticisms against fundamental rights and discuss the need for continued efforts to strengthen their implementation and protection.

1. Omission of Economic Rights: Initially, the Constitution was criticized for not explicitly including several important economic and social rights, such as the right to social security, the right to work, the right to employment, the right to rest and leisure, etc. These omissions sparked debates about the comprehensive nature of fundamental rights and their ability to address socioeconomic inequalities. However, it is important to note that subsequent judicial interpretations and legislative measures have sought to bridge this gap by recognizing and protecting certain socioeconomic rights under the ambit of existing fundamental rights.

2. Limitations on Fundamental Rights: Critics have pointed out that numerous exceptions, restrictions, qualifications, and explanations apply to fundamental rights, which seemingly diminish their significance. This observation led to the perception that while the Constitution grants fundamental rights on one hand, it simultaneously limits or dilutes them on the other.

3. Ambiguous Provisions: Critics argue that the language used to describe fundamental rights in the Constitution is often complex and difficult for common people to understand. There is an allegation that the Constitution was written by lawyers for lawyers, creating a barrier for the general population to fully comprehend their rights. Renowned jurist Sir Ivor Jennings even referred to the Constitution of India as a 'Paradise for lawyers.'

4. Preventive Detention: Critics assert that the provision for preventive detention (Article 22) compromises the spirit and substance of the chapter on fundamental rights. They argue that it grants arbitrary powers to the State, undermining individual liberty and due process.

5. Suspension During Emergency: Another controversial aspect of the Constitution is the provision that allows the suspension of fundamental rights by the union Executive under emergencies, with the exception of Articles 20 and 21. Critics argue that this provision raises concerns about the potential curtailment of rights during challenging times.

Fundamental rights in India play a vital role in upholding individual liberties and preventing the abuse of state power. While criticisms have been raised regarding the omission of certain rights, limitations, ambiguous provisions, preventive detention, and the suspension of rights during emergencies, it is essential to acknowledge the ongoing efforts to address these concerns. Strengthening the implementation of fundamental rights requires continued vigilance, public awareness, and the development of robust institutions committed

to upholding and protecting these rights for all citizens. By doing so, India can further enhance its democratic system and ensure a society that respects and promotes the rights and dignity of every individual.

Recap

- Basic human rights protected by the constitution.
- Essential for the overall well-being, dignity, and freedom of individuals.
- Includes civil, political, economic, social, and cultural rights.
- Six Fundamental Rights
- Right to Equality, Right to Freedom, Right against Exploitation, Right to Freedom of Religion, Cultural and Educational Rights and Right to Constitutional Remedies.
- Writ - a written order issued by a court or other legal authority that commands someone to do something or refrain from doing something.
- Habeas Corpus
- Mandamus
- Prohibition
- Certiorari
- Quo-Warranto
- Amendability of Fundamental Rights
- Essential characteristics of the Indian Constitution are beyond the formal amendment procedure provided under Article 368 of the Constitution.
- The role of Fundamental Rights in strengthening of Indian Democracy
- Criticism against Fundamental Rights

Objective Questions

1. In which article the Fundamental Rights are mentioned?
2. Under which article of The Constitution of India, a writ petition can be filed in the Supreme Court.
3. Which Fundamental Right has been abolished by the 44 Amendment Act 1978?
4. Which Fundamental Right has been added to the Constitution by the 86th Amendment of the Indian Constitution in 2002?
5. Which right has been called as the 'Soul of Indian Constitution'?
6. Which right of Indian Constitution guarantees all the Fundamental Rights to every resident of a country?
7. Which article of the Constitution abolishes Untouchability?
8. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth is a fundamental right classifiable under?
9. Which day is celebrated as Anti Child Labour Day all over the country?

Answers

1. Part III (Articles 12-35)
2. Article 32 of the Constitution of India
3. Right to Property
4. Right to Education
5. Right to Constitutional Remedies
6. Right to constitutional remedies
7. Article 17
8. Right to equality
9. 12th June

Assignments

1. Explain the Fundamental Rights preserved in the Indian Constitution.
2. Write a note on the features of Fundamental Rights.
3. Why is Article 32 called as the heart and soul of the Indian Constitution? Discuss.
4. Elaborate on how fundamental rights have played a crucial role in strengthening Indian democracy, by empowering citizens and ensuring their protection against discrimination, injustice, and oppression.
5. Discuss the impact of social media on Fundamental Rights and Indian Democracy.

Suggested Reading

1. "Indian Constitution: Text and Materials" by P. M. Bakshi, Universal Law Publishing Co. Pvt. Ltd., 2019.
2. "Introduction to the Constitution of India" by Durga Das Basu, Lexis Nexis, 24th Edition, 2020.
3. "Constitutional Law of India" by J. N. Pandey, Central Law Agency, 59th Edition, 2021.
4. "Indian Polity" by M. Laxmikanth, McGraw Hill Education, 6th Edition, 2021.

Unit 2
Fundamental Duties

Learning Outcomes

By the end of the unit, the learner will be able to:

- Understand the origin and significance of Fundamental Duties in the Indian Constitution.
- Identify and list the specific Fundamental Duties outlined in the Constitution.
- Analyse the role of Fundamental Duties in promoting responsible citizenship.
- Assess the impact of Fundamental Duties on India's constitutional framework and society.

Prerequisites

Imagine you're part of a community where everyone enjoys certain rights, like freedom of speech or the right to education. But with these rights come responsibilities—ways we should act to keep the community strong and fair for everyone. This idea is what led to the Fundamental Duties in the Indian Constitution. After gaining independence, India's leaders realised that while protecting individual rights is important, it's equally vital for citizens to contribute positively to society. They introduced Fundamental Duties as a reminder that, as citizens, we have obligations like respecting the nation's ideals, cherishing our heritage, and promoting harmony. These duties are like a moral compass, guiding how we should behave to ensure our country thrives. Understanding these duties helps us appreciate the balance between rights and responsibilities in a democratic society.

Keywords

Fundamental Duties, Citizenship, National Integration, Social Harmony

Discussion

2.2.1 The concept of Fundamental Duties

Imagine you are driving down a busy road, and suddenly, you notice a red traffic signal ahead. You stop your vehicle, allowing others to safely cross the intersection. In this simple act, you are fulfilling your duty as a responsible citizen, ensuring the well-being and safety of others. Similarly, the concept of Fundamental Duties in the Indian Constitution serves as a moral compass, guiding citizens to uphold the unity, integrity, and sovereignty of our beloved nation.

Fundamental Duties were introduced to the Constitution of India in 1976 through the 42nd Amendment Act. They are a set of moral obligations and responsibilities that citizens are encouraged to follow. Although they are not legally enforceable or justiciable, meaning no legal action can be imposed for their violation, they play a vital role in nurturing a harmonious and progressive society.

In a democratic society like ours, rights and duties go hand in hand, like two sides of the same coin. Rights, which are the legitimate wishes of individuals for their own good and the good of others, come with certain obligations. As the great Mahatma Gandhi believed, rights imply duties, and he emphasized the significance of duties even more than rights. For him, rights were opportunities for self-realization.

It is interesting to note that the Indian Constitution does not have a separate chapter dedicated solely to Fundamental Duties. Instead, they are appended as Part IV A of Article 51A. The idea of Fundamental Duties in the Indian Constitution draws inspiration from the former Soviet Union, where citizens' rights and freedoms were inseparable from their duties and obligations. Notably, most major democratic countries like the USA, Canada, France, Germany, Australia, and others do not have a specific list of citizens' duties in their constitutions. However, the Japanese Constitution, another democratic constitution, does include such a list.

Fundamental Duties act as a reminder for citizens to prioritize their responsibilities towards the nation. They encourage us to respect our cultural heritage, promote harmony, and safeguard public property and the environment. By fulfilling these duties, we contribute to the overall well-being and progress of our society.

In conclusion, Fundamental Duties are not merely abstract concepts but moral obligations that every citizen should strive to fulfill. They remind us that as responsible members of society, our actions impact the unity, integrity, and sovereignty of our nation. Just as we stop at a red traffic signal, let us embrace our Fundamental Duties and work together to build a stronger, more prosperous India.

2.2.1.1 Swaran Singh Committee Recommendations

In 1975, during a critical period known as the internal emergency, the concept of fundamental duties gained significance. It was recognized that alongside enjoying their rights, citizens should also be mindful of their duties towards the nation. To address this, a committee led by Sardar Swaran Singh was appointed to provide recommendations on the subject.

The committee, headed by Sardar Swaran Singh, proposed the inclusion of a separate chapter on fundamental duties in the Constitution. Their report emphasized the importance of citizens being aware of their duties and responsibilities. The aim

was to foster a sense of civic consciousness and promote active participation in nation-building.

In response to the committee's recommendations, the Government passed the 42nd Constitutional Amendment Act in 1976. This amendment introduced a new part in the Constitution known as Part IVA, which consisted of a single article, namely, Article 51A. This article, for the first time, outlined a set of ten fundamental duties that are expected of every citizen.

These fundamental duties serve as guiding principles for citizens to fulfill their obligations towards the nation and society. They emphasize the significance of upholding the unity and integrity of the country, promoting a spirit of harmony and brotherhood, respecting the ideals of freedom fighters, safeguarding public property, and preserving the environment, among other responsibilities.

2.2.2 Fundamental Duties

The Fundamental Duties outlined in Article 51-A of the Indian Constitution serve as a guide to foster responsible citizenship and active participation in the nation's progress. Enshrined in the 42nd Constitutional Amendment Act of 1976, these duties emphasize the values and principles that shaped India's freedom struggle. Let's explore these duties and understand their significance through simple anecdotes and illustrations.

1. To abide by the Constitution and respect its ideals and institutions.
2. To cherish and follow the noble ideals that inspired the freedom struggle.
3. To uphold and protect the sovereignty, unity, and integrity of India.
4. To defend the country and render national service when called upon.
5. To promote harmony and the spirit of common brotherhood among all people.
6. To preserve the rich cultural heritage of India.
7. To protect and improve the natural environment, including forests, lakes, rivers, and wildlife.
8. To develop a scientific temper, humanism, and the spirit of inquiry and reform.
9. To safeguard public property and to abjure violence.
10. To strive towards excellence in all spheres of individual and collective activity.
11. To provide opportunities for education to children and promote the abolition of child labor.

The Fundamental Duties serve as a compass, guiding us to become responsible citizens who actively participate in our nation's progress and well-being. Just as each brick contributes to the strength and stability of a building, fulfilling these duties strengthens the foundation of our society and paves the way for a prosperous India. Let us embrace these duties with enthusiasm and work together to shape a brighter future for our nation.

2.2.3 Features of Fundamental Duties

The features of Fundamental Duties in the Indian Constitution are as follows:

1. Non-Justiciability: Fundamental Duties are not legally enforceable, meaning that no legal consequences can be imposed for their violation. They do not provide for any punishment or penalties for non-compliance.

However, they serve as a moral and ethical guideline for citizens.

2. Complementary to Rights: Fundamental Duties are considered complementary to the Fundamental Rights guaranteed to citizens. While Fundamental Rights grant individuals certain freedoms and protections, Fundamental Duties emphasize the responsibility of citizens towards the nation and society.

3. Obligatory for Citizens: Fundamental Duties are applicable to all citizens of India, regardless of their age, gender, religion, or social status. They are considered as obligations that citizens should voluntarily fulfill.

4. Broad and Comprehensive: The list of Fundamental Duties covers a wide range of responsibilities, encompassing different aspects of individual and collective life. They address areas such as patriotism, respect for the Constitution, promotion of harmony, protection of the environment, and pursuit of excellence.

5. Reflective of National Values: Fundamental Duties are designed to reflect the core values and principles of the Indian Constitution. They are rooted in the ideals of social justice, democracy, secularism, equality, and national unity.

6. Moral and Ethical Guidelines: The primary purpose of Fundamental Duties is to promote moral and ethical behavior among citizens. They aim to foster a sense of civic consciousness, social responsibility, and commitment towards the welfare and progress of the country.

7. Subject to Reasonable Limitations: While Fundamental Duties are essential for the well-being of society, they are subject to reasonable limitations. This means that they should not infringe upon the rights and freedoms of individuals.

The features of Fundamental Duties emphasize their voluntary and aspirational nature, highlighting the importance of responsible citizenship and active participation in the nation's development. These duties, although not legally enforceable, play a crucial role in promoting moral, ethical, and responsible behavior among citizens, contributing to the overall progress and welfare of India.

2.2.4 Importance of Fundamental Duties in India

The Fundamental Duties hold significant importance in India for several reasons. Let's explore each of these reasons and understand the impact of these duties on the nation and its citizens.

1. Promoting Social Harmony and Unity: Fundamental Duties play a crucial role in fostering social harmony and the spirit of common brotherhood among diverse communities in India. They encourage citizens to promote unity, respect for all religions and cultures, and work towards the eradication of discrimination and social prejudices.

2. Strengthening Constitutional Values: Fundamental Duties serve as a reminder of the ideals and principles enshrined in the Indian Constitution. Abiding by these duties, citizens contribute to the strengthening of democratic values, social justice, and equality. They help in upholding the integrity and sovereignty of the nation.

3. Instilling a Sense of Responsibility: Fundamental Duties instill a sense of responsibility and accountability among citizens. They remind individuals that along with rights come certain obligations towards the nation and society. By fulfilling these

duties, citizens actively participate in the progress and development of the country.

4. Environmental Protection and Conservation: The inclusion of a Fundamental Duty to protect and improve the natural environment emphasizes the importance of environmental consciousness and sustainable development. It encourages citizens to take care of the environment, conserve resources, and promote ecological balance.

5. Inculcating Moral and Ethical Values: Fundamental Duties act as a moral compass and guide citizens in their conduct. They promote values such as honesty, integrity, compassion, and respect for others. By following these duties, citizens contribute to the moral fabric of society and the overall well-being of individuals.

6. Educating Future Generations: Fundamental Duties highlight the importance of education and the abolition of child labor. By providing opportunities for education to children and discouraging child labor, citizens contribute to the intellectual and moral development of future generations. This ensures a more informed and responsible citizenry.

7. Nation Building: By fulfilling their Fundamental Duties, citizens actively participate in the nation-building process. These duties encourage citizens to contribute to the progress of the country in various spheres, such as education, science, technology, and social welfare. They promote a sense of collective responsibility towards the nation's development.

While Fundamental Duties are not legally enforceable, their significance lies in shaping the mindset and behavior of citizens, fostering a sense of patriotism, social responsibility, and active citizenship. They serve as a reminder that individual actions and responsibilities collectively contribute to the overall growth and well-being of the nation.

2.2.5 Criticism of Fundamental Duties

Fundamental Duties, mentioned in Part IVA of the Indian Constitution, play a vital role in fostering civic consciousness, social responsibility, and nation-building. While there are criticisms regarding their implementation, it is important to recognize that Fundamental Duties are an integral part of India's democratic fabric. This article will discuss the criticisms raised against Fundamental Duties and highlight their importance in strengthening Indian democracy.

1. Non-Justiciability: One common criticism is that Fundamental Duties are non-justiciable, meaning they cannot be legally enforced. Unlike Fundamental Rights, which have legal remedies for violations, there are no specific mechanisms to ensure compliance with Fundamental Duties. This has led to doubts about their effectiveness and impact.

2. Lack of Clarity and Specificity: The language used to express Fundamental Duties is often broad and general, lacking specificity and clarity. Critics argue that this vagueness makes it difficult for citizens to understand the exact nature of their obligations. Providing clearer guidelines and concrete actions could offer more meaningful guidance.

3. Imbalance with Fundamental Rights: Critics argue that the non-justiciable nature of Fundamental Duties creates an imbalance with Fundamental Rights. While individuals enjoy legal protection and enforceable rights, the emphasis on citizens' obligations raises concerns about potential curtailment of individual freedoms.

4. Overlap with Existing Laws: Some contend that many responsibilities outlined in the Fundamental Duties are already covered by existing laws, policies, and codes of conduct. Consequently, these duties may be perceived as redundant, as legal provisions are already in place to address similar obligations.

5. Lack of Awareness and Education: A significant criticism is the general lack of awareness and education regarding Fundamental Duties among the public. Many citizens are unfamiliar with the specific duties outlined in the Constitution. Critics argue that greater efforts should be made to raise awareness and educate citizens about their obligations.

6. Absence of Enforcement Mechanisms: The absence of enforceable measures or penalties for non-compliance with Fundamental Duties is seen as a limitation. Critics argue that without consequences, the duties may be perceived as mere moral exhortations without practical implications. Some suggest the need for mechanisms to promote compliance or incentivize adherence to these duties.

7. Need for Periodic Review: Critics argue that Fundamental Duties have not been subject to periodic review and revision since their inclusion in the Constitution in 1976. They suggest that a review of the existing duties may be necessary to ensure their relevance and alignment with contemporary societal needs and values.

2.2.6 Importance of Fundamental Duties

While criticisms exist, it is crucial to recognize the importance of Fundamental Duties in the Indian Constitution. These duties promote a sense of citizenship, national integration, and social harmony among citizens. The eleven Fundamental Duties, applicable to all citizens irrespective of their background, contribute to the welfare of the country and foster a culture of civic sense and moral values.

Effective enforcement of these duties requires a collaborative effort from the government, civil society, and citizens themselves. Promoting education and awareness regarding Fundamental Duties is necessary to instill a sense of responsibility among citizens and develop a culture of respect for these duties.

In conclusion, Fundamental Duties form an integral part of the Indian Constitution, aimed at strengthening the democratic fabric of society. While criticisms highlight areas for improvement, they should not lead to the outright rejection of the concept of Fundamental Duties. By fulfilling these duties, citizens actively participate in nation-building and realize the full potential of Indian democracy.

Recap

- The Concept of Fundamental Duties: a set of moral obligations and responsibilities that are enshrined in the Constitution of India
- 11 Fundamental Duties
- Features of Fundamental Duties
- Importance of Fundamental Duties in India
- Criticism of Fundamental Duties

Objective Questions

1. Which Committee recommended the provisions relating to Fundamental Duties in the Constitution of India?
2. Which sub clause of Article 51 A mentions the Fundamental Duty to uphold and protect the Sovereignty, Unity, and Integrity of India?
3. In which year were the Fundamental Duties incorporated in the Constitution?
4. By which amendment of the Constitution were the Fundamental Duties incorporated into ?
5. From which country did India adopt the model of Fundamental Duties?
6. Which Sub clause of Article 51 A emphasizes the promotion of harmony and the spirit of common brotherhood as a Fundamental Duty?
7. Which Fundamental Duty focuses on the preservation of India's cultural heritage?
8. Name any two Fundamental Duties related to environmental protection.

Answers

1. Swaran Singh Committee
2. Sub clause (c)
3. 1976
4. 42nd
5. Former USSR
6. Sub clause (e)
7. Sub clause (f)
8. (1) To protect and improve the natural environment, including forests, lakes, rivers, and wildlife, and (2) To have compassion for living creatures, as given in Sub clause (g).

Assignments

1. Choose any one Fundamental Duty and discuss its implications on environmental conservation and sustainable development. Analyze the current challenges and propose strategies to promote greater adherence to this duty.
2. Prepare a presentation highlighting the interplay between Fundamental Duties and Fundamental Rights. Illustrate with examples how the balance between rights and duties contributes to a harmonious and inclusive society.
3. Debate the proposition: "Fundamental Duties should be made legally enforceable." Present arguments supporting and opposing the proposition, considering the implications on individual freedoms, social cohesion, and nation-building.
4. Some critics argue that Fundamental Duties are vague and ambiguous, and do not provide a clear roadmap for citizens to follow. Do you agree with this view? How can the clarity and specificity of Fundamental Duties be improved?

Suggested Reading

1. *The Fundamental Duties: A Study of Their Legal and Social Implications* by S.K. Verma, published by Deep & Deep Publications Pvt. Ltd. in 2001.
2. *Fundamental Duties and Directive Principles* by K. Surya Rao, published by Eastern Book Company in 2014.
3. *Fundamental Duties:* A Socio-Legal Study by Bimal N. Patel, published by Universal Law Publishing Co. Pvt. Ltd. in 2006.
4. *Constitutional Law of India: Fundamental Rights and Fundamental Duties* by J.N. Pandey, published by Central Law Agency in 2013.
5. *The Indian Constitution: Cornerstone of a Nation* by Granville Austin, published by Oxford University Press in 2017.
6. *Indian Polity* by M. Laxmikanth, McGraw Hill Education, 6th Edition, 2021.

Unit 3
Directive Principles of State Policy (DPSP)

Learning Outcomes

Upon the completion of this unit, the learner will be able to:

- Identify and describe the key Directive Principles of State Policy outlined in the Indian Constitution.
- Explain the purpose and significance of DPSPs in guiding the policy-making process and governance.
- Analyze the relationship between DPSPs and Fundamental Rights, and their impact on legislative and administrative functions.
- Discuss the role of DPSPs in promoting social justice, economic welfare, and equitable development.

Prerequisites

In the quest to build a just and equitable society, India's framers included Directive Principles of State Policy (DPSPs) in the Constitution as guiding principles for the government. These principles are like a roadmap for creating policies that promote the welfare of the people and ensure social justice. Unlike Fundamental Rights, which are enforceable in courts, DPSPs provide a vision for the government to strive towards, such as ensuring adequate livelihood, education, and health for all. They reflect the aspirations for a fair society and guide lawmakers in crafting legislation that addresses economic and social inequalities. By understanding DPSPs, one can appreciate their role in shaping policies that aim to uplift and balance the society while complementing the fundamental rights of citizens.

Keywords

Constitution, Fundamental Rights, Directive Principles, Social Justice, Governance

Discussion

2.3.1 Directive Principles of State Policy

Directive Principles of State Policy (DPSP) are a crucial part of the Indian Constitution, outlined in Part IV. They serve as guiding principles for the government to establish social, economic, and political conditions that promote the welfare of the people. This article aims to explore the significance and role of DPSPs in the governance of the country.

2.3.1.1 Origins and Importance of DPSPs

The DPSPs find their inspiration in the Irish Constitution of 1937, which influenced the framers of the Indian Constitution. Dr. B. R. Ambedkar referred to these principles as 'novel features' of the Indian Constitution. Together with Fundamental Rights, DPSPs form the philosophy of the Constitution.

Although DPSPs are not legally enforceable by the courts, they hold fundamental significance in governance. Granville Austin aptly referred to them as the 'Conscience of the Constitution.' They act as moral and political directives, providing a framework for the government to work towards achieving the goals set out in the Constitution.

2.3.1.2 Understanding the Scope of DPSPs

The DPSPs, as outlined in Articles 36 to 51, cover a wide range of areas and address various societal objectives. These principles aim to promote social justice, equality, economic development, and individual well-being. They provide the government with guidelines for formulating policies and making laws that align with these objectives.

While DPSPs are not enforceable directly, the judiciary can consider them while interpreting laws and resolving disputes. This ensures that laws are in harmony with the spirit of the Constitution and the principles outlined in the DPSPs.

It is essential to note that DPSPs are not meant to be static; they reflect the evolving needs and aspirations of the society. The government should continually strive to work towards achieving the goals set out in the DPSPs, considering the changing socio-economic landscape.

In conclusion, Directive Principles of State Policy play a vital role in shaping progressive governance in India. They provide a framework for the government to establish conditions that promote the welfare of the people. While they are not legally enforceable, DPSPs act as moral and political directives, guiding the government in formulating policies and making laws. By aligning their actions with the principles outlined in the DPSPs, the government can work towards achieving social justice, equality, economic development, and individual well-being. The ongoing consideration of DPSPs in governance ensures the realization of the constitutional vision of a just and inclusive society.

2.3.2 Features of the Directive Principles

1. 'Directive Principles of State Policy' are guidelines for the States to consider while formulating policies and enacting laws. They serve as constitutional instructions or recommendations to the State in legislative, executive, and administrative matters.

2. The concept of Directive Principles resembles the 'Instrument of Instructions' of the Government of India Act of 1935.

3. All aspects of national life, including justice, social welfare, economic progress, and political empowerment, should be guided by the Directive Principles. They embody

the concept of a 'welfare state' where the government strives to promote the welfare of the people.

4. The Directive Principles are non-justiciable in nature, meaning they are not legally enforceable by the courts for their violation. Therefore, the government (Central, State, and local bodies) cannot be compelled to implement them.

5. Article 37 states that although the Directive Principles are non-justiciable, they are fundamental to the governance of the country.

2.3.3 The Significance of Directive Principles of State Policy

The DPSP forms an integral part of the Indian Constitution and provides fundamental principles and guidelines for governance. While not legally enforceable, they serve as moral and political obligations for the state to work towards achieving the objectives outlined in the DPSP. These principles aim to promote social justice, economic development, and the welfare of the people, reflecting India's commitment to building a just and equitable society.

The interplay between fundamental rights and directive principles has been a subject of judicial interpretation and evolution in India. The Supreme Court's judgments have shaped the relationship between these constitutional elements, ensuring that while fundamental rights enjoy supremacy, directive principles can still be implemented through constitutional amendments. As India moves forward, facing new challenges and opportunities, the DPSP will remain relevant, guiding the country's development and fostering a more inclusive and equitable society.

2.3.4 Classification of the Directive Principles

The Directive Principles of State Policy, as enshrined in the Indian Constitution, provide a framework for the government to work towards social, economic, and political justice. While there is no official classification of the Directive Principles, Dr. M. P. Sharma has proposed an ideological grouping into three categories: socialistic, Gandhian, and liberal-intellectual principles. Let's explore these categories in detail.

1. Socialistic Principles

Socialistic principles aim to establish a democratic socialist state that focuses on social and economic justice and paves the way for a welfare state. They emphasize reducing inequalities in income, status, and opportunities and enhancing the welfare of the people. Some key socialistic principles include:

- Article 38: This article directs the state to establish a social order permeated by justice at all levels, including social, economic, and political justice.

- Article 39: It lays down several objectives, such as the right to adequate means of livelihood for all citizens, equitable distribution of community resources, prevention of concentration of wealth, equal pay for equal work, prevention of forced labor, and providing opportunities for the healthy development of children.

- Article 39A: This article aims to promote equal justice and provide free legal aid to the poor.

- Article 41: It seeks to secure the right to work, education, and public assistance for those facing unemployment, old age, sickness, and disablement.

- Article 42: This article emphasizes the provision of just and humane conditions for work and maternity relief.

- Article 43: It focuses on securing a living wage, a decent standard of life, and social and cultural opportunities for all workers.

- Article 43A: This article encourages the participation of workers in the management of industries.

- Article 47: It aims to raise the nutritional level, standard of living, and public health of the people.

2. Gandhian Principles

Gandhian principles draw inspiration from the ideologies of Mahatma Gandhi and reflect his vision for the country's reconstruction. Some of Gandhi's ideas were included as Directive Principles to fulfill his dreams. Key Gandhian principles include:

- Article 40: This article calls for the organization of village panchayats and granting them the necessary powers and authority for effective self-governance.

- Article 43: It promotes the establishment of cottage industries on an individual or cooperative basis in rural areas.

- Article 43B: This article focuses on the promotion of voluntary formation, autonomous functioning, democratic control, and professional management of cooperative societies.

- Article 46: It aims to promote the educational and economic interests of Scheduled Castes (SCs), Scheduled Tribes (STs), and other weaker sections of society and protect them from social injustice and exploitation.

- Article 47: It prohibits the consumption of intoxicating drinks and drugs that are injurious to health.

- Article 48: This article prohibits the slaughter of cows, calves, and other milch and draught cattle and encourages the improvement of their breeds.

3. Liberal-Intellectual Principles

The principles falling under this category reflect the ideology of liberalism and emphasize certain aspects of civil rights, modernization, and international relations. Some prominent liberal-intellectual principles are:

- Article 44: It directs the state to strive for a uniform civil code throughout the territory of India, ensuring equal rights and opportunities for all citizens.

- Article 45: This article focuses on providing early childhood care and education to all children until the age of six.

- Article 48: It calls for the organization of agriculture and animal husbandry on modern and scientific lines.

- Article 48A: This article emphasizes the protection and improvement of the environment, safeguarding forests and wildlife.

- Article 49: It seeks to protect monuments, places, and objects of artistic or historic interest declared to be of national importance.

- Article 50: This article advocates for the separation of the judiciary from the executive in the public services of the state.

- Article 51: It promotes international peace and security, encourages respect for international law and treaties, and supports the settlement of international disputes through arbitration.

While the Indian Constitution does not explicitly classify the Directive Principles, understanding them through the proposed ideological categories of socialistic, Gandhian, and liberal-intellectual principles provides a useful framework. These principles collectively represent the aspirations of the Indian state towards achieving social justice, economic welfare, and a harmonious society. By striving to fulfill these principles, the government works towards building a just and equitable nation for all its citizens.

2.3.5 New Directive Principles

The 42nd Amendment Act of 1976 introduced four new Directive Principles to the original list. These principles aim to guide the state in its efforts to create a just and equitable society. Let's take a closer look at each of these principles and make any necessary modifications:

1. Article 39 - To secure opportunities for the healthy development of children:

This principle emphasizes the state's responsibility to ensure that children are provided with the necessary conditions for their overall well-being and growth. It covers aspects such as nutrition, healthcare, education, and a safe environment. An interesting anecdote that illustrates the importance of this principle is the story of Maria Montessori, an Italian physician and educator. Montessori developed a unique approach to education that focused on the holistic development of children, taking into account their physical, emotional, and intellectual needs.

2. Article 39A - To promote equal justice and provide free legal aid to the poor:

This principle highlights the state's obligation to uphold the principles of justice and fairness for all citizens, particularly those who may not have the financial means to access legal assistance. One famous example that exemplifies the spirit of this principle is the work of Mahatma Gandhi, a prominent leader in India's independence movement. Gandhi tirelessly fought for the rights of the poor and marginalized, promoting the idea that everyone deserves equal access to justice.

3. Article 43A - To take steps to secure the participation of workers in the management of industries:

This principle recognizes the importance of workers' involvement in decision-making processes within industries. It aims to empower workers and ensure their active participation in shaping the policies and operations that directly affect them. An interesting story that illustrates this principle is the rise of workers' unions and collective bargaining movements around the world. These movements have played a crucial role in securing better working conditions, fair wages, and improved rights for workers.

4. Article 48A - To protect and improve the environment and safeguard forests and wildlife:

This principle highlights the state's responsibility to preserve and enhance the environment, including forests and wildlife. It acknowledges the need for sustainable development and emphasizes the importance of protecting our natural resources for future generations. A fascinating illustration of this principle is the Chipko movement in India, where local communities embraced nonviolent protests to prevent deforestation and protect their forests.

Now let's move on to the additional Directive Principles introduced by subsequent amendment acts:

5. The 44th Amendment Act of 1978 added

Article 38 - The State to minimize inequalities in income, status, facilities, and opportunities:

This principle emphasizes the state's commitment to reducing disparities among its citizens in terms of income, social status, access to basic facilities, and opportunities for growth. It aims to create a more inclusive society where everyone has a fair chance to succeed.

6. The 86th Amendment Act of 2002 introduced Article 38(B) - The State to provide early childhood care and education for all children until they complete the age of six years:

This principle recognizes the crucial importance of early childhood care and education in a child's overall development. It emphasizes the state's responsibility to ensure that all children receive quality care and education during their formative years.

7. The 97th Amendment Act of 2011 added Article 43B - The state shall promote voluntary formation, autonomous functioning, democratic control, and professional management of co-operative societies:

This principle highlights the significance of co-operative societies as vehicles for economic and social empowerment. It encourages the formation and effective functioning of co-operatives, with an emphasis on democratic decision-making and professional management.

These Directive Principles collectively provide a roadmap for the state's efforts to create a just, equal, and sustainable society. By aligning their policies and actions with these principles, the government can work towards fulfilling the aspirations and needs of its citizens.

2.3.6 Difference Between Fundamental Rights and Directive Principles

The major differences between Fundamental Rights and Directive Principles of State Policy are given below:

Fundamental Rights	Directive Principles of State Policy
Part 3 of the Constitution of India contains the Fundamental Rights guaranteed to the citizens of India. Articles 12-35 of the Constitution of India deal with Fundamental Rights.	Directive Principles are written in Part 4 of the Constitution of India. They are given in Articles 36-51 of the Constitution of India.
The basic rights that are guaranteed to Indian citizens by the Constitution of India are known as Fundamental Rights	Directive Principles of the Indian constitution are the guidelines to be followed by the Government while framing policies.
Political Democracy is established in India with the help of Fundamental Rights given in the Constitution of India.	Economic and Social Democracy is established with the help of the Directive Principles of State Policy

2.3.7 Criticism of the Directive Principles

During the drafting of the Constitution, several members of the Constituent Assembly expressed strong criticism of the Directive Principles of State Policy. They raised the

The welfare of each and every citizen is promoted through the Fundamental Rights	The welfare of the entire community is fostered with the help of Directive Principles.
As per the law, the violation of Fundamental Rights is punishable.	Violation of Directive Principles is not a punishable crime unlike violation of Fundamental Rights
Fundamental Rights are justiciable as they can be enforced legally by the courts if there is a violation.	Directive Principles are not justiciable as they cannot be enforced by the courts if there is a violation.
If there is a law which is in violation of fundamental rights then the courts can declare it as invalid and unconstitutional.	If there is a law in violation of Directive Principles, then the courts do not have the power to declare it as invalid and unconstitutional.
Fundamental Rights are sometimes considered as a kind of restrictions imposed on the State.	Directive Principles are directions for the Government in helping it to achieve some particular objectives.
Fundamental rights can be suspended during a national emergency. But, the rights guaranteed under Articles 20 and 21 cannot be suspended.	Directive Principles of State Policy can never be suspended under any circumstances.
Fundamental Rights was borrowed from the Constitution of the United States of America	Directive Principles of State Policy was borrowed from the Constitution of Ireland which was in turn copied from the Constitution of Spain.

following concerns:

1. Lack of legal sanction: One common criticism of the Directive Principles is their lack of legal enforceability. Despite being crucial to the governance of the country and the state being obligated to apply them in lawmaking, they are explicitly non-justiciable under Article 37. This means that the Indian courts, including the Supreme Court, are unable to enforce them. K T Shah, a former member of the Constituent Assembly of India, referred to them as 'pious superfluities,' akin to 'a check on a bank, payable only when the bank's resources permit.' Nasiruddin argued that these principles are no better than New Year's resolutions that are broken on the second day of January. K C Wheare, a constitutional expert, described them as a 'manifesto of aims and aspirations.'

2. Vague and illogically arranged: Critics have pointed out that, similar to fundamental rights, there is no coherent philosophy underlying the Directive Principles. Ivor Jennings highlighted the lack of a clear arrangement or logical order among the Directives. The Declaration mixes relatively insignificant issues with the most critical economic and social issues. It also includes a blend of old and new provisions and contains provisions that appear to be based solely on sentiment and bias rather than reason and science.

3. Conservative: Sir Ivor Jennings argued that the Directive Principles are based on the political philosophy of 19th-century England. He remarked, 'The ghosts of Sydney Webb

and Beatrice Webb stalk through the pages of the text. Part IV of the Constitution expresses Fabian Socialism without the socialism.' His opinion was that while the Directives may have been suitable for India in the mid-20th century, they are likely to be outdated by the 21st century.

4. Constitutional Conflict: K Santhanam highlighted that the Directives can lead to constitutional conflicts. These conflicts can arise between the Centre and the states, the President and the Prime Minister, and the governor and the chief minister. According to Santhanam, state governments can be dismissed by the Centre for not following these principles. Additionally, the President can reject a bill passed by the Parliament if it violates the Directive Principles, even if the Prime Minister gets it passed. This is because these principles are fundamental to the country's governance and cannot be ignored by the government. State governors and chief ministers may also face similar constitutional conflicts.

In conclusion, the Directive Principles of State Policy have faced criticism on various grounds, including their lack of legal enforceability, vague arrangement, conservative nature, and potential for constitutional conflicts. These criticisms raise important considerations regarding the effectiveness and practicality of implementing the Directive Principles in the governance of the country.

2.3.8 Judicial Pronouncements

The Constitution of India incorporates both Fundamental Rights and Directive Principles of State Policy (DPSP) to ensure a harmonious balance between individual liberties and societal welfare. Over the years, the Supreme Court has addressed the interplay between these two constitutional components through landmark judgments, establishing the current framework for their implementation.

The Conflict and its Resolution

In the case of Champakam Dorairajan vs State of Madras, the Supreme Court grappled with the conflict between fundamental rights and directive principles. It held that while the directive principles cannot override fundamental rights, reasonable restrictions on fundamental rights can be imposed to implement the directive principles through constitutional amendments. This ruling recognized the importance of both aspects while providing a mechanism for their implementation.

The Golaknath vs State of Punjab case in 1967 brought a new perspective. The Supreme Court ruled that fundamental rights were "sacrosanct" and could not be abridged or taken away by Parliament, effectively preventing their amendment for implementing directive principles. To overcome this hurdle, the government introduced the 24th and 25th Amendments to the Constitution.

In the subsequent Kesavananda Bharati vs State of Kerala case, the Supreme Court examined the amendments and clarified that the directive principles could take precedence over certain articles of fundamental rights. However, it also declared that the legislature and executive were restricted from making laws or issuing orders that tampered with the "basic structure" of the Constitution. This decision safeguarded the integrity of the Constitution while upholding the importance of directive principles.

The Minerva Mills Ltd. vs Government of India case reinforced the position that directive principles cannot claim absolute supremacy over fundamental rights. The Supreme Court emphasized that any amendment altering

the basic structure of the Constitution would be invalid. Consequently, the present understanding is that fundamental rights enjoy supremacy over directive principles, but the latter can still be implemented through constitutional amendments as long as they do not damage the basic structure.

Recap

- Directive Principles of State Policy (DPSP): provide a framework for the government to establish social, economic, and political conditions that promote the welfare of the people
- Features of DPSP
- Classification of DPSP
- New Directive Principles
- Distinction between Fundamental Rights and DPSP
- Criticisms of DPSP
- Judicial Pronouncements

Objective Questions

1. DPSPs have been inspired from which constitution?
2. In which part of the Indian Constitution is the ideal of 'Welfare State' protected?
3. In which part of the Indian Constitution are the Directive Principles of State Policy mentioned?
4. Which Article of the Indian Constitution directs the establishment of a Uniform Civil Code?
5. Which Article of the Indian Constitution casts an obligation on the State to secure a social order for the promotion of welfare of the people?
6. Who described the Directive Principles and Fundamental Rights as the 'Conscience of the Constitution'?
7. Which group of the following Articles of the Indian Constitution contains Directive Principles of State Policy?
8. Who called the Directive Principles as a 'novel feature' of the Indian Constitution?

Answers

1. Irish Constitution
2. Directive Principle of state policy
3. Part IV
4. Article 44
5. Article 38
6. Granville Austin
7. Articles 36-51
8. Dr. B. R. Ambedkar

Assignments

1. Examine the Key Directive Principles of State Policy and discuss their significance in Indian Constitution.
2. Choose three Directive Principles of State Policy (DPSPs) from the Indian Constitution and analyze their relevance and impact on Indian society. Write a report covering the following:
   - Briefly explain the chosen DPSPs and their objectives.
   - Discuss the current status of implementation and challenges faced.
   - Analyze the impact and effectiveness of these DPSPs on the targeted areas.
   - Recommendations for improving the implementation and realization of these DPSPs.
   - Provide examples and case studies to support your analysis.
3. Write about the limitations of Directive Principles of State Policy
4. What are some criticisms or challenges associated with the effective implementation of Directive Principles of State Policy in India?

Suggested Reading

1. Basu, Durga Das. *Introduction to the Constitution of India*. New Delhi: Lexis Nexis Butterworths Wadhwa, 2015.
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Unit 4
Human Rights and National Human Right Commission

Learning Outcomes

Upon the completion of this unit, the learner will be able to:

- Understand the fundamental concepts of human rights and their importance in a democratic society.
- Explain the role and functions of the National Human Rights Commission (NHRC) in protecting and promoting human rights in India.
- Analyze the mechanisms through which the NHRC addresses complaints of human rights violations.

Prerequisites

In the pursuit of justice and fairness, societies recognise the importance of safeguarding fundamental human rights, which are essential for ensuring dignity and equality for all individuals. In India, the National Human Rights Commission (NHRC) plays a crucial role in this mission. Established as an independent body, the NHRC acts as a watchdog to protect and promote human rights. It investigates complaints of human rights violations, provides recommendations, and works towards creating awareness about these rights. By understanding the NHRC's functions and its commitment to addressing issues like discrimination and abuse, one can appreciate how it supports the broader goal of upholding human rights across the nation. This knowledge helps grasp the vital role of such institutions in strengthening democratic values and protecting individual freedoms.

Keywords

Human Rights, Fundamental Rights, National Human Right Commission, Natural Rights Theory

Discussion

2.4.1 Human Rights

Human rights are the fundamental rights that are an integral part of being human. They are like the building blocks of a dignified life. Just as a strong foundation supports a sturdy house, human rights provide the necessary framework for individuals to live with dignity. These rights are universal, meaning they apply to every person, regardless of their nationality, race, religion, or gender.

Imagine a seesaw, with one end representing individuals and the other representing the State or government. Human rights serve as a balancing act on this seesaw, aiming to limit the power of the State while simultaneously requiring governments to take positive steps to ensure that all individuals can enjoy their rights. It's a delicate equilibrium that seeks to protect individuals from abuse and ensure their well-being.

The fight for human rights has shaped the course of history. It all began during the late 18th century with events like the French and American revolutions, where people challenged oppressive regimes and fought for their rights. These revolutionary movements laid the groundwork for the recognition and protection of human rights as essential elements of a just society.

After the devastation of the Second World War, the international community realized the urgent need for a collective effort to protect human rights. The United Nations emerged as a leading advocate for human rights, working to define and promote them worldwide. This shift from primarily nation-state responsibility to global cooperation was a significant milestone in the journey of human rights.

International treaties and instruments have been developed to codify human rights, and the majority of countries have ratified them. These agreements set a common standard for human rights protection, fostering a sense of unity and shared values among nations. They enable governments and individuals to uphold human rights principles and hold accountable those who violate them.

The concept of human rights has become a beacon of hope, guiding societies toward a more inclusive and equitable future. It reminds us that every person, regardless of their background or circumstances, deserves to be treated with dignity and respect. As we continue to strive for progress, let us remember that human rights are not just legal principles; they are the heart and soul of a compassionate and just world.

In conclusion, human rights are the essential entitlements of every individual. They empower us to live with dignity, challenge oppressive power structures, and strive for a fair and equitable society. Through international cooperation and individual commitment, we can build a world where human rights are not just accepted but celebrated as the cornerstone of our shared humanity.

2.4.1.1 Definition of Human Rights

Dr. Justice Durga Das Basu's Perspective: Rights Against the State

Dr. Justice Durga Das Basu, a renowned scholar, defines human rights as "those minimal rights which every individual must have against the State or other public authority, by virtue of his being a member of the human family, irrespective of any consideration."

S. Kim's Insight: Protecting Human Life and Dignity

S. Kim, an insightful thinker, describes human rights as "claims and demands essential to the protection of human life

and the enhancement of human dignity, and should therefore enjoy full social and political sanctions."

A.J.M. Milne's Universal Moral Obligation

Political philosopher A.J.M. Milne offers a powerful definition of human rights, stating that they are "simply what every human being owes to every other human being and as such represent universal moral obligation."

The Universal Declaration of Human Rights (UDHR): Inherent Dignity

The Universal Declaration of Human Rights (UDHR), adopted in 1948, defines human rights as "rights derived from the inherent dignity of the human person." When human rights are enshrined in a written constitution, they are often referred to as "Fundamental Rights," as they form the bedrock of a nation's legal framework.

Shri P. P. Rao's Foundation of Freedom, Justice, and Peace

Shri P. P. Rao beautifully encapsulates human rights as "the inherent dignity and inalienable rights of all members of the human family, recognizing them as the foundation of freedom, justice, and peace in the world."

In conclusion, human rights can be defined as the minimum rights that every individual deserves against the state or any public authority, simply by virtue of their belonging to the human family. These rights protect human life, enhance human dignity, and form a universal moral obligation. When enshrined in written constitutions, they become fundamental rights, serving as the cornerstone of freedom, justice, and peace.

2.4.1.2 Characteristics and Nature of Human Rights

1. The Inherent Nature of Human Rights

Human Rights are not granted by any authority. Instead, they are inherent in all individuals, regardless of their caste, creed, religion, sex, or nationality. These rights are an inseparable part of our existence, woven into the fabric of our being.

2. The Inalienable Quality of Human Rights

These rights cannot be surrendered, sold, or transferred to anyone, including the government. Human rights continue to exist even after an individual's death, as different religious rituals and practices reflect. No authority has the power to alienate these rights from us.

3. The Essential Nature of Human Rights

Without human rights, it becomes impossible to achieve moral, physical, social, and spiritual well-being. Human rights create the necessary conditions for the material and moral upliftment of people, fostering a harmonious and just society.

4. The Connection with Human Dignity

Importance of treating every individual with dignity, regardless of their gender, wealth, or other factors. Human Rights are closely intertwined with the concept of human dignity, emphasizing the fundamental equality and respect we owe to one another.

5. The Irrevocable Nature of Human Rights

No power or authority can take the Human Rights away.

6. Fulfillment of Life's Purpose

Human rights encompass the conditions

necessary for individuals to realize their potential, pursue their dreams, and lead a meaningful life.

7. Universal and Inclusive Nature

Human rights are not the exclusive domain of any privileged class but are inherent in all individuals. The values of divinity, dignity, and equality that underpin human rights are ingrained in human nature itself.

8. Limitations on Absolute Rights

As social beings living in a civic society, certain restrictions are placed on the enjoyment of rights and freedoms. Human rights are not absolute but rather encompass limited powers or claims, recognizing the importance of balance and responsibility within a society.

9. The Dynamic Nature of Human Rights

Human Rights are not static but dynamic. They expand and evolve alongside socio-economic, cultural, and political developments within a state. Judges play a crucial role in interpreting laws in harmony with changing social values, ensuring the continued relevance and applicability of human rights principles.

10. Rights as Limits to State Power

Human rights imply that individuals have legitimate claims upon their society for certain freedoms and benefits. Human rights serve as both negative restrictions on state power, preventing violations of individuals' inalienable freedoms, and as positive obligations of the state to meet the demands of its citizens.

11. The Political Orientation of Human Rights

Human Rights are norms that primarily address how people should be treated by their government and other institutions. Human rights provide a framework for ensuring justice, equality, and accountability in the political sphere.

In conclusion, human rights possess unique characteristics and a profound nature. They are inherent, inalienable, essential, and connected to human dignity. Human rights are universal, irrevocable, and necessary for the fulfillment of life's purpose. They are not absolute but dynamic, evolving with societal changes. Human rights serve as limits to state power and hold a political orientation. Let us embrace and protect these characteristics of human rights, working together to build a world where every individual can enjoy their rights and live with dignity and equality.

2.4.1.3 Evolution of Human Rights

The concept of human rights can be traced back to ancient civilizations and religious doctrines, where certain principles were established to protect the well-being and dignity of individuals. For instance, in ancient India, the Emperor Ashoka promoted religious tolerance and the fair treatment of his subjects, recognizing the importance of respecting their rights.

However, it was after the Second World War that human rights gained significant political traction, largely due to the efforts of the United Nations. The organization played a pivotal role in solidifying the philosophy of human rights, leading to the adoption of key documents that continue to shape our understanding of human rights today.

One of the most significant milestones in the evolution of human rights is the UN Charter, established in 1945. This foundational document outlined the principles of human rights and set the stage for future developments. It emphasized the importance

of equality, non-discrimination, and the promotion of peace and security.

Two years later, in 1948, the Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly. The UDHR is a remarkable achievement, as it serves as a comprehensive guide to human rights, applicable to all people, regardless of their nationality, gender, or cultural background. It covers a wide range of rights, including civil and political rights, economic and social rights, and the rights of vulnerable groups such as women and children.

The French Declaration of the Rights of Man and Citizen and the American Bill of Rights played pivotal roles in advancing the cause of human rights. These documents enshrined fundamental freedoms such as freedom of speech, religion, and assembly. They were born out of revolutionary movements that challenged the oppressive rule of monarchs and paved the way for democratic societies built on the principles of individual rights and freedoms.

Throughout history, the struggle for human rights has been an ongoing process, marked by numerous individuals, organizations, and events that have propelled its advancement. From the efforts of abolitionists fighting against slavery to the activists advocating for women's suffrage, countless individuals have played vital roles in shaping our understanding and implementation of human rights.

2.4.1.4 The Natural Rights Theory

Your inherent rights are not given to you by any government or authority; they are simply yours by the very nature of being human. They cannot be taken away or diminished, as they are fundamental to your dignity and well-being. This concept forms the basis of the Natural Rights Theory.

Natural rights theory holds that every individual possesses certain inalienable rights by virtue of their humanity. These rights are considered universal and apply to everyone, regardless of their social status, gender, or race. They are deeply rooted in the belief that each person deserves to live a life of freedom, autonomy, and happiness.

At its core, natural rights theory upholds three fundamental rights: the right to life, liberty, and property. Let's delve into each of these rights and understand their significance.

The right to life is perhaps the most fundamental of all. It asserts that every person has the inherent right to exist and be protected from harm. Governments and authorities have a duty to safeguard and respect the lives of their citizens.

Right to liberty means that individuals should be free to make their own choices, pursue their own goals, and express themselves without undue interference. This right empowers individuals to shape their own destinies and create a life that aligns with their values and aspirations.

The right to property recognizes that individuals have the right to acquire, use, and enjoy their possessions and resources. Whether it's a physical object, intellectual creation, or land, this right allows you to own and control what you rightfully possess.

The origins of natural rights theory can be traced back to ancient Greek and Roman philosophy, where thinkers pondered the concept of universal justice. However, it was during the Enlightenment era that the theory was most fully developed. Thinkers like Thomas Hobbes, John Locke, and Jean-Jacques Rousseau expanded upon these ideas,

emphasizing the inherent dignity and worth of each individual. They argued that governments should exist to protect and uphold these natural rights, acting as guardians rather than granting or revoking them.

In the present day, the concept of natural rights has gained international recognition. Various agreements, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, have highlighted the importance of protecting individual rights and freedoms. These agreements serve as a reminder to governments worldwide that they are accountable for upholding the inherent rights of every person.

2.4.1.5 The Magna Carta, 1215

The Magna Carta of 1215 is undoubtedly a pivotal document in human history. It marks a crucial turning point in the struggle for rights and freedoms against the arbitrary acts of the king.

In the early 13th century, King John of England was known for his oppressive rule and excessive taxation. The English barons, who were powerful landowners, grew tired of the king's unjust actions and heavy financial burdens. Frustrated by these circumstances, they united and demanded that King John recognize their rights and address their grievances.

It was against this backdrop that the Magna Carta came into existence. In June 1215, during a meeting at Runnymede, near Windsor Castle, King John reluctantly met with the barons. Facing immense pressure from their united front, the king had no choice but to accede to their demands. He reluctantly put his seal on the Magna Carta, effectively granting the barons their much-needed rights and protections.

One of the most significant aspects of the Magna Carta was the establishment of basic civic and legal rights for all citizens. These rights included protection against unlawful imprisonment, the right to a fair trial, and limitations on the king's power to impose arbitrary acts. This ensured that no one, not even the king, was above the law.

Additionally, the Magna Carta safeguarded the barons from unjust taxes through its 63 clauses. It placed limits on the king's ability to levy excessive financial burdens on the barons and ensured that taxation would be fair and reasonable. This provision was essential in curbing the king's power and preventing abuses.

Moreover, the English Church also found relief from royal interference through the Magna Carta. It granted the Church the freedom to operate independently and without undue influence from the crown. This separation of powers between the Church and the monarchy was a crucial step towards greater autonomy and religious freedom.

However, it is important to note that the original Magna Carta had limited applicability. It primarily benefited the barons and the Church, while the majority of the population, such as peasants and women, did not see significant changes in their circumstances. Nevertheless, the Magna Carta laid the groundwork for future developments in law and governance, serving as a cornerstone for the evolution of democratic principles and human rights.

2.4.1.6 The English Bill of Rights, 1689

The English Bill of Rights, enacted by the British Parliament in December 1689, holds a pivotal place in the development of human rights philosophy. This remarkable document not only affirmed the authority of

the British Parliament over the monarchy but also challenged the notion of absolute power held by the king. Its impact resonates even today, as it codified the longstanding customs and traditions of England while explicitly outlining the rights and freedoms of its citizens. The English Bill of Rights formed the bedrock of the English constitution, emphasizing the principles of the rule of law and the sovereignty of the nation.

Recognizing the need to safeguard their liberties and prevent the abuse of power, Parliament drafted and passed the English Bill of Rights in 1689. This groundbreaking legislation aimed to establish clear limitations on the monarchy and enshrine the rights of the people.

2.4.1.7 American Declaration of Independence, 1776

Imagine a time when the American colonies were under the rule of England, feeling the weight of oppression and longing for freedom. In a momentous act of courage and determination, these thirteen colonies took a stand, defying the British Empire and paving the way for a new era. On July 4, 1776, they declared their independence, marking a pivotal moment in history.

2.4.1.8 The U.S. Bill of Rights, 1791

It's September 17, 1787, a significant day in American history. The U.S. Constitution is finally enacted, a pivotal moment shaping the nation's future. However, upon its original implementation, a crucial element was missing—the protection of private rights and personal liberties.

Fortunately, a visionary named James Madison recognized the importance of addressing this omission. Madison proposed twelve amendments, collectively known as the Bill of Rights, to ensure that the fundamental rights of American citizens would be safeguarded. Through a democratic process, these amendments were ratified by state legislatures, and ten of them became an integral part of the Constitution in 1791.

The Bill of Rights serves as a shield, shielding individuals from any potential abuse of power by state officials. It establishes a clear boundary between the government and its citizens, delineating specific rights and liberties that cannot be infringed upon.

2.4.1.9 The French Declaration of the Rights of Man and of the Citizen, 1789

After the fall of the Bastille and the abolishment of feudalism, serfdom, and class privileges, France embarked on a transformative journey. In 1789, the National Assembly proclaimed the Declaration of the Rights of Man and of the Citizen, a monumental document consisting of 17 Articles. This declaration had a profound impact not only on France but also on Europe and the world at large. It introduced a new social and political order, founded on principles that signaled the end of the old regime. The Declaration of the Rights of Man and of the Citizen became a beacon of inspiration for numerous constitutions worldwide, emphasizing the paramount importance of human rights.

2.4.1.10 Declaration of International Rights of Man, 1929

After the devastating aftermath of World War I, the world found itself in a state of reflection and contemplation. Questions arose about the rights and freedoms that should be guaranteed to all individuals. In response to this growing awareness, the Institute of International Law took a significant step in 1929 by adopting the Declaration of International Human Rights. This historic declaration proclaimed that the fundamental rights of individuals, which were already

recognized in various national constitutions like those of France and the USA, should be universally upheld for people all over the world, irrespective of their nationality or any other factors.

2.4.1.11 The UN Charter, 1945

The United Nations Charter, which was drafted, approved, and unanimously adopted by all 51 states represented at the United Nations Conference in San Francisco, includes provisions for the promotion and protection of human rights. It is a significant document because it is the first official record in which human rights and fundamental freedoms are recognized as equal and are given importance.

2.4.1.12 The Universal Declaration of Human Rights, 1948

On 10th December, 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights. All men, women, and children are entitled to civil, political, economic, social, and cultural rights under the Declaration. However, the declaration is not legally binding. It is an ideal for all mankind.

2.4.1.13 International Covenants on Human Rights

The Universal Declaration of Human Rights, 1948 was not a legally binding document. It lacked enforcements. This deficiency was sought to be removed by the U.N. General Assembly by adopting in December, 1966, the two Covenants, viz, International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights. Together with the Universal Declaration and Optional Protocols, the two International Covenants constitute the International Bill of Human Rights. Human rights history is marked by the International Bill of Human Rights. The International Bill of Human Rights represents a milestone in the history of human rights. It is a modern Magna Carta of human rights.

2.4.1.14 Classification of Rights

Normally these rights are classified into First, Second and Third Generation Rights.

1. First Generation Rights (Civil and Political Rights)

During the 17th and 18th centuries, the concept of human rights emerged as a political Rights. This Rights was primarily concerned with two central ideas, which were personal liberty and protecting individuals from state violations. Civil rights were introduced to provide minimal guarantees for an individual's physical and moral integrity and to enable them to have their own beliefs and conscience. These rights include equality, liberty, freedom of religion and expression, and protection from torture or killing. Legal rights are typically classified as civil rights, providing procedural protection for people in their dealings with the legal and political systems. These rights include protection against arbitrary arrest and detention, the right to be presumed innocent until proven guilty in court, and the right to appeal. Political rights are essential for individuals to participate in society and community life, such as the right to vote, join political parties, assemble freely, attend meetings, express opinions, and access information.

2. Second Generation Rights (Social, Economic and Cultural Rights)

These rights encompass the right to coexist and work together, as well as a fundamental standard of living. They guarantee impartial access to social and economic goods, services, and opportunities. The international recognition of these rights increased with the

advent of industrialization and the emergence of the working class, leading to fresh demands and ideas about the meaning of a life of dignity. In the pursuit of human dignity, individuals recognized that it required more than the limited non-interference proposed by civil and political rights. Social rights are integral for full participation in the life of society and include, at a minimum, the right to education and the right to establish and maintain a family. Additionally, many rights commonly considered to be civil rights, such as the right to recreation, healthcare, privacy, and freedom from discrimination, fall under social rights. Economic rights are typically regarded as encompassing the right to work, the right to an adequate standard of living, the right to housing, and the right to a pension in case of old age or disability. These rights reflect the understanding that a particular minimum level of material security is necessary for human dignity. Cultural rights refer to the cultural "way of life" of a community and are often given less consideration than other rights. They include the right to freely participate in the cultural life of a community and, possibly, the right to education. However, many other rights, not formally categorized as 'cultural,' are critical for minority communities within a society to maintain their unique culture, such as the right to non-discrimination and equal protection under the law.

3. Third Generation Rights (Collective Rights)

The third generation of human rights diverged from the approaches taken by the first two generations. While the first and second generations focused on individual-centered approaches to understanding the development of Human Rights, the third generation adopted a collective approach. The discourse surrounding the third generation centered on collective rights, such as the right to peace, development, environment, and self-determination. Issues like peace and the environment arose in response to transnational threats, including cross-border terrorism and climate change. Similarly, the concept of self-determination arose during the decolonization period of the 1960s, which brought about a collective and shared identity among former colonies.

Human rights, according to Amartya Sen, are pronouncements in social ethics sustainable by public reasoning. The understanding and viability of these are ultimately linked with the reach of public discussion between people across borders. The validity and universality of human rights are dependent on their ability to survive open critical scrutiny in public reasoning. Besides legislation, implementation of human rights requires public recognition, agitation and monitoring; and of course, impartiality and objectivity, cutting the confinement of the borders of a nation.

2.4.2 National Human Rights Commission (NHRC)

The National Human Rights Commission (NHRC) is a statutory body in India established under the Protection of Human Rights Act, 1993. It is an independent organization tasked with promoting and protecting human rights across the country. The NHRC has been instrumental in addressing human rights violations and ensuring accountability of the state and non-state actors. The commission receives complaints of human rights violations, conducts investigations, and recommends remedial measures to the concerned authorities. The NHRC has played a crucial role in safeguarding the rights of vulnerable sections of society, including women, children, Dalits, and minorities. In this way, the NHRC has emerged as a vital

institution in the promotion and protection of human rights in India. This essay will explore the history, functions, and impact of the National Human Rights Commission in India.

2.4.2.1 Evolution of NHRC

Upon its establishment, the United Nations initiated a process to identify mechanisms that could assist in accomplishing its objective of effectively safeguarding and promoting human rights. However, in 1946, the United Nations Economic and Social Council (ECOSOC) urged member states to contemplate establishing informal groups or local human rights committees within their respective nations to support the work of the Human Rights Commission. The Paris Principles of 1991 provided extensive guidance and directives on not only the formation of NHRIs but also their duties and the principles they should uphold to ensure their effectiveness.

In 1993, the Parliament of India passed the Protection of Human Rights Act, which established the National Human Rights Commission (NHRC) as a statutory body on 12 October of the same year. The Act was amended in 2006. The NHRC is responsible for monitoring the fundamental rights of individuals, including the rights to life, liberty, equality, and dignity, which are enshrined in the Constitution or embodied in international covenants that can be enforced by Indian courts. Through its work on human rights, the commission has defended democracy, promoting a democracy that is inclusive and compassionate towards its most vulnerable citizens. The commission is headquartered in Delhi, but it can establish offices in other parts of the country, and it has the authority to regulate its own procedures. It possesses all the powers of a civil court, and its proceedings have a judicial character. The NHRC is authorized to request information or reports from the Central and state governments or any other subordinate authority.

The specific objectives of the establishment of the commission are :

(a) To strengthen the institutional arrangements through which human rights issues could be addressed in their entirety in a more focused manner;

(b) To look into allegations of excesses, independently of the government, in a manner that would underline the government's commitment to protect human rights; and

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

2.4.2.2 Composition of the Commission

1. The commission is a multi-member body consisting of a chairman and four members.
2. The chairman should be a retired Chief Justice of India
3. One member who is, or has been, a Judge of the Supreme Court.
4. One member who is, or has been a Chief Justice of a High Court
5. Two members to be appointed from among person having knowledge and practical experience in matters relating to human rights.
6. The Commission also has four ex-officio members—the chairmen of the National Commission for Minorities, the National Commission for SCs, the National Commission for STs and the National Commission for Women.
7. The Chairman and members are appointed by the President on the recommendations of a high power committee comprising the Prime Minister, the Speaker of Lok Sabha, the Union Home Minister, the Opposition leaders of Lok Sabha and Rajya Sabha.

8. The Chairman and members hold office for a term of five years or until they attain the age of 70 years, whichever is earlier.

2.4.2.3 Removal of Members

The Chairperson or the members shall only be removed from their office by order of the President on any of the following grounds.

1. Proved misbehavior or incapacity
2. Insolvency
3. Taking any paid employment outside the duties of his office. Or
4. Infirmity of mind or body, or
5. Unsoundness of mind declared by a competent court; or
6. Conviction and imprisonment for an offence involving moral turpitude

2.4.2.4 Functions of the Commission

The functions of the Commission are:

(a) Proactively or reactively investigate into encroachments of human rights or neglect in the prevention of such violation by a public servant.

(b) Intervene in any proceeding involving allegation of violation of human rights pending before a court with the approval of such courts.

(c) Visiting in prison or any other detention centres to study the living conditions of inmates and make recommendations of the prisoners and make recommendations.

(d)Study the international treaties and other agreements on Human Rights and to make effective rcomendations for their effective implementation

(e) Analyse the factors, including acts of terrorism that constrain the enjoyment of human rights and recommend suitable remedial actions.

(f) Encourage human rights education among the different segments of society and create the awareness of the defence mechanisms available for the protection of these rights through publications, the media, conferences, workshops, seminars and other activities.

(g) Direction to the government that any opinion, approval, suggestion or report on any difficulty regarding the promotion and protection of human rights.

(h) Undertake and promote the research activities in the area of human rights at colleges, Universities and other professional areas

(i) Encourage the efforts of non-governmental organisations (NGOs) working in the field of human rights.

(j) Undertake such other functions as it may consider necessary for the promotion of human rights.

The Commission's headquarters is at Delhi and it can also establish offices at other places in India. It is vested with the power to regulate its own procedure. It has all the powers of a civil court and its proceedings have a judicial character. It may call for information or report from the Central and state governments or any other authority subordinate thereto.

2.4.2.5 Limitation of NHRC

1. The NHRC does not have the authority to investigate human rights violations committed by private entities.
2. The recommendations made by the NHRC are not legally binding and

do not have to be implemented by authorities.

3. The NHRC does not have the power to impose penalties on authorities for not acting on its recommendations.

4. The NHRC's jurisdiction is restricted when dealing with cases involving the armed forces.

5. The NHRC cannot exercise jurisdiction in cases that are more than one year old.

6. The NHRC's jurisdiction is limited in certain cases, such as those related to international disputes and matters of national security.

7. The NHRC does not consider cases that are submitted anonymously, using a pseudonym, or with insufficient information.

8. The NHRC does not have the jurisdiction to consider cases related to service matters.

The National Human Rights Commission has been a crucial institution in promoting and protecting human rights in India. Since its establishment, the NHRC has investigated numerous cases of human rights violations, recommended remedial measures to the concerned authorities, and contributed to the strengthening of the human rights framework in India. However, the NHRC faces several challenges, including limitations on its jurisdiction, lack of enforcement powers, and the need for reforms to enhance its effectiveness. Despite these challenges, the NHRC's contribution to the protection of the rights of marginalized and vulnerable sections of society remains significant. The NHRC must continue to engage with civil society, the media, and other stakeholders to raise awareness of human rights issues and advocate for their protection. The NHRC's independence, impartiality, and commitment to human rights remain essential to its continued success as a vital institution in India's human rights framework.

Recap

- Human Rights – Characteristics and Evolution
- The Natural Right Theory
- English Bill of Rights, 1689
- American Declaration of Independence, 1776
- The US Bill of Rights, 1689
- The UN Charter , 1945
- The Universal Declaration of Human Rights, 1948
- The International Covenants of human rights
- Classification of rights
- National Human Rights Commission (NHRC) - Evolution, functions and limitations

Objective Questions

1. On which date the NHRC of India is constituted?
2. Who can be appointed as the Chairman of the National Human Rights Commission?
3. What is the tenure of the Chairman of the National Human Rights Commission?
4. Where is the headquarter of the National Human Rights Commission?
5. Who wrote *'Leviathan'*?
6. Collective Rights comes under which generation rights?

Answers

1. 12 October 1993
2. Any retired Chief Justice of the Supreme Court
3. 5 years or up to 70 years of age
4. Delhi
5. Thomas Hobbes
6. Third Generation rights

Assignments

1. Discuss the concept of human rights and their significance in ensuring the well-being of individuals and society. Provide examples to support your answer.
2. Explain the role and functions of a National Human Rights Commission in a country. Illustrate with specific cases or examples of how such commissions have contributed to the protection of human rights.
3. Explain the meaning nature and importance of Human Rights.
4. Elucidate the evolution of Human Rights.

Suggested Reading

1. *Human Rights: Concept, Issues and Challenges* by S. K. Sharma and Usha Sharma, published by Atlantic Publishers and Distributors in 2017.
2. *Human Rights and Social Justice* by D. R. Sachdeva, published by Deep & Deep Publications in 2019.
3. *Human Rights: Law, Practice and Procedure* by Satish C. Shastri, published by Universal Law Publishing in 2019.
4. *Human Rights: A Global Perspective* by J. C. Johari, published by Rawat Publications in 2020.
5. *National Human Rights Commission: Role and Functioning* by Ujjwal Kumar Singh, published by Oxford University Press in 2018.

SGOU

BLOCK - 03

Political Institutions and the Indian Political System

SGOU

Unit 1
The Parliament of India: Structure and Functions

Learning Outcomes

By the end of the unit, the learner will be able to:

- Identify the key components of the Indian Parliament, including the Lok Sabha and Rajya Sabha, and their respective roles.
- Explain the process of law-making in India and the functions of Parliament in this process.
- Analyze the powers and responsibilities of the Indian Parliament, including legislative, financial, and oversight functions.
- Evaluate the impact of parliamentary procedures and debates on the governance and democratic processes in India

Prerequisites

In the heart of India's democratic system lies the Parliament, a vibrant institution where the nation's laws and policies take shape. The Indian Parliament is like a grand stage where two major actors—the Lok Sabha and the Rajya Sabha—perform their crucial roles. The Lok Sabha, or House of the People, represents the public, while the Rajya Sabha, or Council of States, provides representation for the states. Together, they debate, amend, and pass laws that govern the country. Parliament also plays a key role in scrutinizing the executive branch, ensuring that it acts in the people's best interest. Understanding how this structure operates reveals how Parliament helps balance power and supports the democratic process, making it essential to India's governance.

Keywords

Rajya sabha, Lok sabha, Lawmaking, Question Hour, No-Confidence motion, Adjournment Motion, Calling Attention Motion, Zero Hour

Discussion

3.1.1 Indian Parliament

Similar to Britain, our constitution has embraced a Parliamentary form of Government. The organisation, composition, duration, officers, procedures, privileges, and powers of the Indian Parliament are outlined in Articles 79 to 122, which are given in part V of the constitution.

According to Article 79, the Union Parliament consists of the President and the two Houses, namely, the Rajya Sabha (Council of States) and the Lok Sabha (House of the People). Thus, like the King-in Parliament in England, we have the President-in-Parliament. The President is an integral part of the Parliament, though he is not a member of either House.

3.1.2 Lok Sabha

3.1.2.1 Composition

The Lok Sabha, also known as the Lower House of Parliament and the House of the People, is called the first chamber. It serves as a representative body for the people of India. The Lok Sabha has a maximum strength of 550 members. Among them, 530 members are elected through direct elections from territorial constituencies in the states, 20 members represent the union territories, and the President of India has the authority to nominate two members from the Anglo-Indian community (as per Article 331) to ensure adequate representation in the Lok Sabha if required.

3.1.2.2 Duration of Lok Sabha

Typically, the Lok Sabha has a duration of five years. However, if a proclamation of national emergency under Article 352 is in effect, Parliament can extend this standard term for a period not exceeding one year at a time and not exceeding in any case beyond a period of six months after the revocation of the emergency. Additionally, the President has the authority to dissolve the Lok Sabha before the completion of its usual tenure, which is five years from the date of its initial meeting following general elections.

3.1.2.3 Qualification of Members

In order to become a Member of Parliament, as stated in Article 84, the individual must fulfil the following requirements:

1. The person must be a citizen of India.
2. The individual must have attained the age of 25 years.
3. The person must also meet any other qualifications that may be prescribed by a law enacted by Parliament.

3.1.2.4 Officers of Lok Sabha

Each House of Parliament has its own presiding officers and supporting staff. The lower House, known as the Lok Sabha, is presided by the speaker. According to Article 93, the Lok Sabha must promptly choose two members to assume the roles of speaker and deputy speaker. The speaker, as well as the deputy speaker, typically hold their positions throughout the duration of the Lok Sabha's tenure. However, there are certain circumstances under which the speaker must vacate his office:

1. Cessation of Lok Sabha Membership: If the speaker or the deputy speaker ceases to be a member of the Lok Sabha, they are required to vacate their office.
2. Voluntary Resignation: The speaker or the deputy speaker may choose to resign from their position at any time.
3. Removal by Resolution: The speaker and the deputy speaker can be removed from their offices if a resolution for their removal is passed by the Lok

Sabha. The resolution must be issued 14 days in advance and must receive the majority support of all the current members of the Lok Sabha.

While a resolution for the speaker's removal is being considered, the speaker is not allowed to preside over the proceedings. However, they retain the right to speak in the Lok Sabha, participate in its discussions, and cast a vote.

3.1.2.5 Powers of Speaker

The Speaker, as the head of the Lok Sabha, holds the responsibility of safeguarding the powers and privileges of the members of the house. Acting as the principal spokesperson, the Speaker's decisions hold ultimate authority in all parliamentary affairs. Additionally, the Speaker serves as the presiding officer of the Lok Sabha, ensuring order and decorum within the chamber.

The Speaker possesses the authority to adjourn the House or suspend proceedings in the absence of a quorum. He has no right to vote in the House. However, he exercises a casting vote to break a tie. Moreover, the Speaker presides over joint sessions involving both Houses of Parliament.

Regarding legislative matters, the Speaker possesses the power to determine whether a bill qualifies as a money bill, and his decision on this matter is final. Furthermore, the Speaker is responsible for deciding on the disqualification of a member in the House due to defection, as per the provisions outlined in the Tenth Schedule. In addition, the Speaker oversees the functioning of all parliamentary committees within the House and appoints their chairpersons.

Speaker Pro Tem - After each general election, the President promptly designates a member of the House as the Speaker Pro Tem, typically choosing the most senior member for the role. The Speaker Pro Tem presides over the first sitting of the newly elected Loksabha. His main duty is to administer the oath of office to the newly elected members and to conduct the election of the new speaker.

3.1.3 Rajya Sabha

The Rajya Sabha, referred to as the upper chamber or the second chamber, consists of a total of 250 members. Out of these, 12 individuals are nominated by the President as nominees. The President selects these nominees based on their specialized knowledge or practical experience in fields such as Literature, Art, Sports, Science, and Social Science.

In addition, the Rajya Sabha accommodates a maximum of 238 representatives from the various states and union territories of India. According to Article 80, the representatives from each state in the Rajya Sabha are elected by the elected members of the state's Legislative Assembly. The election process follows a proportional representation system by means of single transferable vote method.

The 126th constitutional Amendment Bill of 2019, which became the 104th constitutional Amendment Act 2019, upon ratification, replaced the Anglo-Indian reserved seats in the Parliament and state legislatures of India in January 2020.

3.1.3.1 Duration

The Rajya Sabha is a permanent chamber, and it is not subject to dissolution like the Lok Sabha. However, one-third of its members retire after every two years, ensuring continuity in the composition of the house. A member of the Rajya Sabha can serve a term of six years, providing a longer tenure compared to the members of the Lok Sabha, who serve for a term of five years. This longer term for members of the Rajya Sabha contributes to the stability and continuity of the chamber's functioning.

3.1.3.2 Qualification of Members

To be eligible for membership in the Rajya Sabha, certain qualifications must be met. These qualifications include:

1. The individual must be a citizen of India.
2. The person must have attained the age of thirty years or above.
3. The candidate must fulfil any other qualifications that may be prescribed by law enacted by Parliament.

3.1.3.3 Officers of Rajya Sabha

The Rajya Sabha is comprised of a Chairman and a Deputy Chairman. The Chairman of the Rajya Sabha is the Vice President of India, who holds this position ex-officio. On the other hand, the Deputy Chairman is chosen by the Rajya Sabha itself from among its members.

The functions of the Chairman in the Rajya Sabha are similar to those of the Speaker in the Lok Sabha, with the exception that the Speaker has certain exceptional powers as outlined in the constitution. For instance, the Speaker has the authority to make decisions on money bills and preside over joint sittings of both Houses of Parliament.

However, in the event that the Chairman of the Rajya Sabha acts as the President of India, the office of the Chairman becomes vacant. In such cases, the duties of the Chairman are carried out by the Deputy Chairman of the Rajya Sabha.

3.1.4 Disqualification for Membership

Members of parliament can be disqualified from their membership for various reasons as outlined in Article 102 of the Constitution of India. These disqualifications include:

a. Holding any office of profit under the Government of India or any State Governments.
b. Being declared of unsound mind by a competent court.
c. Non possessing Indian citizenship.
d. Being disqualified by any law enacted by Parliament.

According to Article 102, if any member falls under any of these disqualifications, they are no longer eligible to continue their membership in Parliament.

3.1.5 Sessions of Parliament

The President of India holds regular sessions of both Houses of Parliament, making sure that there is no interval of more than six months between two meetings. According to Article 87, it is required for the President to address a joint session of parliament at the commencement of the first session after a general election and at the beginning of each year. The sessions of parliament are of two. They are:

Budget Session - *January/February to May*
Monsoon Session - *July to August/ September*
Winter Session - *November to December*

3.1.6 Joint Sitting

Article 108 of the Indian Constitution establishes a provision for a joint sitting of both Houses of Parliament. This provision serves as an exceptional mechanism to resolve a deadlock that may arise between the two Houses regarding the approval of an ordinary bill. In such a deadlock situation, the President holds the authority to convene the joint sitting. The presiding officer for this session is the Speaker of the Lok Sabha. Here, it may be noted that a money bill or a constitutional amendment bill cannot be passed in a joint sitting.

3.1.7 Privileges of Parliament and Members

The Indian Constitution guarantees the same set of privileges to both the Houses of Parliament and the State Legislatures (Articles 105 and 194). These privileges can be categorised into two types: (1) privileges enjoyed individually by the members and (2) privileges shared by both Houses of Parliament.

The individual privileges of the members include:

1. **Freedom from arrest:** Members of Parliament and State Legislatures are immune from arrest in civil cases during the continuance of a session and during a period of 40 days before and 40 days after the sessions. This privilege does not extend in criminal cases or under the law of preventive detention.
2. **Freedom of speech:** Members have the freedom to express their opinions and participate in debates without fear of legal consequences.
3. **Protection from legal proceedings:** Members cannot be held accountable in any court for their speeches, statements, or votes in Parliament or its committees.

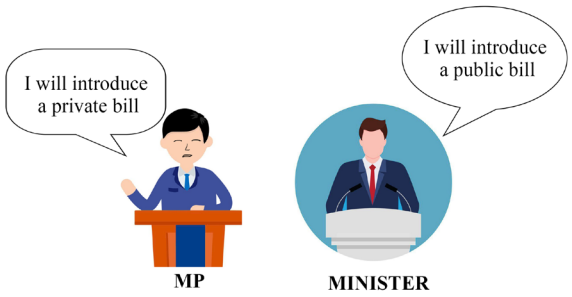
The Parliament possesses the following powers:

1. It can expel individuals from the galleries at any given moment. As per the rules of procedure, both the Speaker of the Lok Sabha and the Chairman of the Rajya Sabha have an equal authority to order the removal of unauthorized persons from any section of the House.
2. The Parliament has the authority to govern its internal affairs, and these decisions cannot be contested in any court of law.
3. It has the power to penalize its members and unauthorized individuals for violating the privileges of the Houses.

3.1.8 Legislative Procedure

The main purpose of the legislature is to create laws. The legislative process is identical in both Houses of Parliament, and every bill undergoes the same stages in each House. A bill is a proposal that, when duly accepted, becomes an act or law. There are two types of bills introduced in Parliament: Private Bills (also known as Private Member's Bills) and Public Bills (Government Bills).

A Private Bill is introduced by any member of Parliament who is not a minister, while a Public Bill is introduced by a minister. Money bills, which specifically deal with financial matters, can only be introduced in the Lok Sabha (the lower house of Parliament). However, bills other than money bills can be introduced in either House of Parliament.



The ordinary bills go through the following five stages:

1) First Reading: This is the introductory stage of a bill. The member who wishes to introduce the bill seeks the consent of the House. Once permission is granted, the mover of the bill introduces it by reading its title and objectives. No discussion takes place during this stage. After the introduction, the bill is published in the Gazette of India.

2) Second Reading: This stage involves a comprehensive examination of the bill, both in general and in detail, leading to its final form. The second reading stage consists of three sub-stages: General Discussion, Committee stage, and Report stage.

a. **General Discussion Stage:** All members receive printed copies of the bill. The principles and provisions of the bill are generally discussed in the House, but the specifics are not debated. Typically, the bill is referred to a select committee of the House.
b. **Committee Stage:** During this stage, the committee meticulously scrutinizes the bill, clause by clause, in great detail. The committee has the authority to suggest amendments to the bill, as long as they do not alter the underlying principles. After the scrutiny and discussion, the committee presents the bill back to the House.
c. **Report Stage:** Upon receiving the bill from the select committee, the House considers its provisions clause by clause. Each clause is discussed and voted upon individually. Members can propose amendments, and if accepted by the House, those amendments become part of the bill.

3) Third Reading: Third Reading is the final stage of a bill in the first House. During this stage, the discussion focuses on whether to accept or reject the bill as a whole. If a majority of the members present and voting agree to the bill, it is considered approved by the House. Subsequently, the bill is sent to the second House (the other chamber of Parliament).

It's important to note that a bill is considered passed by Parliament only when both Houses have agreed to it, either with or without amendments. Both Houses must agree on the final version of the bill for it to become law.

4). Bill in the Second House

In the second House also the bill passes through the same above mentioned three stages, first reading, second reading and third reading.

In the third reading, which is the last stage of a bill in the second House, the discussion is confined to the acceptance or the refusal of the bill as a whole. If the majority of members present and voting accept the bill, it is regarded as the bill is approved by the House.

The second House may;

- pass the bill as sent by the first House without any amendments.
- pass the bill with amendments and send back it to the first House for its reconsideration
- reject the bill completely.
- not take any action and thus keep the bill pending.

If the second House discards the bill altogether or does not take any action for six months, a deadlock is deemed to have taken place for which the president can summon a joint sitting of the two Houses.

5) Assent of the President

After a bill is passed by each House of Parliament, it is submitted to the President for his assent. The President has three options:

- Give assent to the bill: If the President agrees with the content of the bill, he gives his assent to it. Once the President gives his assent, the bill becomes an act or law.
- Withhold assent to the bill: The President also has the power to refuse assent to the bill. In this case, the bill does not become law and does not take effect.
- Return the bill for reconsideration: Instead of giving or withholding assent, the President can return the bill to the Houses for reconsideration. The President's role in this case is limited to a suspensive veto, where he asks the Houses to review and reconsider certain aspects of the bill. The bill can be presented again with or without amendments after such reconsideration.

In the case of a money bill, it can only be introduced in the Lok Sabha (the lower house of Parliament). It does not require the President's recommendation for its introduction. The Rajya Sabha (the upper house) does not have the power to amend or reject a money bill. The President can either accept or reject a money bill but cannot return it for reconsideration. Furthermore, there is no provision for a joint sitting of both Houses to resolve any deadlock regarding a money bill.

3.1.9 Devices of Parliamentary Proceedings

3.1.9.1 Question Hour

The first hour of each parliamentary session is designated for the question hour. During this time, members of parliament pose questions, and ministers typically provide answers. This allows the parliament to hold the executive branch accountable. There are three categories of questions that can be asked: starred questions, unstarred questions, and short-notice questions. A starred question requires an oral response and allows for supplementary questions. These questions are printed in green. An unstarred question, on the other hand, necessitates a written answer and does not permit additional queries. The minister must be given a notice period to respond to such questions, which are printed in white. Short notice questions can only be asked by providing a notice of fewer than ten days, and they receive an oral reply. These questions pertain to matters of urgent public importance and are printed in light pink.

3.1.9.2 Zero Hour

The zero hour commences at 12 noon directly following the question hour. Although it is not explicitly specified in the rules of procedure introduced in Indian Parliamentary affairs in 1962, it holds significance. The zero hour represents the interval between the question hour and the scheduled agenda of the day. Within this period, members of Parliament have the opportunity to address significant matters without providing prior notice. During the zero hour, parliamentarians can pose questions, deliver statements, and raise concerns pertaining to policy, governance, and administration. The maximum duration allotted for the zero hour is 30 minutes.

3.1.9.3 Calling Attention Motion

The Calling Attention Motion was implemented in India in 1954 and is specifically outlined in the procedural rules. Its purpose is to enable a Member of Parliament to highlight a matter of immediate public importance and request a detailed statement from a minister. The introduction of this motion requires the speaker's approval. However, each member is restricted to presenting a maximum of two calling attention motions during a single session. This motion can be introduced in either House of Parliament, serving as a means to address critical issues and seek clarifications from relevant ministers.

3.1.9.4 No-Confidence Motion

Article 75 stipulates that the council of ministers collectively bears the responsibility to the Lok Sabha. Consequently, the Lok Sabha possesses the authority to oust the ministry from power through the passage of a no-confidence motion. This motion can exclusively be introduced in the Lok Sabha and any Member of Parliament who perceives the government to be functioning ineffectively can initiate it. If the motion garners support from over fifty members, a debate is instigated to deliberate upon the motion.

3.1.9.5 Adjournment Motion

The Adjournment Motion is presented in Parliament with the intention of bringing attention to a specific matter of urgent public importance. This motion necessitates the support of at least 50 members. It is regarded as an extraordinary measure as it interrupts the regular proceedings of the House. The debate on an Adjournment Motion is required to last for a minimum duration of two hours and thirty minutes, and the motion should address only a single matter rather than multiple issues.

3.1.9.6 Half an Hour Discussion

Half an Hour Discussion is a provision for deliberating on a matter of significant public importance that has undergone extensive debate and requires clarification on factual aspects. The speaker or Chairman can allocate three specific days in a week, namely Monday, Wednesday, and Friday, during which the last half-hour of the sitting is reserved for such discussions. In order to raise a matter for discussion under this provision, a member must inform the secretary general of the House three days in advance, stating the intention and providing a brief explanation for raising the matter. The speaker or Chairman then decides whether the matter raised for discussion is of urgent public importance. However, if the purpose of raising the matter is to propose changes in government policy, it is not allowed for Half-an-hour discussion by the presiding officer. It's important to note that there is no formal motion or voting involved during this discussion in the House.

3.1.10 Major Committees in Parliament

There are several committees in the Parliament, but three major committees chosen for discussion are the Public Accounts Committee (PAC), the Estimate Committee, and the Committee on Public Undertakings.

3.1.10.1 Public Accounts Committee

The Public Accounts Committee (PAC) is a committee composed of selected members of Parliament, established by the Parliament of India to audit the government of India's revenue and expenditure. It was established in 1921 under the provisions of the Government of India Act of 1919. The committee consists of 22 members, with 15 members selected from the Lok Sabha and 7 from the Rajya

Sabha. These members are chosen by the Parliament each year based on the principles of proportional representation using the single transferable vote system, ensuring representation for all political parties. The committee's term is one year, and it does not include any ministers as members. The Chairman of the PAC is appointed by the Speaker and he is selected from the opposition party.

The main function of the PAC is to conduct audits of the revenue and expenditure of the government of India. It scrutinises the annual audit reports of the Controller and Auditor General of India. Additionally, the committee plays a crucial role in examining whether the funds granted by Parliament have been utilised by the government within the approved scope of demand.

3.1.10.2 Estimate Committee

The second committee for discussion is the Estimate Committee. The Estimate Committee is a committee comprised of designated members of Parliament, established by the Parliament with the purpose of examining the functioning of government ministries and departments in terms of expenditure and fund utilisation. The committee was first established in 1950, in the post-Independence era, based on the recommendation of John Mathai, the then finance minister.

The Estimate Committee consists of 30 members, all exclusively selected from the Lok Sabha, with no representation from the Rajya Sabha. The members are chosen based on the principles of proportional representation using the single transferable vote system, ensuring that all political parties have representation. The committee operates for a duration of one year, and ministers are not eligible for membership. The Chairman of the committee is appointed by the Speaker from among its members.

The primary function of the Estimate Committee is to scrutinise the estimates presented in the budget and make suggestions concerning public expenditure. It also examines whether the financial allocations align with the policy outlined in the estimates and proposes the format in which the estimates should be presented to the parliament.

3.1.10.3 Committee on Public Undertakings

The third committee for discussion is the Committee on Public Undertakings. This committee was established in 1964 based on the recommendation of the Krishna Menon Committee. The Committee on Public Undertakings is composed of 22 members, with 15 members selected from the Lok Sabha and 7 members from the Rajya Sabha. Each year, the Parliament selects these members from among its own members, ensuring proportional representation for all political parties. The selection process follows the principles of proportional representation using the single transferable vote system. The committee's term lasts for one year. Ministers are not eligible to be selected as members of this committee.

The Chairman of the Committee on Public Undertakings is appointed by the Speaker from among its members. It is important to note that members representing the Rajya Sabha cannot be appointed as the Chairman of this committee.

Recap

- The Indian Parliament consists of two Houses: Lok Sabha and Rajya Sabha.
- Lok Sabha represents the people, and Rajya Sabha represents the states.
- Money bills can be introduced only in Lok Sabha.
- Rajya Sabha is the permanent chamber.
- The Speaker of Lok Sabha can preside over the joint sitting of both Houses of Parliament in case of a deadlock.
- The Speaker has the casting vote.
- The law-making procedure has five stages.
- A bill becomes an act only after getting the assent of the President.

Objective Questions

1. What is the composition of the Lok Sabha?
2. How long is the usual tenure of the Lok Sabha?
3. What are the qualifications to become a Member of Parliament in the Lok Sabha?
4. Who presides over the Rajya Sabha?
5. What is the purpose of the legislative process in Parliament?
6. Who can introduce a Private Bill in Parliament?
7. What are the stages involved in the second reading of a bill?
8. When does a bill become law in Parliament?
9. What is the purpose of the Calling Attention Motion?
10. Which committee in Parliament is responsible for auditing the government's revenue and expenditure?

Answers

1. 550 members
2. 5 years
3. Citizen of India and 25 years of age
4. Vice President of India
5. To create laws
6. Any member of Parliament who is not a minister
7. General Discussion, Committee stage, and Report stage
8. After it is passed by both Houses of Parliament and receives the President's assent
9. To highlight a matter of immediate public importance
10. Public Accounts Committee (PAC)

Assignments

1. Describe the composition and qualifications of Lok Sabha members.
2. What are the powers and responsibilities of Lok Sabha Speaker and Rajya Sabha Chairman.
3. Explain the tenure, qualifications, and retirement process of Rajya Sabha members.
4. Explain the legislative procedure in Indian Parliament and the stages a bill goes through.
5. Discuss the major devices of parliamentary proceedings in India and their significance.
6. Explore the roles of the major committees in Indian Parliament and their importance in government oversight.

Suggested Reading

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Unit 2
The Executive in Indian Parliamentary System (President and Prime Minister)

Learning Outcomes

By the end of the unit, the learner will be able to:

- Identify the key components of the Executive branch in the Indian parliamentary system, including the Prime Minister and the Council of Ministers.
- Explain the roles and responsibilities of the Prime Minister and various ministers in shaping and implementing government policies.
- Analyze the Executive and Parliament relationship, including how the Executive is held accountable.
- Discuss the process of forming the Council of Ministers and the principles of collective responsibility.

Prerequisites

In the Indian parliamentary system, the Executive branch runs the country and implements laws. At the heart of this system are the Prime Minister and the Council of Ministers, who are like the captains steering the ship of government. As the head of government, the Prime Minister leads the Council, which is composed of various ministers in charge of different departments, such as finance and health. Together, they make decisions on national policies and ensure that laws passed by Parliament are put into action. This Executive branch is accountable to Parliament, which means it must answer to the people's elected representatives. Understanding this relationship helps us see how the Executive works within the framework of a democratic system to manage and guide the nation's affairs.

Keywords

Exicutive, Electoral College, Quota, Impeachment, Veto, Cabinet Ministers, Ministers of State and Deputy Ministers

Discussion

3.2.1 Executive

The executive in India is responsible for enforcing laws and ensuring law and order within the country. Its main function is to take action when there is a violation of the law and to bring the offenders to justice. Additionally, the executive is tasked with implementing the laws established by the legislature. The provisions pertaining to the union executive are outlined in Articles 52 to 78, found in Part V of the Indian constitution. The union executive comprises several key positions, including the President, Vice President, Prime Minister, Council of Ministers, and the Attorney General of India. It serves as the administrative arm of the Indian Parliament.

3.2.2 The President

The President of India holds the position of the head of state. The election of the President follows an indirect method through an electoral college. This process employs the system of proportional representation, using the Single Transferable Vote (STV) system.

Who is eligible to participate in the electoral college, according to Article 54 of the constitution?

1. The elected members of both the Houses of Parliament.
2. The elected members of state legislative assemblies.
3. The elected members of the legislative assemblies of Delhi and Puducherry.

A candidate, in order to be declared as elected to the office of the president, must ensure a fixed quota of votes.

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

The qualifications for the President of India, as stated in Article 58 of the constitution, are as follows:

a. The person must be a citizen of India.
b. The person must have completed the age of thirty-five years.
c. The person must meet the qualifications required for election as a member of the Lok Sabha, the lower house of the Parliament of India.
d. The person must not hold any office of profit under the Government of India, the Government of any other state, or any local or other authority that is subject to the control of the aforementioned governments.

3.2.2.1 Term of Office

The term of office for the President of India is five years, starting from the day he assumes the position, as stated in Article 56. The President is eligible for re-election. However, there are two ways in which the President's office can be terminated before the completion of the five-year term: (a) Resignation: The President can choose to resign by writing a resignation letter addressed to the Vice-President of India. (b) Impeachment: The President can be impeached if he violates the Constitution. The process of impeachment is outlined in Article 61(1).

3.2.2.2 Impeachment Process

Impeachment is a quasi-judicial process conducted in Parliament. The President can only be impeached for violating the constitution. The charge of violation can be initiated by either House of Parliament. To propose such a charge, it must be supported by at least one-fourth of the membership of that House. The President should be notified of the intention to prefer such a charge at least fourteen days prior to its introduction in the

House. The resolution to choose such a charge must be approved by a majority of not less than two-thirds of the total membership of that House.

The other House of Parliament will then examine the charge, and the President has the right to appear or be represented during the inquiry. If, as a result of this investigation, the charge is approved by the other House with not less than two-thirds of its total membership, it will lead to the removal of the President from office (Article 61). No President has so far been impeached in India.

The office of the President can become vacant in the following ways:

5. The office becomes vacant when the President's five-year term comes to an end.
6. If the President passes away while in office, the office becomes vacant.
7. If the President decides to resign from the position, the office becomes vacant. The President must submit a resignation letter to the Vice-President.
8. If the President is impeached and the impeachment process is successfully carried out, resulting in the removal of the President from office, the position becomes vacant.

3.2.2.3 Powers and Functions of President

Under Article 53 of the Indian Constitution, the executive power of the Union is vested in the President. However, the President can exercise this executive power only with the aid and advice of the Prime Minister and the Council of Ministers. Let's discuss the powers of the Indian President under the following headings:

1) Executive Powers
2) Legislative Powers
3) Financial Powers
4) Judicial Powers
5) Diplomatic Powers
6) Military Powers
7) Emergency Powers

Executive Powers

The President is the executive head of the state. All official executive actions of the Government of India are carried out in the name of the President of India. The President is responsible for appointing the Prime Minister, other ministers, the Attorney General (AG) of India, and determining their salaries. These individuals serve at the pleasure of the President. Additionally, the President appoints various key positions such as the Controller and Auditor General of India (CAG), the Chief Election Commissioner, Election commissioners, the Chairman and Members of the UPSC, the Governors of States, and the Chairman and Members of the Finance Commission. The President has the authority to request information regarding the administration of the Union's affairs. Moreover, the President can establish an Inter-state Council to promote cooperation between the central and state governments. The President also has the power to appoint a commission to assess the conditions of Scheduled Castes (SCs), Scheduled Tribes (STs), and other Backward classes. Furthermore, the President directly governs the union territories through administrators appointed by him and possesses the ability to designate any area as a Scheduled area.

Legislative Powers

The President holds a crucial role within the Parliament of India and possesses certain legislative powers. These powers include the ability to summon or prorogue the Parliament and dissolve the Lok Sabha. In the event of a tie on an Ordinary Bill, the President can

also convene a joint session of both Houses of Parliament to resolve the deadlocks. At the commencement of the first session following a general election and the first session of each year, the President has the authority to address the Parliament. Additionally, the President can communicate messages to the Parliament, particularly concerning pending bills. The President is responsible for nominating 12 members to the Rajya Sabha who possess special knowledge or practical experience in literature, art, science, and social service. Furthermore, the President has the prerogative to nominate two individuals from the Anglo-Indian community to the Lok Sabha. In consultation with the Election Commission, the President plays a role in determining the disqualifications of Parliament members. The President's recommendation or consent is vital for the introduction of certain types of bills in the Parliament. Only after receiving the President's assent does a bill become an act. Moreover, when the Parliament is not in session, the President can issue ordinances.

Financial Powers

The introduction of money bills in the Lok Sabha requires the prior recommendation of the President. The President is responsible for presenting the annual financial statement to the Parliament. In order to address any unforeseen expenses, the President has the authority to make advances from the contingency fund of India. Additionally, every five years, the President establishes a finance commission to provide recommendations on the allocation of revenues between the central government and the states.

Judicial Powers

The President holds the authority to appoint the Chief Justice and other judges of the Supreme Court and High Courts. They possess the power to grant pardons, commute sentences, or suspend punishments awarded by court-martial, as well as death sentences. In the event of misconduct, the President can impeach a judge with the support of a special majority, i.e, majority of the total membership of that House and by a majority of not less than two-thirds of members present and voting. Furthermore, the President appoints the Attorney General of India, who serves as the principal legal advisor to the government, and their tenure is subject to the pleasure of the President. Under Article 143, if the President deems a question of law or a matter of public importance to have arisen, they have the option to seek the advisory opinion of the Supreme Court. During the President's term of office, no criminal proceedings can be initiated against them in any court (Article 361).

Diplomatic Powers

The President is authorised to assign and conclude international treaties and agreements on behalf of India. They serve as the symbolic representation of India in international forums and affairs and are responsible for sending and accepting diplomats on behalf of the country.

Military Powers

The President of India holds the position of the Supreme Commander-in-Chief of the armed forces. He appoints the chiefs of the Army, Navy, and Air Force. The President is empowered to declare war and make peace, subject to the consent of the Parliament. All treaties and international agreements are negotiated and concluded in his name subject to the ratification of the Parliament.

Emergency Powers

As per the constitution, the President of India possesses the power to declare emergencies. There are three types of emergencies that the President can address:

1. National Emergency (Article 352)

2. Emergency due to the Failure of a constitutional machinery in a state or the President's Rule (Article 356)
3. Financial Emergency (Article 360).

Veto Power

A bill can only become an act when it receives the President's assent. When such a bill is presented to the President for approval, the President has three options available to him: 1) giving his assent to the bill, 2) withholding his assent to the bill, or 3) returning the bill to Parliament for reconsideration (as stated in Article 111).

There are four types of vetoes which the executive heads can exercise. They are:

1. **Absolute Veto:** This refers to the President withholding his assent to the bill.
2. **Qualified Veto:** This type of veto can be overridden by the legislature with a higher majority.
3. **Suspensive Veto:** This type of veto can be overridden by the legislature with an ordinary majority.
4. **Pocket Veto:** This occurs when the President takes no action on a bill passed by the legislature.

3.2.3 Vice-President

According to Article 63 of the Indian constitution, the position of Vice-President is established to ensure the political stability of the state. The Vice-President assumes the executive authority of the union in situations where the President cannot fulfil his duties due to illness, resignation, death, removal, and impeachment. The Vice-President is indirectly elected by an electoral college. This electoral college comprises both elected and nominated members of Parliament. However, members of the State Legislative Assemblies are not involved in this election process.

3.2.3.1 Qualifications of Vice-President

The Vice-President of India must meet the following qualifications:

a. He/She must be a citizen of India.
b. The candidate must have attained the age of thirty-five years.
c. The individual must possess the qualifications required for election as a member of the Rajya Sabha (the Upper House of Parliament).
d. The candidate must not hold any office of profit under the Government of India, Government of any other state, or any local or other authority that is subject to the control of the aforementioned governments.

3.2.3.2 Term of Office

The Vice-President of India serves a term of five years. However, he or she has the option to resign from the office by submitting a resignation letter addressed to the President. The Vice-President can also be removed from office through the process of impeachment, which must be initiated in the Rajya Sabha (the Upper House of Parliament). If a resolution for impeachment is passed in the Rajya Sabha by an absolute majority and subsequently agreed upon by the Lok Sabha (the Lower House of Parliament), the Vice-President will be impeached and removed from office. Unlike the President, the Vice-President does not require a formal impeachment process. The Constitution does not explicitly specify the grounds for the impeachment of the Vice-President.

3.2.3.3 Powers and Functions

The Vice-President of India holds the position of ex officio Chairman of the Rajya Sabha, the Upper House of Parliament. In addition to this role, the Vice-President assumes the responsibilities of the President in cases where a vacancy occurs in the office

of the President due to resignation, removal, death, or any other reason. The Vice-President primarily functions in the absence of the President. However, apart from these specific circumstances, the Vice-President does not have many significant duties or responsibilities.

3.2.4 Prime Minister

According to the Indian constitution, a council of ministers, headed by the Prime Minister, is established to provide aid and advice to the President. As per Article 75, the appointment of the Prime Minister and other ministers is made by the President. In the conventions of the Parliamentary system of Government, it is customary for the President to designate the leader of the majority party in the Lok Sabha as the Prime Minister. In the parliamentary system, the Prime Minister holds the position of the actual executive. The Prime Minister is a member of either House of Parliament.

3.2.4.1 Powers and Functions of Prime Minister

The Prime Minister in India possesses various powers and responsibilities, including:

- **Appointment of Ministers:** The Prime Minister advises the President on the appointment of other ministers in the government.
- **Portfolio Allocation and Reshuffling:** The Prime Minister has the authority to allocate and rearrange portfolios among the ministers.
- **Dismissal and Resignation:** The Prime Minister can request a minister to resign from his position and can also advise the President to dismiss a minister in the event of a difference of opinion.
- **Presiding Officer and Influencer:** The Prime Minister serves as the presiding officer of the council of ministers and holds the ability to influence the decisions made by the council.
- **Guide and Coordinator:** The Prime Minister acts as a guide, director, controller, and coordinator for all the ministries within the government.
- **Resignation and Collapse of Council:** The Prime Minister can bring about the collapse of the council of ministers by submitting their resignation.
- **Link between President and Council:** The Prime Minister acts as a link between the President and the Council of Ministers.
- **Appointment of Important Officers:** The Prime Minister provides advice to the President on the appointment of key officials such as the Attorney General, Controller and Auditor General, Chief Election Commissioner, Chairman and Members of the UPSC, Governors of States, Chairman and Members of the Finance Commission, etc.
- **Power of Advice:** The Prime Minister advises the President on matters such as summoning and proroguing of parliamentary sessions and dissolution of the Lok Sabha.
- **Announcement of Government Policies:** The Prime Minister is responsible for announcing governmental policies.
- **Chairmanship of Councils:** The Prime Minister serves as the Chairman of various councils such as the National Development Council, National Integration Council, Inter-State Council, National Water Resource Council, and NITI Aayog.
- **Formulation of Foreign Policy:** The Prime Minister is involved in shaping the foreign policy of the country.
- **Voice of the Union Government:** The Prime Minister represents the voice of

the central government.

- **Political Head of Government Services:** The Prime Minister serves as the political head of all government services.

3.2.5 Council of Ministers

Article 74 of the Indian Constitution establishes a council of ministers headed by the Prime Minister, whose role is to aid and advise the President of India. The appointment, tenure, qualifications, responsibilities, oaths, salaries, and allowances of the ministers are outlined in Article 75.

Within the Council of Ministers, there are three categories of ministers: *Cabinet Ministers, Ministers of State,* and *Deputy Ministers.* The Prime Minister holds the highest position among these ministers. Cabinet Ministers are in charge of important national ministries such as Defence, Finance, and External Affairs. They possess significant influence over government policies and hold considerable power within the Council of Ministers. Ministers of State may be given independent charge of a ministry or serve as assistants to Cabinet Ministers. Generally, they do not attend Cabinet Meetings unless specially invited. Deputy Ministers do not have independent charge of any ministry or department, nor are they associated with the Cabinet. The primary function of the Council of Ministers is to ensure the smooth functioning of the government. They operate under the principle of collective responsibility, a key aspect of parliamentary democracy. According to Article 75, the Council of Ministers is collectively responsible to the Lok Sabha, the Lower House of Parliament.

3.2.5.1 Collective Responsibility

Collective responsibility is a fundamental characteristic of a parliamentary form of government, serving as a cornerstone of democratic governance. According to this principle, the government is accountable to the popular House (Lok Sabha) for its actions, and it can be ousted from power if it loses the confidence of the Lok Sabha. Article 75 (3) states that the council of ministers is collectively responsible to the Lok Sabha. This implies that if a no-confidence motion is passed even against a single minister, the entire council of ministers must resign together. The members of the council of ministers are bound together in success or failure. Collective responsibility also ensures that the council of ministers remain dedicated to the decisions and actions of the government, actively supporting and defending these decisions, including the government's policies and administrative choices. This is crucial for upholding the integrity of the government and maintaining the trust of the people in their government.

3.2.5.2 Individual Responsibility

Article 75(2) states that "the ministers shall hold office during the pleasure of the President." This provision highlights the individual responsibility of a minister to the President. However, in practice, a minister can be removed from office only upon the advice of the Prime Minister. This implies that a minister is primarily accountable to the Prime Minister, and can be dismissed even if the council of ministers retains the confidence of the Lok Sabha.

Recap

- The President is elected by an electoral college for a term of five years
- All the executive actions are taken in the name of the President
- There is a council of ministers headed by the Prime Minister to aid and advice the President
- Council of Ministers include Cabinet Ministers, Ministers of State and Deputy Ministers
- In India, the executives are collectively responsible to the legislature

Objective Questions

1. Who heads the council of ministers in India?
2. What is the primary role of the council of ministers?
3. What principle ensures that the government is accountable to the Lok Sabha?
4. Who appoints and dismisses ministers in the government?
5. What is the highest position among the three categories of ministers in the council?
6. What is the term used for ministers who do not attend Cabinet Meetings unless specially invited?
7. Who holds the executive power in India according to the constitution?
8. Who serves as the Chairman of various councils such as the National Development Council and NITI Aayog?
9. Who is responsible for appointing the Chief Justice and other judges of the Supreme Court?

Answers

1. Prime Minister
2. To aid and advise the President
3. Collective responsibility
4. President
5. Cabinet Ministers
6. Ministers of State
7. President
8. Prime Minister
9. President

Assignments

1. Describe the role and powers of the President of India.
2. Explain the process of impeachment for the President of India and the grounds for removal from office.
3. Discuss the powers and functions of the Prime Minister in India, including their role in the appointment and dismissal of ministers.
4. Compare and contrast collective responsibility and individual responsibility in the functioning of the council of ministers.
5. Enumerate the various categories of ministers within the council of ministers and explain their roles and responsibilities.
6. Analyze the principle of collective responsibility in ensuring accountability and stability in the Indian government.

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Unit 3
The Judiciary of India

Learning Outcomes

By the end of this unit, the learner will be able to:

- Understand the structure of the Indian judiciary, including the Supreme Court, High Courts, and subordinate courts.
- Explain the role and functions of the Supreme Court in interpreting the Constitution and ensuring justice.
- Analyze the judicial review process and its impact on maintaining the balance of power between different branches of government.
- Evaluate the mechanisms for judges' appointment, tenure, and accountability in India.
- Prerequisite

Prerequisites

In India, the judiciary acts as the guardian of the Constitution, ensuring that laws and policies are fair and just. At the top of this system is the Supreme Court, which serves as the highest court of appeal and the final authority on constitutional matters. Below it are the High Courts, which handle cases at the state level, and the subordinate courts, which manage local disputes. Each level of the judiciary has its own role, from interpreting laws to resolving conflicts and protecting individual rights. The judiciary operates independently of the other branches of government, maintaining a balance of power. Understanding how this structure functions helps appreciate its crucial role in upholding justice and maintaining the rule of law in India's democratic system.

Keywords

Supreme Court, High Courts, Original Jurisdiction, Appellate Jurisdiction, Writ Jurisdiction, Advisory Jurisdiction, A Court of Record, Judicial Review

Discussion

3.3.1 The Indian Judiciary

The Indian judicial system is a cornerstone of the country's democratic framework, ensuring the administration of justice and upholding the rule of law. It has a hierarchical structure encompassing various courts, with the Supreme Court at the apex level. Below the Supreme Court stands the High Courts of different states. Under each High Court, there is a hierarchy of other courts, which are referred in the Constitution as subordinate courts.

At the pinnacle of the Indian judiciary stands the Supreme Court, which serves as the highest court of appeal and exercises both original and appellate jurisdiction. It is entrusted with the responsibility of interpreting the Constitution and settling disputes of national importance. Below the Supreme Court are the High Courts, established in each state, with authority over a specific jurisdiction. District courts, situated in every district, form the foundation of the judicial system. They address a wide range of civil and criminal matters, providing access to justice at the local level. The Indian judiciary, through its structure and processes, strives to ensure fairness, equality, and the protection of individual rights, contributing to preserving a just society.

3.3.2 Supreme Court

India has an integrated judicial system where the Supreme Court holds the highest authority, followed by the high courts. The lower courts, such as district courts and other subordinate courts, operate under the jurisdiction of the High Courts. The Supreme Court was inaugurated on January 28, 1950, and its organisation, independence, jurisdiction, powers, and procedures are outlined in Articles 124-147 of Part V of the Constitution.

The Supreme Court comprises thirty-three judges and a Chief Justice. The appointment of the Chief Justice and other judges of the Supreme Court is solely based on the advice of the collegium, as stipulated by the President. Under the Collegium system, a forum consisting of the Chief Justice of India and the six most senior judges of the Supreme Court decides on the appointments and transfers of judges. They make recommendations regarding the appointment of judges to both the Supreme Court and the High Courts. The process of the collegium system is not explicitly mentioned in the constitution.

3.3.2.1 Qualification of Supreme Court Judges

To qualify as a judge, an individual must meet the following criteria:

- The person must be a citizen of India.
- The perosn should have served as a judge of a high court for at least five years.

OR

The Person should have practised as an advocate in a high court for at least ten years.

OR

The individual must be recognised as a distinguished jurist according to the opinion of the President.

3.3.2.2 Tenure

The Constitution does not set a fixed tenure for judges of the Supreme Court. They can remain in office until they reach the age of 65. A judge also has the option to voluntarily resign by submitting a resignation letter to the President. Removal from the office can only occur upon the establishment of proven misbehaviour or incapacity.

3.3.2.3 Removal of Judges

The President possesses the authority to dismiss the Supreme Court judges through an official order. However, the President can exercise this power only when Parliament presents an address to him within the same session, calling for the removal of a judge. The address must receive substantial support from both Houses of Parliament, requiring a special majority. This majority entails obtaining a majority of the total membership of each House and a minimum of two-thirds of the members of each House present and voting.

3.3.2.4 Jurisdiction and Powers of Supreme Court

The Constitution bestows upon the Supreme Court a wide-ranging jurisdiction and significant powers. As the guardian of the constitution, it is entrusted with the responsibility of safeguarding the Fundamental Rights of citizens. The powers of the Supreme Court can be categorised under the following headings.

- Original Jurisdiction
- Appellate Jurisdiction
- Writ Jurisdiction
- Advisory Jurisdiction
- A court of Record
- Judicial Review

Original Jurisdiction (Article 131)

The Supreme Court possesses Original Jurisdiction in resolving disputes of various nature. This jurisdiction extends to cases involving conflicts between the Central government and one or more states. It also covers disputes between the Central government and any state(s) or between states themselves, where one state or states are pitted against another state or states. In such cases, the Supreme Court has the authority to adjudicate and provide a resolution.

Appellate Jurisdiction (Article 132)

The Supreme Court of India holds the position of the highest court of appeal in the country. It is the final authority for reviewing and deciding upon appeals against judgments passed by lower courts. The Supreme Court has the jurisdiction to hear appeals in various categories, which include:

1. **Constitutional matters:** The Supreme Court has the power to hear appeals related to constitutional issues, such as the interpretation and application of the provisions of the Indian Constitution.
2. **Civil matters:** The Supreme Court can entertain appeals pertaining to civil disputes, encompassing various legal issues, including contractual disputes, property matters, and torts.
3. **Criminal matters:** The Supreme Court has the authority to hear appeals in criminal cases which involve offences committed under the criminal laws of the country. This includes appeals against convictions, sentences, and other criminal proceedings.
4. **Appeals by special leave (Article 132):** The Supreme Court also has the discretion to grant special leave to appeal the decision of any courts or Tribunals within the territory of India. However, there is no special leave to appeal over a tribunal's decision relating to armed forces.

In all these matters, the Supreme Court reviews the lower court judgments, assesses the legal arguments presented by the parties involved, and makes a final determination on the issues in which legal rights of the people are involved.

Writ Jurisdiction (Article 139)

The constitution of India acknowledges

the pivotal role of the Supreme Court as the protector and guardian of the fundamental rights of its citizens. The Supreme Court is vested with the authority to issue various types of writs, orders and directions for enforcing these fundamental rights for individuals who have been aggrieved. These writs include:

1. **Habeas Corpus:** It literally means 'to have the body' or to 'produce the body.' The Supreme Court can issue a writ of habeas corpus to secure the release of a person who has been unlawfully detained or imprisoned, thereby safeguarding their personal liberty. The writ is known as the protector of personal freedom.
2. **Mandamus:** It literally means 'we command.' The Supreme Court has the power to issue a writ of mandamus, directing a public official or authority to perform its duties that it has failed or refused to perform. However, it cannot be issued against President, Governors, private individuals and foreigners.
3. **Writ of Prohibition:** Literally, it means 'to forbid.' The Supreme Court can issue a writ of prohibition, prohibiting a lower court or tribunal from exceeding its jurisdiction or acting contrary to Fundamental rights and Natural justice.
4. **Quo-Warranto:** It literary means 'by what warrant' or 'what is authority.' The Supreme Court has the authority to issue a writ of quo-warranto, inquiring into the legality or validity of a person holding a public office and determining whether he is qualified to hold the office.
5. **Certiorari:** Literally, it means 'to be certified' or 'to be informed.' The Supreme Court can issue a writ of certiorari to quash the orders or decisions of lower courts or tribunals if they are found to be illegal, irregular, or without jurisdiction.

Advisory Jurisdiction (Article 143)

Article 143 of the Indian Constitution grants the President the authority to seek the advice of the Supreme Court on matters of law or fact that are of significant public importance and have arisen in the course of a particular case. Additionally, in situations involving disputes arising from pre-constitution treaties, agreements, covenants, etc., the President can also approach the Supreme Court for its advice.

This provision empowers the President to refer specific questions or disputes to the Supreme Court for its expert opinion and guidance. The purpose is to obtain clarity and assistance from the highest judicial body in the country on matters that are of national importance, have legal implications, and require specialised interpretation or resolution. By availing of this provision, the President can benefit from the wisdom and expertise of the Supreme Court, aiding in the decision-making process on complex legal issues and ensuring the fair and just application of law in the country. However, the President is not bound by the advice of the Supreme Court.

A Court of Record

The judgments, proceedings, and acts of the Supreme Court hold significant legal weight and are meticulously recorded to serve as enduring records and evidence. These documented materials are officially recognised as legal precedents and references. They possess evidentiary value and are considered authoritative legal sources that cannot be challenged or questioned when presented before any court.

The purpose of maintaining these records is to establish a repository of legal decisions and rulings that can be relied upon in future legal proceedings. They serve as a foundation for the development and interpretation of

law, providing guidance and clarity to judges, lawyers, and litigants. The recorded judgments, proceedings, and acts of the Supreme Court form a vital part of the legal system, contributing to consistency, predictability, and fairness in the administration of justice.

Judicial Review

The Supreme Court possesses the power to undertake a judicial review of the constitutional validity of laws enacted by the legislature and ordinances issued by the executive branch. In the event that these laws or ordinances are determined to be in violation of the provisions of the Constitution, the Supreme Court has the authority to declare them illegal, unconstitutional, and invalid.

This power of judicial review is crucial in upholding the supremacy of the Constitution and ensuring that the actions of the legislature and executive adhere to the constitutional framework. The Supreme Court acts as the final arbiter in interpreting the constitution and has the responsibility to safeguard its principles and provisions. Through this power, the Court plays a vital role in maintaining the balance of powers and protecting the fundamental rights of citizens.

3.3.3 High Courts

The hierarchy of the Indian judicial system places the High Courts below the Supreme Court but above the subordinate courts. The High Court holds the highest position in the judicial administration of a state. According to the Indian constitution, each state is recommended to have its own High Court. However, through the Seventh Amendment Act of 1956, Parliament was authorised to establish a common High Court for two or more states or a combination of states and a union territory.

The organisation, independence, jurisdiction, powers, and procedures of the High Courts are defined in Articles 214 to 231 of the Indian Constitution. Each High Court is composed of a Chief Justice and other judges. The Constitution does not specify the exact number of judges in a High Court. The determination of the strength of a High Court is left to the discretion of the President, who can decide it from time to time based on the workload and requirements of the court.

3.3.3.1 Qualification of High Court Judges

The qualifications required for a person to be appointed as a High Court Judge in India are as follows:

1. **Citizenship:** The individual must be a citizen of India.
2. **Judicial Experience:** The candidate should have served in a judicial capacity within the territory of India for a minimum of ten years. This may include holding a judicial office such as a district judge, subordinate judge, or any other judicial position.
3. **Advocate Experience:** Alternatively, the person may have been an advocate practicing in a High Court for a period of at least ten years. This means they should have been engaged in the practice of law and have represented clients before the High Court.

3.3.3.2 Tenure for High Court Judges

The Indian constitution does not prescribe a fixed tenure for judges of the High Court. They can hold office until they reach the age of 62 years. If a judge wishes to resign before reaching this age, they can submit a resignation letter to the President of India.

In cases where it becomes necessary to remove a High Court judge from office, the President can take this action based on the recommendation of the Parliament. The procedure for removal typically involves an inquiry or investigation, followed by a recommendation made by the Parliament to the President. This ensures a system of checks and balances, providing a mechanism to address instances where a judge's conduct or performance may be called into question.

3.3.3.3 Powers and Functions of the High Court

The High Court has extensive and effective powers that play a crucial role in the legal system. Firstly, one of the key powers of the High Court is its jurisdiction to hear and decide on constitutional matters. This means that the High Court has the authority to interpret the constitution, determine the constitutionality of laws, and safeguard the fundamental rights of citizens. This power ensures that the High Court acts as a guardian of the constitution, providing a check on the actions of the executive and legislative branches of government.

Secondly, the High Court has the power of judicial review. This power allows the court to review the decisions and actions of lower courts, administrative bodies, and government agencies to ensure that they are in line with the law. Judicial review serves as a mechanism for upholding the rule of law and ensuring that decisions are made based on legal principles rather than personal or arbitrary considerations. It provides an avenue for individuals and organisations to challenge decisions that they believe to be unlawful or unfair. The powers of the High Court can also be categorised under the following headings.

Original Jurisdiction

Original jurisdiction refers to the authority held by a superior court to hear and decide legal disputes at their initial stage before any appeals are made. The high court exercises this original jurisdiction in various situations, such as cases involving admiralty, wills, marriage, divorce, company laws, and contempt of court. It also extends to disputes pertaining to the election of members of Parliament and state legislatures, matters concerning revenue, and the enforcement of fundamental rights of citizens, among others.

Writ Jurisdiction

Article 226 of the constitution grants the high court the authority to issue various types of writs, such as habeas corpus, mandamus, writ of prohibition, quo warranto, and certiorari (as described above). These writs are utilised to ensure the enforcement of the Fundamental Rights of citizens.

Appellate Jurisdiction

The high court also functions as a court of appeal, where it hears and decides on appeals challenging the judgments of subordinate courts operating within its regional jurisdiction. It exercises appellate jurisdiction in both civil and criminal cases.

Supervisory Jurisdiction

A high court possesses the authority to supervise and oversee all courts and tribunals operating within its territorial jurisdiction.

Control over subordinate courts: The high court exercises control over its subordinate courts. It holds directorial control and possesses other powers to govern and regulate them.

A court of record: The judgments, proceedings, and actions of the high court are meticulously recorded for permanent preservation and authentication. These records carry legal weight and serve as legal precedents and references. They are considered to have evidentiary value and cannot be disputed when presented before any subordinate court.

Judicial Review

The Supreme Court possesses the authority to examine and assess the constitutional validity of laws enacted by the legislature and ordinances issued by the executive branch. If such laws or ordinances are determined to be

in violation of the Constitution, the Supreme Court has the power to declare them illegal, unconstitutional, and invalid.

3.3.4 Independence of Indian Judiciary

The Indian judiciary functions on the basis of impartiality, and no one can question its independence. The judiciary controls the legislature and executive in India and also protects the rights of the citizens. Therefore, the judiciary needs to function independently. Here, the term independence of judiciary means independence of judges in the interpretation of laws. Independence is sought to be secured by the Constitution in a number of ways.

Mode of Appointment: The judges of the Supreme Court and high courts are appointed by the president in consultation with the judges of the Supreme Court and high courts. They are appointed solely on the basis of qualification, and judicial appointments are not based on political or personal favour.

Security of Tenure: The judges of the courts enjoy the security of tenure. It is not easy for anyone to remove them from office. They can work without any fear or favour. They can only be eliminated from office by the President based on the difficult process of impeachment.

Fixed Service Conditions: The salaries, allowances, privileges, and pensions of the judges are determined by the Parliament. The salaries and allowances provided to them upon their appointment cannot be reduced except during periods of financial emergency.

Conduct of Judges cannot be discussed: No discussion of the character of judges should take place in the state legislature or parliament, except during the impeachment process in the Parliament. The constitution also prohibits public discussion of the character of judges.

Ban on Practice after Retirement: Retired judges of the Supreme Court are forbidden from practising in any court or before any authority within the territory of India. In the case of high courts, retired judges are banned from practising in any court except the Supreme Court and the High Courts.

Power to punish contempt: The judiciary can punish anyone for contempt of court. Their actions cannot be criticised or curtailed by anyone. This power upholds the authority, dignity, and honour of the Indian judicial system.

Freedom to appoint its staff: The judiciary has the power to appoint its staff and determine their conditions of service. No one should interfere in this appointment process, especially the executive.

Jurisdiction cannot be curtailed: The Indian parliament and state legislatures do not possess the power to curtail the jurisdiction and powers of the Indian judicial system.

Separation from the executive: The constitution guarantees that the judiciary must be separated from the executive, which means the executive does not hold judicial powers.

Recap

- India has a single integrated judicial system
- Supreme court occupy the top position in the Indian judiciary
- The judges of the supreme court and high courts are appointed by the President
- Supreme court is the highest court of appeal in India
- The judges of the Supreme Court can be removed on the basis of proved misbehavior or incapacity.
- Supreme court and high court enjoys the power of Original Jurisdiction, Appellate Jurisdiction, Writ Jurisdiction, Advisory Jurisdiction, A court of Record and Judicial Review
- India has independent and impartial judicial system

Objective Questions

1. What is the highest court in India?
2. What is the highest court in a state in India?
3. Who appoints judges to the Supreme Court?
4. How many judges usually serve in the Supreme Court?
5. What are the qualifications required to be appointed as a judge in the Supreme Court?
6. What is the retirement age for judges of the Supreme Court?
7. What are the types of writs that can be issued by the Supreme Court and High Courts?
8. Who has the power to remove judges of the Supreme Court?
9. Which article of the Indian Constitution grants the President the authority to seek the advice of the Supreme Court?
10. Which court has the power of judicial review in India?

Answers

1. Supreme Court
2. High Court
3. President
4. Thirty-one
5. Judicial experience or advocate experience
6. 65
7. Habeas Corpus, Mandamus, Prohibition, Quo-Warranto, Certiorari
8. President
9. Article 143
10. Supreme Court

Assignments

1. Discuss the hierarchical structure of the Indian judiciary system and highlighting the roles and functions of the Supreme Court, High Courts, and subordinate courts.
2. Explain the process of appointment of judges to the Supreme Court and High Courts in India, including the role of the collegium system.
3. Analyse the powers and jurisdiction of the Supreme Court in India, including its original jurisdiction, appellate jurisdiction, and writ jurisdiction.
4. Compare and contrast the qualifications required for a person to be appointed as a judge in the Supreme Court and High Courts in India.
5. Discuss the measures taken to ensure the independence of the Indian judiciary, including the security of tenure for judges, separation from the executive, and restrictions on discussions about judges' conduct.

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Unit 4
Judicial Review and Judicial Activism

Learning Outcomes

By the end of the unit, the learner will be able to:

- Understand the concept and significance of judicial review in the context of constitutional interpretation and oversight.
- Analyze the impact of judicial review on maintaining the balance of power between different branches of government.
- Discuss the concept of judicial activism and its role in addressing social justice issues and protecting fundamental rights.

Prerequisites

In the landscape of Indian democracy, the judiciary plays a vital role in ensuring that laws and government actions align with the Constitution. A judicial review is like a check-and-balance mechanism in which the courts evaluate whether legislative or executive actions comply with constitutional principles. This process allows courts to strike down laws or policies that violate fundamental rights. On the other hand, judicial activism represents a proactive approach where judges actively address social and legal issues, sometimes going beyond strict interpretations of the law to promote justice. Understanding these concepts reveals how the judiciary interprets the law and shapes its application to uphold democratic values and respond to societal needs.

Keywords

Judicial Review, Judicial Activism, Judicial Dynamism, Public Interest Litigation

Discussion

3.4.1 Judicial Review

The concept of judicial review is a fundamental aspect of constitutional law and plays a significant role in democratic systems worldwide. Judicial review refers to the power of the courts to examine and evaluate the constitutionality of legislative and executive actions, ensuring their compliance with the

Constitution. It serves as a mechanism to safeguard the principles of the rule of law, separation of powers, and the protection of individual rights. The origins of judicial review can be traced back to the landmark case of Marbury v. Madison in the United States in 1803, where Chief Justice John Marshall established the principle of judicial review. The court declared that it is the duty of the judiciary to interpret the constitution and determine whether laws or executive actions are consistent with its provisions. This decision granted the Supreme Court the power to strike down unconstitutional laws, thereby establishing the principle of judicial supremacy.

The practice of judicial review varies across different jurisdictions. In some countries, like the United States, judicial review is an inherent power of the judiciary derived from the constitution. In others, such as Germany and India, it is explicitly provided for in the constitution. The scope of judicial review may also differ, ranging from a narrow review of specific issues to a more expansive review encompassing the entire legal framework. The concept of judicial review raises important questions about the role of the judiciary in a democratic society. Critics argue that it can lead to judicial activism, where unelected judges make policy decisions that should be the prerogative of elected representatives. Proponents, however, assert that judicial review serves as a crucial check on potential abuses of power by the legislative and executive branches, ensuring that they act within the limits set by the constitution.

Judicial review has had far-reaching implications in shaping legal and political landscapes. It has been instrumental in protecting civil rights and liberties, promoting equality, and upholding the principles of democracy. Landmark decisions, such as Brown v. Board of Education in the United States, which ended racial segregation in public schools, and Roe v. Wade, which established the right to abortion, highlight the profound impact of judicial review on society. Justice Syed Shah Mohamed Quadri has classified the notion of judicial review into three distinct categories, namely: 1) Judicial Review of constitutional amendments, 2) Judicial Review of legislation enacted by the Parliament, state legislatures, and subordinate legislations, and 3) Judicial Review of administrative actions carried out by the Union and State authorities within the state.

3.4.1.1 Judicial Review in India: Need and Practice

In India, the concept of judicial review holds immense significance as it serves the purpose of maintaining the supremacy of the Constitution. This is particularly crucial because the Judiciary in India is widely acknowledged as the guardian and custodian of the constitution. The power of judicial review bestowed upon the judiciary is considered invaluable, as it enables them to safeguard the integrity and primacy of the Constitution.

Through the mechanism of judicial review, the judiciary plays a pivotal role in upholding the supremacy of the Constitution. This means that the judiciary has the authority to review and assess the constitutionality of laws, executive actions, and government policies. By doing so, the judiciary ensures that these actions and policies align with the provisions and principles enshrined in the Constitution.

Furthermore, judicial review empowers the judiciary to maintain a delicate balance between the activities of the central and state governments. By scrutinising the actions of these entities, the judiciary acts as a check and balance, ensuring that they operate within the constitutional framework and do

not exceed their prescribed powers. This helps to maintain harmony, coherence, and constitutional compliance across different levels of governance.

One of the crucial roles played by the judiciary through judicial review is that of a protector of the fundamental rights of Indian citizens. By utilising the power of judicial review, the judiciary acts as a safeguard against any infringement upon these fundamental rights. This includes rights such as the right to freedom of speech and expression, the right to equality, right to life and personal liberty, and various other fundamental rights guaranteed by the Constitution. Through their review of legislation, executive actions, and governmental policies, the judiciary ensures these fundamental rights are upheld and protected.

Over the years, the Supreme Court of India has consistently exercised the power of judicial review in various notable cases, reinforcing the significance of this concept. For instance, in the Golaknath case of 1967, the Supreme Court declared that Parliament could not amend fundamental rights. Similarly, in the Bank Nationalization Case of 1970, the Supreme Court upheld the government's power to nationalise banks while imposing certain limitations. The Kesavananda Bharati case in 1973 resulted in the Supreme Court establishing the "basic structure" doctrine, which protects essential features of the constitution from being altered. The Minerva Mills case in 1980 further reinforced the doctrine of basic structure.

3.4.1.2 99th Constitutional Amendment Act and Judicial Review

The 99th constitutional amendment was passed in 2015, which pertained to the National Judicial Appointments Commission (NJAC). This amendment introduced new articles, namely 124A, 124B, and 124C, and proposed the establishment of the NJAC to oversee the appointment and transfer of judges in the country. The intent was to replace the previous collegium system for judge selection. However, the Supreme Court subsequently declared the 99th constitutional amendment null and void through the exercise of its power of judicial review.

The power of judicial review has faced criticism on several fronts, with arguments that it undermines the supremacy of Parliament and goes against the principles of democracy. It is claimed that the court has either taken overly radical or excessively traditional interpretations of the law, leading to uncertainty in legal provisions. This has resulted in an ongoing power struggle between the judiciary and Parliament for supremacy in matters of law.

Despite these criticisms, judicial review has played a crucial role in safeguarding the dignity and supremacy of the Constitution. It has served as an instrument to protect the fundamental rights of citizens. The court's judgments under judicial review have also acted as precursors to socioeconomic changes in society. Currently, the court's philosophy appears to prioritise the preservation of social justice, public interest, and welfare. In India, the principle of the supremacy of the constitution is recognised and implemented.

The appropriate approach is to strike a balance between the powers of the Supreme Court and Parliament, enabling these two pillars of Indian democracy to function harmoniously and strengthen the foundations of Indian democracy.

3.4.2 Judicial Activism

The concept of judicial activism, which signifies the active role of the judiciary in

safeguarding citizens' rights and promoting justice in society, originated and developed in the United States. The term "judicial activism" was coined by Arthur Schlesinger Jr., an American historian, in 1947. Subsequently, this concept found its way to India in the mid-1970s. Judicial activism refers to the assertive power of the judiciary to force other organs of the government to discharge their duties towards the public. Thus, the judiciary is playing an active role in shaping public policy, addressing social issues, and protecting individual rights, often by expanding or reinterpreting existing laws. In India, judicial activism gained prominence through the efforts of distinguished justices such as Justice V.R. Krishna Iyer, Justice P.N. Bhagavathy, Justice O. Chinnappa Reddy, and Justice D.A. Desai.

The term "judicial dynamism" is sometimes used interchangeably with judicial activism, emphasising the dynamic and proactive nature of the judiciary in shaping and interpreting laws. Both terms encapsulate the idea of an empowered judiciary that actively engages in the protection and advancement of constitutional rights and justice within society.

3.4.2.1 Judicial Activism in India

Judicial activism in India refers to the proactive approach taken by the judiciary to ensure the proper functioning of the executive and legislative branches of government and their adherence to constitutional duties. It serves as a means for the judiciary to actively intervene in matters related to citizens' rights and social justice. Judicial activism is often seen as a positive force, compelling the executive and legislative branches to fulfil their constitutional obligations.

When the legislature and the executive fail to fulfil their responsibilities, judicial activism enables the judiciary to intervene. It helps to foster and strengthen people's trust in democracy and the Indian constitution. The citizens of India have great faith in the judiciary, considering it the guardian of their rights. This trust allows the judiciary to directly protect itself against the irresponsibility of other government agents. The judiciary also acts as a catalyst for social change through judicial activism. It serves as an effective tool for upholding citizen's rights and implementing constitutional principles when the executive and legislature fall short.

In the landmark Kesavanda Bharati case, the Supreme Court stated that while no part of the constitution, including fundamental rights, was beyond the amending power of Parliament, the "basic structure" of the constitution could not be abrogated even by a constitutional amendment. This forms the foundation of Indian law, empowering the judiciary to strike down amendments passed by Parliament that conflict with the basic structure of the constitution. In the Golaknath case, the question was whether an amendment constitutes a law and whether fundamental rights can be amended. The Supreme Court ruled that Amendment is law within the meaning of Article-13 and that there was no distinction between constitutional law and ordinary law. Thus, the court observed that the parliament could not abridge or take away the Fundemental Rights.

Several criticisms have been raised against the concept of judicial activism. The main criticism is that it restricts the functioning of the government. Judicial activism can potentially harm the general public if judgments are influenced by personal or selfish motives. The frequent interventions of the courts can undermine people's trust in the integrity, quality, and efficiency of the government. Despite these criticisms, judicial activism holds its own significance. It enables

the judiciary to keep a check on the misuse of power by state governments when they obstruct and harass residents. Judicial activism establishes a system of checks and balances on the other branches of government. In cases where the law fails to provide a balance, judicial activism allows judges to exercise their personal judgment.

3.4.2.2 Public Interest Litigation (PIL)

The concept of Public Interest Litigation (PIL) originated and developed in the United States during the 1960s. In India, PIL emerged as a product of judicial activism and was introduced in the early 1980s. Justices V.R. Krishna Iyer and P.N. Bhagwati are considered the pioneers of PIL in India. The introduction of PIL in India was made possible by relaxing the traditional rule of 'locus standi', which limited the right to approach the court only to those whose rights had been directly violated. PIL served as a departure from this traditional rule.

Fig.3.4.1 An illustration of PIL

Public interest litigation is meant to bring justice to the door step of the weak, the unorganised and exploited sections of the society. Under PIL, any citizen or social organization with a public-spirited approach can approach the court to seek enforcement of the rights of individuals or groups who, due to their poverty, ignorance, or socially and economically disadvantaged position, are unable to approach the court for remedies themselves. In a country like India, where there is a significant population of impoverished and illiterate individuals, the concept of PIL is truly revolutionary.

3.4.2.3 PIL in India: Practices and Challenges

Public Interest Litigation (PIL) allows the court to deliver judgments in matters concerning public interest, such as basic necessities of life, exploitation, environment, child labour, and women's rights when public-spirited persons or institutions brings the matter to the court's attention. The court conducts an investigation and makes decisions based on the facts presented. These cases can only be presented in a High Court or the Supreme Court.

PIL has been a valuable and innovative judicial remedy, translating the principles of fundamental rights into tangible outcomes for certain marginalised and exploited sections of society. The Indian judiciary has employed PIL as a means to advocate for environmental protection in numerous cases. However, the development of PIL in India has recently revealed its own drawbacks and pitfalls. According to Dr. Julius Mosley's viewpoint, PIL has deteriorated into Private Interest Litigation, Political Interest Litigation, and primarily Publicity Interest Litigation. This suggests that PIL has been misused for personal, political, or publicity-seeking motives, thereby deviating from its original purpose of serving the public interest.

Recap

- Judicial review and judicial activism are originated and developed in USA
- Judicial review is the power of the judiciary to check the constitutionality of the laws passed by the legislature and the ordinance issued by the executive
- Judicial activism also called judicial dynamism
- Public interest litigation is the product of judicial activism
- Both judicial review and judicial activism strengthen the power of the Indian judiciary.

Objective Questions

1. What is judicial review?
2. Which landmark case established the principle of judicial review in the United States?
3. Where does the power of judicial review from?
4. What is the purpose of judicial review?
5. What is the main criticism of judicial review?
6. In which case did the Supreme Court of India declare that Parliament could not amend fundamental rights?
7. What term is used to describe the active role of the judiciary in safeguarding citizens' rights?
8. Who are considered pioneers of Public Interest Litigation (PIL) in India?
9. What is the purpose of PIL?
10. From where did the concept of PIL originate?

Answers

1. Examination of constitutionality of legislative and executive actions
2. Marbury v. Madison case
3. Constitution
4. Safeguarding principles and protecting rights.
5. Judicial activism
6. Golaknath case
7. Judicial activism
8. Justice V.R. Krishna Iyer and Justice P.N. Bhagwati
9. Enforcing rights of disadvantaged individuals/groups
10. The United States

Assignments

1. Discuss the significance of judicial review, focusing on Marbury v. Madison.
2. Compare judicial review across jurisdictions, considering origin and scope.
3. Evaluate arguments for and against judicial review's impact on democracy.
4. Examine the review's role in protecting civil rights, citing landmark cases.
5. Assess judicial activism in India, its origins, and its impact on public policy.

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BLOCK - 04

Political Process and the Indian Political System

SGOU

Unit 1
The Party System in India: Features and Recent Trends

Learning Outcomes

At the end of the unit, the learner will be able to:

- Identify and describe the key features of the party system in India, including major political parties and their functions.
- Explain the role of political parties in the Indian democratic process and their impact on governance and elections.
- Analyze recent trends and changes in the Indian party system, such as the rise of regional parties and coalition politics.

Prerequisites

In the vibrant tapestry of Indian democracy, political parties are the key players who drive the electoral and governance processes. The party system in India is diverse, featuring major national parties like the Bharatiya Janata Party (BJP) and the Indian National Congress, along with numerous regional parties that reflect the country's varied cultural and political landscape. These parties contest elections and play crucial roles in shaping policies and governance. Recently, there has been a notable shift with the rise of regional parties gaining significant influence, leading to more coalition governments. Understanding these dynamics helps us appreciate how India's party system adapts to changing political trends and regional aspirations, influencing both national and local politics.

Keywords

Political parties, Interest articulation, One-party system, Two-party system, Multi-party system, Dominant party system, Regional parties

Discussion

4.1.1 Political Parties

Political parties are the most visible institutions in a democracy, and for ordinary citizens, democracy is often synonymous with political parties. They originated as products of the democratic revolutions of the late 18th and 19th centuries, serving as the foundations of representative democracy and encompassing all its major institutional activities. Political parties are ideologically organized groups of people who share common views, ideas, and principles. As Gilchrist stated, "A political party is an organized group of citizens who profess to share the same political views and, by acting as a political unit, seek to control the government." Leacock compared a political party to a joint-stock company in which each member contributes their share of political power.

A political party is a group of people who come together to contest elections and hold power in the government. They agree on policies and programs for society with the aim of promoting the collective good. Since there can be different opinions on what is best for everyone, parties try to persuade people why their policies are superior to others. They seek to implement these policies by winning popular support through elections. Thus, parties reflect fundamental political divisions in a society and are identified by the part they represent, the policies they support, and the interests they uphold. A political party consists of three components: the leaders, the active members, and the followers.

4.1.1.1 Functions of Political Parties

- Formation of public opinion
- Providing political education to people
- Linking between people and Government
- Linking between executive and legislature
- Coordinating between Centre and States
- Making parliamentary government possible
- Providing leadership to people
- Providing an alternative government
- Uniting and simplifying the political process
- Providing democratic representation
- Building party cadres
- Mobilizing people to participate in politics
- Maintaining party discipline and loyalty
- Conducting election campaigns

4.1.1.2 Classification of Political Parties and Party System

Party system and political parties are broadly classified according to the following criteria:

a. Number of parties dominating the political system (one-party system, two-party system, and multi-party system).
b. The structure and character of the parties (charismatic leader-oriented party, ideology-oriented party, and interest-oriented party).
c. The ideological thrust of the parties (right-wing party, left-wing party, and centrist party).
d. The geographical spread of parties (national party, regional party, and local party).

4.1.2 Indian Party System

The Western political culture and political experience during the freedom struggle paved the way for the formation of political parties in India. The Indian party system reflects the struggle between traditional and modernizing factors. Socio-cultural and traditional factors influence the origin, growth, and continuity of the Indian party system. The Indian National Congress was the first political party in India, formed in 1885 (although initially, it was a mass national movement for freedom). Subsequently, the Muslim League was formed in 1906, the Hindu MahaSabha in 1916, the Communist Party in 1924, and the Congress Socialist Party in 1934. The post-independence period witnessed the emergence of numerous political parties at the national and regional levels in India. Presently, India has a multi-party system influenced by socio-economic, cultural, political, and religious considerations.

4.1.2.1 Features of the Indian Party System

Multi-Party System

In India, there is a large number of political parties. The main reasons for this are the size and diversity of the country, the huge population, the adoption of Universal Adult Franchise, peculiar political processes, splits in major political parties, the personality and personal importance of some individuals, dissatisfaction among groups, and the influence of caste, language, religion, etc.

Single party dominance up to 1967

The Indian party system was a single-party dominant system up to 1967. The Congress party was the dominant party not only at the national level but also at the state level (Rajni Kothari called it a 'one party dominance system' or 'Congress system'). This changed with the rise of regional parties and other national parties like the Janata Party.

Lack of Ideology

Indian politics has now become more issue-oriented than ideology-oriented. Elections are won by political parties not on the basis of their ideology but on the basis of issues of immediate concern to the electorate.

Emergence of Regional parties

A large number of regional parties constitute an exceptional feature of the Indian party system, and they have increased in number as well as in power. They also play a significant role in national politics due to the presence of coalition politics in the country. Examples of these include Dravida Munnetra Kazhagam (DMK), All India Anna Dravida Munnetra Kazhagam (AIADMK), Trinamool Congress (TMC), National Conference (NC), Samajwadi Party (SP), Rashtriya Janata Dal (RJD), Telugu Desam Party (TDP), Akali Dal, etc.

Importance to Leadership

In India, a large number of political parties are organized around eminent leaders who become more important than the party and its ideology. The influence of the Gandhi family in Congress and Narendra Modi in BJP is a clear example of this. Moreover, the importance of N.T. Rama Rao in TDP, M.G. Ramachandran and Jayalalitha in AIADMK, Karunanidhi in DMK, Mamata Banerjee in TMC, etc. are also examples of this. There are also parties in India named after their leaders like Biju Janata Dal, Kerala Congress (Mani), etc.

Traditional Factors

A large number of political parties in India were formed not on the basis of social, economic, and political programs but on the basis of religion, language, caste, culture, race, etc. Examples of these include Shiv Sena, Muslim League, Hindu Mahasabha,

Akali Dal, etc., and these parties work for the promotion of communal and vested narrow interests, challenging the secular trend in national politics.

Factionalism in the party

Due to factionalism and groupism, the loyalty of party members is oriented towards their group leaders and not to the party. Furthermore, factional leaders fight among themselves for political positions within the party and government, which seriously affects the unity and integrity of the party.

Limited membership

Compared to advanced democratic countries, the membership of Indian political parties is very low. This is because India has not developed a sufficient sense of political participation, and people have limited knowledge about democratic institutions, their functions, and roles.

Promotion of Party interests

Political parties in India give more importance to party interests than national interest. They appoint loyalists to all important positions in the government, irrespective of their merit.

Centralisation in Party

Political parties in India, by and large, operate in an undemocratic and authoritarian manner. They deny decentralisation and autonomy to their lower units, and local-level leaders are nominated from the top. This hampers initiative and leadership qualities and also prevents good and hard-working party members from advancing in their political careers.

Fragmented opposition

An effective opposition is necessary for the successful working of parliamentary democracy as it checks the autocratic tendencies of the ruling party and enables the formation of an alternative government. However, in India, opposition parties lack unity and often conflict with each other. As a result, the emergence of a stable opposition or national alternative remains bleak.

Politics of Defection

Factors like lust for power, material considerations, and disagreements with party leaders have led to defections within the parties. Defection means the transferring of political loyalty and support by a member of Parliament or State legislature from his/her mother political party to another for personal gain or ambition without resigning his/her membership from the house. It is also known as 'floor crossing' or 'horse trading.' To prevent it, the Tenth Schedule was added to the Indian Constitution through the 52nd Amendment Act.

Criticisms of Indian Party System

The critics argue that India has parties but no party system. The lack of institutionalization of party organization, identity, and affiliation, political apathy, the influence of traditionalism, individual and family domination, and religious and communal involvement are the factors negatively influencing the Indian party system.

4.1.3 Evolution of the Party System in India

The party system in India is very unique, and it attained a definite shape with the inauguration of parliamentary democracy in the country within the framework of the Constitution of India. The party system in India evolved over several years after independence and is conditioned by the singular nature of Indian politics, on the one hand, and the nature of the state-society relationship, on the other hand.

4.1.3.1 Dominant Party System

The party system in the first two decades after independence was characterised by the dominance of the Indian National Congress. Rajni Kothari defined it as a "Congress system" or a single-party dominant system. Congress occupied the central space of electoral politics and did not allow other parties to seriously challenge its position of power in the center and the states.

Features

- There existed a number of political parties other than Congress, but the central space of politics was occupied by the latter. The dominance of Congress was determined by its immense organisational strength as well as its capability to capture a large number of seats both in the center and states.
- The opposition parties provided competition, but it did not result in effectively challenging the dominant position of the Congress.
- The role of opposition parties was limited to constantly pressurising or criticizing the ruling party, and they operated only as parties of pressure.
- Congress played the role of a great umbrella party and represented within it diverse social groups and interests.
- The party system worked on the basis of a consensual model, and through its accommodative and adaptive politics, Congress was able to curb the role and relevance of opposition parties.

4.1.3.2 Decline of the Dominant Party System

The party system in India underwent a substantial change after 1967 and was marked by the emergence of a number of new political forces and formations. The electoral system became more competitive and gradually led to the decline of Congress. Rajni Kothari described it as the beginning of the decline of the dominant party system.

Features

- The hegemony of the Congress party was initially challenged through the formation of a number of non-Congress governments in various states.
- There was a consolidation of opposition parties against the Congress. The formation of the Janata Party in 1977 was an example of this, and it became successful in ousting Congress from power at the center for the first time after the sixth general election.
- Factionalism and divisions within the Congress party increased and led to the decline of its consensual model of politics.
- The old organisational structure of the Congress, which was relatively more democratic, was replaced by a more centralised organisational setup. The decision-making power within the party became more personalised, and the space for democratic dissent became absent.
- There was a change in the socio-economic profile of Indian polity through the assertion of the middle-class peasantry, backward castes, and Dalits. It also necessitated a change in the party system.

4.1.4 Federalisation of the Party System

Since the 1989 parliamentary elections, the Congress has been displaced from its position of centrality, and the political system has acquired a more federal character. A number of regional parties, focusing on regional demands, have emerged. There has been a shift from a single-centered dominant party system to a multi-party system with ample space for smaller parties located in the states.

Features

- The party system is not hegemonic but competitive, with sufficient scope for alternation.
- The necessity of electoral mathematics and the requirements of coalition governments have resulted in the politics of alliances. Governance is based on a wider dispersal of power among the alliance partners.
- Initially, alliances were formed based on the exigencies of power politics, but later efforts were made to establish a common minimum program acceptable to all alliance partners.
- Alliance partners do not share a common ideology, and the pursuit of political power has compelled ideologically divergent parties to come together. They form non-ideological political fronts.
- The politics of alliances have led to the polarisation of political parties into various fronts, such as the NDA, UPA, Third Front, etc.
- The party system has created a more democratic political space for small and diverse groups that were previously excluded.
- Regional parties have been mainstreamed and have begun to set the national agenda.

4.1.5 Dominance of BJP and the Arrival of the Fourth Party System

The party system in India entered a new phase with the BJP's victories in the 2014 and 2019 general elections. These victories led political scientists to proclaim the dominance of the BJP and the arrival of the Fourth Party System in India.

Features

- The BJP has established a dominant position in the Indian political landscape, but it has not yet succeeded in integrating the non-Hindi belt cultures into its discourse.
- Opposition unity, although difficult to achieve due to conflicting ambitions among opposition leaders, can still pose a serious threat to the BJP's chances of winning.
- The left-wing parties, which were a dominant political force in India since independence and played key roles in forming governments at the center in the 1990s and 2000s, are no longer relevant political powers in the country.
- Dominant regional parties such as the Samajwadi Party (SP), Bahujan Samajwadi Party (BSP), and Rashtriya Janata Dal (RJD) are losing their appeal in the current political scenario.
- The period has also witnessed the emergence of strong regional leaders like Mamata Banerjee (TMC), Arvind Kejriwal (AAP), Chandrashekar Rao (BRS), and M.K. Stalin (DMK). They pose a greater challenge to the BJP's dominance at the center.

Recap

- Political parties contest elections, hold power
- Parties persuade people with superior policies
- Parties reflect political divisions, represent interests
- Functions of parties: opinion formation, leadership
- Parties link people, government, and legislature
- Parties simplify political process, promote representation
- Indian party system: multi-party, regional dominance
- Lack of ideology in Indian politics
- Importance of leadership in Indian parties
- Evolution of party system in India: dominant to federal

Objective Questions

1. What is the main purpose of a political party?
2. What are the three components of a political party?
3. How do political parties link between the executive and legislature?
4. What is the classification of political parties based on their geographical spread?
5. When was the Indian National Congress formed?
6. What type of party system did India have up to 1967?
7. What is the major characteristic of the Indian party system?
8. What factor led to the decline of the Congress party's dominance?

Answers

1. Contesting elections and holding power
2. Leaders, active members, and followers
3. By coordinating and facilitating communication
4. National, regional, and local parties
5. In 1885
6. Single-party dominant system
7. Lack of ideology
8. Emergence of new political forces

Assignments

1. Explain the formation and purpose of political parties in a democratic system.
2. Discuss the functions and roles of political parties in promoting democracy and governance.
3. Analyse the impact of regional parties on the Indian party system and their role in national politics.
4. Critically examine the challenges and criticisms faced by the Indian party system in terms of institutionalisation and party organisation.
5. Evaluate the evolution of the party system in India, highlighting the significant shifts and changes over time.

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Unit 2
Role of Interest Groups and Pressure Groups

Learning Outcomes

At the end of the unit, the learner will be able to:

- Identify and describe the different interest and pressure groups operating within the political system.
- Explain the functions and objectives of these groups in influencing public policy and decision-making.
- Discuss the impact of interest and pressure groups on the legislative process and political landscape.
- Evaluate the ethical considerations and potential biases associated with the influence of these groups on governance and public policy.

Prerequisites

In politics, interest groups and pressure groups are like active participants in a bustling marketplace of ideas. These groups form around shared goals or concerns, from environmental protection to business interests, and work to shape policies and decisions. Interest groups focus on broader agendas, such as advancing their industry or promoting social causes, using methods like lobbying and public campaigns to influence policymakers. Pressure groups, often more focused on immediate issues, exert direct pressure on decision-makers to address specific concerns. By exploring how these groups operate and their impact on policy-making, you'll understand their crucial role in representing diverse voices and driving legislative changes, ensuring that various interests are considered in the political process.

Keywords

Interest groups, Pressure groups, Political parties, Lobbying, Propaganda, Anomic groups, Institutional interest groups, Associational interest groups

Discussion

4.2.1 Interest groups and Pressure groups

Interest groups and pressure groups are associations of people with common interests who try to achieve their objectives by influencing the government. They represent the social, economic, and political interests of specific segments of society, such as farmers, workers, businessmen, teachers, journalists, doctors, lawyers, engineers, and others. Members of these groups share common objectives and values. They exert pressure on the administrative and political systems of a country, either to promote their interests or to prevent their interests from being disregarded. No system can effectively function without considering their viewpoints. According to V.O. Key, a pressure group is a "private association formed to influence public policies." Other scholars have referred to them as the "anonymous empire," "invisible government," and "unofficial government." Consequently, understanding how interest groups and pressure groups are formed, how they operate, and how the system copes with their pressures are crucial issues confronting the administration of any country.

The term "pressure group" applies to those interest groups that employ various pressure tactics, including methods outside the constitutional framework, to achieve their goals. The term "interest group" is a neutral designation, while "pressure groups" implies coercion. Interest groups attempt to influence government policies through peaceful means, such as petitions and propaganda, whereas pressure groups utilize pressure tactics to attain their goals. Thus, all pressure groups are interest groups, but not all interest groups are pressure groups. In a sense, an interest group becomes pressure group when it exert pressure on the policy decisions of the government.

4.2.2 Interest Groups Vs Political Parties

The major differences between interest groups and political parties are as follows:

- Political parties aim to seize power, while interest groups are solely concerned with protecting and promoting their specific interests.
- Political parties aspire to form a government, whereas interest groups seek to influence the government's decisions.
- Political parties represent the interests of various sections of society, while interest groups represent the special interests of specific sections of people.
- Political parties have an ideology, whereas interest groups lack a specific ideology.

4.2.3 Types of Interest Groups

4.2.3.1 Associational Interest Groups

These interest groups are formed to protect the interests of workers, farmers, lawyers, traders, and other professional groups. Examples include workers' associations, farmers' associations, and lawyers' associations.

4.2.3.2 Institutional Interest Groups

These interest groups operate within various institutions and enterprises, particularly in the public sector. They function through constitutional means and in accordance with rules and regulations. Examples include defense organizations, police organizations, civil service organizations, and educational and scientific institutions.

4.2.3.3 Anomic or Ad-hoc Interest Groups

These category include all those organisations whose behaviour is unpredictable. They are not permanent interest groups and manifest as movements, demonstrations, and processions. They also include in activities of violence. Their activities may be constitutional or unconstitutional. Students organisations and youth organisations are the best examples

4.2.3.4 Non-Associational Interest Groups

These groups are based on factors of religion, race, caste, communities social traditions and the like. These bodies have an intermittent existence. They appear and disappear from time to time, eg. caste, religion or language based groups.

4.2.4 Methods of Interest Groups

4.2.4.1 Lobbying

Through lobbying, interest and pressure groups influence parliament members and inform them about their needs and demands. In the USA, a professional team of 'lobbyists' plays a skillful role on behalf of interest groups, influencing legislators, decision makers, civil servants, etc., and using money and other offers to pursue their interests.

4.2.4.2 Propaganda

Interest and pressure groups use mass media to propagate their objectives and influence the public and the government. Print media and television, with their communication skills, create powerful public images and influence public opinion.

4.2.4.3 Links with Political Parties

Interest and pressure groups maintain close relationships with political parties. It helps them use the party's legislators to influence public policy in pursuit of their interests. They offer funds to parties during elections.

4.2.4.4 Seminars and Conferences

Interest and pressure groups conduct seminars and discussions with participating experts, and their views are communicated to the public through the media. Typically, these views are presented as being in favour of the interest group under the guise of public interest, and it also helps them promote their interests.

4.2.4.5 Strikes and Demonstrations

Interest and pressure groups use strikes and demonstrations for their causes. Through them, they create mass upheaval and try to influence public policy in their favour.

4.2.4.6 Donations to Political Parties

Interest groups, mainly business interest groups, donate money to political parties for their election campaigns. When these parties come to power, the former can easily influence the government and its industrial and financial policies.

4.2.4.7 Alternative Job Offers

Business interest groups provide employment to government officials (after retirement) and to the relatives and children of political leaders. Through this, they try to influence government policies.

4.2.5 Interest and Pressure Groups in India

Interest and pressure groups have emerged powerfully in India after independence. The origin and growth of interest groups in India are influenced by factors such as political culture, the attitude of leaders and people, the structure of the state and government, the pattern of the party system, etc. The different types of interest groups found in India include business groups, trade unions, peasant groups, student groups, teachers' associations, caste and religious associations, women's associations, etc.

4.2.5.1 Business Interest Groups

This is the most important and organised interest group in India. Factors such as the availability of technical and managerial personnel, links with leaders of the government and opposition, immense financial power, etc., help them operate as the most powerful interest and pressure groups. Major business groups include the Confederation of Indian Industry (CII), Federation of Indian Chamber of Commerce and Industry (FICCI), and Associated Chamber of Commerce. They use various kinds of pressure tactics to try to influence planning, licensing bodies, and economic ministries. Some business groups are represented in different legislatures at the central and state levels. Each ministry of the government has some kind of consultative committee, and business groups are represented there. During pre-budget meetings, the Finance Ministry interacts with business groups to gather suitable inputs for budget formulation.

4.2.5.2 Trade Unions

Trade unions emerged in India with the process of industrialisation and strengthened with the growth of national and democratic consciousness. The emergence of the communist movement also played an important role in the growth of trade unions in India. Trade unions in India are closely affiliated with political parties, and there is no independence from political parties within trade unions. Many national political parties have their own federations of trade unions. For instance, the Congress party formed the Indian National Trade Union Congress (INTUC), the CPI(M) established the Centre of Indian Trade Union (CITU), and the BJP formed another trade union called Bharat Mazdoor Sangh (BMS).

Trade union movements have been able to create class consciousness and class solidarity among workers. They are vocal and militant in their actions to meet their demands and use weapons like strikes, bandhs, demonstrations, processions, etc. They have been able to influence the government and decision-makers to provide periodic revision of wages, adoption of social welfare schemes, bonuses in public sector units and private enterprises, improvement in living conditions, etc.

4.2.5.3 Peasant Organisations

The abolition of the Zamindari system, land reform measures, the green revolution, etc., facilitated the growth of peasant groups in India. Like trade unions, peasant organizations are also controlled by political parties, and each party has its own peasant groups. Peasant and agricultural organizations are mainly organized at the state or local level because agriculture is a subject in the state list. Moreover, farmers in different regions face different problems. There are sugar lobbies, rice lobbies, and tobacco lobbies in different states. Many regional parties like Lok Dal, Janata Dal, and various factions of Kerala Congress gained political strength through peasant support and their votes. Their demands mainly focus on minimum prices for agricultural products, fertilizer subsidies, tenancy rights, free electricity, etc.

4.2.5.4 Student Organisations

Student organizations have acted as important pressure groups before and after independence. The All-India Students Federation (AISF) was established in 1936. After independence, the number of student organizations increased, and all of them were affiliated with one of the major political parties. For instance, the National Students Union of India (NSUI) is affiliated with the Indian National Congress, the Students Federation of India (SFI) with the Communist Party of India (Marxist), and the Akhil

Bharatiya Vidyarthi Parishad (ABVP) with the Bharatiya Janata Party. They try to exert pressure on governmental policies on various crucial issues, and their activities are not just confined to educational issues.

4.2.5.5 Community Associations

These groups are organized on the basis of caste and religion. Some examples of caste organisations are the Scheduled Caste Federation, Backward Caste Federation, Nair Service Society (NSS), Sree Narayana Dharma Paripalana Yogam (SNDP), etc. Groups based on religion include Vishwa Hindu Parishad (VHP), Northern and Southern India Christian Conference, Anglo Indian Christian Association, All India Muslim Personal Law Board, etc.

4.2.6 Limitations

Unlike interest and pressure groups in developed countries of the West, which are organized around economic, social, and cultural interests, those in India are organised around religious, regional, and ethnic issues. Factors such as caste and religion often overshadow socioeconomic interests. As a result, instead of serving a useful purpose in the political and administrative process, these groups are reduced to working for narrow, selfish interests. Furthermore, many of these groups have short lifespans due to a lack of resources. This explains the mushrooming growth of interest and pressure groups and their subsequent decline as it becomes difficult to sustain the interest of individuals initially attracted to forming these groups. Moreover, interest and pressure groups in India largely focus on influencing the administrative process rather than policy formulation, which creates a dangerous gap between the two.

Moreover, the over-politicization of every issue restricts the scope, functioning, and effectiveness of interest and pressure groups in India. Instead of influencing the political process, these groups become tools to serve political interests. Lastly, factors that hinder the development of a sound civic consciousness also impede the emergence of healthy and functional interest and pressure groups in India.

Recap

- Interest groups shape government policies through influence
- Interest groups represent specific segments of society
- Pressure groups exert influence using various tactics
- Lobbying and propaganda are common interest group methods
- Interest groups maintain close ties with political parties
- Strikes and demonstrations are pressure group strategies
- Business interest groups hold significant power in India
- Trade unions advocate for workers' rights and demands
- Peasant organizations focus on agricultural issues and rights
- Student organizations influence educational and political policies

Objective Questions

1. What are associations of people with common interests who try to influence the government?
2. What term applies to interest groups that employ pressure tactics to achieve their goals?
3. What type of interest group is formed to protect the interests of workers, farmers, and lawyers?
4. Which method do interest groups use to influence parliament members and inform them about their needs?
5. How do interest groups use mass media to propagate their objectives?
6. What are interest groups based on kinship, ethnicity, and language called?
7. What is the most important and organized interest group in India?

Answers

1. Interest groups
2. Pressure groups
3. Associational
4. Lobbying
5. Anomic
6. Non-associational
7. Business interest groups

Assignments

1. Discuss the role and significance of interest groups in the democratic process. Provide examples to support your answer.
2. Compare and contrast the methods used by interest groups and pressure groups to achieve their objectives.
3. Analyze the impact of interest groups on government policies in your country. Provide specific examples to illustrate your points.
4. Evaluate the effectiveness of lobbying as a method used by interest groups to influence decision-makers. Discuss its advantages and disadvantages.

5. Examine the relationship between interest groups and political parties. How does this relationship affect the policymaking process?
6. Assess the limitations and challenges faced by interest and pressure groups in your country. Discuss how these factors impact their effectiveness in influencing public policy.

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Unit 3
New Social Movements and Non-Political Mobilisations

Learning Outcomes

At the end of the unit, the learner will be able to:

- Identify and describe the key characteristics of new social movements and non-political mobilisations.
- Explain the goals and strategies of these movements in addressing social, economic, and environmental issues.
- Analyze the impact of new social movements on public policy and social change.
- Evaluate the challenges and successes faced by these movements in achieving their objectives and influencing societal norms.

Prerequisites

A new wave of social movements has emerged in recent years, focusing on issues that transcend traditional politics. These movements, driven by grassroots organizations and digital activism, address a wide range of concerns from environmental sustainability to social justice. Unlike conventional political parties, these groups mobilize people around specific causes, often using social media to rally support and create awareness. They operate outside the traditional political framework, emphasizing direct action and community involvement. By exploring these new social movements and non-political mobilizations, you'll gain insight into how they influence public discourse and drive societal change. This understanding reveals the dynamic ways in which people come together to address pressing issues and advocate for change beyond conventional political channels.

Keywords

Social movements, Chipko movement, Narmada Bachao Andolan, Ekta Parishad, Mazdoor Kisan Sakti Sanghathan

Discussion

4.3.1 Social Movements

Social movements refer to collective action or behavior aimed at achieving better conditions in society. They are voluntary associations of people engaged in a concerted effort to change behavior and social relationships within a larger society. These movements are consciously organized and planned activities involving individuals with common interests. They play a crucial role not only in facilitating the process of change but also in providing direction to social transformation. Social movements are a form of dynamic, pluralistic behavior that progressively develops structure over time, aiming for partial or complete modification of the social order.

According to Herbert Blumer, "social movements can be seen as a collective enterprise seeking to establish a new order of life." M.S.A. Rao defined them as "sustained collective mobilization, either through formal or informal organizations, generally oriented toward bringing about change." Ultimately, social movements involve:

(a)collective mass mobilization

(b) collective mass support

(c) formal or informal organization

(d) conscious commitment to their aims and beliefs

(e) deliberate collective action toward change.

4.3.2 New Social Movements

New Social Movements consist of a plethora of new movements that have emerged since the mid-1960s, deviating significantly from the conventional social movement paradigm. The theory of new social movements is based on two central claims: firstly, the rise of a post-industrial economy is responsible for a new wave of social movements, and secondly, these movements differ significantly from the previous social movements of the industrial economy. They reflect a new representation of society characterized by post-capitalism, post-industrialism, and post-materialism. They raise questions that are primarily cultural and humanistic in nature. Unlike the regionally or locally bound old types of social movements, the new movements embrace goals, objectives, and values of universal application. The ideological discourse of the new movements centers around questions of identity, human dignity, peace, and social justice.

The primary difference between new and old social movements is that the former focuses not on issues of a materialistic nature, such as economic well-being, but on issues like gender, race, ethnicity, sexuality, the environment, animal rights, and human rights, among others. They are primarily social and cultural and only secondarily political and economic. They concentrate on promoting social mobilization through cultural innovations, the development of new lifestyles, and the transformation of identities. According to Habermas, "new social movements are the 'new politics,' which are about quality of life, individual self-realization, and human rights, whereas 'old politics' focus on economic, political, and military security. The key actors in the movement are the 'new middle class' rather than the 'lower classes'. Unlike interest and pressure groups that have a formal organization and members, new social movements consist of an informal, loosely organized social network of supporters rather than members. British sociologist Paul Byrne described them as 'relatively disorganized.' Examples of new social movements include

environmental movements, human rights movements, women's liberation movements, transgender rights movements, and so on.

4.3.2.1 Features of New Social Movements

- New social movements are segmented, diffused, and decentralized.
- They are not class-based; they are multi-class movements.
- They are concerned with the self-identity and autonomy of the individual and the community in opposition to the State, market, and social institutions.
- They operate outside the traditional party system and have emerged as a result of people's disappointment and frustration with the conventional political process.
- It is difficult to characterize new social movements as conservative or liberal, right or left, capitalist or socialist. They exhibit plural ideas and values.
- They focus more on issues of symbolic and cultural identities than on economic issues.
- Action within these movements is a complex mix of collective and individual confirmation of identity.
- Non-violence and civil disobedience are the dominant patterns of collective mobilization in these movements.
- They act as platforms for collective action in civil society or the cultural domain rather than as instrumental tools of the State.
- Normally, they center around a single issue or a limited range of issues related to a broader theme, such as the environment.
- The proliferation of these movements is caused by the credibility crisis of conventional channels for political participation.

4.3.3 Distinction between Old and New Social Movements

The old and new social movements are distinguished based on certain elements:

- **Location:** The old social movements typically revolved around politics and political parties, whereas new social movements transcend these political limits and become autonomous in nature.
- **Aims:** Old social movements aim to secure political representation, whereas new social movements want to defend civil society against political power.
- **Organization:** Old social movements are characterized by formal and hierarchical structures, while the new social movements are characterized by informal or unstructured organizations.
- **Medium of change:** Old social movements are oriented towards political institutions through which change can be achieved, while new social movements focus on newer and more innovative forms of direct action.

4.3.4 New Social Movements in India

In India, there has been an important change in the issues, structure, and composition of social movements since the 1970s and more significantly since the 1980s. The most

important change is that these movements are no longer occurring under the traditional leadership of any political party or their mass organizations like trade unions or peasant organizations. Instead, they are evolving from the masses or civil society, with students and young political activists at the forefront. They do not contest elections at the local or regional level, nor do they support any particular political party. They believe that direct and active participation by local groups of citizens would be more effective in resolving local issues than relying on political parties.

These movements have initiated a new discourse on democracy and have introduced new political practices. They have expanded the arena of politics beyond the representational institutions of elections and political parties. The issues they address range from access to livelihood, rising prices, corruption, state atrocities, women's rights, rights of Scheduled Castes (SCs) and Scheduled Tribes (STs), Right to Information, land grabbing, environmental protection, to the increasing commodification and monopolization of natural resources such as land, water, and forests.

The participants in these movements include landless peasants, marginal farmers, unorganized labor in rural and urban areas, adivasis, dalits, displaced people, urban poor, small entrepreneurs, unemployed youth, and women's groups. According to Gail Omvedt, "new social movements are emerging in India in the context of the overall crisis of political and economic systems and ideologies." Rajni Kothari believes that "people's dissatisfaction with parliamentary democracy, corruption, criminalization, repression, and the declining role of the State in social transformation has resulted in the new social movements in India."

Features

- They represent the marginalized Indian masses.
- They oppose the negative aspects of globalization.
- They fight for the protection of the environment and against the oppression of groups such as dalits and adivasis.
- Their view of development is a non-hegemonic, pluralistic process, and their politics is increasingly about making development a bottom-up process.
- They are critical of the state, large corporations, and even international funding agencies such as the World Bank.
- They bring attention to issues like individual freedom, personal liberty, identity, and social equality.

4.3.5 Some Selected Movements outside Institutional Politics in India

4.3.5.1 Chipko Movement (Hug the Trees Movement)

One of the earliest and best-known participatory movements in India is the Chipko Movement. The movement centered around the issue of the right to forests and the conservation of ecology. It took place in 1973 in Reni, a remote village in Uttarakhand (then part of Uttar Pradesh), situated on the foothills of the Himalayas. The movement was sparked by a spontaneous incident when a forest contractor arrived with a government license to log trees in the forest adjacent to the village. Since all the men of Reni village were away on that particular day, it was the women who challenged the contractor. In order to save the trees from the logger's axes, they embraced the trees. Unable to overcome this unique resistance, the contractor retreated.

To the villagers, "ecology is permanent economy," and the forest serves as a source of fodder, fuel, and medicinal plants. They wanted to conserve the forests and retain their right to use them. While corporations and contractors logged the trees for profit, the villagers relied on the forest products for their very subsistence. Ultimately, the Chipko movement achieved a major success when the government was forced to negotiate with local committees, predominantly organized by women, and imposed a 15-year ban on logging in the Himalayan forests. The success of this resistance quickly spread to other areas of the province and across India. In short, the Chipko movement provided a blueprint for future participatory movements in India on issues of livelihood and rights. It articulated the tensions between the state and communities over the right to natural resources and introduced new forms of mass action and organization, with the most noticeable being the gender aspect inherent in its action.

4.3.5.2 Narmada Bachao Andolan (Save the Narmada Movement)

The Narmada Bachao Andolan (NBA), a protest against the Sardar Sarovar Project (SSP) on the Narmada River, stands as one of the most significant milestones in the history of social movements in India. It raised concerns about displacement, environmental destruction, and economic impacts. The Narmada River is the fifth longest river in India, flowing through three provinces: Madhya Pradesh, Maharashtra, and Gujarat. The Sardar Sarovar Project is one of Independent India's most ambitious multipurpose projects, aiming to provide irrigation and electricity generation. The Indian government claims that this project will irrigate over 1.8 million hectares of land and generate 3,000 MW of electricity.

However, according to the NBA, this project would submerge more than 37,000 hectares of forest and agricultural land and displace approximately 320,000 villagers, mainly from tribal communities who depend on the natural resources of the area for their livelihoods. The NBA raised critical questions: Who would benefit from this project? Whose land would be irrigated? Who would enjoy the electricity? Ultimately, the answers did not favor the villagers but rather the urban middle class and the wealthy. The NBA received significant support from various sections of the Indian population, including intellectuals, writers, scientists, and others. It also garnered significant coverage in national and international media.

Eventually, the World Bank withdrew its financial support for the project and established the World Commission on Dams (WCD) in 1997. The commission published a persuasive report titled "Dams and Development: A New Framework for Decision-Making" in 2000. However, the Indian government proceeded to finance the project in defiance of the movement and the WCD report. Nevertheless, the NBA was able to spearhead the movement through its radical redefinition of "development." Due to its efforts, hundreds of movements working in the areas of natural resources and the environment are now united under the umbrella of the "National Alliance of People's Movements" (NAPM).

4.3.5.3 Ekta Parishad (Unity Forum)

Ekta Parishad emerged as a people's organization in 1991 in Gwalior, Madhya Pradesh. Initially, it was a loose grouping of NGO training institutes that had conducted extensive community development work. In 1996, the Parishad articulated the agenda of "people's control over livelihood resources" while consolidating its vision around key issues of land, forests, and water rights. At

the time of its inception, the majority of the organization's members were tribes who had become increasingly alienated from their lands due to continuous displacement caused by so-called "development" projects. They also faced restrictions on entering adjacent forest areas due to the 1980 Forest Conservation Act. This problem was further aggravated by the diversion of water resources for industrial and large-scale agricultural use. Without access to land, forests, and water, these people, especially forest-dependent communities like tribal groups, could not hope to survive. This urgency led them to form a larger social formation.

Parishad began mobilizing people on the issues of their rights and the proper utilization of natural resources. They organized a series of 'padyatras' (long marches) to raise awareness among the people and exert pressure on the government to ensure people's rights over land. One notable long march took place in October 2007, starting from Gwalior and culminating in New Delhi. Around 25,000 landless poor, tribal people, poor women, bonded laborers, children, and the elderly from across the country walked for 20 days, covering a distance of 350 km, demanding a national land reform policy. The Indian government conceded to their demand and announced the formation of a "National Land Reform Council" with the Prime Minister as its chairman.

In 2012, on October 2, International Non-Violence Day, the second major long march was organized. Approximately 45,000 marginalised individuals, including the poor, tribal communities, and other marginalized groups, joined this march from Gwalior to New Delhi. When the thousands of marchers of the Jan Satyagraha (people's movement) reached Agra after eight days on the road, the Minister of Rural Development and the Parishad reached an agreement on a ten-point "road map." This agreement was expected to result in a significant policy change regarding land rights and land distribution, benefiting the poorest segments of the population, including tribal and backward classes.

4.3.5.4 Mazdoor Kisan Sakti Sangathan (Organization for the Empowerment of Workers and Peasants)

Established in 1990 in Rajasthan, the Mazdoor Kisan Sakti Sangathan (MKSS) has harnessed the power of the right to information. This organization, initially formed to advocate for the rights of workers and peasants, soon recognized that effective development interventions require vibrant grassroots democracy with a focus on transparency and accountability in public expenditure. Furthermore, to safeguard the rights of the poor and marginalized, a battle against government corruption had to be waged, necessitating access to information. This grassroots movement ultimately led to the enactment of the Right to Information (RTI) Act in Rajasthan in 2000, which later spread to other states and eventually became a central act in 2005. Starting from humble beginnings in Rajasthan's villages, the MKSS has now become a transnational movement. Moreover, the success of the MKSS has served as a source of inspiration for activists in India and worldwide since the implementation of the RTI Act.

4.3.5.5 India against Corruption (IAC)

India against Corruption (IAC) is a people's movement against corruption in India that began in October 2010 under the leadership of veteran Gandhian leader Anna Hazare. This movement has garnered widespread support, discussion, and media coverage, making it one of India's most prominent people's movements since the anti-emergency

movement of 1975. It was listed among Time magazine's "Top 10 News Stories of 2011." The primary objective of this movement is to combat government corruption through the Jan Lokpal Bill (Citizen's Ombudsman Bill). The movement, highlighted by Anna Hazare's hunger strike starting on April 5, 2011, compelled Indian lawmakers to discuss and pass the bill in December 2011 in the lower house of the parliament (Lok Sabha), ultimately accepting three major demands of the IAC: (1) implementation of a citizen charter, (2) inclusion of lower bureaucracy under the Lokpal through an appropriate mechanism, and (3) establishment of Lokayukts in the states. However, the bill did not receive consensus in the upper house of the parliament (Rajya Sabha). Subsequently, the bill was referred to the Select Committee of the Parliament, which recommended 16 amendments. The Union cabinet approved 14 out of these 16 amendments. After making certain amendments to the original bill, it was passed in the Rajya Sabha on December 17, 2013, and in the Lok Sabha on December 18, 2013. Finally, the bill received assent from the President of India on January 1, 2014. While the movement garnered immense support across India, it was primarily driven by the urban middle class and focused more on political corruption rather than corporate corruption. Later, a few of Hazare's close associates broke away from the IAC and formed the Aam Aadmi Party (AAP) in November 2012 to participate in parliamentary politics.

Recap

- New social movements challenge conventional norms
- Post-industrial economy drives new social movements
- New movements focus on cultural and humanistic issues
- New social movements embrace universal values
- New movements prioritize gender, race, and human rights
- Informal networks replace formal organizations in new movements
- New social movements emphasize non-violence and civil disobedience
- India witnesses changes in social movements since the 1970s
- Chipko Movement protects forests and rural livelihoods
- Narmada Bachao Andolan fights displacement and environmental destruction

Objective Questions

1. What is the primary focus of new social movements?
2. How do new social movements differ from old social movements?
3. Who are the key actors in new social movements?
4. How are new social movements organized?
5. What is the dominant pattern of collective mobilization in new social movements?
6. Where do new social movements act as platforms for collective action?
7. How would you characterize the issues addressed by new social movements?
8. What is the key distinction between old and new social movements?
9. What are the characteristics of new social movements in India?
10. Name one example of a new social movement in India.

Answers

1. Social and cultural issues
2. Materialistic vs. social and cultural focus
3. New middle class
4. Informal and loosely organized
5. Non-violence and civil disobedience
6. Civil society or the cultural domain
7. Symbolic and cultural identities
8. Political limits vs. autonomy
9. Evolving from civil society, local issues, non-partisan
10. Chipko movement

Assignments

1. Explain the key claims and differences between new and old social movements.
2. Analyze the features and characteristics of new social movements.
3. Explore the distinction between old and new social movements based on location, aims, organization, and strategies.
4. Evaluate the impact of new social movements in India.
5. Choose one specific new social movement in India and examine its objectives, strategies, and impact.
6. Discuss the role of civil society and non-political party leadership in new social movements in India.

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Unit 4
Coalition Politics and the Representation of Regional Aspirations

Learning Outcomes

At the end of the unit, the learner will be able to:

- Understand the concept and structure of coalition politics within the Indian parliamentary system.
- Explain how coalition governments are formed and the role of regional parties in these coalitions.
- Analyze the impact of coalition politics on the representation of regional aspirations and interests.
- Discuss the challenges and benefits of coalition politics in balancing national and regional demands.

Prerequisites

In India's complex political landscape, coalition politics plays a crucial role in shaping governance. Picture the national government as a vast assembly where various political parties, including many regional ones, come together to form a coalition. Each party brings its own set of priorities and regional aspirations, aiming to influence national policies while representing local interests. This collaboration often requires compromise and negotiation, as parties work to address both national and regional concerns. By understanding how coalition politics functions, you'll see how it balances diverse interests and gives voice to regional aspirations within the larger framework of the Indian Union. This dynamic highlights the importance of coalition politics in fostering inclusive governance and reflecting the country's varied needs.

Keywords

Coalition politics, Common Minimum Programme, United Progressive Alliance, National Democratic Alliance, Regional Parties, Regionalism, State autonomy

Discussion

4.4.1 Coalition politics

The term coalition has been derived from the Latin word 'coalitio' which means 'to develop together.' A coalition, in the political sense, refers to an alliance or temporary union of political forces to form a single government. It represents the coming together of rival political actors who recognize the need to work collectively due to a common threat or the realization that their goals cannot be achieved independently. Coalition politics is a characteristic of a democratic multi-party system, where numerous parties unite to operationalize a government that would otherwise be unattainable.

4.4.1.1 Features

- The essence of coalition politics lies in the temporary convergence of specific interests.
- It is a dynamic process, constantly evolving and adapting.
- Compromise is the cornerstone of coalition politics, devoid of rigid dogmas.
- Coalition politics operates based on a minimal program that may not be ideal for each coalition partner.
- Pragmatism, rather than ideology, defines coalition politics.
- The goal of a coalition is to gain control of the situation by making necessary adjustments.
- All coalition members are included in the cabinet to ensure smooth governance, establishing shared goals through agendas and tactics.

4.4.1.2 Merits

- Accommodation of various interests in the functioning of the government.
- A coalition government provides a platform to address the expectations and problems of diverse groups.
- Reflects the will of the electorate and popular opinion.
- Fosters politics based on consensus.
- Strengthens the federal character of the state.
- More receptive to regional aspirations.
- Reduces the likelihood of despotic control.
- Prevents the domination of a single political party.

4.4.1.3 Demerits

- Prone to instability or at risk of becoming unstable.
- Coalition governments may collapse due to differences of opinion among coalition members.
- The Prime Minister must consult with coalition partners before making key decisions.
- The coalition partner's 'steering committee or coordination committee' functions as a 'super cabinet.'
- In a coalition government, smaller constituencies may hold significant influence.
- Regional leaders play a role in national decision-making by highlighting regional perspectives.
- Coalition members may evade responsibility for administrative mistakes and shortcomings.

4.4.2 forms of coalition politics in India

There are three forms of coalition politics in India: parliamentary, electoral, and governmental. Let's explore each one to understand how they manifest and influence the representation of regional aspirations.

1. **Parliamentary Coalition:** This occurs when no single party enjoys an overall majority in the parliament. In such cases, the party tasked with forming a government attempt to rule as a minority government, relying on an arrangement with other parties for its survival. An example of this is the National Front government led by V.P. Singh in 1989.

2. **Electoral Coalition:** This type of coalition involves two or more political parties entering into an agreement to avoid vote splitting in constituencies where they are strong. It often entails mutual withdrawal of candidates to consolidate support. The National Democratic Alliance (NDA) and the United Progressive Alliance (UPA) in India are prime examples of electoral coalitions.

3. **Governmental Coalition:** There are two types of governmental coalitions. The first is a 'National Government,' formed when major parties join together to address a national emergency arising from war or economic crisis. An example of this is the coalition government led by Winston Churchill during the Second World War in the United Kingdom. The second type is a 'Power Sharing Coalition Government,' formed when two or more parties unable to secure a majority join forces to establish a majority government. The United Front and the BJP-led coalition governments in India during the 1990s are notable examples of such coalition governments.

Coalition politics in India has a rich history, dating back to the provincial governing body elections in 1937, where the Indian National Congress (INC) and the Muslim League formed the first coalition. After independence, the Congress dominated Indian politics at the union and state levels through its coalitional character.

The political landscape shifted in the late 1960s and 1970s with the split in the Indian National Congress, leading to the formation of coalitions at the center. The Janata coalition, which emerged as the leading party in the post-emergency elections of 1977, played a pivotal role in shaping coalition politics in India.

The 1980s witnessed the resurgence of the Congress party, temporarily halting the era of coalition politics at the center. However, the seeds of future coalitions were sown during this period as the Congress faced challenges in responding to the diverse demands and aspirations of the Indian electorate.

From 1989 to 2004, coalition governments became more prevalent in India. The National Front, the United Front, and the National Democratic Alliance (NDA) came to power in various periods, showcasing the dynamics of coalition politics. The United Progressive Alliance (UPA) led by the Congress ruled from 2004 to 2014, followed by the National Democratic Alliance (NDA) led by the Bharatiya Janata Party (BJP) from 2014 to the present.

4.4.3 Regional Aspirations

Different regions have distinct rights, and

various linguistic factions seek to preserve their culture—these are known as regional aspirations. While many European nations viewed cultural diversity as a threat to national unity, the Indian approach was vastly different. The Indian constitution explicitly states that the rights of different regions and linguistic groups shall not be denied. The fundamental principle of the Indian approach is to foster unity amidst diversity. India adopted a democratic approach to address the question of diversity, as democracy allows for the political expression of regional aspirations. Representative politics enables parties and factions to advocate for their regional identities and concerns.

Regional aspirations in India encompass a wide range of demands, from statehood and economic development to autonomy and separation. These aspirations have tested the capacity of democratic politics to accommodate the diverse demands of society. The 1980s witnessed a surge in regional aspirations for liberation in India. During this phase, there were frequent movements marked by armed assertion by the people, government repression, and challenges to the political and electoral processes. In most cases, the Government of India engaged in negotiations with regional movements, reducing tensions in many regions. For instance, the example of Mizoram demonstrates how political settlements can effectively address separatist problems. In summary, India pursued a policy of responding to regional aspirations through democratic negotiations rather than suppression.

4.4.3.1 Regionalism in Indian Politics

Regionalism has its roots in the pre-independence era. The establishment and role of the Justice Party in Madras and the Akali Dal in Punjab during this period were early examples of emerging regionalism in India. Regionalism gained prominence in the post-independence period, and several factors facilitated its development.

In the post-independence phase, every part of the country sought a fair deal in nation-building, leading to competition among regions for their development. Any perceived shortcoming in meeting these expectations resulted in disenchantment and the emergence of regional politics.

Even after the integration of princely states, people continued to harbor loyalties towards their old territorial units. The reorganization of states based on linguistic considerations also played a significant role in the development of regionalism. Selfish motives and personal interests of politicians were additional factors that contributed to the rise of regional politics.

4.4.3.2 Forms of Regional Politics

Regional politics in India can be classified into four main forms:

1. **Demand for State Autonomy:** This form involves demands from certain states or regions to secede from the Indian union and become independent sovereign states. Examples include the Plebiscite Front in Kashmir, the Khalistan movement in Punjab, the Mizo National Front, and the Nagaland Socialist Conference.

2. **Supra-state Regionalism:** In this form, multiple states join forces to address mutual issues of interest vis-à-vis another group of states. The identity of the group is typically centered around specific issues and does not imply a complete and permanent merger of state identities. The rivalry between South India and North India on language issues and the grouping

of North Eastern states for greater access to economic development are examples of supra-state regionalism.

3. **Inter-state Regionalism:** This form relates to conflicts along state boundaries and involves overlapping identities of one or more states that threaten their interests. Disputes over river water distribution, such as the Maharashtra-Karnataka border dispute, exemplify inter-state regionalism.

4. **Intra-state Regionalism or Sub-Regionalism:** This type of regionalism exists within a state and represents the desire of a particular part of the state for identity and self-development. Examples of sub-regionalism include Vidarbha in Maharashtra and Saurashtra in Gujarat.

Understanding these forms of regional politics provides insights into the complexity of regional aspirations and their impact on Indian politics.

4.4.4 Regionalism and Regional Parties

Regionalism and the rise of regional parties are intrinsically linked to the aspirations and uprisings within specific regions. Leaders emerging from regional movements often establish their own political parties, aiming to represent their region's interests and gain political power. For instance, the Akali Dal Party in Punjab is closely associated with the Khalistan movement, the Asom Gana Parishad is tied to the All-Assam Student's Union, and the Telugu Desam Party reflects the anti-center sentiment of the Telugu people.

4.4.4.1 Key Features of Regional Parties

- Regional Focus: Regional parties typically operate within a specific state or region.
- Aggregation of Regional Interests: These parties unite and advocate for regional interests, aligning themselves with specific cultural, religious, linguistic, or ethnic groups.
- Primordial Demands: They often prioritise addressing local discontent or preserving distinct demands rooted in language, caste, community, or region.
- Emphasis on Local Issues: Regional parties prioritise local or regional issues in their political agenda.
- Desire for Regional Autonomy: They advocate for greater autonomy for states within the Indian union.

4.4.4.2 Factors Contributing to the Rise of Regional Parties

- Cultural and Ethnic Pluralism: India's diverse cultural and ethnic landscape has fostered the emergence of regional parties.
- Economic Disparities and Regional Imbalances: Unequal development across regions has fueled regional aspirations and the need for focused representation.
- Historical Identity: Certain regions seek to maintain a separate identity due to historical reasons.
- Unfulfilled Regional Aspirations: National parties' failure to adequately address regional aspirations has paved the way for regional parties to fill the void.
- Language-based State Reorganization: The reorganisation of states along linguistic lines has

contributed to regional party formation.

- Charismatic Regional Leaders: Dynamic and influential leaders at the regional level have played a significant role in the rise of regional parties.
- Factionalism within National Parties: Infighting within national parties has led to disillusionment and the formation of regional parties.
- Centralising Tendencies of the Congress Party: The centralising approach of the Congress party has prompted regional parties to advocate for greater regional autonomy.
- Absence of Strong Opposition at the National Level: The lack of a formidable opposition party at the central level has provided space for regional parties to emerge.
- Influence of Caste and Religion: Caste and religious considerations have played a role in shaping the political landscape and the rise of regional parties.

Regionalism and national integration are not mutually exclusive but can coexist in a synergistic partnership. Both regionalism and national integration emphasize development, with regionalism focusing on regional progress and national integration aiming for the overall development of the nation. To reconcile the competing claims of regionalism and national integration, the country's political system should remain federal and democratic. Regionalism does not disrupt national solidarity. Nationalism should foster healthy reconciliation among diverse regional identities, ensuring that regionalism and nationalism complement each other. In a vast and diverse country like India, regionalism and sub-regionalism are inevitable. They not only allow the genuine expression of national sentiment but are also logical consequences of establishing a nation-state.Prologue: Coalition Politics and the Representation of Regional Aspirations in India

Coalition politics, an alliance or temporary union of political forces aimed at forming a single government, operates on the basis of a minimal program and is defined by pragmatism rather than ideology. In the Indian context, coalition politics has taken various forms: parliamentary, electoral, and governmental.

During the initial phase after independence, coalition politics in India was characterised by the dominance of the Congress party, both in terms of electoral power and organizational structure. The "Congress System" represented a broad-based social and political coalition, as it followed coalition logic in its relationship with opposition parties in the process of governance.

However, from the latter half of the 1980s onwards, the central role of the Congress in maintaining and restructuring political consensus began to erode. The 1990s marked a decisive end to the dominant multi-party system and witnessed the emergence of a competitive multi-party system at both the central and state levels. This period also saw the rise of new social groups and identities, leading to the growing regionalisation of national parties.

The blurring of lines between the national and state party systems, along with the process of "federalization" of the party system, became evident. Regional aspirations in India encompass a wide range of demands, including statehood, economic development, autonomy, and separation. Instead of suppressing these aspirations, India adopted a policy of responding to them through

democratic negotiations.

In conclusion, coalition politics has had both positive and negative impacts on Indian politics. It has provided a viable and reliable alternative within the parliamentary democracy framework, acting as a safeguard against the collapse of the democratic system. Coalition governments make democracy more participative by ensuring that every small section of society is represented and heard in the legislature. They also address regional aspirations more effectively than single-party rule, as they are more democratic, dynamic, and represent a broader spectrum of public opinion. Additionally, coalition politics provides a platform for integrating regional aspirations into national goals, fostering a more inclusive and representative governance structure.

Recap

- Coalition politics: Temporary alliances shaping governance
- Regional aspirations: Diverse demands, cultural preservation
- Parliamentary coalition: No majority, shared governance
- Electoral coalition: Avoiding vote splitting, strategic alliances
- Governmental coalition: Power sharing, diverse representation
- Merits of coalition politics: Accommodation, reflecting popular opinion
- Demerits of coalition politics: Instability, decision-making complexities
- India's diverse regional parties: Representing specific regional interests
- Blurring lines: National and state party systems
- Balancing regionalism and nationalism: Unity amidst diversity

Objective Questions

1. What is the primary characteristic of coalition politics?
2. How many forms of coalition politics exist in India?
3. What is the essence of coalition politics?
4. What is the primary focus of regional parties?
5. What is the key factor in regional aspirations?
6. What is the potential disadvantage of coalition governments?
7. What is the underlying principle of coalition politics?

Answers

1. Alliance between political parties
2. Three
3. Convergence
4. Identity
5. Stability
6. Instability
7. Compromise

Assignments

1. Explain the features of Coalition Politics in India
2. Critically analyse the Regionalism and Regional Parties in India
3. What are the forms of Coalition Politics in India.

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BLOCK - 05

Understanding the Dimensions of Indian Federal System

SGOU

Unit 1
Indian Federalism: Features and Meaning

Learning Outcomes

By the end of the unit the learner will be able to:

- Identify and describe the key features of Indian federalism, including the distribution of powers between the central and state governments.
- Explain the meaning and significance of federalism in maintaining the balance of power in a diverse country like India.
- Discuss the impact of federalism on regional autonomy and national integration.
- Evaluate the challenges and successes of implementing federal principles in the context of India's political and administrative system

Prerequisites

In India, federalism is like a well-balanced orchestra, where various instruments come together to create harmony. The Indian Constitution sets up a federal structure where power is shared between the central government and the states. This division ensures that both levels of government have their distinct roles and responsibilities. The central government handles national issues, such as defense and foreign policy, while state governments manage local matters, like education and health. This arrangement allows different regions to address their unique needs while remaining part of a unified nation. Understanding Indian federalism reveals how this balance supports national unity while respecting regional diversity, ensuring that every part of the country has a voice in the democratic process.

Keywords

Federal System, Unitary System, Division of Powers, Bicameral Legislature, Independent Judiciary, Written and Rigid Constitution, Supremacy of Constitution

5.1.1 Indian Federalism: Uniting the Nation's Diversity

Indian federalism, intricately woven into the fabric of its governance, is a unique system that blends both federal and unitary characteristics. Guided by the provisions laid out in the Constitution of India, let us explore the features that make India a federation, where power is shared between the Central Government and State Governments.

5.1.1.1Two Levels of Government

A fundamental feature of federal states is the existence of two levels of government. In India, the Constitution establishes a Central Government, also known as the Union government, at the national level, and several State Governments at the regional level. Each government derives its powers from the Constitution, enabling them to address issues of national and regional importance respectively. The Central Government handles matters of national importance such as external affairs, defense, and currency, while the states govern areas like local development, agriculture, and law and order.

5.1.1.2 Written and Rigid Constitution

To ensure clarity in the division of powers and prevent arbitrary amendments, India has a written and rigid constitution. Both the central and State Governments draw their authority from this constitution. It provides a comprehensive framework for the political and administrative structure, delineates the powers and functions of various bodies, and establishes the boundaries of authority for each level of government. The rigidity of the constitution safeguards the sharing of powers and requires specific procedures for amending provisions related to center-state relations.

5.1.1.3 Constitutional Supremacy

The Constitution of India holds the highest authority in the country. All actions of governmental bodies must conform to the constitution, and any violation can be declared invalid by the High Courts or the Supreme Court. This principle of constitutional supremacy ensures adherence to the rule of law and preserves the balance of power between the Central Government and the states.

5.1.1.4 Division of Powers

A crucial element for the smooth functioning of a federal system is the division of powers between the center and the states. The Indian constitution addresses this aspect by categorising powers into three lists: the Union list, the State list, and the Concurrent list. The Union government has exclusive authority over the subjects in the Union list, while the states have exclusive authority over matters in the State list. The Concurrent list allows both the center and the states to legislate on certain subjects. In case of conflicts, the Central Government's law shall prevail. Additionally, subjects not mentioned in these lists fall under the legislative authority of the center, known as Residuary Powers.

5.1.1.5 Independent Judiciary

In order to resolve disputes arising from power-sharing matters between the center and states, as well as among the states themselves, an independent and impartial judiciary plays a vital role. The judiciary must function free from control or bias, and its separation from the legislature and executive is clearly defined in the constitution. The judiciary derives its power from the constitution, ensuring its independence from the executive and legislature.

5.1.1.6 Bicameral Legislature at the Central Level

A characteristic of federal forms of government is a bicameral legislature at the central level, consisting of two chambers that protect the interests and powers of the states. In India, we have the Rajya Sabha (Council of States) and the Lok Sabha (House of the People) as the two chambers. The Rajya Sabha represents the states of the Indian federation, while the Lok Sabha represents the people. The Lok Sabha holds greater powers as its members are directly elected by the people, whereas the election of Rajya Sabha members is limited to elected members of state legislative assemblies.

These features of Indian federalism provide the structural framework for governing a diverse nation like India. By balancing the powers between the Central Government and the states, India seeks to uphold unity while accommodating the regional aspirations and diversity that make the country truly unique.

5.1.2 Federalism and Indian Constitution

In the intricate fabric of Indian federalism, certain unitary features are evident, blurring the line between federal and unitary systems. These features play a significant role in influencing the power dynamics between the Central Government and the states. Let us explore these important unitary features that characterise Indian federalism.

5.1.2.1 Single Constitution

Unlike federal countries such as the United States or Canada, where states have their own separate constitutions alongside the national constitution, India follows a unique path. In India, states derive their power solely from the federal constitution. States cannot exceed the political and administrative structure laid down by the federal constitution, except for the special case of Jammu and Kashmir, which ceased to exist as a separate entity in 2019 with the repeal of Article 370.

5.1.2.2 Single Citisenship

In Indian federalism, there exists a single citisenship that applies to all citisens across the nation. Unlike some federal countries like the United States, Australia, or Switserland, where dual citisenship is recognised, India follows the Canadian model, where there is no separate citisenship for states. National citisenship prevails, bridging the gap between the union and the states.

5.1.2.3 Integrated Judicial System

While the division of powers between the center and the states typically results in separate legislative and executive mechanisms, India stands apart with its integrated judicial system. The Supreme Court of India holds the apex position, and all other courts in the states fall under its jurisdiction. This unitary feature is an extension of the single constitution system in Indian federalism. The central judicial mechanism has the authority to intervene and enforce laws at both the central and state levels.

5.1.2.4 Identity of States

The federal status of states in Indian federalism faces challenges that tilt the balance towards the Central Government, potentially undermining the spirit of federalism. One such concern lies in the representation of states in the upper house of the legislature, known as the Rajya Sabha. While the Rajya Sabha is intended to represent and protect state interests, representation in this house is not equal for all states. The distribution of seats is based on the population of states, unlike countries such as the United States, where each state is granted equal membership

in the upper house.

Additionally, the presence of All India Services further limits the federal character of India. Although the constitution provides for separate Public Service Commissions for the center and the states, All India Services such as the IAS, IPS, and IFS operate at both levels. Their recruitment, training, and disciplinary actions fall under the control of the Central Government, despite their role in state administration. This structural arrangement grants the Central Government significant influence over State Governments, contradicting the spirit of federalism.

Moreover, the position of the Governor, who heads the state as per the Indian constitution, mirrors the status of the President at the central level. Appointed by the President and serving at the pleasure of the Central Government, the Governor can intervene in certain legislative matters. The President also possesses an absolute veto over state bills, allowing for Central Government interference in specific state subjects.

5.1.2.5 Emergency provisions

The emergency provisions within the Indian constitution further challenge the functioning of federalism. National Emergency (Article 352) and Financial Emergency (Article 360) grant the Central Government with overriding powers which diminish the autonomy of the states. During an emergency, the Central Government exerts control over the states, effectively transforming the system into a unitary state without amending the constitution.

Furthermore, the power bestowed upon the Rajya Sabha to pass resolutions (Article 249) empowering the Parliament to legislate on state subjects in the interest of national importance showcases another unitary bias in Indian federalism. Additionally, the Parliament possesses the power to alter boundaries, and even rename states, limiting the states' rights over their territorial integrity.

5.1.2.6 Audit mechanism

Lastly, the central audit mechanism holds the power to audit both the center and the states without any power-sharing arrangements with the State Governments. The appointment and removal of the Controller and Auditor General of India, a central authority, lies solely with the President, granting intervention in the financial autonomy of the states. In contrast, many federal countries prohibit central audit mechanisms from interfering in state financial matters.

This unique blend of federal and unitary characteristics sets the Indian constitution apart. It is neither purely federal nor purely unitary, but rather a harmonious amalgamation of both systems. This allows India to harness the strengths of both federalism and unitary governance, institutionalising the merits of both within the Indian administrative framework. The constitution's peculiarity lies predominantly in its federal structure, functioning as a federal system in normal circumstances and seamlessly transforming into a unitary system during times of crisis.

Indian federalism is a product of both historical and geographical factors rather than a result of political agreements or pre-existing treaties. Unlike federations formed through agreements between independent sovereign states, such as in Canada, Indian federalism emerged through the disintegration of existing states. The Indian constitution adopted features from both the parliamentary and presidential systems, creating a unique hybrid model known as the "parliamentary federal system." This model was influenced

by the presidential system of the United States and the parliamentary system of the United Kingdom.

The federal character of Indian administration owes much to the legacy of British rule. As early as 1861, legislative powers were transferred to the provinces. The India Act of 1919 further devolved certain subjects, including health, irrigation, education, and public works, to the provinces, along with financial powers to manage these subjects. Finally, the Government of India Act of 1935 established a union with federal features.

India embraced federalism as a means to accommodate its socio-economic, historical, and cultural diversity while preserving unity and integrity. The framers of the constitution were mindful of the partition of India and the potential challenges to national unity. They believed that inserting federalism into the constitution might lead to secessionist demands in the future. Additionally, a strong Central Government was deemed necessary for balanced economic development across the country.

Dr. B.R. Ambedkar aptly described the unique nature of Indian federalism, noting its ability to be both unitary and federal as per the needs of the time. The constitution aimed to strike a balance between rigidity and flexibility, accommodating the diverse social demands, administrative and economic advancements, and political aspirations.

Although certain features may suggest a unitary character within the Indian federal system, it is by no means a unitary system. The constitution includes provisions for power-sharing between the Central Government and the states, particularly in legislative and executive matters. The existence of the Union List, State List, and Concurrent List ensures a clear delineation of powers, adhering to federal principles. The separate election systems for the central and State Governments, the independent election commission overseeing these elections, and the political culture developed through these processes contribute to the federal nature of India.

The 73rd and 74th constitutional amendments of 1993 further expanded the scope and meaning of Indian federalism. Moreover, India's federal nature is based on decentralisation and devolution of power to lower levels rather than centralising local and regional powers under a single center through a treaty or agreement. This process of decentralisation has facilitated the democratisation of Indian society, granting access to power to various sections of the population.

In conclusion, Indian federalism is a flagship of the democratic process, accommodating and managing the country's diversities while preserving unity and integrity. Unlike federal countries with more homogeneous social fabrics, such as the United States, Switserland, Canada, and Australia, India grapples with a multitude of diversities without compromising its unity. The federal system in India serves as a platform for democratisation and the political empowerment of the masses, providing greater access to power for various sections of society.

Recap

- Dual-level governance: Central and State Governments
- Written and rigid constitution: Clear framework, stable governance
- Constitutional supremacy: Upholding rule of law
- Division of powers: Power allocation and sharing
- Independent judiciary: Impartial judicial system
- Bicameral legislature: Two chambers protecting state interests
- Single constitution: States derive power from federal constitution
- Single citisenship: Uniform citisenship across the nation
- Integrated judicial system: Central authority over state courts
- Unitary features: Centralisation challenges federalism

Objective Questions

1. How many levels of government in Indian federalism?
2. Is the Indian constitution written or unwritten?
3. What principle ensures adherence to the constitution?
4. How many chambers in the central legislature?
5. Under which article President of India can proclaim a financial emergency?
6. How many citisenships are there in Indian federalism?
7. Is the Indian judiciary integrated or separate?
8. Who appointed the Comptroller & Auditor Gerenal of India?

Answers

1. Two
2. Written
3. Constitutional supremacy
4. Two
5. 360
6. Single
7. Integrated
8. President

Assignments

1. Discuss the significance of the division of powers between the central government and State Governments in Indian federalism.
2. Analyse the role of the judiciary in Indian federalism.
3. Examine the impact of unitary features on the federal character of Indian federalism.
4. Assess the effectiveness of the bicameral legislature in Indian federalism.
5. Explore the historical and geographical factors that have shaped Indian federalism.

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Unit 2
Division of Powers and Co-operative Federalism

Learning Outcomes

At the end of the unit the learner will be able to:

- Describe the division of powers between the central and state governments in the Indian federal system.
- Explain the principles of co-operative federalism and how they facilitate collaboration between different levels of government.
- Analyze the impact of power-sharing arrangements on the effectiveness of governance and policy implementation

Prerequisites

In the grand structure of India's governance, the division of powers is like a carefully drawn map, detailing where different responsibilities lie. The Constitution outlines clear boundaries: the central government oversees national affairs like defense and foreign relations, while state governments manage local issues such as education and public health. However, this division is not rigid. Co-operative federalism comes into play, emphasizing collaboration between the central and state governments. Picture them working together like partners in a project, sharing resources and coordinating efforts to address complex issues that span both local and national levels, such as environmental protection or infrastructure development. This collaborative approach ensures that while powers are divided, the two levels of government work in harmony to meet the needs of the country and its diverse regions.

Keywords

Cooperative federalism, Planning Commission, NITI Aayog, Interstate Council, National Development Council, Zonal Council, Finance Commission, Goods and Service Tax Council.

DISCUSSION

Every organisation in a society - social, economic, or political - needs some kind of formal or non-formal arrangements to achieve its aims and aspirations. The successful functioning of any institution demands the establishment of different units with clearly defined powers and functions. Decentralisation and division of functions are necessary even for small institutions and organisations. Different levels of power centers and functionalities exist for every institution and organisation. The problems of cooperation, financing, planning, etc. can be easily managed with differentiated institutional arrangements. Similarly, a state mechanism in modern times requires a clear-cut definition of power distribution.

Division of powers is considered an integral part of all federal governments. The US Constitution has clearly divided powers between two levels of government. In India, the division of powers is envisioned in the seventh schedule of the constitution, primarily in articles 245 and 246 of the Indian constitution. This division of powers mainly focuses on the division of legislative relations between the center and the states. The allocation of powers between the union and the states is specified in the Union list, State list, and Concurrent list in the Indian constitution. Initially, the Union list consisted of 97 items, the State list had 66 items, and the Concurrent list had 47 items. However, after certain constitutional amendments, there are now 99 subjects in the Union list, 66 subjects in the State list, and 47 subjects in the Concurrent list. As mentioned in the previous section, the Union list empowers the union government to make laws on subjects included in it. Likewise, the State list gives power to State Governments to oversee matters included in the State list. Both the center and the states can make laws on items included in the Concurrent list. Subjects not listed in these three lists are considered residuary items. According to the constitution of India, the Central Government has exclusive power to make laws on these items.

5.2.1 The territorial extent of Union and State Legislation

The functioning of the federal system of government in India is constitutionally based on the territorial boundaries of every state. The state legislatures have the authority to make laws in their own territories. The state legislature can make laws for a part or the whole of its territory to which it belongs (Art. 245(1)). The states in the Indian union do not have the power to expand their territorial jurisdiction except through an Act of Parliament. Thus, the territorial jurisdiction of States in India is decided by the union government, and states have no say in it other than to accept the decisions of the Parliament. As per Art 246(4), "the union government has the power to legislate for the whole or any part of the territory of India, which includes not only the states but also the Union Territories or any other areas, for the time being, included in the territory of India." The central parliament also has certain extraterritorial powers as per Art 245(2) of the constitution. The laws enacted by the union government are applicable not only to persons and property within the territory of India but also Indian subjects who reside outside the territory and their property situated anywhere in the world. However, the state legislatures of India do not have such powers.

5.2.2 Cooperative Federalism

Cooperative federalism is basically an attempt to develop a flexible relationship and cooperation between the center and

the states, among states, and between the State Government and local governments. Cooperative federalism, as a concept, aims to achieve a stable and tension-free relationship between the center and the states. Furthermore, cooperation extends to resolving common socio-economic and political problems that create stumbling blocks before the developmental process of both the center and the states. It is also known as 'marble cake federalism', where both work and interact together in an amicable manner to resolve common problems and implement various programs and policies. The history of cooperative federalism can be traced back to the Regulating Act of 1773, in which the Crown of England handed over the powers of administration to local governments. The Government of India Act of 1919, which provided diarchy in India, and the Government of India Act of 1935, which envisaged dual government in India, can also be considered milestones in this regard. This cooperative federalism has a peculiar feature of having a unitary bias. It is quite natural that in federal countries, there will be a dominance of the Central Government in policy making. In the implementation of these policies and programmes, the Central Government needs the cooperation from regional and local level governments. These circumstances necessitate cooperative federalism. Cooperative federalism is thus a deliberate initiative from the Central Government to cooperate with State Governments for the successful implementation of central policies. Both the Central Government and the State Governments benefit from cooperative federalism. While the center government receives the support and cooperation of State Governments, the State Governments receive central funds through different schemes and implement various welfare schemes with the help of the Central Government. In India, there are several mechanisms and establishments to ensure cooperative federalism between the center and State Governments. Let's discuss some mechanisms in India in the direction of cooperative federalism.

5.2.3 Mechanisms of Cooperative Federalism in India

5.2.3.1 Planning Commission

The Planning Commission was constituted through a resolution of the Government of India on 15 March 1950. It was an extraconstitutional and non-statutory body. The main function of the commission was to advise the government on economic and developmental matters. The Planning Commission assessed all the resources of the country and prepared plans for the effective utilisation of these resources, ensuring balanced development in the country. The Prime Minister was the chairman of the Planning Commission. In addition, a Deputy Chairman and some full-time and part-time members were included in it. They prepared Five-Year Plans, Annual Plans, Special Projects, and Schemes and evaluated the progress of plans, programs, and schemes that had already been inaugurated. The composition of the Planning Commission was somewhat flexible. The Finance Minister, Minister of Planning, and other ministers were members of the Commission from time to time.

Functions of the Planning commission:

1. Estimate the manpower, materials, and other resources, including capital, and identify the strengths and weaknesses of the country's resources.
2. Identify areas in which country is lagging and suggest remedies to resolve them.
3. Formulate developmental plans, programs, schemes, and projects based on

the available resources.

4. Prioritise developmental issues and prepare a detailed plan of action for staged implementation.
5. Analyse the factors that adversely affect our developmental programs.
6. Suggest measures to be taken for effective implementation and achievement of maximum plan objectives.
7. Establish the mechanisms and structures necessary for the fruitful implementation of plans and prescribe the structural changes needed in existing mechanisms.
8. Periodically and timely evaluate the progress of programs, schemes, and plans conducted by the commission.
9. Recommend interim modifications and changes to ongoing plans in the context of the socio-economic and political conditions of the country.
10. Design a holistic approach to the comprehensive development of Indian society.
11. Maximise output from minimum resources, another focus of the Planning Commission.
12. Ensure the gradual, balanced advancement of the standard of living for all by providing opportunities to all.

Several criticisms have been leveled against the Planning Commission throughout its period of action. In 2014, the Central Government dissolved the Planning Commission, replacing it with the NITI Aayog.

5.2.3.2 The *NITI Aayog*

The National Institution for Transforming India (NITI) Aayog was formed on January 1, 2015, based on a cabinet resolution passed on the same day. The NITI Aayog represents a directional change from its predecessor, the Planning Commission, in many ways, particularly in its approach and functions. It has been established to materialise the broad objectives of cooperative federalism and strengthen good governance in India. The transformation from the Planning Commission to NITI Aayog is not merely a structural change; it marks a shift from a command economy structure to operating in the context of the global economy. The age of "top-to-bottom approach and one-sise-fits-all" has ended, and the diversity of India and the different levels of economic development in states demand a new bottom-up approach. India must make use of its strengths and weaknesses in the socio-economic scenario of a competitive global economy, requiring a novel approach.

Structure of the *NITI Aayog*

The NITI Aayog shares almost the same organisational framework as the Planning Commission. The Prime Minister of India serves as the Chairperson, with a Vice-Chairperson, four full-time members, two part-time members, four ex-officio members from the Council of Ministers, and a Chief Executive Officer responsible for managing administrative responsibilities, including the Secretariat of NITI Aayog. It has a Governing Council comprising all Chief Ministers of States and Union Territories with legislatures, as well as Lieutenant Governors of other UTs. A Regional Council is also constituted to address issues involving two or more states or a region. Chief Ministers and Lieutenant Governors of UTs are members of the Regional Council.

Functions

The NITI Aayog is a think-tank on public policy for the Government of India. It serves as an auxiliary mechanism to foster cooperative federalism by involving State Governments in the policy-making process. The website of NITI Aayog defines its role in fostering

cooperative federalism as follows:

"NITI Aayog has been constituted to actualise the important goal of cooperative federalism and to enable good governance in India. Based on the premise that strong states make a strong nation, NITI Aayog acts as the quintessential platform for the Government of India by bringing states together as 'Team India' to work towards the national development agenda."

In view of this, NITI Aayog has taken a number of steps to foster cooperative federalism through structured support initiatives and engagement with the states or UTs on a continuous basis. These include meetings between the Prime Minister or Cabinet Ministers and all Chief Ministers, subgroups of Chief Ministers on subjects of national importance, sharing of best practices, policy support and capacity development of state/UT functionaries, launching the Aspirational Districts Programme for the development of backward districts, theme-based extensive engagements in various sectors, framing model laws for land leasing and agriculture marketing reforms, and area-specific interventions for the North-Eastern and Himalayan states and island development.

"NITI Aayog has been providing relevant technical advice to the Centre, states, and UTs. NITI Aayog has also established models and programs for infrastructure development and to establish and reignite private-public partnerships, such as the Centre-state partnership model Development Support Services to States and Union Territories (DSSS); and the Sustainable Action for Transforming Human Capital (SATH) program."

Thus, the main functions of the NITI Aayog are to facilitate good governance, bring states together as "Team India," provide a platform for sharing ideas and practices among states and between states and the center, provide technical advice to both the center and the states, facilitate partnership development projects, center-state partnerships, and public-private partnership programs.

5.2.3.3 The Inter-State Council

The Inter-State Council is another structural arrangement exclusively meant for improving cooperative federalism in India. The main focus of the Inter-state Council is to strengthen federalism in the country.

Article 263 of the Indian constitution envisages that:

"If at any time it appears to the President that the public interest would be served by the establishment of a council charged with the duty of:

- enquiring into and advising upon disputes that may have arisen between states.
- investigating and discussing subjects of common interest between Union and States or between two or more states.
- making recommendations upon any such subject and, in particular, recommendations for the better coordination of policy and action on it."

The affairs of the Inter-state Council are administered with a Secretariat headed by the Secretary to the Government of India. The constitution of the Inter-state Council is one of the major recommendations of the Sarkaria Commission (1983-1987). The first Inter-state Council was formed in 1990. In 1996, a Standing Committee of the Interstate Council was instituted for continuous intervention in the issues before the council. The following are the members of the Council:

a) Prime Minister as Chairman

b) Chief Ministers of all States

c) Chief Ministers of UTs having Legislature

d) Administrators of UTs not having Legislature

e) Six union cabinet ministers including Home Minister, nominated by the Prime Minister to this Council.

5.2.3.4 The National Development Council

The National Development Council (NDC) is an organisational setup meant for strengthening, mobilising, and channelising the resources of the country conducive to the plans prepared by the Planning Commission. Furthermore, it tries to provide a positive direction and coordination to Five Year Plans. In short, it is an auxiliary agency to fulfill the broad goals of the Planning Commission. The NDC was formed in 1952, and during its formation, the NDC was composed of the Prime Minister as the Chairman, Chief Ministers of states, and all members of the Planning Commission. Later, all Union Cabinet ministers, Chief Ministers, or their substitutes, and representatives of Union Territories were included in the NDC. A Secretary will be there to perform the administrative and other duties of the council. Standing committees were also formed to accelerate the efficiency of the NDC. Experts from various fields were invited to the NDC to deliver special talks in the meetings.

The functions of the NDC are centered on the development plans of the country. They review the working of National Plans, recommend remedial measures to attain the goals of the National Plan, evaluate the hindrances before national development, suggest measures for the participation of people, and suggest the instruments to improve the efficiency of civil servants. Based on the recommendations of the Administrative Reforms Commission (1967), the functions of the NDC have been modified, and more provisions were included. Prescription of guidelines for the plan, assessment of resources for the plan, consideration of the prepared National Plan, and periodical review of the current plan are the redefined roles of the NDC.

5.2.3.5 Zonal Councils

Zonal Councils are extra-constitutional bodies that came into existence to smooth the center-state relations and promote emotional integration among the States. Established by the The State Reorganisation Act of 1956, it divided the country into five zones: Northern, Central, Eastern, Western, and Southern. Each Zonal Council includes the Union Home Minister as the common Chairman Chief Ministers of all States in the zone, two other ministers from each state, and an administrator from the territory. In addition to these persons, the Chief Secretary from the states of the zone, development commissioners of each state, and a person nominated by the Planning Commission are also included as advisors. The Union Home Minister acts as the chairperson of all the Zonal Councils. Besides the Zonal councils, there is a North Eastern Council set up in 1971 to deal with the common problems of the north Eastern states.

The Zonal Councils are statutory bodies established to promote cooperation and coordination between states, UTs, and the Centre. They have a deliberative and advisory role and make recommendations on issues like development, planning, problems of minorities, disputes over territory, Interstate transport, etc. These Zonal Councils also have certain broad objectives and goals. Bringing

national integration is the prime motto of Zonal Councils. They also work towards arresting trends like extreme state consciousness, regionalism, linguism, and particularistic trends. By ensuring cooperative federalism through the exchange of ideas, experience, and policies, the councils aim to heal the after-effects of state reorganisation and integration. They also aim to achieve cooperation in areas such as the successful and speedy implementation of development projects and the attainment of political equilibrium among different regions of the country.

5.2.3.6 Finance Commission

The Finance Commission is a mechanism to strengthen cooperative federalism by smoothing the center-state financial relations, improving the quality of public spending, and protecting fiscal stability. As per Article 280 of the Indian Constitution, the Finance Commission was formed by passing the Finance Commission (Miscellaneous Provisions) Act, 1951. The just allocation of available resources is the prime objective of the Commission. It is periodically constituted by the President of India, and all the members are also appointed by him. The chairman of the commission must be a person having experience in public affairs. Other four members may be drawn fields A High court judge or one qualified to be appointed as such, a person having special knowledge in finance and account of the government, a person having wider experience in financial matters and administration, and a person having knowledge of economics are other members of the commission. The commission has to be constituted by the president in every five years.

Functions

It shall be the duty of the Commission to make recommendations to the President as to:

- The distribution between the Union and the units of the net proceeds of taxes that are to be, or may be, divided between them and the allocation between the States of the respective shares of such proceeds.
- The principles that should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India.
- The measures needed to augment the Consolidated Fund of a State to supplement the resources of the Panchayats in the State based on the recommendations made by the Finance Commission of the State.
- The measures needed to augment the Consolidated Fund of a State to supplement the resources of the Municipalities in the State based on the recommendations made by the Finance Commission of the State.
- Any other matter referred to the Commission by the President in the interests of sound finance.

The Commission determines its procedure and has such powers in the performance of their function as Parliament may by law confer on them.

Recap

- Institutions require clear power distribution
- Division of powers in federal governments
- Indian constitution specifies power allocation
- Territorial jurisdiction of states in India
- Cooperative federalism promotes collaboration
- Planning Commission advised on economic matters
- NITI Aayog replaced Planning Commission
- Inter-State Council strengthens federalism
- National Development Council coordinates plans
- Finance Commission ensures resource allocation

Objective Questions

1. What is the purpose of division of powers in institutions?
2. What are the three lists specified in the Indian constitution for power allocation?
3. Who determines the territorial jurisdiction of states in India?
4. What is the term used to describe collaboration between the center and states?
5. Which institution advised on economic matters in India before 2014?
6. What replaced the Planning Commission in 2015?
7. What is the role of the Inter-State Council in India?
8. What is the main function of the National Development Council?
9. What does the Finance Commission ensure in center-state relations?
10. What is the term used for coordination and review of Five-Year Plans?
11. Who is the Chairperson of NITI Aayog?

Answers

1. Clear power distribution.
2. Union list, State list, and Concurrent list.
3. The Union government.
4. Cooperative federalism.
5. Planning Commission.
6. NITI Aayog.
7. Strengthening federalism.
8. Coordinating and reviewing plans.
9. Fair resource allocation.
10. National Development Council.
11. Prime Minister

Assignments

1. Discuss the significance of cooperative federalism in governance and problem-solving between the center and states.
2. Explain the division of powers in federal governments and its importance for balancing central authority and state autonomy, with examples from India.
3. Assess the role of the Planning Commission and NITI Aayog in India's economic planning and their impact on cooperative federalism.
4. Evaluate mechanisms like the Inter-State Council, National Development Council, and Finance Commission in fostering cooperative federalism in India.
5. Analyse the challenges and prospects of cooperative federalism in India, considering political dynamics, regional aspirations, and economic disparities, and propose recommendations for strengthening it.

Suggested Reading

1. B, L., Fadia, and Kuldeep, Fadia, *Indian Government and Politics*, Sahitya Bhagvan, Agra, 2022.
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Unit 3
Centre-State Relations: Legislative, Administrative and Financial

Learning Outcomes

At the end of the unit, the learner will be able to:

- Understand the legislative powers and responsibilities of the central and state governments, including the scope of their jurisdiction.
- Explain the administrative relations between the central and state governments, focusing on coordination and implementation of policies.
- Describe the financial arrangements between the centre and states, including revenue sharing and grants.
- Discuss the challenges and issues in centre-state relations and their implications for national and regional administration

Prerequisites

In India, the relationship between the central and state governments is crucial for maintaining balance and order. Picture the central government as the captain of a large organization, setting broad policies and national laws. The state governments, like department heads, handle specific local tasks and ensure these policies are adapted to regional needs. Legislative relations involve both levels working together to create laws that cover national and regional concerns. Administrative relations focus on how policies are implemented, requiring cooperation to ensure smooth execution. Financial relations address how funds are distributed and managed, ensuring both levels of government have the resources needed to perform their duties. This dynamic interaction helps maintain a stable and effective governance structure, addressing the diverse needs of the entire country

Keywords

Union list, State list and Concurrent list, Legislative relations, Administrative relations, Financial relations, Residuary powers

DISCUSSION

As previously discussed, every social organisation requires a certain level of division and decentralisation of its powers. The existence and authority of any organisation depend on the support received from its members. To secure this support, the organisation should ensure the participation of its members in day-to-day activities. It is essential for the organisation to establish clear rules, procedures, and different levels of authority to effectively manage its operations. In a multicultural society like India, centralisation of power is not sustainable for any system, regardless of its nature. Both political and non-political organisations have power distribution arrangements based on their respective rules and regulations. These arrangements clearly define decision-making authority and the powers allocated to each level of the organisation. The effectiveness of an organisation relies on how well it implements these principles.

The division of powers as per the Indian Constitution has allocated legislative, administrative, and financial responsibilities between the Central Government and the States. This division is outlined in Parts XI and XII of the Indian Constitution. Chapters I and II of Part XI address legislative and administrative relations, respectively, while Part XII defines financial relations. Articles 245 to 300 cover the center-state relations.

5.3.1 Legislative Relations

The legislative relations between the Centre and the States are detailed in articles 245 to 255 of the Constitution. Additionally, there are other articles in the Constitution that deal with the federal features of the Indian union. The legislative relations outlined in the Indian Constitution can be broadly classified into three categories: *territorial jurisdiction of the center and state legislatures, division of legislative subjects, and legislative power of the union in the state list and state legislation*.

Article 245 of the Indian Constitution States that Parliament can enact laws for the entire territory of India or any part thereof. The States, Union Territories, and other areas under the jurisdiction of the government are considered part of the territory of India. Similarly, state legislatures can enact laws for the whole or any part of the territory falling within their jurisdiction. Generally, laws passed by a State Legislature do not apply to other states. The exclusive right to pass extraterritorial legislation lies with the Parliament. The legislations enacted by the union government apply to all Indian citizens regardless of their location, whereas state legislatures do not have the authority to pass extraterritorial legislations. The Constitution also imposes limitations on the territorial extent of law-making powers for both the center and State Governments. The President of India has the power to make regulations for four Union Territories: the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, and Daman and Diu. These regulations hold the same validity as Acts of Parliament, allowing the President to repeal or amend any Act's jurisdiction for these Union Territories. The Governor has the authority to declare an Act of Parliament inapplicable to scheduled areas within the state or make exceptions and modifications to the Act. Similarly, the Governor of Assam can withhold an Act of Parliament in Tribal Areas that have autonomous status. The President possesses the same power in the case of autonomous districts in Meghalaya, Tripura, and Mizoram.

As previously discussed, the distribution of legislative subjects in the Indian Constitution consists of three lists: the Union List, the State List, and the Concurrent List. These lists are included in the Seventh Schedule of the Indian Constitution. The table below provides an overview of the important items in these three lists:

Table 5.3.1 Union List, State List, and Concurrent List with their respective items

Subjects included in the Union List	Subjects included in the State List	Subjects included in the Concurrent List
▶ Defence ▶ Banking ▶ Foreign Affairs ▶ Currency and coinage ▶ Atomic Energy ▶ Insurance ▶ Communication ▶ Interstate trade and Commerce ▶ Diplomatic, consular and trade representation ▶ Census ▶ Audit ▶ War and peace ▶ Citisenship ▶ UPSC and All India Services ▶ Patents and copyrights ▶ Navigation and shipping ▶ National highways and so on	▶ Public order ▶ Police ▶ Jail ▶ Public health and sanitation ▶ Land ▶ Local-self government ▶ Agriculture ▶ Prisons ▶ Local government ▶ Fisheries ▶ Markets and fairs ▶ Theatres and dramatic performances; cinemas ▶ Libraries, museums and other similar institutions controlled or financed by the State and so on	▶ Criminal law ▶ Criminal procedurea ▶ Preventive detention for the security of states ▶ Marriage and divorce ▶ Bankruptcy and insolvency ▶ Trade union ▶ Labour welfare ▶ Electricity ▶ Infant and minors ▶ Adoption and succession ▶ Education ▶ Economic and social planning ▶ Social security and so on.

5.3.2 Residual Powers

In Indian federalism, the residual power is vested in the Union according to Article 248 of the Indian constitution. The Parliament possesses absolute authority to legislate on subjects not listed in the three aforementioned categories. This power encompasses the creation of new laws and the imposition of taxes on items not included in the Union, State, or Concurrent lists.

5.3.3 Legislative Power of the Union in the State List

There are certain exceptional circumstances underwhich the powers of Union parliament are extended over state subjects. These exceptional circumstances are :

a) In the National Interest

The Parliament can enact laws concerning matters included in the State list in the interest

of the nation. Article 249 states that the Rajya Sabha, with the support of at least two-thirds of the present and voting members, can pass a resolution deeming it necessary or expedient in the national interest for Parliament to legislate on a specific matter enumerated in the State list. The resolution remains in effect for a maximum period of one year, as specified therein. If a resolution approving the continuation of such legislation is passed, it remains in force for an additional year from the date it would otherwise have ceased to be in effect.

b) Under proclamation of Emergency under Article 352

While a proclamation of 'Emergency' made by the president is in operation, Parliament shall have power to make laws on any matter in the state list.

c) During a state of emergency

As outlined in Article 252 or 256, the Parliament has the authority to legislate on subjects included in the State list. In this period, if a state law contradicts a Union law, the state law is suspended and the Union law takes precedence.

d) The Parliament can enact a law on a subject included in the State list if two or more states pass a resolution to that effect. The Parliament then formulates the law based on the resolution, which applies only to the States that have passed the resolution. The power to amend or repeal such a law lies with the Union Parliament (Article 252).

e) The Parliament has the power to enact laws for the entire country or any part of the Indian territory to implement treaties, agreements, conventions with foreign countries, or decisions made at international conferences, associations, or other bodies (Article 253).

f) As per Article 200, the Governor can reserve a bill passed by a State legislature for the President of India's consideration. The President can either provide consent, withhold it, or return the bill to the State legislature for reconsideration along with recommendations.

5.3.4 Administrative Relations

Certain provisions in our constitution govern the administrative relations between the Central Government and the States. The structure of administrative relations in India is based on legislative relations, as discussed in the preceding section. The following are the key provisions:

a) Article 256 provides that the executive power of the State shall be so exercised as to ensure compliance with the laws made by parliament and the executive power of the union shall also extend to the giving of such direction to the state as it may deem essential for the purpose.

b) The executive power of each State should not hinder or prejudice the exercise of the executive power of the Union.

c) The Union's executive power extends to issuing directions to a state to ensure the construction and maintenance of communication of national or military importance; to ensure protection of railways within the states; to ensure drawing and execution of schemes for the welfare of SCs and STs; to ensure provision of adequate facilities for the instruction in mother-tongue at the primary stage of education to children belonging to linguistic minority groups; to ensure the development of Hindi language; and to ensure that the government of a state is carried

on in accordance wht the provisions of the constitution.

d) Mutual delegation of functions between the central and State Governments is provided for to ensure flexibility and avoid deadlock. The Constitution allows the Union to confer certain powers on states in specific cases. Under Article 258, the President, with the consent of the Governor, can entrust conditional or unconditional functions to the State Government or its officers in matters falling within the executive power of the Union. Similarly, under Article 258A, the Governor, with the consent of the Government of India, can entrust to that government any executive function of the state.

e) The Constitution establishes structures to promote cooperation among states and between the Central Government and States. Adjudication of inter-state disputes related to water is one such provision. The Parliament holds the power to adjudicate complaints regarding the use, distribution and control of water of any of inter-state rivers and river valleys. Article 263 establishes an Inter-State Council to investigate and discuss common concerns between the Central Government and States.

f) The establishment of All India Services (IAS, IPS, and IFS) plays a crucial role in the administrative setup. Civil servants in these cadres occupy top positions in both the Union and the State Governments. These members handle daily administrative activities and policy-making for both levels of government. While they serve both the central and State Governments, their recruitment and training are conducted by the Central Government. The immediate control over members of All India Services working in states rests with the State Governments, but ultimate authority lies with the Central Government. Additionally, Article 312 grants the Parliament the power to create a new All India Service if the Rajya Sabha passes a special resolution empowering the Parliament to do so.

g) In the case of State Public Service Commissions, the Central Government possesses certain administrative powers. The President of India is the sole authority with the power to remove the Chairman and members of the State Public Service Commission, even though they are appointed by the Governors of the state.

Parliament can establish a Joint Public Service Commission (JPSC) for two or more states upon request from the respective state legislatures. The President will appoint the chairman of the commission.

The Union Public Service Commission can carry out its functions in a state if the Governor of that state makes a request and the President approves it.

During times of emergency, the relationship between the central and state administrations differs from normal times. The Central Government can issue executive directives to the states on any matter during a National Emergency. Under a National Emergency or President's Rule (Article 352), the Union government takes over all administrative powers of the States. Similarly, during a State Emergency, the President assumes all the functions of the State Government and the powers vested in the Governor or any other executive authority (Article 356).

During external aggression or internal disturbances, the Union government has the power and responsibility to protect every state. In such situations, the Centre must ensure that the government of every state operates in accordance with the provisions of the Constitution (Article 355).

The role of the Governor in state administration involves various administrative controls and frictions. The President of India holds the power to appoint and dismiss the Governors of the States. In practice, it is the union cabinet that determines the political fate of the state governors. The Governor holds the executive power of the state, which they can exercise directly or through officers or subordinates in accordance with the Constitution of India (Article 154). In summary, the Central Government can exert control over State Governments and their administrative processes through the office of the Governor.

5.3.5 Financial Relations

In federal countries, there should be a mechanism for dividing financial powers. In India, the financial relations between the Centre and the States are mainly described in Part XII of the Constitution (Article 268-293). Similar to the legislative and administrative division of powers, the financial powers are distributed between the Centre and the States based on the Three Lists. Union List, State List and Concurrent List.

The Union List specifies the subjects in which the Parliament has the exclusive power to levy taxes. The State List enumerates the subjects on which the State legislatures can levy taxes. The Concurrent List allows both the Centre and the States to levy taxes. The Parliament holds the residual power of taxation for subjects not mentioned in the above three lists. The Union has the upper hand in imposing and collecting taxes, and there are several restrictions on the power of taxation of State Governments. According to the Constitution, no tax can be levied except by the authority of law (Article 265). Under Article 266, the Parliament has the power to establish the Consolidated Funds and Public Accounts of India and the states. The Union can create a Contingency Fund to cover unexpected expenses, pending authorisation by Parliament.

5.3.6 Distribution of Tax Revenue

a) Taxes levied by the Centre but collected and appropriated by the States - This includes stamp duties on bills of exchange, cheques, promissory notes, and others. Additionally, duties of excise on medicinal and toilet preparations containing alcohol, as mentioned in the Union List (Article 268).

b) Taxes levied and collected by the Centre but assigned to the States - This category includes duties concerning succession to property (excluding agricultural land), state duty on property (excluding agricultural land), and taxes on the sale or purchase of goods during inter-state trade or commerce (excluding newspapers) (Article 269).

c) Taxes levied and collected by the Union and distributed between the Union and the States - Taxes on income (excluding agricultural income) are levied and collected by the Government of India and distributed between the Union and the States (Article 270).

d) Levying Surcharges - The Parliament has the power to increase any duties or taxes by imposing a surcharge on items included in Articles 269 and 270 for the benefit of the Union Government. Such surcharges levied by the Union form part of the consolidated fund of India (Article 272).

e) Taxes levied and collected and retained by the States - This category constitutes the main revenue for the States and includes taxes levied on items listed in the State List. It encompasses land revenues, taxes on agricultural income or succession to agricultural land, estate

duty on agricultural land, taxes on lands and buildings, mineral rights, animals and boats, road vehicles, excise duties on alcoholic liquors and narcotics, consumption or sale of electricity, sale and purchase of goods (excluding newspapers), goods and passenger tax, taxes on professions, trades, callings, and employments not exceeding ₹2500 per year, capitation taxes, tolls, stamp duty on documents, sales tax (except those specified in the Union List), sales tax (other than newspapers), and fees on matters enumerated in the State List (except court fees).

5.3.7 Major Non-tax Revenues of the Centre and the States

The major non-tax revenue sources for the Union government include customs, corporation tax, surcharge on income tax, fee in tespect of matters in the union list.

Apart from tax sharing between the Centre and the States, there are certain schemes for financial assistance to the States, including:

a) Grants-in-aid to States: The constitution provides two types of grants-in-aid from the Centre to the States, viz.statutory grants and discretionary grants.

1) Statutory Grants - The Parliament has the power to allocate grants to the states which are in need of financial assistance and not to every states. Also different sums may be fixed for different states. on the consolidated fund of India (Article 275).

2) Discretionary Grants fall under Article 282 of the constitution, which allows both the Union and the States to provide grants for any public purpose, even if it is not within their legislative authority. This provision enables the Union Government to make grants to the States based on the recommendations of the Planning Commission. The decision to allot a grant under this provision rests entirely on the discretionary power of the Centre, hence known as discretionary grants.

b) Other Grants - The third type is a grant for a temporary period. It provides grants to states like Assam, Bihar, Orissa, and West Bengal in lieu of export duties on jute and jute products. The funds for this grant are charged from the consolidated fund of India and made to the state on the recommendation of Finance Commission

5.3.8 Borrowing by the Union and the State Governments

The Central Government can borrow money using the Consolidated Fund of India as security, subject to the limitations set by the Parliament. State Governments can borrow money only within India and cannot raise a new loan without the consent of the Union Government if any part of the loasn which has been made by the government of India is still outstanding

5.3.9 The Comptroller and Auditor General of India

The Comptroller and Auditor General of India is a constitutional body responsible for auditing the receipts and expenditures of the Government of India and the State Governments, including those of autonomous bodies and corporations substantially financed by the Government. The Parliament can assign the Comptroller and Auditor General with duties and powers related to state accounts, as deemed appropriate. In the absence of legislation, but with the prior approval of the President, the Comptroller and Auditor General may determine the form in which state accounts are to be maintained.

5.3.10 The Finance Commission

The Finance Commission also possesses advisory powers that influence the financial relations between the Centre and the States. The Commission can make recommendations to the President on the following matters:

(i) Distribution of taxes between the Union and the States, as well as the allocation of respective shares among the States.

(ii) Principles governing grants in-aid of the revenues of the States from the consolidated fund of India.

(iii) Any other matter referred to the Commission by the President in the interest of sound finance.

5.3.11 Financial Emergency

During a financial emergency, the Central Government has the authority to instruct the States to adhere to proper financial practices. Additionally, the President has the power to direct the States to reduce the salaries and allowances of high officers of the State, including the High Court Judges. Furthermore, all money bills and other financial bills must be reserved for the President's consideration (Article 360).

The functioning of federalism in India is influenced by the aforementioned factors. The nature and operation of Indian federalism are determined by constitutional and non-constitutional bodies and institutions. The relationships between the Central and State Governments in terms of administration, finance, and legislation are often turbulent, characterised by fluctuations between centralisation and decentralisation. Financial centralisation may prevail at times, while administrative or legislative centralisation may be relatively limited. This is due to the fact that legislative and administrative centralisation places a heavier burden on the Central Government. Over the past few decades, the implementation of tax-sharing reforms has significantly increased the degree of financial centralisation within our federal system. There are also inclinations towards centralisation in administrative and legislative relations.

Recap

- Division of powers in governance
- Legislative relations in India
- Territorial jurisdiction and law-making powers
- Distribution of legislative subjects
- Residual powers in Indian federalism
- Administrative relations and controls
- Role of Governors in state administration
- Financial relations between Centre and States
- Tax revenue and non-tax revenues
- Grants-in-aid and borrowing by governments

Objective Questions

1. What is the term used to describe the division and decentralisation of powers in a social organisation?
2. In a multicultural society like India, what type of power distribution is not sustainable for any system?
3. Which parts of the Indian Constitution address legislative and administrative relations between the Centre and the States?
4. What are the three lists included in the Seventh Schedule of the Indian Constitution?
5. Which article in the Indian Constitution grants Parliament the power to legislate on matters enumerated in the State list?
6. What is the term for the absolute authority of the Parliament to legislate on subjects not listed in the three categories?
7. Under what circumstances can the Parliament legislate on subjects included in the State list?
8. What happens to a state law if it contradicts a Union law on the same subject?
9. Which article grants the Parliament the power to create new All India Services?
10. What is the primary source of non-tax revenue for the states?

Answers

1. Division and decentralisation
2. Centralisation
3. Parts XI and XII
4. Union List, State List, Concurrent List
5. Article 249
6. Residual power
7. During a state of emergency
8. The State law becomes inoperative and void
9. Article 312
10. Taxes on subjects listed in the State List

Assignments

1. Discuss the importance of power division and decentralisation in social organisations.
2. Analyse the challenges and advantages of power distribution in a multicultural society like India.

3. Explain the significance of legislative relations between the Centre and the States in the Indian Constitution.
4. Describe the role of the Union List, State List, and Concurrent List in the Indian Constitution.
5. Explore the concept of residual powers in Indian federalism.
6. Evaluate the financial relations between the Centre and the States in India.

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Unit 4
Challenges to Indian Federalism

Learning Outcomes

At the end of the unit the learner will be able to:

- Identify and describe the key challenges facing Indian federalism, including regional disparities and inter-governmental conflicts.
- Analyze the impact of political, economic, and social factors on the functioning of the federal system.
- Discuss strategies and mechanisms used to address and resolve federalism-related issues in India.
- Evaluate the effectiveness of current approaches in maintaining balance and stability within the Indian federal system

Prerequisites

In the complex landscape of Indian federalism, challenges arise as the country strives to balance unity with diversity. Think of federalism as a grand tapestry woven from different threads, each representing various states with unique cultures and needs. Despite the strong framework for shared governance, tensions can surface when states and the central government disagree on policies or resources. For instance, disparities in economic development can create friction over financial allocations. Additionally, political conflicts and regional demands often test the limits of federal principles. Navigating these challenges requires constant negotiation and adaptation to ensure that every region feels heard and represented while maintaining national cohesion. Understanding these challenges helps us appreciate the efforts needed to keep India's federal system both flexible and stable.

Keywords

The Governor, Financial powers, Parliament, Regionalism, Coalition politics, Interstate water disputes, Interregional disparities

Discussion

Every political system encounters various challenges throughout its existence, and India is no exception. Since its independence, India has grappled with numerous administrative, political, legislative, and financial challenges. The success of the Indian state hinges upon its ability to address these challenges effectively, utilising the mechanisms available. In this comprehensive analysis, we will delve into the challenges faced by India's federal system, providing a detailed description of their nature and implications.

5.4.1 Federalism: Balancing Self-Rule and Shared Rule

At its core, federalism is a structural framework designed to promote self-rule and shared rule, fostering a delicate balance between the Central Government and regional entities. In India, federalism has evolved through constitutional processes, extra-constitutional bodies, and the party system. However, since the adoption of the constitution, Indian federalism has encountered a multitude of issues and challenges. Socio-political and economic factors have significantly influenced the practice of federalism, resulting in significant transformations. While the constitution has played a crucial role, political practices since the 1950s have also presented their own set of challenges. Let us embark on a survey of these challenges.

5.4.1.1 Structural Challenges

Constitutionally, Indian federalism exhibits a unitary bias, deviating from the traditional concepts of federalism observed in countries like the USA, Switserland, and Australia. The circumstances surrounding independence compelled the framers of India's constitution to tilt towards centralisation, giving Indian federalism a dual identity. Scholars like K.C. Wheare (1964) have labeled Indian federalism as a "quasi-federation," describing it as a unitary state with subsidiary federal features rather than a federal State with subsidiary unitary features. The following challenges stem from the structural arrangements within the Indian Constitution.

The Office of the Governor

A significant challenge faced by Indian federalism lies in the powers vested in the office of the Governor and the Central Government's influence through this position. Article 356 empowers the Central Government to dismiss State Governments and dissolve their legislatures based on the Governor's report. The imposition of President's rule based on the Governor's recommendation contradicts the principles of federalism and democracy. Additionally, Article 200 allows the Governor to reserve State Government bills for the President's consideration, further centralising power and undermining federal principles. Although the constitution envisioned minimal intervention by the Governor in state politics, interventions driven by the Union government's partisan interests have led to political crises and hindered democratic processes in several states. The unaccountable nature of the Governor's appointment, removal, and decision-making exacerbates these challenges, as their actions often align with the interests of the Central Government.

Emergency Powers

The emergency powers granted to the Central Government present another hurdle to establishing true federalism. During a national, state, or financial emergency, the Central Government becomes all-powerful, transforming the country into a unitary state with authoritarian characteristics. Under Article 353, the executive power of the Union

extends to directing states on how to exercise their executive power. Moreover, the Union Parliament gains the authority to make laws and impose duties on the Union and its officers, even if not explicitly enumerated in the Union List. The frequent use of Article 356 to dismiss State Governments and dissolve legislatures further strengthens the unitary aspects of the Indian political system, rather than upholding federal principles.

Financial Powers

The financial powers vested in the Central Government have transformed Indian federalism into a union of dependent states in terms of financial resources. Mechanisms like the Finance Commission, responsible for distributing taxes between the Centre and States, have inadvertently placed subjects requiring significant expenditures under the State List. As a result, states rely heavily on the Central Government to meet their financial obligations for implementing constitutional responsibilities.

Additionally, states require additional financial support from the centre to implement social welfare programs. The Planning Commission, until its replacement by NITI Aayog in 2015, further increased states' dependence on the Central Government by deciding their economic development.

Fiscal federalism in India provides limited revenue sources to states, leading to a decline in their capacity to meet expenses through tax-based resources. Consequently, states increasingly rely on loans and advances from the Central Government, which can lead to a debt trap. The implementation of the Goods and Services Tax (GST) in 2017 further impacted state revenue, potentially compromising the principles of fiscal federalism. States now await their share of revenue from the centre, leading to concerns about the centralisation of revenue sources and widening disparities among states. However the distribution of funds to the states are uneven, with some states benefitting more than others. This often leads to conflict between the States and the Central Government.

The Indian federal system is a complex web of power distribution, and understanding its challenges requires a closer look at the special powers of Parliament.

Special Powers of Parliament

The Indian constitution grants extraordinary powers to the Central Parliament to legislate on subjects included in the State List when authorised by the Rajya Sabha. The Rajya Sabha, in theory, serves as a house safeguarding the interests and powers of the States. However, in practice, political considerations often take precedence over State interests.

The Rajya Sabha's financial powers are not equal to those of the Lok Sabha. With its double sise compared to the Rajya Sabha, the Lok Sabha can override any decision of the Rajya Sabha through a Joint Sitting in the event of a deadlock. The Prime Minister and important members of the Central Cabinet typically come from the Lok Sabha, diminishing the power of the Council of States or Rajya Sabha.

The distribution of seats in the Rajya Sabha does not adhere to the principle of equality, leading to discrepancies in membership. This asymmetry, along with the unequal representation in the Lok Sabha, grants certain states an upper hand in accessing power and influencing the Central Cabinet.

5.4.1.2 Socio-Political Challenges

Since India's independence, socio-political changes have left their mark on Indian federalism, presenting significant challenges to the nation. Demand for decentralisation and power access has deeply influenced the functioning of the federal system.

An example of such demand was the movement for linguistic states in South India. Initially, the Central Government was hesitant to accept these demands. However, they eventually yielded, leading to the State Reorganisation Act's passage in Parliament. This reorganisation based on language strengthened Indian federalism, accommodating more people into political power.

Regionalism

The demand for creating new States based on regionalism remains an ongoing challenge to the Indian federal system. India adopted federalism to accommodate its diverse society, but the demand for new states continues to create political turmoil. Examples include the demands for Gorkhaland in West Bengal, Vidarbha State in Maharashtra, and Harit Pradesh and Poorvanchal in Uttar Pradesh.

Coalition Politics

The decline of the one-party dominant system and the emergence of a multi-party system and coalition politics at the central level have brought significant changes to Indian federalism. While it has posed challenges, it has also opened doors for regional and State parties to play a crucial role in national politics, thereby widening and deepening India's democratic and federal systems.

Interstate Water Disputes

Interstate water disputes pose a challenge to the effective management of Indian federalism. The Constitution provides provisions for adjudication of such disputes, empowering the Parliament to make laws and establish tribunals. However, these disputes remain contentious, with examples such as the Cauvery Water Dispute and the Satluj Yamuna Link Canal dispute.

Interregional Disparities

Socio-economic and developmental disparities among different regions in India create problems for the institutionalisation of federal values. Some states lag behind others in terms of developmental parameters, and unequal central allotments, development plans, and grants-in-aid contribute to the disparities.

External Forces

Regional problems in various parts of the country often have connections with external forces. Intervention by neighbouring countries and the issue of cross-border terrorism pose threats to the smooth functioning of Indian federalism. Such interventions tamper with federal principles and undermine the political culture of federal democracy.

The challenges faced by Indian federalism present a clear picture of the issues involved. Resolving these challenges requires a delicate balance between structural reforms and political solutions within the constitutional framework. It is the responsibility of the political parties in power to determine how to effectively face these challenges and uphold the spirit of Indian federalism.

Recap

- Challenges of Indian federalism
- Special powers of Parliament in Indian federalism
- Socio-political challenges to Indian federalism
- Interstate water disputes
- Interregional disparities
- External forces and challenges to Indian federalism

Objective Questions

1. What are the challenges faced by Indian federalism?
2. Mention some example for regionalism in India?
3. Who labelled Indian Federalism as "quasi'?
4. Which year GST was implemented in India?
5. Write an example for the Interstate Water dispute In India?

Answers

1. Regionalism, Coalition politics, Inter-regional Disparities, Cross border Terrorities etc
2. Gorkhaland and Kantapur in West Bengal, Vidarbha in Maharashtra
3. K. C. Wheare
4. 2017
5. Cauvery Water Dispute

Assignments

1. Discuss the challenges faced by the Indian Federalism?
2. Critically evaluate the fiscal federalism in India?

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SGOU

BLOCK - 06

India and the Issues of Global Relevance

SOU

Unit 1
Major Determinants of India's Foreign Policy

Learning Outcomes

Upon the completion of this Unit, the learner will be able to;

- Identify and describe the primary determinants shaping India's foreign policy, including historical, geographical, and economic factors.
- Explain the role of national security and strategic interests in guiding India's international relations and policy decisions.
- Analyze the impact of domestic political considerations and leadership on the formulation of India's foreign policy.
- Discuss the influence of international relations and global power dynamics on India's foreign policy strategies.

Prerequisites

In shaping India's foreign policy, various factors come into play, each influencing how the country interacts with the world. Picture India's foreign policy as a complex puzzle, where each piece represents a different determinant. Historical experiences, such as colonial legacy and past conflicts, lay the groundwork for current policies. Geographical location plays a crucial role, as India's neighbors and strategic positioning impact its diplomatic strategies. Economic interests drive India to form trade partnerships and seek international investments. National security concerns shape alliances and defense strategies. Domestic political considerations and leadership also steer policy directions. By understanding these determinants, you can see how they collectively guide India's approach to international relations, balancing internal needs with global interactions.

Keywords

Foreign Policy, Colonialism, Cold War, Non-alignment, Look East Policy, Gujral Doctrine

Discussion

Foreign policy is the set of principles and objectives that guide a nation's interactions with other countries. It encompasses both realistic and idealistic elements, aiming to secure national interests while promoting coexistence. India's foreign policy is shaped by various determinants, including historical experiences, geography, population, economic growth, and technological innovation. India's historical experiences, such as its struggle for independence, have instilled a commitment to principles like self-determination and non-alignment. Geographically, India's location in South Asia and its borders with multiple countries influence its approach to regional stability, trade, and maritime security. The country's large and diverse population emphasises global cooperation to address challenges like climate change and terrorism, while its economic growth drives engagement in regional and global partnerships.

India's economic strength plays a significant role in shaping its foreign policy decisions. The country leverages its rapid economic growth, focusing on trade, investment, and resource access to secure national interests and enhance global influence. Technological innovation, particularly in IT and space sectors, further influences India's foreign policy priorities, fostering collaboration and knowledge-sharing with other nations. By understanding these determinants, we can gain insights into India's foreign policy decisions and its aspirations on the global stage.

Foreign policy of any nation basically includes principles and objectives which guide a nation in its interactions with other nations. It's not always instrumental in nature and materialistic in form. Instead it includes principled positions, strategic thinking, commitment to a specific world order etc. all aimed at securing the national interest, while simultaneously encouraging co-existence. Thus the foreign policy of every nation includes both realistic as well as idealistic elements which determine its interaction with the outside world. Notably, this interaction with outside world shall be determined by numerous factors such as the historical experience, geography, population, economic growth, technological innovation etc.

6.1.1 Evolution of India's Foreign Policy

Ancient India had a very long history of land as well as overseas interactions with outside world in terms of trade, military expeditions, pilgrimage and migrations. These trends which developed across centuries were strengthened by the encouragement for maritime activities by various kingdoms such as the Cholas, the Zamorins, and the Mughals etc. These interactions produced rich and expansive networks both economic as well as cultural spread across China, Central Asia via Silk Road reaching to the doorsteps of ancient Anatolia. This was paralleled by the maritime trade relations spread throughout South Asia and South East Asian, Red sea and Mediterranean region extending further into Europe attracting the interests of Arabs, Italians, Chinese as well as European traders. These century old networks and exchanges indicate the embedded nature of India's existence much before the European advent.

European arrival in India which began with the Portuguese was a critical juncture in India's history. It further integrated India into an expansive colonial process subjugating India into a hierarchical relation of extraction and circulation of capital via excessive taxation, de-industrialisation, forced farming of industrial inputs for Britain, displacing

food grains leading to forced famine are resulting in a progressive process of draining of wealth and subsequent destruction of Indian economy. All these experiences- commercial, cultural, economic as well as colonialist have shaped India's outlook towards outside world. The very long history of civilisational and economic interaction inserted elements of co-operation and non-aggression etc. as they were necessary prerequisites for achieving overall progress. On the contrary, the perils of colonialism influenced India to follow a foreign policy characterised by a strong desire to preserve autonomy to realise its national interests without being drawn into power politics. Broadly these aspects-cultural and economic exchanges, colonial past along with the immediate realities of post-world war shaped India's foreign policy. Besides these historical and cultural experiences there were other immediate global systemic concerns that added to India's Foreign policy.

The most significant international systemic context that influenced India's Foreign policy in post-1947 phase was the emergence of the Cold War- a condition of heightened conflict that spread out across the globe in terms of arms race, military pacts, creation of satellite allies, intelligence and proxy wars, expanding ideological footprint via propaganda warfare all in a regimented manner foreclosing the possibility of a full-fledged total war similar to Second World War. All these factors collectively shaped India's Foreign policy. While Post-independent India's Foreign policy aimed at preservation of sovereignty and pursuing national interests, it also simultaneously participated in the construction of an equitable and peaceful world order.

Thus, the bedrock of post- 1947 Indian Foreign policy has been the preservation of India's national interest. However, it was never solely guided by narrow nationalism. Such orientation made India to adopt a stance whereby it aimed to preserve its newly achieved independence without being drawn into a Bi-polar conflict under the leadership of two distinct powers-USA and USSR. However, in addition to these historical experiences, there were some key determinants that have shaped India's Foreign policy each of which requires separate treatment. The most significant are historical context, geographical features, political leadership and economy.

6.1.2 Determinants of India's Foreign Policy

6.1.2.1 Historical and Cultural Factors

The three important historical factors which shaped India's external approach were- one, India's long historical interaction with outside world, second colonialism and third the emergence the Cold War. India had experienced a prolonged period of subjugation under the British which was overthrown by a mass anti-colonial movement. The humiliation and distress generated by colonialism were not easily erasable and influenced India's political leadership from adopting any foreign policy that world directly or indirectly put India again in any form of hierarchical relations. Notably, the period of Indian independence was marked by a power politics which threatened India's strategic autonomy. While the Second World War formally ended in 1945, it was followed by a new phase conflict where the world was both ideologically as well as strategically divided into two power blocs- the Western Capitalist bloc led by the USA and the Eastern Socialist bloc led by the USSR.

The period popularly referred as Cold War witnessed each of these blocs attempting to spread their influence while simultaneously

containing the other. Each of these blocs attempted to spread their influence, creating zones of influence via free trade agreement, military organisations, alliances and pacts. Instead of a direct full-scale conflict, the post-war period witnessed theatres of war outside Europe such as the Korean crisis, the Vietnam war, Cuban missile crisis etc. where both USSR and USA supported their satellites with arms and other resources.

Despite absence of full-fledged war similar to two world wars, the Cold War had its ramifications across the world particularly on the newly independent post-colonial countries belonging to Asia, Africa and Latina America. The ideological orientations, economic benefits, geo-political calculations and strategic interests forced many of the newly independent countries to side with any one of the blocs. Thus, the international scenarios of Cold War presented a possibility of neo-colonialism threatening autonomous nature of India's Foreign policy. Besides the colonial hardships and Cold War concerns India faced the stark realities of economic backwardness which demanded immediate attention. Economic growth and re-distribution of its benefits to the masses formed the immediate priority for India. India couldn't afford to be drawn into another power game that would undermine its autonomy and sap its resources. These above concerns made India to formulate a policy of non-alignment as the key aspect of its post-independent foreign policy. Non-alignment was not defined as isolationism, withdrawal or neutrality. Instead non-alignment meant an active pursuit of national interests through non-conflictual means such as mutual co-operation, non-aggression, peaceful resolution of conflict, economic assistance for development etc.

India's very long history of cultural exchanges encouraged Nehru and other foreign policy experts to assume a moral high ground which was reinforced by India's status of being the foremost country to lead the largest anti-colonial movement. These positions helped India to appeal to all newly independent former colonies to focus on domestic growth and co-operate with each other to construct a democratic world order rather than being drawn into another power struggle. Though the non-alignment movement went through several phases of expansion and contraction, India's foreign policy has broadly followed this premise and attempted to strike a balance between realism and idealism by pursuing national interests without abandoning its larger commitment towards building up a more moral global order.

6.1.2.2 Geographical Factors

India's geographical location gave it edge as well as challenge. The geographical protection offered by the Himalayas prevented any form of large scale invasion, whereas an extensive coastline opened possibility for competition. The geographical proximity of Pakistan and China, particularly an extensive border gave reasons for India to adopt a realist perspective which was reinforced by wars in 1948, 1962, 1965 and 1971 and subsequent border tensions. India's access to the vast Indian Ocean was also a concern as the shadow of Cold War made Indian Ocean a theatre of competition. Competitive intervention has made Indian Ocean a hub for the activities of global power. However, in the post 1990's India adopted a Look East policy which made India to turn towards South East Asia, East Asia etc. considerably expanding its economic ties. Similar developments have also happened in case of Central Asian republics with whom India had historically been connected via trade. Historical Geography i.e. geographical connectivity's established over a period of

time via trade, religion, wars etc. had been crucial in shaping India's foreign policy.

6.1.2.3 Economic Factors

Another significant determinant was the state of Indian economy. At the dawn of independence the state of Indian economy was miserable. Decades of colonial exploitation had led to drain of wealth, de-industrialisation, pauperisation of farmers and destruction of agriculture etc. Despite being an industrial power house England hindered India's growth, preventing any future competition and transformed India into a source for resources and market to sell its goods. These policies had a negative impact as this subjected India to enormous economic hardships.

India's economic capabilities were limited in early periods of independence and it went through several phases until reaching a breakeven point in 1990's. The post-90's witnessed an abandonment of mixed economy policy adopted and promoted by Nehru since 1950 and an embracement of market economy opening up doors to liberalisation, privatisation and globalisation. The post-1990's shift towards liberalisation boosted India's economic capability characterised by a much rapid rate of industrialisation, expanding service sector, emergence of numerous urban centres, availability of numerous amenities such as broadband, new forms of urban transport such as electrical vehicles etc.

These developments also were supplemented by India's shift within foreign policy. India increasingly expanded itself towards economically active South East Asia, East, Asia, Africa etc. establishing economic ties while strengthening ties with existing power blocs such as EU, USA, Russia etc. Thus India's changing status from being a beleaguered economic power to an emergent regional power has influenced India to move beyond its traditional non-alignment policy.

6.1.2.4 Political Leadership

The nature of Political leadership is another important determinant of India's foreign policy. While Nehru inspired by internationalism and non-alignment attempted to steer India from Cold War power politics and treaded a path of moral realism, earning respect among the world leaders the 1962 debacle exposed inherent need to underlined the need to lace non-alignment with a much more pragmatic realism. Indira Gandhi took initiative in this direction and moved away from non-alignment though never completely abandoning the policy, and increasingly focused on strengthening India's position within South Asia. Rajiv Gandhi extended the policy and actively intervened in regional affairs even adopting military intervention as a mode of resolving regional issues like in case of Sri Lanka and Maldives.

The Gujral Doctrine adopted a more conciliatory and constructive approach based on building up external relations through sharing of resources and mutual co-operation. A similar stress was shown by Narasimha Rao who inaugurated India's Look East Policy encouraging India to engage with the emergent ASEAN region and other Asian economic powers which would strengthen India's economic position. Thus the political ideologies and interests of Political leadership have influenced the direction of India's Foreign policy.

6.1.2.5 Ideological Factors

The ideological factors that influenced India's Foreign policy had broadly two inter-connected dimensions. One is domestic and other international. Domestic ideological dimension that influenced India's Foreign

policy was the presence of a vehement anti-colonial sentiment, desire to achieve economic prosperity and the need to preserve national sovereignty. The most important international ideological dimension was the rise of Cold War conflict between two ideological powers- USSR and USA. Both of these dimensions had their impact over the nature of India's foreign policy.

The wretched and degrading experience of Colonialism had infused a strong sense of anti-colonialism within India's political leadership. It no longer wished to be guided by the directions of the external powers. This was reflected in India's Foreign policy particularly in its principle of Non-alignment whereby it aimed to achieve political and economic autonomy. Additionally, India was also an active supporter of de-colonisation. India's foreign policy makers argued that the need of right to self-determination must be available to all nations.

These above orientations were also reflected in India's engagement with super power politics which emerged in the Post-war period. The post-second World War period presented three potential scenarios. One was the decline of the traditional colonial powers and their replacement by two power blocs led by two superpowers namely USSR and the USA. Second, the emergence of a large number of independent sovereign nations freed from colonial subjugation and third, the competition among two superpowers- USSR and the USA to establish their control over these newly independent nations. The newly independent nations were unnecessarily being drawn into the ambit of Cold War power politics which often escalated into armed conflicts such as the Korean War, the Cuban Missile crisis, the Afghanistan conflict etc. Instead of being drawn into such conflicts, India advocated the path of non-alignment emphasising peaceful co-existence and resolution of conflicts via dialogue without diluting strategic autonomy. Additionally, India's Foreign policy exhorted the need for a more just and democratic world order based on multilateralism rather than super power bilateralism.

The perilous experience of colonisation, deep desire to be independent, the ideological conflict between the USA and USSR and subsequent spillover over the post-colonial landscape all collectively shaped India to adopt a policy of ideological neutrality couched within the idea of non-alignment. The objective of non-alignment was not isolationism instead it was a principled intervention by aligning oneself with other aggrieved former colonies with the objective to establish a just world order.

Recap

- Evolution of India's Foreign Policy
- Determinants of India's Foreign Policy
  - Historical and Cultural Factors
  - Geographical Factors
  - Economic Factors
  - Political Leadership
  - Ideological Factors

Objective Questions

1. What is the goal of India's foreign policy?
2. What principles guide India's foreign policy?
3. How does geography shape India's foreign policy?
4. What drives India's foreign policy decisions?
5. How does technology influence India's foreign policy?
6. What factors contribute to India's global influence?
7. What historical experience shapes India's foreign policy?
8. What is India's approach to regional cooperation?

Answers

1. National security.
2. Non-alignment and strategic autonomy.
3. Regional stability, maritime security.
4. Economic growth.
5. Collaboration, knowledge-sharing.
6. Economic strength, technological advancements.
7. Struggle for independence.
8. Peace-building, shared prosperity.

Assignments

1. How does India's historical experience influence its foreign policy objectives?
2. How does India's geographical location shape its approach to regional stability and maritime security?
3. In what ways does India's diverse population contribute to its foreign policy priorities?
4. How does India's economic growth impact its foreign policy decisions?
5. How does India leverage technological innovation in shaping its foreign policy priorities?
6. What are some key principles and values that guide India's interactions with other nations?

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Unit 2
Changing Trends in India's Foreign Policy

Learning Outcomes

After the completion of this unit, the learner will be able to;

- Identify and describe the key trends that have influenced changes in India's foreign policy over recent decades.
- Explain how shifts in global power dynamics and regional developments have impacted India's international relations.
- Analyze the role of economic globalization and technological advancements in shaping India's foreign policy strategies

Prerequisites

India's foreign policy is like a dynamic river, constantly adapting to the changing landscape of global and regional influences. Over time, India has shifted its approach based on evolving trends and challenges. Early post-independence policies focused on non-alignment and establishing a foothold in international diplomacy. As the world grew more interconnected, India began to embrace economic globalization, forming new trade partnerships and strategic alliances. The rise of technology and global power shifts, such as the growing influence of China and the changing role of the United States, have also reshaped India's international strategies. Domestic political changes and leadership styles further influence how India navigates its global role. Understanding these trends reveals how India's foreign policy evolves to meet both emerging opportunities and challenges.

Keywords

Non-alignment, Panchasheel, Look East Policy, Gujral Doctrine, Super Power politics

Discussion

India's foreign policy has been shaped by its historical connections to global trade, colonisation experiences, and a strong desire for a fair world order. However, there have been other important factors that have influenced changes in India's foreign policy over time. One major factor was the Cold War, which had a significant impact on South Asia and later declined. It played a crucial role in shaping India's foreign policy.

The trends in India's foreign policy are closely tied to strategic decisions, the beliefs of political leaders, and economic opportunities that arose during and after the Cold War. There are two main periods to consider: the Cold War period (1947-1991) and the post-Cold War period (1991-2014). These periods brought about significant shifts in India's approach to foreign policy, as global dynamics changed and new opportunities and challenges emerged.

To understand how India's foreign policy has evolved, we need to examine how the Cold War and its aftermath influenced India's decisions. By exploring these changes, we can gain insights into how India adapted to the shifting global landscape and the various opportunities and challenges it faced along the way.

India's Foreign policy was influenced by its immediate experience of colonialism and Cold War. Additionally, the historically interconnected nature of Indian subcontinent gave it a global outlook. These historical experiences and cultural values shaped the outlook of India's political leadership and their Foreign policy orientations. As mentioned above India's Foreign policy can be broadly divided into two phases. First phase being between 1947 to 1990 and second being the post-1990 phase.

Each of these phases was shaped by a leader or a doctrine. Thus, there was the Nehruvian phase, the Indira Gandhi era, the Rajiv Gandhi era, the Gujral doctrine, and the National Democratic Alliance(NDA) phase. Each of these names for example Nehruvian or Rajiv Gandhi era is suggestible of the influence exerted by Jawaharlal Nehru or Rajiv Gandhi in shaping India's Foreign policy in that specific period. Notably, while the Nehruvian, Indira Gandhi and Rajiv Gandhi's period were shaped by the turbulence of the Cold War, the successive phases were marked by the advent of Post-Cold War politics. For the convenience of analysis, let's focus on the first three-Nehru, Indira and Rajiv Gandhi. The common thread running through these three periods is the Cold War, which while imposing limits, offered new opportunities leaving its mark on India's foreign policy.

6.2.1. The Nehruvian Phase

The Nehruvian phase was influenced by the factors of de-colonisation, multilateralism and strong sentiments to maintain national autonomy. This led to the formulation of the principle of non-alignment. Nehru set the tone for the initial decades of India's foreign policy which aimed at establishing a balance between narrow nationalist concerns and global welfare, which was evidently put up in the Panchasheel agreement signed between India and China. India's non-alignment aspired to follow a policy of non-aggression, respecting each other's territorial integrity, non-interfering in each other's internal affairs, promoting equality, mutual benefit and peaceful co-existence.

Nehruvian non-alignment was not by any means isolationism but an earnest attempt to locate a mid-point between idealism

and realism. Nehru aimed to ensure that the post-world war world order was based on multilateralism managed by global organisations such as UN, preventing any form of intervention by Super powers in internal affairs of former colonies. Nehru advocated need for countries such as India to remain independent from Cold War as this could lead to neo-colonialism. However, Nehru was never blindfolded by abstract idealism.

Nehru drew positive elements both from USA and USSR. A modernist in orientation, Nehru was driven by Western liberal individualistic values which he actively attempted to institutionalise in India's political culture. Nehru also adopted the Five Year Plan borrowed from USSR as a model to develop India's economy. Thus, Nehruvian phase was characterised by a model of practical idealism which merged strategic thinking drawn from realism and ethical concerns drawn from idealism. Nehru's non-alignment policy was widely popular among the post-colonial nations who saw it as an adept strategy to pursue national interests and preserve autonomy, while staying away from the Cold War pressures. Despite the best intentions, Nehru's policy floundered with the Chinese invasion in 1962. Nehru's Panchasheel agreement with China in 1954 was meant as a practical embodiment of non-alignment. But it failed to capture the hawkish nature of international politics leading to the debasement of non-alignment.

6.2.2. Indira Gandhi's Era

Indira Gandhi having witnessed the Chinese aggression, the threats from Pakistan and the growing presence of Western powers in the Indian ocean region gradually brought India's foreign policy in tune with realism. Indira doctrine was marked by an uncanny degree of realism. The doctrine proposed a withdrawal from international scene and increased focus on South Asian region. Indira Gandhi was convinced after the 1965 Indo-Pak war that Pakistan and China posed strategic threat to India's national security and their position was further cemented by the support of the USA and Western allies. The non-alignment policy for all its moral high ground had rendered India into a state of strategic isolation. Indira's signing of Indo-Soviet Treaty of Friendship in 1971 besides winning USSR's support against any US intervention also marked a departure from idealist foundations placed by Nehru. Instead Indira Gandhi pursues a more realist approach based on the growing presence of the USA and its allies such as Pakistan and threatening neighbors such as China in South Asian region. Indira doctrine laid ground for a more interventionist foreign policy.

6.2.3. Rajiv Gandhi's Era

Rajiv Gandhi's foreign policy was a continuation of Indira era. The Indo-Sri Lankan agreement signed during the period ensured that Sri Lanka shall not cede any room for any third party who would work against Indian interest. The treaty was meant to ward off the US presence in the island nation under the pretext of assistance against the Tamil insurgency. The agreement reflected the influenced wielded by India in the Indian Ocean region. Despite the failure of India's military expedition in Sri Lanka it showed the increased militaristic posturing on behalf of India to assert its dominance in the region. The militaristic intervention by India in Maldives to neutralise a military coup was yet another example for India's aggressive approach to prevent any possible Western intervention.

6.2.4 The End of Cold War and Its Impact on India's Foreign Policy

The end of Rajiv Gandhi's era marked by

the tragic demise of Rajiv Gandhi in 1991 was also a period of tectonic shifts within Global politics. The period of 1990's witnessed the fall of the Berlin Wall and the subsequent demise of the Soviet Union. It marked the end of Bi-polar world, heralding the emergence of a Uni-polar world order dominated by a sole superpower namely USA. Additionally, owing to the 1962 war debacle and India's growing engagement with USSR and later Russia, the status of India's non-alignment policy was questioned. Besides, the economic crisis of 1991 replaced India's mixed economic model dominated by state regulation with a more liberalised market oriented approach open to global demands. All these changes demanded a radical re-orientation of India's foreign policy.

This was reflected in India's foreign policy spearheaded by Narasimha Rao, as it shifted its affinity towards the sole superpower USA. But differences over Kashmir issue, non-proliferation and doubts regarding India's commitment to US led Western Bloc limited the possibility of any substantial progress. Under Narasimha Rao, India also began to repair the frosty relations with People's Republic of China though with limited success. However, the most notable policy endeavor attempted by India in this period was to shift the focus to Asia via the Look East policy. Through the policy India attempted to deepen cultural and economic ties with South East Asia countries (now known as ASEAN) while simultaneously attempting to limit the influence of China in the region. India's foreign policy increasingly began to focus on neighboring nations based on the long term economic and strategic considerations.

The Gujral Doctrine formulated by I. K. Gujral was in line with India's attempt to focus on deepening regional ties. It followed a good neighbour policy whereby India's foreign policy adopted a more conciliatory and diplomatic approach. The policy in many ways resembled the Janata Party's policies of 1977 whereby India engaged in negotiation and signed treaties on controversial issues such as river water sharing and trade tariffs. The objective of Gujral doctrine was to maintain peace and amicable relations with all other neighborhood nation so as to effectively engage with threatening neighborhood. The doctrine promoted foreign relation via cultural and economic means following a more constructive approach rather than being aggressive.

6.2.5 The National Democratic Alliance(NDA) Phase

The NDA phase comprises of two distinct periods. One was under Atal Bihari Vajpayee and second was under Narendra Modi. The Vajpayee phase witnessed a skilled diplomatic treatment of the Kashmir issue alongside responding successfully establishing India's military superiority in the region. Modi's phase is marked by a more proactive outreach to regions which have been previously identified as potential zones of support. For example, India's foreign policy often guided by Modi's personal intervention has developed extensive relations with Japan leading to increased transfer of technology and capital. Similar diplomatic investments have also been made in Central Asian republics such as Mongolia via advocating age old cultural ties between India and central Asia through trade and religion. These moves supplemented by India are expanding military and economic stature shows the shift from being a restrained regional power to an increasingly ambitious regional power.

Recap

- Nehru formulated non-alignment as a principled position for India and the whole post-colonial world. The objective of non-alignment was to ensure strategic autonomy alongside rapid economic growth and democratic culture without being drawn into Cold War conflicts.
- Indira Gandhi adopted a more pragmatic approach bringing India closer to USSR in order to counter Pakistan and Chinese threats as well as to reduce US influence in Indian Ocean region.
- Rajiv Gandhi continued with Indira Gandhi's approach. Rajiv Gandhi's period also marked the end of Cold War.
- Post-1990's witnessed a shift in India's Foreign policy with more focus on neighbouring regions.
- The period also witnessed India's engagement with USA which became more evident in later NDA phase under Narendra Modi.

Objective Questions

1. What was the primary objective of Nehru's formulation of non-alignment for India and the post-colonial world?
2. How would you describe non-alignment in terms of India's stance towards the Cold War?
3. How did Indira Gandhi's pragmatic approach in foreign policy impact India's relationships?
4. What marked the end of the Cold War, coinciding with Rajiv Gandhi's period?
5. What was the Gujral Doctrine and its aim in India's foreign policy?
6. How did India's foreign policy change in the post-1990s era?
7. How did India's engagement with the United States evolve under Narendra Modi's government?
8. What was the primary aim of the Gujral Doctrine in India's foreign policy?

Answers

1. Post-colonial autonomy.
2. Non-alignment stance.
3. Pragmatic relationships.
4. Collapse of USSR.
5. Neighborhood diplomacy.
6. Liberalisation and globalisation.
7. Strengthened ties.
8. Building regional trust.

Assignments

1. Why did Indira Gandhi adopt a more pragmatic approach and align India closer to the USSR? What were the primary motivations behind this shift?
2. In what ways did Rajiv Gandhi continue Indira Gandhi's approach in India's foreign policy? How did his period coincide with the end of the Cold War?
3. How did India's foreign policy shift in the post-1990s era, particularly in terms of its focus on neighboring regions?
4. What was the Gujral Doctrine, and how did it aim to deepen regional ties as part of India's foreign policy?
5. How did India's engagement with the United States evolve, particularly during the later NDA phase under Narendra Modi?
6. Analyse the influence of Cold War on India's Foreign policy.

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Unit 3
India's Initiatives in Maintaining International Peace

Learning Outcomes

Upon the completion of this unit, the learner will be able to:

- Identify and describe key initiatives undertaken by India to promote and maintain international peace.
- Explain India's role and contributions in international organizations and peacekeeping missions.
- Analyze the impact of India's diplomatic strategies and bilateral relations on global peace efforts.
- Discuss the challenges faced by India in its peacekeeping and conflict resolution initiatives

Prerequisites

India has long been committed to fostering international peace, much like a dedicated mediator in a complex negotiation. From its early days as a newly independent nation, India has actively participated in global peace efforts. It has contributed troops and resources to United Nations peacekeeping missions, aiming to stabilize conflict zones and support reconciliation. India also engages in diplomatic dialogues and multilateral organizations to address global challenges and promote cooperation. The country's initiatives include mediating regional disputes and advocating for disarmament. By understanding India's role in these efforts, you'll see how its actions reflect a commitment to peace and stability on the world stage, balancing its national interests with a broader humanitarian vision.

Keywords

UNO, Neo-colonialism, Panchasheel, NAM, Nuclear Disarmament

Discussion

Since its inception into the modern world as an independent nation, India had committed itself to maintain world peace. The prolonged struggle and hardships suffered by India to achieve freedom made it sensitive towards the idea of peace and progress. India's post-independent political leadership aimed to neutralise possibility of any potential conflict which could derail the progress of the country and the rest of the world. The experience of colonialism, the hardships imposed by two world wars prompted India to evolve a foreign policy, which would be guided by the principles of mutual respect, co-operation, non-aggression, respect for territorial integrity and autonomy.

India's approach also envisaged a more equitable economic order, one where the developed nations would assist the under-developed and developing nations to achieve rapid economic progress so as to overcome conditions of mass unemployment and poverty. The most significant initiatives by India in promoting international peace include supporting United Nations, establishing the Non-alignment movement, advocating nuclear disarmament, arms control, Human rights commitment, Anti-racism initiatives, Neo-colonialism, democratisation of international forums etc.

The end of the Second World War was assessed by many as a turning point as they believed that the hardships produced by this war would put an end to all future conflicts. However, despite the unparallel horrors of racial discrimination, genocide and hardships in terms of forced migration for people particularly in Europe, the end of Second World War in no way guaranteed an end of future conflicts instead it opened potentially new ones. The post-World War produced a deeply bipartisan world lead by two super powers- the USSR and the USA, ideologically and strategically opposed to each other sowing seeds for a potentially different kind of war i.e. the Cold War. However, the systematic discrimination, organised mass killings of common civilians, vast number of war crimes including slave labour, racial discrimination and hardships suffered by the non-combatants in terms of poverty, unemployment and forced migration made the political leadership of most nations to think towards establishing a mechanism to prevent the breaking out any such kind of conflict in future or to seek non-military resolution to future conflicts.

This thinking led to formation of the United Nations Organisation (or UNO) in 1945. The objective behind forming the UNO was to establish an international forum for nation states to secure international peace and security, achieve economic development and social welfare, and guarantee dignified individual and social existence by safeguarding human rights through diplomatic and peaceful means. The UN aimed to establish a world order grounded on mutual respect, multilateral co-operation, non-aggression and commitment to a common international legal regime. The period marking the birth of UNO also witnessed the liberation of vast number of colonies in Asia and Africa including India as independent sovereign nations. India being one of the largest newly emergent independent nations was among one of the strongest supporter of the UNO.

India's approach towards the world has been guided by principles of mutual respect, non-aggression, co-operation, peaceful existence and friendship. These were very much in line with the new vision promoted by the UNO. Besides, demonstrating its commitment to international peace and order, India has actively contributed to various action

programmes and missions launched by the UNO. For example, India has been one of the largest contributors in terms of troops to UNO various peacekeeping missions spread across the world. Thus, India's engagement with UNO and other similar commitments such as NAM, contesting Neo-colonial tendencies etc. points to its Foreign Policy commitment to construct a more democratic and representative world order through peaceful and diplomatic means.

The following sections attempt to comprehend how India through its international interventions in terms of demand for reforms in UNO, admission of new states, nuclear non-proliferation and Arms Control, guaranteeing Human rights etc. have contributed towards securing a more democratic world order.

6.3.1 India and the United Nations

India has actively participated in various missions organised by the United Nations. India has participated in numerous peace keeping missions across various continents. It has been one of the largest providers of trained peace keepers for the UN. Besides India has been part of different international deliberations particularly related to human rights, human trafficking, arms trade etc. on which it has vociferously raised its voice against the proliferation of these activities. India has been a vocal supporter of a more democratic and representative world which recognises the demands of the developing countries and under-developed countries rather than being solely toeing the line drawn by major powers such as USA, Russia etc. In this regard India has been demanding more permanent representation within the Security Council particularly from the developing countries such as India so the concerns of the developing world are also properly addressed. Broadly India has utilised the international platform of United Nations to promote and institutionalise world peace.

6.3.2 The Non-alignment Movement

India institutionalised non-alignment as a standpoint for the newly independent post-colonial nations. The objective of non-alignment or NAM movement was to ensure that the post-colonial states focus on their own domestic sphere particularly on issues such as poverty, unemployment, illiteracy rather than being drawn into Bi-polar contentious power politics lead by USA and USSR. The NAM emerged as one of the largest peace initiative as it stood as neutral zone for all those nations who wished to stay away from the perils of being drawn into the zone of Cold War. The NAM embodied a Third World politics which shunned the militaristic-aggressive character of post-war world order. Instead it urged the world powers to learn from the mistakes of the two world wars and divert resources towards resolving more urgent problems such as poverty, food crisis etc. Initiated by Jawaharlal Nehru and others the NAM remains to till date one of the most innovative interventions made by India towards maintaining world peace.

6.3.3 The Panchasheel Agreement

The Panchasheel agreement represents one of the most concrete moments of India's peace initiatives. Panchasheel embodies the spirit of non-alignment and outlines how two nation-states could possibly resolve their mutual concerns in a diplomatic and non-aggressive manner. Panchasheel was signed between India and China in 1954 as an agreement to ensure peace and co-operation. The agreement included five principles which formed its core. They were mutual respect for each other's territorial integrity and sovereignty, mutual non-aggression, mutual non-interference,

equality and mutual benefit and peaceful co-existence. Though these were flouted in 1962 war, these principles continue to reflect India's commitment towards maintaining peace and resolving bilateral issues via dialogue.

6.3.4 Anti-Racism

India has been opposed to all forms of racial discrimination. Owing to the colonial discriminatory experience India was aware of the humiliation inflicted by racism and hence opposed any form of racist idea or practice. India has been a vocal supporter of anti-racist initiatives globally and domestically attempted to root out age old discriminatory practices via legislations and developmental programme. India has been actively defending the civil rights activists who have been struggling against racist discrimination within African continent.

6.3.5 Neo-Colonialism

India has been an ardent advocate against any form of neo-colonialism. Colonialism as a form of physical and psychological domination had left deep imprints over most of the countries in Asia, Africa and Latin America. India realised the value of self-determination and supported the anti-colonial movements of several countries. India had supported various UN resolutions aimed at resolving the issue of continuing colonisation. India had extended uncompromising support to Indonesia's freedom struggle and the issue of self-determination by the Palestinians. Post independence India has been a vocal supporter against the continuing prevalence of colonies and had actively sought to abolish the system patronised by major powers. It is within this context that India had opposed the increasing penetration of Cold War rivalries politics within the post-colonial sphere. India believed that the interests of Cold War were opposed to the larger interests of post-colonial nations. Cold War was driven by logic of containment and expansion of rivals and this was the purpose with which military alliances, economic blocs, free trade zones were being constituted. Despite the ideological claims, India believed that Cold War was inaugurating another form of neo-colonialism. This new form of colonialism was different from its previous forms as there were no direct conquests or physical establishment of settlements except in rare occasions. Instead, both these super powers-USA and USSR, produced satellite states, who acted as agents to these superpowers, providing them with necessary support and containing spread of influence of the opposing bloc. In this process the superpowers created a network of dependent states who received military and economic aid in return for their political affiliation. India's argument vocalised in form of non-alignment was that Cold War imposed a neo-colonialism for it replaced direct colonisation with indirect coercion. Post-colonial nations were lured and sometimes forced to cater to the demands of the superpowers. Thus India's non-alignment policy must been seen as a bulwark against the neo-colonial assertions of superpower.

6.3.6 Human Rights

Human Rights have been a bone of contention since the theme had emerged in the international scenario. Individuals and collectives have been attempting to limit the excessive and arbitrary use of force by states and agencies across the world. The UN has passed the Universal Declaration of Human Rights in an attempt to institutionalise rights as an essential condition for any individual to a lead a dignified life. India through the incorporation of Fundamental Rights and Directive Principles of State Policy adopted a more democratic approach by enshrining rights as a fundamental condition for the creation of a Democratic Republic. While

the Fundamental Rights ensured a guarantee against the encroachment of the state, providing conditions for each individual to develop oneself, the Directive Principles were viewed as a charter of commitment which the state needed to follow to retain its legitimacy. Together, both guaranteed a condition to lead a respectful life. Besides this, India also created institutional mechanisms such as the National Human Rights Commission and similar commissions with regard to vulnerable social sections such as dalits, woman, OBC's, adivasis which would act as an instrument against the atrocities committed by individuals or state. Thus India has been successfully able to establish an institutional mechanism to guarantee Human Rights.

6.3.7 Arms Control

India has adopted a practical approach with regards to the issue of arms development. India has accepted the geo-political realities and accepted the logical impossibility of disarmament. Disarmament would deny every nation the right to self-preservation and also lead to dependence and subordination to larger powers. However, national security should not be prioritised to such a level that states replace developmental concerns with military budgets. India was opposed to mad arms race, a characteristic of Cold War. India advocated a limit over any form of excessive militarisation and arms piling and in this direction India has been consistently supporting various conventions and treaties passed by UN at various junctures. India has been signatory to the Biological Weapons Convention of 1974, Chemical Weapons Convention 1996, Antarctic Treaty of 1983 etc. Participation in these conventions signify the political commitment of India to resolve bilateral and international issues peacefully instead of indulging in blind race of production and stockpiling of weapons which could only lead to conflict.

6.3.8 Nuclear Disarmament

Nuclear disarmament has been complex issue and India's position on the theme presents a balanced picture. Despite the civilian potential of nuclear energy, its earliest public demonstration was in the form of a weapon aimed at neutralising an enemy. Nuclear weapon was used by USA as a weapon to end as well as a warning to all those intending to challenge its hegemony particularly the then USSR. Thus, the possession of nuclear weapons became a symbol of power and dominance. Thus, both superpowers engaged in a race of production and stockpiling of more improvised nuclear weapons and new technologies to effectively deliver them to the intended locations.

Even while competing with each other, both USA and USSR at that time were never enthused by the idea of other countries using nuclear technology as its use was seen as a monopoly exclusive to superpowers. Thus, despite claims of ideological differences both power blocs refused to share or reduce the nuclear knowhow. Even when a truce was declared between superpowers, they never wished to reduce their stockpile of weapons or abandon technological improvisations. Instead, they attempted to frame a convention which limited nuclear technology to an elite club preventing other countries access to nuclear technology. India advocated a reasonable restriction on proliferation without abandoning the civil energy use of nuclear energy. This was more comprehensive compared to the partial and limited non-proliferation proposed by world powers which essentially prevents the spread of nuclear technology without challenging the Power

bloc's hegemony.

Despite the failure of India's proposal, India has been a vocal supporter of non-proliferation. India has accepted a non-first strike nuclear policy whereby India is committed to using nuclear weapons as part of its second-strike strategy. India's approach to nuclear disarmament reflects its commitment to the democratisation of a critical technology which could be peacefully utilised as an energy source, a crucial input needed to resolve energy demands of post-colonial nations. Thus, India's nuclear policy in connected to the larger issue of limited nuclear power to deter and non-military uses of nuclear energy.

6.3.9 Democratisation of International Forums

India has been one of the earliest members of United Nation. It has also been active participant of various peacekeeping missions and an active member of various organisations such as UNESCO, UNICEF, ILO, WHO etc. Despite this, India has been kept out of the permanent membership of the core decision making body of UN i.e. the Security Council. India along with Japan, Brasil, Argentina etc. have been demanding their inclusion within the Security Council as part of diversification and representation of the changing world order. Besides this, India has also been actively lobbying at international level particularly within IMF and World Bank to re-distribute more resources in favor of developing countries as these countries require assistance for uplifting their economies. These demands have been consistently pursued by India with the purpose of preventing monopolisation of decision making in the hands of a few major powers which may lead to a more unjust world order.

Recap

- India and the United Nations
- The non-alignment movement
- The Panchaseel agreement
- Anti Racism
- Neo-colonialism
- Human Rights
- Arms Control
- Nuclear Disarmament
- Democratisation of International Forum

Objective Questions

1. What divided the world into two camps led by the USSR and the USA after the Second World War?
2. What was the term used to describe the period of heightened tensions between the superpowers without a full-fledged war?
3. Why were newly independent nations like India concerned about the Cold War?
4. What policy did India adopt to navigate the emergent Cold War scenario?
5. Which international organisation did India embrace as part of its global outlook?
6. Why did India support the UN?
7. Apart from non-alignment, what principles did Jawaharlal Nehru formulate to resolve issues between nation-states peacefully?
8. What was India consistently advocated for in international forums like the United Nations Security Council (UNSC)?
9. How has India aimed to restore order in the international domain?
10. What has been India's approach in international agreements and regimes to secure international peace and order?

Answers

1. The superpower conflict between the USSR and the USA.
2. The Cold War.
3. They feared losing their sovereignty and being drawn into the influence of the Cold War.
4. Non-alignment, which emphasised active participation through diplomatic and non-military means.
5. The United Nations (UN).
6. The objectives of UN were aligned with Indian interests in promoting international peace and order.
7. The Panchasheel principles.
8. Inclusion of newly independent countries, such as Brasil, South Africa, and India, as permanent members of the UNSC.
9. India has sought to restore order through international cooperation and engagement.
10. India has committed to various agreements and international regimes to promote international peace and order.

Assignments

1. Discuss India's role in developing a Third world Solidarity.
2. Illustrate India's initiatives for democratising the United Nations.
3. Critically examine the relevance of NAM in providing anti-colonial ideology.

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Unit 4
India's Commitment to Global Environment

Learning Outcomes

After the completion of this unit, the learner will be able to;

- Identify and describe India's key commitments and initiatives aimed at addressing global environmental challenges.
- Explain India's role in international environmental agreements and organizations, such as the Paris Agreement.
- Analyze the impact of India's domestic environmental policies on global environmental goals.

Prerequisites

India's commitment to the global environment is like a nation stepping onto a vast stage, eager to play its part in protecting the planet. From early on, India recognised that environmental issues transcend borders and require collective action. The country has been active in international environmental agreements, such as the Paris Agreement, where it pledged to reduce carbon emissions and promote sustainable development. Domestically, India has implemented policies to address air and water pollution, invest in renewable energy, and enhance conservation efforts. As the world faces pressing environmental challenges, India's role as a proactive participant underscores its dedication to global environmental health. Understanding India's actions highlights how a nation can contribute significantly to a shared global effort for a sustainable future.

Keywords

India's contribution towards Global Environment, Climate Change, India's action plan against climate change.

Discussion

The global commons, including oceans, air, and outer space, have been greatly affected by the negative impacts of industrialisation, deforestation, greenhouse gas emissions, and the depletion of the ozone layer. These factors have contributed to the deterioration of the environment, with climate change being one of the most significant consequences. Climate change has had a widespread impact on our planet, affecting both the physical and social aspects of our lives.

One of the most visible effects of climate change is the rise in global temperatures, leading to the melting of polar ice caps and mountain glaciers, resulting in a rise in sea levels. This poses a threat of inundation for low-lying areas. Climate change also alters weather patterns, which have a profound influence on countries like India. In India, for example, rainfall occurs during two distinct monsoon seasons – the South East monsoon and the North West monsoon. These monsoons shape our farming practices, crops, agricultural markets, food habits, and trade. However, climate change may disrupt these patterns, affecting the timing and quantity of rainfall, increasing the frequency of low-pressure systems and storms, raising temperatures, and impacting summers. Consequently, climate change poses a significant threat to our socio-economic existence in the near future.

Given the gravity of the situation, it becomes crucial for India to commit to the global environment. By acknowledging the threats posed by climate change and understanding its far-reaching consequences, India can take steps to mitigate its impact and contribute to global efforts in safeguarding the environment. Through strategic measures, international collaborations, and domestic initiatives, India can strive to protect the environment, preserve natural resources, reduce greenhouse gas emissions, and work towards sustainable development. India's commitment to the global environment is not only crucial for its own well-being but also for the overall health and future of our planet.

India is committed to the preservation of the global environment. India has been actively engaging with various initiatives related to climate change as there has been growing concern regarding the issue. But to understand the shifts within India's Climate change policy one by placing it within its larger Foreign policy objectives. India's climate change policy has been shaped by the concerns of sovereignty, economic development and sustainability. The early decades of India's Climate change policy and other environmental issues were shaped by the policy of non-alignment.

Non-alignment as discussed in previous units emphasised on preservation of national sovereignty, self-reliance, achieving economic growth, preventing any kind of binding international climate regime, while simultaneously criticising the developed countries. India argued that the developed countries had greater responsibility as they had been responsible for the current state of environmental degradation. Additionally, the Third World countries were entitled to development as it was central to uplift the majority of their population from abject poverty. Thus, the non-commitment to binding legal regimes of carbon reduction or any similar climate mitigation proposal was meant to preserve India's national autonomy and sovereignty. Thus preservation of strategic autonomy guided India's approach towards environmental issues such as Climate change up to 1990's.

The post-1990's phase witnessed a shift

in India's stand on climate change and other similar environmental issues as India decisively moved away from non-alignment towards a foreign policy guided by pragmatic assessment and realism. The policy was in line with India's adoption of liberalisation and market economy. India gradually moved away from non-alignment, Third world solidarity and strategic autonomy to more realistic issues of national interests. There was wide spread criticism that India's non-alignment has yielded India less results in terms of material returns and demanded an immediate revision. This shift towards pragmatism was also reflected in India's commitment towards global environmental initiatives including climate regime committing itself as a more responsible global player in dealing with the issue of climate change.

6.4.1 India and the issue of Climate Change- Historical Preliminaries

The history of India's engagement with the issue of Climate change is broadly divided into two broad phases. This section deals with the first phase spanning between 1950 to 1990's, where India's key argument has been that the newly developing countries such as China, India, Brasil etc. were contributing to the emission of greenhouse gases and hence subsequently to the process of climate change. However, the current state of climate change crisis has not been a creation of India or similar developing countries. It is the output of decades of massive deforestation, excessive industrialisation process and rapid urbanisation leading to greenhouse gas emissions. The massive industrial expansion and expulsion of greenhouse gases by industries added to further destruction of Ozone layer in Stratospheric range leading to excessive warming of earth. This warming has led to a gradual, but consistent melting of ice glaciers, rising sea levels, warming of sea beds leading to loss of oceanic habitat. This changing character of sea habitat, monsoon, melting of polar glaciers and rising sea levels has led nations to reassess the current situation. Since the current phase has been outcome of a historical process of industrialisation and modernisation initiated by the existing major industrial powers of Europe and North America any kind of framework to deal with climate change crisis should place more responsibility on the developed countries while simultaneously guaranteeing the developing nations the right to development. Thus there should be a balance between the factors of equity and the right to development.

Regarding the first factor of equity India's argument has been that even though greenhouse gas emissions are responsible for global warming the point of concern has been the excessive levels of emissions and unusual levels of warming. The objective should be reducing the excessive emission of greenhouse gases to prevent unusual warming. To check the excessive level of emissions, we must axe the source of excessive emission which happens to be developed countries. Thus in distributing responsibility and calculating costs the developed countries should be held more responsible as they have been more responsible in terms of emissions compared to the developing nations. This argument forms the heart of the principle of *'common but differentiated responsibilities'* which forms the foundation stone for India's response to climate change.

The principle of common but differentiated responsibilities advocates how the responsibility to act on climate change is common but should be differently distributed

as per the emissions produced by each nation. There exists a common condition where all countries are held commonly accountable for their emissions but each are separately valued and held responsible owing to the difference in their emissions. Thus there are common conditions but differentiated responsibilities. There exists an equitable principle whereby the countries emitting more are more responsible than countries emitting less. However, interestingly all emissions are held accountable and hence the condition of equity is reinforced.

The second factor counted by India is the right to development. Despite the challenge posed by climate change most of the countries in current world scenario belong to the category of developing nations. These nations need to achieve rapid economic and re-distribution of benefits of growth to the masses via pursuing a path of industrialisation, urbanisation in order to achieve high levels of welfare. Most of the developed countries have achieved high levels of economic growth and have reaped the benefits of this growth among their citisens. However, the developing countries like India still need rapid economic growth to overcome the hurdles of poverty and unemployment so as to ensure bare minimum economic welfare to the majority of their population. Economic development cannot be forfeited.

Hence, any form of climate change mitigation must accommodate the basic right for development for developing economies like India which is crucial to ensure liberation of mass population from the clutches of poverty. This broad argument of common but differentiated responsibility aimed at securing the sovereignty of the India so as to ensure its economic future. But this entrenched nationalistic position was replaced by a more internationalist outlook in post-1990 whereby India adopted a more realistic and leading position in creating a global climate change mitigation framework.

6.4.2 India's Changing Approach to Climate Change- From Conservatism to Active Leadership

The post-1990 Liberalisation phase witnessed a tectonic shift in India's approach to various environment issues including climate change. This period was marked by a shift from Growth first standpoint to a realist as well as positively internationalist position whereby India intended to tale lead role in climate change negotiations. Compared to the 1990's non-alignment position, post-1990's adopted a more positive disposition towards the benefits that could be accrued from the climate change mitigation.

The role of political leadership alongside experts at policy level who favored a more proactive intervention in matters of climate change, increasing realisation of the benefits produced by policies to address climate change in terms of poverty alleviation and economic growth, the increasing pressure from the international community, alongside a strong domestic civil society initiative all have collectively contributed to the India changing stance on Climate change. There are also other reasons such as the rapid economic growth achieved by India and other developing economies such as Brasil, China etc., shift from a Uni-polar world to a multilateral world order with newly developing countries like India demanding more rights and assuming leadership positions and additionally with more power. There was also demand from developed countries on India and other developing countries to assume more responsibility in solving the crisis of global commons.

Thus even while advocating the right to development India never used it as a excuse to avoid the responsibility towards global environment. Instead India has advocated responsible development which aims to achieve economic growth through sustainable means of development that aims to reduce greenhouse gas emissions. Besides, India has also increasingly assumed a leadership position, propagating the message of climate mitigation among developing economies, mobilising their support in achieving tangible emission reduction, pressuring the developed economies to commit more resources in terms of money, research and technology towards the mission to conserve the environment from climate change.

6.4.3 India's Action Plan against Climate Change

In order to combat the perils of Climate change India adopted a National framework designated as the National Action Plan on Climate Change in the year 2008. The National Action plan is composed on eight separate, objective national missions designed specifically to empower India to mitigate the threats posed climate change and transform it into an ecologically sustainable society. These eight missions are National Solar Mission (NSM), National Mission for Enhanced Energy Efficiency (NMEEE), National Mission on Sustainable Habitat (NMSH), National Water Mission (NWM), National Mission for Sustaining the Himalayan Ecosystem (NMSHE), National Mission on Strategic Knowledge for Climate Change (NMSKCC), National Mission for a Green India (GIM) and National Mission for Sustainable Agriculture (NMSA). Each of these missions is uniquely designed to meet specific objectives and supplements each other's objectives so as to achieve an overall effective impact over climate change. In order to comprehensively understand the nature of India's national plan there is need to glance at specific action plans formulated by the Indian state to address the Climate change crisis.

For example the National Solar Mission intends to develop a national solar energy policy framework through which solar energy would be consistently developed and promoted in a systematic manner so as to reach a level where it can replace India's dependency on fossil fuels and hence reduce the emission levels. Additionally measures are being adopted to increase the share of other renewable energy sources such as wind, tidal energy etc. To supplement these measures India has also adopted a policy framework to increase the green cover by increasing the share of trees and forests by one third, preservation of rivers and natural water bodies such as swamps, lakes, lagoons etc. The National Energy Efficiency Mission aims to impose the practice of energy efficient industrial practices which would conserve energy or make sure the efficient use of energy preventing wastage of energy. Effective application of the mission proposed practices could be useful in saving vast amounts of energy in industrial sector where energy is wasted through inefficient business practices.

Sustainable Habitat is another important mode to curb climate change, which is targeted by National mission on Sustainable Habitat. It aims to promote an urbanisation culture based on constructing energy efficient buildings, installation of renewable energy measures such as solar energy, procurement and recycling of waste management etc. Such as practice would help to evolve a more sustainable habitat as it ensures development of a more environmental friendly civil society. Another important mission as part of the

National Climate change framework is the National Water Mission. The mission aims to conserve water bodies ensuring the quality of drinking water across the country. Besides the mission aims to achieve the objective of provide access to every family to healthy drinking water. This is crucial landmark as despite having vast variety of sources of water most of the people have been denied access to pure drinking water owing to the polluted condition of water bodies.

Another additional objective of the mission is to achieve an integration of important rivers to ensure that excess water available to states is effectively utilised and transferred to water deficit states so as to address the problem of drought and lack of drinking water. The National Mission on Himalayan Eco system aims to plan and implement activities which shall preserve and sustain the habitat of the Himalayas. The Himalayas are crucial in maintaining our climate, weather and general environment and its sustainability would influence the sustainability of India's environment. The mission seeks to assess the impact of climate change on the Himalayan habitat while simultaneously implementing measures to contain it.

The National Mission for Green India seeks to expand the green cover by increasing the forest cover in India and lower the emissions. An increased tree cover would help in capturing the greenhouse gases and lessen the climate change. It also encourage in formulating plans involving civil society and other collective initiatives in rejuvenating or encouraging new forest covers and promoting the need of afforestation. Similarly the National Mission for Sustainable Agriculture aims at formulating policies to ensure the adaptation of India's agriculture to climate change. It will focus more on climate-change resilient crops, introducing climate change insurance, adopting agrarian practices suited to mitigate climate change.

In order to solve any major ecological problem there is a need for proper and comprehensive knowledge of the same and for that one needs critical knowledge on the subject. In this case, to mitigate the Climate change, India needs scientific knowledge and with this purposes the National Mission on Strategic Knowledge for Climate Change. The National Mission on Strategic Knowledge for Climate Change promotes research on the challenges raised by Climate change and the means to counter those challenges posed by Climate change. It also aims to encourage collaborative research between public and private sector and across nations to build development models, renewable energy mechanisms, fuel efficiency methods so as to reduce the emission levels.

Besides these measures India has also adopted various policy initiatives such as low carbon growth, creating Public urban transport system, restricting the use of private vehicles by implementing even-odd system, encouragement for renewable energy sources, reduction of dependency on fossil fuels. All these are in tune with India's broad commitment of adopting and ensuring its commitment towards maintaining a healthy environment without compromising on economic growth.

6.4.4 India's Climate Change Approach: From Strategic Conservatism to Positive Leadership

India's climate change approach can be best summarised as a contradictory position. It is characterised by simultaneous acceptance as well as denial of the challenges raised by climate change. While the early phases of

India's climate change intervention i.e. up to 1990's represent a conservative phase (some sort of denial), the post-1990 represent a more positive phase where India increasingly assumed leading position in shaping a global climate change mitigation regime. Generally, it is arguable that India has been actively involved in spreading the message of preservation of ecology, the need to protect the environment, the importance of tree cover to maintain human habitat, the symbiotic relation between human beings and animals etc. The Indian religions of Buddhism and Jainism even provided historical instances of institutions to protect and ensure the welfare of wildlife animals.

The period of colonialism witnessed an unprecedented penetration of nature. Isolated rural and forest landscape of India were commercialised by the British to serve their commercial interests. Though beneficial to the British these activities inaugurated a process of indiscriminate exploitation of nature. Forest resources such as timber, minerals etc were subjected to unscientific exploitation, whereas systematic expansion of plantation led to the loss of forest cover and forced displacement of adivasi population. The post-1947 phase further accelerated this process of exploitation as the country adopted rapid industrialisation as the solution to fix poverty and unemployment. India's mixed economy model despite its best intentions failed to liberate masses from the clutches of poverty and instead created a bureaucratic state. Notably the rapid industrialisation, mining, intensive agrarian techniques, mass deforestation, unscientific mega infrastructure projects lead to rapid deterioration of the environment. The 1990's witnessed an attempt to break out of this model by adopting a more liberal regime of economy where the market determined the price through the demand and supply chains. Private enterprises, Foreign Direct Investment, Foreign Capital all were actively encouraged. Rapid economic growth was achieved placing India at the head of the Developing countries.

However, across all these phases- starting with the colonial advent in the 19th century to the nationalisation in 1950's and later liberalisation in 1990's the objective was to achieve rapid economic growth through maximum exploitation of natural resources. These measures despite their mixed results produced a huge cost in terms of the impact they had on the environment. The immense and indiscriminate use of fossil fuels produced vast amounts of greenhouse gases which have progressively lead to the degeneration of India's environment and impacted its climate.

Temperature in India has considerably risen to impact the general weather conditions within India. Summer temperatures have risen and heat waves have become more frequent than earlier. In case of monsoon, the regions usually receiving heavy rainfall have started receiving less rain while regions receiving less rainfall have started receiving more rainfall. Rising temperatures within Himalayan region has led to the melting of icebergs leading to rise in river water levels, leading to expansion of river beds and displacement of settlements, sudden flash floods in rivers etc. Despite these concerns India has argued for a reasonable common but differentiated responsibility as the benchmark for its Climate change policy and this stems from the specific historical conditions through which India has gone through. India's has been on the receiving end of benefits of economic growth for only a few decades. Despite the novel success story India's growth story is till unequal and may require decades to trickle down to the marginal sections of the society. India's climate change

policy has advocated the right of equitable and judicious treatment of developing countries as they have been less responsible for the climate change crisis compared to the developed countries. However this principle of common but differentiated responsibility has not prevented India from committing itself to the larger climate mitigation goals. This is reflected in the implementation of India's National Climate Change Framework and the various National missions. India's approach to environmental issues in general and climate change in particular reflects its commitment to the global community without compromising on the welfare of the common public.

Recap

- Non-alignment principle
- Cold War threat
- Conservative stance on environmental issues
- No-commitment attitude
- Common but differentiated responsibility
- Active intervention post-1990s
- National Framework for Climate Change
- Eight missions for a Green economy
- India as a vanguard for global climate mitigation regime

Objective Questions

1. What is the primary focus of India's approach to environmental issues?
2. How does India engage with international environmental regimes?
3. What principle guides India's responsibility for environmental issues?
4. How did India's approach to climate change mitigation change after the 1990s?
5. What framework did India establish to address carbon emissions and climate change?
6. How many missions are included in India's National Framework for Climate Change, and what do they aim to achieve?
7. How does India's involvement at the international level reflect its role in establishing a global climate mitigation regime?

Answers

1. Sovereignty and National Interests
2. Actively
3. Common but Differentiated Responsibilities
4. National Action Plan.
5. Eight missions, Objectives Vary.
6. Leadership and Influence.

Assignments

1. How has India's role and intervention at the international level influenced global climate mitigation efforts? Can you discuss the impact of India's participation in international agreements and initiatives?
2. What factors do you think have driven India's increased intervention and active participation in addressing environmental issues, particularly climate change, in the post-1990s era?
3. How do you assess India's efforts in balancing its right to development with its responsibilities towards environmental protection?
4. In your opinion, what more can India do to enhance its role and impact in global climate change mitigation? Are there any areas where India's approach could be further refined or expanded?
5. How do you perceive the future trajectory of India's commitment to the global environment? What challenges and opportunities lie ahead for India in addressing environmental issues and contributing to global sustainability?
6. Discuss Third world Solidarity against Climate change.
7. Critically examine India's national action plan on climate change.

Suggested Reading

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