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Democracy

Constitutional Design

Electoral Politics

Working of Institutions

Democratic Rights



Chapter: is Democracy? Why Democracy?

Democracy is a form of government in which the rulers are elected by the people.

- Myanmar - army rules, Dictator Pinochet's rule in Chile, or President Nkrumah's rule in Ghana was not democratic. They were not chosen by the people.
- Hereditary kings, like the king of Nepal or Saudi Arabia, are also not democratic rulers. They rule because they were born into noble families.
- In a democracy final, decision-making power must rest with those elected by the people.
- In Pakistan, President Musharraf dismissed national and state assemblies; so the final powers rest with army General himself. We cannot call it a democracy. Now Pakistan has an elected government.
- **Democracy must be based on a free and fair election where those currently in power have a fair chance of losing.**
- For example, in Mexico elections have been held every six years since 1980. But the same party, PRI, has won the elections. Obviously, there has been rigging and malpractices, with freedom denied to the opposition. This is not what a democracy should be.

In a democracy, people's will is ascertained by each adult citizen having one vote and each vote has one value. Democracy is based on the fundamental principle of political equality.

A democratic government rules within the limits set by constitutional and citizens' rights.

A democratic government cannot do what it likes after winning the elections. It has to respect certain basic rules and is accountable not only to the people but also to other independent officials.

The Pillars of Democracy are The Sovereignty of the people, Government based upon the consent of the government, Majority rule, Minority rights, Guarantee of basic human rights, Free and Fair elections, Equality before the law, Constitutional limits on government, Values of tolerance, Pragmatism, Cooperation and Compromise.

Why Democracy?



Points Against

- There has been a criticism of democracy by various people. The charges are that:
- It creates instability by changing its leaders frequently.
- Democracy is about power play and political competition. There is no scope for morality.
- So many people have to be consulted before any issue is resolved. It leads to delay.
- Elected leaders do not know the best interest of the people.
- It leads to corruption for it is based on electoral corruption.
- Ordinary people do not know what is good for them, so decision-making should not be left to them.

Alternative to Democracy

- To overcome political instability and legislative gridlock associated with democratic rule, expansions of executive power and limits on democratic freedoms are been looked for.
- An exceptional example is that of Russia's transition from unstable democracy in the 1990s to economic growth and political stability.

Chapter: Constitutional Design**Democratic Constitution in South Africa**

- Nelson Mandela, the South African leader of African National Congress, fought a long battle against Apartheid.
- Imprisoned for 28 years (1964-1992) emerged as the first President of the Republic of South Africa.
- People struggled against the horrible discrimination practised against them by the white minority rulers.
- Apartheid system began to fall apart in the 1980s. Finally; in 1994, the first free multiracial elections were held.
- Remarkable constitution, forgot past sufferings, sought co-operation of all the races which made South Africa based on equality, democratic values and social justice.

Do We Need A Constitution?

Yes. A constitution has written laws accepted by people living together in a country.



- It generates trust and coordination.
- It specifies how a government should be constituted.
- It lays down limits on the powers of the government.
- It expresses the aspirations of the people about creating a good society.

Making of the Indian Constitution

- From 1858 onwards, the British Government passed many Acts for the government of India but could not satisfy Indian aspiration.
- Demand for a Constitution was **first raised in 1934 by the Indian National Congress**.
- In 1938, Jawaharlal Nehru formulated the demand for a Constituent Assembly.
- In 1942, the British Government recognized that Indians should frame a new Constitution by themselves.
- Participation in Provincial Legislatures helped Indians in framing their Constitution.
- Leaders were inspired by the French Revolution, British Parliamentary System and the Bill of Rights of the US.
- They also learnt what the British were denying Indian citizens.

The Constituent Assembly

- Elections to the Constituent Assembly were held in July 1946.
- Dr B.R. Ambedkar was appointed Chairman of the Drafting Committee.
- The Constitution was adopted on 26th November 1949, and enacted on 26th January 1950, when India became a Republic state.
- The Constitution reflects the best minds of the country. The Constituent Assembly was called Mini- India.
- Every law was debated clause by clause and a consensus arrived at.
- It is the longest written Constitution in the world.

Chapter: Electoral Politics

- In a democracy, people do not govern directly. They govern through the elected- representatives. Governing through elected representatives is the most common form of democracy.

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- **Electoral politics** is all about understanding election of representatives, need of elections and how to make election democratic. It also involves examining the role of the election commission in ensuring free and fair elections.

Elections

- Mechanism or procedure by which people choose their representatives at regular intervals is called election. If people are not satisfied with the working of the government then they can change the government in the next term of elections.

Procedure of Elections

- Formation of New Party
- Election Campaign of
- Voting
- Results
- The party with a clear majority is invited by the governor to form the government.
- As the election result was announced, the existing government chief resign if not won.

Need for Elections

- Elections are needed to elect representatives. The need of elections can be understood by imagining of democracy without elections.
- In the absence of the election, all the people have to sit together every day and take all the decisions. But this is not possible in any large community. Nor it is possible for everyone to have the time and knowledge to take decisions on all matters. Therefore, in most democracies, people rule through their representatives.
- Elections are needed for any representative democracy because
- They solve the problem of assessing people on the basis of education, knowledge or experience,
- They help in analysing that people like their representatives or not.
- They ensure that the representatives rule as per the wishes of the people and make sure that those who are not working for the people, do not remain their representatives.
- In an election, the voters make many choices like



- They can choose who will make laws for them.
- They can choose who will form the government and take major decisions.
- They can choose the party whose policies will guide the government and lawmaking.

What Makes An Election Democratic?

- Elections are held in all democratic countries and also in most of the non-democratic countries in many ways. But there is a simple list of the minimum conditions which make an election democratic like
- Everyone should have the right to choose a representative. It means everyone has one vote and every vote has equal value.
- Political parties and candidates should be free to contest elections and offer some real choices to the voters.
- Choices should be offered at regular intervals. For that elections must be held regularly after a certain period.
- Candidates preferred by the people only should get elected.
- Elections are conducted in a free and fair manner where people choose those representatives whom they really wish.

Political Competition

Elections are all about competition. Without competition, elections would become meaningless. Political competition takes place when different political parties compete to gain confidence and ultimately the vote of the voters. They make promises and give incentives to motivate the voters.

This electoral competition has many demerits like

- It creates a sense of disunity and factionalism (Groupism) and party-politics in every locality.
- Different political parties and candidates often use dirty tricks like booth capturing to win elections.
- Pressure to win electoral fights does not allow to- form useful long term policies.
- Competition leads to the idea of being dragged into the unhealthy competition. That's why good people do not enter and participate in political competition.
- Electoral competition also has some merits like



- Regular electoral competition provides incentives to political parties and leaders. If they can satisfy the voters with their work, they will be able to win again.
- If a political party is motivated only by the desire to be in power, even then it will be forced to serve the people.
- It reveals the real motive of political parties.
- It gives choices to voters to choose among the best.

System Of Elections In India

- In India, Lok Sabha and Vidhan Sabha (Assembly) elections are held regularly every five years. After five years, the term of all the elected representatives comes to an end.
- Elections are held in all constituencies at the same time, either on the same day or within a few days. This is known as General Election.
- Sometimes an election is held only for one constituency to fill the vacancy caused by death or resignation of a member. This is known as a by-election.

Electoral Constituencies

- In India, an area based system of representation is followed where the country is divided into different areas for purpose of elections. These are called Electoral Constituencies. Every voter who lives in an area elect one representative.
- For the Lok Sabha election, India is divided into 543 constituencies.
- The representative elected from each constituency is called Member of Parliament or an MP. One of the features of a democratic election is that every vote has equal value. For Vidhan Sabha election, each state is divided into a specific number of assembly constituencies and the elected representative of each assembly constituency is called the Member of Legislative Assembly or an MLA.

Reserved Constituencies

- Constitution makers were worried that in an open electoral competition, certain weaker sections may not stand a good chance to get elected to the Lok Sabha and the state Legislative Assemblies.
- If that happens, our Parliament and Assemblies would be deprived of the voice of a significant section of our



population. That would make our democracy less representative and less democratic.

Reservation for SC and ST

- Makers of our Constitution thought of a special system of reserved constituencies for the weaker sections. Some constituencies are reserved for people who belong to the Scheduled Castes (SC) and Scheduled Tribes (ST).
- In an SC reserved constituency, only someone who belongs to the Scheduled Castes can stand for election. Similarly, only those belonging to the Scheduled Tribes can contest an election from a constituency reserved for ST.

Reservation in Lok Sabha/ District/Local Level

- A few seats in Lok Sabha are reserved for Scheduled Castes (SCs) and Scheduled Tribes (STs). This number is in proportion to their share in the total population.
- In the year 2012, 84 seats are reserved for the Scheduled Castes and 47 for the Scheduled Tribes (in Lok Sabha). Thus, the reserved seats for SC and ST do not take away the legitimate share of any other social group. This system of reservation was extended later to other weaker sections at the district and local level. In many states, seats in rural (panchayat) and urban (municipalities and corporations) local bodies are now reserved for Other Backward Classes (OBC) as well.
- However, the proportion of seats reserved varies from state to state. Similarly, one-third of the seats are reserved in rural and urban local bodies for women candidates.

Voters List

- When the constituencies are decided, the next step is to decide who can and who cannot vote. In a democratic election, the list of those who are eligible to vote is prepared much before the election and given to everyone. This list is officially called the Electoral Roll and is commonly known as the Voters' List.
- This is an important step as it is linked to the first condition of a democratic election i.e. everyone should get an equal opportunity to choose representatives. All the citizens are human beings with their own needs and views. That is why



all of them deserve to have an equal say in decisions that affect them. Therefore everyone is given the right to vote.

- Right to vote falls under Universal Adult Franchise. It means all the citizens aged 18 years and above can vote in an election regardless of his or her caste, religion or gender.

Maintaining of Voters' list

- It is the responsibility of the government to get the names of all the eligible voters put on the voters' list. As new persons attain voting age, names are added to the voters' list, names of those who move out of a place or those who are dead are deleted. A complete revision of the list takes place every five years. This is done to ensure that it remains up to date.

[Note Some criminals and persons with unsound mind can be denied the right to vote, but only in rare situations.]

Election Photo Identify Card (EPIC)

- Election Photo Identity Card (EPIC) has been introduced. voters are required to carry this card when they go out to vote so that no one can vote in their place. Card has not been made compulsory for voting, and. voters can show many other proofs of identity like the ration card, driving' licence or Adhar Card.

Nomination Of Candidates

- System of our country provides almost no restrictions on anyone to contest the election. This only makes any election a democratic election.
- Anyone who can be a voter can also become a candidate in elections. The only difference to be a voter is that the minimum age is 18 years while to be a candidate in the election the minimum age is 25 years. There are also some other restrictions on criminals but these apply in very extreme cases.
- Political parties nominate their candidates who get the party support and symbol. Party's nomination is often called Party Ticket. The candidate has to fill a nomination form and give some money as a security deposit.

Moreover, every candidate has to make a legal declaration giving full details of



- Educational qualifications of the candidate
- Details of the assets and liabilities of the candidate and his/her family; and
- Serious criminal cases pending against the candidate.
- The information provided has to be made public in order to provide an opportunity to the voters to make their decision on the basis of the information provided by the candidates.
- Electoral Roll It is the voters' list prepared by a door to door survey to include only bonafide voters and minimise the role of bogus voters. Universal Adult Franchise Every Indian citizen of 18 years and above have the right to vote irrespective of caste, creed and sex.

Educational Qualifications for Candidates

- There is no educational qualification for candidates for being an MP or an MLA. However, the relevant qualification for candidates is the ability to understand people's concerns, problems and to represent people's interests.
- Putting an educational qualification would go against the spirit of democracy because it would deprive a majority of the citizens right to contest elections. This is because still, the majority of the Indian population is uneducated.

Election Campaign

- Election campaign means the promotion (or propaganda) of the policies, offers and promises that the candidates make to voters to fulfill if they are elected. In this way, voters can decide the candidate to vote for. They vote for the candidate whose policies they like.
- In our country, election campaigning takes place for a two-week period between the announcement of the final list of candidates and the date of polling.
- During this period, the candidates contact their electorate, political leaders, address... election meetings and political parties mobilise their supporters. This is also the period when Print Media and television news are full of election-related stories and debates.
- The election campaign is not limited to these two weeks only. Political parties start preparing for elections months before they actually take place.
- They prepare their election manifestos. In election campaigns, political parties try to focus public attention on some big



issues. They want to attract the public to that issue and get them to vote for their party on that basis.

Slogans Given by Different Political Parties

- Some of the successful slogans given by different political parties in various elections are given below
- The Congress party led by Indira Gahdhi gave the slogan of 'Garibi Hatao' (Remove poverty) in the Lok Sabha elections of 1971. The party promised to reorient all the policies of the government to remove poverty from the country.
- 'Save Democracy' was the slogan given by Janata Party in the next Lok Sabha election held in 1977. Hie party promised to undo the .excesses committed during Emergency and restore civil liberties.
- The Left Front used the slogan of 'Land to the Teller' in the West Bengal Assembly elections held in 1977.
- 'Protect the Self-Respect of the Telugus' was the slogan used by N.T. Rama Rao, the leader of the Telugu Desam Party in Andhra Pradesh Assembly elections in 1983.

Code of Conduct and Laws

- To regulate the election campaign, there are some election laws. According to these laws, no party or candidate can bribe or threaten voters, appeal to them in the name of caste or religion,
- use government resources for election campaign and spend more than Rs. 25 lakh in a constituency for a Lok Sabha election or Rs. 10 lakh in a constituency in an Assembly Election.
- If any party or candidate is found practising any of the above, their election can be rejected by the court even after they have won the election. In addition to the laws, all the political parties in our country have agreed to a Model code of conduct for an election campaign.
- According to this, no party or candidate can use any place of worship for election propaganda, use government vehicles, aircraft and officials for election.
- Once elections are announced, ministers shall not lay foundation stones of any project, take any big policy decision or make any promise of providing public facilities.

Polling



- On the day when dying voters cast or 'poll' their vote is called an Election Day. Every person whose name is on the
- voters' list can go to a nearby polling booth and cast his/her vote through a Secret ballot. Once the voter goes inside the booth, the election official identify him/ her, put a mark on the voter's finger and allow him/ her to cast his/ her vote.
- An agent of each candidate is allowed to sit inside the polling booth and ensure that the voting takes place in a fair way.
- Earlier voting was done, by putting a stamp on the ballot paper. A ballot paper is a sheet of paper on which the names of the contesting candidates along with party name and symbols are listed.
- Now Electronic Voting Machines (EVMs) are used to record votes. The machine shows the names of the candidates and the party symbols. The voter has to press the button against the name of the candidate, he/she wants to cast his/her vote.

Counting of Votes

- Once the polling is over, all the EVMs are sealed and taken to a secure place. A few days later, on a fixed date, all the EVMs are opened and the votes secured by each candidate are counted. The candidate who secures the highest number of votes from a constituency is declared elected.
- Within a few hours of counting, all the results are declared. In general elections, the counting of votes in all constituencies takes place at the same time, on the same day. Within a few hours of counting, all the results are declared and it becomes clear as to who will form the next government. This event is reported by television channels, radio and newspapers.

What Makes Elections In India Democracy?

- There are many factors which ensure that elections held in India are democratic. An independent body 'Election Commission' responsible to conduct elections is formulated in the Constitution of India.

Independent Election Commission :

- In our country, elections are conducted by an independent and very powerful Election Commission (EC). It enjoys the same kind of independence that the judiciary enjoys. The Chief Election Commissioner (CEC) is appointed by the President of India. But once appointed, he is not answerable



to even the President or the government Powers of Election Commission Potters enjoyed by dying Election Commission ate.

- It takes decisions on every aspect of conduct and control of elections right from the announcement of elections to the declaration of results.
- It implements the code of conduct and punishes any candidate or party that violates it.
- During the election period, die Election Commission can order the government to follow some guidelines to prevent the use and misuse of governmental power to enhance its chances to win elections or to transfer some government officials.
- When on election duty, government officers work under the control of the Election Commission and not the government.
- When election officials come to the opinion that polling was not fair in some booths or even an entire constituency, they order a repoll.

Popular Participation

- The participation and enthusiasm of people in an election is another criterion to check the quality of elections.
- If the election process is not free or fair, people will not continue to participate in the exercise. People's participation in election is usually measured by voter turnout figures. Turnout indicates the per cent of eligible voters who actually cast their vote. In India, there is greater voter turn out of poor illiterate people as compared to western democracies.

Acceptance of Election Outcome

- The outcome of elections-the final test of the free and fairness of it. If elections are not free or fair, the outcome always favours the powerful. In such a situation, the ruling parties do not lose elections. Usually, losing party does not accept the outcome of a rigged election.
- The outcome of India's election speaks for itself
- The ruling parties routinely lose elections in India both at the national and state level.
- In the US, an incumbent or sitting elected representative rarely loses an election. But in India, about half of the sitting MPs or MLAs lose elections.



- Candidates who are known to have spent a lot of money on buying votes and those with Known criminal connection often lose elections.
- Except for some disputed elections, the electoral outcomes are usually accepted by the defeated party as 'people's verdict'.

Challenges to Free and Fair Elections

Challenges to free and fair elections are listed as follows

- Candidates and parties with a lot of money may not be sure of their victory but they do enjoy an unfair advantage over smaller parties and independents.
- Some candidates with criminal records are able to secure party tickets from major parties due to their connections political.
- Some families tend to dominate political parties; a tendency for the dynastic rule is very common.
- Elections offer only little choice to ordinary citizens. All the major parties are quite similar to each other both in policies and practice.
- Smaller parties and independent candidates suffer a huge disadvantage compared to bigger parties in terms of money power and organisational support.

These challenges exist not only in India but also in many established democracies. This is a matter of concern for all who believe in democracy. This is the reason due to which there is the demand for reforms in our electoral system by citizens, social activists and organisations.

Chapter: Working of Institutions

In a democracy, the rulers have to follow some rules and procedures. They have to work with and within institutions. In this process, they come across three institutions that play a key role in major decisions. These institutions are legislature, executive and judiciary. In this chapter, we will understand how all the institutions together carry on the work of the government.

Process Of Taking A Major Policy Decision



- A major policy decision is taken through a government order. To know the process of taking a major policy decision, it is important to know about government order and its issuing.

A Government Order

- Issuing of Government Order A government order is a written direction on an issue signed by a government authority (office). e.g. On 13th August, 1990 the Government of India issued an order. It was called an Office Memorandum. It had a specific number. It was signed by the Joint Secretary, who is an officer in the Department of Personal and Training in the Ministry of Personal, Public Grievances and Pensions.
- Decision Announced by an Order The order announced a major policy decision. According to the order, 27% of the vacancies in civil posts and services of government were reserved for SEBC (Socially and Educationally Backward Classes). Earlier benefit of job reservation was available to Scheduled Castes (SCs) and Scheduled Tribes (STs). Now the third category SEBC was also eligible for quota of 27%.
- Controversy Over the Order The issuing order led to the country wide protest. Some of the protests were violent- As a result, the issue became the most debated in the media with different views and opinions. The people reacted strongly because this decision affected thousands of job opportunities.
- Appeal to Stop Implementation of Order Some person and associations filed a number of cases in courts against the order. They appealed to declare the order invalid and stop its implementation. This case came to be known as the Indira Sawhney and Others vs Union of India Case.
- Supreme Court's Declaration Over the Order By a majority, the Supreme Court in 1992, declared the order valid. It also asked the government to identify its original order.
- Modifications in Order and End of Dispute The order was modified and declared that well-to-do persons of backward classes should be excluded from the benefit of reservation.
- On 8th September, 1993 another memorandum was issued by the Department of Personal Training. Since then, the dispute ended and the same policy was followed.
- Main Events before the Passing of Government Order
- The main events before the passing of Government Order for OBC reservation were as follows

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- The Government of India had appointed the Second Backward Classes Commission in 1979. It was headed by BP Mandal. Hence, it was popularly called the Mandal Commission.
- Commission gave its Report in 1980 and made many recommendations. One of these was that 27% of government jobs be reserved for the socially and economically backward classes. For several years, many parliamentarians and parties kept
- Then came the Lok Sabha election of 1989. In its election manifesto, the Janata Dal promised that if voted to power, it would implement the Mandal Commission report.
- The Janata Dal did form the government after this election.
- Its leader VP Singh became the Prime Minister and he implemented it.

The Decision Makers

The major decision involves some major functionaries in our country. These are

- **President** He is the head of the state and is the highest formal authority in the country.
- **Prime Minister** He is the head of the government and actually exercises all governmental powers. He takes most of the decisions in the Cabinet meetings.
- **Parliament** It consists of the President and two houses – Lok Sabha and Rajya Sabha. The Lok Sabha or the Lower House is composed of the elected representatives of the people. The Rajya Sabha or Upper House represents the interests of the States and Union Territories. The Prime Minister must have the support of a majority of Lok Sabha members.

In our country, all the major decisions are taken by the council of ministers in the cabinet meetings headed by the Prime Minister. After that, the decisions are discussed in Parliament (Lok Sabha and Rajya Sabha) and after the approval of Parliament (approval by the majority of members of Lok Sabha and Rajya Sabha), it is sent to President for final approval. Once the decision is approved by the President, it is ready to be implemented and issued by the concerned government authority (officer) as government order.

How to Oppose Government Decisions



- If Some people or associations are not satisfied by government orders and there is a dispute regarding government order, then they can file the cases in the Supreme Court or in High Court.
- For example, some persons and associations filed a case in the Supreme Court against the Government of India decision of 27% of reservation for socially and educationally backward classes in civil posts and services. This case was known as 'Indira Sawhney and Other vs Union of India Case'.

Need for Political Institutions

- The arrangements made in the democracies to take decisions implemented the decision to see what is wrong and what is right in case of disputes regarding the decision are called Political Institutions.
- So without the functions of (the tasks assigned to the political institution, the democracy cannot work. Institutions involve rules and regulations, which can bind the hands of the leaders.
- By having meetings and making committees institution consult a wider set of people for any decision, Institution makes it difficult to have a good decision taken very quickly, but at the same time, they make it equally difficult to rush through a bad decision.

Parliament

- Parliament is a set of people elected regularly by the people of the country, directly (through direct elections) or Indirectly (through indirect election).
- All the by the government, before implementation, are put in the Parliament for discussion. Decisions can be implemented only after the approval by the Parliament.

Need of Parliament

- We need Parliament due to the following reasons.
- Parliament is the final authority for making new laws and changing existing laws in our country.
- In India, the control of Parliament over the government is direct and full. Those who run the government can take decisions only as long as they enjoy the support of the Parliament



- Parliament controls all the money that the government has. In most countries, public money can be spent only when Parliament sanctions it.
- Parliament is the highest forum of discussion and debate on public issues and national policy in my country. Parliament can seek information about any matter.

Two Houses of Parliament

The Parliament plays a central role in modern democracies. Large countries have divided the role and powers of Parliament into two parts. They are called **Chambers or Houses**.

Usually, One house is directly elected by the people and exercises the real power on behalf of the people. The second house is usually elected indirectly, its main work is to look after the Interests of Various States, regions or federal units. Indian Parliament consists of two houses or chambers.

- **Lok Sabha (House of the People)** or Lower Chamber It is Usually directly elected by the people and exercises the real power on behalf of the people.
- **Rajya Sabha (Council of States)** or Upper Chamber It is indirectly elected and performs special functions such as interest of various states, regions or federal units.
- The **President of India is a part of the parliament** of, although she is not a member of either house. Due to this reason, all laws made in the houses come into force only after they receive the assent of the President.

Special Powers of Lok Sabha Over Rajya Sabha

Our Constitution gives some special powers to Rajya Sabha but on most of the matters, the Lok Sabha exercises supreme power.

These are

- Any ordinary law needs to be passed by both the houses. But if there is a difference between the two houses, the final decision is taken in a joint session, where the view of Lok Sabha is likely to prevail because of its larger number of members.
- Lok Sabha exercises more powers in money matters. Once the Lok- Sabha passes the budget of the government or any other money-related law or Money Bill, foe Rajya Sabha cannot reject it.



- The Rajya Sabha can only delay it by 14 days or suggest to change it. But, the Lok Sabha may or may not accept these changes.
- Most importantly, the Lok Sabha controls the Council of Ministers. Only a person who enjoys the support of the majority of the members in the Lok Sabha is appointed the Prime Minister. If the majority of the Lok Sabha members say that they have 'no confidence' in the Council of Ministers, all ministers including the Prime Minister have to quit. But, the Rajya Sabha does not have this power.

Executive

- The functionaries (the people and organisation) who take day-to-day decisions but do not exercise supreme power on behalf of the people are known as executive. They are called executive because they are in charge of the execution of the policies of the government. By executive we usually mean the government.

Political and Permanent Executive

- In a democratic country, two categories make up the executive. They are Political executive and Permanent executive. Political Executive They are elected by the people for a specific period. They take major decisions. Political leaders fall in these categories.
- Permanent Executive They are appointed on a long-term basis. They are also known as civil servants. They remain in office even when the ruling party changes. They work under the political executive and assist them for carrying out daily administration.

Powers of Permanent and Political Executive

- The political executive has more power than the permanent executive. This is because the political executive is elected by the people and in a democracy will of people is supreme. The political executive exercise the will of the people on their behalf. They are answerable to the people for all consequences of their decisions.
- Permanent executive are more educated and have expertise on the subject of ministry. For instance, advisor of the finance ministry know more about economics than the finance minister.



- But still decision of the finance minister will be the final. Political executive call take advice of the permanent executive and then decide the overall framework and objectives of the policy to be implemented.

Prime Minister

- Prime Minister is the head of the government and actually exercises all the government powers. He is the most important political institution in the country.

Appointment of Prime Minister

- There is no direct election to the post of the Prime Minister. The President appoints the leader of the majority party or the coalition of parties that commands a majority in the Lok Sabha as a Prime Minister. In case, no single party gets a majority, the President appoints the person most likely to secure majority support.
- Collective Responsibility For any decision or action of the Cabinet, the Council of Ministers is collectively responsible. If any of the Cabinet decisions is not approved by the Parliament, the entire Council of Ministers has to resign.

Tenure of Prime Minister

- The Prime Minister does not have a fixed tenure.
- He continues in power as long as he remains the leader of the Majority or coalition party.

Powers of the Prime Minister

The Prime Minister has wide-ranging powers.

These are

- On the advice of the Prime Minister, the President appoints other ministers.
- The Prime Minister is free to choose ministers, as long as they are members of Parliament.
- He chairs and takes most of the decisions in the Cabinet meetings.
- He coordinates the work of different departments and his decisions are final in case disagreements arise between departments.



- He exercises general supervision of different ministries and all ministers work under his leadership.
- He distributes and redistributes work to the ministers.
- He also has the power to dismiss ministers. When Prime Minister quits, the entire ministry quits.

Council of Ministers

It is the official name for the body that includes all the ministers. It usually has 60 to 80 ministers of different ranks. The Council of Ministers has collective responsibility.

The Council of Ministers comprise

- Cabinet Ministers are usually top-level leaders of the ruling party or parties who are in charge of the major ministries. They meet to take decisions in the name of the Council of Ministers. The cabinet is the inner ring of the Council of Ministers. It comprises about 20 ministers
- Ministers of State with independent charge are usually in charge of smaller ministries. They participate in the Cabinet meetings only when specially invited.
- Ministers of State are attached to and required to assist Cabinet Ministers.

Appointment of Council of Ministers

- After the appointment of the Prime Minister, the President appoints the Council of Minister on the advice of Prime Minister. They are usually from the party or coalition that has the majority in Lok Sabha.
- Some times, a person who is not a member of Parliament can also become a minister. But such a person has to get elected to one of the Houses of Parliament within 6 months of his appointment.

Cabinet Form of Government

- Since it is not practical for all ministers to meet regularly and discuss everything, the decisions are taken in Cabinet meetings. That is why parliamentary democracy in most countries is often known as the Cabinet form of government.
- The secretaries provide the necessary background information to the ministers to take decisions.



- The Cabinet as a team is assisted by the **Cabinet Secretariat**. This includes many senior civil servants who try to coordinate the working of different ministries.

The President

- President is the head of the state. In our political system, the head of the state exercises only nominal powers. Thus, the President is like the Queen of Britain, whose functions are to a large extent ceremonial.
- President supervises the overall functioning of all the political institutions in the country, so that they operate in harmony to achieve the objectives of the state.

Appointment of the President

- President of India is elected indirectly, by an electoral college, in accordance with the system of proportional representation by means of the single transferable vote.

Electoral college consists of the elected Members of both Houses of Parliament (MPs), the elected Members of the Legislative Assemblies of the states (MLAs), the elected Members of the Legislative Assemblies (MLAs) of Union Territories of Delhi and Puducherry.

- A candidate standing for President's post has to get a majority of votes to win the election.
- This ensures that the President can be seen to represent the entire nation.
- President can never claim the kind of direct popular mandate that the Prime Minister can. This ensures that he remains only a nominal executive.

Presidential System (USA)

- Presidents all over the world are not always nominal executives like the President of India. The US President is directly elected by the people. He personally chooses and appoints all ministers.
- Lawmaking is still done by the Legislature (called the Congress in the US), but the President can veto any law. Most importantly the US President does not need the support of the majority of members in the Congress and neither is he answerable to them.



- President has a fixed tenure of 4 years and completes it even if his party does not have a majority in Congress.
- This model is followed in most, of the countries of Latin America and many of the ex-Soviet Union countries. Given the centrality of the President, this system of government is called the Presidential form of government.

Powers of the President

The President enjoys the following powers

- All governmental activities take place in the name of the President. All laws and major policy decisions of the government are issued in her name.
- All major appointments are made in the name of the President. These include the appointment of the Chief Justice of India, the Judges of the Supreme Court and the High Courts of the states, the Governors of the states, the Election Commissioners, Ambassadors to other countries, etc.
- Electoral College A specially constituted elected body to elect the President and Vice-President of India.
- All international treaties and agreements are made in the name of the President. The President is the supreme commander of the defence forces of India. The President has emergency powers i.e. powers to deal with an unexpected and critical situation, e.g. power to declare emergency or President's rule and issuing an ordinance.
- **Power to Appoint Prime Minister**
- President appoints Prime Minister. The leader of the party or coalition of parties who secures a clear majority in the Lok Sabha elections is appointed as Prime Minister. When no party or coalition gets a majority in the Lok Sabha, the President exercises her discretion and appoints a leader who in her opinion can muster majority support in the Lok Sabha.

Limitation on the Power of the President

- In spite of these powers, there is a limitation on the powers of the President. He can exercise all these powers only on the advice of the Council of Ministers.
- President can ask the Council of Ministers to reconsider its advice. But if the same advice is given again, the President is bound to act according to it. Similarly, a bill passed by the Parliament becomes a law only after the President gives assent



to it. If the President wants, she can delay this for some time and send the bill back to the Parliament for reconsideration. But if the Parliament passes the bill again, the President has to sign it.

The Judiciary

- Judiciary refers to an institution empowered to administer justice and provide a mechanism for the resolution of legal disputes. All the courts at different levels in a country put together are called the judiciary.
- Indian judiciary consists of a Supreme Court for the entire nation, High Courts and Subordinate Courts in the states, District Courts and the courts at the local level and Lok Adalats. India has an integrated or unified judiciary.
- It means that the Supreme Court controls the judicial administration in the country. Its decisions are binding on all other courts of the country.

Independence of Judiciary

- It means that judiciary is not under the control of the legislature or the executive. The judges do not act on the direction of the government or according to the wishes of the political party in power. That's why all modern democracies including India have courts that are independent of the legislature and the executive.

Appointment of Judges of Supreme Court and High Courts

- Judges of the Supreme Court and the High Courts are appointed by the President on the advice of the Prime Minister and in consultation with the Chief Justice of the Supreme Court.
- Senior judges of the Supreme Court select the new judges of the Supreme Court and the High Courts. There is, very little scope of interference by the political executive. The senior most judge of the Supreme Court is usually appointed the Chief Justice.

Removal of a Judge of Supreme Court and High Court

- Once a person is appointed as judge of the Supreme Court or the High Court, it is nearly impossible to remove him or her from that position. It is as difficult as removing the President of India.



- A judge can be removed only by an impeachment motion passed separately by two-thirds members of the two houses of the Parliament. It has never happened in the history of Indian democracy.

Powers of the Supreme Court

The Supreme Court can take up any dispute

- between citizens of the country
- between citizens and government
- between two or more State Governments
- between governments at the union and state level

Role of the Supreme Court and the High Courts

- Supreme Court and the High Courts have the power to interpret the constitution of the country. They can declare invalid any law of the legislature or the actions of the executive, whether at the union level or state level if they find such law or action is against the Constitution. They can determine the constitutional validity of any legislation or action of the executive in the country when it is challenged before them. This is known as the judicial review.
- Supreme Court of India was also ruled that the core or basic principles of the. The constitution cannot be changed by Parliament.

Judiciary as the Highest Authority

- Powers and the independence of the Indian judiciary allow it to act as the guardian of the Fundamental Rights. Anyone can approach the courts if the public interest is hurt by the actions of the government. This is called Public Interest Litigation (PIL).
- Courts intervene to prevent the misuse of the government's power to make decisions. They check malpractices on the part of public officials. That is why, the judiciary enjoys a high level of confidence among the people.

Chapter: Democratic Rights

Rights are the reasonable claims of a person over other fellow beings, the society and the government. The claims should be such that they can be made available to others in an equal measure. Thus,



a right comes with an obligation to respect other's rights. When the socially recognised claims (rights) are written into law in a democracy, they are called democratic rights.

Life Without Rights

- The importance of rights can be judged by the one whose life has absence of rights. The following three examples state what it means to live in the absence of rights.

Prison in Guantanamo Bay

- About 600 people were secretly picked up by the US forces from all over the world and put in a prison in Guantanamo Bay, near Cuba. According to the American Government, they were enemies of the US and linked to the attack on New York on 11th September, 2001. As a result, there was no trial before any magistrate in the US, nor could these prisoners approach courts in their own country.
- Protest Regarding the Imprisonment: Amnesty International, an International Human Rights Organisation reported that the prisoners were being tortured in ways that violated the US laws. Despite the provisions of international treaties, prisoners were being denied the treatment.
- Many prisoners tried to protest by going on a hunger strike. They were not released even after they were declared not guilty.
- Amnesty International An international organisation of volunteers, who campaign for human rights. The organisation brings out independent reports on the violation of human rights all over the world.

Citizens' Rights in Saudi Arabia

- Many countries like Saudi Arabia, Yugoslavia denied citizens' rights.
- The position of citizens in Saudi Arabia can be understood by the following facts
- The country is ruled over by a hereditary king and the people have no role in electing or changing their rulers.
- The king selects the Legislature as well as the Executive. He appoints the judges and can change any of their decisions.
- Citizens cannot form political parties or any political organisations. Media cannot report anything that the monarch does not like.

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- There is no freedom of religion. Every citizen is required to be Muslim. Non-Muslim residents can follow their religion in private, but not in public.
- Women are subjected to many public restrictions. The testimony of one man is considered equal to that of two women.

Note There are many countries in the world where conditions like Saudi Arabia exist.

Ethnic Massacre in Kosovo

- In Yugoslavia, Serbs were in majority and Albanians were in minority. A democratically elected Serb leader Slobodan Milosevic wanted to dominate the country. Serbs thought that the Albanians, (the Ethnic Minority Group) should leave the country or accept the dominance of Serbs.
- A brutal massacre took place in Kosovo in which thousands of Albanians were killed. Finally, several other countries intervened to stop the massacre. Milosevic lost power and was tried by the International Court of Justice for crimes against humanity.
- As a result, Kosovo with the majority population of Albanians declared independence in February 2008.

Rights In A Democracy

- In the discussed examples, the victims are the prisoners in Guantanamo Bay, women in Saudi Arabia and Albanians in Kosovo. So, in these positions, everyone would desire a system where security, dignity and fair play are assured.
- Everyone wants a system where at least a minimum assurance is guaranteed to all, whether he/she powerful or weak, rich or poor, majority or minority. No one, should be arrested without proper reason and information. If it happens then he/she should have a fair chance to defend themselves. This assurance should not only be on paper. There should be someone to enforce them and to punish those who violate them. This is real spirit behind the rights.

Meaning of Rights

- Rights are reasonable claims of persons recognised in society and sanctioned by law. When fellow Citizens or the government do not respect their rights, we call it violation of



our rights. In such situations, citizen can approach courts to protect their rights.

Need of Rights

- Rights are necessary for the very sustenance of a democracy. In a democracy, every citizen has to have the Right to Vote and the Right to be Elected to government.
- Rights protect minorities from the oppression of majority. They ensure that majority cannot do whatever it wishes to do. Rights are like guarantees which can be used when things go wrong. Specially when some citizens may wish to take away the rights of others. In most democracies, the basic rights of the citizen are written down in the Constitution.
- 'Ethnic minority group' An ethnic minority group is a human population whose members usually identify each other on the basis of a common ancestry. People of an ethnic group are united by cultural practices, religious beliefs and historical memories.

Rights In The India Constitution

- Some rights which are fundamental to our life are given a special status in Indian Constitution. They are called **Fundamental Rights**. These are the basic human rights, which are given to every citizen in a democracy for the development of his/her personality. These rights are guaranteed by the Constitution. They promise to secure for all its citizens equality, liberty and justice. Hence, they are an important basic feature of India's Constitution.

The six Fundamental Rights recognised by the Constitution are

- Right to Equality
- Right to Freedom
- Right against Exploitation
- Right to Freedom of Religion
- Cultural and Educational Rights
- Right to Constitutional Remedies
- Right to Equality

Constitution says that the government shall not deny the equality before the law or the equal protection of the laws to any person in India. It means that the laws apply in the same manner to all, regardless of a person's status. This is called the **Rule of law**.



Right to Equality is the foundation of any democracy. It means that no person is above the law. The government shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth.

Every citizen shall have access to public places like shops, restaurants, hotels and cinema halls. Similarly, there shall be no restrictions with regard to the use of wells, tanks, bathing ghats: roads, playgrounds and places of public resorts maintained by government or dedicated to the use of general public.

Reservations

- Government of India has provided reservation for Scheduled Castes (SCs), Scheduled Tribes (STs) and Other Backward Classes (OBCs). But these reservations are not against the Right to Equality.
- Equality does not mean giving everyone the same treatment, no matter what they need. Rather it means giving everyone an equal opportunity to achieve, whatever one is capable of. Sometimes, it is necessary to give special treatment to someone in order to ensure equal opportunity. Thus, the reservations of this kind are not a violation of the Right to Equality.

Untouchability:

- Principle of non-discrimination extends to social life as well. The Constitution directs the government to put an end to the practice of untouchability. It is the extreme form of social discrimination.
- Untouchability does not mean refusal to touch people belonging to certain castes. Rather it refers to any belief or social practice which looks down upon people account of their birth with certain caste labels.
- Such practice denies their interaction with others or access to public places as equal citizens. That's why the Constitution made untouchability a punishable offence.

Many Forms of Untouchability

- In 1999, P. Sainath wrote a series of news reports in 'The Hindu' newspaper describing untouchability and caste-discrimination that was still being practised against Dalits or persons belonging to Scheduled Castes.



- P. Sainath travelled to various parts of the country and found that in many places, Tea stalls kept two kinds of cups, one for Dalits one for others.
- Barbers refused to serve Dalit clients.
- Dalit students were made to sit separately in the classroom and drink water from the separate pitcher.
- Dalit grooms were not allowed, to ride a horse in the wedding procession.
- Dalits were not allowed, to use common handpump or if they did, the handpump was washed to purify it.

Right to Freedom

Freedom means the absence of constraint (restrictions). In practical life, it means the absence of, interference in our affairs by others – be it other individuals or the: government. Under the Indian Constitution, all citizens have the right to

- Freedom of speech and expression
- Assembly in a peaceful manner
- Form associations, unions and cooperative societies
- Move freely throughout the country
- Reside in any part of the country
- Practice any profession or to Carry on any occupation, trade or business.

One cannot exercise his freedom in such a manner that violates others' Right to Freedom. A person is free to do everything which injures or harms no one else. Freedom is not an unlimited license to do what one wants. The government can impose certain reasonable restrictions on our freedom in the larger interests of society.

Freedom of Speech and Expression

- It is one of the essential features of any democracy. Even if a hundred people think in one way, you should have the freedom to think differently and express your views as you wish. You may express your views through pamphlets, magazines, newspapers, paintings, poetry or songs. However, you cannot use this freedom to stimulate violence against others and excite people to rebel against the government. Neither can we use it to defame others by saying false and mean things that cause damage to a person's reputation?



Assembly in a Peaceful Manner/Form Associations

- Citizens have the freedom to hold meetings, processions, rallies and demonstrations on any issue. But such meetings should be peaceful and people participating in these should not carry weapons. Citizens also can form associations to promote their interests.

Freedom to Travel/Choice of Occupations

- The citizen have the freedom to travel to any part of the country and are free to reside or settle in any part of the territory of India. This right allows lakhs of people to migrate from villages to towns and from poorer regions of the country to prosperous regions and big Cities.
- The same freedom extends to choice of occupations. No one can force you to do or not do a certain job (especially women). Even people from deprived caste cannot be forced to keep their traditional occupations.

Personal Liberty

- The Constitution says that no person can be deprived of his life or personal liberty except according to the procedure established by law. It means that no person can be killed unless the court has ordered a death sentence. It also means that a government or police officer cannot arrest or detain any citizen unless he has proper legal justification.
- Even when police arrests someone, they have to follow some procedures like.
- A person who is arrested and detained in custody will have to be informed of the reasons for such arrest and detention.
- Such as person shall be produced before the nearest magistrate within a period of 24 hours of arrest.
- Such a person has the right to consult a lawyer or engage a lawyer for his own defence.

Right Against Exploitation

- Once the Right to Liberty and Equality is granted, it follows that every citizen has a right not to be exploited. Still the Constitution makers thought it is necessary to write down certain clear provisions to prevent exploitation of the weaker sections of the society. The Constitution mentions three specific evils and declares these illegal.



- First, the Constitution prohibits 'traffic' in human beings. Traffic here means selling and buying of human beings, usually, women or children, for immoral purposes.
- Second, our Constitution also prohibits forced labour or Begar in any form. Begar is a practice where the worker is forced to render service to the master free of charge or at a nominal remuneration. When this practice takes place on a life long basis, it is called the practice of bonded labour.
- Finally, the Constitution prohibits child labour. No one can employ a child below the age of 14 to work in any factory or mine or any other hazardous work, such as railways and ports. Using child labour as a basis, many laws have been made to prohibit children from working in industries such as beed making, fire crackers and matches, printing and dyeing, etc.

Right to Freedom of Religion

- Every person has a right to profess, practice and propagate the religion he or she believes in. Every religious group or sect is free to manage its religious affairs.
- Freedom to propagate one's religion, does not mean that a person has right to compel another person to convert into his religion by means of force, fraud, inducement or allurement. However, a person is free to change religion on his or her own will.
- Freedom to practice religion does not mean that a person can do whatever he wants in the name of religion. For example, one cannot sacrifice animals or human beings as offerings to supernatural forces or Sods.

Secularism

- It is based on the idea that the country is concerned only with relations among human beings. India is a secular state. A secular state is one that does not establish any one religion as official religion. In India no privilege or favour is provided to any particular religion.
- The government cannot compel any person to pay any tax for the promotion or maintenance of any particular religion or religious institution. There shall be no religious instruction in the government educational institutions. In educational institutions managed by private bodies, no person can be



compelled to take part in any religious instruction or to attend any religious worship.

Cultural and Educational Rights

- The working of democracy gives power to majority. Thus, it is the language, culture and religion of minorities that need special protection. Otherwise, they may get neglected or undermined under the impact of the language, religion and culture of the majority.
- The following cultural and educational rights for minorities are specified by our Constitution
- Any section of citizens with a distinct language or culture have a right to conserve it.
- Admission to any educational institution maintained by the government or receiving- government aid cannot be denied to any citizen on the grounds of religion or language.
- All minorities have the right to establish and administer educational institutions of their choice.

Right to Constitutional Remedies

- Fundamental Rights in the Constitution are important because they are enforceable. We have a right to seek the enforcement of these mentioned rights. This is called the Right to Constitutional Remedies.
- This right makes other rights effective. When any of the Fundamental Rights are violated, then citizens can directly approach the Supreme Court or the High Court. Both courts have the power to writs (Habeas corpus, Mandamus, prohibition, Quo warrant and
- Certiorari) for the enforcement of the rights. That's why Dr Ambedkar called the Right to Constitutional Remedies the heart and soul of our Constitution.

Right to Property

- Constitution originally provided for the Right to Property under Articles 19 and 31. But the 44th Amendment Act of 1978 abolished this right from the list of Fundamental Rights.
- Amendment made it a legal right under Article 30-A in the Constitution. This right states that no person shall be deprived of his property.

Right to Education



- Under Article 21-A, India joined a group of few countries in the world to make education a Fundamental Right of every child. It came into force on 1st April 2010. The Article 21-A says that state shall provide free and compulsory education to all children of the age of six to fourteen years. Thus, this provision makes elementary education a Fundamental Right.

Securing The Fundamental Rights

- There can be no law or action that violates the Fundamental Rights. If any act of the Legislature or the Executive takes away or limits any of the Fundamental Rights, it will be invalid. Citizens can challenge such laws in courts which enforce the Fundamental Rights against private individuals and bodies.
- Any person can go to court against the violation of the Fundamental Right. If it is of social or public interest, it is called **Public Interest Litigation** (PIL). Under the PIL, any citizen or group of citizens can approach the Supreme Court or a High Court for the protection of public interest against a particular law or action of the government.

National Human Rights Commission (NHRC)

- It is an independent commission established in 1993. The Commission is appointed by the President. The Commission focuses on helping the victims to secure their human rights. These include all the rights granted to the citizens by the Constitution.
- The Commission also considers the Human Rights mentioned in the UN sponsored international treaties that India has signed. The NHRC makes an independent and credible inquiry into any case of violation of human rights. The Commission presents its findings and recommendations to the government.

Expanding Scope Of Rights

- Demands for many new Fundamental Rights have been coming up time to time. Some of these demands have been included under the scope of Fundamental Rights.
- For example, Right to Freedom of Press, Right to Education and Right to Information.
- According to the Right to Education, every child has the right to get elementary education. According to Right to



Information, anybody can demand information regarding the functions of a government department or official.

Constitution provides many more rights, which may not be Fundamental Rights.: e.g. the-Right to Property, Right to Vote in Election are not Fundamental Rights, but these are Constitutional Rights.

Human Rights

- Sometimes, the expansion of rights takes place in human rights. Human rights are universal moral claims that may or may not have been recognised by laws. With the expansion of democracy, all over the world, there is greater pressure on governments to accept these claims.
- Some international covenants have contributed to the expansion of rights. Thus, the scope of rights has been expanding and new rights are evolving over time. New rights emerge as societies develop or as new Constitutions are made. For example, the Constitution of South Africa guarantees its citizens several kinds of new rights.

These are

- Right to privacy, so that citizens or their home cannot be searched, their phones cannot be tapped, their communication cannot be opened.
- Right to an environment that is not harmful to their health or well being.
- Right to have access to adequate housing.
- Right to have access to health care services, sufficient food and water; no one may be refused emergency medical treatment.

Many people in our country think that the Right to Work, Right to Health, Right to Minimum Livelihood and Right to Privacy should be made as Fundamental Rights in India.

International Covenant on Economic, Social and Cultural Rights

The international covenant recognises many rights that are not directly a part of the Fundamental Rights in the Indian Constitution.

This has not yet become an international treaty. But human right activists all over the world see this as a standard of human rights.

These include



Notes

- Right to work i.e. an opportunity to everyone to earn a livelihood by working.
 - Right to safe and healthy working conditions, fair wages that can provide a decent standard of living for the workers and their families.
 - Right to an adequate standard of living including adequate food, clothing and housing.
 - Right to social security and insurance.
 - Right to health i.e. medical care during illness, special care for women during childbirth and prevention of epidemics.
 - Right to education i.e. free and compulsory primary education, equal access to higher education.
 - Claim Demand for legal or moral entitlements, a person makes on fellow citizens, society or the government.
- Covenant Promise made by individuals, groups or countries to uphold a rule or principle. It is legally binding on the signatories to the agreement or the statement.

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