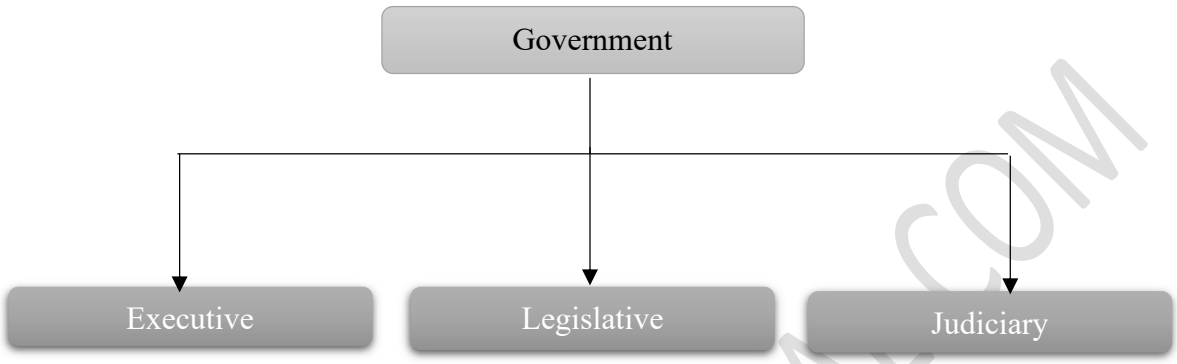
# UNION & STATE EXECUTIVE AND LEGISLATURE

Table of Contents

## 1. Introduction

Before talking of the Parliament and Union Executive, let us understand the form and nature of the Indian government. The Structure of the Indian government can be understood by the following flow chart:




India is a form of Parliamentary Government. It is a form of government in which the executive is responsible and answerable to the legislative. It is also called the Cabinet Government due to the concentration of executive powers in the Cabinet. The Executive is a part of the Legislative.

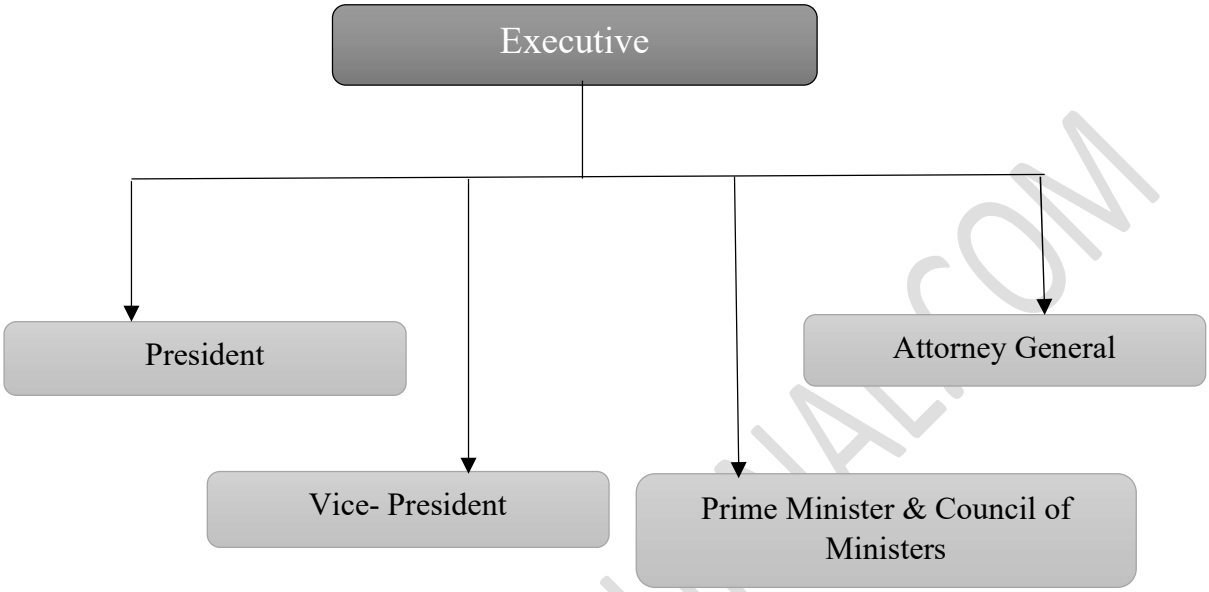
This form of government was basically preferred by the leaders as:

- Leaders were aware of such a form of government.
- This government was considered a more responsible government as in this form of government, the executive is answerable to legislative and the legislative is answerable to the citizens.
- This type of government prevents Authoritarianism.
- This form helps to get representation from a Diverse Group of people.
- This form of government remains laden with the availability of Alternate Government.
- In this form of government, the head of the state holds a ceremonial position and is the nominal executive. For example, the President
- The real head of the State is the Prime Minister, who is the real executive.
- There is a majority party rule in such a form of government.
- There is always a Parliamentary Opposition to maintain a check on the actions of the ruling government.
- In this form of Government Civil Servants are Independent.

This is a famous concept of government followed in other countries like Japan, Canada, Britain. This form of government in India was majorly inspired by Britain.

Opposite of such a form of government is the Presidential form of Government. In this government, the President is answerable to citizens rather than the legislative.

If we dwell deep inside, we find further subdivision of the Executive Organs of the State. These subdivisions are:






2. **The President (Article 52)**

The first and foremost part of the Executive is the President. Article 52 states that there shall be a President of India. The President is considered the Executive head of the country. All the Executive business of the country is carried out in the name of the President.

So the question arises that if President is the executive head and all actions are in his name, and the President has to carry out many functions, then can there be the performance of an act not mentioned in any specific legislation by the Executive?

The same was answered in the case of **Ram Jawaya Kapoor v. the State of Punjab**, the Government invited textbooks from authors for approval. When textbooks were approved, the authors were made to enter an agreement. According to this agreement, the copyright of these books vested solely in the Government. The authors only got 5% royalty on the sale of the textbooks. The Government took all the publishing, printing and selling rights of the books in their own hands.

The Court held that these provisions were ultra-vires to the constitutional power. The government being an executory body did not possess the power to enter into that activity or trade without specific legislations.

No restriction on the executive powers is defined in the Indian Constitution. The Court held that the executive cannot be restricted to mere implementations of legislations. There is a strict separation of powers but no strict separation of functions.

**Qualifications: Article 58**

President is the Executive Head of the entire nation.

Article 58 talks about the eligibility of a person to become President of India. It says that a person is eligible for election as President if he:

- is a citizen of India;
- has completed the age of thirty-five years;
- is qualified for election as a member of the House of the People.

A person can be disqualified for election as President if he holds any office of profit under

- the Union of India or;
- the Government of any State or;
- under any local or other authority subject to the control of any Government of India.

**Condition of President's Office: Article 59**

The eligibility to become the President might seem simple but the conditions his office are quite strict. Article 59 of the Indian Constitution talks about the conditions of the President's office. It says:

- The President cannot be a member of either House of Parliament or of any other House of the Legislature of any State.
- If he is a member of either House of Parliament or a member of a House of the Legislature of any State, he will need to vacate his seat in that House on the date of entering into his office as President.
- The President shall not hold any other office of profit.
- The President shall be authorized to the use of his official residences without rent.
- He shall be also authorized to emoluments, allowances, and privileges determined by Parliament.
- The emoluments and allowances of the President cannot be diminished or reduced during his term of office.

## Official residence, emoluments, and allowances of President

The President of India is also entitled to certain allowances and privileges, as he is the first citizen of the country. The President of India is entitled to rent-free accommodation, allowances, and privileges by law. He is also entitled to:

- Free medical facilities;
- Free accommodation;
- Free treatment for life;
- The official state car of the President.

The salary of the President has undergone several changes since independence. Some of these changes were:

- In 1951, the President of India used to get a salary of Rs. 10,000 and 15000 rupees as an allowance.
- In 1985, the President of India used to get a salary of Rs. 15,000 and 30000 rupees as an allowance.
- In 1989, the President of India used to get a salary of Rs. 20,000 and 10000 rupees as an allowance.
- In 1998, the salary was increased to Rs. 50,000In 2008, the salary was increased to Rs. 1,50,000.
- In 2016, the salary was increased to Rs. 5,00,000.

Rashtrapati Bhavan is the President's official residence, including reception halls, guest rooms, and offices. It is the largest residence of any head of state in the world.

## Election of President: Article 54

The Article 54 of the Constitution deals with provisions relating to the election of the President. It says that the President must be elected by the members of an electoral college. The electoral college consists of the elected members of both Houses of Parliament and the state Legislative Assemblies.

*Mode of Voting*

As per Article 55(3) of the Constitution of India, the election of the President should be held according to the system of proportional representation by means of a single transferable vote. The voting at the presidential election shall be by secret ballot.

**Disputes regarding the election: Article 71**

Article 71 deals matters relating to the election of the President. It states that any dispute arising with respect to the election of the President will be adjudicated by the Supreme court and its decision will be considered final.

- If the election of a person as President is declared void, acts done by him in the exercise of the powers of the office of President will not be considered invalid by reason of the order of the Supreme Court.
- Parliament can formulate any law regarding the election of a President in consonance with the provisions of the Constitution.
- The election of a person as President or Vice President shall not be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him.

**Oath by the President: Article 60**

Any person holding the office of the President or delivering the functions of the President must, before entering into the office of the President, be made to subscribe in the presence of the Chief Justice of the country or any other senior-most judge of the Supreme Court, to an oath or affirmation in the name of God to faithfully execute the office of president of India and to preserve, protect and defend the Constitution and the law to the best of his abilities and that he would devote himself to serve the people of India and ensure their well-being.

**Term of office of the President: Article 56**

Article 56 defines the term of the office of the President to be of five years unless:

- A new President enters the office, the incumbent President shall hold it;
- President resigns before the expiry of the term by writing it to the Vice President;
- The President is removed from his office, for violation of the Constitution, by the process of impeachment provided under article 61.

The article also states that any resignation made by the President to the Vice President must be communicated to the Speaker of the Lok Sabha by the Vice President himself.

**Time of holding the election on expiry of the term and filling casual vacancies**

Article 62 provides for the filling up of the vacancy to the office of the President. It defines the terms of office of the person filling the casual vacancy as well as the time of holding elections to fill the vacancy.

It states that an election to fill the vacancies must be fulfilled before the expiration of the term of the office of the President.

An election to fill the vacancies, occurring due to the death, resignation or impeachment of the President, must be done as soon as possible. The elections, in any case, must be conducted within a time period of six months from the date of occurrence of the vacancy. The new person elected to the office of the President will be subject to all the provisions of Article 56 and will hold his office for a five-year term from the date of entering into the office.

## Procedure for impeachment of the President: Article 61

So, you heard me talking about the impeachment process in the above paragraph. So, let's not be secretive about it and discuss how you can be removed from the post of President through impeachment?

The President of India can be impeached under Article 61, for the violation of the Constitution, on the basis of charges preferred by either House of Parliament.

A resolution with the proposal to prefer such charges must be signed by at least one-fourth of the total members of the house. The resolution also needs to be passed by at least two-thirds majority of the house.

When the resolution is passed by one of the Houses, the other House must investigate the charges. The President has been granted the right to be present or to be represented in such investigations.

When the House investigating the charges passes the resolution by a two-thirds majority and declares the charges as sustaining, it results in removing the President from his office from the date of passing of the resolution.

## Privileges of the President: Article 361

As President, you also enjoy some degree of immunity. Under Article 361, the President is protected from being answerable to any court for:

- For exercise and performance of his powers and duties of his office;
- For doing any act or claimed of doing any act in the exercise of those powers and duties;

The conduct of the President can be reviewed only if either House of Parliament designates or appoints any court tribunal or any other body to investigate the charges under Article 61.

But it bars no person from bringing any valid proceeding against the Governor or Government of India.

The Article immunes the President against all types of criminal proceedings during the term of his office.

No issuance of any order relating to the arrest and imprisonment of the President can be made by any court during his term of office.

A civil proceeding can be constituted against the president during his term of office if:

- The act is done or alleged to have been done, whether before or entering the office of the President, by him was in his personal capacity;
- Two months prior notice is provided, to the president or was sent to his office, stating:
    1. The nature of the proceeding;
    2. The cause of action;
    3. The details of the other party including name, description, and place of residence;
    4. The relief claimed by the other party;

**Powers of the President**

The President of India is provided with a wide range of power:

*i. Executive Powers*

Article 53 of the Indian Constitution states that all the executive powers of the Union will be vested in the President of India. President is allowed to exercise his executive powers through officers subordinate to him, directly or indirectly, in consonance to the provisions of the Constitution.

Under this article, the President has powers regarding:

- Appointment of the high authorities of the Constitution like the Prime Minister and the Council of Ministers;
- Right of being informed about all the national affairs;
- Appointment of the judges of the constitutional courts(Supreme Court and High Courts);
- Appointment of the state Governors, the Attorney General, the Comptroller, and Auditor General, the Chief Commissioner and members of the Election Commission of India;
- Administration of Union territories and appointment of the Chief Commissioners and Lieutenant Governor of the Centrally Administered Areas;
- Removal of the Council of Ministers, the state Governors, the Attorney General.

*ii. Military Powers*

Article 53 also states that the President shall be the Supreme Commander of all the Armed Forces of the Union of India. It also states that no specific provisions can reduce the scope of this general principle.

As the Supreme Commander of the Armed Forces of the Union, President has powers regarding:

- Appointment of all the officers, including the appointment of the chiefs of the forces;
- Wars are waged in the name of the President;
- Peace is concluded in the name of the President.

*iii. Diplomatic Powers*

The President forms the face of Indian diplomacy and helps the nation to maintain cordial relationships with countries across the globe.

- All the Ambassadors and high commissioners in foreign nations are his representatives;
- He receives the credentials of the Diplomatic representatives of other nations;
- Prior to ratification by Parliament, the treaties and agreements with other nations, are negotiated by the President.

*iv. Legislative Powers*

The President also enjoys certain legislative powers like:

- During the budget session, the President is the first to address the Parliament;
- The President is empowered to summon a joint session in order to break the deadlock in the legislation process between the two Houses of the Parliament;
- President sanction is mandatory in cases of provisions relating to:
    a. creating a new state;
    b. changes in the boundary of existing states;
    c. a change in the name of a state.
- Legislative provisions relating to fundamental rights of the citizens of India require the President's consent;
- President's consent is mandatory in cases of money bill originating in Lok Sabha;
- President's consent is necessary for all the bills passed by the Parliament to become a law;
- President is empowered to promulgate ordinances when the Parliament is not in session;
- President also nominates the members of both the Houses.

*v. Ordinance making power of the President: Article 123*

Article 123 talks about the presidential powers to promulgate ordinances. An ordinance can be promulgated if:

- neither of the House of the Parliament is in session;
- and the President feels a need for immediate action.

The ordinance which is promulgated by the President will have the same effect as that of an act or law of the Parliament.

The essential conditions to be met by an ordinance are:

- It shall be presented before both the Houses of Parliament for passing when it comes to the session;
- The ordinance shall cease to operate six weeks after the date of reassembling of the parliament;
- The ordinance may also expire if the resolutions disapproving it are passed by both the Houses of Parliament;
- It can be withdrawn at any time by the President;
- The ordinance must be in consonance to the Constitution of India else it shall be declared void.

*vi. Financial Powers*

- President receives reports of the Finance Commission and acts on its report.
- The Contingency Funds of India are at the disposal of the President.
- He also causes the presentation of audits in the Parliament.

*vii. Legal Powers*

The President enjoys the following privileges as his judicial powers:

- He can rectify the judicial errors;
- He exercises the power of grant of pardons and reprieves of punishments;
- President can seek the advice of Supreme Courts on:
    a. Legal matters,
    b. Constitutional matter,
    c. Matters of national importance.

*viii. Pardoning power: Article 72*

Article 72 provides for the provisions relating to the pardoning powers of the President. President can grant pardons, respites, reprieves, and remissions of punishments or remit suspend or commute the sentence given to a person by the court in the following cases:

- When the sentence is granted through a court-martial;
- When the sentence or punishment is given for offense of violation of any law relating to matters that fall in the ambit of Union's executive powers;
- When a death sentence is passed by a court.

a. Clemency Power not unbridled

Unbridled Ness of the pardoning powers of the president has always been a highly debated issue. Supreme Court in various cases has laid down provisions for exercising control over the pardoning powers of the Executive.

In **Maru Ram Etc. Etc. v. Union of India**, Supreme Court held that pardoning power under Article 72 is to be exercised by the President, on the advice of Central Government and not on his own will and that the advice is binding on the head of the Republic.

In **Dhananjay Chatterjee alias Dhana v. State of West Bengal**, the Supreme Court reiterated the same.

b. Nature of Pardoning Power

Indian Presidents are known for the generous grant of pardons. Pardon is an act of grace and not a form of a right to be demanded by any person. Unlike the Constitutional provision, Pardon is granted by the executive as a whole and not by the President alone. This is done as it is necessary for the President to act on the aid and advice of the Council of Ministers.

A pardon completely sets free an offender of all his guilt. A full pardon makes the person innocent in the eyes of law as if he has never committed a crime. It gives him the identity as that of a new man with a new set of capacities.

The pardoning power comes with discretion on the part of the President. The practice to confer the right of pardon on some authority has long existed. It is also practised in other countries, for example, the U.S. Constitution prescribes for the power of pardon to the President whereas, In the United Kingdom, the same is conferred to the Crown.

c. Pardoning Power: subject to judicial review

The question that arises is whether the pardoning power of the president can be brought under the judicial review. Can the judicial review of such an order be done? What could be the grounds for judicial review of such orders?

In **Kuljit Singh Alias Ranga v. Lt. Governor of Delhi & Ors** the court held that the pardoning powers of the president under Article 72 can be examined according to the facts and circumstances of each case. The Court has the power of judicial review even on a matter which the Constitution has vested solely in the Executive.

The most significant case of **Kehar Singh And Anr. Etc v. Union of India And Anr.** dealt with the concept of judicial review of the President's pardoning power on grounds of its merit. In this case, the Supreme Court held that

> *"The terms and history of Article 72 as well as the specific guidelines and case laws relating to Article 72 clearly indicate that the ambit of Article 72 very wide. The powers under this article cannot be clearly defined or channelized with specific guidelines. The term "pardon" itself signifies it to be discretionary. Hence, the grant*

*or rejection of pardons cannot be reasoned and the order of President cannot be brought under judicial review with respect to its merits."*

Whereas In **Epuru Sudhakar Case**, where a Congress activist faced ten years in prison in connection with the killing of two persons including a TDP activist. His punishment was remitted by the Governor of Andhra Pradesh. Contentions were raised regarding the immunity of the pardoning power. The Supreme Court bench stated that the exercise of pardoning powers would be subject to judicial review by the court against the maintenance of Rule of Law.

Exercising powers of clemency is a matter of discretion but still subject to certain standards and not a matter of privilege. The power of executive clemency is a matter of performance of official duty and not only for benefiting the convict. During exercising such powers the President must also consider the effect of his decision on the family of the victims, the society and the precedent it sets for the future.

Thus this judgment settled position of law that immunity from the judicial review cannot be granted to the President for exercise or non-exercise of the pardoning power.

*ix. Emergency Powers*

Article 352 of the Constitution of India grants President, three kinds of emergency powers as well:

- When a National Emergency is declared in case of external aggression or internal armed rebellion, the President holds the powers to declare a state of emergency. Thus the President's rule gets established in the country. However, the prime minister and the Council of Ministers must recommend such an emergency;
- When there exists a constitutional or law and order breakdown situation in a state, the President may declare a state of emergency in such cases. The state would then come under Governor's rule;
- Whenever the financial stability of the nation or any country is seriously affected, the President has the right to intervene and direct the state to check and maintain public expenditure.

## Position of the President

The position of the President has changed, with respect to his discretion to use his power, has changed since the inception of the Constitution. The two major changes came through the 42nd and 44th Amendment Act of the Constitution.

- *Prior to the 42nd Amendment Act of 1976*

The position of the President has changed, with respect to his discretion to use his power, has changed since the inception of the Constitution. The two major changes came through the 42nd and 44th Amendment Act of the Constitution.

- *After the 42nd Amendment Act, 1976*

Prior to the 42nd amendment to the Constitution, the President was free to make decisions based on his wisdom. He may also consider the Council of Ministers for their advice on the action. As the Constitution at that time talks about constituting a Council of Ministers with a Prime Minister, as its head, to aid and advise the President in carrying out his duties.

- *44th Amendment Act, 1978*

This amendment was brought it to swipe off the ambiguity created by the 42nd amendment. This provision said that:

- President can send back the advice to the Council of Ministers for reconsideration once;
- If the same advice is sent again without modifications by the Council then President is bound to accept it.

### 3. Vice-President (Article 63)

Article 63 talks about the vice president of India.

**Functions of the Vice-President**

There are some important functions and duties to be performed by the Vice-President of India. Article 64 and Article 65 of the Indian constitution talks about the following functions:

- The Vice-President is the ex-officio Chairman of Rajya Sabha(the Council of States);
- The Vice President casts his vote in case of a tie in Rajya Sabha;
- The Vice President represents the Council of States on ceremonial occasions;
- He protects the rights and privileges of the members of the Rajya Sabha;
- He travels, for goodwill missions, to foreign countries;
- The Vice-President shall perform the functions of President, in cases where the President is not able to perform his functions due to absence or illness etc until the President resumes his duty;
- The Vice-President shall act as President, If the vacancy is created for the post of President due to his resignation, removal, and death or otherwise until a new President is elected;
- The period between the Vice-President acting as the President and the election of a new President can be extended for a maximum period of six months.

## 4. The Council of Ministers & Prime Minister

Article 74 of the Indian constitution states that:

- There should be a Council of Ministers to aid and advise the president;
- The Council of Ministers must have a Prime Minister at the head to aid and advise the President;
- The President should exercise his functions and act in accordance with advice rendered by the Council of Ministers;
- The Council of Ministers should reconsider any advice sent back by the President;
- The President is bound to act in accordance with the advice tendered by the Council, after reconsideration.

### Size of Ministries

The executive powers in India are exercised by the Council of Ministers. These ministers constitute ministries having cabinet minister, junior minister, etc. Before 2003, the size of ministries was not specified under any provision leading to a lot of chaos.

After the 91st amendment Act of 2003 came into existence, it marked a ceiling limit to the size of the ministries. The amendment stated that the strength of the Council of Ministers cannot exceed more than 15% of the total number of members of the Lok Sabha or relevant Legislative Assembly of the state.

An exception was provided to the smaller states like Sikkim, Mizoram, and Goa, having a strength of lesser than 40 members in the legislative assemblies.

### Disqualification on defection on the ground of split in a political party

Article 102(2) and Article 191(2) provides for Anti-Defection laws regarding the members of Lok Sabha. According to this law, a member of a House, belonging to any political party, shall be disqualified as a member of the House on the following basis-

- If the person voluntarily gives up his/her membership of the political party to which he/she belongs; or
- If the person votes or abstains from voting in contrary to any direction issued by the political party or by any person or authority authorized to give directions.

In either case, the prior permission of such political party, person or authority must be sought. The voting or abstention must be approved by the political party, person or authority within fifteen days from the date of voting or abstention.

When a member of a House claims that he and any other members of his party have formed a group representing a faction emerging as a result of a split in his original political party. If such

a group consists of one-third or more of the members of such a political party then the ministers cannot be disqualified under Anti-Defection laws.

**A non-member can become a Minister**

Article 75 of the Constitution of India provides for provisions relating to the appointment of the Union Ministers.

At first, the Prime Minister is appointed by the President and then the President appoints other ministers on the advice of the Prime Minister.

The provision clearly states that any minister, who is not a member of either House of the Parliament, shall cease to be a minister after the period of six months from the date of his appointment.

The non-member must get elected to either House of the Parliament in order to continue as a Minister of Lok Sabha.

**Dissolution of Parliament**

In our country, the Lok Sabha has a five-year term but it can be dissolved earlier. Article 83(2) of the Indian Constitution states that at the completion of five years term, from the starting date of Lok Sabha meetings, it can be dissolved. In such cases, an election is held to elect the new Members of Parliament.

The Lok Sabha can also be dissolved by the President on the advice of the Prime Minister before the expiry of its term.

The President can also dissolve the Lok Sabha, if he feels that a viable government cannot be formed, after the resignation or fall of a regime, as the case may be.

**Principle of Collective Responsibility**

The principle of Collective Responsibility means that the Council of Ministers is collectively responsible as a body for all the actions, omissions and conduct of the government.

It states that all ministers stand or fall together in Parliament. The Government is considered as a unity of ministers instead of single individuals. It means that the minister should publicly support the decisions made by the cabinet, even if they disagree privately. This support even includes voting for government in the legislature.

**Minister's Individual Responsibility**

The Ministerial Individual Responsibility means that a cabinet minister is ultimately responsible for all the actions of his ministry or department.

Whenever there is an individual ministerial responsibility, the party to which the minister is a part is not answerable for the failure of the minister. The minister shall himself take the blame for the actions of his ministry and resign.

## Appointment of Prime Minister

The Prime Minister of India is appointed by the President through provisions under Article 84 and Article 75. Prime minister is the leader of the majority party or coalition of parties of Lok Sabha. When a party achieves majority the leader of that party is called upon by the President to be the Prime Minister of the country. He is considered as the real head of the country.

## Constitutional Duties of Prime Minister

The constitution envisages the Prime Minister with certain rights and duties. The functions of the Prime Minister are as follows:

- The Prime Minister proposes the names of the members to President for appointment as Ministers of the government;
- Prime minister can reshuffle the Cabinet and decides for the distribution of charges of different ministries as well;
- He presides over the meetings of the Cabinet and can also change the decisions taken by the Cabinet;
- He suggests the President of India about the resignation or removal of any minister from the Cabinet;
- He also directs and controls the functioning of Ministers in the Cabinet;
- The Prime Minister may resign at any time and can even ask the President of India to dissolve the Cabinet.;
- He can advise the President to dissolve entire Lok Sabha to conduct fresh elections;
- The Cabinet stops functioning If the Prime Minister resigns from his post, and spontaneously dissolves after the death of the Prime Minister.

## Rights and powers regarding Appointments

Prime Minister can advise the President for the appointment of the following:

- Comptroller and Auditor General of India;
- Attorney General of India;
- Advocate General of India;
- Chairman and members of UPSC;

- Selection of Election Commissioners;
- Members and chairman of the Finance Commission.

**Rights/Powers with regard to Parliament of India**

Prime Minister is the leader of the Lok sabha with rights to exercise the powers as follows:

- The prime minister decides the foreign policy of the country.
- He is the speaker of the Central Government.
- He is the leader of the majority party or coalition of parties in the Parliament.
- The Prime Minister is also is the chairman of various organizations including:
    a. NITI Aayog;
    b. National Development Council;
    c. National Integration Council;
    d. Inter-state Council;
    e. National Water Resources Council.
- He is also the head of the disaster management team during a political level emergency.
- He is also the political head of all the forces.

**Dismissal of a Minister**

The minister of the Lok Sabha can be removed from his post under the following conditions:

- Upon the death of the minister;
- Upon self-resignation from the minister;
- If the minister is dismissal by the President, for unconstitutional his acts as per Article 75(2);
- Article 75 of the constitution states that the minister holds the office at the pleasure of the President;
- Upon direction from the Court for committing the violation of any law;
- If the minister loses the eligibility to be a member of Parliament.

**Dismissal of the Cabinet**

The Cabinet of Minister dissolves if:

- The Prime Minister asks the President of India to dissolve the Cabinet;

- The Prime Minister advises the President to dissolve entire Lok Sabha to conduct fresh elections;
- If the Prime Minister resigns from his post;
- The cabinet automatically dissolves after the death of the Prime Minister.

## 5. Office of Attorney General

Article 76 and Article 78 speaks of the Attorney General of India. The Attorney General of India is the highest law officer in the country.

### Term and Appointment

The Attorney General is appointed by the President and holds the office at the pleasure of the President.

### Qualification

The person to be appointed as the Attorney General of India must be qualified to become a judge of the Supreme Court of India.

### Functions and Duties of Attorney-General

Article 76(2) and (3) defines the functions and duties of the Attorney General of India. Article 76(2) states that:

- Attorney General can give advice to the Government of India regarding legal matters assigned to him by the President;
- He must also perform other duties of any legal character that are assigned to him by the President;
- He also has to discharge the functions given to him by the Constitution or any other legislation.

Whereas Article 76(3) states that in the performance of his official duties:

- The Attorney General can appear on behalf of the Government of India in the Supreme Court, in cases where the Government of India is a party concerned;
- He also has to appear on behalf of the government, in regards to references made by the President before the Supreme Court under Article 143 of the Constitution;
- He has to appear on behalf of the government in any case in the High Court, where the Government of India is a party in concern.

## 6. State Executive, Governor

The Constitution makers had decided to adopt the same pattern of Parliamentary System of Government in the States, i.e. a replica of Government at the Union. The only difference in this model is that the Constitutional head of the government in the state i.e. the governor is not elected, either directly or indirectly, rather he is appointed by the President. This has been done in order to maintain the unitary spirit of the federation that is Union of India alive. Part VI of the Constitution containing Articles 153 to 167 deals with the government in the States, expect in the state of Jammu & Kashmir. The state executive consists of the Governor, the chief Minister, the Council of Minister and the Advocate General of the state. Jammu and Kashmir related provisions are dealt with in Article 370, under the Part XXI titled Temporary, Transitional and Special Provisions.

The Governor is the constitutional head of the State Government. He plays a twofold function as the constitutional head of the State Government and as a link between the centre and the state government. As the executive head of a state, the Governor acts according to the advice of the Council of Ministers of State. All executive actions of the State are formally taken in the name of the Governor. As a nominee of the President, the Governor represents the Centre in the State and the he works as a channel of communication and contact between the State and the Centre. . It is his duty to keep the centre informed of the affair of the State. The Governor also exercise his discretionary powers as the constitutional head of the Government, independent of his relations with Council of Ministers in the State and the Union government.

### Appointment of Governor

The Governor of a State is appointed by the President by warrant under his hand and seal. Articles 153 says that three should be a should be a Governor for each state. But under the 7th Amendment Act, 1956, the same person can be appointed as Governor of one or more States. When he discharges the responsibilities of more than one state, he acts on the advice of the Council of Ministers of the respective states.

**Qualifications:** In order to be appointed as Governor, a person:

a. must be a citizen of India; and
b. must have completed the age of 35 years.

In addition, three are two conventions that have come to develop with regard to appointment of the Governor. They are:

a. Must not belong to the state where he is appointed and
b. Consult the Chief Minister of the state where to be appointed.

### Term of Office

He normally holds office for five year but can be removed at any time before that by the President i.e. the Governors remain in office during the pleasure of the President. Thus he is a

nominee of the Union Government. He may be asked to continue beyond the normal five years, until his successors enters upon his office. The Governor can also be transferred from one state to another by the President. The Governor may resign at any time by writing to the President. In a contingency for which the constitution makes no provision, such as death of the Governor, the President may make such provisions as he think fit for discharge the functions of the Governor of a State (Article 160). The Rajasthan High Court has held that the Chief Justice of the High Court can be asked temporarily to discharge the functions of the Governor of the State, where he can act as the Acting Governor of the State.

## Conditions of Governor's Office

1. The Governor cannot be a member of Parliament or of a State Legislature and if a person is such a member at the time of the appointment as Governor, his seat in Parliament or the State Legislature, as the case may be, will become vacant on the date on which he assumes office as governor
2. The Governor cannot hold any other office of profit during the term of his offices.
3. He is entitled without payment of rent to the use of his official residence.
4. He is also entitled to such emoluments, allowances and privileges as may be determined by the Parliament.
5. Where the same person is appointed Governor of two or more States, his emoluments are allocated amongst the States in such proportion as the President may determine.
6. His emoluments and allowances should not be diminished during his term of office.
7. Before entering upon his office, the Governor has to make and subscribe to an oath or affirmation by the Chief justice of the concerned state High Court and in his absence, the senior-most judge of that court available.

## Salary

He draws a salary of Rs. 1,10,000 per month and is entitled to a rent-free official residence and other allowances. His salary and allowances are charged on the Consolidated Fund of the State and is not subject to the vote of the State Legislature.

## Immunities to Governor

**The Constitution grants certain immunities to a Governor, such as:**

1. Article 361 says that a Governor shall not be answerable to any Court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of the power and duties.
2. No criminal proceedings can be instituted or continued in any court against a Governor during his term of office. Similarly, no process for the arrest or imprisonment of a Governor can be issued from any court during his term of office.
3. Civil proceedings against a Governor in which relief is claimed, can be instituted in a court while the Governor is in his office, only after two months from the date on which

due notice has been given to him in writing regarding full details of the said proceedings.

## Powers and Functions of the Governor

The Constitution confers on the Governor quite a large number of powers which may be grouped under five heads:

*i. Executive Powers*

**Under-Article154 (1)** of the Constitution all the executive powers have been vested in the Governor and he can make use of this power either directly or through the officer subordinate to him.

- Being the executive head of the state, the Governor is responsible for running the administration of the state.
- He makes the appointment of Chief Minister and with his advice, he makes the appointment of other ministers.
- The Governor makes rules and regulations about the distribution of portfolios among the ministers.
- **Under-Article 167** the Governor ask for any information from the Chief Minister regarding state administration.
- The Governor makes the appointment of the Advocate General and the members of the **State Public Service Commission (SPSC).**

*ii. Legislative Powers*

- Governor summons and prorogues the sessions of the state legislature. He has to keep in mind that there is not a gap of more than 6 months between the two sessions of the state legislature.
- The first session of the state legislature after the general election and its first session of a new year begins with the inaugural address delivered by the governor.
- He can address either House or both assemble together.
- He can send message to the state legislature for consideration which is bound to consider them.
- **Under-Article 213** of the constitution, in case the legislature is not in session the Governor can issue ordinances.
- He nominates about 1/6 members of Upper house- Legislative Council from among persons having special knowledge in the field of science, literature, arts, etc.

*iii. Financial Powers*

A money bill cannot be introduced in the state legislature without his prior approval.

The contingency fund of the state is at his disposal and he can make advances out of it to meet the unforeseen expenditure, pending its authorization by the state legislature.

*iv. Judicial Powers*

He decides matters relating to the appointment, posting, and promotion of district judges and other judicial officers.

He is consulted by the president at the time of the appointment of the judges of High Court.

He has the power of granting pardon, reprieve or remission of punishment or to suspend, relating to the matter to which the executive authority of the state extends.

*v. Discretionary Powers*

Appointment of Chief Minister

In case no party enjoys the majority confidence in the Legislative Assembly, then the decision about the appointment of the chief minister is made by the Governor with his discretion.

Guardian of the Constitution

In case, he finds that the constitutional machinery in the state has failed, he may send his report to the president on the basis of which the president declares – President's rule.

To dissolve the Legislative Assembly

Generally, the Governor dissolves Legislative Assembly on the advice of the Chief Minister but sometimes he has to take the decision in his discretion.

The decision to dismiss the council of ministers

Many times the council of minister wants to remain in office, even after losing the majority confidence. Under such circumstances, the Governor takes the decision to dismiss the council of minister.

**Governor's Role in context of Centre-State Relations**

Today the situation is that different political parties are in power in different States. In other words, the situation obtaining between 1952 and 1967, when one party controlled both the

Parliament and State Legislatures no longer continues. In such a situation and because the Governor owes his appointment and his continuation in the office to the Union Council of Ministers, in matters where the Central Government and the State Government do not see eye to eye, there is the apprehension that he is likely to act in accordance with the instructions, if any, received from the Union Council of Ministers rather than act on the advice of his Council of Ministers. Indeed, the Governors today are being pejoratively called the „agents of the Centre". It is true that the Central Government is not expected to give any instructions which compromise the status and position of the Governor nor is it expected to remove him for not implementing the instructions given by it, the experience for the last several years belies this hope. As Seervai has pointed out in his commentary: "As the President acts on the advice of his Ministry, it may be contended that if the Governor takes action contrary to the policy of the Union Ministry, he would risk being removed from his post as Governor and therefore he is likely to follow the advice of the Union Ministry. It is submitted that a responsible Union Ministry would not advise, and would not be justified in advising, the removal of a Governor because, in the honest discharge of his duty, the Governor takes action which does not fall in line with the policy of the Union Ministry. The removal of the Governor under such circumstances would otherwise mean that the Union executive would effectively control the State executive, which is opposed to the basic scheme of our federal Constitution. Article 156(1) was designed to secure that if the Governor was pursuing policies which were detrimental to the State or to India, the President would remove the Governor from his office and appoint another Governor. This power takes the place of an impeachment which clearly is a power to be exercised in rare and exceptional circumstances".

The use of Governor as an agent of the Centre happened several times over. In 1984, amidst of many controversies the Chief Minister of Andhra Pradesh who created history in the annals of parliamentary democracy by launching a new party, Telugu Dasam Party, backed by a vast majority had been dismissed by Governor. It was alleged that this dismissal followed a political rivalry between the Chief Minister and Mrs. Indira Gandhi, the then Prime Minister of India.

B.P Singh, the Governor of Goa, had gone to the extent of replacing the Chief Minister with another MLA by interpreting the pleasure clause. This was an obvious misuse of the clause. And more recently, the U.P Governor, Moti lal Vora has been accused of acting at the behest of his erstwhile party's top leadership.

Dr. Chenna Reddy of the Congress Party was the Governor of Uttar Pradesh at the time when the State was undergoing the period of emergency. In his address to the joint sitting of both Houses, he openly appreciated the emergency which was subsequently criticized by him on the change of Government. This instance shows the pathetic and embarrassing position of the Governors of Indian States.

Justice Krishna Iyer calls the usurpation of the State power by the Centre as a sabotage of federalism and a grave frustration of basic structure of the Constitution. He called Governor a pathetic functionary.

| *S.No.* | **Article 72** | **Article 161** |
|---|---|---|
| 1. | Grants power to the President of India. | Grants powers to the Governor of state. |
| 2. | The power is wider in scope. | The scope of powers is narrower. |
| 3. | The powers of pardon extend to cases of Court Martial as well. | Power cannot interfere with cases of Court Martial. |
| 4. | Allows President to grant pardon in cases of death sentence. | Governor cannot grant pardon in cases of death sentence. |

## 7. Union Legislature

The Union Legislature of India is not only the law making body, but the centre of all democratic political process.

The Parliament is the central legislature and the legislature of the state is known as 'State Legislature.'

The Parliament of India is **bicameral** (i.e. consists of two houses) namely **Rajya Sabha** (the Council of States/Upper House) and **Lok Sabha** (the House of the People/Lower House). Legally the law-making powers are exercised by the President-in-Parliament. All bills are introduced and passed by the Parliament in the name of President and these become laws when signed by him. However, the President is not a member of either House.

Indian states also have the option to have either bicameral or unicameral; however, at present, there are **seven states**, which have bicameral legislature namely:

- Jammu & Kashmir,
- Uttar Pradesh,
- Bihar,
- Maharashtra,
- Karnataka,
- Andhra Pradesh, and
- Telangana.

### Composition of the Union Parliament

Union Parliament is a bi-cameral legislature with the Rajya Sabha as the upper house and The Lok Sabha as the lower house follows:

*i.* Rajya Sabha
*ii.* Lok Sabha

*The Council of States: Rajya Sabha*

The Council of States, i.e., the Rajya Sabha is the Upper House of the Union Parliament. Its maximum membership can be 250 involving 238 representatives of the States and Union Territories and 12 members nominated by the President from amongst persons from the fields of literature, science, art or social service. The seats allotted to each State and Union Territory have been mentioned in the Fourth Schedule of the Constitution.

Presently, the Rajya Sabha has 245 members (233 elected and 12 nominated members). The members of the Rajya Sabha are elected by the elected members of the Legislative Assembly of each State. All the MLAs of a state together elect the Rajya MPs of their state. Each member of Rajya Sabha holds a term of six years. The Rajya Sabha as a whole is a quasi-permanent body it is never dissolved as a whole. Its 1/3rd members retire after every two years.

It is also called the House of Elders because citizens of the age of 30 years or above alone can become its members. The quorum for its meetings is 1/10th of its total membership. The Vice-President of India is ex- officio Chairman of the Rajya Sabha. It also elects one Deputy Chairman from amongst its members, who presides over its meetings in the absence of the Vice- President.

**Key Points:**

- The Rajya Sabha is an indirectly elected body and represents the States of India.
- The elected members of State Legislative Assembly elect the members of Rajya Sabha.
- In the U.S.A, every state has equal representation in the Senate irrespective of size and population of the states, but in India, it is not the same.
- In India, states with larger size of population get more representatives than states with smaller population. For example, Uttar Pradesh (the most populated state) sends 31 members to Rajya Sabha; on the other hand, Sikkim (the least populated state) sends only one member to Rajya Sabha.
- The number of members to be elected from each State has been fixed by the fourth schedule of the Constitution.
- Members of the Rajya Sabha are elected for a term of **six** years and then they can be re-elected.
- Members of Rajya Sabha are elected in such a manner that they do not complete their tenure altogether; rather after every two years, one-third member complete their term and elections are held for those one-third seats only.
- Likewise, the Rajya Sabha never gets fully dissolved and hence, it is known as the **permanent House** of the Parliament.
- Apart from the elected members, the President appoints **12** members from the fields of literature, science, art, and social service.

*The House of the People: Lok Sabha*

The House of the People, i.e., the Lok Sabha is the lower, directly elected and powerful House of the Union Parliament. Its maximum strength can be 552. It has at present a strength of 545 members, out of which 523 are the elected representatives of the people of the States of the Union, 20 are the elected representatives of the people of Union Territories, and two are nominated members belonging to the Anglo-Indian Community.

131 Lok Sabha seats stand reserved for the people belonging to SCs and STs. The members of the Lok Sabha are directly elected by all the adult citizens (voters) who are of 18 years or above of age. The seats of Lok Sabha are distributed on the basis of population. The Lok Sabha has a tenure of 5 years. However, it can be dissolved at any time by the President acting under the advice of the Prime Minister and his Council of Ministers. However, before the completion of tenure, if the Lok Sabha is dissolved (no party forms government with majority), a fresh election will be conducted again.

The meetings of the Lok Sabha are presided over by Speaker who is elected by all its members from amongst themselves. They also elect a Deputy Speaker who presides over its meetings in the absence of the Speaker.

## Powers and Functions of the Union Parliament

*i. Legislative Powers*

The most important power of the Union Parliament is to make laws for the whole country. It can legislate over the subjects of Union List. It has concurrent jurisdiction with State Legislatures over the subjects of the Concurrent List. It has also the power to legislate over all other subjects (Residuary Subjects) which are not mentioned in any list.

In the sphere of ordinary law-making, i.e., non-financial legislation, the two Houses of Parliament enjoy co-equal powers. A bill becomes an act only after the two Houses have passed it in identical terms. In case of a deadlock between the two Houses over any bill, the President can summon their joint sitting. The matter is then decided by a majority vote in this joint sitting.

Further, an ordinary bill passed by the two Houses becomes an act only after the signatures of the President. The President has the power to return the bill to the Parliament for reconsideration. In this case the Parliament has to re-pass it. Thereafter, the bill again goes to the President who has to sign it. The laws made by the Union Parliament are called Union Statutes or Union laws.

*ii. Financial Powers*

The Parliament is the custodian of the national purse. The government cannot levy or collect any tax or make an expenditure without the consent of the Parliament. No tax can be levied or collected or revised by the government without the approval of the Parliament. The

fiscal policies of the government can be enforced only after these get the approval of the Parliament.

The financial powers of the Parliament are really exercised by the Lok Sabha. The money bills can be introduced only in the Lok Sabha. After getting passed, a money bill goes to the Rajya Sabha which can at the most delay its passage for only 14 days. As such financial legislation is really the handiwork of the Lok Sabha. A cut motion passed or a rejection of any money bill by the Lok Sabha means a vote of no- confidence against the Council of Ministers, and it has to resign.

*iii. Power to Control the Executive*

For all its decisions and policies, the Council of Ministers is directly responsible to the Parliament (in reality to the Lok Sabha) MPs can put questions and supplementary questions to the ministers for getting information regarding the forking of administration. They can move adjournment motion, cut motion, call attention motion, censure motion and no- confidence (only by the members of the Lok Sabha) motion for keeping the ministry under control and making it responsible and accountable. The defeat of a government bill or decision in the Lok Sabha is taken as a loss of confidence by the Council of Ministers, and it resigns.

The Lok Sabha can cause the fall of the government by passing a direct vote of no-confidence against the Prime Minister or his ministry. The government has to get all its policies approved by the Parliament before these are implemented.

*iv. Power to amend the Constitution*

The Union Parliament enjoys the power to amend the constitution in accordance with the provisions of Article 368. A bill for amending the constitution can be introduced in either house of n Parliament. Most of the constitution can be amended by the Union Parliament by passing an amendment bill by a 2/3rd majority of members in each House.

However, when the amendment relates to several specific subjects as mentioned, the concerned bill after having been passed by the Parliament by a 2/3rd majority in each House, can become an act only when it gets ratified by at least one-half of all the State Legislatures.

*v. Electoral Functions*

The elected members of the Lok Sabha and the Rajya Sabha form one part of the Electoral College which elects the President. The other part is constituted by the elected members of all the State Legislative Assemblies. Both Houses of Parliament together elect the Vice- President of India. The members of the Lok Sabha elect two of their members as the Speaker and Deputy Speaker. The members of the Rajya Sabha elect their own Deputy Chairman.

*vi. Impeachment Functions*

The Parliament has the power to impeach the President on charges of violation of the Constitution. For this purpose l/4th members of either House can move an impeachment resolution. For doing this, they have to give a prior notice of 14 days. If the House in which the impeachment resolution is moved, passes it with 2/3rd majority of its total membership, the resolution goes to the other House, which investigates the charges.

The President is given the opportunity to defend himself. If this House also passes the impeachment resolution in identical terms and by 2/3rd majority of its total membership, the President stands impeached. The judges of the Supreme Court and High Courts and several other high officials of the State can also be impeached by the Parliament in a similar way.

*vii. Miscellaneous Functions*

The Union Parliament can:

I. Change the boundaries of the States.
II. Establish or abolish the Legislative Council in any State.
III. Approve or disapprove an Emergency proclamation made by the President.
IV. Provide for a common High Court for two or more States.
V. Pass laws required for the enforcement of International Treaties.
VI. Act as board of directors for Public Sector Corporations.
VII. Redress grievances of the people.
VIII. Deliberate upon all matters of national and international importance.

**Position of the Union Parliament**

With all these powers, the Union Parliament is a powerful legislature. Its position can be favourably compared with the national legislatures of other liberal democratic countries like he USA, Canada, France, Japan and Britain. It is, however, not a sovereign parliament. It always acts within the scope of powers and functions laid down by the Constitution of India.

**Qualifications/Disqualifications for Membership of Parliament**

In order to be chosen as a member of Parliament:

- must be a citizen of India
- must be not less than 30 years of age in case of Council of States and not less than 25 years of age in the case of House of the People.

Additional qualifications maybe prescribed by Parliament by law.

A person shall be disqualified for being chosen as, and for being, a member of either house of Parliament:

If he holds any office of profit under the Government of India or the Government of any State (other than an office exempted by Parliament by law) but not a Minister for the Union or for a State.

- If he is of unsound mind and stands so declared by a competent court.
- If he is an undischarged insolvent.
- If he is not a citizen of India or has voluntarily acquired citizenship of a foreign State or is under acknowledgement of allegiance or adherence to a foreign power.
- If he is so disqualified by or under any law made by parliament.

If any question arises as to whether a member of either House of Parliament has become subject to any of the above disqualifications, the President's decision, in accordance with the opinion of the Election Commission shall be final.

## 8. State Legislature

The Constitution of India provides for a legislature in each State and entrusts it with the responsibility to make laws for the state. However, the composition of a state Legislature can be different in different states. It can be either bicameral or unicameral. Presently, only six states (Andhra Pradesh, Bihar, J&K, Karnataka Maharashtra and UP) have bi-cameral legislatures. Twenty two States and Two Union Territories (Delhi and Puducherry) have uni-cameral Legislatures.

In case of a bicameral state legislature, the upper house is known as State Legislative Council (Vidhan Parishad) and the lower house as the State Legislative Assembly (Vidhan Sabha). Where there is only one House of the State Legislature, it is known as the State Legislative Assembly.

### Method of Abolition or Creation of a State Legislative Council

The power to establish or abolish the Legislative Council in a state belongs to the Union Parliament. It can do it by enacting a law. The Parliament, however, acts when the Legislative Assembly of the concerned state passes a desired resolution by a majority of its total membership and by a majority of not less than two-thirds of the members of the State Legislative Assembly present and voting.

## Organisation of a State Legislature:

*Composition of the State Legislative Assembly (Vidhan Sabha)*

The State Legislative Assembly, popularly known as Vidhan Sabha, is the lower, directly elected, popular and powerful house of the state legislature. Its membership is in proportion to the population of the state and hence it differs from state to state. The members are directly elected by the people of the state through a secret ballot, simple majority vote victory and single member territorial constituency system. Orissa Legislative Assembly has 147 members.

A citizen of India, who is not less than 25 years of age and who fulfills every other qualification as laid down by a law can become its member by winning an election from any constituency in the state. However, no person can simultaneously be a member of two Houses of the Parliament or of any other State Legislature.

The normal term of Legislative is 5 years. However, it can be dissolved by the Governor at any time. It can be suspended or dissolved when an emergency under Art. 356 is proclaimed in the state. In May 2009, in the Orissa Legislative Assembly elections the BJD won 103 seats while the Congress got 26, the BJP 6 and independents and other 12 seats.

*Composition of State Legislative Council*

At present only 6 States - Andhra Pradesh, UP, Maharashtra, Karnataka, J&K and Bihar- have Legislative Councils. The popular name of the State Legislative Council is Vidhan Parishad. The total membership of a Legislative council cannot be normally less than 40 and more than l/3rd of the total membership of the State Legislative Assembly.

Andhra Pradesh Vidhan Parishad has 90 members UP Vidhan Parishad 100, Maharashtra Vidhan Parishad 78, J&K Vidhan Parishad 36, Bihar Vidhan Parishad 75 and Karnataka Vidhan Parishad 75 members. The membership of Vidhan Parishad includes elected as well as nominated representatives from several types of constituencies.

**The following formula is used:**

i. 1/3rd members are elected by the members of State Legislative Assembly.
ii. 1/3rd members are elected by local bodies of the state.
iii. 1/12th members are elected by teachers of at least three years standing, serving educational institutions of the state.
iv. 1/12 members are elected by state university graduates of not less than three years-standing.
v. 1/6th members are nominated by the Governor of the state.

Any citizen of India who is not less than 30 years of age, who possesses all the qualifications as laid down by the Parliament, who is not a member of any other legislature or Union Parliament can become a member of the State Legislative Council either by winning an election or by securing Governor's nomination. Legislative council is a semi-permanent House. It is never dissolved as a whole. 1/3rd of its members retire after every 2 years. Each member has a term of 6 years.

## Powers and Functions of a State Legislature

Each State Legislature exercises law-making powers over the subjects of the State List and the Concurrent List. In case a state has a unicameral legislature, i.e., in case it has only State Legislative Assembly, all the powers are exercised by it. However, even in case it is a bicameral state legislature with state Legislative Council (Vidhan Parishad) as the upper house and state Legislative Assembly as the lower house, almost all the powers are exercised by the latter. The Legislative Council plays only a secondary and minor role.

### *I. Legislative Powers*

The State Legislature can make laws on the subjects of the State List and the Concurrent List. It can enact any bill on any subject of State List, which becomes an Act with the signatures of the Governor. Normally, the Governor acts as a nominal and constitutional head and as such follows the advice of the State Chief Minister and his Council of Ministers.

However, he can reserve some bills passed by the State Legislature for the approval of the President of India. Further, in case a law made by the State Legislature on a concurrent subject comes into conflict with a Union Law on the same subject, the latter gets precedence over the former. In ordinary law-making, both the Houses (Legislative Assembly and Legislative Council wherever these exist together) have co-equal powers. In practice the

Legislative Assembly dominates the law-making work. Most of the non-money ordinary bills are introduced in the Legislative Assembly and it plays a major role in their passing. The Legislative Council acts only as a revising and delaying second chamber.

A bill passed by the Legislative Assembly and rejected by the Legislative Assembly or not decided upon by the latter within 3 months, when re-passed by the Legislative Assembly becomes an Act after the expiry of one month from the date on which it was sent to the Legislative Council a second time.

A bill first passed by the Legislative Council becomes an Act only when it gets the approval of the Legislative Assembly. Thus, Legislative Council can only delay the passing of an ordinary bill by a maximum of 4 months. In case the State Legislature is a unicameral body, all the law-making powers are exercised by the Legislative Assembly.

### *II. Financial Powers*

The State Legislature has the power to levy taxes in respect of all subjects of the State List. It is the custodian of the finances of the state. Mo revenue can be collected or tax can be levied or collected by the state government without the consent of the State Legislature. The budget and all other financial policies and programmes of the state government become operational only after getting an approval from the State Legislature.

However, in emergencies declared under Articles 352, or 356 or 360, the financial powers of the state become subordinate to the Union. When the state is under a constitutional emergency (Art. 356), the State Legislature stands either suspended or dissolved. In this situation, the financial powers for the state are exercised by the Union Parliament.

When a State Legislature is unicameral, all the financial powers are naturally exercised by the Legislative Assembly. However, even when it is bi-cameral, the real financial powers are in the hands of the Legislative Assembly. A money bill can be introduced only in the Legislative Assembly and after passage it goes to the Legislative Council.

The latter can delay its passage for only 14 days. In case, it rejects or amends the bill, the decision of the Legislative Assembly prevails. When the Legislative Council returns a financial bill to the Legislative Assembly with some amendments, it is the power of the Legislative Assembly to accept or reject these. Thus, in respect of financial powers, the real authority is in the hands of the State Legislative Assembly.

*III. Power to control the Executive*

Control over the State Council of Ministers is exercised by the State Legislative Assembly. Little role has been assigned to the State Legislative Council. The State Chief Minister is the leader of majority in the State Legislative Assembly. The State Council of Ministers is collectively responsible before the Legislative Assembly.

The latter can cause the fall of the ministry by passing a vote of no-confidence or by rejecting a bill or policy or budget sponsored by the Council of Ministers. The State Legislative Council can exercise only a limited control over the ministry by putting questions and supplementary questions to the ministers.

*IV. Other Powers*

The State Legislature, particularly its Legislative Assembly, exercises several other powers. The elected members of the Legislative Assembly (MLAs) participate in the election of the President of India. They also elect representatives of the state in the Rajya Sabha. Certain constitutional amendments can be made by the Union Parliament only with the ratification by at least half of the State Legislatures.

The state legislature considers the reports of the State Public Service Commission, State Auditor General, and others. It also acts as a forum for ventilation of the grievances of the people. The State Legislative Assembly has the right of adopting a resolution for the creation or abolition of the State Legislative Council.



**Position of a State Legislature**

The State Legislature occupies the same position in a state as is the position of the Parliament in the Union. There is, however, a difference of degree in their relative powers. Indian Unitarian Federalism makes the Union Parliament more powerful than each state legislature. Further, there are several specific limitations on the powers of a state legislature.

Thus each state legislature in India exercises law-making powers over the subjects given to it by the Constitution. However, even in respect of these, it exercises law-making powers under

the above constitutional limitations. Nevertheless in general the State Legislatures act as important and powerful legislatures in all the 28 States and 2 Union Territories of India.

**Some Limitations on the Powers of State Legislature**

1. **Prior consent of the President of India for introduction of some Bills:** There are certain bills which can be introduced in a state legislature only with the prior consent of the President of. India.

2. **Reservation of bills by the Governor for President's Assent:** There are certain bills, which after having been passed by the state legislature, can be reserved by the Governor for the consent of the President. Such bills become laws only after the President has given his assent.

3. **Limitation that can be imposed by the Rajya Sabha:** The Union Parliament gets the power to pass laws on the State List, (for one year) if the Rajya Sabha adopts a resolution (supported by 2/3rd majority of the members present and voting) and declares a state subject mentioned in the resolution as a subject of national importance.

4. **Limitations during national Emergency:** When a national emergency (Under Art. 352) is in operation, the Parliament is empowered to pass a law on any subject of the State List. The law so passed operates during the period of emergency and for six months after the end of the emergency.

5. **Limitations during a Constitutional Emergency:** During the operation of constitutional emergency in a state under Art 356, the Union Parliament gets the authority of making laws for that state. The State Legislature stands either dissolved or suspended.

6. **Discretionary Powers of the Governor:** Discretionary powers of the Governor of a state also constitute a limitation on the State Legislature. Whenever he acts in his discretion, he is beyond the jurisdiction of the State Legislature. Acting in his discretion, the Governor can even dissolve the State Legislative Assembly.

7. **Precedence of Union Laws on the Concurrent Subject:** They State Legislature and the Union Parliament, both have the concurrent power to make laws on the subjects of the Concurrent List. If both the Union Parliament and a State Legislature pass a law on

the same subject of the Concurrent List and there is inconsistency between the two, the law passed by the Union Parliament gets precedence over the corresponding state law.

## Dissolution of Legislative Assembly as per Indian Constitution

According to Article 365, if a state government fails to exercise its executive powers in compliance with the directions given by the Union government, the responsibility shifts to the governor of the state to assess the situation and recommend the dissolution of state Assembly to the Union cabinet. This proclamation is made by the President only when the governor is convinced that the state cannot function in accordance with the provisions of the Constitution.

Although the power of dissolution of state Assembly is vested with the Governor, yet such a power can be exercised only after both Houses of Parliament approve the decision. If the proclamation made by the President under Article 356 to dissolve the Assembly is approved by both the Houses within two months, the government does not revive on the expiry of period of dissolution.

Moreover, the declaration of dissolution by the President is judicially reviewable under Article 356. There's scope for examining whether the Assembly was dissolved based on the Governor's report or whether the report was relevant. Whenever there arises an element of doubt about the way the decision was taken, the responsibility shifts to the Union Government to prove that the report is relevant enough.

In fact, the Supreme Court or the High Court can nullify the decision "if it is found to be mala fide or based on wholly irrelevant or extraneous grounds." In that case, the court has the power to "revive and reactivate the Legislative Assembly." Hence, the power conferred upon the President is not absolute. The President not only has to be convinced himself, but should also have enough reasons ready with him to convince the judiciary.

## Why is Legislative Assembly Dissolved?

As per the provisions of Article 356 of Indian Constitution, the state Assembly can be dissolved when any of the following factors prevent the state government from functioning as per the Constitution:

1. When the state Assembly fails to form a government and elect a leader as Chief Minister
2. Whenever there's a breakdown of a coalition
3. If Assembly elections are postponed for unavoidable reasons
4. Insurgencies and internal subversions
5. Prevention or facilitation of bifurcation of states

**Supreme Court Judgment on Dissolution of State Assemblies:** Before 1994, there was widespread misgiving about the way state Assemblies used to be dissolved. Many were of the opinion that the Central government was giving more preference to its priorities than the

constitutional crises. In a landmark judgment in 1994, the Supreme Court clarified the circumstances under which the state Assembly can be dissolved and laid down guidelines for the same. The judgment empowered the state governments to challenge the Centre if it feels that it has been removed without any justification. The apex court made it clear that a state Assembly can be dissolved only under justifying circumstances.

## 9. Anti-Defection Law

Anti-Defection Law is contained in the Tenth Schedule of the Constitution, which was introduced by the 52nd Amendment in 1985 during tenure of Rajiv Gandhi. Earlier, 10th schedule was related to association of Sikkim with India. Once, Sikkim became full-fledged state, this schedule was repealed via the 36th amendment act.

Defection is defined as "to abandon a position or association, often to join an opposing group" which essentially describes a situation when a member of a particular party abandons his loyalty towards that party and provide his support (in the form of his vote or otherwise) to another party.

Originally, the Constitution of India carried no reference to political parties and their existence. Since multi-party democracy had not evolved in 1950s and early 1960s, the heat of defections and their implications were not felt. Things however, changed after the 1967 elections. The 1967 elections. The 1967 elections are thus called a watershed moment in India's democracy.

In 1967, some sixteen states had gone to polls. The Congress lost majority in them and was able to form government only in one state. This was the beginning of coalition era in India. This election also set off a large scale defections. Between 1967 to 1971, some 142 MPs and over 1900 MLAs migrated their political parties. Governments of many states, beginning from Haryana, collapsed. The defectors were awarded with plum ministries in the government, including Chief Ministership in Haryana. In Haryana, one legislator "Gaya Lal" changed party for three times and thus, all defectors used to be called "Aaya Ram-Gaya Ram".

**52nd Amendment**

Act In this amendment, articles 101, 102, 190 and 191 were changed. It laid down the process by which legislators may be disqualified on grounds of defection. As per this process, a member of parliament or state legislature can be disqualified on the following grounds:

i. **Members of a Political Party**
   - When voluntarily resigned from his party or disobeyed the directives of the party leadership on a vote.
   - When does not vote / abstains as per party's whip. However, if the member has taken prior permission, or is condoned by the party within 15 days from such voting or abstention, the member shall not be disqualified.

### ii. Independent Members

If a member has been elected as "Independent", he / she would be disqualified if joined a political party.

### iii. Nominated Members

Nominated members who were not members of a party could choose to join a party within six months; after that period, they were treated as a party member or independent member.

***Exceptions***

- If a person is elected as speaker or chairman then he could resign from his party, and re-join the party if he demitted that post. No disqualification in this case.
- A party could be merged into another if at least one-thirds of its party legislators voted for the merger. The law initially permitted splitting of parties, but that has now been made two-third.

As soon as this law was passed, it was met with severe oppositions on logic that it impinged on right to free speech of legislators. A PIL was filed in the Supreme Court in the form of famous **Kihoto Hollohon vs Zachillhu and Others**. This PIL had challenged the constitutional validity of the law. But SC upheld the constitutional validity of 10th schedule. Court also decided that the law does not violate any rights of free speech or basic structure of the parliamentary democracy.

However, Supreme Court also made some observations on Section 2(1) (b) of the Tenth schedule. Section 2(1) (b) reads that a member shall be disqualified if he votes or abstains from voting contrary to any direction issued by the political party. The judgement highlighted the need to limit disqualifications to votes crucial to the existence of the government and to matters integral to the electoral programme of the party, so as not to 'unduly impinge' on the freedom of speech of members.

**91st Amendment Act, 2003**

Earlier, a 'defection' by one-third of the elected members of a political party was considered a 'merger'. The 91st Constitutional Amendment Act, 2003, changed this. So now at least two-thirds of the members of a party have to be in favour of a "merger" for it to have validity in the eyes of the law. The 91st Amendment also makes it mandatory for all those switching political sides – whether singly or in groups – to resign their legislative membership. They now have to seek re-election if they defect.

## Summary of Provisions Regarding Tenth Schedule

*Conditions of Disqualification*

- If a member of a house belonging to a political party:
  - Voluntarily gives up the membership of his political party, or
  - Votes, or does not vote in the legislature, contrary to the directions of his political party.
- However, if the member has taken prior permission, or is condoned by the party within 15 days from such voting or abstention, the member shall not be disqualified.
- If an independent candidate joins a political party after the election.
- If a nominated member joins a party six months after he becomes a member of the legislature.

*Power to Disqualify*

- The Chairman or the Speaker of the House takes the decision to disqualify a member.
- If a complaint is received with respect to the defection of the Chairman or Speaker, a member of the House elected by that House shall take the decision.

*Exception: Merger*

A person shall not be disqualified if his original political party merges with another, and:

- He and other members of the old political party become members of the new political party, or
- He and other members do not accept the merger and opt to function as a separate group.

This exception shall operate only if not less than two-thirds of the members of party in the House have agreed to the merger.

*Court's Intervention*

All proceedings in relation to any question on disqualification of a member of a House under this Schedule are deemed to be proceedings in Parliament or in the Legislature of a state. No court has any jurisdiction. This was subsequently struck down by the Supreme Court. Currently, the anti-defection law comes under the judicial review of courts.

## Various Supreme Court Judgments on Anti-defection Law

*Kihota Hollohon vs. Zachilhu and Others (1993)*

**Issue 1:** If the 10th schedule curtails the freedom of speech and expression and subvert the democratic rights of the elected members in parliament and subvert the democratic rights of the elected members in parliament and state legislatures.

**SC Judgement:** The 10th schedule neither impinges upon the freedom of speech and expression nor subverts the democratic rights of elected members. The 10th schedule is constitutionally valid.

**Issue 2:** Is granting finality to the decision of the Speaker/ Chairman is valid.

**SC Judgement:** This provision is valid however, High Courts and the Supreme Court can exercise judicial review under the Constitution. But the Judicial review should not cover any stage prior to the making of a decision by the Speakers/ Chairmen.

*Ravi S Naik v. Union of India (1994)*

**Issue:** If only resignation constitutes "voluntarily giving up" membership of a political party.

**SC Judgement:** There is a wider meaning of the words "voluntarily giving up membership". The inference can be drawn from the conduct of the members also.

*G. Vishwanathan v. Speaker, Tamil Nadu Legislative Assembly (1996)*

**Issue:** If a member is expelled from old party and he joins another party after being expelled, will it be considered as having voluntarily given up his membership?

**SC Judgement:** Once a member is expelled, he is treated as unattached member in the house but he continues to be a member of the old party as per the Tenth Schedule. If he joins a new party after being expelled, he can be said to have voluntarily given up membership of his old party.

## Critical Analysis of Anti-Defection Law

The anti-defection law has enabled the political parties to have stronger grip on their members which many times has resulted into preventing them to vote for the lure of money of ministerial birth. It also provides stability to the government by preventing shifts of party allegiance and ensures that candidates elected with party support and on the basis of party manifestoes remain loyal to the party. However, it is also resulted into its unintended outcome i.e. the curtailing to a certain extent the role of the MP or member of state legislature. It is culminated into absence of constructive debates on critical policy issues. The whip has become all the more powerful and has to be followed in all circumstances.

## 10. Amendment

Amendment, in government and law, an addition or alteration made to a constitution, statute, or legislative bill or resolution. Amendments can be made to existing constitutions and statutes and are also commonly made to bills in the course of their passage through a legislature. Since amendments to a national constitution can fundamentally change a country's political system or governing institutions, such amendments are usually submitted to an exactly prescribed procedure.

The best-known amendments are those that have been made to the U.S. Constitution; Article V makes provision for the amendment of that document. The first 10 amendments that were made to the Constitution are called the Bill of Rights. (See Rights, Bill of.) A total of 27 amendments have been made to the Constitution. For an amendment to be made, two-thirds of the members of each house of Congress must approve it, and three-fourths of the states must ratify it. Congress decides whether the ratification will be by state legislatures or by popularly elected conventions in the several states (though in only one instance, that of the Twenty-First Amendment, which repealed prohibition, was the convention system used). In many U.S. states, proposed amendments to a state constitution must be approved by the voters in a popular referendum.

The Constitution of India (hereinafter referred to as "Constitution") is the country's fundamental governing document which specifies the framework according to which Indian polity has to operate. It came into effect on January 26, 1950. It is the longest written constitution of an independent nation. It is superior to all other laws of India and any law enacted by the Indian government has to be in conformity with the Constitution.

Since the constitution of any country has to be dynamic to adopt to the changing needs of the society, the draftsmen of the Constitution made provision for amendment of the Constitution by the legislature, as and when needed. The Central and State legislature of India must follow the procedure prescribed in the Constitution for its amendment else the amendment shall be considered as invalid.



**Judicial Interpretation: Formal & Informal Amendment**

The methods of the amendment to the Constitution can be classified as formal and informal methods of amendment. The informal method does not involve any change in the letter of the law but only its meaning or interpretation changes. The informal method involves amendment by changing a well-established convention or changing the interpretation of the provisions of the Constitution.

For instance, Article 124(2) of the Constitution deals with the appointment of Chief Justice of India to the Supreme Court. From 1950 till 1973, as a matter of practice, the senior most judge of the Supreme Court was appointed as the Chief Justice of India but on April 25, 1973, for the first time, Justice A.N. Ray was appointed as the Chief Justice in supersession to three-senior most judges. Thus, the well-established convention of appointing the senior-most judge as Chief Justice was not followed in this case. In 1977 also, the convention was breached when Justice M.H. Beg was appointed as Chief Justice by superseding Justice H.R. Khanna.

On the other hand, the formal method of the amendment involves a change in the written provisions of the Constitution by way of addition, modification or deletion. Article 368 of the Constitution prescribes the process for amendment of the provisions contained in the Constitution. Article 368(2) prescribes the general procedure for amendment as follows:

- The amendment has to be initiated by the introduction of a Bill, for affecting the amendment, in either House of the Parliament (i.e. either in Lok Sabha or Rajya Sabha);
- The Bill must be passed in each House by a simple majority of total membership of the House and by atleast two-third majority of the members of the House who are present and voting;
- After being passed by each House of the Parliament, the Bill has to be presented to the President of India for his/her assent; and
- Once the Bill has been assented by the President, the Constitution shall stand amended in accordance with the terms of the Bill.

While Article 368(2) prescribes the general procedure for amendment, certain provisions of the Constitution require ratification by State legislature of atleast half of the total number of States in India in addition to being passed by the Parliament as per step (2) above. Such ratification must be obtained before the concerned Bill is presented to the President for his/her assent. These provisions pertain to the federal structure of the Constitution and the powers and authorities of the Indian States. The proviso to Article 368(2) of the Constitution specifies the following provisions as requiring such ratification by the States:

- Articles 54 and 55 which relate to election of the President;
- Articles 73 and 162 which deal with the executive power of the Union and the States respectively;
- Articles 124 to 147, contained in Chapter IV of Part V of the Constitution, which deal with constitution, power and jurisdiction of the Supreme Court of India;
- Articles 214 to 231, contained in Chapter V of Part VI of the Constitution, which deal with constitution, power and jurisdiction of High Courts situated in the various Indian States;
- Article 241 dealing with High Courts constituted in different union territories of India; any of the lists contained in Seventh Schedule to the Constitution which prescribe the legislative power of the Parliament and the State legislatures;
- provisions relating to representation of States in the Parliament; and,
- Article 368 itself.

It is noteworthy that amendment of the prescribed procedure for amendment i.e. Article 368 can also be carried out only with the approval of the specified majority of each House of the Parliament and ratification by legislature of atleast half of the Indian States.

**Amenability of Fundamental Rights**

Under Part III of the Constitution, certain basic rights have been provided to Indian citizens which are called fundamental rights. These rights include right to equal treatment before the law, right to life and personal liberty, right to education etc. and have been recognized as extremely essential for development of personality of every individual and preserving human

dignity. Violation of these rights entitles the aggrieved citizen to approach the High Court or Supreme Court of India under Articles 226 and 32 respectively of the Constitution for enforcement of fundamental rights.

The question as to whether fundamental rights provided under the Constitution can be amended under Article 368 has been a topic of debate for the Indian courts. Article 13(2) of the Constitution prohibits the enactment of any law which takes away or abridges the fundamental rights guaranteed under Part III of the Constitution.

The question whether an amendment to the Constitution can be considered as a "law" within the meaning of Article 13(2) was considered by the Supreme Court of India in the case of Shankari Prasad vs. Union of India, AIR 1951 SC 458 wherein the Court held that an amendment affected under Article 368 of the Constitution is not a "'law" within the meaning of Article 13(2) and therefore cannot be challenged on the ground of violation of Article 13(2). On this basis, insertion of Articles 31A and 31B in the Constitution, by the first amendment to the Constitution, was held as valid even though it adversely affected the fundamental rights guaranteed under Articles 14, 15 and 19.

In **Sajjan Singh vs. State of Rajasthan**, AIR 1965 SC 845, the validity of the 17th Constitutional Amendment Act, 1964 had been challenged on the ground that it curtailed the jurisdictional power of High Courts under Article 226 but had not been ratified by legislatures of half of Indian States in terms of proviso to Article 368(2). By a 3:2 majority, the Supreme Court held that the impugned amendment was valid as it did not purport to affect Article 226 of the Constitution and hence did not attract the requirement of being ratified by the Indian States in terms of proviso to Article 368(2).

Later in **Golaknath vs. State of Punjab**, AIR 1967 SC 1643, the Supreme Court overruled its earlier decisions in the cases of Shankari Prasad and Sajjan Singh, discussed above, while holding that an amendment under Article 368 of the Constitution would be treated as a law under Article 13(2) so no such amendment could be allowed to take away the fundamental rights guaranteed under the Constitution.

In order to nullify the effect of the Golaknath case, the Parliament sought to insert Article 13(4) in the Constitution, by the Constitution (Twenty-fourth) Amendment Act, 1971, providing that "Nothing in this article shall apply to any amendment of this Constitution made under Article 368". The 24th amendment was challenged in the case of **Keshavananda Bharti vs. State of Kerala**, AIR 1973 SC 1461. While overruling its earlier judgment in the Golaknath case, the Supreme Court held that though the Parliament had the power to amend fundamental rights under Article 368, the amending power could not be used to take away those fundamental rights which form the basic structure of the Constitution.

In **Minerva Mills vs. Union of India**, AIR 1980 SC 1789, the constitutionality of the Constitution (fortysecond) Amendment Act, 1976 had been challenged before the Supreme Court on the ground that it destroyed the basic structure of the Constitution. The Supreme Court held that amendment to be unconstitutional as it gave unbridled powers to the Parliament to amend the provisions of the Constitution and took away the power of courts to judicially review any amendment to the Constitution including an amendment to the fundamental rights provided therein. The power of judicial review was recognized to be a part of the basic structure of the Constitution.

## 11. Basic Structure (Doctrine) of the Constitution

The basic structure (or doctrine) of the Constitution of India applies only to constitutional amendments, which states that the Parliament cannot destroy or alter the basic features of the Indian Constitution. These features includes (1) Supremacy of the constitution. (2) Republican and democratic form of govt. (3) Secular character of constitution. (4) Separation of power. (5) Federal character of constitution.

The constitution empowers the Parliament and the State Legislatures to make laws within their respective jurisdiction. Bills to amend the constitution can only be introduced in the Parliament, but this power is not absolute. If the Supreme Court finds any law made by the Parliament inconsistent with the constitution, it has the power to declare that law to be invalid. Thus, to preserve the ideals and philosophy of the original constitution, the Supreme Court has laid down the basic structure doctrine. According to the doctrine, the Parliament cannot destroy or alter the basic structure of the doctrine.

### Evolution of the Basic Structure

The word "Basic Structure" is not mentioned in the constitution of India. The concept developed gradually with the interference of the judiciary from time to time to protect the basic rights of the people and the ideals and the philosophy of the constitution.

- The First Constitution Amendment Act, 1951 was challenged in the Shankari Prasad vs. Union of India case. The amendment was challenged on the ground that it violates the Part-III of the constitution and therefore, should be considered invalid. The Supreme Court held that the Parliament, under Article 368, has the power to amend any part of the constitution including fundamental rights. The Court gave the same ruling in Sajjan Singh Vs State of Rajasthan case in 1965.
- In Golak Nath vs State of Punjab case in 1967, the Supreme Court overruled its earlier decision. The Supreme Court held that the Parliament has no power to amend Part III of the constitution as the fundamental rights are transcendental and immutable. According to the Supreme Court ruling, Article 368 only lays down the procedure to amend the constitution and does not give absolute powers to the parliament to amend any part of the constitution.
- The Parliament, in 1971, passed the 24th Constitution Amendment Act. The act gave the absolute power to the parliament to make any changes in the constitution including the fundamental rights. It also made it obligatory for the President to give his assent on all the Constitution Amendment bills sent to him.

In 1973, in Kesavananda Bharti vs. State of Kerala case, the Supreme Court upheld the validity of the 24th Constitution Amendment Act by reviewing its decision in Golaknath case. The Supreme Court held that the Parliament has power to amend any provision of the constitution, but doing so, the basic structure of the constitution is to be maintained. But the Apex Court did not any clear definition of the basic structure. It held that the "basic structure of the Constitution could not be abrogated even by a constitutional amendment". In the judgement, some of the basic features of the Constitution, which were listed by the judges.

**The basic features of the Constitution are as follows:**

1. Supremacy of the constitution
2. Republican and democratic form of government
3. Secular character of the constitution
4. Federal character of the constitution
5. Separation of power
6. Unity and Sovereignty of India
7. Individual freedom

**Important Supreme Court Decisions**

| Case | Decision by the Supreme Court |
|---|---|
| **Shankari Prasad Vs. Union of India, 1951** | The Parliament, under Article 368, has power to amend any part of the constitution. |
| **Sajjan Singh Vs. State of Rajasthan, 1965** | The Parliament, under Article 368, has power to amend any part of the constitution. |
| **Golak Nath Vs. State of Punjab, 1967** | The Parliament is not powered to amend the Part III (Fundamental Rights) of the constitution. |
| **Kesavananda Bharti Vs. State of Kerala,1971** | The Parliament can amend any provision, but can't dilute the basic structure. |
| **Indira Gandhi Vs. Raj Narain, 1975** | The Supreme Court reaffirmed its concept of basic structure. |
| **Minerva Mills Vs. Union of India, 1980** | The concept of basic structure was further developed by adding 'judicial review' and the 'balance between Fundamental Rights and Directive Principles' to the basic features. |
| **Kihoto hollohan Vs. Zachillhu, 1992** | 'Free and fair elections' was added to the basic features. |
| **Indira Sawhney Vs. Union of India, 1992** | 'Rule of law, was added to the basic features. |
| **S.R Bommai vs Union of India, 1994** | Federal structure, unity and integrity of India, secularism, socialism, social justice and judicial review were reiterated as basic features. |

**Bibliography:**

https://blog.ipleaders.in/union-executive/

http://www.iasplanner.com/civilservices/ias-pre/gs-polity/government-of-the-state-the-state-executive-governo-powers-functions

https://www.blocles4u.com/powers-and-functions-of-governor-in-india/#Powers_and_functions_of_governor_in_India

http://legalaffairs.gov.in/sites/default/files/The%20Institution%20of%20Governor%20under%20the%20Constitution.pdf

https://www.lawteacher.net/free-law-essays/constitutional-law/governor-the-representative-of-centre-of-state-constitutional-law-essay.php

https://www.tutorialspoint.com/indian_polity/indian_polity_union_legislature.htm

http://www.yourarticlelibrary.com/parliament/union-parliament-composition-and-functions-of-the-union-parliament/40341

http://www.helplinelaw.com/govt-agencies-and-taxation/ULTR/the-union-legislature.html

http://www.yourarticlelibrary.com/political-science/state-legislature-organisation-powers-and-limitations-on-the-powers-of-state-legislature/40348

http://www.elections.in/political-corner/when-and-why-is-a-state-assembly-dissolved/

https://www.gktoday.in/gk/anti-defection-law-in-india-history-provisions-issues-and-analysis/

https://www.britannica.com/topic/amendment

https://www.lawnn.com/amendment-to-the-indian-constitution/

https://www.jagranjosh.com/general-knowledge/basic-structure-doctrine-of-the-constitution-1437127016-1