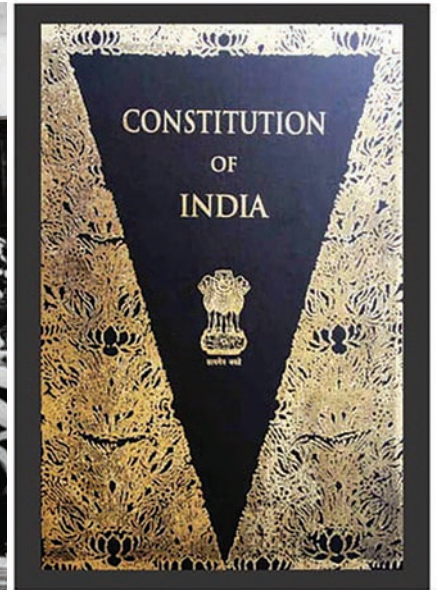


4

DISTRIBUTION OF POWER IN INDIAN CONSTITUTION



"Long years ago we made a tryst with destiny, and now the time comes when we shall redeem our pledge, not wholly or in full measure, but very substantially. At the stroke of the midnight hour, when the world sleeps, India will awake to life and freedom."

A moment comes, which comes but rarely in history, when we step out from the old to new, when an age ends, and when the soul of a nation, long suppressed, finds utterance. It is fitting that at this solemn moment, we take the pledge of dedication to the service of India and her people and to the still larger cause of humanity."

The above is an excerpt from our first Prime Minister, Jawaharlal Nehru's address to the nation on the eve of India's Independence.

Nehru appeals to the Constituent Assembly to shake off the evils of foreign rule and lead the country to a hopeful and responsible path. India's independence on 15 August 1947 entrusted a huge and important responsibility to our Constituent Assembly. People were subjected to discriminatory, undemocratic and unjust measures under the British rule. The caste system along with a multitude of other social evils, and human rights violations that existed in the Indian society at that time was beyond the imagination of the modern society. After independence, our national movement and people had the idea of creating a democratic government and a welfare system that would address all these problems.

Democratic governance and the construction of a welfare state were the two most important promises given to the people by independent India. The first step in this direction was the formation of the Constituent Assembly and the Objective Resolution presented by Nehru.

From Objective Resolution to the Constitution

Objective Resolution

- The Constituent Assembly declares its solemn determination to make India an independent sovereign republic and to frame a constitution for it.
- The independent sovereign India would be a union of former British Indian territories, Indian states and other parts outside British India willing to become a part of the Indian Union.
- The territories forming the Union of India will be autonomous units. In addition, they are vested with all powers and duties not vested in the Central Government.
- All the powers of an independent sovereign India will emanate from the people.
- Social, economic and political justice, equality of status, equality of opportunity and equality before the law, as well as fundamental freedom of speech, expression, belief, worship, profession, association and assembly, subject to law and public morality, shall be ensured and protected for all the people of India.

Given above are some of the ideas from the Objective Resolution presented by Jawaharlal Nehru in the Constituent Assembly on 13 December, 1946. The key ideals put forward by the National movement are included in the Objective Resolution.



Which ideas put forward by the National Movement were included in the Objective Resolution?

- Equality of opportunity
-
-
-

THE CONSTITUTION OF INDIA

PREAMBLE

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a ¹**[SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC]** and to secure to all its citizens :

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all

FRATERNITY assuring the dignity of the individual and the ²[unity and integrity of the Nation];

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949 do **HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.**

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, Sec.2, for "Sovereign Democratic Republic" (w.e.f. 3.1.1977)
2. Subs. by the Constitution (Forty-second Amendment) Act, 1976, Sec.2, for "Unity of the Nation" (w.e.f. 3.1.1977)



Identify the ideas presented in the Objective Resolution that were included in the Preamble of the Constitution of India and compare them.

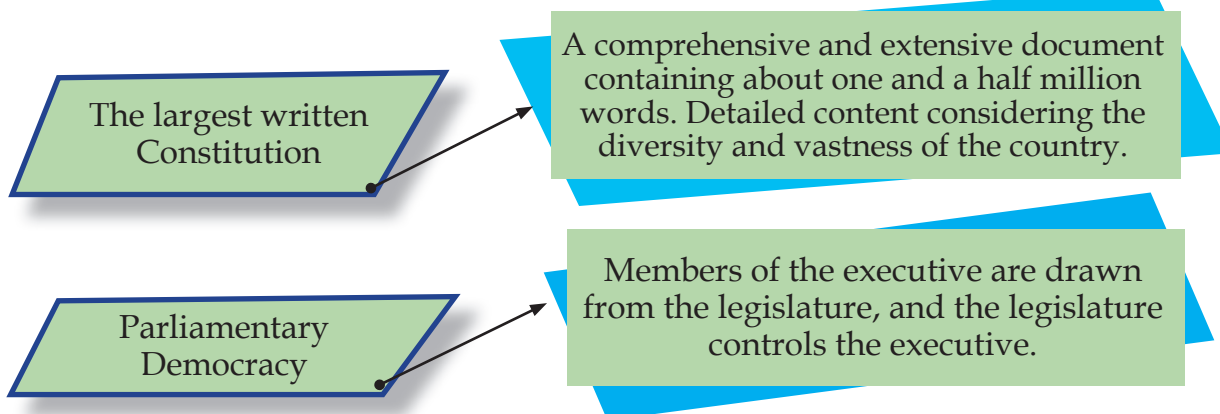
- Sovereignty to people
-
-
-

Isn't it clear that the various ideas of the Objective Resolution are included in the Preamble of our Constitution? Let us examine how adequate the provisions of the Constitution are to realize the ideals, visions and objectives and the like mentioned in the Preamble.

Features of the Constitution

The Constitution of India was drafted by the Drafting Committee of the Constituent Assembly constituted on 6th December 1946 on the recommendation of the Cabinet Mission, which lasted for 2 years, 11 months and 17 days from 9 December 1946. The Constitution of India, adopted on 26 November 1949, had 395 articles and 8 schedules in 22 parts. The Constitution of India that came into force on 26 January 1950 continues to be a living document, incorporating changes from time to time.

Many of the ideas upheld by the Indian Nationalist Movement and mentioned in the Objective Resolution have become a part of the Constitution. Let us know the features of the Constitution which was prepared after detailed studies and discussions.



Rigid and Flexible Structure

To amend certain provisions, special procedures shall be followed. But some others can be amended in the ordinary legislative manner.

Fundamental Rights and Fundamental Duties

- Fundamental Rights guaranteed by the state to every individual.
- Responsibilities of citizens towards the state and the society.

Directive Principles of State Policy

The directions given to the state for the socio-economic development of the nation.

Bicameral Legislature

Lower House (Lok Sabha) which represents the whole people and Upper House (Rajya Sabha) which represents the states for a second thought in legislation

Federalism with a strong Central Government

Division of powers between the centre and the states. However, the Constitution enshrines some special powers that give the centre an upper hand

An Independent and Impartial Judiciary

Judiciary system free from the control of the legislature and the executive

Independent Constitutional Institutions

Independent constitutional institutions to make the democratic system broad and meaningful



How many parts and schedules are there in the constitution at present? Find out.

Indian Federalism

Note the relevant parts of the seminar paper presented in the class on the features of the Constitution of India.

Federal system helps in maintaining the diversity and unity of our country equally. Also, such a governance is useful in effectively countering separatist tendencies by ensuring regional representation. It is possible through federalism to achieve economic progress and ensure the welfare of all sections by integrating various levels of government. This system of government where power is shared between the centre and the states makes the concept of democracy more meaningful...

Find and list the reasons why India adopted the federal system based on the above seminar paper.

- To strengthen democracy through power sharing between the Centre and the States.
-
-
-
-
-

Federalism is a system of administration in which power is divided between two levels of government on the basis of the Constitution. It is an administrative arrangement in which the central government

and the state governments share power. The basic features of federalism are considered to be a Written and Rigid Constitution, Division of Powers, and an Independent Judiciary.

Part I

Union and Its Territory

1. Name and Territory of the Union 1. -(1) India that is Bharat, shall be a Union of States.
¹[(2) The States and their territories shall be those specified in the First Schedule.]
 (3) Territories of India shall comprise
 (a) territories of the States;
²[(b) the Union Territories specified in the First Schedule; and,
 (c) such other territories as may be acquired.

You have read the Article I of the Constitution of India. According to this, India i.e. Bharat shall be a union of states. But nowhere in the Constitution does it mention that India is a federal state. We have adopted the federal system to accommodate the social, regional and geographical diversity of India and to preserve the unity and integrity of the country.

Some of the features of Indian federalism are given below.



India's federal structure is another salient feature which reflects the democratic commitment upheld by the Constitution of India. The Constitution of India has adopted an approach of dividing the powers of the nation between the Central Government and the State Governments rather than concentrating them at one level only. Let us examine the Seventh Schedule of the Constitution which mentions the division of powers.

Division of Powers in the Seventh Schedule

Union List - This is a list of subjects over which the Union Government has exclusive law-making powers. When the constitution came into force, there were 97 subjects.

Example - Foreign Affairs, Defence, Railways, Banking, Citizenship, etc.

State List - This is a list of subjects over which State governments have legislative powers in normal circumstances. Initially, it had 66 subjects.

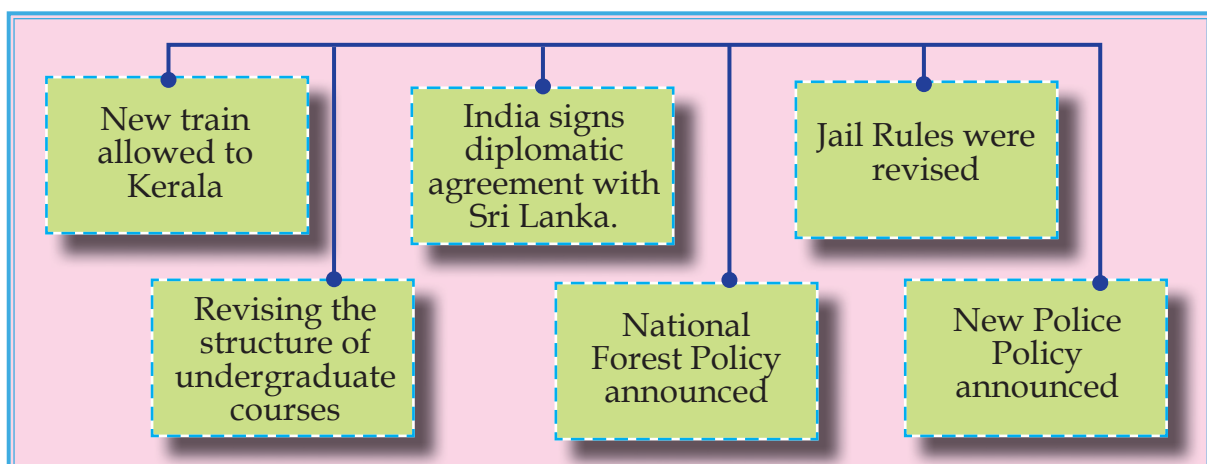
Example - Agriculture, Jails, Police, Local Government, etc.

Concurrent List - This is a list of subjects over which both the Central and the State Governments have legislative powers. Initially, it had 47 subjects.

Example - Education, Forestry, Trade Unions, Marriage, Birth and Death Registration, etc.

Residuary Powers - Subjects which are not included in the above three lists are called Residuary powers. The legislative power over these items are vested in the Central Government.

Example - Cyber Laws.



Have you noticed the news headlines given above? Note which list these topics belong to.

Union List	State list	Concurrent list

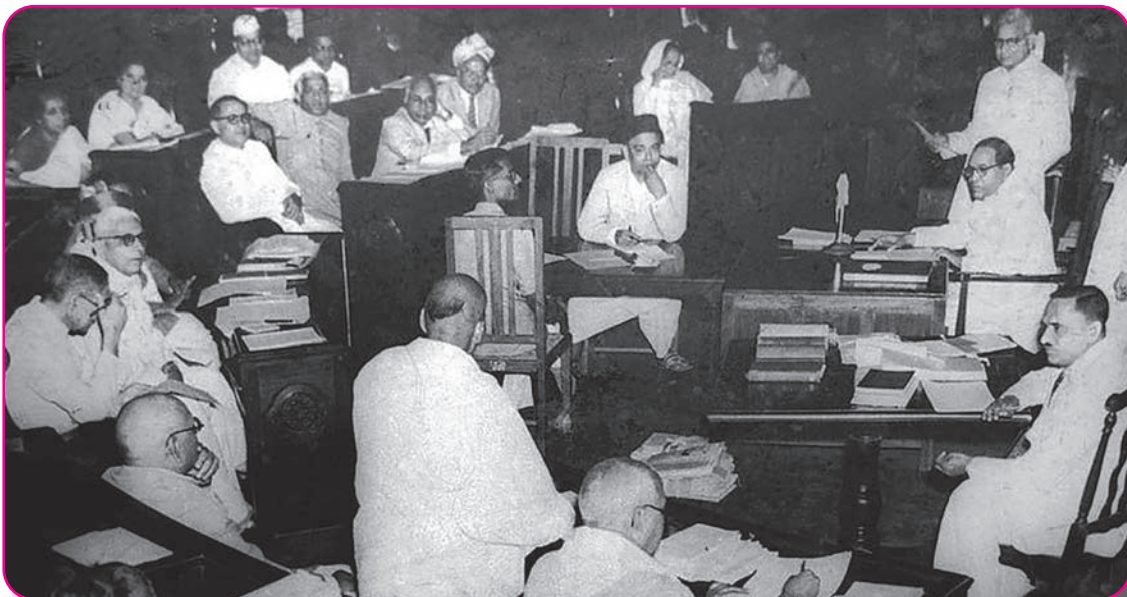


How has Indian federalism influenced democracy? Organise a debate on the influence of Indian Federalism on our democracy.

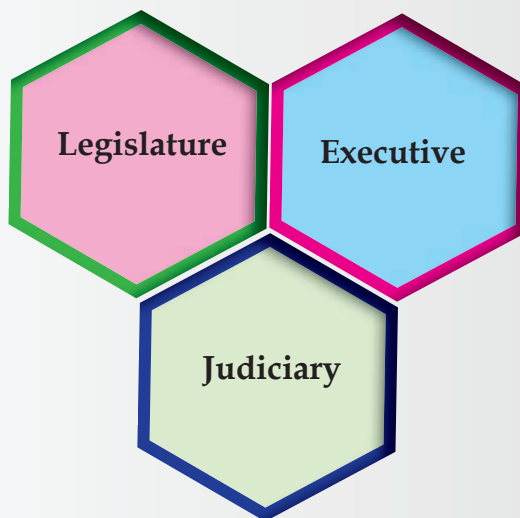
Separation of Powers

"Constitution is a fundamental document. It defines the position and powers of the three branches of government – the Executive, the Judiciary and the Legislature. The purpose of the Constitution is not only to create the institutions of government, but also to limit their powers. If no limitation is placed on the power of the constituents, there will be total tyranny and total oppression."

Dr. B. R. Ambedkar: From his speech in the Constitution Drafting Committee



Separation of Powers



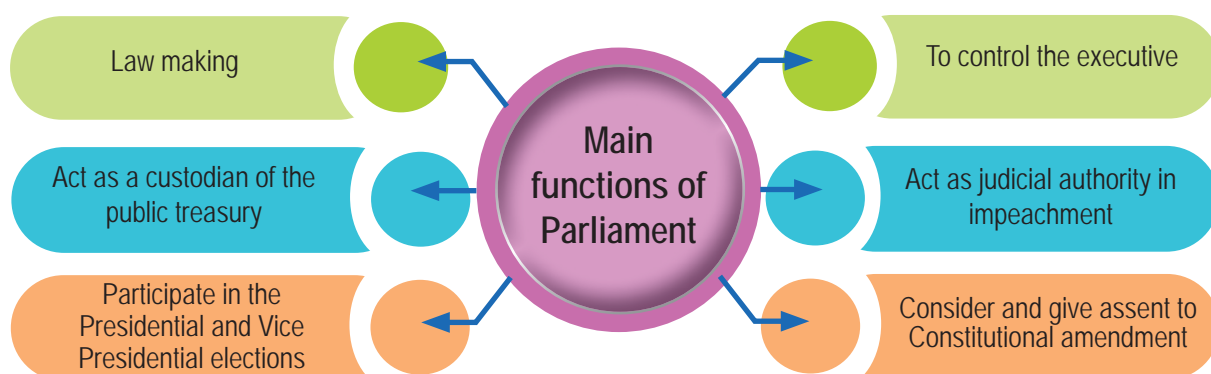
Have you noticed Dr. B.R. Ambedkar's observation about the separation of powers stipulated in our Constitution? The Constitution has taken care to prevent the concentration of power in any one of these – Legislature, Executive, Judiciary, also to prevent democracy from being overtaken by dictatorship. The parliamentary form of administration and federal structure are derived through these discussions.

Now, let us examine how the structure, powers and responsibilities of the legislature, the executive and the judiciary are divided as per the Constitution.

Legislature

The legislative body of India is called Parliament. The primary responsibility of the Parliament is to make laws for the country. Legislation is made to anticipate the various aspirations of the people, to meet the changes over time and to achieve new goals. The Parliament of India is a bicameral legislature consisting of two houses namely, the Lok Sabha and the Rajya Sabha. Countries of a larger size and diversity usually have bicameral legislatures. It is helpful in representing the diversity (people and regions) of the country. In addition, bicameral legislatures play an important role in enabling democratic discussions and debates. State legislatures are responsible to make laws in the states.

Let us familiarise with the functions of the Legislature



You have familiarised with the main functions of the Parliament. Haven't you? Let us examine the main features of the two Houses of Parliament – the Lok Sabha and the Rajya Sabha.

Lok Sabha

The Lok Sabha is the lower house of the Parliament. Members of the Lok Sabha are elected directly by the people on a majority system. Indian citizens who have completed 25 years of age are eligible to contest in Lok Sabha elections. The term of the Lok Sabha is five years. The maximum strength of the Lok Sabha is 550. But at present there are 543 (2023) members in the Lok Sabha. The formation and existence of governments is possible on the basis of the majority in the Lok Sabha. When a party or coalition fails to form a government or the ruling party or its coalition loses its majority, the country goes to a general election. The Lok Sabha is chaired by the speaker. It has more powers than the Rajya Sabha on financial matters. The Money Bills and No-confidence Motion are presented in the Lok Sabha.



Rajya Sabha

The Rajya Sabha is the upper house of the Parliament. It is a house in which representation is given to the states in proportion to their population. Members of the Rajya Sabha are elected by elected members of State Legislative Assemblies. Indian citizens who have completed 30 years of age are eligible to contest in



Rajya Sabha. Rajya Sabha is a permanent house. The term of office of its members is six years. One-third of its members retire every two years and elections are held to fill those vacancies. Rajya Sabha is chaired by the Vice President. The maximum strength of the Rajya Sabha is 250. Of these, 238 are elected and the remaining 12 are nominated by the President. It is from the Rajya Sabha, the proceedings to remove the Vice President begins. The Rajya Sabha is vested with the power to mandate the Parliament to create new All India Service.

Didn't you understand the features of Lok Sabha and Rajya Sabha? Complete the table below.

Lok Sabha	Rajya Sabha
Lower House	Upper House



How many Lok Sabha constituencies are there in Kerala? Find out their names.

Legislation in India

The power to make laws in India is vested in the Parliament. There are several procedures as mandated by the constitution and formed in due course as well, in the legislative process. Law making is not just a technical process, but also a political process. The laws are the government's response to public opinion from various corners of the society. Legislation is often enacted as part of political parties' fulfilment of election promises and to facilitate the process of administration. When the Cabinet gives approval for legislation, the draft of the law i.e., the Bill is prepared by the officials under the supervision and instructions of the ministry concerned.

There are various types of bills in a legislative system. Bill presented by the ministers is called Government Bill, while a bill introduced by a member of parliament who is not a minister is called a Private Bill. Besides, bills specifically pertaining to the collection of funds for the public exchequer and to meet public expenditure are called Money Bills. Money Bill is initially presented in the Lok Sabha.

Bills other than Money Bills are called Non-Money Bills. Constitutional Amendment Bills and Ordinary Bills fall under the category of Non-Money Bills.

Let us familiarise with the different stages through which a bill becomes a law.

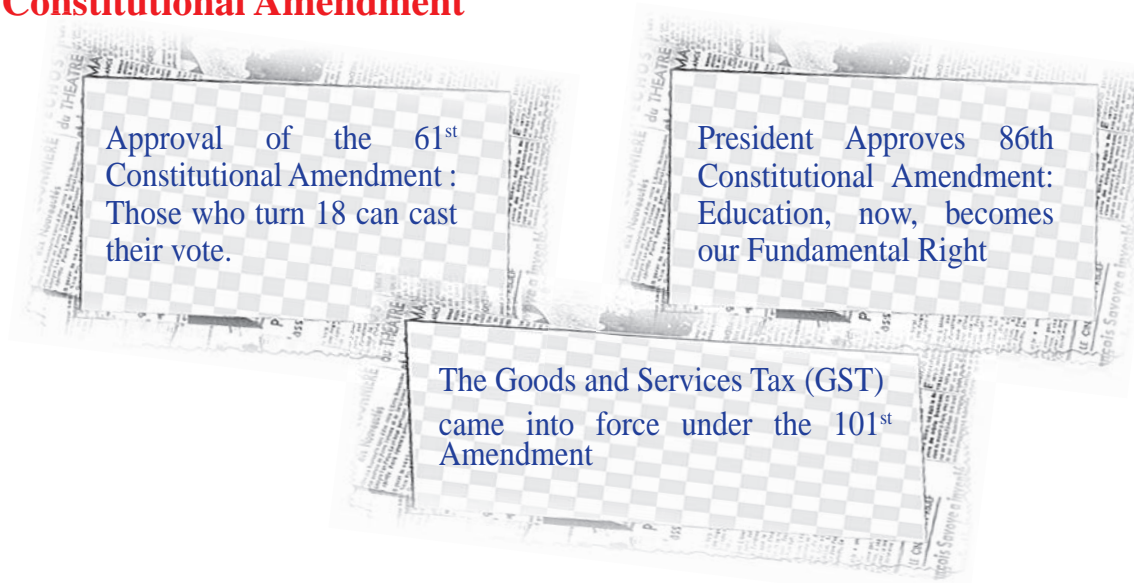
First Reading - Any bill other than a Money Bill is presented in either house by a Minister or a Private Member.

Second Reading - At this stage, the bill is either sent to a committee for examination or debated within the house itself. Changes or amendments can be accepted during this stage.

Third Reading - At this stage, the house approves or rejects the bill.

Once the bill completes all stages in the house where it was initially introduced, the same process is being repeated in the second house. If both the houses agree on the final version of the bill, it is then submitted to the President for assent. Once the President gives his/her assent, the bill officially becomes the law.

Constitutional Amendment



Approval of the 61st Constitutional Amendment : Those who turn 18 can cast their vote.

President Approves 86th Constitutional Amendment: Education, now, becomes our Fundamental Right

The Goods and Services Tax (GST) came into force under the 101st Amendment



Read the news headlines above. Discuss the need for constitutional amendment.

A constitutional amendment is the making of corrections, omissions or additions to the Constitution. Amendment process is helpful in altering the Constitution from time to time considering the socio-political needs. The power to amend the Constitution of India is vested with the Parliament. Article 368 empowers the Parliament to amend the Constitution. The amendment bill does not require the prior assent of the President. For the constitutional amendment bill to become the law, the approval of both houses of the Parliament is essential. There is no such procedure as a joint sitting of the two houses to resolve disputes over the constitutional amendment bill. The Judiciary has the power to nullify any constitutional amendment law if it is found to be contrary to the words or meaning of the Constitution.

Let's get acquainted with the various methods of amendment prescribed by the Constitution of India.

Methods of Amendment

Flexible Amendment

Certain provisions of the Constitution of India can be amended by the Parliament with simple majority through the procedures similar to ordinary legislation. Eg., name of the states, boundaries, citizenship, etc.

Rigid Amendment

A special majority of both the houses of the Parliament is required to make amendments in certain important provisions. Eg., Fundamental Rights, Directive Principles, etc.

More Rigid Amendment

Some very crucial provisions can be amended only with the special majority of both houses of the Parliament along with the approval of not less than half of the states. Examples are division of powers between Centre and State, Representation of the Peoples Act, etc.

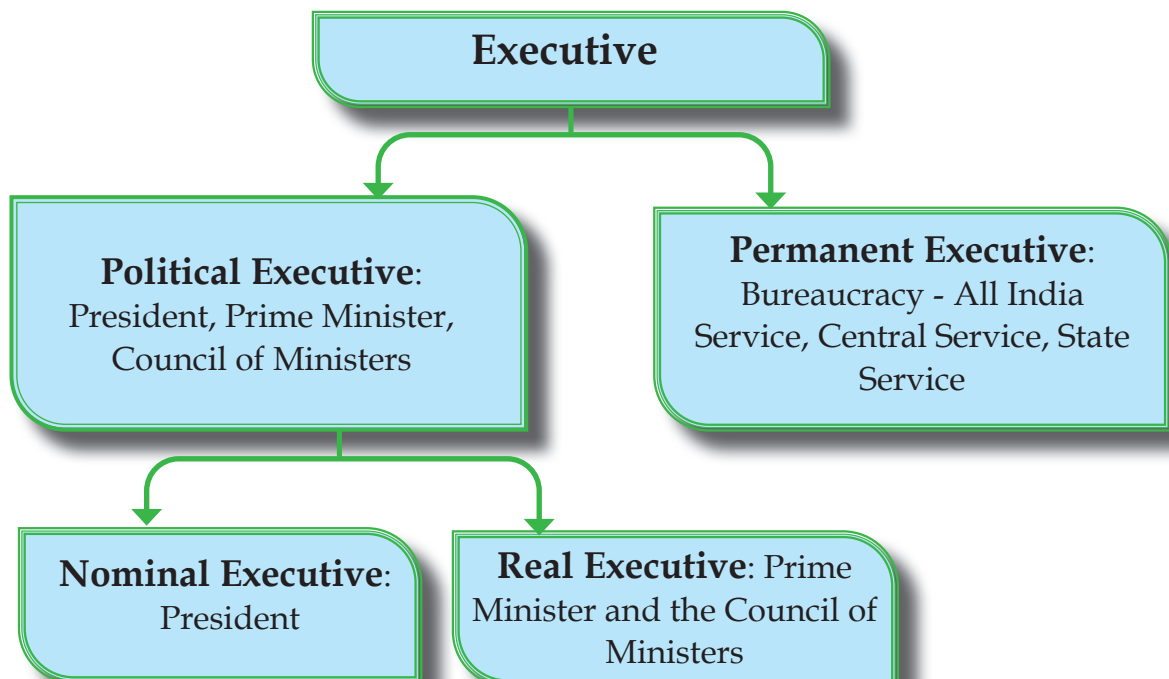
We are familiar with the three types of amendments to the Constitution of India. Now, complete the following list.

Subjects	Method of Amendment
Renaming of the states	
86 th Constitutional Amendment	
Amendment in the Concurrent List	

Our Constitution becomes a living document when it incorporates changes from time to time through amendments. We are now familiar with the legislative process in the Parliament. The Executive is responsible for implementing the laws passed by the Parliament.

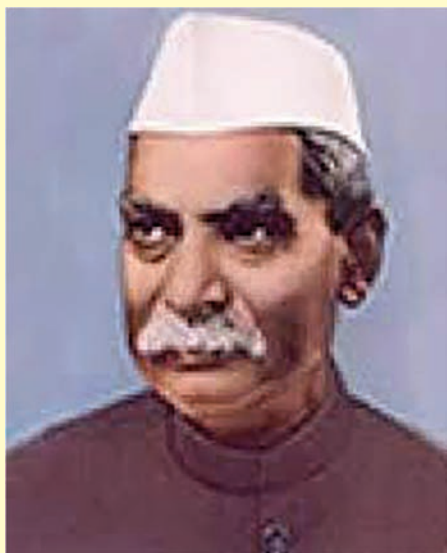
Executive

The Executive is the branch of the government which is responsible for the implementation and administration of laws and policies. It consists of the President, the Vice President and the Cabinet headed by the Prime Minister. Although, the powers of the executive are vested with the President under the provisions of the Constitution, it is exercised by the Council of Ministers headed by the Prime Minister.



Have a look at the flow chart given above. Let's get to know each of them.

Political Executive



Dr. Rajendra Prasad
(First President of India)

The Political Executive consists of the President, the Vice President, and the Council of Ministers headed by the Prime Minister. Constitutionally the President is the head of the executive. But the President has to act in accordance with the advice given by the Council of Ministers headed by the Prime Minister. At the same time, there are situations in which the President acts as per his/her discretion.

President

The President is the executive head of the State. An Indian citizen who has completed thirty-five years of age can contest in the Presidential election. The President is elected by an Electoral College, which consists of the elected members of both Houses of the Parliament and State Legislative Assemblies only. The term of office of the President is five years. The functions of the President include – summon the Parliament, dissolve the Lok Sabha, appoint the Prime Minister and Council of Ministers, judges of the Supreme Court and High Courts, State Governors, declaration of emergency, etc. The President also acts as the Commander-in-Chief of the defence forces. The President submits his/her resignation to the Vice President. In the absence of the President, the Vice President performs all the duties of the President.

Prime Minister

Prime Minister, the administrative head of the country, is also the leader of the party and its alliance with a majority in the Lok Sabha, and the nation. It is the Prime Minister who forms the Council of Ministers and decides the members of his/her Cabinet. The Prime Minister has the power to change the portfolios of ministers and to include or remove members from the Council of Ministers. The Prime Minister acts as the link between the

President, the Cabinet and the Parliament. If the Prime Minister loses his/her majority in the Lok Sabha before the term of five-years, he/she must submit resignation to the President.

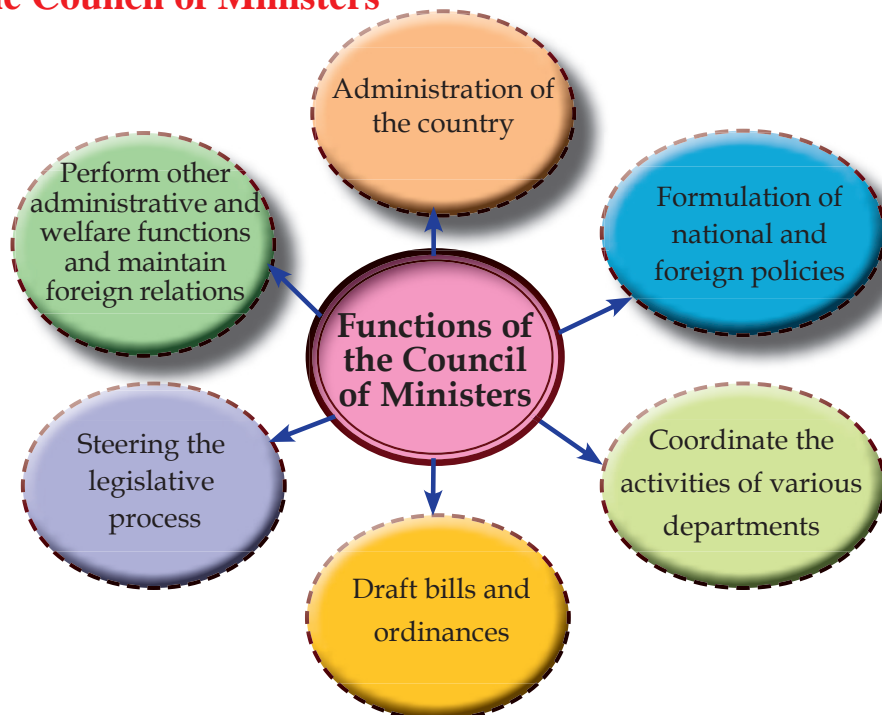


Read the given statements and put (✓) against the true ones and (✗) the false ones.

- The head of the Executive is the Prime Minister. ☐
- The President has discretionary powers. ☐
- The head of the cabinet is the Prime Minister. ☐
- The Prime Minister is the Commander-in-Chief of the Defence Forces. ☐
- Governors are appointed by the President. ☐
- The President submits his resignation to the Prime Minister. ☐
- The Prime Minister is appointed by the Governor. ☐

The Council of Ministers helps the President in the exercise of his/her functions. The Prime Minister is the head of the Council of Ministers. Let's check the main duties of the Council of Ministers.

Functions of the Council of Ministers



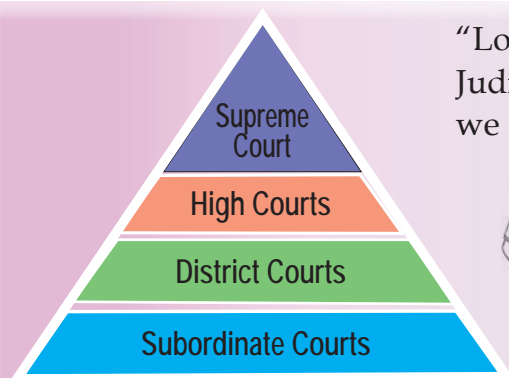
Permanent Executive

The bureaucracy carries out the day-to-day operations of the government and assists the political executive in formulating bills including the budget. They are a skilled and accomplished category who are selected through competitive examinations and trained on the basis of merit. They are termed as permanent executive as they have a tenure upto a fixed age of retirement.

Judiciary



The Judiciary is the mechanism that ensures the functions of legislative and executive, in accordance with the Constitution. Along with protecting the rights of the citizens, it protects the constitutional values. Therefore, the Judiciary is known as the Protector of the Constitution. An independent and impartial judiciary is essential for an efficient democratic system.



“Look, Ammu ... India has a single integrated Judicial system led by the Supreme Court. As we go up in our pyramidal judicial system, the number of courts decreases and the powers increase. As we go down, the number of courts increases and the powers decrease.”



Supreme Court

The Supreme Court, came into existence on 28 January 1950. Its headquarters is at New Delhi. The retirement age of Supreme Court judges is 65 years. The Parliament has the power to remove Judges of Supreme Court before completing his/her term. It is before the President that the Chief Justice and other judges take oath as well as submit their resignation. The Supreme Court acts as the supreme interpreter of the Constitution and the guardian of fundamental rights, while providing solutions to various legal disputes.

Powers of the Supreme Court

- **Original Jurisdiction:** Certain matters which can be resolved only by the Supreme Court come within the ambit of this jurisdiction.
E.g., Centre-State Disputes.
- **Appellate Jurisdiction:** The Supreme Court is the highest appellate court. Therefore, it has the jurisdiction to entertain appeals against the judgement of any lower court in the country.
- **Advisory Jurisdiction:** The Supreme Court has a constitutional obligation to give legal advice on any matter demanded by the President.
- **Writ Jurisdiction:** The Supreme Court has the powers to issue special orders in the form of writs for the protection of fundamental rights when they are violated.
- **Judicial Review:** Judiciary is the most powerful force in carrying out its role as the guardian of the Constitution with its judicial review.



Judicial Review

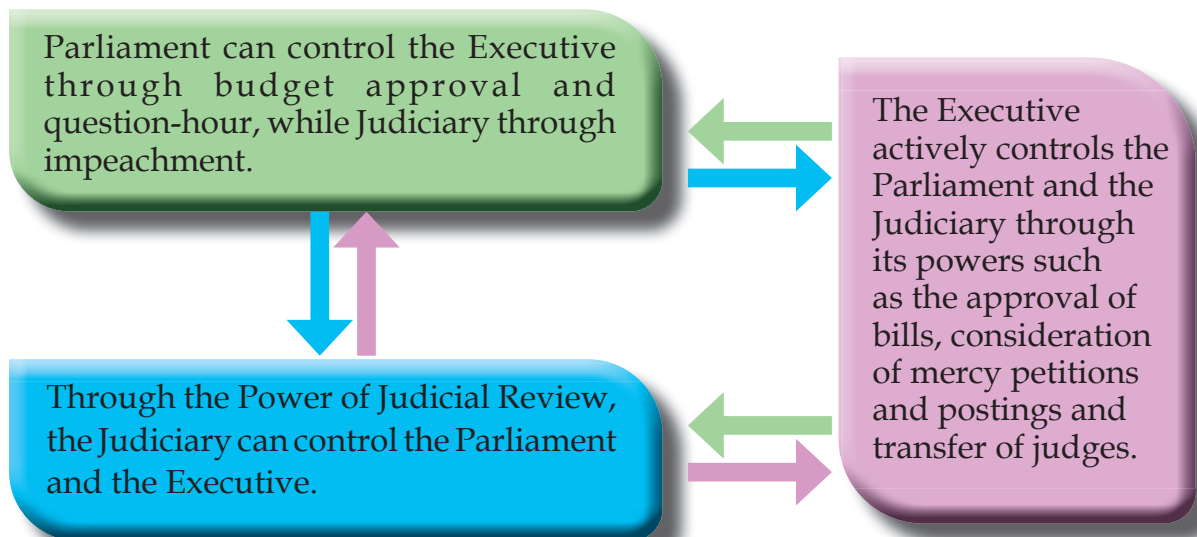
Judicial Review is the power of the Supreme Court to examine the constitutionality of any law made in the Parliament or the orders passed by the executive. If the court arrives at the conclusion that the law is inconsistent with the provisions of the Constitution, such a law is declared as unconstitutional and inapplicable.

Checks and Balances

Constitutionally, the powers of the government are divided into three branches: Legislative, Executive and Judicial. However,

our Constitution has taken care to ensure a reasonable mutual control, co-ordination and balance in the exercise of powers among them.

Observe the diagram given below.



The Constitution of India enshrines the democratic system and its values in the ideals of nationhood. The powers of the government is divided among the three branches to avoid centralisation of power, prevent autocratic tendencies and to maintain democracy. Through the branches of government, our nation is implementing efforts to systematise ideas and aspirations of the freedom struggle and the values and visions set forth by the Constitution.



Extended Activities

- Organise a seminar on the salient features of Indian Federalism.
- With the help of the library, find out the subjects that are currently included in each of the three lists of the Constitution.
- Organise a model parliament in the class covering the various stages of the legislative process.
- Conduct an interview with a legal expert focusing on the powers of the Supreme Court.