

APPOLO



STUDY CENTRE

Indian Polity

Union Parliament	9th Book	Unit 4 - Forms Of Government
		Unit 5 - Local Self Government
	10th Vol -1	Unit 3 - State Government
	11th Vol -1	Unit - 6 Forms Of Government
	11th Vol -2	Unit 12- Local Government
	12th Vol -1	Unit 2 - Legislature

9th Full Book

Unit 4 – Forms of Government

- Government is the main agency of the state. It comprises of several members belonging to political and administrative wings. It serves as the instrument for delegation and execution of the state policies for the welfare of the people. It formulates expresses and realizes the will of the state. It exercises certain legislative, executive and judicial powers based on the constitution and the laws. There are three organs in government, namely – Legislature, Executive and Judiciary. These organs carry out the activities of the state. Governments are classified into unitary, federal, parliamentary and presidential forms.

Meaning

- 'Government' refers to the executive functions of the state. It denotes a body having authority to make and enforce laws applicable to the civil, corporate, religious, academic or other groups.

Unitary Form of Government

- A unitary system of government or unitary state is a sovereign state governed as a single entity. The central government is supreme and the administrative divisions exercise only powers that the central government has delegated to them.
- England, France, Japan and SriLanka are examples of Unitary Form of governments.
- In a Unitary form of government, all the authority and power is vested in a single centre, whereas in a federal form of government authority and power is distributed between centre and the constituent units. Even in a unitary form of Government, there might be a lot of decentralization of authority, but we cannot claim it as a federal system.

Merits of unitary form of government

- Suitable for small countries.

- There is no conflict of authority and responsibility.
- A unitary government will make prompt decisions and take speedy action.
- A unitary government is less expensive.
- Amendments to the constitution are easy.
- There is unity, uniformity of law, policy and administration.

De-merits of unitary form of government

- It is not suitable for big countries.
- The central government will have to tackle so many complex problems that lead to administrative delay
- The central government will not concentrate on local problems, local interest and initiative.
- The concentration of powers may pave way for the despotism of the central government.

Unitary features of the indian constitution

- Strong Centre
- Central Government's control over state territory
- Single Constitution
- Flexibility of the Constitution
- Unequal representation of states
- Emergency Provisions
- Single Citizenship
- Single Integrated Judiciary
- All India Services
- Appointment of Governor by the central government

Federal form of government

- The classification of governments into unitary and federal is based on the nature of relations between the national and the regional governments.
- A federal government is one in which powers are divided between the national government and the regional governments by the Constitution itself and both operate in their respective jurisdictions independently. U.S.A, Switzerland, Australia, Canada, Russia, Brazil, Argentina have

federal form of governments. In a federal model, the national government is known as the Federal government or the Central government or the Union government and the regional government is known as the state government or the provincial government.

Merits of federal form of government

- Reconciliation of local autonomy with national unity
- Division of power between centre and states leads to administrative efficiency
- It gives rise to big states
- Distribution of powers check the despotism of central government
- More suitable for bigger countries
- It is good for economic and cultural progress

De-merits of federal form of government

- Federal government is weaker when compared to the unitary government.
- Federal government is more expensive
- Provincial tendencies are very common
- Lack of uniformity in Administration
- Threat to national unity
- Distribution of powers between centre and states lead to conflicts
- Double Citizenship
- Rigid constitution cannot be mended easily for changing needs
- The state governments sometimes place hindrances in the foreign policy

Country	Name of Parliament
Israel	Knesset
Germany	Bundestag
Denmark	Folketing
Norway	Storting
U.S.A	Congress

Federal features of the Indian constitution

- Dual Government
- Written Constitution

- Division of Powers
- Supremacy of the Constitution

Difference between Unitary Form and Federal Form of Government

Unitary Form of Government	Federal Form of Government
Only one level of Government or Sub units	Two levels of Government
Mostly Single Citizenship	Dual Citizenship
Sub units cannot operate independently	Federal Units are answerable to Central Government
No Division of Power	Division of Power
Centralisation of Power	Decentralisation of Power

Parliamentary form of government

- Modern democratic governments are classified into parliamentary and presidential on the basis of the nature of relations between the executive and the legislative organs of the government.
- The parliamentary system of government is the one in which the executive is responsible to the legislature for its policies and acts.
- The parliamentary government is also known as cabinet government or responsible government or Westminster model of government and is prevalent in Britain, Japan, Canada and India among others.

Features of parliamentary form of government

- Nominal and Real Executives
- Majority Party Rule
- Collective Responsibility
- Dual Membership
- Leadership of the Prime Minister
- The Constitution is the supreme law of the land. The laws enacted by the Centre and the states must confirm to its provisions.
- Rigid Constitution
- Independent Judiciary
- Bicameralism

Merits of the parliamentary form of government

- Harmony between Legislature and Executive
- Responsible Government
- Prevents Dictatorship
- Wide Representation

•

Demerits of the parliamentary form of government

- Unstable Government
- No Continuity of Policies
- Dictatorship of the Cabinet
- Against Separation of Powers

The Presidential form of government

- The Presidential Form Of Government is also known as non-responsible or non-parliamentary or fixed executive system of government, basically built on the principle of separation of power and is prevalent in the USA, Brazil, Russia and Sri Lanka among other.

Features of Presidential form of government

- The American President is both the head of the State and the head of government. As the head of State, he occupies a ceremonial position. As the head of government, he leads the executive organ of the government.
- The President is elected by an electoral college for a fixed tenure of four years. He cannot be removed by the Congress, except by impeachment for a grave unconstitutional act.
- The President governs with the help of a cabinet or a smaller body called 'Kitchen Cabinet'. It is only an advisory body and consists of non-elected departmental secretaries. They are selected and appointed by him, are responsible only to him and can be removed by him any time.
- The President and his secretaries are not responsible to the Congress for their acts. They neither possess membership in the Congress, nor attend its sessions. The President cannot dissolve the House of Representatives – the lower house of the Congress.

- The doctrine of separation of powers is the basis of the American presidential system. The legislative, executive and judicial powers of the government are separated and vested in three independent organs of the government.

Merits of the presidential system of government

- Democratic
- Effective Control by the President
- Facilitate decision-making
- State government

Demerits of the presidential system of government

- Can degenerate into Dictatorship
- Strain relationship between executive and legislature
- Lack of Harmony between the Legislature and Executive

Difference between the Parliamentary Form of Government and Presidential Form of Government

Presidential Form of Government	Parliamentary Form of Government
President is directly elected by the people	Prime Minister is from the majority party
President is Supreme	Central Legislature is Supreme
Separation of Powers	Absence of Separation of Powers Centralisation.
Independent branches	Independent branches with overlapping functions
President - Head of the State	President - Head of the State
President - Head of the Government	Prime Minister - Head of the Government
Individual Leadership	Collective Leadership
President is not accountable to Congress	Collectively and Individual Responsibility

The relationship between the Centre and the State in India

India is a union of States where the power is shared between the centre and the states, as per the procedures mentioned in the Constitution of India. Though the powers are shared between the Central and State Governments,

the final decision is by the Central government in all matters. The relationship between the centre and the states are

1. Legislative relations (Articles 245-255)
2. Administrative relations (Articles 256-263)
3. Financial relations (Articles 268-293)

Both the Central and State governments have the power to make laws, but the matters differ. The centre can make laws applicable to the whole nation on certain matters called as the union list. The States have the powers to make laws in some matters only, applicable to their own state, called as the State list. The concurrent list includes the subjects on which both Central and State government have the power to make laws.

Union List: Union list has 100 subjects. These include Foreign affairs, Defence, Armed forces, Posts and Telegraphs, inter-state trade and commerce and so on.

State List: The state list consists of 61 subjects, which include Public order in the state, police, prisons, Local Governments, agriculture and so on.

Concurrent List: The Concurrent list has 52 subjects which include Criminal and Civil procedures, marriage and divorce, economic and special planning, newspapers, books and printing presses, population control and so on.

THE CONCEPT OF GOVERNANCE

From Government to Governance

- Good governance is an indeterminate term used in the international development literature to describe how public institutions conduct public affairs and manage public resources. Governance is 'the process of decision-making and the process by which decisions are implemented'.
- 'Government' and 'governance' are synonyms, both denoting the exercise of authority in an organization, institution or state.

Characteristics of good governance

- Participation
- Rule Of Law
- Transparency

- Responsiveness
- Consensus Orientation
- Equity
- Effectiveness And Efficiency
- Accountability

Gross National Happiness (GNH):

Gross National Happiness is a developing philosophy as well as an 'index' which is used to measure the collective happiness in any specific nation. The concept was first mentioned in the constitution of Bhutan, which was enacted on 18 July 2008.

The term 'Gross National Happiness' was coined by the fourth king of Bhutan, Jigme Singye Wangchuck, in the 1970s. The GNH's central tenets are: "Sustainable and socio-economic development; environmental conservation; preservation and promotion of culture; and good governance".

GNH is distinguishable by valuing collective happiness as the goal of governance and by emphasizing harmony with nature and traditional values.

UNIT 5 - LOCAL SELF GOVERNMENT

Meaning of Local Self Government

- Local Self-Governments are institutions that look after the administration of an area or a small community such as a village, a town or a city. Local Self- Government operates at the lowest level of society. It works at the grassroot level, close to the people, touching their everyday life. Local Self-Government is the management of local affairs by such local bodies which have been elected by the local people. These local bodies provide services to the local community as well as act as an instrument of democratic self-government.

Historical Background

- The idea of local self government is a very old concept in India. It was at its peak under the later Cholas or the Imperial Cholas of Tanjore. There are historical records of references to local self government under Mauryan administration. Local self government existed throughout the country with its own diverse characteristics of ancient India. During the medieval period, local self governments had somewhat declined due to the onslaught of feudalism. It was revived during the British period in the last quarter of the 19th century, with Western orientation of training in democracy with Lord Ripon's Resolution in 1882. Lord Ripon was known as the 'Father of Local Government for laying the foundations of local self governments in modern times.
- Under the Government of India Act, 1935 provincial autonomy was introduced. This Act came into force in 1937. In the provinces where the Congress formed its Government, rural development received special attention. It was an essential part of Gandhi's programme that Panchayat Raj institutions would be built from villages to the highest level.
- After Independence, the Gandhian ideal of Grama Swaraj (Village Republic) greatly influenced the constitution makers. India being the land of villages, the creation of village panchayats became a social movement. Restoration of panchayats has become an article of faith during our

freedom struggle. Hence with the dawn of independence and framing of the constitution of India, Article 40 was incorporated in the constitution which reads as: “the State should take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as the units of self Governments.”

Lord Ripon

- Lord Ripon was the one who gave Indians the first taste of freedom by introducing the Local Self Government in 1882. Ripon took some steps towards liberalizing the administration in India. He formulated the local self government and made it clear that he was advocating for the decentralization of administration.
- He tried to remove obstacles in the sphere of Local Self government by his resolution of 1882. He led a series of enactments in which larger powers of the local self-government were given to the rural and urban bodies and the elected people received wider rights.

Local Self Governments since Independence

- The conceptualization of the system of local self-government in India took place through the formation and effort of four important committees from the year 1957 to 1986. The Community Development Programme (1952) and National Extension Service (1953) became a basis for 'The Great Charter on Panchayat Raj' in 1957.

Salient Features of the 73rd and 74th Constitution Amendment Acts (1992)

- Panchayats and Municipalities will be 'institutions of self-government'.
- Basic Units of Democratic System – Grama Sabhas (Villages) and Ward Committees (Municipalities) comprising all the adult members registered as voters.
 - Three-tier system of panchayats at village, intermediate block/taluk/mandal and district levels. Two-tier for smaller states with population below 2 million.
 - Seats at all levels filled by direct elections.

- Seats reserved for Scheduled Castes (SCs) and chairpersons of the Panchayats at all levels also shall be reserved for SCs and STs in proportion to their population.
- One-third of the total number of seats reserved for women. One-third of the seats reserved for SCs and STs also reserved for women. One-third offices of chairpersons at all levels reserved for women.
- Uniform five year term and elections to constitute new bodies to be completed before the expiry of the term. In the event of dissolution, elections must be held compulsorily within six months.

Salient Features of the Tamil Nadu Panchayati Raj Act, 1994

- The New Panchayat Raj System came into being in Tamil Nadu after the enactment of a new law for local body institutions in the year 1994. The salient features of the new Act are as follows:
 1. A three-tier system
 2. Gram Sabha
 3. Establishment of Election Commission
 4. Constitution of Finance Commission
 5. Reservation of seats for SC/ST's proportionate to their population One third reservation of seats for women and
 6. Constitution of District Planning Committees.

Village Panchayat

- Local governments which are function in villages are called Village Panchayats. The President and ward members are directly elected by the people. (Those who have attained the age above 18) and their term of office is five years. District Collector act as the Inspector of Village Panchayat. Village Panchayats are constituted in each and every village wherever the population is above 500.

Functions of the Village Panchayat

- Supply of drinking water
- Maintenance of street lights
- Maintenance of roads
- Maintenance of village libraries
- Maintenance of small bridges

- Granting permission to the housing plots
- Maintenance of drainage
- Construction of group houses
- Cleaning of streets
- Maintenance of burial grounds
- Maintenance of common lavatory facilities

Voluntary Functions.

- According to the Tamil Nadu Local Government Act passed in 1994, the following functions to be performed as voluntary functions by the local governments.
 - Maintenance of street lights in the villages
 - Maintenance of markets and fairs
 - Implantation of trees
 - Maintenance of play grounds
 - Maintenance of parking vehicles, slaughter houses and cattle sheds
 - Control over places of exhibition

Revenue

Village Panchayat was the only local government which was empowered to levy taxes in the three-tier system of Village Panchayat.

Taxes

- Property Tax
- Professional Tax
- House Tax
- Taxes for connection of drinking water
- Land Tax
- Taxes levied on shops

Meeting of Gram Sabha

- In each and every village, the people living within its jurisdiction will be the members of Panchayat. The President of the Panchayat will preside over its meetings. In the meeting of the Grama Sabha, the income and

expenditure and the beneficiary of the schemes in the village are discussed.

Meetings of the Grama Sabha are conducted four times a year

1. January 26 - Republic Day
2. May 1 - Labourer Day
3. August 15 - Independent Day
4. October 2 - Gandhi Jayanthi

Panchayat Union

- Panchayat Union is formed by grouping of villages. Members of the Panchayat Union are directly elected by the people. The Chairman of the Panchayat Union is chosen from among the members.

Functions of the Panchayat Union

- Supply of drinking water
- Maintenance of Village Health Centres
- Maintenance of roads
- Establishment of Maternity Homes
- Establishment of Public fairs
- Establishment of Veterinary hospitals
- Maintenance of Social forests
- Repairing of Primary School buildings

District Panchayat

- A District Panchayat is constituted in each district. One district Panchayat is constituted for every 50,000 people and the ward members are directly elected by the people. The Chairman is elected from one among its members and their term is 5 years.

Functions of District Panchayat

- Advising the government about the developmental schemes of the Village Panchayat and Panchayat Union.
- Supervising the functions of District Planning Commission.

Urban Local Government

- Town Panchayat
- Municipality
- Corporation

Gandhi's Concept of Gram Swaraj

- Gandhi really wanted 'Swaraj', the self rule by the people of India who represent the rural mass. He observed 'India's soul lives in the village'. He dreamt of village republics in terms of Panchayat in free India. Mahatma Gandhi advocated Panchayat Raj, a decentralized form of government, where each village is responsible for its own affairs, as the foundation of India's political system. In simpler words, Gandhi's ideal village should be basically self-reliant, making provision for all necessities of life-food clothing, clean water, sanitation, housing, education, and other requirements, including government and self-defense.

Town Panchayat

- The area where more than 10,000 people live is called a Town Panchayat. Members and President of the town Panchayat are directly elected by the people. There is an Executive Officer to look after the administration of the Town Panchayat and their term of office is 5 years.

Municipality

- The area where more than 1,00,000 people live is called a Municipality. The Members and the Chairman of the Municipalities are directly elected by the people and their term of office is five years. A Municipal Commissioner is appointed by the government to administer the Municipality.

Corporation

- Municipal corporations are established in big cities where the city has many lakhs of population. The Municipal Commissioner is the Administrative Officer. The Mayor is the Chairman of the corporation. The term of office of the Mayor and other members is five years. In Tamil Nadu, there are 12 Corporations. They are in Chennai, Kovai, Madurai,

Trichy, Tirunelveli, Salem, Erode, Vellore, Tuticorin, Tirupur, Tanjore, Dindigul. The Municipal Commissioner will be a person from the Indian Administrative Service (IAS). All the decisions of the Corporation Council will be implemented by him. He will be assisted by the office of the corporation.

Important functions of the Mayor

- He acts as a bridge between the members of the corporation and the government
- He presides over the meetings of the Corporation Council
- He receives the dignitaries from foreign countries

Types of other Urban Panchayats

- Notified Area Committee
- Town Area Committee
- Cantonment Board
- Township
- Port Trust
- Special Purpose Agency

Elections to the local government in Tamil Nadu

- The State Election Commission conducts the elections to the local government like general elections. The electoral roll is prepared ward wise. Seats are reserved for the SC & ST and also for the women in proportion to the population by rotation basis.

Problems and Challenges facing the Local Self Governments

- Local self governments are the crucial basis for our democracy. The Constitutional status of local self governments adds more significance to their functioning. There are, however, a few critical concerns in the working of local self governments in India. Major problems and challenges may be mentioned as below:
 - Lack of clear demarcation of powers and functions of local bodies
 - Allocation of funds and needs assessment are not matched

- Role of caste, class and religion in decision-making at the local self governments
- Poor accountability of elected members and officials at the grassroot levels of democracy

Piped water supply scheme in Erode Municipality:-

- Periyar E.V.Ramasamy became the Chairman of Erode Municipality in 1917. During his tenure in Erode Municipality, Periyar worked effectively for Providing piped drinking water supply and health facilities to the people. Piped water supply scheme was implemented in 1919 by Periyar. This scheme was said to be first of kind in the history of Indian Municipal administration.



10th Volume I

Unit 3 – State Government

Introduction

- The Constitution of India envisages for a federal government, having separate systems of administration for the union and the states. There are 29 states, 6 union territories and one national capital territory known as Delhi in India. The constitution contains provisions for the governance of both the union and the states. It lays down a uniform structure for the State Government, in part VI of the constitution from Article 152 to 237, which is applicable to all the states, save only the state of Jammu and Kashmir which has a separate constitution for its government under Article 370. The structure of the State Government, as formed in the Centre, consists of three branches. These are the Executive, the Legislature and the Judiciary.

The Executive

The Governor

- The Governor is the constitutional head of the state executive. The administration of a State is carried on in the name of the Governor. Generally, there is a separate Governor in each State but if the situation warrants so, the same person may be appointed as the Governor of two or more States.
- Article 154 vests the executive power of the State in the Governor. Article 154(1) holds that the executive power of the State shall be vested in the Governor and shall be exercised by him either directly or through officers subordinates to him in accordance with this Constitution.

Appointment

- The Governor of a State shall be appointed by the President. His usual term of office is five years but he holds office during the pleasure of the President. Generally, the Governor does not belong to the State where he

is appointed. He can also be transferred from one state to another by the President. He can also resign any time by addressing his resignation to the President.

- The Legislature of a State or a High Court has no role in the removal of a Governor. A person may be appointed as a Governor for any number of terms. Two conventions have been set up in the matter of appointing a person as Governor of a State. He should not be a resident of the State concerned and, the State Government concerned is consulted and its views are sought regarding the proposed choice.
- According to Article 158 (3A), where the same person is appointed as Governor of two or more States, the emoluments and allowances payable to the Governor shall be allocated among the States in such proportion as the President may by order determine.

Qualification

- Article 157 and Article 158 of the Constitution of India specify eligibility requirements for the post of governor. They are as follows:
 - He should be a citizen of India.
 - He must have completed 35 years of age.
 - He should not be a member of Parliament or of any State Legislature. If he is a member of any of Legislature, he automatically vacates his seat on assuming the office.
 - He should not hold any other profitable occupation.

Powers and Functions of the Governor

- The Governor is the head of the state executive and he has enormous powers. In the exercise of functions and powers, the Governor, except in certain cases, is to be guided by the aid and advice of the Council of Ministers headed by the Chief Minister (under Article 163). As the executive head in the state level, the Governor has following functions and powers.

Executive Powers

- The Constitution vests all executive powers of the State Government in the Governor. He may exercise this power either directly or through officers subordinate to him. He is the constitutional head of the State. All the administration is carried on in his name.

The executive powers and functions of the Governor are:

- He appoints the leader of the majority party in the State Legislative Assembly as the Chief Minister of the State.
- He appoints other members of the Council of Ministers on the recommendation of the Chief Minister.
- He appoints the Advocate - General of the state and determines his remuneration.
- The Advocate General holds office during the pleasure of the Governor.
- He appoints the Chairman and Members of the State Public Service Commission. However, they can be removed only by the president and not by a governor.
- He appoints the state election commissioner and determines his conditions of service and tenure of office.
- However, the state election commissioner can be removed only in like manner and on the like grounds as a judge of a high court.
- He acts as the chancellor of universities in the state. He also appoints the Vice Chancellors of universities in the state.
- He directly rules a State when there is the imposition of the President's rule in the State.

Legislative Powers

- The Governor is an integral part of the state legislature. But, he is not a member in the either house of the legislature. In this capacity, he enjoys the following legislative powers and functions:
 - He has the right to summon, prorogue the state legislature and dissolve the State Legislative Assembly.

- He can address the state legislature at the commencement of the first session after each general election and the first session of each year.
- He can send messages to the houses of the state legislature relating to a bill pending in the legislature.
- He can appoint any member of the Legislative Assembly to preside over its proceedings when the offices of both the Speaker and the Deputy Speaker fall vacant.
- He can nominate one member to the state legislature assembly from the Anglo- Indian Community.
- He nominates 1/6 of the members of the State Legislative Council from amongst the persons having special knowledge or practical experience in literature, science, art, cooperative movement and social service.
- He decides on the question of disqualification of members of the state legislature in consultation with the Election Commission.
- Every bill passed by the state legislature will become law only after his signature.
- But, when a bill is sent to the Governor after it is passed by the legislature, he has the options to give his assent to the bill or withhold his assent to the bill or return the bill for the reconsideration of the legislature.
- He has to reserve any bill passed by the state legislature which endangers the position of the state High Court, for the consideration of the President.
- He can promulgate ordinances when the state legislature is not in session under Article 213. But, these ordinances must be approved by the legislature within six months. He can also withdraw an ordinance at anytime.
- He has to lay the annual reports of the State Finance Commission, the State Public Service Commission and the Comptroller and Auditor General relating to the accounts of the state, before the state legislature.

Financial Powers

- The Constitution confers on the Governor, the duty to get prepared and introduced to the State Legislature, the annual budget and also the supplementary budgets, if necessary.
- He causes the Annual Financial Statement (Budget) of the State to be presented in the Legislative Assembly.

- He presents through the Minister of Finance of the State the Supplementary Budget of the State to the Legislative Assembly if there be such a need.
- Money Bills can be introduced in the State Legislature only with his the prior recommendation.
- No demand for any grant can be made except on his recommendation.
- He can make advances out of the state Contingency Fund to meet any unforeseen expenditure.
- He constitutes a Finance Commission after every five years to review the financial position of the panchayats and the municipalities.

Judicial Powers

- He appoints the Advocate-General of the State.
- He appoints Judges to the Subordinate Courts in the State.
- He makes appointment, postings and promotions of the District Judges in consultation with the State High Court.
- The Chief Justice of the High Court in the State is appointed by the President in consultation with him.
- He can pardon, commute or reprieve punishment on receipt of appeals for mercy.

Discretionary Powers

- The Governor can reserve a bill for the consideration of the president.
- He recommends for the imposition of the President's rule in the state.
- He seeks information from the Chief Minister relating to the administrative and legislative matters of the state.
- He can call the leader of any party to form ministry in the state when there is no clear-cut majority to any party in the Legislative Assembly after the general elections.
- He can dismiss the Council of Ministers when it is unable to prove the confidence of the Legislative Assembly; and
- He can dissolve the Legislative Assembly if the Council of Ministers has lost its majority.

Emergency Powers

- If the Governor is satisfied that the government of the state is not carried on in accordance with the provisions of the Constitution, he may, under Article 356, recommend to the President to impose President Rule in that State. As soon as the President Rule is imposed, the administration of the State is carried on by the Governor as the representative of the President.

Privileges of the Governor

Article 361(1) provides for the following privileges for the Governor;

- The Governor of a State, is 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 those powers and duties.
- No criminal proceedings whatsoever shall be instituted or continued against the Governor of a State, in any court during his term of office.
- No process for the arrest or imprisonment of the Governor of a State, shall issue from any court during his term of office.
- No civil proceedings in which relief is claimed against the Governor of a State.

Chief Minister

- In the scheme of Parliamentary system of government provided by the constitution, the governor is the nominal executive authority and the Chief Minister is the real executive authority. In other words, the governor is the head of the State while the Chief Minister is the head of the government.

The appointment of the Chief Minister

- The Chief Minister is appointed by the Governor of the State. The leader of the majority party or majority group in the State Legislative Assembly is appointed as the Chief Minister. In case no party commands absolute majority, in the Legislative Assembly or the majority fails to elect its leader, the Governor can use his power and invite the leader of the other

largest party to form the ministry. He has to prove the confidence (majority support) in the Legislative Assembly within the period stipulated by the Governor. The term of the Chief Minister is not fixed. He may remain as the Chief Minister as long as he enjoys the support of the majority of the members of the Legislative Assembly. He has to resign when he loses confidence of the majority in the assembly. It is 'understood that normally he completes 5 years term like other members in the Legislative Assembly.

Chief Ministers of Tamil Nadu from 1947

Thiru O.P. Ramaswamy	1947-1949
Thiru P.S. Kumaraswamy Raja	1949-1952
Thiru C. Rajagopalachari	1952-1954
Thiru K. Kamaraj	1954 - 1963
Thiru M. Bakthavatsalam	1963 - 1967
Thiru C.N. Annadurai	1967-1969
Thiru M. Karunanidhi	1969-1976
Thiru M. G. Ramachandran	1977-1987
Tmt. Janaki Ramachandran	January 1988
Thiru M. Karunanidhi	1989 -1991
Selvi J. Jayalalithaa	1991 - 1996
Thiru M. Karunanidhi	1996-2001
Selvi J. Jayalalithaa	2001
Thiru O. Panneerselvam	2001 -2002
Selvi J. Jayalalithaa	2002-2006
Thiru M. Karunanidhi	2006-2011
Selvi J. Jayalalithaa	2011-2014
Thiru O. Panneerselvam	2014 - 2015
Selvi J. Jayalalithaa	2015-2016
Thiru O. Panneerselvam	2016-2017
Thiru Edappadi K. Palaniswami	2017- till now

Powers and functions of the Chief Minister

The Chief Minister is the real executive head of the State administration. He has the following powers and functions.

- Relating to the council of ministers
- Relating to the Governor

- Relating to the State Legislature Other functions and powers.

Relating to the Council of Ministers

As the head of the Council of Ministers, the Chief Minister enjoys the following functions and powers.

- The Chief Minister recommends the persons who can be appointed as ministers by Governor.
- He allocates the portfolios among the ministers.
- He shuffles and reshuffles his ministry.
- He can ask a minister to resign or to advise the Governor to dismiss him in case of difference of opinion.
- He presides over the meetings of the Council of Ministers and influences its decisions.
- He can bring about the collapse of the council of ministers by resigning from office.
- He guides, directs, controls and coordinates the activities of all the ministers.

Relating to the Governor

- The Chief Minister is the principal channel of communication between the Governor and the Council of Ministers, and he advises the Governor in relation to the appointment of the following officials:
 - Advocate General of the State.
 - State Election Commissioner.
 - Chairman and Members of the State Public Service Commission.
 - Chairman and Members of the State Planning Commission.
 - Chairman and Members of the State Finance Commission.

Relating to State Legislature

- The Chief Minister advises the Governor with regard to the summoning and proroguing the sessions of the state legislature.
- He announces the government policies on the floor of the house.
- He can introduce the bills in the Legislative Assembly.

- He can recommend for the dissolution of the Legislative Assembly to the Governor anytime.

Other function and powers

- As the leader of the ruling party, the Chief Minister has to control the party and develop the disciplines.
- As the leader of the state, he has to keenly consider the demands of the different sections of the people.
- As the political head of the various services, he has to supervise, control and co-ordinate the secretaries of various departments in the state level.
- For smooth functioning of the state and for good centre-state relations, he has to develop a rapport with the union government.

Council of Ministers

- The Council of Ministers are collectively responsible to the State Legislature. All the members of the Council of Ministers must be the members of the State Legislature. Those who are not the members at the time of their appointment must secure their seats in the Legislature within a period of 6 months. All the ministers work as a team under the Chief Minister. As long as the Chief Minister is in office, the Council of Ministers will also be in power. If a no-confidence motion is passed by the Legislative Assembly, the State Ministry shall resign.
- Article 163 provides for a Council of Ministers to aid and advice the Governor. According to Article 163(1) there shall be a Council of Ministers with the Chief Minister at the head to aid and advice the Governor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion.

Other Provisions relating to Ministers

- Article 164(1) holds that the Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister, and the Ministers shall hold office during the pleasure of the Governor: Article 164(1A) states that the total number of Ministers, including the Chief Minister, in the

Council of Ministers in a State shall not exceed fifteen percent of the total number of members of the Legislative Assembly.

The functions and powers of the Council of Ministers

- It formulates and decides the policies of the state and implements them effectively.
- It decides the legislative programmes of the Legislative Assembly and sponsors all important bills.
- It controls the financial policy and decides the tax structure for the public welfare of the state.
- It chalks out programmes and schemes for the socio-economic changes so that the state makes headway in various interrelated fields.
- It makes the important appointments of the Heads of Departments.
- It discusses and takes efforts on the dispute with other states
- It advises the Governor on the appointment of Judges of the subordinate courts.
- It frames the proposal for incurring expenditure out of state reserves.
- It decides all the bills whether ordinary bills or money bills to be introduced in the Legislative Assembly.
- Each minister of the Council of Ministers supervises, controls and coordinates the department concerned.
- Annual Financial Statement called as the Budget is finalised by the Council of Ministers.

The State Legislature

- The Constitution provides a legislature for every state. Most of the States have only unicameral legislature i.e., Legislative assembly. Some State has bicameral legislatures (example Bihar, Karnataka, Maharashtra, Uttar Pradesh, Andhra Pradesh, Telangana and Jammu- Kashmir). The lower house, legislative assembly represents the people of the state the upper house; Legislative Council represents special interests like teachers, graduates and local governments.

The Legislative Assembly (Lower House)

- The Legislative Assembly is a popular house. It is the real centre of power in the State. It consists of members directly elected by the people on the basis of adult franchise. The strength of the Assembly varies from State to State depending on the population. However the maximum strength of the Assembly must not exceed 500 or its minimum strength not below 60. The term of office of the legislative assembly is 5 years. It can be dissolved even before the expiry of its term.
- The size of the Legislative Council cannot be more than one-third the membership of the Legislative Assembly (lower house) of that state. But its size cannot be less than 40, except in Jammu and Kashmir where there are 36 by an act of Parliament. The members draw the salary and allowances passed by the State legislature from time to time.

Composition

- The Legislative Assembly of Tamil Nadu consists of 235 members out of which 234 members are directly elected by the people from the constituencies on the basis of adult franchise and one member is nominated by the Governor from the Anglo-Indian community.
- However, seats shall be reserved in the house for the scheduled castes and scheduled tribes.

Cabinet and Cabinet Committees

- A smaller body called Cabinet is the nucleus of the council of minister. It consists of only the cabinet ministers. It is the real centre of authority in the state government. The cabinet works through various committees called cabinet committees. They are of two types - standing and ad hoc. The former are of a permanent nature while the latter are of a temporary nature.

The Speaker

- The Legislative Assembly elects two of its members as the Speaker and Deputy Speaker. The Speaker vacates his office, if he cannot continue to be a member of the Assembly. He may also resign his office at any time. The speaker may be removed from office by a resolution of the Assembly after giving a 14 days' notice. Such a resolution must be passed by a majority of the members present at the time of voting. The speaker does not vacate his office, when the Assembly is dissolved. He continues to be the Speaker until the first sitting of the new Assembly. While the office of the speaker is vacant, the Deputy Speaker performs his functions.

The Legislative Council(Upper House)

- The legislative Council is the upper House of the State Legislature. It is constituted as a permanent House. Article 171(1) provides that the total number of members in the Legislative Council of a State shall not exceed one-third of the total number of members in the Legislative Assembly of that State, but not less than 40 members in any case.
- The Vidhan Parishads (Legislative Council) forms a part of the state legislatures of India. In Seven of India's 29 states (Bihar, Karnataka, Maharashtra, Uttar Pradesh, Andhra Pradesh, Telangana and Jammu - Kashmir) the Legislative Council serves as the indirectly elected upper house of a bicameral legislature. It is also a permanent house because it cannot be dissolved. Every Member of Legislative Council (MLC) serves for a six-year term, with terms staggered so that the terms of one-third of members expire every two years. MLCs must be citizens of India not under 30 years of age, mentally sound and not bankrupt, and his name should be in the voter's list of the state from which he or she is contesting the election.

Election to Legislative Council

- 1/3 of the members are elected by local bodies.
- 1/12 of the members are elected by Graduates of the universities in the State.
- 1 /12 of the members are elected by Graduate teachers.

- 1/3 of the members are elected by the members of the Legislative Assembly.
- 1/6 is nominated by the Governor who is eminent in the field of literary excellence, art, social services or Co-operation.

The Chairman

- The Chairman (chair person he / she) is the Presiding Officer of the Upper house. The Members elect a Chairman and a deputy chairman from among themselves. In the absence of the chairman, the deputy chairman officiate the functions of the Legislative Council.

Abolition or Creation of Legislative Councils

- Article 169 deals with the creation or abolition of Legislative Council in a State. Article 169 holds that if the state Legislative Assembly passes a resolution by a majority of not less than 2/3rd of the members present and voting and by the majority of total strength of the House, requesting the Parliament to create or abolish the state Legislative council then the Parliament may by law provide for the abolition and creation of the Legislative Council.

Functions of the State Legislature

- The powers and functions of the State Legislature are almost the same as that of Parliament.

Legislative powers

- The State Legislature can pass laws on all subjects mentioned in the State List as per the constitution. It can also pass laws on concurrent subjects. The State made law in a concurrent subject will become inoperative when the centre also passes a law on the same subject. The passing of Bill into law follows the same procedure, as in the union parliament. Every bill passes through three readings. Then it becomes an Act with the Governor's assent.

Financial Powers

- The Legislature controls the finances of the State. The Lower House enjoys greater power than the Upper House in money matters. Money bills can be introduced only in the Lower House or the Assembly. No new tax can be levied without the sanction and permission of the Assembly.

Controls over the Executive

- The Legislature controls the Executive. The Council of Ministers is responsible to the Assembly. The Ministers have to answer questions asked by the members of the Legislature. They can be removed from office if the Assembly passes a vote of “no confidence motion” against the Ministry.

Wide powers

- In State having two Houses, the Legislative Assembly enjoys more powers than the Legislative Council. The Assembly has complete control over the state finance. The Council cannot vote for grants. The Council of Ministers is responsible only to the Assembly.

JUDICIARY OF STATE

High Courts

- The institution of high court originated in India in 1862 when the high courts were set up at Calcutta, Bombay and Madras. In the course of time, each province in British India came to have its own high court. After 1950, a high court existing in a province became the high court for the corresponding state. The High Courts are the highest courts at State level, but being part of integrated Indian judiciary they work under the superintendence, direction and control of the Supreme Court. The Constitution of India provides for a high court for each state, but the Seventh Amendment Act of 1956 authorised the Parliament to establish a common high court for two or more states or for two or more states and a union territory. For example, the States of Punjab and Haryana and the Union Territory of Chandigarh have a common High Court situated at Chandigarh. Similarly, the High Court of Guwahati is common for seven north eastern States of Assam, Nagaland, Manipur, Meghalaya, Mizoram,

Tripura and Arunachal Pradesh. Delhi, though not a State, has its own separate High Court. Every High Court has a Chief Justice and a number of judges. The number of judges varies from State to State. The number of judges of each High Court is determined by the President. At present there are 25 High Courts for 29 States (including new Andhra Pradesh High Court established in 1st January 2019 at principal seat in Amravati) and seven Union Territories.

Appointment of the Judges

- Every High Court consists of a Chief Justice and such other Judges as appointed by the President from time to time (Article 216).

Jurisdiction and Powers of High Court

- At present, a high court enjoys the following jurisdiction and powers:

Original Jurisdiction

- In their judicial capacity, the High Courts of the Presidency towns (Bombay, Calcutta and Madras) have both original and appellate jurisdictions, while other High Courts have mostly appellate jurisdiction. Only in matters of admiralty, probate, matrimonial and contempt of Court, they have original jurisdiction. The Presidency High Courts have original jurisdiction in which the amount involved is more than `2000 and in criminal cases which are committed to them by the Presidency Magistrates.

Appellate Jurisdiction

- As Courts of appeal, all High Courts entertain appeals in civil and criminal cases from their subordinate Courts as well as on their own. They have, however, no jurisdiction over tribunals established under the laws relating to the Armed Forces of the Country.

Writ Jurisdiction

- Under Article 226 of the constitution, the High Courts are given powers of issuing writs not only for the enforcement of the Fundamental Rights, but

also for other purposes. In exercise of this power, a Court may issue the same type of writs, orders or directions which the Supreme Court is empowered to issue under Article 32. The jurisdiction to issue writs under this Article is larger in the case of High Courts, for which the Supreme Court can issue them only where a Fundamental Right has been infringed, a High Court can issue them not only in such cases, but also where an ordinary legal right has been infringed.

Habeas Corpus

- The writ of habeas corpus is issued to a detaining authority, ordering the detainer to produce the detained person in the issuing court, along with the cause of his or her detention, if the detention is found to be illegal, the court issues an order to set the person free.

Mandamus

- The writ of mandamus is issued to a subordinate court, an officer of government, or a corporation or other institution commanding the performance of certain acts or duties.

Prohibition

- The writ of prohibition is issued by a higher court to a lower court prohibiting it from taking up a case because it falls outside the jurisdiction of the lower court. Thus, the higher court transfers the case to it.

Quo Warranto

- The writ of quo Warranto is issued against a person who claims or usurps a public office. Through this writ the court inquires 'by what authority' the person supports his or her claim.

Certiorari

- The writ of certiorari is issued to a lower court directing that the record of a case be sent up for review, together with all supporting files, evidence and documents, usually with the intention of overruling the judgment of the lower court. It is one of the mechanisms by which the fundamental rights of the citizens are upheld.

Supervisory Jurisdiction

- High court has the power of superintendence over all courts and tribunals functioning in its territorial jurisdiction (except military courts or tribunals) Thus, it may
 - a) Call for returns from them;
 - b) Make an issue, general rules and prescribe forms for regulating the practice and proceedings of them.
 - c) Prescribe forms in which books, entries and accounts are to be kept by them; and
 - d) Settle the fees payable to the sheriff, clerks, officers and legal practitioners of them.

Control over Subordinate Courts

A high court has an administrative control and other powers over them

- a) It is consulted by the governor in the matters of appointment, posting and promotion of district judges and in the appointments of persons to the judicial service of the state (other than district judges).
- b) It deals with the matters of posting, promotion, grant of leave, transfers and discipline of the members of the judicial service of the state (other than district judges).
- c) It can withdraw a case pending in a subordinate court if it involves a substantial question of law that requires the interpretation of the Constitution. It can then either dispose of the case itself or determines the question of law and return the case to the subordinate court with its judgment.
- d) Its law is binding on all subordinate courts functioning within its territorial jurisdiction in the same sense as the law declared by the Supreme Court is binding on all courts in India.

Court of Record

- All the decisions and decrees issued by the High Court are printed and are kept as a record for future references by the Court as well as by the lawyers, is such a need arises. Thus, it also acts as a Court of Record.

Power of Judicial Review

- Judicial review is the power of a high court to examine the constitutionality of legislative enactments and executive orders of both the Central and state governments. Though the phrase judicial review has nowhere been used in the Constitution, the provisions of Articles 226 and 227 explicitly confer the power of judicial review on a high court. The 42nd Amendment Act of 1976 curtailed the judicial review power of high court. It debarred the high courts from considering the constitutional validity of any central law. However, the 43rd Amendment Act of 1977 restored the original position.

11th Volume I

UNIT - 6 FORMS OF GOVERNMENT

Introduction

- The Government is the main agency of the state. It comprises several members belonging to political and administrative wings. It serves as the instrument for delegation and execution of the state policies for the welfare of the people. It formulates expresses and realises the will of the state. It exercises certain legislative, executive and judicial powers based on the constitution and the laws. There are three organs in government, namely - Legislature, Executive and Judiciary. These organs carry out the activities of the state. Governments are classified under Unitary, Federal, Parliamentary and Presidential forms.

Approaches to the study of Government

- Studying governments from different approaches help us to understand government from its evolution to its performance in the contemporary times. The approaches to study the Government are

1. Comparative-Historical Approach

- This approach studied the western political institutions from ancient to modern times, this approach is descriptive in nature, Aristotle, Montesque and Locke adopted this approach to study and analyse governments in those days.
- For instance before writing his monumental work politics Aristotle studied 158 constitutions. Montesquieu studied the working of the British constitution and came to the conclusion that the stability of British constitution was due to the adherence to the principle of separation of powers.

2. Legal-Institutional Approach

- Scholars like Bentham, Austin and Dicey adopted this approach, This approach focuses on formal legal structure of political institutions. They helped to develop certain theories which explain the relationship and interconnection between government and Law. Bentham is the distinguished legal reformer in England Likewise Austin provided a legal base to sovereignty which is indivisible, inalienable and absolute. A.V.Dicey judged the government on the basis of law and its applicability to different branches of government.

3. Political Economy Approach

- This approach deals with economic aspects of the government which gives economic interpretation of politics also deals with role of market, mode of production and delivering goods to the society. This approach is classified into liberal political economy and the Marxist political economy approach.

4. Political Sociology Approach

- This approach derived its ideas from sociology and anthropology also known as systems approach. Political sociology asserts that government or political system is a sub system of a larger social system. This approach examines the interaction between the larger and the sub systems.
- Early Montesque proposed a three-fold division of Government namely Republican, Monarchical and Despotism. Republican Government: "People possess the sovereign Power".

Monarchical Government: "Rule by one single person and governed by fixed and established laws"

Despotism government: "Rule by one single person but there is no fixed rule for governance, everything conducted by his will. According to Montesque the survival of the government depends on "persistence in given society of that particular spirit which is characteristic of the form".

Meaning, Definition and Nature of Government

- Government refers to the executive functions of the state. It denotes a body having authority to make and enforce laws applicable to the civil, corporate, religious, academic or other groups.
- The term Government is derived from an old French word “governor”, derived from Latin word “gubernare” which means to direct, rule, guide, govern.
- Aristotle’s Classification of Governments Aristotle identified a combination of two criteria to classify the constitution that he analysed.
- Criteria One: Number of People having Power – One, Few, Many; Thus he distinguished between Monarchy, Aristocracy and Polity Criteria Two: To whose interest the Government works for – Working in General Interest, Working in Personal Interest. The respective perverted forms of the three types are Tyranny, Oligarchy and Democracy

Unitary Form of Government

- A unitary system of government, or unitary state, is a sovereign state governed as a single entity. The central government is supreme, and the administrative divisions exercise only powers that the central government has delegated to them.

England, France, Japan, Sri Lanka are examples of Unitary Form of governments.

- In a Unitary form of government all authority and power vested in a single centre whereas in a federal form of government authority and power distributed between centre and the constituent units. Even in a Unitary form of Government there might be a lot of decentralization of authority but we cannot claim it as a federal system.

Definition:

Some leading political thinkers defined unitary form of government as follows:

A.V.DICEY: “Habitual exercise of supreme legislative authority is by one central power”

GARNER: “Where the whole power of government is conferred by the constitution upon a single central organ”

C.F.STRONG: “Two important qualities of the Unitary Government”.
They are:-

- The supremacy of the central government;
 - The absence of the subsidiary sovereign bodies.
- The distinction between subsidiary law-making bodies and subsidiary sovereign bodies is the distinction between the local authorities in a unitary state and constituent units in a federal state.
 - Where: A constitution, Unitary and highly centralised on paper, may be almost federal in practice;
 - A federal constitution may be, in practice, Unitary, as indeed are the so-called federal constitutions of Mexico, Venezuela, Brazil and Argentina”.

Merits of Unitary Form of Government

- a. Suitable for small countries.
- b. There is no conflict of authority and responsibility.
- c. A unitary government will make prompt decisions and take speedy action.
- d. A unitary government is less expensive.
- e. Amendments to the constitution are easy.
- f. There is unity, uniformity of law, policy and administration.

De-Merits of Unitary Form Government

- a. It is not suitable for big countries.
- b. The central government will have to tackle so many complex problems that lead to administrative delay.
- c. The central government will not concentrate on local problems, local interest and initiative.

- d. The concentration of powers may pave way for the despotism of the central government.

Unitary Features of Indian Constitution

i. Strong Centre

- The division of powers is in favour of the Centre and highly inequitable from the federal angle. Firstly, the Union List contains more subjects than the State List. Secondly, the more important subjects have been included in the Union List. Thirdly, the Centre has overriding authority over the Concurrent List. Finally, the residuary powers have also been left with the Centre, while in the US, they are vested in the states. Thus, the Constitution has made the Centre very strong.

ii. Central Government's control over state territory

- Unlike in other federations, the states in India have no right to territorial integrity. The Parliament can by unilateral action change the area, boundaries or name of any state.

iii. Single Constitution

- Usually, in a federation, the states have the right to frame their own Constitution separate from that of the Centre. In India, on the contrary, no such power is given to the states. The Constitution of India embodies not only the Constitution of the Centre but also those of the states. Both the Centre and the states must operate within this single-frame. The only exception in this regard is the case of Jammu and Kashmir which has its own (state) Constitution

iv. Flexibility of the Constitution

- The bulk of the Constitution can be amended by the unilateral action of the Parliament, either by simple majority or by special majority. Further, the power to initiate an amendment to the Constitution lies only with the Centre. In India states don't have the right to propose amendment unlike in U.S.A

v. Unequal representation of states

- In a federation states are given with equal representation with regard to upper house, but in India states are not given with equal representation with regard to Rajya Sabha.

vi. Emergency Provisions

- During an emergency, the Central government becomes all powerful and the states go into the total control of the Centre. It converts the federal structure into a unitary one without a formal amendment of the Constitution. This kind of transformation is not found in any other federation.

vii. Single Citizenship

- India adopted the system of single citizenship. There is only Indian Citizenship and no separate state citizenship. All citizens irrespective of the state in which they are born or reside enjoy the same rights all over the country. The other federal states like US, Switzerland and Australia have dual citizenship, that is, national citizenship as well as state citizenship.

viii. Single Integrated Judiciary

- It means that all the courts of India are in a hierarchical order from the lower courts to the Supreme Court of India. Courts in India have Original and Appellate Jurisdiction.

ix. All India Services

- It has the features of All India Services or Central Services, and the State Civil Services. The Central and All India services promotes uniform administrative system and process throughout India.

Federal Form of Government

- The classification of governments into unitary and federal is based on the nature of relations between the national government and the regional governments A federal government is one in which powers are divided

between the national government and the regional governments by the Constitution itself and both operate in their respective jurisdictions independently. US, Switzerland, Australia, Canada, Russia, Brazil, Argentina have the federal form of government. In a federal model, the national government is known as the Federal government or the Central government or the Union government and the regional government is known as the state government or the provincial government.

Federal Features Of Indian Constitution

a. Dual Government

- The Indian Constitution establishes a dual polity consisting the Union at the Centre and the states at the periphery. Each is endowed with sovereign powers to be exercised in the field assigned to them respectively by the Constitution.

b. Written Constitution

- The articles of the Constitution are written and cannot be easily changed without due parliamentary approval.

c. Division of Powers

- The Constitution divided the powers between the Centre and the states in terms of the Union List, State List and Concurrent List in the Seventh Schedule.

d. Supremacy of the Constitution

- The Constitution is the supreme law of the land. The laws are enacted by the Centre and the states must confirm to its provisions.

e. Rigid Constitution

- Amendment of the Constitution is by a procedure of 2/3rd majority in each of the house and laws cannot be easily changed by any ruling party.

f. Independent Judiciary

- The Judiciary is separated from the Executive and Legislature. The Judiciary gave its national and state level jurisdictions, exercises Original, Appellate and Judicial Review functions. It functions independently of the Executive and Legislature.

g. Bicameralism

- It provides for a two-house legislature that has an Upper chamber and Lower chamber. With the Lower house having powers of enacting financial legislation.

Merits of Federal Form Government

- a. Reconciliation of local autonomy with national unity.
- b. Division power between centre and states leads to administrative efficiency.
- c. It gives rise to big states.
- d. Distribution powers checks the despotism of central government.
- e. More suitable for bigger countries.
- f. It is good for economic and cultural progress.
- g. De-Merits Of Federal Form Government.
- h. Federal government is weaker when compared to the unitary government.
- i. Federal government is more expensive.
- j. Provincial tendencies are very common.
- k. lack of uniformity in Administration.
- l. Threat to national unity.
- m. Distribution powers between centre and states lead to conflict.
- n. Double Citizenship.
- o. Rigid constitution cannot be amended easily for the changing needs.
- p. The state governments sometimes place hindrances in the foreign policy.

S.NO	Unitary Form of Government	Federal Form of Government
1	Only one Level of Government or Subunits	Two Levels of Government
2	Mostly Single Citizenship	Dual Citizenship
3	Sub Units cannot operate Independently	Federal Units are answerable to Central Government
4	No Division of Power	Division of Power
5	Centralisation of Power	Decentralisation of Power

Parliamentary form of government

- Modern democratic governments are classified into parliamentary and presidential on the basis of nature of relations between the executive and the legislative organs of the government. The parliamentary system of government is the one in which the executive is responsible to the legislature for its policies and acts. The presidential system of government, on the other hand, is one in which the executive is not responsible to the legislature for its policies and acts, and is constitutionally independent of the legislature in respect of its term of office.
- The parliamentary government is also known as cabinet government irresponsible government or Westminster model of government and is prevalent in Britain, Japan, Canada, India among others.
- Ivor Jennings called the parliamentary system as 'cabinet system' because the cabinet is the nucleus of power in a parliamentary system. The parliamentary government is also known as 'responsible government' as the cabinet (the real executive) is accountable to the Parliament and stays in office so long as it enjoys the latter's confidence.
- It is described as 'Westminster model of government' after the location of the British Parliament, where the parliamentary system originated. In the past, the British constitutional and political experts described the Prime Minister as 'primus inter pares' (first among equals) in relation to the cabinet. In the recent period, the Prime Minister's power, influence and position have increased significantly vis-a-vis the cabinet. He has come to play a 'dominant' role in the British politico-administrative system.

Features of parliamentary form of government

- **Nominal and Real Executives:** The President is the nominal executive (de jure executive or titular executive) while the Prime Minister is the real executive (de facto executive). Thus, the President is head of the State, while the Prime Minister is head of the government.
- **Majority Party Rule:** The political party which secures majority seats in the Lok Sabha forms the government. The leader of that party is appointed as the Prime Minister by the President; other ministers are appointed by the President on the advice of the prime minister. However, when no single party gets the majority, a coalition of parties may be invited by the President to form the government.

Collective Responsibility: This is the bedrock principle of parliamentary government. The ministers are collectively responsible to the Parliament.

Double Membership: The ministers are members of both the legislature and the executive.

Leadership of the Prime Minister: The Prime Minister plays the leadership role in this system of government. He is the leader of council of ministers, leader of the Parliament and leader of the party in power. In these capacities, he plays a significant and highly crucial role in the functioning of the government.

Merits of the parliamentary form of government

Harmony between Legislature and Executive: The greatest advantage of the parliamentary system is that it ensures harmonious relationship and cooperation between the legislative and executive organs of the government. The executive is a part of the legislature and both are inter dependent at work. As a result, there is less scope for disputes and conflicts between the two organs.

Responsible Government: In the parliamentary system establishes a responsible government. The ministers are responsible to the Parliament for all their acts of omission and commission. The Parliament exercises control over the ministers through various devices like question hour, discussions, adjournment motion, no confidence motion, etc.

Prevents Despotism: Under this system, the executive authority is vested in a group of individuals (council of ministers) and not in a single person. This dispersal of authority checks the dictatorial tendencies of the executive. Moreover, the executive is responsible to the Parliament and can be removed by a no-confidence motion.

Wide Representation: In a parliamentary system, it is possible to provide representation to all sections and regions in the government. The prime ministers while selecting his minister scan take this factor into consideration.

Demerits of the parliamentary form of government

Unstable Government: The parliamentary system does not provide a stable government. There is no guarantee that a government can survive its tenure. The ministers depend on the majority legislators for their continuity and survival in office. A no-confidence motion or political defection or evils of multiparty coalition can make the government unstable.

No Continuity of Policies: The parliamentary system is not conducive for the formulation and implementation of long-term policies. This is due to the uncertainty of the tenure of the government. A change in the ruling party is usually followed by changes in the policies of the government.

Dictatorship of the Cabinet: When the ruling party enjoys absolute majority in the Parliament, the cabinet becomes autocratic and exercises nearly unlimited powers.

Harold J Laski says that the parliamentary system gives the executive an opportunity for tyranny.

Ramsay Muir, the former British Prime Minister, also complained of the 'dictatorship of the cabinet'.

Against Separation of Powers: In the parliamentary system, the legislature and the executive are together and inseparable. The cabinet acts as the leader of legislature as well as the executive. Hence, the whole system of government goes against the letter and spirit of the theory of separation of powers.

Raju Ramachandran, senior advocate at the Supreme Court of India.

- This debate is academic. A switchover to the presidential system is not possible under our present constitutional scheme because of the 'basic structure' doctrine propounded by the Supreme Court in 1973 which has been accepted by the political class without reservation, except for an abortive attempt during the Emergency by Indira Gandhi's government to have it overturned. The Constituent Assembly had made an informed choice after considering both the British model and the American model and after Dr. B.R. Ambedkar had drawn up a balance sheet of their merits and demerits. To alter the informed choice made by the Constituent Assembly would violate the 'basic structure' of the Constitution. I must clarify that I have been a critic of the 'basic structure' doctrine.

Abuse of power worries

- A presidential system centralizes power in one individual unlike the parliamentary system, where the Prime Minister is the first among equals. The surrender to the authority of one individual, as in the presidential system, is dangerous for democracy. The over centralization of power in one individual is something we have to guard against. Those who argue in favour of a presidential system often state that the safeguards and checks are in place: that a powerful President can be stalled by a powerful legislature. But if the legislature is dominated by the same party to which the President belongs, a charismatic President or a "strong President" may prevent any move from the legislature. On the other hand, if the legislature is dominated by a party opposed to the President's party and decides to checkmate him, it could lead to a stalemate in governance because both the President and the legislature would have democratic legitimacy.
- A diverse country like India cannot function without consensus-building. This "winner takes it all" approach, which is a necessary consequence of the presidential system, is likely to lead to a situation where the views of an individual can ride roughshod over the interests of different segments.

What about the States?

- The other argument, that it is easier to bring talent to governance in a presidential system, is specious. You can get 'outside' talent in a

parliamentary system too. Right from C.D. Deshmukh, T.A. Pai, Manmohan Singh, M.G.K. Menon and Raja Ramanna talent has been coming into the parliamentary system with the added safeguard of democratic accountability, because the 'outsiders' have to get elected after assuming office. On the other hand, bringing 'outside' talent in a presidential system without people being democratically elected would deter people from giving independent advice to the chief executive because they owe their appointment to him/her.

- Those who speak in favour of a presidential system have only the Centre in mind. They have not thought of the logical consequence, which is that we will have to move simultaneously to a "gubernatorial" form in the States. A switch at the Centre will also require a change in the States. Are we ready for that? Changing to a presidential system is the best way of ensuring a democracy that works.
- Our parliamentary system is a perversity only the British could have devised: to vote for a legislature in order to form the executive. It has created a unique breed of legislator, largely unqualified to legislate, who has sought election only in order to wield executive power. There is no genuine separation of powers: the legislature cannot truly hold the executive accountable since the government wields the majority in the House. The parliamentary system does not permit the existence of a legislature distinct from the executive, applying its collective mind freely to the nation's laws.
- For 25 years till 2014, our system has also produced coalition governments which have been obliged to focus more on politics than on policy or performance. It has forced governments to concentrate less on governing than on staying in office, and obliged them to cater to the lowest common denominator of their coalitions, since withdrawal of support can bring governments down. The parliamentary system has distorted the voting preferences of an electorate that knows which individuals it wants but not necessarily which parties or policies.

Failures in the system

- India's many challenges require political arrangements that permit decisive action, whereas ours increasingly promote drift and indecision.

We must have a system of government whose leaders can focus on governance rather than on staying in power.

- A system of directly elected chief executives at all levels - panchayat chiefs, town mayors, Chief Ministers (or Governors) and a national President elected for a fixed term of office, invulnerable to the whims of the legislature, and with clearly defined authority in their respective domains - would permit India to deal more efficiently with its critical economic and social challenges.
- Cabinet posts would not be limited to those who are electable rather than those who are able. At the end of a fixed period of time – say the same five years we currently accord to our Lok Sabha the public would be able to judge the individual on performance in improving the lives of Indians, rather than on political skill at keeping a government in office.
- The fear that an elected President could become a Caesar is ill-founded since the President's power would be balanced by directly elected chief executives in the States. In any case, the Emergency demonstrated that even a parliamentary system can be distorted to permit autocratic rule. Dictatorship is not the result of a particular type of governmental system.

Direct accountability

- Indeed, the President would have to work with Parliament to get his budget through or to pass specific Bills. India's fragmented polity, with dozens of political parties in the fray, makes a U.S.-style two-party gridlock in Parliament impossible. An Indian presidency, instead of facing a monolithic opposition, would have the opportunity to build issue-based coalitions on different issues, mobilising different temporary alliances of different smaller parties from one policy to the next - the opposite of the dictatorial steamroller some fear a presidential system could produce.
- Any politician with aspirations to rule India as President will have to win the support of people beyond his or her home turf; he or she will have to reach out to different groups, interests, and minorities. And since the directly elected President will not have coalition partners to blame for his or her inaction, a presidential term will have to be justified in terms of results, and accountability will be direct and personal.

- Democracy, as I have long argued, is vital for India's survival: we are right to be proud of it. But few Indians are proud of the kind of politics our democracy has inflicted upon us. With the needs and challenges of one-sixth of humanity before our leaders, we must have a democracy that delivers progress to our people. Changing to a presidential system is the best way of ensuring a democracy that works. It is time for a change.
- Upendra Baxi, legal scholar and the former vice-chancellor of Delhi University
- I think the debate has a life cycle of its own. It has been brought up and discussed whenever there has been a super-majority government. From Jawaharlal Nehru to Indira Gandhi to the present, the presidential system has been debated extensively around two aspects: is it desirable, and second, is it feasible?
- To tackle the second aspect first, unless the Supreme Court changes its mind, any such amendment would violate the 'basic structure' of the Constitution as was decided with, and since, the Kesavnanda Bharthi case. There is no way to get around this unless the Supreme Court now takes a wholly different view.

Different models

- On the desirability aspect, which presidential system are we talking about when we pit the American presidential system against the Westminster model? In the American system, the President appoints his officers; they have limited tenure and their offices are confirmed by the Senate (Upper House). Then, we have the Latin American model, where some Constitutions give Presidents a term often amounting to a life tenure like in Cuba. There are plenty of models to choose from and there are arguments against each. So, which system is being argued for when the votaries of change seek a shift to the presidential system?
- Our Rajya Sabha cannot be compared to the U.S. Senate where each state has its own Constitution and has the power to change it. The relationship between the states and the federal government is extraordinary; as is the status of their courts and the manner of appointment of judges. I do not

think people have thought about it. Merely stating that a change to the presidential system is needed does not mean much. The Indian debate currently is not focussed on the kind of presidential system envisaged. What is the term we are seeking for the President? Should he/ she be re-elected? If so, for how many terms? Then, who decides the change?

- Parliament? All this requires a massive amendment to the 'basic structure' of the Constitution. The Supreme Court has spelt its view on the 'basic structure' of the Constitution.
- Giving an opinion is one thing. A judgment is a more carefully considered conclusion. Those who support the presidential system should do their homework when they argue against the parliamentary system. There is also the matter of separation of powers. In the U.S., the President, who is also the Supreme Commander, has the power to veto the Congress. Does India need this? The manner of removing the U.S. President through impeachment is a very complex process. There is also the possibility of aggregating more powers to the President.
- One could argue that the parliamentary system too runs a similar risk. I do not think it has been thought over. It is not on the table yet.

Reform the process

- On the other hand, there are ideas going around about reforming the electoral processes to make democracy more robust. From limiting expenditure of political parties and deciding the ceiling on the expenditure, to holding simultaneous elections, declaring the results for a combination of booths instead of constituencies – I think it is advisable to debate this and ensure that the gaping loopholes in the electoral processes are speedily plugged.
- The present parliamentary system has been tried and tested for nearly 70 years. Rather than change the system, why not reform thoroughly and cleanse the electoral processes?
- Why the framers of the Indian Constitution adopted for the Parliamentary Form of Government

- Familiarity with the System
- Preference to More Responsibility
- Need to Avoid Legislative—Executive Conflicts

1. Nature of Indian Society, India is one of the most heterogeneous States and most complex plural societies in the world. Hence, the Constitution-makers adopted the parliamentary system as it offers greater scope for giving representation to various section, interests and regions in the government. This promotes a national spirit among the people and builds audited India.

Presidential Form of Government

- The Presidential Form of Government is also known as non-responsible or non-parliamentary or fixed executive system of government basically built on the principle of separation of power, and is prevalent in USA, Brazil, Russia, Sri Lanka among others.

Features of Presidential Form of Government

- The American President is both the head of the State and the head of government. As the head of State, he occupies a ceremonial position. As the head of government, he leads the executive organ of government.
- The President is elected by an electoral college for a fixed tenure of four years. He cannot be removed by the Congress except by impeachment for a grave unconstitutional act.
- The President governs with the help of a cabinet or a smaller body called 'Kitchen Cabinet'. It is only an advisory body and consists of non-elected departmental secretaries. They are selected and appointed by him, are responsible only to him, and can be removed by him any time.
- The President and his secretaries are not responsible to the Congress for their acts. They neither possess membership in the Congress nor attend its sessions.

- The President cannot dissolve the House of Representatives – the lower house of the Congress.
- The doctrine of separation of powers is the basis of the American presidential system. The legislative, executive and judicial powers of the government are separated and vested in the three independent organs of the government.

Difference between Parliamentary Form of Government and Presidential Form of Government

S.No	Presidential Form of Government	Parliamentary Form of Government
1	President is directly elected by the People	Prime Minister is the leader of majority Party Central
2	President is Supreme	Legislature is supreme
3	Separation of Powers	Absence of Separation Powers Centralization
4	Independent branches	Independent branches with Overlapping functions
5	President - head of the State	President - head of the State
6	President - head of the Government	Prime Minister - head of the Government
7	Separation of Powers	Centralization
8	Independent branches	Independent branches with Overlapping functions
9	Individual Leadership	Collective leadership
10	President is not accountable to Congress	Collective and Individual Responsibility

“World Bank - World Development Report 1997 : The State In A Changing World”.

- The report is devoted to the role and effectiveness of the state: what it should do, how it should do it, and how it can improve in a rapidly changing world. Governments with both centrally-planned and mixed economies are shrinking their market role because of failed state interventions.

- This report takes an opposite stance: that state's role in the institutional environment underlying the economy, that is, its ability to enforce a rule of law to underpin transactions, is vital to making government contribute more effectively to development. It argues against reducing government to a minimalist state, explaining that development requires an effective state that plays a facilitator role in encouraging and complementing the activities of private businesses and individuals.
- The report presents a state reform framework strategy: First, focus the state's activities to match its capabilities; and second, look for ways to improve the state's capability by re-invigorating public institutions.
- According to this report, five fundamental tasks are core of every government's mission, without which sustainable, shared and poverty reducing development is impossible.

They are...

- Establishing a foundation of law
- Maintaining macroeconomic stability
- Investing in basic social services and infrastructure
- Protecting the vulnerable
- Protecting the environment

The Concept of Governance from Government to Governance

- Good governance is an indeterminate term used in the international development literature to describe how public institutions conduct public affairs and manage public resources. Governance is “the process of decision-making and the process by which decisions are implemented”.

“Government” and “governance” are synonyms, both denoting the exercise of authority in an organization, institution or state. Government and governance became distinguished along the following dimensions:

- What activities are encompassed in the act of governing?
- What actors are involved in governance?
- What processes have made this redefinition necessary?
- What criteria are used to evaluate good governance?
- What capacities should be developed to achieve it?

- Governance is the exercise of political, economic and administrative authority to manage a nation's affairs ...Governance embraces all of the methods - good and bad- that societies use to distribute power and manage public sources and problem (UNDP, 1997):
- Governance is the manner in which power is exercised in the management of a country's social and economic resources for development (ADB, 2000)
- The movement from government to governance is not merely a task of creating new institutions but also that of refurbishing old ones. The state has to be strengthened to play a new role. It is also for the civil society to accept that democracy is not going to polls every five years but being vigilant and monitoring institutional performance and holding them accountable throughout these years.

Partnership with civil society

- In the shift of government to governance the role of civil society has been very significant. There have been two kinds of strands in this role,
 - a. Social Movements
 - b. Non-Governmental Organizations
- Social Movements which works for the cause of poor and marginalized do influence the governments to be responsive to their needs through changes in institutions, laws and procedures.
- NGO's have taken up diverse roles that also involve implementation of government programmes.
- Social movements and NGO's occupied new spaces in the political process and delivering public services.

Characteristics of good governance

Participation

- All men and women should have a voice in decision-making, either directly or through legitimate intermediate institutions that represent their interests.

- Such broad participation is built on freedom of association and speech, as well as capacities to participate constructively.

Rule of Law

- Legal frameworks should be fair and enforced impartially, particularly the laws on human rights.

Transparency

- Transparency is built on the free flow of information. Processes, institutions and information are directly accessible to those concerned with them, and enough information is provided to understand and monitor them.

Responsiveness

Institutions and processes try to serve all stakeholders.

Consensus orientation

- Good governance mediates differing interests to reach a broad consensus on what is in the best interests of the group and, where possible, on policies and procedures.

GOOD GOVERNMENT

Equity

All men and women have opportunities to improve or maintain their well-being.

Effectiveness and efficiency

- Processes and institutions produce results that meet needs while making the best use of resources.

Accountability

- Decision-makers in government, the private sector and civil society organizations are accountable to the public, as well as to institutional

stakeholders. This accountability differs depending on the organizations and whether the decision is internal or external to an organization.

Strategic Vision

- Leaders and the public have a broad and long-term perspective on good governance and human development, along with a sense of what is needed for such development. There is also an understanding of the historical, cultural and social complexities in which that perspective is grounded.

How to evaluate the performance of a government?

- It is difficult to evaluate the performance of a government with unifactor analysis; the actual assessment can be done only after considering various aspects of governance, namely Socio, Cultural, Political, Economic, and Environmental factors. To evaluate the performance of a government the following factors can be considered.

Socio Cultural factors

- Gender Parity Index
- Religious Freedom
- Equality Based on caste
- Protection of religious and Linguistic Minority Rights
- Gender Budgeting

Political factors

- Effective functioning of Democracy
- Free and fair elections
- Corruption free Politics and Administration
- Transparency in Administration Independent Press
- Independent Judiciary
- Human Rights

Economic factors

- Human Development Index (HDI)
- Gross Domestic Product (GDP)

- Purchasing Power Parity (PPP)
- Growth Vs Development
- Equal Distribution of Wealth

Environmental factors

- Sustainable Development Goals
- National Action Plan for Climate change(NAPC)
- Green Budget
- Disaster management

Gross National Happiness (GNH):

- Gross National Happiness is a developing philosophy as well as an “index” which is used to measure the collective happiness in any specific nation. The Concept was first mentioned in the constitution of Bhutan, which was enacted on 18 July 2008.
- The term “gross national happiness” was coined by the fourth king of Bhutan, Jigme Singye Wangchuck, in the 1970s. The GNH's central tenants are: “Sustainable and equitable socio-economic development; environmental conservation; preservation and promotion of culture; and good governance”. GNH is distinguishable by for example valuing collective happiness as the goal of governance, and by emphasizing harmony with nature and traditional values.

Bicameral Legislature

- A legislature that comprises two parts or chambers. The USA Congress is a bicameral legislature; its two chambers are the House of Representatives and the Senate. Compare with unicameral legislature.

Capitalism

- An economic system in which the means of production and distribution are mainly in private ownership for private gain at the expense of the non-owners. Mechanisms include free markets and freedom of contract.

Checks and Balances

- A principle of a system of government whereby each branch of the government can check the actions of the others. As originally conceived, this was true of the government of the USA.

Concurrent Powers

Powers held jointly by the national and state governments.

Confederal System

- A league of independent states, each having essentially sovereign powers. The central government created by such a league has only limited powers over the states.

Confederation

- A voluntary association of states; usually limits central authority to foreign affairs and is less permanent than a federation. A political system where states or regional governments retain ultimate authority, except for powers expressly delegated to a central government.

Constitution

- The fundamental law of a nation. Defines the power of the government; specifies offices and their authority.

Consent of the People

- Governments and laws are legitimate implicitly from the consent of those governed.

Democratic Republic

- A republic in which the representatives elected by the people make and enforce laws and policies.

Devolution.

- Transfer of powers from the national or central government to state or local government. This happened in the United Kingdom in the late twentieth century.

Direct Democracy

- A system of government where political decisions are made by the people directly, rather than by their elected representatives.

Dominant Culture

- Values, customs, and language of the group(s) that control politics and government in a society.

Federal System

- A system of government where power is divided between a central government and regional, or sub divisional, governments. Each of those levels has a domain where its policies are dominant. And each has political or constitutional guarantee of authority.

-

Federalism

- A political system in which authority is shared between a central government and a state or regional government.

Federation

- An association of states; usually more permanent than a confederation. A political system where states or regional governments retain ultimate authority, except for powers expressly delegated to a central government.

Legislature

That part of government primarily responsible for making laws.

Legitimacy

Acceptance by the citizens of the right and power of a government or ruler to exercise authority.

Liberal Democracy

Democratic government that provides for the protection of individual human rights, in order to prevent a majority from oppressing a minority.

Liberalism

Advocacy of positive government action to improve the welfare of individuals, support for civil rights, and tolerance for political and social change.

Limited Government

A government whose powers are limited, particularly by institutional checks.

Parliamentary System

Representative democracy where political power is vested in an elected legislature. Used in most European countries.

Presidential System

Representative democracy where political power is vested in separately elected and appointed branches of national government. This system is used in the USA.

Representative Democracy

A form of government in which representatives are elected by the people to make and enforce laws and policies. Political decisions are made by the officials elected by the people. [Some such democracies retain a monarchy in a ceremonial role.]

Republic

A form of government in which sovereignty rests with the people (or a portion of the people), as opposed to a king or monarch or dictator. This form of Representative Democracy was created by the framers of the US constitution.

Separation of Powers

The division of governmental functions and powers among different branches of government, so that the various self-interests of each group would moderate those of the others.

Theocracy. [From Greek theos = god and krataein = to rule.]

Rule by a god, which in practice means rule by a priesthood. No separation of church and state. Compare with aristocracy.

Totalitarian

A regime of command by the government and obedience by the citizens. The regime controls all aspects of political and social life (as in George Orwell's 1984). In contrast with an authoritarian state, all social and economic institutions are under government control.

Unicameral Legislature A legislature that comprises a single part or chamber. In the USA (early 21st century) only the state of Nebraska has a unicameral legislature. Compare with bicameral legislature.

Unitary System

A centralized governmental system where local or regional governments exercise only the powers that the central government gives them.

Universal Suffrage.

[From Latin suffragium = voting tablet, vote.] The right and privilege of all adults to vote for their representatives.

11th Volume II

Unit 12 – Local Government

Meaning, Nature and Importance of Local Government

- Local Government means, the government which manages services and amenities in our villages, towns and cities with focus on local problems. The local governments normally functions within a specified limited territory of a village, a town, a city and also a large metropolitan city. The local governments function as the basic link between the people in a village or town with the government. As and when people have problems such as road repairs, water stagnation in the streets, non functioning of street lights and construction of small water bodies recreation parks, etc. The local governments have the responsibility to attend to any emergency situations, birth or death of persons in the village or town. The local governments are the institutions, which issues certificates of proof of residence, birth, death and incomes etc to the residents in that area. In total, the local governments are the institutions which are responsible for all such local needs of the people. They are the lowest unit of administration in the administrative structure of the government. The local government has council, which is normally elected by the people of the village or town concerned, which is responsible for the representing the problems of the citizens in the council and find solutions to the problems. The council representatives are elected once in five years, or four years, depending upon the law in operation in the country.
- The local governments are representative institutions, representing people in the council. There are legally mandated to discuss and give solutions to the problems of the people of that area and also represent the problem to the higher levels of the government such as state. Since the local governments are established on the basis of democratic process, all the problems discussed by the council of the local governments should go through the process of discussion, debate and deliberations and unanimously accepted by the council. The members of the council are given freedom to discuss and also to take decisions at same time within the framework of the fundamental law of the land called Constitution.
-

- The importance of the local government lies in the nature of the problems handled by the local governments, which are basically “local” in nature and also the variety of problems attended by the local government cannot be attended by the higher levels of the government like state or central governments. Because the local problems are specific to the local areas and the solutions found for those problems should also be relevant to the situation. An irrelevant solution to the problems may hamper the situation and also it is also concerned with the spending of the taxes collected from the people. If solutions are irrelevant to the local problems, the resources used for that programme may be wasted and it gives more burden on the people again.
- Therefore, local governments are the institutions created for the purposes of solving the local issues and addressing the local level problems. The local governments normally consist of elected representatives drawn from the local population representing the local people and they represent the local issues in the council and try to find solutions to the problems. The local governments are the important channel of flow of resources and programmes to the people at the lowest levels normally called “grassroots” level. No country today afford to ignore local governments because of the fact that local issues at present becomes global issues. With development of Information and communication Technology (ICT), the whole world have become global village.
- Therefore, local governments are the institutions created for the purposes of solving the local issues and addressing the local level problems. The local governments normally consist of elected representatives drawn from the local population representing the local people and they represent the local issues in the council and try to find solutions to the problems. The local governments are the important channel of flow of resources and programmes to the people at the lowest levels normally called “grassroots” level. No country today afford to ignore local governments because of the fact that local issues at present becomes global issues. With development of Information and communication Technology (ICT), the whole world have become global village.

Classification of local government institutions

- Local governments are classified as Rural and Urban based local governments. The Rural and Urban divide is made based on the nature of the occupation of the residents viz; agriculture based or non-agriculture based occupations. The agriculture based occupation means that almost or most of the residents of an area are engaged in agriculture related occupation and the nature of the functions normally would be farming, dairying, poultry, and other similar types of activities. Whereas, in urban areas the citizens would engaged in industrial, trade and business and other activities.
- The urban areas are the places where the people's livelihood is based on occupations in industry, trade, commercial institutions and administration like government offices and private company offices. The urban areas are the link between the outside world to the local villages. The local governments formed in rural and urban areas are called rural local governments and urban local governments respectively.
- In India, the rural local governments have given general name "Panchayati Raj" which means the system of Panchayat institutions, that is, the institutions which does the panchayat, (deliberate, discuss, and deliberate). The Urban local governments in India are classified in to various types depending upon the political and economic basis of the formation of the urban local governments such as, Municipal Corporations, Townships, Area Planning Committees and Cantonment Boards. For example, in India the urban local governments are classified into various types such, Municipal Corporations in metropolitan cities, Municipalities in small towns, Townships in industrial towns, Cantonment Boards in military establishments.

- Types of Urban Local bodies
- Municipal Corporations
- Municipalities
- Municipal Townships
- Town Panchayats
- Cantonment Boards

- The Municipal Corporations are established in metropolitan cities with population with 1 million plus cities, which are large and need an elaborate machinery for providing amenities and services to the metropolitan population.
- The increase in the number of the population in metropolitan cities due to migration of people from rural and other small and medium towns and other metropolitan areas over the years make these cities mega polis.
- The Municipalities are established in small and medium cities and town with population of less than 1 million. The Municipalities too are reclassified as Class I, Class -II etc., depending upon the number of the population and also range of the revenue collection. The grades of the Municipalities are reviewed periodically by the higher levels of the governments to facilitate the classification of the municipalities.
- The Townships and the Notified Area Committees are emerging urban areas, where the new industries are established, the changing occupations of the residents of that area from farm employment to non-farm employment.
- The Cantonment Boards are established in military establishments, where the defense establishments such as Training institutes for defense personnel, defense industry etc. Both the Rural and Urban local governments are lowest tier in the government hierarchy.
- In various countries of the world, rural and urban local governments are organized differently. However, the basis and principles of which local governments are being established are almost same. Local governments are being established for the local people with revenue predominantly derived from local resources. The upper layer of the governments normally does the function of supervision and monitoring the local bodies
- Local Government around the world
- Local Governments are as old as that of human civilization and in many countries around the world local governments are the foundation upon which the modern state is established. A preliminary reading about the Local Governments in various countries of the world show us that large or

small, developed or under developed, some form of Local governments exist to deliver amenities and services at local level.

- However they differ widely in their structure, powers, functional domain, fiscal resources etc. In many of the European countries there has been efforts on the part of the government to decentralize the powers and functions, which were otherwise centralized. The question of devolution of finances, the jurisdictional issues in policing, transport and inter-state commerce are some of the pending and irritants in the case of the developed countries. Whereas in the developing countries, there is more and more attempt on the part of the central or federal governments to centralize the powers and financial resources. In India the constant pressure is being exerted on the central government for more devolution of administrative and financial powers to state as well as local governments.

Origin and development of Local Governments in India

- In tracing the origin and development of local governments in India, one finds the evidences of the existence of local governments even before the times of Christ (BCE). The period between 600 BCE to C.E. 600 witnessed the rise and fall of republics. During this period, there emerged Mahavira (founder of Jainism) and Buddha (founder of Buddhism). Villages were classified according to size and mode of habitation in Jain and Buddhists literature.
- The religious orders founded by Buddha and Mahavira observed highly democratic procedures in arriving at decisions. Kautilya's Arthshastra (Treatise) gives a comprehensive account of the system of village administration prevailing in his time. In the days of Maurya the village and the district were units of administration.
- In the South Indian peninsula, the existence of the local self governing institutions could be traced well before the period of the Christian calendar. The historical period can be grouped into early Chola period, Kalabira period, and the later Chola period, the emergence of Vijayanagara empire, entry of Muslims and Moghuls and the British. There were very little evidence available about the system of local

governance in the early Chola Period(which dates back to Before Christ) and the Kalabira Period.

- But there were some account of existence of local governments during the times of Pandyas (rulers of deep south India) and the Pallavas (rulers of mid south india). But Cholas (rulers who ruled mid Tamil country) period witnessed a well developed local self governments. The inscriptions of Paranthaka Chola - I(919.C.E. - 922.C.E) from Utthiramerur in Kanchipuram district of Tamilnadu state, give detailed account of local self government. They inform that each village had an assembly consisting of all adult males and their involvement in general matters. These assemblies are of two types, the “Ur” and the Mahasabha”. The third kind was the nagaram (town) confined to mercantile towns(trading centers) and the fourth was the “nadu”. Hence two types of institutions were mentioned one nadu (village and other areas) and nagaram (urban centers).
- In general there is little information on the functioning of any village assemblies prior to the 9th century. Both “nadu” and “Nagaram” were concerned about the control and regulation of land holdings, management of irrigation works, temples, collection and remission of taxes, floating of loans for capital works and the management of charitable institutions. The “ur” and the “mahasabha” were the two institutions that assisted the officers in executing the orders of the king.
- It has been found that Raja Raja Chola, the First, ordered the “mahasabha” of the Viranarayana Chaturvedi Mangalam to confiscate the property of traitors. Many historians such as Sir Charles Metcalfe, Sir George Bird wood and Eliphinstone opined that a strong system of local government existed in Ancient and medieval South India. But doubts are expressed by some of the historians about the elaborate existence of the local self government in ancient and medieval South India.
- During the Moghul period A.D (C.E.)1500 to A.D (C.E.)1777), the fundamental principles of central local relationships hardly changed with change of kingdoms. When the Mughal Empire was at its zenith of glory, it was divided into provinces (Subhas), and Provinces into sub divisions (Sarkars), and Sarkars into union of villages (Paraganas). At each level the government is organized and the officials were appointed by the Emperor.

In the Twilight of the Mughul Empire, the self governing institutions in rural areas had been severely damaged at vital points, but they had withstood the onslaughts with remarkable tactics.

- After the Battle of Plassey in A.D (C.E.) 1757, the British East India Company derived land taxing rights (Diwani rights) from Bengal ruler (Nawab), which was the first step in the ascendancy of the British rule in India. The rural and the other urban trading centers during the British East India company rule, was not under any control or supervision, except the three Presidency towns of Calcutta, Bombay and Madras. The District administration under the charge of the district collector was the king pin in the British control over vast rural areas.
- The important mile stone during the company rule was the establishment of the Municipal Corporations , as mentioned earlier at Calcutta (Kolkata), Bombay (Mumbai) and Madras (Chennai). Viceroy Lord Rippon in 1882 brought out a resolution, proposing a smaller unit for constituting rural local boards, a sub division, tehsil (taluk) and district boards to supervise.
- Lord Rippon's resolution emphasized that the institutions he proposed should have a majority of non-officials who should be elected wherever it was feasible. Nearly 500 rural boards were created with a two third majority of non officials who depended upon the district magistrate (district collector) for the favour of nomination. The main activities of the district boards till 1909 were police, public works, education and village sanitation.
- The rural local government introduced by Lord Rippon faced many criticisms and in the A.D (C.E.) 1907, the British government appointed a commission to enquire into the question of administrative and financial relations between the Government of India, Provincial governments and subordinate authorities under them so as to simplify and improve the prevalent system through devolution or otherwise. With the passing of Government of India Act, 1919, the local governments were entrusted with the elected elements of the provincial government under the diarchy system of government.
- The number of the village bodies in Tamilnadu increased from 1417 in 1926 to 6250 in 1937. There are three tier system of rural local bodies viz;

District Boards, Taluk Boards, and Village Boards. The District and Taluk boards have undergone changes by 1923, the non-official chairman in all provinces replaced official chairman. In Tamilnadu, most of the District Boards came to be dominated by Justice Party members, which stood at 545 in 1927. From 1937 upto 1947, the rural local authorities faced many challenges including the national freedom movement.

- After Indian Independence in 1947, an attempt was made to revive local governments in India. Mahatma Gandhi argued for the decentralized administrative system in India entrusting responsibility of governance with the village panchayats (self sufficient Gram Swaraj). Shrima Naryan with blessings of Gandhiji published a blue print of the Gandhian Constitution for Free India wherein panchayats are the basic institutions for organizing social, economic and political activities of the citizens. In addition to the civic, political and administrative roles, the Panchayat was to play the economic role of organizing production and distributing resources in such a way that the village communities became self sufficient for meeting most of their basic needs.

Diarchy

- The diarchy system entries that the subjects of the administration had been divided into reserved subjects and transferred subjects. The police, law and order, finance are the reserved subjects, which will be under the Governor and other subjects like education and other as mentioned earlier will be entrusted to the elected representatives.
- Thus Article 40 came to be incorporated in the Constitution, as part of the Directive Principles of the State policy (Part -IV) of the Constitution of India adopted on Nov. 26th 1949. The Art. 40. States that, “ the state shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self government”
- In compliance with the provisions of the Directive Principles of the State Policy, an ambitious rural sector initiative, the Community Development Programme was launched in 1952 with main focus of securing social-economic transformations of village through people’s own democratic and cooperative organizations with the government providing technical services, supply and credit. This programme was extended to most of the

blocks as National Extensions Service aimed at transferring scientific and technical knowledge to agricultural, animal husbandry and rural craft sectors. In 1956, under the Second Five Year Plan, (1956-1961), it was recommended that village panchayats should organically link with popular organizations at higher levels and in stages, the popular body should take over the whole administration. In 1957, Government of India appointed a Committee on Plan Projects under the Chairmanship of Balwant Rai Mehta. The Mehta Committee recommended two points namely, the administration should be decentralized and the administration should be placed under the control of local bodies.

- Secondly, the community development blocks should be designed as administrative democratic units with an elected Panchayat Union to operate as a fulcrum of developmental activity in the area. It also recommended for the formation of District Development Councils (Zila Parishad) at the district level consisting of all the Presidents of the Panchayat Unions (Samities), Member of legislative assemblies and Members of Parliament with district level officers of the public health, agriculture, veterinary and education departments as members and the collector as the chairman. The district body is only an advisory body. The recommendation of the Mehta Committee were generally welcomed and Panchayati Raj legislations were enacted and by 1960s about 90 per cent of the population were covered by the Panchayati Raj bodies.
- In 1977, the Government of India formed a committee under the chairmanship of Ashoka Mehta to go in to the working of the Panchayati Raj bodies and suggest measures to strengthen it. It recommended that Panchayati Raj should emerge as the system of democratic local government, discharging developmental, municipal and ultimate regulatory functions. Hence the first recommendation was to set up district Panchayat (Zilla Parishad) as the directly elected body. As a temporary arrangement, the committee recommended continuation of the Panchayat union at the block level. Not as a unit of local self government but as a nominated middle level support arm for the District Development Council. The Ashoka Mehta Committee submitted it's report in 1978, which was well received and led many states to introduce appropriate amendments in their Panchayat Acts such Karnataka, Maharashtra Andhra Pradesh, West Bengal and Gujarat.

- A number of committees were formed between 1978 and 1986, to look into various aspects of strengthening the local self government institutions, such as, C.H.Hanumantha Rao Committee, G.V.K Rao Committee and L.M.Singhvi Committee. Only minor changes were suggested by these committees from the Ashok Mehta committee, The next land mark was the introduction of 64th and 65th Constitutional Amendment Bills, in July 1989 by Rajiv Gandhi government, which could not be passed in the Council of States (Rajya Sabha).
- After many attempts, in 1992, incorporating important features of earlier exercises on this subject, government drafted and introduced the 73rd and 74th Constitutional Amendment bills in Parliament in 1992 which was passed by the Indian Parliament in 1993. The 73rd and 74th Constitutional Amendments introduced new parts IX and IXA in the Indian Constitution containing Articles 243 to 243 ZG.

73rd Constitutional Amendment - implementation and implications.

- Article 243 B of the Constitution which was inserted into the Constitution under the 73rd Constitutional Amendment, envisages that states and union territories except those with population not exceeding 20 lakhs, will have to constitute a three tier system of Panchayat ie, village, intermediate and district levels. While the district has been defined as a normal district in state, the jurisdiction of village and intermediate levels have not been specifically defined in the Act.
- The territorial area of a village Panchayat can be specified by a public notification by the Governor of the state, and may consist of more than one village. Similarly, the intermediate level which can be a Taluk or Block is also to be specified by the Governor through a public notification in this regard. This provides a certain amount of flexibility to the States in constituting Panchayats at the lower and middle levels.
- A new schedule, Eleventh Schedule was inserted in to the Constitution of India, which provided for obligatory and discretionary functions of the Panchayats at three levels,
 - The Village Level
 - The District Panchayat at the district level

- The Intermediate Panchayat which stands between the village and district Panchayats in the states where the population is above 20 lakhs
- All the seats in a Panchayat shall be filled by persons by direct election from territorial constituencies in the Panchayat area. The electorate is named as “Gram sabha” consisting of persons registered in the electoral rolls relating to a village comprised within the area of a Panchayat.
- The Chairperson of each Panchayat shall be elected according to the law passed by a State and such State law shall also provide for the representation of Chairpersons of Village and Intermediate Panchayats in the District Panchayat, as well as members of the Union and State legislature in the Panchayats above the village level.
- Hence, the new Amendment Act provided for participation of Members of Parliament and Members of Legislative Assemblies in the Panchayat Union Councils and also in the District Panchayats. The Amendment Act also provided reservation of seats in the three tiers for Scheduled Castes and Scheduled Tribes and not less than one third of the total seats for women. The tenure of the Panchayats shall be five years.
- The law provides that any person who is eligible to be elected to the state legislature shall be qualified to be chosen as a member of a Panchayat. The responsibilities of the Panchayats are clearly laid down in the Eleventh Schedule. (Box.1). Like the National Finance commission, the Constitution Amendment Act also provided for the State Finance commission for recommending the formula for transfer of the financial aid to local governments from the states.

- There are around 2,50,000 village panchayats in India as per 2011 Census

- Consequent to the 73rd Constitutional Amendment as well as the Supreme court’s rulings which effectively mandate that local authorities are also to be treated as “Government or state”, The Panchayats that have acquired substantial legitimacy are recognized as an instrument of the Government and have created participatory structure of grass roots democracy for the rural people. Creation of constitutional bodies like the State Election

Commissions and the State Finance Commissions have also given permanency and stability to these institutions. However, most Panchayats continue to be treated as agencies of the state for implementation of prescribed schemes, even though essential services such as provision of drinking water, rural sanitation, preventive health and primary education are accepted as their legitimate core functions. The structure of district administration under the control of the Collector, characteristically by a command structure and lack of horizontal coordination at the grass roots level, has become somewhat anachronistic in the modern democratic framework of our polity. In order to make local administration more responsive transparent and accountable to citizens there is a need to have a representative government not only in the Union and States but also at the District and Village levels with an equitable division of functions among them.

- Panchayati Raj (1959 - 2009)
- Golden Jubilee Year - on 2nd October 1959, Pt. Jawaharlal Nehru laid the foundation of Panchayati Raj in Nagaur, Rajasthan; the most revolutionary step in the context of governance of rural India. The journey which commenced with the commitment of comprehensive development of villages and to put power in the hands of people.

- Three tier Panchayati Raj system under 73rd Constitutional Amendment(1993)
 - District Panchayats
 - (Elected and nominated)
 - Panchayat Union Councils (Elected)
 - Village Panchayats (Elected)
 - Gram Sabha (All Voters in a village) (Advisory Body)

74th Constitutional Amendment Implementation and Implications

- Under the 74th Constitutional Amendment, the urban areas comprise different types of municipal bodies constituted with reference to character, size and importance of different towns and cities. Municipal Corporations, Municipal Committees, Notified Area Committees, Town Area Committees, and Cantonment Boards are the usual types of municipal

bodies and while the first four types were created under the state municipal laws, the Cantonment Boards owed their origin to the Central Act called the Cantonments Act, 1924.

- In most of the states, all these types of urban local bodies existed except the Town Area Committees, which had since been abolished and converted into class - III Municipal Committees. Town Area Committees were semi municipal committees constituted for small towns by a separate act of the state legislative assembly.
- After passing the Constitution (74th Amendment) Act, 1992, the Government of India notified the Amendment in June 1993. The Act of 1992 provided for a period of one year from the date of its commencement, the states were required to change amend or modify there legislations in order to incorporate the Central Amendment. Various states and union territories have enacted legislations for the governance of the urban local bodies in their respective jurisdictions. For example, the Punjab government enacted the Punjab Municipal Bill, 1998 to replace the Punjab Municipal Act, 1911.

- The Grama Sabha meetings are held four times in a year ie. January, 26 (Republic Day), May, 01 (May Day) August, 15 (Independence Day) and October, 02 (Gandhi Jayanthi).

- A three tier structure of urban local bodies were proposed in the 74th Constitutional Amendment act namely, Nagar Panchayat or Town Panchayat, Municipalities and Municipal Corporations. We shall discuss briefly the details of the above three urban local bodies established under the 74th Constitutional Amendment Act.

Nagar Panchayat or Town Panchayat

- A Nagar Panchayat or Town Panchayat is constituted for a transitional area, ie. , an area in transition from a rural area to an urban area. The population of such an area is 5000 or more but less than 15,000 and the revenue generated from tax and sources exceeds such amount per capita per annum as many be specified by the government from time to time. Every Nagar Panchayat is a body corporate and has a perpetual succession

and a common seal with power to acquire and hold, or dispose of properties and may sue and sued.

- A Town panchayat shall consist of such number of elected members not less than 9 or not more than 15, as the state government may determine by rules. The members of the legislative assembly representing the constituencies comprising transitional area or any part of thereof, and two members nominated by the state government from amongst persons having special knowledge or experience in municipal administration. The nominated members shall not have the right to vote in the Town panchayat meetings. The term of a Town Panchayat shall be 5 years.
- The government shall divide a transitional area (town panchayat area) in to a number of territorial constituencies known as wards and each ward shall elect only one member. Out of the total number of seats in Town Panchayat to be filled by direct election, seats are reserved for Scheduled Castes (SC) and Scheduled Tribes (ST) in the same proportion of the population of SCs and STs to the total population of that town panchayat area. In addition, one third of the total number of seats of that area are reserved for women, including the seats reserved for SCs and STs. The town panchayat members shall be elected from amongst its members, One President and one Vice President in a meeting convened by the Deputy commissioner. Every Town Panchayat shall perform obligatory functions such as water supply, drainage, clearing the streets etc. Every town panchayat shall have an executive officer appointed by the state government

Municipal Council

- A Municipal Council or municipality is constituted for a small urban area with a population of 15,000 or more but is less than 3 lakhs and the revenue generated from the tax and other sources exceeds such amount per capita per annum as may be specified by state government from time to time.

• Municipality Grade	• Population
• Class A	• 1 Lakh or more
• Class -B	• 50,000 - • less than one lakh

• Class - C	• Less than 50,000
-------------	--------------------

- A Municipal Council or Municipality for example in Class-A, not less than 20 and not more than 50 elected members; Class-B 15-30, and Class-C, 10-15. The members of State Legislative Assembly representing the constituencies lying within the municipal area are “Ex-Officio” members of the Municipal Council. Not more than 3 members are nominated by the state government. The nominated members do not have the right to vote in the elections of the chairpersons and vice chairpersons. The members are elected through secret ballot.
- The whole municipal area is divided into wards, as per the number of councilors to be elected, say 15 or 30 or 10. The electoral rolls of the legislative assembly in relation to municipal area are generally taken as the voters list. The candidates contesting in the elections are allotted symbols. The symbols of the recognized political parties are allotted only to the candidates sponsored or adopted by them.
- The Deputy Commissioner has to call the meeting of the elected members within 14 days of the notification of the election results to administer the Oath of office and to hold the election of the President and Vice-President. As that of Town Panchayats, seats are reserved for the SCs and STs according to the proportion of the population of SCs and STs to the total population of the municipal area. In addition, 30 per cent of total seats are reserved for women including the SCs and STs seats.
- The 74th Amendment provides the constitution of ward committees consisting of one or more wards within the territorial area of a Municipality, having a population of 3 lakhs or more. A member of a Municipality representing a ward within the territorial area of the ward committee shall be a member of the ward committee. The Standing Committees shall be constituted for each Municipality consisting of the President, senior Vice-President, and Vice-president and 4 other members in the case of Class-A, 2 in the case of Class-B from among the elected members for a period of 2 and half years. The term of office of Municipality is five years. The elected municipality can be dissolved if it is not performing as per the provisions of law.

- The Municipal Council meets at least once in a month, presided over by the President or in his/her absence Vice- President. The Municipal Council with the increasing load of work, elects subcommittees comprising councillors from amongst itself to study a problem in depth and make recommendation for its solution. The sub committees are of two types statutory committees and, non-statutory committees. Municipal bodies also appoint special sub committees for certain specific purposes and follow the same procedure for their election as it adopts the constitution of standing sub committees.
- A Municipal Council elects its President from amongst members within one month of the constitution of Municipal Council. The Municipal Council is constituted after elections are held. The President is elected for a period of 5 years. The Municipal Council also elects one or two Vice-Presidents. The Presidents of the municipalities in various states draw monthly salary in addition to travelling allowance . The President convenes and presides over the meeting of the Municipal Council. He / She is empowered to take disciplinary action against offending councilors. The President is the chief spokesperson of the Municipal Council and represents it at official functions and also with regard to correspondence with the government.
- The state government in every municipality appoints an Executive Officer. The Executive Officer is the principal executive authority and all municipal staff is sub-ordinate to him/ her. He/ She is the important officer to execute, supervise monitor and report the activities of the Municipalities to the council. The Municipal Council is the governing body of the Municipality, responsible for Municipal Administration. It makes by laws the governing place and time of council meetings, the manner of giving notices, the conduct of meetings.
- The councilors are expected to keep themselves in touch with the citizens and enquire about their grievances against municipal staff, and bringing to the notice of the appropriate administrative head or to raise the matter in the council meetings. The powers and responsibilities of municipalities are enshrined in the Twelfth Schedule of the Constitution. (See Box-2)
- The 74th Constitutional Amendment provided the constitution of committee for district planning, to prepare a draft development plan for

the district as a whole. The Committee shall consolidate the plans prepared by the panchayats and municipalities in the district. The composition of the District Planning Committee as provided in the Act of 1992, consists of that not less than 4/5th of the total members of the committee. They shall be elected by and from amongst the elected members of the Panchayats at the district level and of the municipalities in the district, in proportion to the ratio between the population of the rural areas and of the urban areas in the district.

- The Municipalities have been provided with the power to raise revenue for discharging its duties and performing its functions such as the taxes, duties and fees which could be levied and collected by the Municipalities (For example: tax on lands and buildings, scavenging tax on octroi, a tax on advertisements, a fire tax, toll on roads and bridges etc) the 74th Amendment Act made it obligatory for the state governments to Constitute State Finance Commission within one year from the commencement of Act.

Box No-2 : Twelfth Schedule of the constitution: Powers and Responsibilities of Municipalities
Subject

- Urban Planning including town planning
- Regulation of land use and construction of buildings
- Planning for economic and social development
- Roads and Bridges
- Water supply for domestic purposes,
- Public Health, sanitation conservancy, and solid waste management
- Fire services
- Urban forestry, protection of the environment, and promotion of ecological aspects
- Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded
- Slum improvement and up gradation
- Urban poverty alleviation
- Provision of urban amenities and facilities such as parks, gardens and play grounds
- Promotion of cultural, educational and aesthetic aspects
- Burials and burial grounds, cremations, cremation grounds and electric

crematoriums

- Cattle ponds, prevention of cruelty to animals
- Vital statistics including registration of births and deaths
- Public amenities including street lighting , parking, bus stops and public conveniences
- Regulation of slaughter houses and tanneries

- The State Finance Commission shall make recommendations regarding:
 - Distribution between the state government and municipalities of the net proceeds of taxes, duties, tolls and fees to be assigned or appropriated by the state;
 - Allocation of share of such proceeds between the municipalities at all levels in the states;
 - Determination of taxes, duties tolls and fees to be assigned or appropriated by the municipalities;
 - Grants-in-aid to fund the state;
 - Measures needed to improve the financial position of the municipalities.
- However in practice, the Municipalities in our country undertake only such functions which have been specifically assigned to them by respective state legislative enactments. This restrictive approach to municipal functions no longer and holds good in the changed political context and needs of the country. There has been increasing tendency on the part of the state government to take over more and more local functions either directly or by creating special purpose agencies.
- Municipal Corporations The Municipal Corporations constitute the highest or the top most form of urban local government in India. They are created for big cities by the enactments of the State Legislatures or of the Parliament in the case of Union Territory. The various categories of the cities are determined by its population, area or revenues. Municipal Corporations in the early period were established in three Presidency towns viz; Bombay, Madras and Calcutta. A Municipal Corporation is based on the democratic principle of management of local affairs by the representatives of the people of the city concerned, who are to be elected periodically on the basis of universal adult franchise with reservation of seats for SCs and STs in proportion to their population and also for

women. The Municipal Corporation is marked by statutory separation of deliberative and executive wings.

- The Corporation Council and the Standing Committees Constituted the deliberative wing and the executive wing. The Council, consisting of elected representatives and a few nominated members, is responsible for the exercise of legislative powers. The Standing Committees function as an auxiliary of the Corporations. All the matters to be passed by the council pass through it after it considers the proposals and recommendation made by the Municipal Commissioner. The Municipal Commissioner is the chief executive and implementing the decisions taken by the council.
- Municipal Corporations in India are generally structured on the pattern of Bombay Municipal Corporation. The tenure of the Municipal Corporation is 5 years. The 74th Amendment provides wards committees, which shall be considered for one or more wards within the territorial areas of the Corporation. The chairperson shall be elected for one year and shall be eligible for re - election. A ward committee supervises provision of water supply, pipes and sewage, drainage connections to premises removal of accumulated water on streets or public places due to rain or other, collection and removal of solid waste, provision of health immunization, services for the civic services in slum and lighting, repair of roads, maintenance parks drains and etc.,.
- A Municipal Corporation shall have a Standing Committee constituted by it, consisting of Mayor, the senior deputy Mayor and other councilors elected by the councilors of the Corporation from amongst the members. The Mayor shall be the chairperson of the Standing Committee. The Municipal Corporation also constitutes committees to deal with subject matters such as water supply, sewage etc.,. Each subject committee shall consist of not less than three and not more than five members.
- The term of the subject committees is one year. The Municipal Corporations have been provided with financial resources to carry out its duties assigned to it by the 74th Amendment. A list of 18 functions to be performed by Municipal Corporations has been given in the 12th Schedule of the Constitution. Like the 73rd Amendment Act, the 74th Amendment Act also provided for a committee planning metropolitan area.

- The Committee consists of not less than 2/3rd of the members who shall be elected by and from the elected members of the Municipalities and chairpersons of the panchayats in the metropolitan area in proportion to the ratio between the population of Municipalities and of the Panchayats in that area.
- All Municipal Corporations are provided with the office of the Mayor and Deputy Mayor. Mayor in some states are directly elected by all the voters within the metro city. In some states, Mayor is elected from amongst the elected councilors. The Mayor presides over council meetings, guide its deliberations to maintain decorum and exclude any objectionable portion from the record of the proceedings of the council. He/ She is also empowered to expel and even suspend members for gross misconduct or disorderly behaviour. In case of a tie he/she exercises his /her casting vote.
- The Municipal Commissioner is the chief executive officer of the Corporation. Normally the commissioner is being appointed from officers in I.A.S (Indian Administrative Service) cadre. The commissioner's appointment vested in the state government, has been a subject of great controversy. The term of the commissioner is three years, which can be extended by the state government. He/she is one of the statutory municipal authorities to carry out the provisions of the Corporation Act.

The case of Tamilnadu

- The Tamilnadu State Election Commission established under the 73rd and 74th Constitutional Amendments, gives a brief account of the status of local government in the state of Tamilnadu.
- As stated by the Tamilnadu State Election Commission, under the 73rd Constitutional Amendment Act (Rural Local Bodies) the government of Tamilnadu as a constitutional obligation has taken into account important points including: formation of Gram Sabha in every village with powers of general supervision over the elected village Panchayat and the power to grant approval to the annual plans of the Panchayats; formation of three tier Panchayats i.e., District Panchayats, Panchayat Unions and Village Panchayats made obligatory; reservation of seats for weaker sections of society like SCs, STs and Women; powers to impose taxes and provision

for grants , assignments etc., from government funds through constitution of a State Finance Commission.

- The State of Tamilnadu has 12,564 village panchayats, 388 panchayat unions and 31 district panchayats.

- Under the 74th Constitutional Amendment Act, devolution of more functions and taxing powers; revenue sharing with state governments; regular conduct of elections; reservation of seats for SCs and STs and for women; uniform composition of the urban bodies throughout the country were provided.
- Following 73rd constitutional amendment the Tamilnadu Panchayats Act was passed in 1994, which replaced the earlier Tamilnadu Panchayats Act, 1958. The Tamilnadu Panchayats Act, 1994 was amended in 1996. The Act of 1996 provided as far as Panchayats are concerned : to plan for their developmental needs, constitution of District Planning Committee; constitution of State Election Commission and constitution of State Finance Commission. In the first elections under the 1994 Act, 1,17,000 representatives were elected for the three different tiers of local government across Tamilnadu.
- **Urban Local Governments**
- As far as urban local bodies are concerned, the 74th Constitutional Amendment Act, paved the way for setting up urban local bodies in various states. Elections were held to the rural and urban local bodies in Tamilnadu in 1996, 2001, 2006 and 2011.

Contemporary Issues

- There are many issues which are highlighted by the experts in the field of local governance from time to time. The main issues brought out by the experts are provided in the following section. First there is considerable expansion in responsibilities of local governments, which were previously state government responsibilities.
- Taking into account the capacities of the levels of government and the line of control, throughout government apparatus should be considered and

reclassification of list is needed. Second, maintenance of village courts is also an important issue, where the policing is state wise centralized, which can not entrusted practically to the local governments.

- Third, urban local bodies are entrusted with many functions out of which many of them are connection with the state government departments.
- In sum, the 73rd and 74th Constitutional Amendment Acts brought reforms in local government in India. The rural and urban local bodies prior to the reforms were the creation of the British. Many new and innovative changes were brought in the amendments. So far only 18 states in India have ratified or approved the amendments in their legislative assemblies, which is required as per the law. In addition, many state government even after enacting the amendments and ratified them, have not put in to operation many provisions, because of the issues mentioned above. Unless these issues are resolved, the objectives for which the 73rd and 74th amendments were made, could not realized.

Panchayati Raj (1959 - 2009)

- The Tamilnadu Municipal Laws (Fourth Amendment) Bill, 2018 and the Tamilnadu Panchayats (Second Amendment) Bill, 2018 - for extending the tenure of the special officers of the urban and rural local bodies for a period of six more months.

- There are 12 Municipal Corporations, 148 Municipalities and 561 Town Panchayats in Tamilnadu as urban local bodies.

12th Volume I

Unit 2 - Legislature

Introduction

- Legislature is one of most important institution for the functioning of representative democracy. The basic objective of the legislature is to hold its representatives accountable, responsible for the interest of the people in the country. Legislature is generally referred as the highest law-making body, having elected representation from all the constituents of the state to make or change the laws of the country. In India, legislature at the Centre is called as Parliament and is also referred as National Legislature. The legislatures in The State and the Union Territory are called as Legislative Assemblies.
- The Parliament consists two houses namely; House of the People (Lok Sabha - Lower House) and Council of States (Rajya Sabha - Upper House). This is known as bicameral system of Parliament, and has inspired by the British Parliamentary system and the bicameral system of the USA. Similarly, the States have Legislative Assembly and Legislative Council. But in many of the States only unicameral legislatures exist without any Legislative Councils. In India, the Parliament shares its law making function and responsibilities of implementation with twenty eight states as well as nine union territories. The Union Territories are directly governed by the Union Government.

Union Legislature: The Parliament

- The Parliament is known as Union Legislature or National Legislature, which is a supreme body of decision making and symbol of democratic governance. The Parliament is the most powerful platform with accountability for debating on the issues regarding welfare of the country and its people and enacting laws and making changes to the constitution
- It has two important powers and functions called as legislative and financial. The legislative powers are for law making and the financial powers are to prepare money bill as called as budget. Also the parliament

has electoral functions with regard to elect the President and the Vice-President of India.

- The Parliament has judicial function also on the matters of the proposals for the removal of the President, Vice - President, Judges of the Supreme Court and High Courts and the process of removal is called 'impeachment'. It is the duty of the President to summon the Parliament and it must have not less than two sessions in a year. Every year, at the commencement of the first session of the parliament, the President delivers his special address which would be the future course of action of the parliament in view of giving framework for new policies, programmes and initiatives of the government. The parliament of India has functions of legislation, overseeing of administration, passing of the budget, ventilation of public grievances, and discussing national policies and issues of concern. The cabinet, both individually and collectively is accountable to and removable by the Lok Sabha.

Functioning of House of People (Lok Sabha)

- The parliament has two houses and both houses carry the same values and responsibilities with a few exception such as passing the finance bills. The first one is the Lok Sabha (Lower House or House of People) with 543 members elected from 543 Parliamentary constituencies across the country directly by the people who have attained the age of 18 and above and registered as voters. The Lok Sabha has 2 nominated members from the Anglo- Indian community.

Quorum of the House: One tenth of the total number of members of Lok Sabha / Rajya Sabha constitutes the quorum for a meeting of the House.

- The grand total number of members in the Lok Sabha is 545, but the nominated members cannot decide the government when it proves majority on the floor of the House. The Lok Sabha is the highest forum for discussion, debate on public issues, interest and policies to cater to the socio-economic needs of the people.
- The members of both houses are generally called by the public as Member of Parliament. Member of Parliament, Lok Sabha is one who represents the constituency of the state, comprising of six Assembly constituencies,

directly elected by the people through elections. The term of the Lok Sabha is for five years.

Roles and Responsibilities of the Speaker

- The leader of the House of the People is the Speaker – who is elected by the Lok Sabha, from among its members. The Speaker’s duties are to conduct, facilitate the debates and discussions as well as the answers to questions, regulating the conduct of Members of the House and taking care of their privileges and rights. The Speaker of Lok Sabha is the administrative head of the parliamentary secretariat.
- The Speaker also ensures that the members adhere to the appropriate procedures, and to allow the members to raise question, allotting time to speak and withdraw the objectionable remarks from record and moving a motion of thanks to the President’s speech. The Speaker has the power to expel the members if they flout or violate the norms and rules of the house.
- The permission of the Speaker is required to move amendments to a bill. It is up to the Speaker to decide whether the bill has to be moved or not. The Speaker plays the role of guardian of the rights and privileges of the house, its various Committees such as consultative, select, advisory and of members of that Committees. Another important power of the Speaker is to refer any question of privilege to the Committee of privileges for examining, investigating and reporting. The questions raised by the members and answers, explanations and reports are addressed to the Speaker.

Jawaharlal Nehru, one of the chief architects of India and a driving force behind its democratic principles of the Constitution, placed the office of the Speaker in India in the proper context when he said: “The Speaker represents the House. He/she represents the dignity of the House, the freedom of the House and because the House represents the nation, in a particular way, the Speaker becomes a symbol of nation’s freedom and liberty. Therefore that should be an honoured position, a free position and should be occupied always by persons of outstanding ability and impartiality”.

- The Speaker is the final authority to decide on the question of point of order. Under the constitution, the Speaker enjoys special provisions and certifies money bills. The Speaker of the House of the People presides the joint sessions of the parliament in case a special occasions or in the event of disagreement between the two houses on certain legislative measures. The Speaker decides whether a Bill is a Money Bill or not and his decision on this question is final. It is the Speaker who decides on granting recognition to the Leader of Opposition in the House of People. Under 52nd Constitution Amendment, the Speaker has the disciplinary power to disqualify a member of the house on the grounds of defection. Even though, the Speaker also one of the members of the House and holds neutral, does not vote in the house except rare occasions when there is a tie at the end of the decision.
- The Rajya Sabha or the Council of States is called as upper house. It has a total number of 250 members including 238 from all the states and union territories and 12 members nominated by the President. The council of states Rajya Sabha is called as second chamber of the Parliament of India. The Rajya Sabha is an institution to protect the rights and interests of the states like the senate in USA. It was constituted on 3rd April, 1952.
- The members for Rajya Sabha are elected by the members of the respective State Legislative Assemblies (MLAs). Apart from the members of the states, twelve distinguished members from the Parliament Not more than 250 Members Not more than 552 Members 12 nominated Not more than 20 representatives of Union Territories Not more than 238 representatives of States and Union Territories Not more than 530 representatives of States plus not more than 2 nominated Anglo-Indians Council of the States House of the People fields of literature, science, art, and social service were nominated by the President of India. Unlike House of People, Council of States is not subject to dissolution but one third of the members retire every second year. The term of the individual member is six years. The members of the Council of States are elected by their respective state legislative assemblies in accordance with the system of proportional representation by means of the single transferable vote.

Functioning of Rajya Sabha

- The Vice-President of India is the ex-officio Chairman of the Rajya Sabha. The Chairman presides over the proceedings and regulates the Rajya Sabha. Except the Money/Financial Bill all other bills will be placed before the Rajya Sabha for discussion, questions, motions and resolutions under the rules of procedure and conduct of business. The functions of Rajya Sabha may broadly be categorised as: Legislative, Financial, Deliberative and Federal. Legislation is by far the most important business of Rajya Sabha, as indeed of Parliament and in this sphere, Rajya Sabha enjoys almost equal powers with Lok Sabha. In the U.S.A, the representatives in the state council is called as Senate where every state has equal representation irrespective of size and population of the states. But in India, the representation in the Rajya Sabha is based on its size of population.
- For example, Uttar Pradesh with the highest population elects 31 members to Rajya Sabha; on the other hand, Sikkim, the least populated state, elects only one member to Rajya Sabha. Tamil Nadu elects 18 members to the 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. The Rajya Sabha is known as Permanent House of the Parliament that never gets fully dissolved. Some of the important privileges and immunities are given to the Members of Rajya Sabha as follows.

Who can be a Member of Rajya Sabha?

- ❖ Must be a citizen of India
- ❖ Must not be less than 30 years
- ❖ Under the Representation of the People Act, 1951, a person had to be an elector in a parliamentary constituency in the State from where he seeks election to Rajya Sabha.
- ❖ It may, however, be mentioned that the Representation of the People (Amendment) Act, 2003, which amended Section 3 of the Representation of the People Act, 1951, has done away with the requirement of being a resident of State or Union territory from which a person seeks to contest elections to Rajya Sabha.
- ❖ He/She has to be an elector in a parliamentary constituency anywhere in India.

Powers and Privileges of Members of Parliament

1. Freedom of speech in Parliament and immunity of a member from any proceedings in any court in respect of anything said or any vote given by him in parliament or any Committee thereof.
2. Immunity to a person from proceedings in any court in respect of the publication by under the authority of either House of Parliament of any report, paper, votes or proceedings.
3. Prohibition on the court to inquire into proceedings of parliament.
4. Immunity to a person from proceedings in any court in respect of the publication in Newspaper of a substantially true report of any proceedings of either House of Parliament unless the publication is proved to have been made with malice.
5. Freedom from arrest of members in civil cases during the continuance of the session of the House and forty days before the commencement and forty days after its conclusion.
6. Exemption of a member from service of legal process and arrest within the precincts of the House.

Parliament: Lok Sabha, Rajya Sabha

- ❖ The of Lok Sabha is the most powerful political institution which reflects the political, social and economic conditions of the country, holds highest responsibility and virtually represents the entire population.
- ❖ The Lok Sabha is constituted with members elected directly by the people. These members represent the varied interests of the people. Thus it becomes the apex democratic institution. It is here that the nation's policies, programmes and laws emerge.
- ❖ The Lok Sabha makes the Laws on the matters of Union List and Concurrent List. It can exact new laws and repeal existing law or amend the same. It has an exclusive authority over money bills.
- ❖ The special power of the Lok Sabha is that once it passes the budget or any other money related law, the Rajya Sabha cannot reject it. But the Rajya Sabha can only delay the law for 14 days and if Rajya Sabha suggests any changes regarding the law, it is upto the Lok Sabha to accept or reject it.
- ❖ One of the privileges of the Lok Sabha is preparing and presenting the budget and financial statement, which is an explicit expression of people's control over the nation's economy.

- ❖ The Lok Sabha controls the executive by asking questions, supplementary questions, passing resolutions, motions and no confidence motion.
- ❖ The Lok Sabha has the power to amend the constitution and approve the proclamation of emergency.
- ❖ The Lok Sabha involves in electing the President and Vice-President of India.
- ❖ The Lok Sabha has power to establish new Committees and commissions and tabling their reports for debate and discussion and further consideration for implementation.
- ❖ The Lok Sabha controls the council of Ministers and a Prime Minister, who enjoys the majority support of it. If the Prime Minister loses the confidence of the Lok Sabha, the entire government has to quit and face the election.

Powers of Rajya Sabha

Position of Rajya Sabha

- The Constitutional position of the Rajya Sabha (as compared with the Lok Sabha) can be studied from three angles:
 1. Where Rajya Sabha is equal to Lok Sabha?
 2. Where Rajya Sabha is unequal to Lok Sabha?
 3. Where Rajya Sabha has special powers that are not all shared with the Lok Sabha?

Equal Status with Lok Sabha

- In the following matters, the powers and status of the Rajya Sabha are equal to that of the Lok Sabha:
 - ❖ Introduction and passage of ordinary bills.
 - ❖ Introduction and passage of Constitutional amendment bills.
 - ❖ Introduction and passage of financial bills involving expenditure from the Consolidated Fund of India.
 - ❖ Election and impeachment of the President.
 - ❖ Election and removal of the Vice- President. However, Rajya Sabha alone can initiate the removal of the vice- President. He is removed by a resolution passed by the Rajya Sabha by a special majority and agreed to by the Lok Sabha by a simple majority.

- ❖ Making recommendation to the President for the removal of Chief Justice and judges of Supreme Court and high courts, chief election commissioner and comptroller and auditor general.
- ❖ Approval of ordinances issued by the President.
- ❖ Approval of proclamation of all three types of emergencies by the President.
- ❖ Selection of ministers including the Prime Minister. Under the Constitution, the ministers including the Prime Minister can be members of either House. However, irrespective of their membership, they are responsible only to the Lok Sabha.
- ❖ Consideration of the reports of the constitutional bodies like Finance Commission, Union Public Service Commission, comptroller and auditor general, etc.
- ❖ Enlargement of the jurisdiction of the Supreme Court and the Union Public Service Commission.

Unequal Status with Lok Sabha

- In the following matters, the powers and status of the Rajya Sabha are unequal to that of the Lok Sabha:
 - ❖ A Money Bill can be introduced only in the Lok Sabha and not in the Rajya Sabha.
 - ❖ Rajya Sabha cannot amend or reject a Money Bill. It should return the bill to the Lok Sabha within 14 days, either with recommendations or without recommendations.
 - ❖ The Lok Sabha can either accept or reject all or any of the recommendation of the Rajya Sabha. In both the cases, the money bill is deemed to have been passed by the two Houses.
 - ❖ A financial bill, not containing solely the matters of Article 110, also can be introduced only in the Lok Sabha and not in the Rajya Sabha. But, with regard to its passage, both the Houses have equal powers.
 - ❖ The final power to decide whether a particular bill is a Money Bill or not is vested in the Speaker of the Lok Sabha.
 - ❖ The Speaker of Lok Sabha presides over the joint sitting of both the Houses.
 - ❖ The Lok Sabha with greater number wins the battle in a joint sitting except when the combined strength of the ruling party in both the Houses is less than that of the opposition parties.

- ❖ Rajya Sabha can only discuss the budget but cannot vote on the demands for grants (which is the exclusive privilege of the Lok Sabha).
- ❖ A resolution for the discontinuance of the national emergency can be passed only by the Lok Sabha and not by the Rajya Sabha.
- ❖ The Rajya Sabha cannot remove the council of ministers by passing a no-confidence motion. This is because the Council of ministers is collectively responsible only to the Lok Sabha. But, the Rajya Sabha can discuss and criticize the policies and activities of the government.

Special Powers of Rajya Sabha

- Due to its federal character, the Rajya Sabha has been given two exclusive or special powers that are not enjoyed by the Lok Sabha:
 - ❖ It can authorize the Parliament to make a law on a subject enumerated in the State List (Article 249).
 - ❖ It can authorize the Parliament to create new All-India Service common to both the Centre and states (Article 312).
- An analysis of the above points makes it clear that the position of the Rajya Sabha in our constitutional system is not as weak as that of the House of Lords in the British constitutional system nor as strong as that of the Senate in the American constitutional system. Except in financial matters and control over the council of ministers, the powers and status of the Rajya Sabha in all other spheres are broadly equal and coordinate with that of the Lok Sabha.

Even though the Rajya Sabha has been given less powers as compared with the Lok Sabha, its utility is supported on the following grounds:

- ❖ It checks hasty, defective, careless and ill-considered legislation made by the Lok Sabha by making provision of revision and thought.
- ❖ It facilitates giving representation to eminent professionals and experts who cannot face the direct election. The President nominates 12 such persons to the Rajya Sabha.
- ❖ It maintains the federal equilibrium by protecting the interests of the states against the undue interference of the Centre.

Article 120

Hindi and English have been declared by the Constitution to be the languages for conducting business in Parliament. The Presiding Officer may, however, allow any member not proficient in either to address the House in his mother tongue (Article 120).

Law Making Process

- The law making process in Indian Parliament stands evident for its democratic credentials. In the law making process, the role of opposition parties becomes much more important to reflect upon the relevance of the bill and its context so as to streamline the democratic governance.
- The law is a guiding force to regulate the society, politics and economy for the welfare of the state and people. The law is primarily introduced in the Parliament in the form of 'bill' as proposed legislation for consideration of the legislature. The bill will be taken for thorough discussion in the parliament to have an understanding within the framework of the constitution.
- The bill will become law once the legislature passed it and approved by the President. The law becomes an act only after getting consent from the President of India. The primary function of the Parliament is to make fresh laws and bring changes in the existing laws in accordance with the constitutional procedures. The Parliament of India passes two types of bills such as:
 1. Money Bill
 2. Non-Money Bill or ordinary or public bills
- An ordinary bill has to pass through different stages before becoming an Act. The procedures prescribed in the Constitution for passing the bills are of two different categories. These are as follows: An ordinary bill under consideration has to go through following stages and has to pass through both houses with discussions, suggestions and approval. An ordinary bill may be introduced in either House of the Parliament.

- The first stage of the bill relates to the introduction of the bill in either house as 'Reading of the Bill'. Most of the bills are introduced by the Ministers concerned. The bill is drafted by the technical experts in that particular field and then council of ministers will approve the bill. The ordinary Member of Parliament can also introduce a bill which is called as 'Private Member Bill'. For the introduction of the bill it should be informed to the Speaker of the Lok Sabha or The Chairman of Rajya Sabha one month in advance. Then the date of introduction for the Private Member Bill will be fixed and allowed to move the bill in the floor of house. Generally, there will be no discussion on the proposed bill at this reading stage which is only a formal affair.
- After the introduction of bill, it will be published in Gazette of India. The Speaker or the Chairman may allow some bills to be published in the Gazette even before the first reading, in that case, no motion for leave to introduce bill is necessary.
- The Second Reading of the bill usually takes place after an interval of two days after the first reading. At this stage, any of the four courses are adopted.
- The bill may be taken for consideration by the House at once.
- It may be sent to a select Committee of the House.
- It may be sent to a joint select Committee of the two Houses or
- It may be circulated for eliciting public opinion. Very rarely bills are taken up for consideration straight away.
- When the bill is adopted for circulation (i.e. 4th course), the secretariat of the House concerned requests the State Governments to publish the bill in the State Gazettes inviting opinions from local bodies and recognized associations. Such opinions are circulated among the members of the House.

Committee Stage

- If the bill is referred to a select Committee, the mover selects the members of the Committee, the Speaker or the Chairman of the House appoints one member of the Committee and the Chairman of the Committee. The Committee will study of the bill and reports back to the House.

Report Stage

- The report stage is the most important stage where a bill is debated clause by clause. In this stage, the report is circulated along with original bill and the report of the Select Committee. The report stage is for giving final shape to the bill. Then the bill will be submitted for the Third Reading in which the bill is to be passed with majority of votes. The Third Reading is for formal approval by the Parliament.
- After the bill is adopted at the Third Reading in either of the house, it is transmitted to the other House, where it goes through all the stages. The other house may accept the bill as it is. After coming across all the stages, it is sent to the President's assent.
- Once a bill is passed in its originating house, it also may be rejected in the other house. Otherwise, it may introduce amendments not acceptable to the original House, or may not return the bill within six months. In such a case, a constitutional deadlock develops between the two Houses. The President may call a joint session of the two Houses to resolve the deadlock. The Speaker or in his absence the Deputy Speaker presides over such joint sessions. The deadlock is dissolved by majority vote.
- Finally, the bill is passed by both Houses and goes to the President for his assent. If the President assents to the bill, it becomes a law. But the President may return the bill for reconsideration. If the bill is sent back to the President with or without amendments, the President cannot withhold his assent. Such a complicated and time-consuming procedure is adopted to prevent hasty legislation.

Private Member Bills:

- If any member other than a minister introduces a bill, it is called a private member bill. The bill can be introduced by both ruling and opposition party MPs. Private member bill is a bill proposed by a member who is not a member of the cabinet and executive. The session for private member bill is held at alternative Fridays from 2 pm to 6 pm.
- This bill needs a month of notice; this has no impact on the health of the government when the private member bill gets rejected. Till date, the parliament has passed fourteen private member bills; the last one was passed on 1970. Most of the bill passed by the private member is not even read or discussed and dismissed. Private members bills are accepted even those are constitutional amendment bills but not that those are money bills.

The Rights of Transgender Persons Bill, 2014

- ❖ In Lok Sabha, the last two and half hours of a sitting on every Friday, and in Rajya Sabha two and half hours, i.e., from 2.30 p.m. to 5.00 p.m. on every alternate Friday are allotted for transaction of "Private Members' Business", i.e., Private Members' Bills and Private Members' Resolutions.
- ❖ The last time a private member's Bill was passed by both Houses was in 1970.
- ❖ Till Now, only Fourteen Private Member's bill have been passed by the Parliament.

The Rights of Transgender Persons Bill, 2014: The Rights of Transgender Persons Bill, 2014 is a private member bill introduced by Trichy Shiva M.P. of Tamil Nadu, which seeks to end the discrimination faced by transgender people in India. The Bill was passed by the upper house Rajya Sabha on 24 April 2015. It was introduced in the lower house Lok Sabha on 26 February 2016. The Bill is considered historic as for being the first private member's bill to be passed by any house in 36 years and by Rajya Sabha in 45 years

Distribution of powers of the legislature

- The legislative powers and functions of the Union and the States are clearly demarcated in seventh schedule of the Constitution of India. The powers on which both union and the states can legislate is clearly defined.

The Constitution has classified the subjects for which the legislation can be made to perform the duties and responsibilities with specific powers for division of powers to avoid the seventh schedule of the constitution which provides for trifurcation of legislative powers;

- **The Union List**
- **The State List and**
- **The Concurrent List**

- The Union List includes the subjects over which the parliament has exclusive authority to make laws and change the existing laws. The State Legislature has exclusive authority over subjects mentioned in the state list. In the subjects enumerated in the 'Concurrent List' both the Union and the States can legislate. In the event of contradictions between the Union and States, the Union's authority will prevail. The residuary power is vested in the Centre.

Difference between Ordinary Bill and Money Bill

S.No	Ordinary Bill	Money Bill
1	It can be introduced either in the Lok Sabha or the Rajya Sabha	It can be introduced only in the Lok Sabha and not in the Rajya Sabha
2	It can be introduced either by a minister or by a private member	It can be introduced only by a minister.
3	It is introduced without the recommendation of the President	It can be introduced only on the recommendation of the President
4	It can be amended or rejected by the Rajya Sabha	It cannot be amended or rejected by the Rajya Sabha. The Rajya Sabha should return the bill with or without recommendations, which may be accepted or rejected by the Lok Sabha
5	It can be detained by the Rajya Sabha for a maximum period of six months.	It can be detained by the Rajya Sabha for a maximum period of 14 days only.
6	It does not require the certification of the speaker when	It is requires the certification of the speaker when transmitted to

	transmitted to the Rajya Sabha (if it has originated in the Lok Sabha)	the Rajya Sabha .
7	It is sent for the president's assent only after being approved by both the houses. In case of the deadlock due to disagreement between the two Houses, a joint sitting of both the houses can be summoned by the president to resolve the deadlock.	It is sent for the president's assent even if it is approved by only Lok Sabha. There is no chance of any disagreement between the two Houses and hence, there is no provision of joint sitting of both the houses in this regard.
8	Its defeat in the Lok Sabha may lead to the resignation of the government (if it introduced by a minister)	Its defeat in the Lok Sabha leads to the resignation of the government
9	It can be rejected, approved or returned for reconsideration by the President	It can be rejected, or approved but cannot returned for reconsideration by the President

Lists of powers

Union	State	Concurrent
Defence	Agriculture	Education
Atomic Energy	Police	Transfer of property other than Agricultural land
Foreign Affairs	Prison	Forests
War and Peace	Local Government	Trade Unions
Banking	Public health	Adulterations
Railways	Land	Adoption and Succession
Post and Telegraph	Liquor	
Airways	Trade and Commerce	
Ports	Livestock and Animal Husbandry	
Foreign Trade	State Public Services	
Currency & Coinage		

- An amendment of this Constitution may be initiated through the introduction of a Bill in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President who shall give his assent to the Bill.

Amendment process and Procedure

- The Constitution of India has a unique provision to make the Constitution relevant to changing conditions and needs but without changing the basic structure. Article 368 deals with the amendment of the Constitution. As per this article, the Parliament has the Supreme power to initiate the amendment process. The Parliament may amend the constitution through by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this article.

The bill must be passed in each house by a special majority, that is, majority by more than 50 percent of the total membership of the house and a majority of two - thirds of the members of the house present and voting. Each house must pass the bill separately. In case of a disagreement between the two houses, on issues concerning amendment there is no provision for holding a joint-sitting of the two houses. If the bill seeks to amend the federal provisions of the constitution, it must also be ratified by the legislatures of half of the states by a simple majority, that is, a majority of the members present and voting in such legislatures.

After duly passed by both the houses of parliament and ratified by the state legislatures wherever necessary, the bill is forwarded to the President for assent. The President must give his assent to the bill. He can neither withhold his assent to the bill nor return the bill for reconsideration of the Parliament. After President's assent, the bill becomes an Act (i.e., A Constitutional Amendment Act) and the constitution stands amended in accordance with the terms of the Act.

Types of Amendments

The Constitution can be amended in three ways;

- ❖ Simple majority of the parliament
- ❖ Special majority of the parliament, and

- ❖ Special majority of the parliament and the ratification of half of the State legislatures.

Simple Majority of Parliament:

According to Article 368 a number of provisions in the constitution can be amended by a simple majority of the two houses of parliament. These provisions include

- ❖ Admission or establishment of new states, formation of new States and alteration of areas, boundaries, or names of existing states.
- ❖ Abolition or creation of legislative councils in states.
- ❖ Second schedule - emoluments, allowances, privileges and so on of the President, the Governors, the Speakers, judges, etc.
- ❖ Quorum in parliament.
- ❖ Salaries and allowances of the members of parliament.
- ❖ Rules of procedure in parliament.
- ❖ Privileges of the parliament, its members and its members and its Committees.
- ❖ Use of English language in parliament.
- ❖ Number of judges in the Supreme Court.
- ❖ Conformant more jurisdiction on the Supreme Court.
- ❖ Use of official languages.
- ❖ Citizenship - acquisition and termination.
- ❖ Elections to parliament and state legislatures.
- ❖ Delimitation of constituencies.
- ❖ Union territories.
- ❖ Fifth schedule - administration of schedule areas and scheduled tribes
- ❖ Sixth schedule - administration of tribal areas.

By Special Majority of Parliament

- The majority of the provisions in the constitution need to be amended by a special majority of the parliament, that is, a majority (i.e., more than 50 per cent) of the total membership of each
- house and a majority of two-thirds of the members of each house present and voting. The expression total membership of the house is irrespective of fact whether there are vacancies or absentees. The special majority is required only for voting at the third reading stage of the bill. The constitution's clauses which can be amended in this way include:

- ❖ Fundamental rights
- ❖ Directive Principles of State policy: and
- ❖ All other provisions which are not covered by the first and third categories

Amendments by Special Majority of Parliament and Consent of States

The basic structures of the constitution which are related to the federal structure of the polity can be amended by a special majority of the parliament and also with the consent of half of the state legislatures by a simple majority. There is no time limit within which the states should give their consent to the bill. The following provisions can be amended in this way:

- ❖ Election of the President and its manner.
- ❖ Extent of the executive power of the union and the states.
- ❖ Supreme Court and high courts.
- ❖ Distribution of legislative powers between the union and the states.
- ❖ Any of the list in the seventh schedule.
- ❖ Representation of states in parliament.
- ❖ Power of parliament to amend the constitution and its procedure (Article 368).

State Legislature: Structure, Powers and Functions

Structure of State Legislature

- The state is the second stratum of the federal structure of the Constitution. The provisions for the governance of all the state is dealt in the Part VI of the Constitution except Jammu & Kashmir because it has separate Constitution for its state government. The articles from 152 to 237 deals thoroughly on the subjects of the state legislature. The state legislature which has only Legislative Assembly as House of People is called as Unicameral. Most of the powers and functions are shared by the state legislature is almost like the same as the Union legislature. In a Bicameral system of legislature, the state legislature consists of the Legislative Assembly and Legislative Council.

The Governor

- There shall be a Governor as the Constitutional Head of the State executive, and executive power of the state vested with the Governor and all executive actions of the state has to be taken in the name of the Governor. The Governor of the State shall be appointed by the President. The Governor is appointed for a term of five years or can hold the office during the pleasure of the President or until his successor enters upon his office. The eligibility of appointment of the Governor is that he/she must be the citizen of India, shall not hold any office of the profit and should have completed thirty five years of age. The Governor can be appointed more than once and can hold office for more than one state two states in an exigency or as a transitional arrangement.

Council of Ministers headed by the Chief Minister

Position of the Chief Minister

- The Chief Minister is the head of the cabinet and the council of ministers. In practice, he is the real executive head of the state. As per Article 164(1) of the Constitution of India, the Chief Minister of a state shall be appointed by the Governor of the State.

Powers and functions of the Chief Minister

- As the real executive head of the state, the Chief Minister enjoys wide powers and performs a number of functions. The important powers and functions of the Chief Minister are:
 - ❖ As the head of the council of ministers, the Chief Minister has more powers in ministry-making. He can recommend appointment of ministers and designate them as cabinet ministers or ministers of state or deputy ministers. He can change the portfolios of the ministers. He can even recommend the removal of ministers.
 - ❖ He presides over the meetings of the cabinet and makes major policy decisions of the Government.
 - ❖ He acts as the sole channel of communication between the council of ministers and the Governor. He communicates to the Governor all the decisions of the cabinet relating to administrative and legislative proposals.
 - ❖ He scrutinizes all papers, bills, resolutions, etc. that are to be placed before the legislature.

- ❖ Though, in theory, all major appointments are made by the Governor, in practice, all such appointments are actually made on the advice of the Chief Minister.

State Council of Ministers

Introduction

- Article 163(1) of the Constitution of India provides that there shall be a council of ministers headed by the Chief Minister to aid and advise the Governor in the exercise of his functions except when he is required by the Constitution to act in his discretion.
- The state council of ministers is formed in the same manner as the union council of ministers is formed. The leader of the majority party or coalition of parties in the legislative assembly is appointed as the Chief Minister by the Governor. The other ministers in the council of ministers are appointed by the Governor on the advice of the Chief Minister.

Term of office of the council of ministers

- As per the constitution, the council of ministers hold office during the pleasure of the Governor. But, in reality, the council of ministers hold office during the pleasure of the Chief Minister, because the Governor acts on the advice of the Chief Minister. The council of ministers are individually responsible to the Chief Minister. The council of ministers are collectively responsible to the legislative assembly of the state. That means, the council of ministers shall speak in one voice.

The State Cabinet

- The council of ministers consists of cabinet ministers, ministers of state and deputy ministers. Of the council of ministers, the cabinet ministers constitute the state cabinet. The cabinet ministers of the state cabinet are, generally, the prominent ministers of the council of ministers. It is headed by the Chief Minister. The cabinet takes decisions on behalf of the council of ministers, and so, all the ministers are bound by the decisions of the cabinet.

Officials and Committees in State Legislative Assembly

Speaker of the State Legislative Assembly:

- The Speaker is elected by the Members of Legislative Assembly itself, and is the Presiding Officer of the Assembly. The Speaker has the responsibilities and powers of conducting business of the assembly in orderly manner, maintaining decorum and regulating its procedure in terms of allowing the members to question, speak on matters of importance, budget and grants. The Speaker is the interpreter of the provisions of the Constitution, rules of procedure in the assembly proceedings, rules of procedure and legislative precedents within the Assembly. The Speaker has the power to adjourn, suspend and resume the sessions and suspend the members from participating in the session when there is a violation of rules, procedures and regulations of the assembly.
- The Speaker has to generally maintain neutrality and impartiality while conducting the business of the house. The Speaker's vote becomes more important when there is a tie on any issue regarding passing of bill, motion and resolutions. The Speaker's decision is final in regulating the conduct of members and in matters of procedure or maintaining order in the house. And in such matters the Speaker is not to be subjected to judicial intervention. The Speaker appoints the Chairmen of all the Committees and supervises their functioning. The Deputy Speaker
- The Deputy Speaker is also elected by the members of the Assembly from amongst themselves. He performs the duties and responsibilities of the Speaker as his absence and presides over the Assembly in the absence of the Speaker. The deputy Speaker has also powers on par with the Speaker within the House. Any member existing in a panel can preside over the House in case of absence of Speaker and the deputy Speaker.

Committees of the Parliament

- Broadly, parliamentary Committees are of two kinds - Standing Committee and Ad Hoc Committees. The former are permanent (constituted every year or periodically) and work on a continuous basis, while the latter are temporary and cease to exist on completion of the task assigned to them.

Standing Committees

- On the basis of the nature of functions performed by them, standing Committees can be classified into the following six categories

Financial Committees

- a) Public Accounts Committee
- b) Estimates Committee
- c) Committee on Public Undertakings

Departmental Standing Committees (24) Committees to Inquire

- a) Committee on Petitions
- b) Committee of Privileges
- c) Ethics Committee

Committees to Scrutinise and Control

- a) Committee on Government Assurances
- b) Committee on Subordinate Legislation
- c) Committee on Papers Laid on the Table
- d) Committee on Welfare of SC's and ST's
- e) Committee on Empowerment of Women
- f) Joint Committee on Offices of Profit

Committees Relating to the Day-to- Day Business of the House

- a) Business Advisory Committee
- b) Committee on Private Members' Bills and Resolutions
- c) Rules Committee
- d) Committee on Absence of Members from Sitzings of the House

Ad Hoc Committee

Ad Hoc Committees can be divided into two categories, that is, Inquiry Committees and Advisory Committees.

Committee on Estimates: The major responsibility of the Committee is to suggest the examiner, estimator and recommendation on matters related to economic related policy issues and alternative policies, administrative

reform, undertaking the tours and visits within and outside the state to study various schemes under execution in regard to the estimates under examination.

Committee on Public Accounts: The important functions of the Committee are to scrutinise the Appropriation Accounts of the State and the Report of the Comptroller and Auditor-General of India (Civil). Also looks into the Revenue receipts and the disbursement of money shown in the accounts applicable to the services or purposes to which they had been applied and charged.

Committee on Public Undertakings: This Committee is to examine the Audit reports and accounts of Public Undertaking from time to time. The Committee also examines the autonomy and efficiency of the Public Undertakings. This Committee is also taking note on the affairs of the Public Undertakings are being managed in accordance with sound business principles and prudent commercial practices. The Committee also examines the Reports of the Comptroller and Auditor General of India on the Public Undertakings. The Committee examines the working of the Undertakings under its purview, hears officials or takes evidence connected with such undertakings and makes recommendations to the House.