

**INDIAN CONSTITUTION & POLITICS
(PART-II)**

COMPLEMENTARY COURSE

(IV SEMESTER)

**BA
HISTORY/ECONOMICS/SOCIOLOGY/
PHILOSOPHY & ENGLISH**

(2011 Admission)



UNIVERSITY OF CALICUT

**SCHOOL OF DISTANCE EDUCATION
Calicut University PO, Malappuram, Kerala, India 673 635**

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SCHOOL OF DISTANCE EDUCATION

STUDY MATERIAL

Complementary Course for

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IV SEMESTER

INDIAN CONSTITUTION & POLITICS (PART-II)

Prepared by: *Smt. Tanuja Raghavan*
Associate Professor and Head
Department of Political Science,
Zamorin's Guruvayurappan College,
Calicut – 14

Scrutinised by:

Dr. G. Sadanandan
Associate Professor & Head
PG Department of Political Science
Sree Kerala Varma College
Thrissur

Layout by:

Computer Section, SDE

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MODULE-I

INDIAN PARTY SYSTEM

Introduction

Political parties are indispensable for the working of a democratic government. In fact, political parties are the life and blood of democracy. According to Bagehot

“Party government is the vital principle of representative government.” In the words of Prof. Harold Laski, “There is no alternative to party government save dictatorship in any state of the modern size and they are inevitable in a democracy.” In every democratic country the party system is an extra-legal growth. It exists outside the legal framework of the state and is not referred to in the Constitution. Political parties express and form public opinion and are the chief mechanism of informing and influencing the electorate. Organisation and mobilization of the electorate is an important function of the political parties.

Definition

By a political party we mean a group of citizens more or less organized who hold common views, ideas on public questions and acting as a political unit seeks to obtain control of the government in order to further the policy which they profess MacIver defines a political party, “As an association organized in support of some principle or policy which by constitutional means it endeavors to make the determinant of government.” According to Gilchrist a party may be defined as, “an organized group of citizens who profess to share the same political views and who by acting as a political unit try to control the Government.” Leacock compares it, “With a joint stock company to which each member contributes his share of political power.”

Functions

Political parties generally perform the following functions:

- Building party cadres
- Organizing public opinion on important issues affecting public
- The selection of candidates for election.
- Provide leadership to the people.
- Planning and execution of the election campaign.
- Maintaining party discipline and loyalty.
- To formulate policies and programs and implement them after coming into power.
- Educate people and arouse political consciousness.

Evolution of Party System in India

The contemporary party system in India developed originally in the context of the struggle for freedom. The centre of political activity during the National Movement was the Indian National Congress which was founded in the year 1885. In the pre-independence years, the Indian National Congress was the first organized political party of Indians. In course of time, the Congress attracted cross- sections of Indian community and became a mass organization. Later on in 1906, the Muslim League, in 1916 the Hindu Maha Sabha and in 1924 the Communist Party were formed. After Independence the adoption of a democratic federal system set the stage for the emergence of several political parties both at the National and the regional levels.

Features of Indian Party System

1. *A multi-party system* –As a pluralist society, India has a multi-party system with several political parties continuously engaged in the political process. Several political parties functioning in the Indian parliamentary democracy, the Congress, Bharathiya Janata Party, Communist Party of India, Communist Party of India (Marxist), Bahujan Samaj Party, Janata Dal, Samata Party, Nationalist Congress Party at the national level and political parties like the National Conference, DMK, AIDMK, Telugu Desam, Akali Dal, Assam Ganaparishad, Samajwadi Party, Rashtriya Janata Dal, Trinamool Congress, Jharkhand Mukti Morcha etc at the regional level. Six political parties stand recognized as National level political parties (BSP, BJP, Congress, CPI, CPM, NCP) while around 45 parties are recognized as state level or regional political parties. In addition there are about 400 other registered parties. Although initially the party system in India worked as a one party dominant system, the opening of the era of coalition governments since 1989 has strengthened the multi-party system in India.
2. *One Party Dominance System* – The Indian party system was known as the one party dominant system because of the dominant position of the Congress party between 1947-1967; 1971-1977 as well as from 1980-89. The Congress party exercised a monopoly of power at the centre and, with a few exceptions, had been in control in most of the states. Rajni Kothari asserted that the Congress party, based upon a broad consensus, was able to accommodate diverse interest and factions within its fold.
3. *Endless proliferation of political parties* – There has been a mushroom growth of national, regional, communal and adhoc parties in India. No other democratic country in the world has such a multiplicity of political parties. The party structure has also been rapidly changing due to splits, defections, alliances and counter-alliances. This unusual growth of political parties is the result of a series of complex and inter-related development such as the emergence of new social aspirations, the political skill of the regional leaders and the excessive centralism and monopolistic policies of the Congress. Moreover, the formation and functioning of political parties is not regulated by law. This proliferation of political parties is not in the national interest as it hinders the emergence of a strong and effective opposition party.
4. *Fragmented Opposition*- A peculiar feature of the Indian party system is that although there are a number of opposition parties and groups, they do not constitute a credible national alternative. Ideological incompatibility, personal differences among party leaders and the refusal of the parties to merge their identity in the new organization also prevents the emergence of a credible national alternative. However, in the context of the coalition era, political parties have been coming forward to set up political alliances to form coalition governments.
5. *Lack of Ideological Commitment*- Ideology equips a party with a meaningful end and the motivation necessary for mobilizing its organization to achieve that end. Despite their emphasis on ideological commitment, the main aim of all political parties in India has been to capture power. Today Indian politics has become more issue-oriented rather than ideologically committed. Political parties lack a clear cut ideology. As Francine Frankel has opined “Elections have been won not on the basis of the inherent strength of the ideology of a political party but on the basis of issues of immediate concern to the electorate.”

6. *Organizational Drawbacks*- Another feature of the Indian party system is the organizational looseness of political parties and lack of party discipline. From the organizational point of view, the Indian party system has suffered at the hands of both the leaders and their followers. Most of the parties do not have democratically organized structures. Several political parties maintain no membership registers, keep no accounts, hold no organizational elections and lack organizational discipline. Parties are dominated by the 'top leaders' or the 'party elites'. A leader of towering personality can make or break a political party.
7. *Dominance of Personality-Cult*- Party politics in India is characterized by the dominance of individuals in the political parties. Political parties stand organized around charismatic personalities and their leadership. Parties are often formed not on ideological or programmatic basis but around politically influential individuals. Such parties become a group of power seekers whose fortunes depend on their leader and never acquire a mass base.
8. *Dominance of Caste and Communal Forces*- Political parties are ridden by caste and communal considerations to a large extent in India. It is evident right from the selection of candidates for contesting elections from the various constituencies, to the distribution of ministerial portfolios after the winning of elections. Every political party keeps in mind the caste and communal composition of the constituency while choosing the candidate. Attempts are made to influence the electoral behavior also on the basis of caste and communal identities. Parties are also dominated by caste and communal leaders.
9. *Inner Factionalism and Groupism*- Factions and Groupism within political parties has become a common feature of Indian party system. Internal factionalism and groupism is found in almost all the political parties. Groups owing loyalties to different leaders are present in different political parties. Such factional leaders compete among themselves for political influence within the party and the government. Such factionalism tends to keep the parties in a constant state of flux.
10. *Emergence of regional political parties*- In India several regional political parties have grown in number and influence. These parties articulate and seek to defend a regionally-based ethnic or religio-cultural identity. Some of the prominent regional political parties are the DMK and the AIDMK in Tamilnadu; Akali Dal in Punjab; Assam Gana Parishad in Assam; National Conference in Jammu & Kashmir; Telugu Desam in Andhra Pradesh; Shiv Sena in Maharashtra. Another new development is the growing influence of these regional parties in the government formation at the centre in the context of 'hung
11. parliament' and coalition politics. A process of power sharing between national and regional political parties has been instrumental in the formation of government at the centre.
12. *Politics of Defection*- Defection is the term used for opportunistic transfer of loyalties from one political party to another for selfish and power seeking reasons, without resigning the membership from the legislature. It is also known as 'floor crossing'. During

1951-67 political defections took place on a very limited scale. After the Fourth General Elections, 1967, Indian political system came to experience a spate of political defections. In 1985, the Parliament passed the 52nd Amendment Act for checking defections. It outlawed defections and constituted a bold attempt to check the evil practice of political defections. The **52nd Amendment Act, 1985**, added a new Schedule—the **Tenth Schedule** to the Constitution.

13. *Politics of Populism*- Almost all the political parties adopt and follow populist policies and raise populist slogans for securing their vote banks. Waving of loans, increased reservations, free water and electricity, food grains at very low prices etc. are some of such schemes. Such populist decisions do not take into account the increasing revenue needs of the state and ultimately leads to financial crisis.
14. *Irrelevance of Party Manifestos*- As part of the election campaign, every contesting party issues its manifesto. But the document has become a mere formality and is losing its significance. No party refers to its manifesto seriously and there is not much difference in the contents of various manifestos. Every election manifesto comes up with populist policies and promises. Moreover the differences among major political parties on critical issues of domestic policies are hardly visible.
15. *Use of Extra-Constitutional Means to Power*- Political parties have been using non-parliamentary and extra-constitutional means for gaining power instead of resorting to peaceful and constitutional means. All the political parties resort to strikes, gheraos, bandhs etc for securing party gains. During elections some political parties resort to malpractices like booth capturing, rigging, forced voting, poll violence and forcible prevention from voting.
16. *Era of Coalition Politics*- The era of coalition politics has dawned in India. In the context of 'hung parliament', when no political party gets a clear cut majority in the legislature, a coalition government has to be formed with several political parties coming together. Since 1996 coalition governments have been in power at the centre and in several states.

Indian party system has been the product of the social, economic, cultural, linguistic, religious and regional pluralism which has been a basic feature of Indian society. Indian party system has been a fast changing and developing multi-party system. It has come out of the age of one-party dominant-multi party system and now is developing as a real multi-party system. The existence of several political parties both national and regional, has kept the Indian political party scenario very complex.

Classification of Political Parties

In India political parties are classified into the following-

1. All India Political Parties or National Parties- All India political parties have been officially defined as those national parties with broad based national support and able to win at least six percent of valid votes polled in any four or more States at the general elections to the Lok Sabha and in addition win at least four seats in the Lok Sabha from any State or States. Another criterion is that a political party wins at least two percent of seats in the Lok Sabha i.e. at least 11 seats in a house of 543, and its elected members are from at least three different states. These parties emphasize on

national issues in the parliamentary elections. Eg.- Indian National Congress, Bharathiya Janata Party, Communist Party of India, Communist Party of India (Marxist), Bahujan Samaj Party, Janata Dal, Samata Party.

2. Regional Parties- They clearly represent sub-regional nationalism based upon the common language, culture and history of a region. These parties try to aggregate regional interests regardless of the caste and religious affiliation of their members and their power base and voting strength are confined to a particular geographic area. E.g. – DMK, AIDMK in Tamil Nadu; Telugu Desam (Andhra Pradesh); the National Conference (Jammu&Kashmir); Assam Gana Parishad (Assam).
3. Communal Parties- Include those parties and organizations that are exclusive in their memberships; that is they accept as members only persons of a particular religion or ethnic community. They seek to protect and promote the interest of that particular community only. E.g. - Muslim League (Kerala); Akali Dal (Punjab); Shiv Sena (Maharashtra) etc.
4. Ad-hoc parties- Consists of those organized around powerful persons or local and state issues. Such parties may not survive very long; some may appear only for a short period and then disappear completely or merge into other parties. The Bangla Congress, Kerala Congress etc are examples of such ad-hoc parties.

REGIONALISM

In India, even prior to Independence, regionalism was used as a tool by the imperialist to promote their policy of keeping India divided. Regionalism was deliberately encouraged, as a result of which people in each region thought more in terms of their region rather than of India as a whole. Regionalism means love of a particular region or state in preference to the country as a whole. A region is defined territorial unit including particular language, tribes or ethnic groups, music, folk dance, folk arts, particular social settling and cultural pattern.

State and local political leaders exploit regional feelings of the people, in order to maintain and strengthen their leadership. They try to talk of regional imbalances and regional backwardness and exploit the feelings of the people of a particular region. Regionalism grew due to four factors: 1. Lack of balanced economic and social development. 2. Increasing awareness among the people that they were neglected in matters like education, job opportunities, setting up of factories, construction of dams, allocation of central funds and grants. 3. Personal and selfish ends of politicians. 4. Creation of linguistic states which reinforced and stirred demands for increased state autonomy.

Regionalism has been a big hindrance in the process of national integration and nation-building. It continues to plague Indian political system in several forms. (i). Demands for secession. (ii). Demands for separate statehood. (iii). Demands for full statehood. (iv). Demand for autonomy. (v). Demand for regional autonomy within a state. (vi). Inter-state disputes. (vii). Sons of the Soil Policy.(viii). Militant Regionalism (ix). Linguistic Regionalism.

ROLE OF REGIONAL PARTIES

The establishment of a strong centre had given rise to demands for decentralization of administration and increased autonomy for states. These demands have manifested in the formation

and consolidation of regional parties. The creation of linguistic states have reinforced regionalism and brought forward demands for increased state autonomy. The main objectives of regional parties are: revival of regional culture, linguistic heritage or religion; administration and political decentralization and devolution of power; giving a new dimension to the centre state relations.

Several factors have been responsible for the emergence of regional political parties in India. The presence of distinct cultural, ethnic, religious, linguistic and caste groups within India has greatly helped the process of growth of regional parties. Religious factor, regional imbalances, anti-centralism, political splits etc. are other factors responsible for the emergence of regional political parties in India.

The role of regional political parties has been progressively increasing in the Indian political system. **Firstly**, regional parties have posed the most powerful challenge to India's 'one party dominant system'. **Secondly**, regional parties have made a strong impact on the nature and course of Centre-state relations. The State leaderships have become more demanding with their dealings with the Central leadership and the centre is becoming more responsive to the needs and demands of the regional parties. **Thirdly**, regional parties have made politics more competitive and popular participation in the political process has become more extensive. **Fourthly**, in the context of the present era of coalition politics, several regional parties have been emerging as key players in national politics. During 1999-2004, 23 regional political parties shared power at the centre as partners of the NDA. Since 2004 the UPA is governing at the centre consisting of around 20 political parties including regional political parties. Emergence and growing number and popularity of regional political parties have helped in a new thinking which admits a positive role that regional parties can play in the process of nation building. Participation of regional political parties in national politics has been a new factor of Indian politics and federalism.

It can be concluded that the role of regional political parties in the Indian political system has been enormous. On the one hand they have helped in the development of participatory political culture and provided a check against the overshadowing tendencies of the Central government; on the other they are also a source of strength for the development of the federal process in India.

MODULE-II

ELECTION SYSTEM AND ELECTORAL PROCESS IN INDIA

Introduction

A democratic system cannot function effectively without a well organized election system. It is only through the apparatus of election that the involvement and participation of the people can be ensured in a democratic political system. The government gets its legitimacy through free, fair and periodic popular elections. A good electoral system is, therefore, the bed-rock of genuine representative government. The electoral system must operate in an efficient and impartial manner. Stressing the importance of electoral administration, Pollock observed, "Unless public elections are conducted with accuracy and efficiency, not only the public services are discredited but the whole democratic system is endangered."

Features of Indian Election System

1. *Direct Election of Representatives*- The Indian Constitution provides for the direct elections of the representatives of the people. Members of the Lok Sabha (**Art.81**) and the State Legislative Assemblies (**Art.170**) are chosen by direct election from territorial constituencies in the States. Members of the Municipalities (**Art.243 R**) and Village Panchayats (**Art.243 C**) are directly elected by the people.
2. *System of Indirect Election*- The members of the Rajya Sabha and the State Legislative Councils are indirectly elected. According to **Art.80 Clause 4** "The representatives of each State in the Council of States shall be elected by the elected members of the Legislative Assembly of the State in accordance with the system of proportional representation by means of the single transferable vote." The President and the Vice-President of India are also indirectly elected in accordance with a system of proportional representation.
3. *Joint Electorates*- The system of communal electorates, which had been introduced by the British vide the Minto Morley reforms in 1909 and continued till 1947, was done away with by the Indian Constitution. This system was replaced and the system of joint electorates was introduced by the Constitution of India. All eligible voters without any discrimination form a common electorate for electing their representatives. This is very clear from **Art.325** which states that, "There shall be one general electoral roll for every territorial constituency for election to either House of Parliament or to the House or either House of the Legislature of a State and no person shall be ineligible for inclusion in any such roll or claim to be included in any special electoral roll for any such constituency on grounds only of religion, race, caste, sex or any of them."
4. *Universal Adult Franchise*- The Indian Constitution provides for universal adult franchise i.e. all citizens have the eligibility to vote without any discrimination. **Art.326** of the Constitution states that the elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage. Earlier 21 years was the minimum voting age, which was lowered to 18 years by the **61st Constitutional Amendment Act, 1988**.

5. *Reservation of seats for Scheduled Castes and Scheduled Tribes-* **Art.330** of the Indian Constitution provides for the reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the People. The **95th Constitutional Amendment Act 2009** amended Art 334 to extend the reservation of seats for SCs and STs in the Lok Sabha and states assemblies from Sixty years to Seventy years. At present, the number of constituencies reserved for Scheduled Castes has increased from 79 to 84, after the delimitation of constituencies. Likewise, the number of seats reserved for Scheduled Tribes has increased from 41 to 47. **Art.332** Provides for the reservation of seats for the Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States. At present the Kerala State Legislative Assembly has 14 SC and 2 ST representing constituencies.
6. *Provision for Nominations-* There is also provision for nominations of members to the Union Parliament and the State Legislatures in the Indian Constitution. The President can nominate 12 members to the Rajya Sabha from amongst persons having special knowledge or practical experience in respect of such matters, namely literature, science, art and social service, vide **Art.80** of the Indian Constitution. Also, as per **Art.331**, the President may nominate not more than two members of the Anglo-Indian community to the Lok Sabha, if the President is of the opinion that the Anglo-Indian community is not adequately represented in the Lok Sabha. Likewise the Governor of a State has the power to nominate members to the Legislative Council's of States having bi-cameral legislatures, from amongst persons having special knowledge or practical experience in respect of such matters, namely literature, science, art, co-operative movement and social service, vide **Art.171** of the Indian Constitution. Further the representation of the Anglo-Indian community in the Legislative Assemblies of the States by the Governor is provided in **Art.333** of the Indian Constitution.
7. *Territorial and Single Member Constituencies-* Indian election system provides for the creation of single-member territorial constituencies. All the voters in a particular and defined territory constitute one constituency. Each territorial constituency elects one representative. Each Constituency is divided into as many constituencies as is the number of seats in its Legislative Assembly. In Kerala there are 140 Legislative Assembly constituencies. For elections to the Lok Sabha 7 Assembly constituencies are combined to constitute a single Lok Sabha constituency from which one MP is elected.
8. *Delimitation of Constituencies-* The task of delimiting the constituencies for the Assembly and Parliament elections is performed by a Delimitation Commission. After every census the boundaries of the constituencies are delimited or redrawn. The Delimitation Commission is a three member body constituted as per the Delimitation Act, 1952 enacted by the Parliament. The Chief Election Commissioner is an ex-officio member of this commission. The two other members are nominated by the President from serving or retired judges of the Supreme Court or High Courts. The decisions of the Delimitation Commission are final and cannot be challenged in any court.
9. *Secret Ballot System-* Voting in elections is done on the secret ballot basis. The voters can exercise their votes in accordance with their wishes and opinions. Special steps are taken to ensure and maintain secrecy in the elections. Secret Ballot is essential for ensuring a free and fair electoral mandate.

10. *Qualifications and Disqualifications for Membership of Legislative Bodies*- The Indian Constitution has specified certain qualifications and disqualifications for membership of the legislative bodies at the centre and the states. **Art.84** specifies the qualification for membership of Parliament, while **Art.173** provides the qualification for membership of the State Legislatures. Likewise the disqualifications for membership of the Parliament are covered in **Arts.101-104**; whereas the disqualifications for membership of the State Legislatures is covered in **Arts.190-193**. **The Representation of the People Act, 1951** also has specified certain qualifications and disqualifications for the membership of the Parliament and the State Legislatures.
11. *Regular Revision of Electoral Rolls*- The function of revising the electoral rolls enumerating the names of all the eligible voters is entrusted to the Election Commission. After each census, which is held in every ten years, the electoral rolls are revised with addition or deletion of names. The Election Commission also revises the electoral rolls before any election. It is essential that a person has his name in the electoral rolls in order to exercise his franchise on the day of the election.
12. *Relative Majority Vote Victory System*- The victory in the election is determined on the basis of relative majority of votes or the first past the pole principle. In other words, the candidate who secures more number of votes than every other fellow contestant in the constituency is declared elected as representative to the Lok Sabha or the State Legislative Assembly, as the case may be.
13. *Introduction of Electronic Voting Machines*- The Election Commission has introduced the Electronic Voting Machines (EVMs) for the recording and counting of votes. The EVMs reduce the time in both casting a vote and declaring the results compared to the old paper ballot system. EVMs were first used in 1982 in the by-election to North Paravur Assembly Constituency of Kerala for a limited number of polling stations (50 polling stations). Since 2004, EVMs are being used for the conduct of Parliament and Assembly elections.
14. *Single Independent Machinery for the conduct of Elections in India*- The Election Commission of India has been entrusted the responsibility of the conduct of elections in India. **Art.324** of the Constitution lays down that, “ The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution shall be vested in an Election Commission.”
15. *Election Petition for Settlement of Election Disputes*- The Constitution lays down the method for the settlement of election disputes. The election of any representative can be challenged through a petition before the High Court and the appeals against the decisions of the High Court can go to the Supreme Court. The election of a successful candidate can be challenged on the ground of breach of provisions of the Representation of the People Act or alleged electoral malpractices committed by the candidate.
16. *Power of the Parliament and State Legislatures to make provisions in respect of Elections*- **Art.327** of the Indian Constitution vests the Parliament with the power to make provision with respect to all matters relating to the elections to either House of the Parliament. Similarly, **Art. 328** vests the Legislature of the States to make provision with respect to

elections to the House or either House of the Legislature of the State. Under the provision of **Art.327**, the Union Parliament passed the **Representation of the People Act, 1951**. However, till today no state Legislature has exercised the power available under **Art. 328**.

Thus, the Indian Constitution provides for a well structured election system which has been designed to meet the objective of holding free and fair elections at periodic intervals. There are several constitutional provisions and Parliamentary Acts to ensure the functioning of the democratic process in an efficient manner.

Electoral Process in India

The electoral process in India is operationalised in different stages.

1. *Delimitation of Constituencies*- The first step in conducting the elections can be described as the delimitation of constituencies which is done by a three member Delimitation Commission appointed after every census by the President. Single member territorial constituencies are demarcated by this commission. The proportion of population in all constituencies is approximately equal. The decisions of the Delimitation Commission are final and cannot be challenged in any court.
2. *Preparation of Electoral Rolls*- The electoral rolls, containing the names of the eligible voters in each constituency, have to be prepared before the conduct of elections. These electoral rolls are revised after each census as well as after regular intervals.
3. *Notification of Elections and Appointment of Returning Officers and other staff*.-When general elections are to be held, the President sends a communication to the Election Commission. After consulting the central and state governments, the Election Commission announces the poll calendar i.e. the dates for filing the nomination papers, scrutiny of nomination papers and withdrawal of names by the candidates. The Election Commission then appoints the Returning Officers for the various constituencies. The Regional Election Commissioners help the Election Commission in the smooth conduct of elections.
4. *Filing of nominations Papers*- The candidates seeking to contest in an election have to file their nomination papers with the Returning Officer of their respective constituencies in the forms prescribed by the Election Commission. The name of each candidate has to be proposed by a voter and seconded by another voter. Candidates can be sponsored by political parties or can be independents owing allegiance to no political party. Every candidate has to make a security deposit at the time of filing the nomination. For Lok Sabha every candidate has to make a security deposit of Rs.10, 000/- and for State Legislative Assembly, Rs. 5,000/-. Candidates belonging to the Scheduled Castes and Scheduled Tribes are required to deposit Rs. 5,000/- for contesting Lok Sabha elections and Rs. 2,500/- for Legislative Assembly elections. The security deposit is forfeited if the candidate fails to get at least 1/6th of the valid votes polled.
5. *Scrutiny of Nomination Papers*- After the last date for the filing of the nomination, all the nomination papers is scrutinized by the Returning Officer in the presence of the candidates. The Returning Officer then notifies the names of those candidates whose nomination papers are found in order.

6. *Withdrawal of Nominations*- The candidates are allowed to voluntarily withdraw their nominations by the date fixed by the Election Commission. A candidate has to apply in writing to the Returning Officer.
7. *Election Campaign*- Once the candidates are fielded for the election, the political parties start their election campaign. Different political parties announce their policies and programmes in the form of election manifesto. Many campaign techniques are involved in the election process such as, holding public meetings, distribution of handbills and pamphlets, door to door canvassing, broadcasting and telecasting speeches of political leaders. The official campaign lasts at least two weeks from the drawing up of the list of nominated candidates, and officially ends 48 hours before polling closes.
8. *Polling of Votes*- The date of the polling and the polling hours are fixed by the Election Commission. In order to conduct polling, large number of polling booths is set up in each constituency. Each polling station is placed under the charge of a Presiding Officer, who is assisted by polling officers, to conduct the poll. Voters after establishing their identity, record votes on the ballot paper given and deposit it in the ballot box/ or record vote in the Electronic Voting Machine. After the polling ends, the sealed ballot boxes or voting machines are dispatched to the office of the Returning Officer for counting.
9. *Counting of Votes and Declaration of results*- On a fixed day and time the Returning Officer and his staff members open the ballot box or the voting machine in the presence of the agents of the candidates and counts and records the votes polled by each candidate. A candidate who gets the maximum number of valid votes is declared elected. The Returning Officer makes the announcement of the results and sends them to the Election Commission.
10. *Election Petition for Settlement of Disputes*-After the declaration of results, the election of a winning candidate can be challenged either by the defeated candidates or by a voter or a group of voters. An election petition can be filed before the High Court within a fixed period. The petition can be preferred on grounds of electoral mal-practices or irregularities in the conduct of elections. The candidate can appeal in the Supreme Court of India against the decision of the High Court.

Important Electoral Reforms proposed by the Election Commission

1. *De-criminalization of politics* –For preventing persons with criminal background from becoming legislators, the Commission has made a proposal for disqualifying (from contesting election) a person against whom charges have been framed by a Court for an offence punishable by imprisonment of 5 years or more. Under the existing law (Section-8, ROP Act, 51) there is a disqualification once a person is convicted and sentenced to imprisonment of two years or more.

As a precaution against foisting false cases on the eve of election, it has been suggested that only those cases in which charges are framed six months prior to an election should be taken into account for that election.

2. *Political party's reforms* –The Commission has suggested that legal provisions be made to regulate the functioning of political parties and the Commission should be empowered to regulate registration as well as de-registration of political parties.

The political parties should be legally required to get their accounts audited annually. The audited accounts should be put in public domain. There should be transparency in the fund raising and expenditure of political parties.

Income tax exemption for donations should be given only for those political parties which contest election and win seats in the Parliament/State Legislature.

3. *Misuse of religion for electoral gain* – A Bill was introduced in the Lok Sabha in 1994 [R.P. (second amendment) Bill, 1994], whereby an amendment was proposed providing for provision to question before a High Court, acts of misuse of religion by political parties. The Bill lapsed on the dissolution of the Lok Sabha in 1996. The Commission has proposed that the provision in that Bill should be considered again.
4. *Amendment of law to make ‘paid news’ an electoral offence*-. The Commission has been proposed amendment in the Representation of People Act, 1951, to provide therein that publishing and abetting the publishing of ‘paid news’ for furthering the prospect of election of any candidate or for prejudicially affecting the prospect of election of any candidate be made an electoral offence under chapter-III of Part-VII of Representation of People Act, 1951 with punishment of a minimum of two years imprisonment.
5. *Punishment for electoral offences to be enhanced*- Undue influence and bribery at elections and publishing false statement are electoral offences. Considering the gravity of the offences in the context of free and fair elections, the punishments has been proposed to be enhanced and made cognizable.
6. *Government sponsored advertisements* – For six months prior to the date of expiry of the term of the House, there should be a ban on advertisements on achievements of the Government.
7. *Prohibition of Campaign during the Last 48 Hours*-. Section 126 of the Representation of the People Act, 1951, prohibits electioneering activities by way of public meetings, public performance, processions, advertisements during the period of 48 hours before the time fixed for conclusion of poll. However, this Section does not include print media. The Commission has proposed that Section 126 should apply equally to the print media also. The Commission has further proposed that house to house visits by candidates/supporters should also be specifically prohibited during the said period of 48 hours, to allow the electors period of tranquil to decide their options.
8. *Punishment for false affidavit by candidates* – The Commission has recommended that Section-125A of R.P. Act, 51, should be amended to provide that any complaint regarding false statement in the affidavit filed by the candidates in connection with the nomination paper shall be filed before the Returning Officer (RO) concerned within a period of 30 days from the date of declaration of the election and that it shall be the responsibility of the RO to take proper follow-up action. The complaint can also lie directly to the Magistrate Court.
9. *Negative/neutral voting* – In the ballot paper and on the ballot unit, after the particulars relating to the last candidate, there should be provisions for a column ‘none of the above’ to enable a voter to reject all candidates if he so desires.
10. *Amendment of law to provide for filing of election petition even against defeated candidates on the ground of corrupt practice*-. As per the existing law, election petition (EP) can be filed only for challenging an election of the winning candidate.

The Election Commission has recommended that the law should be amended to provide for filing of EP in cases of commission of corrupt practice by a losing candidate as well.

11. *Ban on transfer of election officers on the eve of election* – In the case of general election, there should be a ban against transferring any election related officer without the concurrence of the Commission for a period of six months prior to the expiry of the term of the House.

12. *Rule making authority to be vested in the Commission* –The Commission should be given the power to frame rules under the R.P. Act, 1950 and 1951.

13. *Use of Totalizer for counting of votes* – The proposal is for amendment of the Rules to provide for the use of totalizer for counting of votes at EVM elections.

THE ELECTION COMMISSION OF INDIA- COMPOSITION

There exists a single independent machinery for the conduct of elections in India. The Election Commission of India has been entrusted the responsibility of the conduct of elections in India. **Art.324** of the Constitution lays down that, “ The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution shall be vested in an Election Commission.”

The Constitution provides that the Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners as the President may from time to time fix. When any other Election Commissioner is so appointed the Chief Election Commissioner shall act as the Chairman of the Election Commission. The Chief Election Commissioner and other Commissioners are appointed by the President subject to the provisions of the law made by the Parliament. The term of the Election Commissioners is six years from the date of appointment or till the attainment of 65 years, whichever is earlier. The CEC and other commissioners can quit office by submitting their resignations to the President. The President can also remove the election commissioners before the expiry of the full term upon the recommendation of the Parliament. Any Election Commissioner can be removed by the President only when a resolution charging him with proven misbehaviour or incapacity is passed by each House of the Parliament with a majority of the total membership and 2/3rd majority of the members present and voting.

The founding fathers of the Indian Constitution on, 25th January 1950 gifted to the nation a precious institution by the name of Election Commission of India to ensure representative democracy. Sri. Sukumar Sen was the first Election Commissioner. In order to encourage more young voters in the political process, the Government of India decided to celebrate **25th January as National Voter’s Day**. The National Voter’s Day was launched on 25th January 2011.

The Election Commission was made a multi-member body in October 1993. Apart from the Chief Election Commissioner Sri.T.N. Seshan, two more Election Commissioners were appointed- Sri G.V.G. Krishnamurthy and Dr. M.S. Gill. The Election Commission of India continues to be a three member commission- one Chief Election Commissioner and two other Election Commissioners. The present CEC is Dr. S.Y. Quraishi, with Sri. V.S.Sampath and Sri. H.S. Brahma are the other two election commissioners.

POWERS AND FUNCTIONS OF THE ELECTION COMMISSION

The Election Commission of India has to perform multifarious duties assigned to it under the Constitution. Some of the principal functions of the commission are:

1. Demarcation of Constituencies

To facilitate the process of elections a country has to be divided into several constituencies. The task of delimiting the constituencies is generally performed by a delimitation committee. As an outcome of the recommendation of the Election Commission the Parliament enacted the Delimitation Act, 1952. The Delimitation Commission was to consist of three members, two of whom were to be nominated by the President from serving or retired judges of the Supreme Court or High courts while the Chief-Election Commissioner was to be an ex-officio member.

2. Electoral Rolls

The second important but tedious function of the Election Commission is to prepare for identification the up-to date list of all the persons who are entitled for voting at the poll.

3. Recognition of Political Parties and allotment of symbols

A new part (Part IV A) has been added to the Representation of the People (Amendment) Act, 1951, on registration of political parties. Section 29 A now inserted for provides for registration with the commission, of associations and bodies of individual citizens of India as political parties for purposes of this Act. This provision came into force from June 15, 1989. A recognized political party has been classified either as a National party or as a State party under the paragraph 7 of the Elections Symbol Order, 1968.

Another important function of the Election Commission is to allot symbols to the political parties and the candidates, and also to accord the recognition to the political parties. The Commission has specified certain symbols as reserved and others as free. The reserved symbols are only available for candidates sponsored by the political parties and the free symbols are equally available to other candidates.

4. Scrutiny of the Nomination Papers

Another function of the Election Commission is to examine the nomination papers of the candidates. These papers are accepted if found in order, but rejected otherwise. This duty is performed by the Returning Officer who notifies to all the contesting candidates the date, time and place for the formal scrutiny of nomination papers.

The Returning Officer summarily but judicially examines all the nomination papers and decides the objection raised. He is also to see whether the requisite requirements of security deposits, election symbol, election agent etc. have also been fulfilled. He is empowered to reject the nomination papers either by upholding the rejection raised by a rival candidate or on his own motion or any of the following grounds : (a) that the candidate either is not qualified or is disqualified to fill the seat under any of the relevant constitutional provisions viz. Article 84, 102, 173 and 191; (b) that the provision of Section 33 and 24 of the Representation of the people's Act, 1951 have not been complied with and ; (c) that the signature of the candidate or the proposer on the nomination paper is not genuine.

5. The Conduct of the poll

Another stupendous task that the Election Commission has to undertake is the conduct of the poll throughout the whole of India. In a Parliamentary or Assembly Constituency, the Returning Officer is to make necessary arrangements for conduction the poll with prior approval of the Election Commission. The commission can order a re-poll in the whole constituency under compulsion of circumstances. Article 324 confers on the Election Commission necessary powers to conduct the elections including the power to countermand the poll in a constituency and ordering a fresh poll therein because of hooliganism and breakdown of law and order at the time of polling or counting of votes.

6. Election Expenses

Another must controversial function that the Election Commission has to perform is to scrutinize the accounts of election expenses submitted by contestants in elections. In India every contesting candidate is required to maintain and file the accounts of his election expenses within a prescribed period of 45 days, after publication of the result of his election. Within 10 days from the last date of filling the returns, the Returning Officer submits to the Election Commission a list of all the candidates and their agents together with their returns as also his observations in respect of candidates who have failed to lodge returns in the specified time and in accordance with the procedure prescribed by law. The Commission scrutinizes the accounts and decides whether the returns are in proper form and whether they have been lodged in time. In case of default it notifies the candidates for their agents of their disqualification by publishing these in official Gazette.

MODULE-III

(A).THE PROCEDURE FOR AMENDMENT OF THE CONSTITUTION

The Constitution of any country is the fundamental document which defines the position and power of the three organs of the government, namely the legislature, executive and the judiciary. It also specifies the rights and duties of the citizens as also the distribution of powers between the centre and the states. A Constitution must also be a dynamic document which should be able to grow and change according to the changing circumstances, needs and aspirations of the society and the people. A constitution develops through amendments. The makers of the Indian Constitution provided the method of amendment of the Constitution in the Constitution itself. The Indian Constitution, unlike the Constitution of a federal state, is partly rigid and partly flexible. The idea of amending procedure has been borrowed from the Constitution of South Africa.

The procedure for amendment is detailed under Article 368 in Part XX of the Constitution. This article specifies the power of the Parliament to amend the Constitution. There are three ways of amending the Constitution.

1. *Amendment by simple majority*: There are a good number of articles in the Constitution which are of transitory nature. Though they can be changed by Parliament by passing a law by simple majority, technically speaking changes made therein, are not to be considered as amendment of the Constitution. By simple majority is meant, simple majority of the members present and voting. For example, admission or establishment of new states (Art.2), formation of new states, changes in the names and boundaries of the States (Art.3), creation or abolition of Legislative Councils in the States (Art.169), salaries and allowances of the President, Governors and Judges of Supreme Court and High Courts, etc. can be made by the Parliament by passing a law by simple majority.

The following provisions of the Constitution also fall under the same category.

- (i). Second schedule of the constitution.
- (ii). Article 100(3) of the Constitution which fixes the quorum of transaction of business in the Parliament.
- (iii).Article 105 of the constitution which deals with powers, privileges and immunities of members of Parliament.
- (iv).Article 11 regarding acquisition and termination of citizenship.
- (v). Article 81 relating to the delimitation of constituencies.

2. *Amendment by special majority*: An amendment of the Constitution may be initiated only by the introduction of a bill for the purpose in either House of Parliament. 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 for his assent. When the President gives his assent, the Constitution stands amended in accordance with the terms of the bill. Part III dealing with Fundamental Rights and Part IV dealing with Directive Principles of State Policy come under this category. Also, all parts of the Constitution, with the exception of the specific provisions mentioned in Art.368 can be amended by this method.

3. Ratification by the State Legislatures : For the amendment of certain other provisions of the constitution, a Bill has to be passed by each House of the Parliament by a majority of the total membership of that House and by a majority not less than two-thirds of the members present and voting., then the amendment must be ratified by the state legislatures of not less than one-half of the states by resolution to that effect is required before the amendment Bill is presented to the President for his assent. The following provisions of the constitution fall under this category:

- (i). Election and Manner of Election of the President (Article 54 and 55);
- (ii). Extent of the executive power of the Union (Article 73);
- (iii). Extent of the executive power of the States (Article 162);
- (iv). Union Judiciary (Chapter IV of Part V);
- (v). High Courts in the States (Chapter V of part VI);
- (vi). Legislative Relations between Centre and States (Chapter I of Part XI)
- (vii). Any of the Lists in the Seventh schedule;
- (viii). Representation of states in the Parliament; and
- (ix). Provisions dealing with the amendment of the Constitution.

SALIENT FEATURES OF THE AMENDMENT PROCESS

The salient features of the Amendment Process are:

Introduction only in either house of the Parliament: The Bill for the amendment of the Constitution can be introduced in either House of Parliament and not in any State assembly.

No advance sanction of the President is necessary- To introduce a Constitution Amendment Bill in the Parliament, no prior permission of the President is required.

Both Houses of Parliament must pass it separately: An Amendment Bill should be passed by both Houses of Parliament separately. The Constitution cannot be amended in case of a deadlock between the two houses. There is no provision for a joint sitting if both the Houses differ.

Meaning of Membership of total majority : The expression ‘majority of the total membership’ means that it is not the majority of the actual membership of the House but the majority of the total prescribed strengths of the House notwithstanding the vacancies therein.

Special majority at every stage of passing the bill: Whether this special majority is needed at the time of final voting of the bill or even on the earlier stages of the bill. The Constitution amendment Bill even at its introduction stage must be supported by a two-thirds majority of members present and voting which should not be less than 50 percent of the total strengths. It means special majority is needed at the passing of every stage of the bill.

Ratification of the Legislatures of not less than one-half of the states: the amendment of the articles mentioned in the provision of Article 368, must be ratified by one-half of the state legislatures by passing resolution in that respect. The expression State Legislature does not include the legislatures of the Union Territories. Wherever the State Legislature is bicameral, the resolutions must be passed by both the houses separately and the resolutions so passes do not require the signature or assent of the Governor.

Presidential assent: In the final stage, the Constitution Amendment Bill is presented to the President for his assent which the president cannot refuse. But there is no time limit within which the President must give his assent. He can keep it pending for some time in the first instance, though ordinarily it is expected that he gives his assent as soon as possible.

Basic Structure of the Constitution

It is to be mentioned here that even though the Parliament has the power to amend the Constitution as per Art. 368, it cannot amend the basic structure of the Constitution, or, in other words, certain basic features of the Constitution. In the **Golak Nath Case of 1967**, the Supreme Court gave the historical ruling that the Parliament had no power to amend Part III of the Constitution even in accordance with the provisions of Art.368. This judgement gave rise to a controversy over the issue of the power of the Parliament to amend the Constitution. The Parliament passed the 24th and the 25th Amendments to assert its power to amend every part of the Constitution including Part III dealing with Fundamental Rights. The **Kesavananda Bharati Case, 1973** reversed its judgement in the Golak Nath case and accepted the power of the Parliament to amend Part III and all other parts of the Constitution, however without changing the basic structure of the Constitution. It was a landmark decision of the Supreme Court of India and the basis for the power of the Supreme Court to review, and strike down, amendments to the Constitution of India passed by the Indian parliament which conflict with or seek to alter the constitution's 'basic structure'.

The basic structure of the Constitution of India includes the Preamble emphasizing upon sovereign, secular, democratic, republic, unity and integrity of the nation; supremacy of the Constitution, independence of the judiciary, federal structure, balance between fundamental rights and directive principles of state policy, Parliaments power to amend the Constitution, judicial review of the Supreme Court and rule of law.

As of January 2012, there have been 97 amendments to the Constitution of India since it was first enacted in 1950.

A **National Commission to Review the Working of the Constitution** was set up by the Government of India in February 2000 during the regime of the NDA Government. The commission was headed by the former Chief Justice of India, Justice Venkatachaliah. It had eleven members including judges, legal luminaries, constitutional and parliamentary experts, politicians, diplomats and media representatives. The main function of the commission was to review analyze and suggest amendments in the Constitution of India within the framework of the basic structure concept. The commission submitted its report on 31st March, 2002 with several recommendations.

MODULE- III

(B).THE CIVIL SERVICES IN INDIA

Administration is the non-political bureaucratic machinery of the govt. for implementing its laws and policies in action such as the collection of revenues and maintenance of law and order. It involves decision making, planning the work to be done, formulating objectives and goals, providing leadership. It is the means by which the purpose and goals of govt. are realized. The Civil Service in a democratic state and a developing society like India plays a very important role. The Civil Service constitutes the permanent executive while the minister is the political executive. Each ministry has an administrative department attached to it which is managed by the civil service or the bureaucracy. Their tenure of office is permanent and they continue to function regardless of political changes. The civil servants keep the wheels of governmental machine going and act as agents for the fulfillment of the policy of party in office, the policy formulated during election and formally endorsed by the Parliament.

The Indian administrative system is the product of two different sets of influences- the British colonial administrative traditions and the ideals of a democratic welfare state which was constitutionally adopted in India after independence. The British did not use the administration as agents of social change. Following independence with the rise of the welfare state in India the government became actively involved in shaping the social and economic life of the country. The administration is no longer limited to the maintenance of law and order and collection of revenues but got involved in the objectives of nation building and socio economic development. Under the conditions the responsibilities of the civil service have increased enormously.

Classification of Civil services in India

The Civil Services in India has been classified into three categories.

1. *All India Services*- The All India Services consists of the Indian Administrative Service (IAS) and the Indian Police Service (IPS) both of which have their roots in the British period of Indian history. The All India Services Act was amended in 1963 to provide for the constitution of three new All India Services (apart from the IAS and IPS), namely the Indian Service of Engineers, the Indian Forest Service and the Indian Medical Health Service. The Indian Forest Service has been created so far. The Rajya Sabha can create a new All India Service by two-thirds majority of the members present and voting, in the national interest, vide **Art.312** of the Constitution. All India services by their very nature are instruments of national consolidation and unity and is under the dual control of the Central and the state governments. They ensure the maintenance of common standards all over the country in certain vital fields of administration.

The main considerations for the formation of these services are –

- (i). Provide top administrative personnel and administrative services to the Union as well as to the State Governments.
- (ii). Facilitate a link between Union and the States.
- (iii). Bring about uniformity in the standards of administration.
- (iv). Ensure that services are free from any party bias.

2. *Central Services*- The Central services are under the direct and the exclusive control of the Union Government. Indian Foreign Service, Indian Postal Service, Indian Revenue Service, Indian Audit and Accounts Service, Indian Economic Service, Indian Defense Accounts Service, Indian Statistical Service are some of these services.

3. *State Services*- The State Services include those services and posts which are concerned with the administration of state subjects such as agriculture, education, health, police, planning etc. These services are primarily meant for services in the states – Police Services, Education Service, Agriculture Service, Public Health Service, Veterinary service and Co-operative Service.

UNION PUBLIC SERVICE COMMISSION

The Government of India Act 1919 provided for a Public Service Commission responsible for recruitment of civil servants. The Central Public Service Commission was set up in 1926 with Sir. Rose Baker, as its Chairman. With the inauguration of the Constitution the UPSC came into being with four members including the Chairman.

Composition

The Union Public Service Commission is a constitutionally constituted commission entrusted with several functions in respect of recruitment, training, promotion and conduct of civil servants in India. Chapter II of Part XIV of the Constitution deals with Public Service Commissions. **Art. 315** specifies that there shall be a Public Service Commission for the Union and a Public Service Commission for each state.

The Chairman and members of the UPSC are appointed vide Art.316 by the President of India. Each member of the UPSC is appointed for a fixed tenure of six years or till the attainment of 65 years, whichever is earlier. A member of the UPSC can quit his post by submitting his resignation to the President. A member can be removed from his office by an order of the President on the ground of misbehaviour after a judicial enquiry conducted by a judge of the Supreme Court proves the charge leveled against him. A member of the commission can also be removed if he engages himself during the term of his office in some employment outside the duties of his post. The expenses of the UPSC, including the salaries, allowances and pension payable to or in respect of the members or staff, are charged on the Consolidated Fund of India. At present the UPSC has a Chairman and eight members. The present UPSC Chairman is D.P. Agarwal.

Powers and Functions

The functions of the UPSC can be categorized into two- advisory and administrative. The *advisory* functions include the power of providing advice to the Union Government in all matters concerned with the organization of the civil services such as methods of recruitment, principles to be followed in making appointments, promotions and transfers, disciplinary matters affecting a person serving under the Union Government. The *administrative* functions include the conduct of competitive examinations for the direct recruitment of civil servants. It also has to recruit a large number of posts through interview and promotion. The UPSC has to be consulted in disciplinary cases before orders are passed by the President imposing any penalty on a government servant.

The **Annual Report of the UPSC** must be submitted to the President vide Clause (1), **Art.323** of the Constitution which states that “It shall be the duty of the Union Commission to present annually to the President a report as to the work done by the Commission and on receipt of such report the President shall cause a copy thereof.....to be laid before each House of Parliament.”

STATE PUBLIC SERVICE COMMISSION

The Constitution of India, vide Art. 315, also provides for a Public Service Commission for each State. However, two or more states may agree that there shall be one Public Service Commission for that group of States. A resolution to that effect is to be passed by the State Legislatures of those States and the Parliament may by law provide for the appointment of a Joint State Public Service commission to serve the needs of those States. It is the President who appoints the Chairman and members of such a Joint Commission.

Composition

The Chairman and members of the SPSC are appointed vide Art.316 by the Governor of a State. Each member of the SPSC is appointed for a fixed tenure of six years or till the attainment of 62 years, whichever is earlier. A member of the SPSC can quit his post by submitting his resignation to the Governor of the State. The Chairman or any member of the SPSC can be suspended from office in respect of whom a reference has been made to the Supreme Court. The expenses of the SPSC, including the salaries, allowances and pension payable to or in respect of the members or staff, are charged on the Consolidated Fund of the State. At present the Chairman of the Kerala State Public Service Commission is Dr. K.S.Radhakrishnan w.e.f. 12-8-2011. The number of members of the Kerala SPSC was increased to the present strength of 18 in 2005.

Powers and Functions

Every State Public Service Commission besides being a recruitment agency is also an advisory body. It is consulted by the state government on matters concerning recruitment, promotion, transfer, and disciplinary cases of certain categories of employees. In almost every state the Public Service Commission is to be consulted:

- (i). appointment by direct recruitment to posts in Class I and Class II services.
- (ii). all promotions to or transfers of certain services or posts can only be made on the recommendations of the commission.
- (iii). all orders in disciplinary cases passed by the State Government will only be passed by it in consultation with the Commission.

The **Annual Report of the SPSC** must be submitted to the Governor of a State, vide Clause (2), Art.323 of the Constitution which states that “It shall be the duty of the State Commission to present annually to the Governor of the State a report as to the work done by the Commission and on receipt of such report the Governor shall cause a copy thereof.....to be laid before the Legislature of the State.”

Thus, we can see that a Public Service Commission is a constitutional body. The Constitution of India lays down its composition, duties, responsibilities and functions. It is neither subordinate to the legislature, nor to the executive and its independent functioning is ensured by the Indian Constitution.

MODULE-IV

(A). INDIAN FEDERALISM

“India, that is Bharat, shall be a Union of States,” declares **Art.1** of the Constitution of India. Thus, the Indian State is neither a federal state nor a unitary state. It has both federal as well as unitary features. Scholars have termed it as Unitarian federalism. And the nature of Indian federalism is indeed unique. **K.C. Wheare** has described the Indian federalism as ‘**quasi federal**’ and observes that the “Indian Union is a unitary state with subsidiary federal features rather than a federal state with subsidiary unitary features.” Here it is necessary to understand the federal and unitary features of the Constitution of India.

FEDERAL FEATURES OF THE INDIAN CONSTITUTION

1. **Written constitution:** An essential feature of a federal system is a written and rigid Constitution. The Indian Constitution is a written document containing 395 Articles and 12 schedules. It is the supreme law of the land and all authorities in India are legally bound to respect it.

2. **Rigid Constitution:** Another essential feature of a federation is a rigid Constitution which cannot be amended by the ordinary law making process of the land. The Indian Constitution is rigid to a large extent. Those provisions of the Constitution which concern the relation between the Union and State Governments and the judicial organization of the country can be amended only by the joint action of the Indian Parliament and the State Legislatures.

3. **Dual Governments:** While in a unitary state, there is only one government, namely, the national government, in a federal state, there are two governments: the national or the federal government and the government of component states. The Indian Constitution establishes a dual polity. There is a central Government and the twenty eight units described as states. Each State has its separate governmental system. The states have been created by the Constitution. They are not a creation of the Central Government.

4. **Distribution of powers:** A distinctive features of a federal state is a division of governmental powers between the national Government and the Constituent units (states, provinces, republics, regions or cantons). Such division of powers is specified in the Constitution itself. The spheres of activities of both the Centre and States are clearly demarcated. There are three lists of governmental functions – the Union list, the Concurrent list, and the State list. The Indian Parliament has the exclusive power to make laws with respect to the subjects enumerated in the Union list. It also has the power to make laws in respect of all matters enumerated in the Concurrent list. The States have the power to make laws in respect of subjects given in the State list.

5. **Supremacy of the Constitution:** The supremacy of the Constitution is another important feature of a federal system. In India, the Constitution is sovereign. It stands at the top of the hierarchy of laws – both national and state. The Central as well as the State governments have to operate within the limits prescribed by the Constitution.

6. **Authority of Courts:** The existence of more than one centre of authority in a federal state and the supremacy of the Constitution necessitate that there should be some authority, such as a Supreme Court, to interpret the Constitution, decide disputes between the Centre and the units. In

India, there is a Supreme Court whose function is to act as the guardian of the Constitution. It interprets the Constitution, decides disputes between the Centre and States and among the States themselves. It has the power of judicial review and can declare unconstitutional any law of Parliament or of a State Legislature if it is deemed to be in conflict with the provisions of the Constitution.

7. **Bicameral Legislature:** Dual representation is another feature of a federal system. The legislatures of federal states are bicameral. One chamber represents the federating units and the other the people. The Indian Constitution also provides for a bicameral legislature at the Centre. The Rajya Sabha which is the upper house represents the States and the Lok Sabha represents the people of India.

UNITARY FEATURES OF THE INDIAN CONSTITUTION

The Indian Constitution has many unitary features which have led the critics to challenge its federal character and characterized it as federal in form and unitary in spirit. The Governmental system created by the Constitution is highly centralized and the powers conferred on the units are extremely circumscribed. The important unitary features of the Constitution are as follows:

1. **The Use of the word 'Union':** Some scholars point out that nowhere in the Constitution the term federation has been used. Article one simply described India as a union of states which, in effect, meant a very strong Central government.

2. **Single Constitution for Union and States:** The States, except Jammu and Kashmir, have no right to frame their Constitutions. There is only one Constitution which includes the Constitution of the States also. This is unlike other federal states where federating units have the power to determine their own Constitutions.

3. **States Assigned Minor Role in Amendment of Constitution:** In the matter of amendment of the Constitution, the part assigned to the States is minor, as compared with that of the union. In India, the states have no power to initiate an amendment to the Constitution. The initiative rests entirely with the Parliament. There are many articles of the constitution which can be amended by Parliament without any reference to the States. This violates the principle of equality between the centre and the States.

4. **Territorial Integrity of States not guaranteed:** In our constitution, it is possible for Parliament to organize the States by a simple majority in the ordinary process of legislation. Parliament by law may form a new state by separation of territory from any state or by uniting more two or more States or parts of States or by uniting any territory to a part of any State. However, a bill for the purpose has to be referred by the President to the Legislature of the State whose area, boundary or name is affected by the Bill, for expressing its views thereupon. Parliament has the exclusive power to admit a state into the Union or establish new states; on terms and conditions as it thinks fit vide **Art.2** of the Constitution.

5. **Single Citizenship:** Usually in other federations there is provisions for double citizenship; each citizen is not only a citizen of the federal State as such but also of the particular federating State in which he resides. But there is no dual citizenship in India.

6. **No Right to Secession:** The States of the Union of India do not have the right to exercise any right of secession.

7. **No Equal Representation in Upper House:** There is provision for equal representation to the federating units in the upper house of the Central Legislature. But as per the Indian Constitution representation to the states in the upper house (the Rajya Sabha) is on the basis of their population.

8. **Overriding Legislative powers of the Union:** As pointed out above, there are three lists of subjects: the Union list, the State list and the Concurrent list. In respect of the subjects given in the concurrent list both Parliament and the State legislature has the power to legislate. But if both make law on the same subject and if they conflict with each other, the law made by the Parliament supersedes the State law. This makes legislative power of the Parliament formidable. The State does not enjoy full legislative freedom even in respect to the matters given in the State list.

9. **Administrative Control of the Union over the states:** In the administrative sphere also the Union government exercises control over the State governments even in normal times. Article 256 of the constitution states that the executive power of the state shall be so exercised as to ensure compliance with the laws made by the Parliament. Further, the executive power of the Union extends to the giving of such directions to the State as may appear to the Government of India to be necessary for that purpose. Article 355 states that it shall be the duty of the Union to ensure that the government of every State is carried on in accordance with the provisions of the Constitution.

10. **Financial Control of the union over States:** In the financial matters also the autonomy of the States is seriously restricted. The division of taxing powers is also tilted in favour of the Union Government.

11. **State Governors act as Agents of the Centre:** The State Governor is appointed by the President. But as the president has to act on the advice of the Cabinet, the Governor is actually a nominee of the party in power at the Centre. The Governor actually acts as an agent of the Central government which through him can control the policy and measures of the State government.

12. **Emergency provisions:** The emergency provisions embodied in the Constitution pose a serious challenge to the federal character of the Indian polity. The president has the power to proclaim a state of emergency. Emergency is of three kinds: (1) actual aggression or threat of aggression, (**Art.352 National Emergency**) (2) breakdown of the Constitutional machinery of the state, (**Art.356 State Emergency**) (3) financial emergency, (**Art.360 Financial Emergency**)

13. **No Division of Services:** An extraordinary feature of the Indian Constitution which seriously imparts the federal character of our polity is that there is no clear-cut division of services between the Centre and the States. The majority of public servants are employed by the states, but they administer both Union and State laws as are applicable to their respective states by which they are employed.

14. **Single Centralized Judiciary:** In India there is a single unified system of courts headed by the Supreme Court which administers both the union and the state laws as are applicable to cases coming up for adjudication. The judges of the State high Courts are independent of the States who do not possess any power with regard to their appointment, removal or service conditions.

15. **Centralized Machinery for Elections, Accounts and Audit:** The machinery for elections, accounts and audit is also integrated. The Constitution provides for an Election Commission whose members are appointed by the President, and the States have no say in their appointment, removal or service conditions. But the commission is responsible for the conduct, supervision, control and direction of elections not only to the Parliament but to the State Legislatures as well. Similarly, the Comptroller and Auditor general of India, is appointed by the President and the States have no say in this appointment or removal. But he is responsible for the Audit of the Accounts of the Centre as well as the States.

CENTRE STATE RELATIONS

The essence of federalism is division of powers between the National Government and the State Governments. The most significant feature of any federation is the division of powers between the federation and constituent units. This is also the most important feature of the Indian federation. Part XI of the Constitution of India is titled 'Relation Between The Union And The States'. Its Chapter I covering articles 245 to 255 deal with the Legislative Relations and distribution of legislative powers. The Administrative Relations are given in Chapter II covering articles 256 to 263. The matters related to Financial Relations are specified in Part XII of the Constitution.

LEGISLATIVE RELATIONS BETWEEN CENTRE AND STATES

In our Constitution, we have followed a system in which there are two lists of legislative powers, one for the Centre and the other for the states. The residue is left for the Centre. This system is similar to the system that is there in the Constitution of Canada. An additional list called the Concurrent List is also added in our Constitution on the pattern of the Constitution of Australia. It must be emphasized that the scheme regarding the distribution of powers and the actual division of powers is almost the same as it was in the Government of India act, 1935. The three lists are embodied in the Seventh Schedule of the Constitution.

The Union list: The Union List which consists of **ninety seven** items is the longest of the three. It includes items such as defense, armed forces, foreign affairs, citizenship, shipping and navigation, currency, inter-state trade and commerce, mineral and oil resources, Supreme Courts, High Courts, Income tax, customs duty etc. The Union Parliament has exclusive powers of legislation with regard to the items mentioned in the list. The selection of these items is made on the basis of common interest to the Union and with respect to which uniformity of legislation throughout the Union is essential.

The State List: The State list consists of **sixty six** items. Some of the more important of these items are as follows: public order, police administration of justice, prisons, local government, public health and sanitation, education, agriculture, animal husbandry, State public services, taxes on agricultural income, taxes on lands and buildings etc. The selection of these items is made on the basis of local interest and it envisages the possibility of diversity of treatment with respect to different items in the different States of the Union. The State legislature has the power of legislation with regard to every one of the items included in the State List.

The Concurrent List: The Concurrent list consists of **forty-seven** items. These are items with respect to which uniformity of legislation throughout the Union is desirable but not essential. As such, they are placed under the jurisdiction of both the Union and the States. The list includes items such as marriage and divorce, transfer of property other than agricultural land, contracts, bankruptcy and insolvency, adulteration of foodstuffs, drugs and poisons economic and social planning etc.

The Parliament of India and the States legislature have concurrent powers of legislation over the items included in the list. Once Parliament enacts a law on an item in the list, parliamentary law shall prevail over any state law on the item.

In the federation of the United States, Switzerland and Australia the **residuary powers** are assigned to the federating units. While in India, like Canadian federation, the residuary powers are vested in the Union as per **Art.248**.

PARLIAMENT CAN LEGISLATE ON THE SUBJECTS OF STATE LISTS

Although the States have the exclusive power of legislation over every item in the State List, there are certain exceptions to this general rule. These exceptions are:

1. **Article 249** specifies the 'power of Parliament to legislate with respect to a matter in the State List in the national interest.' It provides that if the Rajya Sabha declared by a resolution supported by not less than two-thirds of the members present and voting that it was necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution, it became lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter during the period the resolution remained in force. Such a resolution remained in force for such a period, not exceeding one year, as might be specified therein. The Rajya Sabha, however, could extend the period of such a resolution for a further period of one year from the date on which it would otherwise have ceased to operate.
2. Under **Article 250**, Parliament is empowered to make laws on any item included in the State List for the whole or any part of India while a proclamation of Emergency is in operation. The maximum period for which such a law can be in force is the period for which emergency lasts and six months beyond that period.
3. Under **Article 252**, Parliament also became entitled to legislate for two or more states by their consent. If two or more States request the Central government to legislate on a particular subject mentioned in the State List, in so far as their State is concerned, the Central Parliament shall legislate on these subjects as well. If any such law is to be amended or repealed, it can be done only by the Parliament alone but the initiative for it rests with the States.
4. Under **Article 253**, Parliament had power to make any law for the whole or any part of India for implementing any treaty, agreement or convention with any other country or country or any decision made at any international conference, association or other body. This provision entitled Parliament to legislate even in respect of those subjects that were included in the State List.
5. The predominance of Parliament was further established by **Articles 356 and 357** of the Constitution. Article 356 stipulated that if the President was satisfied that a situation had arisen in which the Government of a State could not be carried on in accordance with the provisions of the Constitution he might declare that the powers of the Legislature of the State would be exercisable by or under the authority of Parliament. The effect of Article 356 would be that the legislature of the State in question would stand dissolved or suspended and the law-making power would rest in Parliament during the period the proclamation of emergency was in force.
6. Not only Parliament enjoyed predominance over law-making in the States, the Union executive also exercised some control. Certain Bills adopted by the State Legislature would not be effective unless it had been reserved for the consideration of the President and had received his assent.

7. There is also Union control over the ordinance making power of the Governor. The Governor of a State can issue Ordinances vide Art.213 of the Constitution when the State legislature is not in session. Under certain circumstances, the Governor can issue the ordinance with the prior approval of the President, without getting the approval of the State Council of Ministers.

Thus, it is clear that in spite of division of legislative powers of the Centre and the States, the Centre has overriding powers in this sphere. The Union Parliament has powers to legislate not only on subjects in the Union and Concurrent List, but also on the subjects in the State List as per certain constitutional provisions.

ADMINISTRATIVE RELATIONS BETWEEN CENTRE AND STATES

The executive power of the Union extends only to those matters which are mentioned in the Union List and over which the Parliament have legislative powers. In addition, the union can exercise administrative control over the states through the following methods.

1. **Articles 256** of the Constitution specifies the respective obligations of the Union and the State Governments and lays down, “The executive power of every state shall be so exercised as to ensure compliance with the laws made by the Parliament and any existing laws which apply in that State and the executive power of the union shall extend to the giving of such direction to the State as may appear to the Government of India to be necessary for that purpose.” Thus, this article clearly provides that the executive authority of the State shall be so exercised that the laws made by the Parliament and the existing laws of the States are properly enforced.

2. **Article 257(1)** lays down, “the executive powers of every state shall be so exercised as not to impede or prejudice the exercise of the executive powers of the union, and the executive power of the union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.” Thus, within the sphere covered by the State list, the Union government can give directions to the State Governments.

3. By **Article 257(4)** The Union Government can also give directions to the States regarding the construction and maintenance of means of communications declared to be of national or military importance. The Union Government can also give directions to the States regarding the measures to be taken for protecting the railways within the boundaries of the State. However, the excess expenses incurred by the State Governments are paid by the Government of the Union.

4. In case, the State Government fails to carry out any of the directions of the Union Government, the president has been empowered by **Article 365** of the constitution to hold that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of the constitution. In other words, if the state fails to carry out the orders or directions of the union, the President’s rule may be imposed on that state. In such eventuality the president shall assume to himself, all or any of the functions of the State Government.

5. **Delegation of Union Functions to the States** is also provided in the Constitution. The President with the consent of the State Government can entrust to the officers of the State Government any function in respect to any subject over which the executive power of the Union extends. Thus, the States may be converted into agents of the union Government. However, any extra cost incurred by the States for carrying out such an obligation is to be paid by the Union.

6. The presence of **All-India Services** like the Indian Administrative Service, the Indian Police Service etc. further makes the authority of the Central Government dominant over the States. The members of these All-India Services are appointed by the President of India on the basis of a competitive examination conducted by the Union Public Service Commission. The Constitution also makes provisions for the creation of new All-India Services by the Parliament. The Parliament can create new All-India Service if the Rajya Sabha passes a resolution by a majority of two-thirds of its members present and voting, that it is necessary in the national interest to do so.

7. The Constitution vests the President with the power to establish an **Inter-State Council**, to bring about co-ordination between states. **Article 263** which deals with the inter-State council says: "If at any time it appears to the President that the public interests would be served by the establishment of a council charged with the duty of –

(a) Inquiring into and advising upon disputes which have arisen between the states

(b) Investigating and discussing subjects in which some or all of the States, or the union and one or more of States, have common interest; or

(c) Making recommendations upon any such subject and in particular, recommendations, for the better co-ordination of policy and action with respect to that subject, it shall be lawful for the President by order to establish such a council, to define the nature of duties to be performed by it and its organization and procedure.

8. The Constitution further ordains that **full faith and credit** must be given throughout the territory of India to public acts, records and judicial proceedings of the union and of every state. The Parliament is authorized to make necessary laws in this regard. Further, all the final judgments or orders delivered or passed by the civil courts in any part of India are executable anywhere within India in accordance with law.

9. The Constitution has authorized the parliament to make laws for the adjudication of the disputes relating to Inter-State Rivers or river valleys. The Parliament is also authorized to exclude such disputes from the jurisdiction of the courts, including the Supreme Court, through the enactment of necessary law.

10. During the time when **Emergency** is proclaimed the President is authorized to give directions to the State Governments regarding the manner in which they have to exercise their executive power. Even the Parliament gets power to make laws for the whole of the country or a part thereof even in respect of matters mentioned in the State List. Thus, the federal structure provided under the Constitution is virtually transformed into a unitary one.

11. The Parliament, **vide Art.307** of the Constitution, can also set up **Inter-State Commerce Commission** or any other such authority which it considers appropriate for enforcing the provisions of the Constitution with regard to Inter-State trade and commerce. It can assign such duties to such a commission or authority, as it deems fit.

FINANCIAL RELATIONS BETWEEN CENTRE AND STATES

The Constitution of India makes an elaborate and detailed provisions as the with respect to the relationship between the Union and the States in the financial field.

The Indian Constitution lays down a broad scheme for the distribution of revenue resources between the Union and the States and it is the function of the Finance Commission to allocate the resources between the Centre and States and to the distribute the grants-in-aid.

Union Sources of Revenue

- Duties of Customs including export duties.
- Corporation tax
- Currency, coinage and legal tender, foreign exchange
- Duties of excise on tobacco
- Foreign Loans
- Estate duty in respect of property other than agricultural land.
- Post -office savings bank.
- Railways.
- Reserve Bank of India.
- Taxes on income other than agricultural income.
- Taxes on the sale or purchase of newspapers
- Terminal taxes on goods or passengers carried by railways, sea or air
- Taxes other than stamp duties on transactions in stock exchanges

State Sources of Revenue

- Duties in respect of succession to agricultural land.
- Duties of excise on certain goods produced in the States like alcoholic liquids
- Estate duty in respect to agricultural land.
- Land Revenue.
- Taxes on agricultural income.
- Taxes on buildings and land.
- Taxes on consumption of electricity or its sale.
- Taxes on the entry of goods
- Taxes on vehicles.
- Taxes on animals and boats
- Taxes on professions, trades and employments.
- Tolls
- Taxes on luxuries including taxes on entertainments.

The distribution of revenues between the centre and states are as follows.

Taxes levied by the Union but collected and appropriated by the States (Art.268)

Stamp duties and duties of excise on medicinal and toilet preparations (those mentioned in the union list) shall be levied by the Government of India but shall be collected

(i) in the case where such duties are leviable within any Union Territory, by the Government of India, and

- (ii) in other cases, by the States within which such duties are respectively leviable. Taxes Levied and Collected by the Union but assigned to the States (Art.269)
1. Duties in respect of succession to property other than agricultural land.
 2. Estate duty in respect of property other than agricultural land.
 3. Taxes on railway fares and freights.
 4. Taxes other than stamp duties on transactions and on advertisements published therein.
 5. Terminal taxes on goods or passengers carried by railways, sea or air.
 6. Taxes on the sale or purchase of newspapers and on advertisements published therein.
 7. Taxes on the sale or purchase of goods other than newspapers where such sale or purchase takes place in the course of inter-state trade or Commerce.

Taxes which are levied and collected by the Union but which may be distributed between the Union and States (Art.270)

1. Taxes on income other than agricultural income.
2. Union duties of excise other than such duties of excise on medicinal and toilet preparations as are mentioned in the Union List and collected by the Government of India.

Taxes on income do not include Corporation Tax. The distribution of income-tax proceeds between the Union and the States is made on the basis of the recommendations of the finance Commission.

The Constitution of India has followed the following pattern regarding the distribution of financial resources between the Union and State Governments.

1. Taxes exclusively assigned to the Union which include – customs and export duties, income tax, excise duties on tobacco, jute etc., corporation tax on capital value of assets of individuals and companies; estate duty and succession duty in respect of property other than agricultural land and income from the earning departments like the railways and postal departments.
2. Taxes exclusively assigned to the States which are – land revenue; stamp duty (except on documents included in the Union List) ; succession duty and estate duty; taxes on goods and passengers carried by road or inland waters; consumption or sale of electricity; tolls; taxes on employment; duties on alcoholic liquors for human consumption, opium ; taxes on the entry of goods into local areas; taxes on luxuries entertainments, amusements, betting, gambling etc.
3. Taxes leviable by Union but collected and appropriated by States: The revenue from the following items is collected and appropriated by the States:
 - (i) Stamp duties on bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares etc.
 - (ii) Excise duties on medicinal, toilet preparations containing alcohol or opium or Indian hemp or other narcotic drugs. Though all the above items are included in the Union list and the Union

Government can levy taxes on them, yet all these duties are collected by the states and from the part of the revenue of the state which collects them.

4. Taxes levied and collected by Union but assigned to the States: The taxes on the following items are levied and collected by the Union, but wholly assigned to the states within which they are levied:

- (a) duties in respect of succession to property other than agricultural lands;
- (b) estate duty in respect of property other than agricultural land;
- (c) terminal taxes on goods or passengers carried by rail, sea or air.
- (d) taxes on railways freights and fares;
- (e) taxes other than stamp duties on transactions in stock exchanges and future markets;
- (f) taxes on the sale or purchase of newspapers and on advertisements published therein.

5. Taxes levied and collected by Union and shared with States: The taxes from the following items are levied and collected by the Union but shared with the States in certain proportions, with a view to securing an equitable distribution of the financial resources:

- (i) taxes on income other than agricultural land;
- (ii) excise duties, other than those on medicinal and toilet preparations.

6. Grants-in-aid: The Constitution provides that the Parliament may by law give-grants-in-aids to the needy states out of the revenue of the Central government. The amount of such grants is determined by the Parliament in accordance with the needs of the state. The Constitution however, lays down that the cost of all the schemes aiming at the welfare of the Scheduled tribes is to be met by the Union Government and the Union Government makes the necessary grants to the state concerned on this account.

The constitution also makes special provisions for grant to the State of Assam to enable it to meet the extra cost involved in raising the administrative level of the tribal areas. Moreover, the states of Assam, Bihar, Orissa and West Bengal are paid such sums, as prescribed by the President of India, in lieu of their share in the export duty on jute products.

7. Finance Commission: The President of India is authorized by the Constitution to appoint a Finance Commission every five years vide Art.280. This commission is expected to make recommendations regarding the allocation of revenues to the Union Government and the State Governments, grants-in-aid by the Union Government to the State and other financial matters. However, the Constitution does not clearly provide, whether the President is bound to accept the advice and recommendations of the Finance Commission. The convention, so far, has been that the union Government accepts all the recommendations of the Finance Commission. In fact, under the Constitution, the President is expected to place every recommendation of the Finance Commission, together with an explanatory memorandum as to the action taken by thereon, before each house of the Parliament.

8. Financial Emergency: During the proclamation of Financial Emergency, the President can suspend the provisions relating to the division of taxes between the Union and the States and the grants-in-aids to the States. When such a proclamation is made, the States are left with the revenues available in the States List. However, during such a proclamation the Union Government has the power to give directions to the States to:

- (a) observe such canons of financial propriety and other safeguards as may be specified;
- (b) reduce the salaries and allowances of all persons serving in connection with the affairs of the State; including the high court Judges;
- (c) reserve for the consideration of the President all money bills passed by the State Legislature.

9. Control by the Comptroller and Auditor General of India: The Comptroller and Auditor General, who is responsible for the maintenance and audit of the union and States accounts is an official of the Central Government. He is appointed by the President. His powers and duties are determined by the Parliament. The forms for the maintenance of accounts are prescribed by the Comptroller and Auditor General of India in consultation with the President of India, and the States have no say in this matter.

It is evident from the above discussion that the states do not possess adequate financial resources to meet their requirements. Their sources are not only very limited but are also very inelastic. The Union Government on the other hand possesses very wide and ever expanding sources of revenue. This naturally places the Union Government in a favorable position and the states have to frequently look up to the Centre for financial assistance.

MAIN ISSUES OR TENSION AREAS IN UNION- STATE RELATIONS

The Constitution of India envisages two levels of government- one at the level of Union and other at the level of the states. From the functional stand point of the Constitution, it is a dynamic process. However, the very dynamism of the system with all its checks and balances has also brought problems and conflicts in the working of the Union-State relations. Consensus and cooperation which is a prerequisite for smooth functioning of Union-State relations is threatened by politics of confrontation. The main issues in Centre-State relations are as follows –

1. Less revenue resources of the states and financial relations between the Union and the state.

The division of financial resources and the system of financial relations as laid down by the constitution have been major tension areas. The states find themselves dependent upon the Union because of their meager and limited resources and restricted field of taxation. States are dependent on the Centre for allocation of funds and grants-in-aid. The states ruled by the parties other than the party at the Centre often complain of discriminatory treatment in the matters of allocation of funds and giving of grants-in –aid.

2. Role of Governor.

The Governor plays a dual role –as the agent of Centre in the state and as the Constitutional head of the state. As a central agent he has to ensure that state governments run in accordance with the constitutional provisions, otherwise he can report to the centre about breakdown of constitutional machinery and get the President impose State emergency vide Art 356. The provision for the appointment and removal of the Governor by the President, who always acts upon the advice of the Union cabinet, makes him an agent of the party in power at the Centre. The exercise of the Governor's discretionary powers has also been an issue in Centre-state relations such as dissolution of State Legislative Assemblies.

3. Centre-State tensions over the use of Article 356.

This article empowers the President to take a decision based on the report of the Governor of the State regarding the 'breakdown of Constitutional machinery in the state'. The President is guided by the advice of the Union Government. This article has been at times misused for political purposes by the Centre.

4. Concentration of Amending Powers in the hands of the Union.

As per the Indian Constitution constitutional amendments can be initiated only by the Union Parliament and not by the State Legislatures. Further, only certain amendments need approval of at least half of the state legislative assemblies. This is another area of tension.

5. Deployment of Central Para-military forces in the States.

Another area of conflict between the Union and the states in India has been the issue of deployment of Central Para-military forces by the Union in the States in times of crisis like communal riots, strikes or other law and order disturbances.

6. Issue of Implementation of Union Laws by the States.

The Constitution vests in the States the responsibility of implementing the Union laws. For this purpose, the Union can issue directives to the States. Each state has the Constitutional responsibility to exercise its powers in such a way as may be helpful in securing of compliance with Union Laws. At times the State Governments are not quite willing to effectively implement a particular Union law which is considered to adversely affect its politics and programmes.

7. Issue of discrimination against States.

The States feel dissatisfied with the system of Central grants-in-aid and allocation of funds by two Central agencies – the Planning Commission and the Finance Commission. The Union Government is often charged of partiality in favour of some states and discrimination against other states which are ruled by opposition parties and regional parties.

8. Issue of All India Services.

The personnel of All India Services like the IAS and IPS hold key positions in the State administration. They are recruited by the UPSC and the Union Home Ministry allocates them to various states. Their conduct is regulated by central laws and the state governments can take only limited action against them. The Union Government can issue direction to them for carrying out its decision. Such directions can be sometimes opposed to the policies and programmes of the state governments of which they are the administrators. Thus, the use of All India Services by the Union Government for carrying out its directions in States is a tension area in Indian federalism.

9. Inter State disputes and the Union.

The failure or delay in activity on the part of the Union Government to secure a settlement of several inter-state disputes has also been a cause of tension in the Union State relation.

10. Demand for State Autonomy.

The States have been demanding greater state autonomy in the federal structure which has worked with a Unitarian spirit. The states find the balance of power tilted in favour of Union in the federal scheme drawn by the Constitution. Therefore, the need for autonomy and transfer of some additional powers and resources to the States has been emphasized upon.

Sarkaria Commission

The Sarkaria Commission was set up in June 1983 by the Central government of India during the regime of Smt. Indira Gandhi. The Sarkaria Commission's charter was to examine the relationship and balance of power between state and central governments in the country and suggest changes within the framework of Constitution of India. The Commission was so named as it was headed by Justice Rajinder Singh Sarkaria, a retired judge of the Supreme Court of India. The other two members of the committee were Shri B.Shivaraman and Dr.S.R.Sen.

The Commission submitted its final 1600-page report in October 1987 and was published in 1988. The final report contained 247 specific recommendations. In spite of the large size of its reports - the Commission recommended, by and large, status quo in the Centre-State relations, especially in the areas, relating to legislative matters, role of Governors and use of Article 356.

It is widely accepted that to whatever extent the Commissions suggested change; the recommendations were not implemented by the government

The Commission after conducting several studies, eliciting information, holding discussions and after detailed deliberations submitted its report in January 1988. The report contains 247 recommendations spreading over 19 Chapters dealing with Legislative Relations, Administrative Relations, Role of the Governor, Reservation of Bills by Governors for President's consideration and Promulgation of Ordinances, Emergency Provisions, Deployment of Union Armed Forces in States for Public Order Duties, All India Services, Inter-Governmental Council Financial Relations, Economic and Social Planning, Industries, Mines and Minerals Chapter, Agriculture , Forests, Food and Civil Supplies, Inter-State River Water Disputes, Trade, Commerce and Inter-course within the Territory of India and Mass Media

RECOMMENDATIONS OF THE SARKARIA COMMISSION

1. Residuary powers of legislation in regard to taxation should continue to remain exclusively in the Concurrent List, while the residuary field other than that of taxation, should be placed in the Concurrent List.
2. It favoured the retention of strong Centre and firmly rejected the demand for the curtailment of the powers of the Centre in the interest of national unity and integrity.
3. The commission rejected the demand for the transfer of certain state subjects to the Concurrent List and held that the Centre should consult the states on Concurrent subjects.
4. The commission did not favour restrictions on the powers of the Centre to deploy armed forces in the states, even though it favoured consultations with the concerned state governments before these forces were actually deployed in the states.
5. It favoured greater co-operation between the Centre and the States in the matter of formulation of plans and their implementation. It recommended the Constitution of the Inter-State Council.
6. The report rejected the demand for the abolition of the office of the Governor and the suggestion regarding selection of Governors out of a panel of names given by the States. When a State and the Centre were ruled by different parties, the Governor should not belong to the ruling party at the Centre.

7. The report did not agree with the demand for major changes in the scheme of distribution of financial resources as provided by the Constitution.
8. The report turned down the demand for doing away with Article 356 of the Constitution under which President rule could be imposed on a State on the grounds of breakdown of constitutional machinery. However, it suggested several measures for preventing its misuse by the Centre and emphasized that it should be used very sparingly and only in extreme cases.
9. The report rejected the demand for disbanding of All India Services on the ground that it would greatly undermine the unity and integrity of the country.
10. The report suggested that the leader of the majority party in the legislature should be appointed as the Chief Minister. If no single party enjoyed a clear-cut majority in the State Legislature, the person who was likely to command a majority in the assembly be appointed Chief Minister by the Governor. The Chief Minister should seek a majority vote in the assembly within thirty days.
11. The commission recommends that in dealing with the state bill presented to the Governor under Article 200, he should not act contrary to the advice of his Council of Ministers because personally he does not like the policy embodied in the bill. Bill should be reserved only in exceptional circumstances.
12. The report favoured the implementation of the three language formula throughout the country and stressed special steps for activating the Linguistic Minorities Commission. It also favoured relaxation of Central control over the radio and television and wanted greater decentralization of authority in matters of their day-to-day operation.

MODULE-IV

(B).PANCHAYATI RAJ IN INDIA

India has been known to be the land of villages, as majority of the population live in villages. It is widely accepted that self-governing institutions at the local or village level are essential for national growth and for effective people's participation. Local governments are an integral and indispensable part of the democratic process. "Grass roots of democracy", based on small units of government enables people to feel a sense of responsibility, inculcate the values of democracy and ensure people's participation in public affairs and developmental work. In a vast, diverse and complex country like India, democratic decentralization is both a political and administrative necessity. Self-governing rural local bodies are described in the Indian context as institutions of democratic decentralization or panchayati raj.

Background

The Indian constitution enforced on January 26, 1950 gave constitutional importance to local self-government by including it in the State list in the Seventh Schedule. Also, Article 40 of the Chapter on Directive Principles of State Policy entrusts the States to take steps to organise village panchayats. The Community Development programme was launched in 1952 and the National Extension Service in 1953, to bring all-round development of the people in rural areas and to ensure people's participation. But these programmes did not succeed, and the government appointed a committee headed by Balwant Rai Mehta in January 1957 to examine the question of reorganization of the district administration. The committee submitted its report in 1958 and recommended

- A scheme of "democratic decentralization" with a three-tier structure of local self-government from the village level, block level and district level.
- Transfer of power and responsibility to the local governments.
- Adequate resources should be transferred to local bodies.
- All programmes of social and economic development should be formulated through these institutions.

Rajasthan and Andhra Pradesh were the first states to adopt panchayati raj institutions in 1959, followed by other states. However, there was no uniform pattern of Panchayati raj and came into existence in different states with all kinds of variations. It met with failure in many states due to political factionalism, scarcity of economic resources and bureaucratic hindrances.

In this overall context, the Janata Government, in December 1977 appointed a committee, under the chairmanship of Ashok Mehta, to review the working of the Panchayati Raj set-up and recommend remedial measures. The committee submitted its report containing 132 recommendations in August 1978. In order to bring about uniformity in the Panchayati raj set-up for the whole country, a model bill was prepared. However, the collapse of the Janata Government at the centre a few months later put a full stop to any further progress in this direction.

Since the middle of 1980's, there has been a growing interest within the Union Government and several State Governments in reviving the role of panchayati raj. The Planning Commission also had emphasized on the need for expanding and energizing the role of panchayati raj in promotion and management of rural development. One important step taken by the Union Government in 1984 was that the Prime Minister wrote to Chief Ministers of State governments to take appropriate steps and action without further delay for holding overdue elections to Panchayati raj institutions as well as for revitalising their functioning. Another important step taken by the Government was to appoint two committees - one in 1985 under the chairmanship of G.V.R.Rao and another in 1986 under the chairmanship of L.M Singhvi – to suggest ways and means for strengthening panchayati raj. The Union government also convened workshops of senior administrators concerned with panchayati affairs and conferences of panchayati raj leaders.

Taking into account the views of these committees, workshops and conferences, the union government decided to amend the Constitution of India in order to provide a firm basis to the essential features of the panchayati raj. The landmark 73rd amendment of the constitution provided for an elaborate system of establishing Panchayats as units of self governments. The 73rd Constitutional Amendment was passed by Parliament on 22nd December 1992. The 74th Constitutional Amendment deals with the establishment of Municipalities. These two constitutional amendments were notified by the Central Government through Official Gazette on April 20, 1993 as it got ratification by the State legislatures and was assented by the President of India. After notification the Panchayati Raj institutions have now become part of the constitution. Madhya Pradesh was the first state to introduce the Panchayati raj system based on the 73rd constitutional Amendment.

73rd Constitutional Amendment Act, 1992

This amendment has added a new Part IX titled “Panchayats” in the Indian Constitution, consisting of 16 articles – Article 243 to 243 O. It has also added the Eleventh Schedule, which elaborates Article 243 G, dealing with Powers, authority and responsibilities of the Panchayats.

This Act provides that the Panchayat bodies will have a duration of five years, with elections mandatory after this period. Under the Act the establishment of Panchayats and the devolution of necessary powers and authority on the Panchayati Raj institutions are vested in the state governments. It provides for a *three-tier panchayati raj* system at the village, intermediate and district levels. Small states with population below twenty lakh have been given the option not to constitute the panchayats at the intermediate level. The 73rd Amendment Act envisages the ***Gram Sabha*** (Article 243A) as the foundation of the Panchayati Raj System to perform functions and powers entrusted to it by the state legislatures. ‘Gram Sabha’ means a body consisting of persons registered in the electoral rolls relating to village comprised within the area of Panchayat at the village level.

Article 243 C provides for the ***composition of panchayats***. All members of the village panchayats, intermediate panchayats and district panchayats shall be chosen by direct election from territorial constituencies in the panchayat area. Minimum age of a person to become a member of a Panchayat is 21 years.

Article 243 D provides for the **reservation of seats** for scheduled castes and scheduled tribes and for women. One-third of the total seats in the panchayat are reserved for women. Reservation of seats for SC's and ST's will be in proportion to their population in the state. Such reserved seats may be allotted by rotation to different constituencies.

Article 243 G provides for **the powers, authority and responsibilities** entrusted to the Panchayats to prepare plans for economic development and social justice in respect of matters listed in Eleventh Schedule of the Constitution. This schedule contains 29 items which include agriculture and allied activities, minor irrigation schemes, land reforms, water management & watershed development, khadi village & cottage industries, rural housing, roads & bridges, primary and secondary education, adult education, libraries, markets and fairs, primary health centers, family welfare, women and child development, welfare of weaker sections etc. According to Article 243H, panchayats have the power to impose taxes, tolls and fees and to receive finance from the state government in the form of grants.

As a result of the enactment of the 73rd constitutional amendment about 2,27,698 Panchayats at the village level; 5906 panchayats at intermediate level and 474 panchayats at the district level have been constituted in the country. These Panchayats are being manned by about 34 lakh elected representatives of Panchayats at all levels, thus providing a broad representative base at the grass roots level.

74th Constitutional Amendment Act 1992

The 74th constitutional Amendment has added a new Part IX A titled "Municipalities" in the Indian Constitution, consisting of 18 articles – Article 243P to 243 ZG. It has also added Twelfth Schedule, which elaborates Article 243 W dealing with powers, authority and responsibilities of the Municipalities.

Article 243 Q provides for the establishment of the following three types of municipalities for urban areas:

- i. A Nagar Panchayat for a transitional area, that is an area in transition from a rural area to a urban area;
- ii. A Municipal Council for a smaller urban area; and
- iii. A Municipal corporation for a larger urban area.

Article 243 R provides for the **composition of municipalities**. All the seats in a Municipality shall be filled by persons chosen by direct elections from territorial constituencies in the Municipal area. For this purpose, each Municipal area shall be divided into territorial constituencies to be known as **wards**.

Article 243 S provides for the constitution and composition of ward committees, consisting of one or more wards, within the area of a Municipality having a population of three lakh or more.

Article 243T provides for **reservation of seats** for scheduled castes and scheduled tribes in every Municipality. Out of the total number of seats to be filled by direct elections, at least one third would be reserved for women. Such seats maybe allotted by rotation to different constituencies in a Municipality.

Article 243 U provides that every Municipality shall have a duration of five years, but it may be dissolved earlier.

Article 243 W provides for the *powers, authority and responsibilities* entrusted to the Municipalities to prepare plans for economic development and social justice, perform functions and implement schemes in respect of matters listed in the Twelfth schedule. This schedule contains 18 items which include urban planning including town planning, regulation of land-use, construction of buildings, roads & bridges, water supply, public health, sanitation, solid waste management, slum improvement, safeguarding the interests of weaker sections of society, burial grounds, provisions of urban amenities and facilities such as parks & playgrounds, registration of births and deaths, street lighting, parking lots, regulation of slaughter houses etc.

Article 243 X confers powers on the Municipalities to impose taxes, duties, tolls etc. and to receive finance from the state government in the form of grants-in-aid. The Finance Commission shall review the financial position of the Municipalities and make the necessary recommendations.

Apart from giving constitutional recognition to Municipalities, the 74th Amendment lays down that in every state two District Planning Committees shall be constituted –

- (i) at the district level, a District Planning Committee. (Article 243 ZD)
- (ii) In every metropolitan area, a Metropolitan Planning Committee (Article 243 ZE).

Thus the 74th Constitutional Amendment Act, 1993 was a landmark in constituting urban local governments in India.

Following the 73rd and 74th Constitutional Amendment Acts significant reorganization of the Panchayati raj system took place in several states of India for its effective implementation. States statutory amendments have been made for providing substantive changes in the Panchayati raj. Political parties are also playing an effective role in the election and working of Panchayati raj institutions. There is no doubt that the present Panchayati raj system is certainly a step forward in the direction of decentralization of powers to the people at the grassroots level.

MODULE-IV

(C).RESERVATION ISSUES

India has a caste based social system. The Preamble of the Constitution of India has emphasized upon social economic and political justice as well as equality of opportunity and status. For securing this objective there was the need to give special protections to certain sections of the society and to ensure an overall socio-economic development in the country.

Right to Equality before law to all persons, Prohibition of discrimination, abolition of untouchability (Art.17) have been provided in the fundamental rights. Art.38 of the Directive Principle of State Policy calls upon the State to strive for promoting the welfare of the people. The Constitution of India accepts the principle of protective discrimination for safeguarding the interest and special needs of certain classes of the citizens including persons belonging to schedule caste, schedule tribes and other backward classes.

The Constitution of India incorporated several measures for protecting the interests of the members of scheduled castes and scheduled tribes and also the backward classes. The Constituent assembly decided that for securing equal participation in social and political life, it was essential to provide for reservation of seats, in the Union Parliament (Art. 330) and State Legislatures (Art. 332) as well as in educational institutions and jobs in the civil services (Art.335). Along with the provision for reservations of jobs for the SC's and ST's, now the system of reservation for other backward classes has also been brought into effect. The **93rd Constitutional Amendment Act 2005** has inserted clause (5) in Art.15 which provides for the state for making special provision relating to admission to educational institutions including private institutions for the advancement of any socially and educationally backward classes of citizens or for the SC's and the ST's. Part XVI of the Constitution stands entitled as special provisions relating to certain classes. Initially it was for a period of 10 years that reservations were applicable. But the period of reservation has been enhanced. The **95th Constitutional Amendment Act 2009** amended Art.334 to extend the reservation of seats for SCs and STs in the Lok Sabha and states assemblies from Sixty years to Seventy years. Many castes want their inclusion in the list of SC's and ST's to get privileges and benefits. Critics of policy of reservation say that it is unhealthy and harmful for the development of the Indian Political system. Art. 338 mentions about the Constitution of the National Commission for Scheduled Castes and Art. 338 A mentions the composition of a National Commission for the Scheduled Tribes. Art. 341 lays down that the President of India on the advice or recommendations of the Governor of the State can order the inclusion of any caste in the list of scheduled castes. A similar provision is given in Art. 342 regarding the scheduled tribes. **Women's Reservation Bill** is a pending bill in India which proposes to provide thirty three per cent of all seats in the Lower house of Parliament of India the Lok Sabha and state legislative assemblies shall be reserved for women. The Upper House Rajya Sabha passed it on 9 Mar 2010. The seats to be reserved in rotation will be determined by draw of lots in such a way that a seat shall be reserved only once in three consecutive general elections. While Parliament debates and fights over the Women Reservation Bill, 50 per cent reservation for women at the grass root-level development process in Kerala has been implemented in the elections to local bodies in the state held in 2010.

MODULE-V

CHALLENGES TO INDIAN DEMOCRACY

INTRODUCTION

The problem of building a strong nation-state is multidimensional, with political, economic, social and cultural aspects to be taken into consideration. The crisis in nation-building today arises in several fields and out of several factors. Despite commendable achievement in terms of economic development and political democracy, poverty and illiteracy remain in India. The country is today endangered by forces of communalism, regionalism, casteism, sectarianism, separatism, linguism, tribalism, corruption and violence. There has occurred over the years the weakening of the nationalist impulse. Different political and social forces have increasingly ignored the strengthening of the nation-state. Many sections of society and political groups have been weakening the state for short-term gains. The nation state has also been weakened by the increasing regional inequalities, which has given rise to regionalism. There has also been gradual erosion of traditional values; the entire realm of politics has been devalued. The Indian political system has lost its moral authority among the people. There is also the increasing criminalization of politics and a growing nexus between politicians, businessman, bureaucracy, police and criminals. This degeneration of politics is not only dangerous to national unity and development and the nation state but is especially in view of the dynamics of the changing international economic and political order in terms of globalization. The Indian democracy, one of the largest democracies in the world, has been facing several challenges.

Caste in Indian Politics

The predominant feature of the social structure in India is the caste system. Caste has its influence over all social, economic and political relationships of the individual. According to the Varna system there are four castes of the Brahmins, Kshatriyas, Vaishyas and Sudras. Caste has its implications on Indian politics. The purpose of politics is to acquire power for which traditional caste system is used to mobilize support and political parties appeal to various caste communities for this purpose. Caste provides an extensive basis for organization of democratic politics. Caste enables the illiterate and politically ignorant masses of India to participate in the modern democratic process. Caste is a determining factor at all the levels of governmental structure in India- central, state and local. Rajni Kothari in his book 'Caste in Indian Politics' has studied the role of caste in Indian politics and opined that "it is not politics that gets caste-ridden; it is the caste that gets politicized." Adult franchise and Panchayati raj have provided new opportunities for castes accompanied by the greater relevance and activity of caste in administration and politics. State politics in India has been particularly the hot bed of political casteism. Caste factor is a constituent of Indian party system and electoral politics. All political parties give weightage to the caste factor in selecting their candidates, allocating constituencies and even disturbing portfolios while forming the Government. In the Indian Constitution reservation of seats for scheduled castes and scheduled tribes has been ensured in the Parliament, state legislature and local self-governing institutions.

Linguism

In India states were re-organized on the basis of language in 1956. In spite of this, the language problem in Indian politics is emerging. In certain states, we can witness linguistic violence and regionalism. According to Article 343 Hindi (in Devanagari script) is the official language of the Union. However, the Southern states in general and Tamilnadu in particular refused to accept this decision of the Constituent assembly. When Hindi became the official language, there were widespread anti-Hindi agitations in Tamil Nadu. The Eighth Schedule of the Constitution has 22 recognized regional languages. Some sections insist that English should permanently be retained as the official language of the Union. On the other hand, some insist that as Hindi is the national language and should be the language of administration. Art.348 provides that the language of the Supreme Court, High Courts and Bills introduced in the Parliament and State Legislatures shall be English.

Regionalism

In India, even prior to Independence, regionalism was used as a tool by the imperialist to promote their policy of keeping India divided. Regionalism was deliberately encouraged, as a result of which people in each region thought more in terms of their region rather than of India as a whole. Regionalism means love of a particular region or state in preference to the country as a whole. A region is defined as a territorial unit including particular language, tribes or ethnic groups, music, folk dance, folk arts, particular social setting and cultural pattern.

State and local political leaders exploit regional feelings of the people, in order to maintain and strengthen their leadership. They try to talk of regional imbalances and regional backwardness and exploit the feelings of the people of a particular region. Regionalism grew due to four factors: 1. Lack of balanced economic and social development. 2. Increasing awareness among the people that they were neglected in matters like education, job opportunities, setting up of factories, construction of dams, allocation of central funds and grants. 3. Personal and selfish ends of politicians. 4. Creation of linguistic states which reinforced and stirred demands for increased state autonomy.

Regionalism has been a big hindrance in the process of national integration and nation-building. It continues to plague Indian political system in several forms. (i). Demands for secession. (ii). Demands for separate statehood. (iii). Demands for full statehood. (iv). Demand for autonomy. (v). Demand for regional autonomy within a state. (vi). Inter-state disputes. (vii). Sons of the Soil Policy.(viii). Militant Regionalism (ix). Linguistic Regionalism.

The establishment of a strong centre had given rise to demands for decentralization of administration and increased autonomy for states. These demands have manifested in the formation and consolidation of regional parties. The creation of linguistic states have reinforced regionalism and brought forward demands for greater state autonomy. The new emerging trend seen in the regional political parties is that they not only form the government in various states but also form a part of the coalition government functioning at the centre. This gives them the opportunity to start the process of political bargaining with the coalition government at the centre. This trend is sometimes termed as 'bargaining federalism'.

Communalism

The origin and growth of Communalism in India can be traced back to the British rule in India which followed a policy of divide and rule. Communalism was promoted by the British imperialism and served the colonial administration. Communalism refers to the using of a religious community against other communities and against the nation. It is an ideology which emphasizes the separate identity of a religious group and a tendency to promote its own interest.

Bipan Chandra in his book “Communalism in Modern India” observes that “the concept of communalism is based on the belief that religious distinction is the most important and fundamental distinction and this distinction overrides all other distinctions. Since Hindus, Muslims and Sikhs are different religious identities; their social, economic, cultural and political interests are also dissimilar and divergent. As such, the loss of one religious group is the gain of another group and vice-versa. If a particular community seeks to better its social and economic situation, it is doing at the expense of other.”

The **main factors** which encouraged the **growth of communalism** in India are several, such as,

- (i). economic and educational backwardness of the Indian Muslims during the British rule.
- (ii). communal parties and organizations which not only represent particular communities but also thrive on communal politics.
- (iii). the pro-Muslim policies of the Congress government and the appeasement policy towards the Muslims.
- (iv). electoral politics is oriented towards exploiting communal loyalties of the voters residing in the constituencies for capturing a sizeable vote bank.
- (v). circulation of communal literature and the role of the media in perpetuating communal tensions.
- (vi). a feeling of discontent among the Muslims of being denied the benefits of modernization such as government jobs, business and education opportunities.
- (vii). emergence of Hindu chauvinism in India and attempts to propagate the tenets of Hinduism through the mass media.
- (viii). political opportunistic approaches by even secular political parties for political gains.

There are certain suggestions for the **eradication of communalism**, such as banning communal organizations; imposing community fine in the riot affected areas; ensuring balanced development of all the communities in India; separation of religion from politics; enhancing the economic sense of security of the Muslims; inculcate among the people mutual respect and tolerance towards all religions.

As our first Prime Minister observed: “There could be no compromise on the issue of communalism, Hindu communalism or Muslim communalism, as it is a challenge to Indian nationhood and Indian nationalism.”

Corruption and Violence

Corruption has been eating into the vitals of our country. Lusts for power and black money are the vices responsible for ending the moral values in the country. The enormity of corruption in public life has been pointed by Sri. Rajiv Gandhi who said that out of every one rupee spent on development projects more than eighty paise are pocketed by state functionaries and less than twenty paise are spent on the actual project. Politicians collect money from various sources to meet their election expenditure. Public voice against corruption is rising in the wake of several corruption cases in recent times. The Jan Lokpal Bill aims to effectively deter corruption, redress grievances of citizens. If made into law, the bill would create an independent ombudsman body called the *Lokpal* (Sanskrit: *protector of the people*). The body would be empowered to register and investigate complaints of corruption against politicians and bureaucrats without prior government approval. The Lokpal Bill 2011 is under the deliberation process in the Indian Parliament.

Violence in India is another demoralizing feature. Violence in Indian political system takes various forms such as – violence for linguistic states, communal violence, political violence, poll violence, caste conflicts and caste related violence, left extremist violence, agrarian unrest, violence related to terrorist organizations, violence from the state and its agencies such as incidence of police violence against the common people, has become the regular feature of the social and political life in India. There is evidence of degeneration of the state and its democratic political process due to rampant violence.

Religious Fundamentalism

India has a chequered history of religious conflicts and inter-religious dissensions have characterized its socio-political landscape. In pre-partition era, the British policy of divide and rule was in large measure considered to be responsible for the Hindu-Muslim divide. After partition India emerged as a heterogeneous society with strong divisive influences and rise of Hindu communalism, Sikh Communalism and Muslim Communalism. There is also the rise of Religious Fundamentalism in different parts of the country. The Indian Government dealt with divisive internal pulls and urges in different ways. In response to the demands of linguistic minorities, the whole political map was redrawn and reorganization of states on linguistic basis was undertaken following the recommendations of the state reorganization commission. Undoubtedly despite its sinister dimensions, no serious effort has been made to quell religious fundamentalism in India. The orthodox Hindu politicians have often advanced their Hindutva agenda in order to again electoral victory. The founding fathers were cognizant of the maze of socio-religious framework of India and so they envisioned India as a secular polity. Jawaharlal Nehru referring to secularism stated that, “It means free play of religions, subject only to their not interfering with each other or with the basic conception of our state.” The Hindu chauvinistic factions and parties like the BJP, Shiv Sena, RSS and the VHP have missed no opportunity to communalize national politics aimed at capitalizing aimed at Hindu votes. The Ramjanmabhoomi controversy and the demolition of the Babri Masjid fuelled the militant sentiments in the Community. Different Governments have been blatantly giving in to the communal demands of both the Muslim fundamentalist as well as the Hindu fundamentalist with the main intention of playing the politics of opportunism and for the election propaganda for gaining votes of different communities. Attempts to communalize national politics and aims at gaining religious votes have become a trend among different political parties in India, which is very dangerous.

Criminalization of Politics

Indian democracy is also faced with the problem of criminalization of politics as also the politicization of crime. Throughout the country a network of mafias is virtually running a parallel economy and government, pushing the state apparatus to irrelevance. The Government of India constituted a committee in July 1993, under the Chairmanship of Mr.N.N.Vohra, then Home Secretary, to study the relation between crime and politics in India. The Vohra Committee report submitted in 1995 found that there has been a rapid spread and growth of criminal gangs, armed senas, drug mafias, smuggling gangs and economic lobbies in the country. These groups have over the years developed an intensive network of contacts with politicians, bureaucrats, govt. functionaries at local level, media persons and strategically located individuals. Some of them even have international linkages including the foreign agencies. All of this has adversely affected the Indian political system.

Globalization and its Impact on Indian democracy

Globalization can be described as the process which involves growing economic interdependence of countries world-wide. The present globalization process is characterized by developments such as rapid growth in international financial transactions; fast growth in trade among Multi-National Companies (MNC's); foreign direct investments, emergence of global markets and diffusion of technologies and ideas through rapid expansion of globalized transportation, information and communication system.

In India, sweeping changes have been made since 1991 with the new economic policy, with changes in industrial, trade, investment, financial and tax policies. The objectives are to deregulate the economy, disinvestment, private initiatives and enterprise, accelerate economic growth to meet the challenges of global competitiveness. Changes in the international economic policy necessitate changes in domestic economic policies, which has brought pressures on the Indian democratic system.

CONCLUSION

There is an urgent need to strengthen the nation state. Today, only the effective use of state power can meet the challenges posed to nation-building. A united nation and a strong nation-state are necessary today on both economic and political grounds. Only a strong nation –state based on strong secular nationalism can protect the minorities and deal firmly with communal violence and communalism. Nationalism is also a necessary part of the effort to break regional, linguistic, casteist and other narrow identities. Nation –building and democracy has to be integrated with forces of social and economic change and eradication of poverty.

MODULE-VI

INTER-STATE CONSULTATIVE MACHINERY

A federal system not only stands for the distribution of powers between national and regional governments, it also desires sincere co-operation between the two sets of political organizations. This is to ensure co-ordination and effective administration and to avoid diversity in regulation. Some agencies of inter- governmental co-operation have been devised in various federal systems of the world. Inter state consultative machinery is also relevant in the context of “co-operative federalism”, which refers to the practice of administrative co-operation between the Central and State governments. Granville Austin in the book, ‘The Indian Constitution: The Corner Stone of a Nation’, is of the view that the Constituent Assembly of India was the first assembly which adopted from the very start the concept of co-operative federalism. In India agencies like the Inter State Council and the Finance Commission are constitutionally created agencies, while the Planning Commission and the National Development Council are extra constitutional agencies set up to ensure federal co-operation.

INTERSTATE COUNCIL

Composition

Article 263 of the Indian Constitution has provided for an Inter-State council to bring about co-ordination between the states. The Government of India took a decision in May 1990 to constitute the Inter-State council, as per the recommendations of the Sarkaria Commission. It consists of the Prime Minister as Chairman, Chief Ministers of all states, Administrators of all Union Territories without legislatures and six Union Cabinet Ministers nominated by the Prime Minister as members.

Functions

The council is a recommendary body and has the following functions:

- Investigating and discussing such subjects in which some or all of the states have common interest ;
- Making recommendations upon any subject for the better co-ordination of policy and action with respect to that subject
- Deliberating upon such other matters of general interest to the states as may be referred to it by the Chairman.

The Inter-state council Order of 1990 provides that the council shall meet at least thrice in a year. Ten members constitute the quorum. Decisions are taken by consensus and the Chairman’s opinion on it shall be final. There is also a provision for a secretariat for the council. The first meeting of the council was held on 10th October 1990 at New Delhi and one of the items on the agenda was the report of the Sarkaria Commission on Centre-State relations

PLANNING COMMISSION

Composition

The Planning Commission of India was set up in March 1950 with Pandit Jawaharlal Nehru as its Chairman. It is an extra-constitutional and non-statutory body set up by a resolution of the cabinet, to formulate integrated Five year Plans for economic and social development and to act as an advisory body to the Union Government. It was set up in pursuance of declared objectives of the Government to promote a rapid rise in the standard of living of the people by efficient exploitation of the resources of the country, increasing production and offering opportunities to all for employment in the service of the community.

The Commission is composed of twelve members. Prime Minister(Chairman); eight other members(including the deputy chairman),who are experts in different fields like economics, industry, science, agriculture and general administration; Minister of Planning; Minister of Finance and Minister of Defence. As a composite body it provides advice and guidance to the subject divisions for the formulation of Five Year Plans, Annual Plans, State Plans, Monitoring Plan Programmes, Projects and Schemes.

Functions

The main functions of the Planning Commission include:

- (i) Making an assessment of the material, capital and human resources of the country.
- (ii) Formulation of plan for the most effective and balanced utilization of the country's resources.
- (iii) Defining stages of plan implementation and determining plan priorities
- (iv) Identifying the factors which are tending to retard economic growth and determining condition for its successful implementation
- (v) Making periodic assessment of the progress of achievements and recommending changes in policy measures.

Evolving Functions

In the context of the changed economic scenario, the role of the Planning Commission has been redefined. From a highly centralized planning system, the Indian economy is gradually moving towards indicative planning where the Planning Commission will concern itself with the building of a long term strategic vision of the future and decide on priorities of the nation. It will work out sectoral targets and provide promotional stimulus to the economy to grow in the desired direction. The Planning Commission will play an integrative role in the development of a holistic approach to the policy formulation in critical areas of human and economic development.

THE NATIONAL DEVELOPMENT COUNCIL

Composition

The establishment of the Planning Commission led to the setting up of another extra-constitutional body, namely the National Development Council. It was set up on 6th August, 1952 in order to promote co-ordination with the states and to associate the states in the formulation of the Plans. Its main aim is to strengthen and mobilize the effort and resources of the nation in support of the Plan, to promote common economic policies in all vital spheres and to ensure the balanced and rapid development of all parts of the country.

In the NDC representatives of both the Central and State Government sit together to finally approve all important decisions relating to planning. The NDC is composed of the following members – Prime Minister; All state Chief Ministers; Administrators of Union Territories; Members of Planning Commission; other Ministers are also invited to participate in its discussions.

Functions

The NDC is working as an advisory council and has the following functions –

- ❖ To make periodical review of the working of National Plan from time to time.
- ❖ To consider important questions related to social and economic policy affecting national development.
- ❖ To recommend various measures for achieving aims and targets set out in our National Plan.
- ❖ To ensure maximum cooperation of people in the planning and improvement of administrative capacity.
- ❖ To suggest programmes and schemes for the development of less developed and backward classes and regions.
- ❖ To assess resources required for implementing plans and to suggest ways and means for raising national resources.
- ❖ To take decision regarding allocation of Central assistance for planning among different states.
- ❖ To prescribe guidelines for the formulation of national plans.
- ❖ To consider national plans as formulated by the Planning Commission and to approve the same.

ROLE OF THE NATIONAL DEVELOPMENT COUNCIL

The National Development Council has a special role in our federal polity. It is the apex body for decision making and deliberations on development matters. The NDC enjoys an important position because it is chaired by the Prime Minister with the Chief Ministers of all the States participate in its meetings. The states get an opportunity to advance their viewpoints with respect to their specific problems and targets. This also ensures the consent of states to the proposed plan after detailed discussions and debates. It symbolizes the federal approach to planning. It is also an instrument for ensuring that the planning system adopts a national perspective. The consent of states ensures the smooth implementation of plans. The participation of states in the formulation of plans also ensures that the targets of both the Central and State governments are fulfilled. In legal terms, the NDC is an advisory body but in reality, the NDC approves the five year plans and prescribes guidelines for the formulation of plans.

FINANCE COMMISSION

Composition

Article 280 of the Indian Constitution provides that the President shall, within two years from the commencement of this Constitution and thereafter at the expiration of every fifth year or at such earlier times as the President considers necessary, by order constitute a Finance

Commission. It consists of a Chairman and four other members to be appointed by the President. The Chairman must be a person having experience in public affairs. The other four members are appointed as per the following criteria –

1. A person should either be a High court judge or qualified to be appointed as a judge of High Court.
2. One person having special knowledge of the finances and accounts of the Government.
3. A person having wide experience in financial matters and administration.
4. A person having special knowledge of economics.

Functions

The function of the Commission is to make recommendations to the President regarding-

(i). the distribution between the Union and the States of the net proceeds of taxes which are to be divided between them and the allocation between the States of the respective shares of such proceeds.

(ii). the principles which should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India.

(iii). the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Panchayats in the State on the basis of the recommendations made by the Finance Commission of the State (inserted by the 73rd Constitutional Amendment Act, 1992).

(iv). the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Municipalities in the State on the basis of the recommendations made by the Finance Commission of the State (inserted by the 74th Constitutional Amendment Act, 1992).

(v). any other matter referred to the Commission by the President in the interests of sound finance.

Article 281 of the Constitution provides that the President shall cause every recommendation made by the Finance Commission to be laid before each House of Parliament.

The first Finance Commission was constituted in 1951 under the Chairmanship of Sri. K.C.Neogy. So far Thirteen Finance Commissions have been constituted to make recommendations on the distribution of net proceeds of sharable taxes between union and states. The Chairman of the Twelfth Commission was headed by the veteran Indian economist Sri.C. Rangarajan. The Thirteenth Finance Commission was chaired by Sri.Vijay Kelkar.