

# PAPER II

## General Studies - 2

### 1. The Constitution the Political and Administrative Structure of Governance.

#### 1.1

#### **DRAFTING COMMITTEE**

Among all the committees of the Constituent Assembly, the most important committee was the Drafting Committee set up on August 29, 1947. It was this committee that was entrusted with the task of preparing a draft of the new Constitution. It consisted of seven members. They were:

1. Dr B R Ambedkar (Chairman)
2. N Gopalaswamy Ayyangar.
3. Alladi Krishnaswamy Ayyar
4. Dr K M Munshi.
5. Syed Mohammad Saadullah
6. N Madhava Rau (He replaced B L Mitter who resigned due to ill-health)
7. T T Krishnamachari (He replaced D P Khaitan who died in 1948)

The Drafting Committee, after taking into consideration the proposals of the various committees, prepared the first draft of the Constitution of India, which was published in February 1948. The people of India were given eight months to discuss the draft and propose amendments. In the light of the public comments, criticisms and suggestions, the Drafting Committee prepared a second draft, which was published in October 1948.

The Drafting Committee took less than six months to prepare its draft. In all it sat only for 141 days.

#### **ENACTMENT OF THE CONSTITUTION**

Dr B R Ambedkar introduced the final draft of the Constitution in the Assembly on November 4, 1948 (first reading). The Assembly had a general discussion on it for five days (till November 9, 1948).

The second reading (clause by clause consideration) started on November 15, 1948 and ended on October 17, 1949. During this stage, as many as 7653 amendments were proposed and 2473 were actually discussed in the Assembly.

The third reading of the draft started on November 14, 1949. Dr B R Ambedkar moved a motion-the Constitution as settled by the Assembly be passed'. The motion on Draft Constitution was declared as passed on November 26, 1949, and received the signatures of the members and the president. Out of a total 299 members of the Assembly, only 284 were actually present on that day and signed the Constitution. This is also the date mentioned in the Preamble as the date on which the people of India in the Constituent Assembly adopted, enacted and gave to themselves this Constitution.

The Constitution as adopted on November 26, 1949, contained a Preamble, 395 Articles and 8 Schedules. The Preamble was enacted after the entire Constitution was already enacted.

Dr B R Ambedkar, the then Law Minister, piloted the Draft Constitution in the Assembly. He took a very prominent part in the deliberations of the Assembly. He was known for his logical, forceful and persuasive arguments on the floor of the Assembly. He is recognised as the 'Father of the Constitution of India'. This brilliant writer, constitutional expert, undisputed leader of the scheduled castes and the 'chief architect of the Constitution of India' is also known as a 'Modern Manu'.

#### **Enforcement of the constitution**

Some provisions of the Constitution pertaining to citizenship, elections, provisional parliament, temporary and transitional provisions, and short title contained in Articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388, 391, 392 and 393 came into force on November 26, 1949 itself.

The remaining provisions (the major part) of the Constitution came into force on January 26, 1950. This day is referred to in the Constitution as the 'date of its commencement', and celebrated as the Republic Day.

January 26 was specifically chosen as the 'date of commencement' of the Constitution because of its historical importance. It was on this day in 1930 that Purna Swaraj day was celebrated, following the resolution of the Lahore Session (December 1929) of the INC.

With the commencement of the Constitution, the Indian Independence Act of 1947 and the Government of India Act of 1935, with all enactments amending or supplementing the latter Act, were repealed. The Abolition of Privy Council Jurisdiction Act (1949) was however continued.

### Criticism of the Constituent Assembly

The critics have criticised the Constituent Assembly on various grounds. These are as follows:

- 1. Not a Representative Body:** The critics have argued that the Constituent Assembly was not a representative body as its members were not directly elected by the people of India on the basis of universal adult franchise.
- 2. Not a Sovereign Body:** The critics maintained that the Constituent Assembly was not a sovereign body as it was created by the proposals of the British Government. Further, they said that the Assembly held its sessions with the permission of the British Government.
- 3. Time Consuming:** According to the critics, the Constituent Assembly took unduly long time to make the Constitution. They stated that the framers of the American Constitution took only four months to complete their work.
- 4. Dominated by Congress:** The critics charged that the Constituent Assembly was dominated by the Congress party. Granville Austin, a British Constitutional expert, remarked: 'The Constituent Assembly was a one-party body in an essentially one-party country. The Assembly was the Congress and the Congress was India.'
- 5. Lawyer-Politician Domination:** It is also maintained by the critics that the Constituent Assembly was dominated by lawyers and politicians. They pointed out that other sections of the society were not sufficiently represented. This, to them, is the main reason for the bulkiness and complicated language of the Constitution.
- 6. Dominated by Hindus:** According to some critics, the Constituent Assembly was a Hindu dominated body. Lord Viscount Simon called it 'a body of Hindus'. Similarly, Winston Churchill commented that the Constituent Assembly represented 'only one major community in India.'

### What is a constitution?

- A constitution is a document which embodies the faith & aspirations of the people and enjoys a special legal sanctity. It is the fundamentals or organic law of the country.
- It is the supreme law of the land & all other laws and customs, in order to be legally valid shall conform to the constitution. It sets out the conception, character & the organization of the government and also the extent of the sovereign power and the manner of its exercise.
- The constitution derives its power & actually from the people directly as it is given in the preamble; "We the people of India".. Special.
- All other laws of the nation are the creations of the constitution. So, the constitution is the supreme law of a nation for setting laws by the legislature. It should obey the constitution IPC is not an organic law as it doesn't have the administrative structure.

### Classification of the constitution

Constitution is classified a written constitution & unwritten constitution:-

- A written constitution is one whose provisions have been codified into a single legal document. Codification – systematic arrangement of provision.
- An unwritten constitution is one whose provision haven't been codified into a single legal document. It is also written down but not codified Eg: UK Q NZ
- A written constitution is an enacted constitution a single body: India – constituent assembly.
- Evolved (over a period of time, not written by a single body) Eg: Magna Carta single by King Jhon I in 1212 AD is unwritten constitution of UK.
- It can be either rigid, flexible or both depending upon its provisions:-

**Rigid:-** Difficult to be amended, More than one body is involved Eg: US (2 bodies: Federal legislature & state legislature)

**Flexible:-** Easy to be amended. Eg: Srilanka (only parliament can amend)

- It is flexible and it cannot be rigid.
- It can be Federal or unitary.

**Federal:-** 2 forms of govt. viz. Central Govt. of State Govt. & Pak, Ind, US

**Unitary:-** Only one Govt. National Govt. Eg: Bangladesh, Afghanistan It is unitary.

## **BASIC CHARACTERISTICS TO BE A FEDERAL CONSTITUTION:-**

1. **Division or Distribution of Powers:-** Means the existence of two forms of government viz. Federal Govt. of govt. of units of Federation. It involves decentralization of powers. These two forms of government are not subordinate to each other but they are co-ordinate bodies each supreme in its area of activity. It is the fundamental characteristic where as the other points are to support whether the first characteristic is met.
2. **Supremacy of the constitution:-** It means that the constitution is binding on the central & state governments neither of them shall be a position to amend the constitutional provisions alone. They shall be amended by a joint act on the part of the central & state governments. Because of this our constitution is both rigid & flexible. Fundamental rights, directive principles etc. do not take part in the division of powers, so they can be amended by the center alone.

### **The provisions of the constitution (India) that take part in the division of power are:-**

- a. **Articles 54 & 55 :** They deal with the election of president.
- b. **Article 73 & 162 :** 73: Deals with the extent of the executive power union states.
- c. **Article 241 :** Deals with the High Courts for the Union Territories.
- d. **Chapter IV of Part V :** Deals with the union judiciary i.e., the supreme court.
- e. **Chapter V of Part VI :** Deals with High Court of the states.
- f. **Chapter I of Part VI :** Distribution of leg. power between centre and state.
- g. **Any list under Schedule 7:** Union list, state list & concurrent list
- h. **Representation of the states in the parliament**
- i. **Article 368:** Amendments of the constitution

## **DISTINCTIVE FEATURES OF INDIAN FEDERALISM**

US constitution deals only with the federal administration; states have their own constitutions. Both the administration runs parallel. Each state has its own supreme court. The supreme court of USA has no administrative control over the state judiciary. Dual citizenship is given to the citizens. The federal constitution contains only list and the territorial integrity of the states is guaranteed.

1. **The states do not have a separate constitution on their own.** The administrative structure of the state is provided & governed by the constitution of India. Since, the states do not have a right to have a separate constitution, there is no dual citizenship. Thus, the states cannot confer special rights on the people for ordinarily resident of the state.

2. **Under Art. 352,** When a national emergency is proclaimed by the president the distribution of powers between the center and the states stands automatically suspended. The Indian constitution therefore has not been designed to function always as a Federal constitution. It can change its shape & character. It functions as a federal constitution during normal time and it functions as if it were unitary under extra-ordinary situations.

3. **Under Art. 3,** The parliament can change the name, area or boundary of a state without the consent of the state concerned. The parliament has to merely consult the state but not to get the consent.

- To constitute a federation, at least 2 states should be there. Therefore Art 3 doesn't guarantee the right to territorial integrity to the states.

4. **Schedule VII:** The schedule which distributes the legislative subjects between the centre & states, tends to concentrate more legislative subjects in the hand of the centre. The distribution of subjects in the hands of the center. The distribution of subjects is not balanced or equitable. The union list contains the most important and largest number of subjects. Now it includes 100 subjects. All the important subjects of taxation except states tax are found in

the union list. The financial resources therefore largely accrue to the centre and thereafter the financial resources are distributed to the states. Thus the states do not enjoy financial autonomy and their single largest source of revenue is the annual grant in aid provided by centre to the states. Further, the parliaments enjoys exclusive legislative jurisdiction over the subjects under the union list. The union list is superior to the concurrent list & the state list and the concurrent list is superior to the state list.

### **Fundamental Rights in India**

Fundamental Rights (FRs) are known as cornerstone of Indian constitution & mentioned in Part 3 of the constitution. They prohibits unreasonable interference of the state & prevents its executive & legislature to become authoritarian, hence put due limitations of state power. Observance of fundamental duties is essential for having one's FRs redressed in case of their violation.

### **Fundamental Rights V/S Legal Rights**

- Legal rights are protected & enforced by ordinary law of land whereas FRs are protected & guaranteed by written constitution
- In violation of legal rights, one can file suit in subordinate court or by writ application in High court whereas in violation of FRs one can directly approach Supreme court
- Legal rights can be changed by ordinary process of legislation whereas FRs cannot be amended without amending the constitution itself (i.e. by special majority)
- FRs provides protection only against state action not against a private individual except rights pertaining to abolition of untouchability & rights against exploitation

FRs are not absolute but qualified rights Subject to certain restrictions imposed by the state on the question of national security, interest & general welfare of the society But restrictions are checked by SC & HC's, whether restrictions are reasonable or not on the grounds of:

- Advancement of SC's & ST's
- Sovereignty & integrity of India
- Security of India
- Friendly relations with foreign states
- In interest of general public morality & public order

FRs are justifiable & can be enforced in court of law but state may deny some of the FRs to a class of people For ex – Armed forces, Para-Military personnel, Police forces etc. for national security & integrity

### **Judicial Review & FRs**

- Judicial review is the power of SC & HC only to declare a law unconstitutional & void if it is inconsistent with any of the provision of constitution to the extent of inconsistency
- Judicial Review is power against both legislature as well as executives
- States do not make laws which abridges the rights mentioned in part 3 of the constitution & any law made in contravention of this clause shall be void to the extent of contraventions

### **Amendability of FRs**

SC verdict in **Golaknath V/S state of Punjab (1967)** >> FRs has been given transcendental position by constitution hence no authority functioning under constitution including parliament has the power to amend FRs

**In Keshavananda Bharati V/S state of Kerala, 1973**, SC held that parliament has the power to amend any provision of the constitution including part 3, however parliament's amending power subjects to "Basic structure of the constitution"

### **Rule of Law**

- Constitution is supreme law of land & all laws passed by legislature must confirm to it
- No person is above law & all are subjected to ordinary law without any distinction of rank or position (Exception: President, Governor, Foreign diplomats & ambassadors)

The conventional view reflected by political philosophers is that the preamble is not a part of the constitution because even if it were to be drafted the would continue to function. Further the preamble can neither confer nor limit the powers of the organs of the govt. and has a limited ride to play. The supreme court in 'Re Berubans Vs Union Case 1960' by reflecting the conventional view held that the preamble was not a part of the constitution. The modern view is that the preamble is a part of a constitution but not necessarily an essential part of the constitution. In order to make the preamble amenable to the amendments of the parliament and to keep the preamble in line to the rest of the constitution, it is necessary to regard it as a part of the constitution. Reflecting the modern view, the Supreme Court in Kihawananda Bharti Case Vs S. of Kerala 1973. Overruled its earlier decision and held the preamble as a part of the constitution.

### Fundamental Duties

Fundamental Duties were added to Indian constitution by 42<sup>nd</sup> amendment in 1976 on recommendations of Swarn singh committee Initially 10 Fundamental Duties were added under article 51 A in part 4 – A through 42 amendment, Later via 86<sup>th</sup> amendment 11<sup>th</sup> Fundamental Duty was added in 2002

Fundamental Duties are basically statutory duties & are enforceable by law (Means violation of these duties can be met with punishment as prescribed by legislature of India)

- a) To abide by the Constitution and respect the National Flag and the National Anthem;
- b) to cherish and follow the noble ideals which inspired our national struggle for freedom;
- c) to uphold and protect the sovereignty, unity and integrity of India;
- d) to defend the country and render national service when called upon to do so;
- e) to promote harmony and the spirit of common brotherhood amongst all people of India, transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women;
- f) to value and preserve the rich heritage of our composite culture;
- g) to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures;
- h) to develop the scientific temper, humanism and the spirit of inquiry and reform;
- i) to safeguard public property and to abjure violence;
- j) to strive towards excellence in all spheres of individual and collective activity, so that the nation constantly rises to higher levels of Endeavour and achievement.“
- k) to provide opportunities for education by the parent the guardian, to his child, or a ward between the age of 6-14 years as the case may be.

An analysis of the above duties reveals that they are applicable only to citizens and not to the aliens & expected that a citizen of India while enjoying fundamental rights, should also perform these duties. Although there is no provision in the constitution for direct enforcement of any of these duties, yet, the courts are guided by these duties while interpreting various laws

- Addition of Fundamental Duties along with exceptions to FR's limits the operation & free enjoyment of FR's

Some of the duties are very difficult to comprehend & also do not appear to be capable of legal enforcement but only best regarded as directory to Indian citizens.

### Directive Principle of State Policy (DPSP)

Directive Principle of State Policy provides guidelines to central & state government in India, to be kept in mind while framing laws & policies & mentioned in part 4 of the constitution.

- DPSP + FR >> Conscience of Indian Constitution  
Basic aim of DPSPs is to set up social & economic goals before the law makers
- To bring socio-economic change in the country
- To fulfill the basic needs of the common man
- To reshape the structure of Indian society in direction of greater socio-economic equality.

DPSPs are fundamentals in governance of the country & shall be considered dutifully by the state while making laws, but DPSPs are not enforceable in court of law

- If state fails to fulfill these obligations, one cannot go to court of law
- DPSPs only provides a yardstick for measuring success or failure of the government

**Articles 36 to 51** deal with the provisions of the Directive Principles & are broadly classified into

- Socialist principles
- Gandhian principles
- Liberal intellectual principles

### Socialist Principles

- To secure a social order for the promotion of welfare of the people.
- To strive to minimise inequalities of income i.e. operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- Equal justice and free legal aid.
- Ownership and control of material resources of the community shall be so distributed so as to subserve the common good.
- Equal pay for equal work.
- Health & strength of workers, and the tender age of children must not be abused.
- Right to work, to education and to public assistance in certain cases.
- Provision of just and humane conditions for work and maternity relief.
- Participation of workers in the management of the industries.
- Duty of the State to raise the level of nutrition and the standard of living and to improve public health.
- Children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

### The Western Liberal Principles

- Uniform Civil Code for the citizens.
- Provide free and compulsory education for children below 14 years.
- Separation of Judiciary from Executive.
- To promote international peace and amity.
- Protection of monuments and places and objects of national importance
- Protection and improvement of environment and safeguarding of forests and wild life.

### The Gandhian Principles

- Organization of Village Panchayats & to promote cottage industry.
- Promotion of educational and economic interests of the SCs, the STs and the other weaker sections of the society.
- To bring about the prohibition of intoxicating drinks and drugs that are injurious to health.
- Organization of agriculture and animal husbandry on modern and scientific lines to prohibit the slaughter of cows, calves and other milch and draught animals.

### Directives in other parts of the Constitution (Except part IV)

**Article 350 A:** It enjoins every State and every local authority within the State to provide adequate facilities for the instructions in the mother tongue at the primary stage to children of linguistic minority areas.

**Article 351:** It enjoins the Union to promote the spread of Hindi Language so that it may serve as a medium of expression of all the elements of the composite culture of India.

**Article 335:** It says that the claims of SC/ST shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with affairs of the Union or of a State.

Under the implementation of DPSP, Zamindari, Jagirdari & inamdari systems were abolished & actual tillers of the soil were made owner of the land.

### DPSPs v/s FRs

**FRs provide the foundation of political democracy in DPSPs spell out the character of social & economic**

India	democracy in India
Lays down negative obligation / restriction on the state i.e. FRs are prohibitive in nature	DPSPs are positive / moral obligations of state towards the citizens
FRs have been laid down in clear legal language in constitution	DPSPs are laid in general terms and are sort of moral obligations
FRs represent something static i.e. to preserve certain rights which already exist	DPSPs represents a dynamic move towards the betterment of the citizens
FRs are justifiable in nature & can be enforced in court of law	DPSPs are non-justifiable in nature & can not be enforced in court of law

### What if laws made by state giving effect to DPSP's violates FR, can they be valid? This question was raised before SC in 1951 in Champakam Dorairajan case !

- SC held that they are supplementary to each other & no as such inherent conflict is between them, thus, as far as possible, should be interpreted harmoniously. However, if it is not possible, FRs will prevail over DPSPs means DPSPs can not override FRs, hence such a law is void.
- On this ground, SC held Bank nationalisation act & Privy purse (abolition) act unconstitutional
  - In 1971, **25<sup>th</sup> amendment** introduced a new article 31-c, which states that “if state enacts any law giving effect to two directive principles viz. Equitable distribution of wealth (article 39-b) & Prevention of concentration of wealth in fewer hands (article 39-c), & in that process if the law violates FRs (article 14, 19 & 31), it can not be held void merely on this ground.
  - Article 31-c further states that such a law giving effect to 39 – b & 39 – c, can not be questioned in court of law.
  - 25<sup>th</sup> amendment was challenged in **Kesavananda Bharati case** (1973), in which SC held that only first part of the article 31-c (overriding article 14, 19 & 31) is valid, but second part which bars judicial review held unconstitutional.
  - **42<sup>nd</sup> amendment, 1976** further amended article 31-c & widened its scope & gave precedence for all DPSPs over article 14, 19 & 31 & hence made them immune to judicial review.
  - **Minerva Mills case, 1980:** SC struck down the changes introduced by 42<sup>nd</sup> amendment in article 31-c & held them unconstitutional on grounds that total exclusion of judicial review would offend the basic structure of the constitution.

**Presently, only article 39-b & 39-c can be given precedence over articles 14 & 19**

### AMENDMENT OF THE CONSTITUTION

Article 368 in Part XX of the Constitution deals with the powers of Parliament to amend the Constitution and its procedure. It states that the Parliament lay, in exercise of its constituent power, amend by lay of addition, variation or repeal any provision of the Constitution in accordance with the procedure laid down for the purpose. However, the Parliament I cannot amend those provisions which form the ‘basic Structure’ of the Constitution. This was ruled by the Supreme Court in the Kesavananda Bharati case (1973).

### PROCEDURE FOR AMENDMENT

The procedure for the amendment of the Constitution as laid down in Article 368 is as follows:

1. An amendment of the Constitution can be initiated only by the introduction of a bill for the purpose in either House of Parliament and not in the state legislatures.
2. The bill can be introduced either by a minister or by a private member and does not require prior permission of the president.
3. The bill must be passed in each House by a special majority, that is, a majority (that is, more than 50 per cent) of the total membership of the House and a majority of two-thirds of the members of the House present and voting.
4. Each House must pass the bill separately. In case of a disagreement between the two Houses, there is no provision for holding a joint sitting of the two Houses for the purpose of deliberation and passage of the bill.
5. If the bill seeks to amend the federal provisions of the Constitution, it must also be ratified by the legislatures of half of the states by a simple majority, that is, a majority of the members of the House present and voting.
6. After duly passed by both the Houses of Parliament and ratified by the state legislatures, where necessary, the bill is presented to the president for assent.

## Objectives Resolution

On December 13, 1946, Jawaharlal Nehru moved the historic 'Objectives Resolution' in the Assembly. It laid down the fundamentals and philosophy of the constitutional structure. It read:

1. "This Constituent Assembly declares its firm and solemn resolve to proclaim India as an Independent Sovereign Republic and to draw up for her future governance a Constitution:
2. Wherein the territories that now comprise 'British India, the territories that now form the Indian States, and' such other parts of India as are outside India and the States as well as other territories as are willing to be constituted into the independent sovereign India, shall be a Union of them all; and
3. Wherein the said territories, whether with their present boundaries or with such others as may be determined by the Constituent Assembly and thereafter according to the law of the Constitution, shall possess and retain the status of autonomous units together with residuary powers and exercise all powers and functions of Government and administration save and except such powers and functions as are vested in or assigned to the Union or as are inherent or implied in the Union or resulting therefrom; and
4. Wherein all power and authority of the Sovereign Independent India, its constituent parts and organs of Government are derived from the people; and
5. wherein shall be guaranteed and secured to all the people of India justice, social, economic and political; equality of status of opportunity, and before the law; freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality; and
6. wherein adequate safeguards shall be provided for minorities, backward and tribal areas, and depressed and other backward classes; and
7. whereby shall be maintained the integrity of the territory of the Republic and its sovereign rights on land, sea and air according to justice and the law of civilized nations; and
8. This ancient land attains its rightful and honoured place in the world and makes its full and willing contribution to the promotion of world peace and the welfare of mankind."

This Resolution was unanimously adopted by the Assembly on January 22, 1947. It influenced the eventual shaping of the constitution through all its subsequent stages. Its modified version forms the Preamble of the present Constitution.

## Changes by the Independence Act

The representatives of the princely states, who had stayed away from the Constituent Assembly, gradually joined it. On April 28, 1947, representatives of the six states were part of the Assembly. After the acceptance of the Mountbatten Plan of June 3, 1947 for a partition of the country, the representatives of most of the other princely states took their seats in the Assembly. The members of the Muslim League from the Indian Dominion also entered the Assembly.

The Indian Independence Act of '1947 made the following three changes in the position of the Assembly:

1. The Assembly was made a fully sovereign body, which could frame any Constitution it pleased. The act empowered the Assembly to abrogate or alter any law made by the British Parliament in relation to India.
2. The Assembly also became a legislative body. In other words, two separate functions were assigned to the Assembly, that is, making of a constitution for free India and enacting of ordinary laws for the country. These two tasks were to be performed on separate days. Thus, the Assembly became the first Parliament of free India (Dominion Legislature). Whenever the Assembly met as the Constituent body it was chaired by Dr. Rajendra Prasad and when it met as the legislative body, it was chaired by G V Mavlankar. These two functions continued till November 26, 1949, when the task of making the Constitution was over.

3. The Muslim League members (hailing from the areas<sup>7</sup> included in the Pakistan) withdrew from the Constituent Assembly for India. Consequently, the total strength of the Assembly came down to 299 as against 389 originally fixed in 1946 under the Cabinet Mission Plan. The strength of the Indian provinces (formerly British Provinces) was reduced from 296 to 229 and those of the princely states from 93 to 70. The state-wise membership of the Assembly as on December 31, 1947, is shown in Table. Other Functions Performed In addition to the making of the Constitution and enacting of ordinary laws, the Constituent Assembly also performed the following functions:

1. It ratified the India's membership of the Commonwealth in May 1949.
2. It adopted the national flag on July 22, 1947.
3. It adopted the national anthem on January 24, 1950.
4. It adopted the national song on January 24, 1950.
5. It elected Dr Rajendra Prasad as the first President of India on January 24, 1950.

In all, the Constituent Assembly had 11 sessions over two years, 11 months and 18 days. The Constitution-makers had gone through the constitutions of about 60 countries, and the Draft Constitution was considered for 114 days. The total expenditure incurred on making the Constitution amounted to Rs. 64 Lakh.

On January 24, 1950, the Constituent Assembly held its final session. It, however, did not end, and continued as the provisional parliament of India from January 26, 1950 till the formation of new Parliament after the first general elections in 1951-52.

#### COMMITTEES OF THE CONSTITUENT ASSEMBLY

The Constituent Assembly appointed a number of committees to deal with different tasks of constitution-making. Out of these, eight were major committees and the others were minor committees. The names of these committees and their chairmen are given below:

##### Major Committees

1. Union Powers Committee - Jawaharlal Nehru
2. Union Constitution Committee - Jawaharlal Nehru .
3. Provincial Constitution Committee - Sardar Patel I .
4. Drafting Committee - Dr. B.R. Ambedkar
5. Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas - Sardar Patel. This committee had the following sub-committees:
  - (a) Fundamental Rights Sub-Committee - J .B. Kripalani
  - (b) Minorities Sub-Committee - H.C. Mukherjee
  - (c) North-East Frontier Tribal Areas and Assam Excluded & Partially Excluded Areas Sub-Committee —\_Gopinath Bardoloi
  - (d) Excluded and Partially Excluded Areas (Other than those in Assam) Sub-Committee - A.V. Thakkar
6. Rules of Procedure Committee - Dr. Rajendra Prasad
7. States Committee (Committee for Negotiating with States) - Jawaharlal Nehru
8. Steering Committee — Dr. Rajendra Prasad

##### Minor Committees

1. Committee on the Functions of the Constituent Assembly - G.V. Mavalankar
2. Order of Business Committee - Dr. K.M. Munshi
3. House Committee — B. Pattabhi Sitaramayya
4. Ad-hoc Committee on the National Flag - Dr. Rajendra Prasad
5. Special Committee to Examine the Draft Constitution - Alladi Krishnaswamy Ayyar
6. Credentials Committee — Alladi Krishnaswamy Ayyar
7. Finance and Staff Committee — Dr. Rajendra Prasad.
8. Hindi Translation Committee
9. Urdu Translation Committee

10. Press Gallery Committee
11. Committee to Examine the Effect of Indian Independence Act of 1947
12. Committee on Chief Commissioners' Provinces - B. Pattabhi Sitaramayya. -
13. Commission on Linguistic Provinces
14. Expert Committee on Financial Provisions
15. Ad-hoc Committee on the Supreme Court - S.Varadachariar.

## 1.2 CENTRE & STATE LEGISLATURE

### President: Qualification, Election, Powers, Removal

#### President

- Elected for 5 year term & eligible for re-election
  - Executive head of India & all the executive powers of the union shall be vested in him
  - Supreme commander of the arm forces
  - 1<sup>st</sup> citizen of India & occupies 1<sup>st</sup> position under warrant of precedence
- Executive powers vested in president shall be exercise on advice of COM responsible to the parliament, however, 42<sup>nd</sup> amendment made it obligatory for the president to accept advice of COM

#### Election of President: Article 54

The President of India is elected indirectly by the Electoral College according to secret ballot by the system of proportional representation through single transferable vote. The President of India is elected by an electoral college consisting of:

- Elected members of the two Houses of Parliament and Legislative Assemblies of the States
- States includes national capital territory of Delhi and the Union territory of Pondicherry

#### Do Not Participate

- Nominated members of both the houses of the parliament & of state legislative assemblies
- All the members of legislative council of states

There shall be uniformity in the scale of representation of the different states at the election of the President as follows:

- **Value of vote of an MLA of a state:** (Population of state / Total number of elected members of state legislative assembly) \* 100
- **Value of vote of an MP:** (Total value of votes of MLA's of all states/ Total number of elected members parliament) \* 100
- Hence, value of vote of MLA of UP is highest & value of vote of MLA of Sikkim is lowest
- By 42<sup>nd</sup> amendment, census of 1971 was to be followed till 1<sup>st</sup> census after 2000, but in 2000, Union cabinet extended the same till 1<sup>st</sup> census after 2026 by 81<sup>st</sup> amendment 2001

#### For a candidate to be President, one must fulfill electoral quota

**Electoral Quota:** (Total number of valid votes polled / 2) + 1

- Candidate with last position gets eliminated & 2<sup>nd</sup> preference of all ballots, who ranked eliminated candidate 1st, is added to all accordingly. This process is followed till someone fulfill electoral quota
- Dispute regarding election of president (Article 71) or vice president is inquired & decided by supreme court whose decision is final
- Article 71 further states that no such disputes can be raised on the grounds of any vacancy in electoral college

He is leader of majority party in Lok sabha & the main link b/w cabinet & parliament, acts as government chief spokesperson in Parliament

### **President enjoys the right to information of affairs of the state & holds:**

- Right to be consulted
- Right to encourage
- Right to warn

### **Attorney General of India**

“1<sup>st</sup> law officer of GOI & its chief legal advisory & primary lawyer in SC”

- Appointed by President
- Must be qualified to be appointed as a judge of SC
- Holds office during the pleasure of the President & can be removed by him anytime. Conventionally he resigns when COMs resign or is replaced as he is appointed on their advice
- Not a member of cabinet, Does not have any executive authority & is not a political appointee

### **Points to Ponder**

- Can not defend an accused in criminal proceedings or accept directorship of any company without the permission of the government
- Assisted by 2 solicitor generals (appointed for 3 yrs) & 4 additional solicitor generals (appointed for 3 yrs), eligible for re-appointment, for a further term not exceeding three years.
- To be consulted only in legal matters, only after ministry of law has been consulted

### **Duties of Attorney General**

- To give advice to GOI on legal matters
- To perform other legal duties assigned to him by the president
- To discharge function assigned to him by constitution or other legal laws
- Enjoys the right of audience in all the courts of India
- Entitled to take part in proceedings of the parliament & can be a member of parliamentary committees but does not have a right to vote in parliament
- Allowed to take up private practice, provided other party is not the state. Because of this he is not paid salary but a retainer (to be determined by the President) Equivalent to salary of a Judge of SC

### **Difference between Attorney General & Solicitor General:**

- Solicitor General is subordinate to the Attorney General of India and works under him.
- The Solicitor General for India is the second law officer of the country, assists the Attorney General
- Unlike the post of Attorney General of India, which is a Constitutional post under Article 76 of the Constitution of India, the posts of the Solicitor General and the Additional Solicitors General are merely statutory.

### **Comptroller & Auditor General of India (CAG)**

Appointed by President, nominated by PM of India + **Office term** – 6 years or upto 65 yrs of age + **Salary** – 90,000 / month & can be removed by the President on the same grounds & manner as a judge of SC.

### **Duties & Function**

- He is the chief Guardian of Public purse & head of Indian audit & account department
- Audits accounts of Union & states to ensure nothing is spent out of consolidated fund of India or of the state without the sanction of the parliament or respective state legislature
- Audits government owned companies (51% stake of Gov.) as an external auditor
- Reports of CAG are taken into consideration by public accounts committee (PAC)

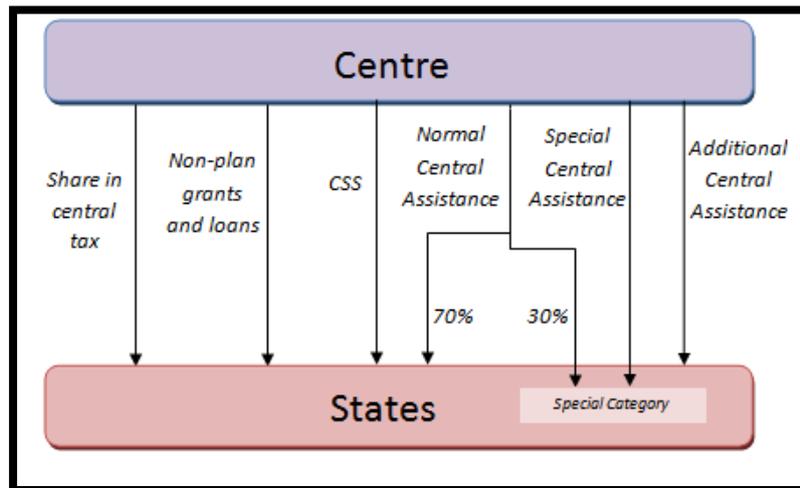
### **Public accounts committee (PAC)**

- A committee of not more than 22 members (LS → 15 & RS → 7)
- formed every year in parliament & state legislature
- No member of PAC should be from COM)
- Chairman of PAC is appointed by speaker of Lok sabha & is generally from opposition party

### **Independence of office of CAG**

Gets security of tenure as though appointed by President, CAG may be removed from his office only on the grounds of proved misbehavior or incapacity only in a manner as a judge of SC is removed (i.e. each house of parliament is passing a resolution supported by not less than 2/3<sup>rd</sup> of the members present & voting)

- Constitution provides for appointment of finance commission by President every 5 years to advise him regarding distribution of resources b/w union & states & other revenue matters
- Niti Ayog also plays a vital role in financial relations b/w centre & states. It decides outlays of the plans for the country which in turn decides amount of money to be given to various states



### Cooperative Federalism

- In exigencies of war, national interest takes precedence over fine points of centre – state divisions of powers
- Substitution of primary police state by welfare state, where varied social services or technological advancement requires huge outlays & state government could not meet them on their own resources

### Supreme Court Doctrines in context of legislative relations b/w Centre & States

#### Doctrine of Pith & Substance

- Within their respected areas of authority, Union & state legislatures are supreme & are not supposed to encroach upon others sphere
- If a new law passed by one encroaches upon the subject, held & assigned by the other, court will apply Doctrine of Pith & Substance
- If it is found that law in substance is within the subjects assigned to that legislature & intention of law is genuine, the law shall be valid, even though there is some overlapping.
- Hence, there can not be watertight division of powers b/w centre & the state, because if it is, it would made several laws invalid on simple grounds of overlapping

#### Doctrine of Colorable legislation

- In federal government, transgression of its limit of powers by a legislature may be overt or covert. When the legislation is indirect & covert, it is known as colorable legislation
- In this, although the subject on which legislature make laws falls within its legislative competence in exterior appearance but its real motive is to transgress the powers of other legislature covertly
- In this, case applying the Doctrine of colorable legislation, court can invalidate the entire law which means, what legislature can not do directly, it can not do the same indirectly also

#### Interstate councils

- President is empowered to constitute an interstate council, if at any time it appears to him that public interest would be served thereby
- Establishment → May 1990, on recommendations of Sarkaria commission
- Meet 3 time a year with proceedings under camera

#### Members

- PM (Ex-officio chairperson)

- 6 union ministers (as appointed by PM)
- CM of all the states & UTs
- Administrators of UTs

**Largely based on GOI act of 1935; ISC has 3 specific duties viz.**

- To enquire into & advice upon disputes arose b/w states
- To investigate & discuss subjects on which states or union + states have common interest
- To make recommendations on these subjects for better coordination of policy & action

## UNION LIST, STATE LIST, CONCURRENT LIST

- (1) Union List
- (2) State List
- (3) Concurrent List

• **Union List**

The **Union List** or **List-I** is a list of 100 items (the last item is numbered 97) given in Seventh Schedule in the Constitution of India on which Parliament has exclusive power to legislate. The legislative section is divided into three lists: Union List, State List and Concurrent List. Unlike the federal governments of the United States, Switzerland or Australia, residual powers remain with the Union Government, as with the Canadian federal government.

There are 100 items on the list, of which one is no longer in force. These are:

1. Defence of India and every part thereof including preparation for defence and all such acts as may be conducive in times of war to its prosecution and after its termination to effective demobilisation.
2. Naval, military and air forces; any other armed forces of the Union.
  - 2A. Deployment of any armed forces of the Union or any other force subject to the control of the Union or any contingent or unit thereof in any State in aid of the civil power; powers, jurisdiction, privileges and liabilities of the members of such forces while on such deployment.
3. Delimitation of [cantonment] areas, local self-government in such areas, the constitution and powers within such areas of cantonment authorities and the regulation of house accommodation (including the control of rents) in such areas.
4. Naval, military and air force works.
5. Arms, firearms, ammunition and explosives.
6. Atomic energy and mineral resources necessary for its production.
7. Industries declared by Parliament by law to be necessary for the purpose of defence or for the prosecution of war.
8. Central Bureau of Intelligence and Investigation.
9. Preventive detention for reasons connected with Defence, Foreign Affairs, or the security of India; persons subjected to such detention.
10. Foreign affairs; all matters which bring the Union into relation with any foreign country.
11. Diplomatic, consular and trade representation.
12. United Nations Organisation.
13. Participation in international conferences, associations and other bodies and implementing of decisions made thereat.
14. Entering into treaties and agreements with foreign countries and implementing of treaties, agreements and conventions with foreign Countries.
15. War and peace.
16. Foreign jurisdiction.
17. Citizenship, naturalisation and aliens.
18. Extradition.
19. Admission into, and emigration and expulsion from, India; passports and visas.
20. Pilgrimage to places outside India.

21. Piracies and crimes committed on the high seas or in the air; offences against the law of nations committed on land or the high seas or in the air.
22. Railways.
23. Highways declared by or under law made by Parliament to be national highways.
24. Shipping and navigation on inland waterways, declared by Parliament by law to be national waterways, as regards mechanically propelled vessels; the rule of the road on such waterways
25. Maritime shipping and navigation, including shipping and navigation on tidal waters; provision of education and training for the mercantile marine and regulation of such education and training provided by States and other agencies.
26. Lighthouses, including lightships, beacons and other provision for the safety of shipping and aircraft.
27. Ports declared by or under law made by Parliament or existing law to be major ports, including their delimitation, and the constitution and powers of port authorities therein.
28. Port quarantine, including hospitals connected therewith; seamen's and marine hospitals.
29. Airways aircraft and air navigation; provision of aerodromes; regulation and organisation of air traffic, and of aerodromes; provision for aeronautical education and training and regulation of such education and training provided by States and other agencies.
30. Carriage of passengers and goods by railway, sea or air, or by national waterways in mechanically propelled vessels.
31. Posts and telegraphs, telephones, wireless, broadcasting and other like forms of communication.
32. Property of the Union and the revenue therefrom, but as regards property situated in a State subject to legislation by the State, save in so far as Parliament by law otherwise provides.
- 33.
34. Courts of wards for the estates of Rulers of Indian States.
35. Public debt of the Union.
36. Currency, coinage and legal tender; foreign exchange.
37. Foreign loans.
38. Reserve Bank of India.
39. Post Office Savings Bank.
40. Lotteries organised by the Government of India or the Government of a State.
41. Trade and commerce with foreign countries import and export across customs frontiers definition of customs frontiers.
42. Inter-State trade and commerce.
43. Incorporation, regulation and winding up of trading Corporations, including banking, insurance and financial corporations but not including Co-operative Societies.
44. Incorporation, regulation and winding up of corporations, whether trading or not, with objects not confined to one State, but not including universities.
45. Banking.
46. Bills of exchange, cheques, promissory notes and other like instruments.
47. Insurance.
48. Stock exchanges and futures markets.
49. Patents, inventions and designs; copyright; trade-marks and merchandise marks.
50. Establishment of standards of weight and measure.
51. Establishment of standards of quality for goods to be exported out of India or transported from one State to another.
52. Industries, the control of which by the Union is declared by Parliament by law to be expedient in the public interest.
53. Regulation and development of oilfields and mineral oil resources; petroleum and petroleum products; other liquids and substances declared by Parliament by law to be dangerously inflammable.
54. Regulation of mines and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.
55. Regulation of labour and safety in mines and oil-fields.
56. Regulation and development of inter-State rivers and river valleys to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.

57. Fishing and fisheries beyond territorial waters.
58. Manufacture, supply and distribution of salt by Union agencies; regulations and control of manufacture, supply and distribution of salt by other agencies.
59. Cultivation, manufacture, and sale for export, of opium.
60. Sanctioning of cinematograph films for exhibition.
61. Industrial disputes concerning Union employees.
62. The institutions known at the commencement of this Constitution as the National Library, the Indian Museum, the Imperial War Museum, the Victoria Memorial and the Indian War Memorial, and any other like institution financed by the Government of India wholly or in part and declared by Parliament by law to be an institution of national importance.
63. The institutions known at the commencement of this Constitution as the Benares Hindu University, the Aligarh Muslim University and the Delhi University; the University established in pursuance of Article 371-E; any other institution declared by Parliament by law to be an institution of national importance.
64. Institutions for scientific or technical education financed by the Government of India wholly or in part and declared by Parliament by law to be institutions of national importance.
65. Union agencies and institutions for –
  - (a) professional, vocational or technical training, including the training of police officers; or
  - (b) the promotion of special studies or research; or
  - (c) scientific or technical assistance in the investigation or detection of crime.
66. Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.
67. Ancient and historical monuments and records, and archaeological sites and remains, declared by or under law made by Parliament to be of national importance.
68. The Survey of India, the Geological, Botanical, Zoological and Anthropological Surveys of India; Meteorological organisations.
69. Census.
70. Union public services; all-India services; Union Public Service Commission.
71. Union Pensions, that is to say, pensions payable by the Government of India or out of the Consolidated Fund of India.
72. Elections to Parliament, to the Legislatures of States and to the offices of President and Vice-President; the Election Commission.
73. Salaries and allowances of members of Parliament, the Chairman and Deputy chairman of the Council of States and the Speaker and Deputy Speaker of the House of the People.
74. Powers, privileges and Immunities of each House of Parliament and of the members and the Committees of each House enforcement of attendance of persons for giving evidence or producing documents before committees of Parliament or commissions appointed by Parliament.
75. Emoluments, allowances, privileges, and rights in respect of leave of absence, of the President and Governor salaries and allowances of the Ministers for the Union; the Salaries, allowances, and rights in respect of leave of absence and other conditions of service of the Comptroller and Auditor-General.
76. Audit of the accounts of the Union and of the States.
77. Constitution, organisation, jurisdiction and powers of the Supreme Court (including contempt of such Court), and the fees taken therein persons entitled to practice before the Supreme Court.
78. Constitution and organisation (including vacations) of the High Courts except provisions as to officers and servants of High Courts; persons entitled to practice before the High Courts.
79. Extensions of the jurisdiction of a High Court to, and exclusion of the jurisdiction of a High Court from any Union territory.
80. Extension of the powers and jurisdiction of members of a police force belonging to any State to any area outside that State, but not so as to enable the police of one State to exercise powers and jurisdiction in any area outside that State without the consent of the Government of the State in which such area is situated; extension of the powers and jurisdiction of members of a police force belonging to any State to railway areas outside that State.
81. Inter-state migration; inter-State quarantine.
82. Taxes on income other than agricultural income.
83. Duties of customs including export duties.
84. Duties of excise on tobacco and other goods manufactured or produced in India except –

(a) alcoholic liquors for human consumption

(b) opium, Indian hemp and other narcotic drugs and narcotics;

but including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry.

85. Corporation tax.

86. Taxes on the capital value of the assets, exclusive of agricultural land, of individuals and companies; taxes on the capital of companies.

87. Estate duty in respect of property other than agricultural land.

88. Duties in respect of succession to property other than agricultural land.

89. Terminal taxes on goods or passengers, carried by railway, sea or air; taxes on railway fares and freights.

90. Taxes other than stamp duties on transactions in stock exchanges and futures markets.

91. Rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts.

92. Taxes on the sale or purchase of newspapers and on advertisements published therein.

92A. 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.

92B. Taxes on the consignment of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter-State trade or commerce.

92C. Taxes on services.

93. Offences against laws with respect to any of the matters in this List.

94. Inquiries, surveys and statistics for the purpose of any of the matters in this List.

95. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List admiralty jurisdiction.

96. Fees in respect of any of the matters in this List, but not including fees taken in any court.

97. Any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists.

## (2) State List

The State List or List-II is a list of 61 items (Initially there were 66 items in the list) in Seventh Schedule to the Constitution of India. The legislative section is divided into three lists: Union List, State List and Concurrent List. Unlike the federal governments of the United States, Switzerland or Australia, residual powers remain with the Union Government, as with the Canadian federal government.

If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void. There is an exception to this in cases "where a law made by the Legislature of a State with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State. Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State."

### Items on the list

The 61 items currently on the list are:

1. Public order (but not including the use of any naval, military or air force or any other armed force of the Union or of any other force subject to the control of the Union or of any contingent or unit thereof in aid of the civil power).
2. Police (including railway and village police) subject to the provisions of Entry 2-A of List-I.
3. Officers and servants of the High Court; procedure in rent and revenue courts; fees taken in all courts except the Supreme Court.
4. Prisons, reformatories, Borstal institutions and other institutions of a like nature and persons detained therein; arrangements with other States for the use of prisons and other institutions.

# Section-10 International Organizations

## Section-10.1: UNO and its associated organizations:

**Introduction:** The United Nations is an international organization founded in 1945. It is currently made up of 193 Member States. The mission and work of the United Nations are guided by the purposes and principles contained in its founding Charter.

The UN also provides a forum for its members to express their views in the General Assembly, the Security Council, the Economic and Social Council, and other bodies and committees. By enabling dialogue between its members, and by hosting negotiations, the Organization has become a mechanism for governments to find areas of agreement and solve problems together.

- The UN's Chief Administrative Officer is the Secretary-General.
- 2015 marked the 70th anniversary of the United Nations.

**Members:** Each of the 193 Member States of the United Nations is a member of the General Assembly. States are admitted to membership in the UN by a decision of the General Assembly upon the recommendation of the Security Council.

**Associate Organizations:** The main organs of the UN are the General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council, the International Court of Justice, and the UN Secretariat. All were established in 1945 when the UN was founded.

### 1. General Assembly

The General Assembly is the main deliberative, policymaking and representative organ of the UN. All 193 Member States of the UN are represented in the General Assembly, making it the only UN body with universal representation.

Each year, in September, the full UN membership meets in the General Assembly Hall in New York for the annual General Assembly session, and general debate, which many heads of state attend and address. Decisions on important questions, such as those on peace and security, admission of new members and budgetary matters, require a two-thirds majority of the General Assembly. Decisions on other questions are by simple majority. The General Assembly, each year, elects a President to serve a one-year term of office.

### 2. Security Council

The Security Council has primary responsibility, under the UN Charter, for the maintenance of international peace and security. It has 15 Members (5 permanent and 10 non-permanent members). Each Member has one vote. Under the Charter, all Member States are obligated to comply with Council decisions.

The Security Council takes the lead in determining the existence of a threat to the peace or act of aggression. It calls upon the parties to a dispute to settle it by peaceful means and recommends methods of adjustment or terms of settlement. In some cases, the Security Council can resort to imposing sanctions or even authorize the use of force to maintain or restore international peace and security. The Security Council has a Presidency, which rotates, and changes, every month.

### 3. Economic and Social Council

The Economic and Social Council is the principal body for coordination, policy review, policy dialogue and recommendations on economic, social and environmental issues, as well as implementation of internationally agreed development goals.

It serves as the central mechanism for activities of the UN system and its specialized agencies in the economic, social and environmental fields, supervising subsidiary and expert bodies. It has 54 Members, elected by the General Assembly for overlapping three-year terms. It is the United Nations' central platform for reflection, debate, and innovative thinking on sustainable development.

#### 4. Trusteeship Council

The Trusteeship Council was established in 1945 by the UN Charter, under Chapter XIII, to provide international supervision for 11 Trust Territories that had been placed under the administration of seven Member States, and ensure that adequate steps were taken to prepare the Territories for self-government and independence.

By 1994, all Trust Territories had attained self-government or independence. The Trusteeship Council suspended operation on 1 November 1994. By a resolution adopted on 25 May 1994, the Council amended its rules of procedure to drop the obligation to meet annually and agreed to meet as occasion required -- by its decision or the decision of its President, or at the request of a majority of its members or the General Assembly or the Security Council.

#### 5. International Court of Justice

The International Court of Justice is the principal judicial organ of the United Nations. Its seat is at the Peace Palace in the Hague (Netherlands). It is the only one of the six principal organs of the United Nations not located in New York (United States of America).

The Court's role is to settle, in accordance with international law, legal disputes submitted to it by States and to give advisory opinions on legal questions referred to it by authorized United Nations organs and specialized agencies.

#### 6. Secretariat

The Secretariat comprises the Secretary-General and tens of thousands of international UN staff members who carry out the day-to-day work of the UN as mandated by the General Assembly and the Organization's other principal organs.

The Secretary-General is chief administrative officer of the Organization, appointed by the General Assembly on the recommendation of the Security Council for a five-year, renewable term. UN staff members are recruited internationally and locally, and work in duty stations and on peacekeeping missions all around the world.

But serving the cause of peace in a violent world is a dangerous occupation. Since the founding of the United Nations, hundreds of brave men and women have given their lives in its service.

## 10.2

### IMF, The World Bank & ADB

#### IMF (International Monetary Fund)

The International Monetary Fund (IMF) is an international organization headquartered in Washington, D.C., of "189 countries working to foster global monetary cooperation, secure financial stability, facilitate international trade, promote high employment and sustainable economic growth, and reduce poverty around the world. Formed in 1945 at the Bretton Woods Conference primarily by the ideas of Harry Dexter White and John Maynard Keynes.

#### World Bank

**The World Bank** is an international financial institution that provides loans to countries of the world for capital projects. It comprises two institutions: the International Bank for Reconstruction and Development (IBRD), and the International Development Association (IDA). The World Bank is a component of the World Bank Group.

The World Bank's stated goal is the reduction of poverty which its Articles of Agreement define as commitments to the promotion of foreign investment and international trade and to the facilitation of capital investment.

World Bank is about growth. IMF is about stability. World Bank is for development projects in the developing world. IMF is about balancing the international financial system in both rich and poor countries [**Greece is a recent recipient**].

**Difference between IMF and World Bank :**

World Bank is your gym trainer - provides you stuff to grow strong. IMF is your doctor in emergency ward. They will try to bring you back to life & provide you advice on not eating that fatty food again. World Bank brings no stigma. IMF aid sometimes brings a stigma because it indicates that you have a disease that needs to be cured.

Both the organizations are for governments to borrow. You go to the World Bank when you want to build a dam or power plant or a road. You go to the IMF when you are so fucked up that your currency is dropping like crazy. IMF comes and usually fixes stuff along with providing a mouthful of advice.

World Bank is a bank. Meaning it borrows money from investors around the world and then lends to the poor governments that are building projects that help them out of poverty. You can see some of their projects in India, for instance:

IMF is a fund. Meaning it has a pool of money given to it by 182 member countries in the past and just lends out of that fund. It doesn't usually borrow new money. See where IMF lends: [IMF Lending at a Glance](#)

### IMF is comprised of four key credit lines:

**FCL** (Flexible Credit Line): This is usually given to countries well before they get into a problem. They are the ones with better policies.

1. **PLL** (Precautionary Lending): This is for countries that are beginning to get weak.
2. **SBA** (Stand By Arrangement): This is for countries that are quite weak, but can be rescued quick.
3. **EFF** (Extended Fund Facility): This is for countries too screwed up and requiring a long term help.

World Bank is a much bigger institution and has two arms:

1. **IBRD** (International Bank for Reconstruction and Development): This is the bank portion of it. It charges a slightly higher interest rate than it borrows and it is mainly for profitable commercial projects [such as roads and dams]. This interest is still a lot lower than what the governments can get anywhere.
2. **IDA** (International Development Association): This is a grant body. Here interest is not charged and usually countries are given long periods for repaying. The focus is on social projects such as immunization and education. This is however open only for the poorest nations.

Countries usually graduate out of IDA to IBRD and eventually completely out of World Bank. Dozens of countries have got World Bank aid and then grown enough to not be eligible for it anymore.

The Asian Development Bank (ADB) is a regional development bank established on 19 December 1966, which is headquartered in the Ortigas Center located in the city of Mandaluyong, Metro Manila, Philippines. The company also maintains 31 field offices around the world to promote social and economic development in Asia. The bank admits the members of the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP, formerly the Economic Commission for Asia and the Far East or ECAFE) and non-regional developed countries. From 31 members at its establishment, ADB now has 67 members, of which 48 are from within Asia and the Pacific and 19 outside.

## 10.3

### SAARC, BRICS, Other Bilateral and Regional Grouping

#### ASEAN

- If Asean was single nation, then it would have been the seventh largest economy in the world with total GDP of 2.4 trillion US dollar as of 2015.
- High no. of youth population in ASEAN can form good labour force whose involvement could drive GDP growth to new heights.

- ASEAN countries least affected during global financial crises of 2008.
- ASEAN is 4<sup>th</sup> largest exporting region in the world accounting for 7% of global trade.

## BRICS

- It includes half of world population.
- Brazil, Russia, India & China world's top populated, 1/4<sup>th</sup> of land mass & 1/5<sup>th</sup> of world GDP.
- According to Goldman sach, BRICS can compete with us if they work with one ness.
- India gives idea of New Dev Bank (NDB) in 2012.
- 1<sup>st</sup> summit – 2009 Russia
- 4<sup>th</sup> summit – India in 2012
- 8<sup>th</sup> summit – India in 2016
- 6<sup>th</sup> summit – Brazil in 2014 NDB formed.
- HQ in Beijing.
- 9<sup>th</sup> summit in 2017 Xiamen in China, 3 day summit held in China.
- There – stronger partnership for brighter future.
- 1<sup>st</sup> regional office of NDB to be setup at SA.

## SAARC

**Objective:-** To promote dev of economic & regional integration. Founded in 1985. In 1978 preesident of Banglad esh Ziaur Rhman Proposed Creation trade black of south Asian Countries. This in 1985 SAARC formed.

- Latest Country joined – Afganistan in 2007
- 19<sup>th</sup> SAARC summit 2016 in Islanabad was boycotted by India along with all the member apart from Nepal.
- Recently, India launched SAARC satellite.

## 10.4 WTO and Its Impact of India

### WTO

Bretton woods conference (1944)

IMF international monetary fund 1945

World Bank 1945

ITO take time to come in existence international trade organization. Draft agreement thus by Havana charter 1948 53 out of 56 countries ratified except USA.

But ITO was not prepared some countries decided that a temporary arrangement that control ITO.

1947 – Geneva conference.

GATT – Came to effect in 1948 and signed by 23 countries.

### GATT –

Only a Temporary aggrement (Not an organization)

- Limited to removal of tariff in trade of Goods only.
- Trade in Agriculture and textile was excluded.
- 8 Trade raund formed under GATT.
- 8<sup>th</sup> Trade raund was called as Uruguay and decided to form intermational organization. WTO formed.

This 1<sup>st</sup> June 1995 with 128 countries 95 member ship of 128 countries.

### Difference between GATT and WTO :

GATT	WTO
Only as agreement	An international organization
Only Tariff (Export and import Tax)	Include goods services and intellectual property
Contracting Partner	Member.
No Transparency	Transparency

### Doha Development Agenda 2001

#### Developed Countries

Industrial Product  
Services  
Technological Goods  
Intellectual Property

#### WTO

#### Developing Countries

Agri Product  
Textile  
Raw Material

- But Agriculture and Textile is basic industry in every country want to depend on other country for food product. (want food self - sufficient)
- Thus in GATT also excluded textile and agriculture outside.
- But conflict textile and agriculture is not solved.