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## UNIT 6 CONSTITUTIONAL FRAMEWORK

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### 6.0 OBJECTIVES

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After studying this Unit you should be able to:

- Understand the constitutional framework of India;
- Throw light on the basic features of our Constitution;
- Discuss the powers are distributed between the Central Government and State Governments; and
- Analyse the role of Council of Ministers, various constitutional authorities and constitutional commissions.

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### 6.1 INTRODUCTION

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The Constitution of India is a remarkable document. It occupies an important place not only among the newly emerged States but also in the constitutional history of the world. The Constitution of India deals, in an elaborate manner with the problem of relations between Union and the States, problems relating to public services, special classes like Anglo-Indians, scheduled castes and scheduled tribes. The Constitution embodies an elaborate list of Fundamental Rights and also the Directive Principles of the State Policy. The Preamble of the Constitution declares India to be a sovereign socialist secular democratic republic. A study of its features reveals that it is a unique document in size, form and content. In this Unit, we shall study the important features of our Constitution, role of council of ministers, constitutional authorities, constitutional commissions and the powers of the central government. This will give you a clear idea of how our constitutional set up is working at the central level.

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### 6.2 BASIC FEATURES

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#### Written Constitution

Constitution can be of two types, written or unwritten. Unwritten constitutions are those where most of the provisions are not laid down in a codified manner but are based on the conventions and traditions of the land. e.g. Britain has an unwritten

constitution. On the other hand, the written constitutions are those where most of the provisions of the constitution are laid down very clearly in black and white, e.g., Constitution of the United States of America is a written constitution.

Indian Constitution is a written constitution. It is the most lengthy and detailed constitutional document in the world. It has borrowed most of its provisions from all the known constitutions in such a way that they suit the existing conditions and needs of the country. The constitution makers framed the chapter on Fundamental Rights upon the model of American constitution. Parliamentary system of government has been adopted from the U.K. Idea of the Directive Principles of State Policy was taken from the Constitution of Eire Republic of Ireland. Provisions regarding emergencies were added in the light of the Constitution of German Reich and the Government of India Act, 1935.

Our Constitution is very lengthy because it had embodied the modified results of judicial decisions in other countries to minimise uncertainty. We have detailed provisions in our Constitution regarding judiciary, the Public Services, the Public Service Commission, relations between Union and the States and the like. Another reason for our Constitution being lengthy is the vastness of the country and the peculiar problems existing in the country.

### **Value Premises**

Like other constitution in world the constitution of India also contains a Preamble, which reflects the aims and aspiration of the people of India. The basic philosophy of our constitution is also reflects in the Preamble. It is true that it is not enforceable in the course of law. But the Supreme Court has taken the help of the Preamble I several decisions. The Preamble runs as follows:

“We, the people of India, having solemnly resolved to constitute India into a Sovereign Socialist Secular Democratic Republic and to secure to all its citizens:

Justice, social, economic and political;

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

Equality of status and of opportunity, and to promote among them all;

Fraternity assuring the dignity of the individual and the unity and integrity of the Nation;

In our constituent Assembly this twenty-sixth day of November, 1949, do hereby adopt, enact and give to ourselves this constitution.”

Thus the Preamble sets out the system of government and its objectives, the ideas and values. It is the responsibility of the administration to enforce the constitution, and to create an environment in which the application of the ideals enshrined in the Preamble may be possible.

### **Parliamentary Democracy**

Another important feature of our Constitution is the establishment of a parliamentary system of government both at the centre and in the states. In a parliamentary system of government the executive is responsible to the Parliament and not to the President. It creates a strong centre and vests the constituent and residual powers of legislation in central legislature called Parliament. The reasons behind adoption of a parliamentary democracy are two: Firstly, our past experience is working with parliamentary system during the British rule and secondly, the parliamentary system of government harmonises with the demand for a strong centre which the Presidential system with divided authority does not. In the Parliamentary system of government, the executive and legislature are not independent of each other, instead the executive is a part of the legislature and, therefore, unlike in a presidential system, conflicts are less likely to arise between them.

## Federalism

The political structure of the Indian Constitution is based on the twin principles of parliamentary system of government and federalism though the term 'Federation' has not been used in the Constitution. A survey of our Constitution indicates that it possesses all the essential features of a federal system. 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 federal government and the governments of the component states.

A federal state is a fusion of several states into a single state in regard to matters affecting common interests, while each state enjoys autonomy in regard to other matters. The states are not agents of federal government but both the federal government and the state governments draw their authority from the Constitution. The states do not have a right to secede from the federation.

A federal state derives its existence from the Constitution. Every power – executive, legislative or judicial, whether it belongs to the federation or to the component states, is subordinate to and controlled by the Constitution. Courts have the final power to interpret the Constitution and nullify any action on the part of the federal and state governments or their different organs which violate the provisions of the Constitution. Another important feature of a federal state is that there is a division of powers between the federal government and the governments of the component states.

All these features are present in the Indian political system. The Constitution of India can be both federal and unitary according to requirements and circumstances. It is framed to work as a federal system during normal times. But in times of war, insurrection or the breakdown of constitutional machinery in the states, it works more like a unitary system. A proclamation of emergency in the country automatically transforms a federal state into a unitary state.

## Fundamental Rights

The constitution guarantees the fundamental rights to Indian citizens. They are contained in part III of the constitution from articles 12 to 35. The framers of the constitution draw inspiration from the constitution of USA in this regard. The Parliament can repeal or curtail these rights only by amending the constitution in accordance with the procedures mentioned in the constitution itself. The Supreme Court is also made responsible for the protection these rights i.e. the aggrieved person can directly go to Supreme Court for the enforcement of these rights. Though these rights are justifiable they are not absolute and hence the government can impose reasonable restrictions on them. However, whether such restrictions are reasonable or not is to be decided by the Courts.

## Directive Principles of State Policy

The Directive Principles of State Policy are contained in the part of the constitution from article 36 to 51. These principles are borrowed from the constitution of Ireland. These principles are fundamental in the governance of the country and it shall be the duty of the state to apply these principles in making laws. The Directive Principles are non-justifiable i.e. they cannot be enforced in the court of law for their violation.

## Fundamental Duties

These Fundamental Duties were added by the 42<sup>nd</sup> Constitutional Amendment of 1976. There are 10 duties which are specified in the article 51A of part 4A of the constitution. Like the Directive Principles these are also non-justifiable. The constitution does not provide for their directive enforcement. Moreover, there is no legal sanction against their violation.

## Unique Combination of Rigidity and Flexibility

In a federal system the Constitution is generally rigid. The rigidity of the

Constitution depends upon two factors. First, it depends on the degree of difficulty in the amending process. Secondly, it depends upon the content of the Constitution.

The Indian Constitution is partly flexible and partly rigid. It is only the amendment of a few provisions of the Constitution that requires ratification by the state legislatures and even then ratification by only half of them is needed. The rest of the Constitution may be amended by a simple majority of the Union Parliament as is required for general legislation. Some examples where ratification by States is not needed are: (a) changes in the names, boundaries, area of the states and amalgamation and separation of states (Article 4), (b) abolition or creation of the second chamber of a state legislature (Article 169), (c) administration of scheduled areas and scheduled tribes (paragraph 7 of the 5<sup>th</sup> Schedule and paragraph 21 of the 6<sup>th</sup> Schedule). Our Constitution is flexible because the Parliament can supplement the provisions of the Constitution by legislation.

The flexibility of the Constitution can also be seen from the fact that in fifty one years, the Constitution has already been amended eight five times.

### **Independence of Judiciary**

Another most important feature of our Constitution is the independence of judiciary and power of judicial review. India has a single integrated system of courts for the Union as well as the States which administer both Union and State laws, and at the head of the entire system stands the Supreme Court of India. Below the Supreme Court are the High Courts and below the High Courts are subordinate courts.

The judges of the Supreme Court and High Courts are appointed by the President, but in order to ensure their independence, the terms and conditions of their service are regulated by the Constitution and they cannot also be removed by the President at his pleasure. The judges of the Supreme Court and High Court can be removed by the President upon an address to that effect being passed by a special majority of each House of Parliament (viz., a majority of the total membership of that House and by majority of not less than 2/3<sup>rd</sup> of the members of that House present and voting) on the grounds of proved misbehaviour and incapacity. This ensures judiciary to act in a just and independent manner and makes the provisions in the Constitution meaningful.

The Supreme Court performs three important functions.

- i) It is protector and guarantor of fundamental rights.
- ii) It has to act as a check on executive authorities and enforce the rule of law.
- iii) It maintains federal equilibrium.

Power of judicial review is yet another feature of our Constitution. Judicial review, broadly speaking, means the powers of the courts to pronounce upon the Constitutional validity of the acts of public authorities both executive and legislative. The expression 'judicial review' does not figure in the Constitution but has been derived by the judiciary through various provisions. In India, judiciary ultimately determines what would be the limits of Fundamental Rights. Supreme Court has to see that all legislative measures are in accordance with the procedure established by laws. Judiciary also has the power to interpret the Constitution and to determine the relationship of the different organs in the Constitution.

A unique feature of our constitution is that constitutional status has been accorded to the local government as a third stratum of government. By the 73<sup>rd</sup> Constitution Amendment Act, 1992 Panchayats in the rural areas, and by the 74<sup>th</sup> Constitution Amendment Act, 1992 three types of Municipalities in the urban areas have been introduced. It will be discussed in detail in Block 4.

Another important feature of the constitution is that there is a special chapter dealing with civil services. This indicates a prominent place attached to services. The framers of the constitution constitute an independent body like Public Service

Commission for the recruitment of civil servants. They went further and made certain special provisions (Article 311) dealing with the protection of the civil servants. This is foreign to other constitutions.

**Check Your Progress 1**

- Note:** i) Use the space given below for your answers.  
ii) Check your answers with those given at the end of the unit.

- 1) The Constitution makers framed the chapter on Fundamental Rights upon the model of:
- a) British Constitution
  - b) American Constitution
  - c) Canadian Constitution
  - d) French Constitution

2) Why is the Constitution of India so lengthy?

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3) What does Parliamentary Democracy mean?

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4) What are the essential features of a Federal System?

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5) What does judicial review mean?

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### **6.3 POWERS OF CENTRAL GOVERNMENT**

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Having discussed the special features of the Indian Constitution which have an impact on the federal balance, we shall now turn to the division of powers between the Centre and the States which forms the core of the doctrine of federalism.

The distribution of legislative powers between the Centre and the States has been provided for in the Constitution according to three lists of subjects, these are Union, State and Concurrent. The union list gives the Centre exclusive authority to act in matters of national importance and includes among its ninety nine items like defence, foreign affairs, currency, communication, banking, income taxation and custom duties.

The State list has sixty one entries like law and order, local government, public health, education and agriculture.

There are fifty two entries in the Concurrent list. These include the legal system, trade and industry and economic and social planning. In respect of Concurrent items the laws passed by Central Parliament prevail over those passed by State legislatures.

The residual powers lie with the Union and in conflict between Union and State, the Union law prevails.

Thus, the Constitution gives vast powers to the Central Government as compared to the State governments. During emergency, the Parliament can make laws for the whole or any part of the territory of India with respect to any of the matters, enumerated in the State list. The President, if advised by the Governor, or on his own, feels that the government of the State cannot be carried on in accordance with the provisions of the Constitution may proclaim a state of emergency and assume all executive functions to himself and declare the powers of State Assembly to be under the authority of the Parliament. Even, the Rajya Sabha by a two third majority can ask the Parliament to make laws on the items in State list for a temporary period.

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### **6.4 ROLE OF COUNCIL OF MINISTERS**

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At the head of the Union executive stands the President of India and the States, it is the Governor who is the executive head. Though the executive power of the Union is vested in the President, he in practice is aided and advised by the Council of Ministers headed by the Prime Minister. The Union legislature is called Parliament. It consists of the President and the two Houses. The Lower House is called the House of People or 'Lok Sabha'. Entire responsibility of enactment of laws rests with the Prime Minister who heads the Council of Ministers. The Constitution provides that there shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall, in exercise of his functions, act in accordance with the advice rendered after such reconsideration (Article 74). While the Prime Minister is selected by the President, the other Ministers are appointed by the President on the advice of the Prime Minister (Article 75(1)).

The number of members of the Council of Ministers is now specified in the Constitution. As per the constitution (Ninety-first Amendment) Act, 2003 the total number of Ministers, including the Prime Minister, in the Council of Ministers shall not exceed fifteen per cent of the total number of members of the House of the People (Lok Sabha). All the Ministers do not belong to the same rank. They are classified under three ranks.

- a) Cabinet Ministers
- b) Ministers of State
- c) Deputy Ministers

Thus, the Council of Ministers is a composite body, consisting of different categories. The rank of the different ministers is determined by the Prime Minister. He also allocates portfolios among them. Ministers may be chosen from members of either house and a minister who is a member of one house has a right to speak and take part in the proceedings of the other House, though he has no right to vote in the House of which he is not a member. Under the Constitution, there is no bar to the appointment of a person from outside the legislature as minister. But he cannot continue as minister for more than six months unless he secures a seat in either house of Parliament. Though theoretically the function of the Council of Ministers is to only aid and advise the President, practically the vast power provided to the President by the Constitution is actually exercised by Council of Ministers with the Prime Minister as their head.

Our Constitution is based on the concept of collective responsibility. The Council of Ministers is collectively responsible to the lower house of the Parliament. The essence of collective responsibility is that once a decision is taken by the government, it is binding on all the ministers. Ministry as a body, is under a constitutional obligation to resign as soon as it loses the majority in the lower House (House of People) of the legislature.

In practice, the Council of Ministers seldom meets as a body. It is the Cabinet, an inner body within the Council, which makes all the government policies.

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## 6.5 CONSTITUTIONAL AUTHORITIES AND COMMISSIONS

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The Constitution provides for the creation of the following Authorities and Commissions:

- 1) The Comptroller and Auditor General of India (Articles 148-151).
- 2) The Election Commission (Article 324).
- 3) The Union Public Service Commission (Article 315-323).
- 4) The Attorney-General for India (Article 76).
- 5) The Special Officer for Linguistic Minorities (Article 350 B).
- 6) The Finance Commission (Article 280-281).
- 7) The Official Language Commission (Article 344).
- 8) The Committee of Parliament to Examine the Report of the Language Commission [Article 344(4)].
- 9) The State Public Service Commission (Articles 315-323).
- 10) The Advocate-General for the State (Article 165).
- 11) Administrative Tribunals (Article 323 A).
- 12) National Commission for Schedule Castes (Article 338).
- 13) National Commission for Scheduled Tribes (Article 338 A).

### Constitutional Authorities

#### 6.5.1 Comptroller and Auditor-General of India

With the enactment of the Constitution in 1950, the Auditor General of India was redesignated as Comptroller and Auditor General of India (CAG). The CAG is appointed by the President by warrant under his hand and seal. He can be removed from the Office in the like manner and on the like grounds as a Judge of the Supreme Court.

The CAG is not given re-employment under the State after his retirement. This ensures his independent functioning. His salary, allowances and pension are not

subjected to vote of Parliament; these are charged upon the Consolidated Fund of India. The Constitution does not define the terms and conditions of his service and his duties and powers. It is the Parliament that defines them.

The CAG performs such duties and exercise such powers in relation to the audit of accounts of the Union and of the States and of any authority or body as may be prescribed by or under any law made by Parliament. The report of the CAG of India relating to the Union is submitted to the President who causes it to be laid before each house of Parliament. The report relating to State is submitted to the Governor who lays it before the State legislature. Earlier CAG was engaged both in maintenance of accounts as well as audit. Since 1976, the CAG has shed his responsibilities in regard to the compilation and maintenance of accounts. Now he audits all expenditures from the revenues of the Central Government and State governments in and outside India and sees whether the disbursed money shown in the accounts was legally available and whether expenditure conforms to the authority that governs it. So the CAG scrutinises the financial affairs of the executive and submits his report to the parliament to which alone he is responsible. He audits all transactions of the Central and State governments relating to Contingency Fund and Public Accounts. He audits all trading, manufacturing profit and loss accounts and balance sheets in any department of the Centre or the State and in each case reports on the expenditure, transactions or accounts audited by him. He audits the receipts and expenditure of organisations substantially financed from Central or State revenues.

### 6.5.2 The Attorney-General of India

The Attorney-General of India is appointed by the President and holds Office during the latter's pleasure. His emoluments and conditions of service are determined by the President. His function is to advise the Central Government upon legal matters as may be referred to him and to carry out duties of a legal character as assigned to him.

The Office of the Attorney-General is one of the offices placed on a special footing by the Constitution. He is the first Law Officer of the Government of India. His duties are:

- i) to give advice on such legal matters and to perform such other duties of a legal character as may, from time to time, be referred or assigned to him by the President, and
- ii) to discharge the functions conferred on him by the Constitution or any law for the time being in force (Article 76).

Though the Attorney-General of India is not a member of the Cabinet, he has a right to speak in the Houses of Parliament or in any Committee thereof, but he has no right to vote.

### 6.5.3 The Special Officer for Linguistic Minorities

The Special Officer for Linguistic Minorities is appointed by the President to investigate matters relating to the safeguards provided for linguistic minorities under the Constitution and reports to the President upon those matters. His report is laid before Parliament. The Constitution did not originally provide for this functionary; this came into being when article 350 B was inserted in the Constitution in 1956 (at the time of reorganisation of States).

#### Check Your Progress 2

- Note:**
- i) Use the space given below for your answers.
  - ii) Check your answers with those given at the end of the unit.

- 1) How many entries are there in the State List?



2) What does collective responsibility mean?

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3) What are the duties of Comptroller and Auditor-General of India?

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4) What are the duties of Attorney-General of India?

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## 6.6 CONSTITUTIONAL COMMISSIONS

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### 6.6.1 Finance Commission

Articles 270, 273, 275 and 280 provide for the constitution of a Finance Commission to recommend to the President measures relating to the distribution of financial resources between the Union and the States. The distribution between the union and the states of the net proceeds of taxes which are to be or may be, divided between them, and the allocation between the States of respective shares of such proceeds. It also determines the principles, which should govern the grants-in-aid of the revenues of the States, out of the Consolidated Fund of India and any other matter referred to the Commission by President in the interests of sound finance. The Twelfth Finance Commission is expected to be constituted in the current year. The constitution of the Finance Commission is laid down in Article 280. The Commission is constituted by the President every five years. It consists of a Chairman and four members to be appointed by the President. The Chairman must be a person having experience in public affairs, and the other four members must be appointed from amongst the following:

- a) High Court judge or one qualified to be appointed as such,
- b) Person having special knowledge of the finances and accounts of the government,
- c) Person having wide experience in financial matters and administration, and
- d) Person having special knowledge of economics.

Similarly in every state there is a State Finance Commission created by the 73<sup>rd</sup> and 74<sup>th</sup> Constitution Amendment to review the financial position of the local government and make certain recommendations to the Governor. It has been discussed in the Block dealing with Local Government.

### **6.6.2 Election Commission**

For conducting free and fair elections, an impartial and independent agency for conducting elections is needed. For this purpose, Constitution has set up the Election Commission. The Election Commission has to supervise the entire procedure and machinery for election.

The Election Commission consists of a Chief Election Commissioner and the Constitution provides for other commissioners in the Commission as President may fix from time to time. To begin with the Election Commission consisted of the Chief Election Commissioner were appointed by the President. The Chief Election Commissioner is also appointed by the President. After the ninth Lok Sabha Elections the Election Commission again became a single-member Commission. Election Commission has again been converted into a multi-member body with the appointment of two Election Commissioners in 1993. This is now a present arrangement. The Chief Election Commissioner and the Election Commissioners have equal say in the decision-making of the body. In order to ensure the independence of the Chief Election Commissioner, two provisions have been made:

- i) the conditions of his service shall not be varied to his disadvantage after his appointment and
- ii) he cannot be removed from his office without an impeachment process.

The main function of Chief Election Commissioner is to direct, control and conduct all electoral operations, including preparation of electoral rolls and conduct of all elections to Parliament and State legislature as also of the election of the President and Vice President. The Election Commission has not only administrative but also some quasi-judicial functions. It has the power to settle the election disputes.

Similarly in every state there is a State Election Commission created by the 73<sup>rd</sup> and 74<sup>th</sup> Constitution Amendment for the conduct of all elections to the Panchayats and Municipal bodies. The State Election Commissioner is appointed by the Governor. It will be discussed in the Block dealing with the Local Government.

### **6.6.3 Official Language Commission**

The official language of the Union of India according to our Constitution is Hindi in Devnagari script. The Constitution authorises the President at the expiration of every ten years since the commencement of the Constitution, to constitute a Commission which shall consist of a Chairman and other members.

The Official Language Commission makes recommendations to the President as to the:

- a) Progressive use of Hindi language for the official purposes of the Union;
- b) Restriction in the use of the English language for all or any of the official purposes of the Union;
- c) Form of numerals to be used for any one or more specified purposes of the Union;
- d) Matter (Any other) referred to the Commission by the President as regards the official language of the Union and the language for communication between the Union and a State or between one State and another and their use. Thus, the Official Language Commission tries to establish linguistic harmony within the Union and between the States.

### 6.6.4 Union Public Service Commission

In India a limited role has been assigned to the Union Public Service Commission (UPSC) in personnel administration. The UPSC is a recruiting agency to the All India services, and the Central Civil Services – Class I and Class II – the responsibility for staffing lower services and posts rests with the departments concerned. The Constitution endows the UPSC with advisory functions. UPSC is required to submit an annual report of its functioning in which it draws particular attention to the non-acceptance, if any, of its advice by the government, and which is discussed in Parliament.

The UPSC is consulted by the Central Government on:

- a) Matters relating to methods of recruitment to civil services and civil posts;
- b) Principles to be followed in making appointments to civil services and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers;
- c) Disciplinary matters affecting a person serving under the Government of India or the Government of State in a civil capacity, including memorials or petitions relating to such matters;
- d) Any claim by or in respect of a person who is serving or has served under the Government of India or the Government of a State or under the Crown in India or under the Government of an Indian State, in a civil capacity, that any costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the Consolidated Fund of India, or, as the case may be, out of the Consolidated Fund of the State; and
- e) Any claim for the award of a pension in respect of injuries sustained by a person while serving under the government.

The Constitution does not prescribe the number of members of the Commission. It only says that at least half of the members must be government employees with at least ten years governmental experience, that the members would hold Office until the age of sixty five years or for a term of six years whichever comes first, and finally that the Chairman is debarred from accepting any employment under the government of a State while other members are eligible for appointment to only one position, i.e., Chairmanship of either UPSC or a State Public Service Commission.

### 6.6.5 National Commission for Scheduled Castes

The 89<sup>th</sup> Constitution Amendment Act 2003, provided for the constitution of National Commission for Scheduled Castes. The Commission shall consist of a Chairperson, Vice-Chairperson and three other Members. The President determines the condition of service, the tenure of the office of the Chairperson, Vice-Chairperson and other Members from time to time. The President will appoint them by warrant and under his hand and seal. The duty of the Commission are as follows:

- 1) The Commission shall have the power to regulate its own procedure.
- 2) It shall be the duty of the Commission –
  - a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;
  - b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes;

- c) to participate and advise on the planning process of socio-economic development of the Scheduled Castes and to evaluate the progress of their development under the Union and any State;
  - d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;
  - e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes; and
  - f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes as the President may, subject to the provisions of any law made by Parliament, by the rule specify.
- 3) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.
  - 4) Where any such report, of any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.
  - 5) The Commission shall while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (2), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:-
    - a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
    - b) requiring the discovery and production of any document;
    - c) receiving evidence on affidavits;
    - d) requisitioning any public or copy thereof from any court or office;
    - e) issuing commissions for the examination of witnesses and documents;
    - f) any other matter which the President may, by rule, determine.
  - 6) The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Castes.

### **6.6.6 National Commission for Scheduled Tribes**

The 89<sup>th</sup> Constitution Amendment Act 2003, provided for the constitution of National Commission for Scheduled Tribes. The Commission shall consist of a Chairperson, Vice-Chairperson and three other Members. The President determines the condition of service, the tenure of the office of the Chairperson, Vice-Chairperson and other Members from time to time. The President will appoint them by warrant and under his hand and seal. The duty of the Commission are as follows:

- 1) The Commission shall have the power to regulate its own procedure.
- 2) It shall be the duty of the Commission –
  - a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;

- b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Tribes;
  - c) to participate and advise on the planning process of socio-economic development of the Scheduled Tribes and to evaluate the progress of their development under the Union and any State;
  - d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;
  - e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Tribes; and
  - f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by the rule specify.
- 3) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.
- 4) Where any such report, of any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.
- 5) The Commission shall while investigating any matter referred to in such-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (2), have all the powers of a civil court trying a suit and in particular in respect of the follower matters, namely:-
- a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
  - b) requiring the discovery and production of any document;
  - c) receiving evidence on affidavits;
  - d) requisitioning any public or copy thereof from any court or office;
  - e) issuing commissions for the examination of witnesses and documents;
  - f) any other matter which the President may, by rule, determine.
- 6) The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Tribes.

**Check Your Progress 3**

- Note:** i) Use the space given below for your answers.  
 ii) Check your answers with those given at the end of the Unit.

1) What are the functions of a Finance Commission?

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2) Discuss the role of Official Language Commission in India.

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3) What is the main function of Chief Election Commissioner?

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### 6.7 LET US SUM UP

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Our Constitution is a borrowed one: its provisions have been taken from various sources and are properly codified in written form. It is unique combination of rigidity and flexibility and combines in it both federal and unitary features. The legislative powers are divided between the Union and the States in accordance with three lists: Union, State and Concurrent. Formally, the executive power is vested with the President, but in practice it is the Council of Ministers headed by the Prime Minister who have the real powers of policy making. There are various constitutional authorities and commissions which see that work of the government is carried on in a just manner and according to the provisions underlying the Constitution.

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### 6.8 KEY WORDS

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- Impeachment Procedure** : It is one of the ways of removal of the President of India, the judges of the Supreme Court, Comptroller and Auditor General of Indian and the Chief Election Commissioner. According to this procedure, a resolution containing the proposal is moved after a 14-day notice in writing signed by not less than 1/4<sup>th</sup> of the total number of members of either house of Parliament and passed by 2/3<sup>rd</sup> of the total membership of the House.
- Ratification** : To give formal approval or consent.
- Residual Powers** : The power to legislate with respect to any matter not enumerated in any one of the three lists in Union legislature and the final determination as to whether particular matter falls under residual power or is that of the courts.
- Right to Secede** : Right of formal withdrawal of membership from the Union by the States. Indian states do not have a right of secession.

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## 6.9 REFERENCES AND FURTHER READINGS

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Basu, D.D., 1993, *Introduction to the Constitution of India*; Prentice Hall of India Pvt. Ltd., New Delhi

Kapur, A.C., 1970, *Selection Constitutions*; S. Chand and Co. Ltd., New Delhi

Narang, A.S., 1985, *Indian Government and Politics*; Gitanjali Publishing House, New Delhi

Pyle, M.V., 1997, (6<sup>th</sup> ed.), *Constitutional Government in India*; S. Chand & Co. Ltd., New Delhi

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## 6.10 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

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### Check Your Progress 1

- 1) b)
- 2) Your answer must include the following points:
  - Our Constitution embodies the modified results of judicial decisions in other countries.
  - Detailed provisions.
  - Vastness of the country.
  - Peculiar problems of the country.
- 3) Your answer must include the following points:
  - Executive is a part of Legislature.
  - Executive is responsible to the Legislature.
- 4) Your answer must include the following points:
  - Presence of two governments – at the national and state levels.
  - Fusion of several states.
  - Federal state derives existence from the Constitution.
  - States do not have right to secede.
  - Division of powers between Centre and the States.
- 5) See Sub-Section 6.2.5.

### Check Your Progress 2

- 1) c)
- 2) See Section 6.4.
- 3) See Sub-Section 6.5.1.
- 4) See Sub-Section 6.5.2.

### Check Your Progress 3

- 1) Your answer must include the following points:
  - Finance Commission sees to the distribution between the Union and the States of the net proceeds of taxes.
  - Principles which determine grants-in-aid.
- 2) Your answer must include the following points:
  - Official Language Commission makes recommendations on the progressive use of Hindi language.
  - Restriction in the use of English language for official purpose.
  - The forum of numerals to be used.
- 3) See Sub-Section 6.6.2.