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DEPARTMENT OF INFORMATION TECHNOLOGY

19HST103- INDIAN CONSTITUTION **I B.TECH - IT / II SEMESTER**

UNIT 2 – STRUCTURE AND FUNCTION OF CENTRAL GOVERNMENT

TOPIC 2 – President – Vice President

15.05.2021

1



PRESIDENT



- Rashtrapati Bhawan, the residence of the President of India
- The executive power is vested mainly in the President of India, as per Article 53 (1) of the constitution.
- The President enjoys all constitutional powers and exercises them directly or through officers subordinate to him as per the aforesaid Article 53(1).
- The President is to act in accordance with aid and advise tendered by the head of government (Prime Minister of India) and his or her Council of Ministers (the cabinet) as described in Article 74 (Constitution of India).
- The Council of Ministers remains in power during the 'pleasure' of the President.
- However, in practice, the Council of Ministers must retain the support of the Lok Sabha.
- If a President were to dismiss the Council of Ministers on his or her own initiative, it might trigger a constitutional crisis.
- Thus, in practice, the Council of Ministers cannot be dismissed as long as it holds the support of a majority in the Lok Sabha.



PRESIDENT



- The President is responsible for making a wide
- variety of appointments. These include:
 - Governors of States
 - The Chief Justice, other judges of the Supreme Court and High Courts of India
 - The Attorney General
 - The Comptroller and Auditor General
 - The Chief Election Commissioner and other Election Commissioners
 - The Chairman and other Members of the Union Public Service Commission
 - The President's Officer
 - The Cabinet Secretary, whose position is equivalent to the Ministers in Central Government.
- His work is to facilitate smooth transaction of business in Ministries/ Departments of the Government.
- The Secretariat held by Cabinet Secretary is termed as Cabinet Secretariat and assists in decision-making in Government by ensuring Inter-Ministerial coordination, ironing out differences amongst Ministries/ Departments and evolving consensus through the instrumentality of the standing/ adhoc Committees of Secretaries.
 - Ambassadors and High Commissioners to other countries[8][9]

15-05-2021

3



PRESIDENT



- The President, as Head of State also receives the credentials of Ambassadors from other countries, whilst the Prime Minister, as Head of Government, receives credentials of High Commissioners from other members of the Commonwealth, in line with historical tradition.
- The President is de jure the Commander in Chief of the Indian Armed Forces.
- The President of India can grant a pardon to or reduce the sentence of a convicted person for one time, particularly in cases involving punishment of death.
- The decisions involving pardoning and other rights by the President are independent of the opinion of the Prime Minister or the Lok Sabha majority.
- In most other cases, however, the President exercises his or her executive powers on the advice of the Prime Minister.



VICE PRESIDENT



- The Vice-President of India is the and is second-highest ranking government official in the executive branch of the Government of India, following the President.
- The Vice-President also has the legislative function of acting as the Chairman of the Rajya Sabha, Cabinet, executive departments and agencies
- The Cabinet of India includes the Prime Minister and 35 Cabinet Ministers.
- Each Minister must be a member of one of the houses of India's Parliament.
- The Cabinet is headed by the Prime Minister, and Cabinet Secretary acts as advisor - who is also acting as the head of the Indian Administrative Service.
- Other Ministers are either as Union Cabinet Ministers, who are heads of the various Ministries; Ministers of State, who are junior members who report directly to one of the Cabinet Ministers, often overseeing a specific aspect of government; and Junior Ministers of State (Independent Charges), which do not report to a Cabinet Minister.



VICE PRESIDENT



- Civil service
- The Civil Services of India is the civil service and the permanent bureaucracy of the Government of India.
- The executive decisions are implemented by the Indian civil servants.
- Civil servants are employees of the Government of India and not Parliament of India.
- Not all employees of the Government of India are civil servants.
- In the parliamentary democracy of India, the ultimate responsibility for running the administration rests with the elected representatives of the people which are the ministers.
- These ministers are accountable to the legislatures which are also elected by the people on the basis of universal adult suffrage.
- The ministers are indirectly responsible to the people themselves.
- But the handful of ministers are not expected to deal personally with the various problems of modern administration.
- Thus the ministers lay down the policy and it is for the civil servants to enforce it.



VICE PRESIDENT



- Cabinet Secretary
- The Cabinet Secretariat of India
- The Cabinet Secretary of India is the most senior civil servant in the country.
- The Cabinet Secretary is the ex-officio Chairman of the Civil Services Board of the Republic of India; the chief of the Indian Administrative Service and head of all civil services under the rules of business of the Government of India.
- The Cabinet Secretary is arguably India's most powerful bureaucrat and right hand of Prime Minister of India.



SUPREME COURT OF INDIA



- India's independent judicial system began under the British raj, and its concepts and procedures resemble those of Anglo-Saxon countries.
- The Supreme Court of India consists of a Chief Justice and 30 associate justices, all appointed by the President on the advice of the Chief Justice of India.
- The jury trials were abolished in India in early 1960s, after the famous case *KM Nanavati v State of Maharashtra*, for reasons of being vulnerable to media and public pressure, as well as to being misled. Unlike its United States counterpart, the Indian justice system consists of a unitary system at both state and federal level.
- The judiciary consists of the Supreme Court of India, High Courts of India at the state level, and District Courts and Sessions Courts at the district level.



SUPREME COURT OF INDIA



- The Supreme Court of India has original, appellate and advisory jurisdiction.
- Its exclusive original jurisdiction extends to any dispute between the Government of India and one or more states, or between the Government of India and any state or states on one side and one or more states on the other, or between two or more states, if and insofar as the dispute involves any question (whether of law or of fact) on which the existence or extent of a legal right depends.
- In addition, Article 32 of the Indian Constitution gives an extensive original jurisdiction to the Supreme Court in regard to enforcement of fundamental rights.
- It is empowered to issue directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari to enforce them.
- The Supreme Court has been conferred with power to direct transfer of any civil or criminal case from one State High Court to another State High Court, or from a court subordinate to another State High Court and supreme court.



SUPREME COURT OF INDIA



- Public interest litigation (PIL)
- Although the proceedings in the Supreme Court arise out of the judgement or orders made by the subordinate courts, of late the Supreme Court has started entertaining matters in which interest of the public at large is involved, and the Court may be moved by any individual or group of persons either by filing a Writ Petition at the Filing Counter of the Court, or by addressing a letter to Hon'ble The Chief Justice of India highlighting the question of public importance for invoking this jurisdiction.



SUPREME COURT OF INDIA



- Elections and voting
- India has a quasi federal government, with elected officials at the federal (national), state and local levels.
- On a national level, the head of government, the Prime Minister, is elected indirectly by the people, [citation needed] through a general election where the leader of the majority winning party is selected to be the Prime Minister.
- All members of the federal legislature, the Parliament, are directly elected.
- Elections in India take place every five years by universal adult suffrage.



SUPREME COURT OF INDIA



- State and local governments
- State governments in India are the governments ruling States of India and the chief minister heads the state government. Power is divided between central government and state governments.
- State government's legislature is bicameral in 6 states and unicameral in the rest.
- Lower house is elected with 5 years term, while in upper house 1/3 of the total members in the house gets elected every 2 years with 6 year term.
- Local government function at the basic level.
- It is the third level of government apart from central and state governments.
- It consists of panchayats in rural areas and municipalities in urban areas.
- They are elected directly or indirectly by the people.



SUPREME COURT OF INDIA



- Finance
- Regional office of the State Bank of India (SBI), India's largest bank, in Mumbai.
- The government of India is the largest shareholder in SBI.
- India has a three-tier tax structure, wherein the constitution empowers the union government to levy income tax, tax on capital transactions (wealth tax, inheritance tax), sales tax, service tax, customs and excise duties and the state governments to levy sales tax on intrastate sale of goods, tax on entertainment and professions, excise duties on manufacture of alcohol, stamp duties on transfer of property and collect land revenue (levy on land owned).
- The local governments are empowered by the state government to levy property tax and charge users for public utilities like water supply, sewage etc.
- More than half of the revenues of the union and state governments come from taxes, of which 3/4 come from direct taxes.
- More than a quarter of the union government's tax revenues is shared with the state governments



Prime Minister of India



- The Prime Minister of India, as addressed to in the Constitution of India, is the chief of government, chief advisor to the President of India, head of the Council of Ministers and the leader of the majority party in parliament.
- The prime minister leads the executive branch of the Government of India.
- The prime minister is the senior member of cabinet in the executive branch of government in a parliamentary system.
- The prime minister selects and can dismiss other members of the cabinet; allocates posts to members within the Government; is the presiding member and chairman of the cabinet and is responsible for bringing proposal of legislation.
- The resignation or death of the prime minister dissolves the cabinet.
- The prime minister is appointed by the president to assist the latter in the administration of the affairs of the executive.



Prime Minister of India



- **Origins and history**
- India follows a parliamentary system of government.
- In parliamentary systems fashioned after the Westminster system, the prime minister is the presiding and actual head of the government and head of the executive branch.
- In such systems, the head of state or the head of state's official representative (i.e., the monarch, president, or governor-general) usually holds a purely ceremonial position.
- The prime minister is expected to become a member of parliament within six months of beginning their tenure, if they are not a member already.
- They are expected to work with other ministers to ensure the passage of bills through the legislature.



Prime Minister of India



- **Constitutional framework and position of prime minister**
- The Constitution envisages a scheme of affairs in which the President of India is the head of the executive in terms of Article 53 with office of the prime minister as heading the Council of Ministers to assist and advise the president in the discharge of the executive power.
- To quote, Article 53 and 74 provide as under;
- With India following a parliamentary system of government the prime minister is generally the leader of a party (or coalition of parties) that has a majority in the Lok Sabha, the lower house of the Parliament of India.
- The prime minister, in common with all other ministers at Central & state level, either has to be a current member of one of the houses of Parliament, or be elected within six months of being appointed.



Prime Minister of India



- **Role and power of the prime minister**
- The prime minister leads the functioning and exercise of authority of the Government of India.
- He is invited by the President of India in the Parliament of India as leader of the majority party to form a government at the federal level (known as Central or Union Government in India) and exercise its powers.
- In practice the prime minister nominates the members of their Council of Ministers to the president.
- They also work upon to decide a core group of Ministers (known as the Cabinet) as in-charge of the important functions and ministries of the Government of India.
- The prime minister is responsible for aiding and advising the president in distribution of work of the Government to various ministries and offices and in terms of the Government of India (Allocation of Business) Rules, 1961.
- The co-ordinating work is generally allocated to the Cabinet Secretariat While generally the work of the Government is divided into various Ministries, the prime minister may retain certain portfolios if they are not allocated to any member of the cabinet.
- The prime minister, in consultation with the Cabinet, schedules and attends the sessions of the Houses of Parliament and is required to answer the question from the Members of Parliament to them as the in-charge of the portfolios in the capacity as Prime Minister of India



Prime Minister of India



- **Appointment**
- **Eligibility**
- According to Article 84 of the Constitution of India, which sets the principal qualifications for member of Parliament, and Article 75 of the Constitution of India, which sets the qualifications for the minister in the Union Council of Minister, and the argument that the position of prime minister has been described as 'first among equals',
- A prime minister must:
 - be a citizen of India.
 - be a member of the Lok Sabha or the Rajya Sabha.
- If the person chosen as the prime minister is neither a member of the Lok Sabha nor the Rajya Sabha at the time of selection, he must become a member of either of the houses within six months.
- be above 25 years of age if he is a member of Lok Sabha or above 30 years of age if he is a member of the Rajya Sabha.
- not hold any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.



Prime Minister of India



- **Oath**
- The Prime Minister is required to make and subscribe in the presence of President of India before entering office, the oath of office and secrecy, as per the Third Schedule of the Constitution of India.
- **Oath of office:**
- I, <name>, do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will faithfully and conscientiously discharge my duties as prime minister for the Union and that I will do right to all manner of people in accordance with the Constitution and the law, without fear or favour, affection or ill-will.
- **Oath of secrecy:**
- I, <name>, do swear in the name of God/solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my



Prime Minister of India



- **Remuneration**
- By Article 75 of the constitution of India, remuneration of the prime minister as well as other ministers are to be decided by the Parliament and is renewed from time to time.
- The original remuneration for prime minister and other ministers were specified in the Part B of the second schedule of the constitution, which was later removed by an amendment.
- In 2010, the prime minister's office reported that he did not receive a formal salary, but was only entitled to monthly allowances.
- That same year The Economist reported that, on a purchasing-power parity basis, the prime minister received an equivalent of \$4106 per year.
- As a percentage of the country's per-capita GDP (Gross Domestic Product), this is the lowest of all countries The Economist surveyed.
- Prime Minister monthly pay and allowances
- Salary in Oct 2009 Salary in Oct 2010
- Salary in Jul 2012 100000 (US\$1,500) 135000 (US\$2,100) 160000 (US\$2,400)



CABINET



- In some countries, particularly those that use the Westminster system (e.g. the UK), the Cabinet collectively decides the government's direction, especially in regard to legislation passed by the parliament.
- In countries with a presidential system, such as the United States, the Cabinet does not function as a collective legislative influence; rather, their primary role is as an official advisory council to the head of government.
- In this way, the President gets opinions and advice in upcoming decisions.
- Legally, under both types of systems, the Cabinet "advises" the Head of State: the difference is that, in a parliamentary system, the monarch, viceroy or ceremonial president will almost always follow this advice, whereas in a presidential system, a president who is also head of government and political leader may depart from the Cabinet's advice if he does not agree with the Cabinet.
- The second role of cabinet officials is to administer executive branch government agencies or departments (in the United States, these are the federal executive departments)



CABINET



- **Origins of cabinets**
- Historically, cabinets began as smaller sub-groups of the English Privy Council.
- The term comes from the name for a relatively small and private room used as a study or retreat.
- Phrases such as "cabinet counsel," meaning advice given in private to the monarch, occur from the late 16th century, and, given the non-standardized spelling of the day, it is often hard to distinguish whether "council" or "counsel" is meant.
- The Oxford English Dictionary credits Francis Bacon in his Essays (1605) with the first use of "Cabinet council", where it is described as a foreign habit, of which he disapproves: "For which inconveniences, the doctrine of Italy, and practice of France, in some kings' times, hath introduced cabinet counsels; a remedy worse than the disease".
- Charles I began a formal "Cabinet Council" from his accession in 1625, as his Privy Council, or "private council", was evidently not private enough[citation needed], and the first recorded use of "cabinet" by itself for such a body comes from 1644, and is again hostile and associates the term with dubious foreign practices.
- The process has repeated itself in recent times, as leaders have felt the need to have a Kitchen Cabinet or "sofa government".



CABINET



- **Westminster cabinets**
- Under the Westminster system, members of the cabinet are collectively responsible for all government policy.
- All ministers, whether senior and in the cabinet or junior ministers, must publicly support the policy of the government, regardless of any private reservations.
- Although, in theory, all cabinet decisions are taken collectively by the cabinet, in practice many decisions are delegated to the various subcommittees of the cabinet, which report to the full cabinet on their findings and recommendations.
- As these recommendations have already been agreed upon by those in the cabinet who hold affected ministerial portfolios, the recommendations are usually agreed to by the full cabinet with little further discussion.
- The cabinet may also provide ideas on/if new laws were established, and what they include.
- Cabinet deliberations are secret and documents dealt with in cabinet are confidential.
- Most of the documentation associated with cabinet deliberations will only be publicly released a considerable period after the particular cabinet disbands.



CABINET



- In theory the prime minister or premier is first among equals.
- However, the prime minister is the person from whom the head of state will ultimately take advice on the exercise of executive power, which may include the powers to declare war, use nuclear weapons, expel ministers from the cabinet, and to determine their portfolios in a cabinet reshuffle.
- This position in relation to the executive power means that, in practice, the prime minister has a high degree of control over the cabinet:
- Any spreading of responsibility for the overall direction of the government has usually been done as a matter of preference by the prime minister – either because they are unpopular with their backbenchers, or because they believe that the cabinet should collectively decide things.
- The shadow cabinet consists of the leading members, or frontbenchers, of an opposition party, who generally hold critic portfolios "shadowing" cabinet ministers, questioning their decisions and proposing policy alternatives.
- The Westminster cabinet system is the foundation of cabinets as they are known at the federal and provincial (or state) jurisdictions of Australia, Bangladesh, Canada, Pakistan, India, South Africa, New Zealand, and other Commonwealth of Nations countries whose parliamentary model is closely based on that of the United Kingdom



PARLIAMENT OF INDIA



- The Parliament of India, also popularly known as Sansad (Sanskrit: संसद); is the supreme legislative body in India.
- The Parliament comprises the President of India and the two Houses— Lok Sabha (House of the People) and Rajya Sabha (Council of States).
- The President has the power to summon and prorogue either House of Parliament or to dissolve Lok Sabha.
- India's is bicameral; Rajya Sabha is the upper house and Lok Sabha is the lower house.
- The two Houses meet in separate chambers in the Sansad Bhavan (located on the Sansad Marg or "Parliament Street") in New Delhi.
- Those elected or nominated (by the President) to either house of Parliament are referred to as members of parliament or MPs.
- The MPs of Lok Sabha are directly elected by the Indian public and the MPs of Rajya Sabha are elected by the members of the State Legislative Assemblies, in accordance with proportional representation.
- The Parliament is composed of 790 MPs, who serve the largest democratic electorate in the world;
- 714 million Indians registered to vote in the 2009 general elections.

15.05.2021

25



Parliament of India



- President of India
- Similar to most Commonwealth countries, India also includes the Head of State (the President of India in India's case) as a component of Parliament.
- The President of India is elected, from a group of nominees, by the elected members of the Parliament of India (Lok Sabha and Rajya Sabha) as well as of the state legislatures, and serves for a term of five years.
- Historically, ruling party (majority in the Lok Sabha) nominees have been elected and run largely uncontested. Incumbents are permitted to stand for re-election, but unlike the president of the United States, who can be elected just twice, incumbents can be elected for any number of terms.
- A formula is used to allocate votes so there is a balance between the population of each state and the number of votes assembly members from a state can cast, and to give an equal balance between State Assembly members and National Parliament members.
- If no candidate receives a majority of votes there is a system by which losing candidates are eliminated from the contest and votes for them transferred to other candidates, until one gains a majority.



Parliament of India



- Lok Sabha
- Lok Sabha is also known as the "House of the People" or the lower house.
- All of its members are directly elected by citizens of India on the basis of universal adult franchise, except two who are appointed by the President of India.
- Every citizen of India who is over 18 years of age, irrespective of gender, caste, religion or race, who is otherwise not disqualified, is eligible to vote for the lok sabha.
- The Constitution provides that the maximum strength of the House be 552 members.
- It has a term of five years.
- To be eligible for membership in the Lok Sabha, a person must be a citizen of India and must be 25 years of age or older, mentally sound, should not be bankrupt and should not be criminally convicted.
- At present, the strength of the house is 545 members.
- The total elective membership is distributed among the States in such a way that the ratio between the number of seats allotted to each State and the population of the State is, so far as practicable, the same for all States.
- Up to 530 members represent of the territorial constituencies in States, up to 20 members represent the Union Territories and no more than two members from Anglo-Indian community can be nominated by the President of India if he or she feels that the community is not adequately represented.
- House seats are apportioned among the states by population .
- Several seats are reserved for representatives of Scheduled Castes and Scheduled Tribes, known as a practice known as reservation.
- The Women's Reservation Bill proposes reserving 33% of the seats in Lok Sabha for women.



Parliament of India



- **Rajya Sabha**
- The Rajya Sabha is also known as "Council of States" or the upper house.
- Rajya Sabha is a permanent body and is not subject to dissolution.
- However, one third of the members retire every second year, and are replaced by newly elected members.
- Each member is elected for a term of six years.
- Its members are indirectly elected by members of legislative bodies of the States.
- The Rajya Sabha can have a maximum of 250 members in all.
- Elections to it are scheduled and the chamber cannot be dissolved.
- Each member has a term of 6 years and elections are held for one-third of the seats after every 2 years.
- 238 members are to be elected from States and Union Territories and 12 are to be nominated by President of India and shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely literature, science, art and social service.



Parliament of India



- **Rajya Sabha**
- The minimum age for a person to become a member of Rajya Sabha is 30 years.
- Representatives of States are elected by the elected members of the Legislative Assembly of the State in accordance with system of proportional representation by means of single transferable vote.
- Representatives of Union Territories are indirectly elected by members of an electoral college for that territory in accordance with system of proportional representation.
- The Council of States is designed to maintain the federal character of the country.
- The number of members from a state depends on the population of the state (e.g. 31 from Uttar Pradesh and one from Nagaland).



Parliament of India



- **Architecture**
- The parliament is one of the most magnificent buildings in New Delhi.
- It was designed by Edwin Lutyens and Herbert Baker, who were responsible for planning and construction of New Delhi.
- The construction of buildings took six years and the opening ceremony was performed on 18 January 1927 by the then Governor-General of India, Lord Irwin.
- The construction costs for the building were Rs. 8.3 million.
- The parliament is 570 feet (170 meters) in diameter.
- It covers an area of nearly six acres.
- The building has twelve gates among which Gate No. 1 on the Sansad Marg is the main gate.



Parliament of India



- Working, procedures and committees
- The Parliament consists of the President of Republic of India and both the Chambers.
- The House and the Council are equal partners in the legislative process; however, the Constitution grants the House of People some unique powers.
- Revenue-raising or "Money" bills must originate in the Lok Sabha.
- The Council of States can only make recommendations suggestions over these bills to the House, within a period of fourteen days – lapse of which the bill is assumed to have been passed by both the Chambers.
- Session of parliament
- Lawmaking procedures
- Parliamentary committees
- Standing committees
- Ad hoc committees



SUPREME COURT OF INDIA



- The Supreme Court of India is the highest judicial forum and final court of appeal as established by Part V, Chapter IV of the Constitution of India.
- According to the Constitution, the role of the Supreme Court is guardian of Constitution & that of a federal court.
- Articles 124 to 147 of the Constitution of India lay down the composition and jurisdiction of the Supreme Court of India.
- The Supreme Court Original jurisdiction is constitutional system & Govt of India federal dispute.
- The Supreme Court is the highest appellate court which takes up appeals against the verdicts of the High Courts and other courts of the states and territories.
- The Supreme court has the power of Constitutional review.
- The Supreme Court of India held its inaugural sitting on 28 January 1950.



SUPREME COURT OF INDIA



- **History**
- The Supreme Court of India came into being on 28 January 1950.
- It replaced both the Federal Court of India and the Judicial Committee of the Privy Council which were at the apex of the Indian court system.
- Its initial seat was the Chamber of Princes in the Parliament building where the previous Federal Court of India sat from 1937 to 1950.
- In 1958, the Supreme Court moved to its present premises



SUPREME COURT OF INDIA



- **Constitution of the court**
- Supreme Court of India - Central Wing
- Registry - headed by the Secretary General - assisted in his work by seven Registrars, and twenty one Additional Registrars etc.
- Article 146 of the Constitution deals with the appointments of officers and servants of the Supreme Court Registry.
- Supreme Court Advocates
- Supreme Court of India:-
- Senior Advocates
- Advocate-on-Record
- Other Advocates



SUPREME COURT OF INDIA



- **The Supreme Court Building and its architecture**
- The main block of the Supreme Court building was built on a square plot of 22 acres and the building was designed by chief architect Ganesh Bhikaji Deolalikar who was the first Indian to head CPWD and designed the Supreme Court Building in an Indo-British architectural style.
- He was succeeded by Shridher Krishna Joglekar.
- The Court moved into the present building in 1958.
- The building is shaped to project the image of scales of justice with the Central Wing of the building corresponding to the centre beam of the Scales.
- In 1979, two new wings - the East Wing and the West Wing - were added to the complex.
- In all there are 15 court rooms in the various wings of the building.
- The Chief Justice's Court is the largest of the courtrooms located in the centre of the Central Wing.



SUPREME COURT OF INDIA



- **Eligibility**
- The person must be a citizen of India
- Judge of a High Court or of two or more such Courts in succession for at least five years, or
- An Advocate of a High Court or of two or more such Courts in succession for at least ten years, or
- The person must be, in the opinion of the President, a distinguished jurist.
- A Judge of a High Court or retired Judge of the Supreme Court or High Courts may be appointed as an ad-hoc Judge of the Supreme Court.



SUPREME COURT OF INDIA



- **Appointments and the Collegium**
- Judges of Supreme Court used to be appointed by the President of India, who acted on the advice of the Union Cabinet.
- **Tenure**
- Supreme Court judges retire at the age of 65.
- A judge of Supreme Court can be removed by the procedure prescribed in Article 124(4)
- **Salary**
- Article 125 of the Indian Constitution leaves it to the Indian Parliament to determine the salary, other allowances, leave of absence, pension, etc. of the Supreme Court judges.
- However, A judge gets 90,000 and the Chief Justice gets a sum of 1,00,000.
- **Court demographics**
- I am proud to be an Indian. India is the only country where a member of the minority Parsi community with a population of 1,67,000, like myself, can aspire to attain the post of the Chief Justice of India.
- These things do not happen in our neighbouring countries.

15.05.2021

37



JUDICIAL REVIEW



- Judicial review is one of the main characteristics of government in the federal republic of the United States and other democratically elected governments.
- It can be understood in the context of two distinct—but parallel—legal systems (civil law and common law), and also by two distinct theories of democracy regarding the manner in which government should be organized with respect to the principles and doctrines of legislative supremacy and the separation of powers.
- First, two distinct legal systems, civil Law and common law, have different views about judicial review.
- Common-law judges are seen as sources of law, capable of creating new legal rules, and also capable of rejecting legal rules that are no longer valid.
- In the civil-law tradition judges are seen as those who apply the law, with no power to create (or destroy) legal rules.



JUDICIAL REVIEW



- Secondly, the idea of separation of powers is another theory about how a democratic society's government should be organized.
- In contrast to legislative supremacy, the idea of separation of powers institutionalized in the United States by the Supreme Court ruling in Marbury v. Madison under the court of John Marshall.
- Separation of powers is based on the idea that no branch of government should be able to exert power over any other branch without due process of law;
- each branch of government should have a check on the powers of the other branches of government, thus creating a regulative balance among all branches of government.
- The key to this idea is checks and balances.
- In the United States, judicial review is considered a key check on the powers of the other two branches of government by the judiciary (although the power itself is not granted by the Constitution).
- Differences in organizing "democratic" societies led to different views regarding judicial review, with societies based on common law and those stressing a separation of powers being the most likely to utilize judicial review.
- Nevertheless, many countries whose legal systems are based on the idea of legislative supremacy have learned the possible dangers and limitations of entrusting power exclusively to the legislative branch of government.
- Many countries with civil-law systems have adopted a form of judicial review to stem the tyranny of the majority.



JUDICIAL REVIEW



- Judicial review of administrative acts
- Most modern legal systems allow the courts to review administrative acts (individual decisions of a public body, such as a decision to grant a subsidy or to withdraw a residence permit).
- In most systems, this also includes review of secondary legislation (legally-enforceable rules of general applicability adopted by administrative bodies).
- Some countries (notably France and Germany) have implemented a system of administrative courts which are charged with resolving disputes between members of the public and the administration.
- In other countries (including the United States, Scotland and the Netherlands), judicial review is carried out by regular civil courts although it may be delegated to specialized panels within these courts (such as the Administrative Court within the High Court of England and Wales).
- The United States employs a mixed system in which some administrative decisions are reviewed by the United States district courts (which are the general trial courts)
- Some are reviewed directly by the United States courts of appeals and others are reviewed by specialized tribunals such as the United States Court of Appeals for Veterans Claims (which, despite its name, is not technically part of the federal judicial branch).
- It is quite common that before a request for judicial review of an administrative act is filed with a court, certain preliminary conditions (such as a complaint to the authority itself) must be fulfilled.
- In most countries, the courts apply special procedures in administrative cases.



JUDICIAL REVIEW



- In American legal language, "judicial review" refers primarily to the adjudication of constitutionality of statutes, especially by the Supreme Court of the United States.
- This is commonly held to have been established in the case of Marbury v. Madison, which was argued before the Supreme Court in 1803.
- A similar system was also adopted in Australia.
- Review by a specialized court In 1920, Czechoslovakia adopted a system of judicial review by a specialized court, the Constitutional Court as written by Hans Kelsen, a leading jurist of the time.
- This system was later adopted by Austria and became known as the Austrian System, also under the primary authorship of Hans Kelsen, being emulated by a number of other countries.
- In these systems, other courts are not competent to question the constitutionality of primary legislation; they often may, however, initiate the process of review by the Constitutional Court.
- Brazil adopts a mixed model since (as in the US) courts at all levels, both federal and state, are empowered to review primary legislation and declare its constitutionality
- In the Czech Republic, there is a constitutional court in charge of reviewing the constitutionality of primary legislation.