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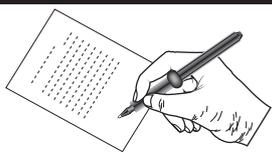
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*The concurrence of the views of the Editor is not necessary for any matter or figure published in Pratiyogita Darpan.*

*—Editor*



# Be Aware : Be Happy

Happiness is sought by everyone, but the search is not focused in the right direction. We waste precious time seeking happiness in the mirage of objects, places and people so much so that some seek happiness in caves, mountains or on the shifting sands of deserts, practising severe penance. Those who seek happiness in the objective domain, are called extroverts. They simply waste their time in wasteless efforts disregarding the subject.

In fact happiness is a function of the subjective. But it is not possible to seek happiness in the subjective because subjective cannot become an object of seeking. This means that to seek happiness in either direction is to miss happiness.

At the same time, happiness is always near us—rather within us. It is for us to have it now ?

Suppose we sit to solve a mathematical problem. We fail in ten efforts. But succeed in the eleventh one. How happy we feel ! At that time we forget all about our surroundings and even those ten efforts in which we had to meet failure. All of us know it full well, when Archimedes hit upon the idea of density. He left his bathroom and ran crying—with no clothes on his body—Eureka, Eureka. I am sure, our young readers would agree with me that when we get success in our efforts, specially after sincere and with one pointed efforts, we feel happy. So happiness lies neither in the objective nor in the subjective, it lies within us which is evoked by doing our work with full devotion. Had it not been so, persons, whom we honour and call great, should not have devoted their whole lives in making researches, inventions or fighting for country's freedom. Our freedom fighters never felt sorry or bitter for having undergone all sorts of tyrannies or spending the best part of their life behind the bars.

On the other hand, they felt happy and proud for that. Many of our

budding youngsters felt happy every centimetre when they kissed the noose of the gallows. In short, a person experiences happiness, when he has the satisfaction of having done with a sense of duty what he believes to be right. At the same time, realisation of happiness makes one detached, silent and contemplative. In the philosopher's language this state of the mind may be called a self-awareness. Once Raman Marshi told to Kavya Kantha Ganpathi Muni, a Vedic scholar and a devotee of Shakti, that meditation means just to be happy. Being conscious of one's ignorance is meditation. So, our young men and women will do well not to feel elated on their gaining knowledge or making achievements. The more they become conscious of their limitations, the more they would be happy and more their path to success would become easy. A great scientist like Newton used to think himself as a child who only sought pebbles on the sea shore and had not dared enter the ocean of knowledge.

Can happiness be an enduring experience in the ups and downs of actual living ? The answer is both yes and no. If one lives in constant awareness, i.e., fully conscious of his commitments to life, he is happy. In case otherwise, he is unhappy. I take this opportunity to repeat that happiness is not to be sought. It is like a butterfly. The more one chases it, the more it eludes him Happiness is already here. One may experience it, if he takes the hardships of life with cheer and devotion.

Creativity is the core of happiness. As rightly said, we have no more right to consume happiness without producing it. Happiness is not in doing, but in liking what you do. In the words of Pt. Jawahar Lal Nehru, "Happiness and work are wedded together, for there can be no true happiness without feeling that one is doing something worthwhile." A contemporary of Nehru Aldous Leonard Huxley also connects happiness with

creating something new and useful—Happiness is like coke, something you get as by-product in the process of making something else. The reason—one always feels happy when he sees that he has created something. The great Hindi saint poet Tulsidas said who does not like poems written by him whether they are sweet or not—

निज कवित्त केहि लाग न नीका ।  
सरस होउ अथवा अति फीका ॥

Earl Nightingale said rightly—The happiest people on earth are those who are emotionally involved in what they do. So two things go to make happiness enjoyable—hard work and devotion. If one puts one's heart and soul into what one does, one enjoys that state of consciousness which is called bliss. This gives us the all important equation—happiness is the manifestation of bliss, which is always within the reach of those, who take work as worship.

Happiness is not something which can be categorised as subjective or objectives. It is neither. According to Bulwer—To be happy one has to forget himself, i.e., he ceases to identify himself with time.

A king on waking up told his minister—in my dream, I was a butterfly, but on waking I found myself to be a king. Please tell me which of these two experiences is the truth." The minister replied, "your highness, doubtless you are king"—not a butterfly. The king was not convinced. He said, "how do you know ? It might be that I am the king in the butterfly's dream."

Obviously, the king was not prepared to identify himself with the objective or the subjective world. He was quite aware that these experiences are quite elusive.

To conclude happiness in everyday life means walking wakefully in this dream world. Self awareness helps find true happiness.



## At a Glance :

### THE ANNUAL SESSIONS OF THE CONGRESS PARTY AND ITS PRESIDENTS SINCE ITS INCEPTION IN 1885

| Year | Session Place | President   | Year        | Session Place  | President  |
|------|---------------|---|-------------|----------------|--|
| 1885 | Bombay        | Womesh Chand Banerjee                                   | 1931        | Karachi        | Vallabh Bhai Patel   |
| 1886 | Calcutta      | Dadabhai Naoroji  | 1932        | Delhi          | R. Amrit Lal   |
| 1887 | Madras        | Badruddin Tyabji  | 1933        | Calcutta       | J. M. Sen Gupta  |
| 1888 | Allahabad     | George Yule   | 1934        | Bombay         | Rajendra Prasad  |
| 1889 | Bombay        | Sir William Wedderburn                                  | 1935        | Lucknow        | Rajendra Prasad  |
| 1890 | Calcutta      | Frozshah Mehta  | 1936        | Faizpur        | Jawaharlal Nehru   |
| 1891 | Nagpur        | P. Anand Charlu   | 1937        | Faizpur        | Jawaharlal Nehru   |
| 1892 | Allahabad     | W. C. Banerjee  | 1938        | Haripura       | Subhash Chandra Bose   |
| 1893 | Lahore        | Dadabhai Naoroji  | 1939        | Tripuri        | Subhash Chandra Bose (Though Subhash Chandra Bose was elected, he had to resign and Rajendra Prasad was appointed in his place.) |
| 1894 | Madras        | Alfred Webb   |             |                |  |
| 1895 | Poona         | S. N. Banerjee  |             |                |  |
| 1896 | Calcutta      | Rahimtulla Sayani                                       |             |                |  |
| 1897 | Amravati      | C. S. Nair  | 1940-46     | Raigarh        | Maulana Abul Kalam Azad  |
| 1898 | Madras        | A. M. Bose  | 1946        | —              | Jawaharlal Nehru   |
| 1899 | Lucknow       | R. C. Dutt  | (July-Sep.) | Meerut         |  |
| 1900 | Lahore        | N. G. Chandravarkar                                     | 1946-47     | Jaipur         | J. B. Kripalani  |
| 1901 | Calcutta      | B. E. Wacha   | 1948        | Jaipur         | Pattabhi Sitaramaiah   |
| 1902 | Ahemdabad     | S. N. Banarjee  | 1950        | Nasik          | Purushottam Das Tandon   |
| 1903 | Madras        | L. M. Ghosh   | 1951        | Delhi          | Jawaharlal Nehru   |
| 1904 | Bombay        | Sir Henry Cotton  | 1953        | Hyderabad      | Jawaharlal Nehru   |
| 1905 | Banaras       | G. K. Gokhale   | 1954        | Kalyan         | Jawaharlal Nehru   |
| 1906 | Calcutta      | Dadabhai Naoroji  | 1955        | Avadi          | U. N. Dhebar   |
| 1907 | Surat         | Rashbihari Ghosh  | 1956        | Amritsar       | U. N. Dhebar   |
| 1908 | Madras        | Rashbihari Ghosh  | 1957        | Indore         | U. N. Dhebar   |
| 1909 | Lahore        | M. M. Malaviya  | 1958        | Pragjyotishpur | U. N. Dhebar   |
| 1910 | Allahabad     | Sir William Wdderburn                                   | 1959        | Nagpur         | U. N. Dhebar   |
| 1911 | Calcutta      | B. N. Dhar  | 1960        | Bangalore      | Indira Gandhi  |
| 1912 | Patna         | R. M. Madholkar   | 1961        | Bhavnagar      | N. Sanjiva Reddy   |
| 1913 | Karachi       | Syed Mohamad Bahadur                                    | 1962        | New Delhi      | D. Sanjivayya  |
| 1914 | Madras        | Bhupendra Nath Basu                                     | 1964        | Bhubaneshwar   | K. Kamaraj   |
| 1915 | Bombay        | S. P. Sinha   | 1965        | Durgapur       | K. Kamaraj   |
| 1916 | Lucknow       | A. C. Mazumdar  | 1966        | Jaipur         | K. Kamaraj   |
| 1917 | Calcutta      | Mrs. Annie Besant                                       | 1968        | Bangalore      | S. Nijalangappa  |
| 1918 | Bombay        | (Special Session) Hassan Immam                          | 1969        | New Delhi      | C. Subramaniam   |
| 1918 | Delhi         | (Annual Session) M. M. Malaviya                         | 1970        | Dew Delhi      | Jagjivan Ram   |
| 1919 | Amritsar      | Motilal Nehru   | 1971        | Ahemdabad      | D. Sanjivayya  |
| 1920 | Nagpur        | C. Vijayaragava-chariar                                 | 1972        | Calcutta       | Shankar Dayal Sharma   |
| 1921 | Allhabad      | C. R. Das (In prison) Acting President-Hakim Ajmal Khan | 1975        | Chandigarh     | D. K. Barooah  |
| 1922 | Gaya          | C. R. Das   | 1976        | New Delhi      | Brahamananda Reddy   |
| 1923 | Delhi         | (Special Session) Lala Lajpat Rai                       | 1978        | New Delhi      | Indira Gandhi  |
| 1923 | Kakinada      | (Annual Session) Mohammad Ali                           | 1983        | Calcutta       | Indira Gandhi  |
| 1924 | Belgaum       | Mahatma Gandhi  | 1984        | New Delhi      | Rajiv Gandhi   |
| 1925 | Kanpur        | Sarojini Naidu  | 1992        | Tirupati       | P. V. Narsimha Rao   |
| 1926 | Gauhati       | S. Srinivas Iyenger                                     | 1993        | Surajkund      | P. V. Narsimha Rao   |
| 1927 | Madras        | M. A. Ansari  | 1994        | New Delhi      | P. V. Narsimha Rao   |
| 1928 | Calcutta      | Motilal Nehru   | 1996        | New Delhi      | P. V. Narsimha Rao   |
| 1929 | Lahore        | Jawaharlal Nehru  | 1997        | Calcutta       | Sitaram Kesari   |
| 1930 | Karachi       | Jawaharlal Nehru  | 2001        | Bangalore      | Sonia Gandhi (Till present)  |

# INDIAN CONSTITUTION AND POLITICAL SYSTEM

## (Facts to be Remembered)

### THE MAKING OF THE CONSTITUTION

- Indian Constitution was framed by a Constituent Assembly in a long time of 2 years, 11 months and 18 days. It is the longest Constitution in the world. An amount of ₹ 64 lakh was spent in making the Constitution.
- The demand for a Constituent Assembly to draft Indian Constitution was, for the first time, raised by the Congress in 1935. The British Government accepted this demand, for the first time, in principle in the August proposals of 1940.
- The Constituent Assembly was constituted in Nov. 1946 through indirect election of its members by provincial legislatures under the provisions of Cabinet Mission Plan, 1946.
- The Assembly consisted of total 389 members, of which 292 were to be elected from provinces, 93 were to be nominated from princely States and four members were to be nominated from Chief Commissioner's Areas. Each province was allocated seats in proportion to its population. Also, the seats were further allocated to three communities—Muslim, Sikhs and General—in proportion to their population. Roughly one member was to represent a population of 10 lakh.
- Each provincial assembly elected its members for the Constituent Assembly through the single transferable vote system of proportional representation. The method of representation in princely states was to be decided with their consultation.
- The Mountbatten plan of 3rd June, 1947 announced partition of the country and a separate Constituent Assembly for the proposed state of Pakistan. Consequently the members of Constituent Assembly representing those areas which were to be included in Pakistan—West Punjab, East Bengal, North-West Frontier Province (NWFP), Sindh, Baluchistan and Sylhet district of Assam were no more members of Indian Constituent Assembly. NWFP and Sylhet decided through a referendum to remain with Pakistan. Thus, the membership of the Indian Constituent Assembly was reduced to 299 after partition and only 284 members signed the Constitution on 26 Nov., 1949.
- The first meeting of the Constituent Assembly was held on Dec. 9, 1946 which was boycotted by Muslim League.
- Dr. Sachchidanand Sinha was elected as temporary Chairman and later Dr. Rajendra Prasad was elected as permanent President of the Constituent Assembly.
- Shri B. N. Rau was appointed as Legal Advisor to the Constituent Assembly.
- Jawaharlal Nehru introduced 'Objective Resolution' on 13th Dec. 1946, which was adopted by the Constituent Assembly on January 22, 1947. Its modified version forms the Preamble of Indian Constitution.
- To facilitate the work of Constitution-making, the Assembly appointed 22 Committees, of which 10 were on Procedural Affairs and 12 on Substantive Affairs. The main committees were—Rules of Procedure Committee, Committee for Negotiating with States, Steering Committee, Union and Provincial Constitution Committees, Flag Committee etc.
- However, the most important was the seven member Drafting Committee headed by Dr. B. R. Ambedkar, which was set-up on Aug. 29, 1947. The other members of the Committee were—N. Gopalswami Ayyangar, Alladi Krishnaswami Ayyar, K. M. Munshi, Mohammad Saadullah, B. L. Mittar (replaced by N. Madhav Rau later) and D. P. Khaitan (who died in 1948 and was replaced by T. T. Krishnamachari).
- The Drafting Committee finalised the Draft Constitution of India in Feb. 1948 and the second reading of the same by the Assembly was completed on Oct 17, 1948. For the third reading of the Constitution, the Assembly met on Nov. 14, 1949 and finished it on Nov. 26, 1949. The Constitution was adopted on the same date with members and the President signing the Constitution.
- According to Article 394, some of the provisions of the Constitution relating to citizenship, elections, provisional parliament and temporary and transitional provisions contained in Articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388, 391, 392, and 393 came into force on 26th Nov., 1949 and the remaining provisions of the Constitution came into force on 26th Jan., 1950.
- The Republic Day is celebrated on 26th Jan. because India was declared Republic on this day in 1950. Republic means, a form of government where the Head of the State (President) is directly or indirectly elected by people.
- January 26 was selected as the date of Commencement of Indian Constitution because of its historical significance. It was on this date in 1930 that Indian people observed 'Independence Day', following the resolution of congress session held in Dec. 1929 at Lahore.
- The Constituent Assembly came to end on 24 Jan., 1950 but it emerged as provisional parliament on 26 Jan. till the elections of Lok Sabha. The President of the Assembly Dr. Rajendra Prasad was appointed as the First President of the Indian Republic till the elections.
- According to Article 395, with the Commencement of Indian Constitution, the Indian Independence Act, 1947, and the Govt. of India Act, 1935 are repealed. But the Abolition of Privy Council Jurisdiction Act, 1949 was not repealed.
- Some constitutional experts do not recognise the Constituent Assembly as sovereign body as it was created by the proposals of British Govt. But after India became independent in Aug. 1947, the Constituent Assembly functioned as a sovereign entity for all practical purposes.
- Jawaharlal Nehru, Sardar Vallabh Bhai Patel, Rajendra Prasad, Maulana Abul Kalam Azad, Acharya J. B. Kriplani, T. T. Krishnamachari and Dr. B. R. Ambedkar played a very significant role in Constitution making. However, Dr. Ambedkar is recognised as 'Father of the Indian Constitution'.

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## PREAMBLE

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- Besides Preamble, the Constitution originally contained 395 articles and 8 schedules. Presently it has 395 articles and 12 schedules.
- The Preamble of the Constitution is a part of the Constitution, but it is not enforceable by courts. It can be amended like other provisions of the Constitution. The courts can take recourse to the Preamble in order to explain and clarify other provisions of the Constitution. This was the view held by the Supreme Court in the *Berubari Union Case*, (1960) and the same view was reiterated in *Keshavnand Bharti case* in 1973.
- The phrase, “We the people of India .....do hereby Adopt, Enact and to Give to ourselves this Constitution”, written in the Preamble underlined the Supremacy and Sovereignty of the people of India.
- The Preamble is non-justiciable. That means, courts can not pass orders against government to implement the ideas contained in the Preamble. For example, Government of India moved on the path of liberalisation and privatisation in 1991, without removing the word ‘Socialism’ from the Preamble. Now courts cannot force the government to incorporate the idea of socialism. Infact, the Preamble enshrines the goals and ideals of the Constitution.
- British political thinker Earnest Barker has appreciated and cited the Preamble in the opening of his book ‘Principles of Social and Political Theory’.
- The Preamble declares India to be a ‘Sovereign, Socialist, Secular, Democratic Republic’, and ensures to provide to all its citizens ‘Justice—social, economic and political’, ‘equality of status and opportunity’, ‘freedom of thought’, expression, belief, faith and worship’, ‘dignity of individual’ and ‘unity and integrity of the nation’.
- The Preamble has been amended only once so far in 1976 by 42nd Amendment which inserted the words, ‘Socialism’, ‘Secularism’ and ‘Integrity’.
- The term Socialism does not mean ‘State Socialism’, that is ownership of all means of production and distribution by the State but it means reducing the inequalities between rich and poor. This is also referred to as ‘socialistic pattern of society’, which was adopted as a goal of Indian state by

the Congress in its Avadi session in 1955.

- The term ‘Secularism’ means equal respect and equal protection of all religions by government, which in other words is, ‘Sarva Dharm Sambhav’. This meaning is distinct from the negative concept of Secularism held in western traditions that is, separation of religion and politics/state.
- The Preamble is termed as ‘Political Horoscope’ by K. M. Munshi, ‘Key to the Constitution’ by Earnest Barker, and ‘Soul of the Constitution’ by Thakurdas Bhargav. Because of complexity of its provisions, the Indian Constitution is termed as ‘Paradise of Lawyers’ by M.V. Paylee. Granville Austin says that Indian Constitution is basically a social document’.

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## UNION AND STATES

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- India has opted for the Federal form of Government due to its large size and sociocultural diversities, but the word ‘Federation’ does not find mention in the Constitution. Instead, article 1 declares, ‘India’ that is Bharat, shall be a Union of States’. The term ‘Union’ was suggested by Dr. B. R. Ambedkar, which indicates two things, first, Indian Union is not a result of agreement of independent and sovereign states, and second, the Units/States do not have right to secede from the Union. Thus, India is an ‘indestructible union of destructible states’. The states are destructible as Union Government can change their names and boundaries without their consent.
  - D. D. Basu terms Indian Constitution as mixture of unitary and federal features. According to K. C. Wheare, it is ‘quasi-federal’, it is less federal and more unitary. For prof. Alexandrowicz, ‘India is a case ‘Sui Generis’ (i.e., Unique in Character); for Sir Ivor Jennings, it is a federation with strong centralising tendency, and for Granville Austin, it is an example of ‘co-operative federalism’.
  - There are presently 29 States and 7 Union Territories in Indian Union. The Union Territory of Goa, Daman and Diu was bifurcated in 1987 to make the state of Goa and UT of Daman & Diu. Andhra Pradesh was the first state created on the basis of language in 1953. The States of Indian Union were reorganised on the basis of language in 1956 following the recommendation of State Reorganisation Commission, 1955, headed
- by Fazal Ali. Other two members of the Commission were K. M. Panikkar and H. N. Kunzru.
- The Union Territory of Pondicherry (now Puducherry) became part of Indian Union in 1962 after French left from India. Puducherry consists of four areas scattered in different regions—Puducherry and Karaikal in Tamil Nadu, Yanam in Andhra Pradesh and Mahe in Kerala.
  - The Supremacy of Constitution has been recognised in India as against the Supremacy of Parliament in Britain.
  - As provided in the 7th schedule of the Constitution, powers of government have been divided between Union and States. The Union List contains 97 subjects, State List has 66 subjects and there are 47 subjects in the Concurrent List. In case of Concurrent List both Union and States can make laws but Union law prevails in case of contradiction between the two. By the 42nd Amendment, 1976, five subjects have been shifted from State List to Concurrent List. These subjects are—administration of justice except Supreme Court and High Courts; Forests; Population Control and Family Planning; Education, including medical and technical education; and weights and measures except establishment of standards.
  - The Residuary powers have been vested with the Union Government. It should be noted that under the federal system proposed by the Government of India Act, 1935, these powers were vested with Governor-General of India.
  - The State of Jammu & Kashmir has been given special status under Article 370, which became operative on Nov. 17, 1952. The State has a separate Constitution which was drafted by the Constituent Assembly of J & K and became effective on Jan. 26, 1957. The provisions of Article 370 cannot be amended by parliament; but it can be made inoperative by the order of President of India with prior consent of the Constituent Assembly of J & K. The Assembly will have to be reconstituted for this purpose.
  - There are special provisions for the States of Andhra Pradesh, Gujarat and Maharashtra under Article 371, for the State of Nagaland under Article 371A, for Assam under Article 371B and for Sikkim under Article 371F.
  - Indian provinces/states do not have their separate Constitution as in America. They are also not entitled to take loan or trade with foreign coun-

tries directly. They do not have right to secede from the Union.

- Indian federal system is more alike the Canadian system. Indian states are dependent upon central government for economic assistance. There is a single citizenship in India. States do not have right to accord separate citizenship to their residents.
- The Central Government (Parliament) has right to change the boundary and names of states (Article 3). This act of Parliament will not be considered as amendment to the Constitution, *i.e.*, this can be done with simple majority by the Parliament (Article 4)
- The Parliament can enact law in a subject of State List if it has been declared as a subject of national importance by Rajya Sabha with 2/3 majority of present and voting, or when proclamation of National Emergency is in operation, or when legislatures of two or more states have desired so.

## FUNDAMENTAL RIGHTS AND DUTIES

- To ensure the overall development of citizens, the Fundamental Rights have been provided in the Part III (Articles 12–35) of the Constitution.
- According to Article 13 of the Constitution, the Fundamental Rights can not be modified or limited in any way except by the procedure of Constitutional Amendment.
- The Fundamental Rights are justiciable *i.e.*, they are protected by judiciary in case of their violation.
- The individuals can directly approach the Supreme Court or High Courts for the protection of their Fundamental Rights. Under the Right to Constitutional Remedies, both Supreme Court and High Court can issue writs of *Habeas Corpus*, *Mandamus*, *Quo-Warranto*, *Prohibition* and *Certiorari*. The Right to Constitutional Remedies has been described by Dr. Ambedkar as the soul of the Constitution.
- Seven Fundamental Rights were provided in the original Constitution. But the Right to Property has been repealed as Fundamental Right and has been converted into an ordinary legal right under Article 300A by the 44th Amendment in 1978. Consequently, at present, there are only Six Fundamental Rights.
- The Six Fundamental Rights are : (i) Right to Equality, (ii) Right to Freedom (iii) Right against Exploitation,

(iv) Right to Religious Freedom, (v) Cultural and Educational Rights and (vi) Right to Constitutional Remedies.

- Right to Freedom contains six freedoms.
- The 86th Constitution (Amendment) Act, 2002 added a new article 21-A in Right to Freedom. The Article 21-A relates to Right to Education which reads. The state shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the state may, by law, determine.
- Fundamental Rights are generally suspended during operation of National Emergency. Right to Freedom under Article 19 is automatically suspended. Other Rights may be suspended by a declaration of the President to that effect. But Rights to Life and Personal Liberty under Article 20 and 21 cannot be suspended even during National Emergency.
- Fundamental Duties were not provided in the original Constitution. Ten Fundamental Duties were added by 42nd Amendment in 1976 in Article 51A of Part IVA along with Directive Principles of State Policies.
- Like Directive Principles of State Policy, the Fundamental Duties are also non-justiciable. However, they can be enforced by the government through enactment of laws by appropriate Legislatures.
- There were 10 Fundamental Duties added to the Constitution by 42nd Amendment in 1976. The eleventh duty (k) relating to the provision of opportunities for education to the children between the age of six and fourteen years was added by 86th Amendment Act, 2002.

## DIRECTIVE PRINCIPLES OF STATE POLICY

- The Directive Principles of State Policy are described in Articles 36–51 under Part IV of the Constitution.
- Majority of the Directive Principles aim at the establishment of social and economic democracy or the establishment of a Welfare State, which has been resolved in the Preamble itself.
- The State is not bound to implement the provisions of Directive Principles, *i.e.*, they are non-justiciable. Thus they cannot be enforced by the courts.
- Some new Directive Principles have been added by the 42nd Amendment in 1976.

## CONSTITUTION AMENDMENT

- According to K. C. Wheare, Indian Constitution strikes a balance between rigidity and flexibility, that is, it is both rigid and flexible at the same time.
- The procedure for the Amendment of the Constitution is given in Article 368 of Part XX of the Constitution.
- The Constitution can be amended in three ways : (i) By Special Majority in both Houses of Parliament, *i.e.*, Majority of the total membership and 2/3 of the present and voting; (ii) by the special Majority, as described above, and the consent of more than half of the total States of the Union (Consent of 15 states at present). The third way to amend the Constitution is not described in Article 368 but it is mentioned in the articles where it is applicable. These Articles can be modified or repealed by simple majority. Thus, the third way to 'amend' the Constitution is by passing the bill by simple majority in both houses of Parliament.
- The first Amendment to the Constitution was made in 1951. So far, 94 Constitutional Amendments have been enacted. The 42nd and 44th amendments are exhaustive as well as important.

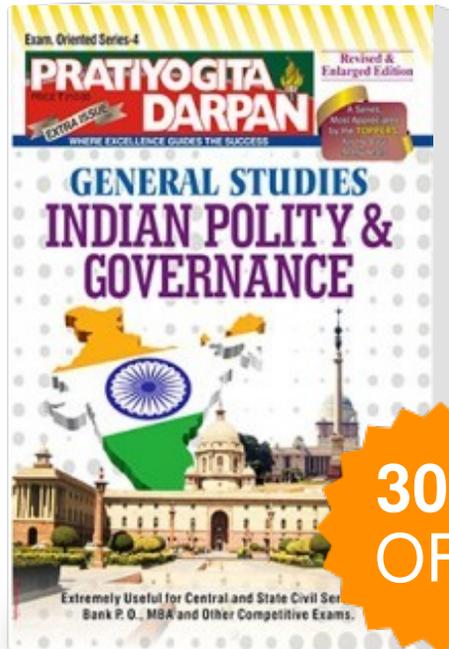
## UNION EXECUTIVE

- The executive power of the Union is vested in the President.
- The President is designated as the first citizen of India.
- India has adopted Parliamentary system of government. Therefore, the President is nominal executive and real executive is the Council of Ministers headed by the Prime Minister.
- No person shall be eligible for election as President unless he is a citizen of India.
- The minimum age prescribed for the post of President is 35 years.
- A person to become the President must fulfil the qualifications prescribed for a member of Lok Sabha.
- President does not hold membership of either house of Parliament or State Legislatures.
- The President is elected indirectly by an Electoral College through the single transferable vote system of proportional representation.

- The Electoral College consists of elected members of Lok Sabha, Rajya Sabha and Provincial Legislative Assemblies. It has been provided by the 70th Amendment Act, 1992 that elected members of the Legislative Assemblies of Union Territories of Puducherry and Delhi can also participate in the election of President.
- The nomination of a candidate for the post of President has to be proposed by 50 members and seconded by another 50 members of the Electoral College.
- The term of President is for five years and election of next President is held before the expiry of the term. However, if election is not held within five years, the incumbent President continues to hold the office till the election is held. In this case, the Vice-President does not get the opportunity to act as the President.
- A President can be again elected as President. There is no limitation as to how many times a person can become President.
- The President can tender his resignation to the Vice-President before the expiry of his term.
- The President can be removed from his office before the expiry of the term by the process of impeachment.
- The impeachment procedure can be initiated in either House of Parliament. Either of the two house starts the impeachment proceedings and another house investigates it.
- The President can be impeached only for the violation of the Constitution and has to be informed in writing 14 days in advance about the intention to initiate impeachment proceedings.
- The President can present his case or defend himself during the investigation of impeachment charges.
- The President gets a monthly salary of ₹ 1,50,000.
- His salary and emoluments cannot be varied to his disadvantage during his term.
- If the office of the President becomes vacant due to death, resignation or impeachment before the expiry of the term, the election to the office of President is held within six months of vacancy. In this case, the Vice-President will act as President till the new elected President assumes office. The newly elected President holds office for a five year term.
- If the office of President is temporarily vacant due to illness or otherwise, or absence of President, the Vice-President discharges the duties and functions of President till the incumbent President resumes office.
- In any case, if both President and Vice-President are not available to perform the duties of President, the Chief Justice of Supreme Court discharges the duties of President and in his absence the next senior justice of Supreme Court performs the functions of President. This situation arose only once so far in 1969, when the incumbent President Dr. Zakir Hussain died in May 1969 and the Vice-President resigned on July 20, 1969 to contest the election of President. In this contingency, justice M. Hidaytulla, Chief Justice of Supreme Court discharged the duties of President from 20 July, 1969 to 20 Aug, 1969. Infact, M. Hidaytulla is the only person to perform the functions of President two times in two different capacities, *e.g.*, first time in 1969 as the Chief Justice of Supreme Court and second time as the Vice-President of India in Oct. 1982.
- The Vice-President of India is also elected by an Electoral College through the single transferable vote system of proportional representation.
- The Electoral College consists of all the members (both elected and nominated) of both the houses of parliament.
- There is no need of joint sitting of both houses of Parliament to elect the Vice-President.
- Any Indian citizen, who fulfils the prescribed qualifications can become the Vice-President of India.
- A candidate for the post of Vice-President must have attained the age of 35 years. He must fulfil also the qualifications prescribed for a member of Rajya Sabha.
- The Vice-President does not hold the membership of either houses of Parliament or State Legislatures.
- The term of office of Vice-President is five years.
- There is no limitation on the number of times a person can become Vice-President. Thus, a Vice-President can be re-elected as Vice-President.
- The Vice-President can vacate his office by tendering his resignation to the President.
- The Vice-President can be removed from office before the expiry of term of five years.
- There is no need of impeachment to remove the Vice-President.
- The Vice-President can be removed from office before the expiry of term, by a Resolution, first passed by majority of the members of Rajya Sabha and agreed to by the Lok Sabha.
- If the Vice-President is unable to discharge his duties and function due to illness or temporary absence, no other official is entitled to act as Vice-President.
- The Vice-President is ex-officio Chairman of Rajya Sabha. In his absence, the Dy. Chairman of Rajya Sabha preforms his duties.
- The Vice-President gets the salary and emoluments of the Chairman of Rajya Sabha, when he acts, as such in ex-officio-capacity and he gets the salary and emoluments of the post of President, when he acts as President. Infact, he is the only official who does not get any salary and emoluments of his designated post *i.e.*, Vice-President. As Chairman of the Rajya Sabha he draws a monthly salary of ₹ 1,25,000.
- At a time when the Vice-President acts in either of two capacities *i.e.*, Chairman of Rajya Sabha or President of India, he cannot act in both offices simultaneously.
- In the history of presidential elections, V. V. Giri is the only person who won the election of President as an independent candidate. This became possible in 1969 when Congress did not support its official nominee Neelam Sanjeev Reddy as its members voted in the name of 'conscience' and supported an independent candidate.
- In July 1977, Neelam Sanjeev Reddy was elected unopposed as no one else filed nomination for the post of President.
- The disputes related with the elections of President and Vice-President are settled by the Supreme Court of India.
- The elections of President and Vice-President cannot be challenged on the ground of any vacancy in the Electoral College.
- If the election of President or Vice-President is declared null and void by the Supreme Court, the acts done by them during their being in office cannot be declared illegal.
- Parliament can make laws on matters related to the elections of President and Vice-President.
- The Vice-President, first of all, gives the information about President's resignation to the Speaker of Lok-Sabha.
- The President exercises executive powers within the provisions of the Constitution.

- The President is not the real executive, but he is the constitutional head of the State.
- The President exercises executive powers of the Union according to the advice of Council of Ministers headed by the Prime Minister.
- The advice of Council of Ministers is made binding upon the President by the 42nd Constitutional Amendment, 1976.
- The 44th Amendment gives the President the right to ask the Council of Ministers to reconsider its advice tendered to him. If the Council of Ministers sticks to the advice tendered earlier, the President is bound by such advice.
- Though the President is not the real head of the Union Executive, all the acts of the Union are expressed in the name of the President. Constitutionally, all the officials of the Union act under his subordination.
- The following officials are appointed by the President : (1) Prime Minister, (2) Other Ministers of Council of Ministers, (3) Attorney-General of India, (4) Comptroller and Auditor General of India, (5) Chief Justice and other Justices of Supreme Court, (6) Governors of States, (7) Chief Justices and other judges of High Courts, (8) Chairman and Members of Union Public Service Commission and Joint Public Service Commission, (9) Chairman and Members of Finance Commission, (10) Chief Election Commissioner and other Election Commissioners of Election Commission, (11) Central Vigilance Commissioner, (12) Chairperson and Members of various Commissions : Official Language Commission, Minority Commission, National Backward Classes Commission, National Commission for Scheduled Castes and National Commission for Scheduled Tribes, (13) Ambassadors, High Commissioners and other diplomatic representatives and consuls in Indian Foreign Service, (14) Governors of States, Administrators, Lt. Governors of Union Territories.
- The President has the power to remove the following officials : (1) Members of Council of Ministers, (2) Governor of a State (3) Chief Justices and other Judges of Supreme Courts and High Courts, Chief Election Commissioner and Comptroller and Auditor General of India on the basis of the resolution passed by the Parliament, (4) Chairman and Members of Union Public Service Commission and Public Service Commissions of States and Central Vigilance Commissioner on the basis of the enquiry of the Judge of the Supreme Court.
- The President is a part of Parliament.
- Any Bill passed by Parliament can become a law only after it has been signed by the President.
- The President has power to summon and prorogue the sessions of Parliament and to dissolve Parliament.
- The President addresses the joint sitting of both houses of Parliament after every General Election and the first joint sitting at the beginning of each year.
- The President has right to send messages to Parliament relating to legislative and other matters.
- The President also has the right to nominate 12 members in Rajya Sabha and 2 members of Anglo India Community in Lok Sabha.
- The President causes to be laid the Annual Financial Statement (Budget) and reports and recommendations of various commissions before each House of Parliament.
- The prior recommendation of President is required on some bills before they are introduced in the Parliament, *e.g.*, bills related to the changes in the names and boundaries of States, Money bills and bills related to matters contained in Article 31A(i) of the Constitution.
- The President can give assent to a bill, withhold his assent to the bill or he may send it back to Parliament for reconsideration, if the bill is not a Money bill. The President is bound to give his assent to the Money bills and Constitutional Amendment bills passed by Parliament. A money bill cannot be send back by president to Parliament for reconsideration.
- If a bill sent back to Parliament for reconsideration is again presented by Parliament to the President for his assent, the President will not withhold his assent.
- The Constitution does not fix any time limit for President to give his assent to, withhold his assent from or send back to Parliament a bill presented to him.
- The example of the use of pocket veto is the Postal bill of 1986, in which the then President Jai Singh did not act upon long time and subsequently the bill was withdrawn by the Parliament in 1989 without getting the assent of the President.
- In the case of a bill passed by a State Legislature, if reserved by the Governor for the assent of President, the President can return the bill for reconsideration of State Legislature. And if the same bill is again presented to the President within six months for his assent, the President can still withhold his assent from the bill. The President can keep the bill on his table for indefinite period. In case of Money bills, the President can grant his assent or withhold his assent but can not return the bill for reconsideration of State Legislature.
- If there is an urgency to make a law and Parliament is not in session, the President can promulgate an ordinance which has effect of a law.
- The ordinances have the same effects as a law enacted by Parliament, but they are temporary in nature.
- The ordinances are presented to Parliament as soon as it meets in a session.
- If an ordinance is not passed within six weeks from the date of opening of the session by Parliament it becomes inoperative automatically.
- It has been provided by the 44th Amendment, 1978 that in case of malafide intentions as to the circumstances leading to promulgation of an ordinance, its validity can be challenged in the Court of law.
- The President has power to grant pardon, commutation, remission, respite, reprieve in respect of a punishment or sentence awarded by Court-Martial, or related to the executive power of the Union or if the sentence is one of death.
- The President is the Supreme Commander of Defence Forces. The Chiefs of three armed forces are appointed by him. The President has power to declare war and peace and to deploy armed forces, subject to the law made by Parliament.
- Subject to the laws made by Parliament, the President has right to appoint diplomatic representative in other countries and grant accreditation to the diplomatic representatives of foreign countries to India.
- Subject to the laws of Parliament and with the advice of Council of Ministers, the President has the power to sign international treaties and agreements.
- As provided in article 143 of the Constitution, the President can seek legal advice of the Supreme Court on a matter of public importance, but the President is not bound by such advice.

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