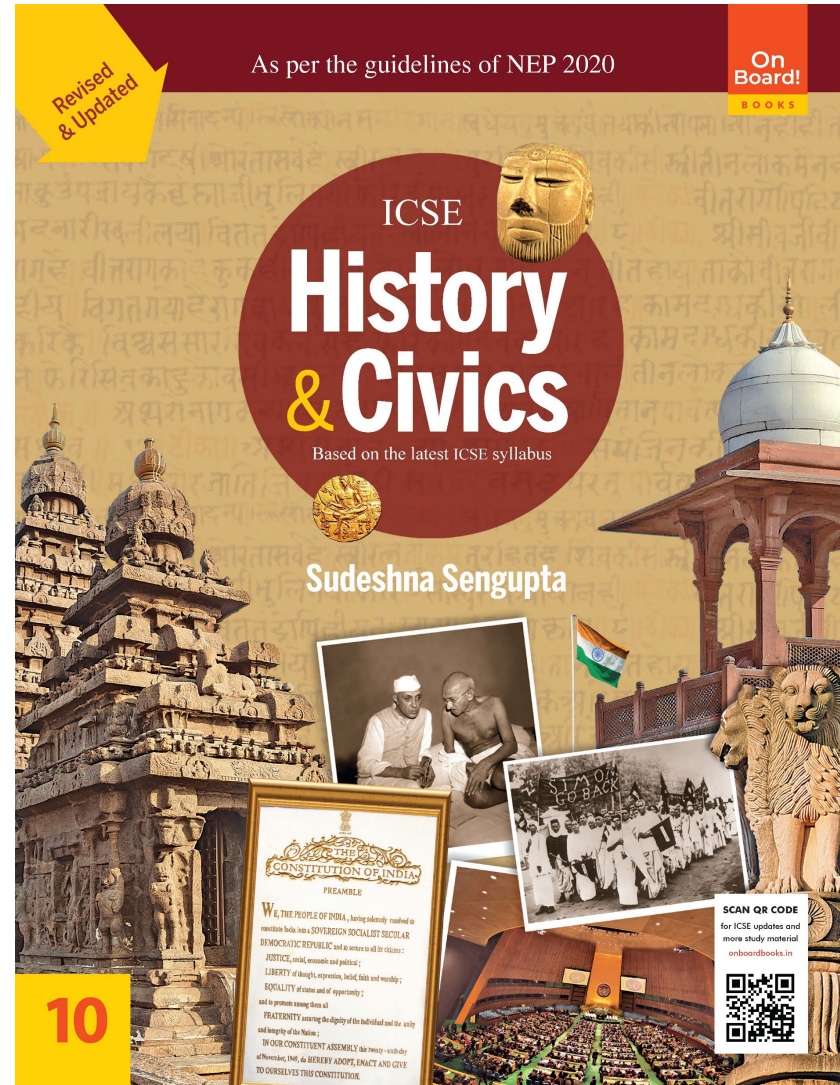


# On Board!

**B O O K S**

# ICSE History and Civics 10



# Section A: Civics

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# Chapter 1 The Union Legislature

Since the end of the Second World War in 1945, most countries in the world have adopted the democratic form of government. In a democratic country, the position of the constitution is very crucial as it explains the relationship between the ruler and the ruled.

A constitution is a body of laws, rules and principles that defines and regulates the system of governance of a country. It contains the citizens' rights and duties. The Constituent Assembly prepared the Constitution of India, which came into effect on 26 January 1950. Dr BR Ambedkar was the chief architect of our Constitution.

Our Constitution has adopted the parliamentary form of government. The term 'parliamentary' refers to a kind of democratic set-up, where the supreme power lies with the people's representative body called a Parliament. The Parliament of India together with the President and the two Houses form the **Union Legislature**.

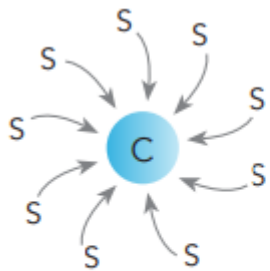
Lower House is called the House of the People or the **Lok Sabha** while the Upper House is known as the Council of States or the **Rajya Sabha**.

It is important to know that though the President does not sit in the Parliament, his assent is necessary for a Bill to become a law.

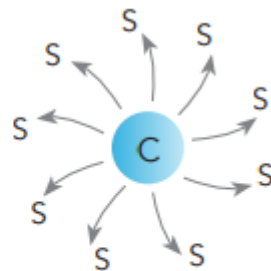
## Federal set-up

In recognition of the religious, cultural and linguistic diversities, the Constitution of India has provided for a federal system of government for the country though it describes India as 'a union of states.'

Federalism is a system of government in which the power is divided between a central authority and various constituent units of the country. There are two types of federations, namely 'coming together federation' and 'holding together federation'. In the former instance, independent states voluntarily come together to form a bigger unit by giving up their sovereignty. In the latter case, the centre decides to share its power with the constituent units.



The states unite to create  
a strong centre



A strong centre holds  
all the states together

## Features of the Indian federal set-up

The following are the features of India's federal set-up:

- There are two levels of government, namely, the union government and the state governments.
- Both levels of government have their own jurisdiction in matters of law making, monetary independence and administration.
- The fundamentals of the Constitution cannot be changed by any one level of the government. Consent of both the levels are essential for this.
- The Supreme Court is at the apex of the integrated judicial system.
- To ensure financial autonomy, sources of revenue are clearly specified by the Constitution for each level.
- The Constitution enumerates three lists – the Union List, the State List and a Concurrent List.
- The Constitution 73rd and 74th Amendment Acts extend the federal arrangement further by conferring constitutional status on the Panchayati Raj institutions making them the third tier of the Indian federal set-up. This system of vertical power sharing is matched by a horizontal power sharing arrangement between the three organs of the government – the legislature (Parliament), the executive (Council of Ministers) and the judiciary (Supreme Court).



## Indian Federalism is not truly federal

The presence of certain strong unitary or non-federal features has, no doubt, made the Constitution of India, as some critics point out, federal in form but unitary in spirit. Some of the unitary features are as follows:

- A strong Centre enjoying an overriding position vis-à-vis the States.
- A single constitution governing both the Union and the States.
- Single citizenship.
- Unequal representation of the States in the Rajya Sabha.
- Extensive powers vested in the President to deal with various kinds of emergency.
- Right of the Parliament to legislate on state subjects on the recommendation of the Rajya Sabha.
- Exclusive right of the Union Parliament to amend the Constitution.
- Residuary powers assigned to the Union.

### LOK SABHA

The Lok Sabha is called the House of the People as the people of our country elect its members directly. All citizens of India, who are 18 years of age and above, can vote irrespective of race, gender, property and the like. This is called the Universal Adult Franchise. The 61st Constitutional Amendment Act (1988) reduced the voting age from 21 to 18 years.

### Term

The members are elected for a term of 5 years. Nevertheless, the President can dissolve the Lok Sabha before its term is over if the party in power loses its majority. On the other hand, in case of an Emergency, the term of the Lok Sabha can be extended for 1 year at a time.

## Composition

According to the Constitution, the Lok Sabha cannot have more than 550 members. There will not be more than 530 members representing the States and 20 members representing the Union Territories. At present, the 17th Lok Sabha consists of 543 members. Earlier the maximum strength of 552 included 2 members from Anglo-Indian community. By the 104th Amendment Act, 2019, the provision of special representation of the Anglo Indian community by nomination is no longer effective.

## Qualifications for membership

In order to become a member of the Lok Sabha, a candidate must be:

- In Indian citizen.
- Not less than 25 years of age.
- Holding additional qualifications if prescribed by the Parliament from time to time.

## Oath by members

Every Member of the Parliament is required to take an oath before the President before accepting his seat. He has to affirm that he will:

- Bear true faith and allegiance to the Constitution of India.
- Uphold the sovereignty and integrity of the country.
- Faithfully discharge the duty he has been entrusted with.

## Vacation of seats by members

The seat of a Member of Parliament falls vacant in the following circumstances.

- If a member of either House of Parliament has been given the membership of the other House, he must vacate his seat in one of the Houses.
- If a member resigns by writing a letter to the Speaker of the House he belongs to.
- If a member absents himself from the meetings of the House for a period of 60 days without prior permission.
- If a member is disqualified because of any of the reasons laid down in the Constitution.
- If a member is disqualified under the Anti-Defection Law stated in the Tenth Schedule

## Privileges

The privileges enjoyed by the members of each House can be divided into:

- a. those which are enjoyed by the members individually, and
- b. those which belong to each House of Parliament, as a collective body.

The privileges enjoyed by the members individually are:

- Freedom from arrest
- Exemption from attendance as jurors and witnesses
- Freedom of speech on the floor of the House

The privileges enjoyed by the members of the House collectively are:

- The right to publish debates and proceedings and the right to restrain publication
- The right to regulate internal matters of the House
- The right to punish parliamentary misbehaviour
- The right to punish members and outsiders for breach of their privileges

## Sessions of the Parliament

In India, the Parliament conducts three sessions in a year:

**Budget Session** (February–May); **Monsoon Session** (July–September); **Winter Session** (November–December)

### Quorum

A quorum is the minimum number of members required to be present before a session can begin. The required number of members to be present in the Lok Sabha for a session to be held is one-tenth of the total membership including the Speaker. Thus, at least 55 members need to be present for a session to commence.

**Question hour and interpellation** The Members of the Parliament enjoy the right to ask questions with regard to the policies and programmes of the government.

**Adjournment motion** An adjournment motion is passed to discuss emergency situations. The aim is to seek clarifications from the executive, i.e. the government in power about the steps taken to handle an emergency

**No-confidence motion** A no-confidence motion is usually moved by a member or the Leader of the Opposition expressing total lack of confidence in the government.

**Censure motion** A Member of Parliament can move a motion against an individual minister censuring or criticizing the action or a policy undertaken by his ministry.

### Role of Opposition in a Parliamentary Democracy

A constructive and progressive opposition is required for the smooth functioning of democracy besides ensuring accountability of a democratic government. The Leader of the Opposition is chosen from the largest opposition party in either House of Parliament. He enjoys the same status and facilities as those of a Union Cabinet Minister.

## SPEAKER OF THE LOK SABHA

According to the Constitution, each House of Parliament has its own Presiding Officer. The Speaker is the Presiding Officer of the Lok Sabha. One of the first duties of a newly constituted House is to elect the Speaker. The Lok Sabha, soon after its first meeting, elects by a simple majority of members present and voting, 2 members of the House to be the Speaker and the Deputy Speaker.

### How is the Speaker elected?

It has become a practice over the years that the ruling party nominates its candidate after informal consultations with the leaders of other parties and groups in the Lok Sabha. This practice ensures that once elected, the Speaker enjoys the respect of the entire House. It is to be remembered that the Speaker is expected to act in a non-partisan manner in the discharge of his duties.

### Term

The Speaker holds office from the date of his election till immediately before the first meeting of the newly formed Lok Sabha after next elections. He is eligible for re-election. The Speaker and the Deputy Speaker hold office during the tenure of the House, but their office may be terminated earlier in any one of the following ways:

- By ceasing to be a member of the House.
- By tendering resignation in writing addressed to the Deputy Speaker or vice versa.
- By a resolution for their removal, passed by a majority of all members of the House, which has been presented after a 14 days' notice.

## Powers and functions of the Speaker

The Speaker has to perform certain administrative, judicial and regulatory functions.

- The Speaker presides over the meetings of the House.
- He decides upon the questions to be admitted and resolutions to be passed.
- The Speaker decides whether amendments to a Bill should be made or not.
- The Speaker decides whether a particular Bill is a Money Bill or an ordinary one. His decision is final in that regard.
- No Bill can be sent to the other House or to the President for consideration unless the Speaker signs it.
- The Speaker presides over the joint sitting of both the Houses called in the event of any disagreement between the two Houses.
- The Speaker also maintains order and decorum in the House.
- The Speaker can remove a word or words from the proceedings if they are unparliamentary or Indecent.
- The Speaker decides if there are any cases of contempt of the House.
- He interprets the rules of the House and also puts relevant questions to vote. He votes only in case of a tie to resolve the issue. His casting vote is of great value.
- The Speaker receives all documents addressed to the House.
- He permits the entry of outsiders and the Press into the House.
- He also nominates members to form part of parliamentary delegations to various countries.
- If a member stands disqualified under the Anti-Defection Act of 1985, the Speaker gives the final decision in that regard.
- The Speaker, being the ex-officio Chairman of some of the Committees of the House, has to nominate the chairpersons of these Committees, issue directions and advise and instruct whenever necessary. The position of the Speaker is one of authority, honour and dignity

# RAJYA SABHA

The Rajya Sabha (Council of States) is referred to as the Upper House of Parliament. It represents the 28 Indian States and the 8 Union Territories.

## Term

The Rajya Sabha is not subject to dissolution. It is a permanent body, but one-third of its members retire after every second year. Thereafter fresh elections are announced for the seats vacated at the beginning of the third year. Each member enjoys a six-year term and is eligible for re-election.

## Composition

According to the Constitution, the Rajya Sabha shall be composed of not more than 250 members. The present strength of the Rajya Sabha is 245 members, out of which 233 represent the States and the Union Territories and 12 are nominated. The number of seats for each State and Union Territory is fixed according to the population.

## Qualifications

A candidate for election to the Rajya Sabha must be:

- A citizen of India and not less than 30 years of age.
- Holding additional qualifications as may be prescribed by the Parliament from time to time.

## Vacation of seats by members

The procedure for the vacation of a seat is similar to that laid down for the Lok Sabha.

## Election

The representatives of each State shall be elected by the elected members of the legislative assembly of that State in accordance with the system of proportional representation by means of single transferable vote.

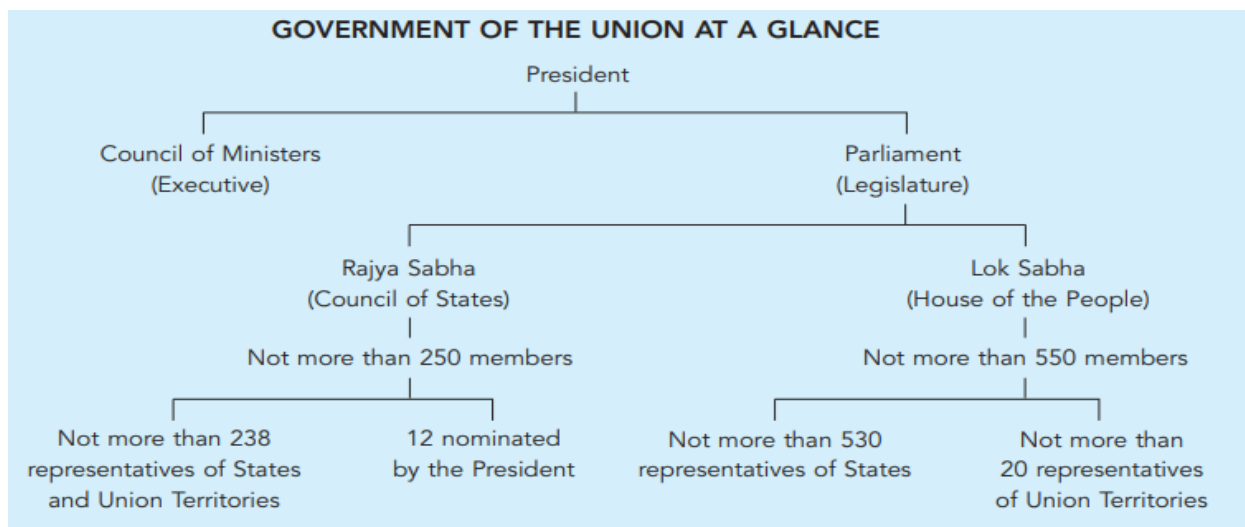
The representatives of the Union Territories shall be indirectly elected by members of an electoral college for that territory as Parliament by law prescribes, in accordance with the system of proportional representation by means of the single transferable vote.

## Nomination

The 12 nominated members shall be chosen by the President from amongst persons having 'special knowledge or practical experience in literature, science, art and social service'.

## Presiding officer

The Vice President is the ex-officio Chairman of the Rajya Sabha. He is elected by the members of an electoral college consisting of members of both Houses of Parliament. The functions of the Chairman of the Rajya Sabha are similar to those of the Speaker of the Lok Sabha, except that the Speaker has certain special powers for certifying Money Bills and presiding over a joint sitting of the two Houses.





## Legislative powers

The Parliament is competent to make laws on the following.

1. List 1, which is the Union List comprises 97 subjects. The Union has exclusive powers over subjects mentioned in this list.
2. List 3 is the Concurrent List comprising 47 items. The Union and state legislatures have equal powers but in case of a conflict of interests, the Union law prevails.
3. Apart from the above lists, there is the State List comprising 66 items. Though they are under the jurisdiction of the states, the Union government can legislate on the state subjects under the following extraordinary circumstances:
  - If the Council of States declares by a resolution of two-thirds of its members present and voting that it is necessary in the national interest that Parliament legislate over such matters.
  - When a Proclamation of Emergency – either General Emergency or State Emergency (President's Rule) – by the President is in operation, the Parliament has the power to legislate on the subjects of the State List.
  - If the legislatures of two or more states resolve that the Parliament can make laws with respect to any matters included in the State List relating to those states.
  - The Parliament has the power to legislate on any subject for the purpose of implementing
    - treaties or international agreements.

4. The Constitution vests residuary power, i.e. the power to legislate with respect to any matter not stated in any one of the lists, in the Union Legislature.
5. The declaration of Emergency by the President has to be approved by the Parliament within a month from the date of its issue, failing which all such proclamations lapse and the Emergency becomes ineffective.
6. All ordinances issued by the President must be laid before Parliament as soon as it meets. These ordinances have to be approved by the Parliament within 6 weeks of its re-assembly, failing which they become ineffective.

## Financial powers

With regard to the financial powers, the Parliament has control over the following.

1. **The Budget** The Finance Minister presents the Annual or the Union Budget before the Parliament. The Union Budget is divided into:
  - Expenditure charged on the Consolidated Fund of India, which is the Appropriation Bill.
  - The sum required to meet the expenditure proposed to be made from the Consolidated Fund of India, including the taxation proposals, is called the Finance Bill.
2. **Consolidated Fund of India** The following expenditure shall be charged on the consolidated Fund of India.
  - Salary and allowances of the President and other expenditure relating to his office.
  - Salaries, allowances and pensions of the Presiding Officers of the two Houses and the judges of the Supreme Court and the High Courts.
  - Salary, allowances and pension payable to the Comptroller and the Auditor-General of India.
  - Any other expenditure declared by the Constitution or Parliament by law to be so charged.

3. **Grants** If the amount authorized for the financial year is found to be insufficient, the government may make a fresh demand known as the Supplementary Grant.
4. **Vote on Account** If the Budget has not been passed before the beginning of the new financial year, i.e. 1st April, the Executive is authorized to draw funds from the Consolidated Fund of India by way of a Vote on Account until the Budget has been passed.
5. **Contingency Fund** The Constitution has also empowered the Parliament to create a Contingency Fund for India.
6. **Permission for Taxes** Without the approval of the Parliament, the government cannot spend money.

### Judicial powers

The Parliament is vested with certain judicial powers by the Constitution.

1. It has the exclusive right to impeach the President for violation of his duties as laid down in the Constitution.
2. The Parliament has the right to remove the judges of the Supreme Court, the State High Courts, the Election Commissioners and the Comptroller and Auditor-General of India for violating the Constitution.
3. The Parliament has the authority to punish a person if he is found guilty of defamation and contempt of either House of Parliament.
4. It may make laws regarding the composition, jurisdiction and powers of the Supreme Court.
5. It also enjoys the power of establishing a common High Court for two or more states.

**Electoral functions** The Union Parliament has to perform certain electoral duties as well like:

1. Forming the electoral college along with the state legislatures to elect the President of the country.
2. It also enjoys the exclusive right to elect the Vice President of India as well.
3. Election of the Speaker of Lok Sabha from its own members and the election of the Deputy Chairman of Rajya Sabha.

**Amendment of the Constitution** Both the Houses of the Parliament can amend the Constitution once it is passed by each House by a two-third of majority of members present and voting.

### Control over the executive

1. There are several ways by which the Parliament exercises control over the executive. The Lok Sabha is empowered to pass a vote of censure against the ministry, compelling the ministry to give up power.

2. Both the Houses exercise control over the executive by asking questions, discussing matters of public importance, moving call-attention notices and adjournment motions.

We need to keep in mind that while these controls are theoretically important, in reality, the Parliament hardly wields any substantial authority over the executive. This is because the government generally controls the Parliament through its majority in the Lok Sabha.

# POWERS AND FUNCTIONS OF THE LOK SABHA

The House of the people enjoys a wide range of legislative, executive, financial, judicial and miscellaneous powers.

## Legislative powers

The Lok Sabha can make laws, along with the Rajya Sabha, in Union and Concurrent Lists. Sometimes it can make laws in the State List as well when a matter is of national importance. the President may summon a joint sitting of both the Houses in case of disagreement and resolve the issue.

## Executive powers

All the financial bills are initiated in the Lower House and not in the Rajya Sabha. In the following section, we shall look at the process of passing a bill in detail.

## PROCESS OF LEGISLATION

A bill is the draft of a legislative proposal which, when passed by both the Houses of Parliament and signed by the President, becomes an Act.

### Procedure relating to the passing of a Money Bill

**1st Stage** Introduced in the Lok Sabha on behalf of the President.

**2nd Stage** The Money Bill is sent to the Rajya Sabha for recommendation. The Rajya Sabha has to return the Bill within a period of 14 days with or without its recommendations.

**3rd Stage** The Lok Sabha may or may not accept the recommendations.

If accepted, the Money Bill is deemed to have been passed.

If not accepted, the Money Bill is still deemed to have been passed in its original form.

If the Rajya Sabha does not return the Bill within 14 days, it shall be deemed to have been passed by both the Houses of Parliament at the end of the period.

**4th Stage** It is sent to the President who does not withhold his assent. The Bill then becomes an Act

## Judicial powers

The Lok Sabha shares the power of impeaching the President for violation of the Constitution of India, with the Rajya Sabha. Along with the Rajya Sabha, it can also remove the judges of the Supreme Court or High Courts.

## Miscellaneous powers

- a. Along with the Rajya Sabha, it can amend the Constitution.
- b. Along with the Rajya Sabha and the state legislatures, it can elect the President.
- c. Along with the Rajya Sabha, it can give the approval for proclamation of Emergency, issued by the President.
- d. It has equal power with the Upper House in choosing or dismissing the Vice President.

## POWERS AND FUNCTIONS OF THE RAJYA SABHA

### Legislative powers

Rajya Sabha has equal and co-extensive powers with the Lok Sabha except in financial matters. Any bill, except a Money Bill, can be initiated in the Rajya Sabha and can become an act with the permission of both the Houses.

### Financial powers

A Money Bill can be introduced only in the Lok Sabha. After that, it is sent to the Rajya Sabha for consideration, which it must make within 14 days. Recommendations made by the Rajya Sabha may or may not be accepted by the Lok Sabha.

### Executive powers

Though it does not have any executive powers, the central ministers may sit in the Rajya Sabha until questioned by the Lok Sabha.

## Judicial powers

Like the Lok Sabha, it also has the power of initiating, investigating and deciding the impeachment charges against the President and Vice President, judges of Supreme Court and High Courts.

## Miscellaneous powers

- a. Along with the Lok Sabha, it can amend the Constitution.
- b. Along with the Lok Sabha, it elects the President of India.
- c. It shares with the Lok Sabha the power of electing and dismissing the Vice President of India.
- d. It alone has the power to legislate in national interest on any matter in the State List.
- e. It has the power of approving or disapproving the Presidential Proclamation.

## CONSTITUTIONAL AMENDMENTS

A constitutional amendment is a formal change to the text of the written constitution to incorporate the changing needs and aspirations of a nation. Different parts of our Constitution can be changed following different procedures which may be very flexible or partly rigid or very rigid.

### Amendment by a simple majority

There are certain provisions in the Constitution like qualifications for citizenship, creation of new states, power to determine the limits of territorial waters, etc. that can be amended by the Parliament through a simple majority. This implies that when one more than half of those voting accept the amendment, then the Constitution stands altered.

## Amendment by two-thirds majority

There are certain clauses which can be amended by a special majority. This is a partly rigid procedure. The Bill has to be passed by each House by a majority of more than 50 per cent of the total membership of the House and not less than two-thirds of the members present and voting.

### Amendment by two-thirds majority as well as state legislatures' approval

Amendments pertaining to the manner of the election of the President, distribution of legislative powers between the Union and the States, etc. are to be carried out by a two-thirds majority of the Parliament as well as ratified by not less than one-half of the state legislatures. This is a very rigid method of amending the Constitution.

The President gives his assent to all Constitutional Amendment Bills.



## SOME OF THE IMPORTANT AMENDMENTS MADE TO THE CONSTITUTION OF INDIA

**Right to education** The Constitution (Eighty-sixth Amendment) Act, 2002 was inserted in the Constitution of India to provide free and compulsory education to all children in the age group of 6 to 14 years as a fundamental right. It is also called the RTE Act, 2009. It provides every child with the right to full time elementary education and formal schooling to ensure the all-round development of the child. It prescribes a child-friendly and child-centered learning system to build on the child's knowledge, potential and talent.

**Right to information** Popularly known as the RTI Act 2005, it was an initiative taken by the Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions, to secure timely responses to citizens on matters pertaining to the Government. The basic objective of the RTI Act, 2005 is to empower the citizens, promote transparency and accountability in the working of the Government, curtail corruption and ensures that the government functions democratically.

Though the RTI came into force only in 2005 by becoming a part of Fundamental Rights under Article 19, eight States namely Delhi, Rajasthan, Madhya Pradesh, Maharashtra, Karnataka, Tamil Nadu, Assam and Goa had already passed it.

## To Remember

**Introduction** – The Constituent Assembly prepared the Indian Constitution. The Lok Sabha, the Rajya Sabha and the President constitute the Union Legislature.

**Lok Sabha** – Composition: 550 members who are directly elected, Term: 5 years, can be extended during emergencies, seats are reserved for SCs and STs, The Speaker: Presiding Officer of the Lok Sabha, he is the custodian of the Lower House of Parliament.

**Rajya Sabha** – Composition: Not more than 250 members, of which 238 are elected and 12 are nominated, Term: A permanent body, one-third of the members retire every 2 years after a six-year term, the Vice President of India is the Presiding Officer.

**Powers of the Union Parliament** – Legislative powers: Making laws on the subjects of the Union List and Concurrent List, on special occasions can make laws on the subjects of the State List, Control over the executive: Interpellation, adjournment motion, no-confidence motion, censure motion, cut motion, Financial powers: Passing of the Budget, Judicial powers: Impeachment of the President, Judges, removal of Election Commissioners and the Auditor-General, Other powers: Elects the President and the Vice President, can change existing names of states, carve out new states, and establish common courts.

**Relationship between the two Houses** – The Lok Sabha is more powerful, Money Bills are passed only in the Lok Sabha, Lok Sabha has greater control over the Executive, can create all-India services, Lok Sabha can make laws on the subjects of the State List, in some cases Rajya Sabha shares equal powers with the Lok Sabha.

**Thank You**