

# **A PEOPLE'S CONSTITUTION: AN ANALYSIS OF ONE-PARTY RULE REGIME TOWARDS CORRUPT-FREE INDIA**

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## **ABSTRACT**

The quasi-federal structured form of Indian government follows a parliamentary form of democracy since its inception on 26<sup>th</sup> November 1950. The constitution aimed at the socio-economic development of the country. The political setup of the Indian constitution is in a Parliamentary form as proved by Article 79 of the constitution. The sovereign people's government has, President as its constitutional head of the union executive, authorized under Article 52 and Article 53 of the Indian constitution while the actual executive power vest with the Prime Minister and Council of Ministers under Article 74. The parliamentary system of the country has two houses, Lok Sabha (lower house) known as the house of people and Rajya Sabha (upper house) known as the Council of States. The members of the lower house are elected through direct election by the people of India for every five years and the members of Rajya Sabha are elected through the provincial assemblies. Therefore, a stable effective political environment is been established by the constitutional leaders. Though the political system is strong and sound with clearly defined laws, India's political setup has been prey to corrupt politicians ever since its inception. The act of the politicians, influences a great impact on the general public leaving them a victim. The paper demands for a 'single party rule' with an individual organ or committee to have a check upon the political governance and also to respect the public opinion and take active measures to fulfil peoples needs. Hence, the data-collection aims at a corrupt-free people's democracy with healthy governance thereby, decriminalizing the criminalized political setup.

## INTRODUCTION

The words of Abraham Lincoln<sup>i</sup> on Democracy as, “Government of the people, by the people, and for the people” shall not perish from the earth.

India, being the world's largest democracy with 1.3 billion and an electorate of around 900 million as per April 2020 census, stands despite the democratic failures of Pakistan and Bangladesh which were part of India until 1947. The constitution of India that came into force on 26<sup>th</sup> November 1950 advocates trinity of justice, liberty, and equality among all of its citizens. The longest written constitution of the world contains 395 articles (excluding amendments) and 12 schedules. Real democracy is a living system that can only flourish by being reinvented frequently. The people's constitution paved way for the democratic country, to make changes without disturbing the fundamental aspects of the constitution<sup>ii</sup> by authorizing the amending power under Article 368 to secure the interest of its citizens. Till date, 103 amendments were made to the Indian constitution as a sign of changing the dynamic conditions of the country. As a result of the long-running dispute between the parliamentary supremacy and the judicial review, various constitutional amendments took place and the Indian constitution is considered as the most amended national document.

## HISTORICAL STATUS OF INDIAN CONSTITUTION

The remarkable day, August 15, 1947, is considered as a national day, since the British transferred political power to the Indians after over 200 years of imperial rule over the country that spot light of freedom and dignity. The Cabinet Missions Plan of 1946, set-out to formulate a constitution for India and accordingly, gave the authority over an established constituent assembly<sup>iii</sup> whose chairman was Dr. B.R. Ambedkar, popularly called ‘the chief architect of the Indian constitution’. The supreme rule book, being a challenging task, was framed as a combination of constitutions of around 60 countries. This is to give the multi-religious country, the best governance. Though India got its freedom from the Britishers, many rules and regulations from the British rule are still being followed even now. Moreover, the politics of India is modeled according to the British Westminster System of government.<sup>iv</sup> Prior to the adoption of the Indian constitution, the country was governed by statutes under the British

parliament. Key among them was the Government of India Act, 1919 and 1935. With effect from the Indian constitution since 26<sup>th</sup> November 1950, the Indian Independence Act, 1947 and the Government of India Act, 1935 was repealed however the 'doctrine of eclipse' applies.

## **POLITICAL STATUS OF INDIAN CONSTITUTION**

PREAMBLE of the Indian constitution declares India as a sovereign, socialist, secular, democratic republic promoting unity and integrity of the nation. The freedom from the Britisher's made the Indian people to enjoy ultimate sovereign powers. Therefore, any law made by the parliament shall not deny the will of the people.

India's political system is in a parliamentary form<sup>v</sup> that is federal and democratic republic. Politics is divided into three branches as legislature, executive and judiciary. Parliament which is a legislative branch of the union, consists of Lok Sabha, Rajya Sabha and the President. The executive branch of the government having direct and indirect support of the parliament by a 'vote of confidence' is the underlying of the parliamentary form of government.<sup>vi</sup> Thus, a strong relationship between the executive and the legislature in a parliamentary system, form a responsible government. However, the system of checks and balance prevails among the three organs.

The government of India exercises the executive powers while the federal (state) powers are distributed among the government and the two houses of the parliament. There shall be a Speaker and Deputy-Speaker in the house of the parliament as per Article 93. A new law or any change to the existing law as time requires, can be made by passing a bill in both the houses of the parliament with a required majority of members and more importantly, President's approval (signature) makes the bill, an Act. It is to be remembered that the president shall act only with the aid and advice of the council of ministers under the leadership of Prime Minister. PART-V, CHAPTER-II [Article 79 – 122] of the Indian Constitution provides a well-established clear-cut procedure of the parliamentary system in India.

While President is the constitutional head of the Union executive, Governor represents President in the states though the real executive power vest with the Chief Minister along with Council of Ministers. Governmental set-up of the state closely resembles the Union. As that of

a Union, in states, the legislative assembly and the legislative council are the two governing bodies established as per Article 169 of the Constitution. India currently has 28 states and 9 Union Territories.<sup>vii</sup> The Union Territories are administered by the President through a Governor. A constitutional amendment by the parliament on February 1, 1992, the Union Territory of Delhi is called as the National Capital Territory.

## **ELECTORAL STATUS OF INDIA**

Elections in India is directed and controlled by the Election Commission of India which got the power under Article 324 [PART XV] of the Supreme law of the land. It conducts the superintendence of the election of the Parliament and the legislature of every state and also the office of President and Vice-President held under the Constitution. The Election commission consist of the Chief Election Commissioner who will be the chairmen, and other members of the commission whose appointment and tenure shall be made by the President subject to the provisions of law made by the parliament.

A separate statute is passed by the parliament in governing the Election Commission of India called as 'Chief Election Commissioner and other Election Commissioners (conditions of service) Rules', 1992. As per the rules, the salary of the commissioner is par with that of a Supreme Court Judge. They are assisted by Deputy Election Commissioner who is usually an IAS officer. Chief Election Commissioner shall be removed from his office by passing a resolution as that of a Supreme Court Judge while the others by the president in consultation with the Chief Election Commissioner.

As an effort to decriminalise politics, the Election Commission has approached Supreme Court to put a lifetime ban on the convicted politicians from contesting elections is considered notable. In 1993, EPIC [Electoral Photo Identity Cards] were issued to prevent fraud which later became mandatory in 2004. In India, EVM, Electronic Voting Machines are used for voting. There is also a provision for postal voting [ETPB system]<sup>viii</sup> in India and also special arrangements for disabled voters.<sup>ix</sup>

## STATUS OF POLITICAL PARTIES IN INDIA

India follows a multi-party system with recognised national, state and district level parties. The Election Commission of India (ECI) periodically reviews the status of the political parties. The recognised party enjoys the privileges of having their party symbol reserved, consults for setting election date, discusses in framing electoral rules and regulation, etc.<sup>x</sup> Registered parties will be upgraded as National or State level parties based on the objective criteria. A new party can contest in local, state or national level election by registering with the ECI which is mandatory as per Section 29A(1) and (2) of the Representation of People's Act, 1951. The registered parties contesting elections are required to choose a symbol provided in the list framed by the Election Commission. Presently, there are eight national parties and forty other state political parties in India.

The scenario of political parties can be traced back to early period of struggle for freedom. Indian National Congress was the first political party that arose in the year 1885. Except BJP, all other national parties of today are those who were under the fold of the Congress. The result of cultural, social and ethnic diversities as well as the caste, community and religious pluralism, greatly influenced the party system in India. But, a study of transformation raised after Independence showing multiple-party configuration to form alliance seeking interest in the power-struggle. However, political parties do not have any direct mention in the Indian Constitution.

## LIFE OF LAW AS POLITICS

World Justice Project data, 2020, reports India to be positioned in 69<sup>th</sup> rank globally out of 128 countries in its commitment to the rule of law. India stands 41<sup>st</sup> position for the constraint on governmental power. In the category of Absence of Corruption, India ranks 42. It stands in 32<sup>nd</sup> position for the openness of government. Finally, it falls 10 places to 51<sup>st</sup> position globally in the 2019 Democracy Index. The primary cause for the fall in the overall score in the democracy rate from 7.23 in 2018 to 6.90 in 2019 is the “erosion of civil liberties” – says the Economist Intelligent Unit.<sup>xi</sup>



Therefore, every element of rule of law which is the 'sine quo non' for any country has become deeply broken threatening not only the rule of law but the belief in the value of law itself. The state and the national legislators charged with writing the laws, faced criminal charges at the time of election specifically. Yet they are feared by the politicians that they would use new rules as cudgels against their rivals. The damage from the disfunction extends to contributing weak institutions, leading the country to atmost corruption and uncertainty in the legal and regulatory functioning which has shaken the faith of the citizen over the government.

## **WHERE IS JUSTICE?**

The constitutional oath is to do justice without fear or favour in order to outdo institutional bias. A judgement is both an act of reason and the will. While the ethical maxim says, "to err is human", to render unpopular decision is not to err. Rather, it means to make decisions which cannot be legally and constitutionally sustained. The difference between political (how power ought to legitimate itself) and politics (competition for acquisition, exchange, distribution and consumption of political power) must be understood in order to uphold justice. Using 'politics' to acquire 'political' should be wiped out so that justice prevails.

## **INDIA AS A RELIGIOUS DEMOCRACY**

"The road to the sacred leads through the secular" says Abraham Joshua Heschel. India, being a secular country, religion plays a part in the political system by the political parties doing favour. Though, the Supreme Court restricts freedom to form political parties based on caste, religion and community as declared on January 2017<sup>xii</sup>, the activities of the existing political parties show their religious turmoil. Separation of religion and the state would be the more effective measure to protect the freedom and ensure equality.

The Gazette of India, under section 2(c) of the National Commission for Minorities Act, 1992, included Muslims as minority community.<sup>xiii</sup> Viewing Muslim as a private religious minority rather than a National minority, [CAA] Citizenship Amendment Act, 2019, would not have passed arbitrarily by the BJP government inspite of many oppositions. There exist many more

instances. It is the duty of the judiciary to intervene and take measures to stop those prevailing injustice and uphold unity and integrity of the country.

## **CRIME IN POLITICS**

The Association for Democratic Reforms of 2019, reports 30% of sitting MPs and MLAs for criminal proceedings and only 0.5% were convicted of criminal charges in the court of law highlighting an increasing number of candidates with criminal cases contesting elections. Some amendment to the electoral laws were made by the parliament to prevent such crime haven't worked so far since their intent were different from implementation. The constitution does not specify the disqualification of an individual from contesting election makes them advantageous.

## **POLITICIZED JUDICIARY**

Independence of judiciary is one of the established principles of the Indian democracy and it is deemed to be a competent authority. But, the fundamental aspect of judiciary is not fully independent. The judicial appointments are made by the collegium, and the president's approval shall confirm the decision of the collegium. Since president act with the advice of the ministers, there might be more of influences and politics not only in the appointment of judges but in the whole system of judiciary. The nomination of Justice Ranjan Gogoi to the Rajya Sabha has also raised a crucial question about the independence of judiciary.<sup>xiv</sup> Not only the judicial appointments are politicized but, in many respects, corruption champions in the era of Indian judiciary.

## **LEGISLATIVE POLITICS**

People trust the rulers, which denote their core belief in the democracy and judicial review of the country. But, the rulers dishonour them and rely on personal patronage. The political parties are currently registered under Section 29A of RP Act, 1951. Measures of disqualification are

also mention in the Act. But, in the political history, none of the political parties were disqualified and the law remains no-effect. Morocco encourages citizens to participate in constitutional reforms which sets an example for India to adopt such a reformative action.

## **DECRIMINALIZATION OF POLITICS**

Criminalization in politics is increasing day by day. The parliament has taken measures to reduce the percentage of crime, but there exists no improvement. Electoral crime are punishable under IPC, CrPC and RP Act. But, due to politics in all the organs of the government make them escape from the penalty. Decriminalization of politics is possible only when those who make the law is not allowed to make the law.

## **OBJECTIVES OF THE STUDY**

The Indian Constitution provides for well-established principles to govern the country, although, as time changes the law has to be remodelled in the framework of public well-being. The present governmental condition is that, every politician strive only for power-struggle and not for the public well-being. There is mere competition that is going on among the parties for acquiring the governmental power by criticizing the ruling party which is for just fame. However, the public will be the victim who believe in them but earn nothing. The fact is that, only during the time of election, they are preferable. Hence, the whole political set-up is filled by corruption and the politicians were a mask before the public, just to prove them honest.

The data-collection analysis demands for a corrupt-free democracy with a well-qualified and examined leader to govern the large populated country. In order to which, the paper requires the parliament to amend the relative provisions as per Article 268 and make such changes as per the solution for the suffering public with the irresponsible politicians that is been explained in the paper as follows.



## PROPOSAL ON THE STUDY–A CHANGE TOWARDS CORRUPT-FREE DEMOCRACY

“Power doesn’t corrupt people, people corrupt power” – People here means the patriots of power-struggle, the politicians. A corrupt-free democracy is in the hands of the politicians. So, the basic role of every political party is to control the government, have a stable mass popular support, and create a controlled internal mechanism. America was the first to introduce the party system in American Commonwealth (1885). The scholar was named James Bryce. Geovani Startori was the one who devised a wide classification method of party system based on number of parties and degree of fragmentation<sup>xv</sup> which made each country, choose their own party system for governing the country. Likewise, India chose to adopt multi-party system in order to control the vast diversified country. Multi-party system offers people to vote freely for the party that offers best possible hope to meet their aspiration. Therefore, the main aim of India’s political functioning is to hear the wishes of the people and act as per the law considering the social benefits and practices and to uphold justice.

### PROBLEM WITH INDIA’S MULTI-PARTY SYSTEM

Over the years of Independence, India is engaged with complex issues. Analysing the political structure, the problems faced with India’s multi-party system creates the urge for a reformative political functioning.

**Politicians violence to the unity of India:** “Unity with Integrity” is the key of Indian culture. The protection of rights of the citizens is envisaged under PART – III (Fundamental Rights) of the constitution. Such a country with well-established principles of building unity is defaced by the incorporated system. To be clear, earlier, the political system authorises the formation of a political party on the grounds of caste, community or religion that obstructed the true national integration. But after January 2017, the supreme court restricted the formation of a party based on religion, caste, and community. The judgement made no change in the politicized society. The furore incident that ‘Rahul Gandhi signed in at Somnath temple’ bring the religious outlook of the politicians. The BJP asked Rahul Gandhi to establish his credentials that whether he is a ‘Hindu’ or a ‘Non-Hindu’. Congress on the other hand released Rahul

Gandhi's photograph with a janeu to establish that whether he is a janeu-dhari Hindu'.<sup>xvi</sup> These instances make up think

**Corruption to the core:** The rampant corruption in India adversely affect the credibility of the government and the other institutions. Corruption in India is a result of connection between bureaucrats, criminals and politicians. The politicians are in constant thirst of monetary gain rather than the welfare of the people. Corruption of the politicians undermines the democracy by affecting all the three organs of the country. As of 2019, approximately 30% of Lok Sabha members are noted for criminal cases pending.<sup>xvii</sup> Therefore, political corruption is an evil to the society and this is high-time to stop. Providing low quality food items to the poor public by the government (trending example: poor quality rice provided in this ongoing COVID-19) sets an example for the core-corrupted economy.

**Competitive rule as a lack of concentration on the public:** As of now, there are 8 national parties and 48 state (and Union Territory) political parties in India. This multi-party rule in India is formed for a beneficial reason. But, it had created a competitive power-struggle that is not absolutely for the welfare of the people but for their own thirst of money and fame. A good politician shall act throughout his rule effectively for the people. Whereas, India's competitive political actions are done only at the time of elections and emergency situations to earn fame, money and power for next electoral period. Competitive rule is healthier if it is done throughout the ruling period for the people's well-being. But, if it is for their own benefit, it shows a serious impact on the economy's growth.

**Tactic governance:** Politicians were said to be tactic-minded for they should rule the society at large. This tactic means the way of handling people for declaring a sensitive information to avoid violence. But nowadays, politicians use tactics to earn money, fame, power, etc. for personal benefit. This tactic implies a negative impact for gaining individual benefit. Example: Some of the underling truths are exempted (hided) by the media for some viral issues may have a political influence.

**Exception of qualification of political parties:** In India, there is no educational qualification required to form a political party. As per Section 29A of Representation of Peoples Act, 1951, the party must be a citizen of India, no illegal purpose of formation shall be recognised and, must contain atleast 100 electoral members to get registered under the ECI. There is no express

provision for internal democratic regulation of political parties in India except honest pledge over the Constitution. Due to this, the politicians act immorally creating violence in the public for all issues without concerning the public well-being. Therefore, the government is required to take steps for improving a stronger political set-up for India.

Hence, the political turmoil coupled with populism needs more reformative measures. The voice of corruption is high in political sector compared to other streams of the government. Moreover, competition to power-struggle defeats hightail affecting the less economic community at large. A reformative action is needed immediately to dust-off all the stagnant dirt in the system and bailout the statesmen from the political discourse to provide a justiciable living. Hence, a corrupt-free economy shall be created to make a better lifestyle to all of its citizens equally. The paper suggests measures to reduce the dominance of corruption in the political sector by framing a new political setup.

### **NEW POLITICAL SET-UP – A SUGGESTIVE IDEA**

My idea on the new political setup insist, the current political situation is worst that it is totally corrupted. Hence a reformative step is necessarily required to hold out India from the perverted democracy.

### **INDIA UNDER A SINGLE-PARTY RULE**

Indian democracy needs to be a ‘Government of laws, and not of men’ as said by John Adam. In my connotation, the quote denotes ‘men’ as politicians<sup>xviii</sup> and ‘laws’ as those created for the welfare of the statesmen. The reason behind the suggestion to adopt the quotation is that, Indian democracy is fully corrupted by the political influences and thus, any governmental action might be politicized by the money-grubbing politicians. Therefore, my idea demands a reformative action for India, being a multi-party democracy to be changed to a ‘single-party rule’ that is, one-party governing the whole democracy.

The proposal suggesting one-party rule is to make the single ruling party to concentrate fully on the welfare of the people without any distractions caused by the opposition. And for this, the party must be qualified with a tough process of election and this is possible by establishing strict guidelines for its party formation<sup>xix</sup>. There must be some specified educational qualification for all the members of the party to contest in the election. Any number of parties fulfilling the provided strict guidelines may stand in election. As usual, the party with highest vote win the election who rule the whole county. And more specifically, the political party must be a large team (the minimum number shall be decided by the ECI) distributed to each state as a sub-team and each member of the elected party shall work for the welfare of the people. The elected party shall function for a term of 5 years as per the constitution of India.

## **CHECK OVER THE RULE**

The status of India in reality is true to the sayings of Steve Allen, “Ours is the government of checks and balance. The mafia and crooked businessmen make out checks and the politicians and other compromised officials improve their bank balance.” Thus, the Indian economy is dusted with corruption long since its inception. In order to reframe the new economy, there must be a system of ‘checks and balance’ that is honest, transparent and accountable to the people concerning their well-being. This system is also required to get away the society from a dictatorship or even monarchical rule over the country by the single-ruling party.

The reformative proposal demands for the establishment of an individual body formed in each state headed by a committee to have a check upon the political functioning of the states through those elected body of members. There shall be division of powers in each individual body grading departmental powers concerning the check over political functions. The head of the committee is responsible to the people for all the acts of the politicians and if further any politics within or outside the committee shall be inquired by the judiciary. The people shall be given full authority to ask their individual queries and defaults in the political system freely, without defaming any official and the set body is answerable to the public at large. Judicial action can be taken against the committee if they hesitate to answer the general public.<sup>xx</sup> The people shall also be given freedom to convey their ideas for the welfare of the community at

large. The individual body formed as a committee shall neither be in connection with the three organs of the government.<sup>xxi</sup>

## **ELECTION OF MEMBERS OF THE COMMITTEE**

The individual body shall contain members elected with highest educational qualification in respective fields and also by testing their intelligence to deal with the situation. The election process shall be handed over to a 'collegium of selection committee' with the combination of officials of all the three organs of the government. This collegium must be organised in every state and shall select the members of the committee by testing their intelligence coupled with required qualification and guidelines. More importantly, the 'Governor' of the respective state would be suggested to approve the collegium elected member of the committee. This method of selection would filter the member with diverged intelligence and also protects the people's welfare contributing to overall improvement.

## **A ROAD TO STRONGER POLITICAL GOVERNANCE**

An organised body proposed to be set by the government of India would politically strengthen the government if it functions effectively. Every organ of the government including the ideology of formation of a selection committee and establishment of individual body of all the states should function actively in all spheres of its actions thereby to make India socially, politically and economically stronger. This impacts the political workings of the political party with least percentage of crime in the field. In my view, though single party system is criticized by many, the set-up of an organised body would make the system much better keeping a check over it. Let us move towards a change to gain a politically stronger country upholding justice and rule of law.

## **A SUDDEN CHANGE – IS IT POSSIBLE?**



Change is the law of life. India, being a diversified nation with a long-running political set-up, it would obviously be hard to adapt to a new form of political functioning. But, “if we don’t change, we don’t grow; if we don’t grow, we aren’t really living.” Hence it is high-time to survive from the politics-hit democracy with full of corruption. How can the political system change immediately from a multi-party rule to a single party rule? Wont there arise violence in the country?

India has a larger number of political parties, all-over the country. Therefore, I would suggest 3 methods for the parties to compromise without any violence.

1. Either the existing parties interested may collide with each other and join a party,
2. Or, some may stand alone as a single party. But such a party has to invite more members to join as the minimum number increases since it is single party that is going to rule the whole country,
3. Or they may join with the upcoming parties that is willing to participate in election.

Though these methods are suggestive, it is there qualification and the guidelines that make them stand in election and it is the people who choose there representative. Therefore, although it is though, a strong political economy can be formed by adopting a change in the system. Thus, necessary amendment is required to make India, a strong welfare political society.

## CONCLUSION

India proved the words of Winston Churchill, “Politics is not a game but a serious business.” Accordingly, the politicians earn a lot and the law which is not clearly defined allows that. Hence, a reformative action is necessarily required for India and that shall be included in the law of the land and amendment should be made to such provision that exist as a loophole for the politicians as well as other officials politicizing the economy. Strict rules must be imposed and harder punishment must be executed for those abiding the law. A lot of reformative measures suggested by many is not even taken into consideration by the government since the democracy is fully politicized. It is an urge propounded to look for the development of the country.

## REFERENCES

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- <sup>iii</sup> <https://www.downtoearth.org.in/coverage/governance/making-of-constitution-a-simplified-brief-56529>
- <sup>iv</sup> [constitutionnet.org/country/constitutional-history-india](https://constitutionnet.org/country/constitutional-history-india)
- <sup>v</sup> Article 79 of the Indian Constitution
- <sup>vi</sup> [https://simple.wikipedia.org/wiki/Parliamentary\\_system](https://simple.wikipedia.org/wiki/Parliamentary_system)
- <sup>vii</sup> As of November 2019, after the bifurcation of Jammu and Kashmir and Laddakh as Union Territory.
- <sup>viii</sup> People in preventive detention can use postal voting.
- <sup>ix</sup> An effort made by activist, Dr Satendra Singh in 2014 election which was retrieved in September 2017.
- <sup>x</sup> <https://brainly.in/question/6486013>
- <sup>xi</sup> <https://www.businesstoday.in/current/economy-politics/india-slips-10-places-to-51-position-in-democracy-index/story/394487.html>
- <sup>xii</sup> *Abhiram Singh vs. C.D. Commachen & ors.* [ Jan 2, 2017]
- <sup>xiii</sup> Ministry of Minority Affairs, 25<sup>th</sup> September 2010.
- <sup>xiv</sup> <https://www.theweek.in/news/india/2020/03/17/pre-retirement-judgments-and-post-retirement-posts-judges-and-their-politics.html>
- <sup>xv</sup> [https://en.wikipedia.org/wiki/Party\\_system](https://en.wikipedia.org/wiki/Party_system)
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- <sup>xvii</sup> <https://www.indianmirror.com/corruption/political-corruption.html>
- <sup>xviii</sup> The politicians who politicize to corrupt the society as a whole.
- <sup>xix</sup> Guidelines for the party formation are set by the Election Commission of India.
- <sup>xx</sup> Judicial proceedings shall be done **at free of cost** to the public by the government.
- <sup>xxi</sup> Three organs of the government – Executive, Legislature and Judiciary.