

Evolution of Indian Constitution

Sub. code 18BHI13C

The State Legislative Assembly

The State Legislative Assembly is a legislative body in the states and union territories of India. In the 28 states and 8 territories with a unicameral state legislature it is the sole legislative body and in 6 states it is the lower house of their bicameral state legislatures with the upper house being State Legislative Council. 5 Union territories are governed directly by the Union Government of India and have no legislative body.

Each Member of the Legislative Assembly (MLA) is directly elected to serve 5 year terms by single-member constituencies. The Constitution of India states that a State Legislative Assembly must have no less than 60 and no more than 500 members however an exception may be granted via an Act of Parliament as is the case in the states of Goa, Sikkim, Mizoram and the union territory of Puducherry which have fewer than 60 members. A State Legislative Assembly may be dissolved in a state of emergency, by the Governor on request of the Chief Minister, or if a motion of no confidence is passed against the ruling majority party or coalition.

Supreme Court

The Supreme Court of India is the supreme judicial body of the government of India and the highest court of India under the constitution. It is the most senior constitutional court, and has the power of judicial review. The Chief Justice of India is the head and chief judge of the supreme court and the court consists of a maximum of 34 judges and it has extensive powers in the form of original, appellate and advisory jurisdictions. It is regarded as the most powerful public institution in India.

As the constitutional court of the country, it takes up appeals primarily against verdicts of the high courts of various states of the Union and other courts and tribunals. It safeguards fundamental rights of citizens and settles disputes between various government authorities as well as the central government vs state governments or state governments versus another state government in the country. As an advisory court, it hears matters which may specifically be referred to it under the Constitution by President of India. The law declared by the supreme court becomes binding on all courts within India and also by the union and state governments.[5] Per Article 142 of the Constitution, it is the duty of the President of India to enforce the decrees of the supreme court and the court is conferred with the inherent jurisdiction to pass any order deemed necessary in the interest of justice.

High Court

The high courts of India are the principal civil courts of original jurisdiction in each state and union territory. However, a high court exercises its original civil and criminal jurisdiction only if the subordinate courts are not authorized by law to try such matters for lack of pecuniary, territorial jurisdiction. High courts may also enjoy original jurisdiction in certain matters, if so designated specifically in a state or federal law.

Basically, the work of most high courts primarily consists of appeals from lower courts and writ petitions in terms of Articles 226 and 227 of the constitution. Writ jurisdiction is also an original jurisdiction of a high court.

Each state is divided into judicial districts presided over by a district and sessions judge. He is known as district judge when he presides over a civil case, and session's judge when he presides over a criminal case. He is the highest judicial authority below a high court judge. Below him, there are courts of civil jurisdiction, known by different names in different states. Under Article 141 of the constitution, all courts in India — including high courts — are bounded by the judgments and orders of the Supreme Court of India by precedence.

Judges in a high court are appointed by the President of India in consultation with the Chief Justice of India and the governor of the state. High courts are headed by a chief justice. The chief justices rank fourteenth (within their respective states) and seventeenth (outside their respective states) on the Indian order of precedence. The number of judges in a court is decided by dividing the average institution of main cases during the last five years by the national average, or the average rate of disposal of main cases per judge per year in that High Court, whichever is higher.

The Calcutta High Court is the oldest high court in the country, established on 2 July 1862. High courts that handle numerous cases of a particular region have permanent benches established there. Benches are also present in states which come under the jurisdiction of a court outside its territorial limits. Smaller states with few cases may have circuit benches established. Circuit benches (known as circuit courts in some parts of the world) are temporary courts which hold proceedings for a few selected months in a year. Thus cases built up during this interim period are judged when the circuit court is in session. According to a study conducted by Bangalore-based N.G.O, Daksh, on 21 high courts in collaboration with the Ministry of Law and Justice in March 2015, it was found that average pendency of a case in high courts in India is 3 years.

The buildings of Bombay High Court (as part of the Victorian and art deco ensemble of Mumbai) and Punjab and Haryana High Court (as part of the architectural work of Le Corbusier) are UNESCO World Heritage Sites.

Judicial Review

It is a process under which executive or legislative actions are subject to review by the judiciary. A court with authority for judicial review may invalidate laws, acts and governmental actions that are incompatible with a higher authority: an executive decision may be invalidated for being unlawful or a statute may be invalidated for violating the terms of a constitution. Judicial review is one of the checks and balances in the separation of powers: the power of the judiciary to supervise the legislative and executive branches when the latter exceed their authority. The doctrine varies between jurisdictions, so the procedure and scope of judicial review may differ between and within countries.