

FACULTY OF JURIDICAL SCIENCES

COURSE: B.A.LL.B. 1II Semester

SUBJECT: Political science-III

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Lecture-8



Judiciary

There is no qualification mentioned for the appointment of judges of the Supreme Court. In America, the President has the final say in the appointment of Supreme Court Judges. He suggests the names of judges to the Senate and on the advice and consent of the Senate, judges are appointed by the President.

The Judicial Committee of Senate plays a very significant role in evaluating the credentials of the proposed judges of the Supreme Court. They make the investigation of the background of judges, they hold a face-to-face interaction with the judges, the judges are queered and grilled and questions are put.

The whole process happens in public and in a transparent manner. If a citizen of the US has any information about judges' integrity, he can send that information, with evidence, to the Senate Judicial Committee, which further investigates to ensure that no unworthy candidate is appointed as a Judge to the Supreme Court.

In the appointment of Judges, the people of US also participate and the judiciary of US has no role to play in the appointment of judges. The entire process of appointment of judges is crystal clear.

There is no fixed tenure of the judges. However, if they are retiring at the age of 70 years, they will get salary and perks as a working judge.

In India, on the other hand, the entire process of appointment of judges happens in a darkroom, between the judiciary and executive. The people of India come to know of the judges only after their appointment. Neither the people are informed in advance, nor does the executive make an open inquiry about judges.

The **President appoints Judges** to the Supreme Court based on a process, in which the **Chief justice and four senior judges of the SC play a very dominant and decisive role**. The entire process of appointment of judges happens in the backyard and under the carpet without the involvement of the people, which is cited by many as a serious flaw of the Indian legal system. The judges hold the office up to the age of **65 years**.

Amendment of the Constitution

There are two ways to amend the US Constitution:

1. **Proposed by the Congress and ratified by the States**

-Amendment to be passed by 2/3rd majority in both the Houses

-To be ratified by the State Legislatures of at least 3/4th of the States

2. Proposed by States and ratified by the States

-2/3rd of the States should pass a resolution to this effect

-They will communicate to the Congress. The Congress will call the convention.

-In the convention, it has to be ratified by 3/4th of the States

In case of India, the amendment process is easy and flexible as compared to the US.

In India, it is only the Parliament that can propose an amendment to the Constitution and States do not have any role to play in this matter. While some of the Articles can be amended by a simple majority,

While some of the Articles can be amended by a simple majority, a special majority is required for others, and in some limited Articles, ratification by more than half of the States is also required. The majority here means the majority of the Members of the Parliament present on the date of the amendment and is not related to the total strength of the Parliament.

The fact that the US Constitution got amended only 27 times in the last 225 years, shows how rigid it is to amend the US Constitution, in contrast to the Indian Constitution.

MCQ

1. Which one of the following is true about High courts?

- A. It has original and appellate jurisdiction
- B. It enjoys the power of judicial review
- C. It acts as the court of law
- D. All the above

2. At present, how many high courts are there in India?

A. 25

B. 21

C. 28

D. 29

3. Which one of the following article deals with the appointment of judges?

A. Article 214

B. Article 217

C. Article 226

D. Article 216

4. High courts issue writs under article-.....

A. 220

B. 221

C. 213

D. 226

5. The chief justice and other judges of the high courts are appointed by which one of the following?

A. Prime minister

B. Chief minister

C. Governor

D. President