

Governance and Indian Polity

Short Answers

PKP-01 by Dr Mamta Pathania



2022

TABLE OF CONTENTS

1. 100+ Government Schemes and the Implementing Ministries	6
Government Schemes and the Implementing Ministries	6
2. Role of Civil Services in a Democracy	11
Difference between Indian Civil Services and American Civil Services.....	11
Advantages of Indian Civil Services System	11
Accountability of a civil servant	12
Role of Civil Services in Indian Democracy	12
Constitutional Provisions Related to Civil Services in India	12
3. Functions of an IAS Officer.....	12
History of Indian Administrative Service (IAS)	12
All India Services.....	13
Functions of an IAS officer.....	13
Designations held by IAS officers during field posting	13
Appointments to other Organizations / Bodies	13
Designations during Posting in Secretariat of State Government/ Central Government	14
Regulations Governing IAS	14
4. IAS/IPS Allocation Overhaul Proposal by PMO – An Impractical Move to Create A ‘Loyal’ Bureaucracy? ...	14
PMO wants to count Foundation Course Marks in addition to UPSC Civil Services Exam Marks!	14
What is the ‘Foundation Course’ all about?	14
DoPT writes to all cadre-controlling ministries	15
What’s is good about the new IAS/IPS Allocation Proposal? (if any)?.....	15
What is bad about the new IAS/IPS Allocation Proposal?	15
Is the New IAS/IPS Allocation Proposal practical?.....	16
Should Civil Service Aspirants worry about the new IAS/IPS Allocation Proposal?	16
5. Lateral Entry into Civil Services – Should the Government Allow It?	17
What is Lateral Entry into Civil Services?.....	17
Why Indian Bureaucracy needs rejuvenation?.....	17
An Analysis of the Recent Steps for Lateral Entry into Civil Services	17
Need for lateral entry into Civil Services.....	18
Counter-arguments over Lateral Entry into Civil Services	18
How do other Countries Operate?.....	18
Comparison	19
First Administrative Reforms Commission inputs.....	19
Sixth Central Pay Commission inputs	20

Recommendations from the 10th Administrative Reforms Committee report	20
Conclusion: Lateral Entry into Civil Services – needed or not?	20
6. Police Reforms in India – Against the backdrop of T P Senkumar Case	21
Police Reforms: Why in news now?	21
Role of Police in a Parliamentary Democracy	21
A.H.L Fraser Commission	21
Police is a State Subject	21
National Police Committee, 1978	21
Important Case: Prakash Singh and others vs the Union of India (1995)	22
The Seven Directives by Supreme Court (2006)	22
1) Directive One	22
2) Directive Two	22
3) Directive Three	22
4) Directive Four	22
5) Directive Five	23
6) Directive Six	23
7) Directive Seven	23
“Police reforms are going on and on. Nobody listens to our orders.” – Supreme Court	23
T P Senkumar Case	23
Why do we need police reforms?	24
Challenges and solutions	24
Summary	24
7. Mechanisms, Laws, Institutions and Bodies for Vulnerable Sections	24
To start, who are the vulnerable sections?	25
Mechanisms to protect the interests of vulnerable sections	25
Laws for the development and betterment of vulnerable sections	26
Constitutional Provisions for Vulnerable Sections	26
Constitutional Provisions relevant to Social Justice & Empowerment as a whole	26
Constitutional Provisions relating to SCs	26
Constitutional Provisions relating to Socially & Educationally Backward Classes (OBCs)	27
Constitutional Provisions relating to Persons with Disability and the Old	28
Constitutional Provisions relating to Prevention of Substance Abuse	28
Constitutional Provisions relating to Children	28
Constitutional Provisions relating to Women	29
Some General Provisions	29
Statutory Provisions for Vulnerable Sections	30
Institutions for the development of vulnerable sections	30

Bodies for the development of vulnerable sections	30
8. Sevottam Model	31
What is sevottam model, to be precise?	31
Seven Steps in Sevottam Model.....	31
Three Modules in Sevottam Framework.....	31
Sevottam model in detail:	32
Defects of earlier systems of public service delivery:	32
Drawbacks of Citizens Charter	32
Drawbacks in earlier Public Grievance Redress Mechanism	32
Defects in earlier Public Delivery Standards	32
9.Jallikattu: History, Court Rulings, and Controversy	32
What is Jallikattu?.....	33
What is the history of Jallikattu?.....	33
Why PETA and other animal rights activists want to ban Jallikattu?	33
Judgments on Jallikattu	33
Supporters arguments for continuing Jallikattu	34
What are the recent policies of India on Animal Advocacy?.....	34
Conclusion	35
10.The Problems of Medical Education in India – Should the Medical Council of India (MCI) be Scrapped?.....	35
The Paradox of Medical Care in India	35
Medical Council of India (MCI)	36
Vision 2015 report of MCI	36
The Problems of Medical Education in India	36
1. Inter-state and intra-state inequality in the distribution of manpower and resources	36
2. Low doctor-population ratio	37
3. Deficiencies in the quality of medical education	37
4. Lack of social accountability.....	37
5. The recognition issue of foreign degrees.....	37
6. Unregulated private colleges	38
Medical Council of India (MCI) – History Objectives Issues.....	38
History of MCI	38
Objectives of MCI	38
Issues of MCI	38
Various Committees on Medical Education in India	39
1. Ranjit Roy committee 2014.....	39
2. Parliamentary standing committee to overhaul MCI 2016 – Prof Ram Gopal Yadav	40
3. Oversight committee under Justice Lodha 2016	40

National Medical Council Bill 2018 – Concerns and Solutions	40
#Issue 1 – Inequitable distribution of manpower and resources	40
#Issue 2 – Low doctor-population ratio	41
#Issue 3 – Deficiencies in the quality of medical education	41
#Issue 4 – Lack of social accountability	41
#Issue 5 – Revamping MCI	41
Conclusion	42
11. Right To Recall – Can this clean up the Indian Political System?	42
What is Right to Recall?	42
Should we recall the representatives we elected?	42
The progress of ‘Right to Recall’ in India	43
The Judiciary’s take on the Right to Recall	43
What are the advantages of Right to Recall?	43
What are the disadvantages of Right to Recall?	44
Way forward	44
12. Electronic Voting Machines (EVMs): Can they be tampered with?	44
What are Electronic Voting Machines (EVMs) and how does it work?	45
Why did India replace paper ballots with Electronic Voting Machine?	45
When were Electronic Voting Machines first used in elections?	45
What is the latest controversy about Electronic Voting Machines?	45
Before Polling	45
During polling	45
After voting	46
How has the world treated Electronic Voting Machines?	46
Election Commission’s response to criticisms	46
Voter Verified Paper Audit Trail (VVPAT)	47

1. 100+ GOVERNMENT SCHEMES AND THE IMPLEMENTING MINISTRIES

The government of India runs hundreds of schemes – under Central Plan and Central Assistance to States Plan. Not only in UPSC exams, but also in other competitive exams, the Government schemes are a hot topic.

Many questions are repeatedly asked in UPSC preliminary exam regarding Government Schemes and the implementing ministries. Hence we thought it would be helpful for our students if we come up with a compilation of the same with only the most relevant information.

Government Schemes and the Implementing Ministries

1. PAHAL (DBT)
 - Ministry/Department : Ministry of Petroleum and Natural Gas
2. Pradhan Mantri UJJAWALA Yojana
 - Ministry/Department : Ministry of Petroleum and Natural Gas
3. National LED Programme (UJALA) – UJALA stands for Unnat Jyoti by Affordable LEDs for All.
 - Ministry/Department: Ministry of Power.
4. Green Corridor Project:
 - Ministry of New & Renewable Energy
5. Green Highway Policy:
 - Ministry of Road Transport and Highway
6. Namami Gange
 - Ministry of Water Resources.
 - Ministries of Environment, Urban Development, Shipping, Tourism & Rural Development are coordinating with Water Resource ministry in it.
7. National Mission of Green India
 - Ministry/Department : Ministry of Environment, Forest & Climate Change
8. Crime and Criminal Tracking Network and Systems (CCTNS)
 - Ministry/Department : Ministry of Home Affairs
9. Digital India.
 - Ministry/Department: DeitY, Ministry of Communication. Implemented by entire government machinery in their respective domains.
10. Digi-Locker
 - Ministry/Department : Ministry of Communication and IT
11. e-Biz
 - Ministry/Department : Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce & Industry
 - Implemented by Infosys
12. e-Courts Mission Mode Project
 - Ministry/Department : Ministry of Law and Justice
 - The project is being implemented by National Informatics Centre (NIC), Ministry of IT
13. Jeevan Pramaan
 - Ministry/Department : Department of Electronics and IT, Ministry of Communication and IT
14. National Optical Fibre Network (NOFN)

- Ministry/Department : Department of Electronics and IT, Ministry of Communication and IT
- 15. Nowcast
 - Ministry/Department : Ministry of Agriculture
 - collaborative effort between mKisan Portal developed by DAC, weather technologies adopted by IMD and GIS Portal of NIC
- 16. PRAGATI – ProActive Governance and Timely Implementation
 - Ministry/Department: Prime Minister’s Office.
- 17. Startup-India
 - Ministry/Department : DIPP, Ministry of Commerce and Industry
- 18. India Aspiration Fund & SMILE loans
 - Ministry of Finance.
- 19. Atal Pension Yojana
 - Ministry/Department : Ministry of Finance
 - Administered by the Pension Fund Regulatory and Development Authority
- 20. Mudra Bank and Pradhan Mantri Mudra Yojana
 - Ministry/Department : Ministry of Finance
- 21. Pradhan Mantri Jan Dhan Yojana
 - Ministry/Department : Ministry of Finance
- 22. Pradhan Mantri Suraksha Bima Yojana (PMSBY)
 - Ministry/Department : Ministry of Finance
- 23. Pradhan Mantri Jeevan Jyoti Bima Yojana (PMJJBY)
 - Ministry/Department : Ministry of Finance
- 24. Stand-up India
 - Ministry/Department : Department of Financial Services (DFS), Ministry of Finance.
- 25. Sovereign Gold Bonds
 - Ministry/Department : Ministry of Finance
 - In association with RBI
- 26. Gold Monetization Scheme
 - Ministry/Department : Ministry of Finance
- 27. Rashtriya Arogya Nidhi (RAN)
 - Ministry/Department : Ministry of Health & Family Welfare
- 28. Jan Aushadhi Scheme
 - Ministry/Department : Department of Pharmaceuticals, Ministry of Chemicals and Fertilizers
- 29. Janani Shishu Suraksha Karyakram (JSSK)
 - Ministry/Department : Ministry of Health and Family Welfare
- 30. Janani Suraksha Yojana (JSY)
 - Ministry/Department : Ministry of Health and Family Welfare
- 31. Mission Indradhanush
 - Ministry/Department : Ministry of Health & Family Welfare
- 32. National Health Assurance Mission
 - Ministry/Department : Ministry of Health & Family Welfare
- 33. National Rural Health Mission (NHM)
 - Ministry/Department : Ministry of Health & Family Welfare
- 34. National Urban Health Mission (NUHM)
 - Ministry/Department : Ministry of Health & Family Welfare
 - Implemented by the Ministries of Urban Development, Housing & Urban Poverty Alleviation, Human Resource Development and Women & Child Development
- 35. National Ayush Mission
 - Ministry/Department : Department of Ayush, Ministry of Health & Family Welfare
- 36. National Health Protection Scheme
 - Ministry/Department : Ministry of Finance

37. Pradhan Mantri Swasthya Suraksha Yojana (PMSSY)
 - Ministry/Department : Ministry of Health & Family Welfare
38. Pharma Jan Samadhan Scheme
 - Ministry/Department : National Pharmaceutical Pricing Authority (NPPA), Department of Pharma, Ministry of Chemical & Fertilisers
39. Rashtriya Swasthya Bima Yojana (RSBY)
 - Ministry/Department : Ministry of Health & Family Welfare (Earlier it was under Ministry of Labour and Employment)
40. Bharat Mala Project
 - Ministry/Department : Ministry of Road, Transport and Highway
41. Deendayal Upadhyaya Gram Jyoti Yojana
 - Ministry/Department : Ministry of Power
42. Ganga Gram Yojana
 - Ministry/Department: Ministry of Water Resources
43. Integrated Power Development Scheme
 - Ministry/Department : Ministry of Power
44. Mega Food Park Scheme
 - Ministry/Department : Ministry of Food Processing Industries
45. Pradhan Mantri Gram Sadak Yojana (PMGSY)
 - Ministry/Department : Ministry of Rural Development
46. Project Mausam
 - Ministry/Department : Ministry of Culture
 - Implemented by the Archaeological Survey of India (ASI) as the nodal agency
47. RURBAN – Also called Shyama Prasad Mukharjee Rurban mission
 - Ministry/Department : Ministry of Rural Development
48. Sagarmala scheme
 - Ministry/Department : Ministry of Shipping
49. Sansad Adarsh Gram Yojana
 - Ministry/Department : Ministry of Rural Development
50. Setu Bharatam
 - Ministry/Department: Ministry of Road, Transport and Highway
51. Swacchh Bharat Abhiyan
 - Ministry/Department: Ministry of Drinking Water and Sanitation (for Gramin) and Ministry of Urban Development (for Urban)
52. UDAY – UDAY stands for Ujwal DISCOM Assurance Yojana
 - Ministry/Department: Ministry of Power
53. Amended Technology Upgradation Fund Scheme
 - Ministry/Department : Ministry of Textile
54. Make in India Programme
 - Ministry/Department : Ministry of Commerce & Industry
55. National Investment and Manufacturing Zones
 - Ministry/Department : Ministry of Commerce & Industry
56. Gram Uday se Bharat Uday Abhiyan
 - Run jointly by the Ministries of Rural Development, Agriculture, Social Justice, Labour and Information and Broadcasting along with the States.
57. Khelo India
 - Ministry/Department : Ministry of Youth Affairs and Sports
58. Ishan Uday
 - Ministry/Department : Ministry of Human Resource Development
59. Ishan Vikas
 - Ministry/Department : Ministry of Human Resource Development

60. Aajeevika – National Rural Livelihoods Mission (NRLM)
 - Ministry/Department : Ministry of Rural Development
61. MGNREGA
 - Ministry/Department : Ministry of Rural Development
62. National Skill Development Mission
 - Ministry/Department : Ministry of Skill Development and Entrepreneurship
63. Pradhan Mantri Kaushal Vikas Yojana
 - Ministry/Department : Ministry of Skill Development and Entrepreneurship
64. Pandit Deendayal Upadhyay Shramev Jayate Karyakram
 - Ministry/Department : Ministry of Labour and Employment
65. USTAAD Scheme
 - Ministry/Department : Ministry of Minority Affairs
66. PRASAD – Pilgrimage Rejuvenation and Spirituality Augmentation Drive
 - Ministry/Department : Ministry of Tourism
67. HRIDAY – National Heritage City Development and Augmentation Yojana
 - Ministry/Department : Ministry of Urban Development
68. Nai Manzil Scheme
 - Ministry/Department : Ministry of Minority Affairs
69. Nai Roshni Scheme
 - Ministry/Department : Ministry of Minority Affairs
70. Pradhan Mantri Khanij Kshetra Kalyan Yojana (PMKKKY)
 - Ministry/Department : Ministry of Mines
71. Vanbandhu Kalyan Yojna
 - Ministry/Department : Ministry of Tribal Affairs
72. AMRUT – Atal Mission for Rejuvenation and Urban Transformation
 - Ministry/Department : Ministry of Urban Development
73. Housing for All by 2022 Mission
 - Ministry/Department : Ministry of Housing & Urban Poverty Alleviation
74. Pradhan Mantri Awas Yojana
 - Ministry/Department : Ministry of Housing & Urban Poverty Alleviation
75. Pradhan Mantri Awas Yojana – Gramin
 - Ministry/Department : Ministry of Rural Development
76. Smart City
 - Ministry/Department: Ministry of Urban Development
77. Beti Bachao, Beti Padhao Scheme
 - Ministry/Department : Ministry of Women and Child Development, Ministry of Health and Family Welfare and Ministry of Human Resource Development
78. Digital Gudda Guddi Board
 - Ministry/Department : Ministry of Women and Child Development
79. Indira Gandhi Matritva Sahayog Yojana
 - Ministry/Department : Ministry of Women and Child Development
80. Integrated Child Development Services (ICDS)
 - Ministry/Department : Ministry of Women and Child Development
81. SABLA – Rajiv Gandhi Scheme for Empowerment of Adolescent Girls
 - Ministry/Department : Ministry of Women and Child Development
82. Soil Health Card Scheme
 - Ministry/Department : Department of Agriculture, Cooperation & Farmers Welfare
83. PM Krishi Sinchai Yojana
 - Ministry/Department : Ministry of Agriculture & Farmers Welfare
84. PM Gram Sinchai Yojana
 - Ministry/Department : Ministry of Agriculture & Farmers Welfare

85. Paramparagat Krishi Vikas Yojna
 - Ministry/Department : Ministry of Agriculture & Farmers Welfare
86. Rashtriya Krishi Vikas Yojana
 - Ministry/Department : Ministry of Agriculture & Farmers Welfare
87. Price Stabilization Fund
 - Ministry/Department : Ministry of Agriculture & Farmers Welfare
88. KISAN (Crop Insurance)
 - Ministry/Department : Department of Agriculture and Cooperation, Ministry of Agriculture & Farmers Welfare
89. Integrated Scheme for Agriculture and Marketing (ISAM)
 - Ministry/Department : Ministry of Agriculture & Farmers Welfare
90. National Mission on Agricultural Extension and Technology (NMAET)
 - Ministry/Department : Ministry of Agriculture & Farmers Welfare
91. National Horticulture Mission
 - Ministry/Department : Department of Agriculture and Cooperation, Ministry of Agriculture & Farmers Welfare
92. National Mission on Sustainable Agriculture
 - Ministry/Department : Department of Agriculture and Cooperation, Ministry of Agriculture & Farmers Welfare
93. National Dairy Plan
 - Ministry/Department : Department of Animal Husbandry, Dairying and Fisheries
94. National Initiative on Climate Resilient Agriculture (NICRA)
 - Ministry/Department : Ministry of Agriculture & Farmers Welfare
95. Mission for Integrated Development of Horticulture
 - Ministry/Department : Department of Agriculture and Cooperation, Ministry of Agriculture & Farmers Welfare
96. National Mission on Oilseeds & Oil Palm (NMOOP)
 - Ministry/Department : Department of Agriculture and Cooperation, Ministry of Agriculture & Farmers Welfare
97. National Food Security Mission
 - Ministry/Department : Ministry of Agriculture & Farmers Welfare
98. National Agriculture Market (NAM)
 - Ministry/Department : Department of Agriculture & Cooperation, Ministry of Agriculture & Farmers Welfare
99. Pradhan Mantri Fasal Bima Yojana
 - Ministry/Department : Ministry of Agriculture & Farmers Welfare
100. ASMITA
 - Ministry/Department : Ministry of Human Resource Development
101. GIAN – GIAN stands for Global Initiative of Academic Networks
 - Ministry/Department : Ministry of Human Resource Development
102. Rashtriya Madhyamaik Shiksha Abhiyan (RMSA)
 - Ministry/Department : Department of School Education & Literacy, Ministry of Human Resource Development
103. Kasturba Gandhi Balika Vidhyalaya
 - Ministry/Department : Department of School Education & Literacy, Ministry of Human Resource Development
104. Mid-Day Meal Scheme
 - Ministry/Department : Department of School Education & Literacy, Ministry of Human Resource Development
105. Sarva Shiksha Abhiyan(SSA)

- Ministry/Department : Department of School Education & Literacy, Ministry of Human Resource Development

2. ROLE OF CIVIL SERVICES IN A DEMOCRACY

Indian state has three typical branches – Executive, Legislature and Judiciary. Executive is responsible to Legislature while Legislature is responsible to people.

By Executive here we meant Political Executive – the ministers. Political executives are not permanent, and in Indian scenario, since the Lok Sabha and State Legislative Assemblies are elected only for 5 years, there is chance of change in the political executives, every five years.

But there is another line of executives too in India, a permanent one. They are called Civil Servants. Civil Servants are accountable to ministers (political executives).

Importance of the topic: Mentioned in the syllabus for UPSC Civil Services Mains GS2 paper. Also an essential topic in GS4 (ethics) paper.

Difference between Indian Civil Services and American Civil Services

Though civil servants are there in almost all countries, the selection and nature of job differs. The main difference between Indian and US system are as below:

- Indian Civil Services are permanent. US Civil Servants in higher echelons change with government (spoils system).
- Indian system is based on merit, judged through competitive exams. US system, at-least in higher civil services, is given as a reward for favors done to the political executives.

Advantages of Indian Civil Services System

1. Chance of nepotism and corruption in spoils system. Indian system is designed to be impartial and permanent.
2. A permanent civil service provides continuity and develops expertise as well as institutional memory for effective policy making.
3. A permanent executive looks at long term social pay-offs. (Political executives often look at short term gains).
4. Brings uniformity in public administration and also acts as a unifying force.
5. A permanent civil service like any other reputable profession is likely to evolve over time an ethical basis for its functioning.

Accountability of a civil servant

- In any democracy, Ministers are responsible to the people through Parliament and therefore the civil servants have to be accountable to the Minister.
- However, an impartial civil service is responsible not only to the government of the day but to the Constitution of the land to which they have taken an oath of loyalty.
- At the same time, implementing the policies of the duly elected government is a core function of civil servants.
- Civil Servants (Eg: Secretaries) have the constitutional mandate to advise the political executives (ministers).

Role of Civil Services in Indian Democracy

- Give advice to political executives.
- Assist the political executive to: (a) Formulate policy (b) Implement policy.

NB: Qualities expected from Civil Servants: Knowledge, experience, understanding of public affairs etc.

Constitutional Provisions Related to Civil Services in India

- In terms of **Articles 53 and 154**, the executive power of the Union and the States vests in the President or Governor directly **or through officers subordinate to him**. These officers constitute the permanent civil service and are governed by Part XIV of the Constitution (Services under the Union and States (Article 308-323)).
- **Government of India (Allocation of Business) Rules:** Work is allocated among Ministers as per the Government of India (Allocation of Business) Rules.
- **Government of India (Transaction of Business) Rules:** The manner in which the officers are required to help the President or Governor to exercise his/her executive functions is governed by the Government of India (Transaction of Business) Rules.
- Article 308 – Definition of state.
- Article 310 – Tenure of office of persons serving the Union or a State.
- Article 311 – Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State.
- Article 312 – All India Services.
- Article 313 – Transitional Provisions.

3. FUNCTIONS OF AN IAS OFFICER

We covered ‘Role of Civil Services in a Democracy’ in our last post. Hope the overview is now clear. Civil Servants being permanent executives, they advise political executives. They also assist the ministers to formulate and execute policies. In this post, we shall see in particular the functions of an Indian Administrative Service (IAS) officer.

History of Indian Administrative Service (IAS)

Indian Administrative Service (IAS) is one of the premier services of Government of India. IAS was constituted in 1946. Prior to that Indian Imperial Service (1893-1946) was in force.

The basic pattern of the cadre system in the Civil Service was established following the recommendations of the Aitchison Commission. Provincial Civil Service constituted in the 1890s was also on the basis of the recommendations of the Aitchison Commission. In 1912 the Islington commission was appointed to study Civil Service reforms. By 1934, the system of administration in India came gradually to consist of seven All India Services and five Central Departments.

IAS posts are filled by direct recruits as well as by promotion /appointment of State Civil Services officers/ Non-State Civil Service officers.

All India Services

The Constitution provides that without depriving the States of their right to form their own Civil Services there shall be an All India service recruited on an All- India basis with common qualifications, with uniform scale of pay and the members of which alone could be appointed to these strategic posts throughout the Union. No wonder that Sardar Vallabhai Patel, one of the eminent leaders of the freedom struggle referred to the ICS as the steel frame of the country. The civil services, therefore, represents the essential spirit of our nation – unity in diversity.

Functions of an IAS officer

IAS officer is responsible for maintenance of law and order, revenue administration and general administration in the area under him. Functions of an IAS officer broadly include:

1. Collection of revenue and function as Courts in revenue matters.
2. Maintenance of law and order.
3. Function as Executive Magistrate.
4. Function as Chief Development Officer (CDO)/District Development Commissioner.
5. Supervision of implementation of policies of State Government and Central Government.
6. To travel to places to oversee implementation of policies.
7. Supervision of expenditure of public funds as per norms of financial propriety.
8. In the process of policy formulation and decision making, IAS officers at various levels like Joint Secretary, Deputy Secretary etc. make their contributions and the give final shape to policies.
9. To handle the daily affairs of the government, including framing and implementation of policy in consultation with the minister-in-charge of the concerned Ministry;

Designations held by IAS officers during field posting

- SDO/SDM/Joint Collector/ Chief Development Officer (CDO).
- District Magistrate/District Collector/Deputy Commissioner.
- Divisional Commissioner.
- Member Board of Revenue.
- Chairman Board of Revenue

Appointments to other Organizations / Bodies

Besides IAS officers can be appointed in autonomous organizations/sub ordinate organizations/PSUs/UN Organizations/international organizations like World Bank, Asian Development Banks etc in various capacities. They also serve as Personal Secretaries to Ministers in Central Government. There is provision for deputation of IAS officers to private organizations also for a fixed tenure.

Designations during Posting in Secretariat of State Government/ Central Government

1. Under Secretary in Government of India.
2. Deputy Secretary in Government of India.
3. Director in Government of India.
4. Joint Secretary to Government of India / Secretary in State Government.
5. Additional Secretary to Government of India / Principal Secretary in State Government.
6. Secretary to Government of India/ Chief Secretary.
7. Cabinet Secretary.

Regulations Governing IAS

IAS officers are regulated through different All India Services Rules such as :

1. AIS (Conduct) Rules, 1968,
2. AIS (PAR) Rules, 2007,
3. AIS (DCRB) Rules, 1958,
4. AIS (Cadre) Rules, 1954,
5. AIS (Pay) Rules, 2007 etc.

PS: These rules are made under the powers conferred by the All India Services Act, 1951.

4. IAS/IPS ALLOCATION OVERHAUL PROPOSAL BY PMO – AN IMPRACTICAL MOVE TO CREATE A ‘LOYAL’ BUREAUCRACY?

As per news reports, the Prime Minister’s Office (PMO) is seeking a change in the way candidates are allocated services like IAS or IPS. The government is analyzing the possibility not only to change the way services like IAS or IPS are allocated, but also the way cadres are assigned. Many retired, serving, and aspiring civil servants are not happy with the new IAS/IPS allocation proposal.

PMO wants to count Foundation Course Marks in addition to UPSC Civil Services Exam Marks!

Currently, allocation to services like IAS, IPS etc is based on marks secured by candidates in the Civil Services Exam conducted by Union Public Service Commission (UPSC).

If the new proposal is accepted, scoring high marks in the civil services examination conducted by the Union Public Service Commission will not be enough to get into IAS, IPS or IFS.

PMO has sought the feasibility of adding an additional component – the marks secured by the candidates in the compulsory three month ‘foundation course’ conducted by Department of Personnel & Training (DoPT).

What is the ‘Foundation Course’ all about?

Once a candidate clears UPSC CSE, he/she should undergo training by DoPT. The first part of the training is called the “Foundation Course” or FC. This is a 100-day training program.

F.C. is compulsory only for IAS, IFS, IFoS and IPS. It is optional for other services of Group A. Group B services are not made to attend it.

Long back when the number of selected candidates and services used to be less, all services used to attend Foundation Course (FC) at Lal Bahadur Shastri National Academy of Administration (LBSNAA). Now candidates selected by UPSC undergoes FC at different academies including LBSNAA.

The Foundation Course, a combination of activities carried out at the academy, consists of academic components such as public administration, law and political science, besides a number of extra-curricular activities such as trekking, village visits and interaction with fellow probationers.

At present, the Foundation Course counts for 400 marks, but, along with the other phases of the probation period, only goes towards establishing seniority within the batch.

DoPT writes to all cadre-controlling ministries

The Prime Minister's Office wants that besides the marks scored in the UPSC Civil Services Exam, the probationers for IAS, IPS or IFS should be allocated service or cadre after reviewing their performance in the foundation course.

DoPT, under the ministry of personnel has written a letter to all cadre-controlling ministries seeking their opinion on the issue saying the PMO wants to change the rules from this year itself.

Items to be examined:

1. If service allocation/cadre allocation to probationers selected on the basis of the civil services examination be made after Foundation Course.
2. The feasibility of giving due weightage to the performance in the Foundation Course and making service allocation as well as cadre allocation to All India Services Officers, based on the combined score obtained in the civil services examination and the Foundation course.

What's is good about the new IAS/IPS Allocation Proposal? (if any)?

A lot of newly selected civil servants take the foundation course as just a formality because they know that they have been allocated cadre and services. When their marks and rank in UPSC and performance in foundation course will be at stake, they will take those three months seriously.

What is bad about the new IAS/IPS Allocation Proposal?

There are many problems with the new proposal. A few are listed below.

- If the Government tries to take the control and authority of selection and recruitment from the independent agency – UPSC – it can be interpreted as violation of the principles of Constitution (Article 311 – 315).
- If the service and the cadre allocation are determined on the combined score of the civil services examination and the score or performance of the foundation course, it will dilute the role of UPSC by increasing the interference of the executive.

- Service allocation after foundation course will have tremendous potential for misuse. There can be a lot of political pressure on the faculties, and academy directors to select bureaucracy loyal to the ruling government.
- If the PMO's latest proposal is accepted, it will theoretically be possible for a candidate whose rank in the UPSC civil services examination can get him only into, say, the Indian Defence Accounts Service, to climb up to the coveted Indian Administrative Service on the basis of how well he does his foundation course.
- If a person who has studied hard for years to get top rankings in the UPSC exam somehow performs low in the 3-month foundation course, and if she is denied the cadre and service wanted or deserved, then it would be unfair for him/her.
- A single academy cannot accommodate all 1000 candidates at a time for the foundation course.
- The papers, the subjects, the faculty, and also the overall standards are different for different foundation courses. As result, there would be a lot of arbitrariness in something as crucial as service allocation for which candidates put in so much effort
- It is also unhealthy to make the probationers compete from day one of their foundation course; the camaraderie among them will be lost.
- The current government has already made so many crucial changes or proposals in the way top bureaucrats are selected. Reducing the importance of CSAT (aptitude) paper, proposal for lateral entry into civil services, introduction of zones above the cadres, proposal to reduce age limit as per Baswan committee reports etc – being some of them.

Is the New IAS/IPS Allocation Proposal practical?

The move has already caused outrage among retired, serving and aspiring civil servants. Many believe that the new move will do no good but destroy the existing system.

However, to implement the IAS/IPS allocation policy will not be easy.

First, there are many candidates who skip the Foundation Course every year, to attempt the UPSC Civil Services Exam again. If that is the case, how can the foundation marks be added to find the final ranks in a year is a big question.

Second, the rules of allocation based on UPSC CSE 2017 was already published. Induction to every service is as per laid down recruitment rules. The recruitment rules will have to be amended if this move is to be formalized. It might lead to many court case if government alter the same for this year. Not only this, UPSC has published the notification for Civil Services Exam 2018, and candidates are not pre-informed about any change in the final allocation process.

Should Civil Service Aspirants worry about the new IAS/IPS Allocation Proposal?

Minister of State for personnel Jitendra Singh said: “There was a suggestion to this effect which has been followed up by eliciting the views of all stakeholders. At present, the issue is still in the consultation stage. There is nothing more to it.”

The government is only exploring the option and has hence invited views and suggestions of the cadre-controlling ministries, to see if the option is feasible.

Nothing much should be read into it as of now.

5.LATERAL ENTRY INTO CIVIL SERVICES – SHOULD THE GOVERNMENT ALLOW IT?

Prime Minister's Office (PMO) has asked Department of Personnel & Training (DoPT) to put up a proposal for lateral entry into Civil Services – the prestigious career option of millions.

In this article, we discuss the need of reforms in Indian Civil Services and whether lateral entry system should be used or not.

What is Lateral Entry into Civil Services?

Traditionally to get into Civil Services like IAS, IPS etc. a candidate has to clear the three stages of UPSC Civil Services Exam – Preliminary, Main Exam, and Interview. One-third of the vacancies in Indian Civil Services is also filled by **promotion** of eligible candidates working in different State Services.

Lateral entry into civil services – means bypassing these two options.

Now the proposal is for selecting private individuals for appointment in the ranks of deputy secretary, director and joint secretary.

Why Indian Bureaucracy needs rejuvenation?

The World Bank ranks India at 130 in the Ease of Doing Business Index. India ranks 76 in the Corruption Perception Index brought by Transparency International. It also mentions that India has the highest incidence of bribery in the Asia-Pacific. The Political and Economic Consultancy Report rated Indian bureaucracy as the slowest among its 12 Asian counterparts. Such indices and reports are a manifestation of the retrograde bureaucracy of India and its unprogressive performance, urging immediate rejuvenation.

An Analysis of the Recent Steps for Lateral Entry into Civil Services

Several steps have been taken by the current government to enhance the qualitative value of civil servants in India. One among them is the instruction issued by the Prime Minister's Office to the Department of Personnel and Training to prepare a memorandum on induction of outsiders in the middle rung of ministries that deal with economy and infrastructure.

This announcement has caused an upheaval of speculations in both the political and administrative circles of the country. As rightly pointed out by Honorable Member of Parliament Shashi Tharoor in the Question Hour of Lok Sabha, there are underlying vacancies in different departments of multiple ministries and also inefficiencies in the existing system of complacent bureaucracy. The government has to take leapfrogging measures to arrive at a political consensus for reforms in bureaucracy.

- According to some sources, the shortlisting of private sector executives or social workers would be through a matrix of experience and qualifications, without taking into account their current salaries.
- The final selection committee would be headed by the Cabinet Secretary.
- As per preliminary estimates, 40 individuals such as entrepreneurs, academicians, and social workers would be selected to the middle management level.

- Notably, there would be no entry of such officials in the Ministry of Home, Defence, Personnel, and Corporate Affairs.

Need for lateral entry into Civil Services

1. The assurance of a secure career path has been held to be the career-based system's biggest lacuna.
2. This weakness has been compounded by a heavy reliance on seniority, an inadequate annual reporting system, and frequent transfers (Reference: Indian Express).
3. It has discouraged initiative by reducing competition in the higher echelons of government.
4. Allegedly, the quasi-monopolistic hold of the career civil services on senior management position breeds complacency, inhibits innovative thinking and prevents the inflow of new ideas from outside government.
5. There is a huge shortfall in a number of recruits, such as 20% shortage of IAS officers in 24 state cadres of India.
6. The Baswan Committee has pointed out the huge deficit of officers. The government has in March 2017, informed that there is a shortage of over 1,400 IAS and 900 IPS officers in the country. While the total strength should be 6,396 Indian Administrative Service (IAS) officers, however, there are only 4926 officers in the country.
7. There is an unwillingness among officers of the state to undertake Centre deputation.

Counter-arguments over Lateral Entry into Civil Services

1. The All India Services provide a unique link between the cutting edge at the field level and top policy-making positions as has also been mentioned by the First Administrative Reforms Commission (ARC) and by the Sarkaria Commission.
2. This bridge between policy-making and implementation, while crucial to all systems, has been of strategic significance in the Indian context, given the regional diversity of the country.
3. The exposure and sensitivity to the country's complex socio-political milieu and to the needs of the common man, which widespread field experience provides to these Services, may not be available in the private sector since the private sector does not have the same width and depth of exposure to this type of field experience.
4. Lateral entry only at top level policy making positions may have little impact on field level implementation, given the multiple links in the chain of command from the Union Government to a rural village.
5. Lack of sufficient and suitable talent in the private sector.
6. Operational difficulties of fresh recruitment for a Senior Executive Service (SES).
7. The possible adverse impact of such recruitment on the constitutional mandate for affirmative action as a result of the creation of a new recruitment channel at a senior level.
8. An issue of conflict of interest when it comes to entrants from the private sector.
9. The potential loss of internal talent as well as the likelihood of atrophy of the existing career based services.

How do other Countries Operate?

CAREER-BASED SENIOR EXECUTIVE SERVICE (SES)

1. Found in India, France, Italy, Japan, South Korea, Malaysia, and Spain.
2. Recruitment at the entry level through competitive examinations.

3. They are trained and groomed to become elite corps and then put on an accelerated career trajectory.
4. The advantage of its closed nature is that there are a common culture and value system, and an enviable degree of esprit de corps, a combination that facilitates excellent communication across the governmental spectrum.

POSITION-BASED SENIOR EXECUTIVE SERVICE (SES)

1. Found in Australia, Belgium, New Zealand, UK, USA, Netherlands.
2. The appointments to identified senior positions are made from a wider pool comprising all civil servants who are qualified to apply as well as those applicants from the private sector with relevant domain competency and experience.
3. Its openness is its basic strength. All professional cadres in the government and even those outside the government can compete for selected top positions.
4. This makes it possible for lateral entrants to bring in their own work culture which enables renewal and adaptiveness in government organizations.
5. However, the bulk of appointments in the position-based system is from among career civil servants.
6. In the American SES, only 10% of the positions are filled up by “outsiders”. In Australia, recruitment to the SES from outside the Australian Public Service has ranged from 25% in 1992-93 to 14% in 2000-01. 20% of Korea’s career-based SES is now recruited from the open market.

Comparison

- Career management is more decentralized in the position-based system as compared with the career-based system.
- While members of the career-based SES are employed from the time of recruitment to the age of retirement, the position-based SES is on the basis of contracts.
- In both cases, performance standards are stipulated in advance and appraised rigorously.

First Administrative Reforms Commission inputs

The first Administrative Reforms Commission while examining the whole issue of Personnel administration with reference to the higher management positions in Government of India, had distinguished between two categories of senior management posts, viz,

- Posts within the functional area which should be staffed by the relevant functional cadre.
- Posts outside the functional area for which the required functional experience may be available in the All India Services, the Central Services, and among specialists like engineers, scientists, economists, etc.

The Commission went on to recommend that the level of Joint Secretary and Additional Secretary in senior management, outside the purely functional posts, “the areas of specialism will broaden out and it should be possible, and it is necessary to provide for mobility from one specialism to an allied specialism. At the highest level of Special Secretary or Secretary and equivalent in Central Government, the factor that should count most is one’s general managerial competence”.

Sixth Central Pay Commission inputs

1. For creating a senior management or leadership pool in Government of India, competition can be infused through two main mechanisms: **a)** opening up the senior management cadre to all existing Services, and **b)** lateral entry by opening the senior management cadre to aspirants from the private sector who can bring new skills into government.
2. Lateral entry into civil services as done in the past on an ad hoc basis is not a suitable model of manpower planning since the present incumbents in government departments tend to resist entry of outside talent and the whole process remains personality driven and inchoate.
3. Need to institutionalize the process of induction of outside talent into the government.
4. Lateral entries should be done at the present level of Additional Secretary / HAG which is a leadership position from which one can aspire to reach the rank of Secretary to Government.
5. These posts involve leadership rather than purely operational roles and issues such as the requirement of greater functional/ technical knowledge at operational levels.
6. Central Civil Services Authority should be entrusted with the task of identifying the posts at the higher management level, HAG and above, where induction of outside talent would be desirable.
7. Such posts could then be opened for recruitment by tapping talent both from within and outside the government through a transparent process to be implemented by the Authority.

Recommendations from the 10th Administrative Reforms Committee report

1. The present empanelment system for short-listing officers for posting at the Senior Administrative Grade (SAG) level and above should be replaced by a more transparent and objective placement procedure.
2. At higher levels of government, it is necessary to ensure that the tasks assigned to a public servant match his/her domain competence as well as aptitude and potential.
3. Ministries should classify all of their SAG level posts according to their relevant functional domains.
4. There is need to introduce competition for senior positions in government by opening these positions in Government to all Services.
5. A Central Civil Services Authority should be constituted under the proposed Civil Services Bill. It shall be a five-member body consisting of the Chairperson and four members.
6. The Central Civil Services Authority should deal with matters of
 - assignment of domains to officers,
 - preparing panels for posting of officers at the level of Joint Secretary and above,
 - fixing tenures for senior posts,
 - deciding on posts which could be advertised for lateral entry into civil services and
 - such other matters that may be referred to it by the Government.

Conclusion: Lateral Entry into Civil Services – needed or not?

- The recruitment in the lateral entry can be done for specific mission-mode projects. Eg, Nandan Nilekani for the Aadhaar Project.
- Transparent recruitment as per recommendations of 10th ARC report to ensure clearly defined service rules and accountability.
- Norms should be liberalized for civil servants to work outside the government with multilateral agencies, nonprofits or corporations.

6.POLICE REFORMS IN INDIA – AGAINST THE BACKDROP OF T P SENKUMAR CASE

The way Police forces work in India needs a lot of reforms. Police need more autonomy, professionalism, fixed tenure and so on. This article is on Police reforms in India – the history, the reforms so far, the Supreme Court directives, recent cases like T P Senkumar Case etc.

Police Reforms: Why in news now?

The Supreme Court for the first time in history, on 24-04-17, ordered the reinstatement of ousted Kerala DGP T.P. Senkumar, sending out a clear message that police officers cannot be made “scapegoats” by politicians in power.

The decision is likely to have repercussions in States where police chiefs were removed by the political dispensation against the Supreme Court’s ruling in Prakash Singh Case (we will be discussing the same below) that DGP should have a fixed tenure of two years and not be subject to the whims of the political powers in the State.

Role of Police in a Parliamentary Democracy

There is no doubt that police have a vital role in a parliamentary democracy. The police ensure safety and security of the society. The rate and complexity of the crime have increased over the years adding new dimensions to the responsibilities of police. The present Indian police system is largely a legacy of the British rule in India since it is based on the **Police Act of 1861**.

A.H.L Fraser Commission

A.H.L Fraser, the chairman of the commission appointed by the British in 1902 said:

The police force is far from efficient, it is defective in training and organizing, it is inadequately supervised, it is generally regarded as corrupt, oppressive and it utterly failed to secure the confidence and cordial cooperation of the people.

Since 1902, little has changed. The functions of the police during the British time are different from the functions that are to be performed after the independence. After independence, India had adopted the most inclusive and comprehensive constitution to ensure the welfare of the citizens but the institution of police which is responsible for implementing the law and order was not overhauled.

Police is a State Subject

- Police is an exclusive state subject and the center has its limitations in this regard.
- After independence, some states came out with their own police acts.
- For example, the Bombay Police act, 1951; the Kerala Police act 1960; the Delhi Police act, 1978.

However, all of these police acts were a replica of the **Indian police act, 1861**. This has in extreme situations made the situation of guardian turning predator and the confidence of the people has come down.

National Police Committee, 1978

- This was the first commission at the national level after independence.

- It had wide terms of reference covering the police organization, its role, functionality, accountability, relations with the public etc.

This committee gave a comprehensive report and recommended to bring an autonomous body of organization which could be accountable to people. However, the **major recommendations of this committee were not accepted** by the government.

Important Case: Prakash Singh and others vs the Union of India (1995)

- In 1995, Prakash Singh, former DGP of Uttar Pradesh filed a PIL regarding police reforms in India.
- This led to the government constituting a new committee under the chairmanship of Julio Ribeiro, and the **Julio Ribeiro Committee** was formed in 1998.
- This was followed by further committees like **Padmanabhaiah, Malimath committee, Soli Sorabjee committee.**
- In 2006, since there were no movements in the direction of reforms, the **Supreme Court made the police reforms a mandatory reform** to be taken up by the central and state governments.

The Seven Directives by Supreme Court (2006)

The apex court gave its nearly revolutionary directions in 2006, a decade after Mr. Singh first filed his petition. The states and union territories were directed to comply with seven binding directives that would kick-start reform.

1) Directive One

Constitute a **State Security Commission (SSC)** to:

1. Ensure that the state government does not exercise unwarranted influence or pressure on the police.
2. Lay down broad policy guideline.
3. Evaluate the performance of the state police.

2) Directive Two

- Ensure that the DGP is appointed through the merit-based transparent process and secure a minimum tenure of two years.

3) Directive Three

- Ensure that other police officers on operational duties (including Superintendents of Police in-charge of a district and Station House Officers in-charge of a police station) are also provided a minimum tenure of two years.

4) Directive Four

- Separate the investigation and law and order functions of the police.

5) Directive Five

- Set up a **Police Establishment Board (PEB)** to decide transfers, postings, promotions and other service related matters of police officers of and below the rank of Deputy Superintendent of Police and make recommendations on postings and transfers above the rank of Deputy Superintendent of Police.

6) Directive Six

- Set up a **Police Complaints Authority (PCA)** at state level to inquire into public complaints against police officers of and above the rank of Deputy Superintendent of Police in cases of serious misconduct, including custodial death, grievous hurt, or rape in police custody and at district levels to inquire into public complaints against the police personnel below the rank of Deputy Superintendent of Police in cases of serious misconduct.

7) Directive Seven

- Set up a **National Security Commission (NSC)** at the union level to prepare a panel for selection and placement of Chiefs of the Central Police Organizations (CPO) with a minimum tenure of two years.

After this, 14 states have passed legislation but these were mainly to circumvent the directives but not to implement them. Till today, the government has not shown its commitment to follow the directives of the court in true letter and spirit.

“Police reforms are going on and on. Nobody listens to our orders.” – Supreme Court

“Police reforms are going on and on. Nobody listens to our orders.” This is how a Supreme Court bench headed by Chief Justice J.S. Khehar reacted while declining the plea of a lawyer demanding immediate action to usher in major police reforms in the country (March 2017). The lawyer had earlier been permitted to implead himself in a pending PIL on the subject.

It is sad that the highest court of the land is so helpless in the matter.

T P Senkumar Case

T P Senkumar – DGP of Kerala – was transferred by the Left Democratic Front government led by Chief Minister Pinarayi Vijayan to the Kerala Police Housing and Construction Ltd as its chairman and managing director. Lokanath Behara had replaced him as the new DGP.

Though it may be argued that the government has the right to appoint a DGP of its choice, but Senkumar had argued that the case against him reeked of arbitrariness and was a result of his fair and efficient probe in the cases of political murders in the state, wherein some leaders of the present government were found to be accused.

In a major verdict, the Supreme Court ordered the Kerala government to restore the services of ousted DGP T P Senkumar holding that his removal was arbitrary and not as per established law. It's rare for the apex court to interfere in such appointments and the ruling has led to a debate on judicial overreach.

Why do we need police reforms?

1. The security of the society and the welfare of the people is dependent on the efficiency of the police.
2. To eliminate the undue political interference which led to the loss of autonomy of police. The police of today are victims of politicization as well as criminalization.
3. To instill the confidence of the people in the institution of police by making police more people friendly
4. To prevent the highhandedness of police in the form of extra-judicial killings. Recently NHRC noted that 206 cases of encounters occurred in the last 12 months
5. To continue security and growth with our high economic growth, the maintenance of law and order plays a vital role.

The recent example of Haryana police during the Jat reservation riots either due to inherent caste bias or hesitation of not getting support by the people further stresses the need for reforms.

Challenges and solutions

- Challenges like police training and quantity of force along with the quality, the long working hours as well as the isolation of police force from the public in the form of separate living quarters should be looked into.
- Police should be made an integral part the society they live in.
- Police reforms should no longer be delayed and the civil society should play its role for faster action by the government.

Summary

The nation can no longer afford a politician's police and it's time for people's police.

The Supreme Court's directions on police reforms have not been complied with in letter and spirit by any state. Many states have enacted laws to legitimise the status quo and circumvent the implementation of the Court's directions. Some states have passed executive orders which dilute or amend the SC's directions. No wonder the Justice Thomas committee, which was set up to monitor the implementation of the Court's directions, expressed a sense of "dismay" over the indifference to judicial directions.

The verdict in TP Senkumar case was in continuation of the Prakash Singh case that would be applicable to all the States. It's high time that the states should obey the Supreme Court directives. Urgent steps should be taken by all states to set up police complaints authority, Security Commission and separate the law and order and investigation wings.

7. MECHANISMS, LAWS, INSTITUTIONS AND BODIES FOR VULNERABLE SECTIONS

Mechanisms, Laws, Institutions and Bodies constituted for the development and betterment of Vulnerable Sections is a topic listed under UPSC Mains General Studies Paper 2 (GS2) syllabus (Topic : Social Justice). As there is a shortage of relevant text books for Social Justice (suitable for UPSC exam)

in the market, we are attempting to provide online notes for the same. We may update this post as when new laws or bodies or mechanisms are created for vulnerable sections.

To start, who are the vulnerable sections?

Vulnerability refers to the inability to withstand the effects of a hostile environment. And, vulnerable are those who are exposed to the possibility of being attacked or harmed, either physically or emotionally.

1. Women
2. Children
3. OBC.
4. SC.
5. ST.
6. Minority.
7. Differently Abled.
8. Senior Citizens.
9. Victims of Substance Abuse.
10. Unhealthy.
11. Illiterate.
12. Unorganized workers.
13. Poor migrants.
14. People living with HIV/AIDS.
15. Sexual Minorities (LGBT).
16. Poor in general.

NB: Vulnerable sections marked in bold are those who are taken care by Ministry of Social Justice and Empowerment.

Mechanisms to protect the interests of vulnerable sections

1. Constitution : Various provisions for safeguarding the interests of vulnerable sections.
2. Legislature : Union and State levels : Various bills for vulnerable sections.
3. Executive : Various Ministries under Central and State Governments.
4. Judiciary : For delivering social justice.
5. Decentralized Administration (extending to Panchayati Raj Level to reach vulnerable sections).
6. National and State commissions for vulnerable sections (Like National Commission for Women).

ALSO THERE ARE ADMINISTRATIVE MECHANISMS LIKE :

1. Reservation.
2. Subsidy.
3. PDS.
4. Scholarships.
5. Centrally Sponsored Schemes.

MINISTRIES RELATED TO SOCIAL JUSTICE

1. Ministry of Social Justice and Empowerment.

2. Ministry for Development of North-East Region.
3. Ministry of Labour & Employment.
4. Ministry of Law & Justice.
5. Ministry of Minority Affairs.
6. Ministry of Personnel, Public Grievances & Pensions.
7. Ministry of Tribal Affairs.
8. Ministry of Women and Child Development.

PS : Check out all the ministries under Government of India.

Laws for the development and betterment of vulnerable sections

Laws about vulnerable sections can be seen in two dimensions.

1. Constitutional
2. Statutory

PS : If you want to know Indian Constitution in brief, check out : Indian Constitution Parts and Articles.

Constitutional Provisions for Vulnerable Sections

There are certain constitutional provisions which cover all vulnerable sections (common to all). Also, there are provisions which deals only with specific sections.

Constitutional Provisions relevant to Social Justice & Empowerment as a whole

1. Preamble
2. Article 23 : Prohibition of traffic in human beings and forced labour.
3. Article 24 : Prohibition of employment of children in factories, etc.
4. Article 37 : Application of the principles contained in this Part (DPSP).
5. Article 38 : State to secure a social order for the promotion of welfare of the people.
6. Article 39 : Certain principles of policy to be followed by the State.
7. Article 39A : Equal justice and free legal aid.
8. Article 46 : Promotion of Educational and Economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.

Constitutional Provisions relating to SCs

Definition and Specification of SCs

1. Article 341 : Scheduled Castes.
2. Article 366 : Definitions .

Social Safeguards

1. Article 17 : Abolition of Untouchability.
2. Article 25 : Freedom of conscience and free profession, practice and propagation of religion.

Educational, Economic and Public Employment – related Safeguards

1. Article 15 : Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.
2. Article 16 : Equality of opportunity in matters of public employment.
3. Article 46 : Promotion of Educational and Economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.
4. Article 320 : Functions of Public Service Commissions.
5. Article 335 : Claims of Scheduled Castes and Scheduled Tribes to services and posts.

Political Safeguards

1. Article 330 : Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People.
2. Article 332 : Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States.
3. Article 334 : Reservation of seats and special representation to cease after sixty years.
4. Article 243D : Reservation of seats (in Panchayats).
5. Article 243T : Reservation of seats (in Municipalities).

Agency for monitoring safeguards

1. Article 338 : National Commission for Scheduled Castes.

Constitutional Provisions relating to Socially & Educationally Backward Classes (OBCs)

The constitution does not define the term backward classes. It is up to the center and the states to specify the classes that belong to this group. However, it is understood that classes that are not represented adequately in the services of the state can be termed backward classes. Further, the President can, under Art. 340, can constitute a commission to investigate the condition of socially and educationally backward classes. Based on this report, the president may specify the backward classes.

Commission for Enquiring into Conditions of Backward Classes

1. Article 340 : Appointment of a Commission to investigate the conditions of backward classes.

Safeguards relating to Educational & Public Employment

1. Article 15 : Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.
 2. Article 16 : Equality of opportunity in matters of public employment.
- Art. 15 (4): “Nothing in this article or in article 29(2) shall prevent the state from making any provisions for the advancement of any socially and economically backward **classes** of citizens or for Scheduled Castes and Scheduled Tribes.” This clause started the era of reservations in India. You may please note that Art. 15(4) talks about backward classes and not backward castes thus caste is not the only criterion for backwardness and other criteria must also be considered.
 - Art. 15 (5) : This clause was added in 93rd amendment in 2005 and allows the state to make special provisions for backward classes or SCs or STs for admissions in private educational institutions, aided or unaided.
 - Art. 16(4): This clause allows the state to reserve vacancies in public service for any backward classes of the state that are not adequately represented in the public services.

- Art. 16 (4A): This allows the state to implement reservation in the matter of promotion for SCs and STs.
- Art. 16(4B): This allows the state to consider unfilled vacancies reserved for backward classes as a separate class of vacancies not subject to a limit of 50% reservation.

Agency for Monitoring Safeguards

1. Article 338 : National Commission for Scheduled Castes.

Constitutional Provisions relating to Persons with Disability and the Old

1. Article 41 : Right to work, to education and to public assistance in certain cases.

In Constitution of India, entry 24 in list III of Schedule IV deals with the “Welfare of Labour, including conditions of work, provident funds, liability for workmen’s compensations, invalidity and Old age pension and maternity benefits. Further, Item No. 9 of the State List and Item No. 20, 23 and 24 of the Concurrent List relates to old age pension, social security and social insurance, and economic and social planning.

Article 41 of the Directive Principle of the State Policy has particular relevance to Old Age Social Security. According to this Article, “the State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in case of undeserved want.”

Constitutional Provisions relating to Prevention of Substance Abuse

1. Article 47 : Duty of the State to raise the level of nutrition and the standard of living and to improve public health.

Constitutional Provisions relating to Children

Art. 19 A: Education up to 14 yrs has been made a fundamental right. Thus, the state is required to provide school education to children.

In the case of *Unni Krishnan vs State of AP*, SC held that right to education for children between 6 to 14 yrs of age is a fundamental right as it flows from Right to Life. After this decision, education was made a fundamental right explicitly through 86th amendment in 2002.

Art. 24: Children have a fundamental right against exploitation and it is prohibited to employ children below 14 yrs of age in factories and any hazardous processes. Recently the list of hazardous processes has been update to include domestic, hotel, and restaurant work.

Several PILs have been filed in the benefit of children. For example, *MC Mehta vs State of TN*, SC has held that children cannot be employed in match factories or which are directly connected with the process as it is hazardous for the children.

In the case of *Lakshmi Kant Pandey vs Union of India*, J Bhagwati has laid down guidelines for adoption of Indian children by foreigners. [source : legalservicesindia.com]

Art. 45: Urges the state to provide early childhood care and education for children up to 6 yrs of age.

Constitutional Provisions relating to Women

Art. 15(3): It allows the state to make special provisions for women and children. Several acts such as Dowry Prevention Act have been passed including the most recent one of Protection of women from domestic violence Act 2005.

Art. 23: Under the fundamental right against exploitation, flesh trade has been banned.

Art. 39: Ensures equal pay to women for equal work.

In the case of *Randhir Singh vs Union of India*, SC held that the concept of equal pay for equal work is indeed a constitutional goal and is capable of being enforced through constitutional remedies under Art. 32.

Art. 40: Provides 1/3 reservation in panchayat.

Art. 42: Provides free pregnancy care and delivery.

Art. 44: It urges the state to implement uniform civil code, which will help improve the condition of women across all religions. It has, however, not been implemented due to politics. In the case of *Sarla Mudgal vs Union of India*, SC has held that in Indian Republic there is to be only one nation i.e. Indian nation and no community could claim to be a separate entity on the basis of religion. There is a plan to provide reservation to women in parliament as well.

Some	General	Provisions
------	---------	------------

Definition of “State”

1. Article 12 : Definition [Part III : Fundamental Rights].
2. Article 36 : Definition [Part IV : Directive Principles of State Policy].

Division of Legislative & Executive Powers Between The Union & The States

1. Article 246 : Subject-matter of laws made by Parliament and by the Legislatures of States.
2. Article 73 : Extent of executive power of the Union.
3. Article 162 : Extent of executive power of the State.

Devolution of Powers and Responsibilities on Panchayat & Municipalities

1. Article 243G : Powers, Authority and Responsibilities of Panchayat.
2. Article 243W : Powers, Authority and Responsibilities of Municipalities, etc.

Seventh Schedule(See Art.246)

- Union List Entries 59, 97.
- State List Entries 8, 9.
- Concurrent List Entries 15, 16, 19, 20, 23.

Eleventh Schedule(See Art.243G)

- Entries 16, 17, 18, 19, 23, 24, 25, 26, 27, 28.

Twelfth Schedule(See Art.243W)

- Entries 3, 6, 9, 10, 11.

Statutory Provisions for Vulnerable Sections

1. The Protection of Civil Rights(PCR) Act, 1955 : For SC.
2. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 : For SC and ST.
3. The National Commission for Backward Classes Act, 1993 : For Backward Classes.
4. Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.
5. National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability Act, 1999.
6. Rehabilitation Council of India Act, 1992. : For PWD.
7. Maintenance and Welfare of Parents and Senior Citizens Act, 2007 : For Social Defense.
8. Dowry Prevention Act.
9. Protection of women from domestic violence Act 2005.

PS : The proposed Rights of Persons with Disabilities Bill, a comprehensive measure that covers a whole spectrum of problems from physical disabilities to mental illness and multiple disabilities will replace the Persons with Disabilities (Equal Opportunity Protection of Rights and Full Participation) Act of 1995.

Institutions for the development of vulnerable sections

1. National Institute of Social Defence.
2. Deen Dayal Upadhyaya Institute of Physically Handicapped, New Delhi.
3. National Institute for the Orthopaedically Handicapped, Kolkata.
4. National Institute of Visually Handicapped, Dehradun.
5. National Institute of Mentally Handicapped, Secunderabad.
6. Ali Yavar Jung National Institute for the Hearing Handicapped, Mumbai.
7. National Institute of Rehabilitation Training and Research, Cuttack.
8. National Institute for the Empowerment of Persons with Multiple Disabilities, Chennai.
9. Swami Vivekanand National Institute of Rehabilitation, Training & Research (SVNIRTAR), Orissa.
10. The Indian Sign Language Research and Training Centre, New Delhi.
11. The National Scheduled Castes Finance and Development Corporation.
12. The National Safai Karamcharis Finance and Development Corporation.
13. The National Backward Classes Finance and Development Corporation.
14. The National Handicapped Finance and Development Corporation.
15. Artificial Limbs Manufacturing Corporation, Kanpur.
16. Dr. Ambedkar Foundation.
17. Babu Jagjivan Ram National Foundation

Bodies for the development of vulnerable sections

1. National Commission for Scheduled Castes.

2. National Commission for Backward Classes.
3. National Commission for Safai Karamcharis.
4. National Commission for Scheduled Tribes – NCST.

STATUTORY BODIES FOR VULNERABLE SECTIONS

1. The Rehabilitation Council of India.
2. The Chief Commissioner for Persons with Disabilities.
3. The National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities.
4. National Commission for Women, New Delhi, India.
5. National Commission for Protection of Child Rights.
6. National Consumer Disputes Redressal Commission.
7. National Human Rights Commission, New Delhi, India.

8. SEVOTTAM MODEL

Sevottam Model is a model proposed by 2nd ARC (Administrative Reforms Commission) for public Service Delivery. The word, Sevottam, is a combination of two Hindi words: ‘Seva’ (service) and ‘Uttam’ (excellence). Sevottam Model is now regarded as a standard model for providing services in citizen centric governance. The model is developed by rectifying the drawbacks in the earlier mechanisms of public service delivery like Citizen Charters (CC), and is gradually adopted by various departments under Central and State government.

What is sevottam model, to be precise?

Sevottam model, a quality management framework applicable to public service delivery organisations, in all its departments. Service Delivery Excellence Model provides a framework for organisations to **assess and improve the quality of service delivery to citizens.**

Seven Steps in Sevottam Model

The model prescribes seven steps:

1. Define services and identify clients.
2. Set standards and norms for each service.
3. Develop capability to meet the set standards.
4. Perform to achieve the standards.
5. Monitor performance against the set standards.
6. Evaluate impact through an independent mechanism.
7. Continuous improvement based on monitoring and evaluation.

Three Modules in Sevottam Framework

The Sevottam framework has basically three modules. They are:

1. Citizen Charter.
2. Public Grievance Mechanism.

3. Service Delivery Capability.

Sevottam model in detail:

Sevottam model provides a standard for providing public service delivery in a citizen centric administration. Those organisations adopting Sevottam model for service delivery needs to comply the 7 steps and ensure the formulation of 3 modules. Indian Standard IS:15700:2005 formulated on basis of Sevottam.

MAIN OBJECTIVE:

Improve the quality of public service delivery in the country.

INTERMEDIATE OUTCOMES:

Intermediate outcomes are expected from compliance of conditions designed for each of these three components. These include Citizen Empowerment, Redress Satisfaction and Capacity Enhancement.

Defects of earlier systems of public service delivery:

Drawbacks of Citizens Charter

- Prepared without involvement of citizens/clients/stakeholders.
- No relation with service delivery improvement.
- Information about charter does not percolate down the line, hence not implemented.

Drawbacks in earlier Public Grievance Redress Mechanism

- Not in place in many organizations.
- Grievances not taken as feedback for improvement of services.
- Employees not trained for improvement of tasks assigned.

Defects in earlier Public Delivery Standards

- Not prescribed or not met due to inadequate infrastructure.
- Non involvement ,de-motivation and lack of training of employees at the cutting edge level.
- Lack of proper planning for optimum utilization of resources.

9.JALLIKATTU: HISTORY, COURT RULINGS, AND CONTROVERSY

Jallikattu is a bull taming event practiced in Tamil Nadu as a part of Pongal celebrations. Jallikattu is recently in news because of the Supreme Court rulings, Government interventions and agitations from the public against the Jallikattu ban. In this post, let's analyze, Jallikattu and other important issues associated with it in detail.

What is Jallikattu?

- Jallikattu is a sport conducted as a part of Mattu Pongal (the 3rd day of the four-day long harvest, Pongal).
- Jallikattu is also known as **eru thazhuvuthal or manju virattu**.
- The Tamil word 'Mattu' means bull and the 3rd day of Pongal is dedicated to cattle. Bulls get precedence over cows because it helps in the ploughing of field, pulling their cart of goods and mating with cows to produce more offspring and in turn more production of milk.
- Bulls are brought to a common place where the ritual happens. The participants are supposed to embrace the bull's hump and try to tame it by bringing the bull to a stop.
- Jallikattu is derived from the words 'calli' (coins) and 'kattu' (tie), which means a bundle of coins is tied to the bull's horns. In older times, the tamer sought to remove this bundle from the animal's head to win gold or silver. He would be called 'brave' and 'valourous' and would also sometimes be rewarded with a bride.

What is the history of Jallikattu?

- Jallikattu is believed to have been practiced since at least 2500 years.
- A seal from Indus Valley civilization depicting the practice is preserved in the National Museum, New Delhi.
- A cave painting that depicts a man trying to tame a bull is estimated to be 2500 years old by the Archaeologists.
- There are references to people enjoying witnessing and participating in Jallikattu in Silappatikaram one of the 5 great epics of Tamil classical period and 2 other ancient literary works like Kalithogai and Malaipadukadaam.

Why PETA and other animal rights activists want to ban Jallikattu?

- Bulls are deliberately placed in a terrifying situation in which they are forced to run away from a mob of men. The bulls are so frightened that in desperation they jump off barriers which result in fatal injuries. The participants and spectators are also at risk.
- Bulls are often provoked with alcohol, sticks, knives, sickles and even chilli powder in the eyes.
- Betting on the bulls is another problem.

Judgments on Jallikattu

- In 1991, the Environment Ministry had banned the training and exhibition of bears, monkeys, tigers, panthers and dogs. This was challenged by the Indian Circus organisation in the Delhi High Court but the court upheld the notification.
- The ban on Jallikattu itself has existed on and off since 2006.
- In 2006, the Madras High Court banned it after the death of a young spectator.
- In 2009, the ban was subsequently lifted with the Tamil Nadu Regulation of Jallikattu Act, 2009.
- In 2011, the Environment Ministry at the Center issued a notification especially mentioning 'bulls'.
- But even after the 2011 notice, the Jallikattu practice continued to be held because under the Tamil Nadu Regulation Act No. 27 of 2009.

- After it was found that the regulations were not being followed and that bulls were indeed being subjected to cruelty as defined under the Prevention of Cruelty to Animals Act, 1960, the Animal Welfare Board of India (AWBI) and People for the Ethical Treatment of Animals (PETA) filed a petition.
- In 2014, the Supreme Court banned Jallikattu and struck down the 2009 act.
- In January 2016, in what could be seen as a clearly political move, the union environment ministry revoked the ban by issuing a notification months before the elections in Tamil Nadu were due to be held.
- In January 2016, Supreme Court stayed this 2016 Union Government notification, as it was challenged by the AWBI and PETA. The case is still being heard and so far the Court has not delivered its final verdict.
- On 8 January 2017, several hundreds of protesters conducted a rally at Chennai Marina opposing the ban on Jallikattu. The participants walked from the lighthouse to the labour statue bearing posters saying 'save Jallikattu'. Following the protests at Chennai, many students started rallies in various towns of Tamil Nadu. Numerous illegal Jallikattu events were held across Tamil Nadu in protest of the ban, and hundreds of participants were detained by police in response.
- Due to these protests, on 21 January 2017, the Governor of Tamil Nadu issued a new ordinance that authorized the continuation of jallikattu events. The ordinance is a 'State amendment' to the Central Act – Prevention of Cruelty to Animals Act (1960). This means that in its application to Tamil Nadu, some provisions will be different from what they are for the rest of the country. PCA falls under Entry 17 (Prevention of Cruelty to Animals) in the Concurrent List of the Constitution. This means both the Centre and the States have concurrent power to enact laws on the subject.
- On 23 January 2017, the Tamil Nadu legislature passed a bi-partisan bill, with the accent of Indian President, exempting jallikattu from the Prevention of Cruelty to Animals Act (1960). But Prevention of Cruelty to Animals (Tamil Nadu Amendment) Act of 2017 is not much different from the state law overturned by Supreme Court in 2009.

Supporters arguments for continuing Jallikattu

- Jallikattu is a way through which farmers flaunt their personal strength, the strength of their bulls, love for their cattle and how well they have looked after them and a chance to find out the most potent bull to mate their cows.
- For a Tamilian, the bull is a member of the family and to establish their identity as a hardworking, self-sufficient and powerful Tamilian.
- The supporters of jallikattu argue that on the basis of these rare issues the Supreme Court cannot ban 2500 years old tradition.
- If the sport is banned, farmers will be forced to abandon the raising of native livestock (*Bos indicus* bull, such as the Pulikulam breed or Kangayam breed) which already stands threatened due to the extensive use of motor pumps, tractors, and mechanized agriculture.

What are the recent policies of India on Animal Advocacy?

- The National Green Tribunal placed an interim ban on glass-coated kite flying strings after a petition by PETA because it causes the death of many birds. The ban came just before Makar Sankranti.

- In December 2016, the Hyderabad High Court upheld the ban on cockfighting in Andhra Pradesh and Telangana, after a petition was filed by the AWBI, HSI India (Humane Society International), PFA, and other organisations.
- In 2016, an amendment to the Schedule Y of the Drugs and Cosmetic Rules, 1945, was passed by the Ministry of Health and Family Welfare, following appeals by PETA India, HSI India (Humane Society International), and the Union Minister Maneka Gandhi. The amendment prevents testing on animals for new drug including two cruel and obsolete drug tests on rabbits, including the Draize irritation test.
- In 2016, HSI India and People for Animals urged the Director General of Foreign Trade to take cognisance of animal welfare concerns related to the shipping and import of dogs that are not suitable to India's tropical climate, including Siberian huskies, St Bernard's, and Alaskan malamutes. They are often left out by the owners because they do not have a proper understanding of the breed's requirements.
- The Gujarat High court banned the caging of birds in Dadra and Nagar Haveli after an appeal was filed by PETA India, as it is the fundamental right of the bird to live freely in the open sky. If the birds are kept caged it will amount to illegal confinement.
- Following efforts by PETA India, new veterinary education regulations will eliminate the killings of calves. According to PETA, almost 1,000 calves are killed annually in India to teach veterinary anatomy and surgery to medical students, along with thousands of frogs, rats, guinea pigs, and rabbits. The regulations will include computer simulation, the setting up of an ethically-sourced body-donation programme and other humane teaching methods.

Conclusion

The legal situation surrounding jallikattu is as yet not clearly resolved. Prevention of Cruelty to Animals (Tamil Nadu Amendment) Act of 2017 is not much different from the state law overturned by Supreme Court in 2009. For the Supreme Court, the question of interim stay on Tamil Nadu's Jallikattu Amendment Act is still open.

The matter will only be truly resolved if the Prevention of Cruelty to Animals Act (PCA) is amended by the Parliament. State ordinances and state laws cannot overrule an Indian federal law.

Again, if Jallikattu is a part of Tamil culture, it has to be conducted with protection to animals and human beings. It should be regulated by an authority. Age old traditions and cultures need to be revisited if they are in violation of the laws of the land.

10.THE PROBLEMS OF MEDICAL EDUCATION IN INDIA – SHOULD THE MEDICAL COUNCIL OF INDIA (MCI) BE SCRAPPED?

In this post, we analyze the problems of Medical Education in India. We will also see if the inefficient working of **Medical Council of India (MCI)** has compounded the problems in the health sector. Then we analyze what **government** had done to alleviate the situation. Finally, we will examine what all needs to be done and included in the new **National Medical Commission Bill**.

The Paradox of Medical Care in India

India has the largest number of medical colleges and is also a booming market for medical tourism, but a large majority of citizens does not have access to the basic healthcare facilities. The **doctor-population**

ratio is far lower than prescribed by World Health Organisation (one for every 1,674 persons, as per the parliamentary panel report, against the WHO-recommended one to 1,000).

Medical Council of India (MCI)

Management of medical education in India should take the major responsibility of such a paradoxical trend. Medical Council of India (MCI) is the regulatory body for medical education and medical practices in India. Many blame MCI for problems in the India health sector. The solution to this situation lies mainly in reforming and revamping MCI.

However, Medical Council of India (MCI) has conducted many studies to identify the problems the medical field (Eg: Vision 2015 Report).

Vision 2015 report of MCI

MCI published a vision document, in which it has analyzed problems of healthcare sector and reforms needed to resolve them.

- 3 main reasons for India's healthcare woes:
 - Shortage of physicians (both generalists and specialists).
 - Inequitable distribution of manpower and resources.
 - Deficiencies in the quality of medical education.
- Proposed reforms:
 - Increase production of doctors.
 - Reform curriculum by a transition from a science-based curriculum to skills and competency-based curriculum.
 - There is a need to emphasis on **primary health care and family medicine**.
 - Medical institutions should be strengthened by investing in technology.

The final goal of the vision document is to produce world-class Indian doctors. Needless to say, this vision remained a mere vision, even in 2018, without any marked improvement in ground reality.

The Problems of Medical Education in India

Medical education in India faces many issues, some of which are identified in the vision document. Most important of them are:

1. Inter-state and intra-state inequality in the distribution of manpower and resources

- There is a huge disparity in availability of opportunities for students across states.
 - **2010 report by MHRD** had stated that four states – Andhra Pradesh, Karnataka, Maharashtra and Tamil Nadu – account for 1.3 lakh out of 2.4 lakh medical seats across India.
 - There is also a glaring rural-urban disparity in both availabilities of health care and colleges.
 - A blanket standard for starting a medical college leads to neglect of states like Arunachal Pradesh, Mizoram, Nagaland etc. and rural areas.
- Amidst this situation, new medical colleges can bring in uniformity of access across sates and fill the **demand-supply gap**.

2. Low doctor-population ratio

- One of the reasons for this low ratio is that only low number of medical graduates are passing out each year. Reasons include:
 - As MBBS students are unable to find jobs, they are forced to specialize in a particular field leading to a **Super-Specialty craze**.
 - Brain drain to developed countries is also one of the reasons for unavailability of doctors in India.
 - MCI regulations prevent experienced MBBS doctors from carrying out procedures like cesareans and ultrasound tests. Experienced nurses are barred from administering anaesthesia. This leads to failure of utilizing the experienced manpower to increase the service delivery.
 - This shortage of doctors is largely affected by **rural health care**.
 - Another casualty of the Super-specialty craze is **Research and teaching**, as no one is choosing research or teaching as their preferred career.

Single breed of doctors can't cater to all the needs, especially in a country as diverse as India. So medical colleges should sensitize students about all the available opportunities and the attached perks and perils. This will introduce various options available to the students to explore and choose the field best applicable to them.

3. Deficiencies in the quality of medical education

- There is no uniformity in selection students to medical colleges. A common entrance test at all India level is required to ensure this uniformity.
- Breakthroughs are frequent in the medical field, but syllabus is not updated adequately reflecting these new trends in the medical field.
- Lack of skilled teachers has afflicted all the educational paradigms of India. In the medical field, this issue is more critical. Here teachers are selected based on academic knowledge rather than clinical experience and adequate training is not imparted to them. Inadequate salary to teachers is also the main problem that makes this profession unattractive.
- No uniform quality standards of graduating doctors across India. There should be an exit test, that will bring parity to standards graduating from all medical colleges across India.

4. Lack of social accountability

- The medical profession is unique as it requires an amount of social responsibility and societal empathy. Newly graduated doctors are unaware or indifferent to their social responsibility. Colleges play a major role in infusing the young students with an empathetic attitude towards society. But instead, they are encouraging rote learning without the consideration of humanitarian dimension. Hippocratic oath is largely morphing into hypocrisy.

5. The recognition issue of foreign degrees

- MCI recognizes only a few medical courses from foreign universities. This becomes difficult for foreign graduated students to start practising in India.

6. Unregulated private colleges

- Change in rules brought about after the reforms of the 1990s made it easier to open private colleges. This has increased the number of medical colleges but leads to many undesired consequences.
- This commercialization of medical education had a profound impact on quality of graduate doctors, as anyone with money can buy seats in these colleges.
- MCI was incompetent to deal with this influx of commercialization and **capitation fee** skyrocketed, leading to **corruption** and black money circulation.
- Thus sanctity of education was lost as medical education became a field for unscrupulous practice and profit gain than imparting education and providing quality doctors. This has resulted in an unhealthy competition which in-turn lead to unreasonable medical practices and unwarranted diagnostics as graduates from these institutions wanted to recover their capitation fees at the earliest. Eventually, this leads to complete crowding out of the societal and humanitarian dimension of medical education from colleges.

Medical Council of India (MCI) – History | Objectives | Issues

Indian education system is regulated by Medical Council of India. From setting standards of education to approving colleges and setting ethical guidelines for doctors, are vested in this single institution. So the working of the same will be the main determinant of the success of medical education in India. Given the maladies of the medical education system, an overhaul of MCI is the first and foremost step of rescuing the medical system from its current rot.

History of MCI

- MCI is a statutory body for establishing uniform and high standards of medical education in India.
- It was established in 1934 under the Indian Medical Council Act, 1933. It later reconstituted under the **Indian Medical Council Act, 1956**.
- But the controversy over corruption plagued the institution as it was dissolved by the President of India in 2010 following the arrest of MCI's president Ketan Desai under the Prevention of Corruption Act.
- It was then reconstituted in 2013. After several committee reports and court orders, the government introduced National Medical Council bill in 2018.

Objectives of MCI

- Maintenance of uniform standards of medical education, for both undergraduate and postgraduate courses.
- Recommendation for recognition/de-recognition of medical qualifications of medical institutions of India or foreign countries.
- Permanent registration/provisional **registration of doctors** with recognized medical qualifications.
- Reciprocity with foreign countries in the matter of mutual recognition of medical qualifications.

Issues of MCI

- ***Separation of regulatory powers***
 - The council regulates medical education as well as medical practice leading to the centralization of all regulatory functions in one single body.

- There should be a separation between the **regulation of medical education** from **regulation of medical practice**. **Expert committee- Ranjit Roy committee 2014** –recommended structural re-configuration of the council by separation of power.
- **Composition of MCI**
 - Most of the members of the MCI are elected.
 - **NITI Aayog Committee (2016)** noted that there will be a conflict of interest if members are elected. Because if the regulator is elected by the same fraternity that it would monitor, it will become ineffective and also prevents the entry of skilled professionals for the job. The Committee recommended the appointment of regulators through an independent selection process than elections.
- **Fee Regulation**
 - MCI is authorized for fee regulation of private colleges.
 - **NITI Aayog Committee (2016)** recommended against this practice as it will lead to corruption and increased capitation fees. Fee cap will discourage the entry of genuine private colleges, limiting the expansion of medical education in the country. Disallowing for-profit medical education has driven profit-taking underground with various kinds of inventive fee structures by medical colleges.
- **Professional conduct**
 - **Standing Committee on Health (2016)** observed that the present focus of the MCI is only on licensing of medical colleges and no emphasis given to the enforcement of medical ethics in education and on instances of corruption noted within the MCI.
 - Committee recommended that the areas of medical education and medical practice should be separated in terms of enforcement of the appropriate ethics for each of these stages.

Thus, now MCI has evolved into a body that has become a powerful rationing authority, controlled by those who it is supposed to be regulating, that is powerful medical colleges and medical professionals.

Various Committees on Medical Education in India

1. Ranjit Roy committee 2014

Amidst these crises, the government appointed a high power committee under the chairmanship of Ranjith Roy to look into the issue comprehensively and recommend reforms. Thus the committee has given recommendations, which form the basis of current restructuring of medical education in India. Important recommendations are:

- An **umbrella body – National Medical Commission (NMC)** should be constituted through a new act
- National Medical Commission should have an Appellate Tribunal and four independent and autonomous boards viz.
 - Under-Graduate medical Education Board (UGMEB),
 - Post-Graduate Medical Education Board (PGMED),
 - Medical Assessment and Rating Board (MARB)
 - Ethics and Medical Registration Board (EMRB).
- Steps to be taken to decrease the cost of medical education in India.
- Regional accessibility should be increased.
- Doctor to patient ratio should be increased.
- Common entrance exam should be conducted.

A parliamentary committee to overhaul MCI was constituted to study Ranjith Roy committee report.

2. Parliamentary standing committee to overhaul MCI 2016 – Prof Ram Gopal Yadav

Major observations of the committee are:

- The committee called MCI a “club” of influential medical practitioners who act without any fear of government and regulations.
- There was widespread corruption in granting approval for setting up medical colleges and prevalence of ‘random’ and opaque inspections as a scrupulous method for corruption.
- The committee finds MCI as responsible for the prevailing pathetic state of health care and low standard of conduct of medical practitioners and hospitals.
- It opined that the composition of MCI neither represent professional excellence nor follows medical ethos. More than half of the members are either from corporate hospitals or in private practice, carrying out unnecessary diagnostic tests and surgical procedures and flouting government rules and regulations, especially about treating patients from underprivileged backgrounds.

The committee asked the government to implement Prof Ranjit Roy Chaudhury committee. The government has introduced NEET exam as a common entrance test from 2016. But on other recommendations, government dragged its feet. Supreme Court ordered an oversight committee under Justice Lodha. Thus the inefficiency of government or executive paved the way for

3. Oversight committee under Justice Lodha 2016

Supreme Court set up an **oversight committee under Justice Lodha** while endorsing Parliamentary standing committee report, through **Article 142**, to bring in transparency and accountability within the MCI and oversee its statutory functioning. But a turf war between the Supreme court established the oversight committee and MCI hindered reform measures Then the government-appointed a team of five eminent doctors to oversee the medical regulatory body as the 1-year mandate of oversight committee ended.

National Medical Council Bill 2018 – Concerns and Solutions

Thus we have seen that there are many maladies in medical education in India, most of which roots back to the inefficient functioning of the regulator, the MCI. After a parliamentary committee report and an oversight committee by the Supreme Court, finally, the government have introduced a new bill, titled **National Medical Council 2018**. It is currently being debated in parliament. As the bill is being debated, we will look into the issues that are needed to be addressed in the bill:

#Issue 1 – Inequitable distribution of manpower and resources

- A fixed percentage of seats in each private colleges with government-determined fee structure will cater to economically underprivileged meritorious students. This can meet the issue of access to medical education by weaker sections.
- Removing bottlenecks to starting colleges, such as conditions stipulating the possession of a vast extent of land and needlessly extensive infrastructure, will considerably rectify the imbalance, especially in under-served States. The primary criterion to set up a college should only be the availability of suitable facilities to impart quality medical education.

#Issue 2 – Low doctor-population ratio

- Ending the fee cap and allowing private medical colleges to start new **for-profit colleges**.
 - This will meet the supply side constraints of medical practice in India by increasing number of doctors. It will also eliminate the regulatory-capture of the medical field in India.
 - this will also reduce corruption and black money generation simultaneously increasing the government revenue. Also, competition among private colleges will decrease the fees, making medical education accessible to all sections of society.
- **Bridge courses which** allow alternative-medicine practitioners (AYUSH) to prescribe modern drugs. (in line with barefoot doctors in China) can broad-base pyramid of health sector by increasing doctors in primary and secondary sector.
- Empowering experienced doctors and nurses for taking additional responsibilities will be a method for optimal utilization of experienced manpower to give health care services.
- three-year diploma course for rural medical-care providers, in lines of the Licentiate Medical Practitioners(before 1946), to take up the additional responsibilities of the healthcare sector
- Leverage practitioners in **AYUSH** to meet doctor deficit through **cross-practising**. **Shailaja Chandra report 2013** had opined that National Rural Health Mission had recruited AYUSH physicians as the sole care provider in many states, which were effective in meeting the requirement of health care providers. The report recommended training those AYUSH physicians to meet demands in **Primary Health Centres**.

#Issue 3 – Deficiencies in the quality of medical education

- **National licentiate examination** for doctors to practice medicine can help to restore public confidence in the competence of medical practitioners by ensuring uniform quality standards across India. Entrance level non-uniformity is met with the introduction of NEET
- Indian healthcare system should incorporate the **Psycho Socio-Ecological (PSE) model of health**. PSE focuses on **social determinants of health** with an emphasis on **health promotion and disease prevention**
- Medical education pedagogy should be improved by frequently revamping syllabus with respect to new breakthroughs in the medical field. The curriculum should include training on emerging technologies and models of healthcare delivery.
- India doesn't follow the use of **OSCEs (objective structured clinical exams)** to test medical candidates. Thus, their clinical skills are not tested till they start practising.

#Issue 4 – Lack of social accountability

- Need to align medical education with societal needs and expectations than work in isolation. For this **community-based education** is needed.

#Issue 5 – Revamping MCI

- Separation of power between medical education and medical practice should be the first step in reforming the MCI.
- There should be an independent selection committee to select members in NMC than electing the members as is done previously with MCI.
- the annual inspection should be scrapped with one-time registration and licensing, thus nullifying the scope of corruption through random inspections.

- There should be an independent accreditation and rating agency to inspect and rate colleges on basic standards and a penalty for not conforming with set standards.
- To reflect interests and concerns of states, an advisory body consisting of representatives from all states and UT should be constituted to advise NMC. Because each state has varied requirements and for a federal nation like India, a one-size-fits-all policy is not suitable. This will lead to issues, like that of Tamil Nadu during the implementation of NEET, to crop up.

Conclusion

Indian higher education system has a common problem concerning with incapacity of regulators like UGC, AICTE, MCI etc. A common problem of these institutions is the **concentration of power as they regulate both educational practices and professional practices** leading to a conflict of interest. There is a need for comprehensive reforms to usher in governance reforms for cleansing Indian higher education system of its maladies.

Moreover, all stakeholders should acknowledge that medical education has a special sanctity in itself. This should not be lost to the altar of profit-making.

As from above discussion, it is clear that a complete surgery of Indian medical education system is needed in order to cure cancer with which it has been afflicted. NMC act will be a watershed act in this respect. For a bill of such huge scope, it is prudent to have wide-ranging debates and discussions. So delay in the passage of the act is worth the while for waiting.

11. RIGHT TO RECALL – CAN THIS CLEAN UP THE INDIAN POLITICAL SYSTEM?

In Indian democracy, the term of an MP or an MLA is 5 years (the term of the house). There exists no recourse for the electorate if they are unhappy with their elected representative. What if they have a right to recall legislators before the end of the term?

What is Right to Recall?

Recall refers to the condition when a person who has been elected be removed from his office before the end of his term by a direct vote.

Right to Recall (RTR) confers **the electorate a right of recall** that can be initiated by any elector within a particular constituency through a recall petition signed by not less than one-fourth of the total number of electors. It is found in many contemporary constitutions. Canada and the US also allow the right to recall on grounds of misfeasance and misconduct.

Should we recall the representatives we elected?

There are numerous instances in India which could demonstrate the said proposition, for instance:

1. Sri Prakash Jaiswal has openly rejected the findings of the CAG report on the coal-gate scam.
2. Vilasrao Deshmukh has allegedly been involved in the infamous Adarsh Society scam.
3. A. Raja had engaged in massive corruption during the allocation of 2G-spectrum etc.

In this backdrop, there has been a wide-spread demand to have a right to recall or a right to de-elect our elected representatives.

The progress of ‘Right to Recall’ in India

- In **2016**, Varun Gandhi introduced ‘**The Representation of the People (Amendment) Bill**’ in Lok Sabha **to recall MPs, MLAs for the non-performance**. However, the concept of Right to Recall was not a new one in India.
- The concept of “**Rajdharma**” during the Vedic times is similar to the concept of Right to Recall. In this system, the king was removed when there is a lack of effective governance.
- In 1944, M.N. Roy proposed the decentralisation and devolution of governance which will allow for the election and recall of representatives.
- The ‘Right to recall’ was stated by Somnath Chatterjee when he said that it can be used for accountability purposes.
- The **Representation of Peoples Act (RPA) 1951 talks about Right to Recall**. RPA does not account the ground of incompetence or the dissatisfaction of the electorate as the ground for recall and vacation. It only provides for the vacation of the office upon the commission of the certain offence.
- Right to recall exists in the local bodies of Bihar, Madhya Pradesh, and Chhattisgarh.

The Judiciary’s take on the Right to Recall

In the case of *Mohan Lal Tripathi Vs. District Magistrate, Rae Bareilly and Ors.*, the Supreme Court of India opined that:

“A President who is elected by the entire electorate when removed by such members of the Board who have also been elected by the people is in fact removal by the electorate itself. The Board represents the entire electorate as they are representatives of the people although smaller in the body. Such provision neither violates the spirit nor purpose of recall of an elected representative.”

However, the Allahabad High Court later in the case of *Smt. Ram Beti Vs. District Panchayat Raj Adhikari and Ors.* advised that the provisions of removal of the representative could be made more stringent by restoring the old provisions of recall by Gram Sabha i.e. by the electors themselves.

The position taken by the Supreme Court appears to be quite dangerous and therefore, the advice was given by the Allahabad High Court indeed holds substance. Therefore, the interests of justice and fairness demand that the de facto power to remove the representatives should be with the electorate itself and not the representatives of the electorate.

What are the advantages of Right to Recall?

- It gives the power to ensure vertical accountability of a person in a democracy.
- Criminalization of politics would reduce.
- Raise inclusiveness and engender direct democracy.
- Election promises would be fulfilled by the representative due to the apprehension that he may be kicked out if he does not keep promises.
- The free and fair election is the very essence of the democracy. The people should decide according to their confidence on the elected one who should be elected and who can be removed.
- To deepen democracy, the right to recall must be given hand in hand with the right to vote.
- Having the system of recall will deter candidates from spending crores of money in campaigning for the elections because they will always have a fear of being recalled.

What are the disadvantages of Right to Recall?

- Right to recall creates an additional burden on the Election Commission.
- It will also place undue pressure on limited resources such as manpower, time, money etc.
- The criteria provided for recall viz., the dissatisfaction of the electorate with the performance of the candidate, is vague and provides immense scope for misuse.
- The representative would be under constant pressure to work the way people want him.
- There is an uncertainty of the time period he would be serving the public. This uncertainty would make it hard to make plans/policies which yield substantial results in long-term.
- Political rivals would make an issue out of smallest of the mistake of the representative and demand a recall election.
- Representatives would keep spending lots of money just to please people.
- There will be a state constant political turmoil and politicians would be busy saving seat instead of working for development.
- It is contentious as to whether the right to recall will instil vertical accountability. For instance, the existence of local self-government has not automatically led to the improvement of vertical accountability across India.
- In a polity, which is yet to have an efficient and impartial bureaucracy, it is contentious as to whether the right to recall has met expectations vis-à-vis the limited number of local self-government frameworks which provide such right to the electorate (as in the case of Madhya Pradesh).
- Even though the right to recall is intuitive, it must be rejected as it does not satisfy the test of pragmatism.
- Primarily, it leads to 'excess' of democracy and this will hamper the independence of the legislators.

Way forward

- Granting of **Right to Reject** is a balanced option. It is safer and would not lead to constant political upheaval. Parties would be forced to give a ticket to a candidate with clean and good past record. Good representatives can actually be expected to keep up their performance for next five years.
- Legislative change is required to bring about right to recall.
- Built-in safeguards should be there.
- However, the right to recall should not be misused to harass the elected representatives.
- The electronic voting procedure should be used.
- It should be ensured that the representatives cannot be recalled by a small margin of voters.
- It should represent the mandate of the people.
- Moreover, any elected person when found to be engaged in the corrupt practice or any misdeed can be removed from his position.

12. ELECTRONIC VOTING MACHINES (EVMS): CAN THEY BE TAMPERED WITH?

In 2017, after the election results in 5 states of Punjab, Manipur, UP, Goa, and Uttarakhand are announced there have been allegations of tampering of Electronic Voting Machines (EVMs). This has put a question mark on the fairness of elections in our democracy. Let us discuss EVMs in detail and see whether they can be tampered with or not.

What are Electronic Voting Machines (EVMs) and how does it work?

- EVMs are electronic voting machines which provide the voter with a button for each choice and it is connected by a cable to an electronic ballot box.
- It consists of two units – **control unit** and **balloting unit**– which are connected by a 5-metre cable.
- The control unit is with the Election Commission appointed polling officer and the Balloting Unit is in the voting compartment into which the voter enters to cast his/her vote in secret by pressing the button against the name and symbol of the candidate of his/her choice.
- The EVM runs on a 6-volt single alkaline battery fitted in the control unit, and can even be used in areas that have no electricity.

Why did India replace paper ballots with Electronic Voting Machine?

- Inherent problems of paper ballots – their printing, storage, and transportation involve huge expenditure, lakhs of ballot boxes need for each election and logistics issues with their safe storage between elections.
- Using EVMs mean doing away with paper ballots, thus save paper and hence trees.
- It makes the voting process very simple and easy.
- EVMs, in the long run, are cost effective.
- EVMs don't require electricity and run on batteries.
- EVMs are lighter and portable as compared to huge ballot boxes.
- EVMs have made the vote counting process much faster, delivering results in hours as against manual counting of votes.

When were Electronic Voting Machines first used in elections?

EVMs were used on experimental basis for the first time in 16 Assembly Constituencies in the States of Madhya Pradesh, Rajasthan and NCT of Delhi in 1998. In the Lok Sabha elections of 2004, the entire country voted using EVMs.

What is the latest controversy about Electronic Voting Machines?

- The opposition parties have alleged that the EVMs have been tampered with in favour of the ruling party.
- This allegation is not new and both political parties and experts have repeatedly questioned the functioning of EVMs since its adoption.
- Following are the ways the doubters allege EVMs can be tampered with:

Before Polling

- Chips/components replaced with look-alikes that favour particular party.
- To beat mock drills, manipulation programmed such that it kicks in only once when voting has been going on for a while. So mock poll shows correct results but final tally dodgy.
- A chip with a Bluetooth link placed in an EVM controlled from a mobile phone.

During polling

- EVMs can be rigged to switch votes between the candidates.

- The voter can't know whether the vote reported is same as vote the cast.
- It is alleged that recorded vote may never be cast.
- There is no reliable way to detect errors in the recording of votes.

After voting

- Portable hardware devices can change vote records stored in the machines (can be carried out by local officials).
- Physical seals on EVMs consists of stickers, string, and red wax is not difficult to tinker with.

Note: Further Two PSUs Bharat Electronics Limited (BEL) and Electronics Corporation of India Limited (ECIL) which manufacture EVMs engage others, including foreign firms, to make EVM chips which can be a potential hazard.

Note: It is to be noted that hacking of EVMs is apparently not possible as these have no internet connection.

How has the world treated Electronic Voting Machines?

- Germany ended electronic voting in 2009 on grounds that system lacked transparency. The court ruled electronic voting as unconstitutional.
- Netherlands banned EVMs in 2007 after an anti-EVM group showed how the machines could be manipulated within 5 minutes without anybody spotting the fraud.
- In the US, states that use electronic voting make a paper trail mandatory.
- England and France have never used EVMs.
- Italy felt e-voting results could be fudged.
- Ireland junked EVMs after spending 51 million pounds researching them for 3 years.

Election Commission's response to criticisms

- In 2009, ECI invited skeptics to demonstrate the alleged fallibility of EVMs, using 100 randomly sourced machines from 10 states. The outcome was that none of the persons who were given opportunity could demonstrate that ECI-EVM could be tampered in any of the 100 machines put on display.
- ECI said that EVMs can neither be reprogrammed nor controlled by the external device. The source code is so designed that it allows the voter to cast the vote only once. The next vote can be recorded only after the Presiding Officer enables the ballot on the Control Unit. In between, the machine becomes dead to any signal from outside.
- The Commission said that the comparison between EVMs in India and abroad, where they have failed, are both misplaced and misguided. This is because most of the systems used in other countries are PC based and running on the operating system. Hence they are vulnerable to hacking. But EVMs in India are the standalone machine without being part of any input. The software in the chip is one time programmable and is burnt into the chip at the time of manufacture. Nothing can be written on the chip after manufacture. Thus there is a fundamental difference between EVMs in India and abroad.

Voter Verified Paper Audit Trail (VVPAT)

- Following a PIL by Subramanian Swamy, Supreme Court asked EC to introduce VVPAT.
- VVPAT is a slip generated in a printer-like a machine attached to EVM and flashes voter's choice of candidate and party. Generated slip is shown for a few seconds to the voter to cross check before it falls into a sealed drop box which can be opened during counting. Under VVPATs, initially, election results are announced based on the recording of votes given by EVMs. If the election results are disputed, then the votes recorded under Paper Trail System shall be counted and announced. If there is any discrepancy between the two results, then the result given by VVPAT will prevail over the EVMs.
- The Supreme Court has supported the EC endeavor to use VVPATs in a phased manner to usher in more transparency in voting.
- The Election Commission would need over 16 lakh paper trail machines, which dispel doubts about votes cast using EVMs, to cover all polling stations in the 2019 Lok Sabha elections.
- Since June 2014, the Commission has given at least 11 reminders to the government seeking funds for VVPAT machines.
- ECIL and BEL, two PSUs which manufacture VVPATs and EVMs, need 30 months to manufacture the required number of VVPAT units from the day funds are released.
- There are challenges and concerns with VVPAT too.

Centre State Relations

Short Answers

PKP-01 by Dr Mamta Pathania

22

TABLE OF CONTENTS

1. Inter State Council vs National Development Council: Difference.....	5
Inter-State Council	5
National Development Council.....	5
Other initiatives for Inter-State Co-operation	6
2. NITI Aayog: The new 'think-tank' to replace Planning Commission	6
What's new with NITI Aayog?	6
NITI Aayog: Know more	6
NITI Aayog: Objectives and Opportunities	7
NITI Aayog: Aims	7
Structure and Composition of NITI Aayog.....	7
Regional Councils	8
Full-time Organisational Framework:	8
NITI Aayog specialized Wings	8
Difference between NITI Aayog and Planning Commission.....	9
Niti Aayog: Criticism.....	9
Conclusion.....	10
3. All-India Judicial Services (AIJS): Should it be formed?.....	10
Prime Minister Narendra Modi while addressing a function to celebrate the completion of 50 years of Delhi High Court on October 31, 2016, sought a debate on creating the All-India Judicial Services. The present government has tried to convince parties to support its move to set up an all-India judicial service (AIJS), on the lines of all-India Civil Services.....	
What is the history of All-India Judicial Services (AIJS)?.....	10
What is the proposal for selection into AIJS?	11
What are the chronological events?	11
Arguments in favour of All-India Judicial Services	11
Arguments against All-India Judicial Services.....	11
Reports mentioning All India Judicial Services.....	12
Way forward	13
4. Indian Federalism – 15 Issues that Challenge the Federal Structure of India	13
Is India a true federation?	13
Federal Features of the India Union.....	13
Unitary Features of the Constitution.....	14
Importance of Federalism in India	14
5. 15 Issues and Challenges faced by Indian Federalism	14
1. Regionalism	14
2. Division of Powers	15

3. Absence of Fiscal Federalism.....	15
4. Unequal Representation of Units	16
5. Centralized Amendment Power	16
6. The Indestructible Union with Destructible Units	16
7. Office of the governor.....	17
8. Single Constitution and Citizenship	17
9. Integrated Services.....	17
10. Centralised Planning	17
11. Language Conflicts.....	18
12. Issue of Religion	18
13. Economic Incompatibilities of the units	18
14. Physical Environment	18
15. External forces	18
6. Should India continue with the federal form of government?.....	19
Critical Assessment of Federal System in India	19
Questions based on the topic 'issues and challenges pertaining to the federal structure of India'	20
7. Inter-State River Water Disputes in India: Is it time for a new mechanism rather than tribunals?	22
Water in the Constitution of India.....	22
Article 262 of the Indian Constitution:	22
Parliament has enacted two laws according to Article 262:	23
1) River Board Act, 1956.....	23
2) Inter-State Water Dispute Act, 1956	23
The Present Mechanism to resolve the inter-state river water disputes in India.....	23
Active River Water sharing Tribunals in India.....	23
Inter-State river water disputes under the Inter-State River Water Disputes Act (ISRWD), 1956.....	23
Inter-State Water Dispute Act, 1956: Extra Ordinary Delays in the execution and implementation	24
Solution: Amendments to the Act in 2002	24
But still, there were issues... ..	24
New Solution: Inter-State Water Disputes (Amendment) Bill, 2017 – Dispute Resolution Committee and Single Permanent Tribunal.....	25
The Case Studies of recent Inter-State River Water Disputes in the news	25
1) Cauvery Water Dispute.....	25
2) Satluj Yamuna Link Canal Issue	26

Inter-State River Water Disputes: The Conclusion	26
8.Simultaneous Elections: Will this be good for India?	26
What is meant by simultaneous elections?	27
The idea of simultaneous elections	27
Advantages of simultaneous elections.....	27
Arguments against simultaneous elections.....	28
Some constitutional questions.....	28
Shekhawat solution	29
Various reports	29
Impact on voter behavior.....	29
A case for frequent elections	29
Conclusion.....	30

1. INTER STATE COUNCIL VS NATIONAL DEVELOPMENT COUNCIL: DIFFERENCE

India, being a federal republic, needs coordination between the Center and the States in many political, administrative, and governance affairs. In order to avoid conflicts, the division of powers is clearly specified through the three lists in Schedule 7 ie. Union list, State list, and Concurrent List. Inter-State Council and National Development Council are other mechanisms/ discussion platforms for conflict resolution between the Center and States.

Inter-State Council

1. Constitutional Body – Article 263.
2. Based on the Sarkaria Commission recommendation(1983).
3. Formed in 1990.
4. Investigate and discuss the subjects of common interest between the Union and State(s) or among the States.
5. The present composition of the Inter-State Council is as follows:
 1. Prime Minister (Chairman).
 2. Chief Ministers of all States.
 3. Chief Ministers of Union Territories having a Legislative Assembly and Administrators of UTs not having a Legislative Assembly and Governors of States under President's Rule (Governor's Rule in the case of J&K).
 4. **Six Ministers of Cabinet rank** in the Union Council of Ministers to be nominated by the Prime Minister.
 5. **Four Ministers of Cabinet rank as Permanent invitees.**

National Development Council

1. Non-constitutional and non-statutory.
2. Also known as Rashtriya Vikas Parishad.
3. It was set up on August 6, 1952.
4. NDC's objective is to strengthen and mobilize the effort and resources of the nation in support of the Plan.
5. The National Development Council is presided over by the Prime Minister of India and includes **all Union Ministers**, Chief Ministers of all the States, and Administrators of Union Territories and **Members of the Planning Commission**. Ministers of State with independent charge are also invited to the deliberations of the Council.

Other initiatives for Inter-State Co-operation

The zonal council is another statutory body for inter-state co-operation. You may also note River Water Tribunals. Aspirants are also asked to go through in detail Sarkaria commission recommendations and Punchi commission recommendations.

2. NITI AAYOG: THE NEW 'THINK-TANK' TO REPLACE PLANNING COMMISSION

Government of India has replaced the old planning commission started in 1950 with a new institution called NITI Aayog on 1 January 2015. It works under the chairmanship of Prime Minister. NITI Aayog (National Institution for Transforming India) will seek to provide a critical directional and strategic input into the development process. It focuses on co-operative federalism.

What's new with NITI Aayog?

The centre-to-state one-way flow of policy, that was the hallmark of the Planning Commission era, is now sought to be replaced by a genuine and continuing partnership of states.

- NITI Aayog = more a “think tank” than a finance distributing agency.
- NITI Aayog will provide Governments at the central and state levels with relevant strategic and technical advice across the spectrum of key elements of the policy.
- With NITI Aayog, there will be multi-directional flow of policy (from Center to States, from States to Center, between ministries etc.)
- Better inter-ministry coordination.
- The NITI Aayog will develop mechanisms to formulate credible plans to the village level and aggregate these progressively at higher levels of government.
- The NITI Aayog will create a **knowledge, innovation and entrepreneurial support system** through a collaborative community of national and international experts.

NITI Aayog: Know more

- The National institution for Transforming India will act as a catalyst for the development by a holistic approach.
- NITI Aayog is based on the 7 pillars of effective governance – (1) Pro-People (2) Pro-Activity (3) Participation (4) Empowering (5) Inclusion of all (6) Equality (7) Transparency.
- In NITI Aayog, the state governments has an equal role in nation's development process and NITI Aayog promises the principle of co-operative federalism.
- NITI Aayog is planned as a think tank institution which stands not only as a hub for knowledge but also for good governance.
- It's a platform for monitoring and implementation of all government policies by bringing together various ministries at the center and state level.
- Priorities include upliftment of the poor, marginalized and downtrodden.
- Empower vulnerable and marginalized sections, redressing identity-based inequalities of all kinds – gender, region, religion, caste or class.

NITI Aayog: Objectives and Opportunities

NITI Aayog will aim to accomplish the following objectives and opportunities:

- An administration paradigm in which the Government is an **“enabler”** rather than a “provider of first and last resort.”
- Progress from “food security” to focus on a mix of agricultural production, as well as **actual returns that farmers get from their produce.**
- Ensure that **India is an active player in the debates and deliberations** on the global commons.
- Ensure that the economically vibrant middle-class remains engaged, and its **potential is fully realized.**
- Leverage **India’s pool of entrepreneurial, scientific and intellectual human capital.**
- Incorporate the **significant geo-economic and geo-political strength of the Non-Resident Indian Community.**
- Use urbanization as an opportunity to create a **wholesome and secure habitat through the use of modern technology.**
- **Use technology to reduce opacity** and potential for misadventures in governance.

NITI Aayog: Aims

The NITI Aayog aims to enable India to better face complex challenges, through the following:

- Leveraging of India’s demographic dividend, and realization of the potential of youth, men and women, through education, skill development, elimination of gender bias, and employment
- Elimination of poverty, and the chance for every Indian to live a life of dignity and self-respect
- Reddressal of inequalities based on gender bias, caste and economic disparities
- Integrate villages institutionally into the development process
- Policy support to more than 50 million small businesses, which are a major source of employment creation
- Safeguarding of our environmental and ecological assets

Structure and Composition of NITI Aayog

- **Chairperson:** Prime Minister of India
- **Governing Council:** Comprising the Chief Ministers of all States and Lt. Governors of Union Territories.
- **Regional Councils:** Will be formed to address specific issues and contingencies impacting more than one state or region.

Strategy and Planning in the NITI Aayog will be anchored from State-level. Regional Councils will be convened by the Prime Minister for identified priority domains, put under the joint leadership of related sub-groups of States (grouped around commonalities which could be geographic, economic, social or otherwise) and Central Ministries.

Regional Councils

- Have specified tenures, with the mandate to evolve a strategy and oversee implementation.
- Be jointly headed by one of the groups Chief Ministers (on a rotational basis or otherwise) and a corresponding Central Minister.
- Include the sectoral Central Ministers and Secretaries concerned, as well as State Ministers and Secretaries. It will be linked to corresponding domain experts and academic institutions.
- Have a dedicated support cell in the NITI Aayog Secretariat.
- States would thus be empowered to drive the national agenda. As a consequence, deliberation would be more grass-roots informed, and recommendations would have more ownership, given their joint formulation.
- Special Invitees: experts, specialists and practitioners with relevant domain knowledge as special invitees nominated by the Prime Minister.

Full-time Organisational Framework:

Will comprise of, in addition to the Prime Minister as the Chairperson:

1. Vice-Chairperson: to be appointed by the Prime Minister.
2. Members: full-time: specialists with international exposure.
3. Part-time Members: maximum of 2, from leading universities, research organizations and other relevant institutions in an ex-officio capacity. Part-time members will be on a rotational basis.
4. Ex-Officio Members: maximum of 4 members of the Union Council of Ministers to be nominated by the Prime Minister.
5. Chief Executive Officer: to be appointed by the Prime Minister for a fixed tenure, in the rank of Secretary to the Government of India.
6. Secretariat: as deemed necessary.

NITI Aayog specialized Wings

- Research Wing – that will develop in-house sectoral expertise as a dedicated think tank of top domain experts, specialists and scholars.
- Consultancy Wing – that will provide a marketplace of whetted panels of expertise and funding for Central and State Governments to tap into; matching their requirements with solution providers, public and private, national and international. By playing matchmaker instead of providing the entire service itself, NITI Aayog will be able to focus its resources on priority matters, providing guidance and an overall quality check to the rest.
- Team India Wing – comprising representatives from every State and Ministry, will serve as a permanent platform for national collaboration.

Difference between NITI Aayog and Planning Commission

ORGANIZATION:

- Planning Commission – Had deputy chairperson, a member secretary, and full-time members. Secretaries or member secretaries appointed by the usual process.
- NITI Aayog – New posts of CEO of secretary rank, and Vice-Chairperson. Will also have five full-time members and two part-time members. Four cabinet ministers will serve as ex-officio members. CEO is appointed directly by Prime Minister.

PLANNING:

- Planning commission goes for top-down planning for government with public sector resources.
- NITI ayog formulate national development strategy in a market economy integrated with the globalized world.

RELATION WITH STATES

- The planning commission was a central government institution and no representation of state government. There was no structural mechanism for interaction with states.
- NITI ayog provides a partnership with state governments to promote co-operative federalism. It provides a platform for structured and regular interaction with states.

FINANCE

- The role of Finance Commission was greatly reduced with the formation of Planning Commission. Allocation of funds were decided by the Planning Commission.
- NITI ayog don't any role in fund allocation. Finance ministry to decide the share of taxes to states, fund allocation to CSS and Union assistance to the state plan.

CONSTITUTION AND REPORTING

- Planning Commission- The commission reported to National Development Council that had State Chief Ministers and Lieutenant governors.
- Niti Aayog – Governing Council has State Chief Ministers and Lieutenant Governors.

Niti Aayog: Criticism

- Like planning commission, it's also a non-constitutional body which is not responsible to parliament.
- Dismantled planning commission without consulting the states.
- UTs are represented by Lieutenant Governors, not by chief ministers. This is against the principles of federalism.
- Fund allocation to welfare schemes may get affected. For example, there is a 20 % reduction in gender budgeting.

Conclusion

NITI Aayog will function in close cooperation, consultation and coordination with the Ministries of the Central Government and State governments. While it will make recommendations to the Central and State Governments, the responsibility for taking and implementing decisions will rest with them. NITI Aayog will seek to facilitate and empower the critical requirement of good governance – which is people-centric, participative, collaborative, transparent and policy-driven. It will provide critical directional and strategic input to the development process, focussing on deliverables and outcomes. This, along with being as incubator and disseminator of fresh thought and ideas for development, will be the core mission of NITI Aayog.

3. ALL-INDIA JUDICIAL SERVICES (AIJS): SHOULD IT BE FORMED?

PRIME MINISTER NARENDRA MODI WHILE ADDRESSING A FUNCTION TO CELEBRATE THE COMPLETION OF 50 YEARS OF DELHI HIGH COURT ON OCTOBER 31, 2016, SOUGHT A DEBATE ON CREATING THE ALL-INDIA JUDICIAL SERVICES. THE PRESENT GOVERNMENT HAS TRIED TO CONVINCE PARTIES TO SUPPORT ITS MOVE TO SET UP AN ALL-INDIA JUDICIAL SERVICE (AIJS), ON THE LINES OF ALL-INDIA CIVIL SERVICES.

The Government believes that All-India Judicial Services (AIJS) will help promote federal governance. Here in this article, we analyse the need of forming an All-India Judicial Services.

What is the history of All-India Judicial Services (AIJS)?

- The proposal for an All-India Judicial Service (AIJS) in lines of All-India Services was proposed as early as 1950.
- The **idea was first mooted by the Law Commission in the 1950s** to have an All-India Judicial Services.
- The **Constitution of India was amended in 1977** to provide for an All-India Judicial Services under Article 312.
- The **Chief Justices conferences in 1961, 1963, and 1965 favoured** creation of All-India Judicial Services and even the Law Commissions (1st, 8th and 11th, 116th) had suggested the creation of the service. However, each time it was faced with opposition.
- The proposal was again floated by the ruling UPA government in **2012** but the draft bill was done away with after **opposition from High Court Chief Justices who labelled this an infringement of their rights.**
- Most recently, the Central Government after holding a meeting presided over by the Law Minister Ravi Shankar Prasad had sought the advice of its two top law officers – Attorney General Mukul Rohtagi and Solicitor General Ranjit Kumar – on the question of constituting All-India Judicial Services just on the lines of All-India Civil Services.

What is the proposal for selection into AIJS?

- Under this, the **district judges will be recruited centrally through an all-India examination.**
- They will then be **allocated to each State along the lines of the All-India Services.**

What are the chronological events?

- **03-01-1977:** All India Judicial Services inserted into **Article 312** by the **Constitution (Forty-second Amendment) Act, 1976**. The purpose of the constitutional amendment was **to ensure uniformity in the standard of selection and to attract the bright and young talent in judiciary** so that fair trial and speedy justice could be made available to every citizen throughout the country.
- **27-11-1986:** Law Commission submitted in its 116th report titled “Formation of All-India Judicial Service” to the Union Law Minister and explained in details the importance and urgent need for the All-India Judicial Service.
- **10-4-1995:** Supreme Court in Writ Petition (Civil) 1022 of 1989, ***All India Judges Association v. The Union of India***, directed the Union Government to take immediate measures for setting up the All-India Judicial Service.
- **10-2-1997:** Union Government submitted a status report on constituting All-India Judicial Service in the Apex Court.
- **24-10-2009:** Chief Justice of India (CJI) endorsed the All-India Judicial Service in his inaugural address in a conference titled “*National Consultation for Strengthening the Judiciary towards Reducing Pendency and Delays*” in Delhi.
- **25-10-2009:** Conference titled “*National Consultation for Strengthening the Judiciary towards Reducing Pendency and Delays*” unanimously adopted the resolutions presented by the Union Law Minister for the establishment of All-India Judicial Services.
- **19-05-2014:** CJI RM Lodha on eve of assuming charge reiterated the need for All-India Judicial Services. He said: “*Setting up of an All-India Judicial Service, being planned by the government on the lines of the IAS and IPS for recruiting judges for subordinate courts, should be given serious thought. A national consensus is lacking as some States have raised reservations on the framework of the AIJS. Those States should also be brought on board.*”

Arguments in favour of All-India Judicial Services

- **Efficiency and efficacy** of judiciary would be increased.
- **Transparent and efficient method** of recruitment would be followed.
- The pendency and issue of **delay of cases would be done away** with.
- **Corruption, nepotism etc would be strongly dealt with.**
- Best legal talent across the country would be selected on the **basis of merit.**
- **Public faith** in the judiciary would be restored.
- The Supreme Court is not averse to the idea of AIJS as in its 2 judgments of 1991 and 1993 it supported the idea of AIJS.

Arguments against All-India Judicial Services

- There will be an **issue of local laws differences.**

- **Local languages and dialects** would be a problem.
- **Nine High courts are against this proposal** and hence disapproving this proposal.
- **The conflict between Centre and State** would start.
- The status of **legal education in India is very much mismanaged**. Except for a few national law schools, others do not prioritize the legal education too much. Law is taken as the last resort who do not get into medicine, IITs etc.
- **Unremunerative pay** is a big issue. Despite an effort by the Supreme Court to ensure uniformity in pay scales across States in the All India Judges' Association case, it is still very low.
- Also, the **judiciary has fewer avenues for growth**, promotion and limited avenues for career advancement.
- There is **low district judge representation in the High Courts**, as less than a third of seats in the High Courts are filled by judges from the district cadre. The rest are appointed directly from the Bar.
- It will be **difficult for the less privileged background to enter the profession**.
- Again **coaching institutes** etc would flourish and **education would be commercialized**.
- Currently, the judges of subordinate courts are appointed by the governor in consultation with the High Court which will not be so if AIJS is implemented. Hence **it will be against the Independence of Judiciary as some other body will have a control in appointment and integration** because in the judiciary, higher level controls and evaluates lower level.
- Both the decentralized approach of each High Court conducting its own appointment and a centralized one seem to have roughly the same efficacy in filling up the vacancy.

Reports mentioning All India Judicial Services

- **The Law Commission of India** in this connection referred to the following observations of an experienced Chief Justice: –

“One reason why meritorious young men or young practitioners of some standing keep away from the judicial service is the comparative inferiority of the status of district judicial officers vis-a vis officers of the district executive. Formerly, the district judge, like the district magistrate, used to be a member of the Indian Civil Service and his position in the district was superior to that of the district magistrate. Under the present system, the district magistrate is a member of the Indian Administrative Service which is a service of an all-India character, while the district judge is a member of the higher judicial service which is a State service.”

- **The Parliament Standing Committee** endorsed the AIJS in its 64th Report (Para 50) which says:

“All India Judicial Service has been envisaged under Article 312 of the Constitution of India. The Committee expresses its concern over the delay in its creation. The Committee insists that All India Judicial Service may be created without further delay to attract the best talent to the subordinate judiciary from where 33% of the judicial officers are elevated to the Bench of the High Courts.”

Way forward

- AIJS is facing hurdles from the administrative block and also from High Courts, even though Supreme Court has asked for AIJS twice.
- Therefore, AIJS should be designed in a manner to remove its shortcomings and it can be an effective solution to the vacancy in Judiciary.
- Despite the limitations, the establishment of AIJS makes a strong case because, if Civil servants can learn the local language of the state they are posted in, even a judicial service officer can. Thus, the language shouldn't be a barrier.
- Pay scale, issue of transfers, career growth etc should be looked after.
- Moreover, after the selection, a Judicial service officer can be provided sufficient training to handle the job. A meritocratic judiciary is the need of the hour which is possible with a competitive recruitment process.
- It is in the interest of all concerned that cases should be disposed of as quickly as possible. This, in turn, is possible only if there are adequate judges. Adequate judges can be made available only if they are recruited in large strength through AIJS just like we see in case of IAS, IPS, IFS and other civil services. Hence there should be no more delay.

4. INDIAN FEDERALISM – 15 ISSUES THAT CHALLENGE THE FEDERAL STRUCTURE OF INDIA

Federalism is a system of government in which power is divided between a central authority and constituent political units. Indian Federalism is different from the type of Federalism practiced in the countries like the United States of America. In this post, we analyze in detail 15 issues/challenges pertaining to Indian Federalism.

Is India a true federation?

Indian model of federalism is called **quasi-federal system** as it contains major features of both a federation and union. It can be better phrased as '**federation sui generis**' or federation of its own kind.

Article 1 of the Constitution of India states that 'India that is Bharat shall be **a union of states**'.

Indian federation was not a product of coming together of states to form the federal union of India. It was rather a conversion of a unitary system into a federal system.

It is a compromise between two conflicting considerations such as autonomy enjoyed by states within the constitutionally prescribed limit (State List) and the need for a strong centre in view of the unity and integrity of the country (Union List).

Federal Features of the India Union

- Two governments i.e. Union Government and State governments

- Division of powers between the union and its constituents (Seventh Schedule of the Constitution contains three lists such as the Union List, State List, and Concurrent List)
- Supremacy of the Constitution (Basic structure of the Constitution is made indestructible by the Judiciary)
- Partial rigidity of the Constitution
- Independent Judiciary
- Bicameralism

Unitary Features of the Constitution

A strong centre – The Union Government becomes all powerful in certain times like emergencies. Article 200 of the Constitution of India demands that the States must comply with the central laws. Other features include

- Single Constitution
- Single citizenship
- Flexibility of Constitution
- Integrated judiciary
- Appointment of the Centre
- All India Services
- Emergency provisions

Importance of Federalism in India

Federalism is the most relevant factor of modern constitutionalism. The core objectives of Indian federalism are unity in diversity, devolution in authority, and decentralization in administration. Through federalism, the State pursues the goal of common welfare in the midst of wide diversity in socio-cultural, economic spheres.

5.15 Issues and Challenges faced by Indian Federalism

1. Regionalism

- It is considered one of the significant challenges to federalism in India.
- Federalism best thrives as a democratic system when it mitigates the centralization of power sharing between the centre and the states.
- The pluralist character of India gives rise to many factors including regionalism. People from far northeast sometimes feel themselves at a formidable distance from New Delhi and people in southern part of the country with bigger states feel neglected having been within larger states.
- Regionalism or love for one's area, despite India's tradition of successful federal rule over the years since independence, still raises its head in different parts of the country.
- The voice for the demand of more states has become more prominent in recent times, especially after the formation of Telangana in 2014. Recent demands like four-fold division of Uttar Pradesh and the creation of Gorkhaland from West Bengal are instances of aggressive regionalism that pose a threat to the federal structure of India.
- The agitations for Gorkhaland, Bodoland, and KarbiAnglong have been revived. This is apart from the new demands for a separate Vidarbha State in Maharashtra, and Harit

Pradesh and Poorvanchal in Uttar Pradesh. The more the number of states the more the centre will be held hostage to state parties on matters of national importance.

- For instance, West Bengal threatened India's Teesta river waters treaty with Bangladesh because of its possible potential costs for West Bengal. Even growing regional powers may affect effective foreign policy as the federal government may bow to the will of an individual state. India had to vote in favour of UNHRC resolution for Sri Lanka in 2012 for a backlash from Tamil Nadu.

2. Division of Powers

- Unlike the USA and Australia, in India distribution of power is made under Three Lists found in the Seventh Schedule of the Constitution. The powers of both the Central and State Governments are specifically enumerated in the Union list and State list respectively while powers mentioned in the Concurrent list are enjoyed by the two sets of governments. The residuary powers are vested in the Central government.
- The general principle underlying the division of powers is that all matters of national importance, e.g. defence, foreign affairs, railways, currency are allotted to the Central government while matters that are primarily of local or regional importance e.g., education, public health, police, local administration are assigned to regional governments. Some matters which require the involvement of both the centre and states like criminal law, forest, economic and social planning are assigned in the Concurrent List. However, in the case of conflict over the legislation on any of the subjects mentioned in the Concurrent List, the Centre supersedes the States.
- Article 200 (reservation of State Bills by the Governor for consideration of the President), emergency provisions under Article 352, 356 and 360 and compulsory compliance by the States with the executive power of the Centre under Article 256 and 257 amount to centralisation of power which has been the major concern among the states. Centralisation is as such a threat to Indian federalism.

3. Absence of Fiscal Federalism

- The Indian Constitution, while expressly vesting the Centre with greater powers of taxation, also provides for an institutional mechanism — the Finance Commission — to determine the share of the States in the Central tax revenues by way of correcting this imbalance.
- While deciding the devolution of taxes and the provisions of grants the Finance Commission is required to address both the vertical imbalance between the Centre and the States and the horizontal imbalance between states.
- At present, about 40 percent of Central revenues (tax and non-tax) is transferred to the States, and this includes the grants they get from the Planning Commission and the Central Ministries.
- Despite the enlargement of the shareable pool under the 80th Amendment which includes all central taxes, the revenue accruals of the Centre and the States have not seen any major changes.
- Asymmetrical sharing of revenue and resource crunch at the periphery results in uneven development across the country. The current Goods and Services Tax measure is feared by many states to be against fiscal federalism in India. It has amalgamated the various taxes into a single tax, procurement of which will then be divided among states in a prescribed ratio. Many states in India demand for more financial autonomy in India.

4. Unequal Representation of Units

- With a view to preventing the evil of predominant influence of larger units over smaller units in a federation, most federations in the world have resorted to some constitutional mechanism like an equal representation of units or states in the Second Chamber and ratification of all amendments to the Constitution by states.
- In India, there is no such provision of an equal representation of states in the Rajya Sabha, the Second Chamber and nor the states have any substantial say over the amendments done to the Constitution from time to time.

5. Centralized Amendment Power

In a typical federation, the power of amendment to the Federal Constitution lies on a shared basis between the federation and its units. In India, the power of constitutional amendment lies with the Centre under Article 368 and other provisions. Although ratification of half of the states is sought for in some limited areas, the states in the Indian Union have virtually no power in this critical area of governance.

6. The Indestructible Union with Destructible Units

- Unlike successful federations, India Constitution doesn't have the provision for the secession of states from the Union of India. The Union has been made indestructible with a view to protecting unity and integrity in a country like India.
- However, this typical Indian arrangement checks the growing demand for secession from the Indian Union. The simmering demand for 'Dravida Nadu' comprising southern States and voice of separation in the eastern and western part of India pose a great threat to the unity and sovereignty of India.
- Even if it appears anti-federal in content, it has proved a blessing in disguise for if states would have given plenary power in deciding their geographical territory, there would have been much chaos and impasses leading to serious law and order problems in the country.
- All major federal democracies have in their Constitutions the provision that a state cannot be divided or merged with another state without its prior consent. This is the essence of federalism. However, the power of making, remaking states lies with the Union Parliament.
- Our nation-builders were wise in drafting the Constitution to suit our requirements. While prior consent of the state was not necessary under the Constitution, in practice every state has been formed with prior consent, in most cases after a detailed, impartial examination by an independent commission.
- However, in certain cases, states concerned are often being ignored by the Union Government in a matter of division of their geographical territory. The recent formation of the State of Telangana is a case in point.
- The resolute efforts of the Union government and its frequent declarations that Andhra Pradesh would be divided irrespective of the legislature's views pose a grave danger to Indian federalism and unity.
- In the sensitive matters like redrawing the territory of a state in India the views of concerned states should be given due weightage by the Centre. Any arbitrary decision of the Centre without the consent of the State and a negotiated settlement in this regard will effectively convert states into municipalities, and India into a unitary state. Neither the Constitution-makers nor nation-builders intended such an outcome. India's

future will be in danger if such an effort is made to make the nation effectively unitary at this stage.

7. Office of the governor

- The office of the Governor for each state in India has been a sensitive issue as it sometimes poses a threat to the federal character of Indian Union. Centre's visible arbitrariness in misusing such constitutional office has been the subject of acrimonious debates and divergent opinions in the country.
- The imposition of President's Rule in Arunachal Pradesh in January 2016, while there was an elected government in the State, created a bizarre incidence in the constitutional history of India. The Supreme Court on July 13 termed Governor's decision unconstitutional ordered restoration of Congress government in Arunachal Pradesh.
- The overt support of the Central Government to the Governor in this critical matter speak volume of the inbuilt weakness in India's quasi-federal structure. The abuse of the power under Article 356 by the Central Government is replete in the political history of the country. This has resulted in cementing of centralized forces and disaffection of constituent states towards the federal character of the Indian Polity.

8. Single Constitution and Citizenship

- Unlike the Constitution of the USA, the Constitution of India lays down the constitution for the States as well and no state except Jammu and Kashmir has right to decide its own constitution.
- The Indian Constitution, unlike the other federal constitutions of the world, introduces single citizenship. It is based upon the idea of 'one nation one citizenship'. All are citizens of India irrespective of whichever state he/she lives in. The States don't confer any separate status as a citizen of the State.

9. Integrated Services

The integrated judiciary is a typical feature of Indian federation. Unlike typical federations, in India Supreme Court is the apex court and all other courts are subordinate to it. The States don't have separate independent courts dealing specially with state matters. Also, the machinery for election, accounts, and audit in India is integrated.

The All Indian Services and central services are also considered by many states and critics as anti-federal. However, considering the nature and scope of administration in India, such services are essential as they impart all India character to governance. These services are meant for the administration of the affairs of the Union Government.

10. Centralised Planning

Although economic and social planning is found in the Concurrent List of the Seventh Schedule to the Constitution, the Union Government enjoys unbridled authority over national and regional planning in India. Centralised planning, through the Planning Commission, now NITI Aayog appointed by the Centre, considerable preponderance in legislative power for the Union, the financial dependence of the states on the Centre's

mercy, the administrative inferiority of the states make the states meek and weak. The States only fill the blank spaces meant for in the text for planning. There is no special planning commission for the states in India. It also adds to the misery of states and poses smooth functioning of federal spirit across the country.

11. Language Conflicts

Diversity in languages in India sometimes causes a blow the federal spirit of the Constitution. There are 22 languages constitutionally approved in India. Besides, hundreds of dialects are spoken across the country. Trouble arises when the strongest unit of the federation attempts to force a particular language on others. The tussle for official language in India is still a burning issue. The southern states' opposition to Hindi as the official language of India has led to deep-seated language crisis in India.

12. Issue of Religion

India is a fine example of religious heterogeneity that sometimes gives rise to turmoil to weaken the federation. But the religious process need not be always divisive. So long as there is a reasonable tolerance on the part of the people and a genuine secular policy on the part of the government, religion may not cause imbalances in a federation.

13. Economic Incompatibilities of the units

Differences economic standards and relative economic and fiscal incompatibilities among the constituent states also pose a threat to a federation. The forces of imbalances in the field are demands for economic planning and development and for regional economic equality and financial autonomy of states. Demand for a financial equality of a region creates problems in a federation.

In India, some states are declared as poor and on the principle of equalization, are getting grants-in-aid. But the dilemma in a federation emerges that if the principle of equalization is adhered to, the national income and the total income growth will suffer. Again, if much attention is paid to economic development, equalization of all units cannot be attained.

14. Physical Environment

Physical environment may also create hurdles for a federation by affecting communication. A federation in which the lines of communication are long and difficult has to face the difficulty of keeping in touch with all the units. It is easy for creating misunderstanding and conflict and perhaps this was one of the important causes for the separation of the east wing from Pakistan. Moreover, in the absence of good communication, the poorer units tend to develop a complex of neglect and feel that they are receiving less than their fair share of resources for development. In India, the North- Eastern states are having similar feelings and creating problems for the federation.

15. External forces

External forces also create hindrances for a federation. The tension in the North Eastern States in India is due to the interference of neighbouring countries. China's claim on some portion of the territory of Arunachal Pradesh on LAC threatens the territorial integrity of

India. The Tamil issue in Sri Lanka creates disruptive forces in India. The alleged Pak hand in Khalistan movement in the past also has a say in weakening the Indian federation.

6. Should India continue with the federal form of government?

Federalism or federal form of government is the most suitable form for a vast and pluralistic country like India. It tries to facilitate the socio-political cooperation between two sets of identities through various structural mechanisms of 'shared rule'.

But because of the above reasons, center- state relations and the state autonomy have become the cardinal issues of the Indian federalism. The union government appointed Sarkaria Commission in 1983 to examine and review the working of the Indian Federalism. But many recommendations of this Commission are still to be implemented properly.

The Union government also took in a very easy approach some of the recommendations made by this commission. This shows that even though our constitution is said to be federal, but this overemphasis on the power of the federal government makes incapable of dealing effectively with socioeconomic challenges and strengthening national unity. Hence, it is appropriate to restructure Indian Federalism to make it more effective and promote center – state relation.

Critical Assessment of Federal System in India

The temperament of federalism in India during the coalition era has been changed discernibly. Political deliberation seems to surpass the administrative and financial aspects of the Union-state relations in India. The states having the governments of those parties that form part of the central coalition give the impression that to have little conflict with the Centre. Their complaint is submissive or subdued and the general awareness is that they get particular contemplation and hold in matters of resources approved by the Centre. As a consequence, it is raising that noise sometimes that the Centre is being partial against the states having governments of the opposition parties. However, when one becomes aware of the allocations of the Central plan fund released by the Planning Commission on an annual basis, it appears that there is no such obtrusive discrimination. There is called for a more widespread perception of evenhandedness and fairness.

There has been a steady requirement of the National Development Council, that is a delegate institution of the Centre and the states, should become more energetic and effective. It may be brought to mind that the First Administrative Reforms Commission had suggested that the NDC be supposed to meet twice a year. Even after more than forty years, this proposal has not been put into practice. In a true federal spirit, the NDC, instead of becoming a mere routinized rubber stamp, should re-emerge as a verbal and effectual gadget of Centre-state discourse in matters of development. Here is an organization that has the potentiality of making the Indian federal economic structure more powerful and therefore, this instrumentality ought not to become a superfluous union.

A linked problem pertains to the role played by the state planning system. Most of the socio-economic plans calculated at the state level are an upshot and replicas of the priority structures and store management projects of the Central government, more particularly of the Planning Commission. Hence, in order to make the planning process truly federal,

“planning from below” be supposed to become the established doctrine of the Indian expansion state of affairs

Questions based on the topic ‘issues and challenges pertaining to the federal structure of India’

UPSC CSE Syllabus for GS Paper 2 clearly mentions ‘Functions and responsibilities of the Union and the States, issues, and challenges pertaining to the federal structure, devolution of powers and finances up to local levels and challenges therein.’

Qn 1: ‘Indian Constitution is federal in structure but unitary in spirit’. Explain.

Federalism was introduced in India by the Government of India Act, 1935. While drafting the Constitution of Indian, the framers wanted to give a federal look to it considering the pluralistic characteristics of India. The Constitution contains certain integral federal features such as two governments; division of powers between the union and its constituents; supremacy of the Constitution; rigidity of the Constitution; independent Judiciary; bicameralism. Unlike the true federal states like the USA, Indian federation was not a result of a compact between several sovereign-units but a product of conversion of a unitary system into a federal system.

It is a compromise between two conflicting considerations such as autonomy enjoyed by states within the constitutionally prescribed limit (State List) and the need for a strong centre in view of the unity and integrity and sovereignty of the country. Unitary features of the Constitution like single Constitution; single citizenship; flexibility of Constitution; integrated judiciary; appointment of the Centre; all India Services and emergency provisions. During national and state emergencies the Union Government assumes undisputed power over the whole or any part(s) of India. The Parliament has the power to make laws even on the subjects of the State List in the national interest (Article 249), under Article 252 and in the implementation of international treaties. Besides, it also retains the ultimate authority on policy decisions and governance. Last but not the least, the indestructibility of the Union and destructibility of the units by the Union substantiate the given view.

Qn 2: Strong Centre is a robust constitutional mechanism against divisive forces in India. Comment.

The very birth of India as an independent nation-state signifies the fact that the Union of India was a necessary corollary and it was not a creation of agreement among its constituents. The framers intended to provide a sturdy centre keeping the sovereignty and unity and integrity in mind considering wide diversity and pluralism in India. Their intention has found meaning. But for a constitutionally strong Union, India would have already been fragmented into pieces since long back. The Parliament of India enjoys sole power for formation, reformation, alteration of boundaries of states in India. Time and again divisive forces raise their ugly heads to secede from the Union. In the past demand for Pakistan-backed Khalistan and clamour for Dravida Nadu created instability in the proposed regions and posed a threat to the unity of the country. However, lack of power of secession from the Union of India by the states and constitutionally-approved indestructibility of the Union saved India from disintegration. The simmering flames of separatist movements still haunt India. The issue of Kashmir in the far north, demand for a separate country for Assamese

people; Nagalim in not so distant past were brought under control by various stringent measures like Armed Forces Special Powers Acts (AFSPA). Such acts are in vogue to put down separatist movements in certain parts of the country.

Strong Centre is necessary for India in the interest of its unity and integrity. No substitute to such constitutional arrangement is in sight in the context of the country.

Qn 3: Is regionalism a threat to unity and integrity of India? Substantiate your answer with recent examples.

Regionalism is excessive love for one's own region which entails invariably regional rather than central systems of administration or economic, cultural, or political affiliation. India is a plural society. Wide diversity is found in religious, linguistic, cultural, social and economic spheres. It gives rise to regional feelings which sometimes pose a great threat to the unity and integrity of the country. Immediately after independence language played its role in demarcating states in India. In recent times the clamour for more states became prominent after the creation of three states 2000. In this case, the issue of backwardness and economic development was the ground for the division which led to the creation of Telangana in 2014. Demand for more states, at present, has been manifold and more vocal. Also, divisive forces in the northern part and north-eastern states in alliance with immediate alien powers demand secession from India.

Apart from a great number of states, regional feelings give rise to a number of parties. Multiple states and multiplicity in political party culture are likely to create confusing and hazy governance hindering the progress of the nation. Regionalism is also an anathema to the growth of national consciousness and cohesion much to the detriment of unity and integrity of the country.

Even though regionalism is attributive of uneven economic development and underrepresentation of some regions in the governance of the country, it is flamed by narrow-minded and anti-national forces to gain their nefarious goals. These need to be contained with an iron-hand by stringent measures along with a strategy for equitable distribution of national development across the country.

Qn 4: The limited sovereignty of units at the periphery can be best ensured to the survival of federalism in India. Discuss.

Article 1 of the Constitution of India states India as the Union of India. The states in India were an integral part of British India and its periphery and as such became an indivisible part of the said Union. There is 'one nation and one citizenship' adopted in independent India and the nation's integration have been made paramount. The Constitution, however, provides states with limited sovereignty for establishing a quasi-federal structure for the country. It did not intend to make India a unitary country with states functioning as municipalities and their survival dependent on the whims and fancies of the Union Government. The functioning of the Indian Constitution over the past 66 years doesn't establish a de facto unitary state. It is a fact that federalism has been going deep in India in tandem with global trends. The provisions like a separate state list in the constitution, a second chamber for representation of units at the centre, NITI Aayog, inter-state councils, zonally councils and substantial devolution of funds for the states through various ways

ensure required sovereignty to states to function as an independent entity within a federal set-up.

Demand for more autonomy by states should be gauged on the scale of federal characteristics of Indian polity.

7.INTER-STATE RIVER WATER DISPUTES IN INDIA: IS IT TIME FOR A NEW MECHANISM RATHER THAN TRIBUNALS?

The Inter-State River Water Disputes are one of the most contiguous issues in the Indian federalism today. In extreme cases, it may hamper the relationship between the different states. The recent cases of the Cauvery Water Dispute and the Satluj Yamuna Link Canal case are examples.

Various Inter-State Water Disputes Tribunals have been constituted so far, but it had its own problems. In this article, we analyze whether it's time for a new mechanism.

Water in the Constitution of India

Water is a State subject as per entry 17 of State List and thus states are empowered to enact legislation on water.

1. **Entry 17 of State List** deals with water i.e. water supply, irrigation, canal, drainage, embankments, water storage and water power.
2. **Entry 56 of Union List** gives power to the Union Government for the regulation and development of inter-state rivers and river valleys to the extent declared by Parliament to be expedient in the public interest.

Article 262 of the Indian Constitution:

Constituent Assembly anticipated the emergence of water disputes in future. A specific provision of Article 262 is mentioned in the constitution itself due to the sensitivity of such disputes.

In the case of disputes relating to waters, Article 262 provides:

- **Parliament may by law provide** for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley.
- Notwithstanding anything in this Constitution, Parliament **may, by law provide** that neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint.

Parliament has enacted two laws according to Article 262:

1) River Board Act, 1956

The purpose of this Act was to enable the Union Government to create Boards for Interstate Rivers and river valleys in consultation with State Governments. The objective of Boards is to advise on the inter-state basin to prepare development scheme and to prevent the emergence of conflicts.

Note: Till date, no river board as per above Act has been created.

2) Inter-State Water Dispute Act, 1956

Provisions of the Act: In case, if a particular state or states approach to Union Government for the constitution of the tribunal:

1. Central Government should try to resolve the matter by consultation among the aggrieved states.
2. In case, if it does not work, then it may constitute the **tribunal**.

Note: Supreme Court shall not question the Award or formula given by tribunal but it can question the working of the tribunal.

The composition of the River Water Tribunal: Tribunal is constituted by the Chief Justice of India and it consists of the sitting judge of Supreme Court and the other two judges who can be from Supreme Court or High Court.

The Present Mechanism to resolve the inter-state river water disputes in India

Thus it can be seen that – the resolution of water dispute is governed by the Inter-State Water Disputes Act, 1956. According to its provisions, a state government can approach the Centre to refer the dispute to a tribunal, whose decision is considered final.

Active River Water sharing Tribunals in India

1. Krishna Water Disputes Tribunal II (2004) – Karnataka, Telengana, Andhra Pradesh, Maharashtra
2. Mahanadi Water Disputes Tribunal (2018) – Odisha & Chattisgarh
3. Mahadayi Water Disputes Tribunal (2010)- Goa, Karnataka, Maharashtra
4. Ravi & Beas Water Tribunal (1986)- Punjab, Haryana, Rajasthan
5. Vansdhara Water Disputes Tribunal (2010)- Andhra Pradesh & Odisha.

Inter-State river water disputes under the Inter-State River Water Disputes Act (ISRWD), 1956

River(s)

States

Krishna	Maharashtra, Andhra Pradesh, Karnataka
Godavari	Maharashtra, Andhra Pradesh, Karnataka, Madhya Pradesh and Odisha
Narmada	Rajasthan, Madhya Pradesh, Gujarat, Maharashtra
Cauvery	Kerala, Karnataka, Tamil Nadu and Union Territory of Pondicherry
Krishna	Karnataka, Andhra Pradesh, and Maharashtra
Model/ Mandovi/Mahadayi/	Goa, Karnataka and Maharashtra
Vansadhara	Andhra Pradesh & Odisha

Inter-State Water Dispute Act, 1956: Extra Ordinary Delays in the execution and implementation

- Many times there have been extraordinary delays in constituting the tribunal. For example, in the case of **Godavari water dispute**, the request was made in 1962. The tribunal was constituted in 1968 and the award was given in 1979 which was published in the Gazette in 1980.
- Similarly, in Cauvery Water Dispute, Tamil Nadu Government requested to constitute the tribunal in 1970. Only after the intervention of Supreme Court, the tribunal was constituted in 1990.
- Due to delay in constituting the tribunal, state governments continued to invest resources in the construction and modification of dams, thus strengthening their claims.

Solution: Amendments to the Act in 2002

- In 2002, an Amendment was made in the Act by which the tribunal has to be constituted within a year of getting the request.
- It has also been mandated that the tribunal should give the award within 3 years. In certain situations, two more years can be given. Thus the maximum time period was 5 years within which the tribunal should give the award.
- Tribunal award is not immediately implemented. Concerned parties may seek clarification within 3 months of the award.
- It has also been clarified that the Tribunal Awards will have the same force as the order or decree of Supreme Court. The award is final and beyond the jurisdiction of Supreme Court.

But still, there were issues...

- Though Award is final and beyond the jurisdiction of Courts, either States approach Supreme Court under Article 136 (Special Leave Petition) or private persons approach Supreme Court under Article 32 linking issue with the violation of Article 21 (Right to Life).

- The composition of the tribunal is not multidisciplinary and it consists of persons only from the judiciary. Thus there is not much difference in tribunal and Supreme Court Bench.
- Tribunals work gets delayed due to the lack of availability of the data.

New Solution: Inter-State Water Disputes (Amendment) Bill, 2017 – Dispute Resolution Committee and Single Permanent Tribunal

- The government has introduced this Bill in the present session of the Lok Sabha seeking to speed up the interstate water dispute resolution.
- The centre is to set up **Dispute Resolution Committee** having experts from the different fields in case of water disputes. The Committee will try to resolve the dispute within 1 year. The tribunal will be approached only when this committee fails to settle the dispute.
- According to this Bill, a **Single Permanent Tribunal** is to be set up which will have multiple benches.
- The Bill calls for the transparent data collection system at the national level for each river basin and a single agency to maintain data bank and information system.

The Case Studies of recent Inter-State River Water Disputes in the news

1) Cauvery Water Dispute

Cauvery is an inter-State basin having its origin Karnataka and flowing through Tamil Nadu and Puducherry before out falling in the Bay of Bengal. The states concerned are Kerala, Karnataka, Tamil Nadu and Puducherry (UT).

- In 1892, there was an agreement between the princely state of Mysore and British province of Madras.
- In 1924, a new agreement for 50 years i.e. till 1974.
- In 1970, Tamil Nadu Government approached to Central Government to constitute the tribunal and also in the same year Tamil Nadu Farmers Association filed a civil suit in Supreme Court.
- In 1986, Tamil Nadu again made a formal request to constitute the tribunal.
- In 1990, the tribunal was set up on the directions of Supreme Court.
- **The Cauvery Water Disputes Tribunal** passed an Interim order in 1991 directing the State of Karnataka to release Water from its reservoirs in Karnataka so as to ensure 205 Thousand Million Cubic Feet (TMC) of water into Mettur reservoir of Tamil Nadu in a water year (1st June to 31st May) with monthly and weekly stipulations. Karnataka government refused to obey the interim award.
- After 16 years of hearing and an interim order, the Tribunal announced its final order in 2007 allocating 419 tmcft water to Tamil Nadu and 270 tmcft to Karnataka. Kerala was given 30 tmcft and Puducherry got 7 tmc ft. Both Karnataka and Tamil Nadu filed review petitions in Supreme Court.
- Karnataka has not accepted the order and refused to release the water to Tamil Nadu. In 2013, Contempt of Court was issued against Karnataka.

- In 2016, a petition was filed in Supreme Court to seeking the release of water by Karnataka as per the guidelines of the tribunal. When Supreme Court ordered Karnataka to release water, Kannada people protested the decision saying they do not have enough water.
- The matter is still sub judice (under judicial consideration).

2) Satluj Yamuna Link Canal Issue

- The issue links to the dispute between Punjab and Haryana after the formation of the Haryana in 1966. The parties involved are Punjab, Haryana, and Rajasthan.
- To enable Haryana to use its share of the waters of the Satluj and Beas, a canal linking the Satluj with the Yamuna was planned and in 1982 its construction was started.
- Due to the protest by Punjab, the tribunal was set up in 1986 which gave an award in 1987 recommending Punjab's share as 5 Million Acre Feet (MAF) of water and Haryana's as 3.83 MAF.
- Punjab contested the award and held that the tribunal overestimated the availability of the water. Haryana approached Supreme Court for the construction of the SYL canal in 2002. Supreme Court directed Punjab to complete the construction of canal within 12 months.
- In July 2004, Punjab Assembly passed Punjab Termination of Agreements Act scrapping water-sharing agreements with other states and thus jeopardising the construction of the canal. This Act has been declared unconstitutional by the Supreme Court in 2016 under President Advice (Article 143). In response, Punjab Assembly passed the Act according to which the land acquired for the canal would be denotified and returned to the original owners.
- Supreme Court has directed both Punjab and Haryana to maintain status quo in the Sutlej Yamuna Link canal controversy.
- In the recent hearing, Centre has offered as a mediator to both Punjab and Haryana.

Inter-State River Water Disputes: The Conclusion

India has 2.4% of the World's land, 18% of the world population but only 4% of the renewable water resource. If sufficient steps are not taken, the uneven water distribution will increase the possibility of water conflicts.

Inter-state river water disputes hinder the cooperative federalism of our nation and provide parochial mindset making regional issues superior to national issues. One should realise that our nation is a family in which all states are its members.

So disputes must be resolved by dialogue and talks and the political opportunism must be avoided. The issue can be resolved by discussing the dispute in Inter-State Council which can be beneficial in providing a platform for the talks. Such disputes must be resolved as early as possible to ensure greater cooperation between the states.

8.SIMULTANEOUS ELECTIONS: WILL THIS BE GOOD FOR INDIA?

The idea of holding elections simultaneously to Lok Sabha and State Legislative Assemblies is recently in the news after it got a push from Prime Minister Narendra Modi. In

this article let us discuss the concept of simultaneous elections, its advantages, disadvantages, feasibility, and other related issues.

What is meant by simultaneous elections?

- It refers to holding elections to Lok Sabha and State Legislative Assemblies simultaneously, once in a five year.
- At present, elections to Lok Sabha and to all State Legislative Assemblies are not being held simultaneously.
- Sometimes, elections to some State Legislative Assemblies may happen together with the elections to Lok Sabha. For example, in 2014, elections to State assemblies of Andhra Pradesh, Odisha and Sikkim were held along with elections to Lok Sabha.

The idea of simultaneous elections

- The idea of simultaneous elections is not new to India. In 1951-52, the first general election to the Lok Sabha was held simultaneously with all State Assemblies. This practice of simultaneous elections continued till the general election of 1967.
- This practice got disrupted due to premature dissolution of some State Legislative Assemblies in 1968. Lok Sabha itself dissolved prematurely in 1970.
- As a result, the elections to the Lok Sabha and State Legislative Assemblies are being held separately.
- The idea of simultaneous elections was floated long back by former deputy Prime Minister of India, LK Advani.
- In Recent times, the idea got support from President and Prime Minister. President Pranab Mukherjee has endorsed the idea by mentioning it in his address to the joint session of the parliament ahead of the budget session.
- Reports of Law commission and the Parliamentary standing committee have also favored simultaneous elections.

Advantages of simultaneous elections

- The cost of an election has two components – one, expenditure incurred by the Election Commission and two, expenditure incurred by the political parties. A large number of government employees and public buildings are diverted from their regular responsibilities for election duties. Supporters of the simultaneous elections argue that it will reduce election expenditure in terms of finance and reduce diversion of human resources for election duties.
- Model Code of Conduct (MCC) comes into operation during election season. MCC is seen as an obstacle to the government service delivery mechanism. Simultaneous elections may reduce such disruption.
- During elections, political convenience takes precedence over public interest. To lure voters, political parties concede to popular demands without any consideration to public interest. Simultaneous elections reduce such opportunity for political parties.
- Simultaneous election promotes national perspective over the regional perspective. This is important for the unity of the country.
- Since it promotes national perspective, simultaneous elections strengthen national parties. This reduces mushrooming growth of political parties based on narrow vote bank politics.

- Simultaneous elections bring States on par with the Center. If the elections are to be held simultaneously once in five years, the elected state governments cannot be dismissed easily. This reduces the anomalies created by the Article 356 (President's Rule) of the Indian constitution and hence, it strengthens federalism.
- The simultaneous election once in five years provides stability to the governments. It allows the government to take difficult and harsh decision in larger public interest.

Arguments against simultaneous elections

- Simultaneous elections may reduce the expenditure incurred by the Election Commission. But there is no guarantee that expenditure of the political parties will reduce. Political parties may spend entire fund at once rather than in phases.
- Center and States are equal and sovereign within their jurisdiction. Simultaneous elections may reduce the importance of state elections. Thus it affects the concept of federalism.
- Article 83(2) and Article 172 of the Constitution requires that the Lok Sabha and State legislatures be in existence for five years from the date of its first meeting, "unless dissolved earlier". Simultaneous elections ignore this phrase, as there would be no opportunity to dissolve Lok Sabha or State Assemblies.
- A government can be in power as long as it enjoys the confidence of Parliament. Simultaneous elections can work only if governments last for a fixed tenure of five years regardless of confidence of Parliament. It negates the concept of 'no confidence motion' – an important tool for legislative control over the executive.
- Elections are an important part of representative democracy. Simultaneous elections with fixed tenure of five years curtail people's right to express their confidence or displeasure on the government.
- Simultaneous elections will relegate local issues or issues of state importance to the background. This completely ignores the diversity of the country.
- Holding simultaneous election once in five years may also face logistical challenges. For the free and fair conduct of the elections, security forces need to be deployed in large numbers. Given the current strength of security personnel, this may be a challenging task.

Some constitutional questions

Holding simultaneous elections also poses some constitutional questions, which need to be answered. They are,

- To implement the idea, the tenure of some of the State Assemblies needs to be curtailed. How to do it, when the government enjoys the confidence of the legislature?
- How to preserve simultaneity in the event of a vote of no confidence or President's rule?
- Article 83(2) and Article 172 of the Constitution requires that the Lok Sabha and State legislatures be in existence for five years from the date of its first meeting, "unless dissolved earlier". This makes it clear that constitution does not guarantee fixed terms to the Lok Sabha and State Assemblies. Simultaneous elections are not possible without fixed tenure.

Shekhawat solution

- The former vice-president Bhairon Singh Shekhawat proposed a solution. He called for a review of provisions of the no-confidence motion.
- He suggested that no-confidence motion must mandatorily be accompanied by an alternative government formation plan. This prevents premature dissolution of Lok Sabha on account of political instability.
- But critics point out that, this solution will take away people's right to elect or dismiss a government.

Various reports

- **79th report of the parliamentary standing committee** on Law and Justice recommended a two-phase election schedule – one concurrent with Lok Sabha elections, the second in the mid-term of the Lok Sabha.
- The report also recommended that in order to hold early elections to Lok Sabha and state legislative assemblies, one of two conditions must be met: (i) a motion for an early general election must be agreed to by at least two-thirds of all members of the House; or (ii) a no-confidence motion must be passed by the House, and with no alternative government being confirmed within 14 days of passing a confidence motion.
- The report concluded that such a reform was “important for India if it is to compete with other nations in developmental agenda on real time basis as a robust, democratic country.”
- **Law Commission of India in its 170th report** (1999) recommended simultaneous elections to Lok Sabha and State Legislative. It suggested that elections to the legislative assemblies, whose term ends six months after the general elections to Lok Sabha, can be clubbed together. However, the results of such elections can be declared at the end of the assembly's tenure.
- **The Election Commission** also extended its in-principle support for the simultaneous elections.

Impact on voter behavior

- Studies show that simultaneous elections will have a significant impact on voter's behaviour. An analysis by IDFC institute shows that on average, there is a 77 percent chance that the Indian voter will vote for the same party for both the State and Centre when elections are held simultaneously.
- In such cases, the national issues and national parties take precedence over issues of state importance and small regional parties.

A case for frequent elections

- Frequent elections enhance political accountability. It keeps politicians on their toe.
- Local issues, state issues, and national issues do not get mixed up. Staggered election cycle gives people an opportunity to distinguish between these issues.
- Elections create a large number of work opportunity for the people.

Conclusion

As discussed above the idea of simultaneous elections has Advantages as well as difficulties in implementation. Solutions should be found to specific problems.

- The model code of Conduct shouldn't be stretched too long. There should be clear guidelines on do's and don'ts for the government.
- To curb election expenditure, alternative ways such as reforms in the expenditure of political parties and state funding of political parties could be discussed.

There are various ifs and buts before the idea of simultaneous elections may finally be implemented. The Constitution may need to be amended. But care should be taken, such that simultaneous elections will not undermine federalism and diversity of the country.

IIPA 2022

Constitutional Development of India

Shorts Answers

PKP-01 by Dr Mamta Pathania



22

Table of Contents

Constitutional Development of India.....	9
Regulating Act of 1773	9
Pitt's India Act of 1784	9
Charter Act of 1813	9
Charter Act of 1833	10
Charter Act of 1853	10
Government of India Act, 1858	10
Indian Councils Act, 1861	11
Indian Council Act, 1892.....	11
Indian Councils Act, 1909	11
Government of India Act, 1919	12
August Offer, 1940	13
Cripps Mission, 1942	13
Shimla Conference, 1945	13
Cabinet Mission (1946).....	13
Government of India Act, 1935	14
Mountbatten Plan (3 June, 1947).....	14
Indian Independence Act, 1947	15
Framing of the Indian Constitution	15
Features of Indian Constitution	1
India is an indestructible Union of destructible States.....	2
National Symbols.....	3
National Emblem.....	3
National Anthem	3
National Song	3
National Animal.....	3
National Calendar	4
National Bird	4
National Flower	4
National Tree	4
National Fruit.....	4
National River	4
National Aquatic Animal	4

National Currency	4
Preamble.....	1
Significant Words of Preamble.....	2
Socialist	2
Secular.....	2
Democratic.....	2
Republic.....	2
Liberty	3
Equality	3
Fraternity.....	3
Union and its Territories.....	1
Citizenship.....	1
Article 5.....	2
Article 6.....	2
Article 7.....	2
Article 8.....	2
Article 9.....	2
Article 10.....	2
Article 11.....	2
By Birth	4
By Descent.....	4
By Registration.....	4
By Naturalisation	4
By Incorporation of Territory.....	4
Fundamental Rights	1
Directive Principles of State Policy.....	1
Fundamental Duties	4
Parliament	1
Powers/Functions of Rajya Sabha	7
Question Hour.....	12
Starred Questions	12
Unstarred Questions	12
Short Notice Questions	13
Zero Hour.....	13
Calling Attention Motion	13
Censure Motion.....	13
No-confidence Motion	13

Confidence Motion	13
Adjournment Motion	13
Motion of Thanks	14
President and Vice President.....	1
Election of the President	1
Qualification for Election of President.....	2
Important Facts Related to President	8
Vice President.....	9
Qualifications for Vice-President	10
Prime Minister and Union Council of Ministers	1
Council of Ministers	2
Prime Minister's Office	2
Salary and Allowances	2
Miscellaneous functions of Prime Minister	3
Cabinet	4
Governor	1
Qualifications	1
Appointment.....	1
Executive Powers of Governor	3
Immunities	4
Judicial Powers	5
Discretionary Powers	5
State Legislature and State Council of Ministers	1
Composition of Legislative Council.....	1
Composition of Legislative Assembly	1
Qualification for Membership of State Legislature	2
Disqualifications for Membership.....	2
Relations between Centre and States.....	1
Local Self –Government	1
Evolution of Panchayati Raj in India, Post Independence.....	1
73 rd Constitutional Amendment Act	1
Provisions of 73 rd Amendment Act	2
Election of Member and Chairpersons	2
Reservation of Seats (Article 243D)	2
Duration of Panchayats (Article 243E).....	3
Disqualification (Article 243 F).....	3
Powers and Functions of Panchayats	3

PESA (Panchayat Extension of Scheduled Areas) Act, 1996	5
➤ Schedule V contains areas of 10 states i.e. Andhra Pradesh, Himachal Pradesh, Jharkhand, Telangana, Chhattisgarh, Gujarat, Madhya Pradesh, Maharashtra, Rajasthan and Odisa.	5
Composition (Article 243R)	5
Ward Committees (Article 243S)	5
Reservation (Article 243T).....	6
Duration of Municipalities (Article 243U).....	6
District Planning Committee (Article 243ZD)	7
Supreme Court.....	1
Subordinate Courts.....	9
Emergency Provisions	1
Constitutional Amendment.....	1
First Amendment Act, 1951	1
Second Amendment Act, 1952.....	1
Third Amendment Act, 1954.....	1
Fourth Amendment Act, 1955	1
Fifth Amendment Act, 1955.....	2
Sixth Amendment Act, 1956.....	2
Seventh Amendment Act, 1956.....	2
Eighth Amendment Act, 1960.....	2
Ninth Amendment Act, 1960	2
Tenth Amendment Act, 1961.....	2
Eleventh Amendment Act, 1961	2
Twelfth Amendment Act, 1962	3
Thirteenth Amendment Act, 1962.....	3
Fourteenth Amendment Act, 1962.....	3
Fifteenth Amendment Act, 1963	3
Sixteenth Amendment Act, 1963	3
Seventeenth Amendment Act, 1964	3
Eighteenth Amendment Act, 1966.....	4
Nineteenth Amendment Act, 1966.....	4
Twentieth Amendment Act, 1966	4
Twenty-First Amendment Act, 1967	4
Twenty-Second Amendment Act, 1969	4
Twenty-Third Amendment Act, 1969	4
Twenty-Fourth Amendment Act, 1971	4
Twenty-Fifth Amendment Act, 1971	4

Twenty-Sixth Amendment Act, 1971	5
Twenty-Seventh Amendment, 1971	5
Twenty-Eighth Amendment Act, 1972	5
Twenty-Ninth Amendment Act, 1972	5
Thirtieth Amendment Act, 1972	5
Thirty-First Amendment Act, 1973	5
Thirty-Second Amendment Act, 1973	5
Thirty-Third Amendment Act, 1974	5
Thirty-Fourth Amendment Act, 1974	6
Thirty-Fifth Amendment Act, 1974	6
Thirty-Sixth Amendment Act, 1975	6
Thirty-Seventh Amendment Act, 1975	6
Thirty-Eighth Amendment Act, 1975	6
Thirty-Ninth Amendment Act, 1975	6
Fortieth Amendment Act, 1976	6
Forty-First Amendment Act, 1976	7
Forty-Second Amendment Act, 1976	7
Forty-Third Amendment Act, 1977	8
Forty-Fourth Amendment Act, 1978 (Enacted by the Janata Government mainly to nullify some of the other distortions introduced by 42 nd Amendment Act, 1976)	8
Forty-Fifth Amendment Act, 1980	9
Forty-Sixth Amendment Act, 1982	9
Forty-Seventh Amendment Act, 1984	9
Forty-Eighth Amendment Act, 1984	9
Forty-Ninth Amendment Act, 1984	9
Fiftieth Amendment Act, 1984	9
Fifty-First Amendment Act, 1984	9
Fifty-Second Amendment Act, 1985 (Known as Anti-Defection Law)	9
Fifty-Third Amendment Act, 1986	9
Fifty-Fourth Amendment Act, 1986	10
Fifty-Fifth Amendment Act, 1986	10
Fifty-Sixth Amendment Act, 1987	10
Fifty-Seventh Amendment Act, 1987	10
Fifty-Eighth Amendment Act, 1987	10
Fifty-Ninth Amendment Act, 1988	10
Sixtieth Amendment Act, 1988	10
Sixty-First Amendment Act, 1989	10

Sixty-Second Amendment Act, 1989.....	10
Sixty-Third Amendment Act, 1989.....	11
Sixty-Fourth Amendment Act, 1990.....	11
Sixty-Fifth Amendment Act, 1990.....	11
Sixty-Sixth Amendment Act, 1990.....	11
Sixty-Seventh Amendment Act, 1990.....	11
Sixty-Eighth Amendment Act, 1991.....	11
Sixty-Ninth Amendment Act, 1991.....	11
Seventieth Amendment Act, 1992.....	11
Seventy-First Amendment Act, 1992.....	11
Seventy-Second Amendment Act, 1992.....	12
Seventy-Third Amendment Act, 1992.....	12
Seventy-Fourth Amendment Act, 1992.....	12
Seventy-Fifth Amendment Act, 1994.....	12
Seventy-Sixth Amendment Act, 1994.....	12
Seventy-Seventh Amendment Act, 1995.....	12
Seventy-Eighth Amendment Act, 1995.....	12
Seventy-Ninth Amendment Act, 1999.....	12
Eightieth Amendment Act, 2000.....	13
Eighty-First Amendment Act, 2000.....	13
Eighty-Second Amendment Act, 2000.....	13
Eighty-Third Amendment Act, 2000.....	13
Eighty-Fourth Amendment Act, 2001.....	13
Eighty-Fifth Amendment Act, 2001.....	13
Eighty-Sixth Amendment Act, 2002.....	14
Eighty-Seventh Amendment Act, 2003.....	14
Eighty-Eighth Amendment Act, 2003.....	14
Eighty-Ninth Amendment Act, 2003.....	14
Ninetieth Amendment Act, 2003.....	14
Ninety-First Amendment Act, 2003.....	14
Ninety-Second Amendment Act, 2003.....	15
Ninety-Third Amendment Act, 2005.....	15
Ninety-Fourth Amendment Act, 2006.....	15
Ninety-Fifth Amendment Act, 2009.....	15
Ninety-Sixth Amendment Act, 2011.....	16
Ninety-Seventh Amendment Act, 2011.....	16
Ninety-Eighth Amendment Act, 2012.....	16

Ninety-Ninth Amendment Act, 2014	16
One Hundredth Amendment Act, 2015.....	16
One Hundredth and First Amendment Act, 2016.....	16
One Hundred and Second Amendment, 2018.....	17
One Hundred and Third Amendment, 2019.....	17
One Hundred and Fourth Amendment, 2020.....	18
One Hundred and Fifth Amendment, 2021	18

Constitutional Development of India

- Indian Constitution is the lengthiest written constitution in the world. The development of the Constitution in its present form has its roots in British rule.
- A **Constituent Assembly** was formed in **1946** as suggested by **M.N. Roy** in **1934**

Regulating Act of 1773

- It was the first step taken by British Government to control and regulate the affairs of East India Company in India.
- It made Governor of Bengal as Governor-General of Bengal and an Executive Council (comprising of four members) was created for providing assistance to Governor-General.
- Lord Warren Hastings became first Governor-General of Bengal. The act also laid the provisions for the establishment of Supreme Court at Calcutta with one Chief Justice and three other judges. It was established in 1774 with Sir Elijah Impey appointed as the Chief Justice.

Pitt's India Act of 1784

- Pitt's India Act, 1784 was passed to rectify the defects of Regulating Act of 1773.
- This act separated the commercial functions of the company from political functions. Court of Directors were allotted commercial functions and a Board of Control consisting of 6 members was appointed for handling political affairs.

Charter Act of 1813

- It deprived the East India Company of its monopoly of trade with India except for tea and trade with China.
- The act regulated the company's territorial revenue and commercial profits. It was asked to keep its territorial and commercial accounts separate.
- Christian missionaries were allowed to work in India.
- A provision was made that company should invest Rs 1 Lakh/year on the education of Indians.

Charter Act of 1833

- It was passed by the British Parliament to renew the charter of East India Company.
- East India Company was no more a commercial body, all its commercial functions been taken away making it an administrative body working on behalf of the British Government.
- Governor-General of Bengal became the Governor-General of India. Lord William Bentick became the first Governor-General of India in 1833. It deprived the governor of Bombay and Madras of their legislative power.
- All the legislative powers of British India went in the hands of Governor General.
- The number of members of the Governor General's council was again fixed to four. A law member was added in Governor General Council. Lord Macaulay was designated as the fourth member.

Charter Act of 1853

- This act introduced open competition for Indians in Civil Services.
- This act also empowered the Court of Directors either to constitute a new Presidency to appoint a lieutenant Governor. Strength of court of directors was reduced to 18 from 24.
- Six new members were added as legislative councillors. Out of these 6 members, 4 were appointed by provincial governments.

Government of India Act, 1858

- The revolt of 1857 by Indians resulted in the end of East India Company rule, with all the powers of administration of Indian territory been taken by the British crown in its hands. Major provisions of the Act were :
- It changed the designation of Governor-General to that of Viceroy. Viceroy was representative of the British crown.
- Lord Canning became first Viceroy of India, under the Act.
- It provided the Secretary of State with a 15 member council to assist him, responsible for Indian administration. He was a British Cabinet member, who was responsible to the British Parliament.

Indian Councils Act, 1861

- The Act restored the legislative powers of Madras and Bombay which were taken from them by Charter Act of 1833.
- Governor General was given the right to exercise absolute veto power and issue ordinances which could remain in force for 6 months.
- Viceroy was given the power to make rules and orders for convenient transaction of business in council. Under this, Lord Canning introduced Portfolio System which laid the foundation of Cabinet system in India.
- A Law member was added in the executive council of Governor-General.

Indian Council Act, 1892

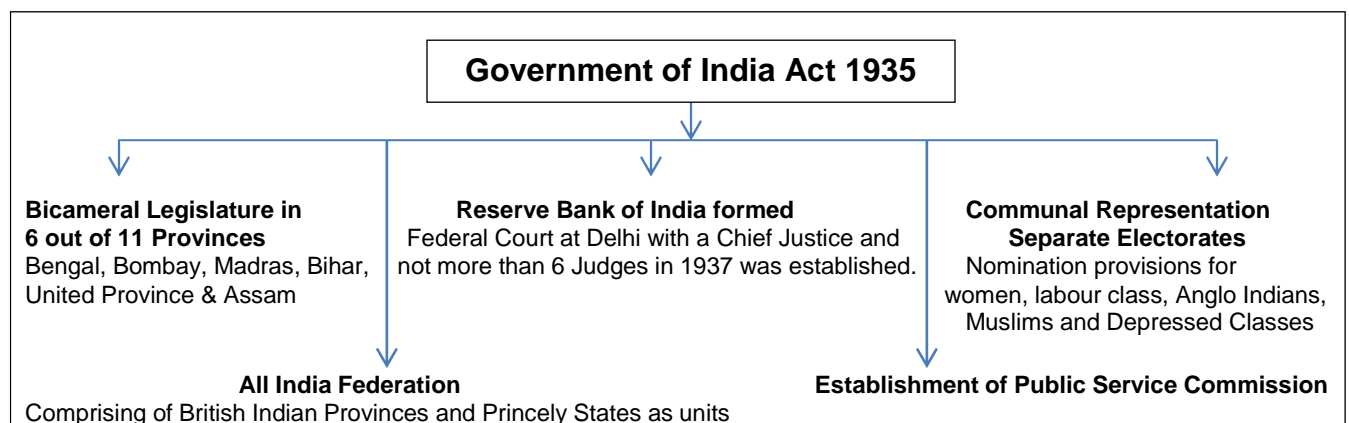
- This Act enlarged the Governor General's council by adding more non-official members. Though official majority was maintained, 2/5 of new members were non-officials.
- The principle of Indirect elections was introduced but the word Election was not used. It gave the power of discussing the budget.

Indian Councils Act, 1909

- Lord Morely was the then Secretary of State for India and Lord Minto was the Viceroy. Hence, the act came to be known as Morley-Minto Reforms.
- The size of Legislative Councils at centre and provinces was significantly increased. The members of Governor-general's council were increased from 16 to 60.
- Separate electorate was introduced for Muslims, introducing the communal representation.
- Elections were introduced in India for the first time, Indians were allowed in executive council of Viceroy.
- Satyendra Prasad Sinha became the first Indian member to join Viceroy's Executive Council.
- Councils were given the right to discuss any matter, move resolutions on budget and ask questions with supplementary questions but they did not have the right to vote.

Government of India Act, 1919

- Dyarchy was introduced at provincial levels i.e. the rule of two, Executive Councillors and Ministers.
- Government of provinces was accountable to legislative council of state for transferred subjects but not for reserved subjects. All the functions of government were divided into centre and state (provinces). Provinces were given more autonomy and they could legislate on all subjects related to provinces.
- Bicameral legislature was introduced at the Centre consisting Council of state (Upper House) and Centre legislative council (Lower House).
- It required three out the six members in Viceroy's executive council to be Indians except commander-in-chief.
- For the first time direct elections were introduced in India.
- Separate electorate system was continued for Muslims and it was also extended to Sikhs, Christians, Europeans and Anglo-Indians.
- This Act provided for elected, nominated officials and nominated non-officials members.
- Limited franchise was introduced in India for the first time on the basis of property, education and tax.
- The Act also provided for a Central Public Service Commission which was established in 1926.
- The persistant demand of administrative reforms led the British Government to appoint a Statutory Commission in 1927, popularly known as Simon.



August Offer, 1940

- Viceroy Linlithgow issued a statement on behalf of the British government on 8 August, 1940 called as August Offer.
- Lord Linlithgow promised that after the end of second World War II, a completely responsible government on dominion model would be established in India.
- It recognised the rights of Indians to make their constitution for the first time as it stated that a constitution making body would be created.

Cripps Mission, 1942

- During the course of World War II, the coalition government in England send Sir Stafford Cripps (a member of the Cabinet) in March 1942, with a Draft Declaration which were to be adopted while framing a Constitution acceptable to the two major parties in India- Congress and Muslim League.
- The proposal provided for an Indian Union comprising of all British provinces in India and the princely states and a Dominion status to India as a participant to the British Commonwealth of Nations.

Dominion status concept is dead as door nail – J.L. Nehru

Clement Attlee's Announcement

Lord Clement Attlee made a historical announcement on 15 March, 1946 that Britain was ready to provide freedom to India, after transferring power into responsible hands not late than June 1948. All minorities interest will be secured. It announced that Cabinet mission was to visit India to assist Indians to determine a suitable form of government.

Shimla Conference, 1945

- All Party met on 25th June, 1945 at Shimla where 22 representatives participated under Abul Kalam Azad.

Cabinet Mission (1946)

- The main objective of the Cabinet Mission plan was to find out ways and means for the peaceful transfer of power in India and to suggest measures taken for the formation of a constitution making machinery and the issue of interim government. Commission to enquire into and report on the working of Government of India Act, 1919 which submitted its report in 1930. The report was considered by a series of Round Table Conferences held at London between

1930-1932 and a the White Paper on constitutional reform was prepared as a result of the Conference which was passed as Government of India Act, 1935.

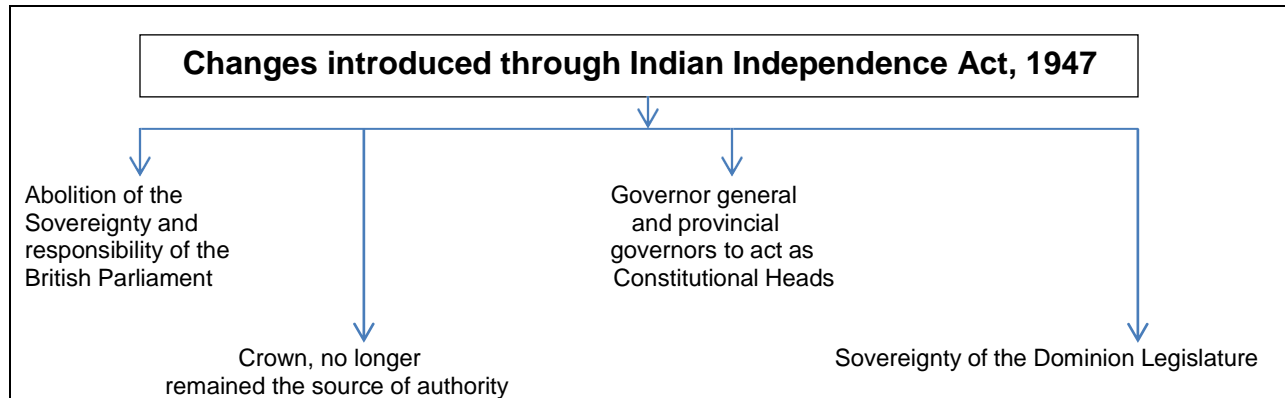
- Cabinet Mission comprising Lord Pethick Lawrence, Sir Stafford Cripps and Mr. Alexander arrived in India on 24th March, 1946.

Government of India Act, 1935

- This act abolished dyarchy at provinces and established dyarchy at the centre. Federal subjects were divided into transferred and reserved subjects. Reserved subjects were in the hands of Viceroy who worked with councillors and was not responsible to the legislature. Transferred subjects were administered by Viceroy on the advice of Council of Ministers responsible to the legislature. Although it never came into effect.
- A union of India comprising British India and princely states thus advocating an undivided India was conceptualized.
- A Constituent Assembly was to be elected and an interim government to be formed with the support of major parties.
- It also provided that all members of the interim cabinet would be Indians and there would be minimum interference by the Viceroy.
- It also proposed that Constituent assembly was to consist of 292 members from British India and 93 from Indian states.
- All state subjects along with residuary powers should be vested in provinces.
- The proposal of Cabinet Mission were accepted and Constituent Assembly Elections were held in July, 1946.

Mountbatten Plan (3 June, 1947)

- Lord Mountbatten came up with a partition plan known as Lord Mountbatten Plan (3 June, 1947) due to the Muslim league agitation for separate country.
- On 20th February, 1947, Clement Attlee declared that British rule in India would end by 30th June, 1948. But after Mountbatten Plan which put forward a plan for a United Hindustan and Pakistan which was accepted by Congress and Muslim League. Immediate effect was given to Mountbatten plan by enacting the Indian Independence Act, 1947.

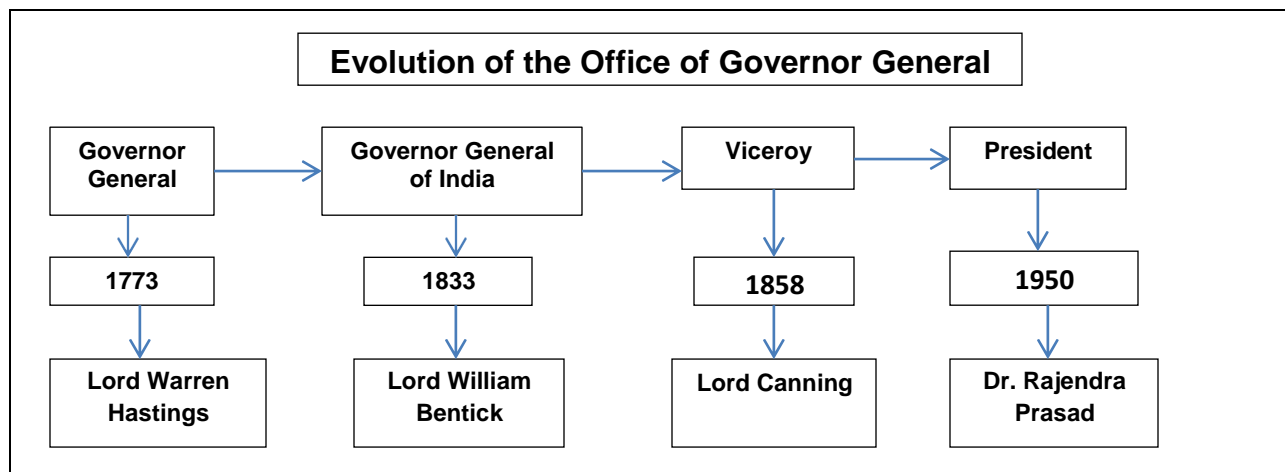


Indian Independence Act, 1947

- On the 15th August, 1947 (at midnight) British rule came to end and two new dominions took powers in their hands for their respective territories.
- Lord Mountbatten became first governor-general of dominion of India with J.L. Nehru as the first PM.

Framing of the Indian Constitution

- There were total 389 members out of which 292 were to be elected by provinces and 93 seats were allotted to princely states, 4 for Chief Commissioners provinces. Seats in the provinces were to be distributed among three communities i.e. Muslims, Sikhs and General in proportion to their populations.
- Finally, suggestions of Cabinet Mission (1946) were accepted and elections for the Assembly conducted in July-August, 1946.



Constituent Assembly elected according to Cabinet Mission Plan for undivided India met on 9th December, 1946 with Dr. Sachchidanand Sinha as its interim President. After two days i.e. on 11th December, 1946, Dr. Rajendra Prasad was elected President of Constituent Assembly. On 13th December, 1946 Objective Resolution was passed in constituent assembly which was introduced by Pt. Jawahar Lal Nehru.

B.N. Rau was appointed as the Constitutional adviser.

Mountbatten Plan paved the way for two nations and a separate Constituent Assembly was formed for Pakistan. Hence, the areas which went in Pakistan i.e. East Bengal, North-West Frontier Provinces (NWFP), West Punjab, Baluchistan, Sindh and Sylhet district of Assam were no more representative in Indian Constituent Assembly. There were fresh elections in new provinces of West Bengal and East Punjab. Sylhet and NWFP decided to join Pakistan through referendum. So, when Constituent Assembly re-assembled its strength came down to 299 from 389 with 299 Indian provinces' members and 70 princely states members.

- Constituent Assembly re-assembled on 14th August, 1947 as Sovereign Constituent Assembly.

Committees on the Constituent Assembly	
The Constituent Assembly appointed 22 Committees to deal with different tasks of Constitution making.	
Major Committees	Chairman
• Drafting Committee	B.R. Ambedkar
• Union Powers Committee	Pt. Jawahar Lal Nehru
• Provincial Constitution Committee	Sardar Vallabh Bhai Patel
• Steering Committee	Dr. Rajendra Prasad
• Committee on Fundamental Rights and Minorities	Sardar Vallabh Bhai Patel
• Union Constitution Committee	Pt. Jawahar Lal Nehru
• States Committee	Pt. Jawahar Lal Nehru
• Finance & Staff Committee	Dr. Rajendra Prasad

- Constituent Assembly appointed a drafting committee of 7 members on 29 August, 1947 with Dr. B.R. Ambedkar as its Chairman. Other members were: N. Gopalswami Ayyangar, Alladi Krishnaswami Ayyar, Dr. K.M. Munshi, Mohammed Sadullah, B.L. Mitter (earlier N. Madhav Rao), D.P. Khaitan (died and replaced by T.T. Krishnamachari).
- The Assembly performed two separate functions. One, making a Constitution for free India and two enacting of ordinary laws for the country.
- On 24 January, 1950, the Constituent Assembly held its final session. However, it continued as Provisional Parliament till 1952.

Some Other Minor Committee	
Committees	Chairman
• Ad-hoc Committee on National Flag	Dr. Rajendra Prasad
• Order of Business Committee	Dr. K.M. Munshi
• Committee on the functions on the Constituent Assembly	G.V. Mavalankar

- The Constituent Assembly adopted National Flag on 22nd July, 1947 while the National Anthem and the National Song were adopted on 24th January, 1950.
- The Constituent Assembly took 2 years, 11 months and 18 days to frame the Constitution and finally it was last assembled on 26th November, 1949 when Constituent Assembly signed the constitution. 284 members signed the constitution.

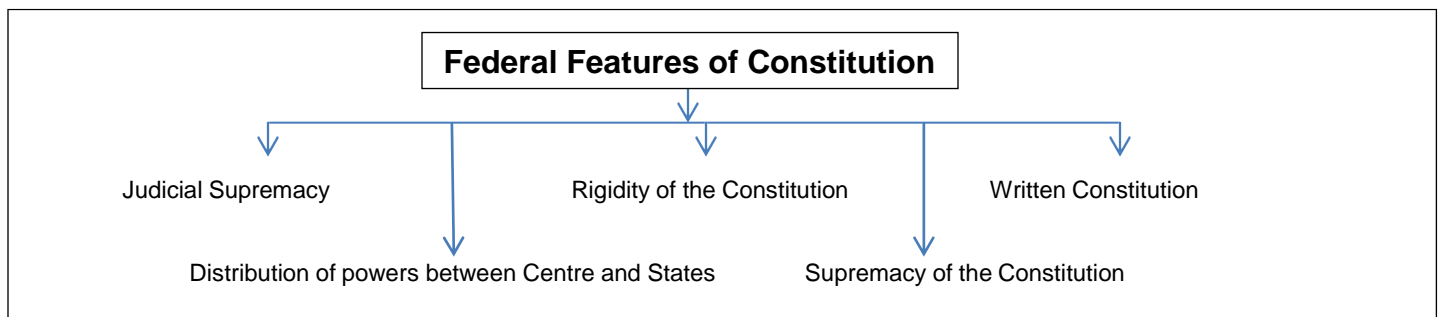
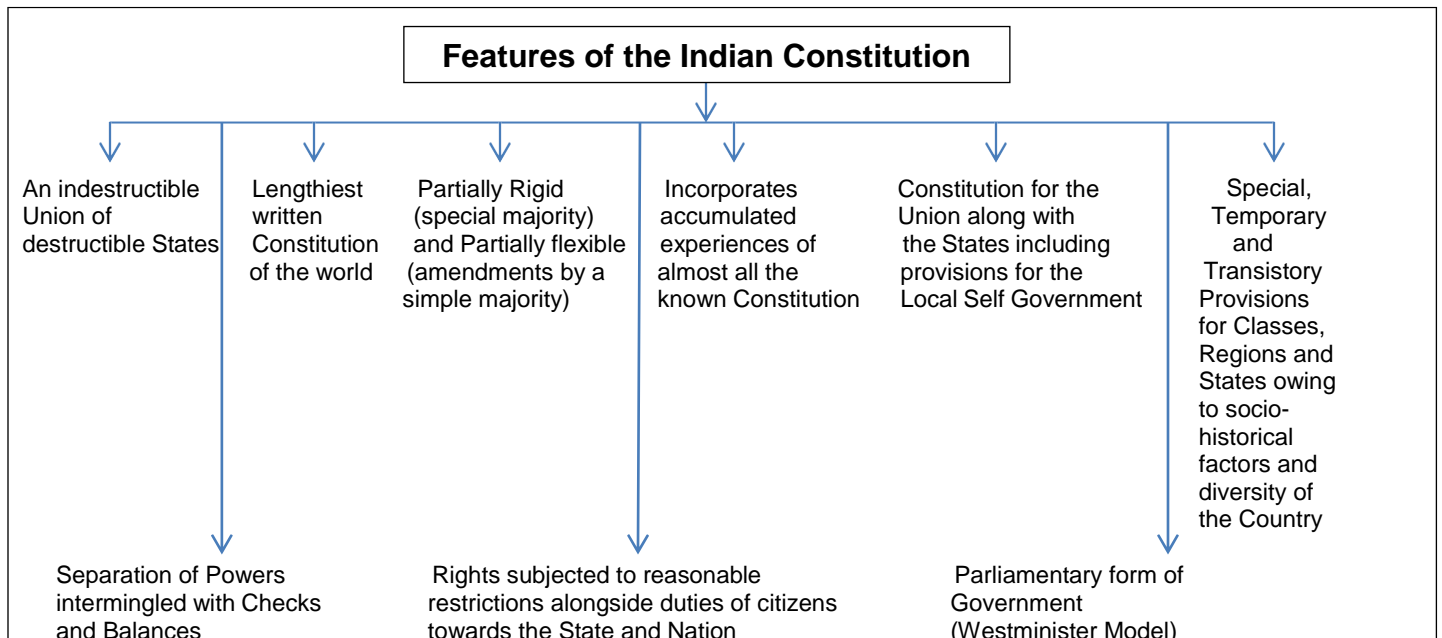
26th January was chosen as a date for commencement of constitution because 26th January was observed as Independence day by people after, Congress session at Lahore on 31st December, 1929 passed a resolution of complete Independence (Purna Swaraj) and declared 26th January as day of Independence.

Important Dates			
Dates	Concerned Events	Dates	Concerned Events
9 th December, 1946	First sitting Constituent Assembly	26 th November, 1949	Constitution was adopted/enacted
11 th December, 1946	Dr. Rajendra Prasad elected President of the Constituent Assembly	24 th January, 1950	Adoption of National Song and National Anthem
13 th December, 1946	Objective Resolution was introduced by Jawaharlal Nehru	26 th January, 1950	Constitution came into force making India a Republic with Dr. Rajendra Prasad as the first President
22 nd July, 1947	Constituent Assembly adopted National Flag	25 th October, 1951- 21 st February, 1952	First general elections were held
15 th August, 1947	Transfer of Power leading to the formation of dominions of India and Pakistan (14 th August, 1947)		

* Source : COSMOS PUBLICATION, DELHI

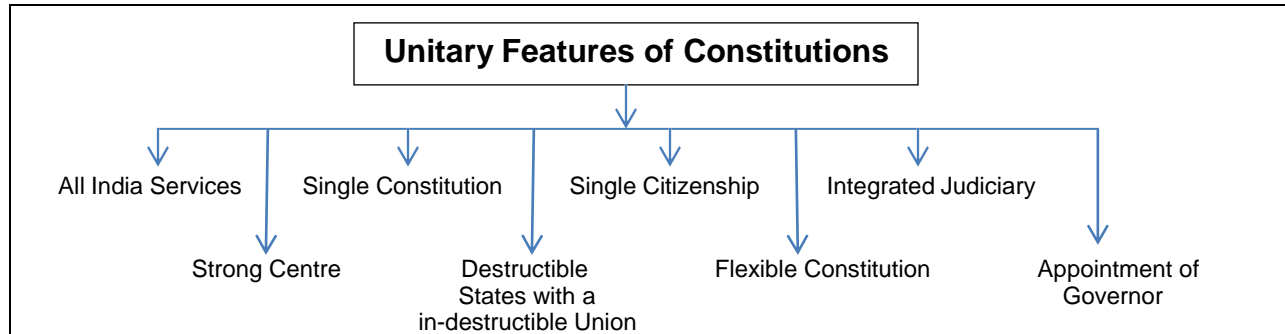
Features of Indian Constitution

- A major part of the Indian Constitution (almost 70% was derived from Government of India Act, 1935 owing to the familiarity with the political and administrative mechanism as envisaged under the Act.



- In a federal government subjects of governance are divided between federal and state governments. States enjoy much independence in their sphere.
- Indian constitution has clearly demarcated powers between the Union and State governments. State governments have their rights on state subjects mentioned in List-II of seventh schedule.
- States can also legislate over concurrent subjects unless they are not in direct conflict with central government's legislation.

- Under Article 368, no amendments in the status of the powers of centre and states can be made without participation of the States. So, Indian constitution is not as easy to amend as the British Constitution but definitely it's not as tough as the US Constitution.



- In the federal countries like USA and Australia, States have their own constitution. But, India has a single constitution for both Union and States. Both centre and states function under a single constitution.
- When there is any conflict between a law of State and center for any concurrent matter then Centre's provisions prevail. Centre also enjoys residuary powers.
- Union enjoys a legislative control over 100 subjects stated under List – I of the seventh schedule as against 61 subjects enlisted under List-II (State list). Also, the Union enjoys overriding power over state on matters enlisted in the Concurrent list. The Residuary power (over subjects finding no mention in either of the lists) also lies with the Union.

India is an indestructible Union of destructible States.

- Governors of the states are appointed by President on the advice of Council of Ministers of central government. Hence, Governor acts like an agent of Centre in State. This increases the centre's control on states.
- Indian Parliament can alter the boundaries, names of the states even without the consent of states. Hence, Parliament enjoys powers to form a new State, merge the states etc. to the extent it seems right.

National Symbols

National Flag

- On August 7, 1906 at Parsi Bagan Square, Calcutta the first national flag of India was hoisted by Surendranath Banerjee. Madam Bhikaji Cama on 22nd August, 1907 hoisted the flag at Stuttgart, Germany.
- The National Flag of India (designed by Pingali Venkayya in 1916) was adopted by the Constituent Assembly on July 22, 1947. It is horizontal tricolor of deep saffron (kesari) at the top, white in the middle and dark green at the bottom in equal proportions. In the centre of the white band is a navy blue wheel representing the Chakra, a symbol of progress and of movement. The ratio of the length of the flag to its width is 3:2.

National Emblem

- The National Emblem is an adaptation from the Sarnath Lion Capital. It was adopted by the Government of India on 26 January, 1950. The words Satyameva Jayate from Mundaka Upanishad, meaning Truth Alone Triumphs are inscribed below the abacus in Devanagari script.
- In the original, there are four lions, standing back to back, mounted on an abacus carrying sculptures in high relief of an elephant, a galloping horse, a bull and a lion separated by intervening wheels over a bell-shaped lotus.

National Anthem

- Jana-gana-mana, composed originally in Bengali by Rabindranath Tagore, was adopted in its Hindi version by the Constituent Assembly as the National Anthem of India on 24 January, 1950.
- It was first sung on 27 December, 1911 at the Calcutta Session of the Indian National Congress.

National Song

- The song Vande Mataram was composed in Sanskrit by Bankimchandra Chattopadhyay from Anandamatha. It was first sung in political context by Rabindranath Tagore at the 1896 session of the Indian National Congress.
- It was adopted by the Constituent Assembly on 24 January, 1950.

National Animal

- Panthera tigris, a striped animal is the national animal of India. It has a thick yellow coat of fur with dark stripes. Lion was the national animal of India till 1972. Later on, it was replaced by tiger.

National Calendar

- The national calendar based on the Saka Era, with Chaitra as its first month and a normal year of 365 days from 22 March, 1957 along with the Gregorina calendar. 1 Chaitra falls on 22 March normally and on 21 March in leap year. The calendar was introduced by the Calendar Reform Committee in 1957.

National Bird

- Peacock (*Pavo cristatus*), which is a symbol of grace, joy, beauty and love is the national bird of India.
- In India the peacock is found in almost all parts and enjoys full protection under the Indian Wildlife (Protection) Act, 1972.

National Flower

- Lotus, botanically known as the *Nelumbo Nucifera Gaertn* is the national flower of India. It symbolizes divinity, fertility, wealth, knowledge and enlightenment.

National Tree

- The Banyan tree (*Ficus benghalensis*) is the National Tree of India.

National Fruit

- Mango (*Manigifera Indica*) is the National Fruit of India.

National River

- Former P.M. Monmohan Singh declared Ganga as The National River of India on February, 20, 2009.

National Aquatic Animal

- To save dolphins (*Planista gangetica*) from extinction, the Union government has declared them as the national aquatic animal on October 5, 2009.

National Currency

- The Indian Rupee sign is an allegory of Indian ethos. The symbol is an amalgam of Devanagari Ra and the Roman Capital R with two parallel horizontal stripes running at the top representing the national flag and also the equal to sign.
- The Indian Rupee sign was adopted by the Government of India on 15th July, 2010.

Important Sources of the Indian Constitution							
Source/Country	Provisions borrowed		Source/Country	Provisions borrowed		Source/Country	Provisions borrowed
Government of India Act, 1935	Office of Governor, Federalism, Emergency, Judiciary, Public Service Commissions, Administrative, Detials.		USA Constitution	Judiciary's Independence, Fundamental Rights, Judicial Review, Impeachment of President and removal of Judges of Supreme Court and High Court, Preamble.		South African Constitution	Amendment of Constitution, Rajya Sabha Elections.
Ireland (Irish Constitution)	Method of election of President, Directive Principles of State Policy & Nomination of Rajya Sabha Members.		British Constitution	Law making procedure, single citizenship, parliamentary government, cabinet system, bicameralism, Rule of Law.		French Constitution	Republic, Ideals of Liberty, equality and fraternity in the Preamble.
Canadian Constitution	Residuary Power to centre, Federation with strong centre, Appointment of governor, Advisory Jurisdiction of Supreme Court		Soviet Constitution	Fundamental Duties, Planning, (social economic and political) Ideals of Justice in Preamble.		Australian Constitution	Concurrent list, Joint sitting, Freedom of trade, Commerce and inter; course
						Japanese Constitution	Procedure established by Law.

*Source : COSMOS PUBLICATION, DELHI

Preamble

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its Citizens :

JUSTICE, Social, Economic, Political;

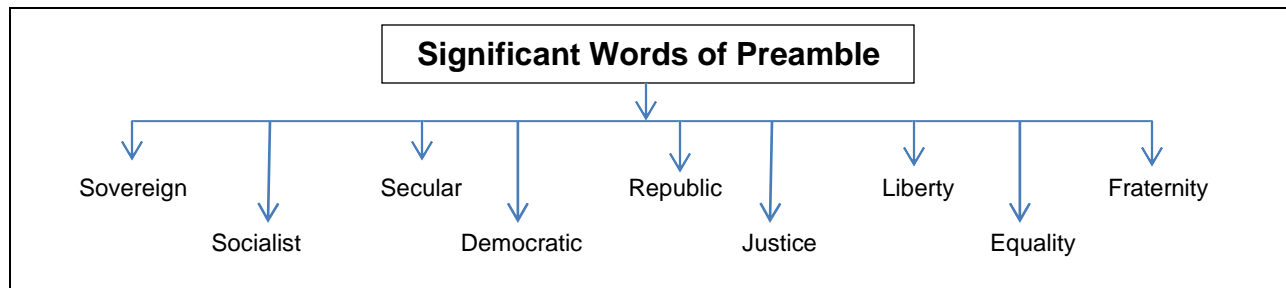
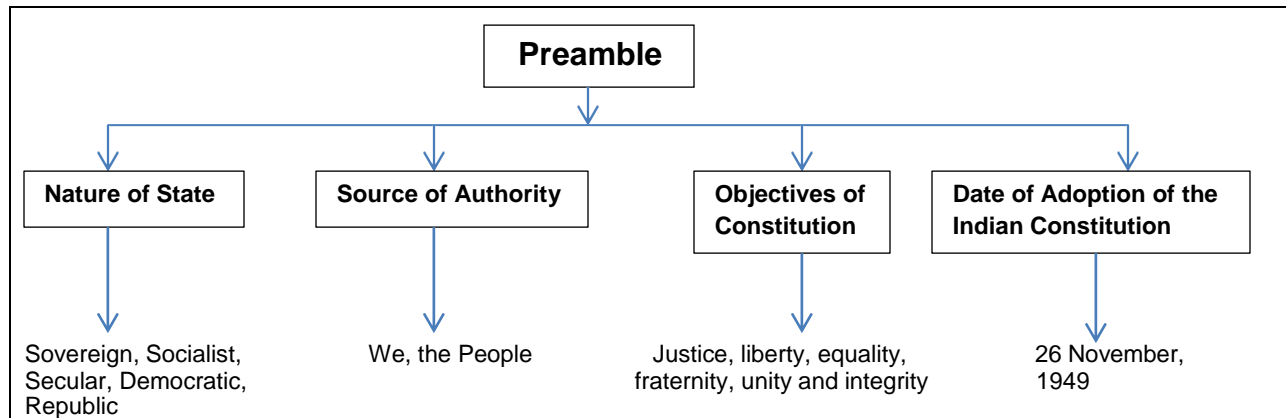
LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity, and to promote among them all;

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation :

**IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949 do
HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.**

Sources of Preamble	
Country	Sources
American Constitution	Preamble
USSR	Ideals of Justice
French Constitution	Republic and the ideals of Liberty, equality and fraternity



Significant Words of Preamble

Sovereign

- Sovereignty refers to the independent authority of the State. It means that state has the power to legislate on any subject which is not subject to the control of any other state or external power.

Socialist

- The word Socialist was added to the Preamble by 42nd Constitutional Amendment, 1976.
- Socialism does not mean the resisting private sector, instead it emphasizes that wealth should not be concentrated in few hands and inequality of income should be abolished.

Secular

- The term secular was inserted by 42nd Constitutional Amendment Act, 1976.
- It explained that State does not recognise any religion as a state religion and it treats all religions equally and with equal respect, without, interfering with their individual rights of religion, faith or worship.

Democratic

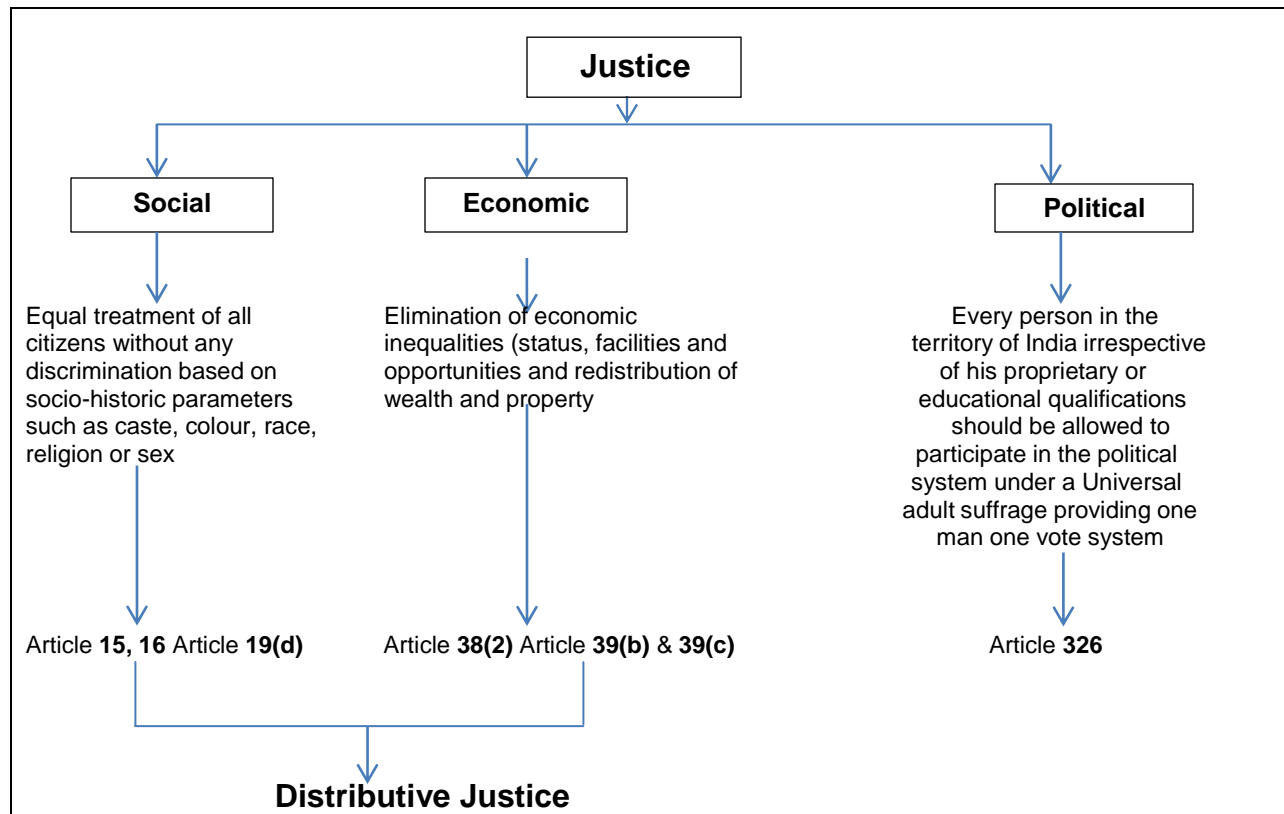
- Democracy is defined as that form of government in the administration of which the adult population has some direct or indirect share.
- Our democracy is a representative democracy which means people have no direct control such as referendum or initiative. People exercise their power through elected representatives in Parliament at Centre and State legislatures at the state level.
- Democratic republic stands for welfare of all the people of India which embodies the concept of welfare state, laid down in Directive Principles of State Policy.

Republic

- Republic means a form of government in which Head of the State is an elected person and not a hereditary monarch like a King or the Queen as in Great Britain.
- President is the Head of Republic of India who is indirectly elected by the people for a fixed period of 5 years. He can also be removed from office by Impeachment (Article 61).

Liberty

- Preamble mentions liberty of thought, expression, belief, faith and worship. These freedoms have been provided in our constitution under Fundamental Rights (Article 19, 25-28) and are enforceable by court of law (through Article 32 and 226).

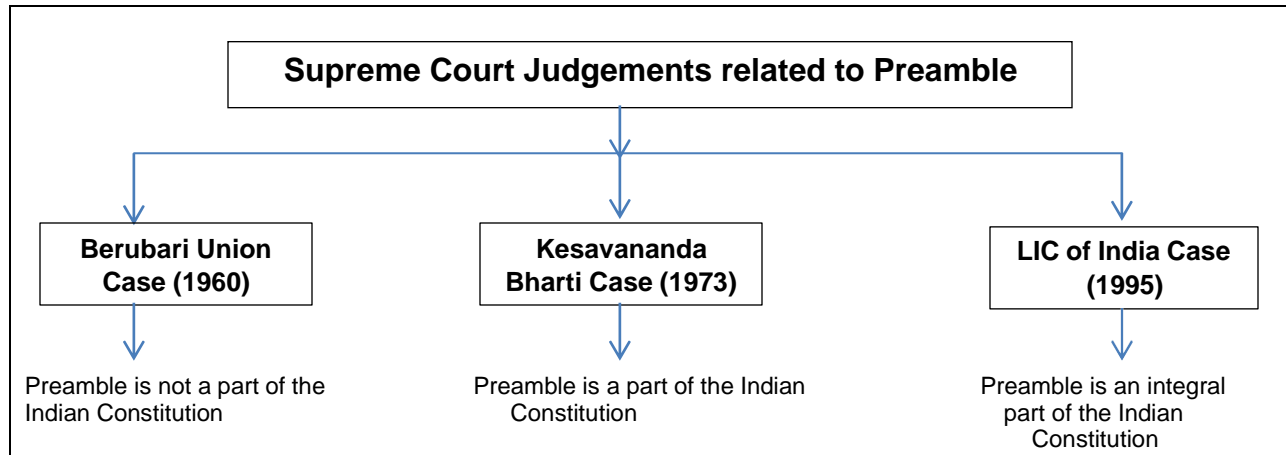


Equality

- Equality of opportunity and status is given in Preamble which is ensured by Article 14-18 and Article 325-326.
- This means that every person shall have equal rights of opportunity for any job, work and nobody can be discriminated or treated as lower than anyone else only on the grounds of religion, race, caste, sex etc.
- Equality of status and opportunity for all is the basis for ultimately establishing an egalitarian society.

Fraternity

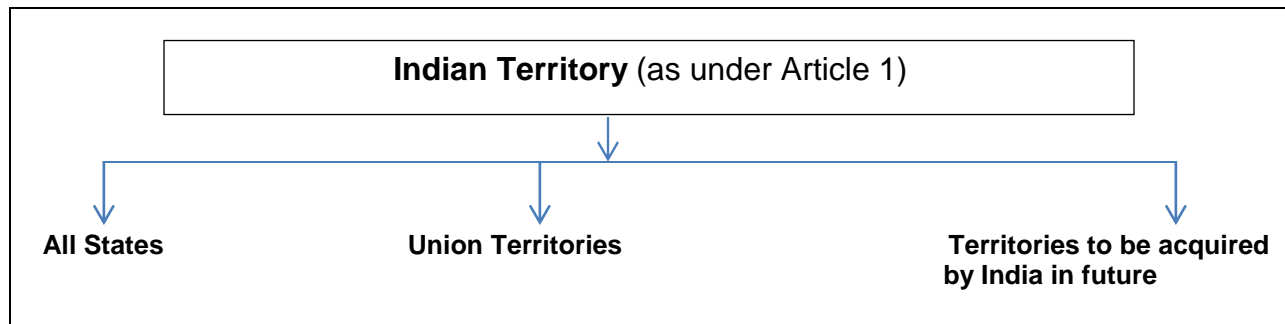
- It refers to the spirit of brotherhood, a feeling that all people are children of same soil, the same motherland. Fraternity ensures the Unity and Integrity of India.



*Source : COSMOS PUBLICATION, DELHI

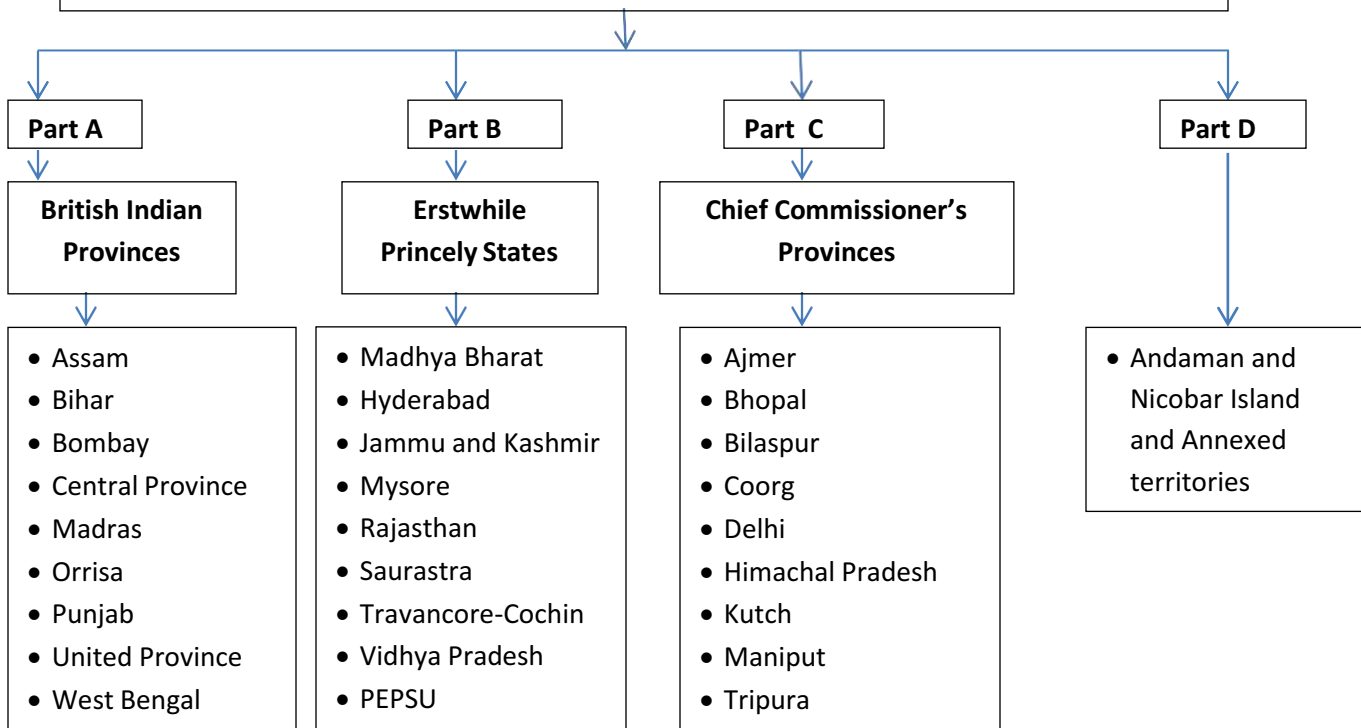
Union and its Territories

- Part I of the Indian Constitution include Article 1 to 4 related to Union and its territory. Article of the Constitution says India, that is Bharat, shall be a Union of states. This tells us the nature of Indian Political system.
- The expression Union of states establishes :
 - (a) India is not the result of an agreement between States.
 - (b) States have no right to secede from the Indian Union. Thus, India preferred the term Union instead of Federation.
- The term Union of India includes all States but territory of India include entire territory i.e. states, and any other territory that may be acquired by India in future.
- The Territory of India is a wider expression and includes all territory over which sovereignty of India extends.

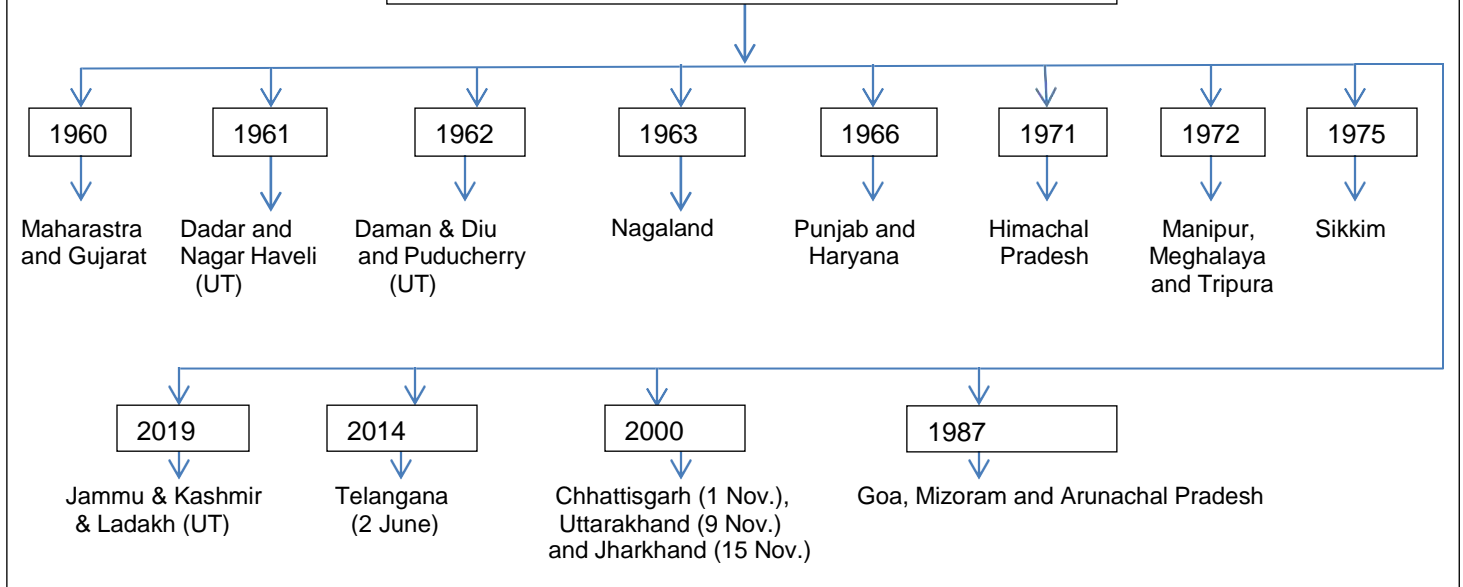


Part I (Article 1-4)	
• Article 1	Name and territory of the Union
• Article 2	Establishment or Admission of new states
• Article 3	Formation of new states and alternation of areas, boundaries or name of existing states.
• Article 4	Laws made under Article 2 and 3 to provide for the amendment of the First and Fourth Schedules and supplemental, incidental and consequential matters.

Types of States on Commencement of Constitution



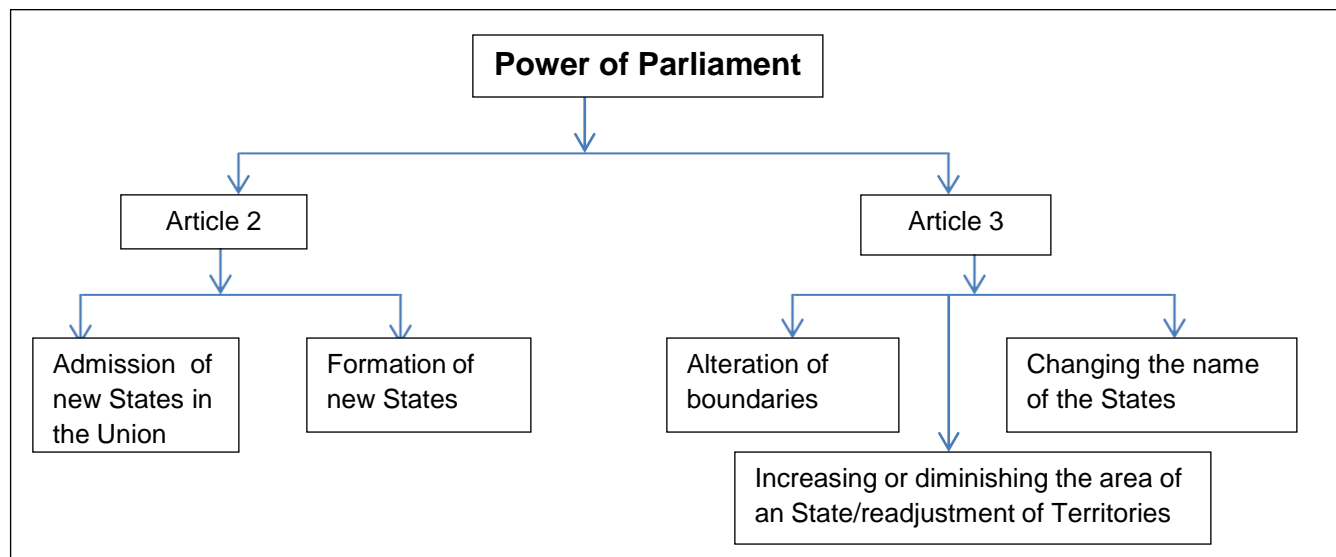
Chronology of States Formation



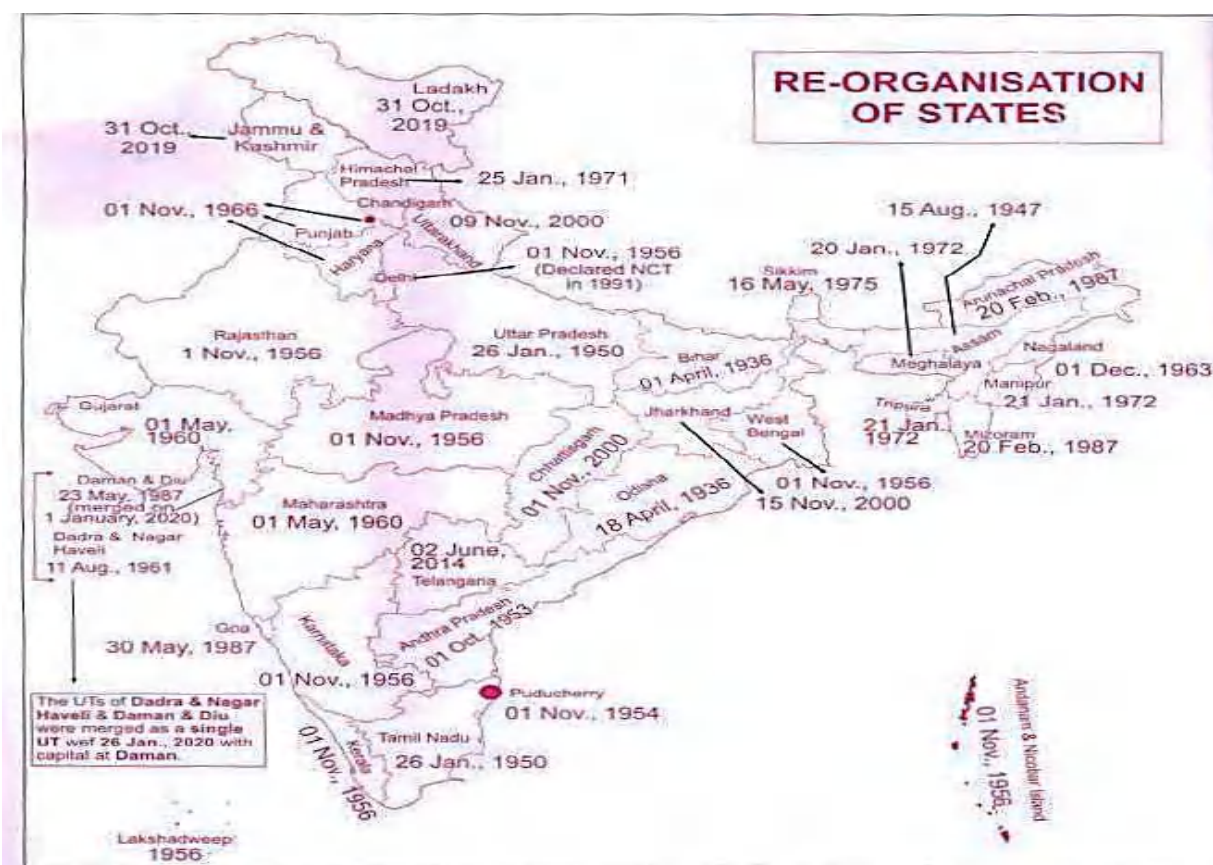
Formation of New States/Union Territories and Alteration of Names

- Assam became a British protectorate in 1826, it was separated from Bengal in 1874 and was reformed as Assam in 1912. It got full statehood on 26 January, 1950.
- Andhra Pradesh was formed in 1953 by taking out some territory from the State of Madras.
- Maharashtra and Gujarat were two states created by Bombay Reorganisation Act, 1960. Thus, creating Marathi and Gujarati Speaking states respectively.
- Bihar was formed by the British on 22nd March, 1912 (carving out of Bengal) and got statehood on 26th January, 1950.
- Orissa was made a separate province on 1st April, 1936 and gained statehood in 1950.
- Madras Presidency was reorganised as a state in 1950 and renamed Tamil Nadu in 1969.

- Former states of Travancore, Cochin and Malabar were merged to form the state of Kerala in 1956.
- Mysore state was formed on 1st November, 1956 by bringing together Kannada speaking regions.
- In 1963, Nagaland was created as a state out of Assam separating Naga Hills Area and Tuensang Area by State of Nagaland Act, 1962.
- Punjab Reorganisation Act, 1966 created state of Haryana and Chandigarh as Union Territory out of Punjab.
- Himachal Pradesh was created with the merger of 30 princely states in 1950, was declared a Union Territory in 1956 and gained statehood on 25 January, 1971.
- The two Union Territories of Manipur and Tripura were made states which were earlier union Territories. The sub-state of Meghalaya gained statehood. In 1987, Mizoram and Arunachal Pradesh became 23rd and 24th Indian states.
- Sikkim became a full-fledged State by 36th Constitutional Amendment Act, 1976. Initially, Sikkim was a protectorate of India and in 1974 by 35th Constitutional Amendment Act, 1975. Sikkim became an Associate State.
- The Union Territory of Mizoram gained statehood by State of Mizoram Act, 1986.
- The Union Territory of Arunachal Pradesh was given statehood in 1986 by Arunachal Pradesh Act, 1986.
- State of Jammu & Kashmir was bifurcated into Union Territories of Jammu & Kashmir and Ladakh on 31st October, 2019.
- Union Territories of Dadra and Nagar Haveli and Daman and Diu were merged on 26th January, 2020 with capital at Daman.



- Parliament has the power to form such states or alter the name or boundaries of States even without the consent of states i.e. by simple majority. Parliament can do such changes or make new states.
- India is an indestructible Union of destructible States. Reorganisation of states can be based on linguistic, geographic administrative or ethnic factors.



Zonal Councils	
1. Northern Zonal Council (Delhi)	Haryana, Himachal Pradesh, Jammu & Kashmir, Punjab, Rajasthan, National Capital Territory of Delhi and Union Territory of Chandigarh
2. Central Zonal Council (Prayagraj)	Chhattisgarh, Uttarakhand, Uttar Pradesh, and Madhya Pradesh
3. Eastern Zonal Council (Kolkata)	Bihar, Jharkhand, Orissa, Sikkim, West Bengal and Kolkata
4. Western Zonal Council (Mumbai)	Goa, Gujarat, Maharashtra and Dadra & Nagar Haveli, Daman & Diu
5. Southern Zonal Council (Chennai)	Andhra Pradesh, Karnataka, Kerala, Tamil Nadu and Union Territory of Puducherry
6. North Eastern Zonal Council (Shillong)	Assam, Arunachal Pradesh, Manipur, Tripura, Mizoram, Meghalaya and Nagaland

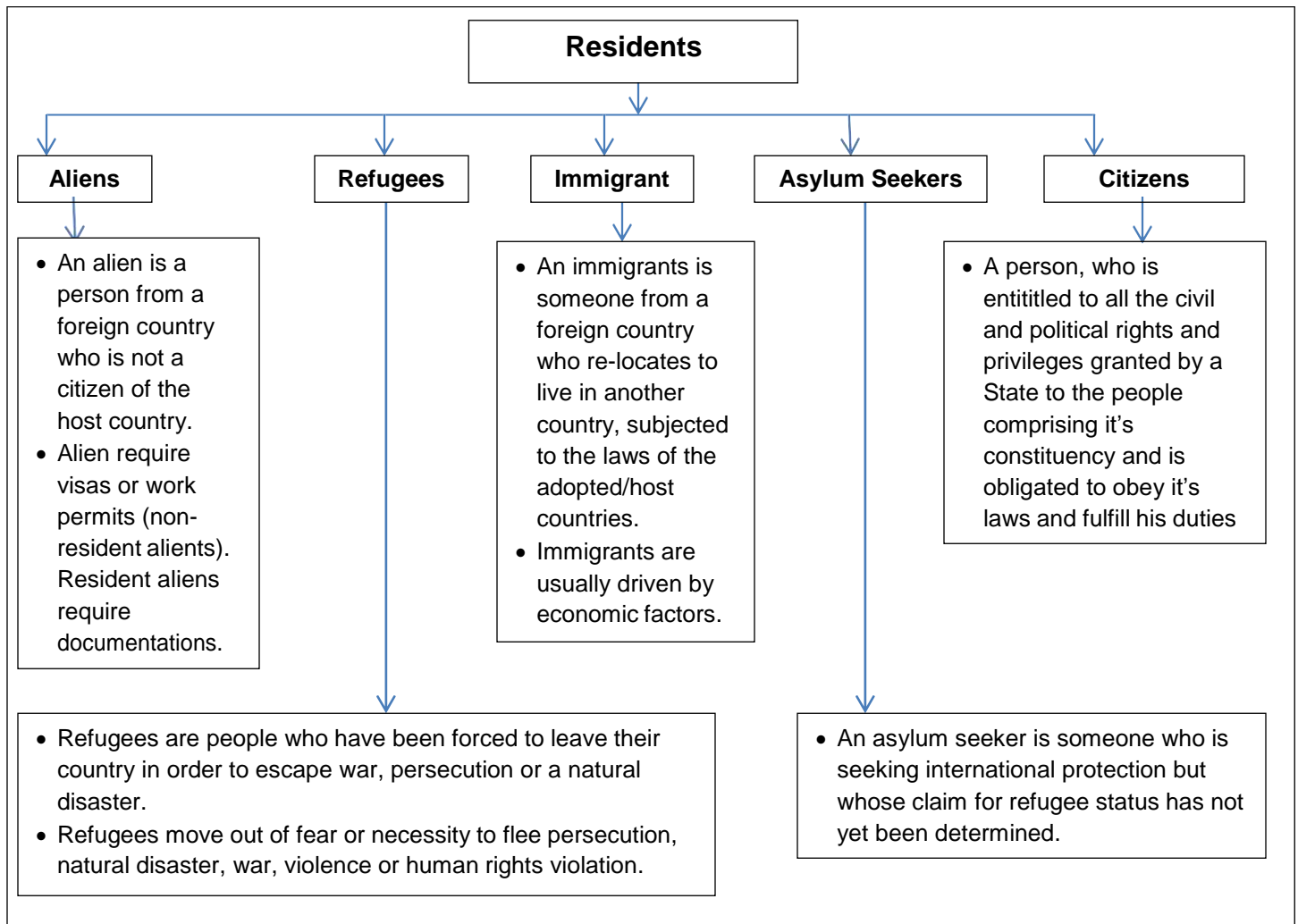
Union Territories (Present)			
Union Territories	Capital	Districts	Area (km²)
1. Andaman & Nicobar	Port Blair	3	8,249
2. Chandigarh	Chandigarh	1	114
3. Dadra & Nagar Haveli and Daman & Diu	Daman	3	603
4. Delhi	New Delhi	11	1,483
5. Lakshadweep	Karavati	1	32
6. Puducherry	Puducherry	4	492
7. Jammu & Kashmir	Srinagar	22	55,538
8. Ladakh	Leh	2	1,74,852

Article 239A and 239AA Special Provisions related to UTs
<p>In 1962, Article 239A (amended by 37th Amendment Act, 1974) was introduced in the Constitution to empower Parliament to create a Legislature (or a Council of Ministers) for some of the Union Territories under which Article 239A (for Puducherry) and Article 239AA (by 69th Amendment Act, 1992) provided special provisions for the Union Territory of Delhi re-naming it as National Capital Territory of Delhi. It also provided for a Legislative Assembly to make laws enumerated in the State list or the Concurrent list in limited jurisdiction (with an overriding Parliamentary Jurisdiction). Hence, Puducherry (1963) and (NCT) of Delhi (1991) along with recently carved Union Territory of Jammu and Kashmir (2019) are the only three Union Territories with State Legislative Assemblies and seats allotted in the Council of States under Schedule 4 of the Constitution. Delhi State government has been demanding complete statehood owing to the administrative ambiguity and complexity of the 3 tier administrative structure.</p>

The States Of India					
Sl.No.	State	Capital	District	Area (km ²)	(% of total area)
1.	Rajasthan	Jaipur	33	3,42,239	10.41
2.	Madhya Pradesh	Bhopal	52	3,08,245	9.37
3.	Maharashtra	Mumbai	36	3,07,713	9.36
4.	Uttar Pradesh	Lucknow	75	2,36,286	7.18
5.	Gujarat	Gandhinagar	33	1,96,024	5.96
6.	Karnataka	Bengaluru	30	1,91,791	5.83
7.	Andhra Pradesh	Hyderabad	13	1,60,205	4.87
8.	Odisha	Bhubaneswar	30	1,55,707	4.73
9.	Chhattisgarh	Raipur	27	1,35,191	4.11
10.	Tamil Nadu	Chennai	37	1,30,058	3.95
11.	Bihar	Patna	38	94,163	2.86
12.	West Bengal	Kolkata	23	88,752	2.69
13.	Arunachal Pradesh	Itanagar	25	83,743	2.54
14.	Jharkhand	Ranchi	24	79,714	2.42
15.	Assam	Dispur	33	78,438	2.38
16.	Himachal Pradesh	Shimla/ Dharamshala	12	55,673	1.69
17.	Uttarakhand	Dehradun	13	55,483	1.62
18.	Punjab	Chandigarh	22	50,362	1.53
19.	Haryana	Chandigarh	22	44,212	1.34
20.	Kerala	Thiruvananthapuram	14	38,863	1.18
21.	Meghalaya	Shillong	11	22,429	0.68
22.	Manipur	Imphal	16	22,327	0.67
23.	Mizoram	Aizwal	8	21,081	0.64
24.	Nagaland	Kohima	11	16,579	0.50
25.	Tripura	Agartala	8	10,491	0.31
26.	Sikkim	Gangtok	4	7,096	0.21
27.	Goa	Panaji	2	3,702	0.11
28.	Telangana	Hyderabad	33	1,12,077	3.40

* Source : COSMOS PUBLICATION, DELHI

Citizenship



- Part II of Indian Constitution (Article 5 to Article 11) deals with the Citizenship of India during the commencement of the Constitution.

Part 2 (Article 5-11) relating to Citizenship, came into force on November 26, 1949 itself.

- The Constitution describes who would be considered the citizens of India from the commencement date of constitution i.e. from 26th January, 1950.

Constitutional Provisions related to Citizenship

Article 5

- Article 5 refers to the citizenship on January 26, 1950.

Article 6

- This Article provides citizenship to those persons who have migrated to India from Pakistan.

Article 7

- Right of citizenship of certain migrants to Pakistan who returned back to India with intention to live permanently.

Article 8

- This Article provides the rights of citizenship of certain persons of Indian origin residing outside India.

Article 9

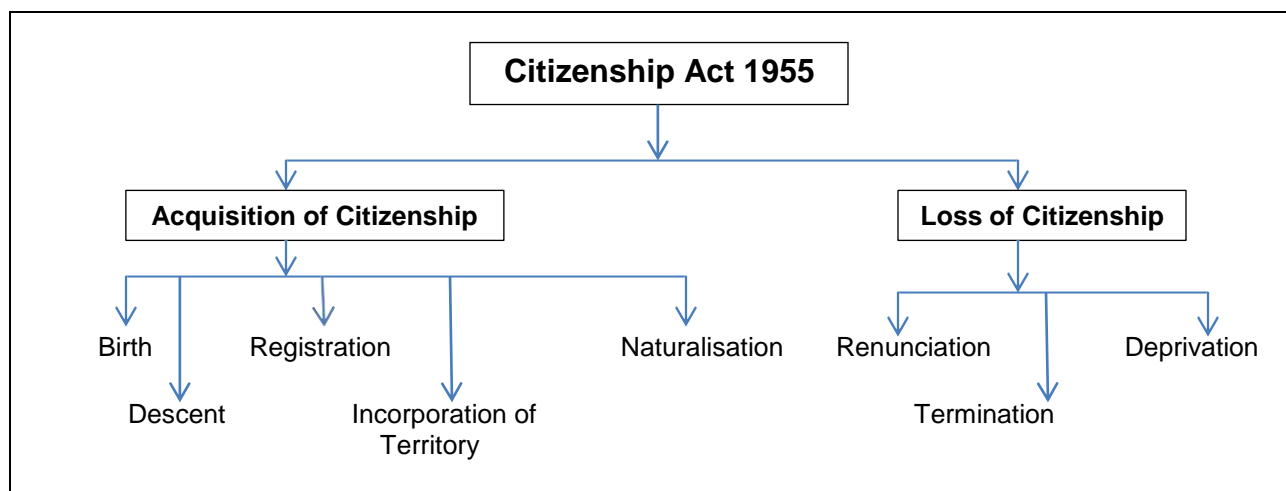
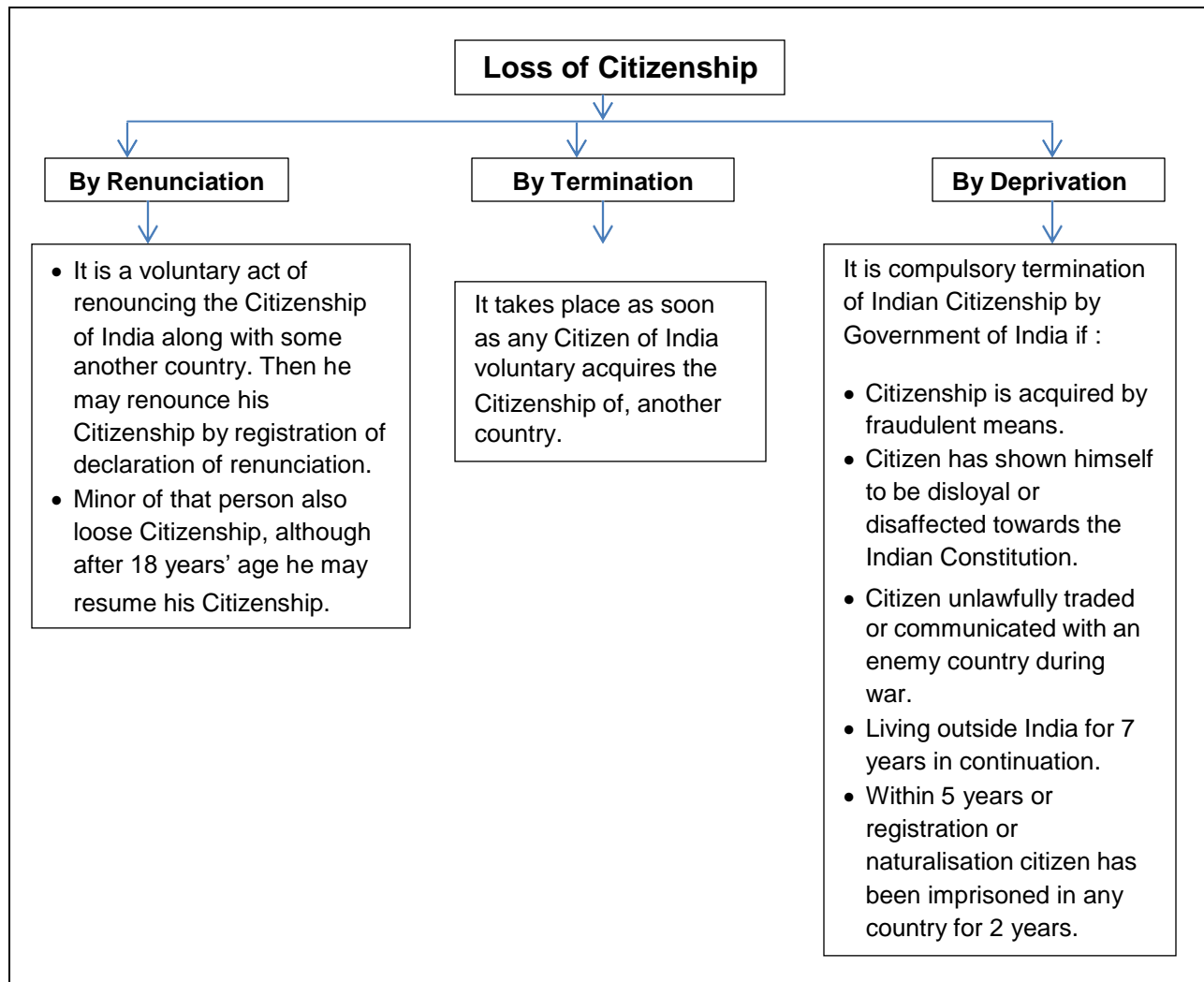
- No person who has voluntarily acquired the citizenship of any foreign state shall be a citizen of India or deemed to be a citizen of India.

Article 10

- Every person who is or is deemed to be a citizen of India shall continue to be such citizens, subject to the provisions of any law made by the Parliament.

Article 11

- Parliament shall have the power to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship.



Amendments in Citizenship Act 1955

- The Citizenship Act, 1955 has been amended four times so far by the following Acts :

1. The Citizenship (Amendment) Act, 1986
2. The Citizenship (Amendment) Act, 1992
3. The Citizenship (Amendment) Act, 2003
4. The Citizenship (Amendment) Act, 2005

By Birth

- A person born on or after January 26, 1950 but before 1st July, 1987, irrespective of nationality of his parents.

By Descent

- A person born outside India on or after January 26, 1950 but before 10 December, 1992, is a citizen of India if his father was a citizen of India at the time of his birth or if after 10 December, 1992 either of his parents were Indian citizens.

By Registration

- Any person can acquire citizenship by registering before prescribed authority.

By Naturalisation

- A foreigner not being an illegal migrant can acquire Indian Citizenship, on application for naturalisation from the Government of India.

By Incorporation of Territory

- If a new territory becomes a part of India, the Government of India shall specify the persons of that territory who shall be the Citizens of India.

Features of Citizenship Amendment Act
--

- The Act makes religiously persecuted minorities (i.e. Hindus, Sikhs, Buddhists, Jains, Parsis, Christians) from Afghanistan, Bangladesh and Pakistan eligible for Indian Citizenship.
- The Act reduces the requirement of 11 years of continuous stay in India to 6 years to obtain citizenship by naturalisation for these communities belonging to these nations.
- Overseas Citizenship of India (OCI) can be cancelled in case of violation of law.

Census v/s National Population Register (NPR)

- The recent exercise of NPR is related to Census 2021. Census is a macro exercise conducted in every decade and is not intended to identify the individual identify details, while NPR is designed to collect identity details of individuals.
- The government decided to update the National Population Register along with houselisting phase of Census 2021 during April-September 2020 in all States/UT's except Assam (since it recently completed NRC)
- While registering with NPR is mandatory, furnishing additional data as PAN, Aadhar, Voter ID is voluntary. NPR will form the base for a nationwide National Register of Citizens. NPR is not a citizenship enumeration drive since it will include all usual residents (even foreigners staying for more than 6 months)
- Since NRC in Assam was prepared on a similar note, it is expected that after a list of residents is created (NPR), a nationwide NRC could go for verifying citizens from that list.

National Register of Citizens (NRC)

- The National Register of Citizens is the register containing names of Indian citizens.
- It was prepared in 1951 after conducting the census of 1951 and was published only once in 1951.
- The NRC will be updated to include the names of those persons (or their descendents) who appear in NRC – 1951, or in any of the electoral rolls up to the midnight of 24th March, 1971 or in any one of the other admissible documents issued up to midnight of 24th March, 1971, which would prove their presence in Assam or in any part of India on or before 24th March, 1971.
- All the names appearing in the NRC, 1951 or any of the electoral rolls up to the midnight of 24th March, 1971 together are called Legacy Data.
- There are 2 requirement for inclusion into updated NRC :
 - ➔ Existence of person's name in pre 1971 period.
 - ➔ Providing linkage with that person.

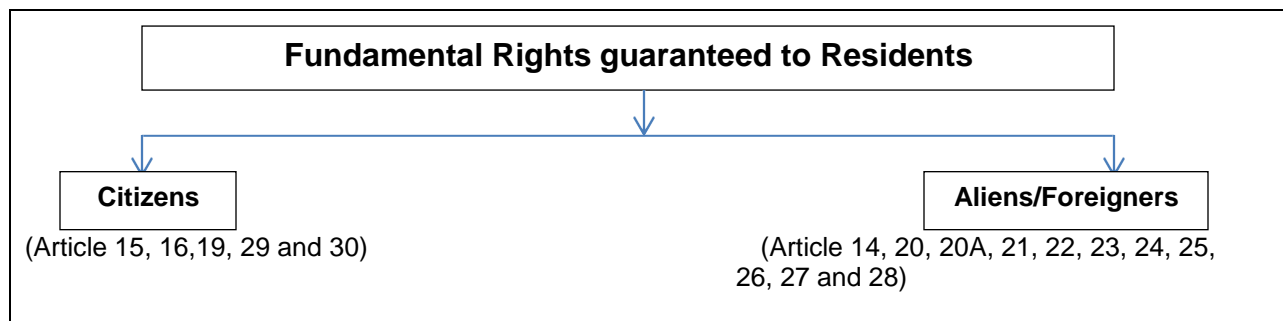
*Source : COSMOS PUBLICATION, DELHI

Fundamental Rights

- The idea of Bill Rights, in Indian Polity first emerged in Nehru report. Framers of the Indian constitution were later inspired from Bill of Rights in US constitution and included a full chapter on fundamental rights, regarded as the Magna Carta of India.
- Part III of Indian Constitution consisting of Articles 12 to 35 deals with Fundamental Rights. These rights are fundamental since they are guaranteed by Fundamental law of country i.e. by Constitution itself.
- Fundamental rights are guaranteed by Fundamental law of land i.e. by Constitution & hence, any action done by state in violation of these rights is null or void.
- For the violation of fundamental rights a person can move to Supreme Court and the right to move to Supreme Court is guaranteed by Fundamental Rights itself (under Article 32).

Right to property was put under Article 300 A in Part XII of Constitution and Article 31 and Article 19 (f) were omitted from Part III.

Fundamental rights can be suspended by President during national emergency (except Article 20-21) as under Article 358 and 359.



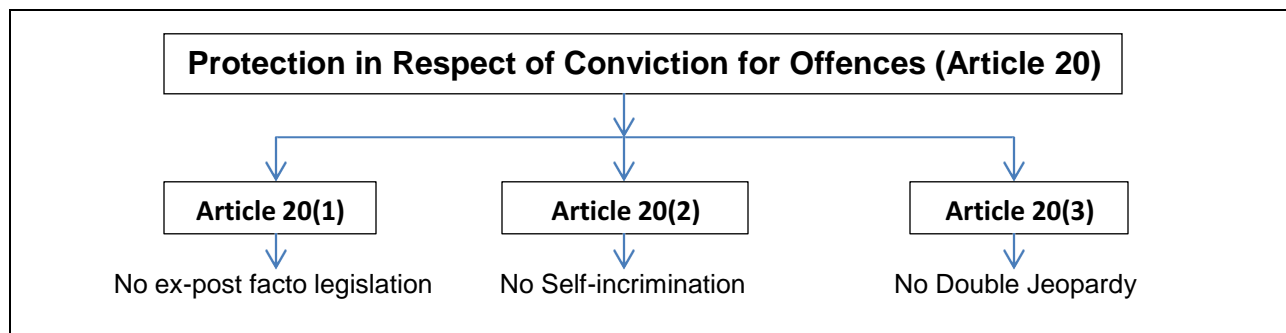
Article 13 provides for judicial Review of all legislations. The notion of Judicial Review is taken from the Constitution of USA.

- Article 14 provides for Equality before law where no man is above law and Equal protection of law, where unequals treated unequally.

- Article 15 contains prohibition of discrimination by state and individual as well against any citizen of India on specified grounds.
- Under Article 15(3) State has powers to make special provisions for women and children under Article 15(3), 16(2), 16(4).
- Article 17 abolished Untouchability under which parliament framed Protection of Civil Rights Act, 1955. The word Untouchability is not defined in the Constitution.

Article 19(1)(f) – Right to Property was removed by the 44th Constitutional Amendment Act, 1978 and made a Constitutional Right under Article 300A.

Right to form Cooperative Societies [19(1)(c)] became a fundamental right through 97th Constitutional Amendment Act, 2011.



Fundamental Rights

Right to Equality
(Article 14 – 18)

Equality before law
(Article 14)
Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth
(Article 15)
Equality of opportunity in matter of public employment
(Article 16)
Abolition of untouchability
(Article 17)
Abolition of titles
(Article 18)

Right to Freedom
(Article 19 – 22)

Freedom of speech and expression
(Article 19)
Protection of life and personal liberty
(Article 21)
education
(Article 21A)
Protection against arrest and detention in certain cases
(Article 22)

Right against Exploitation
(Article 23 – 24)

Prohibition of traffic in human being and forced labour
(Article 23)
Prohibition of employment of children in factories, etc
(Article 24)

Right to Freedom of Religion
(Article 25 – 28)

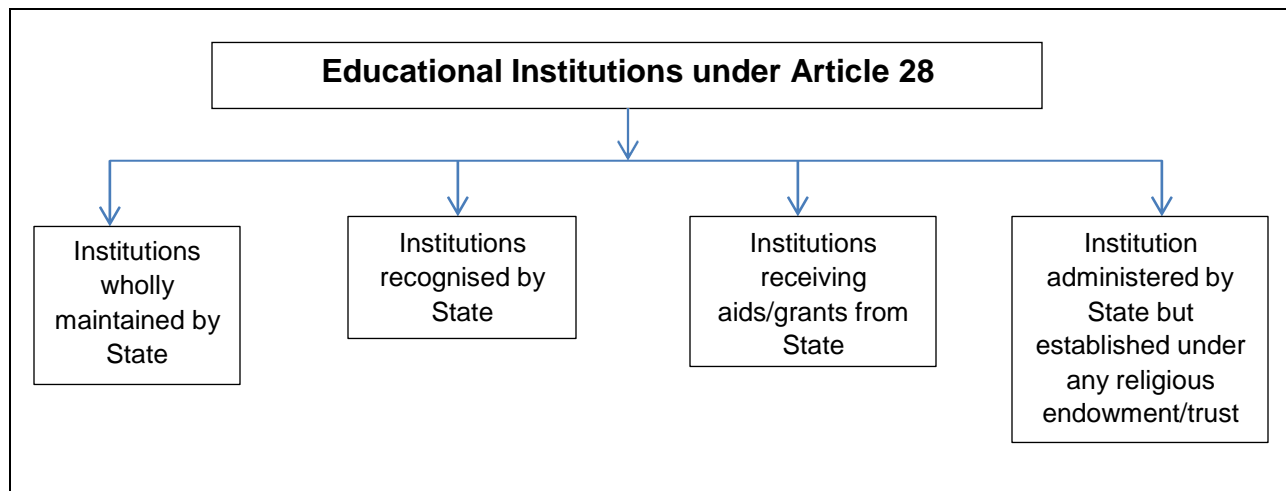
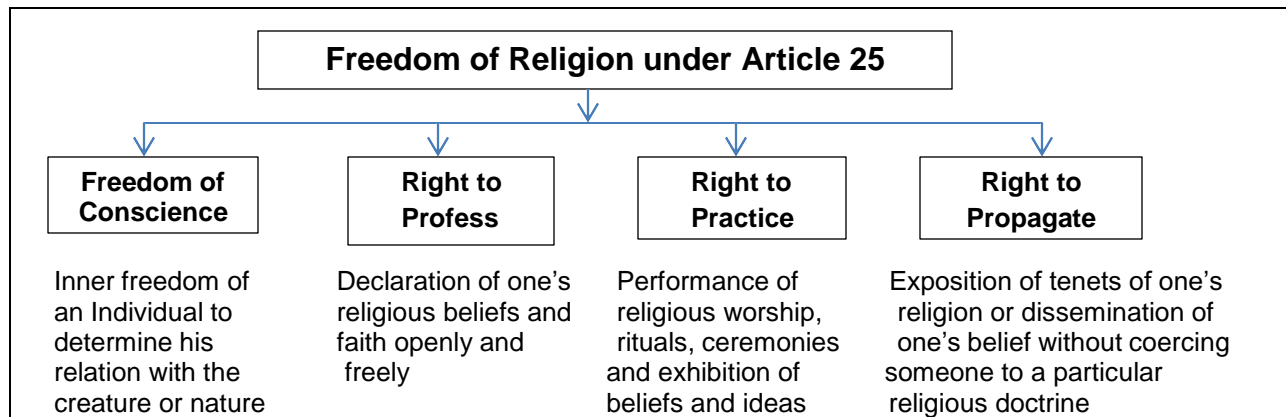
Freedom of conscience and free profession, of religion
(Article 25)
Freedom to manage religious affairs
(Article 26)
Freedom from payment of taxes for promotion of any religion
(Article 27)
Freedom from attending any religious instructions or worship in certain educational institutions
(Article 28)

Cultural and Educational Rights
(Article 29 – 30)

Protection of interests of minorities
(Article 29)
Rights of minorities to establish and administer educational institutions
(Article 30)

Right to Constitutional Remedies
(Article 32)

Remedies for enforcement of fundamental rights conferred by this part
(Article 32)



Exceptions of Fundamental Rights	
Article 31A	A law for agrarian reform or for acquisition of estates, etc. cannot be invalidated if it contravenes Article 14 and 19.
Article 31B	This articles provides complete exception to fundamental rights i.e. Law put under 9 th Schedule which is read with Article 31B cannot be invalidated on the ground of violation of fundamental rights.
Article 31C	Laws made for giving effect to certain directive principles cannot be invalidated on ground on contravention of Article 14 and Article 19.

Prerogative Writes
Habeas Corpus
<ul style="list-style-type: none"> • Habeas Corpus literally means to have the body • In this writ court orders to a person who has detained another to produce the body of detained person before it.
Mandamus
<ul style="list-style-type: none"> • It literally means we command. This is issued against executive and inferior judicial bodies to perform their duties which they have failed to perform.
Prohibition
<ul style="list-style-type: none"> • Prohibition literally means to forbid (inactivity). • This writ is issued against judicial and quasi-judicial bodies only to stop them from going beyond their jurisdiction.
Certiorari
<ul style="list-style-type: none"> • This writ is issued against any judicial or quasi-judicial body by a higher court to quash the order of a inferior judicial body or to transfer any case to itself from a lower court.
Quo Warranto
<ul style="list-style-type: none"> • It literally means by what authority. • It is issued to ensure the legality of the qualification of the person holding an office.

*Source: COSMOS PUBLICATION, DELHI

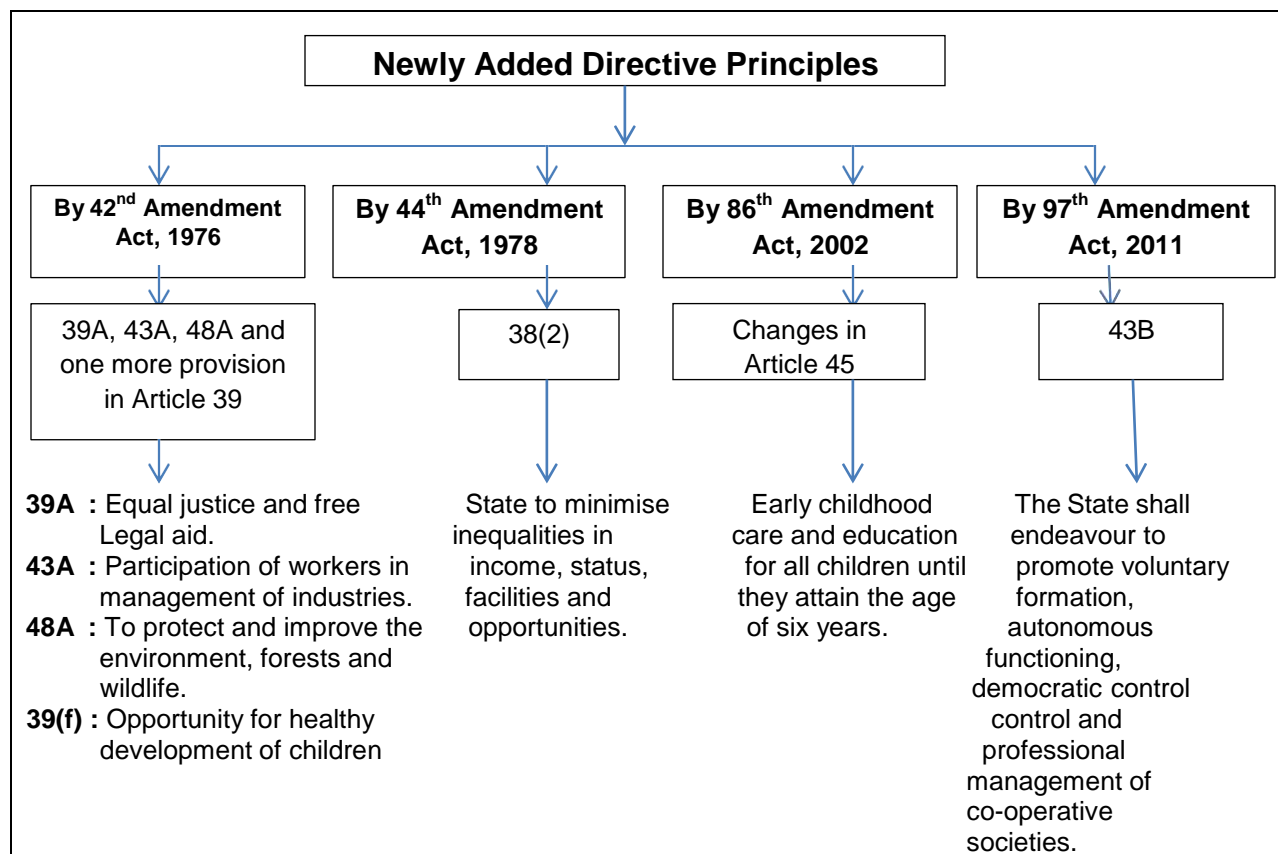
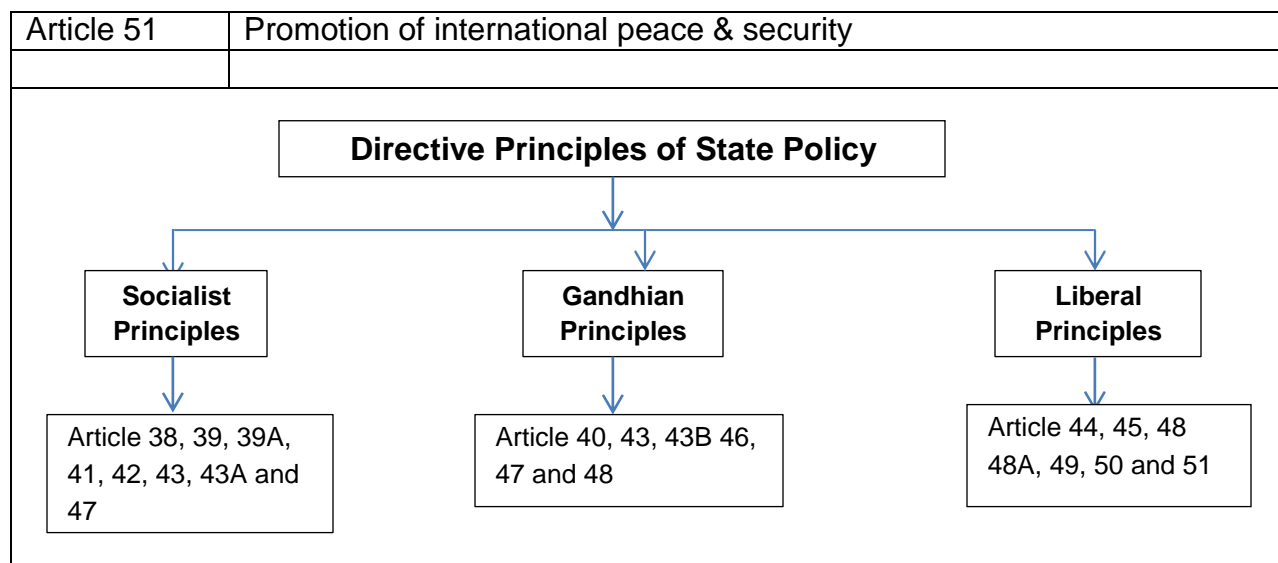
Directive Principles of State Policy

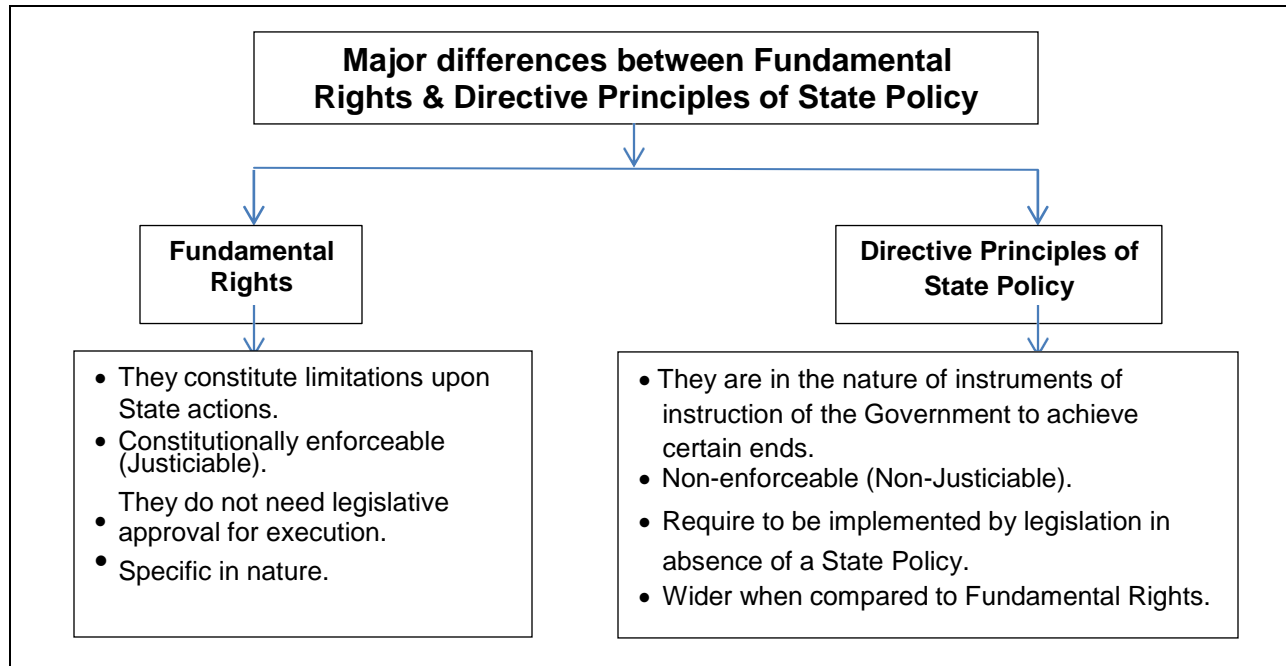
- Directive Principles of State Policy (DPSPs) are the principles or guidelines for law making to Indian State.
- Directive Principles contained in Part IV (Article 36 – 51) of the Constitution have been borrowed from Irish Constitution.
- These principles aim to establish social and economic democracy through a welfare State.
- Directive Principles are like the Instrument of Instructions given in Government of India Act, 1935.

At present under Article 31(c), a law can be protected if it implements Article 39(b) or (c) and not all Directive Principles.

- DPSP are non-justiciable in nature and were incorporated in the Constitution as Directives to the Union to draft future policies to ensure socio-economic democracy.

Directives Principles of State Policy Part IV (Article 36 – 51)	
Article 36	Definition of State
Article 37	Application of principles contained in this part
Article 38	State to secure a social order for the promotion of welfare of the people
Article 39	Certain principles of policy to be followed by the state
Article 39A	Equal justice and free legal aid
Article 40	Organisation of village panchayats
Article 41	Right to work, to education and to public assistance in certain cases
Article 42	Provision for just and humane conditions of work and maternity relief
Article 43	Living wage, etc, for workers
Article 43A	Participation of workers in management of industries
Article 44	Uniform Civil Code the citizens
Article 45	Provision for early childhood care and free and compulsory education for childrens
Article 46	Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections
Article 47	Duty of the state to raise the level of nutrition and the standard of living and to improve the public health
Article 48	Organisation of agriculture and animal husbandry
Article 48A	Protection and improvement of environment and safeguarding of forests and wildlife
Article 49	Protection of monuments, places and objects of national importance
Article 50	Separation of judiciary from executive





*Source : COSMOS PUBLICATION, DELHI

Fundamental Duties

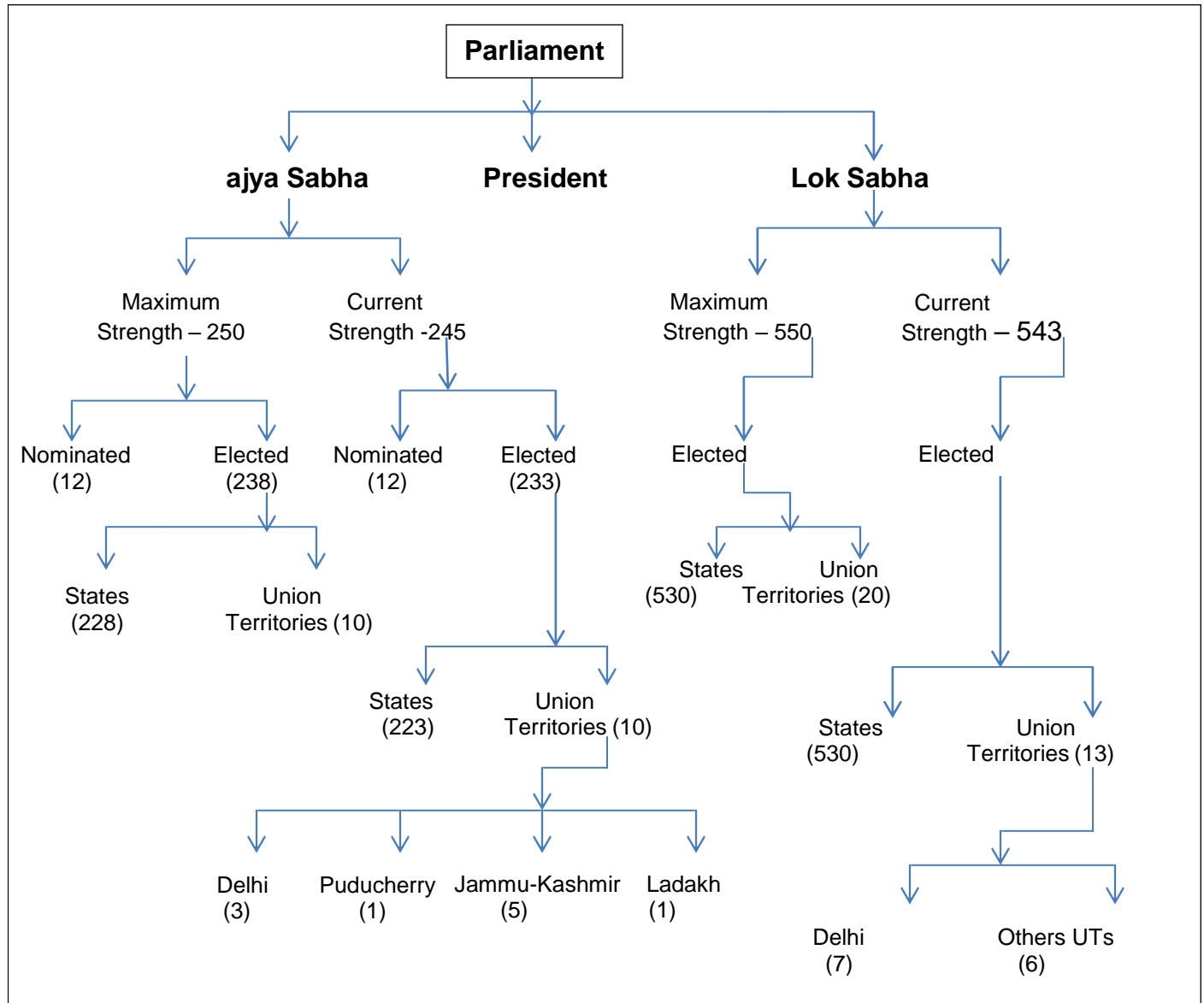
- Fundamental Duties are expected by the citizens of India like Directive Principles of State Policy (DPSP) are expected to be implemented by State.
- In 1976, the Congress Party set up Swaran Singh Committee to make recommendation about Fundamental Duties whose need was felt during emergency.
- Fundamental Duties were not the part of original Constitution instead added in 1976 by 42nd Amendment Act on the recommendation of Sardar Swaran Singh Committee.
- Ten Fundamental Duties were added initially in the Constitution by 42nd Amendment Act, 1976.
- This Amendment added Part IVA (Article 51A) in the Indian Constitution.
- One more duty was added in 2002 by 86th Constitutional Amendment Act raising the total number of Fundamental Duties to 11.

Fundamental Duties
<ul style="list-style-type: none">• Part IVA (Article 51A) of the Constitution says that, it shall be the duty of every citizen of India :
<ul style="list-style-type: none">(a) To abide by Constitution and respect its ideals and institutions, the National Flag and National Anthem;(b) To cherish and follow the noble ideans that inspired the national struggle for freedom;(c) To uphold and protect the sovereignty, unity and integrity of India;(d) To defend the country and render national service when required;(e) To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities, to renounce practices derogatory to the dignity of women;(f) To value and preserve the rich heritage of our composite culture;(g) To protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures;(h) To value the scientific temper, humanism and the spirit of inquiry and reform;(i) To safeguard public property and to abjure violence;(j) To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement;(k) A parent or guardian to provide opportunities for education to his child or ward, as the case may be, between the age of six to fourteen years (86th Amendment Act, 2002).

- Fundamental Duties have references from USSR's and Japanese Constitution. Japanese Constitution is the only democratic constitution in the world which contains duties of citizens.

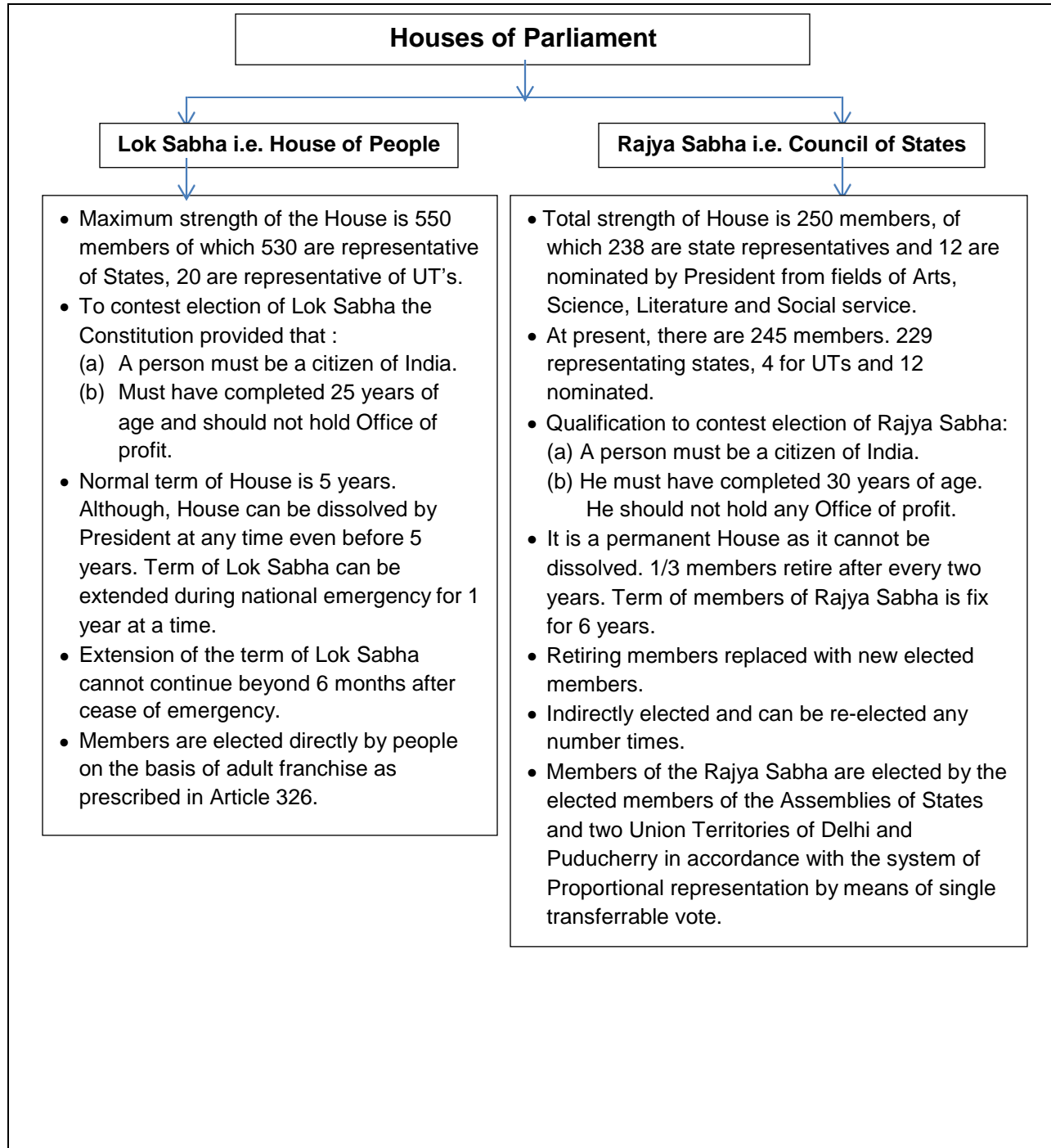
Parliament

- Parliament is the legislative wing of the Central Government in India. It is responsible for making laws.
- The Parliamentary form of government is adopted from Britain (westminster model).
- Part V (Article 79 – 123) of Indian Constitution gives the details of composition of both the Houses, sessions of Parliament, Annual financial statement, Bills, Money bill, Role of Speaker and Chairman and their election, powers, privileges of Houses and its members.
- Lok Sabha is also called House of people or Lower House, Rajya Sabha is also called as Upper House or Council of states. Lok Sabha represents people of India as whole and Rajya Sabha represents the States and Union territories.
- After Rajya Sabha passes such resolution with absolute majority then resolution has to be passed by Lok Sabha also (Article 67).



- Rajya Sabha has the special power to pass a resolution for creation of any All India Services or All India Judicial Services if Rajya Sabha considers it in national interest. If Rajya Sabha passes such resolution with special majority then only Parliament can legislate on this. (Article 312).
- If Rajya Sabha thinks that it is important or in the national interest to legislate on any State subject by Parliament then it can pass a resolution for that by 2/3 majority. Such a resolution can be initiated only in Rajya Sabha (Article 249).
- Legislation passed under Article 249 on state subject shall remain in force for one year.

- Rajya Sabha has equal powers with Lok Sabha in the process of impeachment of President, removal of judges of Supreme Court, High Court, Chief Election Commissioner and CAG.



Disqualification of Members of Parliament

Constitutional Provisions (Article 102)

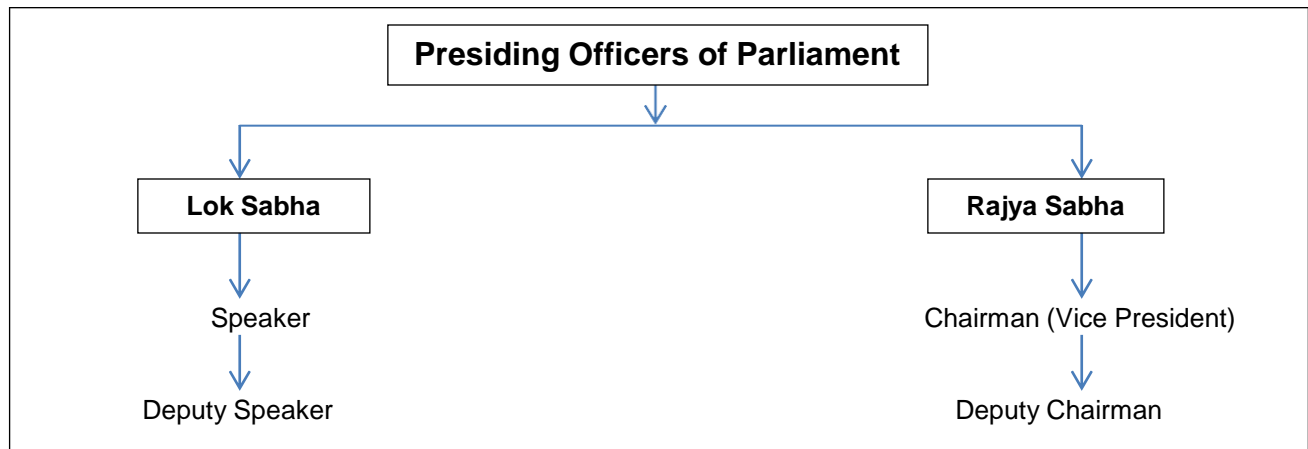
- If he holds any office of profit under Government of India or State Government (but not a minister for union or state).
- If he is of unsound mind and stands so declared by a competent court.
- If he is an undischarged insolvent.
- If he is not a citizen of India or he has voluntarily given up Indian citizenship or acquired foreign citizenship.
- If he is so disqualified by or under any law made by Parliament.
- On the question of disqualification of any member decision of President in consultation with Election Commission is final.

Representation of People's Act, 1951

- ☐ A person who have been convicted for any offence resulting in imprisonment for 2 or more years.
- ☐ If a person has been found guilty of certain electoral offences or corrupt practices.
- ☐ If person has been dismissed from government service for corruption.
- ☐ If a person is engaged in spreading enmity between groups.
- ☐ If he is holding office of profit in government services.
- ☐ Failed to lodge election expenses on time.

Grounds of Defection under 52nd Amendment Act 1985 (Schedule – 10)

- He gives up membership of a party on whose ticket he was elected.
- He defects or joins another party.
- He votes against whip or party or abstains from voting against party will.
- He is a nominated member and joins any political party after 6 months.
- A member elected as an independent candidate shall be disqualified if he joins any political party after his election.



- Speaker is the Presiding officer of Lok Sabha. He presides over the meetings of the House of people, maintains the order of the house and the interprets the rules of procedure for the proceedings of house.
- Speaker chairs the Joint session of both the houses and is the sole authority to decide if a bill is Money bill or not.

Constitutional Provisions related to Parliament : Part V, Chapter II	
Article 79	Constitution of Parliament
Article 80	Composition of the Council of States/Rajya Sabha
Article 81	Composition of the House of People/Lok Sabha
Article 83	Duration of Houses of Parliament
Article 84	Qualification for membership of Parliament
Article 85	Sessions, Prorogation and Dissolution
Article 89	Chairman and Deputy Chairman of Council of States
Article 93	Speaker and Deputy Speaker of the House of People
Article 102	Disqualification for membership
Article 105	Powers and Privileges of the Houses of Parliament
Article 108	Joint Sitting of the House
Article 110	Definition of Money Bills
Article 111	Assent to Bills
Article 112	Annual Financial Statement
Article 114	Appropriation Bills
Article 116	Votes on account
Article 117	Finance Bills
Article 120	Language used in Parliament
Article 122	Courts not to inquire into Parliamentary proceedings
Article 123	Ordinance making Power of President

- Speaker and Deputy Speaker are elected by the house from its members by a simple majority of members present and voting.
- He can be removed by a resolution of the House by absolute majority. He should be given a 14 day notice before such a resolution. Resolution must have 50 members support in order to be introduced.
- Vice-President of India is the ex-officio Chairman of Council of States (Article 64). He presides over Rajya Sabha as its Chairman and remains in office as long as he functions as Vice-President of India.
- He is removed from office only as Vice-President of India.
- Vice-President can be removed from the office if Rajya Sabha passes a resolution by an absolute majority and Lok Sabha approves the resolution by a simple majority.

Leader of Opposition

- | |
|---|
| <ul style="list-style-type: none"> • The post Leader of Opposition existed earlier also but got statutory recognition in the Salaries and Allowance of Leader of Opposition in the Parliament Act, 1977. • Each house has a leader of opposition who is leader of the largest opposition party that has not less than one-tenth of the total strength of the house. |
|---|

Powers and Functions of Lok Sabha and Rajya Sabha
--

- Lok Sabha has special powers with regard to Money Bills. Money Bills can be introduced only in Lok Sabha. After passage of Money Bill in Lok Sabha it is sent to Rajya Sabha.
- Rajya Sabha has to return the bill to Lok Sabha within 14 days with or without any recommendations. If Rajya Sabha does not return the Money bill within 14 days then Bill is considered to be passed and if Rajya Sabha returns the Bill with amendments then too it is up to Lok Sabha whether to accept the changes or not.
- Any constitutional amendment bill can be introduced in either house like ordinary bill. Whether it is Ordinary Bill or Constitutional amendment bill it must be passed by both the house of Parliament.
- In case of disagreement on ordinary bill, there is a provision for joint sitting of both houses (Article 108) where, deadlocks are resolved by majority both the members of the house present and voting.

- Joint sitting is presided by Speaker of the Lok Sabha or in his absence the Deputy Speaker of the Lok Sabha or in his absence Deputy Chairman of the Rajya Sabha.

Joint-Sitting (Article 108) cannot take place for Constitutional Amendment Bill (Article 368) or the Money Bill.

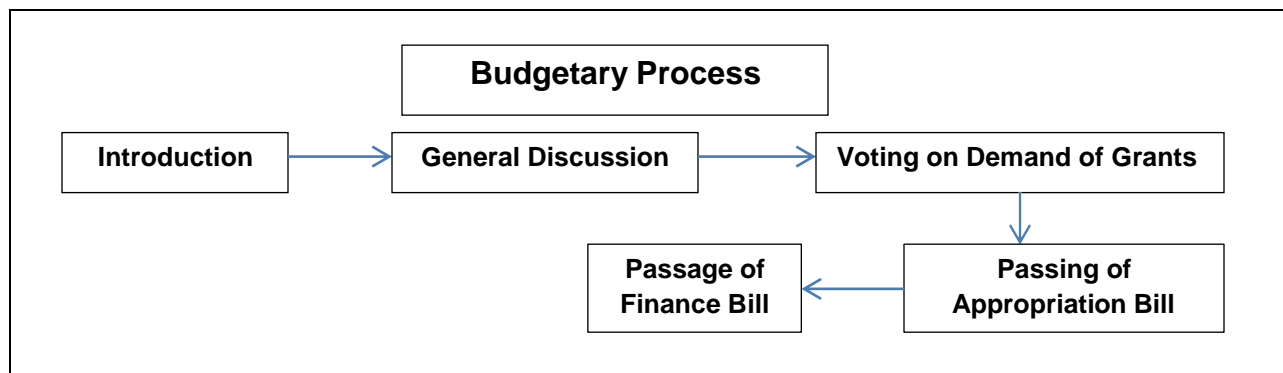
Voting on demand for grants can take place only in Lok Sabha.

Powers/Functions of Rajya Sabha

- A resolution to remove the Vice-President can be introduced in Rajya Sabha only.

Sessions of Parliament				
February – May	Recess	July – September	Recess	November - December
Budget Session		Monsoon Session		Winter Session

Adjournment, Prorogation and Dissolution of the House		
Adjournment	Prorogation	Dissolution
This is the suspension of proceedings of house for hours, days or weeks. This is under a session.	This is the termination of the session of the house. This can be done even when the house is adjourned.	This ends the tenure of Lok Sabha. General elections must be held for the new house of people after dissolution.
This is done by the presiding officer of a House.	This is done by President on the recommendation of Council of Ministers.	President dissolves the Council of Ministers recommend (in case of end of tenure) or when Council of Minister loses majority in the House of People.



Voting on demand is an exclusive privilege of the Lok Sabha.

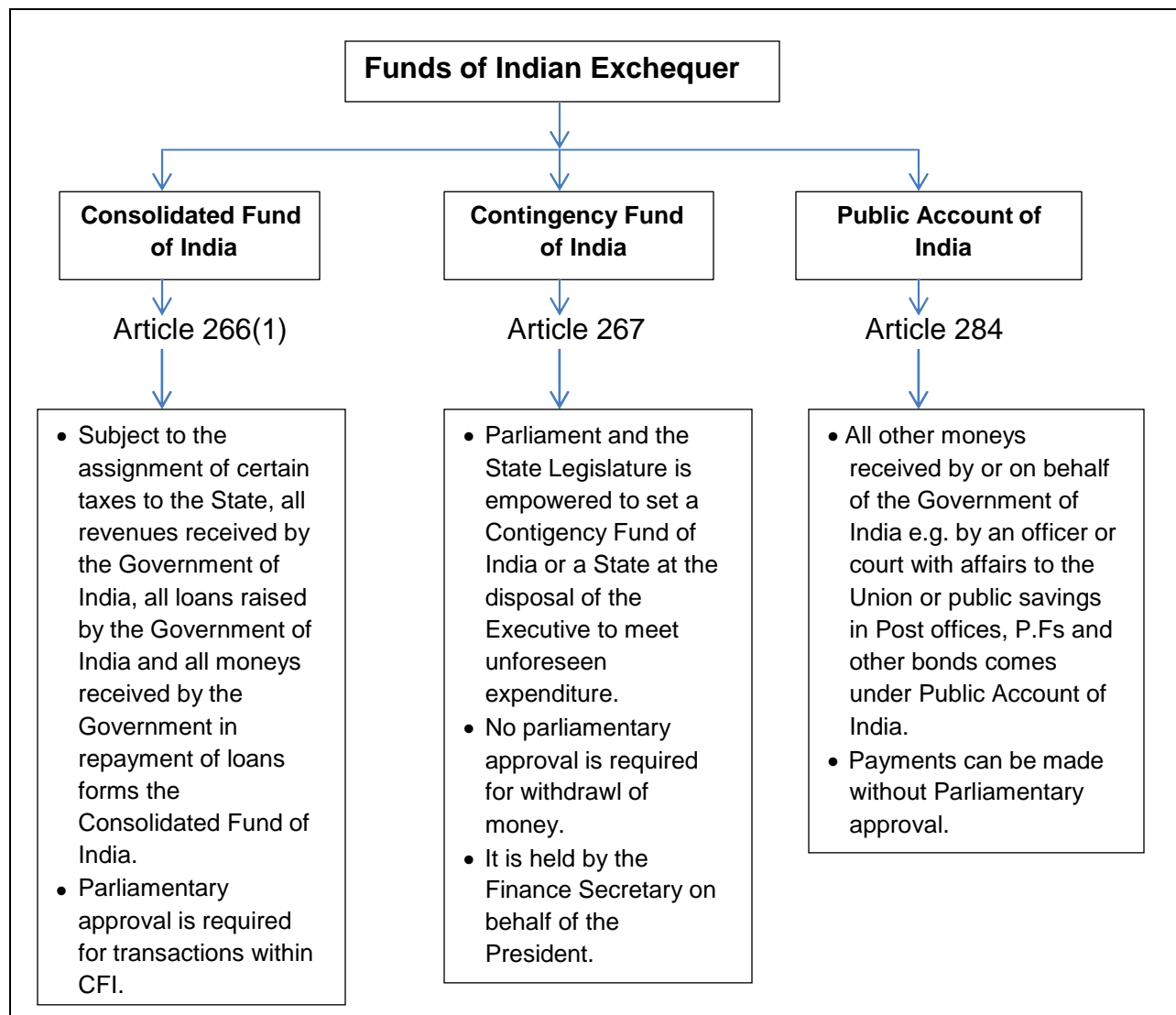
Appropriation Bill is passed as a Money Bill, under the condition that no amendment is proposed at this stage, changing/altering the amount of any grant made earlier.

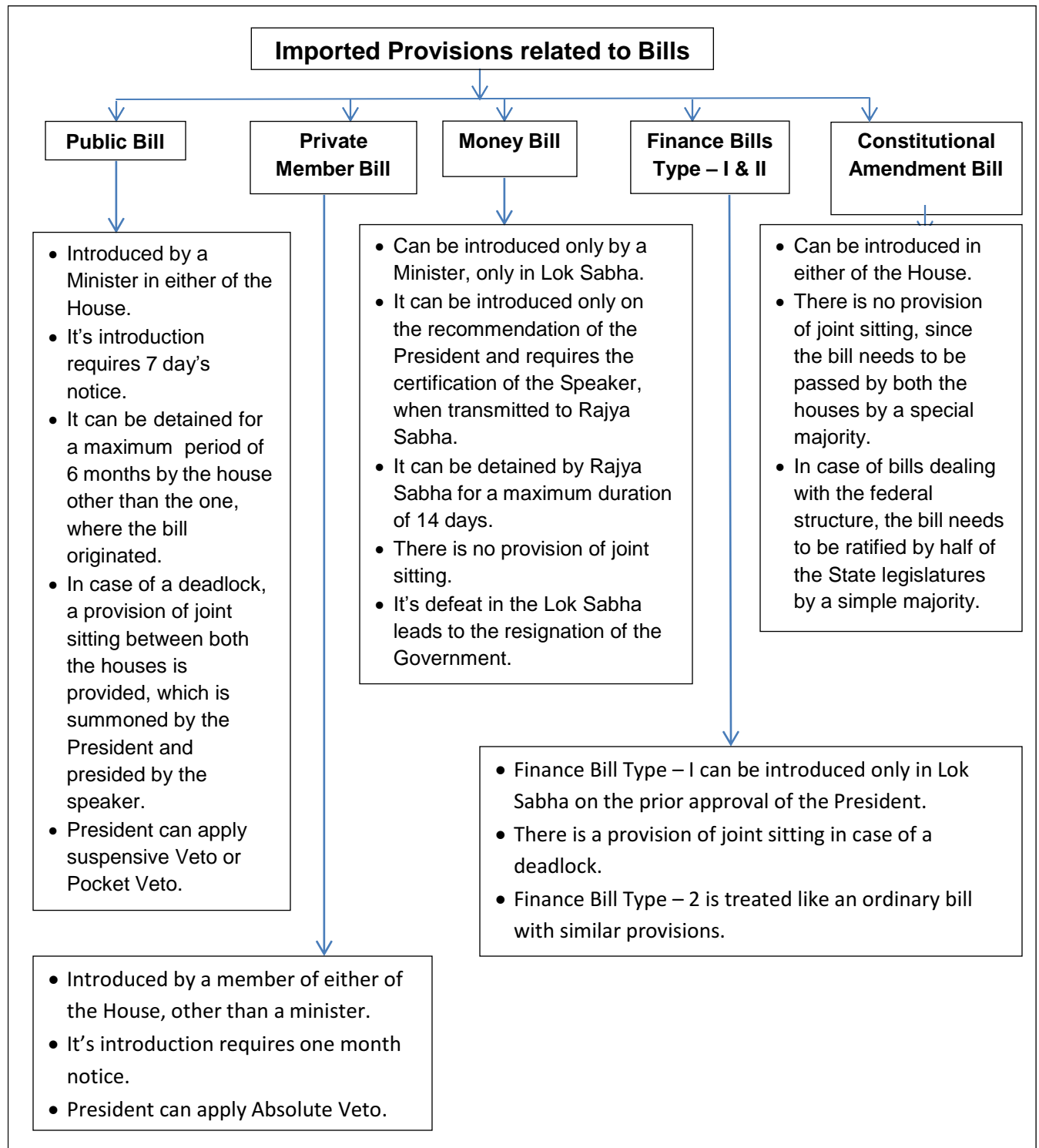
Important facts related to Budget

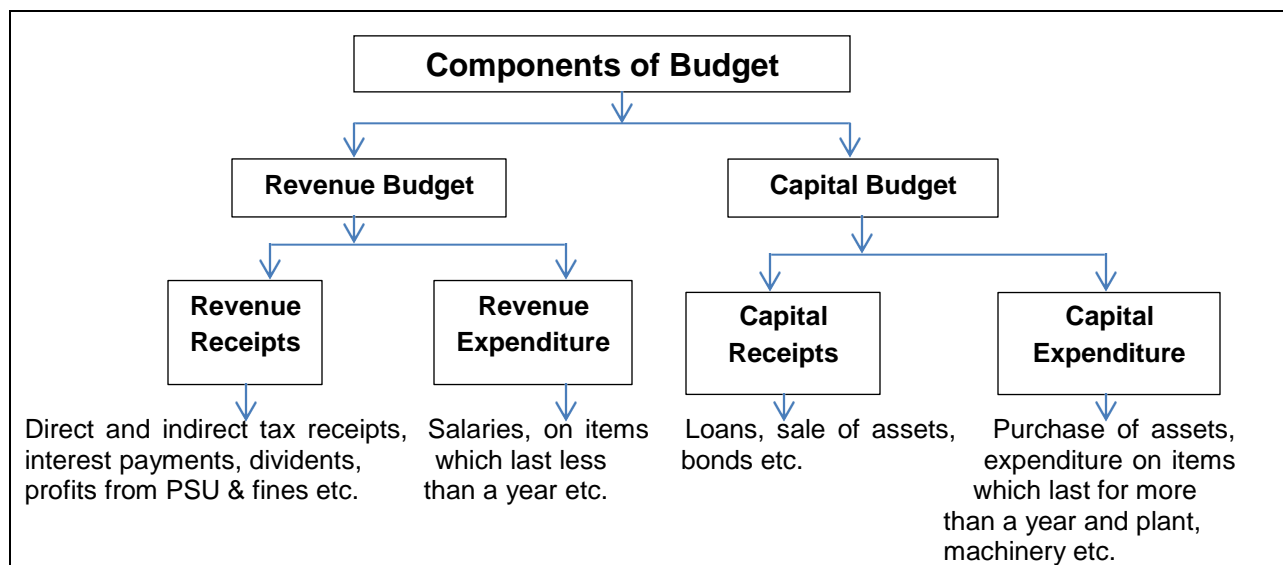
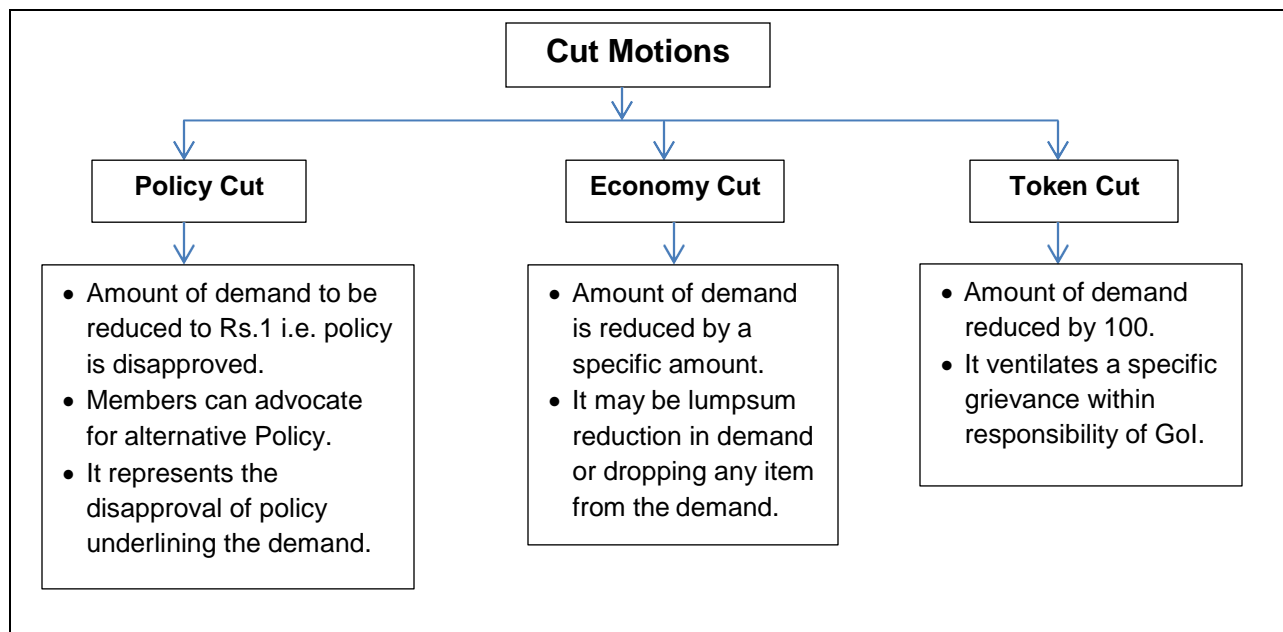
- First Budget was introduced by East India Company on April 6, 1860.
- RK Shanmukham Chetty was the first Finance Minister who presented Independent India's first Union Budget on November 26, 1947.
- Morarji Desai has presented the most number of Budgets at ten, followed by P. Chidambaram's nine and Pranab Mukherjee's eight. Yashwant Sinha, Yashwantrao Chavan and CD Deshmukh have presented seven budgets each and Manmohan singh and TT Krishnamachari six each.
- Union Budget was announced at 5pm on the last working day of February until 1999, a practice inherited from the British era.
- Finance Minister Arun Jaitley stated presenting the Union Budget on February 1 from 2017. Rail budget was merged with Union Budget in 2017.

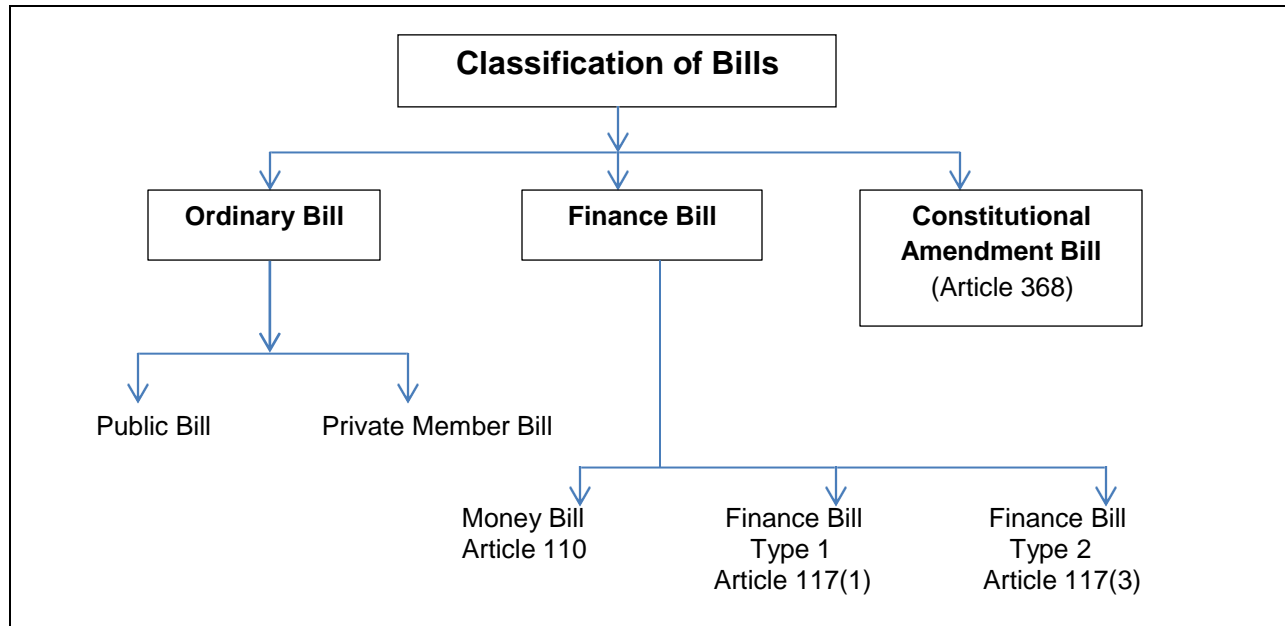
Expenditure Charged upon the Consolidated Fund of India/Non-Voted Part [(Article 112(3))]

- Emolument and allowances of the President, Chairman and Deputy Chairman of Rajya Sabha, Speaker and Deputy Speaker of Lok Sabha.
- Debt Charges of Government of India.
- Salaries, allowances and pensions of Supreme Court Judges and CAG.
- Pension of High Court Judges.
- Sums satisfying any Judgement, decree or award of any court or arbitral tribunal.









- Bills can be Public Bills (introduced by a minister) or it can be Private Bill (introduced by a member of House who is not a minister).
- 7 days notice is required for Public Bill while one month notice and leave of the house for introduction of Bill should be taken in private members' Bill.

If Bill is passed by a simple majority of members present and voting in joint sitting then it is considered to be passed by both the houses.

Question Hour

- This is first hour of Parliament sitting. Members of Parliament ask questions to ministers, who have to reply for those questions.

Starred Questions

- These are the questions on which ministers give oral reply and if member is not satisfied by the answer then he can ask supplementary questions with permission of speaker.
- These have star mark with questions.

Unstarred Questions

- These are the questions whose reply is given in written form.
- These questions are not labelled with stars and hence called unstarred questions.

Short Notice Questions

- These are the questions of public importance and can be asked with a short notice of less than 10 days. These are answered orally.
- These are answered after starred questions are replies.
- Date for the answer is fixed as suggested by minister.

Zero Hour

- During this time after Question hour when members raise questions on different issues without prior notice.

It is not mentioned in rules of procedure.

Calling Attention Motion

- This is the motion moved by a member to raise the matter of public importance. It is mentioned in rules of Procedure.

Censure Motion

- This is the motion moved for censuring the specific policy and actions against any minister or council of ministers.

Censure motion can be introduced only in Lok Sabha.
--

No-confidence Motion

- This motion is for showing that government has lost its majority and if this motion is passed then Council of ministers has to resign.

Confidence Motion

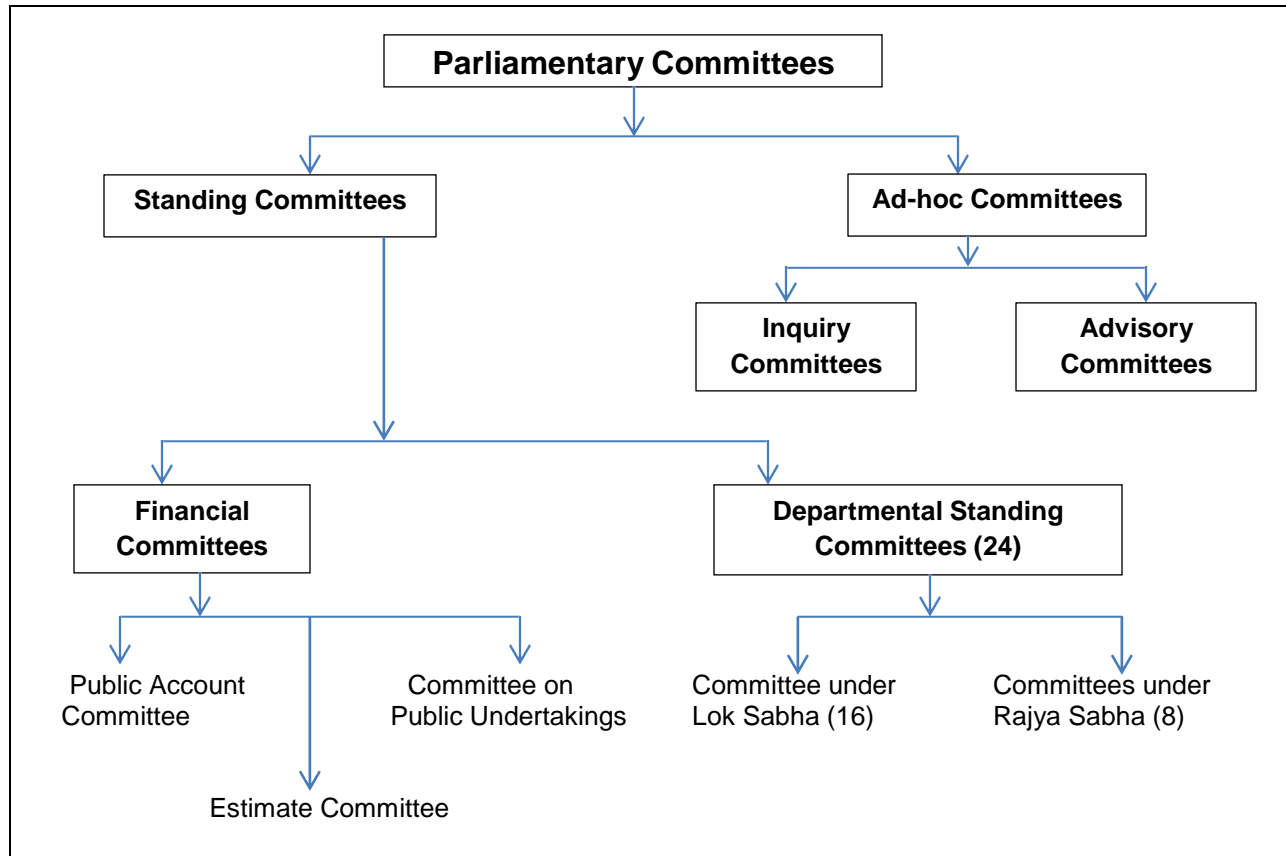
- This motion is introduced by ruling government to prove confidence or support of majority in Lok Sabha.

Adjournment Motion

- This motion is introduced to draw attention of the house towards a recent matter of urgent public importance.

Motion of Thanks

Every first session of the year and first session after general election is addressed by the President. If this motion is not passed then ministry has to resign from office.



*Source : COSMOS PUBLICATION, DELHI

President and Vice President

- India adopted the parliamentary system of government under which President is the Head of the State but he is a nominal head (de-jure). The real power lies in the hands of Prime Minister (Head of the Government) who is de-facto ruler.
- Part V of Indian Constitution deals with the Union Executive (Articles 52 to 78). Union Executive comprises of the President, the Vice President, the Prime Minister, the Council of Ministers and the Attorney General of India.
- Under Chapter I of Part V, provisions regarding qualification, election, impeachment etc. of the President of India are provided (Article 52 to 62).
- President is an integral part of the Parliament. All the executive powers of the Union are vested in the President which shall be exercised by him directly or through officer subordinate to him (Article 53).

Election of the President

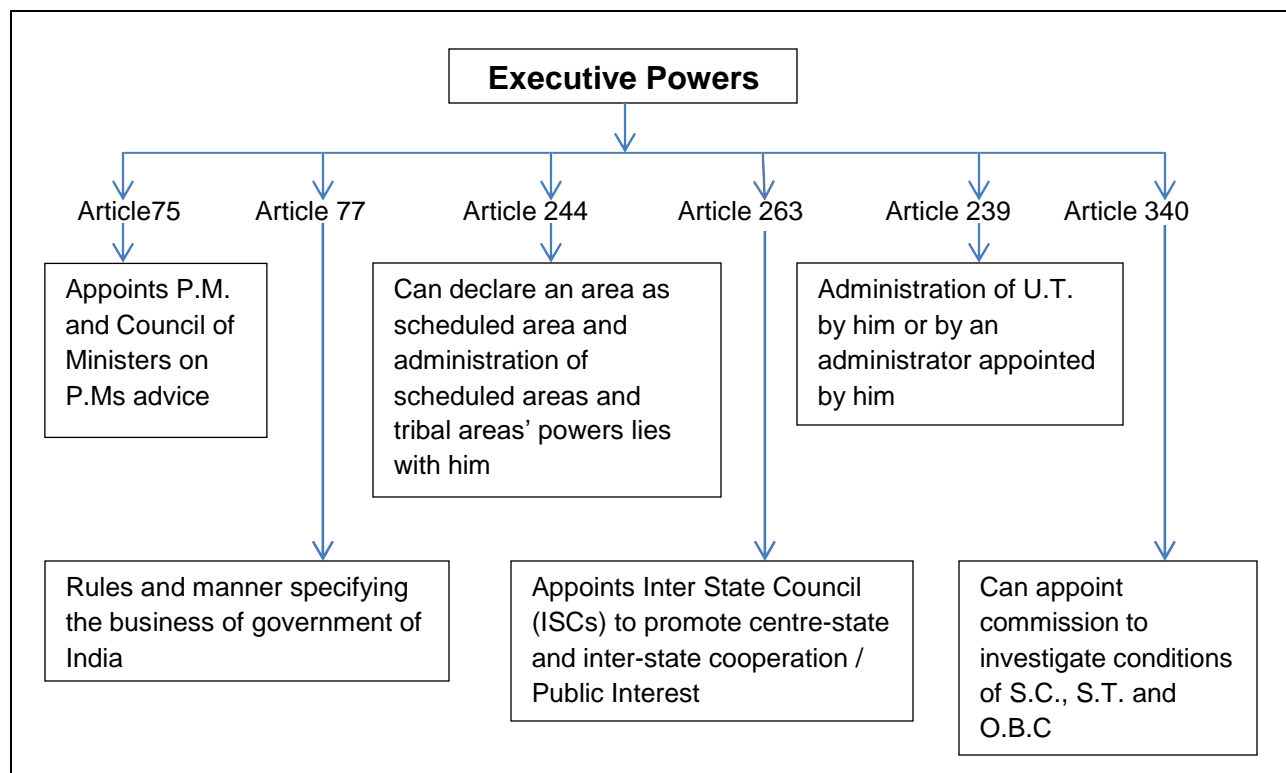
- President of India is elected by Indirect election i.e. by an electoral college in accordance with the system of proportional representation by means of single transferrable vote.
- Electoral college consists of – elected members of both the Houses of Parliament, elected members of Legislative assembly of the States and elected members of Union Territories of Delhi and Puducherry.
- Method of Election of President is taken from the Irish Constitution. Any doubts and disputes related to election of President can be challenged only in the Supreme Court of India, which is final.
- When a permanent vacancy occurs in the office of President due to death, resignation or removal, the Vice President acts as President and discharges the functions of office of the President until the new president enters upon his office [Article 65(1)]. Parliament enacted President (Discharge of functions) Act 1969, under which CJI and in his absence seniormost judge of SC can act as President in case of vacancy.
- The Constitution also provides that the election to fill the vacancy should be conducted within six months of vacancy.

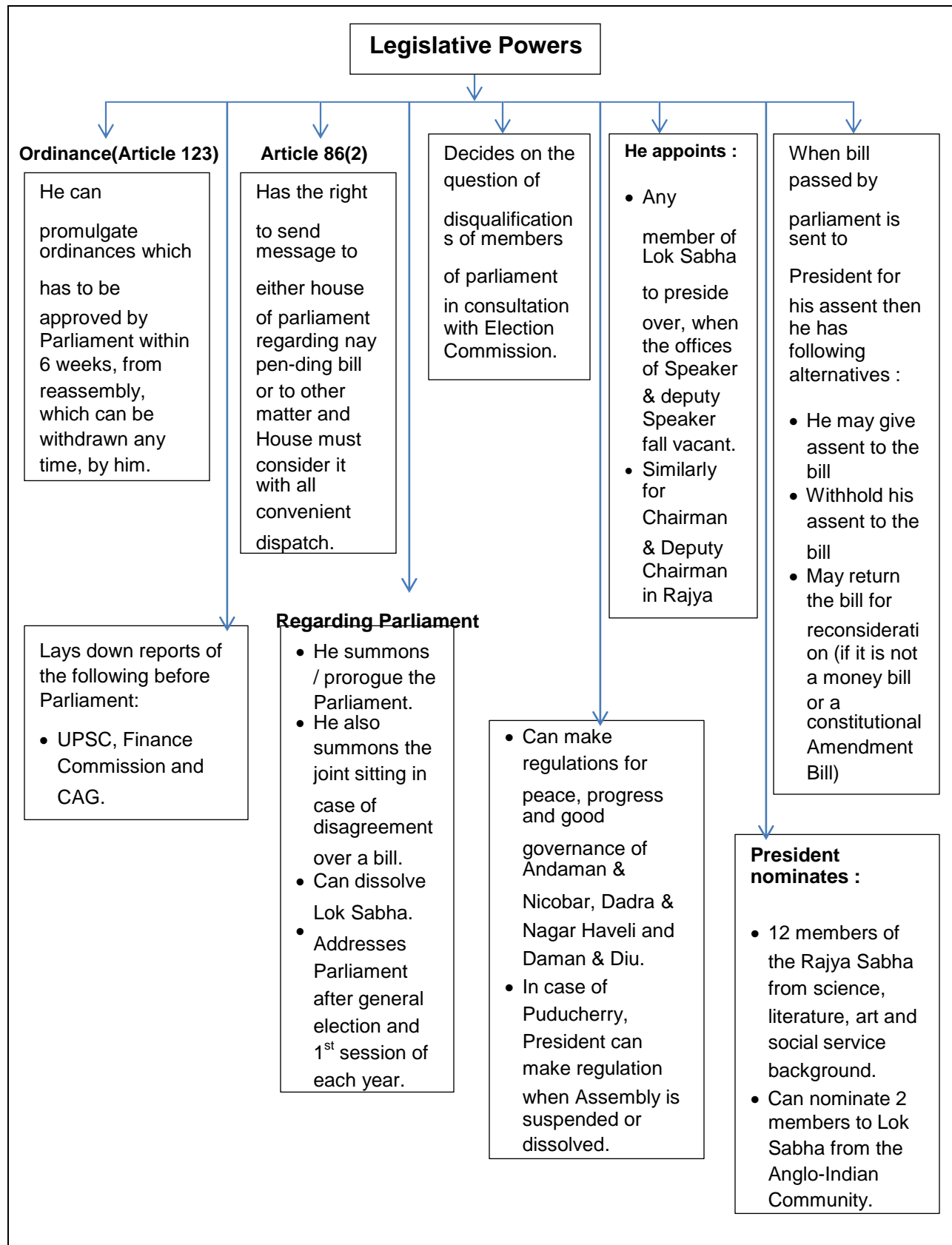
Qualification for Election of President

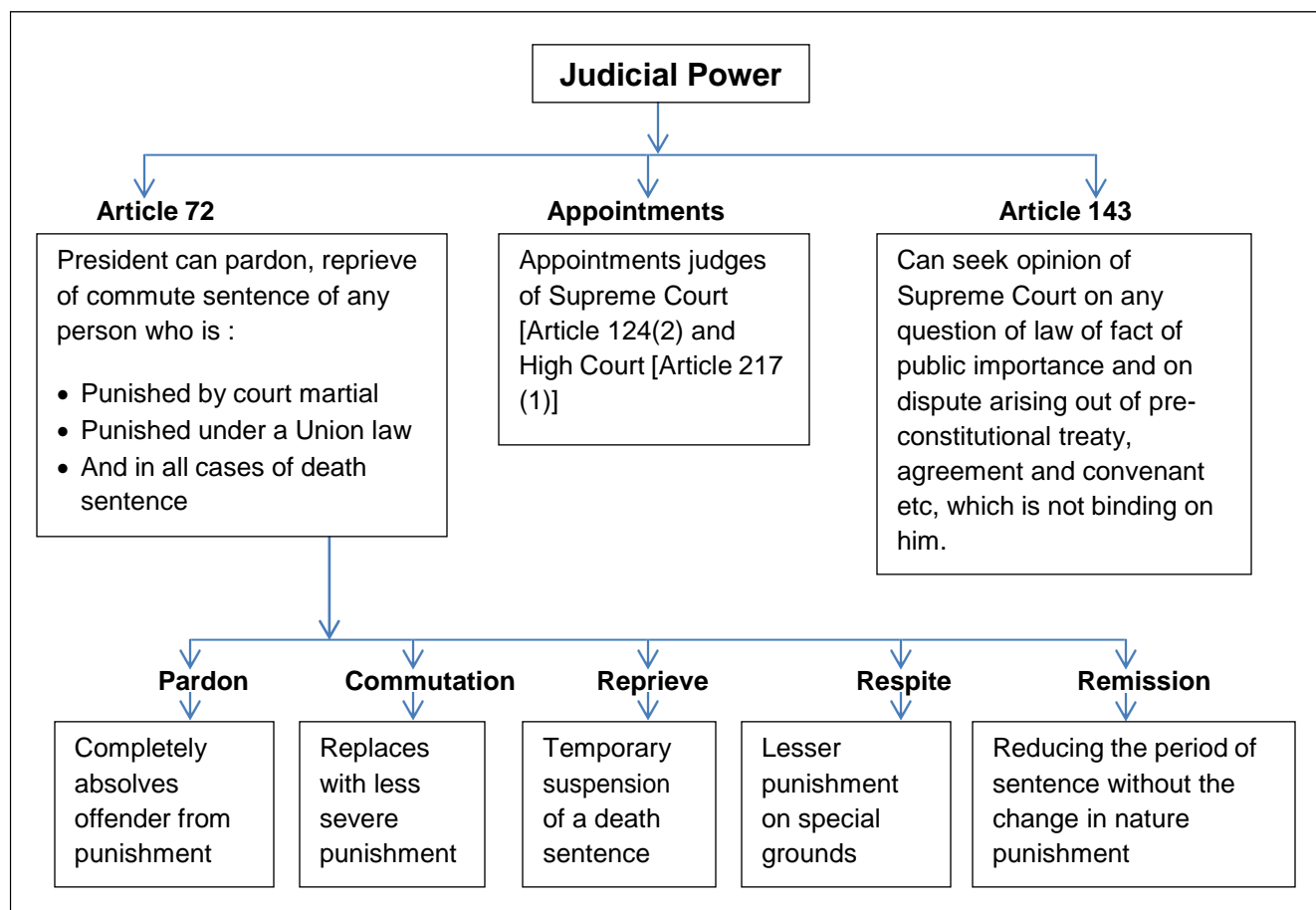
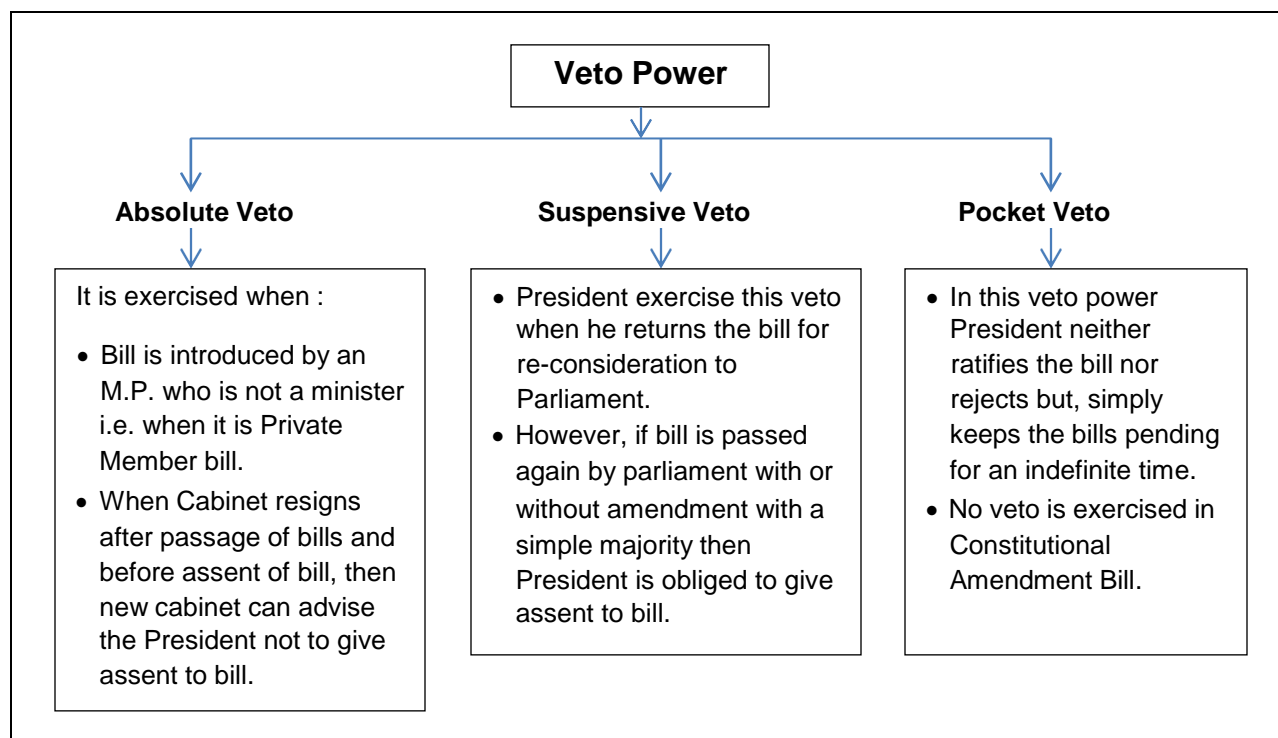
- A person must : be a citizen of India, have completed 35 years or age, be qualified for election as member of House of People (Lok Sabha).
- President takes an oath administered by Chief Justice of India and in his absence by senior most judge of the Supreme Court.
- An acting President, who is temporarily discharging the functions of the President shall also be administered oath before entering the office.
- The term of President office is 5 years from the date on which he enters upon his office and he is eligible for re-election (Article 56-57).
- He may resign before the term of 5 years by giving resignation to the Vice-President.
- He can be impeached from his office for the violation of Constitution (Article 61). But the term violation of Constitution is not mentioned in the constitution.
- For President's impeachment, a resolution signed by not less than 1/4th of the total members of the house could be initiated in either house, after 14 days' prior notice to President in writing.
- The Resolution should be passed by a majority of the house not less than two-third of the total membership of the house in which the resolution originates.
- The other house investigates the charge and the resolution passed by not less than two-third of the majority of membership of that house, the President stands removed.
- The nominated members of either House of the Parliament can take part in the impeachment process, but the elected members of State Assemblies and UT of Delhi and Puducherry do not take part in the impeachment.
- The current salary of the President is 5 Lakh/month since the Union Budget, 2018-19.

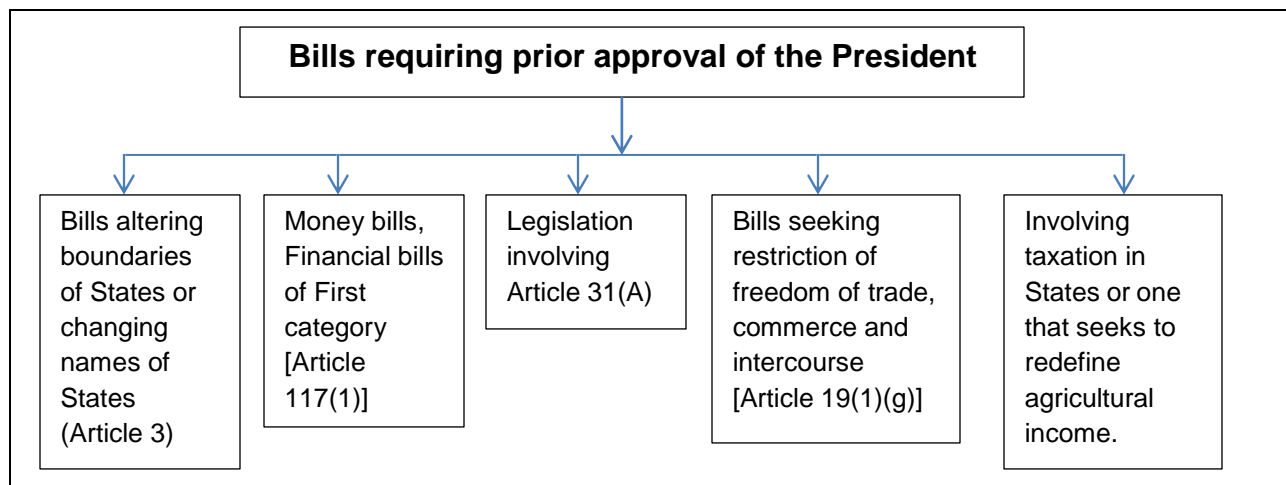
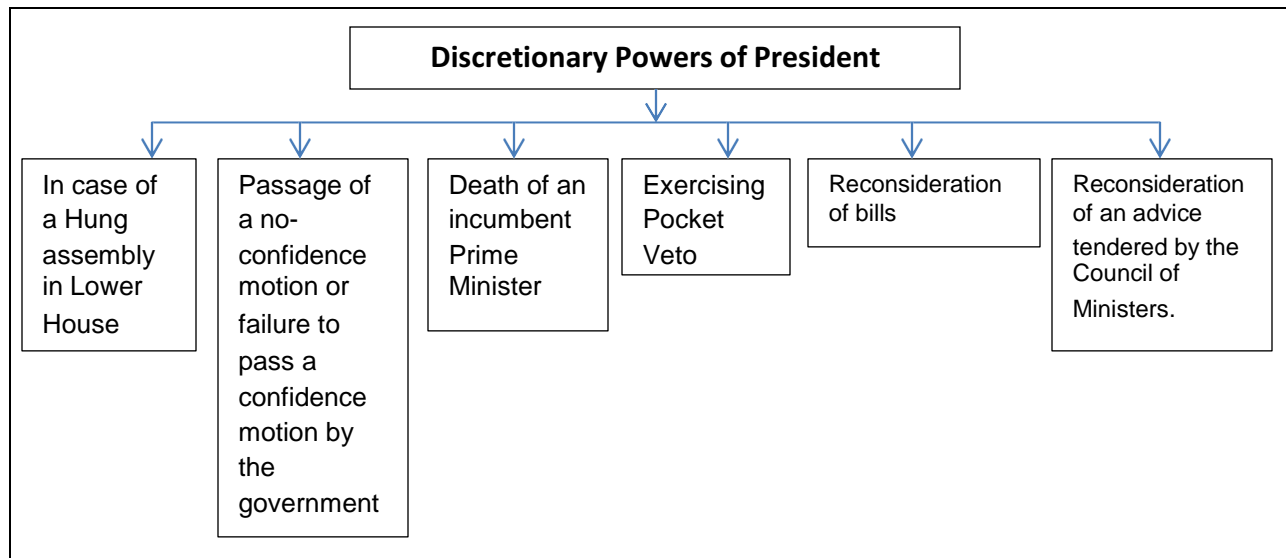
Appointments by President

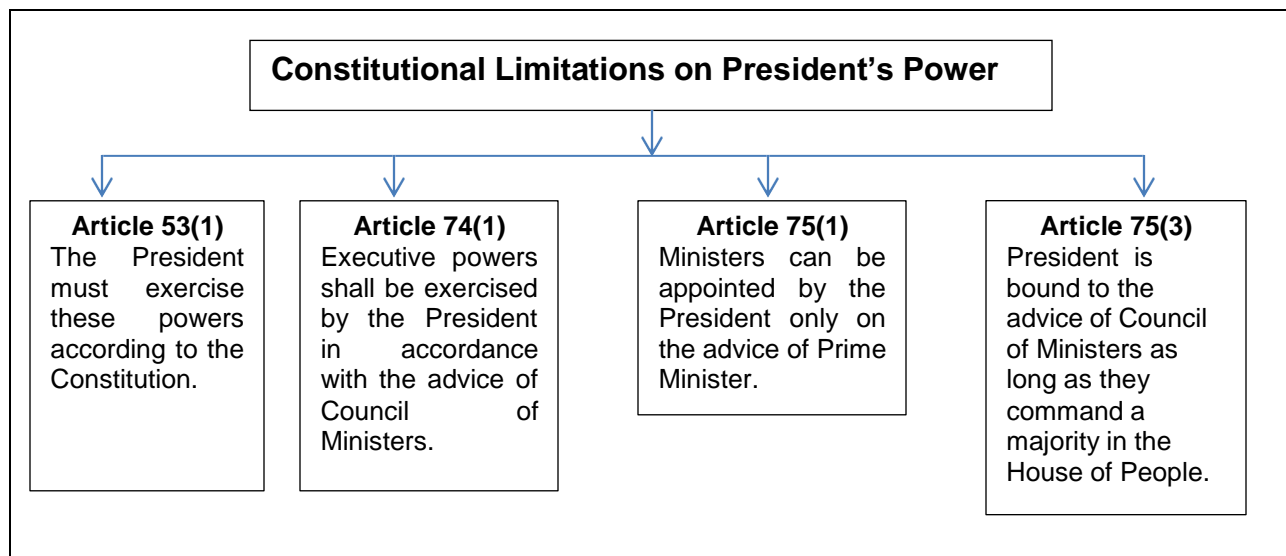
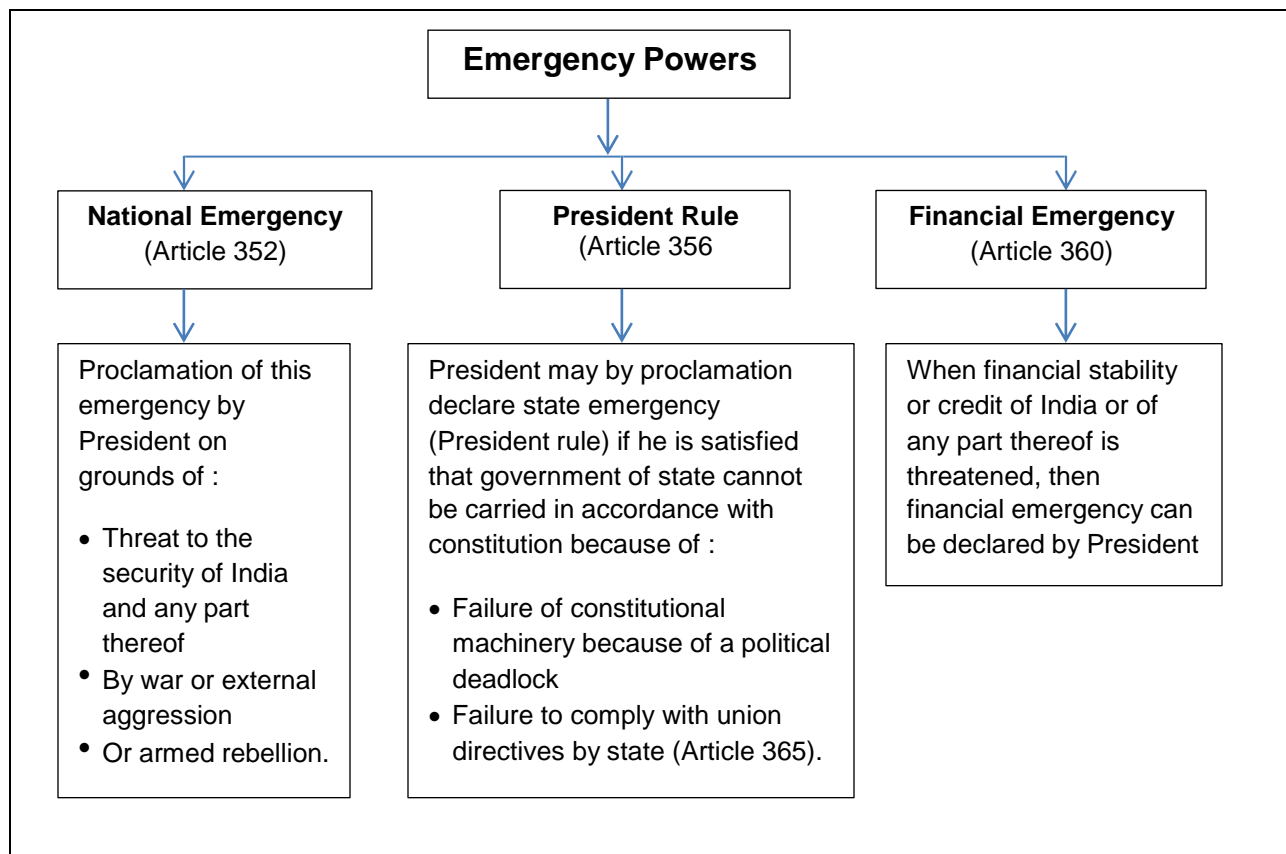
- Prime Minister and Council of Ministers on the advice of Prime Minister (Article 75).
- Attorney General of India (Article 76).
- Comptroller and Auditor General (Article 148)
- Supreme Court and High Court Judges
- Chief Election Commission (Article 324)
- Finance Commission (Article 280)
- UPSC and JPSC members (Article 316)
- Special officer for S.C./S.T.
- Official Language Commission (Article 344)
- Governor (Article 155)
- Special officer for linguistic minorities [(Article 350(B)]











Important Facts Related to President

- Impeachment process of President is taken from the U.S. Constitution.
- Second Schedule of the constitution is related to emoluments, allowances and privileges of President.
- Governor may reserve any State bill for consideration of the President, if he thinks that bill is of national importance (Article 201). Although, in case of the bill affecting High Court's powers it's compulsory to keep the bill for President's consideration.
- In the last sitting of Constituent Assembly, Dr. Rajendra Prasad was elected Interim President unanimously (14 Jan 1950). He was the 1st President of India and also the longest serving.
- Dr. Sarvapalli Radhakrishnan was 1st Vice-President and 2nd President of India. Teacher's Day is celebrated on his birthday (5 September).
- Zakir Hussain was 1st Muslim President and 3rd in row. He was shortest serving President.
- Fakruddin Ali Ahmed and Zakir Hussain were the only two Presidents who died in office.
- Varahgiri Venkata Giri was the first who became acting President of India. He was the only one, who won during second round of counting of votes with a narrow margin.
- There have been 3 interim Presidents and 14 full-time Presidents till date. Varahagiri, Mohamad Hidayatullah and B.D. Jatti were Interim Presidents.
- Giani Zail Singh was the 1st Sikh President. Operation Bluestar and anti Sikh riots happened during his tenure.
- Kocheril Raman Narayan was the 1st Dalit President and the oldest President of India.
- Dr. APJ Abdul Kalam was popularly known as People's President.
- V.V. Giri was the only President to resign from acting President to contest election of President.
- M. Hidayatullah was the 1st CJI to be appointed as an acting president.
- APJ Abdul Kalam and V.V. Giri were the President who received Bharat Ratna.

- Pratibha Patil was the 1st woman President of India. She was 12th in row.
- Neelam Sanjiva Reddy was the only President who won unopposed election. He was also the youngest President at the age of 64.
- Ramnath Kovind is the 14th President of India.

List of Presidents		
1.	Dr. Rajendra Prasad	January, 1950 - May 1962
2.	Dr. S. Radhakrishnan	May, 1962 – May 1967
3.	Dr. Zakir Hussain	May, 1967 – May 1969
•	V.V. Giri	May, 1969 – July, 1969
•	Mohammad Hidayatullah	July, 1969 – August 1969
4.	V.V. Giri	August, 1969 – August 1974
5.	Fakhrudding Ali Ahmed	August, 1974 – February, 1977
•	B.D. Jatti	February, 1977 – July, 1977
6.	N. Sanjeeva Reddy	July, 1977 – July, 1982
7.	Giani Zail Singh	July, 1982 – July, 1987
8.	R. Venkataraman	July, 1987 – July, 1992
9.	Dr. Shankar Dayal Sharma	July 1992 – July, 1997
10.	K. R. Narayanan	July, 1997 – July, 2002
11.	Dr. A.P.J. Abdul Kalam	July, 2002 – July, 2007
12.	Ms. Pratibha Patil	July, 2007 – July, 2012
13.	Pranab Mukherjee	July, 2012 – July, 2017
14.	Ram Nath Kovind	July, 2017 – till recent

Vice President

- Vice-President performs the duties of President only in his absence, illness, death, removal, resignation or otherwise.
- When the vacancy of President falls vacant permanently due to resignation, death, removal, then election have to be conducted within 6 months and till then Vice-President assumes the office as an acting President.
- Vice President is the ex-officio Chairman of the Rajya Sabha.
- The office of Vice President is taken from the American Constitution.

- When President is unable to discharge his duties due to illness, absence or any other reason, then Vice-President holds office of President until he resumes office.
- When Vice-President functions as President he gets salary, allowances, privileges and emoluments of office of President of India.

Qualifications for Vice-President

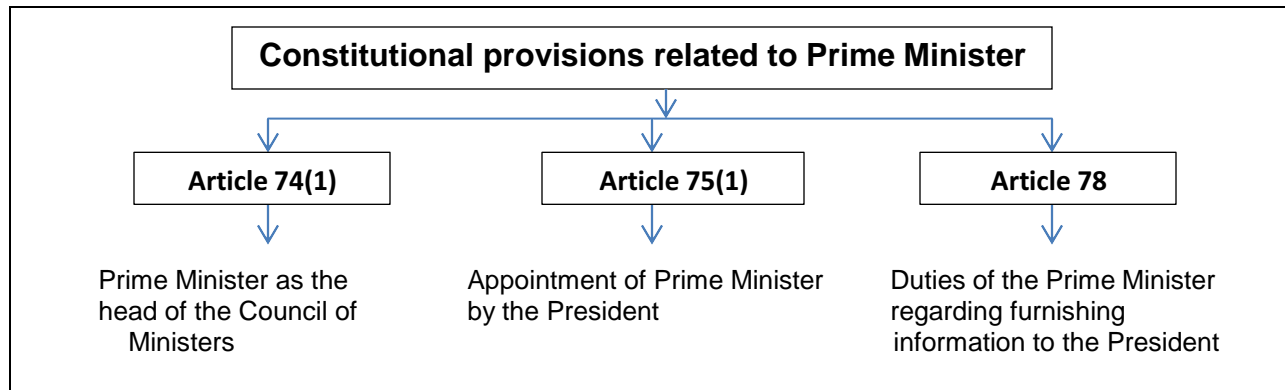
- To contest the election of the Vice-President a person must be : A citizen of India, above age of 35 years, must not hold office of profit, must be qualified for election of a member of Council of States (Rajya Sabha) and he shall not be a member of either House or Parliament.
- Vice-President is elected by both the houses of Parliament. It is an indirect election by system of proportional representation with single transferrable vote system, by Secret Ballot.
- In the election of Vice-President, both elected and nominated members of Houses of Parliament participate.
- Vice-President's hold office for a term of 5 years from the date he assumes office. He can resign before the expiry of his term by giving his resignation to the President. He can also be removed from his office by a resolution passed in Rajya Sabha and supported by Lok Sabha.
- Dr. Sarvapalli Radhakrishnan (1952-62) and Hamid Ansari (2007-2017), were the two Vice Presidents with the longest serving tenure of 10 years (2 terms).
- This oath is administered to Vice-President by President of India or a person appointed by him on his behalf.
- Vice-President gets salary, emoluments, allowances etc. as Chairman of Rajya Sabha. Since the Budget of 2018, Vice-President gets 4 Lakh salary per month.

List of Vice Presidents		
1.	Dr. S. Radhakrishnan	1952
2.	Dr. S. Radhakrishnan	1957
3.	Dr. Zakir Hussain	1962
4.	V.V. Giri	1967
5.	G.S. Pathak	1969
6.	B.D. Jatti	1974
7.	M. Hidayatullah	1979
8.	R. Venkataraman	1984
9.	Dr. Shankar Dayal Sharma	1987
10.	K.R. Narayanan	1992
11.	Krishna Kant	1997
12.	B.S. Shekhawat	2002
13.	Mohd. Hamid Ansari	2007
14.	Mohd. Hamid Ansari	2012
15.	Venkaiah Naidu	2017

*Source : COSMOS PUBLICATION, DELHI

Prime Minister and Union Council of Ministers

- Prime Minister is the Head of the Government and real executive authority.



- Dr. B.R. Ambedkar said that if any functionary under our Constitution is to be compared with the US President, he is the Prime Minister and not the President of India.
- Prime Minister is appointed by the President. Article 75(1) states that Prime Minister shall be appointed by the President and other ministers shall be appointed by President on the advice of Prime Minister.
- President appoints the Prime Minister who is the leader of the party which won majority seats in the Lok Sabha elections.
- President appoints the leader of largest party as Prime Minister and asks him to prove majority or seek a vote of confidence within a month in case of lack of majority.
- By convention, Prime Minister generally belongs to Lok Sabha. But, in our Parliamentary history there have been Prime Minister's from Rajya Sabha [e.g. I.K. Gujral (1997), Indira Gandhi (1966), Dr. Manmohan Singh (2004)].

Council of Ministers

- India has adopted a Parliamentary system of Government in which Council of Ministers headed by Prime Minister is the real executive authority.

Council of Ministers		
Cabinet Ministers	Ministers of State	Deputy Ministers
<ul style="list-style-type: none">These Ministers handle the most important portfolios of Government. e.g. Home Ministry, Finance, Defences, External Affairs etc.	<ul style="list-style-type: none">These Ministers are either given independent charge of any ministry, department or attached to the Cabinet Ministers.	<ul style="list-style-type: none">These Ministers are generally attached the with Cabinet Ministers or Ministers of State.
<ul style="list-style-type: none">These are Cabinet Members and play important roles in making policies of government.	<ul style="list-style-type: none">When they are attached with Cabinet Ministers, they may get charge of particular department or particular task of work in that ministry.	<ul style="list-style-type: none">They are not given independent charge & usually assist Ministers and Ministries in functioning.
<ul style="list-style-type: none">Entire Government machinery revolves around them.	<ul style="list-style-type: none">They are not cabinet members and do not attend it's meetings unless invited on any matter related to their ministry or department.	<ul style="list-style-type: none">They do not attend meetings of the Cabinet.

Prime Minister's Office

- Prime Minister's Secretariat came into being on August 15, 1947. Since June 1977, it has been known as Prime Minister's Office. PMO is headed by the Secretary to the Prime Minister now designated as Principal Secretary to the Prime Minister.

Salary and Allowances

- Prime Minister gets the same salary and allowances which are paid to the members of Parliament.
- In addition to that he gets sumptuary allowance, free accommodations, travelling allowance, medical facilities etc. Salary and allowances of Prime Minister are determined by Parliament from time to time.
- Currently the PM draws a monthly salary of 1.6 lakhs.

Micellaneous functions of Prime Minister

- He does Overall supervision of Union Government.
- He is the leader of Party in majority.
- He is the Chairman of various commissions and councils like National Defense Committee, Inter State Council, National Integration Council, CSIR.
- He is the chief spokesperson of Government. So, he announces Principal Government Policies.
- He is the manager in Chief of the Government's business.
- He is the political head of services.
- He has special role in defense, foreign affairs, home and finance departments of country.
- Central Cabinet Secretariat is directly under the Prime Minister. Though, it's administrative head is Cabinet Secretary who is ex-officio chairman of Civil Service Board.

Prime Ministers of India		
Sl.No.	Name	Tenure
1.	Pt. Jawaharlal Nehru (INC)	1947 – 1964
2.	Gulzarilal Nanda (INC)	1964 – 1964
3.	Lal Bahadur Shastri (INC)	1964 – 1966
4.	Gulzarilal Nanda (INC)	1966 – 1966
5.	Indira Gandhi (Congress – I)	1966 – 1977
6.	Morarji Desai (Janta Party)	1977 – 1979
7.	Chaudhari Charan Singh (Janata Party)	1979 – 1980
8.	Indira Gandhi (Congress – I)	1980 – 1984
9.	Rajiv Gandhi (Congress – I)	1984 – 1989
10.	Vishwanath Pratap Singh	1989 – 1990
11.	Chandra Shekar (SJP)	1990 – 1991
12.	PV Narsimha Rao (Congress – I)	1991 – 1996
13.	Atal Bihari Vajpayee (BJP) (16 days)	1996 – 1996
14.	H.D. Deve Gowda (Janta Dal)	1996 – 1997
15.	I. K. Gujral (Janta Dal)	1997 – 1998
16.	Atal Bihari Vajpayee (BJP)	1998 – 1999
17.	Atal Bihari Vajpayee (BJP)	1999 – 2004
18.	Manmohan Singh (Congress – I)	2004 – 2009

19.	Manmohan Singh (Congress – I)	2009-2014
20.	Narendra Modi (BJP)	2014 till date

- 42nd Constitutional Amendment Act, 1976 during Indira Gandhi Government made the advice tendered by Council of Ministers binding on President.

Cabinet

- The word Cabinet was inserted in Article 352 of the Constitution by 44th Amendment Act (1978). It does not find mention in the original Constitution.
- Cabinet is a smaller body of Council of Ministers and Cabinet Ministers are the Ministers of most important departments of Union Government e.g. Defense Ministry, finance, home, foreign affairs.

*Source : COSMOS PUBLICATION, DELHI

Governor

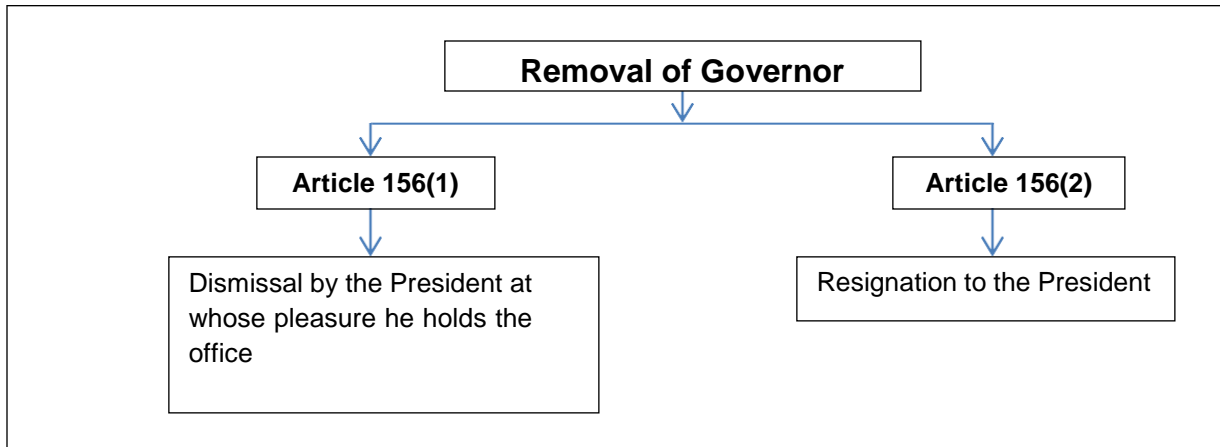
- Article 153 of the Indian Constitution provides for the office of Governor in every States.
- All the executive functions of the State are carried out in the name of Governor.
- Governor discharges his duties on the advice of Council of ministers headed by the Chief Minister. So, Governor's position in the State is similar to the President in Centre.
- Generally, every state has a Governor but 7th Constitutional Amendment Act, 1956 laid the provision that same person can be appointed as Governor of two or more states.

Qualifications

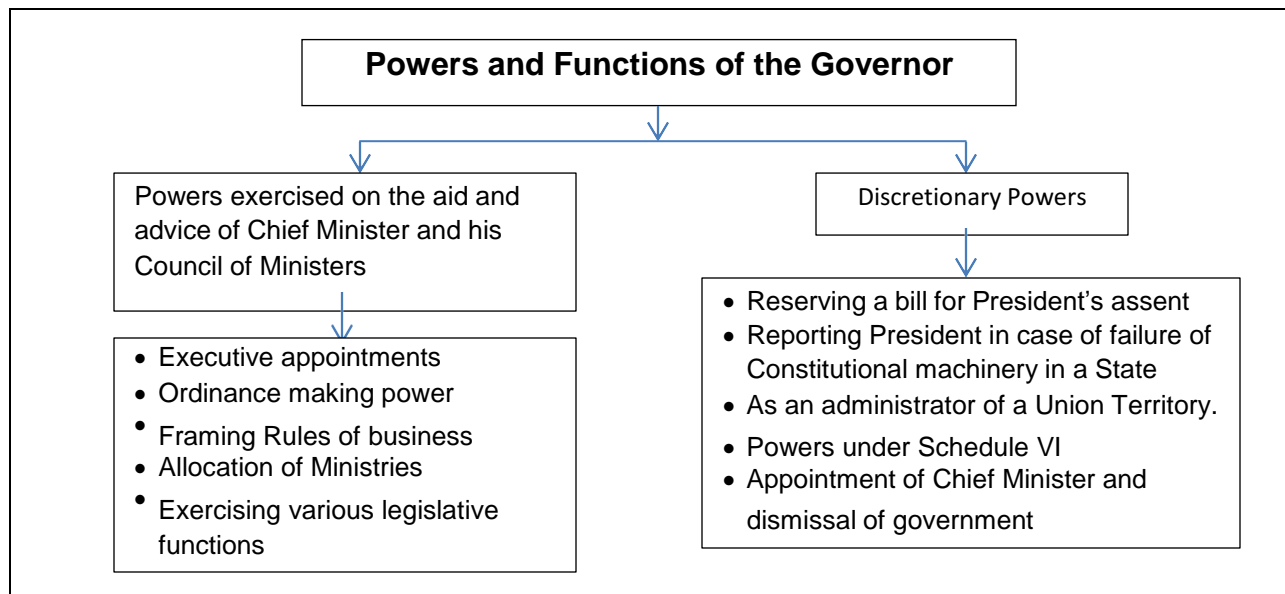
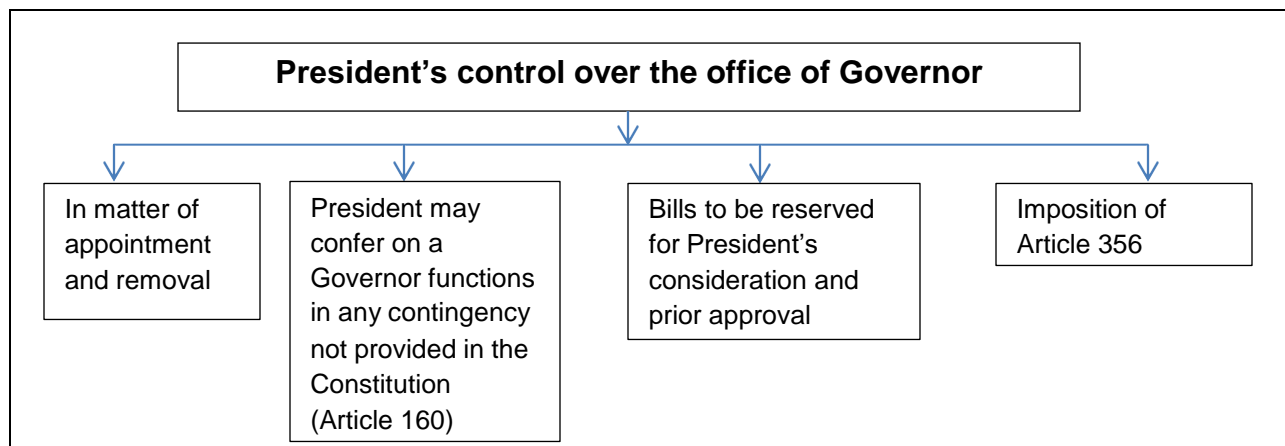
- A person must have the following qualifications to be appointed as Governor of a state:
 - He should be a citizen of India.
 - He should be of 35 years' of age at least.
 - He should not hold any office of profit.
 - Other than above mentioned qualifications a person to become Governor must not be a member of either house of Parliament or State Legislature.

Appointment

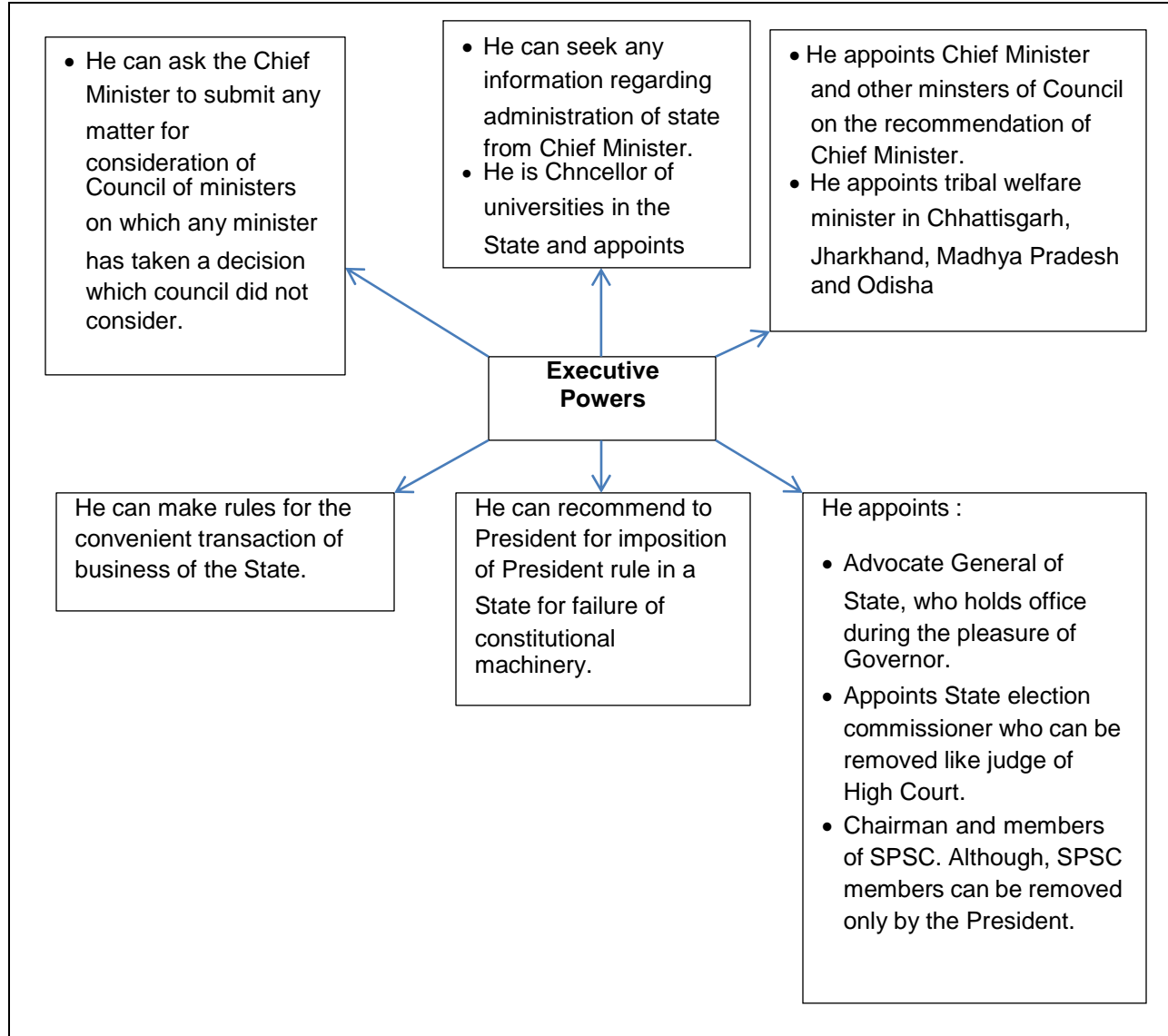
- Governor of a state is appointed by President of India on the recommendation of Union Council of Ministers.
- Term of the office of Governor as prescribed in Article 156(3) is 5 years. Though, he holds office at the pleasure of President.
- He is eligible for re-appointment. He can be transferred from one state to another and President can ask his resignation anytime without giving reasons. He can resign himself also.
- The grounds upon which a Governor may be removed by the President are not laid down in the Constitution.



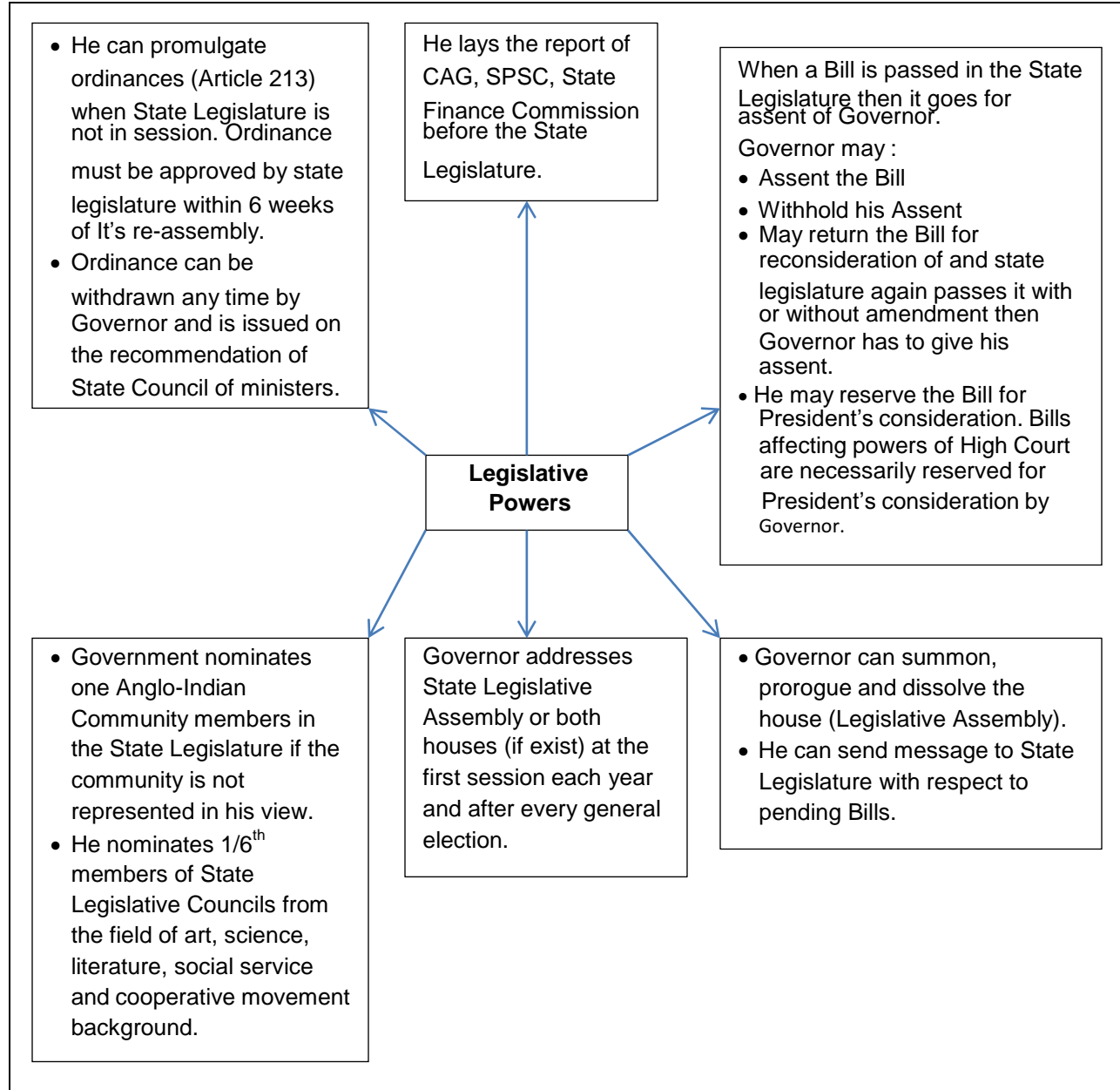
- Governor takes oath administered by Chief Justice of High Court of concerned state or by senior most judge in his absence.



Executive Powers of Governor



Legislative Powers of Governor



Immunities

- No criminal proceedings can be initiated against a Governor during his office term. Although, civil proceedings can be initiated against him provided two months prior notice is given to him.
- He cannot be arrested while in office he is not answerable to any court for his performance of duties in office.

Judicial Powers

- President consults the Governor of the concerned State while appointing judges of High Court.'
- Governor can pardon, commute, respite, remit or suspend, remit and commute the sentence of any offence of any person convicted of any offence under any law related to matters to which executive power of State extends.
- There is a difference between pardon granted by the President under Article 72 and by the Governor under Article 161. The President has an exclusive power to grant pardon in cases of death sentence or sentence inflicted by court martial. The Governor has no such powers.
- He appoints district judges in consultation with High court. He appoints persons to judicial services (other than district judges) of state after consulting with State Public Service Commission (SPSC) and High Court.

Discretionary Powers

- Veto powers over the bills
- In case of Hung Assembly
- Can reserve the bill for President consideration
- Proposal for Presidents rule under Article 356

*Source : COSMOS PUBLICATION, DELHI

State Legislature and State Council of Ministers

- The Constitution provides for the establishment of a Legislature in every state.
- Some states are unicameral, with only a single house while some (six states) are bicameral i.e. they have two houses.
- States of Bihar, Andhra Pradesh, Maharashtra, Telangana, Karnataka and Uttar Pradesh consists of bicameral Legislature. 22 out of 28 states have unicameral Legislature (Article 168).
- The Constitution has provided a specific procedure for creation or abolition of second chamber (State Legislative Council) under Article 169.

Composition of Legislative Council

- The Constitution has fixed the number of members of Legislative Council maximum up to $\frac{1}{3}^{\text{rd}}$ of the total strength of the Legislative Assembly of State and the minimum strength is fixed at 40.
- $\frac{5}{6}^{\text{th}}$ members of State Legislative Council are elected indirectly and $\frac{1}{6}^{\text{th}}$ members are nominated by the Governor of the concerned state from among distinguished persons in the field of art, science, literature, social service and cooperative movement.
- $\frac{5}{6}^{\text{th}}$ members of State Legislative Council members comprise of :
 - I. $\frac{1}{3}^{\text{rd}}$ members of the council are elected by electorates consisting of members of local bodies, such as municipalities, district boards and Panchayats.
 - II. $\frac{1}{12}^{\text{th}}$ are elected by electorates consisting of three years standing residing in that state.
 - III. $\frac{1}{12}^{\text{th}}$ are elected by electorates consisting of persons engaged for at least three years in teaching in educational institutions within the State, not lower in standard than secondary schools.
 - IV. $\frac{1}{3}^{\text{rd}}$ are elected by members of the Legislative Assembly from amongst persons who are not members of the Assembly.

Composition of Legislative Assembly

- The Members of Legislative Assembly are elected directly by people on the basis of adult suffrage for a term of five years, unless the house is dissolved by Governor.
- Normal Tenure of 5 years of State Legislative Assembly may be extended in case of a proclamation of emergency by the President.

- Article 170 states that State Legislative Assembly can have maximum 500 members and minimum 60 members, However, President has the power to alter these maximum and minimum strength of the Legislature. For Sikkim, Goa and Arunachal Pradesh minimum number is fixed at 30 and for Mizoram and Nagaland it is 40 and 46 respectively.
- While there is a provision of joint sitting between the two houses of Parliament in case of a deadlock, there is no such provision in the State Legislature, since in case of a disagreement over proposed amendments, the will of the Legislative Assembly prevails over the State Legislative Council. The State Legislative Council can merely delay the passage of ordinary bills by 4 months.

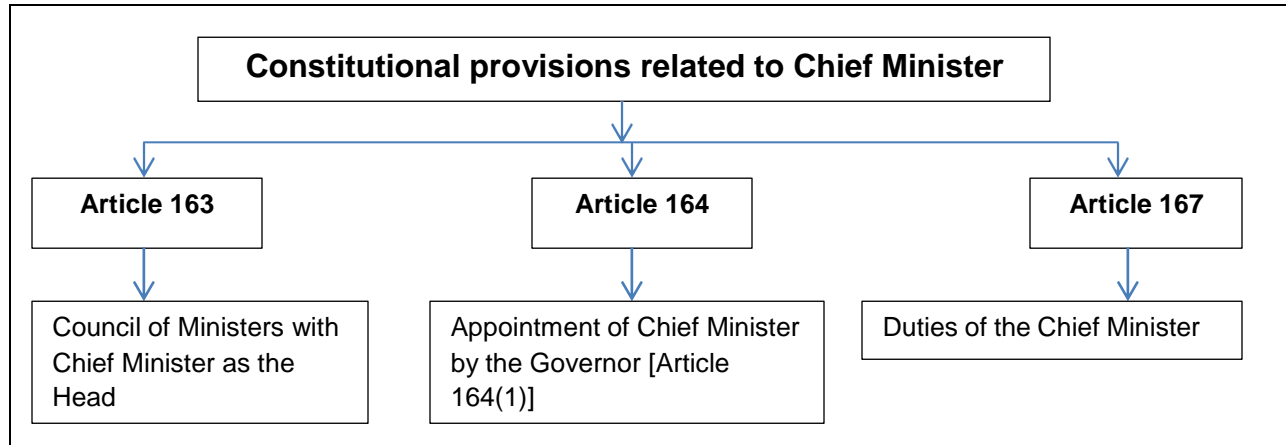
Qualification for Membership of State Legislature

- Article 173 states that a person shall not be qualified to be chosen to fill a seat in the Legislature of a State unless he :
 - (a) is a citizen of India;
 - (b) makes and subscribes an oath or affirmation before a person authorised in that behalf by the Election Commission according to the form set out for the purpose in third schedule;
 - (c) is, in the case of a seat in the Legislative Assembly, not less than twenty-five years of age and, in the case of a seat in the Legislative Council, not less than thirty years of age, and
 - (d) possesses such other qualifications as may be prescribed in that behalf by or under any law made by the Parliament.

Disqualifications for Membership

- A person shall be disqualified for being as, and for being a member of the Legislative Assembly of a state if he :
 - (a) holds any office of profit under the Government of India or the Government of any State, other than that of a minister for Indian Union or for a State or an office declared by a law of the State not to disqualify its holder;
 - (b) is of unsound mind as declared by a competent court;
 - (c) is an undischarged insolvent;
 - (d) is not a citizen of India or has voluntarily acquired the citizenship of a foreign state or is under any acknowledgement of allegiance or adherence to a foreign State;
 - (e) is so disqualified by or under any law made by Parliament.
- There is no provision of joint sitting at State level in case of deadlock or disagreement between two houses. Although at Central level, there is a provision of joint sitting of Lok Sabha and Rajya Sabha to resolve their deadlock on ordinary bills (presided by Speaker of Lok Sabha).

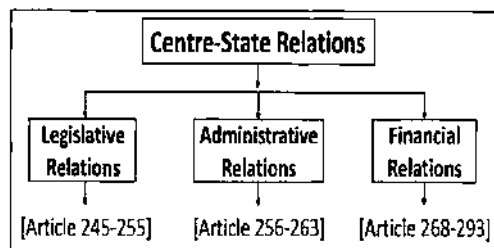
- Position of Chief Minister at State level is similar to the Prime Minister at centre.



- Chief Minister is appointed by the Governor of concerned State under Article 164.

*Source : COSMOS PUBLICATION, DELHI

Relations between Centre and States



Indian Constitution followed **Canadian precedent**, opting for a **strong Union/Centre**.

Under **Article 253**, Parliament has power to make any law for the whole or any part of the territory of India for **implementing treaties and international agreements and conventions**.

- Under **Article 246**, all the subjects are divided into Union, State and concurrent List.

State Legislature can pass certain **bills** regarding the imposition of reasonable restrictions on the freedom of **trade commerce and intercourse** within the State in **Public Interest** with previous consent of **President**.

Part XI-Chapter I (Article 245 to 255)	
Legislative Relations	
• Article 245	Extent of laws made by Parliament and by the legislatures of the States
• Article 246	Subject matter of laws made by Parliament and by the legislatures of the States
• Article 247	Power of Parliament to provide for the establishment of certain additional courts
• Article 248	Residuary powers of legislation
• Article 249	Power of Parliament to legislate with respect to a matter in the state list in the national interest
• Article 250	Power of Parliament to legislate with respect to any matter in the state list if a Proclamation of Emergency is in operation
• Article 251	Inconsistency between laws made by Parliament under Article 249 and 250 and laws made by the legislatures of States.
• Article 252	Power of Parliament to legislate for two or more states by consent and adoption of such legislation by any other State
• Article 253	Legislation for giving effect to international agreements
• Article 254	Inconsistency between laws made by Parliament and laws made by the legislatures of the State
• Article 255	Requirements as to recommendations and previous sanctions to be regarded as matters of procedure only.

- In case of **conflict** between **Central law** and **State law** on a subject of **concurrent list**, **Central law** prevails except when, **State law** has been **reserved** for **President's consent** and received his consent.
- In case of any **overlapping** between jurisdiction **Union list** and **State list** or **Concurrent list**, **Union list** prevails and between concurrent list and state list, concurrent list prevails.

Special Conditions			
Article 249	If Rajya Sabha passes a resolution supported by not less than 2/3rd of its members present and voting that in the national interest , Parliament should make laws on subjects enumerated in the State list . The resolution remains in force for one year , though it can be renewed any number of times. The law remains in force till the expiration of six months after resolution ceases to be in force.		if the legislature of two or more states adopt a resolution that it is lawful of Parliament to make laws on any state subject applicable to them.
Article 250	Parliament can legislate on State subjects during proclamation of emergency . However, such laws will cease to exist on the expiration period of six months after the proclamation has ceased to operate.	Article 253	The Parliament can make law for the whole or any part of the territory of India for implementing any treaty , international agreement or convention with any other country.
Article 252	Parliament can legislate on State subjects	Article 356	The President can also authorise the Parliament to exercise the powers of the State legislature during the proclamation of President Rule. All such laws remain in force even after President Rule ends. Though, such laws can be amended or repealed by State legislature after President Rule ends.

Chapter II (Part XI)			
Administrative Relations (Article 256 to 263)			
• Article 256	Obligation of States and the Union	• Article 260	Jurisdiction of the Union in relation to territories outside India
• Article 257	Control of the Union over States in certain cases	• Article 261	Publicacts, records and judicial proceedings
• Article 258	Power of the Union to confer powers, etc on states in certain cases	• Article 262	Adjudication of disputes relating to waters of interstate rivers or river valleys
• Article 258A	Power of the States to entrust functions to the Union	• Article 263	Provisions with respect to an Inter-State Council

Seventh Schedule

Union List

- Comprises of 100 subjects (earlier 97)
- Parliament has exclusive power to frame laws over these subjects
- Some important subjects include : Defence, Arms and ammunations, Citizenship, Railways, Banking and Finance Corporations, Stock Exchanges and any other matter not mentioned in List II or III (residuary powers)

State List

- Comprises of 61 subjects (earlier 66)
- Under normal circumstances, State alone can make laws over the subjects mentioned in the list
- Some important subjects include : Police, Public health and sanitation, Land revenue, Taxes on consumption or sale of electricity, Taxes on Luxuries etc

Concurrent List

- Comprises of 52 subjects (earlier 47)
- Both the Parliament and State Legislature can make laws over the subjects mentioned in Concurrent list.
- Some important subjects include : criminal law, marriage and divorce, prevention of cruelty to animals, forests, protection of wild animals, economic and social planning, trade unions etc

Directives given by the Union to the States

To maintain means of communication of national importance like Railways, Ports

To ensure welfare of scheduled tribes in the States

To secure instructions in mother tongue at primary stage of education

To ensure compliance of States to constitutional provisions

To ensure development of Hindi

Comparative Analysis

Article 355

- It is the duty of the Union to protect States against external aggression and internal disturbance

Imposition of Article 352

- It is also the duty of the Union to ensure, that the Government of each State is carried on in accordance with the provisions of the Constitution

Article 365

- If the States fail to comply with or to give effect to any directions given by the Union, the President can hold the opinion that the Government of the State is not carried on in accordance to the provisions of the Constitution

Imposition of Article 356/ President Rule

The centre can direct the state government to ensure the development of Hindi to secure instructions in mother tongue at primary stage of education and to ensure the welfare of scheduled tribes in the State.

Part XII (Article 268 to 293)

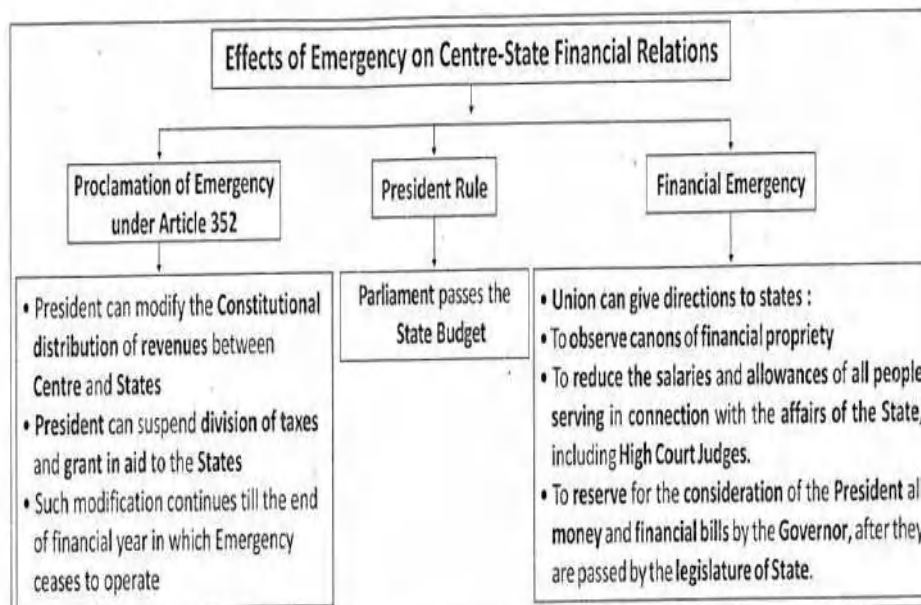
Finance, Property Contracts and Suits

Distribution of Revenue between the Union and the States

• Article 268	Duties levied by the Union but collected and appropriated by the States	• Article 277	Savings	• Article 286	Restrictions as to imposition of tax on the sale or purchase of goods
• Article 269	Taxes levied and Collected by the Union but assigned to the States	• Article 279	Calculation of net proceeds, etc	• Article 287	Exemption from taxes on electricity
• Article 270	Taxes levied and distributed between the Union and the States	• Article 280	Finance Commission	• Article 288	Exemption from taxation by States in respect of water or electricity in certain cases
• Article 271	Surcharge on certain duties and taxes purposes of the Union	• Article 281	Recommendations of the Finance Commission	• Article 289	Exemption of property and income of a State from Union taxation
• Article 273	Grants in lieu of export duty on jute and jute products	• Article 282	Expenditure defrayable by the Union or a State out of it's revenues	• Article 290	Adjustment in respect of certain expenses and pensions
• Article 274	Prior recommendation of President required to bills effecting taxation in which States are interested	• Article 283	Custody, etc of Consolidated Funds, Contingency Funds and money credited to the Public Accounts	• Article 290A	Annual payment to certain Devaswom funds
• Article 275	Grants from the Union to certain states	• Article 284	Custody of suitors' deposits and other moneys received by public servants and courts	• Article 292	Borrowings by the Government of India
• Article 276	Taxes on professions, trades, callings and employments	• Article 285	Exemption of property of the Union from State taxation	• Article 293	Borrowings by States

Goods and Services Tax (GST)

- **101st Constitutional Amendment Act, 2016 (GST Act)** paved the way for the **Government to reconstruct the presently distributed indirect tax law regime into a unified tax structure** through the **Goods and Services Act**.
- **GST** involved a **huge financial interest** of the **Centre** and the **State Governments** and the **distribution of revenue between** them, such a **tax reform** needed **suitable amendments** to the **Constitution**.



Commissions & Committees on Centre State Relations

- Rajmanner Committee (1969) – Dr. P. V. Mannar
- Sarkaria Commission (1983) – Ranjit Singh Sarkaria
- Administrative Reforms Commission (1996) – Morarji Desai
- Setalvad Committee (1996) – M.C. Setalvad
- Punchi Commission (2007) – Madan Mohan Punchhi

Commissions & Committees on Centre State Relations

- Rajmanner Committee (1969) – Dr. P. V. Mannar
- Sarkaria Commission (1983) – Ranjit Singh Sarkaria
- Administrative Reforms Commission (1996) – Morarji Desai
- Setalvad Committee (1996) – M.C. Setalvad
- Punchi Commission (2007) – Madan Mohan Punchhi

Major Subjects of the Lists		
Union List (total 100)	State List (Total 61)	Concurrent List (total 52)
• Defence, Naval military and air forces	• Public order and police	• Criminal law and criminal procedure
• Arms, firearms, ammunition and explosives	• Local self government	• Marriage and divorce
• Atomic energy and mineral resources	• Public health and sanitation	• Transfer of Property other than agricultural land
• Central Bureau of Intelligence and investigation	• Pilgrimages inside India	• Bankruptcy and insolvency
• Preventive detention	• Fisheries	• Prevention of cruelty to animals
• Foreign Affairs	• Libraries and museums	• Forests
• United Nations Organization	• Markets and fairs	• Goods
• Citizenship, naturalization and Aliens	• Prevention of animal diseases and veterinary training	• Newspapers, books and printing presses
• Railway	• Agricultural income	• Economic and social planning
• Pilgrimage in places outside India	• Betting and gambling	• Population control and family planning
• Shipping and navigation on inland waterways	• Relief of the disabled and unemployable	• Trade unions
• Post and Telegraph	• Land revenue	• Social security and social insurance
• Currency coinage and legal tender	• Taxes on lands and buildings	• Education
• Inter state trade and Commerce	• Taxes on advertisements	• Legal, Medical and other professions
• Banking and Insurance Stock exchanges and future markets	• Taxes on consumption and sale of electricity	• Charities and charitable institutions
• Census	• Tolls	• Price control
• Survey of India	• Capitation taxes	• Weights and measurements
• Corporation tax	• Entertainment tax	• Factories
• Interstate migration	• Gas and gas works	• Boilers
• Corporation tax	• Entertainment tax	• Factories
• Interstate migration	• Gas and gas works	• Boilers
• Stock exchanges and future markets	• Taxes on luxury items etc.	• Goods and Services tax

*Source: COSMOS PUBLICATION, DELHI

Local Self –Government

The present structure of Local Self Government Institutions took shape in 1687, when in **1687**, when British established a **Municipal Corporation** at **Madras** followed by creation of similar bodies at **Bombay** and **Calcutta** (1726).

- The **Minto-Morley Reforms 1909** and **Montague Chelmsford Reforms 1919** made **Local Self Government** a **transferred subject** widening the participation of people in the governing process and by **1924-25**, **district boards** has a preponderance of elected representatives and a **non-official chairman**, an arrangement that continued till 1950's.
- In **1872**, **Lord Mayo** introduced **elected representatives** for these municipalities and was further developed by his **successor Lord Ripon** in **1882**. **Decentralization of power** was started by **Mayo's Resolution** (1870) for **financial decentralization** and **Lord Ripon's Resolution** in **1882** laid foundations of **Local Self Government**. **Lord Ripon** is said to be the **Father of Local Government**.

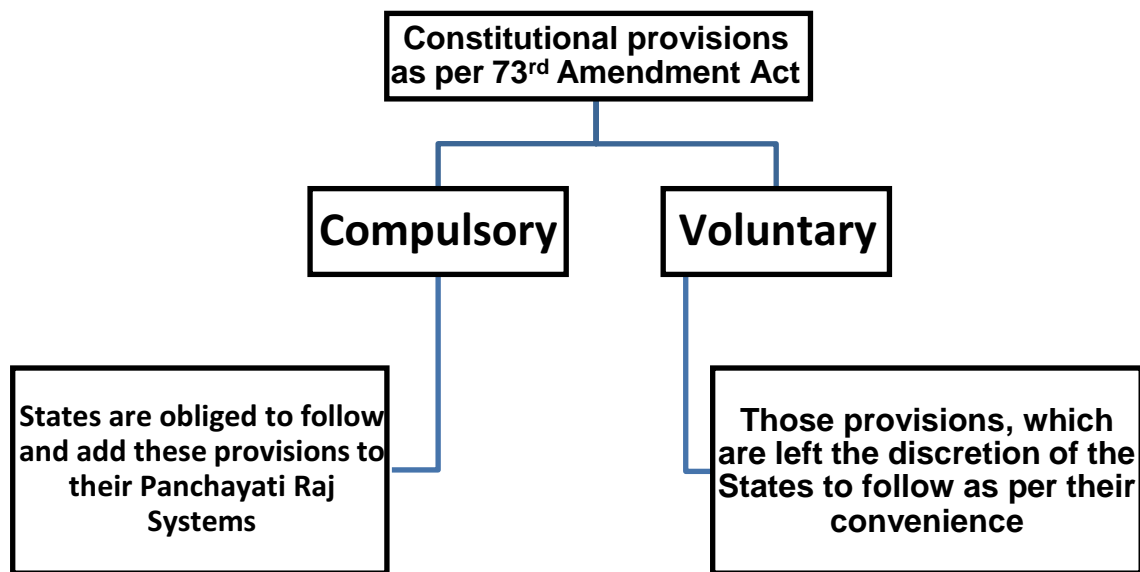
Evolution of Panchayati Raj in India, Post Independence

Community Development Programme (1952) → National Extension Service (1953) → Balwant Rai Mehta Committee (1957) → Ashok Mehta Committee (1977) → G.V.K. Rao Committee (1985) → L.M. Singhvi Committee (1986) → 73rd /74th Constitutional Amendment Act

73rd Constitutional Amendment Act, 1992 inserted the provisions related to **Panchayati Raj** in **Constitution**. Similarly, **74th Constitutional Amendment Act, 1992** gave **powers of Local Government** at the **urban level**.

73rd Constitutional Amendment Act

- This Act implements **Article 40** of Constitution providing a constitutional status to **Panchayati Raj Institutions (PRI)**.



Provisions of 73rd Amendment Act

- This act provides for a **three tier system** in all the States i.e. **Panchayats** at **village, intermediate** and **district level** [Article 243B(1)].
 - **Gram Shaba** (Article 243A) is the **body** consisting of **all registered voters** in a village.

Election of Member and Chairpersons

- **All the members at all three levels i.e. Panchaytas at village, intermediate and district level will be elected directly by people.**

Reservation of Seats (Article 243D)

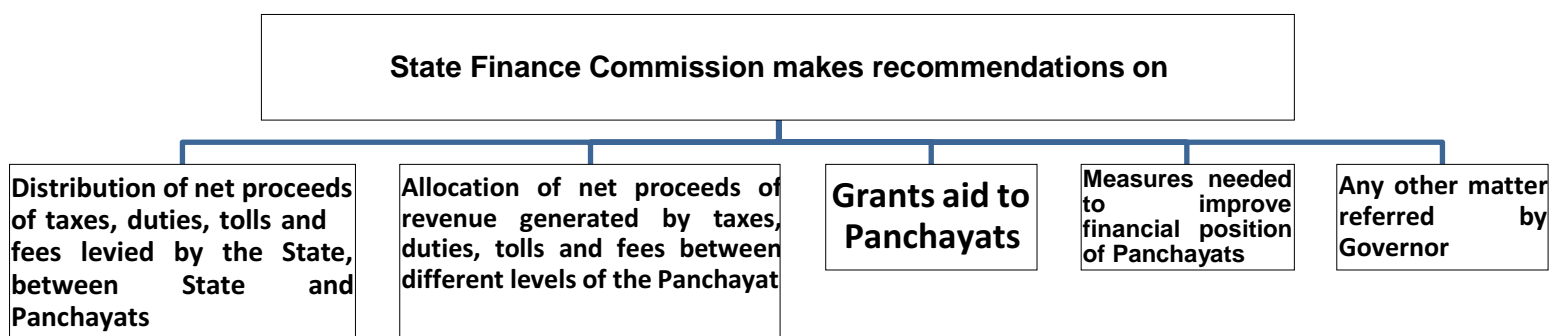
- The Act provides for the reservation of seats for the SC/ST community according to the proportion of their population to the total population in the Panchayat area.

Duration of Panchayats (Article 243E)

- Tenure of Panchayats is kept **5 years** at all three levels by this Act. Election must be completed for the next Panchayat before the expiry of **5 years**. If Panchayat is dissolved earlier then, fresh elections must be completed before the expiry of **six months** from its dissolution.

Disqualification (Article 243 F)

- No person who is below age of 21 years can become a member of Panchayats.
- Local Government including Self-Government institutions in both urban and rural areas is an exclusive state subject under **Entry 5 of List II of the 7th Schedule**, so the Union cannot enact any law to create rights and liabilities relating to these subjects.



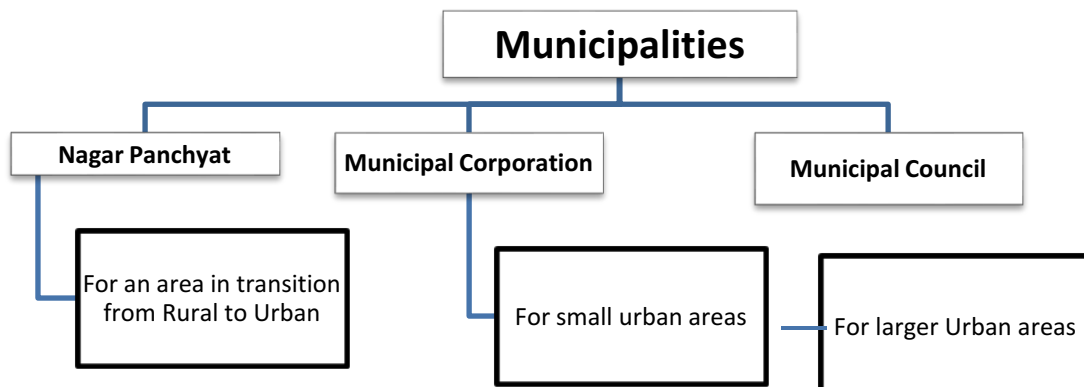
Powers and Functions of Panchayats

- Preparing plans for economic development and social justice.
- Implementing schemes for economic development and social justice.
- In regard to matters listed in the Eleventh Schedule comprising of 29 subjects.

Eleventh Schedule	
➤ This schedule inserted 73 rd Constitutional Amendments Act 1992 contains 29 items placed within the purview of Panchayats:	
1	Agriculture , including agricultural extension
2	Land improvement , implementation of land reforms, land consolidation and soil conservation
3	Minor irrigation , water management and watershed development
4	Animal Husbandry, Dairying and poultry
5	Fisheries
6	Social forestry and farm forestry
7	Minor forest produce
8	Small scale industries, including food processing industry
9	Khadi, village and cottage industries
10	Rural housing
11	Drinking water
12	Fuel and fodder
13	Road, culverts, bridges, ferries, waterways and other means of communication
14	Rural electrification, including distribution of electricity
15	Non-conventional energy sources
16	Poverty Alleviation Programmes
17	Education including primary and secondary schools
18	Technical training and vocational education
19	Adult and non-formal education
20	Libraries
21	Cultural Activities
22	Markets ad fairs
23	Health and sanitation, including hospitals, primary health centres and dispensaries
24	Family welfare
25	Women and child development
26	Social welfare, including welfare of the handicapped and mentally retarded
27	Welfare of the weaker sections, and in particular, of schedule castes and schedule tribes
28	Public distribution system
29	Maintenance of community assets

PESA (Panchayat Extension of Scheduled Areas) Act, 1996

- 73rd Constitutional Amendment was not applied on Scheduled Areas and Tribal Areas (Article 244) so PESA Act was brought to extend the provisions of 73rd Amendment Act to Schedule V areas with such modification as required to maintain their cultural and social identity.
- **Schedule V** contains areas of **10 states** i.e. **Andhra Pradesh, Himachal Pradesh, Jharkhand, Telangana, Chhattisgarh, Gujarat, Madhya Pradesh, Maharashtra, Rajasthan** and **Odisha**.
- This Act Provides the self-rule for tribal population and Gram Sabha has been granted special powers like:
 - Approve development plans
 - Manage minor water bodies
 - Ownership of Minor Forest Produce (MFP)
 - Control of mineral lease
 - Regulation of selling of intoxicants
 - Prevention of land alienation
 - Beneficiary selection for various schemes
 - Consultation on land acquisition

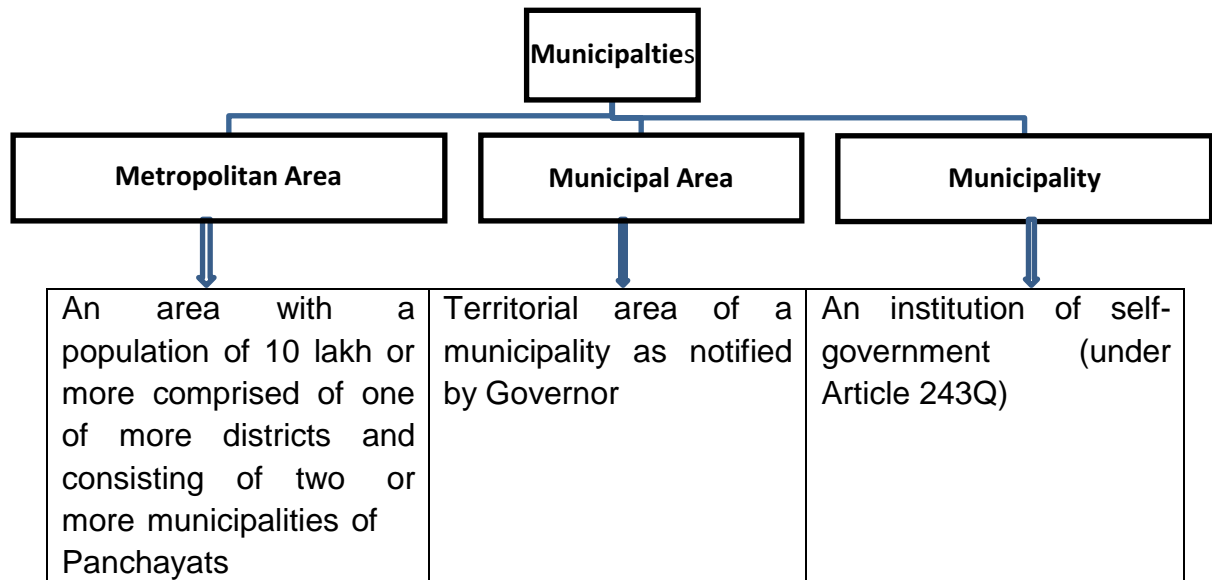


Composition (Article 243R)

- All the members of municipality will be elected by people directly; while State government may by law decided the manner in which chairpersons of municipalities will be elected. For the purpose of elections, Municipal area will be divided into wards.

Ward Committees (Article 243S)

- It provides for the constitution of ward committee consisting one or more wards within territorial area of a municipality having population of three lakhs or more.



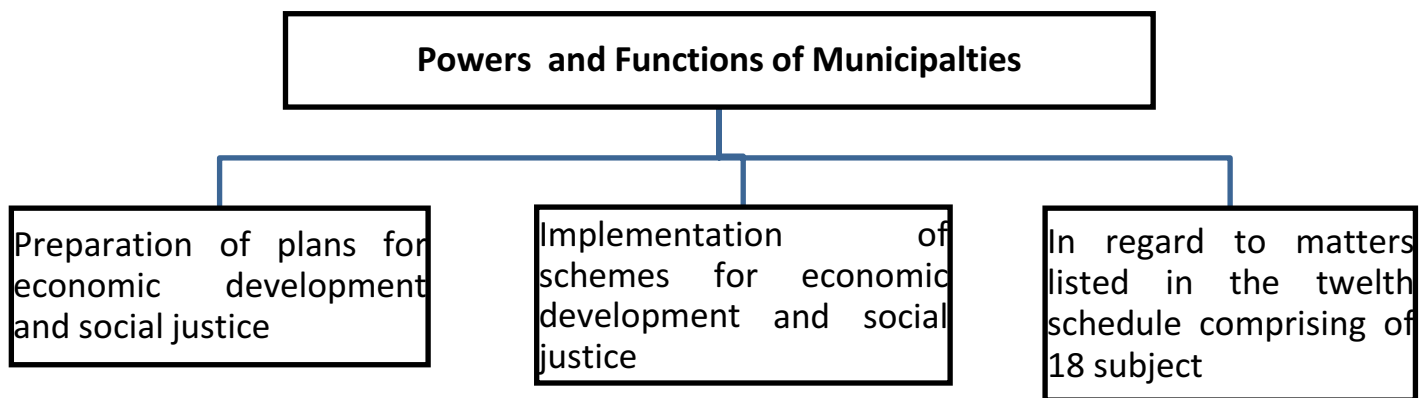
Reservation (Article 243T)

- This Act provides the provisions for reservation of seats for SC/STs and women in urban local bodies.

Duration of Municipalities (Article 243U)

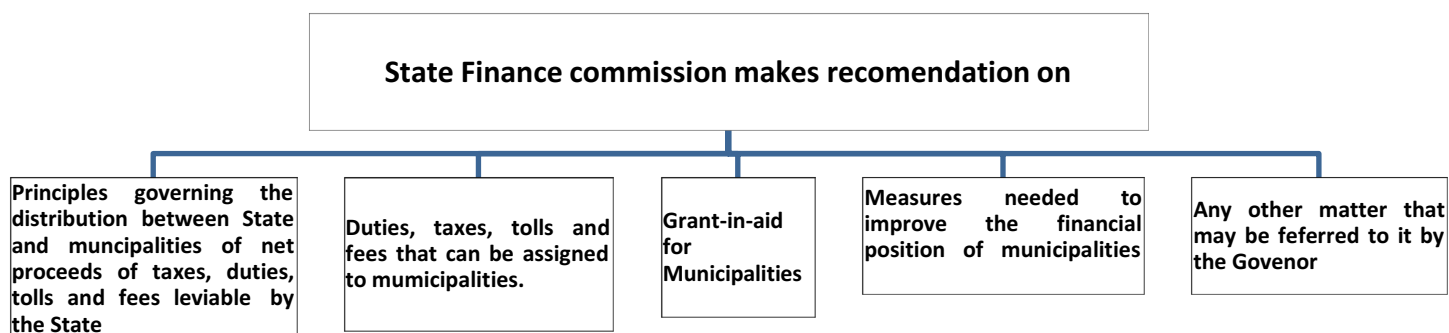
- Tenure of municipalities is fixed as 5 years. But, if municipalities are dissolved before 5 years then elections must be completed within 6 months and newly elected municipality shall continue for the time period for which dissolved municipality would have continued had it not been dissolved.

A person must have the age of 21 years or above to contest in election. No one will be disqualified on the ground that he is below age of 25 years like for state legislative assembly where the required age is 25 years.



District Planning Committee (Article 243ZD)

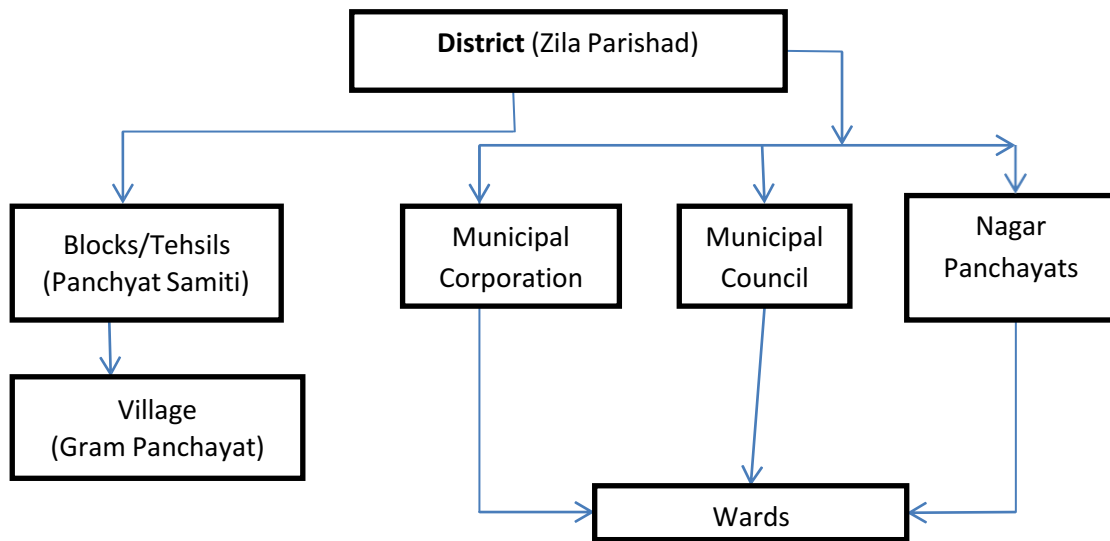
- Under this (74th Constitutional Amendment Act) Act every **State** has to constitute a **District Planning Committee** which will **consolidate the plans** prepared by **Panchayats** and **Municipalities** of the **district** and will prepare a **draft plan** for the **whole district**.



Twelfth Schedule	
It consists of 18 items within purview of Municipalities:	
1.	Urban planning including town planning.
2.	Regulation of land-use and construction of buildings.
3.	Planning for economic and social development.
4.	Roads and bridges.
5.	Water supply for domestic, industrial and commercial purposes.

6.	Public health, sanitation conservancy and solid waste management.
7.	Fire services.
8.	Urban forestry, Protection of the environment and promotion of ecological aspects.
9.	Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
10.	Slum improvement and upgradation.
11.	Urban poverty alleviation.
12.	Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13.	Promotion of cultural, educational and aesthetic aspects.
14.	Burials and burial grounds; cremations, cremation grounds; and electric crematoriums.
15.	Cattle pounds; prevention of cruelty to animals.
16.	Vital statistics including registration of births and deaths.
17.	Public amenities including street lighting, parking lots, bus stops and public conveniences.
18.	Regulation of slaughter houses and tanneries.

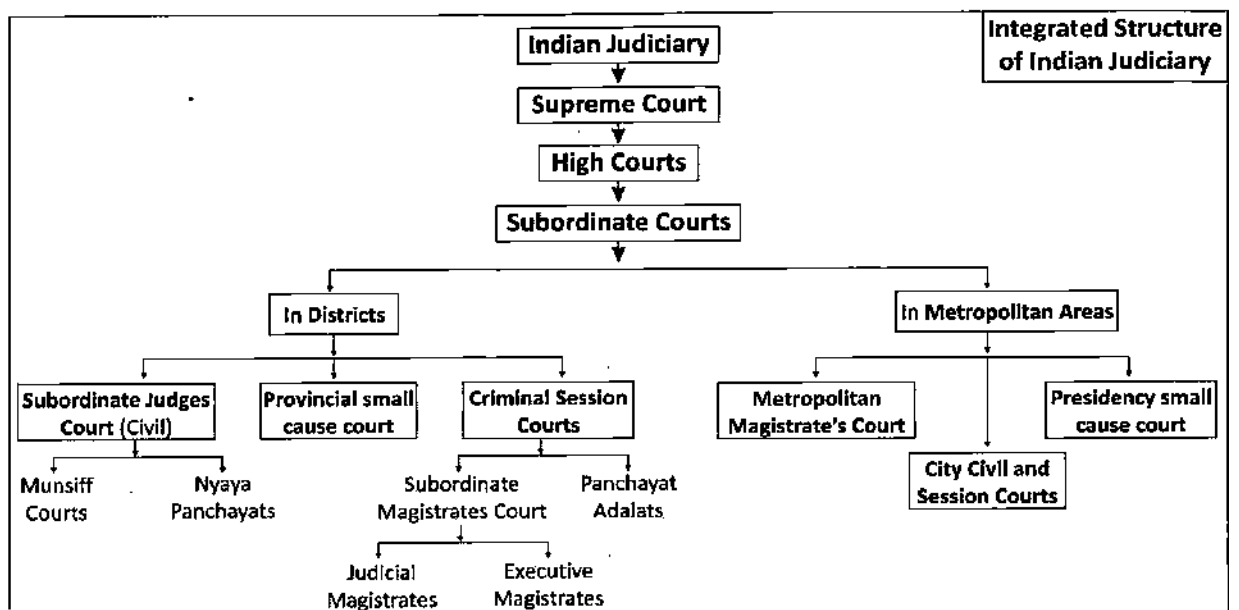
Types of Urban Bodies (8)	
•	Municipal Corporation
•	Municipality
•	Notified Area Committee
•	Town Area Committee
•	Cantonment Board
•	Township
•	Port Trust
•	Special Purpose Agency



*Source: COSMOS PUBLICATION, DELHI

Supreme Court

- Supreme Court is the successor of Federal Court of India which was established under Government of India Act, 1950.
- Federal Court was an intermediate appellant between High Courts and Privy Council.
- Post Independence, Supreme Court became the highest appellate authority, making it the Supreme judicial body in independent India.
- Justice N.V. Ramana in April 2021 sworn in as the 48th Chief Justice of India, Succeeding CJI S.A. Bobde. He will hold the office till August 26, 2022.
- Supreme Court came into existence on 28th January, 1950
- Till 1993 the Supreme Court Judges were appointed by President on the recommendation of CJI but now 5 senior most judges committee recommends the names to the law ministry and after scrutinizing send the paper to the President.



Composition

- Supreme Court consists of a Chief Justice of India and maximum 33 other judges at present. Originally, there was strength of 8 judges (one CJI and seven other judges) in Supreme Court which was later increased to 10 in 1956, 13 in 1960, 17 in 1977 and 25 in 1986. The provision is provided under Article 124(A1).
- In 2009, this strength was increased to thirty one. Supreme Court (number of judges) Bill of 2019 has added four Judges to strength. It increased the judicial strength from 31 to 34, including the Chief Justice of India.

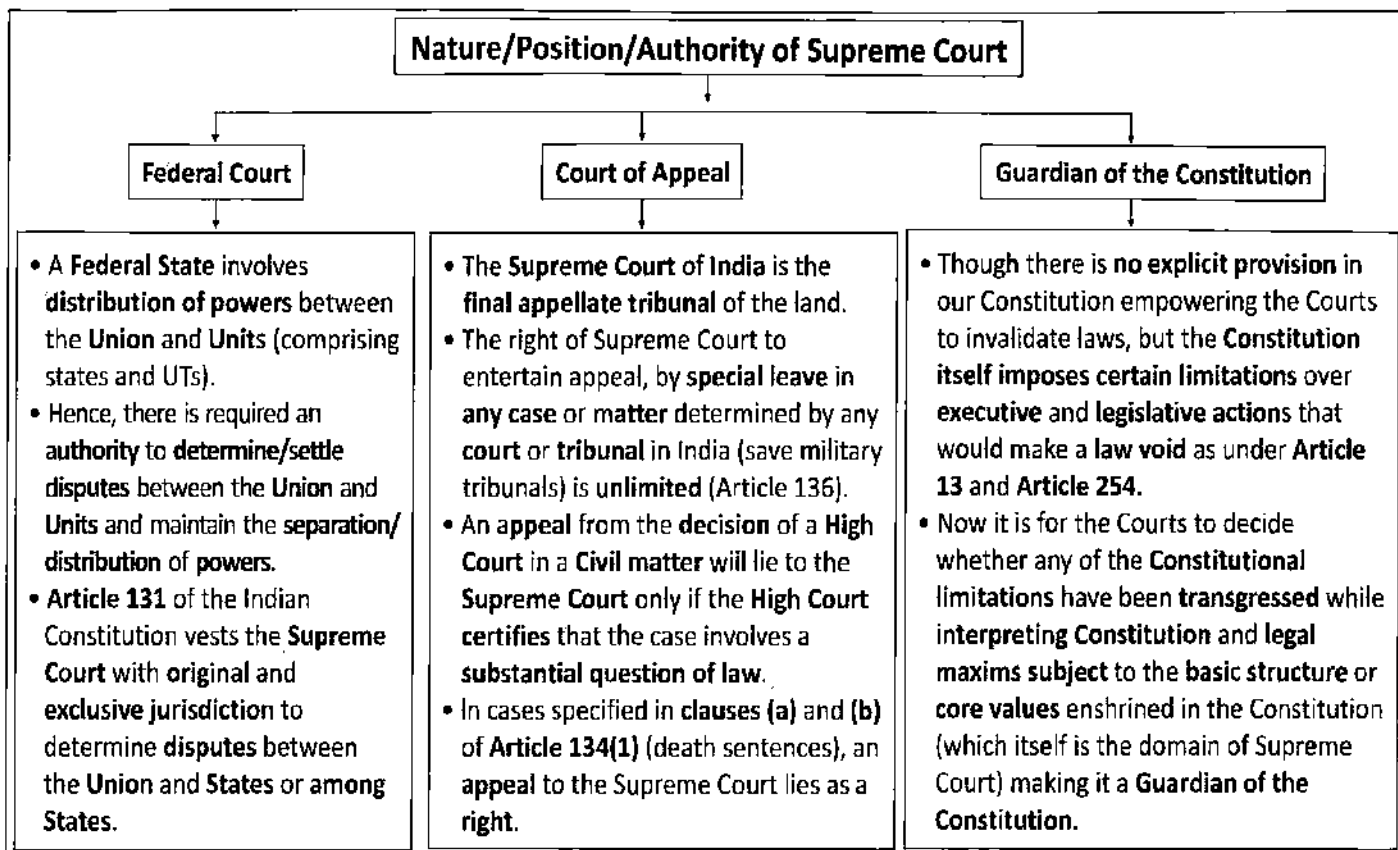
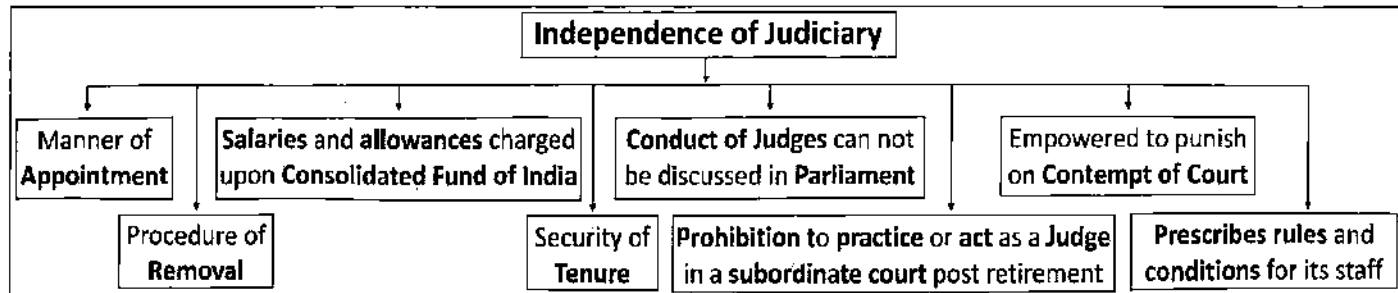
Appointment

- Chief Justice of India is appointed by the President after consultation with such Judges of Supreme Court and High Court as he considers necessary.
- In the Second Judge Case (1993) Supreme Court held that senior most judge of the Supreme Court could alone be appointed as Chief Justice of India.
- In Third Judge Case (1998), Supreme Court ruled that Chief Justice has to consult four senior most judges before tendering his advice to President on the appointment of judges, thus expanded the collegium system.

Qualification of Judges

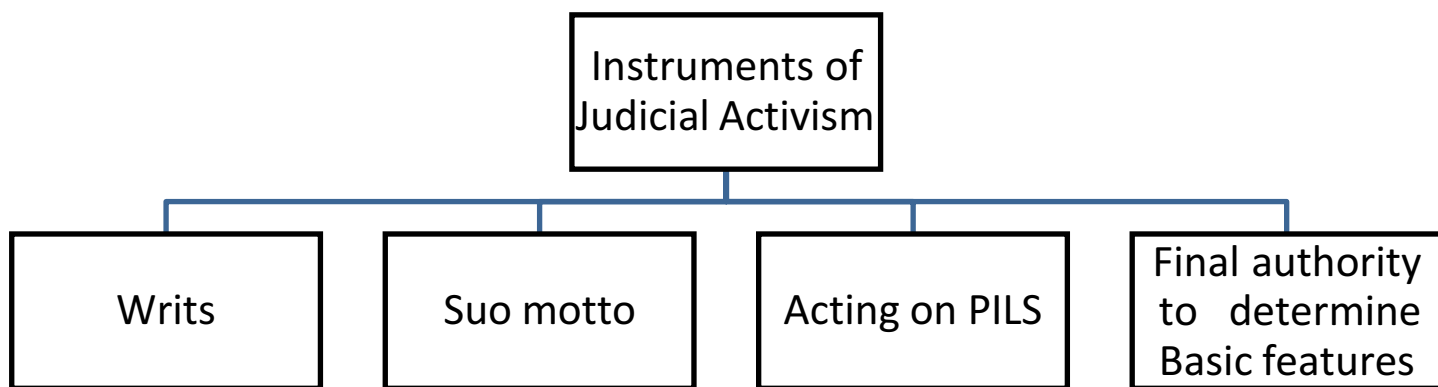
- He must be a citizen of India.
- He should have been the judge of High Court (or High courts) for at least 5 years in succession.
or
- He should be an advocate of High court (or High Court) for 10 years in succession
or
- He should be a distinguished jurist in view of the President.

- No minimum age is prescribed for the appointment as a judge of the Supreme Court.



Judicial Activism

- Judicial intervention in legislative functioning of the State through writs, suo mottos and declaring legislative initiatives null and void as opposed to theory of Separation of Powers.



Contempt of Court refers to the offence of showing disrespect to the dignity or authority of a court. Supreme court and High Courts derive their contempt powers from the Constitution. The **Contempt of Court Act, 1971**, outlines the procedure in relation to **investigation** and **punishment** for contempt. The Act divides contempt into civil and criminal contempt. Civil contempt refers to the **willful disobedience** of an order of any court. Criminal contempt includes any act or **publication** which: **Scandalises the court, Prejudices any judicial proceeding, Interferes** with the administration of justice in any other manner.

Tenure

- Constitution does not lay and fix time period for judges of Supreme Court. Though it provides that a judge of Supreme Court continues to hold office until he attains the age of 65 years.
- A judge of Supreme Court can resign by tendering his resignation to President.
- He can be removed by President's order on recommendation of Parliament on the grounds of proved misbehavior or incapacity.
- President can remove a judge of Supreme Court only after the removal motion is passed by both Houses of Parliament with a special majority.
- The only grounds upon which removal of a judge through a parliamentary resolution is carried out are – proved misbehavior and incapacity [(Article 124(4))].
- The procedure for the removal of judges through parliamentary resolution is same for the judges of Supreme Court and High court.

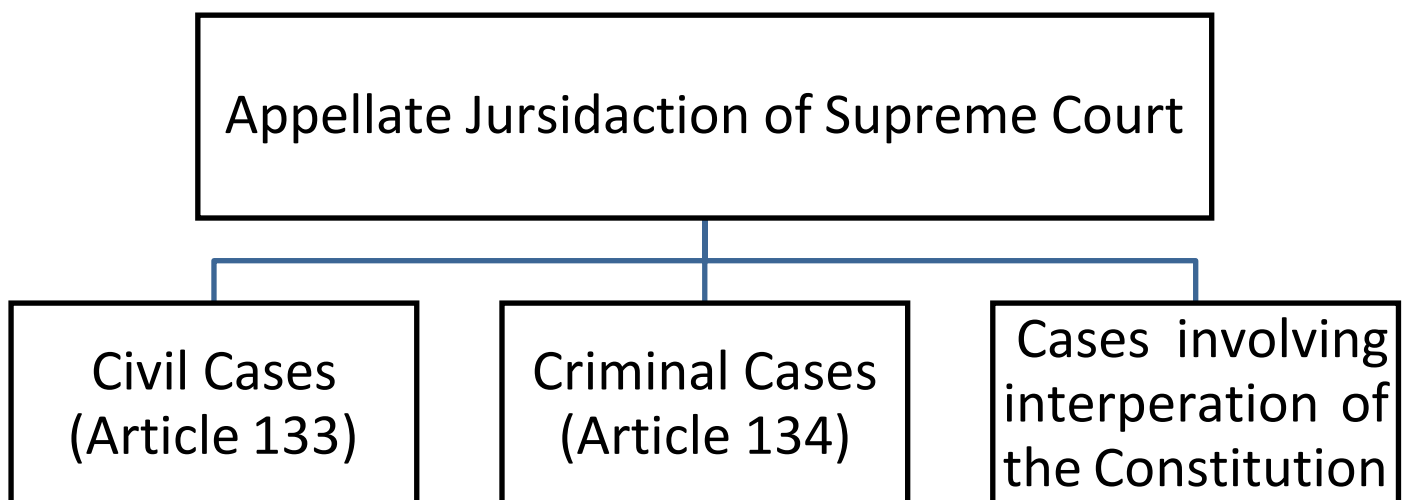
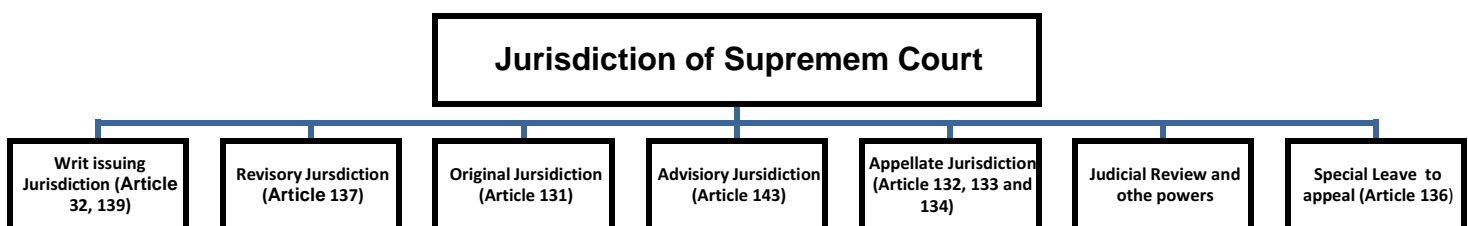
Acting Chief Justice (Article 126)

- President can appoint a judge of Supreme court as Acting Chief Justice when:
- Chief Justice is absent or unable to perform his duties.
- Office of CJI is vacant

Ad-hoc Judges (Article 127)

Chief Justice of India with the previous consent of President can appoint a judge of High court as ad-hoc judge of Supreme court. In doing so, chief Justice has to consult the Chief Justice of concerned High Court and the judge who is to be appointed must be qualified to be a judge of supreme Court. Ad-hoc judges are appointed when there is a lack of quorum of permanent judges in Supreme Court to conduct the business of court.

Any discussion on the conduct of a judge of the Supreme Court or a High Court is forbidden in Parliament as under Article 121 except upon a motion for an address to the President for the removal of the judge.



Supreme Court is empowered to hear Review Petition under Revisory jurisdiction (Article 137).

Reasons for Judicial Activism

- Amending the Preamble
- Amending provisions related to Fundamental Rights
- Extending powers of the Parliament to amend the Constitution without a judicial scrutiny through Article 368
- Frequent misuse of Article 356
- Ordinances as an extra legislative measure for executive functioning of the State
- Curtailing rights of citizens through legislations
- To fill for the Legislative vacuum

*Source: COSMOS PUBLICATION, DELHI

High Courts

- The charter of High Court of Calcutta was ordered in May 1862 and that of Bombay and Madras were on June 1862. Thereby making the **Calcutta High Court** the **first court of the country**.

Article 214 of the Constitution provides that there shall be a High Court for each State.

Part VI (Article 214 to 231) of the Indian Constitution deals with High Courts and related provisions.

7th Constitutional Amendment Act, 1956 provided that there can be a common High Court for two or more States or for two or more states and Union Territory.

Constitution of High Courts

- Every High Court consists of a Chief Justice and such other judges as the President appoints from time to time. So, unlike in Supreme Court, Constitution does not fix the number of Judges in High Courts and it depends on the discretion of President.

Neither additional nor acting judge holds office beyond 62 years of prescribed age for retirement of a High court Judge.

Appointment of Judges

- Chief Justice of High Court is appointed by President of India in consultation with Chief Justice of India and Governor of the concerned State.
- All other judges of High court are also appointed by the President in consultation with the Chief Justice of India, Governor of the concerned State and Chief Justice of concerned High court.
- In case of common High court, Governors of all concerned states are consulted.

Oath

- Every Judge of High Court before entering in office subscribes an oath administered by Governor of concerned State or any person appointed by him on his behalf.

Qualifications

- A person to be appointed as a judge of High Court should hold following qualifications.
- He must be a citizen of India.
- He must have held a judicial office in the territory of India for 10 years or he must have been an advocate of a High Court (or High Courts) in succession for at least 10 years.

Tenure

- There is no fixed tenure for judges of High Courts.
- A High Court Judge holds office until he attains the age of 62 years.
- He can be removed by President in the same manner as the judge of Supreme Court.

Salary and allowances

- Salaries and allowances of High Court Judges are fixed by Parliament and they can not be varied for disadvantages of Judges during their tenure except in financial emergency.
- At present, monthly salary of High Court judges is 2.25 Lakh and Salary of Chief Justice of High Courts is 2.5 Lakh.
- **Jammu-Kashmir** and Delhi are the only two Union Territories to have their own High Courts.
- Calcutta, Bombay, Madras and Delhi High Courts have original civil jurisdiction in cases of higher value.

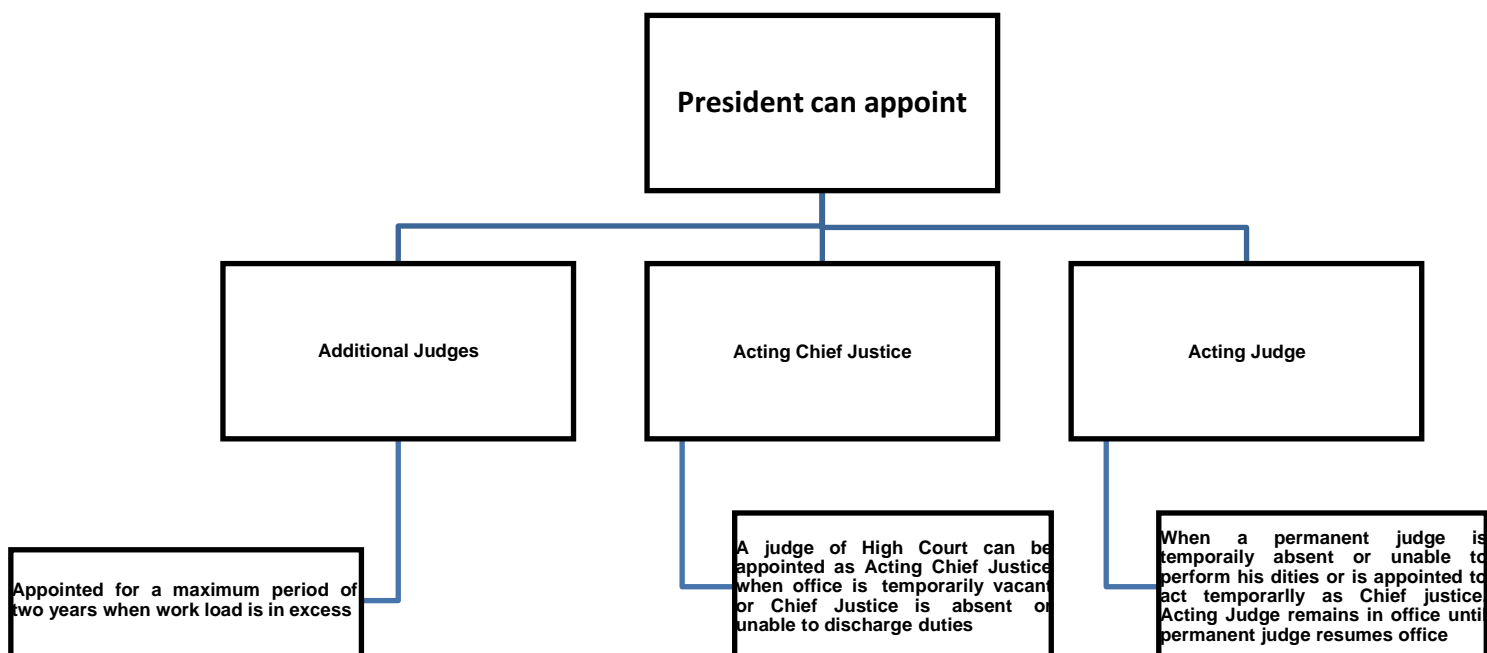
Appellate Jurisdiction

- High Courts are the courts of appeal in Civil and Criminal cases against judgments of Subordinate Courts in the State.
- An appeal can be made to the High Court against a District Courts decision in a matter of fact or law.
- High courts have no jurisdiction over court martial or military courts.
- High court assumes the power of Judicial Review from Article 13 and 226 of the Indian constitution. The word Judicial review is nowhere used in the constitution.

Union Territories	Under Territorial Jurisdiction of
Dadra And Nagar Haveli and Daman and Diu	Bombay High Court
Andaman and Nicobar Islands	Calcutta High Court
Lakshadweep	Kerala High Court
Pondicherry / Puducherry	Madras High Court
Chandigarh	Punjab and Haryana High Court
Delhi	Delhi High Court (1966)
Ladakh	Jammu and Kashmir

Important Facts about High Courts in India

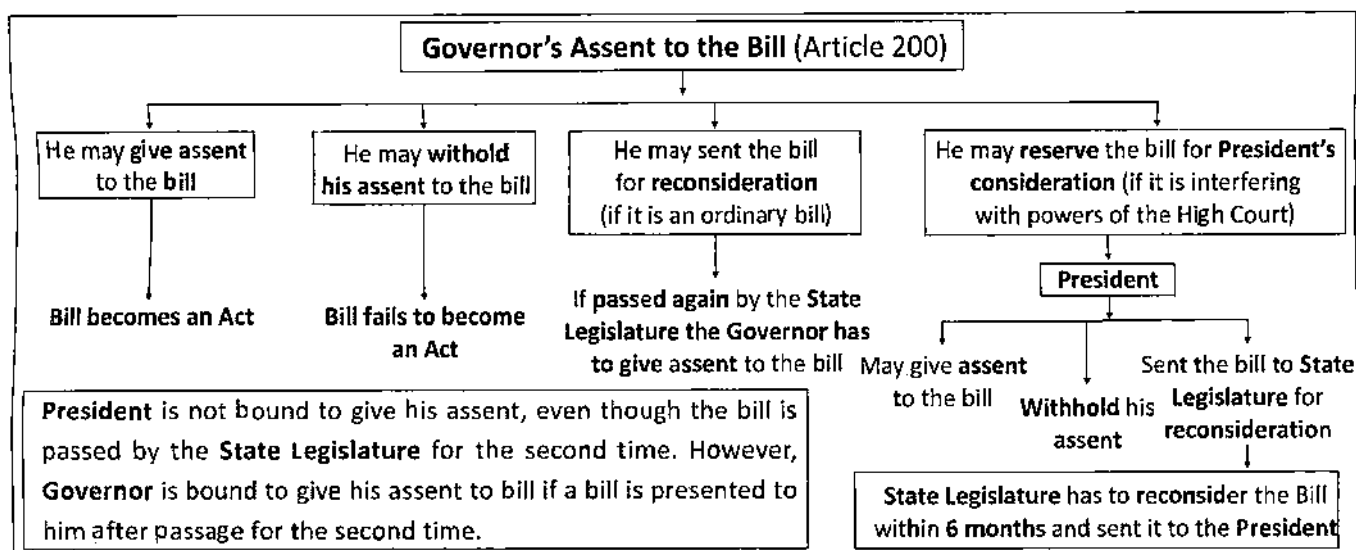
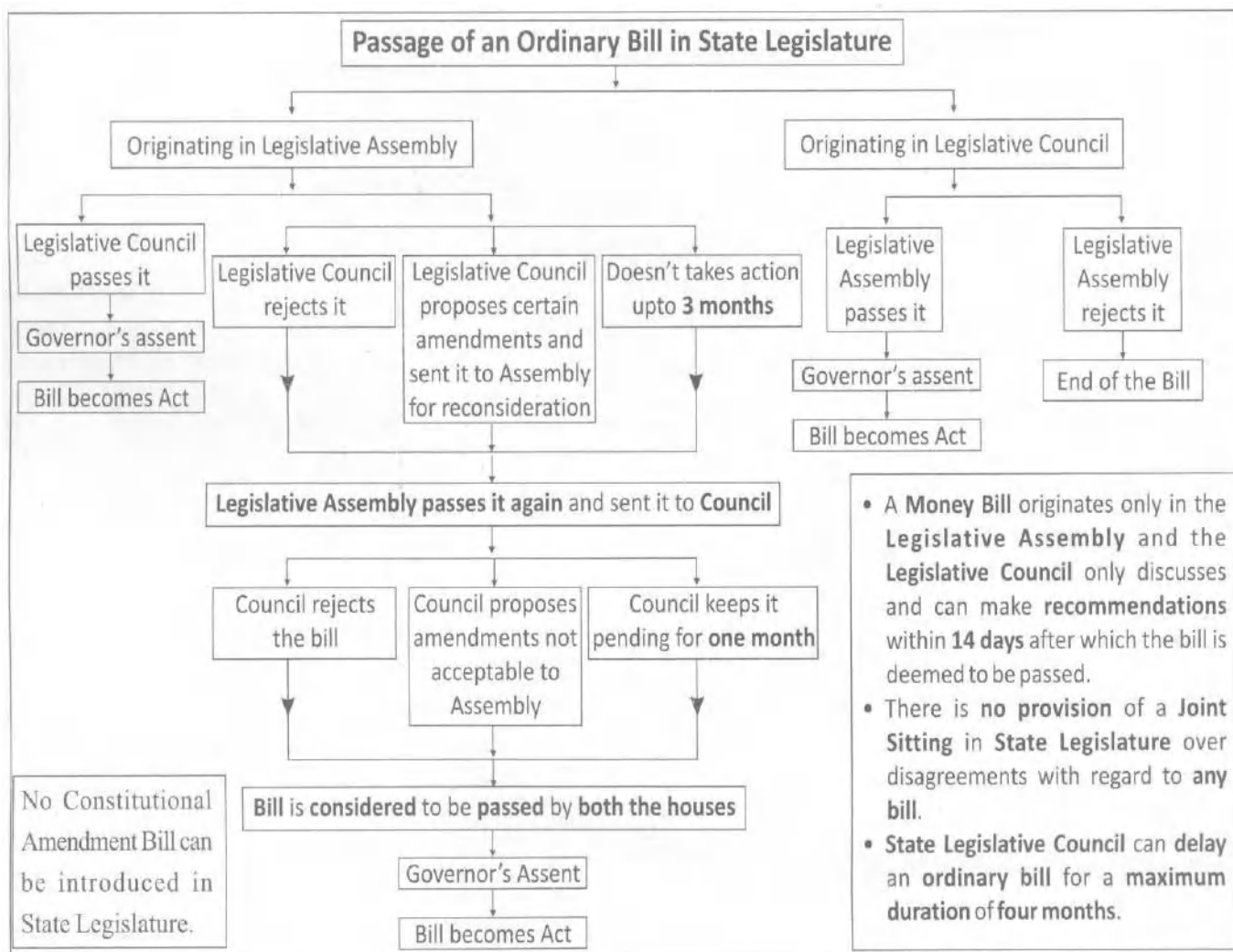
- The **Calcutta High Court** is the **oldest High Court** in the country, established on **2 July, 1862**.
- The **youngest High Court** in India is the **Andhra Pradesh High Court** established on **1 January, 2019**.
- The **Madras High Court** in Chennai, **Bombay High Court** in Mumbai, **Calcutta High Court** in Kolkata and **Allhabad High Court** in Allahabad are the **oldest four High Courts** in India.
- **First female Judge of High Court** was **Anna Chandy**. **First female Chief Justice of High Court** was **Leila Seth** (Himachal Pradesh HC).
- **India's first e-court** was opened at High Court of Judicature at **Hyderabad** in **2016**.



Name and Jurisdiction of High Courts				
S.No.	High Court	Establishment Year	Territorial Jurisdiction	Seat
1.	Allahabad High Court	1866	Uttar Pradesh	Allahabad Bench: Lucknow
2.	Andhra Pradesh High Court	2019	Andhra Pradesh	Amravati
3.	Bombay High Court	1862	Goa, Dadra and Nagar Haveli and Daman and Diu, Maharashtra	Mumbai (Benches at Nagpur, Haveli and Panaji and Aurangabad)
4.	Calcutta High Court	1862	Andaman and Nicobar Islands, West Bengal	Kolkata (Circuit Bench at Port Nicobar Blair)
5.	Chhattisgarh High Court	2000	Chhattisgarh	Bilaspur
6.	Delhi High Court	1966	NCT of Delhi	New Delhi
7.	Guwahati High Court	1948	Arunachal Pradesh, Assam, Mizoram, Nagaland	Guwahati Bench: Aizawl, Itanagar, Kohima
8.	Gujarat High Court	1960	Gujarat	Ahmedabad
9.	Himachal High Court	1971	Himachal Pradesh	Shimla
10.	Jammu & Kashmir High Court	1928	Jammu & Kashmir and Ladakh	Srinagar/ Jammu
11.	Jharkhand High Court	2000	Jharkhand	Ranchi
12.	Karnataka High Court	1884	Karnataka	Bengaluru Bench: Dharwad, Kalaburagi
13.	Kerala High Court	1956	Kerala, Lakshadweep	Kochi
14.	Madhya Pradesh High Court	1956	Madhya Pradesh	Jabalpur Bench: Gwalior, Indore
15.	Madras High Court	1862	Tamil Nadu, Puducherry	Madras Bench: Madurai
16.	Manipur High Court	2013	Manipur	Imphal

17.	Meghalaya High Court	2013	Meghalaya	Shillong
18.	Orissa High Court	1948	Orissa	Cuttack
19.	Patna High Court	1916	Bihar	Patna
20.	Punjab and Haryana High Court	1875	Chandigarh, Haryana, Punjab	Chandigarh
21.	Rajasthan High Court	1949	Rajasthan	Jodhpur Bench: Jaipur
22.	Sikkim High Court	1975	Sikkim	Gangtok
23.	Telangana High Court	1954	Telangana	Hyderabad
24.	Tripura High Court	2013	Tripura	Agartala
25.	Uttarakhand High Court	2000	Uttarakhand	Nanital

Presiding Officers	
Speaker and Deputy Speaker	Chairman and Deputy Chairman
<ul style="list-style-type: none"> Legislative Assembly has a Speaker and a Deputy Speaker elected by Assembly itself from amongst its members. Speaker presides over the meetings of Legislative Assembly and in his absence Deputy Speaker presides over the meetings of Legislative Assembly. Speaker gives his resignation to Deputy Speaker and vice-versa. 	<ul style="list-style-type: none"> Legislative Council has a Chairman and Deputy Chairman elected by itself from amongst its members to preside over the house. When Chairman is absent, the Deputy Chairman functions as presiding officer of the house. Chairman gives his resignation to Deputy Chairman or vice-versa.



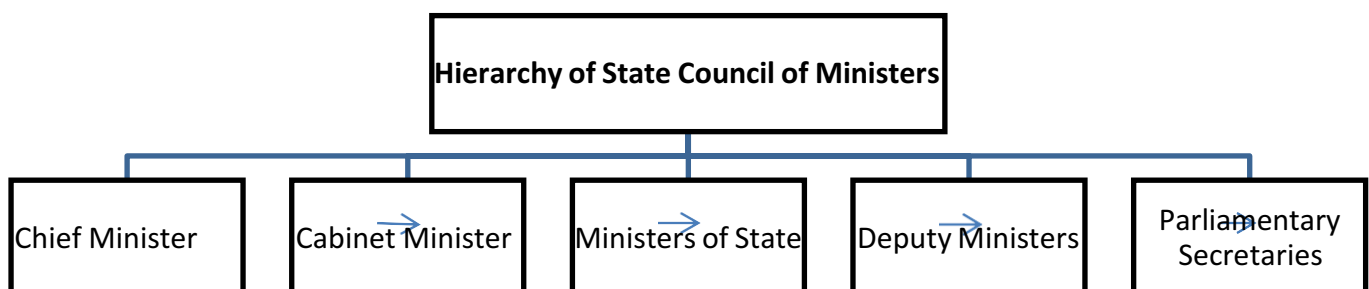
Article 164(1) maintains that the Chief Minister holds office at the pleasure of the Governor; also Article 164(2) maintains that the ministers (including the Chief Minister) are collectively responsible to the Legislative Assembly of the State. Hence forth as long as the Chief Minister enjoys the support and confidence in the house, he cannot be removed by the Governor.

- Chief Minister gets the same salary and allowances which are paid to the members of State Legislative Assembly.
- In addition to that he gets sumptuary allowance, free accommodation, travelling allowance, medical facilities etc. Salary and allowance of Chief Minister are determined by State Legislature from time to time.

Constitutional provisions related to Council of Ministers
Article 163
Council of Ministers to aid and advice the Governor
Article 164
Provisions related to appointment, reshuffle, allotment of portfolios, salary and allowances, individual and collective responsibility.

- **Legislative Assembly** passes the bill again and send it to the Council if the Council still rejects it, the bill is considered to be passed by both the houses; if the Council proposes amendments not acceptable to the Bill, the bill is considered to be passed and if the state legislative council keeps the bill pending for one month; then in either of the three cases the bill is considered to be passed by both the houses.

State Legislative Council can withhold and ordinary bill for a maximum duration of 4 months.



Powers and Functions of Chief Minister

In relation to Council of Ministers

- Chief Minister recommends persons who are to be appointed as Ministers by the Governor. Article 164 says that Chief Minister shall be appointed by the Governor and the other ministers shall be appointed by the Governor on the advice of Chief Minister. So, Governor can appoint only those members as minister who are recommended by Chief Minister.
- He allocates and reshuffles portfolios among his ministers.
- He presides over the meetings of cabinet and Council of Ministers. He can call cabinet meeting anytime.
- He may ask any Minister to resign any time or can advise the Governor to dismiss a minister on difference of opinion.
- He guides, controls and coordinates the activities of all the ministers.
- If he resigns then Council of Ministers automatically gets dissolved.

In relation to Governor

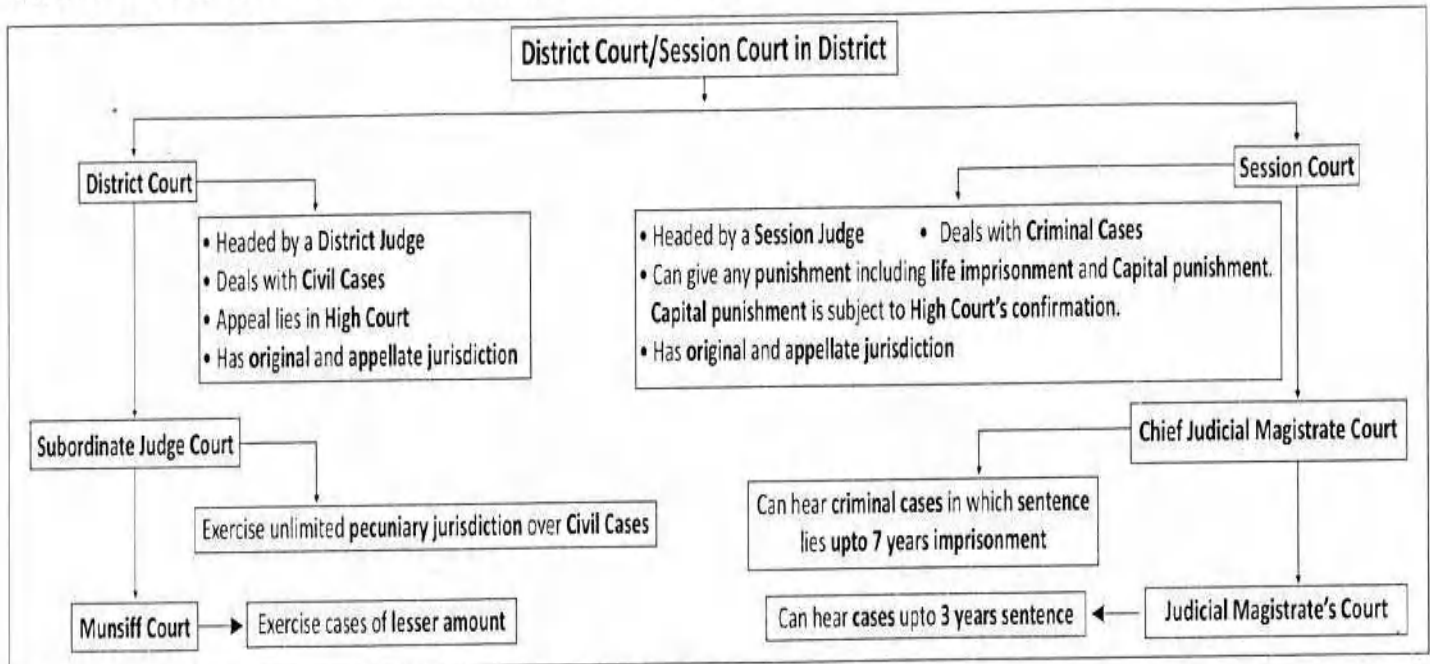
- Chief Minister functions as the channel of communication between the Governor and Council of Ministers.
- As given in Article 167 : It shall be the duty of the Chief Minister of each state
 - (a) to communicate to the Governor of the State all decisions of the Council of Ministers relating to the administration of the affairs of the State and proposals for legislation.
 - (b) to furnish such information relating to the administration of the affairs of the State and proposals for legislation as the Governor may call for, and
 - (c) if the Governor so requires, to submit for the consideration of the council of ministers any matter on which a decision has been taken by a minister but which has not been considered by the council.
- He advises the Governor with regard to the appointment of important officials like Advocate General, the Chairman and the members of the State Public Service Commission, the State Election Commissioner etc.

In relation to the State Legislature

- Chief Minister is the leader of the State Legislative Assembly and leader of party in power. He announces government policies on the floor of the house.
- He intervenes in the debates of general importance.
- He advises the Governor with regard to the summoning and proroguing of the sessions of state legislature.
- He recommends the Governor for dissolution of the legislative assembly whenever he wishes to do so.

Subordinate Courts

Part VI from Article 233 to 237 in the Indian Constitution deals with Subordinate Courts.



Subordinate Courts (Part VI) (Article 233 to 237)

Article 233	Appointment of District Judges
Article 233A	Validation of appointments of, and judgments, etc, delivered by certain District Judges
Article 234	Recruitment of persons other than district judges to the judicial service
Article 235	Control over subordinate courts
Article 236	Interpretation
Article 237	Application of the provisions of this chapter to certain class or classes of magistrates

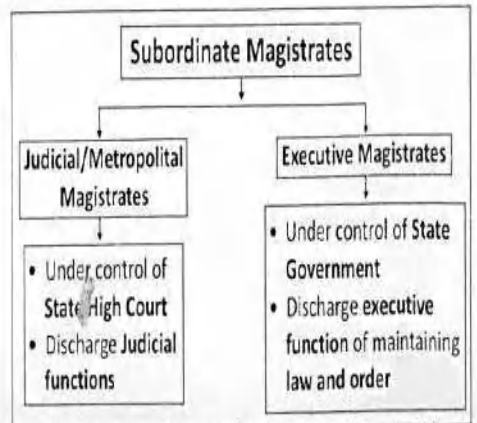
Appointment of District Judges

- A Judge of District Court is appointed by the Governor in consultation with the concerned High Court. Promotion and posting of district judges are done by Governor in consultation with High Courts.

Lok Adalats

- Lok Adalats are an alternative dispute resolution mechanism in an amicable manner by settling disputes in an informal manner. Disputes which are pending in court or are in pre-litigation stage can be settled in Lok Adalats.
- Legal Service Authority Act, 1987 gives statutory backing to Lok Adalats.

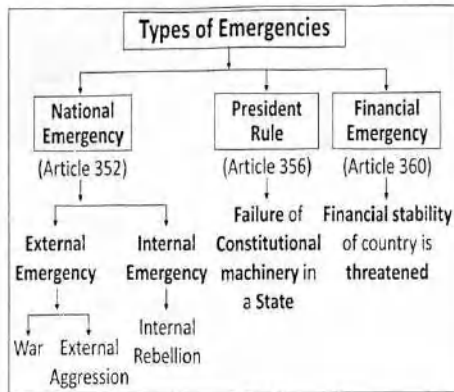
District Judge becomes a Session Judge while dealing with criminal cases and District Court is a Session Court in criminal cases. Appeals against District Court go to High Court.



- Gram Nyayalayas were enacted under Gram Nyayalayas Act, 2008 guided by principles of Natural Justice.

Emergency Provisions

- Indian Constitution provides emergency provisions in Part XVIII from Article 352 to 360. These provisions in Indian Constitution are laid down to deal with an emergency or abnormal situations.



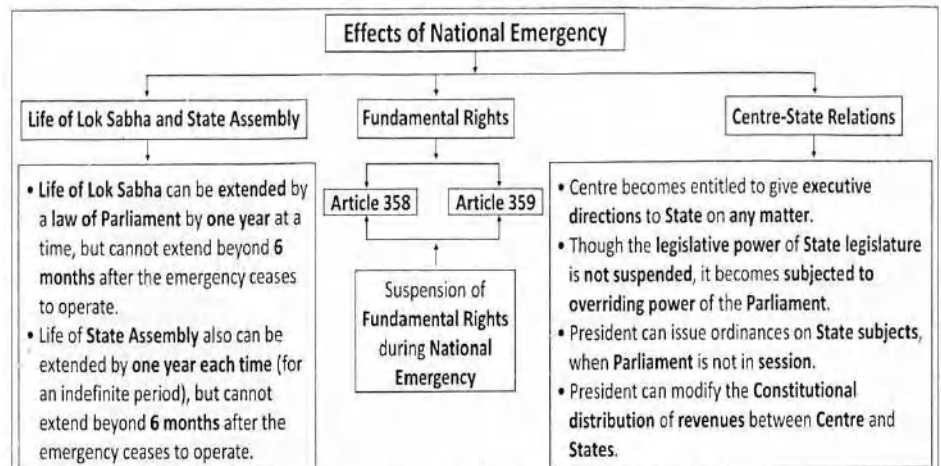
National Emergency (Article 352)

- National Emergency is declared by the President of India when there is **grave threat** to the security of India or any of its territory due to war, external aggression or armed rebellion. He can proclaim emergency for **whole India** or any part of it.
- President can declare this Emergency even before actual occurrence of war, external aggression or armed rebellion if he is satisfied that there is an **imminent danger**.
- President declares National Emergency only on the **written recommendation** of Cabinet. It should be noted here, the word **Cabinet** is not mentioned in the original Constitution. It was added by **44th Constitutional Amendment Act, 1978**.
- Approval of such proclamation must be done by **special majority** of both the houses of the Parliament. If both houses approve then Emergency remains in the force for **six months**. Though, it can continue for **indefinite period** with an approval of Parliament every six months.

- National emergency can be revoked by the President anytime by a subsequent proclamation if Lok Sabha disapproves the proclamation of Emergency or its continuance.

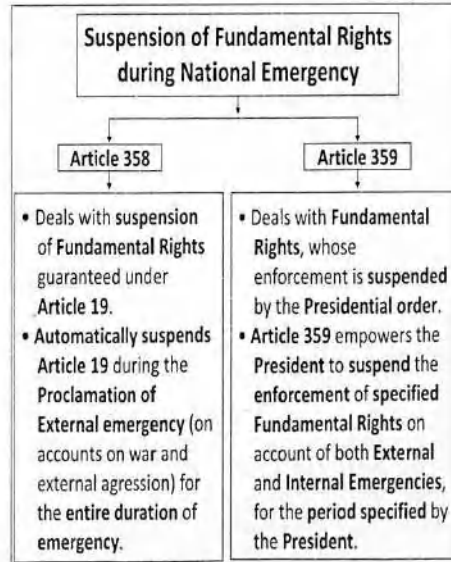
Proclamation of National Emergency

26 th October, 1962	– Indo-China War
3 rd December, 1971	– India-Pakistan War
25 th June, 1975	– On grounds of internal disturbances



Laws made by Parliament on State subject during emergency remains in force till 6 months after Emergency ceases.

Though the Proclamation of National Emergency does not suspend the State Legislature, it suspends the distribution of legislative powers between the Union and the State.



President cannot suspend the enforcement of fundamental rights guaranteed under Article 20 and 21 even during emergency.

President Rule [State Emergency (Article 356)]

- Article 356 talks about the failure of Constitutional machinery in the State leading to President's rule. If the President, realises on the basis of Governor's report or otherwise that the situation has arisen that the government of a State cannot be carried in accordance with the Constitutional provisions, he may issue State emergency.
- When a State fails to comply with the directions given by Centre then too President can declare State Emergency as per Article 365.

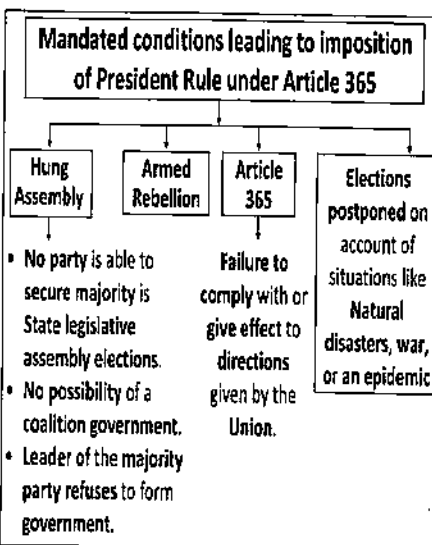
- Proclamation of State Emergency must be approved by the Parliament within two months, otherwise it will cease to operate. Once the proclamation is approved, it remains in force for six months from the date of proclamation.

If a Proclamation of Emergency (National Emergency) is already in operation under Article 352 and Election Commission certifies that elections cannot be held on such occasion, then State Emergency can be extended up to 3 years.

The proclamation of State emergency under Article 356 suspends the State Legislature and the Executive authority of the State is assumed by the President in whole or in part.

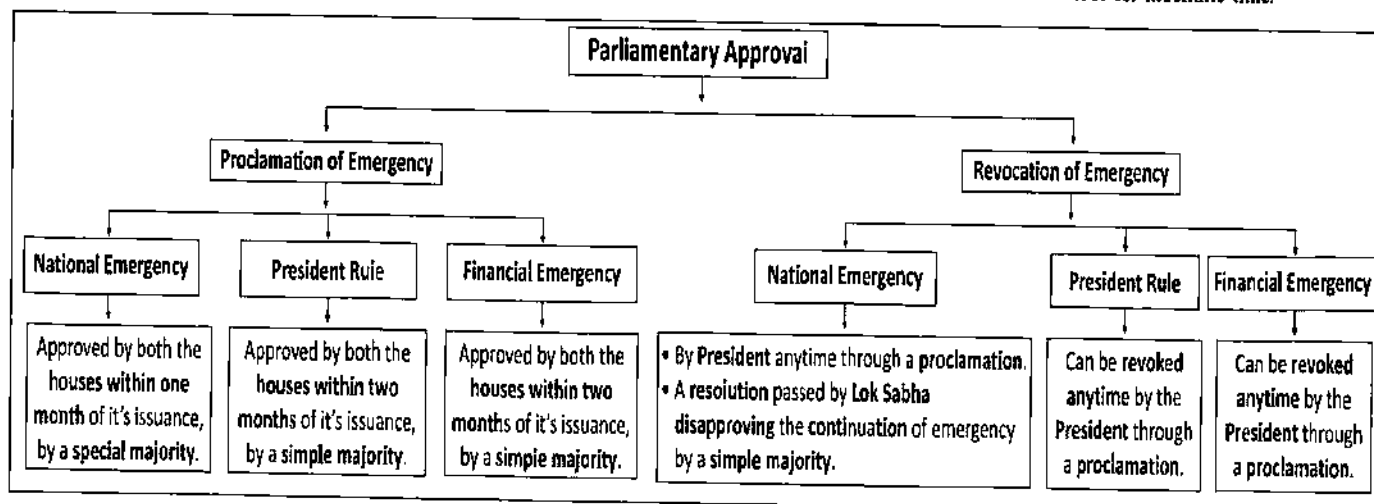
- According to a RTI response from the Ministry of

Home Affairs, President's Rule was imposed 115 times till 2016.



Financial Emergency (Article 360)

- Under Article 360, President can declare the Financial Emergency if he is satisfied that a situation has arisen whereby the financial stability or the credit of India or any part thereof is threatened.
- Proclamation of Financial Emergency must be approved within two months by Parliament. But, if Lok Sabha is dissolved or its dissolution takes place within two months of proclamation without approving it then it will survive until 30 days from first sitting of Lok Sabha after its reconstitution provided Rajya Sabha approved it in the meantime.
- If Financial Emergency is approved by both houses of Parliament by a simple majority then it will survive until it is revoked by President. So, it can remain in force for indefinite time.



Constitutional Amendment

Article 368 in Part XX of the constitution deals with the power of parliament to amend the constitution and its procedures. Article 368 provides of two type of amendments, that is, by a special majority of Parliament and the Special majority of Parliament along with the ratification of half of the states legislatures by simple majority. Amendment of certain provisions of the constitution requires amendment by a simple majority of each house present and voting. These amendments are not deemed to be amendments under Article 368. In Kesavananda Bharti case 1973, the supreme court has rules that parliament has the power to amend any part of the constitution but it cannot alter the basic structure of the constitution. The constituents of basic structure are not clearly defined by the court. However, it has been interpreted to provisions like values enshrined in preamble like secularism, equality, federalism, separation of power, independence judiciary, rule of law etc.

First Amendment Act, 1951

1. Empowered the state to make special provisions for the advancement of socially and economically backward classes.
2. Provided for the saving of laws providing for acquisition of estates, etc.
3. Added Ninth Schedule to protect the land reform and other laws included init from the judicial review.
4. Added three more grounds of restrictions on freedom of speech and expression, viz., public, order, friendly relations with foreign states and incitement to an offence. Also, made the restrictions reasonable and thus, justiciable in nature.
5. Provided that state trading and nationalisation of any trade or business by the state is not to be invalid on the ground of violation of the right to trade or business.

Second Amendment Act, 1952

Readjusted the scale of representation in the Lok Sabha by providing that one member could represent even more than 7,50,000 persons.

Third Amendment Act, 1954

Empowered the Parliament to control the production, supply and distribution of the foodstuffs, cattle fodder, raw cotton, cotton seed and raw jute in the public interest.

Fourth Amendment Act, 1955

1. Made the scale of compensation given in lieu of compulsory acquisition of private property beyond the scrutiny of courts.
2. Authorised the state to nationalise any trade.
3. Included some more Acts in the Ninth Schedule.
4. Extended the scope of Article 31 A (savings of laws).

Fifth Amendment Act, 1955

Empowered the president to fix the time-limit for the state legislatures to express their views on the proposed Central legislation affecting the areas, boundaries and names of the States.

Sixth Amendment Act, 1956

Included a new subject in the Union list i.e., Taxes on the sale and purchase of goods in the course of inter-state trade and commerce and restricted the State's power in this regard.

Seventh Amendment Act, 1956

1. Abolished the existing classification of States into four categories i.e., Part A, Part B, Part C and Part D states, and reorganised them into 14 States and 6 Union Territories.
2. Extended the jurisdiction of High Courts to union territories.
3. Provided for the establishment of a common High Court for two or more States.
4. Provided for the appointment of additional and acting judges of the High Court.

Eighth Amendment Act, 1960

Extended the reservation of seats for the SCs and STs, and special representation for the Anglo-Indians in the Lok Sabha and the state legislative assemblies for a period of ten years (i.e., up to 1970).

Ninth Amendment Act, 1960

Facilitated the cession of Indian territory of Berubari Union (located in West Bengal) to Pakistan as provided in the Indo-Pakistan Agreement (1958).

Tenth Amendment Act, 1961

Incorporated Dadra and Nagar Haveli in the Indian Union.

Eleventh Amendment Act, 1961

1. Changed the procedure of election of the Vice-President by providing for an electoral college instead of a joint meeting of the two lines of Parliament.
2. Provided that the election of the President or Vice-President cannot be challenged on the ground of any vacancy in the appropriate electoral college.

Twelfth Amendment Act, 1962

Incorporated Goa, Daman and Diu in the Indian Union.

Thirteenth Amendment Act, 1962

Gave the status of a State to Nagaland and made special provisions for it.

Fourteenth Amendment Act, 1962

1. Incorporated Puducherry in the Indian Union.
2. Provided for the creation of legislatures and Council of Ministers for the Union Territories of Himachal Pradesh, Manipur, Tripura, Goa, Daman and Diu, and Puducherry.

Fifteenth Amendment Act, 1963

1. Enabled the High Courts to issue writs to any person or authority even outside its territorial jurisdiction if the cause of action arise within its territorial limits.
2. Increased the retirement age of High Court judges from 60 to 62 years.
3. Provided for appointment of retired judges of the High Courts as acting judges of the same court.
4. Provided for compensatory allowance to judges who are transferred from one High Court to another.
5. Enabled the retired judge of High Court to act as adhoc judge of the Supreme Court.
6. Provided for the procedure for determining the age of the Supreme Court and High Court judges.

Sixteenth Amendment Act, 1963

1. Empowered the state to impose further restriction on the rights to freedom of speech and expression, to assemble peaceable and to form associations in the interests of sovereignty and integrity of India.
2. Included sovereignty and integrity in the forms of oaths or affirmations to be subscribed by contestants to the legislatures. Members of the legislatures, ministers, judges and CAG of India.

Seventeenth Amendment Act, 1964

1. Prohibited the acquisition of land under personal cultivation unless the market value of the land is paid as compensation.
2. Included 44 more Acts in the Ninth Schedule.

Eighteenth Amendment Act, 1966

Made it clear that the power of Parliament to form a new State also includes a power to form a new state or union territory by uniting a part of a state or a union territory to another state or union territory.

Nineteenth Amendment Act, 1966

Abolished the system of Election Tribunals and vested the power to hear election petitions in the High Courts.

Twentieth Amendment Act, 1966

Validated certain appointments of district judges in the UP which were declared void by the Supreme Court.

Twenty-First Amendment Act, 1967

Included Sindhi as the 15th language in the Eight Schedule.

Twenty-Second Amendment Act, 1969

Facilitated the creation of a new autonomous State of Meghalaya within the State of Assam.

Twenty-Third Amendment Act, 1969

Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha and the State legislative assemblies for a further period of ten years (i.e., up to 1980).

Twenty-Fourth Amendment Act, 1971

1. Affirmed the power of Parliament to amend any part of the Constitution including fundamental rights.
2. Made it compulsory for the President to give his assent to a Constitutional Amendment Bill.

Twenty-Fifth Amendment Act, 1971

1. Curtailed the fundamental Right to Property.
2. Provided that any law made to give effect to the Directive Principles contained in Article 39 (b) or (c) cannot be challenged on the ground of violation of the right guaranteed by Article 14, 19 and 31.

Twenty-Sixth Amendment Act, 1971

Abolished the privy purses and privileges of the former rulers of princely states.

Twenty-Seventh Amendment, 1971

1. Empowered the administrators of certain Union Territories to promulgate ordinances.
2. Made certain special provisions for new Union Territories of Arunachal Pradesh and Mizoram.
3. Authorised the Parliament to create the legislative assembly and the council of ministers for the new state of Manipur.

Twenty-Eighth Amendment Act, 1972

Abolished the special privileges of ICS officers and empowered the Parliament to determine their service conditions.

Twenty-Ninth Amendment Act, 1972

Included two Kerala Acts on land reforms in the Ninth Schedule.

Thirtieth Amendment Act, 1972

Did away with the provision which allowed appeal to the supreme Court in civil cases involving an amount of Rs.20,000 and provided instead that an appeal can be filed in the Supreme Court only if the case involves a substantial question of law.

Thirty-First Amendment Act, 1973

Increased the number of Lok Sabha seats from 525-5245.

Thirty-Second Amendment Act, 1973

Made special provisions to satisfy the aspirations of the people of the Telengana region in Andhra Pradesh.

Thirty-Third Amendment Act, 1974

Provided that the resignation of the members of Parliament and the state legislatures may be accepted by the Speaker/Chairman only if he is satisfied that the resignation is voluntary or genuine.

Thirty-Fourth Amendment Act, 1974

Included twenty more land tenure and land reforms acts of various states in the Ninth Schedule.

Thirty-Fifth Amendment Act, 1974

Terminated the protectorate status of Sikkim and conferred on it the 'status of an associate state of the Indian Union. The Tenth Schedule was added laying down the terms and conditions of association of Sikkim with the Indian Union.

Thirty-Sixth Amendment Act, 1975

Made Sikkim a full-fledged State of the Indian Union and omitted the Tenth Schedule.

Thirty-Seventh Amendment Act, 1975

Provided legislative assembly and council of ministers for the Union Territory of Arunachal Pradesh.

Thirty-Eighth Amendment Act, 1975

1. Made the declaration emergency by the President non-justiciable.
2. Made the promulgation of ordinances by the President, Governors and administrators of union territories non-justiciable.
3. Empowered the president to declare different proclamations of national emergency on different grounds simultaneously.

Thirty-Ninth Amendment Act, 1975

1. Placed the disputes relating to the President, Vice-President, Prime Minister and Speaker beyond the scope of the judiciary. They are to be decided by such authority as may be determined by the Parliament.
2. Included certain Central acts in the Ninth Schedule.

Fortieth Amendment Act, 1976

1. Empowered the Parliament to specify from time to time the limits of the territorial waters, the continental shelf, the exclusive economic zone (EEZ) and the maritime zones of India.
2. Included 64 more Central and state laws, mostly relating to land reforms, in the Ninth Schedule.

Forty-First Amendment Act, 1976

Raised the retirement age of members of State Public Service Commission and Joint Public Service Commission from 60 to 62.

Forty-Second Amendment Act, 1976

The most comprehensive amendment made so far to the Constitution; it is known as **Mini-Constitution** it gave effect to the recommendations of Swaran Singh Committee

1. Added three new words (i.e., socialist, secular and integrity) in the Preamble.
2. Added Fundamental Duties by the citizens (new Part IV A).
3. Made the President bound by the advice of the Cabinet.
4. Provided for Administrative Tribunals and tribunals for other matters (added Part XIV A).
5. Froze the seats in the Lok Sabha and State legislative assemblies on the basis of 1971 census till 2001.
6. Made the constitutional amendments beyond judicial scrutiny.
7. Curtailed the power of judicial review and writ jurisdiction of the Supreme Court and High Courts.
8. Raised the tenure of Lok Sabha and State legislative assemblies from 5 to 6 years.
9. Provided that the laws made for the implementation of Directive Principles cannot be declared invalid by the courts on the ground of violation of some Fundamental Rights.
10. Empowered the Parliament to make laws to deal with anti-national activities and such laws are to take precedence over Fundamental Rights.
11. Added three new Directive Principles viz., equal justice and free legal aid, participation of workers in the management of industries and protection of environment, forests and wild life.
12. Facilitated the proclamation of national emergency in a part of territory of India.
13. Extended the one-time duration of the President's rule in a state from 6 months to one year.
14. Empowered the Centre to deploy its armed forces in any state to deal with a grave situation of law and order.
15. Shifted five subjects from the state list to the concurrent list, viz., education, forests, protection of wild animals and birds, weights and measures and administration of justice, constitution and organisation of all courts except the Supreme Court and the High Courts.
16. Did away with the requirement of quorum in the Parliament and the state legislature.
17. Empowered the Parliament to decide from time to time the rights and privileges of its members and committees.
18. Provided for the creation of the All-India Judicial Service.

19. Shortened the procedure for disciplinary action by taking away the right of a civil servant to make representation at the second stage after the inquiry (i.e., on the penalty proposed).

Forty-Third Amendment Act, 1977

Enacted by the Janata Government to nullify some of the distortions introduced by 42nd Amendment Act of 1976

1. Restored the jurisdiction of the Supreme Court and the High Courts in respect of judicial review and of writs.
2. Deprived the Parliament of its special powers to make laws to deal with anti-national activities.

Forty-Fourth Amendment Act, 1978 (Enacted by the Janata Government mainly to nullify some of the other distortions introduced by 42nd Amendment Act, 1976)

1. Restored the original term of the Lok Sabha and the state legislative assemblies (i.e., 5 years).
2. Restored the provisions with regard to quorum in the Parliament and State legislatures.
3. Omitted the reference to the British House of Commons in the provisions pertaining to the parliamentary privileges.
4. Gave constitutional protection to publication in newspaper of true reports of the proceedings of the Parliament and state legislatures.
5. Empowered the president to send back the advice of cabinet for reconsideration. But, the reconsidered advice is to be binding on the president.
6. Deleted the provision which made the satisfaction of the president, governor and administrators final in issuing ordinances.
7. Restored some of the powers of the Supreme Court and High Courts.
8. Replaced the term internal disturbance by armed rebellion in respect of national emergency.
9. Made the President to declare a national emergency : only on the written recommendation of the Cabinet.
10. Made certain procedural safeguards with respect to national emergency and President's rule.
11. Deleted the right to property from the list of Fundamental Rights and made it only a legal right.
12. Provided that the fundamental rights guaranteed by Articles 20 and 21 cannot be suspended during a national emergency.
13. Omitted the provisions which took away the power of the court to decide the election disputes of the President, the Vice-President, the Prime Minister and the Speaker of the Lok Sabha.

Forty-Fifth Amendment Act, 1980

Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha and the state legislative assemblies for a further period of ten years (i.e., up to 1990).

Forty-Sixth Amendment Act, 1982

1. Enabled the states to plug loopholes in the laws and realise sales tax duties.
2. Brought about some uniformity in tax rates on certain items.

Forty-Seventh Amendment Act, 1984

Included 14 land reforms Acts of various states in the Ninth Schedule.

Forty-Eighth Amendment Act, 1984

Facilitated the extension of President's rule in Punjab beyond one year without meeting the two special conditions for such extension.

Forty-Ninth Amendment Act, 1984

Gave a constitutional sanctity to the Autonomous District Council in Tripura.

Fiftieth Amendment Act, 1984

Empowered the Parliament to restrict the Fundamental Rights of person employed in intelligence organisations and telecommunication systems set up for the armed forces or intelligence organisations.

Fifty-First Amendment Act, 1984

Provided for reservation of seats in the Lok Sabha for STs in Meghalaya, Arunachal Pradesh, Nagaland and Mizoram as well as in the Legislative Assemblies of Meghalaya and Nagaland.

Fifty-Second Amendment Act, 1985 (Known as Anti-Defection Law)

Provided for disqualification of members of Parliament and State legislatures on the ground of defection and added a new Tenth Schedule containing the details in this regard.

Fifty-Third Amendment Act, 1986

Made special provisions in respect of Mizoram and fixed the strength of its Assembly at a minimum of 40 members.

Fifty-Fourth Amendment Act, 1986

Increased the salaries of the Supreme Court and High Court Judges and enabled the Parliament to change them in future by an ordinary law.

Fifty-Fifth Amendment Act, 1986

Made special provisions in respect of Arunachal Pradesh and fixed the strength of its Assembly at a minimum of 30 members.

Fifty-Sixth Amendment Act, 1987

Fixed the strength of the Goa Legislative Assembly at a minimum of 30 members.

Fifty-Seventh Amendment Act, 1987

Reserved seats for the STs in the Legislative assemblies of the States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland.

Fifty-Eighth Amendment Act, 1987

Provided for an authoritative text of the Constitution in Hindi language and gave the same legal sanctity to the Hindi version of the Constitution.

Fifty-Ninth Amendment Act, 1988

1. Facilitated the extension of President's Rule in Punjab up to three years.
2. Provided for the declaration of national emergency in Punjab on the ground of internal disturbance.

Sixtieth Amendment Act, 1988

Increased the ceiling of taxes on professions, trades, callings and employments from Rs.250 per annum to Rs.2,500 per annum.

Sixty-First Amendment Act, 1989

Reduced the voting age from 21 years to 18 years for the Lok Sabha and State legislative assembly elections.

Sixty-Second Amendment Act, 1989

Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha and the State legislative assemblies for the further period of ten years (i.e., up to 2000).

Sixty-Third Amendment Act, 1989

Repealed the changes introduced by the 59th Amendment Act of 1988 in relation to Punjab. In other words, Punjab was brought at par with the other states in respect of Emergency provisions.

Sixty-Fourth Amendment Act, 1990

Facilitated the extension of the President's rule in Punjab upto a total period of three years.

Sixty-Fifth Amendment Act, 1990

Provided for the establishment of a multi-member National Commission for SCs and STs in the place of a Special Officer for SCs and STs.

Sixty-Sixth Amendment Act, 1990

Included 55 more land reforms Acts of various states in the Ninth Schedule.

Sixty-Seventh Amendment Act, 1990

Facilitated the extension of the President's rule in Punjab up to a total period of four years.

Sixty-Eighth Amendment Act, 1991

Facilitated the extension of the President's rule in Punjab up to a total period of five years.

Sixty-Ninth Amendment Act, 1991

Accorded a special status to the Union Territory of Delhi by designing it as the National Capital Territory of Delhi. The amendment also provided for the creation of a 70 member legislative assembly and a 7 member Council of ministers for Delhi.

Seventieth Amendment Act, 1992

Provided for the inclusion of the members of the Legislative Assemblies of National Capital Territory of Delhi and the Union Territory of Puducherry in the electoral college for the election of the President.

Seventy-First Amendment Act, 1992

Included konkani, Manipuri and Nepali languages in the Eighth Schedule. With this, the total number of scheduled languages increased to 18.

Seventy-Second Amendment Act, 1992

Provided for reservation of seats for the STs in the Legislative Assembly of Tripura.

Seventy-Third Amendment Act, 1992

Granted constitutional status and protection to the Panchayati Raj Institutions. For this purpose, the Amendment has added a new Part-IX entitled as The Panchayats and a new Eleventh Schedule containing 29 functional items of the panchayats.

Seventy-Fourth Amendment Act, 1992

Granted constitutional status and protection to the urban local bodies. For this purpose, the Amendment has added a new Part IX-A entitled as the municipalities and a new Twelfth Schedule containing 18 functional items of the municipalities.

Seventy-Fifth Amendment Act, 1994

Provided for the establishment of rent tribunals for the adjudication of disputes with respect to rent its regulation and control and tenancy issues including the rights, title and interest of landlord and tenants.

Seventy-Sixth Amendment Act, 1994

Included the Tamil Nadu Reservation Act of 1994 (which provides for 69% reservation of seats in educational institutions and posts in state service) in the Ninth Schedule to protect it from judicial review. In 1992, the Supreme Court ruled that the total reservation should not exceed 50%.

Seventy-Seventh Amendment Act, 1995

Provided for reservation in promotions in government jobs for SCs and STs. This amendment nullified the Supreme Court ruling with regard to reservation in promotions.

Seventy-Eighth Amendment Act, 1995

Included 27 more land reforms Acts of various states in the Ninth Schedule. With this, the total number of Acts in the Schedule increased to 282. But, the last entry is numbered 284.

Seventy-Ninth Amendment Act, 1999

Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha and the State legislative assemblies for a further period of ten years (i.e., up to 2010).

Eightieth Amendment Act, 2000

Provided for an alternative scheme of devolution of revenue between the Centre and States. This was enacted on the basis of the recommendations of the Tenth Finance Commission which has recommended that out of the total income obtained from Central taxes and duties, twenty-nine percent should be distributed among the states.

Eighty-First Amendment Act, 2000

Empowered the state to consider the unfilled reserved vacancies of a year as a separate class of vacancies to be filled up in any succeeding year or years. Such class of vacancies are not to be combined with the vacancies of the year in which they are being filled up to determine the ceiling of 50% reservation on total number of vacancies of that year. In brief, this amendment ended the 50% ceiling on reservation in backlog vacancies.

Eighty-Second Amendment Act, 2000

Provided for making of any provision in favour of the SCs and STs for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to the public services of the Centre and the States.

Eighty-Third Amendment Act, 2000

Provided that no reservation in panchayats need be made for SCs in Arunachal Pradesh. The total population of the State is tribal and there are no SCs.

Eighty-Fourth Amendment Act, 2001

Extended the ban on re-adjustment of seats in the Lok Sabha and the State legislative assemblies for another 25 years (i.e., up to 2026) with the same objective of encouraging population limiting measures. In other words, the number of seats in the Lok Sabha and the assemblies are to remain same till 2026. It also provided for the re-adjustment and rationalisation of territorial constituencies in the states on the basis of the population figures of 1991 census.

Eighty-Fifth Amendment Act, 2001

Provided for consequential seniority in the case of promotion by virtue of rule of reservation for the government servants belonging to the SCs and STs with retrospective effect from June 1995.

Eighty-Sixth Amendment Act, 2002

1. Made elementary education a Fundamental Right. The newly-added Article 21-A declares that 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 determine.
2. Changed the subject matter of Article 45 in Directive Principles. It now reads The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.
3. Added a new fundamental duty under Article 54-A which reads-It shall be the duty of every citizen of India who is a parent or guardian to provide opportunities for education to his child or ward between the age of six and fourteen years.

Eighty-Seventh Amendment Act, 2003

Provided for the re-adjustment and rationalisation of territorial constituencies in the States on the basis of the population figures of 2001 census and not 1991 census as provided earlier by the 84th Amendment Act of 2001.

Eighty-Eighth Amendment Act, 2003

Made a provision for Service tax. Taxes on services are levied by the Centre. But, their proceeds are collected as well as appropriated by both the Centre and the-states in accordance with the principles formulated by Parliament.

Eighty-Ninth Amendment Act, 2003

Bifurcated the erstwhile combined National Commission for Scheduled Castes and Scheduled Tribes into two separate bodies, namely, National Commission for Scheduled Castes and National Commission for Scheduled Tribes. Both the Commissions consist of a Chairperson, a Vice-Chairperson and three other members. They are appointed by the President.

Ninetieth Amendment Act, 2003

Provided for maintaining the erstwhile representation of the Scheduled Tribes and non-Scheduled Tribes in the Assam legislative assembly from the Bodoland Territorial Areas District.

Ninety-First Amendment Act, 2003

Made the following provisions to limit the size of Council of Ministers, to debar defector from holding public offices, and to strengthen the anti-defection law:-

- The total number of ministers, including the Prime Minister, in the Central Council of Ministers shall not exceed 15% of the strength of the Lok Sabha.
- A member of either house of Parliament belonging to any political party who is disqualified to be appointed as Minister.
- The total number of ministers, including the Chief Minister, in the Council of Ministers in a state shall not exceed 15% of the total strength of the Legislative Assembly of that state. But, the number of ministers, including the Chief Minister, in a state shall not be less than 12.
- A member of either House of a state legislature belonging to any political party who is disqualified on the ground of defection shall also be disqualified to be appointed as a member.

The provision of the Tenth Schedule (anti-defection law) pertaining to exemption from disqualification in case of split by one-third members of legislature party has been deleted. It means that the defectors have no more protection on grounds of splits.

Ninety-Second Amendment Act, 2003

Included four more languages in the Eighth Schedule. They are Bodo, Dogri (Dangri), Maithili (Maithili) and Santhali. With this, the total number of constitutionally recognised languages increased to 22.

Ninety-Third Amendment Act, 2005

Empowered the State to make special provisions for the socially and educationally backward classes or the Scheduled Castes or the Scheduled Tribes in educational institutions including private educational institutions (whether aided or unaided by the state), except the minority educational institutions.

Ninety-Fourth Amendment Act, 2006

Freed Bihar from the obligation of having a Tribal Welfare Minister and extended the same provision to Jharkhand and Chhattisgarh. This provision will now be applicable to the two newly formed states and Madhya Pradesh and Odisha, where it has already been in force.

Ninety-Fifth Amendment Act, 2009

Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha and the State legislative assemblies for a further period of ten years i.e., upto 2020.

Ninety-Sixth Amendment Act, 2011

Substituted Odia for Oriya. Consequently, the Oriya language in the Eighth Schedule shall be pronounced as Odia.

Ninety-Seventh Amendment Act, 2011

Gave a constitutional status and protection to co-operative societies. In this context it made the following three changes in the constitution:-

1. It made the right to form co-operative societies a Fundamental Right.
2. It included a new Directive Principle of State Policy on promotion of co-operative societies.

It added a new Part 11-B in the constitution which is entitled as The Co-operative Societies.

Ninety-Eighth Amendment Act, 2012

Provided for special provisions for the Hyderabad- Karnataka region of the State of Karnataka. The special provisions aim to establish an institutional mechanism for equitable allocation of funds to meet the development needs over the region, as well as to enhance human resources and promote employment from the region by providing for local cadres in service and reservation in educational and vocational-training institutions.

Ninety-Ninth Amendment Act, 2014

Replaced the collegium system of appointing judge to the Supreme Court with a new body called the National Judicial Appointments Commission (NJAC). However, in 2015, the Supreme Court has declared this amendment act as unconstitutional.

One Hundredth Amendment Act, 2015

Gave effect to the acquiring of certain territories by India and transfer of certain other territories to Bangladesh (through exchange of enclaves and retention of adverse possessions) in pursuance of the Land Boundary Agreement of 1974 and its Protocol of 2011. For this purpose, this amendment act amended the provisions relating to the territories of four states (Assam, West Bengal, Meghalaya and Tripura) in the First Schedule of the Constitution.

One Hundredth and First Amendment Act, 2016

Paved the way for the introduction of the Goods and Services Tax (GST) regime in the country. The GST shall replace a number of indirect taxes being levied by the Union and the State Government. It is intended to remove cascading effect of taxes and

provide for a common national market for goods and services. The proposed Central and State GST will be levied on all transactions involving supply of goods and services, except those which are kept out of the purview of the GST.

1. Conferred concurrent taxing powers upon the Parliament and the State Legislatures to make laws for levying GST on every transaction of supply of goods or services or both.
2. Dispensed the concept of declared goods of special importance under the constitution.
3. Provided for the levy of integrated GST on inter-state transactions of goods and services.
4. Provided for the establishment of a Goods and Services Tax Council by a Presidential order.
5. Made the provision of compensation to the States for loss of revenue arising on account of introduction of GST for a period of five years.

Substituted and omitted certain entries in the Union and State Lists of the Seventh Schedule

One Hundred and Second Amendment, 2018

1. Conferred a constitutional status on the National Commission for Backward Act, 2018 Classes which was set-up in 1993 by an Act of the Parliament.
2. Relieved the National Commission for Scheduled Castes from its functions with regard to the backward classes.
3. Empowered the President to specify the socially and educationally backward classes in relation to a State or Union Territory.

One Hundred and Third Amendment, 2019

1. Empowered the States to make any special provision for the advancement of any Act, 2019 economically weaker sections of citizens.
2. Allowed the States to make a provision for the reservation of upto 10% of seats for such sections in admission to educational institutions including private educational institutions. This reservation of upto 10% would be in addition to the existing reservations.
3. Permitted the state to make a provision for the reservation of upto 10% of appointments or posts in favour of such sections. This reservation of upto 10% would be in addition to the existing reservation.

One Hundred and Fourth Amendment, 2020

Extended the reservation of seats for SC/ST in Lok Sabha and State Assemblies Act, 2020 for the next ten years (till 2030).

One Hundred and Fifth Amendment, 2021

The 105th Amendment Act which received the assent of the President last month restores the power of the State Governments and Union Territories to identify and specify Socially and Economically Backward Classes (SEBCs). The 102nd Constitutional Amendment Act, 2018 while giving constitutional status to NCBC also empowered the President to notify the list of SEBCs for any state or union territory for all purposes. Prior to 102nd Amendment Act, the prevalent practice was the States and Union would specify their own lists respectively called state list and union list.

*Source: COSMOS PUBLICATION, DELHI

Evolution of Local Self Government

Short Answers

PKP-01 by Dr Mamta Pathania



22

TABLE OF CONTENTS

What is Local self-government?.....	3
History of local administration	3
How did the concept of local self-government evolve in India?	3
1. Balwant Rai Mehta Committee (1957).....	3
2. Ashok Mehta Committee (1977-1978).....	4
3. G V K Rao Committee (1985)	4
4. L M Singhvi Committee (1986)	4
Panchayati Raj System under 73rd and 74th Constitutional Amendment acts, 1992	5
What are Panchayats and Municipalities?	5
Types of Urban Local Government.....	5
How are the elections held in the local government bodies?	5
What are the Qualifications needed to be a member of the Panchayat or Municipality?	6
What is the duration of the Local Government bodies?	6
What are the Powers invested on these Local Government bodies?	6
Summary	6

What is Local self-government?

Local self-government implies the transference of the power to rule to the lowest rungs of the political order. It is a form of democratic decentralization where the participation of even the grass root level of the society is ensured in the process of administration.

History of local administration

The village panchayat, as a system of administration, began in the British days, as their offer to satisfy the demands for local autonomy. They opened up the governance of the lowest levels to the citizens. The Gol act, 1935 also authorizes the provinces to enact legislations.

How did the concept of local self-government evolve in India?

Even though such minor forms of local governance was evident in India, the framers of the constitutions, unsatisfied with the existing provisions, included Article 40 among the Directive Principles, whereby:

“The state shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.”

Later, the conceptualisation of the system of local self-government in India took place through the formation and effort of four important committees from the year 1957 to 1986. It will be helpful if we take a look at the committee and the important recommendations put forward by them.

1. Balwant Rai Mehta Committee (1957)

Originally appointed by the Government of India to examine the working of two of its earlier programs, the committee submitted its report in November 1957, in which the term ‘**democratic decentralization**’ first appears.

The important recommendations are:

- Establishment of a three-tier Panchayati Raj system – gram panchayat at village level (direct election), panchayat Samiti at the block level and Zila Parishad at the district level (indirect election).
- District Collector to be the chairman of Zila Parishad.
- Transfer of resources and power to these bodies to be ensured.

The existent National Development Council accepted the recommendations. However, it did not insist on a single, definite pattern to be followed in the establishment of these

institutions. Rather, it allowed the states to devise their own patterns, while the broad fundamentals were to be the same throughout the country.

Rajasthan (1959) adopted the system first, followed by Andhra Pradesh in the same year. Some states even went ahead to create four-tier systems and **Nyaya panchayats**, which served as judicial **bodies**.

2. Ashok Mehta Committee (1977-1978)

The committee was constituted by the Janata government of the time to study Panchayati Raj institutions. Out of a total of 132 recommendations made by it, the most important ones are:

- Three-tier system to be replaced by a two-tier system.
- Political parties should participate at all levels in the elections.
- Compulsory powers of taxation to be given to these institutions.
- Zila Parishad to be made responsible for planning at the state level.
- A minister for Panchayati Raj to be appointed by the state council of ministers.
- **Constitutional recognition to be given to Panchayati Raj institutions.**

Unfortunately, the Janata government collapsed before action could be taken on these recommendations.

3. G V K Rao Committee (1985)

Appointed by the Planning Commission, the committee concluded that the developmental procedures were gradually being taken away from the local self-government institutions, resulting in a system comparable to **'grass without roots'**.

- Zila Parishad to be given prime importance and all developmental programs at that level to be handed to it.
- Post of DDC (District Development Commissioner) to be created acting as the chief executive officer of the Zila Parishad.
- Regular elections to be held

4. L M Singhvi Committee (1986)

Constituted by the Rajiv Gandhi government on 'Revitalisation of Panchayati Raj institutions for Democracy and Development', its important recommendations are:

- Constitutional recognition for PRI institutions.
- Nyaya Panchayats to be established for clusters of villages

Though the 64th Constitutional Amendment bill was introduced in the Lok Sabha in 1989 itself, Rajya Sabha opposed it. It was only during the Narasimha Rao government's term that the idea finally became a reality in the form of the **73rd and 74th Constitutional Amendment acts, 1992**.

Panchayati Raj System under 73rd and 74th Constitutional Amendment acts, 1992

The acts of 1992 added two new parts IX and IX-A to the constitution. It also added two new schedules – 11 and 12 which contains the lists of functional items of **Panchayats and Municipalities**. It provides for a three-tier system of **Panchayati Raj** in every state – at the village, intermediate and district levels.

What are Panchayats and Municipalities?

- Panchayat and Municipality are the generic terms for the governing body at the local level. Both exist as three tier systems – at the lower, intermediate and upper levels.
- The 73rd Constitutional Amendment act provides for a **Gram Sabha** as the foundation of the Panchayati Raj system. It is essentially a village assembly consisting of all the registered voters in the area of the panchayat. The state has the power to determine what kind of powers it can exercise, and what functions it has to perform at the village level.
- The 74th Constitutional Amendment act provides for three types of Municipalities:
 1. **Nagar Panchayat** for a transitional area between a rural and urban area.
 2. **Municipal Council** for a small urban area.
 3. **Municipal Corporation** for a large urban area.
- Municipalities represent **urban local self-government**.
- Most of the provisions of the two acts are parallel, differing only in the fact that they are being applied to either a Panchayat or a Municipality respectively.
- Each Gram sabha is the meeting of a particular constituency called *ward*.
- Each ward has a representative chosen from among the people themselves by *direct election*.
- The chairperson of the Panchayat or Municipality at the intermediate and district level are elected from among these representatives at the immediately lower level by *indirect election*.

Types of Urban Local Government

There are eight types of urban local governments currently existing in India:

1. Municipal Corporations.
2. Municipality.
3. Notified area committee.
4. Town area committee.
5. Cantonment board.
6. Township.
7. Port trust.
8. Special purpose agency.

How are the elections held in the local government bodies?

- All seats of representatives of local bodies are filled by people chosen through *direct elections*.
- The conduct of elections is vested in the hands of the State election commission.

- The chairpersons at the intermediate and district levels shall be elected *indirectly from among the elected representatives at the immediately lower level*.
- At the lowest level, the chairperson shall be elected in a mode defined by the state legislature.
- Seats are reserved for SC and ST proportional to their population.
- Out of these reserved seats, not less than one-third shall be further reserved for women.
- There should be a blanket reservation of one-third seats for women in all the constituencies taken together too (which can include the already reserved seats for SC and ST).
- The acts bar the interference of courts in any issue relating to the election to local bodies.

What are the Qualifications needed to be a member of the Panchayat or Municipality?

Any person who is qualified to be a member of the state legislature is eligible to be a member of the Panchayat or Municipality.

“But he shall not be disqualified on the ground that he is less than 25 years of age if he has attained the age of 21 years”

This means that unlike the state legislature, a person needs to attain only 21 years of age to be a member of panchayat/municipality.

What is the duration of the Local Government bodies?

- The local governing bodies are elected for a term of five years.
- Fresh elections should be conducted before the expiry of the five-year term.
- If the panchayat/municipality is dissolved before the expiry of its term, elections shall be conducted within six months and the new panchayat/municipality will hold office for the remainder of the term if the term has more than six months duration.
- And for another five years if the remaining term is less than six months.

What are the Powers invested on these Local Government bodies?

The powers of local bodies are not exclusively defined. They can be tailor-fitted by the state governments according to the environment of the states. In general, the State governments can assign powers to Panchayats and Municipalities that may enable them to prepare plans for economic development and social justice. They may also be authorized to levy, collect, or appropriate taxes.

Summary

To conclude, local self-government is one of the most innovative governance change processes our country has gone through. The noble idea of taking the government of a country into the hands of the grass root level is indeed praiseworthy.

However, like any system in the world, this system is also imperfect. Problems of maladministration and misappropriation of funds are recurring. But this shall not stand in the way of efficient governance; and if these ill practices are rooted out, there would be no comparisons around the world to our system of local self-government.

IIPA 2022

Indian Constitution

Short Answers

PKP-01 by Dr Mamta Pathania



22

TABLE OF CONTENTS

Most Important Articles of Indian Constitution in news 2021	10
Parts of Indian Constitution.....	10
Total number of Articles in the Constitution	10
Frequently Asked Questions (FAQs)	20
1. How many articles are there in the Indian Constitution?	20
2. How many parts are there (22 or 25) in Indian Constitution as of 2021?	20
3. How many schedules are there in the Indian Constitution?	20
4. How many amendment acts were passed by the Indian Constitution until 2021?	20
5. As of 2021, what is the latest amendment Bill introduced in the Parliament?	20
Making of the Indian Constitution (Constituent Assembly and sources of the Constitution)	21
Making of the Indian Constitution	21
VARIOUS SOURCES OF THE INDIAN CONSTITUTION	22
Source.....	22
Features Borrowed.....	22
Preamble, Union of India and Citizenship	23
THE UNION & ITS TERRITORY	23
THE CITIZENSHIP.....	24
FUNDAMENTAL RIGHTS (FR) & FUNDAMENTAL DUTIES (FD).....	25
Fundamental Rights.....	25
Important Highlights of Fundamental Rights.....	26
FUNDAMENTAL DUTIES (ARTICLE-51A).....	27
Important Highlights of Fundamental Duties.....	27
DIRECTIVE PRINCIPLES OF STATE POLICY	28
Directive Principles of the State Policy	28
PRESIDENT OF INDIA	30
Powers of the President	32
PARLIAMENT OF INDIA.....	34
Parliament of India (Articles 79-122).....	35
Organization of the Parliament.....	35
CONSTITUTIONAL BODIES (PART-1).....	43
Constitutional Bodies in India: UPSC, SPSC, Finance Commission, CAG and Special Officer for Linguistic Minorities	43
Union Public Service Commission (UPSC).....	43
State Public Service Commission's (SPSC)	44

Finance Commission	45
COMPTROLLER AND AUDITOR GENERAL OF INDIA (CAG).....	46
SPECIAL OFFICER FOR LINGUISTIC MINORITIES.....	47
CONSTITUTIONAL BODIES (PART-2).....	47
CONSTITUTIONAL BODIES IN INDIA: NCBC; ECI; NCSC; NCST AND ADVOCATE GENERAL OF INDIA.....	47
NATIONAL COMMISSION FOR BACKWARD CLASSES (NCBC)	47
ELECTION COMMISSION OF INDIA (ECI)	48
NATIONAL COMMISSION FOR SCHEDULED CASTES (NCSC).....	49
NATIONAL COMMISSION FOR SCHEDULED TRIBES (NCST).....	50
Attorney General of India	51
ADVOCATE GENERAL OF STATE.....	52
INDIAN POLITY NOTES: NON-CONSTITUTIONAL BODIES	53
NON-CONSTITUTIONAL BODIES	53
1. PLANNING COMMISSION	53
2. NITI (NATIONAL INSTITUTION FOR TRANSFORMING INDIA) AAYOG	54
3. NATIONAL DEVELOPMENT COUNCIL	54
4. NATIONAL HUMAN RIGHTS COMMISSION	54
5. CENTRAL INFORMATION COMMISSION.....	55
6. CENTRAL VIGILANCE COMMISSION	55
J & K: ARTICLE 35 A.....	56
What is Article 35A?.....	56
Background of Issue:	56
Reasons Leading to Art. 35A:	56
What does Article 35A entail?	57
Major Objections Pertaining to the Provisions of Article 35A	57
Points in Support of Article 35A	58
Way Out:.....	58
J & K: ARTICLE 370	59
PUBLIC INTEREST LITIGATION (PIL)	61
Public Interest Litigation (PIL)	61
LOCAL GOVERNMENT SYSTEM IN INDIA	70
LOCAL GOVERNMENT SYSTEM IN INDIA	70
BACKGROUND.....	70
Evolution of Panchayati Raj System	71
73 rd Constitutional Amendment Act of 1992.....	71
Reasons for ineffective performances	72

Way Forward.....	73
SCHEDULES OF INDIAN CONSTITUTION.....	73
12 Schedules of Indian Constitution.....	73
CENTRE-STATE RELATIONS	75
STRENGTHENING PARLIAMENTARY SYSTEM.....	79
Comparison of the Indian Constitutional Scheme with that of Other Countries	82
ANTI-DEFECTION LAW :	87
Anti-defection Law.....	87
DELHI FULL STATEHOOD ISSUE	90
SABARIMALA TEMPLE ISSUE.....	92
ELECTORAL BONDS IN INDIA.....	96
What was the need for electoral bonds?	98
Provisions for Checking the political funding/expenditure	98
Need of the hour and way forward	99
WRITS IN THE INDIAN CONSTITUTION.....	99
Writs In the Indian Constitution: Habeas Corpus, Mandamus, Prohibition, Certiorari, Quo-Warranto	99
Types of Writs in India	100
Habeas Corpus.....	100
Mandamus.....	101
Prohibition.....	101
Certiorari	101
Quo-Warranto	102
Difference in the Writ jurisdiction of the Supreme Court from the High Courts	102
GRAM NYAYALAYAS IN INDIA: COMPOSITION; SIGNIFICANCE; ISSUES; WAY FORWARD; CONCLUSION	103
About Gram Nyayalayas:	103
Composition:	104
Significance:.....	104
Issues:.....	104
Way Forward:.....	105
Conclusion:.....	105
POST-RETIREMENT APPOINTMENT OF JUDGES: FACTS; ARGUMENTS IN FAVOUR; ARGUMENTS AGAINST; LAW COMMISSION REPORT; INTERNATIONAL PRACTICE; WAY FORWARD.....	105
Facts regarding judges accepting post-retirement jobs:	105
Arguments in Favour:	106
Arguments against:	106

Law Commission Report	106
International practice:	106
Way forward:	107
Points to Remember:	107
Electoral Reforms in India: Meaning, Needs and Steps taken.....	107
The need for electoral reforms	108
Major Challenges in the Indian electoral system:.....	108
Steps Taken by the government	108
Way Forward.....	110
SUPREME COURT ON CRYPTOCURRENCY UPSC: JUDGEMENT, ORDER, & EFFECT	110
About Crypto currencies:.....	110
Reason for the ban by RBI:	111
Internet and Mobile Association of India (IAMAI) arguments against the ban:.....	111
Supreme Court's judgment on Crypto currency:	111
Effects of Supreme Court judgement on Crypto currency:	112
Status of Virtual Currencies in the world:	112
Future Outlook:	112
IMPORTANT AMENDMENTS IN INDIAN CONSTITUTION.....	113
Important Amendments in the Indian Constitution	113
IMPORTANT COMMITTEES AND COMMISSIONS IN INDIA	118
ALL-INDIA JUDICIAL SERVICES (AIJS)	122
Background of All India Judicial Service in India:.....	122
The need of All India Judicial Service:	122
Issues:.....	123
Way forward:	124
Facts for prelims:.....	124
22ND LAW COMMISSION OF INDIA.....	124
About Law Commission of India:	124
Functions of Law Commission:	125
Background of Law Commission:	125
Members of Law Commission:	125
Benefits	126
Note:	126
THE FEMINISATION OF INDIAN POLITICS	126
Constitutional Provisions:.....	126
Need of women in Indian politics:	127

The situation in other countries	128
How to enhance such participation.....	128
Conclusion.....	129
NATIONAL INVESTIGATION AGENCY (NIA) Functions; <i>Vision; Jurisdiction; National Investigating Agency (Amendment) Act, 2019</i>	129
Functions:	130
Vision:	130
Jurisdiction:	131
Mission of NIA as established by the National Investigation Agency Act is as follows: ...	131
National Investigating Agency (Amendment) Act, 2019:.....	131
ELECTRONIC VOTING MACHINE (EVM) CONTROVERSY.....	132
EVM Technology	132
EVMs in India.....	132
From Ballot to Machine	133
Should India Switch to Paper Ballots Again?.....	133
The EVM Test.....	133
Is EVM Tampering Possible?	134
How will VVPAT help?.....	134
Malfunctioning VVPATs.....	135
Way Forward.....	135
SCHEDULED AND TRIBAL AREAS.....	136
Scheduled And Tribal Areas: Provisions under schedule 5; Provisions under schedule 6 .	136
Provisions under schedule 5:	136
Provisions under schedule 6:	137
COALITION GOVERNMENT IN INDIA	138
Coalition Government in India: Features; History; Growth; Merits And Demerits of Coalition Politics.....	138
Features of Coalition Government:	138
History of Coalition Governments:.....	138
Reasons of Growth Of Coalition Politics In India:	140
Merits of Coalition Government:	140
Demerits of Coalition Government:	140
BASIC STRUCTURE DOCTRINE OF THE INDIAN CONSTITUTION	141
Basic Structure Doctrine of the Indian Constitution: Basic Structure Doctrine; Shankari Prasad Case; Golaknath case; Kesavananda Bharati case; Indra Sawhney Case; Minerva Mills case; S.R. Bommai case.....	141
Basic Structure Doctrine:	141
Shankari Prasad Case (1951).....	141

Sajjan Singh case (1965)	142
Golaknath case (1967)	142
Kesavananda Bharati case (1973)	142
Indira Gandhi vs Raj Narain case (1975)	142
Minerva Mills case (1980)	143
Waman Rao Case (1981)	143
Indra Sawhney and Union of India (1992)	143
S.R. Bommai case (1994)	143
REGIONAL PARTIES AND INDIAN POLITICS	143
Regional parties and Indian politics: Causes of its Rise; Features of Regional parties; Role of Regional Parties; Negative Impacts of Regional Parties	144
Cause of the rise of Regional parties:	144
Features of Regional parties:	144
Classification of Regional Parties In India:	144
Role of Regional Parties:	145
Negative impacts of Regional Parties:	145
FEDERALISM IN INDIA: ISSUES AND CHALLENGES	146
Federalism in India: Issues and Challenges	146
Federal features of Indian Constitution:	147
Non-Federal/Unitary Features of Indian Constitution:	147
Different Constitutional experts have different views about the federal character of the Indian Constitution:	148
Challenges for Indian Federation	148
Conclusion:	149
MPLADS: MEMBERS OF PARLIAMENT LOCAL AREA DEVELOPMENT SCHEME	150
Historical Background:	150
Features	150
Issues:	151
Assessment:	152
Supreme Court View:	152
Way forward	153
CAUVERY WATER DISPUTE: BACKGROUND; CONSTITUTIONAL PROVISIONS; LATEST VERDICT AND ISSUES	153
What is the Cauvery water dispute?	154
Background:	154
Constitutional Provisions for Interstate Water Disputes:	154
Supreme Court Judgment of 2018:	154

Cauvery Water Management Scheme, 2018 :	155
The Interstate River Water Disputes Act, 1956 (IRWD Act):.....	155
Issues with the present Inter-State River Water Dispute Act, 1956:	155
Inter-State River Water Disputes (Amendment) Bill, 2019:	156
Way forward:	156
CIVIL SERVICES REFORM: LATERAL ENTRY INTO THE SERVICES.	157
JUDICIAL ACTIVISM AND JUDICIAL RESTRAINT IN INDIA.....	158
Judicial Activism and Judicial Restraint.....	158
Meaning of Judicial Activism	158
Meaning of Judicial Restraint	158
Important Facts.....	158
Recent cases of Judicial Activism.....	159
Reasons for the evolution of Judicial Activism	159
Judicial Independence.....	160
Demerits of Judicial Activism.....	160
Way forward	161
LOKPAL AND LOKAYUKTA ACT:	161
Lokpal and Lokayukta Act.....	161
Important Facts.....	161
Evolution of Lokpal and Lokayukta in India.....	161
Highlights of the Lokpal Act of 2013.....	162
Composition of the Lokpal	162
Procedure for removal of Lokpal from office	164
Decriminalising of section 377 of the IPC.....	164
Essential Commodities Act.....	166
Essential Commodities Act: Major Features; Benefits; Needs; Why Act is termed as Outdated; Conclusion	166
Major Features of the Act:.....	166
Benefits of the Essential Commodities Act:	166
Why Essential commodities Act is essential for the welfare of consumers:.....	166
Why there is a need to make Balance between genuine stock build-up and speculative hoarding:.....	167
Why the act is termed as outdated:.....	167
Conclusion:.....	167
THE ARMS (AMENDMENT) ACT, 2019	168
The Arms (Amendment) Act, 2019: Salient Features; Analysis; Way Forward.....	168
Salient Feature of the Act	168

Analysis of the Act.....	169
Pros	169
Cons	169
Way forward	170
THE MOTOR VEHICLE (AMENDMENT) ACT, 2019.....	170
Need For Amendment Of Motor Vehicle Act 1988:	170
Key Features of the Amendment Bill:.....	171
Analysis Of The Mv Act-2019:.....	172
RIGHT TO INFORMATION ACT 2005	173
Right to Information (RTI) Act, 2005	173
Introduction.....	174
Salient Features of RTI Act 2005.....	174
The Objective of the RTI Act	175
Recent Amendments of the RTI Act.....	175
Challenges/Issues.....	175
REPRESENTATION OF PEOPLE'S ACT (RPA): INTRODUCTION; SALIENT FEATURES.	176
Representation of People's Act.....	176
LABOUR LAWS AND THE RECENT CHANGES AMID LOCKDOWN (THE CONCEPTS) ...	179
Labour Laws and the Recent Changes amid Lockdown.....	179
a. Uttar Pradesh	179
b. Madhya Pradesh.....	180
c. Gujarat	180
Labour Laws in India.....	180
What are the labour laws in India?	180
Contribution of labour in an Economy	181
Purpose of labour legislation	181
Labour law covers the following aspects:	181
International reaction to the proposed labour law changes.....	181
Way Forward.....	182
TRIPLE TALAQ ACT 2019:	182
What is the triple talaq issue?	183
Key provisions of Muslim Women (Protection of Rights on Marriage) Bill 2019	183
Benefits of the bill	184
Concerns of the Bill.....	184
Significance and way forward.....	185

Indian Polity & Governance Civil Services Prelims

Most Important Articles of Indian Constitution in news 2021

S. No.	Subject	Important Articles
1	Citizenship	Article 1-5
2	Fundamental Rights	Article 12-35
3	Directive Principles of State Policy	Article 36-51
4	Fundamental Duties	Article 51A
5	President	Article 52-62
6	Delimitation Commission	Article 82 & 170
7	Barring MPs and MLAs from holding Office of Profit	Article 102 (1) & Article 191
8	Contempt of Court	Article 142, 261
9	Governor	Article 153, 154, 161
10	Centre-State Relations	Article 245-263
11	Inter-State Council	Article 263
12	Special Provisions to SC, ST, OBC, Minorities etc. (330 -342)	Article 340
13	Official Languages	Article 343-351
14	Amendment Procedure	Article 368
15	Sixth Schedule	Article 371-371J

The above articles are important for UPSC exam and which require attention as they have been in news quite for sometime in 2020-21.

Parts of Indian Constitution

Originally, Indian Constitution contained *395 articles in 22 parts and 8 schedules*. But later 4 schedules and many articles and provisions (Part IV A, Part IX A,B and Part XIV A) were inserted within their respective Parts (or creating subparts) by amending the constitution. However, **Part VII was repealed** by 7th amendment act, 1956.

Total number of Articles in the Constitution

The constituent assembly (now, the Parliament), to maintain the original structure intact, new articles are inserted in the existing article heads and parts as

well. Hence, there are **395 articles, 22 Parts and 12 Schedules**. ***Don't get confused with the number of articles i.e. 448 or 395.*** Despite several new articles were added and some repealed by the Parliament through amendments, the numbering structure was maintained intact.

Table: Parts of Indian Constitution and Total number of Articles and Provisions

Parts of Indian Constitution	Provisions	Article
I	India as Union of States & the territories of the states	1
	Admission and Establishment of New States	2
	Formation of new States and alteration of areas, boundaries or names of existing States	3
	Citizenship at the commencement of the Constitution	5
	Rights of citizenship of a certain person who has migrated to India from Pakistan	6
II	Continuance of the rights of citizenship	10
	Parliament to regulate the right of citizenship by law.	11
	Definition of the State	12
	Laws inconsistent with or in derogation of the fundamental rights	13
	Fundamental Rights of the Citizens of India	14-35
III	1. Right to Equality	14 -18
	a) Right to Equality – Equality before the law	14
	b) Right to Equality – Prohibition of discrimination on the grounds of religion, race, caste, sex. Or place of birth	15
	c) Right to Equality – Equality of opportunity in matters of public employment	16
	d) Right to Equality – Abolition of the untouchability	17
	e) Right to Equality – Abolition of titles	18
	2. Right to Freedom	19-22
	a) Guarantees to all the citizens of India	19
	• Right to freedom of speech and expression	
	• Right to assemble peacefully and without arms	

•	Right to form associations or unions	
•	Right to move freely throughout the territory of India	
•	Right to reside and settle in any part of the territory of India	
•	Right to practice any profession or to carry on any occupation, trade, and business	
b)	Protection in respect of conviction for offences	20
c)	Protection of life & personal liberty	21
d)	Protection against arrest and detention in certain cases	22
a)	Right to Information	19(1)
b)	Right to privacy	21
c)	Right to education	21(A)
3.	Right Against Exploitation	23-24
a)	Prohibition of traffic in human beings and forced labour	23
b)	Prohibition of employment of children in factories and mines for under the age of 14	24
4.	Right to Freedom of Religion	25 – 28
a)	Freedom of conscience and free profession, practice and propagation of religion	25
b)	Freedom to manage religious affairs	26
c)	Freedom as to pay taxes for promotion of any particular religion	27
d)	Freedom from attending religious instruction	28
5.	Cultural & Educational Rights	29 – 30
a)	Protection of interest of minorities	29
b)	The right of minorities to establish and administer educational institutions	30
6.	Right to Constitutional Remedies	31 – 35
a)	Right to property (Repealed/Abolished)	31

b)	Remedies for enforcement of Fundamental Rights	32
c)	Power of Parliament to modify the rights in their application to Forces, etc.	33
d)	Restriction on rights while martial law is in force in any area	34
e)	Legislation to give effect to the provisions of this Part Notwithstanding anything in this Constitution,	
	• Parliament shall have, and the Legislature of a State shall not have, the power to make laws	35
	• Any law in force immediately before the commencement of this Constitution in the territory of India continue in force until altered or repealed or amended by Parliament Explanation	
	Directive Principles of State Policy	36-51
1.	Definition	36
2.	Application of the Principles	37
3.	State to Secure a social order for the promotion of the welfare of people	38
4.	Certain principles of policy to be followed by the state	39
5.	Equal Justice & free legal aid	39 (A)
6.	The organisation of Village panchayats	40
7.	Right to work, to education, and to public assistance in certain cases	41
8.	Provision for just and humane conditions of work & maternity relief	42
9.	Living Wages, etc. for Workers	43
10.	Participation of workers in management of industries	43 (A)
11.	Uniform Civil Code for the citizens	44
12.	Provision for free & compulsory education for children (stands substituted until date further announced)	45
13.	Promotion of educational and economic interest of scheduled castes, ST, and OBC	46
14.	The duty of the state to raise the level of nutrition and the standard of living and to improve public health	47
15.	The organisation of agriculture and animal husbandry	48
16.	Protection and improvement of environment and safeguarding of forests and wildlife	48 (A)
17.	Protection of monuments and places and objects of natural importance	49

IV

18. Separation of judiciary from the executive
19. Promotion of international peace and security

50

51

IV (A)

20. Fundamental Duties (originally 10 & now 11 duties by the 86th Amendment Act 2002)

- a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem
- b) to cherish and follow the noble ideals which inspired our national struggle for freedom
- c) to uphold and protect the sovereignty, unity and integrity of India
- d) to defend the country and render national service when called upon

51 A

to do so

- e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women
- f) to value and preserve the rich heritage of our composite culture
- g) to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures
- h) to develop the scientific temper, humanism and the spirit of inquiry and reform
- i) to safeguard public property and to abjure violence
- j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement
- k) who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years (Stands not-in-force until the date is notified)

The Union	52 – 151
The President of India	52
Executive Power of the union	53
Election of President	54
The manner of election of President	55
Procedure for Impeachment of the President	61
The Vice President of India	63
Election of Vice-president	66
Pardoning powers of President	72
Council of Ministers to aid and advise President	74
Constitution of Parliament	79
The speakers and Deputy speakers of the house of the people	93
Powers, Privileges, etc of the House of Parliament	105
Special procedure in respect of money bills	109
Definition of “Money Bills”.	110
Annual Financial Budget	112
Appropriation Bills	114

	Powers of the President to promulgate Ordinances during recess of parliament	123	
	Establishment of Supreme Court	124	
	Appointment of acting Chief justice	126	
	Supreme court to be a court of Record	129	
	The seat of the Supreme court	130	
	Special leaves for appeal to the Supreme Court	136	
	Review of judgement or orders by the Supreme court	137	
	The decision of the Supreme Court binding on all the courts	141	
	Comptroller and Auditor- General of India	148	
	Duties & Powers of CAG	149	
		152	–
	The States	237	
	Definition	152	
	Governors of the State	153	
	The executive power of the State	154	
	Appointment of Governor	155	
	The term of office of Governor	156	
	Discharge of the functions of the Governor in certain contingencies	160	
	Pardoning powers of the Governor	161	
VI	Advocate-General of the State	165	
	Language to be used in the Legislature	210	
	Power of Governor to promulgate ordinances	213	
	High Courts for states	214	
	High Courts to be a court of record	215	
	Power of High Courts to issue certain writs	226	
	Appointment of District judges	233	
	Control over Sub-Ordinate Courts	235	
VII	The States (Part B) – Repealed by the 7th Amendment Act, 1956	238	
VIII	The Union Territories	239	–

		242	
	Administration of Union Territories	239	
	Special provisions with respect to Delhi	239 (AA)	
	Power of President to make regulations for certain Union territories	240	
	High Courts for Union territories	241	
	The Panchayats	243 A-O	
IX	a) Definitions	243	
	b) Gram Sabha	243 (A)	
	c) Constitution of Panchayats	243 (B)	
	d) Powers, authority and responsibilities of Panchayats	243 (G)	
	e) Bar to interference by courts in electoral matters	243 (O)	
IX (A)	The Municipalities	243 P – ZG	
IX (B)	Cooperative Societies	243-ZH to 243-ZT	
X	The Scheduled & Tribal Areas	244	
XI	Relations between the Union & the states	245 – 263	
	Finance, Property, Contracts and Suits	264 – 300	
	Interpretation	264	
	Consolidated Funds and public accounts of India and of the States.	266	
	Contingency Fund	267	
XII	Duties levied by the Union but collected and appropriated by the States	268	
	Taxes levied and collected by the Union but assigned to the States	269	
	Taxes levied and distributed between the Union and the States	270	
	Surcharge on certain duties and taxes for purposes of the Union	271	
	Finance Commission	280	
	Borrowing by the Government of India	292	
	Borrowing by States	293	
	Suits and proceedings	300	

	Trade, Commerce and Intercourse within the Territory of India	301 307	–
XIII	Freedom of trade, commerce and intercourse	301	
	Power of Parliament to impose restrictions on trade, commerce and intercourse	302	
	Appointment of authority for carrying out the purposes of articles 301 to 304	307	
	Services Under the Union and the States	308 323	–
	Interpretation	308	
XIV	Recruitment and conditions of service of persons serving the Union or a State	309	
	All-India services	312	
	Public service commissions for the union and for the states	315	
	Functions of Public Service Commission	320	
	Tribunals	323 (A) 323 (B)	–
XIV (A)	Administrative Tribunals	323 (A)	
	Tribunals for other matters	323 (B)	
XV	Elections	324 329	–
	Superintendence, direction and control of elections to be vested in an Election Commission	324	
	No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex	325	
		326	
	Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage		
	Special Provisions Relating to Certain Classes	330 342	–
	National Commission for the SC, & ST	338	
XVI	Appointment of a commission to investigate the conditions of backward classes	340	
	Scheduled Castes	341	

	Scheduled Tribes	342	
	Official Language	343	–
		351	
XVII	The official language of the Union	343	
	Official languages or languages of states	345	
	Languages to be used in the Supreme Court and in the High Courts	348	
	Directive for development of the Hindi languages	351	
	Emergency Provisions	352	–
		360	
	Proclamation of Emergency	352	
XVIII	The duty of the Union to protect States against external aggression and internal disturbance	355	
	Provisions in case of failure of constitutional machinery in States	356	
	Provisions as to financial emergency	360	
	Miscellaneous	361	–
		367	
	Protection of President and Governors and Rajpramukhs	361	
XIX	Effect of failure to comply with, or to give effect to, directions given by the Union	365	
	Definitions	366	
	Interpretation	367	
XX	Amendment of the Constitutions	368	
	Temporary, Transitional and Special Provisions	369	–
		392	
XXI	Temporary power to Parliament to make laws with respect to certain matters in the State List as if they were matters in the Concurrent List	369	
	Temporary provisions with respect to the State of Jammu and Kashmir	370	
	Short title – This Constitution may be called the Constitution of India	393	–
		395	
	Short title	393	
XXII	Commencement	394	
	Authoritative text in the Hindi language	394 (A)	
	Repeals	395	

Frequently Asked Questions (FAQs)

1. How many articles are there in the Indian Constitution?

The Parliament, in order to maintain the original structure intact, new articles are inserted in the existing article heads and parts only. Hence, there are **395 articles**.

2. How many parts are there (22 or 25) in Indian Constitution as of 2021?

There are **22 parts** in the Indian Constitution. Not 25 parts. **Part IV (A), Part IX (A) & (B) and Part XIV (A)** were inserted within their respective Parts by amending the constitution. And **Part VII was repealed** by 7th amendment act, 1956.

3. How many schedules are there in the Indian Constitution?

Total there are **12 schedules**. Originally, there were 8 schedules. But later on, 4 more schedules were added.

4. How many amendment acts were passed by the Indian Constitution until 2021?

As of 2021, as many as **104 amendment Acts** were passed till date. The **104th Amendment Act extends by ten years the deadline** for the abolition of the **reservation of seats** in the Lok Sabha and State Legislative Assemblies for **members of Scheduled Castes and Scheduled Tribes**.

5. As of 2021, what is the latest amendment Bill introduced in the Parliament?

The Constitution (One Hundred and Twenty-Sixth Amendment) Bill, 2019 proposes to extend the reservation for SCs and STs for another ten years, until January 25, 2030. And it was passed on December 12, 2019. With the passage of the bill, total 104 amendments were made to the Constitutions till now.

Making of the Indian Constitution (Constituent Assembly and sources of the Constitution)

Making of the Indian Constitution

1. It was **M.N Roy** who proposed the idea of an independent constituent assembly for India in 1934.
2. The constituent assembly was formed as per the guidelines suggested by the Cabinet Mission Plan, 1946. The mission was headed by **Pethick Lawrence** and included two other members apart from him – **Stafford Cripps** and **A.V Alexander**.
3. The total strength of the assembly was 389. However, after partition only 299 remained. It was partly elected and partly nominated body.
4. The elections to form the assembly took place in July-August 1946 and the process was completed by November 1946. The first meeting of the assembly took place on **9th December 1946** and was attended by **211 members**.
5. **Dr. Sachhidanand Sinha** became the temporary President of the assembly following the French practice.
6. On 11th December 1946, **Dr. Rajendra Prasad** and **H.C Mukherji** were elected as President and Vice-President respectively.
7. **Sir B.N Rau** was appointed as the constitutional advisor to the assembly.
8. On 13th December 1946, Pt. Nehru moved the Objectives resolution which later went on to become the Preamble of the constitution in slightly modified form. The resolution was unanimously adopted on 22nd January 1947.
9. The Constituent Assembly ratified India's membership of the commonwealth in May 1949. Also, it adopted National Song and National Anthem on 24th January 1950. Adopted the National Flag on 22nd July 1947.
10. The assembly met for 11 sessions, took 2 years, 11 months and 18 days to frame up the final draft, sat for 141 days in total and the draft constitution was considered for 114 days. Total amount incurred was around rupees 64 lakhs.
11. The assembly had 15 women members which were reduced to 9 after partition.
12. Some important committees of the constituent assembly along with their respective chairpersons are as follows:
 - Union Powers Committee - Jawahar Lal Nehru
 - Union Constitution Committee - Jawahar Lal Nehru
 - Provincial Constitution Committee - Sardar Patel
 - Drafting Committee - B.R Ambedkar
 - Rules of Procedure Committee - Dr. Rajendra Prasad
 - Steering Committee - Dr. Rajendra Prasad
 - Flag Committee - J.B. Kripalani

The following were the members of the Drafting Committee-

- Dr. B.R Ambedkar (Chairman)
- Alladi Krishnaswamy Ayyar
- Dr. K.M Munshi
- N. Gopalaswamy Ayyangar
- Syed Mohammad Saadullah
- N Madhava Rau
- TT Krishnamachari

The final draft of the constitution was adopted on 26th November 1949 and it contained 8 schedules, 22 parts, and 395 articles.

VARIOUS SOURCES OF THE INDIAN CONSTITUTION

Source	Features Borrowed
Government of India Act of 1935	Federal Scheme, Office of the governor, Judiciary, Public Service Commissions, Emergency provisions and administrative details.
British Constitution	Parliamentary government, Rule of Law, legislative procedure, citizenship, cabinet system, prerogative writs, parliamentary privileges, bicameralism.
US Constitution	Fundamental rights, independence of the judiciary, judicial review, impeachment of the president, removal of Supreme Court and high court judges and post of vice-president.
Irish Constitution	Directive Principles of State Policy, the nomination of members to Rajya Sabha and method of election of the president
Canadian Constitution	Federation with a strong Centre, vesting of residuary powers in the Centre, the appointment of state governors by the Centre, and advisory jurisdiction of the Supreme Court
Australian Constitution	Concurrent List, freedom of trade, commerce and intercourse, and the joint sitting of the two Houses of Parliament.
Weimar Constitution of Germany	Suspension of Fundamental Rights during Emergency
Soviet Constitution (USSR, now Russia)	Fundamental duties and the idea of justice (social, economic and political) in the Preamble
French Constitution	Republic and the ideals of liberty, equality, and fraternity in the Preamble
South African Constitution	Procedure for amendment of the Constitution and election of members of Rajya Sabha
Japanese Constitution	Procedure established by Law.

Preamble, Union of India and Citizenship

The Preamble, the Union and its territory and Citizenship.

THE PREAMBLE

1. The term 'preamble' refers to the introduction or preface to the Constitution. It's a kind of summary or essence of the Constitution.
2. The American Constitution was the first, to begin with, a preamble.
3. N.A Palkiwala has termed preamble as 'the identity card of the constitution'.
4. The Preamble is somewhat **based on the 'Objectives Resolution'** moved by Nehru in the Constituent Assembly.
5. The Preamble has been amended only once so far, that is by **42nd Amendment Act of 1976**. Three words were added by that amendment – **Socialist, Secular, and Integrity**.
6. The Preamble reveals four ingredients or components:
 - Source of the authority of the Constitution: The Preamble states that the Constitution derives its authority from the people of India
 - Nature of Indian State: It declares India as a sovereign, socialist, secular democratic and republican polity.
 - Objectives of the Constitution: To provide justice, liberty, equality and fraternity to the citizens of India.
 - Date of adoption of the Constitution: **26th November 1949**.
7. In *Berubari Union* case (1960) - the Supreme Court said that the Preamble isn't a part of the Constitution.
8. In ***Kesavananda Bharati case (1973)*** - the Supreme Court rejected the earlier opinion and held that Preamble *is* a part of the Constitution.
9. The Preamble is neither a source of power to legislature nor a prohibition upon the powers of the legislature. Provisions in the preamble are non-enforceable in the court of law, that is, it's **non-justiciable**.

THE UNION & ITS TERRITORY

1. Articles 1 to 4 under Part-I of the Constitution deal with the Union and its territory.
2. **Article 1** declares India, that is, Bharat as a '**Union of States**'.
3. Article 2 empowers the Parliament to 'admit into the Union of India, or establish, new states on such terms and conditions as it thinks fit'. Thus, Article 2 grants

two powers to the Parliament: (a) the power to admit into the Union of India new states; and (b) the power to establish new states.

4. **Article 3** relates to the **formation of or changes in the existing states** of the Union of India. In other words, Article 3 deals with the internal re-adjustment *inter se* of the territories of the constituent states of the Union of India.
5. Some committees that were important in the reorganization of states in the Indian Union – Dhar Commission, JVP Committee, Fazl Ali Commission and States Reorganization Commission (1st one was in 1956).
6. New states that were created after 1956 with year - **Maharashtra and Gujarat** In 1960, **Goa, Daman and Diu** India acquired these three territories from the Portuguese by means of a police action in 1961. They were constituted as a union territory by the 12th Constitutional Amendment Act, 1962. Later, in 1987, Goa was conferred a statehood, **Nagaland** In 1963, **Haryana, Chandigarh and Himachal Pradesh** In 1966, **Manipur, Tripura and Meghalaya** In 1972, Sikkim in 1974-75, **Mizoram, Arunachal Pradesh and Goa** In 1987, **Chhattisgarh, Uttarakhand and Jharkhand** In 2000, and now most recently Telangana on 2nd June, 2014.

THE CITIZENSHIP

1. **Part 2nd** covers **articles 5-11**.
2. The Constitution confers the following rights and privileges on the citizens of India (and denies the same to aliens):
 - Rights conferred under Articles 15, 16, 19, 29 & 30.
 - Right to vote in elections to the Lok Sabha and state legislative assembly.
 - Right to contest for the membership of the Parliament and the state legislature.
 - Eligibility to hold certain public offices, that is, President of India, Vice-President of India, judges of the Supreme Court and the high courts, governor of states, attorney general of India and advocate general of states.
1. **Articles 5-8** only deal with the citizenship of individuals who became citizens of India **at the commencement of the Constitution**. Also, these articles take into account migration issues.
2. No person shall be a citizen of India or be deemed to be a citizen of India if he has voluntarily acquired the citizenship of any foreign state (**Article 9**).
3. Every person who is or is deemed to be a citizen of India shall continue to be such citizen, subject to the provisions of any law made by Parliament (**Article 10**).
4. Parliament shall have the power to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship (**Article 11**).
5. Hence, the Parliament enacted the Citizenship Act, 1955, which has been amended in 1986, 1992, 2003, and 2005 and most recently in 2015.

The **Citizenship (Amendment) Act, 2019** was passed by the Parliament on 11 December 2019. The Parliament amended the Citizenship Act of 1955 to **provide Indian citizenship to persecuted religious minorities from Afghanistan, Bangladesh, and Pakistan** who are Hindus, Sikhs, Buddhists, Jains, Parsis, or Christians who arrived in India before December 31, 2014.

6. The five modes of acquisition of citizenship as per the citizenship act are

(a)	By	Birth
(b)	By	Descent
(c)	By	Registration
(d)	By	Naturalization
(e) By acquisition of any other territory into the Indian Union.		
7. Loss of Citizenship is by – Termination, Renunciation and Deprivation.
8. India provides for single citizenship.
9. **PIO**- A person registered as PIO card holder under the Ministry of Home Affairs' scheme dated 19-08-2002.
10. **OCI**- A person registered as Overseas Citizen of India (OCI) under the Citizenship Act, 1955. The OCI scheme is operational from 02-12-2005.
11. Now both the schemes (**PIO & OCI**) have been merged with effect from 9th January 2015.

FUNDAMENTAL RIGHTS (FR) & FUNDAMENTAL DUTIES (FD)

Fundamental Rights

These rights are fundamental in the sense that any law passed by the legislature in the country would be declared as null and void if it is in contravention to the rights guaranteed by the constitution. However, the rights are not absolute and can be curtailed during the emergency. The Indian Constitution offers all the citizens, individually and collectively, some basic rights to practice. These are guaranteed in the Constitution in the form of six broad categories of Fundamental Rights. These rights are justiciable, if any of these rights are violated; the individual affected is entitled to move the Supreme Court or High Court for the protection and enforcement of his rights. These are contained in Part III of the Constitution and are enshrined in Article 12 to 35, and deal with Fundamental Rights. These rights are as follows:

- Right to equality, including equality before law, prohibition of discrimination on grounds of religion, race, caste, sex or place of birth, and equality of opportunity in matters of employment.
- Right to freedom of speech and expression, assembly, association or union, movement, residence and right to practice any profession or occupation (some of these rights are subject to security of the State, friendly relations with foreign countries, public order, decency or morality).
- Right amongst exploitation, prohibiting all forms of forced labour, child labour and traffic in human beings.
- Right to freedom of conscience and free professioo, practice and propagation of religion.
- Right of any citizen to conserve their culture, language or script and right of minorities to establish and administer educational institutions of their choice; and
- Right to constitutional remedies for enforcement of Fundamental Rights.

Important Highlights of Fundamental Rights

- Fundamental Rights have been described as the **Magna Carta** of India.
- The concept has been taken from the US' bill of rights. Earliest known evidence of rights was also present in ancient India, Iran etc.
- The Fundamental Rights are named so because they are guaranteed and protected by the Constitution, which is the fundamental law of the land. They are 'fundamental' also in the sense that they are the most essential for the all-round development (material, intellectual, moral and spiritual) of the individuals.
- The original constitution contained seven fundamental rights, however, after the 44th constitutional amendment act, 1978, right to property was repealed and now only six fundamental rights remain.

Following are the articles related to the fundamental rights-

- A. 12- Definition of the State
B. 13- Laws inconsistent with part-3 or Fundamental Rights

Following is the segregation of the Fundamental Rights

C. Right to equality (Articles 14–18)

- (a) Equality before the law and equal protection of laws (Article 14).
- (b) Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth (Article 15).
- (c) Equality of opportunity in matters of public employment (Article 16).
- (d) Abolition of untouchability and the prohibition of its practice (Article 17).
- (e) Abolition of titles except military and academic (Article 18).

D. Right to freedom (Articles 19–22)

- (a) Protection of six rights regarding freedom of (Article 19):
 - i. Speech and Expression
 - ii. Assembly
 - iii. Association
 - iv. Movement,
 - v. Residence, and
 - vi. Profession
- (b) Protection in respect of conviction for offences (Article 20).
- (c) Protection of life and personal liberty (Article 21).
- (d) Right to elementary education (Article 21A).
- (e) Protection against arrest and detention in certain cases (Article 22).

- **Right against exploitation (Articles 23–24)**

- (a) Prohibition of traffic in human beings and forced labour (Article 23).
- (b) Prohibition of employment of children in factories, etc. (Article 24).

- **Right to Freedom of Religion (Article 25–28)**
 - (a) Freedom of conscience and free profession, practice and propagation of religion (Article 25).
 - (b) Freedom to manage religious affairs (Article 26).
 - (c) Freedom from payment of taxes for promotion of any religion (Article 27).
 - (d) Freedom from attending religious instruction or worship in certain educational institutions (Article 28).
- **Cultural and educational rights (Articles 29–30)**
 - (a) Protection of language, script and culture of minorities (Article 29).
 - (b) Right of minorities to establish and administer educational institutions (Article 30).
- **Right to constitutional remedies (Article 32)**- Heart and Soul of the Constitution.
Right to move the Supreme Court for the enforcement of fundamental rights including the writs of
 - (i) *habeas corpus*, (ii) *mandamus*, (iii) *prohibition*, (iv) *certiorari*, and (v) *quo warranto* (Article 32).
- **Article 33** deals with the power of Parliament to modify the fundamental rights.
- **Article 34** deals with Martial Law
- **Article 35** deals with legislation required to deal with fundamental rights
- **Fundamental Rights** which are available to only citizens - 15, 16, 19, 29 and 30.
- Fundamental Rights those are available to both citizens as well as non-citizens – 14, 20, 21, 21A, 22, 23, 24, 25, 26, 27 and 28.

FUNDAMENTAL DUTIES (ARTICLE-51A)

Fundamental Duties of the citizens have been enumerated by the 42nd Amendment of the Constitution of India. Article 51 A enshrined in Part IVA of the Constitution deals with the fundamental duties. The citizen enjoin upon them as abide by the constitution to cherish and follow noble ideals, which inspired India's struggle for freedom. Also, to defend the country and render national service when called upon to do so. They are aimed to promote harmony and spirit of common brotherhood transcending religious, linguistic and regional or sectional diversities.

Important Highlights of Fundamental Duties

- They are a set of 11 guidelines to the citizens.
- The original constitution did not mention about the FDs.
- The idea has been taken from the former **Soviet Constitution** and now even Russia does not have them. Probably only Japan is one such major country which has an exclusive chapter on fundamental duties.
- In 1976, the fundamental duties of citizens were added in the Constitution. In 2002, one more Fundamental Duty was added.

- They were added on the recommendations of the Swaran Singh Committee which was constituted by Indira Gandhi in 1975. It recommended only 8 fundamental duties than with pecuniary punishments as well. However, the government did not welcome the punishments part.
- A new part – 4A, A NEW ARTICLE 51A was added by virtue of 42nd constitutional amendment act, 1976. Ten duties were added to 51A. Presently there are eleven duties.
- The 11th Fundamental Duty was added by the 86th amendment act, 2002.
- **Following is the list of FDs:**
 - (a) To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
 - (b) To cherish and follow the noble ideals that inspired the national struggle for freedom;
 - (c) To uphold and protect the sovereignty, unity and integrity of India;
 - (d) To defend the country and render national service when called upon to do so;
 - (e) To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women;
 - (f) To value and preserve the rich heritage of the country's composite culture;
 - (g) To protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures;
 - (h) To develop scientific temper, humanism and the spirit of inquiry and reform;
 - (i) To safeguard public property and to abjure violence;
 - (j) To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement;
 - (k) To provide opportunities for education to his child or ward between the age of six and fourteen years. This duty was added by the 86th Constitutional Amendment Act, 2002.

DIRECTIVE PRINCIPLES OF STATE POLICY

Directive Principles of State Policy mentioned in the **Part IV** of the Constitution of India, is aimed to create social and economic conditions under which the citizens can lead a good life. These also aim to establish social and economic democracy through a welfare state.

Directive Principles of the State Policy

1. They have been mentioned in Part-4 and cover articles from 36-51 of the Constitution of India.
2. Called as **Novel Features** of the Constitution.
3. Inspired by the Irish constitution.
4. Similar to the Instruments of Instructions mentioned in the Government of India Act, 1935.
5. Together with fundamental rights, they are termed as the **conscience of the constitution**.

6. 'Directive Principles of State Policy' denotes the ideals that the State should keep in mind while formulating policies and enacting laws. These are the constitutional instructions or recommendations to the State in legislative, executive and administrative matters.

7. The DPSPs constitute a very comprehensive economic, social and political programme for a modern democratic State. They aim at realizing the high ideals of justice, liberty, equality and fraternity as outlined in the Preamble to the Constitution. They embody the concept of a '**welfare state**'.

8. The Directive Principles are **non-justiciable** in nature, that is, they are not legally enforceable by the courts for their violation. Therefore, the government (Central, state and local) cannot be compelled to implement them. Nevertheless, the Constitution (Article 37) itself says that these principles are fundamental to the governance of the country and it shall be the duty of the State to apply these principles in making laws.

9. The provisions of the Directive Principles are broadly classified into-

- | | | |
|-----|----------------------|------------|
| (a) | Socialist | principles |
| (b) | Gandhian | principles |
| (c) | Liberal intellectual | principles |

10. Some Important Articles in DPSPs are:

- a. To promote the welfare of the people by securing a social order permeated by justice— social, economic and political—and to minimise inequalities in income, status, facilities and opportunities (**Article 38**).
- b. To secure (a) the right to adequate means of livelihood for all citizens; (b) the equitable distribution of material resources of the community for the common good; (c) prevention of concentration of wealth and means of production; (d) equal pay for equal work for men and women; (e) preservation of the health and strength of workers and children against forcible abuse; and (f) opportunities for healthy development of children (**Article 39**).
- c. To promote equal justice and to **provide free legal aid to the poor (Article 39 A)**. This was added by 42nd constitutional amendment act, 1976.
- d. To secure the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement (**Article 41**).
- e. To make provision for just and humane conditions for work and maternity relief (**Article 42**).
- f. To take steps to secure the participation of workers in the management of industries (**Article 43 A**). Also added by 42nd constitutional amendment act, 1976.
- g. To organise village panchayats and endow them with necessary powers and authority to enable them to function as units of self-government (**Article 40**).
- h. To promote cottage industries on an individual or co-operation basis in rural areas (**Article 43**).
- i. To prohibit the consumption of intoxicating drinks and drugs which are injurious to health (**Article 47**).

- j. To prohibit the slaughter of cows, calves and other milch and draught cattle and to improve their breeds (**Article 48**).
 - k. To secure for all citizens a **uniform civil code** throughout the country (Article 44).
 - l. To provide early childhood care and **education for all children until they complete the age of six years** (**Article 45**). Also, amended by the 86th constitutional amendment act, 2002.
 - m. To separate the judiciary from the executive in the public services of the State (**Article 50**).
 - n. To promote international peace and security and maintain just and honourable relations between nations; to foster respect for international law and treaty obligations, and to encourage settlement of international disputes by arbitration (**Article 51**).
10. The 86th Amendment Act of 2002 changed the subject-matter of Article 45 and made elementary education a fundamental right under **Article 21A**. The amended directive requires the State to provide early childhood care and education for all children until they complete the age of six years.
11. The 97th Amendment Act of 2011 added a new Directive Principle relating to co-operative societies. It requires the state to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies (Article 43B).
12. The DPSPs are instructions to the State.

PRESIDENT OF INDIA

The Indian constitutional system is unique because of its deeply imbibed culture of "Unity Amidst Diversity". India is a "Union of States" delineated for political and cultural unity, elimination of divisive forces and effective administration of the vast country. The Union government can take over a State government under article 356 of the Constitution of India through Presidential proclamation if a situation has arisen in which the government of that State cannot be carried on in accordance with the provisions of the Constitution.

- (1) **Article 52** – There shall be a President of India
- (2) **Article 53** – the Executive power of the Union: The executive power shall be vested in the President and shall be exercised by him either directly or through officers' subordinate to him.
- (3) He is the supreme commander of the defense forces in India.
- (4) Though he's only the constitutional head, or titular head, *de jure head* or nominal executive or just a symbolic head.

Election of the President

1. The President shall be elected by the members of an ELECTORAL COLLEGE consisting of:

(a) The Elected MPs
(b) The Elected MLAs of the states
(c) The Elected MLAs of National Capital Territory of Delhi (added by 70th Amendment Act, 1992 and with effect from 1-06-1995) and Union territory of Puducherry.

2. Thus, nominated members of parliament and legislative assemblies and members of legislative councils do not participate in the presidential election.

3. Article-55 provides for the manner of election and there should be uniformity and representation throughout the Nation as per the constitution. Hence, MPs and MLAs have been assigned votes as per their representation.

4. The election is held in accordance with the system of proportional representation by means of single transferable vote and voting is done by secret ballot.

5. All doubts and disputes arising out of the Presidential elections are decided into and enquired by the Supreme Court whose decision is final.

6. The elections are monitored and conducted by the Election Commission of India.

7. Only one President, that is, **Neelam Sanjiva Reddy** has been elected unopposed so far.

8. Dr. Rajendra Prasad is the only President to have been elected twice.

9. Two Presidents – Dr. Zakir Hussain and Fakhruddin Ali Ahmed have died in the office.

Term of office (Article 56) and Re-election (Article 57)

1. Term – 5 years.
2. Resignation is addressed to the Vice-President.
3. The President is eligible for re-election for any number of terms.

Qualification (Article 58), Conditions (Article 59) & Oath (Article 60)

1. Eligibility -
 - (a) Citizen of India
 - (b) 35 years
 - (c) Is eligible for election as an MP of the House of the People.
2. Shouldn't hold any office of profit.
3. The President shall not be a member of either House of Parliament of any Legislature. Even if such a member is elected, he is deemed to have vacated that seat.
4. The nomination of a candidate for election must be subscribed by at least 50 electors as proposers and 50 electors as seconders.
5. Oath administered by the Chief Justice of India or in his absence the senior-most judge of the Supreme Court available.
6. Emoluments, allowances and privileges etc. as may be determined by the parliament and which can't be diminished during his term.

7. He is immune from any criminal proceeding during his term. He can't be arrested or imprisoned. However, after two-month' notice civil proceedings can be initiated against him during his term in respect of his personal acts.

Impeachment of the President (Article 61)

1. A formal removal of the President from his post by constitutional means.
2. He is impeached for the 'Violation of the Constitution'. However, the term is defined nowhere in the constitution.
3. The charges can be preferred by either house of the parliament. However, a 14-days' notice shall be served to the President before the acceptance of such a resolution.
4. Also, that notice must be signed by at least one-fourth members of the total members of that house which initiated the charges.
5. After the acceptance of that bill in that house, that impeachment bill must be passed by the majority of $2/3^{\text{rd}}$ of the total membership of that house.
6. Then that bill goes in another house which should investigate the charges and the President shall have the right to appear and to be represented at such an investigation.
7. If another house sustains the charges and finds the President of violation, and passes that resolution by $2/3^{\text{rd}}$ of the total membership of that house, the President stands removed from the date the resolution is so passed.
8. Hence, impeachment is a quasi-judicial process. And though, the nominated members of Parliament do not participate in his election, they take part in the impeachment process. Also, states' legislatures do not have a role in the impeachment process.

Powers of the President

Executive Powers

1. All executive actions are taken in his name. He is the formal, constitutional, titular head or *de jure* head of the Government.
2. Appoints the P.M and other ministers on P.M's advice.
3. Appoints the Attorney General of India, CAG, Chief Election Commissioner and other Commissioners, the chairman and members of UPSC, Governors of states, Chairman and members of Finance Commission etc.
4. He appoints Inter-State Council and he is the one who can declare any area as scheduled area and decides on the matter of the declaration of any tribe as the scheduled tribe.

Legislative Powers

1. Summons and Prorogues the Parliament and dissolves the Lok Sabha.

2. Summons the joint sitting of the two houses of Parliament (which is presided over by the Speaker of Lok Sabha).
3. Nominates 12 members to Rajya Sabha from amongst people having achievements in art, literature, science and social service and may nominate 2 members to Lok Sabha from the Anglo-Indian Community.
4. His prior recommendation is required in case of presentation of certain types of bills such as money bills, bills seeking expenditure from the consolidated fund of India etc.
5. He can withhold his assent to bills, return the bills to the legislatures, apply pocket veto to bills etc.
6. He can promulgate ordinances when the parliament is not in session.
7. He presents the reports of Finance Commission, CAG, and UPSC etc. before the Parliament.
8. No demand for the grant can be made except on his recommendation. Also, he constitutes a Finance Commission every five years for distribution of revenues between center and states.

Judicial Powers

1. Appoints the Chief Justice and other judges of the Supreme Court and High courts.
2. Seeks advice from the Supreme Court on any question of law.
3. He can grant pardon etc.

Emergency Powers

1. National Emergency (Article 352)
2. President's Rule (Article 356)
3. Financial Emergency (Article 360)

Veto Powers

The President of India has three types of Veto powers, namely

1. Absolute Veto- Withholding the assent to the bill. The bill then ends and does not become an Act. Example- in 1954, Dr. Rajendra Prasad withheld his assent to the PEPSU Appropriation Bill. Also, in 1991 R. Venkataram withheld his assent to the MPs Salaries, allowances bill.
2. Suspensive Veto- Returning the bill for reconsideration. In 2006, President APJ Abdul Kalam used the suspensive veto in the office of profit bill. However, the President can return the bill for reconsideration to the legislature only once, after which he has to give his consent.
3. Pocket Veto- Taking no action on the bill sent to the President. There's no time limit provided in the constitution within which the President has to give his assent or sign the bill. Hence, he has a 'bigger pocket' than the American

President. In 1986, President Zail Singh applied Pocket Veto to Indian Post Office Amendment bill.

NOTE: The President has no veto power in case of a constitutional amendment bill. He is bound to give his assent to such bills.

Ordinance Making Powers (Article 123)

1. An ordinance can be issued by the President only when both houses of Parliament are not in session or when only one house is in session.
2. The ordinance must be approved by the Parliament within six weeks of its reassembly.
3. Hence, the maximum life of an ordinance is – six months + six weeks.
4. He can issue an ordinance only on the advice of the council of ministers headed by the P.M

Pardoning power of the President (Article 72)

1. The President has the power to grant pardon, reprieve, commutation, remission, respite to any persons convicted in any Union Law, or by a court-martial or in cases of death penalty.
2. It is an executive power. And the Governor also has those powers under Article 161, however, the Governor can't pardon a death sentence nor can he interfere in court-martial cases.
3. The President exercises this power on the advice of the Union Cabinet.

Discretionary Powers of the President

1. Appointment of the P.M when no party has a clear majority in the Lok Sabha or when the P.M in office dies suddenly and there's no obvious successor.
2. Dismissal of the council of ministers when it can't prove the confidence of the Lok Sabha.
3. Dissolution of the Lok Sabha if the council of ministers has lost its majority.
4. Use of Suspensive Veto in case of bills.

PARLIAMENT OF INDIA

The Parliament of India is the supreme legislative body of the Republic of India. It is a bicameral legislature composed of the President of India and the two houses: the Rajya Sabha and the Lok Sabha. Let us know in detail about it!

Parliament of India (Articles 79-122)

Organization of the Parliament

1. The Parliament consists of the President, the Lok Sabha and the Rajya Sabha.
2. Lok Sabha is the Lower House (First Chamber or Popular House) and Rajya Sabha is the Upper House (Second Chamber or House of Elders).

Composition of Rajya Sabha

1. The maximum strength of the Rajya Sabha is fixed at 250, out of which, 238 are to be the representatives of the states and union territories (elected indirectly) and 12 are nominated by the president.
2. At present, the Rajya Sabha has **245** members. Of these, 229 members represent the states, 4 members represent the union territories and 12 members are nominated by the president.
3. The Fourth Schedule of the Constitution deals with the allocation of seats in the Rajya Sabha to the states and union territories.
4. The representatives of states in the Rajya Sabha are elected by the elected members of state legislative assemblies. The seats are allotted to the states in the Rajya Sabha on the basis of population.

NOTE – Population as ascertained on the basis of 2001 census as per 87th Amendment Act, 2003.

Composition of Lok Sabha

1. The maximum strength of the Lok Sabha is fixed at 552. Out of this, 530 members are to be the representatives of the states, 20 members are to be the representatives of the union territories and 2 members may be nominated by the president from the Anglo-Indian community.
2. At present, the Lok Sabha has 545 members.
3. The representatives of states in the Lok Sabha are directly elected by the people from their respective constituencies.
4. The voting age was reduced from 21 to 18 years by the 61st Constitutional Amendment Act, 1988.

Duration of the two Houses of Parliament

1. The Rajya Sabha is a permanent body and not subject to dissolution. However, one-third of its members retire every second year. The retiring members are eligible for re-election and re-nomination any number of times.
2. Unlike the Rajya Sabha, the Lok Sabha is not a continuing chamber. Its normal term is five years from the date of its first meeting after the general elections, after which it automatically dissolves.

Qualification, disqualifications etc. to be an MP

1. Eligibility

- (a) Citizen of India.
- (b) Minimum age – 30 years in Rajya Sabha and 25 years in Lok Sabha.
- (c) He must possess other qualifications prescribed by Parliament. (Hence, the Representation of People Act, 1951).

1. Criteria for disqualifying an MP:

- (a) If he holds any office of profit under the Union or state government
- (b) If he is of unsound mind and stands so declared by a court.
- (c) If he is an undischarged insolvent.
- (d) if he is not a citizen of India or has voluntarily acquired the citizenship of a foreign state or is under any acknowledgement of allegiance to a foreign state; and
- (e) If he is so disqualified under any law made by Parliament (RPA, 1951).

1. The Constitution also lays down that a person shall be disqualified from being a member of Parliament if he is so disqualified on the ground of defection under the provisions of the Tenth Schedule.
2. **Double Membership** - A person cannot be a member of both Houses of Parliament at the same time.
3. A House can declare the seat of a member vacant if he is absent from all its meetings for a period of sixty days without its permission.

Speaker of the Lok Sabha

1. The Speaker is elected by the Lok Sabha from amongst its members (as soon as may be, after its first sitting). The date of election of the Speaker is fixed by the President.
2. The Speaker offers his resignation to the Deputy Speaker and he can be removed by a resolution passed by a majority of members of Lok Sabha, however, only after giving him a 14-day notice.
3. He presides over a joint sitting of the two Houses of Parliament. Such a sitting is summoned by the President to settle a deadlock between the two Houses on a bill.
4. He decides whether a bill is a money bill or not and his decision on this question is final.
5. He can't vote in the first instance, though can vote in the event of a tie. When his removal motion is under consideration, he can take part and speak in the proceedings and can vote as well but not in the case of a tie. He can't preside in that case. However, his motion can be passed by an absolute majority only and can be considered only if it has the support of at least 50 members.
6. G.V Mavalankar was the first Speaker of Lok Sabha.
7. The longest serving Speaker of Lok Sabha so far has been Balram Jakhar.
8. **NOTE** – There's also a post known as *Speaker Pro Tem*, appointed by the President himself. He is usually the oldest member of the last Lok Sabha and

he presides over the first session of the incoming Lok Sabha. President administers him the oath.

Deputy Speaker of the Lok Sabha

1. Like the Speaker, the Deputy Speaker is also elected by the Lok Sabha itself from amongst its members.
2. The date of election of the Deputy Speaker is fixed by the Speaker. The removal process is the same as that of the speaker and he offers his resignation to the Speaker of the Lok Sabha.
3. Madabhushi Ananthasayanam Ayyangar was the first Deputy Speaker of Lok Sabha.
4. He presides over the joint sitting in case of absence of the Speaker.

Sessions of Parliament

A 'session' of Parliament is the period spanning between the first sitting of a House and its prorogation (or dissolution in the case of the Lok Sabha). The time period between the prorogation of a House and its reassembly in a new session is called 'Recess'. There are usually three sessions. The budget session is the longest and winter is the shortest.

1. The Budget Session (February to May);
2. The Monsoon Session (July to September); and
3. The Winter Session (November to December).

Important parliamentary terms, points, motions, bills, questions and Committees

1. The maximum gap between two sessions of Parliament cannot be more than six months.
2. The President summons and prorogues the two houses of parliament.
3. **Quorum** is the minimum number of members required to be present in the House before transaction of any business. It is one-tenth of the total number of members in each House including the presiding officer. It means that there must be at least 55 members present in the Lok Sabha and 25 in the Rajya Sabha.
4. Every minister and the attorney general of India have the right to speak and take part in the proceedings of either House, any joint sitting of both the Houses and any committee of Parliament of which he is a member, without being entitled to vote.
5. **Lame-Duck session** refers to the last session of the existing Lok Sabha after a new Lok Sabha has been elected.
6. **Question Hour** is the first hour of every parliamentary sitting.

7. A **starred question** (distinguished by an asterisk) requires an oral answer and hence supplementary questions can follow.
8. An **unstarred question**, on the other hand, requires a written answer and hence, supplementary questions cannot follow.
9. A **short notice question** is one that is asked by giving a notice of less than ten days. It is answered orally.
10. **The zero hour** starts immediately after the question hour and lasts until the agenda for the day (that is, regular business of the House) is taken up. In other words, the time gap between the question hour and the agenda is known as zero hour. It is an Indian innovation in the field of parliamentary procedures and has been in existence since 1962.
11. **Adjournment Motion** It is introduced in the Parliament to draw the attention of the House to a definite matter of urgent public importance and needs the support of 50 members to be admitted. Rajya Sabha isn't permitted to make use of this device and the discussion should last for not less than two hours and thirty minutes.
12. **No-Confidence Motion** Article 75 of the Constitution says that the council of ministers shall be collectively responsible to the Lok Sabha. It means that the ministry stays in office so long as it enjoys the confidence of the majority of the members of the Lok Sabha. In other words, the Lok Sabha can remove the ministry from office by passing a no-confidence motion. The motion needs the support of 50 members to be admitted.
13. A **bill** is a proposal for legislation and it becomes an act or law when duly enacted. It could be classified as a private member bill or a public bill. A public bill is the one introduced by any minister and a private bill is the one which is otherwise.
14. Bills can be ordinary, money or financial and constitutional amendment bills. Money bills are the ones which are concerned with taxation, money matters which are specifically mentioned in article 110. Financial bill is also concerned with such matters though with slight differences and are mention in articles 117(1) and 117(3). Constitution amendment bills, which are concerned with the amendment of the provisions of the Constitution.
15. The Rajya Sabha cannot reject or amend a money bill. It can only make the recommendations. It must return the bill to the Lok Sabha within 14 days, either with or without recommendations. The decision of the speaker is final in deciding a bill is a money bill or not. Also, every such bill is deemed to be a public bill.
16. The provision of joint sitting is applicable to ordinary bills or financial bills only and not to money bills or Constitutional amendment bills. In the case of a money bill, the Lok Sabha has overriding powers, while a Constitutional amendment bill must be passed by each House separately.
17. The term 'budget' has nowhere been used in the Constitution. It is the popular name for the 'annual financial statement' that has been dealt with in Article 112 of the Constitution.

18. The Railway Budget was separated from the General Budget in 1921 on the recommendations of the Acworth Committee. From the year 2017, the railway budget and the main financial budget were again merged and in 2017 the budget was presented on the 1st February 2017.
19. **Consolidated Fund of India** - It is a fund to which all receipts are credited and all payments are debited. In other words, (a) all revenues received by the Government of India; (b) all loans raised by the Government by the issue of treasury bills, loans or ways and means of advances; and (c) all money received by the government in repayment of loans forms the Consolidated Fund of India. Mentioned in article 266.
20. **Public Account of India** - All other public money (other than those which are credited to the Consolidated Fund of India) received by or on behalf of the Government of India shall be credited to the Public Account of India.
21. **Contingency Fund of India** - The Constitution authorised the Parliament to establish a 'Contingency Fund of India', into which amounts determined by law are paid from time to time. Accordingly, the Parliament enacted the contingency fund of India Act in 1950. This fund is placed at the disposal of the president, and he can make advances out of it to meet unforeseen expenditure pending its authorisation by the Parliament.
22. **Public Accounts Committee** - It consists of 22 members (15 from the Lok Sabha and 7 from the Rajya Sabha). Term of members – 1 year. A minister cannot be elected as a member of the committee. The chairman of the committee is appointed by the Speaker from amongst its members. Until 1966–67, the chairman of the committee belonged to the ruling party. However, since 1967 a convention has developed whereby the chairman of the committee is selected invariably from the Opposition. The function of the committee is to examine the annual audit reports of the Comptroller and auditor general of India (CAG), which are laid before the Parliament by the president.
23. **Estimates Committee** – The largest committee of the Parliament. The present number of members is 30. All the thirty members are from Lok Sabha only. The term of office is one year. A minister cannot be elected as a member of the committee. The chairman of the committee is appointed by the Speaker from amongst its members and he is invariably from the ruling party.
24. **Committee on Public Undertakings** – Present number of members is 22 (15 from the Lok Sabha and 7 from the Rajya Sabha). The term of office of the members is one year. A minister cannot be elected as a member of the committee. The chairman of the committee is appointed by the Speaker from amongst its members who are drawn from the Lok Sabha only.

RAJYA SABHA: THE COUNCIL OF STATES

Rajya Sabha represents the states of the Indian Federation which aims to maintain the federal equilibrium. This topic forms part of Indian Parliament from where a number of questions are being asked in UPSC, State PCS and other competitive exams. So, in this article, we would cover all the relevant details of Rajya Sabha which needs to be done for any exam.

Important Facts

- The idea of the second Chamber was given by the Montague-Chelmsford in its Report of 1918.
- The Government of India Act, 1919 made provisions for the establishment of 'Council of State' as a second chamber, which finally came into existence in 1921.
- The Government of India Act, 1935 did not make any changes in the composition and structure of the 'Council of State'.
- After independence in 1947, the Constituent Assembly (Legislative) which became the Provisional Parliament at later stage worked in a unicameral structure till the conduct of first general elections in 1952.
- As the directly elected single House was not sufficient to meet the aspirations of free India, a dire need was felt for a second chamber as 'Council of States'.
- Hence, after a long debate, the 'Council of States' which later came to known as Rajya Sabha was created in 1954 with almost entirely different composition and structure.

Composition/Seat Distribution of Rajya Sabha

- The constitution of India in its Article 80 lays down that the maximum strength of Rajya Sabha can be 250, out of which 238 are representatives of the States and Union Territories. 12 members of House are nominated by the President.
- However, in the present scenario, the total strength of Rajya Sabha is 245 only, in which 233 are States and Union territories representatives and 12 members are nominated by the President of India from the persons who are having special knowledge or practical experience in the field of literature, Arts, science and social service.
- The method of allocation of seats has been provided in the Fourth Schedule of the constitution. The seats are allotted on the basis of population of a state. Since 1952, the number of seats allotted to the states and Union Territories has been changed many times.
- The vice-President of India has been made the ex-officio chairman of Rajya Sabha.
- The Deputy Chairman is chosen from amongst the members of Rajya Sabha and takes care of the day-to-day activities of the House in case of absence of Chairman.

Term of Office

- The term of every member of Rajya Sabha is **six years**. However, one-third of the seats are to be vacated after every two years.
- **Unlike the Lok Sabha, the Rajya Sabha meets in continuous session and are not subject to dissolution.**

- However, the President of India can prorogue the Rajya Sabha.

Election Procedure

- The Member of Parliament in the Rajya Sabha are elected as the representative of the States and Union Territories of Delhi and Puducherry by the method of indirect election.
- They are elected in accordance with the system of proportional representation by means of a single transferable vote by elected members of the Legislative Assembly in case of states and by members of electoral college constituted for that purpose in case of Union Territories of Delhi and Puducherry.
- The electoral college of Union Territory of Delhi and Puducherry consists of elected members of those Union Territories.
- The term of Rajya Sabha members is six years, and one-third members retire after every second year.
- By-elections are held to fulfil the vacancies created otherwise by retirement on completion of the tenure,
- A member of parliament elected through by-election remains in the office only for the remainder period of that member on whose seat she/he has been elected.

Eligibility

The constitution of India under Article 84 lays down the following qualifications for becoming a member of the Rajya Sabha:-

She/he

- must be a citizen of India.
- must have completed 30 years of age.
- must satisfy the other conditions prescribed by the Parliament.

Presiding Officers - Chairman and Deputy Chairman

- The Vice-President of India acts as the *ex-officio* Chairman of Rajya Sabha.
- The Presiding Officer of the House is responsible for the conduct of the proceedings of the House as per the procedure.
- Amongst the members of Rajya Sabha, a Deputy Chairman is chosen.
- A panel of Vice-Chairmen also chosen from amongst the members of the Rajya Sabha.
- One of the members from the Panel of Vice-Chairmen gets the responsibility of presiding officer in case of absence of the Chairmen and Deputy Chairmen.

The Relation between the two Houses

- In case of any ordinary legislation, the joint sitting of two houses can be called to resolve a deadlock between the two Houses.

- However, there is no provision of the joint sitting of two houses in case of a Money Bill, as Lok Sabha enjoys overriding powers in financial matters.
- In case of constitutional amendment bill also no provision exists for the joint sitting of two houses.
- Members of both houses of Parliament may become a minister.
- Any minister may take part in the proceedings of either house of parliament and also has the right to speak, but she/he can vote only in the House of which she/he is a member.
- The two houses have been placed absolutely on equal footing, with regard to the Privileges, Powers and immunities of the House.
- There are many other important issues on which both the houses enjoy equal powers like election and impeachment of the President, approving the proclamation of Emergency, the election of the Vice-President etc.
- From the above, it is very clear that other than the financial matters, both the houses of Parliament enjoy almost equal powers.

Special Powers of Rajya Sabha

- The Rajya Sabha has the power to authorize the parliament to legislate on any matter enumerated in the State List, by passing a resolution with a two-third majority. Such resolution remains valid for a period of one year from the date of the passing resolution.
- The Rajya Sabha can authorize the parliament to create a new all India services by passing a resolution to that effect with not less than two-thirds of majority.
- If the proclamation of emergency has been issued and the Lok Sabha gets dissolved before the approval of the proclamation, the Rajya Sabha has special powers in this regard, and it can approve the proclamation of emergency provisions by passing a resolution in this regard with a two-third majority.

Role of Rajya Sabha in Financial Matters

- A Money Bill cannot be introduced in Rajya Sabha. A Money bill must be introduced only in the lower house (means Lok Sabha). After passing of Money Bill from Lok Sabha, it is sent to Rajya Sabha for concurrence.
- However, Rajya Sabha has limited powers with respect to Money Bills. Rajya Sabha cannot amend the original bill, it can only make recommendations which can be accepted or rejected by the Lok Sabha.
- The Rajya Sabha needs to pass the Money Bill within fourteen days or it will be deemed to have been passed after that period.
- Apart from a Money Bill, there are many other Financial Bills which also cannot be introduced in Rajya Sabha.
- From the above, it can be understood that the Rajya Sabha plays a very limited role in the financial matters of the government.

- The role of Rajya Sabha has been very effective and constructive in our polity.
- The Raya Sabha has drastically improved the legislative performance by scrutinizing government policies.
- Many times, it has prevented the hasty legislation put forward by the government in power.
- As a federal chamber, it has reinforced the public faith in parliamentary democracy.

CONSTITUTIONAL BODIES (PART-1)

Constitutional Bodies are those which have their mention in the constitution of India. Their powers, functions and authorities are derived from the constitution itself and any changes in them would require amendment in the constitution.

In this article, we are providing you with short notes on polity for UPSC IAS prelims and can be utilised for quick Revision.

Constitutional Bodies in India: UPSC, SPSC, Finance Commission, CAG and Special Officer for Linguistic Minorities

Union Public Service Commission (UPSC)

Article 315-323

Composition and Appointment

- Strength-based on the discretion of the President.
- Appointment by the President of India.

Service conditions and Tenure

- Six years to 65 years of age, whichever is earlier
- Resignation to the appointing authority- President.

Removal

- Removed for adjudged insolvency, engagement in paid employment outside the office during tenure and infirmity of body or mind in President's opinion.

Qualification

- Not prescribed except that at least half of the members should have held office under Government of India or State Governments for at least 5 years.

Powers

- Conducts examinations for services at Union level.
- Advise the President of India when asked.
- Additional functions are given by the Parliament.

Reports

- To the President of India.
- Recommendations not binding in nature.

Eligibility for

- Chairperson-Not eligible

reappointment • Members can be appointed as UPSC/SPSC chairperson.

Obligations on the State:

Few Other Important Pointers

- UPSC/SPSC shall be consulted on all matters relating to
 - The methods of recruitment to civil services.
 - On the suitability of candidates for such appointments, promotion or transfers.
 - On disciplinary actions.

State Public Service Commission's (SPSC)

Article 315-323

Composition and Appointment

- Strength-based on the discretion of the Governor.
- Appointed by the Governor of the state

Service conditions and Tenure

- Six years or 62 years of age whichever is earlier.

Removal

- Resignation to the appointing authority- President.
- Removed for adjudged insolvency, engagement in paid employment outside the office during tenure and infirmity of body or mind in Presidential opinion.

Qualification

- Not prescribed except that at least half of the members should have held office under Government of India or State Governments for at least 5 years.

Powers

- Conducts examinations for services at the state level.
- Advise the Governor of the state when asked.
- Additional functions given by the Parliament.

Reports

- To the Governor of the state.
- Recommendations not binding in nature.

Eligibility for Reappointment

- **Chairperson:** Eligible for UPSC chairperson/member.
- **Members:** Eligible for UPSC chairperson/member and any State Public Service Commission chairperson.

Few Other Important Pointers

Obligations on the State

- UPSC/SPSC shall be consulted on all matters relating to
 - The methods of recruitment to civil services.
 - On the suitability of candidates for such appointments, promotion or transfers.
 - On disciplinary actions.

Finance Commission

Article	<ul style="list-style-type: none"> • 280
Composition and Appointment	<ul style="list-style-type: none"> • Chairman and 4 other members appointed by the President. • Constituted by President at an interval of 5 years or even before.
Service conditions and Tenure	<ul style="list-style-type: none"> • Not mentioned
Removal	<ul style="list-style-type: none"> • Not mentioned • Constitution authorises the Parliament to determine the qualifications of members and the manner of their selection. • Chairman should have experience in public affairs. • Four other members should be-
Qualification	<ul style="list-style-type: none"> ◦ A judge of High court or one qualified to be appointed as one. ◦ One with specialised knowledge of finance and government accounts. ◦ One with wide experience in financial matters and administration. ◦ One with specialised knowledge of economics
Powers	<ul style="list-style-type: none"> • FC makes the following recommendations to the President • Distribution of net proceeds of taxes to be shared between the centre and the states, and allocation between the states. • Principles governing the grant in aid (Out of the consolidated fund of India) • Measures needed to augment the consolidated fund of the states to supplement the resources of Panchayat and Municipality on the basis of recommendation made by the Finance Commission. • Any other matter to refer to it by the President.
Reports	<ul style="list-style-type: none"> • Commission submits the report to the President. • Recommendations are not binding
Eligibility for reappointment	<ul style="list-style-type: none"> • Eligible

COMPTROLLER AND AUDITOR GENERAL OF INDIA (CAG)

Article	<ul style="list-style-type: none">• 148-151
Appointment and Tenure	<ul style="list-style-type: none">• By President by a warrant under his hand seal.• Six years or 65 years of age whichever is earlier.
Removal	<ul style="list-style-type: none">• Resignation to the President.• Removal in the same manner as Supreme court judge.• Removal not at President's pleasure.
Qualification	<ul style="list-style-type: none">• No condition of qualification mentioned.
Powers	<ul style="list-style-type: none">• Article 149 discusses the duties and powers of CAG.• The duties are prescribed by the law made by Parliament.• Audits accounts of Consolidated fund of India, Consolidated fund of each state and Consolidated fund of each Union Territory• Audits expenditure of Contingency fund of each state and Public Accounts of each state.• Audits all the subsidiary accounts of the state and central governments.• Audits receipts and expenditure of state and central government.• Audits receipts and expenditure of Bodies financed by Central and State revenues, Government companies and other corporation and bodies required by laws.• Advises the president to the prescription of the form in which accounts of the centre and state shall be kept.• Acts as friend philosopher and guide of the PAC.• Ascertains and certifies the net proceeds of any tax or duty.
Reports	<ul style="list-style-type: none">• Submits audits and report to President/Governor who shall place them before both houses of Parliament/State Legislature.
Eligibility for reappointment	<ul style="list-style-type: none">• Not Eligible

SPECIAL OFFICER FOR LINGUISTIC MINORITIES

Article	<ul style="list-style-type: none">• 350-B
Appointment	<ul style="list-style-type: none">• President of India
Composition	<ul style="list-style-type: none">• Commissioner assisted by the deputy commissioner and assistant commissioner
Service conditions and Tenure	<ul style="list-style-type: none">• Not specified by the Constitution.
Removal	<ul style="list-style-type: none">• Not specified by the Constitution.
Qualification	<ul style="list-style-type: none">• Not specified by the Constitution.
Powers	<ul style="list-style-type: none">• To investigate all matters relating to the safeguards provided for linguistic minorities under the Constitution.• Report to the President upon those matters at such intervals as the President may direct.
Reports	<ul style="list-style-type: none">• Submits to the President through the Ministry of Minority Affairs.

CONSTITUTIONAL BODIES (PART-2)

Constitutional Bodies are those which have their mention in the constitution of India. Their powers, functions and authorities are derived from the constitution itself and any changes in them would require amendment in the constitution.

In this article, we are providing you with short notes on polity for UPSC IAS prelims which can be utilised for Quick Revision.

CONSTITUTIONAL BODIES IN INDIA: NCBC; ECI; NCSC; NCST AND ADVOCATE GENERAL OF INDIA

NATIONAL COMMISSION FOR BACKWARD CLASSES (NCBC)

Article	<ul style="list-style-type: none">• Constitutional status by 102nd Constitutional Amendment 2018• 338-B and 342A
Appointment	<ul style="list-style-type: none">• By the President of India by warrant under his hand and seal• Chairperson
Composition	<ul style="list-style-type: none">• Vice-chairperson• 3 members

Service conditions and Tenure	<ul style="list-style-type: none"> • Determined by the President of India
Removal	<ul style="list-style-type: none"> • Not Specified
Qualification	<ul style="list-style-type: none"> • Not Specified • To investigate and monitor matters relating to Backward (BCs). • Inquire specific complaints relating to deprivation of rights. • Participate and advice on the planning process.
Powers	<ul style="list-style-type: none"> • To present the President the reports related to BCs. • To make a recommendation for the effective implementation of safeguards. • It has the powers of a civil court.
Reports	<ul style="list-style-type: none"> • To the President of India.
Eligibility for reappointment	<ul style="list-style-type: none"> • Not Specified

ELECTION COMMISSION OF INDIA (ECI)

Article	<ul style="list-style-type: none"> • 324
Appointment	<ul style="list-style-type: none"> • By President of India. • Chief Election Commissioner
Composition	<ul style="list-style-type: none"> • Any numbers of other Election Commissioners President may (Currently 2 members)
Service conditions and Tenure	<ul style="list-style-type: none"> • To be determined by the President. • Six years or 65 years of age, whichever is earlier.
Removal	<ul style="list-style-type: none"> • Same manner as a judge of the Supreme court, i.e., proved misbehavior or incapacity.
Qualification	<ul style="list-style-type: none"> • Not prescribed by the Constitution. • Administrative Functions: <ul style="list-style-type: none"> ○ To determine the territorial areas of the electoral constituencies on the basis of the delimitation commission Act of Parliament. ○ Prepare and revise electoral rolls and register eligible voters. ○ Notify dates for elections – scrutinize nominations. ○ Recognition to political parties and allotting election symbols ○ Preparing roster for publicity
Powers	

- Supervise the machinery of elections throughout the country.

- **Quasi-Judicial Functions:-**

- Settle disputes related to the recognition of political parties allotment of election symbols.
- For inquiring into disputes related to election arrangements.
- To determine the code of conduct during elections for parties candidates.

- **Advisory Functions:-**

- Advise President/ Governor on matters relating to disqualification of the members of Parliament/ State Legislature
- To advise President whether elections to be held in the state under President rule or extend the period of emergency.
- To register political parties and grant them the status of national and state parties.

Reports

- To the President of India.

Eligibility for reappointment

- Not eligible

NATIONAL COMMISSION FOR SCHEDULED CASTES (NCSC)

Article

- 338

Appointment

- President of India by warrant under his hand and seal.

Composition

- Chairperson
- Vice-chairperson
- 3 members

Service conditions and Tenure

- Determined by the President of India.
- 3 years.

Qualification

Not Specified in Constitution

Powers

- To investigate and monitor matters relating to SCs.

			<ul style="list-style-type: none"> • Inquire specific complaints relating to deprivation of rights. • Participate and advice on the planning process. • To present the President the reports related to SCs. • To make recommendations for the effective implementation of safeguards.
Reports			<ul style="list-style-type: none"> • To the President of India
Eligibility for reappointment			<ul style="list-style-type: none"> • Not specified by the Constitution.
Few Other Important Pointers			<ul style="list-style-type: none"> • It has powers of a Civil Court. • Discharges similar functions for Anglo-Indians.

NATIONAL COMMISSION FOR SCHEDULED TRIBES (NCST)

Article			<ul style="list-style-type: none"> • 338-A
Appointment			<ul style="list-style-type: none"> • President of India by warrant under his hand and seal.
Composition			<ul style="list-style-type: none"> • Chairperson • Vice-chairperson • 3 members
Service conditions and Tenure			<ul style="list-style-type: none"> • Determined by the President of India. • 3 years.
Qualification			<ul style="list-style-type: none"> • Chairperson must be a prominent member of ST. • At least 2 of VCs and other members belong to STs. • At least one female member.
Powers			<ul style="list-style-type: none"> • To investigate and monitor matters relating to STs. • Inquire specific complaints relating to deprivation of rights. • Participate and advice on the planning process. • To present the President the reports related to STs. • To make recommendation for effective implementation

safeguards.

- It has powers of a Civil Court.
- Functions given by the President of India in 2005:-
 - Related to ownership rights of STs.
 - Related to improving relief and rehabilitation measures.
 - Ensure full implementation of PESA, 1996
 - Reduce and eliminate shifting cultivation among tribals.

Reports

- To the President of India

Eligibility for reappointment

- Not specified by the Constitution.

Attorney General of India

Article

- 76

Appointment

- President of India

Service conditions and Tenure

- Tenure not mentioned in the Constitution.
- Conditions determined by the President of India

Removal

- Removal by the pleasure of the President of India.
- Resignation to the President of India.

Qualification

- Qualified to be appointed as SC judge.

Powers

- Chief Law officer of the government of India
- Gives advice to GOI on legal matters
- Perform the duties of a legal character
- Discharges functions conferred on him by the constitution.
- President may assign the following duties to AG:-
 - To appear on behalf of the government
 - To represent the government.
 - To appear when required by the government in any High court.
- **Rights**

Privilege

- Right of the audience in all courts.
- Right to speak and take part in the proceedings of both the houses of parliamentary proceedings.

- Does not have the right to vote.
- Enjoys all privileges and immunities that are available to a member of parliament.
- **Limitations**
 - Should not advise against the Government of India.
 - Should not defend accused persons in criminal proceedings
 - Should not accept appointment as director in any company or corporation without government permission.
 - Not a Government servant.

ADVOCATE GENERAL OF STATE

Article	• 165
Appointment	• Governor of the state
Service conditions and Tenure	<ul style="list-style-type: none"> • Tenure not mentioned in the Constitution. • Conditions determined by the Governor of the State.
Removal	<ul style="list-style-type: none"> • Removal by the pleasure of the Governor of the state. • Resignation to the Governor of the state.
Qualification	<ul style="list-style-type: none"> • Qualified to be appointed as HC judge.
Powers	<ul style="list-style-type: none"> • Chief Law officer of the government of the state. • Give advice to the State Government on legal matters • Perform the duties of a legal character. • Discharge functions conferred on him by the constitution. • Governor may assign the following duties to AG:- <ul style="list-style-type: none"> ○ To appear on behalf of the government. ○ To represent the government. ○ To appear when required by the government in any court.
Eligibility for reappointment	• Eligible
Few Other Important Pointers	• Similar to that of Attorney General of India at State level.

INDIAN POLITY NOTES: NON-CONSTITUTIONAL BODIES

Non-Constitutional or **Extra Constitutional bodies** are the same. These **bodies** are not defined in the **Constitution of India**. Such bodies that are not defined in the **Constitution and derive their power** either through some statute or from an **executive order of the government** but not directly from the **constitution**. Let us explore and discuss about such bodies in detail.

Table of Content

- 1. Planning Commission
- 2. NITI (National Institution for Transforming India) Aayog
- 3. National Development Council
- 4. National Human Rights Commission
- 5. Central Information Commission
- 6. Central Vigilance Commission

NON-CONSTITUTIONAL BODIES

1. PLANNING COMMISSION

- Established in March 1950 by an executive resolution of the Government of India, (i.e., union cabinet) on the recommendation of the Advisory Planning Board constituted in 1946, under the chairmanship of K.C. Neogi. Thus, the Planning Commission is neither a statutory institution nor a constitutional one. In other words, it is a non-constitutional or extra-constitutional body (i.e., not created by the Constitution) and a non-statutory body (not created by an act of Parliament). In India, it is the supreme organ of planning for social and economic development. Now, it has been replaced by another body named NITI Aayog from 1st January 2015.
- The P.M of India is the *ex-officio* chairman of the commission. He presides over the meetings of the commission.
- The commission has a deputy chairman. He is the *de facto* executive head (i.e., full-time functional head) of the commission. He is responsible for the formulation and submission of the draft Five-Year Plan to the Central cabinet. He is appointed by the Central cabinet for a fixed tenure and enjoys the rank of a cabinet minister. Though he is not a member of the cabinet, he is invited to attend all its meeting (without a right to vote).
- It is discontinued in 2015 and replaced by NITI Aayog.

2. NITI (NATIONAL INSTITUTION FOR TRANSFORMING INDIA) AAYOG

- It is established in 2015 by the government to replace the Planning commission (was based on top-down model).
- It is based on the bottom-up model.
- It is the policy-making body for whole India.
- The Ex-officio chairman of aayog is prime minister.
- Current Vice President of aayog is Rajiv Kumar.
- Permanent members of the governing council-
 - (a) All state Chief Ministers
 - (b) Chief ministers of Delhi and Puducherry
 - (c) Lieutenant Governor of Andaman and Nicobar
 - (d) Vice chairman nominated by the Prime Minister.

3. NATIONAL DEVELOPMENT COUNCIL

- The National Development Council (NDC) was established in August 1952 by an executive resolution of the Government of India on the recommendation of the first five year plan (draft outline). Like the Planning Commission, it is neither a constitutional body nor a statutory body.
- The NDC is composed of the following members.
 - A. P.M of India (as its chairman/head).
 - B. All Union cabinet ministers (since 1967).
 - C. Chief Ministers of all the states.
 - D. Chief Ministers/administrators of all the union territories.
 - E. Members of the Planning Commission.

4. NATIONAL HUMAN RIGHTS COMMISSION

- The NHRC is a statutory (and not a constitutional) body. It was established in **1993** under a legislation enacted by the Parliament, namely, the **Protection of Human Rights Act, 1993**. This Act was amended in 2006.
- The commission is a multi-member body consisting of a chairman and four members. The chairman should be **retired chief justice of India**.
- The chairman and members are appointed by the president on the recommendations of a **six-member committee** consisting of the prime minister as its head, the Speaker of the Lok Sabha, the Deputy Chairman of the Rajya Sabha, leaders of the Opposition in both the Houses of Parliament and the Central home minister. Further, a sitting judge of the Supreme Court or sitting chief justice of a high court can be appointed only after consultation with the chief justice of India.

- The chairman and members hold office for a term of **five years** or until they attain the age of **70 years**, whichever is earlier. They are not eligible for further employment under the Central or a state government.

5. CENTRAL INFORMATION COMMISSION

- The CIC was established by the Central Government in **2005**. It was constituted through an Official Gazette Notification under the provisions of the Right to Information Act (2005). Hence, it is not a constitutional body.
- The Commission consists of a Chief Information Commissioner and not-more-than ten Information Commissioners.
- They are appointed by the President on the recommendation of a committee consisting of the Prime Minister as Chairperson, the Leader of Opposition in the Lok Sabha and a Union Cabinet Minister nominated by the Prime Minister.
- They should be persons of eminence in public life with wide knowledge and experience in social service, science, and technology, mass media, management, journalism, law, or administration and governance.
- They should not be **M.Ps** or MLAs of any State or Union Territory. They should not hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.
- The term of office is 5 years and/or retirement age is 65 years, whichever comes earlier. They are ineligible for reappointment.
- They can be removed by the President only as per the conditions as mentioned in the case of NHRC.

6. CENTRAL VIGILANCE COMMISSION

- The CVC is the main agency for preventing corruption in the Central government. It was established in **1964** by an executive resolution of the Central government. Its establishment was recommended by the **Santhanam Committee** on Prevention of Corruption (1962–64).
- Thus, originally the CVC was neither a constitutional body nor a statutory body. In **September 2003**, the Parliament enacted a law conferring statutory status on the CVC.
- The CVC is a multi-member body consisting of a Central Vigilance Commissioner (chairperson) and not more than two vigilance commissioners.
- They are appointed by the president by warrant under his hand and seal on the recommendation of a three-member committee consisting of the prime minister as its head, the Union minister of home affairs and the Leader of the Opposition in the Lok Sabha.
- They hold office for a term of **four years** or until they attain the age of **65 years**, whichever is earlier. After their tenure, they are not eligible for further employment under the Central or a state government.

J & K: ARTICLE 35 A

A political storm is brewing up as the central government has sought a "larger debate" over Article 35A of the Constitution, which empowers the Jammu and Kashmir legislature to define "permanent residents" of the state and provide special rights and privileges to them.

Approximately, 1.5 lakh Hindu's, mostly Dalits migrated from West Pakistan in August 1947 as an aftermath of communal partition. These migrants, even after having stayed in the State of J&K for more than 70 years, have been denied citizenship rights to the State. Let's read about this in detail.

What is Article 35A?

Background of Issue:

Jammu and Kashmir became a part of India through the instrument of accession signed by its ruler Hari Singh in October 1947.

After Jammu and Kashmir's accession, Sheikh Abdullah (Sadr-i-Riyasat) negotiated Jammu and Kashmir's political relationship with New Delhi, which led to the inclusion of Article 370 in the Constitution.

However, under the Delhi Agreement 1952 between Sheikh Abdullah and PM Jawahar Lal Nehru, several provisions of the Constitution were extended to Jammu and Kashmir via Presidential Order in 1954 including Article 35A.

Article 35A was added to the Constitution as a testimony of the special consideration the Indian government accorded to the 'permanent residents' of Jammu and Kashmir

Reasons Leading to Art. 35A:

The Kashmir Constituent-cum-Legislative Assembly, using the provisions of Article 370 of Constitution of India, adopted Sections 6, 8 and 9 for incorporation in the J&K Constitution, under which the State was to be governed in the future.

The provisions of Section 6 included the following:

(I) "Every person who is, or is deemed to be, a citizen of India under the provisions of the Constitution of India shall be a permanent resident of the State, if on the fourteenth day of May 1954:

- He was a state subject of class I or of class II, or
- Having lawfully acquired immovable property in the State, he has been ordinarily resident in the State for not less than ten years prior to this date" and

(II) "any person who, before the fourteenth day of May, 1954 was a State Subject of class I or of class II and who, having migrated after the first day of March, 1947, to the territory – now included in Pakistan, returns to state under a permit for resettlement in the State or for permanent return issued by or under the authority of any law made by the State Legislature shall on such return be a permanent resident of the State

(basically meaning that Muslim migrants from Pakistan who had moved to India between March 1947 and May 1954 were given citizenship rights).

However, “no persons who had crossed over to the state of J&K after May 1944 will be considered eligible for citizenship rights”. The prime motive of this legislation was to deny citizenship rights to Hindu migrants from West Pakistan, who had migrated to the State in the wake of the hostile environment that existed during partition.

Sections 8 and 9 further strengthened the hands of the policymakers, as the former gives the State Legislature the right to define Permanent Residents and the latter empowers the State Legislature to alter the definition of Permanent Residents.

What does Article 35A entail?

(a) Defines the classes of persons who are, or shall be permanent residents of the State of Jammu & Kashmir, or

(b) Confers on such permanent residents any special rights and privileges or imposing upon other persons any restrictions, like:

- Employment under the State Government;
- Acquisition of immovable property in the State;
- Settlement in the State; or
- Right to scholarships and such other forms of aid as the State Government may provide, shall be void on the ground that it is inconsistent with or takes away or abridges any rights conferred on the other citizens of India by any provision of this part”.

Article 35A enabled the Jammu & Kashmir Constituent Assembly to deny citizenship rights to the refugees from West Pakistan and all other Indians, barring Permanent Residents of the State.

Major Objections Pertaining to the Provisions of Article 35A

Article 35A was added to the Constitution through a Presidential Order and not by following the procedure prescribed for amendment of the Constitution of India under Article 368, where this Constitutional amendment can only be made through a Parliamentary debate and voting. Hence, its legality is being questioned.

The classification of Permanent Resident Certificate created under the provisions of Article 35A suffers from the violation of Article 14, i.e. “Equality before Law”. Hence, the non-resident Indian citizens cannot have the rights and privileges, the same as permanent residents of Jammu and Kashmir.

Article 35A violates the rights of women to ‘marry a man of their choice’ by not giving the heirs any right to property or given a Permanent Resident Certificate if the woman marries a man who is not a permanent resident.

Safai Karamcharis (scavengers) who were brought to the State in 1957 were promised that they would be given Permanent Resident Certificates on the condition that they and their future generations continued to perform their scavenger duties. However, even after six decades of service in the State, their children are Safai-Karmacharis and they have been denied the right to quit scavenging and choose any other profession.

The industrial sector & private sector is suffering on account of no domestic investments coming in from other parts of India or businesses can be set up in the State due to the property ownership restrictions.

The refugees from West Pakistan who have been staying in J&K for 70 years are unable to enjoy the basic rights and privileges as being enjoyed by permanent residents of Jammu and Kashmir.

Lastly, it gives a free hand to the State government and politicians to discriminate between citizens of India, on an unfair basis and give preferential treatment to the State subjects.

Points in Support of Article 35A

It is being argued that similar provisions have been provided for other states, like Himachal and North Eastern states. However, no objections are being raised over there. Moreover, Article 370 was enacted on 26 November 1949 as part of the Constitution of India by the Constituent Assembly of India which was a sovereign body, and, Article 35A "flows inexorably" from it.

Further, Article 35A protects the demographic status of the Jammu and Kashmir state in its prescribed constitutional form. Any move to abrogate Article 35A would open the gates for a demographic transformation of the valley, amounting to breaking a promise made to the people of J&K at the time of the accession of the State to the Indian Union.

Article 35(A) of the Constitution of India, which has been applied to the State of Jammu and Kashmir, not only recognizes but clarifies the already existing constitutional and legal position and does not extend something new to the state of Jammu and Kashmir.

It is being argued that the provisions of Article 14 (as applicable to the State of J&K) are not being violated as it provides equal protection of laws to all its State subjects/citizens.

Lastly, as pointed out by the ex-chief minister of J&K, Mehbooba Mufti, "if we endeavour to weaken the uniqueness of Kashmir through judiciary, then those forces in Kashmir Valley, who want to put an end to the composite culture in Kashmir Valley and want to have people from one community (Muslims) only, with one attire and one way of life, you will only make them successful".

Way Out:

Article 35A (1954) was incorporated in the Indian Constitution through a Constitutional amendment even before the Constitution of J&K came into existence (1956).

All above-mentioned provisions and legislation were drafted and accepted by 'senior' leaders of Independent India with the concurrence of the people of J&K and hence, it may be unfair to accuse only the people of J&K (Kashmir Valley) of creation / holding to such like provisions.

However, the evolution of a democracy is an ongoing process and it is never too late to bring about corrective actions that are for the overall betterment of the society.

The evaluation of the constitutional validity of Article 35A is what falls within the preview of the judiciary; it is the executive that will have to take the tricky call regarding the abrogation Article 35A. Centre government appointed interlocutor is already in the process of interacting with various stakeholders in the State to obtain their views.

J & K: ARTICLE 370

*“You wish India should protect your borders, she should build roads in your area, she should supply you food grains, and Kashmir should get equal status as India. But the Government of India should have only limited powers and Indian people should have no rights in Kashmir. To give consent to this proposal, would be a treacherous thing against the interests of India and I, as the **Law Minister of India, will never do it”***

These were the words of the law minister, BR Ambedkar who refused to give assent to article 370 which was later incorporated by N Gopalswami Ayyangar on recommendation J.L Nehru.

Article 370 of the Constitution of India grants special status to the State of Jammu and Kashmir, which is a constituent state of the Indian Union.

Signup for Free Mock Test

The article is drafted in Part XXI of the Constitution. All the provisions of the Constitution of India do not apply to the State of Jammu and Kashmir. Also, Jammu and Kashmir is the only Indian state to have its own separate state Constitution i.e. the Constitution of Jammu and Kashmir.

The article that was meant to be a temporary provision but became permanent when the State's constituent assembly dissolved itself on 25 January 1957 without recommending abrogation/ amendment of Article 370.

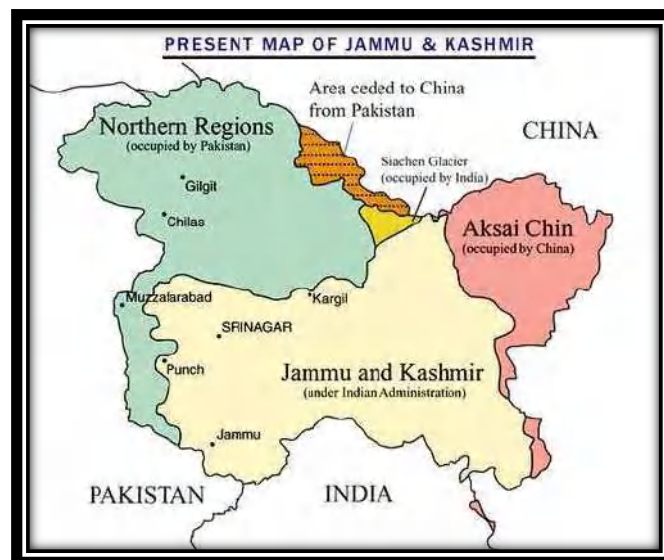
Accordingly, the Indian Parliament needs the State Government's cooperation for applying any law in the State except for three subjects surrendered to the Dominion of India at the time of accession. These are Defence, External Affairs and Communications.

Article 370 would cease to exist if President declares so on the recommendation of Constituent Assembly of the state.

The present relationship of the State of Jammu and Kashmir with the Union is as follows:

1. J&K is the constituent state of the Indian Union, but its name, area or boundary cannot be altered without the consent of its legislature.
2. Part VI of the Constitution of India (regarding State Governments) is not applicable to the state of J&K as it has its own Constitution and the administration works according to that Constitution.
3. The residuary power to make laws belongs to the state except in a few matters. In addition to this, the power to make laws of preventive detention in the state belongs to the state legislature. In other words, the preventive detention laws made by the Parliament are not applicable to the State of J&K.

4. The Fundamental Rights are applicable to the State but the difference is that unlike otherwise, the Fundamental Right to Property is still guaranteed in the state.
5. Directive Principles and Fundamental Duties are not applicable to the State.
6. If National Emergency is declared on the ground of internal disturbance, it would be ineffective in the State except with the cooperation of the state government. Also, the President has no right to declare a financial emergency in the State.
7. The President cannot suspend the Constitution of the State on any grounds, even on the grounds of failure to act in compliance with the directions given by him.
8. The Fifth and Sixth Schedule of the Constitution, dealing with administration and control of scheduled areas and scheduled tribes and tribal areas respectively do not apply to the State.
9. The High Court of J&K unlike the High Courts of other states of India cannot issue a writ for any reason other than the enforcement of Fundamental Rights.
10. The provisions of Part II of the Constitution regarding the denial of citizenship rights of migrants to Pakistan do not apply to the permanent residents of the state of Jammu and Kashmir.



The consequence of Article 370:

Due to this article, the Indians feel alienated to go the land which belongs to each citizen.

The citizens living outside India cannot buy land in J & K.

Any female citizen of J&K if marries any outsider is stripped of its rightful ancestral land.

What if Article 370 is repealed?

Repealing Article 370, which was prescribed in the constitution as a temporary provision has been a debatable issue since then.

The govt if wants in its full capacity can repeal article 370, but thus abrogation could lead to serious consequences:

1. If Art 370 is repealed, then there might be chances that the foreign powers such as Pakistan and China would try and influence people of the valley against India to start protesting against the government.
2. There might be serious repercussions as it will lead to a rise of militancy in Kashmir with greater vigor as people would think it as an act of pressuring them.
3. The image of India being an exemplary democracy would take a severe beating and parallels would be being drawn with countries like Isreal which has forcefully occupied Palestine.

Way Out:

The way out of such a situation is the amendments that are being previously done:

Frequent Confidence Building Measures such as Operation Sadhbhavana by the Indian Army would build trust and faith amongst the people of the country.

Somehow, the arguments in favor and against the abrogation of Article 370 are equally valid and perfectly balanced. People arguing for abrogation of the Article say it has created certain psychological barriers between the state and the rest of the country thereby making it the root cause of all the problems.

Article 370 raises doubt on the union of the state with India. In a way, Article 370 encourages secessionist activities in the country. It constantly reminds that the state of Jammu and Kashmir is yet to merge completely with India.

It is the time to construct a logistic interpretation of the article, keeping in mind the intention of the framers of the constitution.

The framers of the constitution must have incorporated a provision for the amendment with an intention to provide a bit of flexibility to keep pace with ever-changing needs and functions of society.

They never intended to bestow the operation of the constitution with complete rigidity. It is true that the Amendment of Article 370 in present circumstances is nothing else but a myth.

PUBLIC INTEREST LITIGATION (PIL)

The topic 'Public Interest Litigation' forms part of GS paper 2 of UPSC and 'Polity section' of State PCS exams. This is very important from the exam point of view. In this article, all relevant information regarding PILs is well covered.

Public Interest Litigation (PIL)

"Law without justice is wound without care."

Introduction

- Public Interest Litigation(PIL) is a legal measure that can be initiated in a court of law in the interest of nebulous entity or case in which the public or class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected. It is the power given through judicial activism.
- Any citizen can approach the court by filing litigation under Article 32 of the Constitution to the Supreme Court, under article 226 of the Constitution to the High Court and under Section 133 of CRPC to the Court of Magistrate.
- The efforts of Justice P.N.Bhagwati and Justice V.R.Krishna Iyer played key role in bringing this juristic revolution.
- The principles enshrined in Article 39A (Equal justice and free legal aid) of the Constitution are in consonance with the concept of PIL.
- PIL can be filed against the state or central government, municipal authorities, and not any private party. Definition of the state is as given in Article 12 of the Constitution.

Objectives

- To secure equal access to justice for common people, especially destitute, underprivileged masses.
- To broaden the issue that affected classes of consumers and the public at large.
- Rejecting the laissez-faire notion of the traditional justice system.
- To make the judicial process more democratic through awareness, assertiveness and resources for judicial redressal.

Categories that will be entertained as PIL

1. Matters related to bonded labour.
2. Matters related to neglected children.
3. Non-payment of minimum wages to workers.
4. Complaints related to harassment, death in jail, speedy trial etc.
5. Petitions against police for not filing a case, harassment of bride, rape, murder, kidnapping etc.
6. Litigation against atrocities on women.
7. Complaints related to harassment of SC/ST people.
8. Petition pertaining to the environment.

Pros of PIL

- It is a measure that instrumentalises free legal right by giving inexpensive remedy at a nominal rate of court fees.
- The court can focus on larger public interests involving issues related to human rights, environment and consumer welfare.

- When the executive is not performing its duties properly, the judiciary can haul up them.
- Provides check and balance against arbitrary and mala fide use of executive discretion.
- Court orders appointed commission can investigate the matters where the petitioner is socially or economically weak and unable to provide evidence to support his case.
- Poor and exploited people can obtain justice because of radical changes and alterations made in locus standi requirements.
- Provides legal representation to previously unrepresented voices.

Cons of PIL

- It became an instrument of harassing innocents because of frivolous cases that can be filed at nominal fee charges.
- Because of relaxation in locus standi requirements, privately motivated interests pose as public interests.
- Criticism against the judiciary, for judicial overreach and passing of orders that are unable to implement effectively.
- Delayed justice because of the addition of frivolous PIL to already overburdened judiciary.
- Abuse by political pressure groups, NGOs influenced with external interests etc. blocking the developmental process.

Challenges

- Rampant misuse of PIL than its genuine use has generated suspicion in the disguise of so-called public interests.
- Delay in legitimate administrative actions for obtaining political gain by some political pressure groups.
- No clear way to find out vested aims and interests.
- Still, many people are unaware of the mechanism and procedure to file it, limiting its utility.

Landmark Cases

- Hussainara Khatoon vs. the State of Bihar: It is considered as the first case of PIL in India. It was filed by various prisoners of Bihar jail. Supreme court bench headed by Justice P.N.Bhagwati upheld that prisoners should have access to free legal aid and fast hearing.
- People's Union for Democratic Rights vs. Union of India: In this case, the Supreme court held that a third party could seek intervention directly through a letter or other means in case another party's fundamental rights are violated.

- **DC Wadhwa vs. State of Bihar (1986):** Petition was filed by a professor of political science to ensure proper implementation of Constitutional provision. He challenged the practice of re-promulgation of ordinances without getting it passed by the legislature.
- **C.Mehta vs. Union of India(1988):** PIL was filed to prevent Ganga water pollution. Supreme Court, in this case, recognized the right to a healthy environment as a fundamental right under Article 21.
- **Shreya Singhal vs. Union of India:** This was a landmark case for freedom of speech. Supreme Court quashed section 66A which had some arbitrary provision acting against free speech.

Way Forward

- Court need to keep in mind that under the guise of redressing grievances, PIL does not breach the separation of power principle set by Constitution.
- Introduce punishment for those who abuse the power given by PIL.
- The petitioner should be taken into account and proper mechanism should be drawn to ensure responsibility.
- The long-pending decisions should not hinder the development process or be responsible for red-tapism.
- The fast-tracking mechanism can be availed for pending litigations.

Conclusion

PIL is playing key role in bringing social change. It is an institutional innovation for the welfare of society. Looking at changing needs of the time, PIL machinery is undergoing reconstruction or rethinking for development prospects so that deserving people should be awarded justice and those who misuse should be punished.

Indian Polity is an important subject in General Studies sections. In every competitive exam in the GS section, there are questions related to Amendments in the Indian Constitution are asked. In this post, we sharing you with a full list of "Important Amendments in the Indian

CONSTITUTION

India's constitution is neither rigid nor flexible. Parliament is empowered to amend the Indian

Constitution under Article 368, subjected to 'Basic structure of Constitution'. It is done in three ways:

1. By simple majority
2. By special majority
3. By special majority with ratification by half of the states.

Important Amendments in the Indian Constitution

First Constitutional Amendment Act, 1951

- Added Ninth schedule to protect land reforms and other laws from the scrutiny of Judicial review.
- Insertion of new Article 31A and Article 31 B.
- Amended Article 19 by adding three more ground of reasonable restriction on freedom of speech and expression.

Seventh Constitutional Amendment Act, 1956

- State reorganization on a linguistic basis. Abolished classification of states into four categories and reorganized them into 14 states and 6 UTs.
- Appointment of a Governor for two or more states.
- Establishment of common High Court for two or more states, extended jurisdiction of the High Court to union territories. Appointment of additional and acting judges of High Court.
- Insertion of new Article 350 A (instruction in mother-tongue at primary education to children belonging to linguistic minority) and 350B (Special Officer for linguistic minorities is provided) in part XVII.

Eighth Constitutional Amendment Act, 1960

- Extended reservation of seats for the SCs and STs and special representation for Anglo-Indians in the Lok Sabha and state legislature.

Twenty-Fourth Constitutional Amendment Act, 1971

- Amended Article 368 and Article 13, affirming the power of Parliament to amend any part of the Constitution including fundamental rights.
- When an amendment to the Constitution adopted by both Houses of Parliament is submitted to the President for his approval, he is obliged to give his consent.

Twenty-Fifth Constitutional Amendment Act, 1971

- Curtailment of the fundamental right to property.
- Insertion of new Article 31 C, which provides that if any law is passed in order to give result to the DPSP contained in 39(b) and (c), that law will not be considered to be void on the ground that it removes or reduces any of the rights under Article 14, 19 or 31 and will not be challenged on the ground that it doesn't give effect to those principles.

Twenty-Sixth Constitutional Amendment Act, 1971

- Insertion of Article 363 A giving effect to the abolishment of Privy purse paid to former rulers of princely states.

Forty-Second Constitutional Amendment Act, 1976

- Amendment in Preamble by addition of three words- 'Socialist', 'Secular' and 'Integrity'.
- Addition of new Part IVA (Article 51 A) for fundamental duties.
- Insertion of new Article 31 D for saving laws in respect of anti-national activities, taking precedence over fundamental rights.
- Insertion of new Article 32 A for Constitutional validity of State laws not to be considered in proceedings under Article 32. Also added Article 226 A for

Constitutional validity of Central laws not to be considered in proceedings under Article 226.

- Insertion of three new Articles regarding DPSP.
 - (i) Article 39 A: Free legal aid and Equal justice
 - (ii) Article 43 A: Participation of workers in the management of industries and
 - (ii) Article 48 A: Protection and improvement of environment and safeguarding of forests and wildlife.
- Curtailment of power of Supreme Court and High Court with respect to judicial review and writ jurisdiction.
- Made Constitutional amendment beyond judicial review.
- The tenure (period) of Lok Sabha and State Legislative assemblies raised to 6 years by amending Article 83 and Article 172.
- Frozen seats in Lok Sabha and State
- Parliament is empowered to decide the powers, privileges and immunities of the members and the committees of each House of Parliament and State Legislature by amending Article 105 and Article 194.
- Added new Part XIV regarding administrative tribunal and tribunal for other matters under Article 323 A and 323 B.
- Addition of new Article 257 A for assistance to States by the deployment of armed forces or other forces of the Union.
- Creation of All India Judicial Services under Article 236.
- Facilitated a Proclamation of emergency in operation in any part of the territory of India.
- Made President bound by the advice of Council of Ministers by amending Article 74.
- Amendment in Seventh Schedule by shifting five subjects from the state list to the concurrent list

These are: (a) education, (b) forests, (c) protection of wild animals and birds, (d) weights and measures (e) administration of justice.

- Extended one-time duration of President's rule from six months to one year.

Forty-Fourth Constitutional Amendment Act, 1978

- Substituted term 'Armed rebellion' with earlier 'Internal disturbance' in case of national emergency.
- President can proclaim emergency only on the basis of written advice tendered by the cabinet.
- Removal of right to property from the list of fundamental right and recognized as a mere legal right.
- Provided that during national emergency fundamental right guaranteed under Article 20 and Article 21 cannot be suspended.
- Restored the original term of Lok Sabha and State Legislative assembly to five years.
- Restored the power of Election Commission in deciding matters related to election dispute of President, Vice-President, Prime Minister and Speaker of Lok Sabha.
- Guaranteed right of the media to report the proceedings in Parliament and the State Legislatures freely and without censorship.
- Set some procedural safeguards with respect to a national emergency and President's rule.
- Restored the powers of Supreme Court and High Court taken away in earlier amendments.
- In the case of issuing ordinances, the amendment did away with the provision that made the satisfaction of the President or Governor as final justification.
- President can now send back the advice of cabinet for reconsideration. Reconsidered advice, however, is binding on the President.

Sixty-First Constitutional Amendment Act, 1988

- Proposed to reduce the voting age from 21 years to 18 years for Lok Sabha and State legislative assembly election.

Sixty-Ninth Constitutional Amendment Act, 1991

- Granted the National Capital a special status among the Union territories to ensure stability and permanence. Amendment also provided with a Legislative Assembly and a Council of Ministers for Delhi.

Seventy-Third Constitutional Amendment Act, 1992

- Added new Part IX that gave Constitutional status to the Panchayati Raj Institution.

Inserted new Eleventh schedule having 29 functions of Panchayat.**Seventy-Fourth Constitutional Amendment Act, 1992**

- Granted Constitutional status to Urban Local Bodies. Added 'The Municipalities' as new Part XI-A in the Constitution. Inserted Twelfth schedule having 18 functions of the municipality.

Eighty-Fourth Constitutional Amendment Act, 2002

- Readjustment and rationalization of territorial constituencies, without altering the number of seats allotted in the Lok Sabha and State Legislative assemblies to be fixed on the basis of 1991 census till 2026.

Eighty-sixth Constitutional Amendment Act, 2002

- Inserted new Article 21-A in the Constitution which provided for free and compulsory education to all children of the age of 6 to 14 years.
- Inserted Article 51-A as a fundamental duty which provided for the education of a child between the age of 6 and 14 years.
- Changes in the DPSP Article 45 which provided free and compulsory education for all children up to the age of 14 years.

Eighty-Seventh Constitutional Amendment Act, 2003

- Readjustment and rationalization of territorial constituencies in the states to be fixed as per 2001 census instead of earlier 1991 census.

Eighty-Ninth Constitutional Amendment Act, 2003

- Creation of two separate bodies out of combined body namely 'National Commission for Scheduled Castes' under Article 338 and 'National Commission for Scheduled Tribes' under Article 338-A.

Ninety-First Constitutional Amendment Act, 2003

- Inserted new clause Article 75 (1A): provides that the total number of ministers, including the PM, in the COM shall not exceed 15% of the total number of members of LS.

PM- PRIME MINISTER COM- COUNCIL OF MINISTERS LS- LOK SABHA

- Inserted fresh clause Article 75 (1B): Provides that a member of either House of Parliament belonging to any political party that is disqualified on grounds of defection from being a member of that House shall also be disqualified from being a Minister.
- New clause Article 164(1A): Provides that the total number of ministers, including the CM, in the COM shall not exceed 15% of the total number of members of the State Legislative Assembly.

CM- CHIEF MINISTER COM- COUNCIL OF MINISTERS

- Inserted new clause Article 164 (1B) which says, a member of Legislative assembly of the State or either House of State Legislature belonging to any political party who is disqualified on the ground of defection for being a member of that House shall also be disqualified to be appointed as a minister.
- Removal of the provision in Tenth Schedule pertaining to an exemption from disqualification in case of the split by one-third members of the legislature party. Ninety-Seventh Constitutional Amendment Act, 2011
- It gave Constitutional protection to Co-operative societies by making the following changes.
- Right to form Co-operative society as a fundamental right under Article 19.
- Insertion of the new Directive Principle of State Policy under Article 45-B for **promotion of Co-operative societies**.
- Added new Part IX B under the Constitution as 'The Co-operative societies' under Article 243-ZH to 243-ZT.

Ninety-Ninth Constitutional Amendment Act, 2014

- Insertion of new Article 124-A which provided for the establishment of National Judicial Appointments Commission (NJAC) for the appointment and transfer of judges of the higher judiciary. However, it was later struck down by apex court and held as unconstitutional and void.

Hundredth Constitutional Amendment Act, 2015

- This amendment gave effect to the acquisition of territories by India and transfer of certain territories to Bangladesh in pursuance of the Land Boundary Agreement and

its protocol entered into between the Governments of India and Bangladesh.

Hundred and First Constitutional Amendment Act, 2016

- Insertion of new Article 246-A, 269-A and 279-A for enrollment of Goods and Service Tax (GST) that made changes in Seventh Schedule and course of inter-state trade and commerce.

Hundred and Second Constitutional Amendment Act, 2018

- It provided for the establishment of National Commission for Backward Classes (NCBC) as a Constitutional body under Article 338-B of the Constitution. It is vested with the responsibility of considering inclusion and exclusion of communities in the list of backward communities for reservation in jobs.

Hundred and Third Constitutional Amendment Act, 2019

- In relation to the current reservation, the reservation of up to 10% for "economically weaker segments" in academic organizations and government jobs has been made.
- It gives effect to the mandate of the Directive Principle of State Policy under Article 46.
- It added new provisions under Article 15 (6) and Article 16 (6) to permit the government to ensure the advancement of "economically weaker segments."

LOCAL GOVERNMENT SYSTEM IN INDIA

Panchayati Raj System is a significant landmark in the evolution of grass root democratic institutions in the country. It showcases Representative democracy turning into a participative democracy. Ministry of Panchayati Raj celebrates 24th of April, every year, as **National Panchayati Raj Day** as on this very day, the 73rd Constitutional Amendment Bill got the President's assent. This gave constitutional backing to the Panchayati Raj Institution in India.

LOCAL GOVERNMENT SYSTEM IN INDIA

BACKGROUND

Local self-government in India has been a topic of debate even before independence. Where few like Gandhi, wanted village republics and principle of subsidiarity, Nehru and Ambedkar favoured a strong centre. Due to the differences, only Panchayati raj got mentioned in the constitution at the time of its framing under DPSP. However, after several deliberations and bills, ultimately in 1992 through 73rd and 74th Amendment acts, Panchayati raj and urban governance were given constitutional status respectively.

Evolution of Panchayati Raj System

The first Panchayati raj system in India was established by the state of Rajasthan in 1959, in Nagaur district followed by Andhra Pradesh. Thereafter the system was adopted by most of the states. The major concern regarding the local self-government was its architecture, amount of power to be devolved, finances etc. Several committees were constituted by respective union governments to devise a method for the same.

Some of the **important committees** are:

1. Balwant Rai Mehta Committee
2. Ashok Mehta Committee
3. G V K Rao Committee
4. L M Singhvi Committee
5. Thungon Committee
6. Gadgil Committee

After several committees, Rajiv Gandhi government introduced 64th constitutional amendment bill however it was defeated in Rajya Sabha on the ground that it sought to strengthen centralization in the federal system. However, the Narasimha Rao government modified the bill removing all the controversial aspects and introduced the bill. Both the 73rd and 74th amendment act was hence passed to give constitutional status.

73rd Constitutional Amendment Act of 1992

Salient features of the act

- The act added Part-IX to the constitution of India named as “The Panchayats”. It contains provisions from Article 243 to 243 O. Also a new schedule, the eleventh schedule was added which deals with 243 G. It has 29 functional items of the panchayats.
- The act gave practical shape to a DPSP, Article 40 of the constitution.
- The act consists of some mandatory and few voluntary provisions to be adopted by states.
- Gram Sabha acts as the foundation of the Panchayati raj system. The body consists of all persons who are registered as electorates in the corresponding villages. It also provides for a mandatory three-tier structure (village, intermediate and district levels) bringing uniformity throughout the country. But a state with a population less than 2 Million are exempted from constituting at an intermediate level.
- The Act provides that all members at all the three levels shall be elected directly by the people. Chairman at the upper two levels shall be elected indirectly and it is voluntary on the state legislature to have provisions regarding panchayats.

- Seats are reserved for SC and ST in every panchayat in proportion to their population. It is on the state to make voluntary provisions regarding reservations of offices of chairperson at all three levels. Also, not less than 1/3rd of the seats and office of the chairperson shall be reserved for women.
- The panchayats shall be of 5 years' duration and the elections shall be constituted before the expiry of the tenure of existing.
- The act creates a post of state finance commission and state election commission for the devolution of finances and conduct of elections respectively. It would upon the state to decide the ways of auditing and mechanisms for accounts of panchayats.
- The Act gives power to the state legislative assembly to formulate laws regarding finances of panchayat and how and on what terms they can levy, collect and appropriate taxes.
- Several states and areas are exempted from the law. Also in the scheduled areas under schedule fifth, PESA Act of 1996 shall be applied. The president may direct, how the provisions of the act should apply to union territories.

Reasons for ineffective performances

- Although given constitutional status, it is said that the act only provides skeleton leaving much on the state to decide. Several states have not taken adequate mechanisms to strengthen grass-root democracy.
- There has been reluctance in the transfer of 3Fs (Funds, Functions and Functionaries). They are hence unable to discharge the responsibilities. It is imperative that they should have enough funds to work, however, neither they have the power to charge nor finances are devolved from states or centre.
- It is seen that the auditing mechanisms are very weak and there is immense corruption among the leaders in the panchayats. There are no regular meeting of Gram Sabha and also many times, the panchayats even in reserved areas are dominated by upper castes.
- Bureaucracy has got immense power in the country and further many a times gram panchayats have been placed as subordinates to them. Even, due to egoistic nature and apartheid, there is little respect provided by the bureaucrats to the leaders.
- Many a time, funds are tied to certain schemes or policies and panchayats have been made only an executive body. They despite knowing the problems at grass root cannot take decisions to spend the funds themselves.
- The state acts do not lay out the powers of the Gram Sabha. Even procedures for their functioning has not been stated. They can be a powerful body to evaluate and audit policies and schemes and their execution at all three levels of government.
- Infrastructure is in a very poor state. They lack offices, computers and internet connections. The database for planning, monitoring etc. is absent in many cases. Also, the panchayats lack optimum human resources. Many representatives are semi-literate or illiterate and do not have digital knowledge.

- Also, there have been cases of Pati Panchayat where powers are in the hands of the husband even if a woman is elected from there.

Way Forward

- States should devise proper mechanisms to devolve funds to the panchayats. They should be conferred power to generate their own revenue. This can be done by including the third tier in GST or can tax lands or local activities. State finance commission should be empowered and it should make the governments accountable regarding this.
- Proper uniform cadre should be created for the panchayats. Education programs for the representatives should be conducted, teaching them about their powers, roles and responsibilities.
- Powers of the panchayats should be properly demarcated. Gram Sabha should be empowered and regular meetings must be conducted. It should take place under a video recording camera. Social auditing mechanisms should be developed.
- Office building and infrastructure creation should be linked to the MGNREGA so that employees can also be created.

SCHEDULES OF INDIAN CONSTITUTION

Original Constitution of India contains only 8 schedules. However, 4 more schedules were added later. In this blog, we have furnished the list of 12 schedules of the Indian Constitution in table below.

For the first time, schedules were introduced by the **Government of India Act, 1935**, which had 10 schedules. After independence, the Indian Constitution had contained 8 schedules only. Later, four more schedules were added by various amendments as under:

- Ninth Schedule was added by the Constitution (First Amendment) Act, 1951.
- Tenth Schedule was added by the Constitution (Fifty-second Amendment) Act, 1985.
- Eleventh Schedule was added by the Constitution (Seventy Third Amendment) Act, 1992.
- Twelfth Schedule was added by the Constitution (Seventy Fourth Amendment) Act, 1992.

12 Schedules of Indian Constitution

S. No.	Schedule	Articles Under the	Contains Provisions relating to
1	First Schedule	Articles 1 and 4	Name of the state and union territories and territorial jurisdiction of States

			Allowances, privileges, and emoluments of:
			<ul style="list-style-type: none"> • President of India • Governors of Indian States • Speaker of Lok Sabha & Deputy Speaker of Lok Sabha • Chairman of Rajya Sabha & Deputy Chairman of Rajya Sabha • Speaker and Deputy Speaker of Legislative Assemblies of Indian States • Chairman and Deputy Chairman of Legislative Councils of the Indian States • Supreme Court Judges • High Court Judges • Comptroller & Auditor General of India (CAG)
2	Second Schedule	Articles: 59, 65, 75, 97, 125, 148, 158, 164, 186 & 221	Forms of oath and affirmation of office for:
			<ul style="list-style-type: none"> • Union Ministers of India • Candidate for election to Parliament • Members of Parliament (MPs)
3	Third Schedule	Articles 75(4), 84, 99, 124(6), 148(2), 164(3), 173, 188 and 219	<ul style="list-style-type: none"> • Judge of a Supreme Court • Comptroller and Auditor General • State Ministers • Candidate for election to the Legislature of a State • State Legislature Members • Judge of a High Court
4	Fourth Schedule	Article 4 and Article 80	Allocation of seats for States and Union Territories in the Council of States (Rajya Sabha)
5	Fifth Schedule	Article 244	Administration and Control of Scheduled Areas and Scheduled Tribes .
6	Sixth Schedule	Article 244 and Article 275	Administration of tribal areas in the states of Assam, Meghalaya, Tripura and Mizoram (AMTM).
			Classification of the law making power of Centre and the states into three lists:
7	Seventh Schedule	Article 246	<ol style="list-style-type: none"> 1. Union List 2. State List 3. Concurrent List

the list of 22 scheduled Languages:

1. Assamese
2. Bengali
3. Bodo
4. Dogri (Dongri)
5. Gujarati
6. Hindi
7. Kannada
8. Kashmiri
9. Konkani
10. Mathili (Maithili)
11. Malayalam
12. Manipuri
13. Marathi
14. Nepali
15. Oriya
16. Punjabi
17. Sanskrit
18. Santhali
19. Sindhi
20. Tamil
21. Telugu
22. Urdu

8 Eighth Schedule Article 344 and Article 351

9 Ninth Schedule Article 31-B

10 **Tenth Schedule** Article 102 and Article 191

11 Eleventh Schedule Article 243-G

12 Twelfth Schedule Article 243-W

Validation of certain Acts and Regulations.

Disqualification of the members of Parliament State Legislatures **on ground of defection.**

Powers, authority and responsibilities Panchayats

Powers, authority and responsibilities Municipal Corporations, Municipalities etc.

CENTRE-STATE RELATIONS

“Though the country and the people may be divided into different states for convenience of administration, the country is one integral whole, its people a single people living under a single imperium derived from a single source.”

- Dr B.R.Ambedkar

India has a history of colonial rule, suppressed liberties and economic exploitation and in order to deal with that our Founding Fathers opted for a 'Union of States' with a strong Centre to make sure that the country did not have to suffer any challenge to its integrity again.

Centre-State Relations in India can be studied under the following heads: -

- I. Legislative relations
- II. Administrative relations
- III. Financial relations

Legislative relations

Articles 245 to 255(Part XI) of the Constitution deal with the legislative relations between the Centre and the State.

Territorial extent:

The Parliament has the power to create or amend laws for the whole or any part of the territory of India.

The territory of India comprises the states, UTs and any other area for the time being included in the territory of India. While the state legislature can make laws for whole or any part of the state.

Additionally, The Parliament can solely make 'extra-territorial legislations' thus the laws of the Parliament are applicable to the citizens of India and their properties in any part of the world.

Distribution of Legislative subjects:

The union can exclusively make laws on subjects in Union List, States can exclusively make laws on subjects in the state list, and both union and states can make laws on Concurrent list, but the laws of the Union will prevail. The constitution has vested the residuary powers (subjects not enumerated in any of the three Lists) with the Union Parliament.

Parliamentary legislation in the state field:

Can be in the following 5 circumstances: -

1. If Rajya Sabha passes a resolution in the national interest (Art.249)
2. Under Proclamation of National Emergency (Art.250)
3. To Implement international agreements (Art. 253)
4. When states make a request (Art. 252)
5. Under Proclamation of Presidents Rule (Art. 356)

Centre's control over State Legislation:

The Constitution has empowered the centre to exercise control over the state's legislature in certain cases in the following manner:

1. The governor can reserve certain kinds of bills that are passed by the state legislature for consideration of the President, and the President has an absolute veto over such bills.
2. Bills on such matters that are present in the State List can be tabled in the state legislature only with the initial sanction of the President such as imposing a restriction on freedom of trade & commerce.
3. The President can give direction to the states for reserving money bills and other such finance bills passed by the state legislatures for his/her consideration during a financial emergency.

Administrative Relations:

Article 256 to 263 covers the administrative relationship between the centre and the states. Article 256 conveys that "the executive powers of every State shall be so exercised in order to ensure compliance with the laws framed by the parliament and any other existing laws which are applied in that State, and the executive power of the Union shall extend to giving of such directions to State as may appear to the Government of India to be necessary for that purpose".

Centre-State Relations during Emergency:

1. During the national emergency (as per Article 352), the state government becomes subordinate to the central government and All the executive functions of the state come under the direct control of the union government.
2. During a state emergency, the president can assume to himself all or any of the functions of the Govt of the State as well as all or any of the powers vested in or exercisable by the Governor or authority in the State other than the Legislature of the State.
3. During the operation of financial emergency, the Union may provide directions to any State to observe any such canons of financial propriety as may be specified in the directions, and also to the giving of such other directions as the President may deem adequate and necessary for the purpose.

Financial Relations:

Article 268 to 293 covers the provisions of financial relations between Centre and States. They deal with distribution of tax revenue, grant in aids, etc.

Finance Commission (Art. 280): is constituted every 5 years by the President for redistribution of tax revenue among centre and states.

The Finance Commission recommends the President as to:-

1. The distribution between the Union & the States of the net proceeds of the taxes to be divided between them and allocation between the States of respective shares of such proceeds;
2. The principles which should govern grants-in-aid of the revenues of the States out of the Consolidated Fund of India;
3. Measures that are needed to augment the Consolidated Fund of State so as to supplement the resources of the Panchayats as well as Municipalities in the State;
4. Any other matters referred to the Commission by the President in the interest of sound finance

Trends in Centre-state relations

The most recent is the move to abrogate Art. 370 to fully integrate the state of Jammu Kashmir and Ladakh. It transformed a state into a UT thus sparking of new debates on centre-state relations.

Major areas of tensions between Centre and State: -

1. Mode of appointment and dismissal of the governor
2. Discriminatory and partisan role of governors
3. The imposition of Presidents' rule for partisan reasons
4. Discrimination in financial allocation to states
5. Management of All India Services
6. Encroachment by the centre of state subjects

Sarkaria Commission

The Sarkaria Commission was formed by the central government in 1983 in order to examine the centre-state relationship in various fields and provides suggestion within the constitutional framework. The Commission submitted its report in 1988, with the following recommendations:-

1. Uses of article 356 of the constitution should be made sparingly, and all possibilities for forming an alternative government should be explored before imposing Article 356 in the state. The state assembly must not be dissolved unless the proclamation is approved by the parliament.
2. Formation of the inter-governmental council consisting of the prime minister & chief ministers of states to discuss collectively on various canons of governance that cause friction between the centre and states.
3. It favoured for the determination of terms of reference of the finance commission in consultation with the state governments and also setting up of similar expert bodies at the state level was suggested.
4. The high courts' judges should not be transferred without their consent.
5. The three-language formula must be implemented in its true spirit in all the parts of India.

Punchi Commission

The Government of India constituted the Punchi Commission in 2007 to examine centre-state relations. Commission was chaired by the former Chief Justice of India M.M. Punchi. It submitted its report in 2009 with the following recommendations :

1. It called for providing a fixed term of five years to the governors and also their removal via the process of impeachment (similar to that of the President) by the State Legislature.
2. The governor should have the power to sanction prosecution of a minister against the advice of the council of ministers.
3. It called for amending Articles 355 and 356 to enable the centre to bring specific trouble-torn areas under its rule for a limited period. Hence, it proposed 'localising emergency provisions' under which either a district or parts of a district can be brought under the central government instead of the whole state, a further Such an emergency should not be for more than three months.
4. It proposed that the Centre should have the power to deploy its forces in case of communal conflagration without the state's consent for a short period of a week.

The Constitutional scheme is sound in its fundamentals and can withstand the challenges thrown up by globalisation, technological developments and security threats, provided political leadership at the Central, State and local levels organise governance in the spirit of the Constitution.

More from Us:

STRENGTHENING PARLIAMENTARY SYSTEM

Parliament being the chamber of deliberation is also the supreme institution of lawmaking. One can't deny the fact that the supreme institution of accountability in the country is the Parliament itself. So as to ensure the development of a country, Parliament plays a major role.

As there are six parameters given by the World Bank on the basis of which, the performance of the Parliament of a specific country is evaluated. The parameters include- Financial accountability, Rule Compliance, Efficiency, Effectiveness, Relevance and Sustainability. But in all the above-mentioned parameters, the performance of the Indian Parliament is less than an average which henceforth justifies the fact that it is the need of an hour to strengthen the Parliamentary institutions for the effective and the smooth functioning of the Parliament.

Following factors are responsible for the inefficient working of Parliament. These are-

- **Lack of women representatives:** Women representatives in the Parliament are very low in numbers which results in the lack of effective debates and discussions regarding the problems which women are facing along with the heinous crimes against them with that much intensity. Thus, The Women's

Reservation Bill was conceived in 1996 by Geeta Mukherjee Committee for 33% reservation of women in Lok Sabha and State legislative assemblies. The Rajya Sabha gave its assent in 2010, but Lok Sabha never voted on the Bill. In the recently held 17th Lok Sabha election, women representative constituted 14% of the total seats which is a record high in the world's largest democracy, but still well below the global average of nearly one in four seats.

- **Non- productive sessions:** One of the reason is that the Parliamentarians themselves do not comply with the rules of procedures made by themselves. Thus, our former Vice President Hamid Ansari has remarked Parliament as 'chamber of anarchy'. Another factor is the lack of efficient and productive debates and discussions over there. M.P.'s are always provided with week advance notice regarding the topic of debate/discussion but, in spite of that, there are mere disruptions in the House during the time of debates.
- **Destructive Opposition:** Opposition plays a major role in analysing the loopholes of governmental processes as it is central to parliamentary democracy, but every time, they deviate from the significant issues and keep playing the blame game with the other parties.
- **Inefficient functioning of Committee systems:** Parliamentary Committees have a tenure of one year. Also, they don't have any constraints to meet throughout the year. Thus, members of them are replaced after every one year, and the quality of research is not enhancing as the members are not given the time of more than one year for their research. It can be analysed by the fact of how far there committees reports are contributing to debates in the Parliament.
- **Lack of blue-chip researchers:** Of panels of experts on the specific subject areas is one of the major issues. Thus, the prominent research in some areas is not feasible as the ministers themselves can't analyse the difficult situation due to lack of knowledge.

Steps Taken To Strengthen Parliamentary Institutions

To improve the quality of debates and discussions, steps have been taken by the Parliament including organising training programmes for Members of Parliament along with visits in other parliamentary and commonwealth countries so as the interaction with the parliamentarians of various countries would enhance the skills and add value to their capabilities. Moreover, ten recommendations regarding the smooth functioning of Parliament have adopted in the 18th All India Whips conference on 8th January 2018 including reforms of Zero Hour for an immediate reply and Action taken the report from concerned Ministry, Legislative work for more working days in the Parliament etc.

Suggestions

- **Building a better image of Parliament:** Parliament is the communication link between the people and the government. Bad public relations job has resulted in a poor image of Parliament and of its members. People talk of happenings in Parliament and of the M.P.s as things quite remote and different from themselves. It is requisite to establish a new rapport between the people and the Parliament. The people should be aware of what their representatives are

doing for them. Better press and public relations job and image-building for Parliament are legitimate and necessary, and there should be no hesitation to use the latest tools and techniques for the purpose. The mass media - the radio, television, newspapers, films etc. should all be suitably harnessed to the service of Parliament. These, particularly the print and electronic media, can play a vital role in building a healthy image of Parliament. The recent innovations of televising the Question Hour and other important debates would go a long way to bring Parliament to the door-steps of the people.

- **Panchayats and Parliament:** The role of M.P. must undergo change as a result of Panchayati Raj. Ideally, MPs are Members for the whole of India and should deal basically with the national issues leaving the local issues to the care of Panchayats and Nagar Palikas. Schemes like the ones placing two crores of rupees each year at the discretion of each M.P. to be spent on local projects are bound to create role conflicts and tensions.
- **Improving the quality of Members of Parliament:** Quality of Members is the most crucial variable in the working of any Parliament in as much as a Parliament would be what its members make of it. Members of important parliamentary committees require to lay down a strict code of conduct for themselves, never to ask the senior Govt officers appearing before the Committee for personal favours, avoiding Committee tours unless really required and never accept any gifts, dinners, free transport, five-star hospitality and the like while on tours.
- **Planning Legislation and improving its Quality:** Indian Legislation has often been criticised for hasty drafting and for its being rushed through the Parliament in an ad hoc and haphazard manner. There is a need for a dynamic (not mechanical) approach to legislative engineering and systematic programming of laws which may be proposed for enactment over a period of time. This can be done by:
 - streamlining the functions of the Parliamentary and Legal Affairs Committee of the Cabinet;
 - making greater use of the Law Commission;
 - setting up a new Legislation Committee of Parliament to oversee and coordinate legislative planning; and
 - referring all Bills to the newly set-up Departmental Standing Committees for consideration and scrutiny, consulting concerned interest groups and finalisation of the second reading stage in the relaxed atmosphere of Committees aided by experts thereby reducing the burden of the House without impinging on any of its rights and improving the quality of drafting and content of Legislation.
- **Codifying Parliamentary Privileges:** In a democratic society, any privileges for a section or class of the people are anachronistic, any undefined privileges like the privileges of Parliament are even more so. For this reason, It becomes the utmost importance that the weapon of parliamentary privileges is used with great circumspection. These privileges must not be allowed to be used in such a manner as to nullify themselves and become rights against the people. Time is now ripe for removing the currently existing uncertainty and anxiety of the people and the press through early codification. A Joint Parliamentary

Committee may be set up to lay down the privileges in precise terms and to recommend appropriate piecemeal or comprehensive Legislation.

To ensure effective functioning, minimum sitting along with the longer parliamentary tenure is the need of an hour. As the debates are the embodiment of the democratic process, so as to serve the purpose, it should be required to enhance the quality of debate. Moreover, to deal with the disruptions, more powers should be provided to the presiding officers. A holistic approach should be adopted for Legislation, along with the best researchers. Whips should be relaxed in ordinary Legislation and strengthening the backbone of Parliament, i.e. The parliamentary Secretariat along with Members of Parliament is to be done.

Comparison of the Indian Constitutional Scheme with that of Other Countries

A constitution is a set of rules and fundamental principles according to which a country should be governed. It is a document that contains detail description of power distribution, citizen rights and duties of various organization of the government i.e. legislature, executive and judiciary.

CONSTITUTION OF INDIA: AT A GLANCE:

Indian constitution is one of the unique constitutions with its content and spirit. The constitution of India was framed by constituent assembly under the scheme formulated by cabinet Mission plan in 1946 under the president of constituent assembly Dr Rajendra Prasad and chairman of the drafting committee Dr B.R. Ambedkar. The constitution was adopted on November 26, 1949.

The constitution of India is the lengthiest of all written constitution of the world. Although borrowed from almost every constitution of the world, the framers tried to borrow the best features of each of the existing constitution and modified that according to the conditions and needs of the country. Some of the important features of the Indian constitution include sources from the **Government of India Act 1935**. Presently, it consists of a Preamble, about 465 articles and 12 schedules.

The constitution of India describes India as a 'Union of state' and an independent Socialist Secular Democratic Republic with a parliamentary form of government.

Some of the salient features of the Constitution of India:

- **Lengthiest Written Constitution-** Due to geographical and historical factors, a single constitution for both the centre and the state and imaginative ambition of the nationalist leaders.
- **Blend of Rigidity and Flexibility-** Article 368 provides for two types of amendments, one with the special majority of the parliament and other special majorities of the Parliament and with the ratification by half of the total states.
- **The federal system with unitary bias-** Indian Constitution contains all the usual features of the federation such as two governments, division of

powers, bicameralism etc. while unitary features like single citizenship, single constitution, emergency provision etc.

- **Parliamentary Form of Government** - The parliamentary system is based on the principle of cooperation and coordination between legislative and executive organs. President is the nominal executive and the prime minister is the real executive. It is also known as 'Westminster' model of government
- **The sovereignty of Parliament**- The doctrine of the sovereignty of parliament is associated with the British parliament with one difference where the British state has hereditary head called monarchy whereas in case of India has an elected head.
- **Fundamental Rights** – The fundamental Rights are meant for promoting the idea of political democracy and operate as limitations on the tyranny of the executive and arbitrary laws of the legislature.
- **Citizenship**- The Indian Constitution is although federal but it provides for only single citizenship.

As most of the features of the constitution of India borrowed from several countries. Here are some of the comparisons of the constitution with other countries:

1. Written Constitution- A written constitution is a formal legal document defining the nature of the constitution, the rules that govern the political system, governments and the rights of the citizen in a codified manner. A written constitution is an absolute must for the rule of law.

- India- longest Written constitution
- British- most important feature of the British constitution is its unwritten character because it is based on conventions, common law, statutes, charters and political traditions which have not been laid down in any document.
- USA- American constitution is the shortest and the first written constitution. The US constitution came through a convention in 1787.
- France- French constitution is the only Democratic constitution based on the principle of supremacy of Executive. Due to political instability, France has changed its constitution very often, presently the constitution of the 5th republic provides a strong president with a fixed term of 5 years.

2. Flexible or Rigid- A flexible constitution can be changed by simple majority or ordinary law while a rigid constitution is one which can be altered by a special procedure of amendment.

- India-The Indian constitution is more flexible than rigid as some provision of the constitution can be amended by a simple majority of parliament but due to regional parties, it is becoming difficult to amend the constitution as some of the amendment requires the consent of the half states.
- British- The British constitution is the most flexible constitution as it can be passed, amended and repealed by a simple majority of the parliament. There is no distinction between ordinary law and constitutional law. Due to its flexibility, it provided for the continuation of constitutional monarchy and virtue of adjustability and adaptability with the growing needs of the time.

- USA- American constitution is the most rigid constitution of the world which can be amended by congress by a special procedure.
- France- French constitution can be changed by a rigid procedure requiring a resolution to get passed by 60% majority in both the Houses of Parliament. However, the President has one special power to refer the amendment to people by referendum.
- Germany- German constitution is a rigid constitution. Germany has two houses one is Bundestag which is a lower house while the other one is Bundesrat which is the upper house. Basic law can be amended by an absolute two-thirds majority of Bundestag along with a simple two-third majority of Bundesrat.
- Japan- It has a rigid constitution. The two houses of Parliament are called Diet. Any amendment to the constitution initiated by diet passed by the special majority then submitted to the people for ratification at a special referendum.

3. Unitary or Federal: A unitary form of government is governed as a single constitutional unit, with one constitutionally created legislature while a federal form of government which function between a central government and constituent political units like states or provinces.

- India- The Indian constitution is federal in character with unitary bias.
- British- The British constitution has a unitary character. The British parliament is a sovereign body vested with all the powers of the government.
- USA- American constitution is truly a federal. It provides for complete independence between centre and state. Every state has its own constitution, governor, elected legislature and supreme court.
- France- France has a unitary feature.
- Germany- Germany is a federation and the residuary powers in Germany lie with the states.

4. Type of Government (Parliamentary or Presidential): In a parliamentary form of government executives are responsible and accountable to the legislature whereas in the presidential form of executive and legislature are entirely independent and executives are not responsible to the law-making members.

- India- Indian constitution provides for a parliamentary form of government both at the centre and the state. Some of the principles of parliamentary form are nominal and real executive, majority party rule, collective responsibility, double membership as ministers are executive as well as legislature.
- British- One of the major similarity between the British Constitution and the Indian constitution is both have a parliamentary form of government. British constitution provides de jure head in the form king who is sovereign but deprived of all his powers and the real functionaries are ministers who belong to the majority party in the parliament.
- USA- America has a presidential form of government in which the president is directly elected by people. President is not accountable to the House of Congress and head of the state as well as the government.
- France- France has some features of the parliamentary system and others of Presidential type and therefore it is called a semi-Presidential type of

government. French President is directly elected by the people for the for a seven-year term and there are nominated council of ministers headed by the prime minister.

- Japan – Japan has a parliamentary form of government with some features of the British form of parliament like Japan has also a constitutional monarchy.

5. The sovereignty of Parliament: The term Sovereignty means Supreme Power. Parliament sovereignty means parliament has the supreme authority over all other government institution including judiciary and executive. Parliament is not bound by the written laws of the constitution. Some democracies have absolute sovereignty while some democracies have checks and balances through judicial supremacy.

- India- India parliament is not a sovereign body like the British Parliament. Any laws made by the parliament can be presented to the supreme court for the judicial review as the supreme court is the custodian of the constitution
- Some of the other countries that have similar features of Judicial Review of the parliamentary law are USA and Japan.
- British- One of the most important features of the British constitution is the sovereignty of the British parliament. The British parliament is the only legislative body with unrestricted power of legislation. It can amend, make or repeal any law without any question of the validity of the law.
- France- French Constitution has a sovereign parliament with limited powers. The legislature is clearly subordinate to the executive. Article 37 of the French constitution put a limitation on the legislative power of the parliament.

6. President-

- India- The President of India is the head of the Indian state. He is the nominal head of the government while the real power is vested with the Prime Minister of India with the aid and advice of the council of Ministers. Although all the executive actions of the government are formally taken in the name of the President.
- The USA- The President of the USA holds the real executive power. He is the head of state as well as head of the government. He is also the commander in chief of the United States Armed forces. President of USA holds office for a term of 4 years and can be re-elected twice.
- France- The French President is the most powerful within the French system as well as amongst all other executives across world democracies. France has PM as well as President but he is assistant to the President unlike that in India and Britain. The President is elected for a fixed term of currently 5 years.
- Germany- Germany has a parliamentary form of government and called as 'Chancellor's Democracy'. Chancellor is the PM. President is the constitutional head of the government.

7. Citizenship-

- India- The constitution of India provides for single citizenship for all over the country despite being a federal country.
- British- British citizenship is liberal in the sense that in order to get British nationality one doesn't need to renounce his/her citizenship of that country.

- The USA- The American constitution provides for Dual Citizenship. One for the whole USA and one for the state one belongs to but USA law doesn't mention dual nationality or require a person to choose one citizenship or another.
- France and Germany have dual citizenship.

8. Due Process of Law or Procedure established by law:

Due process of law is the legal necessity that the state must follow the principles of fairness, fundamental rights, liberty etc during legal requirement as these rights are owed to the person. The legality of law cannot be questioned on the ground that the law is unreasonable as this law follows the principle of natural justice. Example – American constitution provides for Due process of law

The procedure established by law – This law clearly states that the law is valid only if the legislature has followed the correct procedure and contrary to principles of justice and equity. Article 21 states *that no person shall be deprived of his life or personal liberty except according to the procedure established by law.*

9. Fundamental Rights, Fundamental Duties and Directive Principle:

Fundamental Rights- Fundamental Rights are meant for promoting the idea of political democracy It is meant for establishing a government of laws.

- India- Fundamental Rights are enshrined in Part III of the constitution from Article 12 to 35. Fundamental Rights are borrowed from the American Bill of Rights. The Fundamental Rights guaranteed by the constitution are Right to equality, Right to freedom, Right against exploitation, Right to freedom of Religion, Cultural and educational rights and Right to constitutional remedies.
- USA- Fundamental Rights in the USA are absolute not like India where the reasonable restriction is present.
- Japan have also Fundamental Rights but no such rights are mentioned in Britain constitution.

Fundamental Duties- Fundamental Duties and rights of the citizen are inseparable and correlative. The citizen must have some moral and civic duties toward their country.

Originally the Indian constitution does not contain Fundamental Duties. It has been borrowed from USSR and no major country has Fundamental Duties.

Directive Principle- The constitution of India contains the directive principle borrowed from the Irish Constitution. The Directive principles constitute a very comprehensive economic, social and political programme for a modern democratic state. Although directive principles are not enforceable in nature the state should keep in mind while formulating policies and enacting laws.

Conclusion:

Recently the Indian Constitution completed 70 years of adoption. For newly independent nation making of the constitution and entering into force was a challenge for the framers of the constitution. Several Political scientists had criticized the newly adopted constitution that this will not be able to run the diversity of the nation and soon will collapse. But the working of the constitution has stood the test of time and made India one of the successful and largest democracy of the world.

ANTI-DEFECTION LAW :

Due to ongoing legislative tussles in different states and UTs like Karnataka, Sikkim and Delhi, **Anti-defection law** remains in news. Even the Supreme court gives periodic orders to ensure judicious use of the law. Since the law makes frequent headings in the newspapers, it has become important for both prelims and mains exam of UPSC, State PCS and other competitive exams.

The analysis of the law needs to be done from the exam point of view. Here in the article, all aspects of Anti-defection law are covered.

Anti-defection Law

- Indian Politics started facing the problem of Political Defection just after a decade when regional parties started gaining importance.
- In a case study, Haryana MLA Gaya Lal in 1967 changed his political party three times in a single day for getting political privileges and benefits.
- Apart from this, there were many other such incidences which were motivating a legislator for defection.
- For such reasons, Anti-Defection was necessary for stabilizing the Indian Politics and prevents such political defections which happened only to get some political reward or similar consideration.
- Anti-Defection Law was inserted in the Indian Constitution in 1985 by the 52nd Amendment Act of 1985. Rajiv Gandhi government was the main initiator for the introduction of this law.
- The 52nd amendment of the Constitution inserted the Tenth Schedule in which provisions were made by which legislators can be disqualified on the grounds of defection to any other political party.
- The issue of disqualification on the ground of defection may be raised by any member of the house and is referred to the Chairman or the Speaker of House. The decision of the Chairman/Speaker of the concerned house is final and binding.
- However, the decision of the Speaker or the Chairman of the house is open for judicial review.
- The Anti-Defection law is applicable to both the houses of Parliament and also to the state assemblies.
- Anti-Defection law is in practice not only in India, but it is practised in various other countries of Asia and Africa like Bangladesh, South Africa, Kenya etc.

What was the need for Anti-Defection Law?

- The main reason for the introduction of Anti-Defection Law was to discourage "*the evil practice of political defections*" by the legislators who get motivated even by the immoral reasons of getting a high office or any other such benefits.

- The other important reason was to provide stability to the government in power. This was necessary for the stability in Indian Politics.
- The Anti-Defection Law was also introduced to ensure that a legislator elected from a political party symbol with the issues and agenda of that party remains loyal to that political party.
- This was also necessary for creating stability in the policy formulation process.
- It was also essential for morale upgradation of legislators in the Indian Politics.

Salient Features Anti-Defection Law

Grounds of Defection

Signup for Free Mock Test

- **For Members belonging to any political party** – A legislator who is a member of any political party may be disqualified if:–
 - If any legislator voluntarily gives up his membership from such political party.
 - If any legislator belonging to any political party votes or abstains from voting in the House contrary to the directions already issued by that political party.
- **For nominated members of a House** – A nominated member of a house may be disqualified if a nominated member of a house declares to joins any other political party after six months of taking her/ his seat in that house after complying with the provision of Article 99 or Article 188.
- **For Member elected otherwise than as a candidate set up by any political party** – A member of the house who is elected as an independent candidate may be disqualified on the ground of defection if he joins any political party after the election.

Exceptions under the Anti-Defection Law:- The changing of a political party by a legislator do not always lead to defection under the Anti-Defection Law. The Anti-Defection law allows a political party to merge with any other party subjected to the fulfilment of the following condition –

- A legislator shall not be disqualified if his original/ initial political party merges with any other political party, and:
 - She/ He and other members of her/ his old political party takes the membership of the new political party, or
 - She/ He and other members of her/ his old political party do not accept the merger and decide to function as a separate group.
- This exception under the Anti-Defection Law shall be applicable only if not less than two-thirds of the members of a political party is in agreement with the merger or to function as a separate group.

Judicial Interpretations of Anti-Defection law

- As per the Tenth Schedule, the decision of Speaker/Chairperson on the questions of disqualification under the Anti-Defection Law shall be final and can't be questioned in the court of law. However, the Constitution Bench of Supreme Court in Kihoto Hollohan vs Zachillhu and Others case of 1991, declared that the decision of Speaker/Chairperson is subject to judicial review.
- In 1996 it was declared under Tenth Schedule that once a member of a house is expelled, She/he will be treated as an 'unattached' member in that house. However, she/he should continue to be a member of the old party from which she/he belongs. If she/he joins a new political party after being expelled from the house, she/he should be looked in the same way as she/he has voluntarily given up membership from his old political party.
- The Speaker/Chairperson of a House does not have the power to review his own decisions taken under the Anti-Defection Law to disqualify a candidate. Such powers were not implicit in the provisions of Tenth Schedule but interpreted by the courts.
- In case Speaker/Chairperson of a house fails to act on a complaint or accepts the claim of splits or mergers of a political party without making a finding, it will be treated that the Speaker/Chairperson has failed to act as per the Tenth Schedule of the constitution. The Court declared that in all such cases of ignoring a petition for disqualification will not be treated only as an irregularity but also the violation of the constitutional duties of the Speaker/Chairperson.

Benefits of the anti-defection law

- It helped in providing stability to the government by imposing restrictions on shifting of party allegiance.
- It helped in ensuring a candidate's loyalty to his political party as well the citizens of the country who voted for her/him.
- It also helped in the genuine merger of political parties without in case of difference of opinion without attracting defections under the provisions of Anti-defection Law.
- It helped in promoting discipline in a political party.
- Now a political party in power will have more time and stability for working in other government bills and other important issues.
- The Anti-Defection Law also helped in reducing the political corruptions.
- The Anti-Defection has the provision of punitive action in case of defections and hence created a deterrent.

Way Forward

- According to the Tenth Schedule, the Speaker/Chairperson has been given too much importance by giving final decision-making powers of disqualifying a member. The final decision-making power may be shifted to the President or Governor.

- To create more deterrence more stringent and effective law may be made by the parliament.
- A Tribunal may be set up to deal with the cases of disqualifications declared under the Anti-Defection Law.
- Political stability should be given due priority as the government can perform well only with the disciplined parliamentarians having high moral values.

DELHI FULL STATEHOOD ISSUE

Historical Background

Initially, Delhi was a full-fledged state as the first Legislative Assembly elections of Delhi held on 27th of March, 1952. It was during the year 1956, under the States Reorganisation Act, where major reforms regarding the boundaries of States along with Union Territories took place. During this time, Delhi became a Union Territory by losing its full statehood. It was during 1991, under the 69th Amendment of the Indian Constitution when the special status was provided to Delhi and it was formally declared as The National Territory of Delhi. Thus, it provided the partial statehood to Delhi, which, by various Chief Ministers contested, from time to time.

Tussle between Centre and Delhi Government

The demand for the special statehood for Delhi is not something new. The fact can be traced historically, that any government ruling over Delhi has placed this demand in front of the Central government, in one way or another. During the elections of 2015, special statehood for Delhi was the agenda as it was included in the manifesto of BJP. Since 1998, BJP always extended its support to Delhi as a separate state. But it was only in 1999 when BJP inculcated this as its agenda by incorporating it in its manifesto. In 2003, it was somehow, managed to present it in Lok Sabha although Home Ministry rejected it. But it was in 2013 legislative elections when BJP dropped its agenda for separate statehood. To be a great surprise, it was the same time when Aam Aadmi Party included this as its agenda in the Manifesto.

We are aware of the fact that the crisis regarding the Delhi statehood issue has erupted due to the difference of opinions regarding the various matters existing between the Chief Minister, who represents the State government and, Lieutenant governor, who is responsible to the Union Home Ministry and hence, the Central government. This factor is responsible for creating tussle between the two governments and hence, leads to various issues including the policy crises, deadlock in talks between the two, etc.

It was in 1991, when, through a Constitutional Amendment, Delhi was granted a special status and was declared as a National Capital Territory (NCT) which itself clarified the situation that Delhi would be serving as a Central Government seat similar as in the case of Washington DC, which also serves as a national capital but none of the elected government lies there and exists only one Mayor. The above-mentioned situation depicts that if there lies a seat of Central authority, there cannot be two authorities in the one way or another.

A Comparison between Delhi and Puducherry

Both Delhi and Puducherry are among the Union Territories of this nation and hence, constitutes an elected legislative Assembly and the Lieutenant Governor along with The Council of Ministers serving as an executive. It is worth mentioning over here that being Union territories, both Delhi and Puducherry are deriving their powers from different constitutional provisions as Puducherry is being dealt with Article 239 A and Delhi with 239AA. The former Article deals with enabling provisions that give its nod to the Parliament for creating a law for Puducherry while, the latter, deals with providing the scope along with the limits of powers of the legislative assembly. In other words, it can be said that there lie few restrictions with article 239AA including laws regarding police, public order and land are to be created by the Central Government and not the State Government. Such restrictions are not applicable by Article 239A.

Puducherry is being governed by the Government of Union Territories Act, 1963 and enables the legislative assembly by providing the power of making laws on any of the matters which have enumerated in the State List or the Concurrent List. Thus, it can be said that Puducherry enjoys a bit of broader legislative and executive powers than that of Delhi.

Delhi's reasoning for the demand of separate statehood

- The government also has a very limited say in the issues pertaining to recruitment and conditions of service of officials of clerks, IAS etc.
- Delhi government has also been accusing the centre to be meddling in their work and putting hurdles through LG.
- Statehood will bring control of administration under one umbrella, the state government, led by the CM and his Council of Ministers and avoid multiplicity of authorities.
- By attaining a separate statehood, more opportunities along with the development in the various fields should be available to the native population as the restricting areas under Article 239AA would be accessible to the state government. Moreover, there lie many issues regarding transport, electricity, water, housing, etc. which needs to be addressed as soon as possible.
- As of now, there are many instances when the Lieutenant Governor without consulting the Council of ministers, have taken decisions independently and eventually raised conflicts between the two as it is the responsibility of Lt. Governor to work harmoniously with the State government which deals with the various aspects such as education, health, etc.

Supreme Court's verdict

A verdict regarding the ongoing power tussle between the Centre and the Delhi Government has been given by a five-judge bench of the Supreme Court which highlights some of the important points:

- SC declared that Lt. Governor is not authorised to make independent decisions and should act only after consulting the council of Ministers.

- The decisions regarding the three matters including police, land and public order should be under the complete control of the Central Government.
- Delhi government enjoys all the powers of the State Government except the above three mentioned areas.
- Under the provision of Clause (4), Lt. Governor is provided with the power of consulting President under Article 239, regarding any dispute and under certain circumstances.
- Governor is not a real Governor and only an administrator.

Conclusion

Thus, it can be said that Delhi is not a full-fledged state. Although, the SC has clarified the situation that under any circumstances, Lt. Governor has to follow the Constitutional provisions but it has created a sense of ambiguity by providing the Lt. Governor with the power of consulting President without drawing a fine line between 'any matter' and 'every matter'. Thus, few things have again remained unsaid and may cause disruption in the political machinery.

SABARIMALA TEMPLE ISSUE

Sabarimala is a legendary place of worship for the Hindus surrounded by the myths, devotees, and recently some controversies. Lord Ayyappan is the chief deity at the Sabarimala temple in Pathanamthitta district of Kerala. In this particular temple, Lord Ayyappan is worshipped as the "Naishtika Brahmachari" (eternal celibate) which has led to the evolution of strict customs in place for the devotees as well. Travancore Devaswom Board (TDB) which is an autonomous authority under the state government is responsible for the administration of the temple.

The Debate?

The Sabarimala Temple debate is about the conflict between the traditions and faith of devotees on one side, and women's right to worship and constitutional propriety on the other.

Traditions in question?

On account of being a divinated place of a celibate deity, the temple board restricts menstruating women (aged 10 to 50) from taking the pilgrimage to Sabarimala and worship Lord Ayyappan. The customs in this case as held by devotees cannot be transgressed as it would be against the faith surrounding the deity itself.

Also, there is a view that as the menstrual blood is impure, it would pollute the premises. In this view, the woman herself is not treated as impure, but the blood only.

The legality of traditions?

- Legally, the Kerala Hindu Places of Public Worship (Authorization of Entry) Rules, 1965, prohibits women from entering the temple as well.

- Then, Kerala High Court in 1991 ordered in favour of the restriction by stating that the restriction had been there throughout history and not in violation of the Constitutional provisions of Right of Worship and Equality.
- Indian Young Lawyers Association challenged this prohibition on women's entry in Supreme Court in 2006.

Alternate legend and history

A shrine deep inside the forest, it is said to be visited by tribals and low castes living near the forest and some pilgrims from Tamil Nadu. It is believed that there were no Vedic rites or any purity rituals. The temple shrine was under the ownership of the Pandalam ruling family. Later, they surrendered their rights over the shrine and forest to the Travancore ruling family. Then the temple came under the management of Travancore Royal Devaswom Commission (TRDC).

In June 1950, poachers set Sabarimala temple on fire and desecrated the shrine. A new temple was then constructed by the Travancore Devaswom Board (TDB). It is said that since then the pilgrim numbers rose steadily which had reached to astonishing 50 lakhs now.

Upper Caste Dominance.

Slowly from the 1970s onward, upper-caste pilgrims began to increase. Steadily, it is argued that it led to the introduction of upper caste rituals and customs of purity and pollution. Thus, the marginalization of tribal and lower caste is said to have begun. It is also said that there were no restrictions on the entry of women as well. Because menstruation is seen as a symbol of fertility and therefore auspicious in the forest dwellers. It is in the upper caste rituals that menstruating women are prone to exclusion.

The total ban on the entry of women came through a High Court judgement in 1991 in *S. Mahendran v. The Secretary, Travancore*.

Arguments against women's entry said in court

- It would affect the deity's celibacy and austerity.
- The temple has its own traditions and customs which had to be respected. This is similar to any other public place and is not in contravention of Art 26 of the Indian Constitution.
- Sabarimala pilgrim needs to observe 41-day penance essential for the pilgrimage. Such penance would be difficult for the women to undertake.
- Art 25 (2) of the constitution provides access to public Hindu religious institutions for all classes and sections of the society. However, it is applicable to social welfare and reforms only and not to the religious customs and worshipping practices of the temples.
- Art 26 (b) of the Indian Constitution provides the right to every religious group to manage their own religious affairs.

- Guwahati High Court in *Ritu Prasad Sharma v State of Assam* 2015 ruled that religious customs protected under Art 25 and Art 26 are immune from challenge under other provisions of Part III of the Indian Constitution.
- Rule 3(b) of Kerala Hindu Places of Public Worship (Authorization of Entry) Rules, 1965, prohibits women of menstruating age from entering the Sabarimala temple.

Arguments to lift the ban on women's entry said in court

1. Moral argument:

- Why would God discriminate towards women on the basis of a natural phenomenon?
- How can devotees pollute God and disturb the sage's austerity?
- There is nothing impure about a menstruating woman.

1. Legal argument

- Art 25 of Indian Constitution grants an individual the right to choose own religion and praying in a temple or mosque comes within that right.
- There are hundreds of Ayyappa temples in India where this rule of restricting women does not apply. Women worship Lord Ayyappa at home as well. The practice of worshipping has been since ages.
- Discrimination based on gender violates Fundamental Rights under Art 14 (Right to Equality), Art 15 (No Discrimination based on gender) and Art 17 (Abolition of untouchability). Hence, the practice of restriction of menstruating women to worship in the Sabarimala temple is unconstitutional.
- Prohibiting women's entry due to their biological feature is a derogatory practice which the Fundamental Duties in Art 51A (e) seek to renounce.
- Sabarimala temple's trust is funded from the Consolidated Fund of Kerala. So, it is a public place of worship and not a fiefdom of the priests.
- The Hindu way of life can not and should not be dictated by narrow and exclusion based rituals created by priests.
- Religious traditions should not be trapped in time and must reform themselves to stay relevant.

Supreme Court Verdict

The court in 4-1 majority struck down the provisions of the Kerala Hindu Places of Public Worship Rules, 1965. It legalised the entry into the Sabarimala temple and worship of the deity by women of all age groups.

Court's Rationale

- The Travancore Devaswom Board claimed that Ayyappa devotees form a religious denomination and were permitted to make their own rules. Supreme Court outrightly rejected this claim.
- The court also held that prohibition on women entering the temple is not an essential part of Hindu religion. Hence the court can intervene to ban a discriminatory custom.
- Art 14, Art 15 and Art 17 trump over the exclusionary practices claimed under Art 26. That means individual freedom and principle of equality prevails over irrational and unreasonable customs.
- The court declared that exclusion of women on the basis of menstrual impurity is a form of untouchability.
- SC observed that stigmatization of women based on the medieval perspective of purity and pollution is unscientific and inhumane, and thus, not tenable in modern times.

Thus, the Supreme Court held that any such religious tradition which discriminates and segregates women because of their biology is Unconstitutional.

Dissenting opinion

The dissenting remark came from the lone woman judge Justice Indu Malhotra. In her widely discussed dissent, she said,

- Religious matters should be left to religious communities and need not be interfered by the courts. The very fact that the issue is regarding faith and not reason, the court is bound to transgress their mandate.
- A balance needs to be created between religious beliefs and constitutional principles of equality.
- She warned of the future ramifications of the judgement and the pandora's box it will open.

Review of the judgement

However, the court in a 3-2 majority has accepted the review petition of the Sabarimala judgement. It has referred the case to a larger 7 judge bench. After its triple talaq judgement, another debate on a women's issue will reopen the larger issue of whether any religious practice can discriminate among its followers based on caste, or gender.

The larger bench will also re-examine its "essential religious practice test" doctrine.

Essential Religious Practice Test:

The Doctrine of Essentiality is a contentious and much-debated doctrine expounded by the Supreme Court in the Shirur Mutt case in 1954. The court held that "religion" covers all rituals and practices, and the court took upon itself to determine the essential and non-essential practices. That is such practices which form an integral part of the religion.

In *Dr M Ismail Faruqui and Others v. Union of India and Others* (1994), a five-judge Constitution bench ruled that "A mosque is not an essential part of the practice of the religion of Islam". It also held that namaz (prayer) by Muslims can be offered anywhere, even in the open.

The highly subjective doctrine has been criticised by many constitutional experts since its inception. This is because the test of essentiality will simply lead the court into an area which is beyond its domain expertise and will give judges the power to interpret matters of belief. Debating on purely religious issues is beyond the competence of the courts which function on reason and proofs and not on faith.

This fear has been proven right as the court has been inconsistent on this question. As in some cases, the courts have relied on religious texts to determine the essentiality of practice while in others, they relied on the behaviour of followers. In matters such as *Sabarimala*, the court saw it in a purely rational and scientific manner.

Conclusion: Importance of Sabarimala Issue

The issue of exclusion of women in different aspects of life has come into the national limelight due to the *Sabarimala* debate. Giving a progressive judgement the court has led the way for behavioural change in the society, and reform in the religious matters. The judgement will become a landmark for future cases and will lead to a more wider interpretation of the constitution. It will raise awareness regarding people's civil rights across caste, gender and re

ELECTORAL BONDS IN INDIA

WHAT ARE ELECTORAL BONDS?

- The Electoral bonds are securities/ instruments which can be used to donate money to the political parties. These bonds are like promissory notes or bearer bond in which the (bank) issuer is the custodian and is liable to pay the political parties holding the bonds. The basic features of electoral bonds are:
- These bonds can be issued only by notified banks.
- Anyone who wants to purchase these bonds may approach these notified banks.
- The donor who wants to buy these bonds shall be permitted to buy only through digital payment or cheque.
- After purchasing these bonds, the donor may donate these bonds to any political party.
- The political party who will receive these bonds can encash it into their accounts registered with the Election Commission of India.

Recent observations of Election Commission of India

- Recently, the Election Commission of India has raised the issue of political funding in the Supreme Court stating that the present electoral bonds system is creating a transparency issue in political financing.

- The Election Commission of India submitted that removal of the cap on foreign funding is a cause of major concern as foreign corporate powers may impact Indian politics through political donations.
- Donations received through electoral bonds are a cause of "serious concern" on the transparency of the system and hence needs to be changed.
- There is a threat of pumping of black money in the political system through electoral bonds which may have disastrous consequences in the long run.

Important Facts

- Electoral Bonds were mooted for the first time in the Union Budget, 2017 and finally, the Government of India notified this scheme in 2018.
- These electoral bonds can be purchased by any Indian citizen or a body/organisation incorporated in India either single or even jointly with other individuals/organisation.
- These bonds can be redeemed into the bank accounts of a political party allotted by the Election Commission of India within 15 days of purchase.
- Only those political parties are eligible for getting Electoral Bonds which have secured at least one percent of votes polled in the Lok Sabha election or state elections.
- All the Donations made under these bonds are exempted from taxes.
- The bonds can be purchased only by a KYC compliant account.
- These bonds are issued in multiples of Rs One Thousand, Rs Ten Thousand, Rs One Lakh, Rs Ten Lakh and Rs one Crore.
- A political party can receive donations in cash only upto Rs 2000/-.

Amendment in the Acts

- The Finance Act of 2017 has made various amendments in the Representation of People Act (RoPA), 1951, the Companies Act and the Income Tax Act.
- The finance act of 2016 makes some changes in the Foreign Contribution (Regulation) Act of 2010.
- The amendments in the RoPA make provisions for the political parties that keeping the records of fund donations received through electoral bonds to them is not required.
- The amendment in Income Tax Act allowed anonymous contributions to political parties whose donation amount is upto Rs 20,000/-. The political parties don't need to disclose the details of donations in these cases. Most of the donations of the political parties come under this category.
- The amendments in the Finance Act of 2016 also allowed the process of donations from foreign companies which are having majority stake in Indian companies.

What was the need for electoral bonds?

- Earlier, when most of the election donations were known to be taken in cash, it was supposed to be a more transparent mechanism of political funding for political parties to raise finances to meet election expenditures.
- The Association for Democratic Rights in one of its reports states that around 69% of political funding comes from unknown sources in India. This was a cause of concern, and hence, electoral bonds were found somehow more transparent alternative of political funding than the earlier one.
- Electoral bond preserves the anonymity of donors who purchase these bonds and protects them against any post-poll harassment/intimidation by political opponents.
- As the life of these electoral bonds is only 15 days, it restricts the scope for misuse. Also, political parties need to disclose the amount of the contribution received through these electoral bonds to the Election Commission India. Therefore, these electoral bonds are of some help in cleaning up the political funding system of in India.

Major Concerns

- The lack of disclosure requirements for those individuals who are purchasing electoral bonds is a cause of concern.
- This system of electoral funding is more opaque and hence puts no obligation on either the individual/organisation/companies or political parties about political funding.
- It creates a system in which much more black money will be infused into the political system, which will lead to political corruption.
- This system of electoral funding provides a legal channel to the individuals/corporate to park their money and get a tax haven cash to political parties. This will make the corporate lobbies stronger, which may affect the policy formulation for their interest.
- Companies/Corporate no longer requires about declaring the funding amount or name of political parties and hence shareholders of these companies won't know anything about their money being donated to any political party.
- The banks have all details about the person/companies/corporate who are buying these bonds and also about the redeemed amount against any political party. Hence, it gives an easy way to the government in power to take all these details from the public sector banks working under them indirectly.
- **The elimination of a cap of 7.5% with respect to corporate donations, a loss-making company may also donate to any amount, and this may lead to corruption in political funding.**

Provisions for Checking the political funding/expenditure

- **Section 29C** of the RPA, 1951 makes it necessary for the political parties to declare the political donations received from any person or company whenever

it exceeds the amount of Rs.20, 000/-. The political party may be dealt with under the Income Tax Act, 1961 when it fails to submit the report on time.

- Under **Section 2(e) of the Foreign Contribution Regulation Act, acceptance of any contribution** from any foreign source is prohibited punishable with imprisonment of up to five years or fine or both.
- **Section 77 of the Representation of Peoples Act clarifies** the issue of what comes under the purview of 'expenditures of the political party'. The expenditures include all expenses incurred by a candidate of any party by himself or through his authorised agent during the election from the date of nomination till the date declaration of the result.
- **Under the Conduct of Elections Rules, 1961, the election expenditure of a political party** during an election has been fixed and will be dealt with accordingly.

Need of the hour and way forward

- The cap of Rs 2000 for cash donations gives an opportunity to the political party to use black money during the elections. Hence, the Election Commission of India has suggested that donation in cash to any amount may be eliminated altogether.
- When the country is going towards digital transactions, it is necessary that all political funding must be through digital payment or cheque only. This will create transparency in political funding.
- During elections, all measures need to put in place to ensure that election expenditure incurred by the candidates and political parties are in line with the conduct of election rules, 1961.
- The concept of National Electoral Fund as an alternate may be considered for political funding during elections, as this may be the best tool to stop corruption in political funding.
- Simultaneous elections may also be explored for restricting the election expenses of the political parties.
- The political parties must disclose all the money received either through digital transaction/cheque or electoral bonds.
- The Election Commission of India may be given more powers to take decisions to curb any political corruption.

WRITS IN THE INDIAN CONSTITUTION

Writs are the orders issued by an authority. The written orders of the Supreme Court or the High Court that commands/confers constitutional remedies to Indian Citizens against the violation of their basic fundamental rights are called writs. Warrants, orders, directions etc. issued by an authority are some examples of writs.

Writs In the Indian Constitution: Habeas Corpus, Mandamus, Prohibition, Certiorari, Quo-Warranto

- The concept of writs has been borrowed from English Law, where these laws were known as 'Prerogative writs'.
- In England, these 'Prerogative writs' were issued on the prerogative of the king who was, and is still known as 'fountain of justice'.
- Later these writs were being also issued by the High Courts for upholding the rights and liberties of the British People.
- The Supreme Court of India is the defender of the basic fundamental rights of the Indian citizens, and for this, it has been given original and wide powers by the constitution of India.
- The constitution of India under Article 32 empowers the Supreme Court of India to issue writs.
- The constitution of India under Article 226 empowers the High Court to issue writs.
- The Supreme Court and the High Court can issue writs of five types for enforcement of fundamental rights of citizens of India.
- The five types of writs are - Habeas Corpus, Certiorari, Mandamus, Prohibition and Quo Warranto.
- The Parliament of India also has the authority under Article 32 to empower any other court to issue above-mentioned writs.
- Till date, there has not been any instance in which the Parliament has given the power of issuing writs to any other court. Hence, no other court than the Supreme Court or the High Court in India can issue writs.
- Before 1950 only the High Courts of Bombay, Calcutta and Madras had the writs issuing powers.
- However, after 1950 all the High Courts were empowered to issue writs under Article 226.

Types of Writs in India

The five types of writs are as appended below:-

- Writs of Habeas Corpus
- Writs of Prohibition
- Writs of Mandamus
- Writs of Certiorari
- Writs of Quo-Warranto

Habeas Corpus

- The literal meaning of 'Habeas Corpus' is actually 'To have the body of.'
- This is issued by the Supreme Court or the High Courts against unlawful detention and for enforcement of fundamental rights guaranteed under the constitution.

- Under the writs of Habeas Corpus, the Supreme Court or High Courts can issue orders for one person who has been detained, to bring the individual in physical before the court.
- Both the Supreme Court and the High Courts can issue writs of Habeas Corpus against both public and private authorities.
- The writs of Habeas Corpus can not be issued by the Supreme Court or the High Courts in cases when the detention is lawful or during the proceeding for contempt of a legislature, or court or detention is by the orders of a competent court or detention is outside the writ jurisdiction of the court.

Mandamus

- The literal meaning of writ of Mandamus is 'We command.'
- It is issued by a superior court to compel a lower court or a government officer to perform mandatory or purely ministerial duties correctly.
- Apart from a public official, the writ of mandamus can be issued against any other public body, corporation, tribunal, an inferior court, or government.
- The writ of mandamus cannot be used against private individuals.
- The writs of mandamus can not be issued by the Supreme Court or the High Courts to enforce departmental instructions or to order someone to do some discretionary work which is not mandatory under her/his duties or for a contractual obligation or against the President, State Governors and chief justice of a high court.

Prohibition

- The literal meaning of writ of Prohibition is 'To forbid.' It is issued by a higher court against a lower court to prevent the latter from usurping a jurisdiction or exceeding its jurisdiction that is not possessed by the lower court.
- It directs the lower courts to be inactive for exceeding its jurisdiction.
- The writs of Prohibition can be issued by the Supreme Court or the High Court's only against quasi-judicial or judicial authorities.
- The writs of Prohibition cannot be issued by the Supreme Court or the High Courts against legislative bodies, administrative authorities and private bodies or individuals.

Certiorari

- The literal meaning of 'Certiorari' is 'To be informed' or 'To be certified'.
- It is issued by a higher court against a lower court or tribunal instructing them either to squash their order in a case or to transfer a case pending with them to itself.
- It is issued on the basis of an excess of jurisdiction or error of law or lack of jurisdiction.

- Before 1991 the writ of certiorari was used only against quasi-judicial and judicial authorities and not against any administrative authorities.
- However, after 1991, the writ of certiorari can be issued against any administrative authorities also, which is affecting the rights of individuals after the orders of the Supreme Court ruling issued in this regard.

Quo-Warranto

- The literal meaning of 'Quo-Warranto' is 'By what warrant or authority'.
- The writ of Quo-Warranto is issued to prevent illegal usurpation of a public office by a person.
- With this writ, the court can inquire into the legality of the claim of a person to a public office.
- The writ of Quo-Warranto can be issued only when the substantive public office created by a statute or by the constitution of a permanent character is involved.
- The writ of Quo-Warranto can't be issued against ministerial office or a private person.

Difference in the Writ jurisdiction of the Supreme Court from the High Courts

- The High Courts can issue writs not only for the preservation of Fundamental Rights but also for any other purpose. However, the Supreme Court can issue writs only for the preservation of Fundamental Rights. Hence, the writ jurisdiction of the Supreme Court is narrow than that of the High Courts in this regard.
- The territorial jurisdiction of the Supreme Court is much wider as it can issue writs throughout the territory of India. However, the High Courts can issue writs within the territorial jurisdiction of the respective state.
- The Supreme Court cannot refuse to exercise its writ jurisdiction as under Article 32 it is in itself a Fundamental Right. However, it is not mandatory for the High Courts to issue these writs as a remedy under Article 226 is discretionary.

Importance of writs in the Indian constitution

- It is important for the protection of the fundamental rights of the citizen of the country.
- It helps in checking the discretionary power of the executive.
- It helps in checking and correction of any error in the judiciary through writs of certiorari.
- It helps in as a balancing wheel while exercising power or authority by the state.
- It helps in the judicial review of administrative action taken by the state or any public authority.

GRAM NYAYALAYAS IN INDIA: COMPOSITION; SIGNIFICANCE; ISSUES; WAY FORWARD; CONCLUSION

About Gram Nyayalayas:

- **Gram Nyayalayas or village courts** are established under the **Gram Nyayalayas Act, 2008 as the lowest tier of the judiciary for rural areas.**
- This Act came into force on **2 October 2009.**
- They are aimed at providing inexpensive justice to people in rural areas at their doorsteps and for speedy and easy access to the justice system in the rural areas of India.
- It is a mobile court and exercises the powers of both Criminal and Civil Courts. It means that it can try criminal cases, civil suits, claims or disputes which are specified in the First Schedule and the Second Schedule to the Gram Nyayalaya Act. The scope of those cases can be amended by both the Central and the State Governments, as per their respective legislative competence.
- The seat of the Gram Nyayalaya will be located at the headquarters of the intermediate Panchayat i.e. Panchayat Samiti. But they will go to villages, work there and dispose of the cases there itself.
- They can follow special procedures in civil matters, in a manner it deems just and reasonable in the interest of justice.
- **The appeal in criminal cases and civil cases shall** lie to the Court of Session and District Court respectively. These appeals shall be heard and disposed of within a period of six months from the date of filing of such appeal.
- The orders and verdicts passed by the Gram Nyayalaya are deemed to be a decree.
- They shall **be guided by the principles of natural justice** and subject to any rule made by the High Court. They are not bound by the Indian Evidence Act, 1872. They allow for conciliation of the dispute and settlement of the same in the first instance.
- Their jurisdiction over an area specified by State Government in consultation with the respective High Court.
- They have both **civil and criminal jurisdiction over the offences for example:**
 - Offences not punishable with death
 - imprisonment for life or imprisonment for a term exceeding two years.
 - Theft as well as receiving or retaining stolen property, where the value of the property stolen does not exceed rupees twenty thousand
 - Offences related to central acts such as payment of wages, minimum wages, protection of civil rights, Bonded labour, Protection of Women from Domestic Violence Act etc.
 - Offences under states acts are notified by each state government.

- Civil and Property suits for example use of common pasture, farms, water channels, right to draw water from a well or tube well etc.

Composition:

- **Nyayadhikari presides** the Gram Nyayalayas. He will have the same power, enjoy the same salary and benefits of a **Judicial Magistrate of First Class**. He is to be **appointed by the State Government in consultation with the respective High Court** (Note: In regular civil/judicial courts, the High Court itself makes appointments).

Significance:

- They are important to reduce arrears and pendency of cases. It is a part of the judicial reforms. It is estimated that Gram Nyayalayas can reduce around 50% of the pendency of cases in subordinate courts. They can take care of the new litigations which will be disposed of within six months.

Issues:

- **Less number of courts:** So far only 11 states have taken steps to notify Gram Nyayalayas. Only 208 'Gram Nyayalayas' are functioning in the country as against 5000 by Gram Nyayalaya act 2008 and **2,500 estimated to be required by the 12th five-year plan**.
- The problem of **concurrent jurisdiction of regular courts**: The majority of states have now set up regular courts at the Taluk level, thus reducing the demand for gram Nyayalayas.
- **Shortage of human resources**: The progress is affected by the non-availability of judicial officers to function as Gram Nyayadhikaries, Non-availability of notaries, stamp vendors etc.
- **Funds**: The slow pace of utilisation of funds under the Scheme is mainly due to the lack of proposals from the States for setting up of Gram Nyayalayas, lukewarm response of the Bar. There is also the reluctance of police officials and other State functionaries to invoke jurisdiction of Gram Nyayalayas.
- **Reduction of Pendency**: one among the objectives of the Act was to scale back pendency and burden on lower courts within the district but it's revealed that even this has not been fulfilled. the amount of cases disposed of by Gram Nyayalayas is minuscule.
- **Functioning**: they have been established on a part-time basis (weekly once or twice) and aren't added to the prevailing courts. They are grappling with systemic defects, lack of practice of recording case data and status, lack of political will etc.
- **Lack of awareness**: Many of the stakeholders including the litigants, lawyers, police officers and others are not even aware of the existence of Gram Nyayalayas in the district court premises. There are no conferences or seminars organized for creating awareness about this institution.
- **Ambiguity in the jurisdiction**: Due to the existence of alternative forums such as labour courts, family courts, etc., there is ambiguity and confusion regarding the specific jurisdiction of Gram Nyayalayas,

Way Forward:

- **Training of Gram Nyayadhikari:** Aside from the legal and procedural requirements of Gram Nyayalayas, training can also include the local language of the community amongst whom they are posted.
- **Infrastructure and Security:** Separate building for the functioning of the Gram Nyayalaya need to be constructed. The provision also has to be made for providing adequate security to them.
- **Establishment of permanent Gram Nyayalayas:** they'll be established in every Panchayats at an intermediate level or group of contiguous Panchayats depending upon the number of disputes that normally arise from that area.
- **Creation of awareness among various stakeholders** through workshops, Advertisements, Seminars, etc.
- **Creation of a regular cadre of Gram Nyayadhikari** so that vacancy issues can be tackled.
- **The Jurisdiction of the Gram Nyayalayas may be redefined** in order to remove the ambiguities regarding the jurisdiction of Gram Nyayalayas, and the Act amended.

Conclusion:

Despite these shortcomings, the institution of Gram Nyayalayas has been a positive step. Above everything else they need concrete, well planned and continuous efforts to make them work. The success of these institutions should not only be measured by the number of courts established in different states, but also in terms of reaching out to deprived sections of the society and its role in the overall reduction in the pendency of cases.

POST-RETIREMENT APPOINTMENT OF JUDGES: FACTS; ARGUMENTS IN FAVOUR; ARGUMENTS AGAINST; LAW COMMISSION REPORT; INTERNATIONAL PRACTICE; WAY FORWARD

Controversies around the appointment of judges post-retirement have been a recurring one. Recently, the president nominated former Chief Justice of India to the Rajya Sabha.

Ranjan Gogoi became the first former chief justice of India to be nominated as Rajya Sabha member. However, it is not the first time; judges Post-retirement are given a post in tribunals, commission, and in central Government. People from various part of the country, colleagues criticizing the nomination and alleging the appointment is a quid pro quo.

Facts regarding judges accepting post-retirement jobs:

- A Vidhi centre for Legal policy's study shows that almost 70 out of 100 Supreme Court retired judges have taken up some or other assignments
- After independence, there have been 44 Chief Justices of India who have accepted post-retirement jobs.

- The central Government gave about 36 percent of the appointments. The jobs mainly to tribunals, commissions, ad hoc committees, and government positions like that of Lokayukta.
- In some cases, judges have been appointed even four months ahead of retirement.
- Time and again, post-retirement jobs come into the limelight.

Arguments in Favour:

- The experience and insights that competent and honest judges learn during their period of service cannot waste after retirement.
- Unlike abroad, higher judiciary judge in India retires at a comparatively young age and is capable of many more years of productive work.
- Most of the posts have a statutory requirement to appoint former judges. For example the National Human Right Commission(NHRC).

Arguments against:

- The immediate appointments show that the Government made decisions regarding judges' post-retirement assignments even before retirement.
- Immediate post-retirement appointments of the judges create doubts about their judgments, irrespective of their merits.
- It creates a conflict of interest.
- Justice Krishna Iyer's observation demonstrates the prospect of post-retirement employment can damage judicial independence. He said, "Judicial afternoons and evenings are sensitive phases. The incumbent being bothered about post-retiral prospects. The executive plays upon this weakness to bend the integrity or buy the partiality of the elderly brethren
- Judiciary and executive should watch each other rather than mutual admirers.
- It reduces public faith in judicial independence.
- In the recent 'master of roster case,' the Supreme Court reiterated that public confidence was the greatest asset of the judiciary

Law Commission Report

- First Law Commission headed by MC Setalvad, recommended that judges of the higher judiciary must not accept any government job post-retirement.
- Such judges should not forget that their conduct after retirement was crucial to preserve people's trust in the judiciary

International practice:

United States: No Supreme Court judge retires lifelong. It is done to prevent conflict of interest

United Kingdom: Supreme Court Judges retire at the age of 70. No law stopping judges from taking post-retirement jobs but no judge has taken such a post.

Way forward:

- The judiciary needs a mechanism to regulate post-retirement government appointments
- The Tribunals should not be a haven for retired persons.
- The appointment process should not result in decisions being influenced when the Government itself is a party in the case and appointment authority at the same time.
- Former Chief Justice R M Lodha, says that judges should not take post-retirement government posts for at least two years of demitting office. This is necessary to prevent conflict of interest.
- An amendment to the Constitution can be done by incorporating a provision similar to Articles 148 or 319.
- A special law may also be passed by Parliament prohibiting retired judges from taking up an appointment for two years.
- There could be an increase in retirement age

Points to Remember:

Quid Pro Quo: Quid pro quo is a Latin phrase that literally means “ something for something" or "this for that." This phrase is used to signify an exchange of goods, services, favours or any other kind of value

Constitutional provision related to it

Article 80(3): President nominates 12 members to the Rajya Sabha, and they shall consist of persons having special knowledge or practical experience in respect of literature, science, art, and social service.

The former chief justice of India was appointed **under the social service category.**

Other articles related to post-retirement jobs by the judiciary are

- Article 124 states that "no one who has held office as a Supreme Court judge shall plead in any court or before any authority within the territory of India."
- Article 220 bars High Court judges from pleading before any court, tribunals in India except the Supreme Court and the other High Courts.

Electoral Reforms in India: Meaning, Needs and Steps taken

Electoral reforms mean the development and change in the election process in India. The objective of the electoral reform is to facilitate free and fair elections, clean politics, and ideal members of a legislative house. It helps in making Indian democracy a real democracy in the letter as well as in spirit. Article 324-329 of the Indian constitution deals with elections and electoral system.

The need for electoral reforms

- The **Goswami Committee** on Electoral reform in 1990, observed the crippling effect of money and muscle power in elections.
- The **N. Vohra committee**, which submitted its report in October 1993, studied the problem of criminalization of politics and the nexus among politicians, bureaucrats, and criminals in India. According to the committee CBI, IB had unanimously expressed their opinion that the criminal network is virtually running a parallel government.
- The **Law Commission** has said that in the last ten years since 2004, 18% of the candidates contesting national and state assembly elections had one or more criminal cases against them.
- In the 18th report presented by a parliamentary committee to the Rajya Sabha in March 2007 said that there should not be a person from criminal background
- The report said, "Criminalization of politics is the bane of society and negation of democracy."

Major Challenges in the Indian electoral system:

- **Money Power:** Election is an expensive affair in every democratic polity. Money power plays a destructive role in our electoral system affecting the working of periodic elections seriously
- **Muscle Power:** Criminalisation of politics and politicization of criminals are like two sides of the same coin and mainly responsible for the muscle power in the election
- **Misuse of Government Machinery:** It generally complains that the government in power often misuse official machinery to further the election prospects of its part candidates.
- **Criminalisation of Politics and Politicisation of Criminal:** Nexus between the two groups of Politician and Criminals ensure each others survival in Indian Democracy. Criminals using money and muscle powers to enter politics and further ensures that the cases against them are not proceeded with. Political parties also field such candidates with a criminal background as they ensure a seat for the Party.
- **Freebies in the election:** Free liquor or some goods to voters are acts of enticing voters
- **Paid News and Fake news:** Paid news is published as a news item in the form of advertisement. Social media also transmit fake news

Steps Taken by the government

- **Electoral bonds:**

- Electoral bonds are like a promissory note that can be bought by an Indian citizen or company incorporated in India from select branches of State bank of India.
- It was introduced with the Finance Bill (2017).
- On January 29, 2018, the government of India introduced the Electoral Bond Scheme 2018.
- **Introduction of VVPATs:**
 - It is a method of providing feedback to voters using a ballot less voting system.
 - It is an independent printer system attached with Electronic voting machine that allows the voters to verify that their votes are cast to the person they want to give
 - VVPAT generates a paper slip every time when a voter casts his vote, recording the party to whom the vote was made
 - The voters verified paper audit slip is kept in a sealed cover
- **Guidelines for social media during the election:** Voluntary Codes for ethics is given by election commission for the fair and free election
- **Lowering of voting Age:** The 61st constitutional amendment act reduced the minimum age for voting from 21 years to 18 years
- **Introduction of Electronic Voting Machines:**
 - EVMs were introduced in the year 1998 during the state elections of Delhi, Madhya Pradesh, and Rajasthan.
 - EVMs are used widely now because they are fool-proof, efficient, and a better option in terms of the environment.
- **Restriction on candidates from contesting in more than two constituencies**
 - It shall lead to disqualification of the person for six years from contesting to the Parliament and State legislatures when a person violates the National Honors Act, 1971
- **Increasing the number of proposers and the security deposit:** The no of electors required to sign as proposers in the nomination papers for election to the Rajya Sabha and the State Legislative Councils has been increased to 10% of the electors of the constituency or ten such electors
 - It helped in reducing the non-serious candidates in the election.
- It is restricted by law to go to the polling booth bearing arms. Taking arms to the polling booth is punishable by imprisonment for up to 2 years
- **Prohibition on the sale of liquor:** Liquor or other intoxicants shall not be sold at any shop, eating place, or any other place within the polling area during forty-eight hours. Forty eight hours ending with the hour fixed for the conclusion of poll
- **The ceiling on election expenditure:** For the Lok Sabha election, a candidate can spend nearly 50-70 lakh, and Rs 20-28 lakh for an assembly election.

- The government decided to observe January 25 as 'National Voters Day' to mark the EC's founding day.
- Voting through the postal ballot is another reform taken up by the Government.
- Political parties need to report any contribution above Rs 20000 to the Election Commission for claiming income tax benefit.
- Declaration of criminal record, assets, etc. by the candidates is required, and declaring false information in the affidavit is now an electoral offence punishable with imprisonment up to 6 months or fine or both.

Way Forward

- **Audit of the party expenditure:** It should be conducted regularly.
- Awareness campaign to educate the voters in villages or colleges for the first time voters.
- **Self-regulation by the political parties:** Political parties voluntarily took money in the electronic form and bring transparency in their approach.
- **Neutrality by Mass media:** Mass media should play a non-partisan role in the election. It acts as a safeguard of democracy.
- Regulation by the social media companies on the **fake news** especially during the election time.

SUPREME COURT ON CRYPTOCURRENCY UPSC: JUDGEMENT, ORDER, & EFFECT

Recently the **Supreme Court** has **struck down a ban by the Reserve Bank of India (RBI)** on banks and financial institutions from dealing with **cryptocurrency** holders and exchanges. In 2018, the RBI had banned various banks from dealing with virtual currency exchanges and individual holders on the grounds that these currencies had no underlying fiat (a formal authorization).

After the circular of RBI in 2018 which ban crypto-currency, The **Internet and Mobile Association of India (IAMAI)** had **challenged the RBI's powers to bar** banks and financial institutions from dealing in such **digital currencies**.

About Crypto currencies:

- There is **no globally accepted definition** of virtual currency. Few agencies have called it a method of exchange of value, while others have labeled it a goods item, product or commodity.
- The founder of bitcoin and the underlying technology called blockchain, Satoshi Nakamoto has defined bitcoins as a **new electronic cash system that's entirely peer-to-peer with no trusted third party**.
- This means that **all users** of currencies will be able to **keep track of the transactions** taking place.

- **Virtual currency** is an **umbrella term for all kind of non-fiat currency traded online**. They are mostly created, distributed and accepted in local virtual networks.
- On the other hand, **Cryptocurrencies have an extra layer of security, in the form of encryption algorithms**.
- Most cryptocurrencies now **operate on blockchain technology** which allows everyone on the network to keep track of the transactions which are occurring globally.

Reason for the ban by RBI:

- Lack of any underlying fiat.
- Excessive volatility in their value.
- Lack of information on their design, use and operation.
- They may seriously disrupt the business models of commercial banks.
- The anonymous nature of cryptocurrency which goes against global money-laundering rules.
- Risks and concerns associated with virtual currencies regarding data security and consumer protection.
- It can impact on the effectiveness of the monetary policy.

Internet and Mobile Association of India (IAMAI) arguments against the ban:

- **RBI action was outside its purview** as a non-fiat currency is not a currency as such.
- There were **no studies conducted** either by the RBI or by the central government.
- The **ban was solely made on moral grounds** and RBI should have adopted a wait-and-watch approach as taken by other regulators like Securities and Exchange Board of India (SEBI).

Supreme Court's judgment on Crypto currency:

- The Court said that **till date RBI has not come out with a stand that any of the entities** regulated by it, **have suffered any loss** or adversely effected due to Virtual Currency exchanges.
- Hence, the **RBI circular is “disproportionate”** as it is **short on the following five-prong test to check proportionality**
 - The direct and immediate impact upon fundamental rights.
 - The larger public interest should be ensured.
 - The necessity to restrict citizens' freedom.

- Inherent harmful nature of the act prohibited
- Possibility of achieving the same objective by imposing a less drastic restraint.
- The court also states that RBI did **not consider the availability of alternatives** before issuing the circular.
- The court said that **RBI could not be blamed for not adopting a “light-touch” approach** as adopted by other countries, as there could be no comparison with other countries such as the US, the UK, Japan, or Singapore were developed economies.
- Further, the court also pointed out the **Centre’s failure to introduce an official digital Currency** despite two draft Bills.

Effects of Supreme Court judgement on Crypto currency:

- It will **help in the incorporation of block chain technology**.
- Crypto currencies can act as **Alternative Investments** so as to hedge global volatility in the Finance market.
- It can be a crucial part of the **Industrial revolution 4.0**.
- It is also estimated that block chain will **generate \$3.1 trillion in new business value by 2030** and allowing crypto currency will enable India to be part of this.
- **For India to become a world power, embracing emerging technologies like crypto currency and block chain is a must.**

Status of Virtual Currencies in the world:

- Organizations across the globe have issued the warning while dealing with virtual currencies.
- A blanket ban of any sort could potentially push the entire system underground which in turn would mean that there will be no regulation.
- **Countries such as China, Russia, and Vietnam** have placed a **complete prohibition** on using cryptocurrency.
- Whereas **countries like the US, UK, Canda, Singapore, and Australia** have **accepted** the use of Virtual Currency in some form or the other.

Future Outlook:

- The **relief** for virtual currency investors and businesses **may be only temporary** as the Centre **govt.in** a draft law has proposed to ban all crypto currencies except a state-issued one.
- The **Centre may** introduce the bill to permanently **ban the crypto currencies** and to set up the basic infrastructure required **to issue state-owned crypto currency** and the digital rupee.
- But rather than imposing a blanket ban, the Govt. should **set up a new expert regulatory body** with capability in technology, economics and finance to deal with all aspect regarding crypto currency.

- RBI may come up with a **new framework or regulation** that deals with the reality of these technological advancements.
- The govt should also **designate virtual currency intermediaries** as reporting entities **under** the Prevention of Money Laundering Act (**PMLA**).
- A vibrant crypto currency segment could add more value to India's financial sector. Thus, in the era of growing technological innovation in the financial sector, it is critical to **strengthen the regulatory frameworks of India**.

IMPORTANT AMENDMENTS IN INDIAN CONSTITUTION

India's constitution is neither rigid nor flexible. Parliament is empowered to amend the Indian Constitution under Article 368, subjected to 'Basic structure of Constitution'. It is done in three ways:

1. By simple majority
2. By special majority
3. By special majority with ratification by half of the states.

Important Amendments in the Indian Constitution

First Constitutional Amendment Act, 1951

- Added Ninth schedule to protect land reforms and other laws from the scrutiny of Judicial review.
- Insertion of new Article 31A and Article 31 B.
- Amended Article 19 by adding three more ground of reasonable restriction on freedom of speech and expression.

Seventh Constitutional Amendment Act, 1956

- State reorganization on a linguistic basis. Abolished classification of states into four categories and reorganized them into 14 states and 6 UTs.
- Appointment of a Governor for two or more states.
- Establishment of common High Court for two or more states, extended jurisdiction of the High Court to union territories. Appointment of additional and acting judges of High Court.
- Insertion of new Article 350 A (instruction in mother-tongue at primary education to children belonging to linguistic minority) and 350B (Special Officer for linguistic minorities is provided in part XVII).

Eighth Constitutional Amendment Act, 1960

- Extended reservation of seats for the SCs and STs and special representation for Anglo-Indians in the Lok Sabha and state legislature.

Twenty-Fourth Constitutional Amendment Act, 1971

- Amended Article 368 and Article 13, affirming the power of Parliament to amend any part of the Constitution.

Constitution including fundamental rights.

- When an amendment to the Constitution adopted by both Houses of Parliament is submitted to the President for his approval, he is obliged to give his consent.

Twenty-Fifth Constitutional Amendment Act, 1971

- Curtailment of the fundamental right to property.
- Insertion of new Article 31 C, which provides that if any law is passed in order to give result to a Directive Principle of State Policy (DPSP) contained in 39(b) and (c), that law will not be considered to be void on the ground that it removes or reduces any of the rights under Article 14, 19 or 31 and will not be challenged on the ground that it doesn't give effect to those principles.

Twenty-Sixth Constitutional Amendment Act, 1971

- Insertion of Article 363 A giving effect to the abolishment of Privy purse paid to former rulers of princely states.

Forty-Second Constitutional Amendment Act, 1976

- Amendment in Preamble by addition of three words- 'Socialist', 'Secular' and 'Integrity'.
- Addition of new Part IVA (Article 51 A) for fundamental duties.
- Insertion of new Article 31 D for saving laws in respect of anti-national activities, taking precedence over fundamental rights.
- Insertion of new Article 32 A for Constitutional validity of State laws not to be considered in proceedings under Article 32. Also added Article 226 A for Constitutional validity of Central laws not to be considered in proceedings under Article 226.
- Insertion of three new Articles regarding DPSP:
 - (i) Article 39 A: Free legal aid and Equal justice
 - (ii) Article 43 A: Participation of workers in the management of industries
 - (ii) Article 48 A: Protection and improvement of environment and safeguarding of forests and wildlife.
- Curtailment of power of Supreme Court and High Court with respect to judicial review and jurisdiction.
- Made Constitutional amendment beyond judicial review.
- The tenure (period) of Lok Sabha and State Legislative assemblies raised to 6 years by amending Article 83 and Article 172.
- Frozen seats in Lok Sabha and State
- Parliament is empowered to decide the powers, privileges and immunities of the members of the committees of each House of Parliament and State Legislature by amending Article 105 and Article 194.
- Added new Part XIV regarding administrative tribunal and tribunal for other matters under Articles 323 A and 323 B.
- Addition of new Article 257 A for assistance to States by the deployment of armed forces or other forces of the Union.

- Creation of All India Judicial Services under Article 236.
- Facilitated a Proclamation of emergency in operation in any part of the territory of India.
- Made President bound by the advice of Council of Ministers by amending Article 74.
- Amendment in Seventh Schedule by shifting five subjects from the state list to the concurrent list. These are: (a) education, (b) forests, (c) protection of wild animals and birds, (d) weights and measures (e) administration of justice.
- Extended one-time duration of President's rule from six months to one year.

Forty-Fourth Constitutional Amendment Act, 1978

- Substituted term 'Armed rebellion' with earlier 'Internal disturbance' in case of national emergency.
- President can proclaim emergency only on the basis of written advice tendered by the cabinet.
- Removal of right to property from the list of fundamental right and recognized as a mere legal right.
- Provided that during national emergency fundamental right guaranteed under Article 20 and Article 21 cannot be suspended.
- Restored the original term of Lok Sabha and State Legislative assembly to five years.
- Restored the power of Election Commission in deciding matters related to election disputes of President, Vice-President, Prime Minister and Speaker of Lok Sabha.
- Guaranteed right of the media to report the proceedings in Parliament and the State Legislatures freely and without censorship.
- Set some procedural safeguards with respect to a national emergency and President's rule.
- Restored the powers of Supreme Court and High Court taken away in earlier amendments.
- In the case of issuing ordinances, the amendment did away with the provision that made the satisfaction of the President or Governor as final justification.
- President can now send back the advice of cabinet for reconsideration. Reconsidered advice, however, is binding on the President.

Sixty-First Constitutional Amendment Act, 1988

- Proposed to reduce the voting age from 21 years to 18 years for Lok Sabha and State legislative assembly election.

Sixty-Ninth Constitutional Amendment Act, 1991

- Granted the National Capital a special status among the Union territories to ensure stability and permanence. Amendment also provided with a Legislative Assembly and a Council of Ministers for Delhi.

Seventy-Third Constitutional Amendment Act, 1992

- Added new Part IX that gave Constitutional status to the Panchayati Raj Institution. Inserted

Eleventh schedule having 29 functions of Panchayat.

Seventy-Fourth Constitutional Amendment Act, 1992

- Granted Constitutional status to Urban Local Bodies. Added 'The Municipalities' as new Part in the Constitution. Inserted Twelfth schedule having 18 functions of the municipality.

Eighty-Fourth Constitutional Amendment Act, 2002

- Readjustment and rationalization of territorial constituencies, without altering the number of seats allotted in the Lok Sabha and State Legislative assemblies to be fixed on the basis of 1991 census till 2026.

Eighty-sixth Constitutional Amendment Act, 2002

- Inserted new Article 21-A in the Constitution which provided for free and compulsory education for all children of the age of 6 to 14 years.
- Inserted Article 51-A as a fundamental duty which provided for the education of a child between the age of 6 and 14 years.
- Changes in the DPSP Article 45 which provided free and compulsory education for all children up to the age of 14 years.

Eighty-Seventh Constitutional Amendment Act, 2003

- Readjustment and rationalization of territorial constituencies in the states to be fixed as per 2001 census instead of earlier 1991 census.

Eighty-Ninth Constitutional Amendment Act, 2003

- Creation of two separate bodies out of combined body namely 'National Commission for Scheduled Castes' under Article 338 and 'National Commission for Scheduled Tribes' under Article 338-A.

Ninety-First Constitutional Amendment Act, 2003

- Inserted new clause Article 75 (1A): provides that the total number of ministers, including the Prime Minister, in the COM shall not exceed 15% of the total number of members of the Lok Sabha
PM- Prime Minister COM- Council of Ministers LS- Lok Sabha
- Inserted fresh clause Article 75 (1B): Provides that a member of either House of Parliament belonging to any political party that is disqualified on grounds of defection from being a member of that House shall also be disqualified from being a Minister.
- New clause Article 164(1A): Provides that the total number of ministers, including the CM, in the COM shall not exceed 15% of the total number of members of the State Legislative Assembly
CM- Chief Minister COM- Council of Ministers

- Inserted new clause Article 164 (1B) which says, a member of Legislative assembly of the State or either House of State Legislature belonging to any political party who is disqualified on ground of defection for being a member of that House shall also be disqualified to be appointed as a minister.
- Removal of the provision in Tenth Schedule pertaining to an exemption from disqualification in case of the split by one-third members of the legislature party.

Ninety-Seventh Constitutional Amendment Act, 2011

- It gave Constitutional protection to Co-operative societies by making the following changes.
- Right to form Co-operative society as a fundamental right under Article 19.
- Insertion of the new Directive Principle of State Policy under Article 43-B for promotion of co-operative societies.
- Added new Part IX B under the Constitution as 'The Co-operative societies' under Article 243 to 243-ZT.

Ninety-Ninth Constitutional Amendment Act, 2014

- Insertion of new Article 124-A which provided for the establishment of the National Judicial Appointments Commission (NJAC) for the appointment and transfer of judges of the higher judiciary. However, it was later struck down by apex court and held as unconstitutional and void.

Hundredth Constitutional Amendment Act, 2015

- This amendment gave effect to the acquisition of territories by India and transfer of certain territories to Bangladesh in pursuance of the Land Boundary Agreement and its protocol entered into between the Governments of India and Bangladesh.

Hundred and First Constitutional Amendment Act, 2016

- Insertion of new Article 246-A, 269-A and 279-A for enrollment of Goods and Service Tax (GST) that made changes in Seventh Schedule and course of inter-state trade and commerce.

Hundred and Second Constitutional Amendment Act, 2018

- It provided for the establishment of National Commission for Backward Classes (NCBC) as a Constitutional body under Article 338-B of the Constitution. It is vested with the responsibility of considering inclusion and exclusion of communities in the list of backward communities for reservation in jobs.

Hundred and Third Constitutional Amendment Act, 2019

- In relation to the current reservation, the reservation of up to 10% for "economically weaker segments" in academic organizations and government jobs has been made.
- It gives effect to the mandate of the Directive Principle of State Policy under Article 46.

- It added new provisions under Article 15 (6) and Article 16 (6) to permit the government to ensure the advancement of "economically weaker segments."

IMPORTANT COMMITTEES AND COMMISSIONS IN INDIA

There are various committees and commissions formed in India at different instances for different purposes. Their recommendations over time have led to varied reforms in Indian society. Hence, they are very crucial for the UPSC Exam.

This article provides a list of various committees and commissions along with their purposes/Objectives (why they were formed/which field they worked in) so that aspirants can have a ready list with which revision can be done.

Committees and commissions are formed for studying a problem/issues and then putting forth recommendations to resolve those issue. The govt can either accept or reject the findings/recommendations of the committee/ commission:

Committee/Commission	Head	Objective
Justice Mukandakam Sharma Committee	Justice Mukandakam Sharma	The aim is to review the draft of the National Code for Good Governance in sports.
General Shekatkar Committee	General Shekatkar	Committee of Experts on rebalancing defence expenditure.
Naresh Chandra Committee	Naresh Chandra	Report on the Taskforce on National security
Prakash Tandon Committee(1994)	Prakash Tandon	Unification of existing railway service
Rajat Bhargav Committee	Rajat Bhargav Committee	Panel on petrochemical investment
H R Khan Committee	H R Khan Committee	Code for responsible lending in Micro Credit
Tapan Ray Committee	Tapan Ray	It will review the regulatory guidelines and supervisory framework of Core Investment Companies (CIC)
Harsh Vardhan Committee	Harsh Vardhan	It will examine the existing state of mortgage securitization in India and Development Housing Finance Securitization
Monetary Policy Committee/Shaktikanta Das Committee	Shaktikanta Das	It will accelerate the GDP growth of the country
High-level Committee/Nandan Nilekani Committee	Nandan Nilekani	It will suggest measure to strengthen the safety and security of digital payments in the country
High-level and Bezbaruah Committee	M.P. Bezbaruah	It will review the implementation of clause 9 of the Assam Accord

Expert Committee/UK Sinha Committee	UK Shina	It will look into the various challenges face MSMEs
National Implementation Committee/Rajnath Singh Committee	Rajnath Singh	It will look into the multiple challenges face MSMEs
Rajiv Kumar Committee	Rajiv Kumar	It will look at selling as many as 149 small gas fields of state-owned Oil and Natural Corporation (ONGC) and Oil India Ltd (OIL) to private and foreign companies to boost domestic output.
Injeti Srinivas High-Level committee	Injeti Srinivas	It will review the existing framework and guidelines and formulate a roadmap for a coherent policy on Corporate Social Responsibility(CSR)
Ethics Committee /Lal Krishna Advani	Lal Krishna Advani	It is a Committee of Lok Sabha which examines complaints related to any unethical conduct by members of Lower House of Parliament
Bhaskar Ramamurthy Committee	Bhaskar Ramamurthy	It will suggest changes to JEE(Advanced)in wake of an inadequate number of candidates qualifying the entrance test.
B Sesikaran Committee	B Sesikaran	To review food labelling standards
High-level Empowered Committee	Cabinet Secretary	It will suggest measures to address issues of Stressed Thermal Power Projects.
Sub-Committee/Dr. Nilima Kshrisagar Committee	Dr Nilima Kshrisagar	It will evaluate 324 irrational FDCs in 12 months
Group of Minister(GOM)and High-Level Committee/Rajiv Rajiv Gauba	Rajiv Gauba	It will deliberate and make a recommendation for a separate penal provision on incidents of mob violence
13-member Committee/Ravinder H Dholakia Committee	H Ravinder H Dholakia.	It will review Sub-National Accounts to upgrade the norms for the computation of economic data.
Sunil Mehta Committee	Sunil Mehta	It will examine setting up of Asset Reconstruction /Management Company for faster resolution of stressed assets of PSBs
Minorities Commission and S.C., S.T. Commission	Mohammed Qamaruddin	For Minorities and S.C., S.T.
14-member panel/Umesh Sinha Committee	Umesh Sinha	It will study the use of social media and other digital platforms in the voting and suggest suggestions on how to adapt the Model Code of Conduct to these changes.

Manmohan Juneja Committee	Manmohan Juneja	The panel will revisit "Schedule VII of Companies Act, 2013, based on reference received from stakeholders, including ministries and department of centre and state members of Parliament, member of state legislatures and civil societies".
Defense Committee(DCP)/Ajit Committee	Planning Doval Ajit Doval	It will suggest measures to reform the process of higher defence planning and national security strategy.
Injeti Srinivas Committee	Injeti Srinivas	It will suggest improvements in the National Sports Development Code and functioning of Sports Federations
Negotiation Committee	A representative from Water Resources, River Development, and Ganga Rejuvenation	On Mahanadi & its Tributaries
Timothy Gonsalves Committee	Timothy Gonsalves	The committee suggested creating reservation seats for the girl students in IIT
Vinod Rai Committee	Vinod Rai	To manage the Indian cricket board
N.S Kang Committee	N.S Kang	It will frame uniform rules for the states to avoid delay in the fast implementation and reduce hindrance of the Rights of Person with Disabilities (RPD) Act in the country
N.K. Singh Committee	N.K. Singh	It will review the Fiscal Responsibility and Budget Management(FRBM)
Amitabh Chaudhry Committee	Amitabh Chaudhry	To analysis the existing framework of IR and linked and non-linked insurance product regulation
Afzal Amanullah Committee	Afzal Amanullah	It suggests ways to improve India's Haj process. It also looks into the issue of subsidy to pilgrims.
H. R. Nagendra Committee	H. R. Nagendra	The objective is to prepare a Yoga Protocol for Diabetes Control
Dr Pritam Singh Committee	Dr. Pritam Singh	The aim is to study the setting up of a Defence procurement organization
Meena Hemchandra Committee	Meena Hemchandra	It reviews the threats inherent in the existing and emerging technology also considers adoption of various security standards and protocols, interface.
Partha Mukhopadhyay Committee	Partha Mukhopadhyay	It suggests the necessary legal and policy framework protecting the interests of

		migrants in the country.
Arvind Panagariya Committee	Arvind Panagariya	It will examine the working of the regulatory bodies Central Council of Indian Medicine (CCIM) and Central Council of Homeopathy (CCH)
AK Bajaj Committee	AK Bajaj	It will address issues related to management of the waters of Krishna River between warring Andhra Pradesh and Telangana.
Lt. Gen. D.B. Shekatkar Committee	Lt. Gen. D. B. Shekatkar	It will Reform the military and improve financial management.
Justice Shri Girdhar Malviya Committee	Justice Shri Girdhar Malviya	To prepare draft Ganga Act
Kewal Kumar Sharma Committee	Kewal Kumar Sharma	To review the recommendations made by University Grants Commission (UGC) panel on implementation of the 7 th pay commission in educational institutions
Mr Ashok Dalwai Committee	Mr Ashok Dalwai	To establish a regulated wholesale agri-market at a distance of every 80 km
Dr R B Barman Committee	Dr R B Barman (Chairman of the national statistical Commission)	The objective is to lay down technical standards for the performance of core services and other services
Arvind Panagariya Committee	Arvind Panagariya	To compute timely data on the employment situation in the country
Madhav Chitale Committee	Madhav Chitale	The objective is to recommend measures for de-siltation of river Ganga
Smt. Rina Mitra Committee	Smt. Rina Mitra Special secretary(internal security)in the ministry of Home affairs.	It examines the rules which allow movement of Indians and Myanmar Citizens
Krishnaswamy Kasturirangan Committee	Krishnaswamy Kasturirangan	To draft the national education
Uday Kotak Committee	Uday Kotak	It will suggest improvement in the standards of corporate governance of listed companies
Pradeep Kumar Committee	Pradeep Kumar	It will look at the stressed assets of the banking sector
CK Khanna Committee	CK Khanna	The objective is to support staff of the Indian team and then decide in the contracts that hand over to the coaches
Pradeep Kumar Shina	Pradeep Kumar Sinha	To select the national anti-profiteering authority

Committee

Usha Nath Banerjee Committee	Usha Nath Banerjee	Deal with the players' transfer dispute.'
Justice B N Srikrishna Committee	Justice B.N. Srikrishna	It is an expert committee to study various issues relating to data protection.
Renuka Chowdhury Committee	Renuka Chowdhury	According to the committee, Genetically modified(G.M.) crop should be introduced after biosafety, socio-economics evaluation
Tarun Ramadorai Committee	Tarun Ramadorai	Rights-based privacy framework in house finance

ALL-INDIA JUDICIAL SERVICES (AIJS)

It means creating a centralized cadre of District Judges recruited by the centre through an All-India examination similarly along the lines of all India services. Currently, district judges and the subordinate Judiciary are appointed by the examination conducted by the state government.

Background of All India Judicial Service in India:

- The All India Judicial Service proposal was first initiated in the Chief justice Conference in 1961.
- The 14th law commission mooted the idea of creating an All-Indian Judicial Service in 1958.
- Jagannath Shetty commission also recommended the All India Judicial Service
- In 1976, after the recommendation of the Swaran Singh committee, Article 312 of the constitution was amended by the 42nd constitutional amendment act, 1976, to include an all-India judicial service.
- The UPA government in 2012 drafted a bill for All India Judicial Service, but it was done away with after opposition from the high court chief justices.

The need of All India Judicial Service:

- It would help in filling the vacancies in the approximately 5,000 jobs across the district and subordinate court.
- It is the need of the hour to increase the case clearing ratio in the subordinate and district courts by increasing the number of judges
- It helps in enriching the quality of justice. As the judicial academies give proper training and high courts provide the freedom with the identified parameters to innovate. So district judges' efficiency will increase, and this would reduce appeals arising from their decision.
- It will help in addressing the lacunas of the state mechanism. The present appointing system is often criticized for the delay, inefficiencies. Even in some cases, limited selections are challenged in litigations, but the whole recruitment will stall.

- It will attract the best talent from across the country to join the district and Subordinate Judiciary.
- A unified judiciary with the uniform laws and an all-India judiciary helps to institutionalize the idea of co-operative federalism.
- It would help in establishing cordial relations between the Lawyers and judge relation.
- It would help in establishing the transparent and efficient method of recruitment and helps in restoring public faith in Judiciary

Issues:

- **Language barrier:** - Upto the district court and session judge, the proceedings are conducted, and the judgments are written in the local language.
- The judges appointed through the All India Judicial service are not familiar with the language and the customs of the state and deciding such cases may affect the legitimacy of the judicial system in the eyes of the local population
- It will reduce the efficiency of the legal system.
- According to civil procedure code 1908 and code of criminal procedure, 1973, the proceedings of civil and criminal courts are to be conducted in a language prescribed by the state government.
- Even some high courts have a special exemption to conduct their proceedings in Hindi
- Some people argue that the creation of All India Judicial service will disturb the federal structure.
- **Independence of Judiciary:** Currently, the autonomy of the district judge is guaranteed by the fact that the High court plays a significant role in the appointment, transfer, and removal of district judges.
- With the setting up of All India Judicial Service, this control would be weakened and thereby hampering the independence of Judiciary
- Many people are also apprehending that it will reduce the promotional avenues of the members of the subordinate state judicial service.
- As per now, many of the communities who currently benefit from the state quotas may oppose the formation of All-India Judicial service.
- A national exam may close down the doors from fewer privileged backgrounds from being able to enter the Judicial service
- A national exam may not end up taking into account the local laws, practices, and customs which vary from states to states
- Doing so it may increase the costs of training of judges selected through the mechanism
- It may trigger the conflicts between the centre and states
- Among all high courts, nine high courts are against the proposal and hence disapproving of the plan.

Way forward:

- There is a need to ensure that the appointment should be made transparently, without any interference from the central government and the state government.
- The report of 116th Law commission recommends the formation of the National judicial service commission consisting of retiring and sitting judges of the supreme court, members of the bar and legal academies. Such steps should be taken
- All decisions should be made with the concurrence of the state and the high court to avoid the conflict and to maintain the federal structure of the country.
- Training can be imparted, or cadre may be distributed to improve efficiency.
- The state government must investigate the reasons and the cause of the large vacancies in the poorly performing state

Facts for prelims:

- Article 312 authorizes the parliament to create new all-India services based on a Rajya Sabha resolution to that effect declaring that it is necessary to do so in the national interest
- Such resolution in the Rajya sabha should be passed with the 2/3rd of the members present and voting.
- The extraordinary power is given to Rajya sabha to protect the interest of states in the Indian federal system.
- The Governor makes the appointment, posting, and the promotion of district judges of the state.
- He does so after consulting the high court of the state.
- Sardar Vallabh Bhai Patel was the chief protagonist of all India service in the constitution assembly and known as the father of all India service.
- The Governor, with the previous consent of the president, can authorize the use of Hindi or any other regional language of the state, in proceedings of the high court.

22ND LAW COMMISSION OF INDIA

Context: The Union Cabinet has approved for Twenty-second Law Commission of India for a period of 3 years.

About Law Commission of India:

- Law Commission of India is neither a constitutional body nor a statutory body, it is an executive body established by an order of the Government of India. Its major function is to work for **legal reforms**.
- The Commission is established for a fixed tenure and acts as an **advisory body** to the **Ministry of Law and Justice**.
- Its membership primarily comprises of the legal experts.

Functions of Law Commission:

- Identify laws which are no longer needed or relevant and can be immediately repealed.
- It examines the existing laws in the light of Directive Principles of State Policy and suggests ways of improvement and reform.
- It also suggests such legislation as might be necessary to implement the Directive Principles and to attain the objectives set out in the Preamble of the Constitution.
- It considers and conveys to the Government of India its views on any subject relating to law and judicial administration which may be specifically referred to it by the Government through Ministry of Law and Justice (Department of Legal Affairs).
- Take all such measures as may be necessary to harness law and the legal process in the service of the poor.
- Consider the requests for providing research to any foreign countries as may be referred to it by the Government through the Ministry of Law and Justice (Department of Legal Affairs).

Background of Law Commission:

- Law Commissions in India have a pre-independence origin. The first Law Commission was formed in the **year 1834** as a result of the **Charter Act, 1833** with the chairman being **TB Macaulay**.
- The first commission's recommendations resulted in codification of the penal code and the Criminal Procedure Code.
- Three other law commissions were constituted before independence by the British government. All four pre-independent law commissions have contributed to the statute books immensely.
- **After Independence, law commission was first formed in 1955 under the chairmanship of the then Attorney-General of India, M. C. Setalvad.**
- The commission is reconstituted every three years and so far, 277 reports have been submitted to the government.
- The various Law Commission have been able to make an important contribution towards the progressive development and codification of Law of the country.
- The 22nd Law Commission will be constituted for a **period of three years** from the date of publication of its Order in the Official Gazette.

Members of Law Commission:

1. A full-time Chairperson.
2. Four full-time Members (including Member-Secretary)

3. Secretary, Department of Legal Affairs as ex-officio Member
4. Secretary, Legislative Department as ex officio Member; and
5. Not more than five part-time Members.

Benefits

- The Government will have the benefit of recommendations from a specialised body on different aspects of law which are entrusted to the Commission for its study and recommendations, as per its terms of reference.
- The Law Commission shall, on a reference made to it by the Central Government or suo-motu, undertake research in law and review of existing laws in India for making reforms therein and enacting new legislations.
- It shall also undertake studies and research for bringing reforms in the justice delivery systems for elimination of delay in procedures, speedy disposal of cases, reduction in the cost of litigation etc.

Note:

- The 21st Law Commission was constituted under Justice B.S. Chauhan (retd.).
- He had submitted reports and working papers on key issues such as simultaneous elections to the Lok Sabha and the Assemblies and uniform civil code.

THE FEMINISATION OF INDIAN POLITICS

The feminisation of Indian politics means the increase in women's participation in the politics of the country. The word Political Participation has deep meaning. It not only means the Right to vote but also includes the involvement of women in the decision-making process, power-sharing, running political parties, holding political offices, and policymaking at all levels of governance of the state.

To understand the political participation of women, we need to divide the political involvement of women in three-level:

- Political participation of women at the national level(Basically in the Lok Sabha, Rajya Sabha, National political parties, or any other ways by which women further their political interest).
- Political participation of women at the state level politics(In the legislative assembly or any state-level politics).
- Political participation of women at the local level in the panchayat and the municipalities.

Constitutional Provisions:

- Constitution has provided equal opportunities for both men and women in all the spheres including the political area with article 14, article 15, and article 16 of the constitution

- Moreover, Article 325 and 326 guarantees political equality, equal Right to participate in political activities, and the Right to vote, respectively.
- Apart from this, the 73rd Constitutional amendment has added article 243(D)(3), which provides reservation to the women.
- It provides reservation to women not less than 1/3rd of the total number of seats to be filled by direct elections of the panchayat.
- Due to this, more than 10 lakh women entered the local level politics of the country.
- However, no such reservation is provided at the national level as well as the state level. and hence only 78 women elected to the parliament in the recent Lok Sabha election
- Similarly, in state-level politics, the participation of women is less.

Need of women in Indian politics:

- Increasing the women in Indian politics will help in better representation of women's and children's concerns in policymaking.
- Women legislators in India gave a better performance in their constituencies by approx 1.8% per year more than male legislators.
- Even in terms of corruption, efficiency, and motivation, women show better results.
- Male legislators are almost three times as likely as the female legislature to have criminal charges pending against them when they contest the election,
- Even in terms of assets accumulation in office, women do this 10% point lower than men.
- Since economic infrastructure is valuable input, Women politicians are more likely to complete the project. It is based on the performance of MLA in the implementation of Pradhan Mantri Gram Sadak Yojana.
- Despite so many favourable points for women, women make up 14% of the Lok Sabha and 11% of the Rajya Sabha.
- Women constitute only 9% of State assembly members and only 5% of the state Council members.

Reason for less entry of women in Indian politics

- Low status in society: Women are treated as a second class citizen, and patriarchal society often think that women are only for domestic responsibilities
- The restraining cultural norms
- Poor economic status: Women often face the problem of finance for their participation in the election
- Lesser exposure to education Women are often considered as a liability in some parts of the country and deprived of fundamental rights such as education

- The unhealthy political environment: For instance In this recent #me too movement, a journalist Priya Ramani accused Union Minister of state of external affairs, MJ Akbar of sexual harassment.
- Lack of leadership training: Women's participation is often limited at the low level in the political party, and no leadership training is provided to them.
- Lack of political will: Political parties in India tend not to follow provisions in their constitutions reserving seats for women in different committees
- On the reserved seats, at the local level, political leaders take positions in the name of their wife, and after winning elections, actual power is used by their male counterparts instead of women. (Concept of sarpanch pati raj)

The situation in other countries

- India ranked 148 in terms of representation of women in executive government and parliament as per the Women in Politics report, 2017 published by Inter-parliamentary union and UN women
- Rwanda has the maximum participation of women in the parliament, where women have won 61.3% of seats in the lower house.
- Only three countries namely Rwanda, Cuba, and Bolivia have more than 50% participation
- Globally, there are 27 countries in which women have less than 10% of parliamentarians in the single or lower house. Three states have no women at all in the parliament
- Nordic countries have 42.5%, Americas, 30.6%, Europe excluding Nordic countries 28.6%
- Sub-Saharan Africa has 23.9%, Asia 19.8%, Pacific 16.3%, and Arab states have 19 percent participation

How to enhance such participation

- Political mentoring: Mentoring and training skill programs prepare women for political work and strengthen their political skills.
- Building women's platform, networks, and pools of potential candidates for their developments
- Training women to raise funds and establish funds raise systems to decrease the obstacle of financial disadvantage.
- Provide opportunities to strengthen elected women's influence and leadership, such as conducting orientation for the newly elected women, networking opportunities, governance skill training.
- Political parties should identify potential women candidates and support them.
- Political parties need to create a conducive and safe environment for women in the political party.
- Political parties create Internal complaints committees and other grievance redressal method so that, women feel safe and have a mechanism for complete redressal of their complaints

- Parliament itself pass women reservation legislation. There are various advantage of women reservation
 - Issues related to women will get much more priority in the parliament and can be resolved easily
 - It can also help in making the atmosphere of the parliament and state assemblies more conducive for debates and discussions
 - Panchayati Raj is a positive example of reservation in the country
- Behaviour change of the society by street plays, natakas or counselling with the cases of women leaders
- Promoting education among women so that women get a fair chance.
- Organizing women youth parliament, which provides a platform for women to develop skills for political participation.
- States such as Andhra Pradesh, Bihar, and 14 others have implemented a 50% reservation of the women in the Panchayati Raj Institutions. Rest states should follow
- The central government, with the consent of the state government, should introduce a constitution amendment bill for the 50% reservation for women in the whole country.

Conclusion

SDG goal 5 has a target " Ensure women's full and active participation and equal opportunities for leadership at all levels of decision making in political, economic, and public life. That needs to be achieved with the collective efforts of the international community(SDG goal 17- Partnership for the goals.)

NATIONAL INVESTIGATION AGENCY (NIA) Functions; Vision; Jurisdiction; National Investigating Agency (Amendment) Act, 2019

National Investigation Agency was constituted under the provisions of the National Investigation Agency Act, 2008 (NIA Act) in the year 2009. It was established after the 2008 Mumbai terror attacks, popularly known as attacks of 26/11. This attack alarmed the government to have a special and separate agency to deal with the terror-related crimes in the country. National Investigation Agency works as a central counter-terrorism law enforcement agency in the country. NIA's headquarter is situated in New Delhi, with branch offices at Hyderabad, Kolkata, Guwahati, Mumbai, Lucknow, Kochi, Jammu and Raipur.

The National Investigation Agency is headed by a Director-General. He is appointed by the central government. His powers are similar to the powers exercised by a Director-General of Police in respect of the police force in a state. NIA also has a separate cell known as TFFC cell dealing with the matter of fake currency notes and issues of terror funding. National Investigation Agency works under the control of the Ministry of Home Affairs, Government of India. The state government provide all assistance and cooperation to the NIA for investigation of the offences specified under the NIA Act.

Reasons for introducing NIA Bill by Government:

1. Past few years have seen many attacks apart from attacks on borders and in Naxalite areas. India has been a victim of terrorist attacks and bomb blasts in hinterlands as well as major cities.
2. Many of these incidents have complex linkage both with inter-state and international linkages. These include incidents of smuggling of arms and drugs, circulation of fake Indian currencies and infiltrations from across the borders, etc.
3. Therefore the Government felt the need for establishing an agency at the central level for the investigation of offences related to terrorism and certain other acts which have ramification for the Nation as a whole.
4. Several committees and the Second Administrative Reform Commission have also made recommendations for this.
5. The Government keeping in mind the interest involved had proposed to enact a legislation to make provisions for the establishment of an NIA. These provisions are to be incorporated in the National Investigation Agency Bill, 2008.

Functions:

- The NIA under the National Investigation Agency Act is mandated to investigate and prosecute offences mentioned under the act. As per its mandate, the NIA collects, collates and analyses counter-terrorism based investigations. It also shares information with sister investigation, intelligence and law enforcement units both at the level of the centre and the State.
- NIA investigate and prosecute offences in respect of the acts specified in the schedule of the National Investigation Agency Act. These include offences affecting Sovereignty, Unity and Integrity of India and Security of State etc.
- It also functions as a body which provides assistance to and seeks assistance from other intelligence and investigation agencies.
- It has the power to take other such measures which may be necessary for speedy and effective implementation of the provision of the NIA Act.

Vision:

1. It aims to be a professional investigation agency matching the best international standards.
2. It aims to create deterrence for existing and potential terrorist groups in the country.
3. It aims to set some standards of excellence in counter-terrorism and other National security-related questions, by the way of creating a highly trained and partnership-oriented workforce.
4. It also aims to create a repository of all terrorist-related information.

Jurisdiction:

It involves concurrent powers along with other investigating agencies to investigate and prosecute the offences affecting the Sovereignty, Security and integrity of India, the security of the state, friendly relations with foreign states and offences under various acts enacted to implement international treaties.

NIA is empowered to investigate terror attacks, bomb blasts, hijacking, attacks on nuclear installations and use of weapons of mass destruction. With the NIA (Amendment) Act, 2019 the jurisdiction of NIA has increased.

Mission of NIA as established by the National Investigation Agency Act is as follows:

- Use of latest technology and scientific methods for accurate and minute investigation of the offences. To set up standards so that all cases entrusted with the NIA are detected surely.
- To ensure speedy and fair trials.
- To create a professional workforce with regular training in best practices around the world.
- To create a professional and result oriented organisation, upholding the Constitution of India and laws of the land, giving prime importance to universal human rights and dignity of the individual.
- Building a vast database of information regarding individual terrorists and terrorist organisations, in order to share it with state and other investigating agencies.
- Displaying scientific temper while performing the duties assigned to them under the act.
- Maintaining cordial relations with the government of states and union territories.
- Studying and analysing laws related to terrorism in other countries and as well as evaluating the laws in India.
- Winning the confidence of the citizens of India by the way of selfless and fearless working.

National Investigating Agency (Amendment) Act, 2019:

1. It provides that Officers of the NIA shall have similar powers, privileges and liabilities as being exercised by the police officers in connection with the investigation of offences not only in India but outside India also.
2. It is also empowered to probe the offences relating to human trafficking, counterfeit currency, cyber terrorism, manufacturing and sale of prohibited arms and explosive substances.
3. It enhances the provision of the Act to persons who commit a scheduled offence beyond India against any Citizen of India or affecting the interest of India.

4. It empowers the central government, to direct the NIA to register the case with respect to a scheduled offence committed outside India
5. It provides for the central as well as state government to designate Session Courts as Special courts for conducting the trial of offences under the NIA Act.

ELECTRONIC VOTING MACHINE (EVM) CONTROVERSY

Context: The allegations of malfunctioning of Electronic Voting Machines (EVMs) by the opposition parties in the multiple State Elections as well as the two General Elections of 2014 and 2019 have raised questions over the credibility of the machines. The alleged tampering has the potential to wreak havoc in the democratic setup of the country. However, the Election Commission on multiple occasions has rejected these allegations and reassured the electorate against any such mischief regarding the EVMs.

EVM Technology

- EVMs are simple and **isolated** machines which provide the voter with a button of every choice corresponding to the candidate. It is linked by a cable to an electronic ballot box.
- EVMs are powered by a 6-volt single alkaline battery and thus can be used in remote areas with no electricity as well.
- EVMs are **not connected internally or externally to any internet** or any communication device which makes it difficult to hack from remote operations.

EVMs in India

Globally only about 25 countries have tested or are using the EVM technology in their electoral process. The EVMs in countries like the **USA** are connected to a server and operated using the Internet. This makes it prone to hacking and manipulation (as alleged Russian role in US Presidential Elections). Similarly, in **Germany**, the EVMs were found with several issues as they were imported from a private company from the Netherlands and held unconstitutional by their courts on various accounts. **Brazil** and **Venezuela** have been using their model of EVMs successfully.

India has successfully incorporated the EVMs into its electoral process with the aim to reduce problems associated with ballot paper voting and create a clean voting environment. The Election Commission mooted the idea of EVM in 1977. M B Haneefa invented the first model of the Indian voting machine in 1980 which was used in 1981 by-election in Kerala. In 1989, EVMs were commissioned by Election Commission of India in collaboration with Bharat Electronics Limited (BEL) and Electronics Corporation of India Limited (ECIL).

Parliament amended the law in 1988 and a new section 61A was added to Representation of the People Act (RPA), 1951 which empowered the Commission to use voting machines. The Central Government appointed the Electoral Reforms

Committee in January 1990 consisting of a representative of several recognized National and State Parties.

The Electoral Reforms Committee further constituted a technical Expert Committee for the evaluation of the EVMs. The Committee concluded that the EVM is a secure system. Thus, the expert committee recommended the use of electronic voting machines without further loss of time in April 1990. Since 2000, EVMs have been used in over 100 State Assembly Elections and 4 Lok Sabha elections held in 2004, 2009, 2014 and 2019.

From Ballot to Machine

- Booth capturing or Ballot Box capturing was rampant in many places where the power politics came into play with the use of local goons.
- Forcibly casting false votes by party workers.
- A high proportion of invalid votes such as improper stamping on the ballots.
- Huge time and operational cost of the paper ballot system.

Studies show that EVMs have considerably reduced electoral fraud and made rigging nearly impossible.

Should India Switch to Paper Ballots Again?

Since their debut, these machines have been targeted by all the political parties especially the losing side. The allegations that EVMs can tamper easily where the vote of one political party or candidate can be transferred to another. Or, that no matter the choice of the voter, the vote will be cast to a particular party or candidate. Technical glitches such as sudden stopping of the machine have been alleged as mischief by some parties.

Transparency, Verifiability and Secrecy of the voting process are the pillars of **free and fair elections** in a democratic setup. These are ensured by the paper ballots where the voter can confirm her casted vote and that too in secrecy. These very pillars are said to be shaken by the malfunctioning EVMs.

The doubt over the transparency and integrity of EVMs has been raised in technologically advanced countries as well. These include Germany, USA and Italy among many others and some have even held the use of EVMs as unconstitutional and therefore banned them in their countries.

Election Commission of India, however, swear by the un-hackability of the EVMs and had even thrown an open challenge to all political parties and other professionals to tamper the machine.

The EVM Test

- EVMs are carefully selected and secured by the Election Commission to ensure that the machines record the actual vote. The testing of the EVMs is done in the

presence of all political party representatives. Faulty machines are removed. The EVMs are then sent to different constituencies randomly such as to foil any rigging possibility.

- As a **dry run**, the EVMs are then retested in the presence of party representatives after which they sign a certificate of satisfaction. Before being finally delivered to polling booths, EVMs have sealed with a unique security number again in the presence of all the party representatives.
- After the elections, the EVMs are immediately despatched to the custody of the Returning Officer which may be SDM or DC (or any other who has been accorded magistracy powers).
- Now, the Election Commission has assured that in future VVPAT would be provided with the EVMs so the voter can see the vote she casts.

Is EVM Tampering Possible?

- The EVMs are electronically designed in such a way as to prevent any manipulation. The software in the machines is burnt into a One Time Programmable (OTP) chip so that it cannot tamper.
- This software is developed indigenously by BEL and ECIL engineers independently. No private contracts are given to design the software.
- The testing and evaluation of the software are done by independent testing groups only.
- The code is burnt into the microcontrollers. The code is kept secret and not given to anyone outside the designer engineers group in the PSU.
- The software code is designed as per the requirements of the voting process. The software allows a voter to cast the vote only once. The vote can be recorded by an elector from the ballot unit only after the Presiding Officer enables the ballot on the Control Unit. The machine does not receive any signal from outside at any time. The next vote can be recorded only after the Presiding Officer enables the ballot on the Control Unit. In between, the machine becomes dead to any signal from outside (except the Control Unit.)
- The EVM samples are regularly checked by the Quality Assurance Group within the PSUs.
- In 2006, The Technical Evaluation Committee had concluded that any tampering of Control Unit by coded signals by wireless or Bluetooth/WiFi or any remote location is not possible as the Control Unit does not have a high-frequency receiver and data decoder. The Control Unit accepts an only special encrypted data from Ballot Unit.
- Data from any outside source is not accepted by the Control Unit.

This system makes the EVM effectively hack-proof. However, the allegations and claims continue. Therefore, the Election Commission of India has proposed the use of **Voter Verifiable Paper Audit Trail (VVPAT)** with the EVMs.

How will VVPAT help?

It is claimed that the **EVMs are neither transparent and nor verifiable**. That is, once the vote had been cast, the voter cannot see her vote being recorded and cannot verify that the vote had been recorded correctly. The EVM record only the total number of votes. It is alleged that by tampering the machines, it is possible to game the system where the vote cast would be different than the vote recorded.

In its response, the **Voter Verifiable Paper Audit Trail (VVPAT)** was introduced by the Election Commission of India. It is an attached printer with the EVM that provides a paper trail for voters which she has 7 seconds to see. The paper with the **poll symbol** and **name of candidate** then drops into the box. This helps in verification of the vote cast.

VVPAT machines can be accessed only by polling officers.

However, VVPAT resolves only the verification part of the voting. The counting part of the votes is still opaque. The counting and verification of all the VVPAT will be a logistical challenge as well.

The secrecy of the voting process might also be compromised. With VVPAT papers, there is a *risk of capturing voting patterns* in a particular constituency. It would render the marginalised communities vulnerable. A totaliser machine was proposed to address this issue. The totaliser machine mixes the votes from 14 booths and counts them together to protect the voters by maintaining their secrecy.

Malfunctioning VVPATs

The VVPATs have reportedly malfunctioned in several Lok Sabha and State Assembly constituencies. The malfunction was blamed on excessive hot weather and exposure to light which damaged the sensors of the machine. The excuse of the inexperience of the staff with the VVPAT machines is also provided.

VVPAT machines are still not ubiquitous and their procurement has been delayed due to delay in sanctioning of funds from the Union Government.

Way Forward.

EVMs are the key to elections in India. Free and fair elections are Sine qua non for a functional democracy. Any aspersions cast on the election process must be immediately quelled to maintain the confidence of the citizens upon the system of the state. In this regard, the best manner of the voting process is to be decided upon by all the stakeholders which include all political parties, Election Commission, and the people.

Some measures concerning the EVMs which will strengthen their use in elections in India and create a malign free election environment are:

- Frequent public hackathons of the EVM machines to build people's faith in the machines.
- Immediate correction of any malfunctioning when found.
- VVPAT to be attached with every EVM in the polling booth as soon as possible.
- Improve the EVM and VVPAT technology to work in extreme temperatures to prevent any misbehaving.

SCHEDULED AND TRIBAL AREAS

Article 244 in Part X of the Constitution has special provisions for administration of certain areas designated as “scheduled areas” and “Tribal areas”. The areas under the Fifth schedule deals with the administration and control of scheduled areas and scheduled tribes in all states except for the four states of Assam, Tripura, Meghalaya and Mizoram. While the Sixth schedule deals with the administration of the tribal areas of Assam, Tripura, Meghalaya and Mizoram.

Scheduled And Tribal Areas: Provisions under schedule 5; Provisions under schedule 6

Why Scheduled areas are treated differently from the other areas in the country?

This is because they are inhabited by the ‘aboriginals’ who are socially and economically rather backwards, and needs affirmative actions to improve their conditions. Therefore the administrative machinery which works in the normal state doesn’t extend to the scheduled areas and central government has a greater responsibility in dealing with these areas.

Provisions under schedule 5:

In 2016, 10 states of India had scheduled areas these include Andhra Pradesh, Telangana, Jharkhand, Chhattisgarh, Gujarat, Himachal Pradesh, Madhya Pradesh, Maharashtra, Orissa and Rajasthan. The various provisions of administration in the Fifth schedule area are as follows:-

1. The President is empowered to declare any such area as scheduled area. He can also alter the boundary of these areas by either increasing it or decreasing the areas in consultation with the governor of the concerned state.
2. **Powers of State and Centre:** The executive power of a state extends to the scheduled areas in the state. But the governor has special power with regard to such areas. He had to submit a report to the President regarding the administration of such areas, annually or whenever so required by the President. The executive power of the centre extends to giving directions to the states regarding the administration of scheduled areas.
3. The governor has the power to direct that any particular act of Parliament or the state legislature doesn’t apply to a scheduled area or apply with certain modifications. He can also make rules for the peace and good governance of these areas after consulting with the tribe advisory council. Such regulations by the governor have an immense impact such as regulation to prohibit or restrict the transfer of land by or among members of the scheduled tribes. Also, a regulation has the power to repeal or amend any act of Parliament or the State Legislature, which is applicable to scheduled areas. But all such regulations require the assent of the President.
4. **Tribe Advisory Council (Composition and work):** States having scheduled areas have to establish a tribe advisory council to advise on the subject of

welfare and advancement of the scheduled tribes. It consists of 20 members, out of which three-fourths are to be the representative of the scheduled tribes in the state legislative assembly. A similar council can be established in a state having scheduled tribes but not scheduled areas if the President directs.

5. The Constitution requires the President to establish a commission to report on the administration of scheduled areas and scheduled tribes in the states. He can appoint such a commission at any time but it's compulsory to constitute one after 10 years of the commencement of the Indian Constitution. Therefore in 1960s **U.N. Dhebar Commission** was established. In 2002 another commission was established under the chairmanship of Dilip Singh Bhuria.

Provisions under schedule 6:

The Constitution under this schedule contains special provisions for the administration of tribal areas in the four north-eastern states of Assam, Tripura, Meghalaya and Mizoram. The causes behind special provision for this state were – the tribes in these four states haven't much assimilated in the life and ways of other people in these states. The tribe in these areas haven't adopted the culture of the majority of the people among which they live. These tribes are a unique embodiment of culture, customs and civilization.

The various **features of administration in Sixth Schedule** areas as enshrined in our constitution are:-

1. The tribal areas in these four states are provided with a sizable amount of autonomy by the Constitution.
2. The tribal areas in these four states have been constituted as autonomous districts. These autonomous districts fall inside the executive authority of the state concerned.
3. The governor has the power to organise and reorganise the autonomous districts.
4. If there are different types of tribes in an autonomous district, then the governor can divide the district into several autonomous regions.
5. Each autonomous council consists of 30 members, out of which 26 are elected on the basis of adult Franchise and 4 are nominated by the governor. The term of elected members is 5 years and nominated members hold office as per the pleasure of the governor.
6. Each autonomous district also has a regional council.
7. The regional and district councils administer the areas under their jurisdiction. They can make laws on specified matters like forest, land, canal, water, shifting cultivation, village administration, marriage and divorce and others. But the lawmaking on such subjects requires the assent of the governor.
8. The district and regional council can constitute courts for trial of cases between the tribes in their administrative areas.
9. The district council can establish, construct or manage primary schools, markets, ferries, fisheries, roads, dispensaries, markets and so on in the district. It can also make rules and regulations for the control of money lending

and trading by non – tribal's. But such kind of regulations requires the assent of the governor.

10. The acts of Parliament or the State Legislatures don't apply to autonomous districts and autonomous regions. Even if applied, the applicant with specific modifications and exceptions.
11. These councils are empowered to assess and collect land revenue and impose certain specified taxes.
12. The governor can appoint a commission to report on the matters related to the administration of the autonomous districts or regions. He may dissolve a regional or district council on the recommendation of the commission.

Thus provisions of Schedule Five and Schedule Sixth of the Indian Constitution have proven to be very effective in the effective administration of the areas coming under their ambit.

COALITION GOVERNMENT IN INDIA

The term 'coalition' is derived from the Latin word 'coalitio', and it means to grow together. As per dictionary meaning, coalition means the act of coalescing or uniting in one body. In political terms, it means an alliance of distinct political parties. When various political parties come together to form a government on the basis of commonly agreed agenda, it is called as coalition politics. This arrangement arises when no political party on its own can gain a majority in the parliament. Other situations of national crisis, for example, wartime, can also give birth to the coalition government so that a high degree of political legitimacy can be given to the government. In coalition, power is more shared among partners. Many splinter groups agree to join by sinking broad differences.

Coalition Government in India: Features; History; Growth; Merits And Demerits of Coalition Politics

Features of Coalition Government:

- Principally coalition governance has two concepts involved. One is 'common governance' which is based on a common decision-making process. Other is 'joint governance' which is based on the distribution of power.
- Operation of the coalition is not regulated by any legal staff.
- Pragmatism is the hallmark of coalition politics and not ideology.
- The pre-poll coalition is considered fairer and advantageous as electorates get to know about the joint manifesto.

History of Coalition Governments:

- It draws its roots from the time of warring states used to ally with each other to defeat a common enemy.

- In independent India, when there was split in Congress party in 1969, the minority government of Indira Gandhi continued with outside support of CPI, DMK and others.
- The first formal coalition was of Janta Party during period 1977 – 1979 which had Congress (O), Bharatiya Jana Sangha, Bhartiya Lok Dal, Socialist party, Congress for Democracy, Charan Shekhar Group and others.

Following are coalition formed at Centre:

Sr. No.	Period	Coalition	Prime Minister	Partners
1.	1979 – 1980	– Janata Party (Secular)	Charan Singh	Janata (S) and Congress (U). Congress supported from outside.
2.	1989 – 1990	– National Front	V.P.Singh	Janata Dal, TDP, DMK, AGP and Congress (Socialist). BJP and Left parties supported from outside.
3.	1990 – 1991	– Janata Dal (Socialist) or Samajwadi Janata Party	Chandra Shekhar	Janata Dal (S), Janata Party. Congress supported from outside.
4.	1996 – 1997	– United Front	H.D.Deve Gowda	Janata Dal, CPI, Congress (T), DMK, TDP, TMC, AGP, SP and others. Congress and CPM supported from outside.
5.	1997 – 1998	– United Front	I.K.Gujral	Janata Dal, CPI, TMC, SP, DMK, AGP, TDP and others. Congress supported from outside.
6.	1998 – 1999	– BJP- led coalition	A.B.Vajpayee	BJP, AIDMK, BJD, Shiv Sena, Lok Shiksha, Arunachal Congress, Samata, Akali Dal, PMK, TDP and others. TDP and Trinamool Congress supported from outside.
7.	1999 – 2004	– National Democratic Alliance (NDA)	A.B.Vajpayee	BJP, JD(U), Trinamool Congress, Shiv Sena, LJP, DMK, PMK, INLD, MDMK, National Conference, Akali Dal, RLD, AGP and others.
8.	2004 – 2009	– United Progressive Alliance (UPA)	Manmohan Singh	Congress, NCP, DMK, RJD, LJP, PMK and others. CPI and CPM supported from outside.
9.	2009 – 2014	– United Progressive Alliance (UPA - II)	Manmohan Singh	Congress, NCP, DMK, Trinamool Congress, National Conference and others.
10.	2014 – 2019	– NDA	Narendra Modi	BJP, LJP, TDP, Shiv Sena, Akali Dal, Rashtriya Samata Party, Apna Dal (S) and others. TDP left NDA in 2018.
11.	2019– till date	– NDA	Narendra Modi	BJP, Akali Dal, LJP, Shiv Sena and others. Shiv Sena left NDA in November 2019.

Reasons of Growth Of Coalition Politics In India:

- The democratisation of politics as there is growth in regional parties. The regional and caste identities have begun to assert themselves in political space.
- National parties are unable to represent a huge diversity of India. The coalition represents disparate interests more adequately.
- Single party acclaim concentration of power. There is a loss of trust because extreme views and politics are invariably denied to accommodate.
- If we take cognisance of recent incidences in Indian politics, there is moral degeneration of political parties.

Merits of Coalition Government:

- It leads to consensus-based politics. It rules out the possibility of majoritarianism.
- It better reflects popular opinion of the electorate within a country. A coalition government is more democratic.
- Cabinet based on a coalition with a majority in parliament is more stable, dynamic and long-lived.
- Government need not go for populist measures in fear of no-confidence or losing power. It can give more concentration on governance.
- Government policies can be more flexible, and there is more possibility of corrections with enhanced scrutiny.
- In this type of political system, distinct identities are more accommodated, preserved and promoted within the larger political union.

Demerits of Coalition Government:

- Distribution and separation of policy fields make control of Prime Minister difficult over portfolios belonging to coalition partners.
- Decision-making process gets shifted from clear procedure to informal conversations. Separation of power is circumvented in a coalition government.
- Though the political position of party leaders gets strengthened, political organisations get weakened.
- It is basically based on compromises and considerations. This is an arrangement to remain in power. It has a tendency to be fractious and prone to disharmony.
- Parties belonging to contrasting ideologies come together. There is no coherence in government policy. The government can not push its bold decisions because of a lack of a majority.
- It weakens the political efficiency of government. Slower decision-making process threatens the effectiveness of governance.

BASIC STRUCTURE DOCTRINE OF THE INDIAN CONSTITUTION

Indian constitution is a synthesis of parliamentary sovereignty and judicial supremacy. According to the Constitution, Parliament and therefore, the state legislatures in India have the power to form laws within their respective jurisdictions. This power is not absolute in nature. Art 368 of the constitution provides power to the parliament for the amendment of the constitution. On the other hand, Art 13 of the constitution stated that the state could not make any law that can derogate the Fundamental Rights. So the '**Basic Structure of the Constitution**' evolved through time to time judicial interpretation of both the article, i.e. Art 13 and Art 368. This debate came into light when the Nehru Government amended the Constitution for the acquisition of land from Jamindars, who are the major landholder in the country.

Basic Structure Doctrine of the Indian Constitution: Basic Structure Doctrine; Shankari Prasad Case; Golaknath case; Kesavananda Bharati case; Indra Sawhney Case; Minerva Mills case; S.R. Bommai case

Basic Structure Doctrine:

- This doctrine was propounded by Justice Hans Raj Khanna, in Kesavananda Bharti Case (1973) that the Constitution of India has certain basic features that can't be altered or destroyed through amendments by the parliament.
- Though **basic structure** is not defined anywhere in the constitution, it reflects through some of its constituents (as many time defined and narrated by the judiciary), i.e. Republic nature of India, sovereignty, Rule of Law, republic nature of Indian polity, liberty, judicial review, secularism, Separation of power etc.
- The primary purpose of this doctrine is to preserve the soul idea and philosophy of the original constitution.
- This doctrine only applies to constitutional amendments, mainly those amendments that can destroy or change basic philosophical ideas of the original constitution.
- Any law that violates basic structure doctrine is declared as null by Supreme Court.

Evolution of Doctrine

This doctrine evolved through so many cases, i.e. through many judicial and legal interpretations:

Shankari Prasad Case (1951)

- For the acquisition of land, the Nehru government used Art 368, i.e. amendment power of the constitution.
- Inserted Art 31A, 31B and 9th schedule to constitution. It was the 1st amendment act of the Constitution (passed in 1951).
- This amendment was challenged in the Supreme Court of India.
- Supreme Court declared Art 368 stronger than Art 13. It means parliament can amend any part of the constitution.

- So the 1st amendment was considered valid and legally acceptable.

Sajjan Singh case (1965)

- Through the 17th amendment act (1964), Parliament inserted 44 new act in the 9th
- This amendment was challenged by Sajjan Singh vs State of Rajasthan case.
- But Supreme Court repeated the same judgment of Shankari Prasad case.
- But one of the judge justice Mudholkar presented a different opinion. According to him 'Every Constitution has a certain feature which is basic in nature, and those features cannot be changed'.

Golaknath case (1967)

- In Golaknath vs state of Punjab case, the earlier decisions of the Supreme Court were overruled by eleven judge's bench.
- In its decision, the supreme court stated that Art 368 could not touch Art 13, i.e. fundament rights.
- Supreme Court interpreted that fundamental rights are the basic part of the constitution of India. For the first time fundament right has been considered as sacrosanct.

In 1971, the 24th amendment act was passed by the parliament. By this amendment Art, 13 were amended and seek provided 'From now onward nothing in Art 13 shall affect the amending power of article 368'.

Kesavananda Bharati case (1973)

- 24th amendment act was challenged in Supreme Court by Kesavananda Bharti vs State of Kerala case. This was the landmark case for 'Basic Structure Doctrine'.
- This case was heard by 13 Judges Bench.
- By 7:6 ratio Supreme Court ruled that "*Verdict of Golakhnath case was not correct and Government can amend the fundamental rights by virtue of Article 13(4) and Art 368(3), and the constitution by Art 368, but without changing the basic structure and nature of the Constitution*".
- This mean Parliament can't take away a fundamental right that forms a part of the basic structure of the constitution.
- In this case, Justice H.R. Khanna laid down the principle of "Basic Structure Doctrine".

The 39th amendment act was passed in 1975, which inserted clause 4 in Art 329A. According to this clause, the judiciary cannot review the election of the President, the Vice President, the Prime Minister and the Speaker of the Lok Sabha.

Indira Gandhi vs Raj Narain case (1975)

- In this case, the Supreme Court invalidated the 39th amendment act.
- The Court ruled that this provision was beyond the amending power of parliament as it affected the basic structure of the constitution.

Again by 42nd amendment act of 1976 parliament amended Art 368 and stated that constituent power of parliament has no limitation and no amendment can be questioned in any court on any ground including that of the infringement of any of the fundamental rights.

Minerva Mills case (1980)

- In this case, the Supreme Court invalidated the 42nd amendment act.
- Supreme Court stated in its judgment that this amendment is excluded the '**Judicial Review**', which is part of the basic structure of the constitution.

Waman Rao Case (1981)

- Again, in this case, the Supreme Court accepted the 'basic structure doctrine'.
- Supreme Court clarified that this doctrine would apply to constitutional amendment enacted after Kesavananda Bharti case (i.e. after the 24 April 1973).

Indra Sawhney and Union of India (1992)

- In this case, the Supreme Court examined the scope and extent of Article 16(4).
- The court sustained the constitutional validity of 27% reservation for the OBCs with certain conditions (like total reservation should not exceed 50%, exclusion of creamy layer, no reservation in promotion).
- In this case, 'Rule of Law' was added to the basic features of the constitution.

S.R. Bommai case (1994)

- In this case, the Supreme Court stated that proclamation of art 356 (i.e. imposition of president rule) is subject to judicial review.
- Though this case was not on the ground of constitutional amendment concept of the basic structure of the Constitution was applied.
- The court ruled that, if the policies of the States government is against the **basic structure of the constitution**, then Art 356 can be exercised.

This doctrine is the Judicial Innovation that works as a shield for the Indian constitution. The sole principle of this doctrine is- 'The basic idea of the Constitution cannot be destroyed by any amendment by the parliament'.

REGIONAL PARTIES AND INDIAN POLITICS

Regional parties are the parties having a regional agenda and mostly limited to a particular region. for example in India – Shiv Sena, DMK, National conference party etc. Regional parties play an important role in Indian politics as we have a multiparty system in India. The new era of coalition politics has increased the significance of regional parties substantially.

Regional parties and Indian politics: Causes of its Rise; Features of Regional parties; Role of Regional Parties; Negative Impacts of Regional Parties

Cause of the rise of Regional parties:

- The decline of Congress:- after the death of former PM Pt. Jawaharlal Nehru and later on Indira Gandhi, the masses felt the need for increased regional representation. This, in turn, invited the rise of many regional parties.
- The cultural diversity of India and plurality in terms of class, caste and ethnicity. This leads to the regionalisation of Indian politics based on dominant castes and classes e.g. Jats (in Haryana, U.P. and Rajasthan), Yadavs in Bihar etc.
- The linguistic reorganisation of India, leading to a rise of regional identities among people.
- Uneven development caused by the Green revolution, leading to prosperity in some areas and backwardness in other areas.
- Emergency imposed by Indira Gandhi also gave rise to new parties.
- The self-interest of some previous Maharajas and Zamindars.
- Failure of National politics or Central Government to meet regional aspirations.
- Division among large parties on the basis of ideologies and political disagreements.
- Centralising tendencies of Congress party creating fear among people.

Features of Regional parties:

- It generally operates in a state or in a particular region, with limited electoral base.
- They work for regional interest based on ethnic, cultural and linguistic lines. for example demand for reservation of seats in jobs for the original inhabitants of that state only.
- It usually focuses on local and regional issues. It has no inclination to form government at the centre.
- It has a desire for greater political autonomy in India.

Classification of Regional Parties In India:

- Parties based on Regional culture and ethnicity: - Shiromani Akali Dal, Jharkhand Mukti Morcha, Mizo National Front etc.
- Parties formed by a split in National Party:-Bangla congress, Utkal Congress, Kerala Congress, Biju Janta Dal etc.

- Regional parties based on Charismatic personality of the leader:- Lok Janshakti Party, Himachal Vikas Congress and Haryana Vikas party etc.

Role of Regional Parties:

the following points highlight the important role played by regional parties in a rich democracy like India:-

- Making democracy more representative by widening the ambit of participation.
- by providing better governance at the regional level and especially in neglected areas.
- They have provided a place for better representation of local issues like Mizo National Front, putting forward the demands of tribes.
- Regional parties also have strengthened the federal axis of Indian democracy by providing voice and bargaining powers to the state.
- They have made the political process more competitive and brought leadership role out of the clutches of major parties only.
- They have challenged the One Party Dominant system, especially the Congress Era. And thus helping in breaking the monopoly of one party.
- They also have helped in widening the choices for the voters. Now a voter can vote the party representing the interest of his state.
- the political awareness of the people have been raised due to the efforts of Regional parties, they look at narrow and local social issues and brought them in front of the public. Therefore generating more political consciousness among masses.
- They provide a ground for the representation of minority, therefore making democracy successful. As democracy aims at equal representation of both majority as well as the minority.
- Regional parties also help in preventing tyranny of party in power. As a party which is in power at both centre and state may have a dictatorial and bias attitude.
- They have played an important role in the times of coalition politics, by providing support to other parties in lieu of benefits for their regions.

Negative impacts of Regional Parties:

However, there are some negative effects associated with the formation of regional parties' like-

- They have undermined National interests in lieu of narrow regional interests, thus harming National interest.
- Fragmentation of national parties has led to instability in the government.
- They have given a boost to the tendencies of the division of states on the basis of language, caste, tribe and other ethnic factors.

- They focus more on populist policies like frequent loan waiver by various states, in order to enhance their voter base, This, in turn, harms fiscal balance in the economy. This also leads to broadening of the fiscal deficit of the country.
- This frequent representation by regional parties leads to a rise of separatist tendencies among the public.
- Rise of regional parties has made politics as cut-throat competition, therefore promoting greater use of irrational means like money and muscle power to gain political power. This can be seen in terms of violence in various Indian states during elections.
- Rise of corruption in politics can also be associated with this, as widening of power makes it hard to find the culprit of corruption.
- Regional parties also hinder the solution of interstate disputes as well as interstate water disputes. Therefore undermining cooperative federalism and welfare of the nation as a whole.
- They have also involved in nepotism, corruption, favouritism and other misadventures. Therefore undermining the spirit of our Constitution.
- They also hinder the timely implementation of foreign treaties and policies. for example - constant intervention of Trinamool Congress in West Bengal against the water-sharing arrangement of Indian Government with Bangladesh Government.

Regional parties though having some shortcomings yet have proved to be helpful in providing representation to the rich and diverse culture of India and also helped in widening Democratic culture.

FEDERALISM IN INDIA: ISSUES AND CHALLENGES

Federalism in India: India is Quasi Federal Nation in which Power is more aligned to the Centre but at the same time India does have essential features to be called as Federal Nation. In this article, we will discuss various challenges faced by Indian Federalism and issues like Fiscal federalism in India, Cooperative federalism in India, Federalism in Indian Constitution etc. This is an important topic for UPSC General Studies 2 Paper and also for UPSC Prelims 2020.

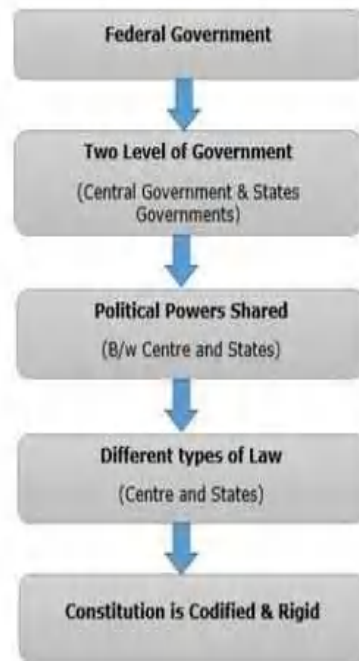
Federalism in India: Issues and Challenges

The Constitution of India establishes a federal system of government where the powers are divided between the national and the regional governments. They have separate jurisdictions and responsibilities. Indian federal system is modelled on the '**Canadian model**' which establishes a strong 'Centre'.

According to Dr B R Ambedkar, "the Constitution is a federal Constitution in as much as it establishes a dual polity. It avoids the tight mould of federalism and could be both unitary and federal as per time and circumstances."

In general, there are **two types** of federations:

- **Holding together federation:** A large country decides to share its power between the Centre and the States. The powers are tilted towards the central government. e.g. India, Belgium, Spain etc.
- **Coming together federation:** The Independent States coming together to form a bigger unit. The States enjoy more autonomy. e.g. USA, Australia, Switzerland etc.



Federal features of Indian Constitution:

- Dual government,
- Written Constitution,
- The Supremacy of the Constitution,
- Division Of Power
- Independent judiciary,
- Bicameral legislature

Non-Federal/Unitary Features of Indian Constitution:

- Strong Centre
- Single Constitution
- Single Citizenship
- Integrated Judiciary
- Constitutional Flexibility
- All India Services
- Governor's appointment by Centre

- Emergency Provision

Different Constitutional experts have different views about the federal character of the Indian Constitution:

- **KC Wheare:** Quasi-Federal
- **Paul Appleby:** Extremely federal
- **Moris Jones:** bargaining federalism
- **Granville Austin:** Cooperative Federalism.

In **SR Bommai vs Union of India(1994)** case, the Supreme Court held that federalism is the basic feature of the Constitution.

Challenges for Indian Federation

Though India's federal experiment has on the whole been a success, there have also been some challenges:

- The States have been of the view that they are not being provided with enough **fiscal space** in central grants and a free hand in spending. There have been instances of States demanding funds from the centre, which makes the rationalisation of funds a critical task.
 - To address this issue, the 14th Finance Commission had increased the share of States in the Central pool from **32%** to **42%**(15th Finance Commission has recommended for 41%). Centrally Sponsored Schemes have been rationalised, and increased choice and flexibility have been given to the States to select the optional schemes. The flexible funds in each CSS have been raised from 10% to 25% for the States.
- The States have surrendered their taxation rights by implementing **GST**. GST collections had fallen 2.7% in September and 5.3% in October from the corresponding months in 2018 which has led to the States asking the 15th Finance Commission to extend the compensation period under GST beyond 2022.
 - **Article 279A** of the Constitution allows for the constitution of GST Council for making recommendations to the Union and the State governments on the matters related to GST. It is mandated to establish an adjudication mechanism between the Centre and one or more states. In the recently held 39th meeting of the GST Council, there has been no consensus on creating such a mechanism.
- There have been instances of a **tussle between the agencies** of the central and state governments such as IT raids at the offices and residence of aides of CM of Madhya Pradesh which saw a face-off between CRPF officers and state police. Such instances have also been seen in West Bengal, Karnataka, Andhra Pradesh where central agencies went to probe corruption cases. The states have often blamed the centre for misusing central agencies.

- Any interference by state agencies to prevent central agencies from doing their jobs creates law and order issue. This requires close coordination and cooperation between them.
- The office of the **Governor** sometimes is misused which poses a threat to the federal system. The imposition of President's Rule in Arunachal Pradesh in 2016 despite having the elected government in the State is an example. However, the Supreme Court termed it unconstitutional and ordered for the restoration of the previous government.
 - In **SR Bommai vs Union of India 1994 case**, the Supreme Court tried to curb the misuse of **Article 356**.
- **The Citizenship (Amendment) Act 2019** has presented the latest challenge to Indian federal system where several States such as Maharashtra, Punjab, Kerala, West Bengal, Bihar etc. have declared that they will not implement the CAA in their states.
 - Under the Constitution of India, the laws made by the Parliament are constitutional unless the court holds it otherwise. In India's quasi-federal structure, the disputes between the governments are familiar instances.
- **Regionalism** is one of the most significant challenges to the federal structure. North East, though strategically important, has been in neglect politically. There are many tribal districts that are governed by their own laws, and many of them have been given autonomy. The agitations for **Gorkhaland, Bodoland** etc. have intensified. There are demands for separate **Vidarbha** state in Maharashtra and **Harit Pradesh** and **Poorvanchal** in Uttar Pradesh.
- **Foreign Policy of India** takes a beating when a state refuses to implement the decisions acting on the regional interests. **Teesta River Water Treaty** between India and Bangladesh was met with objection from West Bengal government citing that it was deterrent to the interest of farmers of West Bengal.
- **The linguistic diversity** coupled with parochial mindset can become an impediment in the path of the federation. The Southern states have been opposed to the idea of Hindi as the official language of India.

Conclusion:

- Though there are challenges to the federal structure of India, **Indian federalism have been successful** in many ways. Over the last few decades, more powers have been shared between the states and the national government.
- **NITI Aayog** has been created to work towards participative governance. All States have been given representation in **GST Council**. **Inter-State Council** has been working for holistic Centre-State relationship.
- A shift has been witnessed towards "**cooperative federalism**". States are being given more say in Centrally Sponsored Schemes. The vision of **Sabka Sath, Sabka Vikas**, is the priority of the government to move towards inclusiveness.

- The present situation of COVID-19 pandemic has witnessed greater collaboration and cooperation between the Centre and the States, which fulfils the vision of **Ek Bharat, Shreshtha Bharat**.

MPLADS: MEMBERS OF PARLIAMENT LOCAL AREA DEVELOPMENT SCHEME

Recently the government suspended the Member of Parliament Local Area Development (MPLAD) Scheme for two years so that these funds could be utilised for COVID-19 management efforts. MPLAD Scheme has been very controversial since the last 2 decades and the recent Suspension of MPLAD Scheme has opened up yet again the discussion on the need of MPLAD. This topic is important for upcoming UPSC Prelim and Main Exam.

Historical Background:

- The MPLAD scheme was introduced in December **1993** by **Prime Minister, P.V. Narasimha Rao** to fulfil the urgent needs of the legislator's constituency.
- The scheme was mooted after MPs demanded that they should be able to recommend certain development projects in their constituencies.
- It is under the aegis of the **Ministry of Statistics and Programme Implementation**.

Features

- It is a **Central Sector Scheme**.
- It is budgeted through the government's finances and continues as long as the government is agreeable.
- In 2018, the Cabinet Committee on Economic Affairs approved the scheme until the term of the 14th Finance Commission, that is March 31, 2020
- Lok Sabha Members can recommend works within their constituencies and elected Members of Rajya Sabha can recommend works within the State they are elected from.
- Nominated MPs both the Upper House and Lower House can recommend works anywhere in the country.
- It aims to create **durable assets** of national priorities -
 - Drinking water
 - Primary education
 - Public health
 - Sanitation and roads
- **Non-durable assets** can be created only under special circumstances. **For example**, Recently, MPLADs funds are utilised for the purchase of personal protection equipment, coronavirus testing kits etc.
- MPLADS works can be carried out in areas affected by natural disasters, chemical, biological and radiological hazards.

- **Implementation:**

- The role of the MP is limited only to the recommendation of works to District authority.
- **At the National level**, The Ministry of Statistics and Programme formulates the guidelines, releases funds, and monitors implementation.
- **At the State level**, a nodal department is responsible for coordinating, monitoring and supervising the implementation
- **At District Level**; District Authority scrutinises and sanction the recommended works and identifies an implementing agency to execute the work.
- **Implementation Agency: Panchayati Raj Institutions and Urban Local Bodies** are one of the few designated agencies to carry out implementation work.
-

- **MPLADS Fund**

- Every MP gets **₹5 crores** for carrying out developmental works in one's constituency.
- The Government of India releases the annual entitlement in the form of **grants-in-aid** of **₹ 5 crores** in two equal instalments of **₹ 2.5 crores** each, directly to the district authority.
- **Nature of funds: Non-lapsable**, i.e., they are carried forward to the subsequent years if not utilised in a particular year.
- 15 percent of MPLADS funds are earmarked for Scheduled Caste areas and 7.5 percent funds to be utilized for Schedule Tribe population.

Issues:

- **Undermining the Separation of Power doctrine:** Scheme co-opts legislators into executive functioning
- **Inconsistent with the Federal spirit:**
 - Union Government can make expenditure on the subjects enshrined in Union List as per that of Seventh Schedule of Indian Constitution.
 - It encroaches upon the Local self-government domain that violates the Part IX and IX-A of the Indian constitution.
- **No proper accounting and monitoring** system put in place by the government for the works allotted under the scheme.
 - As soon as the Budget grants are sanctioned, the nodal ministry sends the grant to the district head and treats it as an expenditure. After that, accounting or monitoring for it is absent.
- **Inefficiency:** Big Gap between the recommendations made by MPs and their implementation by the district administration.
- **Unused Funds:** Funds by many MPs remains unutilised even after 5 Years.
- **Laps in Implementation:**

- There are **lapses on the supervision front**, with the District Authorities failing to inspect the required number of sanctioned works as well as in sending regular monitoring reports.
- **Comptroller and Auditor General (CAG) Observed that** Expenditure incurred by the executing agencies are less than the amount booked. Further, they flagged the issue of financial mismanagement as well as artificial inflation of the spent amount.
- The scheme mandates that as soon as a work is completed, it should be transferred to the user agency for public use.
- Out of the 15,049 sample works created during 2004-09, handing over was not on record for 98.53 per cent of the works created.
- **Promotion of Patronage Politics:** MPLADS provides scope for MPs to utilise the funds allocated via MPLADS as a source of patronage which they can dispense at their will.
- The National Commission to Review the Working of the Constitution (NCRWC) in 2002 suggested immediate discontinuation of the MPLAD scheme. A similar view was presented by the 2nd ARC Report.

Assessment:

- Until 2017, nearly 19 lakh projects worth Rs 45,000 crore had been sanctioned under the MPLAD Scheme.
- **Third-party evaluators** appointed by the government **reported** that the creation of good quality assets had a **positive impact on the local economy**, social fabric and feasible environment.
- The **2nd ARC's report on Ethics in Governance** took a firm stand against the scheme arguing that it seriously erodes the notion of separation of powers, as the legislator directly becomes the executive.
- Lok Sabha constituencies in the southern states have not utilized the entire allocation of MPLAD Funds
- **India Spend Report Observations:**
 - Even a year after 298 of 542 members in 16th Lok Sabha have not spent a rupee from the ₹5 crores that are set aside annually for them to develop their constituencies.
- **Unspent Funds:** As on March 4, 2020, it has been found that a cumulative sum of Rs 5,275.24 crore MPLAD fund remained unspent.

Supreme Court View:

- The Constitutional validity of MPLADS was challenged on the grounds that this scheme violates the spirit of federalism and distribution of powers between the Union and the States in the Supreme Court of India in 1999, followed by petitions in 2000, 2003, 2004, and 2005.

- The combined judgment on all these petitions was delivered by the Apex Court on May 6, **2010**, with the **scheme being held to be constitutional**. SC held that:
 - Indian COnstitution does not recognise the strict separation of powers as is done in the USA Constitution.
 - India is a Quasi-Federal state wherein as per Article 282, the Union and the State government, both have the power to provide grants for the "public purpose" within the meaning of the Constitution. This is done irrespective of whether the subject matter of the purpose falls in the Seventh Schedule of the Indian Constitution.
 - MPLAD comes in the purview of RTI Act so there is provision for transparency.

Way forward

- The Ministry of Statistics and Programme Implementation has suggested that a single parliamentary committee be formed comprising members of both Houses of Parliament to monitor MPLAD schemes.
- **Social Audit** should be made mandatory.
- **MPLAD funds should be made lapsable** and return the funds annually to the Ministry for effective utilisation of funds.
- For the scheme to be more effective, an **impact assessment study** should be **undertaken** at the constituency level, on a yearly basis, to assess the benefits of the works implemented to the community at large.
- Implementing agencies could involve the local community in the voluntary supervision of works.
- There needs to be a greater focus on regular monitoring by the District Authorities.
- The practice of random inspections by the District Authority, both before the release of the second instalment and after the completion of the work.
- A legal obligation should be made to ensure transparency in recommending works by an MP.

CAUVERY WATER DISPUTE: BACKGROUND; CONSTITUTIONAL PROVISIONS; LATEST VERDICT AND ISSUES

India has many **river basins** running through the nation and most of these traverses **more than one state which leads to conflicts** regarding the use and distribution of water. The Inter-State River Water Disputes has been among the **most contentious issues** for Indian federalism even today and many Inter-State Water Disputes Tribunals have been constituted but each had their own issues. In this article, we will discuss the **Cauvery Water Dispute** and all the aspects related to it. This is an important topic for the Prelims and Main exam of UPSC.

What is the Cauvery water dispute?

The Cauvery water dispute is a Water sharing dispute **between Karnataka and Tamil Nadu since British Raj**. Many districts in both states are dependent on the Cauvery River for irrigation while the city of Bengaluru gets its water mostly from this river. In its 2018 verdict, the Apex court increased Karnataka's share of the Cauvery water than what was awarded by the Cauvery Water Disputes Tribunal in February 2007.

Background:

- In order to understand the issue one has to go back to 1892. The Cauvery water sharing **dispute began in 1892 between the Madras Presidency** under the British Raj **and** the princely state of **Mysore** because the two regions could not agree over how to divide the water between themselves.
- After Tamil Nadu's appeal in 1986 to constitute a tribunal for solving the issue under the Inter-State Water Disputes Act 1956, the Union government formed the **Cauvery Water Disputes Tribunal (CWDT) in 1990**.
- It was **adjudicated by** the Cauvery Water Disputes Tribunal (**CWDT**) **in 2007**.
- **Both** Tamil Nadu and Karnataka **challenged** the order of the Tribunal.
- The Supreme court reserved its order in 2017.

Constitutional Provisions for Interstate Water Disputes:

- **Article 262(1)** provides that the Parliament may by law provide for the adjudication of any dispute related to any inter-State river or river valley.
- Article 262(2) empowers the Parliament to provide that neither the Supreme Court nor any other court shall exercise their jurisdiction in respect of any such disputes or complaints. The Interstate River Water Disputes Act 1956 (IRWD Act, 1956) was enacted under Article 262 of the Constitution of India.
- Seventh Schedule:
 1. Entry 17 of State List: Water i.e. water supplies, irrigation and canals, drainage, water storage and water power subject to entry 56 of the Union List
 2. Entry 56 of the Union List: Regulation and development of the inter-State rivers and river valleys.

Supreme Court Judgment of 2018:

- The Supreme Court pronounced its verdict on the sharing of Cauvery water among Tamil Nadu, Puducherry, Karnataka, and Kerala and declared **Cauvery a "national asset"**. It upheld the **principle of equality** of inter-State river water among riparian States.
- The judgment concluded that **Cauvery Water Disputes Tribunal (CWDT)** did not take into account Tamil Nadu's stock of an "empirical" 20 TMC of groundwater and **Karnataka is "entitled to marginal relief"** Hence the apex

court reduced the allocation of Cauvery River water from Karnataka to Tamil Nadu.

- This meant a **reduction of 14.75 TMC of Cauvery water to Tamil Nadu** from the earlier 192 TMC as Awarded by the tribunal and this change will be adjusted from the Biligundlu site. Karnataka will release only 177.25 TMC of Cauvery water from the Billigundlu site to the Mettur dam in Tamil Nadu.
- The Court gave the Centre six weeks to frame a scheme to make sure that the final decisions are implemented and also directed the formation of the **Cauvery Management Board (CMB)**. CMB to act as an inter-state forum which will have the responsibility to ensure the implementation of orders of the CWDT and will be under the control of the Ministry of Water Resources (now Ministry of Jal Shakti).

Cauvery Water Management Scheme, 2018 :

The Center established the **Cauvery Water Management Authority (CWMA)** and the **Cauvery Water Regulation Committee (CWRC)**.

- CWMA is a permanent body and will be to regulate and control Cauvery water releases with the assistance of the Cauvery Water Regulation Committee.
- **CWRC** acts as a **technical arm** and it will ensure the implementation of the final Award by periodically collecting data regarding levels, inflows, storages, and release of water.

The Interstate River Water Disputes Act, 1956 (IRWD Act):

- The IRWD Act confers power upon the union government to constitute tribunals to resolve Interstate River Water Disputes.
- It also excludes the jurisdiction of the Supreme Court over such disputes.
- The union government has constituted eight Tribunals under the Inter-State River Water Dispute Act

Issues with the present Inter-State River Water Dispute Act, 1956:

- A Separate Tribunal for each Inter-State River Water Dispute has to be established.
- Delay in securing settlement of such disputes as tribunals like Cauvery and Ravi Beas has been in existence for more than 30 years.
- There is no time limit for adjudication and delay happens at the stage of the constitution of tribunals as well. No adequate machinery to enforce the award of the Tribunal.
- Lack of uniform standards could be applied in resolving such disputes and Lack of adequate resources both physical and human to assess the facts of the case.

- Issue of finality as when the Tribunal holding against any Party, that Party is quick to seek redressal in the Supreme Court. Only three out of eight Tribunals awards were accepted by the States.

Inter-State River Water Disputes (Amendment) Bill, 2019:

- **Dispute Resolution Committee (DRC)** will be established by the Central Government to resolve the dispute amicably by negotiations **within one year** (extendable by six months) and submit its report to the central government. If a dispute will not be settled by the DRC, then the central government will refer it to the Inter-State River Water Disputes Tribunal.
- **Establishment of a Single Inter-State River Water Disputes Tribunal** by the Central Government with multiple benches. All existing Tribunals will be dissolved, and the disputes pending before such existing Tribunals will be transferred to the new Tribunal.
- The proposed Tribunal must give its verdict on the dispute **within a timeline of two years**, which may be extended by **another year**.
- The decision of the Tribunal will be **final and binding**. The bill will also remove the requirement of publication of the decision in the official gazette in the original Act. It also makes mandatory for the Central Government to make a scheme to give effect to the decision of the Tribunal.
- **Data Collection and maintenance of a databank** at the national level for each river basin by an agency to be appointed and authorized by the central government.

Way forward:

- Declaration of **Rivers as National Property** as done by SC in Cauvery Verdict may reduce the tendency of states. **Water disputes** need to be **depoliticised** and not be made an emotional issue linked with regional pride.
- **Inter-State Council (ISC)** can play a crucial role in facilitating dialogue & discussion towards resolving conflicts.
- **Bringing water into the concurrent list** as recommended by **Mihir shah report** and supported by a parliamentary Standing Committee on Water Resources.
- **Scientific management of crop patterns** by bringing out a policy that promotes water-efficient crops and varieties in water scare areas.
- **Interlinking of rivers** can also help in the adequate distribution of river water in the basin areas.
- There is a requirement for a permanent mechanism to solve water disputes between states without seeking recourse to the judiciary.
- Enacting the Inter-State River Water **Disputes (Amendment) Bill, 2019** may also help in streamlining the procedure for resolving such disputes.

- Practice the **concept of 4Rs** (Reduce, Reuse, Recycle, Recover) for water management to achieve goal 6 of the SDGs (Ensure access to water and sanitation for all).
- Following National Water Policy which emphasised rational use of water and conservation of water sources. Urban water management in cities like Bengaluru should incorporate conservation of wetlands along with appropriate sewage treatment.

CIVIL SERVICES REFORM: LATERAL ENTRY INTO THE SERVICES.

- The centre's decision to give a green signal to lateral entry into the civil services has opened the floodgates of a complex debate that has been going on for a long time. There are two factions in this regard. One seems to be rooting for it while the other believes that it would hamper the work culture.
- The government has advertised for openings for 10 joint secretary posts on a contractual basis. The most vivid argument in favour of such a move is that it will infuse bureaucracy with much-needed freshness.
- The faction against such a move of the government opines that this will end the era of a neutral and impartial civil service and introduce a cult of loyalists to the present government. They see this as a move threatening their hegemony. It is also being viewed as the start of "privatisation of the IAS".
- Nonetheless, this bold move needs to be given a level playing field.
- The 'lateral entry' advocacy was made based on ARC recommendation
- Expertise becomes crucial when we talk about broad areas like environment, water. Thus, an expert like an environmentalist can be roped in to formulate appropriate policies.
- When civil servants are made to compete with outside talent, it will induce competition among the personnel.
- However, we cannot overlook the challenges inherent in implementing such a reform. The high corruption index in states might act as a catalyst for the private people recruited for a short-term to leave without any accountability.
- It can hamper the fairness of the selection process and influence it politically. The way the private professionals/experts are to be chosen and what degree of involvement must the UPSC have.
- It might also leave a trail of legal matters which would require resolution by the incoming (new) officials which would become cumbersome.
- In retrospect, what we can say is that this prospect of lateral entry seems good enough for sectors that require more of technical and domain knowledge.
- For others, as the UPSC follows the norm, the ones to be appointed at top positions in critical areas must be reserved for within the government. They are recruited from the best in India with a cross-sectoral experience of 10-15 sectors.
- In principle lateral entry seems like a good idea but it should be considered that factors like accountability and transparency must be kept intact. It must be ensured that the private sector's involvement must be used to bridge the gap and for a longer tenure.

JUDICIAL ACTIVISM AND JUDICIAL RESTRAINT IN INDIA

India has separation of power as one of the basic features of Constitution where domains of Legislative, executive and Judiciary have their own roles to play. Our constitution makers envisaged the Judicial system as independent (though integrated) along with the responsibility of being a guardian of Constitution.

In recent times, incidents like Unnao rape case, the ongoing debate over parallel governance, etc have brought Judicial activism and judicial restraint in the limelight. In this article, all details regarding **Judicial activism** and **Judicial restraint** are thoroughly discussed.

Judicial Activism and Judicial Restraint

Meaning of Judicial Activism

- The overactive role played by the Judiciary in upholding the constitutional and legal rights of the citizens is called **Judicial Activism**.
- It is a judicial philosophy in which judiciary exercises its power to implement and enforce the constitutionally correct laws which are beneficial for the people of society at large.
- In Judicial Activism, the judiciary exercises its power to strike down the laws or rules which infringes the basic rights of the citizens or goes against the constitutional values.
- It empowers the judiciary to correct the mistakes or injustices of the other organs/branches of the government.
- The Supreme Court judgments in Golak Nath Case (1967), Kesavanand Bharti Case (1973), Menaka Case (1973), Vishaka case (1997) etc are some of the examples of the Judicial Activism.

Meaning of Judicial Restraint

- The theory, in which the judiciary restrains while sticking down any law or rule passed by the Parliament unless it goes totally against the constitutional values of the country, is called **Judicial Restraint**.
- Judicial restraint encourages the judiciary in considering the fact that the laws/rules passed by the elected representatives of the parliament may be the need of the hour and needs to be respected by the judiciary unless it gets necessary for upholding the constitution.

Important Facts

- Article 13 of the constitution empowers the judiciary to review any Law/Act/Rule that infringes upon the fundamental rights guaranteed to the citizens by the constitution of the country.

- This power of the judiciary to review any law/act/rule became dominant and was termed as judicial activism in later years. However, the term 'judicial activism' has nowhere been used in the constitution.
- Judicial activism is an invention of the Indian Judiciary for giving pro-active decisions by taking Suo-Moto action through Public Interest Litigation (PIL) or through other ways.
- The journey of judicial activism started from the **Golak Nath case (1967)** in which the Supreme Court gave a judgment that the fundamental rights as stated in Part-III of the constitution are not amendable by the legislature.
- In the **Kesavanand Bharti case (1973)** the Supreme Court gave a historical judgment by introducing the concept of 'Basic Structure' of the constitution and stated that the 'Basic Structure' of the constitution couldn't be changed/ amended.
- In **SP Gupta case (1981)**, a new concept of Public Interest Litigation was introduced and accepted by the Supreme Court.
- From here onwards, the Supreme Court started using its powers of judicial review more randomly, even in governance issues.

Recent cases of Judicial Activism

- Recently, the Supreme Court made the playing of national anthem compulsory in cinema hall before the screening of movies. The decision was later amended and made it optional.
- The Supreme Court recently in **Arjun Gopal Case**, prohibited the use of non-green firecrackers in Delhi/NCR and even fixed the timing for bursting firecrackers.
- In **Subhash Kashinath case**, the Supreme Court declared to amend the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989.
- The National Green Tribunal recently banned the use of more than 15-year-old petrol vehicle and 10-year-old diesel vehicle.
- A Tamilnadu judge made the study of Tirukkural mandatory for every student in Tamilnadu, which is actually prerogative of legislature and executive.
- There are many such other judgments in which the judges have excessively used the powers and interfered in the domain of legislator and judiciary.

Reasons for the evolution of Judicial Activism

- **Failure of Law** – In many sensitive cases, when the present law fails to handle the issue, judicial activism permits the judges to use their powers to act as per the demand of the situation. Ex – Triple Talaq judgment of the Supreme Court.
- **For Reviewing the previous judgments** – In many cases, the situation demands to take a relook of its own earlier judgments with a new frame of mind. In this case, also, the concept of judicial activism helps.

- **For filling the legal vacuum** – Many times, the Supreme Court is required to act Suo-Motto for stopping of reoccurrence of any similar incidents. For example, the Supreme Court framed the Vishaka guidelines for handling issues of harassment of women at workplace in the Vishaka case of 1997.
- **For checks and balances** – Many times, the government in powers takes a decision in haste and in such cases, the courts check the legality of the law/act according to the constitution.
- **For timely and complete judgment** – Many times, the situation demands a pro-active response of the courts for timely and complete justice. In such cases, the courts can use the power to enforce the law.
- **Rising demands of Human Rights** – Around the world and in India also there has been gradual demands for establishing the supremacy of the Human Rights. This motivated the judiciary to take necessary steps under its power of judicial activism.

Judicial Independence

- The Constitution has separated the functions and powers of legislature and judiciary through its various provisions.
- Article 121 and 211 of the constitution restricts the power of the legislature to discuss the conduct of the Judges while performing their duty.
- The Supreme Court and High Court judges have been provided with the security of tenure, appointment, salary and allowances etc.
- Judges have the independence of performing their duties in an impartial way without getting influenced by the legislature and executive.
- No objection or opposition can be made by anyone on the orders of courts. The decision of the court is final and binding and can be challenged only in higher courts.

Demerits of Judicial Activism

- The overriding powers of the judiciary have many times interfered in the domain of legislature and executive, which goes against the spirit of separation of power enumerated in the constitution.
- Many times, the personal and prejudiced views of the judges get reflected in their judgments, which are big drawbacks of the concept of judicial activism.
- One judgment becomes standard ruling for other cases which resulted in a chain of judicial overreach.
- Judicial activism restricts the law-making power of the parliament and the legislature.
- The chances of turning of judicial activism into judicial overreach are huge and need to be understood by the judiciary while exercising its powers.
- Many times, the decisions taken by the judiciary has eroded the public faith in the law made by the elected representative in the parliament.

- At large, judicial activism has become a challenge in the law-making process of the legislature.

Way forward

- Judiciary needs to understand the thin line between judicial activism and judicial overreach and needs to act accordingly.
- The concept of separation of power should be taken into consideration by the judiciary while using its judicial powers.
- Judiciary needs to be accountable, and for this, some new methods may be adopted by the government.
- The legislature needs to be more active in filling the legislative gaps so that the need for judicial reviews and intervention is less.
- Judiciary needs to be more disciplined and accountable while using its powers under the concept of judicial activism.

LOKPAL AND LOKAYUKTA ACT:

In this article, we are sharing the **Lokpal and Lokayukta Act** for UPSC exam along with the **PDF download in Hindi and English**. Also, know important facts, evaluation, major highlights and implementation of Lokpal and Lokayukta Act 2013 here.

Lokpal and Lokayukta Act

Important Facts

- The **Lokpal and Lokayukta** is an anti-corruption ombudsman established by the Lokpal and Lokayukta **Act, 2013**.
- It has the provision of appointing 'Lokpal' at the centre and 'Lokayukta' on every state.
- These are **statutory bodies established** without any constitutional status.
- The former Supreme Court Judge Justice Pinaki Chandra Ghose is the first Lokpal of India.

Evolution of Lokpal and Lokayukta in India

- For the first time, an office ombudsman was established in Sweden in 1809.
- The concept of ombudsman developed significantly after the Second World War.
- The United Kingdom adopted it in 1967.
- In India, this concept was first proposed by the then law minister Ashok Kumar Sen in the early 1960s.
- In 1966 the recommendations of the First Administrative Reforms Commission suggested the setting up of independent authority for looking after the complaint against public functionaries.

- In 2005 the 2nd ARC chaired by Veerappa Moily also recommended for provision of Lokpal.
- In India for the first time, the Lokpal bill was introduced in the Lok Sabha in 1968 but could not be passed, and till 2011 a total of eight failed attempts were made to pass the Bill.
- Finally, massive pressure from civil societies and demand from the social groups resulted in the passing of the Lokpal and Lokayuktas Bill, 2013.

Highlights of the Lokpal Act of 2013

- This Act allows for setting up of anti-corruption ombudsman known as Lokpal at the Centre and Lokayukta for every state.
- The bill extends to the whole of India. The state of Jammu & Kashmir also comes under this Act.
- The Lokpal covers all categories of public servants, including the Prime Minister.
- The officers/personnel of the armed forces do not come under Lokpal.
- It has provisions for attachment and confiscation of property acquired by corrupt means, even during the prosecution.
- The States are to establish the office of Lokayukta within one year of the commencement of the Act.
- It has provisions for the protection of public servants who act as whistleblowers.

Composition of the Lokpal

- The office of Lokpal consists of a chairperson and a maximum of 8 members.
- The Chairman and half of the members should be from legal backgrounds.
- The 50% of the seats are reserved for SC, ST, OBC, minorities or women.

Criteria for selection of Chairperson

- She/he should be either former Chief Justice of India or Judge of the Supreme Court.
- She/he should be an eminent person with impeccable integrity and outstanding ability with at least 25 years experience in matters related to anti-corruption policy, law, management etc.

Appointment of Chairperson and Members

The President appoints the chairperson and members on the recommendation of a select committee consisting of the following:-

- The Prime Minister

- The Speaker of Lok Sabha
- The Leader of Opposition in Lok Sabha
- The Chief Justice of India
- One eminent jurist appointed by the President

Term of Office

- The Chairman and members of Lokpal hold office for five years or upto the age of 70 yrs.
- The salary, allowances and other condition of service of the chairperson shall be equivalent to the Chief Justice of India, and members are comparable to the Judge of the Supreme Court.
- All expenses are charged from the consolidated fund of India.

Jurisdiction and powers of the Lokpal

- Lokpal has the Jurisdiction over all Groups A, B, C and D officers and officials of Central Government, PSUs, members of parliament, minister and it also includes Prime Minister.
- The Prime Minister comes under the ambit of Lokpal except on the matters of corruption relating to international relations, security, the public order, atomic energy and
- Any other person involved in the Act of abetting, bribe giving, or bribe-taking comes under the ambit of Lokpal.
- It mandates the furnishing of the assets and liabilities of themselves as well as their dependents to all public officials.
- **It has the powers to give directions to all agencies like CBI, CVC etc. It can assign a task. On assignment of any task by Lokpal, the concerned officer can't be transferred without the permission of the Lokpal.**
- The Inquiry Wing of the Lokpal has the powers of a civil court.
- Lokpal has the powers of confiscation of property earned through corrupt means even during the prosecution.
- It has the power of suspension or transfer of public servants connected with the allegation of corruption.
- It can recommend the central government for the establishment of special courts to hear and decide any case.

Working procedure of Lokpal

- Lokpal acts only on the complaint. It can't take suo moto action.
- After receiving it can order a preliminary inquiry.

- The Lokpal has two major wings: investigation wing and prosecution wing.
- Through his investigation wing, the Lokpal can conduct a preliminary investigation of any offence alleged to be committed under the Prevention of Corruption Act, 1988.
- It can also conduct a detailed inquiry. After the inquiry, if the individual is found using corrupt practices, then the Lokpal can recommend disciplinary action.

Procedure for removal of Lokpal from office

- The Chairmen or members of the Lokpal can be **removed** only by the President on the recommendations of the Supreme Court. The grounds of removal are misbehaviour, infirmity of body or mind, insolvent, taken paid employment outside the office.
- For the removal of the chairman or members of Lokpal petition signed by at least 100 members of Parliament is required. After that, it will be referred to the Supreme Court for enquiry.
- After the investigation, if the Supreme Court finds the charges as valid against the chairperson or a member and recommends removal, then he shall be removed by the President.

Post-retirement provisions

- She/he cannot be reappointed as chairman or member.
- She/he can't take any diplomatic assignment.
- She/he can't be appointed to any constitutional or statutory post in which appointment is made by the President.
- She/he can't contest any of the election such as the President/ Vice-President, MLA, MLC or local bodies' upto five years after retirement.

Decriminalising of section 377 of the IPC

Section 377 reflected the imposition of Victorian values and was never a reflection of Indian values. In this regard, the Supreme Court's judgment has come out as a victory which will challenge the existing inequalities. Comment.

- The colonial hangover, section 377 of the IPC was struck down by the supreme court of India upholding human rights and putting an end to the violation of constitutional rights of the homosexual community.
- They are now permitted to live as an equal citizen sans harassment.
- Four out of the five judges of Supreme Court overturned the archaic section which described consensual same sex relationship as "against the order of nature."
- The bench has retained only sexual activity with animals and any other such acts under the definition of "unnatural sex", which can be seen more like a version of Victorian morality.

What made this change imperative?

- The constitution is an ever-evolving document and hence it is important that pragmatic interpretation time and again is given to combat inequality and injustice. As an evolving nation-state and a society, we had to take this stand for our own wellbeing and prosperity.
- Also, there hasn't been any full proof of homosexuality being abhorred in India in the past. Instead, the regional heritage and culture of India depict and immortalizes the homosexual culture. This is evident from stone carvings of Khajuraho, Ajanta and many more.
- It clearly shows that fluid sexuality was present in India since ancient times.
- According to historians, neither did Indian scriptures nor did ancient rulers criminalized sexual relations between same sexes. It was reported that during the 16th and 17th-century Mughal era, Transgenders were holding high positions in the courts.
- Thus, homosexuality as an offense was developed only in the 1830s, the imposition of foreign morality on the Indian subcontinent.
- Though the practice was not banned, it was criminalized. The law confirmed more with the Christian belief systems rather than Indian's attitude towards homosexuality.
- Historians opine that there certainly was some disapproval for homosexuality, but the homosexuals weren't hounded.
- The bid to get done with this law was initiated in 2009 by the Naz Foundation and the organization stated that section 377 was violative of the fundamental rights of the LGBT community.
- While legally the law has been dismantled, we cannot deny the fact that in a country like India where religiosity and cultural prejudices hinder scientific temperament, homosexuality is still considered as a taboo and big no!
- It is about time that the state realized that sexual minorities needed rights and protection to live a productive life with fulfilling relationships irrespective of gender biases.
- An anti-discriminatory law in this regard would further propel efforts towards the fight against homophobia.
- The judgment will go a long way in preventing social stigma and ostracism attached to this practice and affirming the fact that any such condition is not a mental disorder but something inborn in a human being.
- India must keep in mind that as a major rising global power, her fight and role in this regard will set an example before countries and campaigners and will strengthen their voices. These may include Malaysia, where there was an incident of two women being canned; Singapore, where the court has ruled that the law outlawing same-sex relationships is valid etc.

IMPORTANT BILLS AND ACTS N NEWS

Essential Commodities Act

The Essential Commodities Act was **enacted** by the parliament in **1955**. The Act is used by the Government **to manage and regulate the production, supply and distribution** of essential commodities order to make them available to consumers at fair prices. The supply of these commodities when obstructed can **affect the normal life of the people**.

Recently the Govt Included **masks and hand sanitizers** under the Essential Commodities Act. The government's order came **due to the reports of a shortage of these commodities** and a sudden and sharp spike in their prices because of alleged hoarding of stocks by manufacturers. The **recent coronavirus pandemic** (COVID-19) triggered panic for buying of masks and hand sanitisers at many places in India.

Essential Commodities Act: Major Features; Benefits; Needs; Why Act is termed as Outdated; Conclusion

Major Features of the Act:

- **The list of items that comes under the Act include fertilisers, drugs, edible oils and pulses, petroleum and petroleum products.**
- **The Centre govt can include** new commodities as and when the need arises **and exclude them from** the list once the situation gets improved.
- Under the Act, the govt can **also fix the** maximum retail price (**MRP**) of any **packaged product** that is declared as an “essential commodity”.
- **Under the Essential commodities Act, powers of the Central Government have already been delegated to the States by way of orders from 1972 to 1978. The States/UTs may take action against the offenders.**

Benefits of the Essential Commodities Act:

- When the Centre came to know that the supply of a certain commodity is short due to which its price is spiking, it puts **stock-holding limits** on it for a specified period.
- **The States then specify limits and take steps to ensure its implication.**
- Anybody (**wholesalers, retailers or even importers**) who is trading or dealing in the commodity are **prevented from stockpiling** it beyond a certain quantity.
- **A State may also choose not to impose any restrictions.** But once the state chooses to impose any restrictions, traders have to immediately sell into the market any stocks held beyond the mandated quantity.

Why Essential commodities Act is essential for the welfare of consumers:

- The ECA protects the consumers **against irrational spikes in prices** of essential commodities.

- The Government has invoked this Act many times to **ensure adequate supplies**.
- It **discourages hoarders and black-marketeers** of such commodities.
- The Act empowers the State agencies to conduct raids so that the **defaulters can be punished** and the excess stocks are auctioned or sold through fair price shops.

Why there is a need to make Balance between genuine stock build-up and speculative hoarding:

Generally, most of the **crops are seasonal** so ensuring round-the-clock supply requires an adequate build-up of stocks during the season. Thus it may **not be possible to differentiate between genuine stockpiling and speculative hoarding**. Also, there can be genuine shortages due to weather-related disruptions because of which the prices will move up. So **if prices are always monitored, the farmers may have no incentive to grow that crop**.

With too-frequent stock limits, **traders may have no reason to invest** in better storage infrastructure. On the other hand, food processing industries need to maintain large stocks to run their operations smoothly. Hence Stock limits may curtail their operations. In such a situation, **large scale private investments are unlikely to flow into food processing and cold storage facilities**.

Why the act is termed as outdated:

- **In 2019**, the Centre invoked Essential commodities Act provisions and impose **stock limits on onions after heavy rains** wiped out a quarter of the Kharif crop and led to a sustained spike in prices.
- The restrictions on both the retail and wholesale traders were meant **to prevent hoarding and enhance supply in the market**, But the **Economic Survey (2019-20) states** that there was an **increase in price volatility** of the commodities and a **widening gap between wholesale and retail prices**.
- It is because of the fact that **ECA act fails to differentiate between hoarding and Storage**.
- Thus this **Act disincentivises development of storage infrastructure** which may lead to increased volatility in prices.
- **The report states that the ECA was enacted in 1955 when the economy was ravaged due to famine and food shortages. The government needs to note that today's scenario is much more different.**

Conclusion:

Without the Essential commodities Act, the consumers would be at the mercy of opportunistic traders and shopkeepers. Thus the commodities which qualify as 'essential' are not subjected to unfair profiteering. The Act also empowers the government to control prices of such commodities directly and Thus ensure the welfare of the consumers.

THE ARMS (AMENDMENT) ACT, 2019

Recently, the legislation was passed in both the houses of parliament, which has increased the punishment for manufacturing and carrying of illegal arms to life imprisonment. The Act has made amendments in the Arms Act, 1959. It decreases the number of licensed firearms which can be allowed per person and has also increased the penalties for certain offences under the Act. It has also introduced some new categories of offences. This Act will regulate the use of firearms in India, which is being used by around 35 lakh people in the name of personal safety. Uttar Pradesh has the maximum number of the person having a firearm license which is around 13 Lakh.

The Arms (Amendment) Act, 2019: Salient Features; Analysis; Way Forward

Salient Feature of the Act

- **Ban on firearms-** The Act bans the sale, manufacture, use, conversion, transfer, testing or proofing of firearms without any license. The Bill also prohibits procuring or obtaining un-licensed firearms.
- **License for acquiring firearms:** Under the Act, a license must be obtained to possess, acquire or carry any firearm. Earlier a person was permitted to obtain a license for up to three firearms. However, the new Act reduced the number of allowed firearms from three to one.
- **The validity of Firearms License-** The validity will be from three years to five years.
- **Increase in punishment:** The Bill increases the punishment for unlicensed firearms and related offences from seven years to life imprisonment with a fine.
- **Addition of new offences-** The Act has added the following new offences:
 - Taking a firearm from armed forces or police forcefully
 - Using firearms in such a way which endangers the personal safety of others or human. Even the Celebratory use of firearms in public gatherings, marriages, religious places or other functions will also be an offence.
- **Tracking of firearms** -The central government will have the power to make rules to track firearms and ammunition from manufacturer to the purchaser to investigate, detect and analyze illicit trafficking and manufacturing.
- Heritage or heirloom weapons could be kept in the house if they have been de-activated permanently.
- The Act has also provided special status to the sportspersons who need firearms for practice and participating in various tournaments.
- As per the Act, the excess firearms than authorized will have to be deposited with the nearest police station or any authorized gun dealers.
- In case of loot or snatch of firearms and ammunition from police or security forces, a new provision has increased the punishment to life imprisonment.
- As the new Act, the minimum punishment will be 14 years for any violation of the Act.

Analysis of the Act

Pros

- The Act has been introduced to control the possession and use of firearms in the country and its illegal usage. This will ensure safety and security to the other human being.
- The Act will help in reducing firearm-related crime.
- The Act will set a milestone in effective control overuse of firearms which is very important for the security and safety of people in the country.
- The Increase in punishment will create a deterrent for such crime in society.
- This will help the security forces and police in maintain law and order.

Cons

- As most of the crime is being committed by illegal license holders, the Act will not affect a lot to the license holders.
- This Act is required to be made in line with the police reforms in the country.
- Many states have objected its application to the whole country in a similar fashion, which may be a cause of concern due to the difference in culture and tradition.

○ Issue raised in Punjab

- In Punjab, the individuals who own more than one weapon (includes former Army personnel, businessmen and farmers) is raising concern on the Act.
- The Punjab government is stating that over 50% is residence stay in remote villages and hence they need arms to protect themselves.
- Villagers who are close to the Pakistan border in Punjab is raising concern on the Act.
- May Punjab residents had acquired firearms during the days of militancy in the 1990s and 1980s, and now they are concerned about the new regulations of the Act.
- Many residents in Punjab had acquired more than one vintage weapons from their ancestors, and hence they do not want this Act to be implemented in Punjab.
- Punjab doesn't have much problem with any other provisions of the Act except with the limit on the number of firearms.

○ Issue raised in Rajasthan

- The members of the Rajput community is opposing the amendments of the Act as they were holding more than one firearms.
- Many families in Rajasthan have antique guns as acquire from their ancestors as heirlooms and worship weapons.

- Some social outfits like Karni Sena have raised concerns and threatened to protest in opposition.
- The ADG Crime of Rajasthan put up the data that at present, there are 1.72 lakh firearms licences holders in the state in which almost 10% have multiple weapons.
- Many retired personnel of armed forces and the person who poses ancestral weapons are opposing the Act.
- Its execution in true spirit will be a challenge for the security personnel.

Way forward

- The government needs to strengthen such acts in most of the states with some exception to some states which hold a traditional culture of holding multiple weapons.
- Holding dysfunctional ancestral weapons need to be allowed for some states.
- The Act needs to be taken by states in the right spirit, and the police forces should implement it in letter and spirit.
- The redressal of grievance to the people in need is necessary, and the government should make such a mechanism.
- Punishments to illegal license holders should be ensured by security personnel.
- Representation of states should be taken into consideration.
- Trekking of firearms from illegal holders should be ensured.

THE MOTOR VEHICLE (AMENDMENT) ACT, 2019

The Motor Vehicles Act regulates all aspects and concerns regarding road transport vehicles. The Act provides for legislative provisions regarding licensing of drivers, registration of motor vehicles, permits for motor vehicles, special provisions regarding state transport undertakings, traffic regulation, insurance, liability, offences and penalties for violation of road transport legislation and rules. For implementing the legislative provisions of the Act, the Government made the Central Motor Vehicles Rules 1989.

Need For Amendment Of Motor Vehicle Act 1988:

- As per a WHO report in 2018, the highest number of road accidents occurs in India. Even China is behind India in this regard.
- As per a report of the Ministry of Road Transport and Highways published in 2017, there are approximately 4.64 lakh road accidents in India every year, in which about 1.47 lakh people are killed every year.
- Around 1.49 lakh people died in 2018 due to road accidents. Uttar Pradesh registering the maximum fatalities.

Therefore, in order to prevent fatalities and casualties due to road accidents; the central government has amended the Motor Vehicle 1988 by promulgating the Motor

Vehicles (Amendment) Bill 2019. The amendments have come into effect from September 1, 2019.

Key Features of the Amendment Bill:

- **Compensation for road accident victims:** The government aims to institute a scheme for cashless treatment of road accident victims during the golden hour. **Golden hour** is the time period of up to one hour following a traumatic injury. During the golden hour, the likelihood of preventing death through immediate and prompt medical care is the greatest. The Bill has also increased the minimum compensation for hit and run cases.
- **Mandatory insurance:** The government shall constitute a Motor Vehicle Accident Fund. This fund will be used for providing compulsory insurance cover to all road users in the country. It will be utilised for:
 - the treatment of peoples injured in road accidents as per the golden hour rule,
 - compensation to nominees of a person who died in a hit and run accident,
 - compensation to a victim who is severely hurt in a hit and run accident,
 - Compensation to any other persons as prescribed by the government.
- **Good samaritans:** A good samaritan is defined as a person who renders emergency medical/non-medical assistance to a victim of an accident at the scene. The assistance should have been-
 - in good faith,
 - voluntary, and
 - without the expectation of any reward.
- Good samaritans shall not be liable for any civil or criminal action for any injury/death of an accident victim which may be caused due to their negligence in providing assistance to the victim of the accident.
- **Recall of vehicles:** The central government can order the recall of motor vehicles if a defect in the vehicle may cause damage to the driver, or the environment or to other road users. The manufacturer of the recalled vehicle shall be required to:
 - reimburse the buyers, the full cost of the recalled vehicle.
 - replace the recalled defective vehicle with another vehicle with similar or better specifications.
- **National Transportation Policy:** The government will develop a National Transportation Policy. This policy will be developed in consultation with state governments. The Policy will:
 - aim to establish a planning framework for road transport in India
 - aim to develop a framework for the grant of permits for road transport in India.

- **Road Safety Board:** The MVA Bill provides for the establishment of a National Road Safety Board. It is to be created by the central government through a notification. The Board shall advise the central and state governments on all comprehensive aspects of road safety and traffic management. This will include:
 - standards of vehicles,
 - registration and licensing of motor vehicles,
 - road safety standards, and
 - promotion of the latest vehicle technology.
- **Offences and penalties:** The Bill has increased penalties for many offences under the Act. For instance, the maximum penalty for driving while intoxicated or under the influence of drugs has now been increased from Rs 2,000 to Rs 10,000.
 - In case a vehicle manufacturer fails to comply with standards, the penalty shall be a fine of less than or upto Rs 100 crore or imprisonment of less than or up to one year, or both.
 - In case a contractor is not in compliance with road design standards, the penalty shall be a fine of less than or up to one lakh rupees. The government can increase the fines mentioned in the Act per year by up to 10%.
- **Taxi aggregators:** The Bill also defines aggregators. They are digital intermediaries/ marketplaces which may be used by users to connect with a driver for transportation. These aggregators need licenses to be issued by the state. Further, they must also comply with the IT Act, 2000.

Analysis Of The Mv Act-2019:

PROS

- Very steep penalties to deter rule-breakers.
- Focus on the safety of pillion riders also.
- The number of passengers based on the type of vehicle has been fixed.
- Good Samaritans have been provided legal cover.
- Funds to provide cashless treatment in the golden hour.

CONS

- No written test or scrutiny for being eligible to get a driver's license.
- Period of validity of DL is comparatively high in India as compared to other countries.
- Road safety is under concurrent subject. Despite this, the central government has been unable to enforce the law effectively across states. Several states are still following the previous law and the fines as per it.
- Testing infrastructure is inadequate in India to meet the ever-increasing demand for testing standards of vehicles and road safety.

Overall, the MV Amendment Act of 2019 is a step in the right direction as it aims to deal with the unacceptable burden of deaths and casualties due to road accidents in India.

As the popular saying goes -‘Alert today then alive tomorrow’. With the enactment of the new act, it can be modified as: ‘Alert to rules to save your pocket’.

RIGHT TO INFORMATION ACT 2005

The RTI Act of 2005 was enacted by India's parliament to provide citizens with access to records held by the national government and state governments. As a result, in 2005, the government enacted the Right to Information Act, which establishes a framework for exercising this fundamental right. We will provide the Right to Information Act 2005 study notes in this article because it is frequently asked in various competitive exams, making it a very likely topic to be asked in the UPSC prelims or mains test.

Recently the Government has amended the **Right to Information (RTI) Act of 2005**. So, being in news has become important from an exam point of view. This write-up covers all the necessary Right to Information Act 2005 study notes which can be asked in **UPSC, State PCS, and other competitive exams**.

Right to Information (RTI) Act, 2005

- The demand for the Right to Information started with the Mazdoor Kisan Shakti Sangathan (MKSS) movement in Rajasthan for bringing transparency in village accounts in rural India. They wanted information available in official information recorded in government files.
- A draft RTI law was proposed in 1993 by the CERC, Ahmedabad.
- In 1996, a draft model law on the right to information to the Government of India by the Press Council of India headed by Justice P B Sawant. The draft model law was later modified and renamed as Freedom of Information Bill 1997.
- The Central Government formed a working group under the chairmanship of Mr. H D Shourie and was given the responsibility to prepare draft legislation on freedom of information. The Shourie Committee's submitted its Report in 1997, and a draft law was published based on Shourie Committee draft law. Subsequently, the same report was used for the Freedom of Information Bill 2000.
- The 2000 Freedom of information Bill was sent to the Parliamentary Standing Committee. The Freedom of Information Bill 2000 was passed by both the Houses of Parliament in 2002.
- In 2004, the UPA Government came into power at the Centre and promised to make "The Right to Information Act" more participatory and meaningful under its Common Minimum Program.
- A National Advisory Council (NAC) was set up to look after the implementation of the Government's Common Minimum Program.

- A public interest litigation (PIL) case was heard by the Supreme Court in 2004 on the issue of the Right to information. The Supreme Court's ordered the Government to make the RTI law for the same.
- RTI Bill was finally passed in Parliament in 2005.

Introduction

- The Right to Information Act, 2005 with the right of information was passed by the parliament on Jun 2005, and it came into force in Oct 2005.
- The RTI Act 2005, replaced the freedom of information act 2002, to provide for the setting up of a practical regime of right to information for every citizen.
- RTI is a mechanism to develop and ensure accountability and transparency, in line with Art 19 (1) (a) of the constitution.
- It is a legal right of every Indian citizen.

Salient Features of RTI Act 2005

- Under its provision, any citizen of India may request information from a public authority. The required information needs to be replied to within 30 days.
- The request for the information on any issue from the public authority is required to be submitted to the Public Information officer at the center or in the State.
- The RTI Act promotes every government body to make their offices transparent by computerizing their records for the wide dissemination of the information for the public.
- The Jammu and Kashmir will not come under this RTI Act 2005. However, it has a separate Right to Information Act 2009.
- The restrictions imposed by the Official Secrets Act 1923 were relaxed by the RTI Act.
- The Act has established a three-tier structure for enforcing the right to information guaranteed under the Act. The three Levels are – Public Information Officer, First Appellate Authority, and Central Information Commission (CIC).
- The information is to be submitted within 30 days from the date of receipt of the application.
- In case of non-receipt of information within 30 days, the individual requiring information may file an appeal. The Appellate Authority must reply within **30 days** or in exceptional cases 45 days.
- The individual may file 2nd appeal within 90 days in case of non-supply of information.
- The public authorities applicable under RTI are all Constitutional bodies at center and state (Legislature, Executive, Judiciary), bodies/NGOs owned/financed by government, privatized public utility companies.

- The public authorities excluded under RTI are Central Intelligence and Security Agencies, agencies of state specified through notification. The exclusion is not absolute.
- The Central Information Commission shall consist of one Chief Information Commissioner and up to 10 Central Information Commissioners.
- The Chief Information Commissioner will have a term of five years from the date of entering his office. She/ He shall not be entitled to reappointment to that post.
- There are 31 sections and 6 chapters enumerated in the act.
- Section 8 deals with public authorities which have been granted an exemption under this Act.

The Objective of the RTI Act

- To replace a prevailing culture of secrecy with a culture of transparency.
- To empower the citizen of the country.
- To promote transparency in the function of the public authorities.
- To prevent and eliminate corruption.
- transform the relationship between the citizen and government.
- dismantle illegitimate concentrations of power.

Recent Amendments of the RTI Act

- The bill gives the powers to change the terms and conditions of service of the Central Information Commissioner and the Information Commissioners in the hands of the central government.
- It clearly states that from now onward the term of office and the pay and allowances the Chief Information Commissioner and Information Commissioners in the Centre and the State shall be prescribed by the Central Government.
- The Chief Information Commissioner (CIC) and the other Information Commissioners will be appointed for a period and on the condition set by the central government.

Challenges/Issues

- According to a recent study, only 36 percent of people in rural areas and 38 percent of people in urban areas have heard of the RTI Act.
- The participation of women in the RTI Act is not sufficient for a progressive and empowered society.
- The data shows that around 45% of public information officers did not get any training while joining the post.
- There has been a tendency of poor record-keeping practices by the central and state government offices. This violates section 4 of the RTI act.

- The pendency of cases is a clear indication of the casual approach of the government towards RTI.
- There is a lack of appropriate infrastructure and a huge deficiency in staff required for running Information Commissions.
- The dilution of the whistle-blower protection act is a cause of concern.
- The security and protection of RTI activists in the course of their work is a cause of concern.
- The non-inclusion of the Judiciary and political parties creates suspicion in mind and creates a hurdle in the fight towards making the system more transparent and accountable.
- The recent changes will create political patronage in the selection of Information Commissioners and will lead to dilution of the main purpose of the RTI act.

REPRESENTATION OF PEOPLE'S ACT (RPA): INTRODUCTION; SALIENT FEATURES

This topic is part of the 'Salient features of Representation of People's Act' of General Studies paper which is important for both prelims and mains point of view. Here in the article, we have discussed important features of RPA 1950 and 1951 along with the important amendments made so far.

Representation of People's Act

The Indian Constitution, under its article 324 to 329 empowers the government to make provisions for the conduct of free and fair elections in the country. Based on this power, the government of India has devised some acts like the Representation of People Act 1950 and Representation of People Act 1951.

Representation of People Act 1950

In an attempt to regulate elections in the country for the first time, the government came up with the Representation of People Act, 1950. The act provides for:

- Allocation of seats in Lok Sabha and Vidhan Sabha.
- Delimitation of constituencies for elections in Lok Sabha and Vidhan Sabha
- Qualification of voters for such elections
- Preparation of electoral roll

Salient features of the Act

- The act provides for direct elections for filling seats in every constituency.
- The Delimitation Commission will determine the extent of the constituency of each state and Union Territory (except Sikkim and Arunachal Pradesh).
- The Election Commission shall identify constituencies reserved for Scheduled Tribes in the states of Meghalaya, Mizoram, Tripura, and Nagaland.
- The President of India has the power to alter constituencies after consulting the Election Commission of India.

- The Election Commission, after consulting the Governor of the state will nominate a Chief Electoral officer and a district-level Election Commissioner after consulting the state government.
- An electoral roll will be prepared for every constituency. No person shall be enrolled for more than one constituency and may be disqualified if he/she is not a citizen of India or maybe of unsound mind and is debarred from voting.
- Only the Union government after consulting the Election Commission of India amend the rules under the act and any such amendment will not be available for judicial scrutiny under any Civil Court.

Representation of People Act, 1951

The Representation of People Act, 1951 is enacted by the provincial government of India to scrutinize the election process before the first general elections. The act provides for:

- The actual conduct of elections
- Qualification and grounds for disqualification of the members of both the houses of parliament and the state legislature
- The corrupt practices and other offences related to elections
- Dispute redressal regarding elections

Salient Features of the Act

- Only a qualified voter can contest elections of Lok Sabha and Rajya Sabha.
- On the seats reserved for SCs and STs, only candidate belonging to that category can contest the election.
- The elector can contest election in any constituency irrespective of the state/Union Territory where the electorate is present for which he/she is eligible to vote.
- If a person is found guilty for promoting enmity, hatred between classes, bribery, influencing elections, rape or other heinous crimes against women, or spread religious disharmony, practice untouchability, import-export prohibited goods, sell or consume illegal drugs and other chemicals or terrorism in any form or may have been imprisoned for at least 2 years shall be disqualified for six years after his/her release from the jail to contest elections.
- The person shall also be disqualified if he/she is found engaged in corrupt practices or excluded for related government contracts.
- Declaration of electoral expenses is a must, failing which will lead to disqualification of the candidate.
- Every political party must be registered with the Election Commission of India whose decision regarding this will be final.

- In case of any changes in the name or address of the political party, the party must intimate the Election Commission as soon as it does so.
- A political party may take donations from any of the person or company within India except the government-owned companies. Foreign contributions are not allowed.
- Every political party must report the donation of more than ₹20,000 received from any person or company.
- **National Party:** If a party gets minimum 6 per cent of valid votes for assembly elections in more than four states or wins at least 2 per cent seats in Lok Sabha from at least three states is recognized as a National Party.
- **State Party:** If a political party gets a minimum 6 per cent of the votes in the state assembly elections or wins at least 3 per cent of total seats in the state assembly will be a state political party.
- The candidate must declare his/her assets and liabilities within 90 days from his/her oath-taking day.
- Petitions related to elections shall be filled in High Court and can be appealed in Supreme Court. The High Court must conclude the petition within six months of its filling. The decision in such case should be intimated to the Election Commission. It can be appealed in the Supreme Court within 30 days.
- The Election Commission has powers similar to the Civil Court to summon and enforce any person or any evidence. It can regulate its procedure.
- For elections-related works, people from local authorities, universities, government companies, and other institutions under state or center governments shall be provided to the Election Commission.
- The candidate should deposit ₹25000 as security for Lok Sabha elections, and all other polls ₹12500 should be deposited. SC/St candidates get 50 percent concession in security deposition.

Various Offenses related to Elections defined under the act

- Promoting enmity and hatred
- Booth capturing and removal of ballot papers
- Breach of official duty and supporting any candidate
- Selling liquor within two days before polling to its conclusion
- Calling for public meetings within 48 hours before voting and creating disturbances

Representation of the People (Amendment) Act, 1966

- It abolished the election tribunals and transferred the election petitions to the high court's whose orders can be appealed to Supreme Court.
- However, election disputes regarding the election of President and Vice-President are directly heard by the Supreme Court.

Representation of the People (Amendment) Act, 1988

- It provided for adjournment of poll due to booth capturing and Election Voting Machines.

Representation of the People (Amendment) Act, 2002

- New section 33A related to Right to Information was inserted in the 1951 act.

Representation of People (Amendment) Bill, 2017

- The bill seeks to amend the Representation of People Act, 1950 and the Representation of People Act, 1951 to allow proxy voting by NRIs by inserting a sub-section in section 60 of Representation of People Act, 1951 and to make provisions of the acts gender-neutral, like, replacing the term 'wife' in section 20A of the Representation of People Act, 1950 with 'spouse'.
- The amendment will satisfy the demand for voting rights by NRIs.

LABOUR LAWS AND THE RECENT CHANGES AMID LOCKDOWN (THE CONCEPTS)

Under the prevailing circumstances of the pan-India lockdown, many states have pushed through labour law changes by way of amendments i.e. ordinances or executive orders. Some of the labour law changes are awaiting central governments' approval. The labour law amendments 2020 can be seen recently considering the economic status of the country and to cater to the well being of the labour. Labour law amendments 2020 seek various changes regarding working conditions, working days and many more.

Labour Laws and the Recent Changes amid Lockdown

To incentivize the economic activity, an increasing number of states, prominent of them are **Uttar Pradesh, Madhya Pradesh and Gujarat**, besides **Rajasthan, Punjab, Odisha** and **Punjab** have sought changes in the existing labour laws in their state. **Uttar Pradesh Government** has already cleared an ordinance in the State Legislative Assembly in this regard. The **most significant changes** were announced by three states **including Uttar Pradesh, Madhya Pradesh and Gujarat**. It is believed that to cope with the pressure of reviving the economy many other states are likely to follow the footsteps of these states. As the labour law changes are concerned with the basic working rights including working conditions, working days, and many more, these are important to be discussed.

In this article, we will discuss labour laws and the recent changes suggested or adopted by the states.

Among many other states, the recent labour law changes brought in three states that are prominently in the discussion, as others are likely to follow them in due course of time. These are:

a. Uttar Pradesh

- The U.P. Government has exempted employers from the purview of **most of the labour laws for three years.**
- According to the draft ordinance, which is pending approval from the president, provisions related to **minimum wages, timely payment of wages, and safety provisions under the Factories Act, 1948 and Building (and Other Construction Workers) Act, 1996** will continue to **apply to all firms.**

b. Madhya Pradesh

- **Madhya Pradesh** exempted the **employers from the Contract Labour Act for 1000 days, Madhya Pradesh industrial Relations Act, and Industrial Disputes Act.**
- The **State** has also granted **exemptions to the employers for flexibility of extension of working hours.**
- The **Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961** has also undergone some labor law changes that will exempt **industries employing up to 100 workers from the law's provisions.**

c. Gujarat

- The **Gujarat Government** has brought in the **suspension of most of the labour laws** in the state whereby the **industries will have to abide by the Minimum Wages Act, the Industrial Safety Rules and the Employees' Compensation Act.**
- Gujarat decided to **exempt new industrial units** from all related acts and **norms for 1200 days.**

Labour Laws in India

The Labour Laws of India **originated and express the socio-political views of leaders from pre-1947 independence movement struggle.** The laws related to labour and employment in India are broadly put under "Industrial Law". The industrial laws have developed in India post-Independence are the result of the awakening of the workers of their rights. The industrial relations involve a delicate balance between the workers, employers and conditions of labour or the workers.

What are the labour laws in India?

'Labour laws' is a conglomeration of laws that administers the rulings and precedents addressing the relationship between 'Employers, Employees and Labour Organisations, which deal with labour issues.

'Labour Laws' is a cluster of different Acts, Rules and Regulations enacted by the Parliament of India and different State Legislatures. In India, labour laws cover almost all types of industries, several labour laws regulate service conditions in specific industries such as building and construction work, pharmaceuticals, dockyards and mines. Various compliances in accordance with the procedures laid down therein are also dealt with by labour laws.

Therefore, labour laws in India not only deal with industrial relations i.e. relations between the employees and employers but also relate to the payment of wages, working conditions, social security etc.

In the current Indian economic environment, which is marked by the globalized economy, liberalization in trade, enhanced competition and ongoing technological advancement, rationalization of manpower is one of the most effective keys to the efficiency of any organization. Rationalization of manpower does not merely mean reductional retrenchment of employers.

Contribution of labour in an Economy

Labour is regarded as the primary factor of production, no labour means difficult to produce. The size of a country's labour force is determined by the size of the adult population. Also, the extent to which the adults are either working or are prepared to offer their labour for wages.

Purpose of labour legislation

Labour laws are designed to protect the rights of individual workers and employers and to promote productive, safe workplaces. Before the advent of labour legislation, workplaces were regulated only by the ethics of the ownership and the bargaining power of the employee. Basically, the labour law defines the rights and obligations as workers, union members, and employers in the workplace.

Labour law covers the following aspects:

- Ensures that **just and humane conditions of work** and **maternity relief** are provided.
- Ensures productive economy by establishing a **legal system** that **facilitates productive individual** and **collective employment relationships**.
- A framework within which employers, workers and their representatives can interact with regard to work-related issues is provided by the labour laws.
- **It serves as an important vehicle for achieving harmonious industrial relations based on workplace democracy**
- Secures the **citizens are not forced by economic necessity** to enter avocations **unsuited to their age or strength**
- A **constant reminder** and **guarantee of fundamental principles and rights at work** are provided by labour laws, which have received **broad social acceptance** and establishes to processes through which these principles and rights can be implemented and enforced.
- Lastly, the labour laws also secure the **participation of the employee** in the **management of undertakings, establishments, or other organisations engaged** in any industry.

International reaction to the proposed labour law changes

The **International Labour Organization (ILO)** came into the **existence in 1919**, is a **specialized agency of the United Nations**. As **India** is one of the **founding members of the ILO** and the **Parliament of India** has **ratified 47 conventions of the ILO**.

- Some of the conventions related to **working hours, labor inspections, equal remuneration, and compensation in case of injuries**, among others.
- **India** has adopted the **ILO's declaration** on the **Fundamental Principles and Rights at Work** in
- These **declarations** are **binding to the member countries**.
- **ILO members** have to **"respect and promote"** the **freedom of association** and the **effective recognition of the right to collective bargaining, elimination of discrimination in respect of employment and occupation, the abolition of child labour, the elimination of forced or compulsory labour**.

The ILO has responded to the sweeping labour law changes proposed by state governments and has asked the authorities to ensure that all such relaxations adhere to global standards and are effected after proper consultation. It also said that labour laws protect the well-being of both employers and workers, and called for "collective efforts and solidarity between the government, employers and workers". Labour laws are an important means to advance social justice and promote decent work for all.

Way Forward

As suggested by the International Labour Organisation and also the need of the hour is to strengthen the social dialogue, collective bargaining, labour relation institutions and process for implementing solutions. The workers need to be taken into confidence amid the social chaos occurred due to COVID-19 spread. As advised by the ILO that any policy response should ensure recovery through fiscal and monetary stimulus measures. The support to enterprises, jobs and income through social protection, retention and financial relief to companies along with ensuring that workers' needs be protected by strengthening occupational safety and health measures.

Presently, the latest amendments in labour laws in India 2020 have been passed an ordinance and are still awaiting the president's assent to become an Act. The new labour law changes and suggestion will improve the country's standing in ILO and is an effective step towards implementing Fundamental Principles and Rights at work.

TRIPLE TALAQ ACT 2019:

Recently the Government has passed the **Triple Talaq Act on July 2019**. So, being a highly discussed issue, it has become important from exam point of view. This article covers all the relevant details about the **Triple Talaq issue**.

As per a study, around 92% of Muslim women in India want to abolish triple talaq.

- As per the National Commission of Women (NCW), Triple talaq is one of the "highly misused" customs in society and it should be scrapped to protect the basic rights of Muslim women.
- The provision of 'triple talaq' has been abolished in almost 21 Islamic theocratic countries, including Pakistan.
- According to a study, the largest percentage of divorces in our society takes place among Muslim women.

- In 2016, the **Allahabad High Court** declared in a ruling that the practice of instant triple talaq is unconstitutional and violates the rights of Muslim women.
- In 2017, the **Supreme Court declared** Triple Talaq as unconstitutional in the Shayara Bano case. The court struck down the practice of giving divorce to his wife by uttering the word "talaq" thrice on the grounds of violation of Art 14 and Art 21 of the constitution.

What is the triple talaq issue?

- 'Triple Talaq' or 'Oral talaq' was a practice of divorce in Islam according to which a husband can divorce his wife by just pronouncing the word 'Talaq' thrice. After the pronouncement of 'Talaq' thrice, the Muslim women will be treated as divorced with immediate effect, and the Muslim man can marry again with any other women.
- As per the constitution, the Muslims are treated as the biggest religious minority group in the country and the constitution allows Muslims to regulate their matters such as marriage, divorce, inheritance, and other important issues through their own civil code.
- **The practice of triple talaq is neither mentioned in the Quran nor Hadis and is not as per Sharia Law in Isl**
- However, in Shayara Bano case of 2017, the Supreme Court examined how much it can interfere in Muslim laws on family-related issues while hearing a plea to end the practice of 'Triple' talaq which permits Muslim men to give divorce to their wives by saying talaq three times.
- The Supreme Court declared this inhumane practice of 'Triple' talaq as unconstitutional and requested to the Government of India to frame a law on the issue.
- Accordingly, the Government of India framed a law known as **the Muslim Women (Protection of Rights on Marriage) Bill 2019, which has now been passed by both the houses of parliament and will become law on the assent of the President of India.**

Key provisions of Muslim Women (Protection of Rights on Marriage) Bill 2019

- **The Bill makes any kind of declaration of talaq by words or in writing in hand or through any electronic form, as void and illegal and not enforceable in law.**
- **Definition:** It defines talaq-e-bidder or any such other form of talaq practised by a Muslim man in which he can give instant and irrevocable divorce by just pronouncing 'Talaq' thrice in sitting.
- **Offence and penalty:** The **Muslim Women (Protection of Rights on Marriage) Bill 2019** makes the practice of talaq a cognizable offence, resulting in up to three years' imprisonment with a fine. (A cognizable offence means a police officer may arrest an accused without a warrant). The offence will be cognizable only if a written complaint is filed by a victim Muslim woman

divorced through 'Triple' Talaq or any relative of women related to her by blood or marriage.

- **Grant of bail by the Magistrate:** The Magistrate may grant the bail only after hearing the woman against whom 'Triple' talaq has been pronounced after getting satisfied that there are reasonable grounds for granting bail.
- **The compounding clause and their application by the Magistrate:** Compounding here means the procedure where both sides agree to stop legal proceedings and settle the dispute through mutual agreement. The Magistrate will have the powers to set the terms and conditions of the compounding of the offence.
- **Subsistence Allowance:** Any victim Muslim woman divorced through 'Triple' Talaq, is entitled to subsistence allowance from her husband for herself and her minor children. The magistrate will have the power to determine the amount of subsistence allowance.
- **Custody of minor children:** Any victim Muslim woman divorced through 'Triple' Talaq is entitled to seek custody of her minor children. The Magistrate will have the powers to determine the manner of custody.

Benefits of the bill

- Through this Bill, Muslim women will be treated inequality **on par with** Muslim men.
- This will empower Muslim women and strengthen gender justice.
- Triple talaq was adversely impacting the dignity and rights of Muslim women and will strengthen the constitutional principles and international laws.
- The penalty and arrest, in this case, will act as a **“necessary deterrent” in the repetition of future incidents.**
- It will create a voice against any other arbitrary and unconstitutional practice being followed in the name of religion.
- The law will also help in giving justice and respect for the women in the country.
- The provision of maintenance or subsistence allowance will help in strengthening the family and social structure of the society.

Concerns of the Bill

- The Supreme Court invalidated this Triple Talaq practice and declared it arbitrary and unconstitutional.
- Logically the Talaq-e-bidder does not dissolve the marriage. However, the bill presumes that the 'pronouncement' of Talaq can instantaneously and irrevocably dissolve the marriage.
- After rendering Talaq-e-bidder inoperative and considering it as a crime and making it a cognizable offence is raising the questions.
- Making provisions on the post-divorce issues like subsistence allowance and custody when the pronouncement of triple talaq itself does not dissolve the marriage appears something hard and baseless.

- If the Muslim man will be kept in custody then who will give the subsistence allowance.

Significance and way forward

- The penal provisions to discourage the practice of triple talaq do not take into account the issues of economic security of the women and hence their needs are to be taken care of.
- The government should strengthen the negotiating capacities of the women and should focus more on saving the marriage and family.
- The government should provide economic support to the affected women and children if her husband is put behind the bars.
- The uniform civil code needs to be thought about and related laws need to be framed for the same.

What are the Padma Awards? What are the criteria for the selection of Padma awardees? What are the criteria and fields for the awards like Bharata Ratna, Padma Vibhushan, Padma Bhushan, and Padma Shri?.

The Padma Awards are one of the highest civilian honours of India. They are announced annually on the eve of Republic Day.

The awards come under the aegis of the Ministry of Home Affairs.

The Awards are given in three categories:

1. Padma Vibhushan for exceptional and distinguished service.
2. Padma Bhushan for distinguished service of higher-order.
3. Padma Shri for distinguished service.

The award seeks to recognize achievements in all fields of activities or disciplines where an element of public service is involved.

The Padma Awards are conferred on the recommendations made by the Padma Awards Committee, which is constituted by the Prime Minister every year. The nomination process is open to the public. Even self-nomination can be made.

History of Padma Awards

- The Government of India instituted two civilian awards, the Bharat Ratna and Padma Vibhushan in 1954.
- The Padma Vibhushan had three classes namely Pehla Varg, Dusra Varg, and Tisra Varg. These were later renamed Padma Vibhushan, Padma Bhushan, and Padma Shri through a Presidential Notification issued on January 8, 1955.

Bharat Ratna

- Bharat Ratna is the highest civilian award in the country. It is awarded in recognition of exceptional service/performance of the highest order in any field of human endeavour. It is considered on a different level from Padma Award.
- The recommendations for Bharat Ratna are made by the Prime Minister to the President of India. No formal recommendations for Bharat Ratna are necessary
- The number of Bharat Ratna Awards is restricted to a maximum of three in a particular year. The government has conferred Bharat Ratna Award on 45 persons to date.

Padma Vibhushan, Padma Bhushan, and Padma Shri: List of fields
Padma Awards, which were instituted in the year 1954, is announced every year on the occasion of Republic Day except for brief interruption(s) during the years 1978 and 1979 and 1993 to 1997.

The constitutional validity of Padma Awards was challenged in 1992 in Kerala and Madhya Pradesh concerning the Public interest Litigation filed. The award was suspended until the issue was resolved in the respective courts.

All persons without distinction of race, occupation, position, or sex are eligible for these awards. However, Government servants including those working with PSUs, except doctors and scientists, are not eligible for these awards.

The award seeks to recognize works of distinction and is given for distinguished and exceptional achievements/service in all fields of activities/disciplines.

A list of the fields is as under:

- Art (Music, Painting, Sculpture, Photography, Cinema, Theatre, etc.)
- Social work (social service, charitable service, contribution to community projects, etc.)
- Public Affairs (Law, Public Life, Politics, etc.)
- Science & Engineering (Space Engineering, Nuclear Science, Information Technology, Research & Development in Science & its allied subjects, etc.)
- Trade & Industry (Banking, Economic Activities, Management, Promotion of Tourism, Business, etc.)

- Medicine (medical research, distinction/specialization in Ayurveda, Homeopathy, Siddha, Allopathy, Naturopathy, etc.)
- Literature & Education (Journalism, Teaching, Book composing, Literature, Poetry, Promotion of education, Promotion of literacy, Education Reforms, etc.)
- Civil Service (distinction/excellence in administration etc. by Government Servants)
- Sports (popular Sports, Athletics, Adventure, Mountaineering, promotion of sports, Yoga, etc.)
- Others (fields not covered above and may include propagation of Indian Culture, protection of Human Rights, Wild Life protection/conservation, etc.)

The Padma Awards: Important Facts

- The award is normally not conferred posthumously. However, in highly deserving cases, the Government could consider giving an award posthumously.
- A higher category of Padma award can be conferred on a person only where at least five years have elapsed since the conferment of the earlier Padma award. However, in highly deserving cases, a relaxation can be made by the Awards Committee.
- The awards are presented by the President of India usually in March/April every year where the awardees are presented a Sanad (certificate) signed by the President and a medallion.
- The recipients are also given a small replica of the medallion, which they can wear during any ceremonial/State functions etc. if the awardees so desire. The names of the awardees are published in the Gazette of India on the day of the presentation ceremony.
- The total number of awards to be given in a year (excluding posthumous awards and to NRI/foreigners/OCIs) should not be more than 120.
- The award does not amount to a title and cannot be used as a suffix or prefix to the awardees' name.

The Padma Awards Committee

- All nominations received for Padma Awards are placed before the Padma Awards Committee, which is constituted by the Prime Minister every year.

- The Padma Awards Committee is headed by the Cabinet Secretary and includes Home Secretary, Secretary to the President, and four to six eminent persons as members.
- The recommendations of the committee are submitted to the Prime Minister and the President of India for approval.

Padma Awards 2022

- This year the President has approved the conferment of 128 Padma Awards. This comprises of 4 Padma Vibhushan, 17 Padma Bhushan, and 107 Padma Shri Awards. There are 13 Posthumous awardees on the list.
- General Bipin Rawat, first Chief of Defence Staff who died in an air crash recently, and former Uttar Pradesh Chief Minister Kalyan Singh who headed the State during the Babri masjid demolition were conferred with Padma Vibushan posthumously on the eve of the 73rd Republic Day.

Indian Polity and Constitution

Short Answers

PKP-01 by Dr Mamta Pathania



22

TABLE OF CONTENTS

Indian Constitution (basics)	8
Historical Background of Indian Constitution	8
Indian System of Administration	8
Regulating Act of 1773	8
Pitt's India Act of 1784	8
Charter Act of 1813	9
Charter Act of 1833	9
Charter Act of 1853	9
Government of India Act of 1858	9
Indian Councils Act of 1861	9
India Council Act of 1892	10
Indian Councils Act of 1909	10
Government of India Act of 1919	10
Government of India Act of 1935	10
Indian Independence Act of 1947	11
Points to be noted	11
Constitution of India: List of All Articles (1-395) and Parts (1-22)	11
PREAMBLE	11
PART I: THE UNION AND ITS TERRITORY	12
PART II: CITIZENSHIP	12
PART III : FUNDAMENTAL RIGHTS	12
PART IV: DIRECTIVE PRINCIPLES OF STATE POLICY	13
PART IVA: FUNDAMENTAL DUTIES	13
PART V: THE UNION	14
CHAPTER I: THE EXECUTIVE	14
CHAPTER II: PARLIAMENT	14
CHAPTER III: LEGISLATIVE POWERS OF THE PRESIDENT	16
CHAPTER IV: THE UNION JUDICIARY	16
CHAPTER V: COMPTROLLER AND AUDITOR-GENERAL OF INDIA	16
PART VI: THE STATES	17
CHAPTER I: GENERAL	17

CHAPTER II: THE EXECUTIVE	17
CHAPTER III: THE STATE LEGISLATURE	17
CHAPTER IV : LEGISLATIVE POWER OF THE GOVERNOR	18
CHAPTER V: THE HIGH COURTS IN THE STATES.....	19
CHAPTER VI : SUBORDINATE COURTS	19
PART VII: THE STATES IN PART B OF THE FIRST SCHEDULE	19
PART VIII: THE UNION TERRITORIES.....	19
PART IX: THE PANCHAYATS.....	20
PART IXA: THE MUNICIPALITIES	20
PART IXB: THE CO-OPERATIVE SOCIETIES	20
PART X: THE SCHEDULED AND TRIBAL AREAS	21
PART XI: RELATIONS BETWEEN THE UNION AND THE STATES	21
CHAPTER I: LEGISLATIVE RELATIONS.....	21
CHAPTER II : ADMINISTRATIVE RELATIONS.....	21
PART XII: FINANCE, PROPERTY, CONTRACTS AND SUITS.....	22
CHAPTER I: FINANCE	22
CHAPTER II: BORROWING	23
CHAPTER III: PROPERTY, CONTRACTS, RIGHTS, LIABILITIES, OBLIGATIONS AND SUITS.....	23
CHAPTER IV: RIGHT TO PROPERTY	23
PART XIII: TRADE, COMMERCE AND INTERCOURSE WITHIN THE TERRITORY OF INDIA.....	23
PART XIV: SERVICES UNDER THE UNION AND THE STATES	23
CHAPTER I: SERVICES.....	23
CHAPTER II: PUBLIC SERVICE COMMISSIONS	24
PART XIVA: TRIBUNALS	24
PART XV: ELECTIONS.....	24
PART XVI: SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES	24
PART XVII: OFFICIAL LANGUAGE	25
CHAPTER I: LANGUAGE OF THE UNION	25
CHAPTER II: REGIONAL LANGUAGES	25
CHAPTER III: LANGUAGE OF THE SUPREME COURT, HIGH COURTS, ETC.	25
CHAPTER IV: SPECIAL DIRECTIVES	25
PART XVIII: EMERGENCY PROVISIONS	25
PART XIX: MISCELLANEOUS	25
PART XX: AMENDMENT OF THE CONSTITUTION.....	26
PART XXI: TEMPORARY, TRANSITIONAL AND SPECIAL PROVISIONS	26

PART XXII: SHORT TITLE, COMMENCEMENT, AUTHORITATIVE TEXT IN HINDI AND REPEALS	26
Indian Constitution (topics in the same order)	27
Preamble to the Indian Constitution	27
The preamble to the Indian Constitution.....	27
Source of the Constitution.....	28
Nature of Indian state	28
Objectives of Indian State	28
Date of its adoption	28
Info Bits related to Preamble of Indian Constitution.....	29
The Union and its Territory: Part I (Articles 1- 4).....	29
Info-bits related to Part I : The Union and the territory (Articles 1- 4)	30
Citizenship: Part II : (Articles 5-11)	31
Info-bits related to Citizenship of India.....	33
Fundamental Rights : Part III (Articles 12-35).....	34
Article 21A: Right to education.....	37
Directive Principles of Our State Policy: Part IV (Articles 36-51).....	42
Fundamental Duties: Part IVA (Article 51A).....	45
Article 51A: Fundamental duties	45
Info-bits related to Fundamental Duties.....	45
The President of India (Articles 52-62)	47
Part V The Union.....	47
Chapter I The Executive.....	47
Info-Bits Related to the President of India.....	50
Powers of Indian President.....	51
The Vice-President of India (Articles 63-73)	51
Info-Bits related with the Vice-President of India	54
Removal of Vice-President of India : Must Check.....	55
COM, Prime Minister and Attorney General (Articles 74-78)	56
Council of Ministers.....	56
The Attorney-General for India.....	57
Conduct of Government Business.....	57
Info Bits Related with COM, PM and AG.....	58
Parliament (Articles 79-88/122)	58
Chapter II Parliament.....	59
Info- Bits related with Parliament	61

The Union Judiciary ie. The Supreme Court (Articles 124-147)	61
Article 124: Establishment and Constitution of Supreme Court.....	61
Article 125: Salaries, etc., of Judges.....	62
Article 126: Appointment of acting Chief Justice.....	63
Article 127: Appointment of ad hoc Judges.....	63
Article 128: Attendance of retired Judges at sittings of the Supreme Court	63
Article 129: Supreme Court to be a court of record	63
Article 130: Seat of Supreme Court.....	63
Article 131: Original jurisdiction of the Supreme Court	63
Article 131A: Executive jurisdiction of the Supreme Court in regard to questions as to constitutional validity of Central laws {...} —Repealed.....	64
Article 132: Appellate jurisdiction of Supreme Court in appeals from High Court in certain cases	64
Article 133: Appellate jurisdiction of Supreme Court in appeals from High Courts in regard to civil matters	64
Article 134: Appellate jurisdiction of Supreme Court in regard to criminal matters.....	64
Article 134A: Certificate for appeal to the Supreme Court.....	65
Article 135: Jurisdiction and powers of the Federal Court under existing law to be exercisable by the Supreme Court	65
Article 136: Special leave to appeal by the Supreme Court	65
Article 137: Review of judgements or orders by the Supreme Court	65
Article 138: Enlargement of the jurisdiction of the Supreme Court.....	65
Article 139: Conferment on the Supreme Court of powers to issue certain writs.....	65
Article 139A: Transfer of certain cases.....	66
Article 140: Ancillary powers of Supreme Court.....	66
Article 141: Law declared by Supreme Court to be binding on all courts.....	66
Article 142: Enforcement of decrees and orders of Supreme Court and orders as to discovery, etc. ...	66
Article 143: Power of President to consult Supreme Court	66
Article 144: Civil and judicial authorities to act in aid of the Supreme Court.....	67
Article 144A: Special provisions as to disposal of questions relating to constitutional validity of laws {...} — Repealed.....	67
Article 145: Rules of Court, etc.	67
Article 146: Officers and servants and the expenses of the Supreme Court	68
Article 147: Interpretation.....	68
Info- Bits related with Supreme Court	68
Governor of States (Article 152-162)	68
CHAPTER I.—GENERAL	68
Article 152 : Definition.....	68

CHAPTER II.—THE EXECUTIVE	69
<i>The Governor</i>	69
Info-bits related to Governor of States	70
Council of Ministers in States (Articles 163-164)	71
Article 163: Council of Ministers to aid and advise Governor.....	71
164: Other provisions as to Ministers.....	72
Info-bits related to Council of Ministers in States	72
The State Legislature – in General (Article 168-177)	73
Article 168: Constitution of Legislatures in States.....	73
Article 169: Abolition or creation of Legislative Councils in States.....	73
Article 170: Composition of the Legislative Assemblies.....	73
Article 171: Composition of the Legislative Councils.....	74
Article 172: Duration of State Legislatures.....	75
Article 173: Qualification for membership of the State Legislature.	75
Article 174: Sessions of the State Legislature, prorogation and dissolution.....	75
Article 175: Right of Governor to address and send messages to the House or Houses.	75
Article 176: Special address by the Governor.	75
Article 177: Rights of Ministers and Advocate-General as respects the Houses.....	76
Info- Bits related with State Legislature	76

Indian Constitution (basics)

HISTORICAL BACKGROUND OF INDIAN CONSTITUTION

Before 1947, India was divided into two main entities – The British India which consisted of 11 provinces and the Princely states ruled by Indian princes under subsidiary alliance policy. The two entities merged together to form the Indian Union, but many of the legacy systems in British India is followed even now. The historical underpinnings and evolution of the India Constitution can be traced to many regulations and acts passed before Indian Independence.

Indian System of Administration

Indian democracy is a Parliamentary form of democracy where the executive is responsible to the Parliament. The Parliament has two houses – Lok Sabha and Rajya Sabha. Also, the type of governance is Federal, ie there is separate executive and legislature at Center and States. We also have self-governance at local government levels. All these systems owe their legacy to the British administration. Let us see the historical background of the Indian Constitution and its development through the years.

Regulating Act of 1773

- The first step was taken by the British Parliament to control and regulate the affairs of the East India Company in India.
- It designated the **Governor** of Bengal (Fort William) as the **Governor-General (of Bengal)**.
- Warren Hastings became the first Governor-General of Bengal.
- Executive Council of the Governor-General was established (Four members). There was no separate legislative council.
- It subordinated the Governors of Bombay and Madras to the Governor-General of Bengal.
- The Supreme Court was established at Fort William (Calcutta) as the Apex Court in 1774.
- It prohibited servants of the company from engaging in any private trade or accepting bribes from the natives.
- Court of Directors (the governing body of the company) should report its revenue.

Pitt's India Act of 1784

- Distinguished between commercial and political functions of the company.
- Court of Directors for Commercial functions and Board of Control for political affairs.
- Reduced the strength of the Governor General's council to three members.
- Placed the Indian affairs under the direct control of the British Government.
- The companies territories in India were called "the British possession in India".
- Governor's councils were established in Madras and Bombay.

Charter Act of 1813

- The Company's monopoly over Indian trade terminated; Trade with India open to all British subjects.

Charter Act of 1833

- **Governor-General (of Bengal)** became the Governor-General of India.
- First Governor-General of India was Lord William Bentick.
- This was the final step towards centralization in British India.
- Beginning of a Central legislature for India as the act also took away legislative powers of Bombay and Madras provinces.
- The Act ended the activities of the East India Company as a commercial body and it became a purely administrative body.

Charter Act of 1853

- **The legislative and executive functions of the Governor-General's Council were separated.**
- 6 members in Central legislative council. Four out of six members were appointed by the provisional governments of Madras, Bombay, Bengal and Agra.
- It introduced a system of open competition as the basis for the recruitment of civil servants of the Company (Indian Civil Service opened for all).

Government of India Act of 1858

- The rule of Company was replaced by the rule of the Crown in India.
- The powers of the British Crown were to be exercised by the Secretary of State for India
- He was assisted by the **Council of India**, having 15 members
- He was vested with complete authority and control over the Indian administration through the Viceroy as his agent
- The Governor-General was made the Viceroy of India.
- Lord Canning was the first Viceroy of India.
- Abolished Board of Control and Court of Directors.

Indian Councils Act of 1861

- It introduced for the first time Indian representation in the institutions like Viceroy's executive+legislative council (non-official). **3 Indians entered the Legislative council.**
- Legislative councils were established in Center and provinces.
- It provided that the Viceroy's Executive Council should have some Indians as the non-official members while transacting the legislative businesses.
- It accorded statutory recognition to the portfolio system.
- Initiated the process of decentralisation by restoring the legislative powers to the Bombay and the Madras Provinces.

India Council Act of 1892

- Introduced indirect elections (nomination).
- Enlarged the size of the legislative councils.
- Enlarged the functions of the Legislative Councils and gave them the power of discussing the Budget and addressing questions to the Executive.

Indian Councils Act of 1909

1. This Act is also known as the Morley- Minto Reforms.
2. Direct elections to legislative councils; first attempt at introducing a representative and popular element.
3. It changed the name of the Central Legislative Council to the Imperial Legislative Council.
4. The member of the Central Legislative Council was increased to 60 from 16.
5. Introduced a system of communal representation for Muslims by accepting the concept of 'separate electorate'.
6. **Indians for the first time in Viceroy's executive council.** (Satyendra Prasanna Sinha, as the law member)

Government of India Act of 1919

- This Act is also known as the Montague-Chelmsford Reforms.
- The Central subjects were demarcated and separated from those of the Provincial subjects.
- The scheme of dual governance, 'Dyarchy', was introduced in the Provincial subjects.
- Under the dyarchy system, the provincial subjects were divided into two parts – transferred and reserved. On reserved subjects, Governor was not responsible to the Legislative council.
- The Act introduced, for the first time, **bicameralism at the center.**
- **Legislative Assembly** with 140 members and **Legislative council** with 60 members.
- Direct elections.
- The Act also required that the three of the six members of the Viceroy's Executive Council (other than Commander-in-Chief) were to be Indians.
- Provided for the establishment of the Public Service Commission.

Government of India Act of 1935

- The Act provided for the establishment of an All-India Federation consisting of the Provinces and the Princely States as units, though the envisaged federation never came into being.
- Three Lists: The Act divided the powers between the Centre and the units into items of three lists, namely the Federal List, the Provincial List and the Concurrent List.
- The Federal List for the Centre consisted of 59 items, the Provincial List for the provinces consisted of 54 items and the Concurrent List for both consisted of 36 items
- The residuary powers were vested with the Governor-General.
- The Act abolished the Dyarchy in the Provinces and introduced 'Provincial Autonomy'.
- It provided for the adoption of Dyarchy at the Centre.
- Introduced bicameralism in 6 out of 11 Provinces.
- These six Provinces were Assam, Bengal, Bombay, Bihar, Madras and the United Province.
- Provided for the establishment of Federal Court.

- Abolished the Council of India.

Indian Independence Act of 1947

- It declared India as an Independent and Sovereign State.
- Established responsible Governments at both the Centre and the Provinces.
- Designated the Viceroy India and the provincial Governors as the Constitutional (normal heads).
- It assigned dual functions (Constituent and Legislative) to the Constituent Assembly and declared this dominion legislature as a sovereign body.

Points to be noted

- Laws made before the Charter Act of 1833 were called **Regulations** and those made after are called **Acts**.
- Lord Warren Hastings created the office of District Collector in 1772, but judicial powers were separated from District collector later by Cornwallis.
- From the powerful authorities of unchecked executives, the Indian administration developed into a responsible government answerable to the legislature and people.
- The development of the portfolio system and budget points to the separation of power.
- Lord Mayo's resolution on financial decentralization visualized the development of local self-government institutions in India (1870).
- 1882: Lord Ripon's resolution was hailed as the 'Magna Carta' of local self-government. He is regarded as the 'Father of local self-government in India'.
- 1924: Railway Budget was separated from the General Budget based on the Acworth Committee report (1921).
- From 1773 to 1858, the British tried for the centralization of power. It was from the 1861 Councils act they shifted towards devolution of power with provinces.
- 1833 Charter act was the most important act before the act of 1909.
- Till 1947, the Government of India functioned under the provisions of the 1919 Act only. The provisions of the 1935 Act relating to Federation and Dyarchy were never implemented.
- The Executive Council provided by the 1919 Act continued to advise the Viceroy till 1947. The modern executive (Council of Ministers) owes its legacy to the executive council.
- The Legislative Council and Assembly developed into Rajyasabha and Lok Sabha after independence.

CONSTITUTION OF INDIA: LIST OF ALL ARTICLES (1-395) AND PARTS (1-22)

Constitution of India contains 395 articles in 22 parts. Additional articles and parts are inserted later through various amendments. There are also 12 schedules in the Indian Constitution. Titles are mentioned for all articles from 1-395, separated under various parts and chapters. Preamble and Repealed articles or parts are specially mentioned.

PREAMBLE

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN, SOCIALIST, SECULAR, DEMOCRATIC, REPUBLIC and to secure to all its citizens:

JUSTICE, social, economic and political;
 LIBERTY of thought, expression, belief, faith and worship;
 EQUALITY of status and of opportunity; and to promote among them all
 FRATERNITY assuring the dignity of the individual and the unity and integrity of the nation;
 IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November 1949, do HEREBY
 ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

PART I: THE UNION AND ITS TERRITORY

1 Name and territory of the Union.
 2 Admission or establishment of new States.
 2A [Repealed.]
 3 Formation of new States and alteration of areas, boundaries or names of existing States.
 4 Laws made under articles 2 and 3 to provide for the amendment of the First and the Fourth Schedules and supplemental, incidental and consequential matters.

PART II: CITIZENSHIP

5 Citizenship at the commencement of the Constitution.
 6 Rights of citizenship of certain persons who have migrated to India from Pakistan.
 7 Rights of citizenship of certain migrants to Pakistan.
 8 Rights of citizenship of certain persons of Indian origin residing outside India.
 9 Persons voluntarily acquiring citizenship of a foreign State not to be citizens.
 10 Continuance of the rights of citizenship.
 11 Parliament to regulate the right of citizenship by law.

PART III : FUNDAMENTAL RIGHTS

General

12 Definition.
 13 Laws inconsistent with or in derogation of the fundamental rights.
Right to Equality
 14 Equality before law.
 15 Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.
 16 Equality of opportunity in matters of public employment.
 17 Abolition of Untouchability.
 18 Abolition of titles.
Right to Freedom
 19 Protection of certain rights regarding freedom of speech, etc.
 20 Protection in respect of conviction for offences.
 21 Protection of life and personal liberty.
 21A Right to education
 22 Protection against arrest and detention in certain cases.
Right against Exploitation
 23 Prohibition of traffic in human beings and forced labour.
 24 Prohibition of employment of children in factories, etc.
Right to Freedom of Religion
 25 Freedom of conscience and free profession, practice and propagation of religion.
 26 Freedom to manage religious affairs.
 27 Freedom as to payment of taxes for promotion of any particular religion.

28 Freedom as to attendance at religious instruction or religious worship in certain educational institutions.

Cultural and **Educational** **Rights**
29 Protection of interests of minorities.
30 Right of minorities to establish and administer educational institutions.
31 [Repealed.]

Saving of **Certain** **Laws**
31A Saving of Laws providing for the acquisition of estates, etc.
31B Validation of certain Acts and Regulations.
31C Saving of laws giving effect to certain directive principles.
31D [Repealed.]

Right to **Constitutional** **Remedies**
32 Remedies for enforcement of rights conferred by this Part.
32A [Repealed.]

33 Power of Parliament to modify the rights conferred by this Part in their application to Forces, etc.

34 Restriction on rights conferred by this Part while martial law is in force in any area.

35 Legislation to give effect to the provisions of this Part.

PART IV: DIRECTIVE PRINCIPLES OF STATE POLICY

36 Definition.
37 Application of the principles contained in this Part.
38 State to secure a social order for the promotion of the welfare of the people.
39 Certain principles of policy to be followed by the State.
39A Equal justice and free legal aid.
40 The organisation of village panchayats.
41 Right to work, to education and to public assistance in certain cases.
42 Provision for just and humane conditions of work and maternity relief.
43 Living wage, etc., for workers.
43A Participation of workers in the management of industries.
43B Promotion of co-operative societies.
44 Uniform civil code for the citizens.
45 Provision for free and compulsory education for children.
46 Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.
47 Duty of the State to raise the level of nutrition and the standard of living and to improve public health.
48 The organisation of agriculture and animal husbandry.
48A Protection and improvement of environment and safeguarding of forests and wildlife.
49 Protection of monuments and places and objects of national importance.
50 Separation of judiciary from the executive.
51 Promotion of international peace and security.

PART IVA: FUNDAMENTAL DUTIES

51A Fundamental duties.

PART V: THE UNION

CHAPTER I: THE EXECUTIVE

The President and Vice-President
52 The President of India.
53 The executive power of the Union.
54 Election of President.
55 Manner of election of President.
56 Term of office of President.
57 Eligibility for re-election.
58 Qualifications for election as President.
59 Conditions of the President's office.
60 Oath or affirmation by the President.
61 Procedure for impeachment of the President.
62 Time of holding the election to fill the vacancy in the office of President and the term of office of person elected to fill the casual vacancy.
63 The Vice-President of India.
64 The Vice-President to be ex officio Chairman of the Council of States.
65 The Vice-President to act as President or to discharge his functions during casual vacancies in the office, or during the absence, of President.
66 Election of Vice-President.
67 Term of office of Vice-President.
68 Time of holding the election to fill the vacancy in the office of Vice-President and the term of office of person elected to fill the casual vacancy.
69 Oath or affirmation by the Vice-President.
70 Discharge of President's functions in other contingencies.
71 Matters relating to, or connected with, the election of a President or Vice-President.
72 Power of President to grant pardons, etc., and to suspend, remit or commute sentences in certain cases.
73 The extent of executive power of the Union.
Council of Ministers
74 Council of Ministers to aid and advise the President.
75 Other provisions as to Ministers.
The Attorney-General for India
76 Attorney-General for India.
Conduct of Government Business
77 Conduct of business of the Government of India.
78 Duties of Prime Minister as respects the furnishing of information to the President, etc.

CHAPTER II: PARLIAMENT

General

79 Constitution of Parliament.
80 Composition of the Council of States.
81 Composition of the House of the People.
82 Readjustment after each census.
83 Duration of Houses of Parliament.
84 Qualification for membership of Parliament.
85 Sessions of Parliament, prorogation and dissolution.
86 Right of President to address and send messages to Houses.

87 Special address by the President.
 88 Rights of Ministers and Attorney-General as respects Houses.
Officers of Parliament
 89 The Chairman and Deputy Chairman of the Council of States.
 90 Vacation and resignation of, and removal from, the office of Deputy Chairman.
 91 Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman.
 92 The Chairman or the Deputy Chairman not to preside while a resolution for his removal from office is under consideration.
 93 The Speaker and Deputy Speaker of the House of the People .
 94 Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker.
 95 Power of the Deputy Speaker or other person to perform the duties of the office of, or to act as, Speaker.
 96 The Speaker or the Deputy Speaker not to preside while a resolution for his removal from office is under consideration.
 97 Salaries and allowances of the Chairman and Deputy Chairman and the Speaker and Deputy Speaker.
 98 Secretariat of Parliament.
Conduct of Business
 99 Oath or affirmation by members.
 100 Voting in Houses, power of Houses to act notwithstanding vacancies and quorum.
Disqualifications of Members
 101 Vacation of seats.
 102 Disqualifications for membership.
 103 Decision on questions as to disqualifications of members.
 104 Penalty for sitting and voting before making oath or affirmation under article 99 or when not qualified or when disqualified.
 Powers, Privileges and Immunities of Parliament and its Members
 105 Powers, privileges, etc., of the Houses of Parliament and of the members and committees thereof.
 106 Salaries and allowances of members.

Legislative Procedure
 107 Provisions as to introduction and passing of Bills.
 108 Joint sitting of both Houses in certain cases.
 109 Special procedure in respect of Money Bills.
 110 Definition of "Money Bills".
 111 Assent to Bills.
Procedure in Financial Matters
 112 Annual financial statement.
 113 Procedure in Parliament with respect to estimates.
 114 Appropriation Bills.
 115 Supplementary, additional or excess grants.
 116 Votes on account, votes of credit and exceptional grants.
 117 Special provisions as to financial Bills.
Procedure Generally
 118 Rules of procedure.
 119 Regulation by law of procedure in Parliament in relation to financial business.
 120 Language to be used in Parliament.

121 Restriction on discussion in Parliament.
122 Courts not to inquire into proceedings of Parliament.

CHAPTER III: LEGISLATIVE POWERS OF THE PRESIDENT

123 Power of President to promulgate Ordinances during recess of Parliament.

CHAPTER IV: THE UNION JUDICIARY

124 Establishment and constitution of Supreme Court.
124A National Judicial Appointments Commission. (*Declared unconstitutional by the Supreme Court, however not repealed by the Parliament*)
124B Functions of Commission.
124C Power of Parliament to make law.
125 Salaries, etc., of Judges.
126 Appointment of acting Chief Justice.
127 Appointment of ad hoc judges.
128 Attendance of retired Judges at sittings of the Supreme Court.
129 Supreme Court to be a court of record.
130 Seat of Supreme Court.
131 Original jurisdiction of the Supreme Court.
131A [Repealed.]
132 Appellate jurisdiction of Supreme Court in appeals from High Courts in certain cases.
133 Appellate jurisdiction of Supreme Court in appeals from High Courts in regard to Civil matters.
134 Appellate jurisdiction of Supreme Court in regard to criminal matters.
134A Certificate for appeal to the Supreme Court.
135 Jurisdiction and powers of the Federal Court under existing law to be exercisable by the Supreme Court.
136 Special leave to appeal by the Supreme Court.
137 Review of judgments or orders by the Supreme Court.
138 Enlargement of the jurisdiction of the Supreme Court.
139 Conferment on the Supreme Court of powers to issue certain writs.
139A Transfer of certain cases.
140 Ancillary powers of Supreme Court.
141 Law declared by Supreme Court to be binding on all courts.
142 Enforcement of decrees and orders of Supreme Court and orders as to discovery, etc.
143 Power of President to consult Supreme Court.
144 Civil and judicial authorities to act in aid of the Supreme Court.
144A [Repealed.]
145 Rules of Court, etc.
146 Officers and servants and the expenses of the Supreme Court.
147 Interpretation.

CHAPTER V: COMPTROLLER AND AUDITOR-GENERAL OF INDIA

148 Comptroller and Auditor-General of India.
149 Duties and powers of the Comptroller and Auditor-General.
150 Form of accounts of the Union and of the States.
151 Audit reports.

PART VI: THE STATES

CHAPTER I: GENERAL

152 Definition.

CHAPTER II: THE EXECUTIVE

The **Governor**
153 Governors of States.
154 Executive power of State.
155 Appointment of Governor.
156 Term of office of Governor.
157 Qualifications for appointment as Governor.
158 Conditions of Governor's office
159 Oath or affirmation by the Governor.
160 Discharge of the functions of the Governor in certain contingencies.
161 Power of Governor to grant pardons, etc., and to suspend, remit or commute sentences in certain cases.
162 Extent of executive power of State.
Council of Ministers
163 Council of Ministers to aid and advise Governor.
164 Other provisions as to Ministers.
The Advocate-General for the State
165 Advocate-General for the State.
Conduct of Government Business
166 Conduct of business of the Government of a State.
167 Duties of Chief Minister as respects the furnishing of information to Governor, etc.

CHAPTER III: THE STATE LEGISLATURE

General

168 Constitution of Legislatures in States.
169 Abolition or creation of Legislative Councils in States.
170 Composition of the Legislative Assemblies.
171 Composition of the Legislative Councils.
172 Duration of State Legislatures.
173 Qualification for membership of the State Legislature.
174 Sessions of the State Legislature, prorogation and dissolution.
175 Right of Governor to address and send messages to the House or Houses.
176 Special address by the Governor.
177 Rights of Ministers and Advocate-General as respects the Houses.

Officers of the State Legislature
178 The Speaker and Deputy Speaker of the Legislative Assembly.
179 Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker.
180 Power of the Deputy Speaker or other person to perform the duties of the office of, or to act as, Speaker.
181 The Speaker or the Deputy Speaker not to preside while a resolution for his removal from

office is under consideration.
 182 The Chairman and Deputy Chairman of the Legislative Council.
 183 Vacation and resignation of, and removal from, the offices of Chairman and Deputy Chairman.
 184 Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman.
 185 The Chairman or the Deputy Chairman not to preside while a resolution for his removal from office is under consideration.
 186 Salaries and allowances of the Speaker and Deputy Speaker and the Chairman and Deputy Chairman.
 187 Secretariat of State Legislature.
Conduct of Business
 188 Oath or affirmation by members.
 189 Voting in Houses, power of Houses to act notwithstanding vacancies and quorum.
Disqualifications of Members
 190 Vacation of seats.
 191 Disqualifications for membership.
 192 Decision on questions as to disqualifications of members.
 193 Penalty for sitting and voting before making oath or affirmation under article 188 or when not qualified or when disqualified.
Powers, privileges and immunities of State Legislatures and their Members
 194 Powers, privileges, etc., of the Houses of Legislatures and of the members and committees thereof.
 195 Salaries and allowances of members.
Legislative Procedure
 196 Provisions as to introduction and passing of Bills.
 197 Restriction on powers of Legislative Council as to Bills other than Money Bills.
 198 Special procedure in respect of Money Bills.
 199 Definition of "Money Bills".
 200 Assent to Bills.
 201 Bills reserved for consideration.
Procedure in Financial Matters
 202 Annual financial statement.
 203 Procedure in Legislature with respect to estimates.
 204 Appropriation Bills.
 205 Supplementary, additional or excess grants.
 206 Votes on account, votes of credit and exceptional grants.
 207 Special provisions as to financial Bills.
Procedure Generally
 208 Rules of procedure.
 209 Regulation by law of procedure in the Legislature of the State in relation to financial business.
 210 Language to be used in the Legislature.
 211 Restriction on discussion in the Legislature.
 212 Courts not to inquire into proceedings of the Legislature.

CHAPTER IV : LEGISLATIVE POWER OF THE GOVERNOR

213 Power of Governor to promulgate Ordinances during recess of Legislature.

CHAPTER V: THE HIGH COURTS IN THE STATES

214 High Courts for States.
215 High Courts to be courts of record.
216 Constitution of High Courts.
217 Appointment and conditions of the office of a Judge of a High Court.
218 Application of certain provisions relating to Supreme Court to High Courts.
219 Oath or affirmation by Judges of High Courts.
220 Restriction on practice after being a permanent Judge.
221 Salaries, etc., of Judges.
222 Transfer of a Judge from one High Court to another.
223 Appointment of acting Chief Justice.
224 Appointment of additional and acting Judges.
224A Appointment of retired Judges at sittings of High Courts.
225 Jurisdiction of existing High Courts.
226 Power of High Courts to issue certain writs.
226A [Repealed.]
227 Power of superintendence over all courts by the High Court.
228 Transfer of certain cases to High Court.
228A [Repealed.]
229 Officers and servants and the expenses of High Courts.
230 Extension of jurisdiction of High Courts to Union territories.
231 Establishment of a common High Court for two or more States.

CHAPTER VI : SUBORDINATE COURTS

233 Appointment of district judges.
233A Validation of appointments of, and judgments, etc., delivered by, certain district judges.
234 Recruitment of persons other than district judges to the judicial service.
235 Control over subordinate courts.
236 Interpretation.
237 Application of the provisions of this Chapter to certain class or classes of magistrates.

PART VII: THE STATES IN PART B OF THE FIRST SCHEDULE

238 [Repealed.]

PART VIII: THE UNION TERRITORIES

239 Administration of Union territories.
239A Creation of local Legislatures or Council of Ministers or both for certain Union territories.
239AA Special provisions with respect to Delhi.
239AB Provision in case of failure of constitutional machinery.
239B Power of the administrator to promulgate Ordinances during recess of Legislature.
240 Power of President to make regulations for certain Union territories.
241 High Courts for Union territories.
242 [Repealed.]

PART IX: THE PANCHAYATS

243								Definitions.
243A				Gram				Sabha.
243B		Constitution			of			Panchayats.
243C		Composition			of			Panchayats.
243D		Reservation				of		seats.
243E		Duration		of		Panchayats,		etc.
243F		Disqualifications			for			membership.
243G	Powers,	authority	and	responsibilities		of		Panchayats.
243H	Powers to	impose taxes	by,	and	Funds	of,	the	Panchayats.
243-I	Constitution	of	Finance	Commission	to	review	financial	position.
243J	Audit	of		accounts		of		Panchayats.
243K		Elections		to		the		Panchayats.
243L		Application		to		Union		territories.
243M	Part	not	to	apply	to	certain		areas.
243N	Continuance	of	existing	laws		and		Panchayats.
243-O	Bar to interference by courts in electoral matters.							

PART IXA: THE MUNICIPALITIES

243P								Definitions.
243Q		Constitution			of			Municipalities.
243R		Composition			of			Municipalities.
243S	Constitution	and	composition	of	Wards	Committees,		etc.
243T		Reservation			of			seats.
243U		Duration		of		Municipalities,		etc.
243V		Disqualifications			for			membership.
243W	Powers,	authority	and	responsibilities		of	Municipalities,	etc.
243X.	Power to	impose taxes	by,	and	Funds	of,	the	Municipalities.
243				Finance				Commission.
243Z	Audit	of		accounts		of		Municipalities.
243ZA		Elections		to		the		Municipalities.
243ZB		Application		to		Union		territories.
243ZC	Part	not	to	apply	to	certain		areas.
243ZD		Committee		for		district		planning.
243ZE		Committee		for		Metropolitan		planning.
243ZF	Continuance	of	existing	laws		and		Municipalities.
243ZG	Bar to interference by Courts in electoral matters.							

PART IXB: THE CO-OPERATIVE SOCIETIES

243ZH								Definitions
243ZI		Incorporation		of		co-operative		societies
243ZJ	Number	and	term	of	members	of	the	board and its office bearers.
243	ZK	Election		of		members		of
243ZL	Supersession	and	suspension	of	the	board	and	interim management.
243ZM	Audit	of		accounts		of	co-operative	societies.
243ZN	Convening		of		general		body	meetings.
243ZO	Right	of	a	member	to	get		information,
243ZP								Returns.

243ZQ Offences and penalties.
 243ZR Application to multi-state co-operative societies.
 243ZS Application to Union Territories.
 243ZT Continuance of existing laws.

PART X: THE SCHEDULED AND TRIBAL AREAS

244 Administration of Scheduled Areas and Tribal Areas.
 244A Formation of an autonomous State comprising certain tribal areas in Assam and creation of local Legislature or Council of Ministers or both therefor.

PART XI: RELATIONS BETWEEN THE UNION AND THE STATES

CHAPTER I: LEGISLATIVE RELATIONS

Distribution of Legislative Powers

245 Extent of laws made by Parliament and by the Legislatures of States.
 246 Subject-matter of laws made by Parliament and by the Legislatures of States.
 246A Special provision with respect to goods and services tax.
 247 Power of Parliament to provide for the establishment of certain additional courts.
 248 Residuary powers of legislation.
 249 Power of Parliament to legislate with respect to a matter in the State List in the national interest.
 250 Power of Parliament to legislate with respect to any matter in the State List if a Proclamation of Emergency is in operation.
 251 Inconsistency between laws made by Parliament under articles 249 and 250 and laws made by the Legislatures of States.
 252 Power of Parliament to legislate for two or more States by consent and adoption of such legislation by any other State.
 253 Legislation for giving effect to international agreements.
 254 Inconsistency between laws made by Parliament and laws made by the Legislatures of States.
 255 Requirements as to recommendations and previous sanctions to be regarded as matters of procedure only.

CHAPTER II : ADMINISTRATIVE RELATIONS

General

256 Obligation of States and the Union.
 257 Control of the Union over States in certain cases.
 257A [Repealed.]
 258 Power of the Union to confer powers, etc., on States in certain cases.
 258A Power of the States to entrust functions to the Union.
 259 [Repealed.]
 260 Jurisdiction of the Union in relation to territories outside India.
 261 Public acts, records and judicial proceedings.
Disputes relating to Waters

262 Adjudication of disputes relating to waters of inter-State rivers or river valleys.
 Co-ordination between States
 263 Provisions with respect to an inter-State Council.

PART XII: FINANCE, PROPERTY, CONTRACTS AND SUITS

CHAPTER I: FINANCE

General

264 Interpretation.
 265 Taxes not to be imposed save by authority of law.
 266 Consolidated Funds and public accounts of India and of the States.
 267 Contingency Fund.
 Distribution of Revenues between the Union and the States
 268 Duties levied by the Union but collected and appropriated by the State.
 268A [Repealed.]
 269 Taxes levied and collected by the Union but assigned to the States.
 269A Levy and collection of goods and services tax in the course of inter-state trade or commerce.
 270 Taxes levied and distributed between the Union and the States.
 271 Surcharge on certain duties and taxes for purposes of the Union.
 272 [Repealed.]
 273 Grants in lieu of export duty on jute and jute products.
 274 Prior recommendation of President required to Bills affecting taxation in which States are interested.
 275 Grants from the Union to certain States.
 276 Taxes on professions, trades, callings and employments.
 277 Savings.
 278 [Repealed.]
 279 Calculation of "net proceeds", etc.
 279A Goods and Services Tax Council.
 280 Finance Commission.
 281 Recommendations of the Finance Commission.

Miscellaneous financial provisions

282 Expenditure defrayable by the Union or a State out of its revenues.
 283 Custody, etc., of Consolidated Funds, Contingency Funds and moneys credited to the public accounts.
 284 Custody of suitors' deposits and other moneys received by public servants and courts.
 285 Exemption of property of the Union from State taxation.
 286 Restrictions as to imposition of tax on the sale or purchase of goods.
 287 Exemption from taxes on electricity.
 288 Exemption from taxation by States in respect of water or electricity in certain cases.
 289 Exemption of property and income of a State from Union taxation.
 290 Adjustment in respect of certain expenses and pensions.
 290A Annual payment to certain Devaswom Funds.
 291 [Repealed.]

CHAPTER II: BORROWING

292 Borrowing by the Government of India.
293 Borrowing by States.

CHAPTER III: PROPERTY, CONTRACTS, RIGHTS, LIABILITIES, OBLIGATIONS AND SUITS

294 Succession to property, assets, rights, liabilities and obligations in certain cases.
295 Succession to property, assets, rights, liabilities and obligations in other cases.
296 Property accruing by escheat or laps or as bona vacantia.
297 Things of value within territorial waters or continental shelf and resources of the exclusive economic zone to vest in the Union.
298 Power to carry on trade, etc.
299 Contracts.
300 Suits and proceedings.

CHAPTER IV: RIGHT TO PROPERTY

300A Persons not to be deprived of property save by authority of law.

PART XIII: TRADE, COMMERCE AND INTERCOURSE WITHIN THE TERRITORY OF INDIA

301 Freedom of trade, commerce and intercourse.
302 Power of Parliament to impose restrictions on trade, commerce and intercourse.
303 Restrictions on the legislative powers of the Union and of the States with regard to trade and commerce.
304 Restrictions on trade, commerce and intercourse among States.
305 Saving of existing laws and laws providing for State monopolies.
306 [Repealed.]
307 Appointment of authority for carrying out the purposes of articles 301 to 304.

PART XIV: SERVICES UNDER THE UNION AND THE STATES

CHAPTER I: SERVICES

308 Interpretation.
309 Recruitment and conditions of service of persons serving the Union or a State.
310 Tenure of office of persons serving the Union or a State.
311 Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State.
312 All-India services.
312A Power of Parliament to vary or revoke conditions of service of officers of certain services.
313 Transitional provisions.
314 [Repeated.]

CHAPTER II: PUBLIC SERVICE COMMISSIONS

- 315 Public Service Commissions for the Union and for the States.
316 Appointment and term of office of members.
317 Removal and suspension of a member of a Public Service Commission.
318 Power to make regulations as to conditions of service of members and staff of the Commission.
319 Prohibition as to the holding of offices by members of Commission on ceasing to be such members.
320 Functions of Public Service Commissions.
321 Power to extend functions of Public Service Commissions.
322 Expenses of Public Service Commissions.
323 Reports of Public Service Commissions.

PART XIVA: TRIBUNALS

- 323A Administrative tribunals.
323B Tribunals for other matters.

PART XV: ELECTIONS

- 324 Superintendence, direction and control of elections to be vested in an Election Commission.
325 No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex.
326 Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage.
327 Power of Parliament to make provision with respect to elections to Legislatures.
328 Power of Legislature of a State to make provision with respect to elections to such Legislature.
329 Bar to interference by courts in electoral matters.
329A [Repealed.]

PART XVI: SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES

- 330 Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People.
331 Representation of the Anglo-Indian community in the House of the People.
332 Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States.
333 Representation of the Anglo-Indian community in the Legislative Assemblies of the States.
334 Reservation of seats and special representation to cease after sixty years.
335 Claims of Scheduled Castes and Scheduled Tribes to services and posts.
336 Special provision for Anglo-Indian community in certain services.
337 Special provision with respect to educational grants for the benefit of the Anglo-Indian Community.
338 National Commission for Scheduled Castes.
338A National Commission for Scheduled Tribes.
338A National Commission for Backward Classes.
339 Control of the Union over the Administration of Scheduled Areas and the welfare of Scheduled Tribes.
340 Appointment of a Commission to investigate the conditions of backward classes.
341 Scheduled Castes.

342 Scheduled
342A Socially and educationally backward classes.

Tribes.

PART XVII: OFFICIAL LANGUAGE

CHAPTER I: LANGUAGE OF THE UNION

343 Official language of the Union.
344 Commission and Committee of Parliament on official language.

CHAPTER II: REGIONAL LANGUAGES

345 Official language or languages of a State.
346 Official language for communication between one State and another or between a State and the Union.
347 Special provision relating to language spoken by a section of the population of a State.

CHAPTER III: LANGUAGE OF THE SUPREME COURT, HIGH COURTS, ETC.

348 Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc.
349 Special procedure for enactment of certain laws relating to language.

CHAPTER IV: SPECIAL DIRECTIVES

350 Language to be used in representations for redress of grievances.
350A Facilities for instruction in mother-tongue at the primary stage.
350B Special Officer for linguistic minorities.
351 Directive for development of the Hindi language.

PART XVIII: EMERGENCY PROVISIONS

352 Proclamation of Emergency.
353 Effect of Proclamation of Emergency.
354 Application of provisions relating to distribution of revenues while a Proclamation of Emergency is in operation.
355 Duty of the Union to protect States against external aggression and internal disturbance.
356 Provisions in case of failure of constitutional machinery in States.
357 Exercise of legislative powers under Proclamation issued under article 356.
358 Suspension of provisions of article 19 during emergencies.
359 Suspension of the enforcement of the rights conferred by Part III during emergencies.
359A [Repealed.]
360 Provisions as to financial emergency.

PART XIX: MISCELLANEOUS

361 Protection of President and Governors and Rajprakhsh.
361A Protection of publication of proceedings of Parliament and State Legislatures.
361B Disqualification for appointment on remunerative political post.
362 [Repealed.]
363 Bar to interference by courts in disputes arising out of certain treaties, agreements, etc.

363A Recognition granted to Rulers of Indian States to cease and privy purses to be abolished.
 364 Special provisions as to major ports and aerodromes.
 365 Effect of failure to comply with, or to give effect to, directions given by the Union.
 366 Definitions.
 367 Interpretation.

PART XX: AMENDMENT OF THE CONSTITUTION

368 Power of Parliament to amend the Constitution and procedure therefor.

PART XXI: TEMPORARY, TRANSITIONAL AND SPECIAL PROVISIONS

369 Temporary power to Parliament to make laws with respect to certain matters in the State List as if they were matters in the Concurrent List.
 370 Temporary provisions with respect to the State of Jammu and Kashmir.
 371 Special provision with respect to the States of Maharashtra and Gujarat.
 371A Special provision with respect to the State of Nagaland.
 371B Special provision with respect to the State of Assam.
 371C Special provision with respect to the State of Manipur.
 371D Special provisions with respect to the State of Andhra Pradesh.
 371E Establishment of Central University in Andhra Pradesh.
 371F Special provisions with respect to the State of Sikkim.
 371G Special provision with respect to the State of Mizoram.
 371H Special provision with respect to the State of Arunachal Pradesh.
 371I Special provision with respect to the State of Goa.
 371J Special provision with respect to the State of Karnataka.
 372 Continuance in force of existing laws and their adaptation.
 372A Power of the President to adapt laws.
 373 Power of President to make order in respect of persons under preventive detention in certain cases.
 374 Provisions as to Judges of the Federal Court and proceedings pending in the Federal Court or before His Majesty in Council.
 375 Courts, authorities and officers to continue to function subject to the provisions of the Constitution.
 376 Provisions as to Judges of High Courts.
 377 Provisions as to Comptroller and Auditor-General of India.
 378 Provisions as to Public Service Commissions.
 378A Special provision as to the duration of Andhra Pradesh Legislative Assembly.
 379-391 [Repealed.]
 392 Power of the President to remove difficulties.

PART XXII: SHORT TITLE, COMMENCEMENT, AUTHORITATIVE TEXT IN HINDI AND REPEALS

393 Short title.
 394 Commencement.
 394A Authoritative text in the Hindi language.
 395 Repeals.

Indian Constitution (topics in the same order)

The below-mentioned posts follow the same order of the Constitution of India and hence we strongly suggest all aspirants follow the same for easy comprehension. Then build your concepts with respect to the three organs of the state, ie Executive, Legislature and Judiciary by reading the posts below.

PREAMBLE TO THE INDIAN CONSTITUTION

This post, Preamble to the Indian Constitution, is a part of our new ambitious article series on Indian Constitution and Polity, covering all the important topics from Article 1 to Article 395.

We have already published a mega-post listing all the articles (1-395) of the Constitution of India arranged under their respective chapters and parts.

In the coming posts, we plan to elaborate on each sub-topic. Our basis of discussion will be the Constitution of India.

Each post will discuss articles taken from Constitution first. Their explanations, questions and concepts follow in the later part of each post. Aspirants are advised to revisit each of the coming posts time and time again, as we may update posts with current events related to the Indian Consitution.

We hope this article series greatly benefit all aspirants to prepare well for Prelims and Mains under our Prelims cum Mains Integrated approach. So let's start well with the Preamble.

The preamble to the Indian Constitution

The preamble to the Constitution of India is a brief introductory statement that sets out the guiding purpose, principles and philosophy of the constitution. The preamble gives an idea about the following : (1) the source of the constitution, (2) the nature of the Indian state (3) a statement of its objectives and (4) the date of its adoption.

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:

***JUSTICE**, social, economic and political;*

***LIBERTY** of thought, expression, belief, faith and worship;*

***EQUALITY** of status and of opportunity;*

and to promote among them all

***FRATERNITY** assuring the dignity of the individual and the unity and integrity of the Nation;*

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, DO HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

Source of the Constitution

We, the people of India.

The phrase “We the people of India” emphasises that the constitution is made by and for the Indian people and not given to them by any outside power.

It also emphasizes the concept of popular sovereignty as laid down by Rousseau: All the power emanates from the people and the political system will be accountable and responsible to the people.

Nature of Indian state

1. Sovereign: India is internally and externally sovereign – externally free from the control of any foreign power and internally, it has a free government that is directly elected by the people and makes laws that govern the people. No external power can dictate the government of India.
2. Socialist: “Socialism” is an economic philosophy where means of production and distribution are owned by the State. India adopted Mixed Economy, where apart from the state, there will be private production too. Socialism as a social philosophy stresses more on societal equality.
3. Secular: Features of secularism as envisaged in the Preamble is to mean that the state will have no religion of its own and all persons will be equally entitled to the freedom of conscience and the right freely to profess, practice and propagate the religion of their choice. (S R Bommai and Others v Union of India, AIR 1994 SC 1918)
4. Democratic: Indicates that the Constitution has established a form of government that gets its authority from the will of the people. The rulers are elected by the people and are responsible to them.
5. Republic: As opposed to a monarchy, in which the head of state is appointed on the hereditary basis for a lifetime or until he abdicates from the throne, a democratic republic is an entity in which the head of state is elected, directly or indirectly, for a fixed tenure. The President of India is elected by an electoral college for a term of five years. The post of the President Of India is not hereditary. Every citizen of India is eligible to become the President of the country.

Objectives of Indian State

1. Justice: Social, Economic and Political.
2. Equality: of status and opportunity.
3. Liberty: of thought, expression, belief, faith and worship
4. Fraternity (=Brotherhood): assuring the dignity of the individual and the unity and integrity of the nation.

Date of its adoption

The date of adoption of the Constitution is 26th November 1949. But most of the articles in the Constitution came into force on January 26th, 1950. Those articles which came into existence on 26th November 1949 is given by Article 394.

Article 394 states that this article (394) and articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388, 391, 392 and 393 shall come into force at once, and the remaining provisions of this Constitution shall come into force on the twenty-sixth day of January 1950, which day is referred to in this Constitution as the commencement of this Constitution.

26 January was selected for this purpose because it was this day in 1930 when the Declaration of Indian Independence (Purna Swaraj) was proclaimed by the Indian National Congress.

Info Bits related to Preamble of Indian Constitution

- **Who was the Calligrapher of the Indian Constitution:** Prem Behari Narain Raizada (1901–1966) was the calligrapher who hand-wrote the Constitution of India.
- **Who was the chief artist behind the illustration of the original Indian Constitution:** Nandalal Bose took up the historic task of beautifying/decorating the original manuscript of the Constitution of India. He was assisted by his disciple Beohar Rammanohar Sinha.
- **Who designed and decorated the Preamble page of the Indian Constitution:** The preamble page, along with other pages of the original Constitution of India, was designed and decorated solely by renowned painter Beohar Rammanohar Sinha of Jabalpur.
- Supreme Court of India has, in the *Kesavananda* case, recognised that the preamble may be used to interpret ambiguous areas of the constitution where differing interpretations present themselves. (In the 1995 case of Union Government Vs LIC of India also the Supreme Court has once again held that Preamble is an integral part of the Constitution.
- As originally enacted the preamble described the state as a “sovereign democratic republic”. In 1976 the Forty-second Amendment changed this by adding words *socialist* and *secular* to read “sovereign *socialist secular* democratic republic”.

THE UNION AND ITS TERRITORY: PART I (ARTICLES 1- 4)

Part I of Indian Constitution is titled The Union and its Territory. It includes articles from 1- 4. Part I is a compilation of laws pertaining to the constitution of India as a country and the union of states that it is made of. This part of the constitution contains the law in the establishment, renaming, merging or altering the borders of the states. Articles under Part I were invoked when West Bengal was renamed, and for formation of relatively new states such as Jharkhand, Chattisgarh or Telengana.

ARTICLE 1 : NAME AND TERRITORY OF THE UNION

- (1) India, that is Bharat, shall be a Union of States.
- (2) The States and the territories thereof shall be as specified in the First Schedule.
- (3) The territory of India shall comprise –
 - (a) the territories of the States;
 - (b) the Union territories specified in the First Schedule; and
 - (c) such other territories as may be acquired.

ARTICLE 2 : ADMISSION OR ESTABLISHMENT OF NEW STATES

Parliament may by law admit into the Union, or establish, new States on such terms and conditions as it thinks fit.

*ARTICLE 2A : SIKKIM TO BE ASSOCIATED WITH THE UNION
{...}*

*ARTICLE 3 : FORMATION OF NEW STATES AND ALTERATION OF AREAS,
BOUNDARIES OR NAMES OF EXISTING STATES*

Parliament may by law –

- (a) form a new State by separation of territory from any State or by uniting two or more States or parts of States or by uniting any territory to a part of any State;
- (b) increase the area of any State;
- (c) diminish the area of any State;
- (d) alter the boundaries of any State;
- (e) alter the name of any State:

Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the area, boundaries or name of any of the States, the Bill has been referred by the President to the Legislature of that State for expressing its views thereon within such period as may be specified in the reference or within such further period as the President may allow and the period so specified or allowed has expired.

Explanation I: In this article, in clauses (a) to (e), “State” includes a Union territory, but in the proviso, “State” does not include a Union territory.

Explanation II: The power conferred on Parliament by clause (a) includes the power to form a new State or Union territory by uniting a part of any other State or Union territory to any other State or Union territory.

*ARTICLE 4 : LAWS MADE UNDER ARTICLES 2 AND 3 TO PROVIDE FOR THE
AMENDMENT OF THE FIRST AND THE FOURTH SCHEDULE AND SUPPLEMENTAL,
INCIDENTAL AND CONSEQUENTIAL MATTERS*

(1) Any law referred to in article 2 or article 3 shall contain such provisions for the amendment of the First Schedule and the Fourth Schedule as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions (including provisions as to representation in Parliament and in the Legislature or Legislatures of the State or States affected by such law) as Parliament may deem necessary.

(2) No such law as aforesaid shall be deemed to be in amendment of this Constitution for the purposes of article 368.

Info-bits related to Part I : The Union and the territory (Articles 1- 4)

1. Article under which Sikkim was made part of Indian Union : Article 2a.
2. Article under which Telangana was made part of Indian Union : Article 3.
3. Article 3 original provision was amended by Constitution (fifth amendment) Act, 1955 on 24 December 1955.
4. Nowhere under Part I, it is mentioned that India is a federal state. It rather uses the phrase “Union of States”.
5. Territorial Waters vs International Waters

The territorial waters and the exclusive economic zones shall also become part of the states or union territories in the absence of any listing of them separately in Schedule 1 and 4 of the constitution.

6. An **economic zone (EEZ)** is a seazone prescribed by the United Nations Convention on the Law of the Sea over which a state has special rights over the exploration and use of marine resources, including energy production from water and wind. It stretches from the baseline out to 200 nautical miles (370 km) from its coast.
7. The difference between the territorial sea and the exclusive economic zone is that the first confers full sovereignty over the waters, whereas the second is merely a “sovereign right” which refers to the coastal state’s rights below the surface of the sea. The surface waters, as can be seen in the map, are international waters.
8. The constitution (40th amendment) act, 1976, substituted a new Article 297 so as to vest in Union of India all lands, minerals, and other things of value underlying the ocean within the territorial waters or continental shelf or exclusive economic zone of India.
9. *The territorial waters, continental shelf, exclusive economic zone and other maritime zones act, 1976* was enacted by the Indian government to notify the sovereign rights on these areas for dealings with other countries.
10. However, it is not clear whether states are debarred from imposing taxes or royalty on the minerals extracted from the territorial waters and the exclusive economic zone (which are still under states jurisdiction) as per serial no. 50 of state list in seventh schedule of the constitution.
11. For creation or destruction of a state the permission from the concerned state is not mandatory under Indian Constitution. But the bill has to be referred to the concerned state legislature for expressing its views.
12. Prior recommendation of the President of India is necessary for the state creation/renaming bill. (Article 3). No such provision is mandatory under Article 2 (new states).

CITIZENSHIP: PART II : (ARTICLES 5-11)

Part II of the Constitution of India (Articles 5-11) deals with the Citizenship of India.

Article 5 speaks about the citizenship of India at the commencement of the Constitution (Nov 26, 1949). Article 11 gave powers to the Parliament of India to regulate the right of citizenship by law. This provision resulted in the enactment of Citizenship Act 1955 by the Indian Parliament.

ARTICLE 5 : CITIZENSHIP AT THE COMMENCEMENT OF THE CONSTITUTION

At the commencement of this Constitution, every person who has his domicile in the territory of India —

- (a) who was born in the territory of India; or
- (b) either of whose parents was born in the territory of India; or
- (c) who has been ordinarily resident in the territory of India for not less than five years immediately preceding such commencement, shall be a citizen of India.

ARTICLE 6: RIGHTS OF CITIZENSHIP OF CERTAIN PERSONS WHO HAVE MIGRATED TO INDIA FROM PAKISTAN

Notwithstanding anything in article 5, a person who has migrated to the territory of India from the territory now included in Pakistan shall be deemed to be a citizen of India at the commencement of this Constitution if –

(a) he or either of his parents or any of his grand-parents was born in India as defined in the Government of India Act, 1935 (as originally enacted); and

(b)(i) in the case where such person has so migrated before the nineteenth day of July, 1948, he has been ordinarily resident in the territory of India since the date of his migration, or

(ii) in the case where such person has so migrated on or after the nineteenth day of July, 1948, he has been registered as a citizen of India by an officer appointed in that behalf by the Government of the Dominion of India on an application made by him therefor to such officer before the commencement of this Constitution in the form and manner prescribed by that Government: Provided that no person shall be so registered unless he has been resident in the territory of India for at least six months immediately preceding the date of his application.

ARTICLE 7: RIGHTS OF CITIZENSHIP OF CERTAIN MIGRANTS TO PAKISTAN

Notwithstanding anything in articles 5 and 6, a person who has after the first day of March 1947, migrated from the territory of India to the territory now included in Pakistan shall not be deemed to be a citizen of India: Provided that nothing in this article shall apply to a person who, after having so migrated to the territory now included in Pakistan, has returned to the territory of India under a permit for resettlement or permanent return issued by or under the authority of any law and every such person shall for the purposes of clause (b) of Article 6 be deemed to have migrated to the territory of India after the nineteenth day of July, 1948.

ARTICLE 8: RIGHTS OF CITIZENSHIP OF CERTAIN PERSONS OF INDIAN ORIGIN RESIDING OUTSIDE INDIA

Notwithstanding anything in article 5, any person who or either of whose parents or any of whose grandparents was born in India as defined in the Government of India Act, 1935 (as originally enacted), and who is ordinarily residing in any country outside India as so defined shall be deemed to be a citizen of India if he has been registered as a citizen of India by the diplomatic or consular representative of India in the country where he is for the time being residing on an application made by him therefor to such diplomatic or consular representative, whether before or after the commencement of this Constitution, in the form and manner prescribed by the Government of the Dominion of India or the Government of India.

ARTICLE 9: PERSONS VOLUNTARILY ACQUIRING CITIZENSHIP OF A FOREIGN STATE NOT TO BE CITIZENS

No person shall be a citizen of India by virtue of article 5 or be deemed to be a citizen of India by virtue of article 6 or article 8 if he has voluntarily acquired the citizenship of any foreign State.

ARTICLE 10: CONTINUANCE OF THE RIGHTS OF CITIZENSHIP

Every person who is or is deemed to be a citizen of India under any of the foregoing provisions of this Part shall, subject to the provisions of any law that may be made by Parliament, continue to be such citizen.

ARTICLE 11: PARLIAMENT TO REGULATE THE RIGHT OF CITIZENSHIP BY LAW

Nothing in the foregoing provisions of this Part shall derogate from the power of Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship.

Info-bits related to Citizenship of India

1. The conferment of a person, as a citizen of India, is governed by Articles 5 to 11 (Part II) of the Indian Constitution.
2. Apart from the above Articles of the Indian Constitution, citizenship is also deeply connected with the **Citizenship Act**, which is passed by the Indian Parliament in 1955.
3. **Citizenship Act 1955** speaks about the **citizenship of India after the commencement of the Constitution**. It is an act to provide for the acquisition and termination of Indian citizenship.
4. The legislation related to this matter is the **Citizenship Act 1955**, which has been amended by the Citizenship (Amendment) Act 1986, the Citizenship (Amendment) Act 1992, the Citizenship (Amendment) Act 2003, the Citizenship (Amendment) Act, 2005, and the Citizenship (Amendment Act, 2019).
5. **Acquisition of Indian Citizenship as per Citizenship Act 1955:** Indian Citizenship can be acquired under the following ways : (1) Citizenship at the commencement of the constitution of India (2) Citizenship by birth: NB – This provision has different clauses for different periods (3) Citizenship by descent (4) Citizenship by registration (5) Citizenship by naturalization.
6. **Termination of Indian Citizenship as per Citizenship Act 1955:** One can lose citizenship of India in three ways – Renunciation, Termination and Deprivation
7. Persons domiciled in the territory of India as on 26 November 1949 automatically became Indian citizens by virtue of the operation of the relevant provisions of the Indian Constitution coming into force. (Citizenship at the commencement of the constitution of India.)
8. Any person born in India on or after 26 January 1950, but prior to the commencement of the 1986 Act on 1 July 1987, is a citizen of India by birth. [Citizenship by birth]
9. A person born in India on or after 1 July 1987 is a citizen of India if either parent was a citizen of India at the time of the birth. [Citizenship by birth]
10. Those born in India on or after 3 December 2004 are considered citizens of India only if both of their parents are citizens of India or if one parent is a citizen of India and the other is not an illegal migrant at the time of their birth. [Citizenship by birth].
11. Indian nationality law largely follows the jus sanguinis (citizenship by right of blood) as opposed to the jus soli (citizenship by right of birth within the territory).
12. Article 9 of Indian Constitution says that a person who voluntarily acquires citizenship of any other country is no longer an Indian citizen. Also, according to The Passports Act, a person has to surrender his Indian passport if he acquire citizenship of another country, it is a punishable offense under the act if he fails to surrender the passport.
13. **Persons of Indian Origin (PIO) Card:** A PIO card applicant has to be a person of Indian origin who is a citizen of any country, other than Pakistan, Bangladesh, Sri Lanka, Bhutan, Afghanistan, China and Nepal; or a person who has held an Indian passport at any time or is the spouse of an Indian citizen or a person of Indian origin;
14. **Overseas Citizen of India (OCI) card:** OCI Card is for foreign nationals who were eligible to become a citizen of India on 26.01.1950 or was a citizen of India on or after that date. Applications from citizens of Bangladesh and Pakistan are not allowed.
15. **Overseas Indian Card:** A new Bill is pending in Parliament [The Citizenship (Amendment) Bill], which seeks to do away with the existing overseas citizen of India (OCI) card and the person of Indian origin (PIO) card, and replace them with a new overseas Indian card.

16. While PIO cardholders do not require a separate visa and can enter India with multiple entry facility for 15 years; the OCI card is multiple entries, multi-purpose lifelong visa for visiting India. OCI card-holders have parity with non-resident Indians in respect of economic, financial and educational matters except in acquiring agricultural land.
17. A PIO cardholder is required to register with local Police authorities for any stay exceeding 180 days in India on any single visit.
18. OCI is not dual citizenship. There are no voting rights for an OCI cardholder.
19. The President of India is termed the first Citizen of India.

FUNDAMENTAL RIGHTS : PART III (ARTICLES 12-35)

Part III of the Indian Constitution talks about Fundamental Rights.

The fundamental rights were included in the constitution because they were considered essential for the development of the personality of every individual and to preserve human dignity.

All people, irrespective of race, religion, caste or sex, have been given the right to move the Supreme Court and the High Courts for the enforcement of their fundamental rights. There are seven categories of Fundamental Rights (FR) which are covered from Articles 12-35.

ARTICLE 12 : DEFINITION

In this Part, unless the context otherwise required, “the State” includes the Governmental and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

ARTICLE 13 : LAWS INCONSISTENT WITH OR IN DEROGATION OF THE FUNDAMENTAL RIGHTS

- (1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.
- (2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.
- (3) In this article, unless the context otherwise required, – (a) “law” includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law;
- (b) “laws in force” includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas.
- (4) Nothing in this article shall apply to any amendment of this Constitution made under article 368.

ARTICLE 14 : EQUALITY BEFORE LAW

The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

ARTICLE 15 : PROHIBITION OF DISCRIMINATION ON GROUNDS OF RELIGION, RACE, CASTE, SEX OR PLACE OF BIRTH

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on ground only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to –

(a) access to shops, public restaurants, hotels and places of public entertainment; or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained whole or partly out of State funds or dedicated to the use of general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

(4) Nothing in this article or in clause (2) or article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

ARTICLE 16 : EQUALITY OF OPPORTUNITY IN MATTERS OF PUBLIC EMPLOYMENT

(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

(4A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

ARTICLE 17 : ABOLITION OF UNTOUCHABILITY

“Untouchability” is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of “Untouchability” shall be an offence punishable in accordance with law.

ARTICLE 18 : ABOLITION OF TITLES

- (1) No title, not being a military or academic distinction, shall be conferred by the State.
- (2) No citizen of India shall accept any title from any foreign State.
- (3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.
- (4) No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State.

ARTICLE 19 : PROTECTION OF CERTAIN RIGHTS REGARDING FREEDOM OF SPEECH, ETC.

- (1) All citizens shall have the right –
 - (a) to freedom of speech and expression;
 - (b) to assemble peaceably and without arms;
 - (c) to form associations or unions;
 - (d) to move freely throughout the territory of India;
 - (e) to reside and settle in any part of the territory of India; and
 - (f) to practice any profession, or to carry on any occupation, trade or business.
- (2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.
- (3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interest of the sovereignty and integrity of India or public order, reasonable restrictions on the right conferred by the said sub-clause.
- (4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.
- (5) Nothing in sub-clause (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Schedule Tribe.
- (6) Nothing in sub-clause (f) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to, –
 - (i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or
 - (ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.

ARTICLE 20 : PROTECTION IN RESPECT OF CONVICTION FOR OFFENCES

- (1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, not be subjected to a penalty greater than that

which might have been inflicted under the law in force at the time of the commission of the offence.

(2) No person shall be prosecuted and punished for the same offence more than once.

(3) No person accused of any offence shall be compelled to be a witness against himself.

ARTICLE 21 : PROTECTION OF LIFE AND PERSONAL LIBERTY

No person shall be deprived of his life or personal liberty except according to procedure established by law.

Article 21A: Right to education

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.

ARTICLE 22 : PROTECTION AGAINST ARREST AND DETENTION IN CERTAIN CASES

(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

(3) Nothing in clauses (1) and (2) shall apply –

(a) to any person who for the time being is an enemy alien; or

(b) to any person who is arrested or detained under any law providing for preventive detention.

(4) No law providing for preventive detention shall authorize the detention of a person for a longer period than three months unless –

(a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention:

Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or

(b) such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7).

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

(6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose.

(7) Parliament may by law prescribe –

(a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4);

(b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and

(c) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4).

ARTICLE 23 : PROHIBITION OF TRAFFIC IN HUMAN BEINGS AND FORCED LABOUR

(1) Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on ground only of religion, race, caste or class or any of them.

ARTICLE 24 : PROHIBITION OF EMPLOYMENT OF CHILDREN IN FACTORIES, ETC.

No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

ARTICLE 25 : FREEDOM OF CONSCIENCE AND FREE PROFESSION, PRACTICE AND PROPAGATION OF RELIGION

(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law –

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation I: The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.

Explanation II: In sub-Clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

ARTICLE 26 : FREEDOM TO MANAGE RELIGIOUS AFFAIRS

Subject to public order, morality and health, every religious denomination or any section thereof shall have the right –

(a) to establish and maintain institutions for religious and charitable purposes;

(b) to manage its own affairs in matters of religion;

(c) to own and acquire movable and immovable property; and

(d) to administer such property in accordance with the law.

ARTICLE 27 : FREEDOM AS TO PAYMENT OF TAXES FOR PROMOTION OF ANY PARTICULAR RELIGION

No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

ARTICLE 28 : FREEDOM AS TO ATTENDANCE AT RELIGIOUS INSTRUCTION OR RELIGIOUS WORSHIP IN CERTAIN EDUCATIONAL INSTITUTIONS

(1) No religious instruction shall be provided in any educational institution wholly maintained out of State funds.

(2) Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution.

(3) No person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is minor, his guardian has given his consent thereto.

ARTICLE 29 : PROTECTION OF INTERESTS OF MINORITIES

(1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

ARTICLE 30 : RIGHT OF MINORITIES TO ESTABLISH AND ADMINISTER EDUCATIONAL INSTITUTIONS

(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

(1A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.

(2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

ARTICLE 31 : COMPULSORY ACQUISITION OF PROPERTY {...}

ARTICLE 31A : SAVING OF LAWS PROVIDING FOR ACQUISITION OF ESTATES, ETC.

(1) Notwithstanding anything contained in article 13, no law providing for –

(a) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights, or

(b) the taking over of the management of any property by the State for a limited period either in the public interest or in order to secure the proper management of the property, or

(c) the amalgamation of two or more corporations either in the public interest or in order to secure the proper management of any of the corporations, or

(d) the extinguishment or modification of any rights of managing agents, secretaries and treasurers, managing directors, directors or managers of corporations, or of any voting rights of share-holders thereof, or

(e) the extinguishment or modification of any rights accruing by virtue of any agreement, lease or licence for the purpose of searching for, or winning, any mineral or mineral oil, or the premature termination or cancellation of and such agreement, lease or licence, shall be deemed to be void

on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14 or article 19: Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent: Provided further that where any law makes any provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be lawful for the State to acquire any portion of such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, unless the law relating to the acquisition of such land, building or structure, provides for payment of compensation at a rate which shall not be less than the market value thereof.

(2) In this article, —
 (a) the expression “estate” shall, in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenure in force in that area and shall also include —
 (i) any jagir, inam or muafi or other similar grant and in the States of Tamil Nadu and Kerala, any janmam right;
 (ii) any land held under ryotwari settlement;
 (iii) any land held or let for purposes of agriculture or for purposes ancillary thereto, including waste land, forest land, land for pasture or sites of buildings and other structures occupied by cultivators of land, agricultural labourers and village artisans;
 (b) the expression “rights”, in relation to an estate, shall include any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure-holder, raiyat, under-raiyat or other intermediary and any rights or privileges in respect of land revenue.

ARTICLE 31B : VALIDATION OF CERTAIN ACTS AND REGULATIONS

Without prejudice to the generality of the provisions contained in article 31A, none of the Acts and Regulations specified in the Ninth Schedule nor any of the provision thereof shall be deemed to be void, or even to have become void, on the ground that such Act, Regulation or provision is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this part, and notwithstanding any judgment, decree or order of any court or tribunal to the contrary, each of the said Acts and Regulations shall, subject to the power of any competent Legislature to repeal or amend it, continue in force.

ARTICLE 31C : SAVING OF LAWS GIVING EFFECT TO CERTAIN DIRECTIVE PRINCIPLES

Notwithstanding anything contained in article 13, no law giving effect to the policy of the State towards securing all or any of the principles laid down in Part IV shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14 or article 19; and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy: Provided that where such law is made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.

ARTICLE 31D : SAVING OF LAWS IN RESPECT OF ANTI-NATIONAL ACTIVITIES {...}

ARTICLE 32 : REMEDIES FOR ENFORCEMENT OF RIGHTS CONFERRED BY THIS PART

- (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.
- (2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.
- (3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).
- (4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

ARTICLE 32A : CONSTITUTIONAL VALIDITY OF STATE LAWS NOT TO BE CONSIDERED IN PROCEEDINGS UNDER ARTICLE 32 {...}

ARTICLE 33 : POWER OF PARLIAMENT TO MODIFY THE RIGHTS CONFERRED BY THIS PART IN THEIR APPLICATION TO FORCES, ETC.

Parliament may, by law, determine to what extent any of the rights conferred by this Part shall, in their application to, –

(a) the members of the Armed Forces; or

(b) the members of the Forces charged with the maintenance of public order; or

(c) persons employed in any bureau or other organisation established by the State for purposes of intelligence or counterintelligence; or

(d) persons employed in, or in connection with, the telecommunication systems set up for the purposes of any Force, bureau or organisation referred to in clauses (a) to (c), be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.

ARTICLE 34 : RESTRICTION ON RIGHTS CONFERRED BY THIS PART WHILE MARTIAL LAW IS IN FORCE IN ANY AREA

Notwithstanding anything in the foregoing provisions of this Part, Parliament may by law indemnify any person in the service of the Union or of a State or any person in respect of any act done by him in connection with the maintenance or restoration or order in any area within the territory of India where martial law was in force or validate any sentence passed, punishment inflicted, forfeiture ordered or other act done under martial law in such area.

ARTICLE 35 : LEGISLATION TO GIVE EFFECT TO THE PROVISIONS OF THIS PART

Notwithstanding anything in this Constitution, –

(a) Parliament shall have, and the Legislature of a State shall not have, power to make laws –

(i) With respect to any of the matters which under clause (3) of article 16, clause (3) of article 32, article 33 and article 34 may be provided for by law made by Parliament; and

(ii) for prescribing punishment for those acts which are declared to be offences under this part, and Parliament shall, as soon as may be after the commencement of this Constitution, make laws

for prescribing punishment for the acts referred to in sub-clause (ii); (b) any law in force immediately before the commencement of this Constitution in the territory of India with respect to any of the matters referred to in sub-clause (i) of clause (a) or providing for punishment for any act referred to in sub-clause (ii) of that clause shall, subject to the terms thereof and to any adaptations and modifications that may be made therein under article 372, continue in force until altered or repealed or amended by Parliament. Explanation: In this article, the expression “law in force” has the same meaning as in article 372.

DIRECTIVE PRINCIPLES OF OUR STATE POLICY: PART IV (ARTICLES 36-51)

Part IV of the Indian Constitution deals with Directive Principles of our State Policy (DPSP).

The provisions contained in this Part cannot be enforced by any court, but these principles are **fundamental in the governance of the country** and it shall be the duty of the State to apply these principles in making laws.

The concept of Directive Principles of State Policy was borrowed from the Irish Constitution. While most of the Fundamental Rights are negative obligations on the state, DPSPs are positive obligations on the state, though not enforceable in a court of law.

ARTICLE 36: DEFINITION

In this Part, unless the context otherwise requires, “the State” has the same meaning as in Part III.

ARTICLE 37: APPLICATION OF THE PRINCIPLES CONTAINED IN THIS PART

The provisions contained in this Part shall not be enforced by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

ARTICLE 38: STATE TO SECURE A SOCIAL ORDER FOR THE PROMOTION OF THE WELFARE OF THE PEOPLE

(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

(2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

ARTICLE 39: CERTAIN PRINCIPLES OF POLICY TO BE FOLLOWED BY THE STATE

The State shall, in particular, direct its policy towards securing –
(a) that the citizen, men and women equally, have the right to an adequate means of livelihood;
(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

(d) that there is equal pay for equal work for both men and women;
(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

ARTICLE 39A: EQUAL JUSTICE AND FREE LEGAL AID

The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

ARTICLE 40: ORGANISATION OF VILLAGE PANCHAYATS

The State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.

ARTICLE 41: RIGHT TO WORK, TO EDUCATION AND TO PUBLIC ASSISTANCE IN CERTAIN CASES

The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

ARTICLE 42: PROVISION FOR JUST AND HUMANE CONDITIONS OF WORK AND MATERNITY RELIEF

The State shall make provision for securing just and humane conditions of work and for maternity relief.

ARTICLE 43: LIVING WAGE, ETC., FOR WORKERS

The State shall endeavor to secure, by suitable legislation or economic organisation or in any other way, to all workers agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.

ARTICLE 43A: PARTICIPATION OF WORKERS IN MANAGEMENT OF INDUSTRIES

The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisation engaged in any industry.

ARTICLE 44: UNIFORM CIVIL CODE FOR THE CITIZEN

The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

ARTICLE 45: PROVISION FOR FREE AND COMPULSORY EDUCATION FOR CHILDREN

The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

ARTICLE 46: PROMOTION OF EDUCATIONAL AND ECONOMIC INTERESTS OF SCHEDULED CASTES, SCHEDULED TRIBES AND OTHER WEAKER SECTIONS

The State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

ARTICLE 47: DUTY OF THE STATE TO RAISE THE LEVEL OF NUTRITION AND THE STANDARD OF LIVING AND TO IMPROVE PUBLIC HEALTH

The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purpose of intoxicating drinks and of drugs which are injurious to health.

ARTICLE 48: ORGANIZATION OF AGRICULTURE AND ANIMAL HUSBANDRY

The State shall endeavour to organize agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.

ARTICLE 48A: PROTECTION AND IMPROVEMENT OF ENVIRONMENT AND SAFEGUARDING OF FORESTS AND WILDLIFE

The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country.

ARTICLE 49: PROTECTION OF MONUMENTS AND PLACES AND OBJECTS OF NATIONAL IMPORTANCE

It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by or under law made by Parliament to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.

ARTICLE 50: SEPARATION OF JUDICIARY FROM THE EXECUTIVE

The State shall take steps to separate the judiciary from the executive in the public services of the State.

ARTICLE 51: PROMOTION OF INTERNATIONAL PEACE AND SECURITY

The State shall endeavour to —
(a) promote international peace and security;
(b) maintain just and honourable relations between nations;
(c) foster respect for international law and treaty obligations in the dealings of organised people

with one another; and
(d) encourage settlement of international disputes by arbitration.

FUNDAMENTAL DUTIES: PART IVA (ARTICLE 51A)

Part IVA of the Indian Constitution deals with Fundamental Duties. As of now, there are 11 Fundamental duties.

Originally, the Constitution of India did not contain these duties. Fundamental duties were added by 42nd and 86th Constitutional Amendment acts.

Citizens are morally obligated by the Constitution to perform these duties. However, like the Directive Principles, these are non-justifiable, without any legal sanction in case of their violation or non-compliance.

Article 51A: Fundamental duties

It shall be the duty of every citizen of India –
(a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
(b) to cherish and follow the noble ideals which inspired our national struggle for freedom;
(c) to uphold and protect the sovereignty, unity and integrity of India;
(d) to defend the country and render national service when called upon to do so;
(e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
(f) to value and preserve the rich heritage of our composite culture;
(g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
(h) to develop the scientific temper, humanism and the spirit of inquiry and reform;
(i) to safeguard public property and to abjure violence;
(j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.
(k) to provide opportunities for education by the parent the guardian, to his child, or a ward between the age of 6-14 years as the case may be.

Info-bits related to Fundamental Duties

- The Fundamental Duties of citizens were added to the Constitution by the 42nd Amendment in 1976, upon the recommendations of the Swaran Singh Committee that was constituted by the government earlier that year.
- Fundamental duties are applicable only to citizens and not to the aliens.
- India borrowed the concept of Fundamental Duties from the USSR.
- The inclusion of Fundamental Duties brought our Constitution in line with article 29 (1) of the Universal Declaration of Human Rights and with provisions in several modern Constitutions of other countries.

- Out of the ten clauses in article 51A, six are positive duties and the other five are negative duties. Clauses (b), (d), (f), (h), (j) and (k) require the citizens to perform these Fundamental Duties actively.
- It is suggested that a few more Fundamental Duties, namely, duty to vote in an election, duty to pay taxes and duty to resist injustice may be added in due course to article 51A in Part IVA of the Constitution. (NATIONAL COMMISSION TO REVIEW THE WORKING OF THE CONSTITUTION: A Consultation Paper on EFFECTUATION OF FUNDAMENTAL DUTIES OF CITIZENS).
- It is no longer correct to say that Fundamental Duties enshrined in article 51A are not enforceable to ensure their implementation and are a mere reminder. Fundamental Duties have the element of compulsion regarding compliance.
- A number of judicial decisions are available towards the enforcement of certain clauses under Article 51A.
- Comprehensive legislation is needed for clauses (a), (c), (e), (g) and (i). The remaining 5 clauses, which are exhortation of basic human values, have to be developed amongst citizens through the education system by creating proper and graded curricular input from primary level of education to the higher and professional levels.
- Available Legal Provisions: Justice Varma Committee was constituted in 1998 “to work out a strategy as well as the methodology of operationalizing a countrywide programme for teaching fundamental Duties in every educational institution as a measure of in-service training”. The Verma Committee was conscious of the fact that any non-operationalization of Fundamental Duties might not necessarily be the lack of concern or non-availability of legal and other enforceable provisions, but it was more a case of lacuna in the strategy of implementation. It, therefore, thought it appropriate to list in brief some of the legal provisions already available in regard to enforcement of Fundamental Duties. A summary of such legal provisions is given below:
 - In order to ensure that no disrespect is shown to the National Flag, Constitution of India and the National anthem, the Prevention of Insults to National Honour Act, 1971 was enacted.
 - The Emblems and Names (Prevention of Improper Use) Act 1950 was enacted soon after independence, *inter alia*, to prevent improper use of the National Flag and the National Anthem.
 - In order to ensure that the correct usage regarding the display of the National Flag is well understood, the instructions issued from time to time on the subject have been embodied in Flag Code of India, which has been made available to all the State Governments, and Union territory Administration (UTs).
 - There are a number of provisions in the existing criminal laws to ensure that the activities which encourage enmity between different groups of people on grounds of religion, race, place of birth, residence, language, etc. are adequately punished. Writings, speeches, gestures, activities, exercise, drills, etc. aimed at creating a feeling of insecurity or ill-will among the members of other communities, etc. have been prohibited under Section 153A of the Indian Penal Code (IPC).
 - Imputations and assertions prejudicial to the national integration constitute a punishable offence under Section 153 B of the IPC.
 - A Communal organization can be declared unlawful association under the provisions of Unlawful Activities (Prevention) Act 1967.
 - Offences related to religion are covered in Sections 295-298 of the IPC (Chapter XV).
 - Provisions of the Protection of Civil Rights Act, 1955 (earlier the Untouchability (Offences) Act 1955).

- Sections 123(3) and 123(3A) of the Representation of People Act, 1951 declares that soliciting of vote on the ground of religion and the promotion or attempt to promote feelings of enmity or hatred between different classes of citizens of India on the grounds of religion, race, caste, community or language is a corrupt practice. A person indulging in a corrupt practice can be disqualified for being a Member of Parliament or a State Legislature under Section 8A of the Representation of People Act, 1951.

THE PRESIDENT OF INDIA (ARTICLES 52-62)

Part V of the Constitution (The Union) under Chapter I (The Executive) lists out the qualification, election and impeachment of the President of India.

The **President of India** is the head of state of the Republic of India. The President is the formal head of the executive, legislature and judiciary of India and is also the commander-in-chief of the Indian Armed Forces.

Although Article 53 of the Constitution of India states that the President can exercise his or her powers directly or by subordinate authority, with few exceptions, all of the executive authority vested in the President are, in practice, exercised by the Council of Ministers (CoM).

Part V The Union

Chapter I The Executive

ARTICLE 52 : THE PRESIDENT OF INDIA

There shall be a President of India.

ARTICLE 53 : EXECUTIVE POWER OF THE UNION

(1) The executive power of the Union shall be vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.

(2) Without prejudice to the generality of the foregoing provision, the supreme command of the Defence Forces of the Union Shall be vested in the President and the exercise thereof shall be regulated by law.

(3) Nothing in this article shall –
 (a) be deemed to transfer to the President any functions conferred by any existing law on the Government of any State or other authority; or
 (b) prevent Parliament from conferring by law functions on authorities other than the President.

ARTICLE 54 : ELECTION OF PRESIDENT

The President shall be elected by the members of an electoral college consisting of –
 (a) the elected members of both Houses of Parliament; and
 (b) the elected members of the Legislative Assemblies of the States. Explanation: In this article and in article 55, “State” includes the National Capital Territory of Delhi and the Union territory of Pondicherry.

ARTICLE 55: MANNER OF ELECTION OF PRESIDENT

- (1) As far as practicable, there shall be uniformity in the scale of representation of the different States at the election of the President.
- (2) For the purpose of securing such uniformity among the States inter se as well as parity between the States as a whole and the Union, the number of votes which each elected member of Parliament and of the legislative Assembly of each state is entitled to cast at such election shall be determined in the following manner; –
- (a) every elected member of the Legislative Assembly of a State shall have as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of the elected members of the Assembly;
- (b) if, after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member referred to in sub-clause (a) shall be further increased by one;
- (c) each elected member of either House of Parliament shall have such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislative Assemblies of the States under sub-clauses (a) and (b) by the total number of the elected members of both Houses of Parliament, fractions exceeding one-half being counted as one and other fractions being disregarded.
- (3) The election of the President shall be held in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

Explanation: In this article, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published: Provided that the reference in this Explanation to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2000 have been published, be construed as a reference to the 1971 census.

ARTICLE 56 : TERM OF OFFICE OF PRESIDENT

- (1) The President shall hold office for a term of five years from the date on which he enters upon his office: Provided that – (a) the President may, by writing under his hand addressed to the Vice-President, resign his office;
- (b) the President may, for violation of the Constitution, be removed from office by impeachment in the manner provided in article 61.
- (c) the President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.
- (2) Any resignation addressed to the Vice-President under clause (a) of the proviso to clause (1) shall forthwith be communicated by him to the Speaker of the House of the People.

ARTICLE 57 : ELIGIBILITY FOR RE-ELECTION

A person who holds, or who has held, office as President shall, subject to the other provisions of this Constitution be eligible for re-election to that office.

ARTICLE 58 : QUALIFICATIONS FOR ELECTION AS PRESIDENT

- (1) No person shall be eligible for election as President unless he –
- (a) is a citizen of India;
- (b) has completed the age of thirty-five years, and
- (c) is qualified for election as a member of the House of the People.

(2) A person shall not be eligible for election as President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.
Explanation: For the purposes of this article, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor of any State or is a Minister either for the Union or for any State.

ARTICLE 59 : CONDITIONS OF PRESIDENT'S OFFICE

- (1) The President shall not be a member of either House of Parliament or of a House of the Legislature of any State, and if a member of either House of Parliament or of a House of the Legislature of any State be elected President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as President.
- (2) The President shall not hold any other office of profit.
- (3) The President shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.
- (4) The emoluments and allowances of the President shall not be diminished during his term of office.

ARTICLE 60 : OATH OR AFFIRMATION BY THE PRESIDENT

Every President and every person acting as President or discharging the functions of the President shall, before entering upon his office, make and subscribe in the presence of the Chief Justice of India or, in his absence, the senior most Judge of the Supreme Court available, an oath or affirmation in the following form, that is to say – “I, A.B., do swear in the name of God / solemnly affirm that I will faithfully execute the office of President (or discharge the function of the President) of India and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of India.”

ARTICLE 61 : PROCEDURE FOR IMPEACHMENT OF THE PRESIDENT

- (1) When a President is to be impeached for violation of the Constitution, the charge shall be preferred by either House of Parliament.
- (2) No such charge shall be preferred unless –
- (a) the proposal to prefer such charge is contained in a resolution which has been moved after at least fourteen days' notice in writing signed by not less than one-fourth of the total number of members of the House has been given of their intention to move the resolution, and
- (b) such resolution has been passed by a majority of not less than two-thirds of the total membership of the House.
- (3) When a charge has been so preferred by either House of Parliament, the other House shall investigate the charge or cause the charge to be investigated and the President shall have the right to appear and to be represented at such investigation.
- (4) If as a result of the investigation a resolution is passed by a majority of not less than two-thirds of the total membership of the House by which the charge was investigated or caused to be investigated, declaring that the charge preferred against the President has been sustained, such resolution shall have the effect of removing the President from his office as from the date on which the resolution is so passed.

ARTICLE 62 : TIME OF HOLDING ELECTION TO FILL VACANCY IN THE OFFICE OF PRESIDENT AND THE TERM OF OFFICE OR PERSON ELECTED TO FILL CASUAL VACANCY

- (1) An election to fill a vacancy caused by the expiration of the term of office of President shall be completed before the expiration of the term.
- (2) An election to fill a vacancy in the office of President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after, and in no case later than six months from, the date of occurrence of the vacancy; and the person elected to fill the vacancy shall, subject to the provisions of article 56, be entitled to hold office for the full term of five years from the date on which he enters upon his office.

Info-Bits Related to the President of India

1. Salary of Indian President is Rs.5 lakh. Until 2017, the President used to get Rs 1.50 lakh per month. In Budget 2018, it was increased to Rs 5 lakh per month.
2. In addition to the salary, the President receives many other allowances and free facilities which include free medical, housing, and treatment facilities (whole life).
3. The Government of India spends around Rs.2.25 crore rupees annually on other expenses like President's housing, staff, food and hosting of guests.
4. Indian President's salary is $7000\$ \times 12 = 84,000\$$, which is much lower when compared to US President's salary of 4,00,000\$.
5. The president of the United States of America is also indirectly elected by the people through the Electoral College, but to a four-year term. He is one of only two nationally elected federal officers, the other being the Vice President of the United States. (In total, there are 538 electors, corresponding to the 435 members of the House of Representatives, 100 senators, and the three additional electors from the District of Columbia.)
6. Under The Presidential and Vice-Presidential Elections Act, 1952, a candidate, to be nominated for the office of president of India needs 50 electors as proposers and 50 electors as seconders for his or her name to appear on the ballot.
7. The general principle in Indian Presidential election is that the total number of votes cast by Members of Parliament equals the total number of votes cast by State Legislators.
8. There are a total of 776 voters in both the Houses of Parliament. The Electoral College also consisted of 4120 MLAs in the states.
9. The formula to determine the value of the vote of an MLA = $\text{Population of the state} \div (\text{No. of M.L.A.s in the state} \times 1000)$.
10. The formula to determine the value of the vote of an MP = $\frac{\text{Total value votes assigned to all the M.L.A.s}}{\text{Total number of MPs}}$.
11. Each MP had a vote value of 708 in the Presidential Election 2012.
12. Legislators from larger states cast more votes than those from smaller states.
13. If a state has few legislators, then each legislator has more votes; if a state has many legislators, then each legislator has fewer votes.
14. JFYI: The President of India moves around in a custom built heavily armoured Mercedes Benz S600 Pullman Guard (which costs around Rs. 12 Crore).
15. Nominated members cannot vote in the Presidential election. But they can participate in President's impeachment.
16. PS: Nominated members can participate in Vice-President's election and removal.

17. MLAs are involved in the Presidential election, but they have no role in President's impeachment. President's impeachment resolution requires a special majority of both houses of the parliament to pass.

Powers of Indian President

Powers of Indian President can be broadly classified under 8 headings. They are :

1. Legislative
2. Executive or Appointment powers
3. Judicial powers
4. Financial powers
5. Diplomatic powers
6. Military powers
7. Pardoning Powers
8. Emergency powers

There are articles outside Chapter 1 of Part V related with powers of President of India like Article 72 and Articles 352-360. We shall discuss in detail each of them later.

Article 72: Power of President to grant pardons, etc., and to suspend, remit or commute sentences in certain cases

(1) The President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any persons convicted of any offence – (a) in all cases where the punishment or sentence is by a Court Martial; (b) in all cases where the punishment or sentence is for an offence against any law relating to a matter to which the executive power of the Union extends; (c) in all cases where the sentence is a sentence of death.

(2) Nothing in sub-clause (a) of clause (1) shall affect the power conferred by law on any officer of the Armed Forces of the Union to suspend, remit or commute a sentence passed by a Court martial.

(3) Nothing in sub-clause (c) of clause (1) shall affect the power to suspend, remit or commute a sentence of death exercisable by the Governor of a State under any law for the time being in force.

THE VICE-PRESIDENT OF INDIA (ARTICLES 63-73)

Part V of the Constitution of India under Chapter I (Executive) also discusses about the office of the Vice-President of India. The Vice-President of India is the second highest constitutional office in the country. He serves for a five-year term, but can continue to be in office, irrespective of the expiry of the term, until the successor assumes office. Let's see the articles 63-73 which deal with the qualifications, election and removal of Vice-President of India.

ARTICLE 63 : THE VICE-PRESIDENT OF INDIA

There shall be a Vice-President of India.

ARTICLE 64 : THE VICE-PRESIDENT TO BE EX-OFFICIO CHAIRMAN OF THE COUNCIL OF STATES

The Vice-President shall be ex-officio Chairman of the Council of States and shall not hold any other office of profit: Provided that during any period when the Vice-President acts as President or discharges the functions of the President under article 65, he shall not perform the duties of the office of Chairman of the Council of States and shall not be entitled to any salary or allowance payable to the Chairman of the Council of States under article 97.

ARTICLE 65 : THE VICE-PRESIDENT TO ACT AS PRESIDENT OR TO DISCHARGE HIS FUNCTIONS DURING CASUAL VACANCIES IN THE OFFICE, OR DURING THE ABSENCE, OF PRESIDENT

- (1) In the event of the occurrence of any vacancy in the office of the President by reason of this death, resignation or removal, or otherwise, the Vice-President shall act as President until the date on which a new President elected in accordance with the provisions of this Chapter to fill such vacancy enters upon his office.
- (2) When the President is unable to discharge his functions owing to absence, illness or any other cause, the Vice-President shall discharge his functions until the date on which the President resumes his duties.
- (3) The Vice-President shall, during, and in respect of, the period while he is so acting as, or discharging the functions of, President have all the powers and immunities of the President and be entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.

ARTICLE 66 : ELECTION OF VICE-PRESIDENT

- (1) The Vice-President shall be elected by the members of an electoral college consisting of the members of both Houses of Parliament in accordance with the system of proportional representation by means of a single transferable vote and the voting at such election shall be by secret ballot.
- (2) The Vice-President shall not be a member of either House of Parliament or of a House of the Legislature of any State, and if a member of either House of Parliament or of a House of the Legislature of any State be elected Vice-President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Vice-President.
- (3) No person shall be eligible for election as Vice-President unless he –
- (a) is a citizen on India;
 - (b) has completed the age of thirty-five years; and
 - (c) is qualified for election as a member of the Council of States.
- (4) A person shall not be eligible for election as Vice-President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.
- Explanation: For the purposes of this article, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor of any State or is a Minister either for the Union or for any State.

ARTICLE 67 : TERM OF OFFICE OF VICE-PRESIDENT

The Vice-President shall hold office for a term of five years from the date on which he enters upon his office:
Provided that – (a) A Vice-President may, by writing under his hand addressed to the President, resign his office;
(b) a Vice-President may be removed from his office by a resolution of the Council of States passed by a majority of all the then members of the Council and agreed to by the House of the People; but no resolution for the purpose of this clause shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution;
(c) A Vice-President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

ARTICLE 68 : TIME OF HOLDING ELECTION TO FILL VACANCY IN THE OFFICE OF VICE-PRESIDENT AND THE TERM OF OFFICE OF PERSON ELECTED TO FILL CASUAL VACANCY

(1) An election to fill a vacancy caused by the expiration of the term of office of Vice-President shall be completed before the expiration of the term.
(2) An election to fill a vacancy in the office of Vice-President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after the occurrence of the vacancy, and the person elected to fill the vacancy shall, subject to the provisions of article 67, be entitled to hold office for the full term of five years from the date on which he enters upon his office.

ARTICLE 69 : OATH OR AFFIRMATION BY THE VICE-PRESIDENT

Every Vice-President shall, before entering upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation in the following form, that is to say – “I, A.B., do swear in the name of God /solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will discharge the duty upon which I am about to enter.”

ARTICLE 70 : DISCHARGE OF PRESIDENT'S FUNCTIONS IN OTHER CONTINGENCIES

Parliament may make such provision as it thinks fit for the discharge of the functions of the President in any contingency not provided for in this Chapter.

ARTICLE 71 : MATTERS RELATING TO, OR CONNECTED WITH, THE ELECTION OF A PRESIDENT OR VICE-PRESIDENT

(1) All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final.
(2) If the election of a person as President or Vice-President is declared void by the Supreme Court, acts done by him in the exercise and performance of the powers and duties of the office of President or Vice-President, as the case may be, on or before the date of the decision of the Supreme Court shall not be invalidated by reason of that declaration.
(3) Subject to the provisions of this Constitution, Parliament may by law regulate any matter relating to or connected with the election of a President or Vice-President.
(4) The election of a person as President or Vice-President shall not be called in question on the

ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him.

ARTICLE 72 : POWER OF PRESIDENT TO GRANT PARDONS, ETC., AND TO SUSPEND, REMIT OR COMMUTE SENTENCES IN CERTAIN CASES

- (1) The President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any persons convicted of any offence – (a) in all cases where the punishment or sentence is by a Court Martial; (b) in all cases where the punishment or sentence is for an offence against any law relating to a matter to which the executive power of the Union extends; (c) in all cases where the sentence is a sentence of death.
- (2) Nothing in sub-clause (a) of clause (1) shall affect the power conferred by law on any officer of the Armed Forces of the Union to suspend, remit or commute a sentence passed by a Court martial.
- (3) Nothing in sub-clause (c) of clause (1) shall affect the power to suspend, remit or commute a sentence of death exercisable by the Governor of a State under any law for the time being in force.

ARTICLE 73 : EXTENT OF EXECUTIVE POWER OF THE UNION*

- (1) Subject to the provisions of this Constitution, the executive power of the Union shall extend— (a) to the matters with respect to which Parliament has power to make laws; and (b) to the exercise of such rights, authority and jurisdiction as are exercisable by the Government of India by virtue of any treaty or agreement: Provided that the executive power referred to in sub-clause (a) shall not, save as expressly provided in this Constitution or in any law made by Parliament, extend in any State to matters with respect to which the Legislature of the State has also power to make laws.
- (2) Until otherwise provided by Parliament, a State and any officer or authority of a State may, notwithstanding anything in this article, continue to exercise in matters with respect to which Parliament has power to make laws for that State such executive power or functions as the State or officer or authority thereof could exercise immediately before the commencement of this Constitution.

Info-Bits related with the Vice-President of India

The office of the Vice-President of India is special because of multiple reasons. It would be interesting to explore the constitutional provisions related to VP of India. Try, if you can find the answers of the following questions, yourself.

1. Can Vice-President of India continue to be in office irrespective of the expiry of his term of 5 years?
2. Who performs the duties of the Vice-President, when a vacancy occurs in the office of the Vice-President of India, before the expiry of his term?
3. Who performs the duties of the Vice-President, when a vacancy occurs in the office of the Vice-President of India, when the Vice-President acts as the President of India?
4. Who performs the Vice-President's function as the Chairperson of the Council of States (Rajya Sabha) when a vacancy occurs in the office of the Vice-President of India?
5. Salary for Vice-President for his role as Vice-President of India?

6. Salary for Vice-President for his role as ex-officio Chairperson of the Council of States (Rajya Sabha)?
7. Salary for Vice-President when Vice-President acts as President of India?
8. Can nominated members participate in the election and removal process of Vice President?
9. Vice-President is neither an elected nor nominated member of Rajya Sabha. But being the chairman of Rajya Sabha, can he cast vote?
10. How can the Vice-President of India removed from his office?

Answers:

1. Can Vice-President of India continue to be in office irrespective of the expiry of his term of 5 years? **Ans : Yes. Until the successor assumes office.**
2. Who performs the duties of the Vice-President, when a vacancy occurs in the office of the Vice-President of India, before the expiry of his term? **Ans : Constitution is silent on this matter.**
3. Who performs the duties of the Vice-President, when a vacancy occurs in the office of the Vice-President of India, when the Vice-President acts as the President of India? **Ans : Constitution is silent on this matter.**
4. Who performs the Vice-President's function as the Chairperson of the Council of States (Rajya Sabha) when a vacancy occurs in the office of the Vice-President of India? **Ans : Deputy Chairperson of the Rajya Sabha, or any other member of the Rajya Sabha authorised by the President of India.**
5. Salary for Vice-President for his role as Vice-President of India? **Ans : No salary for the role as Vice-President. Salary is for the role as ex-officio Chairperson of the Council of States (Rajya Sabha).**
6. Salary for Vice-President for his role as ex-officio Chairperson of the Council of States (Rajya Sabha)? **Ans : Rs.1.25 lakhs.**
7. Salary for Vice-President when Vice-President acts as President of India? **Ans : He will get salary of Indian President, ie Rs.1.5 lakh. But he will stop getting the salary of ex-officio chairman of Rajya Sabha.**
8. Can nominated members participate in the election and removal process of Vice President? **Ans: Yes. (NB: For Presidential election nominated members cannot participate.)**
9. Vice-President is neither an elected nor nominated member of Rajya Sabha. But being the chairman of Rajya Sabha, can he cast vote? **Ans : Yes. The Chairman has a casting vote in the case of an equality of votes.**
10. How can the Vice-President of India removed from his office? **Ans : Vice-President may be removed from his office by a resolution of the Council of States passed by a majority of all the then members of the Council and agreed to by the House of the People; but no resolution for the purpose of this clause shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.**

Removal of Vice-President of India : Must Check

Aspirants are requested to note a mistake which you might find in many textbooks on Indian Polity, under the topic 'Removal of the Vice-President of India'. I have seen text-books mentioning that removal of Vice-President needs absolute majority (half of the total strength of the house). But this cannot be right.

Let's check once again what is mentioned in Constitution, Article 67(b).

*A Vice-President may be removed from his office by a resolution of the Council of States passed by a majority of all the **then members of the Council** and agreed to by the House of the People; but no resolution for the purpose of this clause shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.*

Let's see what is the importance of the word "then" here. Suppose the present strength of Rajya Sabha is 245 seats. And if 45 seats are vacant, then the strength of the house gets reduced to 200. So a majority of all the **then members of the Council** means that removal of Vice-President needs the approval of 101 Rajya Sabha MPs.

As shown above, this majority is not Absolute Majority (Total Strength of the House), but Effective Majority (Total Strength of the House – Vacancies). Whether the phrase "a majority of all the **then members of the Council**" can be interpreted as Simple Majority (Majority among those who are present and voting) is a matter of debate. But anyways, the removal does not need absolute majority or special majority. It can be said that resolution for removal of Vice-President requires an effective majority in Rajya Sabha and a simple majority in Lok Sabha.

NB: President's impeachment resolution requires special majority (2/3rd of total strength of the house) at both houses to get itself passed.

COM, PRIME MINISTER AND ATTORNEY GENERAL (ARTICLES 74-78)

Chapter I (Executive) of Part V of the Constitution (Union) deals with President, Vice-President, Council of Ministers (COM) headed by Prime Minister and Attorney General. Having already discussed about President and Vice-President, let's concentrate now on COM, Prime Minister and Attorney General. While Indian President is the head of the state, Indian Prime Minister is the head of the government.

Council of Ministers

ARTICLE 74 : COUNCIL OF MINISTERS TO AID AND ADVISE PRESIDENT

(1) There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice: Provided that the President may require the Council of Ministers to reconsider such advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration.

(2) The question whether any, and if so what, advice was tendered by Ministers to the President shall not be inquired into in any court.

ARTICLE 75: OTHER PROVISIONS AS TO MINISTERS

(1) The Prime Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Prime Minister.

(1A) The total number of Ministers, including the Prime Minister, in the Council of Ministers shall not exceed fifteen per cent. of the total number of members of the House of the People.

(1B) A member of either House of Parliament belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or where he contests any election to either House of Parliament before the expiry of such period, till the date on which he is declared elected, whichever is earlier.

(2) The Ministers shall hold office during the pleasure of the President.

(3) The Council of Ministers shall be collectively responsible to the House of the People.

(4) Before a Minister enters upon his office, the President shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

(5) A Minister who for any period of six consecutive months is not a member of either House of Parliament shall at the expiration of that period cease to be a Minister.

(6) The salaries and allowances of Ministers shall be such as Parliament may from time to time by law determine and, until Parliament so determines, shall be as specified in the Second Schedule.

The Attorney-General for India

ARTICLE 76 : ATTORNEY-GENERAL FOR INDIA.

(1) The President shall appoint a person who is qualified to be appointed a Judge of the Supreme Court to be Attorney-General for India.

(2) It shall be the duty of the Attorney-General to give advice to the Government of India upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the President, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.

(3) In the performance of his duties the Attorney-General shall have right of audience in all courts in the territory of India.

(4) The Attorney-General shall hold office during the pleasure of the President, and shall receive such remuneration as the President may determine.

Conduct of Government Business

77. Conduct of business of the Government of India.—(1) All executive action of the Government of India shall be expressed to be taken in the name of the President.

(2) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the President, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.

(3) The President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business.

* * * * *

ARTICLE 78 : DUTIES OF PRIME MINISTER AS RESPECTS THE FURNISHING OF INFORMATION TO THE PRESIDENT, ETC.

—It shall be the duty of the Prime Minister—

(a) to communicate to the President all decisions of the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation;

(b) to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and

(c) if the President so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

Info Bits Related with COM, PM and AG

1. The prime minister is responsible for aiding and advising the president in distribution of work of the Government to various ministries and offices and in terms of the *Government of India (Allocation of Business) Rules, 1961*. The co-ordinating work is generally allocated to the Cabinet Secretariat.
2. By Article 75 of the constitution of India, remuneration of the prime minister as well as other ministers are to be decided by the Parliament. In 2010, the prime minister's office reported that he did not receive a formal salary, but was only entitled to monthly allowances.
3. The Attorney General, like an Advocate General of a State is not supposed to be a political appointee, in spirit, but this is not the case in practice. Every time a party comes to power in the general elections, all the law officers resign and law officers loyal to the new party are appointed.
4. The Attorney General has the right of audience in all Courts in India as well as the right to participate in the proceedings of the Parliament, though not to vote.
5. Unlike the Attorney General of the United States, the Attorney General of India does not have any executive authority, and is not a political appointee, those functions are performed by the Law Minister of India.
6. The Attorney General is assisted by a Solicitor General and four Additional Solicitors General. (Non-constitutional posts.)
7. The Cabinet is a smaller body than Council of Ministers which consists of a few important senior ministers who are in charge of separate departments. The Cabinet is described as "a wheel within a wheel". It is the nucleus of the Council of Ministers.
8. Cabinet exercises all powers on behalf of the Council of Ministers. The policy decisions are taken in the Cabinet.
9. There are three categories of ministers (COM), in descending order of rank:
 - Union Cabinet Minister: senior minister in-charge of a ministry. A cabinet minister may also hold additional charges of other Ministries, where no other Cabinet minister is appointed.
 - Minister of State (Independent Charges): with no overseeing Union cabinet minister for that portfolio.
 - Minister of State (MoS): junior minister to overseeing cabinet minister, usually tasked with a specific responsibility in that ministry. For instance, an MoS in the Finance Ministry may only handle taxation.

PARLIAMENT (ARTICLES 79-88/122)

Though Article 79-122 deals with Chapter II (Parliament) of Part V (Union), we shall break the topic into sub-sections. In this post, we are covering only articles 79-88, which deals with the General provisions regarding the Parliament. Parliament consists of the President of India, Lok Sabha and Rajya Sabha. Normally, three Sessions of Parliament are held in a year: (i) Budget Session (February-May); (ii) Monsoon Session (July-August); and (iii) Winter Session (November-December).

Chapter II Parliament

ARTICLE 79 : CONSTITUTION OF PARLIAMENT

There shall be a Parliament for the Union which shall consists of the President and two Houses to be known respectively as the Council of States and the House of the People.

ARTICLE 80 : COMPOSITION OF THE COUNCIL OF STATES –

- (1) The Council of States shall consists of –
(a) twelve members to be nominated by the President in accordance with the provisions of clause (3); and
(b) not more than two hundred and thirty-eight representatives of the States and of the Union territories.
- (2) The allocation of seats in the Council of States to be filled by representatives of the States and of the Union territories shall be in accordance with the provisions in that behalf contained in the Fourth Schedule.
- (3) The members to be nominated by the President under sub-clause (a) and clause (1) shall consists of persons having special knowledge or practical experience in respect of such matters as the following, namely: –
Literature, science, art and social service.
- (4) The representatives of each State in the Council of States shall be elected members of the Legislative Assembly of the State in accordance with the system of proportional representation by means of the single transferable vote.
- (5) The representatives of the Union territories in the Council of States shall be chosen in such manner as Parliament may by law prescribe

ARTICLE 81 : COMPOSITION OF THE HOUSE OF THE PEOPLE

- (1) Subject to the provisions of article 331, the House of the People shall consists of – (a) not more than five hundred and thirty members chosen by direct election from territorial constituencies in the States, and
(b) not more than twenty members to represent the Union territories, chosen in such manner as Parliament may by law provide.
- (2) For the purposes of sub-clause (a) of clause (1), –
(a) there shall be allotted to each State a number of seats in the House of the People in such manner that the ration between that number and the population of the State is, so far as practicable, the same for all States; and
(b) each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it is, so far as practicable, the same throughout the State:
Provided that the provisions of sub-clause (a) of this clause shall not be applicable for the purpose of allotment of seats in the House of the People to any State so long as the population of that State does not exceed six millions.
- (3) In this article, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published:
Provided that the reference in this clause to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2000 have been published, be construed as a reference to the 1971 census.

ARTICLE 82 : READJUSTMENT AFTER EACH CENSUS

Upon the completion of each census, the allocation of seats in the House of the People to the States and the division of each state into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:

Provided that such readjustment shall not affect representation in the House of the People until the dissolution of the then existing House: Provided further that such readjustment shall take effect from such date as the President may, by order, specify and until such readjustment takes effect, any election to the House may be held on the basis of the territorial constituencies existing before such readjustment: Provided also that until the relevant figures for the first census taken after the year 2000 have been published, it shall not be necessary to readjust the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies under this article.

ARTICLE 83 : DURATION OF HOUSES OF PARLIAMENT

(1) The Council of States shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law. (2) The House of the People, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of 5 years shall operate as a dissolution of the House: Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

ARTICLE 84 : QUALIFICATION FOR MEMBERSHIP OF PARLIAMENT

A person shall not be qualified to be chosen to fill a seat in Parliament unless he – (a) is a citizen of India, and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule; (b) is, in the case of a seat in the Council of States, not less than thirty years of age and, in the case of a seat in the House of the People, not less than twenty-five years of age; and (c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

ARTICLE 85 : SESSIONS OF PARLIAMENT, PROROGATION AND DISSOLUTION

(1) The President shall from time to time summon each House of Parliament to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session. (2) The President may from time to time – (a) prorogue the Houses or either House; (b) dissolve the House of the People.

ARTICLE 86 : RIGHT OF PRESIDENT TO ADDRESS AND SEND MESSAGES TO HOUSES

(1) The President may address either House of Parliament or both Houses assembled together, and for that purpose require the attendance of members.

(2) The President may send messages to either House of Parliament, whether with respect to a Bill then pending in Parliament or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

ARTICLE 87 : SPECIAL ADDRESS BY THE PRESIDENT

(1) At the commencement of the first session after each general election to the House of the People and at the commencement of the first session of each year the President shall address both Houses of Parliament assembled together and inform Parliament of the causes of its summons.

(2) Provision shall be made by the rules regulating the procedure of either House for the allotment of time for discussion of the matters referred to in such address.

ARTICLE 88 : RIGHTS OF MINISTERS AND ATTORNEY-GENERAL AS RESPECTS HOUSES

Every Minister and the Attorney-General of India shall have the right to speak in, and otherwise to take part in the proceeding of, either House, any joint sitting of the Houses, and any committee of Parliament of which he may be named a member, but shall not by virtue of this article be entitled to vote.

Info- Bits related with Parliament

1. The total elective membership is distributed among the States in such a way that the ratio between the number of seats allotted to each State and the population of the State is, so far as practicable, the same for all States.
2. The Council of States is designed to maintain the federal character of the country. The number of members from a state depends on the population of the state (e.g. 31 from Uttar Pradesh and one from Nagaland).
3. Supreme Court can **strike down** certain provisions/amendments of Indian Constitution, if it feels that the provisions are unconstitutional or alter the basic structure of the constitution. But striking down does not take away the provisions from the Constitution. To take away the provisions, Parliament has to present a Constitution Amendment bill to **repeal** the provisions.

THE UNION JUDICIARY IE. THE SUPREME COURT (ARTICLES 124-147)

Chapter IV under Part V of the constitution (Union) deals with the Union Judiciary. The constitution and jurisdiction of Supreme Court is stated in detail from articles 124-147. Unlike the other two branches, executive and legislature, in India Judiciary is integrated. This means that even though there may be High Courts in states, the law declared by the Supreme Court shall be binding on all courts within the territory of India (Article 141). Now let's look into the details of each article dealing with the Union Judiciary.

Article 124: Establishment and Constitution of Supreme Court

(1) There shall be a Supreme Court of India consisting of a Chief Justice of India and, until Parliament by law prescribes a larger number, of not more than seven other Judges.

(2) Every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose and shall hold office until he attains the age of sixty-five years: Provided that in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of India shall always be consulted: Provided further that —

(a) a Judge may, by writing under his hand addressed to the President, resign his office;

(b) a judge may be removed from his office in the manner provide in clause (4).

(2A) The age of a Judge of the Supreme Court shall be determined by such authority and in such manner as Parliament may by law provide.

(3) A person shall not be qualified for appointment as a Judge of the Supreme Court unless he is a citizen of India and —

(a) has been for at least five years a Judge of a High Court or of two or more such Courts in succession; or

(b) has been for at least ten years an advocate of a High Court or of two or more such Courts in succession; or

(c) is, in the opinion of the President, a distinguished jurist.

Explanation I: In this clause "High Court" means a High Court which exercises, or which at any time before the commencement of this Constitution exercised, jurisdiction in any part of the territory of India.

Explanation II: In computing for the purpose of this clause the period during which a a person has been an advocate, any period during which a person has held judicial office not inferior to that of a district judge after he became an advocate shall be included.

(4) A Judge of the Supreme Court shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting has been presented to the President in the same session for such removal on the ground of proved misbehaviour or incapacity.

(5) Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of a Judge under clause (4).

(6) Every person appointed to be a Judge of the Supreme Court shall, before he enters upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

(7) No person who has held office as a Judge of the Supreme Court shall plead or act in any court of before any authority within the territory of India.

Article 125: Salaries, etc., of Judges

(1) There shall be paid to the Judges of the Supreme Court such salaries as may be determined by Parliament by law and, until provision in that behalf is so made, such salaries as are specified in the Second Schedule.

(2) Every Judge shall be entitled to such privileges and allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such privileges, allowances and rights as are specified in the Second Schedule:

Provided that neither the privileges not the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.

Article 126: Appointment of acting Chief Justice

When the office of Chief Justice of India is vacant or when the Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other Judges of the Court as the President may appoint for the purpose.

Article 127: Appointment of ad hoc Judges

(1) If at any time there should not be a quorum of the Judges of the Supreme Court available to hold or continue any session of the Court, the Chief Justice of India may, with the previous consent of the President and after consultation with the Chief Justice of the High Court concerned, request in writing the attendance at the sittings of the Court, as an ad hoc Judge, for such period as may be necessary, of a Judge of a High Court duly qualified for appointment as a Judge of the Supreme Court to be designated by the Chief Justice of India.

(2) It shall be the duty of the Judge who has been so designated, in priority to other duties of his office to attend the sittings of the Supreme Court at the time and for the period for which his attendance is required, and while so attending he shall have all the jurisdiction, powers and privileges, and shall discharge the duties, of a Judge of the Supreme Court.

Article 128: Attendance of retired Judges at sittings of the Supreme Court

Notwithstanding anything in this Chapter, the Chief Justice of India may at any time, with the previous consent of the President, request any person who as held the office of a Judge of the Supreme Court or of the Federal Court or who has held the office of a Judge of a High Court and is duly qualified for appointment as a Judge of the Supreme Court to sit and act as a Judge of the Supreme Court, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that Court: Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a Judge of that Court unless he consents so to do.

Article 129: Supreme Court to be a court of record

The Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.

Article 130: Seat of Supreme Court

The Supreme Court shall sit in Delhi or in such other place or places, as the Chief Justice of India may, with the approval of the President, from time to time, appoint.

Article 131: Original jurisdiction of the Supreme Court

Subject to the provisions of this Constitution, the Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute –

- (a) between the Government of India and one or more States; or
- (b) between the Government of India and any State of States on one side and one or more other States on the other; or
- (c) between two or more States.

if and in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends: Provided that the said jurisdiction shall not extend to a dispute arising out of any treaty, agreement, covenant, engagement, sanad or other similar instrument which, having been entered into or executed before the commencement of this Constitution, continues in operation after such commencement or which provides that the said jurisdiction shall not extend to such a dispute.

Article 131A: Executive jurisdiction of the Supreme Court in regard to questions as to constitutional validity of Central laws {...} —Repealed.

Article 132: Appellate jurisdiction of Supreme Court in appeals from High Court in certain cases

(1) An appeal shall lie to the Supreme Court from any judgement, decree or final order of a High Court in the territory of India, whether in a civil, criminal or other proceeding, if the High Court certifies under article 134A that the case involves a substantial question of law as to the interpretation of this Constitution.

(2) {...}

(3) Where such a certificate is given, any party in the case may appeal to the Supreme Court on the ground that any such question as aforesaid has been wrongly decided. Explanation: For the purpose of this article, the expression “final order” includes an order deciding an issue which, if decided in favour of the appellant, would be sufficient for the final disposal of the case.

Article 133: Appellate jurisdiction of Supreme Court in appeals from High Courts in regard to civil matters

(1) An appeal shall lie to the Supreme Court from any judgement, decree or final order in a civil proceeding of a High Court in the territory of India if the High Court certifies under article 134A – (a) that the case involves a substantial question of law of general importance; and (b) that in the opinion of the High Court the said question needs to be decided by the Supreme Court.

(2) Notwithstanding anything in article 132, any party appealing to the Supreme Court under clause (1) may urge as one of the grounds in such appeal that a substantial question of law as to the interpretation of this Constitution has been wrongly decided.

(3) Notwithstanding anything in this article, no appeal shall, unless Parliament by law otherwise provides, lie to the Supreme Court from the judgement, decree or final order of one Judge of a High Court.

Article 134: Appellate jurisdiction of Supreme Court in regard to criminal matters

(1) An appeal shall lie to the Supreme Court from any judgement, final order or sentence in a criminal proceeding of a High Court in the territory of India if the High Court – (a) has on appeal reversed an order of acquittal of an accused person and sentenced him to death; or

(b) has withdrawn for trial before itself any case from any court subordinate to its authority and has in such trial convicted the accused person and sentenced him to death; or

(c) certified under article 134A that the case is a fit one for appeal to the Supreme Court: Provided that an appeal under sub-clause (c) shall lie subject to such provisions as may be made

in that behalf under clause (1) of article 145 and to such conditions as the High Court may establish or require.
(2) Parliament may by law confer on the Supreme Court any further powers to entertain and hear appeals from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India subject to such conditions and limitations as may be specified in such law.

Article 134A: Certificate for appeal to the Supreme Court

Every High Court, passing or making a judgment, decree, final order, or sentence, referred to in clause (1) of article 132 or clause (1) of article 133, or clause (1) of article 134, –
(a) may, if it deems fit so to do, on its own motion; and
(b) shall, if an oral application is made, by or on behalf of the party aggrieved, immediately after the passing or making of such judgment, decree final order or sentence, determine, as soon as may be after such passing or making, the question whether a certificate of the nature referred to in clause (1) of article 132, or clause (1) or article 133 or, as the case may be, sub-clause (c) of clause (1) of article 134, may be given in respect of that case.

Article 135: Jurisdiction and powers of the Federal Court under existing law to be exercisable by the Supreme Court

Until Parliament by law otherwise provides, the Supreme Court shall also have jurisdiction and powers with respect to any matter to which the provisions of article 133 or article 134 do not apply if jurisdiction and powers in relation to that matter were exercisable by the Federal Court immediately before the commencement of this Constitution under any existing law.

Article 136: Special leave to appeal by the Supreme Court

(1) Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India.
(2) Nothing in clause (1) shall apply to any judgment, determination, sentence or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces.

Article 137: Review of judgements or orders by the Supreme Court

Subject to the provisions of any law made by Parliament or any rules made under article 145, the Supreme Court shall have power to review any judgment pronounced or order made by it.

Article 138: Enlargement of the jurisdiction of the Supreme Court

(1) The Supreme Court shall have such further jurisdiction and powers with respect to any of the matters in the Union List as Parliament may by law confer.
(2) The Supreme Court shall have such further jurisdiction and powers with respect to any matter as the Government of India and the Government of any State may by special agreement confer, if Parliament by law provides for the exercise of such jurisdiction and powers by the Supreme Court.

Article 139: Conferment on the Supreme Court of powers to issue certain writs

Parliament may by law confer on the Supreme Court power to issue directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for any purposes other than those mentioned in clause (2) of article 32.

Article 139A: Transfer of certain cases

(1) Where cases involving the same or substantially the same questions of law are pending before the Supreme Court and one or more High Courts or before two or more High Courts and the Supreme Court is satisfied on its own motion or on an application made by the Attorney-General of India or by a party to any such case that such questions are substantial questions of general importance, the Supreme Court may withdraw the case or cases pending before the High Court of the High Courts and dispose of all the cases itself: Provided that the Supreme Court may after determining the said questions of law return any case so withdrawn together with a copy of its judgment on such questions to the High Court from which the case has been withdrawn, and the High Court shall on receipt thereof, proceed to dispose of the case in conformity with such judgment.

(2) The Supreme Court may, if it deems it expedient so to do for the ends of justice, transfer any case, appeal or other proceedings pending before any High Court to any other High Court.

Article 140: Ancillary powers of Supreme Court

Parliament may by law make provision for conferring upon the Supreme Court such supplemental powers not inconsistent with any of the provisions of this Constitution as may appear to be necessary or desirable for the purpose of enabling the Court more effectively to exercise the jurisdiction conferred upon it by or under this Constitution.

Article 141: Law declared by Supreme Court to be binding on all courts

The law declared by the Supreme Court shall be binding on all courts within the territory of India.

Article 142: Enforcement of decrees and orders of Supreme Court and orders as to discovery, etc.

(1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Supreme Court shall, as respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents, or the investigation or punishment of any contempt of itself.

Article 143: Power of President to consult Supreme Court

(1) If at any time it appears to the President that a question of law or fact has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to that Court for consideration and the Court may, after such hearing as it thinks fit, report to the President its opinion thereon.

(2) The President may, notwithstanding anything in the proviso to article 131, refer a dispute of the kind mentioned in the said proviso to the Supreme Court for opinion and the Supreme Court shall, after hearing as it thinks fit, report to the President its opinion thereon.

Article 144: Civil and judicial authorities to act in aid of the Supreme Court

All authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court.

Article 144A: Special provisions as to disposal of questions relating to constitutional validity of laws

{...} — Repealed

Article 145: Rules of Court, etc.

(1) Subject to the provisions of any law made by Parliament, the Supreme Court may from time to time, with the approval of the President, make rules for regulating generally the practice and procedure of the Court including —

- (a) rules as to the persons practising before the Court;
- (b) rules as to the procedure for hearing appeals and other matters pertaining to appeals including the time within which appeals to the Court are to be entered;
- (c) rules as to the proceedings in the Court for the enforcement of any of the rights conferred by Part III;
- (cc) rules as to the proceedings in the Court under article 139A;
- (d) rules as to the entertainment of appeals under sub-clause (c) of clause (1) of article 134;
- (e) rules as to the conditions subject to which any judgement pronounced or order made by the Court may be reviewed and the procedure for such review including the time within which applications to the Court or such review are to be entered;
- (f) rules as to the costs of and incidental to any proceedings in the Court and as to the fees to be charged in respect of proceedings therein;
- (g) rules as to the granting of bail;
- (h) rules as to stay of proceedings;
- (i) rules providing for the summary determination of any appeal which appears to the Court to be frivolous or vexatious or brought for the purpose of delay;
- (j) rules as to the procedure for inquiries referred to in clause (1) of article 317.

(2) Subject to the provisions of clause (3), rules made under this article may fix the minimum number of Judges who are to sit for any purpose, and may provide for the powers of single Judges and Division Courts.

(3) The minimum number of Judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution or for the purpose of hearing any reference under article 143 shall be five: Provided that, where the Court hearing an appeal under any of the provisions of this Chapter other than article 132 consists of less than five Judges and in the course of the hearing of the appeal of the Court is satisfied that the appeal involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the appeal, such Court shall refer the question for opinion to a Court constituted as required by this clause for the purpose of deciding any case involving such a question and shall on receipt of the opinion dispose of the appeal in conformity with such opinion.

(4) No judgement shall be delivered by the Supreme Court save in open Court, and no report shall be made under article 143 save in accordance with an opinion also delivered in open Court.

(5) No judgement and so such opinion shall be delivered by the Supreme Court save with the concurrence of a majority of the Judges present at the hearing of the case, but nothing in this clause shall be deemed to prevent a Judge who does not concur from delivering a dissenting judgement or opinion.

Article 146: Officers and servants and the expenses of the Supreme Court

(1) Appointments of officers and servants of the Supreme Court shall be made by the Chief Justice of India or such other Judge or officer of the Court as he may direct: Provided that the President may by rule require that in such cases as may be specified in the rule, no person not already attached to the Court shall be appointed to any office connected with the Court, save after consultation with the Union Public Service Commission.

(2) Subject to the provisions of any law made by Parliament, the conditions of service of officers and servants of the Supreme Court shall be such as may be prescribed by rules made by the Chief Justice of India or by some other Judge or officer of the Court authorised by the Chief Justice of India to make rules for the purpose: Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the President.

(3) The administrative expenses of the Supreme Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court, shall be charged upon the Consolidated Fund of India, and any fees or other moneys taken by the Court shall form part of that Fund.

Article 147: Interpretation

In this Chapter and in Chapter V of Part VI, references to any substantial question of law as to the interpretation of this Constitution shall be construed as including references to any substantial question of law as to the interpretation of the Government of India Act, 1935 (including any enactment amending or supplementing that Act), or of any Order in Council or order made thereunder, or of the Indian Independence Act, 1947, or of any order made thereunder.

Info- Bits related with Supreme Court

- Supreme Court can **strike down** certain provisions/amendments of Indian Constitution, if it feels that the provisions are unconstitutional or alter the basic structure of the constitution. But striking down does not take away the provisions from the Constitution. To take away the provisions, Parliament has to present a Constitution Amendment bill to **repeal** the provisions.

GOVERNOR OF STATES (ARTICLE 152-162)

PART VI of the Constitution deals with the other half of Indian federalism, ie the States. Article from 152-237 deals with various provisions related to States. It covers the executive, legislature and judiciary wings of the states. Article 152 clarifies about the definition of state, while the next set of articles lists the roles and responsibilities of the Governors of states.

CHAPTER I.—GENERAL

Article 152 : Definition

In this Part, unless the context otherwise requires, the expression “State” does not include the State of Jammu and Kashmir.

CHAPTER II.—THE EXECUTIVE

The Governor

ARTICLE 153: GOVERNORS OF STATES

There shall be a Governor for each State: Provided that nothing in this article shall prevent the appointment of the same person as Governor for two or more States.

ARTICLE 154: EXECUTIVE POWER OF STATE

(1) The executive power of the State shall be vested in the Governor and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.

(2) Nothing in this article shall—
(a) be deemed to transfer to the Governor any functions conferred by any existing law on any other authority; or
(b) prevent Parliament or the Legislature of the State from conferring by law functions on any authority subordinate to the Governor.

ARTICLE 155: APPOINTMENT OF GOVERNOR

The Governor of a State shall be appointed by the President by warrant under his hand and seal.

ARTICLE 156: TERM OF OFFICE OF GOVERNOR

(1) The Governor shall hold office during the pleasure of the President.

(2) The Governor may, by writing under his hand addressed to the President, resign his office.

(3) Subject to the foregoing provisions of this article, a Governor shall hold office for a term of five years from the date on which he enters upon his office: Provided that a Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

ARTICLE 157: QUALIFICATIONS FOR APPOINTMENT AS GOVERNOR

No person shall be eligible for appointment as Governor unless he is a citizen of India and has completed the age of thirty-five years.

ARTICLE 158: CONDITIONS OF GOVERNOR'S OFFICE

(1) The Governor shall not be a member of either House of Parliament or of a House of the Legislature of any State specified in the First Schedule, and if a member of either House of Parliament or of a House of the Legislature of any such State be appointed Governor, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Governor.

(2) The Governor shall not hold any other office of profit.

(3) The Governor shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by

Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.
(3A) Where the same person is appointed as Governor of two or more States, the emoluments and allowances payable to the Governor shall be allocated among the States in such proportion as the President may by order determine.
(4) The emoluments and allowances of the Governor shall not be diminished during his term of office.

ARTICLE 159: OATH OR AFFIRMATION BY THE GOVERNOR

Every Governor and every person discharging the functions of the Governor shall, before entering upon his office, make and subscribe in the presence of the Chief Justice of the High Court exercising jurisdiction in relation to the State, or, in his absence, the senior most Judge of that Court available, an oath or affirmation in the following form, that is to say—
“I, A. B., do swear in the name of God that I will solemnly affirm faithfully execute the office of Governor (or discharge the functions of the Governor) of(name of the State) and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of(name of the State) .”

ARTICLE 160: DISCHARGE OF THE FUNCTIONS OF THE GOVERNOR IN CERTAIN CONTINGENCIES

The President may make such provision as he thinks fit for the discharge of the functions of the Governor of a State in any contingency not provided for in this Chapter.

ARTICLE 161: POWER OF GOVERNOR TO GRANT PARDONS, ETC., AND TO SUSPEND, REMIT OR COMMUTE SENTENCES IN CERTAIN CASES

The Governor of a State shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State extends.

ARTICLE 162: EXTENT OF EXECUTIVE POWER OF STATE

Subject to the provisions of this Constitution, the executive power of a State shall extend to the matters with respect to which the Legislature of the State has power to make laws: Provided that in any matter with respect to which the Legislature of a State and Parliament have power to make laws, the executive power of the State shall be subject to, and limited by, the executive power expressly conferred by this Constitution or by any law made by Parliament upon the Union or authorities thereof.

Info-bits related to Governor of States

- Powers of the Governor can be broadly classified into executive, legislative (including financial powers) and judicial powers.
- Though the Governor has the power to pardon, he cannot pardon a death sentence.
- There are also related articles like 163 -167, 174-176, 200-201, 213, 217, 233-234 which touch the sphere of influence of the Governor of a state.

- When the governor reserves a bill for the consideration of the President, the assent of the Governor is no longer required (only President's assent would be needed then).
- The president is not bound to give his assent to a state bill reserved by the governor for the Consideration of the President and he can return the bill to the houses for reconsideration 'n' times.
- **Removal of Governors by Center** : Disapproving the practice of replacing Governors after a new government comes to power at the Centre, the Supreme Court in 2010 had said that the Governors of states cannot be changed in an *arbitrary and capricious manner* with the change of power. A five-judge Constitution bench headed by Chief Justice K G Balakrishnan held that a Governor can be replaced only under "*compelling*" reasons for proven misconduct or other irregularities. The Bench also said the Governor can be removed only under "compelling reasons" and what the compelling reasons are depends on facts and situations of a particular case. The landmark decision came on a PIL filed was in 2004 by then BJP MP B P Singhal challenging the removal of Governors of Uttar Pradesh, Gujarat, Haryana and Orissa by the previous UPA government.
- NB : The judgment had provided an important exception, which now allows the Union government to build a file containing the reasons for a governor's removal prior to the council of ministers headed by the PM making such a recommendation to the President. Though the President can return the file, he must sign the recommendation in the event of Cabinet reiterating its decision. (The case is even then open for Judicial review on grounds of "compelling" reasons for proven misconduct or other irregularities.)

COUNCIL OF MINISTERS IN STATES (ARTICLES 163-164)

Under our study materials for Polity, we have been doing detailed analysis of Indian Constitution – article-wise – a unique approach to learn Indian Constitution for Prelims, Mains and Interview. We follow the same constitutional order and wordings as in the Constitution of India. This approach not only helps in memorizing and connecting articles fast, but also to answer questions which are asked directly using wordings mentioned in Constitution. We have so far covered up-to Article 162, and related extra-constitutional laws/events. In coming days, when our team writes on Polity, we plan to cover the remaining articles/parts one-by-one.

PART VI of the Constitution deals with the other half of Indian federalism, ie the States. Article from 152-237 deals with various provisions related to States. It covers the executive, legislature and judiciary wings of the states. Articles 163-164 deals with Council of Ministers (CoM) in states.

Article 163: Council of Ministers to aid and advise Governor

- (1) There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion.
- (2) If any question arises whether any matter is or is not a matter as respects which the Governor is by or under this Constitution required to act in his discretion, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion.
- (3) The question whether any, and if so what, advice was tendered by Ministers to the Governor shall not be inquired into in any court.

164: Other provisions as to Ministers

(1) The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister, and the Ministers shall hold office during the pleasure of the Governor:

Provided that in the States of Bihar, Madhya Pradesh and Orissa, there shall be a Minister in charge of tribal welfare who may in addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work.

(1A) The total number of Ministers, including the Chief Minister, in the Council of Ministers in a State shall not exceed fifteen per cent. of the total number of members of the Legislative Assembly of that State:

Provided that the number of Ministers, including the Chief Minister in a State shall not be less than twelve:

Provided further that where the total number of Ministers including the Chief Minister in the Council of Ministers in any State at the commencement of the Constitution (Ninety-first Amendment) Act, 2003 exceeds the said fifteen per cent. or the number specified in the first proviso, as the case may be, then the total number of Ministers in that State shall be brought in conformity with the provisions of this clause within six months from such date* (7.1.2004: vide Notification No. S.O. 21(E), dated 7.1.2004.) as the President may by public notification appoint.

(1B) A member of the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or where he contests any election to the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council, as the case may be, before the expiry of such period, till the date on which he is declared elected, whichever is earlier.

(2) The Council of Ministers shall be collectively responsible to the Legislative Assembly of the State.

(3) Before a Minister enters upon his office, the Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

(4) A Minister who for any period of six consecutive months is not a member of the Legislature of the State shall at the expiration of that period cease to be a Minister.

(5) The salaries and allowances of Ministers shall be such as the Legislature of the State may from time to time by law determine and, until the Legislature of the State so determines, shall be as specified in the Second Schedule.

Info-bits related to Council of Ministers in States

1. President of India does not have existence without council of ministers, but Governor has (at the time of President's rule).
2. The minimum strength of council of ministers in a state as per Constitution is 12 and maximum is 15 percent of Legislative Assembly.
3. Oaths for ministers : oaths of office and of secrecy.
4. The Governor has discretionary powers and the validity of acts done using the discretionary powers cannot be questioned.

THE STATE LEGISLATURE – IN GENERAL (ARTICLE 168-177)

This post on the State Legislature is a part of IAS polity series on Indian Constitution, covering all the important topics from Article 1 to Article 395. Posts so far published under this series are linked directly under their respective chapters and parts. Our goal is to cover Indian Constitution in detail, giving stress to important areas.

We have been following the same order of Parts and Articles in Indian Constitution in our posts. After presenting the articles of Indian Constitution first, our team presents extra-information related to each topic and probable questions from the same for prelims and mains. We have so far covered till Article 167 and these posts can be accessed from the link [Clear IAS Free Online Study Materials → Indian Polity Study Materials](#). In this post we discuss articles 168 to 177 which deals with the State Legislature in general.

Article 168: Constitution of Legislatures in States.

(1) For every State there shall be a Legislature which shall consist of the Governor, and—

(a) in the States of Andhra Pradesh, Telengana, Uttar Pradesh, Bihar, Maharashtra, Karnataka and Jammu and Kashmir, two Houses;
(b) in other States, one House.

(2) Where there are two Houses of the Legislature of a State, one shall be known as the Legislative Council and the other as the Legislative Assembly, and where there is only one House, it shall be known as the Legislative Assembly.

Article 169: Abolition or creation of Legislative Councils in States.

(1) Notwithstanding anything in article 168, Parliament may by law provide for the abolition of the Legislative Council of a State having such a Council or for the creation of such a Council in a State having no such Council, if the Legislative Assembly of the State passes a resolution to that effect by a majority of the total membership of the Assembly and by a majority of not less than two-thirds of the members of the Assembly present and voting.
(2) Any law referred to in clause (1) shall contain such provisions for the amendment of this Constitution as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions as Parliament may deem necessary.
(3) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 368.

Article 170: Composition of the Legislative Assemblies.

(1) Subject to the provisions of article 333, the Legislative Assembly of each State shall consist of not more than five hundred, and not less than sixty, members chosen by direct election from territorial constituencies in the State.
(2) For the purposes of clause (1), each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the State.
Explanation.—In this clause, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published: Provided that the reference in this Explanation to the last preceding census of which the relevant

figures have been published shall, until the relevant figures for the first census taken after the year 2026 have been published, be construed as a reference to the 2001 census.

(3) Upon the completion of each census, the total number of seats in the Legislative Assembly of each State and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine: Provided that such readjustment shall not affect representation in the Legislative Assembly until the dissolution of the then existing Assembly: Provided further that such readjustment shall take effect from such date as the President may, by order, specify and until such readjustment takes effect, any election to the Legislative Assembly may be held on the basis of the territorial constituencies existing before such readjustment: Provided also that until the relevant figures for the first census taken after the year 2026 have been published, it shall not be necessary to readjust—

- (i) the total number of seats in the Legislative Assembly of each State as readjusted on the basis of the 1971 census; and
- (ii) the division of such State into territorial constituencies as may be readjusted on the basis of the 2001 census, under this clause.

Article 171: Composition of the Legislative Councils.

- (1) The total number of members in the Legislative Council of a State having such a Council shall not exceed one third of the total number of members in the Legislative Assembly of that State: Provided that the total number of members in the Legislative Council of a State shall in no case be less than forty.
- (2) Until Parliament by law otherwise provides, the composition of the Legislative Council of a State shall be as provided in clause (3).
- (3) Of the total number of members of the Legislative Council of a State—
 - (a) as nearly as may be, one-third shall be elected by electorates consisting of members of municipalities, district boards and such other local authorities in the State as Parliament may by law specify;
 - (b) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons residing in the State who have been for at least three years graduates of any university in the territory of India or have been for at least three years in possession of qualifications prescribed by or under any law made by Parliament as equivalent to that of a graduate of any such university;
 - (c) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons who have been for at least three years engaged in teaching in such educational institutions within the State, not lower in standard than that of a secondary school, as may be prescribed by or under any law made by Parliament;
 - (d) as nearly as may be, one-third shall be elected by the members of the Legislative Assembly of the State from amongst persons who are not members of the Assembly;
 - (e) the remainder shall be nominated by the Governor in accordance with the provisions of clause (5).
- (4) The members to be elected under sub-clauses (a), (b) and (c) of clause (3) shall be chosen in such territorial constituencies as may be prescribed by or under any law made by Parliament, and the elections under the said sub-clauses and under sub-clause (d) of the said clause shall be held in accordance with the system of proportional representation by means of the single transferable vote.
- (5) The members to be nominated by the Governor under sub-clause (e) of clause (3) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely:— Literature, science, art, co-operative movement and social service.

Article 172: Duration of State Legislatures.

- (1) Every Legislative Assembly of every State, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the Assembly: Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.
- (2) The Legislative Council of a State shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

Article 173: Qualification for membership of the State Legislature.

- A person shall not be qualified to be chosen to fill a seat in the Legislature of a State unless he—
- (a) is a citizen of India, and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;
- (b) is, in the case of a seat in the Legislative Assembly, not less than twenty-five years of age and, in the case of a seat in the Legislative Council, not less than thirty years of age; and
- (c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

Article 174: Sessions of the State Legislature, prorogation and dissolution.

- (1) The Governor shall from time to time summon the House or each House of the Legislature of the State to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.
- (2) The Governor may from time to time—
- (a) prorogue the House or either House;
- (b) dissolve the Legislative Assembly.

Article 175: Right of Governor to address and send messages to the House or Houses.

- (1) The Governor may address the Legislative Assembly or, in the case of a State having a Legislative Council, either House of the Legislature of the State, or both Houses assembled together, and may for that purpose require the attendance of members.
- (2) The Governor may send messages to the House or Houses of the Legislature of the State, whether with respect to a Bill then pending in the Legislature or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

Article 176: Special address by the Governor.

- (1) At the commencement of the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year, the Governor shall address the Legislative Assembly or, in the case of a State having a Legislative Council, both Houses assembled together and inform the Legislature of the causes of its summons.
- (2) Provision shall be made by the rules regulating the procedure of the House or either House for the allotment of time for discussion of the matters referred to in such address.

Article 177: Rights of Ministers and Advocate-General as respects the Houses.

Every Minister and the Advocate-General for a State shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly of the State or, in the case of a State having a Legislative Council, both Houses, and to speak in, and otherwise to take part in the proceedings of, any committee of the Legislature of which he may be named a member, but shall not, by virtue of this article, be entitled to vote.

Info- Bits related with State Legislature

1. At present there are seven states which have bicameral legislature – Andhra Pradesh, Telengana, Uttar Pradesh, Bihar, Maharashtra, Karnataka and Jammu and Kashmir.
2. The permissible strength of a Legislative Assembly (LA) is between 60 and 500.
3. Total number of Members in the Legislative Council (LC) of a State shall not exceed one third of the total number of Members in the Legislative Assembly.
4. Of the total number of Members of the Legislative Council, 1/3 of Members are elected by electorates consisting of the Members of Local Authorities, 1/12 are elected by electorates consisting of graduates residing in the State, 1/12 are elected by electorates consisting of persons engaged in teaching, 1/3 are elected by the Members of Legislative Assembly and the remaining are nominated by the Governor. (For example, if the total strength of L.C is 48, 16 will be elected by members of local authorities, 16 will be elected by L.A, 4 will be elected by graduates, 4 will be elected by teachers and 8 will be nominated by Governor.)