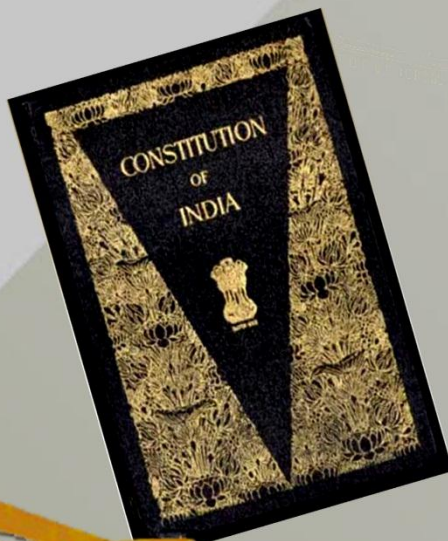




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Historical Background of Indian Constitution

Regulating Act 1773

- It was the **first attempt by the British government to regulate British East India Company**

Features of the Act

- New office of **Governor General of Bengal** and his executive council was introduced with **4 members**
First Governor General of Bengal was **Warren Hastings**
- **Governors of Bombay and Madras were made subordinate** to Governor General of Bengal
- **Supreme Court at Calcutta** was established with Chief Justice and 3 judges
- **Prohibited servants of the company from private trade and bribe from natives**
- Asked the court of directors to report its revenue, civil and military affairs in India

Pitt's India Act 1784

- It is named after the British Prime Minister William Pitt, the Younger
- Company's territory in India was declared as **British Possession for first time**
- Separated between commercial and political functions of the company
- **Court of directors** was made to look after **commercial affairs**
- **Board of Control** was constituted to manage **political affairs**

Charter Act 1793

- It is also known as **The East India Company Act 1793**
- Governor General was granted **extensive powers subordinate presidencies**
- **Senior officials** of the company were **forbidden from leaving India without permission**
- **The British East India Company** was empowered to **grant licenses** to both individuals and company employees to trade in India

Charter Act 1813

- **Company's monopoly over Indian trade** terminated except in tea and opium
- Indian trade was **thrown open to all British subjects** (Free Trade started)
- **Missionaries were allowed to preach in India**

Charter Act 1833

- **Made Governor General of Bengal as Governor General of India**
- First Governor General of India was **William Bentick (He was also last Governor General of Bengal)**
- **Deprived of governors of Madras and Bombay their legislative power**
- **Ended monopoly of British East India Company** as a commercial body
- It became purely administrative body
- **Open competition for civil services** was suggested. But it was not implemented because of the **opposition from court of director**

Charter Act 1853

- **Separated legislative and executive functions of the Governor General's council**
- **Formed Indian (Central) Legislative Council** which functioned as a mini-parliament
- **Open competition for civil services** was introduced for first time
- **Macaulay Committee (The First committee on Indian Civil Services)** was set up in 1854 consequently
- **Extended company rule over India without mentioning any period**
- **Introduced local representatives in Indian (Central) legislative council**
- **Out of 6 new members, 4 were nominated by governments of Madras, Bombay, Bengal and Agra**

Government of India Act 1858

- Known as **act for good government of India**
- **Abolished the rule of British East India Company and the administration of India was transferred to British Crown (Queen Victoria was there at this time)**

Features of the Act

- Governor General of India was converted to **Governor General cum Viceroy**
- **Canning** was the first Governor General cum Viceroy
- **Abolished Board of Control and Court of Directors**
- New office of **Secretary of State and his council (15 members)** was constituted
- He would be a member of **British Cabinet**
- **Stanley** was the first Secretary of State for India

Indian Councils Act 1861

- Viceroy should **nominate some Indians as non-official members in his council**
- Accordingly, Canning nominated **3 members in 1862**
 - Raja of Benaras**
 - Mahraja of Patiala**
 - Sir Dinakar Rao**
- **Restored legislative powers of Madras and Bombay Presidencies** (It was deprived in 1833. Complete autonomy was given in 1937)
- **Established new legislative councils in Bengal, North West Frontier Provinces and Punjab**
- **Portfolio System was introduced**
- **Viceroy was given power to issue ordinance with a validity of 6 months**

Indian Councils Act 1892

- **Increased number of Non-Official members** in the council of Viceroy and Provincial councils (**Still majority was British Members**)
- **Power to discuss the budget and ask questions** were given to the members
- Introduced **nomination of some members to legislative Councils**

By Viceroy to Central Legislative Council on the recommendation of
Provincial legislative councils and Bengal Chamber of Commerce
By Governor to Provincial legislative council

Indian Councils Act 1909 or Morley- Minto Reforms

- **Increased the size of Central and Provincial Legislative Councils** (Central from **16 to 60** and provincial was not uniform in number)
- **Official members were majority in Central LA**
- **Non-Official members were majority in Provincial LA**
- **Power to ask supplementary questions** were given to the members
- For first time, **Indians were allowed to be in the executive council** of the viceroy
Satyendra Prasad Sinha was the first person included as **law minister**
- **Separate communal electorate was given to Muslims**

Hence, **Minto** is called as the **father of communal electorate in India**

Government of India Act 1919 or Montague Chelmsford Reforms

- **Separate list of Central and Provincial Functions were introduced**
- Provincial functions were further divided into 2
 - Transferred Subjects:** Administered by Governor with the **aid of ministers responsible to legislative council**
 - Reserved Subjects:** Administered by **Governor** General without being responsible to legislative council
- The system is known as **diarchy**
- **Bicameralism started in India**
 - Upper House: Council of States
 - Lower House: Legislative Assembly
- **3 out of 6 executive members in Viceroy's council should be Indians**
- **Separate Communal electorate for Sikhs, Indian Christians, Anglo Indians and Europeans** were introduced
- **Granted Franchise** to certain classes based on property, tax and education
- **New office of High Commission of India** was started in London

- **Established Central Public Service Commission** which was set up in 1926
- **Separated between Central budget and Provincial budget**
- There would be a **statutory commission** to inquire into the implementation of this act **after 10 years**

Simon Commission, 1927

- **It was 7 members commission** to inquire implementation of the GOI Act 1919
- Chairman: **Sir John Simon**
- **As all members were English**, all Indian political parties boycotted Simon Commission
- Suggested **abolition of diarchy**
- Suggested to **establish British India and princely states**
- Recommended to **continue communal electorate**
- **3 Round Table conferences** were held to discuss proposals of Simon Commission
- After the discussion in 3 RTCs, **White Papers** were prepared on the constitutional reforms
- The recommendations of the **white paper were incorporated in GOI Act 1935**

Communal Award

- **Ramsay Mac Donald** issued communal electorate for Dalits in 1932
- Gandhi observed **fast unto death in Yarvada Jail in Pune**
- **Poona Pact** was signed between Caste Hindus and Dalits by the reserving the double the number of seats to Dalits

Government of India Act 1935

- **Suggested All Indian Federation** with provinces and princely states as units
- **Introduced 3 lists** (Federal List (59), Provincial list (54) and Concurrent List (36))
Princely States didn't approve the Federation
- **Abolished Diarchy** in Provinces
- **Adopted Diarchy at Centre** but was not implemented
- **Bicameralism started 6 out of 11 provinces**

- They are **Bengal, Bihar, Bombay, Madras, Assam and United Provinces**
- **Separate Electorate for SC, Women and Laborers**
- **Abolished Council of India in London** and Secretary of State was provided with a **team of advisors**
- **Extended Franchise to 10 percent** of the total population
- Established **Reserve Bank of India**
- Established **Federal PSC, Provincial PSC and Joint PSC**
- Established **Federal Court in 1937**

Indian Independence Act 1947

- **Independence for India from August 15, 1947**
- **Partition of India** to India and Pakistan
- **Abolished office of Viceroy**
- **Suggested one Governor General for each India and Pakistan**
- **Established 2 constituent assemblies** for each dominion
- **Abolished office of Secretary of State**
- **Given freedom to princely states** either to join India or Pakistan or to remain independent
- **Dropped the title Emperor of India from the King of England**
- **Civil Servants appointed before 1947 would continue in the office**

Making of the Indian Constitution

Introduction

- The idea of Constituent Assembly was put forward by **MN Roy for first time in 1934**
- In 1935, **Indian National Congress officially demanded** for Constituent Assembly
- **August Offer 1940** accepted the demand
- **Sir Stafford Crips came to India in 1942** with the purpose of drafting a constitution for India **which would be adopted after World War II**
- **Muslim Leagues rejected his proposals**

- **Cabinet Mission was sent to India to constitute a constituent assembly for India**
- **They constituted a constituent Assembly of India in 1946**

Constituent Assembly as Formed in 1946

- **Total number of members was 389 (Congress 208, Muslim League 73, small groups 15 and Princely states 93)**
- **Hindus, Muslims, Sikhs, Parsis, Anglo Indians, Indian christians, SCs, STs and Women had representation in the Constituent Assembly**
- **Gandhi and Jinnah were not members of the CA**
- **First Meeting of the constituent assembly was held on 9th December 1946**
- **Sachidananda Sinha was the person who presided over the first meeting of the constituent assembly which elected Dr. Rajendra Prasad as president**
- **Dr. Rajendra Prasad was the president of CA**
- **HC Mukharjee was the vice-president**
- **Sir. BN Rao was the constitutional advisor**

Procedure of Election for Constituent Assembly

- **Each province and Princely state (or group of states in the case of small princely states) were allotted seats in proportion to their population. One seat was allotted for everyone million population**
- **Seats allotted to every British province was divided among three principal communities- Muslims, Sikhs and General (All other communities) in proportion to their population.**
- **The representatives of each community were to be elected by members of that community in provincial legislative assembly and voting was done in the method of proportional representation with single transferable vote.**
- **The representatives of princely states were nominated by the head of princely states**

Objectives Resolution of Indian Constitution

- **It was later incorporated in the constitution as its preamble**
- **It was the basic philosophy of Indian constitution presented by Jawaharlal Nehru in the constituent assembly in 1946**
- **It was later incorporated in the constitution as its preamble**

- India is an **independent sovereign republic**
- Would secure and guarantee all the people of India **justice, social economic and political; equality of status and opportunity, and before law and freedom of thought, expression, belief, faith, worship, vocation, association and action.**
- It offered adequate safeguards for **minorities, backward and tribal areas and depressed classes**

Changes after Indian Independence Act 1947

- **CA was made sovereign** to frame the constitution of India
- CA also became a **legislative body**
It became the **first parliament of India**
- **Members of the Muslim League supporting Pakistan withdrew** from CA
The total number of members was reduced to **299 from 389**
Number of princely states from **93 to 70**

Functions Performed by the Constituent Assembly

- Making of the constitution
- Enacting ordinary laws
- Ratified **India's membership of commonwealth**
- **Adopted National Flag** designed by P. Venkaiah and hoisted first time in 1929
Lahore session of Indian National Congress (July 22, 1947)
- **Adopted National Anthem** (January 24, 1950)
- **Adopted National Song** (Vande Mataram written by Bankim Chandra Chatterjee (January 24, 1950)
- **Elected Dr. Rajendra Prasad as the first President of India** (January 24, 1950)
- **Held 11 sessions in 2 years, 11 months and 18 days**
- Referred constitution of **60 countries**
- Total expenditure was **64 lakhs**

Major Sub-Committees of Constituent Assembly

- **Union Power Committee** headed by **Jawaharlal Nehru**
- **Provincial Constitution Committee** by **Patel**

- **Drafting committee under Dr. Ambedkar**
- **Total 7 members** were there in the drafting committee including chairman
- **They are:**
 1. **KM Munshi** (Ex. Home Ministr, Bombay)
 2. **Alladi Krishna Swamy Iyer** (Ex. Advocate General in Madras)
 3. **N Gopalaswami Ayenger** (Ex. PM J&K)
 4. **BL Mitter** (Ex. Advocate General of India) (N. Madhava Rao replaced him)
 5. **Muhammed Saadullah** (Ex. CM of Assam)
 6. **DP Khaitan** (Lawyer) (TT Krishnamachari replaced him)
- **Muhammed Sadullah** was the only member from Assam in the drafting committee
- **North East Frontier Tribal Areas and Assam Excluded and Partially Excluded Areas Sub-Committee** headed by **Gopinath Bardoloi**
- **Excluded and partially excluded Areas (Other than Assam)** headed by **AV Thakkar**

Enactment of the Constitution

- Constitution was **adopted on November 26 in 1949**
- That constitution included preamble, **22 parts, 395 articles and 8 schedules**
- At present, there are **25 parts and 12 Schedules in the constitution**
- **Ambedkar** is known as the **father of Indian Constitution**
- He also the **chief architect of the constitution**
- He is also known as the **Modern Manu**
- **On 24th January 1950** constitution was finally signed by the members of constituent assembly

First General Election in India

- It was held from **25th October 1951 to 21st February 1952**
- Election was held for **489 seats** in Lok Sabha
- **BR Ambedkar** was prominent person who got defeated in this election

Borrowings of the Indian Constitution

British Constitution

- Parliamentary form of Government
- Rule of Law
- Procedure established by Law

The US

- Fundamental Rights
- Federal Structure
- Electoral college
- Independence of Judiciary
- Judicial Review

Irish Constitution

- Directive Principles of State Policy

Australian Constitution

- Concurrent List
- Joint Sitting of Parliament

French Constitution

- Ideals of Liberty, Equality and Fraternity

Canadian Constitution

- Quasi Federal Structure
- Idea of Residual powers

Constitution of Soviet Union

- Fundamental Duties

Japan

Procedure established by law

Chapter 3

The Preamble of Indian Constitution

- First constitution to have a preamble was the **American constitution**
- It is known as the **identity card of the constitution**
- It is based on **Objectives Resolution** presented by Jawaharlal Nehru in the constituent assembly
- It is known as the **horoscope of our sovereign democratic Republic**
- It is the **key to constitution**
- It is also known as the **jewel set in the constitution**
- According to the judgement of the Supreme court in the Berubari Union Case. 1960, Preamble **was not considered as a part of the constitution**
- Later, Supreme Court reversed the judgment in the Kesavananatha Bahrati Case, 1973 and declared that **Preamble is a part of the constitution**
- In the LIC of India case, 1995 also, the same judgement was reaffirmed
- Preamble **can be amended** except the **Basic Structure** of the constitution included in the preamble

Text of 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.**

Four Components in the Preamble

- Source of authority is **people of India**
- Nature of State is **sovereign, socialist, secular, democratic and Republican**
- Objectives of the constitution is **Justice, Liberty, Equality and Fraternity**
- Date of adoption is **26th November 1949**

Amendment of the Preamble

- **42nd Amendment Act (1976)** added three words: **Socialist, Secular and Integrity**

Chapter 4

Union and its Territory

- **First Schedule** of the Indian constitution discusses about the names and boundaries of the states
- Admission of a new state or formation of a new state can be implemented by passing a bill in this regard in the parliament with a **simple majority**
- For introduction of such bill, **prior permission of the President is mandatory**
- Art. 4 tells that these are not considered as the amendment of the constitution under Art. 368

Evolution of States and Union Territories

- In 1947, **552 princely** states were existing in India
- Out of them, **549 joined India** and three (Hyderabad, Kashmir and Junagarh) did not join voluntarily
- **Hyderabad** was merged with **Police action**, **Junagarh** by **referendum** and **Kashmir** by **Instrument of Accession**
- **Maharaja Hari Singh of Kashmir** princely state signed Instrument of accession with Government of India and agreed to join India as per the clauses of India Independence Act, 1947
- In 1948 **Linguistic Provinces Commission** was appointed under the chairmanship of **Justice SK Dhar**

- It recommended to form new states based on **administrative convenience** (Not languages)
- **JVP Committee** (Jawaharlal Nehru, Vallabbhai Pattel and Pattabi Sitramayya) approved the **recommendations of Justice Dhar**
- Protest started in **Andhra** for forming a new state for Telugu speaking people and **Potty Sri Ramlu** declared a fast unto death for a new state for them.
- He died after prolonged fast and it created riots in different parts of Andhra.
- Due to the protest, **Andhra became the first state** to be formed based on language (With Kurnool as capital)
- In 1953, GOI Appointed **Fazal Ali Commission** as first **State Reorganisation Commission**
- Members in the committee were **KM Panikkar and HN Khunzru**
- It suggested the reorganisation of the states **based on linguistic and cultural homogeneity**
- **7th Amendment Act** was passed in 1956 creating **14 states** and **6 Union Territories** on **November 1, 1956**
- In 1960, **Bombay states** was bifurcated into **Gujarat and Maharashtra**
- In 1963, **Nagaland** was separated from **Assam** and made the 16th State of India
- **Telangana** was the last state to be formed in India
- At Present, we have **28 states and 8 Union Territories**
- **Union Territories of Kashmir and Ladakh** were newly created in **2019**
- In **2020**, the Union Territories of **Dadra Nagar Haveli and Daman and Diu** were merged to a single union territory

Articles Related to Union and Its Territory

Art. 1	India i.e. Bharat is a union of states
Art.2	Admission or Establishment of new States. Parliament can by law admit or establish a new state in India
Art. 3	Formation of a new state and altering the boundaries of existing states or changing the name of existing state can be done by the parliament.

Art. 4	<p>Laws made under articles 2 and 3 to provide for the amendment of the first and fourth schedule of the Indian constitution.</p> <p>Fourth Schedule includes allocation of the seats to States in Rajya Sabha.</p>
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Chapter 5

Citizenship in India

- **Part II of the constitution (Art.5-11)** deals with citizenship in India
- According to **Art.11** parliament enacted **Citizenship Act 1955**
- **Citizenship Act 1955** talks about the **conditions for acquiring the citizenship of India**

Ways to Acquire Citizenship in India

- **By Birth:** All those born India **between 26th January 1950 and 1st July 1987** irrespective of the nationality of the parents

Everyone born after 1st July 1987 if either of the parents is a citizen of India

After 3rd December 2004, the babies born to an **illegal migrant** (either father or mother) will not get citizenship in India

- **By Decent:** If **father is an Indian** (from January 26, 1950 to December 10, 1992)
If either of the parents is an Indian (After 10th December 1992)
 Birth must be **registered at an Indian consulate with one year** (Condition added in December 3, 2004)

- **By Registration:**

It will be given to

1. **Person of Indian Origins (PIO)**
2. **Those who are married to an Indian citizen**
3. **Minor children of these categories**

- For submitting the application for citizenship, they have to reside in India for **7 years** (continuously for 12 months preceding the date of application and 6 years within the 8 years before the 12 months)
- **By Naturalisation:**
To apply for citizenship through naturalisation, one person needs to stay in India for **12 years** (12 months continuously preceding to the date of application and 11 years within 14 years before that)
Adequate knowledge of a language specified in 8th Schedule is also needed
- **By Incorporation of a Territory**
Eg: Citizenship for people of **Goa, Puducherry and Sikkim**
- **Loss of Citizenship is discussed in Art. 9**
If any citizen of India gets the citizenship of any other country, he will automatically lose the citizenship of India

CITIZENSHIP AMENDMENT ACT (CAA)

- **Citizenship Amendment Act (CAA), 2019 was recently enacted by the Parliament** that seeks to amend the Citizenship Act, 1955.
- Citizenship (Amendment) Act, 2003 provided that **‘illegal migrants’ will not be eligible to apply for citizenship by either registration or naturalization.**
- The amendment provides that illegal migrants who fulfil four conditions will not be treated as illegal migrants under the Act. The conditions are:
 - ✓ They are **Hindus, Sikhs, Buddhists, Jains, Parsis or Christians**
 - ✓ They are **from Afghanistan, Bangladesh or Pakistan**
 - ✓ They entered India on or **before December 31, 2014** they are not in certain tribal areas of **Assam, Meghalaya, Mizoram, or Tripura** included in the Sixth Schedule to the Constitution, or areas under the **“Inner Line” permit, i.e., Arunachal Pradesh, Mizoram, Nagaland and Manipur (Newly added)**
 - These tribal areas include Karbi Anglong (in Assam), Garo Hills (in Meghalaya), Chakma District (in Mizoram), and Tripura Tribal Areas District.

- All legal proceedings against above category of migrants in respect of their illegal migration or citizenship will be closed.
- The period of naturalization has been reduced from 11 years to 5 years for above category of migrants.
- The amendment provides that the central government may cancel registration of OCIs, if the OCI has violated Citizenship Act or any other law so notified by the central government. Also, the cardholder has to be given an opportunity to be heard.
 - ✓ The Act provides that the central government may cancel registration of OCIs on five grounds including registration through fraud, showing disaffection to the Constitution, engaging with the enemy during war, necessity in the interest of sovereignty of India, security of state or public interest, or if within five years of registration the OCI has been sentenced to imprisonment for two years or more.

Articles Related to Citizenship

Art. 5	Citizenship at the commencement of the constitution
Art. 6	Rights of Citizenship for certain persons who have migrated to India from Pakistan
Art. 7	Rights of citizenship of certain migrants to Pakistan Those who returned to India after migration to Pakistan with permission from Indian authority can get the citizenship
Art. 8	Rights of Citizenship of certain persons of Indian origin residing outside India. He/she has to register with the embassy or consulate
Art. 9	Persons voluntarily acquiring citizenship of a foreign state would lose Indian citizenship
Art. 10	Continuance of the rights of citizenship. All the above-mentioned categories will continue to be the citizens of India
Art. 11	Parliament can regulate the rights of citizenship by law

Chapter 6

Fundamental Rights (Art. 12 to Art. 35)

- Borrowed from **Bill of Rights in the US Constitution**
- They are known as **Magna Carta of India**
- **Art. 12** discusses the **definition of state**
 - Sate means following institutions
 1. GOI and Parliament
 2. GOSs and Legislative Assemblies of the State
 3. All Local authorities (Panchayats and Municipalities etc)
 4. All statutory and non-statutory authorities
 5. A private body working as an instrument of the state
- **Art. 13: All laws that are inconsistent with Fundamental Rights shall be void**
 - Constitutional amendment is not** considered as a law for this purpose

Right to Equality (Art 14-18)

- **Art 14: Equality before law and equal protection by law**
- Rule of law is a basic structure of the Indian constitution

Exceptions

1. **President of India** and **Governor of State** could not be arrested in criminal cases
(Civil case proceedings can be initiated after giving a 2 months' notice to them)

2. Foreign Ambassadors and UN Officials

- **Art. 15: Prohibits discrimination** based on caste, creed, gender and place of birth

Exceptions

1. Special provision for women and children

2. Special provision for SC, ST and OBC

- **Art. 16: Equality of Opportunity** in Public Employment

Exceptions

1. Reservation for backward classes
 2. Any office related to religions will have persons from concerned religion
- **Art. 17: Abolition of untouchability**
 - Parliament enacted **Civil Rights Act, 1955** for implementing it

- Punishment for violation is imprisonment up to 6 months, fine up to rupees 500 or both and disqualification from contesting in the election
- **Art. 18: Abolition of Titles**
- Military and academic titles can be used
- Title from a foreign country cannot be used
- Padma awards are valid. But it could not be used as prefix or suffix with the name of awardee

Right to Freedom

- **Art 19** includes six rights
 - a. **Freedom of Speech and Expression**
 - b. **Right to assemble peacefully without arms**
 - c. **Right to form association**
 - d. **Freedom move anywhere in India**
 - e. **Freedom to reside anywhere in India**
 - f. **Deleted**
 - g. **Freedom to do employment anywhere in India**
- Supreme Court has extended the freedom of speech and expression into the following freedoms in different judgements
 - a. Right against Bandh by political parties
 - b. Right to know about government activities (RTI)
 - c. Freedom of Silence
 - d. Right against pre-censorship on Newspapers
 - e. Right to demonstrate and picketing without right to Strike
 - f. Freedom of Press
- **Freedom of Assembly does not include right to strike**
- **Section 144 of CrPC** can be issued by the magistrate if the assembly is violent
- **Section 141 of Penal Code** can be used for dispersing an illegal assembly
- Right to association **does not include right to get recognition for the association**
- Freedom of Movement **can be restricted Scheduled Tribe Area**
- Freedom of the movement for **prostitutes and AIDS patients** can be restricted on the ground of Public Health

- It only includes **right of internal movement** (Art 21 includes right to move outside India)
- Freedom of **Residence can be restricted in Tribal Areas**
- It can also be restricted for prostitutes and habitual offenders
- Freedom of Profession can be restricted in the business of those things which are harmful and immoral

Protection in Respect of Conviction of Offences

- **Art. 20** gives three protections in this regard

1. No ex-post facto application of criminal legislation

It means that criminal laws cannot be implemented with retrospective effect. A person can be punished for any criminal offence only on the basis of existing law at the time of conviction of the offence

It is only applicable to criminal laws. Civil laws can be implemented retrospectively (Like taxes and reservation)

2. No Double Jeopardy for a single offence

It means that no persons can be punished more than one time for a single offence
Departmental action for the government servants would not be considered as double jeopardy

It is protected only against judicial actions

3. No Self Incrimination

It means that no person can be forced to be witness against himself in any offence

It would not include following matters

- a. Compulsory production of material objects
- b. Compulsion to **give thumb impression, specimen signature and blood sample**
- c. Compulsory exhibition of the body

Art. 21: Protection of Life and Personal Liberty

- It also contains the right to life with dignity
- Right to pollution free water and air and right against hazardous industry
- Right to livelihood
- Right to privacy

- Right to shelter
- Right to Health
- Right to travel abroad
- Right against public hanging

Art. 21 A gives **Right to Education** as a Fundamental Right

Art. 22 Protection Against Arrest and Detention

- A person arrested under **ordinary law** will have the following rights:
 - a. Right to be informed of the ground of arrest
 - b. Right to be defended by an advocate
 - c. Right to be produced in front of the magistrate within 24 hours of the arrest
(Excluding the time for journey to the office of magistrate)
 - d. Right to be released after 24 hours unless the magistrate authorises further detention
- A person arrested under **Preventive Detention Act** will have following rights
 - a. Detention should not last more than 3 months unless an advisory board advises sufficient cause for extension (Parliament can extend more than 3 months in any special Act as seen in UAPA Amendment Act, 2008)
 - b. Grounds of arrest should be informed to the detainee
 - c. Should be afforded an opportunity to make a representation against the detention order

Right Against Exploitation

- **Art. 23: Prohibition of human trafficking and Beggar**

Human trafficking means selling and purchasing of human beings for any purpose

Beggar means bonded labour or slavery

Compulsory service imposed by the state is not included in this protection
- **Art. 24 Prohibition of Child Labour**

National Commission for Protection of Child Rights is the authority to speed up the trial

Right to Freedom of Religion

- **Art. 25: Right to preach, practice and propagate any religion** (Individual Freedom)
- **Art.26: Freedom to manage religious affairs** (Collective freedom)
- **Art. 27: No tax can be levied for promoting a religion**
 No government expenditure can be done for promoting a religion
 However, a fee can be levied on pilgrims and religious endowments
- **Art. 28: Freedom from attending religious instructions in educational institutions**
 Not applicable in government institutions established under any religious endowment

Cultural and Educational Rights

- **Art. 29 Protection of Interests of Minorities**
 1. **Protection of the cultural interests of the people having distinct language, script and culture**
 2. **No person will be denied admission** to educational institutions based on religion, race, caste or language (run by state or receiving aid out of the state fund)

Right of Minorities to Establish and Administer Educational Institutions

- Art 30 talks about the following clauses
 1. **All minorities (Religious or linguistics) can establish educational institutions**
 2. **State shall not discriminate such institutions in granting aid**

Right to Constitutional Remedies (Article 32)

- Article 32 is also known as “**Soul and Heart of Indian Constitution**”
- Supreme court and High court can issue following writs for protecting the Fundamental Rights
 - 1.**Habeas Corpus (to have the body of)**
 It is issued for releasing an individual who is kept in illegal confinement
 It is known as the bulwark of individual liberty
 - 2.**Mandamus (We command)**

It is issued for asking a public body to perform its duty

3.Prohibition (to forbid)

Issued by a higher court to a lower court/tribunal for exceeding their jurisdiction

4.Certiorari (to be certified or to be informed)

It is issued by a higher court to a lower court to transfer or quash a case

It may be due to the use of excess jurisdiction or lack of jurisdiction

5.Quo Warranto (By What Authority)

It is issued as a part of inquiry by a court into the legality of the claim of a person to a public office

It cannot be issued against ministerial office or private office

Armed Forces and Fundamental Rights

- **Art. 33** tells that Parliament can make restrictions on Fundamental Rights for armed forces
- The laws made in this regard would be applicable to all members of the armed forces including barbers, carpenters, cooks, religious instructors etc.

Martial Law and Fundamental Rights

- **Art. 34** tells that Restrictions on the Fundamental Rights can be implemented when a territory is under martial law
- Martial law has been borrowed from English common law

Effecting Fundamental Rights

- Art 35 tells parliament can make laws for implementing Fundamental rights
- There is no such power for the State Legislative Assembly

Other Points on Fundamental Rights

- **Fundamental Rights can be amended** by the Parliament except Basic Features included in FRs
- Fundamental Rights are **Justiciable rights**
- Fundamental Rights are **Bedrock of Democracy**
- Except the fundamental rights under the **article 15,16,19,29 and 30** all the fundamental rights are available to both citizens and foreign nationals

Chapter 7

Directive Principles of State Policy

- It is discussed in **Part IV** of the constitution in **Articles 36 to 51**
- It is borrowed from the **Irish Constitution**
- Irish constitution has borrowed it from the **constitution of Spain**
- Ambedkar called it as **Novel Features**
- It is in the Form of **Instruments of Instructions**
- They are **Fundamental in governance of the country** as explained in the constitution
- FRs and DPSPs together are called the **Philosophy of the constitution and the soul of the constitution**
- Both together are also called as the **conscience of the constitution**

Features of DPSPs

- They are in the form of **instructions to the state**
- They include **comprehensive economic, social and political programme** for a modern state
- It aims to **create welfare state**
- They are **non-justiciable**
- Supreme Court depends on these to decide constitutionality of a law

DPSPs in Detail

- **Art. 36:** “The State” has the same meaning as given in the Part III (FRs)
- **Art. 37:** DPSPs are **not enforceable** by any court of law
- **Art. 38:** State Shall secure a social order in which **Justice, social, political and economic** shall be available

The State shall also **minimize the inequalities among individuals as well as groups**

- **Art. 39:** The State shall **direct the policy towards securing**
 - Adequate means of livelihood**

- b. **Equitable distribution of resources**
 - c. **Prevents concentration of wealth**
 - d. **Equal pay for men and women**
 - e. **Preserve health and strength of children and workers**
 - f. **Preserve health of and protect the children against exploitation**
- **Art. 39A: Equal justice and free legal aid**
- **Art. 40 Organization of Village Panchayats** (Implemented with 73rd Amendment Act, 1992)
- **Art. 41: Right to Work**, to education and to public assistance in certain cases
 Certain cases mentioned in the article are unemployment, old age, sickness and disablement
 Mahatma Gandhi National Rural Employment Programme partially fulfills this directive principle
- **Art.42: Provision for just and humane conditions of work** and maternity relief
- **Art 43: Living wage, decent standard of life and promotion of cottage industries by the state.**
- **Art. 43 A: Participation of the workers in the management** of the industry
- **Art. 43 B:** Promote voluntary formation, autonomous functioning and professional management of **cooperative societies**
- **Art. 44: Uniform Civil Code for the citizens**
 Personal laws relate to marriage, divorce, maintenance, succession and adoption
- **Art. 45:** State shall endeavor to provide **early childhood care and education** for children until they complete the age of 6 years (Changed in 86th AA, 2002)
- **Art. 46:** Promotion of educational and economic interests of **Scheduled Castes, Scheduled Tribes and other weaker sections**
- **Art. 47: Raise the level of nutrition** and standard of living and improve public health
Prohibition of intoxicating drugs except for medicinal purpose
- **Art. 48: Organization of agriculture and animal husbandry** on modern lines
 Take steps to improve the breeds and **prohibit cow slaughter**

- **Art. 48A:** Protection and improvement of **environment and safeguarding forests and wild life.**
- **Art.49: Protection of monuments** and places and objects of national importance
- **Art. 50: Separation of Judiciary from Executive**
- **Art.51: Promotion of International peace and security**

Classification of DPSPs

1. Socialistic DPSPs

Art. 38, Art. 39, Art.39A, Art. 41, Art.42, Art. 43, Art. 43A and Art. 47
(improve public health)

2. Gandhian Principles

Art. 40, Art. 43 (Cottage Industries), Art. 43B, Art.46, Art.47 (prohibition of Drugs), Art. 48 (Prohibition of cow slaughter)

3. Liberal and Intellectual Principles

Art. 44, Art.45, Art.48, Art 48A, Art.49, Art.50, Art. 51

DPSPs added by amendments

- **42nd Amendment Act** added 4 DPSPs
 1. Art. 39 (Secure opportunities for healthy development of children) Art. 39 A, Art. 43A, Art.48A
 2. **44th Amendment Act** added One
Art. 38: Minimize inequalities of income, status and opportunity
 3. **86th Amendment Act 2002** changed **Art.45**
 4. **97th Amendment 2011** added **43B**

Chapter 8

Fundamental Duties

- Borrowed from the constitution of the **USSR**
- It was recommended by **Sardar Swaran Singh Committee**
- **Justice Verma Committee** was appointed to find out existing legal provisions for implementing some of the FDs. They were also recommended to suggest the ways for teaching fundamental duties to the citizens
- Some of the recommendations of the committee was not included in the FDs
 1. **Punishment for non-compliance**
 2. **Non-questionability of any law imposing penalty for non-compliance**
 3. **Duty to pay tax**

List of Fundamental Duties

1. **To abide by the constitution** and respect its ideal and institutions; the National Flag and the National Anthem
2. **To cherish and follow the noble ideals** which inspired our national struggle for freedom;
3. **To uphold and protect the sovereignty**, unity and integrity of India;
4. **To defend the country** and render national service when called upon to do so;
5. **To promote harmony and the spirit of common brotherhood** amongst all the people of India transcending religious, linguistic and regional diversities, to renounce practices derogatory to the dignity of women;
6. **To value and preserve the rich heritage of our composite culture;**
7. **To protect and improve the natural environment** including forests, lakes, rivers, and wild-life and to have compassion for living creatures;
8. **To develop the scientific temper, humanism and the spirit of inquiry and reform;**
9. **To safeguard public property** and to abjure violence;
10. **To strive towards excellence in all spheres of individual and collective activity**, so that the nation constantly rises to higher levels of endeavour

11. 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.

Important Duties Not Included in Fundamental Duties

- a. Duty to cast vote
- b. Duty to pay tax

Chapter 9

Amendment of the Constitution

- The procedure for the amendment is discussed in **Art 368 and part XX**
- Amending any part of the constitution under Art.368 requires to be **passed by Lok Sabha and Rajya Sabha separately with special majority**

Amendments Outside Art. 368 (Can be passed by Simple Majority)

- Admission and formation of new state (**Art.2 and Art.3**)
- Abolition and creation of Legislative Councils. (**Art. 169 parliament does that if the concerned state legislative assembly passes a resolution in this regard with special majority**)
- **Second Schedule:** Emoluments, allowances and privileges of President, Vice-President, Speaker, Governor and Judges etc.
- **Salaries and allowances of MPs**
- Rules of procedure in the parliament
- Use of English in the parliament
- Number of **puisne judges in the Supreme court**
- Conferring **more jurisdiction on the SC**
- **Acquisition and termination of citizenship**
- **Delimitation of constituencies**
- **Change in 5th Schedule and 6th Schedule**

Amendment by Special Majority

- Fundamental Rights
- Directive Principles of State Policy
- Fundamental Duties
- All other provisions not included in the first and 3rd category

Amendment by Special Majority and Consent of Half of the states

- All federal matters
- Election of President of India
- Extend of the **executive power of the Union and states**
- **Supreme court and High Courts**
- **Distribution of legislative power of union and states**
- Any item of **the lists in the seventh schedule**
- **Representation of states in the parliament**
- **Power of the parliament to amend the constitution**

Basic Structure of the Constitution

- The concept was introduced in **Kesavananda Bharati Case**
- Parliament does not have the power to amend the matters included in the **Basic structure**
- **Supreme court** is the authority to add any part of the constitution to the basic structure
- Following are the elements added so far:
 1. **Supremacy of the constitution**
 2. **Sovereign democratic republic**
 3. **Secular state**
 4. **Separation of power**
 5. **Federal character**
 6. **Unity and integrity**
 7. **Welfare state**
 8. **Judicial review**

9. Freedom and dignity of individual
10. Rule of law
11. Parliamentary system
12. Harmony and balance between fundamental rights and DPSPs
13. Principle of equality
14. Free and fair election
15. Independence of judiciary
16. Limited power of parliament to amend constitution
17. Effective access to justice
18. Principles of reasonableness
19. Powers of supreme court under **Art.32**, **Art. 136** (Special Leave Petition),
Art.141 (Laws declared by the supreme court are binding on all courts in India)
and **Art.142** (orders of the supreme court are enforceable throughout the
territory of India)
(Will be discussed in detail in the class on Supreme Court)

Important Amendments of Indian Constitution

- **103rd Amendment Act:** It has given 10 percent reservation for economically backward people among the General Category
- **102nd Amendment Act:** It has given constitutional status for the National Commission for Backward Classes (**Article 338 B** was added)
- **101st Amendment Act, 2016** introduced Goods and Services Tax (GST)
- **100th Amendment Act, 2015** was enacted to give effect to the acquiring of territories by India and transfer of certain territories to Bangladesh
- **97th Amendment Act, 2011:** Added the new Directive Principle **Art. 43 B**
- **96th Amendment Act, 2011:** Changed the name of language in 8th Schedule from 'Oriya' to 'Odia'
- **93rd Amendment Act 2005:** Added **Art. 15(5)** to provide reservation for Scheduled castes and scheduled tribes in the admission to educational institutions
- **92nd Amendment Act, 2003:** Added four languages more into the 8th Schedule of the Indian constitution

They are **Bodo, Dongri, Maithili and Santhali.**

Then total number of languages in the 8th schedule increased from **18 to 22**

- **91st Amendment Act, 2003:** Limited the number of ministers into 15% of the total membership of the house.

A person **disqualified for defection will also be disqualified to be a minister** until he is elected again to the house

- **90th Amendment Act, 2003:** In the election of the state **legislative assembly of Assam**, the representation of scheduled tribes and non-scheduled tribes in the constituencies included in **Bodoland Territorial Areas District** will continue to be as it was earlier before the formation of Bodoland Territorial Area District.

Inserted this provision in Art 332 (Reservation of Seats for SCs and STs in State Legislative Assembly Election)

- **89th Amendment Act, 2003:** Bifurcated Article 338 into two.

Art 338: National Commission for SC

Atr.338 A: National Commission for ST

- **87th Amendment Act 2003:** Delimitation of constituencies for Lok Sabha and State Legislative Assembly Elections on the basis of 2001 Census
- **86th Amendment Act, 2002:** Added a new article **Art. 21 A** in the Fundamental Rights (Right to Education)

Substituted Article 45 with early childhood care for children below 6 years old

- **85th Amendment Act, 2001:** The idea of **consequential seniority** was introduced for the scheduled caste and scheduled tribe employees.
- **77th Amendment Act, 1995:** Extended the reservation for Scheduled Caste and Scheduled Tribe in the promotion also. **Amended Article 16.** It was to overcome the judgement of the Supreme court in **Indra Swahney vs GOI case**. Supreme court verdict was that reservation cannot be offered in promotion.
- **74th Amendment Act, 1992:** A new **part IX-A** was incorporated in the constitution relating to **Municipalities** (Implementation of **Article 40**)
- **73rd Amendment Act, 1992:** A new **Part IX** was incorporated in the constitution relating to **Panchayats** (Implementation of **Article 40**)
- **71st Amendment Act, 1992:** Konkani, Nepali and Manipuri were added to the Eighth Schedule of Indian constitution.

- **70th Amendment Act, 1992:** Included MLAs of Delhi and Puduchery in the electoral college for election of President of India.
- **69th Amendment Act, 1991:** created legislative assembly and council of ministers for NCT of Delhi.
- **65th Amendment Act, 1990:** Amended Art. 338 for the constitution of National Commission for SC and ST with one Chairperson, One Vice- Chairperson and 5 members
- **61st Amendment Act, 1989:** Reduced the age for voting from 21 to 18
- **58th Amendment Act, 1987:** It made President of India the authority to publish the Hindi Text of the Constitution with amendments added later.
- **52nd Amendment Act, 1985:** Anti-Defection law and 10th Schedule were added to the constitution.
- **44th Amendment Act, 1978:** Right to property was removed from FRs and it was made an ordinary constitutional right under Art. 300 A

Art. 352 was amended to replace Internal disturbances with Armed Rebellion as a ground for declaring National Emergency in India.

42nd Amendment Act, 1976

- It is called as Mini Constitution because it changed many parts of the Indian constitution
- These amendments were recommended by Swaran Singh Committee in 1976
- Added the words Socialist, Secular and Integrity into the preamble of India
- All DPSPs are given precedence over FRs

Amended Art. 39 and included the clause on **Preservation health of and protect the children against exploitation**

- Inserted Article 39 A, 43 A and 48 A
- Inserted Part IV A- FDs
- Use Census figures of 1971 for election purpose till 2000 AD
- Added Articles 323 A and 323 B to establish administrative and other tribunals
- There shall be no limitation on the constituent power of the parliament to amend the constitution (it was repealed by Minerva Mills case 1980)

- Amendment to the 7th schedule of Indian constitution. Transferred Education, Forest, Weights and measures, protection of wild animals and birds and administration of justice, constitution and organization of all courts except SC and HCs from SL to CL
- **36th Amendment Act, 1975:** Enacted to make Sikkim a full-fledged state of India (Art. 2A was repealed)
- **35th Amendment Act, 1974:** Enacted to accept Sikkim as an associate state of India (Art. 2A was added)
- **31st Amendment Act, 1973:** Increased the upper limit for representation of states in Lok Sabha **from 500 to 525.**
Reduced the upper limit for representation of Union Territories **from 25 to 20.**
- **18th Amendment Act, 1966:** It clarified that the word state in Art. 3 also includes Union Territories
- **14th Amendment Act, 1962:** Pondichery was merged to India as a Union Territory
- **9th Amendment Act, 1960:** it was enacted to hand over some territories to Pakistan. **In Berubari case, Supreme court** ruled that ceding a territory of India can only be done by an amendment of the constitution.
- **7th Amendment Act, 1956:** it was enacted to form new states in Indian as per the recommendations of the **State Reorganization Commission** headed by **Justice Fazal Ali.**
- **1st Amendment Act, 1951:** it inserted two new articles Art. 31A and Art. 31 B as well as 9th Schedule of Indian constitution for bringing some restrictions on Right to property.

Chapter 10

Emergency Provisions

- **Art. 352, Art. 356 and Art. 360** discuss about 3 types of emergency in India
- **Art.352: National Emergency**
- **Art.356: State Emergency (President's Rule)**
- **Art. 360: Financial Emergency**

National Emergency (Art.352)

- Grounds for declaring national emergency are **War, External aggression and armed rebellion**
- **President of India** is the authority to declare it
- **Union cabinet** must communicate the president of India the decision to declare emergency **in writing**
- Emergency declared due to **war and external aggression** is known as **external emergency**
- Emergency declared due to **armed rebellion** is known as **internal emergency**
- In the original constitution, the third ground for national emergency **was internal disturbances**
- It was replaced with the word armed rebellion in **44th Amendment Act, 1978** after the misuse of the clause by Indira Gandhi in declaring emergency
- Once the emergency is declared, it must be **approved by the two houses** of parliament **within 30 days** with **special majority** (In original constitution it was **2 months** and was reduced to one month **in 44th AA**)
- Once declared, the national emergency will remain for **six months**. It can be extended by another six months if approved by the parliament with **special majority**.

Revocation of the Emergency

- **Lok Sabha** can pass a resolution **with simple majority** in this regard if **1/10 of the members gives a written notice** to the speaker in this regard
- **Rajya Sabha does not have this power**
- **President of India** is the authority to revoke it

Effects of National Emergency

- Four types of effects are there
 1. **Effects on Centre- state relations**
 2. **Effects on the life of Lok Sabha and state legislative assembly**
 3. **Effects in the financial sphere**
 4. **Effects on FRs**

Effects on the Executive Sphere

- **Executive power of the center extends to states**

Effects on the Legislative Sphere

- **Parliament can make laws on the state list**
- Such laws become inoperative **after 6 months of discontinuing emergency**
- This provision can be implemented even in **those states which is not under emergency (added by 42nd AA)**

Effects on the financial sphere

- President can modify **distribution of revenues between center and states**
- Such modifications remain **till end of the financial year in which emergency was discontinued**
- Order of President in this regard must **be presented before the both houses**

Effects on Lok Sabha and State Legislative Assembly

- Life of Lok Sabha and State Legislative Assembly **can be extended by one year (life of 5th LS was extended by one year 1971-77)**
- Extension **cannot continue beyond 6 months after the discontinuation** of the emergency

Effects on the FRs

- **Art. 358: Art. 19 will be automatically suspended** if the emergency is due to war and external aggression (the condition added by 44th AA)
- **Art. 359: All the fundamental rights except Art.20 and 21 can be suspended** by a presidential order (Exception was added by 44th AA)

National Emergencies Declared so far

- **1962 to 1968:** Due to Chinese aggression
- **1965:** Pakistan attacked when we were already in emergency
- **1971-1977:** Due to external aggression from Pakistan

- **1975-1977:** Due to internal disturbances by **Indira Gandhi (Fakrudheen Ali Ahmed was the President)**
- Janata party which came to power after the emergency during Indira Gandhi's era appointed **Justice Shah Commission** to investigate about the emergency
- It also introduced **44th AA in 1978 to control the declaration of emergency in future**

Art: 356: President's Rule

- It is known as **state emergency or constitutional emergency**
- The declaration of the emergency must be **approved by the parliament within 2 months by simple majority**
- Once declared, **it lasts for 6 months**
- It can be extended up to a **maximum period of 3 years**
- **44th AA added two conditions** for extending beyond one year
 1. **National emergency should be existing in the country**
 2. **Election commission must certify that it is impossible to conduct election in such a situation**

Consequences of President's Rule

- President takes over the following functions
 1. **Functions of state government** and powers of governor
 2. He can transfer powers of State Legislative Assembly to the parliament
- **Powers of High Court cannot be curtailed in any manner**
- First state to face state emergency was **Punjab in 1951**
- **Dr. Ambedkar told that Art.356 would remain as a dead letter** and would be used as a last resort.
- **In Bommai Case 1994**, Supreme court has declared that **judiciary can review the decision of the president to declare President's Rule**

Financial Emergency

- Declaration of the financial Emergency by the president has to be **approved by the parliament within 2 months by simple majority**
- Once declared, this emergency continues **until it is revoked**

- It can be revoked by the president at any time

Effects of the Financial Emergency

- Centre can give directions to the states in financial matters
- Salaries and allowances of all government officers can be reduced including judges of SC and HCs
- Reservation of all Money Bills for the approval of President after passed by State Legislative Assembly.
-

Articles Related to Emergency Provisions

Art. 352	President of India can proclaim national Emergency
Art. 353	Effects of national Emergency on executive and legislative powers
Art. 354	Application of provisions relating to distribution of revenues while a proclamation of emergency is in operation
Art. 355	Duty of the Union to protect states against external aggression and internal disturbances
Art. 356	Provisions in case of failure of constitutional machinery in States State Emergency
Art. 357	Exercise of legislative powers under State Emergency
Art. 358	Suspension of Art.19 during emergency
Art. 359	Suspension of Fundamental Rights (Except Art. 20 and 21 during emergency)
Art. 360	Financial Emergency

Chapter 11

Constitutional Bodies

Election Commission of India

- **Art 324** discusses about the election commission of India
- Chief Election Commissioner and the commissioners are **appointed by the President of India**
- **Number of election commissioners are fixed by the president** of India from time to time
- **From 1993**, the body is constituted by **Chief Election Commissioner and 2 Commissioners**
- All the three have **equal power and equal salary**
- **Salary is equal to that of the Judge of Supreme Court**
- **Decisions** in the commission meeting **taken by the majority**
- Term of the CEC and EC is **6 years or 65 years of age whichever is earlier**
- **Procedure for removal** of the CEC is **similar to that of Judge of Supreme Court of India**
- **There is no procedure for the removal of Election Commissioners**
- **Constitution explain that election commissioners can be removed by the president of India on the recommendation of Chief Election Commissioner**
- The ground for removal is **proved misbehavior and incapacity**
- It needs to be **voted by the parliament with special majority**
- For removing ECs and Regional Commissioners, **the recommendation of CEC is mandatory**
- Present Chief Election Commissioner is
- Present Election Commissioners are

Union Public Service Commission

- **Art. 315 to Art 323** discusses about Public Service Commission
- UPSC is composed of **Chairman and such number of members as decided by the President of India**
- At present, there are **10 members in UPSC**
- Half of the total members should have served as government officers **at least for 10 years**
- Term of the office is **6 years or 65 years of age whichever is earlier (Art. 316)**
- Chairman and members **can be removed for misbehavior by president of India after an inquiry by the Supreme Court finds him guilty (Art. 317)**
- Chairman of the UPSC **cannot receive any further office under the government of India after retirement**
- Members of UPSC **cannot take any further office except chairmanship of UPSC or any other State PSC**
- Chairman of SPCS **cannot receive any further office except as chairman of any other SPSC or Member or chairman of UPSC**
- Member of any SPSC **cannot receive any public office except as chairman of SPSC or member or chairman of UPSC**
- Claims of a central government officer for injury, pension and other benefits has to be considered by the UPSC
- There is no solution for these cases from the any court of law
- **Government decisions in the recruitment without consulting UPSC is invalid**
- **Additional functions to UPSC can be given by the parliament**
- UPSC suggestions for the appointment **can only be rejected by the appointment committee of the Union Cabinet**
- UPSC would not be consulted in the following matters
 1. Reservation
 2. In selecting the chairman and members of commissions, tribunals and high diplomatic posts
 3. Appointment of **Group C and Group D officers**
 4. **Temporary appointed for less than one year**

- UPSC is known as the **watchdog of merit system in India**
- **Present Chairman of UPSC is**

Articles Related to UPSC

Article 315	Public Service Commission for union and states
Article 316	Appointment and Term of Office of Members
Article 317	Removal and Suspension of a member of Public Service Commission
Article 318	Power to make regulations as to conditions of service of members and staff of commission
Article 319	Prohibition as to the holding of office by members of commission on ceasing to be such members
Article 320	Functions of Public Service Commission
Article 321	Power to Extend functions of public service commission (For UPSC with parliament and SPSC with State Legislative Assembly)
Article 322	Expenses of Public Service Commission
Article 323	Report of Public Service Commission

State Public Services Commission

- Chairman and members are **appointed by the Governor**
- But they **can be removed only by the President** of India after a **Supreme Court inquiry**
- Term of office is **6 years or 62 years of age whichever is earlier**
- They **can be suspended by the Governor during the time of the inquiry by the SC**
- Number of members is also **decided by the Governor**
- Half of the members should have the experience in working under the State Government
- **Additional powers** can be given by **State Legislative Assembly**

- Present Chairman of APSC is

Joint Public Services Commission

- It is **not** a constitutional body
- It is a **statutory body set up when more than one state demand so**
- **Punjab and Haryana had a JPSC for a short period**
- Term of office is **6 years or 62 years of age whichever is earlier**
- Chairman and member are **appointed by the President**
- They **can be suspended or removed only by the President**
- They **submit the annual report to each governor**

Finance Commission of India

- **Art. 280** describes the Finance Commission of India
- **FC is a quasi-judicial body**
- It is **comprised of Chairman and 4 members**
- It is **set up in every five years by the President of India**
- **Parliament decides the qualifications and manner of election of the members**
- **FC (Miscellaneous Provisions) Act, 1951** tells that **chairman should be a person having experience in Public affairs**
- Members would be chosen from the following categories
 1. **A Judge of HC or qualified to be so**
 2. **A person with special knowledge in the finance and accounts of GOI**
 3. **A person with special knowledge of economics**
 4. **A person with experience in financial matters and administration**

Functions of the FC

1. Distribution of **net proceeds of taxes**
 2. **Distribution of other resources between center and states**
- Till 1960, FC suggested the grants for **Assam, Bihar, Odisha and West Bengal form the net proceeds of the jute exports**
 - **Recommendations of FC is only advisory** and it is not binding on the Government
 - Present Chairman is

- **Members are**

Comptroller and Auditor General of India

- It is discussed in the **Art.148 to 151**
- He is **appointed by the President of India**
- His term is **6 years or 65 years of age** whichever is earlier
- Removal is **equal to that of the judge of SC** on the ground of **misbehavior and incapacity**
- **He cannot accept any further office** under the government after the retirement
- **No minister can represent CAG in the parliament**
- He **submits the report to the President of India and Governors of states**
- He is known as the **friend, philosopher and Guide of Public Accounts Committee of the parliament**
- **Present CAG is**

Articles Related to CAG

Article 148	Comptroller and Auditor General of India
Article 149	Duties and Powers of Comptroller and Auditor General of India
Article 150	Form of Accounts of Union and of the states
Article 151	Audit Reports to be submitted to the President of India

Attorney General of India

- **Art. 76** discusses about AG
- He is appointed **by the President of India**
- He should **have the qualifications of a judge of SC**
- Term of office is the **pleasure of the President of India**
- **He gives legal advice to GOI and** represent the GOI in the cases
- He represents President of India while he seeks the advice of the SC under **Art.143**
- He has the **right of audience in any court in India**

- He can participate and speak in Lok Sabha and Rajya Sabha without right to vote
- He enjoys privileges and immunities of an MP
- He cannot advice or hold brief against GOI
- Should not defend any criminal without the permission of the GOI
- Should not be appointed as the director of any company without the permission of the GOI
- Present Attorney General of India is

Advocate General of the State

- He is appointed under **Art. 165**
- He is **appointed by the Governor**
- He is the **highest law office of the state**
- He should be **qualified to be a judge of HC**
- His term is the **pleasure of the Governor**
- He can take part and **speak in State Legislative Assembly and State Legislative Council without right to vote**
- He enjoys the **privileges of an MLA**

Inter State Council

- **Art 263** tells that President of India can establish an Inter State Council any time
- Basic function of Inter State Council is **to make inquiry and advice on disputes between states**
- First time, **Inter State Council was set up in India in 1990**
- The council in its first meeting discussed the recommendations of **Sarkaria Commission on interstate relations**
- In 2017, a meeting of Inter State Council was held after a gap of 12 years

Composition of Inter State Council

- **Prime Minister is the chairperson**
- **Six Cabinet Ministers** nominated by the Prime Minister
- **Two Cabinet Ministers** nominated by the Prime Minister as **permanent invitees**

- **Chief Ministers of all states and UTs of Delhi and Puducherry**
- **Administrators** of other union territories

Special officer for linguistic Minorities

- Constitution Body under article **350-B** in **part XVII** of Indian constitution
- The article was added by **7th Amendment act of 1956**
- He is appointed by the **president of India**
- He will investigate all matter related to safeguards provide for linguistic minorities in the constitution
- He will submit **the report to the President** of Indian and president will place these reports in the parliament
- Headquarter of the commission is at **Prayagraj**
- The commission has 3 regional offices at following locations
 1. **Belgaum (Karnataka)**
 2. **Chennai (Tamil Nadu)**
 3. **Kolkata (West Bengal)**
- Regional offices are headed by assistant commissioners
- The commission falls under **Ministry of Minority Affairs**
- **Constitution does not specify Qualification, tenure salary and allowance, service condition and procedure for removal.**

National commission for schedule caste

- Constitutional body set up under **article 338**
- It was constituted first time in **1978**
- Earlier it was named as “**National commission for SCS and STS**”
- **89th Amendment act of 2003 bifurcated into two:**
 - National commission for Scheduled Caste (**Art. 338**)
 - National commission for Scheduled Tribe (**Art. 338A**)
- The separate national commission for Scheduled Castes **came into existence in 2004**
- The commission is composed **a chairperson, one Vice Chairperson and 3 members**
- Present Chairperson is

- Present Vice Chairman is
- Following are the functions of the commission
 - Investigate and monitors safeguards provided to Scheduled Castes in the constitution
 - Inquire complaints relating to deprivation of rights of Scheduled Castes
 - To participate and advice on socio economic planning for Scheduled Castes To provide report to president of India Other functions suggested by the president of India
- Commission presents **annual report to the president of India**
- President places the report in front of parliament of India
- Constitution is silent on the tenure, qualification, removal and other details of chairman and members of the commission

National Commission for Schedule Tribes

- Established by article **338-A** added by **89th Amendment Act, 2003**
- The new was establish in 2004 with **Kunwar Singh as first chairman**
- The Commission is composed of **a chairman, one vice chairman and 3 members**
- Commission presents **annual report to the president of India**
- President places the report in front of parliament of India
- Present chairperson of the commission is
- Present vice chairperson is
- Following are the functions of the commission
 - Investigate and monitor constitutional safeguards to Scheduled Tribes
 - Inquire specific complaint of deprivation of rights of Scheduled Tribes
 - Participate and advice in socio-economic planning
 - Present report to president of India
 - Other functions suggested by president of India

National Commission for Backward Classes

- In 1992, the Supreme Court in **Indra Sawhney case** had directed the government to create a permanent body to entertain, examine and recommend the inclusion and exclusion of various Backward Classes for benefits and protection.
- Parliament passed **National Commission for Backward Classes Act in 1993** and constituted the National Commission for Backward Classes as a statutory body
- In 2018, Parliament of India has given constitutional status to the commission through 102nd Amendment Act
- Art 338 B describes the National Commission for Backward Classes
- The Commission shall consist of a **Chairperson, Vice-Chairperson and three other Members**
- Conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members shall be determined by the President of India.
- The Chairperson, Vice-Chairperson and other **Members of the Commission shall be appointed by the President.**
- **The annual report of the commission** must be presented in front of **President of India**
- **President presents the report to the parliament of India**
- The Present Chairperson is.....

Chapter 12

Non- Constitutional Bodies

Central bureau of investigation (CBI)

- Set up in 1963 by resolution of the ministry of home affairs
- It is not a statutory body and it is an executive body.
- It was later transferred to **the Ministry of personnel and training** under the office of Prime Minister of India
- It has the status of an attached office
- **Special police establishment (set up in 1941)** which was earlier considering vigilance cases was merged with the CBI

- Also Recommended by **Santhanam committee** on prevention of corruption (1962-64)
- It derives its powers from **Delhi Special Police Establishment Act 1946**
- It aids central vigilance commission and Lokpal
- **‘Industry, Impartiality and Integrity’** is the motto of CBI
- **Interstate and international co-operation in law- enforcement** is the aim of CBI
- **CBI academy** is established at **Ghaziabad (1996)** to give training to the CBI officers
- There are **3** regional training centers at **Kolkata, Mumbai and Chennai**
- **CBI has a director and Deputy Director**
- **Present Director is**
- Director is appointed **by the central government** on the recommendation of a **3-member committee**
- The three members are **PM, Leader of Opposition in LS and CJI or the Judge of SC nominated by CJI**
- If there is no Leader of Opposition in LS, then the **leader single largest party** would be the member in the committee
- Removal of the CBI director can be done by the majority decision of the three member selection committee (Alok Verma Case, 2018)

Lokpal and Lokayuktas act, 2013

Background

- Protests in 2011 for this bill was considered as one of the top 10 news of the year by **Times Magazine**.
- The term Lokpal was coined by **Dr. LM Singvi** in 1963 when he was an MP in parliament
- **Justice Pinaki Chandra Ghose** has been appointed as first Lokpal of India in March 2019

Features of the Act

- It established **Lokpal at Centre and Lokayuktas at the states**

Jurisdiction of Lokpal

- Jurisdiction of Lokpal extends to the **Prime Minister, Ministers, MPs and Groups A, B, C and D officers**

- Complaints regarding **Group C and D officers will be forwarded by Lokpal to CVC** and CVC will proceed with investigations
- **Some matters are excluded for Prime Minister** and there is a special procedure to handle the cases against him
- **Lokpal can supervise and direct CBI** in their investigation over cases referred to them by Lokpal
- **Lokpal can confiscate the property** of public servants acquired by corrupt means, even while the prosecution is pending
- The act enhanced the **maximum punishment** under Prevention of Corruption Act **into 10 years imprisonment from the earlier 7 years.**
- **Institutions which are financed fully or partially** by the government are under the jurisdiction of Lokpal. But institutions aided by the government are excluded.
- **Lokpal is conferred with the power to grant sanction for prosecution of public servants** in place of government or competent authorities.
- **All entities receiving a foreign aid exceeding 10 lakh/year** are brought under the jurisdiction of Lokpal.
- **Lokpal cannot suo motu proceed against any public servant** without receiving any complaint.
- **Complaints of corruption has to be filed within 7 years of occurrence.** Complaints older than 7 years will not be accepted by Lokpal.

Composition, Term and Conditions of Lokpal

- Composition of Lokpal is **one chairperson, maximum 8 members (4 must be judicial members)**
- **Half of the members in Lokpal should come from SC, ST, OBCs, minorities and women**
- The committee to select chairperson and members of Lokpal includes following as authorities
 - **Prime Minister (chairperson)**
 - **Speaker of Lok Sabha**
 - **Leader of opposition of Lok Sabha**
 - **Chief Justice of India or a person nominated by him**

- **One eminent jurist nominated by the President of India on the recommendation of the four members mentioned above**
- **Term of Chairman and members is 5 years/70 years of age whichever is earlier**
- **Salary and allowances of the chairperson is equivalent to that of Chief justice of India and for members equivalent to the judge of Supreme Court.**

Independence of Lokpal

- **After retirement, Chairperson and members cannot be appointed in following posts**
 - Re-appointment as chairperson or member of Lokpal
 - Diplomatic posts
 - Administrator of Union Territory
 - Any constitutional or statutory post in which appointment is made by the president
 - Any other office under Government of India
 - Cannot contest for the election of President, Vice President, MP, MLA, MLC or local bodies for five years after relinquishing the post
 - **A CBI officer who investigates a case referred by Lokpal can be transferred only with the prior consent of Lokpal**
 - **Chairperson and members can be removed by the president after an inquiry by Supreme Court finds him guilty of misbehavior.**
 - **For this purpose, reference to the president has to be made by a petition signed by at least 100 MPs. **
- **Qualifications of chairperson**
 - **Either former Chief Justice of India or former judge of Supreme Court**
 - **Eminent person with 25 years' experience in anti-corruption activities**
- **Following persons are not qualified to be chairperson or members**
 - MPs and MLAs
 - Any person convicted of offence
 - Any person with less than 45 years of age.
 - Members of panchayats and municipalities
 - Any person earlier removed from any public service
 - Any person who holds an office of profit
 - Any person affiliated to a political party

- Business persons

Lokayuktas

- **Lokayuktas are set up in each state** by a legislation passed by the concerned state legislative assembly.
- However, **Assam State Legislative Assembly** has constituted the office of Lokayukta **in 1985** long before the central Act

Central Vigilance Commission

- CVC is the main body for **preventing corruption in the central government**
- CVC was **established in 1964** by an executive resolution of the central Govt
- Recommended by **committee on prevention of corruption** headed by **K. Santhanam**
- **CVC was given statutory status in 2003 by CVC Act, 2003**
- **Nittoor Srinivasa Rau** was the first CV commissioner
- **Present CVC is.....**
- Composition, Appointment and Term of CVC
 - **One Central Vigilance commissioner**
 - Not more than **2 commissioners**
 - They are **appointed by the President of India**
 - The selection is done by a **three-member committee**
 - The members in the selection committee are the **Prime Minister, Union Home Minister and the Leader of Opposition in Lok Sabha**
 - The term is **4 years or 65 years of age whichever is earlier**
 - **After the retirement, they are not eligible for further employment** under central or any state government.
- Chief Vigilance Commissioner and the vigilance commissioners **can be removed by president of India for proved misbehavior or incapacity.**
- However, removal can be done by the president of India **after an inquiry by the Supreme Court finds him guilty.**
- President **may suspend him/her during inquiry**
- However, President can remove CVC or VCs without SC inquiry in the following situations
 - If he is an **undischarged insolvent**

- **Convicted of an offence** which involves moral turpitude
- **Engages in paid employment** outside his office
- **Infinity of mind and body**
- **Acquired financial or other interest which affects his functions**
- Headquarters of CVC is in **Delhi**
- It has all the powers of a **civil court** and can demand any document from any government office

Central Information Commission

- Central Information Commission was set up by **the central government of India in 2005** as a statutory body under the provisions of **Right to Information Act**.
- It looks complaints related to non-availability of information from any government office under Right to Information Act, 2005.
- The commission consists of **one chief information commissioner and not more than 10 Information Commissioners (ICs)**
- They are **appointed by the President** of India on the recommendation of a selection committee with following members
 - **Prime Minister (Chairperson)**
 - **Leader of opposition in LS**
 - **One cabinet minister appointed by the Prime Minister**
- They should be **persons of eminence in public life with special knowledge**.
- They should **not be an MP or MLA** and should not hold any office of profit
- They should not be connected to any political party or any business enterprise
- There is **no fixed term for the CIC or ICs**. **Government of India can decide the term**
- At present Government has fixed it as **3 years or 65 years of age whichever is earlier**
- They are **not eligible for reappointment in the same post**
- President of India **can remove any of them on the ground of proved misbehaviour after a Supreme Court inquiry finds him guilty**
- **Salary and allowances are fixed by Government of India**
- The commission has the power of a **civil court** while taking a complaint connected to any information from a government body

- **Central Information Commission falls under the Ministry of Personnel**
Present CIC is.....

State Information Commissioner

- The State Information Commission also **consists of one chief information commissioner and not more than 10 Information Commissioners (ICs)**
- They are appointed **by the Governor of the state** on the recommendation of a selection committee with following members
 - **Chief Minister (Chairperson)**
 - **Leader of opposition in State Legislative Assembly**
 - **One cabinet minister appointed by the CM**
- There is **no fixed term for the CIC or ICs. Government of India can decide the term**
- At present Government has fixed it **as 3 years or 65 years of age whichever is earlier**
- They should be **persons of eminence in public life with special knowledge.**
- They should **not be an MP or MLA** and should not hold any office of profit
- They should **not be connected to any political party** or any business enterprise
- **Governor of the state can remove any of them** on the ground of proved misbehaviour after a Supreme Court inquiry finds him guilty
- Salary and allowances of **State Information Commissioner are equal to that of Chief State Election Commissioner**
- Salary and allowances of the **members in the State Information Commission are equal to that of Chief Secretary of the state.**
- They cannot be reappointed in the same post
- **Present State Information Commissioner of Assam is**

Amendment to The Right to Information Act 2005 in 2019

- Recently, the Parliament passed the Right to Information (Amendment) Bill, 2019.
- Amendment has **removed the fixed term of information Commissioners**
- As per the act, the Chief Information Commissioners and Information Commissioners will hold office for a term of five years. The Amendment removes this provision and

states that the **central government will notify the term of office for the CIC and the ICs.**

- Amendment has **changed the method of determination of Salary of Information Commissioners-** As per the act, the salary of the CIC and ICs (at the central level) will be equivalent to the salary paid to the Chief Election Commissioner and Election Commissioners, respectively.
- Similarly, the salary of the CIC and ICs (at the state level) will be equivalent to the salary paid to the Election Commissioners and the Chief Secretary to the state government, respectively.
- The **Amendment empowers the Central Government to determine the salaries, allowances, and other terms and conditions of service of the central and state CIC and ICs.**

National Human Rights Commission

- Established in **1993 under Protection of Human Rights Act, 1993**
- Hence, it is a **statutory body**
- The commission is known as the **watchdog of Human Rights ensured by the constitution** like right to life, liberty and equality.
- The commission is composed of **One Chairman and 5 members**
- Chairman should be a **retired Chief Justice of India or retired judge of Supreme Court**
- Members should be from the following categories
 - **Serving or retired judges of the Supreme Court**
 - **Serving or retired judges of a High Court**
 - **3 Experts in Human Rights (One must be woman)**
- Beyond the chairman and 4 members mentioned above, there are 4 ex-officio members in the National Human Rights Commission
 - **The chairman of the National commission for SCS**
 - **The chairman of the National commission for STS**
 - **The chairman of the National commission for Women**
 - **The chairman of the National commission for minorities**
 - **National Commission for Backward Classes**
 - **National Commission for the Protection of Child Rights**

- **Chief Commissioner for Persons with Disabilities**
- The chairman and members are **appointed by the President** on the recommendation of a selection committee
- Selection Committee includes following 6 members
 - **The Prime Minister (Chairman)**
 - **The Speaker of Lok Sabha**
 - **The Deputy Chairman of Rajya Sabha**
 - **Leaders of Opposition in Both Houses of Parliament**
 - **Central Home Minister**
- Term of office for chairman and members is **3 Years 70 years** of age whichever is earlier
- After their tenure they are **not eligible for reappointment in any office under central or state governments.**
- President of India can **remove any of them on the ground of proved misbehavior after a Supreme Court inquiry finds him guilty**
- Salaries and allowances of the chairman and members are **decided by the central government of India**
- Headquarters of **NHRC is in New Delhi**
- It also has the powers of a **civil court**
- The commission **has its own investigating staffs** to investigate cases involving violation of human rights
- It can also **seek the help of any government investigating agencies**
- Commission is not empowered to investigate any case of violation of human rights **after the expiry of one year of the incidence.**
- Commission can take following actions after the inquiry
 - Request the government to provide compensation to victims
 - Ask the government to prosecute any guilty public servant
 - Ask the government to provide immediate interim relief to the victim
 - May take the case to HCs or SC
- **Commission can only recommend action against guilty**, it does not have the power to punish him
- Its **recommendations are not binding** on the government
- The commission has **limited roles in the violation of human rights by armed forces**

- Commission submits **report to Central government and state governments concerned**
- Present chairman of the commission is
- **Human Rights Amendment Act 2006**
 - Reduced the number of total members in state Human Rights Commission from **5 to 3**
 - It also strengthened NHRC and SHRCs in different ways

State Human Rights Commission

- Established under **Human right Act, 1993**
- So far, 25 states have constituted State Human Rights Commission
- State Human Rights Commission **can inquire violation of any rights mentioned in State List and Concurrent list** of seventh schedule of Indian constitution
- If National Human Rights Commission is already making inquiry into any incident, State Human Rights commission cannot interfere in those cases
- The commission is **composed of One Chairman and 2 members**
- Chairman should be **a retired Chief Justice of any High Court in India or a retired judge of any High Court in India**
- Members should be from the following categories
 - **Serving or retired judge of the High Court or a district judge in the state with minimum 7 years' experience**
 - **1 Expert in Human Rights**
- The chairman and members are **appointed by the Governor** on the recommendation of a selection committee
- Selection Committee includes following 6 members
 - **The Chief Minister (Chairman)**
 - **The Speaker of Legislative Assembly**
 - **Leader of Opposition in State Legislative Assembly**
 - **Home Minister of the state**
 - **Chairman of State Legislative Council if it is present**
 - **Leader of Opposition in State Legislative Council if it is present**
- Term of office for chairman and members is **3 Years 70 years** of age whichever is earlier
- After their tenure they are **not eligible for reappointment in any office** under central or state governments.

- Only **President of India can remove** any of them on the ground of proved misbehavior after a Supreme Court inquiry finds him guilty
- Salaries and allowances of the chairman and members are **decided by the state government**
- It also has the powers of a **civil court**
- **The commission has its own investigating staffs** to investigate cases involving violation of human rights
- **It can also seek the help of any government investigating agencies**
- Commission is not empowered to investigate any case of violation of human rights after the **expiry of one year of the incidence.**
- Commission can only recommend action against guilty, it does not have the power to punish him
- Its recommendations are not binding on the government
- Present Chairman of Assam state Human Rights Commission is

PROTECTION OF HUMAN RIGHTS (AMENDMENT) ACT 2019

- President of India Ram Nath Kovind has given the assent to the Protection of Human Rights (Amendment) Act, 2019
- The **NHRC was denied A-grade accreditation in 2017** by the Global Alliance of National Human Rights Institutions (GANHRI), a UN body based in Geneva, due Commission's failure in ensuring gender balance and pluralism in its staff and lack of transparency in selecting its members and rising political interference.
- However, in **February 2018, GANHRI, re-accredited NHRC with the 'A' status.**
- The amendments will enable both the National Commission as well as the State Commissions to be more compliant with the **Paris Principles concerning its autonomy, independence and pluralism** etc.

Major Amendments

Subject	Original Act of 1993	Amendment in 2019
Chairperson	Under the Act, the chairperson of the NHRC is a person who has been a Chief Justice of the Supreme Court	The Amendment provides that a person who has been Chief Justice of the Supreme Court, or a Judge of the Supreme Court will be the chairperson of the NHRC
Members	The Act provides for two members who should be persons having knowledge of human rights to be appointed as members of the NHRC.	The Amendment allows three members to be appointed, of which at least one will be a woman
Ex-Officio Members	Under the Act, chairpersons of various commissions such as the National Commission for Scheduled Castes, National Commission for Scheduled Tribes, and National Commission for Women are ex-officio members of the NHRC.	The Amendment has included the chairpersons of the National Commission for Backward Classes, the National Commission for the Protection of Child Rights, and the Chief Commissioner for Persons with Disabilities as ex-officio members of the NHRC
Chairperson of State Human Rights Commission	Under the Act, the chairperson of a SHRC is a person who has been a Chief Justice of a High Court.	The amendment provides that a person who has been Chief Justice or Judge of a High Court will be chairperson of a SHRC.

Term of Office	<p>The Act states that the chairperson and members of the NHRC and SHRC will hold office for five years or till the age of seventy years, whichever is earlier.</p> <p>Further, the Act allows for the reappointment of members of the NHRC and SHRCs for a period of five years.</p>	<p>The Amendment reduces the term of office to three years or till the age of seventy years, whichever is earlier.</p> <p>The Bill removes the five-year limit for reappointment.</p>
Commission for Union Territories	No mention in the Act	<p>The Amendment provides that the central government may confer on a SHRC human rights functions being discharged by Union Territories.</p> <p>Functions relating to human rights in the case of Delhi will be dealt with by the NHRC.</p>

NITI Aayog (National Institution for Transforming India)

- **In August 2014 the Government of India Scrapped Planning Commission**
- Established on **January 1, 2015**
- **It is an Executive Body** established by an executive resolution of the Union government
- It is the **premier policy Think Tank** of Government of India

- It is based on **Bottom-up planning** and policy approach instead of Top- Bottom approach
- One of the major objectives of NITI Aayog is **cooperative federalism**

Composition of NITI Aayog

- 1. Chairperson: The Prime Minister of India**
- 2. Governing Council: All Chief Ministers of states** and Union Territories and administrators of Union Territories
- 3. Regional Council:** Formed to address specific issues impacting more than one state. Regional Councils are **convened by the Prime Minister**
RCs are composed of Chief Ministers and Lt. Governor of union Territories included in the region
Meetings of RCs are **chaired by the chairperson of NITI Aayog or his nominee**
- 4. Special Invitees.** Experts in different fields of knowledge are **nominated by the PM** as special invitees
- 5. Full time Organizational framework includes following authorities**
 - 1. Chairperson is Prime Minister**
 - 2. Vice chairperson** is appointed by the Prime Minister. He enjoys the rank of cabinet minister
Present Vice Chairperson is
 - 3. Full time Members** They enjoy the rank of Minister of State
Presently there are 3 full-time members. They are
 1.
 2.
 3.
 - 4. Part-time Members.** Maximum 2 members are selected from leading universities and research organizations.
 - 5. Ex- officio members:** Maximum 4 members of **Union Council of Ministers** as nominated by the Prime Minister
 - 6. Chief Executive officer.** He is appointed by the Prime Minister for a fixed tenure in the rank of secretary to the Government of India
Present CEO of NITI Aayog is

7. Secretariat: As deemed necessary

- NITI Aayog has 3 wings for different functions
 1. Research Wing
 2. Consultancy Wing
 3. Team India Wing

Following are the Key objectives of NITI Aayog

- Key involvement of states in the **development process**
- Fostering **co-operative federalism**
- Economic **progress of weaker sections of society**
- Long term **policy framework**
- Aim at **village level and grassroots level development**

National Commission for Protection of children Rights.

- It is a **statutory body established** under the **Commission for Protection of Child Rights Act ,2005.**
- It started **Functioning in 2007.**
- Following are the functions of the commission
- As per the commission, those who are below 18 years old are children
 - Form Special Cells in Schools.
 - Inform complains to District authorities
 - In serious offences, they have to inform any legal Authority Within 48 hours
 - Organize seminars to teachers to improve teaching style.
 - Organize campaign against drug addiction and violence among children.

The present head of National Commission for Protection of Child Rights is

National Commission for Women

- The National Commission for Women was set up as **statutory body in January 1992 under the National Commission for Women Act, 1990**
- The functions of the commission are **to review the Constitutional and legal safeguards for women;** recommend remedial legislative measures, facilitate

redressal of grievances and advise the Government on all policy matters affecting women.

- The Commission is composed of **one chairperson, five members and one Member Secretary**
- One Member each shall be from amongst persons belonging to the **Scheduled Castes and Scheduled Tribes respectively**
- Chairperson and members are appointed for a **term of 3 years**
- **The Present Chairperson is**

National Commission for Minorities

- It is a statutory body set up under the **National Commission for Minorities (NCM) Act, 1992**
- Six religious communities, viz; **Muslims, Christians, Sikhs, Buddhists, Zoroastrians (Parsis) and Jains** have been notified in Gazette of India as minority communities by the Union Government all over India
- Major function of the commission is to **Evaluate the progress of the development of Minorities under the Union and States.**
- The commission is composed of a **Chairperson, a Vice Chairperson and Five Members** to be nominated by the Central Government from amongst persons of eminence, ability and integrity; provided that five members including the
- Chairperson shall be from **amongst the minority communities**
- The Chairperson and every Member shall hold office **for a term of three years**
- The present chairperson is.....

Class 12

President of India

- President is the **nominal or de-jure head of the executive**
- **Article 52 to 78 in part V** of the constitution deal with the **union executive**
- Union executive consists of the **President, Vice President, the Prime Minister, the council of ministers and the Attorney General of India.**
- The President is the **first citizen of India.**
- He acts as the **symbol of unity, integrity and solidarity of India**

Election of the President of India Article 54

- Electoral College for the election of the President of India includes following members
 - The elected members of both the houses of parliament
 - The elected members of the legislative assemblies of the state.
 - The elected members of the legislative assemblies of the union territories of Delhi and Pondicherry.
- If an assembly is dissolved and the state is under President's rule, the members are not qualified to vote in the election of the president
- Value of the votes of MLAs and MPs are calculated on the basis of the population they represent.

Values of vote of an MLA

$$\frac{\text{Total Number of Population in the State}}{\text{Total numbers of elected members in the state legislative assembly}} \times \frac{1}{1000}$$

- The total Population of state is as per **1971 census**

Value of vote of an MP

$$\frac{\text{Total value of votes of all MLAs of all states}}{\text{Total numbers of elected members of parliament}}$$

- Manner of election of president is “**Proportional representation by means of single transferable vote**”.
- The successful candidate must get **more than 50 percent of the total value of the votes**
- Highest percentage** of votes ever secured by any President of India was by **Dr. Rajendra Prasad (99.35%)** when he was elected second time as President of India in 1957.
- The lowest ever was secured by **VV Giri in 1969 (50.22%)**

- Ram Nath Kovind secured **65.65 percent votes**
- Ram Nath Kovind is the **14th President of India**.
- The only President of India who was **elected unopposed** was **Neelam Sanjeeva Reddy**
- He is also the **youngest president of India**
- **KR Narayanan** was the oldest person when he assumed the office of President of India
- The vote cast by a voter is **transferable to his second or third option if the need arises**
- **All doubts and disputes** about the election of the President are inquired and decided by the **Supreme Court only**.
- Election for the President **cannot be challenged on the basis that Electoral College was incomplete**
- If the election of a person as President is declared **void by the Supreme Court**, the **previous decisions taken by him will not be invalidated**.

Qualifications of the President (Article 58)

1. He should be a citizen of India
2. He should be have completed 35 years of age
3. He should be qualified for election as a member of the Lok Sabha.
4. Should not hold any office of profit.

A sitting president, Vice President, Governor of a state and Minister of Union or states are not considered as office of profit for this purpose.

- Nomination of a candidate to the President must be **subscribed by 50 electors as proposers and another 50 electors as seconders**
- Every candidate has to deposit **15000 rupees with RBI as a security amount**
- It will be forfeited if the candidate fails to secure at least **1/6 of the total votes polled**.

Oath and Affirmation (Article 60)

1. To faithfully execute the office.
2. To preserve, protect and defend the constitution and the law.
3. To devote himself to the service and well-being of the people of India.

- Oath of the president is **administered by the Chief Justice of India.**
- In his absence it is done by the **senior most judge of the supreme court.**

Condition of the office of president (Article 59)

- Not a member of **Rajya Sabha and Lok Sabha**
- Should **not hold any office of profit**
- He can use the **Rashtrapathi Bhawan**
- Emoluments and Allowance of president **shall not be diminished during his term in office.**
- Present salary of the President is **5 lakh Indian Rupees**
- He is **immune from all criminal proceedings during his official tenure**
- **Civil proceedings** can be initiated only after giving a **2 months' notice**

Term of office of president (Article 56)

- President hold his office for a term of **5 years**
- He can **resign by the addressing resignation to the vice-president.**
- Notification for new election will **come before 60 days of the completion of the term of president.**
- He can continue in the office even **after 5 years until the new successor assumes the office**
- He is **eligible for re-election (Article 57)**
- He can **be removed from the office by an impeachment procedure**

Impeachment of president (Article 61)

- The only ground for impeachment is the **violation of the constitution**
- Impeachment charge can be **initiated by either house of the parliament.**
- These charges should be signed **by one fourth members** of the house which initiates the charge.
- **14 days' notice** should be given to the President
- Both the houses have to pass this resolution by **2/3 majority of the total membership after an investigation**

- The President has the right **to appear and represent at the time of such investigation**
- **All members of Lok Sabha and Rajya Sabha will vote removal** of the president (Including nominated members)
- There is **no role for MLAs in the removal procedure**

Vacancy in the president's office

- On the expiry of his tenure
- By resignation
- Removal by impeachment
- By his death
- When election is declared void President's, the vacancy should be filled within 6 months.
- If the office of President is vacant, **Vice President assumes the office** until new is elected
- If both office of President and Vice President become vacant together, then **Chief Justice of India assumes the office of the President**
- **Justice M Hidayatullah assumed** office of President in **1969** when President Zakir Hussain died and the vice President VV Giri resigned to contest as President of India

Powers and Functions of the President of India

Executive Powers

1. **All executive actions** are taken in his name
2. He can **make rules for more convenient transaction of business in the House.**
3. Appoints **Prime Minister and other minister**
4. Appoints **CAG, the chief election commissioner and other election commissioner, chairman and members of UPSC, governors of states, chairman and members of finance commission.**
5. He can require the **PM to submit, for consideration of the council of minister,** any matter on which decision has been taken by a minister but which has not been considered by the council of Ministers
6. He can appoint commission to investigate into **the condition of SC, ST and OBC.**

7. He directly **administers the UTs through** administrators appointed by him.
8. Can **declare any area as scheduled area**.
9. He can **promulgate ordinance when parliament is not in session**.

Legislative Powers

1. He can **summon and prorogue parliament and dissolve** Lok Sabha. He can also summon a joint sitting of the parliament
2. He can **address parliament any time**
3. He can **nominate 12 members to Rajya Sabha**
4. He can **nominate 2 members to Lok Sabha from Anglo Indian Community**
5. His **prior permission** is needed to introduce **certain bills** in the parliament
6. A bill becomes an act when he **assents it**
7. He can **promulgate ordinance** when the parliament is not in session
8. He can address first session of a parliament after a fresh election and first session every year

Financial Powers

1. **Prior permission to introduce a money bill**
2. Cause to laid before the parliament the **annual financial statement (Budget)**
3. **No demand for grant** without his recommendation
4. **Make advance out of contingency fund of India.**
5. **Constitute a finance commission after every five years**

Judicial Powers

1. **Appoints CJI and judges of Supreme Court and high court.**
2. **Seek advice from supreme court**
3. **He has pardoning power to the criminals**

Diplomatic Power

1. **Negotiation and conclusion of international** treaty and agreements are done in his name
2. He sends and receives **diplomats**

Military powers

1. **Supreme commander of the defense forces of India**
2. **Can declare war and conclude peace**
3. **Appoints chief of Army, Navy and Air force.**

Emergency Power

1. **National Emergency- Article 352**
2. **Presidents Rule –Article 356**
3. **Financial Rule- Article 360**

Veto power of the president

- President of India has **different veto powers** over a bill passed by the parliament as mentioned below.
 1. **Absolute veto:** It is the power to **withhold assent to the bill** passed by the legislature. It is exercised by the President in a **Private Bill** (A bill introduced by a member other than a Minister).
It can also be exercised by the President in a **Government Bill** (Introduced by a Minister) if the cabinet resigns before his assent and the new government requests him to withhold the assent.
 2. **Suspensive Veto:** The power of the president to **return a bill passed by the parliament** only for one time. The same bill, if passed by a simple majority again, President has to give his assent.
President cannot exercise suspensive veto in Money Bills.
 3. **Pocket Veto:** It is the power of the president to **take no action on a bill** passed by the parliament.
- **President of India does not have** the authority to use **Qualified Veto**. Qualified veto means that President can return a bill. **If he returns so, the bill has to be passed Special Majority.**
- President cannot use **any of the above veto powers in the constitution amendment bill.**
- **24th Amendment Act, 1971** made it obligatory for the President to assent to a constitution amendment act passed by the parliament.

- President has also all the **three veto powers over a state bill if the bill is reserved by the Governor of a state for the consideration of the president**
- In a state bill, **President can return a state bill any number of times.**

Ordinance Making Power of the President

- **Art. 123** of the Indian constitution empowers the President to promulgate ordinance during the recess of the parliament
- Ordinance has **same force and effect of an act passed by the parliament**
- But, it is a **temporary law**
- The same ordinance must be passed by the parliament within **6 weeks after the first day of the immediate next session of the parliament**
- Otherwise, it will be **automatically invalidated**
- Then maximum life of an ordinance is **6 months (the maximum gap between 2 sessions of the parliament) and 6 weeks**
- If the ordinance lapses without being passed by the parliament, the acts taken according to the ordinance **remain fully valid.**
- **President can also withdraw the ordinance any time if the government advises so.**

Pardoning Power of the President (Article 72)

According to **Article 72**, President of India can give his pardon to the following persons convicted of an offence

- 1. Punished for violation of a union law**
 - 2. Punished by a court martial (military court)**
 - 3. Sentence is a death sentence**
- Pardoning power of the President includes following powers
 - **Pardon: Release the convict from all punishment** and makes him free
 - **Commutation: Reducing from death penalty to rigorous imprisonment**
 - **Remission: Reducing the quantity of punishment** without changing the character of punishment. For example, a rigorous punishment for 2 years is reduced into rigorous punishment to one year.

- **Respite:** Awarding a lesser punishment due to some special reason like disability or pregnancy of women.
- **Reprieve:** Staying the execution of the punishment for a temporary period to enable the convict to apply for pardon from President
- **Governor of a state also has pardoning power with two restrictions**
 1. Governor cannot pardon a sentence awarded by court martial
 2. Governor cannot pardon death sentence
- President can use this power only on the advice of Union cabinet

Article related to president of India

Article 52	The President of India
Article 53	Executive Power of the Union
Article 54:	Election of the President
Article 55	Manner of the election of president
Article 56	Term of office of president
Article 57	Eligible for re-election
Article 58	Qualification for election as president
Article 59	Condition of President's office
Article 60	Oath and affirmation of the president
Article 61	Procedure for Impeachment
Article 62	Time of holding election to fill vacancy in the office of the President
Article 65	Vice- President to act as President or to discharge his function
Article 70	Parliament can decide on discharge of President's function in situations not discussed in the constitution
Article 71	Matters relating to election of president shall be decided by the SC

Article 72	Pardoning power of president
Article 74	Council of ministers to aid and advice the president
Article 75	Other provisions as to ministers to like appointment, term, salaries etc.
Article 76	Attorney General of India is appointed by the President.
Article 77	Conduct of Business of the govt. of India. All executive actions of the government are taken in the name of the President of India
Article 78	Duties of prime minister in respect to furnishing of information to the president etc.
Article 79	Parliament of India will consist of President, Lok Sabha and Rajya Sabha
Article 80	Composition of Council of States (Rajya Sabha) Maximum number of elected members in Rajya Sabha is 238 and 12 members would be nominated by the President of India
Article 85	Sessions of parliament, prorogation and dissolution.
Article 86	Right of the President to address and send message to the 2 Houses
Article 87	Special address of the President at the first session after a general election and the first session every year
Article 103	Power of the President to disqualify any member of the parliament
Article 111	Assent to bills passed by the parliament.
Article 112:	Union budget (Annual financial statement). President causes that to be laid in the house
Article 123	Power of president to promulgate ordinances.
Article 143	Power of president to consult Supreme Court.

VICE-PRESIDENT (Article 63)

- Vice President occupies the **2nd Highest office in the country**
- This office is modelled on the lines of **American Vice- President**

Election of Vice President (Article 66)

- Electoral college includes **both elected and nominated members of the two houses parliament**
- It does **not include MLAs.**
- The system of election is **proportional representation by means single transferable vote**
- **Doubts and disputes** regarding the election of the Vice President are inquired into and decided by the **Supreme Court.**
- Election for the Vice President **cannot be challenged on the basis that Electoral College was incomplete**

Qualifications of the Vice President

1. **Should be a citizen of India**
2. **Should have completed 35 years of age**
3. **Should be qualified for election as a member of the Rajya Sabha.**
4. **Should not hold any office of profit.**

A sitting president, Vice President, Governor of a state and Minister of Union or states are not considered as office of profit for this purpose.

- Nomination of candidate must be **subscribed by at least 20 electors as proposers and 20 electors as seconders.**
- Security deposits of **Rs. 15,000** has to be done in the **RBI.**
- The amount will be forfeited if the candidate **fails to secure 1/6 of the votes polled**
- **Oath is administered by the president of India.**
- He is **eligible for reappointment** any number of times

Conditions of office of the Vice President

- He should **not be a member of either house of the parliament or a house of the state legislature.**
- Should **not hold any office of profit.**
- He gets a salary of **4 lakh Indian rupees**
- Terms of office is **5 years and he is eligible for re-election**
- He can resign from the office by addressing a **resignation letter to the President of India**
- He can be removed by a resolution of Rajya Sabha passed by the majority of the total membership of the house and agreed to by the Lok Sabha
- Before, moving such a resolution, **Vice President should be given a 14 days' notice**
- **No ground** for removal has been mentioned in the constitution
- If the office becomes vacant, **election to fill the vacancy should be held as soon as possible**
- The newly elected **Vice President continues in the office for a full-term of 5 years**

Powers and Function of the Vice President

- He acts as **ex-officio chairman of Rajya Sabha**
- He acts as president when vacancy occurs in the office of the President

Article related to Vice President of India

Article 63	The Vice President of India
Article 64	The Vice President to be the ex-officio Chairman of the Council of States
Article 65	The Vice President to act as President or discharge his functions during the vacancy or absence of President
Article 66	Election of the Vice President
Article 67	Term of Office of Vice President
Article 68	Time of holding election to fill the vacancy of in the office

Article 69	Oath or Affirmation by the Vice President
Article 70	Discharge of President's function under other contingencies
Article 71	Matters related to the election of Vice President would be decided by the SC

Prime Minister of India

- Prime minister is the **real or de-facto head of the executive**
- Prime Minister shall be **appointed by the President (Article 75)**
- **President appoints the leader of the majority party** in Lok Sabha as the Prime Minister
- When there is no majority for any party, **President can use his discretion** to choose a Prime Minister
- Then the appointed **person has to prove the majority in the house**
- A person who is not a member of either house can be appointed as the Prime Minister for **6 months**
- Prime Minister **can be either a member of Lok Sabha or Rajya Sabha**
- Term of the Prime Minister is the **pleasure of the President**. It means that a person can continue to be the Prime Minister of India as long as he enjoys the majority in the house
- **Salary and allowances of the Prime Minister are decided by the parliament from time to time**

Powers of the Prime Minister

- He **recommends other ministers**
- He **can dismiss any minister**
- He **can allocate portfolios for ministers**
- He **advices President to summon, prorogue and dissolve the parliament**

Article related to the Prime Minister of India

Article 74	Council of Ministers to aid and advice President
Article 75	Prime Minister shall be appointed by the President and other Ministers on the recommendation of the PM
Article 78	Duties of Prime Minister as respect to furnishing of information to the President

Central Council of Ministers

- **Prime Minister is the head of Central Council of Ministers**
- 2 Articles in the Indian constitution discusses the Central Council of Ministers
- They are **Article 74 and Article 75**

Article 74

- There **shall be a Council of Ministers** with the Prime Minister at the head to aid and advice the President
- The advice tendered by the Ministers to the President shall not be inquired in any court

Article 75

- Prime Minister shall be **appointed by the President** and other Ministers on the recommendation of the PM
- Maximum number of ministers in the union council of ministers can be **15% of the total** membership of the house
- **Council of ministers shall be collectively responsible to Lok Sabha**
- A minister can continue in the office without becoming a member of any house for a **maximum period of 6 months**

Class 13

Parliament of India

- Parliament is the **legislative organ of the Union Government**
- Parliamentary mode of government is also known as the **‘Westminster’ model of government**
- Parliament of India consists of three parts; **the President, the Council of States and the House of People**
- Rajya Sabha is also known as **Upper House, Council of States, Second Chamber and House of Elders**
- Lok Sabha is also known as **Lower House, House of People, First Chamber and Popular House**
- President of India is considered as a part of parliament because the bill passed by the parliament can be an act if it is assented by the President

Rajya Sabha

Composition of Rajya Sabha

- Maximum strength of Rajya Sabha is **250 (238 are elected and 12 are nominated)**
- Present strength is **245 (233 are elected from states (229) and UTs(4) and 12 are nominated by the President**
- **4th Schedule** of the constitution deals with allocation of the seats in Rajya Sabha to states and UTs
- MPs from states to Rajya Sabha are **elected by the MLAs on the basis of proportional representation by means of single transferable vote**
- MPs from UTs to Rajya Sabha are **elected by a special electoral college constituted for this purpose**
- **Only Puducherry and Delhi** have Rajya Sabha members
- President of India nominates **12 members** to Rajya Sabha from people who have **special knowledge or practical experience in art, literature, science and social service**

Duration of Rajya Sabha

- Rajya Sabha is a **permeant body**
- It was first constituted in **1952**
- One **third of its members retire every 2 years**
- Retiring members are **eligible for re-election**
- The constitution has **not fixed any term** for the member of Rajya Sabha
- However, **Representation of People's Act 1951** has fixed a **6 years** term for the members of Rajya Sabha
- In the first Rajya Sabha, it **was decided by lottery** that whom have to resign after 2 years and 4 years

Qualifications for the Membership of Rajya Sabha

- Following are the qualifications to be elected as a member of Rajya Sabha
 1. Must be a **citizen of India**
 2. Must take an **oath before a person authorized by the Election Commission**
 3. Must be not less **than 30 years age**
 4. Must possess **qualifications prescribed by the parliament**
 5. He must be **registered as a voter in any constituency in India**
 6. He must **be a member of a Scheduled caste or Scheduled tribe** in any state or UT if he wants to contest from a seat reserved for them

Presiding Officer/Chairman of Rajya Sabha

- **Vice President** of India is the **ex-officio chairman** of Rajya Sabha
- When vice president **acts as President, he will not be the chairman** of Rajya Sabha
- His powers are **almost equal to the Speaker of Lok Sabha**
- However, speaker has **2 extra powers** than chairman of Rajya Sabha
 1. **Speaker certifies the money bill**
 2. **Speaker presides over a joint sitting of Lok Sabha and Rajya Sabha**
- Unlike speaker, **chairman is not a member of the house**
- However, **Chairman can also do a casting vote** when there is an equality of votes in the house on any matter

- Vice President cannot preside over a sitting of Rajya Sabha **when it considers a resolution for the removal of himself**
- However, he **can participate in such session and speak without the right to vote** (In the case of speaker, he/she can vote in such a situation)
- Salaries and allowances of the chairman is **fixed by the parliament**
- While **acting as President**, he will get the **salary of the president of India**
- **Present Chairperson of Rajya Sabha is**

Deputy Chairman of Rajya Sabha

- Deputy chairman is **elected by Rajya Sabha itself from amongst its members**
- Whenever the office of the deputy chairman falls vacant, Rajya Sabha elects another member to fill the vacancy
- Deputy Chairman vacates the office in three cases
 1. **If he ceases to be member of Rajya Sabha**
 2. **If resigns by writing to the chairman**
 3. **If he is removed.** He can be removed by a resolution passed by **the majority of total membership of Rajya Sabha after 14 days' notice**
- He performs the functions of the chairman **when chairman is vacant or absent or acts as president**
- While presiding a session, **he can do only casting vote** to break a tie.
- Deputy chairman is **not subordinate to chairman**. He is directly responsible to Rajya Sabha
- While considering a **resolution of the removal** of the vice chairman, **he cannot preside over the session**
- While not presiding a session, Deputy chairman is considered only as a normal member of Rajya Sabha
- **Present Deputy Chairman of Rajya Sabha is**

Panel of the Vice-Chairpersons of Rajya Sabha

- Chairman nominates a **panel vice chairmen from amongst the members of Rajya Sabha**
- Any of them will preside the session when both chairman and vice chairman are **absent**

- He has the same power of the chairman while presiding
- They cannot preside the session when the office of chairman and vice chairman are **vacant**
- At such a situation, President will appoint a person to preside the session

Lok Sabha

Composition of Lok Sabha

- The maximum strength of Lok Sabha is **552**
- **530 members** are to be elected from states, **20 members** are to be elected from UTs and **2 are nominated from Anglo Indian community**
- The present strength is **545 (530 from states, 13 from Union Territories and 2 nominated)**
- Allocation of seats in Lok Sabha to states and UTs are done based on the population in the **census of 1971**
- Allocation of the seats reserved for **scheduled caste and scheduled tribes** in Lok Sabha is given based on their population in the **census of 2001**

Duration of Lok Sabha

- Term is **5 years after the first meeting of the Lok Sabha after general election**
- Term of Lok Sabha can **be extended** by one year at a time for any length of time during national emergency. But it could not extend beyond 6 months after the discontinuation of the emergency
- President can **dissolve Lok Sabha** any time before finishing five years also.

Qualifications for the Membership of Lok Sabha

- Following are the qualifications to be elected as a member of Lok Sabha
7. Must be a **citizen of India**
 8. Must take an **oath before a person authorized by the Election Commission**
 9. Must be not less than **25 years age**
 10. Must possess **qualifications prescribed by the parliament**
 11. He must be **registered as a voter** in any constituency in India

12. He must **be a member of a Scheduled caste or Scheduled tribe** in any state or UT if he wants to contest from a seat reserved for them

Presiding Officer/ Speaker of Lok Sabha

- Speaker is **elected by the Lok Sabha from amongst its members** as soon as possible after its first meeting
- Speaker is the **head of Lok Sabha** and hence his decisions are final.
- **Date for the election** of speaker is **fixed by the President**
- Speaker vacates the office in three cases

4. If he ceases to be member of Lok Sabha

5. If resigns by writing to the Deputy speaker

6. If he is removed. He can be removed by a resolution passed **by the majority of total membership of Lok Sabha after 14 days' notice**

The motion for removal of the speaker can be considered only if it is supported by **50 members of the house**

- While **considering a resolution of the removal of the speaker**, he **cannot preside** over the session
- However, **he can speak and take part in the proceeding and cast the vote in the first instance itself.**
- In the normal sessions speaker can only do a casting vote to break a tie.
- When Lok Sabha is dissolved, Speaker continues in the office until the first meeting of the newly elected Lok Sabha
- He **adjourns the house during a session**
- He can do only a **casting vote** in the house except in the resolution for his removal
- He presides over the **joint sitting of two houses** of the parliament
- He **suspends the meeting if there is no quorum** to meet a session (**1/10 of the total members of Lok Sabha is the quorum**)
- He can allow **secret sitting** of the house **if the leader of the house demands so**
- He **certifies a money bill** and his decision in this regard is final
- He is the authority **to disqualify a member on the basis of defection.** Decision of the speaker in this regard is **subject to judicial review**
- He is the ex-officio chairperson of the **conference of presiding officers of India**

- He is also the **ex-officio chairperson of the Indian Parliamentary Group** which represents India in the international Parliament meetings
- He **appoints the chairperson of all parliament committees of Lok Sabha**
- He himself is the **chairman of Business Advisory Committee, Rules Committee and General-Purpose Committee**
- His rank is equal to that of the **Chief Justice of India**
- **GV Mavalankar** was the first speaker of Indian Lok Sabha
- **Present Speaker is**

Deputy Speaker of Lok Sabha

- He is also **elected by the Lok Sabha from amongst its members**
- He is **elected after the election of the speaker** and the **date for election is fixed by the speaker**
- Deputy Speaker vacates the office in three cases
 - 7. If he ceases to be member of Lok Sabha**
 - 8. If resigns by writing to the speaker**
 - 9. If he is removed.** He can be removed by a resolution passed **by the majority of total membership of Lok Sabha after 14 days' notice**
- He performs the functions of the Speaker **when the officer of Speaker is vacant or the speaker is absent from the session**
- He also **presides over the joint sitting of the parliament if the speaker is absent**
- He is **not subordinate to speaker** and he is **directly responsible to Lok Sabha**
- Deputy speaker has a privilege that whenever he is appointed as a member of any parliamentary committee, **he automatically becomes the chairman of that committee**
- While presiding a session, **he can do only casting vote**
- He **cannot preside over a session which considers a resolution for his own removal**
- After 10th Lok Sabha, there is a convention that **Deputy Speaker is normally selected from the opposition party**
- **Government of India Act 1919** used the terms President and Vice president for speaker and Deputy Speaker

- **Government of India Act 1935** used the terms speaker and deputy speaker
- However, practically the terms President and Vice President continued till independence of India
- **Ananthasayanam Ayyangar** was the first Deputy Speaker of Lok Sabha
- Present Deputy Speaker is

Panel of Chairpersons of Lok Sabha

- Speaker nominates a panel of not more than **10 members from Lok Sabha as chairpersons**
- Any one from them will preside over the session of Lok Sabha **in the absence of speaker and Deputy Speaker**
- They **cannot preside** the session when the office of both speaker and deputy speaker are **vacant**. In such situation, President appoints a person to discharge the functions of the speaker
- The election for **new speaker is held as soon as possible**

Speaker Pro Tem

- President appoints a **member of a newly elected Lok Sabha as Speaker Pro Tem** to preside over the first session of Lok Sabha
- **President administers the oath** of Speaker Pro Tem
- **Speaker Pro Tem administers the oath of newly elected members** of Lok Sabha
- He also **enables the house to elect a speaker**
- When the new speaker is elected, the office of Speaker Pro Tem ceases to exist.
- Conventionally, the senior most member of Lok Sabha is appointed as Speaker Pro Tem
- **Pro Tem of 17th Lok Sabha was Virendra Kumar**

Common Features of Lok Sabha and Rajya Sabha

Disqualification of the Members of Parliament

Following are the disqualifications mentioned in the constitution

President of India is the authority to disqualify in these circumstances

- If he holds any office of profit
- If he is declared by a court as unsound mind
- If he is an undischarged insolvent
- If he acquires the citizenship of a foreign country
- If he is disqualified under any law made by the parliament

Following are the disqualifications mentioned in the Representation of Peoples Act (1951)

- He must not have been found **guilty of certain election offences**
- He must not have been found **guilty of any offence resulting in imprisonment for two years or more**
Detention of a person under **preventive detention law is not a disqualification**
- He must not have **failed to lodge an account of his election expenses** within the prescribed time
- He must not have any **interest in government contracts, works and services**
- He must **not hold any office of profit in any company** in which government has at least **25% share**
- He must not **have been dismissed from government service** for corruption or disloyalty to the state
- He must not **have been convicted for promoting enmity between different communities**
- He must not have been **convicted for preaching and practicing social crimes like untouchability, sati and dowry**

Disqualification on the Ground of Defection

- **Tenth Schedule** of Indian constitution includes provision for disqualification of a member for defection or changing the party
- A member would be disqualified **by the presiding officer** of the house for following reasons
- Decision of the presiding officer in this regard can be questioned in the court and it is subject to **judicial review**
 1. If he **voluntarily gives up the membership of the party** through which he was elected
 2. If he **votes or abstains from voting in the parliament contrary to the direction** of his party
 3. If any **independent member joins any political party**
 4. If any **nominated member joins any political party after the expiry of 6 months**

Vacating Seats in the Parliament

Following are the cases of vacating seats in Lok Sabha and Rajya Sabha

1. Double Membership

- If a person is elected to both **Rajya Sabha and Lok Sabha**, he has to choose either of them **within 10 days**. Otherwise, his **seat in Rajya Sabha becomes vacant**
 - If a **sitting member of one house is also elected to the other house**, his seat in the **first house becomes vacant**
 - If a **person is elected to 2 seats in a single house**, he should choose one. **Otherwise both seats become vacant**
 - If a **person is elected to both parliament and state legislative assembly**, he has to resign either of them **within 14 days**. Otherwise, **his seat in parliament becomes vacant**.
2. Disqualification (mentioned above in detail)
 3. **Resignation** by writing to **chairman of Rajya Sabha or speaker of Lok Sabha**

4. **Absence:** If a member becomes absent **for sixty days without permission**, his seat becomes vacant

Oath and Affirmation

- Members of parliament have to take oath **in front of president or a person appointed by him**
- In the case Lok Sabha, **normally president appoints speaker Pro tem for this purpose**
- There is fine of **500 rupees** per day if a member sits in the house without taking oath

Salaries and Allowances

- It is decided by **the parliament**
- **Although pension is not mentioned in the constitution**, parliament has provided pension to them
- Present **salary is fifty thousand Indian rupees**

Leaders in Parliament

- Leader of house in Lok Sabha is **the Prime Minister if he is a member of Lok Sabha**. If the Prime Minister is not from Lok Sabha, then a **member from Lok Sabha nominated by the PM**
- The same is the **case with Rajya Sabha also**
- **A deputy leader would also be nominated by the leader of the house**

Leader of the Opposition

- The leader of largest **opposition party having not less than 1/10 of total seats in the house** is recognized as the leader of opposition in the house
- **They have salary, allowance and other facilities equivalent to a cabinet minister**

Whip

- It is the leader of **each and every political party in the house**
- He is in charge of **ensuring the attendance of his party members in the house** and securing their support to support or oppose a decision in the house

- Members **have to follow the directions given by their respective whips**. Otherwise, disciplinary actions may be taken

Sessions of the Parliament

Following are the terms related to the sessions of the parliament

1. Summoning

- It is the call by **president to start a session**
- **Maximum gap** between two sessions of the parliament can be **6 months**
- Usually, Indian parliament has 3 sessions
 - 1) **Budget Session (February to May)**
 - 2) **Monsoon Session (July to September)**
 - 3) **Winter Session (November to December)**
- **Session** is the time between summoning and prorogue of a house
- The time between prorogue and next summoning is known as **Recess**

2. Adjournment

- It is the **suspension of the work in a sitting of the house for a specific time** which may be **hours, days or weeks**
- It is done by the **Presiding officers of the houses**

3. Adjournment Sine Die

- It is the termination of the **sitting of a parliament for an indefinite period**
- Normally, it is exercised when the scheduled business of the house ends
- It is also done by **the presiding officer**

4. Prorogation

- It is the **official termination of session** declared by the **president of India**

5. Dissolution

- **Only Lok Sabha** is subject to dissolution
- Dissolution is the **end of the life of existing Lok Sabha**
- **Automatic dissolution happens** when Lok Sabha finishes five years
- **Dissolution can be done by the president** before the expiry of the term also
- Following are the results of Dissolution

- 1) **A Bill pending in Lok Sabha lapses** (whether originating in Lok Sabha or transferred to it by Rajya Sabha after passing)
- 2) **A Bill passed by Lok Sabha but pending in Rajya Sabha also lapses**
- 3) **A bill not passed by the two houses** due to disagreement and if the president has notified a joint sitting before the dissolution, **does not lapse**
- 4) **A bill pending in Rajya Sabha**, but not passed by **the Lok Sabha does not lapse**
- 5) **A Bill passed by both the houses**, but **pending the assent of the president**, **does not lapse**
- 6) **A bill passed by the both houses** but **returned by the president for reconsideration does not lapse**

Quorum

- **Quorum is the minimum number** of members to be present in the house for transacting the business
- **It is 1/ 10 of the total** members in the house

Language in Parliament

- Constitution declares **Hindi and English** as to be the languages for transacting business in the parliament
- **Presiding officer can permit a member to address the house in his mother tongue**
- Arrangements are made for simultaneous translation of the speeches

Lame-Duck Session

- It refers to **the last session of existing Lok Sabha after a new Lok Sabha has been elected**
- **Those members of Lok Sabha who could not get elected** into the new Lok Sabha are called as **Lame-Duck Members**

Devices of parliamentary Proceedings

1) Questions Hour

- It is the **first hour of every parliamentary sitting**
- Usually members **would ask their questions and ministers reply**

- 3 types of parliamentary questions are there
 - a) **Starred Question.** It is distinguished by an **asterisk mark** Such questions require an **oral reply** and hence supplementary questions can follow. It is printed in Green Color
 - b) **Unstarred Question:** It requires a **written answer** and hence supplementary questions cannot follow. It is printed in white color
 - c) **Short Notice Question:** It is a question asked by giving a short notice of less **than 10 days**. It is answered orally. It is printed in **light pink color**
- **If the question was addressed to a private member, it was printed in yellow color**

2) Zero Hour

It is an **opportunity for the members to raise a matter in the house without any prior notice**

It is used to **raise a matter of urgent public importance**

The zero hour starts immediately after question hour

It is an Indian innovation in the parliamentary procedure

3) Motions

A discussion on a **matter of public importance can take place through a motion** with the consent of the presiding officer

The house **expresses its opinion through adoption or rejection** of the motion

There are 3 categories of motions

- A. **Substantive Motion:** It is a self-contained **independent proposal** dealing with a very important decision like impeachment of President or removal of Election commissioner
- B. **Substitute Motion:** It is a motion **moved to replace an original motion** and proposes an alternative to it. If it is adopted by the house, it suspends the original motion
- C. **Subsidiary Motion:** It is a **supporting motion to an original motion**
It is normally moved to modify or substitute only any part of the original motion

4) Closure Motion

It is a motion moved by a member to **cut short the discussion on** a matter in the house. If the motion is accepted, the debate should be stopped, and the matter would be put for voting in the house

5) Privilege Motion

It is concerned with the **breach of parliamentary privileges by a minister**

It is moved **by a member if he feels that a minister has committed breach of privilege in the house** by withholding some facts of a case or by giving wrong or distorted facts

6) Calling Attention Motion

It is introduced by a member to **call the attention of a minister to a matter of urgent public importance**

It is also an **Indian innovation like zero hour**

7) Adjournment Motion

It is introduced in the parliament to **draw attention of the house to a definite matter of urgent public importance**

It needs support of **50 members to get admitted**

It is permitted **in Lok Sabha only**. It aims to postpone the scheduled business of the house and discuss the urgent matter

One motion **can cover only one subject matter**

It needs the **permission from the speaker**

8) No-Confidence Motion

It is a motion through **which Lok Sabha can remove the ministry from office** by passing it with simple majority

9) Censure Motion

It can be issued against **an individual minister or a group of ministers**

It is moved for censuring the council of ministers for their specific policies and actions

If it is passed in Lok Sabha the council of ministers need not resign as in the case of no-confidence motion

10) Motion of Thanks

There will an address from President of India in the **first session after a general election** and in the **first session of every year**

The address of President is discussed with this motion

11) No Day Yet Named Motion

It is a **motion admitted by the speaker, but no date has been fixed for discussion**

12) Point of Order

A member can **raise a point of order when the proceedings of the house do not follow the normal rules of procedure**

It is **used for enforcement of the rules of procedure in the house**

Usually it is **raised by an opposition member**

13) Half an Hour Discussion

It is meant for **discussing a matter of sufficient public importance**

The discussion is **to bring clarity on a matter which has been discussed earlier also in the house**

14) Short Duration Discussion

It is also known as **two-hour discussion** in the house as the maximum time allotted for such a discussion is two hours

It is also to **raise a matter of urgent importance**

15) Special Mention

It is the **device available only in Rajya Sabha to raise an urgent issue**

16) Resolutions

It is moved by the **members to draw the attention of the house or the government to matters of general public interest**

The discussion on a resolution is **strictly relevant to and within the scope of the resolution**

Three types of resolutions are there

A. **Private Member's Resolution:** It is a resolution moved by a member other than a minister

B. **Government Resolution:** it is a resolution moved by a minister

C. **Statutory Resolution:** It can be moved by either a private member or a minister

It is always tabled to pursue a provision of the constitution or an act of parliament

Types of Bills in the Parliament

- **Ordinary Bill:** It is a bill which does not come under any other category

- **Money Bill: Article 110** discusses about the money bill

It is a bill which is **related to money in different ways** like levying taxes and making expenditure out of different funds of India

If any question comes on whether a bill is money bill or not, the decision of **Lok Sabha speaker is the final**

His decision in this **regard cannot be questioned in any court of law**

Money Bill can only be introduced in Lok Sabha and that also with the prior permission of President of India

If Money Bill is passed by Lok Sabha, **Rajya Sabha cannot reject it**. Rajya Sabha has to pass it **within 14 days**

After being passed by both the houses, if the bill goes to president for his assent, **he can either give his assent or withhold his assent. But he cannot return**

- **Constitution Amendment Bill:** It has been discussed in detail in the class on amendment of the constitution

Joint Sitting of Two Houses

- It is summoned **by the President to resolve the deadlock on any Bill**
- It is **not permitted in the case of a money bill** or a **constitution amendment bill**
- **Speaker of Lok Sabha** presides over the joint sitting
- If speaker is absent, then **deputy speaker of Lok Sabha** presides over the sitting
- If both Speaker and Deputy speaker are absent, then **Deputy chairman of Rajya Sabha** presides over the session
- The quorum of joint sitting is **1/10 of total members of two houses**
- **So far 3 joint sittings of the parliament were held**
 - I. **Dowry Prohibition Bill 1960**
 - II. **Banking Services Commission (Repeal) Bill 1977**
 - III. **Prevention of Terrorism Bill 2002**

Budget in Parliament

- **Article 112 deals** with Annual Financial Statement of the government or the Budget
- It is the estimated **receipts and expenditure of the Government of India for the financial year**
- Till 2017, Government of India had **two budgets; General Budget and Railway Budget**
- In 2017, Government merged **Railway Budget with General Budget**
- Railway Budget was separated from **General Budget during the British time in 1921** as per the recommendations of **Acworth Committee**
- Budget is normally prepared by the **Department of Economic Affairs and presented by the Finance Minister**
- **Articles related to the parliament of India**

Article 79	Parliament consists of President and two houses
Article 80	Composition of the council of states/ Rajya Sabha
Article 81	Composition of the House of People/ Lok Sabha
Article 82	Readjustment after each census
Article 83	Duration of the Houses of Parliament
Article 84	Qualifications for the membership of parliament
Article 85	Sessions of Parliament, prorogation and Dissolution
Article 86	Right of the President to address and send messages to the parliament
Article 87	Special Address by the President after each general election and at the beginning of each year
Article 88	Rights of Ministers and Attorney General in the Houses
Article 89	The chairman and Deputy Chairman of Rajya Sabha
Article 90	Vacation and resignation of and removal from the office of Deputy Chairman
Article 91	Power of Deputy chairman to act as Chairman

Article 92	The chairman and Deputy Chairman would not preside a sitting which considers their removal
Article 93	The Speaker and Deputy Speaker of the House of People
Article 94	Vacation, resignation and removal of the speaker and deputy speaker
Article 95	Power of Deputy speaker to act as speaker
Article 96	Speaker and deputy speaker cannot preside over a sitting which considers his removal
Article 97	Salaries and allowances of Chairman and Deputy Chairman of Rajya Sabha and Speaker and Deputy speaker of Lok Sabha
Article 98	Secretariat of the Parliament
Article 99	Oath and Affirmation of the members of parliament
Article 100	Voting in the house, power of house to act notwithstanding vacancies and quorum
Article 101	Vacation of Seats in the house
Article 102	Disqualifications of membership
Article 103	Decision on the question of disqualification of members
Article 104	Penalty for sitting and voting before making oath or affirmation under Article 99 or when not qualified or when disqualified
Article 105	Powers, privileges of the houses of parliament and the members of committees thereof
Article 106	Salaries and allowances of members
Article 107	Provisions related to introduction and passing a bill in the house
Article 108	Joint Sitting of both houses
Article 109	Special procedure in respect of money bills
Article 110	Definition of Money Bill
Article 111	Assent of Bills by the president
Article 112	Annual Financial Statement or the Budget

Article 113	Procedure in the parliament with respect to estimates
Article 114	Appropriation Bills
Article 115	Supplementary, Additional or Excess grants
Article 116	Votes on account
Article 117	Special provisions as to financial bill
Article 118	Rules of procedure in the house
Article 119	Regulation by law of the procedure in parliament in relation to financial business
Article 120	Language to be used in parliament
Article 121	Restrictions on discussion in parliament
Article 122	Courts cannot make inquiry on the proceedings of the parliament
Article 331	Two Anglo Indians would be nominated by the President to the House of People

Governor of a State

- **Article 153 to 167 of Part VI** of the Indian constitution deals with the **state executive**
- State executive consists of the **Governor, Chief Minister, the council of ministers and the advocate general**
- **Governor** is the **chief executive head of the state** and like president he also is a **nominal head**
- Governor also **acts as the agent of central government**

Appointment of the Governor

- **Governor is not elected**, and he is appointed by the president by warrant under his hand and seal
- **He is an agent of central government**. But however, he is an independent constitutional body and not an employment under the central government

- The system of governor being appointed by the President/central government was **adopted from Canada**
- Constitution lays **down only two qualifications for the Governor**
 1. **He should be a citizen of India**
 2. **He should have completed 35 years of age**

Conditions of Governor's Office

- He should not be the **member of parliament or state legislative assembly**
- He should **not hold any office of profit**
- He is entitled to use **Raj Bhavan without paying any rent**
- His emoluments, **privileges and allowances are determined by the parliament**
- When a single person is appointed as governor of two states, his emoluments and allowances are **shared between the two states**
- Present salary of the governor is **3.5 lakh Indian Rupees**
- Like President, Governor is also **immune from criminal proceedings**
- Civil proceedings can be initiated after a notice of **2 months in respect of his personal affairs**
- The oath of Governor is administered before the **Chief Justice of the concerned High Court**

Term of Office

- **A governor holds office for maximum five years.** However, his term of five years is subject to **pleasure of the President**
- Supreme court has ruled that pleasure president is not justiciable. Hence, Governor has no secured term of office
- Governor **can continue in the office after 5 years until the new successor comes to power**
- A governor **can be reappointed by the President** for the same state or any other state
- He can **resign any time by submitting resignation letter to the President**

Powers and functions of the Governor

1. Executive Powers

- All executive actions are taken in his name
- He can make rules for more convenient transaction of business in the State Legislative Assembly.
- Appoints Chief Minister and other ministers. There should be a Tribal Welfare Minister in Chhattisgarh, Jharkhand, Madhya Pradesh and Odisha.
- He Appoints the Advocate General of the State and determines his conditions of service and tenure.
- He Appoints the Election Commissioner of the State and determines his conditions of service and tenure. However, State Election commissioner can be removed only like the manner of removal of a judge of High Court
- He Appoints the Chairman and members of State Public Services Commission. They can be removed only by the President
- He can require the CM to submit, for consideration of the council of minister, any matter on which decision has been taken by a minister but which has not been considered by the council of Ministers
- He acts as the chancellor of universities in the state. He also appoints the Vice-Chancellors

2. Legislative Powers

- He can summon, prorogue and dissolve the state legislative assembly.
- He can address state legislature any time
- He can send messages to the house
- He can address the state legislature at the commencement of each assembly and at the beginning of every year
- He nominates 1/6 of the members to State Legislative Council from people who are expert science, literature, art etc.
- He can nominate one member from Anglo Indian community to State legislative assembly
- His prior permission is needed to introduce Money Bill

- A bill becomes an act when he **assents it**
- He can **promulgate ordinance** when the legislative assembly is not in session
- In a Bill he has four options
 1. **Assent a Bill**
 2. **Withhold Assent**
 3. **Return (Not in Money Bill)**
 4. **Reserve for the consideration of the President**

3. Financial Powers

- **Prior permission to introduce a money bill**
- Cause to be laid before the parliament the **annual financial statement (Budget)**
- **No demand for grant** without his recommendation
- **Make advance out of contingency fund of the state.**
- **Constitute a state finance commission after every five years to review financial position of Panchayats and Municipalities**

4. Judicial Powers

- He is **consulted by the President while appointing judges of high court.**
- He has **pardoning power to the criminals**
- He **cannot pardon a death sentence and cannot pardon a sentence awarded by a court martial**
- He **appoints district judges in consultation with state high court**
- He also appoints other judges selected through judicial services of the state

Special Powers of Some Governors

- **Maharashtra:** Governor has special power in **establishment of separate development boards for Vidarbha and Marathwada**
- **Gujrat:** Governor has special power in **establishment of separate development boards for Saurashtra and Kutch.**
- **Nagaland:** Governor has special powers **with respect to law and order** in the state for so long as the internal disturbance **in the Naga Hills- Tuensang Area continues**
- **Assam:** Governor has special powers with respect **to administration of tribal areas.**

- **Manipur:** Governor has special powers with respect to **administration of hill areas**
- **Sikkim:** Governor has special powers for ensuring **social and economic advancement of different sections of the population**
- **Arunachal Pradesh:** Governor has special powers with respect to **law and order in the state**
- **Karnataka:** Governor has special power in **establishment of separate development boards for Hyderabad-Karnataka region.**

Articles Related to the Governor

Article 153	Governors of States
Article 154	Executive Powers of the state are vested in the Governor
Article 155	Governor is appointed by the President
Article 156	Term of office of Governor is pleasure of the President
Article 157	Qualifications of the Governor
Article 158	Conditions of Governor's Office
Article 159	Oath or Affirmation by the Governor
Article 160	Discharge of the functions of the Governor in certain circumstances. President will take a decision in this regard
Article 161	Power of the Governor to grant pardon
Article 162	Extend of Executive Power of the state
Article 163	Council of Ministers to aid and advice Governor
Article 164	Other provisions as to ministers like appointment, term, salaries and others
Article 165	Advocate General of a state is appointed by the Governor
Article 166	Conduct of the business of the government of a state. All executive actions are taken in the name of the Governor
Article 167	Duties of the Chief Minister regarding furnishing information to the Governor
Article 174	Sessions of the legislature, prorogation and dissolution

Article 175	Right of the Governor to address and send messages to the state legislature
Article 176	Special address by the Governor
Article 200	Assent to the Bills and veto powers of the Governor
Article 201	Bills reserved by the Governor for consideration of the President
Article 213	Power of Governor to Promulgate Ordinance
Article 217	Governor being consulted by the President in the matter of the appointments of the Judges of the High Courts
Article 233	Appointment of the district judges by the Governor
Article 234	Appointment of persons (other than district judges) to the judicial service of the state by the Governor

Chief Minister

- Chief Minister is the **real or de facto executive of the state**

Appointment of the Chief Minister

- **Article 164** says that the Chief Minister shall be appointed by the Governor
- **Governor appoints the leader of majority party as CM**
- When no party has majority, Governor can use his **discretion in appointing the CM**
- In such situations, the appointed CM has to prove the **majority support in the house within one month**
- A person who is not a member of state legislature can **continue as CM for 6 months**
- A **member of Legislative Council of the state can also be appointed as CM**

Oath, Term and Salary

- His oath is administered by **the Governor**
- His term is the **pleasure of the governor** which means the **support of majority members in the state legislative assembly**
- **Salary and allowances of the CM is determined by the state legislature**

State Council of Ministers

- **Article 163 and 164** of the Indian Constitution discusses about the state council of ministers

Article 163

- There **shall be a Council of Ministers** with the Chief Minister at the head to aid and advice the Governor
- **If any question arises whether a matter falls within Governor's discretion** or not, **decision by the Governor shall be final**
- **The advice tendered by the Ministers to the Governor** shall not be inquired in any court

Article 164

- Chief Minister shall be **appointed by the Governor** and other Ministers on the recommendation of the CM
- Maximum number of ministers in the state council of ministers can be **15% of the total** membership of the house
- **Council of ministers shall be collectively responsible to state legislature**
- A minister can continue in the office without becoming a member of any house for a **maximum period of 6 months**

State Legislature

- Most of the features of state legislature is similar to Lok Sabha
- **7 states in India have both Legislative Assembly (Vidhan Sabha) and Legislative Council (Vidhan Parishad)**
- They are **Andhra Pradesh, Telangana, Uttar Pradesh, Bihar, Maharashtra, Karnataka and Jammu and Kashmir**

Composition of the Legislative Council

- **1/3 are elected by the members of local bodies** like municipalities in the state
- **1/12 are elected by graduates of 3 years standing** residing in the state

- **1/12 are elected by teachers of 3 years standing** in the state not lower than secondary school level
- **1/3 are elected by the members of legislative assembly**
- **Remining people are nominated by the Governor** (it will be 1/6 of total members)

Duration of Legislative Council

- Legislative council is a **permeant body like Rajya Sabha**
- Term is **6 years and 1/3 of the members are elected every 2 years**
- A person must be **above 30 years** to be elected as member of legislative council (For **MLA it is 25**)
- Other provisions of legislative assembly are similar to Lok Sabha

Union Territories

- It is discussed in Articles between 239 to 242 in Part VIII of the constitution
- These territories are **directly under the control of the central government**
- **Ministry of Home Affairs** is the nodal ministry for all affairs of the Union Territories
- **Himachal Pradesh, Manipur, Tripura, Mizoram, Arunachal Pradesh and Goa** were earlier Union Territories and later converted into statehood.
- At present, there are **8 Union Territories**
- They are as follows with their capital cities
 1. **Andaman and Nicobar: Port Blair**
 2. **Delhi: Delhi**
 3. **Lakshadweep: Kavarati**
 4. **Dadra and Nagar Haveli and Daman and Diu: Daman**
 5. **Puducherry: Puducherry**
 6. **Chandigarh: Chandigarh**
 7. **Jammu and Kashmir: Jammu and Srinager**
 8. **Ladakh: Leh and Kargil**
- **Reasons for creating Union Territories**
 1. **Political and Administrative Reasons: Delhi and Chandigarh**

2. **Cultural Distinctiveness:** Puducherry, Dadra and Nagar Haveli and Daman Diu
3. **Strategic Importance:** Andaman and Nicobar Islands and Lakshadweep
4. **Special treatment and care of the backward and tribal people:** Mizoram, Manipur, Tripura and Arunachal Pradesh which later became states

Administration of Union Territories

- **Article 239 to 241 in part VIII** of the constitution deal with the Union Territories
- All union territories are administered by the **President through administrators appointed by him**
- At present the agent of President to Delhi, **Puducherry and Andaman and Nicobar Islands is known as Lieutenant Governor**
- He is known as **administrator in the case 4 remaining UTs**
- **Union Territory of Delhi and Puducherry have legislative assemblies** and ministry
- **Parliament can make laws for all 7 Union Territories on any item in State List and Concurrent List**
- **Legislative Assembly of Puducherry can also make laws on any item in State List and Concurrent List**
- **Legislative Assembly of Delhi can make laws on any item in Concurrent List and State List except police, public order and land**
- Delhi is the only UT which has a **High Court of its own**
- **Dadra and Nagar Haveli and Daman and Diu come under Bombay High Court**
- **Andaman and Nicobar Islands comes under Calcutta High Court**
- **Chandigarh is under Punjab High Court**
- **Lakshadweep is under Kerala High Court**
- **Puducherry is under Madras High Court**

Special Provisions for Delhi

- **69th Amendment Act of 1991** provided a special status to the **UT of Delhi**
- The act re-designated it as **National Capital Territory of Delhi**
- The strength of assembly is fixed at **70 members**

- Election would be conducted by the **Election Commission of India**
- **Laws of parliament prevail over the state law in Delhi**
- The strength of council of **ministers is fixed at 10 percent of the total members (it is 7)**
- The Chief Minister and other ministers of Delhi are **appointed by the President**
- The ministers hold the office **during the pleasure of the President**
- Lt. Governor of Delhi **can also promulgate ordinance**

Article 239	Administration of Union Territories
Article 239A	Creation of Local legislatures or council of ministers or both for certain Union Territories
Article 239AA	Special Provisions with respect to Delhi
Article 239AB	Provision in respect of failure of constitutional machinery
Article 239B	Power of administrator to promulgate ordinances
Article 240	Power of President to make regulations for Union Territories
Article 241	High Courts for Union Territories

Class 15

5th, 6th Schedules of the Indian Constitution

- Article 244 and Article 244A in Part X describe the provisions related to Schedule 5 and Schedule 6 of the Indian Constitution
- **Article 244: Administration of Scheduled areas and Tribal Areas**
- **Article 244A: Formation of autonomous state comprising certain tribal areas in Assam**

◆ **5th Schedule of the Constitution**

- It discusses the administration of scheduled areas and scheduled tribes **in any state except Assam, Meghalaya, Mizoram and Tripura**
- **Aborigines** are residing here
- **Central government gets more power** in the administration of these regions

◆ **Features of the 5th Schedule**

- **Declaration of Scheduled Area** is done by the **President of India**
- **He is the authority to increase or decrease the area** in consultation with the governor of the state
- **Executive power of the state extends to these areas**
- However, **Governor of the state has some special powers and responsibilities** in administering these areas
- **Governor submits report to the President on the administration**
- **Centre can give directions to the state on the administration**

◆ **Tribal Advisory Council**

- Each state having schedule V area **has to set up Tribal Advisory council**
- **20 members would be there in it**
- **$\frac{3}{4}$ should be the MLAs** from Scheduled Tribes
- **Council can also be set up in a state which does not have schedule V areas if the President directs so**

◆ **Application of Laws to Schedule V areas**

- **Governor directs that any act of parliament or SLA is not applicable** to Scheduled Areas or would be applied with modification
- **He can make regulations for peace and good governance** after consulting with **Tribes Advisory Council** in the following matters
 - Prohibition of transfer of land**
 - Regulate allotment of land to STs**
 - Regulate money lending**
 - Repeal or amend any act of parliament or State Legislative Assembly**

- **President of India is obliged to appoint a commission after 10 years of the commencement of the constitution to look into the development in the Scheduled Areas**
- Hence appointed **UN Debar commission in 1960**
- Second commission in this regard was **Dilip Singh Bhuria Commission in 2002**
- 10 states in India have so far created schedule V areas
- They are Andhra Pradesh, Telangana, Chhattisgarh, Gujrat, Himachal Pradesh, Madhya Pradesh, Maharashtra, Odisha and Rajasthan

◆ **6th Schedule or Tribal Areas**

- It discusses about the **administration of tribal districts in Assam, Meghalaya, Tripura and Mizoram**
- Scheduled Tribes in these states are **not much assimilated**

◆ **Features of Schedule 6 Areas**

- **Autonomous districts fall inside the executive authority** of the state government
- **Governor is the authority to organize or reorganize autonomous districts** and increase or decrease the area
- If different tribes are there inside one district, **governor can create autonomous regions inside districts**

◆ **Autonomous District Councils**

- **30 members**
- **4 members are nominated by the government**
- **26 are elected by voting this area**
- **Term of the council is 5 years for 26 elected members and pleasure of the governor for 4 nominated members**
- **Regional council would be set up for each autonomous region**
- Autonomous District Councils can make laws on the following matters
 1. **Land, forest, canal water, shifting cultivation**
 2. **Village administration**
 3. **Inheritance of the property**

4. Marriage and divorce**5. Social Custom etc.**

- All such laws require the **assent of the governor**
- **ADCs and RCs can constitute following bodies**
 1. **Village Councils to trial the cases between tribes**
Jurisdiction of the HC over these cases is specified by the Governor
 2. **Primary Schools**
 3. **Dispensaries**
 4. **Markets, ferries, fisheries and roads**
 5. **Regulate money lending and trade by non-tribes** (this decision requires assent of the governor)
- Autonomous District Councils and Regional Councils **can assess and collect land revenue and impose certain taxes**
- Acts of parliament and State Legislative Assembly **would not be applied in these areas or would apply with modifications**
- **Governor can appoint a commission to report on these areas**
- **Governor can dissolve any such area on the recommendation of such commission**

7th, 8th Schedules of the Indian Constitution**7th Schedule of the Indian Constitution (State List, Union List and Concurrent List)****◆ Union List**

- **100 items are there (original constitution had 97)**
- Major items are following
Defense, banking, foreign affairs, currency, atomic energy, insurance, communication, inter-state trade, commerce, census, audit etc.

♦ **State List**

- Includes **61 items** (original it was 66)
- **Important items** are Public order, police, health, sanitation, agriculture, prison, local government, fisheries, market, theaters, gambling etc.

♦ **Concurrent List**

- **52 items** are there (Original was 47)
- Criminal law and procedure, civil procedure
- Marriage and divorce, population control and family planning
- Drugs, newspapers, books and printing etc.

42nd AA transferred 5 subjects from SL to CL

- Education, Forest, Weights and measures, protection of wild animals and birds and administration of justice, constitution and organization of all courts except SC and HCs

8th Schedule of Indian Constitutions or Scheduled Languages

- Government has to give **special consideration for these languages**
- **All India competitive examinations can be written** in any of these languages
- Following is the list of 22 languages
 1. Assamese
 2. Bengali
 3. Bodo
 4. Dogri
 5. Gujarati
 6. Hindi
 7. Kannada
 8. Kashmiri
 9. Konkani
 10. Maithili
 11. Malayalam
 12. Meitei(Manipuri)

- 13. Marathi**
- 14. Nepali**
- 15. Odia**
- 16. Punjabi**
- 17. Sanskrit**
- 18. Santhali**
- 19. Sindhi**
- 20. Tamil**
- 21. Telugu**
- 22. Urdu**

Electoral System in India

National and State Parties

- **Election Commission of India registers the political parties and recognizes them as National or State parties**

Conditions for Recognition as National Party/ All India Party

- 1. It secures at least 6 percent of the votes polled in 4 or more states in Lok Sabha or State Legislative Assembly**
In addition to that it also **wins 4 or more seats to Lok Sabha from any of the states**
- 2. If a party secures 2 percent of total seats to Lok Sabha (it is 11 seats) from three different states**
- 3. If the party is recognized as a state party in four states**

Conditions for Recognition as State party/ Regional party

- 1. If a party secures 6 percent of votes polled to a state legislative assembly election and wins at least two seats in the state legislative assembly**
- 2. If it secures 6 percent of valid votes into the Lok Sabha election from the state and at least wins one seat to Lok Sabha from the same state**

3. If the party secures 3 percent of the seats to state legislative assembly or wins 3 seats in the state legislative assembly whichever is more
 4. If the party wins one Lok Sabha seats for each 25 Lok Sabha seat from the sate
 5. If the party secures 8 percent of the total valid votes in an election in the state for Lok Sabha or State Legislative Assembly (Added in 2011)
- Recognized national parties in India are **Bahujan Samaj Party, Bharatiya Janata Party, Communist Party of India, Communist Party of India Marxist, Indian National Congress, Nationalist Congress Party and All India Trinamool Congress**

Elections in India

- **Article 324 to 329 in Part XV** of the constitution deals with election system in India
- **Article 324 discusses about the Election Commission of India**
- It conducts **election to Parliament, state legislature, president of Indian and Vice President**
- There is **one general electoral roll for each constituency**
- **No person is ineligible for inclusion** in the electoral roll on the basis of religions, caste, gender or any of them
- The election is based on the principle of universal adult franchise. Every citizen who is **above 18 has the voting right**
- **Parliament makes provisions in matters related to election** to the parliament and state legislative assemblies like preparation of electoral rolls and delimitation of constituencies
- **State Legislative assemblies can also make laws supplementing the law** made by the parliament in matters related to election to state legislative assembly
- **Law relating to delimitation and allotment of seats to these constituencies cannot be questioned in any court**
- **Election to the parliament and state legislature cannot be questioned except** by an election petition submitted to such authority and in such manner as explained in the concerned legislation
- **Article 323 B empowers the parliament and state legislature to establish election tribunals to adjudicate election cases**
- **No such tribunal has been constituted so far**

Election Machinery

- **Election Commission of India** is at the top of the system
- **Chief Electoral Officer** is the supervisor of the election in a state or UT. He is under the supervision of the Election Commission
- **District Election Officer** supervises election in the district and works under Chief Electoral Officer of the state
- **Returning Officer** is the officer in charge of conducting election in a constituency. He is appointed by Election Commission of India
- **Electoral Registration Officer** is responsible for preparation of electoral rolls for each constituency
- He is also appointed by Election Commission of India
- **Presiding Officer** is conducts the poll at a polling station. The District Election Officer appoints the presiding officer

Electoral Reforms in India

- Following Committees have studied electoral reforms in India
 1. **1971: Joint Parliamentary Committee to election law headed by Jaganath Rao**
 2. **1974: Tarakunde Committee set up by Lok Nayak Jai Parakash Narayan**
 3. **1990: Dinesh Goswami Committee**
 4. **1994: VK Krishna Iyer Committee**
 5. **1998: Indrajit Gupta Committee**
 6. **1999: 15th Law Commission of India**

Model Code of Conduct

- It was brought into **force in 1967**
- **Political parties in India agreed** it unanimously in a discussion with Election Commission of India
- It is declared by the **election Commission of India before the election**
- If model code of conduct comes into force **government cannot declare any new project or misuse official power for securing the favour of the people**

Common Factor regarding Election in India

- **Ladakh is the largest Lok Sabha constituency** (In terms of area) in India
- **Chandni Chowk in Delhi is the smallest Lok Sabha constituency** (In terms of area)
- **Malkajgiri in Telangana is the constituency with largest number of voters**
- **Lakshadweep is the constituency with smallest number of voters**

Articles related to Election

Article 324	Election Commission of India supervises the election
Article 325	No person shall be ineligible for inclusion in the electoral roll on the basis of religion, caste, race or sex
Article 326	Election is based on universal adult suffrage
Article 327	Power of parliament to make provisions with respect to elections to legislatures
Article 328	Power of state legislature to make provisions with respect to elections to legislatures
Article 329	Bar to interference by courts in electoral matters

Panchayat Raj

- It is mentioned in **Article 40 of the directive principles**
- It was constitutionalized through **73rd Amendment Act 1992**
- **Chola dynasty of south India** was the first people in India to implement Panchayat Raj Institutions
- In the modern Indian History, **Ripon's resolution 1882** was the first attempt to establish Panchayat Raj Institutions
- Hence **Ripon** is known as the **father of Local Self-government System in India**

Evolution of Panchayat Raj

Balwant Rai Mehta Committee

- In 1957, Government of India appointed a committee under Balwant Rai Mehta to review National Development Programme (1952) and National Extension Service (1953)
- The committee recommended **democratic decentralization**
- Recommendations of the committee are as follows
 1. Establishment of a **three tier Panchayat Raj system**
 - Gram Panchayat at village level**
 - Panchayat Samiti at block level**
 - Zila Parishad at district level**
 2. **Direct election for village panchayat and indirect election for other two levels**
 3. **All planning and development activities** should be entrusted to these bodies
 4. **District collector** should be the **chairman of Zila Parishad**
 5. **Adequate resources** should be given to these bodies
- **Rajasthan** was the first state to establish Panchayat Raj according to these recommendations
- The scheme was inaugurated by Nehru on **2nd October 1959** in **Nagaur District**
- **Andhra Pradesh** was **second** state to adopt the system
- Although many states constituted the system, the pattern was different in all the states

Ashok Mehta Committee

- It was appointed by **Janata Government in 1977**
- It submitted **132 recommendations to revive Panchayat Raj System**
- Major recommendations are as follows
 1. Replace the three-tier system with **two tier systems with Zila Parishad at district level and Mandal Panchayat below that**
 2. **A district should be the first point of decentralization** below the state
 3. There should be official participation of **political parties in panchayat elections**

4. **Chief electoral officer of the state** should conduct elections in consultation with election commission of India
 5. **A minister for Panchayat Raj** should be appointed in the state council of ministers
 6. **Seats for SC and ST should be reserved** in proportion to their population
 7. **Constitutional recognition should be accorded** to the panchayat Raj institutions
- On the basis of these **recommendations, Karnataka, West Bengal and Andhra Pradesh** took steps to revise their Panchayat Raj system

Dantwala Committee Report 1978

- It advocated for **Block level planning**

GVK Rao Committee

- The committee was **appointed in 1985 by the Planning Commission** to review rural development and poverty eradication
- Following recommendations were made by the committee for strengthening Panchayat Raj institutions
 1. **District is the proper unit of planning and Zila Parishad** should become principal body for management of development programmes
 2. **Panchayat Raj institutions should be given important role in planning** and implementation of development programmes
 3. Suggested a new post of **District Development Commissioner** for managing development activities in the district
 4. There should be **regular election to Panchayat Raj institutions**

Hanumantha Rao Committee

- It was for **district level planning**
- It advocated for **separate district level planning bodies under district collector or a minister**

LM Singhvi Committee

- **Rajiv Gandhi government appointed** this committee in 1986 **for revitalization of panchayat raj institutions**
- Recommendations are as follows
 1. Panchayat Raj institutions should **be constitutionally recognized by adding a chapter in the constitution**
 2. **Nyaya Panchayats should be established** for a cluster of villages
 3. It emphasized on the importance of **Gram Sabha and giving power to the local people**
 4. **A judicial tribunal should be established in each state** to adjudicate cases related to election to Panchayat institutions

Thungon Committee

- It was **constituted in 1988 to examine political and administrative structure in the districts** for the purpose of district planning
- The committee suggested to **strengthen the Panchayat Raj Institutions**
- Following are the recommendations
 1. The **Panchayat Raj bodies should be constitutionally recognized**
 2. **Three tier Panchayat system** with village, block and district level
 3. **Zilla Parishad should act as planning and development agency** in the district
 4. Panchayat bodies should **have a fixed tenure of 5 years**
 5. **A state planning commission** should be set up under the **Minister of Planning and with presidents of Zilla Parishads as members**
 6. There should be **reservation for women in Panchayat Raj institutions**
 7. **A state finance commissions** should be set up for devolution of finances to Panchayat Raj institutions
 8. **District Collector should be Chief Executive Officer of Zilla Parishad**

Gadgil Committee

- It was **constituted by the Congress party in 1988 under VN Gadgil**
- It was made to study on **“how best the Panchayat Raj institutions can be made effective”**
- Committee made following suggestions in this regard
 1. **Constitutional status** should be bestowed on Panchayat Raj Institutions
 2. **Three tier Panchayat Raj system** with village, block and district levels
 3. **Fixed term of five years** for Panchayat Raj Institutions
 4. The members of Panchayat Raj Institutions at three levels **would be elected**
 5. **Reservation for SC, ST and Women**
 6. **Establishment of State Finance Commission** for allocation of resources to the Panchayat Raj Institutions
 7. **Establishment of State Election Commission** for conducting elections to Panchayat Raj Institutions

73rd Amendment Act 1992

- It added a new **Part IX in the constitution** titled as ‘**The Panchayats**’
- It consists of **Articles 243 to 243 O**
- The act has also added **11th Schedule to the constitution** which contains **29 functions of Panchayats as explained in 243 G**
- The act has given **constitutional status** to Panchayat Raj institutions and it **became under the justiciable part of the constitution**
- Under the act, **state governments are constitutionally responsible** to adopt Panchayat Raj institutions
- Provisions of the act can be grouped into **mandatory and voluntary**. It is compulsory for the state governments to include the mandatory provisions and the voluntary provisions are at the discretion of the states
- The act changes the nature of polity in India from **representative into participatory politics**

Salient Features of the Act

1. Gram Sabha Article 243A

- Gram Sabha is the **foundation of Panchayat Raj System**
- It is composed of **all persons whose name appears in the electoral roll** of the village
- **State Legislative Assembly determines the powers and functions** of Gram Sabha

2. Three-tier System 243B

- Every state should implement a **three-tier system at village, intermediate and district levels**
- A state with a population not exceeding **20 lakhs may not constitute intermediate level**

3. Election of Members and Chairpersons 243C

- All members in **three levels shall be directly elected by the people**
- **Chairpersons at intermediate and district levels shall be indirectly elected** by the elected members from amongst them
- **Chairperson at village panchayat level shall be elected in such manner as the state legislature determines**

4. Reservation of Seats 243D

- The act provides **reservation for SC and ST at all three levels of Panchayats in proportion to their population** to the total population in the Panchayat area
- State legislature shall provide for **reservation of offices of chairpersons in any level for the SCs and STs**
- There should be a reservation of **not less than one third of seats to women including women of SC and ST**
- **Not less than one third of the total seats for chairpersons** in all three levels should also be reserved for women
- **State legislature may provide reservation for any other backward class in the state**

5. Duration of Panchayats 243E

- The act provides **five-year term for all levels**
- In case of earlier **dissolution before 5 years**, election should be held **within 6 months**
- **The new body will continue in the office for the remaining period** (Not for full 5 years)
- **If the reminder period is less than six months, there is no need to conduct a bye election**

6. Disqualifications 243F

- **A member can be disqualified under any law** which is in force for the election of the state legislature concerned
- **He can also be disqualified under any law made by the state legislature** for Panchayat Raj institutions
- **Minimum age** to be a member of Panchayat Raj institutions **is 21**

7. Powers and Functions of Panchayats 243G

- **State legislature may endow** powers and functions for Panchayats
- It includes **preparation of plans** for economic development and social justice, the implementation of government schemes
- **29 functions are listed in eleventh schedule**

8. Finances 243H

- State legislature **may authorize a panchayat to levy, collect and appropriate taxes, duties, tolls and fees**
- State legislature **may also assign some taxes collected by the state government**
- May also **provide grants in aid to Panchayats**
- May make **provisions for providing credit to Panchayats**

9. Finance Commission 243I

- **Governor of a state constitutes Finance Commission every five years** to review financial position of Panchayats
- **It provides suggestion for distribution of net proceeds of taxes, duties and tolls** levied by the state between state government and panchayats

- State legislature decides the composition, the qualifications of members and the manner of their election
- The governor places the recommendations of the commission before state legislature

10.Audit of Accounts 243J

- State legislature makes provisions for maintenance and audit of accounts

11.State Election Commission 243K

- State election commission performs all functions related to the election of Panchayats
- State Election Commissioner is appointed by the Governor
- He can be removed only on the manner of removal of the judge of a High Court
- State government may make provisions related to election of the Panchayats

12.Application to Union Territories 243L

- The President of India may direct that the provision of this act may apply to any UT with some modifications and exception the president may suggest

13.exempted States and Areas 243M

- The act does not apply to following states
Jammu and Kashmir
Nagaland
Meghalaya
Mizoram
Scheduled areas and Tribal areas in states
Hill area of Manipur for which a district council exists
Darjeeling district of West Bengal for which Darjeeling Gorkha Hill Council exists
 However, parliament may extend the act to Scheduled areas and Tribal areas with modifications

14.Continuation of Existing Laws and Panchayats 243N

- All the exiting state laws relating to Panchayats **shall continue for one year after 73rd Amendment act.**
- The state has to **adopt new system within one year of the act**
- **All existing panchayats in different states at that time would continue until the expiry of their term** or dissolution by the state government

15.Bar to interference of Courts in Election Matters 243O

- Any law relating to delimitation of constituencies or allotment of seats cannot be questioned in any court
- No election to Panchayats can be questioned except by an election petition presented to prescribed authorities

Eleventh Schedule of the Constitution

- It contains following 29 functions of Panchayats
 - 1) **Agriculture and agricultural extension**
 - 2) **Land improvement and implementation of land reforms**
 - 3) **Minor irrigation and water management**
 - 4) **Animal husbandry, dairying and poultry**
 - 5) **Fisheries**
 - 6) **Social forestry and farm forestry**
 - 7) **Minor forest products**
 - 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) **Roads, Culverts, bridges, ferries, waterways and other means of communication**
 - 14) **Rural electrification including distribution of electricity**
 - 15) **Non-conventional energy sources**
 - 16) **Poverty alleviation programme**
 - 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 and fairs**
- 23) Health and sanitation including hospitals, primary health centre and dispensaries**
- 24) Family welfare**
- 25) Women and child development**
- 26) Social welfare including welfare of handicapped and mentally retarded**
- 27) Welfare of the weaker sections especially SCs and STs**
- 28) Public distribution system**
- 29) Maintenance of community assets**

Compulsory and Voluntary Provisions of the Act

- Following are the Compulsory provisions of the act
 - 1. Organization of Gram Sabha**
 - 2. Establishment of Panchayats at three levels**
 - 3. Direct election to fill all seats at 3 levels**
 - 4. Indirect election for the post of chairperson at intermediate and district levels**
 - 5. 21 years as minimum age for candidate**
 - 6. Reservation of seats (both members and chairperson) for SCs and STs at all three levels**
 - 7. Reservation of one third seats (both members and chairperson) for women at all three levels**
 - 8. Fixed tenure of 5 years**
 - 9. State Election Commission**
 - 10. State Finance Commission**
- Following are the voluntary provisions
 - 1. Giving representation to MPs and MLAs/MLCs in panchayats falling within their constituencies**
 - 2. Providing reservation for backward classes**

3. Making panchayats autonomous bodies
4. Devolution of powers to Panchayats to prepare plan for economic development and social justice
5. Granting powers to Panchayats to levy and collect certain taxes, duties etc.

Provisions of Panchayat (Extension to Scheduled Areas) Act/ PESA Act, 1996

- According to constitution, **provision of part IX is not applicable to Schedule V areas**
- However, **parliament can extend** these provisions with certain modifications
- Accordingly, parliament extended these provisions to **Scheduled areas with PESA Act, 1996**
- At present 10 states have schedule V areas. They are **Andhra Pradesh, Telangana, Chhattisgarh, Gujrat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha and Rajasthan**

Features of the Act

- State legislation for Panchayats in Scheduled areas should be **in conformity with customary laws**
- **Gram Sabha has the authority to approve the plans**, programmes and projects for social and economic development
- **Gram Sabha is responsible for identification of beneficiaries** under Poverty alleviation programmes
- **Reservation for Scheduled tribes should not be less than half of the seats**
- **All seats of Chairpersons at all three levels** should be reserved for **Scheduled Tribes**
- **Gram Sabha should be consulted** while acquiring **land for development projects and rehabilitating the affected people**
- **Permission of Gram Sabha** is needed for giving license for mining activities in their area
- Following powers are endowed to panchayats
 1. **To enforce prohibition of intoxicating drugs**
 2. **Ownership of Minor forest produces**
 3. **To prevent alienation of tribal lands**

4. To manage village markets
5. To control money lending

Articles Related to Panchayats

Article 243	Definitions
Article 243A	Gram Sabha
Article 243B	Constitution of Panchayats at three levels
Article 243C	Composition of Panchayats
Article 243D	Reservation of Seats for SC, ST and Women
Article 243E	Duration of Panchayats
Article 243F	Disqualification of Membership
Article 243G	Powers, authority and Responsibility of Panchayats
Article 243H	Powers to impose taxes
Article 243I	State Finance Commission
Article 243J	Audit of accounts of Panchayats
Article 243K	Elections to the panchayats
Article 243L	Application to UTs
Article 243M	Part not to apply to certain areas
Article 243N	Continuance of existing laws and Panchayats
Article 243O	Bar to interference by courts in electoral matters

Municipalities

- There are **8 types of urban local bodies in India**
 - 1) **Municipal Corporation** (for administration of big cities)
 - 2) **Municipality** (for administration of small cities)
 - 3) **Notified area committee** (for administration of a fast-developing town which does not fulfill conditions for a municipality)
 - 4) **Town area committee** (for administration of small towns)
 - 5) **Cantonment board** (Municipal administration for civilian population in cantonment areas)
 - 6) **Township** (it is urban government established by large public enterprise to provide civil amenities to its staff)
 - 7) **Port trust** (for administration of port areas)
 - 8) **Special purpose agency** (they are government bodies for different purposes like Housing boards)
- The system was **constitutionalized through 74th amendment act, 1992**
- Following **ministries** at the center oversee **urban local bodies**
 - Ministry of Urban Development created in 1985**
 - Ministry of Defense in cantonment boards**
 - Ministry of Home Affairs in the case of UTs**

History of Urban Bodies

- **First Municipal Corporation in India** was set up by the British in **Madras** in 1687-88
- In 1726, Municipal corporations were set up **Bombay and Calcutta**
- **Viceroy Mayo's Resolution in 1870** visualized **financial decentralization** for local self-governments
- **Viceroy Ripon's Resolution** is known as the **magna carta of local self-government**
- **Ripon** is also known as the **father of local self-government in India**
- **Local self-government** was included as a **transferred subject** in **Government of India Act 1919**
- In 1924, **Cantonment Act** was passed by the central legislature

- In **Government of India Act, 1935**, local self-government was declared as a provincial item

74th Amendment Act, 1992

- The act has added a new **part IX A with the title ‘The Municipalities’**
- It consists of articles **243P to 243 ZG**
- The act also added **12th Schedule** which elaborates the functions of municipalities. It deals with Article **243 W**

Salient Features of 74th Amendment Act

1. Three Types of Municipalities 243Q

- A **Nagar panchayat** for a transitional area between rural and urban area
- A **Municipal Council** for a smaller urban area
- A **Municipal corporation** for a larger urban area

2. Composition 243R

- **All members are directly elected** by the people of each ward
- **The state legislature may provide the manner of election of chairperson** of a municipality
- **State legislature may provide provisions for representation of persons** having special knowledge and experience in municipal administration, the MP and MLA representing the area which includes municipality, members of Rajya Sabha and State Legislative Council from Municipal area and the chairpersons of committees other than wards committees

3. Wards Committees 243S

- **Wards committee should be constituted for one or more wards together in a municipality with population of 3 lakh or more**
- **State legislature may make provisions related to composition, territorial area and the manner of election to wards committees**

4. Reservation of Seats 243T

- The act provides **reservation for SC and ST at all Municipalities in proportion to their population** to the total population in the Municipal area

- State legislature shall provide for **reservation of offices of chairpersons for the SCs and STs**
- There should be a reservation of **not less than one third of seats to women including women of SC and ST**
- **Not less than one third of the total seats for chairpersons** should also be reserved for women
- **State legislature may provide reservation for any other backward class in the state**

5. Duration of Municipalities 243U

- The act provides **five-year term**
- In case of earlier **dissolution before 5 years**, election should be held **within 6 months**
- **The new body will continue in the office for the remaining period** (Not for full 5 years)
- **If the reminder period is less than six months, there is no need to conduct a bye election**

6. Disqualifications 243V

- **A member can be disqualified under any law** which is in force for the election of the state legislature concerned
- **He can also be disqualified under any law made by the state legislature** for Municipality institutions
- **Minimum age** to be a member of Municipality is **21**
- **State legislature decides the authority to consider the cases related to disqualification**

7. Powers and Functions of Municipalities 243W

- **State legislature may endow powers and functions** for municipalities
- It includes **preparation of plans** for economic development and social justice and the implementation of government schemes
- **18 functions are listed in twelfth schedule**

8. Finances 243X

- State legislature may authorize municipalities to levy, collect and appropriate taxes, duties, tolls and fees
- State legislature may also assign some taxes collected by the state government to Municipalities
- May also provide grants in aid to Municipalities
- May make provisions for providing credit to Municipalities

9. Finance Commission 243Y

- Finance commission constituted for Panchayats shall also function for Municipalities

10. Audit of Accounts 243Z

- State legislature makes provisions for maintenance and audit of accounts

11. State Election Commission 243ZA

- State election commission performs all functions related to the election of Municipalities

12. Application to Union Territories 243ZB

- The President of India may direct that the provision of this act may apply to any UT with some modifications and exception the president may suggest

13. Exempted Areas 243ZC

- The act does not apply to following areas
Scheduled areas and Tribal areas in states
Darjeeling district of West Bengal for which Darjeeling Gorkha Hill Council exists

14. District Planning Committee 243ZD

- Every state shall constitute a district planning committee at district level
- It consolidates the plans prepared by the panchayats and Municipalities in the district and prepares a draft development plan for district
- State legislature may make provisions related the following:
 - 1) Composition of District Planning Committee
 - 2) Manner of election of members
 - 3) Functions of this committee

4) The manner of election of chairperson

- **4/5 of members should be elected by the elected members of District Panchayat and Municipalities in the district from among themselves**
- **The representation to these members should be in proportion to rural and urban population in the district**
- **The chairperson shall forward the district plan to the state government**

15. Metropolitan Planning Committee 243ZE

- **Metropolitan means an area having more than 10 lakh population**
- **State legislature may make provisions related the following:**
 - 1) Composition of Metropolitan Panning Committee**
 - 2) Manner of election of members**
 - 3) Representation of central and state governments in such committees**
 - 4) Functions of this committee**
 - 5) The manner of election of chairperson**
- **2/3 of members should be elected by the elected members of municipalities and chairpersons of panchayats in the metropolitan area from among themselves**
- **The representation would be in proportion to population of municipalities and panchayats in the metropolitan area**
- **The chairperson shall forward the plan to state planning commission**

16. Continuation of Existing Laws and Municipalities 243ZF

- **All the exiting state laws relating to Municipalities shall continue for one year after 74th Amendment act.**
- **The state has to adopt new system within one year of the act**
- **All existing municipalities in different states at that time would continue until the expiry of their term or dissolution by the state government**

17. Bar to interference of Courts in Election Matters 243ZG

- **Any law relating to delimitation of constituencies or allotment of seats cannot be questioned in any court**

- No election to Municipalities can be questioned except by an election petition presented to prescribed authorities

12th Schedule of the Constitution

- It contains following 18 functional items related to 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 and solid waste management
 - 7) Fire services
 - 8) Urban forestry and protection of environment
 - 9) Safeguarding interests of weaker sections including handicapped and mentally retarded
 - 10) Slum improvement
 - 11) Urban poverty alleviation
 - 12) Provision for urban amenities like parks, gardens and playgrounds
 - 13) Promotion of cultural and educational aspects
 - 14) Burials and burial grounds
 - 15) Cattle ponds and prevention of cruelty to animals
 - 16) Statistics like registration of births and deaths
 - 17) Public amenities like street lighting, parking slots and bus stops
 - 18) Regulation of slaughter house and tanneries

Articles Related to Municipalities

Article 243P	Definitions
Article 243Q	Constitution of Municipalities
Article 243R	Composition of Municipalities
Article 243S	Constitution and Composition of Wards Committees

Article 243T	Reservation of Seats
Article 243U	Duration of Municipalities
Article 243V	Disqualifications for membership
Article 243W	Powers, authority and responsibilities of municipalities
Article 243X	Powers to impose taxes by municipalities
Article 243Y	Finance Commission
Article 243Z	Audit of accounts of municipalities
Article 243ZA	Elections to the Municipalities
Article 243ZB	Application to UTs
Article 243ZC	Part not to apply to certain areas
Article 243ZD	Committee for district planning
Article 243ZE	Committee for Metropolitan planning
Article 243ZF	Continuance of existing laws and municipalities
Article 243ZG	Bar to interference by courts in electoral matters

Judiciary

- **Supreme courts and High courts** in India can **enforce both central laws and state laws**
- In the US, Supreme court is to enforce central laws and High Courts are to enforce provincial laws
- Thus, **India has a unified judiciary unlike the US system**

Supreme Court

- The Supreme Court of India was **inaugurated on January 28, 1950**
- It succeeded the **Federal Court** of India established **under Government of India Act, 1935**
- **Article 124 to 147 in Part V** of the constitution deals with organization, independence, jurisdiction, powers and procedures of the Supreme Court

Organization of Supreme Court

- At present, Supreme Court of India consists of **34 judges including Chief Justice of India**
- Originally, the strength of Supreme Court was **8 judges including Chief Justice of India**

Judges

Appointment of Judges

- **Judges of the Supreme Court** are appointed by **the President**
- Chief Justice is appointed by the president **after consultation with such judges of the Supreme Court and High Courts as he deems necessary**
- **Other Judges** of the Supreme Court are appointed by the President **after consultation with Chief Justice and such judges of Supreme Court and High Courts as he deems necessary**
- The **consultation with Chief Justice is obligatory** in the appointment of judges other than Chief Justice

Cases Related to Appointment of Judges

- The Supreme Court has given **different interpretation on the word ‘consultation’** mentioned in the constitution related to appointment of Judges
1. **First Judges Case, 1982 (SP Gupta Vs Government of India:** Supreme Court held that **consultation does not mean concurrence** and it only implies exchange of views.

Then, it is **not mandatory for the President to follow the opinion** expressed by the judges during the consultation

2. **Second Judges Case 1993 (Advocates on Records Case):** The Supreme Court reversed the earlier ruling and changed the meaning of the word **consultation to concurrence**.

Thus, it made **compulsory for the President to accept the advice** tendered by the Chief Justice.

Chief Justice would tender his advice after consulting **2 seniors most judges of Supreme Court**

In this case, Supreme Court also ruled that the **senior most judge of the Supreme Court should be appointed as the Chief Justice**

3. **Third Judges Case 1998 (President Seeking Advice of Supreme Court under Article 143):** It again reiterated that **consultation is concurrence**. But Chief Justice of India should consult with a collegium of **4 Judges instead of 2 as mentioned in Second Judges Case**. The advice of the Chief Justice is **binding on the President**

4. **Fourth Judges Case**

The **99th Amendment Act of 2014** and **National Judicial Appointments Commission Act 2014** replaced the collegium of Judges with a new body called as **National Judicial Appointments Commission**

In **2015**, Supreme Court ruled **99th Constitutional Amendment and National Judicial Appointments Commission** as unconstitutional and void

National Judicial Appointments Commission

- Established by **99th Amendment Act of Indian constitution, 2014**
- It includes **Chief Justice of India, 2 senior most judges of the Supreme Court, Union Minister of Law and 2 eminent persons**
- Two eminent persons would be selected by a committee composed of **Chief Justice of India, the Prime Minister and the leader of opposition in Lok Sabha or the leader of largest opposition party**
- It was declared void by the Supreme Court in **2015**

Qualifications of Judges

- He should be a citizen of India
- He should have been a Judge of High court for five years
Or He should have been an advocate in High Courts for 10 years
- He should be a distinguished jurist in the opinion of the President
- There is no minimum age to be the Judge of Supreme Court

Oath or Affirmation

- Oath is taken **before the President of India** or some person appointed by the President for this purpose

Tenure of Judges

- Tenure of the judge of Supreme Court has **not been fixed by the constitution**
- Constitution tells that he holds office until he attains **65 years of age**
- Any question regarding his age is determined by an authority as provided by the Parliament
- He can **resign his office by writing to President**

Removal of Judges

- He can be removed by **an order of President**
- President can remove the Judge **only after an address in the parliament passed by Special majority of each house of parliament**
- The grounds of removal are **proved misbehavior or incapacity**
- **The Judges Enquiry Act, 1968** regulates the procedure relating to the removal of the judge of Supreme Court by the process of impeachment. It is as follows
 1. The removal motion signed by **100 members of Lok Sabha or 50 members of Rajya Sabha** is to be given to the presiding officer
 2. Presiding officer **may admit the motion or refuse to admit it**
 3. If it is admitted, the Presiding officer has to constitute a **3-member committee to investigate the charges**
 4. The committee should consist of

a) **Chief Justice or a Judge of Supreme Court**

b) **Chief Justice of a High Court**

c) **A distinguished Jurist**

5. If the committee finds the judge to be guilty, each house has to pass it with **special majority**
 6. Then, the address is presented to the President for removal of the Judge
 7. Then the President passes an order removing the Judge
- The first case of impeachment was the case of **Justice V Ramasamy of the Supreme Court (1991 to 1993)**. The Enquiry Committee found him guilty, but the motion was not passed by Lok Sabha. The Congress abstained from voting

Salaries and Allowances

- Salaries and allowances of the Judges of Supreme Court are determined by the parliament from time to time
- It cannot be decreases except during a financial emergency
- Present salary of Chief Justice is **2.8 lakh Indian rupees** and that of Judges is **2.5 lakh rupees**
- **50 percent salary is the pension for them**

Acting Chief Justice

- President of India can appoint a judge of Supreme Court as acting CJI in following situations
 1. **The office of CJI is vacant**
 2. **The CJI is temporarily absent**
 3. **The CJI is unable to perform his duties**

Ad Hoc Judge

- Chief Justice of India can appoint a judge of High Court as ad hoc judge of Supreme Court when there is **lack of judges in Supreme Court**
- He can do so after consulting the **Chief Justice of concerned High court and prior consent of President**

- Such judges enjoy the **jurisdiction, powers and privileges of the judge of a Supreme Court**

Acting Judge of Supreme Court

- **Chief Justice of India** can request a retired judge of Supreme Court or High Court (He should be qualified to be a judge of SC) to act as the judge of Supreme Court for a temporary period
- It can be **done only on the prior consent of the President and the person** who is going to be appointed
- **Such judges enjoy the jurisdiction, powers and privileges of the judge of a Supreme Court**
- But he will not be deemed to be a judge of Supreme Court

Seat of Supreme Court

- Constitutionally **Delhi is the seat of Supreme Court**
- Constitution also authorizes the **Chief Justice of India to fix other places as seat of Supreme Court**
- It can be done only on the **prior approval of the President**

Jurisdiction and Powers of Supreme Court

- Following are the types of **Jurisdiction of the Supreme Court**
 1. **Original Jurisdiction**
 2. **Writ Jurisdiction**
 3. **Appellate Jurisdiction**
 4. **Advisory Jurisdiction**
 5. **A Court of Record**
 6. **Judicial Review**

Original Jurisdiction

- Supreme court decides different **disputes between different units of Indian federation.**

- It includes **disputes between centre and one or more states or and between the states**
- In such cases Supreme Court has **exclusive original jurisdiction** (No other court can decide such a matter)
- Any matter related to the **election of President and Vice President**

Writ Jurisdiction

- It is to **protect Fundamental Rights of the Citizens**
- **Supreme Court can issue five writs mentioned in Article 32**
- This jurisdiction is **not exclusive** as the High Courts can also issue them
- **High courts can also issue Writs for other rights other than Fundamental Rights.**
But Supreme Court can issue writs only for enforcing Fundamental Rights

Appellate Jurisdiction

Following are the appellate jurisdiction of the Supreme Court

- **Appeals in constitutional matters:** If the High Court certifies that the case involves a **substantial question of law** that requires the interpretation of the constitution.
 - **substantial question of law** means a question on which two or more High Courts have differed
 - **Appeals in Civil Matters:** If the High Court certifies that the case involves a **substantial question of law of general importance** and the question needs to be decided by the Supreme Court.
 - **substantial question of law of general importance** means that the case holds interest for a wider section of the society
 - **Appeals in Criminal Matters:** If the High Court has on appeal **reversed an order of acquittal of an accused person and sentenced him to death or life imprisonment or imprisonment for 10 years**
 - Or if the High Court has taken before itself any case from any subordinate court and convicted the accused person and sentenced him to death or life imprisonment or imprisonment for 10 years
- Or High Court certifies that the case is fit for appeal to the Supreme Court

- **Appeals by Special Leave:** Supreme court can give special leave to appeal from any judgement in any matter **passed by any court or tribunal in India except military tribunal and court martial**

This provision has four following aspects

1. **It is a discretionary power of the Supreme Court and hence cannot be claimed as a right**
 2. **It can be granted in any judgement whether final or interlocutory**
 3. **It may be related to any matter-constitutional, civil, criminal etc.**
 4. **It can be granted against any court or tribunal except a military court**
- It is exercised in extra ordinary circumstances

Advisory Jurisdiction

- It is the power of **President under article 143** to seek the advice of Supreme Court
- The Supreme court **must tender the opinion if the advice is related to any dispute arising out of any pre-constitution treaty or agreement**
- In other cases, Supreme Court may tender or refuse to tender advice to the President
- The **opinion of the Supreme Court in such cases are considered as advice** and not as a judicial pronouncement
- The advice of Supreme Court **is not binding on the President**
- So far President has made **15 references to the Supreme Court under this provision**

A Court of Record

Supreme Court has powers under this provision

1. **The judgements, proceeding and acts of the Supreme Court are recorded for perpetual memory and testimony**
 - These records have **evidentiary value** and cannot be questioned when produced before any court
 - They are considered as **legal reference**
2. It has power **to punish for contempt of any court** either with **simple imprisonment up to 6 months** or with **fine up to 2000 rupees** or with both
 - Contempt of court may civil or criminal

- **Civil contempt** means wilful disobedience to any judgement or order of a court
- **Criminal contempt** means publication of any matter or doing an act which scandalizes and lowers the authority of a court or obstructs the administration of justice by a court

Judicial Review

- It is the power of the **Supreme Court to examine the constitutionality of legislative enactment and executive orders of both central and state governments**
- Supreme Court can declare the **acts and orders as unconstitutional and void if they are found to be violative of the constitution**

Other Powers of the Supreme Court

- Supreme Court is the **authority to make investigation for the purpose of removal of different constitutional and non-constitutional authorities**
- Supreme Court can **correct its own judgement**
- It can **withdraw cases pending before High Courts and dispose them itself**
- It can **transfer a case from one High Court to another High Court**
- Its law is **binding on all courts in India**
- Its decree or order is **enforceable throughout the country**
- All authorities (Civil and Judicial) in the country should act in aid of Supreme Court
- It is the ultimate interpreter of the constitution

Public Interest Litigation

- **Justice Krishna Iyer, in Mumbai Kamgar Sabha v Abdulbhai Faizullabhai (1976)** used the expression PIL for the first time. Justice **Bhagavathi added momentum to PIL in the late seventies.**
- **PIL must be differentiated from private litigation.** In private litigation, judiciary is approached for the redressal of wrong or **injustice of a private person** (or a company which is a legal person).
- He has to show that he has **locus-standi** – that he is connected to the case and has the right to hear or to be heard. **No one can approach the court without locus – standi.**
- But PIL, **the victims of violation of constitution and law may be weak vulnerable and illiterate.**

- Hence, there is **no need to have locus standi for the person** or the organization which files the case on behalf of them
- Newspaper **reports can also be the basis for initiation of action.** Affidavits have not been asked for.
- **There are many cases in which the SC and the HCs ruled for popular welfare** tightening norms for the **blood banks; coming to the rescue of the under -trials who were imprisoned without trial for unduly long periods, setting guidelines for introduction of CNG based buses etc.; in Delhi; cleaning Yamuna etc.; directing Delhi industrial units to take care of the child labourers,** in 2009, the Supreme Court asked the Union Government to respond to the PIL accusing it of inaction in bringing back black money kept secretly in foreign banks by Indians.
- Public Interest Litigation is the power **given to the public by courts through judicial Activism.** It is a case of **judicial activism** as the judiciary activates the public to approach the courts in social interest.

Alternate Dispute Redressal (ADR) Mechanism

- ADR is a dispute resolution mechanism to **bring together the disagreeing parties for an agreement outside the court litigation.**
- The ADR processes conform **only to civil disputes,** as explicitly provided by law

Various modes of Alternative Dispute Resolution

- **Arbitration-** Arbitration is a process in which **a neutral third party or parties render a decision based on the merits of the case.** The decision of the third party is final
- **Mediation-** The Process of mediation aims to **facilitate the development of a consensual solution through discussion between the disputing parties.** The Mediation process is overseen by a non-partisan third party - the Mediator. He **should facilitate their negotiations but the mediator's decision is valid only if it is accepted by both the parties.**
- **Conciliation-** This is a process by which **resolution of disputes is achieved by compromise or voluntary agreement.** In contrast to arbitration, the conciliator does not render a binding award. The conciliator tries to facilitate negotiation between the parties and take an acceptable solution.

- **Lok Adalat:** They are constituted under the **Legal Services Authorities Act, 1987**. It is a form of a public conciliation, supervised by **few people who are judges or advocates with experience**. They have been given powers of a civil court up to a limited extent.
- **Nayaya Panchayats:** A **Nyaya Panchayat** is a system of dispute resolution at village level in the Indian subcontinent. Nyaya panchayats can be endowed with functions based on broad principles of natural justice and can tend to remain procedurally as simple as possible. They can be given civil and minor criminal jurisdiction.

Articles Related to Supreme Court

Article 124	Establishment and constitution of Supreme Court
Article 124 A	National Judicial Appointment Commission
Article 124 B	Functions of National Judicial Appointment Commission
Article 124 C	Power of parliament to make law on Appointment of Judges
Article 125	Salaries and Allowances of Judges of SC
Article 126	Appointment of acting Chief Justice
Article 127	Appointment of ad hoc judges
Article 128	Attendance of retired judges at sitting of the SC
Article 129	Supreme court to be a court of records
Article 130	Seat of SC
Article 131	Original Jurisdiction
Article 132	Appellate Jurisdiction of SC in appeal from High Court in certain cases

Article 133	Appellate Jurisdiction of SC in appeal from High Court in regard to civil matters
Article 134	Appellate Jurisdiction of SC in regard to criminal matters
Article 134 A	Certificate for appeal to SC
Article 135	Jurisdiction and Powers of Federal Court under existing law to be exercisable by the SC
Article 136	Special Leave Petition
Article 137	Review of Judgements and orders by the SC
Article 138	Enlargement of the jurisdiction of the SC
Article 139	Parliament may confer on the SC powers to issue certain writs
Article 139 A	Transfer of certain cases
Article 140	Parliament may confer ancillary powers of the SC
Article 141	Law declared by SC is binding on all other courts
Article 142	Enforcement of decrees and orders of SC throughout India
Article 143	Power of President to seek advice of SC
Article 144	Civil and judicial authorities to act in aid of SC
Article 145	Supreme court makes Rules of court with approval of the President
Article 146	Officers and servants and expenses of the SC
Article 147	Interpretation of terms in this part

High Court

- **Articles 214 to 231 in part VI of the constitution deal with the organization, independence, jurisdiction, powers and procedures of the High Courts**
- **High courts operate below the Supreme Court and above subordinate courts**
- **High court occupies top position in the judicial administration of a state**
- **High courts were set up in India first time in 1862 at Calcutta, Bombay and Madras**
- **Fourth High Court of India was established in Allahabad in 1866**
- **Guwahati High Court was established in 1948**
- **Constitution demands a High Court for each state**
- **But, 7th Amendment of the constitution in 1956 authorised the parliament to establish a High Court for two or more states**
- **For example, Guwahati High Court functions for Assam, Nagaland, Mizoram and Arunachal Pradesh**
- **At present, there are 25 High Courts in India**
- **Andhra Pradesh High Court was the 25th High Court (Established in 2019)**
- **Delhi is the only Union Territory which has its own High Court**
- **Number of judges in each High Court is fixed by the President from time to time**

Judges

Appointment of Judges

- **Judges of the High Court are appointed by the President**
- **Chief Justice of a High Court is appointed by the president after consultation with Chief Justice of India and the Governor of the state concerned.**
- **Other Judges of the High Court are appointed by the President after consultation with Chief Justice of the High Court concerned.**
- **The collegium for appointment of High Court judges includes Chief Justice of India and 2 senior most judges of the Supreme Court (3rd Judges Case)**

Qualifications of Judges

- He should be a citizen of India
- He should have held a judicial office in the territory of India for 10 years
Or He should have been an advocate in High Courts for 10 years
- There is no minimum age to be the Judge of High Court
- There is no provision for appointment of distinguished jurist as a judge of High Court (It is only in the case of Supreme Court)

Oath or Affirmation

- Oath is taken **before the Governor of the state or** some person appointed by the Governor for this purpose

Tenure of Judges

- Tenure of the judge of **High Court** has **not been fixed by the constitution**
- Constitution tells that he holds office until he attains **62 years of age**
- Any question regarding his age is decided by the President after consultation with Chief Justice of India and the decision of the president is final in this regard
- He can **resign his office by writing to President**

Removal of Judges

- It is similar to the removal of the judge of SC (Mentioned in the chapter of Supreme Court)

Salaries and Allowances

- Salaries and allowances of the Judges of High Court **are determined by the parliament from time to time**
- It **cannot be decreased except during a financial emergency**
- Present salary of Chief Justice is **2.5 lakh Indian rupees** and that of Judges is **2.25 lakh Indian rupees**
- **50 percent salary is the pension for them**

Acting Chief Justice of High Court

- President of India can appoint a judge of a High Court as acting Chief Justice of the High Court in following situations
 1. **The office of Chief Justice is vacant**
 2. **The Chief Justice is temporarily absent**
 3. **The Chief Justice is unable to perform his duties**

Additional and Acting Judge of High Court

- **The President** can appoint duly qualified person as **additional judge of High Court** for a temporary period **not exceeding 2 years** if there is **too much work** in the High Court
- **The President** can also appoint duly qualified person as an **acting judge** of High Court when a **judge of that High Court is unable to perform his duties**
- **Both additional and acting judges cannot hold office after attaining the age of 62 years**

Retired Judges

- **Chief Justice of a High Court can request a retired judge of any High Court to act as the judge of High Court** for a temporary period
- It can be **done only on the prior consent of the President and the person** who is going to be appointed
- **Such judges enjoy the jurisdiction, powers and privileges of the judge of a High Court**
- But he will not be deemed to be a judge of High Court

Jurisdiction and Powers of High Courts

- Following are the types of **Jurisdiction of High Courts**
 1. **Original Jurisdiction**
 2. **Writ Jurisdiction**
 3. **Appellate Jurisdiction**
 4. **Supervisory Jurisdiction**

5. Control over subordinate Courts
6. Court of Record
7. Judicial Review

Original Jurisdiction

- Original jurisdiction of the High Courts extends to the following matters
 - a) **Matters of marriage, divorce, company law and contempt of court**
 - b) **Disputes relating to election** of members of parliament and state legislature
 - c) **Regarding revenue matter or an act related to revenue collection**
 - d) **Enforcement of Fundamental Rights**
 - e) **Cases ordered to be transferred from a subordinate court** involving the interpretation of the constitution
 - f) **Four High Courts (Calcutta, Bombay, Madras and Delhi) have original civil jurisdiction in cases of higher value**

Writ Jurisdiction

- **Article 226 empowers High Courts** to issues all five writs mentioned under Article 32 for Supreme Court
- It is to **protect Fundamental Rights of the Citizens and for any other purpose**
- Hence, writ jurisdiction of the High Court is **wider than that of the Supreme Court**
- High Court can issue writs against a person or authority **even outside its territorial jurisdiction if the cause of action arises within the territorial jurisdiction of the High Court**
- **Writ Jurisdiction of Supreme Court and High Courts are part of basic structure of the constitution**

Appellate Jurisdiction

- High court is primarily a court of appeal
- Hence it takes both criminal and civil matters on appeal from lower courts

Supervisory Jurisdiction and Control over Subordinate Courts

- High Court has **superintendence over all courts and tribunals functioning in its territorial jurisdiction except military courts or tribunals**
- High Courts also **have administrative control over subordinate courts**
- High court is **consulted by the Governor in matters of appointment and promotion of district judges and in the appointment of the persons to the judicial service of the state**
- It can **withdraw a case pending in subordinate court if it involves a substantial question of law that requires interpretation of the constitution**
- A law of High Court is **binding on all subordinate courts functioning within its territorial jurisdiction**

A Court of Record

High Courts have following powers under this provision

- **The judgements, proceeding and acts of the High Courts are recorded for perpetual memory and testimony**
- These records have **evidentiary value** and cannot be questioned when produced before any subordinate court
- They are considered as **legal reference**
- It has power **to punish for contempt of court** either with **simple imprisonment** or with **fine or with both**
- Contempt of court may **civil or criminal**
- **Civil contempt** means wilful disobedience to any judgement or order of a court
- **Criminal contempt** means publication of any matter or doing an act which scandalizes and lowers the authority of a court or obstructs the administration of justice by a court

Judicial Review

- It is the power of the High Courts to examine the constitutionality of legislative enactment and executive orders of both central and state governments
- High Courts can declare the acts and orders as unconstitutional and void if they are found to be violative of the constitution
- The phrase Judicial review has nowhere mentioned in the constitution
- However, the provisions of Article 13 and 226 explicitly confer the power of judicial review on a High Court

Articles Related to High Courts

Article 214	High Courts for states. There should a High Court for each state
Article 215	High Courts to be court of records
Article 216	Constitution of High Courts (Number of Judges in the High Court is fixed by the president from time to time)
Article 217	Appointment and conditions of the office of a judge of High Court
Article 218	Application of certain provisions relating to Supreme Court to High Courts
Article 219	Oath or Affirmation of judges of High Courts
Article 220	Restriction on practice after being a permanent judge
Article 221	Salaries and allowances of judges of High Courts
Article 222	Transfer of a judge from one High Court to another
Article 223	Appointment of acting chief justice
Article 224	Appointment of additional and acting judges
Article 224 A	Appointment of retired judges at sitting of High Courts
Article 225	Jurisdiction of existing High Courts
Article 226	Power of High Courts to issue certain writs

Article 227	Power of superintendence over all courts by the High Court
Article 228	Transfer of certain cases to High Court
Article 229	Officers and servants and the expenses of High Courts
Article 230	Extension of jurisdiction of High Courts to union territories
Article 231	Establishment of a common High Court for two or more states

Article 370: Special Provision for Jammu and Kashmir

- Article 370 of the Indian Constitution was a '**temporary provision**' which granted special autonomous **status to Jammu and Kashmir**
- **It was revoked in 2019**
- Except for **defence, foreign affairs, finance and communications**, the Parliament needed the **state government's concurrence for applying all other laws**
- **Legislative powers:** The state's residents were living under a separate set of laws, including those related to **citizenship, ownership of property, and fundamental rights, as compared to other Indians**
- **Territory:** Indian Parliament **was unable to increase or reduce the borders of the state and Indian citizens from other states cannot purchase land or property in Jammu & Kashmir.**
- **Emergency Provisions:**
 - ☐ The Union government had no power to declare emergency on **grounds of armed rebellion** unless it is made at the request or **with the concurrence of the state government.**
 - ☐ Centre was able to declare emergency in the state only in case of **war or external aggression.**
 - ☐ The Centre had **no power to declare financial emergency under Article 360** in the state.
- **Constitutional Amendment:** A Constitution amendment was applicable to J&K only **after the President issues an order.**

Article 35A

- It was incorporated into the Constitution in 1954 by a **Presidential order** issued under **Article 370 (1) (d) of the Constitution**.
- It was also revoked in 2019
- It empowered J&K legislature to define state's "**permanent residents**" and their **special rights and privileges** without attracting a challenge on grounds of violating the **Right to Equality of people from other States or any other right under the Constitution**.
- It protected certain provisions of the J&K Constitution which denies **property rights to native women who marry from outside the State**. The denial of these rights extends to her children also.
- The Article bared non-J&K state subjects to settle and buy property in J&K.

Right to Information Act, 2005

- The act extends to the **whole India except Jammu and Kashmir**
- It is the right to **access any information or document** from a Government office
- Some strategically important information is exempted from the Act
- **File Noting is excluded** from the purview of the act
- **File noting means the discussions** held during a decision-making process

Exempted Bodies and Organisations

- **Central Intelligence Bureau**
- Security agencies specified like **IB, Research and Analysis Wing, Enforcement Directorate and Aviation research centre**
- Special Frontier forces like **BSF, CRPF, ITBP, Assam Rifles etc**

Information Exempted

- Information affecting **sovereignty and integrity of India**
- Information **forbidden by any court of law**
- Information which includes any **intellectual property and copy right**

- Information received in **confidence from any foreign country**
- **Cabinet papers**

Public Information Officer

- He is the officer designated by public **authorities to receive application and provide information under Right to Information Act**
- Public Information Officer is liable for a fine of **250/day up to a maximum of 25000 rupees** for not providing information or giving wrong information

Time Limit to Get Information

- **30 days** from the date of application in **normal applications**
- **48 hours** if the information is related to the **life and personal liberty of a person**
- **35 days** if the application is given to **Assistant Public Information Officer**
- **40 days** if the interest of a **third party is involved**

Inter State Water Disputes

- **Article 262** of the constitution empowers the parliament to make laws for the adjudication of inter-state water disputes
- Accordingly, parliament enacted **The Inter State Water Disputes (ISWD) Act 1956**
- Under the act, Government of India can set up tribunals for adjudicating interstate water disputes
- Such tribunals will have **3 members who should be judges of Supreme Court or High Courts and they are appointed by the Chief Justice of India**
- **An amendment bill to the act is pending in the parliament**

Parts of Indian Constitution

Part I	The Union and its territory	Art. 1 to 4
Part II	Citizenship	Art. 5 to 11
Part III	Fundamental Rights	Art. 12 to 35

Part IV	Directive Principles	Art. 36 to 51
Part IVA	Fundamental Duties	Art. 51A
Part V	The Union	Art. 52 to 151
Part VI	The States	Art. 152 to 237
Part VII	Repealed by Const. (7th Amendment) Act, 1956	
Part VIII	The Union Territories	Art. 239 to 242
Part IX	The Panchayats	Art. 243 to 243O
Part IXA	The Municipalities	Art. 243P to 243ZG
Part IXB	The Co-operative Societies	Art. 243ZH to 243ZT
Part X	The Scheduled and Tribal Areas	Art. 244 to 244A
Part XI	Relations between the Union and the States	Art. 245 to 263
Part XII	Finance, Property, Contracts and Suits	Art. 264 to 300A
Part XIII	Trade, Commerce and Intercourse within the Territory of India	Art. 301 to 307
Part XIV	Services under the Union and the States	Art. 308 to 323
Part XIVA	Tribunals	Art. 323A to 323B
Part XV	Elections	Art. 324 to 329A
Part XVI	Special provisions Relating to certain classes	Art. 330 to 342
Part XVII	Official Language	Art. 343 to 351
Part XVIII	Emergency Provisions	Art. 352 to 360
Part XIX	Miscellaneous	Art. 361 to 367

Part XX	Amendment of the Constitution	Art. 368
Part XXI	Temporary, Transitional and Special Provisions	Art. 369 to 392
Part XXII	Short title, commencement, authoritative text in Hindi and repeals	Art. 393 to 395

Schedules to Indian Constitution

Schedules 1 to 12

First schedule	List of states and union territories and their borders
Second schedule	Provisions as to the president, governors of states, speaker and the deputy speaker of the house of the people and the chairman and the deputy chairman of the council of states and the speaker and the deputy speaker of the legislative assembly and the chairman and the deputy chairman of the legislative council of a state, the judges of the supreme court and of the high courts and the comptroller and auditor-general of India.
Third schedule	Forms of oaths or affirmations
Fourth schedule	Provisions as to the allocation of seats in the council of states
Fifth schedule	Provisions as to the administration and control of scheduled areas and scheduled tribes.
Sixth schedule	Provisions as to the administration of tribal areas in the states of Assam, Meghalaya, Tripura and Mizoram.
Seventh schedule	The union list, state list and the concurrent list
Eighth schedule	The list of recognised languages.
Ninth schedule	Provisions as to validation of certain acts and regulations.

Tenth schedule.	Provisions as to disqualification on ground of defection
Eleventh schedule	The powers, authority and responsibilities of panchayats.
Twelfth schedule	The powers, authority and responsibilities of municipalities.