

Question Answer

05 July 2024 03:02 AM

Mains

1. Many State Governments further bifurcate geographical administrative areas like Districts and Talukas for better governance. In light of the above, can it also be justified that more number of smaller States would bring in effective governance at State level? **Discuss. (2013) – 200 Words**
2. Though the federal principle is dominant in our Constitution and that principle is one of its basic features, but it is equally true that federalism under the Indian Constitution leans in favour of a strong Centre, a feature that militates against the concept of strong federalism. **(2014) – 200 Words**
3. Discuss each adjective attached to the word 'Republic' in the 'Preamble'. Are they defendable in the present circumstances? **(2016) – 200 Words.**
4. Do you think that constitution of India does not accept principle of strict separation of powers rather it is based on the principle of 'checks and balance'? **(2019) – 150 Words.**

1) Republic in Preamble

- Discuss Sovereign, Socialist, Secular, Democratic
- Discuss issue Sovereign (WTO), Socialist (Market Economy), Democratic(Money power election)

1) The SC has held

- Separation of power to be [art of the basic structure of the constitution a feature that cannot be altered even by a constitutional amendment (Art 368)
- However Since India is parliament form of democracy there is no strict separation of power bw the executive and legislative . The constitution under DPSD Art 50 only mandate separation of power bw executive along with Doctrine of checks and balances id pivotal in Indian context

Judiciary.

1."How far do you agree with the view that tribunals curtail the jurisdiction of ordinary courts? In view of the above, discuss the constitutional validity and competency of the tribunals in India. **(2018)**

2.Critically examine the Supreme Court's judgement on 'National Judicial Appointments Commission Act, 2014' with reference to appointment of judges of higher judiciary in India. **(2017)**

3.What was held in the Coelho case? In this context, can you say that judicial review is of key importance amongst the basic features of the Constitution? **(2016)**

4.Starting from inventing the 'basic structure' doctrine, the judiciary has played a highly proactive role in ensuring that India develops into a thriving democracy. In light of the statement, evaluate the role played by judicial activism in achieving the ideals of democracy. **(2014)**

Local Govt.

1."The reservation of seats for women in the institutions of local self- government has had a limited impact on the patriarchal character of the Indian Political Process." **(2019)**

2.Assess the importance of the Panchayat system in India as a part of local government. Apart from government grants, what sources the Panchayats can look out for financing developmental projects. **(2018)**

3."The local self-government system in India has not proved to be an effective instrument of governance". Critically examine the statement and give your views to improve the situation. **(2017)**

4.In absence of a well-educated and organized local level government system, 'Panchayats' and 'Samitis' have remained mainly political institutions and not effective instruments of governance. Critically discuss. **(2015)**

Elections.



1. On what grounds a people's representative can be disqualified under the Representation of People Act, 1951? Also mention the remedies available to such a person against his disqualification. **(2019)**
2. In the light of recent controversy regarding the use of Electronic Voting Machines (EVM), what are the challenges before the Election Commission of India to ensure the trustworthiness of elections in India? **(2018)**
3. Simultaneous elections to the Lok Sabha and the State Assemblies will limit the amount of time and money spent in electioneering but it will reduce the government's accountability to the people'. Discuss. **(2017)**
4. To enhance the quality of democracy in India the Election Commission of India has proposed electoral reforms in 2016. What are the suggested reforms and how far are they significant to make democracy successful? **(2017)**

L1 Indian Polity

30 June 2024 04:10 PM

Important topics :

- Constitution
- Laws passed by the legislature
- Judicial Verdicts

Sources :

- Laxmikanth
- Current Affairs
- Political Theory XI
- Indian Constitution at Work XI

Constitution :	<ul style="list-style-type: none">• Special law of land which enjoy Special legal sanctity. (Article 11)•• Defines area of influence, job of legislature, executive, judiciary• Manual how country will be run and govern <p>• The vast majority of contemporary constitutions describe the basic principles of the state, the structures and processes of government and the fundamental rights of citizens in a higher law that cannot be unilaterally changed by an ordinary legislative act. This higher law is usually referred to as a constitution.</p>
Laws :	<ul style="list-style-type: none">• by legislature (CAA, 2019)• Only have broad lines
Rule :	<ul style="list-style-type: none">• by executive (CAA Rules)• How to implement law, my ministries
Judiciary	<ul style="list-style-type: none">• If law or rule is not under Constitution.• Ex : IT Act,2000 -> Transmit message -> offence -> crime But it violate freedom of speech and expression IT Act 2000 -> declared unconstitutional (Ultra vires)

Types of constitution

Written :	<ul style="list-style-type: none">• Laws are codified into a single document• Ex : India and US
Unwritten :	<ul style="list-style-type: none">• Laws are written but are not codified into a single document• Parliament is sovereign• Convention play a big role, Kings and Queen• Ex : UK (De Lolme : British Parliament can do anything except converting man into women and vice versa.)

Unitary :	<ul style="list-style-type: none">• All power concentrated in the centre,• Powers will be delegated (power distributed to state but can be taken back)• Ex : South Africa, UK
Federal :	<ul style="list-style-type: none">• No proper definition, but 5 points can be taken from USA Federal government :<ol style="list-style-type: none">1. Dual Govt (Centre and state govt)2. Distribution of power (local issue like police to states Schedule VII - Union+ state+ concurrent list)3. Written constitution/ Supremacy4. Rigidity of the Constitution5. Independent Judiciary• Powers are distributed• Ex : USA (oldest federal govt), India

India is federal but there are some exception cases

- State has power on State list over only normal circumstances
- Province if Emergency and Presidential rule.
- Union list > larger and powerful > State List

Indian Constitution different approach

- **Quasi Federal** : For National Interest like war we can move from federal -> unitary. (Amphibian)
- Unitary but with subsidiary federal feature
- It is federal with strong centre

Theory of Separation of Powers : (Montesquieu)

- For true democracy we need to separate the law
- US first implemented separation by ARTICLE, One organ does not influence the other.

ARTICLE 1) Legislative	Congress
ARTICLE 2) Executive	President
ARTICLE 3) Judiciary	Supreme court.

- In India we follow Parliamentary Democracy.
 - Power of ministers are drawn from Parliament.
 - No separation of power b/w Legislative and Executive.
 - Separation of power bw Executive and judiciary.

- The term "tripartite system" is commonly ascribed to French Enlightenment political philosopher Baron de Montesquieu, although he did not use such a term but referred to "distribution" of powers.
- In The Spirit of the Laws (1748), Montesquieu described the various forms of distribution of political power among a legislature, an executive, and a judiciary.
- Montesquieu's approach was to present and defend a form of government whose powers were not excessively centralized in a single monarch or similar ruler (a form known then as "aristocracy").

Doctrine of checks and balances :

- one organ under check of other organ.

Legislative	under check of judiciary
Executive	under check of Legislative and judiciary
Judiciary	<ul style="list-style-type: none">• Independent but check under appointment and removal by President.• But Judge are appointed by themselves and no judge has been removed until now.• Very powerful Judiciary is present in India.

Checks and balances are fundamental elements of constitutional democracy that prevent the unconstrained exercise of power, improve the quality of decision-making and ensure that mechanisms exist for preventing or penalising unethical behaviour.

They play a vital role in maintaining public confidence in the political system and the government has a particular responsibility to uphold them.

L2 Constitutionalism, Preamble

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Constitutionalism :

- Doctrine of limited govt : the power available with the govt are not unrestricted (not unlimited power)

Constitutionalism is the idea, often associated with the political theories of John Locke and the founders of the American republic, that government can and **should be legally limited in its powers, and that its authority or legitimacy depends on its observing these limitations.**

- Steps followed to insure Constitutionalism

1) Separation of Powers	
2) Popular Sovereignty	Ultimate power of people
3) Rule of Law	Anybody can be sued , only sentencing if law breached
4) Independent Judiciary	
5) Individual Rights	Part III : Fundamental rights to limit power of state.

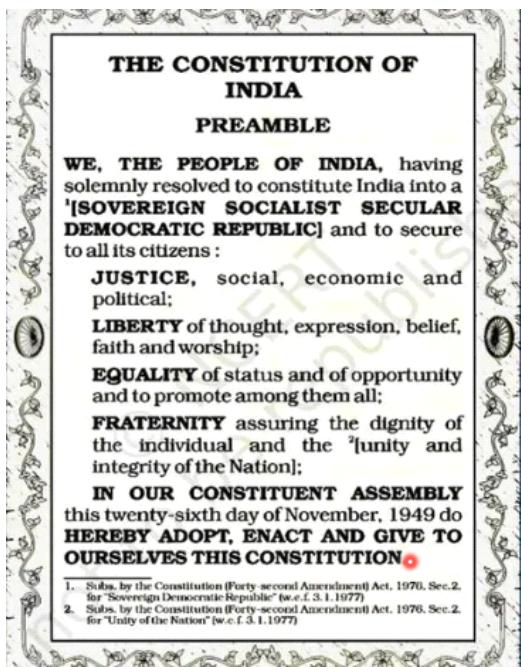
Types of Majority : Ayes / No / Abstain

Absolute Majority :	<ul style="list-style-type: none">• Majority of total membership of the house. Fixed number : 50% of total Strength.• Ex LS Total seat = 543, Majority 50% = 50% 272+• Initially for Political party to form Government, we need absolute majority.•
Simple Majority :	<ul style="list-style-type: none">• Majority of the member Present and Voting, Also known as Simple Majority• Ex: for LS Strength=543, Present=500, Voting=400, Abstain(No vote)=100, Simple Majority = 201• Required for :<ul style="list-style-type: none">• Passing Confidence & No-Confidence motion• Passing Ordinary bill, money bill, financial bill.• Election of speaker
Effective Majority :	<ul style="list-style-type: none">• Majority of all then member of the House (After excluding vacancies)• Effective Strength = Total Strength - Vacancies (Bc of Death, resignation and disqualification)• Ex: LS Strength=543, Vacancies=43, Effective Majority=251• Required for :<ul style="list-style-type: none">• Removal of vice president
Special Majority - Type I	<ul style="list-style-type: none">• Majority of 2/3rd of the member present and the voting• Used in Article 312 : creation of new All India Services AIS, current we have 3 (IAS, IPS, IFS)
Special Majority - Type II	<ul style="list-style-type: none">• Majority of 2/3 of the members present and the voting + Majority of the total membership of the house (Absolute majority).• For Constitutional Amendment (Non-federal features).
Special Majority - Type III	<ul style="list-style-type: none">• Majority of 2/3rd of membership present and voting + majority of total membership of the house + Ratification by not less than half of the state (Simple majority of 15 from 28 State + 2 UT)• For Constitutional amendment (Federal Features) like : Schedule 7 (Union state list), Article 368 (Federal contribution).
Special Majority - Type IV	<ul style="list-style-type: none">• Majority of not less than 2/3 of total membership of the house.• Impeachment of President.

Preamble :

The philosophy of the constitution

Preamble sets the **ideals and goals** which the makers of the Constitution intend to achieve through that Constitution.
'The Preamble contains in a nutshell its ideals and its aspirations'.
(**Golak Nath v/s State of Punjab, 1967**).
'a key to open the mind of the makers' – (**re Berubari Union and Exchange of Enclaves, 1960**).
Based on **Objectives Resolution** of Pandit Nehru (Adopted by Constituent Assembly on January 22, 1947).



We the people ...	<ul style="list-style-type: none"> • Source of authority of the constitution
Sovereign, Socialist ...	<p>Nature of the Indian State Without comma, means one block one nature 42nd CA Act 1976 : Secular + Socialist</p> <p>1. Sovereignty : We need to follow rule if we join organisation Sovereign: It can make or unmake any decision with respect to itself without interference by any other country.</p> <p>2. Democracy : by Abraham Lincoln, Govt by the people, for the people, of the people. People decide who govern them Democratic: Constitution ensures the creation and existence of the government at the will of the people, through elections. Democracy denotes people's power and equal participation of all citizens in the Polity. (R C Poudyal v/s Union of India, 1994)</p> <p>3. Republic : UK is democratic but not republic governed by monarch, India is republic and head by President, Only selected by election, open to all without discrimination Republic: The Head of the State is elected and is not a hereditary monarch.</p> <p>4. Socialist : Government will promote equal distribution of resource. Will eliminate inequality and move toward communism, Using Gandhian socialism Socialist: Indicates the incorporation of the philosophy of 'socialism'; which aims at elimination of inequality in income and status and standards of life. (D.S. Nakara v/s Union of India, 1983)</p> <p>5. Secular : Separation of matter of states and religion. originate in Europe (Age of darkness) controlled by church / Religion / Priestly class Then came Renaissance : questioning with rational thinking -> created Secularism Secular: State protects all religions equally and does not uphold any religion as the State religion. This, in itself, is one of the glowing achievements of the Indian democracy when her neighbours, such as Pakistan, Bangladesh, Burma uphold particular religions as State religions.</p>
Justice Liberty ...	<ul style="list-style-type: none"> • Objective of constitution <p>Liberty: Freedom of thought, expression, belief, faith and worship. Equality: Banishment of inequality. Fraternity: A feeling that we are all children of the same soil, the same Motherland. Dignity of an Individual: A fraternity cannot, however, be installed unless the dignity of each of its members is maintained.</p> <p>1) Justice : Against division labour (Against Chatur varna system). Louis Dumont : Indian divided as binary (Purity / Polluted)</p>

- a) Social Justice: A comprehensive form to remove social imbalance by law harmonising the rival claims or the interests of different groups and/or sections in the social structure or individuals by means of which alone it would be possible to build up a welfare State. (*Dalmia Cement Ltd v/s Union of India, 1996*)
- b) Political Justice: The absence of any arbitrary distinction between man and man in the political sphere.
- Universal Adult Suffrage.
 - *Lily Thomas v/s Union of India, 2013.*
- c) Economic Justice: The ideal of economic justice is to make equality of status meaningful and life worth living.

2) Fraternity : Brotherhood

In French Revolution : Introduced three words Liberty, Equality, Fraternity

In our Constituent Assembly ...	<ul style="list-style-type: none"> • Date of constitution was adopted • 26th Nov 1949 : Constituent Date (Adopted, some expected) • 26th Jan 1950 : Republic Day (Came into force)
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Karl Marx Communism theory : (Communism Utopia)

1) Primitive Communism :	We started with : classless society, equal, everything belong to everyone.
2) Feudal society :	<ul style="list-style-type: none"> • Agrarian separation : • Two classes : Landlords + Serfs • created Have's + Haven't (Master and Slaves)
3) Capitalist society :	<p>Through use of technology, two classes :</p> <ul style="list-style-type: none"> • Bourgeoisie : Technology owner • Proletaries : worker <p>Alienation : Division of labour leads to alienation of</p> <ul style="list-style-type: none"> • product : created in many parts no ownership • fellow workers : we cannot talk freely, micro managing
4) Socialism	<ul style="list-style-type: none"> • Path to go to Communism state • Govt own resource and distribute the resource to state to create equal distribution
5) Communism	<ul style="list-style-type: none"> • Go back to communism, stateless society • Ram Rajya (for Mahatma)

Issues in Preamble :

Social issues (GS1),	when parliament is inaugurated Hindu puja is done, prime minister inaugurated ram mandir.
Sovereignty	WTO regulate subsidies on fertilizer and electricity of farmers but sovereignty is to join WTO
Socialism	India uses Welfare Capitalism, funding from capitalism, to collect fund for subsidies.
Secular	Hindu cannot run their own institution
Democratic	More money in election, win probability high, influenced by media, social media, through manipulation.
Appeasement	On name of religion, through program to get vote New word : Pluralism (Instead of secularism)

Is Preamble part of constitution ?

Berbari Union case	No
Kesavnanda Bharati vs State of Kerala	<ul style="list-style-type: none"> • Yes • Last item to be voted upon

- US Constitution was the first to begin with a Preamble.
- Preamble is part of the basic structure of Indian Constitution.
- Preamble aids the legal interpretation of the Constitution where the language is found to be ambiguous.
- Preamble, by itself, is not enforceable in a Court of Law.

Preamble alone is not powerful, it derives power from constitution.

If any power is not given in Constitution, Preamble can't provide.

If any power is not stopped in Constitution, Preamble can't stop.

Could the Preamble have been amended without changing its date of adoption, asks Supreme Court

A Bench of Justices Dipankar Datta and Justice Sanjiv Khanna was hearing a petition filed by BJP leader Subramanian Swamy seeking to delete the words 'socialist' and 'secular' from the Preamble

February 09, 2024 07:19 pm | Updated 08:41 pm IST - NEW DELHI

_ism :	ideology
_tion :	process

L3 Union & territory (1)

02 July 2024 09:56 PM

Article 1

Article 1 : Name & territory of the Union

1(1) - India, that is Bharat, shall be Union of States

- Nomenclature
 - Dual Name
 - In Hindi Bharat, which is India
- Union of states, despite of federal govt
 - India is not the result of an agreement between states like USA
 - No state can secede (Come out of India)
 - Do not include Union Territory

Schedule : explanatory memorandum of constitution

1(2) - The State & Territories thereof shall be specified in the First Schedule.

<i>(First Schedule)</i>	
Name	Territories
[15.] Jammu and Kashmir	The territory which immediately before the commencement of this Constitution was comprised in the Indian State of Jammu and Kashmir.
● [16.] Nagaland	The territories specified in sub-section (1) of section 3 of the State of Nagaland Act, 1962.]
[17.] Haryana	[The territories specified in sub-section (1) of section 3 of the Punjab Reorganisation Act, 1966 and the territories specified in clause (a) of sub-section (1) of section 4 of the Haryana and Uttar Pradesh (Alteration of Boundaries) Act, 1979, but excluding the territories specified in clause (v) of sub-section (1) of section 4 of that Act.]

1(3) - Territory of India shall comprise -

- a) **The territories for the States**
- b) **The Union Territories specified in the First Schedule**
- c) **Such other territories as may be acquired.**

- French settlement of Pondicherry
 - Ceded to India by the French Govt in 1954
 - Administered as an acquired territory until 1962
- 1st BUT to be given a legislative Assembly
- Acquisition of territory is governed by international Law

L4 Union & territory (2-4)

02 July 2024 10:16 PM

Article 2 : Admission or establishment of new States

- Parliament may by law admit into the Union or establish new states on such terms and condition as it thinks fit.

Sikkim	<ul style="list-style-type: none">Under hereditary monarch called ChogyalSikkim as a Protectorate (Protect it diplomatically or militarily against third parties)Spring 1973 -> Govt of Sikkim Act 1974 -> Chogyal turned into a nominal constitutional head (like UK)35th Amendment of Indian constitution.Sikkim congress 2A want to take part in Lok Sabha and civil service exam.Innovation in the original scheme of Constitution. -> Intuition of Chogyal abolished.36th Amendment Act 1975 : Article 2A repealedSikkim made state of India
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Consultative Process :	<p>Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the area, boundaries or name of any of the States, the Bill has been referred by the President to the Legislature of that State for expressing its views thereon within such period as may be specified in the reference or within such further period as the President may allow and the period so specified or allowed has expired.</p>
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Article 3 : Formation of new State

- Centralising feature of Indian federalism, Strong Unitary Bias
- Reorganisation in Andhra, MP, Bihar, UP.
- Add new state in Schedule I names of states and UT's
- Update Schedule IV (representation of state in Rajya Sabha)
- Simple majority voting.
- Natural corundum : Part of state can be marked as UT, not whole state.

Andhra Pradesh	<ul style="list-style-type: none">2014 : Andhra Pradesh reorganisation bill, Distribution into two states Andhra and Telangana, Hyderabad joint capital for 10 years.Bill prior approval for president.Then sent to Legislative assembly of Andhra Pradesh for view, not binding on president -> Andhra rejected.Bill introduced to ParliamentBill passed by Simple majority in LS and RS and bifurcation of state was complete.
Jammu and Kashmir	<ul style="list-style-type: none">Previously had special status, under article 370, Only Article 1 and 2 were applicable. August 5 2019, Special status was revokedJ&K was under Presidential rule (Article 356), President as executive and Parliament as Legislative.J&K Reorganisation Bill, 2019. First introduced in RS. For views J&K assembly was replaced by Parliament and was passed.Bifurcation into two UT Jammu and Ladakh.Tried to make it unconstitutionalGovt (Article 3, Procedure, Parliament)Can permanent changes made to state under President rule. -> But assembly can only give views.Federalism : India shall be union of states : why state was converted to UTs -> converting Ladakh in UT (only part of Jammu) is okay but not with Jammu, we will answer if similar situation arises.
West Bengal	<ul style="list-style-type: none">West Bengal cannot change its name to Bangla, centre declined

Article 4 : Laws under article 2 and 3 to provide for amendment of the Schedule I and IV are supplemental, incidental and consequent matters

- Reorganisation of state will not require Absolute majority (in case of amending constitution, Schedule I and IV.)

Reorganisation of states after Independence

1948, June	Dhar Commission : State will be Reorganised on basis of administrative convenience, not on linguistic lines
1948, Dec	JVP Committee (Jawahar Vallabhbhai, Pattabi Sitaramayya.) : Administrative convenience, not language.
1950	<p>Part A: Bombay, Madras... -</p> <p>Part B: J&K, Mysore, Hyderabad. -</p> <p>Part C: Coorg, Delhi. -</p> <p>Part D: Andaman & Nicobar. -</p>
Oct, 1953	Potti Sreeramulu death : single state for Telugu speaker. First linguistic state : Andhra
Dec 1953	<ul style="list-style-type: none">State Reorganisation Commission (SRC), Fazal Ali, HN Kunzru, KM Panikkar, accepted Language reorganisation as, But rejected one Language one state14 States and 6 UT
2000	Chhattisgarh, UK, Jharkhand.

Q) Is it right to divide nation into states on the basis of

Regionalism -> Sub-nationalism.

Sub-Nationalism :	when you keep interest of your own state or region over our country
Neighbourhood :	<ul style="list-style-type: none"> Pakistan created in name of religion but did not respect Language. Sri Lanka: waited to create civil war on name of language. Same in Myanmar. <p>Ram Guha : India respects unity in diversity. It's not a threat to national unity</p>
Need for 2nd SRC	<p>Harit Pradesh and Bundelkhand in UP; Maru Pradesh in Rajasthan; Coorg in Karnataka; Vidharbha in Maharashtra; Bodoland in Assam; Gorkhaland in West Bengal. In Manipur (Bw Kuki and Maiti)</p>
US have 50 states India can have more than 28	<ul style="list-style-type: none"> Small is beautiful -> political Stability and equitable development to all parts of state. Most developed state Goa then Uttarakhand which are smaller. BIMARU state (Bihar, MP, Rajasthan, UP) -> Uttarakhand, Chhattisgarh, Jharkhand which have better development.

Some states given special status categories on basis of :

- 7 sister of NE, Sikkim, Himachal, Uttarakhand, J&K
- Central sponsored scheme (90:10) for General it is (65:35)
- Hilly, Border, SC ST population, cannot generate finance.

1. Addressing Regional Imbalances:

- Pro:** Smaller states can focus on local development and address specific regional issues more effectively.
- Con:** Merely creating new states does not guarantee development; there must be efficient governance and resource allocation.

2. Improving Governance:

- Pro:** Smaller administrative units can lead to more efficient and responsive governance.
- Con:** There is a risk of increased bureaucracy and administrative costs, potentially negating the benefits.

3. Better Administration:

- Pro:** States with smaller populations and geographical areas can be managed more effectively.
- Con:** Fragmentation can lead to administrative challenges, such as coordinating policies and projects across newly formed borders.

4. Cultural and Linguistic Harmony:

- Pro:** States formed on linguistic or cultural lines can ensure better representation and preservation of local identities.
- Con:** This approach might lead to further fragmentation of the country and exacerbate regionalism, potentially fuelling separatist sentiments.

5. Economic Development:

- Pro:** Regions with control over their resources can prioritize their development needs, leading to more balanced economic growth.
- Con:** Economic viability of new states must be carefully considered; smaller states may struggle with financial sustainability and lack of

6. Reducing Administrative Complexity:

- Pro:** Simplifying administrative structures can lead to more streamlined governance.
- Con:** Creating new states requires significant administrative changes, which can be complex and time-consuming, potentially leading to initial disruption.

Drawbacks

1. Political Challenges:

- Con:** The process of reorganizing states can be politically contentious, with various interest groups lobbying for or against changes based on their own agendas.
- Example:** The creation of Telangana from Andhra Pradesh faced significant political opposition and led to protests and unrest.

2. Economic Costs:

- Con:** Establishing new states involves substantial costs, including setting up new administrative capitals, infrastructure, and governance systems.
- Example:** The creation of new capitals, like the proposed Amaravati for Andhra Pradesh, can be an enormous financial burden.

3. Risk of Increased Regionalism:

- Con:** While reorganization can address some regional grievances, it can also strengthen regional identities at the expense of national unity.
- Example:** States like Punjab and Assam have seen strong regional movements that sometimes challenge the idea of national integration.

4. Complex Transition Period:

- Con:** The transition period during the reorganization can be disruptive, with potential administrative chaos and uncertainty.
- Example:** The bifurcation of Bihar into Bihar and Jharkhand involved significant administrative adjustments and initial confusion.

While a second States Reorganisation Commission could potentially address several governance and developmental issues by creating smaller, more manageable states, it also poses significant challenges. The process needs to be approached with careful planning, considering economic viability, political stability, and national integration. It is not a panacea and should be part of a broader strategy of administrative reform and inclusive development.

L5 Citizenship (5-11)

04 July 2024 09:46 PM

Part II : Citizenship : Article 5-11

Citizenship :

- Is normally matter of legislature, rather being incorporated in Constitution
 - But In case of India, India faced partition to Pakistan, therefore citizenship added to constitution to define on eve of partition while people migrate.
- | | |
|------------|---|
| Citizens : | enjoys full civil and political rights. |
| Aliens : | (Alienus Latin word) Foreigner |

Importance of Citizenship :

- Legal acceptance by the State of legitimate integration into political set up
- Give and take relationship, civil rights and duties.
- No Dual Citizenship (unlike US dual citizenship of Country as well as state) -> Centralizing feature.
- As Hannah Arendt, citizenship is right to have the right

Article 5 : Citizenship at the commencement of the constitution

- At commencement if constitution, who has his domicile in the territory of India shall be citizen if

a)	Who has born in territory of India
b)	Whose parent was born in territory of India
c)	Been ordinarily resident in territory of India for not less than 5 years

Article 6 : People who migrated to India from Pakistan

- People who have migrated from Pakistan will be allowed citizenship if :

a)	If his parent or grandparent was born in India
b)	If born in Pakistan and migrated before July 1948
c)	Permit issued after July 1948, for moving from Pakistan to India, Govt will decide

- Migration wave

1st March 1947	Idea of Pakistan, Muslim left after knowing about new country. Leaving evacuee property given to Hindu coming back
Until July 1948	Hindu and Sikh from Pakistan to India
After July 1948	Muslim migrated from Pakistan to India who did not want to become part of Pakistan. But now permit is required.

Article 7 : People who migrated to Pakistan

- Notwithstanding anything in article 5 and 6, person who has migrated to Pakistan after 1st march 1947, shall not be deemed citizen of India.

Article 8 : Born in India, residing Outside

- Citizen if registered as Indian
- Can be done in Indian embassy in foreign.

Article 9 : Voluntarily acquiring foreign citizenship

- No longer be Indian Citizenship
- We do not recognize dual citizenship

Article 10 : Continuance of right of citizenship

- Every person is deemed to be citizen of India, continue to be citizen.
- Subjected to any law made by Parliament

Article 11 : Power of Parliament over citizenship

- Confers power on parliament to regulate citizenship , wrt acquisition, termination and other matter related to citizenship.
- The Citizenship Act 1955. amended 8 times, last time in CAA 2019.

Acquisition of citizenship	1) By Birth	1. Both parent Indian 2. One Parent Indian, other not illegal immigrant at time of birth'		
	Jus Soli	Law of soil	Until 1985	
	Jus Sanguinis	Law of blood, One of the parent shall have to be Indian	After 1985	
		On parent must not be illegal	2003	
	2) By Descent :			
	1. Either of parent citizen, 2. Dual Citizenship until 18years, then decide, if not decided Indian Citizenship terminated 3. If parent register the child in Indian embassy.			
Loss of Citizenship	3) By Registration :	1. Married to Indian, living for 7 years with Visa		
	4) By Naturalisation :	1. No Citizenship 2. Renounce citizenship of other country 3. Adequate knowledge of any language in Schedule VIII 4. Intention to reside in India for 14 years. 5. Waive all condition if given special contribution in Science, arts, philosophy, literature, world peace, human progress.		
	5) By Incorporation of Territory	1. But Govt of India shall specify the persons of that territory who shall be citizen.		
	1) By Renunciation : Voluntary giving up citizenship			
	2) By Termination : Acquiring citizenship of other country, not informing govt.			
	3) By Deprivation :	1. Compulsory termination : fraud, concealing false in naturalisation 2. Out of country > 7 years, does not include official and student. 3. Central deciding : case of Berubari, people of Indian land but Bangladesh territory given option of continue being Indian.		

CAA 2019 (Citizenship Amendment Act 2019)

Act	<ul style="list-style-type: none"> • People from Pakistan, Afghanistan, Bangladesh. With Minorities religion (Hindu, Persian, Christian, Jain, Buddhism, Sikh) faced religion Persecution. • By naturalisation (reducing 11 years -> 5 years), Entered before 31st dec 2014, Religiously persecuted. • Deemed as citizen from the date of your entry. • If there are legal proceedings, Foreigners Act, 1946 and Passport Act, 1920 -> Shall abate.
Rule	<ul style="list-style-type: none"> • Rule Made by executive (Home Affairs) <ul style="list-style-type: none"> ◦ Any doc that can show earlier country ◦ Priest certificate for religion ◦ AADHAR, Pan card, census doc ◦ No school leaving certificate required, self-declaration of language enough.
Exception	<ul style="list-style-type: none"> • Will not allow to reside in Tribal and ILP areas <ul style="list-style-type: none"> ◦ Tribal Areas, belong to only tribal people like Assam, Meghalaya, Mizoram, Tripura (Included in Schedule VI) ◦ Are under Inner Line Permit (ILP), Tea plantation gardens area, without permit we cannot enter these area. ◦ ILP extended to Manipur.

Arguments in Favour:

Argument in Against	Argument in Favour
Muslims left of CAA	Law to confer, not deprive, citizenship.
Law is not treating everyone equally	Like should be treated alike, differentiate Persecuted (Religious Minorities)
Why not include <ul style="list-style-type: none"> • Rohingyas in Myanmar • Tamils in Sri Lanka • Tibetans 	<ul style="list-style-type: none"> • Policy Decision • Fundamental bw persecuted religious Minorities and ethnic violence. They are getting target because of Tribal identity, language, caste, Politics preference. • Sri Lankan will not be ignored, they will follow procedure given for them.
Article 15, non-discriminate on religion	We are discriminating Aliens Article 15 is applicable only on Indian
Principle of Non-refoulement :	UN Non refoulement : No one shall returned back to their country if they feel Danger I their own country, like atheist in Pakistan We have not signed the UN 1951 Refugee Convention, under UNHCR's legal work We are allowed to do this
Unconstitutional	Article 11 : Parliament decides

Arguments in Against:

Violates Secularism	<ul style="list-style-type: none"> • By taking religion as requirement for qualification to acquire citizenship. Violating Basic structure. Making India Theocratic state. • Could have done without mentioning religion and talking only about Persecuted.
Excluding Jews, Atheist. Religion based classification.	<ul style="list-style-type: none"> • Classification unreasonable. On which yardstick you are classifying.
Article 14, Right against arbitrariness	<ul style="list-style-type: none"> • Classification on basis, unreasonable classification. • Classification on Country <ul style="list-style-type: none"> ◦ Principle 1: Pakistan and Bangladesh were part of British India. (Afghanistan is not British India) ◦ Principle 2: Afghanistan, Pakistan and Bangladesh have a State religion. (Sri Lanka :Buddhists) ◦ Principle 3: Degrees of harm. (Myanmar Rohingyas) ◦ Principle 4: The classification might be limited to singling out persecuted religious minorities. • Why Dec 31, 2014 <ul style="list-style-type: none"> ◦ No Justification provided ◦ 2014 Modi came to power, but not mentioned in law • Ignoring Jews and Atheist
High Population	
Article 11	CAA is violating Basic Structure Secularism, and article 14
Two Cutoff dates	Sec 6A declares cut off date of Assam accord India cannot have two cutoff dates for Citizenship.

Assam Accord :

- AASU 1979, Uncontrolled illegal migration from

British rule	For increasing tea plantation, people were brought from outside
Bangladesh	After formation of Bangladesh, many people migrated toward assam.

- Where will Assamese go ?

Solution	<ul style="list-style-type: none"> • Identify -> arrests -> depot • Need of NRC National Register of citizen • On/before 1st Jan 1966 -> Citizen • After 25th Mar 1971 (Operation Searchlight Day) deport them
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- After NRC, 1.9 Million could not prove citizenship (Some may Indian but lost document)

Amit shah : Implement CAA -> NRC

- Law and Lie : Out of 1.9 Million, only Minorities will be left in India.

- Just prove CAA (minorities and from selected)

NRC and NPR

- NRC First in 1951 -> 2018 only for Assam
- National Population Register NPR: Usual resident of India.(more than 182 days), NPR 2010 -> 2015 -> 2020
- To find internal migration.
- NPR with more question like birth date and place is just NRC in disguise.

NRC	National Register of Citizen
NPR	National Population Register

- In USA it is Jus Soli, Born on soil gives citizenship
- Great Nicobar Project : Creation of Port in sea route,
 - but it is in Vulnerable area for species of turtles and other animals
 - for Tribal Society Shompens.

L6 OCI and NRI

04 July 2024 09:46 PM

Diaspora : Indian Citizen who moved to foreign Citizenship, making steps for relation between countries

Hard power :	through War power
Soft power :	through art

Person of Indian Origin (PIO)

- MHA Scheme 2002
 - Who held Indian Passport,
 - Or Parents, grand parent, great grand parents
 - Not in neighbour country Afghanistan, Bangladesh, Bhutan, China, Nepal, Pakistan, Sri Lanka
- Can reside for 15 years

Overseas Citizen of India (OCI)

- Scheme under the Citizenship Act 1955, Operational since 2005
 - Who is eligible to become Indian on 26-01-1950
 - Who was Indian after 26-01-1950
 - Pakistani, Bangladeshi not eligible
- Can visit India, without Visa

Issues when both existed

Dual citizenship	How can give OCI
Which powerful	PIO or OCI

Overseas Citizen of India Cardholder

- The Citizenship Amendment act 2015
- Merger of PIO and OCI Schemes
- Cannot do Journalism, Research activity, Mountaineering without permission

Cancellation of OCI cards

- Fraud registration, Ex : Aatish Taseer father was Pakistani
- Showing disaffection to constitution
- Engaging with enemy during war
- Interest of sovereignty of India, security of state, public interest.
- Within 5 years sentenced for 2 years prison
- OCI violated any law that is in force in the country (Vague) :

Non Resident Indian

- Defined by Income Tax Act. To solve dual tax deduction.
- For Financial Year,

Resident Indian	Residing for more than 182 days
Non Resident Indian	Less than 182

- Update by Nirmala Sitaraman (To solve people earning money in India but residing less than 182 days by managing travel)
 - Resident Indian
 - Earning more than 15 lakhs from India
 - Residing for more than 120 days
 - NRI
 - Residing less than 120 days

DOMICILE

- Permanent Address
- Residence + Intention : To reside for an indefinite period.

Domicile of Origin	Domicile receiving from birth
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Domicile of Choice	<ul style="list-style-type: none">• Animus menendi• State of mind having formed a fixed intent to make a place his fixed, permanent home.
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- Help in reservation of Jobs and education
- Can have only one state domicile.

L7 Census & Fundamental Rights

05 July 2024 03:06 AM

CENSUS:

- Census Act, 1948 and the Census Rules, 1990.
- The Director of Census operations co-ordinate the work of census taking in the respective States/Union Territories. The last decennial population Census of India was conducted during 9th-28th February 2011 with a revisional round during 1st-5th March, 2011. The next Census was due in 2021 but the same has been postponed due to Covid-19 pandemic.
- All matters relating to Census including planning, preparations, pre-testing of questions/ schedules, conduct of Census, tabulation from Census data and its dissemination are dealt with in this Division.

2 Stages	<ul style="list-style-type: none">• House listing and Housing Census<ul style="list-style-type: none">• During House listing and Housing Census, all buildings, Census Houses and Households are identified and systematically listed in the relevant schedules. It provides comprehensive data on the conditions of human settlements, housing deficit and consequently the housing requirements to be taken care of in the formulation of housing policies. This will also provide a wide range of data/information on amenities and assets available to the Households. This would also provide the base for Population Enumeration by giving a more realistic idea of the population size of the House listing blocks, thereby ensuring the more practical carving of the blocks for Population Enumeration.• Population Enumeration.<ul style="list-style-type: none">• During the second phase of census taking, each person is enumerated and her/his individual particulars like Age, Marital status, Religion, Schedule Cast/Schedule Tribe, Mother tongue, Education level, Disability, Economic activity, Migration, Fertility (for female) are collected.
Body	MHA, Ministry of Home affairs
Decadal Exercise	<ul style="list-style-type: none">• Law does not mandate, census every 10 years• In Japan, USA mandated by law

First census	1872
First proper census	1881
After independence	1951 --2011

Caste Census :

- Till 1931 all caste data was captured
- After 1941 WWII caste census reduced to only SC/ST
- Census under Union list
- But caste Survey can be done by state, Like Bihar did it.

Need for Census :

- Conceptualizer schemes / policies / programmes
- Delamination , increasing seat according to population
- Seats in PRI & ULB (Reserved for SC and ST)

PART III :	Fundamental Rights
PART IV :	DPSP
PART IV A :	Fundamental Duties

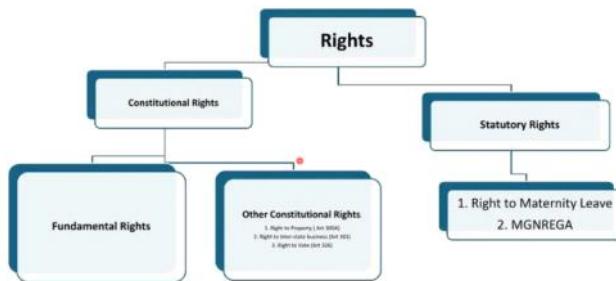
Part III, IV & IV-A, though separate units, concretise the lofty goals of justice, liberty, equality, fraternity, and the 'dignity of the individual' set out in the Preamble.
Imbued in the dominant theories of human rights we may generally classify these three parts respectively.

Negative obligation	<ul style="list-style-type: none">• Limitation & restriction on the powers of government• Negative obligations of the State not to interfere with the liberty of an individual;• Political Democracy : Freedom
Positive obligation	<ul style="list-style-type: none">• DPSP• Positive obligations of the State to take steps for the welfare of the individual• Social Economic Democracy
Duties	<ul style="list-style-type: none">• Fraternity• The duties of an individual to society and fellow individuals.

FUNDAMENTAL RIGHTS (ARTICLE 12-35)

- The FR's are meant for promoting the ideal of political democracy. They prevent the establishment of an authoritarian and despotic rule.
- The FR's operate as **limitations** on the tyranny of the executive and arbitrary laws of the legislature.
- In short, they aim at establishing '**a government of laws and not of men**'.

Rights	Claim
Constitutional Rights	Given by Constitution
Statutory Rights	Given by the law, passed by parliament, Simple Majority



Legal Rights	<ul style="list-style-type: none"> All the Fundamental Rights are Legal Rights. If the Fundamental Rights are violated, one can directly approach the Supreme Court (Protector if FR). Could be due to ordinary law
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Global Picture

ENGLAND	<ul style="list-style-type: none"> In England, there is no code of Fundamental Rights. The foundation of individual rights in England may be said to be negative in the sense that an individual has the right and freedom to take whatever action he likes, so long as he does not violate any rule of the ordinary law of the land. In England, the Courts have the fullest power to protect the individual against executive tyranny, the Courts are powerless as against legislative aggression upon individual rights. In short, there are no Fundamental Rights binding upon the Legislature in England. There is no law in England which the Parliament cannot change. De Lolme said, 'The British Parliament can do everything except make a woman a man and a man a woman.' In Short, there is no right which may be said to be 'Fundamental' in the strictest sense of the term.
USA	<ul style="list-style-type: none"> The framers of the US Constitution were apprehensive of the tyranny not only from the Executive but also from the Legislature. So, the American Bill of Rights is equally binding upon the Legislature as upon the Executive. Concept of 'Judicial Supremacy' as opposed to 'Parliamentary Supremacy'. The Courts in the US are competent to declare an act of Congress as unconstitutional on the ground of contravention of any provision of the Bill of Rights.
INDIA	<ul style="list-style-type: none"> Our Constitution follows the American model rather than the English. But the powers of the judiciary vis-a-vis the Legislature are weaker in India than in the United States : While the declarations in the American Bill of Rights are absolute and the power of the State to impose restrictions upon the Fundamental Rights of the individual in the collective interests had to be evolved by the Judiciary, - in India, this power has been expressly conferred upon the Legislatures by the Constitution itself, leaving a power of Judicial Review in the hands of the Judiciary to determine the reasonableness of the restrictions imposed by the Legislature.

ARTICLE 12	<ul style="list-style-type: none"> Definition of State 'The State' includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India. Other authorities : rely on SC Interpretation, <ul style="list-style-type: none"> Financial resources of the State, where State is the chief funding source i.e. the entire share capital is held by the government. (PSU) Deep and pervasive control of the State The functional character being Governmental in its essence, meaning thereby that its functions have public importance or are of a governmental character. (Jal Board) A department of Government transferred to a corporation. (Door Darshan, Prasar Bharti) Enjoys "monopoly status" which State conferred or is protected by it. (Bus, Train, BCCI) 		
ARTICLE 13	<ul style="list-style-type: none"> Law inconsistent with or in derogation of the Fundamental Rights <p>1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.</p> <table border="1"> <tr> <td>Doctrine of Separability:</td> <td> <ul style="list-style-type: none"> Indian Penal code 1916, Only cut part that violates FR EX: Sec 377 of IPC , Whosoever Voluntarily -> Carnal Intercourse -> Unnatural Offence -> Penalty Prosecution of LGBTQ (Discrimination on sex) 2012 Kaushal Judgment : Marked Unnatural 2018 Navlej Johar -> Sec 377 read out (Cannot be used against LGBTQ) But when IPC moved to BNS (Bhartiya Nyaya Samhita) , Sec 377 is not present </td> </tr> </table> <p>2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause, shall, to the extent of such contravention, be void.</p> <ul style="list-style-type: none"> Trace concept of Judicial Review (Not mention in Constitution) <p>3) 'Law' includes any Ordinance, order, bye-law, rule, regulation, notification, custom, or usage having in the territory of India the force of law.</p> <ul style="list-style-type: none"> Golaknath Judgement: 1967 : FR cannot be updated by CA 	Doctrine of Separability:	<ul style="list-style-type: none"> Indian Penal code 1916, Only cut part that violates FR EX: Sec 377 of IPC , Whosoever Voluntarily -> Carnal Intercourse -> Unnatural Offence -> Penalty Prosecution of LGBTQ (Discrimination on sex) 2012 Kaushal Judgment : Marked Unnatural 2018 Navlej Johar -> Sec 377 read out (Cannot be used against LGBTQ) But when IPC moved to BNS (Bhartiya Nyaya Samhita) , Sec 377 is not present
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4) Nothing in this article shall apply to any amendment of this Constitution made under Article 368.

o Not even Constitutional amendment

o Inserted by the Constitution (Twenty-fourth Amendment Act, 1971)

L8 Equality(14), Discrimination(15), Employment(16)

08 July 2024 09:08 PM

RIGHT TO EQUALITY (Article 14 to 18)

Article 14	<ul style="list-style-type: none">The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.Both Citizen and Aliens'Equality before the law' or 'equal protection of the laws' does not mean the same treatment to everyone. As no two human beings are equal in all respects, the same treatment to them in every respect would result in unequal treatment. <p>Exception</p> <ul style="list-style-type: none">President/Governor Immunity<ul style="list-style-type: none">The President/Governor is not answerable to the Court of law with regard to the discharge of their official functionsComplete Immunity, protect the dignity of King/Queen. King/Queen do nothing wrongNo criminal action, whatsoever, can be initiated against the President/Governor so long as they remain in office.Vienna Convention on Diplomatic Relations (1961) :<ul style="list-style-type: none">Immunity to Foreign diplomats, not answerable in foreignVisiting Heads of countries & foreign diplomats are not answerable to the Courts of India in discharge of their official functions.Persona non Grata : go back otherwise Arrested
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Equality before law	<ul style="list-style-type: none">A corollary from AV Dicey's concept of the Rule of Law.Rule of Law:<ul style="list-style-type: none">No person shall be made to suffer in body or goods, except for a breach of law.A person can sue or be sued.Constitution is the result of the ordinary law of the land. (law can be changed therefore ordinarily law)
Simply Put	<ol style="list-style-type: none">Absence of any special privileges in favour of any person,The equal subjection of all persons to the ordinary law of the land,No person is above the law.
Maxim	<ul style="list-style-type: none">Law is the king, Like British<ul style="list-style-type: none">From Rex to Lex, Rex.Borrowed from the British and is viewed as a negative concept.

Equal Protection of law	<ul style="list-style-type: none">Equality vs Equity [Substantive Justice (Outcome) + Distributive Justice]Allow state to interfere, Justification to reservation System.'that among the equals, the law should be equal and equally administered, that likes should be treated alike.It requires affirmative action by the State towards unequal's by providing facilities and opportunities.Focus on Substantive Equality and Distributive Justice.Ex : progressive taxation, armed forces are allowed to possess and consume liquor in prohibited areas.
Ex : Women	<ul style="list-style-type: none">This focuses on the outcomes and impacts of laws and policies.Substantive equality goes far beyond creating formal legal equality for women (where all are equal under the law) and means that governments are responsible for the impact of laws. This requires governments to tailor legislation to respond to the realities of women's lives. Striving for substantive equality also places a responsibility on governments to implement laws, through gender-responsive governance and functioning justice systems that meet women's needs.Substantive Equality is a concept expressed in the convention on the Elimination of All forms of Discrimination against Women (CEDAW) It recognizes that because of historic discrimination, women do not start on an equal footing to men.

Right Against Arbitrariness	<ul style="list-style-type: none">Electoral Bond CaseUnconstitutional : raised arbitrarinessQuid pro Quo : give and take
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ARTICLE 15 : EQUALITY AGAINST DISCRIMINATION

ARTICLE 15	Prohibition of discrimination on the grounds of religion, race, caste, sex or place of birth
15(1)	<ul style="list-style-type: none">The state shall not discriminate against any citizen on grounds ONLY of religion, race, caste, sex, place of birth or any of them.This right is enforceable only against the State and not on other individuals.
15(2)	<ul style="list-style-type: none">No citizen shall, on grounds ONLY of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to —<ul style="list-style-type: none">Access to shops, public restaurants, hotels and places of public entertainment; orThe use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of general public.Enforceable against the State as well as individuals.Social Justice, Helps in the fight against Untouchability.
15(3)	<ul style="list-style-type: none">Nothing in this article shall prevent the State from making any special provision for women and children.
15(4)	<ul style="list-style-type: none">Added by 1st Constitutional Amendment 1951.Does not bar the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

	<ul style="list-style-type: none"> • Reservation of seats
15(5)	<ul style="list-style-type: none"> • Added by the 93rd Constitutional Amendment Act 2005. • Confers power on the State to reserve seats in favour of backward classes of citizens who are socially and educationally backward in educational institutions (including unaided private institutions) • But excluding the minority institutions (Article 30) <p>CEI (Reservation of Seats) Act, 2007</p> <ul style="list-style-type: none"> • Not more than 27% of the seats in Central Educationally Institutions (IITs, IITs, NITS) have been reserved in favour of the OBCs. • Purely research-oriented institutions like TIFR have been exempted. • SC : 15, ST : 7.5, OBC : 27
15(6)	<ul style="list-style-type: none"> • CAA, 103rd 2019 • Article 15(6): Nothing in this article or sub-clause (g) of clause (l) of Article 19 or clause (2) of Article 29 shall prevent State from making: <ul style="list-style-type: none"> (a) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5); (b) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5) insofar as such special provisions relate to their admissions to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (l) of Article 30, which in the case of reservation would be in addition to the existing reservations and subject to a maximum of ten per cent OF the total seats in each category.

Champak Dorairajan vs Madras:	<ul style="list-style-type: none"> • Madras Govt 1950 : Issued order • Reserve seats for SC and ST in Govt ENG and Med college. • SC -> Unconstitutional, Discriminate on base of caste
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ARTICLE 16 : EQUALITY IN EMPLOYMENT

Article 16	Equality of opportunity in matters of public employment												
16(1)	<ul style="list-style-type: none"> • There shall be equality OF opportunity for all citizens in matters relating to employment or appointment to any office under the State. • Govt jobs to citizen 												
16(2)	<ul style="list-style-type: none"> • No citizen shall, on grounds ONLY of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State. • Other ground can be there like : educational qualification, merits 												
16(3)	<ul style="list-style-type: none"> • Confers the power on the Parliament to provide, by law residence as a qualification in cases of certain classes of employment under the State. • ARTICLE 371- L : job for Hyderabad and Karnataka • Mulki Rules : Mughal Govt jobs according to Residence place • Domicile is not included in Discrimination ground 												
16(4)	<ul style="list-style-type: none"> • Empowers the State to reserve seats in favour of backward classes (SC & ST included) in public employment provided these classes are not adequately represented in the services under the State. • 10 years Reservation was for Political reservation. • Mandal Commission : Socially and Educationally backward, Other than SC and ST • Creation of OBC (Other Backward Classes : 52% Population, Reservation : 27%) • Bofors gun corruption case : VP Singh implemented Mandal report <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="vertical-align: top; width: 25%;"> Indra Sawhney v/s Union of India (1992) case Mandal Case </td> <td> <ul style="list-style-type: none"> • Classified the legal principles relating to reservation: <p>a) 16(4) is an enabling clause.</p> <p>b) Any reservation policy in favour of backward classes shall have to satisfy 5 constitutional requirements.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Social & Educational backwardness.</td> <td style="width: 50%;">Prove non-arbitrariness, criteria</td> </tr> <tr> <td>The backward classes, in the opinion of the State, are not adequately represented in the public employment.</td> <td>Are not adequately</td> </tr> <tr> <td>The concept of Creamy Layer shall apply to the OBCs.</td> <td>If parents are not rich, hold property, or Constitutional posts, no reservation provided</td> </tr> <tr> <td>The reservation cannot, at any point, exceed 50%.</td> <td>Except extra ordinary circumstances</td> </tr> <tr> <td>The overall efficiency should not be affected as required under the Article 335 (Subjective Clause).</td> <td>Cannot rectify Merit, efficiency maintained</td> </tr> </table> <p>c) The power conferred by article 16(4) enables the State to provide reservation only at the entry level, i.e. at the time of recruitment, and not promotions.</p> <p>d) The reservation based upon economic backwardness among the General Category is no criteria to extend reservation.</p> </td> </tr> </table>	Indra Sawhney v/s Union of India (1992) case Mandal Case	<ul style="list-style-type: none"> • Classified the legal principles relating to reservation: <p>a) 16(4) is an enabling clause.</p> <p>b) Any reservation policy in favour of backward classes shall have to satisfy 5 constitutional requirements.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Social & Educational backwardness.</td> <td style="width: 50%;">Prove non-arbitrariness, criteria</td> </tr> <tr> <td>The backward classes, in the opinion of the State, are not adequately represented in the public employment.</td> <td>Are not adequately</td> </tr> <tr> <td>The concept of Creamy Layer shall apply to the OBCs.</td> <td>If parents are not rich, hold property, or Constitutional posts, no reservation provided</td> </tr> <tr> <td>The reservation cannot, at any point, exceed 50%.</td> <td>Except extra ordinary circumstances</td> </tr> <tr> <td>The overall efficiency should not be affected as required under the Article 335 (Subjective Clause).</td> <td>Cannot rectify Merit, efficiency maintained</td> </tr> </table> <p>c) The power conferred by article 16(4) enables the State to provide reservation only at the entry level, i.e. at the time of recruitment, and not promotions.</p> <p>d) The reservation based upon economic backwardness among the General Category is no criteria to extend reservation.</p>	Social & Educational backwardness.	Prove non-arbitrariness, criteria	The backward classes, in the opinion of the State, are not adequately represented in the public employment.	Are not adequately	The concept of Creamy Layer shall apply to the OBCs.	If parents are not rich, hold property, or Constitutional posts, no reservation provided	The reservation cannot, at any point, exceed 50%.	Except extra ordinary circumstances	The overall efficiency should not be affected as required under the Article 335 (Subjective Clause).	Cannot rectify Merit, efficiency maintained
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The reservation cannot, at any point, exceed 50%.	Except extra ordinary circumstances												
The overall efficiency should not be affected as required under the Article 335 (Subjective Clause).	Cannot rectify Merit, efficiency maintained												

16(4A)	<ul style="list-style-type: none"> Inserted by the 77th Constitutional Amendment Act, 1995. Reservation in Promotions for SCS and STS in public employment, if in the opinion of the State members of these communities are not adequately represented in the public employment. <table border="1"> <tr> <td>M. Nagaraj v/s Union of India (2006)</td><td> <ul style="list-style-type: none"> Allowing Promotion reservation for SC and ST 3 constitutional requirements: <ul style="list-style-type: none"> a) The SC & ST communities are socially and educationally backward. b) Not adequately represented in the public employment. c) Does not affect the efficiency in the administration. </td></tr> </table> <table border="1"> <tr> <td>Jarnail Singh v. Lachhmi Narayan Gupta, 2018</td><td> <ul style="list-style-type: none"> The Jarnail Singh judgment, authored by Justice Rohinton Nariman, had held that the creamy layer within SC/STs will be excluded from the benefits of reservation in promotion policies. Creamy layer in SC and ST </td></tr> </table> <table border="1"> <tr> <td>Mukesh Kumar vs The State of Uttarakhand, 2020</td><td> <ul style="list-style-type: none"> No reservation for SC/ST promotion Uttarakhand HC need data to prove SC -> Reservation is not FR </td></tr> </table>	M. Nagaraj v/s Union of India (2006)	<ul style="list-style-type: none"> Allowing Promotion reservation for SC and ST 3 constitutional requirements: <ul style="list-style-type: none"> a) The SC & ST communities are socially and educationally backward. b) Not adequately represented in the public employment. c) Does not affect the efficiency in the administration. 	Jarnail Singh v. Lachhmi Narayan Gupta, 2018	<ul style="list-style-type: none"> The Jarnail Singh judgment, authored by Justice Rohinton Nariman, had held that the creamy layer within SC/STs will be excluded from the benefits of reservation in promotion policies. Creamy layer in SC and ST 	Mukesh Kumar vs The State of Uttarakhand, 2020	<ul style="list-style-type: none"> No reservation for SC/ST promotion Uttarakhand HC need data to prove SC -> Reservation is not FR
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Mukesh Kumar vs The State of Uttarakhand, 2020	<ul style="list-style-type: none"> No reservation for SC/ST promotion Uttarakhand HC need data to prove SC -> Reservation is not FR 						
16(4B)	<ul style="list-style-type: none"> Carry forward policy. Inserted by the 81 Constitutional Amendment Act, 2000. If seats vacant for n years -> seats will move out of reserved 						
16(5)	Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.						
16(6)	<ul style="list-style-type: none"> Reservation for poor in general Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any economically weaker sections of citizens other than the classes mentioned in clause (4), in addition to the existing reservation and subject to a maximum of ten per cent of the posts in each category. <p>Diff from Narshimrao</p> <ul style="list-style-type: none"> It was Amendment instead of executive resolution (Govt Notification) 						

Maratha Reservation, 2018	<ul style="list-style-type: none"> In November 2018, the Maratha community was given the reservation under the Maharashtra State Socially and Educational Backward Act. The special act was sanctioned by Maharashtra State Backward Class Commission and approved in both the assembly and council. The Bombay High Court while upholding the reservation pointed that instead of 16 per cent it should be reduced to 12 per cent in education and 13 per cent in jobs. Accordingly, the Act was implemented with Maratha students availing the quota in educational institutions and jobs. In September 9, 2020 the Maratha reservation confronted another hurdle as Supreme Court stayed its implementation and referred the case to Chief Justice of India for larger bench. It meant Marathas could not avail quota benefits either in education or jobs till the final verdict came out. But those who had availed the quota benefit till date remained unaffected. The Supreme Court on May 5, 2021 quashed the reservation. <p>Deemed Unconstitutional</p> <ul style="list-style-type: none"> Marathas are politically empowered Adequately represented as well Marathi asked by saying they are dabbawalla (if people eat their food, they are not backward)
Bihar Reservation, 2024	<ul style="list-style-type: none"> Survey result : SC+ST+OBC+EBC = 82% so inc reservation to 65% Patna HC Struck it down cancelled Adequate representation != Proportionate representation

EWS	Good	Bad
	Secular Legislation	Reservation is not a poverty alleviation program Reservation is tool to correct the historic wrongs of injustice
	Recognize the society reality - Class system	Criteria is same as OBC -> Which make Brahmin (Offenders) and OBC same -> Violates Equal Protection of law
	Unintended Consequence (guilt of reservation ended)	Income tax slab contradict 8 Lakh criteria. 5% pays tax 95% poor -> reservation for all means reservation for none

Janhit Abhiyan v Union of India, 2023	3:2 declared EXS constitutional
	Can reservations be granted solely on the basis of economic criteria?
	Can Scheduled Castes, Scheduled Tribes, Other Backward Classes, and Socially and Economically Backward Classes be excluded from the scope of EWS Reservations?
	Can EWS Reservations breach the 50% ceiling for reservations established by the Supreme Court in Indra Sawhney (1992)

9th Schedule	• Added in 1951
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Judicial immune

- Valid till 24th April 1973 -> Kesavnanda case -> Everything is judicial review
- Any law added after in 9th Schedule can be judicially reviewed.
- 50% is not part of Basic structure and will not be judicially reviewed.

Horizontal reservation	
OBC	27%
OBC a	4%
OBC b	5%
OBC c	3%
.....

L9 Untouchability(17), Titles(18)

09 July 2024 12:45 AM

ARTICLE 17 Equality against Untouchability

ARTICLE 17	<ul style="list-style-type: none">'Untouchability' is abolished and its practice, in any form, is forbidden.Untouchably : Vedic period practice -> Insulting, Preaching, Justifying, Subjected to disability or discrimination.Atrocities Act : burden of proof is on the accused (No bail, immediate arrest) -> guilty until proven innocent -> MisusedAn Absolute Fundamental Right.
If someone follow untouchability :	Protection of Civil Rights Act, 1955.
More strict rule :	Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2015 Amendment	<ul style="list-style-type: none">tonsuring of head, moustache, or similar acts which are derogatory to the dignity of members of SCS and STS, Will now be treated as offences of atrocities.The offences include denying access to irrigation facilities or forest rights, "garlanding with chappals", compelling them to dispose or carry human or animal carcasses, or to dig graves, using or permitting manual scavenging, dedicating a SC or ST women as devadasi and abusing in caste name.Imposing social or economic boycott, hurting a SC or ST woman by removing her garments, forcing a member of SC/ST to leave house, village or residence, acts or gestures of a sexual nature against members of SCS and STS etc.
Subhash Mahajan Case : SC Verdict (August 2018)	<ul style="list-style-type: none">No automatic registration of FIR/arrest.Compulsory preliminary enquiry.Take written permission of DSP/SP before arrest.However, the Government amended law, adding section 18A to the act & status quo ante was restored.Note: In October' 19, a 3-judge bench upheld the amendment to the act setting aside the previous judgment in the Subhash Mahajan case.

Arguments

Misuse does not mean Not required	Low Conviction Rate
Police biased toward upper caste	

ARTICLE 18 Abolition of titles

18	<ul style="list-style-type: none">Abolition of TitleTitles given by British given to cultivate loyalty on basis of DiscriminationMere Declaratory -> No law suggesting Penalty
18(1)	<ul style="list-style-type: none">No title, not being academic or military distinction, conferred by the State.Bharat Ratna Awards, Padma Shree Awards -> SC suggested they are not Title, they are meant to recognize merit -> Do not add to name
18(2)	<ul style="list-style-type: none">No citizen shall accept any title from any foreign State.Titles given by British Monarch : Sir - Knighthood (Sunil Gavaskar give it out)Highest Civilian Award by UAE : Are only awards not title
18(3)	<ul style="list-style-type: none">No person who is not a citizen of India shall, while he holds any office of profit or trust under the state, accept without consent of the President any title from any foreign State.Foreigner posted in India cannot take Title
18(4)	<ul style="list-style-type: none">No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State.

L10 Right of Freedom of Speech (19)

09 July 2024 02:01 AM

Right of Freedom Article 19 to 22

19 (1)	<ul style="list-style-type: none">• Protection of certain rights regarding freedom of speech. All citizens shall have the right-<ul style="list-style-type: none">(a) to freedom of speech and expression;(b) to assemble peaceably and without arms;(c) to form associations or unions and cooperative societies;(d) to move freely throughout the territory of India;(e) to reside and settle in any part of the territory of India; and(f) omitted (right to acquire property 44th CAA)(g) to practise any profession, or to carry on any occupation, trade or business.• Natural rights : Which occur naturally to an individual due to birth
19(1)(a)	<ul style="list-style-type: none">• Freedom of speech and expression• CJI Patanjali Sastri — 'Freedom of speech lies at the foundation of all democratic organisations, for without free political discussion no public education, so essential for the proper functioning of the process of popular government, is possible.• 8 Reasonable restriction 19 (2)
19 (2)	<ul style="list-style-type: none">• Reasonable Restriction• making 19(1) not absolute
19 (2) (1)	<ul style="list-style-type: none">• Sovereignty and Integrity of India. Constitution (16th Amendment) Act, 1963.• Cannot draw map of your own
19 (2) (2)	<ul style="list-style-type: none">• Security of the state<ul style="list-style-type: none">• Related to Terrorist and Attacks• Like : Showing attack live on Screens
19 (2) (3)	<ul style="list-style-type: none">• Comment effecting Friendly relations with foreign states: Constitution (1st Amendment) Act, 1951.• Mohd. Bin Salman killed leader Jamal Khashoggi -> No comment allowed on MBS
19 (2) (4)	<ul style="list-style-type: none">• Public Order<ul style="list-style-type: none">• Constitution (1st Amendment) Act, 1951.• Hate Speech not covered under Free Speech• Magazine Bombay mirror -> Circulated in madras -> govt madras imposed Banned -> violating public order (may spread violence) -> But no law present -> Nehru added in CAA• Movies, art form, creative expression is assaulted, Like Padmavati movie• The expression 'Public Order' is synonymous with public peace, safety and tranquillity. (Supt., Central Prison v. Ram Manohar Lohia, 1960).
19 (2) (5)	<ul style="list-style-type: none">• Decency or Morality<ul style="list-style-type: none">• Decency is the same as lack of obscenity.• Obscenity becomes a subject of constitution since it illustrates well the clash between the individual to freely express his opinion duty of the state to safeguard the morals. I interest right of and the• Objective to time : Contemporary Standards : reflection of the society• Lady Chatterley's lover book banned in India -> Hicklin Test -> Entire thing banned If part is not allowed (even if it is required)
19 (2) (6)	<ul style="list-style-type: none">• Contempt of Court:<ul style="list-style-type: none">• Section 2, Contempt of Courts Act, 1971:• 'Contempt of Court' means civil or criminal contempt;• Civil Contempt means wilful disobedience to any judgement, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to the court;• Criminal Contempt means the publication of any material, or doing of any other act, which:<ul style="list-style-type: none">A) Scandalises or tends to scandalise, or lowers or tends to lower, the authority of any court; orB) Prejudices or interferes, or tends to interfere with due course of any judicial proceedings; orC) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner.• 2006 Amendments:<ul style="list-style-type: none">• No criminal sanction can be imposed for contempt:• 1) unless the court is satisfied that the contempt is of such a nature that it substantially interferes or tends to interfere with the due course of justice; or• 2) if the court permits truth as a valid defence in the public interest or bona fide.• Death case : Rarest of rare cases :<ul style="list-style-type: none">Mohinder Singh -> arrested for daughter rape -> not rare -> imprisonedParoled -> killed family -> rare -> death sentence

	<ul style="list-style-type: none"> Judiciary is right because it is final Judiciary is not final because it is right
19 (2) (7)	<ul style="list-style-type: none"> Defamation The law of defamation is divided into Libel and Slander, (Both Civil and Criminal offence) Libel - defamatory matter, if in writing, printing or some other permanent medium. Slander - defamatory matter, if in spoken words or gestures. Right to free speech does not entitle one to violate right of others.
19 (2) (8)	<ul style="list-style-type: none"> Incitement to an offence Ground added in 1951. State of Bihar v. Shaibalala Devi, the SC held that incitement to murder or any violent crimes would generally endanger the security of the State; hence a restriction against such incitement would be a valid law under clause(2) of Article 19.

Sedition - 14 A	<ul style="list-style-type: none"> by British govt in Indian Penal Code Whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, the Government established by law in India, shall be punished with imprisonment for life, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine. Lokmanya Tilak : Prisoned multiple times due to this Kedar Nath Singh case (1962) Sedation is constitutional but limited Say or express anything, just do not incite people to violence Balwant Singh v State of Punjab (1995) Khalsa comment arrested -> released violent did not break out Shreya Singhal case (2015) Speech express anything but don't incite to violate
Bhartiya Nayaka Sanhita, 2023	<h3>THE BHARATIYA NYAYA SANHITA, 2023</h3> <p>Section 152: Whoever, purposely or knowingly, by words, either spoken or written, or by signs, or by visible representation, or by electronic communication or by use of financial mean, or otherwise, excites or attempts to excite, secession or armed rebellion or subversive activities, or encourages feelings of separatist activities or endangers sovereignty or unity and integrity of India; or indulges in or commits any such act shall be punished with imprisonment for life or with imprisonment which may extend to seven years, and shall also be liable to fine.</p> <p>Explanation.--Comments expressing disapprobation of the measures, or administrative or other action of the Government with a view to obtain their alteration by lawful means without exciting or attempting to excite the activities referred to in this section do not constitute an offence under this section</p> <ul style="list-style-type: none"> Differentiate govt and State Include sovereignty like terms instead of vague wordings Critics is allowed in BNS Increased punishment from 3 to 7 year
Azam Khan case and Private Parties	<ul style="list-style-type: none"> Rape case -> marked as political issue instead of rape Whistle-blower : Google etc remove posts critical of govt -> we can reshare it -> allowed by Azam case

Civil offence :	<ul style="list-style-type: none"> bw individuals only compensation
Criminal offence :	<ul style="list-style-type: none"> bw State and individual Prison/ death / Compensation rape included as State should have protected

2nd most evolved right (Highest 21)	SC : Final interpreter of the Constitution SC -> Judicial Creativity -> to expand scope of FR's Inferred FR -> Raised more FR
Navin Jindal	<ul style="list-style-type: none"> Navin Jindal -> Express love to my country -> Flag at top of his house Flag code of India -> No private house can flag (only govt.) SC -> Allowed flag hosting
Associate for Democratic reforms	<ul style="list-style-type: none"> Question to candidates contesting election Educational Qualification

	<ul style="list-style-type: none"> • Assets (Spouse) • Criminal cases details • Voters -> FR to make an informed choice
Right to silence	Against noise pollution
Association for Democratic Reforms vs Unions of India , 2024	<ul style="list-style-type: none"> • Electoral Bond Case • Unconstitutional -> Not knowing donation of Parties • No limit of donation (7.5% of Profits Earlier)

19 (1) (b)	Right of Assembly <ul style="list-style-type: none"> • Right to hold meetings and to take out processions. • Restrictions: <ul style="list-style-type: none"> • Assembly must be unarmed and peaceful. • Reasonable Restrictions — in the interests of public order or the sovereignty and integrity of India. ex : Durga Pooja and EID at same date, some rule can be made
19 (1) (c)	Right to form Unions, Associations or Cooperative Societies: <ul style="list-style-type: none"> • All citizens shall have the freedom to form associations or unions. (AMUL) • Political parties, clubs, trade unions, societies, companies and indeed every body of persons. • Reasonable Restrictions: Sovereignty and integrity of India, public order and morality.
19 (1) (d)	Right of Movement: <ul style="list-style-type: none"> • Entitles citizens to move freely throughout the territory of India. • Purpose is to promote national feeling. (Fraternity) • Restrictions - The interests of general public (ex:covid) and the protection of interests of any scheduled tribe (Jarawas in Andaman, Shompen in Niti aayog)
19 (1) (e)	Right to Residence: <ul style="list-style-type: none"> • The purpose of this clause is to remove internal barriers within the territory of India so as to enable every citizen to travel freely and settle down in any part of a State or Union Territory. • Reasonable Restrictions:- In the interests of general public and for the protection of the interests of the Scheduled Tribes. • P. Arumughan v. State of Madras (restrictions of residence on habitual offenders have been upheld as imposing reasonable restrictions)
19 (1) (f) Repealed .	Right to Property
19 (1) (g)	Right of Trade and Occupation: <ul style="list-style-type: none"> • All citizens have the right to practise any profession or to carry on any occupation or trade or business. • Freedom is not uncontrolled. • Restriction : <ul style="list-style-type: none"> • in the interests of the general public. (Drugs dealing) • prescribes professional or technical qualification. (Doctors, Engg.) • State can carry on any trade or business to the exclusion of private citizens, wholly or partially. (Atomic power, Army etc)

L11 Offence(20), Right to Live(21)

09 July 2024 09:31 PM

Article 20	Protection in respect of conviction for offences
20 (1) Legislative	<ul style="list-style-type: none"> Criminal law is not retrospective No person shall be convicted of any offence except for violation of the law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence. Nirbhaya case -> Juvenile case (<18 -> 3yrs) -> 2015 JJ ACT: 16-18 -> Heinous crime -> old enough Criminal Laws cannot be retrospective (Given to crime done before law enacted) Procedure can have retrospective effects Like investigation should be completed in 60 days
20 (2) Judiciary	<ul style="list-style-type: none"> No person shall be prosecuted and punished for the same offence more than once. Based on the maxim 'nemo debet bis vexari' — a man shall not be brought into danger for one and the same offence more than once. No Double Jeopardy
20 (3) Executive	<ul style="list-style-type: none"> No person accused of any offence shall be compelled to be a witness against himself. Similar to US Constitution — 5th Amendment provides that no person shall be compelled in any case to be a witness against himself. Most cases solved by confessional statement ->only given to judge (Given to executive not valid) Test like Lie Detector, Narcos - Violate 20 (3) On order of HC perform test, result shall not be treated as evidence (but can lead to evidence) <p>Selvi vs State of Karnataka (2010)</p> <ul style="list-style-type: none"> Involuntary admission of scientific tests such as narcoanalysis, polygraph examination violate Article 20(3) and also Right to Privacy. 20(3), however, does not bar voluntary administered tests. Except DNA fingerprinting, all other unconstitutional

Ex Post Facto Laws :	<ul style="list-style-type: none"> 20(1) similar to no Ex Post Facto Laws of the US Constitution. An act that was lawful when done cannot be declared or made unlawful or made an offence by a law made after the commission of an act. Criminal law cannot be retrospective Civil law can be retrospective
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Article 21	Protection of Life and Personal Liberty
	<p>Right to Life:</p> <ul style="list-style-type: none"> No person shall be deprived of his life or personal liberty except according to the PROCEDURE ESTABLISHED BY LAW. 'Life' is not merely the physical act of breathing. <p>Significance :</p> <ul style="list-style-type: none"> It makes a distinction between a Constitutional and Police State. Backbone of Part III and IV. Without this all other FR are meaningless, <p>Most Evolved Right -> Highest number of inferred rights</p> <ul style="list-style-type: none"> Right to live with human dignity. Right to decent environment. Right to livelihood. Right to shelter. Right to privacy. Right to health. Right to fair and speedy trial. Right to travel abroad. Right against solitary confinement. Right against adverse effects of Climate Change <p>Expect "Procedure Established by Law" is nothing but "Due process of law" involving "principle of natural justice".</p>
Japan	<p>Procedure Established by Law:</p> <ul style="list-style-type: none"> Firstly, there must be a law justifying interference with the person's life or personal liberty. Secondly, the law should be a valid law; and Thirdly, the procedure laid down by the law should have been strictly followed. <p>Protection against Executive</p>

USA	<p>Due Process of Law:</p> <ul style="list-style-type: none"> • 3 law + Law should be fair and just • The court will examine a law to ascertain if it is a just law. • Lawrence v/s Texas (2003). • Protection against executive as well as legislature.
India	<p>From 'Procedure Established' to 'Due Process:</p> <ul style="list-style-type: none"> • A.K Gopalan v/s State of Madras (1950) - no protection against the Legislature. • ADM, Jabalpur v/s Shivakanta Shukla (1976) procedure established by law. (Habeaus Corpus) <p>During emergency : MISA (Maintenance of Internal Security Act) Cannot even approach to SC (habeaus Corpus suspended)</p> <ul style="list-style-type: none"> • Maneka Gandhi v/s Union of India (1978): Law has to be reasonable — which is an essence of equality under article 14. The procedure must be 'right, just and fair'. • Procedure must conform to 'Principles of Natural Justice': <ul style="list-style-type: none"> i) no body shall be sentenced without being heard. ii) no person shall be the judge of his own case; and, iii) the authority shall act bonafide. (in good faith) • 2019 : Ranjan Gogoi : Chief justice India Accused of sexual harassment (master of the roster) judged by 2 -> Urgent matter of public importance affecting the independence of judiciary • Central Inland Water Transport Corp. Ltd v/s Brojo Nath Ganguly (1984) - PNJ "Principle of natural justice" are found in Article 14 of the Constitution.

Right to Die (under 21)	<ul style="list-style-type: none"> • Corollary to Right to Life • SEC 309 IPC : Criminalize attempt to suicide • Gian Kau vs State of Punjab Sec 309 -> unconstitutional • Pinky Viyami -> Friend Aruna in Permanent Vegetative State (Brain dead) - 1973 Not living life of dignity -> kill her (Euthanasia) Nurse denied Died after 42 years die to pneumonia Passive Euthanasia allowed : Dependent on device to allow, stop device to die Active Euthanasia not allowed : External device used to die Decision taken by 2 Doctor, 2 Judge, Family Members. • Common cause vs union of India (2023) Right to living will -> Advance medical Directive Rules Revised in 2023 : <ul style="list-style-type: none"> • Attested by any gazetted officer • Copy with my family and close friend • Proper Doctors needed
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L12 RTE (21) , Arrest(22) , Exploit (23,24)

18 July 2024 08:15 AM

Article 21 Right to Education

21-A	<p>The Constitution (Eighty-sixth Amendment) Act, 2002 inserted Article 21-A in the Constitution of India</p> <ul style="list-style-type: none">• to provide free and compulsory education of all children in the age group of six to fourteen years as a Fundamental Right in such a manner as the State may, by law, determine.• The Right of Children to Free and Compulsory Education (RTE) Act, starting 1st Apr 2009, which represents the consequential legislation envisaged under Article 21-A, means that every child has a right to full time elementary education of satisfactory and equitable quality in a formal school which satisfies certain essential norms and standards.• Article 21-A and the RTE Act came into effect on 1 April 2010. The title of the RTE Act incorporates the words 'free and compulsory'.• 'Free education' means that no child, other than a child who has been admitted by his or her parents to a school which is not supported By the appropriate Government, shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing elementary education.• 'Compulsory education' casts an obligation on the appropriate Government and local authority to provide and ensure admission attendance and completion of elementary education by all children of the 6-14 age group. 8 years of uninterrupted schooling.• With this India has moved forward to a rights based framework that cast's a legal obligation on Central and State . Governments to of the Constitution, in accordance with the provisions of the RTE Act. <p>No child shall be denied admission for the want of documents.</p> <p>No detention policy : No child shall be detained, You can be promoted even fail in examination.</p> <p>Pratham NGO -> Annual Status of education report -> lack basic knowledge -> decline in quality of education</p> <p>NDP was never meant to be standalone policy -> Supplemented with CCE (Continuous Comprehensive curriculum evolution) -> CCE Never implemented (Teaching teacher for better quality)</p> <ul style="list-style-type: none">• 26% of seats in private schools reserved gor the economically section of the society in the neighbourhood.• Good : poor get good quality education, at no cost• Bad : Learning outcomes -> Societal factors (Class division)
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Article 22	<p>Protection against arrest and detention in certain cases</p> <p>1. No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult and to be defended by, a legal practitioner of his consult, choice.</p> <p>2. Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period excluding the time of twenty-four hours of such arrest necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate. (Sent to free/bail/arrest/judicial custody)</p>
	<ul style="list-style-type: none">• Being informed -> Clear and in writing• If women is arrested -> she should not be arrested before sunrise and after sunset, and only in presence of female police.• Bail is a norm, Jail is an exception (Innocent until proven guilty) Exception :<ul style="list-style-type: none">• if accused threat to society• Can temper with evidence• Accused is at flight risk
Special Laws	<ul style="list-style-type: none">• UAPA , PMLA (Prevention of money laundry act)• An accused is presumed guilty, burden of proof is on the accused• Twin test performed<ul style="list-style-type: none">• The court has to satisfy itself that prima facia the accused is not guilty• The court has to satisfy itself that the accuse won't commit the offence again.
	<p>Nothing in clauses (1) and (2) shall apply—</p> <p>a) to any person who for the time being is an enemy alien; or</p> <p>b) to any person who is arrested or detained under any law providing for preventive detention.</p> <p>Detention</p> <ul style="list-style-type: none">• Preventive :• Punitive : as punishment of crime, to reform you and deter future commission of crimes

Preventive Detention	<p>No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless— an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention.</p> <p>When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.</p> <p>(Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose)</p>
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Article 23 24 | Right against exploitation

Article 23	Prohibition of traffic in human beings and forced labour <p>Traffic :</p> <ul style="list-style-type: none"> • buying and selling of people like goods • Traffic in human beings means to deal in men and women like goods. • Slavery is not explicitly mentioned, but there is no doubt that the expression 'traffic in human beings' would cover it. (Dubar Goalai v/s Union of India) <p>Prostitution :</p> <ul style="list-style-type: none"> • Legally allowed at certain places. <p>Begar :</p> <ul style="list-style-type: none"> • Forced labour without payment is prohibited <p>People's Union for Democratic Rights v/s Union of India (1982)</p> <ul style="list-style-type: none"> • Working extra and in inhuman condition • Minimum wage <p>Exception</p> <ul style="list-style-type: none"> • Rigorous imprisonment and forced labour: • It permits the State to impose compulsory service for public purposes, eg military service or social service, for which it is not bound to pay. • However, no discrimination on the grounds of ONLY religion, race, caste or class.
Article 24	Prohibits child labour, employment of children in hazardous occupations and processes, under age 14. <p>1986 law</p> <ul style="list-style-type: none"> • Prohibition and regulation of child labour. • Child can still work in non-hazardous industries • But their work is regulated. <p>THE CHILD LABOUR (PROHIBITION AND REGULATION) AMENDMENT ACT, 2016</p> <ul style="list-style-type: none"> • "An Act to prohibit the engagement of children in all occupations and to prohibit the engagement of adolescents in hazardous occupations and processes". <p>• No child shall be employed or permitted to work in any occupation or process.</p> <p>• Exception: if the Child—</p> <ul style="list-style-type: none"> (a) helps his family or family enterprise, which is other than any hazardous occupations, after his school hours or during vacations; (b) works as an artist in an audio-visual entertainment industry, including advertisement, films, television serials or any such other entertainment or sports activities except the circus. <p>• Provided that no such work under this clause shall affect the school education of the child.</p> <ul style="list-style-type: none"> • Comes into conflict of Article 21A RTE • Prohibited <14 years on all labour -> arrested • Except -> family business and AV entertainment industries after school hours and vacation. <p>• Adolescents (14-18 yrs) can work in non-hazardous industries</p> <ul style="list-style-type: none"> • Regulated with wage and time.

Penalties...

- Whoever employs any child or permits any child to work in contravention of the provisions of this law shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to **two years, or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both.**
- Whoever employs any adolescent or permits any adolescent to work in contravention of the provisions of the law shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years or with fine which shall not be less than twenty thousand rupees **but which may extend to fifty thousand rupees, or with both.**

- **IMPORTANT POINT:** Provided that the parents or guardians of such children **shall not be punished unless they permit such child for commercial purposes in contravention of the law.**

Arguments in Favour

- 1) Amended law in agreement with FR 21A
- 2) Brings adolescent under and prohibits occupation in hazardous env
- 3) Law favours children who may b=get benefit from the skill passed on to them
- 4) Law empowers children to hone their skills (Business/ arts/ crafts) thereby survival of various arts forms.
- 5) Increased penalty can act as deterrent

Argument against

- 1) Child labour needed for poor family : Monetary compensation should be provided to child's parent.
- 2) Allows child labour after school : effect childhood. Ex: girl child have to assist parent work.
- 3) Perpetuate caste based occupation -> cobbler child will be cobbler.
- 4) Number of Hazardous industries decreased from 83 to 3
- 5) German model -? Move children to skill based knowledge.

- One, it has slashed the list of **hazardous occupations for children from 83 to include just mining, explosives, and occupations mentioned in the Factory Act.** This means that work in chemical mixing units, cotton farms, battery recycling units, and brick kilns, among others, have been dropped.
- Further, even the **ones listed as hazardous** can be removed, according to Section 4 — not by Parliament but by **government authorities at their own discretion.**
- Section 3 in Clause 5 allows child labour in "family or family enterprises" or allows the child to be "an artist in an audio-visual entertainment industry". Since most of **India's child labour is caste-based work, with poor families trapped in intergenerational debt bondage, this refers to most of the country's child labourers.**
- The clause is also dangerous as it does not define the hours of work; it simply states that children may work after school hours or during vacations.
- If the amendments intended to **preserve Indian art and craft by enabling parents with traditional skills to pass them on to their children, this should be done through reform and investment in education.** Slashed budgets should be restored; mid-day meals should re-instituted; and secure housing should be provided through the Sarva Shiksha Abhiyan boarding schools to homeless children. **Artisans should be hired as teachers to pass on traditional knowledge and skills to the next generation.**

L13 Religion (25-30)

18 July 2024 10:04 AM

Article 25 Freedom of conscience and free profession, practice and propagation of religion.

- Article 25
- Subject to **public order, morality and health** and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.
 - Inner most freedom to choose a religion and from religion (Atheist) or Agnostic (Don't care about existence of god)
 - Morality : SC said Constitutional morality. (in Preamble)
 - **Reverent father Stainclaus vs MP, 1977**: If propagating is right doesnot give right to forced conversion. **For conversion touch conscience**. Bribery, inducement , threats, force not allowed
 - The State can regulate or restrict any economic, financial, political or other secular activity which may be associated with religious practice.
 - The State is provided with the power for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and section of Hindus
 - Shirur Mutt 1954 : If religion practise is conflict with FR -> Categorised to essential (cannot be touched) and non-essential (void)
 - IAF : Muslim to sport a beard -> court deemed Beard is non-essential -> most prominent Muslim don't sport beard.
 - **Doctrine of essentiality : ERP Essential religious practice test**
If practise is essential and non-essential.
 - The **court held** that the term "religion" will cover all **rituals and practices "integral"** to a religion, and took upon itself the responsibility of determining the **essential and non-essential practices of a religion**.
 - The essentiality/integrity doctrine has tended to lead the court into an area **that is beyond its competence**, and given judges the power to decide purely religious questions.
 - In the Shirur Mutt case (1954), it was held that the term "religion" will cover all rituals and practices "integral" to a religion. The SC took upon itself the responsibility of determining what is integral. The court said that the question of religion would be decided by taking into consideration what the religious denomination considered essential or crucial. This is called the "essentiality test". But this exercise produces obscure results and tends to lead the court into an area beyond its competence.

unacademy

Criticism of ERP

- Freedom of religion was meant to guarantee freedom to practice one's beliefs based on the concept of "**inward association**" of man with God. The apex court in Ratilal Panachand Gandhi vs The State of Bombay and Ors (March 18, 1954) acknowledged that "every person has a fundamental right to entertain such religious beliefs as may be approved by his judgment or conscience". The framers of the Constitution wanted to give this autonomy to each individual. The essentiality test impinges on this autonomy. The apex court has itself emphasised autonomy and choice in its Privacy (2017), 377 (2018), and Adultery (2019) judgments.
- In the **First Ananda Margi case**, the apex court relied on the doctrine of precedent to hold that tandava dance was not an essential practice of the Ananda Margi faith. It also said that the faith had come into existence in 1955, while the **tandava dance was adopted only in 1966**— therefore, as the faith had existed without the practice, the practice could **not be accepted** as an essential feature of the faith.

	<ul style="list-style-type: none"> In Gramsabha of Village Battis Shirala vs Union of India and Ors (2014), a particular sect relied on the Shrinath Lilamrut to claim before the Bombay High Court that capturing and worshipping a live cobra during the Nagpanchami festival was an essential part of their religion. The court, however, put reliance on Dr P V Kane's Dharmashastra Itihās, which referred to the general Hindu practice, to reject this contention. In a case where a Muslim police officer challenged in Kerala High Court a regulation that did not permit him to grow a beard, the court, rather than looking at the question of essentiality of beard in Islam, rejected the petitioner's plea by simply relying on the fact that certain Muslim dignitaries do not sport beards, and that the petitioner did not have a beard in his previous years of service. The court looked at empirical evidence of the practice, rather than at religious texts. However, despite empirical evidence to the contrary, courts have denied protection to the animal sacrifice among Hindus, terming the practice as barbaric.
ERP Cases	<ul style="list-style-type: none"> Shayra Bano case : Triple Talak In Muslim marriage is contract (Divorce is mutual consent, Khula) Female can ask priest for granting divorce if exploited Husband can say Talaq three times in 90 days (reconciliation or arbitration by family and people) 2 judges Khehar and Nazeer : ITT not constitutional : religion is faith, ITT is Personal law 2 Judges Nariman and Lalit : ITT is Unconstitutional: Arbitrary and un moral Kurian Joseph : ITT is Unislamic (Instant dioresnot have reconciliation or arbitration) SC Verdict on Sabarimala 2018 Women (10-50 age) : not allowed to enter Sabarimala (Lord Ayappa is eternal celibate) Violated on basis of sex Violated practise of untouchability (Impure) <ul style="list-style-type: none"> Patriarchy cannot trump freedom to practice religion. "One side we pray to goddesses; on the other, women of a certain age are considered 'impure'. This dualistic approach is nothing but patriarchy practised in religion. The ban 'exacts' more purity from women than men". <p>CJI and Justice Khanwilkar</p> <ul style="list-style-type: none"> Chief Justice Misra wrote that relation with the Creator was a transcending one. Physiological and biological barriers created by rigid social dogma had no place. The CJI and Justice Khanwilkar held that the Sabarimala prohibition was a prejudice against women, which was zealously propagated and was not an essential part of religion. The majority view declared Rule 3(b) of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Act of 1965, which mandates the prohibition in Sabarimala temple, as ultra vires the Constitution. The CJI and Justice Khanwilkar held that the Rule violated the fundamental right of a Hindu woman to offer worship at a place of her choice. Right to worship is equally available to men and women. <p>Justice Chandrachud</p> <ul style="list-style-type: none"> Justice D.Y. Chandrachud held that to treat women as the children of a lesser God was to blink at the Constitution. The prohibition was a form of untouchability. <p>Justice Indu Malhotra</p> <ul style="list-style-type: none"> Justice Indu Malhotra, the lone woman judge on the Constitution Bench, dissented from the majority opinion. She held that the determination of what constituted an essential practice in a religion should not be decided by judges on the basis of their personal viewpoints. She held that essentiality of a religious practice or custom had to be decided within the religion. It was a matter of personal faith. India was a land of diverse faiths. Constitutional morality in a pluralistic society gave freedom to practice even irrational or illogical customs and usages. Justice Malhotra observed that the freedom to practice their beliefs was enshrined in Article 25 of the Constitution. Harmonisation of fundamental rights with religion included providing freedom for diverse sects to practise their customs and beliefs. <p>Sabarimala Review</p> <ul style="list-style-type: none"> If new facts have been discovered

	<ul style="list-style-type: none"> If an error is pointed out <p>Kept pending over some similar issues</p> <ul style="list-style-type: none"> Denial of entry to Muslim women inside a dargah or a mosque. Female Genital Mutilation (FGM). Ban on Parsi woman who marry outside her community entry into the fire temples and participate in other religious rituals.
Final Verdict	<ul style="list-style-type: none"> 9 judges bench of the SC <ul style="list-style-type: none"> (i) Interplay between the freedom of religion under Articles 25 and 26 of the Constitution and other provisions in Part III, particularly Article 14. (ii) What is the sweep of expression 'public order, morality and health' occurring in Article 25(1) of the Constitution. (iii) The extent to which the court can enquire into the issue of a particular practice is an integral part of the religion or religious practice of a particular religious denomination or should that be left exclusively to be determined by the head of the section of the religious group. (iv) What would be the permissible extent of judicial recognition to PILs in matters calling into question religious practices of a denomination or a section thereof at the instance of persons who do not belong to such religious denomination? <p>Which till date has not been Constituted</p>

Article 26	<p>Freedom to manage Religious Affairs</p> <p>Subject to public order, morality and health, every religious denomination shall have the right-</p> <ul style="list-style-type: none"> To establish and maintain institutions for religious and charitable purposes; To manage its own affairs in matters of religion; To own and acquire movable and immovable property; To administer such property in accordance with the law. <p>Priesthood is secular activity and Priest can be selected by states</p>
Article 27	<ul style="list-style-type: none"> Freedom as to payment of taxes for promotion of any particular religion <p>No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated for the promotion or maintenance of any particular religion.</p> <ul style="list-style-type: none"> Lays down secular identity of Indian State Cess : Tax for specific purpose (Tax generated with Swach Bharat can be used only for Swatch Bharat Abhiyan)
Article 28	<p>Freedom as to attendance at religious instruction or religious worship in certain educational institutions-</p> <p>Types :</p> <ul style="list-style-type: none"> Institutions wholly maintained by the State; Institutions recognised by the State; Institutions receiving aid from the State; Institutions established by the Religious Trusts and administered by the State Charitable <p>Jehovah's Witness -> Not mandatory to sing National anthem They cannot praise anyone above the god (national anthem keeps country above everything)</p>

Hijab cases in school	<p>Argument in favour</p> <ul style="list-style-type: none"> School uniform -> equality bw different classes Can girl student wear short clothes in freedom of expression <p>Argument against</p> <ul style="list-style-type: none"> Freedom of expression <p>Middle ground</p> <ul style="list-style-type: none"> Doctrine of Accommodation (wear of same colour as uniform)
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Article 29 30	<p>Cultural and educational right</p>
Article 29	<p>Protection of interests of Minorities</p> <p>**Minorities not defined in constitution</p> <ul style="list-style-type: none"> Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same. No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of the State funds on grounds ONLY of religion, race, caste, language or any of them.

	<ul style="list-style-type: none"> Right to conserve the language of the citizens includes the right to agitate for the protection of the language.
Article 30	<p>Right of Minorities to establish and administer educational institutions</p> <ul style="list-style-type: none"> All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice. The State shall not discriminate, in granting aid to the educational institutions, on the ground that it is under the management of a minority, whether based on language or religion.
Minorities	<p>National Commission for Minorities Muslim, Christian, Sikhs, Buddhists, Jains, Parsis No Mandatory reservation for SC/ST/OBC Can reserve upto 50% seats for their community</p> <p>Right to property (Until 1978) But exists for MEI (minority Edu Inst)</p> <p>AMU Minority Status vs Registrar Faizan Mustafa</p> <ul style="list-style-type: none"> What are the parameters for granting an educational institution Minority Status under Article 30 of the Constitution? Can an educational institution created by a parliamentary statute enjoy Minority Status under Article 30 of the Constitution? <p>Azeez Basha v Union of India (1968)</p> <p>In 1965, the <u>Aligarh Muslim University Act of 1920</u> was amended to dilute the powers of governance that had been entrusted to the University Court. The University Court was made an advisory body and the composition of the Court was also altered so as to increase the number of persons nominated by the President of India. The amendment was challenged before a Constitution Bench of the Supreme Court of India in <u>Azeez Basha v Union of India</u>.</p> <ul style="list-style-type: none"> The petitioners argued that the amendment violated the rights guaranteed to them by Article 30. They no longer could exercise the freedom to administer the university as per their choice as minorities. The Supreme Court upheld the amendment, on the grounds that the AMU was brought into existence by the Central Legislature and the Government of India. Art. 30(1), the Court held, only protects educational institutions brought into existence and administered by a minority. <p>T.M.A Pai Foundation v State of Karnataka</p> <ul style="list-style-type: none"> In 2003, an 11 Judge Bench of the Supreme Court decided the scope of right of minorities to establish and administer educational institutions of their choice under Article 30(1) read with Article 29(2) of the Constitution. The majority opinion delivered by 6 Judges held that <u>only the State can determine the status of a religious or linguistic minority</u> and religious and linguistic minorities, who have been put on a par in Article 30, have to be considered State-wise. However, the right under Article 30(1) cannot be such as to override the national interest or to prevent the Government from framing regulations and any regulation framed in the national interest must necessarily apply to all educational institutions, whether run by the majority or the minority. Such a limitation must necessarily be read into Article 30. <u>Government regulations cannot destroy the minority character of the institution or make the right to establish and administer a mere illusion.</u> <p>Status of minority at national level or State level</p> <ul style="list-style-type: none"> Still pending in court Hindus are minority in states like Nagaland and Punjab. <p>Muslims are 2nd Largest Majority</p> <ul style="list-style-type: none"> Inclusive vs exclusive

L14 Writs (32) and Exception (33-35)

22 July 2024 06:57 PM

Article 32	Right to Constitutional Remedies
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Article 32	Significance of Article 32 <ul style="list-style-type: none"> Writs Petition added by DR BR Ambedkar Fundamental of FR's, This remedy itself is a FR Not applicable for SC, President, etc 										
	<table border="1"> <tr> <td>Habeas Corpus</td> <td> <ul style="list-style-type: none"> Present the body Horizontal (Detained by State) and Vertical (detained by Public) Locus Standi does not apply (Anybody can move to SC) Illegal Arrest (Does not include Prevention arrest) or search for missing person. </td></tr> <tr> <td>Mandamus</td> <td> <ul style="list-style-type: none"> We command Issued by court against a public body If Public body doing or not doing DUTY something -> FR is violated Locus Standi Applies (only by persecuted) Cleaning garbage </td></tr> <tr> <td>Prohibition</td> <td> <ul style="list-style-type: none"> Against a Judicial Body/ Quasi-Judicial Body (Tribunal body for specific purpose = Judicial + Executive members) Prohibit to work further, case moves to other body Locus Standi applying </td></tr> <tr> <td>Certiorari</td> <td> <ul style="list-style-type: none"> Judicial Body given final order -> we want to certify order is not valid -> if violate FR </td></tr> <tr> <td>Quo Warranto</td> <td> <ul style="list-style-type: none"> What's your authority Holding public post without qualifying that post -> court forthwith Locus Standi not stands Prashant Bushman case on CBC on basis of corruption case, but rejected bc case does not define un-qualified </td></tr> </table>	Habeas Corpus	<ul style="list-style-type: none"> Present the body Horizontal (Detained by State) and Vertical (detained by Public) Locus Standi does not apply (Anybody can move to SC) Illegal Arrest (Does not include Prevention arrest) or search for missing person. 	Mandamus	<ul style="list-style-type: none"> We command Issued by court against a public body If Public body doing or not doing DUTY something -> FR is violated Locus Standi Applies (only by persecuted) Cleaning garbage 	Prohibition	<ul style="list-style-type: none"> Against a Judicial Body/ Quasi-Judicial Body (Tribunal body for specific purpose = Judicial + Executive members) Prohibit to work further, case moves to other body Locus Standi applying 	Certiorari	<ul style="list-style-type: none"> Judicial Body given final order -> we want to certify order is not valid -> if violate FR 	Quo Warranto	<ul style="list-style-type: none"> What's your authority Holding public post without qualifying that post -> court forthwith Locus Standi not stands Prashant Bushman case on CBC on basis of corruption case, but rejected bc case does not define un-qualified
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Article 33	Power of Parliament to modify the rights
	<ul style="list-style-type: none"> Parliament have power to change the rights for : <ol style="list-style-type: none"> members of armed forces members of the forces charged with the maintenance of law and order intelligence and counter-intelligence persons working in telecommunication systems
Article 34	Martial Law
	<p>Never Imposed in India Not defined in the constitution</p> <ul style="list-style-type: none"> Restriction on rights conferred by this Part while martial law is in force in any area Notwithstanding anything in the foregoing provisions of this Part, Parliament may by law indemnify any person in the service of the Union or of a State or any other person in respect of any act done by him in connection with the maintenance or restoration of order in any area within the territory of India where martial law was in force. AFSPA Armed Forces Special Power Act : Army can kill anyone over suspicion, search house, Immunity provided to Arm Force

Constitutional Bodies	
National Commission for Scheduled Castes Art 338	<ul style="list-style-type: none"> Created through 89th A/A'2003 through bifurcation of NCSC & ST. Purpose — To oversee the implementation of various safeguards provided to Scheduled Castes under the Constitution. Members: Chairman, Vice Chairman, 3 other members (appointed by President of India). Duties : <ul style="list-style-type: none"> To investigate and monitor all matters relating to the safeguards provided for SCS & to evaluate the working of such safeguards. To inquire into specific complaints with respect to the deprivation of rights and safeguards of the SCs. To participate and advise in the planning process of socio-economic development of the SCS & to evaluate the progress of their development. To present to the President, reports upon the working of those safeguards. To make recommendations on measures that should be taken by the Union or any State for effective implementation of those safeguards. To discharge other functions in relation to the protection, welfare & development and advancement of the SCS as the President/Parliament may specify.

National Commission for Scheduled Tribes Art 338A	<ul style="list-style-type: none"> The provisions w.r.t. NCST & NCBC are analogous to that of NCSC NCSC — established through 89th A/A'2003 President create list of SC and ST Manipur asked to Add Kuki in ST list without any power Milind vs Maharashtra 2000: No court , State, Tribunal can recommend this list change
National Commission for Backward Classes Art 338B	<ul style="list-style-type: none"> Before 102 was Statuary Body NCBC - established through 102nd A/A'2018 Constitution (105th Amendment) Act Deemed To Be In Force From 15th August, 2021; Power To Identify SEBCs Back To State Govts And UT's. This list can be created by State , can different from centre list

Powers of the Civil Court

- ✓ summoning and enforcing the attendance of any person from any part of India
- requiring the discovery and production of any documents
- receiving evidence on affidavits
- requisitioning any public record or copy thereof from any court or office
- issuing summons/communications for the examination of witnesses and documents

Directive Principle of State Policy	DPSPs
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- Articles 37-51 contains **positive obligation** of the State.
- Borrowed from the **Irish Constitution**.
 - Denotes the **ideals that the State should keep in mind** while formulating policies and enacting laws.
 - DPSPs have emerged along with the emergence of the constitutional form of Govt.
 - Primary objective — **to establish a welfare state**. : Socio Economic Democracy : Govt for everyone

Socialistic Principles Karl Marx	Articles 38, 39, 39-A, 41, 42, 43, 43-A, 47.
Gandhian Principles	Articles 40, 43, 43-B, 46, 47, 48
Liberal-intellectual Principles	Articles 44,45, 48, 48-A, 49, 50, 51

Article 36	<ul style="list-style-type: none"> • Definition of State • Same as Article 12
Article 37	<p>2 Important Characters :</p> <ul style="list-style-type: none"> • Not enforceable in a court of law. (Non-Justiciable) • Article 37 - fundamental in the governance of the country. <p>Duty of state to implement DPSP as they are fundamentals</p>
Article 39(b)	<p>the ownership and control of the material resources of the community are so distributed as best to subserve the common good.</p>
Article 39(c)	<ul style="list-style-type: none"> • the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment. • Abolition of Zamindari (Land reform Act) Unconstitutional to 14 (Arbitrary), 19(Acquire dispose of land), 31(Compensation) • Article 31-A (1st Constitution Amendment) Act, 1951. The acquisition by the State of any estate shall not be deemed to be violative of Articles 14, 19 and 31. The State can take over the management of any property in the public interest or in order to secure proper management of the property. • 31B - None of the acts placed in the 9th Schedule shall become void on the ground that they violate rights under Part III and no Judicial Review is possible.

Directives outside Part IV

Article 335	The claims of the members of the SCS and STS shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or a State
Article 350 A	It shall be the endeavour of every state and every local authority within the state to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups.
Article 351	It shall be the duty of the Union to promote the spread of the Hindi language and to develop it so that it may serve as a medium of expression for all the elements of the composite culture of India.

Relationship bw FR and DPSP ...

DPSP violating FR	<p>1950 Madras govt-> issued order to reserve seats in govt college. Champak Dorairajan vs madras -> Biased on caste DPSP Art 46 -> Taking steps for promote SC ST</p> <p>DPSP is inferior to FRs</p> <table border="1"> <tr> <td>Privy Purse</td><td> <ul style="list-style-type: none"> • Sardar Patel for Princely state Keep all properties and will be paid money for any expense unasked Abolished by the Indira Gandhi </td></tr> <tr> <td>Nationalize Bank</td><td> <ul style="list-style-type: none"> • 14 Private bank transformd to govt bank • DPSP (accumulation of money) </td></tr> </table>	Privy Purse	<ul style="list-style-type: none"> • Sardar Patel for Princely state Keep all properties and will be paid money for any expense unasked Abolished by the Indira Gandhi 	Nationalize Bank	<ul style="list-style-type: none"> • 14 Private bank transformd to govt bank • DPSP (accumulation of money)
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Doctrine of Harmony	Keep part of DPSP law which are in according to FR's				
Article 31-c	<ul style="list-style-type: none"> • 25th CAA 1971 • If parliament make a law that give effects to 39(b) and 39(c) and violates 14,19 & 31 is not unconstitutional, no judicial review can be done • Kesavnanda Bharati 1973 : upheld Art 31-C 				

- 42nd CAA 1976
- Superiority to all DPSP over 14,19 & 31
- Minerva mill case
- This is unconstitutional - Judicial review is Basic Structure and Harmony relation is Basic Part
- 44th CAA, 1978
- Article 19(1)(f) , 31 repealed
- Right to Property moved to 300-A, FR-> Constitutional Right (bc changed too many times)

Extra FR's

Article 19(1)(f)	<ul style="list-style-type: none"> • Acquire and dispose of property
Article 31	<ul style="list-style-type: none"> • Acquisition but he state by giving compensation • Doctrine of eminent domain

DPSP most of them -> implemented

Some of them -> Difficult under

Article 40	Organisation of Village Panchayats.
Article 41	Right to work, to education and to public assistance in certain cases. MNREGA, Subsidy, NFS Act, Maternity leave
Article 42	Provision for just and humane conditions of work and for maternity relief.
Article 47	Duty of the State to raise the level of nutrition and the standard of living and to improve public health.
Article 49	Protection of monuments and places and objects of national importance.
Article 50	Separation of judiciary from the executive.
Article 51	Promotion of international peace and security.

Participation of workers in management of industries

42nd CAA, 1976

Difficulty to implement in Modern World of Globalisation

Why DPSP not justiciable

- Need time to implement
 - Cost and resources requirement for implement
- Nehru : It's a Lighthouse (A Milestone and Wishlist to complete)
- BRA : Political Sanction -> enforceable in the court of people
- DPSP is blank cheque -> payable at the discretion of bank

L16 UCC (44)

25 July 2024 12:57 PM

Article 44 Uniform Civil Code

Criminal Laws	Non Discrimination on the ground of religion
Civil laws	<ul style="list-style-type: none">Some personal laws related to Marriage, divorce, inheritance, adoption are different for different religionsAdded because to give minorities given their personal law to make them feel welcome in new countryArticle 44 ensure no discrimination and single law for civil lawsBRA : We will reform personal laws of Hindus -> then other 3 Hindu Code Bills were passedUniform Civil Code is being practiced in GoaBut Uniform code does not mean equality (Injustice is uniform)
UCC: Goa Example	<ul style="list-style-type: none">It can also mean uniformity in discrimination in that you can have discriminatory provisions applicable across all religions uniformly.Procedures for registration Of marriage are different for Catholics as compared to the procedures applicable to non-Catholics. -> Non Uniform (In favour of catholic)A marriage solemnized in the church has had the option Of being annulled in the Church, for specific reasons, such as non-consummation of marriage.Regime of communion Of assets. (Husband and wife both contribute equally in assets) But Husband is consider the manager
Special Marriage act	<ul style="list-style-type: none">Legally, India has a clear route to inter-religious marriage: the Special Marriage Act, 1954, under which a couple, no matter what their caste or religious background, can marry without any need for conversion. Concessions to the Conservatives<ul style="list-style-type: none">Notice period, unlike under religious personal laws — 1 month.The fact that the exact location and date of the marriage is publicly known means that physical force can easily be used to stop the ceremony.Act stipulates that an application for marriage can be made only in a place where at least one of the parties resides.In practice, therefore, by making sure that parents as well as caste or community leaders are aware of the time and location of the intended marriage well in advance, the Indian state acts like a super khap panchayat, by making sure that society decides whether the couple should get married or not.If a Hindu (which includes Sikhs, Jains and Buddhists) marries a non-Hindu, he or she cannot inherit ancestral property.
Uttarakhand UCC	<ul style="list-style-type: none">The Seventh Schedule of the Constitution provides that both the Centre and state legislatures can legislate on matters pertaining to family laws. In pursuance of this power, <u>the government of Uttarakhand tabled its own Uniform Civil Code in the state Assembly.</u>The Code applies to residents of the state, but only to those who identify within the binary genders of male and female who are in heterosexual relationships, thus leaving most LGBT persons outside its ambit.It does not apply to members of the Scheduled Tribes (STs), and does not disturb those customary practices pertaining to family law that are protected under the Constitution. This includes customary practices prevalent in states such as Nagaland and Mizoram.The Code defines live-in relationships as a relationship in the "nature of marriage" between a man and a woman cohabiting in a shared household, and requires compulsory registration of live-in relationships through a "statement of live-in relationship".A live-in relationship may be terminated by either of the parties to the live-in relationship by submitting a "statement of termination".Failure to register a live-in relationship within one month of entering into the relationship has been criminalised, with punishment up to three months in jail or fine not exceeding Rs 10,000.

	<ul style="list-style-type: none"> A progressive reform reflected in the Code pertains to the abolition of the concept of "illegitimate children". At present, parent-child relations are governed by both secular and personal laws on guardianship, which discriminate against children born out of wedlock by deeming them illegitimate and not granting them rights at par with children born within wedlock. While courts have attempted to extend certain rights to children born out of wedlock, specifically in matters pertaining to inheritance under Hindu law, as well as maintenance, the concept of an "illegitimate" child continues to prevail. The Uttarakhand UCC treats children born in void and voidable marriages, as well as children born in live-in relationships, as legitimate.
	<ul style="list-style-type: none"> Jharkhand's Dhuku Marriage, Where Couples opt For Live-in Relationships Due To Poverty Live-in relationships are the norm in Garasia community where women retain a high status in western state of Rajasthan.

Argument in favour of UCC	Argument in against
1) To Implement DPSP	1) The state shall endeavour/strive (cannot be through force)
2) For the sake of true secularism	2) Uniform Civil Code (one law for all religion) vs Common Civil code (same law)
3) Gender justice	3) FR Article 25 has more priority than DPSP Art 44
4) Economic justice (Equal share of inheritance)	4) Article 29 -> we cannot deprive tribals of their culture
	5) Article 26 -> freedom of matter related to religion
	6) What will base religion of the law.

Uniform Law	<ul style="list-style-type: none"> A just code should be the primary goal as just laws are more important than a mere one uniform law. India's tryst with preserving its multicultural diversity is often found at the crossroads with values such as secularism. Despite secularism being a fundamental tenet governing the Indian polity, India decided not to adopt the French model of laicite, which strictly prohibits bearing any religious outfit or marker in public; that considers religion in public as a threat (and not a prominent promoter) to the nation's secular fabric — thus pushing it within only the four walls of the domestic household. Indian society, therefore, 'accommodates' and not just 'tolerates' the wide array of group and ethnic differences. <ul style="list-style-type: none"> 'UCC is neither necessary nor desirable', In a 185-page consultation paper, the Commission said secularism cannot contradict the plurality prevalent in the country. The Commission, led by former Supreme Court judge Justice B.S. Chauhan, said "cultural diversity cannot be compromised to the extent that our urge for uniformity itself becomes a reason for threat to the territorial integrity of the nation". Unity more than uniformity
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L17 Fundamental Duties

25 July 2024 06:32 PM

Part IV-A FUNDAMENTAL DUTIES Article 51-A

Article 51-A	<ul style="list-style-type: none">• (a) To abide by the Constitution and respect the National Flag and the National Anthem;• (b) to cherish and follow the noble ideals which inspired our national struggle for freedom;• (c) to uphold and protect the sovereignty, unity and integrity of India;• (d) to defend the country and render national service when called upon to do so;• (e) to promote harmony and the spirit of common brotherhood amongst all people of India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women;• (f) to value and preserve the rich heritage of our composite culture;• (g) to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures;• (h) to develop the scientific temper, humanism and the spirit of inquiry and reform;• (i) to safeguard public property and to abjure violence;• (j) to strive towards excellence in all spheres of individual and collective activity, so that the nation constantly rises to higher levels of Endeavour and achievement;• (k) to provide opportunities for education by the parent the guardian, to his child, or a ward between the age of 6-14 years as the case may be. (86th Amendment, 2002)
Learning	SSP ACU DVD PR W
Key points	<ul style="list-style-type: none">• Fundamental Duties were added by the 42nd Amendment of the Constitution.• Such duties are generally not found in the Constitution based on the western liberal traditions.• P.V. Kane was critical that our Constitution ignored the Indian tradition of duties and emphasised only on the Rights• Based on Sardar Sudha Singh committee• Objective is to make responsible citizens.• These duties, therefore, perform an educative role.• Borrowed from the USSR Constitution.• International instruments such as the Universal Declaration of Human Rights and International Covenant on Civil and Political Rights have a place for Duties.• No Mandamus. : Not Legal Duty, Not enforceable• Applicable exclusively to the Citizens. <p>51(a) - Protection of Insult to National honour Act 51(c) - BNS</p>
Criticism	<ul style="list-style-type: none">• Absence of important duties like paying taxes, voting and family planning.• Vague ideas. Ex : 51(b) noble idea is not clear (which idea to follow)• SC -> National anthem before movies -> later recalled Favour : what's the harm Against : force feeding patriotism, SC cannot implement it is judiciary

AMENDMENT OF THE CONSTITUTION

Need	<ul style="list-style-type: none">• Pandit Nehru : 'Constitution should not be so rigid that it cannot be adapted to the changing needs of national development and strength'.• Any popular demand for changing the system should be capable of realisation.• Constitution as Living Document, doc of people faith and realism <ul style="list-style-type: none">• B. R. Ambedkar's Views : 'Those who are dissatisfied with the Constitution have only to obtain in two-thirds majority, and if they cannot obtain even a two-thirds majority in the Parliament elected on adult franchise in their favour, their dissatisfaction with the Constitution cannot be deemed to be shared by the general public'. <ul style="list-style-type: none">• 1st CAA 1951 -> 15(4), 31-A, 31-B added• Article 13(2) : cannot change/delete FR through a Law We are changing the Constitutional Amendment Act not through Law• From 1951 to 1967...<ul style="list-style-type: none">• Shankari Prasad Deo v. Union of India, 1951.• Inclusion of Articles 31-A and 31-B was challenged.• The word 'Law' does not include an amendment of the Constitution made under article 368.
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	<ul style="list-style-type: none"> • Golak Nath Case, 1967.. <ul style="list-style-type: none"> • Heard by an 11-judge bench. • Court held, by a majority of 6:5 that Fundamental Rights were outside the amendatory process. • The word 'law' includes a Constitutional Amendment Act. • Article 368 does not contain the power to amend but merely provides the procedure for amending the Constitution. • Suggested a Constituent Assembly could be summoned for this purpose. • Constitution (24th Amendment) Act, 1971 <ul style="list-style-type: none"> • Nothing in article 13 shall apply to an amendment of the Constitution made under article 368. • Clause (3) was added to the Article 368, which provides that nothing in Article 13 shall apply to an amendment made under this article. • Change in Article 368... <ul style="list-style-type: none"> • Substituting 'Procedure for amendment of the Constitution' with 'Power of Parliament to amend the Constitution and procedure therefor'. • Subsequent Changes... <ul style="list-style-type: none"> • Constitution (25th Amendment) Act, 1971: Introduced Article 31-C. • Constitution (26th Amendment) Act, 1971: Abolition of Privy Purse. • Constitution (29th Amendment) Act, 1972: Kerala Land Reforms Act placed in 9th Schedule.
	<ul style="list-style-type: none"> • Kesavnanda Bharati Case: 24th April 1973 <ul style="list-style-type: none"> • Highest Judges : 13 Judges • Longest running case : 68 days • Judgment enclosed to 703 pages • Question : Is the power of Parliament supreme that it can amend any provision of the constitution. • Nani Palhiwala : Started with Doctrine of implied restriction (not exclusive mention but restricted), if there is no restriction, can SC do anything like delete Article 21 (most imp), allow dictatorship. • SC -> We will go with Doctrine of Basic Structure. • Kesavnanda Lost
	<ul style="list-style-type: none"> • Criticism of Doctrine of basic structure : <ul style="list-style-type: none"> • It is a judicial innovation and finds no mention in the constitutional text. • Arbitrarily decided by the Supreme Court • Tyranny of unelected over elected • Proponents : <ul style="list-style-type: none"> • Raj Narain vs Indira Gandhi -> Indira Disqualified for Electoral malpractice (Using Govt devices for promotion) -> Disqualified from electoral voting • During Emergency : <ul style="list-style-type: none"> • 39th CAA <ul style="list-style-type: none"> ◦ No case of Electoral Malpractice on PM, Speaker • 41st CAA <ul style="list-style-type: none"> ◦ No criminal case can be done on PM, even after they demit office • Both Law -> Unconstitutional <p>NJAC : For Recommending Judges CJI + 2 Senior Judges + Law Minister + 2 Eminent Person</p>

BASIC STRUCTURE	<ul style="list-style-type: none"> • Supremacy of the Constitution. • Rule of Law. • The Objectives specified in the Preamble. • Balance between FRS and DPSP. • Parliamentary form of Govt. • Free and fair elections. • Limitations upon the amending power conferred by Art. 368. • Independence of the Judiciary. • Social Justice. • Articles 21 r/w Articles 14 & 19. • Articles 20 and 32. • Articles 15 and 14 r/w Articles 16(4), (4-A) & (4-B). • Primacy of CJI in judicial appointments.
	<ul style="list-style-type: none"> • BSD (Basic Structure Doctrine) upholds the true intent of the framers of the constitution • BSD Puts Limitation on the govt that even with brute majority it cannot alter the foundation principle of the India republic.

PROCEDURE	Article 368
	<ul style="list-style-type: none"> • Introduction of the Bill in either House of the Parliament. • The bill can be introduced either by a minister or by a private member. • The bill does not require prior permission of the President.

	<ul style="list-style-type: none"> The bill must be passed in each House by a Special Majority III. (2/3 → State (simple majority) No joint sitting of the two houses. (Joint seating always biased to Lok Sabha bc of large number of seats) If the bill seeks to amend federal provisions of the Constitution, it must also be ratified by legislatures of half of the states by a Simple Majority. After passage, sent to President for his assent. President shall give his assent. (24th CA Act, 1971). The bill becomes an act. 						
3 categories	<ul style="list-style-type: none"> Constitution can never be amended by simple Majority <table border="1"> <tr> <td>1. By Simple Majority:</td><td> <p>These changes can be done but not be deemed as constitutional amendment, Therefore no need of special majority</p> <p>Formation of new states. Abolition or creation of Legislative Councils. No'of Puisne judges of the Supreme Court. Use of English in Parliament. Changes in 5th and 6th Schedule.</p> </td></tr> <tr> <td>2. By Special Majority:</td><td> <ul style="list-style-type: none"> Fundamental Rights DPSR All other provisions not covered by the 1st and 3rd category </td></tr> <tr> <td>3. Ratification by one-half of the state legislatures:</td><td> <ul style="list-style-type: none"> The election and manner of election of the President The extent of the executive power of the Union and a State Provisions dealing with the Supreme Court and the High Courts Distribution of the legislative powers between the Union and the States The Representation of States in the Parliament 7th Schedule Article 368 itself </td></tr> </table>	1. By Simple Majority:	<p>These changes can be done but not be deemed as constitutional amendment, Therefore no need of special majority</p> <p>Formation of new states. Abolition or creation of Legislative Councils. No'of Puisne judges of the Supreme Court. Use of English in Parliament. Changes in 5th and 6th Schedule.</p>	2. By Special Majority:	<ul style="list-style-type: none"> Fundamental Rights DPSR All other provisions not covered by the 1st and 3rd category 	3. Ratification by one-half of the state legislatures:	<ul style="list-style-type: none"> The election and manner of election of the President The extent of the executive power of the Union and a State Provisions dealing with the Supreme Court and the High Courts Distribution of the legislative powers between the Union and the States The Representation of States in the Parliament 7th Schedule Article 368 itself
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D. Oliver and C. Fusaro	<ul style="list-style-type: none"> How Constitutions Change: A Comparative Study 'India's Constitution is probably the most sophisticated one in establishing a great variety of procedures to adapt and change its arrangements based upon careful selection of different matters'. Flexible Rigidity.
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L18 President

28 July 2024 03:05 PM

UNION EXECUTIVE	President Vice President Prime Minister Council of Ministers Attorney general for India
EXECUTIVE POWER	<ul style="list-style-type: none"> Not defined in the Constitution. 'Executive function' comprises both determination of policy as well as carrying it into execution. This includes initiation of the legislation, the maintenance of order, the promotion of social and economic welfare, the direction of the foreign policy; in fact, the carrying on or supervision of the general administration of the state. (<i>Ram Jawaya Kapur v. State of Punjab</i> 1955) 'Executive Function' comprises the whole corpus of authority to govern, other than that which is involved in the legislative functions of the Parliament and the judicial functions of the courts (<i>Constitution and Administrative Law, Wade & Bradley</i>) Power vested to President

PRESIDENT

Article 52	<ul style="list-style-type: none"> There shall be a President of India. The operation of the constitutional scheme or structure cannot be envisaged even for a short while without a President of India being in office. 		
Article 53	<ul style="list-style-type: none"> The executive power of the Union shall be vested in the President 		
	<ul style="list-style-type: none"> Constitutional Position of the President... <ul style="list-style-type: none"> Dr Rajendra Prasad episode. Ram Jawaya case —The President is only a formal or constitutional head of the executive and the real executive power is vested in the hands of the ministers. 		
Article 74	<p>There shall be council of minister with PM at its head to aid and advise the President.</p> <p>42nd CAA 1976, during emergency added line</p> <ul style="list-style-type: none"> There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice: <p>44th CAA 1978</p> <ul style="list-style-type: none"> Provided that the President may require the council of Ministers to reconsider such advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration 		
	<ul style="list-style-type: none"> 1st Citizen Defacto head, real power to PM and Council Warrant of precedence <p>Rubber Stamp</p> <ul style="list-style-type: none"> No Discretionary Powers : President cannot do nothing without aid and advice of PM and council <ul style="list-style-type: none"> Except : Appointment of Prime minister Ex : 2009 -> Hung parliament -> No Majority Party -> president can decide the PM 		
	<ul style="list-style-type: none"> U. N. R. Rao v. Indira Gandhi (1971) - our constitution is modelled on the British parliamentary system. Samsher Singh v. State of Punjab (1974) — whenever the constitution requires the satisfaction of the President or the Governor the satisfaction is not the personal satisfaction of the President/Governor but the satisfaction of the Council of Ministers headed by the Prime Minister. 		
Election	ARTICLE 54	Electoral College	<ul style="list-style-type: none"> Electoral College: <ul style="list-style-type: none"> The ELECTED members of both houses of the Parliament. The ELECTED members of the Legislative Assemblies of the States. (28 States +Delhi + Puducherry) <ul style="list-style-type: none"> J&K also part But may need CAA
	ARTICLE 55	Indirect Election	<ul style="list-style-type: none"> If Direct Election <ul style="list-style-type: none"> Resolve clash bw president and PM Wastage of time and resources
	ARTICLE 55	Proportional representational System	<ul style="list-style-type: none"> Manner of election of President... <ul style="list-style-type: none"> As far as practicable, there shall be uniformity in the scale of representation of the different states at the election of the President. Removed : First past the post system <ul style="list-style-type: none"> Highest vote proportion win over seats won Problem : Proportional representation system (PRS) Value of Votes <ul style="list-style-type: none"> The value of the vote of each member of a State Legislative Assembly included in the Electoral College is calculated by dividing the population of the State concerned (as per 1971 Census) by the total number of elected members of the Assembly, and then further dividing the quotient by 1000. The total value of votes of all the States worked out as above in respect of each State and added together is divided

		by the total number of elected members of Parliament (Lok Sabha 543+Rajya Sabha 233) to get the value of votes of each Member of Parliament.
	STV	<ul style="list-style-type: none"> Single transferrable vote Absolute Majority : More than half of the total valid votes
	Secret Ballot	<ul style="list-style-type: none"> No Need to show your preference If revealed -> vote Invalid

Article 56	Term of Office	5 years.
	Vacancy	<ul style="list-style-type: none"> Resignation President resign by submitting resignation to the VP, binding on VP to accept Death Impeached
		<ul style="list-style-type: none"> The President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office. Any resignation addressed to the Vice-President shall forthwith be communicated by him to the Speaker of the Lok Sabha.

Article 57	Eligibility for re-election
	<ul style="list-style-type: none"> No bar in India Irish Constitution prohibits re-election for more than two terms. US Constitution bars the election of the same person more than twice to the office of the President.

Article 58	Qualification
	<ol style="list-style-type: none"> Citizen of India, 35 years of age, and Qualified for the election as a member of the Lok Sabha. (name in electoral roll) Should also not hold any Office of Profit.

Article 60	<ul style="list-style-type: none"> Oath or Affirmation <ul style="list-style-type: none"> 'execute the office of the President (or discharge the functions of the President) of India and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of India'. Administered by CJI or seniormost Judge of SC Mentioned in article (all other oath are in Schedule III) Oath : Believers Affirmation : Non-Believers
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Article 61	<ul style="list-style-type: none"> Impeachment (Used only for President) Grounds : Violation of the constitution Not Defined (No President impeached till date) Process -> All acts done by president prior to impeachment are valid Impeachment : Quasi Judicial Function (One house bring motion and other house act as judge) Removal : Executive function
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Powers	<table border="1"> <tr> <td>Powers</td><td>To be exercised on the aid of advice of the PM and CoMs</td></tr> <tr> <td>Executive</td><td> <ul style="list-style-type: none"> Appointment of the Prime Minister and the Council of Ministers. Attorney General of India. CAG, Chief Election Commissioner and other Election Commissioners, the Chairman and members of the UPSC, the Governors of the States, the Chairman and the members of the Finance Commission. </td></tr> <tr> <td>Military</td><td> <ul style="list-style-type: none"> Declares war and concludes peace Supreme Commander Diplomatic Powers </td></tr> <tr> <td>Veto</td><td> <table border="1"> <tr> <td>Article 11</td><td> <ul style="list-style-type: none"> Article 111 : Assent to bills, President can give his Can give assent -> bill becomes law Withhold assent -> Not going to sign -> dead bill Can send back for reconsideration </td></tr> </table> </td></tr> </table>	Powers	To be exercised on the aid of advice of the PM and CoMs	Executive	<ul style="list-style-type: none"> Appointment of the Prime Minister and the Council of Ministers. Attorney General of India. CAG, Chief Election Commissioner and other Election Commissioners, the Chairman and members of the UPSC, the Governors of the States, the Chairman and the members of the Finance Commission. 	Military	<ul style="list-style-type: none"> Declares war and concludes peace Supreme Commander Diplomatic Powers 	Veto	<table border="1"> <tr> <td>Article 11</td><td> <ul style="list-style-type: none"> Article 111 : Assent to bills, President can give his Can give assent -> bill becomes law Withhold assent -> Not going to sign -> dead bill Can send back for reconsideration </td></tr> </table>	Article 11	<ul style="list-style-type: none"> Article 111 : Assent to bills, President can give his Can give assent -> bill becomes law Withhold assent -> Not going to sign -> dead bill Can send back for reconsideration
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	<ul style="list-style-type: none"> • Not for Money bills
Absolute Veto	<ul style="list-style-type: none"> • Withhold sign -> dead bill • Reason <ul style="list-style-type: none"> • Pvt members bill • Blatantly unconstitutional • This is not under PM/CoM as it is not executive
Suspensive Veto	<ul style="list-style-type: none"> • Send the bill back for reconsideration by giving Cogent reason • Does not become dead bill • If sends again -> President have to pass the bill • APJ Abdul Kalam -> resend OOPS bill (For allowing seated people having office of profits)
Pocket Veto	<ul style="list-style-type: none"> • No time limit for holding the bill and not acting on the bill
Legislative	
Financial	
Judicial	

L19 Vice President and CoMs

28 July 2024 07:36 PM

VICE PRESIDENT

Article 63	<ul style="list-style-type: none">There shall be a Vice President.Can be vacant
Article 64	<ul style="list-style-type: none">Article 64: The VP to be ex-officio Chairman of Council of States.Provided that during any period when the VP acts as the President, he shall not perform the duties of the Chairman of the Council of States.

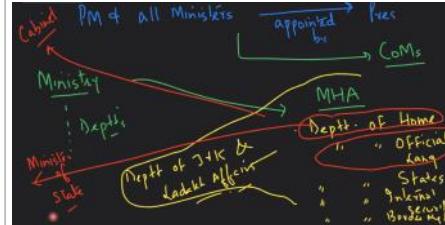
Article 66	Election Members : Electoral College: <ul style="list-style-type: none">Both houses of the Parliament. (Elected + Nominated)PRSSTVSecret Ballot.
	Qualification : <ol style="list-style-type: none">Citizen of India,35 years of age,Qualified as a member of the Council of States. (Should not hold any Office of Profit)
Article 67	Term of Office : 5 years <ul style="list-style-type: none">Vacancy: Resignation, Removal, Death.
Article 67 (b)	<ul style="list-style-type: none">According to Constitution Vice President is removed on the ground not mentioned in constitution.Grounds kept open Unconstitutional, misbehave, incapacitateProcess is initiated in RS -> Motion passed by effective majority -> LS -> Simple Majority
Article 69	Oath or Affirmation... <ul style="list-style-type: none">'bear true faith and allegiance to the Constitution of India and that I will faithfully discharge the duty upon which I am about to enter'.
Article 70	Discharge of President's Functions in other contingencies <ul style="list-style-type: none">This article empowers Parliament to make provision for the discharge of the functions in any contingency not provided for by the Constitution.1969: Sudden death of Zakir Hussain and the resignation of the VP V. V Giri, while he was acting as the President, Parliament enacted, President (Discharge of Functions) Act, 1969. <p>Pres -> VP -> CJI -> Senior Judge of the SC</p>
Article 71	All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final.

COUNCIL OF MINISTERS

Council of Ministers	<ul style="list-style-type: none">Prime Minter and CabinetThe Constitution provides for a parliamentary form of Govt modelled on the British pattern.Parliamentary form of Govt means Council of Ministers is responsible to the Lok Sabha.
Article 74	<ul style="list-style-type: none">There shall be a CoMs with the PM at the heed to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice.Provided that the President may require the CoMs to reconsider that advice and the President shall act in accordance with the advice retendered.
Article 74 (2)	Collective Responsibility <ul style="list-style-type: none">The advice tendered by the CoMs to the President shall not be inquired into in any court.The CoMs shall be collectively responsible to the Lok Sabha. No Confidence motion passes -> PM resign -> all minister sink togetherThere is no provision in the Constitution which makes President responsible to the Parliament for the acts of the Govt.
Article 75	Discretionary power of President (Situational Discretionary) <ul style="list-style-type: none">The PM shall be appointed by the President and the other ministers shall be appointed by the President on the advice of the Prime Minister.The first step in the process of forming a CoMs is to find a PM.Doctrine of PleasureIndividual responsibility
	<ul style="list-style-type: none">The total number of ministers INCLUDING the Prime Minister in the CoMs shall not exceed 15% of the total number of members of the Lok Sabha(91st Constitutional Amendment Act, 2003).Min: 12 Members

- The ministers shall hold office during the pleasure of the President.
- Before a minister enters upon his office, the President shall administer to him the oaths of office and secrecy according to the Third Schedule.
- A minister who for any period of six consecutive months is not a member of either house of the Parliament shall cease to be a minister.
- The salaries and allowances of the Ministers shall be such as the Parliament may from time to time by law determine and shall be specified in the Second Schedule.

Collective Responsibility	Individual responsibility
COMs swim and sink together	Each member accountable to president

CoMs	Cabinet
Do not meet regularly	Meets frequently
Minter of States : to lead departments. Minter of State (Independent Charge) : Heading minister but not in charge of cabinet head	

Kitchen cabinet	<ul style="list-style-type: none"> • Kitchen where policy are cooked • Informal body, come together and create policy • Pm is head of Kitchen Cabinet
Group of Ministers	<ul style="list-style-type: none"> • Pm sets GOM for resolving issue • They can advice
Empowered group of Ministers	<ul style="list-style-type: none"> • Take decision on behalf of cabinet

L20 Cabinet Committees and AGI

28 July 2024 09:23 PM

CABINET COMMITTEES

Cabinet Committees	<ul style="list-style-type: none"> Extra-Constitutional devices, (not mentioned in constitution) Mentioned in the Rules of Business. Types: Standing and Adhoc.
Appointments Committee of the Cabinet.	<p>Composition</p> <ul style="list-style-type: none"> Prime Minister. Shri Amit Shah, Minister of Home Affairs <p>Decide appointment at union level</p>
Cabinet Committee on Accommodation.	<ul style="list-style-type: none"> Decide for stay location Headed by home minister
Cabinet Committee on Economic Affairs.	<ul style="list-style-type: none"> Headed by PM Everything related to economy, like inflation, import and export, etc.
Cabinet Committee on Parliamentary Affairs.	<ul style="list-style-type: none"> Head : Defence minister Previously MHA Bills going to be passed in future session, Summon Parliament, when session starts, when ends
Cabinet Committee on Political Affairs	<ul style="list-style-type: none"> Super cabinet Headed by PM Politics decision, How much money to state Bihar ,etc
Cabinet Committee on Security.	<p>Composition</p> <ul style="list-style-type: none"> Prime Minister. Shri Rajnath Singh, Minister of Defence Shri Amit Shah, Minister of Home Affairs Smt. Nirmala Sitharaman, M of Finance & Corporate Affairs. Dr. Subrahmanyam Jaishankar, M of External Affairs.
Cabinet Committee on Investment and Growth.	<ul style="list-style-type: none"> Headed by PM How to bring Investment
Cabinet Committee on Employment & Skill Development.	<ul style="list-style-type: none"> Steps to take to improve employment

THE ATTORNEY GENERAL FOR INDIA

AGI	<ul style="list-style-type: none"> Highest law officer in the country. To act as a Chief legal Advisor of the Union Govt Or any other duty given by President The President has assigned to the AGI the duty to appear on behalf of the GoI in all cases in which the GoI is concerned and to represent GoI in any reference made by the President to the Supreme Court under Article 143.
Article 143	<ul style="list-style-type: none"> Presidential reference President can refer any matter to SC for views from SC To get clarity on matter and to get pre approval
Appointment	<ul style="list-style-type: none"> The President shall appoint a person who is qualified to be appointed a judge of the Supreme Court to be Attorney-General of India. <ul style="list-style-type: none"> Citizen of India Judge of 1 or more HC for 5 years Advocate of 1 or more HC for 1 years Jurist in eyes of president It shall be the duty of the AG to give advice to the GoI upon such legal matters, and to perform duties of legal character, as may from time to time, be referred or assigned to him by the President. Age-limit of 65 for the judges of the SC does not apply to the AG. Not a member of the Cabinet, but integral part of the Executive machinery. Doctrine of Pleasure. Remuneration decided by the President.
Duty	<ul style="list-style-type: none"> Can pursue his own cases if the opponent is not the State. Cannot defend the accused in the Criminal Cases without the permission of the GoI. Does not fall in the category of the government servants. Assisted by Solicitor General of India and Additional Solicitor General. AGI resigns whenever there is a change of Govt Petition to give AGI role of Union ministers of Law and Justice
Privilege	<ul style="list-style-type: none"> The AG has the right of audience in all courts in the territory of India. The AG has the right to speak and to take part in the proceedings of both houses of the Parliament or their Joint Sittings and any Committee of the Parliament of which he may be named as a member (without a right to vote).

1. "The Attorney-General is the chief legal adviser and lawyer of the Government of India." Discuss. (2019 - 15 marks)
2. Compare and contrast the British and Indian approaches to Parliamentary sovereignty. (2023 – 10 Marks)
3. Discuss the role of the Vice -President of India as the chairman of the Rajya Sabha. (2022 – 10 Marks)

L21 Union Legislature

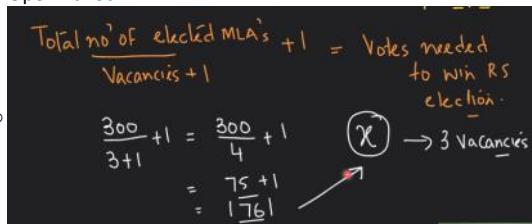
06:38 PM

UNION LEGISLATURE

- Indian parliament and Law Making
- Rajya Sabha, Lok Sabha

Article 79	Parliament
	<ul style="list-style-type: none"> • Article 79 — There shall be a Parliament for the Union which shall consist of the President and two houses that are known respectively as the Council of States (Rajya Sabha) and the House of the People (Lok Sabha).
Function	<ul style="list-style-type: none"> • Ordinary Law making Power : Principle : Law making body mentioned in Union List + Concurrent list • Contingent Power : Amend the Constitution • Supplier of the executive : Executive is drawn from Legislature • Authentic source of information • Custodian of public purse : Money Bill Withdraw money with consultancy of parliament • Keeps the check on the Executive : Executive responsible to Legislature

RAJYA SABHA

Rajya Sabha	<ul style="list-style-type: none"> • # House of Elders • # Federal Chamber of Indian Parliament
Strength	<ul style="list-style-type: none"> • Total 250 • Current : 245 (233+12) • 238 Elected <ul style="list-style-type: none"> ◦ PRS, Proportional representation System ◦ STV, Single transferable vote ◦ IE, Indirect Election ◦ Open Ballot •  • 12 Nominated <ul style="list-style-type: none"> ◦ By President on aid and advice of council ◦ for Art, Literature, Science, Social Service <ul style="list-style-type: none"> ▪ List is illustrative not exhaustive ▪ Sports can be added ◦ Why : These talented people can aid and RS provide opportunity to them, who may otherwise reluctant to contest election to be a part of Law making exercise ◦ Sudha Murthy, Javed Akhtar, Fali S Nariman
Schedule IV	<ul style="list-style-type: none"> • Representation of State in RS • Number of seats from each State is mentioned according to population <ul style="list-style-type: none"> • In US each state : 2 represent
Qualification	<ul style="list-style-type: none"> • Citizen of India • 30+ Age • Register voter in any Parliamentary constituency in India <ul style="list-style-type: none"> ◦ Representation of people Act 1951 : by Kuldeep Nayyar ◦ If want seat of Bihar, need to voter in Bihar -> Removed • Not holding office of profit
Disqualification	<ul style="list-style-type: none"> • Change in the nature of citizenship, ex : renounced • Adjudged insolvent, ex : bribe, shady deals • Mental unsoundness • Office of profit • Any other ground can be prescribed by Parliament by Law <ul style="list-style-type: none"> ◦ ADL, Anti Defection Law ◦ RPA, 1951, Convicted for some particular crime • Decision taken by President -> ECI Report -> Binding
Relevance	<ul style="list-style-type: none"> • Second Chamber, Not Secondary Chamber • Bicameral Legislature reason <ul style="list-style-type: none"> ◦ To Keep a check on the hasty bills passed by the LS ◦ Federal Chamber -> Represents the interest of States

	<table border="1"> <tr> <td>Article 249 :</td><td> <ul style="list-style-type: none"> Parliament makes Law on State list for national list RS 2/3rd member present and voting </td></tr> <tr> <td>Article 312 :</td><td> <ul style="list-style-type: none"> Creation of ALL India Service (IAS, APS, IFoS) If you create more AIS -> Strengthen Centre RS 2/3rd member present and voting </td></tr> <tr> <td>Article 67(b)</td><td> <ul style="list-style-type: none"> Removal of the Vice President </td></tr> </table>	Article 249 :	<ul style="list-style-type: none"> Parliament makes Law on State list for national list RS 2/3rd member present and voting 	Article 312 :	<ul style="list-style-type: none"> Creation of ALL India Service (IAS, APS, IFoS) If you create more AIS -> Strengthen Centre RS 2/3rd member present and voting 	Article 67(b)	<ul style="list-style-type: none"> Removal of the Vice President
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Article 67(b)	<ul style="list-style-type: none"> Removal of the Vice President 						
	<ul style="list-style-type: none"> Even more in era of Coalition Govt, where Govt may lack Majority in RS <ul style="list-style-type: none"> They move to regional Political Party -> Regional gets incentive for passing bills Bargaining Federalism Only 3 times Joint Sitting Conducted till 2002 -> RS In Constitution amendment Bills -> No joint sitting All type of emergency need to be approved by RS 						
Irrelevant	<ul style="list-style-type: none"> Inferior role of RS via-a-vis LS in Money bill <ul style="list-style-type: none"> RS cannot amend the bill RS binding to pass money bill passed by LS If RS not acted for 14 days -> Bill automatically Passed REASON : Rajya Sabha can deprive the Leading party with money to win in next election Deadlock of Bills -> Joint Sitting -> Favours LS <ul style="list-style-type: none"> Will of LS prevails 788 (543+245) -> 543 LS 						
Term	<ul style="list-style-type: none"> Term of RS MP is not mentioned in Constituency <ul style="list-style-type: none"> Mentioned in Law : 6 Years No reservation for SC =, ST in RS No reservation for Women Permanent House : cannot subject to dissolved 1/3rd member retired every 2 years <ul style="list-style-type: none"> Can go for election again To secure Permanent stability 1/3rd member retire automatically in 2 years due to 1952, 1954 Retirement by luck 						

LOK SABHA

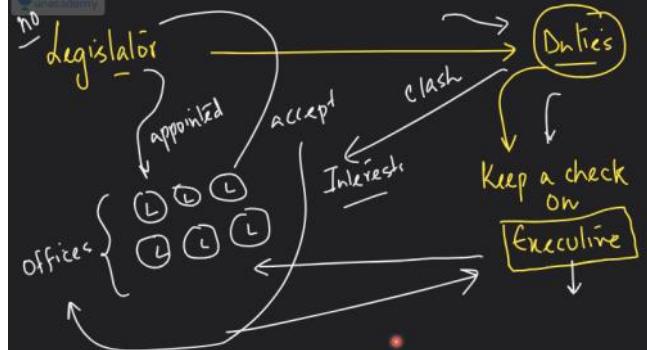
Lok Sabha	
Strength	<ul style="list-style-type: none"> Initially <ul style="list-style-type: none"> Total : 552 (530 States, 20 UT, 2 Anglo Indian) 104th CAA -> Reservation for Anglo Indians was not extended Strength : 552 <ul style="list-style-type: none"> 530 States + 20 UT UT only needed 13 seats (7 seat Delhi, 1 from other UT) Strength : 543 <ul style="list-style-type: none"> 530 States + 13 UT 2019 -> JK moved to UT Current Strength : 543 <ul style="list-style-type: none"> 524 States + 19 UT
Election	<ul style="list-style-type: none"> Direct Election First Past the Post System 543 Constituency
Qualification	<ul style="list-style-type: none"> Except age 25 age Same as RS <ul style="list-style-type: none"> Citizen of India Register voter in any Parliamentary constituency in India Not holding office of profit
Power	<ul style="list-style-type: none"> Confidence , No confidence, Censure, Adjournment Motion Money Bills, Financial Bill Introduced in LS (passed by both) Article 352 (8) : Disapprove National Emergency <ul style="list-style-type: none"> 44th CAA, 1978

OFFICE OF PROFIT

Office of Profit

- A Person shall be disqualified for being chosen as, and for being, a member of either House of Parliament if he holds any **office of profit** under the Govt of India or Govt of any State, other than an office declared by Parliament by law not to disqualify its holder.

- Render to Qualify + Disqualification
- Term office of Profit is not defined
- Need :
- Separation of Power bw Executive and Legislative
 - Legislative Duties -> keep a check on Executive
 - Executive creates Offices -> appoint legislature -> Clash in interest and check



- To secure independence of the members of Parliament and to ensure that Parliament does not have the members who receive favours or benefits from the executive, and who, consequently, being under an obligation to the executive, might be amenable to its influence.

Prove

- 4 Things must be proven...

Held an office	<ul style="list-style-type: none"> An office with an independent existence
Office of profit	<ul style="list-style-type: none"> Monetary : Salary Pecuniary Gain : Influence
Office under the GoI or a State Govt	<ul style="list-style-type: none"> Private office not considered until unless under influence of Govt Ex got tender or contract from Govt fro some project
The office should be other than an office declared by Parliament by law not to disqualify its holder.	<ul style="list-style-type: none"> Members of Parliament Act(Prevention from Disqualification) 1959 <ul style="list-style-type: none"> Ministers; Leader of Opposition; Deputy Chairman, Planning Commission; The office of Chairperson of: <ul style="list-style-type: none"> National Commission for Minorities, National Commission for the SCs and STs, National Commission for Women.

Minister

- Minister is also Office under Executive
 - Some Minister are exempted
 - Members of Parliament Act(Prevention from Disqualification) 1959
 - Amended in 2006, OOP Bill
- Jaya Bachchan : RS MP + Chairperson of UP Film Development Corporation
 - Chairperson not mentioned in OOP Bill
 - RS MP discarded
 - Jaya vs Election Commission of India ECI

OOP is irrelevant in an era of anti-defection law

L22 Office of Legislature

05 August 2024 09:50 PM

SPEAKER

Speaker	<ul style="list-style-type: none"> • Speaker of Lok Sabha
Elected	<ul style="list-style-type: none"> • Member of Power of Lok Sabha • Election of Speaker on the 1st Session <ul style="list-style-type: none"> • Simple Majority • Prevalent speaker work Speaker of this session
Removal	<ul style="list-style-type: none"> By Effective Majority
Function	<ul style="list-style-type: none"> • Custodian of LS -> Interpreting rules (Rules of Business and Procedure) • Decide on the disqualification petition under 10th Schedule • Speaker certify a Money Bill • Head of Business Advisory committee <ul style="list-style-type: none"> • About motion, time limit to present the bill etc • Suspension of MPs <ul style="list-style-type: none"> • For creating ruckus in parliament • May for the term of that session • Voice vote • Automatic Session : Name you -> Suspension • Speaker cannot vote • Normally Tie Breaker-> Speaker -> Casting Vote • Privilege -> He resign on the day when new Lok Sabha is Convened
Criticism	<ul style="list-style-type: none"> • Partisan, Partial, Biased <ul style="list-style-type: none"> • Because he belongs to a political party • SC -> Justice Rohinton F Nariman <ul style="list-style-type: none"> • It's time for reconsider -> For Quasi-Judicial Body • UK Once a speaker, always a speaker <ul style="list-style-type: none"> • Guarantee a seat in next election • Contest in election again with no opposition

DEPUTY SPEAKER

Deputy Speaker	<ul style="list-style-type: none"> • The House shall as soon as may, elect 2 of its member <ul style="list-style-type: none"> • Speaker • Deputy Speaker
Selection	<p>Elected : Simple Majority LS MP, from Opposition Removal : Effective Majority LS MP</p>
Speaker Resign	<ul style="list-style-type: none"> • Speaker Resign through Deputy Speaker • Deputy Speaker resign through Speaker • Reason : Deputy is not subordinate. It is also selected by member
If Deputy Absent	<ul style="list-style-type: none"> • Panel of Chairperson • Max 10 MPs • All parties get recognition • If no one present : Nominated by the President
Speaker Pro Tem	<ul style="list-style-type: none"> • Cannot start work without Oath Affirmation • Speaker Pro tem <ul style="list-style-type: none"> • To administer oath to newly elected LS MP • To preside over election of the Speaker • Nominated by President • Mentioned in Handbook of the Ministry of Parliament

VICE PRESIDENT

VP	Chairman of Rajya Sabha
Deputy Chairperson	<ul style="list-style-type: none"> • Member of Rajya Sabha

	<ul style="list-style-type: none"> • Elected by Simple Majority • Remove by effective Majority
Panel of Vice Chairman	<ul style="list-style-type: none"> • 6 Members • In absence of VP and Deputy • If Chairman Vacant -> Nominated by the President

LEADER OF THE HOUSE

Leader of House	<ul style="list-style-type: none"> Any statement on the behalf of Government will be given by Leader of the House Extreme left side of Lok Sabha <table border="1"> <tr> <td>RS</td><td> <ul style="list-style-type: none"> • PM if Pm is RS MP • Else Senior Minister (Nominated by President) </td></tr> <tr> <td>LS</td><td> <ul style="list-style-type: none"> • Pm if PM is LS MP • Else Senior Minister (Nominated by President) </td></tr> </table>	RS	<ul style="list-style-type: none"> • PM if Pm is RS MP • Else Senior Minister (Nominated by President) 	LS	<ul style="list-style-type: none"> • Pm if PM is LS MP • Else Senior Minister (Nominated by President)
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LS	<ul style="list-style-type: none"> • Pm if PM is LS MP • Else Senior Minister (Nominated by President) 				
Leader of Opposition	<ul style="list-style-type: none"> Statutory pots : By law pass in 1977 (Salary LOP 2007) Same Status as cabinet Minister Seated Extreme Left side Leader of the Single Largest opposition party and recognized as such by the Speaker <ul style="list-style-type: none"> Minimum 1/10th of seats, bc of seating arrangement Shadow PM, PM in waiting 				

WHIP	<ul style="list-style-type: none"> Floor manager Appointed by all political Parties, Not by the Legislative wing of political party 						
Types	<table border="1"> <tr> <td>One Line Whip</td> <td> <ul style="list-style-type: none"> Just Inform date of parliament session </td> </tr> <tr> <td>Two Line Whip</td> <td> <ul style="list-style-type: none"> Seek their attendance </td> </tr> <tr> <td>Three Line Whip</td> <td> <ul style="list-style-type: none"> Direct them to act in a certain Way Coercive in nature -> if not followed -> Disqualified </td> </tr> </table>	One Line Whip	<ul style="list-style-type: none"> Just Inform date of parliament session 	Two Line Whip	<ul style="list-style-type: none"> Seek their attendance 	Three Line Whip	<ul style="list-style-type: none"> Direct them to act in a certain Way Coercive in nature -> if not followed -> Disqualified
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SESSION OF THE PARLIAMENT

- No Minimum number of days, No Maximum number of days
- Meet as often as possible
 - Such that time gap should not be more than 6 months
 - Must meet Twice every year
 - If not meet Council of Minister will have to resign or Opposition can go to the court

The Budget Session	Feb to May
The Monsoon Session	July to Sep
The Winter Session	Nov to Dec
Special Session	Apart from normal session for special purpose

Adjournment	<ul style="list-style-type: none"> A brief interval in an ongoing session By Power of Presiding Officer (Speaker) Does not affect Bills <p>• Adjournment Types</p> <table border="1"> <tr> <td>Date & Time Specified</td><td></td></tr> <tr> <td>Sine Die</td><td> <ul style="list-style-type: none"> No time Specified Normally on the last day of the session Paves a way for the termination of the Parliamentary Session Terminated on advice of President </td></tr> </table>	Date & Time Specified		Sine Die	<ul style="list-style-type: none"> No time Specified Normally on the last day of the session Paves a way for the termination of the Parliamentary Session Terminated on advice of President
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Prorogation	<ul style="list-style-type: none"> Termination of Session Power : President <ul style="list-style-type: none"> Advice of PM regarding dissolution of LS is Binding if -> <ul style="list-style-type: none"> Yes : If PM enjoy confidence of LS No : If the PM is defeated in LS Bills -> Survive 				

	<ul style="list-style-type: none"> • Motion, Resolution, Question -> lapse
Dissolution	<ul style="list-style-type: none"> • LS Dissolve automatically every 5 years or By President -> Re-election took place • Power : President on Advice of PM regarding dissolution of LS • is Binding if <ul style="list-style-type: none"> ◦ Yes : If PM enjoy confidence of LS ◦ No : If the PM is defeated in LS • In case of Dissolution <ul style="list-style-type: none"> ◦ All bills, motion, resolution lapse ◦ Exception : <ul style="list-style-type: none"> ◦ Bills Originated in RS and Pending in LS ◦ Bills awaiting the assent of the President <ul style="list-style-type: none"> ▪ Veto : Can send bill back to RS ◦ Bills on which the President notified a Joint Sitting ◦ Resolution : Calling for removal of Judge of SC/HC

L23 Power of Parliament and Bills

06 August 2024 08:31 PM

Powers, privileges of the Parliament and members thereof:

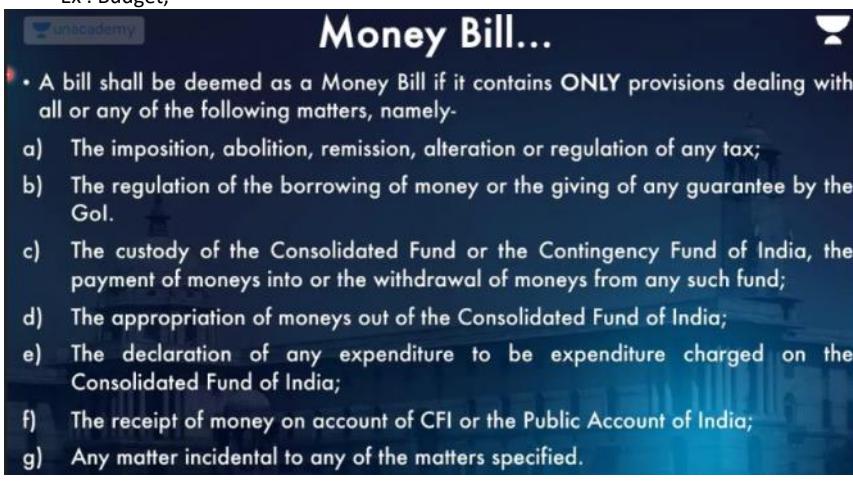
Article 105	<ul style="list-style-type: none">• There shall be freedom of speech in Parliament.• No member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings
	<ul style="list-style-type: none">• Parliament enact law -> Power and privilege immunities, provided to Parliament• Till this law is made, British Parliament and their MP power is available• 44th CAA 1978 -> Whatever Power before availed that is also available<ul style="list-style-type: none">◦ + Drop reference to British Parliament
	<ul style="list-style-type: none">• Anything said inside Parliament : not Accountable for• Complete Immunity
	<p style="text-align: center;">Sita Soren v Union of India (2024)</p> <p>A legislator cannot claim immunity from prosecution on charges of bribery for a vote or a speech by relying on these constitutional provisions since it fails to fulfil the two-fold test of first, being tethered to the collective functioning of the House, and second, being necessary for the discharge of the essential duties of a legislator.</p>
Expunge Remarks	<ul style="list-style-type: none">• Remarks against constitution, religion, friendly relation to foreign state• Freedom of Speech -> Is subject to the rules and procedure• Exception -> can't discuss the conduct of a judge except when a motion of seeking his removal is under consideration
	<ul style="list-style-type: none">• An cannot be arrested in a Civil case when parliament is in session<ul style="list-style-type: none">• Does not apply to Criminal cases and contempt of court cases• Freedom for Jury Service (Benefit of doubt)<ul style="list-style-type: none">• While the parliamentary service• Anti defection law -> does not affect freedom of speech<ul style="list-style-type: none">• Speaker is disqualifying, not justice
	<p style="text-align: center;">Collective Privileges...</p> <p>It can exclude strangers from its proceedings and hold secret sittings to discuss some important matters.</p> <ul style="list-style-type: none">• It can punish members as well as outsiders for contempt.• The courts are prohibited to inquire into the proceedings of a House or its committees.• No person (either a member or outsider) can be arrested, and no legal process (civil or criminal) can be served within the precincts of the House without the permission of the presiding officer.
	<ul style="list-style-type: none">• Law -> Not passed yet• To Codify all the Parliamentary privileges to remove ambiguities to prevent recurrence of PVN Rao Type Judgment

PASSAGE OF BILL

Stage 1	<ul style="list-style-type: none">• Introduction of Bill• Get in touch with Business Advisory Committee BAC<ul style="list-style-type: none">• Govt Business• Private member Business• Time Date Duration. Members Involved• Short Speech -> Objective and reason
Stage 2	<ul style="list-style-type: none">• This is the Stage when final shape of bill is determined• Can be sent to<ul style="list-style-type: none">• Select Committee<ul style="list-style-type: none">◦ For Women bill, Women committee will be set up◦ Only committee from House where bill is pending

	<ul style="list-style-type: none"> Joint parliament committee Elicit public opinion 2014 : Pre Legislative Consolation Policy Debate on Bill
Stage 3	<ul style="list-style-type: none"> Mere formality The Bill is deemed to have passed if it secured Majority of votes in the house For Convenience the presiding officer resort to voice vote <ul style="list-style-type: none"> May be opposition asked for division Clause by clause -> the provision are voted upon <ul style="list-style-type: none"> Accepted Rejected

TYPES OF BILLS

Ordinary Bill	<ul style="list-style-type: none"> Which is neither Money, Financial, CAA Bill Can be introduced in LS or RS, by Minister or Private member Does not need prior need of President <ul style="list-style-type: none"> Accept under Article 3 <table border="1"> <tr> <td>LS</td><td>RS</td><td></td></tr> <tr> <td>Pass</td><td>Pass</td><td></td></tr> <tr> <td>Pass</td><td>Reject</td><td>Deadlock</td></tr> <tr> <td>Pass</td><td>Amend</td><td>If LS pass again -> Passed -> RS reject -> Passed If LS reject -> Deadlock</td></tr> </table> <ul style="list-style-type: none"> Joint Sitting of two houses, if president notifies a house. <ul style="list-style-type: none"> Simple Majority : RS+LS Presiding Officer : Speaker > Deputy Speaker > Deputy Chairperson > Any member chosen by Joint sitting <ul style="list-style-type: none"> VP is not member of House 3 times happen in past 	LS	RS		Pass	Pass		Pass	Reject	Deadlock	Pass	Amend	If LS pass again -> Passed -> RS reject -> Passed If LS reject -> Deadlock
LS	RS												
Pass	Pass												
Pass	Reject	Deadlock											
Pass	Amend	If LS pass again -> Passed -> RS reject -> Passed If LS reject -> Deadlock											
Money Bill	<ul style="list-style-type: none"> Article 109 : Can be introduced only in LS <ul style="list-style-type: none"> With previous approval/consent of the President Passed by Simple Majority <ul style="list-style-type: none"> If failed : Govt resign (no confidence) RS cannot reject / amend <ul style="list-style-type: none"> Can make recommendation or may not act on the bill President may give her assent or withhold the Bill Article 110 : Categorization of Money Bill <ul style="list-style-type: none"> Ex : Budget,  <p>The slide defines a Money Bill as follows:</p> <ul style="list-style-type: none"> A bill shall be deemed as a Money Bill if it contains ONLY provisions dealing with all or any of the following matters, namely- <ol style="list-style-type: none"> The imposition, abolition, remission, alteration or regulation of any tax; The regulation of the borrowing of money or the giving of any guarantee by the Govt. The custody of the Consolidated Fund or the Contingency Fund of India, the payment of moneys into or the withdrawal of moneys from any such fund; The appropriation of moneys out of the Consolidated Fund of India; The declaration of any expenditure to be expenditure charged on the Consolidated Fund of India; The receipt of money on account of CFI or the Public Account of India; Any matter incidental to any of the matters specified. 												
Financial Bill	<ul style="list-style-type: none"> Article 117 = Article 110 + Something else Financial Bills = Money Bills + Something else All the money bills are Financial Bills Money Located in Public account of India Require prior approval from President Introduced only in LS -> Simple Majority <ul style="list-style-type: none"> If defeated in LS -> COM don't need to resign in RS -> approve/ reject / amend / May not act 												

	<ul style="list-style-type: none"> • Aadhar should have been Financial Bills • Like : Cess : Tax on specific Purpose, Fund of Swatcha Bharat Abhiyan • CAMPA : Compensatory Afforestation Fund
Aadhar Bill	<ul style="list-style-type: none"> • Aadhar Bill : a unique 12 Digit ID no. <ul style="list-style-type: none"> • Every resident, 6month • Is identity proof, not citizenship • DCT : Direct Cash Transfer -> DDT : Direct Benefit Transfer <ul style="list-style-type: none"> ◦ To Solve 2 loophole ◦ Duplication : No proper count ◦ Leakage : Checking full transaction or not • KS Putta Swami : Unconstitutional -> <ul style="list-style-type: none"> • Right to Privacy Is violate -> Privacy is FR <ul style="list-style-type: none"> ◦ Panopticon -> Big Brother watching you -> ◦ Exception : Public Interest : Allowed only for cases where we tried to provide benefits for beneficiaries • How Aadhar is money bill <ul style="list-style-type: none"> ◦ Matter pending for 6 years ◦ Will be on bench of 6 judges panel ◦ We had to appropriation of money because of money transfer, duplicate check.

Consolidated fund of India	<ul style="list-style-type: none"> • All revenue (Tax etc) • Approval by parliament : Money bill passing (Appropriation bill) • Expenditure Made : • Expenditure Charged : <ul style="list-style-type: none"> • No need to vote for Salary once fixed • Like Auto Debit feature
Public Account of India	<ul style="list-style-type: none"> • Pension deposit, EPF • Kept at disposal of Executive
Contingency Fund of India	<ul style="list-style-type: none"> • Under Art 267 • Kept at disposal of Executive • Statutory Fund created by parliament

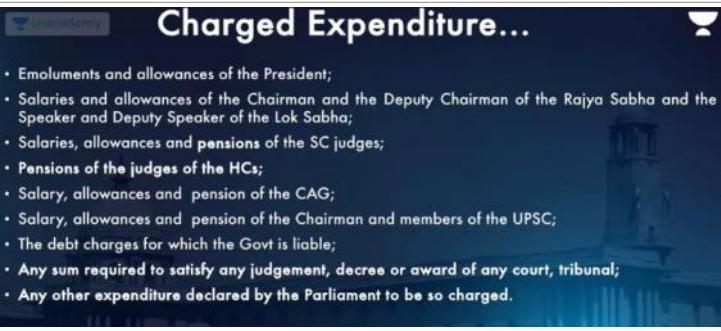
L24 Ordinance

09 August 2024 12:48 AM

ORDINANCE	<ul style="list-style-type: none"> Article 123 If President is satisfied when either 1 or both houses of the parliament are not in session -> then President can promulgate an ordinance on all the Subjects on which Parliament has the power to make laws. If both RS and LS are sitting, Ordinance cannot be promulgated On Union List and Concurrent List (parliament has no power on states list) Governor Power to promulgate Ordinance on States list Article 13 : Parliament -> Through Ordinance cannot amend constitution. Temporary Nature : Only for temporary period After session of Both LS and RS, Within 6 weeks -> Replace ordinance with a Bill/Law -> Ordinance Lapse Is not passed -> After 6 weeks Ordinance lapse Maximum time of validity : 7.5 Months It is Constitution for the president -> to Prorogue one house just for promulgating ordinance. -> for greater good. Judicial review is allowed
Bihar Case	<ul style="list-style-type: none"> DC Wadhwa Ordinance was promulgated, On the same subject 256 times Krishna Kumar vs State of Bihar 2017 -> Promulgating an ordinance without tabling it on the floor of the legislature is committing fraud on the Constitution What should be done by SC- <ul style="list-style-type: none"> Repromulgation -> should not be allowed

FINANCIAL ADMINISTRATION

Financial Administration	<ul style="list-style-type: none"> Kautilya in Arthashastra <ul style="list-style-type: none"> (all undertaking depends on finance, hence foremost attention must be paid to the treasury) M Marx <ul style="list-style-type: none"> Finance is as much involved in adm as O2 in atmosphere L George <ul style="list-style-type: none"> Govt is Finance
expectation	<ul style="list-style-type: none"> There is no end to human expectation, but limit on amount of funds available
Article 112	<ul style="list-style-type: none"> Annual Financial Statement <ul style="list-style-type: none"> Expenditure : Appropriation Bill Revenue : Financial Bill President Lay down in Parliament Finance Minister Propose the new rules, passed in parliament
Financial Year	<ul style="list-style-type: none"> 1st April - 31st March (Yearly) Legislature should not trust the executive for more than 1 year. Rule of Lapse : if unused money remaining, no more given <ul style="list-style-type: none"> March Rush -> Spending increases
	<ul style="list-style-type: none"> Surplus Budget : Revenue > Expenditure Deficit Budget : Revenue < Expenditure

Charged Expenditure	 <p>Charged Expenditure...</p> <ul style="list-style-type: none"> Emoluments and allowances of the President; Salaries and allowances of the Chairman and the Deputy Chairman of the Rajya Sabha and the Speaker and Deputy Speaker of the Lok Sabha; Salaries, allowances and pensions of the SC judges; Pensions of the judges of the HCs; Salary, allowances and pension of the CAG; Salary, allowances and pension of the Chairman and members of the UPSC; The debt charges for which the Govt is liable; Any sum required to satisfy any judgement, decree or award of any court, tribunal; Any other expenditure declared by the Parliament to be so charged.
Enactment	<ul style="list-style-type: none"> Union Budget

	<ul style="list-style-type: none"> • Financial Ministry -> Department of Economic Affairs -> <ul style="list-style-type: none"> ◦ Budget Division • 3-4 month before Budget, Budget Division sends Forms to Ministries and Department, Including all cost and revenue <ul style="list-style-type: none"> • How much money last year, how much spend, how much generated • Scrutiny (Question) on Expenditure <ul style="list-style-type: none"> • Standing Items : Less • New Items : More • Now Budget is decided <ul style="list-style-type: none"> • Goes to cabinet
	<ol style="list-style-type: none"> 1. Presentation : in Lok Sabha (As it is money bill) <ul style="list-style-type: none"> • Speech given by Finance Minister • 1st Feb 11:00 am of every Year (Some state follow last date of Feb) 2. General Discussion : Last for few days <ul style="list-style-type: none"> • Both house of the Parliament are adjourned Sine Die 3. Scrutiny by Departmental Committees <ul style="list-style-type: none"> • Started in 1993 with 17 committees • Today we have 24 committees • 31 MPs (LS+RS) • All party get due recognition/representation 4. Voting on Demand for Grants <ul style="list-style-type: none"> • Exclusive power of Lok Sabha • Takes place on Expenditure made (not on Expenditure charged) • Take demand ministry by ministries • Cut Motions : Pass by Simple Majority <ul style="list-style-type: none"> ◦ Policy Cut : The demand for such a scheme be reduced to Re 1 ◦ Economy Cut : The demand be reduced by X amount ◦ Token Cut : The demand be reduced by Rs 100 • Guillotine : Voting on all demand all at once 5. Passing of Appropriation Bill : <ul style="list-style-type: none"> • Legalises the withdrawal of money from CFI • Within 18 days 6. Passing Finance Bill <ul style="list-style-type: none"> • 75 days after introducing the Budget • Provisional Collection of Taxes Act of 1954 • Legalize tax collection
Special Budget	<ul style="list-style-type: none"> • Vote on Account : <ul style="list-style-type: none"> • 1/6 money given for spending till passing of Appropriation Bill • Passing can take time end of may • But after 2016 -> presentation moved to 1st Feb -> No need anymore • Interim Budget : <ul style="list-style-type: none"> • Deals with expenditure as well as revenue • For limited time, ex : in Voting year

OTHER GRANT

Supplementary Grants:	<ul style="list-style-type: none"> • Insufficient
Additional Grant:	<ul style="list-style-type: none"> • New Policy not part of Budget
Excess Grant:	<ul style="list-style-type: none"> • Vetted by Public Account Committee • Chairperson from opposition, CAG
Vote of Credit:	<ul style="list-style-type: none"> • Blank cheque • Then bill passed by Public Account Committee
Exceptional Grant:	<ul style="list-style-type: none"> • Unforeseen like Tsunami

L25 Control over executives

26 August 2024 06:11 PM

CONTROL OVER EXECUTIVE

QUESTION HOUR	<ul style="list-style-type: none"> Starts from 11:00 AM Mentioned in rules of business and procedure One hour session <ul style="list-style-type: none"> Starred Qs * <ul style="list-style-type: none"> Oral Answer, Can be supplementary (More subsequent questions : 5 max) Unstarred Qs <ul style="list-style-type: none"> Written Format, no supplementary questions. Speaker can convert Start into Unstarred one if fits nets answered in written format. Short Duration Qs <ul style="list-style-type: none"> Less than 10 days notice
Zero Hour	<ul style="list-style-type: none"> Started in 1962 during war, Not mentioned in the rules Question are asked without notice Starts at 00:00 hours
Agenda	<ul style="list-style-type: none"> What we are going to discuss today

MOTION	<ul style="list-style-type: none"> Opinion of the House All motion are not voted upon
RESOLUTION	<ul style="list-style-type: none"> Resolve of the House All resolution are voted upon

SUBSTANTIVE MOTION	<ul style="list-style-type: none"> Stands on its own leg It has existence of its own
No-Confidence Motion	<ul style="list-style-type: none"> Can be introduced only in LS 50 LS MP write to speaker, need not cite the reason If NCM Passed -> Govt shall resign If NCM Failed -> Govt will continue Simple Majority needed. (Member present and voting) 6 months period if defeated
Confidence Motion	<ul style="list-style-type: none"> Introduced by govt itself to prove majority on the floor of LS Creation of courts Ideally the confidence motion should not exist because it makes a minority govt impossible <ul style="list-style-type: none"> Some People can abstain from voting which makes confidence motion weak, in no confidence same abstain from voting decrease the chance of majority
Censure Motion	<ul style="list-style-type: none"> Can be introduced against an individual minister / COM 50MP of LS, need to cite the reasons, only in LS Censure means : extreme disapprovals If passed -> Govt need not resign -> will have to seek the confidence of LS again
Adjournment Motion	<ul style="list-style-type: none"> Session cannot continue -> Matter of urgent public importance Should not be less than the 2.5 hours 50 MPs, Simple Majority, Govt is censured -> seek confidence Also known as Extraordinary device It should not cover more than one matter; It should not revive discussion on a matter that has been discussed in the same session; It should not deal with any matter that is under adjudication by court. In RS we have Rule 267 :

SUBSTITUTE MOTION	<ul style="list-style-type: none"> Replacing existing motion with another one Ex : replace Censure Motion with No confidence
SUBSIDIARY MOTION	<ul style="list-style-type: none"> Cannot stand on its own legs Depends on something else

RESOLUTIONS

Private Members' Resolution	<ul style="list-style-type: none"> Not binding on the govt
Government Resolution	<ul style="list-style-type: none"> Sense of the house Not Binding on the Govt
Statutory Resolution	<ul style="list-style-type: none"> In Pursuant to the constitution to the Law Binding in the President

Q	Is Parliament still a check on the Executive ?
Ans	<p>Other way around, Executive controlling the Legislature</p> <ul style="list-style-type: none"> Misuse of Anti Defection Law Credit of reducing the quality of debates in Parliament, People are puppets of party Number of days Parliament sits reducing every years Frequent Adjournment of Session Prime Minister -> Silence Alleged Misuse of money bill route PLCP Not anymore Select Committees -> To check on bills -> Not working Suspension of MP Delegated legislation -> Executive will make rule <p>According to the PRS Legislative Research data, the number of sitting days in the Lok Sabha reduced from an annual average of 121 days during 1952-70 to only 56 days in 2022. The decline is also evident from the astonishing speed in passing legislation. The Lok Sabha, on average, took less than 10 minutes to pass a law, and the Rajya Sabha less than half an hour in 2020. In September 2020, two important sets of laws – the farm laws and the labour codes – were passed without discussion despite protests by the opposition that the required voting procedure, as specified by the parliament's own rules, had not been followed in the Rajya Sabha.</p> <p>Among the other indicators of decline are the shrinking space for the opposition, an increasing recourse to ordinances which circumvents parliament, and the bypassing of the parliament on several important initiatives.</p> <p>Bills have been passed in the midst of din and noise with no consideration for opposition concerns or protests. Even worse, some important bills have been passed by voice vote, and sometimes without a single MP speaking, other than the minister in charge of the bill.</p> <p>In addition to this, there is a significant decrease in the involvement of standing committees – the deliberative core of parliamentary work in legislative matters. The percentage of bills referred to parliamentary committees has drastically reduced from 71% in the 15th Lok Sabha (2009-14) to 27% in the 16th Lok Sabha (2014-19), and to only around 13% since 2019.</p>

Parliament – Making of a Productive Institution.

1. Parliament Calendar: Introduce a fixed calendar for the three sessions of Parliament with a minimum of 100 days of sittings a year for each House. The number of sittings per year for Lok Sabha has reduced from an average of 121 days (1952-1970) to 70 days per year since 2000.

2. Deputy Speaker In Lok Sabha: The 17th Lok Sabha did not have a Deputy Speaker for its entire five-year term. The Deputy Speaker is not subordinate to the Speaker. The Speaker has to tender his resignation to the Deputy Speaker if s/he chooses to do so. Traditionally, the Deputy Speaker is appointed from the Opposition.

3. Pre-Legislative Consultation Policy: Pre-Legislative Consultation Policy was adopted in 2014 to ensure public consultation for all legislation. In the 17th Lok Sabha, nine out of 10 bills introduced in Parliament have been marked by zero or incomplete consultations. Each Minister, while introducing a Bill, should lay a copy of the summary of the consultations.

4. Scrutiny Of Bills: In the 14th Lok Sabha, six out of 10 bills were sent to various committees for scrutiny; in the 15th Lok Sabha, it was seven out of 10. This figure fell in the 16th Lok Sabha to four out of 10. In the 17th Lok Sabha, about one out of five bills was sent for scrutiny. The National Commission to Review the Working of the Constitution (2002) recommended that all bills introduced in Parliament should first be examined by the relevant committee. Committees should also review the implementation of laws passed by Parliament.

5. Constitution Amendment Bills: A joint constitutional committee from both Houses should be formed to review the constitutional validity of Constitution Amendment Bills before they are introduced.

6. Admit 267 Notice In Rajya Sabha: Rule 267 gives Rajya Sabha MPs an opportunity to give a written notice to suspend regular business and seek an immediate discussion on an issue of national importance. It has been eight years since such a discussion has been permitted. At least one such notice should be admitted in each session.

7. Active Participation Of PM: The UK Parliament has Prime Minister's Question Time every Wednesday where it is mandatory for the PM to answer. It's time to implement this in India

- The constitutional role of our Parliament is to deliberate and enact laws that will guide the destiny of this great nation. A healthy Parliament is the bedrock of the rule of law.
- The great danger today is the overarching shadow that the executive has come to cast in the governance of the country. According to Arvind Datar in several enactments, extensive powers have been handed over to the bureaucracy and the nation is now governed more by rules, notifications, circulars and guidelines than by carefully drafted and debated Acts of Parliament.
- It is an elementary principle of constitutional law that essential functions of Parliament cannot be delegated. But that is exactly what is happening on a daily basis. In 1923, Lord Hewart bitterly criticised the excessive role of the bureaucracy in governing the nation in his seminal book, **The New Despotism**. This led to the formation of the Donoughmore Committee and the eventual growth of administrative law and a system of checks and balances. In 2023, a century later, India faces the same problem with little being done to restore Parliament's primacy as the law-making body.

- Misuse of Money Bill route: The Aadhaar Act, amendments to several tribunals through the Finance Act, 2017 were certified as money bills and enacted without the approval of the Rajya Sabha. The issue is now pending before a seven-judge bench.
- The healthy practice of referring bills to parliamentary committees has dropped sharply in the recent past – from a high of 60 per cent to just 23 per cent in the current Lok Sabha. Another regrettable practice is to introduce the Finance Bill on Budget day. These clauses are debated in the Budget session. On the final day when this Bill is to be passed, several important clauses are added and passed by Parliament without any discussion or debate. In 2023, an entire chapter relating to GST tribunals was added and approved on the last date without any debate or discussion. Many of these provisions are violative of decisions of the Supreme Court. Similarly, the Tribunal Reforms Act, 2021 is a verbatim reproduction of an earlier ordinance that was struck down by the Supreme Court and was passed without any debate.

- Free fair election
- Vibrant Opposition
- Free press
- Independent judiciary
- Robust civil society

Ethics Committee

- The members of the Ethics Committee are appointed by the Speaker for a period of one year.
- A Presiding Officers' Conference held in Delhi in 1996 first mooted the idea of ethics panels for the two Houses.
- Then Vice President K R Narayanan constituted the Ethics Committee of the Upper House on March 4, 1997, and it was inaugurated that May to oversee the moral and ethical conduct of members and examine cases of misconduct referred to it. The Rules applicable to the Committee of Privileges also apply to the ethics panel.

- Minor cases
- Watching Porn during Session
 - Any person can complain against a Member through another Lok Sabha MP, along with evidence of the alleged misconduct, and an affidavit stating that the complaint is not "false, frivolous, or vexatious". If the Member himself complains, the affidavit is not needed.
 - The Speaker can refer to the Committee any complaint against an MP.

- Serious cases
- Mahua Maitra gave login credentials to Hira Nandani Businessman
- The Committee of Privileges finally recommended the constitution of an Ethics Committee during the 13th Lok Sabha. The late Speaker, G M C Balayogi, constituted an adhoc Ethics Committee in 2000, which became a permanent part of the House only in 2015.

- The work of the Ethics Committee and the Privileges Committee often overlap. An allegation of corruption against an MP can be sent to either body, but usually more serious accusations go to the Privileges Committee.
- The mandate of the Privileges Committee is to safeguard the "freedom, authority, and dignity of Parliament". These privileges are enjoyed by individual Members as well as the House as a whole. An MP can be examined for breach of privilege; a non-MP too can be accused of breach of privilege for actions that attack the authority and dignity of the House.

- A "cash for query" case may qualify as a breach of privilege or misconduct. Privileges are rights and immunities given to Parliament members for effective functioning; their misuse is a breach of privilege. Parliament determines these privileges, and the Committee of Privileges handles breach cases. "Misconduct" is decided on a case-to-case basis. It refers to a member behaving in an unbecoming manner or engaging in conduct unsuitable for an MP. The Committee on Ethics deals with complaints of misconduct. Parliament has occasionally referred matters concerning members' conduct to ad hoc committees (such as an inquiry committee). Compared to ethics and privileges committees, the Speaker has much more say in the constitution of ad hoc committees.

- Moitra's case has shone the spotlight again on the complexities surrounding parliamentary committees on privileges, ethics, and ad hoc committees. There is a strong possibility that there will be a repetition of these events in the future. Therefore, Parliament should revisit the suggestion made in the Eleventh Lok Sabha's Committee of Privileges to let a single committee hear matters related to ethics and privileges. There is a need for a well-defined framework regarding what constitutes privileges and misconduct, and what is the line of demarcation between them. While the Ethics Committee examines Moitra's conduct, the involvement of the Privileges Committee is warranted to probe Hiranandani's alleged act of bribing an MP.

L26 State Legislature

26 August 2024 11:16 PM

STATE EXECUTIVE

Governor	Not like President
CM	Like PM
COMs	Like COMs
Advocate General of the State	Like AGI, Judge of HC

STATE LEGILATURE

LEGILSLATIVE COUNCIL	<ul style="list-style-type: none"> • Upper House of State Legislature • Bicameralism (AP, Telangana, MH, Bihar, UP, Karnataka) • Leaved on state if they can afford Bicameralism • Composition not mentioned in C • Min 40 MLC • Max 1/3 strength of LA • Lead by <ul style="list-style-type: none"> • Chairman + Deputy Chairman • Both are members. Elected (Simple Majority) and removed (Effective Majority)
Article 169	<ul style="list-style-type: none"> • Parliament has power to establish and abolish LC • On Resolution passed by LA of State • By passing a Law in Simple Majority 2/3rd • Not binding on Parliament • This Law Shall not be deemed as Amendment.
MLC	<ul style="list-style-type: none"> • Elected MLC <ul style="list-style-type: none"> • Elected by MLA • Elected by Local Bodies (Like Panchayat) • Elected by Graduates • Nominated MLC <ul style="list-style-type: none"> • Art+ Literature + Science + Social Service + Co-operative Movement
Disadvantage of LC	<ul style="list-style-type: none"> • LC is inferior as compare to LA • Retirement home for failed candidates
Advantage of LC	<ul style="list-style-type: none"> • Unique Composition • Ability to delay the passage of hasty Bills • Chief Minister can come from this • Ministers • Should be given equal roles

LEGISLATIVE ASSEMBLY	<ul style="list-style-type: none"> • Composition <ul style="list-style-type: none"> • Min 60 MLAs • Max 500 MLAs • Exception Goa, Mizoram, Sikkim (<60 MLA) • MLA Election <ul style="list-style-type: none"> • First Past the Post System • Register voter of that State
Legislative Process	<ul style="list-style-type: none"> • LC Pass + LA Pass -> Bill Pass • LC Pass + LA Rejects -> Bill Dead • LA Pass + LC (Amend, Reject, May not act on Bill) -> (Passed, Passed, Passed after delay of 4month)

GOVERNOR

Qualification	<ul style="list-style-type: none"> • Citizen of Indian • 35 + Age
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	<ul style="list-style-type: none"> • 2 Convention (unwritten rule) <ul style="list-style-type: none"> • Non-resident (Solve clash bw two power) • CM shall be consulted • Both Have been violated in Karnataka, JK
Tenure	<ul style="list-style-type: none"> • Appointed by President • Doctrine of Pleasure • Normally : 5 years (Not Guaranteed) • Therefore Office of Governor is politicized • Every State should have Governor • After 7th CAA 1956, State rearrangement <ul style="list-style-type: none"> • More than 2 States can have common Governor
Article 163	<ul style="list-style-type: none"> • There shall be a council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this constitution required to exercise his functions or any of them in his discretion. <p>Discretion not defined</p> <ul style="list-style-type: none"> • He word of the Governor shall be final
Criticism	<p>Use of discretion—</p> <ul style="list-style-type: none"> I. in choosing Chief Minister : Sometime choose Largest party Cm sometime post poll alliance CM II. in testing majority : In Covid sometime call sometime didn't III. in dismissal of Chief Minister IV. in dissolving the Legislative Assembly V. in recommending President's Rule VI. in reserving Bills for President's consideration : In Opposition ruled states VII. In Summoning Legislature • Reserve Bill where it is mandatory for the Governor to reserve a bill for the consideration of President if bill endangers the role of a High Court • Threaten Sovereignty of India, Violate DPSP, Bills under Concurrent List
Sarkaria Commission	<ul style="list-style-type: none"> • A person to be appointed as a Governor should satisfy the following criteria: <ul style="list-style-type: none"> (i) He should be eminent in some walk of life. (ii) He should be a person from outside the State. (iii) He should be detached figure and not too intimately connected with the local politics of the State; and (iv) He should be a person who has not taken too great a part in politics generally, and particularly in the recent past. • It is desirable that a politician from the ruling party at the Union is not appointed as Governor of a State which is being run by some other party or a combination of other parties. • In order to ensure effective consultation with the State Chief Minister in the selection of a person to be appointed as Governor the procedure of consultation should be prescribed in the Constitution itself by suitably amending Article 155. • SECURITY OF TENURE.
Do we need the office of the Governor	<h3 style="color: orange;">Origins of the Office</h3> <ul style="list-style-type: none"> • Government of India Act, 1935 established provincial legislative assemblies elected from a limited franchise. <ul style="list-style-type: none"> • Governor copied from India Act 1935 • Governor idea came from non-Independent India, To give power to Centre <h3 style="color: orange;">CA Debates</h3> <ul style="list-style-type: none"> • K.T. Shah wrote that the Governor would inevitably be biased in his functioning, and his actions would remain at odds with those of popularly elected Ministers. • The powers of the Governor were almost verbatim reproductions of the 1935 Act. <ul style="list-style-type: none"> • No need to centre power in state

Defenders of the Office

1. There is a dearth of competent legislators in the States; and
2. A certain amount of centralisation of power is necessary.

- Constitutional Representative of Centre in State
- Power only work if something wrong happen

Indispensability of Governor's Office

- In sum, the functions of the Governor are at once diverse and important. Functioning in normal times as the constitutional head of the State and as a vital link between the Union and the State, he becomes an agent of the Union in certain special circumstances, e.g., when a proclamation under Article 356 is in operation.
- He fills the vacuum and ensures continuity in executive government for short periods during which no Council of Ministers is available to aid and advise him. The Governor is the key functionary of the system envisaged by the Constitution.
- No other constitutional functionary can discharge these responsibilities in addition to his own duties. We are, therefore, of the firm view that it is an office which cannot be dispensed with.
 - Needed in some case like Hung assembly , selecting CM, Tribal region
 - Vajpayee The Kashmir Files : Governor worked as an intermediate
- The Constitution was the culmination of the democratic aspirations of the people, and its major pillars — universal adult suffrage, the parliamentary system, fundamental rights — are all expressions of those aspirations.
- Would it not be better, for example, to clearly specify the rules governing government-formation in the Constitution itself, and reduce swearing-in to a purely ceremonial action, to be performed by the Chief Justice of the relevant High Court?

Amendments

- (1) An alliance of parties that was formed prior to the elections.
- (2) The single largest party staking a claim to form the government with the support of others, including independents.
- (3) A post-electoral coalition of parties, with all the partners in the coalition joining the government.
- (4) A post-electoral alliance of parties, with some of the parties in the alliance forming a government and the remaining parties, including independents, supporting the government from outside.

→ Punchhi Commission (2007) M.M. Punchhi

1. The incumbent should stay away from active politics (even at a local level) for at least two years prior to his appointment.
2. There should be a say of the State's Chief Minister while making the Governor's appointment.
3. A committee should be formed that is entrusted with the task of appointment of governors. This committee may comprise the Prime Minister, the Home Minister, the Lok Sabha's speaker and the concerned Chief Minister of the State.
4. Deletion of the Doctrine of Pleasure from the Constitution.

5. The term of appointment should be five years.
6. Governor could only be removed via a resolution by the State Legislature.
7. Recommendation of provision for the Governor's ~~impeachment~~ by State Legislature.
8. Right of Governor to sanction the prosecution of ministers against the advice of the State Government.

It was also recommended by the Commission that the convention of appointing governors as chancellors of universities must also come to an end.

Judicial Power	<ul style="list-style-type: none"> Pardoning Power, Clemency Power, Governor (Article 161) <ul style="list-style-type: none"> Similar President (Article 72) Only at discretion of COMs Governor cannot pardon a death sentence, and its power is limited to state, cannot pardon court marshal <table border="1"> <tbody> <tr> <td>Pardon</td><td>Mercy Petition, Conviction + Disability attached to conviction removed</td></tr> <tr> <td>Commute</td><td>Replacing Punishment to lesser one, For Death to life imprisonment</td></tr> <tr> <td>Respite</td><td>Reression to Simpler Punishment due to some lack like disability of maternity</td></tr> <tr> <td>Remission</td><td>Period reduced, Character of the sentence unchanged</td></tr> <tr> <td>Reprieve</td><td>Temporary Stay on death sentence</td></tr> </tbody> </table> <ul style="list-style-type: none"> Why <ul style="list-style-type: none"> To correct a judgment which is harsh Judicial review is possible -> If Decision is arbitrary Objective of Punishment <ul style="list-style-type: none"> Reform the Offender To act as a Deterrent Death Sentence violates the Social Contract Theory 	Pardon	Mercy Petition, Conviction + Disability attached to conviction removed	Commute	Replacing Punishment to lesser one, For Death to life imprisonment	Respite	Reression to Simpler Punishment due to some lack like disability of maternity	Remission	Period reduced, Character of the sentence unchanged	Reprieve	Temporary Stay on death sentence
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L27 Union Territories

27 August 2024 10:44 AM

Union Territories	<ul style="list-style-type: none"> • Directly controlled by Centre • Executive head : President 									
	<table border="1"> <tr> <td>Political and Administrative consideration:</td><td>Delhi & Chandigarh.</td></tr> <tr> <td>Cultural Distinctiveness:</td><td>Puducherry, Dadra & Nagar Haveli and Daman & Diu.</td></tr> <tr> <td>Strategic Importance:</td><td>Andaman & Nicobar and Lakshadweep.</td></tr> <tr> <td>Security Reason</td><td>Jammu and Kashmir.</td></tr> <tr> <td>Long Pending Demand of the people for separation</td><td>Ladakh</td></tr> </table>	Political and Administrative consideration:	Delhi & Chandigarh.	Cultural Distinctiveness:	Puducherry, Dadra & Nagar Haveli and Daman & Diu.	Strategic Importance:	Andaman & Nicobar and Lakshadweep.	Security Reason	Jammu and Kashmir.	Long Pending Demand of the people for separation
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Security Reason	Jammu and Kashmir.									
Long Pending Demand of the people for separation	Ladakh									
<ul style="list-style-type: none"> • No Uniformity in the administrative system • President administer through officers suitably named <ul style="list-style-type: none"> • Can be named Lt. Governor, Administrator, Chief Commissioner • Called as agents of the centre • We have CM in Delhi (Art 239AA), Puducherry (Art 239A), JK (Upcoming) 										
<ul style="list-style-type: none"> • 5 UT : parliament makes law • Delhi, Puducherry , JK have LA to make law • But Parliament can also make Law on last three expect Land, Law & Order, Police 										
<ul style="list-style-type: none"> • Except Delhi and JK all other BUT does not have own HC • These BUT come under the Jurisdiction of neighbour stated HC <ul style="list-style-type: none"> • Lakshadweep (Kerala), AN Island (Calcutta) 										
<ul style="list-style-type: none"> • SRC 1955 (State Reorganisation Committee) • Recommend Part C, D -> 3 will be given BUT <ul style="list-style-type: none"> • Delhi (Administration) • AN Islands (Other Compelling reason) • Manipur (Security) • Parliament in 1956 enacted a law -> States Reorganization Act • Added 6 UT -> Lakshadweep, Tripura, Himachal Pradesh • Reason <ul style="list-style-type: none"> • These UT are non-viable nature of state finance • Low Population, No resource to create democratic constitution <p style="background-color: #336699; color: white; padding: 5px;"> • A fundamental question though, is why do UTs, administered directly by the central government since 1950s with highly curtailed democratic rights for their people, persist in the modern Indian state at all? What rationale does the state have in discriminating and treating some of its people as lesser citizens by denying them a representative government at all levels? Isn't the concept of UTs past its expiry date? </p>										
SRC Report, 1955 <ul style="list-style-type: none"> • SRC suggested the creation of directly administered UTs in the three areas (Delhi, Manipur and Andaman & Nicobar Islands) where integration wasn't possible for strategic, security or "other compelling reasons" – an ostensibly vague classification. • The SRC provided for representation of the UTs in the parliament, but it admitted to the inferiority of the democratic rights of their people by noting that "democracy in these areas should take the form of the people being associated with the administration in an advisory rather than a directive capacity." 										
<ul style="list-style-type: none"> • Goa -> Opinion Poll • Manipur -> Armed Movement 										

Solution...

- The central government would do well not to wait until political resistance builds up in the other UTs too.
- Following the example of Goa's 1967 referendum, also called the **Goa Opinion Poll**, it should hold popular opinion polls in all UTs asking citizens directly to determine their future.
- Three options could be provided on the ballot:

 - merger with an adjoining state (linguistically and economically most connected to the UT),**
 - full statehood** (only for UTs beyond a certain threshold of population) or
 - continue as UT for a specified period before merger** (might be preferred in exceptional circumstances of conflict).

Conclusion...

- The preamble to the constitution of India promises **political justice and equality of status and opportunity to every citizen**.
- The right to a democratically elected government at all levels is **the foremost expression of this promise**. Until this right is granted to the people of all present UTs, **no lesser citizens of India than others**, the project of making world's largest democracy into its greatest will remain unfinished.

NCT of Delhi



- The Delhi High Court Judgment (2016) held that Delhi continues to be a Union Territory despite Article 239AA.
- It further held that the special provisions incorporated for Delhi do not overrule the effect of Article 239. Article 239 empowers the Lieutenant Governor to act independently of his Council of Ministers. As a result, all enquiries which were initiated by the Delhi Government without the concurrence of Lt. Governor were declared illegal, such as the enquiries into the issuance of CNG permit to vehicles, a financial enquiry into Delhi and District Cricket Association, among others.
- **The concurrence of the Lt Governor became mandatory for all administrative decisions of Council of Ministers of Delhi.**

Government of NCT of Delhi v Union of India

- The Court judged that the Chief Minister and not the Lieutenant Governor (LG) is the executive head of the National Capital Territory (NCT) government. Hence, the **LG is bound by the aid and advice of the Council of Ministers** on all matters where the Delhi Assembly has to the power to make laws.

2023 SC Judgment



- NCT of Delhi is *Sui Generis*
- In adherence to the SC's 2018 Judgement on the special status of Delhi, the Bench reiterated the *sui generis* status of Delhi created under Article 239AA of the Constitution. Article 239AA creates a unique identity for the NCTD. Despite being a Union Territory, the NCTD similar traits as a State.
- Further, in 2018, Justice Chandrachud held that there is no homogenous class of Union Territories. The Constitution of India makes several region-specific accommodations under Article 371. These region-specific accommodations are an underlying principle of the Constitution.

The Government of National Capital Territory of Delhi (Amendment) Act, 2023

- The Act amends the Government of National Capital Territory of Delhi (GNCTD) Act, 1991. It removes services from the legislative competence of the Delhi legislative assembly.
- It establishes the National Capital Civil Services Authority, which consists of the Chief Minister, Chief Secretary of Delhi, Principal Home Secretary of Delhi. The Authority will make recommendations to the Lieutenant Governor (LG) regarding transfers and postings of officials and disciplinary matters.
- The Act empowers the LG to exercise his sole discretion on several matters including those related to National Capital Civil Services Authority, and the summoning, prorogation and dissolution of the Delhi Legislative Assembly.

- Delhi should be stripped off its state hood (Legislative Assembly), should be controlled fully by the centre
- Or
- Split Delhi into New Delhi (Caters to only centre govt business), rest area as the Old Delhi

J&K	<ul style="list-style-type: none"> • JK was a Princely States • After Independence, JK was given option to be part of India/ Pakistan / Stay Independent • JK choose itself as independent • Pakistan invaded JK, as part of unfinished part of Distribution • JK signed Instrument of Accession with India for Indian Support <ul style="list-style-type: none"> • Defence • External Affairs • Communication • Other Princely States also Signed Merger Agreement • But JK never signed Merger -> International Attention • After Enactment of UN • UNSC -> asked for Plebiscite -> Right to self Determination • UN was in favour of Pakistan, India meet Shaikh Abdulla and offered Constituent Assembly -> Draft Constitution of JK -> Define relation bw JK and Union of India • Talk bw Rep of JK and Representative of union of India • Article 370 enacted <ul style="list-style-type: none"> • Only Article 1 and Article 370 will work in JK • Article 370 duty : Union List + State List + Concurrent List -> JK • Only 3 remaining (Defence, EA, communication) from State List given to Parliament. • President can issue order to make addition in 370 but after concurrence of state govt. • With some exceptions and modification as the president in his order specify -> Other Article/Parts of Indian C can applied in JK under Article 370 <ul style="list-style-type: none"> • With concurrence of the State Assembly • Article 370 Self-destruct clause <ul style="list-style-type: none"> • President Order Under Article 370 can make it void • But Concurrence of the Constituent Assembly is necessary • 1956 -> CA of JK + Constitution of JK • After 96 items -> 94 items were applicable to JK • Presidential order -> Article 35 A added • Empowers state Govt to define Permanent Resident of JK • And Give Power -> Land, Property, Jobs, Scholarship • August 5 2019 -> JK under Presidents rule • Legislature -> Parliament, Executive -> President • President issued an order PO 272 of 2019 -> U/A 370 -> replaced PO of 1954 -> all Provisions of Indian Constitution apply to JK without exception • No state government for concurrence b/c of presidential rule
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Article 370: Temporary provisions with respect to the State of Jammu and Kashmir.

Notwithstanding anything in this Constitution,

- (a) the provisions of Article 238 shall not apply in relation to the State of Jammu and Kashmir;
- (b) the power of Parliament to make laws for the said State shall be limited to
 - (i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the **Instrument of Accession** governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State; and
 - (ii) such other matters in the said Lists as, with the concurrence of the **Government of the State**, the President may by order specify the provisions of Article 1 and of this article shall apply in relation to that State;

(d) such of the other provisions of this Constitution shall apply in relation to that State subject to **such exceptions and modifications** as the President may by order specify: Provided that no such order which relates to the matters specified in the Instrument of Accession of the State referred to in paragraph (i) of sub clause (b) shall be issued except in consultation with the Government of the State: Provided further that no such order which relates to matters other than those referred to in the last preceding proviso shall be issued except with the concurrence of that Government

(2) If the concurrence of the Government of the State referred to in paragraph (ii) of sub clause (b) of clause (1) or in the second proviso to sub clause (d) of that clause be given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened, it shall be placed before such Assembly for such decision as it may take thereon

(3) Notwithstanding anything in the foregoing provisions of this article, the President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify: **Provided that the recommendation of the Constituent Assembly of the State referred to in clause (2) shall be necessary before the President issues such a notification**

 EduAcademy

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

NOTIFICATION

New Delhi, the 5th August, 2019

G.S.R. 551(E).— the following Order made by the President is published for general information:—

THE CONSTITUTION (APPLICATION TO JAMMU AND KASHMIR) ORDER, 2019

C.O. 272

In exercise of the powers conferred by clause (1) of article 370 of the Constitution, the President, with the concurrence of the Government of State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Order, 2019.

(2) It shall come into force at once, and shall thereupon supersede the Constitution (Application to Jammu and Kashmir) Order, 1954 as amended from time to time.

2. All the provisions of the Constitution, as amended from time to time, shall apply in relation to the State of Jammu and Kashmir and the exceptions and modifications subject to which they shall so apply shall be as follows:—

To article 367, there shall be added the following clause, namely:—

(c) For the purposes of this Constitution as it applies in relation to the State of Jammu and Kashmir—

(a) references to this Constitution or to the provisions thereof shall be construed as references to the Constitution or the provisions thereof as applied in relation to the said State;

(b) references to the person for the time being recognized by the President on the recommendation of the Legislative Assembly of the State as the Sadar-i-Riyasat of Jammu and Kashmir, acting on the advice of the Council of Ministers of the State for the time being in office, shall be construed as references to the Governor of Jammu and Kashmir;

(c) references to the Government of the said State shall be construed as including references to the Governor of Jammu and Kashmir acting on the advice of his Council of Ministers; and

(d) in proviso to clause (3) of article 370 of this Constitution, the expression "Constituent Assembly of the State referred to in clause (2)" shall read "Legislative Assembly of the State"."

RAM NATH KOVIND,

President:

- Constituent assembly of state shall be read as Legislative assembly of the state

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

NOTIFICATION

New Delhi, the 6th August, 2019

G.S.R. 562(E).— The following Declaration made by the President is notified for general information:—

DECLARATION UNDER ARTICLE 370(3) OF THE CONSTITUTION

"C.O. 273"

In exercise of the powers conferred by clause (3) of article 370 read with clause (1) of article 370 of the Constitution of India, the President, on the recommendation of Parliament, is pleased to declare that, as from the 6th August, 2019, all clauses of the said article 370 shall cease to be operative except the following which shall read as under, namely :—

"370. All provisions of this Constitution, as amended from time to time, without any modifications or exceptions, shall apply to the State of Jammu and Kashmir notwithstanding anything contrary contained in article 152 or article 308 or any other article of this Constitution or any other provision of the Constitution of Jammu and Kashmir or any law, document, judgement, ordinance, order, by-law, rule, regulation, notification, custom or usage having the force of law in the territory of India, or any other instrument, treaty or agreement as envisaged under article 363 or otherwise."

RAM NATH KOVIND,

President.

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L28 Emergency Provisions

27 August 2024 10:56 PM

Emergency Provision	<ul style="list-style-type: none"> Article 352 - 360 Temporarily changes federal to Unitary Power Centralizing tendency of Indian Federalism
Rationale	<ul style="list-style-type: none"> To safeguard unity, Integrity and security of the country, the democratic political system and the Constitution.
National Emergency	<ul style="list-style-type: none"> Article 352 If President is satisfied <ul style="list-style-type: none"> War (Declared by the Country or group) External Aggression (Enemy coming from outside, state not involved) Armed Rebellion (Inside power launch attack in India, Ex : Naxalite) Even in anticipation of all above President can proclaim NE External Emergency : War +External Aggression Internal Emergency : Armed rebellion
Period	<ul style="list-style-type: none"> 6 Month but need approval of LS+RS within 1 month Pass a resolution in LS+RS by Special Majority : 2/3 Approval Continues for 6 month If want to extend NE -> Pass another resolution with approval of LS+RS
Revoked	<ul style="list-style-type: none"> By the President, at any time on the advice of the cabinet If LS+RS do not approve After Judicial Review -> Malafide On the basis of the resolution passed by the LOK Sabha <ul style="list-style-type: none"> Article 352 (8) -> If LS member <ul style="list-style-type: none"> Write to Speaker -> if LS in session Write to President -> if LS not in session Special Session -> Resolution -> Simple majority -> Binding on President
Effects of NE	<ul style="list-style-type: none"> External emergency <ul style="list-style-type: none"> Article 19 enforcement is suspended Internal emergency <ul style="list-style-type: none"> Article 19 is not automatically suspended President need to issue order U/A 359 All other FR except Article 20+21 -> Suspended <ul style="list-style-type: none"> President need to issue order U/A 359 State Executive <ul style="list-style-type: none"> comes under the grip of the union Directive -> Centre -> Coercive State Legislature -> <ul style="list-style-type: none"> Parliament assumed concurrent power to Legislate on any matter mentioned in the SL The term is extended by 1 year if NE is still at time of dissolution
Important Point	<ul style="list-style-type: none"> While the emergency is in operation ONLY in any part of the territory of India - the executive power of the Union shall extend to the giving of directions, and to make laws, shall extend to any State OTHER than the State in which or in any part of which the proclamation of emergency is in operation. <ul style="list-style-type: none"> Imposed 3 times <ul style="list-style-type: none"> 1962 : War India-Pakistan war 1971 : War 1975-77 : Indira Gandhi Protest started in Gujarat (Student) Moved to whole India Bihar -> JP Narayan -> launched Campaign -> Total Kranti -> Resignation of Indira because of corruption Indira Gandhi -> President -> National Emergency Many Opposition people were arrested

- 44th CAA 1978 -> Prevented the misuse of Article 352
 - Internal Disturbance -> was replaced by Armed Rebellion
 - Oral advice of the PM -> changed to written advice of Cabinet
 - Once Imposed -> only run for 6 month, Periodic Approval
 - Approval of LS+RS within 2 moth -> 1 month
 - Simple Majority -> Special Majority
 - All FR Suspended -> Exocet Article 20 & 21
 - No Judicial Review -> Judicial review allowed
 - Added 352(8) Special Power of LS for Resolution to revoke NE

PRESIDENT RULE	<ul style="list-style-type: none"> • Article 356 • Most misused Article , Applied for 110+ times 				
Article 355	<p style="background-color: #e0e0e0; padding: 5px;"> • It shall be the duty of the Union to protect every state against external aggression and internal disturbance and to ensure that the Govt of every state is carried out in accordance with the provisions of the constitution. </p> <ul style="list-style-type: none"> • Protect Every State • Ensure running of Govt in every state 				
Article 366	<ul style="list-style-type: none"> • If President is satisfied <ul style="list-style-type: none"> • On the basis of the report of Governor or even otherwise • Mentioned -> that there is a breakdown of constitutional Machinery (*Not Define) • President -> Proclaim -> Presidents Rule 				
Tenure	<ul style="list-style-type: none"> • Within 2 month, LS+RS has to pass resolution <ul style="list-style-type: none"> • By Simple Majority • If passed PR continue for 6 month • To extend for additional 6 month need again Passing resolution in LS+RS • It can approved 1+ Year if, Can extend only for 2 years <ul style="list-style-type: none"> • NE is in place in country or part of the states • ECI certifies -> cannot hold election • Therefore max validity of PR -> 3 Years • If want to extend for 4 years -> Need for Constitutional Amendment • Ex : In Punjab it validity was increased to 5 years and was done by CA 				
Revoked	<ul style="list-style-type: none"> • By president at any time on the advice of cabinet • After the maximum period is over • Through Judicial Review 				
Effects	<p style="background-color: #e0e0e0; padding: 5px;"> President may, by proclamation - </p> <p class="list-item-l1">A. assume to himself all or any functions of the Govt of the state and all or any powers vested in or exercisable by the Governor or any body or authority in the State other than the legislature of the State;</p> <p class="list-item-l1">B. declare that the powers of the legislature shall be exercisable by or under the authority of the Parliament;</p> <p class="list-item-l1">C. make provisions for suspending in whole or in part the operation of any provisions of this constitution relating to any body or authority in the State.</p>				
After PR	<ul style="list-style-type: none"> • CM +CoMs -> Dismissed • State Legislature Assembly -> Kept under Suspended animation 				
Sr Bommai case added	<ul style="list-style-type: none"> • Federalism : Basic Structure • Don't Dissolve LA without Parliamentary approval • Judicial review made available <ul style="list-style-type: none"> ◦ Article 74(2) : Advice tendered by COM to the President cannot be enquired into any court of Law ◦ Then report must be shown on basis of advice was given 				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 5px;">Breakdown of Law Order</td> <td style="padding: 5px;">Breakdown of Constitutional machinery</td> </tr> <tr> <td style="padding: 5px;">1. Corruption Charges on Minister</td> <td style="padding: 5px;">1. Secularism -> part of Basic Structure</td> </tr> </table>	Breakdown of Law Order	Breakdown of Constitutional machinery	1. Corruption Charges on Minister	1. Secularism -> part of Basic Structure	
Breakdown of Law Order	Breakdown of Constitutional machinery				
1. Corruption Charges on Minister	1. Secularism -> part of Basic Structure				

2. Election Promises not getting fulfilled	2. After Election no Political party able to form government
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FINANCIAL EMERGENCY	<ul style="list-style-type: none"> • Article 360 <ul style="list-style-type: none"> • Empowers the President to proclaim a Financial Emergency if he is satisfied that a situation has arisen due to which the financial stability or credit of India or any part of its territory is threatened. • We have seen many cases but never Financial emergency have been imposed <ul style="list-style-type: none"> • BOP Crisis, Forex was only reserved for couple of days • 2008 -> Crisis in US, Business Collapsed • Covid 19
Tenure	<ul style="list-style-type: none"> • FE -> Resolution must be passed in LS+RS within 2 month, • with no upper limit on tenure <p>• During the period any such Proclamation, the executive authority of the Union shall extend to the giving of directions to any State to observe such canons of financial propriety as may be specified in the directions, and to the giving of such other directions as the President may deem necessary and adequate for the purpose</p> <ul style="list-style-type: none"> • Notwithstanding anything in this Constitution <ul style="list-style-type: none"> a) any such direction may include <ul style="list-style-type: none"> (i) a provision requiring the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of a State; • (ii) a provision requiring all Money Bills or other Bills to which the provisions of Article 207 apply to be reserved for the consideration of the President after they are passed by the Legislature of the State; • (b) it shall be competent for the President during the period any Proclamation issued under this article is in operation to issue directions for the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of the Union including the Judges of the Supreme Court and the High Courts. <ul style="list-style-type: none"> • Austerity Measures -reduce cost • Reduce salary and allowance • Money bill will be reserved

L29 Schedules, Language

28 August 2024 11:39 AM

SCHEDULES

- Explanatory memorandum of an Article
- Cosmetic measure and will be added at the end of constitution
- Initially 8 , then 4 more added
 - 09th : 01st CAA 1951 : Nehru
 - 10th : 52nd CAA 1985 : Rajiv
 - 11th : 73rd CAA 1993 : PVN Rao
 - 12th : 74th CAA 1993 : PVN Rao

Schedule I	<ul style="list-style-type: none">• Names of the States and Union Territory
Schedule II	<p>Salaries and emoluments for:</p> <ul style="list-style-type: none">a) The President and the Governors.b) Speaker/ Dy Speaker/ Chairperson/ Dy Chairperson.c) Judges of the SC and HCs.d) CAG.
Schedule III	<ul style="list-style-type: none">• Forms of Oath and affirmation• Oath : for Believers• Affirmation : for Non-Believers <p>• I, A.B, do swear in the name of God/solemnly affirm that I'll bear true faith and allegiance to the Constitution of India as by law established, that I'll uphold the sovereignty and integrity of India, that I'll faithfully and conscientiously discharge my duties as a Member for the Union and that I will do right to all manner of people in accordance with the Constitution and the law, without fear or favour, affection or ill-will.</p> <p>• ...that I'll not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a minister for the Union except as may be required for the due discharge of my duties as such Minister.</p>
Schedule IV	<p>Others...</p> <ul style="list-style-type: none">• O/A to be made by:<ul style="list-style-type: none">• A candidate for election to the Parliament/Legislature of a State.• Judges of the SC & HC and CAG.• Minister for a State.• Oath of President and VP are present in constitution itself <p>• Allocation of the seats in the Council of States:<ul style="list-style-type: none">↗ UP – 31.↗ Maharashtra – 19.↗ Tamil Nadu – 18.</p> <p style="text-align: right;">↓ RAJYA SAMBA</p>

Schedule V	<ul style="list-style-type: none"> Contains special administrative provisions for Scheduled Tribal areas in States other than Assam, Meghalaya, Tripura and Mizoram. <p>Features</p> <ul style="list-style-type: none"> Tribals -> Aboriginals habitants, Maintain their Identity, Culture, Beliefs, family System Many Tribals revolted due to land and Shifting Agriculture President can Establish, Alter, Abolish Scheduled Tribal Area Special Power given to Governor to govern/administer Tribal Area <ul style="list-style-type: none"> By creating body -> Tribes Advisory Council 2/3rd member will be from tribes, rest nominated by government
Schedule VI	<ul style="list-style-type: none"> Contains special administrative provisions for Scheduled Tribal areas in Assam, Meghalaya, Tripura and Mizoram. <ul style="list-style-type: none"> Tribals in these 4 states are very different Need to protect Social customs and identity Assam + Meghalaya + Mizoram (3+3+3 Districts), Tripura (1 District) Autonomous District -> District Council <ul style="list-style-type: none"> Legislature : According to their own beliefs Executive Wing : According to custom Judicial Wing : Tribal Law Police, Democrats can enter
Schedule VII	<ul style="list-style-type: none"> Union List: Defence, Atomic Energy, CBI, Foreign Affairs, War and Peace, Extradition, Citizenship... State List: Public Order, Prisons, Local Govt, Agriculture, Fisheries, Theatres... Concurrent List: Criminal law and procedure, Trade Unions, Education, Electricity, Registration of births and deaths...
Schedule VIII	<ul style="list-style-type: none"> Assamese, Bengali, Bodo, Dogri; Gujarati, Hindi, Kannada, Kashmiri; Konkani, Maithili, Malayalam; Manipuri, Marathi, Nepali, Oriya, Punjabi, Sanskrit, Santhali, Sindhi, Tamil, Telugu, Urdu. 
Schedule IX	<ul style="list-style-type: none"> 1st CAA 1951 Any Law put in IX Schedule cannot be judicially reviewed 24th April 1973 -> Kesavanda Bharti case -> Violate Doctrine of Basic Structure (Judicial Review) <p> Waman Rao v. Union of India is a case of 1981 in which the Supreme Court examined the validity of Article 31A and Article 31B of the Constitution of India with respect to the doctrine of basic structure introduced under the Kesavananda Bharati case. I.R. Coelho v State of Tamil Nadu (2007) </p> <ul style="list-style-type: none"> Any Law placed after 1973 will be under Judicial Review Even if its violate constitution -> It okay, just cannot violate Basic Structure
Schedule X	<ul style="list-style-type: none"> Disqualification of Legislature Anti Defection Law Defection / Crossing the floor / Horse trading / Party Hopping <ul style="list-style-type: none"> Leads to instability, Energy spent on keeping all together Corruption Examples

- Gaya Ram 1967
- Bhajan Lal 1979
- 52nd CAA 1985

Provisions-

A member of a House belonging to any political party shall be **disqualified** for being a member of the House—

- (a) if he has **voluntarily** given up his membership of such political party; or
- (b) if he **votes or abstains from voting** in such House contrary to any **direction** issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been **condoned** by such political party, person or authority **within fifteen days from the date of such voting or abstention.**
- 2) An elected member of a House who has been elected as such otherwise than as a candidate set up by any political party shall be disqualified for being a member of the House **if he joins any political party after such election.**
- (3) A **ominated** member of a House shall be disqualified for being a member of the House if he joins any political party after the expiry of **six months** from the date on which he takes his seat.

- Disqualification on ground of defection not to apply in case of merger-
- Concept lacks clarity
- One party moves to another with existence ending of the first one

Exemption

- A person who has been elected **to the office of the Speaker** or the Deputy Speaker of the House of the People or the Deputy Chairman of the Council of States or the Chairman or the Deputy Chairman of the Legislative Council of a State or the Speaker or the Deputy Speaker of the Legislative Assembly of a State, **shall not be disqualified under this Schedule,—**
- (a) if he, by reason of his election to such office, **voluntarily** gives up the membership of the political party to which he belonged immediately before such election and does not, so long as he continues to hold such office thereafter, **rejoin** that political party or become a member of another political party; or
- (b) if he, having given up by reason of his election to such office his membership of the political party to which **he belonged immediately before such election**, **rejoins such political party after he ceases to hold such office.**

91st Constitutional Amendment Act

- Debars a defector from holding any '**Remunerative Political Post (RPP)**' for the remaining tenure of the legislature unless he is re-elected.
- The RPP is defined as an office, in which Salary or remuneration **is paid out of the public revenue.**

Who can complain?

- Voters (or any person) have '**locus standi**' to file complaints seeking disqualification of members of Parliament and State Legislatures.
- **Speaker, Orissa Legislative Assembly vs Utkal Keshari Parida, 2013.**

• A Person may voluntarily give up his membership of an original political party **even though he has not rendered his resignation...** Even in the absence of a formal resignation from the membership, an inference can be drawn from the conduct of a member that he has voluntarily given up his membership of the political party to which he belongs.

- Ravi Naik vs Union of India, 1994.
- G.Viswanathan Vs. The Hon'ble Speaker, Tamil Nadu Legislative Assembly, Madras & Another, 1996.
- Sri Rajendra Singh Rana & Ors v/s Swami Prasad Maurya & Ors, 2007.
- Sharad Yadav, Ali Anwar disqualified as Rajya Sabha members.

Solutions...

- Define the entire procedure and set definite and reasonable **time limits**.
- Transfer the disqualification matter from the Speaker's office to the **Election Commission**.

LANGUAGE

- Part XVII deals with **Official Language**.

- Articles 343 to 351.

- **Provisions are divided into 4 heads:**

➤ Language of the Union,

➤ Regional Languages,

➤ Languages of the Judiciary and text of laws,

➤ **Special Directives.**

Language of the Union...

- Article 343(1) - Hindi in **Devanagari script**.
- (2) – Notwithstanding anything in clause(1), **for a period of 15 years from the commencement of this Constitution** the English language shall continue to be used for all the official purposes of the Union for which it was being used immediately before such commencement.

Article 344...

- Commission & Committee of Parliament on Official Language:
- The President shall, **at the expiration of 5 years** from the commencement of this Constitution and **thereafter at the expiration of ten years from such commencement** by order constitute a Commission to make recommendations to the President as to:
- **Progressive use of Hindi language** for the official purposes of the Union;
- **Restrictions** on the use of English language;
- **Other related issues.**

Official Language Commission, 1955...

- B. G Kher. →
- Committee headed by **GB Pant.**

Union Language

Official Languages Act, 1963...

- Notwithstanding the expiration of the period of fifteen years from the commencement of the Constitution, **the English language may continue to be used**, in addition to Hindi,--
- (a) For all the official purpose of the Union for which it was being used immediately before that day; and
- (b) For the transaction of business in Parliament.

Regional language

Regional Languages...

- The Constitution does not specify the official language of different states.
- The legislature of a state may adopt any one or more of the languages **in use in the state** or Hindi as the official language of that state. (**Not limited to the languages enumerated in the Eighth Schedule**).

Communication between the Union & the States...

- English.
- For communication between the states – **free to use Hindi instead of English.**

Language of the Judiciary and the text of the Laws...

- English to be used in :
- All proceedings in the Supreme Court and in every High Court.
- The **authoritative texts** of all bills, acts, ordinances, orders, rules, regulations and bye-laws **at the central and state level.**

Special Directives...

- **Article 350:** Every aggrieved person has the right to submit a representation for the redress of any grievance to any officer or authority of the Union or a state **in any of the languages used in the Union or in the State.**
- **Article 350-A:** Adequate facilities for instruction in the mother-tongue at the primary stage of education to children **belonging to linguistic minority groups.**
- **Article 350-B:** The President should appoint a special officer for linguistic minorities to investigate all matters relating to the **constitutional safeguards for linguistic minorities.**

Development of Hindi Language...

- **Article 351:** The Constitution imposes a duty **upon the Centre** to promote the spread and development of Hindi language so that it may serve as the medium of expression for all the elements of the composite culture of India.

Classical Languages...

- (i) High antiquity of its early texts/recorded history over a period of **1500-2000 years;**
- (ii) A body of ancient literature/texts, which is considered a **valuable heritage by generations of speakers;**
- (iii) The literary tradition be original and **not borrowed from another speech community;**
- (iv) The classical language and literature being distinct from modern, there may also be a discontinuity between the classical language and its later forms or its offshoots.

- 6 Classical Languages of India
- Sanskrit; Tamil; Telugu; Kannada; Malayalam; Odia.
- Marathi — under consideration

Benefits...

- Once a language is declared classical, it gets **financial assistance for setting up a centre of excellence for the study of that language.**
- The University Grants Commission can be requested to create – to begin with at least in Central Universities – **a certain number of professional chairs for classical languages for scholars of eminence in the language.**

3-Language Formula...

- **Three-Language Formula:** At the secondary stage, the State Governments should adopt, and vigorously implement, the three-language formula which **includes the study of a modern Indian language, preferably one of the southern languages, apart from Hindi and English in the Hindi-speaking States, and of Hindi along with the regional language and English in the non-Hindi speaking States.**
- Suitable courses in Hindi and/or English should also be available in universities and colleges with a view to improving the proficiency of students in these languages up to the prescribed university standards.

Implementation...



- Hindi is not taught in the States of **Tamil Nadu, Tripura and Puducherry** – MHA.
- "In many of the Hindi speaking States **Sanskrit** became the third language instead of any modern regional language (preferably South Indian language), whereas the non-Hindi speaking State like Tamil Nadu operates through a **two-language formula** (Tamil and English)," – **MoS Home**.

L30 Centre State Relations, Federalism

28 August 2024 07:19 PM

CENTRE STATE RELATION

LEGISLATIVE RELATION	Articles 245-255 Part XI						
Territorial Extent	<p align="center">1. Territorial Extent of Central & State Legislation:</p> <ul style="list-style-type: none"> Parliament can make laws for the whole or any part of the territory of India. A state Legislature can make laws for the whole or any part of the state. Parliament alone can make 'extra-territorial legislation'. The laws of the Parliament are also applicable to the Indian citizens and their property in any part of the world. 						
Distribution of List	<ul style="list-style-type: none"> Doctrine of Pith and Substance Rajasthan -> banned the use of Loudspeaker after 10PM and 6 AM <ul style="list-style-type: none"> Incidental encroachment in protection of Health <p align="center">2. Distribution of Legislative Subjects:</p> <ul style="list-style-type: none"> Union List: defence, banking, foreign affairs, currency, atomic energy, insurance, inter-state trade and commerce, census and so on. State List: public order, police, public health and sanitation, agriculture, local government, gambling and so on. Concurrent List: criminal law and procedure, civil procedure, marriage and divorce, population control & family planning, education and so on. <p>If Agriculture is State List, How Parliament creates 3 farm laws</p> <table border="1"> <tbody> <tr> <td>The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020</td><td> <ul style="list-style-type: none"> Farmers allowed to sell the produce anywhere in India without paying in tax Earlier can only sell to nearest market But removes Middle man (broker) which may lead to less price range in future </td></tr> <tr> <td>The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020</td><td> <ul style="list-style-type: none"> Contract farming -> get in touch with company before produce and contract of price even before sowing Contract very complex for farmers </td></tr> <tr> <td>The Essential Commodities (Amendment) Act, 2020.</td><td> <ul style="list-style-type: none"> Added more items in essential commodities to reduce hoarding of stockpile to create artificial scarcity Added Onion, Potatoes etc. </td></tr> </tbody> </table> <p align="center">Entry 33 in List III → Concurrent List</p> <ul style="list-style-type: none"> Trade and commerce in, and the production, supply and distribution of, — (a) the products of any industry where the control of such industry by the Union is declared by Parliament by law to be expedient in the public interest, and imported goods of the same kind as such products; (b) foodstuffs, including edible oilseeds and oils; (c) cattle fodder, including oilcakes and other concentrates; (d) raw cotton, whether ginned or unginned, and cotton seed; and (e) raw jute. Agriculture is a State subject in the Constitution, listed as Entry 14 in the State List (List II). This apart, Entry 26 in List II refers to "trade and commerce within the State"; Entry 27 refers to "production, supply and distribution of goods"; and Entry 28 refers to "markets and fairs". For these reasons, intra-State marketing in agriculture was always considered a legislative prerogative of States. 	The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020	<ul style="list-style-type: none"> Farmers allowed to sell the produce anywhere in India without paying in tax Earlier can only sell to nearest market But removes Middle man (broker) which may lead to less price range in future 	The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020	<ul style="list-style-type: none"> Contract farming -> get in touch with company before produce and contract of price even before sowing Contract very complex for farmers 	The Essential Commodities (Amendment) Act, 2020.	<ul style="list-style-type: none"> Added more items in essential commodities to reduce hoarding of stockpile to create artificial scarcity Added Onion, Potatoes etc.
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	<ul style="list-style-type: none"> Entry 33 : allowed Parliament to create law in State List "Agriculture" Using Concurrent List item (Trade and Commerce) + Public Interest <p>Asoka Mehta warned that if the Centre truly wanted control on trade and commerce in States, then, over time, it would also want to have "control over crop planning and cultivation". Thus, the Bill would lead to "an expanding encroachment on the rights of the States"; "a progressive erosion of State powers"; and "the possibility of side stepping of democratic processes".</p> <ul style="list-style-type: none"> According to K.K. Basu, "passage of the Bill would transform the Indian Constitution into a "unitary Constitution" instead of a "federal Constitution" and reduce "all the States' powers into municipal powers". A "reactionary legislation" was being introduced as "an innocuous piece of legislation".
	<ul style="list-style-type: none"> Residuary Power -> Anything not mentioned in all three list, goes directly into the Centre List
Parliament over of State List	<ul style="list-style-type: none"> Parliamentary Legislation in the State field: Article 249: When Rajya Sabha passes a resolution. By Special Majority - I -> In National interest, Power to make law on State List Article 250 : During a National emergency : Parliament assumes concurrent power of Legislation Validity : 6 months until next session is places During Presidents rule Validity : The Law Continues unless repealed by the states Article 252 : When State make a request, Surrendering their powers States Asked Centre to make law on transplantation of organ Cooperative federalism Article 253 : To implement International Agreements Lokpal (PM/President) + Lokayukta (CM Ministers) 2013 to check
Centre over State Legislation	<ul style="list-style-type: none"> Reserving bills for the consideration of the President. Previous sanction of the President (Article 304). Financial Emergency. Restriction on Interstate Trade and commerce

ADMINISTRATIVE RELATION	<ul style="list-style-type: none"> Articles 256-263 part XI
Distribution of Executive Powers	<ul style="list-style-type: none"> Police, Directives, Schemes <p>Obligation of States and the Centre:</p> <ul style="list-style-type: none"> Executive power of every state is to be exercised in such a way: A) as to ensure compliance with the laws made by the Parliament and any existing law which apply in the state, and B) as not to impede or prejudice the exercise of executive power of the Centre in the State.

	<ul style="list-style-type: none"> President and Governor can delegate power for sometime Ex : Governor can give power of police to centre in times of Olympic in India Cooperative federalism Forced Delegation : Centre can force delegation over state , not vice-versa Not mutual not consent
Adjudicatory mechanism "Resolve"	<ul style="list-style-type: none"> Article 262 Parliament may by law adjudicate Inter State River Water Dispute It may even exclude the Jurisdiction of the SC In 1956 : Inter Water Dispute Act Empowers President to create a Tribunal to resolve River dispute Problem : no interstate water dispute has been solved yet Amended in 2019 Single Tribunal + Different Benches Resolve using negotiation -> Tribunal with strict time lines to resolve Bill lapse after dissolution of Lok Sabha
Consultative Mechanism	<ul style="list-style-type: none"> Article 263 If the President is satisfied -> Inter State Council GST Council Members comprise of Financial minister of Centre + States

ZONAL COUNCILS	<ul style="list-style-type: none"> Extra Constitutional Provisions 1956 : State Reorganisation Act <ul style="list-style-type: none"> 14 State + 6UT Distributing in 5 Zonal Councils : N, E, W, S, Central Chairman : Home minister Vice Chairman : CM by rotation <p>ZONAL COUNCIL</p> <p>The idea of creation of Zonal Councils was mooted by the first Prime Minister of India, Pandit Jawahar Lal Nehru in 1956 when during the course of debate on the report of the States Re-organisation Commission, he suggested that the States proposed to be reorganised may be grouped into four or five zones having an Advisory Council 'to develop the habit of cooperative working' among these States. This suggestion was made by Pandit Nehru at a time when linguistic hostilities and bitterness as a result of re-organisation of the States on linguistic pattern were threatening the very fabric of our nation. As an antidote to this situation, it was suggested that a high level advisory forum should be set up to minimise the impact of these hostilities and to create healthy inter-State and Centre-State environment with a view to solving inter-State problems and fostering balanced socio-economic development of the respective zones.</p> <p>MEETINGS OF ZONAL COUNCILS</p> <p>COMPOSITION OF ZONAL COUNCILS</p> <p>In the light of the vision of Pandit Nehru, five Zonal Councils were set up vide Part-III of the States Re-organisation Act, 1956. The present composition of each of these Zonal Councils is as under:</p> <ul style="list-style-type: none"> The Northern Zonal Council, comprising the States of Haryana, Himachal Pradesh, Jammu & Kashmir, Punjab, Rajasthan, National Capital Territory of Delhi and Union Territory of Chandigarh; The Central Zonal Council, comprising the States of Chhattisgarh, Uttarakhand, Uttar Pradesh and Madhya Pradesh; The Eastern Zonal Council, comprising the States of Bihar, Jharkhand, Orissa, Sikkim and West Bengal; The Western Zonal Council, comprising the States of Goa, Gujarat, Maharashtra and the Union Territories of Daman & Diu and Dadra & Nagar Haveli; The Southern Zonal Council, comprising the States of Andhra Pradesh, Karnataka, Kerala, Tamil Nadu and the Union Territory of Puducherry. <p>The North Eastern States i.e. (i) Assam (ii) Arunachal Pradesh (iii) Manipur (iv) Tripura (v) Mizoram (vi) Meghalaya and (vii) Nagaland are not included in the Zonal Councils and their special problems are looked after by the North Eastern Council, set up under the North Eastern Council Act, 1972. The State of Sikkim has also been included in the North Eastern Council vide North Eastern Council (Amendment) Act, 2002 notified on 23rd December 2002. Consequently, action for exclusion of Sikkim as member of Eastern Zonal Council has been initiated by Ministry of Home Affairs.</p> <p>NEC Amendment Act 2002</p> <p>The NEC Act was amended by the Parliament in 2002 (Act No. 68 of 2002). The 'North Eastern Areas' now means the area comprising the States of Assam, Manipur, Meghalaya, Nagaland, Tripura, Arunachal Pradesh, Sikkim and Mizoram. The Council now has as its members the Governors of the States mentioned above, the Chief Ministers of the said States and three Members nominated by the President. The President will nominate the Chairman of the Council and he need not be nominated from amongst the other Members. The North Eastern Council (Amendment) Act, 2002 enjoined the NEC to act as a 'regional planning body'.</p> <p>NEC Amendment Act 2002: Download (535.01 KB)</p>
Niti Aayog	<ul style="list-style-type: none"> Replaced Planning Commission Job was to formulate 5 years plans

- Against the federal spirit, It was a body created by Govt resolution
 - Top down approach does not work
 - Most power given to chairman of Planning Commission for all decision
- Started Niti Aayog as Think Tank

(To be published in the Gazette of India, Extraordinary, Part I, Section 2)	
Government of India Cabinet Secretariat Rashtrapati Bhawan	New Delhi, the 10 th July, 2024
NOTIFICATION	No. 511/1/1/2024-Cab., the 10 th July, 2024
No. 511/1/1/2024-Cab.- In continuation of Cabinet Secretariat's notifications No. 511/1/2021-Cab, dated 18.09.2021 and 15.11.2022, the Prime Minister has approved the revised composition of the National Institution for Transforming India (NITI Aayog) as under:	
<p>1. Chairperson: Prime Minister</p> <p>2. Vice Chairperson: Shri Suman K. Berry</p> <p>3. Full-Time Members: <ul style="list-style-type: none"> (i) Shri V. K. Saraswat (ii) Prof. Ramesh Chandra (iii) Dr. V. K. Paul (iv) Shri Anand Sharma </p> <p>4. Ex-officio Members: <ul style="list-style-type: none"> (i) Shri Rajnath Singh, Minister of Defence (ii) Shri Amit Shah, Minister of Home Affairs and Minister of Cooperation (iii) Shri Sharad Singh Chaudhary, Minister of Agriculture and Farmers Welfare, and Minister of Rural Development (iv) Shri Narendra Sitharaman, Minister of Finance, and Minister of Corporate Affairs </p> <p>5. Special Invitees: <ul style="list-style-type: none"> (i) Shri Nitin Jairam Gadkari, Minister of Road Transport and Highways (ii) Shri Jayant Prakash Nadkarni, Minister of Health and Family Welfare, and Minister of Chemicals and Fertilizers (iii) Shri H. D. Kumaraswamy, Minister of Heavy Industries, and Minister of Steel (iv) Shri Jitendra Singh, Minister of Micro, Small and Medium Enterprises </p> <p>6. Special Invitees: <ul style="list-style-type: none"> (i) Shri Nitin Jairam Gadkari, Minister of Road Transport and Highways (ii) Shri Jayant Prakash Nadkarni, Minister of Health and Family Welfare, and Minister of Chemicals and Fertilizers (iii) Shri H. D. Kumaraswamy, Minister of Heavy Industries, and Minister of Steel (iv) Shri Jitendra Singh, Minister of Micro, Small and Medium Enterprises </p>	<p>(v) Shri Rajiv Ranjan Singh alias Lalan Singh, Minister of Panchayati Raj, and Minister of Fisheries, Animal Husbandry and Dairying</p> <p>(vi) Dr. Vinendra Kumar, Minister of Social Justice and Empowerment</p> <p>(vii) Shri Kinjarapu Rammohan Naidu, Minister of Civil Aviation</p> <p>(viii) Shri Jual Oram, Minister of Tribal Affairs</p> <p>(ix) Smt. Annpurna Devi, Minister of Women and Child Development</p> <p>(x) Shri Chirag Paswan, Minister of Food Processing Industries</p> <p>(xi) Rao Inderjit Singh, Minister of State (Independent Charge) of the Ministry of Statistics and Programme Implementation; Minister of State (Independent Charge) of the Ministry of Planning, and Minister of State in the Ministry of Culture</p>
	 (S.G.P. Verghese) Joint Secretary

National Integration Council	<ul style="list-style-type: none"> The foundation of our national life is common citizenship, unity in diversity, freedom of religions, secularism, equality, justice-social-economic and political, and fraternity among all communities. The National Integration Council reiterates its faith in these values and dedicates itself to their achievement. <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">Purpose</td><td style="padding: 2px;">Address the problems of communalism, casteism and regionalism</td></tr> </table> <p style="text-align: center;">Last Meeting: Sep, 2013.</p> <ul style="list-style-type: none"> • Problem : Communalism, Castesim, Regionalism 	Purpose	Address the problems of communalism, casteism and regionalism
Purpose	Address the problems of communalism, casteism and regionalism		

FEDERALISM	<p>Federalism refers to constitutionally allocated distribution of powers between 2 or more levels of Govt in a modern nation-state.</p> <p>Eg US, Canada, Australia and Switzerland.</p> <p>Latin Word – ‘Foedus’ meaning ‘treaty’ or ‘agreement’.</p> <p>▼ Indian Federalism</p> <p>When a geographically vast and culturally diverse state gives autonomy to its provinces; for:</p> <ol style="list-style-type: none"> 1. Administrative convenience 2. Representing regional interests. <p>HOLDING TOGETHER federalism.</p> <p>Centralised Federalism.</p> <p>Political Scientist Philip Mahwood: Culturally diverse countries choose federalism not for administrative convenience but for their very survival.</p> <p>Pt. Nehru: It would be injurious to the interests of the country to provide for a weak central authority as it :</p> <ol style="list-style-type: none"> 1. Cannot ensure peace. 2. Cannot coordinate vital interests. 3. Cannot speak for the whole country in the international sphere.
Quasi Federalism	<ul style="list-style-type: none"> • Centralizing tendency of India Federalism

Australian Constitutional Expert K C Wheare – ‘Quasi Federal’.

- a) Article 3
- b) More subjects in Union List than State List.
- c) Residuary Powers
- d) Office of the Governor of a state.
- e) Article 356
- f) Single Constitution
- g) Single Citizenship
- h) Election Commission of India
- i) Audit Machinery

*Federal
Unitary*

Stages	<ul style="list-style-type: none"> • Stage 1 : One Party Federalism (1952-67) <ul style="list-style-type: none"> • Strong regional leaders in states, Regional leaders of the Congress : Congress System • Rise of linguistic movement, Linguistic Federalism • Dismissal of Communist Govt in Kerala • Stage 2 : Expressive Federalism (1967-89) <ul style="list-style-type: none"> • Morris Jones — 'Bargaining Federalism' • Congress' decline in the states. • Rise of regional political parties in Punjab, Assam, Andhra, Tamil Nadu, West Bengal. • Misuse of article 356. <ul style="list-style-type: none"> ◦ Confictual Federalism — AASU and 1987 J&K elections. ◦ Sarkari Commission (1983) on Centre State Relation ◦ Some Financial Autonomy to the States : VAT + Taxes • Stage 3 : Multi Party Federalism (1989-2014) <ul style="list-style-type: none"> • Rise of coalition governments. NDA 1, UPA 1, UPA 2, V P Singh, I K Gujral, Deve Gowda. • The end of Congress' national dominance. • LPG reforms of 1991. • Judicial Safeguards • 73rd and 74th Amendment • Stage 4 : BJP and Federalism <ul style="list-style-type: none"> • Dominant Party Federalism • Started NITI, GST, • Faced Pushback by regional Political Party • Alleged Misuse of central Agencies. CBI + ED + NIA + IT Dept.
Accidental Federalism	<ul style="list-style-type: none"> • Linguistic Federalism • BOP Crisis -> Liberalise Economy • SR Bommai Judgment • 73rd and 74th CAA
Asymmetric Federalism	<ul style="list-style-type: none"> • Article 370, 371 • Some states are different like JK, Special Status States
<p>Article 371</p> <p>↓</p> <ul style="list-style-type: none"> • Article 371 deals with the States of Maharashtra and Gujarat. • As per the provision, the Governor of Maharashtra has a special responsibility to establish separate development boards for Vidarbha, Marathwada, and the rest of the State. • The Governor of Gujarat has a similar responsibility towards Saurashtra, Kutch and the rest of Gujarat. • These responsibilities cover equitable allocation of funds for development expenditure, providing adequate facilities for technical education and vocational training, and adequate opportunities for employment in services under the control of the State Government. 	

Article 371-A

- Article 371A was made part of the Constitution in 1962 after a deal was struck between the Centre and the Naga People's Convention creating the State of Nagaland.
- Under the provision, no Act of Parliament about the religious or social practices of the Nagas, their customary law and procedure, including civil and criminal justice matters, and ownership or transfer of land and resources will apply to Nagaland, unless the State's Legislative Assembly passes a resolution to do so. It further gives the Governor a 'special responsibility' regarding law and order in the State. Further, non-residents can't buy land in Nagaland.

Article 371B

- Article 371B deals with Assam. It includes a special provision for Assam under which a committee of legislators from the tribal areas was formed to look after their interests. These tribal areas later became the State of Meghalaya.

Article 371C

- Article 371C applies to Manipur and was inserted into the Constitution in 1972.
- It provides for the constitution of a committee of legislators from the Hill Areas of Manipur. It gives the Governor a special responsibility to make an annual report to the President on the administration of the Hill Areas, and the Centre can direct the State as far as these areas are concerned.
- The executive power of the Union shall extend to the giving of directions to the State as to the administration of the said areas.

Articles 371D and E

- Articles 371D and E include special provisions for Andhra Pradesh. The President can pass an order to provide equitable opportunities and facilities to people belonging to different parts of Andhra Pradesh in public employment and education.
- It empowers the President to specify any part of the State as a 'local area' for the creation of local cadres in various classes of employment and allotment of civil posts. It provides for the constitution of an Administrative Tribunal for Andhra Pradesh. Only the Supreme Court has any power of superintendence over this tribunal, as per the provision.
- Article 371E, meanwhile, deals with the establishment of a university in the State.

Article 371F

- Article 371F takes into account the unique status of Sikkim after its merger with India in 1975 and grants protection to existing laws. It states that the State Legislative Assembly shall consist of at least 30 members.
- The Governor has a special responsibility for the maintenance of peace and equitable arrangements for ensuring the social and economic advancement of different sections. Only descendants of Sikkim subjects (those who lived in the State before its merger with India) whose names were mentioned in the 1961 register have the right to own land and get State government jobs in Sikkim. They were also exempted from paying income tax.

Article 371G

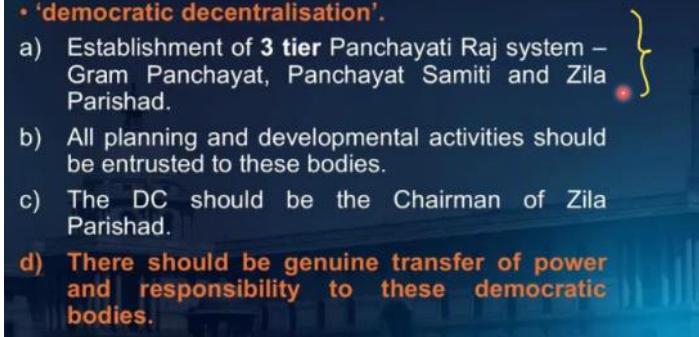
- Article 371G applies to Mizoram. It includes special provisions to preserve the religious and social practices, customary law, and procedure of Mizo in Mizoram, as well as for the administration of criminal and civil justice, besides ownership and transfer of land.
- Article 371H confers a special responsibility on the Governor of Arunachal Pradesh concerning law and order. The Governor shall discharge this function after consulting the Council of Ministers, but exercise their own judgement as to the action taken.
- Article 371I relates to Goa. It requires the Legislative Assembly of Goa to consist of not less than 30 members.

Article 371J

- Article 371J accords special status to the Hyderabad-Karnataka Region (Kalyana Karnataka), and provides for the establishment of a separate development board for the area.
- It provides for equal allocation of funds and equal opportunities for locals in employment and education.
- A proportion of seats must be reserved for individuals from the region in educational institutions and vocational training institutes.

L31 Local Governments

28 August 2024 11:08 PM

LOCAL GOVERNMENT	<ul style="list-style-type: none"> Added in CA 73rd (Panchayat) + 74th (Municipalities) Panchayat : Rural Municipalities : Urban System of rural local self-government Gandhian Principles : Article 40 : DPSP Gandhi Experiment in Wardha self -sufficient was successful <ul style="list-style-type: none"> Lead to Community Development Program 1952 Extended nationally : National extension service Blawantri G Mehta -> Democratic Decentralization <ul style="list-style-type: none"> Top down will not work as all villages are different from each other
Balwantri Mehta Committee	<p>'democratic decentralisation'.</p> <p>a) Establishment of 3 tier Panchayati Raj system – Gram Panchayat, Panchayat Samiti and Zila Parishad.</p> <p>b) All planning and developmental activities should be entrusted to these bodies.</p> <p>c) The DC should be the Chairman of Zila Parishad.</p> <p>d) There should be genuine transfer of power and responsibility to these democratic bodies.</p>  <ul style="list-style-type: none"> Was not possible because of S-VII State Legislature Govt -> NDC National Development Council (PM + Union Minister, CM, Administrator of UT) State Choose 2, 3, 4 Tier Successful at Karnataka, Tamil Nadu, West Bengal States
Ashok Mehta Committee	<p>Ashok Mehta Committee...</p> <p>a) Replace 3 tier system with a 2 tier system – Zila Parishad and a Mandal Panchayat.</p> <p>b) There should be official participation of political parties at all levels.</p> <p>c) Reservation of seats for SCs/STs on the basis of their population.</p> <ul style="list-style-type: none"> Three States Adopted in good Way : Karnataka, AP, WB
LM Singhvi Committee	<ul style="list-style-type: none"> Give Panchayat a Constitutional Status So cannot be violated Rajiv Gandhi LS(Passed) + RS (Failed) PVN Rao -> 73rd +74th CAA

73rd CAA 1992	<ul style="list-style-type: none"> Transition from Representative Democracy to Participative Democracy. Compensation to State for diluting power <ul style="list-style-type: none"> Compulsory Provisions Voluntary Provisions Panchayat Raj Institution created by State Legislature
Gram Sabha:	<ul style="list-style-type: none"> Compulsory implement gram Sabha A Gram Sabha may exercise such powers and perform such functions at the village level as the Legislature of a State may, by law, provide. All the registered voters of a village, powers decide by State Legislature There shall be constituted in every State, Panchayats at the village, intermediate and district levels. <ul style="list-style-type: none"> Gram panchayat Panchayat Samiti Zila Parishad Panchayats at the intermediate level may not be constituted in a State having a population not exceeding twenty lakhs. Election <ul style="list-style-type: none"> Directly Elected Chairperson : GP State Legislature decide, PS.ZP : Indirect Election Reservation of seats for SC ST, Seat in proportion of population Women reservation not less than 1/3rd Reservation for OBC is Voluntary

	<ul style="list-style-type: none"> Duration of Panchayat <ul style="list-style-type: none"> 5 years Premature Dissolution -> Fresh Election -> Reminder of term No re-election within 6 month of election Qualification : <ul style="list-style-type: none"> Age 51 + year SL may by law prescribe additional Qualification + disqualification Haryana Education Qual. <ul style="list-style-type: none"> Matriculation as essential qualification for general candidates contesting the Panchayat elections while the qualification for the women (general) and Scheduled Caste candidate will be middle standard (VIII). However, in case of a woman candidate belonging to SC category contesting election for the post of Panch, the minimum qualification shall be V pass. State Election Commission <ul style="list-style-type: none"> Everything decided by the State legislature by Law
Powers and Function	<p>The Legislature of a State may, by law</p> <p>(a) authorise a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;</p> <p>(b) assign to a Panchayat such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;</p> <p>(c) provide for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State; and</p> <p>(d) provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Panchayats and also for the withdrawal of such moneys therefrom, as may be specified in the law.</p>
	<p>11th Schedule</p> <p>1. Agriculture, including agricultural extension. 2. Land improvement implementation of land reforms, land consolidation and soil conservation. 3. Minor irrigation, water management and watershed development.</p> <p>4. Animal husbandry, dairying and poultry. 5. Fisheries. 6. Social forestry and farm forestry. 7. Minor forest produce. 8. Small scale industries, including food processing industries.</p> <p>9. Khadi, village and cottage industries. 10. Rural housing. 11. Drinking water. 12. Fuel and fodder.</p> <p>13. Roads, culverts, bridges, ferries, waterways and other means of communication. 14. Rural electrification, including distribution of electricity.</p> <p>15. Poverty alleviation programme. 16. Education, including primary and secondary schools.</p> <p>17. Libraries. 18. Cultural activities</p> <ul style="list-style-type: none"> State Legislature entrust power mentioned in 11th Schedule Could be 0 - 29 Functional Items, according to what SL decide
74th CAA	<ul style="list-style-type: none"> Urban Local Government 3 types of Municipalities: <ul style="list-style-type: none"> a) Municipal Corporation (Big Cities) b) Municipal Council c) Nagar Panchayat. (Transition not city/village) City : Predominate economic activity is non agriculture
Composition	<ul style="list-style-type: none"> Creation of Wards. Representation for following persons: <ul style="list-style-type: none"> Persons having special knowledge or experience in municipal administration without the right to vote in meetings of municipality. The members of the Lok Sabha and the state Legislative Assembly representing constituencies which comprise wholly or partly the municipal area. The members of the Rajya Sabha and the state Legislative Council registered as electors within the municipal area.

District Planning Committee & Metropolitan Planning Committee:

- Article 243 (ZD) provide for Constitution of a District Planning Committee at the district level to consolidate the plans prepared by the PRIs and ULBs in the District and to prepare draft development plan for the district as a whole. The draft plan is intended to be finalised taking into consideration matters of common interest between the rural and the urban local bodies like spatial planning, environmental conservation, integrated development of infrastructure etc.

Power

12th Schedule...

1. Urban planning including town planning.
2. Regulation of land use and construction of buildings.
3. Planning for economic and social development.
4. Roads and Bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
10. Slum improvement and up gradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds, cremation, cremation grounds and electric crematoriums.
15. Cattle ponds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries.

State Legislature Devolve power to Urban Bodies by Law

Types

Municipal Corporation	<ul style="list-style-type: none"> • Council : <ul style="list-style-type: none"> • Deliberative body : Discuss goals and makes law, • Headed by Mayor and Deputy Mayor • Standing Committee <ul style="list-style-type: none"> • Temporary Committee to look into 1 item • Commissioner <ul style="list-style-type: none"> • Senior IAS Officers • Power given to implement anything decided by the Council and Committee
Municipality	<ul style="list-style-type: none"> • Council • Standing Committee • CEO
Cantonment Board	<ul style="list-style-type: none"> • Military Area like Pune etc • Military General Controls these parts • No Election is contested in these bodies • These do not come under 74th CAA
Township	<ul style="list-style-type: none"> • Controlled by Industrialist • Like Jamnagar of Ambani
Port Trust	<ul style="list-style-type: none"> • They Come under Union Government
Town Area Committee	<ul style="list-style-type: none"> • Completely Nominated or elected body
Notified Area Committee	<ul style="list-style-type: none"> • Gazetted • Nominate not elected

Success or Monumental Failure?

• **Shruti Rajagopalan** (Assistant Professor of Economics at Purchase College, State University of New York, and a fellow at the Classical Liberal Institute, New York University School of Law).

- If the goal was to create another layer of government and political representation at the grass-roots level, then there is no parallel to the PRIs. And if the goal was to provide better governance, then PRIs are a failure and not equipped to succeed anytime in the foreseeable future.

- If yardstick : New layer Government, 3rd Tier Govt -> Successful
- If yardstick : Function + Fund + Functionaries -> Failed

Intensely Democratic

• Soon after the 73rd and 74th Amendments, every state government began the process of creating the requisite layer of PRIs and urban local bodies. State election commissions were in charge of the infrastructure required to elect local representatives. There are about 250,000 PRIs and urban local bodies, and over three million elected local government representatives. The 73rd and 74th Amendments required that no less than one-third of the total seats in local bodies should be reserved for women. At 1.4 million, India has the most women in elected positions. Seats and sarpanch/pradhan positions were also reserved for SC/ST candidates.

- While India has always had reservations for elected representatives from disadvantaged groups like SC/STs, this is the only level of government with reservation for women. (**106th Amendment is not in force**).
- And this is the only level of government, where SC/ST candidates have a genuine voice in governance (unlike the candidates from reserved constituencies at the parliamentary level).
- Research using PRIs (by Lakshmi Iyer, Anandi Mani, Prachi Mishra, and Petia Topalova) has shown that having female political representation in local governments makes women more likely to come forward and report crimes. Further, female PRI leaders are more likely to focus on issues pertinent to women.
- R. Chattopadhyay and E. Duflo show that in districts with female sarpanch/pradhans, significantly greater investments are made in drinking water, a priority public goods issue for women. They also show that SC sarpanch/pradhans are more likely to invest in public goods in SC hamlets—an important change in the severely segregated villages of India.
- In a country where access is determined by gender and caste, even more than economic status, these changes are remarkable.

Failure

• On all other margins except representation, PRIs are either a failure or, at best, a series of missed opportunities. Before 1993, India had only two levels of government. The 73rd Amendment introduced local governing bodies across India. This amendment, however, did not require the implementation of local self-governing bodies. It only mandated the creation of local self-governing bodies, and left the decision to delegate powers, functions, and finances to the state legislatures. And therein lies the failure of PRIs.

- The first failure of the 73rd Amendment was that the transfer of various governance functions—like the provision of education, health, sanitation, and water was not mandated. Instead the amendment listed the functions that could be transferred, and left it to the state legislature to actually devolve functions. There has been very little devolution of authority and functions in the last 25 years. PRIs cannot govern unless they are given the authority to actually perform functions related to governance.

- To make matters worse, because these functions were never devolved, state executive authorities have proliferated to carry out these functions. The most common example is the terrible state water boards, performing tasks that should have been left to elected representatives of local governments who best understand local water problems and can be disciplined through the democratic process.

- The second failure of the 73rd Amendment is the lack of finances for PRIs. Local governments can either raise their own revenue through local taxes or receive intergovernmental transfers. The 73rd Amendment recognized both forms of public finance, but did not

• The second failure of the 73rd Amendment is the lack of finances for PRIs. Local governments can either raise their own revenue through local taxes or receive intergovernmental transfers. The 73rd Amendment recognized both forms of public finance, but did not mandate either. The power to tax, even for subjects falling within the purview of PRIs, has to be specifically authorized by the state legislature. The 73rd Amendment let this be a choice open to the state legislatures—a choice that most states have not exercised

• A second avenue of revenue generation is intergovernmental transfers, where state governments devolve a certain percentage of their revenue to PRIs. The constitutional amendment created provisions for State Finance Commissions to recommend the revenue share between state and local governments. However, these are merely recommendations and the state governments are not bound by them. Though finance commissions, at every level, have advocated for greater devolution of funds, there has been little action by states to devolve funds.

• As a result, PRIs are so starved for funds that they are often unable to meet even payroll obligations. They are reluctant to take on projects that require any meaningful financial outlay, and are often unable to solve even the most basic local governance needs. The only long-term solution is to foster genuine fiscal federalism where PRIs raise a large portion of their own revenue and face hard budget constraints, i.e. fiscal autonomy accompanied by fiscal responsibility.

Success	Failure
Representative Body	No 3F
Political Empowerment of marginalized, SC+ ST + Women	Sarpanch Pati
Holding elections	Cast Biased Persist
	MPLAD Scheme
	Special Purpose Agencies

The Standing Committee on Rural Development Report

- Improvement in the functioning of Panchayats'

The Committee noted that the mandatory meetings of panchayats were not taking place and had poor attendance, especially from women representatives. The Committee recommended that state governments should put a quorum in gram sabha meetings for participation of panchayat representatives, including women.

- Subjects like fuel and fodder, non-conventional energy sources, rural electrification including distribution of electricity, non-formal education, small scale industries including food processing industries, technical training, and vocational education have not been devolved to certain states. The Committee recommended that the Ministry should pursue states to devolve these subjects for giving panchayats more power in these areas. State governments should make adequate efforts to devolve funds, functions, and functionaries to panchayats for them to effectively plan economic development and social justice schemes.

Funding of Panchayats:

- Grants from Finance Commission play an important role in the implementation of schemes by panchayats. These grants are intended to be used to support and strengthen the delivery of basic services including water supply, sanitation, sewerage and solid waste management and any other basic service within the functions assigned to panchayats under relevant legislations. The Committee noted that some state governments have delayed releasing funds to panchayats. They subsequently had to pay interest to panchayats and wherever panchayat accounts were not audited, the grants were not released.
 - The Committee recommended that the Ministry should monitor the release and expenditure of Finance Commission grants to ensure that there is no delay in their release. It should also be ensured that grants are utilised in a proper and effective manner. Panchayats should also be encouraged to carry out local audits regularly so that Finance Commission grants are not delayed.
- Social Audit should be used
 - Corruption issue

- **Support staff:** The Committee observed that there is severe lack of support staff and personnel in panchayats, such as secretary, junior engineers, computer operators, and data entry operators. This affects their functioning and delivery of services by them. The Committee recommended that the Ministry should make serious efforts towards recruitment and appointment of support and technical staff to ensure the smooth functioning of panchayats.

OBC
reservation

Vikas Kishanrao Gawali vs. State of Maharashtra (2021)

- a) To set up a dedicated commission to conduct a rigorous empirical inquiry into the nature and implications of the backwardness in local bodies;
- b) To specify the proportion of reservation required in local bodies in light of recommendations of the commission, so as not to fall foul of overbreadth;
- c) To ensure reservation for SCs/STs/OBCs taken together does not exceed an aggregate of 50 per cent of the total seats.

L32 Tribunals and Elections

29 August 2024 07:09 PM

TRIBUNALS	<ul style="list-style-type: none"> • Quasi-Judicial Bodies <ul style="list-style-type: none"> ◦ Matter related to Taxes, Service Matters that can we well versed with rules and regulation ◦ Over Burden on judicial System • Some cases taken by Tribunals <ul style="list-style-type: none"> ◦ Consisting Judicial member + administration (Well versed in Specific Item) <p>42nd Amendment Act, 1976.</p> <p>Swaran Singh Committee.</p> <ul style="list-style-type: none"> ◦ Article 323-A deals with Administrative Tribunals. ◦ Article 323-B deals with tribunals for other matters. ◦ Under Article 323 B, the Parliament and the state legislatures are authorised to provide for the establishment of tribunals for the adjudication of disputes relating to the following matters: <ul style="list-style-type: none"> • Taxation • Foreign exchange, import and export • Industrial and labour • Land reforms • Ceiling on urban property • Elections to Parliament and state legislatures • Food stuff • Rent and tenancy rights <ul style="list-style-type: none"> • Administrative Tribunals <ul style="list-style-type: none"> ◦ SAT, CAT ◦ For administrative matters like Salary etc • Tribunals for other Matter <ul style="list-style-type: none"> ◦ Tax ◦ NCLT : For Companies ◦ NCLAT : If not resolved by NCLT ◦ CBFC : Censor Board
	<p>Search-cum-selection committees:</p> <ul style="list-style-type: none"> • The Chairperson and Members of the Tribunals will be appointed by the central government on the recommendation of a Search-cum-Selection Committee. • The Committee will consist of: <ul style="list-style-type: none"> • (i) the Chief Justice of India, or a Supreme Court Judge nominated by him, as the Chairperson (with casting vote), • (ii) two Secretaries nominated by the central government, • (iii) the sitting or outgoing Chairperson, or a retired Supreme Court Judge, or a retired Chief Justice of a High Court, and • (iv) the Secretary of the Ministry under which the Tribunal is constituted (with no voting right). • Need to check if Member are not from verdict <ul style="list-style-type: none"> ◦ To insure no one give verdict for themselves • Tribunal Reform Act 2021
	<ul style="list-style-type: none"> • One of the major advantages of the tribunal system is specialization in a certain specific field. A judge cannot be expected to possess knowledge about each and every field of law. Therefore, tribunals are an efficient way of dealing with the 'Methora of problems' in a complex society. The officials of a tribunal are appointed on the basis of their knowledge and expertise on particular subjects. Therefore, the tribunals can resolve disputes on a subject for which they are formed without disrupting the judicial functions exercised by the courts. • The huge number of pending cases before the tribunals indicates the incompetence of the tribunal system and the need for necessary reforms. The Central Government has assessed the wastage of resources in maintaining this flawed framework and has therefore taken steps to streamline tribunals. However, the Tribunal Reform Ordinance, 2021 has been implemented by the government without making a Judicial Impact Assessment. • The Judicial Impact Assessment is a process of anticipating the consequences of implementing legislation, could bring attention to whether the ordinance would pressurize the already overburdened judiciary with new cases or would lead to a delay in the delivery of justice

ELECTIONS	<ul style="list-style-type: none"> • Periodic • Free and Fair • Essence of Govt -> Responsible Government <ul style="list-style-type: none"> ◦ Within some power ◦ Tool of Accountability
Article 324	<ul style="list-style-type: none"> • Article 324: Superintendence, direction, conduct and control of elections to be vested in Election Commission.
Article 325	<ul style="list-style-type: none"> • Article 325: No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex.
Article 326	<ul style="list-style-type: none"> • Universal Adult Suffrage • Constitutional right for right to vote • Voting age reduce from 21 to 18

Article 327	<p>• Article 327: Power of Parliament to make provision with respect to elections to Legislatures.</p> <ul style="list-style-type: none"> Representation of People Act RPA 1950, 1951
Article 328	<p>• Article 328: Power of the Legislature of a state to make provision with respect to elections to such Legislature.</p> <ul style="list-style-type: none"> Subject to any law passed by the Parliament
Article 329	<p>• Article 329: Bar to interference by courts in electoral matters-</p> <ul style="list-style-type: none"> Cannot go to court before and during election for ensuring proper going of election without any issue Example delimitation
	<p> Delimitation Commission</p> <ul style="list-style-type: none"> Delimitation Commissions — set up in 1952, 1963, 1973 and 2002. Number of seats increase with number of population Could be done by commission or ECI itself Seats frozen till 2026 2002 : carry internal delimitation <ul style="list-style-type: none"> Reorganize constituency within the state To increase the reserved seats for SC and ST Arunachal Pradesh, Assam, Manipur and Nagaland, various organisations had moved the Gauhati High Court against the 2002-08 exercise, challenging the use of the 2001 Census for reference. No delimitation in above 5 states because of people citizenship problem No delimitation in JK
ECI	<ul style="list-style-type: none"> Consist of Chief Election Commissioner: Best TN Se shan And As many Election Commissioner may be appointed by the President <p>• ECI (Conditions of Service of ECs & transactions of business) Act, 1991.</p> <ul style="list-style-type: none"> 1 CEC + 4 EC Same Powers -> Decision must be taken unanimously Same status Judge of the SC <p>CEC</p> <ul style="list-style-type: none"> Appointed by president Removal on grounds of Like manner of Judge of SC Coniditions of Service shall not be varied to his disadvantage after appointment CEC Misc. Provision Act : 1951 : <ul style="list-style-type: none"> Well versed in administration Tenure : 6 Years / 65 years age Cannot be reappointed Salary only reduced in Financial Emergency <p>EC</p> <ul style="list-style-type: none"> Also appointed by President Remove By president on recommendation of CEC, Non-Binding on President Term : 6yr / 65 years of age Cannot be reappointed as EC -> Can ve promoted as CEC for rest tenure of 6 years
	<p>Anoop Baranwal v Union of India, 2023</p> <ol style="list-style-type: none"> Does the current process for ECI appointments violate the right to equality? Does the current process for ECI appointments violate the right to free and fair elections? <ul style="list-style-type: none"> AS CEC and EC is appointed by Centre and can be biased SC -> Current process is wrong CEC + EC -> President -> Committee (PM+LOP+CJI)

**The Chief Election Commissioner and Other Election Commissioners
(Appointment, Conditions of Service and Term of Office)
Act, 2023**

- The Act replaces the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991. It provides for the appointment, salary, and removal of the Chief Election Commissioner (CEC) and Election Commissioners (ECs).
- The CEC and ECs will be appointed by the President upon the recommendation of a Selection Committee.
- The **Selection Committee** will consist of the Prime Minister, a Union Cabinet Minister, and Leader of Opposition/leader of the largest opposition party in Lok Sabha.
- Recommendations of the Selection Committee will be valid even when there is a vacancy in this Committee.
- A **Search Committee** headed by the Union Minister of Law and Justice will propose a panel of names to the Selection Committee.
- The salary and conditions of service of the CEC and ECs will be equivalent to that of a Supreme Court Judge.

Eligibility criteria: The CEC and ECs must: (i) be persons of integrity, (ii) have knowledge and experience in the management and conduct of elections, and (iii) be or have been Secretary (or equivalent) to the government.

- **Term and reappointment:** Members of the Election Commission will hold office for six years, or until they attain the age of 65 years, whichever is earlier. Members of the Commission cannot be re-appointed. If an EC is appointed as a CEC, the overall period of the term may not be more than six years.
- **Removal:** The Act retains the manner of removal of CEC and ECs as specified in the Constitution. The CEC may be removed in the same manner and on the same grounds as a Supreme Court Judge. ECs may be removed only upon the recommendation of the CEC.

- Other Recommendation
 - Should be barred from holding any post-retirement office by the govt.
 - Cooling off Period : Can not join Political Party
 - Salary charged on the CFI
 - The EC should also be provide security of tenure by making the grounds and manner of removal similar to the CEC

Election Process	<ul style="list-style-type: none"> • Preparation of Electoral Rolls <ul style="list-style-type: none"> • Update the voter List • Dead removed, New voters Added
Dates	<ul style="list-style-type: none"> • Date Announced by ECI <ul style="list-style-type: none"> • re "Presidential Reference" Powers of the ECI 2002 • Election dates conflict between Gujarat BJP vs ECI bc of Gujarat Riots • SC -> ECI has power of Superintendence, Direction, Conduct, Control • All power in plenary in character : Unrestricted by Executive • Parliament can make Law. like <ul style="list-style-type: none"> ◦ SC Election Conduct Rules 1961 ◦ Symbol Order 1968 • In case of Silent on matter or insufficient on some situation, ECI can Supplement the Law <ul style="list-style-type: none"> ◦ Supplant (Changing law) not allowed ◦ Use of EVM by ECI in Kerala was wrong instead of ballot paper
Model Code of Conduct	<ul style="list-style-type: none"> • Model Code of Conduct (MCC) <ul style="list-style-type: none"> • Evolution, Provisions, Controversy, Future • Cost of Election advertisement

Evolution...

- The MCC is a unique document that owes itself to the initiative of the political parties themselves. It all started way back in 1960, with the **Kerala State administration** taking the lead to evolve a Code of Conduct covering important aspects of electioneering.

- The EC circulated the document to all States for implementation during the **1962 general election** with the consent of the political parties.
- Prior to the 1967 general election, initiatives were taken by the Chief Ministers in **Kerala, West Bengal and Tamil Nadu**.
- Uniquely, Tamil Nadu even had a standing committee of seven persons drawn from different political parties for overseeing the implementation of the code.

Provision of MCC

General Conduct...

- (1) No party or candidate shall include in any activity which may aggravate existing differences or create mutual hatred or cause tension between different Castes and communities, religious or linguistic.
- (2) Criticism of other political parties, when made, shall be confined to their policies and programme, past record and work. **Parties and Candidates shall refrain from criticism of all aspects of private life**, not connected with the public activities of the leaders or workers of other parties.
- (3) There shall be no appeal to caste or communal feelings for securing votes. Mosques, Churches, Temples or other places of worship shall not be used as forum for election propaganda.

Party in Power...

- The party in power whether at the Centre or in the State or States concerned, shall ensure that no cause is given for any complaint that it has used its official position for the purposes of its election campaign and in particular
 - – (i) (a) The Ministers shall not combine their official visit with electioneering work and shall **not also make use of official machinery or personnel during the electioneering work**.
 - (b) Government transport including official aircrafts, vehicles, machinery and personnel shall not be used for furtherance of the interest of the party in power;
 - (iv) Issue of advertisement **at the cost of public exchequer in the newspapers and other media** and the misuse of official mass media during the election period for partisan coverage of political news and publicity regarding achievements with a view to furthering the prospects of the party in power shall be scrupulously avoided.
 - (v) Ministers and other authorities **shall not sanction grants/payments out of discretionary funds from the time elections are announced by the Commission**;

Statutory Backing?

- The violation of secrecy of voting, causing enmity among communities, the prohibition of public meetings 48 hours prior to the conclusion of polls, besides other offences, are covered by the Representation of People Act, 1951.
- Besides, impersonation at voting, offering inducements to voters, or accepting gratification to do something they never intended, amount to bribery under the Indian Penal Code.
- To threaten or to intimidate voters and candidates is an act of interference with their respective free electoral rights. The EC could invoke its 1968 order which pertains to the allotment of election symbols.

- No Punishment on violating Mode of Conduct
- Just ban from contesting the Election

- Filing an FIR, particularly against a senior leader during the elections, in itself becomes a cause of huge embarrassment to the party the candidate represents. It presents the candidate as ethically wrong to the people. **That is the reason most leaders castigated for breaking the Model Code of Conduct don't**

• Filing an FIR, particularly against a senior leader during the elections, in itself becomes a cause of huge embarrassment to the party the candidate represents. It presents the candidate as ethically wrong to the people. **That is the reason most leaders castigated for breaking the Model Code of Conduct don't usually repeat it.**

MCC Violation	<ul style="list-style-type: none"> • Lok Sabha 2019 • Delhi 2020 • Lok Sabha 2024
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Election Silence	<ul style="list-style-type: none"> • No Campaign • 48 Hours
EVMs	<ul style="list-style-type: none"> • Since 2004 All Lok Sabha election are conducted using EVM • Manufactured by Hyderabad and Bangalore PSU <ul style="list-style-type: none"> • Basically, a voting system has four required characteristics: <ul style="list-style-type: none"> i. Accuracy: The goal of any voting system is to establish the intent of each individual voter, and translate those intents into a final tally. ii. Anonymity: Secret ballots are fundamental to democracy, and voting systems must be designed to facilitate voter anonymity. iii. Scalability: Voting systems need to be able to handle very large elections. iv. Speed: Voting systems should produce results quickly. • Disadvantage of Ballot paper <ul style="list-style-type: none"> • Not Environment Friendly • Lacks Speed • Booth Capturing • Invalid Votes • Advantages of EVM <ul style="list-style-type: none"> • Full of Speed • Environment Friendly • No Booth Capturing : Cannot spam votes manually • Cannot be hacked : Cannot remotely operated, No transmitter, receiver • Lacks transparency : Many countries -> Unconstitutional • VVPAT : Voter Verifiable Paper Audit Trail <ul style="list-style-type: none"> ▪ Used in 2013 in Noksen, Nagaland, On direction of SC ▪ Printer : Which shows Name, Symbol displayed for 7 Sec ▪ 5 VVPAT Verification per assembly constituency ▪ 2nd party can check 5% VVPAT on Party cost • EVM Violate Secrecy <ul style="list-style-type: none"> ▪ Counted by Polling Booth, People know which area they lost ▪ Need Totaliser -> to accumulate all votes and check <ul style="list-style-type: none"> ○ Political Party are against to know which area they are strong and weak

Opinion Poll	<ul style="list-style-type: none"> • Before Voting • Cannot be broadcast or published during election silence • It's a Public Opinion • Cannot Ban -> 19 (1) (a) : Freedom of speech and Expression
Exit Polls	<ul style="list-style-type: none"> • After Voting • Complete Ban of telecasting result till last person posts vote • Might influence minds of the voter • No Point -> Just for TRP
Post Polls	<ul style="list-style-type: none"> • After Voting

Way of Polls

- We must recognise that systematic collection of public opinion is a must in modern democracies.
- Since elections are not a private act, citizens wish to, and need to, know how others are making up their mind. Survey based tracking of the mood of the electorate performs that crucial role.
- In an unequal country like India, where a tiny but volatile elite is used to passing off its voice as public interest, scientific sample surveys of public opinions are one of the few ways in which the voice of the poor and the disadvantaged gets registered.
- Banning pre-election opinion polls is a remedy worse than the disease it seeks to cure.
- There already exists a ban on publishing the findings of polls beginning 48 hours before polling and till the last voter has cast her vote. This is a reasonable restriction, enough to safeguard against manipulations.

Disclosures...

- The ownership and track record of the organisation carrying out the survey;
- details of the sponsor;
- sampling frame, sample size and the exact technique used to draw the sample;
- the social profile of the achieved sample;
- where, when and how were the interviews conducted;
- the exact wording of the question and sequence of questions asked;
- raw vote shares reported in the survey and how they were converted into vote estimates and seats forecast.
- Finally, in case of dispute or challenge, the polling organisation should be required to open its unit level data (raw data file) for in-camera examination by a committee of experts.
- There could be a provision for strictures and sanctions against those who violate these norms.

Self Regulation

Who would formulate these regulations and implement them?

- Ideally, it should be self-regulation by pollsters and media organisations.
- An organisation like the News Broadcasters Association or the Press Council of India can take the initiative in this respect. Failing this, the Election Commission could take up this responsibility.
- What matters is the existence of a regime of mandatory disclosures rather than an agency in charge of implementing it. Once in place, such a mechanism would help the public tell the difference between a genuine and rogue poll and incentivise transparent practices. That would be a significant step forward in democratic public culture. After all, public opinion polling is too valuable and consequential to be left to politicians, or pollsters.

Voters Apathy

- More and more people are not voting
- Voter Turnout
- Legitimacy of Government Formed : Questioned if many people don't vote
- Forcing voters to vote
- Compulsory Voting -> Yes/No
- In Australia, Brazil, Etc

• The distinguished political scientist Arend Lipjhart wrote an article in the late '90s suggesting, in desperation, that compulsory voting was the only way to counter voting apathy and declining legitimacy in democracies in the developed world.

- Voters Apathy
- Enhance the legitimacy, Democratic Participation NOTA
- Reduce Money / Muscle power in election

But surely compulsory voting increases turnout?

• Here the evidence seems clear. In a comprehensive comparative study, Harvard professor Pippa Norris showed that average voter turnout in countries with some form of compulsory voting requirement was **5.4 per cent higher than in countries where voting was optional.**

Costs...

- Imposing penalties on those who do not turn out to vote provides **incentives for people to avoid appearing on the electoral register.**
- Many of those who feel compelled to turn out to vote actually **spoil their ballots** or cast their votes randomly.

'Donkey Vote'

- Compulsory voting may compel people to go to the polling booth, **but it does not ensure that they cast their vote in a meaningful way.**
- Votes for "none of the above" or spoil ballots are much more prevalent in systems with compulsory voting.
- But the most powerful objection to compulsory voting is that **it criminalises non-voting.**
- Whatever one's views on the duty and right to vote, there is something deeply problematic about punishing non-voting. **On merely practical grounds it is likely to give the state immense powers of harassment.**

Conclusion

Conclusion...

- Democratic participation is a laudable value. But a flourishing democracy requires a diversity of dispositions, including the option of disengagement. Voting is an important duty. But giving the state coercive power ostensibly in the name of saving the people from themselves is undemocratic paternalism.
- **Voting must remain an act of choice, not propelled by coercion or inducement.**

L33 Direct Democratic Device

30 August 2024 05:49 PM

Right to Recall	<ul style="list-style-type: none"> If term is 5 years, if half term is over and representative does not work properly People can go to EC to poll -> Half people vote to remove -> representative is recalled Present in PRI in Rajasthan <p>The Law Commission is not in favour of introducing the right to recall in any form because it can lead to:</p> <p>I. an excess of democracy; II. undermines the independence of the elected candidates; III. increases instability and chaos; IV. increases chances of misuse and abuse; V. is difficult and expensive to implement in practice, especially given that India follows the first past the post system.</p>
Referendum	<ul style="list-style-type: none"> Government uses people's opinion on any matter Not binding on the government Is not present in India
Initiative	<ul style="list-style-type: none"> People of the Country initiate the matter and vote Voted Item becomes binding on Government
Plebiscite	<ul style="list-style-type: none"> Government -> refers to public on any Political Matter Right to self determination To JK people to decide which country they want to be part of

Political Parties	<ul style="list-style-type: none"> A group of people whose intention is to contest election Capturing Political Power -> Forming Government Need to be registered with ECI Recognized as <ul style="list-style-type: none"> National PP State PP
State PP	<p>Conditions for Declaring a Party 'State Party':</p> <ul style="list-style-type: none"> If it secures 6% of the valid votes polled in the state at a general election to the respective state legislative assembly (state LA) and also, it wins 2 seats in the same state LA. If it secures 6% of the total valid votes in the state at a general election to the LS; and also, it wins 1 seat in the LS from the same state. If it wins 3% of seats in the LA at a general election to the legislative assembly of the state concerned or 3 seats in the assembly (whichever is more). If it wins 1 seat in the LS for every 25 seats or any fraction thereof allotted to the state at a general election to the LS from the state concerned. If it secures 8% of the total valid votes polled in the state at a General Election to the LS from the state or to the State LA.
National PP	<ul style="list-style-type: none"> Recognized as State PP in 4 or more States <p>Conditions for Declaring a Party 'National':</p> <p>As per the ECI's Political Parties and Election Symbols, 2019 handbook, a political party would be considered a national party if:</p> <ul style="list-style-type: none"> It is 'recognized' in four or more states; or If its candidates have secured at least 6% of total valid votes in at least 4 states (in latest Lok Sabha or Assembly elections) and the party has at least 4 MPs in the last LS polls; or If it has won at least 2% of the total seats in the LS from at least 3 states.

List of National PPs...

- Bharatiya Janata Party (BJP);
- Indian National Congress (INC);
- Communist Party of India (Marxist) {CPI-M};
- Bahujan Samaj Party (BSP);
- National People's Party (NPP) : 1st Party from North East to bag the status of a National Party. (June, 2019)
- Aam Aadmi Party (AAP)

Benefit	<ul style="list-style-type: none"> • If candidate dies re-election can be done with new candidate • Symbol preference • Prime Land at cheap price to create headquarters
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Benefits...

- A recognised party (national or state) has the **right to certain privileges like allocation of the party symbols, provision of time for political broadcasts on the state-owned television and radio stations and access to electoral rolls.**
- These parties are allowed to have **40 "star campaigners"** during the time of elections (the **registered-unrecognised parties are allowed to have 20 "star campaigners".**)
- Every **national party is allotted a symbol exclusively reserved for its use throughout the country, even in the states where it is not contesting elections.**
- For a state party, the allotted symbol is exclusively reserved for its use in the state/s in which it is so recognised.

Electoral Reforms	<ul style="list-style-type: none"> • Reform on increasing time period of date of spending on advertisement <ul style="list-style-type: none"> • Section 77 of the RPA, regulating the election expenses incurred or authorized by candidates or their election agents, currently extends from the date of nomination to the date of declaration of results. • This period should be extended by amending section 77(1) to apply from the date of notification of the elections to the date of declaration of results.
	<ul style="list-style-type: none"> • There has to be limit on the spending by PP • Apart from candidate advertisement
	<ul style="list-style-type: none"> • If not disclosing expenditure within 6 month -> ineligible to contest in next election, 5 year period disqualification <ul style="list-style-type: none"> • The disqualification of a candidate for a failure to lodge an account of election expenses and contributions reports under section 77 and proposed 77A should be extended from the current three period up to a five year period, so that a defaulting candidate may be ineligible to contest at least the next elections.
Political Donations	<ul style="list-style-type: none"> • Funding in clean and accountable manner • Greater than 20,000 -> Disclose the donor • Membership Fees : from member of PP • Collection : For Public People • Corporate Funding : 7.5 % profit made in last 3 years • ADR, 2024 Case • Electoral Bond violates -> Citizen right to know • Arbitrary : 7.5% limit remove -> allows loss making company to donate • State Funding of Election <ul style="list-style-type: none"> • Electoral Corpus fund funded by Centre + State • But Idea Unimplementable : many people will create new PP • Yogendra Yadav : Funding on the basis of vote share • Party worker will ask for more funding
Same name Candidate	<ul style="list-style-type: none"> • Same name People contesting election • These candidate are dummy candidate -> Should be barred from election

	<ul style="list-style-type: none"> • Amendment of section 33(7) of the RPA, which permits a candidate to contest any election (parliamentary, assembly, biennial council, or bye-elections) from up to two constituencies. • In view of the expenditure of time and effort; election fatigue; and the harassment caused to the voters, section 33(7) should be amended to permit candidates to stand from only one constituency.
Criminalization of Politics	<ul style="list-style-type: none"> • The Law Commission recommends that independent candidates be disbarred from contesting elections because the current regime allows a proliferation of independents, who are mostly dummy/non-serious candidates or those who stand (with the same name) only to increase the voters' confusion. • Thus, sections 4 and 5 of the RPA should be amended to provide for only political parties registered with the ECI under section 11(4) to contest Lok Sabha or Vidhan Sabha elections.

RPA 1950	<ul style="list-style-type: none"> • The Representation of the people Act, 1950 • Allocation of seats and delimitation of constituency • In LS/LA/LC • Officers of electoral roll <ul style="list-style-type: none"> • Chief Electoral Officer • District Election Officer
RPA 1951	<ul style="list-style-type: none"> • The Representation of the people Act, 1951 • Qualification of Membership of Parliament : <p>Qualifications for Membership of Parliament:</p> <p>Qualification for membership of the Council of States—A person shall not be qualified to be chosen as a representative of any State or Union territory in the Council of States unless he is an elector for a Parliamentary constituency in India.</p> <ul style="list-style-type: none"> • Qualifications for membership of the House of the People — A Person shall not be qualified to be chosen to fill a seat in the House of the People <ul style="list-style-type: none"> • (a) in the case of a seat reserved for the Scheduled Castes in any State, he is a member of any of the Scheduled Castes, whether of that State or of any other State, and is an elector for any Parliamentary constituency; • (b) in the case of a seat reserved for the Scheduled Tribes in any State (other than those in the autonomous districts of Assam), he is a member of any of the Scheduled Tribes, whether of that State or of any other State (excluding the tribal areas of Assam), and is an elector for any Parliamentary constituency; • (c) in the case of a seat reserved for the Scheduled Tribes in the autonomous districts of Assam, he is a member of any of those Scheduled Tribes and is an elector for the Parliamentary constituency in which such seat is reserved or for any other Parliamentary constituency comprising any such Autonomous district; • Qualifications for membership of a Legislative Assembly— <ul style="list-style-type: none"> • A person shall not be qualified to be chosen to fill a seat in the Legislative Assembly of a State unless- <ul style="list-style-type: none"> • (a) in the case of a seat reserved for the Scheduled Castes or for the Scheduled Tribes of that State, he is a member of any of those castes or of those tribes, as the case may be, and is an elector for any Assembly constituency in that State; • (b) in the case of a seat reserved for an autonomous district of Assam, he is a member of a [Scheduled Tribe of any autonomous district] and is an elector for the Assembly constituency in which such seat or any other seat is reserved for that district; and • (c) in the case of any other seat, he is an elector for any Assembly constituency in that State

- **Qualification for membership of a Legislative Council-**
- (1) A person shall not be qualified to be chosen to fill a seat in the Legislative Council of a State to be filled by election unless he is an elector for any Assembly constituency in that State.
- (2) A person shall not be qualified to be chosen to fill a seat in the Legislative Council of a State to be filled by nomination by the Governor unless he is ordinarily resident in the State.

• Disqualification :

- **Section 8 (1) -**
- only fine, for a period of six years from the date of such conviction;
- imprisonment, from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.
- (a) section 153A (offence of promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony)
- or section 171E (offence of bribery)
- or section 171F (offence of undue influence or impersonation at an election)
- or sub-section (1) or sub-section (2) of section 376 or section 376A or section 376B or section 376 C or section 376D (offences relating to rape)
- or section 498A (offence of cruelty towards a woman by husband or relative of a husband)
- or sub-section (2) or sub-section (3) of section 505 (offence of making statement creating or promoting enmity, hatred or ill-will between classes or offence relating to such statement in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies) of the Indian Penal Code (45 of 1860);
- the Protection of Civil Rights Act, 1955 (22 of 1955) which provides for punishment for the preaching and practice of "untouchability", and for the enforcement of any disability arising there from;
- Prevention of Corruption Act, 1988 (49 of 1988);
- The Prevention of Terrorism Act, 2002

Section 8 (2)

- A person convicted for the contravention of—
- (a) any law providing for the prevention of hoarding or profiteering; or
- (b) any law relating to the adulteration of food or drugs; or
- (c) any provisions of the Dowry Prohibition Act,
- and sentenced to imprisonment **for not less than six months**, shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.

- A person convicted of any offence and sentenced to **imprisonment for not less than two years** other than any offence referred to in sub-section (1) or sub-section (2) shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.

• Right to Vote

- **Right to vote**
- (1) No person who is not, and except as expressly provided by this Act, every person who is, for the time being entered in the electoral roll of any constituency shall be entitled to vote in that constituency.
- (2) No person shall vote at an election in any constituency if he is subject to any of the disqualifications referred to in section 16 of the Representation of the People Act, 1950.
- (3) No person shall vote at a general election in more than one constituency of the same class, and if a person votes in more than one such constituency, his votes in all such constituencies shall be void.
- (4) No person shall at any election vote in the same constituency more than once, notwithstanding that his name may have been registered in the electoral roll for that constituency more than once, and if he does so vote, all his votes in that constituency shall be void.
- No person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police.

• Equality of Votes

- **Equality of votes:**
- If, after the counting of the votes is completed, an equality of votes is found to exist between any candidates, and the addition of one vote will entitle any of those candidates to be declared elected,
- The returning officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.
- **Election petitions—** No election shall be called in question except by an election petition presented in accordance with the provisions of this Part.
- High Court to try election petitions.

- Paid Holiday on day of election

Paid Holiday...

- Every person employed in any business, trade, industrial undertaking or any other establishment and entitled to vote at an election to the House of the People or the Legislative Assembly of a State shall, on the day of poll, **be granted a holiday.**

- Liquor not to be sold, given or distributed on polling day.