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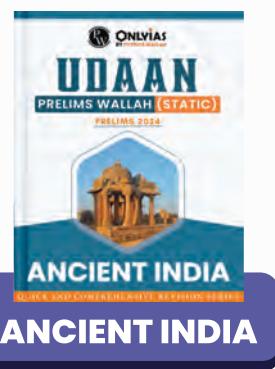
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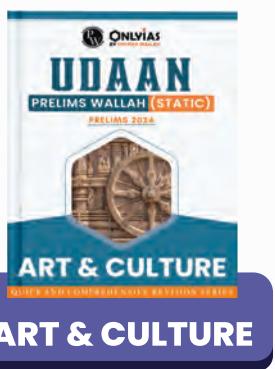
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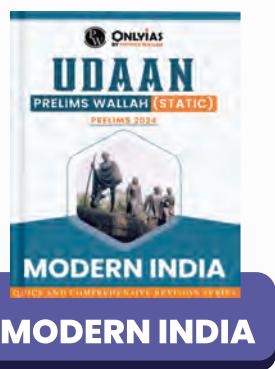
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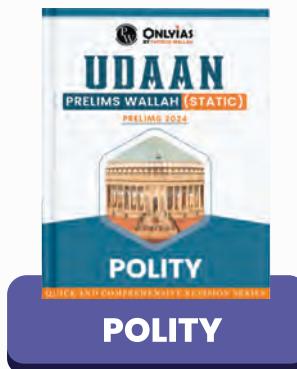
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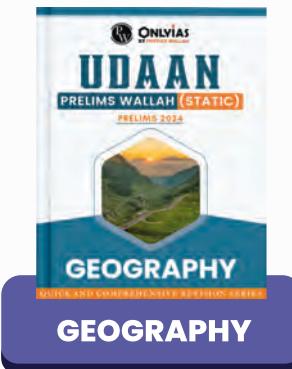
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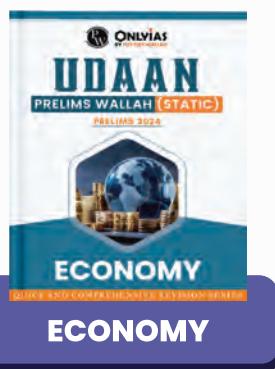
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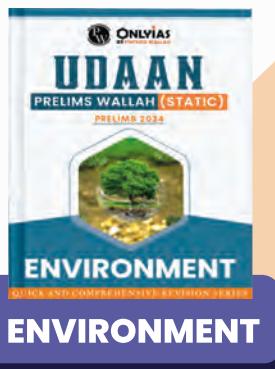
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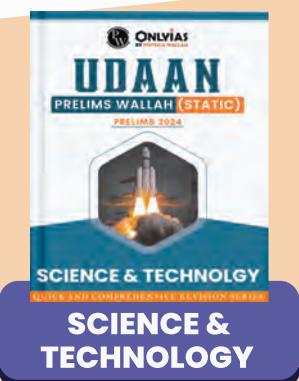
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**QUICK AND COMPREHENSIVE REVISION
SERIES FOR PRELIMS 2024**

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PREFACE

A highly skilled professional team of PW ONLY IAS works arduously to ensure that the students receive the best content for the UPSC exam.

A plethora of UPSC study materials are available in the market, but PW ONLY IAS professionals continuously work to provide supreme-quality study material for our UPSC students.

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Faculties have adopted a new style of presenting the content in easy-to-understand language and have provided the team with guidance and supervision throughout the creation of this book.

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This book adopts a multi-faceted approach to mastering and understanding the concepts and equipping the students with the knowledge for this competitive exam.

The main objective of the study material is to provide short, crisp, concise and high-quality content to our students.

BOOK FEATURES

- Holistic coverage of topics, strictly as per exam syllabus.
- One-stop solution for prelims based, subject-wise coverage.
- Diagrams and Timelines for quick understanding and revision.
- Quick Revision Module for the UPSC Prelims examination.
- Every topic is structured in headings and bullets for easy understanding of the students.

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1

Historical Background

THE COMPANY RULE (1773–1858)

Regulating Act of 1773

- The first step taken by the British Government was to control and regulate the affairs of the East India Company in India.
- Laid the foundations of central administration in India.
- It recognized, for the first time, the political and administrative functions of the Company.
- Designated the Governor of Bengal as the 'Governor-General of Bengal' and created an Executive Council of four members to assist him. The first such Governor-General was Lord Warren Hastings.
- Establishment of a Supreme Court at Calcutta (1774) comprising one chief justice and three other judges.
- Prohibited the servants of the Company from engaging in any private trade or accepting presents or bribes from the Natives.
- Strengthened the control of the British Government over the Company by requiring the Court of Directors (the governing body of the Company) to report on its revenue, civil, and military affairs in India.
- Made the governors of Bombay and Madras presidencies subordinate to the Governor General of Bengal, unlike earlier, when the three presidencies were independent of one another.

Amending Act of 1781 (Act of Settlement)

- It exempted the Governor-General and the Council from the jurisdiction of the Supreme Court for the acts carried out by them in their official capacity.
- Excluded the revenue matters and the matters arising in the collection of revenue from the jurisdiction of the Supreme Court.
- It provided that the Supreme Court was to have jurisdiction over all the inhabitants of Calcutta and the Court to administer the personal law of the defendants i.e., Hindus were to be tried according to the Hindu law, and Muslims were to be tried according to the Mohammedan law.

- The appeals from the Provincial Courts could be taken to the Governor-General-in-Council and not to the Supreme Court.
- Empowered the Governor-General-in-Council to frame regulations for the Provincial Courts and Councils.

Pitt's India Act, 1784

- It distinguished between the commercial and political functions of the Company.
- It established a system of Double government.
 - A new Board of Control to manage the political affairs, also supervise and direct all operations of the civil and military government or revenues of the British possessions in India.
 - Court of Directors to manage the commercial affairs; hence distinguishing between its commercial and political functions.
- The company's territories in India were, for the first time, called the 'British possessions in India'. So, the British Government was given supreme control over the Company's affairs and its administration in India,

Act of 1786

- Lord Cornwallis was appointed as the Governor-General of Bengal and also Commander-in-Chief.
- He was given the power to override the decision of his council in special cases.

Charter Act of 1793

- Extended the overriding power given to Lord Cornwallis over his council, to all future Governors-General and Governors of Presidencies.
- Gave the Governor-General more powers and control over the governments of the subordinate Presidencies of Bombay and Madras.
- Extended the trade monopoly of the Company in India for another period of twenty years.
- Provisions were made so that the Commander-in-Chief was not to be a member of the Governor-General's council unless he was so appointed.
- It laid down that the members of the Board of Control and their staff were, henceforth, to be paid out of the Indian revenues.

Charter Act of 1813

- It ended the trade monopoly of the East India Company in India as Indian trade was thrown open to all British merchants, except the company's monopoly in trade with China and trade in tea.
- It asserted the sovereignty of the British Crown over the Company's territories in India.
- Empowered the Local Governments in India to impose taxes on persons and to punish those who did not pay them.
- The company's rule was extended for another 20 years.
- Powers of the Board of Control were further extended.
- Act granted permission to the persons who wished to go to India to promote moral and religious improvements - Christian Missionaries
- Contained provision that the Company should invest Rs. 1 Lakh every year on the education of Indians.
- The Act regulated the company's territorial revenues and commercial profits. It was asked to keep its territorial and commercial accounts separate.

Charter Act of 1833

- The Act was the final step towards centralization in British India as its reconstitution under the new model of administration gave it an All-India character.
- It legalized the British colonization of India as the East India Company converted from a commercial body to an administrative body. Now its territories were held as 'in trust for His Majesty, His heirs and successors'.
- It ended the company's monopoly over trade with China and in tea.
- The Governor-General's government was called "Government of India", and the council was called "India Council".
- Governor-General of Bengal to be designated as the "Governor-General of India" and was vested with all civil and military powers. Lord William Bentinck became the first Governor-General of India.
- The Governor-General of India had legislative powers over the entire British India. Thus, the Governors of Bombay and Madras lost their legislative powers. Now the laws made under this act were called "Acts", unlike earlier regulations.
- The Governor-General in council had the authority to amend, repeal or alter any law in British Indian territories.
- It attempted to introduce a system of open competition for the selection of civil servants, though it was negated after opposition from the Court of Directors.

- Indian Law Commission (1834) was established to codify all Indian laws. The first Law Commission had Lord Macaulay as its chairman.

Charter Act of 1853

- It was the last in a series of Charter Acts passed by the British Parliament between 1793 and 1853.
- It separated the legislative and executive functions of the Governor-General's council for the first time.
- It introduced local representation for the first time in the Indian (Central) Legislative Council. It provided for the addition of six new members called legislative councillors to the council (12 in total).
- The number of Board of Directors was reduced from 24 to 18, out of which 6 people were to be nominated by the British Crown.
- The legislative wing of the council functioned as a "Mini-Parliament", adopting the same procedures as the British Parliament.
- Introduced an open competition system for the selection and recruitment of civil servants. The covenant civil service was also thrown open to the Indians. The Macaulay Committee was appointed to the Indian Civil Service in 1854.
- Law member (fourth member) became a full member with the right to vote.

THE CROWN RULE (1858–1947)

Government Of India Act, 1858 (Act of Good Government of India)

- It abolished the East India Company and transferred powers to the British Crown.
- The Governor General of India was given the new designation of the "Viceroy", who was the direct representative of the crown. Lord Canning became the first Viceroy of India.
- Abolished the Board of Control and Court of Directors, thus ending Double Government which came during Pitt's India Act.
- It created a new office for the "Secretary of State" for India, who was a member of the British Cabinet responsible to the British Parliament.
- It established a 15-member council of India to assist the Secretary of State for India. The council was an advisory body. The secretary of state was made the Chairman of the council.
- It constituted the Secretary of State-in-Council as a body corporate, capable of suing and being sued in India and in England.

Indian Councils Act, 1861

- It provided that the Viceroy should nominate some Indians as non-official members of his expanded council. In 1862, Lord Canning nominated three Indians to his legislative council: the Raja of Benaras, the Maharaja of Patiala and Sir Dinkar Rao.
- The Legislative powers of Bombay and Madras Presidencies were restored which initiated the process of decentralization. This policy of legislative devolution resulted in the grant of almost complete internal autonomy to the provinces in 1937.
- It made provisions for the formation of the New Legislative Council (Upper House) for Bengal (formed in 1862), Northwestern Province (1886), and Punjab (1897).
- The Viceroy was empowered to issue an Ordinance, valid for 6 months from the date of issue, without the consent of the Legislative Council in case of emergency.
- It recognized the "Portfolio system", which was started by Lord Canning in 1859. Here, a member of the Viceroy Council was made in charge of one or more Departments and could independently make decisions and issue orders on behalf of the Council.

Indian Councils Act, 1892

- The non-official members were increased in Central and Provincial Legislative Councils though the official majority was maintained.
- There was an increase in the functions of Legislative Councils. It gave them the power to discuss the budget and address the questions to the Executive.
- It provided for the nomination of some non-official members:
 - Central Legislative Council:** by the Viceroy on the recommendation of the Provincial Legislative Council and Bengal Chamber of Commerce;
 - Provincial Legislative Council:** by the Governor on the advice of District Board, Municipalities, Universities, Trade Associations, Zamindars and Chambers.
- The word 'Election' was nowhere mentioned, but a limited and indirect election for the Nominated members was introduced in this Act.

Indian Councils Act, 1909

(Morley Minto Reforms)

- In the Central Legislative Council, members were increased from 16 to 60, though in Provincial Councils, the number was not uniform.
- The Central Legislative Council continued to have an official majority, whereas a Non-official majority was allowed in the Provincial Legislative Council.
- More deliberative powers were given to the Legislative Councils. Members were allowed to ask

supplementary questions and move resolutions on the budget etc.

- Voting for separate items on the budget was allowed, though the Budget as a whole could still not be voted upon.
- Separate Electorate for Muslims was introduced, and only Muslims could vote for the Muslim Candidates.
- Lord Minto came to be known as the "Father of Communal Electorate", as this act legalized communalism in India.
- Indians were allowed in the Executive Council of the Viceroy for the first time as Satyendra Prasad Sinha was appointed as a Law member in the Viceroy Executive Council.
- Separate representation was for Presidency Corporations, the Chamber of Commerce, Universities and Zamindars.

Government of India Act of 1919 (Montagu-Chelmsford Reforms)

On August 20, 1917, for the first time, the British Government declared that its objective was the gradual introduction of a Responsible Government in India.

- It provided for the classification of all the subjects of administration into two categories, namely, the central subjects and the provincial subjects. This classification was done by the "Devolution Rules", which facilitated the delegation of authority from the centre to the provinces.
- The Element of Dyarchy or dual scheme of governance was introduced in Provincial Subjects, and it was divided into two parts (i) Reserved Subjects: which were to be administered by the Governor General and his Executive Council so not responsible to the Legislative council. (ii) Transferred Subjects: which were to be administered by the Governor General with the help of his council. They were responsible to the legislative council. [UPSC 2022]
- For the first time, the Indian Legislative Council was replaced by the Bicameral legislature consisting of an Upper House (Council of State) and a Lower House (Legislative Assembly). The majority of members were chosen by Direct Elections.
- Three of the six members of the Viceroy Executive Council (excluding the Commander in Chief) were Indians.
- There was an extension of the Separate electorate: for Sikhs, Indian Christians, Anglo-Europeans, and Europeans. Although the franchise was given to a limited number of people on the basis of property, Tax, education etc.
- The Provincial Budget was separated from the Central Budget, and Provinces were allowed to enact their own Budget.

- It created a **new office** of the **High Commissioner for India** in **London** and transferred to him some of the functions performed by the Secretary of State for India.
- A **Central Public Service Commission** was set up in **1926** to recruit civil servants.
- It proposed the establishment of a **Chamber of Princes** (also known as **Narendra Mandal**). The chamber was inaugurated in 1921. It consisted of 120 members i.e., Princes of 108 states and 12 representatives of other states. It was headed by the **Viceroy** (Governor General). It facilitated the consultation and discussion on matters of common interest.
- Provided for the appointment of a **statutory commission** to inquire into and report on its working after ten years of its coming into force.

The Simon Commission (1927)

- It was a **seven-member statutory commission** appointed (2 years before its schedule) by the British Government, led by **Sir John Simon** to assess India's condition under its new Constitution. **All commission members were British**, leading to a boycott by all parties.
- The commission, submitting its report in 1930, proposed **abolishing dyarchy, expanding responsible Government in provinces**, creating a federation of British India and princely states, and maintaining the **communal electorate**.
- To discuss these proposals, the British Government organized **three round table conferences** involving representatives from British India and Indian princely states.
- Based on these discussions, a '**White Paper on Constitutional Reforms**' was prepared and presented to the Joint Select Committee of the British Parliament. The committee's recommendations (with some modifications) were then included in the **Government of India Act, 1935**.

Communal Award

- In 1932, British Prime Minister **Ramsay MacDonald** introduced the Communal Award to address **minority representation**. They maintained **separate electorates** for **Muslims, Sikhs, Indian Christians, Anglo-Indians, and Europeans**.
- It also **extended** this provision to the **depressed classes**, also known as Scheduled Castes. Gandhi opposed the extension of communal representation to the depressed classes and went on a fast in **Yerawada Jail** to seek modifications.
- An agreement, **Poona Pact**, was reached between the Congress and Dr. B.R. Ambedkar which preserved the Hindu joint electorate but provided reserved seats for the depressed classes. The British Government accepted the Poona Pact, **leading to modifications** in the **Communal Award** regarding the depressed classes.
- Separate electorates** for the **depressed classes** were **eliminated** from the **Communal Award**. Its provisions were later incorporated into the **Government of India Act, 1935**. So, central and provincial legislatures under the 1935 Act were structured based on the modified Communal Award.

Government of India Act, 1935

The act was a milestone towards a completely **responsible government** in India. It contained **321 Sections** and **10 Schedules**.

- The Act aimed to create an **All-India Federation** comprising **provinces** and **princely states** as units. However, this federation **never materialized** due to the non-participation of princely states.
- The Act divided powers into **three lists: Federal** (for centre, with 59 items), **Provincial** (for provinces, with 54 items), and **Concurrent** (for both, with 36 items). **Residual powers were vested in the Viceroy** (Governor-General). [UPSC 2012]
- The Act **abolished dyarchy in provinces**, introducing '**provincial autonomy**' instead. Provinces were granted autonomy in defined areas, with **responsible Governments formed in 1937**, though discontinued in 1939.

- The Act **proposed dyarchy at the Centre**, dividing federal subjects into reserved and transferred categories. However, this provision never became operational.
- Bicameralism** (legislative council and legislative assembly) was introduced in **six out of eleven provinces** including Bengal, Bombay, Madras, Bihar, Assam, and the United Provinces, but with several restrictions.
- Reserved seats for depressed classes** (Scheduled Castes), and **special representation for women and labour**, were established.
- It **abolished** the **Council of India**, established by the Government of India Act of 1858. The secretary of state for India was provided with a team of advisors.
- Franchise was extended**, granting voting rights to approximately 14% of the total population.
- The Act established the **Reserve Bank of India** to regulate the country's currency and credit.

- It created **Federal** and **Provincial** Public Service Commissions, as well as **Joint** Public Service Commissions for multiple provinces.
- The Act established a **Federal Court** in **1937**.
- It **separated Burma** (now Myanmar) from India.
- Two new provinces, **Orissa** and **Sind**, were **created**.
- Safeguards for minority interests** were incorporated.
- A **Federal Railway Authority** was **established** to oversee railway administration.
- An **Auditor-General of India** was **appointed** to audit the accounts of the federation and provinces.

Government of India Act, 1947

On June 3, 1947, Lord Mountbatten presented the **partition plan**, which was **accepted** by the **Congress** and **Muslim League**, and immediately enacted it, declaring India as an **independent** and **sovereign** state from August 15, 1947.

- The Act facilitated the partition of India, establishing two independent **dominions**—India and Pakistan—with the **right to secede** from the British Commonwealth.
- The **office of Viceroy was abolished**, and a **Governor-General for each dominion** was introduced, **appointed by the British King** based on the advice of the dominion cabinet. Britain had no responsibility for the governance of India or Pakistan.
- Constituent Assemblies** of the dominions were **empowered to frame and adopt any constitution** for their respective nations, including the **authority to repeal any act of the British Parliament**, including the Independence Act itself.
- Constituent Assemblies of both dominions could legislate for their territories until new constitutions were enforced. **Acts of the British Parliament after**

August 15, 1947, required dominion legislature approval to apply.

- The office of **Secretary of State for India was abolished**, and its functions were transferred to the Secretary of State for Commonwealth Affairs.
- British paramountcy** over Indian **princely states** and treaty relations with tribal areas **lapsed** on August 15, 1947. Princely states were granted the freedom to join the Dominion of India or Pakistan or remain independent.
- Governance of dominions and provinces **followed the Government of India Act of 1935 until new constitutions were established**, with the power to make modifications.
- The **British Monarch lost the right to veto bills or request reservations**, but this power was retained by the Governor-General, who could assent to bills in the name of His Majesty.
- The **Governor-General of India and provincial governors** became **constitutional (nominal) heads**, acting on the advice of their respective councils of ministers.
- It **dropped the title of Emperor of India** from the royal titles of the King of England.

The **appointment to civil services and post reservations by the Secretary of State for India was discontinued**. Civil service members appointed before August 15, 1947, retained entitlements and benefits.

Lord Mountbatten became the first Governor-General of the new Dominion of India. The **Constituent Assembly** of India formed in 1946 became the **parliament of the Indian Dominion**.

First Cabinet After Independence

NO	MEMBERS	PORTFOLIOS	NO	MEMBERS	PORTFOLIOS
1	Jawaharlal Nehru	Prime Minister; External Affairs and Commonwealth Relations; Scientific Research	8	Jagjivan Ram	Labour
2	Sardar Vallabhbhai Patel	Home, Information and Broadcasting; States	9	Sardar Baldev Singh	Defence
3	Dr Rajendra Prasad	Food and Agriculture	10	Rajkumari Amrit Kaur	Health
4	Maulana Abul Kalam Azad	Education	11	C.H. Bhabha	Commerce
5	Dr. John Mathai	Railways and Transport	12	Rafi Ahmed Kidwai	Communication
6	R.K. Shanmugham Chetty	Finance	13	Dr. Shyama Prasad Mukherjee	Industries and Supplies
7	Dr. B.R. Ambedkar	Law	14	V.N. Gadgil	Works, Mines, and Power



2

Making of The Indian Constitution

DEMAND FOR A CONSTITUENT ASSEMBLY

1934	M.N. Roy put forward the idea for a Constituent Assembly for India.
1935	INC officially demanded a Constituent Assembly to frame the Indian Constitution.
1938	Jawaharlal Nehru , on behalf of the Indian National Congress, declared that “the Constitution of free India must be framed, without outside interference, by a Constituent Assembly elected on the basis of ‘adult franchise’.
1940	Demand accepted by the British government in principle in August Offer .
1942	Cripps Proposal - A draft proposal on framing of an independent Constitution to be adopted after World War II. It was rejected by the Muslim League , which wanted India to be divided into two autonomous states with two constituent assemblies .
1946	Cabinet Mission Plan (CMP) - It rejected the idea of two Constituent Assemblies but put forth a scheme more or less accepted by the Muslim League. Members: Lord Patrick Lawrence, Sir Stafford Cripps and A V Alexander .

IMPORTANT DATES IN CONSTITUENT ASSEMBLY

9th December, 1946	First sitting of Constituent Assembly. Muslim League boycotted it.
11th December, 1946	<ul style="list-style-type: none"> Dr. Rajendra Prasad was elected as President of the Constituent Assembly. Dr. Sachidanand Sinha (oldest member), was elected as temporary chairman of the assembly following the French practice. Vice-Presidents (Two): H.C. Mukherjee and V.T. Krishnamachari.
13th December, 1946	Objective Resolution was introduced by Jawahar Lal Nehru.
22nd July, 1947	The Constituent Assembly adopted the National Flag .
15th August, 1947	Transfer of Power led to the formation of dominions of India and Pakistan (14 th August, 1947).
26th November, 1949	The Constitution was adopted/enacted.
24th January, 1950	Adoption of National Song and National Anthem .
26th January, 1950	The Constitution came into force , making India a Republic .
25th October, 1951- 21st February, 1952	First general elections were held.

COMPOSITION OF THE CONSTITUENT ASSEMBLY

Constituted	On November 1946, under the Cabinet Mission Plan
Strength	Total 389 = 296 (British India) + 93 (Princely States). Out of 296, 292 were to be drawn from 11 governor's provinces and 4 from four Chief Commissioner's provinces.

Composition	Representatives of all sections of the Indian society – Hindus, Muslims, Sikhs, Parsis, Anglo-Indians, Indian Christians, SCs, STs, including women of all these sections.
Seat allocation	<ul style="list-style-type: none"> Each province and princely state were to be allotted seats in proportion to their respective population. Seats allocated to each British province were to be divided among the three principal communities – Muslims, Sikhs and General in proportion to their population.
Voting method	<ul style="list-style-type: none"> Proportional representation by means of a Single transferable vote in the case of provincial representation. Representatives from princely states were to be nominated by their heads.
Members	Partly elected (In British Provinces) and Partly nominated (by heads of Princely states) body. Members were to be indirectly elected by the members of the provincial assemblies.

Note:

- Mahatma Gandhi** was **not part** of the Constituent Assembly.
- 93 seats allotted to the **princely states** were **not filled** as they decided to stay away from the Constituent Assembly.

Objective Resolution

- Jawaharlal Nehru moved this historic resolution on **13th December 1946**, in the Assembly.
- It contained the **fundamentals** and **philosophy** of the Constitutional structure.
 - Guaranteed the people of India justice: social, economic and political; equality of status and of opportunity; freedom of thought, expression, belief, etc.
- This resolution was **adopted on 22nd January 1947**, by the Assembly.
- The **Preamble** of the Constitution of India is a **modified version** of the Objective Resolution.

Changes Made by the Independence Act, 1947

- The Assembly was made a **fully sovereign body**, free to abrogate or alter any law.
- Two separate functions** were assigned to the Assembly (performed on separate days) -
 - Legislative body** (Chaired by G V Mavalankar).
 - Constituent body** (chaired by Dr. Rajendra Prasad).

- Thus, the Assembly became the **first Parliament** of free India (Dominion Legislature). These two functions continued till November 26, 1949.
- After the **withdrawal of Muslim League members**, total strength **came down to 299** as against 389 under the Cabinet Mission Plan.

Functions Performed by Constituent Assembly

- Ratified India's membership of the **Commonwealth** in **May 1949**.
- Adopted the **National Flag** on **July 22, 1947**.
- Adopted **National Song & National Anthem** on **Jan 24, 1950**.
- Elected **Rajendra Prasad** as first President of India on **Jan 24, 1950**.
- Final session** was held on 24th January, 1950. However, it continued as provisional Parliament of India from Jan 26, 1950 till formation of new Parliament (May, 1952).
- Total sessions: 11; Total time: 2 years, 11 months, 18 days; Total expenditure: 64 lakh.**

MAJOR COMMITTEES

Chairman	Committees
Jawaharlal Nehru	Union Powers Committee, Union Constitution Committee, States Committee.
Dr. Rajendra Prasad	Rules of Procedure Committee, Steering Committee.
Sardar Patel	Provincial Constitution Committee, Advisory Committee on FRs, Minorities & Tribal & Excluded Areas.
Dr. B.R. Ambedkar	Drafting Committee.

The Drafting Committee was set up on **29th August 1947**.

It consisted of **7 members**: Dr. B.R. Ambedkar (**Chairman**), N. Gopalaswamy Ayyangar, Alladi Krishnaswamy Ayyar, Dr. K.M. Munshi, Syed Mohammad Saadullah, N. Madhava Rau (He replaced B.L. Mitter who resigned due to ill-health) T.T. Krishnamachari (He replaced D.P. Khaitan who died in 1948).

Enactment and Enforcement of the Constitution

ENACTMENT	ENFORCEMENT
<ul style="list-style-type: none"> It was adopted on 26 November 1949. Out of a total 299 members of the Assembly, only 284 were actually present on that day and signed the Constitution. At that time, it contained the Preamble, 395 Articles, and 8 Schedules. The Preamble was enacted after the entire Constitution was already enacted to align with the philosophy of the Constitution. 	<ul style="list-style-type: none"> Some provisions of the Constitution came into force on Nov 26, 1949 itself, viz. Citizenship, Elections, provisional Parliament, temporary and transitional provisions, and short titles contained in Articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388, 391, 392 and 393. Major part came into force on Jan 26, 1950 (commencement day - celebrated as Republic Day). Jan 26, 1930: Purna Swaraj Day was celebrated following the Lahore Session (December 1929) of the Indian national congress. The Indian Independence Act, 1947 & GoI Act, 1935 with all its enactments, were repealed. The Abolition of Privy Council Jurisdiction Act (1949) continued.

Additional Information

Expert Committee of the Congress

- On July 8, 1946, the Congress Party (Indian National Congress) appointed an Experts Committee for the purpose of preparing material for the Constituent Assembly.
- Members of the committee were: **Jawaharlal Nehru (Chairman), M. Asaf Ali, K.M. Munshi, N. Gopalaswami Ayyangar, K.T. Shah, D.R. Gadgil, Humayun Kabir, K. Santhanam.**

- H.V.R. Iyengar** was **Secretary** to the constituent Assembly.
- S.N. Mukherjee** was the **chief draftsman** of the constitution in the constituent Assembly.
- Prem Behari Raizada** was the **calligrapher** of the Constitution.
- Nand Lal Bose** and **B.R. Sinha** decorated and beautified the Constitution.
- Hindi version calligraphy** done by **Vasant Krishan Vaidya** and illuminated by **Nand Lal Bose**.

Important Facts about the Indian Constitution

- Elephant** was adopted as the **symbol (seal)** of the Constituent Assembly.
- Sir B.N. Rau** was the **Constitutional Adviser** to the Constituent Assembly.

Hindi Text of the Constitution

- The 58th Constitutional Amendment Act of 1987** addressed the lack of provisions for an authoritative Hindi text by introducing **Article 394-A in Part XXII of the Constitution**.
- The President is mandated to translate the Constitution into Hindi Authority** and to revise the Hindi text accordingly.



3

Salient Features of the Indian Constitution

The term 'constitution', refers to a **set of principles** outlining the organization and **functioning of the government**, as well as the **relationship between the government and the people** in terms of their **rights and duties**.

The constitution is also described as the '**Fundamental law of the land**', '**Supreme law of the state**', '**Basic law of the country**', '**Instrument of the government**', '**Rules of the state**', '**Basic structure of the polity**' and '**Ground norm of the country**'.

CLASSIFICATION OF CONSTITUTION

Evolved Constitution: Result of **gradual evolution**, provisions in conventions, practices, and judicial decisions. Example: **British Constitution**.

Enacted Constitution: Deliberately made by a constituent Assembly or Constitutional council, provisions in a book or document. Example: **American** and **Indian** Constitutions.

Written Constitution: Provisions in a book or document, consciously formulated by a constituent assembly or constitutional convention. Examples: USA, Canada, Japan, France, India.

Unwritten Constitution: Provisions found in conventions, practices, principles, statutes, and judicial decisions. Examples: UK, New Zealand, Israel.

Federal Constitution: Divides power between national and regional governments, and allows independent operation. Examples: USA, Switzerland, Canada, Russia, Brazil.

Unitary Constitution: Concentrates power in the national government, regional governments subordinate. Examples: UK, France, Japan, China, Italy, Norway.

Procedural Constitution: Defines legal and political structures, and sets legal limits to protect democratic processes and human rights.

Prescriptive Constitution: Imposes a broad consensus on societal goals, guiding public authorities in achieving common objectives.

Rigid Constitution: Requires a special procedure for amendment, and distinguishes constitutional law from ordinary law. Examples: USA, Australia, Switzerland.

Flexible Constitution: Amended like ordinary laws, no special procedure. Also known as an elastic constitution. Examples: UK, New Zealand. India is a synthesis of both.

FEATURES OF INDIAN CONSTITUTION

FEATURES	EXPLANATION
Lengthiest Written Constitution	<ul style="list-style-type: none">Originally (1949), the Constitution contained a Preamble, 395 Articles (divided into 22 Parts) and 8 Schedules.Factors underlying elephantine size: Vastness of the country and its diversity, Historical factors, Single Constitution for both Centre and states and Dominance of legal luminaries in the Constituent Assembly.Presently, it consists of a Preamble, about 470 articles and 12 schedules.
Drawn from various sources	The Constitution of India has borrowed most of its provisions from the Constitutions of various other countries as well as from the Government of India Act of 1935 .

Federal System with Unitary Bias	<ul style="list-style-type: none"> The term Federation has nowhere been used in the Constitution. Article 1 provides for India as a Union of States. Federal Feature: Two governments, division of powers, written Constitution, bicameralism, supremacy of Constitution etc. Unitary/Non-federal features: Strong centre, single constitution, single citizenship, integrated judiciary, all- India services, emergency provisions.
Rigidity and Flexibility	The Indian Constitution is neither rigid (like the USA) nor flexible (like Britain), but a blend of both.
Parliamentary form of Government	<ul style="list-style-type: none"> The Indian Constitution has preferred the British Parliamentary System (Westminster model) of government over the American Presidential System of government, where Executives remain responsible to the Parliament. The Constitution establishes the Parliamentary system at Centre and also in the States. Features: Presence of nominal and real executives; Rule of majority party; Leadership of the Prime Minister or the Chief Minister; Membership of the ministers in the legislature; Dissolution of the lower house (Lok Sabha).
Synthesis of Parliamentary Sovereignty and Judicial Supremacy	<ul style="list-style-type: none"> The sovereignty of Parliament is associated with the British Parliament. Judicial supremacy is associated with the American system.
Integrated and Independent Judiciary	<ul style="list-style-type: none"> The Supreme Court stands at the top of the integrated judicial system in the country, followed by High courts in states and subordinate courts and other lower courts. Supreme Court: Highest court of appeal; Guarantor of the fundamental rights of the citizens; Guardian of the constitution. India: A single system of courts enforces both the central laws as well as the state laws. Provides for 'procedure established by law' (Article 21). USA: Federal laws are enforced by the federal judiciary and the state laws are enforced by the state judiciary. Provides for 'due process of law'.
Fundamental Rights	<p>Meant for promoting the ideals of political democracy. Part III of the Constitution guarantees six Fundamental Rights to all citizens:</p> <ol style="list-style-type: none"> Right to Equality (Article 14-18) Right to Freedom (Article 19-22) Right against Exploitation (Article 23-24) Right to Freedom of Religion (Article 25-28) Cultural and Educational Rights (Article 29-30) Right to Constitutional Remedies (Article 32)
Directive Principles of State Policy	<ul style="list-style-type: none"> It is mentioned in Part IV of the constitution. To promote the ideals of social and economic democracy. Non- justiciable in nature, i.e. they are non-enforceable by the courts for their violation. Classified into three: Socialistic, Gandhian and liberal-intellectual. Aim: To establish a 'welfare state' in India. Significance: Fundamental in the governance of the country, and it shall be the duty of the state to apply these principles in making laws.
Fundamental Duties	<ul style="list-style-type: none"> Added to the Constitution (by 42nd Amendment Act) only after the recommendations of the Swaran Singh Committee. Part IV-A of the Constitution (only one Art 51-A) specifies the 11 Fundamental Duties. Non-justiciable in nature.

Secular State	<ul style="list-style-type: none"> The term SECULAR was added to the Preamble by the 42nd CAA, 1976. Does not uphold any particular religion as the official religion of the Indian State. Western concept of secularism: Complete separation between the religion (the church) and the state (the politics). The Indian concept of secularism: Embodies the positive concept of Secularism, i.e. giving equal respect to all religions or protecting all religions equally. Articles promoting secularism: Preamble, Article 14, 15, 16, 25-30, 44.
Universal Adult Franchise	<ul style="list-style-type: none"> The voting age was reduced to 18 years from 21 years in 1989 by 61st CAA, 1988. Universal adult franchise: Basis of elections to the Lok Sabha and the state legislative assemblies.
Single Citizenship	<ul style="list-style-type: none"> India: Enjoy the same political and civil rights of citizenship all over the country. USA: Each person is not only a citizen of the USA, but also a citizen of the particular state to which he belongs.
Independent Bodies	Bulwarks of the democratic system: Election Commission, Comptroller and Auditor General, Union Public Service Commission, State Public Service Commission.
Emergency Provisions	<ul style="list-style-type: none"> Rationality behind provisions: To safeguard the sovereignty, unity, integrity and security of the country, the democratic political system and the Constitution. National Emergency (Art. 352) State Emergency or President's Rule (Art. 356 and Art. 365) Financial Emergency (Art. 360) Unique feature: During an emergency, federal structure converts into a unitary one without a formal amendment of the Constitution.
Three-tier Government	<ul style="list-style-type: none"> 73rd CAA, 1992: Constitutional recognition to Panchayats (Part IX, Schedule 11). 74th CAA, 1992: Constitutional recognition to Municipalities (Part IX-A, Schedule 12). Art. 40: Organisation of village panchayats (Gandhian principle).
Cooperative Societies	<ul style="list-style-type: none"> 97th CAA, 2011: Constitutional status and protection . Right to form co-operative societies as a Fundamental Right (Art. 19). Added a new DPSP on promotion of co-operative societies (Art. 43B). Added a new part IX-B entitled as "Co-operative Societies" (Art. 243-ZH to 243-ZT).

SOURCES OF THE CONSTITUTION

SOURCES	FEATURES BORROWED
Govt. of India Act, 1935	Federal scheme, Governor's office, Judiciary, Public Service Commission, Emergency Provisions and Administrative details.
British	Parliamentary govt., Rule of Law, Single Citizenship, Cabinet System, Parliamentary privileges, Bicameralism, and prerogative writs.
US	Fundamental Rights, Independent Judiciary, Impeachment of President, Judicial review, Removal of Supreme Court and High Court judges and post of Vice-president.
Irish	DPSP, method of election of president and nomination of members to Rajya Sabha.
Canadian	Federation with a strong centre, vesting Residuary powers to the centre, appointment of state governors by the centre and advisory jurisdiction of the Supreme Court.
Australian	Concurrent List, Joint sitting of both the Houses of Parliament.

Weimar Constitution of Germany	Suspension of Fundamental Rights during Emergency.
USSR	Fundamental Duties and the ideal of justice (social, economic and political) in the Preamble.
French	Republic and the ideals of liberty, equality and fraternity in the Preamble.
South African	Procedure for amendment of the Constitution and election of members of Rajya Sabha.
Japanese	The procedure established by Law.

Additional Information

- **Structural part of the Constitution-** Government of India Act, 1935.
- **Philosophical part of the Constitution (FR and DPSPs)** - American and Irish Constitution respectively.
- **The political part of the constitution** - British Constitution.





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4

Preamble of the Constitution

THE CONSTITUTION OF INDIA PREAMBLE

"We, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a **SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC** and to secure to all its citizens:
JUSTICE, Social, Economic and Political;
LIBERTY of thought, expression, belief, faith and worship; [UPSC 2017]
EQUALITY of status and of opportunity; and to promote among them all;
FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;
IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do **HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION**". [UPSC 2021]

Introduction

- The preamble to the Indian Constitution is based on the '**Objective Resolution**', drafted and moved by **Pandit Nehru**, and adopted by the Constituent Assembly.
- It has been **amended only once** so far by the **42nd CAA, 1976**.
 - Three **new words** were added - '**SOCIALIST**', '**SECULAR**', and '**INTEGRITY**'.
- It contains the **grand and noble vision** of the **Constituent Assembly** and reflects the **dreams**

and aspirations of the founding fathers of the Constitution. [UPSC 2017]

- It is **neither a source of power** to the legislature **nor a prohibition on the powers** of the legislature.
- It is **non-justiciable** and **non-enforceable** in a court of law.
- It was enacted by the Constituent Assembly **after the rest of the Constitution** was already enacted to ensure its **conformity** with the Constitution.
- "We the people of India"**: Emphasizes that the constitution is made **by and for the Indian people**. It emphasizes the "**concept of popular sovereignty**".

COMPONENTS OF PREAMBLE

Source of Authority of the Constitution	People of India
Nature of Indian State	Sovereign, Socialist, Secular, Democratic, Republic.
Objectives of the Constitution	Justice, Liberty, Equality, Fraternity.
Date of Adoption of the Constitution	26 November 1949

SIGNIFICANCE OF THE PREAMBLE

- Identity card of our Constitution. (**N. A Palkhivala**)
- It is the summary and philosophy of the Indian Constitution and key to the mind of the Constitution makers. Serving as a **beacon of light for the judiciary** to decide the **constitutionality of the law**, it represents the **horoscope** of the Indian democratic republic.

KEYWORDS IN PREAMBLE, MEANING AND FEATURES

SOVEREIGN: It signifies that India is a completely independent State, neither a dominion nor a dependency of any other country.

- It is free to conduct both its internal and external affairs.
- It can acquire a foreign territory or cede a part in favour of any other country.

- India declared the continuation of her full membership of the Commonwealth of Nations and accepted the British Crown as the head of the Commonwealth, this extra-constitutional declaration does not affect India's sovereignty in any manner
- India's membership of the United Nations Organisation (UNO) also in no way constitutes a limitation on her sovereignty.

SOCIALIST: The term was added by the **42nd Constitutional Amendment (1976)**.

- Socialist nature is implicit in DPSPs (Article: 36-51), but the 42nd Amendment mentioned it explicitly.
- **Indian Socialism** (It is a **blend of Marxism and Gandhism**, heavily leaning towards Gandhism)
- **Democratic Socialism:** It aims to **end poverty, ignorance, disease and inequality of opportunity**.
 - It holds faith in **the Mixed Economic model (public and private sectors coexist side by side)**.

SECULAR: The term was added by the **42nd CAA, 1976**;

- It is a part of the **Basic structure doctrine**.
- **Supreme Court (1974):** The secular State is implicitly mentioned in Art. 25-28.

- **Positive Secularism in India:** All religions have the same status and support from the state.

DEMOCRATIC: It implies the **Doctrine of popular sovereignty** or the possession of supreme power by the people.

- It signifies **Representative Parliamentary democracy** where an executive is responsible to the legislature.
- Embraces **Political, Social, and Economic democracy**.
- **Manifestation of Indian Democracy:** Universal adult franchise, periodic elections, rule of law, independence of judiciary and absence of discrimination on certain grounds.

Additional Information

INSTRUMENTS OF DIRECT DEMOCRACY	
Referendum	The procedure whereby a proposed legislation is referred to the electorate for settlement by their direct votes .
Initiative	Method by means of which the people can propose a bill to the legislature for enactment .
Recall	Method by means of which the voters can remove a representative or an officer before the expiry of his term .
Plebiscite	Method of obtaining the opinion of people on any issue of public importance . It is generally used to solve territorial disputes.

REPUBLIC: It vests political sovereignty in people. It means the absence of any privileged class, and all public offices are open to all without any discrimination.

- **Two Categories:** Monarchy (Britain) & Republic (USA/ India).
- **Indian Republic:** The Head of State (President) is indirectly elected.
- **Articles 54 and 55:** Election of the President.

JUSTICE: Inspired by the **Russian Revolution (1917)**.

- Embrace **Distributive Justice (includes Social and Economic Justice) and Political justice**
- **Social Justice:**
 - Equal treatment of all citizens without any social distinction based on caste, colour, race, religion, sex etc.
 - Absence of privileges to any particular section.
 - Improvement in the conditions of backward classes and women.
- **Economic Justice:** [UPSC 2014]

- Non-discrimination between people based on economic factors.
- Elimination of inequalities in wealth, income and property.

- **Political Justice:** Equal political rights, equal access to all political offices & equal voice in the government for all its citizens.

LIBERTY: Provides for Ideals like liberty, equality, and fraternity inspired by the **French Revolution (1789)**.

- **Absence of restraints** on the activities of individuals [UPSC 2019]
- **Providing opportunities** for the development of individual personalities.
- Preamble secures the liberty of **thought, expression, belief, faith & worship**.
- **Liberty does not mean** the license to do what one likes. Need to be enjoyed **within the limitations** mentioned in the constitution.
- Liberty is ensured in the preamble, and the fundamental Rights are **not absolute but qualified**.

Additional Information

POSITIVE LIBERTY	NEGATIVE LIBERTY
<p>One can be free only in society and not outside it. Therefore, it is the possibility of acting or the fact of acting in such a way as to take control of one's life and realize one's fundamental purposes.</p>	<p>Concerned with the inviolable area of non-interference and not with the conditions in society, i.e. absence of obstacles, barriers or constraints.</p>

EQUALITY: The preamble secures equality of **status** and of **opportunity**.

- Absence of special privileges to any section of society. **[UPSC 2017]**
- Adequate opportunities for all without discrimination.
- **Civic Equality:**
 - **Art.14:** Equality before law.
 - **Art.15:** Prohibition of discrimination on grounds of religion, race, caste, sex, and place of birth.
 - **Art.16:** Equality of opportunity in public employment.
 - **Art.17:** Abolition of untouchability.
 - **Art.18:** Abolition of titles.
- **Political Equality:**
 - **Art.325:** No one is ineligible for inclusion in the electoral rolls on the grounds of religion, race, caste or sex.
 - **Art.326:** Lok Sabha & state assembly elections based on adult franchise.
- **Economic Equality:**
 - **Art.39:** Equal right to adequate means of livelihood & equal pay for equal work to men and women.

FRATERNITY: It provides for a sense of **Brotherhood**.

- Single Citizenship promotes fraternity.
- **Article 51A:** The **fundamental duty** of every citizen to promote harmony and spirit of common brotherhood transcending **religious, linguistic, regional or sectional diversities**.
- Preamble declares that the Fraternity has to ensure the dignity of individual and the unity and integrity of the Nation.
- **Dignity of individuals** is ensured by Fundamental Rights, DPSPs, and Fundamental Duties.
- **Unity and integrity of a nation embraces** both psychological and territorial dimensions of national integration. The term **integrity** was added by the **42nd CAA, 1976**.

Union of Trinity

- **Union of Trinity (Social Democracy)** = Principles of **liberty, equality and fraternity** are not to be treated as separate items in a trinity. If any of these is absent, it will defeat the purpose of democracy.
- Without equality, liberty would produce the supremacy of the few over many. Equality without liberty would kill individual initiative.

SUPREME COURT CASES RELATED TO THE PREAMBLE

Case	Opinion of the Supreme Court (SC)
Berubari Union Case (1960)	<ul style="list-style-type: none"> • The Preamble shows the general purpose behind several provisions of the Constitution. • If terms used in articles are ambiguous, some assistance from the preamble could be taken for interpretation. • SC held that the Preamble is not a part of the Constitution.
Kesavananda Bharati Case (1973)	<ul style="list-style-type: none"> • SC: The Preamble is a part of the Constitution. (Reversed its opinion as given in the Berubari Union (1960).) • The Preamble can be amended, subject to the condition that it should not destroy the 'Basic Structure' of the Constitution.
LIC of India Case (1995)	SC again held that the preamble is an integral part of the Constitution. [UPSC 2020]



5

States and Union Territories (Part I: Article 1-4)

- Article- 1 mentions India, that is, Bharat, as a 'Union of States'.

Schedule 1: It contains the name of the States and their territorial jurisdiction.

- The territory of the state can be classified into three categories:
 - The territories of the States.
 - The Union territories specified in the First Schedule.
 - Such other territories as may be acquired.
- Territories of the states:** 28 states (2020) and 8 UTs (2020).
- Administration:**
 - States:** Members of the federal system, share distribution of powers with the Centre.
 - UT:** Directly administered by the Central government.
 - Acquired Territories:** Directly administered by the Central government.
- Former Union Territories (Now States):** Himachal Pradesh, Manipur, Tripura, Mizoram, Arunachal Pradesh, and Goa.
- Need of UTs:** Political and administrative consideration; Cultural distinctiveness; Strategic importance; Special treatment and protection of the backward and tribal people.
- UTs with High Court:** Delhi, High Court of Jammu & Kashmir became the common high court of the union territory of Jammu and Kashmir and the union territory of Ladakh.

IMPORTANT CONCEPTS

- The phrase 'Union of States' has been preferred over 'Federation of States' for two reasons:

- The Indian Federation is **not the result of an agreement** among the states like the American Federation.
- The states have **no right to secede** from the federation.
- India** is described as "an indestructible union of destructible states".
- The USA** is described as 'an indestructible union of indestructible states.' The **American Federal government**, cannot form new states or alter the borders of existing states without the consent of the states concerned.

The Constitution authorises the parliament to **form new states or alter the boundaries or names of the existing states without their consent**, i.e. the territorial integrity of existence of any state is not guaranteed by the Constitution.

- Indian territory can be ceded to a foreign state only by amending the Constitution under Article 368.
 - E.g. The 100th Constitutional Amendment Act (2015) dealt with the transfer of enclaves between India and Bangladesh.
- Supreme Court (1969):** Settlement of a **boundary dispute** between India and another country does not require a constitutional amendment. It can be done by **executive action** as it **does not involve the cession of Indian territory** to a foreign country.
- Territory of India:**
 - Wider expression** than the 'Union of India'.
 - It includes **States, Union Territories and the territories that may be acquired by the Government** of India at any future time.
 - Union of India:** Includes only **states**.

VARIOUS COMMISSIONS IN THE REORGANIZATION OF THE STATES AND UTs

DHAR Commission: Submitted its report in December 1948.

It recommended that the reorganization of states should be done on the basis of **administrative convenience** rather than linguistic factors.

JVP Committee: Formally rejected language as the basis for the reorganization of states.

- **Members:** Jawaharlal Nehru, Vallabhbhai Patel and Pattabhi Sitaramayya.
- **Constituted:** December 1948 and submitted its report in April 1949.
- In October 1953, the Government of India was forced to create the first linguistic state, known as **Andhra State**, by separating the Telugu-speaking areas from the Madras state.

FAZL ALI Commission: Broadly accepted language as the basis of the reorganization of states. Rejected the theory of 'one language-one state.' Suggested the abolition of the four-fold classification of states and territories.

- **Constituted** in December 1953.
- **Members:** Fazl Ali(Chairman), K.M. Panikkar and H.N. Kunzru.
- **Submitted its report** in September 1955.

The government accepted the recommendations of the Fazal Ali Commission with minor changes. Through the **States Reorganization Act (1956)** and the **7th Constitutional Amendment Act (1956)**, 14 states and 6 Union Territories were created on November 1, 1956.

Territory of India in 1956

States	Union Territories
Andhra Pradesh, Assam, Bihar, Bombay, Jammu and Kashmir, Kerala, Madhya Pradesh, Madras, Mysore, Orissa, Punjab, Rajasthan, Uttar Pradesh, West Bengal.	Andaman and Nicobar Islands, Delhi, Himachal Pradesh, Laccadive, Minicoy and Amindivi Islands, Manipur, Tripura.

Comparison between the States and the UTs

States	Union Territories
<ul style="list-style-type: none"> • The relationship with the centre is Federal. • Power distribution with the centre. • Have autonomy. • Uniformity in their administrative set-up. • The Governor is the constitutional head of state. • Parliament cannot make laws on the subjects of state lists in relation to states except under extraordinary circumstances. 	<ul style="list-style-type: none"> • Relationships are Unitary. • Under the direct control and administration of the centre. • They do not have autonomy. • There is no uniformity in their administrative setup. • Executive head (agent of the president): Administrator, Lt. Governor, Chief Commissioner. • Parliament can make law on any subject of the three lists in relation to union territories.

States and Union Territories created after 1956

1960	Bifurcation of Maharashtra and Gujarat.		
1961	Creation of Dadra and Nagar Haveli (10th Constitutional Amendment).		
1962	Goa, Daman, Diu (12th Constitutional Amendment). The French handed over Puducherry to India (14th Constitutional Amendment). National Capital Territory of Delhi.		
1963	Nagaland.	1987	Mizoram, Arunachal Pradesh, Goa.
1966	Chandigarh, Punjab and Haryana.	2000	Chhattisgarh, Uttarakhand, Jharkhand
1971	Himachal Pradesh.	2014	Telangana.
1974	Sikkim full-fledged State (36th Amendment).	2019	2 union territories: J&K and Ladakh.

Jammu and Kashmir Reorganization, 2019

- Till 2019, the erstwhile State of Jammu and Kashmir had its own constitution, special status by virtue of Article 370 of the Constitution of India.
- In 2019, special status was abolished by a presidential order known as "The Constitution (Application to Jammu and Kashmir) Order, 2019".
- J&K Reorganisation Act, 2019, bifurcated the erstwhile State of Jammu and Kashmir into two separate UTs:
 - UT of Jammu & Kashmir (with Legislature): Comprises all the districts of the erstwhile State of Jammu and Kashmir except Kargil and Leh districts.
 - UT of Ladakh (without Legislature): Kargil and Leh districts.

Delhi	Laws on any subject on state list (except public order, police and land) and concurrent lists.
Jammu & Kashmir	Laws on any subject on the state list (except public order and police) and concurrent list.
Puducherry	Laws on any subject on state list and concurrent list.

The Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories) Act, 2019, merged the two Union Territories.

Power of Parliament to make Laws with respect to Union Territories

- Parliament can make laws on any subject of the three lists (including the State List) and establish a high court for the Union Territories.
 - Special Provision for Delhi under Article 239AA.
 - The 69th Constitutional Amendment Act of 1991 redesignated it as the National Capital Territory of Delhi.
- The President can make regulations for the peace, progress and good government of the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, and Daman and Diu. It has the same force and effect as an act of the Parliament.
- The strength of the legislative assembly is fixed at 70 Members – directly elected by the people.
- The strength of the Council of Ministers is fixed at 10%.
- Elections are conducted by the Election Commission of India (Article 324).
- When a situation arises in which the administration of the territory cannot be carried on in accordance with the above provision, the President can suspend the above provisions and make the necessary

ADMINISTRATION OF UTs

- Article 239-241 in Part VIII.
- Administered by the President acting through an Administrator appointed by him.
- An Administrator is an agent of the President, not the head of state.
- Lieutenant Governors have been appointed for Delhi, Puducherry, Andaman And Nicobar, Jammu And Kashmir, and Ladakh.
- Administrator: Chandigarh, Dadra and Nagar Haveli and Daman and Diu and Lakshadweep.
- Legislative Assembly and Council of Ministers headed by the Chief Minister: Puducherry, Delhi, Jammu and Kashmir.
- The Constitution does not contain any separate provisions for the administration of acquired territories.

incidental or consequential provisions for administering the territory resembling Article 356.

- Lt. Governor is empowered to promulgate ordinances approved by the assembly within six weeks from its reassembly.
- In the case of a difference of opinion between the Lt. governor and his ministers, the Lt. Governor refers the matter to the president for decision and acts accordingly.

7th Constitutional Amendment Act (1956): Creation of Zonal councils in India to advise on matters of common interest.

Advisory Committees of Union Territories

- Under the Government of India (Allocation of business) Rules 1961.
- The Ministry of Home Affairs is the nodal ministry for all matters of Union Territories relating to legislation, finance and budget.
- All the five UTs without legislature (Andaman and Nicobar Islands, Chandigarh, Daman and Diu and Dadra-Nagar Haveli, Lakshadweep and Ladakh) have the forum of Home Ministers Advisory Committee(HMAC)/Administrative Advisory Committee (AAC).
 - HMAC: chaired by the Union Home Minister.
 - AAC: chaired by the Administrator of UT.

CONSTITUTIONAL PROVISIONS

Articles and their subject matter	
Article-1	Name and territory of the Union.
Article-2	Admission or establishment of new states.
Article 2A (Repealed)	Sikkim to be associated with the union.
Article-3	<ul style="list-style-type: none"> • Formation of new states, alteration of areas, boundaries or names of existing states. • In the case of States: <ul style="list-style-type: none"> ○ Bill contemplating the above changes can be introduced in the Parliament only with the prior recommendation of the President. ○ Before recommending the bill, the President has to refer the same to the state legislature concerned for expressing its views within a specified period. ○ The President (or Parliament) is not bound by the views of the state legislature. • In the case of UTs: No reference needs to be made to the concerned legislature to ascertain its views, and the Parliament can itself take any action as it deems fit.
Article-4	<ul style="list-style-type: none"> • Laws made under Articles 2 and 3 to provide for the amendment of the First and the Fourth Schedules and supplemental, incidental and consequential matters. • Article 4: Declares that laws made under Article 2 and Article 3 are not to be considered as amendments of the Constitution under Article 368.





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Citizenship (Part II: Article 5-11)

COMPARISON BETWEEN CITIZENS AND ALIENS

Citizens

- They are full members of the Indian State, and owe allegiance to it.
- Enjoy all civil and political rights.
- Citizens also owe certain duties towards the Indian State, such as paying taxes, respecting the national flag and national anthem, defending the country and so on.

Exclusive Rights of the Citizens

Fundamental rights

- **Article 15:** Right against discrimination on grounds of religion, race, caste, sex or place of birth.
- **Article 16:** Right to equality of opportunity in the matter of public employment.
- **Article 19:** Right to freedom of speech and expression, assembly, association, movement, residence and profession.
- **Articles 29 and 30:** Cultural and educational rights.

Other rights

- Right to vote in elections to the **Lok Sabha** and **State Legislative Assembly**.
- Right to contest for the membership of the Parliament and the state legislature.
- Eligibility to hold certain public offices: President of India, Vice-President of India, Judges of the Supreme Court and the High Court, Governor of states, Attorney General of India, Advocate General of states.

Aliens

- They are the citizens of some other state/country.
- **They do not enjoy all the civil and political rights.**
- They are of two categories:
 - **Friendly aliens:** The subjects of those countries that have cordial relations with India.
 - **Enemy aliens:** The subjects of that country that is at war with India. They enjoy lesser rights than the friendly aliens, e.g. they **do not enjoy protection against arrest and detention** (Article 22).

Rights to Aliens

- **Aliens:** All other rights (except Art. 15, 16, 19, 29, 30) are enjoyed.
- **Enemy aliens:** They do not enjoy protection against arrest and detention (Article 22).

Important Points to Note

- **In India:** Both a citizen by Birth as well as a **Naturalized citizen** are eligible for the office of **President**.
- **In the USA:** Only a citizen by birth and **not a naturalized citizen** is eligible for the office of President.
- **Ministry of Home Affairs (MHA)** has amended the **Foreigners (Tribunals) Order, 1964**, and has empowered **District Magistrates** in all States and UTs to set up **tribunals** (quasi-judicial bodies) **to decide whether a person staying illegally in India is a foreigner or not**.

CONSTITUTIONAL PROVISIONS RELATED TO CITIZENSHIP

- **Articles 5 to 11 under Part II.**
- It contains **neither any permanent nor any elaborate provisions** in this regard. It **only identifies** the persons who became citizens of India at the time of its commencement (on January 26, 1950).
- It **empowers the Parliament** to enact a law to provide for such matters and any other matter relating to citizenship.
- **Citizenship Act, 1955:** The Citizenship Act (1955) provides for the **acquisition** and **loss** of citizenship after the commencement of the Constitution.

Articles Related to Citizenship

Article	Matter
Article- 5	Citizenship at the time of commencement of the Constitution.
Article- 6	Citizenship of those who migrated from Pakistan to India.
Article- 7	Citizenship of those who migrated to Pakistan and then came back to India.
Article- 8	Citizenship of Persons of Indian Origin.
Article- 9	Termination of citizenship (automatic termination of citizenship upon voluntary acceptance of citizenship of any other country).
Article- 10	Continuance of the rights of citizenship (unless the Parliament has made law).
Article- 11	Parliament to regulate the right of citizenship by law. Parliament shall have the power to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship.

ACQUISITION OF CITIZENSHIP

By Birth	A person born in India - <ul style="list-style-type: none"> Between January 26, 1950 - July 1, 1987, irrespective of the nationality of his parents. After July 1, 1987 - either of his parents is a citizen. December 3, 2004, onwards - only if both or one of whose parents is a citizen of India and the other is not an illegal migrant at the time of their birth. The children of foreign diplomats posted in India and enemy aliens cannot acquire Indian citizenship by birth.
By Descent	A person born outside India - <ul style="list-style-type: none"> Between January 26, 1950 - December 10, 1992, & father was a citizen of India. After December 10, 1992 - either of his parents is a citizen. December 3, 2004 onwards - unless his birth is registered at an Indian consulate within one year of the date of birth or with the permission of the Central Government, after the expiry of the period.
By Registration	The Central Government may, on an application, register as a citizen of India any person (not being an illegal migrant) if he fulfills certain conditions, and such persons must take an oath of allegiance before they are registered as citizens of India.
By Naturalization	The Central Government may, on an application, grant a certificate of naturalization to any person (not being an illegal migrant) if he possesses certain qualifications.
By Incorporation of Territory	If any foreign territory becomes a part of India, the Government of India specifies the persons who among the people of the territory shall be the citizens of India . Such persons become citizens of India from the notified date.

LOSS OF CITIZENSHIP

The **Citizenship Act (1955)** prescribes three ways, whether acquired under the Act or prior to it under the Constitution:

By Renunciation: Any citizen of India of full age and capacity can make a declaration renouncing his Indian citizenship.

- Upon the registration of that declaration, that person ceases to be a citizen of India. However, such

registration can be withheld if that declaration is made during a war in which India is engaged.

- Every minor child of that person also loses Indian citizenship. However, when such a child attains the age of 18, he may resume Indian citizenship.

By Termination

- When an Indian citizen **voluntarily** (consciously, knowingly and without duress, undue influence or compulsion) **acquires the citizenship of another country**, his Indian citizenship automatically gets terminated.

- This provision does not apply during a war in which India is engaged.

By Deprivation

- Compulsory termination of Indian citizenship **by the Central government**, if-
 - Obtained citizenship by **fraud**;
 - Shown **disloyalty** to the Constitution of India;
 - Unlawfully traded or communicated with the enemy during a war.
- Within **5 years** after registration or naturalization, been imprisoned in any country for **2 years**; and
- Ordinarily resident out of India for **7 years** continuously.

SINGLE CITIZENSHIP

- Though the **Indian Constitution is federal and envisages a dual polity** (Centre and states), it provides for **only a single citizenship (like Canada)**. Citizens owe **allegiance only to the Union**.
- There is **no separate state citizenship**, unlike the **USA and Switzerland** where they have a system of dual citizenship.
- In India, all citizens enjoy the **same political and civil rights of citizenship** all over the country, and no discrimination is made between them. However, this general rule of the absence of discrimination is **subject to some exceptions under Articles 15,16 and 19**.

Article 15: States can provide special benefits or give preference to their residents in matters that do not come within the purview of the rights given by the constitution to Indian citizens. E.g. a state may offer **concession in fees for education** to its residents.

Article 16: The parliament can prescribe residence within a state or union territory as a condition for certain employment or appointments in that state or Union territory.

Article 19: Freedom of movement and residence is subjected to the protection of interests of any Schedule tribe. (The right of outsiders to enter, reside and settle in tribal areas is restricted to protect the distinctive culture, language, customs etc.)

CITIZENSHIP AMENDMENT ACT, 2019

- **Definition of illegal migrants:** The Act prohibits illegal migrants from acquiring Indian citizenship.
- It defines an illegal migrant as a foreigner, who enters India without a valid passport or travel documents or stays beyond the permitted time.
- **Hindus, Sikhs, Buddhists, Jains, Parsis and Christians** from **Afghanistan, Bangladesh and Pakistan** who entered India **on or before December 31, 2014**, will **not be treated as illegal migrants** and for these groups of persons, the **11 years requirement will be reduced to five years**.
- These provisions on citizenship for illegal migrants will **not apply to the tribal areas of Assam, Meghalaya, Mizoram, and Tripura** included in the **Sixth Schedule** of the Constitution.
- Further, it will **not apply to the "Inner Line" areas notified under the Bengal Eastern Frontier Regulation, 1873** applicable to Arunachal Pradesh, Mizoram, Manipur, and Nagaland.

COMPARISON BETWEEN NRI, PIO, AND OCI CARDHOLDER

NRI, PIO, and OCI Cardholder		
Non-Resident Indian (NRI)	Persons of Indian Origin (PIO)	Overseas citizens of India (OCI) Cardholder
An Indian citizen who is ordinarily residing outside India and holds an Indian Passport.	A person who or whose ancestors were of Indian nationality and who is presently holding another country's citizenship/ nationality i.e. he/she is holding a foreign passport.	A Person registered as an Overseas Citizen of India (OCI) Cardholder under the Citizenship Act, 1955 .
All benefits are available to Indian citizens subject to notifications issued by the Government from time to time.	No specific benefits.	<ul style="list-style-type: none"> Multiple lifelong visas for visiting India for any purpose (requires special permission to undertake research work in India).

		<ul style="list-style-type: none"> Exemption from registration with the Foreigners Regional Registration Officer (FRRO). Parity with NRIs in respect of all facilities available to them in economic, financial, and educational fields except in matters relating to the acquisition of agricultural or plantation properties. Treated at par with NRIs in the matter of intercountry adoption of Indian children. Treated at par with resident Indian nationals in the matter of tariffs on air fares in domestic sectors in India.
No Visa is required.	Visa required.	Can visit India without a Visa for life long.
Not required to register with the local police authorities in India.	Yes, if the period of stay is for more than 180 days.	Not required to register with the local police authorities in India.
All Activities can be undertaken.	Activities as per the type of visa obtained.	All activities except research work for which special permission is required from the Indian Mission/Post/ FRRO concerned.
He/she is an Indian citizen.	As per the Citizenship Act, 1955 , he/she has to be ordinarily resident in India for a period of 7 years before making an application for registration.	As per the Citizenship Act, 1955 , a person registered as an OCI cardholder for 5 years and who is ordinarily resident in India for twelve months before making an application for registration is eligible for a grant of Indian citizenship.

Cancellation of registration of OCI cardholders

The Act provides that the central government may cancel the registration of OCIs on certain grounds. These include:

- If the OCI has registered through fraud, or
- If, within five years of registration, the OCI has been sentenced to imprisonment for two years or more, or
- If it becomes necessary in the interest of sovereignty and security of India, or
- If the OCI has violated the provisions of the Act or of any other law as notified by the central government.
- The orders for cancellation of OCI should not be passed till the OCI cardholder is given an opportunity to be heard.



7

Fundamental Rights (Part III: Article 12-35)

These are **fundamental** for all round (material, intellectual, moral and spiritual) development. These were inspired by the **Constitution of the USA (Bill of Rights)**. Fundamental Rights in India are **more elaborate** than those found in any other country in the world, including the USA. It has been rightly described as the **Magna Carta** of India.

FEATURES OF THE FUNDAMENTAL RIGHTS

- They promote the ideal of **political democracy**.
 - They are **limitations** on the **tyranny of the executive** and **arbitrary laws of the legislature**, thereby preventing the establishment of an authoritarian and despotic rule.
 - They aim at establishing a **government of laws and not of men**.
- These are **justiciable** in nature. (a person can move to the courts for their enforcement, if and when they are violated.)
- Rights are **claims by the citizens against the state** and not vice versa. [UPSC 2017]
- **Not sacrosanct or permanent** - It can be amended by Parliament only by a constitutional amendment without affecting the 'basic structure' of the constitution.
- **Guaranteed by the Supreme Court to all persons** without any discrimination.
- **Protects the liberties and freedoms** of the people against the invasion by the State.
- They are **not absolute but qualified** - Subject to **reasonable restrictions**.
 - Whether such restrictions are reasonable or not is to be decided by the courts.
 - They strike a balance between individual liberty and social control.
- While all of them are **available against the arbitrary action of the state**, some of them are also **against the actions of private individuals**.
- Some of them are **negative** in character (placing **limitations** on the authority of the states), while others are **positive** in nature (providing certain **privileges** on the person).
- They can be **suspended** during the operation of a **National Emergency** except for the rights guaranteed by **Articles 20 and 21**.
 - The **six fundamental rights** guaranteed by **Article 19** are **automatically suspended** only on the grounds of **external aggression** (external emergency) and **not** on the grounds of armed rebellion (internal emergency).
- Their scope of operation is limited by
 - Article 31A - laws providing for acquisition of estates etc.
 - Article 31B - validation of certain acts included in the the 9th schedule.
 - Article 31C - laws giving effect to certain directive principles.

CONSTITUTIONAL PROVISIONS PERTAINING TO FUNDAMENTAL RIGHTS

Right to Equality (Article 14-18)

- Equality before the law and equal protection of laws. (Article 14)
- Prohibition of discrimination based on grounds of religion, race, caste etc. (Article 15)
- Equality of opportunity in matters of public employment. (Article 16)
- Abolition of Untouchability. (Article 17)
- Abolition of titles. (Article 18)

Right to Freedom (Article 19-22)

- Protection of **six rights** regarding freedom of (Article 19): Speech and expression; Assembly; Association; Movement; Residence; Profession.
- Protection in respect of conviction for offences. (Article 20)

- Protection of life and personal liberty. (Article 21)
- Right to elementary education. (Article 21A)
- Protection against arrest and detention in certain cases. (Article 22)

Right Against Exploitation (Article 23-24) [UPSC 2017]

- Prohibition of traffic in human beings and forced labour. (Article 23)
- Prohibition of employment of children in factories etc. (Article 24)

Right to Freedom of Religion (Article 25-28)

- Freedom of conscience and freedom to profess, practice and propagate religion of one's choice. (Article 25)
- Freedom to manage religious affairs. (Article 26)
- Freedom from payment of taxes for the promotion of any religion. (Article 27)
- Freedom from attending religious instructions or worship in certain educational institutions. (Article 28)

Cultural and Educational Rights (Article 29-30)

- Protection of language, script and culture of minorities. (Article 29)
- Right of minorities to establish and administer educational institutions. (Article 30)

Right to Constitutional Remedies (Article 32)

- Right to move the Supreme Court for enforcement of fundamental rights, including the writs of Habeas corpus, Mandamus, Prohibition, Certiorari, and Quo Warranto. (under Article 32: Part of basic structure).

Fundamental Rights available

- **Only to citizens and not to foreigners:** Articles 15, 16, 19, 29 and 30.
- **To both citizens and foreigners** (except enemy aliens) Articles 14, 20 to 28.

DEFINITION OF STATE AND LAWS INCONSISTENT WITH FUNDAMENTAL RIGHTS

Definition of State (Article 12)	Laws Inconsistent with Fundamental Rights (Article 13)
<ul style="list-style-type: none"> • As per Article 12, the term State includes Government and parliament; Government and legislature of states; All local authorities i.e. municipalities, panchayat, district boards, improvement trust etc.; All other authorities, that is, statutory or non-statutory authorities like LIC, ONGC, etc. • According to the Supreme Court even a private body or an agency working as an instrument of the state falls within the meaning of state under Article 12. 	<ul style="list-style-type: none"> • Article 13: All laws that are inconsistent with or in derogation of any of the fundamental rights shall be void (expressively provides for the doctrine of judicial review). • Term 'law' in Article 13: Permanent laws enacted by the centre and state; temporary ordinance by the President; Statutory instruments of delegated legislation (executive legislation) like order; custom or usage having the force of law. • Article 13(4) states that nothing in this article shall apply to any amendment of this constitution made under Article 368. (24th constitutional amendment, 1971) <ul style="list-style-type: none"> ○ However, in the Kesavananda Bharati case (1973), the SC held that a Constitutional amendment can be challenged on the ground if it violates a fundamental right that forms a part of the 'basic structure' of the Constitution and hence, can be declared as void.

RIGHT TO EQUALITY: ARTICLE 14-18

Article	Subject Matter
Article 14	<ul style="list-style-type: none"> • Article 14: The state shall not deny to any person “equality before the law” or the “equal protection of the laws” within the territory of India. • Equality Before Law (British Origin + Negative connotation): <ul style="list-style-type: none"> ○ Absence of any special privileges in favour of any person; ○ Equal subjection of all persons to ordinary law of land administered by ordinary law courts; ○ No person is above the law. • Equal Protection of Law (American Origin + Positive notion): <ul style="list-style-type: none"> ○ Equality of treatment under equal circumstances, both in privileges conferred and liabilities imposed by the laws; ○ Similar application of the same laws to all persons who are similarly situated; ○ Like should be treated alike without any discrimination. • The Supreme Court held that where equals and unequals are treated differently, Article 14 does not apply. • Article 14 forbids class legislation, but it permits reasonable classification of persons, objects and transactions by the law (should not be arbitrary, artificial or evasive). • Confers rights to all persons (citizens and foreigners) and includes Legal Persons. • Rule of Law (by A V Dicey) (Basic feature of the Constitution): The concept of ‘Equality before Law’ is an element of the Rule of Law. • Rule of Law has 3 fundamental principles: The first and the second elements are applicable to the Indian System (the Constitution is the source of the individual rights) <ul style="list-style-type: none"> ○ Absence of arbitrary power - applicable to the Indian System. [UPSC 2021] ○ Equality before the law - applicable to the Indian System. ○ Primacy of individual rights - Not applicable, as the constitution is the source of individual rights. • Exceptions to Equality: <ul style="list-style-type: none"> ○ Art 361: The President of India and Governor enjoy few immunities. ○ Art 361-A: No person is liable for any civil or criminal proceedings in any court in respect of publication in the newspaper (or by radio/television) of a substantially true report of any proceedings of Parliament or the state legislature. ○ Art 105: Parliamentary privilege of members of Parliament. ○ Art 194: Privileges of members of the state legislature in the legislature or any committee thereof. ○ Art 31-C: SC held that where “Art 31-C comes in, Art 14 goes out” <ul style="list-style-type: none"> ◆ It provides that the laws made by the state for implementing the directive principles contained in clause (b) or clause (c) of Article 39 cannot be challenged on the grounds that they are violative of Article 14. ○ Foreign sovereigns and diplomats enjoy immunity from criminal and civil proceedings. ○ The UNO and its agencies enjoy diplomatic immunity.
Article 15	<ul style="list-style-type: none"> • Article 15(1): The state shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth. <ul style="list-style-type: none"> ○ The word ‘only’ connotes that discrimination on other grounds is not prohibited. • Art 15(2): This provision prohibits discrimination both by the State and private individuals, while the former provision prohibits discrimination only by the State. • Art 15(3) and 15(4): Foundational bricks of reservation system in the country. • Four exceptions to this general rule of non-discrimination: <ul style="list-style-type: none"> ○ The State is permitted to make any special provision for women and children. ○ For the advancement of any socially and educationally backward classes or for SCs and STs.

	<ul style="list-style-type: none"> ○ For the advancement of any socially and educationally backward classes of citizens or for SCs and STs regarding their admission to educational institutions, including private educational institutions, whether aided or unaided by the state except minority educational institutions. ○ For the advancement of any economically weaker section (EWS) of citizens. ● Reservation for OBCs in Educational Institutions: <ul style="list-style-type: none"> ○ Exception in Article 15 (5): The 93rd Amendment Act (2005) enacted Central Educational Institutions (reservation in admission) Act, 2006, providing quota for 27% reservation for the OBCs in all central higher educational institutions including the IITs and the IIM. ○ The Supreme Court upheld the validity and directed the central government to exclude the 'creamy layer' (advanced sections) among the OBCs while implementing the law. ● Reservation for EWS in Educational Institutions: <ul style="list-style-type: none"> ○ Exception in Article 15 (6) was added by the 103rd Amendment Act of 2019. 10% reservation to EWS in admission to educational institutions was introduced. ○ EWSs who are not covered under any of the existing schemes of reservations for SCs, STs and OBCs.
Article 16	<p>Equality of opportunity for all citizens in matters of public employment or appointment to any office under the state.</p> <ul style="list-style-type: none"> ● No citizen can be discriminated against or be ineligible for any employment or office under the state on grounds of only religion, race, caste, sex, descent, place of birth or residence. ● Four exceptions to this general rule of Equality of opportunity: <ul style="list-style-type: none"> ○ Parliament can prescribe residence as a condition for certain employment or appointment in a State or UT or local authority or other authority (presently only in Andhra Pradesh and Telangana). ○ State can provide for reservation of appointments or posts in favour of any backward class that is not adequately represented in state services ○ A law can provide that the incumbent of an office related to a religious or denominational institution or a member of its governing body should belong to the particular religion or denomination. ○ State is permitted to make a provision for the reservation of upto 10% of appointment of post in favour of any citizen belonging to EWS. <div style="border: 1px solid black; padding: 5px;"> <ul style="list-style-type: none"> ● 1953: The First Backward Classes Commission was formed under the chairmanship of Kaka Kalelkar. ● 1979: under Article 340, Second Backward Classes Commission under the chairmanship of B.P. Mandal to investigate the conditions of the SEBCs (Socially and Educationally Backward Classes) and suggest measures for their advancement - <ul style="list-style-type: none"> ○ About 52%: Socially + educationally backward (excluding SCs and STs) ○ Reservation of 27% government jobs for the OBCs - total reservation would be 50%. ● 1990: V.P. Singh Govt. declared a reservation of 27% in government jobs for the OBCs. ● 1991: Narasimha Rao Govt introduced two changes: <ul style="list-style-type: none"> ○ Preference to the poorer sections among the OBCs in the 27% quota (economic criteria) ○ Reservation of another 10% in jobs for poorer sections among the higher castes. ● SC in Indra Sawhney (1992), examined the scope and extent of Article 16(4): <ul style="list-style-type: none"> ○ It upheld the constitutional validity of 27% reservation for the OBCs with certain conditions. ○ Advanced sections among the OBCs (the creamy layer) should be excluded from the list of beneficiaries of reservation. ○ Rejected the additional reservation of 10% for poorer sections. ○ Total reserved quota should not exceed 50% except in some extraordinary situations. ○ No reservation in promotions; reservation should be confined to initial appointments only. ○ Advanced sections among the OBCs should be excluded- creamy layer </div>

	<ul style="list-style-type: none"> ‘Carry Forward Rule’ in case of backlog vacancies is valid - should not violate the 50% rule. A permanent statutory body should be established to examine inclusion-exclusion purposes. NCBC (National Commission Backward Classes) was established by an Act in 1993. It was accorded constitutional status by the 102nd CAA (2018) by inserting a new Article 338-B in the constitution.
Article 17	<p>It abolishes ‘untouchability’ and forbids its practice in any form. [UPSC 2020]</p> <ul style="list-style-type: none"> The Untouchability (Offences) Act, 1955 was amended in 1976 and renamed as “Protection of Civil Rights Act, 1955”. The phrase “Untouchability” is not defined either in the Constitution or in the act. Mysore High Court: The subject matter of Article 17 is not untouchability in the literal or grammatical sense but the ‘practice as it had developed historically in the country’. Exception: Does not cover the social boycott of a few individuals or their exclusion from religious services etc. The Supreme Court, in the People’s Union For Democratic Rights case (1982), held that the right under Article 17 is available against private individuals, and it is the constitutional obligation of the state to take necessary action to ensure that this right is not violated.
Article 18	<p>It abolishes titles and makes four provisions in that regard:</p> <ul style="list-style-type: none"> It prohibits the state from conferring any title (except a military or academic distinction) on anybody, whether a citizen or a foreigner. It prohibits a citizen of India from accepting any title from any foreign state. Foreigners holding any office of profit or trust under the state cannot accept any title from any foreign state without the consent of the President. No citizen or foreigner holding any office of profit or trust under the State is to accept any present, emolument/office from/under any foreign State without the consent of the president. The Supreme Court in Balaji Raghavan Case (1996) upheld the constitutional validity of the National Awards–Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri. [UPSC 2021] <ul style="list-style-type: none"> SC ruled that these awards do not amount to ‘titles’ within the meaning of Article 18, which prohibits only hereditary titles of nobility - Maharaja, Raj/Rai Bahadur, Rai Saheb, Dewan Bahadur etc. They should not be used as suffixes or prefixes to the names of awardees. Otherwise, they should forfeit the awards. National Awards were instituted in 1954. The Janata Party government headed by Morarji Desai discontinued them in 1977. But they were again revived in 1980 by the Indira Gandhi government.

RIGHT TO FREEDOM: ARTICLE 19-22

- Article 19(1):** Guarantees to all citizens the **six rights**. These are:
 - Right to freedom of **speech and expression**.
 - Right to **assemble peaceably** and without arms.
 - Right to **form associations** or unions or cooperatives societies.
 - Right to **move freely** throughout the territory of India.
 - Right to **reside and settle** in any part of the territory of India.
 - (deleted by 44th Amendment Act of 1978) Right to acquire, hold and dispose of **property**.
 - Right to **practice any profession** or to carry on any occupation, trade or business.
- Originally, the Constitution provided for seven Fundamental Rights under Article 19. The **right to property** was deleted from the list by the **44th Amendment Act, 1978**.
- It is made a **legal right** under **Article 300-A in Part XII** of the Constitution. So, at present, there are only **six Fundamental Rights** under **Article 19**. **[UPSC 2021]**
- The Supreme Court has ruled that a fundamental right under Articles 19 and 21 **can be enforced even against private parties** other than the State or its instrumentalities.
- States can impose **reasonable restrictions on these 6 rights solely** on the grounds mentioned in **Article 19(2) itself** and **not on other grounds**.

Article	Subject Matter
Article 19 (1) (a) Freedom of Speech and Expression	<ul style="list-style-type: none"> ● The Supreme Court held that freedom of speech contains the following rights: <ul style="list-style-type: none"> ○ Right to propagate one's views as well as the views of others. (Freedom of circulation.) ○ Freedom of the press. ○ Freedom of commercial advertisements. ○ Right against tapping of telephonic conservation. ○ Right to telecast, that is, the government has no monopoly on electronic media. ○ Right against bundh called by a political party or organization. ○ Right to know about government activities. ○ Freedom of silence. ○ Right against imposition of pre-censorship on a newspaper. ○ Right to demonstration or picketing but not the right to strike. ○ Right to fly the national flag. ○ Right of voters to know the antecedents of the candidates contesting elections. ○ Right to choose the medium of instruction at the stage of primary school. ○ Right to express gender identity. ○ Right to reply (right to answer the criticism). ○ Right to post information/videos on the internet/ social media. ○ Right of film-makers to exhibit their films. ○ Right to access the internet (right to access to information via the internet) ● Article 19(2): The State can impose reasonable restrictions on the following grounds: Friendly relations with foreign states (1st CAA, 1951); Incitement to an offence(1st CAA, 1951); Public order(1st CAA, 1951); Sovereignty and integrity of India (16th CAA, 1963); Defamation; Contempt of court; Security of the state; Decency or morality.
Article 19 (1) (b) Freedom of Assembly	<p>All Citizens have the right to assemble peaceably and without arms.</p> <ul style="list-style-type: none"> ● Right to hold public meetings, demonstrations and take out processions. ● Permitted only on public land in a peaceful manner and without arms. ● Does not protect: Violent, disorderly, riotous assemblies or one that causes a breach of public peace or involves arms. ● Right does not include Right to Strike. ● Article 19(3) mentions reasonable restrictions on two grounds: Sovereignty and integrity of India; Public order, including the maintenance of traffic in the concerned area. ● Section 144 (CrPC): Magistrate can restrain an assembly, meeting or procession involving the risk of obstruction, annoyance or danger to human life, health or safety or disturbance of public tranquility or riot or any affray – invoked on many instances to tackle Covid19. ● Section 141 (IPC): Assembly of five or more persons becomes unlawful if the objective is: <ul style="list-style-type: none"> ○ To resist the execution of any law or legal process. ○ To forcibly occupy the property of some person. ○ To commit any mischief or criminal trespass. ○ To force someone to do an illegal act. ○ To threaten govt officials on exercising lawful powers.
Article 19(1)(c) Freedom of Association	<p>All citizens have the right to form associations or unions or cooperative societies:</p> <ul style="list-style-type: none"> ● Right to Form: Political Parties + companies + partnership firms + societies + clubs + organizations + trade unions or any body of persons. ● Includes the right to continue with the association. ● Includes negative right of not to form or join an association or union. ● Article 19(4) - Reasonable restrictions: Sovereignty of India + Integrity of India + Public order + Morality.

	<ul style="list-style-type: none"> Right to obtain recognition of association is not a fundamental right. Supreme Court held that trade unions have: <ul style="list-style-type: none"> no guaranteed right to effective bargaining. Have no right to strike. (It can be controlled by an appropriate industrial law.) Have no right to declare a lockout.
Article 19(1) (d) Freedom of Movement	<p>Every citizen has the right to move freely - Inter-state and Intra-state movement.</p> <ul style="list-style-type: none"> Objective: Unity of india + promotes national feeling + no parochialism. Article 19(5) - Reasonable restrictions: Interest of general public + Protection of interests of any STs. Supreme Court: The movement of prostitutes can be restricted on grounds of - public health and morals. Article 19: Internal freedom of movement - right to move inside the country. Article 21: External freedom of movement - right to move out of the country.
Article 19(1) (e) Freedom of Residence	<ul style="list-style-type: none"> Every citizen has the right to reside and settle in any part of the territory of India. (stay temporarily or set up a domicile at any place permanently.) Intended to remove internal barriers within the country. (to promote nationalism and avoid narrow-mindedness.) Article 19(5) - Reasonable restrictions: Interest of general public + Protection of interests of any ST. In many parts of the country, the tribals have been permitted to regulate their property rights in accordance with their customary rules and laws. Supreme court: Certain areas can be banned for certain kinds of persons like prostitutes and habitual offenders. Right to residence and right to movement are complementary to each other.
Article 19(1) (g) Freedom of Profession	<p>All citizens are given the right to practice any profession or to carry on any occupation, trade and business.</p> <ul style="list-style-type: none"> Very wide: covers all means of earning one's livelihood Article 19(6) - The State can impose reasonable restrictions on the exercise of this right in the interest of the general public. State is empowered to: <ul style="list-style-type: none"> Prescribe professional/ technical qualifications necessary for practising any profession or carrying on any occupation, trade or business; Carry on by itself any trade, business, industry or service whether to the exclusion (complete or partial) of citizens or otherwise. State is not required to justify its monopoly. Does not include: Right to carry on a profession or business or trade or occupation that is immoral or dangerous – state can absolutely prohibit these or regulate through licensing.
Article 20 (Protection in respect of conviction for offences)	<p>Protection against arbitrary and excessive punishment to an accused person - Citizen, or foreigner or legal person like a company or a corporation.</p> <ul style="list-style-type: none"> No ex-post-facto Law (imposes penalties retrospectively): No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act nor subjected to a penalty greater than that prescribed by the law in force at the time of the commission of an offence. <ul style="list-style-type: none"> The limitation is imposed only with respect to criminal law, not civil laws or tax laws; It cannot be claimed in case of preventive detention /demanding security from a person. No Double Jeopardy: No one shall be prosecuted and punished for the same offence more than once. Available only on proceedings before a court of law or judicial tribunal (judicial bodies). Inquiries by Dept. or administrative authorities are exceptions. No Self-Incrimination: No person accused of any offence shall be compelled to be a witness against himself (oral and documentary evidence). It only extends to criminal proceedings and not to civil proceedings. It doesn't extend to:

	<ul style="list-style-type: none"> ○ compulsory production of material objects, ○ Compulsion to give thumb impression, blood specimen, ○ Compulsory exhibition of body.
	<p>No person shall be deprived of his life or personal liberty except according to the procedure established by law. This right is available to both citizens and non-citizens.</p> <ul style="list-style-type: none"> ● Procedure established by law (borrowed from the Japanese Constitution): The validity of a law that has prescribed a procedure cannot be questioned on the ground that the law is unreasonable, unfair or unjust. ● Due Process of Law (American concept): A doctrine that not only checks if there is a law to deprive the life and personal liberty of a person but also ensures that the law is made fair and just. [UPSC 2023]
Article 21 (protection of life and personal liberty)	<p>Landmark Cases on Article 21</p> <ul style="list-style-type: none"> ● Gopalan Case (1950) <ul style="list-style-type: none"> ○ Protection under Article 21 is available against arbitrary executive action and not from arbitrary legislative action. Here the SC took a narrow interpretation of Article 21. ○ Personal liberty: only liberty relating to the person or body of an individual. ● Maneka Gandhi Case (1978) <ul style="list-style-type: none"> ○ Introduced 'due process of lawalso against arbitrary legislative action. ○ The right to life and personal liberty of a person cannot be deprived by law provided the procedure prescribed by that law is reasonable, fair and just. ○ Right to life: Right to live with human dignity. ○ Personal liberty: Widest amplitude, and it covers a variety of rights that constitute the personal liberties of a man. ○ It is a wider interpretation of Article 21. ● KS Puttaswamy Case (2017) <ul style="list-style-type: none"> ○ It held that privacy is a natural right that inheres in all-natural persons, and that right may be restricted only by state action if it passes each of three tests: <ul style="list-style-type: none"> ◆ Such state action must have a legislative mandate; ◆ It must be pursuing a legitimate state purpose; ◆ It must be proportionate. ● Hadiya Case (2017): The Supreme Court held that "The right to marry a person of one's choice is integral to Article 21 (right to life and liberty) of the Constitution". [UPSC 2019]

Rights as part of Article 21:

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| <ol style="list-style-type: none"> 1. Right to live with human dignity. 2. Right to a decent environment, including pollution-free water and air and protection against hazardous industries. 3. Right to livelihood. 4. Right to privacy. [UPSC 2021, 2018] 5. Right to shelter. 6. Right to health. 7. Right to free education up to 14 years of age. 8. Right to free legal aid. 9. Right against solitary confinement. 10. Right to speedy trial. 11. Right against handcuffing. 12. Right against inhuman treatment. 13. Right against delayed execution. 14. Right to travel abroad. 15. Right against bonded labour. | <ol style="list-style-type: none"> 16. Right against custodial harassment. 17. Right to emergency medical aid. 18. Right to timely medical treatment in government hospitals. 19. Right not to be driven out of a state. 20. Right to a fair trial. 21. Right of prisoner to have necessities of life. 22. Right of women to be treated with decency and dignity. 23. Right against public hanging. 24. Right to road in hilly areas. 25. Right to information. 26. Right to reputation. 27. Right of appeal from a judgement of conviction 28. Right to family pension 29. Right to social and economic justice and empowerment 30. Right against bar fetters |
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	<p>31. Right to appropriate life insurance policy 32. Right to sleep 33. Right to freedom from noise pollution 34. Right to sustainable development</p>	<p>35. Right to opportunity. 36. Right to decent burial/cremation. 37. Right to marry a person of one's choice. 38. Right to die with dignity. (passive euthanasia).</p>
Article 21A <small>(inserted by the 86th CAA, 2002)</small>	<ul style="list-style-type: none"> State shall provide free and compulsory education to all children of the age of 6-14 years, in such manner as the State may, by law, determine. This provision makes only elementary education a fundamental right, not higher or professional education. In pursuance of Article 21A, the Parliament enacted the Right of Children to free and Compulsory Education (RTE) Act, 2009 In the Unni Krishnan case (1993), the Supreme Court recognized a fundamental right to primary education in the right to life under Article 21. <p>86th CAA (2002): Education for All is considered the "Dawn of the second revolution in the chapter of citizen's rights"</p> <p>Other changes made by the 86th CAA, 2002</p> <ul style="list-style-type: none"> Article 45 in Part IV: The Directive principles of state policy – provision for free education Change after 86th CAA: The state shall endeavour to provide early childhood care and education to children until they complete the age of 6 years. Article 51A: It shall be the duty of every citizen of India to provide opportunities for education to his child or ward between the age of 6 and 14 years. 	
Article 22	<p>It grants protection to persons who are arrested or detained in certain cases. [UPSC 2023]</p> <ul style="list-style-type: none"> Preventive detention: Without trial and conviction by court. Punitive detention: Punishment after trial and conviction. <ul style="list-style-type: none"> Article 22 (1): Confers the rights of a person who is arrested or detained under an ordinary law. These include: <ul style="list-style-type: none"> Right to be informed of the grounds of arrest; Right to consult and be defended by a legal practitioner; Right to be produced before a magistrate within 24 hours (excluding the journey time); Right to be released after 24 hours unless the magistrate authorizes further detention. These safeguards are not available to an enemy alien or a person arrested or detained under a preventive detention law. Article 22(2): Grants protection to persons who are arrested or detained under a preventive detention law. <ul style="list-style-type: none"> Available to both citizens as well as aliens. The detention of a person cannot exceed three months unless the advisory board reports sufficient cause for extended detention. The board is to consist of judges of a High Court. Article 22 also authorizes the Parliament to prescribe circumstances and classes of cases in which a person can be detained for more than three months under a preventive detention law without obtaining the opinion of an advisory board; maximum period for which a person can be detained under a preventive detention law; procedure to be followed by an advisory board. Parliament has exclusive authority to make a law of preventive detention with respect to defence, foreign affairs and the security of India. Both Parliament and state legislatures can concurrently make a law of preventive detention for security of state, maintenance of public order, supplies & services essential to community. <p>No democratic country in the world has made preventive detention as an integral part of the Constitution as has been done in India.</p>	

RIGHT AGAINST EXPLOITATION: ARTICLE 23-24

Article	Subject Matter
Article 23	<p>Prohibition of traffic in human beings and forced labour.</p> <ul style="list-style-type: none"> • This right is available to both citizens and non-citizens. • It is available against both the State and Private persons. <p>Exception: Article 23 permits the State to impose compulsory service for public purposes. E.g. Military service or social service, for which it is not bound to pay.</p> <ul style="list-style-type: none"> • Expression 'traffic in human beings' includes selling and buying of men, women and children like goods; Immoral traffic in women and children; prostitution; Devadasis; Slavery. ○ To punish these Acts, the Parliament has implemented the Immoral Traffic (Prevention) Act, 1956. • Meaning of terms: <ul style="list-style-type: none"> ○ Begar: means compulsory work without remuneration. ○ Forced labour: means compelling a person to work against his will. • Note: The 'Age' is not mentioned in Art.23.
Article 24	<p>Prohibits the employment of children (below the age of 14 years) in any factory, mine or other hazardous activities like construction work or railway.</p> <ul style="list-style-type: none"> • It does not prohibit their employment in any harmless or innocent work. • Commissions for Protection of Child Rights Act, 2005: Enacted to provide for the establishment of National and State Commissions for Protection of Child Rights and Children's Courts for providing speedy trial of offences against children or of violation of child rights. • Supreme Court: Directed the establishment of the Child Labour Rehabilitation Welfare Fund. In 2006, the government banned the employment of children as domestic servants or workers in business establishments like hotels, dhabas, restaurants, shops etc. Anyone employing children below the age of 14 years will be liable for prosecution and penal action.

RIGHT TO FREEDOM OF RELIGION: ARTICLE- 25-28

Article	Subject Matter
Article 25	<p>All persons are equally entitled to freedom of conscience and the right to freely profess, practice and propagate religion. It includes:</p> <ul style="list-style-type: none"> • Freedom of conscience: Inner freedom of an individual to mould his relation with God or Creatures in whatever way he desires. • Right to profess: Declaration of one's religious beliefs and faith openly and freely. • Right to practice: Performance of religious worship, rituals, ceremonies and exhibition of beliefs and ideas. • Right to propagate: Transmission and dissemination of one's religious beliefs to others or exposition of the tenets of one's religion. <ul style="list-style-type: none"> ○ Right to propagate does not include a right to convert another person to one's own religion. Forcible conversions impinge on the 'freedom of conscience' guaranteed to all persons alike. • Article 25 covers: Religious beliefs (doctrines) and religious practices (rituals). • Article 25 also contains two explanations: <ul style="list-style-type: none"> ○ Wearing and carrying of kirpans is to be included in the profession of the Sikh religion; ○ Hindus include Sikhs, Jains and Buddhists. • Available to all persons: citizens as well as non-citizens. • Exceptions: Public order + Morality + Health + Other provisions relating to fundamental rights.

Article 26	<p>Freedom to manage religious affairs.</p> <p>Every religious denomination or any of its sections shall have the following rights:</p> <ul style="list-style-type: none"> • Right to establish and maintain institutions for religious and charitable purposes. • Right to manage its own affairs in matters of religion. • Right to own and acquire movable and immovable property. • Right to administer such property in accordance with law. <p>Article 25 guarantees the rights of individuals, while Article 26 guarantees the rights of religious denominations or their sections, thus protecting the collective freedom of religion.</p> <ul style="list-style-type: none"> • Restrictions: Article 26 is subject to public order, morality and health but not subject to other provisions relating to the fundamental rights. • Supreme Court held that religious denominations must satisfy three conditions: <ul style="list-style-type: none"> ○ It should be a collection of beliefs (doctrines) which they regard as conducive to their spiritual well-being. ○ It should have a common organization. ○ It should be designated by a distinctive name. <p>SC held that Ramkrishna Mission and Ananda Marga are religious denominations within the Hindu religion, while Aurobindo Society is not a religious denomination.</p>
Article 27	<p>Freedom from Taxation for Promotion of a Religion</p> <p>No person shall be compelled to pay any taxes for the promotion or maintenance of any particular religion or religious denomination.</p> <ul style="list-style-type: none"> • Provision prohibits the state from favouring, patronizing and supporting one religion over the other. • Taxes can be used for the promotion or maintenance of all religions and not any particular religion. • Provision prohibits only the levy of a tax and not a fee. <ul style="list-style-type: none"> ○ Fee can be levied on religious endowments for meeting the regulation expenditure.
Article 28	<p>Freedom from Attending Religious Instruction</p> <p>No religious instruction shall be provided in any educational institution wholly maintained out of state funds.</p> <ul style="list-style-type: none"> • Not applicable to educational institutions administered by the state but established under any endowment or trust, requiring imparting of religious instruction in such institutions. • No person attending any educational institution recognized by the state or receiving aid out of state funds shall be required to attend any religious instruction or worship in that institution without his/her consent. • Article 28 distinguishes four types of educational institutions: <ul style="list-style-type: none"> ○ Institution wholly maintained by the state - completely prohibited. ○ Institution administered by the state but established under any endowment or trust - religious instruction is permitted. ○ Institution recognised by state - permitted on a voluntary basis. ○ Institution receiving aid from the state - permitted on a voluntary basis.

CULTURAL AND EDUCATIONAL RIGHTS: ARTICLE 29-30

Article	Subject Matter
Article 29	<p>Protection of Interests of Minorities</p> <ul style="list-style-type: none"> • Rights of a group: It provides that 'any section of the citizens' residing in any part of India having a distinct language, script or culture of its own, shall have the right to conserve the same. • Right of a citizen as an individual: No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, or language. <p>Article 29 grants protection to both religious minorities as well as linguistic minorities.</p> <ul style="list-style-type: none"> • The Supreme Court held that <ul style="list-style-type: none"> ○ The term 'section of the citizens' includes minorities as well as the majority. ○ The right to conserve the language 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 compensation amount fixed by the State for the compulsory acquisition of any property of a minority educational institution shall not restrict or abrogate the right guaranteed to them. • In granting aid, the State shall not discriminate against any educational institution managed by a minority. <p>The protection under Article 30 is confined only to minorities (religious or linguistic) and does not extend to any section of citizens.</p> <ul style="list-style-type: none"> • The term 'minority' has not been defined anywhere in the Constitution. <p>The right under Article 30 also includes the right of a minority to impart education to its children in its own language.</p> <p>Minority educational institutions are of three types:</p> <ul style="list-style-type: none"> (a) Seeking recognition as well as aid from the State. They are subject to the regulatory power of the state. (b) Seeking only recognition from the State and not aid. They are subject to the regulatory power of the state. (c) Neither seeking recognition nor aid from the State. They are free to administer their affairs but subject to the operation of general laws like contract law, labour law etc. <ul style="list-style-type: none"> • The right conferred on minorities under Article 30 is only to ensure equality with the majority and not intended to place the minorities in a more advantageous position vis-à-vis the majority. There is no reverse discrimination in favour of minorities. • The right to establish and administer educational institutions is not absolute. Nor does it include the right to maladminister.

RIGHT TO CONSTITUTIONAL REMEDIES: ARTICLE 32

These contain remedies for the **enforcement of the fundamental rights** of an aggrieved citizen. The right to get the Fundamental Rights protected is in **itself a fundamental right**.

- **Four provisions in Article 32:**
 1. Right to move to the Supreme Court.
 2. The Supreme Court has the power to issue writs.

3. Parliament can empower any other court to issue directions, orders and writs of all kinds.

4. Right to move the Supreme Court shall not be suspended except as otherwise provided by the Constitution.

- The **Supreme Court** ruled that its power under Article 32 is a **Basic feature** of the Constitution.
- Violation of **Fundamental Rights** is the **sine qua non** for the exercise of the rights conferred by Article 32.
- Constitutionally, the **President can suspend the right to move any court** for the enforcement of

- Fundamental Rights during a National Emergency (**Article 359**).
- Enforcement of Fundamental Rights:** The jurisdiction of the SC is **original but not exclusive**. It is **concurrent** with the jurisdiction of the High Court under Art.226.
 - SC ruled that where relief through the High Court is available under Art.226, the aggrieved party should **first move the High Court**.
 - Article 32 cannot be invoked** to determine the constitutionality of an executive order or legislation **unless it directly infringes** any of the Fundamental Rights.

- Ambedkar:** "It is an article without which this constitution be a nullity". It's the very **soul of the Constitution** and the **very heart of it**.

WRITS: (Types and Scope)

- Borrowed from **English prerogative writs** fountain of justice.
- Parliament**, under Art.32, can **empower any other court** to issue these writs.
- The **Supreme Court** (Article 32) and **High Court** (Article 226) can issue writs, namely:

Types of Writs	Scope
Habeas Corpus	<p>Meaning: "To have the body of".</p> <ul style="list-style-type: none"> Order issued by court to the person who has detained another person, to produce the body of the latter before it. Bulwark of individual liberty against arbitrary/illegal detention Against both - private and public. Not issued when: Detention is lawful; Proceedings for contempt of court; Detention is by a competent court; Detention is outside the jurisdiction of court.
Mandamus	<p>Meaning: "we command" - Directs activity.</p> <ul style="list-style-type: none"> Command is issued by the court to a public official asking him to perform his official duties that he has failed or refused to perform. Against any public body, corporation, inferior court, tribunal or government for the same purpose. Cannot be issued: Against private individual or body; To enforce departmental instruction that does not possess statutory force; When duty is discretionary; To enforce contractual obligation; Against president or governor; against Chief Justice of High Court acting in judicial capacity. [UPSC 2022]
Prohibition	<p>Meaning: "to forbid"- Directs inactivity</p> <ul style="list-style-type: none"> Issued by a higher court to a lower court or tribunal to prevent the latter from exceeding its jurisdiction. Issued only against judicial and quasi-judicial authorities. Not available against: Administrative authorities; Legislative bodies; Private individuals and bodies.
Certiorari	<p>Meaning: 'To be certified' or 'to be informed'.</p> <ul style="list-style-type: none"> Issued by a higher court to a lower court or tribunal either to transfer a case pending with the latter to itself or to squash the order of the latter in the case. It is issued on the grounds of excess of jurisdiction or lack of jurisdiction. Unlike prohibition, which is only preventive, certiorari is both preventive as well as curative. The prohibition is issued before the final order is passed to stop the further continuance of the proceedings, whereas the certiorari is issued after the final order is passed for quashing the same. Issued against: Judicial and quasi-judicial authority. 1991 supreme court ruled: can be issued against administrative authority also – when it affects the rights of individuals. Not against: Legislative bodies and Private individuals or bodies.

Quo Warranto	<p>Meaning: "By what authority or warrant".</p> <ul style="list-style-type: none"> Issued by a court to enquire into the legality of the claim of a person to public office. Prevents illegal usurpation of public office by person. Issued only in case of substantive public office by person Cannot be issued: Ministerial office and Private office. Can be sought by any interested person, not necessarily by an aggrieved person. [UPSC 2022]
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Comparison between the writ jurisdiction of Supreme Court Vs High Court

Supreme Court (SC)	High Court (HC)
Narrower jurisdiction: can issue writs only for the enforcement of Fundamental Rights.	Wider jurisdiction: can issue writs not only for the enforcement of Fundamental Rights but also for " any other purpose " (Ordinary legal rights).
Wider territorial limitation: SC can issue writs against a person or government throughout the territory of India.	Narrower territorial limitation: HC can issue writs against a person residing or against a govt or authority located within its territorial jurisdiction only or outside only if, the cause of action arises within its territorial jurisdiction.
Mandatory: Remedy under Article 32 is in itself a Fundamental Right, SC may not refuse to exercise its writ jurisdiction.	Discretionary: Remedy under Article 226 is discretionary, HC may refuse to exercise its writ jurisdiction.

ARMED FORCES AND FUNDAMENTAL RIGHTS: ARTICLE 33-35

Article	Subject Matter
Article 33	<ul style="list-style-type: none"> Parliament can restrict or abrogate, by law, FRs in the application to: <ul style="list-style-type: none"> Members of Armed forces, Paramilitary Forces, police forces, intelligence agencies and analogous forces. Forces charged with the maintenance of public order. Parliamentary law enacted under Article 33 can also exclude the Court Martials (tribunals established under the Military law) from the writ jurisdiction of SC and HC, so far as enforcement of FR is concerned. Power to make laws under Article 33 is conferred only on Parliament and not on state legislatures. Any such law cannot be challenged in any court on the ground of contravention of any of the FR. The expression 'members of the armed forces' also covers such employees of the armed forces as barbers, carpenters, mechanics, cooks, chowkidars, bootmakers, and tailors who are non-combatants.
Article 34	<p>When Martial Law is in force in any area within the territory of India, the FRs can be restricted.</p> <ul style="list-style-type: none"> SC: declaration of martial law does not ipso facto result in the suspension of writ of habeas corpus. It empowers the Parliament to indemnify any government servant or any other person for any act done by him. The Act of Indemnity made by the Parliament cannot be challenged in any court on the ground of contravention of any of the FR. Concept of martial law: Borrowed from the English common law. The expression 'martial law' has not been defined anywhere in the Constitution. No specific or express provision in the Constitution that authorizes the executive to declare martial law, it is implicit in Article 34. <p>Martial law literally means 'military rule'. It refers to a situation where civil administration is run by the military authorities according to their own rules and regulations framed outside the ordinary law. It thus implies the suspension of ordinary law and the government by military tribunals. It is different from the military law that is applicable to the armed forces.</p>

Article 35	<p>It lays down that the power to make laws, and to give effect to certain specified fundamental rights, shall vest only in the Parliament and not in the state legislatures.</p> <ul style="list-style-type: none"> • Ensures there is uniformity throughout India with regard to the nature of those FRs and punishment. • Parliament shall have (and legislature of a state shall not have) power to make laws with respect to: <ul style="list-style-type: none"> ○ Article 16: Prescribing residence as a condition for certain employments or appointments. ○ Article 32: Empowering courts other than SC and HC to issue directions, orders and writs. ○ Article 33: Restricting or abrogating the application of FR to members of armed forces, police forces, etc. ○ Article 34: Indemnifying any government servant or any other person for any act done in martial law. ○ Parliament shall have (and the legislature of a state shall not have) powers to make laws for prescribing punishment for those acts that are declared to be offenses under the FR. These include the following: <ul style="list-style-type: none"> ◆ Article 17: Untouchability. ◆ Article 23: Traffic in human beings and forced labour. • Article 35 extends the competence of the Parliament to make a law on the matters specified above, although some of those matters may fall within the sphere of the state legislatures (State List).
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Difference between Martial Law and National Emergency

Martial Law	National Emergency (Art.352)
Affects only Fundamental Rights.	Affects not only Fundamental Rights but also the Centre-state relations, distribution of revenues and legislative powers between centre and states and may extend the tenure of the Parliament.
It suspends the government and ordinary law courts.	It continues the government and ordinary law courts.
Imposed to restore the breakdown of law and order due to any reason.	Imposed only on three grounds-war, external aggression or armed rebellion.
Imposed in some specific areas of the country.	Imposed either in the whole country or in any part of it.
No specific provision in the Constitution. It is implicit.	Specific and detailed provisions in the Constitution. It is explicit.

EXCEPTIONS TO FUNDAMENTAL RIGHTS

- **Article 31A:** Saves **five categories of laws** from being challenged for contravention of the fundamental rights conferred by **Article 14 and Article 19**. These are:
 - Acquisition of estates and related rights by the State;
 - Taking over the management of properties by the State;
 - Amalgamation of corporations;
 - Extinguishment or modification of rights of directors or shareholders of corporations;
 - Extinguishment or modification of mining leases.
- **Article 31B:** Saves the acts and regulations included in the **Ninth Schedule** (added by **First Amendment in 1951**) from being challenged for contravention of any of the fundamental rights.
 - **SC in I.R. Coelho case (2007):** No blanket immunity from judicial review of laws included in the Ninth Schedule. Judicial review is a 'basic feature' of the constitution. Such laws placed after **April 24, 1973** (the date of Kesavananda Bharati judgment), are open to challenge in court if they violated fundamental rights. **[UPSC 2018]**
- **Article 31C:** No law that seeks to implement the socialistic DPSP specified in **Art. 39(b) or (c)** shall be void on the ground of contravention of the FR conferred by **Article 14 or Article 19**.

RIGHT TO VOTE (CONSTITUTIONAL RIGHT)

- It is provided both by the Indian Constitution and the Representation of People's Act, 1951.
- Article 326 (Part XV):** Right to vote to every citizen above the age of 18.
- Section 62 of the Representation of Peoples Act (RoPA), 1951:** states that every person who is in the electoral roll of that constituency will be entitled to vote.
- 61st Constitutional Amendment 1989:** lowered the voting age of elections to the Lok Sabha and to the Legislative Assemblies of States from 21 to 18 years.

UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR)

- The General Assembly of the United Nations, on 10 December 1948, announced the **30 rights and freedoms** that belong to everyone, under the **Universal Declaration of Human Rights (UDHR)**.
- It promises to all the **economic, social, political, cultural and civic rights** for a life free from want and fear. Reflected in the principles of Fundamental rights, DPSPs, fundamental duties and the Preamble. **[UPSC 2020]**
- The structure of the **UDHR** was influenced by a set of laws formulated by **Napoléon Bonaparte** centuries before, collectively known as the **Code Napoléon**.
- The second draft was prepared by **French jurist René Cassin**, who worked on the initial draft prepared by Canadian legal scholar **John Peters Humphrey**.

RIGHTS OUTSIDE PART III

Article/Part	Description
Article 265/Part XII	No tax shall be levied or collected except by authority of law.
Article 300-A/Part XII	No person shall be deprived of his property save by authority of law.
Article 301/Part XIII	Trade, commerce and intercourse throughout the territory of India shall be free.
Article 326/Part XV	Imposed either in the whole country or in any part of it.
No specific provision in the Constitution. It is implicit.	Adult Suffrage (Right to Vote): Constitutional right. [UPSC 2017]

COMPARISON BETWEEN FUNDAMENTAL RIGHTS, DIRECTIVE PRINCIPLES, AND FUNDAMENTAL DUTIES

Fundamental Rights	DPSP	Fundamental Duties
<ul style="list-style-type: none"> Justiciable. Political justice. Legal sanction. Personal and individualistic. Automatically enforced. Courts can declare a law as unconstitutional if it violates fundamental rights. 	<ul style="list-style-type: none"> Non-justiciable. Economic + social justice. No legal sanction. Societarian and socialistic. Not Automatically enforced. Courts cannot declare it unconstitutional. 	<ul style="list-style-type: none"> Non-justiciable. Mere duties. No force of sanction as such, need special laws to enforce sanction. [UPSC 2017] Not Automatically enforced.



8

Directive Principles of State Policy (Part IV: Article 36-51)

The phrase 'Directive Principles of State Policy' denotes the **ideals that the State should keep in mind** while **formulating policies** and **enacting laws**. These are the constitutional instructions or **recommendations** to the State in legislative, executive and administrative matters.

- Dr B.R. Ambedkar described the DPSP as the '**novel feature**' of the Indian Constitution.
- Along with the Fundamental Rights, it contains the **philosophy of the Constitution** and is the soul of the Constitution.
- **Source:** Borrowed from the **Irish Constitution**, which had copied it from the Spanish Constitution.
- Resemble the '**Instrument of Instructions**' enumerated in the **Government of India Act 1935**.
- DPSP lays down the goal of Indian polity as '**Socio-economic democracy**' as distinguished from '**Political democracy**'.
- **Granville Austin:** DPSP + FR = **Conscience of the Constitution**.
- **Article 37:** These principles are **fundamental in the governance** of the country, and it **shall be the duty of the State to apply these principles** in making laws. [UPSC 2013]
- **Exceptions to DPSP:** Laws giving effect to **Art 39 (b) and (c)** of DPSPs should not be declared as unconstitutional and void on grounds of violation or contravention of **Articles 14 and 19**.
- **Minerva Mills case (1980):** Harmony and balance between FR and DPSP are an essential feature of the **basic structure** of the Constitution.

FEATURES OF DIRECTIVE PRINCIPLES OF STATE POLICY

- DPSPs constitute a very **comprehensive economic, social & political programme** for a modern democratic state.
- **Constitutional instructions or recommendations to the State** in legislative, executive and administrative matters. [UPSC 2020]
- The phrase '**State**' includes **legislative and executive organs** of the central and state governments, all local authorities and all other public authorities in the country.

- **Moral obligation** on the state authorities for their application, but the **real force behind them is political**, that is, **public opinion**.
- Enshrines **Socio-economic democracy** (which is positive in nature, unlike FR, which is negative in nature). [UPSC 2015]
- **Supplementary to the fundamental rights** of the citizens. They are **intended to fill in the vacuum in Part III** by providing for social and economic rights.
- **Sir B.N. Rau (Constitutional Advisor):** Recommended that the rights of an individual should be divided into two categories- justiciable and non-justiciable, which was accepted by the Drafting Committee (chaired by: Ambedkar).
- DPSPs embody a '**Welfare State**' and **not a Police State**. [UPSC 2020, 2015]
- DPSP aims at **realizing justice, liberty, equality & fraternity** as mentioned in the Preamble.
- **Non-justiciable:** **Not legally enforceable** by the courts for their violation or non-implementation. [UPSC 2020, 2015]
- DPSPs **help the courts** in examining and determining the **constitutional validity** of a law.
- **SC:** Any law for implementing DPSPs needs to be **reasonable** in relation to **Articles 14 & 19**.

CLASSIFICATION OF DIRECTIVE PRINCIPLES OF STATE POLICY

The **Constitution does not specify the classification** of DPSPs. On the basis of content, these are classified into Socialist, Gandhian and Liberal-intellectual.

Socialist

Reflects ideology of Socialism, lays down the framework of a democratic socialist state, aims at providing **social and economic justice**, and sets the path towards a **welfare state**.

Article 38	<ul style="list-style-type: none"> Promote the welfare of the people by securing a social order permeated by justice-social, economic and political. To minimize inequalities in income, status, facilities and opportunities (Added by 44th Amendment).
Article 39	<p>The state shall direct its policies towards securing:</p> <p>adequate means of livelihood for its citizens, men and women equally.</p> <p>that the ownership and control of material resources of the community are so distributed as best to serve the common good.</p> <p>that the operation of the economic system doesn't result in the concentration of wealth and means of production. [UPSC 2021]</p> <p>equal pay for equal work for men and women.</p> <p>preservation of health and strength of workers and children against forcible abuse.</p> <p>opportunity for the healthy development of children and the protection of childhood and youth against moral and material development. (42nd CAA, 1976).</p>
Article 39A	To promote equal justice and to provide free legal aid to the poor (42nd CAA, 1976) .
Article 41	Right to work , education, and public assistance in the event of unemployment, old age, or sickness .
Article 42	Provision for just and humane conditions of work and maternity relief .
Article 43	To secure a living wage , decent standards of life, social and cultural opportunities for all workers .
Article 43A	Take steps to secure the participation of workers in the management of industries (42nd CAA, 1976) .
Article 47	To raise the level of nutrition and the standard of living of the people & to improve public health .

Legal Services Authorities Act, 1987:

- Section 12: Free legal services** (Art.39A). It is available to Women and children, Members of SC/ST (Legal Services Authority does not mention OBCs while providing free legal services), Industrial workmen, Victims of mass disaster, violence, flood, drought, earthquakes, industrial disaster, Disabled persons, Persons in custody, Persons whose annual income does **not exceed 1 lakh** or as prescribed by the State Government, Victims of trafficking in human beings or beggars, the income ceiling limit for Transgender is **Rs. 2,00,000** and **Senior Citizens** (Not all senior citizens are eligible for free legal services, it depends on the rules framed by the respective state governments, which can prescribe income limits).

Gandhian

Based on Gandhian Ideology. Represent the **programme of reconstruction** enunciated by Gandhi **during the National Movement**.

Article 40	To organize village Panchayats (grass root-level democracy) and endow them with the necessary powers and authority to enable them to function as units of self-government. <ul style="list-style-type: none"> 73rd CAA, 1992: Constitutional recognition to Panchayats (Part IX, Schedule 11).
Article 43	Promote cottage industries on an individual or co-operative basis in rural areas.
Article 43B	To promote voluntary formation, autonomous functioning, democratic control & professional management of Co-operative Societies (97th Amendment 2011) .
Article 46	To promote the educational and economic interests of SCs, STs and other weaker sections of society, and state shall protect them from social injustice and exploitation .
Article 47	Prohibit the consumption except for medicinal purposes of intoxicating drinks and drugs.
Article 48	To raise the level of nutrition and the standard of living of the people & to improve public health .

Liberal Intellectual

To represent the ideology of **liberalism**.

Article 44	To secure for all citizens a Uniform Civil Code throughout the country. <ul style="list-style-type: none"> • Shah Bano Case (1985): In the Shah Bano case, the apex court had said that a common civil code would help the cause of national integration by removing disparate loyalties to laws having conflicting ideologies.
Article 45	To provide early childhood care and education for all children until they complete the age of 6 years (86th CAA, 2002) .
Article 48	To organize agriculture and animal husbandry on modern and scientific lines .
Article 48A	To protect and improve the environment and to safeguard forests & wildlife (42nd CAA, 1976).
Article 49	Protect monuments , places and objects of artistic or historic interests which are declared to be of national importance.
Article 50	To separate the Judiciary from the Executive in the public services of the state.. [UPSC 2020]
Article 51	To promote International peace , maintain honourable relations between nations, foster respect for international laws and treaty obligations and encourage peaceful settlements . [UPSC 2015]

NEW DIRECTIVE PRINCIPLES

Amendment	Description
42nd Amendment Act of 1976	Added Article 39(f), Article 39A, Article 43A, Article 48A . [UPSC 2017] <ul style="list-style-type: none"> • 42nd CAA (1976) shifted the five subjects from the State list to the Concurrent list – Education, Forests, Weights and measures, Protection of Wild Animals and Birds, and Administration of Justice.
44th Amendment Act of 1978	Added Article 38(2) - To minimize inequalities in income, status, facilities and opportunities.
86th Amendment Act of 2002	Added Article 45 : The amendment changed the subject - matter of Article 45 and elementary education made as FR under Article 21A.
97th Amendment Act of 2011	Added Article 43B: to promote formation, functioning and management of Co-operative Societies .

CONFLICT BETWEEN FUNDAMENTAL RIGHTS AND DPSP

Cases	Supreme Court View
Champakam Dorairajan Case 1951	<ul style="list-style-type: none"> • FR would prevail over DPSPs. • FRs can be amended by the Parliament by enacting Constitutional amendments.
Golaknath Case 1967	<ul style="list-style-type: none"> • Parliament cannot take away any of the FR (sacrosanct). • FR cannot be amended for the implementation of DPSPs.
24th Amendment 1971	<ul style="list-style-type: none"> • Parliament has the power to take away any FR by enacting a Constitutional Amendment. • Inserted Article 31C - Any law for the implementation of Art.39(b) & 39(c) shall not be void if it violates Art.14 & Art.19. • Such laws cannot be questioned in a court of law.
Kesavananda Bharati Case 1973	<ul style="list-style-type: none"> • The second provision of Article 31C was declared invalid. • Judicial review is a basic structure.
42nd Amendment 1976	<ul style="list-style-type: none"> • Any law for implementation of any DPSP shall not be void if it violates Article 14 & Article 19. • DPSPs are accorded primacy over Article 14 & Article 19.

Minerva Mills Case 1980	<ul style="list-style-type: none"> The primacy of DPSP over FR under the 42nd Amendment was declared invalid. SC: Indian Constitution is founded on the bedrock of balance between FR & DPSP.
Present position	<ul style="list-style-type: none"> Fundamental Rights enjoy supremacy over the Directive Principles. The Parliament can, however, amend the Fundamental Rights for implementing the Directive Principles, so long as the amendment does not damage or destroy the basic structure of the Constitution.

DIRECTIVES OUTSIDE PART IV

Article 335 Part XVI	Claims of SCs & STs to services.
Article 350A Part XVII	Instruction in mother tongue.
Article 351 Part XVII	Development of Hindi Language.

DIFFERENCE BETWEEN FUNDAMENTAL RIGHTS AND DPSPS

Fundamental Rights	Directive Principles
Borrowed from the Constitution of the USA.	Borrowed from the Irish Constitution of 1937.
They prohibit the State from doing certain things. Hence, Negative in nature.	They require the State to do certain things. Hence, positive in nature.
Justiciable.	Non-justiciable.
Aim: To establish political democracy in the country.	Aim: To establish social and economic democracy in the country.
Have legal sanctions.	Have moral and political sanctions.
Promote the welfare of the individual - Personal and individualistic.	Promote the welfare of the community - Societarian & Socialistic.
Do not require any legislation for implementation. Automatically enforced.	Require legislation for implementation. Not automatically enforced.
Courts can declare a law violative of any of the FR as unconstitutional and invalid.	Courts cannot declare a law violative of any of the DPSP as unconstitutional and invalid. However, they can uphold the validity of a law to give effect to a directive.

IMPORTANCE/SIGNIFICANCE OF DPSP

- Supplementary to the fundamental rights, it provides stability and continuity in domestic and foreign policies.
- Enables a favourable atmosphere for the full and proper enjoyment of fundamental rights.
- Enable the opposition to exercise influence and control over the operations of the government.
- Serve as a crucial test for the performance of the government as well as a common political manifesto.



9

Fundamental Duties (Part IV A: Article 51A)

The original constitution of India contained only the **Fundamental Rights** and **not the Fundamental Duties**.

- In **1976**, Fundamental Duties were **added to the Constitution by the 42nd CAA, 1976**. One more Fundamental Duty was added by the **86th CAA 2002**, totaling **11 duties**.
- They **help the courts** in examining and determining the constitutional validity of a law.
- Fundamental Duties are confined to **citizens only** and **not to foreigners**.
- **Supreme Court (1992)**: In determining the constitutional validity of any law, if the law in question seeks to give effect to FDs, it may consider such law to be '**reasonable' in relation to Art. 14 or Art. 19**' and thus save such law from unconstitutionality.
- **Paying taxes** (Recommended by **Swaran Singh**) and **voting in elections** are **not included** in Fundamental Duties.
- Inspired by the Constitution of the erstwhile **USSR**. **Rights are correlative with duties**. [UPSC 2017].
- **The Japanese Constitution** is the only democratic constitution in the world with a list of duties of citizens.

LIST OF FUNDAMENTAL DUTIES

It shall be the duty of every citizen of India-

1. To abide by the **Constitution** and respect its ideals and institutions, the National **Flag** and National **Anthem** (**not including the National Song**).
2. To cherish and follow the noble ideals that inspired the **struggle for freedom**.
3. To uphold and protect the **sovereignty, unity and integrity** of India. [UPSC 2015]
4. To **defend the country** and render **national service** when called upon to do so.
5. To promote the common spirit of **brotherhood** amongst all the people of India transcending **religious, linguistic** and **regional** or sectional diversities; to renounce practices derogatory to the **dignity of women**.
6. To value and preserve the rich heritage of our **composite culture**.
7. To protect and improve the **natural environment**, including forests, lakes, and wildlife, and to have **compassion for living creatures** etc.

- 8. To develop a **scientific temper, humanism** and spirit of inquiry and reform.
- 9. To safeguard **public property** and to **abjure violence**.
- 10. To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.
- 11. As a parent or guardian to provide opportunities for education to his child between the age of **6 and 14 years**. (added by the **86th Constitutional Amendment Act, 2002**).

SWARAN SINGH COMMITTEE

- In **1976**, first recommended by the Swaran Singh Committee; its need was felt during the internal emergency (1975-77). The committee suggested **eight Fundamental Duties**.
- **42nd CAA, 1976**: Added Part IV-A, Art 51A to the Constitution containing **ten** fundamental duties of citizens (**Presently 11** duties).
- Recommendations that were **not accepted** include:
 - **Penalty or punishment** for the non-performance of Fundamental Duties.
 - No law imposing such a penalty or punishment **shall be called into question in any court**.
 - **Duty to pay taxes** should also be a Fundamental Duty of the citizens.

FEATURES OF FDs

- **Confined to citizens only** and **not to foreigners**.
- **Non-justiciable** by courts. However, **Parliament can enforce this through suitable legislation**. [UPSC 2017]
- **Note:** **Duty to pay taxes** and **Duty to vote** are **not part of FDs**.
- **Verma Committee on Fundamental Duties of the Citizens (1999)**:
 - Identified the existence of legal provisions for the implementation of some FDs.
 - ◆ Ex: Wildlife Protection Act, 1972.
 - Recommended reorienting approaches to the school curriculum and teacher's education programmes and incorporating FDs in higher and professional education.



10

Amendment of the Constitution

(Part XX: Article 368)

Amending the Constitution of India is the **process of making changes to the nation's fundamental law or supreme law**.

- Amendment to the constitution feature is borrowed from the constitution of **South Africa**.
- The procedure for amending the Constitution is **neither flexible (Britain) nor rigid (USA)**. It is the **synthesis of both**.

- It states that **Parliament may amend the Constitution** but can't amend those provisions which form the **basic structure** of the Constitution (**Kesavananda Bharati case, 1973**).
- **Article 368** has been amended by the **24th and 42nd Amendments in 1971 and 1976**, respectively.

PROCEDURE FOR THE AMENDMENT OF THE CONSTITUTION (ARTICLE 368)

Introduction of bills	Constitutional Amendment Bill can be introduced only in either house of Parliament. [UPSC 2013]
Who can introduce it?	Either by a minister or private member.
President's role in the introduction of the bill	Prior permission of the President is not required to introduce the bill. [UPSC 2022]
Type of Majority needed	Special Majority: Majority of the total membership of that house (50%) + by a majority of not less than 2/3 of the members of that house present and voting (2/3 of Present & Voting). [UPSC 2022]
Bill in houses	Both houses need to pass the bill with a special majority separately.
Joint seating (Article 108)	There is no provision for a joint sitting in case of disagreement between the two Houses.
Amending federal provisions	Special majority + ratification by the legislatures of half of the states by a simple majority.
Role of the President in assenting the bill	<ul style="list-style-type: none"> • 24th constitutional amendment: It also amended Article 368 to provide expressly that Parliament has the power to amend any provision of the Constitution. The amendment further made it obligatory for the President to give his assent, when a Constitution Amendment Bill was presented to him. [UPSC 2022] • He can neither withhold his assent to the bill nor return the bill for reconsideration by the Parliament. • After the president's assent, the bill becomes an Act, and the Constitution stands amended in accordance with the terms of the Act.
The state legislature cannot introduce a constitutional amendment bill.	

TYPES OF MAJORITY

Simple Majority	<ul style="list-style-type: none"> • Majority of members of each house present and vote. • This is similar to the ordinary law-making process. • Such amendments are not considered under Art.368. <p>Example: Recently, the number of SC judges was increased from 31 to 34 by the Supreme Court (Number of Judges) Amendment Act, 2019.</p>
Special Majority	<ul style="list-style-type: none"> • Majority of total (irrespective of the vacancies/absentees) membership of each house (more than 50%) and majority of two-thirds of the members of each house present and voting. • The expression 'total membership' means the total number of members comprising the House irrespective of fact whether there are vacancies or absentees. <p>Example: 103rd amendment to provide 10% reservation to EWS.</p>
Special Majority of Parliament & Consent of States	<ul style="list-style-type: none"> • Special majority + Ratification of half (50%) of the state legislatures by a simple majority. Most of the federal provisions are amended by this method. [UPSC 2013] • If one or some or all the remaining states take no action on the bill, it does not matter; the moment half of the states give their consent, the formality is completed. There is no time limit within which the states should give their consent to the bill. <p>Example: 101st Amendment related to GST.</p>

PROVISIONS FOR MAJORITY

- **Provisions that require a Simple Majority**
 - Admission/establishment of new states. (Art.2)
 - Formation of new states and alteration of area, boundaries or names of existing states. (Art.3)
 - Second Schedule (emoluments, allowances, privileges).
 - Abolition/creation of legislative councils in states. (Art.169)
 - Quorum in parliament. (Art.100)
 - Salaries & allowances of members of the parliament. (Art.106)
 - Rules of procedure in parliament. (Art.118).
 - Use of English in parliament.
 - Number of puisne judges in SC.
 - Privileges of parliament, its members and committees. (Art.105)
 - Conferment of more jurisdiction to SC. (Art.138)
 - Use of official language. (Art.343)
 - Citizenship. (Art. 5 - 11)
 - Elections to Parliament and state legislatures.
- Delimitation of constituencies. (Art.82)
- UTs.
- Fifth Schedule. [Art. 244 (1)]
- Six Schedules. (Art. 244)
- **Special Majority**
 - Fundamental Rights.
 - DPSPs.
 - All other provisions which are not covered by the first and third categories.
- **Special Majority + Ratification of half of the States**
 - Election of the President and its manner. (Art 54 and 55)
 - Extent of executive power of the Union and the states.
 - Supreme Court and High Courts. (Art.124 & 214)
 - Distribution of legislative powers between the Union & the states.
 - Goods and services Tax council
 - Seventh Schedule (3 lists). (Art. 246)
 - Representation of states in parliament.
 - Article 368

MAJOR CONSTITUTIONAL AMENDMENTS

Amendments	Description
1 st CAA, 1951	<ul style="list-style-type: none"> Empowered the state to make special provisions for the advancement of socially and economically backward classes. Provided for the saving of laws providing for the acquisition of estates, etc. The first PM, Jawaharlal Nehru, added the Ninth Schedule to protect the land reforms and other laws included in it from judicial review. Afterwards, Art.31, 31A and 31B were inserted. [UPSC 2023] Three more grounds for restrictions on Article 19 (1) were added: Public order, Friendly relations with foreign states, and Incitement to an offence. The validity of the state's move to nationalize any business or trade and the same to not be invalid on the grounds of violation of the right to trade and business.
7 th CAA, 1952	<ul style="list-style-type: none"> Extended the jurisdiction of high courts to union territories. Provided for the appointment of additional and acting judges of the high court. The provision of having a common High Court for two or more states was introduced. Abolition of Class A, B, C and D states and reorganized them into 14 States and 6 UTs.
9 th CAA, 1960	<ul style="list-style-type: none"> Adjustments to Indian Territory as a result of Indo-Pak Agreement 1958 with Pakistan. Cession of Indian territory of Berubari Union (West Bengal) to Pakistan.
14 th CAA, 1962	<ul style="list-style-type: none"> Incorporated Puducherry in the Indian Union. Provided for the creation of legislatures and council of ministers for the Union Territories of Himachal Pradesh, Manipur, Tripura, Goa, Daman and Diu, and Puducherry.
24 th CAA, 1971	<ul style="list-style-type: none"> Affirmed the power of Parliament to amend any part of the Constitution, including Fundamental rights. Made it compulsory for the President to give his assent to a Constitutional Amendment Bill.
26 th CAA, 1971	<ul style="list-style-type: none"> Abolished the privy purses and privileges of the former rulers of princely states.
35 th CAA, 1974	<ul style="list-style-type: none"> Terminated the protectorate status of Sikkim and conferred the status of an associate state of the Indian Union. The Tenth Schedule was added, laying down the terms and conditions of the association of Sikkim with the Indian Union.
36 th CAA, 1975	<ul style="list-style-type: none"> Made Sikkim a full-fledged State of the Indian Union and omitted the Tenth Schedule.
39 th CAA, 1975	<ul style="list-style-type: none"> Election of the President, Vice President, Prime Minister and the Speaker of the Lok Sabha beyond the scrutiny of the Indian courts. Introduced during the time of Emergency 1975–1977.
42 nd CAA, 1976 (Mini Constitution)	<ul style="list-style-type: none"> Added three new words - Socialist, Secular and Integrity - in the Preamble. Added Fundamental Duties by the citizens (new Part IV A). Added four new Directive Principles viz., healthy development of children (Article 39); equal justice and free legal aid (Article 39A); the participation of workers in the management of industries (Article 43A) and protection of the environment, forests, and wildlife (Article 48A).

44th CAA, 1978	<ul style="list-style-type: none"> • Replaced the term ‘internal disturbance’ by ‘armed rebellion’ in respect of national emergency. • Made the President declare a national emergency only on the written recommendation of the cabinet. • Deleted the right to property from the list of Fundamental Rights and made it only a legal right. • Provided that the fundamental rights guaranteed by Art.20 and 21 cannot be suspended during a national emergency.
52nd CAA, 1985	Provided for disqualification of members of Parliament and state legislatures on the ground of defection and added a new Tenth Schedule containing the details in this regard.
61st CAA, 1989	Reduced the voting age from 21 years to 18 years for the Lok Sabha and state legislative assembly elections.
69th CAA, 1991	Accorded a special status to the Union Territory of Delhi by designating it as the National Capital Territory of Delhi . The amendment also provided for the creation of a 70-member legislative assembly and 7-member council of ministers for Delhi .
73rd CAA, 1992	Granted constitutional status and protection to the Panchayati Raj institutions also added a new Part-IX entitled as ‘the panchayats’ and a new ‘Eleventh Schedule’ containing 29 functional items of the panchayats.
74th CAA, 1992	Granted constitutional status and protection to the urban local bodies and facilitated the addition of a new Part IX-A entitled as ‘ the municipalities ’ and a new ‘ Twelfth Schedule ’ containing 18 functional items of the municipalities.
84th CAA, 2001	Extended the ban on the readjustment of seats in the Lok Sabha and the state legislative assemblies for another 25 years (i.e., up to 2026) with the same objective of encouraging population-limiting measures.
86th CAA, 2002	<ul style="list-style-type: none"> • Made elementary education a fundamental right under Article 21A. • Changed the subject matter of Article 45 in Directive Principles • Added a new fundamental duty under Article 51A.
89th CAA, 2003	Bifurcated the erstwhile combined National Commission for Scheduled Castes and Scheduled Tribes into two separate bodies , namely, National Commission for Scheduled Castes (Art.338) and National Commission for Scheduled Tribes (Art.338A).
97th CAA, 2011	<ul style="list-style-type: none"> • Constitutional status and protection to cooperative societies. It made the following three changes in the constitution: <ul style="list-style-type: none"> ○ It made the right to form co-operative societies a fundamental right (Article 19). ○ It included a new Directive Principle of State Policy on the promotion of co-operative societies. ○ It added a new Part IX-B in the constitution which is entitled “The Co-operative Societies”.
99th CAA, 2014	<ul style="list-style-type: none"> • Formation of a National Judicial Appointments Commission. • Note: In 2015, a five judge Constitution Bench of SC by 4:1 majority upheld the collegium system and struck down the NJAC as unconstitutional. • Justice Kehar opined: The expectation from the judiciary is to safeguard the rights of the citizens of this country, can only be ensured, by keeping it absolutely insulated and independent, from the other organs of government and the proposed NJAC violated the Independence of the Judiciary.

100th CAA, 2015	Related to the Land Boundary Agreement (LBA) between India and Bangladesh.
101st CAA, 2017	Introduced the Goods and Services Tax in the country from 1st July 2017.
102nd CAA, 2018	Constitutional status to National Commission for Backward Classes (NCBC) .
103rd CAA, 2019	Provided a maximum of 10% Reservation for Economically Weaker Sections (EWS) .
104th CAA, 2020	Extended the reservation of seats for SCs and STs in the Lok Sabha and states assemblies.
105th CAA, 2021	Exempted the state governments from consulting the National Commission for Backward Classes with regard to the preparation and maintenance of the list of socially and educationally backward classes (SEBCs) for their own purposes.
106th CAA, 2023	It reserves one-third of all seats for women in Lok Sabha, State legislative assemblies, and the Legislative Assembly of the National Capital Territory of Delhi, including those reserved for SCs and STs.

SUPREME COURT (FINAL INTERPRETER & GUARDIAN OF THE CONSTITUTION)

- The Constitution of India has **conferred a very extensive jurisdiction** and **vast powers** on the Supreme Court.
- **SC is the final interpreter and guardian of the Constitution** and also the **guarantor of the fundamental rights** of the citizens.
- **Kesavananda Bharati Case (1973):**
 - SC laid down a new doctrine of the '**basic structure**' of the Constitution.
 - Therefore, any constitutional amendment that is ultra vires or goes against the 'basic structure' of the Indian Constitution can be nullified by the SC.

CRITICISM OF THE AMENDMENT PROCEDURE

- States cannot initiate the amendment (Only Parliament can).
- States have only one way to propose the amendment i.e. create the legislative council in the state.
- The Constitution does not mention the time within which state legislatures ratify or reject the amendment.
- The Constitution is also silent on whether the states can withdraw their approval once given.
- No provision for a special body for amendment + Only in a few cases, the consent of the state legislatures is required.
- No provision for holding a joint sitting.
- Wide scope for taking matters to the judiciary due to vague provisions.



11

Evolution of Basic Structure Doctrine

Basic Structure **encompasses basic and core values which form the bedrock of the Indian Constitution**. It is a Judicially innovated doctrine which is neither defined under the Constitution nor defined by the Supreme Court or any other court. Various judgments of the Supreme Court form the bedrock of the Basic Structure Doctrine.

- Basic Structure **cannot be amended by Parliament under Art. 368**.

- **Present position:** Under Article 368, Parliament **can amend any part of the Constitution**, including the Fundamental Rights, but **without affecting the 'basic structure' of the Constitution**. The Supreme Court has yet to define or clarify what constitutes the 'basic structure' of the Constitution.

EVOLUTION OF BASIC STRUCTURE DOCTRINE

Cases	Description
Shankari Prasad Case 1951	<ul style="list-style-type: none"> • Whether parliament can curtail Fundamental Rights under Article 368 was dealt with in this case. • The constitutional validity of the 1st Amendment Act (1951), which curtailed the Right to Property, was challenged. <p>Supreme Court: Under Article 368, Parliament can amend Fundamental Rights (FR). Article 13 includes only ordinary law and not constitutional amendment law. Amendments abridging FR cannot be void under Article 13.</p>
Golaknath Case 1967	<ul style="list-style-type: none"> • The 17th Amendment (1964), which inserted certain state laws in the 9th Schedule, was challenged. • Supreme Court: FRs are transcendental and immutable. Parliament cannot abridge or take away any FR. Constitutional Amendment Acts are laws under Article 13. So, any amendment violating FR would be void under Article 13.
Parliament's Reaction to Golaknath Case	<ul style="list-style-type: none"> • 24th Amendment Act (1971): The act amended Articles 13 and 368. • Parliament can take away any FR under Article 368, and such acts are not laws under Article 13.
Kesavananda Bharati Case 1973	<p>Supreme Court: Overruled its judgment in the Golaknath Case (1967) and upheld the 24th Amendment.</p> <ul style="list-style-type: none"> • The basic Structure Doctrine was laid down by SC. • Parliament cannot alter the basic structure of the Constitution. • Parliament cannot take away FR that forms the Basic Structure Doctrine.
39th Amendment 1975	Election disputes between the PM and the Speaker of LS were kept outside the jurisdiction of the court, affected basic structure.
Indira Nehru Gandhi Case 1975	Supreme Court: Invalidated 39th Amendment. Judicial review is a basic structure.
42nd Amendment 1976	Amended Article 368 , no limitations on constituent power of parliament and no amendment can be questioned in courts.

Minerva Mills Case 1980	<ul style="list-style-type: none"> Invalidated above changes under the 42nd Amendment. Judicial review is a basic structure of the constitution.
Waman Rao case 1981	Again, the Supreme Court adhered to the doctrine of the 'basic structure' and clarified that it would apply to constitutional amendments enacted after April 24, 1973 (Kesavananda Bharati case).
IR Coelho vs State of Tamil Nadu, 2007	The SC ruled that all laws (including those in the Ninth Schedule) would be open to Judicial Review if they violated the basic structure of the Constitution.
99th Constitutional Amendment: Provided National Judicial Appointment Commission (NJAC) in place of Collegium System for appointment of judges. SC said the amendment is invalid as the independence of the judiciary is a basic structure .	

ELEMENTS OF BASIC STRUCTURE

From the various judgements, the following have emerged as 'basic features':

Separation of powers between the legislature, the executive and the judiciary	Sovereign, democratic and republican nature of the Indian polity.
Secular character of the Constitution.	Supremacy of the Constitution.
Federal character of the Constitution.	Unity and integrity of the nation.
Welfare state (socio-economic justice).	Judicial review.
Freedom and dignity of the individual.	Parliamentary system.
Rule of law.	Principle of equality.
Free and fair elections.	Independence of Judiciary.
Balance between Fundamental Rights and Directive Principles.	Limited power of Parliament to amend the Constitution.
Effective access to justice.	Principles (or essence) underlying fundamental rights.
Powers of the Supreme Court under Articles 32, 136, 141 and 142.	Powers of the High Courts under Articles 226 and 227.



12

Parliamentary and Federal System of Government

The Constitution of India provides for a parliamentary form of government (**the executive is responsible to the legislature for its policies and acts**), both at the Centre and in the states. [UPSC 2017]

- It is also known as the Cabinet government/ Responsible government/ Westminster model of government and is prevalent in Britain, Japan, Canada, and India, among others.

- Articles for Parliamentary system:
 - Center:** Article: 74 & 75.
 - States:** Article: 163 & 164.
- SR Bommai Case (1994):** The Supreme Court laid down that the Constitution is federal and characterized **federalism** as its **basic feature**.

FEATURES

Indian Parliamentary Government	American Presidential Government
Nominal & Real (Dual) Executives <ul style="list-style-type: none"> President is the Nominal executive (de jure), Head of State, while, the Prime Minister is the Real executive (de facto), Head of Government. 	The President is both the Head of State and Head of the Government.
Majority Party Rule <ul style="list-style-type: none"> The political party with majority seats in Lok Sabha forms the government. The leader of that party is appointed as PM by the President, and Ministers are appointed by the President on the advice of the PM. If no single party secures a majority, the President invites a coalition of parties. 	The President is elected by the electoral college for a fixed term of four years. <ul style="list-style-type: none"> The President cannot be removed by Congress except by impeachment for a grave unconstitutional act.
Collective Responsibility <ul style="list-style-type: none"> The bedrock of parliamentary government. Article 75: The Council of Ministers (CoM) are collectively responsible to the Lok Sabha. [UPSC 2015] Lok Sabha can remove CoM by passing a no-confidence motion. 	The President and his secretaries are not responsible to Congress for their acts.
Political Homogeneity <ul style="list-style-type: none"> Single party majority: Members of CoM are from the same political party - same ideology. Coalition government: Council of ministers are bounded by consensus. 	The cabinet is a Non-elected advisory body . <ul style="list-style-type: none"> It is selected and appointed by the President. <ul style="list-style-type: none"> Responsible only for him. Removed by him.
Double Membership <ul style="list-style-type: none"> Ministers are members of both the legislature and the executive. A Minister who is not a member of the parliament for six consecutive months ceases to be a minister. 	<ul style="list-style-type: none"> The President and his Secretaries are not members of Congress, nor do they attend its sessions. There is a complete Separation of Power between the legislature and the executive.

Dissolution of Lower House	<ul style="list-style-type: none"> The President can dissolve Lok Sabha before the expiry of the term on the recommendation of the PM. The President cannot dissolve the House of Representatives (Lower House of Congress).
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MERITS & DEMERITS

Merits	Demerits
<ul style="list-style-type: none"> Stable government. Definiteness in policies. Based on separation of powers. Government by experts. 	<ul style="list-style-type: none"> Conflict between legislature and executive. Non-responsible government. May lead to autocracy. Narrow representation.

Merits & Demerits of the Parliamentary System

Merits	Demerits
Harmony between legislature & executive <ul style="list-style-type: none"> Cooperation and interdependence among the executive and legislature. Less dispute and conflict between two organs. 	Unstable government Govt. may lose its majority due to no-confidence motion, political defection or breakdown of coalition.
Responsible Government <ul style="list-style-type: none"> Ministers are responsible to the Parliament for their acts. [UPSC 2020] Parliament's control over the executive: Question Hour, discussions, debates, adjournment motion, no-confidence motion. 	No Continuity in policies <ul style="list-style-type: none"> Change in government brings a change in policies. This is a roadblock in policy formulation & implementation in the long term.
Prevents despotism <ul style="list-style-type: none"> Executive authority is not vested in a single person but in CoM. Prevents dictatorship of the executive. 	Dictatorship of cabinet <ul style="list-style-type: none"> Ruling party with an absolute majority in the cabinet is all powerful. All policies are decided by the Cabinet.
Ready alternative govt. <ul style="list-style-type: none"> The opposition party provides an alternative government if the ruling party loses the majority. 	Against separation of powers: <ul style="list-style-type: none"> CoM and Cabinet are part of the legislature. Cabinet: leader of legislature and executive.
Wide representation <ul style="list-style-type: none"> CoM provides representation to all sections & regions in the government. 	Govt by amateurs <ul style="list-style-type: none"> Ministers are not experts in their fields of administrative efficiency. Ministers can only be from parliament. The PM has no choice but to select outside experts.

Reasons for adopting the Parliamentary System

- Familiarity with the system due to British Rule.
- Preference for more responsibility, unlike in the Presidential system.
- Need to avoid Legislative-Executive Conflict like in the USA, where there is a complete separation of powers.
- Nature of Indian society, i.e., heterogeneous sections, linguistic, religious, and ethnic diversity.
- The Parliamentary system gives wider representation.

DISTINCTION BETWEEN INDIAN AND BRITISH MODELS

Indian Model	British Model
Republican system: Head of State (President) is indirectly elected.	Monarchical system: Head of the State (King/Queen) is hereditary.

Constitutional supremacy.	Parliamentary sovereignty.
The PM may be a member of any of the houses .	The PM should be a member of the Lower House .
A person who is not a member of any house can be appointed as minister, but only for six months.	Usually, members of parliament are appointed as ministers.
No system of legal responsibility of ministers. Ministers are not required to countersign the official acts.	System of legal responsibility of the minister. Ministers are required to countersign the official acts.

FEATURES OF FEDERAL AND UNITARY SYSTEM

Federal	Unitary
Dual Government (National government + Regional government).	Single government (the national government, which may create regional governments).
Written Constitution.	The Constitution may be written (France) or unwritten (Britain).
Division of powers between national and regional governments.	No division of powers. All powers are vested in the national government.
Supremacy of the Constitution.	The Constitution may be supreme (Japan) or may not be supreme (Britain).
Rigid Constitution.	Constitution may be rigid (France) or flexible (Britain).
Independent judiciary. [UPSC 2021]	The judiciary may be independent or may not be independent.
Bicameral legislature.	Legislature may be bicameral (Britain) or unicameral (China).

FEDERAL SYSTEM OF COI

- The USA is the **first** and **oldest federation** in the world. It was formed in **1787** following the **American Revolution (1775-83)**.
- The Constitution of India **provides for a federal system of government** in the country; however, the term **federation has nowhere been used** in the Constitution.
- Indian Federalism is **not a result of agreements** among states, unlike the USA. [UPSC 2018]
- The Indian federal system is **based on the "Canadian model"** and **not on the "American model"**. The Indian federation resembles the Canadian federation:
 - in its formation (i.e., by way of disintegration);
 - in its preference for the term **Union** in its centralizing tendency
- The Supreme Court of India also describes it as a **federal structure with a strong bias towards the Centre**.
- The federalism in India represents a compromise between the following two conflicting considerations:
 - normal division of powers under which states enjoy autonomy within their own spheres; and
 - need for national integrity and a strong Union government under exceptional circumstances.
- **The main reasons for adoption:** Large size of the country and its sociocultural diversity.
- **Ideals:** Federal system not only ensures the efficient governance of the country but also reconciles national unity with regional autonomy.
- **Article 1:** Describes India as a Union of **States**.
- **According to Dr. B.R. Ambedkar**, the phrase **Union of States** has been preferred to **Federation of States** to indicate two things:
 - Indian Federation is **not the result of an agreement** among the states like the American Federation;
 - States have **no right to secede from the federation**. The federation is a union because it is **indestructible**.
- **Unitary model of government:** Britain, France, Japan, China, Italy, Belgium, Norway, Spain etc
- **Federal model of government:** US, Switzerland, Australia, Canada, Russia, Brazil, Argentina and so on.

DESCRIPTION OF INDIAN FEDERATION

- **Paul Appleby** characterizes the Indian system as **extremely federal**.
- **Morris Jones** termed it as **bargaining federalism**.
- **Ivor Jennings** described it as a **federation with a strong centralizing tendency**. He observed that “the Indian Constitution is mainly federal with unique safeguards for enforcing national unity and growth”.

- **Alexandrowicz** stated that “India is a case **sui generis** (i.e., unique in character).
- **Granville Austin** called Indian federalism as a **“cooperative federalism”**. He also described the Indian federation as “a new kind of federation to meet India’s peculiar needs”.
- **KC Wheare**: India is regarded as a semi-federal state or a **quasi-federal state**.

UNITARY FEATURES OF THE CONSTITUTION

Strong Centre	States not Indestructible	Single Constitution
Flexible Constitution	No equality of State Representation	Emergency provisions
Single citizenship	Integrated judiciary	All-India Series
Integrated Audit Machinery	Parliamentary authority over State List	Appointment of Governor
Integrated Election Machinery	Veto over State Bills	

Trends of Federal Spirit

- Territorial disputes between states, for example, between Maharashtra and Karnataka over Belgaum.
- Disputes between states over sharing of river water, for example, between Karnataka and Tamil Nadu over Cauvery Water.
- The emergence of regional parties and their coming to power in states like Andhra Pradesh, Tamil Nadu, etc.
- The creation of new states to fulfil the regional aspirations, for example, Mizoram or Jharkhand;
- Demand of the states for more financial grants from the Centre to meet their developmental needs;
- Assertion of autonomy by the states and their resistance to the interference from the Centre;
- Supreme Court's imposition of several procedural limitations on the use of Article 356 (President's Rule in the States) by the Centre.

- A constitution can merely be a **set of fixed norms or principles** or a **legal instrument accepted in the country as a framework** for the polity of the country.
- The Constitution of a country is the **supreme law of the land**.
- It is empowered with the **sovereign authority of the people** (we the people) by the framers and the consent of the legislatures of the states,
- It is the **source of all government powers** and also provides **important limitations on the government** that protect the fundamental rights of citizens. [UPSC 2023, 2014]
- It is a **collection of fundamental principles or established precedents** according to which a state or other organization is acknowledged to be governed.
- Its major impact is the **limit that it puts on the sovereign governments on how to rule and govern**. Therefore a constitutional government is a limited government. [UPSC 2020]
- In India the powers of the **government are limited by means of the Fundamental Rights (Part III)** of the Indian Constitution, which are essentially given to us against the state actions.

CONSTITUTIONAL GOVERNMENT

- A constitutional government is **one that is limited by the terms of the constitution of the country**. [UPSC 2021]



13

Centre-State Relations

The Constitution of India, being federal in structure, **divides** all powers (**legislative, executive** and **financial**) between the Centre and the states. However, there is **no division of judicial power**. The constitution provides for an **integrated judiciary** which implements both the central and state laws.

LEGISLATIVE RELATIONS (PART XI: ARTICLE 245-255)

Territorial extent of Central and state legislation

- Parliament and State legislature can make laws for the whole or any part of the territory of India and State, respectively.
- **Extraterritorial legislation** (Indian citizens and their property in any part of the world) = By Parliament alone.
- Constitutional restrictions on the territorial jurisdiction of the parliament:
 - **The President can make regulations for the peace, progress and good governance of the four UTs** - Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli and Daman and Diu and Ladakh. It has the same force and effect as an act of Parliament. It may also repeal or amend any act of Parliament in relation to these union territories.
 - **Governor is empowered to direct that an act of Parliament does not apply to a Scheduled Area** in the state or apply with specified modifications and exceptions.
 - **Governor of Assam may likewise direct** that an act of Parliament **does not apply to a Tribal Area (autonomous district)** in the state or apply with specified modifications and exceptions. **The President enjoys the same power with respect to Meghalaya, Tripura and Mizoram.**

Distribution of legislative subjects

The Government of India Act of 1935 provided for a three-fold enumeration, viz., federal, provincial and concurrent.

- **Union/Center list:** 97 (Present - 98). Parliament has exclusive powers to make laws.
- **State list:** 66 (Present - 59). State legislature has "in normal circumstances" exclusive powers to make laws.
- **Concurrent list:** 47 (Present - 52). Both, the Parliament and state legislature can make laws with respect to any of the matters enumerated in the Concurrent List.
- The power to make laws with respect to **residuary subjects** (i.e., the matters which are not enumerated in any of the three lists) is vested in the Parliament. This residuary power of legislation includes the power to levy residuary taxes.
- The Parliament has power to make laws with respect to any matter for any part of the territory of India not included in a state even though that matter is one which is enumerated in the State List. This provision has reference to the Union territories or the Acquired territories (if any).
- **101st Amendment Act, 2016:** Parliament/ state legislature has the power to make laws with respect to goods and services tax imposed by the Union/ State. Parliament has exclusive power to make laws concerning goods and services tax where the supply of goods or services or both takes place in the course of inter-state trade or commerce.
- **Which laws prevail?**
 - **Union list > Concurrent list > State list.**
 - Normally, Central law prevails over the state law. But there is an exception. If the state law has been **reserved for the consideration of the president and has received his assent**, then the **state law prevails in that state.**

Parliamentary legislation in the state field

- **When Rajya Sabha Passes a Resolution**
 - Necessary in the national interest
 - Must be supported by 2/3 of the members present and voting. **[UPSC 2016]**
 - Resolution remains in force for one year. It can be renewed any number of times but not exceeding one year at a time.
 - The laws cease to have effect on the expiration of six months after the resolution has ceased to be in force.

- **During a national emergency**
 - Parliament acquires the power to legislate with respect to GST/ matters in the State List. The laws become inoperative on the expiration of six months after the emergency has ceased to operate.
 - Power of a state legislature to make laws on the same matter is not restricted. But, in case of repugnancy between a state and parliamentary law, the latter prevails.
- **When state makes a request**
 - legislatures of two or more states pass resolutions requesting the Parliament to enact laws on a matter in the State List. Law applies only to those states which have passed the resolutions. Any other state may adopt later by passing a resolution to that effect
 - Law can be amended or repealed only by the Parliament. The state legislature ceases to have the power to make a law with respect to that matter.
- **To implement international agreements [UPSC 2013]**
 - international treaties, agreements or conventions that fulfill international obligations and commitments. Eg: Geneva Convention Act.
- **During President's Rule**
 - Law made so by the Parliament continues to be operative even after the president's rule. It can be repealed or altered or re-enacted by the state legislature.

Centre's control over state legislation

- Governors can reserve certain types of bills passed by the State Legislature for consideration of the President. The President enjoys absolute veto over them (**Articles 200 and 201**).
- Bills on certain matters in the State List can be introduced in the state legislature only with **previous sanction of the president**. E.g. Bills imposing restrictions on freedom of trade and commerce (**Art. 304**).
- Reserve money bills and other financial bills passed by the state legislature for President's consideration during a financial emergency.
- Governors can not make an ordinance without instructions from the President in certain cases (**Article 213**).

ADMINISTRATIVE RELATIONS (PART XI: ARTICLE 256-263)

Distribution of executive power

- Coextensive with legislative powers, **except in a few cases**. However, laws on concurrent lists are executed

by states except when a Constitutional provision or a parliamentary law specifically confers it on the Centre.

Obligation of states and the centre

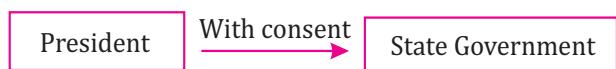
- **Art.256:** Power of state should be exercised to ensure compliance to laws of the Parliament and GOI can also give direction for that.
- Two restrictions on the executive power of the states:
 - to ensure compliance with the laws made by the Parliament
 - not to impede or prejudice the exercise of executive power of the Centre.
- **Article 365:** says that where any state has failed to comply with (or to give effect to) any directions given by the Centre, Presidents rule may be applied.

Centre's Directions to the States (Art. 257)

- Centre is empowered to give directions to the states with regard to:
 - construction and maintenance of means of communication (declared to be of national or military importance) by the state;
 - protection of the railways within the state;
 - adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups in the state; and
 - drawing up and execution of the specified schemes for the welfare of the Scheduled Tribes in the state.
- The coercive sanction behind the Central directions under Article 365 (mentioned above) is also applicable in these cases.

Centre → Legislative Power → X State

Entrustment of Executive Power:



Mutual Delegation of Functions

- This mutual delegation of administrative functions may be conditional or unconditional

Cooperation between Center and state

Full Faith and credit to public acts, records, and judicial proceedings of Centre and states (Article 261).



- Parliament can appoint an appropriate authority to carry out the purposes of the constitutional provisions relating to the interstate freedom of trade, commerce and intercourse. No such authority has been appointed so far.

All India Services (Art 312)

- Art 312:** Constitution authorizes the Parliament to create new **All-India Services** (AIS) on the basis of a Rajya Sabha resolution.
- AIS are **controlled jointly by the Centre and the states**. The ultimate control lies with the Central government while the immediate control vests with the state governments.

Public Service Commissions

- Chairman and members of a SPSC:** appointed by the governor of the state, can be removed only by the President.
- Joint State Public Service Commission:** Parliament can establish a JSPSC for two or more states on the request of the state legislatures concerned. Chairman and members of the JSPSC are **appointed by the President**.
- UPSC can serve the needs of a state on the request** of the state governor and with the approval of the President.
- UPSC assists the states** (when requested by two or more states) in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualifications are required.

Integrated Judicial System

- No dual system of administration of justice. Established an integrated judicial system with the Supreme Court at the top and the state high courts below it.
- Parliament can establish a common high court for two or more states. Ex: Maharashtra and Goa or Punjab and Haryana.

Relations During Emergencies

- National Emergency (Art.352):** the Centre becomes entitled to give executive directions to a state on 'any' matter.
- President's Rule (Art. 356):** The President can assume to himself the functions of the state government and

powers vested in the Governor or any other executive authority in the state.

- Financial Emergency (Art. 360):** the Centre can direct the states to observe canons of financial propriety and can give other necessary directions including the reduction of salaries of persons serving in the state.

Other provisions

- Article 355:** To protect states against external aggression and internal disturbance; To ensure state governments should be carried on in accordance with the provisions of the Constitution.
- Governor:** Appointed by President; Acts as an agent of Center.
- State election commissioner:** Appointed by Governor; Removed by President.

Extra-Constitutional Devices: NITI Aayog + National Integration Council + Zonal Councils + North-Eastern Council.

FINANCIAL RELATIONS (PART XII: ARTICLE 264-293)

- Art. 265:** Taxes not to be imposed except by authority of law

Allocation of taxation powers

- Parliament/state legislature has exclusive power to levy taxes on subjects enumerated in the Union/state List.
- The **residuary power is vested in the Parliament**. Under this provision, the Parliament has imposed **gift tax, wealth tax and expenditure tax**.
- There are no tax entries in the Concurrent List. In other words, the concurrent jurisdiction is not available with respect to tax legislation.**
 - The 101st Amendment Act of 2016 has made an exception by making a special provision with respect to GST. This Amendment has conferred concurrent power upon Parliament and State Legislatures to make laws governing GST.
- The Constitution along with some restrictions on the taxing power of the states, also draws a distinction between the power to levy and collect a tax and the power to appropriate the proceeds of the tax so levied and collected.

Distribution of Non-tax Revenues

- Major sources of non-tax revenues of the Centre: (i) posts and telegraphs; (ii) railways; (iii) banking; (iv) broadcasting (v) coinage and currency; (vi) central public sector enterprises; (vii) escheat and lapse;19 and (viii) others.

- Major sources of non-tax revenues of the states: (i) irrigation; (ii) forests; (iii) fisheries; (iv) state public sector enterprises; (v) escheat and lapse;²⁰ and (vi) others

Grants in Aid to States

Statutory Grants	Discretionary Grants				
Art. 275: grants to the states which are in need of financial assistance and not to every state. Charged on the Consolidated Fund of India every year.	Art 282: empowers both the Centre and the states to make any grants for any public purpose, even if it is not within their respective legislative competence.				
The Constitution also provides for specific grants for promoting the welfare of the scheduled tribes in a state or for raising the level of administration of the scheduled areas in a state (including the State of Assam).	These grants are also known as discretionary grants, the reason being that the Centre is under no obligation to give these grants and the matter lies within its discretion.				
The statutory grants under Art. 275 are given to the states on the recommendation of the Finance Commission .	These grants are to help the state financially to fulfill plan targets and to give some leverage to the Centre to influence and coordinate state action to effectuate the national plan.				
Supremacy of the Constitution.	The Constitution may be supreme (Japan) or may not be supreme (Britain).				
Other Grants	<ul style="list-style-type: none"> The Constitution also provided for a third type of grants-in-aid, but for a temporary period. A provision was made for grants in lieu of export duties on jute and jute products to the States of Assam, Bihar, Orissa and West Bengal. These grants were to be given for a period of ten years from the commencement of the Constitution. These sums were charged on the Consolidated Fund of India and were made to the states on the recommendation of the Finance Commission. 				
Protection of the State's interest	<ul style="list-style-type: none"> Following bills can be introduced in the Parliament only on the recommendation of the President (Art.274): <ul style="list-style-type: none"> Bill which imposes or varies any tax or duty in which states are interested; Bill which varies the meaning of the expression "agricultural income"; Bill which affects the principles on which money are or may be distributable to states; Bill which imposes any surcharge on any specified tax or duty for the purpose of the center. "tax or duty in which states are interested": <ul style="list-style-type: none"> a tax or duty the whole or part of the net proceeds whereof are assigned to any state; or a tax or duty by reference to the net proceeds whereof sums are for the time being payable, out of the Consolidated Fund of India to any state. 'net proceed'(Art. 279): the proceeds of a tax or a duty - the cost of collection. It is ascertained and certified by the CAG. His certificate is final. 				
Borrowing by the Centre and the States	<table border="1"> <thead> <tr> <th>Center (Art. 292)</th><th>State (Art. 293)</th></tr> </thead> <tbody> <tr> <td> <ul style="list-style-type: none"> Can borrow on CFI (Within + Outside India) within limits fixed by parliament. Can make loans to any state or give guarantees in respect of loans raised by any state. </td><td> <ul style="list-style-type: none"> Cannot raise any loan without center consent (If there is an outstanding loan to center) Can borrow on CFS (Within not outside India) within limits fixed by parliament </td></tr> </tbody> </table>	Center (Art. 292)	State (Art. 293)	<ul style="list-style-type: none"> Can borrow on CFI (Within + Outside India) within limits fixed by parliament. Can make loans to any state or give guarantees in respect of loans raised by any state. 	<ul style="list-style-type: none"> Cannot raise any loan without center consent (If there is an outstanding loan to center) Can borrow on CFS (Within not outside India) within limits fixed by parliament
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Exemption of Union property from taxation of state (Art. 285)	<ul style="list-style-type: none"> Centre's property is exempted from all taxes imposed by a state or any authority within a state like municipalities, district boards, panchayats and so on. But the Parliament is empowered to remove this ban. The property may be used for sovereign (like armed forces) or commercial purposes. The corporations or the companies created by the Central government are not immune (as they are separate legal entities) from state taxation or local taxation. 				
Exemption of State property from central taxation (Art. 289)	<ul style="list-style-type: none"> The property and income of a state is exempted from Central taxation. Such income may be derived from sovereign functions or commercial functions. But the Centre can tax the commercial operations of a state if Parliament provides so. The property and income of local authorities situated within a state are not exempted from the Central taxation. Likewise, the property or income of corporations and companies owned by a state can be taxed by the Centre. The Centre can impose customs duty on goods imported or exported by a state, or an excise duty on goods produced or manufactured by a state - advisory opinion of the Supreme Court, 1963. 				
Effects of Emergency	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center; padding: 5px;">National Emergency (Art. 352)</th><th style="text-align: center; padding: 5px;">Financial Emergency (Art. 360)</th></tr> </thead> <tbody> <tr> <td style="padding: 10px;"> <ul style="list-style-type: none"> The President can modify the constitutional distribution of revenues between the Centre and the states. Can either reduce or cancel the transfer of finances (both tax sharing and grants-in-aid) from the Centre to the states. Such modification continues till the end of the financial year in which the emergency ceases to operate. </td><td style="padding: 10px;"> <ul style="list-style-type: none"> Center can give directions to the states: <ul style="list-style-type: none"> To observe the specified canons of financial propriety. To reduce the salaries and allowances of all class of persons serving in the state; and To reserve all money bills and other financial bills for the consideration of the President. </td></tr> </tbody> </table>	National Emergency (Art. 352)	Financial Emergency (Art. 360)	<ul style="list-style-type: none"> The President can modify the constitutional distribution of revenues between the Centre and the states. Can either reduce or cancel the transfer of finances (both tax sharing and grants-in-aid) from the Centre to the states. Such modification continues till the end of the financial year in which the emergency ceases to operate. 	<ul style="list-style-type: none"> Center can give directions to the states: <ul style="list-style-type: none"> To observe the specified canons of financial propriety. To reduce the salaries and allowances of all class of persons serving in the state; and To reserve all money bills and other financial bills for the consideration of the President.
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Distribution of Tax revenues

Article	Levy	Collection	Appropriation	Various Taxes
268	Centre	States	States	<ul style="list-style-type: none"> Stamp duties on shares, cheque, promissory notes, insurance etc.
269	Centre	Centre	States	<ul style="list-style-type: none"> Taxes on interstate trade and commerce. Revenues do not form part of the consolidated fund of India.
270	Centre	Centre	Shared between Centre and states	<ul style="list-style-type: none"> All taxes and duties in the union list except Duties and taxes referred to in Articles 268, 269 and 269-A, Surcharge on taxes and duties referred to in Article 271
271	Centre	Centre	Centre	<ul style="list-style-type: none"> Surcharge on taxes under Art 269, 270. Goods and Services tax (GST) is exempted from this surcharge. This surcharge can't be imposed on the GST.
Others				
<ul style="list-style-type: none"> Levy and Collection of GST in Course of Inter- State Trade or Commerce (Article 269-A) Taxes Levied and Collected and Retained by the States: These are the taxes belonging to the states exclusively eg: land revenue , tax on mineral rights, etc. 				

COMMITTEES ON CENTRE-STATE RELATIONS

By Center	By State
<ul style="list-style-type: none"> • Sarkaria commission (1983) • Punchhi commission (2007) • Administrative Reforms Commission I and II 	<ul style="list-style-type: none"> • Rajamannar committee – Tamilnadu • Anandpur Sahib resolution – Akali dal of Punjab





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Inter-State Relations

IMPORTANT ARTICLES

- **Article 261:** Public Acts, Records and Judicial Proceedings
- **Article 262:** Inter-State Water Dispute
- **Article 263:** Inter-State Councils
- **Article 301 to 307:** Inter-State Trade and Commerce
- The zonal councils: to promote inter-state cooperation and coordination.

PUBLIC ACTS, RECORDS AND JUDICIAL PROCEEDINGS (ARTICLE 261)

- “**Full faith & credit**” to public acts, records and judicial proceedings of the Centre and States throughout the country.
- Expression ‘public acts’ includes both legislative and executive acts of the government and ‘public record’ includes any official book, register or record made by a public servant in the discharge of his official duties.
- **Parliament, by law, will determine the manner** in which and the conditions under which such acts, records and proceedings are to be proved and their effect determined.
- Final judgements & orders of civil courts in any part of India are **capable of execution anywhere within**

India. This rule applies to civil judgments and not to criminal judgments.

INTER-STATE WATER DISPUTES (ARTICLE 262)

Article 262 makes two provisions w.r.t. adjudication of inter-state water disputes:

- Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution and control of waters of any inter-state river and river valley.
- Parliament may also provide that neither the Supreme Court nor any other court is to exercise jurisdiction in respect of any such dispute or complaint.
- Parliament enacted two laws under these provisions:
 - **River Boards Act 1956:** A river board is established by the Centre on the request of the state to advise them.
 - **Inter-State Water Disputes Act 1956:** Empowers the Centre to set up an ad hoc tribunal for the adjudication of an inter-state water dispute between two or more states; Decisions of the tribunal are binding; No courts have jurisdiction over such disputes.

MAJOR RIVER WATER DISPUTES

Name	Year	States Involved
Krishna Water Dispute	1969	Maharashtra, Karnataka, Andhra Pradesh
Godavari Dispute	1969	Madhya Pradesh, Karnataka, Andhra Pradesh, Maharashtra, Odisha
Narmada	1969	Rajasthan, Gujarat, Madhya Pradesh, Maharashtra
Ravi & Beas	1986	Punjab, Haryana, Rajasthan
Cauvery	1990	Karnataka, Kerala, Tamil Nadu, Puducherry
2nd Krishna Water Dispute	2004	Maharashtra, Karnataka, Andhra Pradesh
Vamsadhara	2010	Odisha, Andhra Pradesh
Mahadayi	2010	Goa, Karnataka, Maharashtra
Mahanadi	2018	Odisha and Chhattisgarh

INTER-STATE COUNCIL (ARTICLE 263)

Purpose	To bring coordination between states and between states and the Centre.
Status	The constitutional body under Article 263.
Establishment	<ul style="list-style-type: none"> It was set up for the first time in 1990 through a Presidential order as per the recommendations of the Sarkaria Commission (on Inter-State Relations). The President can establish it and define the duties, organization and procedure.
Functions	<ul style="list-style-type: none"> To enquire and advise upon inter-state disputes (Complimentary to SC's jurisdiction under Art.131). Investigating & discussing subjects in which states or the Centre and the states have a common interest. Recommending on any matter for better coordination of policy & action.
Decisions	Advisory body, Decisions are not binding.
Composition	PM as Chairman + CMs of all states + CMs of all UTs having legislative assemblies + Administrators of all UTs not having Legislative Assemblies + Governors of states under President's Rule + Six Central Cabinet Minister including Home Minister (Nominated by PM) + Five ministers of cabinet rank/ Minister of State (Independent Charge) nominated by PM are permanent invitees.
Meetings	Council may meet at least thrice in a year. All questions are decided by consensus.
Standing Committee of the Council	<p>Set up in 1996 for continuous consultation and processing of matters for the consideration of the council.</p> <ul style="list-style-type: none"> Members of the Committee: Union Home Minister as Chairman + Five Union Cabinet Ministers + Nine CMs. The Council is assisted by the Inter-State Council Secretariat (Set up in 1991). It is headed by Secretary to the Government of India. Since 2011, it is also functioning as the secretariat of the Zonal Councils.

INTER-STATE TRADE & COMMERCE

Article	Description
301	<ul style="list-style-type: none"> Trade, commerce, intercourse throughout the country shall be free. This freedom is applicable to both inter-state and intra-state trade and commerce.
302	<p>Provides for restrictions:</p> <ul style="list-style-type: none"> Parliament can impose restrictions on the above freedom in public interest. Parliament cannot discriminate between states except in the case of scarcity of goods in any part of India.
303	<ul style="list-style-type: none"> State legislatures can impose restrictions within that state in public interest. For such a bill previous sanction of the President is required. States cannot discriminate between states.
304	States can impose any tax on goods imported from another state or UT if similar goods are manufactured in that state. This provision prohibits the imposition of discriminatory taxes by the state.
305	<ul style="list-style-type: none"> The freedom (under Art.301) is subject to nationalization laws. Parliament or state law can provide a monopoly in favor of the Centre or State. Such laws can exclude citizens or others completely or partially from carrying such trade.
Appropriate Authority	Parliament can appoint an appropriate authority for carrying out the purposes of the above provisions relating to the freedom of trade, commerce and intercourse and restrictions on it.

ZONAL COUNCILS

- **Statutory** (Extra-constitutional), **only deliberative** and **advisory body**; recommendations are not binding.
- Established under the **Reorganisation of States Act 1956 (7th CAA 1956)**.
- **Aim:** promoting cooperation and coordination between states, union territories and the Centre.
- **Five zones:** Northern, Central, Eastern, Western and Southern and provided a zonal council for each zone.
- **Consideration is taken into account for the formation of these zones:** the natural divisions of the country,
- the river systems and means of communication, the cultural and linguistic affinity and the requirements of economic development, security and law and order.

- **Members of Zonal Councils:** Union Home Minister as Chairman + CMs of all the states in the zone + Two other ministers from each state in the zone + Administrator of each UT in the zone.
- Persons that can be associated with the zonal council as **advisors** (i.e., without the right to vote in the meetings): (i) a person nominated by the NITI Aayog; (ii) chief secretary of the government of each state in the zone; and (iii) development commissioner of each state in the zone.
- The **home minister** of the Central government is the **common chairman** of the five zonal councils.
- Each chief minister acts as **vice-chairman** of the council by rotation, holding office for a period of one year at a time.

Zonal Council	Headquarters	Members
Northern	New Delhi	Himachal Pradesh, Haryana, Punjab, Rajasthan, Delhi, Chandigarh, Jammu and Kashmir and Ladakh
Central	Allahabad	Uttar Pradesh, Uttarakhand, Chhattisgarh, and Madhya Pradesh
Eastern	Kolkata	Bihar, Jharkhand, West Bengal and Odisha
Western	Mumbai	Gujarat, Maharashtra, Goa, Dadra and Nagar Haveli and Daman and Diu
Southern	Chennai	Andhra Pradesh, Telangana, Karnataka, Tamil Nadu, Kerala and Puducherry

NORTH-EASTERN COUNCIL

- **Statutory body** created by **separate Act i.e., North-Eastern Council Act, 1971**. It came into existence on August 8, 1972.
- **Members:** all North Eastern states - Assam, Manipur, Mizoram, Arunachal Pradesh, Nagaland, Meghalaya, Tripura and Sikkim (added in 2002).

Composition

- **Ex-officio Chairperson:-** Union Home Minister.

- **Ex-officio Vice-Chairperson** - Minister, Ministry of Development of North Eastern Region.
- **Members** - Governors and Chief Ministers of all the eight States and **3 members** nominated by the President.
- **Functions:** similar to those of the zonal councils + unified and coordinated regional plan on matters of common importance; review measures for the maintenance of security and public order in the region.



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Emergency Provisions

(Part XVIII: Articles 352-360)

These provisions have been borrowed from the **Government of India Act 1935**. It converts the **federal structure into a unitary one without a formal amendment** of the Constitution. It is needed to safeguard the sovereignty, unity, integrity and security of the country, the democratic political system and the Constitution.

"Suspension of Fundamental Rights during Proclamation of Emergency" provision borrowed from the **Weimar Constitution**.

IMPORTANT ARTICLES

- **Article 352:** Emergency due to war, external aggression or armed rebellion (National Emergency).
- **Article 356:** Emergency due to the failure of the constitutional machinery in the states (President's Rule).
- **Article 360:** Financial emergency due to threat to financial stability or credit of India.

NATIONAL EMERGENCY (ARTICLE 352)

National Emergency (Article 352)

Grounds of declaration	<p>President: On the grounds of war or external aggression or armed rebellion. Also, can declare even before the occurrence if he satisfies that there is imminent danger.</p> <ul style="list-style-type: none"> • External Emergency: Declared on the grounds of 'war' or 'external aggression'. • Internal Emergency: Declared on the grounds of 'armed rebellion'. • 38th Amendment: Can issue different proclamations on the mentioned grounds, whether or not there is a proclamation already issued by him. • 42nd Amendment: Proclamation of a National Emergency may be applicable to the entire country or part of it. • 44th Amendment: 'Internal Disturbance' replaced by 'Armed Rebellion'.
Role of cabinet	<ul style="list-style-type: none"> • Original constitution: No mention of the role of cabinet. • 44th Amendment: The President can proclaim only after a written recommendation from the cabinet.
Parliamentary approval	<ul style="list-style-type: none"> • Originally: 2 months. • 44th Amendment: Approval by both the Houses within one month. • if the proclamation of emergency is issued at a time when the LS has been dissolved, or the dissolution of the LS takes place during the period of 1 month without approving the proclamation, the proclamation survives until 30 days from the first sitting of the LS after its reconstitution, provided the RS has in the meantime approved it.
Type of majority for approval	<ul style="list-style-type: none"> • Originally: Simple majority. • 44th Amendment: Introduced special majority for the approval.
Duration	<ul style="list-style-type: none"> • Originally, once approved, an emergency could remain as long as the executive desires. • 44th Amendment: can be extended indefinitely but with the approval of the Parliament for every six months. • if the dissolution of the LS takes place during the six months without approving the further continuance of Emergency, then the proclamation survives until 30 days from the first sitting of the LS after its reconstitution, provided the RS has in the mean-time approved its continuation.

Judicial review	<ul style="list-style-type: none"> No explicit mention of judicial review regarding National Emergency. 38th Amendment: Made national emergency immune from judicial review. 44th Amendment: Provision under 38th amendment was deleted. Minerva Mills Case: proclamation of national emergency can be challenged in the court on the grounds of malafide or that the declaration is based on wholly extraneous or irrelevant facts or is absurd or perverse.
Revocation	<ul style="list-style-type: none"> The President can revoke it. Parliamentary approval is not necessary. 44th Amendment: President must revoke the emergency if Lok Sabha passes a resolution disapproving its continuation. (Earlier LS had no role in revocation). <ul style="list-style-type: none"> 1/10th of LS members need to give written notice to the speaker or president (if LS is not in session). A special session is held within 14 days to consider such a resolution.
Majority for disapproval	44th Amendment: Simple majority in Lok Sabha for disapproval.
Imposition	Has been proclaimed three times in 1962, 1971 and 1975.

PRESIDENT'S RULE (ARTICLE 356)

Grounds of declaration	<ul style="list-style-type: none"> Also known as State Emergency. Art.355: Duty of Centre to protect every state against external aggression and internal disturbance and to ensure that the government of every state is carried on in accordance with the provisions of the Constitution. Article 356: President to proclaim, if satisfied with/without Governor's Report that state government cannot be carried on in accordance with the provisions of the Constitution) Article 365: If a state fails to comply with any direction from the Centre.
Parliamentary approval	<ul style="list-style-type: none"> Simple majority in both Houses. Must be approved by both the houses within two months of such issues. if the proclamation of emergency is issued at a time when the LS has been dissolved or the dissolution of the LS takes place during the period of 2 month without approving the proclamation, the proclamation survives until 30 days from the first sitting of the LS after its reconstitution, provided the RS has in the meantime approved it.
Duration	<ul style="list-style-type: none"> 6 months, however, it can be extended for a maximum period of 3 years with parliamentary approval every 6 months. 44th Amendment: Beyond one year, the president's rule can be extended by 6 months a time only if following conditions are met: <ul style="list-style-type: none"> If a national emergency is in operation in whole India or any part of the state. If the Election Commission certifies that elections cannot be held due to difficulties.
Judicial review	<ul style="list-style-type: none"> 38th Amendment: President's satisfaction under Article 356 made immune from judicial review. 44th Amendment: above provision was deleted.
Revocation	<ul style="list-style-type: none"> May be revoked by the President at any time by a subsequent proclamation. Such a proclamation does not require parliamentary approval.
Imposition	First , the President's Rule was imposed in Punjab in 1951 .

Dr. B.R Ambedkar hoped that the drastic power conferred by Article 356 would remain a '**dead-letter**' and would be used only as a measure of last resort.

FINANCIAL EMERGENCY (ARTICLE 360)

Grounds of declaration	The President proclaims 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.
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Parliamentary approval	<ul style="list-style-type: none"> • Simple majority. • Approval of both houses within two months from the date of its issue. • If the proclamation of financial emergency is issued at a time when the LS has been dissolved, or the dissolution of LS takes place during the period of two months without approving the proclamation, it survives until 30 days from the first sitting of the LS after its reconstitution, provided RS has passed it in the meantime.
Duration	Once approved, the emergency continues indefinitely until revoked.
Judicial review	<ul style="list-style-type: none"> • 38th Amendment: Satisfaction of president in declaring financial emergency made immune from judicial review. • 44th Amendment: Provisions made under 38th Amendment deleted, so subject to Judicial Review
Revocation	<ul style="list-style-type: none"> • Revoked by the president. • No parliamentary approval required.
Imposition	No Financial Emergency has been declared so far.

Shah Commission: Enquired 1975 emergency and did not justify the declaration of Emergency.

EFFECT OF IMPOSITION OF NATIONAL EMERGENCY

Effect on Centre-State Relations

Executive	Legislative	Financial
<ul style="list-style-type: none"> • Executive power of the Centre extends to directing any state regarding any matter it feels necessary. • During normal times, the Centre can give executive directions to state only on specified matters. • Though the states are brought under complete control of the Centre, they are not suspended. 	<ul style="list-style-type: none"> • Parliament becomes empowered to make laws on any subject under the State List. • Though the state legislatures are not suspended, parliament acquires the overriding powers. • Such laws by parliament on the State List become inoperative 6 months after the revocation of emergency. • If parliament is not in session, the president can issue ordinances on state subjects. • 42nd Amendment: The above legislative and executive functions extend not only to a state where emergency is in operation but also to any other state. 	<ul style="list-style-type: none"> • The President can modify (reduce/cancel) the constitutional distribution of revenues between Centre and states. • Such modification continues till the end of the financial year in which emergency ceases to operate. • Every such order of the president has to be laid before both the houses.

Effect on the life of Lok Sabha & State Assembly

On Lok Sabha	On State Assembly
<ul style="list-style-type: none"> • During the National Emergency, the life of LS may be extended by the law of the parliament for one year at a time for any number of times. • This extension cannot continue beyond 6 months after the emergency has ceased to operate. 	<ul style="list-style-type: none"> • Only parliament can extend the life of assemblies (by one year each time for any length of time) i.e. the period of extension is the same as parliament.

Effect on the Fundamental Rights

Article 358	Article 359
Deals with the suspension of Fundamental Rights under Article 19.	Deals with the suspension of other Fundamental Rights. (except Art. 20 & 21).
<ul style="list-style-type: none"> Six FRs under Art.19 are automatically suspended and no separate order is required for the suspension. The state can make laws or take executive actions to take away these rights under Art.19. Such laws cannot be challenged in the courts during and even after an emergency. After the emergency ceases to operate, Art.19 revives automatically. And any law inconsistent with Art.19 also ceases to operate. 	<ul style="list-style-type: none"> It authorizes the president to suspend the right to move to any court for the enforcement of Fundamental Rights during national emergency. The Fundamental Rights as such are not suspended, but only their enforcement. The said rights are theoretically alive but the right to seek remedy is suspended. The suspension of enforcement relates to only those Fundamental Rights that are specified in the Presidential Order and the suspension order may extend to the whole or any part of the country Any such order should be laid before both the houses for approval.
44th Amendment	44th Amendment
<ul style="list-style-type: none"> Six FRs under Art.19 can be suspended only when National Emergency is declared on the grounds of "war or external aggression" & not the ground of "armed rebellion". Only those laws which are related to emergency are protected from judicial review and no other laws. 	<ul style="list-style-type: none"> The President cannot suspend the right to move the court for the enforcement of Fundamental Rights under Art. 20 & 21. Only those laws which are related to emergency are protected from judicial review and no other laws.
Article 358 operates only during external emergencies and not during internal emergencies.	Article 359 operates both during external emergency & internal emergency .
Article 358 suspends Fundamental Rights under Article 19 for the whole duration of emergency.	Article 359 suspension of FR & its duration are mentioned by the president in his order .
It extends to the whole country.	It extends to either the whole country or part of it as mentioned by the president.
Similarities: Both provide immunity from challenge to only those laws which are related to the Emergency and no other laws . The executive action taken only under such a law is protected by both.	

EFFECT OF IMPOSITION OF PRESIDENT'S RULE

The President acquires the following extraordinary powers

- President can **take up the functions of the state government and powers vested in the governor** or any other executive authority.
- He can declare that **powers of the state legislature are to be exercised by the parliament**.
- He **can take all necessary steps** including the suspension of constitutional provisions relating to anybody or any authority in the state.

- He can dismiss the Council of Ministers headed by the Chief Minister** and parliament passes the state bills and budgets. The state administration is carried on by the governor with help of the Chief Secretary on behalf of the President.
- The laws made by the parliament or president or any other authority **continue to operate even after the President's Rule**.
- The President can either suspend or dissolve the state legislative assembly.
- The Constitutional position, status, powers and functions of the **State High Court remain the same** even during the President's Rule.

S. R. Bommai Judgement by Supreme Court (1994)

- The President's Rule is under **judicial review**.
- Satisfaction of the President based on relevant material. The court cannot go into the correctness of the material or its adequacy, but it can see whether it is relevant or not.
- The Centre needs to justify the President's Rule. If found unconstitutional or invalid, the court can revive the state legislative assembly.
- State assembly can be dissolved only after parliamentary approval till then, it can only be suspended.
- The question of the state government losing the confidence of the legislative assembly should be decided on the floor of the House, and until that is done, the ministry should not be unseated.
- If the state government is pursuing an anti-secular policy, then it is liable to take action under Article 356.

In the Bommai case (1994), the Supreme Court, drawing from the recommendations of the Sarkaria Commission on Centre-state Relations (1988), outlined the circumstances under which the use of power under Article 356 (imposition of President's Rule) could be considered appropriate or inappropriate.

Proper Imposition of President's Rule	Improper Imposition of President's Rule
Hung assembly (No party has a majority).	If the ministry resigns or loses the majority and the governor recommends imposition without assessing the possibility of an alternative government.
Party having a majority declines to form a ministry and the governor cannot find a coalition having majority.	If the governor does not allow the ministry to prove its majority and recommends the rule.
If the ministry resigns after its defeat in assembly and no other party has majority	If the ruling party has lost in general elections to the Lok Sabha.
If the state disregards the constitutional direction given by the Centre.	Maladministration in the state.
If the government is acting against constitution and the law or is fomenting a violent revolt.	Internal disturbances not amounting to internal subversion or physical breakdown .
Physical breakdown: The government willfully refuses to discharge its constitutional obligations endangering the security of the state.	The state government is not given prior warning to rectify itself except in case of extreme urgency leading to disastrous consequences.

EFFECTS OF FINANCIAL EMERGENCY

- Article 360** more or less follows the pattern of what is called the **National Recovery Act of the United States** passed in 1933.
- In India, **no Financial Emergency has been declared so far**, though there was a financial crisis in 1991.
- Executive authority of the Centre extends to directing any state to observe such canons of financial propriety as are specified by it.

• President Can Direct:

- The **reduction of salaries and allowances** of all or any class of persons serving the state or union and the **judges of the Supreme Court and High Court**.
- Reservation of all money bills or other financial bills** for the consideration of the President after they are passed by the state legislatures.

QUICK COMPARISON BETWEEN THE THREE EMERGENCIES

Article	Approval	Majority	Revocation	Period
352	Within one month	Special	<ul style="list-style-type: none"> By President (Lok Sabha only). No Parliamentary approval required. 	Unlimited.
356	Within two months	Simple	<ul style="list-style-type: none"> By President. No Parliamentary approval required. 	Maximum 3 years.
360	Within two months	Simple	<ul style="list-style-type: none"> By President. No Parliamentary approval required. 	Unlimited (Repeated approval not required).



16

President and Governor

THE PRESIDENT

Union Executive: President, VP, PM, CoM, Attorney General of India. (Article 52 to 78 in Part V)

- The President is the **head of the Indian State (executive power)** [UPSC 2015].
- He is the **first citizen of India** and acts as the symbol of unity, integrity and solidarity of the nation.
- Fact: No person except Dr. Rajendra Prasad has occupied the office for two terms.

Election/ Appointment

- Elected indirectly by the people of India (**electoral college**).
- **Reasons for Indirect Election:** The President is only a nominal executive, and the real executive is the PM. The direct election would have been very costly, time and energy consuming.
- **Method of Election:** Election by proportional representation by means of single transferable vote and secret ballot voting.
- **Electoral College:**
 - **Elected** members of both houses, Lok Sabha and Rajya Sabha.
 - **Elected** members of the State Legislative Assembly.
 - **Elected** member of legislative assemblies of UTs: Delhi + Puducherry.
- **Non-Participants in Presidential election:**
 - Nominated members of LS, RS and SLA; [UPSC 2023]
 - Members (elected +nominated) of SLC;
 - Nominated members of Legislative Assemblies of Delhi & Puducherry.
- When an assembly is dissolved, the members cease to be qualified to vote in the presidential election, even if fresh elections to the dissolved assembly are not held before the presidential election.
- Members of the electoral college are from both the Union and the State, so it makes the **President a representative of the Union and the states equally**.
- **Uniformity** in the scale of representation of different states as well as parity between the states as a whole and the Union at the election of the President.

- **Value of Vote of an MLA:** Value of Vote of each MLA varies from State to state. [UPSC 2023,2019]

$$\frac{\text{Total Population of State}}{\text{Total No.of elected members in SLA}} \times \frac{1}{1000}$$

- **Value of Vote of an MP:** [UPSC 2023,2019]

$$\frac{\text{Total Value of votes of all MLAs of all states}}{\text{Total No.of elected members of Parliament}}$$

- A candidate, in order to be declared elected to the office of President, must secure a **fixed quota of votes**.

$$\text{Electoral Quota} = \frac{\text{Total No.of valid votes polled}}{1+1} + 1$$

- All doubts and disputes in connection with election are inquired into and decided by the **Supreme Court** whose **decision is final**.
- If the election is **declared void** by the Supreme Court, **acts done** by him before the date of such declaration are **not invalidated** and **continue to remain in force**. [UPSC 2023]
- If the assembly is dissolved, members cease to be qualified to vote, so the election of a person as President **cannot be challenged** on the ground that the Electoral College was incomplete. [UPSC 2023]

Qualifications

- Citizen of India.
- Completed **35 years** of age.
- Qualified for election as a member of the **Lok Sabha**.
- Not hold any office of profit under the Union government or any state government or any local authority or any other public authority.
- Nomination must be subscribed by at least 50 electors as proposers and 50 as seconders.
- **Security deposit:** 15,000 in the RBI, if fails to secure **one-sixth votes polled** security deposit will be forfeited.

Oath (Article 60)

Oath **administered by the Chief Justice of India**. In his absence, the senior-most judge of the SC administers the Oath.

Conditions of the Office

Not a member of either house. No office of profit.

Emoluments, Allowances and Privileges

- Determined by Parliament.
- Cannot be diminished during his term of office.
- Immune from criminal proceeding (even if personal)
- Cannot be arrested or imprisoned.
- 2 month's notice in civil proceedings during term of office in respect of his personal acts.
- Enjoys personal immunity from legal liability for his official acts.

Term

- Term: 5 years from the date on which he/she enters upon his/her office.
- Resignation to Vice President.
- Eligible for Re-election for any no. of times (In the USA - only two times permissible).
- Hold office beyond his term until his successor assumes charge to prevent 'Interregnum'.

Impeachment (Article 61)

- Impeachment for "violation of the constitution" (meaning of phrase not defined in the constitution).
- Initiated by either House - LS or RS. Signed by 1/4th member of the house (that framed the charges), & with 14 day's notice to be given to the President.
- Resolution passed by majority of 2/3 of the total membership by both houses (Elected + Nominated Members of LS+RS participates).
- Elected members of the legislative assemblies of states and the UT of Delhi and Puducherry do not participate though they participate in his election..
- Nominated members of both (LS+RS) houses participate (though they do not participate in his election.)
- No President has so far been impeached.
- Quasi-judicial procedure in the Parliament.

Vacancy (Only in the case of the President)

- Reasons: Expiry of tenure, By Resignation, Removal by Impeachment, Death, otherwise (such as disqualified to hold office or Election is declared void).
- In case a vacancy is caused by the expiration of the term of the sitting President, an election to fill the vacancy must be held before the expiration of the term.
- In case of any delay in conducting the election of a new President, the outgoing President continues to hold office (beyond his term of five years) until his successor assumes charge. This is provided by the Constitution in order to prevent an 'interregnum'. (the Vice President does not get the opportunity to act as President or to discharge the functions of the President)

- In case of vacancy by resignation, removal, death or otherwise, the election to fill the vacancy is held within six months from the date of the occurrence of such a vacancy (the Vice-President acts as the President until a new President is elected)
- Newly-elected President remains in office for a full term of five years from the date he assumes charge of his office.
- The President is unable to discharge his functions due to absence, illness or any other cause, VP (if not VP, CJI, senior most judge of SC) discharges his functions until the President resumes his office.

Executive Powers

- All executive actions of the GoI are formally taken in his name.
- Make rules specifying the manner in which the orders and other instruments made and executed in his name shall be authenticated.
- Make rules for more convenient transactions of the business of the Union government.
- Require the Prime Minister to submit for the consideration of the CoM.
- Appoint a commission to investigate into the conditions of SCs, STs and OBCs.
- Appoint an inter-state council to promote Centre-state and interstate cooperation.
- Directly administer the union territories through administrators appointed by him.
- Declare any area as Scheduled Area.
- Appoints: PM and other Ministers, CoM, Attorney General, CAG, Chief Election Commissioner and other election commissioners, chairman and members of Public Service Commission, Governors, chairman and members of the finance commission, Inter-state council, administrators of UTs, etc. They hold office during his pleasure.

Legislative Powers

- The President is an integral part of Parliament.
- He Summons, Prorogues, and Dissolves the Lok Sabha.
- Summon a joint sitting of both the Houses.
- Address the Parliament at the commencement of the first session after each general election and the first session of each year.
- Send messages to the Houses of Parliament, whether with respect to a bill pending in the Parliament or otherwise.
- Appoint any member of the LS/RS to preside over its proceedings when the offices of both the Speaker/Chairman and the Deputy Speaker/Deputy Chairman fall vacant

- **Prior permission** is needed to introduce certain types of bills in the Parliament.
 - Expenditure from the Consolidated Fund of India,
 - Alteration of boundaries of states/creation of a new state,
 - Money bill,
 - Imposes or varies any tax /duty in which states are interested,
 - Bill, which varies the meaning of the expression 'agricultural income' as defined for the enactments relating to Indian income tax,
 - A bill which affects the principles on which sums of money are /may be distributable to states and
 - A bill that imposes any surcharge on any specified tax /duty for the purpose of the center.
 - State bills imposing restrictions on the freedom of trade, commerce and intercourse with that state /within that state can be introduced in the legislature of the state only with the previous sanctions of the President.
- **Nominates** 12 personalities to Rajya Sabha and **two members** to the Lok Sabha from the Anglo-Indian Community (before 2020).
- Decides on **questions as to disqualifications** of members of Parliament, in consultation with the Election Commission.
- Promulgate **ordinances** when the Parliament is not in session, that must be approved by the Parliament within six weeks from its reassembly. He can also withdraw an ordinance at any time.
- **Make regulations** for the peace, progress and good government of the **Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu and Ladakh, Puducherry** (but only when the assembly is suspended/dissolved)
- **Lays the reports** of the Finance Commission, UPSC, CAG etc., before the Parliament.

Financial Powers

- Prior recommendation for the introduction of a Money bill.
- Prior recommendation for demand for a grant.
- Annual Financial Statement (budget) laid before the parliament.
- Constitutes Finance Commission after every five years.
- Make advances out of the contingency fund of India

Judicial Powers

- Appoints CJI and Judges of SC & HC.
- Seek advice from the SC on any question of law or fact – Non-binding on the President.
- Grant pardon, reprieve, respite and remission of punishment, or suspend, remit or commute in all

cases where the punishment or sentence is by a court-martial, offence against a Union law; and sentence of death.

Diplomatic Powers

- International treaties and agreements are negotiated and concluded on behalf of the President - subject to the approval of the Parliament.
- He represents India in international forums and affairs and sends and receives diplomats like ambassadors, and high commissioners.

Military Powers

- He is the supreme commander of the defense forces of India.
- He appoints the chiefs of the Army, the Navy and the Air Force.
- He can declare war or conclude peace, subject to the approval of the Parliament.

Emergency Powers

The Constitution confers extraordinary powers on the President to deal with: **National Emergency (Art.352); President's Rule (Art.356 & 365); and Financial Emergency (Art.360).**

Veto Power

- A bill passed by the parliament can become an act only if it receives the assent of the President. When such bill is presented to the President, **he has three alternatives for Bills:(Art 111)**
 - He may give his assent to the bill.
 - He may withhold his assent to the bill, the bill then ends.
 - He may return a bill for reconsideration of the Houses. If the bill is passed by both the Houses again with or without amendments and presented to the President for his assent, the **president must give his assent** to the bill.
- Thus, the President has the veto power over the bills passed by the Parliament. He is vested with three vetoes: **Absolute veto, Suspensive veto and Pocket veto**. There is no qualified veto in the case of an Indian President; it is possessed by the American President.

Absolute veto

- It refers to the power of the President to withhold his assent to a bill passed by the Parliament. The bill then ends and does not become an act.
- It is exercised in the cases with respect to private members' bills and With respect to the government bills when the cabinet resigns and the new cabinet advises the President not to give his assent to such bills.

Suspensive Veto

- The President exercises this veto when he/she returns a bill for reconsideration of the Parliament. However, if the bill is passed again by the Parliament with or without amendments and again presented to the President, it is obligatory for the President to give his assent to the bill.
- The President does not possess this veto in the case of money bills.

Pocket Veto

- The President neither ratifies nor rejects nor returns the bill, but simply keeps the bill pending for an indefinite period.
- The President can exercise this veto power as the Constitution does not prescribe any time-limit within which he has to take the decision with respect to a bill presented to him for his assent.
- In the USA, on the other hand, the President has to return the bill for reconsideration within 10 days. Hence, it is remarked that **the pocket of the Indian President is bigger than that of the American President**

No veto power in respect of the Constitutional amendment Bill as 24th CAA, 1971 made it **obligatory for the president to give his assent** to a Constitutional Amendment Bill.

Presidential Veto over State Legislation

- When a state bill is reserved by the governor for consideration of the President, the President has three alternatives: (Art 201)
 - He may give his assent to the bill.
 - He may withhold his assent to the bill, the bill then ends.
 - He may return the bill for reconsideration of the House or Houses of the state legislature. When a bill is returned, the House or Houses have to **reconsider it within six months**. If the bill is passed by the House or Houses again with or without amendments and presented to the president for his assent, the **president is not bound to give his assent to the bill**. He may give his assent to such a bill or withhold his assent.

Ordinance Making Power

- **Art.123:** Promulgate an ordinance only when both the Houses of Parliament are not in session or when either of the two Houses of Parliament is not in session.
- Only when the president is **satisfied** to take action. According to the **44th CAA**, satisfaction is under Judicial Review.
- His ordinance-making power is **co-extensive with the legislative power of the Parliament**. He can

issue ordinances only on those subjects on which the Parliament can make laws.

- Ordinances have the **same force and effect** as an act of Parliament, but are in the nature of **temporary laws**.
- An ordinance issued by him is **subject to the same limitations as an act of Parliament**.
- He can withdraw an ordinance at any time. The President can promulgate or withdraw an ordinance **only on the advice of the CoM headed PM - not a discretionary power**.
- An ordinance issued by him **should be laid before both the Houses of Parliament** when it reassembles. Both houses must approve it to become Act (Expiry-6 weeks; Max. Life- 6 Months 6 Weeks)
- An ordinance **cannot be issued** to amend the Constitution.
- The ordinance can be retrospective.
- **Cooper case (1970):** SC held that the President's satisfaction can be questioned in a court on the grounds of malafide.
- **D.C. Wadhwa case (1987):** SC held that successive re-promulgation of ordinances with the same text without any attempt to get the bills passed by the assembly would amount to violation of the Constitution.

Pardoning Power

- **Art.72:** Empowers the President to grant pardons to persons who have been tried and convicted of any offence in cases where the:
 - Punishment or sentence is for an offence **against a Union Law**;
 - Punishment or sentence is **by a court martial** (military court); and
 - Sentence is a **sentence of death**.
- **Features:** An executive Power; Independent of Judiciary; exercised on the advice of the Cabinet; not bound to give reasons; not subject to judicial review except when the decision is arbitrary, irrational, mala fide or discriminatory.
- **Pardon:** Completely absolves conviction.
- **Commutation:** Substitution to lighter punishment
- **Remission:** Reducing the Period without changing the character of the punishment.
- **Respite:** Lesser sentence than original due to special facts such as pregnancy, disability, etc.
- **Reprieve:** Stay on execution for a temporary period.

Discretionary Power

- **No Constitutional Discretion.**
- **Situational Discretions:**

- Appointment of PM and CoM when there is no majority in Lok Sabha or when PM dies in office and there is no obvious successor.
- Dismiss CoM if No Confidence Motion Approved.
- Dissolve Lok Sabha if CoM lost majority.

THE GOVERNOR

Article 153 to 167 in Part VI

- **State Executive:** Governor, CM, CoM, Advocate General of State.
- **Chief executive head** of the state.
- The office of the Governor has a **dual role**.
 - The Governor is a constitutional (nominal) head.
 - **Agent** of the central government.

Sarojini Naidu was the **first woman** to become the governor of an Indian state. She governed Uttar Pradesh from 1947-49

Election/ Appointment

- He is **neither elected directly** by the people **nor indirectly elected** by a specially constituted electoral college.
- He is the central **nominee, appointed by the President** by warrant under his seal.
- **India adopted the Canadian Model** of appointment of Governor by the center.
- **Canadian model:** the governor of a province (state) is appointed by the Governor-General (Centre).
- The Institution of Governor borrowed from **GOI Act 1935**.
- **7th CAA (1956):** facilitated the appointment of the same person as a governor for two or more states.
- **Supreme Court (Hargovind Pant Case, 1979):** Office of governor of a state is not an employment under the Central government. It is an Independent constitutional office, not under the control of or subordinate nor an employment under the Central government.
- **Draft Constitution:** Provided for the direct election of the governor on the basis of universal adult suffrage.
- Governor has **no diplomatic, military or emergency powers** like the president.

Qualification

- Citizen of India.
- Completed **35 years** of age.
- **Two other conventions:**
 - **Preferably an 'Outsider'** and should not belong to the state where he is appointed.
 - While appointing the governor, the president is **required to consult the CM of the state** concerned.

- However, both the conventions have been **violated** in some of the cases.

Oath (Article 159)

Oath **administered by the Chief Justice of HC** of the concerned state **and** in his absence, the senior-most judge of that court.

Condition of Office

Not a member of either house and not hold any other office of profit.

Emoluments, Allowances and Privileges

- Determined **by Parliament**.
- Cannot be diminished during his term of office. **[UPSC 2018]**
- **Immune** from criminal proceeding (even if personal) **[UPSC 2018]**
- Cannot be arrested or imprisoned.
- **2 Month's notice** in civil proceedings during term of office in respect of his personal acts.
- When appointed as Governor of two or more states, allowances shared by the states in such proportion as **determined by the president**. **[UPSC 2013]**
- Enjoys personal **immunity from legal liability** for his official acts.

Term

- Term: **5 years**, subject to the **pleasure of the President**.
- **Surya Narain Case (1981):** Pleasure of the President is **not justifiable**. So, **no security of tenure** and **no fixed term of Office**.
- Resignation to **President**.
- **Transfer:** The President may transfer a Governor appointed to one state to another state for the rest of the term.
- **Reappointed:** may be in the same state or any other state.
- Hold office beyond his term until his successor assumes charge to **prevent 'Interregnum'**
- The President can make such provision as he thinks fit for the discharge of the functions of the governor in any contingency not provided for in the Constitution.

Removal

The Constitution does **not lay down any grounds** upon which a governor may be removed by the President. **[UPSC 2013]**

Executive Powers

- All executive actions of the state are formally **taken in his name**.

- Make rules specifying the manner in which the Orders and other instruments made and executed in his name shall be authenticated.
- Make rules for **more convenient transactions of the business** of the State government.
- Seek any information relating to the administration of the affairs of the state and proposals for legislation from the chief minister.
- Require the chief minister to submit for the consideration of the council of ministers any matter on which a decision has been taken by a minister but which has not been considered by the council
- Recommends the **imposition of constitutional emergency** in the state to the president. During the period of the President's rule in a state, the governor enjoys extensive executive powers as an agent of the President.
- Acts as **chancellor of a university** in the state. He also appoints the vice-chancellors of universities in the state.
- **Appoints tribal welfare minister** for Chhattisgarh, Jharkhand, Madhya Pradesh and Odisha.
- **Appoints:** CM and other ministers, Advocate General, State Election Commissioner (removed only in like manner and on the like grounds as a judge of a high court), Chairman and members of the SPSC (removed only by the president), Vice-chancellors of universities in the state.

Legislative Powers

- Governor is an **integral part of the State legislature**.
- Summons, prorogues, and dissolves the State Legislative Assembly.
- Address the state legislature at the commencement of the first session after each general election and the first session of each year. **[UPSC 2019]**
- Send messages to the house or houses of the state legislature, with respect to a bill pending in the legislature or otherwise.
- Appoint any member of the State legislative assembly/council to preside over its proceedings when the offices of both the Speaker/chairman and the Deputy Speaker/deputy chairman fall vacant. Similarly, he can appoint any member of the state legislature council to preside over its proceedings, when the offices of both Chairman and Deputy Chairman fall vacant.
- **Nominates:** 1/6 members in the State Council.
- **Nominate one member** to the State Legislative Assembly from the Anglo-Indian Community (before 2020).
- Decides on the **question of disqualification** of members of the state legislature in consultation with the Election Commission.

- **Lays the reports** of State Finance Commission, SPSC and CAG before the state legislature.
- Promulgate ordinances when the state legislature is not in session (must be approved by the state legislature within six weeks from its reassembly).

Financial Powers

- Prior recommendation for Money bill.
- Prior recommendation for demand for grant.
- Constitutes State Finance Commission after every five years.
- Annual Financial Statement (state budget) laid before the state legislature.
- Make advances out of the **Contingency Fund of the state**.

Judicial Powers

- Consulted by president while appointments of judges of HC.
- Makes appointments, postings and promotions of the district judges in consultation with the state high court.
- Appoints persons to the judicial service of the state (other than district judge) in consultation with the state high court and the SPSC.
- He/she can grant pardons, reprieves, respites and remissions of punishment or suspend, remit and commute the sentence of any person convicted of any offense against **any law relating to a matter** to which the executive power of the **state** extends.

Veto Power

- **For ordinary bills, the governor has four alternatives:**
 - He may give his assent to the bill.
 - He may withhold his assent to the bill, the bill then ends.
 - He may return a bill for reconsideration of the Houses. If the bill is passed by both Houses again with or without amendments and presented to the governor for his assent, the **governor must give his assent** to the bill. the governor **enjoys only a 'suspensive veto'**.
 - **He may reserve the bill for the consideration of the President.**
- **Governor can also reserve a bill if it:** Endangers the position of the state high court; Against provisions of the Constitution; Opposed to the DPSP; Against the larger interest of the country, and of grave national importance; Compulsory acquisition of property.
- **When the governor reserves a bill for the consideration of the President:**

- He will not have any further role in the enactment of the bill.
 - If the bill is returned by the President for the reconsideration of the House or Houses and is passed again, the bill must be presented again for the presidential assent only.
 - If the President gives his assent to the bill, it becomes an act. This means that the assent of the Governor is no longer required.
- Every money bill, after it is passed by the state legislature, is presented to the governor for his assent. He has three alternatives:
 - He may give his assent to the bill.
 - He may withhold his assent to the bill.
 - He may reserve a bill for the consideration of the president.
 - Governor cannot return a money bill for the reconsideration of the state legislature.
 - When the governor reserves a money bill for the consideration of the President, he will not have any further role in the enactment of the bill. If the President gives his assent to the bill, it becomes an Act. This means that the assent of the governor is no longer required.

Ordinance Making Power

- Art.213: Promulgate an ordinance when any one or both houses are not in session in the case of Bicameral legislature.
- Only when the governor is satisfied that circumstances exist which render it necessary for him/her to take immediate action to take action. According to the 44th CAA, his satisfaction is under Judicial Review.
- Ordinances must be approved by the state legislature **within six weeks** from its reassembly.
- His ordinance-making power is **co-extensive with the legislative power of the state legislature**. He can issue ordinances only on those subjects on which the state legislature can make laws.
- Ordinances have the **same force and effect as an act of the State Legislature**, but are in the nature of **temporary laws**.
- An ordinance issued by him is **subject to the same limitations as an act of the state legislature**.
- He can **withdraw an ordinance at any time**.
- The Governor can promulgate or withdraw an ordinance **only on the advice of the CoM** headed CM – not a discretionary power.
- An ordinance issued by him **should be laid before the legislative assembly or both Houses** of the state legislature when it reassembles.



- Ordinance making power of the Governor requires **instructions from the President** in certain cases:
 - If a bill containing the same provisions would have required the previous sanction of the President for its introduction into the state legislature.
 - If he would have deemed it necessary to reserve a bill containing the same provisions for the consideration of the President.
 - If an act of the state legislature containing the same provisions would have been invalid without receiving the President's assent.

Pardoning Power

- Art. 161: Empowers the **Governor** of a state so he can also grant pardons, commutes, respites, reprieves and remissions of **punishment and the sentence** of any person convicted of any offence against a **state law**.
- The pardoning power of the governor **differs from that of the President** in the following two respects:
 - The President can pardon sentences inflicted by **court martial**, while the **governor cannot**.
 - The President can pardon the **death sentence** while the governor **cannot**. Even if a state law prescribes a death sentence, the power to grant a pardon lies with the President and not the governor. Governors can suspend, remit or commute a death sentence.

Discretionary Power

- **Constitutional Discretion**
 - Reservation of Bills for the President's consideration. [UPSC 2014]
 - Recommendations for President's Rule. [UPSC 2014]
 - Administration of adjoining UT.
 - Seeking information from the Chief Minister regarding administrative and legislative policies.
 - Determining the amount payable by the Govt of Assam, Meghalaya, Tripura and Mizoram to an autonomous Tribal District Council (6th scheduled areas) as royalty accruing from licenses for mineral exploration.
- **Situational discretion**
 - Appointment of the Chief minister when no party has a clear-cut majority in the state legislative assembly or when the chief minister in office dies suddenly, and there is no obvious successor.
 - Dismissal of the council of ministers when it cannot prove the confidence of the state legislative assembly.
 - Dissolution of the state legislative assembly if the council of ministers has lost its majority.

IMPORTANT PROVISIONS

Article 63: There shall be a Vice-President of India.

- Vice-President occupies the **second highest office in the country**.
- Ranked **second** in the **table of precedence**.
- The office is modelled on the lines of the **American Vice-President**.

Election

- Elected indirectly by the people of India.
- Electoral College consists of **members of both houses of Parliament**: It consists of **both elected and nominated members** of the Parliament (in the case of the president, only elected members). [UPSC 2013]
- It does **not include the members of the state legislative assemblies** (in the case of the President, the elected members of the state legislative assemblies are included).
- **Method:** System of proportional representation by means of the single transferable vote and the voting is by secret ballot.
- **Doubts and disputes:** Inquired into and final decision by the **Supreme Court**. If the election of a person as Vice President is declared void by the Supreme Court, acts done by him before the date of such declaration of the Supreme Court are not invalidated.
- The election of a person as Vice-President cannot be challenged on the grounds that the Electoral College was incomplete.
- **Note:** Four Vice Presidents have been elected unopposed so far.

Qualification

- Citizen of India.
- Completed **35 years** of age.
- Qualified for election as a member of the **Rajya Sabha**.
- Should not hold any **office of profit**.
- **Note:** A sitting President or Vice-President of the Union, the Governor of any state and a minister for the Union or any state is not deemed to hold any office

of profit and hence qualified for being a candidate for Vice-President.

- The term office of profit is not well defined in the constitution. [UPSC 2020]

Nomination

- At least **20 electors as proposers** and **20 electors as seconders**.
- A security deposit of **Rs. 15,000** in the **RBI**.

Oath (Art. 69)

Oath Administered **by the President** or some person appointed on that behalf by him.

Conditions of Office

- Not a member of either house of Parliament or a House of the state legislature. If any such person is elected Vice-President, he is deemed to have vacated his seat in that House on the date on which he enters upon his office as Vice-President.
- Not hold any other office of profit.

Emoluments, Allowances and Privileges

- The Constitution has **not fixed any emoluments** for the Vice-President in that capacity.
- He draws his **regular salary in his capacity as the ex-officio Chairman of the Rajya Sabha**.

Term of Vice President's Office (Art.67)

- Term: **5 years from the date on which he/she enters upon his/ her office**.
- Resignation to President.
- Hold office beyond his term **until his successor assumes charge**.
- Eligible for **re-election for any no. of times**.

Removal

- A **formal impeachment is not required**, and can be removed from the office before completion of his term.
- Resolution can be introduced only in the Rajya Sabha and not in the Lok Sabha.

- **Resolution of Rajya Sabha passed by an effective majority** and agreed by Lok Sabha by a simple majority.
- No such resolution can be moved unless at least 14 days advance notice has been given.
- **No ground has been mentioned** in the Constitution for his removal.

Vacancy

- **Reasons for vacancy:** On the **expiry** of his tenure of five years; By his **resignation**; On his **removal**; By his death; when he/she becomes **disqualified** to hold office or when his/her election is declared void.
- **By the expiration of the term:** An election to fill the vacancy must be held before the expiration of the term.
- On resignation, removal, death or otherwise, then election to fill the vacancy should be held as soon as possible after the occurrence of the vacancy.
- The **newly-elected Vice-President remains in office for a full term of five years** from the date he assumes the charge of his office.

Powers

- **Acts as ex-Officio Chairman of RS (Art. 64)**
 - His power is **similar to the speaker**.

- He **resembles the American Vice President** who also acts as chairman of the upper house of the American legislature called the **Senate**.

- **Acts as President (Art. 65)**

- When there is a vacancy in the president's office **due to death/removal**.
- Only for a **maximum period of six months** within which a new President has to be elected.
- When the sitting President is **unable to discharge his functions** due to absence, illness or any other cause, the **Vice-President discharges his functions** until the President resumes his office.
- During this time VP **does not perform the duties of the office of the Chairman of Rajya Sabha**. Those duties are performed by the **Deputy Chairman of Rajya Sabha**.

COMPARISON BETWEEN THE INDIAN VS. AMERICAN VICE-PRESIDENT

- The Constitution has **not assigned any significant function** to the Vice-President in that capacity. Hence, some scholars call **His Superfluous Highness**. This office was created with a **view to maintain the political continuity** of the Indian State.
- The office of the Indian Vice-President is **modelled on the lines of the American Vice-President**, but there is a difference:

Indian	American
The Indian Vice-President , merely serves as an acting President when the office of President falls vacant until the new President assumes charge .	The American Vice-President succeeds to the presidency when it falls vacant, and remains President for the unexpired term of his predecessor.



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Prime Minister and Chief Minister

In the scheme of the Parliamentary system of government:

- **President:** Nominal executive authority (de-jure executive).
- **Prime Minister:** Real executive authority (de-facto executive).

- **Governor:** Nominal executive authority (de-jure executive) in the State.
- **Chief Minister:** Real executive authority (de-facto executive) in the State.

CONSTITUTIONAL PROVISIONS

Parameters	Prime Minister (PM)	Chief Minister (CM)
Appointment & Oath	<p>Article 75: The Prime Minister shall be appointed by the President.</p> <ul style="list-style-type: none"> • The Constitution does not contain any specific procedure. • According to the Convention of the Parliamentary system, the leader of the majority party is appointed as PM/CM. • In case of no clear majority, the President/Governor may exercise their personal discretion in the selection and appoints PM/CM respectively. The PM/CM has to seek a vote of confidence within a month in their respective House. • When the PM/CM in office dies suddenly, and there is no obvious successor, the President/Governor may have to exercise his individual judgment in the selection and appointment of the PM/CM. • Constitutionally, the PM/CM may be a member of any of the two Houses of a Parliament/State Legislature. • A person who is not a member of the Parliament/State legislature can be appointed as PM/CM for six months, within which time, he should be elected to the Parliament/State legislature. (Provided by the Supreme Court in one of the judgments). • The President/Governor administers to him/ her the oaths of office and secrecy. 	<p>Article 164: The Chief Minister shall be appointed by the governor.</p>
Term	Not fixed , holds office during the pleasure of the President .	Not fixed , holds office during the pleasure of the Governor .
Salary	Determined by Parliament .	Determined by the State legislature .

POWERS AND FUNCTIONS

- **Article 74/163:** Council of Ministers with the PM/CM as the head to **aid and advise** the President/Governor on the exercise of his functions.
- **Article 75/164:** Other ministers shall be appointed by the President/Governor on the advice of the PM/CM.
- All ministers shall hold office during the pleasure of the President/Governor and shall be collectively responsible to the House of People/legislative assembly of the state. **[UPSC 2013]**

- Resignation or Death of the PM/CM **automatically dissolves** the council of ministers.
- **In Relation to the Council of Ministers**
 - Recommends persons who can be appointed as ministers by the President/Governor.
 - Allocates and reshuffles various portfolios among the ministers.
 - Can ask a minister to resign or advise the President/Governor to dismiss him in case of a difference of opinion.

- Presides over the meeting of COM and influences its decisions.
- Guides, directs, controls, and coordinates the activities of all the ministers.
- Can bring about the collapse of the COM by resigning from office.
- The resignation or death of any other minister, on the other hand, merely creates a vacancy which the Prime Minister/ chief minister may or may not like to fill.

ADDITIONAL POWERS OF PM

- **In Relation to the President**
 - Principal channel of communication between the President and the council of ministers [UPSC 2013]
 - Advises the president with regard to the appointment of important officials like attorney general of India, Comptroller and Auditor General of India, chairman and members of the UPSC, election commissioners, chairman and members of the finance commission.
- **In Relation to Parliament:** advises the President about summoning and proroguing of the sessions of the Parliament; recommend dissolution of the LS to the President at any time; announces government policies on the floor of the House.
- **Other Powers & Functions:** chairman of the NITI Ayog, NIC, InterState Council, National Water Resources Council and some other bodies; Significant role in shaping the foreign policy of the country; Chief spokesman of the Union government; Crisis manager-in-chief at the political level during emergencies; Leader of the party in power; Political head of the services.

RELATION OF PM WITH THE PRESIDENT

- **Article 74:** There shall be a CoM with the PM as the head to aid and advise the president who shall, in the exercise of his/ her functions, act in accordance with such advice. However, the President may require the council of ministers to reconsider such advice and the President shall act in accordance with the advice tendered after such reconsideration.
- **Article 75:** The PM shall be appointed by the President and other ministers shall be appointed by the President on the advise of the PM; The ministers shall hold office during the pleasure of the President ; and The CoM shall be collectively responsible to the LS.

- **Article 78:** It shall be the duty of the PM: to communicate to the President of the state all decisions of the CoM relating to the administration of the affairs of the Union and proposals for legislation; to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; if the President so requires, to submit for the consideration of the CoM any matter on which a decision has been taken by a minister but which has not been considered by the council.

ADDITIONAL POWERS OF CM

- **In Relation to State Legislature:** The Chief Minister enjoys the following powers as the leader of the house: Advises the governor with regard to the summoning and proroguing of the sessions of the state legislature; Recommend the dissolution of the legislative assembly to the governor at any time; Announces the government policies on the floor of the house.
- **Other Powers and Functions:** Chairman of the State Planning Board; Vice-chairman of the concerned zonal council by rotation, holding office for a period of one year at a time; Member of the Inter-State Council and the Governing Council of NITI Aayog, both headed by the prime minister; Chief spokesman of the state government; Crisis manager-in-chief at the political level during emergencies; Political head of the services.

RELATION OF CM WITH THE GOVERNOR

- **Article 163:** There shall be a CoM with the CM as the head to aid and advise the governor on the exercise of his/ her functions, except insofar as he/ she is required to exercise his/ her functions or any of them at his/ her discretion.
- **Article 164:** The CM shall be appointed by the governor and other ministers shall be appointed by the governor on the advise of the CM; The ministers shall hold office during the pleasure of the governor; and The CoM shall be collectively responsible to the legislative assembly of the state.
- **Article 167:** It shall be the duty of the CM: to communicate to the governor of the state all decisions of the CoM relating to the administration of the affairs of the state and proposal for legislation; to furnish such information relating to the administration of the affairs of the state and proposals for legislation as the governor may call for; if the governor so requires, to submit for the consideration of the CoM any matter on which a decision has been taken by a minister but which has not been considered by the council.



Union and State Council of Minister

- Portfolio system was started by Lord Canning in Indian Councils Act 1861.
- In the United Kingdom: Council of Ministers is the real executive which is left on the convention.
- In India: System of Council of Ministers is codified and mentioned in the Indian Constitution.

IMPORTANT PROVISIONS

Parameter	Union CoM	State CoM
Appointment, Oath & Salary	<ul style="list-style-type: none"> • The PM shall be appointed by the President (Art. 75). • Other ministers: appointed by the President on the advice of the Prime Minister. • Oath: administered by the President. • Salary: determined by Parliament. 	<ul style="list-style-type: none"> • CM shall be appointed by the Governor (Art. 164). • Other ministers: appointed by the Governor on the advice of the Chief Minister. • Oath: administered by the Governor of State. • Salary: determined by the State legislature.

CONSTITUTIONAL PROVISIONS

- Article 74: CoM to aid and advise the President. The President shall act in accordance with the advice of CoM headed by PM. The President can ask for reconsideration of advice tendered but then reconsidered advice is binding.
- Article 163: CoM to aid and advise Governor in the exercise of his/ her functions, except in so far as he/ she is required to exercise his/ her functions in his/ her discretion. If any question arises whether a matter falls within the Governor's discretion or not, the decision of the Governor shall be final.
- Advice tendered by CCoM/SCoM cannot be inquired by any court.
- Even after the dissolution of the Lok Sabha/State Legislative Assembly the CCoM/SCoM do not cease to hold office.
- Wherever the Constitution requires the satisfaction of the President/Governor, the satisfaction is of the CCoM/SCoM (by SC in 1974) not of president/governor alone.
- Article 75/164: Ministers appointed: by the President/Governor on the advice of the PM/CM and hold office during the pleasure of the President/Governor.
- 91st CAA, 2003:
 - Total no. of CCoM/SCoM, including PM/CM should not be more than 15% of total strength of Lok Sabha. [UPSC 2022]
 - The number of ministers in the state legislature, including the CM, in a state shall not be less than 12.
 - A member who is disqualified on the ground of defection shall also be disqualified to be appointed as a minister.
- Exact size and classification not mentioned in the Constitution determined by the PM/CM as per time and requirements of the situation.
- CCoM/SCoM collectively responsible to the Lok Sabha (not Parliament)/State Legislative Assembly.
- Person, not a member of any house of parliament can become minister maximum for a duration of six months. [UPSC 2020]
- Article 88: Every Minister has the right to speak and take part in proceedings of both the houses but can only vote where he is a member.
- Article 177: A minister who is a member of one House of the Parliament/state legislature has the right to speak and to take part in the proceedings of the other House. But he can vote only in the House of which he is a member.

RESPONSIBILITY OF MINISTER

Collective Responsibility

- Work as a team, **swims & sinks together.** [UPSC 2018]
- **No-confidence motion:** entire CCoM/SCoM has to resign including ministers from the Rajya Sabha/ State Legislative Council.
- Cabinet decisions are **binding on all cabinet ministers** (and other ministers). Failing such results in resignation.

Individual Responsibility

Ministers hold office during the **pleasure of the president**, which means that the President/Governor on the advice of the PM/CM, can remove a minister **even at a time when the CoM enjoys the confidence of the Lok Sabha.**

No Legal Responsibility

Unlike Britain, there is **no provision in the Constitution** for the system of legal responsibility of a Minister.

OTHERS

Union Council of Minister

- **Constitutional body**, dealt in detail by the Articles 74 and 75 of the Constitution.
- Wider body with **60 to 70 ministers.**

- Includes **all the three categories** cabinet ministers, ministers of state, and deputy ministers. [UPSC 2022]
- **Does not meet as a body** to transact government business.

Implements the decisions taken by the cabinet.

CABINET

- Inserted through **44th CAA, 1978** in Art.352, which **only defines the cabinet** and **does not describe its powers and functions.**
- Smaller body - **15 to 20 ministers.**
- Includes the **cabinet ministers only.** Members of the Cabinet are Members of the Parliament. [UPSC 2013]
- **Meets, as a body**, frequently and takes decisions regarding the transaction of government business.
- **Supervises the implementation** of its decisions by the council of ministers.

KITCHEN CABINET

- **Informal body** consists of the PM and two to four influential colleagues in whom he has faith and with whom he can discuss every problem called the '**Inner Cabinet**' has become the **real center of power.**
- Composed of not only cabinet ministers but **also outsiders like friends and family.**
- Phenomenon of 'kitchen cabinets' is **not unique to India**; it also **exists in the USA and Britain.**



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Parliament (Part V: Articles 79-122)

- **Parliament** (legislative organ of the Union Government) consists of the **President, the Lok Sabha (Lower House), and the Rajya Sabha (Upper House)**.
- **Articles 79 to 122 in Part V** of the Constitution deal with the organization, composition, duration, officers, procedures, privileges, powers and so on of the Parliament.
- **Hindi** names **Rajya Sabha** and **Lok Sabha** were adopted in **1954**.
- The Rajya Sabha represents the states and union territories of the Indian Union, while the Lok Sabha represents the people of India as a whole.

IMPORTANT PROVISIONS

President

- Not a member of either house but an integral part of the parliament. Unlike Britain and India, the American president is not an integral part of the legislature.
- **Summons** and **Prorogues** both the Houses, **dissolves** the LS, **addresses** both the Houses, issues ordinances when they are not in session, and so on.
- Can dissolve LS before completion of 5 years and this cannot be challenged in any court of law.

LOK SABHA AND THE RAJYA SABHA

Rajya Sabha	Lok Sabha
<p>Rajya Sabha</p> <ul style="list-style-type: none"> • Maximum Strength: $250 = 238$ (States & UTs elected indirectly) + 12 (Nominated by President). • Present Strength: $245 = 225$ (states) + 8 (UTs) + 12 (nominated by the President from the field of art, literature, science and social service). • 4th Schedule: Allocation of seats in the Rajya Sabha to the States and UTs. • Note: Only Delhi, Puducherry and J&K have representation in Rajya Sabha. 	<p>Lok Sabha</p> <ul style="list-style-type: none"> • Maximum Strength: $550 = 530$ (States) + 20 (UTs) • Present Strength: $543 = 524$ (states) + 19 (UTs) • 2 anglo-Indian to be nominated by President (Art.331) has been discontinued by 104th CAA, 2019. • 17th Lok Sabha: no member has been nominated from the Anglo- Indian community.
Members	Members
<ul style="list-style-type: none"> • Representation of States: Elected by the elected MLAs based on proportional representation by means of the single transferable vote. The seats are allotted to the states in the Rajya Sabha on the basis of population. • Representation of Union Territories: Indirectly elected by members of an electoral college specially constituted for the purpose. This election is also held in accordance with the system of proportional representation by means of the single transferable vote. • Continuing chamber (permanent body). Not subject to dissolution. • One-third of its members retire every second year. The term of office of a member of the Rajya Sabha is six years. 	<ul style="list-style-type: none"> • Representation of States: Direct election from the territorial constituencies according to the universal adult franchise (First-past-the-post system). • Representation of Union Territories: The Constitution has empowered the Parliament to prescribe the manner of choosing the representatives of the union territories in the Lok Sabha. Accordingly, the Parliament has enacted the Union Territories (Direct Election to the House of the People) Act, 1965, by which the members of Lok Sabha from the union territories are also chosen by direct election. • Not a continuing chamber. • Normal term: 5 years from the date of its first meeting after the general elections, after which it automatically dissolves.

<ul style="list-style-type: none"> The retiring members are eligible for re-election and re-nomination any number of times. 	<ul style="list-style-type: none"> Can be extended one year at time for any length of time during National Emergency by a law of Parliament (Art. 352). However, this extension cannot continue beyond a period of six months after the emergency has ceased to operate.
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System of Elections to Lok Sabha

- For elections to the Lok Sabha, each state is divided into **territorial constituencies**.
- The Constitution ensures that there is uniformity of representation in two respects: (a) between the different states, and b) between the different constituencies in the same state.
- Though the Constitution has abandoned the system of communal representation, it provides for the **reservation of seats** for scheduled castes and scheduled tribes in the Lok Sabha on the basis of population ratios.
 - Reserved seats are elected by all the voters in a constituency, without any separate electorate.

- A member of scheduled castes and scheduled tribes is also not debarred from contesting a general (non-reserved) seat.
- The 42nd Amendment Act of 1976 froze the allocation of seats in the Lok Sabha to the states and the division of each state into territorial constituencies until the year 2000 at the 1971 level. This ban on readjustment was extended for another 25 years (up to the year 2026) by the 84th Amendment Act of 2001, with the same objective of encouraging population limiting measures.
- 61st CAA, 1988:** voting age reduced to 18 from 21 years.

Membership of the Parliament

QUALIFICATIONS

Mentioned in Constitution

- Citizen of India; Make and subscribe to oath or affirmation (Schedule-3);
- Age:** 25 years (LS) and 30 years (RS)
- Any other qualifications provided by Parliament through Legislation.

Representation of People Act (1951)

- Must be registered as an elector for a parliamentary constituency. **[UPSC 2018]**
- Must be a member of SC-ST community in any state or UT if contesting on a reserved seat.

DISQUALIFICATION

Mentioned in Constitution

- If he holds office of profit; If not a citizen of India; Unsound mind and stand so declared by court; An undischarged insolvent; not a citizen of India or has voluntarily acquired the citizenship of a foreign state or is under any acknowledgement of allegiance to a foreign state;
- If disqualified by law made by parliament.

Representation of People Act (RPA), 1951

- Guilty of election offense/corrupt practice; failed to lodge an account of his election expenses within the time; interest in government contracts, works or services; director or managing agent nor hold an office of profit in a corporation in which the government has at least 25 per cent share;
- convicted for promoting enmity; punished for preaching and practicing social crimes; Dismissed from Govt. service for corruption or disloyalty to the State; Imprisoned for 2 or more years **[UPSC 2020]**.

NOTE: On the question of whether a member is subject to any of the above disqualifications, the President's decision is final. However, he/she should obtain the opinion of the Election Commission and act accordingly.

On Ground of Defection (10th schedule): Decided by: chairperson of that house i.e. chairman in RS and speaker in LS. However, their decision is subjected to judicial review (**Kihoto Holon Judgement**).

Grounds

- Voluntarily gives up party membership; Votes or abstains from voting contrary to given direction by his/her party; Independently elected member joins any party; Nominated members join any party after expiry of 6 months.

VACATING OF SEATS

Double Membership: A person cannot be a member of both Houses of Parliament at the same time. Thus, the Representation of People Act (1951) provides for the following:

- Elected to both houses, then must inform within 10 days in which House he/she desires to serve else by default, Rajya Sabha becomes vacant.
- Sitting members elected to another house, seat in the first house becomes vacant.
- Elected to two seats in a House, should opt one, else both become vacant.
- A person cannot be a member of both parliament and state legislature, else his parliament seat becomes vacant if not resign in the state legislature within **14 days**.

Disqualification: If a member of Parliament becomes subject to any of the disqualifications specified in the Constitution, his/her seat becomes vacant. The list of disqualifications also includes disqualification on the grounds of defection under the provisions of the Tenth Schedule of the Constitution.

Resignation: Resigns to the Presiding officer of the house.

Absence: More than 60 days without permission.

Other Cases

- If his/her election is declared void by the court;
- If he/she is expelled by the house;
- If he is elected to the office of president or vice-president; and
- If he is appointed to the office of governor of a state.

NOTE: If a disqualified person is elected to the Parliament, the Constitution does not lay down a procedure to declare the election void. This matter is addressed by the Representation of the People Act (1951), which enables the high court to declare an election void if a disqualified candidate is elected. The aggrieved party can appeal to the Supreme Court against the order of the high court in this regard.

OATH/ AFFIRMATION

- **Administered by the President** or some person appointed by him.
- Before taking and subscribing to the prescribed oath or affirmation **he cannot vote and participate in the proceedings of the House and does not become eligible to parliamentary privileges and immunities**.
- A person is liable to a penalty of 500 for each day he/ she sits or votes as a member in a House in the following conditions: Before taking and subscribing to the prescribed oath or affirmation; or When he/she knows that he/she is not qualified or that he/she is disqualified for its membership; or When he/she knows that he/she is prohibited from sitting or voting in the House by virtue of any parliamentary law.

SALARIES AND ALLOWANCES: Determined by the Parliament, and there is no provision of pension in the Constitution. However, in 1976, Parliament provided pension to the members.

Presiding Officers of the Parliament

Each House of Parliament has its own presiding officer. The Lok Sabha has a Speaker and a Deputy Speaker, while the Rajya Sabha has a Chairman and a Deputy Chairman. Additionally, a panel of chairpersons is appointed for the Lok Sabha, and a panel of vice-chairpersons is appointed for the Rajya Sabha.

History of institution of the Speaker and Deputy Speaker

- Institution originated from: **GoI Act of 1919**.
- Before 1921, the Governor-General of India used to preside over the meetings of the Central Legislative Council.
- In 1921, **Frederick Whyte** and **Sachidanand Sinha** were appointed by the Governor-General of India as the first Speaker and the first Deputy Speaker (respectively) of the central legislative assembly.
- In 1925, **Vithalbhai J. Patel** became the first Indian and the first elected Speaker of the central legislative assembly.
- The Government of India Act of 1935 changed the nomenclatures of President and Deputy President of the Central Legislative Assembly to the Speaker and Deputy Speaker respectively. However, the old nomenclature continued till 1947 as the federal part of the 1935 Act was not implemented.
- Thus, **First Speaker of the LS: G.V. Mavalankar** and **First Deputy Speaker of the LS: Ananthasayanam Ayyangar**

Speaker of the Lok Sabha(LS) (Article 93)

- **Elected by the LS from amongst its members.** Whenever the office of the Speaker falls vacant, the Lok Sabha elects another member to fill the vacancy.
- Date of election: **fixed by the President.**
- **Remains in office during the life of the LS.** However, he has to vacate his office earlier in any of the following three cases:
 - Ceases to be a member of the Lok Sabha; **[UPSC 2018]**
 - Resigns by writing to the Deputy Speaker; and
 - Removed by a resolution passed by a majority of all the then members of the Lok Sabha (i.e., an effective majority) **(Art. 94).**
 - ◆ Such a resolution can be moved only after giving 14 days' advance notice.
 - ◆ This motion of removal can be considered and discussed only when it has the support of at least 50 members.
 - ◆ When the **above resolution is under consideration** of the House, he **cannot preside** at the sitting of the house. However, he can vote in the first instance not in case of equality of votes.
- **If the LS is dissolved, the Speaker does not vacate his office and continues till the newly-elected Lok Sabha meets.**

Powers and Duties

Derives his/her powers and duties from three sources, that is, the Constitution of India, the Rules of Procedure and Conduct of Business of Lok Sabha, and Parliamentary Conventions.

- Guardian of powers and privileges of the members, the House as a whole and its committees.
- Maintains **order and decorum** in the House.
- **Final interpreter of:** the provisions of the Constitution of India, Rules of Procedure and Conduct of Business of Lok Sabha and parliamentary precedents, **within the House.**
- Adjourns the House or suspends the meeting in absence of a quorum. The **quorum** to constitute a meeting of the House is **one-tenth** of the total strength of the House.
- Does not vote in the first instance but can exercise a **casting vote in the case of a tie.**
- He presides over a **joint sitting (Art. 108)** of the two Houses.
- Allow a '**secret**' **sitting** of the House at the request of the Leader of the House.
- Decides whether a bill is a **money bill or not** and his decision on this question is final. Endorses on the bill his certificate that it is a money bill.

- Decides the questions of disqualification of a member of the Lok Sabha, arising on the grounds of defection. Decision is subject to judicial review (Kihoto Hollohan case).
- Appoints the chairman of all the parliamentary committees of the Lok Sabha and supervises their function.
- Ex-officio chairman of: **Business Advisory Committee, the Rules Committee and General-Purpose Committee.**
- Ex-officio chairman of the Indian Parliamentary Group which is a link between the Parliament of India and the various parliaments of the world.
- Ex-officio chairman of the conference of presiding officers of legislative bodies in the country.

Independence and Impartiality

- Security of tenure.
- Salaries and allowances are fixed by Parliament. They are charged on the Consolidated Fund of India.
- Work and conduct cannot be discussed and criticized in the LS **except** on a **substantive motion.**
- Powers of regulating procedure, conducting business or maintaining order in the House are not subject to the jurisdiction of any Court.
- Only exercise a casting vote
- Placed at seventh rank, along with the Chief Justice of India.
- In Britain, the Speaker is strictly a nonparty man. This healthy convention is not fully established in India.

Chairperson of Rajya Sabha (RS) (Art. 89)

- The Vice-president of India is the **ex-officio Chairman** of the Rajya Sabha.
- During any period when the Vice-President acts as President or discharges the functions of the President, he does not perform the duties of the office of the Chairman of Rajya Sabha. Also, he is not entitled to any salary or allowance payable to the Chairman of the Rajya Sabha. But he is paid the salary and allowance of the President during such a time.
- Unlike the Speaker, the Chairman is **not a member of the House.**
- Like the Speaker, the chairperson of RS **cannot vote in the first instance** but **can cast vote in case of equality of vote.** i.e. Casting Vote.
- **Salary and allowance:** fixed by parliament **charged** on consolidated fund of India.
- **Removal (Art. 67):** Only if he is removed from the office of the Vice-President. When such a resolution is under consideration, he **can take part in proceedings as a normal member without the right to vote.**

- Cannot preside over a sitting of the Rajya Sabha as its Chairman when a resolution for his removal is under consideration.

Powers and Duties

- **Similar to Speaker**, except two special power which are mentioned as:

- Speaker **decides whether a bill is a money bill or not** and his decision on this question is **final**.
- The **Speaker presides over a joint sitting (Art. 108)** of two Houses of Parliament.

Deputy Speaker of Lok Sabha and Deputy Chairman of Rajya Sabha

Deputy Speaker of Lok Sabha (Art.93)	Deputy Chairman of Rajya Sabha (Art.89)
<ul style="list-style-type: none"> ● Since the 11th Lok Sabha: consensus that the Speaker belongs to (ruling party or alliance) and Deputy Speaker (main opposition party). [UPSC 2022, 2017] ● Elected after the election of the Speaker has taken place, on such a date as the speaker may fix. [UPSC 2022] ● Whenever the office of the Deputy Speaker falls vacant, the LS elects another member to fill the vacancy. ● Presides joint sitting (Art. 108) in case the Speaker is absent. ● If appointed as a member in a parliamentary committee automatically becomes its chairman. <p>● Both the Deputy Speaker of LS and Deputy Chairman of RS</p> <ul style="list-style-type: none"> ● Elected: by respective house amongst its members and date of election is fixed by Speaker/Chairman. ● Not subordinate to the Speaker/Chairman, directly responsible to the House. He performs the duties of the Speaker's office/ Chairman's office, when it is vacant or is absent from the sitting of the House. ● May vacate his office earlier in three cases: <ul style="list-style-type: none"> ● Ceases to be a member of the Lok Sabha/ Rajya Sabha; ● Resigns by writing to the Speaker/Chairman; and ● Removed by a resolution passed by a majority of all the then members of the LS/RS. ● Cannot vote in the first instance. only casting vote. ● Salary and allowance: fixed by Parliament and charged on the Consolidated Fund of India. ● Removal procedure : similar to the speaker. When a resolution for the removal of the Deputy Speaker/ deputy chairman is under consideration of the House, he cannot preside at the sitting of the House, though he may be present. ● Removal of the Deputy Chairman of the Rajya Sabha (Article 90) ● Removal of the Speaker and the Deputy Speaker of the Lok Sabha (Article 94) 	<ul style="list-style-type: none"> ● Elected by the Rajya Sabha itself from amongst its members. Whenever the office of the Deputy Chairman falls vacant, the Rajya Sabha elects another member to fill the vacancy. ● Performs the duties of the Chairman's office when it is vacant or when the Vice-President acts as President or discharges the functions of the President. ● Deputy-Chairman submits his/her resignation to Chairman (VP) of Rajya Sabha.

Panel of Chairpersons of Lok Sabha/ Vice-Chairpersons Rajya Sabha

- Nominated by Speaker/Chairperson from amongst the members, Not more than 10 members.
- Presides when speaker/chairman and Deputy speaker/chairman are absent.
- When a member of the panel of chairpersons is also not present, any other person as determined by the House, acts as the Speaker/Chairman.
- In case both speaker/chairman and deputy speaker/chairman seats are vacant, does not preside rather the president appoints a member from the House.

Additional Information

- **104th CAA 2019**: To **extend reservation** (till 25th January 2030) for SC and ST (Art. 330 and 332) to Lok Sabha and legislative bodies; **Discontinuing** the provision of **nominating Anglo Indians** (Art. 331) to Lok Sabha (2 members) and legislative bodies (1 member).

- **Speaker Pro-Tem** : Speaker of the last Lok Sabha vacates his office immediately before the first meeting of the newly-elected Lok Sabha. Speaker pro-Tem institution (temporary office) facilitates the transition of the institution from old ones to newly elected members. He also enables the House to **elect the new Speaker**. The **President appoints (also administers oath)** a member of the Lok Sabha as the Speaker Pro-Tem. Usually, the **senior most** member is selected for this.
- The Speaker and the Deputy Speaker, while assuming their offices, **do not** make and subscribe any **separate oath or affirmation**.

Secretariat of Parliament

- Each House of Parliament has separate secretarial staff of its own, though there can be some posts common to both the Houses.
- Their recruitment and service conditions are **regulated by Parliament**.
- The secretariat of each House is **headed by a secretary- general**. He is a **permanent officer** and is **appointed by the presiding officer** of the House.

LEADERS IN PARLIAMENT AND WHIP

Leader of House

- **Under the Rules of Lok Sabha**, the 'Leader of the House' means the prime minister, if he/she is a member of the Lok Sabha, or a minister who is a member of the Lok Sabha and is nominated by the Prime Minister to function as the Leader of the House.
- There is also a 'Leader of the House' in the Rajya Sabha. He/she is a minister and a member of the Rajya Sabha and is nominated by the Prime Minister to function as such.
- The Prime Minister can also nominate a deputy leader of the House. The same functionary in the USA is known as the ' majority leader'.

Leader of Opposition

- Mentioned in Rules of the House and Parliamentary Statute.
- For the **first time** Leader of Opposition **recognised in 1969. [UPSC 2018]**
- **Statutory recognition in 1977**, as it is mentioned in the **salary and Allowances of Leaders of Opposition in Parliament Act, 1977**.
- **Not less than 1/10** of total seats required for recognition as Leader of opposition **[UPSC 2018]**

- **Status of minister**: Leader of Opposition is equivalent to a **cabinet minister**. Entitled to the salary, allowances and other facilities equivalent to that of a cabinet minister.
- Ivor Jennings called it "**Alternative Prime Minister**".
- The same functionary in the USA is known as the '**minority leader**'.

Whip

- Not mentioned in the **Constitution, Rules of the House and Parliamentary Statute**. But based on the **conventions of the parliamentary government**.
- Every political party has its own chief whip and whips in the Parliament (assistant floor leader), ensuring the attendance of his party members; Securing their support in favor of or against a particular issue; Regulates and monitors their behavior in the Parliament.
- The members are supposed to follow the directives given by the whip. Otherwise, disciplinary action can be taken.
- The **Chief whip of the government party** in the **Lok Sabha** is the **Minister of Parliamentary Affairs**. In the **Rajya Sabha**, the **Minister of State for Parliamentary Affairs** holds this position.
- Chief Whip of a recognized party or group entitled to telephone and secretarial facilities under the Leaders and Chief Whips of Recognized Parties and Groups in Parliament (Facilities) Act, 1998.
 - Recognized party: Has not less than fifty-five members in the Lok Sabha or twenty-five members in the Rajya Sabha.
 - Recognized group: Has not less than thirty members in the Lok Sabha or fifteen members in the Rajya Sabha.

IMPORTANT CONCEPTS RELATED TO PARLIAMENT

Summoning (Art. 85)

- **The President summons** each House of Parliament from time to time or at such a place as he/she thinks fit. **[UPSC 2020]**
- The house should meet at least twice a year. **[UPSC 2020]**

Session	<ul style="list-style-type: none"> It is the duration between 1st sitting of the house and its prorogation (or dissolution in the case of the Lok Sabha) during which a house meets to transact business. There are usually three sessions in a year: [UPSC 2020] <ul style="list-style-type: none"> The Budget Session (February to May); The Monsoon Session (July to September); and The Winter Session (November to December).
Recess	Duration between prorogation and reassembly.
Adjournment	<ul style="list-style-type: none"> A sitting of Parliament can be terminated by the Presiding officer through adjournment, which suspends the work in a sitting for a specified time, which may be hours, days or weeks. It does not affect the bills or any other business pending before the House and the same can be resumed when the House meets again. Each meeting of a day consists of two sittings, that is, a morning sitting from 11 am to 1 pm and post-lunch sitting from 2 pm to 6 pm.
Adjournment Sine Die	<ul style="list-style-type: none"> It means terminating a sitting of Parliament for an indefinite period by the Presiding Officer of the house. It also does not affect the bills or any other business pending before the House. It also does not affect the bills or any other business pending before the House . Note: The presiding officer can also call a sitting of the House before the date or time to which it has been adjourned or at any time after the House has been adjourned sine die.
Prorogation	<ul style="list-style-type: none"> President issues a notification for prorogation of the session. However, the President can also prorogue the House while in session. It terminates the sitting and session of the house. It also does not affect the bills or any other business pending before the House. However, all pending notices (other than those for Introducing bills) lapse on prorogation and fresh notices have to be given for the next session. In Britain, prorogation brings to an end all bills or any other business pending before the House.
Dissolution	<ul style="list-style-type: none"> Only the Lok Sabha is subject to dissolution. Unlike a prorogation, dissolution ends the very life of the existing House. Dissolution is irrevocable. When the Lok Sabha is dissolved, all business including bills, motions, resolutions and so on pending before it or its committees lapse. Dissolution of the Lok Sabha may take place in either of two ways: <ul style="list-style-type: none"> Automatic dissolution (expiry of its tenure). Whenever the President decides to dissolve the House. However, some pending bills and all pending assurances that are to be examined by the Committee on Government Assurances do not lapse on the dissolution of the Lok Sabha.
Lame Duck Session	<ul style="list-style-type: none"> Last session of the preceding Lok Sabha, after a new Lok Sabha has been elected. Those existing members who could not get re-elected to the new Lok Sabha are called as Lame-ducks.
Quorum	<ul style="list-style-type: none"> Minimum no. of members (one-tenth of total members of house including presiding officer) required to be present in the House before it can transact any business. If there is no quorum, it is the duty of the presiding officer either to adjourn the House or to suspend the meeting until there is a quorum.

Language in Parliament	<ul style="list-style-type: none"> The Constitution has declared Hindi and English to be the languages for transacting business in the Parliament. However, the presiding officer can permit a member to address the House in his/ her mother-tongue. The Official Languages Act (1963) allowed English to be continued along with Hindi even after 15 years from the commencement of the Constitution .
Rights of Minister and Attorney General	<ul style="list-style-type: none"> Every minister and the Attorney General of India have the right to speak and take part in the proceedings of both the House + joint sitting + any committee of Parliament of which he is a member, without vote.
<p>Voting in the House</p> <ul style="list-style-type: none"> All matters are decided by a majority of votes of the members present and voting, excluding the presiding officer. Only a few matters, which are specifically mentioned in the Constitution like impeachment of the President, amendment of the Constitution, removal of the presiding officers of the Parliament, require either effective majority or special majority, not ordinary majority. The proceedings of a House are to be valid irrespective of any unauthorized voting or participation or any vacancy in its membership. Methods of Voting include Voice Vote, Secret Ballot, Recording of Votes by Distribution of Slips, Physical Count of Members in their Places Instead of a Formal Division, and Casting Vote. 	

Position of bills with respect to lapsing of Bills

- Bill Lapses:**
 - Bill pending in Lok Sabha.
 - Bill pending in Rajya Sabha but passed by Lok Sabha.
- Bill does not lapse:**
 - Passed by both houses but returned by the President for reconsideration of Houses does not lapse.
 - Bill pending in Rajya Sabha, not passed by Lok Sabha. **[UPSC 2016]**
 - Bill not passed by the two Houses and if the President has notified the holding of a joint sitting before the dissolution of Lok Sabha.
 - A bill passed by both Houses but pending assent of the President does not lapse.

DEVICES OF PARLIAMENTARY PROCEEDINGS

Question Hour	<ul style="list-style-type: none"> 1st Hour of parliamentary sitting. Members ask questions and ministers give answers, sometimes questions can be asked to private members too. Initially given by Indian Council Act 1892. Mentioned in Rules of Procedure. They are of three kinds: <ul style="list-style-type: none"> Starred Question: Require oral answer and Supplementary question can be asked. Unstarred Question: Require written answer and Supplementary question cannot be asked. Short Notice Question: Answered orally and asked on short notice of less than 10 days. The list of starred, unstarred, short notice questions and questions to private members are printed in green, white, light pink and yellow colour, respectively, to distinguish them from one another.
Zero Hour	<ul style="list-style-type: none"> Informal device available to the members to raise various matters of urgent public importance. Starts immediately after the question hour and lasts until the agenda for the day. Not mentioned in the Rules of Procedure. It is an Indian innovation (existence since 1962).

Motions	<p>In Parliament, discussions on matters of general public importance require a motion with the consent of the presiding officer. The House expresses its decisions or opinions by adopting or rejecting motions, which can be moved by either ministers or private members.</p> <ul style="list-style-type: none"> • Motions are of three categories: • Substantive Motion: Self-contained, Independent proposal dealing with a very important matter. • Substitute Motion: Proposes an alternative, if adopted by the House, it supersedes the original motion. • Subsidiary Motion: By itself has no meaning and cannot state the decision of the House without reference to the original motion or proceedings of the House. Its has three subcategories: <ul style="list-style-type: none"> ○ Ancillary Motion: It is used as the regular way of proceeding with various kinds of business. ○ Superseding Motion: It is moved in the course of debate on another issue and seeks to supersede that issue. ○ Amendment: It seeks to modify or substitute only a part of the original motion.
Closure Motion	<p>Moved by a member to cut short the debate, If approved, debate is stopped and the matter is put to vote.</p> <p>The four kinds of Closure motions are</p> <ul style="list-style-type: none"> • Simple Closure: Matter sufficiently discussed be now put to vote. • Closure by Compartments: Clauses of a bill/resolution grouped before debate. The debate covers the part as a whole and the entire part is put to vote. • Kangaroo Closure: Only important clauses are taken for debate and voted upon, other clauses are skipped and taken as passed. • Guillotine Closure: When undiscussed clauses/resolutions are also put to vote along with the discussed ones due to want of time.
Privilege Motion	<p>A motion of breach of privilege is raised by a member in Parliament when they believe a minister has violated the privileges of the House or its members by withholding or distorting facts. The motion is aimed at censuring the concerned minister.</p>
Calling Attention Motion	<ul style="list-style-type: none"> • Moved by a member to call the attention of a minister to a matter of urgent public importance. • Indian Innovation (existence since 1954) and mentioned in rules of procedure.
Adjournment Motion	<ul style="list-style-type: none"> • To draw attention of the House to definite matters of urgent public importance. • An Extraordinary device interrupts normal business of the House. • Rajya Sabha is not permitted to use this motion, involving an element of censure against the government. • The discussion on an adjournment motion should last for not less than two hours and thirty minutes. • Criteria: Not cover more than one matter; specific matter of recent occurrence and should not be framed in general terms; not raise a question of privilege; not discussed earlier (same session); not deal with any matter that is under adjudication by court; not raise any question that can be raised on a distinct motion.; support of 50 members required.
Confidence Motion	<ul style="list-style-type: none"> • The motion of confidence has emerged as a procedural tool to address situations of fractured mandates, leading to hung parliaments, minority governments, and coalition governments. • In cases where governments with slim majorities face uncertainty, the President may demand a demonstration of their majority in the House. • Alternatively, governments may voluntarily seek to prove their majority by proposing a motion of confidence. If the confidence motion fails, it leads to the collapse of the government.

No-Confidence Motion	<ul style="list-style-type: none"> Art. 75: Council of ministers shall be collectively responsible to the Lok Sabha. This principle is the bedrock of parliamentary democracy. Not mentioned in the Constitution, is moved under Rule 198 of rules of procedure and can be moved only in Lok Sabha.[UPSC 2014] Ministry stays in office till they enjoy confidence of the majority of the members of the Lok Sabha Needs support of 50 members, no need to state the reasons for its adoption. Moved only against the entire CoM (Not against individual/ group of ministers) and if passed, the CoM must resign from office.
Censure Motion	<ul style="list-style-type: none"> Moved to seek the disapproval of certain policies of the government. Need to state the reasons for its adoption. Can be moved against an individual minister or a group of ministers or the entire council of ministers. If it is passed in the Lok Sabha, the CoM need not resign from the office.
Motion of Thanks	<ul style="list-style-type: none"> Address by the president: the first session after each general election and every fiscal year; outlines govt. policies. Discussed in both the Houses of Parliament. Put to vote and the motion must be passed otherwise it amounts to defeat of the Government.
No-Day-Yet-Named Motion	Motion that has been admitted by the Speaker, but no date has been fixed for its discussion.
Dilatory Motion	<ul style="list-style-type: none"> It is a motion for the adjournment of the debate on a bill/ motion/ Resolution etc. It can be moved by a member at any time after a motion has been made. Debate must be restricted to the matter contained in motion. This motion is to retard or delay the progress of a business under consideration of the House. If the Speaker is of the opinion that such a motion is an abuse of the rules of the House, he/she may either forthwith put the question thereon or decline to propose the question.
Point of Order	<ul style="list-style-type: none"> Members can raise points of order when proceedings of the house do not follow normal rule of procedure; Usually Opposition raises this device. It should relate to the interpretation or enforcement of the Rules of the House or such articles of the Constitution that regulate the business of the House and should raise a question that is within the cognizance of the Speaker. An extraordinary device as it suspends the proceedings before the House and debate is not allowed on a point of order.
Half-an-Hour Discussion	<ul style="list-style-type: none"> It is meant for discussing a matter of sufficient public importance. The Speaker can allot three days in a week for such discussions. There is no formal motion or voting before the House.
Short Duration Discussion	<ul style="list-style-type: none"> Also known as two-hour discussion as the time allotted for such a discussion should not exceed two hours. The Speaker can allot two days in a week for such discussions. There is neither a formal motion before the house nor voting. This device has been in existence since 1953.
Special Mention	<ul style="list-style-type: none"> A matter that doesn't qualify as a point of order or cannot be raised during question hour, half-an-hour discussion, short duration discussion, or under adjournment motion, calling attention notice, or any other rule of the House can be brought up under the special mention in the Rajya Sabha In the Lok Sabha, its procedural equivalent is referred to as 'Notice (Mention) Under Rule 377'.

Resolutions

- A resolution is a **self-contained independent proposal** submitted for the approval of the House and drafted in such a way as to be capable of expressing a decision of the House
- Members move resolutions **to draw the attention of the House or the government to matters of general public interest.**
- A member who has moved a resolution or amendment to a resolution **cannot withdraw** it without the Permission of house.
- **All resolutions come in the category of substantive motions** whereas all **motions need not necessarily be substantive**. So, all **motions are not necessarily** put to vote of the House, whereas **all the resolutions** are required to be **voted upon**.
- **There are three types of Resolutions:**
 - **Private Member's Resolution:** Moved by Private members and discussed on alternate Fridays only in afternoon sitting.
 - **Government Resolution:** Moved by a minister.
 - **Statutory Resolution:** It can be moved either by a private member or a minister. It is so called because it is in pursuance of a provision in the Constitution or a n Act of Parliament.

Youth Parliament

- Started on the **recommendation** of the **Fourth All India Whips Conference** to acquaint the younger generations with practices and procedures of Parliament, to imbibe the spirit of discipline and tolerance , values of democracy and proper perspective on the functioning of democratic institutions.
- The ministry of parliamentary affairs provides necessary training and encouragement to the states in introducing the scheme.

LEGISLATIVE PROCEDURE IN PARLIAMENT

The legislative procedure is identical in both the Houses of Parliament. Every bill has to pass through the same stages in each House. A bill is a proposal for legislation and it becomes an act or law when duly enacted.

TYPES OF BILLS

Based on Introduction

Public Bill	Private Bill
<ul style="list-style-type: none">• It is introduced in the Parliament by a minister.• It reflects the policies of the government (ruling party).• It has a greater chance to be approved by the Parliament.• Its rejection by the House amounts to the expression of want of parliamentary confidence in the government and may lead to its resignation.• Its introduction in the House requires seven days' notice.• It is drafted by the concerned department in consultation with the law department.	<ul style="list-style-type: none">• Drafting is the responsibility of the concerned member.• It is introduced by any member of Parliament other than a minister.[UPSC 2017]• It has a lesser chance to be approved by the Parliament.• Its rejection by the House has no implication on the parliamentary confidence in the government or its resignation.• Its introduction in the House requires one month's notice.• Its drafting is the responsibility of the member concerned.

Based on Procedure Required for their Passage in the Parliament

- **Ordinary Bill:** Concerned with any matter other than financial subjects.
- **Money Bill (Article 110):** Concerned with the financial matters like taxation, public expenditure, etc
- **Financial Bill (Article 117):** which are also concerned with financial matters (but are different from money bills). All Money bills are financial bills, but all financial bills are not money bills.
- **Constitutional Amendment Bill:** Concerned with the amendment of the provisions of the Constitution (**Art. 368**). There is **no provision for a joint sitting** in case of Constitutional Amendment Bill

Ordinary Bill

- It can be introduced **either in the Lok Sabha or the Rajya Sabha.**
- It can be introduced **either by a minister or by a private member.**
- It is introduced without the recommendation of the President.
- It can be amended or rejected by the Rajya Sabha.
- It can be detained by the Rajya Sabha for a **maximum period of six months.**
- **It does not require the certification of the Speaker** when transmitted to the Rajya Sabha (if it has originated in the Lok Sabha).
- It is sent for the President's assent only after being approved by both the Houses. In case of a deadlock due to disagreement between the two Houses, a **joint sitting of both the houses can be summoned by the president to resolve the deadlock.**
- Its defeat in the Lok Sabha **may lead to the resignation of the government** (if it is introduced by a minister).
- It can be rejected, approved, or returned for reconsideration by the President.

Stages of Enactment of Ordinary Bill

First Reading

- The introduction of the bill and its publication in the Gazette constitute the first reading of the bill. **No discussion** on the bill at this stage.
- Members have to ask for leave of the house for introduction.
- Later, the bill is published in the Gazette of India. If a bill is published in the Gazette before its introduction, leave of the House to introduce the bill is not necessary.

Second Reading

Bill receives not only the general but also the detailed scrutiny and assumes its final shape. **It has three more Sub-Stages:**

- **Stage of General Discussion:** Principles of bill and Its provisions are discussed generally and referred to the committee. The details of the bill are not discussed.
 - At this stage, the House can take any one of the following **four actions:** It may take the bill into consideration immediately or on some other fixed date; It may refer the bill to a **select committee** of the House; It may refer the bill to a **joint committee** of the two Houses; and It may circulate the bill to elicit public opinion.
- **Committee Stage:** committee examines the bill thoroughly clause by clause and can also amend its provisions, but without altering the principles underlying it. After completing the scrutiny and

discussion, the committee reports the bill back to the House.

- **Consideration Stage:** Consider the provision of bills clause by clause and each clause is discussed and voted separately. The members can also move amendments and if accepted, they become part of the bill.

Third Reading

- Debate is **confined to acceptance or rejection of the bill** as a whole. **No amendment** is allowed.
- If the majority of members present and voting accept the bill, the bill is regarded as passed by the House. Thereafter, the bill is authenticated by the presiding officer of the House and transmitted to the second House for consideration and approval.
- A bill is deemed to have been passed by the Parliament only when both the Houses have agreed to it, either with or without amendments.

Bill in the Second House

In the second House also, the bill passes through all the three stages, that is, first reading, second reading and third reading.

- There are **four alternatives** before this House: it may pass the bill as sent by the first house (ie, without amendments); it may pass the bill with amendments and return it to the first House for reconsideration; it may reject the bill altogether; and it may not take any action and thus keep the bill pending.
 - If the second House passes the bill without any amendments or the first House accepts the amendments suggested by the second House, the bill is deemed to have been passed by both the Houses and the same is sent to the President for his assent.
 - If the first House rejects the amendments suggested by the second House or the second House rejects the bill altogether or the second House does not take any action for six months, a deadlock is deemed to have taken place.
 - To resolve such a deadlock, the President can summon a joint sitting of the two Houses. If the majority of members present and voting in the joint sitting approves the bill, the bill is deemed to have been passed by both the Houses. **[UPSC 2015]**

Assent of President

- If the president gives his assent to the bill, the bill becomes an act and is placed on the Statute Book.
- If the President withholds his assent the bill ends and.
- If the President returns the bill for reconsideration and if it is passed by both the Houses again with or without amendments and presented to the President for his assent, the president must give his assent to the bill.

Money Bills

A bill is deemed to be a money bill if it contains '**only**' provisions dealing with all or any of the following matters:

- The imposition, abolition, remission, alteration or regulation of any tax; **[UPSC 2019]**
- The regulation of the borrowing of money by the Union government; **[UPSC 2019]**
- The custody of the Consolidated Fund of India or the contingency fund of India, the payment of moneys into or the withdrawal of money from any such fund; **[UPSC 2019]**
- The appropriation of money out of the Consolidated Fund of India; **[UPSC 2019]**
- Declaration of any expenditure charged on the Consolidated Fund of India or increasing the amount of any such expenditure;
- The receipt of money on account of the Consolidated Fund of India or the public account of India or the custody or issue of such money, or the audit of the accounts of the Union or of a state; or
- Any matter incidental to any of the matters specified above.

Nonetheless, a bill should not be considered a money bill solely because it includes provisions for: the imposition of fines or other pecuniary penalties; or the demand or payment of fees for licenses or services rendered; or the

imposition, abolition, remission, alteration, or regulation of any tax by any local authority or body for local purposes.

Legislative Procedure for Money Bill

- It can be introduced **only in the Lok Sabha** and not in the Rajya Sabha.
- It can be introduced **only by a minister and is considered to be a government bill**.
- It can be **introduced only on the recommendation of the President**.
- It **cannot be amended or rejected by the Rajya Sabha**. The Rajya Sabha should return the bill with or without recommendations, which may be accepted or rejected by the Lok Sabha. **[UPSC 2023]**
- It can be detained by the Rajya Sabha for a **maximum period of 14 days only**.
- It **requires the certification of Speaker** when transmitted to the Rajya Sabha.
- It is sent for the President's assent even if it is approved by only Lok Sabha. There is **no chance of any disagreement** between the two Houses and hence, there is **no provision of joint sitting** of both the Houses in this regard. **[UPSC 2023]**
- Its defeat in the Lok Sabha leads to the **resignation of the government**.
- It can be rejected or approved but **cannot be returned for reconsideration** by the President

Difference Between Financial Bill (I) and Financial Bill (II)

Financial Bill (I) [Article 117 (1)]	Financial Bill (II) [Article 117 (3)]
<p>Bill that not only contains exclusive matters of Article 110, but also contains other matters of general legislation.</p> <ul style="list-style-type: none">• Can be introduced only in the Lok Sabha.• Introduced only on the recommendation of the president.	<p>Bill contains provisions involving expenditure from the Consolidated Fund of India, but does not include any of the matters mentioned in Article 110.</p> <ul style="list-style-type: none">• Can be introduced in both Houses of Parliament.• Recommendation of the President is not necessary for its introduction but is required at the consideration stage.

Governed by the **same legislative procedure applicable to an ordinary bill**.

JOINT SITTING (ARTICLE 108)

- An **extraordinary machinery** provided by the Constitution to resolve a **deadlock** between the two Houses over the passage of a bill.
- A deadlock is deemed to have taken place under any one of the following three situations after a bill has been passed by one House and transmitted to the other House:
 - if the bill is **rejected by the other House**;
 - if the **Houses have finally disagreed as to the amendments** to be made in the bill; or

- if **more than six months have elapsed from the date of the receipt of the bill** by the other House without the bill being passed by it.
- **The President can summon** both the Houses to meet in a joint sitting for the purpose of deliberating and voting on the bill.
- If the bill in dispute is passed by a **majority of the total number of members of both the Houses present and voting** in the joint sitting, then the bill is deemed to have been passed by both the houses.
- **The Speaker of Lok Sabha presides** over a joint sitting of the two Houses and the Deputy Speaker,

- in his absence; if the Deputy Speaker is also absent from a joint sitting, the **Deputy Chairman of Rajya Sabha** presides. If he/ she is also absent, such other person as may be determined by the members present at the joint sitting, presides over the meeting.
- **The Chairman of Rajya Sabha does not preside over a joint sitting** as he is not a member of either House of Parliament.
 - **Quorum** to constitute a joint sitting is **one-tenth of the total number of members of the two Houses** but governed by the **Rules of Procedure of Lok Sabha and not of Rajya Sabha**.
 - If the disputed bill has already lapsed due to the dissolution of the Lok Sabha, a joint sitting cannot be summoned.
 - However, a joint sitting can be held if the Lok Sabha is dissolved after the President has notified the intention to summon such a sitting (as the bill does not lapse in this case).
 - Once the President notifies the intention to summon a joint sitting of the two Houses, neither House can proceed further with the bill.
 - Provision regarding the **joint sitting** of the two Houses has been **invoked only thrice**: Dowry Prohibition Bill, 1960; Banking Service Commission (Repeal) Bill, 1977; Prevention of Terrorism Bill, 2002
 - Provision of joint sitting is **applicable to ordinary bills or financial bills only and not to money bills or Constitutional amendment bills**.
 - Constitution has specified that at a joint sitting, new amendments to the bill cannot be proposed except in **two cases**:
 - Those amendments **that have caused final disagreement** between the Houses; and
 - Those amendments that **might have become necessary due to the delay in the passage** of the bill.

BUDGET (ARTICLE- 112)

- The Constitution refers to it as the '**Annual Financial Statement**' (**Article 112**). The term 'budget' has nowhere been used in the Constitution.
- It is a statement of the **estimated receipts and expenditure of the GoI** in a financial year. Overall, the budget contains the following: **1.** Estimates of revenue and capital receipts; **2.** Ways and means to raise the revenue; **3.** Estimates of expenditure; **4.** Details of the actual receipts and expenditure of the closing financial year and, **5.** Economic and financial policy of the coming year.
- Till 2017, the Government of India had two budgets, namely, the Railway Budget and the General Budget. The Railway Budget was separated from the General

Budget in **1924** on the recommendations of the **Acworth Committee Report (1921)**.

- Constitution of India contains the following provisions with regard to the enactment of budget:
 - **The President lays before both the Houses of Parliament**, a statement of estimated receipts and expenditure of the Government of India for that year. (**Art. 112**)
 - **No demand for a grant** shall be made except on the recommendation of the President. (**Art. 113**)
 - **No money shall be withdrawn** from Consolidated Fund of India (CFI) except under appropriation made by law. (**Art. 114**)
 - **No money bill imposing tax** shall be introduced in the Parliament except on the recommendation of the President, and such a bill shall not be introduced in the Rajya Sabha. (**Art. 117**)
 - **No tax shall be levied or collected** except by authority of law. (**Art. 265**)
 - Parliament can reduce or abolish a tax but **cannot increase it**.
 - **Rajya Sabha has no power to vote on the demand for grants**; it is the exclusive privilege of the Lok Sabha. (**Art. 113**)
 - Separate accounting of the expenditure charged on the Consolidated Fund of India and the expenditure made from the Consolidated Fund of India. (**Art. 112**). The **expenditure charged on the Consolidated Fund of India (CFI) shall not be voted in Parliament** but it can be discussed by the Parliament.
 - The Lok Sabha can approve or refuse any demand or reduce the amount specified in the demand but cannot increase it (**Art. 113**).
 - No such amendment can be proposed to the appropriation bill in either House of the Parliament that will have the effect of varying the amount or altering the destination of any grant voted, or of varying the amount of any expenditure charged on the Consolidated Fund of India (**Art. 114**).
 - The Lok Sabha can make any grant in advance (Vote on Account) in respect to the estimated expenditure for a part of the financial year, pending the completion of the voting of the demands for grants and the enactment of the appropriation bill (**Art. 116**).

Expenditure “Charged upon” the Consolidated Fund of India

The charged expenditure is non-votable by the Parliament, that is, it can only be discussed by the Parliament.

- Salaries and allowances of President, Chairman and Deputy Chairman of Rajya Sabha, Speaker and Deputy Speaker of Lok Sabha and Judges of Supreme Court etc.
- Administrative expenses of the Supreme Court, the office of the CAG and UPSC including the salaries, allowances and pensions of the persons serving in these offices.
- Any sum required to satisfy any judgment, decree or award of any court or arbitral tribunal.
- The debt charges for which the Government of India is liable.
- Any other expenditure declared by the Parliament to be so charged

Stages in the Enactment of Budget



Presentation of Budget: Conventionally, the budget is presented to the Lok Sabha by the finance minister on the last working day of February. Since 2017, the presentation of the budget has been advanced to 1st of February.

- The budget can also be presented to the House in two or more parts, and when such presentation occurs, each part shall be dealt with as if it were the entire budget. Furthermore, there shall be no discussion of the budget on the day on which it is presented to the House.

General Discussion: The general discussion on budget begins a few days after its presentation. It takes place in both the Houses of Parliament and lasts usually for three to four days.

- During this stage, the Lok Sabha can discuss the budget as a whole or on any question of principle involved therein, but no cut motion can be moved, nor can the budget be submitted to the vote of the House. The finance minister has a general right of reply at the end of the discussion.

Scrutiny by Departmental Committees: After the general discussion on the budget is over, the Houses are adjourned for about three to four weeks. During this gap period, the 24 departmental standing committees of Parliament examine and discuss in detail the demands for grants of the concerned ministers and prepare reports on them. These reports are submitted to both the Houses of Parliament for consideration.

The standing committee system established in 1993 (and expanded in 2004) makes parliamentary financial control over ministries much more detailed, close, in-depth and comprehensive.

Voting on Demands for Grants: In the light of the reports of the departmental standing committees, the Lok Sabha takes up voting of demands for grants. The demands are presented ministry wise. A demand becomes a grant after it has been duly voted.

- The voting of demands for grants is the exclusive privilege of the Lok Sabha.
- The voting is confined to the votable part of the budget. The expenditure charged on the Consolidated Fund of India is not submitted to the vote.
- Each demand is voted separately by the Lok Sabha. During this stage, the members of Parliament can discuss the details of the budget. They can also move motions to reduce any demand for grants. Such motions are called as ‘cut motion’, which are of three kinds:

Cut Motions

Policy Cut

- It represents the **disapproval** of the policy underlying the demand. The amount of the demand to be **reduced to Rs 1**. The members can also advocate an alternative policy.

Economy Cut

- It states that the amount of the demand be **reduced by a specified amount** (which may be either a lump sum reduction in the demand or omission or reduction of an item in the demand).

Token Cut

- It ventilates a specific grievance that is within the sphere of responsibility of the Government of India. It states that the amount of the demand will be **reduced by 100 INR**.
- A cut motion, to be admissible, must satisfy the following conditions:
 - Relate to one demand/specific matter only with clear expression and without any arguments or defamatory statements;
 - No suggestions for the amendment or repeal of existing laws.

- Not refer to a matter that is not primarily the concern of the Union government.
- Not relate to the expenditure charged on the Consolidated Fund of India.
- No matter that is under adjudication by a court.
- Not raise a question of privilege.
- Not revive discussion on a matter on which a decision has been taken in the same session.
- Not relate to a trivial matter.
- Not reflect on the character or conduct of any person whose conduct can only be challenged on a substantive motion.
- Not anticipate a matter which has been previously appointed for consideration in the same session.
- Not seek to raise a discussion on a matter pending before any statutory tribunal or statutory authority performing judicial or quasi-judicial functions or any commission or court of enquiry.

Passing of Appropriation Bill: The Constitution stipulates that "no money shall be withdrawn from the Consolidated Fund of India except under appropriation made by law." Accordingly, after the demands for grants are voted on and passed by the Lok Sabha, an appropriation bill is introduced to provide for the appropriation out of the Consolidated Fund of India.

- The Appropriation Bill becomes the Appropriation Act after it is assented to by the President. This act authorizes (or legalizes) the payments from the Consolidated Fund of India.
- To overcome the functional difficulty related to passing of Appropriation Bill, the Constitution has authorized the Lok Sabha to make any grant in advance in respect to the estimated expenditure for a part of the financial year, pending the completion of the voting of the demands for grants and the enactment of the appropriation bill. This provision is known as the 'Vote on Account.' It is passed (or granted) after the general discussion on the budget is over and is generally granted for two months for an amount equivalent to one-sixth of the total estimation.

Comparison between Interim Budget and the Vote on Account

- **Article 266:** Parliamentary approval is required to draw money from the Consolidated Fund of India.
- **Article 114 (3):** No amount can be withdrawn from the Consolidated Fund without the enactment of a law (appropriation bill).

Interim Budget	Vote on Account
<ul style="list-style-type: none"> ● An interim budget is presented by the government in the Parliament if it does not have the time to present a full budget, or if the general elections are approaching. ● In the case of approaching elections, it is only feasible that the incoming government frames the full Budget. ● In case, the government is not able to present the full budget before the end of the financial year, it will require parliamentary approval for incurring expenditure in the new financial year until a new budget is passed. ● Until the Parliament discusses the budget and passes it through the interim budget, the government passes a vote-on-account which will allow the government to meet its expenses of administration. 	<ul style="list-style-type: none"> ● Vote-on-Account is a provision by which the government seeks Parliament's approval for funds that are sufficient to bear the expenditure till the formation of a new government takes place. ● A vote-on-account lists only the expenditure borne by the government. ● Vote-On-Account is treated as a formal matter so it can be passed by the Lok Sabha without discussion. ● Vote on Account cannot change the Direct Taxes at any cost. Any alteration in direct taxes can only be brought about by passing of the Finance Bill. ● The vote-on-account can be passed through the interim budget.

Passing of Finance Bill

The 'Finance Bill' is introduced annually to implement the financial proposals of the Government of India for the next fiscal year, including supplementary proposals for any period.

- It is treated as a Money Bill and can be subject to amendments related to taxes. During the discussion

stage, members can address issues concerning general administration, local grievances, or monetary policies.

- The Provisional Collection of Taxes Act mandates the Finance Bill's enactment within 75 days.
- The Finance Act finalizes the budget process by legalizing the income side of the budget.

Various Kinds of Grants

Supplementary Grant	When the amount authorized for service for the current financial year is found to be insufficient for that year.
Additional Grant	Additional expenditure upon some new services not contemplated in the budget for that year .
Excess Grant	<ul style="list-style-type: none"> When money has been spent on any service during a financial year more than the amount granted for that service in the budget for that year. Before the demands for excess grants are submitted to the Lok Sabha for voting, they must be approved by the Public Accounts Committee of Parliament.
Vote of Credit	It is granted for meeting an unexpected demand upon the resources of India, when on account of the magnitude or the indefinite character of the service, the demand cannot be stated with the details ordinarily given in a budget.
Exceptional Grant	It is granted for a special purpose and forms no part of the current service of any financial year.
Token Grant	<ul style="list-style-type: none"> It is granted when funds to meet the proposed expenditure on a new service can be made available by reappropriation. A demand for the grant of a token sum (of Re 1) is submitted to the vote of the Lok Sabha and if assented, funds are made available. Reappropriation involves transfer of funds from one head to another. It does not involve any additional expenditure.
Supplementary, additional, excess and exceptional grants and vote of credit are regulated by the same procedure which is applicable in the case of a regular budget.	

Comparison Between Different Types of Funds

Consolidated Fund of India	Public Account of India	Contingency Fund of India
Article 266	Article 266	Article 267
All receipts are credited and all payments are debited.	All public money other than those which are credited to the CFI shall be credited here.	Amounts determined by parliament by law are paid from time to time into this fund.
All legally authorized payments on behalf of the GoI are made out of this fund.	Includes PF deposits, Judicial deposits, S/B deposits, Departmental deposits, Remittances and so on.	Placed at the disposal of the president, and he can make advances out of it to meet unforeseen expenditure.
No money out of this fund can be issued except in accordance with a parliamentary law. [UPSC 2015]	Operated by executive action.	Held by the finance secretary on behalf of the president . It is operated by executive action.

Role and Powers of Parliament

- Powers and Functions:** Legislative Powers and Functions; Executive Powers and Functions; Financial Powers and Functions; Constituent Powers and Functions; Judicial Powers and Functions; Electoral Powers and Functions.

Position of Rajya Sabha with Respect to Lok Sabha

Equal Status With Lok Sabha	Unequal Status With Lok Sabha	Special Powers to Rajya Sabha
<ul style="list-style-type: none"> Ordinary bills. Constitutional amendment bills. [UPSC 2020,2013] 	<ul style="list-style-type: none"> Money bills can be introduced only in LS. RS has no power to amend/reject the Money Bill. [UPSC 2015] 	<ul style="list-style-type: none"> Article- 249: RS can authorize parliament to make law on state list subjects.

<ul style="list-style-type: none"> • Financial bills involving expenditure from the Consolidated Fund of India. • Election and Impeachment of the President. • Recommendation to the President for the removal of Chief Justice and judges of Supreme Court and high courts, CEC and CAG. • Election and removal of the Vice President (RS can alone initiate removal). • Approval of ordinance issued by president • Approval for proclamation of emergencies. • Selection of ministers including the Prime Minister. • Consideration of the reports of the constitutional bodies. • Enlargement of the jurisdiction of the Supreme Court and the UPSC. 	<ul style="list-style-type: none"> • Lok Sabha can either accept or reject all or any of the recommendations of the Rajya Sabha. In both the cases, the money bill is deemed to have been passed by the two Houses. • Final power to decide whether a particular bill is a Money Bill or not is vested in the Speaker of the Lok Sabha. • Financial Bill-I introduced only in LS. • Speaker presides over joint sitting. • RS can only discuss Budget but cannot vote on demand for grants [UPSC 2015] • Resolution for discontinuance of national emergency passed only by LS • No confidence Motion- can only be initiated in LS. [UPSC 2022,2014] 	<ul style="list-style-type: none"> • Article- 312: RS can authorize parliament to create All India Services common to both center and State. • Article 67: RS alone can initiate a move for the removal of the vice-president. • Articles 352, 356 and 360: proclamation issued by the President for imposing emergency at a time when the Lok Sabha has been dissolved or the dissolution of the Lok Sabha takes place within the period allowed for its approval, then the proclamation can remain effective even if it is approved by the Rajya Sabha alone.
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PARLIAMENTARY PRIVILEGES

- **Parliamentary privileges:** special rights, immunities and exemptions enjoyed by the two Houses of Parliament, their committees, and their members.
- The Constitution also **extended it to the Attorney General of India**, but the parliamentary privileges **do not extend to the President who is also an integral part of the Parliament**.

Sources of Privileges

- Originally, the **Constitution (Article 105) mentioned two privileges:** freedom of speech in Parliament & right of publication of its proceedings.
- Till now parliament has **not made any special law to exhaustively codify all the privileges**.
- **They are based on five sources, namely:** Constitutional provisions; Various laws made by Parliament; Rules of both the Houses; Parliamentary conventions; and Judicial interpretations.

Collective Privileges

- **Right to publish its reports, debates and proceedings; right to prohibit others from publishing the same.**
- **Hold secret sittings** to discuss some important matters. Excluding strangers from its proceedings.
- **Make rules to regulate its own procedure** and the **conduct of its business** and to adjudicate upon such matters.

- **Punish members as well as outsiders** for breach of its privileges or its contempt.
- **Right to receive immediate information:** of the arrest, detention, conviction, imprisonment and release of a member
- **Inquiries and orders** the attendance of witnesses and sends for relevant papers and records.
- **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**.

Individual Privileges

- **Cannot be arrested during the session** of Parliament and **40 days before** the beginning and **40 days after the end of a session** (applicable only in civil cases and not in criminal cases or preventive detention cases).
- **Freedom of Speech:** No member is liable to any proceedings in any court for anything said or any vote given by him in Parliament or its committees.
- **Exempted from Jury Service:** He/She can refuse to give evidence and appear as a witness in a case pending in a court when Parliament is in session.

Breach of Privileges

- When any individual or authority disregards or attacks any of the privileges, rights and immunities,

either of the members individually or of the House in its collective capacity, it is punishable by the House.

Sovereignty of Parliament

- **Sovereignty:** supreme power within the State; **no 'legal' restrictions** on its authority and jurisdiction.
- The doctrine of '**sovereignty of Parliament**' is associated with the British Parliament means supreme power in Great Britain lies with the Parliament.
- **Indian Parliament** cannot be regarded as a sovereign body in the similar sense as **there are 'legal' restrictions** on its authority and jurisdiction. [UPSC 2021]

Factors that Limit the Sovereignty of Indian Parliament are

- Written Nature of the Constitution;
- Federal System of Government;
- System of Judicial Review;
- Fundamental Rights.

In this regard, the **Indian Parliament is similar to the American Legislature** (known as Congress). The sovereignty of Congress is legally restricted by the written character of the Constitution, the federal system of government, the system of judicial review and the Bill of Rights.

Important Parliamentary Committees

Estimates Committee	
Origin	<ul style="list-style-type: none"> • The origin of this committee can be traced to the standing financial committee set up in 1921. • The First Estimates Committee in the post-independence era was set up in 1950 on the recommendation of John Mathai.
Composition	<ul style="list-style-type: none"> • 30 members all from LS (largest committee). [UPSC 2014] • These members are elected every year from amongst its own members, according to the principles of proportional representation by means of a single transferable vote. • The Minister cannot be a member.
Function	To examine the budget and also suggest economies of public expenditure.
Involvement in policy	Suggest alternative policy to ensure economies of public expenditure.
Public Accounts Committee	
Origin	Set up first in 1921 under GOI Act 1919 .
Composition	<ul style="list-style-type: none"> • $22 = 15(\text{LS}) + 7(\text{RS})$. [UPSC 2013] • Elected for one year on the basis of proportional representation by single transferable vote. • Chairman from Opposition. • The Minister cannot be a member. • The chairman of the committee is appointed from amongst its members by the Speaker. • Until 1966 - 67, chairman: from the ruling party. • Since 1967: invariably from the Opposition.

PARLIAMENTARY AND CABINET COMMITTEES

- **Constitution of India:** mention of these committees at different places, but without making any specific provisions regarding their composition, tenure, functions, etc. They are dealt by the **Rules of two Houses**.

Parliamentary Committee

- Appointed or elected by the house or nominated by speaker or chairman.
- Works under direction of the speaker/chairman.
- Presents its report to the house or to the speaker/chairman.
- Has a secretariat provided by Lok Sabha/Rajya Sabha.

The **consultative committees**, which also consist of members of Parliament, are **not parliamentary** committees as they do not fulfill above four conditions.

Classification

Parliamentary committees are of two kinds:-

- **Standing Committees:-** Permanent (constituted every year or periodically), work on a continuous basis
- **Ad Hoc Committees:-** Temporary and cease to exist on completion of the task assigned to them. These are of two types: Inquiry Committees and Advisory Committees.

Function	<ul style="list-style-type: none"> Examines CAG Audit report and discovers the irregularities. [UPSC 2013] The committee examines public expenditure not only from legal and formal point of view but also from the point of view of economy, prudence, wisdom and propriety. [UPSC 2013] CAG - friend, philosopher, and guide for PAC.
Committee on Public Undertakings	
Origin	Krishna Menon Committee 1964.
Composition	<ul style="list-style-type: none"> 22 = 15(LS) + 7(RS) The Minister cannot be a member. Chairman of the committee is appointed by the Speaker from amongst its members who are drawn from the Lok Sabha only.
Function	<ul style="list-style-type: none"> To examine reports and accounts of public sector undertakings. Does not involve in the day to day affairs of PSUs. Recommendations are advisory and not binding on the ministries.
Departmental Standing Committee (24 Committees)	
Origin	On the recommendation of the Rules committees of Lok Sabha (1993). In 2004, seven more such committees were set up, thus increasing their number from 17 to 24.
Composition	<ul style="list-style-type: none"> 31 = 21(LS) + 10(RS). Members nominated by respective presiding officers. Term: each standing committee's term is one year from the date of its constitution. Minister is not eligible to be nominated as a member of any of the standing committees
Function	<ul style="list-style-type: none"> To examine bills, demand of grants and other matters recommended to them. Out of the 24 standing committees, 8 work under the Rajya Sabha and 16 under the Lok Sabha.

Other Committees

Committee with Presiding officers of Lok Sabha (Speaker) and Rajya Sabha (Chairperson)

- Rules Committee:** considers the matters of procedure and conduct of business in the House and recommends necessary amendments or additions to the rules of the House. In the **Lok Sabha**, the committee consists of **15 members** including the Speaker. In the **Rajya Sabha**, it consists of **16 members** including the Chairman.
- Business Advisory Committee:** Regulates the programme and time table of the House. It allocates time for the transaction of legislative and other business brought before the House by the government. In the Lok Sabha, the committee consists of **15 members** including the Speaker. In the **Rajya Sabha**, it has **11 members** including the Chairman.
- General Purposes Committee:** considers and advises on matters concerning affairs of the House, which do not fall within the jurisdiction of any other parliamentary committee.

Cabinet Committee

- Extra constitutional** in emergence.
- The executive in India works under the **Government of India Transaction of Business Rules, 1961**.
- These **Rules emerge from Article 77(3) of the Constitution**, which states: "The President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministries of the said business."
- Set up by the **Prime Minister (PM)**; aims to reduce the workload of cabinet; varies membership from 3-8;

- includes minister in charge; includes senior ministers; and takes decisions which are reviewed by cabinet.
- Two types: Standing committee** or Permanent committee and **Ad Hoc committee** or temporary, for a special purpose.
- They are mostly headed by the Prime Minister. Sometimes other senior Cabinet ministers also act as their Chairman. But, in case the Prime Minister is a member of a committee, he/she invariably presides over it.

Important Cabinet Committees

- **Cabinet committee on political affairs:** called the **Super Cabinet**, deals with all policy matters pertaining to foreign and domestic affairs.
- **Cabinet committee on Economic affairs:** directs and coordinates the governmental activities on the economic sphere.
- **Appointment committee of cabinet:** decides all higher-level appointments in the central secretariat, public enterprises banks and financial institutions.
- **Cabinet committee on parliamentary affairs:** looks after progress of government business in the Parliament
- **Cabinet committee on investment and growth.**
- **Cabinet committee on employment and skill development.**
- **Cabinet Committee on Security.**
- **Cabinet Committee on Accommodation.**



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State Legislatures

(Part VI: Articles 168-212)

- **No uniformity** in state legislatures.
- **6 states with Bicameral Legislature:** Andhra Pradesh, Telangana, Maharashtra, Karnataka, Uttar Pradesh, and Bihar.
- **State legislature consists of:** Governor + Legislative Assembly (Vidhan Sabha) + Legislative Council (Vidhan Parishad) (in case of bicameral).
- **Article 169:** Parliament can abolish a Legislative Council or create it if the legislative assembly of the concerned state passes a resolution by a **Special Majority** to that effect. This Act of Parliament is **not to be deemed as an amendment of the Constitution** for the purposes of Art. 368 and is passed like an **ordinary piece of legislation** (by Simple Majority).

LEGISLATIVE ASSEMBLY

Strength	<ul style="list-style-type: none"> • Maximum strength: 500 • Minimum strength: 60 • Arunachal Pradesh, Sikkim, Goa: Min strength is 30 • Mizoram - 40, Nagaland - 46
Manner of election	<ul style="list-style-type: none"> • Directly elected on the basis of universal adult franchise.
Nominated members	<ul style="list-style-type: none"> • Article 334: one Anglo-Indian could be nominated by the Governor to the assembly. • 104th CAA (2019): Abolished the reservation to Anglo-Indians.
Duration	<ul style="list-style-type: none"> • Normal term: 5 years from the date of its first meeting after the general elections. • Governors can dissolve at any time. • Terms can be extended by parliament during a national emergency for one year at a time. However, this extension cannot continue beyond a period of six months after the emergency has ceased to operate.
Territorial Constituencies	<ul style="list-style-type: none"> • Each state is divided into territorial constituencies. • Demarcation of constituencies is done in such a manner that the ratio between the population of each constituency and the number of seats allotted to it is the same throughout the state.
Readjustment after each census	<ul style="list-style-type: none"> • After each census, a readjustment is to be made in the (a) total number of seats in the assembly of each state and (b) the division of each state into territorial constituencies. • Parliament is empowered to determine the authority and its manner.
Reservation of seats for SCs & STs	<ul style="list-style-type: none"> • Each state: based on their population ratios. • Originally for 10 years, but extended by 10 years thereafter continuously. • 104th CAA: reservation extended for another 10 years till 2030.

LEGISLATIVE COUNCIL

Strength	<ul style="list-style-type: none"> • Max strength: 1/3rd of the total strength of the assembly. • Min strength: 40 • Members are indirectly elected. • The constitution has fixed the maximum and minimum limits, but actual strength is fixed by Parliament.
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Manner of election	<p>5/6: of the total number of members of a legislative council are Indirectly elected (proportional representation by means of a single transferable vote):</p> <ul style="list-style-type: none"> • 1/3: by the members of the local bodies like municipalities, district boards etc. • 1/3: by members of the Legislative Assembly. • 1/12: by graduates of three years standing & residing in the state. • 1/12: teachers of three years standing in the state, not lower in standard than secondary school.
Nominated members	1/6 Nominated by the Governor having knowledge & experience in Cooperative Movement, Literature, Arts, Social Service, Science.
Duration	<ul style="list-style-type: none"> • Continuing chamber (permanent body). • One-third of members retire after every 2nd year. So, a member continues as such for six years. • Eligible for re-election and re-nomination by the Governor

The scheme of composition of a legislative council as laid down in the Constitution is tentative and not final. The Parliament is authorized to modify or replace the same.

OTHER PROVISIONS RELATED TO MEMBERS OF THE ASSEMBLY AND COUNCIL

Oath or affirmation	<ul style="list-style-type: none"> • Make and subscribe to an oath or affirmation before the Governor or some person appointed by him for this purpose. • Without Oath: he cannot vote & participate in the proceedings of the house and no privileges & immunities are available. • A person is liable to a penalty of 500 for each day he/ she sits or votes as a member in a House in the following conditions: Before taking and subscribing to the prescribed oath or affirmation; or When he/she knows that he/she is not qualified or that he/she is disqualified for its membership; or When he/she knows that he/she is prohibited from sitting or voting in the House by virtue of any parliamentary law.
Qualification	<p>Mentioned in Constitution</p> <ul style="list-style-type: none"> • Citizen of India. • Make and subscribe to an oath or affirmation before the person authorized by the ECI. • Age: Not less than 25 yrs (SLA) & 30 yrs (SLC). • other qualifications prescribed by the Parliament. • RPA 1951 (by parliament) • SLC: must be an elector for the assembly constituency in that state & to be nominated by the governor; must be a resident of that state. • SLA: must be an elector for the assembly constituency in that state. • Contest from reserved seat: must be a member of SC/ST. However, SC/ST members can also contest a seat not reserved for them.
Disqualification	<p>Mentioned in Constitution</p> <ul style="list-style-type: none"> • If he holds office of profit (Union/state) • Unsound mind and so declared by the court • Undischarged insolvent • Not a citizen of India • If disqualified under any law made by the Parliament <p>RPA 1951 (by parliament)</p> <ul style="list-style-type: none"> • Guilty of election offence/corrupt practice; failed to lodge an account of his election expenses within the time; interest in government contracts, works or services; director or managing agent nor hold an office of profit in a corporation in which the government has at least 25 per cent share; • convicted for promoting enmity; punished for preaching and practising social crimes; Dismissed from Govt. service for corruption or disloyalty to the State; Imprisoned for 2 or more years.

	<p>Note: Governor's decision is final on above disqualifications, and Governor should obtain the opinion of ECI.</p> <p>Ground of Defection</p> <ul style="list-style-type: none"> Disqualified under the provisions of the 10th schedule of the Constitution Decided by: Chairman in the case of Legislative Council & Speaker in case of Legislative Assembly. Kihota Hollohan Vs. Zachillhu Case: SC said that the decision of the Chairman/Speaker is subject to judicial overview.
Vacation of seats	<ul style="list-style-type: none"> Double Membership: Cannot be a member of both the houses at same time. One seat becomes vacant as per the law made by the State Legislature. Disqualification: As per Constitution or RPA 1951 or Tenth Schedule. Resignation: Resignation letter to Chairman of Council or Speaker of Assembly as per the case. Absence: If he is absent for 60 days without permission of the house. Other Cases: Election declared void by the court; expelled by the house; elected as President or VP; appointed as Governor.

PRESIDING OFFICERS OF THE STATE LEGISLATURE

- State Legislative Assembly (SLA):** Speaker & Deputy Speaker, Panel of Chairmen.
- State Legislative Council (SLC):** Chairman & Deputy Chairman, Panel of Vice-Chairmen.

Parameters	Speaker of SLA	Chairperson of SLC
Election	<ul style="list-style-type: none"> By the Assembly from amongst its members. Remains in office during the life of the assembly. 	By the Council from amongst its members [UPSC 2015]
Vacancy/ Resigns/ Removal	<p>Vacates his office earlier in three cases</p> <ul style="list-style-type: none"> If he ceases to be a member of the assembly/Council. The Speaker/Chairman resigns by writing to the deputy speaker/deputy chairman and vice versa. Removed by the resolution passed by a majority of all the members of the assembly/council (only after giving 14 days advance notice.) 	
Powers & duties of Speaker/ Chairperson	<ul style="list-style-type: none"> Maintains order & decorum of assembly/council. Final interpreter of the provisions of: Constitution + rules of procedure + conduct of the business of assembly/council + legislative precedents within the assembly/council. Adjourns the assembly or suspends meeting in the absence of a quorum. Votes in case of tie, does not vote in the first instance. Allows secret sitting of the house on leader's request. Final decision on Money Bill (Only Speaker). Decides disqualification under the 10th Schedule (Anti-defection case). Appoints the chairman of all committees of the assembly/council. Presides over: Business Advisory Committee, Rules Committee and General-Purpose Committee. 	
Salaries and Allowances	<ul style="list-style-type: none"> Fixed by the state legislature Charged upon the Consolidated Fund of the State, not subject to the annual vote of the state legislature. 	
Deputy Speaker /Deputy Chairperson	Performs duties of Speaker/Chairman when it is vacant or Speaker/Chairman is absent from the sitting.	

Panel of Chairperson (SLA)/Vice-Chairperson (SLC)	Speaker nominates from amongst the members anyone can preside the assembly in the absence of Speaker/Dy. Speaker . Same powers as the speaker. Holds office until a new panel of chairman is nominated	Chairman nominates from amongst the members. Anyone can preside the council in the absence of Chairman/Dy. Chairman. Same powers as the Chairman, holds office until a new panel of vice chairman is nominated
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Sessions of State Legislature

Summoning	<ul style="list-style-type: none"> Governor summons from time to time. Max gaps between two sessions: not more than 6 months
Adjournment	<ul style="list-style-type: none"> Suspends the work in a sitting for a specified time (hours, days or weeks.) Adjournment sine die: terminating a sitting for an indefinite time. Power to adjourn and adjournment sine die lie with the presiding officer of the house.
Prorogation	After adjournment sine die, Governor issues notification for prorogation (completion of the current session.). However, the governor can also prorogue the House which is in session.
Dissolution	Dissolution ends the life of the existing house.
Quorum	<ul style="list-style-type: none"> 10 members or one tenth of the total number of members of the house (including presiding officer) whichever is greater. If no quorum, the presiding officer either adjourns or suspends the meeting until there is quorum.
Lapsing of bills on dissolution	<p>Bill Lapses</p> <ul style="list-style-type: none"> Bill pending in assembly (whether originating in assembly or transmitted to it by the Council). Bill passed by assembly but pending in Council. <p>Bill Doesn't Lapse</p> <ul style="list-style-type: none"> Bill pending in Council but not passed by assembly. Bills passed by assembly (unicameral) or both the houses (bicameral) but pending assent of governor or president Bill returned by the president for the consideration of the house.
Voting in House	<ul style="list-style-type: none"> Simple majority: for all matters. Special majority: Resolution for creation or abolition of Legislative Council. Absolute Majority: Removal of speaker or chairman. Casting vote: The Speaker & chairman does not vote in the first instance.
Language in state legislature	<ul style="list-style-type: none"> As per the Constitution: The language for transacting business in legislature is to be the official language of the state or Hindi or English. Presiding officer can permit the member to address the house in his mother tongue. The State Legislature is authorized to decide whether to continue or discontinue English as a floor language after the completion of 15 years from the commencement of the Constitution. In case of Himachal Pradesh, Manipur, Meghalaya and Tripura, this time limit is twenty-five years and that of Arunachal Pradesh, Goa and Mizoram, it is forty years.
Rights of ministers & Advocate General	Every minister and advocate General have the right to speak in either house or its committees without being entitled to vote .

Legislative Procedure In State Legislature

Ordinary Bill

Bill in the originating house/ Introduction

- Can originate in either house and introduced either by minister or private member.

- Stages**: first reading, second reading, third reading.
- After the bill is passed by the originating House, it is transmitted to the second House for consideration and passage.
- A bill is deemed to have been passed by the state legislature only when both the Houses have agreed

to it, either with or without amendments. In case of a unicameral legislature, a bill passed by the legislative assembly is sent directly to the governor for his/ her assent.

Bill in the second house

Passes through 3 readings again. Four options available with Council:

1. Pass without amendments.
 2. Pass with amendments and return it to the assembly for reconsideration.
 3. Reject the bill altogether.
 4. May not take any action & keep it pending for **3 months**.
- If passed without any amendments, then sent to the governor for his assent.
 - **In the 2nd, 3rd & 4th options:** The assembly may pass the bill again and transmit it to the Council again. If the Council passes the bill with amendments not acceptable to the assembly or rejects the bill altogether or keeps pending for **1 month**, then the bill is considered as passed by both houses.
 - The ultimate power to pass the bill lies with the assembly, and council can keep it pending for **max 4 (3 + 1) months**.
 - The Constitution does **not provide for joint sitting** to resolve the disagreement over the bill.

Assent of Governor: 4 alternatives

- Gives assent to the bill. Then the Bill becomes law.
- Withholds assent. Then the Bill ends.
- Returns the bill for the reconsideration of the house.
- Reserves the bill for the consideration of the president. If it is again passed by the house with or without amendments, then the governor must give his assent.

Assent of president: 3 alternatives

- Give assent to the bill.
- Withhold assent.

Bills Reserved or President's Consideration

- The **Sarkaria Commission** on Centre-State Relations (1983-88) classified the State Bills reserved for President's consideration under the Constitution in the following three categories:
- Bills which **must** be reserved for President's consideration : In this category, come Bills: which so derogate from the powers of the High Court, as to endanger the position which that Court is under the Constitution designed to fill (**Article 200**); which relate to imposition of taxes on water or electricity in certain cases, and attract the provisions of **Article 288**; and which fall within Article 360, during a financial emergency.
- Bills which may be reserved for President's consideration and assent for specific purposes: In this category, the following Bills come: To secure immunity from operation of **Articles 14 and 19**; A Bill relating to a subject enumerated in the Concurrent List, to ensure operation of its provisions despite their repugnancy to a Union law or an existing law, by securing President's assent in terms of **Article 254**; A bill imposing restrictions on trade and commerce requiring prior Presidential sanction which was not obtained under **Article 304**.

- Return the bill for the reconsideration of the house. If returned, then the house must reconsider it within 6 months. Whether it is obligatory for the President to give assent or not to such a reconsidered bill is not mentioned in the Constitution.

MONEY BILL

Bill in the originating house/ Introduction

- Can only be introduced in the Assembly on the recommendation of the Governor.
- Can only be introduced by the minister as it is a government bill.

Bill in the second house

- After LA passes the bill; it is transmitted to the Legislative Council for its consideration.
- The Legislative Council has **restricted powers** with regard to money bills. The **council cannot reject or amend** a money bill. The council can only make recommendations and must return the bill **within 14 days**.
- If the Assembly accepts the recommendations of the Council, the bill is considered as passed in the modified form. If it rejects the recommendations, then the bill is considered as passed in its original form. If the Council does not return the bill in 14 days, then the bill is considered as passed by both houses in the original form.

Assent of Governor 3 alternatives

- Gives assent to the bill.
- Withholds assent.
- Reserves bill for presidential assent.
- Governor cannot return the bill for reconsideration of the house.

Assent of the President: President can

- Give assent
- Withhold assent
- The President cannot return the bill for reconsideration of the House.

Bills which may not specifically fall under any of the above categories, yet may be reserved by the Governor for President's consideration under **Article 200**.

Position of Legislative Council

Equal Status with Assembly	Unequal Status with Assembly
<ul style="list-style-type: none"> Introduction & passage of ordinary bills. In case of disagreement, the will of assembly prevails over council. Approval of ordinances issued by Governor (Art.213). Selection of ministers including CM. Consideration of reports of constitutional bodies like State Finance Commission, CAG. Enlargement of the jurisdiction of the State Public Service Commission. 	<ul style="list-style-type: none"> Money bills introduced only in LA. LC has no power to amend/reject the Money Bill. Only the Speaker decides whether the bill is a money bill or not. Final power of passing ordinary bills lies with the assembly. Council can only discuss the budget but cannot vote on demands. Council does not participate in the election of the president & RS. Council does not have effective say in the ratification of a constitutional amendment bill. No confidence motion can only be initiated in LA. Existence of the council depends on the will of the assembly.

PRIVILEGES OF STATE LEGISLATURE

- Privileges** = special rights + immunities + exemptions enjoyed by the houses, their committees & members.
- The Constitution has also **extended these privileges to those persons who are entitled to speak & take part in the proceedings** of the House of state legislature or any of its committees. These include the Advocate General of State and ministers.
- The privileges of the state legislature **do not extend to the governor** who is also an **integral part of the state legislature**.

Collective Privileges

- Right to publish reports, debates & proceedings; Right to prohibit others from publishing the same.
- Hold secret sittings to discuss important matters and excluding strangers.
- Can make rules to regulate its own procedure; conduct of its business & to adjudicate upon such matters.
- Punish members as well as outsiders for breach of its privileges or its contempt by reprimand, admonition or imprisonment.

- Right to receive immediate information of arrest, detention, conviction, imprisonment and release of members.
- Initiate inquiries and order the attendance of witnesses & send for relevant papers and records.
- Courts are prohibited to inquire into the proceedings of the house or its committees.
- No person (either a member or outsider) can be arrested and no legal process (civil/criminal) can be served within the precincts of the house without the permission of the presiding officer.

Individual privileges

- Members **cannot be arrested** during the session and 40 days before the beginning and 40 days after the end of such session (only in civil cases and not in criminal cases or preventive detention cases.)
- Members have **freedom of speech** in the state legislature. **No member is liable** to any proceedings in any court for anything said or any vote given by him in the state legislature or its committees.
- Members are **exempted from jury service**. They **can refuse to give evidence & appear** as witnesses in a case pending in a court when the state legislature is in session.



Supreme Court

(Part V: Article 124 to 147)

Article 124: Mandates the establishment and Constitution of the Supreme Court.

DIFFERENCE BETWEEN INDIAN AND AMERICAN JUDICIARY

Parameter	Indian	American
Judicial System	Single & integrated system of courts: adopted from the GoI Act of 1935. Enforces both Central and State Laws.	Double system of courts: the federal laws are enforced by the federal judiciary and the state laws are enforced by the state judiciary.
Original Jurisdiction	Confined to federal cases.	Covers not only federal cases but also cases relating to naval forces, maritime activities, ambassadors, etc.
Appellate Jurisdiction	Constitutional + Civil + Criminal cases.	Constitutional cases only.
Advisory Jurisdiction	It has advisory jurisdiction.	It has no advisory jurisdiction.
Discretion	Grant special leave to appeal in any matter against the judgment of any court or tribunal (except military).	No such plenary power.
Judicial Review	Scope is limited.	The scope is very wide.
Jurisdiction and Powers	Can be enlarged by Parliament.	Limited to that conferred by the Constitution.
Defends Rights of the Citizen	According to the ' procedure established by law '.	According to the ' due process of law '.

CONCURRENCE VS CONSULTATION

First Judges case (1982)	SC opined that consultation does not mean concurrence and it only implies an exchange of views.
Second Judges case (1993)	SC reversed its earlier ruling and changed the interpretation of the word consultation to concurrence . It ruled that the advice tendered by the Chief Justice of India is binding on the President in the matters of appointment of the judges of the SC. CJI will tender his advice after consulting with two senior-most colleagues.
Third Judges case (1998)	<ul style="list-style-type: none"> SC opined that the consultation process to be adopted by the CJI requires consultation of plurality judges (Not CJI alone). CJI should consult a collegium of 4 seniormost judges (even if two gave adverse opinions that recommendation cannot be forwarded). The recommendations made by the chief justice of India without complying with the norms and requirements of the consultation process are not binding on the government.
Fourth Judge's case (2015)	<ul style="list-style-type: none"> NJAC case: The 99th Constitutional Amendment Act of 2014 and the National Judicial Appointments Commission Act of 2014 replaced the collegium system with a new body called the National Judicial Appointments Commission (NJAC). SC declared both the 99th Constitutional Amendment as well as the NJAC Act unconstitutional and void on grounds of interference. Consequently, the earlier collegium system became operative again. [UPSC 2019]

CONSTITUTIONAL PROVISIONS ABOUT THE SUPREME COURT

Parameters	Description
Basic Facts	<ul style="list-style-type: none"> Integrated judicial system borrowed from the GoI Act, 1935. Enforces central and state laws. Inaugurated on January 28, 1950; succeeded the Federal Court of India but replaced the British Privy Council as the highest court of appeal.
Composition	<ul style="list-style-type: none"> Total 34 judges (CJI + 33 other judges). Note: Supreme court (number of judges) Amendment Act 2019: increased number of judges from 31 to 34.
Appointment	<ul style="list-style-type: none"> 1950 to 1973: The practice has been to appoint the seniormost judge of the SC as the CJI. This has been violated twice in 1973 (A N Ray) and 1977 (M U Beg). Second Judges Case (1993): SC ruled that the senior most judge of the Supreme Court should alone be appointed to the office of the chief justice of India. For Chief Justice: President after consulting such judges of the SC + HC. For other Judges: President after consulting CJI + judges of SC + HC. [UPSC 2013] Note: Consultation of CJI is obligatory for appointment of judges other than CJI.
Qualification of Judges	<ul style="list-style-type: none"> Citizen of India. He should have been a Judge of an HC for 5 years (or high courts in succession) for five years. He should have been an Advocate of a High Court (or High Courts in succession) for ten years. Distinguished jurist in the opinion of the president (Note: no such condition in case of HC). No minimum age prescribed by the constitution for appointment as a judge of the Supreme Court.
Oath or Affirmation	Subscribe an oath or affirmation before the President , or some person appointed by him for this purpose.
Salaries and Allowances (Article 125)	<ul style="list-style-type: none"> Determined from time to time by the Parliament. Cannot be varied to their disadvantage after their appointment except during a financial emergency (Art.360). The retired chief justice and judges are entitled to 50 per cent of their last drawn salary as a monthly pension.
Tenure	<p>The Constitution has not fixed tenure of judges of SC. However, it makes the following three provisions:</p> <ul style="list-style-type: none"> Holds office until he attains the age of 65 years. Any question regarding his age is to be determined by such authority and in such a manner prescribed by parliament. Resign by writing to the President. Removed from office by the President on the recommendation of parliament.
Removal of Judges	<ul style="list-style-type: none"> Ground of removal: Proved misbehaviour or/and Incapacity. Procedure: governed by The Judges Enquiry Act (1968). Removed by order of the President only on Parliament's recommendations. The address must be supported by a special majority of each House of Parliament. No judge of the SC has been impeached so far. An impeachment motion for the removal of a judge does not lapse on the dissolution of the Lok Sabha.

Judges Enquiry Act 1968	<ul style="list-style-type: none"> Removal motion: signed by 100 members (in the case of Lok Sabha) or 50 members (in the case of Rajya Sabha). The Speaker/Chairman may admit the motion or refuse to admit it. If admitted: three-member committee (Committee of Chief Justice/judge of SC, Chief Justice of HC, and distinguished jurist) to enquire into charges. If found guilty, the motion is taken up for consideration by the House. The motion must be passed by a special majority of each House of Parliament. The motion is then addressed to the President, who passes the final order removing the judge.
Acting Chief Justice (Article 126)	<ul style="list-style-type: none"> The President can appoint a judge of SC as an acting Chief Justice of India if: <ul style="list-style-type: none"> Office of CJI is vacant or Temporarily absent or Unable to perform the duties of office.
Ad Hoc Judge (SC) (Art. 127)	<ul style="list-style-type: none"> When there is a lack of quorum of permanent judges to hold or continue any session of the supreme court, CJI can appoint a judge of HC as Ad hoc judge for a temporary period (only after consultation with Chief Justice of the concerned High court + previous consent of the president). [UPSC 2021] Ad hoc judge has all the jurisdiction, power and privileges of a judge of SC. Judge so appointed should be qualified for appointment as a judge of the Supreme Court.
Retired Judge	<ul style="list-style-type: none"> At any time, the CJI can request any retired judge of SC or a retired judge of a HC (qualified to be judge of SC) to act as judge of the SC for a temporary period. Condition: only with the previous consent of the president and also of the person to be so appointed. May enjoy all the jurisdiction, powers and privileges of a judge of the Supreme Court. But, he will not otherwise be deemed to be a judge of the Supreme Court.
Seat of SC (Article 130)	<ul style="list-style-type: none"> By constitution: Delhi Authorizes CJI to appoint another place as the seat of the Supreme Court only with the approval of the President. Provision is only optional and not compulsory.
Procedure of The Court	<ul style="list-style-type: none"> SC, with approval of the President can make rules for regulating generally the practice and procedure of the court. Constitutional cases or references made by the President under Article 143 (Advisory Jurisdiction) are decided by a bench of at least five judges. All other cases: decided by single judges and division benches. All judgments are delivered by majority voting, but dissenting judgments/opinions can also be given.
Independence of SC	<ul style="list-style-type: none"> Mode of appointment: Judges appointed by the President after consulting the judiciary itself (Judges of SC + HC). Security of tenure: Judges are removed only on the manner prescribed by the constitution Fixed service conditions: Cannot be changed to their disadvantage after their appointment except during a financial emergency (Art.360). Expenses charged on the Consolidated Fund of India. Non-votable by the Parliament The Conduct of judges cannot be discussed except when an impeachment motion is in consideration of the parliament. Ban on practice after retirement: prohibited from pleading or acting in any Court or before any authority within the territory of India. Power to Punish for its Contempt: The Supreme Court can punish any person for its contempt. Freedom to appoint its staff long with prescription of conditions of service. Jurisdiction cannot be curtailed: But can be extended by parliament. [UPSC 2014] Separation from executive [Art.50 (DPSP)]: separation of judiciary from executive)

JURISDICTION AND POWERS OF SUPREME COURT

- **The Constitution** has conferred very extensive jurisdiction and vast powers on the Supreme Court.
- It is also the **final interpreter and guardian of the Constitution** and **guarantor of the fundamental rights** of the citizens. [UPSC 2015]
- **Alladi Krishnaswamy Ayyar (Drafting member of the Indian Constitution):** "The Supreme Court of India has more powers than any other Supreme Court in any part of the world."
- SC is not only a Federal Court like the American Supreme Court but also a **final court of appeal** like the British House of Lords (the Upper House of the British Parliament).

Original Jurisdiction (Article 131)

- **Original** (power to hear such disputes in the first instance, not by way of appeal) and **exclusive** (only the supreme court has the power to hear such cases) **jurisdiction in dispute between:**
 - State and centre [UPSC 2014]
 - State and other states
 - Center and state on one side and other state on other side
 - Questions of political nature are avoided.
 - Dispute must involve a question (whether of law or fact) on which the existence or extent of a legal right depends.
 - Any suit brought before the Supreme Court by a private citizen against the Centre or a state cannot be entertained under this.
- **Original jurisdiction does not extend to:**
 - Pre-Constitutional treaty
 - A dispute arising out of any treaty, agreement, etc.
 - Inter-State Water Disputes
 - Adjustment of certain expenses and pensions b/w Centre and states.
 - Matter referred to the Finance Commission
 - Ordinary dispute of Commercial nature b/w Centre and States.
 - Recovery of damages by a state against the Centre.
- In 1961, the **first suit**, under the original jurisdiction of the Supreme Court, was brought by West Bengal against the Centre.

Writ Jurisdiction (Article 32)

- **Wrists:** habeas corpus, mandamus, prohibition, quo warranto and certiorari.
- Aggrieved can go directly to the Supreme Court.

- The Supreme Court has **original but not exclusive jurisdiction**, as high courts can also issue writs.
- Only for enforcement of fundamental rights and not for other purposes- (Narrower than HC).
- **Parliament can confer power** on SC to issue writs for other purposes also.

Appellate Jurisdiction (Article 132)

- **Constitutional matters:** Against the judgment of HC if the case involves a substantial question of law that requires the interpretation of the constitution.
- **Civil matters (Art. 133):** Appeal lies to the supreme court if the case involves a substantial question of law + that the question needs to be decided by the SC.
- **Criminal matters (Art. 134):** SC hears appeals against judgment in a criminal proceeding of HC if:
 - HC on an appeal reversed an order of acquittal of an accused person and sentenced him to death;
 - Takes before itself any case from any subordinate court and convicted the accused person and sentenced him to death;
 - Certifies that the case fits for appeal to the supreme court.
- **Note:** If the court has reversed the order of conviction to acquittal, then no right to appeal.

Appeal by Special Leave (Article 136)

- Special leave to appeal from any judgment in any matter passed by any court or tribunal in the country.
- **Exception: court martial or military tribunal**
- **Four Aspect:**
 - discretion and not a right.
 - granted in final or interlocutory judgment.
 - related to any matter: constitutional, civil, criminal, income tax, labor revenue, advocates etc.
 - granted against any court or tribunal and not necessarily be high court.
- It is an exceptional and overriding power, exercised sparingly and only in exceptional times.

Advisory Jurisdiction (Article 143)

- The President can seek the opinion of the SC in **two categories of matter:**
 - On any question of law or fact of public importance which has arisen or which is likely to arise. SC may or may not give advice.
 - On any dispute arising out of any pre-constitution treaty, agreement, covenant, engagement, Sanad or other similar instrument. SC must give advice.
- It is **not binding**, the President **may or may not follow** the opinion.
- Opinion expressed is **only advisory** and **not a judicial pronouncement**.

- **By 2019:** The President has made **fifteen references** to the Supreme Court under its advisory jurisdiction (also known as consultative jurisdiction).

Court of Record (Article 129)

- Judgment, proceedings and acts of the Supreme Court are recorded for perpetual memory and testimony.
- Evidentiary value and cannot be questioned by any court.
- Legal precedents and references.

CONTEMPT OF COURT

- **Contempt of Court Act, 1971:** It outlines the procedure in relation to investigation and punishment for contempt. It was based on the recommendations made by **H.N. Sanyal** committee.
- **Civil Contempt:** willful disobedience to any judgment, order, writ or other process of court or willful breach of an undertaking given to a court.
- **Criminal Contempt:** publication of any matter or doing an act which scandalizes or lowers the authority of court. Prejudices or interferes with the due course of judicial proceedings. Interferes or obstructs the administration of justice in any other manner.
- **Actions that do not Amount to Contempt of Court:** Innocent publication and distribution of some matter + fair and accurate report of judicial proceedings + fair and reasonable criticism of judicial acts + comment on administrative side.
- **Note:** Simple imprisonment up to 6 months or fine up to Rs.2000/- or both.
- The Act also provides that no court shall initiate any proceedings of contempt **after the expiry of one year** from the date on which the contempt is alleged to have been committed.
- Further, this Act is **not applicable to contempt of Nyaya Panchayats** or other village courts which have been established for the administration of justice.

POWER OF JUDICIAL REVIEW

- The Phrase **judicial review** has **nowhere been used** in the Constitution.
- Constitutional validity of legislative or executive enactments can be challenged.
- To examine the constitutionality of legislation and executive orders of both state and central governments if they:

- Infringe the fundamental rights.
- Outside the competence of the authority which has framed it.
- Repugnant to the constitutional provisions.
- If found to be violative of the Constitution (ultra-vires), they can be declared as illegal, unconstitutional and invalid (null and void) by the Supreme Court.
- **Articles:** 13; 32; 131-136, 143, 226, 246, 256 etc. provide for judicial review.

INTERPRETATION OF CONSTITUTION

- SC is the **ultimate interpreter** of the Constitution.
- While interpreting the Constitution, the Supreme Court is guided by a number of doctrines: Severability, Waiver, Eclipse, Territorial Nexus, Pith and Substance, Colourable Legislation, Implied Powers, Incidental and Ancillary Powers, Precedent, Occupied Field, Prospective Overruling, Harmonious Construction, Liberal Interpretation.

OTHER POWERS OF SC

- It decides the **disputes regarding the election of the president and the vice-president**. In this regard, it has the **original, exclusive and final authority**.
- Enquires into the **conduct and behavior of the chairman and members of the UPSC** on a reference made by the president. Advice by SC is **binding** on the president.
- Power to review its own judgment or order – **self-correcting agency**.
- Authorized to withdraw the cases pending before the HC and dispose them by itself. It can also transfer case or appeal pending before one HC to another HC.
- Law and judgment of SC is **binding on all courts** in India.
- The Supreme Court's jurisdiction and powers with respect to matters in the Union list **can be enlarged** by the Parliament

Other important Articles

- **Article 141:** Law declared by Supreme Court to be binding on all courts
- **Article 142:** Enforcement of decrees and orders of Supreme Court and orders as to discovery, etc



High Court

(Part VI: Article 214-232)

Integrated judicial system: The high court operates below the Supreme Court but above the subordinate courts. **State judiciary** includes the **High Court + subordinate courts**.

The institution of the High Court originated in India in **1862** when High courts were set up in **Calcutta, Bombay and Madras**. The Fourth High Court was established in **Allahabad** in 1866.

- Presently, there are **25 High Courts** in India. **Calcutta** High Court, established in 1862, is the oldest High Court in India.
- **Note:** The Constitution of India gives the High Courts jurisdiction over revenue matters, which it did not enjoy in the pre-constitution era.

CONSTITUTIONAL PROVISIONS PERTAINING TO HIGH COURT

Parameters	Description
Basic Facts	<ul style="list-style-type: none"> • Constitution: originally provided for one high court for each state. • 7th Amendment Act of 1956: Authorized the Parliament to establish a common High court for two or more states or for two or more states and a UT. • Territorial jurisdiction of a high court: co-terminus with the territory of a state. • Territorial jurisdiction of a common high court: co-terminus with the territories of the concerned states and union territory. • Parliament can extend the jurisdiction of a high court to include or exclude UT. • Delhi and Jammu & Kashmir: only UTs in India having a High Court of their own. • UT of Jammu & Kashmir and Ladakh have a common high court.
Strength and Composition	<ul style="list-style-type: none"> • The Constitution does not specify the strength of HC. It is at the discretion of the President. • Every High Court (exclusive or common) consists of a Chief Justice and such other judges as the president may from time to time deem necessary to appoint.
Appointment (Article 217)	<ul style="list-style-type: none"> • For Chief Justice: President after consulting CJI + Governor of the concerned state. • For other Judges: President after consulting CJI (Second Judges case) + Governor + CJ of State High Court. • In case of the appointment of high court judges, the chief justice of India to consult a collegium of two senior-most judges of the Supreme Court. (Third Judges case). • Common High Court: Governors of all the states concerned are consulted by the President.
Qualification of Judges (Article 217)	<ul style="list-style-type: none"> • A citizen of India. • He should have held judicial office in Indian territory for 10 years or • He should have been an advocate of the High Court (or high courts in succession) for 10 years. • No minimum age prescribed. • Unlike in the case of the Supreme Court, the Constitution makes no provision for the appointment of a "distinguished jurist" as a judge of a High Court in the opinion of the president.
Oath or Affirmation (Article 219)	Makes and subscribes to an oath or affirmation before the Governor of the state or some person appointed by him for this purpose.

Salaries and Allowances (Article 221)	<ul style="list-style-type: none"> Determined from time to time by the Parliament. Cannot be varied to their disadvantage after their appointment except during a financial emergency (Article 360). Salaries of judges of HC are charged upon “Consolidated Fund of State”. Pensions of judges of HC are charged upon “Consolidated Fund of India”.
Tenure	<ul style="list-style-type: none"> The Constitution does not provide for a fixed tenure of judges of HC. Four provisions: Until 62 years (65 in case of SC). Resign by writing to the President. Can be removed from office by the President on the recommendation of Parliament. He vacates his office when he is appointed as SC judge or when he is transferred to another HC.
Removal of Judges	<ul style="list-style-type: none"> Procedure for the impeachment of a judge of a HC is the same as that for a judge of the SC. [UPSC 2019] Same manner and on the same grounds as the judge of the SC. Procedure: governed by the Judges Enquiry Act (1968). Removed by order of the President only on Parliament's recommendation. The address must be supported by a special majority of each House of Parliament. Ground of removal: Proved misbehaviour or/and incapacity. <p>No judge of a High Court has been impeached so far.</p>
Judges Enquiry Act, 1968	<p>Removal motion:</p> <ul style="list-style-type: none"> Signed by 100 members (Lok Sabha) or 50 members (Rajya Sabha). The Speaker/Chairman may admit the motion or refuse to admit it. If admitted: three-member committee (Committee of Chief justice /judge of SC, Chief Justice of HC, and distinguished jurist) to enquire into charges. If found guilty, the motion is taken up for the consideration of the House. The address must be supported by a special majority of each House of Parliament. Order passed by President.
Transfer of Judges (Article 222)	<ul style="list-style-type: none"> The President can transfer a judge from one HC to another after consulting the CJI. On transfer, Judges are entitled to receive in addition to his salary such compensatory allowance as may be determined by Parliament. SC in 1977: the transfer of high court judges only as an exceptional measure and public interest, not by way of punishment. SC in 1994: judicial review is necessary to check arbitrariness in transfer of judges. Only the judge who is transferred can challenge it. Third Judges case (1998): CJI should consult, in addition to the collegium of four senior most judges of the SC, the chief justice of the two high courts (transferring and receiving).
Acting Chief Justice (Article 223)	<p>The President can appoint a judge of HC as an acting chief justice of HC, when the office of HC chief justice lies vacant; he is temporarily absent; or unable to perform the duties of office.</p>
Additional and Acting Judges (Article 224)	<ul style="list-style-type: none"> The President can appoint duly qualified persons as additional judges of a HC for a temporary period not exceeding two years when there is a temporary increase in high court business and there are arrears of work in high court. Both the additional or acting judge cannot hold office after attaining the age of 62 years.
Retired Judge (Article 224 A)	<ul style="list-style-type: none"> At any time, the CJ of HC can request any retired judge of that HC or any other HC to act as a judge of the HC of that state for a temporary period. He can do so only with the previous consent of the President and also of the person to be so appointed. May enjoy all the jurisdiction, powers and privileges of a judge of that high court. But, he will not otherwise be deemed to be a judge of that high court.

Independence of High Court

- **Mode of appointment:** Judges appointed by the President by consulting the judiciary itself (CJI + CJ of HC). [UPSC 2013]
- **Security of tenure:** Judges are removed only in the manner prescribed by the Constitution.
- **Fixed service conditions:** Cannot be changed to their disadvantage after their appointment except during a financial emergency (Art.360).
- **Expenses charged on consolidated funds of the State.** The pension of a high court judge is charged on the **Consolidated Fund of India** and not the state.
- **Conduct of judges cannot be discussed:** Except when impeachment motion is in consideration of the Parliament.
- **Ban on practice after retirement:** Except the SC and the other high courts.
- **Power to Punish for its Contempt:** A high court can punish any person for its contempt
- **Freedom** to appoint its staff.
- **Jurisdiction cannot be curtailed** but it can be changed both by the parliament and the state legislature.
- **Separation from the executive (Article 50) (DPSP):** separation of judiciary from executive).

JURISDICTION AND POWERS OF HIGH COURT

Present jurisdiction and powers of a high court are governed by: (a) the constitutional provisions, (b) Letters Patent, (c) the Acts of Parliament, (d) the Acts of State Legislature, (e) Indian Penal Code, 1860, (f) Criminal Procedure Code, 1973, and (g) Civil Procedure Code, 1908.

Parameters	High Court
Original Jurisdiction	<ul style="list-style-type: none"> ● Original refers to the power of an HC to hear disputes in the first instance, not by way of appeal. ● It extends to the following: <ul style="list-style-type: none"> ○ Disputes in Elections of members of parliament and state legislature. ○ Revenue matters. ○ Enforcement of Fundamental Rights of citizens. ○ Cases ordered to be transferred from a subordinate court involving the interpretation of the Constitution. ○ Four high courts (Calcutta, Bombay, Madras and Delhi High Courts): original civil jurisdiction in cases of higher value. ● Narrower than SC. ● Note: Before 1973, the Calcutta, Bombay and Madras High Courts also had original criminal jurisdiction, abolished by CrPC, 1973.
Writ Jurisdiction (Article 226)	<ul style="list-style-type: none"> ● Wider than SC: for both FR + other legal rights. SC can issue writs only for FR and not "for any other purpose". ● High courts can issue writs not only within its territorial jurisdiction but also outside its territorial jurisdiction if the cause of action arises within its territorial jurisdiction. ● Writ jurisdiction of the HC (Art.226) is not exclusive but concurrent with the writ jurisdiction of the SC (Art.32). ● SC in Chandra Kumar case (1997): Writ jurisdiction of both the HC and SC constitute a part of the basic structure.
Appellate Jurisdiction	<ul style="list-style-type: none"> ● Both civil + criminal matters. ● Appellate jurisdiction of a high court is wider than its original jurisdiction.
Court of Record (Article 215)	<ul style="list-style-type: none"> ● Judgment, proceedings and acts of HC are recorded for: <ul style="list-style-type: none"> ○ Evidentiary value - Perpetual memory and testimony. ○ Cannot be questioned by any court. ○ Recognised as legal precedents and references.

	<ul style="list-style-type: none"> As a court of record, the HC has the power to review and correct its own judgment, even though no specific power of review is conferred on it by the Constitution. The Supreme Court, on the other hand, has been specifically conferred with the power of review by the Constitution. [UPSC 2021] As a court of record, it has power to punish for contempt of court, either with simple imprisonment or with fine or with both.
Contempt of Court	<ul style="list-style-type: none"> Expression 'contempt of court' has not been defined by the Constitution. [UPSC 2022] It is defined in the Contempt of Court Act of 1971. Civil Contempt: willful disobedience to any judgment, order, writ or other process of court or willful breach of an undertaking given to a court Criminal Contempt: publication of any matter or doing an act which scandalizes or lowers the authority of court; prejudices or interferes with the due course of judicial proceedings, Interferes or obstructs the administration of justice in any other manner. Actions that do not amount to contempt of court: Innocent publication and distribution of some matter + fair and accurate report of judicial proceedings + fair and reasonable criticism of judicial acts + comment on administrative side.
Supervisory Jurisdiction (Article 227)	<ul style="list-style-type: none"> Superintendence over all other courts, tribunals in state (except military court or tribunal). Covers: both administrative and judicial superintendence. It is a Revisional jurisdiction. It can be suo-motu (on its own) and not necessarily on the application of a party. Only used in extraordinary cases and limited to: Excess of jurisdiction, gross violation of natural justice, error of law, disregard to law of superior court, perverse findings and manifest injustice.
Control Over Subordinate Courts (Article 227)	<ul style="list-style-type: none"> Consulted by the governor: in the matters of appointment, posting and promotion of district judges and in the appointment of persons to the judicial service of the state. Deals with: Posting, promotion etc. of judicial service of state (other than district judges). Withdraw case pending in a subordinate court if it involves a substantial question of law that requires interpretation of constitution. Its law is binding on all subordinate courts in its jurisdiction.
Judicial Review	<ul style="list-style-type: none"> Phrase "judicial review" has nowhere been mentioned in the Constitution. To examine constitutionality of legislation and executive orders of both state and central government if it: <ul style="list-style-type: none"> Infringes fundamental rights. Outside the competence of the authority which has framed it. Repugnant to constitutional provisions. Constitutional provisions: Art.13, 32, 131-136, 143, 226, 246, 256 etc. provide for Judicial review. Provisions of Art.13 and 226 explicitly confer the power of judicial review on a high court.

COMMON JURISDICTION OF HIGH COURT WITH TWO OR MORE STATES/UTs

High Court	Jurisdiction
Bombay	Maharashtra, Goa, Dadra and Nagar Haveli, Daman and Diu
Guwahati	Assam, Nagaland, Mizoram and Arunachal Pradesh
Punjab and Haryana	Punjab, Haryana, Chandigarh
Calcutta	West Bengal, Andaman and Nicobar Islands
Madras	Tamil Nadu, Puducherry
Kerala	Kerala, Lakshadweep



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Judicial Review and Judicial Activism

The concept of judicial activism originated and developed in the USA. This term was first coined in 1947 by **Arthur Schlesinger Jr.**, an American historian and educator.

- In India, the doctrine of judicial activism was introduced in the mid-1970s.
- **Justice V.R. Krishna Iyer, Justice P.N. Bhagwati, Justice O. Chinnappa Reddy and Justice D.A. Desai** laid the foundations of judicial activism in the country.

Parameters	Judicial Review	Judicial Activism
Meaning	The power of the judiciary to examine the constitutionality of legislative enactments and executive orders of both the Central and State governments. [UPSC 2017]	The proactive role played by the judiciary in the protection of the rights of citizens and the promotion of justice in society. Also known as " judicial dynamism ".
Importance	<ul style="list-style-type: none"> • To uphold the principle of the supremacy of the Constitution. • To maintain federal equilibrium- balance b/w Center and states. • To protect the Fundamental Rights of the citizens. 	<ul style="list-style-type: none"> • It upholds the faith of citizens in the constitution and judicial organs. • Ensure freedom of citizens and help in providing social justice to the suffering masses. • Fills Legislative Vacuum i.e. areas, which lack proper legislation.
Application	<ul style="list-style-type: none"> • Golaknath case (1967); Bank Nationalization case (1970); Privy Purse Abolition case (1971); Kesavananda Bharati case (1973); Minerva Mills case (1980); I.R. Coelho Case (2007), etc. • In 2015, SC declared the 99th CAA, 2014 (NJAC) as unconstitutional and null and void. 	<ul style="list-style-type: none"> • Basic Structure: Kesavananda Bharati case (1973). • Due Process of Law: Maneka Gandhi case (1978).
Constitutional Provisions	Article: 13; 32; 131-136, 143, 226, 246, 256 etc.	Judicial innovation
Beneficial	Desirable in any democracy to protect the Rights of the Citizens.	Desirable in any democracy to protect the Rights of the Citizens and provide Justice to people.

PUBLIC INTEREST LITIGATION (PIL)

- Also known as **Social Action Litigation (SAL)**, **Social Interest Litigation (SIL)** and **Class Action Litigation (CAL)**.
- PIL means a **legal action initiated in a court for the enforcement of public interest** in which their legal rights or liabilities are affected.
- The concept of PIL **originated and developed in the USA in the 1960s** to provide legal representation to previously unrepresented groups and interests.

- Introduced in the **early 1980s** in India, PIL is a product of the judicial activism of the Supreme Court.
- **Justice V.R. Krishna Iyer and Justice P.N. Bhagwati** are pioneers of the concept of PIL.
- A PIL can be **filed in any High Court or directly in the Supreme Court**.

Objectives

- Vindication of the rule of law,
- Facilitating effective access to justice to the socially and economically weaker sections of the society, and

- Meaningful realization of the fundamental rights.

Features

- Bring justice within the reach of the poor masses, who constitute the low visibility area of humanity.
- PIL is a totally different kind of litigation from ordinary traditional litigation.
- Intended to promote and vindicate public interest.
- PIL demands that violations of constitutional and legal rights of large numbers of people, who are socially and economically disadvantaged should not go unnoticed and unredressed.
- A co-operative effort on the part of the petitioner upon the vulnerable sections of the community.
- Litigation undertaken for the purpose of redressing public injury, enforcing public duty, protecting social, collective, diffused rights and interests or vindicating public interest.
- Role of PIL is creative rather than passive and it assumes a more positive attitude in determining acts.
- Unlike traditional dispute resolution mechanisms, there is no determination on adjudication of individual rights.

Scopes of Public Interest Litigation

- Bonded Labour matters; Neglected Children; Non-payment of minimum wages to workers and exploitation of casual workers; harassment by police and death in police custody; Petitions from jails complaining of harassment; Atrocities on women; Environmental pollution and disturbance of ecological balance; Food adulteration; Maintenance of heritage and culture; Petitions from riot-victims; Petitions from riot-victims; torture of villagers by co-villagers or by police from persons belonging to Scheduled Caste and Scheduled Tribes and economically backward classes.

Following subjects will not be entertained as PIL

- Landlord-tenant matters.
- Service matters and those pertaining to pension and gratuity.
- Complaints against Central/State Government departments and Local Bodies.
- Admission to medical and other educational institutions.
- Petitions for early hearing of cases pending in High Courts and Subordinate Courts.

Principles of PIL

- PIL can be entertained under Articles 32 and 226 of the Constitution.
- The court relaxes the procedural laws and also the law relating to pleadings.
- The common rule of locus standi is relaxed to enable the court to look into the respective grievances.
- The Court may not allow the State or the Government from raising the question as to the maintainability of the petition.
- Disputes purely under the realm of private law are not allowed to be agitated as a PIL.
- However, in an appropriate case, the Court, in furtherance of the public interest, may treat a case of personal grievance necessary to enquire into in the interest of justice.
- Special Commission or other bodies to be appointed to investigate the allegations and find out facts.
- HC should not entertain a writ petition by way of PIL questioning the constitutionality or validity of a statute or a statutory rule.

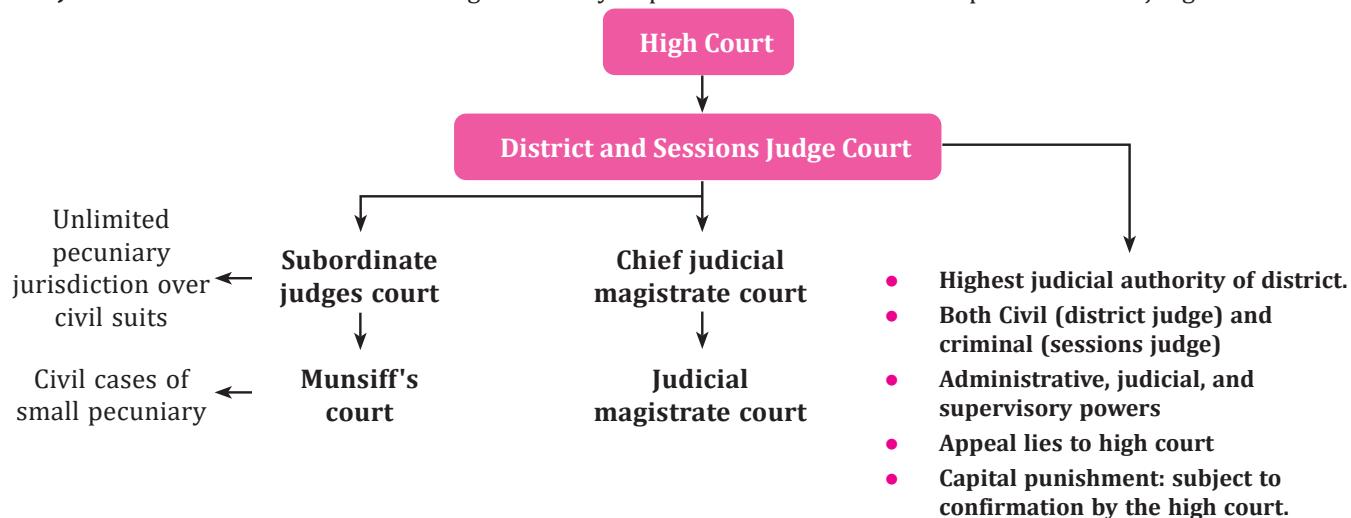


Subordinate Courts

(Part VI: Article 233-237)

RELATED PROVISIONS

- **Appointment of District Judges** by Governor in consultation with HC.
- **Qualifications:**
 - Not already in service of the Centre or state government;
 - Have been an **advocate/pleader for seven years**;
 - Recommended by HC for appointment.
- **Appointment of Persons** (other than district judges): **By the Governor** in consultation with the State Public Service Commission and HC.
- **Control over Subordinate Court:** By the High Court.
- **District judges** include any judge of the City Civil Court; Additional District Judge; Joint District Judge; Assistant District Judge; Chief Judge (Small cause court); Chief Presidency Magistrate; Additional Chief Presidency Magistrate; Sessions Judge; Additional Sessions Judge; Assistant Sessions Judge.
- **Judicial Services:** Service consisting exclusively of persons intended to fill the post of district judge.



NATIONAL LEGAL SERVICES AUTHORITY (NALSA)

The Legal Services Authorities Act (1987) was enacted for a nationwide network of free and competent legal services for weaker sections, effective from November 9, 1995.

- The National Legal Services Authority (NALSA) monitors and evaluates legal aid program implementation, laying down policies for making legal services available under the Act.
- In every state, there is a **State Legal Services Authority**, and in every High Court, a **High Court Legal Services Committee** is constituted.

- District Legal Services Authorities and Taluk Legal Services Committees are established in districts and most Taluks to implement NALSA policies, provide free legal services, and conduct Lok Adalats.
- The **Supreme Court Legal Services Committee** administers and implements the legal services program concerning the Supreme Court of India.
- NALSA sets policies, principles, guidelines, and economic schemes for State Legal Services Authorities to implement Legal Services Programs nationwide.

- Article 39A of the Constitution ensures **free legal aid** for the **poor** and **weaker sections**, promoting justice for all.
- Articles 14 and 22(1) mandate the state to ensure equality before the law and a legal system based on equal opportunity.
- The free legal services include:**
 - Payment of court fees, process fees and all other charges payable or incurred in connection with any legal proceedings.
 - Providing the service of lawyers in legal proceedings.
 - Obtaining and supplying certified copies of orders and other documents in legal proceedings.
 - (d) Preparation of appeal, paper book including printing and translation of documents in legal proceedings.
- The persons eligible for getting free legal services include:** (i) Women and children (ii) Members of SC/ST (iii) Industrial workmen, (iv) Victims of

mass disaster, violence, flood, drought, earthquake, industrial disaster (v) Disabled persons (vi) Persons in custody (vii) Persons whose annual income does not exceed ₹1 lakh (in the Supreme Court Legal Services Committee the limit is ₹5,00,000/-) (viii) Victims of trafficking in human beings or beggar. [UPSC 2020]

LOK ADALAT

- Takes up cases which are pending or at the pre-litigation stage: based on Gandhian principles; One of the components of **ADR (Alternative Dispute Redressal)**; Informal, cheap, expeditious.
- First Lok Adalat camp** in the post-independence era: Gujarat (1982).
- Accorded **statutory status** under the **Legal Services Authority Act, 1987**.
- State Legal Services Authority/District Legal Service Authority/SC Legal Services Committee or HC Legal Services Committee/Taluk Legal Services may organize Lok Adalat at such intervals and places it thinks fit.

Composition	Consists of such number of serving or retired judicial officers and other persons of the area as may be specified by the agency. Generally, a Lok Adalat consists of a judicial officer as the chairman and a lawyer (advocate) and a social worker as members.
Dispute	Lok Adalat has the power to determine and to arrive at a compromise or settlement between parties in: <ul style="list-style-type: none"> any case pending before any court Any matter which falls within the jurisdiction of any court and is not brought before such court.
Jurisdiction	<ul style="list-style-type: none"> No jurisdiction for non-compoundable offences. Any case pending before the court can be referred to the Lok Adalat for settlement if: (i) the parties thereof agree to settle the dispute in the Lok Adalat; or (ii) one of the parties thereof makes an application to the court, for referring the case to the Lok Adalat; or (iii) the court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat. In the case of a pre-litigation dispute, the matter can be referred to the Lok Adalat for settlement by the agency organizing the Lok Adalat, on receipt of an application from any one of the parties to the dispute.
Power	It shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure (1908) while trying a suit in respect of the following matters: <ul style="list-style-type: none"> The summoning and enforcing the attendance of any witness examining him on oath; the discovery and production of any document; the reception of evidence on affidavits; the requisitioning of any public record or document from any court or office; and such other matters as may be prescribed
Award of Lok Adalat	<ul style="list-style-type: none"> Decree of civil court/order of any court. No appeal lies to the award.

Types of Lok Adalat

There are three types of Lok Adalats viz., National Lok Adalats, State Lok Adalats and Permanent Lok Adalats (Public Utility Services).

National Lok Adalats

- They are held at regular intervals where on a single day Lok Adalats are held throughout the country, in all the courts, right from the Supreme Court to the Taluk Levels.
- From 2015, National Lok Adalats have been held on the specific subject matter every month.

State Lok Adalats

These are also known as Regular Lok Adalats. These can be further classified into the following types:

- (a) **Continuous Lok Adalat:** A Lok Adalat bench sits continuously for a set number of days to facilitate settlements by deferring unsettled matters to the next date and encouraging parties to reflect on the terms of the mutually accepted settlement before actual settlement.
- (b) **Daily Lok Adalat:** This type of Lok Adalat is organized on a daily basis.
- (c) **Mobile Lok Adalat:** These are organized by taking the Lok Adalat set up in a Multi-utility van to different areas for resolving petty cases and also spreading legal awareness in the area.
- (d) **Mega Lok Adalat:** This is organized in the State on a single day in all courts of the State.

Permanent Lok Adalat

Amended Legal Service Authority Act 1987 in 2002 to provide for the establishment of permanent Lok Adalat.

- **Features**

- It shall consist of a **Chairman** who is or has been a **district judge** or **additional district judge** or has held judicial office higher in rank than that of the district judge and **two other persons** having adequate experience in public utility services.
- Jurisdiction in respect of one or more utility services (transport, telephone services etc.).
- **Pecuniary jurisdiction** – up to 10 lakhs. However, the Central Government may increase the said pecuniary jurisdiction from time to time. Accordingly, in 2015, the Central Government has increased the said pecuniary jurisdiction up to Rs. One Crore.
- No jurisdiction: In respect of any matter relating to an offence not compoundable under any law.
- After an application is made to the Permanent Lok Adalat, no party to that application shall invoke the jurisdiction of any court in the same dispute.
- **Award:** Final and binding.

FAMILY COURT

Family Court Act 1984: Conciliation and speedy settlement of disputes related to marriage and family issues.

Features

- Establishment of a **family court by the state government in consultation with the high court.**
- Obligatory for the State Government to constitute a family court in every city or town with a population

exceeding one million. Enables state govt to establish a family court in other areas if deemed necessary.

- **Exclusive jurisdiction:** Matrimonial relief; Property of spouses; Declaration of legitimacy of one person; Guardianship of a person or custody of any minor; Maintenance of wife, children and parents.
- Obligatory for the Family Court to effect a reconciliation first. During this stage, the proceedings will be informal and **rigid rules of procedure shall not apply.**
- **No right to be represented by a legal practitioner.** However, the Court may, in the interest of justice, seek the assistance of a legal expert as amicus curiae.
- **Only one right to appeal to the High Court.**

GRAM NYAYALAYAS

Gram Nyayalayas Act, 2008 has been enacted to provide for the establishment of the Gram Nyayalayas at the grassroots level.

Features of the Gram Nyayalayas Act:

- Gram Nyayalaya shall be the court of **Judicial Magistrate of the first class** and its **presiding officer (Nyayadhikari)** (**strictly judicial officers**) shall be appointed by the State Government in consultation with the High Court.
- **Establishment:** For every Panchayat at the intermediate level or a group of contiguous Panchayats at the intermediate level in a district.
- **Powers:** The mobile court shall exercise the powers of both **Criminal** and **Civil** Courts.
 - The Central as well as the State Governments have been given power to amend the First Schedule and the Second Schedule of the Act, as per their respective legislative competence.
- **Seat:** located at the headquarters of the intermediate Panchayat.
- **Jurisdiction:** shall try criminal cases, civil suits, claims or disputes which are specified in the **1st Schedule** and **2nd Schedule** to the Act.
- **Conciliation:** shall try to settle the disputes as far as possible by bringing about conciliation with the help of conciliators.
- **Principles of natural justice:** shall not be bound by **Indian Evidence Act, 1872** but guided by the principles of natural justice and subject to any rule made by the High Court.
- **Appeal in criminal cases:** to the Sessions Court, which shall be heard and disposed of within a period of **six months**.
- **Appeal in civil cases:** to the District Court, which shall be heard and disposed of within a period of **six months**.

COMMERCIAL COURTS

The **Commercial Courts Act, 2015**, was enacted to establish Commercial Courts, Commercial Appellate Courts, Commercial Divisions, and Commercial Appellate Division in High Courts.

- These courts are designated to adjudicate commercial disputes of specified value.
- The term 'commercial dispute' is broadly defined to include disagreements arising from typical transactions of merchants, bankers, financiers, and traders.

Features

- **State Governments** have the authority to establish Commercial Courts at the **district level** to handle commercial disputes of a specified value.
- **Commercial Appellate Courts** at the District Judge level may be designated to exercise appellate jurisdiction over Commercial Courts below the District Judge level.

- In High Courts with ordinary original civil jurisdiction, the Chief Justice can constitute a Commercial Division for handling commercial disputes of a specified value.
- The Chief Justice of the concerned High Court shall form a **Commercial Appellate Division** to hear appeals against orders of Commercial Courts and the Commercial Division.
- The specified value for commercial disputes **must not be less than 3 lakh rupees** or such higher value which may be notified by the Central Government. In 2018, the specified value of commercial disputes was reduced from the earlier 1 crore rupees to 3 lakh rupees.
- **Mandatory mediation** is introduced before instituting a suit without urgent interim relief, and a Pre-Institution Mediation and Settlement Mechanism is established. The Central Government may empower authorities under the **Legal Services Authorities Act, 1987**, for pre-institution mediation purposes.



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CONSTITUTIONAL PROVISIONS

- The original Constitution did not have provisions regarding tribunals.
- The **42nd Amendment Act of 1976** introduced a new **Part XIV-A** titled 'Tribunals' in the Constitution. It was based on the recommendation of the **Swaran Singh Committee** (the Committee also recommended Fundamental Duties).

- Part XIV-A comprises two Articles: **Article 323A**, addressing administrative tribunals, and **Article 323B**, addressing tribunals for other matters.
- Enjoy some of the **powers of a civil court**.
- Tribunals work upon the **principle of natural justice, not abiding by Civil Procedure Code and Evidence Act**.

Article 323A	Article 323B
<ul style="list-style-type: none"> Establishment of tribunals for public service of the Centre, the States, local bodies, public corporations and other public authorities. Established only by Parliament and not by state legislatures. Only one tribunal for the Centre and one for each state or two or more states may be established. No question of the hierarchy of tribunals arises. 	<ul style="list-style-type: none"> Establishment of tribunals for certain other matters. E.g. Taxation, Land reforms etc. Can be established both by Parliament and State Legislatures w.r.t. matters under their legislative competence. Hierarchy of tribunals may be created.

CENTRAL AND STATE ADMINISTRATIVE TRIBUNALS

As per **Article 323A**, Parliament has passed **The Administrative Tribunals Act, 1985**, which authorizes the Central government to establish one CAT and SAT.

Central Administrative Tribunal (CAT)	
It was set up in 1985 with the principal bench at New Delhi and additional benches in different states.	
Appointment	The appointment of Chairman and Members in the CAT is made by the central government on the basis of recommendations of a search-cum-selection committee chaired by the Chief Justice of India or a Judge of the Supreme Court , who is nominated by the Chief Justice of India.
Composition	Multi Member Body: 1 Chairperson + 69 members.
Term	<ul style="list-style-type: none"> Chairperson: 4 years or age of 70 years. Members: 4 years or age of 67 years.
Miscellaneous	<ul style="list-style-type: none"> Principal bench at Delhi and additional 19 regular benches (17 at the seats of HC + 2 at Jaipur and Lucknow respectively). Not bound by the Civil Procedure Code of 1908. It is guided by the Principles of Natural Justice. Members drawn from the Judicial + Administrative Streams. But, a person who has not completed the age of 50 years is not eligible for appointment as a Chairman or Member. Allows applicants to appear either in person or through a lawyer. Jurisdiction: extends to the All-India services, Central civil services and civil posts under the Centre and Civilian employees of defense services. However, the members of the defence forces, officers and servants of the Supreme Court and the secretarial staff of the Parliament are not covered by it.

State Administrative Tribunal (SAT)

The Administrative Tribunals Act of 1985, empowers the **Central government** to establish the State Administrative Tribunals (SAT) on specific requests of the concerned state governments.

Appointment	The chairman and members of the SAT's are appointed by the central government on the recommendations of a search-cum-selection committee shared by the Chief Justice of the High Court of the concerned state.
Miscellaneous	<ul style="list-style-type: none"> • SATs have been set up in the 9 states of Andhra Pradesh, Himachal Pradesh, Odisha, Karnataka, Madhya Pradesh, Maharashtra, Tamil Nadu, West Bengal and Kerala. • Jurisdiction: extends to recruitment and all service matters of state government employees. • The act also makes a provision for setting up of joint administrative tribunal (JAT) for two or more states

Chandra Kumar Case: The SC declared those **provisions of these two articles which excluded the jurisdiction of the HC and the SC as unconstitutional.** Hence, judicial **remedies are now available** against the orders of these tribunals. It laid down that appeals against the orders of the CAT shall lie before the division bench of the concerned HC.

COMPARISON BETWEEN THE COURT OF LAW AND TRIBUNAL

Court of Law	Tribunal
Part of the traditional judicial system.	An agency created by the statute and invested with judicial power.
The Civil Courts have judicial power to try all suits of a civil nature unless the cognizance is expressly barred.	Tribunal (Quasi-judicial bodies) have the power to try cases of special matters which are conferred on them by statutes.
Judges of the ordinary courts of law are independent of the executive in respect of their tenure, terms and conditions of service etc. The Judiciary is independent of the Executive.	Tenure, terms and conditions of the services of the members of the Administrative Tribunal are entirely in the hands of the Executive.
A court of law can decide the vires of legislation.	The Administrative Tribunal cannot do so.
A court of law is bound by all the rules of evidence and procedure.	An Administrative Tribunal is not bound by rules but bound by the principles of nature of Justice.
The presiding officer of the court of law is trained in law and the legal profession.	The president or a member of the Tribunal may not be trained as well in law. He may be an expert in the field of Administrative matters.
A court must decide all questions objectively on the basis of evidence and materials on record.	Decisions by the Administrative Tribunal may be subjective rather than objective. Administrative Tribunal may decide questions by taking into account departmental policy.



- It was Constitutionalised by the **73rd Constitutional Amendment Act of 1992**.
- Local Government is a **state subject** under the **seventh schedule (the fifth entry of the State List of the Seventh Schedule to the Constitution of India deals with 'local government')**.
- Article 40 (DPSP):** The State shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.
- First state** to establish Panchayati Raj: **Nagaur, Rajasthan** (by PM Jawaharlal Nehru on October 2, 1959)
- Subject of 'Urban Local Government':** Ministry of Housing and Urban Affairs + Ministry of Defence + Ministry of Home Affairs.
- Lord Ripon resolution** (Father of Local Self Government): Magna Carta of local self-government introduced in **1882**.

EVOLUTION OF PANCHAYATS IN INDIA

Balwant Rai Mehta Committee (1957)

Examines the working of Community Development Programs (1952) and National Extension Services (1953).

Recommendations

- Three-tier panchayati raj system.
- Direct election for village panchayats.
- Indirect election for panchayat samiti (executive body) and zila parishad (advisory, coordinating and supervisory body).
- Planning and development at the district level.
- The district collector should be the chairman of Zila Parishad.
- Further devolution of authority in future.
- Recommendations of the committee were accepted by the National Development Council in January 1958.

Ashok Mehta Committee (1977)

It submitted its report in August 1978 and made 132 recommendations to revive and strengthen the declining Panchayati raj system in the country.

Recommendations

- 2 tiers (**zila parishad** and **mandal panchayat**).
- District should be the **first point for decentralization**.
- PRIs should have **regular social audits** by a district-level agency.
- PRIs should have **compulsory powers of taxation** to mobilize their own financial resources.
- Official **participation of political parties** at all levels of panchayat elections.
- State government should not supersede the PRIs.
- Executive body:** Zila Parishad (planning and development)
- Recommended **Nyaya Panchayat** (presided over by a qualified judge).
- Developmental function shall be transferred to CEO of Zila Parishad.
- District collector as a regulator, revenue functions of state govt.
- Minister for Panchayati Raj:** to be appointed in the state council of ministers.
- Reservation of Seats:** for SCs and STs on the basis of their population.
- Constitutional recognition (PRIs):** to ensure sanctity and stature and an assurance of continuous functioning.
- No actions were taken on any recommendation

Dantewala Committee (1978)

On Block level planning.

Hanumantha Rao Committee (1984)

Separate district planning bodies under either the District Collector or a minister.

G V K Rao Committee (1985)

- To examine programs of rural development and poverty alleviation.

Recommendations

- Zila parishad should be of pivotal importance.
- PRI at district and lower levels should be assigned to planning, implementation and monitoring of development programmes.

- Creation of the post of District Development Commissioner.
- Regular elections should be held.
- **Concluded:** The developmental process was gradually bureaucratized and divorced from the Panchayati Raj and called PRIs as “grass without roots”

L M Singhvi Committee (1986)

- To prepare a concept paper on ‘**Revitalization of Panchayati Raj Institutions for Democracy and Development**’.

Recommendations

- Constitutional recognition to PRI with the **addition of a new chapter** in the Constitution of India.
- 3 tiers system with Zilla parishad (Planning and development at the district level)
- Nyaya Panchayats for a cluster of villages.
- Make Gram Panchayats more viable (embodiment of direct democracy).
- Establishment of tribunals for PRIs issues.

Thungon Committee: District planning (1988)

To examine the political and administrative structure in the district for the purpose of district planning.

Recommendations

- Constitutional recognition of PRIs
- Three tiers Panchayati Raj.
- **Zila Parishad** for planning and development.
- Fixed tenure of **5 years**.
- Maximum period of super session of a body: six months.
- Reservation of seats in all the three-tiers on the basis of population as well as reservation for **women**.
- State finance commission in each state.
- Planning and coordination committee at the state level (chaired by the Minister of Planning)
- District collector should be the CEO of Zila Parishad.

Gadgil Committee (Committee on Policy and Programs) (1988)

The committee considered the question of “how best Panchayati Raj institutions could be made effective”.

Recommendations

- Constitutional status to PRIs.
- 3 tiers, fixed 5 year tenure.
- The Panohayatl Raj bodies should have the responsibility of preparation and implementation of plans for socio-economic development. For this

purpose, a list of subjects should be specified in the constitution.

- Direct elections for members of the Panchayats at all three levels.
- Reservation for SCs, STs and women.
- Power to levy, collect and appropriate taxes and duties to PRIs.
- Establishment of State Finance Commission and State Election Commission.
- Became the basis for drafting an amendment bill to confer constitutional status and protection to the Panchayati Raj institutions.

PANCHAYAT (73RD CONSTITUTIONAL AMENDMENT ACT, 1992)

Constitutional Provisions: Added Eleventh Schedule Schedule which contains 29 functional items; Part IX consists of provisions from Article 243-243 O.

Important Articles

- **243 G** – Power, authority and responsibilities
- **243 H** – Powers to impose taxes by, and Funds of, the Panchayats
- **243 I** – Finance Commission

Features

Gram Sabha (Article 243 A)

- **Article 40:** “The State shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.”
- **Symbol of direct democracy (democratic decentralization):** All registered voters of the village are its members; Functions are determined by the state legislature. [UPSC 2017]

Three-Tier Panchayat System

- **Uniformity** in the structure of Panchayati raj throughout the country.
- **Tiers:** Village, Intermediary, and district levels.
- States with less than **20 lakh population** may not **constitute panchayat** at an intermediate level.
- All members are **directly elected** at all levels of institutes of local self-government.
- **The chairperson** of a panchayat at the village level shall be elected in such manner as the state legislature determines. The chairperson of a panchayat and other members of a panchayat elected directly or indirectly shall have the right to vote in the meetings of the panchayats.
- **Reservation at all three levels (Article 243 D):** Seats are reserved for SC/ ST (based on population) + Women (1/3rd reservation). Reservation for

SCs **not applicable to Arunachal Pradesh** (83rd Constitutional Amendment Act of 2000).

- The state legislature shall provide for the reservation of offices of chairperson in the panchayat at the village or any other level for the SCs and STs.
- Not less than one-third of the total number of offices of chairpersons in the panchayats at each level shall be reserved for women.
- The Act also authorizes the legislature of a state to make any provision for the reservation of seats in the panchayat at any level in **favour of backward classes**.
- The reservation of seats as well as the reservation of offices of chairpersons in the panchayats for the scheduled castes and scheduled tribes shall cease to have effect after the expiration of the period specified in Article 334 (which is presently eighty years, that is, till 2030).

Duration

five years (can be dissolved before the completion of its term) **(Art 243E)**

- Fresh elections to panchayat: (a) before the expiry of its duration of five years; or (b) dissolution before the expiry of a period of six months from the date of its dissolution.
- But, where the remainder of the period (for which the dissolved panchayat would have continued) is less than six months, it shall not be necessary to hold any election for a new panchayat for such a period.
- Panchayat reconstituted after premature dissolution **does not enjoy the full period of five years** but remains in office **only for the remainder of the period**. **[UPSC 2016]**

Disqualification (Article 243 F)

- Under any law for the time being in force for the purpose of elections to the legislature of the state concerned.
- Under any law of the state legislature.
- No person shall be disqualified on the ground that he is less than 25 years of age if he has attained the **age of 21 years**. **[UPSC 2016]**
- All questions of disqualifications **shall be referred to such authority as the state legislature determines**.

State Election Commission (Article 243 K)

- The State Election Commission **conducts all elections to the panchayat**.
- The **State election commissioner** is **appointed by the Governor** and shall not be **removed** from the office except in the manner and on the **grounds prescribed for the removal of an HC judge**.
- **Conditions** and tenure of office of SEC are determined by the Governor.
- Service conditions of SEC may not be varied to his disadvantage after his appointment.

Bar to Interference by Courts in Electoral Matters [Article 243 O]

- The Act **bars interference by courts in the electoral matters** of panchayats.
- No election to any panchayat is to be questioned except by an election petition presented to **such authority and in such manner as provided by the state legislature**.
- Validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies or election to panchayat cannot be questioned in any court except by an election petition in the suggested manner.
- **Election petitions:** Determined by the state legislature.

Powers, Functions and Finances determined by State Legislature

- State legislature **may endow the Panchayats** with such powers and authority as may be necessary to enable them to function as institutions of self-government.
- **11th Schedule: 29 matters** that can be transferred to the panchayat.
- Preparation of plans and implementation of plans for **economic development and social justice**.
- **Finances:** The state legislature may
 - authorize a panchayat to levy, collect and appropriate taxes, duties, tolls and fees;
 - assign to a panchayat taxes, duties, tolls and fees levied and collected by the state government;
 - provide for making grants-in-aid to the panchayats from the consolidated fund of the state; and
 - provide for constitution of funds for crediting all moneys of the panchayats.

No.	Sectors and Activities	No.	Sector and Activities
1.	Agriculture, including agricultural extension	15.	Non-conventional energy sources
2.	Land improvement, implementation of land reforms, land consolidation, and soil conservation	16.	Poverty alleviation programme

3.	Minor irrigation, water management, and watershed development	17.	Education, including primary and secondary schools
4.	Animal husbandry, dairying, and poultry	18.	Technical training and vocational education
5.	Fisheries	19.	Adult and non-formal education
6.	Social forestry and farm forestry	20.	Libraries
7.	Minor forest produce	21.	Cultural activities
8.	Small-scale industries, including food processing industries	22.	Markets and fairs
9.	Khadi, village, and cottage industries	23.	Health and sanitation, including hospitals, primary health centres, and dispensaries
10.	Rural Housing	24.	Family welfare
11.	Drinking water	25.	Women and child development
12.	Fuel and fodder	26.	Social welfare, including the welfare of the handicapped and mentally retarded
13.	Roads, culverts, bridges, ferries, waterways, and other means of communication	27.	Welfare of the weaker sections, and in particular, of the scheduled castes and the scheduled tribes
14.	Rural electrification, including distribution of electricity	28.	Public distribution system
29.	Maintenance of community assets		

Compulsory Provisions

- Organization of **Gram Sabha** in a village or group of villages.
- Establishment of **panchayats at the village, intermediate and district levels.**
- Direct elections to all seats in panchayats** at the village, intermediate and district levels.
- Indirect elections to the post of chairperson** of panchayats at the intermediate and district levels.
- 21 years to be the minimum age** for contesting elections to panchayats.
- Reservation of one-third of seats for women** in panchayats at all three levels. **Reservation of seats for SCs and STs** in panchayats at all three levels.
- Fixing tenure of five years** for panchayats at all levels and holding **fresh elections within six months** in the event of supersession of any panchayat.
- Establishment of a **State Election Commission** for conducting elections to the panchayats.
- State Finance Commission** to review **(after every five years)** the financial position of Panchayats.

Voluntary Provisions

- Endowing the Gram Sabha** with powers and functions at the village level.
- Determining the manner of election** of the chairperson of the village panchayat.

- Giving **representation to the chairpersons** of the village panchayats in the intermediate panchayats or, in the case of a state not having intermediate panchayats, in the district panchayats.
- Giving **representation to the chairpersons** of the intermediate panchayats in the district panchayats.
- Giving representation to members of the Parliament** (both the Houses) **and the state legislature** (both the Houses) in the panchayats falling within their constituencies.
- Providing **reservation of seats for backward classes** in panchayats at any level.
- Granting powers and authority to the panchayats** to make them autonomous bodies.
- Devolution of powers and responsibilities** upon panchayats to prepare plans for economic development and social justice; and to perform some or all of the **29 functions** listed in the **Eleventh Schedule** of the Constitution.
- Granting financial powers** to the panchayats - taxes, duties, tolls and fees.
- Assigning** to a panchayat the taxes, duties, tolls and fees levied and collected by the state government.
- Grants-in-aid to the panchayats** from the consolidated fund of the state.
- Constitution** of funds for crediting all money of the panchayats.

State Finance Commission (Article 243 I)

The governor of a state shall, after every five years, constitute a finance commission to review the financial position of the panchayats. It shall make the following recommendations to the governor:

- The distribution between the state and the panchayats of the net proceeds of the taxes, duties, tolls and fees levied by the state and allocation of shares amongst the panchayats at all levels.
- The determination of taxes, duties, tolls and fees that may be assigned to the panchayats.
- The grants-in-aid to the panchayats from the consolidated fund of the state.
- **Composition + qualification:** determined by state legislature.
- The governor shall place the recommendations of the commission, along with the action taken report, before the state legislature.
- **The Central Finance Commission** can recommend measures to augment the consolidated fund of the state and supplement the resources of the panchayat in the state.

Other Provisions

- **Continuance of Existing Laws and Panchayats:** To be in force until the expiry of one year from the commencement of this act. (Art. 243 N)
- **Audit and accounts:** Determined by the state legislature. (Art. 243 J)
- **Application to UT:** It is applicable to the Union territories. However, the President may direct that they apply to a Union territory, subject to such exceptions and modifications as he/she may specify. (Art. 243 L)
- **Certain areas are exempted:** Nagaland, Mizoram, Meghalaya and others (hill areas of Manipur for which district councils exist and Darjeeling district of West Bengal for which Darjeeling Gorkha Hill Council exists).
 - The Parliament may extend the provisions of this Part to the scheduled areas and tribal areas subject to such exceptions and modifications as it may specify.
 - Under this provision, the Parliament enacted the "Provisions of the Panchayats (Extension to the Scheduled Areas) Act," 1996, commonly known as the PESA Act or the Extension Act.

PANCHAYATS EXTENSION TO SCHEDULED AREAS (PESA) ACT OF 1996

- The provisions of Part IX of the constitution regarding Panchayats **do not apply** to the areas specified in the **Fifth Schedule**. However, the Parliament has the

power to extend these provisions to such areas, with specific exceptions and modifications. In accordance with this authority, the Parliament enacted this Act.

Features of PESA Act

- **State legislation** on the Panchayats in the Scheduled Areas to be in consonance with the customary law, social and religious practices and traditional management practices of community resources.
- A village shall consist of habitation or a group of habitation comprising a community and managing its affairs in accordance with traditions and customs.

Gram Sabha

- There should be a Gram Sabha in **every village**.
- It should consist of persons in the **electoral rolls** for the Panchayat at the village level.
- It shall have the authority to **protect and uphold the traditions and customs** of the community, their cultural identity, communal resources, and the customary method of resolving disputes.
- Responsible for the **identification of beneficiaries** and approval of plans
- Every Panchayat at the village level shall be required to obtain from the Gram Sabha a certification of utilization of funds for the above plans, programmes and projects.

- Reservation of seats in the Scheduled Areas in every Panchayat shall be in proportion to the population of the communities. Reservation for the Scheduled Tribes **shall not** be 50% of the total seats.
- **Chairpersons** of Panchayats at all levels shall be **reserved for the Scheduled Tribes**.
- State government may **directly nominate STs** which have no representation in the Panchayat at the intermediate level or the Panchayat at the district level (not exceeding one-tenth of the total members).
- The Gram Sabha or the Panchayats to be consulted before acquisition of land in the Scheduled Areas for development projects and resettling or rehabilitating
- Planning and management of minor water bodies in the Scheduled Areas shall be entrusted to Panchayats.
- The recommendations of the Gram Sabha or the Panchayats are mandatory for the grant of prospecting license or mining lease for minor minerals in SAs and, concession for exploitation of minor minerals by auction.
- Power to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant, ownership of minor forest produce, prevent alienation of land in the Scheduled Areas, manage village markets, control over money lending to the Scheduled Tribes and institutions and functionaries in all social sectors

- The power to control local plans and resources for such plans including tribal sub-plans
- The State legislations shall incorporate safeguards to prevent Panchayats at higher levels from usurping the powers and authority of any Panchayat at a lower level or the Gram Sabha.
- The State Legislature shall strive to emulate the administrative structure outlined in the Sixth Schedule to the Constitution while formulating the administrative setup for the Panchayats at the district level in the Scheduled Areas.
- Any provision of any law (relating to Panchayats in the Scheduled Areas) inconsistent with the PESA Act shall **cease to be in force at the expiry of one year**

from the date on which this Act receives the assent of the President.

Source of Revenue for Panchayati Raj Institutions (According to 2nd ARC)

- **Grants** from the Union Government based on the recommendations of the Central Finance Commission (Article 280).
- **Devolution** from the State Government based on the recommendations of the State Finance Commission as per Article 243 I.
- **Loans/grants** from the State Government.
- **Programme-specific allocation** under Centrally Sponsored Schemes and Additional Central Assistance.
- Internal Resource Generation (**tax** and **non-tax**).

COMMITTEES RELATED TO PANCHAYATI RAJ (AFTER CONSTITUTIONALISATION)

2001	Task Force on Devolution of Powers and Functions to Panchayati Raj Institutions	Lalit Mathur
2005	Expert Group on Planning at the Grassroots Level	V.Ramachandran
2008	Task Force for Preparation of a Manual for District Planning	Smt. Rajwant Sandhu
2010	Committee on Restructuring of DRDA (District Rural Development Agency)	V.Ramachandran
2012	Expert Committee on Leveraging Panchayats for Efficient Delivery of Public Goods and Services	Mani Shankar Aiyar



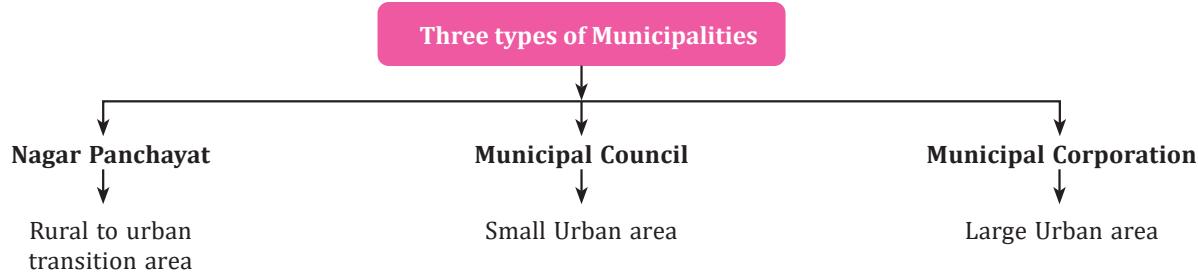
EVOLUTION OF MUNICIPALITIES IN INDIA

- 1687 - Madras:** first municipal corporation.
- 1726 -** Municipal Corporation of Bombay and Calcutta.
- 1870 -** Lord Mayo's resolution on financial decentralization.
- 1882 -** Lord Ripon resolution (Father of Local Self Govt.): **Magna Carta of Local Self Government.**
- 1907 -** Royal Commission on Decentralization. Its chairman was C.E.H. Hobhouse.
- 1919 -** Govt of India Act 1919, Local Self Govt. become a transferred subject.
- 1924 -** Cantonments Acts were passed.
- 1935 -** Government of India Act 1935: Local govt. become a provincial subject.

MUNICIPALITY (74TH AMENDMENT ACT, 1992)

The **constitutionalization** of the urban government system was achieved through the 74th Constitutional Amendment Act of 1992.

- **Constitutional Provisions**
 - Added **twelfth Schedule**, which contains **18 functional items**;
 - Added Part IX A, which consists of provision from Article 243P-243 ZG.
- **Important article**
 - **243 W:** Powers, authority and responsibilities of Municipalities.
 - **243 X:** Power to impose taxes by, and Funds of, the Municipalities.
 - **243 Y:** State Finance Commission.



- **Exception:** If there is an urban area where municipal services are being provided by an industrial establishment, then the **governor may specify** that area to be an industrial township. In such a case, a **municipality may not be constituted**.

The **Governor** is required to designate a **transitional area**, a smaller urban area, or a larger urban area, taking into consideration factors such as the extent of the area, population density, revenue generated for local administration, percentage of non-agricultural employment, economic significance, and any other factors deemed appropriate.

Composition (Article 243 R)

- All the members of a municipality shall be **elected directly by the people** of the municipal area. For this

purpose, each municipal area shall be divided into territorial constituencies to be known as wards.

- The **state legislature** may provide the manner of **election of the chairperson** of a municipality. It may also provide for the representation of the following persons in a municipality.
 - Persons having **special knowledge** or experience in municipal administration without the right to vote in the meetings of a municipality.
 - The **members of the Lok Sabha** and the **state legislative assembly** representing constituencies that 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.
 - The chairpersons of committees (other than wards committees).

- A **Ward committee** exists if the population of the municipality is 3 lakhs or more.
- **Other Committees:** The state legislature can make any provision for the constitution of other committees.
- **Ministries:** Ministry of Housing and Urban Affairs, Defence in the case of cantonment boards, Home Affairs in the case of Union Territories.

Election to the Municipalities (Article 243 ZA)

- Superintendence, direction and control of the preparation of electoral rolls and the conduct of all elections to the municipalities shall be vested in the **State Election Commission (Article 243 K).**
- The **state legislature** may make provisions with respect to all matters relating to elections to the municipalities.
- **State legislature** decides upon nominated members in Municipalities.

Reservation (Article 243 T)

- Seats are reserved for SC/ST (based on population).
- **Women:** 1/3rd reservation.
- The manner of reservation of seats for chairpersons and OBCs is **determined by the state legislature.**
- The reservation of seats as well as the reservation of offices of chairpersons in the municipalities for the **scheduled castes** and **scheduled tribes**, shall cease to have effect after the expiration of the period specified in **Article 334** (which is presently eighty years, that is, till 2030).

Bar to Interference by Courts in Electoral Matters (Article 243 ZG)

- The Act **bars the interference by courts in the electoral matters** of municipalities.
- No election to any municipality is to be questioned except by an election petition presented to **such authority and in such manner as provided by the state legislature.**
- The validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies cannot be questioned in any court.

Disqualification (Article 243 V)

- Under any law for the time being in force for the purpose of elections to the legislature of the state concerned.
- Under any law of the state legislature.
- No person shall be disqualified on the grounds that he is less than 25 years of age if he has attained the **age of 21 years.**
- All questions of disqualifications **shall be referred to such authority as the state legislature determines.**

Duration (Article 243 U)

- The act provides for a **five-year term of office** for every municipality. However, it can be dissolved before the completion of its term.
- **Fresh elections** to constitute a municipality shall be completed
 - before the expiry of its duration of five years; or
 - in case of dissolution, **before the expiry of a period of six months** from the date of its dissolution.
 - where the remainder of the period (for which the dissolved municipality would have continued) is **less than six months**, it shall **not be necessary** to hold any election.
- Municipality reconstituted after premature dissolution **does not enjoy the full period of five years but remains in office only for the remainder of the period.**
- The act also makes two more provisions with respect to dissolution: (a) a municipality must be given a reasonable opportunity of being heard before its dissolution; and (b) no amendment of any law for the time being in force shall cause dissolution of a municipality before the expiry of the five years term.

Powers, Functions and Finances

Determined by State Legislature

- Preparation of plans and implementation of plans for economic development and social justice.
- **12th schedule: 18 matters** that can be transferred to the municipalities.

Twelfth Schedule: Urban planning including town planning; Regulation of land use and construction of buildings; Planning for economic and social development; Roads and bridges; Water supply for domestic, industrial and commercial purposes; Public health, sanitation, conservancy and solid waste management; Fire services; Urban forestry, protection of the environment and promotion of ecological aspects; Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded; Slum improvement and upgradation; Urban poverty alleviation; Provision of urban amenities and facilities such as parks, gardens, playgrounds; Promotion of cultural, educational and aesthetic aspects; Burials and burial grounds, cremations and cremation grounds and electric crematoriums; Cattle ponds, prevention of cruelty to animals; Vital statistics including registration of births and deaths; Public amenities including street lighting, parking lots, bus stops and public conveniences; and Regulation of slaughterhouses and tanneries.

- **Finances:** State legislature may (a) authorize a municipality to levy, collect and appropriate taxes, duties, tolls and fees; (b) assign to a municipality taxes, duties, tolls and fees levied and collected by the

state government; (c) provide for making grants-in-aid to the municipalities from the consolidated fund of the state; and (d) provide for the constitution of funds for crediting all money of the municipalities.

Other provisions

- **Audit of Accounts (Article 243 Z):** Provisions with respect to the maintenance of accounts by municipalities and the auditing of such accounts are made by the state legislature..
- **Application to UTs:** The provisions of this part are applicable to the Union territories. However, the President may direct that they would apply to a Union territory subject to such exceptions and modifications as he/she may specify.
 - In the exercise of the above power, the President (in 2001) directed that the provisions of **Article 243 ZD** (Committee for District Planning) and **Article 243 ZE** (Committee for Metropolitan Planning) shall not apply to the National Capital Territory of Delhi.
- **Exempted Areas:** The act does not apply to the scheduled areas and tribal areas in the states. It shall also not affect the functions and powers of the **Darjeeling Gorkha Hill Council** of **West Bengal**. Parliament may extend the provisions of this part to the scheduled areas and tribal areas subject to such exceptions and modifications as it may specify.
- **Continuance of Existing Laws and Municipalities:** until the expiry of one year from the commencement of this act.

TYPES OF URBAN GOVERNMENT

1. Municipal Corporation

- Created by acts of the state legislature (by Parliament in the case of UTs) for the administration of big cities. There may be one common act for all municipal corporations in a state or a separate act for each municipal corporation.
- A municipal corporation has three authorities: **the council, the standing committees and the commissioner**.
- The Council is **headed** by a **Mayor**. He/she is assisted by a Deputy Mayor. The mayor is elected in a majority of the states for a one year renewable term. He/she is basically an ornamental figure and a formal head of the corporation. His/her main function is to preside over the meetings of the Council.
 - The Council is the **deliberative and legislative wing** of the corporation. It consists of the Councillors directly elected by the people, as well as a few nominated persons having knowledge or experience of municipal administration.

- The standing committees are created to facilitate the working of the council, which is too large in size. They deal with public works, education, health, taxation, finance and so on. They take decisions in their fields.

- The municipal commissioner is responsible for the implementation of the decisions taken by the council and its standing committees. Thus, he/she is the chief executive authority of the corporation. He/she is appointed by the state government and is generally a member of the IAS.

2. Municipalities

- Created by acts of state legislature (by Parliament in case of UTs) for administration of towns and smaller cities. They are also known by various other names like municipal council, municipal committee, municipal board, borough municipality, city municipality and others.
- A municipality has three authorities like that of municipal corporation: **the council, the standing committees and the chief executive officer**.
- The council is headed by a president/chairman. He/she is assisted by a vice-president/vice chairman. He/she presides over the meetings of the council. Unlike the Mayor of a municipal corporation, he/she plays a significant role and is the pivot of the municipal administration. Apart from presiding over the meetings of the Council, he/she enjoys executive powers.
 - The council is the deliberative and legislative wing of the municipality. It consists of the councilors directly elected by the people.
- The chief executive officer/chief municipal officer is responsible for day-to-day general administration of the municipality. He/she is appointed by the state government.
- The standing committees are created to facilitate the working of the council. They deal with public works, taxation, health, finance and so on.

3. Town Area Committee

- It is created by a separate act of a state legislature for the administration of a small town. It is a semi-municipal authority and is entrusted with a limited number of civic functions like drainage, roads, street lighting and conservancy.
- Its composition, functions and other matters are governed by the act. It may be wholly elected or wholly nominated by the state government or partly elected and partly nominated.

4. Cantonment Board

- The **Cantonments Act of 2006** is a legislation enacted by the Central government; deals with the civilian administration in cantonment area, and works under the **defense ministry**.
- They are partly elected and partly nominated. The elected members hold office for a term of five years while the nominated members (i.e., ex-officio members) continue so long as they hold the office in that station.



- The military officer commanding the station is the ex-officio president of the board and presides over its meetings. The vice-president of the board is elected by the elected members from amongst themselves for a term of five years.
- The executive officer of the cantonment board is appointed by the President of India. He/she implements all the resolutions and decisions of the board and its committees. He/she belongs to the central cadre established for the purpose.
- Notified Area Committee:** For administration of fast developing towns or which does not fulfill conditions for a municipality, created through gazette notification. Entirely a nominated body. It is neither an elected body nor a statutory body.
- Township:** Established by the large public enterprises to provide civic amenities to its staff and workers; no elected members.
- Port Trust:** established by an act of parliament for two purposes: (a) protect the ports; and (b) to provide civic amenities in and around ports. Consists of both elected and nominated members. Its chairman is an official.
- Special Purpose Agency:** Set up by the state for a specific purpose i.e. function-based organization and not area-based. They are not subordinate agencies of the local municipal bodies.

District Planning Committee (DPC)

- Article 243ZD:** to consolidate plans of panchayats and municipalities and to prepare a draft development plan.
- Every state shall constitute** it at the district level to consolidate the plans prepared by panchayats and municipalities in the district.
- The state legislature may make provisions for** the mode and manner of election, functions, and composition of DPC.
- 4/5th members of DPC:** should be elected by the elected members of the district panchayat and municipalities in the district from amongst themselves. The representation of these members in the committee should be in proportion to the ratio between the rural and urban populations in the district.
- The chairperson of such a committee shall forward the development plan to the state government.

Metropolitan Planning Committee (Article 243 ZE)

- Metropolitan area:** An area in the country where the population is **above 10 Lakhs** (Art. 243 P)

- Prepares **draft development plan**.
- The state legislature may make provisions for** the mode and manner of election, functions, and composition of MPC.
- 2/3rd members of MPC:** should be elected by the elected members of the municipalities and chairpersons of the panchayats in the metropolitan area from amongst themselves. The representation of these members in the committee should be in proportion to the ratio between the rural and urban populations in the district.
- 1/3rd members:** are nominated.
- The chairpersons of such committees shall forward the development plan to the state government.

Municipal Personnel

- Separate Personnel System:** Each local body appoints, administers, and controls its own personnel. They are not transferable to other local bodies. It is the most widely prevalent system. This system upholds the principle of local autonomy and promotes undivided loyalty.
- Unified Personnel System:** the state government appoints, administers, and controls the municipal personnel, transferable between the local bodies in the state.
- Integrated Personnel System:** The personnel of the state government and those of the local bodies form part of the same service and are transferable not only between the local bodies in the state but also between local bodies and departments of state government.

Municipal Revenue

- Tax Revenue:** Local taxes and cesses.
- Non-Tax Revenue:** Rent, user charges
- Grants:** By the central and state governments.
- Devolution:** Transfer of funds to the urban local bodies from the state government.
- Loans:** raised from state government and financial institutions.

Central Council of Local Governments

- Set up in **1954**, under **Article 263 (Inter-state Council)** by an order of the **President**. It is an **advisory** body.
- Composition:** It consists of the Minister for Housing and Urban Affairs in the Government of India and the ministers for local self-government in the states. The Union minister acts as the Chairman of the Council.



29

Scheduled and Tribal Areas

CONSTITUTIONAL PROVISIONS

- **Article 244; Part X:** special system of administration for 'Scheduled Areas'(SA) & 'Tribal Areas'(TA).
- **5th Schedule:** Administration & control of scheduled areas & scheduled tribes in any state **except** 4 states - Assam, Meghalaya, Tripura & Mizoram (AMTM). [UPSC 2015]
- **6th Schedule:** Administration of tribal areas in 4 North-Eastern states - Assam, Meghalaya, Tripura & Mizoram [UPSC 2015]

ADMINISTRATION OF SCHEDULED AREAS (5TH SCHEDULE)

- Pertaining to the different socio-economic profile of scheduled areas, these areas need special attention &

Features as per the 5th Schedule

Declaration of Scheduled Areas	<ul style="list-style-type: none">• The President is empowered to declare an area to be a SA. [UPSC 2023]• The President can make changes in its area & boundary, rescind such designation or make fresh orders for such redesignation on an area in consultation with the Governor of state.
Executive Power of State & Centre	<ul style="list-style-type: none">• State Executive power extends to SAs, but the Governor has a special responsibility.• The Governor submits a report to the President regarding the administration of such areas.• The Centre can give directions to states for such areas.
Tribes Advisory Council (TAC)	<ul style="list-style-type: none">• The State has to establish a TAC to advise on welfare measures.• Consists of 20 members, 3/4th of whom are to be the representatives of STs in the State Legislative Assembly.• States having STs but no SAs can have TAC, if the President directs.
Laws applicable to Scheduled Areas	<ul style="list-style-type: none">• The Governor directs if any Central or State Act applies to such areas or applies with any modification.• Governors can make regulations for peace & good governance of SAs after consulting TAC. Such regulations may prohibit or restrict the transfer of land by or among members of the scheduled tribes [UPSC 2022]

ADMINISTRATION OF TRIBAL AREAS (6TH SCHEDULE)

6th Schedule: administration of tribal areas in **4 North Eastern states** of Assam, Meghalaya, Tripura & Mizoram (AMTM).

- **Rationality behind the arrangement:** To protect the culture, customs & civilizations of people of such areas, who still have not assimilated with the majorities in such areas.

the Central Government has greater responsibility for such areas.

- **President** appoints a commission to report on the administration of SAs & welfare of STs in states at any time but compulsorily after 10 years of the commencement of the Constitution (Constitutional obligation).
 - **Two such Commissions:** U N Dhebar (1960) & Dilip Singh Bhuria Committee (2002).
- India has scheduled areas (till 2019) in the states of **Andhra Pradesh, Telangana, Jharkhand, Chhattisgarh, Gujarat, Himachal Pradesh, Madhya Pradesh, Maharashtra, Odisha and Rajasthan**.

States	Tribal Areas	States	Tribal Areas
Assam	1. The North Cachar Hills District. 2. The Karbi Anglong District. 3. The Bodoland Territorial Areas District	Meghalaya	1. Khasi Hills District. 2. Jaintia Hills District. 3. The Garo Hills District
Tripura	Tripura Tribal Areas District.	Mizoram	1. The Chakma District. 2. The Mara District. 3. The Lai District.

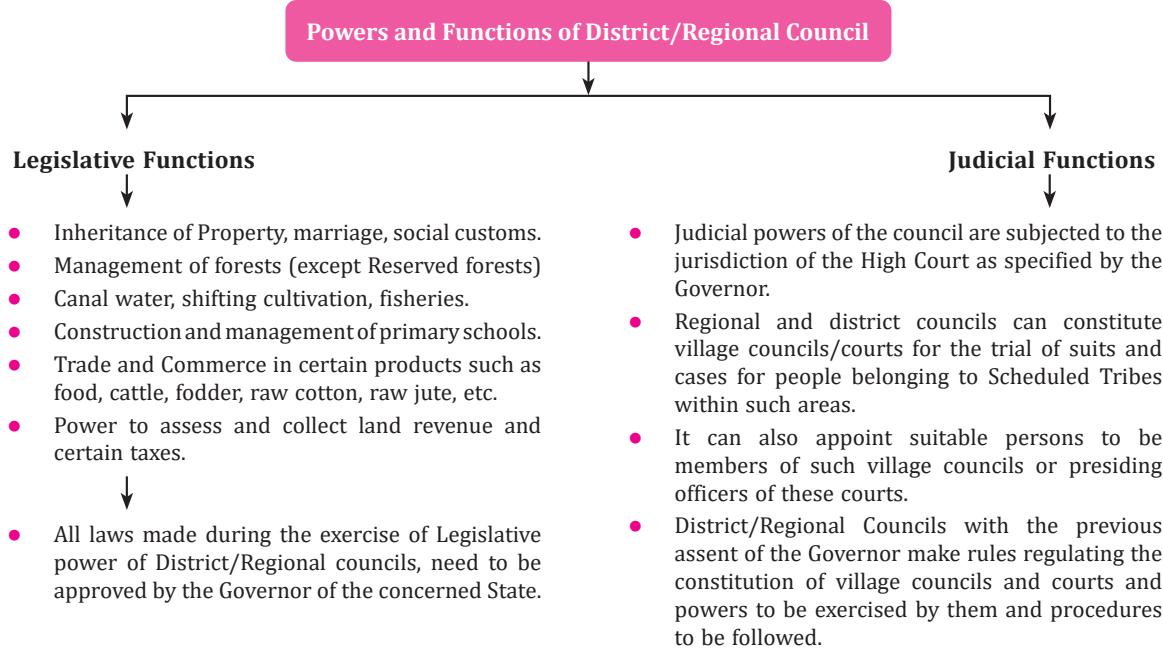
Features of Administration as per 6th Schedule

- Tribal areas in states of AMTM:** Autonomous Districts (ADs), fall under state executive authority.
- Governor** is empowered to organize & reorganize the autonomous districts (ADs). Governors can even divide the ADs into several autonomous regions if there are different tribes in the ADs.
- Each Autonomous District** has a **District Council of 30 members** (26 elected + 4 nominated by the Governor).
- Tenure:** **Elected** (5 years)+ **Nominated** (at the pleasure of the Governor).
- Each autonomous region has a **Separate Regional Council**.

Powers & Functions of District & Regional Councils

- District and regional Councils administer the areas under their jurisdiction; and **can make laws on certain matters: land, forests, canal water etc**, but all such laws **require the Governor's assent**.

- District and regional councils can constitute **Village Councils/courts** for trial of suits & cases between tribes. The jurisdiction of High Courts over such suits & cases is specified by the Governor.
- The District Council can establish** primary schools, dispensaries, markets, ferries, and roads in the district. It can also make regulations for control of money lending & trading by non-Tribals. But **such regulations require the assent of the Governor**.
- They are **empowered to assess & collect land revenue** & to impose certain specified taxes.
- Central or State Acts **do not apply to autonomous districts & autonomous regions** or apply with specified modifications & exceptions.
- Governor directs:** In the case of Assam for both Central & State Acts.
- President directs:** In case of Meghalaya, Tripura & Mizoram for Central Acts & Governor in respect of State Acts.
- Governor can appoint a commission** to examine & report on any matter relating to the administration of autonomous regions & can even dissolve the District & Regional Council on the recommendation of such commission.



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Special Provisions for Some States

Originally, the Constitution **did not make any special provisions** for these states. They have been incorporated by the various subsequent amendments made in the context of the reorganization of the states or conferment of statehood on the Union Territories.

Special Provisions

Articles	Article 371 to 371 J, Part XXI
12 States	Maharashtra, Gujarat, Nagaland, Assam, Manipur, Andhra Pradesh, Telangana, Sikkim, Mizoram, Arunachal Pradesh, Goa, Karnataka.
Objectives	<ul style="list-style-type: none">• To meet the aspiration of the people of the backward region;• To protect Cultural and economic interest of tribal People;• To protect the interest of local people of the state;• Deal with disturbed law and order conditions in some parts of the state.

CONSTITUTIONAL PROVISIONS

1. Maharashtra and Gujarat (Article 371)

- The President is authorized to provide that the Governor has a special responsibility to establish separate development boards for:
 - **Maharashtra:** Vidarbha, Marathwada and the rest of Maharashtra.
 - **Gujarat:** Saurashtra, Kutch and the rest of Gujarat.
- Making provision for presenting a report before the state legislative assembly every year.
- **Equitable allocation of funds** for development expenditure over the above-mentioned areas.
- **Equitable arrangement** providing adequate facilities for technical education and vocational training etc.

2. Nagaland (Article 371 A)

- **Acts of parliament** relating to the following matter **would not apply to Nagaland** unless the state legislative assembly so decides:
 - Religious or social practices of the Nagas.
 - Naga customary law and procedure.
 - Administration of civil and criminal justice.
 - Ownership and transfer of land and its resources.
- **The Governor has a special responsibility** towards Law and order in the state so long as internal disturbances caused by hostile Nagas continue (Individual judgment and decisions are final).

- The Governor, in fulfilling this duty, utilizes individual judgment after consulting the Council of Ministers, and the decision made is **final**. This unique responsibility of the Governor concludes when directed by the President.
- **Governor** to ensure money provided for special purposes by the Central Government is included in the Demand for grants relating to that purpose only.
- A regional council consisting of **35 members** from the **Tuensang district** of the state should be established.
- **Administration of Tuensang district by Governor:**
 - Any act of the Nagaland legislature **shall not apply to the Tuensang district** unless the governor recommends it.
 - There shall be a **minister for Tuensang affairs** in the state council of ministers.

3. Assam (Article 371B)

- **The President** is empowered to provide for the creation of a committee of the Assam Legislative Assembly consisting of the members elected from the Tribal Areas of the state and such other members as he/she may specify.

4. Manipur (Article 371 C)

- **The President** is authorized for the **Creation of a committee** of the Manipur legislative assembly consisting of the members elected from hill areas of the state.

- **The President** can direct that the governor shall have a **special responsibility** to secure the proper functioning of that committee.
- **Governor** should submit an **annual report to the President** regarding the administration of hill areas.
- The **central government** can give directions to the state government for the **administration of the hill areas**.

5. Andhra Pradesh or Telangana (Article 371 D)

- **Extended to Telangana** by the State Reorganization Act 2014.
- **President is:**
 - Empowered to provide for equitable opportunities and facilities for the people belonging to different parts of the state in the matter of public employment and education and different provisions can be made for various parts of the state.
 - May require the state government to **organize civil posts in local cadres** for different parts of the state, and can also extend reservations.
 - May provide for the establishment of an **administrative tribunal in the state** to deal with certain disputes and grievances related to appointment, allotment or promotion to civil posts in the state.
 - **The tribunal is outside the purview** of the State High Court.
- **Note: Article 371 E:** Parliament to provide for the establishment of a central university in the state of Andhra Pradesh.

6. Sikkim (Article 371 F)

- **The 36th Constitutional Amendment Act of 1975** made Sikkim a full-fledged state of the Indian Union. It included a new **Article 371 F** containing special provisions with respect to Sikkim.
- **Legislative assembly:** not less than 30 members.
- **Lok Sabha:** One seat is allotted to Sikkim.
- To safeguard the rights and interests of various segments of the Sikkim population, **Parliament** has the authority to determine:
 - the number of seats in the Sikkim Legislative Assembly reserved for candidates from these sections;



- the demarcation of Assembly constituencies allowing candidates from these sections to contest elections.
- **Governor shall have special responsibility** for peace and for ensuring the social and economic advancement of the different sections of Sikkim.
- The **president can extend to Sikkim any law** which is in force in a state of the Indian Union.

7. Mizoram (Article 371 G)

- **Acts of parliament do not apply to Mizoram** unless the SLA so decides:
 - Religious or social practices of the Mizo;
 - Mizo customary law and procedure;
 - Administration of civil and criminal justice;
 - Ownership and transfer of land and its resources.
- **Legislative assembly:** Not less than 40 members.

8. Arunachal Pradesh (Article 371 H)

- The governor of Arunachal Pradesh shall have **special responsibility for law and order** in the state.
- The Governor, in fulfilling this duty, utilizes individual judgment after consulting the Council of Ministers, and the decision made is **final**. This unique responsibility of the Governor concludes when directed by the President.
- **Legislative assembly:** Not less than 30 members

9. Goa (Article 371 I)

- **Legislative assembly:** Not less than 30 members

10. Karnataka (Article 371 J)

The President is empowered to provide that the Governor of Karnataka would have special responsibility for:

- Establishment of a separate **development board** for the Hyderabad-Karnataka region.
- **Reports** on the working of the board to the state legislative assembly every year.
- **Equitable allocation of funds for** developmental expenditure over the region.
- **Reservation of seats:** educational and vocational training institutions in the region for persons who belong to the region.



UNION & STATE PUBLIC SERVICE COMMISSIONS

- **GoI Act of 1919:** Central Public Service Commission (in 1926) and entrusted with the task of recruiting civil servants.
- **GoI Act of 1935:** Establishment of Federal Public Service Commission, Provincial Public Service Commission and Joint Public Service Commission for two or more provinces.
- **Bulwarks of constitution:** CAG, Supreme Court, Election Commission and Union Public Service Commission.

Parameters	UPSC	SPSC
Article	Article 315 to 323, Part XIV	Article 315 to 323, Part XIV
Appointment	By the President	By the Governor but can only be removed by the President.
Qualification	Not mentioned in the constitution except that 50% of members hold 10 yrs of experience either in GoI or State.	Not mentioned in constitution except 50% Member holds 10 yrs of experience either in GoI or State.
Members	The strength of UPSC/SPSC has not been specified in the Constitution and is left at the discretion of the President/Governor .	
Conditions of service	The Constitution authorizes the President/Governor to determine the conditions of service of the chairman and other members of the UPSC/SPSC .	
Tenure	<ul style="list-style-type: none"> • 6 years or age of 65 years, whichever is earlier. • Chairman: Not eligible for further appointment in GOI or State. • Members: not eligible for reappointment (i.e. for 2nd term as member) or any other appointment in GOI or State but eligible to be chairman of UPSC or SPSC. • When a member of UPSC is appointed as its chairman, he holds the new office for six years or until the age of superannuation, whichever is earlier 	<ul style="list-style-type: none"> • 6 years or 62 years, whichever is earlier. • Chairman: Not eligible for reappointment (i.e. for 2nd term) or any other appointment in GOI or State but eligible to be chairman or member of UPSC. • Members: Not eligible for reappointment (i.e. for 2nd term as member) or any other appointment in GOI or State but eligible to be chairman or member of UPSC and Chairman of the same SPSC or other SPSC.
Independence	<ul style="list-style-type: none"> • The entire expenses, including the salaries, allowances and pensions of the chairman and members and also of the staff of UPSC/SPSC, are charged on the Consolidated fund of India/State. • Conditions of service of the chairman or a member cannot be varied to disadvantage. • The chairman/member of the UPSC/SPSC can be removed from office by the President only in the manner and on the grounds mentioned in the Constitution. 	
Resignation	Addressed to the President	Addressed to the Governor

	<ul style="list-style-type: none"> ● Watchdog of the 'Merit System' in India. ● Recommendations made by it are only of an advisory nature and not binding on the government. ● UPSC/SPSC is consulted on the following matters relating to: <ul style="list-style-type: none"> ○ Methods of recruitment to civil service and civil posts. ○ Principles to be followed in making appointments. ○ Suitability of candidates for appointments. ○ All disciplinary matters. ○ Matters of temporary appointments. ○ Matters related to grant of extension of service. ● Supreme Court: If the government fails to consult UPSC/SPSC in the above-mentioned matters, the aggrieved public servant has no remedy in a court. The above provisions are not mandatory. <ul style="list-style-type: none"> ○ Court held that a selection by the UPSC does not confer any right (not matter of right) to the post upon the candidate.
Functions and other aspects	<ul style="list-style-type: none"> ● UPSC assist states in joint recruitment if more than two states ask for it. ● Can also serve the needs of a state on the request of the state governor and with the approval of the president. ● The President can exclude posts, services and matters from the purview of the UPSC. ● UPSC presents a report to the president annually. The President places this report before both the Houses of Parliament. ● Additional functions relating to the services of the Union can be conferred on UPSC by the Parliament. ● Jurisdiction of UPSC: Can be extended by an act made by the Parliament. ● UPSC is only a central recruiting agency. ● The Department of Personnel and Training is the central personnel agency in India. <ul style="list-style-type: none"> ● SPSC is consulted by the Governor while framing rules for appointment to judicial service of the state other than district judge. ● Governors can exclude posts, services and matters from the purview of the SPSC. ● SPSC presents a report to the Governor annually. ● The governor places this report before both the Houses of State Legislature. ● Additional functions relating to the services of the state can be conferred on SPSC by the state legislature. ● SPSC: only a central recruiting agency in the state ● Department of Personnel: central personnel agency in the state.
Limitations	<p>Matter outside the jurisdiction of UPSC</p> <ul style="list-style-type: none"> ○ Making reservations of appointments or posts in favour of any backward class. ○ Considering claims of SC and ST in making appointments to services and posts. ○ Selections for chairman/member of commissions or tribunals, posts of the highest diplomatic nature and bulk of group C and group D services. ○ Selection for temporary appointment to a post for not more than a year. <p>Matters outside jurisdiction of SPSC</p> <ul style="list-style-type: none"> ○ Making reservations of appointments or posts in favour of any backward class. ○ Considering claims of SC and ST in making appointments to services and posts.
Removal Procedure	<ul style="list-style-type: none"> ● By President as manner provided in the constitution under the following circumstances: <ul style="list-style-type: none"> ○ Is adjudged an insolvent; or ○ Engages during his term of office in any paid employment outside the duties of his office; or ○ In the opinion of the president, unfit to continue in office by reason of infirmity of mind or body.

- The **President** can also remove the chairman or any other member of UPSC/SPSC for **misbehaviour**. However, in this case, the president has to refer the matter to the Supreme Court for an enquiry.
- If the SC, after the enquiry, upholds the cause of removal and advises so, the president can remove the chairman or a member. Advice tendered by the SC in this regard is binding on the president.
- During the course of enquiry, the **President** can suspend the chairman or the member of UPSC and JPSC. **Governors** can suspend, in the case of the Chairman or Member of SPSC, pending the final removal order of the President on receipt of the report of the Supreme Court.
- **'Misbehavior' as defined in the Constitution is, if:**
 - Concerned or interested in any Government contract or
 - Participates in any way in the profit of such a contract.

Joint State Public Service Commission (JSPSC)

- JSPSC can be created by an **act of Parliament on the request** of the state legislatures concerned.
- JSPSC is a **statutory** and **not a constitutional body**.
- **Chairman & members:** Appointed by the president.
- **Term of office:** 6 years or until the age of 62 years, whichever is earlier.
- **Suspension or removal:** by the president.
- **Resignation:** to the president.
- **No. of members & service conditions:** determined by the **president**.
- **Annual performance report:** to each of the concerned state governors. Each governor places the report before the state legislature.

ELECTION COMMISSION (ECI) & COMPTROLLER AND AUDITOR GENERAL OF INDIA (CAG)

Body	Election Commission of India (ECI)	Comptroller & Auditor General (CAG)
Article	<ul style="list-style-type: none"> • Article 324, Part XV • ECI conducts elections to Parliament, State Legislatures, the office of President of India and the office of Vice-President of India. • ECI is a unitary feature of the Indian constitution. 	<ul style="list-style-type: none"> • Article 148 to 151, Part V • Head of the Indian Audit and Accounts Department. • “Guardian of the public purse” and controls the entire financial system of the country at both levels: the Centre and the state. • CAG is a unitary feature of the Indian constitution.
Appointment	<ul style="list-style-type: none"> • By President • When any other election commissioner is so appointed, the chief election commissioner shall act as the chairman of the election commission. • The President may also appoint after consultation with the election commission such regional commissioners as he/she may consider necessary to assist the election commission. 	<ul style="list-style-type: none"> • By President by a warrant under his hand and seal.
Qualification	Qualification is not prescribed by the Constitution.	
Members	<ul style="list-style-type: none"> • Strength not specified in the constitution and left at the discretion of the President. • Presently, 3-member body. [UPSC 2017] 	Single-member body.

Tenure and Salary	<ul style="list-style-type: none"> The Constitution does not specify the term of the members of the Election Commission. Currently 6 years or age of 65 years, whichever is earlier. The Constitution has not debarred from further appointment. Conditions of Service and Tenure of office are determined by the President. Salary equal to judge of SC. CEC and two other election commissioners have equal powers, salary, and allowances. 	<ul style="list-style-type: none"> 6 years or age of 65 years, whichever is earlier. Not eligible for further appointment in GOI or State Salary and Service conditions are determined by the Parliament. Salary equal to judge of the SC.
Resignation	To the President.	
Removal Procedure	<ul style="list-style-type: none"> Removal in the same manner and on the same grounds as a judge of the Supreme Court i.e. removed by the president on the basis of a resolution passed by both Houses of Parliament with a special majority, only on the ground of proved misbehaviour or incapacity. He does not hold office during the pleasure of the President. 	
Other Aspects	<ul style="list-style-type: none"> All-India body: common to both Central and state governments. Not concerned with elections to panchayats and municipalities in the states. In case of a difference of opinion amongst CEC and/or two other election commissioners, the matter is decided by the Commission by majority. At the state level, EC is assisted by the chief electoral officer, who is appointed by the CEC in consultation with the state government. At the district level, the collector acts as the district returning officer. He appoints a returning officer for every constituency in the district and a presiding officer for every polling booth in the constituency. 	<ul style="list-style-type: none"> Consultation with the CAG: Conditions of service of persons serving in the Indian Audit and Accounts Department and the administrative powers of the CAG are prescribed by the president. CAG acts as a guide, friend and philosopher of the Public Accounts Committee of the Parliament. CAG is an agent of the Parliament and conducts audits of expenditures on behalf of the Parliament. He is responsible only to the Parliament. CAG submits three audit reports: to the President- <ul style="list-style-type: none"> Audit report on appropriation accounts. Audit report on finance accounts. Audit report on public undertakings. The President lays these reports before both the Houses of Parliament. After this, the Public Accounts Committee examines them and reports its findings to the Parliament. Limitations: <ul style="list-style-type: none"> Secret service expenditure is a limitation on the auditing role of the CAG No control over the issue of money from the consolidated fund, as CAG is limited to the audit stage only. Britain's model of CAG: The executive can draw money from the public exchequer only with the approval of the CAG.

Powers and Functions of ECI

- Determination of **territorial areas** of the **electoral constituencies** on the basis of the **Delimitation Commission Act of Parliament**.
- Prepare and periodically revise **electoral rolls** and register all eligible voters.
- Notification of dates and schedules of elections and to scrutinize nomination papers.

- **Grant recognition** to political parties and allot **election symbols** to them.
- Settle disputes related to granting recognition to political parties and allotment of election symbols to them.
- **Appoint officers** to inquire into disputes relating to electoral arrangements.
- Determine the **code of conduct** to be observed by the parties and the candidates at the time of elections.
- **Prepare a roster** for publicity of the policies of the political parties on radio and TV in times of elections.
- **Advise the President** with respect to **disqualifications** of the members of Parliament.
- **Advise the Governor** with respect to **disqualifications** of the members of the State legislature.
- To **cancel polls** in the event of **rigging, booth capturing**, violence and other irregularities.
- Request the President or the Governor to requisition the staff necessary for conducting elections.
- To advise the President to **hold elections in a state under the President's rule** in order to extend the period of emergency after one year.
- **Registration of political parties** and **grant of status of national or state parties** on the basis of their poll performance.

Independence of ECI

- **Chief Election Commissioner:**
 - Provided with the **security of tenure**.
 - He cannot be **removed** from his office except in the same manner and on the **same grounds as a judge of the Supreme Court**.
 - **Other election commissioners:** Cannot be removed from office except on the recommendation of the CEC.
- **Service conditions** cannot be varied to his disadvantage after his appointment.
- In **Anoop Baranwal case (2023)**, the Supreme Court gave the following directions to ensure the **independence** and **neutrality** of the Election Commission, free from all external political and executive interference:
 - It declared that the **appointment** of the Chief Election Commissioner and the other Election Commissioners shall be made on the recommendations of a **three-member committee** consisting of the
 - ◆ Prime Minister.
 - ◆ The Leader of the Opposition in the Lok Sabha. (in case there is no Leader of the Opposition in the Lok Sabha, then the Leader of the largest opposition party in terms of numerical strength)
 - ◆ The Chief Justice of India.

- It is desirable that the **grounds for the removal** of the other Election Commissioners shall be the same as that of the Chief Election Commissioner.
- The **conditions of service** of the other Election Commissioners shall not be varied to their disadvantage after appointment.
- The above directions shall be in effect until the Parliament makes a law in consonance with Article 324 of the Constitution.

Powers and Functions of CAG

The Constitution (**Article 149**) authorizes the Parliament to prescribe the **duties and powers of the CAG** in relation to the accounts of the Union and of the states and of any other authority or body. Accordingly, the Parliament enacted the **CAG (Duties, Powers and Conditions of Service) Act, 1971**.

- Accounts related to all expenditure from the **Consolidated Fund** of (India, state and union territory having a Legislative Assembly); **Contingency Fund** of India and states and the **Public Account** of India and states.
- Audits all **trading**, manufacturing, profit and loss accounts, balance sheets and other subsidiary accounts of the centre and state.
- Audits receipts and expenditures of the Centre and each state and following:
 - All bodies and authorities substantially financed from the Central or state revenues;
 - Government companies; and
 - Other corporations and bodies, when so required by related laws.
- All transactions of the Central and state governments related to debt, sinking funds, deposits, advances, suspense accounts and remittance business.
- Audits receipts, stock accounts and others, with the approval of the President, or when required by the President.
- Accounts of **any other authority when requested by the President or Governor**. For example, the audit of **local bodies**.
- Advises the President with regard to the prescription of the form in which the accounts of the Centre and the states shall be kept (**Article 150**).
- Submission of audit reports relating to the accounts of the Centre to the President, who shall, in turn, place them before both Houses of Parliament (**Article 151**).
- Audit reports relating to the accounts of a state to the governor, who shall, in turn, place them before the state Legislature (**Article 151**).
- Certify the net proceeds of any tax or duty (**Article 279**). His certificate is final. The '**net proceeds**'

- means the proceeds of a tax or a duty minus the cost of collection.
- Compile and maintain accounts of state governments.
 - He/she acts as a **guide, friend and philosopher** of the **Public Accounts Committee** of the Parliament.
 - No minister can represent the CAG in Parliament (both Houses), and **no minister can be called upon to take any responsibility** for any actions done by him.
 - He/she compiles and maintains the accounts of state governments. In 1976, he/she was relieved of his/her responsibilities with regard to the compilation and maintenance of accounts of the Central Government due to the separation of accounts from audit, that is, departmentalisation of accounts.

Independence of CAG

- Security of tenure:** He can be removed by the president only in accordance with the procedure mentioned in the Constitution.
- Not eligible:** for further office either under the GoI or of any state.
- Service conditions:** Determined by Parliament and CAG cannot be varied.
- Charged upon Consolidated Fund of India:** administrative expenses, salaries, allowances and pensions of persons serving.

NATIONAL COMMISSION FOR SCHEDULED CASTES, SCHEDULED TRIBES, AND BACKWARD CLASSES

Body	Scheduled Castes	Scheduled Tribes	Backward Classes
Article	<ul style="list-style-type: none"> Originally: Art.338 provided for Special officers for SC & ST. 1978: Non-statutory multi-member commission for SCs and STs (through resolution). 1987: Commission renamed as National Commission for SCs & STs (through resolution). 65th CAA 1990: multi-member National Commission for SCs & STs with constitutional status. 89th CAA 2003: Single commission separated into NCSC (Art.338) & NCST (Art.338 A). The separate National Commission for SCs and STs came into existence in 2004. 	<ul style="list-style-type: none"> Originally: NCBC was set up in 1993 as a Statutory body according to the Mandal case judgment of SC (1992). 102nd CAA, 2018: accorded Constitutional status with the insertion of new Art.338 B. [UPSC 2023] 	
Article 338, Part XVI		Article 338A, Part XVI	Article 338B, Part XVI
Appointment	By President by warrant under his hand and seal.		
Members	Chairperson + Vice Chairperson + 3 others members.		
Tenure	<ul style="list-style-type: none"> The President determines tenure and conditions of service of office. Under the Rules, they hold office for a term of three years. They are not eligible for appointment for more than two terms. 		
Reports	<ul style="list-style-type: none"> Presents an annual report to the President. The President places all such reports before the Parliament. Also forwards any report of the Commission pertaining to a state government to the state Governor. The governor places it before the state legislature. 		
Other Aspects	<ul style="list-style-type: none"> Power of civil court in certain matters. The Commission is vested with the power to regulate its own procedure. Discharges similar functions regarding the Anglo-Indian Community. 	<ul style="list-style-type: none"> Power of civil court in certain matters. The Commission is vested with the power to regulate its own procedure. Measures for the implementation of the PESA Act, 1996. 	<ul style="list-style-type: none"> Power of civil court in certain matters. The Commission is vested with the power to regulate its own procedure.

	<ul style="list-style-type: none"> Till 2018, the commission was also required to discharge similar functions with regard to OBCs. It was relieved by the creation of NCBC (Art.338B). 	<ul style="list-style-type: none"> Measures to be taken to: <ul style="list-style-type: none"> Reduce and ultimately eliminate the shifting cultivation practice by tribals. Improve the efficacy of relief and rehabilitation measures. To prevent alienation of tribal people. Conferring ownership rights in respect of MFPs. 	<ul style="list-style-type: none"> Participate and advise on the socio-economic development of Socially and Educationally Backward Classes.
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ATTORNEY GENERAL OF INDIA AND ADVOCATE GENERAL OF STATE

Body	Attorney General of India	Advocate General of State
Article	<ul style="list-style-type: none"> Article 76, Part - V Part of Union Executive Highest law officer in the country 	<ul style="list-style-type: none"> Article 165, Part -VI Part of State Executive Highest law officer in the state.
Appointment	By President	By Governor
Qualification	<p>Qualified to be Judge of SC i.e.</p> <ul style="list-style-type: none"> Citizen of India Must have been a judge of some HC for 5 years or An advocate of some HC for 10 years or An eminent jurist, in the opinion of the president. 	<p>Qualified to be Judge of HC i.e.</p> <ul style="list-style-type: none"> Citizen of India. Must have been in judicial service of State for 10 years or An advocate of HC for 10 years.
Tenure	<ul style="list-style-type: none"> Not fixed by Constitution Holds office during the pleasure of the President. 	<ul style="list-style-type: none"> Not fixed by Constitution Holds office during the pleasure of the Governor.
Salary	<ul style="list-style-type: none"> Not fixed by constitution As President may determine. 	<ul style="list-style-type: none"> Not fixed by constitution As Governor may determine.
Resignation	<ul style="list-style-type: none"> To the President. Conventionally, he/she resigns when the government (council of ministers) resigns or is replaced. [UPSC 2022] 	<ul style="list-style-type: none"> To the Governor. Conventionally, he/she resigns when the government (council of ministers) resigns or is replaced.
Removal Procedure	<ul style="list-style-type: none"> Term of office is not fixed by the Constitution. The Constitution does not contain the procedure and grounds for his removal. 	<ul style="list-style-type: none"> Term of office is not fixed by the Constitution. The Constitution does not contain the procedure and grounds for his removal.
Duties and Functions	<ul style="list-style-type: none"> Advice to the GoI upon legal matters. To appear on behalf of the GoI in all cases in the SC/HC in which the GoI is concerned. Represent the GoI in any reference made by the president to the SC under Art.143 of the Constitution. 	<ul style="list-style-type: none"> Advice to state government upon legal matters. Discharges the functions conferred on him by the Constitution. Perform such other duties of a legal character that are assigned to him by the governor.

Other Aspects	<p>The Attorney General is not a fulltime counsel and does not fall in the category of government servants so he can do his private legal practice.</p> <p>Right of audience in all courts in the territory of India.</p> <p>Right to speak and to take part in the proceedings of Parliament or their joint sitting and any committee of the Parliament of which he is a member, but without a right to vote.</p> <p>[UPSC 2022]</p> <p>He enjoys all the privileges and immunities that are available to a Member of Parliament.</p>	<p>Right of audience before any court of law within the state.</p> <p>Right to speak and to take part in the proceedings of the state legislature and any committee of the state legislature of which he is a member, but without a right to vote.</p> <p>He enjoys all the privileges and immunities that are available to a Member of State Legislature.</p>
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Limitations on the Office of the Attorney General of India

- He/she should not advise or hold a brief against the Government of India.
- He/she should not defend accused persons in criminal prosecutions without the permission of the Government of India.

Solicitor General of India	<ul style="list-style-type: none"> • The Solicitor General of India and Additional Solicitor General of India assist the AGI in the fulfillment of his official responsibilities. • Only the office of the AG is created by the Constitution. • Art.76 does not mention the Solicitor General and Additional Solicitor General.
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GST COUNCIL AND SPECIAL OFFICER FOR LINGUISTIC MINORITIES

Body	GST Council	Special Officer for Linguistic Minority
Article	Article 279 A, Part XII	Article 350 B, Part XVI
Appointment	By Presidential Order.	By President.
Composition and other Aspect	<ul style="list-style-type: none"> • Finance Minister (chairperson) + Union Ministers of State in-charge of finance + Ministers in-charge of finance or any other Minister nominated by each state government. • Members of the Council from the states have to choose one amongst themselves to be the Vice-Chairperson of the Council. They can also decide his term. • The Union Cabinet also decided to include the Chairperson of the Central Board of Indirect Taxes and Customs (CBIC) as a permanent invitee (non-voting) to all proceedings of the Council. • Quorum: 50% of total members. • Every decision by majority of 3/4th of members present & voting. • Weightage of votes: • Center: 1/3rd • States: 2/3rd • GST: 101st CAA 2016. • The Secretariat of the Council is located in New Delhi. 	<ul style="list-style-type: none"> • The Constitution does not specify the Qualification, Tenure, Salaries, allowances, Service conditions and procedure for removal. • Originally, the Constitution of India did not make any provision with respect to it. • The States Reorganisation Commission (1953-55) made a recommendation in this regard. Accordingly, The 7th CAA of 1956 inserted a new Art.350 B in Part XVII of the Constitution. • The Office of the Special Officer for Linguistic Minorities was created in 1957, and designated as Commissioner for Linguistic Minorities (CLM). • The CLM has his/her headquarters in New Delhi. He/she has three regional offices at Belgaum (Karnataka), Chennai (Tamil Nadu) and Kolkata (West Bengal). Each is headed by an Assistant Commissioner. • The Commissioner falls under the Ministry of Minority Affairs. • Submits the annual reports or other reports to the President through the Union Minority Affairs Minister.

Functions of GST council

- Recommendations about the taxes, cesses and surcharges levied by the centre, the states and the local bodies that would get merged in GST.
- Any special rate or rates for a specified period to raise additional resources during any natural calamity or disaster.
- Special provision with respect to the states of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand.

FINANCE COMMISSION

Article 280 under **Part-XII** of the Indian Constitution establishes the Finance Commission as a **quasi-judicial body**. The **President** of India forms this commission **every five years** or at an earlier time if deemed necessary.

- **Composition:** Chairman + 4 other members.

Qualification: Determined by **Parliament**. Parliament has specified:

- **Chairman:** Should be a person having experience in public affairs, and the **four other members** should be **selected from amongst** the following:
 - **Judge of HC** or one qualified to be appointed as one.
 - A person having **specialized knowledge of finance & accounts** of the government.
 - A person who has **experience in financial matters & administration**.
 - A person who has **special knowledge of economics**.

Tenure

- Constituted by the President of India **every fifth year** or at such earlier time as he considers necessary.
- Hold office for **such a period as specified** by the president in his order.
- Eligible for **reappointment**.

Functions

- **Distribution of the net proceeds of taxes** between the **Centre** and the **states**, and the allocation between the states of the respective shares of such proceeds.

- Principles governing grants-in-aid to the states by the Centre (i.e., out of the **consolidated fund of India**).
- Measures to augment the consolidated fund of a state on the basis of the recommendations made by the state finance commission.
- Any other matter referred to it by the President in the interests of sound finance.

Other Aspects

- **Recommendations** of the Finance Commission are **advisory** in nature.
- Act as a '**Balancing wheel**' of fiscal federalism.
- The Commission submits its report to the **President**. He lays it before both the Houses of Parliament.
- **Criteria** for devolution of the 15th Finance Commission:
 - 12.5% weightage to **demographic performance**,
 - 45% to **income**,
 - 15% each to **population**,
 - 15% to **area**,
 - 10% to **forest and ecology**,
 - 2.5% to **tax and fiscal efforts**. [UPSC 2023]

- Chairperson of first Finance Commission (1951): **K C Neogy**.
- Chairperson of fifteenth Finance Commission (2021): **N K Singh**.



Extra-Constitutional Bodies

NATIONAL/STATE HUMAN RIGHTS COMMISSION

Parameters	National Human Rights Commission (NHRC)	State Human Rights Commission (SHRC)
Establishment	Statutory Body established by an Act of Parliament (Protection of Human Rights Act 1993). NHRC/SHRC are watchdogs of human rights in the country/state.	
Composition	Chairperson + 5 Members.	
Qualification	<p>Chairperson: Retired CJI or Judge of the SC.</p> <p>Members:</p> <ul style="list-style-type: none"> • Serving or retired judge of SC. • Serving or retired CJ of an HC • 3 others (at least one woman) having knowledge or practical experience of human rights. • Ex-Officio members of NHRC: Chairpersons of the NCBCs + NC for Women + NCSCs + NCSTs + NC for Minorities + NC for Protection of Child Rights + Chief Commissioner for PwDs. 	
Appointment	<ul style="list-style-type: none"> • Chairperson and members by the President. • NHRC Selection Committee (6 Members): PM (Chair) + Speaker (LS) + Deputy Chairman (RS) + Leader of opposition (LS & RS both) + Union Home Minister. • A sitting judge of the Supreme Court or a sitting chief justice of a high court can be appointed only after consultation with the chief justice of India. 	
Tenure	<ul style="list-style-type: none"> • 3 years or 70 years, whichever is earlier. • Eligible for re-appointment but not eligible for further appointment in Govt. of India or State. 	
Salary	<ul style="list-style-type: none"> • Determined by the Central in respect of NHRC and State Government in respect of SHRC. • Cannot be varied to his disadvantage after their appointment. 	
Resignation	To the President.	To the Governor.
Functions	<p>Functions of NHRC and SHRC are the same in their respective domains i.e. Union and State level:</p> <ul style="list-style-type: none"> • Inquire into any violation of human rights or negligence in the prevention of such violation - Suo motu or on a petition. • To visit jails and detention places. • Review the constitutional and other legal safeguards. • Study treaties and other international instruments. • Spread human rights literacy. 	

Other Aspects

- NHRC/SHRC submits its annual or special reports to the Central/State government. These reports are laid before the respective legislatures, along with a memorandum of action taken on the recommendations of the commission and the **reasons for non-acceptance** of any of such recommendations.
- Power to **regulate its own procedure**.
- **Powers of a civil court** and its proceedings have a judicial character.
- It may call for information or reports from the Central and state governments or any other authority subordinate thereto.
- **Own investigation staff**.
- Empowered to utilize the services of a Govt. Agency.
- NHRC/SHRC should be informed about the action taken on its recommendations **within one month**.
- Functions relating to human rights in the case of **UT of Delhi** are to be dealt with by NHRC.
- NHRC has headquarters in New Delhi.
- Central govt. may confer upon the SHRC, the functions relating to human rights in the UT, except the Jammu and Kashmir, and Ladakh.

SHRC

can inquire into violations of human rights only in respect of State List (List-II) and Concurrent List (List-III). However, if any such case is already being inquired into by the National Human Rights Commission or any other Statutory Commission, then the State Human Rights Commission does not inquire into that case.

Removal Procedure

- **The President can remove the chairperson or any member from the office of NHRC/SHRC under the following circumstances:**
 - Is adjudged an insolvent or;
 - Engages during his term of office in any paid employment outside the duties of his office; or
 - In the opinion of the president, it is unfit to continue in office by reason of infirmity of mind or body.

- If he is of unsound mind and stands so declared by a competent court; or
- If he is convicted and sentenced to imprisonment for an offence.
- The President can also remove the chairman/member on grounds of - **proved misbehavior and incapacities**.
- The President has to **refer the matter to the SC** for an enquiry. The SC after inquiry, upholds the cause of removal and advises so, then the president can remove the chairperson or a member.

Limitations common to both

- Not empowered to inquire into any matter after the expiry of one year.
- Recommendatory in nature. But, it should be informed about the action taken on its recommendations within one month.
- No power to punish violators of human rights.
- No power to award any relief, including monetary relief, to the victim.
- Limited role, with regard to violation of human rights by the members of the **armed forces**. In this sphere, the commission may seek a report from the Central government and make its recommendations. The Central government should inform the Commission of the action taken on the recommendations within three months. (only for NHRC).

Human Rights Court

- **The Protection of Human Rights Act (1993)** also provides for the establishment of a Human Rights Court in **every district** for the speedy trial of violation of human rights.
- These courts can be **set up by the state government only with the concurrence** of the Chief Justice of the High Court of that state.
- For every Human Rights Court, the state government specifies a public prosecutor or appoints an advocate (who has practised for seven years) as a special public prosecutor for the purpose of conducting cases in that court.

CENTRAL BUREAU OF INVESTIGATION

About	<ul style="list-style-type: none">• Recommended by Santhanam Committee (on corruption).• Premier investigating agency of the Central Government.• It traces its origin to the Special Police Establishment which was set up in 1941 by the Government of India.• Established in 1963 by resolution of the Ministry of Home Affairs, Government of India; derives powers from the Delhi Special Police Establishment Act, 1946.• Non-statutory body.• Under the Ministry of Personnel (now enjoys the status of an attached office).
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Composition	<ul style="list-style-type: none"> • Headed by the Director. He/she is assisted by a special director(s) and additional director(s). • Additionally: the number of joint directors + deputy inspector generals + superintendents of police + all other usual ranks of police personnel as well as forensic scientists and law officers. • The Lokpal and Lokayuktas Act (2013) amended the Delhi Special Police Establishment Act (1946) and introduced the following changes to the composition of the CBI: <ul style="list-style-type: none"> ○ There shall be a Directorate of Prosecution headed by a Director to conduct cases under the Lokpal and Lokayuktas Act, 2013. The Director of Prosecution will operate under the overall supervision of the Director of CBI. He/She shall be appointed by the Central Government based on the recommendation of the Central Vigilance Commission. ○ The Central Government will appoint officers of the rank of SP and above in the CBI based on the recommendation of a committee. This committee will be chaired by the Central Vigilance Commissioner, and its members will include the Vigilance Commissioners, the Secretary of the Home Ministry, and the Secretary of the Department of Personnel.
Tenure	<p>The Delhi Special Police Establishment (Amendment) Act, 2021 introduces changes to the tenure of the Director of the CBI. While the CBI Director initially had a fixed two-year term under the CVC Act, 2003, the amendment now permits the central government to extend the tenure to up to five years.</p> <ul style="list-style-type: none"> • The extension can occur annually, with a maximum of three such extensions, and no further extension is possible after completing a total of five years, including the initial two-year period. • Any extension is subject to public interest, the recommendation of the Committee related to the initial appointment, and must be accompanied by recorded reasons in writing.
Appointment of Director	<ul style="list-style-type: none"> • 3-member committee: PM (Chairperson) + Leader of Opposition (LS) + CJI or Judge of SC (nominated by him). • In case of no recognized leader of opposition in the Lok Sabha, then the leader of the single largest opposition party in the Lok Sabha would be a member of that committee.
CBI investigates	<ul style="list-style-type: none"> • Crime of corruption, economic offences, serious and organized crime and Not terrorism. • The CBI serves as the “National Central Bureau” of Interpol in India. • Provide assistance to CVC, Lokpal and Lokayukta.
General Consent	<ul style="list-style-type: none"> • The jurisdiction of the CBI can be extended to the States only with the consent of the State Government concerned. • When a state gives general consent (DSPE Act) to the CBI for probing a case, the agency is not required to seek fresh permission every time it enters that state in connection with an investigation or for every case.
Functions	<ul style="list-style-type: none"> • Investigating cases of corruption, bribery and misconduct of Central government employees. • Investigating cases relating to infringement of fiscal and economic laws, that is, breach of laws concerning export and import control, customs and central excise, income tax, foreign exchange regulations and so on. • Investigating serious crimes, having national and international ramifications, committed by organized gangs of professional criminals. • Taking up, on the request of a state government, any case of public importance for investigation. • Maintaining crime statistics and disseminating criminal information.

CENTRAL & STATE INFORMATION COMMISSION

Parameter	Central Information Commissions (CIC)	State Information Commissions (SIC)
Basics	Statutory Body formed under the Act of Parliament (RTI Act 2005).	
Composition	Chief Information Commissioner/State Chief Information Commissioner and other ICs (Not more than 10).	

Appointment	By President. CIC Selection Committee (3 Members): PM, Leader of Opposition (LS) and Union Cabinet Minister nominated by PM.	By Governor SIC Selection Committee (3 Members): CM, Leader of Opposition (SLA) and State cabinet minister nominated by CM.
Tenure	Term as prescribed by the Central Government or age of 65 years. Not eligible for reappointment. Information commissioners are eligible for respective Chief IC but total term not more than 5 years. State Information commissioners are eligible for appointment as State Chief IC, but the total term is not more than 5 years, including his/her term as State Information Commissioner).	
Qualification and Salary	Persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance. Not a Member of Parliament or Member of the Legislature of any State or Union Territory. Does not hold any other office of profit or connected with any political party or pursuing any profession. Salary decided by the Central Government and cannot be varied to his disadvantage during service.	
Resignation	To the President.	To Governor
Removal	The President/Governor has the authority to remove the Chief Information Commissioner/ State Chief Information Commissioner or any Information Commissioner from office under the following circumstances: Adjudged insolvent. <ul style="list-style-type: none">• Convicted of an offense, which, in the opinion of the President, involves moral turpitude.• Engages in paid employment outside the duties of the office during the term.• Deemed unfit to continue in office due to infirmity of mind or body, as per the President's opinion.• Acquires financial or other interests likely to adversely affect official functions.• The President/Governor can also remove them for proved misbehavior or incapacity. However, in this case, the president has to refer the matter to the Supreme Court for an enquiry. If the SC, after the enquiry, upholds the cause of removal and advises so, the president can remove them.	

Functions of CIC/SIC

- The Commission is obligated to **receive and investigate complaints from any individual** related to matters including
 - Unavailability of information requests due to the non-appointment of a Public Information Officer.
 - Denied information that was requested.
 - Not received a response to their information request within the specified time limits.
 - Believes the fees charged are unreasonable.
 - Believes the information provided is incomplete, misleading, or false.
 - Any other matter related to obtaining information.
- The Commission can order an inquiry into any matter if there are reasonable grounds (**suo-moto power**).
- During the inquiry, the Commission is vested with the **powers of a civil court**.
- All **public records** must be given to the Commission during inquiry for examination
- The Commission has the **power to secure compliance of its decisions** from the public authority.
- The Commission can **impose a penalty on the Public Information Officer** at the rate of Rs. 250 per day up to a maximum of Rs.25,000. It can also recommend disciplinary action against the errant official.
- **CIC** submits an annual report to the **Central Government**. The Central Government places this report before **each House of Parliament**, whereas **SIC** submits an annual report to the **State Government** on the implementation of the provisions of this Act. The State Government places this report before the **State Legislature**.
- When a public authority does not conform to the provisions of this Act, the Commission may recommend (to the authority) steps which ought to be taken to promote such conformity.

CENTRAL VIGILANCE COMMISSIONS (CVC)

It is the main agency for preventing corruption in the Central government. It was established in 1964 by an executive resolution of the Central government. It was recommended by the **Santhanam Committee** on Prevention of Corruption (1962-64). Later, it was conferred **statutory status** by the Central Vigilance Commission Act, 2003 (CVC Act, 2003).

Composition

Multi Member body consisting of Central Vigilance Commissioners and other Vigilance Commissioners (Not more than 2).

Appointment

By President on the recommendation of the Selection Committee (3 Members): PM, Leader of Opposition (LS) and Union Home Minister.

Term

4 Years or the age of 65 years, whichever is earlier. Not eligible for further appointment under State or Central Government.

Salary and allowances

Similar to those of the Chairman of UPSC and that of the vigilance commissioner are similar to those of a member of UPSC. They cannot be varied to his/her disadvantage after his/ her appointment.

Removal

- The President can also remove the Central Vigilance Commissioner or any vigilance commissioner from office under the following circumstances:
 - Adjudged insolvent.
 - Convicted of an offence, which, in the opinion of the President, involves moral turpitude.
 - Engages in paid employment outside the duties of the office during the term.
 - Deemed unfit to continue in office due to infirmity of mind or body, as per the President's opinion.
 - Acquires financial or other interests likely to adversely affect official functions.
- The President can also remove them for proved **misbehaviour or incapacity**. However, in this case, the president has to refer the matter to the Supreme Court for an enquiry. If the SC, after the enquiry, upholds the cause of removal and advises so, the president can remove them.

Organisation

The CVC has its own Secretariat, the **Chief Technical Examiners** Wing (CTE) and a wing of Commissioners for Departmental Inquiries (CDIs).

Jurisdiction

- Members of **All India Services** serving in connection with the affairs of the Union and Group A officers of the Central Government.
- Officers of the rank of Scale V and above in the **Public Sector Banks**; Officers in Grade D and above in Reserve Bank of India, NABARD and SIDBI.
- **Chief Executives** and Executives on the Board and other officers of E-8 and above in Schedule 'A' and 'B' Public Sector Undertakings; Chief Executives and Executives on the Board and other officers of E7 and above in Schedule 'C' and 'D' Public Sector Undertakings;
- Managers and above in **General Insurance Companies**; Senior Divisional Managers and above in Life Insurance Corporation; Officers drawing salary of Rs 8700 per month (pre-revised) and above on Central Government D.A. pattern, as may be revised from time to time, in societies and local authorities owned or controlled by the Central Government.

Working

- CVC has to **present annually to the President** a report on its performance. The President places this report before each House of Parliament.
- Power to **regulate its own procedure**. The **powers of a civil court** and its proceedings have a judicial character.
- The Central Vigilance Commission (CVC) advises the Central government on actions to be taken based on inquiry reports from agencies. The government must consider the advice, **but if it disagrees, it must provide written reasons to the CVC**.

Functions

- To **initiate an inquiry or conduct an investigation** based on a referral from the Central government, where there are allegations against a public servant employed by the Central Government or its authorities, for having committed an offence under the **Prevention of Corruption Act, 1988**.
- To **exercise superintendence** over the functioning of the **Delhi Special Police Establishment** (CBI) insofar as it relates to the investigation of offences under the Prevention of Corruption Act, 1988.
- To **review the progress** of applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, 1988.
- The Central Government is required to **consult the CVC in making rules and regulations** governing

- the vigilance and disciplinary matters relating to the members of Central Services and All India Services.
- The CVC has been designated as the agency to receive and act on complaints or disclosure on any allegation of corruption or misuse of office from whistleblowers under the **"Public Interest Disclosure and Protection**
- of Informers' Resolution" (PIOP), 2004**, which is popularly known as "Whistle Blowers" Resolution.
- The CVC is also empowered as the only designated agency to take action against complainants making motivated or vexatious complaints.

WHISTLE BLOWERS PROTECTION ACT (2014)

- The Act provides a mechanism for **protecting the identity of whistle-blowers**. People who expose corruption in Government or irregularities by public functionaries can now be free of any fear of victimization.
- The Act lays down a **punishment of up to two years** in prison and a fine of up to Rs. 30,000 for false or frivolous complaints.
- No action shall be taken on a disclosure if it does not indicate the identity of the complainant or public servant or if "the identity of the complainant or public servant is found to be incorrect."

LOKPAL AND LOKAYUKTA

Establishment

- Under an **act of Parliament** (Lokpal and Lokayukta Act, 2013) - **Statutory Body**.
- Lokpal at Centre and Lokayukta at State.

Features of Lokpal and Lokayuktas Act (2013)

	Features of Lokpal and Lokayuktas Act (2013)
Composition	<ul style="list-style-type: none"> Multi Member body Chairperson with a maximum of 8 members (50% judicial members). Minimum 50% members shall be from SCs, STs, OBCs, Minorities and Women.
Qualification	<ul style="list-style-type: none"> Judicial Member: Current or former judges of SC or CJ of HC. Non-Judicial Member: Eminent person min. 25 years expertise & special knowledge of Anti- Corruption Policy, Public Administration, Vigilance, Finance, Insurance Banking, Law & Management.
Jurisdiction	<ul style="list-style-type: none"> Over Prime Minister, Ministers, Members of Parliament and Groups A, B, C and D officers and officials of the Central Government. Institutions which are financed fully or partly by Govt. are under the jurisdiction of Lokpal, but institutions aided by Govt. are excluded.
Appointment	<ul style="list-style-type: none"> For Lokpal - By President. For Lokayukta - by Governor. Selection Committee (3 Members): PM + Speaker + Leader of the Opposition (LS) + CJI or CJI Nominee from SC + an eminent jurist to be nominated by President on recommendations of first four members of the selection committee. Search Committee: To assist the Selection Committee (50% of the members shall be from SCs, STs, OBCs, Minorities and women).
Tenure/Salary	<ul style="list-style-type: none"> Term: 5 Years or the age of 70 years. Salary/ Allowance: Chairperson equivalent to CJI and Member-Judge of SC.
Resignation	To the President.

Other Aspects

- The Institution of Ombudsman was **first created in Sweden in 1809**.
- The First Administrative Reforms Commission (ARC) of India (1966-1970) recommended the setting up

of two special authorities designated as 'Lokpal' and 'Lokayukta'.

- Power of superintendence and direction **over any investigating agency**, including the CBI, for cases referred to them by the Lokpal.

- Incorporates **provisions for attachment and confiscation of property** of public servants acquired by corrupt means, even while the prosecution is pending.
- A CBI officer appointed for the investigation by Lokpal **cannot be transferred without the permission of Lokpal**.
- It lays down a clear timeline. For preliminary enquiry, it is three months extendable by three months. For investigation, it is six months which may be extended by six months at a time. For trial, it is one year extendable by one year, and to achieve this, special courts to be set up.
- It enhances maximum punishment under the Prevention of Corruption Act from seven years to ten years.
- Lokpal conferred power to grant sanction for prosecution of public servants in place of the Government or competent authority.
- A High-Powered Committee chaired by the PM will **recommend the selection of Director of CBI**.
- The Institution of Lokayukta was **established first in Maharashtra in 1971**. However, Odisha had passed the Act in this regard in 1970.

NITI AAYOG (NATIONAL INSTITUTION FOR TRANSFORMING INDIA)

Origin	The Government scrapped the Planning Commission in 2014 and, in its place, it introduced NITI Aayog in 2015 . <ul style="list-style-type: none"> • It is an Extra Constitutional Body formed via a resolution of the Union Cabinet. • Premier policy 'Think Tank' of Government of India to foster Co-operative Federalism. • Bottom-Up approach. • NITI is the nodal agency for SDG.
Functions	<ul style="list-style-type: none"> • Designs policy and programme framework. • Foster cooperative federalism. • Monitoring and evaluation • Think-tank, and Knowledge and Innovation Hub.
Based on 7 Pillar of Governance	<ul style="list-style-type: none"> • Pro-people: It fulfills the aspirations of society as well as individuals. • Pro-activity: In anticipation of and response to citizen needs. • Participation: Involvement of citizenry. • Empowering: Empowering, especially women in all aspects. • Inclusion of all: Inclusion of all people irrespective of caste, creed, and gender. • Equality: Providing equal opportunity to all, especially for youth. • Transparency: Making the government visible and responsive.
Aim	To achieve SDG and to enhance cooperative federalism by fostering the involvement of State Governments of India in the economic policy-making process using a bottom-up approach .
Composition	
<ul style="list-style-type: none"> • Chairperson: Prime Minister of India. • Governing Council comprising the CMs of all the States, CM of Union Territories with Legislatures and Lt. Governors of UTs. • Regional Councils: formed to address specific issues and contingencies impacting more than one state or a region. • Chaired by the Chairperson of the NITI Aayog or his nominee. • Formed for a specified tenure. • Convened by the PM and will comprise CM of States and Lt. Governors of UTs in the region. • Special Invitees: Experts, specialists and practitioners with relevant domain knowledge as special invitees nominated by the PM. • Full-time Organizational Framework: <ul style="list-style-type: none"> ○ Vice-Chairperson: He/ she is appointed by the Prime Minister. He/she enjoys the rank of a Cabinet Minister. ○ Full-time Members: They enjoy the rank of a Minister of State. ○ Part-time Members: Maximum of 2, from leading universities, research organizations and other relevant institutions in an ex-officio capacity. Part-time members would be on a rotation. 	

	<ul style="list-style-type: none"> ○ Ex-Officio Members: Maximum of 4 members of the Union Council of Ministers to be nominated by the Prime Minister. ○ Chief Executive Officer: He/ she is appointed by the Prime Minister for a fixed tenure, in the rank of Secretary to the Government of India. ○ Secretariat: As deemed necessary.
NITI Aayog Hubs	Team India Hub: acts as an interface between States and Centre. Knowledge and Innovation Hub: builds the think-tank acumen of NITI Aayog.
Initiatives by NITI Aayog	<ul style="list-style-type: none"> ● 15-year road map. ● 7-year vision, strategy and action plan. ● India@75. ● Digital India and Atal Innovation Mission etc.
Offices attached to the NITI Aayog	<ul style="list-style-type: none"> ● National Institute of Labour Economics Research and Development. ● Development Monitoring and Evaluation Office.
Relevance	Cooperative federalism; Competitive Federalism; Greater Accountability; Think tank of innovative ideas; Convergence for resolution.
Indexes/Reports/ Programme	<ul style="list-style-type: none"> ● SDG India Index. ● Composite Water Management Index. ● Atal Innovation Mission. ● SATH (Sustainable Action for Transforming Human Capital) programme. ● Aspirational District Programme. ● Health Index 2019 - (Healthy states, progressive India) etc.

Guiding Principles of Niti Aayog

Antyodaya	Prioritize service and uplift of the poor, marginalized and downtrodden, as enunciated in Pandit Dindayal Upadhyay's idea of ' Antyodaya '.
Inclusion	Empower vulnerable and marginalized sections, redressing identity-based inequalities of all kinds- gender, region, religion, caste or class.
Village	Integrate our villages into the development process.
Demographic Dividend	Harness our greatest asset, the people of India: by focusing on their development, through education and skilling, and their empowerment, through productive livelihood opportunities.
People's Participation	Transform the developmental process into a people-driven one, making an awakened and participative citizenry (including the NRI community) the driver of good governance.
Governance	Nurture an open, transparent, accountable, pro-active and purposeful style of governance.
Sustainability	Maintain sustainability at the core of the planning and development process, building on our ancient tradition of respect for the environment.



Co-Operative Societies

Subject/List: Seventh Schedule, State list (Entry 32)

97th CAA of 2011: Accorded Constitutional Status and gave protection , and made three changes in the Constitution:

- Right to form co-operative societies is a fundamental right (**Article 19**).
- Added new DPSP on promotion of cooperative societies (**Article 43B**).
- Added new Part IX-B in the Constitution: “The Cooperative Societies” (Articles 243ZH to 243ZT).

CONSTITUTIONAL PROVISIONS

- **Incorporation of Co-operative Societies:** State legislature: may make provisions for the incorporation, regulation, winding-up of co-operative societies (**Article 243ZI**).
- **Number and Term of Members of Board and its Office Bearers: (Article 243 ZJ)**
 - **Directors:** Such number of directors may be provided by the state legislature but **not more than 21**.
 - **Term of office:** 5 years from the date of election and election of a board shall be conducted before the expiry of the term of the current board (**Article 243 ZK**) by such body, as may be **provided by the state legislature**.
 - The superintendence, direction and control of the preparation of electoral rolls and the conduct of elections to a cooperative society shall vest in such a body, as may be provided by the state legislature.
 - **Reservation of seats:** The state legislature shall provide reservation of **1 seat (SC/ST) + 2 seats (women)** on the board of every co-operative society having members from such a category of persons.
 - **Co-opted members:** The state legislature shall make provisions for co-option of persons having **experience in banking, management, finance** etc. to the board whose numbers **shall not exceed two** (in addition to twenty-one directors) **without any right to vote**.
- **Supersession and Suspension of Board and Interim Management (Article 243 ZL)**
- No board shall be superseded or kept under suspension for a **period exceeding six months**. (In the case of cooperative banks, other than multi-state cooperative banks, this period **cannot exceed one year**).
- However, the board of any such co-operative society shall not be superseded or kept under suspension where there is no Government shareholding or loan or financial assistance or any guarantee by the Government.
- **Audit of Accounts of Co-operative Societies (Article 243 ZM)**
 - **State legislature may make provisions** for the maintenance and auditing of accounts of the co-operative societies (**within six months** of the close of the financial year) at least once in each financial year.
 - Every co-operative society shall be audited by an auditor or auditing firm, appointed by the general body of the co-operative society. However, such an auditor or auditing firm shall be appointed from a panel approved by the State Government or a body authorized by the State Government on this behalf.
 - The audit report of the accounts of an apex co-operative society shall be laid before the state legislature.
- The **state legislature** may make provisions for the offences relating to the co-operative societies and **penalties** for such offences.
- Every co-operative society shall **file returns**, within six months of the close of every financial year, to the authority designated by the State Government.
- The state legislature may provide that the annual general body meeting of every co-operative society shall be convened within a period of six months of the close of the financial year.
- **Application to Multi-state Co-operative Societies:**
 - The provisions of this part **shall apply to the multi-state co-operative societies** subject to the modification that any reference to the State Legislature”, State Act” or State Government” shall be construed as a reference to Parliament”, Central Act” or “Central Government”, respectively.

- **Application to Union Territories:**
 - The provisions of this part shall apply to the UTs. The President may direct that the provisions of

this part shall not apply to any Union territory or part thereof as he may specify in a notification (Article 243 ZS).

Related Case

- In **Rajendra Shah case (2013)**, the Gujarat High Court declared that the 97th Constitutional Amendment Act (2011) inserting Part IX-B is ultra vires the Constitution of India for want of the requisite ratification by the states under Article 368.
- In 2021, the Supreme Court, upon an appeal by the Union of India, affirmed the judgment of the Gujarat High Court, except for the part that invalidated the entirety of Part IX-B of the Constitution of India. Additionally, the Supreme Court specified that Part IX-B is applicable solely to multi-state co-operative societies within states and union territories.



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Co-Operative Societies

Anti-Defection Law

10th Schedule

52ND CAA (1985)

- Changes in four Articles: **101, 102, 190 and 191.**
- Added **Tenth Schedule** to the constitution.
- Disqualification (**MPs + MLAs**): ground of defection from one party to another.

91ST CAA (2003)

- Union CoM:** total number of ministers, including the PM, in the Central CoM **shall not exceed 15 percent** of the total strength of the Lok Sabha.
- State CoM:** Total number of ministers, including the CM, in state CoM **shall not exceed 15 percent** of the total strength of the Legislative Assembly of that state, and **shall not be less than 12 (including CM).**
- A member of either House of Parliament/State Legislature (Article 75/164) of any party disqualified on ground of defection is also **disqualified as a minister.**
- A member of either House of Parliament or House of a State Legislature belonging to any political party who is disqualified on the ground of defection shall also be **disqualified to hold any remunerative political post.**
- Provision of the Tenth Schedule (anti-defection law) pertaining to exemption from disqualification in case of **split by one-third members** of legislature party has been deleted.

PROVISIONS OF THE ANTI-DEFLECTION LAW

Members of Political Parties: A member of House belonging to any political party becomes disqualified for being a member of the house if:

- He/she voluntarily gives up his membership of such political party; or
- He/she votes or abstains from voting in such House contrary to any direction issued by his political party without obtaining prior permission of such party and such act has not been condoned by the party within **15 days.**

Independent Members: Becomes disqualified to remain a member of the House **if he joins any political party after such election.**

Nominated Members: Becomes 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 in the House.

- He **may join any political party within six months** of taking his seat in the House without inviting this disqualification.

EXCEPTIONS

The above disqualification on the ground of defection does not apply if:

- A member **goes out of his party as a result of a merger** of the party with another party. A merger takes place when **two-thirds** of the members of the party have agreed to such a merger.
- A member, **after being elected as the presiding officer of the House, voluntarily gives up the membership of his party** or rejoins it after he ceases to hold that office.

ADJUDICATING AUTHORITY

- Any question regarding disqualification arising out of defection is **to be decided by the presiding officer of the House** – chairperson in RS and speaker in LS. There is **no time-limit** for him / her to decide such a case.
- SC in Kihoto Hollohan Case (1993):** declared finality of decision of Speaker under tenth schedule as unconstitutional and **open to judicial review** on the grounds of being malafide, perversity, etc.

RULE-MAKING POWER

- Presiding officer** of a House is empowered to make rules to give effect to the provisions of the Tenth Schedule. All such rules **must be placed before the House for 30 days.** The House may approve or modify or disapprove them.
- Presiding officer can take up a defection case **only when he receives a complaint** from a member of the House.
- Before taking the final decision, he/she must give the member (against whom the complaint has been made) a chance to submit his/ her explanation. He may also refer the matter to the **committee of privileges** for inquiry. Hence, defection has **no immediate and automatic effect.**



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Official Language (Part XVII: Article 343-351)

LANGUAGES OF UNION

- **Hindi, written in Devanagari script** to be the official language of the Union.
- For a **period of fifteen years** from the commencement of the constitution, English will continue to be used for all the official purposes of the Union for which it was being used before 1950.
- Even after fifteen years, Parliament may provide for the continued use of English for specified purposes.
- At the end of five years and again at the end of ten years, from the commencement of the constitution, the **President** should appoint a commission to make recommendations with regard to the progressive use of the Hindi language, restrictions on the use of the English language and other related issues.
- **Article 344:** A committee of parliament is to be constituted to examine the recommendation of the commission and to report its views on them to the President.
- **Official Languages Act 1963:** continued use of English without time limit (amended in 1967 - use of English in addition to Hindi, compulsory in certain cases).
- **Official Commissions:**
 - **B. G. Kher Commission (1955)**
 - Parliament committee under **G. B. Pant (1957)**.

REGIONAL LANGUAGES

- **Article 345:** official languages or languages of the state.
- The Constitution **does not specify** the official language of different states. In this regard, it makes the following provisions:
 - **The legislature of the state may adopt any one or more** of the languages in use in the state or Hindi as the official language of the state. Until

that is done, English is to continue as the official language of that state.

- **Article 346:** The official language of union (i.e., English) shall be the link language for communications between the **Union and states**.
- **Article 347:** When the president (on a demand being made) is satisfied that a substantial proportion of the population of a state desires the use of any language spoken by them to be recognised by the state, then he may direct to officially recognize the same to protect the linguistic interest of the minority of state.
- **Official Languages Act (1963):** lays down that **English** should be used for purposes of communication between the Union and the non-Hindi states.

LANGUAGE OF THE JUDICIARY AND TEXTS OF LAWS

- Until Parliament provide otherwise, the following are to be in the **English language only (Article 348):**
 - All proceedings in the supreme court and in every high court.
 - The authoritative texts of all bills, acts, ordinances etc., at the center and state level.
- **The Governor**, with the previous consent of **the President**, can authorize the use of Hindi or any other official language of the state, in the proceedings of the High court, but not with respect to judgements, decrees and order passed by it.
- **State legislature can prescribe the use of any language** (other than English) with respect to bills, acts, ordinances, etc. But a translation of the same in the English language is to be published.
- **Parliament has not made any provision** for the use of Hindi in the Supreme Court. Hence, the **Supreme Court hears only those who petition or appeal in English.**

Official Languages Act (1963)

- Hindi translations of acts, ordinances, orders, regulations and bylaws published under the authority of the President are deemed to be authoritative texts.
- Every bill introduced in the Parliament is to be accompanied by a Hindi translation.

- Enables the governor, with the previous consent of the President, to authorize the use of Hindi or any other official language of the state for judgements, decrees and orders passed by the high court of the state, but they should be accompanied by an English translation.
- It provided for the setting up of a Committee of Parliament on Official Language to review the progress made in the use of Hindi for the official purpose of the Union. Accordingly, this Committee was set up in 1976. This Committee comprises 30 members of Parliament (20 from Lok Sabha and 10 from Rajya Sabha).

SPECIAL DIRECTIVE

The Constitution contains certain special directives to protect the interests of linguistic minorities and to promote the development of the Hindi language. They are:

- **Article 350:** language to be used in representation for redress of grievances.
- **Article 350A:** facilities for instruction in mother tongue at the primary stage.
- **Article 350B:** The President should appoint a special officer for linguistic minorities to investigate all matters relating to the constitutional safeguards for linguistic minorities and to report to him. The President should place all such reports before the Parliament and send them to the state government concerned.
- **Article 351:** directive for development of the Hindi language.

CLASSIC LANGUAGE STATUS

- In 2004, the Government of India decided to create a new category of languages called “classical

languages”. In 2006, it laid down the criteria for conferring classical language status.

- **Benefits:** Financial assistance; Two major awards for scholars of eminence; University grants commission can be requested to create (at least in the central university) a certain number of professional chairs for scholars of eminence in the language.
- **Criteria:**
 - High antiquity of its early texts/recorded history over a period of 1,500– 2,000 years.
 - Body of ancient literature/texts which is considered a valuable heritage by generations of speakers.
 - Literary tradition that is original and not borrowed from another speech community.
 - 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.

Languages conferred with Classical Language status

Languages conferred with Classical Language Status					
Tamil (2004)	Sanskrit (2005)	Telugu (2008)	Kannada (2008)	Malayalam (2013)	Odia (2014)

Constitutional Provisions dealing with Official Languages

Article	Provision
Article 343	Official language of the Union.
Article 344	Commission and Committee of Parliament on official language.
Article 345	Official language or languages of a State.
Article 346	Official languages for communication between one state and another or between a State and the Union.
Article 347	Special provision relating to languages spoken by a section of the population of a State.
Article 348	Language to be used in Supreme Court and in High Courts and for acts, bills, etc.
Article 349	Special procedure for enactment of certain laws relating to language.
Article 350	Language to be used in representations for redressal of grievances.
Article 350A	Facilities for instruction in the mother tongue at primary stage for linguistic minorities.
Article 350B	Special officer for linguistic minorities.
Article 351	Directive for the development of the Hindi language.



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Schedules of the Constitution

Number	Subject Matter
First	<ul style="list-style-type: none"> Names of the States and their territorial jurisdiction. Names of the Union Territories and their extent.
Second	<p>Provisions relating to the emoluments, allowances, privileges and so on</p> <ol style="list-style-type: none"> The President of India The Governors of States The Speaker and the Deputy Speaker of the Lok Sabha The Chairman and the Deputy Chairman of the Rajya Sabha The Speaker and the Deputy Speaker of the Legislative Assembly in the states The Chairman and the Deputy Chairman of the Legislative Council in the states The Judges of the Supreme Court The Judges of the High Courts The Comptroller and Auditor-General of India
Third	<p>Forms of Oaths or Affirmations</p> <ol style="list-style-type: none"> The Union ministers The candidates for election to the Parliament The Members of Parliament The Judges of the Supreme Court The Comptroller and Auditor-General of India The State Ministers The candidates for election to the State Legislature The Members of the State Legislature The Judges of the High Courts
Fourth	Allocation of seats in the Rajya Sabha to the states and the union territories.
Fifth	Provisions relating to the administration and control of Scheduled Areas and Scheduled Tribes .
Sixth	Provisions relating to the administration of tribal areas in the states of Assam, Meghalaya, Tripura and Mizoram .
Seventh	<ul style="list-style-type: none"> Division of powers between the Union and the States in terms of List I (Union List), List II (State List) and List III (Concurrent List). Presently, the Union List contains 98 subjects (originally 97), the State List contains 59 subjects (originally 66), and the Concurrent List contains 52 subjects (originally 47).
Eighth	<p>Languages recognized by the Constitution. Originally, it had 14 languages, but presently there are 22 languages. They are Assamese, Bengali, Bodo, Dogri (Dongri), Gujarati, Hindi, Kannada, Kashmiri, Konkani, Mathili (Maithili), Malayalam, Manipuri, Marathi, Nepali, Odia, Punjabi, Sanskrit, Santhali, Sindhi, Tamil, Telugu and Urdu.</p> <ul style="list-style-type: none"> Sindhi was added by the 21st CAA, 1967. Konkani, Manipuri and Nepali were added by the 71st CAA, 1992. Bodo, Dongri, Maithili and Santhali were added by the 92nd CAA, 2003. Oriya was renamed as 'Odisha' by the 96th CAA, 2011.

Ninth	<ul style="list-style-type: none"> Acts and Regulations (originally 13 but presently 282) of the State legislatures dealing with land reforms and abolition of the zamindari system and of the Parliament dealing with other matters. This schedule was added by the 1st Amendment (1951) to protect the laws included in it from judicial review on the grounds of violation of Fundamental rights. However, the Supreme Court ruled that the laws included in this schedule after April 24, 1973, are now open to judicial review.
Tenth	<ul style="list-style-type: none"> Provisions relating to disqualification of the members of Parliament and State Legislatures on the ground of defection. This schedule was added by the 52nd Amendment Act of 1985, also known as Anti-defection Law.
Eleventh	<ul style="list-style-type: none"> Specifies the powers, authority and responsibilities of Panchayats. It has 29 matters. This schedule was added by the 73rd CAA, 1992.
Twelfth	<ul style="list-style-type: none"> Specifies the powers, authority and responsibilities of Municipalities. It has 18 matters. This schedule was added by the 74th CAA, 1992.

ORDER OF PRECEDENCE: REPUBLIC OF INDIA

Order of Precedence is a protocol list in which the functionaries and authorities are recorded by rank and office in the Government of India.

- It is meant for State and **Ceremonial occasions**.
- It has **no application** in the day-to-day business of the Government.
- The order is maintained by the **Ministry of Home Affairs**.
 - President
 - Vice-President
 - Prime Minister
 - Governors of States within their respective States
 - Former Presidents
 - Deputy Prime Minister
 - Chief Justice of India
Speaker of Lok Sabha
 - Cabinet Ministers of the Union
Chief Ministers of States within their respective States
Vice-Chairperson, NITI Aayog
Former Prime Ministers
Leaders of Opposition in Rajya Sabha and Lok Sabha
 - Holders of Bharat Ratna
 - Ambassadors Extraordinary and Plenipotentiary and High Commissioners of Commonwealth countries accredited to India.
Chief Ministers of States outside their respective States.
Governors of States outside their respective States.
 - Judges of Supreme Court
 - Chairperson of Union Public Service Commission
Chief Election Commissioner
Comptroller and Auditor General of India

- Deputy Chairman of Rajya Sabha
Deputy Chief Ministers of States
Deputy Speaker of Lok Sabha
Members of the NITI Aayog
Ministers of State of the Union
- Attorney General of India
Cabinet Secretary
Lieutenant Governors within their respective Union Territories
- Chiefs of Staff holding the rank of full General or equivalent rank
- Envoys Extraordinary and Ministers Plenipotentiary accredited to India.
- Chairman and Speakers of State Legislatures within their respective States.
Chief Justices of High Courts within their respective jurisdictions.
- Cabinet Ministers in States within their respective States
Chief Ministers of Union Territories and Chief Executive Councillor, Delhi within their respective Union Territories
Deputy Ministers of the Union
- Officiating Chiefs of Staff holding the rank of Lieutenant General or equivalent rank.
- Chairman of Central Administrative Tribunal
Chairman of Minorities Commission
Chairperson of National Commission for Scheduled Castes
Chairperson of National Commission for Scheduled Tribes
Chief Justices of High Courts outside their respective jurisdictions
Puisne Judges of High Courts within their respective jurisdictions

- 18.** Cabinet Ministers in States outside their respective States
 Chairmen and Speakers of State Legislatures outside their respective States
 Chairman of the Monopolies and Restrictive Trade Practices Commission
 Deputy Chairman and Deputy Speakers of State Legislatures within their respective States
 Ministers of State in States within their respective States
 Ministers of Union Territories and Executive Councilors, Delhi within their respective Union Territories
 Speakers of Legislative Assemblies in Union Territories within their respective Union Territories
 Chairman of Delhi Metropolitan Council within their respective Union Territories
- 19.** Chief Commissioners of Union Territories not having Councils of Ministers, within their respective Union Territories
 Deputy Ministers in States within their respective States
 Deputy Speakers of Legislative Assemblies in Union Territories within their respective Union Territories
 Deputy Chairman of metropolitan, Council Delhi within their respective Union Territories
- 20.** Deputy Chairman and Deputy Speakers of State Legislatures, outside their respective states
 Ministers of State in States outside their respective States
 Puisne Judges of High Courts outside their respective jurisdictions
- 21.** Members of Parliament
- 22.** Deputy Ministers in States outside their respective States.
- 23.** Army Commanders/ Vice-Chief of the Army Staff or equivalent in other services
 Chief Secretaries to State Governments within their respective States
 Commissioner for Linguistic Minorities
 Commissioner for Scheduled Castes and Scheduled Tribes
 Members, Minorities Commission
 Members, National Commission for Scheduled Castes
 Members, National Commission for Scheduled Tribes
 Officers of the rank of full General or equivalent rank
 Secretaries to the Government of India (including officers holding this office ex-officio)
- Secretary, Minorities Commission
 Secretary, Scheduled Castes and Scheduled Tribes Commission
 Secretary to the President
 Secretary to the Vice-President
 Secretary to the Prime Minister
 Secretary, Rajya Sabha and Lok Sabha
 Solicitor General
 Vice-Chairman, Central Administrative Tribunal
- 24.** Officers of the rank of Lieutenant General or equivalent rank
- 25.** Additional Secretaries to the Government of India
 Additional Solicitor General
 Advocate Generals of States
 Chairman, Tariff Commission
 Charge d' Affairs and Acting High Commissioners
 Chief Ministers of Union Territories and Chief Executive Councillor, Delhi, outside their respective Union Territories
 Chief Secretaries of State Governments, outside their respective States
 Deputy Comptroller and Auditor General
 Deputy Speakers of Legislative Assemblies in Union Territories and Deputy Chairman, Delhi Metropolitan Council, outside their respective Union Territories
 Director, Central Bureau of Investigation
 Director General, Border Security Force
 Director General, Central Reserve Police
 Director, Intelligence Bureau
 Lieutenant Governors outside their respective Union Territories
 Members, Central Administrative Tribunal
 Members, Monopolies and Restrictive Trade Practices Commission
 Members, Union Public Service Commission
 Ministers of Union Territories and Executive Councillors, Delhi, outside their respective Union Territories
 Principal Staff Officers of the Armed Forces of the rank of Major General or equivalent rank
 Speakers of Legislative Assemblies in Union Territories and Chairman of Delhi Metropolitan Council, outside their respective Union Territories
- 26.** Joint Secretaries to the Government of India and officers of equivalent rank.
 Officers of the rank of Major-General or equivalent rank



Other Non-Constitutional Bodies

NATIONAL COMMISSION FOR WOMEN

Establishment

- Constituted in **1992** for protecting, promoting and safeguarding the interests and rights of women under the recommendation of **The Committee on Status of Women in India (1974)** and **National Perspective Plan for Women (1988)**.
- Autonomous, statutory** (and not constitutional) body established under **the National Commission for Women Act, 1990**. The **Ministry of Women and Child Development** is the nodal ministry.

Objectives

- Review constitutional and legal safeguards for women.
- Recommend remedial legislative measures.
- Facilitate the redressal of grievances about the violation of women's rights.
- Advise the government on all policy matters affecting women.

Composition

- Multi-member body **ominated** by the **Central Government (MoWCD)**.
- Chairperson:** Committed to the cause of women.
- 5 Members:** Persons of ability, integrity and standing who have had experience in:
 - law or legislation, trade unionism, management of an industry or an organization committed to increasing the employment potential of women, women's voluntary organizations (including women activists), administration, economic development, health, education or social welfare.
 - At least one member each** should belong to the SC and ST, respectively.
- Member-secretary**
 - Expert in the field of management.
 - Organizational structure or sociological movement, or
 - An officer who is a member of a Civil Service of the Union or AIS or holds a civil post under the Union.

Tenure: 3 years

Resignation: To the **Central Government**.

Salaries: Allowances and other service conditions: Prescribed by the **Central Government**.

Functions

- Investigate/examine** all matters relating to the constitutional and legal safeguards for women.
- Present report to the Central Government annually and at such other times as it may deem fit.
- Recommendations for the effective implementation of safeguards.
- Suo moto** notice of matters relating to
 - Deprivation of women's rights.
 - Non-implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development; and
 - Non-compliance with policy decisions or instructions aimed at mitigating hardships and ensuring welfare, and providing relief to women.
- Call for special studies /investigations into specific problems or situations arising out of discrimination and atrocities against women.
- Promotional/educational research ensuring due representation of women in all spheres and to identify factors responsible for impeding their advancement
- Participate /advice on the socio-economic planning and development of women
- Evaluate the progress of the development of women under the Union and any state
- Inspect any jail, remand home, women's institution or other place of custody where women are kept as prisoners or otherwise and take remedial action
- Fund litigation involving issues affecting a large body of women.
- Look into any other matter referred to by the Central Government.

Report

- The Commission presents an annual report or as and when it thinks necessary **to the Centre**.

- All such reports are presented before each House of Parliament, along with a memorandum (action taken on the recommendation made by the Commission). The memorandum contains the reasons for the non-acceptance of any of such recommendations.
- In case of a report being related to any matter connected with the State government, the Commission forwards a copy of such report to such State government. The State Government places it before the state legislature, along with a memorandum explaining the action taken on the recommendations of the commission.

Powers

- To appoint the committees necessary for dealing with the issues taken up by it from time to time.
- Regulate its procedure and also the procedure of its committees.
- The Central Government should consult the Commission on all major policy matters affecting women.

Working

- Complaints can be received **verbally or in writing**.
- **Suo moto notice of cases** is acceptable.
- Complaints can be registered under **23 heads**, like Rape/ attempt to rape, Acid attack, Sexual assault, Sexual harassment, Stalking, dowry death, protection of women against domestic violence etc.

Action on Complaints

- **Specific cases of police apathy:** sent to the police for investigation and monitoring.
- **Family disputes:** resolved or reconciliation through counselling.
- Provide all disaggregated data to state authorities to facilitate action.
- **Sexual harassment complaints:** concerned organisations urged to expedite cases and the disposal is monitored.
- **For serious crimes:** The commission constitutes an Inquiry Committee to provide immediate relief and justice to victims of violence and atrocities.

Parivarik Mahila Lok Adalat

- Established by the Commission to supplement the efforts of the District Legal Service Authority (DALSA) for redressal, speedy disposal of marriage/ family affairs matters pending in courts.
- It functions on the model of the Lok Adalat.
- The Commission provides financial assistance to NGOs or State Women Commissions or State Legal Service Authority to organize the Parivarik Mahila Lok Adalat.

Objectives

- Speedy and cost-free dispensation of justice to women.
- Generate awareness among the public regarding the conciliatory mode of dispute settlement.
- Encourage dispute settlement outside the courts.
- Empower the public, especially women, to participate in justice delivery mechanisms.

NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS

Establishment

- **Autonomous, Statutory** (and not constitutional) body established under the **National Commissions for Protection of Child Rights Act, 2005**. Constituted in **2007** for protecting, promoting and safeguarding child rights.
- **Nodal ministry: Ministry of Women and Child Development.**
- **Child rights:** Children's rights were adopted in the United Nations Convention on the Rights of the Child (UN CRC, 1989) and ratified by the Government of India (1992).
- **Child:** A human being **less than 18 years of age**. (Convention on Child Rights definition)

Objectives

- Review the constitutional and legal safeguards for children
- Ensure that all laws, policies, programmes and administrative mechanisms align with the child rights perspective constitutionally and as under the UN CRC.
- Facilitate the redressal of grievances about the violation of child rights.

Composition

- Multi-member body **ominated by the Central Government (MoWCD)**.
- **Chairperson:** Person of eminence, done outstanding work for promoting the welfare of children; appointed on the recommendation of a **3-member selection committee** constituted by the Central Government. (**Chairman: Minister-in-charge of the Ministry or the Department of Women and Child Development**).
- **6 Members:** Persons of ability, integrity and standing who have had experience in education; Child healthcare, welfare or child development; Juvenile justice or case of neglected or marginalised children or children with disabilities; Elimination of child labour or children in distress; Child psychology or sociology; and Laws relating to children.

- **At Least 2** should be **women**
- **Salaries, Allowances and other service conditions:** Prescribed by the **Central Government**; cannot be varied to their disadvantage after their appointment.

Tenure

- **3 years** (Not appointed for more than 2 terms)
- Upper age limit for holding office:
 - **Chairperson:** 65 years
 - **Members:** 60 years

Resignation: To the **Central Government**.

Functions

- Examine/review all matters relating to the legal safeguards for child rights protection and inquire into its violations
- Present **report to the Central Government** annually and at such other times as it may deem fit.
- Examine all factors that inhibit the enjoyment of rights of children; recommend remedial measures.
- Look into matters relating to children in need of special care.
- Study treaties and other international instruments and undertake periodical review of existing policies
- Undertake and promote research in the field of child rights.
- Spread child rights literacy and promote awareness regarding safeguards available.
- Inspect any juvenile custodial home or any other place of residence or institution (under the control of the Central/ state government, or other authority, including an institution run by a social organization) where children are detained/ lodged; take up remedial actions.

- Inquire and take **suo moto notice of matters** relating to:
 - Deprivation of child rights.
 - Non-implementation of laws enacted to provide protection and development of children.
 - Non-compliance with policy decisions or instructions aimed at mitigating hardships and ensuring welfare, providing relief to children.
- Perform other functions necessary for the promotion of child rights.
- It must be noted here that the Commission is prohibited from inquiring into any matter which is pending before a **State Commission for Protection of Child Rights** or any other Statutory Commission.

Report

- The Commission presents an annual/special report to the Central/state government.
- All such reports are laid before respective legislatures, along with a memorandum. (action taken on the recommendation made by the Commission.)
- The memorandum contains the reasons for non-acceptance of any of such recommendations within 1 year.

Working: Upon completion of the inquiry, the Commission may take any of the following steps:

- Recommend initiation of proceedings against a person to the concerned government/authority.
- Approach SC/HC concerned for necessary directions, orders or writs.
- Recommend to concerned government/authority for grant of interim relief to victims.

Functions of NCPCR under Other Acts

The commission has been assigned additional functions under 3 Acts relating to children. These are:

The Right of Children to Free and Compulsory Education (RTE) Act, 2009	<ul style="list-style-type: none"> • Examine/review safeguards for rights provided by/under this Act; recommend measures for effective implementation. • Inquire into complaints relating to a child's right to free and compulsory education (enjoys the same powers as assigned to it under the protection of the Child Rights Act, 2005) • Take necessary steps after completion of an inquiry.
The Protection of Children from Sexual offences (POCSO) Act, 2012 and The Juvenile Justice (Care and Protection) Act, 2015	<ul style="list-style-type: none"> • Monitor the implementation of the provisions of the Act. • Commission while inquiring into any matter relating to any offence under the Act, have the same powers as are vested in it under the Commission for the Protection of Child Rights Act, 2005. • Shall include its activities under this Act in the annual report referred to in the Commissions for the Protection of Child Rights Act, 2005.

State Commission For Protection of Child Rights: All its features are similar to the National Commission for the Protection of Child Rights, except that it is **constituted by the state government** and it presents a **report to it** annually and at such other times as it may deem fit.

Children's Court

- Established under the **Commissions for Protection of Child Rights Act (2005)** for speedy trial of offences against children, and violations of child rights.
- The **state government** has the authority to designate a court in the state or, for each district, a Court of Session as a Children's Court. However, such courts can only be established by the state government with the agreement of the **Chief Justice of the High Court** in that state.
- For every Children's Court, a **public prosecutor or an advocate** (practised for 7 years) is appointed as a **special public prosecutor** by the state government to conduct cases in that court.

- 5 members, including the Chairperson, should be from amongst the minority communities.

Salaries, Allowances and other service conditions: Prescribed by the Central Government (**Ministry of Minority Affairs**).

Tenure: 3 years.

Resignation: To the Central Government.

Functions

- Evaluate the progress of the development of minorities under the Union/States.
- Monitor the working of the constitutional and legal safeguards for minorities.
- Recommendations for the effective implementation of safeguards by centre/state.
- Look into specific complaints regarding the deprivation of rights/safeguards of minorities.
- Cause studies wrt problems arising out of discrimination against minorities.
- Conduct studies, research and analysis on issues relating to the socio-economic and educational development of minorities.
- Make periodical or special reports to the Central Government.
- Look into any other matter referred to it by the Central Government.

Report

- The Commission presents an annual report as and when it thinks necessary to the Centre.
- All such reports are presented before each House of Parliament, along with a memorandum(action taken on the recommendation made by the Commission). The memorandum contains the reasons for the non-acceptance of any of such recommendations.
- In case of a report being related to any matter connected with the State government, a copy of such a report is forwarded to the State government. The State Government places it before the state legislature, along with a memorandum explaining the action taken on the recommendations of the commission.

Composition

- Multi-member body nominated by the Central Government from amongst persons of eminence, ability and integrity (**Chairman, Vice-chairperson and 5 Members**)

Similarities in the National Commission for Women, National/State Commission for Protection Of Child Rights, National Commission for Minorities:

Removal of chairpersons and members

- Proved misbehaviour or incapacity.
- An undischarged insolvent.
- Engaged in paid employment outside office duties during the term of office.
- Convicted and sentenced to imprisonment for an offence involving moral turpitude.
- Declared of unsound mind by a competent court.

- Refuses to act or becomes incapable of acting.
- **Absent** from **three** consecutive meetings of the Commission.
- Abused one's official position which (in the opinion of the Central Government) renders one's continuance in the office as detrimental to the public interest.

Powers of the body

Possesses **powers of a civil court** with respect to all the relevant matters like summoning a person, receiving evidence etc.

- Summoning/enforcing attendance of any person from any part of India and examining him/her on oath
- Requiring the discovery and production of any document
- Receiving evidence on affidavits
- Requisitioning any public record from any court or office
- Issuing summons for the examination of witnesses and documents and
- Any other matter which may be prescribed by the Central Government

NATIONAL INVESTIGATION AGENCY (NIA)

Establishment	<ul style="list-style-type: none"> • Central counter-terrorism law enforcement agency in the country; established in 2009 under the provisions of the NIA ACT, 2008. • The NIA was established in the backdrop of the 2008 Mumbai terror attacks. • NIA has a separate specialized cell known as TFFC, to deal with fake currency notes and terror funding.
Headquarters	At New Delhi with Branch offices in different states of India.
Nodal ministry	<ul style="list-style-type: none"> • Under the administrative control of the Ministry of Home Affairs. • State government extends all assistance and cooperation to the NIA for the investigation of the offences specified under the NIA Act.
Composition	<ul style="list-style-type: none"> • Headed by a Director-General, appointed by the central government. • His/her powers are similar to the powers exercisable by the Director-General of Police of state.
Functions	<ul style="list-style-type: none"> • Collects, collates and analyzes counter-terrorism investigations. • Investigate and prosecute offences in respect of the Acts specified in the Schedule of the NIA Act. • Provide assistance to/seek assistance from, other intelligence and investigation agencies of the central/state governments. • Take measures necessary for speedy and effective implementation of the NIA Act.
Mission	In In-depth professional investigation using the latest scientific methods and technologies; Effective and speedy trial; professional workforce through regular training; result-oriented organization, upholding the Constitution of India and laws of the land; scientific temper and progressive spirit.
Jurisdiction	<ul style="list-style-type: none"> • Concurrent jurisdiction to investigate and prosecute offences affecting the sovereignty/security/integrity of India, security of state, friendly relations with foreign states and offences under various Acts enacted to implement international treaties, agreements, conventions and resolutions of the UNO/its agencies/other international organizations. • Probe terror attacks, including bomb blasts, hijacking of aircraft and ships, attacks on nuclear installations and use of weapons of mass destruction. • Post-2019, empowered to probe the offences relating to human trafficking, counterfeit currency or bank notes, manufacture or sale of prohibited arms, cyber-terrorism and explosive substances.

NIA (Amendment) Act,2019

- Applied the provisions of the NIA Act to persons who commit a scheduled offence **beyond India against Indian citizens or affecting the interest of India.**
- Officers of the NIA shall have **similar powers, duties, privileges and liabilities being exercised by the police officers** in connection with the investigation of offences, not only in India but also outside India.
- Central government **wrt scheduled offence committed outside India** can direct the NIA to register the case and take up investigation as if such offence has taken place in India.
- The central government and the state governments may designate **session courts as Special courts** for conducting the trial of offences under the NIA Act.

NATIONAL DISASTER MANAGEMENT AUTHORITY

Establishment

- Committees to make recommendations on the preparation of disaster management plans and mitigation mechanisms:
 - 1999: High Powered Committee.
 - 2001: National Committee after Gujarat Earthquake.
 - **2005: Disaster Management Act**, after the 2004 Tsunami
 - ◆ 2005: NDMA constituted by an Executive Order of the Government of India (apex body for disaster management in the country).
 - ◆ 2006: NDMA was notified under the provisions of the Act.
- **Nodal ministry: Ministry of Home Affairs.**

Objectives

- Prevention/preparedness/resilience at all levels through knowledge; Identification/assessment/monitoring of disaster risks; Mitigation measures based on technology, traditional wisdom and environmental sustainability.
- Mainstream disaster management into disaster planning; Enabling regulatory environment and compliance regime; Develop contemporary forecasting and early warning systems backed by IT.
- Productive partnership with media

Composition

- **Chairperson and other members not exceeding 9** (status of minister of state).
- **PM** is the **ex-officio chairperson** of the NDMA and nominates all the other members.
- He designates one of the members as the vice-chairperson (status of cabinet minister) of the NDMA.

Functions

- Approve the National Plan And plans prepared by the Ministries/ Departments of the GoI in accordance with the National Plan.

- Lay down guidelines to be followed by the SDMAs with the State Plan;
- Coordinate the enforcement/implementation of policy for disaster management.
- Recommend the provision of funds for mitigation.
- Provide support to other countries affected by major disasters.
- Measures for the prevention of disaster/mitigation/preparedness/capacity building.
- Lay down policies for the functioning of the National Institute of Disaster Management.
- Guidelines for minimum standards of relief to be provided to persons affected by disaster.
- Recommend relief in repayment of loans or grant of fresh loans on concessional terms to persons affected by a disaster.
- General superintendence/ direction/control of the NDRF.

STATE DISASTER MANAGEMENT AUTHORITY

Establishment

- Established under the **Disaster Management Act, 2005.**
- Every **state government** should establish an SDMA for the state.

Composition

- **Chairperson and other members not exceeding 9.**
- **Ex-officio chairperson: CM of the state.**
- The other members, not exceeding eight, are nominated by the chairperson of the SDMA. He also designates one of the members as the vice-chairperson of the SDMA.
- The **Chairperson of the State Executive Committee** is the ex-officio member of the SDMA and acts as the ex-officio chief executive officer of the SDMA.

Functions

- Similar to **NDMA**, (only with changed reference to the states).

DISTRICT DISASTER MANAGEMENT AUTHORITY

Establishment

- Established under the **Disaster Management Act, 2005**.
- Every **state government** should establish a DDMA for every district in the state.

Composition

- Chairperson** and **not exceeding 7 members**.
- Ex-officio Chairperson**: Collector/District Magistrate/Deputy Commissioner.
- The elected representative of the local authority is the ex-officio co-chairperson of the DDMA.
- In the case of **tribal areas (6th schedule)**, the chief executive member of the district council of the autonomous district is the ex-officio co-chairperson of DDMA.
- Members**: The chief executive officer of the DDMA (appointed by the state government), the superintendent of police and the chief medical officer of the district, Not more than two other district-level officers are appointed by the state government.
- In the case of a district where Zilla Parishad exists, the **chairperson of the Zilla Parishad** is the co-chairperson of the DDMA.

Functions

- Prepare a disaster management plan, including a disaster response plan for the district.
- Coordinate and monitor the implementation of the National Policy, State Policy, National Plan, State Plan and District Plan.
- Identify vulnerable areas in the district and measures for the prevention/mitigation of disasters and their effects are undertaken by the departments of the government at the district level/local authorities.
- Ensure guidelines, as laid by NDMA/SDMA, are followed by all departments/local authorities at the district level.
- Organize and coordinate specialized training programmes; Facilitate community training and awareness programmes.
- Set up, maintain, review and upgrade the mechanism for early warnings and dissemination of proper information to the public.
- Advise, assist and coordinate the activities of the departments of the government at the district level, statutory bodies and other governmental and non-governmental organizations in the district.
- Identify buildings that can be used as relief centres.

- Perform such other functions as the state government or SDMA may assign to it as it deems necessary for disaster management in the district.

BAR COUNCIL OF INDIA

Establishment

- Statutory**, an autonomous body established under the **Advocates Act, 1961**.
- All India Bar Committee** under **Justice S.R. Das (1951)**: recommended the establishment of All India Bar Councils and State Bar Councils.
- Law Commission of India (1958)**: recommended establishment of All India Bar Councils and State Bar Councils
- Nodal ministry: Ministry of Law and Justice** (Department of Legal Affairs).

Composition

- Consists of both the elected as well as the ex-officio members.
- One member is elected by each SBC from amongst its members.
 - The Attorney-General of India and the Solicitor-General of India are the ex-officio members.
 - Chairman** and **Vice-chairman** are elected by the Council from amongst its members (**tenure 2 years**).
 - Tenure of a member, elected by an SBC, shall be for the period for which he/she holds office as a member of that SBC.
 - The BCI consists of the following committees**: Disciplinary Committee (one or more); Legal Aid Committee (one or more); Executive Committee; Legal Education Committee and Other Committees (if necessary)

Functions

- Lay standards of professional conduct for advocates; lay procedure to be followed by its disciplinary committee and the disciplinary committee of each SBC; safeguard rights, privileges, and interests of advocates; promote and support law reform.
- Deal/ dispose of any matter which is referred to it by a SBC.
- Exercise general supervision and control over SBCs.
- Promote legal education and lay down standards of legal education. **[UPSC 2022]**
- Recognise universities whose degree in law shall be a qualification for enrolment as an advocate.
- Conduct seminars and organize talks on legal topics; organize legal aid for the poor people.
- Recognise (on a reciprocal basis) foreign qualifications in law obtained outside India.

- Provide for the election of its members and perform all other functions conferred on it under the act.

Funds and Grants

- BCI may establish funds for the following purposes: financial assistance to organize welfare schemes, Giving legal aid or advice, and Establishing law libraries.
- Further, the BCI may also receive grants, donations, gifts, and benefactions for the above purposes.
- The BCI can become a member of international legal bodies such as the International Bar Association or the International Legal Aid Association.

STATE BAR COUNCILS

Establishment

Advocates Act, 1961 provides for the establishment of an SBC for each state or a common SBC for two or more states/state/union territories. At present, there are 24 SBCs.

Composition

Consists of both the elected as well as the ex-officio members.

- SBC with an electorate of 5000- 15 members; SBC with an electorate of 5k-10k- 20 members;
- SBC with an electorate of >10k- 25 members.
- Elected by the system of proportional representation by means of the single transferable vote from amongst advocates on the electoral roll of the SBC. One-half of such elected members should have been advocates on a state roll for 10 years.
- The Advocate-General of the state is the ex-officio member. In the case of a common SSC, the Advocate-General of each of the states is the ex-officio member. In the case of the SBC of Delhi, the Additional Solicitor-General of India is the ex-officio member.
- Each SBC shall have a Chairman and Vice-Chairman, elected by the Council amongst its members.
- The term of office of an elected member is **5 years**. If any SBC fails to provide for the election of its members before the expiry of a said term, then BCI may extend the said term for a period of 6 months.
- The SBC consists of the following committees:** Disciplinary Committee (one or more); Legal Aid Committee (one or more); Executive Committee; Enrolment Committee; Other Committees (if necessary)

Functions

- Admit persons as advocates on its roll; Prepare and maintain such roll; Entertain and determine cases of misconduct against advocates on its roll.

- Safeguard rights/privileges/interests of advocates on roll promote growth of bar association; Promote and support law firm; Conduct seminars ad organize talks; Organize legal aid to poor.
- Manage and invest its funds.
- Provide for the election of its members; visit and inspect universities in accordance with BCI directions.
- Perform all other functions conferred on it under this act and do all other things necessary for discharging above functions.

Funds and Grants

- SBC may establish funds for the following purposes: Financial assistance to organize welfare schemes; Give legal aid or advice; Establish law libraries.
- SBC may also receive grants, donations, gifts and benefactions for the above purposes.

Types of Advocates

- Advocates Act, 1961** provides for 2 categories of Advocates - **Senior Advocates** and **other advocates**, entitled to practice law before the Courts.
- The power of SC/ HC to designate an Advocate as a Senior Advocate requires the **due satisfaction that the Advocate concerned fulfills the qualifications prescribed under the Advocates Act, 1961**.
- An advocate may, with his/ her consent, be designated as senior advocate if the SC/HC is of opinion that by virtue of his/ her ability standing at the Bar/special knowledge/experience in law, he/she is deserving of such distinction.

ADVOCATES ENTITLED TO PRACTICE LAW BEFORE THE SUPREME COURT

Senior Advocate

An advocate so designated under the Advocates Act, 1961+ all such advocates whose names were on the roll of the senior advocates of the Court immediately before the commencement of the Advocates Act, 1961.

- The Supreme Court Rules, 2013, deals with the designation of Advocates as Senior Advocates. These rules specify that the Chief Justice of India and the Judges, with the Advocate's consent, have the authority to appoint an Advocate as a Senior Advocate. This designation is granted if, in their judgment, the Advocate demonstrates exceptional ability, standing in the legal profession, or possesses special knowledge or experience in law that merits such recognition.
- The retired Chief Justices/Judges of the High Courts are also eligible for consideration as Senior Advocates in the Supreme Court.
- A Senior Advocate is not entitled to appear in the Supreme Court without an Advocate-on-Record.

- A Permanent Committee has been constituted by the Chief Justice of India to deal with all matters relating to the designation of Senior Advocates in the Supreme Court. Composition of the committee:
 - **Chairperson** - Chief Justice of India.
 - 2 seniormost Judges of the Supreme Court.
 - Attorney General for India.
 - A member of the Bar as nominated by the Chairperson and members of this Committee.

Advocate on record

- An advocate, entitled under the Supreme Court Rules, 2013 to act/plead for a party in the SC.
- No advocate other than an Advocate-on-Record is entitled to file an appearance or act for a party in the Supreme Court.
- “Advocates-on-Record” replaced the system of “Agents”.
- An Advocate of 7 years standing is entitled to get him/herself registered as an ‘Advocate-on-Record’, provided he/ she fulfills the conditions prescribed.
- 1959 amendment: introduced the ‘Advocate-on-Record’ examination conducted by the Supreme Court. The Registry of the Supreme Court conducts Advocatcon-Record Examination periodically with approval of the Examination Committee and under the supervision of Secretary, Board of Examiners, appointed by the Chief Justice of India.
- An Advocate is ineligible to participate in the examination unless they have received training from an Advocate-on-Record with at least ten years of standing. This training must be continuous for a period of one year, starting from the end of the fourth year after the Advocate’s enrollment.

Other Advocates

- Advocates whose names are entered on the roll of any State Bar Council maintained under the Advocates Act, 1961.
- They cannot appear/plead /address the Court in any matter on behalf of a party in the Supreme Court unless instructed by an Advocate-on-Record or permitted by the Court.

LAW COMMISSION OF INDIA

Establishment

- It is a **non-statutory advisory** body, established by the order of the Central Government from time to time for a **fixed tenure**. [UPSC 2023]
- During the British regime, four Law Commissions were established in the 19th century. The Indian Penal Code, the Criminal Procedure Code, the Civil Procedure Code, the Indian Contract Act, the Indian

Evidence Act, the Transfer of Property Act and some other laws are the products of these four commissions.

- The **First Law Commission of independent India** was established in **1955** for three years under **MC Setalvad**, the then Attorney-General of India.
- Since then (1955), 21 more law commissions have been constituted, each with a 3-year term and with different terms of reference.
- The **First Law Commission of pre-independent India** was established in **1834** under **Lord Macaulay**.
- The **current law commission (22nd)** is headed by **Justice Ritu Raj Awasthi (2020-2024)**.

Composition

- The composition is **not fixed** and varies from commission to commission. Generally, it consists of a chairman, some full-time members, a member-secretary, and some part-time members depending upon the nature of the topics of reference.
- The **Chairman and full-time members** - either serving /retired judges of the SC/HCs, /legal experts/ jurists /professors of law in any university of India.
- The **Member-Secretary belongs** to the Indian Legal Service and holds the rank of Additional Secretary / Secretary to the Government of India.
- The **part-time members**- appointed from among the eminent members of the bar/ eminent scholars in the academic field /persons having specialized knowledge in a particular branch of law.

Functions

- Recommend legislative measures for the purpose of consolidation and codification of laws. Its recommendations are **not binding** on the government.
- Identify laws no longer needed /relevant /can be immediately repealed.
- Examine the existing laws in the light of DPSP and suggest ways of improvement and reform.
- Consider and convey to the Government its views on any subject relating to law and judicial administration.
- Consider requests for providing research to any foreign countries.
- Take all such measures as may be necessary to harness law and the legal process in the service of the poor.
- Revise the Central Acts of general importance to simplify them and remove anomalies, ambiguities and inequities.

Working

- The reports on the working of the various projects and problems are subjected to scrutiny by the full Commission in prolonged meetings for its finalization.

- The final report is forwarded to the Government (Ministry of Law and Justice). The reports are considered by the Ministry of Law and Justice in consultation with the concerned administrative ministries and are submitted to Parliament from time to time.
- Till now, the Commission submitted 277 reports on different subjects.

DELIMITATION COMMISSION

- Delimitation:** It is the act of fixing limits/boundaries of territorial constituencies in a country or a Province having a legislative body. The job of delimitation is assigned to a high-powered body. Such a body is known as the **Delimitation Commission or a Boundary Commission.**

The rationale for delimitation

- Legally mandated exercise in a representative system, where single-member constituencies are used for electing political representatives. It ensures fair elections for the people.
- Stepping stone for the creation of a body polity to govern the affairs of the public at large through the territorial concept of elected representation.

Commissions established

- The Delimitation Commission of India is a **statutory** (and not a constitutional) **body**. It is **established by the Central Government** under the provisions of a law enacted by the Parliament.
- Its function is to **demarcate the boundaries of the Parliament, and Assembly Constituencies** in the country.
- Its orders have the **force of law** and **cannot be challenged in any court**. The orders come into force on a date specified by the President of India. They are **laid before the Lok Sabha /the State Legislative Assembly** concerned. But, modifications are not permissible.

So far, **four such Commissions** have been constituted.

Delimitation Commission	Established on
First	1952
Second	1963
Third	1973
Fourth	2002

Constitutional Provisions

- Articles 81, 82, 170, 330 and 332** of the Constitution of India deal with the delimitation of the Parliamentary and Assembly Constituencies. These Articles were amended by the **84th Constitutional Amendment**

Act of 2001 and the 87th Constitutional Amendment Act.

- The impact of the above amendments to the Constitution is as follows:
 - The total number of existing seats as allocated to various states in the Lok Sabha (1971 census) shall remain unaltered till the first census to be taken after the year 2026.
 - The total number of existing seats in the Legislative Assemblies of all states (1971 census) shall also remain unaltered till the first census to be taken after the year 2026.
 - The number of seats to be reserved for the SC and ST in the LS and SLA shall be re-worked, based on the 2001 census.
 - Each state shall be re-delimited into territorial parliamentary and assembly constituencies based on the 2001 census, and the extent of such constituencies as delimited now shall remain frozen till the first census to be taken after the year 2026
 - The constituencies shall be so re-delimited that the population (2001 census) of each parliamentary / assembly constituency in a state shall be the same throughout the state.

Fourth Delimitation Commission (3-member body)

- Chairperson:** either a serving /retired judge of the Supreme Court.
- Ex-officio member:** Chief Election Commissioner /Election Commissioner nominated by the Chief Election Commissioner.
- Ex-officio member:** The State Election Commissioner of the **concerned** State /Union Territory.
- 10 associate members** in respect of each state (five were members of the LS elected from that state + another five were members of the SLA). In case the number of members of the Lok Sabha in a state was less than 5, all such members were associate members for that state.
- Associated members were **nominated by the Speakers of the LS/SLA** concerned. They **did not have the right to vote** or to sign any order of the Commission.

Delimitation Commission (2020)

- March 2020:** The Government of India set up a Delimitation Commission for the delimitation of Parliamentary and Assembly constituencies in four north-eastern states and UT of J&K in accordance to the the Delimitation Act, 2002 and the J&K Reorganization Act, 2019, respectively.

- March 2021: The Government of India removed the four north eastern states from the Commission's purview. Further, the term of the Commission was also extended by one year to enable it to continue with its delimitation work in the UT of J & K.
- The Commission also associated in its work, 5 members of Lok Sabha elected from the J&K (nominated by the Speaker of LS, no voting rights).

Delimitation in J&K

- The assembly seats in J&K were delimited in 1957, 1966, 1975 and 1995. The last exercise was conducted based on the 1981 census. This formed the basis of the state elections in 1996.
- No census in the state in 1991 and no Delimitation Commission was set up by the State Government after 2001.
- The present Delimitation Commission was entrusted with the work of delimiting the Parliamentary and Assembly Constituency in the UT of J&K based on the 2011 census and following the provisions of the J&K Organisation Act, 2019 and the provisions of the Delimitation Act, 2002.

Order of the Commission

- J&K as a single entity for delimitation. Consequently, all 5 Parliamentary constituencies now have an equal number of 18 Assembly Constituencies.
- Anantnag - Rajouri area as new Parliamentary Constituency.
- 90 constituencies in J&K (43- Jammu; 47-Kashmir)
- 6 new Assembly constituencies for the Jammu region and 1 new Assembly constituency for the Kashmir region.
- Reservation of 9 Assembly constituencies for the ST (6 in Jammu, 3 in Kashmir).
- Reservation of 7 Assembly constituencies for the SC.

Recommendations of the Commission to the Centre

- **Kashmiri Migrants:** Provision of at least two members (one of them must be a female) from the community in the J&K Assembly (power at par with the power of nominated members of the Assembly of UT of Puducherry).
- **Displaced Persons from Pakistan-occupied J&K (PoJ&K):** The Central Government may consider giving the displaced persons from PoJ&K some representation in the J&K Assembly. This may be done by way of nomination of representatives of the displaced persons from PoJ&K.

CONSUMER COMMISSION

The **Consumer Protection Act, 2019** provides for the establishment of a **3-tier** Consumer dispute redressal machinery at the District, State and National levels.

- **District Consumer Disputes Redressal Commission** (District Commission): Established in each district by the state government. More than one District Commission can also be established in a district.
- **State Consumer Disputes Redressal Commission** (State Commission): Established in the state by the state government. It shall ordinarily function at the state capital and perform its functions at such other places as the state government may notify.
- **National Consumer Disputes Redressal Commission** (National Commission): Established by the central government. It shall ordinarily function at the national capital region and perform its functions at such other places as the central government may notify. The central government may also establish regional branches of the National Commission. [UPSC 2023].

It provides an **alternative dispute resolution mechanism** exclusively for consumers and functions as a **quasi-judicial body**.

National Consumer Disputes Redressal Commission

Composition	<ul style="list-style-type: none"> • President + not less than 4 or not more than such number of members as may be prescribed. • Central government (2020): Prescribed President and not less than four or not more than eleven members. At least one member shall be a woman.
Appointment	<ul style="list-style-type: none"> • President and members: Appointed by the central government on the recommendations of a search-cum-selection committee chaired by the CJI/ Judge of SC, who is nominated by the CJI. • Minimum age should be at least 50 years of age.
Tenure	4 years or until they attain the age of 70/ 67 years in the case of the President/ members , whichever is earlier.

Salary and allowances	<ul style="list-style-type: none"> The central government may make rules to provide for qualifications, appointments, salaries and allowances, resignation, removal and other conditions of service of the President /members. Neither the salary and allowances nor the other terms and conditions of service of the President/member shall be varied to his disadvantage after his appointment.
Jurisdiction	
<ul style="list-style-type: none"> Pecuniary Jurisdiction: Entertain complaints where the value of the goods/ services paid as consideration exceeds rupees 10 crores. The central government may prescribe such other values as it deems fit. Accordingly, this limit was reduced to above 2 crores in 2021. Appellate Jurisdiction: Entertain appeals against the orders of any State Commission. The appeal may be made within 30 days from the date of the order of the State Commission. <ul style="list-style-type: none"> It may entertain an appeal filed after the expiry of 30 days if it is satisfied that there was sufficient cause for not filing the appeal within the given time. It also has jurisdiction to entertain appeals against the orders of the Central Consumer Protection Authority (CCPA). The appeal may be made within 30 days from the date of receipt of the order from the CCPA. Revisional Jurisdiction: Jurisdiction to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any State Commission in the following circumstances: <ul style="list-style-type: none"> State Commission has exercised a jurisdiction not vested in it by law, or State Commission has failed to exercise jurisdiction so vested, or State Commission has acted in the exercise of its jurisdiction illegally /with material irregularity. 	
Other Powers	
<ul style="list-style-type: none"> May declare terms of contract null and void. If unfair to any customer. Power to review any of the orders passed by it, if there is an error apparent on the face of the record. Where an order is passed by the National Commission ex-parte, the aggrieved party may make an application to the Commission for setting aside such order. Transfer any complaint pending before the District Commission of one state to a District Commission of another state or before one State Commission to another State Commission either on the application of the complainant/ its motion. An appeal against the order of the National Commission lies with the Supreme Court. The appeal can be made within 30 days from the date of the order of the National Commission. However, the Supreme Court may entertain an appeal filed after the expiry of 30 days if it is satisfied that there was sufficient cause for not filing the appeal within the given time. 	
Administrative Control	
<p>Administrative control over all the State Commissions in the following matters:</p> <ul style="list-style-type: none"> performance in terms of their disposal of cases. Investigation of allegations against the President/members of a State Commission and submitting inquiry reports to the concerned state government. Instructions regarding: Adoption of uniform procedures in the hearing of matters; Prior service of copies of documents produced by one party to the opposite parties; Furnishing of English translation of judgements written in any language; and Speedy grant of copies of documents. Overseeing the functioning of the State Commission or the District Commission either by way of inspection or by any other methods. 	

State Consumer Dispute Redressal Commission

Composition	President + not less than 4 or not more than such number of members as may be prescribed in consultation with the central government.
Appointment, Salary and allowances	The central government may make rules to provide for qualifications, appointments, salaries and allowances, resignation, removal and other conditions of service of the President /members. Neither the salary and allowances nor the other terms and conditions of service of the President/ member shall be varied to his disadvantage after his appointment.

Jurisdiction

- **Pecuniary Jurisdiction:** entertain complaints where the value of the goods/services paid as consideration, exceeds rupees 1 crores but doesn't exceed 10 crores. The central government may prescribe such other values as it deems fit. Accordingly, this limit was reduced to above 50 lakhs but up to 2 crores in 2021.
- **Appellate Jurisdiction:** entertain appeals against the orders of any District Commission within the state. The appeal may be made **within 45 days** from the date of the order of the District Commission.
 - It may entertain an appeal filed after the expiry of 45 days if it is satisfied that there was sufficient cause for not filing the appeal within the given time.
- **Revisional Jurisdiction:** jurisdiction to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any District Commission within the state in the following circumstances:
 - District Commission has exercised a jurisdiction not vested in it by law, or
 - District Commission has failed to exercise jurisdiction so vested, or
 - The District Commission has acted in the exercise of its jurisdiction illegally /with material irregularity.

Other Powers

- May declare terms of contract null and void, If unfair to any customer.
- Power to review any of the orders passed by it, if there is an error apparent on the face of the record.
- Transfer any complaint pending before the District Commission to another District Commission within the state either on the application of the complainant/ its motion.
- Administrative control over all the District Commissions within its jurisdiction.

District Consumer Dispute Redressal Commission

Composition	President + not less than 2 or not more than such number of members as may be prescribed in consultation with the central government.
Appointment, Salary and Allowances	
<ul style="list-style-type: none">• The central government may make rules for qualifications/ procedures for appointments, recruitment methods, term of office, resignation, and removal of the President /members.• The state government may make rules for salaries and allowances and other conditions of service of the President /members.• In case of a vacancy in the office of the President/ member of a District Commission, the state government may direct<ul style="list-style-type: none">○ any other specified District Commission to exercise the jurisdiction in respect of the said district;○ the President/ member of any other specified District Commission can exercise the power and discharge the functions of the President/ member of that District Commission also.	

Jurisdiction

- Entertain complaints where the value of the goods/ services paid as consideration does not exceed rupees 1 crores. The central government may prescribe such other values as it deems fit. Accordingly, this limit was reduced to up to rupees 50 lakhs in 2021.
- Shall ordinarily function in the district headquarters. It may also perform its functions at such other places in the district, as the state government may notify after consultation with the State Commission.
- Power to review any of the orders passed by it if there is an error apparent on the face of the record. This can be done by the Commission either of its own motion or on an application made by any of the parties within 30 days of such order.

Pecuniary Jurisdiction of the Consumer Commissions

Name	Under 2021 Rules	Under 2019 Act	Under 1986 Act
District Commission	Up to Rs. 50 lakhs	Up to Rs . 1 crore	Up to Rs . 20 lakhs
State Commission	Above Rs. 50 lakhs but up to Rs. 2 crores	Above Rs. 1 crore but up to Rs. 10 crores	Above Rs. 20 lakhs but up to Rs. 1 crore
National Commission	Above Rs. 2 crores	Above Rs. 10 crores	Above Rs. 1 crore



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SECTIONAL TESTS	FULL-LENGTH TESTS	TOTAL
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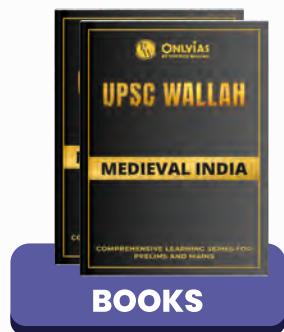
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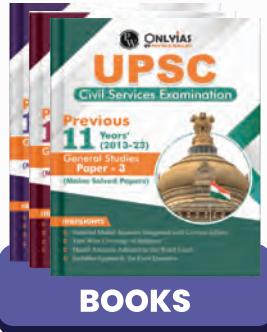


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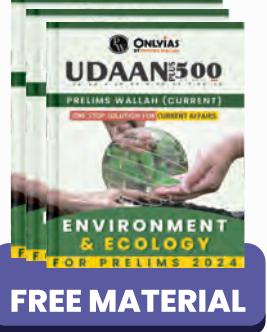
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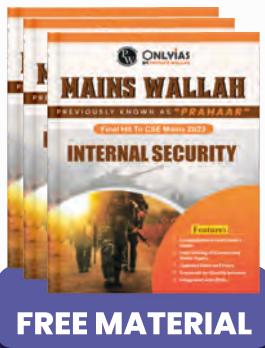
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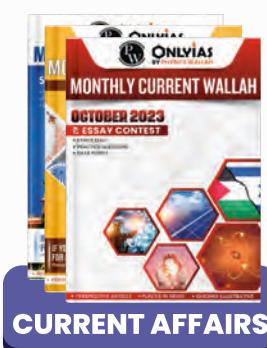
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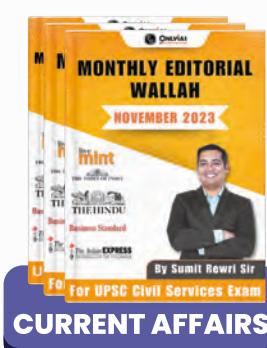
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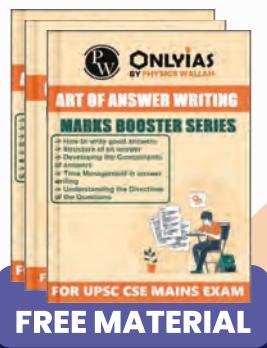
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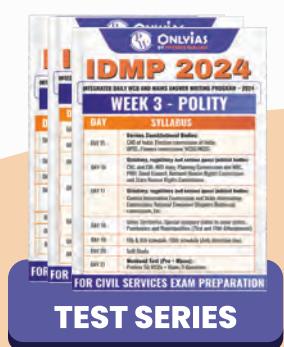
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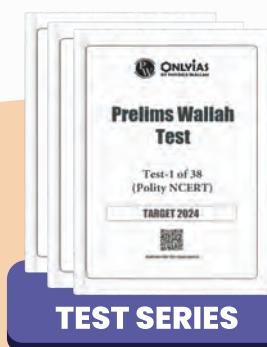
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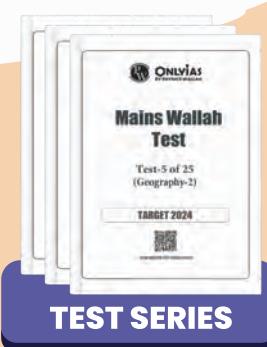
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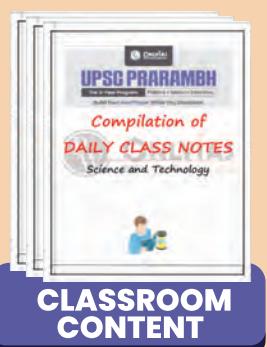
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