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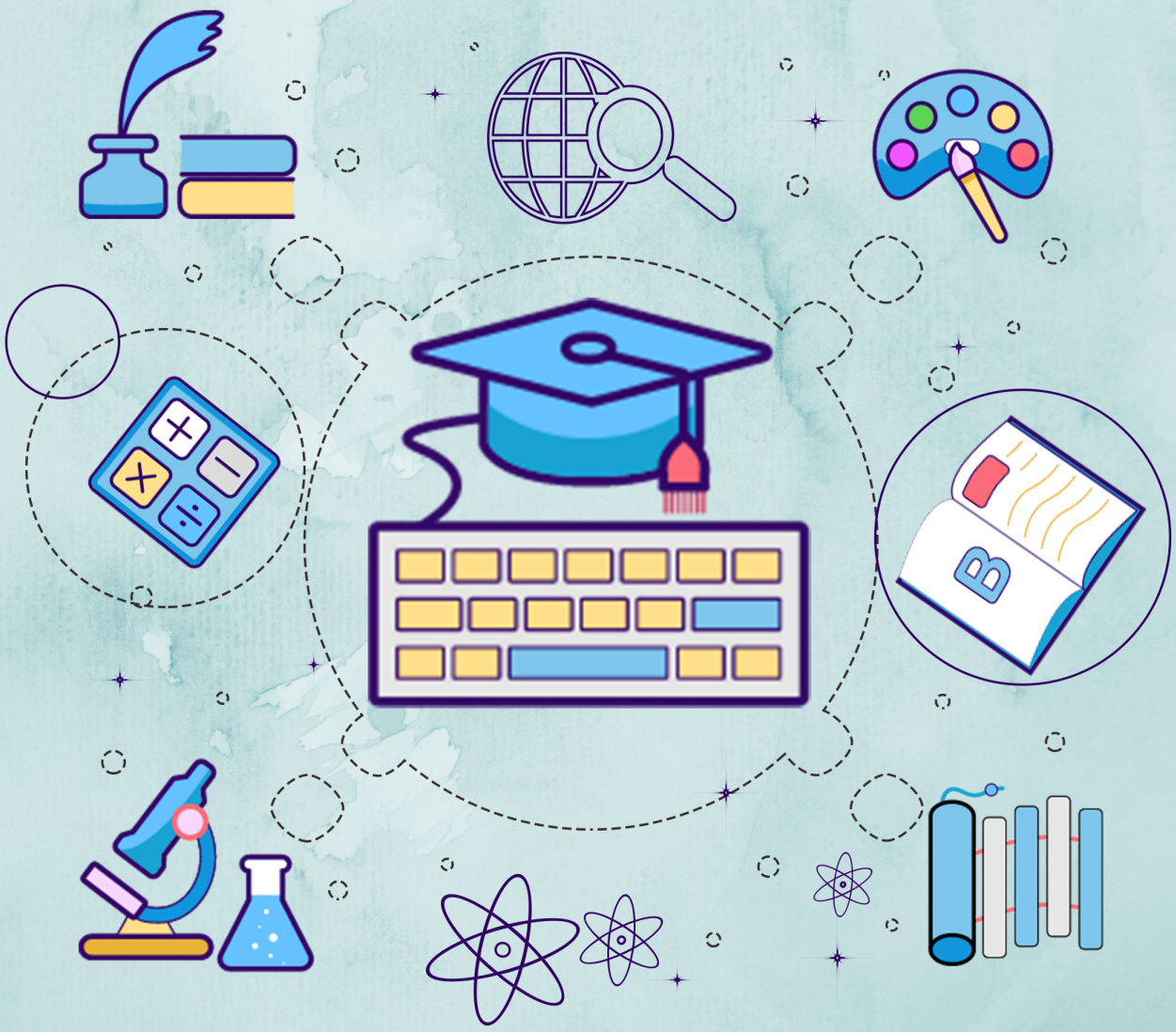

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CONSTITUTION OF INDIA (MCN 202)

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Module – 5

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Relations between the Union and the States

(Centre-State Relations)

- The Constitution of India divides all powers (Legislative, Executive and Financial) between the Centre and the states.
- The Centre-state relations can be studied under three heads:

1. Legislative relations.
2. Administrative relations.
3. Financial relations.

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LEGISLATIVE RELATIONS

- Articles 245 to 255 in Part XI of the Constitution deal with the legislative relations between the Centre and the states.
- There are four aspects in the Centre-states legislative relations:

1. Territorial extent of Central and state legislation;
2. Distribution of legislative subjects;
3. Parliamentary legislation in the state field;
4. Centre's control over state legislation.

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Distribution of Legislative Subjects

- The Constitution provides for a three-fold distribution of legislative subjects between the Centre and the states:

1. List-I (the Union List)
2. List-II (the State List)
3. List-III (the Concurrent List)

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- The Parliament has exclusive powers to make laws with respect to any of the matters enumerated in the Union List. (Defence, banking, foreign affairs, currency etc.,)
- The state legislature has "in normal circumstances" exclusive powers to make laws with respect to any of the matters enumerated in the State List. (Public order, police, public health and sanitation, agriculture, etc.,)
- Both, the Parliament and state legislature can make laws with respect to any of the matters enumerated in the Concurrent List. (Civil procedure, marriage and divorce, population control and family planning, electricity, labour welfare etc.,)

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Parliamentary Legislation in the State Field

- The Constitution empowers the Parliament to make laws on any matter enumerated in the State List under the following five extraordinary circumstances:

1. When Rajya Sabha Passes a Resolution : If the Rajya Sabha declares that it is necessary in the national interest that Parliament should make laws with respect to goods and services tax or a matter in the State List
2. During a National Emergency: The Parliament acquires the power to legislate with respect to goods and services tax or matters in the State List, while a proclamation of national emergency is in operation.

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3. When States Make a Request: When the legislatures of two or more states pass resolutions requesting the Parliament to enact laws on a matter in the State List.
4. To Implement International Agreements :The Parliament can make laws on any matter in the State List for implementing the international treaties, agreements or conventions.
5. During President's Rule: When the President's rule is imposed in a state, the Parliament becomes empowered to make laws with respect to any matter in the State List in relation to that state.

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Territorial Extent of Central and State Legislation

- The Parliament can make laws for the whole or any part of the territory of India.
- A state legislature can make laws for the whole or any part of the state. The laws made by a state legislature are not applicable outside the state.
- The Parliament alone can make 'extraterritorial legislation'. Thus, the laws of the Parliament are also applicable to the Indian citizens and their property in any part of the world.

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Centre's Control Over State Legislation

- The governor can reserve certain types of bills passed by the state legislature for the consideration of the President.
- Bills on certain matters enumerated in the State List can be introduced in the state legislature only with the previous sanction of the president. (For example, the bills imposing restrictions on the freedom of trade and commerce).
- The Centre can direct the states to reserve money bills and other financial bills passed by the state legislature for the President's consideration during a financial emergency.

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ADMINISTRATIVE RELATIONS

- Articles 256 to 263 in Part XI of the Constitution deal with the administrative relations between the Centre and the states.
- Distribution of Executive Powers

  The executive power of the Centre extends to the whole of India:

(i) To the matters on which the Parliament has exclusive power of legislation (i.e., the subjects enumerated in the Union List);

(ii) To the exercise of rights, authority and jurisdiction conferred on it by any treaty or agreement.

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- **Obligation of States and the Centre**

(a) The state has to ensure compliance with the laws made by the Parliament and any existing law which apply in the state

(b) The state should not impede or prejudice the exercise of executive power of the Centre in the state

- **Centre's Directions to the States**

The construction and maintenance of means of communication, protection of the railways within the state, protection of the railways within the state etc.,

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FINANCIAL RELATIONS

- Articles 268 to 293 in Part XII of the Constitution deal with Centre state financial relations.
- **Allocation of Taxing Powers**

The Parliament has exclusive power to levy taxes on subjects enumerated in the Union List and state legislature has exclusive power to levy taxes on subjects enumerated in the State List. There are no tax entries in the Concurrent List.

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- **Distribution of Tax Revenue**

✓ **Taxes Levied by the Centre but Collected and Appropriated by the States (Article 268) E.g. Stamp duties**

✓ **Taxes Levied and Collected by the Centre but Assigned to the States (Article 269)**

✓ **Levy and Collection of Goods and Services Tax in Course of Inter-State Trade or Commerce (Article 269-A) (E.g. GST)**

✓ **Taxes Levied and Collected by the Centre but Distributed between the Centre and the States (Article 270)**

✓ **Taxes Levied and Collected and Retained by the States . E.g. Agricultural income, taxes on lands and buildings etc.,**

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Grants-in-Aid to the States

- **There are two types of grants-in-aid: Statutory grants and Discretionary grants.**

Statutory Grants

Article 275 empowers the Parliament to make grants to the states which are in need of financial assistance and not to every state

Discretionary Grants

Article 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

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Finance Commission

- Article 280 provides for a Finance Commission to be constituted by President of India.
- The Finance Commission consists of a chairman and four other members.
- The commission submits its report to the president. He lays it before both the Houses of Parliament along with an explanatory memorandum as to the action taken on its recommendations.

Hingston Xavier, Assistant Professor, CCE IJK

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FUNCTIONS

1. The distribution of the net proceeds of taxes to be shared between the Centre and the states, and the allocation between the states of the respective shares of such proceeds.
2. The principles that should govern the grants-in-aid to the states by the Centre.
3. The measures needed to augment the consolidated fund of a state to supplement the resources of the panchayats and the municipalities in the state on the basis of the recommendations made by the state finance commission.
4. Any other matter referred to it by the president in the interests of sound finance.

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INTER-STATE COUNCIL

- Article 263 contemplates the establishment of an Inter-State Council for the effect coordination between the states and between Centre and states.
- Thus, the President can establish such a council.
- The Sarkaria Commission on Centre-State Relations (1983–88) made a strong case for the establishment of a permanent Inter-State Council under Article 263 of the Constitution.

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Functions

- Enquiring into and advising upon disputes which may arise between states.
- Investigating and discussing subjects in which the states or the Centre and the states have a common interest.
- Making recommendations upon any such subject, and particularly for the better co-ordination of policy and action on it.

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Emergency Provisions

- The Emergency provisions are contained from Articles 352 to 360.
- These provisions enable the Central government to meet any abnormal situation effectively and to safeguard the sovereignty, unity, integrity and security of the country, the democratic political system, and the Constitution.
- During an Emergency, the Central government becomes all powerful and the states go into the total control of the Centre.

Hingston Xavier, Assistant Professor, CCE IJK

The Constitution stipulates three types of emergencies

- An emergency due to war, external aggression or armed rebellion (Article 352). This is popularly known as 'National Emergency'. However, the Constitution employs the expression 'proclamation of emergency' to denote an emergency of this type.
- An Emergency due to the failure of the constitutional machinery in the states (Article 356). This is popularly known as 'President's Rule'. It is also known by two other names–'State Emergency' or 'constitutional Emergency'. However, the Constitution does not use the word 'emergency' for this situation.
- Financial Emergency due to a threat to the financial stability or credit of India (Article 360).

Hingston Xavier, Assistant Professor, CCE IJK

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Freedom of Trade Commerce and Inter course

- India had borrowed this provision from Section 92 of the Australian Constitution, it also made sure to include the provision that the free flow of goods is allowed not only between different States but also within a State as well.
- Article 301 of the Indian Constitution provides that the trade, commerce and intercourse in the country should be free throughout the country.
- This provision ensures removing the imposition of any restrictions which may be put up, it ensures the free flow of goods throughout the country.

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Comptroller and Auditor General of India (CAG)

- The Constitution of India (Article 148) provides for an independent office of the Comptroller and Auditor General of India (CAG).
- He is the head of the Indian Audit and Accounts Department.
- His duty is to uphold the Constitution of India and laws of Parliament in the field of financial administration.

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APPOINTMENT AND TERM

- The CAG is appointed by the president of India.
- He holds office for a period of six years or upto the age of 65 years, whichever is earlier.

DUTIES AND POWERS

- He audits the accounts related to all expenditure from the Consolidated Fund of India.
- He audits all trading, manufacturing, profit and loss accounts, balance sheets and other subsidiary accounts kept by any department of the Central Government and state governments.

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- He audits the receipts and expenditure of the Centre and each state.
- He audits the receipts and expenditure of All bodies and authorities substantially financed from the Central or state revenues.
- He audits the accounts of any other authority when requested by the President or Governor.
- He acts as a guide, friend and philosopher of the Public Accounts Committee of the Parliament.

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Public Services

- The public services (civil services or government services) in India are classified into three categories–

1. All-India services
2. Central services
3. State services

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All-India Services

All-India services are those services which are common to both Central and state governments. The members of these services occupy top positions (or key posts) under both the Centre and the states and serve them by turns.

At present, there are three all-India services.

1. Indian Administrative Service (IAS)
2. Indian Police Service (IPS)
3. Indian Forest Service (IFS)

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Central Services

- The personnel of Central services work under the exclusive jurisdiction of the Central government. They hold specialised (functional and technical) positions in various departments of the Central government.
- Services are classified into group A, group B, group C and group D

State Services

- The personnel of state services work under the exclusive jurisdiction of the state government. They hold different positions (general, functional and technical) in the departments of the state government.

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Union Public Service Commission

- The Union Public Service Commission (UPSC) is the central recruiting agency in India.
- Articles 315 to 323 in Constitution contain elaborate provisions regarding the composition, appointment and removal of members along with the independence, powers and functions of the UPSC.
- The UPSC consists of a chairman and other members appointed by the president of India. Usually, the Commission consists of nine to eleven members including the chairman.
- The chairman and members of the Commission hold office for a term of six years or until they attain the age of 65 years, whichever is earlier.

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FUNCTIONS

- It conducts examinations for appointments to the all-India services, Central services and public services of the centrally administered territories.
- It serves all or any of the needs of a state on the request of the state governor and with the approval of the president of India.
- All matters relating to methods of recruitment to civil service and for civil posts
- Any other matter related to personnel management.

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ADMINISTRATIVE TRIBUNALS

- Article 323 A empowers the Parliament to provide for the establishment of administrative tribunals for the adjudication of disputes relating to recruitment and conditions of service of persons appointed to public services of the Centre, the states, local bodies, public corporations and other public authorities.
- The 1985 act authorises the Central government to establish one Central administrative tribunal and the state administrative tribunals.

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Central Administrative Tribunal (CAT)

- The Central Administrative Tribunal (CAT) was set up in 1985 with the principal bench at Delhi and additional benches in different states.
- At present, it has 17 regular benches, 15 of which operate at the principal seats of high courts and the remaining two at Jaipur and Lucknow.
- The CAT is a multi-member body consisting of a chairman and members.
- The CAT exercises original jurisdiction in relation to recruitment and all service matters of public servants covered by it.

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State Administrative Tribunals

- The Administrative Tribunals Act of 1985 empowers the Central government to establish the State Administrative Tribunals (SATs) on specific request of the concerned state governments.
- SATs exercise original jurisdiction in relation to recruitment and all service matters of state government employees.
- The chairman and members of the SATs are appointed by the president after consultation with the governor of the state concerned.
- There is also an provision for setting up of joint administrative tribunal (JAT) for two or more states.

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Official Language

- Articles 343 to 351 of the Indian Constitution deals with the official language.
- The provision of official langauge are divided into four heads

1. Language of the Union
2. Regional languages
3. Language of the judiciary
4. Texts of laws and Special directives

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LANGUAGE OF THE UNION

- Hindi written in Devanagari script is to be the official language of the Union along with English.

REGIONAL LANGUAGES

- The legislature of a state may adopt any one or more of the languages in use in the state or Hindi as the official language of that state.
- Kerala – Malayalam

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LANGUAGE OF THE JUDICIARY AND TEXTS OF LAWS

- English language can only be used for all proceedings in the Supreme Court and in every high court.
- The governor of a state, with the previous consent of the president, can authorise the use of Hindi or any other official language of the state, in the proceedings in the high court of the state.
- State legislature can prescribe the use of any language (other than English) with respect to bills, acts, ordinances, orders, rules, regulations or bye-laws, but a translation of the same in the English language is to be published.

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Elections

- Articles 324 to 329 of the Indian Constitution explains the electoral system in our country.
- The Constitution (Article 324) provides for an independent Election Commission in order to ensure free and fair elections in the country.
- Election commission consists of a chief election commissioner and two election commissioners.
- There is to be only one general electoral roll for every territorial constituency for election to the Parliament and the state legislatures

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- No person is to be ineligible for inclusion in the electoral roll on grounds only of religion, race, caste, sex or any of them.
- Every person who is a citizen of India and who is 18 years of age, is entitled to vote at the election.
- Parliament may make provision with respect to all matters relating to elections to the Parliament and the state legislatures including the preparation of electoral rolls, the delimitation of constituencies and all other matters necessary for securing their due constitution.

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- Elections for the Lok Sabha and every state Legislative Assembly have to take place every five years, unless called earlier.
- An Electronic Voting Machine (EVM) is a simple electronic device used to record votes.

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Special Provisions Relating to Certain Classes

- In order to realise the objectives of equality and justice as laid down in the Preamble, the Constitution makes special provisions for the scheduled castes (SCs), the scheduled tribes (STs), the backward classes (BCs) and the Anglo-Indians.
- These special provisions are contained from Articles 330 to 342A of the Constitution.

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Special Provisions are related to the following:

1. Reservation in Legislatures
2. Special Representation in Legislatures
3. Reservation in Services and Posts
4. Educational Grants
5. Appointment of National Commissions
6. Appointment of Commissions of Investigation

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Amendment of the Constitution

- Article 368 of the Constitution deals with the powers of Parliament to amend the Constitution and its procedure.

The Constitution can be amended in three ways:

1. Amendment by simple majority of the Parliament
2. Amendment by special majority of the Parliament
3. Amendment by special majority of the Parliament and the ratification of half of the state legislatures.

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PROCEDURE FOR AMENDMENT

- An amendment of the Constitution can be initiated only by the introduction of a bill for the purpose in either House of Parliament and not in the state legislatures.
- The bill must be passed in each House by a special majority.
- After duly passed by both the Houses of Parliament and ratified by the state legislatures (where necessary)
- The president must give his assent to the bill.
- After the president's assent, the bill becomes an Act.

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