

Previous Year Papers –Solved Question Bank

Hard work will always beat intelligence, ONLY if intelligence doesn't work hard enough.

Q1. Fill in the Blanks

1. Permanent President of the Constituent Assembly Dr. Rajendra Prasad.
2. India became an independent country in the year 1947.
3. Constitution of India consists of 446 articles.
4. The Chapter III of Indian Constitution deals with Fundamental Rights.
5. The judges of the Supreme Court are appointed by President.
6. The President of India has the power to dissolve Lok Sabha.
7. Chief Minister is appointed by Governor.
8. *Dr. Ambedkar was the chairman of the Drafting committee.
9. Prime Minister is appointed by the President.
10. Governor is appointed by the President.
11. The Judges of the Supreme Court retire at the age of 65.
12. *President is the First Citizen of India.
13. Governor nominates 1/6 members to the legislative Council.
14. Dr. Rajendra Prasad was the Chairman of the Rules of Procedure Committee and Steering committee.
15. At present total number of fundamental rights are 6.
16. Legislature of the India is called as Bi-cameral.
17. The term of the members of the legislative council is 6 years.
18. Dr. Rajendra Prasad was the permanent President of the Constituent Assembly of India.
19. The Chapter IV of the Indian Constitution deals with Directive Principles of State Policy.
20. President nominates 2 members to the Lok Sabha.
21. The judges of the Supreme Court retire at the age of 65.
22. The term of Rajyasabha is 6 years.

Q2. State the following statements are true or false

1. Dr. Rajendra Prasad was the permanent Chairman of the Constituent Assembly - T
2. India became an independent country on August 15th 1947 - T
3. The President appoints the judges of the Supreme Court - T
4. The Indian Constitution contains 410 Articles – F (446)
5. Fundamental rights are inserted in Chapter III of the Indian Constitution - T
6. The Governor is appointed by the President - T
7. Right to Information Act came into force in 2005.
8. Indian Constitution is a written constitution - T
9. The President appoints the Judges of the Supreme Court - T
10. The Indian Constitution provides dual citizenship –F (single)
11. India is not a democratic country – False (India is a democratic country).
12. Karnataka State legislature is a unicameral legislature – False (bicameral).
13. India is a sovereign State - T.
14. Indian Parliament is a Unicameral legislature - F (bicameral).
15. Right to Information Act came into effect in the year 2006
16. The term of the Central Information commission is 6 years.
17. Indian Constitution is an Federal Government – F (quasi-federal).
18. India became an independent country on January 26th 1950 – F (1947).
19. Indian Constitution is an unwritten constitution – F (written)
20. The Judges of the Supreme Court retire at the age of 65 - T

21. The Prime Minister is appointed by the President - T
22. Indian constitution provides single citizenship - T
23. Indian Constitution is a written Constitution - T
24. India is a republican state - T
25. Governor appoints the Judges of the High Court – F (President)
26. Right to Information Act came into effect in the year 2006.
27. Indian Constitution is a Unitary Government- F (Federal Govt with a Unitary bias)

Q3. Answer in two to three sentences

1. **What is Constitution?

- ✓ A1. The term 'constitution is derived from the Latin work 'constituera' which means 'to establish', 'to organise', 'to form', or 'to compose'.
- ✓ The Constitution of India is the **Supreme law of India**. It lays down the framework defining fundamental political principles, establishes the structure, procedures, powers, and duties of government institutions, and sets out fundamental rights, directive principles, and the duties of citizens.
- ✓ In the words of **Dr. K. C. Wheare**, "The constitution is a collection of legal rules, which govern the Governments of the country and which has been embodied in a document".
- ✓ In the words of **Woolsey**, "Constitution is a the collection of principles, according to which the powers of the Government and the rights of the governed, and the relationship between the two are adjusted".

2. **What is Republic?

- ✓ A2. A democratic polity can be classified into two categories – monarchy and republic. In a monarchy, the head of the state (usually King or queen) enjoys a hereditary position, that is, he comes into office through succession, eg, Britain.
- ✓ In a republic, on the other hand, the head of the state is always elected directly or indirectly for a fixed period, eg, USA
- ✓ Therefore the term 'republic' in our Preamble indicated that India has an elected head called the president. He is elected indirectly for a fixed period of five years.
- ✓ A republic also means two more things: one, vesting of political sovereignty in the people and not in single individual like a king; second, the absence of any privileged class and hence all public offices being opened to every citizen without any discrimination.

3. **What are the qualifications prescribed to become the member of Lok Sabha?

- ✓ A3. The Constitution lays down the following qualification for a person to be chosen a member of the Parliament:
- ✓ He must be a citizen of India.
- ✓ He must be not less than 25 years of age.
- ✓ He must possess other qualifications as prescribed by the Parliament from time to time.
- ✓ He must make and subscribe to an oath or affirmation before the person authorized by the election commission for this purpose. In his oath or affirmation, he swears
 - To bear true faith and allegiance to the Constitution of India.
 - To uphold the sovereignty and integrity of India.
- ✓ The Parliament laid down the following additional qualification in the Representation of People Act 1951
 - He must be registered as an elector for a parliamentary constituency.
 - He must be a member of scheduled caste or scheduled tribe in any state or union territory if he wants to contest for a seat reserved for them. However a member of

scheduled caste or scheduled tribe can also contest for a seat not reserved for them.

4. What is Executive?

- ✓ A4. The Executive is the branch of Government accountable for implementation of laws and policies legislated by the legislature. The organ of the government that primarily looks after the functions of implementation and administration is known **the Executive**.
- ✓ As per the constitution, the President of India is the head of the Indian republic state having enormous executive, legislative, and judicial powers. But in reality these powers are exercised by the Union Cabinet as the President has to exercise his powers in accordance to the advice of the cabinet.
- ✓ **Executive** - As the president is the formal head of the administration, all executive powers of the union are vested in him, and all executive actions of the Government are carried on in his name. The supreme command of Defence Forces are vested in his hands. The President appoints the Prime Minister and on the advice of the PM appoints the other ministers of the Union Cabinet. All the ministers hold office during the pleasure of the President.
- ✓ **Legislative** - The President of India is the integral part of the Union Parliament, he summons, prorogues the sessions of the parliament and may dissolve the lower house. He address members of the houses together at the beginning of the first session of each year after general election. He summons the joint setting of both houses in case of disagreement between them on a bill and money bill can be introduced and processed only with the Presidents sanction.
- ✓ **Judicial** – The President appoints the Chief Justice and the other judges of the supreme courts as well as the High courts. He promulgates ordinances when the Parliament is not in session. He has financial powers in signing budgets and recommending the finance commission.
- ✓ Thus as per Constitution, the position of the President is one of the highest honors and dignity, but in reality President of India is only the nominal executive and the real executive is the Union cabinet created out of the council of ministers headed by the Prime Minister.

5. **What is judicial review?

- ✓ A5. Judicial review means the power of the highest court of the country to examine the constitutionality (validity/legality) of the acts passed by the legislatures or the order passed by the executive of the Government and to declare them null and void, if they are not in accordance to with the constitution of the country.
- ✓ The highest court (Supreme Court) has the power to reject any Act of legislature or executive orders which it finds to be unconstitutional or against the provisions of the constitution.
- ✓ Judicial review is needed for the following reasons:
 - To protect fundamental rights of the citizens.
 - To uphold the principle of supremacy of constitution.
 - To maintain federal equilibrium (balance between center and state).
- ✓ The constitutional validity of a legislative enactment can be challenged in the SC on the following 3 grounds.
 - It infringes/violates fundamental rights.
 - It is outside the competence of the authority which has framed it (They are not in accordance with the lists mentioned in the seventh schedule which demarcate Jurisdiction of the parliament and state legislature.
 - It is repugnant/opposing the constitutional provisions.

6. What is judicial independence?

- ✓ The Supreme Court has been assigned a significant role in the Indian Democratic political system. It is a federal court, the highest court of appeal, the guarantor of fundamental rights of the citizen and the guardian of the Constitution.
- ✓ Therefore, its independence becomes very essential for the effective discharge of the duties assigned to it. It should be free from encroachments, pressure and interference of the Executive (council of ministers) and the Legislature (Parliament). It should be allowed to do justice without fear or favor.
- ✓ To safeguard judicial independence the provisions made by the constitution are:
 - The **mode of appointment** of the judges of SC is through the President in consultation with the members of the judiciary itself. This provision curtails the absolute discretion of the executive as well as this ensures that the judicial appointments are not based on any political or practical considerations.
 - The judges of the Supreme Court are provided with **Security of Tenure**, ie, they can be removed from office by the President only and in the manner and on the grounds mentioned in the Constitution. This means the judges do not hold their office during the pleasure of the President.
 - The **conditions of service are fixed**, ie, salaries, allowances, privileges and pensions of the judges of SC are determined from time to time by the Parliament and cannot be changed to their disadvantage after their appointment except during a financial emergency.
 - The **salaries and allowances are charged on the Consolidated fund** thus they are non-votable in the parliament.
 - The **constitution prohibits discussion of conduct of judges** in the Parliament or the State legislature except when an impeachment motion is under consideration.
 - The **Supreme Court can punish any person for its contempt**. Thus, its actions and decision cannot be criticized or opposed by anybody.
 - The **Chief Justice of India can appoint officers to the Supreme Court** without any interference from the executive.
 - **The Parliament is not authorized to curtail the jurisdiction and powers of the Supreme Court.**
 - **The Constitution directs the State to take steps to separate the Judiciary from the Executive in the public services.**

7. *What is democracy?

- ✓ A7. India is world's largest democratic country. Democracy was ushered in India when the constitution of India was framed on 26th January 1950.
- ✓ U.S. President Abraham Lincoln defined democracy as "Government of the people, by the people and for the people"
- ✓ Democracy is a form of government, where a constitution guarantees basic personal and political rights, fair and free elections, and independent courts of law. The term Democratic used in the preamble of our constitution signifies that the Government gets authority from the will of people. That is the rulers are elected by the people and are responsible to the people and the real power to determine all issues of public policy lies with the people.
- ✓ In India, there is indirect democracy, where the representatives of the people exercise the legal power and the political sovereignty, and the electorate (ie the people) choose their representatives who carry on the Government. It is for this reason that Indian democracy is known as representative-responsible democracy.

- ✓ In the broadest sense, the term 'democracy' used in our constitution not only embraces political democracy, but also social and economic democracy.

8. *What is fundamental rights?/ Mention the fundamental rights of Indian Citizens?

Fundamental Rights of Indian Citizens:

1. Right to Equality (Article 14-18)
 - a. Equality before law and equal protection of laws (Article 14)
 - b. Prohibition of discrimination on the grounds of religion, race, caste, sex or place of birth (Article 15)
 - c. Equality of opportunity in matter of public employment (Article 16)
 - d. Abolition of untouchability and prohibition of its practice (Article 17)
 - e. Abolition of titles except military and academic (Article 18)
2. Right To Freedom (Article 19-22)
 - a. Protection of six rights regarding freedom of: (i)speech and expression, (ii) assembly, (iii) association, (iv) movement (v)residence and, (v)profession.(Article 19)
 - b. Protection in respect of conviction for offences (Article 20)
 - c. Protection of life and personal liberty (Article 21)
 - d. Right to elementary education (Article 21A)
 - e. Protection against arrest and detention in certain cases (Article 22)
3. Right against exploitation(Article 23-24)
 - a. Prohibition of traffic in human beings and forced labour (Article 23)
 - b. Prohibition of employment in children in factories etc (Article 24)
4. Right to Freedom of religion (Article 25-28)
 - a. Freedom of conscience & free profession, practice & propagation of religion (Article 25)
 - b. Freedom to manage religious affairs (Article 26)
 - c. Freedom from payment of taxes for promotion of any religion (Article 27)
 - d. Freedom from attending any religion instruction or worship in certain educational institutions (Article 28)
5. Cultural and Educational rights (Article 29-30)
 - a. Protection of language, script, and culture of minorities (Article 29)
 - b. Right of minorities to establish and administer educational institutions (Article 30)
6. Right to constitutional remedies (Article 32)
 - a. Right to move to the Supreme Court for the enforcement of fundamental rights including the writs of (i)habeas corpus,(ii)mandamus, (iii)prohibition, (iv)certiorari, and (v)quo warranto (Article 32)

9. *What is preamble?

- ✓ A9. The term 'preamble' refers to introduction or preface to the Constitution of India. It is a brief introductory statement that sets out the guiding purpose, principles and philosophy of the constitution.
- ✓ The preamble to the Indian constitution is based on the objective resolutions passed and moved on 22nd January 1948 by Pandit Nehru and adopted by the constituent assembly. It has been amended by the 42nd constitutional Amendment Act 1976 which added three new words socialist, secular, and integrity.
- ✓ **The four components of the preamble are:**
 - **Source of Authority of the Constitution** – The preamble states that the constitution derives its authority from the people of India.

- **Nature of India States** - It declare India to be of a sovereign, socialist, secular, democratic and republican polity. India has a system of government in which every citizen has a direct access to the source authority.
- **Objectives of the Constitution** – It specifies Justice, liberty, equality, and fraternity as the objectives/pillars of the constitution.
- **Date of adoption of the constitution** – It stipulates November 26th, 1949 as the date of enactment of the constitution by the constituent assembly.

10. What is secular state?

- ✓ A10. Secularism is the most important philosophical principles underlying our constitution. However, the word the secular did not occur in the original constitution, it was inserted in the Preamble by the 42nd constitutional Amendment act of 1976.
- ✓ The basic idea of secularism as embodied in our constitution is as follows:
 - India adopts secularism by guaranteeing equal freedom to all religions. It stands for the right to freedom of all religions of all citizens. The state does not take the responsibility for the religious or spiritual welfare of its citizens.
 - Negatively, India is a secular state means that it does not recognize any religion as the state religion. Every citizen of India is free to practice the religion of his or her choice.
 - All the citizens irrespective of their religious belief are equal in the eyes of law. Civil and Political rights are guaranteed to all Indian citizens irrespective of their religious beliefs, customs, caste, and community.
 - A secular state does not mean a godless state or a anti-religion sates. Religion has a greater role to play in the lives of the citizens of India but the state does not interfere with them. A secular states deals only with relation between man and man and not between mans behavior with God.
 - The three important ingredients of secularism as embodied in our constitution:
 - Rejection of theocracy (pro-religion)
 - Full freedom of religious faith and worship.
 - Equality of all citizens irrespective of their faith and worship of any religion.

11. What is sovereign?

- ✓ A.11 The preamble proclaims that India is a sovereign state India. It means that India in no longer a constitution by the colony of the British crown. With the adoption of the constituent assembly, India emerged as a fully sovereign independent state.
- ✓ India is internally and externally sovereign – **externally free from the control of any foreign power and internally, it has a free government which is directly elected by the people** and makes laws that govern the people. No external power can dictate the government of India. It means that India as a nation does not own allegiance to any foreign power. It is independent in her dealings with foreign countries and enjoys the equal status in the world community with other independent states.
- ✓ Though in 1949, 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. Further, India's membership of the United Nations Organization (UNO) also in no way constitutes a limitation on her sovereignty.

12. What is meant by collective responsibility?

- ✓ A.12 The fundamental principle underlying the working of the Parliamentary system of government in India is the **principle of collective responsibility**.
 - **Article No. 75** clearly states that the Council of Ministers shall be collectively responsible to the Lok Sabha.
 - This **means that the ministers own joint responsibility** to Lok Sabha for all their acts of omission and commission. They work as a team. They swim or sink together.
 - When the Lok Sabha **passes a no-confidence motion** against the COM, all the ministers have to **resign** including those who are from Rajya Sabha. Alternatively the COM can advise the president to dissolve the LS on the grounds that the House does not represent the electorate faithfully and call for fresh elections
 - The principle of collective responsibility **also means that the Cabinet decisions bind all cabinet ministers** and other ministers even if they differed (had different opinions) in the cabinet meeting. It is the duty of the every minister to stand by the cabinet decision and support them both within and outside the Parliament.
 - If any **minister disagrees with a cabinet decision** and is not prepared to defend it, he must resign.
 - Several ministers have resigned in the past owing to their differences with the cabinet. For example, Dr. B. R. Ambedkar resigned because of his differences with his colleagues on the Hindu Code Bill in 1953. CD Deshmukh resigned due his differences on the policy of reorganization of states. Arif Mohammed resigned due to his opposition to the Muslim Women (Protection of Rights on Divorce) Act, 1986.

13. What is Zero Hour?

- ✓ A13. The time immediately following the Question Hour has come to be known as “Zero Hour”. It starts at around 12 noon (hence the name) and the members can, with prior notice to the Speaker, raise issues of importance during this time. Typically, discussion on important Bills, the Budget, and other issues of national importance take place from 2 pm onwards.
- ✓ Question Hour is the first hour of a sitting session of the Lok Sabha devoted to questions that Members of Parliament raise about any aspect of administrative activity. The concerned Minister is obliged to answer to the Parliament, either orally or in writing, depending on the type of question raised.
- ✓ Usually question hour is held daily, ie, during the sitting of the parliament followed by the zero hour and then finally agenda of the day is taken up. The time gap between the question hour and agenda is known as zero hour. It is an Indian innovation in the field of Parliamentary procedures and has been in existence since 1962,

14. Who elects the Speaker of the Lok Sabha?

- ✓ A14. Each house of Parliament has its own presiding officer. There is a Speaker and Deputy speaker for the Lok Sabha.
- ✓ The Speaker is nominated by the Lok Sabha from among its members as soon as possible, after its first sitting.
- ✓ Whenever the office of the speaker falls vacant, the Lok Sabha elects (nominates) another member to fill the vacancy. The date of election of the Speaker is fixed by the President.
- ✓ Usually, The speaker remains in office during the life of the Lok Sabha. However, he has to vacate his office earlier in any of the following three cases:
 - If he ceases to be a member of Lok Sabha;
 - If he resigns by writing to the Deputy Speaker and

- If he is removed by a resolution passed by majority of all the members of the Lok Sabha. This resolution can be moved only after giving 14 days advance notice
- ✓ When a resolution for removal of Speaker is under consideration of the house, he cannot preside at the sitting of the House, though he may be present. However, he can speak and take part in the proceedings of the House at such a time and vote in the first instance, though not in the case of an equality of votes.
- ✓ Whenever, the Lok Sabha is dissolved, the Speaker does not vacate his office and continues till the newly-elected Lok Sabha meets.

15. What is “non-confidence motion”?

- ✓ No confidence motion is one of the motions passed by the legislature. This only operates in the Parliamentary form of government where the executive is part of the legislature and is directly accountable to them.
- ✓ Article 75 of the Constitution states that the Council of ministers shall be collectively responsible to the Lok Sabha. It means that the ministry stays in office so long as it enjoys the confidence of the majority of members of the Lok Sabha.
- ✓ In other words, the Lok Sabha can remove the ministry from office by passing a non-confidence motion. This motion needs the support of 50 members to be admitted.
- ✓ **A motion of non-confidence is a statement or a vote** that a person or persons in the position of responsibility (government) is/are no longer deemed fit to hold that position:
 1. Perhaps because they are inadequate in some respect.
 2. Are failing to carry out obligations or
 3. Are making decisions that other members feel are detrimental.
- ✓ As a parliamentary motion, it demonstrates to the head of the state that the elected parliament no longer has confidence in (one or more members of) the appointed government.
- ✓ If Lok Sabha expresses a lack of confidence, the Council of Ministers are bound to compulsory resignation whether or not the Prime Minister recommends dissolution.

16. Mention the qualifications necessary to become a Judge of the Supreme Court.

- ✓ A16. A person to be appointed as a Judge of the Supreme Court should have the following qualifications:
 - a. He should be a citizen of India.
 - b. He should have been a judge of a High court (or High courts in succession) for 5 Years
 - c. Or He should have been an advocate of a High Court (or High courts in succession) for at least 10 years.
 - d. He must be in the opinion of the President a distinguished Jurist (a person who has excellent knowledge of the constitution and interprets law correctly)
 - e. The constitution has not prescribed a minimum age for appointment and has not mentioned the tenure of a judge of the Supreme court. He holds office until he attains 65 years of age.

17. What are the qualifications to become the President of India.

- ✓ A17. As per Article 58, a person to be eligible for election as President should fulfill the following qualifications:
 - He should be a citizen of India.
 - He should have completed 35 years of age.
 - He should be qualified for election as a member of the Lok Sabha.

- He should not hold any office of profit under Union Government, State Government, or any local authority or any other public authority.
- He should not be a proclaimed offender.
- A sitting President, Vice President of the Union, and Governor of the State, a Senior Minister of the Union are not deemed to hold any office of Profit, hence they are qualified as a Presidential candidate.
- Nomination of a candidate for election to the office of the President must be proposed by 50 electors and seconded by another 50 electors
- Every President Candidate has to make a security deposit of Rs. 15000/- which is liable to be forfeited in case the candidate fails to secure one-sixth of the votes polled.
- ✓ The President is elected indirectly by members of the Electoral College.
 - The Electoral College consists of:
 - Elected members of both Houses of Parliament (Rajya Sabha and Lok Sabha)
 - The Elected members of the Legislative Assembly of the States.
 - The Elected members of the Legislative Assembly of Union Territories of Delhi and Puducherry.

18. What is parliamentary form of Government?

- ✓ A18. The constitution of India has opted for the British parliamentary System of Government rather than the American Presidential System of Government.
- ✓ The parliamentary system is based on the principle of cooperation and coordination between the legislative and the executive organs. The responsibility of the real executive to the legislature (lower house) is the essence of the Parliamentary system of the government.
- ✓ The parliamentary system is also known as the 'Westminster' model of government. Westminster is a place in London where their Parliament is located.
- ✓ The Constitution establishes the parliamentary system not only at the Center but also in the states. The features of the parliamentary government in India are:
 - Presence of nominal and real executives.
 - Majority party rule.
 - Collective responsibility of the executive to the legislature.
 - Membership of the ministers in the legislature.
 - Leadership of the prime minister or the chief minister
 - Dissolution of the lower house (Lok Sabha or Assembly)
- ✓ Even though the Indian Parliamentary System is largely based on the British pattern, there are some fundamental differences between the two. For example, the Indian Parliament is not a sovereign body like the British Parliament. Further the Indian state has an elected head (republic) while the British State has hereditary head (monarchy).
- ✓ In a parliamentary system, whether in India or Britain, the role of the Prime Minister has become so significant and crucial that the Political Scientist like to call it the 'Prime Ministerial Government'

19. Mention fundamental duties of Indian Citizens.

- ✓ A19. Part IVA with Article 51A lays down a code of fundamental duties of the citizens, which was added by the 42nd Amendment Act 1976. The main purpose was to place before the citizens of our country a code of conduct, which they are expected to follow in their actions and conduct.
 - ❖ To abide by the constitution and respect its ideals and institutions. The National Flag and the National Anthem.
 - ❖ To Cherish and follow the noble ideals which inspired our national struggle for freedom.

- ❖ To uphold and protect the sovereignty, unity and integrity of India.
- ❖ To defend the country and render national service when called upon to do so.
- ❖ To promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women.
- ❖ To value honor and preserve our rich heritage of our composite culture.
- ❖ To protect and improve the natural environments including forests, lakes, rivers, and wildlife.
- ❖ To develop a scientific temper, humanism and the spirit of inquiry and reform.
- ❖ To safeguard public property and avoid violence.
- ❖ To serve towards excellence in all sphere of individual and collective activity.
- ❖ 86th Constitution amendment act 2002– The parent or the guardian to provide opportunities for the education of his child between the age of 6 to 14 years

20. What is judiciary? (The answer will be same as independent judiciary but introduction will be different)

- ✓ A21. The constitution of India has provided for an integrated single judicial system. The Supreme Court of India at the apex is the highest judicial authority. The High courts at the state level, are in the middle of the judicial system, and are subordinate to the supreme courts. The subordinate courts at the district level are at the bottom of the judicial system and are supervised by the High Courts. Thus the judicial system of India is fully integrated and well-organized.
- ✓ An independent and impartial judiciary is indispensable for a civilized nation. A independent judicial is needed because:-
 - The Judiciary is the guardian of fundament rights of the citizens.
 - The Judiciary interprets the constitution in case of disputes or confusion.
 - The Judiciary solves the disputes between the union and the sates and Government and between the state Governments.
- ✓ The Judiciary of India is free from the control of both legislature and the executive. To safeguard judicial independence the provisions made by the constitution are:
 - The **mode of appointment** of the judges of SC is through the President in consultation with the members of the judiciary itself. This provision curtails the absolute discretion of the executive as well as this ensures that the judicial appointments are not based on any political or practical considerations.
 - The judges of the Supreme Court are provided with **Security of Tenure**, ie, they can be removed from office by the President only and in the manner and on the grounds mentioned in the Constitution. This means the judges do not hold their office during the pleasure of the President.
 - The **conditions of service are fixed**, ie, salaries, allowances, privileges and pensions of the judges of SC are determined from time to time by the Parliament and cannot be changed to their disadvantage after their appointment except during a financial emergency.
 - The **salaries and allowances are charged on the Consolidated fund** thus they are non-votable in the parliament.
 - The **constitution prohibits discussion of conduct of judges** in the Parliament or the State legislature except when an impeachment motion is under consideration.
 - The **Supreme Court can punish any person for its contempt**. Thus, its actions and decision cannot be criticized or opposed by anybody.

- The Chief Justice of India can appoint officers to the Supreme Court without any interference from the executive.
- The Parliament is not authorized to curtail the jurisdiction and powers of the Supreme Court.
- The Constitution directs the State to take steps to separate the Judiciary from the Executive in the public services.

Q21. What is Mandamus?

A21. WRIT OF MANDAMUS

- ✓ Means “we command” in latin.
- ✓ Issued by a Superior court to compel a lower court or a government officer to perform mandatory or purely ministerial duties correctly.
- ✓ An order from a superior court to any government, subordinate court, corporation or public authority to do or restrain from doing some specific act that the body is obliged under law to do or refrain from doing as the case may be, and which is in the nature of public duty and in certain cases of a statutory duty.

CONDITIONS FOR ISSUE OF MANDAMUS

- ✓ The applicant must have a legal right to the performance of a legal duty
- ✓ The legal duty must be of a public nature.
- ✓ The right sought to be enforced must be subsisting on the day of the petition
- ✓ Ultimate purpose is to compel the performance of public duties prescribed by statute by public authority.

Q.22. Why federal system of government established in India.

A.22 Governments are classified into Unitary and Federal based on the distribution of powers between the national /center and regional government..

In a Federal set up– Powers are divided between center and state there is a two-tier government with well assigned powers and functions. IN this system the central and the state governments of the region act within a well defined sphere, coordinate and at the same time act independently. The federal polity, provides a constitutional device for bringing unity in diversity and for the achievement of common national goals. Hence India was made a federal system of government.

Federal Features

- A. Division of powers between Union (center) and states.
- B. Supremacy of the constitution.
- C. Independent Judiciary with the power to decide (center – states) disputes

In spite the fact that Indian constitution establishes a federal structure, it is very different from a true federation. The framers have incorporated certain Union features in it– The constitution has federal features but called India, a Union of States , which implies it is not a result of an agreement among the states and have no freedom to separate from the Union. There is Power concentration in the central government with weak state government.

The Unitary Features of the India :

- A. Governor is appointed by the Center, which enables the Union to exercise control over the State Administration.
- B. Unequal representation in the upper houses. The equality of units in a federation is best guaranteed by the equal representation in both houses. But in India we have unequal representation

- C. All important appointments or organization heads like Chief Election Commissioner, Comptroller and Auditor General of India are done by the Union.
- D. Single citizenship- There is no provision of separate constitution for the states. The states cannot propose amendments to the Constitution.
- E. IN order to ensure uniformity of administrative system and to maintain minimum common standards without impairing the federal system, All India Services such as IAS and IPS have been created and kept under the supervision of the Union.
- F. During financial emergency, the centre exercises full control over the States finances. IN all three types of emergencies, the center is empowered to exercise full control over the state machinery.
- G. Unified /Integrated Judiciary System – Contrary to the federal principle which has a dual system of courts, India has unified Judiciary with the Supreme Court at the apex.

K. C. Where has described the Indian government as 'quasi-federal'. India has also been characterized as 'a federal state with unitary spirit.'

Q.23. What is Legislature?

- ✓ A.23 A legislature is a deliberative assembly with the authority to make laws for a political entity such as a country or a city. Legislatures form important part of governments. They are often contrasted with the executive and Judicial branches of the government.
- ✓ Laws enacted by the legislatures are known as legislation. Legislatures observe and steer governing action and usual have exclusive authority to amend the budget or budgets involved in the process.
- ✓ The members of a legislature are called legislators. In a democracy, the legislators are almost always elected.

Q.24. What does the word Cabinet mean?

- ✓ A.24. The words Cabinet and Council of Ministers are used interchangeably though there is a definite distinction in them they differ in respect of composition, functions and role.
- ✓ Ramsay Muir “The Cabinet is the steering wheel of the ship of the state”
- ✓ Bagehot “The Cabinet is the hyphen that joins the buckle that binds the executive and legislative departments together”
- ✓ The council of Ministers consists of three categories of Ministers.
 - Ministers of cabinet rank, ie, Cabinet Ministers.
 - State Ministers
 - Deputy Ministers
- ✓ Cabinet Ministers are the senior most Ministers to head a department with portfolio. The Cabinet is the smaller body of the Council of Ministers.
- ✓ State ministers can either be given independent charge of ministries/departments or can be attached to cabinet ministers, in both cases they work under the council and guidance of the Cabinet of Ministers.
- ✓ Next In rank are the Deputy ministers. They are attached to the cabinet ministers or state ministers and assist them in their administrative, political and parliamentary duties. They also do not attend cabinet meetings as they are not members of the cabinet.
- ✓ There is one more last category of Council of ministers called the Parliamentary secretaries. They have no department under their control. They are attached to the senior ministers and assist them in the discharge of their parliamentary duties.

Q.25.Explain the role of opposition party in the legislature?

- ✓ A25. In each House of Parliament, there is a 'Leader of the opposition' party having not less than one-tenth seats of the total strength of the house and is recognized as the leader of the Opposition in that House.
- ✓ His main functions are **to provide a constructive criticism of the policies** of the government and to provide an alternative government. Therefore, the leader of opposition in the Lok Sabha and Rajya Sabha were accorded statutory recognition in 1977.
- ✓ Ideally, a constructive opposition would emphasize more on discussion, ask more questions, resolution of problems being faced, help in the amendments and passage of important bills. Also unite with the ruling government on issues of national interest.
- ✓ His function also include **to act as a kind of check on the dictatorship** or insensitivity to the masses
- ✓ A unique institution called the 'Shadow Cabinet' is formed by the Opposition party to balance the ruling cabinet and to prepare its members for the future ministerial offices. This Shadow Cabinet serves as a '**alternate cabinet**' if there is a change of government.
- ✓ The offices of the Leader of the Opposition is mentioned in the 'Rules of the House and parliamentary Statute'. The office of 'Whip' is based on the conventions of the parliamentary government.
- ✓ Every political party whether ruling or Opposition has its own whip in the Parliament. He is appointed by the **political party to serve as an assistant floor leader**.
- ✓ He is **charged with the responsibility of ensuring the attendance of his party members** in large numbers and security **support in favour of or against a particular issue**.
- ✓ He **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.

Q.26. What is budget?

The constitution refers to budget as the annual financial statement. In other words, the term budget has nowhere been used in the Constitution. It is the popular name of the annual fiscal statement that has been dealt with in Article 112 of the Constitution.

The budget is a statement of the estimated receipts and expenditure of the Government of India in a financial years which begins on 1 April and ends on 31 march of the following 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 the reasons for any deficit or surplus in that year and
5. Economic and financial proposals, prospects of revenue, spending programme and introduction of new schemes/projects.

The Government of India has two budget, the Railway Budget and the General Budget. While the former consists of the estimates of receipts and expenditure of only Ministry of Railways, and the latter consists of the estimates of receipts and expenditure of all the ministries of the Government of India except the railways.

Q.27 What are the qualifications to become the Prime Minister of India?

A27. To be eligible to become a Prime Minister, a person needs to :

- ✓ He should be a citizen India.
- ✓ Be a member of Lok Sabha or the Rajya Sabha, completed 25 years of age if member of Lok Sabha and 30 years of Age if Rajya Sabha.

- ✓ He should not hold any office of profit under Union Government, State Government, or any local authority or any other public authority.
- ✓ Should possess such other qualifications which are prescribed by the parliament from time to time.

Selection Process:

- ✓ The constitution states that the President of India should appoint the leader of the party or alliance which is in majority in Lok Sabha as the Prime Minister of India.
- ✓ In case, no party or alliance enjoys majority, the President appoints the leader of the of the largest party as the Prime Minister. But he has to win the confident vote in the Lower House of the Parliament as early as possible..
- ✓ A member of either Lok Sabha or Rajya Sabha can be appointed as Prime Minister if he is not a member of either House of Parliament then he has to be elected to either House within 6 months of his appointment. As the Prime Minister, he is the leader of the House of which he is a member.

Q.28 Mention the salary and privileges of President?

- ✓ A28. Article 59 The salary and privileges of President are as follows:
- ✓ In 2008, the Parliament increased the salary of the President from Rs. 50000 to 1.50 lakhs per month and the pension to 50% of his salary per month.(His salary cannot be reduced during his term of office).
- ✓ The President is entitled to furnished residence in New Delhi which is known as the Rashtrapati Bhavan which consisting of more than 300 rooms with full security, both used for office and Residence.
- ✓ He is also entitled to phone facilities, car, medical treatment , travel facility, secretarial staff and office expenses upto Rs. 60000 per annum.
- ✓ The spouse of the President is entitled to 50% of the pension of the President with furnished residence, phone facility, car, medical treatment , travel facility, secretarial staff and office expenses upto Rs. 12000 per annum.
- ✓ When any person ,ie, VP, CJI, or Senior most Judge of the SC is acting as the President or discharging the functions of the President, he enjoys all the powers and immunities of the President and is entitled to all such emoluments, allowances and privileges as are determined by the parliament from time to time.

Immunities

- ✓ The President enjoys personal immunity from legal liability for his official acts.
- ✓ During his term of office, he is immune from any criminal proceedings even in respect of his personal acts.

He cannot be arrested or imprisoned. However, after giving two months notice, civil proceedings can be instituted against him during his term of office in respect of his personal acts.

Q.29. Mention the qualification to become Chief Minister.

A29. The Qualifications to become CM:

- ✓ He should be a citizen of India.
- ✓ He should have completed 25 years of age.
- ✓ He should be a member of the State Legislature, if he is not an MLA he can be considered as CM provided he get himself elected to the State Legislature within 6 months from the date of appointment. Failing which he would cease to be the CM.

Selection Process:

- ✓ The Governor appoints the leader of the largest political party that gets a majority stake as a CM.
- ✓ Wherein no political party secures majority the Governor can choose two practices:

- ✓ The Governor can ask the leader of the single largest to form the government. If the party refuses to do so, the Governor can then approach other parties in order of precedence. The responsibility then shifts to the party MLAs to propose the name of the CM of the state.. As a next step, a vote of confidence is conducted in the legislative assembly. The CM is elected through a majority vote. Governor appoints and swears in the Chief Minister.

Q.30 What are main functions of the Vice President.

A.30 Functions of the Vice President:

- ✓ He acts as the ex-officio Chairman of RajyaSabha. In this capacity, his powers and functions are similar to those of the Speaker of LokSabha.
- ✓ He acts as President when a vacancy occurs in the office of the President due to his resignation, removal death or otherwise.
 - a. He can act as President for a maximum period of 6 months within which a new President has to be elected.
 - b. 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.
 - c. While acting as President or discharging the functions of the President, the VP does not perform the duties of the office of the chairman of RajyaSabha. During this period, those duties are performed by the Deputy Chairman of RajyaSabha.

Q.31 Explain the right to vote?

- ✓ Article 326 of the Constitution of India provides universal adult suffrage – right to vote to every citizen of India..
- ✓ The elections to the House of people and to the Legislative Assemblies of the States to be on the basis of adult suffrage.
- ✓ That is to say, every person who is a citizen of India and who is not less than 18. Anybody who has completed 18 years of age is eligible to vote in general elections. This is one of the most revolutionary aspects of Indian democracy.
- ✓ A system where adults are entitled to become voters except the disqualified on the grounds of non-residence, unsoundness of mind, crime or corrupt or illegal practice.
- ✓ Its arms all sections of people with a right to safeguard their liberties and have equal access to political power.
- ✓ Indian Constitution has abolished the old system of communal representation introduced by the British in 1909 and introduced Universal Adult Suffrage.

Q.32.What is rigid constitution.

- ✓ Whether a constitution is rigid or flexible depends on the nature of amendment. If the constitutional laws and ordinary laws are amended separate ways, it is a rigid constitution. On the contrary, in a flexible constitution constitutional laws and ordinary laws are amended in the same way.
- ✓ Some provisions of the Constitution of India can be amended by the Indian Parliament with simple majority. The amendment of most other provisions of the constitution requires a special majority in both houses of the parliament. There are some other provisions of constitution which cannot be amended by the parliament alone.
- ✓ In case of such provision the amending bill has first to be approved by both houses of parliament by a special majority (with the support of two-thirds of the members of each house present and voting). Then it has to be ratified by the legislatures of at least half of the states of India.

- ✓ These different amendment procedures make our constitution partly flexible and rigid. In fact, there is a balance between rigidity and flexibility in our constitution.
- ✓ Some amount of flexibility was introduced into our constitution in order to encourage its growth. Nehru feared that if a constitution is too rigid, it will be stagnant.

Q.33. What is equality?

A.33 THE RIGHT TO EQUALITY is Fundamental rights, which basic rights conferred on the citizens by the Constitution of India, and which are essential for a man to lead a decent and respectable life and to attain the fullest development of his human personality.

- ✓ ARTICLE No. 14 - Equality before law - Guarantees that all citizens shall be equally protected by laws of the country. No person is above the law. If two persons commit the same crime, both of them will get the same punishment. All persons similarly circumstances will be treated alike in the privileges conferred and liabilities imposed by the law.
- ✓ ARTICLE No. 15 - Social equality & equal access to public areas – States no prohibition or discrimination on grounds only of religion, race, caste, gender or place of birth. Every citizen has equal access to shops, parks, museums, wells, temples with special provisions for women & children.
- ✓ ARTICLE NO. 16 - Equality in matters of public employment – The State cannot discriminate against anyone in matters of employment. All citizens can apply for government jobs. (some exceptions related to special provision for SC, ST and OBC)
- ✓ ARTICLE NO. 17 - Prohibition of untouchability – Abolishes the practice of untouchability. Practice of untouchability is an offense and anyone doing so is punishable by law.
- ✓ ARTICLE NO. 18 - Abolition of titles – Titles given during the British period like Sir or Rai Bahadur have been abolished. The President of India confers civil and meritorious awards to those who have rendered service to nation in different fields. Civil awards – Bharat Ratna, Padma Vibhushan, Padma Shri. Military awards – Paramveer Chakra, Ashoka Chakra..... These are not titles but awards and can be prefixed with one's names.

Q.34 What is nominal executive?

- ✓ The President is the Nominal executive or the Constitutional Ruler. He is the head of the nation, but does not govern the nation. Our Union Council of Ministers headed by the Prime Minister is the real executive.
- ✓ Nominal executive is the executive who is not directly involved in the governance of the Country. The executive remains as a figure – head and performs ceremonial functions. The nominal executive has limited powers under the constitution and must act in accordance with the provisions of the Constitution. He summons/prorogues and dissolves the parliament on the advice of the Prime Minister. He is not involved in policy making or policy execution. Nominal executive is the person who heads the executive branch but does not have powers to execute major and important decisions.
- ✓ According to the Constitution of India, the real executive power is held by the Council of Ministers. The head of the Council of Ministers is the Prime Minister of India.
- ✓ Article 74 (1) states that the President is advised by the COM. Since the Council of ministers are headed by the PM, he essentially advises the President.
- ✓ The real executive has actual and wider powers. He is directly involved in the administration of the country and has actual control over the country. He takes decisions and makes policies.

Q.35. Who appoints the Governor?

- ✓ At the head of the Government of a component state of the Indian Union stands a Governor. The Governor of the State of India is appointed by the President of India for a period of five years.
- ✓ A Governor is appointed on the advice of the Union Council of Ministers or in reality the advice of the Prime Minister.
- ✓ A Governor can be simultaneously assigned to more than one state.
- ✓ A Governor is appointed for a period of 5 years. The President if so pleases may extend his tenure. A vacancy in the Governors post arises if,
 - When a governor completes his tenure.
 - Resignation or Sudden Death.
 - Is removed from the office by the President.
- ✓ The Governors can also be transferred from one state to another. The constitution does not specify grounds on which Governors may be dismissed. Evidently Governor may be dismissed for gross misbehavior.

Q.36. Name two houses of Indian Parliament

- ✓ The Parliament is the legislative organ of the Union Government. The Constitution provides for bicameral legislature at the center called national legislature or Indian parliament.
- ✓ Indian parliament has two Houses. Acc to Article 79, the upper House is the Council of States (Rajya Sabha) and the Lower House is called as the House of people (Lok Sabha). Lok Sabha is more power than Rajya Sabha as it has exclusive control over the finance of the state as well as the Union Executive.
- ✓ Due to the adoption of Parliamentary form of Government, it is also known as the “Westminster” model of government. Article 79 – 122 in part V of the constitution deal with the organization, composition, procedures, privileges and power of the Parliament.
- ✓ The COI had the provision of establishing bicameral legislature in the more populous country at that time.
- ✓ **Composition**
- ✓ The maximum strength of Rajya Sabha is fixed at 250 out of which 238 are to be representatives of the states and Union territories (elected indirectly) and 12 are nominated by the President
- ✓ At present, the Rajya Sabha has 245 members of these 229 members represent the states, 4 members represent the Union territories and 12 members are nominated by the President.
- ✓ The maximum strength of Lok Sabha is fixed at 552. Out of this, 530 members are to be the representatives of the States. 20 members are to be the representative of the Union Territories and 2 members are to be nominated by the president from the Anglo-Indian Community.
- ✓ At present, the Lok Sabha has 545 members, of these, 530 members represent the states, 13 members represent the union territories and 2 Anglo-Indian are nominated by the President.

Q4. Answer in 10 sentences & in Brief (5 & 15 marks questions)**Q1.**Explain the Preamble of the Indian Constitution.**

A1. The preamble to the Constitution of India is a brief introductory statement that sets out the guiding purpose, principles and philosophy of the constitution. Preamble gives idea about the following : (1) the source of the constitution, (2) nature of Indian state (3) a statement of its objectives and (4) the date of its adoption.

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

(1)Source of the Constitution: We the people of India.

The phrase “We the people of India” emphasises that the constitution is made by and for the Indian people and not given to them by any outside power. It also emphasizes the concept of popular sovereignty as laid down by Rousseau: All the power emanates from the people and the political system will be accountable and responsible to the people.

(2)Nature of Indian state

1. **Sovereign** : India is internally and externally sovereign – externally free from the control of any foreign power and internally, it has a free government which is directly elected by the people and makes laws that govern the people. No external power can dictate the government of India.
2. **Socialist** : Socialist implies Social and Economic Equality. “Socialism” as an economic philosophy where means of production and distribution are owned by the State. Socialism as a social philosophy stresses more on the societal equality with absence of discrimination based on caste, color, race, place of birth. Wealth is generated socially and should to be shared with the Society and Government tries to reduce the inequalities by working towards equal distribution of wealth and provide decent standard of living for all.
3. **Secular** : Features of secularism as envisaged/pictured in the Preamble is to mean that the state will have no religion of its own and all persons will be equally entitled to the freedom of conscience and the right freely to profess, practice and propagate the religion of their choice. (S R Bommai and Others v Union of India, AIR 1994 SC 1918)
4. **Democratic**: Indicates that the Constitution has established a form of Government which gets its authority from the will of the people. The rulers are elected by the people by a system of Universal Adult Suffrage Article 326 and are responsible to them.
5. **Republic** : As opposed to a monarchy, in which the head of state is appointed on hereditary basis for a lifetime or until he abdicates from the throne, a democratic republic is an entity in which the head of state is elected, directly or indirectly, for a fixed tenure. The President of India is elected by an electoral college for a term of five years. The post of the President Of India is not hereditary. Every citizen of India is eligible to become the President of the country.

(3)Objectives of Indian State

1. **Justice** : Social, Economic and Political.
 - Justice is derived from mutual agreement of everyone concerned.
 - Justice aims at common good. It implies harmonious reconciliation of individual conduct with the general welfare of the society.
 - Social Justice implies all citizens are treated alike irrespective of caste, creed or religion.
 - Economic Justice means treating the rich and poor alike and bridging the gap between poor and rich.
 - Political justice means equal rights to all citizens in the political processes without any distinction of race, religion, place of birth, caste or creed.
2. **Liberty** : of thought, expression, belief, faith and worship

- Liberty is one of the pillars of our democratic system.
- Liberty implies liberty of thought, expression, belief, faith and worship, ie, freedom of action, thought, and movement.
- No unnecessary restrictions.
- 3. **Equality** : of status and opportunity.
 - Equality implies equality of status and opportunity.
 - As human beings are born equal, they should be provided equal opportunities in all walks of life under equal circumstances.
 - All are equal before the law. The government must ensure equal opportunities for all.
- 4. **Fraternity**: assuring the dignity of the individual and the unity and integrity of the nation.
 - Fraternity means the spirit of brotherhood among all sections of the people of India.
 - Ensures dignity of the individual , (i.e. the improvement his quality of life of people by eliminating social evils) and the unity and integrity of the nation.
 - All of the citizens must conduct/ behave as if are members of the same family. No one should treat a fellow citizen as inferior.

(4)Date of its adoption

Date of adoption of the Constitution is 26th November, 1949. But most of the articles in Constitution came into force on January 26th, 1950.

Those articles which came into existence on 26th November 1949 is given by Article 394.

Article 394 states that this article (394) and articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388, 391, 392 and 393 shall come into force at once, and the remaining provisions of this Constitution shall come into force on the twenty-sixth day of January, 1950, which day is referred to in this Constitution as the commencement of this Constitution. 26th January was selected for this purpose because it was this day in 1930 when the Declaration of Indian Independence (Purna Swaraj) was proclaimed by the Indian National Congress.

2. Discuss the right to freedom.

A2. THE RIGHT TO FREEDOM (19-22)

ARTICLE NO. 19 Protection of certain rights regarding freedom of speech and expression

- **Freedom of speech and expression- Article 19 (1) (a)**
- ✓ All the citizen of India are free to express their views, beliefs and convictions freely without any fear.
- ✓ The freedom to receive and communicate ideas without interference is an important aspect of the freedom of speech.
- ✓ In democracy it not necessary that everyone should sing the same song.
- ✓ Freedom of expression is a preferred right which is always very zealously guarded.

Reasonable restrictions on exercising freedom of expression under Art. 19 (2)

8 RESTRICTIONS ON BASIS OF

- ❖ Security of State/Govt – Legislature can enact laws on imposing restriction of expressions that endanger the security of state. Making speeches that incite the public to wage a war against government and overthrow them.
- ❖ Public Order – Means Public peace, safety and tranquility. Absence of public order is an aggravated form of absence of public peace which affects the general life of the public. Any speech that disturbs the current base of the community can be restricted by enacting laws.
- ❖ Friendly relations with foreign States- – Avoid embarrassment likely to be caused to India through persistent and harmful/malicious propaganda against foreign countries.
- ❖ Decency or morality – The state can put restrictions on any form of expression if they are indecent, immoral or obscene

- ❖ Contempt of court – Prevention of making contemptuous statements against the court to preserve the dignity and authority of the courts.
- ❖ Defamation – Intentional false statement published or publicly spoken that injures another person's reputation.
- ❖ Incitement to offence- This ground permits legislation to punish or prevent incitement to commit serious offences like murder or violent crimes.
- ❖ Sovereignty and Integrity of India – Law imposing restrictions that does not permit any person to challenge the integrity or sovereignty of India or preach cessation of any part of the territory of India.

Freedom of assembly - Article 19 (1) (b)

- ✓ Meetings, processions and demonstrations are an inevitable consequence of a democratic polity.
- ✓ The people are educated, informed, persuaded only through meetings and assemblies.
- ✓ Freedom of assembly secures the right to assemble peacefully without arms with purposes related to the government ..
- ✓ EG - Parade, hold public meetings, and carry out processions demonstrating support or opposition of public policy and express your petition or for rectification of grievances.

Restrictions imposed on the right to assemble Article 19 (3)

- ❖ The people who assemble must remain peaceful.
- ❖ The people who participate must remain unarmed.
- ❖ On grounds of Sovereignty and Integrity of India or public order
- ❖ Under these restrictions, assemblies declared unlawful can be banned and the people can be ordered to be dispersed.

Freedom of association - Article 19 (1) (c)

- ✓ The constitution declares all citizens have the right to leave or join any or form any association and unions for pursuing lawful purposes
- ✓ The associations and unions formed may be political parties, students union, societies, clubs any other religious groups or associations.

Restriction imposed on the right to Association

Reasonable restrictions may be imposed in the interests of sovereignty and integrity of India, public order or morality.

- ❖ On the above grounds, state can ban extremist organizations, terrorist organizations, and communal organizations.

Freedom of movement. - Article 19 (1) (d)

- ✓ Freedom to move freely throughout the territory of India.
- ✓ Reasonable restrictions can be imposed on movement and travelling so as to control epidemic

Freedom of residence - Article 19 (1) (e)

- ✓ Freedom guaranteed to all citizens of India to reside and settle in any part of the territory of India.
- ✓ Restrictions imposed on the exercise of this right in interest of general public or for the protection of interests of scheduled tribes as unrestricted entry of outsiders in the areas inhabited by scheduled tribes might jeopardize their interests.

Freedom of profession and trade - Article 19 (1) (f)

- ✓ Every citizen has the right to practice any profession or carry out any trade or business.
- ✓ The right to carry on business also includes the right to close the business any time the owner likes.
- ✓ Restrictions are imposed to carry on trade of hazardous goods like drugs, liquor, adulterated food or to indulge in trafficking of human and children.

Article 20 - Protection in respect of conviction for offences

Various protection provided by Article 20

(1) Protection against retrospective punishment - Article 20 (1)

- ✓ No one can be convicted for an act that was not an offence at the time of its commission. (that is a person can be convicted only for the violation of law in force)
- ✓ Penalty or punishment should be in accordance with the law prevailing at the time of the commission of the offence.

(2) Protection for double Jeopardy – Article 20 (2)

- ✓ No one can be prosecuted and punished for the same offence more than once.

(3) Protection against self – incrimination – Article 20 (3)

- ✓ An accused person cannot be compelled to be a witness.
- ✓ An accused person cannot be compelled to give evidence against himself.

Article 21- Protection of life and Personal liberty.

- ✓ Article 21 of the Constitution guarantees protection of life and personal liberty to all individuals living in India.
- ✓ No person shall be deprived of his life and personal liberty except according to procedure established by law.
- ✓ This right is available to citizens as well as non-citizens
- ✓ This right protects the individual against arbitrary arrest and indefinite detention.

Article 21 A – Right to education

- ✓ Article 21-A declares that the state shall provide free and compulsory education to all children of age 6 to 14 in such a manner as the state may determine, ie, his right to education is subject to the limits of the economic capacity and development of the state.
- ✓ This provision added by the 86th constitutional amendment act of 2002 is a major milestone in the country's "aim to achieve Education for all"
- ✓ Even before this amendment the constitution contained a provision for free and compulsory education for children under Article 45 in part IV. Being given as a Directive principle it was not enforceable by courts. But the 86th constitution amendment, changed the subject matter of Article 45 in Directive principles. It now reads, the State shall endeavor to provide early childhood care and education for all children until they complete the age of six years.
- ✓ It is also added a new fundamental duty under Article 51 A that reads – it shall be the duty of every citizen of India to provide opportunity for education to his child between the age of 6 and 14 years.

Article 22- Protection against Arrest and Preventive detention

- ❖ Article 22, Clause 1 and 2 provides safeguards against arbitrary arrest or detention.
 - ✓ Every arrested person must be informed of the grounds of his arrest.
 - ✓ He must be given the opportunity to consult lawyers of his choice.
 - ✓ And He must be produced before the nearest magistrate within 24 hours and his period of detention cannot be extended without magisterial order.
- ❖ Article 22, Clause 2 to 7 - Preventive Detention under Law
 - ✓ Preventive detention means detention without trial.
 - ✓ Detaining a person before he has done something wrong to prevent possible threat by him to the security of the state, public order, defense and foreign affairs.
 - ✓ The case of the person arrested under preventive detention law has to be referred to an Advisory Board within a period of 3 months of his or her arrest, ie, he can be detained under Preventive detention only for a period of 3 months.

3. Explain the right to equality

THE RIGHT TO EQUALITY

- ✓ **ARTICLE No. 14 - Equality before law** - Guarantees that all citizens shall be equally protected by laws of the country. No person is above the law. If two persons commit the same crime, both of them will get the same punishment. All persons similarly circumstances will be treated alike in the privileges conferred and liabilities imposed by the law.
- ✓ **ARTICLE No. 15 -Social equality & equal access to public areas** – States no prohibition or discrimination on grounds only of religion, race, caste, gender or place of birth. Every citizen has equal access to shops, parks, museums, wells, temples with special provisions for women& children.
- ✓ **ARTICLE NO. 16 - Equality in matters of public employment** – The State cannot discriminate against anyone in matters of employment. All citizens can apply for government jobs.(some exceptions related to special provision for SC, ST and OBC)
- ✓ **ARTICLE NO. 17 - Prohibition of untouchability** – Abolishes the practice of untouchability. Practice of untouchability is an offense and anyone doing so is punishable by law.
- ✓ **ARTICLE NO. 18 - Abolition of titles** – Titles given during the British period like Sir or Rai Bahadur have been abolished. The President of India confers civil and meritorious awards to those who have rendered service to nation in different fields. Civil awards – Bharat Ratna, Padma Vibhushan, Padma Shri. Military awards – Paramveer Chakra, Ashoka Chakra.....These are not titles but awards and can be prefixed with ones names.

3. Discuss the right to religion.

A3.RIGHT TO FREEDOM OF RELIGION (ARTICLE 25-28)

- **Article No. 25 -Freedom to conscience and religion**
- ✓ *Freedom of conscience is the absolute inner freedom of a person to mould his relationship with God in whatever manner he likes.*
- ✓ *Article 25 entitles citizens as well as non – citizens the freedom of conscience and the right to freely profess, practice and propagate religion of their choice.*
- Restrictions ON Article 25**
- ❖ Article 25 is subject to restrictions on the grounds of (1)public order (2)morality and (3)health.
- ❖ The right to propagate religion does not include any right to forcible conversions that may disturb public order.
- ❖ In Anand Marg case - Tandav dance with lethal weapons and human skulls in a public procession was banned in the interest of public order and morality.
- ❖ Cow slaughter is prohibited by law in the interest of public order.
- **Article 26 - Freedom to manage religion affairs**
- ✓ Every religious group has the right to establish and maintain institutions for religious and charitable purposes.
- ✓ Acquire and manage its affairs and properties as per law.
- **Article 27 - Freedom not to pay taxes for promotion –**
- ✓ *Article 27 of the Constitution provides that no person shall be compelled by the state to pay any taxes for meeting the expenses or promotion or maintenance of any particular religious institution.*
- **Article 28 - Freedom not to attend religious instruction-**
- ✓ Article 28 mandates that No religious instructions would be imparted in state funded educational institutions.
- ✓ In educational institutions recognized or funded by state, there is freedom for every student to participate in religious instructions or religious worship.

- ✓ Religious instruction can only be imparted if the student gives his consent if major or a parent gives his consent if he is minor.
- ✓ From the study of the above rights embodied in our constitution, it is quite clear that our constitution has established a purely secular state

4. Write about the composition of legislative council?

- ✓ A4. The Constitution of India has provided for the creation or abolition of the legislative council. The legislative council is the upper house of the state legislature. It is known as Vidhan Parishad. Legislative council is not present in every state. As of today it is present in seven out of 29 states have a legislative council: Andhra Pradesh, Bihar, Jammu and Kashmir, Karnataka, Maharashtra, Telengana, and Uttar Pradesh.
 - The member of the legislative council are indirectly elected.
 - The maximum strength of the council is fixed at one-third of the total strength of the assembly and the minimum strength is fixed at 40. It means the size of the council is determined by the size of assembly of the concerned state. This is done to ensure the predominance of the directly elected House (state assembly) in the legislative affairs of the state.

Manner of Election: of the total number of member of a legislative council:

- ✓ 1/3 are elected by the members of local bodies in the state like municipalities, district boards etc.
- ✓ 1/12 are elected by graduates of three years standing and residing within the state.
- ✓ 1/12 are elected by teachers of secondary schools and colleges
- ✓ 1/3 are elected by members of the legislative assembly of the state and amongst persons who are not members of the assembly.
- ✓ And the remainder are nominated by the Governor from amongst person who have special knowledge or practical experience of literature.

Q 5.*Explain the powers and functions of the Chief Minister/ Role of CM/ State the role of Chief Minister in State Administration?

A5. In the scheme of Parliamentary system of government provided by the Constitution, the Governor is the nominal executive authority and the Chief Minister is the real executive authority. In other words, the Governor is the head of the state and the Chief Minister is the head of the Government. Thus the position of the Chief Minister at the state level is equivalent to the position of the Prime Minister at the Center.

Article 163: There shall be council of ministers with the CM as the head to aid and advise the governor on the exercise of his functions, except in so far as he is required to exercise his functions or any of them in his discretion.

Article 164

- a. The CM of the state shall be appointed by the Governor of the State.
- b. The CM is the head of the Cabinet and the council of ministers of the State, In practice he is the real executive head of the state.
- c. He is the head of the legislative assembly.

Powers and functions of the Chief Minister:

1. In Relation to the COM
2. In Relation to the Governor
3. In Relation to the State legislature

In Relation to the COM Article 164

- The governor appoints only those persons as ministers who are recommended by the Chief Minister.
- He allocated and reshuffles the portfolios among ministers.
- He can ask a minister to resign, or advise the governor to dismiss in case of difference of opinion.
- He presides over the meetings of the council of ministers and influences its decisions.
- He guides, directs, controls and coordinates all the activities of the ministers.
- He can bring about a collapse of the COM by resigning from the office. Being the head of the COM, his resignation or death automatically dissolves the COM

In Relation to the Governor Article 167

- He is the principal channel of communication between the governor and the council of ministers. It is the duty of the CM
 - To communicate to the Governor of the state all decisions of the COM referring to administration of the affairs of the State and proposals for legislation as the governor may call for.
 - To furnish 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 COM any matter on which a decision has been taken by a minister but which has not been considered by the council.
 - He advises the governor with regard to important appointments like advocate general, chairman, and members of the state public service commission.

In Relation to the State legislature:

- He advises the governor with regard to the summoning, proroguing of the sessions of state legislature.
- He can recommend dissolution of legislative assembly at any time to the Governor.
- He announces government policies on the floor of the house.

6.Explain the directive principles of State Policy?/ Highlight the Directive Principles of State policy?**

A6.DPSP are form of socioeconomic rights which are to be extended ...by state by exacting necessary laws. Directive principles are what 'State' should keep in mind while framing laws and enacting policies.

Classification:

- DPSP are a form of instructions or directions to the state and their unique blend of principles of Socialism, Gandhism, Western Liberalism and the ideals of freedom struggle of India.
- DPSP seek to promote a comprehensive, socioeconomic, and administrative structure for a modern democratic state. They are recommendations to the State in legislative, executive and administrative matters.

Socialist Principles: Aim at securing a welfare socialistic state in India

Article 38:

- Promotion of welfare of people through social economic and political justice
- To minimize the inequalities in income, status and opportunities.

Article 39

- Secure adequate means of livelihood for all citizens.
- **Article 39A – 42 amendment** - Directs the state to ensure that operation of the legal system promotes equal justice and free legal aid to the economically weaker classes. (Speedy trial for prisons under Article 21 of FR)
- **Article 39 b – Fair/Equal/Proper distribution** of ownership and control of material resources of the community for common good.
- **Article 39 c) – Avoid/Prevent concentration** of wealth and means of production – ensure such a economic system.

- **Article 39 d)** Equal pay for equal work for both men and women. (Right Balance between men and Woman)
- **Article 39 e):** The State should look after Health and strength of workers, and ensure children of tender age are not forced to follow jobs unsuited to their age or strength or health.. (Healthy Workers are efficient workers)
- **Article 39f):** Protection of childhood of children and youth against exploitation (moral and material abandonment).

Article 41 : Securing for all people right to work, right to education, and right to public assistance in case of unemployment , old, sickness and disablement.

Article 42: Making provisions for securing just and humane conditions of work and maternity relief. (mother)

Article 43: 42nd amendment

- ii) To secure for all workers a living wage and decent standard of living.
- **Article 43A – 42nd amendment** - To take steps to secure participation of workers in the management of industries.
- **Article 49** - Maintaining public health by raising level of nutrition.

Gandhian Principles:

Gandhian Principles are those directives which aim at giving a shape to Mahatma Gandhi's Ideals.

- Gandhian Principles are covered under Article 40, 43 first provision, 46, 47, 48.

Articles 40: Organization of Village Panchayat.

- 72nd amendment – Panchayat raj.
- 73rd amendment – Urban govt.
- Now Panchayat raj have constitutional status.

Article 43: i) Promotion cottage industries on an individual and cooperative basis.

Article 46: Promotion of Educational and Economic interests of Scheduled Casts/Schedules Tribes and other weaker sections of society.

Article 47: To prohibit intoxicating drinks and drugs that are injurious to health.

Article 48: Organize agriculture and animal husbandry. To preserve and improve cattle breeds and prohibit slaughter of cows, calves and other milch and draught animals.

Liberal Principles

Article 44: Uniform Civil Code – The state endeavors to secure UCC throughout the territory of India.

- The State has not being able to implement UCC to date.
- Uniform civil code is the proposal to replace the personal laws based on scriptures and customs of each major religious community in India with a common set of law governing every citizen. These laws are distinguished from public law. UCC cover marriage, divorce, inheritance, and adoption.

Article 45: Free and compulsory education to children below 14 years of age.

- After 86th Constitution Amendment Act 2002 Article 45 was amended:
- To provide Free and compulsory education and care (Nutrition and Health) of Children until they complete the age of 6 years. (Healthy schooled children)

Article 48 A – 42nd amendment - Protection and improvement of environment and safeguarding of forests and wildlife. (planting trees)

Article 49 – To protect and preserve artistic Historical monuments and places.

Article 50: Requires the state to take steps to separate the Judiciary from the Executive in the public services of the State.

ARTICLE 51 a: To Promote International peace and amity/security.

Article . 51 b: The State shall strive to maintain just and honorable relations among various states in the world.

Article 51 c: To promote respect for international treaties, agreements, and law.

Article 51 d: The state will strive to settle international disputes by arbitration.

7.*Explain the salient features of the Indian Constitution?/ Explain the fundamental features of the Indian Constitution?**

A7. The term 'constitution' is derived from the latin word 'constituera' which means 'to establish', to 'organise', 'to form' or to 'compose'.

Constitution is the fundamental/supreme law for the governance of a country.

In the words of Dr. K.C. Wheare, "The Constitution is a collection of legal rules, which govern the Government of the country and which have been embodied in a document."

The salient features of the constitution are analyzed below.

1. Preamble: The Preamble, the preface to the constitution, describes the source nature, ideology, goals and objectives of the constitution. It describes India as a sovereign socialist, secular, democratic republic and underlines the-national objective of social just' economic justice and political justice as well as fraternity. It emphasizes the dignity of the individual and the unity and integrity of the nation. It declares that in India the people sovereign.

2. Hand- Written Constitution: There are two types of constitutions in the world. Most of the constitutions are written. The first modern written constitution was the American constitution. On the other hand, the British constitution is unwritten. It consists of customs and conventions which have grown over the years. In India, we have a written constitution. The framers of our constitution tried to put everything in black and white.

The original constitution is a hand written document with beautiful calligraphy by Prem Behari Narain Raizada and each page decorated by artists from Shanthiniketan including Beohar Rammanohar Sinha and Nandalal Bose. There were 2 copies of the original document written in Hindi and English.

3. Longest Constitution: The Constitution of India is the longest one in the world. Originally it had 395 Articles and 8 schedules. During the period since 1950 a few Articles have been deleted, but many more have been added through amendments.

The constitution became lengthy mainly due to the following factors.

(a) The constitutional fathers wanted to put everything in great detail.

(b) In other federations, there are two constitutions: one for the federation and the other for the states. In India, the states do not have separate constitutions. The powers of states along with the powers of the federation have been stated in one constitution.

(c) The source of the constitution is indigenous as well as foreign. The Government of India Act, 1935 was in operation when India got independence. Our leaders were familiar with this Act. They borrowed heavily (2/3) from this lengthy Act while framing our constitution.

(d) India is a country of great diversity. It is a country of several minorities; it has many languages, castes, races and religions. The problems and interests of these different groups have found place in the constitution.

(e) Good features of other constitutions have been included, with necessary modifications, in our constitution. For example, we have brought the 'bill of rights' from the American constitution, parliamentary system of government from the British constitution and Directive Principles of State Policy from the Irish constitution. While including these elements of other constitutions in our constitution Ambedkar said the framers of our constitution tried to remove their faults and suit them to our conditions.

(f) Many members of the Constituent Assembly were "lawyer-politicians". They have made the constitution not only long, but also extremely complicated.

- Ivora Jennings has described our constitution as a 'lawyer's paradise'.
- Jennings says that a constitution should be intelligible to common people, but they fail to clearly understand the Indian constitution which is very complex. Every article of this constitution can be interpreted by the higher judiciary, and lawyers, while interpreting, different articles, further complicate the constitution.

4. Partly Rigid, Partly Flexible: Whether a constitution is rigid or flexible depends on the nature of amendment. If the constitutional laws and ordinary laws are amended separate ways, it is a rigid constitution. On the contrary, in a flexible constitution constitutional laws and ordinary laws are amended in the same way.

Some provisions of the Constitution of India can be amended by the Indian Parliament with simple majority. The amendment of most other provisions of the constitution requires a special majority in both houses of the parliament. There are some other provisions of constitution which cannot be amended by the parliament alone.

In case of such provision the amending bill has first to be approved by both houses of parliament by a special majority (with the support of two-thirds of the members of each house present and voting). Then it has to be ratified by the legislatures of at least half of the states of India.

These different amendment procedures make our constitution partly flexible and rigid. In fact, there is a balance between rigidity and flexibility in our constitution.

Some amount of flexibility was introduced into our constitution in order to encourage its growth.

Nehru feared that if a constitution is too rigid, it will be stagnant.

5. Parliamentary Democracy:

In India, there is a parliamentary form of governance. The majority party in the Lower House (Lok Sabha) forms government. The Council Ministers is responsible to the Lok Sabha. The Cabinet is the real executive head. In Presidential form of government, the President is the executive head. In India, the President is only the nominal head.

In Britain, the monarchy is hereditary. But in India, the post of President is elective our founding fathers adopted the parliamentary model for two reasons. Firstly, they believed that a parliamentary form of government would be more responsible democratic than the presidential form of government. Secondly, they were, to so extent, familiar with the parliamentary form of government during the British rule particularly after the implementation of the Government of India Act, 1935.

7. Federal Government with Unitary Bias:

The Indian Constitution shows Federal as well Unitary system

1. Federal System – Powers are divided between center and state.
2. Union System – Power concentration in the central government with weak state government.

Federal Features

- A. Division of powers between Union (center) and states.
- B. Supremacy of the constitution.
- C. Independent Judiciary with the power to decide (center – states) disputes

Unitary Features:

- A. Single citizenship.
- B. Single Constitution.
- C. Power of Union to override over state matters.
- D. Integrated Judiciary System

- E. Emergency Provisions.
- F. Center appoints the Governor .

India is a federation, although word 'federation' does not find a place in the whole text of the Indian Constitution. The elements of federation are present in the Indian Constitution. It is a written and rigid constitution.

There is dual polity and there is constitutional division of powers between the centre and the states. There is also an independent judiciary. The Supreme Court arbitrates the disputes between the centre and the states.

All these provisions make India a federation. But in Indian Federation, the centre is strong as compared to the states. The centre has more financial powers and the states largely depend upon it for their economic development. The Planning Commission has emerged as a 'super cabinet' or a 'super state'. The Governor acts as the agent of the centre.

The centre can reorganize a state, but a state cannot reorganize the centre. In other words, the centre is indestructible while the states are destructible. During emergencies, the powers of the centre considerably grow and the states become weak. K. C. Wheare has described the Indian government as 'quasi-federal'. India has also been characterized as 'a federal state with unitary spirit.'

8. Fundamental Rights:

The Fundamental Rights are guaranteed to the individuals by our constitution. These are enumerated in Part III of the constitution. These rights are fundamental because they are basic to the moral and spiritual development of the individual and these rights cannot be easily abridged by the parliament. Now the citizen enjoys six fundamental rights, originally there were seven fundamental rights. One of them was taken away from Part III of the constitution by the Forty-fourth Amendment Act, 1978. As a result, the Right to Property is no longer a fundamental right. Since 1978, it has become a legal right. An individual can now own property; he can enjoy it or dispose of it. But when the government takes it away, he cannot go for a writ challenging the validity of the government's action.

The six fundamental rights are - (1) Right to Equality, (2) Right to Freedom, (3) Right against Exploitation, (4) Right to Freedom of Religion, (5) Cultural and Educational Rights and (6) Right to Constitutional Remedies. The constitution has conferred upon the Supreme Court the power to grant most effective remedies in nature of writ (habeas corpus, mandamus, prohibition, certiorari and quo warrantum)

Fundamental rights are not absolute rights they are subject to certain restrictions.

The idea of fundamental rights has been borrowed from the American Constitution.

Any citizen of India can seek the help of High Court or Supreme Court of India if any of his fundamental rights is undermined by the government or any institution or any other government. The fundamental rights, granted to the citizen, cannot be amended in the normal manner. They can be amended with two-third majority in each house of the Parliament.

9. Directive Principles of State Policy:

The Directive Principles of State Policy are enumerated in Part IV of the constitution. They are instructions or directives from the constitution to the state and the government. It is the duty of the government to implement them.

Originally there were 20 Directive Principles. Three more were added by the 42nd Amendment Act, 1976. Thus, in total, there are now 23 Directive Principles.

Some of the important Directive Principles are: (1) There should not be concentration of wealth and means of production to the detriment of common man; (2) There should be equal pay for equal work for both men and women; (3) Workers should be paid adequate wage; (4) Weaker sections of the people, Scheduled Caste and Scheduled Tribe people should be given special care; (5) The state should promote respect for international law and international peace.

In general, the Directive Principles aim at building a Welfare State. **The Directive Principles are not enforceable in a Court of Law**, but they are nevertheless fundamental in the governance of the country. These principles provide the criteria with which we can judge the performance of the government.

Govt. Authorities cannot ignore non-implementation of state policies, because they are answerable to the electorate at the time of election.

10. An Independent and Integrated Judiciary:

To safeguard the constitution, an Independent and impartial Judiciary with the power of Judiciary review has been established in the Indian Constitution.

The judiciary in India is independent and impartial. It is an integrated judiciary with the Supreme Court at the apex of the hierarchy. The High Courts stand in its middle, and the lower courts are located at its bottom.

11. Judiciary Review:

The Supreme Court and the High Court have the power of Judicial Review. The Constitution of India has expressly conferred on the Supreme Court and High Court the powers of Judicial Review.

The Judiciary has been given the power to review the laws made by the Parliament and State legislature and declare them unconstitutional if they are not in accordance with the provisions of the Constitution.

11. Universal Franchise:

Article 326 of the Constitution of India provides universal adult suffrage. The voting age has now come down from 21 to 18. Anybody who has completed 18 years of age is eligible to vote in general elections. This is one of the most revolutionary aspects of Indian democracy.

A system where adults are entitled to become voters except the disqualified and exceptional.

Its arms all sections of people with a right to safeguard their liberties and have equal access to political power.

Indian Constitution has abolished the old system of communal representation introduced by the British in 1909 and introduced Universal Adult Suffrage.

12. Secularism:

India is a secular state. Although the 42nd Amendment Act, inserted the word 'secular' in the Preamble to the constitution, India has been secularism since independence.

India is a country of several religions and each individual has fundamental profess any religion he likes.

The state cannot force him to accept any specific India is a secular state. In India, there is no State Religion. In matters relating to the state is neutral and non-interfering. It does not patronize any religion. Nor discriminate against any religion.

13. Single Citizenship:

In the United States of America, there is double citizenship. An American is a citizen of America and at the same time he is also a citizen of the 50 States of America. In India, there is only single citizenship.

An Indian is a citizen of India only. He is not a citizen of any Indian state. Single citizenship is meant to s national unity and national integration.

14. Fundamental Duties:

Fundamental Duties did not form part of the constitution. Ten Fundamental Duties were inserted in Part IV of the constitution 42nd Amendment Act, 1976. Some of the important Fundamental Duties are:

(1) To abide by the constitution and respect the ideals and institutions, the national flag and the national anthem; (2) To uphold and protect the sovereignty, unity and integrity of India; (3) To defend the country and render national service; (4) To protect and improve the natural environment; (5) To safeguard public property and to abjure violence.

A new Article - Article 51-A enumerates ten Fundamental Duties. These duties are assigned only to citizens and not to aliens. These duties are not justifiable, but, in case of conflict, they will prevail over Fundamental Rights.

15. Welfare State:

Our constitution aims at building a Welfare State. It provides for development of weaker and depressed sections of the society. It underlines the need of improving the conditions of women, Scheduled Castes and Scheduled Tribes who have remained neglected for long.

Our constitution is opposed to concentration of wealth and means of production. Workers should be involved in management and they should get fair wages. Children should not be exposed to hazards. All these provisions are expected to help in building a Welfare State.

16. Creation of ALL India Services.

Article 312 provided for creation of ALL India Services. (IAS, IFS, and IPS.)

Appointed by the Center but allotted to different States.

They facilitate existence of hardcore officials in every state, who because of their membership in a service feel more free to act with a national outlook and keeping in view the national interests.

17. One Official Language

According to the COI, Hindi is declared as the official national language.

Each State is allowed to adopt a regional language for all or some of its official purposes.

English also has been allowed to be use along with other languages for official purposes

18. Bicameral Legislature

The COI provides for bicameral legislature at the center called national legislature or parliament.

Parliament two houses Lok Sabha (lower house) or House of People and Rajya Sabha (Upper House) is knows as Council of States.

The COI had the provision of establishing bicameral legislature in the more populous country at that time.

19. Emergency Provisions

- Emergency Provisions enable the President to meet any extraordinary situation effectively
- Under Article 352, National Emergency to meet external threats, i.e., wars or internal armed rebellion.
- Under Article 356, State Emergency if the State govt. fails to function in accordance to the provisions of the constitution, the President of India is empowered to dismiss the State Govt and declare Presidents rule.
- Under Article 360, President is empowered to declare **Financial Emergency** to meet serious economic crisis.

20. Special Status to J&K

Princely State of J&K opted to be independent.

Kashmir signed an accession agreement with India on 27th Oct 1947 when Pakistan attacked J&K tried to annex it with Pakistan.

As per accession agreement, a special status was granted to J&K, a separate constituent assembly was constituted and a separate constitution was drawn which came into force from 26th Jan 1957 mentioned in Article 357.

8*Explain the composition powers and functions of the Supreme Court?

A8. The Supreme Court is the apex court in India vested with the highest judicial authority. It was inaugurated on January 28th 1950

Composition:

- ✓ Article 124 - It consists of Chief Justice and several other Judges (the no of other judges is decided by the Parliament by law)
- ✓ Originally the constitution provided for seven other judges only.
- ✓ The Parliament (Cabinet) increased the number of Judges several times. At present, the SC consists of 31 judges. (one Chief Justice and 30 other Judges) taking into consideration the increasing work load and enormity of long pending cases.
- ✓ Article 127 - When there is lack of quorum of the permanent judges to hold or continue any session of the Supreme Court. The Chief Justice of India can **appoint a judge of the High Court as an ad hoc judge** of the Supreme Court for a **temporary** period. He can only do so after consultation with the chief justice of the High Court concerned and with the previous consent of the president. The judge so appointed should be qualified for appointment as a judge of the Supreme Court.

Powers /Jurisdictions and Functions of the Supreme Court:

1. Original Jurisdiction means the power to hear and determine a dispute in the first instance. The supreme court has exclusive original jurisdiction in the following cases:

- a. In any disputes between GOI and one or more states.
- b. Dispute between GOI and one or more states on one side & one or more states on the other side.
- c. In case of disputes between two or more states.

However the jurisdiction does not extend to the disputes arising out of treaty, agreement etc.

- d. In case of transfer of judges from one high court to another high court.
- e. In any dispute arising out of election to the office of the President and Vice President.
- f. In case of violation of fundamental rights. The supreme court to exercise this original jurisdiction can issue writs in nature of habeas corpus, mandamus, prohibition, certiorari, and quo warranto.

2.Appellate Jurisdiction: The supreme court is the highest court of appeal. The Supreme Court hears appeals against the judgement of the Lower Courts by reviewing decisions and change outcomes of decisions of lower court. Hence, it has appellate jurisdiction. The appellate jurisdiction extends to civil, criminal, constitutional matters and appeals by special leave

- a. **Constitutional matters** (Article 132)– if the high court certifies that the case involves a substantial (significant) question of law that requires interpretation of the Constitution.
 - i. Based on the certificate, the party can appeal to the SC, on grounds that the question has been wrongly decided.
 - ii. Thus the Supreme court is the final court of interpretation and hence acts as a guardian of the constitution.
- b. **Civil Cases** Article (133) – if the High court certifies
 - i. The case involves a substantial question of law that is generally important and
 - ii. That question needs to be decided by the Supreme Court.

- c. **Criminal Cases:** An appeal can be made if High Court –
 - i. Has on appeal reversed an order of acquittal of an accused person and sentenced him to death.
 - ii. If HC has taken before itself any case from any subordinate court and convicted the accused person and sentenced him to death.
 - iii. The HC certifies if the case is fit for appeal to the Supreme court. Hence, in criminal cases, appeals are made to the Supreme Court where grave injustice is suspected in the judgement of the High Court.
- d. **Appeal by Special Leave** – The SC is authorized to grant in its discretion (prudence, caution) special leave to appeal (special permission) from any judgement, in any matter passed by any court or tribunal in the country (except Army tribunal and court martial)
 - i. This is a discretionary power and cannot be claimed as a matter of right.
 - ii. It can be granted in any judgement whether final or interlocutory.
 - iii. It can be related to any matter – constitutional, civil, criminal, income-tax, labour, revenue, advocates etc.
 - iv. The SC grants special leave to appeal only in cases where there has been gross miscarriage of justice or where the high court or tribunal is found to have been wrong in law.

3. Advisory function:- Article 143 authorizes the president to seek the opinion of the Supreme Court in two matters:

- ✓ On any disputable law of high public importance which has risen or likely to arise.
- ✓ On any dispute arising out of pre-constitution treaty, agreement, covenant, engagement.
- ✓ The President may also refer to the Advisory opinion of the Supreme Court on any dispute between the government of India and State Government or amongst the state government themselves.
 - a. The supreme court judges sit together and discuss the matter in detail and find out whether it is within the spirit of the constitution or not.
 - b. The opinion of the supreme court is sent to the president.
 - c. However, such advice of the SC is not binding upon the President.

4. Supreme Court as a Court of Record:

- ✓ Article 129 says that the supreme court is a court of record. A Court of record in the sense that the decisions and judicial proceedings have an evidentiary value and cannot be questioned by in any other subordinate court.
- ✓ Its decisions are binding on all the courts of India.
- ✓ They use its decisions as law and decide the case before them on the basis of these decisions.
- ✓ Records of supreme court are admitted as the final evidence and cannot be questioned when these are produced and referred to in any other Court.
- ✓ Article 141 declares that the law declared by the Supreme court shall be binding on all courts within the territory of India.
- ✓ This is an extraordinary power, but it was essential for the purpose of maintaining and upholding the authority of law as administered by the Court.
- ✓ The supreme court has also the power to review its own decisions and orders and there by, it may rectify its Judgement if any. Because there is no appeals against its Judgement.

5. Guardian of the Constitution:

- ✓ In a federal state, the constitution is the supreme/fundamental law of the land and the Judiciary is vested with the power to interpret and protect the constitutional provisions. It is known as the guardian of the constitution.
- ✓ The court does not allow the actions of the executive or legislative to violate any provisions of the Constitution. The supreme court along has the authority to explain the meaning the constitution. The final interpretation is left to the supreme Court.

- ✓ In Keshvananda Bharati case, the SC held that the Parliament can amend any part of the Constitution in accordance to Article 368 but cannot change the basic structure of the constitution.

6. Power of Judicial Review:

- ✓ Judicial review is the power of the supreme court to examine the constitutionality (validity) of the legislative enactments and executive orders.
- ✓ It has the power to reject any Act of legislature or executive orders which it finds to be unconstitutional or against the provisions of the constitution.

Judicial review is needed for the following reasons:

- a. To protect fundamental rights of the citizens.
- b. To uphold the principle of supremacy of constitution.
- c. To maintain federal equilibrium (balance between center and state).

The constitutional validity of a legislative enactment can be challenged in the SC on the following 3 grounds.

- a. It infringes fundamental rights.
- b. It is outside the competence of the authority which has framed it (They are not in accordance with the lists mentioned in the seventh schedule which demarcate Jurisdiction of the parliament and state legislature.)
- c. It is repugnant (opposing) to the constitutional provisions.

Miscellaneous Powers and Functions

1. The SC decides the disputes regarding the election of the President and Vice President. In this regard, he has original, exclusive and final authority.
2. The SC enquires into the conduct and behavior of the chairman and members of the UPSC. If it finds them guilty, it can recommend the president for their removal. The advice tendered by the SC in this regard is binding on the President.
3. It has the power to review and rectify its own judgement. Thus it is not bound by its previous decision. (SC is a self-correcting agency).
4. It is authorized to withdraw cases pending before the high court and dispose them by itself. It can also transfer a case or appeal pending before one high court to another high court.
5. Its law is binding on all the courts in India. Its decree or order is enforceable throughout the country.
6. It is the ultimate interpreter of the constitution. It can give the final version to the spirit and content of the provision of the Constitution and the verbiage used in the constitution.
7. It has the power of judicial superintendence and control over all the courts and tribunals functioning in the entire territory of the country.

9*Explain the powers and functions of the Prime Minister?**

A9. In Parliamentary form of Governance, there should be a Prime Minister.

- ✓ Article 74: There should be a council of ministers with the Prime Minister at the head to aid and advise the President.
- ✓ The parliamentary form of governance is regarded as prime ministerial government.
- ✓ In the scheme of the parliamentary system of government provided by the constitution, the President is the nominal executive (de jure executive) and the Prime Minister is the real executive authority (de facto executive).
- ✓ Article 75 says only that PM should be appointed by the President. However, this does not imply President is free to appoint the PM.
- ✓ In accordance to the conventions of the Parliament system of government, The President has to appoint the leader of the majority party in the Lok Sabha as Prime Minister.

- ✓ But, when no party has clear majority in the Lok Sabha, then the President may exercise his personal discretion in the selection and appointment of the Prime Minister.

Powers and functions of the prime minister

The powers and functions can be studied under the following heads:

A. In relation to the Council of Ministers: The PM enjoys the following powers as the head of the Union Council of ministers

- ✓ He recommends person who can be appointed as ministers by the President
- ✓ He allocates work among ministers and reshuffles portfolios when required.
- ✓ He can ask a minister to resign or advise the President to dismiss him in case of difference of opinion.
- ✓ He presides over the meeting of the COM and influences its decisions.
- ✓ He guides, directs controls and coordinates all the activities of the ministers.
- ✓ He can bring about a collapse of the COM by resigning from Office.
 - a. The resignation, death of an incumbent Prime Minister automatically dissolves the COM. The other ministers cannot function when the Prime Minister resigns or dies.

B. IN Relation to the President: ARTICLE NO 78

1. He is the **chief link of communication** between the President and the Council of Ministers:- It is the duty of the prime Minister.

- ✓ To **communicate** to the President all decisions of the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation.
- ✓ To **furnish information** to the President, relating to the administration of the affairs of the Union that the President may call for.
- ✓ If the President so requires, to **submit for consideration** any matter of the council of ministers any matter on which decision is taken by the minister but which has not been considered by the council.
- ✓ He 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 and so on.

C. In Relation to the Parliament: The PM Is the leader of the Lower House, In this capacity, he enjoys the following powers.

- ✓ He advises the President with regard to summoning and proroguing of the sessions of the Parliament.
- ✓ He can recommend dissolution of the Lok Sabha to the President at any time.
- ✓ He announces government policies on the floor of the House.

OTHER POWER AND FUNCTIONS

1. PM is the Chairman of the Planning Commission, National Development Council, National Integration Council, Inter-State Council, and National Water Resources Council.
2. He plays a significant role in shaping foreign policies of the Country.
3. He is the chief spokesman of the Union government.
4. He is the crisis – manager in chief at the political level during emergencies.
5. As the leader of the nations, he meets different sections of people in different states and receives memoranda from them regarding the problems and so on.
6. He is the leader of the party in power
7. He is the political head of services.

Thus the PM plays a very significant and highly crucial role in the politico – administrative system of the country. Dr. Ambedkar stated if any functionary under the Constitution is to be compared with the US President, he is the Prime Minister and not the president of the Union.

10.*Explain the composition power and functions of the Lok Sabha?

A10 The Parliament is the legislative organ of the Union Government.

- ✓ Due to the adoption of Parliamentary form of Government, it is also known as the “Westminster” model of government.
- ✓ Article 79 – 122 in part V of the constitution deal with the organization, composition, procedures, privileges and power of the Parliament.
- ✓ The Parliament of India consists of 3 parts, viz,
 - The President.
 - The Council of States also known as Rajya Sabha.
 - And the House of People known as the Lok Sabha.

Composition:

- ✓ The maximum strength of Lok Sabha is fixed at 552.
- ✓ Out of this, 530 members are to be the representatives of the States.
- ✓ 20 members are to be the representative of the Union Territories and 2 members are to be nominated by the president from the Anglo-Indian Community.
- ✓ At present, the Lok Sabha has 545 members, of these, 530 members represent the states, 13 members represent the union territories and 2 Anglo-Indian are nominated by the President.

Powers and functions of Lok Sabha

- ✓ **Money Bill:-** A money bill is introduced only in the Lok Sabha. if the Rajya Sabha failed to return the bill within 14 days of its receipt, the money bill is deemed to have been passed by both the Houses.
- ✓ **Decision regarding Money Bill** - The speaker of the Lok Sabha has the power to decide whether the bill is a money bill or not.
- ✓ **Presides Joint Sitting over** - The speaker of the Lok Sabha presides over the joint session or sitting of both the houses.
- ✓ **Numerical Strength** - The Lok Sabha may carry on its will in a joint session of two houses because of its numerical strength as compared to that of Rajya Sabha.
- ✓ **Power to Overthrow COM** - The council of ministers are collectively responsible to the Lok Sabha, so it survives as long as the COM enjoy the confidence of Lok Sabha,
- ✓ **Grants** – The Lok Sabha discusses, votes, and passes the demands for grants of various ministries
- ✓ **Constitutional Amendment** – Constitutional Amendments are done by passing a bill of special majority by both the houses.
- ✓ **Electing the President and Vice President** – Selected Members of both Houses are involved.
- ✓ **Impeachment of President** – Resolution passed in either House, gets investigated and ratified at both levels of the Parliament.
- ✓ **Emergency Declaration** – Both Houses send a written approval regarding proclamation of Emergency to the President.
- ✓ **Reports Viewing** – Reports of various commissions and autonomous bodies are considered by both the Houses.
- ✓ **UPSC** – Both houses are involved in taking away any item from the purview of UPSC.
- ✓ **Legislation** – Exercising control over delegated legislation is done by both Lok Sabha and Rajya Sabha.

11*Write about the Speaker of the legislative assembly?

- ✓ A12. The Speaker and deputy speaker are members of the state legislature chosen/nominated from amongst the members.

- ✓ The speaker remains in office during the life of the assembly. However he vacates his office earlier in any of the following 3 cases:
 - If he ceases to be a member of his assembly.
 - If he resigns by writing to the deputy speaker
 - If he is removed by a resolution passed by majority of all members of the assembly.

Powers and Duties of the Speaker of the legislative assembly:

- ✓ **A12. Maintains Order** - He maintains order and decorum in the house for conducting its business and regulating its proceedings. This being his primary responsibility, he has final power in this regard.
- ✓ **Interpreter of Provisions** - He is the final interpreter of the provisions of (a) the constitution of India. (b) the Rules of Procedure and the Conduct of Business of **assembly** and (c) **the legislative precedents** within the assembly.
- ✓ **Adjourns the House**- He adjourns the House or suspends the meetings in the absence of a quorum.
- ✓ **Power of a Casting Vote** - He does vote in the first instance. But he can exercise a casting vote in the case of a tie.
- ✓ **Presides over Secret Sitting** - He can allow a secret sitting of the House at request of the Leader of the House.
- ✓ **Decision on Money Bill** - He decides whether a bill is a money bill or not and his decision on this question is final.
- ✓ **Disqualifies a Member** – He decides on the question of disqualification of a member of assembly, arising on the ground of defection under the provision of the tenth schedule.
- ✓ **Appoints Chairman**- He appoints chairmen of all the committees of the assembly and supervises their functioning.

Q12. *Explain the composition powers and functions of the Governor?

- ✓ A.13. The chief executive head of the state is called Governor, but like the president he is the nominal executive head.
- ✓ Article 153 states the Provision for a Governor for every state. However the 7th constitutional amendment Act of 1956 facilitated appointment of the same person as a governor for two or more states.
- ✓ The Governor is appointed by the president by warrant under his hand and seal. He in a way is a nominee of the Central Government.
- ✓ But as held by the SC in 1979, the office of the governor is not an employment under the Central Government. It is an independent Constitutional office and is not under its control or subordination.

POWERS AND FUNCTIONS OF THE GOVERNOR:

1. EXECUTIVE POWERS
2. LEGISLATIVE POWERS
3. FINANCIAL POWERS
4. JUDICIAL POWERS
5. DISCRETIONARY POWERS

1.Executive Powers:

ADMINISTRATIVE POWERS

- ✓ Article 154: The Governor is the executive Head of the State Government.
- ✓ The executive powers of the state government are vested with the governor.
- ✓ He exercises this power directly or through the officers subordinate to him.

- ✓ All executive actions are taken in his name. The executive powers of the Governor extends to the administration of all matters included in the state list.
- ✓ He can make rules for more convenient transactions of the business of state government and for the allocation of business among the ministers.
- ✓ He can recommend imposition of constitutional emergency in a state to the President. During the period of President's rule in the state, the governor enjoys extensive executive powers as an agent of the President.

Appointment Making Powers

- ✓ An important function of the Governor is to appoint the Chief Minister of the State who is leader of the majority party in the legislative assembly.
- ✓ Other ministers are also appointed by the Governor on the advice of the Chief Minister. The ministers including the Chief Ministers hold office during the pleasure of the Governor.
- ✓ He also has the power to appoint the higher officers of the State including the Advocate General and the members of the State Public Service Commission.
- ✓ He appoints a Tribal Welfare Minister for the administration of welfare schemes of the Scheduled Classes and backward classes.
- ✓ He acts as the Chancellor of Universities in the state. He also appoints the vice-chancellors of universities of state.

INFORMATION SEEKING POWERS

- ✓ He can seek any information relating to the administration of the affairs of the state and the proposals for legislation from the Chief Minister.
- ✓ He can require the CM to submit for consideration of the Council of ministers any matter which has not been considered by the council.

2. LEGISLATIVE POWERS

- ✓ Governor is an integral and indispensable part of the State Legislature. In some states, the State Legislature consists of the Governor and one House, ie, the legislative assembly. While, in the other it consists of the Governor and two chambers known as the Legislative Assembly and Legislative council.
- ✓ The Governor possesses the powers to summon and prorogue the Houses of the State Legislature. He can also dissolve the Lower House – Legislative Assembly before the expiry of its term.
- ✓ The Governor addresses the State Legislature at the commencement of the first session of each year.
- ✓ He can send messages to the house or houses of state legislature, with respect to a bill pending in the legislature or otherwise.
- ✓ He can appoint any member of the State legislative assembly to preside over its proceedings when the office of both the Speaker and Deputy Speaker fall vacant. Similarly he can appoint any member of the state legislative council to preside over its proceedings when the office of both the Chairman and Deputy Chairman fall vacant.
- ✓ Without the governor's assent, no bill can become law even after it is passed by both the houses. The Bills passed by the legislature are sent to the Governor for his assent. He may give his assent or withhold it or may reserve the bill for the consideration of the President.
- ✓ The Governor may issue ordinances during the period the legislature is not in session. (However for the continuation of such an ordinance, it has to be approved by the state legislature within six weeks of re-assembly of legislature).
- ✓ The Governor nominates 1/6th of the members of the legislative council from among persons having special knowledge or practical experience in the respect of literature, science, art, or social service. He may also nominate a person from the Anglo Indian Community to the legislative assembly.

3. Financial Powers

- ✓ The finance minister submits the budget or financial statements before the legislature. But no money bill can be introduced in the legislative assembly without the prior permission of the governor.
- ✓ No demand for grants can be made without the recommendation of the Governor.
- ✓ The Governor is the custodian of the Contingency fund of the state, from where he can make payments to meet the emergency without the prior sanction of the legislature.

4. Judicial Powers

- ✓ He determines the questions of appointments, postings, promotions etc of subordinate courts (district court and munsif courts)
- ✓ He may be consulted by the President, while making appointments of HC judges.
- ✓ The Governor has the power to pardon, suspend, remit, or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of that state extends.

5. Discretionary Powers

- ✓ Appointing a new CM when no single party or leader commands majority support.
- ✓ Dismissing a ministry where it refuses to resign even after losing majority support in the house after being defeated on a no-confidence motion.
- ✓ Dissolution of assembly on the advice of a chief minister who has lost majority support.
- ✓ Sending report about failure of constitutional machinery to the president to impose president's rule in the state.
- ✓ Giving assent to the bills passed by the legislature.

Q.13. Discuss the composition, powers, and functions of Rajya Sabha?

A.14. Indian parliament has two Houses. Acc to Article 79, the upper House is the Council of States (Rajya Sabha). Rajya Sabha represents the State and Union Territories of the Indian Union.

The maximum strength of Rajya Sabha is fixed at 250 out of which 238 are to be representatives of the states and Union territories (elected indirectly) and 12 are nominated by the President

At present, the Rajya Sabha has 245 members of these 229 members represent the states, 4 members represent the Union territories and 12 members are nominated by the President.

Powers and Functions of Rajya Sabha:

1. **Money Bill:-** The Rajya Sabha has to pass a money bill within 14 days of its receipt. The Rajya Sabha may return the money bill with some recommendation but the Lok Sabha may accept or reject them. Please note, if the Rajya Sabha failed to return the bill within 14 days of its receipt, the money bill is deemed to have been passed by both the Houses.
2. **Grants** – The Rajya Sabha may discuss demands for grants but it does not vote and pass the demand for grants.
3. **Constitutional Amendment** – Constitutional amendment is done by passing a bill of special majority by Rajya Sabha as well as Lok Sabha..
4. **Electing the President and Vice President** – Selected Members of both Rajya and Lok Sabha are involved in electing the President and Vice President..
5. **Impeachment of President** – Resolution for impeachment is passed in either House, gets investigated and ratified at both houses of the Parliament.
6. **Emergency Declaration** – Both Rajya Sabha and Lok Sabha send a written approval regarding proclamation of Emergency to the President.
7. **Reports Viewing** – Reports of various commissions and autonomous bodies are considered by both the Houses.

8. **UPSC** – Taking away any item from the purview of UPSC is done by approval of Rajya Sabha and Lok Sabha.
9. **Legislation** – Exercising control over delegated legislation.
10. **Extend Duration of Emergency** – If Lok Sabha stands dissolved, Rajya Sabha can extend the duration of Emergency proclaimed by President under Article 352, 356, and 360.
11. **Removal of VP** – The Rajya Sabha alone can initiate a move for the removal of the VP which must be concurred by the Lok Sabha.
12. **Creation of ALL India Services** – Under Article 312, the Rajya Sabha has the power to pass a resolution by two-third majority of its members present and vote to create an All – India Public Service , which may be regularized later by a law of the parliament.
13. **Shifting of Powers List** – Under Article 249, the Rajya Sabha may pass a resolution by 2/3rd majority of members present and vote so as to shift an item from State list to Union List or to the Concurrent list on the grounds of expedite processing.

Q.14. Explain the methods of acquiring and losing of citizenship?

A.15. Citizenship may be defined as the legal relationship between an individual and the state under which the individual pledges his loyalty to the state, and the state offers protection to the individual. Citizenship is the status of being a citizen, along with rights, duties, and privileges of being a citizen.

There are five modes to acquire Citizenship to become a part of India

- By Birth
- By Registration
- By Acquiring Incorporation
- By Naturalization.
- By Descent

Citizens by Birth (CBB)

- ✓ Every person born in India on or after 26th Jan 1950 and before July 1st 1987 shall be a CBB irrespective of the Nationality of his parent.
- ✓ Those born in India after 1 Jul 1987 but before January 7 2004, at least one of your parents must have been a citizen of India at the time of your birth.
- ✓ Those born in India after January 7th 2004 are CBB only if both parents were citizens or one parent was a citizen and the other was not an illegal migrant at the time of your birth
- ✓ Not applicable for diplomats and enemy aliens

Citizen by Descent (CBD)

- ✓ Every person born outside India on or after 26 Jan 1950 but before 10 Dec 1992 is a Citizen by birth if his father was a citizen at the time of his birth.
- ✓ Those born outside India after 10 Dec 1992 and before 7 Jan 2004, either parent being a citizen confers citizenship.
- ✓ Those born outside India after 7 Jan 2004 are not citizens unless their birth was registered an Indian Consulate within a year of Date of Birth.

Citizen By Registration

Following are the 5 mandatory rules for acquiring Citizenship By Registration:

- ✓ A Person of Indian Origin who has been a resident of India for 7 years before applying for registration.
- ✓ A PIO who is a resident of any country outside undivided India. (Pakistan & Bangladesh)
- ✓ A person who is married to an Indian citizen and is ordinarily resident for 7 years before applying for registration.
- ✓ Minor children of persons who are citizens of India.
- ✓ Persons of full age and capacity who are members of the Commonwealth Countries or the Republic of Ireland.

Citizenship by Naturalization

- ✓ Any person who does not come under above categories can acquire Citizenship by Naturalization.

Application for naturalization certificate must satisfy the following conditions:

- ✓ You belong to a country where Indians are allowed citizenship also.
- ✓ You have to renounce citizenship of the other country.
- ✓ Good Character/Adequate knowledge one of languages specified in the Schedule VIII of languages
- ✓ Ordinarily resident in India for 12 yrs (12 months immediately preceding the date of application and an aggregate of 11 yrs in the 14 years preceding 12 months).
- ✓ If in the opinion of Central Government the applicant has rendered distinguished service in the field of Science/philosophy, art, literature, world peace or human progress the above conditions may be lifted.
- ✓ The applicant to whom the Naturalization Certificate is granted shall take an oath of allegiance can be a citizen from the date on which that certificate is granted.

Citizenship by Incorporation of territory

- ✓ Citizens under Incorporation by territory become Indians by rights.
- ✓ If any new territory is incorporated into India (i.e. becomes part of India).
- ✓ The GOI, by order may specify that the persons of such a territory shall become the citizens of India automatically by reason of their connection with that territory.

Loss of citizenship (RTD)

The Citizenship Act 1955 envisages 3 situations in which the Citizens of India may lose their Indian Citizenship:

- ▣ Renunciation
- ▣ Termination
- ▣ Deprivation

Loss of Citizenship by RENUNCIATION

- ▣ A voluntary act by which a person after requiring the citizenship of another country , gives up his Indian Citizenship.
- ▣ He renounces his Indian Citizenship through a declaration and ceases to be an Indian Citizen on registration of Declaration.
- ▣ Minor child of that person also ceases to an Indian Citizen. However, such a minor child within one year of attaining full age can become an Indian by making a declaration of his intention to resume Indian Citizenship.

Loss of Citizenship By Termination

- ▣ Any person who has acquired Citizenship by Naturalization or Registration or otherwise, voluntarily acquires the citizenship of another country.
- ▣ He automatically ceases to be an Indian Citizen.

Loss of Citizenship By Deprivation

- ✓ Section 10 of Citizenship Act 1955 empowers Central Govt to deprive a citizen of his Citizenship acquired by naturalization , registration or by Clause C of Article 5.
- ✓ Citizenship has been acquired by fraud/ false representation or concealment of any material fact.
- ✓ Disaffection or disloyalty shown to the Constitution of India by speech or act.
 - Unlawfully traded or communicated with the enemy during war.
 - Sentenced to imprisonment for 2 years in any other country during the first 5 years of acquisition of Indian citizenship .

- Citizen has been ordinarily resident outside India for 7 years continuously without expressing his intent to retain his Indian citizenship.

Q.15. Explain the composition powers and functions of the High Court.

A.16. High courts are subordinate to the apex court, ie, supreme Court

Article 214 to 231 in Part VI deal with the organization jurisdiction powers of the high courts.

Composition:

- ✓ Every HC whether exclusive or common must consist of one chief justice and such other judges as the President may from time to time deem necessary to appoint.
- ✓ Thus the constitution does not specify the strength of HC and leave it to the discretion of the president.
- ✓ Accordingly the president decides the strength of the High Court's from time to time.
- ✓ There are 24 HC in the country.

Powers and Jurisdiction of HC

1. Original Jurisdiction:

It means the power of a high court to hear disputes in the first instance not by way of appeal, it extends to the following:

- ✓ Matters of will, marriage, divorce, company law or contempt of court.
- ✓ Disputes related to the election of members of Parliament and state legislatures.
- ✓ Enforcement of fundamental rights of citizens.
- ✓ Cases ordered to be transferred from subordinate courts involving the interpretation of the constitution.
- ✓ The four high courts (Calcutta, Mumbai, Tamil Nadu, and Delhi High courts) have civil jurisdiction in cases of higher monetary value.
- ✓ The HC have no original criminal jurisdiction.

2. Writ Jurisdiction:

- ✓ Article 226 of the Constitution empowers a high court to issue writs for the purpose of enforcement of fundamental rights of citizens and for any other purpose, referring to the enforcement of legal rights.
- ✓ Writ Jurisdiction of HC is wider than that of SC.

3. Appellate Jurisdiction:

- ✓ A HC is a primary court of appeal.
- ✓ It hears appeals against the judgments of subordinate courts functioning in its territorial jurisdiction.
- ✓ It has appellate jurisdiction both in civil and criminal proceedings.

4. Supervisory Jurisdiction

- ✓ The HC has the power of superintendence over all the courts functioning in its territorial jurisdiction.
- ✓ Administrative control of the HC over the districts courts and other lower courts is full, ie,
 - It may call for returns from them;
 - Make and issue general rules and prescribe forms for regulating the practice and proceedings.
 - Prescribe forms in which books, entries and accounts are to be kept by them.

5. Control over Subordinate Courts

- ✓ The postings, promotions, grants of leave to any person belonging to the judicial service of a state and holding any post inferior to the post of a district judge is vested in the HC.

6. Court of Records

As a court of record, the HC has two powers

- ✓ The judgments, proceedings, and acts of the high court are recorded for perpetual memory and testimony. These records are admitted to be of **evidentiary value** and cannot be questioned before any subordinate courts.
- ✓ It has the **power to punish for contempt of court** either with simple imprisonment or with fine or both.
 - Contempt can be civil or criminal. Civil contempt is willful disobedience to any judgement, order or writ. Criminal contempt means publication of any matter which scandalizes or lowers the authority of the court, interferes with the judicial proceedings, or obstructs the administration of justice in any other manner.

7. Judiciary Review:

Judiciary review is the power of a high court to examine the constitutionality of the legislative enactments and executive orders of both the center and the states. Upon examination, if they are found to be violating the constitution, they can be declared as illegal, unconstitutional and invalid. Consequently, they cannot be enforced by the government.

Q.16. Discuss the right to Constitutional remedies?

A.17. RIGHT TO CONSTITUTIONAL REMEDIES (ARTICLE 32)

- ✓ A mere declaration of the fundamental rights in the constitution is meaningless without providing effective machinery for their enforcement, if and when they are violated.
 - ✓ Hence Article 32 confers the right to remedies for the enforcement of fundamental rights of an aggrieved citizen.
 - ✓ In other words, the right to get fundamental rights protected is in itself a fundamental right.
 - ✓ Hence Dr. Ambedkar called Article 32 as the most important article in (soul of) the constitution.
 - ✓ Clause 2 of Article 32 provides that "The Supreme Court shall have the power to issue directions or order or writs in the nature of habeas corpus, mandamus, prohibition, Quo warrant, and criterion, whichever may be appropriate for the enforcement of any of the rights conferred by fundamental rights."
 - ✓ Besides the Supreme Court, Under Article 226 the High Courts also have been given a role in the protection of fundamental rights. HC also can issue writs for the enforcement of fundamental rights.
- 1. Areas of Power to Issue Writs of HC is wider than that of SC:**
- ✓ The supreme court can issue writs in matters of infringement /violation of fundamental rights only
 - ✓ The High court can issue writs against infringement of fundamental rights as well as against violation of ordinary law of redress grievances.

2. Competence of HC is limited as compared to SC

- ✓ The HC is restricted to issue writs within its territorial jurisdiction.
- ✓ Whereas the SC is competent to issue writs enforcing Fundamental Rights throughout the territory of India as a whole.

ENFORCEMENT OF FUNDAMENTAL RIGHTS THROUGH WRITS

- ✓ A writ is a written order written by a High Court or Supreme Court under its seal to a person, authority including the Government commanding the person or the Government to do or to forbid from doing an act.
- ✓ The main objective of writ is to ensure quicker justice to persons whose fundamental rights are violated

WRIT OF HABEAS CORPUS

- ✓ Meaning:- You shall have the body.
- ✓ Purpose: To seek relief from unlawful detention. If detention is found to be unlawful person is set free immediately
- ✓ To protect the individual from harming himself or being harmed by the Administrative System.
- ✓ For safeguarding individual freedom against arbitrary state of action which violates fundamental rights u/a 19, 21, 22.
- ✓ Cannot be suspended even during Emergency (Art. 359)

WRIT OF MANDAMUS

- ✓ Means “we command” in latin.
- ✓ Issued by a Superior court to compel a lower court or a government officer to perform mandatory or purely ministerial duties correctly.
- ✓ An order from a superior court to any government, subordinate court, corporation or public authority to do or restrain from doing some specific act that the body is obliged under law to do or refrain from doing as the case may be, and which is in the nature of public duty and in certain cases of a statutory duty.

CONDITIONS FOR ISSUE OF MANDAMUS

- ✓ The applicant must have a legal right to the performance of a legal duty
- ✓ The legal duty must be of a public nature.
- ✓ The right sought to be enforced must be subsisting on the day of the petition
- ✓ Ultimate purpose is to compel the performance of public duties prescribed by statute by public authority.

WRIT OF PROHIBITION

- ✓ Is an official legal document drafted and issued by a supreme court or superior court to a judge presiding over a suit in an inferior court.
- ✓ Used to prevent an inferior court from exceeding its jurisdiction or acting contrary to the rules of natural justice.
- ✓ May be issued both in cases where there is an excess of jurisdiction and where there is absence of jurisdiction.

WRIT OF CERTIORARI

- ✓ Means “to search”
- ✓ Currently means an order by a higher court directing a lower court , tribunal or public authority to send the record in a given case for review.
- ✓ It is a writ which orders the removal of suit from an inferior court to a superior court.
- ✓ The main objective is to ensure speedy justice also prevent an inferior court which is not competent to deal with the suit.

WRIT OF QUO WARRANTO

- ✓ By what warrant/ Authority?
- ✓ Requires the person to whom it is directed to show what authority he has for exercising some right or power he claims to hold.
- ✓ It is an order issued to restrain a period from holding an office to which he is not entitled.

Q.17. Discuss powers and functions of the Legislative Council?

A.18. The legislative council is the upper house of the state legislature. It is known as Vidhan Parishad.

The Constitution of India has provided for the creation or abolition of the legislative council.

Legislative council is not present in every state. As of today it is present in 7 out of 29 states have a legislative council: Andhra Pradesh, Bihar, Jammu and Kashmir, Karnataka, Maharashtra, Telengana, and Uttar Pradesh.

- ✓ The member of the legislative council are indirectly elected.
- ✓ The maximum strength of the council is fixed at **one-third of the total strength of the assembly** and the minimum strength is fixed at 40. It means the size of the council is determined by the size of assembly of the concerned state. This is done to ensure the predominance of the directly elected House (state assembly) in the legislative affairs of the state.

The total number of member of a legislative council:

1. 1/3 are elected by the members of local bodies in the state like municipalities, district boards etc.
2. 1/12 are elected by graduates of three years standing and residing within the state.
3. 1/12 are elected by teachers of secondary schools and colleges
4. 1/3 are elected by members of the legislative assembly of the state
5. And the remainder 1/6 are nominated by the Governor from amongst person who have special knowledge or practical experience of literature.
6. Thus 5/6 of the total number of members of the legislative council are indirectly elected and 1/6 are nominated by the governor. The members are elected in accordance to the system of proportional representation by means of single transferrable vote.

Powers and Functions of the Legislative Council

Legislative powers:

- ✓ Any ordinary bill that is not a Money Bill can be introduced in the legislative council.
- ✓ Any ordinary bills on the subject mentioned in the State List and Concurrent list can be introduced in the legislative council.
- ✓ After the bill is passed by the Legislative assembly, the bill cannot be sent to the Governor for his assent unless it passed by the Legislative Assembly.
- ✓ The legislative council can delay a non-money bill at the most for 4 months.

Financial Powers:

- ✓ In Financial matters, the Legislative Council does not enjoy must power.
- ✓ Money Bills cannot be introduced in this Chamber.
- ✓ The money bill can only be introduced in the Legislative Assembly and after it is passed there, it is sent to the Legislative Council and the Council & the Legislative Council can delay it at the most for 14 days.
- ✓ It may reject the Bill or may not take any action over it for 14 days and in both these cases the bill is considered as passed by both the Houses and is sent to the Governor for assent. Budget is passed in the Legislative Assembly

Control over the executive:

- ✓ The Legislative council does not exercise must control over the executive. Some ministers are of course taken from the legislative council. Its members can question to the ministers and they are to give satisfactory answers to the questions.
- ✓ The council can discuss and pass resolutions of the matters of public importance and relating to the administration of the state. The Council can criticize the functioning of the departments under the Ministers. More than this it does not have control over the Council of Ministers. The council of ministers cannot be removed from office by the Legislative Council.
- ✓ The legislative council is the upper chamber of the State Legislature. But its position as compared with the lower chamber is of less importance.
- ✓ The legislative assembly can establish or abolish the Legislative council by passing a resolution to this effect. The very existence of Legislative council depends on the Legislative Assembly.

Q.18 Discuss the role played by Dr. B. R. Ambedkar in framing of Indian Constitution.

A18. Dr. Bhim Rao Ambedkar played a pivotal role in the constituent assembly and in the constitution making. His contribution to the Constituent Assembly and Constitution were:

1. He played an important role in the discussion of the constituent assembly. His scholarship and eloquence enabled him to speak authoritatively and forcefully on various constitutional issues in the constituent assembly. He gave satisfactory and convincing replies and clarifications to several questions posed by the members in the constituent assembly.
2. He showed flexibility in accommodating the views of various parties and groups in the constituent assembly.
3. On 15 August 1947, when India achieved its Independence, Nehruji made Ambedkar as his first Law Minister in recognition of his legal prowess and also in fact made him the chairman of the drafting committee of the Indian Constitution. He did the task of preparing the draft of the Constitution of India successfully. A singular honour and his first and primary important contribution to this document, that its actual writing/drafting and structuring, which is not a small thing,
4. As the drafter/framer and primary mover of the new Indian Constitution, Dr. Ambedkar had a central role in guiding his committee towards the sort of socialistic, idealistic vision that he had and to some extent he shared this with Nehruji.
5. According to Granville Austin, this document was thus first and foremost, 'a social document', ie, one which identified many of the basic problems besetting and needing to be addressed for the amelioration of the masses and in this regard it is worthwhile noting down pointwise some of Ambedkar's main personal contributions, depending upon his own experience and interests and concerns.
 - a. Guarantees of basic civil liberties to the Indian Citizens.
 - b. Abolition of all forms of discrimination of caste and creed, freedom of religion and abolition of untouchability in principle at least – something very personal for him, coming as he did from untouchable origins.
 - c. Equal rights under law to Indian women and full social and economic freedoms to them too.
 - d. Various job quotas guarantees for scheduled caste and tribes and minorities in India to ensure fair play and some modicum of removal of social inequalities for remote and underprivileged communities.
6. According to Jawaharlal Nehru, "no one took greater trouble and care over the constitution – making than Ambedkar". Acknowledging his role in the constitution – making and his service to the Nation as the first law minister of Independent India and his unforgettable role as a social revolutionary, The VP Singh Government conferred on him the highest Civilian award 'Bharat Ratna' in 1990.

Q.19. Write about the importance of 73rd and 74th constitutional amendment acts.

- ✓ A19. **The 73rd Amendment to the Constitution** is almost the culminating point of the evolutionary process in regard to the decentralization of democratic power.
- It confers constitutional status to the Panchayats at District and sub-district levels and envisages setting up of Panchayats at village, Intermediate and District levels in every state. One major element is giving representation to the MPs and MLAs in the Block and District panchayats.
 - The Amendment has provisions which are of great significance in so far as related to the socio-economic planning. These concerns preparation of development plans, implementation of development schemes, power to levy and collect taxes, constitution of State Finance Commission

to review financial position of Panchayats, delineation of subjects which call to be assigned to the Panchayats and invalidating any law in force which is inconsistent with the Amendment .

- The state Governments are expected to amend their laws to make them conform the constitutional amendment.
- ✓ The 74th Amendment to the Constitution has provided legal basis for local self government in Urban areas for the first time.
 - It provides for municipalities with powers and authority , as may be necessary to carry out the responsibilities conferred upon them including those related to matters listed in the 12th Schedule.
 - It empowers State finance commission to review the financial position of the Municipalities and recommends the patter of sharing of taxes, duties, tolls etc. As also grants-in-aid from the Consolidated fund of the state.
 - According to this Amendment, a District planning Committee is to be constituted in every state which will consolidate the plans prepared by the Panchayats and the Municipalities in the district so that a draft development plan may be prepared for the district as a whole.
 - Schedule 11 of the 73rd Constitutional Amendment Act listed 29 subjects by way of elaboration of Article 243 G, which deals with the devolution of powers and responsibilities, which may be entrusted to the Panchayats.
- ✓ In the same manner, 12th Schedule of the 74th Constitutional Amendment Act listed 18 subjects for devolution of powers and responsibilities which may be entrusted to urban local bodies. The subjects included in the 11th and 12th Schedule indicate the broad area for devolution and further elaboration specifying functions and activities, which may be transferred to local bodies was considered necessary.

Q.20. Describe the composition, powers, and functions of the Union Cabinet

A.20 The words Council of Ministers and Cabinet are used interchangeably though there is a definite distinction in them they differ in respect of composition, functions and role.

Ramsay Muir “The Cabinet is the steering wheel of the ship of the state”

Bagehot “The Cabinet is the hyphen that joins the buckle that binds the executive and legislative departments together”

The cabinet is the core of the British constitutional system. Its provides unity of the British system of Government.

Composition Of The Union Cabinet (Council Of Ministers).

- ✓ The council of Ministers consists of three categories of Ministers.
 - Ministers of cabinet rank, ie, Cabinet Ministers.
 - State Ministers
 - Deputy Ministers
- Cabinet Ministers are the senior most Ministers to head a department with portfolio. The Cabinet is the smaller body of the Council of Ministers.
- The difference lies in their respective ranks, emoluments, and political importance.
- At the top of all of these ministers stands the PM – the supreme governing authority of the country.
- The **Cabinet Ministers head the important ministries** of the Central Government like home, defence, finance, external affairs and so forth. They are members of the Cabinet, who attend its meetings and play an important role in deciding its policies. Thus, their responsibility extends over the entire gamut of the Central Government.
- The **State ministers** can either be given independent charge of ministries/departments or can be attached to cabinet ministers. When given charge of departments or allotted specified items of work, **in both cases they work under the council and guidance of the Cabinet of Ministers.**

- IN case of independent charge, they perform the same function and exercise the same power in relation to ministries/departments as cabinet ministers do. However, they are not members of the cabinet and do not attend the cabinet meetings unless specifically invited when something related to their ministries/departments are considered by the cabinet.
- Next In rank are the **Deputy ministers**. They are not given independent charge of ministries/departments. They **are attached to the cabinet ministers or state ministers and assist them** in their administrative, political and parliamentary duties. They also do not attend cabinet meetings as they are not members of the cabinet.
- There is one more last category of Council of ministers called the **Parliamentary secretaries**. They have no department under their control. They are **attached to the senior ministers and assist them** in the discharge of their parliamentary duties.
- A **deputy prime minister** is sometimes included in the Council of Ministers. Eg, LK Advani served as a deputy prime minister in the AB Vajpayee's ministry. DPM are mostly appointed for political reasons.
- **Kitchen Cabinet:**
 - ✓ The Kitchen Cabinet is a small body consisting of the prime minister as its head and some 15 to 20 members as the highest decision making body in the formal sense.
 - ✓ However there is a still **smaller body** called the "inner Cabinet or the Kitchen Cabinet" which is the real center of power.
 - ✓ This **informal body** consists of the Prime Minister with 2 to 4 influential colleagues in whom he has faith and with whom he can discuss every problem.
 - ✓ **The merits of Kitchen Cabinet (extra constitutional body)**
 - ✓ It being a small unit, is a more efficient decision making body than a large cabinet.
 - ✓ Can meet more often and expedite business compared to a larger cabinet.
 - ✓ Helps the PM in maintaining secrecy in making decisions on important political issues.
 - ✓ Circumvents legal process by allowing outside person to play an influential role in the government functioning. The phenomenon of 'Kitchen Cabinet' where decision are cooked and placed before the cabinet for formal approval is not unique to India. It also exists in USA and Britain as well.

Powers and Functions of the Cabinet:

1. It is the highest decision making authority in our politico-administrative system.
2. It is the chief policy formulating body of the Central government.
3. It is the supreme executive authority of the Central government.
4. It is the chief coordinator of Central administration.
5. It is an advisory body to the president and its advice is binding on him.
6. It is the chief crisis manager and thus deals with all emergency situations.
7. It deals with all major legislative and financial matters
8. It exercises control over higher appointments like constitutional authorities and senior secretariat administrators.
9. It deals with all foreign policies and foreign affairs.

How are Council of Ministers and Cabinet Ministers distinct:

1. **Size-** COM is a wider body consisting of 60-70 ministers/ Cabinet is a smaller body consisting of 15-20 ministers.
2. **Category – COM** Includes all 3 categories of ministers/ Cabinet include the Cabinet ministers only. Thus it is a part of the Council of Ministers.
3. **Collective functions -** COM does not meet as a body to transact government business. It has no collective functions/ Cabinet meets as a body frequently and usually once in a week to

deliberate and take decisions regarding the transaction of government business. Thus, It has collective functions.

4. **Power-** COM is vested in with all powers but in theory only./Cabinet exercises in practice the powers of the council of ministers.
5. **Direction** – COMs directive functions are determined by the Cabinet. / Cabinet directs the COM by taking policy decisions which are binding on all ministers.
6. **Implementation** – COM implements all decisions taken by the Cabinet. / Cabinet supervises the implementation of its decision by the COM.
7. **Sanction** – COM is a constitutional body, dealt in Article 74, and 75. Its size and classification are not mentioned in the constitution. The size is determined by the PM according to the exigencies of the time and requirements of the situation. It is classified into three-tier body based on the conventions of parliamentary government as developed in Britain. However it has a legislative sanction. Thus the Salaries and Allowances Act of 1952 defines a minister as a member of the Council of ministers by whatever name called and that includes a deputy minister. / Cabinet was inserted in Article 352 of the Constitution in 1978 by the 44th Constitutional Amendment, defines the cabinet saying the council consisting of the Prime ministers and other ministers of cabinet rank appointed under Article 75.

Q.21.Discuss the composition, powers and function of the Parliament of India

A21. The Parliament of India composed of two houses namely Lok Sabha (House of People) and Rajya Sabha (House of States)

Composition of Lok Sabha

- ✓ The maximum strength of Lok Sabha is fixed at 552. Out of this, 530 members are to be the representatives of the States. 20 members are to be the representative of the Union Territories and 2 members are to be nominated by the president from the Anglo-Indian Community.
- ✓ At present, the Lok Sabha has 545 members, of these, 530 members represent the states, 13 members represent the union territories and 2 Anglo-Indian are nominated by the President.

Composition Of Rajya Sabha

- ✓ The maximum strength of Rajya Sabha is fixed at 250 out of which 238 are to be representatives of the states and Union territories (elected indirectly) and 12 are nominated by the President
- ✓ At present, the Rajya Sabha has 245 members of these 229 members represent the states, 4 members represent the Union territories and 12 members are nominated by the President.

The important functions and powers of the Parliament are:

A. Legislation: Article 245 and 246, the parliament can make laws for who or any part of India. It has exclusive rights to legislate on the items in the Union List.

Both Parliament and the state legislative assemblies can make law on items in the Concurrent list. However in case of conflict between the union and the state laws, the union law will prevail over the state laws.

The parliament also has residuary powers, ie, powers to legislate on items which are not specifically included in the Union list, state list and concurrent list.

B. Constitutional Powers: Under Article 368, the parliament is empowered to make constitutional amendments. A large number of articles of the constitution can be amended by the parliament itself. Certain articles of the constitution can be amended by the parliament without the approval of the state legislature.

C. Control over the Government: The parliament has control over the Government. The council of ministers is responsible to the Lok Sabha. The Lok Sabha can pass no confidence motion to dismiss the Government.

D. Control over Public Finance: The parliament has control over public finance. It has powers to levy or modify taxes and the voting of supplementary grants. No taxes can be legally levied and no expenditure incurred from the public except without parliamentary authorization by law, ie, budget.

E. Administrative Accountability: The parliament has administrative accountability. Administrative accountability is ensured through legislation and through parliamentary devices like questions, discussion on various motions, committee's scrutiny, and through the minister who actually represents parliament and control his department on behalf of the parliament.

F. Other Functions: The Parliament exercises other functions, such as the election and impeachment of the President, removal of the supreme court and high court judges, comptroller and auditor general, chief election commission, presiding officer of the lower house etc.

Q.22. Explain the role/power and functions of President

A22.As per Article 58, a person to be eligible for election as President should fulfill the following qualifications:

- He should be a citizen of India.
- He should have completed 35 years of age.
- He should be qualified for election as a member of the Lok Sabha.
- He should not hold any office of profit under Union Government, State Government, or any local authority or any other public authority.
- He should not be a proclaimed offender.
- A sitting President, Vice President of the Union, and Governor of the State, a Senior Minister of the Union are not deemed to hold any office of Profit, hence they are qualified as a Presidential candidate.
- Nomination of a candidate for election to the office of the President must be proposed by 50 electors and seconded by another 50 electors
- Every President Candidate has to make a security deposit of Rs. 15000/- which is liable to be forfeited in case the candidate fails to secure one-sixth of the votes polled.
- ✓ The President is elected indirectly by members of the Electoral College.
 - The Electoral College consists of:
 - Elected members of both Houses of Parliament (Rajya Sabha and Lok Sabha)
 - The Elected members of the Legislative Assembly of the States.
 - The Elected members of the Legislative Assembly of Union Territories of Delhi and Puducherry.

POWERS AND FUNCTIONS OF THE PRESIDENT.

- The powers enjoyed and the functions performed by the President can be studied under the following heads:
 - Executive / Administrative powers
 - Legislative powers
 - Financial powers
 - Judicial powers
 - Diplomatic powers
 - Military powers
 - Emergency powers.
- The President of the India is the Head of the State and the Chief Executive. The executive powers are in his hands.
- He exercises these directly or through subordinates to him. However, being the head of the Parliamentary system he is the only a constitutional / titular head and exercises nominal power.

- The President acts in accordance with the advice of the Prime Minister . All his powers are really used by the Prime Minister and the Union Council of Ministers.

Executive Powers

1. Administrative powers

- The President is the Head of the executive and of the administration of India. The President is responsible for preserving, protecting and defending the constitution and law.
- Acc to Article 53 all executive powers have been vested in the hands of the President. Hence all executive actions of the Government of India are formally expressed and taken in his name. He gets the administration run by the Council of Ministers headed by the PM.
- Although President is not the real head of the administration, all offices of the Union are his subordinates and he has the right to be informed of the affairs of the Union.
- He can make rules for more convenient transactions of business of the Government of India and for allocates business among the ministers.

2. Appointment making powers

- Being the head of the Union Executive, President has vast powers of making executive appointments.
- Article 75 He appoints the Prime Minister, and other ministers on the advice of the PM.
 - While appointing a PM, In case no party gets a majority, he ensures the installation of a ministry headed by a person who in his opinion can command a majority support in the Lok Sabha. He may ask him to prove his majority on or within a particular date.
- The President also appoints, the Governor of the states, Judges of the Supreme Court and High Court, Attorney General, Auditor General, Chief Commission of Union Territories, Chairman and members of Election Commission.
- However, all such executive appointments are made by the President in accordance with the advice of the Prime Minister and Council of Ministers.
- All government high officials hold their office during the pleasure of the President of India.
- Judges of the Supreme Court and High Courts can be removed by the President only when a resolution for removal of a Judge is passed by both the House of the Parliament by 2/3rd majority to that effect

3. Power to seek information relating to administration

- The President can call for any information from the Prime Minister relating to administration of affairs of the Union and proposals for legislation from the Prime Minister.
- He can appoint a commission to investigate the conditions of SC/ST and backward classes.
- He can appoint inter-state council to promote inter-state council and to promote center state and inter-state cooperation.
- He can declare any area as scheduled area and has powers with respect to the administration of that scheduled area and tribal area.

Legislative powers:

- The President is an integral part of the Parliament. Without being a member of the Parliament, President is an inseparable part of the Parliament. In fact no bill passed by the Parliament becomes an act without the signature of the President. President enjoys the following legislative function:
- He can summon or prorogue the Parliament and dissolve the Lok Sabha. He can also summon the joint sitting of both Houses of Parliament.
- He can address the Parliament at the commencement of the first session after each general election and the first session of each year.
- He can send messages to the Houses of Parliament, whether with respect to a bill pending in the Parliament.

- He nominates 12 members to RajyaSabha from amongst persons having special knowledge or practical experience in the field of literature, art, science, and social service. He also can nominate 2 members to LokSabha from the Anglo-Indian Community.
- Appoints Speakers - He can appoint any member of LokSabha to preside over its proceedings when offices of both Speaker and Deputy speaker fall vacant. Similarly he can appoint any member of RajyaSabha to preside over its proceedings when the office of both the chairman and the Deputy chairman fall vacant.
- His prior consent recommendation or permission is needed to introduce certain types of bills in the Parliament. For eg, a bill involving expenditure from the Consolidated Fund of India or a bill for alteration of boundaries of a states or creation of a new state (latest eg – Formation of Telangana state)
- Power to give assent or refuse to do so: A bill passed by a Parliament becomes a law only after it gets the signature of the President. The President can:
 - Give his assent to the bill, or
 - Withhold his assent to the bill
 - Return the bill for reconsideration in the Parliament.
 - *However, if the bill is repassed again by the Parliament for the second time, with or without amendments, the Presidents has to give assent to the bill.*
- When the bill passed by State Legislature is reserved by the Governor for consideration of the President, The President can:
 - Give his assent to the bill
 - Withhold his assent to the bill
 - Direct the governor to return bill for reconsideration of the state legislature.
 - *It should be noted here that it is not obligatory for the President to give his assent even if the bill is again passed by the State Legislature and sent again to him for consideration.*
- He can promulgate ordinances when the Parliament is not in session.
 - Such an ordinance is issued by the President on the advice of the council of ministers for meeting an urgent need for legislation when the Parliament is not in session to make an act.
 - These ordinances must be approved by the Parliament within six weeks from its reassembly.
 - He can also withdraw an ordinance at any time.

FINANCIAL POWERS

- Power to get Budget Presented- The Union Budget is presented in the Parliament by the union Finance minister on behalf of the President.
- Power regarding Money Bills – Money bills can be introduced in the Parliament only with Presidents prior recommendation.
- President is authorized to sanction funds from contingency Fund of India to meet any unforeseen expenditure. (fixed Cash fund, imprest account – a fixed some of money which is restored periodically) Contingency funds are used during disasters and natural calamities and economic crisis.
- The President appoints the Finance Commission after every 5 years to solve problems concerning finances like allocation of funds, raising or reducing taxes between the union and the states. The recommendations are sent by the President to the Parliament.

Judicial powers

- He appoints the Chief Justice and the Judges of the High and Supreme Court
- He accepts resignation of the Judges of the SC and HC. He also removes Judges after a resolution of removal is passed by both the houses with 2/3rd majority to that effect.

- He can seek advice from the SC on any question of law or fact. However advice rendered by the SC is not binding on the President.
- The President is empowered to grant pardons to persons who have been tried and convicted of any offence in all cases where the
 - The punishment or sentence is an offence against a Union Law.
 - Punishment or sentence is by a court martial (military courts) and
 - Sentence is a death sentence.
 - The objective of conferring this power on the President is two fold – a) to keep the door open for correcting any judicial errors in the operation of the law. b) to afford relief from a sentence which the President regards as unduly harsh.
 - Under article 72, the President can
 - Pardon- it removes both the sentence and the conviction and completely absolves the convict from all sentences, punishments, and disqualifications.
 - Commutation – it denotes the substitution of one form of punishment to a lighter form. Eg – a death punishment could be commuted to a rigorous imprisonment, which may be commuted to a simple imprisonment.
 - Remission – Implies reducing period of the sentence without changing its character. A rigorous punishment of 2 years may be remitted to rigorous imprisonment of 1 year.
 - Respite – Denotes awarding a lesser sentence in place of one originally awarded due to some special fact such as physical disability of a convict or pregnancy of the women offender.
 - Reprieve – Implies a stay on the execution of the sentence for a temporary period.. Its purpose is to enable the convict to have time to seek pardon or commutation from the President.
 - The Pardoning power is not an absolute power of the President, he exercises this power on the advice of the Union Cabinet (Council of Ministers)

DIPLOMATIC POWERS

- The international treaties and agreements are negotiated and concluded on behalf of the President.
- However they are subject to the approval of the Parliament.
- The President represents India in international forums and affairs and sends and receives diplomats like ambassadors, high commissions and so on.

MILITARY POWERS

- He is the supreme commander of the Army, Navy, and Airforce.
- In that capacity, he appoints the chief of the Army, Navy, and Air force.
- He can declare war, or conclude peace subject to approval of the Parliament.

EMERGENCY POWERS

- In addition to the normal powers mentioned above, the constitution confers extraordinary powers on the President to deal with
 - National emergency – Article 352 – Emergency caused by war or external aggression.
 - State Emergency – President's rule – Article 356- Emergency arising out of failure of constitutional machinery
 - Financial Emergency – Article 360- Emergency arising out of financial crisis in the country.