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RAPID REVISION BOOK-3
INDIAN POLITY AND GOVERNANCE

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RAPID REVISION BOOKS- TITLES

BOOKLET	NAME
1	HISTORY 1- ANCIENT, MEDIEVAL, ART & CULTURE
2	HISTORY 2- MODERN INDIA
3	INDIAN POLITY AND GOVERNANCE
4	ECONOMY AND SOCIAL DEVELOPMENT
5	GEOGRAPHY AND ENVIRONMENT
6	SCIENCE AND TECHNOLOGY
7	IMPORTANT GOVT. SCHEMES
8	INTERNATIONAL AFFAIRS

Note: Additional booklet **number 9** on important topics of current affairs will be released in **April, 2023.**

RECOMMENDATION OF OUR SELECTED STUDENTS

I suggest UPSC civil services aspirants to refer to the standardised, precise and aptly curated SHIELD IAS Rapid Revision Books for targeted preparation of UPSC CSE Preliminary examination.

Also, the complete set of study material provided by SHIELD IAS is recommended for comprehensive coverage of General Studies topics for both preliminary and Mains stage of civil services examination.

AMOL SRIVASTAVA
AIR-83 UPSC CSE 2017

I would recommend the study material provided by Shield IAS for the UPSC Civil Services preparation to cover the General Studies syllabus. The Rapid Revision Books would help the aspirants for speedy revision for the Civil Services (Preliminary) examination. The books have been prepared by my mentors who helped me in clearing my Civil Services Exam in 2015-16.

HARSH KUMAR
IFS – 2016

I, Nidhin K Biju, IRS of 2020 batch, want to suggest the aspirants preparing for UPSC civil services Examination to read SHIELD IAS Rapid Revision books for swift coverage of syllabus for the UPSC Civil Services (Preliminary) exams. These books will help in targeted revision for confident attempt in the examination. I would also recommend reading the SHIELD IAS UPSC study material as a set of standard books for covering the entire General Studies syllabus (Prelims and Main Examinaton).

- Nidhin

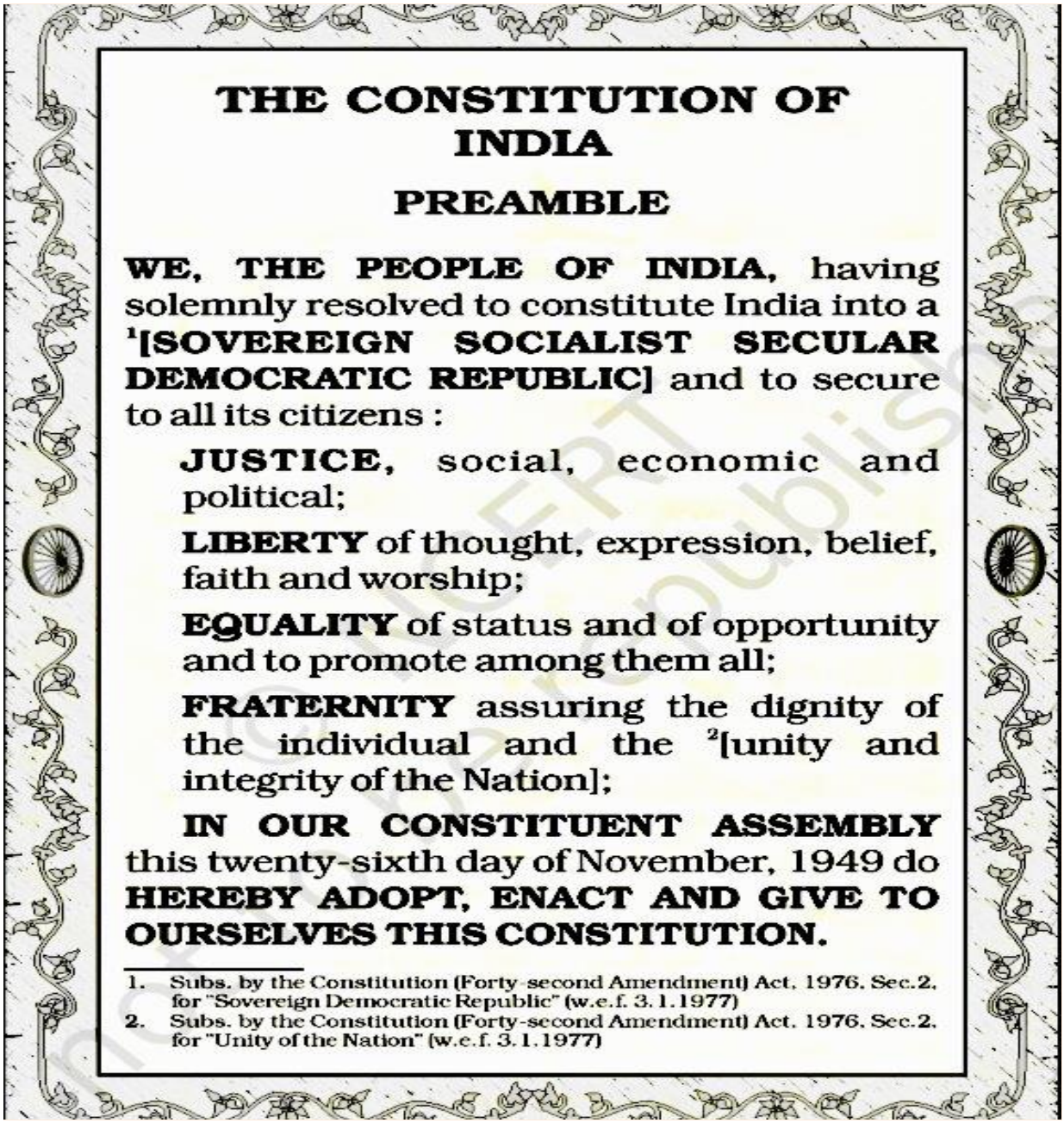
TABLE OF CONTENTS

INDIAN POLITY AND GOVERNANCE

INDIAN POLITY AND GOVERNANCE

(SPECIAL EDITION FOR PRELIMS 2023)

PREAMBLE



THE CONSTITUTION OF INDIA

PREAMBLE

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a [1]**[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 [2][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. Subs. by the Constitution (Forty-second Amendment) Act, 1976, Sec.2, for "Sovereign Democratic Republic" (w.e.f. 3.1.1977)
2. Subs. by the Constitution (Forty-second Amendment) Act, 1976, Sec.2, for "Unity of the Nation" (w.e.f. 3.1.1977)

PREVIOUS YEARS QUESTION

UPSC PRELIMS 2021

Q. What was the exact constitutional status of India on 26th January, 1950?

(a) A Democratic Republic
(b) A Sovereign Democratic Republic
(c) A Sovereign Secular Democratic Republic
(d) A Sovereign Socialist Secular Democratic Republic

Q. A legislation which confers on the executive or administrative authority an unguided and uncontrolled discretionary power in the matter of application of law violates one of the following Articles of the Constitution of India?

(a) Article 14 (b) Article 28
(c) Article 32 (d) Article 44

Q. Under the Indian Constitution, concentration of wealth violates

(a) The Right to Equality
(b) The Directive Principles of State Policy
(c) The Right to Freedom
(d) The Concept of Welfare

Q. What is the position of the Right to Property in India?

(a) Legal right available to citizens only
(b) Legal right available to any person
(c) Fundamental Right available to citizens only
(d) Neither Fundamental Right nor legal right

Q. 'Right to privacy' is protected under which Article of the Constitution of India?

(a) Article 15 (b) Article 19
(c) Article 21 (d) Article 29

UPSC PRELIMS 2020

Q. The Preamble to the Constitution of India is

(a) A part of the Constitution but has no legal effect
(b) Not a part of the Constitution and has no legal effect either
(c) A part of the Constitution and has the same legal effect as any other part
(d) A part of the Constitution but has no legal effect independently of other parts

Q. Which one of the following categories of Fundamental Rights incorporates protection against untouchability as a form of discrimination?

(a) Right against Exploitation
(b) Right to freedom
(c) Right to constitutional remedies
(d) Right to equality

Q. In India, separation of judiciary from the executive is enjoined by

(a) The Preamble of the Constitution
(b) Directive Principle of State policy
(c) The Seventh schedule
(d) The conventional practice

Q. Other than the Fundamental Rights, which of the following parts of the Constitution of India reflect/reflect the principles and provisions of the Universal Declaration of Human Rights (1948)?

1. Preamble
2. Directive Principles of State Policy
3. Fundamental Duties

Select the correct answer using the code given below:

(a) 1 and 2 only (b) 2 only
(c) 1 and 3 only (d) 1, 2 and 3

Q. Which part of the Constitution of India declares the ideal of a Welfare state?

(a) Directive Principles of State Policy
(b) Fundamental rights
(c) Preamble
(d) Seventh schedule

UPSC PRELIMS 2019

Q. Which Article of the Constitution of India safeguards one's right to marry the person of one's choice?

(a) Article 19 (b) Article 21
(c) Article 25 (d) Article 29

Q. With reference to land reforms in independent India, which one of the following statements is correct?

(a) The ceiling laws were aimed at family holdings and not individual holdings.
(b) The major aim of land reforms was providing agricultural land to all the landless.
(c) It resulted in cultivation of cash crops as a predominant form of cultivation.
(d) Land reforms permitted no exemptions to the ceiling limits.

Q. Under which schedule of the Constitution of India can the transfer of tribal land to private parties for mining be declared null and void?

(a) Third Schedule
(b) Fifth Schedule
(c) Ninth Schedule
(d) Twelfth Schedule

Q. With reference to the Constitution of India, consider the following statements:

1. No High Court shall have the jurisdiction to declare any central law to be constitutionally invalid.
2. An amendment to the Constitution of India cannot be called into question by the Supreme Court of India.

Which of the statements given above is/ are correct?

(a) 1 only (b) 2 only
(c) Both 1 and 2 (d) Neither 1 nor 2

Q. Consider the following statements:

1. The 44th Amendment to the Constitution of India introduced an Article placing the election of the Prime Minister beyond judicial review.
2. The Supreme Court of India struck down the 99th Amendment to the Constitution of India as being violative of the independence of judiciary.

Which of the statements given above is/are correct?

(a) 1 only (b) 2 only
(c) Both 1 and 2 (d) Neither 1 nor 2

UPSC PRELIMS 2018

Q. In the federation established by The Government of India Act of 1935. Residuary Power were given to the

1. Federal Legislature
2. Governor General
3. Provincial Legislature
4. Provincial Governors

Q. Consider the following statements:

1. Aadhaar card can be used as a proof of citizenship or domicile.
2. Once issued, Aadhaar number cannot be deactivated or omitted by the Issuing Authority.

Which of the statements given above is/are correct?

(a) 1 only (b) 2 only
(c) Both 1 and 2 (d) Neither 1 nor 2

Q. Right to Privacy is protected as an intrinsic part of Right to Life and Personal Liberty.

Which of the following in the Constitution of India correctly and appropriately imply the above statement?

1. Article 14 and the provisions under the 42nd Amendment to the Constitution
2. Article 17 and the Directive Principles of State Policy in Part IV
3. Article 21 and the freedoms guaranteed in Part 3
4. Article 24 and the provisions under the 44th Amendment to the Constitution

Q. With reference to the election of the President of India, consider the following statements:

1. The value of the vote of each MLA varies from State to State.
2. The value of the vote of MPs of the LokSabha is more than the value of the vote of MPs of the Rajya Sabha.

Which of the statements given above is/are Correct?

(a) 1 only (b) 2 only
(c) Both 1 and 2 (d) Neither 1 nor 2

Q. Consider the following statements:

1. No criminal proceedings shall be instituted against the Governor of a State any court during his term of office.
2. The emoluments and allowances of the Governor of a State shall not be diminished during his term of office.

Which of the statements given above is/are correct?

(a) 1 only (b) 2 only
(c) Both 1 and 2 (d) Neither 1 nor 2

UPSC PRELIMS 2017

Q. Democracy's superior virtue lies in the fact that it calls into activity

(a) The intelligence of ordinary men and women
(b) The methods for strengthening executive leadership.
(c) A superior individual with dynamism and vision.
(d) A band of dedicated party workers.

Q. One of the implications of equality in society is the absence of

(a) Privileges (b) Restraints
(c) Competition (d) Ideology

Q. Which one of the following objectives is not embodied in the Preamble to the Constitution of India?

(a) Liberty of thought
(b) Economic Liberty
(c) Liberty of expression
(d) Liberty of belief

Q. The mind of the makers of the Constitution of India is reflected in which of the following?

(a) Preamble
(b) The Fundamental Rights
(c) The Directive Principles of State Policy
(d) The Fundamental Duties

Q. Which of the following are envisaged by the Right against Exploitation in the Constitution of India?

1. Prohibition of traffic in human beings and forced labour
2. Abolition of untouchability
3. Protection of the interests of minorities
4. Prohibition of employment of children in factories and mines

Select the correct answer using the code given below:

(a) 1, 2 and 4 only
(b) 2, 3 and 4 only

(c) 1 and 4 only

(d) 1, 2, 3 and 4

Notes

➡ SOURCES OF THE INDIAN CONSTITUTION

Source	Provisions
United States	○ Preamble ○ Fundamental Rights ○ Federal structure of government ○ Electoral College ○ Independence of the judiciary and separation of powers among the three branches of the government ○ Judicial review ○ President as Supreme Commander of Armed Forces ○ Equal protection under law
United Kingdom	○ Parliamentary form of government ○ The idea of single citizenship ○ The idea of the Rule of law ○ Writs ○ Institution of Speaker and his role ○ Lawmaking procedure ○ Procedure established by Law
Canada	○ A quasi-federal form of government ○ Distribution of powers between the central government and state governments ○ Residual powers retained by the central government
Ireland	○ Directive Principles of State Policy ○ Nomination of members to Rajya Sabha ○ Method of Election of President
France	○ Republic and the ideals of Liberty, Equality and Fraternity in the Preamble
Australia	○ Freedom of trade and commerce within the country and between the states ○ Power of the national legislature to make laws for implementing treaties, even on matters outside normal Federal jurisdiction ○ Concurrent List
USSR	○ Fundamental Duties under Article 51-A ○ Idea of Social, Economic, and Political Justice in Preamble ○ A Constitutionally mandated Planning Commission to oversee the development of the economy
South Africa	○ Procedure for amendment ○ Election of Rajya Sabha members
Germany	○ Emergency powers to be enjoyed by the Union ○ Suspension of Fundamental Rights during emergency.
Japan	○ Procedure Established by Law

➡ COMMITTEES OF THE CONSTITUENT ASSEMBLY

S.No.	Name of Committee	Chairman	
1.	Union Powers Committee	Jawaharlal Nehru	
2.	Union Constitution Committee	Jawaharlal Nehru	
3.	Provincial Constitution Committee	Sardar Patel	
4.	Drafting Committee	Dr. B.R. Ambedkar	
5.	Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas	Sardar Patel	
	(a)	Fundamental Rights Sub-Committee	J.B. Kripalani
	(b)	Minorities Sub-Committee	H.C. Mukherjee
	(c)	North-East Frontier Tribal Areas and Assam Excluded & Partially Excluded Areas Sub-Committee	Gopinath Bardoloi
	(d)	Excluded and Partially Excluded Areas (other than those in Assam) Sub-Committee	A.V. Thakkar
	(e)	North-West Frontier Tribal Areas Sub-Committee	
6.	Rules of Procedure Committee	Dr. Rajendra Prasad	
7.	States Committee (Committee for Negotiating with States)	Jawaharlal Nehru	
8.	Steering Committee	Dr. Rajendra Prasad	

➡ BASIC STRUCTURE DOCTRINE

- According to the Indian Constitution, the Parliament and the State Legislatures can make laws within their jurisdictions. The power to amend the Constitution is only with the Parliament and not the state legislative assemblies. However, this power of the Parliament is not absolute. The Supreme Court has the power to declare any law that it finds unconstitutional void. As per the Basic Structure Doctrine, any amendment that tries to change the basic structure of the constitution is invalid.
- There is **no mention of the term "Basic Structure"** anywhere in the Indian Constitution. The idea that the Parliament cannot introduce laws that would amend the basic structure of the

constitution evolved gradually over time and many cases. The idea is to preserve the nature of Indian democracy and protect the rights and liberties of people. This doctrine helps to protect and preserve the spirit of the constitution document.

Kesavananda Bharati case (1973)

- This was a landmark case in defining the concept of the basic structure doctrine.
- The SC held that although no part of the Constitution, including Fundamental Rights, was beyond the Parliament's amending power, the **"basic structure of the Constitution could not be abrogated even by a constitutional amendment."**
- The judgement implied that the parliament can only amend the constitution and not rewrite it. **The power to amend is not a power to destroy.**
- This is the basis in Indian law in which the judiciary can strike down any amendment passed by Parliament that is in conflict with the basic structure of the Constitution.
- It was the Kesavananda Bharati case that brought this doctrine into the limelight. The judgement listed some basic structures of the constitution as:

- Supremacy of the Constitution
- Unity and sovereignty of India
- Democratic and republican form of government
- Federal character of the Constitution
- Secular character of the Constitution
- Separation of power
- Individual freedom

Over time, many other features have also been added to this list of basic structural features. Some of them are:

- Rule of law
- Judicial review
- Parliamentary system
- Rule of equality
- Harmony and balance between the Fundamental Rights and DPSP
- Free and fair elections
- Limited power of the parliament to amend the Constitution
- Power of the Supreme Court under Articles 32, 136, 142 and 147
- Power of the High Court under Articles 226 and 227
- Any law or amendment that violates these principles can be struck down by the SC on the grounds that they distort the basic structure of the Constitution.

➡ FUNDAMENTAL RIGHTS

The Constitution confers the following rights and privileges on the citizens of India (and denies the same to aliens):

1) Right against discrimination on grounds of religion, race, caste, sex or place of birth (Article 15).

2) Right to equality of opportunity in the matter of public employment (Article 16).

3) Right to freedom of speech and expression, assembly, association, movement, residence and profession (Article 19).

4) Cultural and educational rights (Articles 29 and 30).

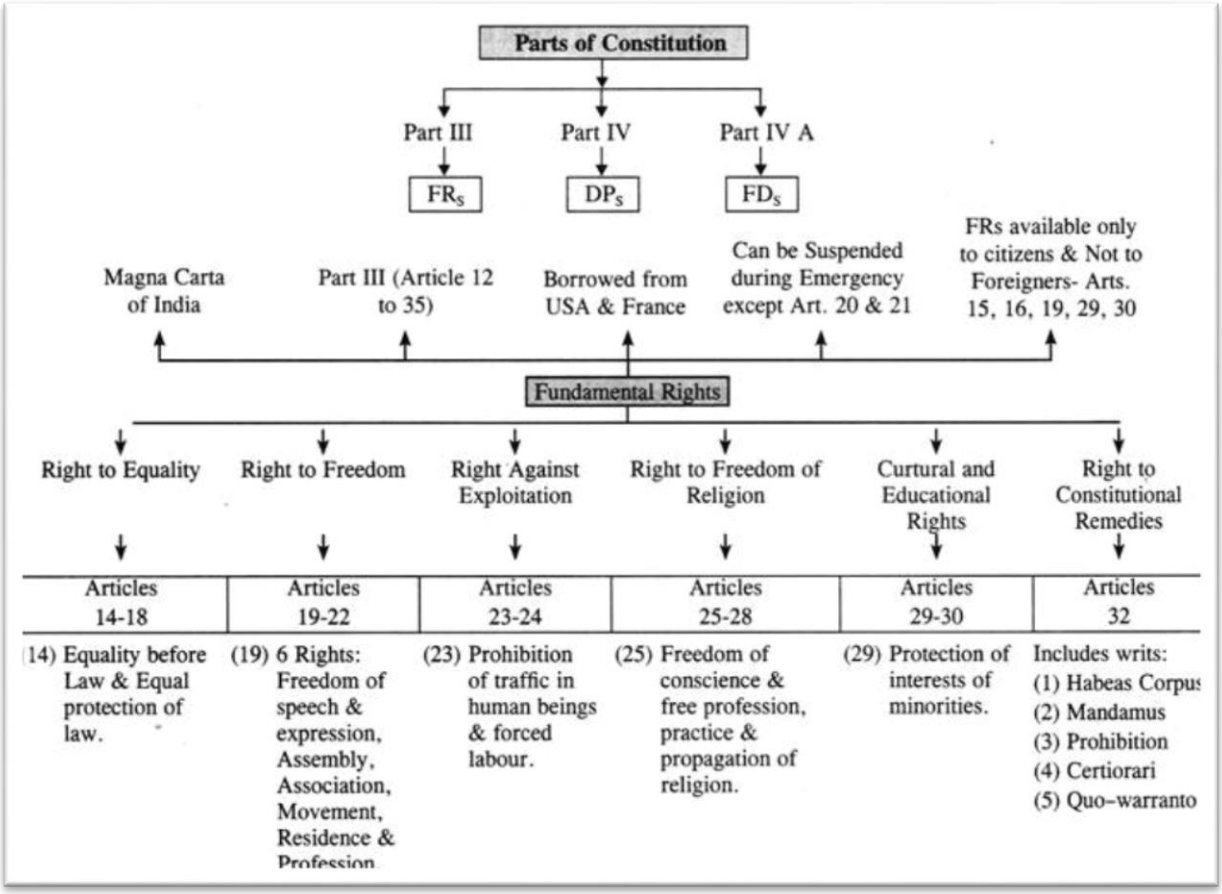
5) Right to vote in elections to the Lok Sabha and state legislative assembly.

6) Right to contest for the membership of the Parliament and the state legislature.

7) Eligibility to hold certain public offices, that is, President of India, Vice-President of India, judges of the Supreme Court and the high courts, Governor of states, Attorney General of India and Advocate General of states.

Along with the above rights, the citizens also owe certain duties towards the Indian State, as for example, paying taxes, respecting the national flag and national anthem, defending the country and so on.

In India both a citizen by birth as well as a naturalised citizen are eligible for the office of President while in USA, only a citizen by birth and not a naturalised citizen is eligible for the office of President.



➔ INFERRED RIGHTS IN MANEKA GANDHI V. UNION OF INDIA CASE

The Supreme Court has reaffirmed its judgement in the Menaka case in the subsequent cases. It has declared the following rights as part of Article 21:

1. Right to live with human dignity.
2. Right to decent environment including pollution free water and air and protection against hazardous industries.
3. Right to livelihood.
4. Right to privacy.
5. Right to shelter.
6. Right to health.
7. Right to free education up to 14 years of age.

8. Right to free legal aid.
9. Right against solitary confinement.
10. Right to speedy trial.
11. Right against handcuffing.
12. Right against inhuman treatment.
13. Right against delayed execution.
14. Right to travel abroad.
15. Right against bonded labour.
16. Right against custodial harassment.
17. Right to emergency medical aid.
18. Right to timely medical treatment in government hospital.
19. Right not to be driven out of a state.
20. Right to fair trial.
21. Right of prisoner to have necessities of life.
22. Right of women to be treated with decency and dignity.
23. Right against public hanging.
24. Right to road in hilly areas.
25. Right to information.
26. Right to reputation.
27. Right of appeal from a judgement of conviction
28. Right to family pension
29. Right to social and economic justice and empowerment
30. Right against bar fetters
31. Right to appropriate life insurance policy
32. Right to sleep
33. Right to freedom from noise pollution
34. Right to sustainable development
35. Right to opportunity.

➔ AMENDABILITY OF FUNDAMENTAL RIGHTS

- The question whether Fundamental Rights can be amended by the Parliament under Article 368 came for consideration of the Supreme Court within a year of Constitution coming into force. In the **Shankari Prasad case (1951),** the constitutional validity of the **First Amendment Act (1951), which curtailed the right to property, was challenged**.
- The **Supreme Court ruled that the power of the Parliament to amend the Constitution under Article 368 also includes the power to amend Fundamental Rights.**
- The **word "law" in Article 13** includes only ordinary laws and not the constitutional amendment acts (constituent laws). Therefore, the Parliament can abridge or take away any of the Fundamental Rights by enacting a consti¬tutional amendment act and such a law will not be void under Article 13.
- But in the **Golak Nath cases (1967),** the Supreme Court **reversed its earlier stand**. In that case, the constitutional validity of the Seventh Amendment Act, which inserted certain state acts in the Ninth Schedule, was challenged. The Supreme Court ruled that the **Fundamental Rights are given a 'transcendental and immutable position a**nd hence, the Parliament cannot abridge or take away any of the Fundamental Rights. A constitutional amendment act is also a law within the meaning of Article 13 and hence, would be void for violating any of the Fundamental Rights.

COMPARISON	
GOLAK NATH CASE (1967)	**KESAVANANDA BHARATI CASE (1973)**
○ The Parliament reacted to the Supreme Court's judgement in the Golak Nath case (1967) by enacting the 24th Amendment Act (1971). ○ This Act amended Articles 13 and 368. ○ • It declared that the Parliament has the power to abridge or take away any of the Fundamental Rights under Article 368 and such an act will not be a law under the meaning of Article 13.	○ In the Kesavananda Bharati case (1973), the Supreme Court overruled its judgement in the Golak Nath case ○ (1967). ○ It upheld the validity of the 24th Amendment Act (1971), and stated that Parliament is empowered to abridge or take away any of the Fundamental Rights. ○ At the same time, it laid down a new doctrine of the 'basic structure' (or 'basic features') of the Constitution. ○ It ruled that the constituent power of Parliament under Article 368 does not enable it to alter the 'basic structure' ○ of the Constitution. ○ • This means that the Parliament cannot abridge or take away a Fundamental Right that forms a part of the 'basic structure' of the Constitution.

➡ WRITS

A writ petition can be filed by any person whose Fundamental Rights have been infringed by the State. Under a Public Interest Litigation, any public-spirited person may file a writ petition in the interest of the general public even if his own Fundamental Right has not been infringed.

Where can a writ petition be filed?

- **Under Article 32**, a writ petition can be filed in the Supreme Court. The Supreme Court can issue a writ only if the petitioner can prove that his Fundamental Right has been infringed. It is important to note that the right to approach the Supreme Court in case of a violation of a Fundamental Right is in itself a Fundamental Right since it is contained in **Part III of the Constitution**.
- **Under Article 226**, a writ petition can be filed before any High Court within whose jurisdiction the cause of action arises, either wholly or in part. It is immaterial if the authority against whom the writ petition is filed is within the territory or not. The power of the High Court to issue a writ is much wider than that of the Supreme Court.
- The High Court may grant a writ for the enforcement of fundamental rights or for any other purpose such as violation of any statutory duties by a statutory authority. Thus, a writ petition filed before a Supreme Court can be filed against a private person too. Where a fundamental right has been infringed, either the Supreme Court or the High Court can be resorted to.
- It is not necessary to go to the High Court first and only thereafter approach the Supreme Court. However, if a writ petition is filed directly in the Supreme Court, the petitioner has to establish why the High Court was not approached first.

➔ HABEAS CORPUS

- 'Habeas Corpus' literally means **"to have a body of".** This writ is used to release a person who has been unlawfully detained or imprisoned.

- By virtue of this writ, the Court directs the person so detained to be brought before it to examine the legality of his detention. If the Court concludes that the detention was unlawful, then it directs the person to be released immediately.
- Circumstances of unlawful detention are:

  - The detention was not done in accordance with the procedure laid down. For instance, the person was not produced before a Magistrate within 24 hours of his arrest.
  - The person was arrested when he did not violate any law.
  - An arrest was made under a law that is unconstitutional.

- This writ ensures swift judicial review of the alleged unlawful detention of the prisoner and immediate determination of his right to freedom. However, Habeas corpus cannot be granted where a person has been arrested under an order from a competent court and when prima facie the order does not appear to be wholly illegal or without jurisdiction.
- **This writ can be filed by the detained person himself or his relatives or friends on his behalf. It can be issued against both public authorities and individuals.**
- In **Sunil Batra v. Delhi Administration** (1980 AIR 1579) case, an application was made to the Supreme Court through a letter written by a co-convict on the maltreatment of the prisoners. This letter was taken up by the Supreme Court and it issued the writ of habeas corpus stating that this writ can not only be used against illegal arrest of the prisoner but also for his protection against any maltreatment or inhuman behaviour by the detaining authorities.
- In **Kanu Sanyal v. District Magistrate Darjeeling & Ors.** (1974 AIR 510) case, the Supreme Court held that rather than focusing on the defined meaning of Habeas Corpus, i.e. produce the body, there should be a focus on the examination of the legality of the detention by looking at the facts and circumstances of the case. It stated that this writ is a procedural writ and not a substantive writ. This case dealt with the nature and scope of the writ of habeas corpus.

Type of Writ	Meaning of the word	Purpose of Issue
Habeas Corpus	You may have the body	To release a person who has been detained unlawfully whether in prison or in private custody.
Mandamus	We Command	To secure the performance of public duties by lower court, tribunal or public authority.
Certiorari	To be certified	To quash the order already passed by an inferior court, tribunal or quasi judicial authority.
Prohibition	-	To prohibit an inferior court from continuing the proceedings in a particular case where it has no jurisdiction to try.
Quo Warranto	What is your authority?	To restrain a person from holding a public office which he is not entitled.

➔ MANDAMUS

- 'Mandamus' means **'we command'**.
- It is issued by the Court to d**irect a public authority to perform the legal duties which it has not or refused to perform**.
- It can be issued by the Court against a public official, public corporation, tribunal, inferior court or the government. It cannot be issued against a private individual or body, the President or Governors of States or against a working Chief Justices.
- Further, it cannot be issued in the following circumstances:

  - The duty in question is discretionary and not mandatory.
  - For the performance of a non-statutory function.
  - Performance of the duty involves rights of purely private nature.
  - Where such direction involves violation of any law.
  - Where there is any other remedy available under the law.

- The writ of mandamus is issued for **keeping the public authorities within their jurisdiction while exercising public functions.** The object of mandamus is the prevention of disorder emanating from failure of justice that is required to be granted in all cases where there is no specific remedy established in law. It cannot be issued when the government or public official has no duty to perform under the law.
- A writ petition seeking mandamus must be filed by a person in good faith and who has an interest in the performance of the duty by the public authority. The person seeking mandamus must have a legal right to do so and also must have demanded the performance of the duty and it is refused by the authority.
- In **All India Tea Trading Co. v. S.D.O**. (AIR 1962 Ass 20) case, the Land Acquisition Officer erroneously refused to pay the interest on compensation amount. A writ of mandamus was issued against the Land Acquisition Officer directing him to reconsider the application for the payment of interest.
- In **Suganmal v. State of M.P.** (AIR 1965 SC 1740) case, the petitioner (person who files the writ petition) filed for issuing a writ of mandamus to direct the respondent (opposite party in the writ) for refunding tax. The Supreme Court held that where an assessment order was set aside and the rules concerned did not provide for refund of tax levied, a writ of mandamus cannot be issued. The proper remedy is filing a suit for claiming the refund.

➔ QUO WARRANTO

- 'Quo Warranto' means **'by what warrant'.**
- Through this writ, the Court calls upon a **person holding a public office to show under what authority he holds that office**. If it is found that the person is not entitled to hold that office, he may be ousted from it. Its objective is to prevent a person from holding an office he is not entitled to, therefore preventing usurpation of any public office. It cannot be issued with respect to a private office.

  The writ can be issued only when the following conditions are fulfilled:

  - The public office is wrongfully assumed by the private person.
  - The office was created by the constitution or law and the person holding the office is not qualified to hold the office under the constitution or law.

- The term of the public office must be of a permanent nature.
- The nature of duties arising from the office must be public.

- In **Kumar Padma Padam Prasad v. Union of India** (AIR 1992 SC 1213) case, Mr K.N. Srivastava was appointed as a Judge of the Gauhati High Court by the President of India by a warrant of appointment under his seal. A petition was filed for issuing a writ of quo-warranto contending that Mr K.N. Srivastava was not qualified for the office. It was held by the Supreme Court that since Mr K.N. Srivastava was not qualified, quo warranto could be issued and accordingly the appointment of Mr K.N. Srivastava was quashed.
- In the case of Jamalpur Arya Samaj Sabha v. Dr D Rama (AIR 1954 Pat. 297) case, the petitioner filed an application for issuing the writ of Quo Warranto against the Working Committee of Bihar Raj Arya Samaj Pratinidhi Sabha, which was a private body. The High Court of Patna refused to issue the writ of Quo Warranto because it was not a public office.

➔ CERTIORARI

- 'Certiorari' means to **'certify'.** Certiorari is a **curative writ**.
- When the Court is of the opinion that a lower court or a tribunal has passed an order which is beyond its powers or committed an error of law then, through the writ of certiorari, it may transfer the case to itself or quash the order passed by the lower court or tribunal.
- A writ of certiorari is issued by the Supreme Court or High Court to the subordinate courts or tribunal in the following circumstances:

- When a subordinate court acts without jurisdiction or by assuming jurisdiction where it does not exist, or
- When the subordinate court acts in excess of its jurisdiction by way of overstepping or crossing the limits of jurisdiction, or
- When a subordinate court acts in flagrant disregard of law or rules of procedure, or
- When a subordinate court acts in violation of principles of natural justice where there is no procedure specified.

➔ PROHIBITION

- A writ of prohibition is issued by a Court to **prohibit the lower courts, tribunals and other quasi-judicial authorities from doing something beyond their authority**. It is issued to direct inactivity and thus differs from mandamus which directs activity.
- It is issued when the lower court or tribunal acts without or in excess of jurisdiction or in violation of rules of natural justice or in contravention of fundamental rights. It can also be issued when a lower court or tribunal acts under a law that is itself ultra vires.
- The difference between the writ of certiorari and prohibition is that they are issued at different stages of proceedings of the case. The writ of certiorari is issued after the case is heard and decided. It is issued to quash the decision or order of the lower court when the lower court passed an order without or in excess of jurisdiction. Whereas, the writ of prohibition is issued prohibiting the proceedings in the lower court which acts without or in excess of jurisdiction while the case is pending before it.

➡ DIRECTIVE PRINCIPLES OF STATE POLICY

Article Number	What it says
Article 36	Defines State as same as Article 12 unless the context otherwise defines.
Article 37	Application of the Principles contained in this part.
Article 38	It authorizes the state to secure a social order for the promotion of the welfare of people.
Article 39	Certain principles of policies to be followed by the state.
Article 39A	Equal justice and free legal aid.
Article 40	Organization of village panchayats.
Article 41	Right to work, to education and to public assistance in certain cases.
Article 42	Provision for just and humane conditions of work and maternity leaves.
Article 43	Living wage etc. for workers.
Article 43-A	Participation of workers in management of industries.
Article 43-B	Promotion of cooperative societies.
Article 44	Uniform civil code for the citizens.
Article 45	Provision for early childhood care and education to children below the age of six years.
Article 46	Promotion of education and economic interests of SC, ST, and other weaker sections.
Article 47	Duty of the state to raise the level of nutrition and the standard of living and to improve public health.
Article 48	Organization of agriculture and animal husbandry.
Article 48-A	Protection and improvement of environment and safeguarding of forests and wildlife.
Article 49	Protection of monuments and places and objects of national importance.
Article 50	Separation of judiciary from the executive.
Article 51	Promotion of international peace and security.

➔ DIFFERENCE BETWEEN F.R. AND D.P.S.P.

Sl. No.	Fundamental Rights	Directive Principles
1	These are negative as they prohibit the State from doing certain things.	These are positive as they require the State to do certain things.
2	These are justiciable, that is, they are legally enforceable by the courts in case of their violation.	These are non-justiciable, that is, they are not legally enforceable by the courts for their violation.
3	They aim at establishing political democracy in the country.	They aim at establishing social and economic democracy in the country.
4	These have legal sanctions.	These have moral and political sanctions.
5	They promote the welfare of the individual. Hence, they are personal and individualistic.	They promote the welfare of the community. Hence, they are societarian and socialistic.
6	They do not require any legislation for their implementation	They require legislation for their implementation. They

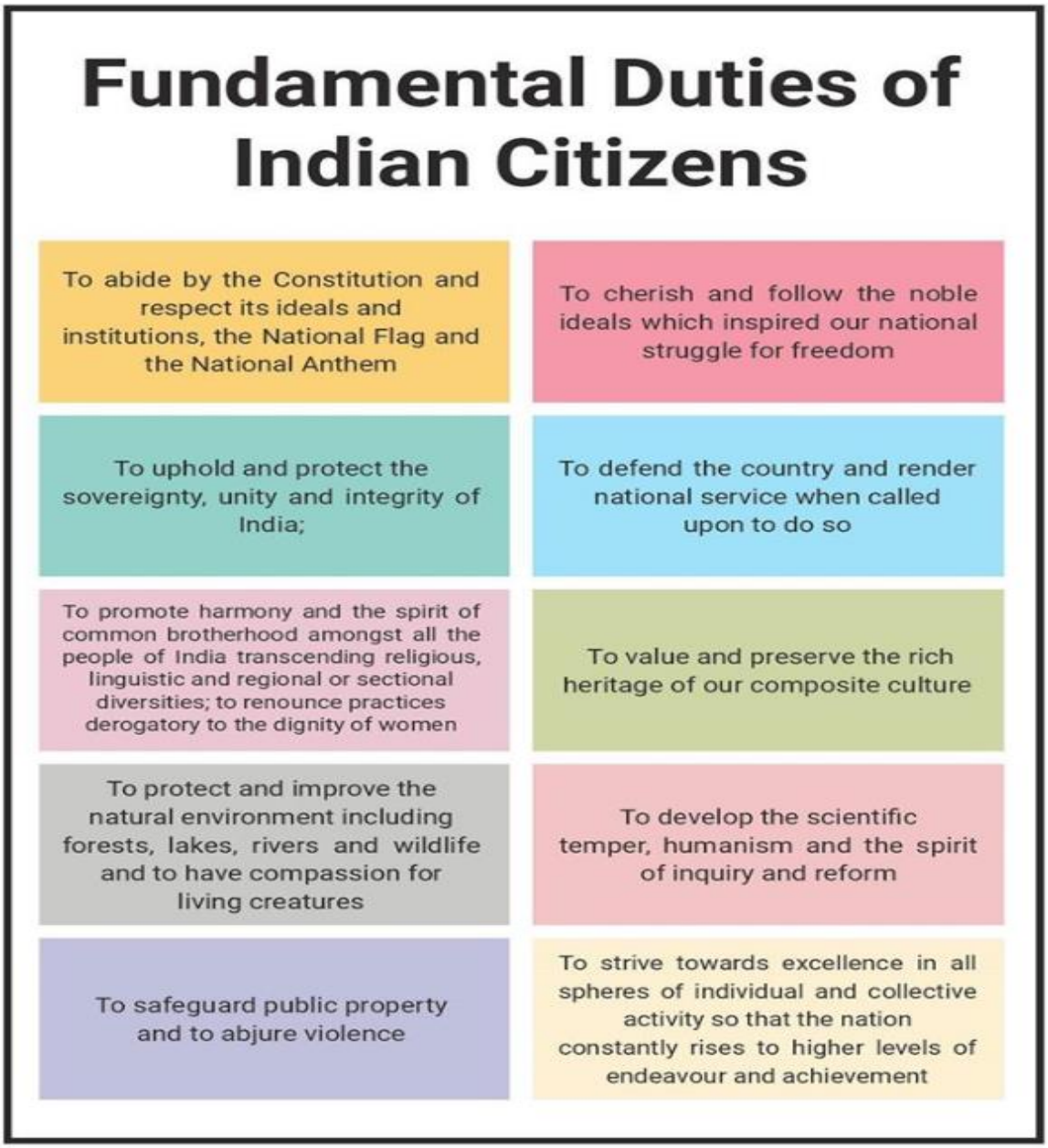
➡ FORTY SECOND AMENDMENT ACT, 1976

mendments:

- **Added** three new words **(i.e., socialist, secular and integrity)** in the Preamble.
- **Added** Fundamental Duties by the citizens (new Part IV A).
- Made the president bound by the advice of the cabinet.
- Provided for administrative tribunals and tribunals for other matters (Added Part XIV A).
- Froze the seats in the Lok Sabha and state legislative assemblies on the basis of 1971 census till 2001 - Population Controlling Measure
- Made the constitutional amendments beyond judicial scrutiny.
- Curtailed the power of judicial review and writ jurisdiction of the Supreme Court and high courts.
- Raised the tenure of Lok Sabha and state legislative assemblies from 5 to 6 years.
- Provided that the laws made for the implementation of Directive Principles cannot be declared invalid by the courts on the ground of violation of some Fundamental Rights.
- Empowered the Parliament to make laws to deal with anti-national activities and such laws are to take precedence over Fundamental Rights.
- Added three new Directive Principles viz., equal justice and free legal aid, the participation of workers in the management of industries and protection of the environment, forests, and wildlife.
- Facilitated the proclamation of national emergency in a part of the territory of India.
- Extended the one-time duration of the President's rule in a state from 6 months to one year.
- Empowered the Centre to deploy its armed forces in any state to deal with a grave situation of law and order.
- Shifted five subjects from the state list to the concurrent list, viz, education, forests, protection of wild animals and birds, weights and measures and administration of justice, constitution and organisation of all courts except the Supreme Court and the high courts.

- Did away with the requirement of quorum in the Parliament and the state legislatures.
- Empowered the Parliament to decide from time to time the rights and privileges of its members and committees.
- Provided for the creation of the **All-India Judicial Service.**
- Shortened the procedure for disciplinary action by taking away the right of a civil servant to make representation at the second stage after the inquiry (i.e., on the penalty proposed).

➡ FUNDAMENTAL DUTIES



➡ FORTY-FOURTH AMENDMENT ACT, 1978

Amendments: *44th Amendment Act was introduced in the year 1978 by the government. The act was brought to nullify the amendments made by the 42nd Amendment Act 1976.*

- Restored the original term of the Lok Sabha and the state legislative assemblies (i.e., 5 years).
- Restored the provisions with regard to the quorum in the Parliament and state legislatures.
- Omitted the reference to the British House of Commons in the provisions pertaining to the parliamentary privileges.
- Gave constitutional protection to publication in a newspaper of true reports of the proceedings of the Parliament and the state legislatures.
- Empowered the president to send back once the advice of the cabinet for reconsideration. But, the reconsidered advice is to be binding on the president.
- Deleted the provision which made the satisfaction of the president, governor, and administrators final in issuing ordinances.
- Restored some of the powers of the Supreme Court and high courts.
- Replaced the term 'internal disturbance' by 'armed rebellion' in respect of national emergency.
- Made the President to declare a national emergency only on the written recommendation of the cabinet.
- Made certain procedural safeguards with respect to a national emergency and President's rule.
- Deleted the right to property from the list of Fundamental Rights and made it only a legal right.
- Provided that the fundamental rights guaranteed by Articles 20 and 21 cannot be suspended during a national emergency.
- Omitted the provisions which took away the power of the court to decide the election disputes of the president, the vice-president, the prime minister and the Speaker of the Lok Sabha.

➡ SCHEDULES OF INDIAN CONSTITUTION

Schedules	Features
1	Name of States and Union Territories
2	Provisions in relation to allowances, privileges, emoluments of: o President of India o Governors of Indian States o Speaker of Lok Sabha & Deputy Speaker of Lok Sabha o Chairman of Rajya Sabha & Deputy Chairman of Rajya Sabha o Speaker and Deputy Speaker of Legislative AAssemblies of Indian States o Chairman and Deputy Chairman of Legislative Councils of the Indian States o Supreme Court Judges o High Court Judges o Comptroller & Auditor General of India (CAG)
3	Contains the forms of oath and affirmation for: o Union Ministers of India o Parliament Election Candidates

	○ Members of Parliament (MPs) ○ Supreme Court Judges ○ Comptroller and Auditor General ○ State Ministers ○ State Legislature Elections' Candidates ○ State Legislature Members ○ High Court Judges
4	Contains the provisions in relation to the allocation of seats for States and Union Territories in the Rajya Sabha
5	Contains provisions in relation to the administration and control of scheduled areas and scheduled tribes
6	Contains provisions in relation to the administration of tribal areas in the states of Assam, Meghalaya, Tripura and Mizoram
7	Deals with the three legislative lists: ○ Union ○ State ○ Concurrent
8	○ Deals with the 22 official languages recognized by the Constitution of India: ○ Assamese ○ Bengali ○ Bodo ○ Dogri (Dongri) ○ Gujarati ○ Hindi ○ Kannada ○ Kashmiri ○ Konkani ○ Mathili (Maithili) ○ Malayalam ○ Manipuri ○ Marathi ○ Nepali ○ Oriya ○ Punjabi ○ Sanskrit ○ Santhali ○ Sindhi ○ Tamil ○ Telugu ○ Urdu
9	○ Deals with the state acts and regulations of that deal with land reforms and abolition of the zamindari system. It also deals with the acts and regulations of the Parliament dealing with other matters

	○ 1st Amendment Act 1951 added the Ninth Schedule to protect the laws included in it from judicial scrutiny on the ground of violation of fundamental rights. ○ However, in 2007, the Supreme Court ruled that the laws included in this schedule after April 24, 1973 (Keshavnanda Bharti Case), are now open to judicial review
10	○ Contains provisions relating to disqualification of the members of Parliament and State Legislatures on the ground of defection. ○ This schedule was added by the 52nd Amendment Act of 1985, also known as Anti-defection Law
11	○ Contains the provisions that specify the powers, authority and responsibilities of Panchayats. It has 29 matters. ○ This schedule was added by the 73rd Amendment Act of 1992
12	○ Deals with the provisions that specify the powers, authority and responsibilities of Municipalities. It has 18 matters. ○ This schedule was added by the 74th Amendment Act of 1992

➔ FIFTH SCHEDULE

- The fifth schedule of the Indian Constitution deals with the administration and control of Scheduled Areas and Scheduled Tribes in India.
- Article 244(1) is directly related to Schedule 5. Ten states currently have Fifth Schedule Areas: Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, and Telangana.
- The entire Schedule is divided into 4 parts which are explained in detail below:

Part A

- It provides general provisions such as interpretation of the Scheduled Areas.
- A state's executive power extends to the Scheduled Areas inside its borders.
- The governor of the state is required to report to the President on the management of Scheduled Areas on an annual basis, and the Centre gives the state instructions on how to administer these areas.

Part B

- It provides details regarding the Administration and Control of Scheduled Areas and Scheduled Tribes.
- States with scheduled areas must have a tribal advisory council.
- It comprises 20 members, with three-fourths of them representing Scheduled Tribes in the state legislature.
- The Governor has the authority to decide if any central or state legislation has implications for the state's scheduled areas.
- The Governor can also repeal or amend any regulations concerning the state having scheduled areas but only with the assent of the President of India.

Part C

- It provides provisions for the declaration of Scheduled Areas.
- The President is empowered to declare an area as a Scheduled Area.
- The President can change, increase, or alter the boundary of a Scheduled Area with the approval of the state governor.

Part D

- It provides details regarding the Amendment of the Schedule.
- Any of the provisions of this Schedule may be amended, altered, or repealed by Parliament from time to time by law.

➔ SIXTH SCHEDULE

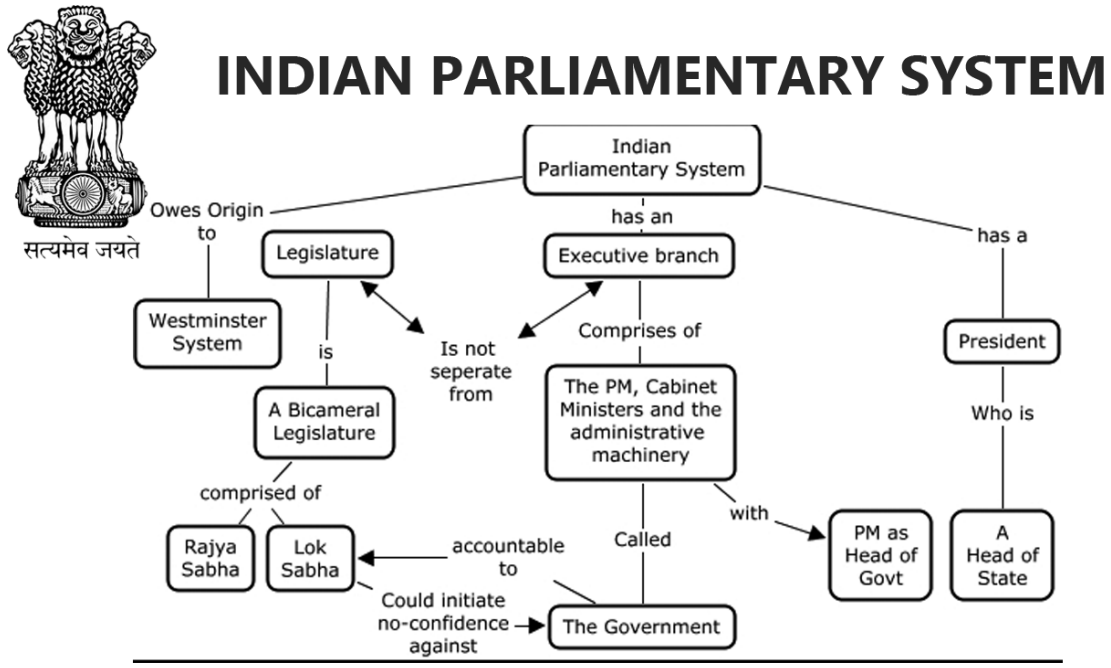
Sixth Schedule *deals with administration of tribal areas in state of Assam, Meghalaya, Tripura and Mizoram. The rationality behind the special arrangements in respect of only these four states lies in the following:*

- The tribes in Assam, Meghalaya, Tripura and Mizoram **have their distinct culture** and have not assimilated much with rest of the society in these states.
- The tribal people in other parts of India have more or less adopted the culture of the majority of the people living in such states. However, the tribes in Assam, Meghalaya, Tripura and Mizoram, on the other hand, still have their roots in their own culture, customs and civilization.
- These areas are, therefore, treated differently by the Constitution and sizeable amount of autonomy has been given to these people for self-governance.

Administrative features under Sixth Schedule

- The tribal areas in the four states of Assam, Meghalaya, Tripura and Mizoram have been constituted as autonomous districts. But, they do not fall outside the executive authority of the state concerned.
- The **Governor** is empowered to organise and re-organise the autonomous districts. Thus, he can increase or decrease their areas or change their names or define their boundaries.
- If there are different tribes in an autonomous district, the governor can divide the district into several autonomous regions.
- Each autonomous district has a **district council** and each autonomous region also has a separate regional council.
- The district and regional councils administer the areas under their jurisdiction. They can make laws on certain specified matters like land, forests, canal water, shifting cultivation, village administration, inheritance of property, marriage and divorce, social customs and so on. But all such laws require the assent of the governor.
- The district and regional councils are empowered to assess and collect land revenue and to impose certain specified taxes.
- The acts of Parliament or the state legislature do not apply to autonomous districts and autonomous regions or apply with specified modifications and exceptions.

➡ PARLIAMENTARY SYSTEM



Parliamentary system of governance	
Advantages	**Disadvantages**
○ There is better coordination between the legislature and the executive. This is because executive is part of the legislature and most members of the lower house support the government. ○ Thus, in Parliamentary system, there is lesser tendency of disputes and conflicts, which makes it comparatively easier to pass legislation and implement it.	○ Because of party fragmentation, the legislators cannot exercise their free will and vote as per their own understanding and opinions. Rather, they have to follow the party policy.
○ This type of government is more flexible as, if required, the Prime Minister can be changed. For instance, in the UK during the Second World War, Prime Minister Neville Chamberlain was replaced by Winston Churchill.	○ The system might lead to legislators who intend to enter the executive only. They are largely unqualified to legislate, which can hamper the working of the government.
○ A Parliamentary democracy allows representation of diverse groups. This system gives opportunities to various diverse ethical, racial, linguistic and ideological groups to share their views and enable making of better and suitable laws and policies.	○ Since the executive is formed of the members of the winning party, it is not the experts who head the departments.

○ Since, the executive is responsible to the Parliament, it has the power to keep a check upon the activities of the executive. ○ Moreover, the members of the Parliament can move resolutions, discuss matters and ask questions of public interest to put pressure on the government. This enables responsible governance.	○ Since, in the Parliamentary system, tenure of the council of ministers is completely dependant upon their popularity, there is no fixed tenure. Because of this they often hesitates to take bold and long-term policy decisions.
○ Parliamentary system prevents autocracy. This is because the executive is responsible to the legislature, and it is possible to vote out the Prime Minister through a no confidence motion. Thus, power does not get concentrated in the hands of only one person.	○ Such governments might prove to be unstable. This is because the government exists only as long as they maintain majority support in the house. ○ Many a times, when coalition parties come into power, the government is short lived and disputes arise. Because of this, the executive puts all of its focus upon staying in power, rather than worrying about the welfare of people and state of affairs.
○ In case, the no confidence motion is passed, the leader of the state invites the opposition to form the government. Thereby, this system provides an alternate government.	○

➡ PRESIDENTIAL FORM OF GOVERNANCE

Presidential System of governance	
Advantages	**Disadvantages**
○ In most Presidential systems, the President is elected directly by the people. ○ This creates more legitimacy than that of a leader who has been appointed indirectly.	○ The Presidential form of governance is autocratic as it places a lot of power in the hands of one person, i.e., the President. Also, the President is out of the control of the legislature.
○ Since in a Presidential system the branches of the government work separately, it becomes easier to maintain the system checks and balances.	○ The complete separation between the legislature and executive may lead to conflicts and a deadlock between the executive and the legislature. The legislature may refuse to accept the policies of the executive; while the executive may not agree to the Acts passed by the legislature, and the President may even veto them.
○ The President, under this system, is usually less constrained and can take decisions more independently. Thus, this system allows for quick decision making. This becomes very beneficial at the	○ This system gives the President the power to choose the people of his choice for his cabinet to form the government. The President may misuse this power and choose his relatives, business partners etc,

time of crisis.	which might affect the political working of the state.
○ A Presidential government is more **stable.** This is because the term of the President is fixed and is not subject to majority support in the legislative. Hence, he/she does not need to worry about losing the government.	○ It leads to less accountability in the government and may also result in the legislature and the executive playing the blame game in time of crisis.
○ Since it is the President who chooses his cabinet and the executive need not be legislators, the President is able to choose experts in various fields to head relevant departments in his government. ○ This ensures that only the people who are capable and knowledgeable form part of the government.	
○ Once the election is complete and the President gains power, the whole nation accepts him/her. Political rivalries are forgotten and people look at problems from a national view, rather than a party view.	

➔ DIFFERENCE BETWEEN THE PARLIAMENTARY AND PRESIDENTIAL FORMS OF THE GOVERNMENT

Basis	Parliamentary Form of Government	Presidential Form of Government
Meaning	It is a form of government where the legislature and executive are closely related to each other. It is a system in which the citizens elect representatives to the legislative Parliament.	It is a system of government in which the three organs of the government – the executive, judiciary, legislature work separately. In it, the President is the chief executive and is elected directly by the citizens.
Executive	There is dual executive as leader of the state and leader of the government are different.	There is a single executive as the leader of the state and the leader of the government is the same.
Ministers	The ministers belong to the ruling party and are Members of Parliament. No outsider is allowed to become a minister.	The ministers can be chosen from outside the legislature, and are usually industry experts.
Accountability	The Executive is accountable to the Legislature.	The Executive is not accountable to the Legislature.
Dissolution of lower house	The Prime Minister can dissolve the lower house.	The President cannot dissolve the lower house.
Tenure	The tenure of the Prime Minister depends upon the majority support in the Parliament, and is thus, not fixed.	The tenure of the President is fixed.
Separation of	The principle of Separation of powers is not followed strictly. There is	The principle of Separation of powers is strictly followed. Powers

Powers	concentration and fusion of powers between the Legislative and the Executive.	are divided and the Legislature, the Executive and the Judiciary work separately.
Party Discipline	Party discipline is stronger and the system leans towards unified action, block voting and distinct party platforms.	Party discipline is comparatively less and failure to vote with one's party does not threaten the government.
Autocracy	This type of government is less autocratic as immense power is not given to only one person.	This type of government is more autocratic as immense power is concentrated in the hands of the President.

➡ ELECTION OF THE PRESIDENT OF INDIA

- Under the Constitution of India, there shall always be a **President of India (Article 52 of the Constitution).**
- He holds the highest elective office in the country and is elected in accordance with the provisions of the **Constitution and the Presidential and vice-Presidential Elections Act, 1952**.
- The said Act is supplemented by the **provisions of the Presidential and Vice-Presidential Elections Rules, 1974**.
- The President holds office for a period of five years from the date on which he enters upon his office.

Qualifications

- Under **Article 58,** a candidate should fulfill the following eligibility conditions to contest the election to the Office of President: -

- Must be a **citizen of India**,
- Must have completed **35 years of age**,
- Must be **eligible to be a member of the Lok Sabha**,
- Should **not be holding any office of profit under the Government of India or the Government of any State or under any local or other authority** subject to the control of any of the said Governments.
- However, the candidate may be holding the office of President or Vice-President or Governor of any State or Ministers of the Union or any State and shall be eligible to contest election.

Election

- The Indian President is elected through an **electoral college system**, wherein the votes are cast by **national and State-level lawmakers**.
- The elections are **conducted and overseen by the Election Commission (EC) of India**.
- The electoral college is made up of all the **elected members of the Upper and Lower Houses of Parliament (Rajya Sabha and Lok Sabha MPs),** and the **elected members of the Legislative Assemblies of States and Union Territories (MLAs).**
- This means, in the upcoming polls, the number of electors will be 4,896 — 543 Lok Sabha MPs, 233 MPs of the Rajya Sabha, and 4,120 MLAs of all States, including the National Capital Territory (NCT) of Delhi and Union Territory of Puducherry.
- Before the voting, **comes the nomination stage**, where the candidate intending to stand in the election, **files the nomination along with a signed list of 50 proposers and 50 seconders**.

- **These proposers and seconders can be anyone from the total of 4,896 members of the electoral college** from the State and national level. The rule for securing 50 proposers and seconders was implemented when the EC noticed, in 1974, that several candidates, many without even a bleak chance of winning, would file their nominations to contest the polls.
- An elector cannot propose or second the nomination of more than one candidate.

When is the election of the Office of President of India held?

- Under the provisions of sub-section (3) of Section 4 of the Presidential and Vice-Presidential Elections Act, 1952, the notification calling the election to the office of the President can be issued by the **Election Commission on any day within the period of sixty days before the expiry of the term of office of the outgoing President.**
- The election schedule shall be so fixed, that **the President-elect is able to enter upon his office on the day following the expiry of the term of the outgoing President**.

What is the value of each vote and how is it calculated?

- A vote cast by each MP or MLA is not calculated as one vote. There is a **larger vote value attached to it.**
- The **fixed value of each vote by an MP of the Rajya Sabha and the Lok Sabha is 708**. Meanwhile, the **vote value of each MLA differs from State to State based** on a calculation that factors in its **population vis-a-vis the number of members in its legislative Assembly**.
- As per the Constitution (Eighty-fourth Amendment) Act 2001, currently, the population of States is taken from the figures of the **1971 Census**. This will change when the figures of the Census taken after the year 2026 are published.
- The value of each **MLA's vote is determined by dividing the population of the State by the number of MLAs in its legislative Assembly**, and the **quotient achieved is further divided by 1000.** Uttar Pradesh for instance, has the highest vote value for each of its MLAs, at 208. The value of one MLA's vote in Maharashtra is 175, while that in Arunachal Pradesh is just 8. The total votes of each Legislative Assembly are calculated by multiplying the vote value of each MLA by the number of MLAs.
- Finally, based on these values, the total number of votes of all Rajya Sabha and Lok Sabha MPs would be 5,59,408 (776 MPs X 708), and the total votes of all MLAs from State Legislative Assemblies would come up to 5,49,495. Thus, the grand total vote value of the whole electoral college comes up to 10,98,903.

Requirement for victory

- A nominated candidate does not secure victory based on a simple majority but through a system of bagging a specific quota of votes. While counting, the EC totals up all the valid votes cast by the electoral college through paper ballots and to win, the candidate **must secure 50% of the total votes cast + 1.**
- Unlike general elections, where electors vote for a single party's candidate, the voters of the electoral college write the names of candidates on the ballot paper in the order of preference.

Returning Officer/Assistant Returning Officer for the election

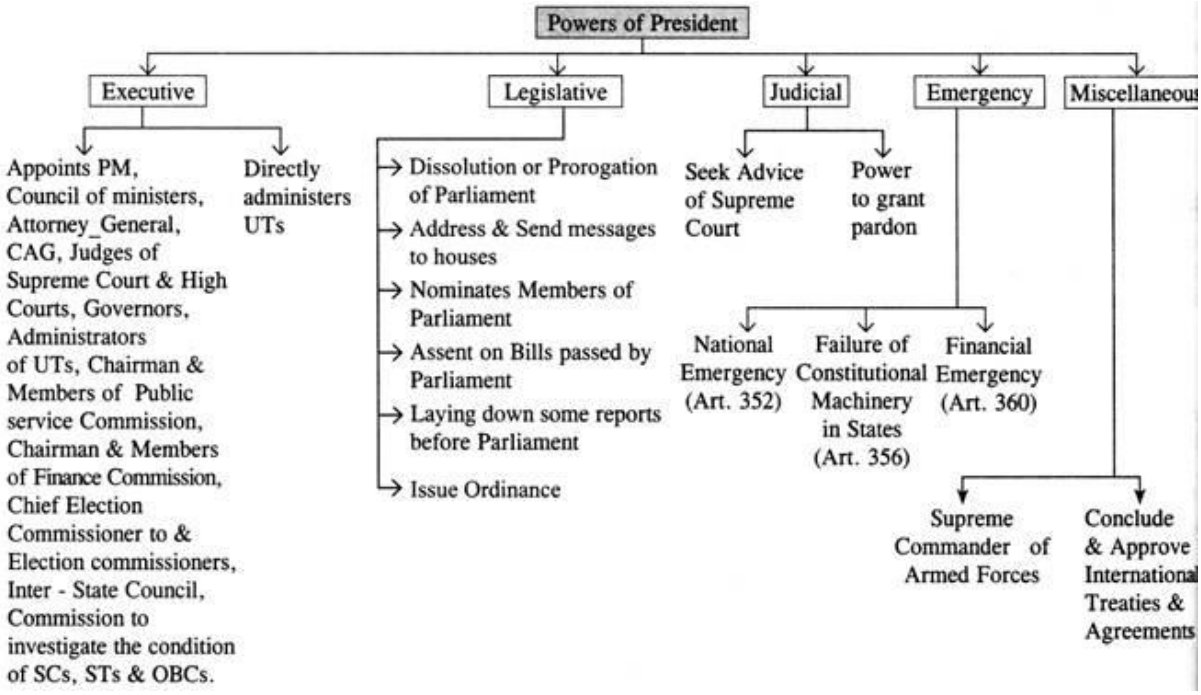
- By convention, **the Secretary General, Lok Sabha** or the **Secretary General, Rajya Sabha** is appointed as the Returning Officer, by rotation.

- Two other senior officers of the Lok Sabha/ Rajya Sabha Secretariat and the Secretaries and one more senior officer of Legislative Assemblies of all States including NCT of Delhi and Union Territory of Puducherry, are also appointed as the Assistant Returning Officers.
- The Election Commission of India makes such appointments.

➡ ELECTION OF PRESIDENT AND VICE-PRESIDENT

Difference between the election process of the President & Vice-President of India		
Issue	**President's Election**	**Vice-President's Election**
Who can vote?	All elected MPs & all elected MLAs from States. Number of voters for the 2017 election is 4896	Only MPs from both Lok Sabha & Rajya Sabha can vote. Number of voters for the 2017 election is 790
Can Nominated members vote?	No	Yes
Value of each vote	The value of each vote is based on a calculation that includes the population of the state as per the 1971 Census and the number of assembly seats in that state. The value of vote of a MLA of one state is different from the other. The value of vote of a MP is also different	The value of vote of each voter is ONE
Eligibility	Should be qualified for election as a member of Lok Sabha	Should be qualified for election as a member of the Rajya Sabha
Nomination Paper to be signed by	At least 50 voters as proposers and at least 50 voters as seconders	At least 20 voters as proposers and at least 20 voters as seconders

➡ POWERS OF THE PRESIDENT OF INDIA



➔ VETO POWER

Absolute Veto of the President

- When the President exercises his absolute veto, a bill never sees the day of the light. The bill ends even after passed by the Indian Parliament and does not become an act.
- President uses his absolute veto in the following two cases:
  - When the bill passed by the Parliament is a **Private Member Bill**
  - When the cabinet resigns before President could give his assent to the bill. The new cabinet may advise the President to not give his assent to the bill passed by the old cabinet.
- **Note:** In India, the President has exercised his absolute veto before. In 1954, it was exercised by Dr. Rajendra Prasad as a President and later in 1991, it was used by the then President R Venkataraman.

Suspensive Veto of the President

- The President uses his suspensive veto **when he returns the bill to the Indian Parliament** for its reconsideration.
- **Note:** If the Parliament resends the bill with or without amendment to the Indian President, he has to approve the bill without using any of his veto powers.
- His **suspensive veto can be over-ridden** by the repassage of the bill by the Indian Parliament
- **Note:** With **respect to state bills, state legislature has no power to override the suspensive veto** of President. The Governor can withhold the bill for the President's consideration and even if state legislature resends the bill to governor and governor to President, he still can withhold his assent.
- When the Parliament resends the bill to the President, it has to follow only the ordinary majority in the houses and not the higher majority.)
- The President **cannot exercise his suspensive veto in relation to Money Bill.**

Pocket Veto of the President

- The bill is kept pending by the President for an **indefinite period when he exercises his pocket veto**.
- He **neither rejects the bill nor returns the bill** for reconsideration.
- Constitution **does not give any time-limit to President within which he has to act upon the bill**. Therefore, the President uses his pocket veto where he doesn't have to act upon the bill.
- Unlike the American President who has to resend the bill within 10 days, the Indian President has no such time-rule.
- Note: The Indian President has exercised this veto power before. In 1986, President Zail Singh exercised this pocket veto.
- The President has **no veto power when it comes to the constitutional amendment bills**.

➔ PARDONING POWERS OF THE PRESIDENT

- **Article 72** of the Constitution empowers the President to grant pardons to persons who have been tried and convicted of any offence in all cases where the:
  - Punishment or sentence is for an **offence against a Union Law**;
  - Punishment or sentence is by a **court martial (military court);** and
  - Sentence is a sentence of death.
- The **pardoning power of the President is independent of the Judiciary**; it is an executive power. But, the President while exercising this power, does not sit as a court of appeal.
- The object 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 law; and,

b) to afford relief from a sentence, which the President regards as unduly harsh.

- The pardoning power of the President includes the following:

Pardon	○ It removes both the sentence and the conviction and completely absolves the convict from all sentences, punishments and disqualifications.
Commutation	○ It removes both the sentence and the conviction and completely absolves the convict from all sentences, punishments and disqualifications.
Remission	○ It implies reducing the period of sentence without changing its character. For example, a sentence of rigorous imprisonment for two years may be remitted to rigorous imprisonment for one year.
Respite	○ It denotes awarding a lesser sentence in place of one originally awarded due to some special fact, such as the physical disability of a convict or the pregnancy of a woman offender.
Reprieve	○ It implies a stay of the execution of a sentence (especially that of death) for a temporary period. Its purpose is to enable the convict to have time to seek pardon or commutation from the President.

- Under **Article 161 of the Constitution**, the governor of a state also possesses the pardoning power. Hence, the governor can also **grant pardons, reprieves, respites and remissions** of punishment or suspend, remit and commute the sentence of any person convicted of any offence against a state law.
- But, the pardoning power of the governor differs from that of the President in following two respects:

1. The President can pardon sentences inflicted by court martial (military courts) while the **governor cannot.**

2. The President can **pardon death sentence while governor cannot**. Even if a state law prescribes death sentence, the power to grant pardon lies with the President and not the governor. However, the **governor can suspend, remit or commute a death sentence.** In other words, both the governor and the President have concurrent power in respect of suspension, remission and commutation of death sentence.

➡ ELECTORAL SYSTEM

MERITS OF FPTP	MERITS OF PR
In FPTP, the whole country is divided into different geographical areas, i.e. constituencies, also called as territorial representation. **Merits:** • Easy for the voters to understand the system due to low literacy scale in the country. • In parliamentary democracy, there is tendency of the system to multiply political parties. FPTP, therefore is conducive to such system. • Incurs low cost as compared to other systems such as Proportional Presentation	In simple terms , it is the system where a party is awarded the same percentage of seats in parliament as it gets votes at the polls and is comparatively complicated than FPTP. **For e.g.:** In case of 40% of the total votes, a perfectly proportional system would allow it to get 40% of the seats. **Merits**: • All sections of people do get representation in proportion to their number.

• It provides close contacts between voters and their representatives. • Decreases the significance of party system and increases that of voter. • It gives scope for by-elections.	• Fear of majoritarianism is eliminated. • Conducive for New or Regional Parties.

First Past the Post (FPTP) System	Proportional Representation (PR)
The country is divided into small geographical units called constituencies or districts	Large geographical areas are demarcated as constituencies. The entire country can also be a constituency.
Every constituency elects one representative	More than one representative may be elected from one constituency.
Voters vote for candidates	Voters vote for parties
A party may get more seats than votes in the legislature	Every party gets seats in the legislature in proportion to the percentage of votes that it gets
Candidates winning may not get majority of the votes i.e. [(50% + 1) of votes]	Candidates who wins the election gets majority of the vote
Examples; India, U.K	Example: Israel, Netherlands

➡ ELECTIONS AND UNIVERSAL ADULT SUFFRAGE

Universal Adult Suffrage

- The **Article 326 of the Indian Constitution grants universal adult suffrage**, according to which, every adult citizen is entitled to cast his/her vote in all state elections **unless that citizen is "convicted of certain criminal offences" or "deemed unsound of mind."**
- As per this concept, the right to vote is not restricted by caste, race, sex, religion or financial status.
- It was in **1928 when Dr B.R. Ambedkar appeared before the Simon Commission and insisted on incorporating universal adult franchise** in the Constitution of India.
- According to him, elections were "a weapon in the hands of the most oppressed sections of society" and voting rights will give them the politico-legal equality.
- Later, the **Indian National Congress called for political equality at the 1931 Karachi session**. The party argued that it would be one of the crucial strides towards making the electoral process more participatory and inclusive.
- There were doubts in the minds of our constitution makers and the issue of adult franchise was debated in the Constituent Assembly by many senior leaders before it abolished all the previous restrictions and provided for universal adult suffrage.

Elections

- **Article 324 to 329** of the Indian Constitution deals with elections.
- **Article 324** deals with Superintendence, direction and control of elections to be vested in an Election Commission.
- **Article 325** provides for one general electoral roll for every territorial constituency for election to either House of Parliament or to the House or either House of the Legislature of a State and no discrimination shall be made on grounds of religion, race, caste, sex or any of them for inclusion in general electoral roll.
- Under **Article 329**, validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies shall not be called in question in any court.

➡ ELECTION COMMISSION

- The Election Commission is a **permanent and an independent body** established by the Constitution of India directly to ensure free and fair elections in the country.
- **Article 324 of the Constitution** provides that the power of superintendence, direction and control of elections to parliament, state legislatures, the office of president of India and the office of vice-president of India shall be vested in the election commission. Thus, the Election Commission is an all-India body in the sense that it is common to both the Central government and the state governments.
- It must be noted here that the **election commission is not concerned with the elections to panchayats and muncipalities in the states.** For this, the Constitution of India provides for a separate State Election Commission.

Composition

- Since its inception in 1950 and till 15 October 1989, the election commission functioned as a single member body consisting of the Chief Election Commissioner.
- On 16 October 1989, the president appointed two more election commissioners to cope with the increased work of the election commission on account of lowering of the voting age from 21 to 18 years. Thereafter, the Election Commission functioned as a multimember body consisting of three election commissioners.
- However, the **two posts of election commissioners were abolished in January 1990** and the Election Commission was reverted to the earlier position.
- Again in October 1993, the president appointed two more election commissioners. Since then and till today, the Election Commission has been functioning as a multi-member body consisting of three election commissioners.
- The **chief election commissioner and the two other election commissioners have equal powers and receive equal salary, allowances and other perquisites**, which are similar to those of a judge of the Supreme Court.
- In case of difference of opinion amongst the Chief Election Commissioner and/or two other election commissioners, the **matter is decided by the Commission by majority**. They **hold office for a term of six years or until they attain the age of 65 years, whichever is earlier**.
- They can resign at any time or can also be removed before the expiry of their term.

Independence

Article 324 of the Constitution has made the following provisions to safeguard and ensure the independent and impartial functioning of the Election Commission:

- The chief election commissioner is provided with the security of tenure.
- He cannot be removed from his office except in same manner and on the same grounds as a judge of the Supreme Court. In other words, he can be removed by the president on the basis of a resolution

passed to that effect by both the Houses of Parliament with special majority, either on the ground of proved misbehavior or incapacity. Thus, he does not hold his office till the pleasure of the president, though he is appointed by him.

- The **service conditions of the chief election commissioner cannot be varied** to his disadvantage after his appointment.
- Any other election commissioner or a regional commissioner cannot be removed from office except on the recommendation of the chief election commissioner.

Powers and Functions

The powers and functions of the Election Commission with regard to elections to the Parliament, state legislatures and offices of President and Vice-President can be classified into three categories, viz,

1. Administrative
2. Advisory
3. Quasi-Judicial

In details, these powers and functions are;

1. To determine the **territorial areas of the electoral constituencies** throughout the country on the basis of the Delimitation Commission Act of Parliaments
2. To prepare and periodically **revise electoral rolls** and to register all eligible voters.
3. To **notify the dates and schedules of elections** and to scrutinise nomination papers
4. To **grant recognition to political parties** and allot election symbols to them.
5. To act as a **court for settling disputes related to granting of recognition to political parties** and allotment of election symbols to them.
6. To **appoint officers for inquiring into disputes** relating to electoral arrangements.
7. To determine the **code of conduct** to be observed by the parties and the candidates at the time of elections.
8. To **prepare a roster for publicity** of the policies of the political parties on radio and TV in times of elections.
9. To **advise the president** on matters relating to the disqualifications of the members of Parliament.
10. To **advise the governor** on matters relating to the disqualifications of the members of state legislature.
11. To **cancel polls** in the event of rigging, booth capturing, violence and other irregularities
12. To **request the president or the governor for requisitioning the staff necessary** for conducting elections.
13. To **supervise the machinery of elections** throughout the country to ensure free and fair elections.
14. To advise the president whether elections can be held in a state under president's rule in order to extend the period of emergency after one year,
15. To register political parties for the purpose of elections and grant them the status of national or state parties on the basis of their poll performances.
16. The Election Commission is assisted by deputy election commissioners. They are drawn from the civil service and appointed by the commission with tenure system. They are assisted, in turn, by the secretaries, joint secretaries, deputy secretaries and under secretaries posted in the secretariat of the commission

➡ DELIMITATION

- Delimitation is the **act of redrawing boundaries of Lok Sabha and Assembly seats** to represent changes in population. In this process, the number of seats allocated to a state may also change.
- The **objective is to provide equal representation for equal population segments, and a fair division of geographical areas, so that no political party has an advantage.**
- The **Delimitation Commission's orders cannot be questioned before any court.**

How often has delimitation been done?

- Delimitation is done on the **basis of the preceding Census**. The first such exercise in 1950-51 was carried out by the President, with the help of the Election Commission. Following the Delimitation Commission Act in 1952, all such exercises have been conducted by Delimitation Commissions — set up in 1952, 1963, 1973 and 2002.
- There was no delimitation after the 1981 and 1991 Censuses. This was a fallout of the provision that the ratio between the number of Lok Sabha seats in a state and the population of the state is, as far as practicable, the same for all states. Although unintended, this meant that states that took little interest in population control could end up with more seats in Parliament, while the southern states that promoted family planning could end up with fewer seats. Amid these concerns, the Constitution was amended in 1976 to suspend delimitation until 2001.
- Another amendment extended the freeze on the number of seats until 2026, by when the country was projected to achieve a uniform population growth rate. So, the last delimitation exercise between July 2002 and March 31, 2008, based on the 2001 Census, only readjusted boundaries of existing Lok Sabha and Assembly seats and reworked the number of reserved seats.

How is delimitation done?

- It is a bureaucratic process. According to **Article 82 of the Constitution, Parliament enacts a Delimitation Act** after Census that is held every 10 years.
- The Union government then constitutes a **Delimitation Commission headed by a retired Supreme Court judge**.
- The commission examines population data, existing constituencies, the number of seats to be analysed, holds meetings with all the stakeholders and submits its recommendation to the government.
- The draft report of the Delimitation Commission is published in the Gazette of India, the official gazettes of the states concerned and at least two vernacular publications seeking feedback from the general public.

➡ MODEL CODE OF CONDUCT

General Conduct

- **No party or candidate shall include in any activity which may aggravate existing differences or create mutual hatred** or cause tension between different castes and communities, religious or linguistic.
- **Criticism of other political parties, when made, shall be confined to their policies and programme**, past record and work. Parties and Candidates shall refrain from criticism of all aspects of private life, not connected with the public activities of the leaders or workers of other parties.

Criticism of other parties or their workers based on unverified allegations or distortion shall be avoided.

- There **shall be no appeal to caste or communal feelings for securing votes**. Mosques, Churches, Temples or other places of worship shall not be used as forum for election propaganda.
- All parties and candidates shall **avoid scrupulously all activities which are "corrupt practices**" and offences under the election law, such as bribing of voters, intimidation of voters, impersonation of voters, canvassing within 100 meters of polling stations, holding public meetings during the period of 48 hours ending with the hour fixed for the close of the poll, and the transport and conveyance of voters to and from polling station.
- The **right of every individual for peaceful and undisturbed home-life shall be respected**, however much the political parties or candidates may resent his political opinions or activities. Organizing demonstrations or picketing before the houses of individuals by way of protesting against their opinions or activities shall not be resorted to under any circumstances.
- No political party or candidate shall permit its or his followers to make use of any individual's land, building, compound wall etc., without his permission for erecting flag-staffs, suspending banners, pasting notices, writing slogans etc.
- Political parties and candidates shall ensure that their supporters do not create obstructions in or break up meetings and processions organized by other parties. Workers or sympathisers of one political party shall not create disturbances at public meetings organized by another political party by putting questions orally or in writing or by distributing leaflets of their own party. Processions shall not be taken out by one party along places at which meetings are held by another party. Posters issued by one party shall not be removed by workers of another party.

Meetings

- The **party or candidate shall inform the local police authorities of the venue and time** any proposed meeting Well in time so as to enable the police to make necessary arrangements for controlling traffic and maintaining peace and order.
- A Party or candidate shall ascertain in advance if there is any restrictive or prohibitory order in force in the place proposed for the meeting if such orders exist, they shall be followed strictly. If any exemption is required from such orders, it shall be applied for and obtained well in time.
- If permission or license is to be obtained for the use of loudspeakers or any other facility in connection with any proposed meeting, the party or candidate shall apply to the authority concerned well in advance and obtain such permission or license.
- Organizers of a meeting shall invariably seek the assistance of the police on duty for dealing with persons disturbing a meeting or otherwise attempting to create disorder. Organizers themselves shall not take action against such persons.

Procession

- A **Party or candidate organizing a procession shall decide before hand the time and place of the starting of the procession,** the route to be followed and the time and place at which the procession will terminate. There shall ordinary be no deviation from the programme.
- The organizers shall give advance intimation to the local police authorities of the programme so as to enable the letter to make necessary arrangement.
- The organizers shall ascertain if any restrictive orders are in force in the localities through which the procession has to pass, and shall comply with the restrictions unless exempted specially by the competent authority. Any traffic regulations or restrictions shall also be carefully adhered to.
- The organizers shall take steps in advance to arrange for passage of the procession so that there is no block or hindrance to traffic. If the procession is very long, it shall be organized in segments of suitable

lengths, so that at convenient intervals, especially at points where the procession has to pass road junctions, the passage of held up traffic could be allowed by stages thus avoiding heavy traffic congestion.

- Processions shall be so regulated as to keep as much to the right of the road as possible and the direction and advice of the police on duty shall be strictly complied with.
- If two or more political parties or candidates propose to take processions over the same route or parts thereof at about the same time, the organizers shall establish contact well in advance and decide upon the measures to be taken to see that the processions do not clash or cause hindrance to traffic. The assistance of the local police shall be availed of for arriving at a satisfactory arrangement. For this purpose the parties shall contact the police at the earliest opportunity.
- The political parties or candidates shall exercise control to the maximum extent possible in the matter of processionists carrying articles which may be put to misuse by undesirable elements especially in moments of excitement.
- The carrying of effigies purporting to represent member of other political parties or their leaders, burning such effigies in public and such other forms demonstration shall not be countenanced by any political party or candidate.

Polling Day

All Political parties and candidates shall –

- **co-operate with the officers on election duty** to ensure peaceful and orderly polling and complete freedom to the voters to exercise their franchise without being subjected to any annoyance or obstruction.
- **supply to their authorized workers suitable badges or identity cards**.
- agree that the identity slip supplied by them to voters hall be on plain (white) paper and shall not contain any symbol, name of the candidate or the name of the party;
- **refrain from serving or distributing liquor on polling day** and during the forty eight hours preceding it.
- not allow unnecessary crowd to be collected near the camps set up by the political parties and candidates near the polling booths so as to avoid Confrontation and tension among workers and sympathizers of the parties and the candidate.
- ensure that the candidate's camps shall be simple .They shall not display any posters, flags, symbols or any other propaganda material. No eatable shall be served or crowd allowed at the camps and
- co-operate with the authorities in complying with the restrictions to be imposed on the plying of vehicles on the polling day and obtain permits for them which should be displayed prominently on those vehicles.

Polling Booth

- Excepting the voters, no one without a valid pass from the Election Commission shall enter the polling booths.

Observers

- The Election Commission appoint Observers.
- If the candidates or their agents have any specific complaint or problem regarding the conduct of elections they may bring the same to the notice of the Observer.

Party in Power

The party in power whether at the Centre or in the State or States concerned, shall ensure that no cause is given for any complaint that it has used its official position for the purposes of its election campaign and in particular –

- The **Ministers shall not combine their official visit with electioneering work** and shall not also make use of official machinery or personnel during the electioneering work.
- Government transport including official air-crafts, vehicles, machinery and personnel shall not be used for furtherance of the interest of the party in power;
- Public places such as maidens etc., for holding election meetings, and use of helipads for air-flights in connection with elections shall not be monopolized by itself. Other parties and candidates shall be allowed the use of such places and facilities on the same terms and conditions on which they are used by the party in power;
- Rest houses, dark bungalows or other Government accommodation shall not be monopolized by the party in power or its candidates and such accommodation shall be allowed to be used by other parties and candidates in a fair manner but no party or candidate shall use or be allowed to use such accommodation (including premises appertaining thereto) as a campaign office or for holding any public meeting for the purposes of election propaganda;
- **Issue of advertisement at the cost of public exchequer in the newspapers and other media** and the misuse of official mass media during the election period for partisan coverage of political news and publicity regarding achievements with a view to furthering the prospects of the party in power shall be scrupulously avoided.
- Ministers and other authorities shall not sanction grants/payments out of discretionary funds from the time elections are announced by the Commission; and
- From the time elections are announced by Commission, Ministers and other authorities shall not –

(a) announce any financial grants in any form or promises thereof; or

(b) (except civil servants) lay foundation stones etc. of projects or schemes of any kind; or

(c) make any promise of construction of roads, provision of drinking water facilities etc.; or

(d) make any ad-hoc appointments in Government, Public Undertakings etc. which may have the effect of influencing the voters in favor of the party in power.

Guidelines on Election Manifestos

- The election manifesto **shall not contain anything repugnant to the ideals and principles enshrined in the Constitution** and further that it shall be consistent with the letter and spirit of other provisions of Model Code of Conduct.
- The Directive Principles of State Policy enshrined in the Constitution enjoin upon the State to frame various welfare measures for the citizens and therefore there can be no objection to the promise of such welfare measures in election manifestos. However, political parties should avoid making those promises which are likely to vitiate the purity of the election process or exert undue influence on the voters in exercising their franchise.
- In the interest of transparency, level playing field and credibility of promises, it is expected that manifestos also reflect the rationale for the promises and broadly indicate the ways and means to meet the financial requirements for it. Trust of voters should be sought only on those promises which are possible to be fulfilled.

➡ EXIT POLL

- The exit polls are **post-vote polls**, which are conducted after voters have cast their votes.
- The polls **aim to predict the final result** on the basis of the information collected from the voters after they walk out of the polling booth.
- Unlike an opinion poll, which asks the voter whom they plan to vote for, the **exit poll asks the voter whom they actually voted for.**
- The polls are conducted by private firms and media organizations such as Today's Chanakya, ABP-Cvoter, News18, India Today-Axis, Times Now-CNX, NewsX-Neta, Republic-Jan Ki Baat, Republic-CVoter, ABP-CSDS and Chintamani.

How are they conducted?

- Most of the agencies carry out exit polls through the **method of random sampling**. Some also opt for systematic sampling to predict the actual result.
- The agencies ask people from different age groups, gender, caste, religion and region whom they voted for.
- While exit polls largely predict the outcome of the entire election, region or constituency specific exit polls are also released.
- The firms conducting the exit polls usually ask voters who they voted for and on the basis of that, they make their final result prediction.
- The prediction is solely based on the fact that the voters have given correct answers.

When are exit polls released?

- The exit polls are only allowed to be published or broadcasted half an hour after the conclusion of the last phase of polling.
- The polls are released after approval from the Election Commission of India.
- The Election Commission, exercising its powers stated under **Section 126A of the Representation of the People Act, 1951** prohibits the release of exit polls before the conclusion of polling, in order to safeguard democracy.
- According to the Election Commission, publishing the prediction of the actual result before the conclusion of polling may possibly influence the minds of electors.

What does Section 126A of the Representation of the People Act, 1951 state?

- The section states that no person shall conduct any exit poll and publish or publicise by means of the print or electronic media, the result of any exit poll during such period.
- In case of a general election, the period may commence from the beginning of the hours fixed for the poll on the first day of poll and continue till half an hour after closing of the poll in all the states and union territories.
- The section also prescribes that any person, who contravenes the provisions of this section, shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

➡ REGISTRATION OF POLITICAL PARTIES

- Registration of Political parties is governed by the provisions of **Section 29A** of the **Representation of the People Act, 1951.**
- A party seeking registration under the said Section with the Commission has to submit an application to the Commission **within a period of 30 days following the date of its formation** as per guidelines prescribed by the Election Commission of India in exercise of the powers conferred by Article 324 of the Commission of India and Section 29A of the Representation of the People Act, 1951.

➔ **National Party:** To be eligible for a 'National Political Party of India,' the Election Commission has set the following criteria:

- It secures **at least six percent of the valid votes polled in any four or more states**, at a general election to the House of the People or, to the State Legislative Assembly; and
- In addition, it wins **at least four seats** in the House of the People from any State or States. OR
- It wins at least two percent seats in the House of the People (i.e., 11 seats in the existing House having 543 members), and these members are elected from at least three different States.

➔ **State Party:** To be eligible for a 'State Political Party,' the Election Commission has set the following criteria:

- It secures at **least six percent of the valid votes polled in the State** at a general election, either to the House of the People or to the Legislative Assembly of the State concerned; and
- In addition, it wins at least two seats in the Legislative Assembly of the State concerned. OR
- It wins at least three percent (3%) of the total number of seats in the Legislative Assembly of the State, or at least three seats in the Assembly, whichever is more.

Benefits:

- If a party is recognised as a State Party', it is entitled for exclusive allotment of its reserved symbol to the candidates set up by it in the State in which it is so recognised, and if a party is recognised as a `National Party' it is entitled for exclusive allotment of its reserved symbol to the candidates set up by it throughout India.
- Recognised `State' and `National' parties need only one proposer for filing the nomination and are also entitled for two sets of electoral rolls free of cost at the time of revision of rolls and their candidates get one copy of electoral roll free of cost during General Elections.
- They also get broadcast/telecast facilities over Akashvani/Doordarshan during general elections.
- Political parties are entitled to nominate "Star Campaigners" during General Elections. A recognized National or State party can have a maximum of 40 "Star campaigners" and a registered un-recognised party can nominate a maximum of 20 'Star Campaigners".
- The travel expenses of star campaigners are not to be accounted for in the election expense accounts of candidates of their party.

➡ INDEPENDENT CANDIDATE

- The eligibility criteria for independent candidates are same as that of other members from any political party who wish to contest elections either in Lok Sabha or in State Legislative Assembly. Thus, for Lok Sabha and State Legislative Assembly, the independent candidate must be a citizen of India and should not be less than 25 years of age.

- The nomination paper of an independent candidate must be subscribed by ten proposers who are also electors of the constituency. Under the Representation of the People Act 1951, this is mandatory for independent candidates and those candidates who belong to unrecognized political parties.
- The law is little stricter for the independent candidates as candidates fielded by recognised political parties need to have only one proposer for their nomination.
- The candidate contesting as independent is allowed to choose three free symbols listed by the Election Commission. Following which, they have to name them in order of preference and mention it in their nomination papers.
- Preferences indicated in the nomination papers are taken into account and it's the Returning officer who finally assesses whether there is any other contender for the same symbol and then takes the call based on the rules declared in Election Symbols (Reservation and Allotment) Order, 1968.
- Under anti defection law: If a member has been elected as "Independent", then he / she would be disqualified if they join any political party after their election.
- Views of Election Commission & Law Commission on independent candidates contesting polls
- The Election Commission has recommended in the past that only those independent candidates who have a previous record of winning local election should be allowed to contest for Parliamentary or Assembly elections.
- The commission had also recommended doubling the security deposits for independent candidates to put a check on their proliferation and prevent malpractices in the election process because of their influx.
- The Commission also had clearly advocated for barring independent candidates from contesting elections for a minimum of 6 years if they fail to secure at least five percent of the total number of votes cast in their constituencies.
- It was also suggested that the independent candidate who loses election three times consecutively should be "permanently debarred" from contesting election.
- On other hand law commission has recommended completely barring the independent candidates from contesting elections as they are either not serious or contest just to confuse electors.

➡ SECTION 123(3), RPA 1951

- The Supreme Court has clearly ruled that religion, race, caste, community or language would not be allowed to play any role in the electoral process and that election of a candidate would be declared null and void if an appeal is made to seek votes on these considerations.
- The SC stated that **elections are a secular exercise** and an appeal in the name of religion, race, caste, community or language is impermissible under the Representation of the People Act, 1951 and would constitute a corrupt practice sufficient to annul the election in which such an appeal was made.
- **Corrupt practice under Section 123(3)** of the Representation of People Act (RPA) 1951- The SC revisited the provision under Section 123(3) of the Representation of People Act (RPA) 1951, which defines as "corrupt practice" appeals made by a candidate or his agents to vote or refrain from voting for any person on the ground of "his" religion, race, caste, community or language.
- What actually came up for interpretation before the Constitution Bench was the meaning of the term "his" since that would define whose religion it has to be when an appeal is made.
- The bench headed by the former Chief Justice of India T S Thakur with a majority ruled that "his" would mean religion of candidate, his agents, voters as well as any other person who, with the candidate's consent, brings up religion in an appeal for the furtherance of the prospects of the election.
- No place for religion in a secular state's governance - The State being secular in character will not identify itself with any one of the religions or religious denominations. This necessarily implies that

religion will not play any role in the governance of the country which must at all times be secular in nature.

➡ UNION GOVERNMENT or CENTRAL GOVERNMENT?

- Seventy-three years since we adopted the Constitution, it is time we regained the original intent of our founding fathers beautifully etched in the parchment as Article 1: "India, that is Bharat, shall be a Union of States".
- If a student of Indian polity attempts to trace the origin of the term 'Central government', the Constitution will disappoint him, for the Constituent Assembly **did not use the term 'Centre' or 'Central government'** in all of its 395 Articles in 22 Parts and eight Schedules in the original Constitution.
- What we have are **the 'Union' and the 'States'** with the executive powers of the Union wielded by the President acting on the aid and advice of the Council of Ministers headed by the Prime Minister. Then, why did the courts, the media and even the States refer to the Union government as the 'Centre'?
- Even though we have no reference to the 'Central government' in the Constitution, the **General Clauses Act, 1897 gives a definition for it**. The 'Central government' for all practical purposes is the President after the commencement of the Constitution. Therefore, the real question is whether such definition for 'Central government' is constitutional as the Constitution itself does not approve of centralising power.

Intent of Constituent Assembly

- On December 13, 1946, Jawaharlal Nehru introduced the aims and objects of the Assembly by resolving that India shall be a Union of territories willing to join the **"Independent Sovereign Republic".** The emphasis was on the consolidation and confluence of various provinces and territories to form a strong united country.
- Many members of the Constituent Assembly were of the opinion that the principles of the British Cabinet Mission Plan (1946) be adopted, which contemplated a Central government with very limited powers whereas the provinces had substantial autonomy. The Partition and the violence of 1947 in Kashmir forced the Constituent Assembly to revise its approach and it resolved in favour of a strong Centre.
- The possibility of the secession of States from the Union weighed on the minds of the drafters of the Constitution and ensured that the **Indian Union is "indestructible".**
- In the Constituent Assembly, B**.R Ambedkar, the Chairman of the Drafting Committee, observed that the word 'Union'** was advisedly used in order to negative the right of secession of States by emphasising, after all, that "India shall be a Union of States". Ambedkar justified the usage of 'Union of States' saying that the Drafting Committee wanted to make it clear that though India was to be a federation, it was not the result of an agreement and that therefore, no State has the right to secede from it. "The federation is a Union because it is indestructible," Ambedkar said.
- The usage of 'Union of States' by Ambedkar was not approved by all and faced criticisms from Maulana Hasrat Mohani who argued that Ambedkar was changing the very nature of the Constitution. Mohani made a fiery speech in the Assembly on September 18, 1949 where he vehemently contended that the usage of the words 'Union of States' would obscure the word 'Republic'. Mohani went to the extent of saying that Ambedkar wanted the 'Union' to be "something like the Union proposed by Prince Bismarck in Germany, and after him adopted by Kaiser William and after him by Adolf Hitler". Mohani continued, "He (Ambedkar) wants all the States to come under one rule and that is what we

call Notification of the Constitution. I think Dr. Ambedkar is also of that view, and he wants to have that kind of Union. He wants to bring all the units, the provinces and the groups of States, everything under the thumb of the Centre."

- However, Ambedkar clarified that "the Union is not a league of States, united in a loose relationship; nor are the States the agencies of the Union, deriving powers from it. Both the Union and the States are created by the Constitution, both derive their respective authority from the Constitution. The one is not subordinate to the other in its own field... the authority of one is coordinate with that of the other".
- The sharing of powers between the Union and the States is not restricted to the executive organ of the government. The judiciary is **designed in the Constitution to ensure that the Supreme Court, the tallest court in the country, has no superintendence over the High Courts**. Though the Supreme Court has appellate jurisdiction — not only over High Courts but also over other courts and tribunals — **they are not declared to be subordinate to it**.
- In fact, the High Courts have wider powers to issue prerogative writs despite having the power of superintendence over the district and subordinate courts. Parliament and Assemblies identify their boundaries and are circumspect to not cross their boundaries when it comes to the subject matter on which laws are made. However, the Union Parliament will prevail if there is a conflict.

Word play

- The members of the Constituent Assembly were very cautious of not using the word 'Centre' or 'Central government' in the Constitution as they intended to keep away the tendency of centralising of powers in one unit.
- The 'Union government' or the 'Government of India' has a unifying effect as the message sought to be given is that the government is of all.
- Even though the federal nature of the Constitution is its basic feature and cannot be altered, what remains to be seen is whether the actors wielding power intend to protect the federal feature of our Constitution.
- As Nani Palkhivala famously said, **"The only satisfactory and lasting solution of the vexed problem is to be found not in the statute-book but in the conscience of men in power".**

➡ CREATION OF NEW STATES

New States in India are created under the provisions of Articles 2, 3 and 4 of the Indian Constitution.

- **Article 2** of the Constitution of India vests in the Indian Parliament the exclusive power to admit or establish new states into the Indian Union on such terms and conditions as the Parliament may provide for. This authority is with the Indian Parliament only and the State legislatures have no power to frame laws on this subject matter.
- **Article 2 reads as**: Parliament may by law admit into the Union, or establish, new states on such terms and conditions as it thinks fit.
- **Article 3 of the Constitution of India** dives and defines further and authorises the Indian Parliament to form new states; alter the area, boundaries or names of existing states by legislation.
- The parliament, under this Article, is empowered to form a **new state by separating a territory from any state or by uniting states or parts of States or by uniting any territory to a part of any state**.
- It is also empowered to increase or diminish the area of any state or to alter the boundaries or the name of any state. It should be noted that in clauses from (a) to (e) under Article 3, the expression 'State' includes a Union Territory.

- There is a proviso clause attached to Article 3. The clause provides that any legislation framed upon the provisions of Article 3 shall not be introduced in either House of the Indian Parliament, except when it is firstly recommended by the President of India for the same purpose.
- This clause further provides that where such legislation affects the area, boundary or the name of any existing State, then such a legislation shall not be introduced in either House of the Parliament unless, when first referred by the President to such State legislature affected, views of such State legislature are first acquired on its area, boundary or name being affected thereby.

- It is to be noted that such views by the State legislature shall be communicated to the Parliament within such time period as the President of India may specify in such reference or within such time period as the President may allow. If the Centre accepts the State's recommendation, a bill can be introduced in either House of Parliament on the recommendation of the President, which in fact means the recommendation of the Union government.
- **Before drafting the Bill, it is open to the Centre to appoint a Commission to fix boundaries and for Sharing waters**, providing other guarantees and location of capitals, High Courts and all other requirements of the States to be formed. It is only on receipt of a report of the Commission that the President may recommend a Bill, on the advice of the Union Council of Ministers.
- However, **the Parliament is not bound to accept or act upon the views of the State legislature**, even if such views are received in time. This means, even if there is opposition to the referred Bill, or such reference is not responded to within the prescribed time, or when such a Bill is approved, the a President can go ahead with formation of a new State.
- Period within which the State Legislature must express its views has to be specified by the President; but the President may extend the period so specified.
- If, however, the period specified or extended expires and no views of the State Legislature are received, the Second condition laid down in the proviso is fulfilled in spite of the fact that the views of the State legislature have not been expressed. The intention seems to be to give an opportunity to the State Legislature to express its views within the time allowed; if the State Legislature fails to avail itself of that opportunity, such failure does not invalidate the introduction of the bill.
- It should be noted that in the proviso clause attached to Article 3, the expression State does not include a Union Territory.

- **The proviso clause reads as** : provided that no bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the area, boundaries or names of any of the States, the Bill has been referred by the President to the Legislature of that State for expressing its views thereon within such further period as the President may allow and the period so specified or allowed has expired.

- **Article 4 of the Indian Constitution** reflects a mandatory direction to the Parliament while framing a legislation under Article 2 and 3. It directs the Parliament to frame a legislation which bears within it certain provisions providing for the **amendment of the First Schedule and the Fourth Schedule of the Constitution of India** in order to giving effect to such legislation.
- Such a law may also contain such supplemental, incidental and consequential provisions, including provisions relating to the **distribution of representation in the Parliament and in the legislatures of the States,** as the Parliament may deem necessary. Further, this Article clearly bars the jurisdiction of the Parliament to frame a legislation intending to be an amendment of the Constitution for the purposes of Article 368.
- T**he First Schedule of the Indian Constitution enlists the names of the States and the Union Territories** which are included in the expression 'Union of States'.
- **The Fourth Schedule prescribes the allocation of seats in the Council of States**.

Article 4 of the Constitution of India reads as

- Any law referred to in Article 2 or Article 3 shall contain such provisions for the amendment of the First Schedule and the Fourth Schedule as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions (including provisions as to representation in Parliament and in the Legislature or Legislatures of the State or States affected by such law) as Parliament may deem necessary.
- No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of Article 368.

Therefore, the procedure discussed above is how States in India are created.

- **DIFFERENT REASONS**: Jharkhand, Uttarakhand and Chhattisgarh were created in 2000 on socio-political basis.
- **LINGUISTIC REASONS**: States have also been created on linguistic lines, such as Andhra Pradesh in 1953.
- **AUTONOMOUS REGION**: An autonomous region, like the Gorkhaland semi-autonomous administrative area, enjoys a degree of administrative and financial autonomy.

➡ CHRONOLOGY OF STATES BIFURCATION

- 1947 - Provinces and around 550 princely states were merged with existing provinces.
- 1953 - Andhra Pradesh was carved out of Madras. States' reorganisation commission was formed.
- 1953 - Northeast Frontier Agency was formed.
- 1956 - 14 states and 6 UTs were created.
- 1960 - Bombay state split into Maharashtra and Gujarat.
- 1963 - Nagaland carved out of Assam.
- 1966 - Haryana and Himachal Pradesh carved out of Punjab state.
- 1972 - Meghalaya, Manipur and Tripura were formed.
- 1975 - Sikkim became part of Indian Union.
- 1987 - Goa and Arunachal Pradesh became states (earlier these were UTs).
- 2000 - Uttaranchal (out of Uttar Pradesh), Jharkhand (out of Bihar) and Chhattisgarh (out of Madhya Pradesh) were formed.
- 2014- The State of Telangana was officially formed on June 2, 2014. Telangana region was part of the Hyderabad State from September 17th , 1948 to November 1st, 1956, until it was merged with Andhra State to form the Andhra Pradesh State. After decades of movement for a separate state, Telangana was created by passing the Andhra Pradesh State Reorganisation Act in both the Houses of the Parliament.
- 2019- The former State of Jammu and Kashmir was officially created into a Union Territory on 31 October, 2019 by the Jammu and Kashmir Reorganisation Act, 2019, which was passed by both the Houses of the Parliament of India in August 2019. This Act resulted into the re constitution of the former State of J&K into two Union Territories i.e Union Territory of J&K and Union Territory of Ladakh.

- India, a Union of States, has a federal structure and being so it is counted in as one of the Basic Structure of the Indian Constitution. India being rich in diversity, cultures and languages, it is abundantly necessary to preserve these aspects. The Constitution makers also envisaged this and

therefore, provisions like Article 2, 3 and 4 were incorporated as an important part of Indian Federalism.

- In this respect, new States are created in India on the basis of these criteria to strengthen and preserve the States unique cultures and languages or scripts. This is one of the ways through which not only the uniqueness of India is protected but also its cultures, traditions and dialects.

➡ SPECIAL STATUS TO NORTH-EASTERN STATES

- **Article 371A: NAGALAND-** This provision was introduced in the Constitution by the **13th Amendment in 1962** in order to protect Naga culture and society after a 16-point agreement between the Centre and the Naga People's Convention in 1960. This agreement led to the creation of the state of Nagaland in 1963.

  Under **Article 371A, Parliament cannot legislate, without the concurrence of the Nagaland Legislative Assembly**, on Naga religion or social practices, Naga customary law and procedure, administration of civil and criminal justice involving decisions according to Naga customary law, and ownership and transfer of land and its resources.

  The Article includes a provision for a **35-member Regional Council** for Tuensang district, which elects the Tuensang members in the Assembly. A member from the Tuensang district is Minister for Tuensang Affairs. The Governor has the final say on all Tuensang-related matters.
- **Article 371B: ASSAM**- Under this Article, introduced in the Constitution by the 22nd Amendment Act in 1969, the President may provide for the setting up of a committee of the state Assembly consisting of members elected from the state's tribal areas.
- **Article 371C: MANIPUR-** This provision was introduced by the 27th Amendment in 1971. The President may provide for the constitution and functions of a committee of elected members from the Hill areas of the state in the Assembly, and entrust "special responsibility" to the Governor to ensure its proper functioning. The Governor is required to file an annual report to the President.
- **Article 371F: SIKKIM-** The 36th Amendment Act, 1975 provides that the MLAs of Sikkim shall elect the representative of Sikkim in Lok Sabha. To protect the rights and interests of various sections of the state's population, Parliament may provide for the number of seats in the Assembly, which may be filled only by candidates from those sections. The Governor shall have "special responsibility for peace and for an equitable arrangement for ensuring the social and economic advancement of different sections of the population".
- **Article 371G: MIZORAM-** Under this provision, introduced by the 53rd Amendment in 1986, Parliament cannot make laws on "religious or social practices of the Mizos, Mizo customary law and procedure, administration of civil and criminal justice involving decisions according to Mizo customary law, ownership and transfer of land unless the Legislative Assembly by a resolution so decides".
- **Article 371H: ARUNACHAL PRADESH**- Following the 55th Amendment, 1986, the Governor has a special responsibility with regard to law and order, and "he shall, after consulting the Council of Ministers, exercise his individual judgment as to the action to be taken". Should a question arise over whether a particular matter is one in which the Governor is "required to act in the exercise of his individual judgment, the decision of the Governor in his discretion shall be final", and "shall not be called in question."

➡ LOK SABHA AND VIDHAN SABHA

Differences between Lok Sabha and Vidhan Sabha	
Lok Sabha	**Vidhan Sabha**
The Lok Sabha is the lower house of India's parliament which is bicameral in nature	The Vidhan Sabha is the legislative body in the states and Union Territory of India
As per the Constitution of India, the Lok Sabha has been allotted 552 seats. Currently, the 17th Lok Sabha elected in May 2019 has 543 seats filled	The Indian Constitution states that the Vidhan Sabha must have no less than 60 members and no less than 500 members. Exceptions are made via an Act of Parliament for states and union territories with fewer than 60 members
An exercise to redraw Lok Sabha Constituiuencies is carried out by the Boundary Delimitation Commission of India every decade based on the Indian Census. The latest is the Census of India, 2011	Vidhan Sabha of any state can be dissolved by the Governor in a state of emergency at the request of the Chief Minister. It can also happen if a no-confidence motion is passed against the ruling party
Money Bills can only be introduced in the Lok Sabha, where after being passed, it is sent to Rajya Sabha for 14 days of deliberation. In the event of non-rejection after the 14-day lapse, the bill is considered passed.	A money bill can only be introduced by the Vidhan Sabha. In a bicameral setup, they can be passed on to the Vidhan Parishad (State Legislative Council) for 14days of deliberation
If the Lok Sabha is dissolved before or after a declaration of national emergency then the Rajya Sabha will become the sole parliamentary authority of the country.	The Vidhan Sabha has the power to form or dissolve the Vidhan Parishad by passing a resolution to that effect by a majority of not less than two-thirds of the members voting

➡ RAJYA SABHA

- The **'Council of States'** which is also known as **Rajya Sabha**, a nomenclature that was announced by the chair in the House on the 23rd August, 1954 has its own distinctive features.
- The **origin of the second Chamber can be traced to the Montague-Chelmsford Report of 1918**.
- The **Government of India Act, 1919 provided for the creation of a 'Council of State'** as a second chamber of the then legislature with a restricted franchise which actually came into existence in 1921.
- The **Governor-General was the ex-officio President of the then Council of State**. The Government of India Act, 1935, hardly made any changes in its composition.
- The **Constituent Assembly**, which first met on 9 December 1946, also acted as the Central Legislature till 1950, when it was converted as **'Provisional Parliament'**. During this period, **the Central Legislature which was known as Constituent Assembly (Legislative) and later Provisional Parliament was unicameral** till the first elections were held in 1952.
- Extensive debate took place in the Constituent Assembly regarding the utility or otherwise of a Second Chamber in Independent India and ultimately, it was decided to **have a bicameral legislature for independent India mainly because a federal system was considered to be most feasible form of Government for such a vast country with immense diversities.**
- A second chamber known as the 'Council of States', therefore, was **created with altogether different composition and method of election from that of the directly elected House of the People**.
- It was **meant to be the federal chamber** i.e., a House elected by the elected members of Assemblies of the States and two Union Territories in which States were not given equal representation.
- Apart from the elected members, **provision was also made for the nomination of twelve members to the House by the President.**
- The **minimum age of thirty years** was fixed for membership as against twenty-five years for the Lower House.
- The element of dignity and prestige was added to the Council of State House by making the **Vice-President of India ex-officio Chairman of the Rajya Sabha** who presides over its sittings.

Constitutional Provisions relating to Rajya Sabha

Composition/Strength

- **Article 80** of the Constitution lays down the **maximum strength of Rajya Sabha as 250**, out of which 12 members are nominated by the President and 238 are representatives of the States and of the two Union Territories.
- The present strength of Rajya Sabha, however, is 245, out of which 233 are representatives of the States and Union territories of Delhi and Puducherry and 12 are nominated by the President. The members nominated by the President are persons having special knowledge or practical experience in respect of such matters as literature, science, art and social service.
- The **Fourth Schedule to the Constitution** provides for allocation of seats to the States and Union Territories in Rajya Sabha.
- The allocation of seats is made on the basis of the population of each State.

Qualifications

- Article 84 of the Constitution lays down the qualifications for membership of Parliament. A person to be qualified for the membership of the Rajya Sabha should possess the following qualifications:

- he must be a **citizen of India** and make and subscribe before some person authorized in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule to the Constitution;
- he must be **not less than 30 years of age;**
- he must possess such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

Disqualifications

- **Article 102** of the Constitution lays down that a person shall be disqualified for being chosen as, and for being, a member of either House of Parliament –

- if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder;
- if he is of unsound mind and stands so declared by a competent court;
- if he is an undischarged insolvent;
- if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgement of allegiance or adherence to a foreign State;
- if he is so disqualified by or under any law made by Parliament.
- Explanation- For the purpose of this clause a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State by reason only that he is a Minister either for the Union or for such State.

- Besides, the **Tenth Schedule** to Constitution provides for disqualification of the members on ground of defection.
- As per the provisions of the Tenth Schedule, a member may be disqualified as a member, if he **voluntarily gives up the membership of his political party**; or if **he votes or abstains from voting in the House contrary to any direction issued by the political party** to which he belongs, unless such voting or abstention has been condoned by the political party within fifteen days. A member elected as an independent candidate shall be disqualified if he joins any political party after his election.
- A **member nominated to the House by the President, however, is allowed to join a political party** if he/she does so within the first six months of taking seat in the House.
- A member shall not be disqualified on this account, if he voluntarily leaves the membership of his political party after he is elected Deputy Chairman, Rajya Sabha.

➔ PROCESS FOR ELECTION/NOMINATION

Electoral College

- The representatives of the States and of the Union Territories in the Rajya Sabha are elected by the **method of indirect election**.
- The representatives of each State and two Union territories **are elected by the elected members of the Legislative Assembly of that State and by the members of the Electoral College for that Union Territory,** as the case may be, in accordance with the **system of proportional representation by means of the single transferable vote.**

- The Electoral College for the National Capital Territory of Delhi consists of the elected members of the Legislative Assembly of Delhi, and that for Puducherry consists of the elected members of the Puducherry Legislative Assembly.

Biennial/Bye-election

- Rajya Sabha is a **permanent House and is not subject to dissolution**. However, **one-third Members of Rajya Sabha retire after every second year**. A member who is elected for a full term serves for a period of six years.
- The election held to fill a vacancy arising otherwise than by retirement of a member on the expiration of his term of office is **called 'Bye-election'**. A member elected in a bye-election remains member for the remainder of the term of the member who had resigned or died or disqualified to be member of the House under the Tenth Schedule.

Presiding Officers - Chairman and Deputy Chairman

- The Presiding Officers of Rajya Sabha have the responsibility to conduct the proceedings of the House.
- The **Vice-President of India is ex-officio Chairman of Rajya Sabha**.
- Rajya Sabha **also chooses from amongst its members, a Deputy Chairman**.
- There is also a **Panel of Vice-Chairmen in Rajya Sabha**, the members of which are nominated by the Chairman, Rajya Sabha.
- In the absence of the Chairman and Deputy Chairman, a member from the Panel of Vice-Chairmen presides over the proceedings of the House.

Secretary-General

- The Secretary-General is appointed by the **Chairman of Rajya Sabha** and holds rank equivalent to the **highest civil servant of the Union**.
- The Secretary-General works with anonymity and is readily available to the Presiding Officers for rendering advice on parliamentary matters.
- The **Secretary-General is also the administrative head of the Rajya Sabha Secretariat** and the custodian of the records of the House. He works under the direction and control of the Chairman, Rajya Sabha.

Special Powers of Rajya Sabha

- Rajya Sabha being a federal chamber enjoys certain special powers under the Constitution. All the subjects/areas regarding legislation have been divided into **three Lists - Union List, State List and concurrent List**.
- Union and State Lists **are mutually exclusive** - one cannot legislate on a matter placed in the sphere of the other. However, **if Rajya Sabha passes a resolution by a majority of not less than two-thirds of members present and voting saying that it i**s "necessary or expedient in the national interest" that Parliament should make a law on a matter enumerated in the State List, Parliament becomes empowered to make a law on the subject specified in the resolution, for the whole or any part of the territory of India.
- Such a resolution remains in force for a maximum period of one year but this period can be extended by one year at a time by passing a similar resolution further.
- If Rajya Sabha passes a resolution by a majority of **not less than two-thirds of the members present and voting** declaring that it is necessary or expedient in the national interest to **create one or more All India Services common to the Union and the States**, Parliament becomes empowered to create by law such services.

- Under the Constitution, the President is empowered to issue **Proclamations in the event of national emergency, in the event of failure of constitutional machinery in a State, or in the case of financial emergency. Every such proclamation has to be approved by both Houses of Parliament within a stipulated period.** Under certain circumstances, however, Rajya Sabha enjoys special powers in this regard. If a Proclamation is issued at a time when Lok Sabha has been dissolved or the dissolution of Lok Sabha takes place within the period allowed for its approval, then the proclamation remains effective, if the resolution approving it is passed by Rajya Sabha within the period specified in the **Constitution under articles 352, 356 and 360.**

Rajya Sabha in Financial Matters

- A Money Bill can be introduced only in Lok Sabha. After it is passed by that House, it is transmitted to Rajya Sabha for its concurrence or recommendation. The power of Rajya Sabha in respect of such a Bill is limited.
- Rajya Sabha **has to return such a Bill to Lok Sabha within a period of fourteen days** from its receipt. If it is not returned to Lok Sabha within that time, the Bill is deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by Lok Sabha.
- Again, **Rajya Sabha cannot amend a Money Bill**; it **can only recommend amendments** and Lok Sabha may either accept or reject all or any of the recommendations made by Rajya Sabha.
- Apart from a Money Bill, certain other categories of Financial Bills **also cannot be introduced in Rajya Sabha.** There are, however, some other types of Financial Bills on which there is no limitation on the powers of the Rajya Sabha. These Bills may be initiated in either House and Rajya Sabha has powers to reject or amend such Financial Bills like any other Bill. Of course, such Bills cannot be passed by either House of Parliament unless the President has recommended to that House the consideration thereof.
- From all this, however, it does not follow that Rajya Sabha has nothing to do in matters relating to finance. The Budget of the Government of India **is laid every year before Rajya Sabha also and its members discuss it.**
- Though **Rajya Sabha does not vote on Demands for Grants of various Ministries** - a matter exclusively reserved for Lok Sabha - **no money, however, can be withdrawn from the Consolidated Fund of India unless the Appropriation Bill has been passed by both the Houses**.
- Similarly, the Finance Bill is also brought before Rajya Sabha. Besides, the Department-related Parliamentary Standing Committees that examine the annual Demands for Grants of the Ministries/Departments are joint committees having ten members from Rajya Sabha.

➡ MEMBER OF PARLIAMENT

Qualifications for MP

- A person shall not be qualified to be chosen to fill a seat in Parliament unless he—

a) is a **citizen of India,** and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;

b) is, in the case of a seat in the **Council of States, not less than thirty years of age** and, in the case of a seat in the **House of the People, not less than twenty- five years of age**; and

c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by

- The constitution has given equal power to Lok Sabha and Rajya Sabha except in certain matters like those for the executive and the money bills.

- This is primarly because of the parliamentary system of government which intentionally has made Rajya Sabha less influential than the Lok Sabha that is having members who are directly elected by the people. There is no denying the fact that the Rajya Sabha has the right of information.
- It does from time to time criticise actions and policies of the government but it cannot cause a fall of the Governments as the defeat of the Government in the Rajya Sabha does not lead to the resignation of the Council of Ministers. However, Rajya Sabha does enjoy the exclusive powers with regard to creation of All-India Services and in respect of legislation on State List in the national interest.

Disqualifications of MP

By the 52nd Amendment Act passed in 1985, a person is disqualified if he attracts disqualification under the Tenth Schedule.

A person incurs disqualification under the Tenth Schedule—

1. If he **voluntarily gives up the membership of the party** on whose ticket he was elected.
2. If **he votes or abstains from voting contrary to any direction issued by his political party**, without obtaining permission of such party and the party has not condoned such voting or abstention within 15 days from the date of such voting or abstention.
3. If any nominated member joins a party after the expiry of six months from the date he takes his seat.
4. A member who has been elected as an independent member shall be disqualified if he joins any political party.

Exceptions to the Rule of Defection

The disqualification as a consequence of defection does not apply—

1. If a person leaves a party as a result of split in the original party. The split takes place when not less than one third of the members form a new group and party in the House.
2. If the original party or a member merges with another party and he either changes his political party as a consequence of the merger or does not accept merger and opts to function as a separate group. A merger is deemed to take place only if not less than two third of the members of the legislative party agree to such merger

- If any question arises whether a member has become disqualified under the Tenth Schedule (defection) the question has to be decided by the Chairman or the Speaker of the appropriate House.

Disqualifications for membership (Article 102)

A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament—

a. if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder;

b. if he is of unsound mind and stands so declared by a competent court;

c. if he is an undischarged insolvent;

d. if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgment of allegiance or adherence to a foreign State;

e. if he is so disqualified by or under any law made by Parliament.

[Explanation.—For the purposes of this clause a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State by reason only that he is a Minister either for the Union or of such State. A person shall be disqualified for being a member of either House of Parliament if he is so disqualified under the Tenth Schedule.]

Vacation of seats

1. No person shall be a member of both Houses of Parliament and provision shall be made by Parliament by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.
2. No person shall be a member both of Parliament and of a House of the Legislature of a State, and if a person is chosen a member both of Parliament and of a House of the Legislature of [a State], then, at the expiration of such period as may be specified in rules made by the President, that person's seat in Parliament shall become vacant, unless he has previously resigned his seat in the Legislature ofthe State.
3. If a member of either House of Parliament—(a) becomes subject to any of the disqualifications mentioned in [clause (1) or clause (2) of article 102], or [(b) resigns his seat by writing under his hand addressed to the Chairman or the Speaker, as the case may be, and his resignation is accepted by the Chairman or the Speaker, as the case may be,] his seat shall thereupon become vacant.
4. If for a **period of sixty days a member of either House of Parliament is without permission of the House absent from all meetings thereof**, the House may declare his seat vacant provided that in computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days.

- If any question arises as to whether a member of either House of Parliament has become subject to any of the disqualifications mentioned in clause (1) of article 102, the **question shall be referred for the decision of the President and his decision shall be final.**
- Before giving any decision on any such question, the **President shall obtain the opinion of the Election Commission** and **shall act according to such opinion**.

➡ COMPARISON BETWEEN LOK SABHA AND RAJYA SABHA

Sl. No.	Lok Sabha	Rajya Sabha
1	The Lok Sabha is not a permanent House. It is dissolved after the expiry of its term of five years. But it can be dissolved before the period of five years by the President on the advice of the Council of Ministers. New Lok Sabha is elected and constituted within a period of 6 months from the date of its dissolution.	The Council of States or Rajya Sabha is a permanent House and it is not subject to dissolution. After every two years, one-third of its members retire and its same numbers of seats are filled up by new members.
2	The maximum strength of the Lok Sabha can be 552 members. Out of this, 530 members are elected from the States and 20 members are elected from the Union Territories. The remaining two members are nominated by the President from among the Anglo-Indian community.	The total membership of the Rajya Sabha is 250. It is a representative House of States but the States are notrepresented equally in the Rajya Sabha. Seats in the Rajya Sabha are allocated to different States on the basis of population. Out of the total members of the House, twelve members are nominated by the President from amongst the persons having special knowledge or practical experience in the fields of literature,

		science, art and social service.
3	The members of the Lok Sabha are elected by the people directly on the basis of secret vote and universal franchise. For the purpose of election, the population is divided into various constituencies.	The members of the Rajya Sabha are elected by the Legislative Assemblies ofthe respective States on the basis of proportional representation
4	The Speaker and the Deputy Speaker of the Lok Sabha are the members of the House and are elected by the members of the Lok Sabha themselves.	The Chairman ofthe Rajya Sabha is not a member of this House. The Vice-President of India is the ex-officio Chairman of the Rajya Sabha. But the Deputy-Chairman of the Rajya Sabha is elected by the members of the Rajya Sabha from amongst its members.
5	The Money Bills can be introduced only in the Lok Sabha.	The Money Bills cannot be introduced in the Rajya Sabha.
6	The Lok Sabha is not bound to accept the recommendations of the Rajya Sabha with respect to Money Bills. The Lok Sabha has the real and final authority in respect of Money Bills.	With respect to Money Bills, the Rajya Sabha can make only recommendations which may or may not be accepted by the Lok Sabha. The Rajya Sabha is given 14 days time to consider the Money Bills and if it fails to do anything within that period, the Bill is deemed to have been passed in the manner it was passed by the Lok Sabha.
7	The Council of Ministers is in fact, responsible to the Lok Sabha. It can remove a government from office by passing a resolution of no-confidence	The Council of Ministers is not responsible to the Rajya Sabha. Therefore, no-confidence motion cannot be introduced in the Rajya Sabha..
8	The Lok Sabha does not have any such power to declare a subject of the State List of national importance.	But the Rajya Sabha exercises certain powers which are not available to the Lok Sabha. It can declare a subject included in the State List as a subject of national importance by passing a resolution supported by not less than two-third members present and voting. If a subject of State List is declared of national importance, Parliament gets power to legislate upon such a subject.
9	The Lok Sabha does not enjoy any such power to create new All India Services.	The Rajya Sabha has the power to create new All India Services by passing a resolution supported by not less than two-third members present and voting.
10	The Lok Sabha does not get this opportunity as the Rajya Sabha is not subject to dissolution	If and when the Lok Sabha is dissolved and the declaration of Emergency is in force, the Rajya Sabha approves such declaration of Emergency.
11	Lok Sabha either approves or rejects such proposal to remove the Vice-President but it cannot initiate such proposal	The proposal to remove the Vice-President is initiated only in the Rajya Sabha not in the Lok Sabha.

➡ COUNCIL OF MINISTERS

- It is the Prime Minister who allocates portfolios to the other Ministers. The Prime Minister may call for the resignation of any Minister at any time. In case of refusal he may advice the President to dismiss the Minister.
- The Constitution **does not lay down the number of Ministers that may constitute the Council of Ministers**. The Prime Minister is free to appoint, as many Ministers as may be deemed necessary. All the members of the Council of Ministers do not belong to the same rank.
- The Constitution **does not classify ministers** into different ranks but in practice 4 ranks have come to be recognized.

A. Cabinet Ministers—He has a right to be present and participate in every meeting of the Cabinet. For proclamation of an emergency under Art. 352 the advice must come from the Prime Minister and other Ministers of cabinet rank.

B. Minister of State with independent charge—He is a Minister of State who does not work under a Cabinet Minister. When any matter concerning his Department is on the agenda of the Cabinet, he is invited to attend the meeting.

C. Minister of State—He is a Minister who does not have independent charge of any Department and works under a Cabinet Minister. The work to such Minister is allotted by his Cabinet Minister.

D. Deputy Minister—He is a Minister who works under a Cabinet Minister or a Minister of State with independent charge. The work to him is allotted by the Minister under whom he is working.

- The Prime Minister allocates portfolios to the Cabinet Ministers and Ministers of State with independent charge. The other Ministers are allocated work by their respective Cabinet Ministers.
- Minister of one House has the right to speak and to take part in the proceedings of the other House.
- A Minister is **allowed to vote only in the House of which he is a member**.
- A person who is not a member of either House may also be appointed as a Minister. He can continue as a Minister only for **six months**. Because that is the limit fixed by **Art. 75(5).** If he desires to continue as Minister he has to become a member of any one of the Houses of Parliament before the expiration of the period of 6 months.
- A person who is not qualified to become a member of a legislature cannot be appointed a minister under Art. 75(5). In this case minister would not include Prime Minister because non-election of Prime Minister would dissolve the Council of Ministers after expiration of the period of 6 months.

Collective Responsibility of the Ministers

- In England, the Cabinet system is based on conventions. The framers of our Constitution considered it fit to incorporate the system in the Constitution.
- The **principle of collective responsibility finds place in Art. 75(3)** where it is stated that the Council of Ministers shall be collectively responsible to the Lok Sabha.
- In other words, this provision means that a **Ministry which loses confidence of the Lok Sabha is obliged to resign**.
- The loss of confidence is expressed by rejecting a Money Bill or Finance Bill or any other important policy measure or by passing a motion of no-confidence or rejecting a motion expressing confidence in the Ministry.
- When a Ministry loses confidence of the Lok Sabha the whole of the Ministry has to resign including those Ministers who are from the Rajya Sabha. The Ministers fall and stand together. In certain cases the Ministry may advice the President to dissolve Lok Sabha and call for fresh elections.

➡ CABINET COMMITTEES

The following are the features of Cabinet Committees:

1. They are **extra-constitutional** in emergence. In other words, they are not mentioned in the Constitution. However, the Rules of Business provide for their establishment.
2. They are of **two types–standing and ad hoc**. The former are of a permanent nature while the latter are of a temporary nature. The ad hoc committees are constituted from time to time to deal with special problems. They are disbanded after their task is completed.
3. They are **set up by the Prime Minister** according to the exigencies of the time and requirements of the situation. Hence, their number, nomenclature, and composition varies from time to time.
4. Their **membership varies from three to eight**. They usually include only Cabinet Ministers. However, the non-cabinet Ministers are not debarred from their membership.
5. They not only include the Ministers in charge of subjects covered by them but also include other senior Ministers.
6. They are mostly headed by the Prime Minister. Some times other Cabinet Ministers, particularly the Home Minister or the Finance Minister, also acts as their Chairman. But, in case the Prime Minister is a member of a committee, he invariably presides over it.
7. They not only sort out issues and formulate proposals for the consideration of the Cabinet, but also take decisions. However, the Cabinet can review their decisions.
8. They are an organisational device to reduce the enormous workload of the Cabinet. They also facilitate in-depth examination of policy issues and effective coordination. They are based on the principles of division of labour and effective delegation.

Composition of the Cabinet Committees (as on 06.07.2022)

1. Cabinet Committee on Political Affairs
2. Cabinet Committee on Economic Affairs
3. Appointments Committee of the Cabinet
4. Cabinet Committee on Security
5. Cabinet Committee on Parliamentary Affairs
6. Cabinet Committee on Accommodation
7. Cabinet Committee on Investment and Growth
8. Cabinet Committee on Employment and Skill Development

➡ SESSIONS OF PARLIAMENT

Summoning

- The president from time to time summons each House of Parliament to meet. But, the maximum gap between two sessions of Parliament cannot be more than six months. In other words, the Parliament should meet at least twice a year. There are usually three sessions in a year, viz,
  - the **Budget Session** (February to May);
  - the **Monsoon Session** (July to September); and
  - the **Winter Session** (November to December).
- A 'session' of Parliament is the period spanning between the first sitting of a House and its prorogation (or dissolution in the case of the Lok Sabha).

- During a session, the **House meets everyday to transact business**. The period spanning between the prorogation of a House and its reassembly in a new session is called **'recess'.**

  Adjournment
- A session of Parliament consists of many meetings. Each meeting of a day consists of two sittings, that is, a morning sitting from 11 am to 1 pm and post-lunch sitting from 2 pm to 6 pm.
- A **sitting of Parliament can be terminated by adjournment or adjournment sine die or prorogation or dissolution (in the case of the Lok Sabha).** An adjournment suspends the work in a sitting for a specified time, which may be hours, days or weeks.

Adjournment Sine Die

- Adjournment sine die means terminating a sitting of Parliament for an **indefinite period**.
- In other words, when the **House is adjourned without naming a day for reassembly**, it is called adjournment sine die.
- The power of adjournment as well as adjournment sine die lies with the presiding officer of the House. He can also call a sitting of the House before the date or time to which it has been adjourned or at any time after the House has been adjourned sine die.

Prorogation

- The presiding officer (Speaker or Chairman) declares the House adjourned sine die, when the business of a session is completed.
- Within the next few days, the President issues a notification for prorogation of the session. However, the President can also prorogue the House while in session.

Sl. No.	Adjournment	Prorogation
1	It only terminates a sitting and not a session of the House	It not only terminates a sitting but also a session of the House
2	It is done by presiding officer of the House	It is done by the president of India
3	It does not affect the bills or any other business pending before the House and the same can be resumed when the House meets again	It also does not affect the bills or any other business pending before the House. However, all pending notices (other than those for introducing bills) lapse on prorogation and fresh notices have to be given for the next session. In Britain, prorogation brings to an end all bills or any other business pending before the House.

Dissolution

- Rajya Sabha, being a permanent House, is not subject to dissolution. Only the Lok Sabha is subject to dissolution. Unlike a prorogation, a dissolution ends the very life of the existing House, and a new House is constituted after general elections are held. The dissolution of the Lok Sabha may take place in either of two ways:

- **Automatic dissolution**, that is, on the expiry of its tenure of five years or the terms as extended during a national emergency; or
- Whenever the **President decides to dissolve the House**, which he is authorised to do. Once the Lok Sabha is dissolved before the completion of its normal tenure, the dissolution is irrevocable.

- When the **Lok Sabha is dissolved**, all **business including bills, motions, resolutions, notices, petitions and so on pending before it or its committees lapse.**
- They (**to be pursued further) must be reintroduced** in the newly-constituted Lok Sabha. However, some pending bills and all pending assurances that are to be examined by the Committee on Government Assurances do not lapse on the dissolution of the Lok Sabha. The position with respect to lapsing of bills is as follows:

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

Lame-duck Session

- It refers to the last session of the existing Lok Sabha, after a new Lok Sabha has been elected. Those members of the existing Lok Sabha who could not get re-elected to the new Lok Sabha are called lame-ducks.

Right of President to address and send messages to Houses

- The President may address either House of Parliament or both Houses assembled together, and for that purpose require the attendance of members.
- The President may send messages to either House of Parliament, whether with respect to a Bill then pending in Parliament or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

Special address by the President

- At the commencement of the first session after each general election to the House of the People and at the commencement of the first session of each year the President shall address both Houses of Parliament assembled together and inform Parliament of the causes of its summons.
- Provision shall be made by the rules regulating the procedure of either House for the allotment of time for discussion of the matters referred to in such address.

➔ QUESTION HOUR

- Question Hour is the liveliest hour in Parliament. It is during this one hour that **Members of Parliament ask questions of ministers and hold them accountable** for the functioning of their ministries. The questions that MPs ask are designed to elicit information and trigger suitable action by ministries.
- Over the last 70 years, MPs have successfully used this parliamentary device to shine a light on government functioning. Their questions have exposed financial irregularities and brought data and information regarding government functioning to the public domain. With the broadcasting of Question Hour since 1991, Question Hour has become one the most visible aspects of parliamentary functioning.

- Asking questions of the government has a long history in our legislative bodies. Prior to Independence, the first question asked of government was in 1893. It was on the burden cast on village shopkeepers who had to provide supplies to touring government officers.
- Parliament has comprehensive rules for dealing with every aspect of Question Hour. And the presiding officers of the two houses are the final authority with respect to the conduct of Question Hour.

What kind of questions are asked?

- Parliamentary rules provide guidelines on the kind of questions that can be asked by MPs. Questions have to be limited to 150 words. They have to be precise and not too general. The question should also be related to an area of responsibility of the Government of India.
- Questions should not seek information about matters that are secret or are under adjudication before courts.
- It is the presiding officers of the two Houses who finally decide whether a question raised by an MP will be admitted for answering by the government.

How frequently is Question Hour held?

- The process of asking and answering questions starts with identifying the days on which Question Hour will be held. At the beginning of Parliament in 1952, Lok Sabha rules provided for Question Hour to be held every day. Rajya Sabha, on the other hand, had a provision for Question Hour for two days a week. A few months later, this was changed to four days a week. Then from 1964, Question Hour was taking place in Rajya Sabha on every day of the session.
- Now, **Question Hour in both Houses is held on all days of the session**. But there are two days when an exception is made.
- There is **no Question Hour on the day the President addresses MPs from both Houses in the Central Hall**. The President's speech takes place at the beginning of a new Lok Sabha and on the first day of a new Parliament year.
- Question Hour is not scheduled either on the day the Finance Minister presents the Budget. Since the beginning of the current Lok Sabha, approximately 15,000 questions have been asked in the Lower House.

How do ministers prepare their answers?

- Ministries receive the questions 15 days in advance so that they can prepare their ministers for Question Hour. They also have to prepare for sharp follow-up questions they can expect to be asked in the House. Governments officers are close at hand in a gallery so that they can pass notes or relevant documents to support the minister in answering a question.
- When MPs are trying to gather data and information about government functioning, they prefer the responses to such queries in writing. These questions are referred to as **unstarred questions**. The responses to these questions are placed on the table of Parliament.

Are the questions only for ministers?

- MPs usually ask questions to hold ministers accountable. But the rules also provide them with a mechanism for asking their colleagues a question. Such a question should be limited to the role of an MP relating to a Bill or a resolution being piloted by them or any other matter connected with the functioning of the House for which they are responsible. Should the presiding officer so allow, MPs can also ask a question to a minister at a notice period shorter than 15 days.

Is there a limit to the number of questions that can be asked?

- Rules on the number of questions that can be asked in a day have changed over the years. In Lok Sabha, until the late 1960s, there was no limit on the number of unstarred questions that could be asked in a day.
- Now, Parliament rules limit the number of starred and unstarred questions an MP can ask in a day. The total number of questions asked by MPs in the starred and unstarred categories are then put in a random ballot. From the ballot in Lok Sabha, 20 starred questions are picked for answering during Question Hour and 230 are picked for written answers.

Starred Question	○ A Starred Question is one to which **a member desires an oral answer** in the House and which is distinguished by an asterisk mark. ○ When a question is answered orally, supplementary questions can be asked thereon. ○ Only 20 questions can be listed for oral answer on a day.
Unstarred Question	○ An Unstarred Question is one which is not called for oral answer in the House and on which no supplementary questions can consequently be asked. ○ To such a question, **a written answer is deemed to have been laid on the Table after the Question Hour** by the Minister to whom it is addressed. ○ It is **printed in the official report** of the sitting of the House for which it is put down. ○ Only 230 questions can be listed for written answer on a day. In addition to this, 25 more questions can also be included in the Unstarred List relating to the States under Presidential Rule and the total number of questions in the list of Unstarred Questions for a day may not exceed 255 in relaxation of normal limit of 230 questions.
Short Notice Question	○ A Short Notice Question is one which relates to a **matter of urgent public importance** and can be asked with shorter notice than the period of notice prescribed for an ordinary question. ○ Like a starred question, it is answered orally followed by supplementary questions.
Question to a Private Member	○ The Question to a Private Member is addressed to the Member himself/herself and it is asked when the subjectmatter of it pertains to any Bill, Resolution or any matter relating to the Business of the House for which that Member is responsible. ○ For such Questions, the same procedure is followed as in the case of Questions addressed to a Minister with such variations as the Speaker may consider necessary or convenient.

Zero Hour

- Unlike the question hour, the zero hour is not mentioned in the Rules of Procedure. Thus it is an informal device available to the members of the Parliament to raise matters without any prior notice.
- The zero hour starts immediately after the question hour and lasts until the agenda for the day (ie, regular business of the House) is taken up.
- In other words, the **time gap between the question hour and the agenda is known as zero hour**. It is an Indian innovation in the field of parliamentary procedures and has been in existence since 1962.

➡ MOTIONS

- No discussion on a matter of general public importance can take place except on a motion made with the consent of the presiding officer. The House expresses its decisions or opinions on various issues through the adoption or rejection of motions moved by either ministers or private members.
- The motions moved by the members to raise discussions on various matters fall into three principal categories:

1. **Substantive Motion**: It is a self-contained independent proposal dealing with a very important matter like impeachment of the President or removal of Chief Election Commissioner.
2. **Substitute Motion**: It is a motion that is moved in substitution of an original motion and proposes an alternative to it. If adopted by the House, it supersedes the original motion.
3. **Subsidiary Motion**: It is a motion that, by itself, has no meaning and cannot state the decision of the House without reference to the original motion or proceedings of the House. It is divided into three sub-categories:

a) Ancillary Motion: It is used as the regular way of proceeding with various kinds of business.

b) Superseding Motion: It is moved in the course of debate on another issue and seeks to supersede that issue.

c) Amendment: It seeks to modify or substitute only a part of the original motion.

Closure Motion

- It is a motion moved by a member to cut short the debate on a matter before the House. If the motion is approved by the House, debate is stopped forthwith and the matter is put to vote. There are four kinds of closure motions:

a) Simple Closure: It is one when a member moves that the 'matter having been sufficiently discussed be now put to vote'.

b) Closure by Compartments: In this case, the clauses of a bill or a lengthy resolution are grouped into parts before the commencement of the debate. The debate covers the part as a whole and the entire part is put to vote.

c) Kangaroo Closure: Under this type, only important clauses are taken up for debate and voting and the intervening clauses are skipped over and taken as passed.

d) Guillotine Closure: It is one when the undiscussed clauses of a bill or a resolution are also put to vote along with the discussed ones due to want of time (as the time allotted for the discussion is over).

➔ PRIVILEDGE MOTION

- **All Members of Parliament (MPs) enjoy rights and immunities, individually and collectively, so that they can discharge their duties and functions effectively.**
- Any instance when these rights and immunities are disregarded by any member of Lok Sabha or Rajya Sabha is an offence, called **'breach of privilege'**, which is punishable under the Laws of Parliament.
- Any member from either house can move a notice in the form of a motion against the member who he/she thinks is guilty of the breach of privilege.
- **Both Houses of the Parliament reserve the right to punish any action of contempt** (not necessarily breach of privilege) which is against its authority and dignity, as per the laws.

Rules governing Privilege Motion

- The rules governing the privilege are mentioned in the Rule No 222 in Chapter 20 of the Lok Sabha Rule Book and Rule 187 in Chapter 16 of the Rajya Sabha rulebook.

- The rules explain that any member of the House may, with the consent of the Speaker or the Chairperson, raise a question involving an incident that he or she considers a breach of privilege either of a member or of the House or of a committee.
- The notice, however, has to be about a recent incident and should need the intervention of the House. These notices have to be submitted before 10 am to the Speaker or the Chairperson of the House.

Role of the Lok Sabha Speaker and Rajya Sabha Chairperson

- The speaker of Lok Sabha and the Chairperson of Rajya Sabha are the first level of scrutiny of a privilege motion in the two Houses of Parliament. They can either take a decision on the privilege motion or can also refer it to the privileges committee of Parliament.
- Once the Speaker or the House Chairperson gives consent under Rule 222, the concerned member is allowed to explain himself or herself.

What is the Privileges Committee?

- The Speaker of Lok Sabha nominates a committee of privileges consisting of 15 members of parliament from each party.
- The report prepared by the committee is submitted to the House for its consideration.
- The Speaker may also allow a half-hour debate on the report by the committee before passing orders or directing that the report be tabled before the House. A resolution is passed.

Calling Attention Motion

- It is introduced in the Parliament by a member to **call the attention of a minister** to a matter of urgent public importance, and to seek an authoritative statement from him on that matter.
- Like the zero hour, it is also an **Indian innovation in the parliamentary procedure** and has been in existence since 1954. However, unlike the zero hour, it is mentioned in the Rules of Procedure.

Adjournment Motion

- It is introduced in the Parliament to **draw attention of the House to a definite matter of urgent public importance**, and **needs the support of 50 members** to be admitted. As it interrupts the normal business of the House, it is regarded as an extraordinary device.
- It involves an element of censure against the government and hence Rajya Sabha is not permitted to make use of this device. The discussion on an adjournment motion should last for not less than two hours and thirty minutes.
- The right to move a motion for an adjournment of the business of the House is subject to the following restrictions:

1. It should raise a matter which is definite, factual, urgent and of public importance;
2. It should not cover more than one matter
3. It should be restricted to a specific matter of recent occurrence and should not be framed in general terms;
4. It should not raise a question of privilege;
5. It should not revive discussion on a matter that has been discussed in the same session;
6. It should not deal with any matter that is under adjudication by court; and
7. It should not raise any question that can be raised on a distinct motion.

No-Confidence Motion

- **Article 75** of the Constitution says 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 confidence of the majority of the members of the Lok Sabha. In other words, the Lok Sabha can remove the ministry from office by passing a no-confidence motion.
- The motion needs the **support of 50 members to be admitted**.

Confidence Motion

- The motion of confidence has come up as a new procedural device to cope with the emerging situations of fractured mandates resulting in hung parliament, minority governments and coalition governments.
- The governments formed with wafer-thin majority have been called upon by the President to prove their majority on the floor of the House. The government of the day, sometimes, on its own, seeks to prove its majority by moving a motion of confidence and winning the confidence of the House.
- If the confidence motion is negatived, it results in the fall of the government15a.

Censure Motion

Sl. No.	Censure Motion	No-Confidence Motion
1	It should state the reasons for its adoption in the Lok Sabha.	It need not state the reasons for its adoption in the Lok Sabha.
2	It can be moved against an individual minister or a group of ministers or the entire council of ministers.	It can be moved against the entire council of ministers only.
3	It is moved for censuring the council of ministers for specific policies and actions.	It is moved for ascertaining the confidence of Lok Sabha in the council of ministers.
4	If it is passed in the Lok Sabha, the council of ministers need not resign from the office.	If it is passed in the Lok Sabha, the councilof ministers must resign from office.

➔ MOTION OF THANKS

- The first session after **each general election** and the **first session of every fiscal year** is addressed by the president.
- In this address, the president **outlines the policies and programmes of the government** in the preceding year and ensuing year.
- This address of the president, which corresponds to the 'speech from the Throne in Britain', is discussed in both the Houses of Parliament on a motion called the 'Motion of Thanks'.
- At the end of the discussion, the motion is **put to vote.** This motion must be passed in the House. Otherwise, it **amounts to the defeat of the government**.
- This inaugural speech of the president is an occasion available to the members of Parliament to raise discussions and debates to examine and criticise the government and administration for its lapses and failures.

No-Day-Yet-Named Motion

- It is a motion that has been admitted by the Speaker but no date has been fixed for its discussion.

- The Speaker, after considering the state of business in the House and in consultation with the leader of the House or on the recommendation of the Business Advisory Committee, allots a day or days or part of a day for the discussion of such a motion.

Dilatory Motion

- It is a motion for the adjournment of the debate on a bill / motion / resolution etc. or a motion to retard or delay the progress of a business under consideration of the House.
- It can be moved by a member at any time after a motion has been made.
- The debate on a dilatory motion must be restricted to the matter contained in such motion. If the Speaker is of the opinion that such a motion is an abuse of the rules of the House, he may either forthwith put the question thereon or decline to propose the question.

Point of Order

- A member can raise a point of order when the proceedings of the House do not follow the normal rules of procedure.
- A **point of order should relate** to the interpretation or enforcement of the Rules of the House or such articles of the Constitution that regulate the business of the House and should raise a question that is within the cognizance of the Speaker.
- It is usually raised by an opposition member in order to control the government. It is an extraordinary device as it suspends the proceedings before the House. No debate is allowed on a point of order.

Half-an-Hour Discussion

- It is meant for discussing a matter of sufficient public importance, which has been subjected to a lot of debate and the answer to which needs elucidation on a matter of fact.
- The Speaker can allot three days in a week for such discussions. There is no formal motion or voting before the House.

Short Duration Discussion

- It is also known as two-hour discussion as the time allotted for such a discussion should not exceed two hours. The members of the Parliament can raise such discussions on a matter of urgent public importance. The Speaker can allot two days in a week for such discussions.
- There is neither a formal motion before the house nor voting. This device has been in existence since **1953.**

Special Mention

- A matter which is not a point of order or which cannot be raised during question hour, half-an hour discussion, short duration discussion or under adjournment motion, calling attention notice or under any rule of the House can be raised under the special mention in the Rajya Sabha.
- Its equivalent procedural device in the Lok Sabha is known as 'Notice (Mention) Under Rule 377'.

➔ RESOLUTIONS

- The members can move resolutions to draw the attention of the House or the government to matters of general public interest. The discussion on a resolution is strictly relevant to and within the scope of the resolution. A member who has moved a resolution or amendment to a resolution cannot withdraw the same except by leave of the House.

- Resolutions are classified into three categories:

1. **Private Member's Resolution**: It is one that is moved by a private member (other than a minister). It is discussed only on alternate Fridays and in the afternoon sitting.
2. **Government Resolution**: It is one that is moved by a minister. It can be taken up any day from Monday to Thursday.
3. **Statutory Resolution**: It can be moved either by a private member or a minister. It is so called because it is always tabled in pursuance of a provision in the Constitution or an Act of Parliament.

Resolutions are different from motions in the following respects: "All **resolutions come in the category of substantive motions**, that is to say, every resolution is a particular type of motion. All motions need not necessarily be substantive.

Further, all motions are not necessarily put to vote of the House, whereas **all the resolutions are required to be voted upon."**

➡ BUSINESS ADVISORY COMMITTEE

- There are two Business Advisory Committees in the Parliament of India, one each for Lok Sabha and Rajya Sabha.

BAC of Lok Sabha

- The Business Advisory Committee (BAC) of Lok Sabha **consists of 15 members including the Speaker of Lok Sabha who is the ex-officio Chairman of BAC.**
- The members are nominated by the Speaker.
- BAC **recommends allotment of time for discussion of government legislative and other businesses as the Speaker,** in consultation with the Leader of the House, may direct to be referred to the Committee.
- The Committee, on its own initiative, may also recommend to the Government to bring forward particular subjects for discussion in the House and recommend allocation of time for such discussions.
- The **decisions reached by the Committee are always unanimous in character** and representative of the collective view of the House. The Committee generally meets at the beginning of each Session and thereafter as and when necessary.

BAC of Rajya Sabha

- The Rajya Sabha Business Advisory Committee **has 11 members including the Vice-President as its ex-officio chairman.**
- The members are nominated by Speaker/Chairman.
- BAC of Rajya Sabha recommends the time that should be allocated for the discussion of the stage or stages of such Government Bills and other business as the Chairman in consultation with the Leader of the House may direct for being referred to the Committee.
- The Committee also recommends the time that should be allocated for the discussion of stage or stages of private Members' Bills and Resolutions. It has the power to indicate in the proposed time-table the different hours at which the various stages of the Bill or other business are to be completed. The Committee performs such other functions as may be assigned to it by the Chairman from time to time.

➡ SPEAKER AND DEPUTY SPEAKER

- The Constitution specifies offices like those of the President, Vice President, Chief Justice of India, and Comptroller and Auditor General of India, as well as Speakers and Deputy Speakers.
- **Article 93 for Lok Sabha** and **Article 178 for state Assemblies** state that these Houses "shall, as soon as may be", choose two of its members to be Speaker and Deputy Speaker.
- The Constitution **neither sets a time limit nor specifies the process** for these elections. It leaves it to the legislatures to decide how to hold these elections.
- In Lok Sabha and state legislatures, **the President/Governor sets a date for the election of the Speaker**, and it is the Speaker who decides the date for the election of the Deputy Speaker. The legislators of the respective Houses vote to elect one among themselves to these offices.
- Haryana and Uttar Pradesh specify a time-frame for holding the election to the Speaker and Deputy Speaker's offices. In Haryana, the election of the Speaker has to take place as soon as possible after the election. And then the Deputy Speaker is to be elected within seven more days. The rules also specify that if a vacancy in these offices happens subsequently, then the election for these should occur within seven days of the legislature's next session.
- Uttar Pradesh has a 15-day limit for an election to the Speaker's post if it falls vacant during the term of the Assembly. In the case of the Deputy Speaker, the date for the first election is to be decided by the Speaker, and 30 days is given for filling subsequent vacancies.
- The **Constitution provides that the office of the Speaker should never be empty**. So, he continues in office until the beginning of the next House, except in the event of death or resignation.

The roles of the Speaker, Deputy Speaker

- According to the book Practice and Procedure of Parliament, published by the Lok Sabha Secretariat, the Speaker is "the principal spokesman of the House, he represents its collective voice and is its sole representative to the outside world". The Speaker presides over the House proceedings and joint sittings of the two Houses of Parliament. It is the Speaker's decision that determines whether a Bill is a Money Bill and therefore outside of the purview of the other House.
- The **Deputy Speaker is independent of the Speaker, not subordinate to him,** as both are elected from among the members of the House.
- Since Independence, the Lok Sabha Deputy Speaker's position has grown in importance. In addition to presiding over the House in the absence of the Speaker, the **Deputy Speaker chaired committees both inside and outside of Parliament**. For example, M Thambidurai, the Deputy Speaker of the previous Lok Sabha, headed the Lok Sabha Committee on Private Members Bills and Resolutions, and the committee that looked at the MP Local Area Development Scheme. He also chaired several committees formed under the aegis of the conference of presiding officers of legislative bodies in India.
- The Deputy Speaker ensures the continuity of the Speakers office by acting as the Speaker when the office becomes vacant (by death, as in the case of the first Lok Sabha Speaker G V Mavalankar in 1956, and G M C Balayogi in 2002, or because of resignation by Speaker N Sanjiva Reddy in 1977 for fighting the Presidential election.). In addition, when a resolution for removal of the Speaker (as in 1987 against Lok Sabha Speaker Balram Jakhar) is up for discussion, the Constitution specifies that the Deputy Speaker presides over the proceedings of the House.

Ruling party or Opposition

- Usually, the Speaker comes from the ruling party. In the case of the Deputy Speaker of Lok Sabha, the position has varied over the years. Until the fourth Lok Sabha, the Congress held both the Speaker and

Deputy Speakers positions. In the fifth Lok Sabha, whose term was extended due to the Emergency, an independent member, Shri G G Swell, was elected the Deputy Speaker.

- The **tradition for the post of the Deputy Speaker going to the Opposition party** started during the term of Prime Minister Morarji Desai's government. The two subsequent Lok Sabhas had members from the DMK (G Lakshmanan) and AIADMK (Thambidurai, in his first stint in this position) becoming Deputy Speaker. During the governments of PMs V P Singh and Chandra Sekhar, Shivraj Patil of the Congress was the Deputy Speaker.
- The first time the Deputy Speaker's position went to the BJP was during the term of Prime Minister P V Narasimha Rao. In the 13th Lok Sabha, during the tenure of Prime Minister Atal Bihari Vajpayee, Congress MP P M Sayeed became the Deputy Speaker. In Prime Minister's Manmohan Singh's two terms, the Deputy Speaker's position went first to the Shiromani Akali Dal and then to the BJP.

➡ BILLS

- A Bill is a draft statute which becomes law after it is passed by both the Houses of Parliament and assented by the President. All legislative proposals are brought before Parliament in the forms of Bills.
- Procedurally, Bills can be classified as: *Ordinary Bill; Money Bill; Finance Bill; Ordinance replacing Bill; Constitution Amendment Bill*

Money Bill

Under **Article 110 (1)** of the Constitution, a Bill is deemed to be a Money Bill if it contains only provisions on all or any of the following:

- imposition, abolition, remission, alteration or regulation of any tax
- regulation of borrowing by the government;
- custody of the Consolidated Fund or Contingency Fund of India, and payments into or withdrawals from these Funds
- appropriation of moneys out of the Consolidated Fund of India;
- declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure;
- receipt of money on account of the Consolidated Fund of India or the public account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State.

Finance Bill

- Any Bill which deals with revenue or expenditure of the Government is a Finance Bill.
- Finance Bill is accompanied by a Memorandum explaining the provisions included in it.
- However, only those Finance Bills which are endorsed by the Speaker under **Article 110 (4)** become a Money Bill.
- The rest can be categorised as:

Financial Bill (A)

- Financial Bill (A) as under Article 117(1) = [includes any matters mentioned in the Money Bill] + [any other matters related to revenue or expenditure of the Government]
- Financial Bill (A) can only be introduced in the Lok Sabha on the recommendation of the President.
- However, once it has been passed by the Lok Sabha, it is like an ordinary Bill and there is no restriction on the powers of the Rajya Sabha on such Bills

Financial Bill (B)

- Financial Bill (B) is just like other Ordinary Bills that contain provisions involving expenditure from the Consolidated Fund as specified in Article 117 (3).
- Financial Bill (B) can be introduced in either House of Parliament.

Ordinary Bill:

- Thus, every Bill other than a Money Bill and Financial Bill (A) introduced in the Parliament acts like an Ordinary Bill.
- **Ordinance Replacing Bill**
- Ordinance replacing Bills are brought before Parliament to replace an Ordinance, with or without modifications, promulgated by the President under **Article 123** of the Indian Constitution.
- Ordinance to become a law needs to be passed by both the Houses of Parliament and assented to by the President within six weeks of the reassembly of Parliament.

Constitution Amendment Bill

- A Constitution Amendment Bill under article 368 can be introduced in either House of Parliament.
- As per the procedure laid down in the Constitution under Article 368, Constitution Amendment Bills can be of three types:

1. Amendment requiring simple majority for their passage in each House
2. Amendment requiring special majority for their passage in each House.

   Special Majority = Majority of the total membership of a House and by a majority of not less than two-thirds of the members of that House present and voting (article 368)
3. Amendment which needs to be passed by Legislatures of not less than one-half of the States along with special majority for certain constitutional provisions relating to the federal character which may be categorised as entrenched provisions.

➡ PRIVATE MEMBER BILL

- A Member of the Parliament **who is not a Minister (i.e. not a member of the Government) is regarded as a Private Member.** A Bill introduced in either house of Parliament by any such Member of Parliament is called a Private Members' Bill. Bills introduced by Ministers are called Government Bills.
- A Private Members' Bill is introduced in the Parliament by giving prior notice of one month along with a copy of the 'Statement of Objects and Reasons' wherein the Private Member explains her/ his rationale for the introduction of the Bill. The final order of introduction is decided by a ballot system to ensure fairness. On the day allotted for such Bills, the Speaker/ Chairman of the Lok Sabha/ Rajya Sabha calls out to individual Members who then introduce their Bills.
- There is also a Parliamentary Committee on Private Members' Bills and Resolutions which allots time to different Private Members' Bills and goes through all of them (particularly those seeking to amend the Constitution). It also helps in classifying these Bills based on their nature, urgency, and importance. This classification, in turn, determines which of the introduced Bills are discussed first.

➡ APPROPRIATION BILL

- Appropriation Bill is a **money bill** that allows the government to withdraw funds from the **Consolidated Fund of India** to meet its expenses during the course of a financial year.

- As per **article 114** of the Constitution, the government can withdraw money from the Consolidated Fund only after receiving approval from Parliament.
- To put it simply, the Finance Bill contains provisions on financing the expenditure of the government, and Appropriation Bill specifies the quantum and purpose for withdrawing money.

Procedure followed:

- The government introduces the Appropriation Bill in the lower house of Parliament after discussions on Budget proposals and Voting on Demand for Grants.
- The Appropriation Bill is first passed by the Lok Sabha and then sent to the Rajya Sabha.
- The Rajya Sabha has the power to recommend any amendments in this Bill. However, it is the prerogative of the Lok Sabha to either accept or reject the recommendations made by the upper house of Parliament.
- The unique feature of the Appropriation Bill is its automatic repeal clause, whereby the Act gets repealed by itself after it meets its statutory purpose.

What happens when the bill is defeated?

- Since India subscribes to the Westminster system of parliamentary democracy, the defeat of an Appropriation Bill (and also the Finance Bill) in a parliamentary vote would necessitate resignation of a government or a general election. This has never happened in India till date, though.

Scope of discussion

- The scope of discussion is limited to matters of public importance or administrative policy implied in the grants covered by the Bill and which have not already been raised during the discussion on demands for grants.
- The Speaker may require members desiring to take part in the discussion to give advance intimation of the specific points they intend to raise and may withhold permission for raising such of the points as in his opinion appear to be repetition of the matters discussed on a demand for grant.

Amendments

- No amendment can be proposed to an Appropriation Bill which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of India, and the decision of the Speaker as to whether such an amendment is admissible is final. An amendment to an Appropriation Bill for omission of a demand voted by the House is out of order.
- In other respects, the procedure in respect of an Appropriation Bill is the same as in respect of other Money Bills.

➡ READING OF THE BILL

- A bill has to pass through three stages. In each stage, there is a reading of the bill, is why these three stages are known as the first reading, the second reading and the third reading.

First Reading

- In the first stage, the bill is introduced in one of the Houses of the Parliament. While Money Bills are to be introduced only in the Lok Sabha, all other bill can be introduced either in the Lok Sabha or in the Rajya Sabha.

- **The mover of the bill just reads the title of the bill**. Normally there is no opposition at this stage. So usually the bill is allowed to be introduced by a voice vote.
- If, in the stage of first reading, the bill is opposed, the mover and the opposer of the bill are required to make brief statements on the floor of the House. After that, the vote is taken.
- Once the bill is cleared in the first stage, **the presiding officer of the House (the Speaker or the Chairman) sends the bill for publication in the Gazette.** Sometimes important bills are already published in the Gazette before they are introduced in a House.

Second Reading

- This is considered the most important stage of lawmaking in the Parliament.
- At this stage there are several options. **First,** it may go straight to the House for consideration. **Secondly,** it may be referred to a **Select Committee of the House**.
- **Thirdly,** it may also be sent to a Joint Committee of both Houses.
- **Fourthly**, it may go for circulation for eliciting public opinion.

In most of cases, the bill is referred to a Select Committee. But, if the bill is of great importance, it is circulated among the public for knowing the opinions and reactions of different segments of the society.

- **Select Committee Stage:** After initial discussion on the bill during the second reading, the bill is usually sent to a Select Committee for more critical considerations. The Chairman of the Committee is appointed by the presiding officer of the House (the Speaker or the Chairman). After a general discussion, the bill is discussed clause by clause. Experts and witnesses are invited to express their opinions.
- **The Report Stage:** The Select Committee is expected to submit a report to the House within three months. In the Select Committee, the decision is taken by majority and the report of the committee may include the recommendations of the committee and the changes that it wants to be incorporated in the bill.
- Then the bill and the report of the Select Committee are placed before the House for its consideration. At this stage, amendments can be moved, but no member will be allowed to move an amendment which seeks to defeat the main purpose of the bill. The bill is discussed and put to vote clause by clause. With the completion of this process the second reading of the bill is over.

Third Reading

- At the stage of third reading **amendments are not allowed,** but the members are allowed to discuss the general character of the bill. The bill, as a whole, is put to vote.
- If the bill is **passed by a majority, it is signed by the presiding officer** (the Speaker or the Chairman) and it is then sent to the other House in which the bill has to pass through three identical stages.
- If the bill is cleared in all three stages by the other House, it is sent to the President for his assent. If the other House does not agree to the bill, already passed by one House, it is free to make suggestions or propose amendments.
- But, if the amendments or changes suggested are not acceptable to the House which had passed the bill, the two Houses meet jointly to take a decision on the bill. In the joint sitting of both Houses, decision is taken on the basis of majority vote.
- When the **bill is sent to the President for his assent, he can do one of the following two things**. He may give assent to the bill; he may also return the bill to the originating House for reconsideration. If the bill is again passed by both Houses of the Parliament with or without

amendments, the President is bound to give his assent to the bill. Thus, lawmaking in the Parliament is a long and complicated process.

- A Bill pending in Parliament **shall not lapse by reason of the prorogation** of the Houses.
- A **Bill pending in the Council of States which has not been passed by the House of the People shall not lapse on a dissolution**, of the House of the People,
- A Bill which is pending in the House of the People, or which having been passed by the House of the People is pending in the Council of States, shall, subject to the provisions of article 108, lapse on a dissolution of the House of the People.

➔ JOINT SITTING OF BOTH HOUSES

- If after a Bill has been passed by one House and transmitted to the other House—

a) the Bill is rejected by the other House; or

b) the Houses have finally disagreed as to the amendments to be made in the Bill; or

c) more than six months elapse from the date of the reception of the Bill by the other House without the Bill being passed by it;

- the President may, unless the Bill has elapsed by reason of a dissolution of the House of the People, notify to the Houses by message if they are sitting or by public notification if they are not sitting, his intention to summon them to meet in a joint sitting for the purpose of deliberating and voting on the Bill:

1. Provided that nothing in this clause shall apply to a Money Bill.

2. In reckoning any such period of six months as is referred to in clause (1), no account shall be taken of any period during which the House referred to in sub-clause (c) of that clause is prorogued or adjourned for more than four consecutive days.

3. Where the President has under clause (1) notified his intention of summoning the Houses to meet in a joint sitting, neither House shall proceed further with the Bill, but the President may at any time after the date of his notification summon the Houses to meet in a joint sitting for the purpose specified in the notification and, if he does so, the Houses shall meet accordingly.

4. If at the joint sitting of the two Houses the Bill, with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Houses present and voting, it shall be deemed for the purposes of this Constitution to have been passed by both Houses:

Provided that at a joint sitting—

a. if the Bill, having been passed by one House, has not been passed by the other House with amendments and returned to the House in which it originated, no amendment shall be proposed to the Bill other than such amendments (if any) as are made necessary by the delay in the passage of the Bill;

b. if the Bill has been so passed and returned, only such amendments as aforesaid shall be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Houses have not agreed; and the decision of the person presiding as to the amendments which are admissible under this clause shall be final.

5. A joint sitting may be held under this article and a Bill passed thereat, notwithstanding that a dissolution of the House of the People has intervened since the President notified his intention to summon the Houses to meet therein.

➔ COMPARISON BETWEEN MONEY BILL AND ORDINARY BILL

Sl. No.	Ordinary Bill	Money Bill
1	It can be introduced either in the Lok Sabha or	It can be introduced only in the Lok Sabha and

	the Rajya Sabha	not in the Rajya Sabha
2	It can be introduced either by a minister or by a private member	It can be introduced only by a minister
3	It is introduced without the recommendation of the president	It can be introduced only on the recommendation of the President
4	It can be amended or rejected by the Rajya Sabha.	It cannot be amended or rejected by the Rajya Sabha. The Rajya Sabha should return the bill with or without recommendations, which may be accepted or rejected by the Lok Sabha
5	It can be detained by the Rajya Sabha for a maximum period of six months	It can be detained by the Rajya Sabha for a maximum period of 14 days only
6	It does not require the certification of the Speaker when transmitted to the Rajya Sabha (if it has originated in the Lok Sabha).	It requires the certification of the Speaker when transmitted to the Rajya Sabha.
7	It is sent for the President's assent only after being approved by both the Houses. In case of a deadlock due to disagreement between the two Houses, a joint sitting of both the houses can be summoned by the president to resolve the deadlock.	It is sent for the President's assent even if it is approved by only Lok Sabha. There is no chance of any disagreement between the two Houses and hence, there is no provision of joint sitting of both the Houses in this regard
8	Its defeat in the Lok Sabha may lead to the resignation of the government (if it is introduced by a minister).	Its defeat in the Lok Sabha leads to the resignation of the government
9	It can be rejected, approved, or returned for reconsideration by the President	It can be rejected or approved but cannot be returned for reconsideration by the President

➡ PUBLIC Vs. PRIVATE BILL

	Public Bill		***Private Bill***
1.	It is introduced in the Parliament by a minister.	1.	It is introduced by any member of Parliament other than a minister.
2.	It reflects of the policies of the government (ruling party).	2.	It reflects the stand of opposition party on public matter.
3.	It has greater chance to be approved by the Parliament.	3.	It has lesser chance to be approved by the Parliament.
4.	Its rejection by the House amounts to the exp-ression of want of parliamentary confidence in the government and may lead to its resignation.	4.	Its rejection by the House has no implication on the parliamentary confidence in the government or its resignation.
5.	Its introduction in the House requires seven days' notice.	5.	Its introduction in the House requires one month's notice.
6.	It is drafted by the concerned department in consultation with the law department.	6.	Its drafting is the responsibility of the member concerned.

➡ ORDINANCE

- **Article 123** in the Constitution gives power to the president of India to promulgate Ordinances during recess of Parliament.
- If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinance as the circumstances appear to him to require.
- An Ordinance promulgated under this article shall have the same force and effect as an Act of Parliament.
- All in all, the Ordinances are temporary and immediate provisions that are promulgated by the President of India on the recommendation of the Union Cabinet. They can only be issued when Parliament is not in session.
- They enable the Indian government to take immediate legislative action.
- They should be used sparingly and should not become a norm.

Ordinance making powers of the Governor

Just as the President of India is constitutionally mandated to issue Ordinances under Article 123, the Governor of a state can issue Ordinances under **Article 213**, when the state legislative assembly (or either of the two Houses in states with bicameral legislatures) is not in session. The powers of the President and the Governor are broadly comparable with respect to Ordinance making. Provided that the Governor shall not, without instructions from the President, promulgate any such Ordinance if,

- a Bill containing the same provisions would under this Constitution have required the previous sanction of the President for the introduction thereof into the Legislature; or
- he would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the President; or
- an Act of the Legislature of the State containing the same provisions would under this Constitution have been invalid unless, having been reserved for the consideration of the President, it had received the assent of the President.

How is an ordinance issued?

- The President acts on the advice of the Council of Ministers, so it is the government that takes the decision to issue an ordinance. After the Cabinet decides to issue an ordinance, it is sent to the President.
- The President may return the ordinance once if he feels that it requires reconsideration but has to promulgate it if it is sent back to him after reconsideration.

➡ FUNDS OF CENTRAL GOVERNMENT

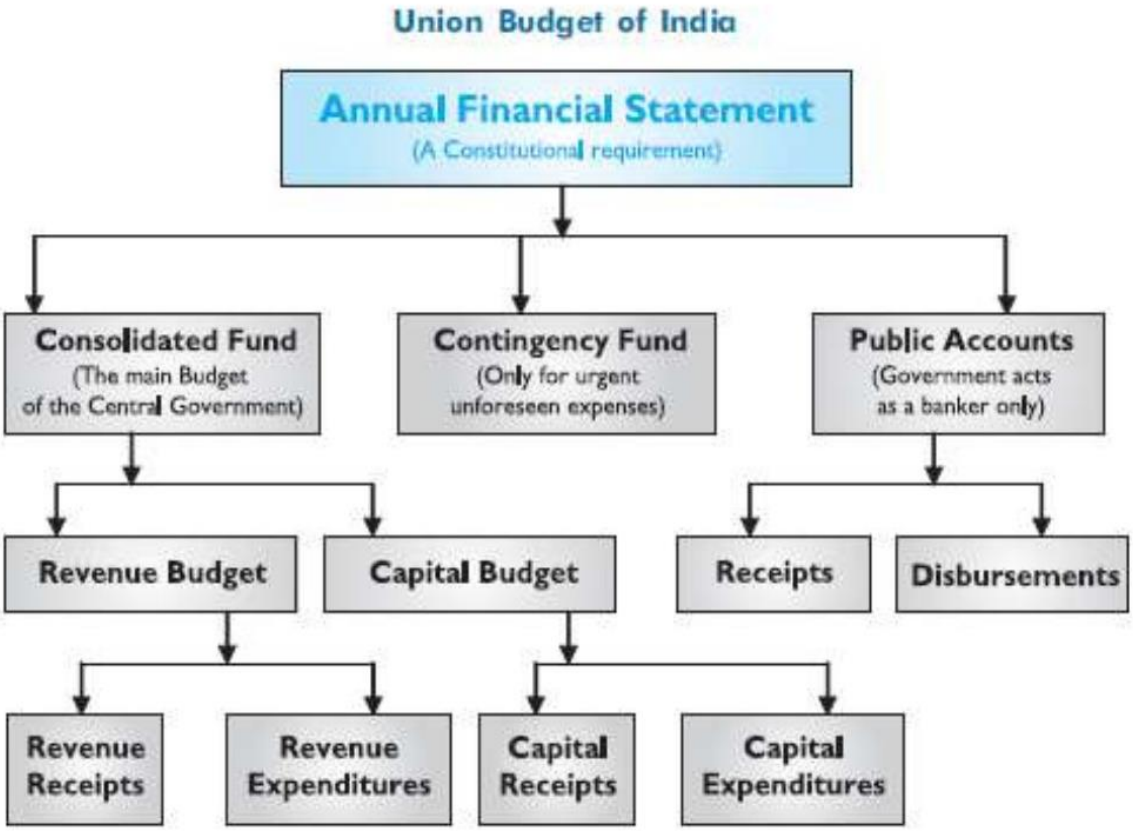
The Constitution of India provides for the following three kinds of funds for the Central government:

Consolidated Fund of India

- It is a fund to which all receipts are credited and all payments are debited.
- In other words, (a) all revenues received by the Government of India; (b) all loans raised by the Government by the issue of treasury bills, loans or ways and means of advances; and (c) all money

received by the government in repayment of loans forms the Consolidated Fund of India, All the legally authorised payments on behalf of the Government of India are made out of this fund.

- No money out of this fund can be appropriated (issued or drawn) except in accordance with a parliamentary law.



Public Account of India

- All other public money (other than those which are credited to the Consolidated Fund of India) received by or on behalf of the Government of India shall be credited to the Public Account of India.
- This includes provident fund deposits, judicial de-posits, savings bank deposits, departmental de¬posits, remittances and so on.
- This account is operated by executive action, that is, the payments from this account can be made without parliamentary appropriation. Such payments are mostly in the nature of banking transactions.

Contingency Fund of India

- The Constitution authorised the Parliament to establish a 'Contingency Fund of India', into which amounts determined by law are paid from time to time.
- Accordingly, the Parliament enacted the contingency fund of India Act in 1950. This fund is placed at the disposal of the president, and he can make advances out of it to meet unforeseen expenditure pending its authorisation by the Parliament.

➡ PARLIAMENTARY COMMITTEES

- The Parliament is too unwieldy a body to deliberate effectively the issues that come up before it. The functions of the Parliament are varied, complex and voluminous. Moreover, it has neither the adequate time nor necessary expertise to make a detailed scrutiny of all legislative measures and other matters. Therefore, it is assisted by a number of committees in the discharge of its duties.
- The Constitution of India makes a mention of these committees at different places, but without making any specific provisions regarding their composition, tenure, functions, etc. All these matters are dealt by the rules of two Houses. Accordingly, a parliamentary committee means a committee that:

1. Is appointed or elected by the House or nominated by the Speaker / Chairman
2. Works under the direction of the Speaker / Chairman
3. Presents its report to the House or to the Speaker / Chairman
4. Has a secretariat provided by the Lok Sabha / Rajya Sabha The consultative committees, which also consist of members of Parliament, are not parliamentary committees as they do not fulfill above four conditions.

- Broadly, parliamentary committees are of two kinds–**Standing Committees** and **Ad Hoc Committees**.
- The former are permanent (constituted every year or periodically) and work on a continuous basis, while the latter are temporary and cease to exist on completion of the task assigned to them.

STANDING COMMITTEES

- On the basis of the nature of functions performed by them, standing committees can be classified into the following categories:
- **Financial Committees**

➔ PUBLIC ACCOUNTS COMMITTEE

- This committee was set up first in 1921 under the provisions of the Government of India Act of 1919 and has since been in existence.
- At present, it consists of 22 members (15 from the Lok Sabha and 7 from the Rajya Sabha). The members are elected by the Parliament every year from amongst its members according to the principle of proportional representation by means of the single transferable vote. Thus, all parties get due representation in it.
- The term of office of the members is one year. A minister cannot be elected as a member of the committee. The chairman of the committee is appointed from amongst its members by the Speaker. Until 1966 - '67, the chairman of the committee belonged to the ruling party. However, since 1967 a convention has developed whereby the chairman of the committee is selected invariably from the Opposition.

- The function of the committee is to examine the annual audit reports of the Comptroller and Auditor General of India (CAG), which are laid before the Parliament by the President. The CAG submits three audit reports to the President, namely, audit report on appropriation accounts, audit report on finance accounts and audit report on public undertakings.
- The committee examines public expenditure not only from legal and formal point of view to discover technical irregularities but also from the point of view of economy, prudence, wisdom and propriety to bring out the cases of waste, loss, corruption, extravagance, inefficiency and nugatory expenses.
- However, the effectiveness of the role of the committee is limited by the following:
- It is not concerned with the questions of policy in broader sense.
- It conducts a post-mortem examination of accounts (showing the expenditure already incurred).
- It cannot intervene in the matters of day-to-day administration.
- Its recommendations are advisory and not binding on the ministries.
- It is not vested with the power of disallowance of expenditures by the departments.
- It is not an executive body and hence, cannot issue an order. Only the Parliament can take a final decision on its findings.

➔ ESTIMATES COMMITTEE

- The origin of this committee can be traced to the standing financial committee set up in 1921. The first Estimates Committee in the post-independence era was constituted in 1950 on the recommendation of John Mathai, the then finance minister. Originally, it had 25 members but in 1956 its membership was raised to 30. All the thirty members are from Lok Sabha only. The Rajya Sabha has no representation in this committee. These members are elected by the Lok Sabha every year from amongst its own members, according to the principles of proportional representation by means of a single transferable vote. Thus, all parties get due representation in it. The term of office is one year. A minister cannot be elected as a member of the committee. The chairman of the committee is appointed by the Speaker from amongst its members and he is invariably from the ruling party.
- The function of the committee is to examine the estimates included in the budget and suggest 'economies' in public expenditure. Hence, it has been described as a 'continuous economy committee'.
- However, the effectiveness of the role of the committee is limited by the following:
- It examines the budget estimates only after they have been voted by the Parliament, and not before that.
- It cannot question the policy laid down by the Parliament.
- Its recommendations are advisory and not binding on the ministries.
- It examines every year only certain selected ministries and departments. Thus, by rotation, it would cover all of them over a number of years.
- It lacks the expert assistance of the CAG which is available to the Public Accounts Committee.
- Its work is in the nature of a postmortem.

➔ COMMITTEE ON PUBLIC UNDERTAKINGS

- This committee was created in 1964 on the recommendation of the Krishna Menon Committee. Originally, it had 15 members (10 from the Lok Sabha and 5 from the Rajya Sabha). However, in 1974, its membership was raised to 22 (15 from the Lok Sabha and 7 from the Rajya Sabha).
- The members of this committee are elected by the Parliament every year from amongst its own members according to the principle of proportional representation by means of a single transferable vote. Thus, all parties get due representation in it. The term of office of the members is one year.

- A minister cannot be elected as a member of the committee. The chairman of the committee is appointed by the Speaker from amongst its members who are drawn from the Lok Sabha only. Thus, the members of the committee who are from the Rajya Sabha cannot be appointed as the chairman.

➔ DEPARTMENTAL STANDING COMMITTEES

- On the recommendation of the Rules Committee of the Lok Sabha, 17 Departmentally-Related Standing Committees (DRSCs) were set up in the Parliament in 1993. In 2004, seven more such committees were setup, thus increasing their number from 17 to 24.
- The main objective of the standing committees is to secure more accountability of the Executive (i.e., the Council of Ministers) to the Parliament, particularly financial accountability. They also assist the Parliament in debating the budget more effectively.
- The 24 standing committees cover under their jurisdiction all the ministries / departments of the Central Government.
- Each standing committee consists of 31 members (21 from Lok Sabha and 10 from Rajya Sabha). The members of the Lok Sabha are nominated by the Speaker from amongst its own members, just as the members of the Rajya Sabha are nominated by the Chairman from amongst its members.
- A minister is not eligible to be nominated as a member of any of the standing committees. In case a member, after his nomination to any of the standing committees, is appointed a minister, he then ceases to be a member of the committee. The term of office of each standing committee is one year from the date of its constitution. Out of the 24 standing committees, 8 work under the Rajya Sabha and 16 under the Lok Sabha.

Ad Hoc Committees: Ad hoc committees can be divided into two categories, that is, Inquiry Committees and Advisory Committees.

➔ INQUIRY COMMITTEES

They are constituted from time to time, either by the two Houses on a motion adopted in that behalf, or by the Speaker / Chairman, to inquire into and report on specific subjects. For example:

a. Committee on the Conduct of Certain Members during President's Address
b. Committee on Draft Five-Year Plan
c. Railway Convention Committee
d. Committee on Members of Parliament Local Area Development Scheme (MPLADS)
e. Joint Committee on Bofors Contract
f. Joint Committee on Fertilizer Pricing
g. Joint Committee to Enquireinto Irregularities in Securities and Banking Transactions
h. Joint Committee on Stock Market Scam
i. Committee on Installation of Portraits / Statues of National Leaders and Parliamentarians in Parliament House Complex

➔ ADVISORY COMMITTEES

- These include select or joint committees on bills, which are appointed to consider and report on particular bills. These committees are distinguishable from the other ad hoc committees in as much as they are concerned with bills and the procedure to be followed by them is laid down in the Rules of Procedure and the Directions by the Speaker / Chairman.

- When a Bill comes up before a House for general discussion, it is open to that House to refer it to a Select Committee of the House or a Joint Committee of the two Houses. A motion to this effect has to be moved and adopted in the House in which the Bill comes up for consideration. In case the motion adopted is for reference of the Bill to a Joint Committee, the decision is conveyed to the other House, requesting the members to nominate members of the other House to serve on the Committee.
- The Select or Joint Committee considers the Bill clause by clause just as the two Houses do. Amendments to various clauses can be moved by members of the Committee. The Committee can also take evidence of associations, public bodies or experts who are interested in the Bill.
- After the Bill has thus been considered, the Committee submits its report to the House. Members who do not agree with the majority report may append their minutes of dissent to the report.

➔ JOINT PARLIAMENTARY COMMITTEE

- Joint Parliamentary Committee (JPC) is a kind of Ad Hoc Committee constituted for a specific purpose.
- The JPC is **set up for a given period of time** and is **aimed at addressing a specific issue**. Joint committees are set up by a motion passed in one house of Parliament and agreed to by the other. The details regarding membership and subjects are also decided by Parliament.
- JPC are generally **constituted on the basis of consensus** arrived between the government and the opposition to investigate specific issues.
- The mandate of a JPC depends on the specifics of motion presented in either House of Parliament. Thus, a JPC has a wider ambit and need not only be limited to the scrutiny of government finances.
- The **committee's members are decided by Parliament**.
- **Number of members for a JPC is not fixed and may vary each time**. In a JPC, number of Lok Sabha members are double than the Rajya Sabha members..
- A JPC is authorised to collect evidence in oral or written form or demand documents in connection with the matter which is being investigated.
- A JPC can obtain evidence of experts, public bodies, associations, individuals or interested parties suo motu or on requests made by them.
- If a witness fails to appear before a JPC in response to summons, his conduct constitutes Contempt of the House.
- The proceedings and findings of the committee are confidential, except in matters of public interest. The government can take the decision to withhold a document if it is considered prejudicial to the safety or interest of the State.
- The Speaker has the final word in case of a dispute over calling for evidence.
- JPC recommendations have persuasive value but the committee cannot force the government to take any action on the basis of the report.
- The government may decide to launch fresh investigations on the basis of a JPC report. However, the discretion to do so rests entirely with the government.
- The government is required to report on the follow-up action taken on the basis of the recommendations of the JPC and other committees.
- However, the opposition can always attack the government on the reports and recommendations made by the JPC in a particular case.

➡ COMPTROLLER AND AUDITOR GENERAL

- **Article 148** of the Indian Constitution mandates the appointment of Comptroller and Auditor General of India by the President of India by warrant under his hand and seal and shall only be removed from office in like manner and on the like grounds as a Judge of the Supreme Court.
- The Comptroller and Auditor-General **shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States** and of any other authority or body as may be prescribed by or under any law made by Parliament.
- Thus, the Parliament accordingly enacted the **CAG's (Duties, Powers and Conditions of Service) Act, 1971.**
- It specifies the CAG's duties and powers pertaining to government accounts, audit of receipts and expenditures of three tiers of the governments at the union, states and urban and rural local bodies.
- As per **Article 151**, the reports of the Comptroller and Auditor General of India relating to the accounts of the Union **shall be submitted to the President**, who shall cause them to be laid before each House of Parliament.
- The reports of the C&AG of India relating to the accounts of a State shall be submitted to the Governor of the State, who shall cause them to be laid before the Legislature of the State.
- Duties of C&AG includes audit of public companies, autonomous bodies, regulatory bodies and other public entities, where there is a specific legislative provision to make CAG audit mandatory in the acts by which these bodies were created.

➡ FINANCE COMMISSION

- Under **Article 280** of the Indian Constitution, the President by order may constitute a Finance **Commission every five years**, or earlier which shall comprise of a Chairman and four other members to be appointed by the President.
- It **came into existence in 1951**. The chairperson of first finance commission was **K.C. Neogy**.
- Its **primary job is to recommend measures and methods on how revenues need to be distributed between the Centre and states**.
- Besides suggesting the mechanism to share tax revenues, the Commission also lays down the principles for giving out grant-in-aid to states and other local bodies.
- The President shall cause every recommendation made by the Finance Commission to be laid before each House of Parliament together with an explanatory memorandum as to the action taken thereon.

➡ GOVERNOR

- **Articles 154 and 155** of the Constitution provide for the appointment of the Governor by the President as the executive head of the State.
- The President appoints the State Governor on the advice of the Prime minister with whom, the effective power lies.
- Seen as the lynchpin of the constitutional apparatus of the State, the office of the Governor has been pivotal in holding together the units of the federal polity.

- **Executive powers**-The Governor has the power to appoint the Council of Ministers including the Chief Minister of the state, the Advocate General and the members of the State Public Service Commission. Governor can nominate one member of Anglo-Indian community to legislative assemble of the state.

- **Legislative powers** - He has the right of addressing and sending messages, summoning, deferring and dissolving the State Legislature, just like the President has, in respect to the Parliament.
- **Judicial power**-The Governor can grant pardons, reprieves, respites or remission of punishments. He can also suspend, remit or commute the sentence of any person convicted of an offence against the law.
- **Emergency power** – On failure of constitutional machinery, the Governor informs the President about imposing Article 356 whereby either the state government is dismissed or suspended.

- According to **Article 153** each state has a governor, but two or more states may have a common governor.
- According to **Article 157 -** A citizen of India who has completed the age of 35 years is eligible to be appointed as governor.
- The governor cannot be a member of a house of parliament, or of the state legislature.
- According to article 158(2), the governor cannot hold any other Office of Profit.
- The Governor holds office during the pleasure of the president according to Article 156(1).
- The importance of the Governor's position arises not from the exceptional circumstances that necessitate the use of his discretion, but as a crucial link within this federal structure in maintaining effective communication between the Centre and a State.
- As a figurehead he ensures the continuance of governance in the State, even in times of constitutional crises.
- His role is often that of a neutral arbiter in disputes settled informally within the various strata of government, and as the conscience keeper of the community.
- The Governor is neither a decorative emblem nor a glorified cipher.
- His powers are limited, but he has an important constitutional role to play in the governance of the state and in strengthening federalism.
- Article 200 requires him to reserve for the president's consideration any bill which in his opinion derogates from the powers of the High Court; to reserve any other Bill; to appoint Chief ministers of the state; Governor's responsibility for certain regions such as the Tribal Areas in Assam and other regions.

Discretion

The governor has constitutional discretion in the following cases:

1. Reservation of a bill for the consideration of the President.
2. Recommendation for the imposition of the President's Rule in the state.
3. While exercising his functions as the administrator of an adjoining union territory (in case of additional charge).
4. Determining the amount payable by the Government of Assam, Meghalaya, Tripura and Mizoram to an autonomous Tribal District Council as royalty accruing from licenses for mineral exploration
5. Seeking information from the chief minister with regard to the administrative and legislative matters of the state.

In addition to the above constitutional discretion (i.e., the express discretion mentioned in the Constitution), the governor, like the president, also has situational discretion (i.e., the hidden discretion derived from the exigencies of a prevailing political situation) in the following cases:

1. Appointment of chief minister when no party has a clear-cut majority in the state legislative assembly or when the chief minister in office dies suddenly and there is no obvious successor.
2. Dismissal of the council of ministers when it cannot prove the confidence of the state legislative assembly.

3. Dissolution of the state legislative assembly if the council of ministers has lost its majority.

➡ GOVERNOR VS PRESIDENT

President	Governor
Veto Making Powers	
Every ordinary bill, after it is passed by both the Houses of the Parliament either singly or at a joint sitting, is presented to the President for his assent. He has three alternatives: 1. He may give his assent to the bill, the bill then becomes an act. 2. He may withhold his assent to the bill, the bill then ends and does not become an act. 3. He may return the bill for reconsideration of the Houses. If the bill is passed by both the Houses again with or without amendments and presented to the President for his assent, the president must give his assent to the bill. Thus the president enjoys only a 'suspensive veto'.	Every ordinary bill, after it is passed by the legislative assembly in case of a unicameral legislature or by both the Houses in case of a bicameral legislature either in the first instance or in the second instance, is presented to the governor for his assent. He has four alternatives: 1. He may give his assent to the bill, the bill then becomes an act. 2. He may withhold his assent to the bill, the bill then ends and does not become an act. 3. He may return the bill for reconsideration of the House or Houses. If the bill is passed by the House or Houses again with or without amendments and presented to the governor for his assent, the governor must give his assent to the bill. Thus, the governor enjoys only a 'suspensive veto'. 4. He may reserve the bill for the consideration of the President.
When a state bill is reserved by the governor for the consideration of the President, the President has three alternatives: a. He may give his assent to the bill, the bill then becomes an act. b. He may withhold his assent to the bill, the bill then ends and does not become an Act. c. He may return the bill for reconsideration of the House or Houses of the state legislature. When a bill is so returned, the House or Houses have to reconsider it within six months. If the bill is passed by the House or Houses again with or without amendments and presented to the president for his assent, the president is not bound to give his assent to the bill. He may give his assent to such a bill or withhold his assent.	When the governor reserves a bill for the consideration of the President, he will not have any further role in the enactment of the bill. If the bill is returned by the President for the reconsideration of the House or Houses and is passed again, the bill must be presented again for the presidential assent only. If the President gives his assent to the bill, it becomes an act. This means that the assent of the Governor is no longer required.
Every money bill after it is passed by the Parliament, is presented to the President for his assent. He has two alternatives: **1.** He may give his assent to the bill, the bill	Every money bill, after it is passed by the state legislature (unicameral or bicameral), is presented to the governor for his assent. He has three alternatives: **1.** He may give his assent to the bill, the bill then

then becomes an act. **2.** He may withhold his assent to the bill, the bill then ends and does not become an act.	becomes an act. **2.** He may withhold his assent to the bill, the bill then ends and does not become an act. **3.** He may reserve the bill for the consideration of the president.
Thus, the President cannot return a money bill for the reconsideration of the Parliament. Normally, the president gives his assent to a money bill as it is introduced in the Parliament with his previous permission. When a Money Bill is reserved by the Governor for the consideration of the President, the President has two alternatives: **a.** He may give his assent to the bill, the bill then becomes an Act. **b.** He may withhold his assent to the bill, the bill then ends and does not become an act. Thus, the President cannot return a money bill for the reconsideration of the state legislature (as in the case of the Parliament).	Thus, the governor cannot return a money bill for the reconsideration of the state legislature. Normally, the governor gives his assent to a money bill as it is introduced in the state legislature with his previous permission. When the governor reserves a money bill for the consideration of the President, he will not have any further role in the enactment of the bill. If the President gives his assent to the bill, it becomes an Act. This means that the assent of the governor is no longer required.
Ordinance-Making Power	
He can promulgate an ordinance only when both the Houses of Parliament are not in session or when either of the two Houses of Parliament is not in session.	He can promulgate an ordinance only when the legislative assembly (in case of a unicameral legislature) is not in session or (in case of a bi- cameral legislature) when both the Houses of the state legislature are not in session or when either of the two Houses of the state legislature is not in session.
He can promulgate an ordinance only when he is satisfied that circumstances exist which render it necessary for him to take immediate action.	
His ordinance-making power is co-extensive with the legislative power of the Parliament. This means that he can issue ordinances only on those subjects on which the Parliament can make laws.	His ordinance-making power is co-extensive with the legislative power of the state legislature. This means that he can issue ordinances only on those subjects on which the state legislature can make laws.
An ordinance issued by him has the same force and effect as an act of the Parliament.	An ordinance issued by him has the same force and effect as an act of the state legislature.
His ordinance-making power is not a discretionary power. This means that he can promulgate or withdraw an ordinance only on the advice of the council of ministers of ministers headed by the prime minister.	His ordinance-making power is not a discretionary power. This means that he can promulgate or withdraw an ordinance only on the advice of the council headed by the chief minister
An ordinance issued by him ceases to operate on the expiry of six weeks from the reassembly of Parliament. It may cease to operate even earlier than the prescribed six weeks, if both	An ordinance issued by him ceases to operate on the expiry of six weeks from the reassembly of the state legislature. It may cease to operate even earlier than the prescribed six weeks, if a resolution disapproving it is

the Houses of Parliament passes resolutions disapproving it.	passed by the legislative assembly and is agreed to by the legislative council (in case of a bicameral legislature).
He needs no instruction for making an ordinance	He cannot make an ordinance without the instructions from the President in three cases: a. If a bill containing the same provisions would have required the previous sanction of the President for its introduction into the state legislature. b. If he would have deemed it necessary to reserve a bill containing the same provisions for the consideration of the President. c. If an act of the state legislature containing the same provisions would have been invalid without receiving the President's assent.
Pardoning Powers	
He can pardon, reprive, respite, remit, suspend or commute the punishment or sentence of any person convicted of any offence against a Central law.	He can pardon, reprive, respite, remit, suspend or commute the commute the punishment or sentence of any person convicted of any offence against a state law.
He can pardon, reprieve, respite, remit, suspend or commute a death sentence. He is the only authority to pardon a death sentence.	He cannot pardon a death sentence. Even if a state law prescribes for death sentence, the power to grant pardon lies with the President and not the governor. But, the governor can suspend, remit or commute a death sentence.
He can grant pardon, reprieve, respite, suspension, remission or commutation in respect to punishment or sentence by a court-martial (military court).	He does not possess any such power.

➡ STATE LEGISLATURE

State Legislature		
Parameters	**Assembly**	**Council**
Strength	○ The legislative assembly consists of representatives directly elected by the people on the basis of universal adult franchise. ○ Its maximum strength is fixed at 500 and minimum strength at 60. It means that its strength varies from 60 to 500 depending on the population size of the state. However, in case of Arunachal Pradesh, Sikkim and Goa, the minimum number is fixed at 30	○ Unlike the members of the legislative assembly, the members 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 that the size of the council depends on the size of the assembly of the concerned state.

	and in case of Mizoram and Nagaland, it is 40 and 46 respectively. Further, some members of the legislative assemblies in Sikkim and Nagaland are also elected indirectly.	○ This is done to ensure the predominance of the directly elected House (assembly) in the legislative affairs of the state. Though the Constitution has fixed the maximum and the minimum limits, the actual strength of a Council is fixed by Parliament
Duration	○ Like the Lok Sabha, the legislative assembly is not a continuing chamber. Its normal term is five years from the date of its first meeting after the general elections. The expiration of the period of five years operates as automatic dissolution of the assembly. However, the governor is authorised to dissolve the assembly at any time (i.e., even before the completion of five years) to pave the way for fresh elections. ○ Further, the term of the assembly can be extended during the period of national emergency by a law of Parliament for one year at a time (for any length of time). However, this extension cannot continue beyond a period of six months after the emergency has ceased to operate. This means that the assembly should be re-elected within six months after the revocation of emergency.	○ Like the Rajya Sabha, the legislative council is a continuing chamber, that is, it is a permanent body and is not subject to dissolution. But, one-third of its members retire on the expiration of every second year. ○ So, a member continues as such for six years. The vacant seats are filled up by fresh elections and nominations (by governor) at the beginning of every third year. The retiring members are also eligible for re-election and re-nomination any number of times.
Qualifications	The Constitution lays down the following qualifications for a person to be chosen a member of the state legislature. (a) He must be a citizen of India. (b) He must make and subscribe to an oath or affirmation before the person authorised by the Election Commission for this purpose. (c) He must be not less than 30 years of age in the case of the legislative council and not less than 25 years of age in the case of the legislative assembly. (d) He must posses other qualifications prescribed by Parliament	
Disqualifications	Under the Constitution, a person shall be disqualified for being chosen as and for being a member of the legislative assembly or legislative council of a state: (a) if he holds any office of profit under the Union or state government (except that of a minister or any other office exempted by state legislature), (b) if he is of unsound mind and stands so declared by a court, (c) if he is an undischarged insolvent, (d) if he is not a citizen of India or has voluntarily acquired the citizenship of a foreign state or is under any acknowledgement of allegiance to a foreign state, and	

	(e) if he is so disqualified under any law made by Parliament	
Speaker/ Chairman	The Speaker is elected by the assembly itself from amongst its members. Usually, the Speaker remains in office during the life of the assembly. However, he vacates his office earlier in any of the following three cases: 1. if he ceases to be a member of the assembly; 2. if he resigns by writing to the deputy speaker; and 3. if he is removed by a resolution passed by a majority of all the then members of the assembly. Such a resolution can be moved only after giving 14 days advance notice.	The Chairman is elected by the council itself from amongst its members. The Chairman vacates his office in any of the following three cases: 1. if he ceases to be a member of the council; 2. if he resigns by writing to the deputy chairman; and 3. if he is removed by a resolution passed by a majority of all the then members of the council. Such a resolution can be moved only after giving 14 days advance notice.

➡ INTER-STATE COUNCIL

Under **Article 263** of the Indian Constitution, the President in the wake of public interests may by order establish an Inter-State Council charged with the duty of—

- **inquiring into and advising upon disputes** which may have arisen between States
- **investigating and discussing subjects** in which some or all of the States, or the Union and one or more of the States, have a common interest, or
- making recommendations upon any such subject and, in particular, recommendations for the better co-ordination of policy and action with respect to that subject.

- Such Inter-State Council established under **Article 263 shall be an advisory body**. Thus the Council is envisaged to be a mechanism of inter-governmental consultation.
- The Council can play an important role both vertically (Centre-State) and horizontally (Inter-state) to promote inter-governmental co-operation and co-ordination.
- Inter-State Council **may be appointed on a permanent basis or on an ad hoc basis**.
- **The Inter-State Council** was established under Article 263 of the Constitution of India through a Presidential Order dated 28th May 1990. The Council consists of the following members:

- Prime Minister – Chairman
- Chief Ministers of all States – Members
- Chief Ministers of Union Territories having a Legislative Assembly and Administrators of UTs not having a Legislative Assembly – Members
- Six Ministers of Cabinet rank in the Union Council of Ministers to be nominated by the Prime Minister – Members

- Section 15 of the States Reorgnization Act 1956 provides that there shall be a Zonal Council for each of the five zones of the country. The present composition of each Zonal Council is as under:

➡ ZONAL COUNCIL

- The **Zonal Councils** were created through **Part-III of the States Re-Organisation Act, 1956** as a part of the scheme of the reorganisation of the States. Zonal Council is an advisory body.
- During the reorganisation of states in 1956, controversy arose and friction between states and Centre increased. The concept of Zonal Council was conceived in early days of Indian independence which saw strained relation among states.
- Zonal Council was created as an instrument of inter-governmental consultations and co-operation mainly for socio-economic growth and to arrest fissiparous tendencies among states.

Zonal Council	States
Northern	Haryana, Himachal Pradesh, Jammu & Kashmir, Punjab, Rajasthan, National Capital Territory of Delhi and Union Territory of Chandigarh
Central	Chhattisgarh, Uttarakhand, Uttar Pradesh and Madhya Pradesh
Eastern	Bihar, Jharkhand, Odisha and West Bengal
Western	Goa, Gujarat, Maharashtra and the Union Territories of Daman & Diu and Dadra & Nagar Haveli
Southern	Andhra Pradesh, Karnataka, Kerala, Tamil Nadu, Telangana and the Union Territory of Puducherry

Functions of the Councils:

- Each Zonal Council shall be an a**dvisory body and may discuss any matter in which some or all of the States or Union Territories represented in that Counci**l have a common interest and advise the Central Government and the respective state or UT government as to the action to be taken on any matter of importance.
- Zonal Councils may discuss, and make recommendations with regard to:

  - any matter of common interest in the field of economic and social planning
  - any matter concerning border disputes, linguistic minorities or inter-State transport, and
  - any matter connected with, or arising out of, the reorganisation of the States under this Act.

- **Section 16 (1) of the States Reorganisation Act 1956** provides that the Zonal Councils shall consist of the following members:

  - A **Union Minister to be nominated by the President** – Chairman
  - the **Chief Minister of each of the States** included in the zone and two other Ministers of each such State to be nominated by the Governor. If there is no Council of Ministers in any such State, then three members from that State to be nominated by the President.
  - where any Union Territory is included in the zone, not more than two members from each such territory to be nominated by the President.

- The Union Minister nominated to a Zonal Council shall be its Chairman. The President has currently nominated Union Home Minister to be the Chairman of all the Zonal Councils.
- The Chief Ministers of the States included in each zone shall act as Vice-Chairman of the Zonal Council for that zone by rotation, each holding office for a period of one year at a time.

- Provided that if during that period there is no Council of Ministers in the State concerned, such member from that State as the President may nominate in this behalf shall act as Vice-Chairman of the Zonal Council.
- The Zonal Council for each zone shall have the following persons as Advisers to assist the Council in the performance of its duties, namely :

  - one person nominated by the NITI Aayog
  - the Chief Secretary to the Government of each of the States included in the Zone; and
  - the Development Commissioner or any other officer nominated by the Government of each of the States included in the Zone.

- A Zonal Council meets in each State in the zone by rotation.
- All **questions at a meeting of the Zonal Council are decided by a majority of the members present**.
- The presiding officer has a casting vote in case of an equality of votes. Proceedings of every meeting of a Zonal Council are to be forwarded to the Central Government and also to member states.
- The Zonal Councils are mandated to discuss and make recommendations on any matter of common interest in the field of economic and social planning, border disputes, linguistic minorities or inter-State transport etc.
- They are regional fora of cooperative endeavor for States linked with each other economically, politically and culturally.

➡ SARKARIKA COMMISSION

In 1983, the Central government appointed a three-member Commission on Centre-state relations under the chairmanship of R.S. Sarkaria, a retired judge of the Supreme Court.

The commission was asked to **examine and review the working of existing arrangements between the Centre and states** in all spheres and recommend appropriate changes and measures. It was initially given one year to complete its work, but its term was extended four times. It submitted it's report in 1988.

The Commission did not favour structural changes and regarded the existing constitutional arrangements and principles relating to the institutions basically sound. But, it emphasised on the need for changes in the functional or operational aspects. It observed that federalism is more a functional arrangement for co-operative action than a static institutional concept. It outrightly rejected the demand for curtailing the powers of the Centre and stated that a strong Centre is essential to safeguard the national unity and integrity which is being threatened by the fissiparous tendencies in the body politic. However, it did not equate strong Centre with centralisation of powers. It observed that over-centralisation leads to blood pressure at the centre and anaemia at the periphery.

The Commission made 247 recommendations to improve Centre- state relations. The important recommendations are mentioned below:

1. A permanent Inter-State Council called the Inter-Governmental Council should be set up under Article 263.
2. Article 356 (President's Rule) should be used very sparingly, in extreme cases as a last resort when all the available alternatives fail.
3. The institution of All-India Services should be further strengthened and some more such services should be created.
4. The residuary powers of taxation should continue to remain with the Parliament, while the other residuary powers should be placed in the Concurrent List.

5. When the president withholds his assent to the state bills, the reasons should be communicated to the state government.
6. The National Development Council (NDC) should be renamed and reconstituted as the National Economic and Development Council (NEDC).
7. The zonal councils should be constituted afresh and reactivated to promote the spirit of federalism.
8. The Centre should have powers to deploy its armed forces, even without the consent of states. However, it is desirable that the states should be consulted.
9. The Centre should consult the states before making a law on a subject of the Concurrent List.
10. The procedure of consulting the chief minister in the appointment of the state governor should be prescribed in the Constitution itself.
11. The net proceeds of the corporation tax may be made permissibly shareable with the states.
12. The governor cannot dismiss the council of ministers so long as it commands a majority in the assembly.
13. The governor's term of five years in a state should not be disturbed except for some extremely compelling reasons.
14. No commission of enquiry should be set up against a state minister unless a demand is made by the Parliament.
15. The surcharge on income tax should not be levied by the Centre except for a specific purpose and for a strictly limited period.
16. The present division of functions between the Finance Commission and the Planning Commission is reasonable and should continue.
17. Steps should be taken to uniformly implement the three language formula in its true spirit.
18. No autonomy for radio and television but decentralisation in their operations.
19. No change in the role of Rajya Sabha and Centre's power to reorganise the states.
20. The commissioner for linguistic minorities should be activated. The Central government has implemented 180 (out of 247) recommendations of the Sarkaria Commission. The most important is the establishment of the Inter-State Council in 1990.

➡ PUNCHI COMMISSION

- The Second commission on Centre-State Relations was set-up by the Government of India in April 2007 under the Chairmanship of **Madan Mohan Punchhi**, former Chief Justice of India.
- It was required to look into the issues of Centre-State relations keeping in view the sea- changes that have taken place in the polity and economy of India since the Sarkaria Commission had last looked at the issue of Centre- State relations over two decades ago.

The terms of reference of the Commission were as follows:

1. The Commission was required to examine and review the working of the existing arrangements between the Union and States as per the Constitution of India, the healthy precedents being followed, various pronouncements of the Courts in regard to powers, functions and responsibilities in all spheres including legislative relations, administrative relations, role of governors, emergency provisions, financial relations, economic and social planning, Panchayati Raj institutions, sharing of resources including inter-state river water and recommend such changes or other measures as may be appropriate keeping in view the practical difficulties.
2. In examining and reviewing the working of the existing arrangements between the Union and States and making recommendations as to the changes and measures needed, the Commission was required to keep in view the social and economic developments that have taken place over the years, particularly over the last two decades and have due regard to the scheme and framework of the

Constitution. Such recommendations were also needed to address the growing challenges of ensuring good governance for promoting the welfare of the people whilst strengthening the unity and integrity of the country, and of availing emerging opportunities for sustained and rapid economic growth for alleviating poverty and illiteracy in the early decades of the new millennium.

3. While examining and making its recommendations on the above, the Commission was required to have particular regard, but not limit its mandate to the following:-

a. The role, responsibility and jurisdiction of the Centre vis-a-vis States during major and prolonged outbreaks of communal violence, caste violence or any other social conflict leading to prolonged and escalated violence.

b. The role, responsibility and jurisdiction of the Centre vis-a-vis States in the planning and implementation of the mega projects like the inter-linking of rivers, that would normally take 15–20 years for completion and hinge vitally on the support of the States.

c. The role, responsibility and jurisdiction of the Centre vis-a-vis States in promoting effective devolution of powers and autonomy to Panchayati Raj Institutions and Local Bodies including the Autonomous Bodies under the sixth Schedule of the Constitution within a specified period of time.

d. The role, responsibility and jurisdiction of the Centre vis-a-vis States in promoting the concept and practice of independent planning and budgeting at the District level.

e. The role, responsibility and jurisdiction of the Centre vis-a-vis States in linking Central assistance of various kinds with the performance of the States.

f. The role, responsibility and jurisdiction of the Centre in adopting approaches and policies based on positive discrimination in favour of backward States.

g. The impact of the recommendations made by the 8th to 12th Finance Commissions on the fiscal relations between the Centre and the States, especially the greater dependence of the States on devolution of funds from the Centre.

h. The need and relevance of separate taxes on the production and on the sales of goods and services subsequent to the introduction of Value Added Tax regime.

i. The need for freeing inter-State trade in order to establish a unified and integrated domestic market as also in the context of the reluctance of State Governments to adopt the relevant Sarkaria Commission's recommendation in chapter XVIII of its report.

j. The need for setting up a Central Law Enforcement Agency empowered to take up suo moto investigation of crimes having inter-State and/ or international ramifications with serious implications on national security.

k. The feasibility of a supporting legislation under Article 355 for the purpose of suo moto deployment of Central forces in the States if and when the situation so demands.

- After examining at length the issues raised in its Terms of Reference and the related aspects in all their hues and shades, the Commission came to the conclusion that 'cooperative federalism' will be the key for sustaining India's unity, integrity and social and economic development in future.
- The principles of cooperative federalism thus may have to act as a practical guide for Indian polity and governance.

➡ UNION PUBLIC SERVICE COMMISSION

- The Union Public Service Commission (UPSC) is the central recruiting agency in India. It is an independent constitutional body in the sense that it has been directly created by the Constitution.
- **Articles 315 to 323 in Part XIV** of the Constitution contain elaborate provisions regarding the composition, appointment and removal of members along with the independence, powers and functions of the UPSC.

- The UPSC consists of a chairman and other members appointed by the president of India.
- The Constitution, without specifying the strength of the Commission has left the matter to the discretion of the president, who determines its composition.
- Usually, the Commission consists of nine to eleven members including the chairman.
- Further, no qualifications are prescribed for the Commission's membership except that one-half of the members of the Commission should be such persons who have held office for at least ten years either under the Government of India or under the government of a state.
- The Constitution also authorises the president to determine the conditions of service of the chairman and other members of the Commission.
- The President can remove the chairman or any other member of UPSC from the office under the following circumstances:
  - If he is adjudged an insolvent (that is, has gone bankrupt);
  - If he engages, during his term of office, in any paid employment outside the duties of his office; or
  - If he is, in the opinion of the president, unfit to continue in office by reason of infirmity of mind or body.
- In addition to these, the president can also remove the chairman or any other member of UPSC for misbehaviour. However, in this case, the president has to refer the matter to the Supreme Court for an enquiry.

Independence

The Constitution has made the following provisions to safeguard and ensure the independent and impartial functioning of the UPSC:

a. The chairman or a member of the UPSC can be removed from office by the president only in the manner and on the grounds mentioned in the Constitution. Therefore, they enjoy security of tenure.

b. The conditions of service of the chairman or a member, though determined by the president, cannot be varied to his disadvantage after his appointment.

c. The entire expenses including the salaries, allowances and pensions of the chairman and members of the UPSC are charged on the Consolidated Fund of India. Thus, they are not subject to vote of Parliament.

d. The chairman of UPSC (on ceasing to hold office) is not eligible for further employment in the Government of India or a state.

e. A member of UPSC (on ceasing to hold office) is eligible for appointment as the chairman of UPSC or a State Public Service Commission (SPSC), but not for any other employment in the Government of India or a state.

f. The chairman or a member of UPSC is (after having completed his first term) not eligible for reappointment to that office (i.e., not eligible for second term).

Functions

Some of the functions performed by UPSC are given below:

a. It conducts examinations for appointments to the all-India services, Central services and public services of the centrally administered territories.

b. It assists the states (if requested by two or more states to do so) in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualifications are required.

c. It serves all or any of the needs of a state on the request of the state governor and with the approval of the president of India.

d. The UPSC presents, annually, to the president a report on its performance. The President places this report before both the Houses of Parliament, along with a memorandum explaining the cases where

the advice of the Commission was not accepted and the reasons for such non-acceptance. All such cases of non- acceptance must be approved by the Appointments Committee of the Union cabinet. An individual ministry or department has no power to reject the advice of the UPSC.

➡ JPSC

JOINT STATE PUBLIC SERVICE COMMISSION

PARAMETERS	DETAILS
ORIGIN	As per the law made by the Parliament
COMPOSITION	Discretion of the President
QUALIFICATION	One-half of the members should have held office under the Government of India or the Government of any State for atleast 10 years
APPOINTED BY	President
REMOVED BY	President
GROUNDS OF REMOVAL	1. Adjudged an insolvent 2. Engages in paid employment outside the duties of his office 3. Unfit by the reason of infirmity of mind or body 4. Misbehavior (After inquiry by the Supreme Court)
TENURE	6 years term or 62 years of age, whichever is earlier
WORK	To conduct the examinations for the appointments to the joint state services of 2 or more states

➡ PANCHAYATI RAJ

A three-tier structure of the Indian administration for rural development is called Panchayati Raj. The aim of the Panchayati Raj is to develop local self-governments in districts, zones and villages.

Introduction to Panchayati Raj

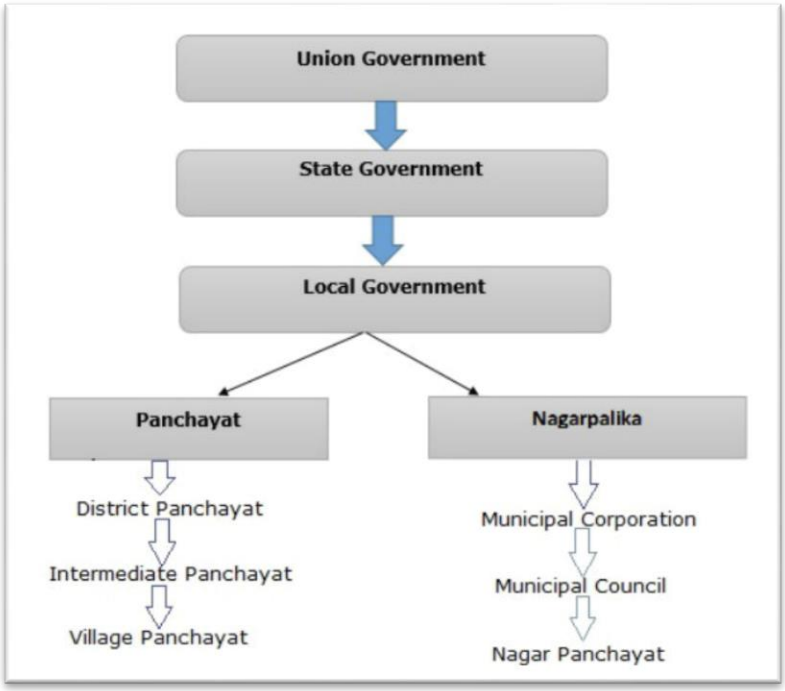
- Rural development is one of the main objectives of Panchayati Raj and this has been established in all states of India except Nagaland, Meghalaya and Mizoram, in all Union Territories except Delhi. and certain other areas. These areas include:

- The scheduled areas and the tribal areas in the states;
- The hill area of Manipur for which a district council exists; and
- Darjeeling district of West Bengal for which Darjeeling Gorkha Hill Council exists.

Evolution of Panchayati Raj

- The Panchayati system in India is not purely a post-independence phenomenon. In fact, the dominant political institution in rural India has been the village panchayat for centuries. In ancient India,

panchayats were usually elected councils with executive and judicial powers. In the pre-independence period, however, the panchayats were instruments for the dominance of the upper castes over the rest of the village, which furthered the divide based on either the socio-economic status or the caste hierarchy.



- The evolution of the Panchayati Raj System, however, got a fillip after the attainment of independence after the drafting of the Constitution. The Constitution of India in **Article 40 enjoined**: *"The state shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government".*
- There were a number of committees appointed by the Government of India to study the implementation of self-government at the rural level and also recommend steps in achieving this goal.
- The committees appointed are: *Balwant Rai Mehta Committee; Ashok Mehta Committee; G V K Rao Committee; L M Singhvi Committee.*

➔ BALWANT RAI MEHTA COMMITTEE

- The committee was appointed in 1957, to examine and suggest measures for better working of the **Community Development Programme and the National Extension Service**. The committee suggested the establishment of a democratic decentralised local government which came to be known as the Panchayati Raj.

Recommendations by the Committee:

- Three-tier Panchayati Raj system: Gram Panchayat, Panchayat Samiti and Zila Parishad.
- Directly elected representatives to constitute the gram panchayat and indirectly elected representatives to constitute the Panchayat Samiti and Zila Parishad.
- **Planning and development** are the primary objectives of the Panchayati Raj system.
- Panchayat Samiti should be the executive body and Zila Parishad will act as the advisory and supervisory body.
- **District Collector to be made the chairman** of the Zila Parishad.
- It also requested for **provisioning resources** so as to help them discharge their duties and responsibilities.
- The Balwant Rai Mehta Committee further revitalised the development of panchayats in the country, the report recommended that the Panchayati Raj institutions can play a substantial role in community development programmes throughout the country. The objective of the Panchayats thus was the democratic decentralisation through the effective participation of locals with the help of well-planned programmes. Even the then Prime Minister of India, Pandit Jawaharlal Nehru, defended the

panchayat system by saying, ". . . authority and power must be given to the people in the villages .... Let us give power to the panchayats."

➔ ASHOK MEHTA COMMITTEE

The committee was appointed in 1977 to suggest measures to revive and strengthen the declining Panchayati Raj system in India. The key recommendations are:

- The three-tier system should be replaced with a two-tier system: **Zila Parishad (district level)** and the **Mandal Panchayat (a group of villages).**
- District level as the first level of supervision after the state level.
- Zila Parishad should be the executive body and responsible for planning at the district level.
- The institutions (Zila Parishad and the Mandal Panchayat) to have compulsory taxation powers to mobilise their own financial resources.

➔ G V K RAO COMMITTEE

The committee was appointed by the planning commission in 1985. It recognised that development was not seen at the grassroot level due to bureaucratisation resulting in Panchayat Raj institutions being addressed as 'grass without roots'. Hence, it made some key recommendations which are as follows:

- Zila Parishad to be the most important body in the scheme of democratic decentralisation. Zila Parishad to be the principal body to manage the developmental programmes at the district level.
- The district and the lower levels of the Panchayati Raj system to be assigned with specific planning, implementation and monitoring of the rural developmental programmes.
- Post of **District Development Commissioner** to be created. He will be the chief executive officer of the Zila Parishad.
- Elections to the levels of Panchayati Raj systems should be held regularly.

➔ L M SINGHVI COMMITTEE

The committee was appointed by the Government of India in 1986 with the main objective to recommend steps to revitalise the Panchayati Raj systems for democracy and development. The following recommendations were made by the committee:

- The committee recommended that the **Panchayati Raj systems** should be constitutionally recognised. It also recommended constitutional provisions to **recognise free and fair elections for the Panchayati Raj systems**.
- The committee recommended reorganisation of villages to make the gram panchayat more viable.
- It recommended that village panchayats should have more finances for their activities.
- Judicial tribunals to be set up in each state to adjudicate matters relating to the elections to the Panchayati Raj institutions and other matters relating to their functioning.

- All these things further the argument that panchayats can be very effective in identifying and solving local problems, involve the people in the villages in the developmental activities, improve the communication between different levels at which politics operates, develop leadership skills and in short help the basic development in the states without making too many structural changes.
- Rajasthan and Andhra Pradesh were the first to adopt Panchayati raj in 1959, other states followed them later. Though there are variations among states, there are some features that are common. In most of the states, for example, a three-tier structure including **panchayats at the village level, panchayat samitis at the block level and the zila parishads at the district level**-has been institutionalized.

- Due to the sustained effort of the civil society organisations, intellectuals and progressive political leaders, the Parliament passed two amendments to the Constitution – **the 73rd Constitution Amendment for rural local bodies (panchayats) and the 74th Constitution Amendment for urban local bodies (municipalities)** making them 'institutions of self-government'. Within a year all the states passed their own acts in conformity to the amended constitutional provisions.

➡ 73rd CONSTITUTIONAL AMENDMENT ACT

- The Act added Part IX to the Constitution, **"The Panchayats" and also added the Eleventh Schedule which consists of the 29 functional items of the panchayats**.
- Part IX of the Constitution contains **Article 243 to Article 243 O**.
- The Amendment Act provides **shape to Article 40 of the Constitution**, (Directive Principles of State Policy), which directs the state to organise the village panchayats and provide them powers and authority so that they can function as self-government.
- With the Act, Panchayati Raj systems come under the purview of the justiciable part of the Constitution and mandates states to adopt the system. Further, the election process in the Panchayati Raj institutions will be held independent of the state government's will.
- The **Act has two parts: compulsory and voluntary**. Compulsory provisions must be added to state laws, which includes the creation of the new Panchayati Raj systems. Voluntary provisions, on the other hand, is the discretion of the state government.
- The Act is a very significant step in creating democratic institutions at the grassroots level in the country. The Act has transformed the representative democracy into participatory democracy.

Salient Features of the Act

- **Gram Sabha**: Gram Sabha is the primary body of the Panchayati Raj system. It is a village assembly consisting of all the registered voters within the area of the panchayat. It will exercise powers and perform such functions as determined by the state legislature.
- **Three-tier system**: The Act provides for the establishment of the three-tier system of Panchayati Raj in the states (village, intermediate and district level). States with a population of less than 20 lakhs may not constitute the intermediate level.
- **Election of members and chairperson**: The members to all the levels of the Panchayati Raj are elected directly and the chairpersons to the intermediate and the district level are elected indirectly from the elected members and at the village level the Chairperson is elected as determined by the state government.

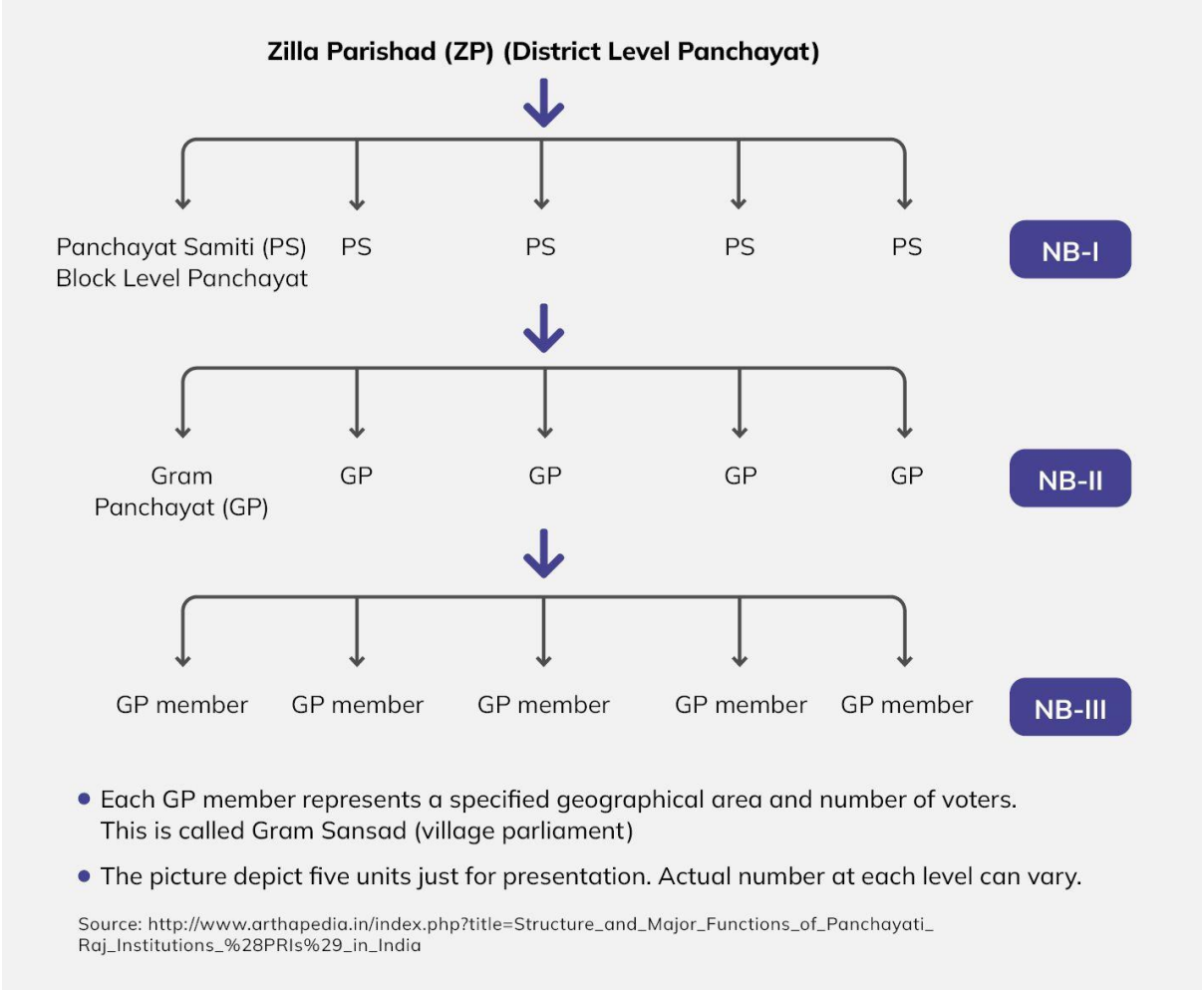
Election of Members and Chairpersons

- All the members of panchayats at the village, intermediate and district levels shall be elected directly by the people. Further, the chairperson of panchayats at the intermediate and district levels shall be elected indi-rectly–by and from amongst the elected members thereof. However, the chairperson of a panchayat at the village level shall be elected in such manner as the state legislature determines.
- The chairperson of a panchayat and other members of a panchayat elected directly or indirectly shall have the right to vote in the meetings of the panchayats.

Reservation of seats:

- For SC and ST: Reservation to be provided at all the three tiers in accordance with their population percentage.

- For women: Not less than one-third of the total number of seats to be reserved for women, further not less than one-third of the total number of offices for chairperson at all levels of the panchayat to be reserved for women.
- The state legislatures are also given the provision to decide on the reservation of seats in any level of panchayat or office of chairperson in favour of backward classes.



Duration of Panchayat: The Act provides for a five-year term of office to all the levels of the panchayat. However, the panchayat can be dissolved before the completion of its term. But fresh elections to constitute the new panchayat shall be completed –

- before the expiry of its five-year duration.
- in case of dissolution, before the expiry of a period of six months from the date of its dissolution.

Disqualification: A person shall be disqualified for being chosen as or for being a member of panchayat if he is so disqualified –

- Under any law for the time being in force for the purpose of elections to the legislature of the state concerned.
- Under any law made by the state legislature. However, no person shall be disqualified on the ground that he is less than 25 years of age if he has attained the age of 21 years.

- Further, all questions relating to disqualification shall be referred to an authority determined by the state legislatures.

State Election Commission:

- The commission is responsible for superintendence, direction and control of the preparation of electoral rolls and conducting elections for the panchayat.
- The state legislature may make provisions with respect to all matters relating to elections to the panchayats.

Powers and Functions: The state legislature may endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government. Such a scheme may contain provisions related to Gram Panchayat work with respect to:

- the preparation of plans for economic development and social justice.
- the implementation of schemes for economic development and social justice as may be entrusted to them, including those in relation to the 29 matters listed in the Eleventh Schedule.

Finances: The state legislature may –

- Authorize a panchayat to levy, collect and appropriate taxes, duties, tolls and fees.
- Assign to a panchayat taxes, duties, tolls and fees levied and collected by the state government.
- Provide for making grants-in-aid to the panchayats from the consolidated fund of the state.
- Provide for the constitution of funds for crediting all money of the panchayats.

Finance Commission: The state finance commission reviews the financial position of the panchayats and provides recommendations for the necessary steps to be taken to supplement resources to the panchayat.

- Audit of Accounts: State legislature may make provisions for the maintenance and audit of panchayat accounts.
- Application to Union Territories: The President may direct the provisions of the Act to be applied on any union territory subject to exceptions and modifications he specifies.

Exempted states and areas: The Act does not apply to the states of Nagaland, Meghalaya and Mizoram and certain other areas. These areas include,

- The scheduled areas and the tribal areas in the states
- The hill area of Manipur for which a district council exists.
- Darjeeling district of West Bengal for which Darjeeling Gorkha Hill Council exists.
- However, Parliament can extend this part to these areas subject to the exception and modification it specifies. Thus, the PESA Act was enacted.

- Continuance of existing law: All the state laws relating to panchayats shall continue to be in force until the expiry of one year from the commencement of this Act. In other words, the states have to adopt the new Panchayati raj system based on this Act within the maximum period of one year from 24 April 1993, which was the date of the commencement of this Act. However, all the Panchayats existing immediately before the commencement of the Act shall continue till the expiry of their term, unless dissolved by the state legislature sooner.
- **Bar to interference by courts:** The Act bars the courts from interfering in the electoral matters of panchayats. It declares that the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies cannot be questioned in any court. It further lays down that no election to any panchayat is to be questioned except by an election petition presented to such authority and in such manner as provided by the state legislature.

➡ PESA ACT

PESA Act of 1996

- The **provisions of Part IX are not applicable to the Fifth Schedule areas**. The Parliament can extend this Part to such areas with modifications and exceptions as it may specify. Under these provisions, Parliament enacted Provisions of the Panchayats (Extension to the Scheduled Areas) Act, popularly known as PESA Act or the extension act.

Objectives of the PESA Act:

- To extend the provisions of Part IX to the scheduled areas.
- To provide self-rule for the tribal population.
- To have village governance with participatory democracy.
- To evolve participatory governance consistent with the traditional practices.
- To preserve and safeguard traditions and customs of tribal population.
- To empower panchayats with powers conducive to tribal requirements.
- To prevent panchayats at a higher level from assuming powers and authority of panchayats at a lower level.

- As a result of these constitutional steps taken by the union and state governments, India has moved towards what has been described as 'multi-level federalism', and more significantly, it has widened the democratic base of the Indian polity. Before the amendments, the Indian democratic structure through elected representatives was restricted to the two houses of Parliament, state assemblies and certain union territories. The system has brought governance and issue redressal to the grassroot levels in the country but there are other issues too. These issues, if addressed, will go a long way in creating an environment where some of the basic human rights are respected.
- After the new generation of panchayats had started functioning, several issues have come to the fore, which have a bearing on human rights. The important factor which has contributed to the human rights situation vis-a-vis the panchayat system is the nature of Indian society, which of course determines the nature of the state. Indian society is known for its inequality, social hierarchy and the rich and poor divide. The social hierarchy is the result of the caste system, which is unique to India. Therefore, caste and class are the two factors, which deserve attention in this context.
- Thus, the local governance system has challenged the age old practices of hierarchy in the rural areas of the country particularly those related to caste, religion and discrimination against women.

➡ 74TH AMENDMENT ACT OF 1992

- This Act has added a new Part IX-A to the Constitution of India. This part is entitled as 'The Municipalities' and consists of provisions from Articles 243-P to 243-ZG. In addition, the act has also added a new Twelfth Schedule to the Constitution. This schedule contains eighteen functional items of municipalities. It deals with Article 243-W.
- The act gave constitutional status to the municipalities. It has brought them under the purview of justiciable part of the Constitution. In other words, state governments are under constitutional obligation to adopt the new system of municipalities in accordance with the provisions of the act.
- The act aims at revitalising and strengthening the urban governments so that they function effectively as units of local government.

➔ SALIENT FEATURES OF THE ACT

Three Types of Municipalities

- The act provides for the constitution of the following three types of municipalities in every state.
  - A nagar panchayat (by whatever name called) for a transitional area.
  - A municipal council for a smaller urban area.
  - A municipal corporation for a larger urban area.
- But, there is one exception. If there is an urban area where municipal services are being provided by an industrial establishment, then the governor may specify that area to be an industrial township. In such a case, a municipality may not be constituted.

Composition

All the members of a municipality shall be elected directly by the people of the municipal area. For this purpose, each municipal area shall be divided into territorial constituencies to be known as wards. The state legislature may provide the manner of election of the chairperson of a municipality. It may also provide for the representation of the following persons in a municipality.

1. Persons having special knowledge or experience in municipal administration without the right to vote in the meetings of municipality.
2. The members of the Lok Sabha and the state legislative assembly representing constituencies that comprise wholly or partly the municipal area.
3. The members of the Rajya Sabha and the state legislative council registered as electors within the municipal area.
4. The chairpersons of committees (other than wards committees).

Wards Committees

There shall be constituted a wards committee, consisting of one or more wards, within the territorial area of a municipality having population of three lakh or more. The state legislature may make provision with respect to the composition and the territorial area of a wards committee and the manner in which the seats in a wards committee shall be filled.

Other Committees

In addition to the wards committees, the state legislature is also allowed to make any provision for the constitution of other committees. The chairpersons of such committees may be made members of the municipality.

Reservation of Seats

- The act provides for the reservation of seats for the scheduled castes and the scheduled tribes in every municipality in proportion of their population to the total population in the municipal area. Further, it provides for the reservation of not less than one-third of the total number of seats for women (including the number of seats reserved for woman belonging to the SCs and the STs).
- The state legislature may provide for the manner of reservation of offices of chairpersons in the municipalities for SCs, STs and women. It may also make any provision for the reservation of seats in any municipality or offices of chairpersons in municipalities in favour of backward classes.
- The reservation of seats as well as the reservation of offices of chairpersons in the municipalities for the scheduled castes and scheduled tribes shall cease to have effect after the expiration of the period specified in Article 334

Duration of Municipalities

- The act provides for a five-year term of office for every municipality. However, it can be dissolved before the completion of its term. Further, the fresh elections to constitute a municipality shall be completed (a) before the expiry of its duration of five years; or (b) in case of dissolution, before the expiry of a period of six months from the date of its dissolution.
- But, where the remainder of the period (for which the dissolved municipality would have continued) is less than six months, it shall not be necessary to hold any election for constituting the new municipality for such period.
- Moreover, a municipality constituted upon the dissolution of a municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved municipality would have continued had it not been so dissolved. In other words, a municipality reconstituted after premature dissolution does not enjoy the full period of five years but remains in office only for the remainder of the period.
- The act also makes two more provisions with respect to dissolution:

a. a municipality must be given a reasonable opportunity of being heard before its dissolution; and

b. no amendment of any law for the time being in force shall cause dissolution of a municipality before the expiry of the five years term.

Disqualifications

A person shall be disqualified for being chosen as or for being a member of a municipality if he is so disqualified

a. under any law for the time being in force for the purposes of elections to the legislature of the state concerned; or

b. under any law made by the state legislature. However, no person shall be disqualified on the ground that he is less than 25 years of age if he has attained the age of 21 years.

Further, all questions of disqualifications shall be referred to such authority as the state legislature determines.

State Election Commission

- The superintendence, direction and control of the preparation of electoral rolls and the conduct of all elections to the municipalities shall be vested in the state election commission.
- The state legislature may make provision with respect to all matters relating to elections to the municipalities.

Powers and Functions

- The state legislature may endow the municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government.
- Such a scheme may contain provisions for the devolution of powers and responsibilities upon municipalities at the appropriate level with respect to (a) the preparation of plans for economic development and social justice; (b) the implementation of schemes for economic development and social justice as may be entrusted to them, including those in relation to the eighteen matters listed in the Twelfth Schedule.

Finances

The state legislature may

a. authorise a municipality to levy, collect and appropriate taxes, duties, tolls and fees;

b. assign to a municipality taxes, duties, tolls and fees levied and collected by state government;
c. provide for making grants-in-aid to the municipalities from the consolidated fund of the state; and
d. provide for constitution of funds for crediting all moneys of the municipalities.

Finance Commission

- The finance commission (which is constituted for the panchayats) shall also, for every five years, review the financial position of municipalities and make recommendation to the governor as to the principles that should govern:
  - The distribution between the state and the municipalities of the net proceeds of the taxes, duties, tolls and fees levied by the state and allocation of shares amongst the municipalities at all levels.
  - The determination of the taxes, duties, tolls and fees that may be assigned to the municipalities.
  - The grants-in-aid to the municipalities from the consolidated fund of the state.
  - The measures needed to improve the financial position of the municipalities.
  - Any other matter referred to it by the governor in the interests of sound finance of municipalities.
- The governor shall place the recommendations of the commission along with the action taken report before the state legislature.
- The central finance commission shall also suggest the measures needed to augment the consolidated fund of a state to supplement the resources of the municipalities in the state (on the basis of the recommendations made by the finance commission of the state).

➔ TYPES OF URBAN GOVERNMENT

The following types of urban local bodies are created in India for the administration of urban areas:

Municipal Corporation

- Municipal corporations are created for the administration of big cities like Delhi, Mumbai, Kolkata, Hyderabad, Bangalore and others. They are established in the states by the acts of the concerned state legislatures, and in the union territories by the acts of the Parliament of India. There may be one common act for all the municipal corporations in a state or a separate act for each municipal corporation.
- A municipal corporation has three authorities, namely, the council, the standing committees and the commissioner.
- The Council is the deliberative and legislative wing of the corporation. It consists of the Councillors directly elected by the people, as well as a few nominated persons having knowledge or experience of municipal administration. In brief, the composition of the Council including the reservation of seats for SCs, STs and women is governed by the 74th Constitutional Amendment Act.
- The Council is headed by a Mayor. He is assisted by a Deputy Mayor. He is elected in a majority of the states for a one-year renewable term. He is basically an ornamental figure and a formal head of the corporation. His main function is to preside over the meetings of the Council.
- The standing committees are created to facilitate the working of the council, which is too large in size. They deal with public works, education, health, taxation, finance and so on. They take decisions in their fields.
- The municipal commissioner is responsible for the implementation of the decisions taken by the council and its standing committees. Thus, he is the chief executive authority of the corporation. He is appointed by the state government and is generally a member of the IAS.

Municipality

- The municipalities are established for the administration of towns and smaller cities. Like the corporations, they are also set up in the states by the acts of the concerned state legislatures and in the union territory by the acts of the Parliament of India. They are also known by various other names like municipal council, municipal committee, municipal board, borough municipality, city municipality and others.
- Like a municipal corporation, a municipality also has three authorities, namely, the council, the standing committees and the chief executive officer.
- The council is the deliberative and legislative wing of the municipality. It consists of the councillors directly elected by the people.
- The council is headed by a president/chair-man. He is assisted by a vice-president/vice-chairman. He presides over the meetings of the council. Unlike the Mayor of a municipal corporation, he plays a significant role and is the pivot of the municipal administration. Apart from presiding over the meetings of the Council, he enjoys executive powers.
- The standing committees are created to facilitate the working of the council. They deal with public works, taxation, health, finance and so on.
- The chief executive officer/chief municipal officer is responsible for day-to-day general administration of the municipality. He is appointed by the state government.

Notified Area Committee

- A notified area committee is created for the administration of two types of areas–a fast developing town due to industrialisation, and a town which does not yet fulfil all the conditions necessary for the constitution of a municipality, but which otherwise is considered important by the state government. Since it is established by a notification in the government gazette, it is called as notified area committee.
- Though it functions within the framework of the State Municipal Act, only those provisions of the act apply to it which are notified in the government gazette by which it is created. It may also be entrusted to exercise powers under any other act. Its powers are almost equivalent to those of a municipality.
- But unlike the municipality, it is an entirely nominated body, that is, all the members of a notified area committee including the chairman are nominated by the state government. Thus, it is neither an elected body nor a statutory body.

Town Area Committee

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

Cantonment Board

- A cantonment board is established for municipal administration for civilian population in the cantonment area. It is set up under the provisions of the Cantonments Act of 2006–a legislation enacted by the Central government. It works under the administrative control of the defence ministry of the Central government. Thus, unlike the above four types of urban local bodies, which are created and administered by the state government, a cantonment board is created as well as administered by the Central government.

- The Cantonments Act of 2006 was enacted to consolidate and amend the law relating to the administration of cantonments with a view to impart greater democratisation, improvement of their financial base to make provisions for developmental activities and for matters connected with them. This Act has repealed the Cantonments Act of 1924.

Township

- This type of urban government is established by the large public enterprises to provide civic amenities to its staff and workers who live in the housing colonies built near the plant.
- The enterprise appoints a town administrator to look after the administration of the township. He is assisted by some engineers and other technical and non-technical staff.
- Thus, the township form of urban government has no elected members. In fact, it is an extension of the bureaucratic structure of the enterprises.

Port Trust

The port trusts are established in the port areas like Mumbai, Kolkata, Chennai and so on for two purposes:

a. to manage and protect the ports; and
b. to provide civic amenities. Aport trust is created by an Act of Parliament.

It consists of both elected and nominated members. Its chairman is an official. Its civic functions are more or less similar to those of a municipality.

➡ THE SCHEDULED AND TRIBAL AREAS

- Article 244 in Part X of the Constitution envisages a special system of administration for certain areas designated as 'scheduled areas' and 'tribal areas'.
- The Fifth Schedule of the Constitution deals with the administration and control of scheduled areas and scheduled tribes in any state except the four states of Assam, Meghalaya, Tripura and Mizoram.
- The Sixth Schedule of the Constitution, on the other hand, deals with the administration of the tribal areas in the four north eastern states of Assam, Meghalaya, Tripura and Mizoram.
- The various features of administration contained in the Fifth Schedule are as follows:

1. **Declaration of Scheduled Areas**: The president is empowered to declare an area to be a scheduled area. He can also increase or decrease its area, alter its boundary lines, rescind such designation or make fresh orders for such redesignation on an area in consultation with the governor of the state concerned.
2. **Executive Power of State and Centre**: The executive power of a state extends to the scheduled areas therein. But the governor has a special responsibility regarding such areas. He has to submit a report to the president regarding the administration of such areas, annually or whenever so required by the president. The executive power of the Centre extends to giving directions to the states regarding the administration of such areas.
3. **Tribes Advisory Council**: Each state having scheduled areas has to establish a tribes advisory council to advise on welfare and advancement of the scheduled tribes. It is to consist of 20 members, three-fourths of whom are to be the representatives of the scheduled tribes in the state legislative assembly. A similar council can also be established in a state having scheduled tribes but not scheduled areas therein, if the president so directs.
4. **Law applicable to Scheduled Areas:** The governor is empowered to direct that any particular act of Parliament or the state legislature does not apply to a scheduled area or apply with specified modifications and exceptions. He can also make regulations for the peace and good government of a

scheduled area after consulting the tribes advisory council. Such regulations may prohibit or restrict the transfer of land by or among members of the scheduled tribes, regulate the allotment of land to members of the scheduled tribes and regulate the business of money-lending in relation to the scheduled tribes. Also, a regulation may repeal or amend any act of Parliament or the state legislature, which is applicable to a scheduled area. But, all such regulations require the assent of the president.

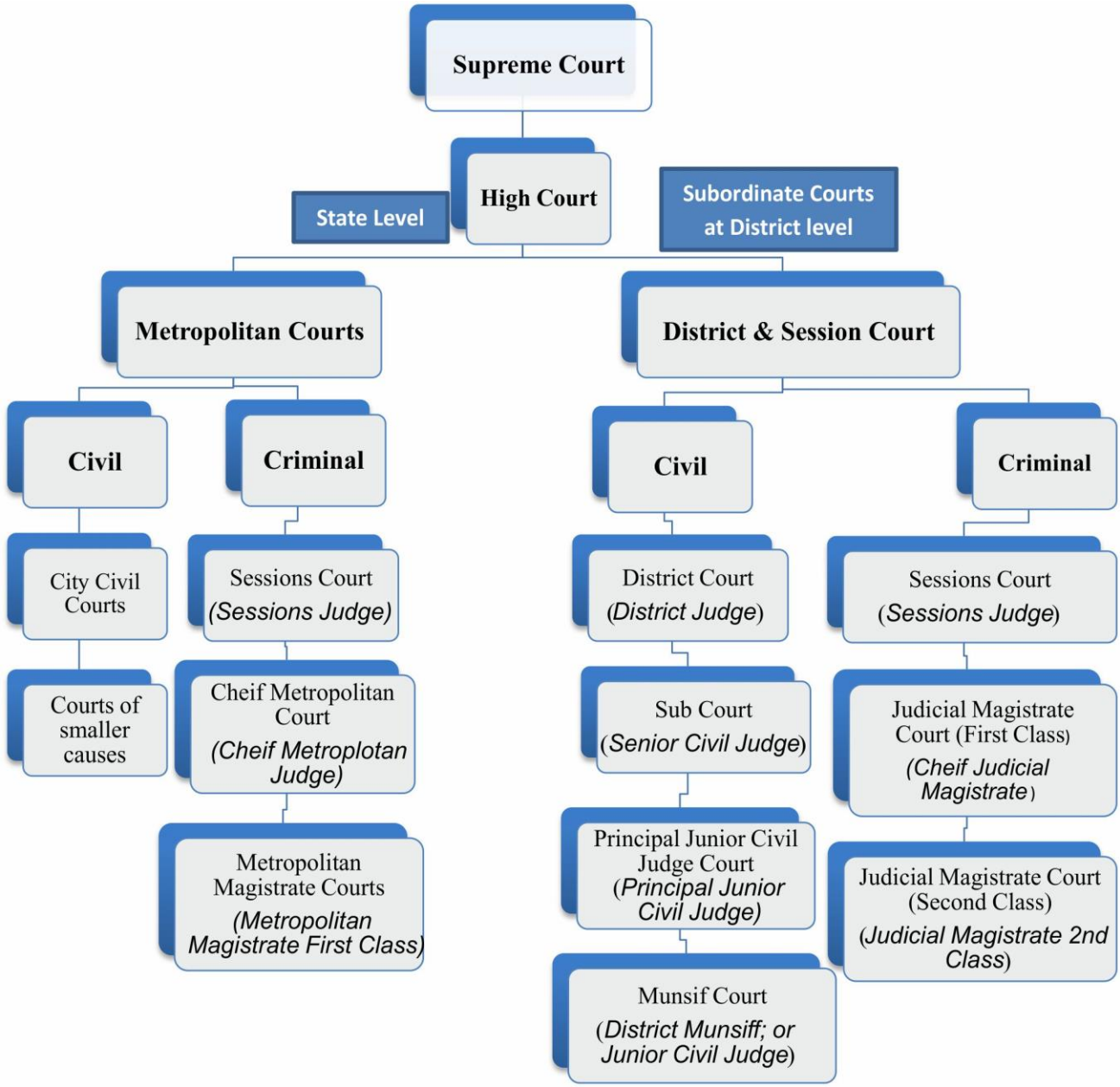
- The Constitution requires the president to appoint a commission to report on the administration of the scheduled areas and the welfare of the scheduled tribes in the states. He can appoint such a commission at any time but compulsorily after ten years of the commencement of the Constitution.
- Hence, a commission was appointed in 1960. It was headed by U.N. Dhebar and submitted its report in 1961. After four decades, the second commission was appointed in 2002 under the chairmanship of Dilip Singh Bhuria. It submitted its report in 2004.

Tribal Areas

The various features of administration contained in the Sixth Schedule are as follows:

1. The tribal areas in the four states of Assam, Meghalaya, Tripura and Mizoram have been constituted as autonomous districts. But, they do not fall outside the executive authority of the state concerned.
2. The governor is empowered to organise and re-organise the autonomous districts. Thus, he can increase or decrease their areas or change their names or define their boundaries and so on.
3. If there are different tribes in an autonomous district, the governor can divide the district into several autonomous regions.
4. Each autonomous district has a district council consisting of 30 members, of whom four are nominated by the governor and the remaining 26 are elected on the basis of adult franchise. The elected members hold office for a term of five years (unless the council is dissolved earlier) and nominated members hold office during the pleasure of the governor. Each autonomous region also has a separate regional council.
5. The district and regional councils administer the areas under their jurisdiction. They can make laws on certain specified matters like land, forests, canal water, shifting cultivation, village administration, inheritance of property, marriage and divorce, social customs and so on. But all such laws require the assent of the governor.
6. The district and regional councils within their territorial jurisdictions can constitute village councils or courts for trial of suits and cases between the tribes. They hear appeals from them. The jurisdiction of high court over these suits and cases is specified by the governor.
7. The district council can establish, construct or manage primary schools, dispensaries, markets, ferries, fisheries, roads and so on in the district. It can also make regulations for the control of money lending and trading by non-tribals. But, such regulations require the assent of the governor.
8. The district and regional councils are empowered to assess and collect land revenue and to impose certain specified taxes.
9. The acts of Parliament or the state legislature do not apply to autonomous districts and autonomous regions or apply with specified modifications and exceptions.
10. The governor can appoint a commission to examine and report on any matter relating to the administration of the autonomous districts or regions. He may dissolve a district or regional council on the recommendation of the commission.

➡ JUDICIAL STRUCTURE



➡ RULE OF LAW

- The rule of law embodied in Article 14 is the **" Basic feature"** of the Indian constitution. Hence it cannot be destroyed even by an amendment of the constitution under article 368 of the constitution.

Meaning of rule of Law

- It means that no man is above the law, all are equal in eye of law. The concept of rule of law come from Magnacarta.

- Its means that **law is equal for all in same line**. Because state have no religion all are equal in same line. And uniformity will be applied for all. Every organ of the state under the constitution of India is regulated and controlled by the rule of law.
- **Absence of arbitrary power** has been held to be the first essential of rule of law. The rule of law requires that the discretion conferred upon executive authorities must be contained within clearly define limits. The rule of law permeates the entire fabrics of the constitution of India and it forms one of its basic features.

Article 361 of Indian constitution Law

- The President, or the governor or rajpramukh of a state, shall not be answerable to any court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him In the exercise and performance of those power and duties. Provided that the conduct of the president may be brought under review.

361. Protection of President and Governors and Rajpramukhs.—

1) The President, or the Governor or Rajpramukh of a State, shall not be answerable to any court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of those powers and duties:

Provided that the conduct of the President may be brought under review by any court, tribunal or body appointed or designated by either House of Parliament for the investigation of a charge under article 61: Provided further that nothing in this clause shall be construed as restricting the right of any person to bring appropriate proceedings against the Government of India or the Government of a State.

2) No criminal proceedings whatsoever shall be instituted or continued against the President, or the Governor of a State, in any court during his term of office.

3) No process for the arrest or imprisonment of the President, or the Governor of a State, shall issue from any court during his term of office.

4) No civil proceedings in which relief is claimed against the President, or the Governor of a State, shall be instituted during his term of office in any court in respect of any act done or purporting to be done by him in his personal capacity, whether before or after he entered upon his office as President, or as Governor of such State, until the expiration of two months next after notice in writing has been delivered to the President or the Governor, as the case may be, or left at his office stating the nature of the proceedings, the cause of action therefor, the name, description and place of residence of the party by whom such proceedings are to be instituted and the relief which he claims.

In **Srinivas Theatre v. state of T.N., Reddy, J.,** has noted that equality before law is a dynamic concept having many facets. One of them there is that there shall be no privileged person of class and name shall be above state law. A fact there of is the obligation upon the state to bring about, through the machinery of law, a more equal society envisaged by the preamble and part 4th (directive principles of state policy) of the Indian constitution.

➡ RULE OF LAW vs. RULE BY LAW

- **CJI N V Ramana stated:** The former is what we fought for *(Rule of Law)*, the latter is an instrument of colonial rule *(Rule by Law)*. In the face of a pandemic, it's important to reflect on how the tension between the two defines the quality of justice.
- When talking about Rule of Law, it is necessary to first understand what the law is. **Law, in its most general sense, is a tool of social control that is backed by the sovereign.** However, is this definition complete in itself? I would think not. Such a definition of law makes it a double-edged sword. It can be used not only to render justice, it can also be used to justify oppression.

- What is clear is that both these thoughts highlight certain facets of what is meant by the term "law". I think that any **law backed by a sovereign must be tempered by certain ideals or tenets of justice**. Only a state that is governed by such law, can be said to have the Rule of Law.

- The British colonial power used the law as a tool of political repression, enforcing it unequally on the parties, with a different set of rules for the British and for the Indians. It was an enterprise famous for "Rule by Law", rather than "Rule of Law", as it aimed at controlling the Indian subjects. Our struggle for independence thus marked our journey towards the establishment of a state defined by the Rule of Law... A framework was needed to ensure this. The framework that forms the binding link between law and justice in this country. That is what "**We the people" gave to ourselves in the form of the Constitution.**

Many conceptions of Rule of Law have emerged... It would be relevant to emphasise **four principles.**

- The **first principle is that "laws must be clear and accessible**,"...(that) the people at least ought to know what the laws are. There cannot, therefore, be secretive laws, as laws are for society. Another implication of this principle is that they should be worded in simple, unambiguous language.
- The **second principle relates to the idea of "equality before the law"...** An important aspect of equality before law is having equal access to justice. This guarantee of equal justice will be rendered meaningless if the vulnerable sections are unable to enjoy their rights because of their poverty or illiteracy or any other kind of weakness.

- Another aspect is the issue of **"gender equality".** The legal empowerment of women not only enables them to advocate for their rights and needs in society, but it also increases their visibility in the legal reform process and allows their participation in it. Bias and prejudice necessarily lead to injustice, particularly when it relates to minorities. Consequently, the **application of the principles of Rule of Law in respect of vulnerable sections has to necessarily be more inclusive of their social conditions** that hinder their progress.

- This leads me to the **third principle,** the "right to participate in the creation and refinement of laws". The very essence of a democracy is that its citizenry has a role to play, directly or indirectly, in the laws that govern them. In India, it is done through elections where the people get to exercise their universal adult franchise to elect the people who form part of Parliament which enacts laws.

- In spite of large-scale inequalities, illiteracy, backwardness, poverty and alleged ignorance, the people of independent India have proved themselves to be intelligent and up to the task. The masses have performed their duties reasonably well. Now, it is the turn of those who are manning the key organs of the state to ponder if they are living up to the constitutional mandate.
- **Note:** It has always been well-recognised that the **mere right to change the ruler, once every few years, by itself need not be a guarantee against tyranny**. The idea that people are the ultimate sovereign is also to be found in notions of human dignity and autonomy. A public discourse that is both reasoned and reasonable is to be seen as an inherent aspect of human dignity and hence essential to a properly functioning democracy.

- The **idea of the judiciary, as a "guardian" of the Constitution, brings me to the fourth and final principle**: The presence of a **"strong independent judiciary".**
- The judiciary is the primary organ which is tasked with ensuring that the laws that are enacted are in line with the Constitution. This is one of the main functions of the judiciary, that of **judicial review of laws**. The Supreme Court has held this function to be a part of the basic structure of the Constitution, which means that Parliament cannot curtail the same.
- But the importance of the judiciary shouldn't blind us to the fact that the responsibility of safeguarding constitutionalism lies not just with the courts. **All the three organs of the state, i.e., the executive, legislature and the judiciary, are equal repositories of constitutional trust.** The role of the judiciary and scope of judicial action is limited, as it only pertains to facts placed before it.

- This limitation calls for other organs to assume responsibilities of upholding constitutional values and ensuring justice in the first place, with the judiciary acting as an important check.
- For the judiciary to apply checks on governmental power and action, it has to have complete freedom. **The judiciary cannot be controlled, directly or indirectly, by the legislature or the executive, or else the Rule of Law would** become illusory.

➡ SUPREME COURT

- The judges of the Supreme Court are appointed by the president. The chief justice is appointed by the president after consultation with such judges of the Supreme Court and high courts as he deems necessary.
- The other judges are appointed by president after consultation with the chief justice and such other judges of the Supreme Court and the high courts as he deems necessary.
- The consultation with the chief justice is obligatory in the case of appointment of a judge other than Chief justice.

Qualifications of Judges

- A person to be appointed as a judge of the Supreme Court should have the following qualifications:
- He should be a citizen of India.
- (a) He should have been a judge of a High Court (or high courts in succession) for five years; or
- (b) He should have been an advocate of a High Court (or High Courts in succession) for ten years; or
- (c) He should be a distinguished jurist in the opinion of the president.
- From the above, it is clear that the Constitution has not prescribed a minimum age for appointment as a judge of the Supreme Court.

Removal of Judges

- A judge of the Supreme Court can be removed from his Office by an order of the president. The President can issue the removal order only after an address by Parliament has been presented to him in the same session for such removal.
- The address must be supported by a special majority of each House of Parliament (ie, a majority of the total membership of that House and a majority of not less than two-thirds of the members of that House present and voting). The grounds of removal are two–proved misbehaviour or incapacity.
- The Judges Enquiry Act (1968) regulates the procedure relating to the removal of a judge of the Supreme Court by the process of impeachment:

1. A removal motion signed by 100 members (in the case of Lok Sabha) or 50 members (in the case of Rajya Sabha) is to be given to the Speaker/ Chairman.
2. The Speaker/Chairman may admit the motion or refuse to admit it.
3. If it is admitted, then the Speaker/ Chairman is to constitute a three-member committee to investigate into the charges.
4. The committee should consist of (a) the chief justice or a judge of the Supreme Court, (b) a chief justice of a high court, and (c) a distinguished jurist.
5. If the committee finds the judge to be guilty of misbehaviour or suffering from an incapacity, the House can take up the consideration of the motion.
6. After the motion is passed by each House of Parliament by special majority, an address is presented to the president for removal of the judge.
7. Finally, the president passes an order removing the judge.

It is interesting to know that no judge of the Supreme Court has been impeached so far. The first case of impeachment is that of Justice V. Ramaswami of the Supreme Court (1991–1993). Though the enquiry Committee found him guilty of misbehaviour, he could not be removed as the impeachment motion was defeated in the Lok Sabha. The Congress Party abstained from voting.

➡ COLLEGIUM

- It is the system of appointment and transfer of judges that has evolved through judgments of the SC, and not by an Act of Parliament or by a provision of the Constitution.
- **Evolution of the System:**

First Judges Case (1981):

- It declared that the "primacy" of the Chief Justice of India (CJI)s recommendation on judicial appointments and transfers can be refused for "cogent reasons."
- The ruling gave the Executive primacy over the Judiciary in judicial appointments for the next 12 years.

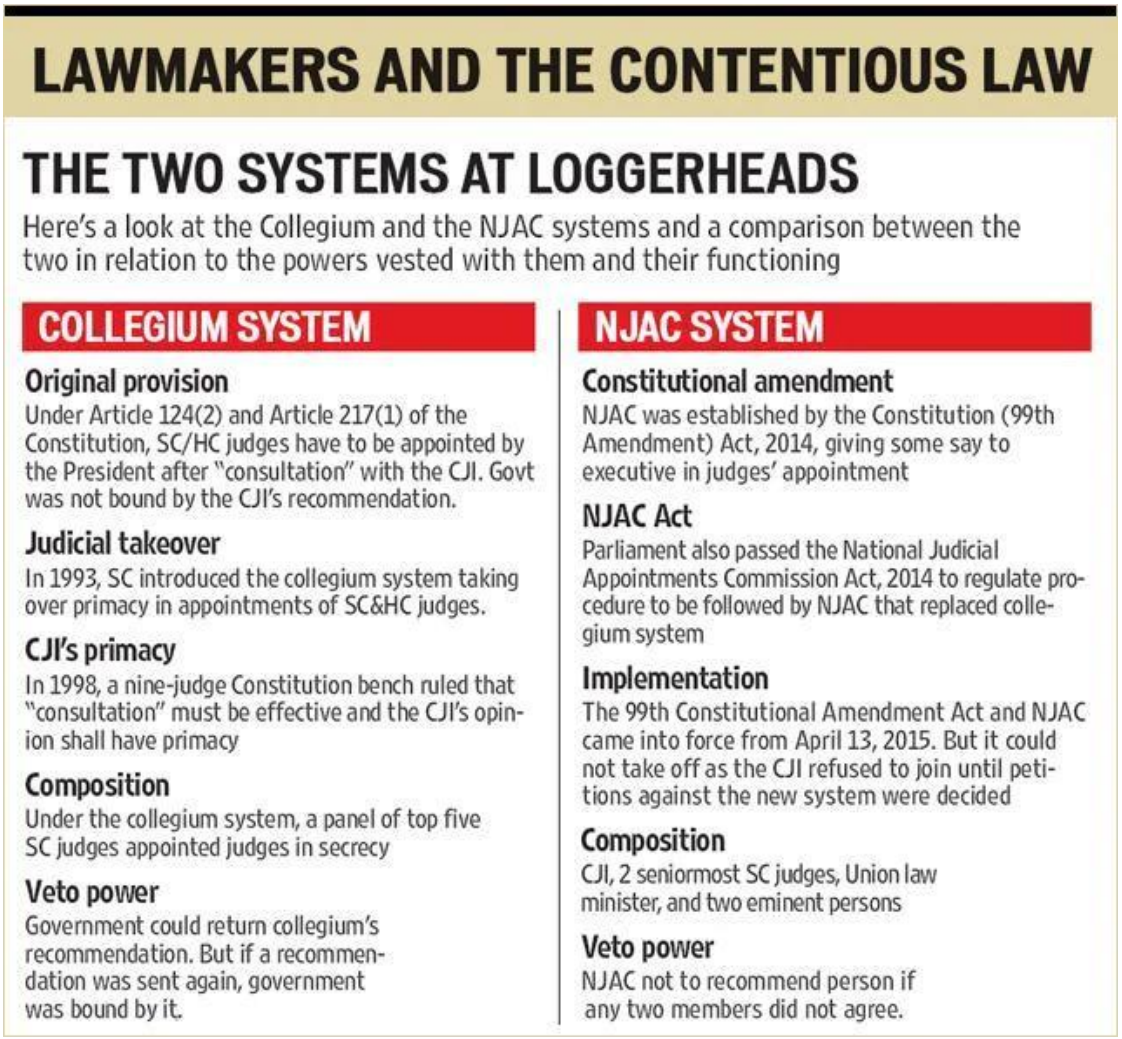
Second Judges Case (1993):

- SC introduced the Collegium system, holding that "consultation" really meant "concurrence".
- It added that it was not the CJI's individual opinion, but an institutional opinion formed in consultation with the two senior-most judges in the SC.

Third Judges Case (1998):

- SC on President's reference expanded the Collegium to a five-member body, comprising the CJI and four of his senior-most colleagues.
- The SC collegium is headed by the CJI and comprises four other senior most judges of the court.
- A HC collegium is led by its Chief Justice and four other senior most judges of that court.
- Names recommended for appointment by a HC collegium reaches the government only after approval by the CJI and the SC collegium.
- Judges of the higher judiciary are appointed only through the collegium system and the government has a role only after names have been decided by the collegium.
- The government's role is limited to getting an inquiry conducted by the Intelligence Bureau (IB) if a lawyer is to be elevated as a judge in a High Court or the Supreme Court.
- Intelligence Bureau (IB): It is a reputed and established intelligence agency. It is authoritatively controlled by the Ministry of Home Affairs.
- It can also raise objections and seek clarifications regarding the collegium's choices, but if the collegium reiterates the same names, the government is bound, under Constitution Bench judgments, to appoint them as judges.

➡ COLLEGIUM Vs. NJAC



LAWMAKERS AND THE CONTENTIOUS LAW

THE TWO SYSTEMS AT LOGGERHEADS

Here's a look at the Collegium and the NJAC systems and a comparison between the two in relation to the powers vested with them and their functioning

COLLEGIUM SYSTEM

Original provision
Under Article 124(2) and Article 217(1) of the Constitution, SC/HC judges have to be appointed by the President after "consultation" with the CJI. Govt was not bound by the CJI's recommendation.

Judicial takeover
In 1993, SC introduced the collegium system taking over primacy in appointments of SC&HC judges.

CJI's primacy
In 1998, a nine-judge Constitution bench ruled that "consultation" must be effective and the CJI's opinion shall have primacy

Composition
Under the collegium system, a panel of top five SC judges appointed judges in secrecy

Veto power
Government could return collegium's recommendation. But if a recommendation was sent again, government was bound by it.

NJAC SYSTEM

Constitutional amendment
NJAC was established by the Constitution (99th Amendment) Act, 2014, giving some say to executive in judges' appointment

NJAC Act
Parliament also passed the National Judicial Appointments Commission Act, 2014 to regulate procedure to be followed by NJAC that replaced collegium system

Implementation
The 99th Constitutional Amendment Act and NJAC came into force from April 13, 2015. But it could not take off as the CJI refused to join until petitions against the new system were decided

Composition
CJI, 2 seniormost SC judges, Union law minister, and two eminent persons

Veto power
NJAC not to recommend person if any two members did not agree.

➔ JURISDICTIONS OF SUPREME COURT

- The Constitution has conferred a very extensive jurisdiction and vast powers on the Supreme Court.
- It is not only a Federal Court like the American Supreme Court but also a final court of appeal like the British House of Lords (the Upper House of the British Parliament).
- It is also the final interpreter and guardian of the Constitution and guarantor of the fundamental rights of the citizens. Further, it has advisory and supervisory powers. Therefore, Alladi Krishnaswamy Ayyar, a member of the Drafting Committee of the Constitution, rightly remarked:

"The Supreme Court of India has more powers than any other Supreme Court in any part of the world."

The jurisdiction and powers of the Supreme Court can be classified into the following:

Original Jurisdiction

- As a federal court, the Supreme Court decides the disputes between different units of the Indian Federation. More elaborately, any dispute:

- Between the Centre and one or more states; or
- Between the Centre and any state or states on one side and one or more other states on the other side; or
- Between two or more states.

- In the above federal disputes, the Supreme Court has exclusive original jurisdiction. Exclusive means, no other court can decide such disputes and original means, the power to hear such disputes in the first instance, not by way of appeal.
- With regard to the exclusive original jurisdiction of the Supreme Court, two points should be noted. One, the dispute must involve a question (whether of law or fact) on which the existence or extent of a legal right depends. Thus, the questions of political nature are excluded from it. Two, any suit brought before the Supreme Court by a private citizen against the Centre or a state cannot be entertained under this.

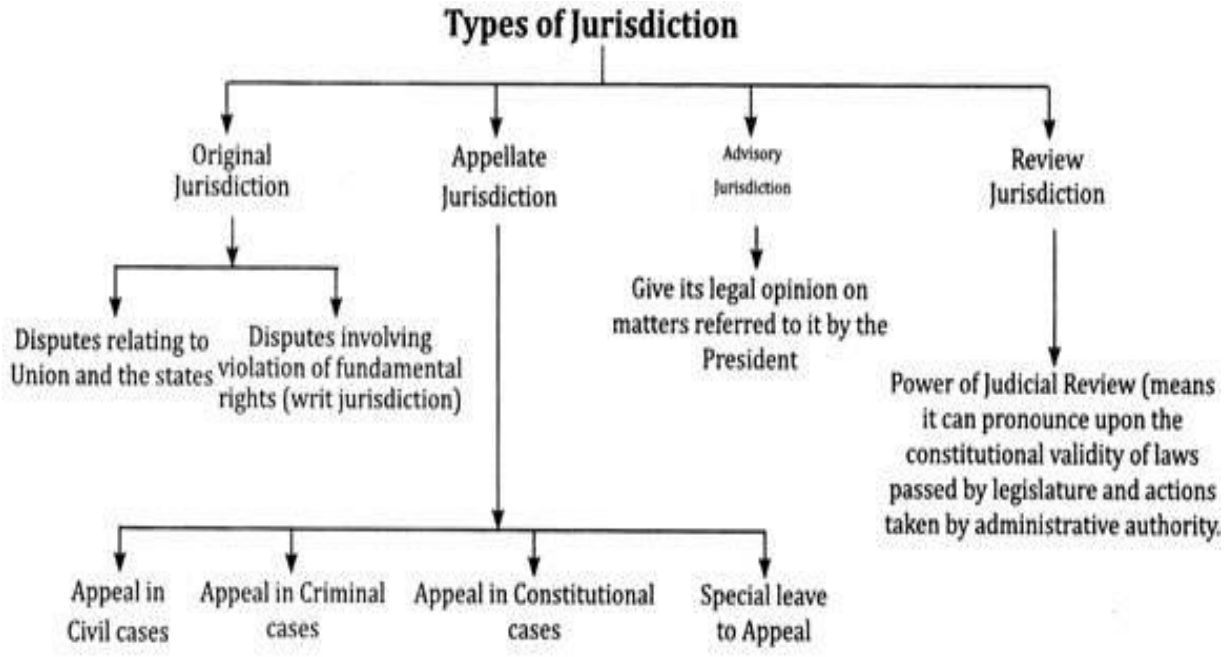
Writ Jurisdiction

- The Constitution has constituted the Supreme Court as the guarantor and defender of the fundamental rights of the citizens.
- The Supreme Court is empowered to issue writs including **habeas corpus, mandamus, prohibition, quo warranto and certiorari** for the enforcement of the fundamental rights of an aggrieved citizen. In this regard, the Supreme Court has original jurisdiction in the sense that an aggrieved citizen can directly go to the Supreme Court, not necessarily by way of appeal. However, the writ jurisdiction of the Supreme Court is not exclusive.
- The high courts are also empowered to issue writs for the enforcement of the Fundamental Rights. It means, when the Fundamental Rights of a citizen are violated, the aggrieved party has the option of moving either the high court or the Supreme Court directly.
- Therefore, the **original jurisdiction of the Supreme Court with regard to federal disputes** is different from its original jurisdiction with regard to disputes relating to fundamental rights. In the first case, it is exclusive and in the second case, it is concurrent with high courts jurisdiction. Moreover, the parties involved in the first case are units of the federation (Centre and states) while the dispute in the second case is between a citizen and the Government (Central or state).
- There is also a difference between the writ jurisdiction of the Supreme Court and that of the high court. The Supreme Court can issue writs only for the enforcement of the Fundamental Rights and not for other purposes. The high court, on the other hand, can issue writs not only for the enforcement of the fundamental rights but also for other purposes. It means that the writ jurisdiction of the high court is wider than that of the Supreme Court. But, the Parliament can confer on the Supreme Court, the power to issue writs for other purposes also.

Appellate Jurisdiction

- As mentioned earlier, the Supreme Court has not only succeeded the Federal Court of India but also replaced the British Privy Council as the highest court of appeal.
- The Supreme Court is primarily a court of appeal and hears appeals against the judgements of the lower courts. It enjoys a wide appellate jurisdiction which can be classified under four heads:

a. Appeals in constitutional matters.
b. Appeals in civil matters.
c. Appeals in criminal matters.
d. Appeals by special leave.



Advisory Jurisdiction

- The Constitution (Article 143) authorises the president to seek the opinion of the Supreme Court in the two categories of matters:

a) On any question of law or fact of public importance which has arisen or which is likely to arise.

b) On any dispute arising out of any pre-constitution treaty, agreement, covenant, engagement, sanad or other similar instruments.

- In the first case, the Supreme Court may tender or may refuse to tender its opinion to the president. But, in the second case, the Supreme Court 'must' tender its opinion to the president. In both the cases, the opinion expressed by the Supreme Court is only advisory and not a judicial pronouncement. Hence, it is not binding on the president; he may follow or may not follow the opinion. However, it facilitates the government to have an authoritative legal opinion on a matter to be decided by it.

A Court of Record

- As a Court of Record, the Supreme Court has two powers:

1. The judgements, proceedings and acts of the Supreme Court are recorded for perpetual memory and testimony. These records are admitted to be of evidentiary value and cannot be questioned when produced before any court. They are recognised as legal precedents and legal references.

2. It has power to punish for contempt of court, either with simple imprisonment for a term up to six months or with fine up to ₹2,000 or with both. In 1991, the Supreme Court has ruled that it has power to punish for contempt not only of itself but also of high courts, subordinate courts and tribunals functioning in the entire country.

- Contempt of court may be civil or criminal. Civil contempt means wilful disobedience to any judgement, order, writ or other process of a court or wilful breach of an undertaking given to a court. Criminal contempt means the publication of any matter or doing an act which–

- scandalises or lowers the authority of a court; or
- prejudices or interferes with the due course of a judicial proceeding; or
- interferes or obstructs the administration of justice in any other manner.

➡ JUDICIAL REVIEW

- Judicial review is **recognized as a necessary and a basic requirement** for construction up of a novel civilization in order to safeguard the liberty and rights of the individuals.
- The power of judicial review is significantly vested upon the **High Courts and the Supreme Court of India.**
- Under **Article 13 of the Indian Constitution, the compulsion of judicial review was described in fundamental rights in Part III**.
- It is stated that the State or the Union shall not make such rules that takes away or abridges the essential rights of the people. If any law made by the Parliament or the State Legislature contravenes the provisions of this Article, shall be void.
- Judicial Review can be understood as a form of court proceeding, usually in the Administrative Court where the lawfulness of a decision or action is reviewed by the judge. Where there is no effective means of challenge, judicial review is available.
- The concern behind Judicial Review is that whether the law has been correctly applied with and right procedures have been followed.

Mechanisms of Judicial Review

In India, three aspects are covered by judicial review that are as follows:

- Judicial review of legislative action
- Judicial review for judicial decision
- Judicial review of administrative action

Constitutional Provisions for Judicial Review

The court is entrusted with the task of deciding whether any of the constitutional limitations has been transgressed or not. Some provisions in the constitution supporting the process of judicial review are:

- **Article 13** declares that any law which contravenes any of the provisions of the part of Fundamental Rights shall be void.
- **Articles 32 and 226** entrusts the roles of the protector and guarantor of fundamental rights to the Supreme and High Courts.
- **Articles 131-136** entrusts the court with the power to adjudicate disputes between individuals, between individuals and the state, between the states and the union; but the court may be required to interpret the provisions of the constitution and the interpretation given by the Supreme Court becomes the law honoured by all courts of the land.
- **Article 137** gives a special power to the SC to review any judgment pronounced or order made by it. An order passed in a criminal case can be reviewed and set aside only if there are errors apparent on the record.
- **Article 245** states that the powers of both Parliament and State legislatures are subject to the provisions of the constitution.
- **Article 246 (3)** ensures the state legislature's exclusive powers on matters pertaining to the State List.
- **Article 251 and 254** states that in case of inconsistency between union and state laws, the state law shall be void.

Article 13 of the Indian Constitution

Laws inconsistent with or in derogation of the fundamental rights

1. All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void
2. The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void
3. In this article, unless the context otherwise requires law includes any Ordinance, order, bye law, rule, regulation, notification, custom or usages having in the territory of India the force of law; laws in force includes laws passed or made by Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas
4. Nothing in this article shall apply to any amendment of this Constitution made under Article 368 Right of Equality.

➡ MASTER OF ROSTER

- In the Indian legal context, the 'Master of Roster' refers to the **administrative power of the Chief Justice of India and the Chief Justices of the High Courts to allocate the matters** that their brother and sister judges shall be hearing, respectively.
- It means that the Chief Justice of India has this exclusive administrative authority to decide the allocation of cases brought or pending before the Supreme Court to his/her fellow judges. The same authority extends to the Chief Justices of the High Courts. No, other puisne judges have any say in this matter, as per the established convention.
- When the Chief Justice of India and the Chief Justices of the High Courts decide the roster or allocation of cases to their puisne judges or Benches, they do so under the administrative authority entrusted to them. In crux, a roster declares what work is assigned to High Court and Supreme Court judges.
- **'Master of the Roster'** refers to the privilege of the Chief Justice to constitute Benches to hear cases. Therefore, the Chief Justice of India and the Chief Justices of the High Courts enjoy and exercise both, the judicial as well as the administrative power. But, this is to be made clear that being 'Master of Roster' doesn't give the Chief Justice of India or the Chief Justices of the High Courts, any superior authority over puisne judges. The **Chief Justice is just first among the equals**.

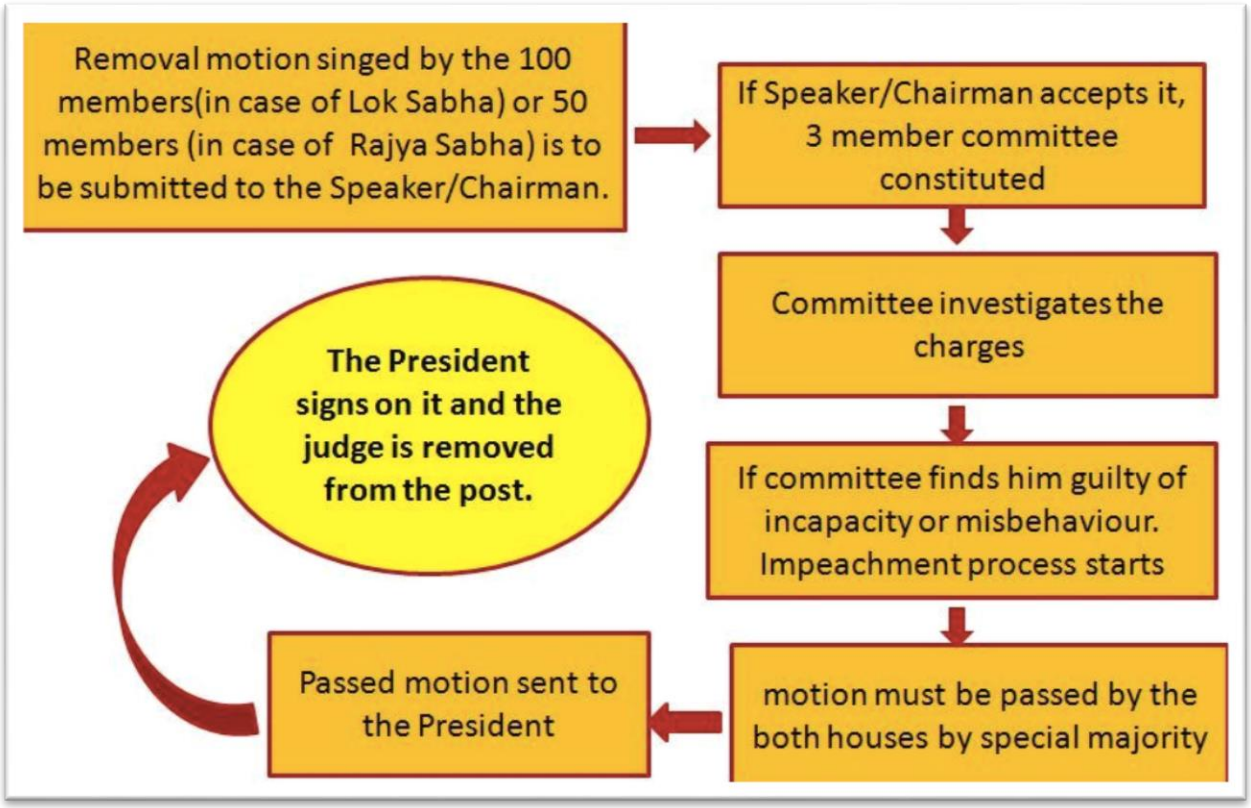
Master of Roster: The Legal Genesis

- A significant portion of the Indian Constitution is derived from the 'Government of India Act, 1935'. This Act, through its section **214(3) prescribed in relation to the then Federal Court of India**, that "Subject to the provisions of any rules of court, the Chief Justice of India shall determine what judges are to constitute any division of the court and what judges are to sit for any purpose."
- The Federal Court of India had been constituted under the 'Government of India Act, 1935' and continued to function until the Supreme Court of India was established in 1950. Thus, the Supreme Court of India is a successor institution of the Federal Court of India. Therefore, the said provision of the then 'Government of India Act, 1935' has been accepted as a sound convention for the smooth functioning of the Superior Courts, though there is no similar provision in the Constitution of India. However, **Article 145 of the Indian Constitution** provides power to the Supreme Court to frame its own rules to regulate the practice and procedure of the Court.

The Peculiarity in Indian Context

- The necessity of constituting different benches in India arises from the fact that the Indian Supreme Court or even the High Courts, hear a vast number of cases annually, unlike the Supreme Court of developed Countries.
- The Supreme Court and the High Courts hear a range of diverse matters on a daily basis. The advent of the concept of PIL has made the list of pendency longer. Therefore, this peculiarity of the excessive pendency of cases in India necessitates the constitution of several benches to decide the matters fast, and therefore the importance of 'Master of Roster' is significantly higher in Indian context than any other judicial systems of the world.

➡ REMOVAL OF S.C. JUDGE



➡ RECUSAL IN JUDICIARY

- When there is a conflict of interest, a judge can withdraw from hearing a case to prevent creating a perception that she carried a bias while deciding the case. The conflict of interest can be in many ways — from holding shares in a company that is a litigant to having a prior or personal association with a party involved in the case.
- The practice **stems from the cardinal principle of due process of law that nobody can be a judge in her own case**. Any interest or conflict of interest would be a ground to withdraw from a case since a judge has a duty to act fair. Another instance for recusal is when an appeal is filed in the Supreme Court against a judgement of a High Court that may have been delivered by the SC judge when she was in the HC.

Process for recusal

- The decision to recuse generally comes from the judge herself as it **rests on the conscience and discretion of the judge** to disclose any potential conflict of interest. In some circumstances, lawyers or parties in the case bring it up before the judge. If a judge recuses, the case is listed before the Chief Justice for allotment to a fresh Bench.
- There are no formal rules governing recusals, although several Supreme Court judgments have dealt with the issue.
- In **Ranjit Thakur v Union of India (1987),** the Supreme Court held that the tests of the likelihood of bias is the reasonableness of the apprehension in the mind of the party. "The proper approach for the Judge is not to look at his own mind and ask himself, however honestly, "Am I biased?" but to look at the mind of the party before him," the court had held. "A Judge shall not hear and decide a matter in a company in which he holds shares… unless he has disclosed his interest and no objection to his hearing and deciding the matter is raised," states the 1999 charter 'Restatement of Values in Judicial Life', a code of ethics adopted by the Supreme Court.

Can a judge refuse to recuse?

- Once a request is made for recusal, the decision to recuse or not rests with the judge. While there are some instances where judges have recused even if they do not see a conflict but only because such an apprehension was cast, there have also been several cases where judges have refused to withdraw from a case.
- For instance, in 2019, Justice Arun Mishra had controversially refused to recuse himself from a Constitution Bench set up to re-examine a judgement he had delivered previously, despite several requests from the parties. Justice Mishra had reasoned that the request for recusal was really an excuse for "forum shopping" and agreeing could compromise the independence of the judiciary.
- In the Ayodhya-Ramjanmabhoomi case, Justice U U Lalit recused himself from the Constitution Bench after parties brought to his attention that he had appeared as a lawyer in a criminal case relating to the case.

Do judges record reasons for recusal?

- Since there are no formal rules governing the process, it is often left to individual judges to record reasons for recusal. Some judges disclose the reasons in open court; in some cases, the reasons are apparent.
- The two Supreme Court judges who have recused from cases relating to West Bengal had been Calcutta High Court judges. The cases they have recused from relate to post-poll violence in the state and the Narada scam, which have become political battles between the state and Centre in court.
- In a landmark verdict in 2015 holding that the National Judicial Appointments Commission as unconstitutional, Justice Kurian Joseph and Justice Madan Lokur had referred to the need for judges to give reasons for recusal to build transparency and help frame rules to govern the process.

➡ HIGH COURT

- In the Indian single integrated judicial system, the high court operates below the Supreme Court but above the subordinate courts. The judiciary in a state consists of a high court and a hierarchy of subordinate courts. The high court occupies the top position in the judicial administration of a state.
- The institution of high court originated in India in 1862 when the high courts were set up at Calcutta, Bombay and Madras1. In 1866, a fourth high court was established at Allahabad. In the course of time,

each province in British India came to have its own high court. After 1950, a high court existing in a province became the high court for the corresponding state.

- The Constitution of India provides for a high court for each state, but the Seventh Amendment Act of 1956 authorised the Parliament to establish a common high court for two or more states or for two or more states and a union territory.

Terms of Office

- The Constitution has not fixed the tenure of a judge of a high court. However, it makes the following four provisions in this regard:

1. He holds office until he attains the age of 62 years. Any questions regarding his age is to be decided by the president after consultation with the chief justice of India and the decision of the president is final.
2. He can resign his office by writing to the president.
3. He can be removed from his office by the President on the recommendation of the Parliament.
4. He vacates his office when he is appointed as a judge of the Supreme Court or when he is transferred to another high court.

Removal of Judges

- A judge of a high court can be removed from his office by an order of the President. The President can issue the removal order only after an address by the Parliament has been presented to him in the same session for such removal.
- The address must be supported by a special majority of each House of Parliament (i.e., a majority of the total membership of that House and majority of not less than two-thirds of the members of that House present and voting). The grounds of removal are two–proved misbehaviour or incapacity.
- Thus, a judge of a high court **can be removed in the same manner and on the same grounds as a judge of the Supreme Court.**
- The Judges Enquiry Act (1968) regulates the procedure relating to the removal of a judge of a high court by the process of impeachment:

1. A removal motion signed by 100 members (in the case of Lok Sabha) or 50 members (in the case of Rajya Sabha) is to be given to the Speaker/Chairman.
2. The Speaker/Chairman may admit the motion or refuse to admit it.
3. If it is admitted, then the Speaker/ Chairman is to constitute a three-member committee to investigate into the charges.
4. The committee should consist of:

a. the chief justice or a judge of the Supreme Court,
b. a chief justice of a high court, and
c. a distinguished jurist.

5. If the committee finds the judge to be guilty of misbehaviour or suffering from an incapacity, the House can take up the consideration of the motion.
6. After the motion is passed by each House of Parliament by special majority, an address is presented to the president for removal of the judge.
7. Finally, the president passes an order removing the judge.

From the above, it is clear that the procedure for the impeachment of a judge of a high court is the same as that for a judge of the Supreme Court. It is interesting to know that no judge of a high court has been impeached so far.

Powers and Functions

- At present, a high court enjoys the following jurisdiction and powers:

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:

a. Matters of admirality and contempt of court.

b. Disputes relating to the election of members of Parliament and state legislatures.

c. Regarding revenue matter or an act ordered or done in revenue collection.

d. Enforcement of fundamental rights of citizens.

e. Cases ordered to be transferred from a subordinate court involving the interpretation of the Constitution to its own file.

f. The four high courts (i.e., Calcutta, Bombay, Madras and Delhi High Courts) have original civil jurisdiction in cases of higher value.

Before 1973, the Calcutta, Bombay and Madras High Courts also had original criminal jurisdiction. This was fully abolished by the Criminal Procedure Code, 1973.

Writ jurisdiction

- **Article 226** of the Constitution empowers a high court to issue writs including habeas corpus, mandamus, certiorari, prohibition and quo warranto for the enforcement of the fundamental rights of the citizens and for any other purpose.
- The phrase 'for any other purpose' refers to the enforcement of an ordinary legal right. The high court can issue writs to any person, authority and government not only within its territorial jurisdiction but also outside its territorial jurisdiction if the cause of action arises within its territorial jurisdiction.
- The **writ jurisdiction of the high court (under Article 226)** is not exclusive but concurrent with the writ jurisdiction of the Supreme Court (under Article 32). It means, when the fundamental rights of a citizen are violated, the aggrieved party has the option of moving either the high court or the Supreme Court directly.
- However, the writ jurisdiction of the high court is wider than that of the Supreme Court. This is because, the Supreme Court can issue writs only for the enforcement of fundamental rights and not for any other purpose, that is, it does not extend to a case where the breach of an ordinary legal right is alleged.

Appellate jurisdiction

- A high court is primarily a court of appeal. It hears appeals against the judgements of subordinate courts functioning in its territorial jurisdiction.
- It has appellate jurisdiction in both civil and criminal matters. Hence, the appellate jurisdiction of a high court is wider than its original jurisdiction.

Subordinate Court

- The state judiciary consists of a high court and a hierarchy of subordinate courts, also known as **lower courts**. The subordinate courts are so called because of their subordination to the state high court.
- The organisational structure, jurisdiction and nomenclature of the **subordinate judiciary are laid down by the states.** Hence, they differ slightly from state to state. Broadly speaking, there are three tiers of civil and criminal courts below the High Court. This is shown as follows:

1. The **district judge is the highest judicial authority** in the district. He possesses original and appellate jurisdiction in both civil as well as criminal matters. In other words, the district judge is also the **sessions judge.**

   When **he deals with civil cases, he is known as the district judge** and when **he hears the criminal cases, he is called as the sessions judge.** The district judge exercises both judicial and administrative powers. He also has supervisory powers over all the subordinate courts in the district. Appeals against his orders and judgements lie to the High Court. The sessions judge has the power to impose any sentence including life imprisonment and capital punishment (death sentence). However, a capital punishment passed by him is subject to confirmation by the High Court, whether there is an appeal or not.
2. Below the District and Sessions Court stands the **Court of Subordinate Judge on the civil side** and the **Court of Chief Judicial Magistrate on the criminal side**. The subordinate judge exercises unlimited pecuniary jurisdiction over civil suits. The chief judicial magistrate decides criminal cases which are punishable with **imprisonment for a term up to seven years**.
3. At the lowest level, on the **civil side, is** the **Court of Munsiff** and on the criminal side, is the Court of Judicial Magistrate. The **munsiff possesses limited jurisdiction** and decides civil cases of small pecuniary stake. The **judicial magistrate tries criminal cases which are punishable with imprisonment for a term up to three years.**

- In some **metropolitan cities, there are city civil courts (chief judges)** on the civil side and the courts of **metropolitan magistrates on the criminal side.**
- Some of the States and Presidency towns have established small causes courts. These courts decide the civil cases of small value in a summary manner. Their decisions are final, but the High Court possesses a power of revision.
- In some states, Panchayat Courts try petty civil and criminal cases. They are variously known as Nyaya Panchayat, Gram Kutchery, Adalati Panchayat, Panchayat Adalat and so on.

➡ SESSIONS COURT

- In India, the Court of Sessions, commonly referred to as Sessions Court, has been established by the state government for every sessions division and it is presided over by a Sessions Court judge.
- The judge is appointed by the High Court of the state. Keep in mind that there is only one Sessions Court in each division at different places. Also, it comes within the purview of a specific number of judges.
- **Sections 225 to 237 of The Code of Criminal Procedure** deal with the procedure in trials before a Court of Sessions. In case the office of the Sessions Judge is vacant, the High Court can make necessary arrangements for any urgent matter or application that is pending before the court mentioned above to be dealt with by an Additional or an Assistant Sessions Judge or in their absence, by a Chief Judicial Magistrate (CJM).

What is the difference between Civil Court and Sessions Court?

- A Civil Court deals with disputes related to civil law, whereas a **Sessions Court usually deals with criminal cases**. Can a Sessions Court give a death sentence? **As per section 366 (i) CrPC, the Sessions Court judge can do so**.

What are the functions of a Sessions Court?

- A trial before a Sessions judge begins after an accused pleads guilty or not guilty, and the judge, therefore, proceeds to follow the procedure as per section 231, Cr PC. At the first hearing in a Sessions court, the public prosecutor opens the case by highlighting the charges framed against the accused.
- Upon hearing the submission and evidence presented from both sides, the Sessions Court judge can decide any of the following:
- Whether to discharge the accused if sufficient grounds are not established;
- Frame charges if there is adequate ground for presuming that the said accused committed an offence that is exclusively triable by the sessions court;
- Read out the charge, explain its meaning to the accused and record the accused's plea at the Sessions Court;
- If the Sessions Court judge feels that the offence that has been made out against the said accused is not exclusively to be tried in the Sessions Court, then the concerned judge can opt to transfer the case to the Chief Judicial Magistrate (CJM);
- In case, however, the accused pleads guilty, then the Sessions Court judge can convict him. Otherwise, a date for the hearing of the prosecution's evidence can be fixed;
- A Sessions Court judge can also compel the attendance of witnesses if the prosecution applies for it as part of the hearing of evidence. At the stage of framing charges in a Sessions Court, the material that is produced by the prosecution alone is to be considered;
- Also, while framing charges, meticulous examination of evidence and material is not required. Strong suspicion against the accused is sufficient ground to frame charges.

➡ CENTRAL ADMINISTRATIVE TRIBUNAL (CAT)

- Article **323A** of the Constitution provides that Parliament may by law establish an administrative tribunal for the Union and a separate administrative tribunal for each State or for two or more States for adjudication of disputes - with respect to recruitment and conditions of service of persons appointed to public services and posts – by Union, States, any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government.
- **Article 323B** provides for constitution of Tribunal for other matters as provided by appropriate legislatures.
- **Article 323A** and **323B** was added by Constitution **42nd Amendment**.
- Pursuant to **Article 323A**, the Parliament has enacted The Administrative Tribunals Act, 1985 which provides for establishment of Central Administrative Tribunal, State Administrative Tribunal and Joint Administrative Tribunal. The Joint Administrative Tribunal may be constituted for two or more States.
- The Central Administrative Tribunal shall consist of a Chairman and such number of Judicial and Administrative Members as decided by the Central Government.
- The Chairman and every other Member of the Central Administrative Tribunal shall be **appointed after consultation with the Chief Justice of India** by the President.
- The Chairman and every other Member of an Administrative Tribunal for a State shall be appointed by the President after consultation with the Governor of the concerned State.

Tenure

- The Chairman shall hold office as such for a term of **five years** from the date on which he enters upon his office. However, Chairman shall not hold office as such after he has attained the age of sixty-eight years.
- A Member shall hold office as such for a term of five years from the date on which he enters upon his office extendable by one more term of five years. No Member shall hold office after he has attained the age of sixty-five years.

Jurisdiction

- The Central Administrative Tribunal shall exercise all the jurisdiction, powers and authority in relation to

- Recruitment and matters concerning recruitment, to any All-India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services.
- All service matters concerning - a member of any All-India Service; or A person appointed to any civil service of the Union or any civil post under the Union; A civilian appointed to any defence services or a post connected with defence.

➡ NALSA

- **Article 39** A of the Constitution of India provides for free legal aid to the poor and weaker sections of the society, to promote justice on the basis of equal opportunity. **Article 14 and Article 22 (1),** obligate the State to ensure equality before the law.
- Constituted under the **Legal Services Authorities Act of 1987**, the National Legal Services Authority of India was established to create a nationwide network uniform in nature that would provide competent legal services to the weaker sections of the society at no cost. The Authority came into force only in November 1995.
- Another function of NALSA is to **organize Lok Adalats** for a quick resolution of the cases.
- The **Patron-in-chief is the Chief Justice of India**.
- The **Executive Chairman of the Authority is the second senior-most judge of the SC.**
- At the **state level,** the State Legal Services Authority has been constituted to give effect to the policies of NALSA at the state level, and also to conduct Lok Adalats in the states. NALSA provides funds for the State Legal Services Authority for the implementation of the various legal aids and programmes.
- At the **district level** also, the District Legal Services Authority has been established.
- **Taluk Legal Services Committees** are also constituted for each of the Taluk or Mandal or for a group of Taluk or Mandals to coordinate the activities of legal services in the Taluk and to organise Lok Adalats. Every Taluk Legal Services Committee is headed by a **senior Civil Judge** operating within the jurisdiction of the Committee who is its ex-officio Chairman.

Objective: The prime objective of NALSA is speedy disposal of cases and reducing the burden of the judiciary. Other objectives can be listed as follows:

- Spreading Legal Awareness;
- Organizing Lok Adalats;
- Promoting dispute settlements;
- Providing the victims of crime with compensation.

➡ LOK ADALAT

- The term 'Lok Adalat' means **'People's Court'** and is based on Gandhian principles.
- As per the Supreme Court, it is an old form of adjudicating system prevailed in ancient India and its validity has not been taken away even in the modern days too.
- It is one of the components of the **Alternative Dispute Resolution (ADR) system** and delivers informal, cheap and expeditious justice to the common people.
- The first **Lok Adalat camp was organised in Gujarat in 1982** as a voluntary and conciliatory agency without any statutory backing for its decisions.
- In view of its growing popularity over time, it was given **statutory status under the Legal Services Authorities Act, 1987.** The Act makes the provisions relating to the organisation and functioning of the Lok Adalats.

Organisation

- The State/District Legal Services Authority or the Supreme Court/High Court/Taluk Legal Services Committee may organise Lok Adalats at such intervals and places and for exercising such jurisdiction and for such areas as it thinks fit.
- Every Lok Adalat organised for an area shall consist of such number of serving or retired judicial officers and other persons of the area as may be specified by the agency organising.
- Generally, a Lok Adalat consists of a **judicial officer as the chairman** and **a lawyer (advocate) and a social worker as members.**
- National Legal Services Authority (NALSA) along with other Legal Services Institutions conducts Lok Adalats.

Jurisdiction

- A Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of:

  - Any case pending before any court, or
  - Any matter which is falling within the jurisdiction of any court and is not brought before such court.
  - Any case pending before the court can be referred to the Lok Adalat for settlement if:
    - Parties agree to settle the dispute in the Lok Adalat or one of the parties applies for referral of the case to the Lok Adalat or court is satisfied that the matter can be solved by a Lok Adalat.
    - In the case of a pre-litigation dispute, the matter can be referred to the Lok Adalat on receipt of an application from any one of the parties to the dispute.
  - Matters such as matrimonial/family disputes, criminal (compoundable offences) cases, land acquisition cases, labour disputes, workmen's compensation cases, bank recovery cases, etc. are being taken up in Lok Adalats.

- However, the Lok Adalat shall have no jurisdiction in respect of any case or matter relating to an offence not compoundable under any law. In other words, the offences which are **non-compoundable under any law** fall outside the purview of the Lok Adalat.

  *(**Note:** Non-Compoundable offenses are classified under CrPc. Non-Compoundable offenses are those offenses which are serious in nature.)*

Powers

- The Lok Adalat shall have the same powers as are vested in a **Civil Court** under the Code of Civil Procedure (1908).

- Further, a Lok Adalat shall have the requisite powers to specify its own procedure for the determination of any dispute coming before it.
- All proceedings before a Lok Adalat shall be deemed to be judicial proceedings within the meaning of the Indian Penal Code (1860) and every Lok Adalat shall be deemed to be a Civil Court for the purpose of the Code of Criminal Procedure (1973).
- An award of a Lok Adalat shall be **deemed to be a decree of a Civil Court** or an order of any other court.
- **Every award made by a Lok Adalat shall be final and binding on all the parties to the dispute**. No appeal shall lie to any court against the award of the Lok Adalat.

Benefits

- There is **no court fee** and if court fee is already paid the amount will be refunded if the dispute is settled at Lok Adalat.
- There is **procedural flexibility and speedy trial** of the disputes. There is no strict application of procedural laws while assessing the claim by Lok Adalat.
- The **parties to the dispute can directly interact with the judge** through their counsel which is not possible in regular courts of law.
- The **award by the Lok Adalat is binding on the parties** and it has the status of a decree of a civil court and it is non-appealable, which does not cause the delay in the settlement of disputes finally.

➡ ADMINISTRATIVE TRIBUNALS

- The enactment of **Administrative Tribunals Act in 1985** opened a new chapter in the sphere of administering justice to the aggrieved government servants.
- Administrative Tribunals Act owes its origin to **Article 323-A of the Constitution** which empowers Central Government to set-up by an Act of Parliament, Administrative Tribunals for adjudication of disputes and complaints with respect to recruitment and conditions of service of persons appointed to the public service and posts in connection with the affairs of the Union and the States.
- The Act provides for establishment of Central Administrative Tribunal (CAT) and the State Administrative Tribunals. The CAT was set-up on 1 November 1985. Today, it has 17 regular benches, 15 of which operate at the principal seats of High Courts and the remaining two at Jaipur and Lucknow.
- These Benches also hold circuit sittings at other seats of High Courts. In brief, the tribunal consists of a Chairman, Vice-Chairman and Members. The Members are drawn, both from judicial as well as administrative streams so as to give the Tribunal the benefit of expertise both in legal and administrative spheres.
- The Administrative Tribunals exercise jurisdiction only in relation to the service matters of the litigants covered by the Act. The procedural simplicity of the Act can be appreciated from the fact that the aggrieved person can also appear before it personally. The Government can present its case through its departmental officers or legal practitioners.
- Thus, the objective of the Tribunal is to provide for speedy and inexpensive justice to the litigants.
- As a result of the judgement in 1997 of the Supreme Court, the appeals against the orders of an Administrative Tribunal shall lie before the **Division Bench of the concerned High Court**.

➡ TRIBUNALS

- **Article 323B in the Constitution of India**: The appropriate Legislature may, by law, provide for the adjudication or trial by tribunals of any disputes, complaints, or offences with respect to all or any of the matters specified to which such Legislature has power to make laws.
- The matters referred are the following, namely:

(a) levy, assessment, collection and enforcement of any tax;

(b) foreign exchange, import and export across customs frontiers;

(c) industrial and labour disputes;

(d) land reforms by way of acquisition by the State of any estate as defined in Article 31A or of any rights therein or the extinguishment or modification of any such rights or by way of ceiling on agricultural land or in any other way;

(e) ceiling on urban property;

(f) elections to either House of Parliament or the House or either House of the Legislature of a State, but excluding the matters referred to in Article 329 and Article 329A;

(g) production, procurement, supply and distribution of foodstuffs (including edible oilseeds and oils) and such other goods as the President may, by public notification, declare to be essential goods for the purpose of this article and control of prices of such goods;

(h) offences against laws with respect to any of the matters specified in sub clause (a) to (g) and fees in respect of any of those matters;

(i) any matter incidental to any of the matters specified in sub clause (a) to (h).

➡ NCLT

- National Company Law Tribunal is the outcome of the **Eradi Committee**. NCLT was intended to be introduced in the Indian legal system in 2002 under the framework of Companies Act, 1956 however, due to the litigation with respect to the constitutional validity of NCLT which went for over 10 years, therefore, it was notified under the Companies Act, 2013.
- It is a **quasi-judicial authority** incorporated for dealing with corporate disputes that are of civil nature arising under the Companies Act.
- NCLT **works on the lines of a normal Court of law** in the country and is obliged to fairly and without any biases determine the facts of each case and decide with matters in accordance with principles of natural justice and in the continuance of such decisions, offer conclusions from decisions in the form of orders.
- The orders so formed by NCLT could assist in **resolving a situation, rectifying a wrong done by any corporate or levying penalties and costs and might alter the rights, obligations, duties or privileges** of the concerned parties. The Tribunal isn't required to adhere to the severe rules with respect to appreciation of any evidence or procedural law.

➔ MAJOR FUNCTIONS OF NCLT

Registration of Companies

- The new Companies Act, 2013 has enabled questioning the legitimacy of companies because of specific procedural errors during incorporation and registration.
- NCLT has been empowered in taking several steps, from cancelling the registration of a company to dissolving any company.

- The Tribunal could even render the liability or charge of members to unlimited.
- With this approach, NCLT can de-register any company in specific situations when the registration certificate has been obtained by wrongful manner or illegal means under section 7(7) of the Companies Act, 2013.

Transfer of shares

- NCLT is also empowered to hear grievances of rejection of companies in transferring shares and securities and under section 58- 59 of the Act which were at the outset were under the purview of the Company Law Board.
- Going back to Companies Act, 1956 the solution available for rejection of transmission or transfer were limited only to the shares and debentures of a company but as of now the prospect has been raised under the Companies Act, 2013 and the now covers all the securities which are issued by any company.

Deposits

- The Chapter V of the Act deals with deposits and was notified several times in 2014 and Company Law Board was the prime authority for taking up the cases under said chapter. Now, such powers have been vested with NCLT.
- The provisions with respect to the deposits under the Companies Act, 2013 were notified prior to the inception of the NCLT. Unhappy depositors now have a remedy of class actions suits for seeking remedy for the omissions and acts on part of the company that impacts their rights as depositors.

Power to investigate

- As per the provision of the Companies Act, 2013 investigation about the affairs of the company could be ordered with the help of an application of 100 members. Moreover, if a person who isn't related to a company and is able to persuade NCLT about the presence of conditions for ordering an investigation then NCLT has the power for ordering an investigation.
- An investigation which is ordered by the NCLT could be conducted within India or anywhere in the world. The provisions are drafted for offering and seeking help from the courts and investigation agencies and of foreign countries.

Freezing assets of a company

The NCLT isn't just empowered to freezing the assets of a company for using them at a later stage when such company comes under investigation or scrutiny, such investigation could also be ordered on the request of others in specific conditions.

Converting a public limited company into a private limited company

- Sections 13-18 of the Companies Act, 2013 read with rules control the conversion of a Public limited company into the Private limited company, such conversion needs an erstwhile confirmation from the NCLT.
- NCLT has the power under section 459 of the Act, for imposing specific conditions or restrictions and might subject granting approvals to such conditions.

➡ ADHOC JUDGES

- With a backlog of over 57 lakh cases, and a vacancy level of 40% in High Courts, the Supreme Court's decision to invoke a "dormant provision" in the Constitution to clear the way for appointment of retired judges as ad hoc judges to clear the mounting arrears in the various High Courts is an indication of the extraordinary delay in filling up judicial vacancies.
- The Court has chosen to activate **Article 224A of the Constitution**, which provides for appointment of ad hoc judges in the High Courts based on their consent.

Article 224A

- The **Chief Justice of a High Court for any State** may at any time, with the **previous consent of the President, request any person who has held the office of judge of that court or of any other High Court** to sit and act as a judge of the High Court for that State, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be a judge of that High Court.
- Provided that nothing in this Article shall be deemed to require any such person as aforesaid to sit and act as a judge of that High Court unless **he consents so to do.**

➡ ATTORNEY GENERAL OF INDIA

- **Article 76** of the constitution mentions that he/she is the **highest law officer of India**. As a chief legal advisor to the government of India, he advises the union government on all legal matters.
- He also is the primary lawyer representing Union Government in the Supreme Court of India. The Attorney General, like an Advocate General of a State, is not supposed to be a political appointee, in spirit, but this is not the case in practice.
- The Attorney General (AG) of India is a **part of the Union Executive**. He can be part of any court in the Indian Territory.
- He got the right to speak and to take part in the proceedings of both the Houses of Parliament (Read about the difference between Lok Sabha and Rajya Sabha here) or their joint sitting and any committee of the Parliament of which he may be named a member
- He has no right to vote when he participates in the proceedings of the Indian Parliament
- Similar to Member of Parliament, he also enjoys all powers related to immunities and privileges
- He is **not considered as a government servant.**
- He **can practise privately too** as he is not debarred from private legal practice.
- The Attorney General has the right to speak and to take part in the proceedings of both the Houses of Parliament or their joint sitting and any committee of the Parliament of which s/he may be named a member but without a right to vote.

President of India appoints a person who is qualified for the post of Supreme Court Judge. Attorney General is appointed by the President on the advice of the government. There are the following qualifications:

- He should be an Indian Citizen
- He must have either completed 5 years in High Court of any Indian state as a judge or 10 years in High Court as an advocate
- He may be an eminent jurist too, in the eye of the President

- There is no fixed term for the Attorney General of India. The Constitution mentions no specified tenure of Attorney General. Similarly, the Constitution also does not mention the procedure and ground of his removal.

- He can be removed by the President at any time
- He can quit by submitting his resignation only to the President
- Since, he is appointed by the President on the advice of the Council of Ministers, conventionally he is removed when the council is dissolved or replaced

Being the Chief Law Officer of the country, the Attorney General of India has to perform the following duties:

- Whichever legal matters are referred to him by the President, he advises the Union government upon the same.
- President keeps on referring him legal matters that suits his interest and Attorney General has to advise on those too
- Apart from what President refers, he also performs the duties mentioned in the Constitution

The three duties that are assigned to him by the President are:

- In any legal case where the government of India is related to, the Attorney General has to appear in the Supreme Court on its behalf
- He has to represent the Union Government in any reference made by the President to the Supreme Court under Article 143 of the Constitution
- He also appears in the High Court if any case is related to the Government of India

What are the limitations on the Attorney General?

- He should not advise or hold a brief against the Government of India
- He should not advise or hold a brief in cases in which he is called upon to advise or appear for the Government of India
- He should not defend accused persons in criminal prosecutions without the permission of the Government of India
- He should not accept appointment as a director in any company or corporation without the permission of the Government of India

➡ SOLICITOR GENERAL OF INDIA

- Solicitor General is the **second highest law officer** in the country.
- He is **subordinate to the Attorney General of India**, the highest law officer and works under him.
- He also advises the government in legal matters.
- Solicitor general is appointed for period of three years by Appointment Committee of Cabinet chaired by Prime Minister.

Duties

- To give advice to the Government of India upon such legal matters, and to perform such other duties of a legal character, as may from time to time, be referred or assigned to him by the Government of India.

- To appear, whenever required, in the Supreme Court or in any High Court on behalf of the Government of India in cases (including suits, writ petitions, appeal and other proceedings) in which the Government of India is concerned as a party or is otherwise interested.
- To represent the Government of India in any reference made by the President to the Supreme Court under Article 143 of the Constitution.

➡ CONSUMER COURTS IN INDIA

The Consumer Protection Act, 1986 (COPRA) was passed by the Indian parliament and came into force on December 1986. The Act was passed to protect the consumers' interest as well as to establish state bodies to deal with consumer problems and anything that arises thereof.

- Consumer courts were established as **Consumer Dispute Resolution Agencies** and they deal with consumer disputes, conflicts and grievances.
- It is a forum where a consumer may file a case against a seller in the case where the consumer feels that he has been cheated or exploited by the seller.
- The point of having a separate forum for consumer disputes is to ensure that such disputes are speedily resolved and make is less expensive.

Types of Consumer Courts

COPRA provides for the formation of consumer courts, under the Act there are three tiers of Consumer Courts they are as follows:

- **District Consumer Dispute Redressal Forum (DCDRF):** The DCDRF operates at a district level.
- **State Consumer Dispute Redressal Commission (SCDRC):** The SCDRC operates at a state level.
- **National Consumer Dispute Redressal Commission (NCDRC):** The NCDRC is the apex court.

Jurisdiction

The jurisdictions of the courts are based on the hierarchy of the courts;

Pecuniary Jurisdiction:

- The District Consumer Dispute Redressal Forum has the pecuniary jurisdiction of up to an **amount that does not exceed 20 lakhs.**
- The State Consumer Dispute Redressal Commission has the pecuniary jurisdiction **where the claim exceeds 20 lakhs but does not exceed 1 crore rupees.**
- The Nation Consumer Dispute Redressal Commission has the pecuniary jurisdiction where the claim **exceeds the amount of 1 crore rupees.**

Territorial Jurisdiction:

Territorial jurisdiction is to be taken into consideration after establishing pecuniary jurisdiction. A complaint may be filed in the court that is within those local limits where;

- When the opposite party voluntarily resides in or works in those local limits.
- Where the cause of action arises from.
- To determine where the cause of action arises you can apply the same laws applicable to contract law.

- **Transactions done online effectively negates territorial jurisdiction**. In this case, territorial jurisdiction is in any of the multiple places the cause of action arises, which also includes where the appellant resides.

Appellate Jurisdiction:

- If a consumer is not satisfied by the decision made by the district forum they may make an appeal to the state commission.
- If the consumer is aggrieved by the decision made by the state commission they may appeal to the national commission.
- If a consumer is not satisfied by the decision made by the national commission they may approach the Supreme Court for an appeal.

Composition

The Consumer Protection Act, 1986 provides for the composition of each of the courts.

District Consumer Dispute Redressal Forum: Each district forum is to consist of -

- a person who is, or has been, or is qualified to be a District Judge, who shall be its President;
- two other members, who shall be persons of ability, integrity and standing, and have adequate knowledge or experience of, or have shown capacity in dealing with, problems relating to economics, law, commerce, accountancy, industry, public affairs or administration, one of whom shall be a woman.

State Consumer Dispute Redressal Forum: Each State Commission shall consist of –

- a person who is or has been a Judge of a High Court, appointed by the State Government, who shall be its President :
- Provided that no appointment under this clause shall be made except after consultation with the Chief Justice of the High Court;
- two other members, who shall be persons of ability, integrity and standing and have adequate knowledge or experience of, or have shown capacity in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration, one of whom shall be a woman :
- Provided that every appointment made under this clause shall be made by the State Government on the recommendation of a selection committee consisting of the following, namely:- (i) President of the State Commission – Chairman, (ii) Secretary of the Law Department of the State – Member, (iii) Secretary, in-charge of Department dealing with consumer affairs in the State – Member.

National Consumer Dispute Redressal Forum: The National Commission shall consist of –

- a person who is or has been a Judge of the Supreme Court, to be appointed by the Central Government, who shall be its President :
- Provided that no appointment under this clause shall be made except after consultation with the Chief Justice of India;
- four other members who shall be persons of ability, integrity and standing and have adequate knowledge or experience of, or have shown capacity in dealing with, problems relating to economics, law, commerce, accountancy. industry, public affairs or administration, one of whom shall be a woman :
- Provided that every appointment made under this clause shall be made by the Central Government on the recommendation of a selection committee consisting of the following, namely:-

- A person who is a Judge of the Supreme Court to be nominated by the Chief Justice of India – Chairman,
- The Secretary in the Department of Legal Affairs in the Government of India – Member,
- Secretary of the Department dealing with consumer affairs in the Government of India – Member.

Powers and Functions

The powers and functions of the commission are enumerated in section 4 of the act. Section 4(1) states the functions as follows.

Functions

- **Advisory role** to ministers of general consumer issues.
- **Formulation and implementation** of consumer protection policies
- **Carry out investigation** upon the complaint of an aggrieved consumer into the selling of goods or provision of service so as to determine whether the complaining consumer was genuinely aggrieved.
- Carry out an investigation of its own initiative.
- **Promote the development of organizations** formed for the protection of consumers
- **Collect, analyse and publish information** on any trade or business.
- **Educate consumers** on their rights
- **Resolve disputes** between consumers and providers
- Carry such functions as the minister may direct from time to time.

Powers

- The consumer commission has **the power to do anything that it deems to be necessary** for it to meet and perform its functions.
- It may take any action that it may so deem advantageous or convenient for or in connection with carrying out its functions or to be incidental to their proper discharge and may carry on any activities in that behalf either alone or in association with any other person or body.

➡ LAW COMMISSION

- The Law Commission of India is a **non-statutory body** constituted by the Government of India from time to time. The Commission was originally constituted in 1955 and is re-constituted every three years.
- Constitution of India does not provide for creation of Law Commission of India and hence, it is not a constitutional body.
- It is constituted through a government order and hence, it is created through an executive order.
- The Reports of the **Law Commission are considered by the Ministry of Law and Justice in consultation** with the concerned administrative Ministries and are submitted to Parliament from time to time.
- The reports of Law Commission are cited in Courts, in academic and public discourses and are acted upon by concerned Government Departments depending on the Government's recommendations.
- After independence, the first law commission was constituted for a period of three years from 1955-1958 under the Chairmanship of Mr. M. C. Setalvad.
- It plays a crucial role—from suggesting new laws to changing outdated colonial laws and updating them to present times.

- Periodically, the Supreme Court also decides matters under Article 142 because of which changes need to be made. The Commission steps in then.
- India is also a signatory to many treaties under which we have statutory obligations which the Commission has worked to ensure.
- Occasionally, the Commission also takes up matters suo motu. For example, the 20th Commission worked on leprosy affected persons and their treatment in society, which it recognised as a human rights issue.
- The operating principle in the Commission's work is that our laws need to be dynamic, and cannot remain static.

➡ VACATION BENCH

- Recently, the Supreme Court notified its annual summer holiday from May 13, and listed the judges who will occupy the Vacation Benches for hearing urgent matters during this period.
- **A Vacation Bench of the Supreme Court is a special bench constituted by the Chief Justice of India.**
- The court takes two long vacations each year, the summer and winter breaks, but is technically not fully closed during these periods.
- Litigants can still approach the Supreme Court and, if the court decides that the plea is an "urgent matter", the Vacation Bench hears the case on its merits.
- While there is no specific definition as to what is an "urgent matter", during vacations the **court generally admits writs** related to habeas corpus, certiorari, prohibition and quo warranto matters for enforcement of any fundamental right.
- Rule 6, which is mentioned in the notification, states: "The Chief Justice may appoint one or more Judges to hear during summer vacation or winter holidays all matters of an urgent nature which under these rules may be heard by a Judge sitting singly, and, whenever necessary, he may likewise appoint a Division Court for the hearing of urgent cases during the vacation which require to be heard by a Bench of Judges."
- The High Courts and trial courts too have Vacation Benches to hear urgent matters under their jurisdiction.

➡ ARTICLE 310

- Every person who is a member of a Defence service or of a civil service of the Union or of an All India Service or holds any post connected with Defence or any civil post under the Union holds office **during the pleasure of the President**, and every person who is a member of a civil service of a State or holds any civil post under a State holds office during the **pleasure of the Governor of the State**.
- Notwithstanding that a person holding a civil post under the Union or a State holds office during the pleasure of the President or, as the case may be of the Governor of the State, any contract under which a person, not being a member of a Defence service or of an All-India service or of a civil service of the Union or a State, is appointed under this Constitution to hold such a post may, if the President or the Governor, as the case may be, deems it necessary in order to secure the services of a person having special qualifications, provide for the payment to him of compensation, if before the expiration of an agreed period that post is abolished or he is, for reasons not connected with any misconduct on his part, required to vacate the post.

Services excluded from the purview of Article 310

1. Tenure of supreme court judges{Article124}
2. Tenure of high court judges{Article148(2)}
3. The chief election commissioner{Article324}
4. Chairman and member of public- service commission{Article317)

➡ ARTICLE 311

- **Article 311 acts as a safeguard to civil servants**. It reads as under;

1. **No person** who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State **shall be dismissed or removed by an authority subordinate to that by which he was appointed**.
2. No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges: Provided that where, it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed: Provided further that this clause shall not apply —

a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or

c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold such inquiry.

3. If, in respect of any such person as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final.

- The procedure laid down in Article 311 is intended to assure**, first,** a **measure of security of tenure** to Government servants, who are covered by the Article and **secondly** to provide certain safeguards against arbitrary dismissal or removal of a Government servant or reduction to a lower rank.
- These **provisions are enforceable in a court of law**. Where there is an infringement of Article 311, the orders passed by the disciplinary authority are void ab-initio and in the eye of law "no more than a piece of waste paper" and the Government servant will be deemed to have continued in service or in the case of reduction in rank, in his previous post throughout.
- **Article 311 is of the nature of a proviso to Article 310**. The exercise of pleasure by the President under Article 310 is thus controlled and regulated by the provisions of Article 311.

Exceptions to Article 311(2)

- The provision to Article 311 (2) provides for certain circumstances in which the procedure envisaged in the substantive part of the clause need not be followed. These are set out below.

1. **Conviction on a criminal charge**- One of the circumstances excepted by clause (a) of the provision is when a person is dismissed or removed or reduced in rank on the ground of conduct which has laid to his conviction on a criminal charge. The rationale behind this exception is that a formal inquiry is not necessary in a case in which a court of law has already given a verdict.

However, if a conviction is set aside or quashed by a higher court on appeal, the Government servant will be deemed not to have been convicted at all. Then the Government servant will be treated as if he had not been convicted at all and as if the order of dismissal was never in existence. In such a case the Government servant will also be entitled to claim salary for the intervening period during which the dismissal order was in force.

The grounds of conduct for which action could be taken under this proviso could relate to a conviction on a criminal charge before appointment to Government service of the person concerned. If the appointing authority were aware of the conviction before he was appointed, it might well be expected to refuse to appoint such a person but if for some reason the fact of conviction did not become known till after his appointment, the person concerned could be discharged from service on the basis of his conviction under **clause (a)** of the proviso without following the normal procedure envisaged in Article 311.

2. **Impracticability- Clause (b)** of the proviso provides that where the appropriate disciplinary authority is satisfied, for reasons to be recorded by that authority in writing that it does not consider it reasonably practicable to give to the person an opportunity of showing cause, no such opportunity need be given. The satisfaction under this clause has to be of the disciplinary authority who has the power to dismiss, remove or reduce the Government servant in rank. As a check against an arbitrary use of this exception, it has been provided that the reasons for which the competent authority decides to do away with the prescribed procedures must be recorded in writing setting out why it would not be practicable to give the accused an opportunity. The use of this exception could be made in case, where, for example a person concerned has absconded or where, for other reasons, it is impracticable to communicate with him.
3. **Reasons of security- Under proviso (c) to Article 311 (2),** where the President is satisfied that the retention of a person in public service is prejudicial to the security of the State, his services can be terminated without recourse to the normal procedure prescribed in Article 311 (2).

   The satisfaction referred to in the proviso is the subjective satisfaction of the President about the expediency of not giving an opportunity to the employee concerned in the interest of the security of the State. This clause does not require that reasons for the satisfaction should be recorded in writing. That indicates that the power given to the President is unfettered and cannot be made a justifiable issue, as that would amount to substituting the satisfaction of the court in place of the satisfaction of the President.

➡ SECULARISM Vs. UNIFORM CIVIL CODE

- The spine of controversy revolving around UCC has been secularism and the freedom of religion enumerated in the Constitution of India.
- The preamble of the Constitution states that India is a secular democratic republic This means that there is no State religion.
- A secular State shall not discriminate against anyone on the ground of religion.
- A State is only concerned with the relation between man and man.
- It is not concerned with the relation of man with God.
- In **S.R. Bommai v. Union of India**, as per Justice Jeevan Reddy, it was held that religion is the matter of individual faith and cannot be mixed with secular activities. Secular activities can be regulated by the State by enacting a law.
- In India, there exist a concept of positive secularism as distinguished from doctrine of secularism accepted by America and some European states i.e. there is a wall of separation between religion and State.

- In India, **positive secularism separates spiritualism with individual faith**. The reason is that America and the European countries went through the stages of renaissance, reformation and enlightenment and thus they can enact a law stating that State shall not interfere with religion. On the contrary, India has not gone through these stages and thus the responsibility lies on the State to interfere in the matters of religion so as to remove the impediments in the governance of the State.
- Articles 25 and 26 guarantee right to freedom of religion. Article 25 guarantees to every person the freedom of conscience and the right to profess, practice and propagate religion. But this right is subject to public order, morality and health and to the other provisions of Part III of the Constitution.
- Article 25 also empowers the State to regulate or restrict any economic, financial, political or other secular activity, which may be associated with religious practice and also to provide for social welfare and reforms.
- The protection of Articles 25 and 26 is not limited to matters of doctrine of belief. It extends to acts done in pursuance of religion and, therefore, contains a guarantee for ritual and observations, ceremonies and modes of worship, which are the integral parts of religion.
- UCC is not opposed to secularism or will not violate Article 25 and 26. Article 44 is based on the concept that there is no necessary connection between religion and personal law in a civilised society.
- **Marriage, succession and like matters** are of secular nature and, therefore, law can regulate them.
- No religion permits deliberate distortion. The UCC will not and shall not result in interference of one's religious beliefs relating, mainly to maintenance, succession and inheritance. This means that under the UCC a Hindu will not be compelled to perform a nikah or a Muslim be forced to carry out saptapadi. But in matters of **inheritance, right to property, maintenance and succession, there will be a common law.**

➡ NATIONAL INVESTIGATION AGENCY

- The National Investigation Agency (NIA) was constituted under the **National Investigation Agency (NIA) Act, 2008.**
- It is a central agency to investigates and prosecutes offences:

  - Affects the sovereignty, security and integrity of India, security of the State, and friendly relations with foreign States.
  - Against atomic and nuclear facilities.
  - Smuggling in High-Quality Counterfeit Indian Currency.
  - It implements international treaties, agreements, conventions and resolutions of the United Nations, its agencies and other international organizations.

- Its objective is also to combat terror in India.
- It acts as the Central Counter-Terrorism Law Enforcement Agency.
- **Headquarters:** New Delhi
- **Scheduled offences:** The schedule of the NIA Act specifies a list of offences which are to be investigated and prosecuted by the NIA. These include offences under Acts such as **the Atomic Energy Act, 1962, and the Unlawful Activities Prevention Act, 1967.**

NIA's jurisdiction

- The law under which the agency operates extends to the whole of India and also applies to Indian citizens outside the country.

- Persons in the service of the government wherever they are posted
- Persons on ships and aircraft registered in India wherever they may be
- Persons who commit a scheduled offence beyond India against the Indian citizen or affect the interest of India.

How does the NIA take up a probe?

State government refers case	○ As provided under Section 6 of the Act, State governments can refer the case pertaining to the scheduled offences registered at any police station to the Central government (Union Home Ministry) for NIA investigation.
Central government directs the agency	○ After assessing the details made available, the Centre can then direct the agency to take over the case. ○ State governments are required to extend all assistance to the NIA.
Outside India	○ Where the Central government finds that a scheduled offence has been committed at any place outside India to which this Act extends, it can also direct the NIA to register the case and take up an investigation.
Can investigate allied offences	○ While investigating a scheduled offence, the agency can also investigate any other offence that the accused is alleged to have committed if the offence is connected to the scheduled offence

➡ COGNIZABLE AND NON-COGNIZABLE OFFENCES

Cognizable Offence	○ In Criminal Procedure Code (CrPC), the offences are divided into two categories; one Cognizable and the other Non-cognizable. ○ Police is empowered to **register the FIR and investigate only the cognizable offences.** ○ Police can arrest an accused involved in cognizable crime without the warrant from the Court. ○ Theft, robbery, murder and rape are some instances of cognizable offences.
Non-cognizable Offence	○ The category of offences as per Criminal Procedure Code (CrPC) in which Police **can neither register the FIR nor can investigate or effect arrest without the express permission or directions from the court** are known as Non-cognizable offences. ○ These mostly include minor offences such as abusing each other, minor scuffles without injuries, intimidation etc. Now, you can also file online complaints. ○ Your complaint shall be referred to the concerned Police Station, where you may be called for further clarification and/or to give statement.
Police Station and Non-cognizable offence	○ As per Cr.PC, Police Station is required to record an abstract of such complaint in the **General Diary which is called N.C.** and advise the complainant to file the complaint in the concerned court as police is not empowered to initiate action in such matters without the directions of the court. ○ A copy of the entry made in the General Diary may be provided to the complainant free of cost.

➡ BAILABLE AND NON-BAILABLE OFFENCES

Bailable offence	○ In bailable offences, the accused **can claim bail as a matter of right**. ○ Police is supposed to release such an accused on bail if he is prepared to give bail at any time while he is in the custody of a Police Officer.
Non-Bailable offence	○ In non-bailable offences, the accused is not entitled to bail as a matter of right. ○ Police invariably does not take bail in such cases and only the Court grants bail. ○ The list of billable and non-billable offences is given in the first schedule of the Cr.PC.

Can the police call someone for investigation, even if granted anticipatory bail by the court?

- Yes, certainly. The court only forbids the arrest but does not prevent police from calling the accused for investigation.
- Intact, invariably it is one of the conditions of the anticipatory bail that the accused shall make himself available for investigation as and when required by the investigating officer.
- Refusal to do so may entitle the investigating officer to move the court for cancellation of anticipatory bail.
- In case the investigating officer finds that a criminal case is made out against an accused granted anticipatory bail by the court, he will not arrest him but will release him on bail, even if the offence is Non-Bailable.

➡ POLICE ARREST

Preventive arrest

- Police is empowered to **arrest a person when it is satisfied that doing so is essential in order to prevent occurrence of a cognizable offence.**
- This is the most common situation in which police effects a preventive arrest.
- Police can also make preventive arrests under special Laws such as National Security Act.
- A Police Officer knowing of a design to commit any cognizable offence may arrest, without orders from a magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

Rules for detention of women by the police

- Between 6 pm and 6 am, a woman has the right to **REFUSE to go to the Police Station**, even if an arrest warrant has been issued against her.
- It is a procedural issue that a woman can be arrested between 6 pm and 6 am,
- ONLY if she is arrested by a woman officer and taken to an ALL WOMEN police station.
- And if she is arrested by a male officer, it has to be proven that a woman officer was on duty at the time of arrest.

When police makes an illegal arrest?

- Police officers empowered to investigate a case and file a **charge-sheet under Section 173 of CrPC, 1973,** are also empowered to make arrests. Whenever police intends to arrest a person, it is obligatory for them to:

- to **clearly inform him about the alleged offence**-Section 50 of CrPC 1973;
- **immediately inform a friend or relative about the arrest** and the place of his custody-Section 50-A
- for a bailable offence, the accused must be informed about his right of immediate release on furnishing of bail (surety) (Section 50-A) or by executing a bond (Section 441 of CrPC, 1973) in lieu of bail.
- However, if you are illegally arrested, you can make an oral/ written complaint before the local magistrate's court requesting immediate cognizance of the complaint and pointing to illegal confinement of the person by the police.
- One can also complain to: State Human Rights Commission, National Human Rights Commission, Supreme Court or to respective high court.

First Information Report (FIR)

- Report pertaining to occurrence of a cognizable offence, received at the Police Station is called **First Information Report,** popularly known as FIR.
- Since it is the first information about the cognizable offence, it is called First Information report. On receipt of this information police registers the report in a FIR Register and begins the investigation of the crime.

Who is the officer on duty?

- The senior most Police officer available in the Police Station at any point of time, (SHO or his subordinate above the rank of a constable) is the officer-in-charge, or the duty officer.
- If the SHO / Inspector is not present, **a Sub-Inspector or Head Constable** will be the officer-in-charge, who will receive complaint or lodge FIRs.

What to do if the Police Station refuses to register the FIR?

- In all cognizable offences it is mandatory on the part of the police station to register the FIR.
- If the Police Station refuses to register FIR, substance of the **information in writing can be sent by post to the Assistant Commissioner of Police or Deputy Commissioner of Police** of the respective zone or Commissioner of Police.
- If satisfied that the information discloses the commission of a cognizable offence, shall get the FIR registered and investigated.
- If the FIR is still not filed, you may file an RTI OR file a complaint to the State Home Ministry, OR file a private complaint with the Magistrate u/s 190 of CrPC OR file a Vigilance/ Anti-Corruption Complaint against the police officers.

➡ POLICE CUSTODY AND JUDICIAL CUSTODY

- Whenever a person is arrested by police or investigating agency and detained in custody and if the investigation cannot be completed in 24 hours, **the person is mandated to be produced before a magistrate court.**
- The **section 167 of CrPC** and subsequent provisions lay down procedures that may follow in various scenarios.
- The magistrate may further **remand the person to custody of police for a period not more than 15 days as a whole**.
- The police custody means that the person is confined at a lock up or remains in the custody of the officer.

- **After lapse of 15 days or the police custody period granted by the magistrate, the person may be further remanded to judicial custody**.
- Judicial custody means that the person is detained under the purview of the judicial magistrate is lodged in central or state prison.
- In some cases courts may directly remand a person to judicial custody, if the court concludes that there is no need of police custody or extension of police custody.
- In judicial custody, the person **can apply for a bail as per the CrPC chapter 33** pertaining to the bails and bonds. The judicial custody can extend up to 60 or 90 days as a whole, depending upon the maximum punishment prescribed for the offence.
- An undertrial person cannot remain in judicial custody beyond half the time period of prescribed maximum punishment.
- In **police custody**, the **investigating authority can interrogate a person** while in **judicial custody, officials need permission of the court** for questioning.
- In **police custody, the person has the right to legal counsel**, right to be informed of the grounds which the police have to ensure.
- In the **judicial custody in jails**, while the person under responsibility of the magistrate, the Prison Manual comes into picture for routine conduct of the person.

➡ HANDCUFFING

There can be three different occasions when a person can be legally handcuffed,

1. An accused on his arrest and before he is produced before the magistrate;
2. An under-trial prisoner during transit from jail to the court and back; and
3. A convict being transported from jail to the court and back.

If a person is under the judicial custody of the court, the court's permission is required for handcuffing except under emergent circumstances.

Circumstances

- An accused **need not be handcuffed on arrest, in normal circumstances**. Further, the officers are allowed to resort to handcuffing only under exceptional circumstances.

- In **Prem Shankar Shukla vs Delhi Administration (1980),** the SC held that the norm should be that the security of an arrestee or a convict be increased to prevent him/her from escaping. However, the handcuffing can be allowed only when the escape of the arrestee or a convict cannot be prevented without the use of handcuffs.
- In case of handcuffing, the **arresting officer must record the reasons** in the police diary.
- Further, the **court must inquire with the person arrested as to whether he had been handcuffed or not.**
- It will be the duty of the court to do judicial/court scrutiny of the recorded reasons and then approve or reject the reason.

On compensation

- There is a strict liability for violating the guaranteed basic and indefeasible rights of the citizens.
- If there is an 'established infringement" of the fundamental right (FR) guaranteed under Article 21 of the Constitution.

- The constitutional courts are empowered to grant such relief 'against the state or its servants in the purported exercise of their powers'.

Argument in favour of handcuffing

- It has been found there is a lack of manpower, in police stations or a reserve police line to provide sufficient escort to jail authorities while transporting the under-trial prisoners to court.
- In addition, it is difficult at times to predict the conduct of an arrestee on the spot.
- Therefore, handcuffs are generally done to prevent escape and not to dehumanise criminals.
- In case if malice is found behind the use of handcuffs, the department should initiate disciplinary action against the errant officer under service conduct rules, rather than to order the payment of compensation.

➡ SECTION 66A of IT ACT

- The continued use of Section 66A came back in news when the People's Union for Civil Liberties (PUCL) filed a petition in the Supreme Court citing a working paper by the Internet Freedom Foundation. The paper showed that the dead law was still being invoked by police across India.
- The petition said there was a huge communication gap in conveying the Supreme Court order to the ground level police officers. Many of them did not even know that Section 66A had been struck down by the Supreme Court, the petition said.
- The recent observation of the Supreme Court came on the same petition that the PUCL filed. The Centre subsequently sent a reminder to all states and Union Territories asking them to bury the law that died six years ago.

About Section 66A

- Section 66A made **sending of offensive messages using a computer or any other communication devices a crime**. The police had to determine whether an information sent in the message qualified as offensive or not.
- To be booked under Section 66A, the information in the message had to be:

  - Grossly offensive
  - False and meant for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will
  - Meant to deceive or mislead the recipient about the origin of such messages

- The crime was punishable with three-year jail and fine.
- The IT Act was enacted in 2000 when Internet was still relatively new in India. Social media websites were not in vogue. Smartphone mobile apps were not the order of the day.
- As they gained popularity in India, misuse and abuse of the platforms came up as a challenge to the government. As a result, Section 66A was inserted into the IT Act in 2009.

Why was it struck down?

- One of the PILs was filed by **Shreya Singhal**, then a 21-year-old law student in Delhi. She challenged Section 66A arguing that it curbed freedom of speech and expression and violated fundamental rights guaranteed under Articles 14, 19 and 21 of the Constitution.
- Her petition contended that the law was "vague", "ambiguous" and subject to "wanton abuse" as it conferred subjective powers on the police to interpret Section 66A of the IT Act.

- The **Supreme Court bench of Justices J Chelameswar and Rohinton F Nariman agreed with the contention holding that Section 66A** created an offence on the basis of undefined actions such as causing "inconvenience, danger, obstruction and insult".
- The Supreme Court held that these actions were not mentioned as exceptions granted under Article 19 and did not qualify for reasonable restrictions mentioned in the Constitution.
- The judgment also found that the law did not have enough procedural safeguard leaving the local authorities to proceed autonomously on the whim of their political masters.
- The Supreme Court held **Section 66A of the IT Act to be violating Articles 19 (right to freedom of speech and expression) and 21 (right to life) as it pronounced death sentence on the law.**
- In its order, the Supreme Court rendered Section 66A extinct from the very date of its insertion into the IT Act — October 27, 2009. But it lived on.

➡ CENSUS IN INDIA

*A population Census is the process of **collecting, compiling, analyzing and disseminating** demographic, social, cultural and economic data relating to all persons in the country, at a particular time in ten years interval.*

- Conducting population census in a country like India, with great diversity of physical features, is undisputedly the biggest administrative exercise of peace time. The wealth of information collected through census on houses, amenities available to the households, socio economic and cultural characteristics of the population makes Indian Census the richest and the only source for planners, research scholars, administrators and other data users. The planning and execution of Indian Census is challenging and fascinating.
- India is one of the very few countries in the World, which has a proud history of holding Census after every ten years. The Indian Census has a very long history behind it. The earliest literature 'Rig Veda' reveals that some kind of Population count was maintained during 800-600 BC. Kautilya's Arthasastra, written around 321-296 BC, laid stress on Census taking as a measure of State policy for purpose of taxation.
- During the regime of **Mughal king Akbar the Great, the administrative report 'Ain-e-Akbari'** included comprehensive data pertaining to population, industry, wealth and many other characteristics. The history of Indian Census can be divided in two parts i.e. Pre Independence era and Post-Independence era.

Pre Independence Period

- The History of Census began with 1800 when England had begun its Census but the population of dependencies was not known at that time. In its continuation, based on this methodology census was conducted in town of **Allahabad in 1824** and in the **city of Banaras in the year 1827-28 by James Prinsep**.
- The **first complete census of an Indian city was conducted in 1830 by Henry Walter in Dacca.** In this Census the statistics of Population with sex and broad age group and also the houses with their amenities were collected. Second Census was conducted in 1836-37 by Fort St.George.
- In **1849**, Government of India ordered Local Government to conduct quinquennial returns of population. As a result, a system of periodical stock taking of people was inaugurated in Madras which was continued till the imperial census was ordered. These returns were taken during the official years 1851-52, 1856-57, 1861- 62 and 1866-67 respectively. The Census in North Western provinces took place in 1852, which was regular house to house numbering of all the people in the province at the

night of 31st December 1852. The quinquennial Census of 1866-67 was merged in the imperial census of 1871.

- The Home Government of Government Of India had desired, under Statistical Dispatch No.2 of July23, 1856 , that a general census of population might be taken in 1861, which was postponed in 1859 due to the mutinies. However, on 10th January,1865 a census by an actual house to house enumeration was undertaken in North western provinces. A similar census was undertaken in November, 1966 in central provinces and in 1867 in Berar. The Census in Punjab territory was taken in January 1855 and 1868 respectively. The Census of Oudh was taken in 1869. In the cities of Madras, Bombay and Calcutta census was taken in 1863, 1864 and 1866 respectively. An experimental census of lower provinces of Bengal was organized in 1869, which was completed by H. Beverley, Registrar General.
- In 1865 the Government of India and Home Government had agreed upon the principal that a general population census would be taken in 1871. In the year 1866-67 census was undertaken by the actual counting of heads in most of the part of the country, which is known as the **Census of 1872.** This Census did not cover all territories possessed or controlled by the British. In this Census a House Register was canvassed with 17 questions. The information collected pertains to name, age, religion, caste or class, race or nationality, attending school /college and able to read and write. These common questions were asked separately from males and females. A question on occupation was canvassed for males only.
- The **Census of 1881** which was undertaken on **17th February, 1881 by W.C. Plowden**, Census Commissioner of India was a great step towards a modern synchronous census. Since then, censuses have been undertaken uninterruptedly once every ten years.
- In this Census, emphasis was laid not only on complete coverage but also on classification of demographic, economic and social characteristics. The census of 1881 took in entire continent of British India (except Kashmir) which also includes feudatory states in political connection with the Government of India.
- In the Census of 1881 a schedule 'Census Schedule' with 12 questions was canvassed. Deviating from past a question on sex was introduced and practice of canvassing same questions for males and females separately dropped. New question on marital status, mother tongue, place of birth and infirmities were included. The question on education was modified to the extent that for those who are not educated it was ascertained that whether they are able to read and write. From Hindus their caste was ascertained and in other cases information on Sect was obtained.

➡ ANGLO-INDIANS

- Anglo Indians were for the first time officially recognised as a specific community by the British and the term Anglo-Indian was formalised for the first time in the **Census of 1911**.
- The **Government of India Act, 1935** identified Anglo Indians as "a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is a native of India."
- After independence, Anglo-Indian community started leaving India on fears of reprisals and insecurity about their future in India. This insecurity led to three major waves of migration from the sub-continent.
- The first wave of migration of Anglo-Indians came just after 1947. The second wave was in the early sixties during the time there was a push for Hindi to be made the national language which reduced chances of employment. The third wave came in the 1970s and is called by most sociologists as the 'family reunion waves'.

- Amid the recent decision of the government of take away reservation provided to Anglo-Indian community, certain sections of the community feel that they still need political reservation as ground realities are very different from what is perceived otherwise.
- In this backdrop, let us understand about constitutional provisions about Anglo-Indian community and their representation in Indian legislatures as provided in Indian Constitution.

- **Constitutional Provisions about Anglo Indians**
- **Article 366 (2) defines Anglo-Indian as a person** – whose father or any of whose other male progenitors in the male line is or was of European descent but who is domiciled within the territory of India and is or was born within such territory of parents habitually resident therein and not established there for temporary purposes only.
- **Article 331-** Representation of the Anglo-Indian Community in the House of the People. — Notwithstanding anything in article 81, the President may, if he is of opinion that the Anglo-Indian community is not adequately represented in the House of the People, nominate not more than two members of that community to the House of the People.
- **Article 333-** Representation of the Anglo-Indian community in the Legislative Assemblies of the States - Notwithstanding anything in article 170, the Governor of a State may, if he is of opinion that the Anglo-Indian community needs representation in the Legislative Assembly of the State and is not adequately represented therein, nominate one member of that community to the Assembly.
- According to the **10th Schedule** of the Constitution, Anglo-Indian members of Lok Sabha and State Assemblies can take the membership of any party within six months of their nomination. But, once they do so, they are bound by their party whip. The Anglo-Indian members enjoy the same powers as others, but they cannot vote in the Presidential election because they are nominated by the President.

➡ PRIVY PURPOSE

- When the British Crown partitioned India and granted independence to the new Dominions of India and Pakistan, more than a third of the subcontinent was still covered by princely states, with rulers whose position and status within the Indian Empire had varied.
- In 1947, there were more than 560 such princely states in India, over which the British Crown had suzerainty but not sovereignty.
- In 1947, princely states covered 48% of area of pre-independent India and constituted 28% of its population. Relations with them were determined by subsidiary alliances and other treaties establishing indirect rule.
- By **The Indian Independence Act 1947,** the Crown abandoned its suzerainty, leaving the rulers of the states free to choose to accede either to India or to Pakistan, or to remain fully independent.
- Most of the States had been so dependent on the Government of India that they had little choice about accession. By the eve of independence, only a few states held out for complete independence after the British left India. Due to the diplomacy of Vallabhbhai Patel and VP Menon, Travancore, Bhopal and Jodhpur signed the instruments of accession before 15 August 1947. Even after independence three states vacillated, namely Jammu-Kashmir, Junagadh and Hyderabad which were integrated later into Indian Union.
- In consideration of such princely states signing the Instrument of Accession, the Government of India granted to them a 'privy purse', which was a specified sum of money that was payable annually to the rulers of such States.

Questions on 'Privy Purse'

- The payments of 'privy purse' were made to the former rulers under constitutional provisions of **Art. 291** and **Art. 362.** However, it was often questioned as a relic of the colonial past.
- Privy Purse conferred **'special status'** to ruling class, which continued the British practice of ruler and ruled. However, this went against the idea of "equality" and egalitarianism as enshrined in the Constitution of India.
- Moreover, 'privy purse' was an added economic pressure on a newly born independent nation, that was ridden with **poverty, hunger and security challenges.**
- Even India's first Prime Minister Jawaharlal Nehru was not very much in favour of giving annual fees to the rulers of former Indian States but had to accede considering a long term bargain for their accession to Indian Union.

Abolition of Privy Purse

- Granting of an assured sum of money to the royal family by the government was seen as a move against the common public and this plank was utilised by Mrs. Indira Gandhi to consolidate her position in the eyes of Indian public when the old timers in Congress Party revolted against her.
- Mrs. Indira Gandhi as Prime Minister, first in 1970 tried to bring a constitution amendment to abolish Privy Purse but the move was shot down in Rajya Sabha. It was then issued as an ordinance which was struck down by Supreme Court.
- So, during the election campaign of 1971 after nationalisation of banks, Mrs. Gandhi made abolition of Privy Purse as a major election issue and convinced the public that the move was for the public welfare and against the wealthy and rich. This move paid her rich political dividend as she won 1971 election by a thumping majority winning 352 seats in Lok Sabha.
- Thus, the Prime Minister Mrs. Indira Gandhi moved Constitution (Twenty Sixth Amendment) Act, 1971 which eventually abolished Privy Purse in India by omitting **Article 291 and 362** in the Indian Constitution.
- The Constitution Twenty Sixth Amendment further added **Article 363A** in the Constitution which not only ceased recognition granted to Rulers of Indian States but also abolished Privy Purse in India.

Reasons for abolition of 'privy purse'

- The abolition of privy purse was needed because it went against the **idea of equal rights** for all citizens, as enshrined under fundamental rights of Indian constitution.
- The concept of rulership, with 'privy purse' and special privileges was incompatible with principles of democracy, equality and social justice and it was unrelated to any current functions and social purposes including an egalitarian social order.
- Since, the government came into power on socialist promises; hence the priority of the government was to spend more on social welfare. Further, influx of refugees from Bangladesh also had added pressure on Indian exchequer. So, the government decided to abolish Privy Purse to ease its economic burden.

➡ OHCHR

- The Office of the High Commissioner for Human Rights (UN Human Rights) is the leading UN entity on human rights. The General Assembly entrusted it with the mandate to promote and protect human rights of people around the world.
- The High Commissioner for Human Rights is the principal human rights official of the United Nations. The High Commissioner heads OHCHR and spearheads the United Nations' human rights efforts.

- UN Human Rights also plays a crucial role in safeguarding the integrity of the three interconnected pillars of the United Nations namely 1. Peace and security 2. Human Rights and 3. Development.
- UN Human Rights is part of the United Nations Secretariat and is headquartered in Geneva in Switzerland.
- It has field presences that comprise regional and country/stand-alone offices. UN Human Rights also supports the human rights components of **UN peace missions** or **political offices** and deploys human rights advisers to work with the United Nations Country teams.
- It has three divisions:

1. Thematic Engagement, Special Procedures and Right to Development Division (TESPRDD)
2. Human Rights Council and Treaty Mechanisms Division (CTMD)
3. Field Operations and Technical Cooperation Division (FOTCD)

➡ NATIONAL HUMAN RIGHTS COMMISSION

National Human Rights Commission shall consist of:

a) a Chairperson who has been a Chief Justice of the Supreme Court;
b) one Member who is or has been, a Judge of the Supreme Court;
c) one Member who is, or has been, the Chief Justice of a High Court;
d) two Members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

The Chairperson of the: - National Commission for Minorities, National Commission for the Scheduled Castes, National Commission for the Scheduled Tribes and National Commission for Women shall be deemed to be Members of the Commission for the discharge of functions.

Appointment

- The Chairperson and the Members shall be appointed by the President. Such appointment shall be made after obtaining the recommendations of a **Committee** consisting of–

(a) The Prime Minister — Chairperson
(b) Speaker of the House of the People — Member
(c) Minister in-charge of the Ministry of Home Affairs in the Government of India — Member
(d) Leader of the Opposition in the House of the People — Member
(e) Leader of the Opposition in the Council of States — Member
(f) Deputy Chairman of the Council of States — Member

- No sitting Judge of the Supreme Court or sitting Chief Justice of a High Court shall be appointed to the Commission except after consultation with the Chief Justice of India.

Resignation: The Chairperson or any Member may, by notice in writing under his hand addressed to the President of India, resign his office.

Term of Office: A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier. He shall be eligible for re-appointment for another term of five years. On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of India or under the Government of any State.

Functions of NHRC

- **Inquire, suo motu or on a petition presented to it by a victim or any person** on his behalf or on a direction or order of any court into complaint of

1. violation of human rights or abetment thereof; or
2. negligence in the prevention of such violation, by a public servant;

- Intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court.
- Visit any jail or other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, for the study of the living conditions of the inmates.
- Review the safeguards provided by or under the Constitution or any other laws in India.
- Study treaties and other international instruments on human rights and make recommendations for their effective implementation.
- Undertake and promote research in the field of human rights, spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights.

Powers of Enquiry & Investigation

NHRC while enquiring into any case shall have **power of a Civil Court** trying a suit under the Code of Civil Procedure, 1908, and can:

a) summoning the witness for examining them on oath;
b) discovery and production of any document;
c) receiving evidence on affidavits;
d) requisitioning any public record or copy thereof from any court or office;
e) issuing commissions for the examination of witnesses or documents.

➡ NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS (NCPCR)

- The National Commission for Protection of Child Rights (NCPCR) was set up in March 2007 under the *Commissions for Protection of Child Rights (CPCR) Act, 2005*.
- Thus, NCPCR is a **statutory body** under the Commissions for Protection of Child Rights (CPCR) Act, 2005 under the administrative control of the *Ministry of Women & Child Development*.
- The Commissions for Protection of Child Rights (CPCR) Act, 2005 provides for a National and State Commission for protection of Child Rights.
- The National Commission's Mandate is to ensure that all Laws, Policies, Programmes, and Administrative Mechanisms are in consonance with the Child Rights perspective as enshrined in the Constitution of India and also the *UN Convention on the Rights of the Child*. The Child is defined as a person in the 0 to 18 years age group.

➡ NATIONAL COMMISSION FOR MINORITIES

- The setting up of Minorities Commission was envisaged in the Ministry of Home Affairs Resolution dated 12.01.1978 which specifically mentioned that, "despite the safeguards provided in the Constitution and the laws in force, there persists among the Minorities a feeling of inequality and discrimination.
- In order to preserve secular traditions and to promote National Integration the Government of India attaches the highest importance to the enforcement of the safeguards provided for the Minorities and is of the firm view that effective institutional arrangements are urgently required for the enforcement and implementation of all the safeguards provided for the Minorities in the Constitution, in the Central and State Laws and in the government policies and administrative schemes enunciated from time to time. Sometime in 1984 the Minorities Commission was detached from Ministry of Home Affairs and placed under the newly created Ministry of Welfare.
- With the enactment of the National Commission for Minorities Act, 1992, the Minorities Commission became a statutory body and renamed as National Commission for Minorities.
- Religious communities viz; the Muslims, Christians, Sikhs, Buddhists, Jains and Zoroastrians (Parsis) were notified as minority communities.

➡ NATIONAL COMMISSION FOR SCHEDULED CASTES

- **NCSC is a constitutional body** that works to safeguard the interests of the scheduled castes (SC) in India.
- **Article 338 of the constitution** of India deals with this commission:
- It provides for a National Commission for the Scheduled Castes and Scheduled Tribes with duties to investigate and monitor all matters relating to safeguards provided for them, to inquire into specific complaints and to participate and advise on the planning process of their socio-economic development etc.
- **89th Amendment, 2003**: By this amendment, the erstwhile National Commission for SC and ST was replaced by two separate Commissions from the year 2004 which were: **National Commission for Scheduled Castes (NCSC) and National Commission for Scheduled Tribes (NCST)- under Article 338-A.**

Structure:

- It consists of: Chairperson, Vice-chairperson and three other members.
- They are appointed by the President by warrant under his hand and seal.

Functions

- To **investigate and monitor all matters** relating to the safeguards provided for the Scheduled Castes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards
- To **inquire into specific complaints** with respect to the deprivation of rights and safeguards of the Scheduled Castes
- To **participate and advise on the planning process** of socio-economic development of the Scheduled Castes and to evaluate the progress of their development under the Union and any State

- To present to the President, annually and at such other times as the Commission may deem fit, **reports** upon the working of those safeguards
- To make in such reports **recommendations** as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes
- To **discharge such other functions in relation to the protection, welfare and development and advancement** of the Scheduled Castes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

➡ NATIONAL COMMISSION FOR SCHEDULED TRIBES

- The National Commission for Scheduled Tribes (NCST) was established by **amending Article 338** and inserting a new **Article 338A** in the Constitution through the **Constitution (89th Amendment) Act, 2003**.

Composition:

- It consists of a Chairperson, a Vice-Chairperson and 3 other Members who are appointed by the President by warrant under his hand and seal.
- **At least one member should be a woman**.
- The Chairperson, the Vice-Chairperson and the other Members hold office for a term of 3 years.
- The members are not eligible for appointment for more than two terms.

Duties and Functions

- To **investigate and monitor** all matters relating to the safeguards provided for the STs under the Constitution or under any other law for the time being in force or under any order of the Government.
- To **inquire into specific complaints** with respect to the deprivation of rights and safeguards of the STs.
- To **participate and advise in the planning process** of socio-economic development of the STs and to evaluate the progress of their development.
- To present to the President, annually and at such other times as the Commission may deem fit, **reports** upon the working of those safeguards.
- To make in such reports, **recommendations** as to the measures that should be taken by the Union or any State for effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Tribes.
- To **discharge such other functions in relation to the protection, welfare and development and advancement** of the Scheduled Tribes as the President may subject to the provisions of any law made by Parliament by rule specify.

➡ NATIONAL COMMISSION FOR BACKWARD CLASSES

- **Article 340** deals with the need to, inter alia, identify those "socially and educationally backward classes", understand the conditions of their backwardness, and make recommendations to remove the difficulties they face.
- **102nd Constitution Amendment Act** inserted new **Articles 338 B** and **342 A.**
- The amendment also brings about changes in **Article 366**.
- **Article 338B provides authority to NCBC to examine complaints and welfare measures** regarding socially and educationally backward classes.
- **Article 342 A empowers President** to specify socially and educationally backward classes in various states and union territories. He can do this in consultation with Governor of concerned State. However, law enacted by Parliament will be required if list of backward classes is to be amended.
- **102nd Constitution Amendment Act, 2018 provides constitutional status to the National Commission for Backward Classes (NCBC).**
- It has the authority to examine complaints and welfare measures regarding socially and educationally backward classes.

Background

- Two Backward Class Commissions were appointed in 1950s and 1970s under **Kaka Kalelkar** and **B.P. Mandal respectively.**
- In **Indra Sawhney case of 1992**, Supreme Court had directed the **government to create a permanent body to entertain, examine and recommend the inclusion and exclusion of various Backward Classes** for the purpose of benefits and protection.
- In pursuant to these directions parliament passed **National Commission for Backward Classes Act in 1993** and constituted the NCBC.
- 123rd Constitution Amendment bill of 2017 was introduced in Parliament to safeguard the interests of backward classes more effectively.
- Parliament has also passed a separate bill to repeal the National Commission for Backward Classes Act, 1993, thus 1993 act became irrelevant after passing the bill.
- The bill got the President assent in August 2018 and provided the constitutional status to NCBC.

Composition:

- The Commission consists of five members including a Chairperson, Vice-Chairperson and three other Members appointed by the President by warrant under his hand and seal.
- The conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members is determined by President.

Powers and Functions

- The commission investigates and monitors all matters relating to the **safeguards provided for the socially and educationally backward classes** under the Constitution or under any other law to evaluate the working of such safeguards.
- It **participates and advises on the socio-economic development** of the socially and educationally backward classes and to evaluate the progress of their development under the Union and any State.

- It presents to the President, annually and at such other times as the Commission may deem fit, **reports** upon the working of those safeguards. The President laid such reports before each House of Parliament.
- Where any such report or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the State Government.
- NCBC has to discharge **such other functions in relation to the protection, welfare and development and advancement** of the socially and educationally backward classes as the President may, subject to the provisions of any law made by Parliament, by rule specify.
- It has all the **powers of a civil court** while trying a suit.

➡ NATIONAL COMMISSION FOR WOMEN

- The National Commission for Women was set up as **statutory body in January 1992** under the National Commission for Women Act, 1990 (Act No. 20 of 1990 of Govt.of India) to:

- review the Constitutional and Legal safeguards for women;
- recommend remedial legislative measures;
- facilitate redressal of grievances and
- advise the Government on all policy matters affecting women.

Composition

- The commission consists of a chairperson, a member secretary and five other members. T
- he chairperson of the NCW is nominated by the Central Government.
- The Central Government also nominates the member secretary. The member secretary should be an expert in the field of management. He or she is an officer or organisation who is a member.
- The five members nominated by the Central Government should be individuals with ability, standing and integrity.
- They should have experience in law, legislation, management, women voluntary organisation, economic social development and so on.

The **functions** of the National Commission for women are as follows:

- **Presentation of reports**: Table reports should be submitted to the Central Government every year. When the commission feels it's appropriate. The reports upon the functioning and working of the safeguards.
- **Investigation and Examination**: There should be proper investigation and examination made under the Constitution and other laws. This is related to the protection of the rights of women.
- **Review**: Constantly all laws are reviewed and scrutinised. And necessary amendments and alterations are made to meet the needs of the current world. This is to meet any break, incapacity or any inadequacies in the legislation.
- **Cases of Violation**: Ensure there is no violation against women and taking due care of such cases.
- **Suo Motu Notice**: It takes care of complaints and also suo motu matters about the deprivation of rights of women. Implementation of laws favouring the welfare of women.
- **Evaluation**: Assessing the development and the progress of the women community under the Center and State level.
- **Recommendation**: To suggest the wellbeing of women and their rights.

- **Special studies and investigation**: To understand the limitations in the system and curb it with strategic plans and mechanisms.
- **Research**: To make research and study to understand the needs of women, healthcare and such related components. This is to make a proper support system to help the women in need.
- **Participation in all spheres particularly in planning**: Take measure to facilitate economic and social development and improvement of women by recognising their rights.
- **Inspection**: Inspect the jail, remand home to ensure that the women staying here are not exploited as they are vulnerable.
- **Funding and Reporting**: Ensure there is a fund for litigation of matters relating to women rights. There should be periodical reports made under the difficulties faced by women daily.

➡ RIGHT TO INFORMATION

- The RTI Act is enacted to promote transparency and accountability in the working of every public authority in order to strengthen the core constitutional values of a democratic republic.
- Keeping in mind the rights of an informed citizenry in which transparency of information is vital in curbing corruption and making the Government and its instrumentalities accountable.
- The Act is meant to harmonise the conflicting interests of Government to preserve the confidentiality of sensitive information with the right of citizens to know the functioning of the governmental process in such a way as to preserve the paramountcy of the democratic ideal.

Benefits of RTI

- Empowers Citizens to hold government accountable for non-performance of their duties
- Allows citizens to participate in decision making process
- RTI Application helps Marginalised and Vulnerable Sections of the Society in demanding their basic rights and access to important government services
- RTI helps in times of crisis – RTI applications helps the citizens to find out the steps taken by government in addressing any crisis situation including providing entitlements to the needy in times of natural disasters like flood, pandemic, earthquake etc.
- RTI helps in exposing corruption and scandals within government
- RTI helps civil societies and public spirited persons to file writ petitions in Courts against government inaction – RTI application and its response is used by NGOs and Civil Society as an important tool and also as genuine evidence to file cases against misgovernance, non-implementation of various rules or laws or even schemes, lack of access to government services etc.
- RTI Applications has been used to find out extent of criminalisation of Politics – In a recent judgment, Supreme Court has ordered political parties to publish the entire criminal history of their candidates for Assembly and Lok Sabha elections along with the reasons that made them to field suspected criminals over decent people. This judgment is based on contempt of 2018 Supreme Court judgment in *Public Interest Foundation v. Union of India* which asked candidates to publish the criminal details of their candidates in their respective websites and print as well as electronic media for public awareness.
- RTI Applications has been used to find out how much money were transferred through Electoral Bonds - Information has been accessed about the anonymous electoral bonds though which thousands of crores have been channeled into political parties.
- Most extensively used Transparency Legislation in the World - Every year nearly six million applications are filed under the RTI Act, making it the most extensively used transparency legislation in the world. Such numbers of applications filed under RTI also suggests its importance in day to day

governance at levels of administration and its resounding success in holding government responsible at various levels of administration process.

- RTI Act has ensured application of **Article 19 of Universal Declaration of Human Rights** – Article 19 of UDHR - Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

➡ OFFICIAL LANGUAGE

Official Language of India

- **Article 343(1)** - The official language of the Union shall be Hindi in Devanagari script. The form of numerals to be used for the official purposes of the Union shall be the international form of Indian numerals.
- **Article 343(2)** - provides that English shall also be continued to be used in official work of the Union for a period of 15 years from the date of commencement of the constitution, i.e., up to the 25th of January 1965.
- Again, **Article 343(3)** made provisions for the continuation of English from 26th January 1965 by empowering the parliament to make laws to that effect.
- Accordingly, Parliament passed **The Official Languages Act, 1963** to provide for the languages which may be used for the official purposes of the Union, for transaction of business in Parliament, for Central and State Acts and for certain purposes in High Courts.
- **The Official Languages Act, 1963** allowed continuance of English language for official purposes of the Union and for use in Parliament even after1965. As per the Act, both English and Hindi shall be used for certain specified purposes like resolutions, rules, general orders, notifications, press communiqués, administrative and other reports, licenses, tenders, etc.
- The Act provides for the following –

✓ English language shall be used for purposes of communication between the Union and a State which has not adopted Hindi as its official language.

✓ For communication between states where only one state has recognised Hindi as its official language, then communication in Hindi shall be accompanied by a translation of the same in the English language.

Optional use of Hindi or other official language in judgments, etc., of High Courts - As from the appointed day (26th January, 1965) or any day thereafter the Governor of a State may, with the previous consent of the President, authorise the use of Hindi or the official language of the State, in addition to the English language, for the purposes of any ***judgment, decree or order passed or made by the High Court*** for that State. Where any ***judgment, decree or order is passed or made in any such language*** (other than the English language), it shall be accompanied by a translation of the same in the English language issued under the authority of the High Court.

➡ CLASSICAL LANGUAGE STATUS

- In 2004, the Government of India decided to create a new category of languages called "classical languages". In 2006, it laid down the criteria for conferring the classical language status.
- Once a language is declared classical, it gets financial assistance for setting up a centre of excellence for the study of that language and also opens up an avenue for two major awards for scholars of eminence

- The criteria for declaring a language as classical mandates high antiquity of its early texts/recorded history over a period of 1,500 – 2,000 years, a body of ancient literature/texts which is considered a valuable heritage by generations of speakers and a literary tradition that is original and not borrowed from another speech community.
- Also since the classical language and literature is distinct from the modern, there can also be a discontinuity between the classical language and its later forms or its offshoots.
- So far (2019), the six languages are granted the classical language status

Year	Language
2004	Tamil
2005	Sanskrit
2008	Telugu
2008	Kannadda
2013	Malayalam
2014	Odia

➡ CORPORATE SOCIAL RESPONSIBILITY

- Corporate Social responsibility (CSR) is **continuing commitment by businesses to integrate social and environmental concerns in their business operations.** Changes in the global environment increasingly challenge business around the world to look beyond financial performance, and to integrate social and environmental concerns into their strategic management.
- Prior to **Companies Act 2013**, CSR in India has traditionally been seen as a philanthropic activity. And in keeping with the Indian tradition, it was believed that every company has a moral responsibility to play an active role in discharging the social obligations, subject to the financial health of the company. Mahatma Gandhi introduced the concept of trusteeship helping socio-economic growth. CSR was influenced by family values, traditions, culture and religion.
- On 29th August 2013, The Companies Act 2013 replaced the Companies Act of 1956. The New Act has introduced far-reaching changes that affect company formation, administration, and governance, and incorporates an additional section i.e. **Section 135 – clause on Corporate Social Responsibility obligations** ("CSR") for companies listed in India. The clause covers the essential prerequisites pertaining to the execution, fund allotment and reporting for successful project implementation
- India became the first country to legislate the need to undertake CSR activities and mandatorily report CSR initiatives under the new Companies Act 2013. This is the beginning of a new era for CSR in India.

Entities Covered by the CSR Obligations

- The Section 135 is applicable to companies which have an annual turnover of Rs.1,000 crore or more
- or a net worth of Rs.500 crore or more
- or a net profit of Rs.5 crore or more.

- Companies meeting the above criteria are required to **constitute a CSR Committee** consists of three directors and one director shall be an independent director.

- An unlisted public company or a private company covered under Section 135(1) of the Act, which is not required to appoint an independent director, shall have its CSR Committee without such director and a private company with two directors on Board should constitute its CSR Committee with only two directors.
- The CSR Committee shall institute a transparent monitoring mechanism for implementation of the CSR projects or programs or activities undertaken by the company. The companies falling under the prescribed criteria are required to spend a **minimum 2% of its average net profit for its preceding three financial years amount on CSR activities** and report on the activities detailed in Schedule VII, or prepare to explain why they didn't.

Suggested Areas of Activities for companies to implement their CSR in PROJECT MODE are :

1. **Eradicating hunger, poverty and malnutrition**, promoting health care including preventive health care and sanitation including contribution to the Swachh Bharat Kosh set-up by the Central Government for the promotion of sanitation and making available safe drinking water;
2. **Promoting education**, including special education and employment enhancing vocation skills especially among children, women, elderly and the differently abled and livelihood enhancement projects;
3. **Promoting gender equality**, empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centres and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups;
4. **Ensuring environmental sustainability**, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water including contribution to the Clean Ganga Fund setup by the Central Government for rejuvenation of river Ganga;
5. **Protection of national heritage, art and culture** including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional art and handicrafts;
6. **Measures for the benefit of armed forces** veterans, war widows and their dependents;
7. **Training to promote** rural sports, nationally recognized sports, Paralympic sports and Olympic sports;
8. **Contribution to the Prime Minister's National Relief Fund** or any other fund set up by the Central Govt. for socio economic development and relief and welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women;
9. **Contributions or funds provided to technology incubators** located within academic institutions which are approved by the Central Govt.
10. Rural development projects
11. Slum area development.

➡ EMERGENCY PROVISIONS

EMERGENCY PROVISIONS OF INDIAN CONSTITUTION

PART- XVIII

NATIONAL EMERGENCY	PRESIDENT'S RULE	FINANCIAL EMERGENCY
Art 352	Art 356, 365	Art 360
Grounds of Declaration: External Aggression or Armed Rebellion	*Grounds of Declaration:* Failure of Constitutional Machinery*	*Grounds of Declaration:* Threat to Financial Stability or Credit of India
Parliamentary Approval: Must be Approved by **Both the Houses** of Parliament for **all 3 types**		
Must be aproved by Both the houses within **One month**	Must be aproved by Both the houses within **Two months**	Must be aproved by Both the houses within **Two months**
Special majority: Majority of more than (a)50% of the total membership of that house, and (b)2/3rd of the members of that house present and voting.	**Simple Majority:** Majority of more than 50% of the members of that house present and voting.	**Simple Majority:** Majority of more than 50% of the members of that house present and voting.
Continues for **6 Months** Can be extended to an **Indefinite Period** by taking Approval of the parliament every **6 months**	Continues for **6 Months** Can be extended to a Maximum period of **3 Years** by taking Approval of the parliament every **6 months**	Continues **Indefinitely** until revoked. Therefore **NO** prescribed maximum period or **NO** repeated parliamentary approval

➡ PRESIDENT'S RULE

- Article 355 imposes a duty on the Centre to ensure that the government of every state is carried on in accordance with the provisions of the Constitution. It is this duty in the per¬formance of which the Centre takes over the government of a state under Article 356 in case of failure of constitutional machinery in state. This is popularly known as 'President's Rule'. It is also known as 'State Emergency1 or 'Constitutional Emergency'.
- The President's Rule can be proclaimed under Article 356 on two grounds-one mentioned in Article 356 itself and another in Article 365:
- Article 356 empowers the President to issue a proclamation, if he is satisfied that a situation has arisen in which the government of a state cannot be carried- on in accordance with the provisions of the Constitution. Notably, the president can act either on a report of the governor of the state or otherwise too (ie, even without the governor's report). Article 365 says that whenever a state fails to comply with or to give effect to any direction from the Centre, it will be lawful for the president to hold that a situation has arisen in which the government of the state cannot be carried on accordance with the provisions of the Constitution.

Parliamentary Approval and Duration

- A proclamation imposing President's Rule must be approved by both the Houses of Parliament, within two months from the date of its issue. However, if the proclamation of Presidents Rule is issued at a time when the Lok Sabha has been dissolved or the dissolution of the Lok Sabha takes place during the period of two months without approving the proclamation, then the proclamation survives until days from the first sitting of the Lok Sabha after its reconstitution, provided the Rajya Sabha approves it in the mean time. If approved by both the Houses of Parliament, the President's Rule continues for six months. It can be extended for a maximum -' period of three years with the approval of the Parliament, every six months. However, if the dissolution of the Lok Sabha takes place during the period of six months without approving the further continuation of the President's Rule, then the proclamation survives until 30 days from the first sitting of the Lok Sabha after its reconstitution, provided the Rajya Sabha has in the meantime approved its continuance.
- Every resolution approving the proclamation of President's Rule or its continuation can be passed by either House of Parliament only by a simple majority, that Is, a majority of the 81embers of that House present and voting,
- The 44th Amendment Act of 1978 introduced a new provision to put restraint on the power of Parliament to extend a proclamation of President's Rule beyond one year. Thus, it provided that, beyond one year, the President's Rule can be extended by six months at a time only when the following two conditions are fulfilled:

a) A proclamation of National Emergency should be in operation in the whole of India, or in the whole or any part of the state; and the Election Commission must certify that the general elections to the legislative assembly of the concerned state cannot be held on account of difficulties,

b) A proclamation of President's Rule may be revoked by the President at any time by a subsequent proclamation. Such a proclamation does not require the parliamentary approval.

Consequences of President's Rule

- The President acquires the following extraordinary powers when the President's Rule is imposed in a state:

- He can take up the functions of the. state government and powers vested in the governor or any other executive authority in the state.
- He can declare that the powers of the state legislature are to be exercised by the Parliament.

- He can take all other necessary steps including the suspension of the constitutional provisions relating to any body or authority in the state.

- Therefore, when the President's Rule is imposed in a state, the President dismisses the state council of ministers headed by the chief minister.
- The state governor, on behalf of the President, carries on the state administration with the help of the chief secretary of the state or the advisors appointed by the President. This is the reason why a proclamation under Article 356 is popularly known as the imposition of'President's Rule' in a state.
- Further, the President either suspends or dissolves the state legislative assembly.
- The **Parliament passes the state legislative bills and the state budget**.
- When the state legislature is thus suspended or dissolved:

- the Parliament can delegate the power to make laws for the state to the President or to any other authority specified by him in this regard,
- the Parliament or in case of delegation, the President or any other specified authority can make laws conferring powers and imposing duties on the Centre or its officers and authorities,
- the President can authorise, when the Lok Sabha is not in session, expenditure from the state consolidated fund pending its sanction by the Parliament, and
- the President can promulgate, when the Parliament is not in session, ordinances for the governance of the state.

- A law made by the Parliament or president or any other specified authority continues to be operative even after the President's Rule. This means that the period for which such a law remains in force is not coterminous with the duration of the proclamation. But it can be repealed or altered or re-enacted by the state legislature.
- It should be noted here that the President cannot assume to himself the powers vested in the concerned state high court or suspend the provisions of the Constitution relating to it. In other words, the constitutional position, status, powers and functions of the concerned state high court remain same even during the President's Rule.

➡ COMPARING NATIONAL EMERGENCY AND PRESIDENT'S RULE

National Emergency (Article 352)	President's Rule (Article 356)
It can be proclaimed only when the security of India or a part of it is threatened by wan external aggression or armed rebellion.	It can be proclaimed when the government of a state cannot be carried on in accordance with the provisions of the Constitution due to reasons which may not have any connection with war, external aggression or armed rebellion.
During its operation, the state executive and legislature continue to function and exercise the powers assigned to them under the Constitution. Its effect is that the Centre gets concurrent powers of administration and legislation in the state	During its operation, the state executive is dismissed and the state legislature is either suspended or dissolved. The president administers the state through the governor and the Parliament makes laws for the state. In brief: the executive and legislative powers of the state are assumed by the Centre.

The state legislative assembly should be dissolved only after the Parliament has approved the presidential proclamation. Until such approval is given, the president can only suspend the assembly. In case the Parliament fails to approve the proclamation , the assembly would get re-activated.	
Under this, the Parliament can make laws on the subjects enumerated in the State List only by itself, that is, it cannot delegate the same to any other body or authority.	Under this, the Parliament can delegate the power to make laws for the state to the President or to any other authority specified by him. So far, the practice has been for the president to make laws for the state in consultation with the members of Parliament of that state. Such laws are known as President's* Acts.
There is no maximum period prescribed for its operation. It can be continued indefinitely with the approval ofParliament for every six months	There is a maximum period prescribed for its operation, that is, three years. Thereafter, it must come to an end and the normal constitutional machinery must be restored in state.
Under this, the relationship of the Centre with all the states undergoes a modification.	Under this, the relationship of only the under emergency with the Centre under a modification.
Every resolution of Parliament approving its proclamation or its continuance must be passed by a special majority.	Every resolution of Parliament approving proclamation or its continuance can be only by a simple majority.
Lok Sabha can pass a resolution for its revocation.	It has no effect on Fundamental Rights of citizens. There is no such provision. It can be rev by the President only on his own.

➡ FINANCIAL EMERGENCY

- If the President is satisfied that a situation has arisen whereby the financial stability or credit of India of my part of it is threatened, he may declare a Financial Emergency under Art. 360 of the Constitution. Such a proclamation may be revolved by a subsequent proclamation. The proclamation has to be laid before each house of Parliament. It ceases to operate at the expiration of two months unless it is approved earlier by a resolution of both Houses of Parliament. The proclamation in this case also should be approved by Parliament as in the other two cases of emergency also continues for an indefinite period, fortunately, this kinds of emergency has not been declared so far.
- During the Financial Emergency, 'the executive authority of the union shall extend to the giving of directions to any state to observe such canons of financial propriety as may be specified in the direction' or any other directions which the President may deem necessary for the purpose.

Criticism of Emergency provisions

Some members of the Constituent Assembly criticised the incorporation of emergency provisions in the Constitution on the following grounds:

1. 'The federal character of the Constitution will be destroyed and the Union will become all powerful.

2. The powers of the State–both the Union and the units–will entirely be concentrated in the hands of the Union executive.
3. The President will become a dictator.
4. The financial autonomy of the state will be nullified.
5. Fundamental rights will become meaningless and, as a result, the democratic foundations of the Constitution will be destroyed.'

➡ IMPORTANT CONSTITUTIONAL AMENDMENTS

- Article 368 provides for two types of amendments, that is, by a special majority of Parliament and also through the ratification of half of the states by a simple majority. But, some other articles provide for the amendment of certain provisions of the Constitution by a simple majority of Parliament, that is, a majority of the members of each House present and voting (similar to the ordinary legislative process). Notably, these amendments are not deemed to be amendments of the Constitution for the purposes of Article 368.
- Therefore, the Constitution can be amended in three ways:

a. Amendment by **simple majority** of the Parliament,
b. Amendment by **special majority** of the Parliament, and
c. Amendment by **special majority of the Parliament and the ratification of half of the state legislatures**.

By Simple Majority of Parliament

A number of provisions in the Constitution can be amended by a simple majority of the two Houses of Parliament outside the scope of Article 368. These provisions include:

1. Admission or establishment of new states.
2. Formation of new states and alteration of areas, boundaries or names of existing states.
3. Abolition or creation of legislative councils in states.
4. Second Schedule–emoluments, allowances, privileges and so on of the president, the governors, the Speakers, judges, etc.
5. Quorum in Parliament.
6. Salaries and allowances of the members of Parliament.
7. Rules of procedure in Parliament.
8. Privileges of the Parliament, its members and its committees.
9. Use of English language in Parliament.
10. Number of puisne judges in the Supreme Court.
11. Conferment of more jurisdiction on the Supreme Court.
12. Use of official language.
13. Citizenship–acquisition and termination.

14. Elections to Parliament and state legislatures.
15. Delimitation of constituencies.
16. Union territories.
17. Fifth Schedule–administration of scheduled areas and scheduled tribes.
18. Sixth Schedule–administration of tribal areas.

By Special Majority of Parliament

- The majority of the provisions in the Constitution need to be amended by a special majority of the Parliament, that is, a majority of the total membership of each House and a majority of two-thirds of the members of each House present and voting.
- The expression 'total membership' means the total number of members comprising the House irrespective of fact whether there are vacancies or absentees.
- 'Strictly speaking, the special majority is required only for voting at the third reading stage of the bill but by way of abundant caution the requirement for special majority has been provided for in the rules of the Houses in respect of all the effective stages of the bill' .
- The provisions which can be amended by this way includes:

1. Fundamental Rights;
2. Directive Principles of State Policy; and
3. All other provisions which are not covered by the first and third categories.

By Special Majority of Parliament and Consent of States

- Those provisions of the Constitution which are related to the federal structure of the polity can be amended by a special majority of the Parliament and also with the consent of half of the state legislatures by a simple majority.
- If one or some or all the remaining states take no action on the bill, it does not matter; the moment half of the states give their consent, the formality is completed. There is no time limit within which the states should give their consent to the bill.
- The following provisions can be amended in this way:

1. Election of the President and its manner.
2. Extent of the executive power of the Union and the states.
3. Supreme Court and high courts.
4. Distribution of legislative powers between the Union and the states.
5. Goods and Services Tax Council.
6. Any of the lists in the Seventh Schedule.
7. Representation of states in Parliament.
8. Power of Parliament to amend the Constitution and its procedure (Article 368 itself).

10 IMPORTANT CONSTITUTIONAL AMENDMENTS

Amendment No	Year	What it changed
1	1951	Introduced the Ninth Schedule to the Constitution to protect land acquisition laws and limited judicial review of Supreme Court.
24	1971	Clarified that the Parliament can amend any part of the Constitution including fundamental rights.
39	1975	Excluded the elections and appointments of Prime Minister, Speaker, President from the scrutiny of high courts and Supreme Court.
42	1976	Called the mini constitution, this inserted 'Socialism' & 'Securalism' in the Preamble, provision on fundamental duties, created provisions for tribunals & limited powers of judicial review of high courts and Supreme Court.
44	1978	Included checks for invoking Emergency provisions, protected fundamental right to life, liberty, press freedom. Right to property ceased to be a fundamental right.
61	1988	Reduced the age of voting in elections to 18 years from 21 years.
86	2002	Free and compulsory education for children between 6 & 14 years became a fundamental right and government's responsibility
93	2005	Allowed the govt to pass laws to give reservations to socially, economically backward classes, scheduled castes & scheduled tribes in public & private higher educational institutions
99	2014	Amended the method of appointing judges to the Supreme Court and high courts by way of a six-member panel. The SC struck it down in 2015 for violating the Constitution
101	2016	Introduced the Goods and Services Tax, to bring in the idea of One Nation, One Tax

Source: Mint research

➡ PARTS OF THE CONSTITUTION

Parts of the Constitution

Part	Articles	Areas
I	1-4	The Union & its Territories
II	5-11	Citizenship
III	12-35	Fundamental Rights
IV	36-51	Directive Principles of State Policy
IV A	51A	Fundamental Duties (42nd Amendment)
V	52-151	The Union Government
VI	152-237	The State Government
VII	238	Dealt with states in Part B of the First Schedule. Repealed in 1956 by the Seventh Amendment.
VIII	239-241	Union Territories. Article 242 repealed.
IX	243 A-O	The Panchayats
IX-A	243 P-ZG	The Muncipalities
X	244-244 A	The Scheduled & Tribal Areas
XI	245-263	Relations between the Union & the States
XII	264-300A	Finance, Property, Contracts & Suits
XIII	301-307	Trade, Commerce & Intercouse within the territory of India
XIV	308-323	Services under the Union & the States
XIV A	323A-323B	Administrative Tribunals (42nd Amendment 1976)
XV	324-329	Elections
XVI	330-342	Special Provisions (Reservations of SC, ST, Anglo Indian etc)
XVII	343-351	Official Language
XVIII	352-360	Emergency Provisions
XIX	361-367	Miscellaneous Provisions (Immunity of President, Legislature etc)
XX	368	Amendment of the Constitution
XXI	369-392	Temporary, Transitional & Special Provision
XXII	393-395	Short Title, Commencement, Authoritative

➡ INTERIM GOVERNMENT (1946)

Sl.	*Members No.*	*Portfolios Held*
1.	Jawaharlal Nehru	Vice-President of the Council; External Affairs & Commonwealth Relations
2.	Sardar Vallabhbhai Patel	Home, Information & Broadcasting
3.	Dr. Rajendra Prasad	Food & Agriculture
4.	Dr. John Mathai	Industries & Supplies
5.	Jagjivan Ram	Labour
6.	Sardar Baldev Singh	Defence
7.	C.H. Bhabha	Works, Mines & Power
8.	Liaquat Ali Khan	Finance
9.	Abdur Rab Nishtar	Posts & Air
10.	Asaf Ali	Railways & Transport

11.	C. Rajagopalachari	Education & Arts
12.	I.I. Chundrigar	Commerce
13.	Ghaznafar Ali Khan	Health
14.	Joginder Nath Mandal	Law

➡ FIRST CABINET OF FREE INDIA (1947)

Sl.	*Members No.*	*Portfolios Held*
1.	Jawaharlal Nehru	Prime Minister; External Affairs & Commonwealth Relations; Scientific Research
2.	Sardar Vallabhbhai Patel	Home, Information & Broadcasting; States
3.	Dr. Rajendra Prasad	Food & Agriculture
4.	Maulana Abul Kalam Education Azad	
5.	Dr. John Mathai	Railways & Transport
6.	R.K. Shanmugham Chetty	Finance
7.	Dr. B.R. Ambedkar	Law
8.	Jagjivan Ram	Labour
9.	Sardar Baldev Singh	Defence

➡ DOCTRINES

Doctrine of Pith and Substance

- The Doctrine of Pith and Substance holds that the union and the state legislatures should not encroach upon each other's spheres.
- This doctrine helps in examining the true nature of a legislation and deciding which list it belongs to, central or state.

Doctrine of Severability

- The Doctrine of Severability or Separability is a doctrine that protects the fundamental rights enshrined in the Indian Constitution.
- It derives its validity from **Article 13** and states that all laws that were enforced in India before the commencement of the Constitution, inconsistent with the provisions of fundamental rights shall to the extent of that inconsistency be void.

Doctrine of Eclipse

- This doctrine states that any law that violates fundamental rights is not null or void ab initio, but is only non-enforceable, i.e., it is not dead but inactive.

Doctrine of Reading down

- When a Legislature has used wide or vague words which may extend the operation of an Act to a subject outside the relevant Entry the Court interprets the wide terms giving them restricted meaning. This is called reading down.
- The Act with the meaning assigned remains intra vires. The courts avoid striking down an Act.

Doctrine of Occupied field

- Even where there is no repugnancy between a Union law and a State law the Union law will not allow a State law to co-exist if the Parliament intended to occupy the whole field relating to the subject.
- The intention to occupy the whole field should be clearly established. Where this intention can be inferred the Union law shall prevail

Doctrine of Pleasure

- The doctrine of pleasure has its origins in English law as per which, a civil servant holds office during the pleasure of the Crown.
- Under **Article 155,** the Governor of a State is appointed by the President and holds the office during the pleasure of the President.
- Under **Article 310**, the civil servants (members of the Defence Services, Civil Services, All-India Services or persons holding military posts or civil posts under the Centre/State) hold office at the pleasure of the President or the Governor as the case may be.
- **Article 311** places restrictions on this doctrine and provides safeguards to civil servants against any arbitrary dismissal from their posts.

PRACTICE QUESTIONS

1. Consider the following statements :

(1) In India, the Union can legislate on the subjects which are mentioned in the State List only during emergency.

(2) The words 'socialist' and 'secular' were added to the Preamble to the Constitution of India by the 44th Amendment.

Which of the statements given above is/are correct?

(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2

2. Which of the following is not a correct statement?

(a) All the members of the State Legislative Assembly take part in the Electoral College for electing the President of India.

(b) Some of the laws passed by a State Legislative Assembly require the assent of the President of India.

(c) In the national interest, the Parliament can legislate on subjects in the State List.

(d) The Legislative Council in the State has no financial powers.

3. Match List I with List II and select the correct answer using the codes given below:-

List I (Schedules in the Constitution)	List II (Provision)
A. Second schedule	1. Provisions as to the speaker and deputy speaker of the state legislative assemblies

B.	Fifth schedule	2.	Administration and control of scheduled areas and scheduled tribes
C.	Sixth schedule	3.	Administration of tribal areas in states of Assam, Meghalaya, Tripura and Mizoram
D.	Twelfth schedule	4.	Powers, authority and responsibilities of the municipalities.

Codes:

	A	B	C	D
(a)	1	2	3	4
(b)	2	1	4	3
(c)	3	2	1	4
(d)	4	2	1	3

4. The need for a separate Parliamentary Committee on Public Undertakings was first visualized by

(a) K. Santhanam (b) Balwant Mehta
(c) G.V. Mavlankar (d) Lanka Sundaram

5. Which of the following distinguishes the audit of the CAG (Comptroller and Auditor General of India) from the audit made by professional auditors?

(a) Audit of appropriation (b) Audit of propriety
(c) Audit of authority (d) Audit of accountancy

6. Which of the following Cabinet committees is not chaired by the Prime Minister?

(a) Economic Affairs committee (b) Political Affairs committee
(c) Appointments Committee (d) Committee on Parliamentary affairs

7. How many members are nominated to the State Legislative Council by the Governor?

(a) One-third (b) One-twelfth (c) One-eighth (d) One-sixth

8. Who was the Chief Justice of India when Public Interest Litigation (PIL) was introduced to the Indian Judicial System?

(a) A.M. Ahmadi (b) P.N. Bhagwati
(c) A.S. Anand (d) M. Hidayatullah

9. Consider the following statements:

(1) CAG is provided with the security of tenure. He can be removed by the President only in accordance with the procedure mentioned in the Constitution. Thus, he does not hold his office till the pleasure of the President, though he is appointed by him.

(2) He (CAG) is eligible for further office, either under the Government of India or any state, after he ceases to hold his office.

(3) Neither his salary nor his rights in respect of leave of absence, pension or age of retirement can be altered to his disadvantage after his appointment.

Which of the statements given above is/are correct ?

(a) 1 only (b) 1 and 2 (c) 1 and 3 (d) 1, 2 and 3

10. Which of the following qualifications for a person to be chosen a Member of the Parliament is/are required ?

(a) He must be a citizen of India.

(b) He must make and subscribe to an oath or affirmation before the person authorized by the election Commission for this purpose.

(c) He must be not less than 30 years of age in the case of the Rajya Sabha and less than 25 years of age in the case of the Lok Sabha.

(d) All of the above.

11. Which of the following is/are the powers and duties of the Lok Sabha speaker ?

(a) He maintains order and decorum in the House for conducting its business and regulating its proceedings.

(b) He adjourns the House or suspends the meeting in absence of a quorum.

(c) He can allow a 'secret' sitting of the House at the request of the Leader of the House. When the House sits in secret, no stranger can be present in chamber, lobby or galleries except with the permission of the speaker.

(d) All of the above.

12. Consider the following statements regarding "Speaker Pro tem" :

(1) The President appoints a member of the Lok Sabha as the "Speaker" Pro tem and the President himself administers oath to the Speaker pro tem.

(2) The Speaker Pro tem has all the powers of the Speaker. He presides over the first sitting of the newly elected Lok Sabha.

Choose the correct statement(s) using the codes given below:

(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2

13. Which one of the following amendments to the Constitution, for the first time, made it obligatory for the President to act on the advice of the council of Ministers?

(a) 26th Amendment (b) 41st Amendment

(c) 42nd Amendment (d) 46th Amendment

14. Match List I with List II and select the correct answer by using the codes given below:

List I (Meaning of writs)	List II (Name of writs)
A. It is a command issued by the court to a public official asking him to perform his official duties.	1. Injunction
B. It is issued by a higher court to a lower court when the latter exceeds its jurisdiction.	2. Mandamus

C.	It is issued by the courts to enquire into the legality of claim of a person to a public office.	3. Quo-Warranto
D.	It is issued by the court asking a person to do a thing or refrain from doing a thing.	4. Prohibition

Codes:

	A	B	C	D
(a)	1	2	3	4
(b)	2	4	3	1
(c)	2	4	1	3
(d)	1	2	4	3

15. Consider the following statements:

(1) Article 280 of the Constitution of India provides for a Finance Commission as a non-quasi-judicial body.

(2) Finance Commission is constituted by the President of India every fifth year or at such earlier time as he considers necessary.

(3) The Constitution authorizes the Parliament to determine the qualifications of members of the Commission and the manner in which they should be selected.

Choose the correct statement(s) using the codes given below:

(a) 1 only (b) 1 and 2 (c) 2 and 3 (d) 1, 2 and 3

16. Match List I and List II and select the correct answer using the codes given below:

List I (Finance Commission)	List II (Chairman)
A. First Finance Commission	1. K.C. Neogy
B. Second Finance Commission	2. A.M. Khusro
C. Eleventh Finance Commission	3. K. Santhanam
D. Fourteenth Finance Commission	4. Y.V. Reddy

Codes:

	A	B	C	D
(a)	1	2	3	4
(b)	2	3	4	1
(c)	4	1	2	3
(d)	1	3	2	4

17. The correct statement(s) about ordinance making power of the Governor is/are:

(1) It can be issued by him after the advice of the President or the State Council of Ministers.

(2) It can be issued only during the recess of State Legislative Assembly and the Legislative Council.

(3) It is laid down in Article 217 of the Indian Constitution.

Choose the correct statement(s) using the codes given below:

(a) 1 only (b) 2 only (c) 1 and 2 (d) 1 and 3

18. Consider the following statements:

(1) The Chief Justice of a High Court is appointed by the President after consultation with the Chief Justice of India and the Governor of the state concerned.

(2) A person appointed as a judge of a High Court, before entering u his office, has to make and subscribe an oath or affirmation before the Governor of the state or some person appointed by him for this purpose.

Which of the statements given above is/are correct?

(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2

19. Consider the following statements:

(1) There are 24 High Courts in India.

(2) Assam, Nagaland, Mizoram and Arunachal Pradesh have a common High Court.

(3) National Capital Territory of Delhi has a High Court of its own.

Which of the statements given above is/are correct?

(a) 1 only (b) 2 and 3 (c) 1 and 3 (d) 1, 2 and 3

20. Under which of the following Articles of the Indian Constitution, the power of judicial review is conferred on a High Court?

(a) Articles 8 and 123 (b) Articles 11 and 124

(c) Articles 12 and 226 (d) Articles 13 and 226

21. Consider the following statements regarding the powers of a High Court :

(1) The judgements, proceedings and acts of the High Courts are recorded for perpetual memory and testimony. These records are admitted to be of evidentiary value and cannot be questioned when produced before any subordinate court.

(2) It has the power to punish for contempt of court, either with simple imprisonment or with fine or with both.

(3) As a court of record, a High Court also has the power to review and correct its own judgement or order or decision.

Which of the statements given above is/are correct ?

(a) 1 and 2 (b) 2 only (c) 3 only (d) 1, 2 and 3

22. The headquarter of the Central Zonal Council is situated at

(a) New Delhi (b) Kolkata (c) Allahabad (d) Mumbai

23. Match List I and List II and select the correct answer using the codes given below:-

List I (Articles)	List II (Subject-matter)
A. Article 301	1. Power of the Parliament to impose restrictions on trade, commerce and intercourse

B.	Article 302	2.	Adjudication of disputes relating to waters of inter-state rivers or river-valleys
C.	Article 262	3.	Freedom of trade, commerce and intercourse
D.	Article 304	4.	Restrictions on trade, commerce and intercourse among states.

Codes:

	A	B	C	D
(a)	1	2	3	4
(b)	3	1	2	4
(c)	3	2	1	4
(d)	2	1	3	4

24. Which of the following Amendment Acts substituted the words "armed rebellion" for internal disturbance ?

(a) 38th Amendment Act (b) 39th Amendment Act
(c) 42nd Amendment Act (d) 44th Amendment Act

25. Consider the following statements regarding emergency provision:-

(1) Article 355 imposes a duty on the Centre to ensure that the government of every state is carried on in accordance with the provisions of the Constitution.
(2) According to Article 358, when a proclamation of national emergency is made, the fundamental rights under Article 19 are automatically suspended.
(3) The right to protection in respect of conviction for offences (Article 20) and the right to life and personal liberty (Article 21) are automatically suspended during the national emergency.

Which of the above statements is/are correct?

(a) 1 and 2 (b) 1 only (c) 2 and 3 (d) 1, 2 and 3

26. Consider the following statements regarding the National emergency (Article 352):

(1) It can be proclaimed only when the security of India or a part of it is threatened by war, external aggression or armed rebellion.
(2) Under this, the Parliament can make laws on the subjects enumerated in the state list only by itself, that is, it cannot delegate the same to any other body or authority.
(3) It affects fundamental rights of the citizen.
(4) There is a maximum period prescribed for its operation.

Which of the statement given above are correct?

(a) 1 and 2 (b) 2 and 3 (c) 1, 2 and 3 (d) 1, 2, 3 and 4

27. The CAG (Comptroller and Auditor General) of India can be removed from the office only in like manner and on like grounds as the

(a) Attorney General of India (b) Supreme Court Judge
(c) Speaker of the Lok Sabha (d) Chairman of the Rajya Sabha

28. The Central Vigilance Commission was set up by

(a) an Act of Parliament (b) a Constitutional Provision
(c) an Executive Resolution (d) none of the above

29. Consider the following statements:

(1) At present there are 6 national parties in India.
(2) A party is recognized as a national party if it secures six per cent of valid votes polled in any four or more states at a general election to the Lok Sabha or to the Legislative Assembly; and, in addition, it wins four seats in the Lok Sabha from any state or states.

Which of the above statements is/are correct?

(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2

30. Match List I with List II and select the correct answer using the codes given below:

List I (Name of the Party)	**List II (Symbols)**
A. Communist Party of India (CPI)	1. Hammer, sickle and star
B. Communist Party of India (Marxist) (CPM)	2. Ears of corn and sickle
C. Nationalist Congress Party (NCP)	3. Hand
D. Indian National Congress (INC)	4. Clock

Codes:

	A	B	C	D
(a)	1	2	3	4
(b)	2	1	4	3
(c)	3	2	1	4
(d)	2	3	1	4

31. Consider the following statements:

(1) Federalism is a form of government in which the sovereign authority of political power is divided between various units viz. centre, states, municipalities etc.
(2) According to Dicey, a federal state is "a political contrivance intended to reconcile national unity with maintenance of state rights."
(3) Emergency provisions of the Indian Constitution indicate unitary feature of the Indian Constitution.

Which of the statements given above is/are correct?

(a) 2 only (b) 2 and 3 (c) 3 only (d) 1, 2 and 3

32. Consider the following statements:

(1) Article 74 (1) provides that there shall be a Council of Ministers with Prime Minister at the head, to aid and advise the President in exercise of his functions.
(2) Prior to the 42nd Amendment, there was a clear provision in the Constitution that the President was bound by the ministerial advice. This amendment amended Article

74, which makes it clear that the President shall be bound by the advice of Council of Ministers.

Which of the statements given above is/are correct?

(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2

33. Which of the following Articles provides that there shall be a vice-President of India ?

(a) Article 53 (b) Article 58 (c) Article 63 (d) Article 73

34. Which of the following statements is incorrect regarding 'Ad hoc Judge' of the Supreme Court?

(a) When there is a 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 a High Court for a temporary period.

(b) The Chief Justice of India can do it [fact of (a)] on his own will.

(c) The judge so appointed as an ad hoc judge should be qualified for appointment as a Judge of the Supreme Court.

(d) It is the duty of the judge so appointed as ad hoc judge to attend the sitting of the Supreme Court, in priority to other duties of his office.

35. Consider the following statements:-

(1) The retired judges of the Supreme Court are prohibited from pleading or acting in any court or before any authority within the territory of India.

(2) The Chief Justice of India can appoint officers and servants of the Supreme Court without any interference from the executive. He can also prescribe their conditions of service.

(3) The Constitution prohibits any discussion in Parliament or in a State Legislation with respect to the conduct of the judges of the Supreme Court in discharge of their duties, except when an impeachment motion is under consideration of the Parliament.

Which of the statements given above is/are correct?

(a) 1 only (b) 3 only (c) 1 and 2 (d) 1, 2 and 3

36. The original jurisdiction of the Supreme Court of India extends to

(a) treaties and agreements signed by the Government of India.

(b) disputes between the Government of India and one or more states.

(c) disputes relating to implementation of Directive Principles of State Policy.

(d) a bill passed by the Parliament which is violative of the Constitution.

37. Which of the following features is/are contrary to the norms of a federal polity?

(1) Common All India Service (2) Integrated Judiciary

Select the correct answer using the code given below:

(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2

38. The tenure of every Panchayat shall be for five years from the date of

(a) its first meeting
(b) issue of notification for the conduct of elections to the Panchayat
(c) declaration of the election results
(d) taking oath of office by the elected members

39. The President of India is elected by a Proportional Representation System through single transferable vote. This implies that

(a) value of votes of all MLAs is equal to the value of votes of all MP's.
(b) MPs and MLAs of a state have the same numbers of votes.
(c) all MPs and MLAs have one vote each.
(d) MPs and MLAs of different states have different numbers of votes.

40. Which of the following fundamental rights is also available to a foreigner on the Indian soil?

(a) Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.
(b) Equality of opportunity in matters of public employment.
(c) Protection of life and personal liberty according to the procedure established by the law.
(d) To practice any profession or to carry on any occupation, trade or business.

41. In India the right to "freedom of speech and expression" is restricted on the grounds of

(1) sovereignty and integrity of India. (2) contempt of court.
(3) friendly relation with foreign states. (4) protection of minorities.

Select the correct answer using the code given below:

(a) 1, 2 and 3 (b) 2, 3 and 4 (c) 1 and 3 (d) 1, 2 and 4

42. Which of the following statements is/are correct?

(1) In India, the constitutional remedy under Article 32 is available only in the case of fundamental rights, not in the case of rights, which follow from some other provision in the Constitution.
(2) Both the Supreme Court and the High Courts can issue the writs of habeas corpus, mandamus, prohibition, certiorari and quo warranto only for the purpose of enforcement of fundamental rights.

Select the correct answer using the code given below:

(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2

43. Consider the following statement regarding the power of the speaker of a state legislature.

(1) The speaker adjourns the Assembly or suspends the meeting in the absence of a quorum.

(2) The speaker can allow a 'secret' sitting of the House at the request of the leader of the House.

Which of the statements given above is/are correct?

(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2

44. To which among the following the residuary powers were conferred by the federation established by the Act of 1935?

(a) Federal legislature (b) Provincial legislatures
(c) Governor General (d) Provincial Governors

45. The impeachment of the President of India can be initiated in

(a) either house of the Parliament.
(b) a joint sitting of both the houses of the Parliament.
(c) the Lok Sabha alone.
(d) the Rajya Sabha alone.

46. Which of the following articles of the Indian Constitution authorizes the President to seek the opinion of the Supreme Court?

(a) Article 167 (b) Article 139 (c) Article 141 (d) Article 143

47. Which of the following statements regarding the Fundamental Duties contained in the Constitution of India are correct?

(1) Fundamental Duties can be enforced through writ jurisdiction.
(2) Fundamental Duties have formed a part of the Constitution since its adoption.
(3) Fundamental Duties become a part of the Constitution in accordance with the recommendations of the Swaran Singh Committee.
(4) To value and preserve the rich heritage of our composite culture is one of the Fundamental Duties.

Select the correct answer using the code given below?

(a) 1 and 2 (b) 2 and 4 (c) 2 and 3 (d) 3 and 4

48. For which one of the following judgments of the Supreme Court of India, the Kesavanand Bharati v/s State of Kerala (1973) case is considered a landmark?

(a) The religion cannot be mobilized for political ends.
(b) Abolishing untouchability from the country.
(c) The basic structure of the Constitution cannot be changed.
(d) Right to life and liberty cannot be suspended under any circumstances.

49. Consider the following statements:

(1) The total elective membership of the Lok Sabha is distributed among the States on the basis of the population and the area of the state.

(2) The 84th Amendment Act of the Constitution of India lifted the freeze on the delimitation of constituencies imposed by the 42nd Amendment.

Which of the statements given above is/are correct?

(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2

50. Which one of the following is a Human Right as well as a Fundamental Right under the Constitution of India?

(a) Right to Information (b) Right to Education

(c) Right to Work (d) Right to Housing

51. Under which of the following conditions citizenship was to be provided in the original Constitution of India ?

(1) One should be born in India

(2) Either of whose parents was born in India.

(3) Who has been an ordinary resident of India for not less than five years.

Select the correct answer using the code given below:

Code:

(a) 1, 2 and 3 (b) 1 and 2 (c) 2 and 3 (d) Either 1 or 2 or 3

52. If the Prime Minister is a member of the Rajya Sabha

(a) he/she has to get elected to the Lok Sabha within six months

(b) he/she can declare the government's policies only in the Rajya Sabha.

(c) he/she cannot take part in the voting when a vote of no confidence is under consideration.

(d) he/she cannot take part in the budget deliberation in the Lok Sabha.

53. Which of the following rights, conferred by the Constitution of India, is also available to non-citizens?

(a) Freedom of speech, assembly and to form association.

(b) Freedom to move, reside and settle in any part of the territory of India.

(c) Freedom to acquire property or to carry on any occupation, trade or business.

(d) Right to constitutional remedies.

54. Consider the following statements:

1. The Indian Constitution expressly secures the predominance of Union List over the State List and the Concurrent list and that of the Concurrent list over the State list.
2. In case of a conflict between the central law and the state law on a subject enumerated in the Concurrent List, the central law prevails over the state law. But, there is an exception. If the state law has been reserved for the consideration of the President and has received his accent, then the state law prevails in that state.

Which of the statements given above is/are correct?

(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2

55. Which of the following states does not have a Vidhan Parishad?
(a) Bihar (b) Maharashtra (c) Tamil Nadu (d) Uttar Pradesh

56. The quorum for the joint sitting of the Indian Parliament is
(a) One-twelfth of the total number of members of the House
(b) One–sixth of the total number of members of the House
(c) One –tenth of the total number of members of the House
(d) Two – third of the total number of members of the House

57. Which one of the following is not a correct description of the Directive Principles of State Policy?
(a) Directive Principles are not enforceable by the courts.
(b) Directive Principles have a political sanction.
(c) Directive Principles are declaration of objective for State Legislation.
(d) Directive Principles promise equal income and free health care for all the Indians.

58. In India, the supreme command of the defence forces is vested with the President. This means that in the exercise of this power:-
(a) he/ she cannot be regulated by the law.
(b) he/ she shall be regulated by the law.
(c) during war, the President seeks advice only from the chiefs of the defence forces.
(d) during war the President can suspend the Fundamental Rights of the citizens.

59. The 73rd Amendment of the Constitution provided constitutional status to the Panchayati Raj institution. Which of the following are the main features of this provision ?
(1) A three tier system of Panchayati Raj for all states.
(2) Panchayat election every 5 years.
(3) Not less than 33% of seats are reserved for women.
(4) Constitution of District Planning Committees to prepare development plans.
Select the correct answer using the code given below:
(a) 1, 2 and 3 (b) 1, 3 and 4 (c) 1, 2 and 4 (d) 1, 2, 3 and 4

60. Which one of the following is the largest Committee of the Parliament?
(a) The Public Accounts Committee. (b) The Estimates Committee.
(c) The Committee on Public Undertakings. (d) The Committee on Petitions.

Notes

PRACTICE QUESTIONS (ANSWER KEY)

1	2	3	4	5	6	7	8	9	10
d	a	a	d	b	d	d	b	c	d
11	12	13	14	15	16	17	18	19	20
d	c	c	b	c	d	a	c	b	d
21	22	23	24	25	26	27	28	29	30
d	c	b	d	a	c	b	c	b	b
31	32	33	34	35	36	37	38	39	40
d	c	c	b	d	b	c	a	a	c
41	42	43	44	45	46	47	48	49	50
a	a	c	c	a	d	d	c	c	b
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d	c	d	c	c	c	b	a	d	b

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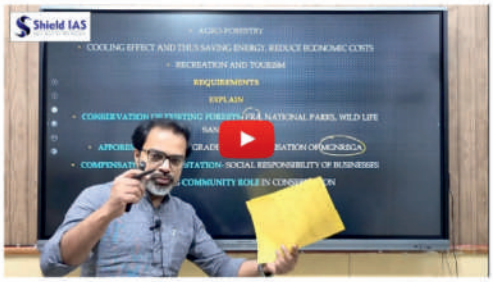

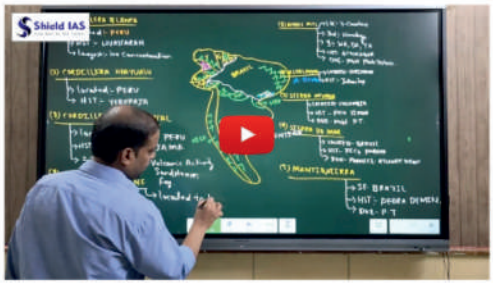
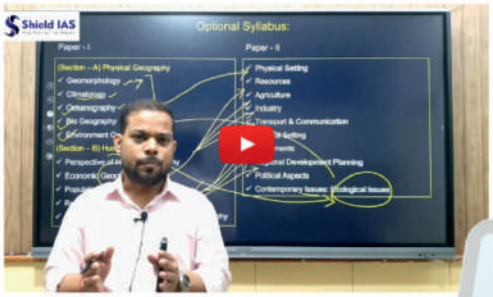

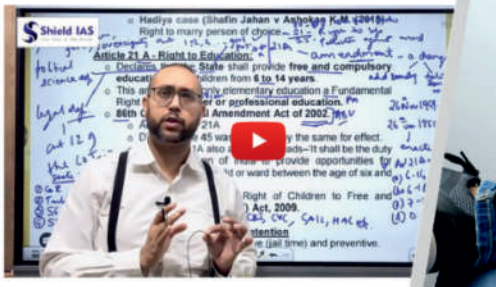

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