



ONLYIAS
BY PHYSICS WALLAH



PSC WALLAH

BPSC **SAMPOORNA**

Comprehensive Booklet for Prelims+Mains

Indian Polity



A Detailed Coverage of Bihar Civil Services Exam Syllabus



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PREFACE

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BOOK FEATURES

- Holistic discussion of topics, strictly as per exam syllabus
- One-stop solution for subject-wise coverage
- Diagrams, Flowcharts and Timelines for quick understanding and revision
- Integrated Preparation of Prelims and Mains stages of this exam

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1

Historical Background

1.1 THE COMPANY RULE: 1773 – 1858

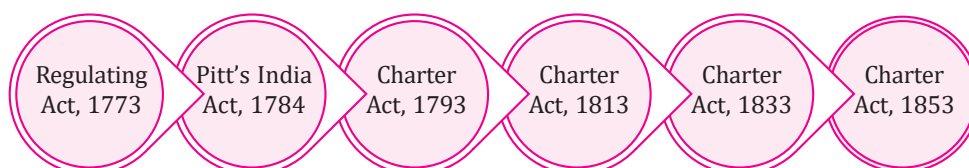


Fig. 1.1: The Company Rule

A. Regulating Act, 1773

- **First step** taken by the British Government **to control and regulate the affairs** of the East India Company in India.
- On the recommendation of the “**Secret Committee**” constituted by the then **British Prime Minister Lord Nath**, **changes** were made in the **administration of the company** by this act.
- The Act **recognized the right of Parliament to regulate** the civil, military and revenue affairs of the company’s territories in India.
- It **recognized**, for the first time, the **political and administrative functions** of the Company.
- Laid the **foundations of central administration** in India.
- Designated the **Governor of Bengal** as the ‘**Governor-General of Bengal**’ and created an **Executive Council of four members** to assist him. The first such Governor-General was **Lord Warren Hastings**.
- Establishment of a **Supreme Court at Calcutta (1774)** comprising **one chief justice and three other judges**.
- **Sir Elijah Impey** was appointed the **first Chief Justice** and **Chambers, Stephen** and **John Hyde** as judges.
- **Prohibited the servants of the Company from engaging in any private trade** or accepting presents or bribes from the **natives**.
- **Strengthened the control of the British Government** over the Company by requiring the Court of Directors (governing body of the Company) to report on its revenue, civil, and military affairs in India.
- **Made the governors of Bombay and Madras presidencies subordinate** to the Governor General of Bengal, unlike earlier, when the three presidencies were independent of one another.

Parliamentary Inquiry Committee

- In **November 1772**, the British Government appointed **two committees to inquire** into the working of the Company – one the “**Joint Select Committee**”, the other the “**Secret Committee**”.
- **Based on the report** of the Inquiry Committee, **the British Parliament passed two Acts in 1773** to control the Company’s activities in India
- **According to the first Act**, the Company was **given a loan of 1.4 million pounds at 4 percent interest on certain conditions**. The **second act** was the “**Regulating Act**” by which a constitution was given to regulate the work of the company.

B. Pitt’s India Act, 1784

- **Extended the control of the British Government over the Company’s affairs** and its administration in India.
- Act **distinguished between the commercial and political functions** of the Company.
- **Established a Board of Control** to guide and control the work of the Court of Directors and the Government of India.
- **Empowered the Board of Control to supervise and direct all operations** of the British possessions in India such as: the civil, the military and the revenues.

C. Charter Act, 1793

- **Extended the overriding power given to Lord Cornwallis over his council**, to all future Governor-Generals and Governors of Presidencies.
- Gave the Governor-General **more powers and control** over the governments of the subordinate Presidencies of Bombay and Madras.

- **Extended the trade monopoly of the Company in India** for another period of **twenty years**.
- The Act also laid down that the members of the Board of Control and their staff were, henceforth, **to be paid out of the Indian revenues**.

D. Charter Act of 1813

- In Europe, the **spirit of laissez-faire** and **Continental System of Napoleon Bonaparte's** had **prohibited the import of British goods into French allies** in Europe, and as a result of it the British traders and merchants suffered heavily.
- The Charter Act of 1813 **sought to redress those grievances** of the British traders and merchants.
- **Ended the trade monopoly** of the East India Company in India, **except the company's monopoly in trade with China and trade in tea**.
- The company's rule was **extended for another 20 years**.
- **Powers of the Board of Control** were further **extended**.
- Act **granted permission** to the persons who wished to go to India for promoting moral and religious improvements - **Christian Missionaries**
- Contained provision that the **Company should invest Rs. 1 Lakh every year on the education of Indians**.
- **Empowered the Local Governments** in India to **impose taxes** on persons and to **punish those who did not pay** them.

E. Charter Act of 1833

- **Reconstituted the administration on a new model** to give it an all-India character. Thus, the Act was the **final step towards centralization in British India**.
- It is also known as the **St. Helena Act, 1833** or the **Government of India Act, 1833**.
- Control of the island of Saint Helena was transferred from the East India Company to the Crown.
- Company's **monopoly over trade with China and in tea ended**.
- **Legalized the British colonization of India:** the East India Company converted from a commercial body to an administrative body.
- Company's territories in India were held by the government **'in trust for His Majesty, His heirs and successors'**.
- Governor-General of Bengal as the **"Governor-General of India"** and vested in him **all civil and military powers**.
- **Lord William Bentinck** the first Governor-General of India.

- The Governor-General of India had **legislative powers over the entire British India**. Thus, Governors of Bombay and Madras lost their legislative powers.
- Laws made under the previous acts were called **"Regulations"** while laws made under this act were called **"Acts"**.
- **"Regulations"** are not passed before the Houses of Parliament but need to be published in the Official Gazette to become legal. **"Acts"** are any legislation passed by the Parliament at the Center or the Legislature at the State.
- The Governor-General in council had the **authority to amend, repeal or alter any law in British Indian territories**.
- The Governor-General's government was called **"Government of India"** and the council was called **"India Council"**.
- **Indian Law Commission (1834)** was established to codify all Indian laws. The first Law Commission had **Lord Macaulay** as its **chairman**.
- The Act also directed the **Governor General-in-Council** to adopt **measures to mitigate the state of slavery, persisting in India since the sultanate Era**.
- Laid down **regulation for establishment of Christian establishments in India**.
- In this act **provision** was made to **end slavery in India**.

F. Charter Act of 1853

- The **last of the series of Charter Acts** passed by the **British Parliament** between 1793 and 1853.
- The Act **empowered the British East India Company to retain the territories and the revenues in India in trust for the crown** not for any specified period, unlike the previous Charter Acts of 1793, 1813 and 1833 which renewed the Charter for 20 years.
- **Separated the legislative and executive functions** of the Governor-General's council for the first time.
- It provided for the **addition of six new members called legislative councilors** to the council (12 in total).
- This **legislative wing** of the council **functioned as a "mini- Parliament"**, adopting the same procedures as the British Parliament.
- **Law member (fourth member)** became a **full member** with the **right to vote**.
- **Introduced an open competition system of selection and recruitment of civil servants;** thus, it was thrown open to the Indians too.
- **Appointed Macaulay Committee** on the Indian Civil Service in 1854.
- **Number of Board of Directors was reduced from 24 to 18** out of which 6 people were to be nominated by the British Crown.
- The Act also **introduced local representation** in the **Indian (Central) Legislative Council** for the **first time**.

1.2 THE CROWN RULE: 1858-1947

A. Government of India Act, 1858

- Known as the “**Act of Good Government of India**”. It **abolished the East India Company** and transferred powers to the Crown.
- **Rule of the Company ended**, and Viceroy was the new Designation of the “**Governor General of India**”; who was the **direct representative of the British Crown in India**.

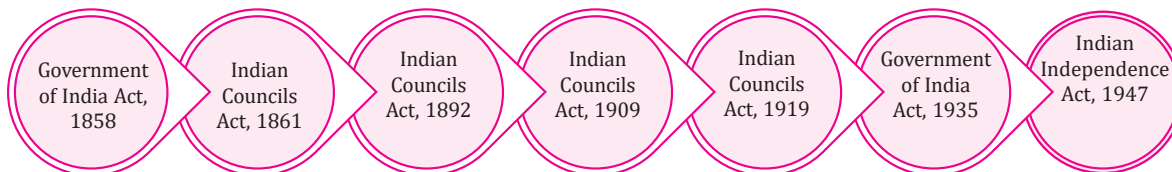


Fig. 1.2: The Crown Rule

- **This act ended the diarchy in India** by abolishing the Board of Control and the Board of Directors.
- Created the **Office for “Secretary of State” for India**. He was a **member of the British Cabinet** responsible to the British Government.
- The **Secretary of State was to be assisted by a Council** of 15 members. It was an **advisory body** with the Secretary of State being the **Chairman** of the Council.
- It **focused on improving administrative machinery** (Governor General of India replaced by Viceroy under the Crown etc.) of India.

B. Indian Councils Act, 1861

- **Provided for Viceroy to nominate some ‘Nominated’ Indians** in the **extended Legislative Council**. By 1862, **Viceroy Canning** nominated three Indians in the Legislative council.
- The **Legislative Powers of Bombay and Madras Presidencies** were **restored**.
- It made **provisions of the Formation of the New Legislative Council** (Upper House) for Bengal (formed in 1862), Northwestern Province (1886), and Punjab (1897). The presidencies of Bombay, Madras and Bengal had more power than this.
- **The Viceroy was empowered to issue an Ordinance** without the consent of the Legislative Council in case of emergency. This Ordinance was **valid for 6 months** from the date of issue.
- It **recognized the “Portfolio system”** which was **started by Lord Canning in 1859**.

Additional Information

- **Portfolio System:** In it, a member of Viceroy Council was made in charge of one or more Departments and could independently take decisions and issue orders on the behalf of the Council.

C. Indian Councils Act, 1892

- **Additional non-official members increased in Central and Provincial Legislative Councils**. Official majority was maintained.
- **Increase in Functions of Legislative Councils:** **power of discussing Budget** and addressing the Questions to the Executive.
- **Provided for the nomination of certain non official members of the Legislative Council:**
 - **Central Legislative Council:** The Indian Councils Act 1892 **provided for the nomination of some non-official members of the legislative councils:**
 - **Provincial Legislative Council:** The non-official members of the Central Legislative Councils were to be **nominated by the Viceroy of India** on the recommendation of the provincial legislative councils and the Bengal Chamber of Commerce.
- By this act the **electoral system was introduced for the first time in India**.
- Word ‘**Election**’ was **nowhere mentioned** but a limited and indirect election for the Nominated members was introduced in this Act.

D. Indian Councils Act, 1909 (Morley Minto Reforms)

- The Legislative Council was enlarged. **In the Central Legislative Council members were increased from 16 to 60. In Provincial Councils**, the number was not uniform.
- **The Central Legislative Council continued to have Official majority, But a majority of non-official members were allowed in the Provincial Councils.**
- More powers were given to the Legislative Councils
- Members were allowed to ask supplementary questions.
- Voting for separate items on the Budget allowed.

- Budget as a whole could still not be voted upon.
- **Separate Electorate for Muslims** introduced. **Only Muslims could vote for the Muslim Candidates.**
- **Lord Minto became the “Father of Communal Electorate”** • Indians were allowed in the Executive Council **of the Viceroy for the first time.** Satyendra Prasad Sinha **was appointed as a Law member in the Viceroy Executive Council.**
- Separate representation for **Presidency Corporations, Chamber of Commerce, Universities etc.**
- It was the **first attempt** to introduce “**Representative and Popular Elements**” in the Council. Councils were referred to as Legislative Councils for the first time.

E. Government of India Act of 1919: Montagu Chelmsford Reforms: or the Mont-Ford Reforms

- **Central and Provincial Subjects were separated** with the power to make Laws on their respective subjects.
- **Element of Dyarchy was introduced (Dual Rule/ Double Government:** Division of the Subjects allocated to the states into **Two Categories, one managed by Executive Branch, Second by Popular ministers who were Indians)** in the Provinces.
- **Provincial Subjects were divided into two parts:** Reserved and Transferred:
 1. **Reserved Subjects:** They were to be administered by the Governor General and his executive Council. They were not responsible to the Legislative council.
 2. **Transferred Subjects:** They were to be administered by the Governor General with the help of his council. They were responsible to the legislative council for these subjects.
- For the First time, the **Indian Legislative Council was replaced by the Upper and Lower House of the Parliament (Bicameralism).** Majority members were to be chosen by **Direct Elections.**
- **Three of the six members of the Viceroy Executive Council were Indians.** (Excluding Commander in Chief).
- **Separate electorate:** for **Sikhs, Indian Christians, Anglo Europeans, Europeans** (Element of Communal Representation).
- **Franchise given to a limited number of people** on the basis of property, Tax, Education.
- **Provincial Budget was separated from Central Budget** and Provinces were allowed to enact their own Budget.
- Provided for **setting up of a Commission to see the working after 10 years** of these provisions coming

into force. **The Simon Commission** was appointed in **1927** for this purpose.

- It was the **first time** the British Government declared its **intention of introducing a Responsible Government in the Country.**

F. Government of India Act, 1935

- It was a long and wide document with **321 sections** and **10 schedules.**
- **All India Federation** consisting of **Provinces and Princely states.** It provided for division of Subjects based on Centre, Provincial and Concurrent List.
- **Residuary powers** were with the **Governor General.**
- Princely States did not join the Federation.
- **Diarchy was abolished** and **Provincial autonomy was introduced.** **Diarchy provision in the Centre** was introduced. Federal Subjects were divided into **Reserved and Transferred.** (This provision never came to being.)
- Provinces were allowed to act as independent units of administration.
- **Governor was required to act under the advice of the ministers** responsible to the provincial legislature. This provision came into force in **1937** and repealed in **1939.**
- **Bicameralism (Upper House-Lower House):** It came into being in **6 out of 11** provinces. **Bengal, Bombay, Madras, United Province, Bihar and Assam.**
- **Separate Electorate:** It was introduced for the depressed classes and Women. (Provision of Separate electorate extended)
- The Secretary of State was provided with a team of Advisors. The **Council of India was abolished.**
- **Extended Franchise:** 10% of people got the voting rights.
- Established the **Reserve Bank of India** for controlling currency and credit.
- **Establishment of a Federal Court.** It was established in 1937.
- **Significance:** It was another important step introduction of Responsible Government.
- It not only established the **Union Public Service Commission** (but also established the **Combined Services Commission** for the **Provincial Services Commission** and two or more states.

G. Indian Independence Act, 1947

- It was brought in response to the **Mountbatten Plan.**
- It **gave the provisions of Partition of India** with the creation of two independent Dominion; India, Pakistan. These Dominions had the **Right to secede** from the British Commonwealth.

- **Governor Generals were to be appointed in both the Dominion** of India and Pakistan by the King of Britain.
- **The Office of the Viceroy came to an end.** Hereafter the **British king would not have any responsibility** w.r.t the Government of India.
- Gave the **authority to the Dominions to govern as per the provision of the Act of 1935** or make modifications if need be.
- **Constituent assemblies of the Dominions were empowered** to frame and enact the Constitution. They could also **repeal any Act** including the Independence of India Act. The Constituent Assembly **could legislate over their territories** till the drafting and enactment of the New Constitution.
- Designated the Governor-General of India and the provincial governors as **constitutional (nominal) heads of the states**. They were made to act on the advice of the respective council of ministers in all matters.
- It **dropped the title of “Emperor of India”** from the royal titles of the King of England.
- **Right to Veto Bills or ask for Reservation of Bills** of the Governor were reserved but were taken away from the British Monarch.
- **The Office of Secretary of State was abolished** and functions were transferred to the Secretary of States for the Commonwealth.
- **British paramountcy over princely states came to an end.** They were allowed to be independent or join any dominion.
- **Discontinued the appointment to civil services and reservation of posts** by the secretary of state for India.
- **Significance:** British rule came to an end by this Act. India became Independent on 15th August 1947.



Additional Information

Mountbatten Plan: On February 20, 1947, British Prime Minister Clement Attlee announced that British rule in India would end on 30 June 1947. After this, the power will be handed over to the responsible Indian hands. The Muslim League agitated on this announcement and spoke of the partition of India. On June 3, 1947, the British government again clarified that the constitution created by the Constituent Assembly formed in 1946 would not apply in areas which will not accept it. On the same day on June 3, 1947, Viceroy Lord Mountbatten introduced a plan for Partition, which was called Mountbatten Yojana. The scheme was accepted by the Congress and the Muslim League.

PREVIOUS YEAR QUESTIONS

1. In which year was the Regulating Act passed?
[56th, 59th BPSC(pre)2015]
(a) AD 1757
(b) AD 1765
(c) AD 1773
(d) AD 1793
2. In ----- the rights of the tenants on land in Bengal and Bihar were given by the Bengal Tenancy Act.
[56th, 59th BPSC(pre)2015]
(a) 1885
(b) 1886
(c) 1889
(d) 1900
3. In order to control the media in India, 'Acts' were passed in___?
[56th, 59th BPSC(pre)2015]
(a) 1835, 1867, 1878, 1908
(b) 1854, 1864, 1872, 1910
(c) 1854, 1872, 1908, 1910
(d) 1867, 1908, 1910, 1919

2

Making of the Indian Constitution

2.1 WORKING OF THE CONSTITUENT ASSEMBLY

- **First meeting** was held on **Dec 9, 1946** (Muslim League boycotted), attended by **211 members only**.
- **Dr. Sachidanand Sinha** (oldest member), was elected as **temporary president** of the assembly following the French practice.
- **President: Dr. Rajendra Prasad** was elected as a **President of C.A.**
- **Vice-Presidents (Two): H.C. Mukherjee and V.T. Krishnamachari.**

2.2 IMPORTANT MILESTONES OF CONSTITUENT ASSEMBLY (C.A.)

Demand for Constituent Assembly:	
1924	• Idea first given by Swaraj Party .
1934	• M.N. Roy put forward the demand for C.A.
1935	• INC officially demanded C.A. to frame the Indian Constitution.
1938	• Jawaharlal Nehru , on behalf of the INC declared that "the Constitution of free India must be framed, without outside interference, by a Constituent Assembly elected on the basis of adult franchise.
1940	• Demand accepted in principle in August Offer .
1942	• Cripps Proposal for Constitution was rejected.
1946	<ul style="list-style-type: none"> • Cabinet Mission Plan (CMP) accepted by all parties. • Lord Patrick Lawrence, Sir Stafford Cripps, A V Alexander were its members. • CMP rejected the idea of two Constituent Assemblies.

Important Dates	
Dates	Significant Events
9th December, 1946	• First sitting of Constituent Assembly
11th December, 1946	• Dr. Rajendra Prasad elected as President of the Constituent Assembly
13th December, 1946	• Objective Resolution was introduced by Jawahar Lal Nehru
22nd July, 1947	• Constituent Assembly adopted National Flag
15th August, 1947	• Transfer of Power leading to the formation of dominions of India and Pakistan (14 th August, 1947)
26th November, 1949	• The Constitution was adopted/enacted.
24th January, 1950	• Adoption of National Song and National Anthem .
26th January, 1950	• The Constitution came into force making India a Republic with Dr. Rajendra Prasad as the first President.
25th October, 1951- 21st February, 1952	• First general elections were held.

Composition of the Constituent Assembly	
Constituted	• On November 1946 under Cabinet Mission Plan
Strength	• Total 389 = 292 (British India) + 93 (Princely States) + 4 (Chief Commissioners' provinces)
Composition	• Representatives of all sections of the Indian society – Hindus, Muslims, Sikhs, Parsis, Anglo-Indians, Indian Christians, SCs, STs including women of all these sections.

Seats allocation	<ul style="list-style-type: none"> Divided among the three principal communities – Muslims, Sikhs and General (all except Muslims and Sikhs), in proportion to their population.
Voting method	<ul style="list-style-type: none"> Proportional representation by means of single transferable vote in case of provincial representation.
Members	<ul style="list-style-type: none"> Partly elected (In British Provinces) and Partly nominated (by heads of Princely states) body. Members were to be indirectly elected by the members of the provincial assemblies.
<p>Note:</p> <ul style="list-style-type: none"> Mahatma Gandhi was not part of C.A. 93 seats allotted to the princely states were not filled as they decided to stay away from the Constituent Assembly 	

2.3 OBJECTIVE RESOLUTION

- Jawaharlal Nehru** moved this historic **resolution on Dec 13, 1946** in the Assembly.
- It contained the **fundamentals & philosophy of the Constitutional structure**.
- This resolution was **adopted on Jan 22, 1947** by the Assembly.
- Present **Preamble of constitution is a modified version** of Objective Resolution.

2.4 CHANGES BY THE INDEPENDENCE ACT, 1947

- Members of Princely states & Muslim League (from Indian Dominion) gradually began to join after acceptance of **Mountbatten Plan of June 3, 1947**. (This plan provided for Partition).
- Indian Independence Act, 1947 made three changes in C.A:**
 - The Assembly was made a **fully sovereign body**, free to abrogate or alter any law.
 - Two separate functions** were assigned to the Assembly (performed on separate days) - **legislative body** (Chaired by G V Mavalankar) and **Constituent body** (chaired by Dr. Rajendra Prasad); Assembly became the **first Parliament** of free India (Dominion Legislature); These two functions continued till November 26, 1949.
 - After **withdrawal of Muslim League members**, total strength **came down to 299 as against 389** under the Cabinet Mission Plan.

- The number of Indian provinces (formally British provinces) was 296 to 229 and the number of indigenous princely states to 93 to 70.

2.5 FUNCTIONS PERFORMED BY CONSTITUENT ASSEMBLY

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

Major Committees	
Chairman	Committees
Jawaharlal Nehru	<ul style="list-style-type: none"> Union Powers Committee, Union Constitution Committee, States Committee
Dr. Rajendra Prasad	<ul style="list-style-type: none"> Rules of Procedure Committee, Steering Committee
Sardar Patel	<ul style="list-style-type: none"> Provincial Constitution Committee, Advisory Committee on FRs, Minorities & Tribal & Excluded Areas
Dr. B.R. Ambedkar	<ul style="list-style-type: none"> Drafting Committee

2.6 DRAFTING COMMITTEE

- Of all the Committees of C.A. The Drafting Committee was most important **set up on Aug 29, 1947**. It consisted of **7 members**:
 - Dr. B.R. Ambedkar (**Chairman**)
 - N. Gopalaswamy Ayyangar
 - Alladi Krishnaswamy Ayyar
 - Dr. K.M. Munshi
 - Syed Mohammad Saadullah
 - N. Madhava Rau (He replaced B.L. Mitter who resigned due to ill-health)
 - T.T. Krishnamachari (He replaced D.P. Khaitan who died in 1948)

2.7 ENACTMENT AND ENFORCEMENT OF THE CONSTITUTION

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

Additional Information

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

2.8 IMPORTANT FACTS ABOUT INDIAN CONSTITUTION

- Elephant** adopted as Constituent Assembly (C.A) symbol.
- Sir B.N. Rau** was **Constitutional Adviser** to C.A.
- H.V.R. Iyengar** was **Secretary** to C.A.
- S.N. Mukherjee** was chief **draftsman** of constitution in C.A.
- Prem Behari Raizada** was the **calligrapher** of the Constitution.
- Nand Lal Bose & B.R. Sinha** decorated & beautified the Constitution.
- Hindi version calligraphy done by **Vasant Krishan Vaidya** & illuminated by **Nand Lal Bose**.

The great men of Bihar who had contributed significantly in the making of the constitution

- Since India's independence till now, many sons of Bihar have made a valuable contribution in building India. The land of Bihar has been the mother of the world's first democracy. **When the new chapter of our modern democracy was being created by the Constituent Assembly of India, the personalities of Bihar played an important role.** The senior most member of the Constituent Assembly, **Dr. Sachchidanand Sinha** was nominated as the **first President** and on **December 11, 1946, Dr. Rajendra Prasad** was elected as the **permanent President of the Constituent Assembly**. Other personalities of Bihar who made their valuable contribution in the Constituent Assembly include **Mr. Anugrah Narayan Sinha, Mr. Krishna Sinha, Maharaja Kameshwar Singh of Darbhanga, Mr. Jagat Narayan Lal, Mr. Shyam Nandan Sahay, Mr. Satyanarayan Sinha, Mr. Jaipal Singh, Babu Jagjivan Ram, Shri Ram Narayan Singh, KT Shah, Banarasi Prasad Jhunjhunwala and Shri Brajeshwar Prasad.**

PREVIOUS YEAR QUESTIONS

1. Indian constitution was adopted on?
[39th B.P.S.C. (Pre)1994]

(a) By the Constituent Assembly

- (b) By the British Parliament
(c) By the Governor General
(d) By the Indian Parliament

2. Indian constitution includes?
[53rd to 55th B.P.S.C. (Pre) 2011]

(a) 395 articles, 22 parts and 12 lists

- (b) 371 articles, 21 parts and 11 lists
(c) 372 articles, 20 parts and 7 lists
(d) 381 articles, 23 parts and 8 lists

3. November 26, 1949 is a significant day in our constitutional history because?
[53rd to 55th BPSC(Pre) 2011]

(a) India took the oath of complete independence on this day

(b) The constitution was adopted on this day

(c) India became a republic on this day

(d) The first amendment to the constitution was passed on this day

4. Consider the following words-

- A. Socialist
C. Sovereign
B. Democratic
D. Secular

Arrange these words in sequence according to the preamble of India. [48th to 52nd B.P.S. C. (Pre) 2008]

(a) C, A, D, B

(b) C, D, A, B

(c) C, D, B, A

(d) D, A, C, B



3

Salient Features of the Indian Constitution

INTRODUCTION

- The **42nd Constitutional Amendment (1976)** is also known as the **Mini Constitution**.
- **Kesavananda Bharati Case (1973)**: Supreme Court ruled, constituent power of Parliament doesn't allow it to change the '**basic structure**' of the constitution.
- **Minerva Mills Case (1980)**: SC held that "the Indian Constitution is founded on the bedrock of the balance between the Fundamental Rights and the DPSPs" – Basic Structure.

3.1 SIGNIFICANT FEATURES OF THE CONSTITUTION

A. Longest Written Constitution

- Originally (1949), the Constitution contained a Preamble, 395 Articles (divided into 22 Parts) and 8 Schedules.
- Presently, it consists of a Preamble, about 470 articles and 12 schedules.

B. Drawn from Various Sources

- The Constitution of India has borrowed most of its provisions from the Constitutions of various other countries as well as from the **Government of India Act of 1935**.

C. Federal System with Unitary Bias

- Term **Federation** has nowhere been used in the Constitution.
- **Article 1**: describes **India** as a **Union of States**.
- **This has two implications**:
 1. The Indian Union is not the result of any agreement between the states, and
 2. **Secondly**, no state has the right to secede from the union.
- The Constitution of India establishes a **federal government**.
- **Federal Feature**: Two governments, division of powers, written Constitution, bicameralism, supremacy of Constitution etc.
- Although a large number of **unitary and non-federal features** are also present in the Indian Constitution.

- **Unitary/Non-federal features**: Strong center, single constitution, single citizenship, integrated judiciary, all-India services, emergency provisions, etc.

D. Rigidity and Flexibility

- The Indian Constitution is neither rigid (like USA) nor flexible (like Britain), but a blend of both.

E. Parliamentary form of Government

- The Indian Constitution has **preferred the British Parliamentary System (Westminster model) of government** over the American Presidential System of government, where Executives remain responsible to the Parliament.
- The Constitution establishes the **parliamentary system at Centre and also in the States**.
- **Features**: Presence of nominal and real executives; Rule of majority party; Leadership of the Prime Minister or the Chief Minister; Membership of the ministers in the legislature; Dissolution of the lower house (Lok Sabha).

F. Synthesis of Parliamentary Sovereignty and Judicial Supremacy

- **Sovereignty of Parliament**: associated with the British Parliament.
- **Judicial supremacy**: associated with the American system.

G. Integrated and Independent Judiciary

- The Supreme Court stands at the top of the integrated judicial system in the country followed by High courts in states and subordinate courts and other lower courts.
- **Supreme Court**: **highest court of appeal**; **guarantor of the fundamental rights** of the citizens; **guardian of the constitution**.
- **India**: single system of courts enforces both the central laws as well as the state laws. Provides for '**procedure established by law**' (**Article 21**).
- **USA**: federal laws are enforced by the federal judiciary and the state laws are enforced by the state judiciary. Provides for '**due process of law**'.

H. Fundamental Rights

- Meant for promoting the **ideals of political democracy**.
- **Part III** of the constitution guarantees six Fundamental Rights to all the citizens:
 1. Right to equality (Article 14-18)
 2. Right to freedom (Article 19-22)
 3. Right against exploitation (Article 23-24)
 4. Right to Freedom of Religion (Article 25-28)
 5. Cultural and Educational Rights (Article 29-30)
 6. Right to Constitutional Remedies (Article 32)

Additional Information

- **Seven fundamental rights were provided in the original constitution.** Originally the constitution also included **Right to property (Article 31)**. However, **it was deleted from the list of Fundamental Rights by the 44th Amendment Act, 1978.** It is made a “legal right” under Article 300-A in Part XII of the Constitution. Thus at present there are **six fundamental rights**.
 - However, **the right to property is still a “Constitutional right”** – prohibiting state governments from compulsorily acquiring citizens’ property unless it is for a public purpose or a legal authority provides for compensation.
 - Under **Article 32**, if a fundamental right of any Indian citizen is violated, then the aggrieved person can directly go to the Supreme Court which can issue the writs of Habeas corpus, Mandamus, Prohibition, Certiorari, Quo Warranto for the restoration of his/her rights.
- **Exception:** They can be suspended during the operation of a National Emergency **except the rights guaranteed by Art 20 and 21.**

I. Directive Principles of State Policy

- **Part IV** of the constitution.
- To promote the **ideals of social and economic democracy**.
- **Non-justiciable** in nature, i.e. they are **non-enforceable** by the courts for their violation.
- **Classified into three:** Socialistic, Gandhian and liberal- intellectual.
- **Aim:** to establish a ‘welfare state’ in India.
- **Significance:** fundamental in the governance of the country and it shall be the duty of the state to apply these principles in making laws.

J. Fundamental Duties

- Added to the Constitution (**by 42nd Amendment Act**) only after the recommendations of **Swaran Singh Committee**.
- **Part IV-A** of the Constitution (only one **Art.51-A**) specifies the **11 Fundamental Duties**.
- The **86th CAA, 2002** (The State shall provide **free and compulsory education to all children of the age of six to fourteen years.**) added one more duty.
- **Non-justiciable in nature.** (That is, they cannot be enforced by the court on their violation, so the government (central, state and local) is **not bound** to implement them.)

K. Secular State

- Term **secular** was added to the Preamble by the **42nd CAA, 1976**.
- Does **not uphold any particular religion** as the official religion of the Indian State.

Additional Information

- **Western concept of secularism:** complete separation between the religion (the church) and the state (the politics).
 - **Indian concept of secularism:** embodies the positive concept of Secularism, i.e. giving equal respect to all religions or protecting all religions equally.
- **Articles promoting secularism:** Preamble, Article 14, 15, 16, 25-30, 44.

L. Universal Adult Franchise

- The **voting age was reduced** to 18 years from 21 years in 1989 by **61st CAA, 1988**.
- **Universal adult franchise:** basis of elections to the Lok Sabha and the state legislative assemblies.
- **“National Voters Day”** is celebrated on **25 January**.
- It was **started** in the year **2011** in the context of the establishment of the Election Commission of India.
- **The Election Commission** came into existence on **25 January 1950**, the eve of the first Republic Day of independent India.

M. Single Citizenship

- **India:** Enjoy the **same political and civil rights** of citizenship all over the country.

- **USA:** each person is not only a citizen of the USA, but also a citizen of the particular state to which he belongs.

N. Independent Bodies

- **Bulwarks of the democratic system:** Election Commission, Comptroller and Auditor General, Union Public Service Commission, State Public Service Commission.

O. Emergency Provisions

- **Rationality behind provisions:** to safeguard the sovereignty, unity, integrity and security of the country, the democratic political system and the Constitution.
- **Emergency provisions are divided into three parts** in the Indian Constitution.
 1. National Emergency (Art. 352),
 2. State Emergency or President's Rule (Art. 356 and Art. 365)
 3. Financial Emergency (Art. 360)
- Emergency provisions have been taken from the Government of India Act-1935.
- These provisions **enable** the Center to **effectively deal with any abnormal situation**.
- **Unique feature:** During an emergency, federal structure converts into unitary one without a formal amendment of the Constitution.

P. Three-Tier Government

- The 73rd Constitutional Amendment deals with rural local government, also known as **Panchayati Raj institutions**.
- The **73rd Constitutional Amendment Act, 1992** has provided for a **three-tier system** for all states, namely, **Panchayats at the village, intermediate block/taluk/mandal and district levels**.
- **73rd CAA, 1992:** Constitutional recognition to Panchayats (Part IX, Schedule 11)
- **74th CAA, 1992:** Constitutional recognition to Municipalities (Part IX-A, Schedule 12)
- The 74th Constitutional Amendment **deals with urban local government, also known as municipalities**.
- **Art. 40:** Organisation of village panchayats (Gandhian principle)

Additional Information

- The 73rd Constitutional Amendment Act, 1992 came into **effect during the tenure of the then Prime Minister P.V. Narasimha Rao**.
- The 73rd Constitutional Amendment Act **came into force from April 24, 1993, hence April 24 is celebrated as "National Panchayat Day"**.

Q. Cooperative Societies

- **97th CAA, 2011:** Constitutional status and protection to co-operative societies.
- Right to form co-operative societies as a **FR** (Art. 19).
- Added a new DPSP on promotion of co-operative societies (Art. 43B);
- Added a new part IX-B entitled as "Co-operative Societies" (Art. 243-ZH to 243-ZT).

3.2 SOURCES OF THE INDIAN CONSTITUTION

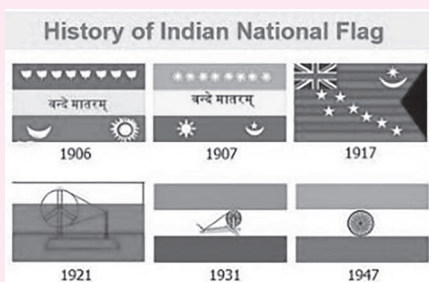
Sources	Features borrowed
Govt. of India Act, 1935	<ul style="list-style-type: none"> • Federal scheme, Governor's office, Judiciary, Public Service Commission, Emergency Provisions, Three lists of distribution of powers and administrative details.
British Constitution	<ul style="list-style-type: none"> • Parliamentary govt., Rule of Law, Single Citizenship, Cabinet System, Parliamentary privileges, Bicameralism, Privilege writs, prerogative writs.
US Constitution	<ul style="list-style-type: none"> • Fundamental Rights, Independent Judiciary, Impeachment of President, Judicial review, Removal of supreme court and high court judges and post of vice-president.
Irish Constitution	<ul style="list-style-type: none"> • DPSP, method of election of president and nomination of members to Rajya Sabha.
Canadian Constitution	<ul style="list-style-type: none"> • Federation with a strong center, vesting Residuary powers to center, appointment of state governors by the center and advisory jurisdiction of the Supreme Court.
Australian Constitution	<ul style="list-style-type: none"> • Concurrent List, Joint sitting of both the Houses of Parliament.
Weimar Constitution of Germany	<ul style="list-style-type: none"> • Suspension of Fundamental Rights during Emergency
USSR Constitution	<ul style="list-style-type: none"> • Fundamental Duties and the ideal of justice (social, economic and political) in the Preamble.
French Constitution	<ul style="list-style-type: none"> • Republic and the ideals of liberty, equality and fraternity in the Preamble.

South African Constitution	<ul style="list-style-type: none"> • Procedure for amendment of the Constitution and election of members of Rajya Sabha
Japanese Constitution	<ul style="list-style-type: none"> • Procedure established by Law.

Additional Information	
Part of Constitution	Derived From
Structural part of the Constitution	<ul style="list-style-type: none"> • Government of India Act, 1935.
Philosophical part of the Constitution (FR and DPSPs)	<ul style="list-style-type: none"> • American and Irish Constitution respectively.
Political part of the constitution	<ul style="list-style-type: none"> • British Constitution.

3.3 NATIONAL SYMBOLS

- **National Flag:**
 - On **August 7, 1906** at **Parsi Bagan Square (Green Park), Calcutta** the first national flag of India was hoisted by **Surendranath Banerjee**.
 - **Madam Bhikaji Cama** on **22nd August, 1907** hoisted the flag at **Stuttgart, Germany** (**The first Indian flag to be hoisted in a foreign land.**)
 - The **National Flag of India** (designed by **Pingali Venkayya** in 1916) was adopted by the **Constituent Assembly** on **July 22, 1947**. It is a horizontal tricolor of **deep saffron** (kesari) at the top, **white** the in the middle and **dark green** at the bottom in **equal proportion**. In the center of the **white band** is a **navy blue wheel** representing the **Chakra**, a symbol of progress and of movement. **Ratio** of the **width** of the flag to its **length** is **2:3**.
 - One of the minor committees of the Constituent Assembly, the **Ad-hoc Committee on the National Flag** was headed by **Dr. Rajendra Prasad**.



- **National Emblem:**
 - The national emblem is an adaptation from **the Lion Capital of Ashoka at Sarnath (Varanasi)**. It was adopted by the Government of India on **26 January, 1950**. The words **Satyameva Jayate** from **Mundaka Upanishad**, meaning **Truth Alone Triumphs**, are inscribed below the abacus in **Devanagari script**.
 - In the original, there are **four lions**, standing back to back, mounted on an **abacus** carrying sculptures in high relief of an **elephant**, a galloping **horse**, a **bull** and a **lion** separated by intervening **wheels** over a bell-shaped **lotus**.



Additional Information

Four animals are shown representing four directions:

- 1. A Galloping Horse: West**
 - The Horse represents the **horse Kanthaka**, which **Buddha** is said to have used for leaving his princely life.
- 2. An Elephant: East**
 - The Elephant depicts the **dream of Queen Maya**, where a white elephant enters her womb.
- 3. A Bull: South**
 - The Bull depicts the **Zodiac sign of Taurus**, the month in which **Budhha** was born.
- 4. A Lion: North**
 - The Lion shows the **attainment of enlightenment**.

- **National Anthem:**
 - **Jana-gana-mana**, composed originally in **Bengali** by **Rabindra Nath Tagore**, was adopted in its **Hindi version** by the **Constituent Assembly** as the **National Anthem of India** on **24 January, 1950**.
 - It was **first sung** on **27 December, 1911** at the **Calcutta Session** of the **Indian National Congress**.

- **National Song:**
 - The song **Vande Mataram**, was composed in **Sanskrit** by **Bankimchandra Chattopadhyay**, taken from **Anandamath**. It was first sung in a political context by **Rabindranath Tagore** at the **1896 session** of the **Indian National Congress**.
 - It was adopted by the **Constituent Assembly** on **24 January, 1950**.
- **National Flower:**
 - **Lotus**, botanically known as the *Nelumbo Nucifera Gaertn* is the national flower of India. It symbolizes **divinity, fertility, wealth, knowledge** and **enlightenment**.
- **National Tree:**
 - **The Banyan tree** is the National Tree of India.
- **National Animal:**
 - **Panthera tigris**, a striped animal, is the national animal of India. It has a thick yellow coat of fur with dark stripes.
 - **Lion** was the **national animal** of **India** till **1972**. Later on, it was replaced by **tiger**
- **National Fruit:**
 - **Mango** is the **National Fruit** of **India**.
- **National River:**
 - Then **P.M. Manmohan Singh** declared **Ganga** as the **National River of India** on **February 20, 2009**.
- **National Calendar:**
 - The national calendar is based on the **Saka Era**, with **Chaitra** as its **first month** and a normal year of **365 days** from **22 March 1957** along with the **Gregorian calendar**.
 - **Chaitra** falls on **22 March** normally and on **21 March** in leap year. The calendar was introduced by the **Calendar Reform Committee** in **1957**

- **National Bird:**
 - **Peacock** (*Pavo cristatus*), which is a symbol of **grace, joy, beauty** and **love** is the national bird of India.
 - In India the peacock is found in almost all parts and enjoys full protection under the **Indian Wildlife (Protection) Act, 1972**.
- **National Aquatic Animal:**
 - To save **dolphins** from extinction, the Union government declared them as the **national aquatic animal** on **October 5, 2009**.
- **National Currency:**
 - The Indian Rupee sign (**Sign: ₹; Code: INR**) is an allegory of Indian ethos. The symbol is an amalgam of **Devanagari Ra** and the **Roman Capital R** with two parallel horizontal stripes running at the top representing the national flag and also the **equal sign**.
 - The Indian Rupee sign was adopted by the Government of India on **15th July, 2010**.

PREVIOUS YEAR QUESTIONS

1. The Constitution of India was adopted by the Constituent Assembly of? [38th BPSC (Pre) 1992-93]
(a) on 26 November, 1949
 (b) on 15th August, 1949
 (c) on 2nd October, 1949
 (d) on 15th November, 1949
2. Indian Constitution Day is celebrated on?
 [60th to 62nd B.P.S.C. (Pre)2016]
 (a) 26 October **(b) 26 November**
 (c) 26 January (d) 15th August
 (e) none of the above. more than one of the above
3. What is the nature of the Indian Constitution?
 [63rd B.P.S.C. (Pre) 2017]
 (a) Federal
 (b) Unitary
 (c) Parliamentary
(d) Federal in nature but unitary in spirit.
 (e) None of the above / More than one of the above



4

Preamble of the Indian Constitution

Text of the Preamble

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

4.1 INTRODUCTION

- **The American Constitution** was the **first** to begin with a Preamble.
- **Objective Resolution:** Preamble to the Indian Constitution is based on the '**Objective Resolution**', drafted and moved by **Pandit Nehru**, and adopted by the Constituent Assembly.
- **Amended only once:** **42nd Constitutional Amendment Act (1976)** added three new words- "**Socialist**", "**Secular**" and "**Integrity**".
- **Embodies the basic philosophy and fundamental values:** political, moral and religious on which the constitution is based.
- Contains the **grand and noble vision** of the Constituent Assembly, and **reflects the dreams and aspirations** of the founding fathers of the Constitution.
- **Neither a source of power** to the legislature **nor a prohibition on powers** of legislature.
- It is **non-justiciable - non enforceable** in courts of law.
- Preamble was **enacted by the Constituent Assembly after the rest of the Constitution was already enacted** to ensure its conformity with the Constitution.
- It contains the grand and noble vision of the Constituent Assembly, and reflects the dreams and aspirations of the founding fathers of the Constitution.

- "**We the people of India**": Emphasizes that the constitution is made by and for the Indian people. It emphasizes the "**concept of popular sovereignty**".

4.2 COMPONENTS OF PREAMBLE

Source of authority of the Constitution	<ul style="list-style-type: none"> • Derives its authority from people of India
Nature of Indian State	<ul style="list-style-type: none"> • Sovereign, Socialist, Secular, Democratic, Republic
Objectives of the Constitution	<ul style="list-style-type: none"> • Justice (Russian Revolution), Liberty, Equality, Fraternity (all three from French revolution)
Date of adoption of the Constitution	<ul style="list-style-type: none"> • 26 November 1949

4.3 SIGNIFICANCE OF PREAMBLE

- Horoscope of the Indian democratic republic;
- Philosophy of the Constitution;
- Summary of the Indian Constitution;
- Identity card of our Constitution (N. A Palkhivala);
- Key to the mind of the Constitution makers;
- Beacon light for the judiciary to decide the constitutionality of law.

4.4 KEYWORDS IN PREAMBLE

A. Sovereign

- Complete independent State; Not a dominion of any other country; Sovereign in internal & external matters; As a sovereign country, India can acquire a foreign territory or cede a part in favor of any other country.

B. Socialist

- Added by **42nd amendment (1976)**; Socialist contents are implicit in **DPSPs** (Article: 36-51) but 42nd amendment mentioned it explicitly.
- **Indian Socialism** (Marxism + Gandhism, heavily leaning towards Gandhism)

- **Democratic Socialism**
- Adopted **Mixed Economic model** (public & private sector coexist side by side)

C. Secular

- Added by **42nd amendment (1976)**; Part of **basic structure doctrine**.
- **Supreme Court (1974): Secular State** was implicitly mentioned in Art. 25-28.
- **Positive Secularism in India:** All religions have the same status and support from the state.

D. Democratic

- It implies the **Doctrine of popular sovereignty** or the possession of supreme power by the people.
- **Indian democracy:** Representative Parliamentary democracy; Executive is responsible to the legislature.
- **Embraces: Political, Social, and Economic democracy.**
- **Manifestation of Indian Democracy:** Universal adult franchise, periodic elections, rule of law, independence of judiciary and absence of discrimination on certain grounds.

E. Republic

- **Two Categories:** Monarchy (Britain) & Republic (USA/ India).
- **Indian republic:** Head of State (President) is indirectly elected.
- **Republic means:** Vesting political sovereignty in people. Absence of any privileged class and all public offices open to all without any discrimination.
- **Article 54 and 55:** related to the election of the President.

F. Justice

- Taken from the **Russian Revolution (1917)**.
- **Embraces three types of justice:** Social, Economic, Political.
- **Distributive Justice** = Social Justice + Economic Justice.
- **Social:**
 - Equal treatment of all citizens without any social distinction based on caste, color, race, religion, sex etc.
 - Absence of privileges to any particular section.
 - Improvement in the conditions of backward classes & women.
- **Economic:**
 - Non-discrimination between people based on economic factors.
 - Elimination of inequalities in wealth, income & property.

Political:

- All citizens should have equal political rights, equal access to all political offices & equal voice in the government.

G. Liberty

- **French Revolution (1789):** Ideals of liberty, equality, fraternity.
- **Absence of restraints** on the activities of individuals.
- **Providing opportunities** for the development of individual personalities.
- **Preamble secures:** liberty of thought, expression, belief, faith & worship.
- **Liberty does not mean** the license to do what one likes. Need to be enjoyed within limitations mentioned in the constitution.
- Liberty is ensured in preamble & Fundamental Rights is **not absolute but qualified**.

H. Equality

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

I. Fraternity

- Sense of **brotherhood**. Single Citizenship promotes fraternity.
- **Article 51A:** Fundamental duty of every citizen to promote harmony and spirit of common brotherhood transcending **religious, linguistic, regional or sectional diversities**.
- **Fraternity:** dignity of individual (personality of every individual is sacred) and unity & integrity of India. (Word "**Integrity**" is added through 42nd CAA).

- Dignity of individuals is ensured in Fundamental Rights, DPSPs, Fundamental Duties.
- **Unity & integrity of nation embraces:** both psychological and territorial dimensions of national integration.

J. Union of Trinity

- **Union of Trinity** = Liberty + Equality + Fraternity.
- All above three form a union of trinity. If any of these is divorced from others it will defeat the purpose of democracy.
- Without equality, liberty would produce the supremacy of the few over many. Equality without liberty would kill individual initiative.
- **Social Democracy:** Liberty+Equality+Fraternity.

4.5 AMENDABILITY OF PREAMBLE

- Whether the preamble can be amended or not was dealt in **Kesavananda Bharati Case (1973)**.
- The Supreme Court **reversed its verdict in Berubari Union Case (1960)** and held that **Preamble is an integral part of the Constitution** and it can be amended under Article- 368. However, such an amendment should not destroy the '**Basic Structure**' of the Constitution.

Supreme Court cases and Preamble	
Case	Opinion of the Supreme Court (SC)
Berubari Union Case (1960)	<ul style="list-style-type: none"> • Preamble shows the general purpose behind several provisions of the constitution. • If terms used in articles are ambiguous, some assistance of the preamble could be taken for interpretation. • SC held that Preamble is not a part of the Constitution.

Kesavananda Bharati Case (1973)	<ul style="list-style-type: none"> • The Preamble is a part of the Constitution.
LIC of India Case (1995)	<ul style="list-style-type: none"> • SC again held that preamble is an integral part of the Constitution.

PREVIOUS YEAR QUESTIONS

1. In Preamble of the Constitution of India, India is declared as a? [42nd BPSC 1997-98]
 - (a) Sovereign, democratic, republic
 - (b) Socialist, democratic, republic
 - (c) **Sovereign, socialist, secular, democratic, republic**
 - (d) None of these
2. India is a sovereign country, because preamble of constitution starts with [39th BPSC (Pre) 1994]
 - (a) Democratic India
 - (b) People Democracy
 - (c) Republic of People
 - (d) **We the people of India**
3. The expression 'Socialist' was introduced in the Preamble of Indian Constitution by which amendment? [60th-62nd BPSC (Pre) Exam-2016]
 - (a) **42nd Amendment**
 - (b) 44th Amendment
 - (c) 46th Amendment
 - (d) 74th Amendment
 - (e) None of the above/More than one of the above
4. Which of the following sequences is true about Preamble of Indian constitution? [40th BPSC (Pre) 1995, 42nd BPSC 1997-98]
 - (a) Republic, democratic, secular, socialist, sovereign
 - (b) Sovereign, socialist, democratic, secular, republic
 - (c) Sovereign, democratic, secular, socialist, republic
 - (d) **Sovereign, socialist, secular, democratic, republic**



5

States and Union Territories

5.1 ABOUT STATES AND UNION TERRITORIES

- **Article 1 to 4 under Part I:**
 - Deals with Union and its Territory.
 - **Article- 1 reads:** India, that is, Bharat as a '**Union of States**' rather than a '**Federation of States**'.
- **Schedule-1:**
 - Names of the States and their **territorial jurisdiction**.
- **Classification:**
 - **Three categories:** States + UTs + Acquired Territories.
- **Territories of the states:**
 - **28 states (2023) + 8 UTs (2023)**
 - Andaman and Nicobar Islands (1956) + Chandigarh (1966) + Dadra and Nagar Haveli (1961) and Daman and Diu (1962) + National Capital Territory of Delhi (1962) + Jammu and Kashmir (2019) + Lakshadweep (1956) + Ladakh (2019) + Puducherry (1962).
- **Administration:**
 - **States:** The states are the members of the federal system and share a **distribution of powers with the Centre**.
 - **UT:** Directly administered by the Central government.
 - **Acquired Territories:** Directly administered by the Central government.
- **Former Union Territories (Now States):**
 - Himachal Pradesh, Manipur, Tripura, Mizoram, Arunachal Pradesh, and Goa.
- **Need of UTs:**
 - Political and administrative consideration; Cultural distinctiveness; Strategic importance; Special treatment and protection of the backward and tribal people.
- **UTs with High Court:**
 - Delhi
 - Jammu & Kashmir and Ladakh

5.2 IMPORTANT CONCEPTS REGARDING STATES AND UTS

- The phrase '**Union of States**' has been preferred over 'Federation of States' for two reasons:
 - The Indian Federation is **not the result of an agreement** among the states like the American Federation;
 - The states have **no right to secede** from the federation.
- **India** is described as "**an indestructible union of destructible states**".
- The **American Federal Government**, however, cannot form new states or alter the borders of existing states without the consent of the states concerned. The USA is described as '**an indestructible union of indestructible states**'.
- Indian territory **can be ceded to a foreign state only by amending the Constitution** under Article 368. E.g. **100th Constitutional Amendment Act (2015)** dealt with the **transfer of enclaves between India and Bangladesh**.
- **Supreme Court (1969):** Settlement of a boundary dispute between India and another country does not require a constitutional amendment. It can be done by executive action as it does not involve cession of Indian territory to a foreign country.
- **Territory of India:**
 - **Wider expression** than the 'Union of India' because it includes not only the states but also union territories and territories that may be acquired by the Government of India at any future time.
- **Union of India:**
 - It is **narrower** as compared to the territory of India because it includes only states.

5.3 VARIOUS COMMISSIONS IN EVOLUTION OF STATES AND UTS

- **Dhar Commission:**
 - For reorganization of states on linguistic basis.
 - **Constituted** in June 1948.
 - **Chairman: S.K. Dhar.**

- **Submitted its report:** December, 1948.
- **Recommendation:** The reorganization of states should be done on the **basis of administrative convenience rather than linguistic factors.**
- There was a long agitation against this and Congress leader **"Potti Sriramulu"** passed away after **56 days of hunger strike.**
- **JVP Committee:**
 - **Members:** Jawaharlal Nehru, Vallabhbhai Patel and Pattabhi Sitaramayya.
 - **Constituted:** December 1948
 - **Submitted its report** in April, 1949.
 - Formally **rejected language as the basis** for reorganization of states.
 - **In October, 1953,** the Government of India was forced to create the **first linguistic state**, known as **Andhra state**, by separating the Telugu speaking areas from the Madras state.
- **Fazl Ali Commission:**
 - **Constituted** in December, 1953.
 - **Chairman:** Fazl Ali
 - **Other Members:** K.M. Panikkar and H.N. Kunzru
 - **Submitted its report** on September 1955
 - Broadly **accepted language as the basis** of reorganization of states.
 - **Rejected** the theory of **'one language-one state.'**
 - Suggested the **abolition of the four-fold classification** of states and territories.
 - **State four important factors for state reorganization-**
 1. Protection of integrity and security of India.
 2. Linguistic and cultural homogeneity.
 3. Financial, administrative and economic system.
 4. Promotion of people's welfare schemes in all states and across the country.
- **The States Reorganization Commission (1956) was established by the 7th Constitutional Amendment Act 1956** by the Government of India on the advice of the **Fazal Ali Commission.** As a result, **14 states and 6 union territories were formed on 1 November 1956.**

5.4 COMPARISON BETWEEN THE STATES AND THE UTS

States	Union Territories
<ul style="list-style-type: none"> ● Relationship with the center is Federal. ● Share power distribution with the center. ● Have autonomy. 	<ul style="list-style-type: none"> ● Relationships are Unitary. ● They are under the direct control and administration of the center. ● They do not have autonomy.

<ul style="list-style-type: none"> ● Uniformity in their administrative set up. ● The Governor is the constitutional head of state. ● Parliament cannot make laws on the subjects of state list in relation to states except under extraordinary circumstances. 	<ul style="list-style-type: none"> ● There is no uniformity in their administrative setup. ● Executive head is known by various designation: Administrator, Lt. Governor, Chief commissioner. ● Administrator is the agent of the president. ● Parliament can make law on any subject of the three lists in relation to union territories.
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5.5 STATES AND UNION TERRITORIES CREATED AFTER 1956

1956	<ul style="list-style-type: none"> ● Kerala: Travancore + Cochin + South Canara. ● Andhra Pradesh: Andhra + Hyderabad. ● Madhya Pradesh: Madhya Bharat + Vindhya + Bhopal. ● New UTs: Laccadive; Minicoy; Amindivi Islands from the territory detached from the Madras state.
1960	<ul style="list-style-type: none"> ● Bifurcation of Maharashtra and Gujarat.
1961	<ul style="list-style-type: none"> ● Creation of Dadra and Nagar Haveli (10th Constitutional Amendment)
1962	<ul style="list-style-type: none"> ● Goa, Daman, Diu (12th Constitutional Amendment) ● The French handed over Puducherry to India. (14th Constitutional Amendment)
1963	<ul style="list-style-type: none"> ● Nagaland
1966	<ul style="list-style-type: none"> ● Haryana
1971	<ul style="list-style-type: none"> ● Himachal Pradesh
1974	<ul style="list-style-type: none"> ● Sikkim full-fledged State (36th Amendment)
1987	<ul style="list-style-type: none"> ● Mizoram, Arunachal Pradesh, Goa
2000	<ul style="list-style-type: none"> ● Chhattisgarh, Uttarakhand, Jharkhand
2014	<ul style="list-style-type: none"> ● Telangana
2019	<ul style="list-style-type: none"> ● 2 Union Territories: J&K and Ladakh

5.6 JAMMU AND KASHMIR REORGANIZATION, ACT 2019

- Till 2019, the erstwhile State of Jammu and Kashmir **had its own constitution** and thus enjoyed a **special status** by virtue of **Article 370** of the Constitution of India.

- In 2019, this special status was abolished by a presidential order known as “The Constitution (Application to Jammu and Kashmir) Order, 2019”.
- J&K Reorganisation Act, 2019, bifurcated the erstwhile State of Jammu and Kashmir into two separate UTs:
 1. **UT of Jammu & Kashmir (with Legislature):** Comprises all the districts of the erstwhile State of Jammu and Kashmir except Kargil and Leh districts.
 2. **UT of Ladakh (without Legislature):** Kargil and Leh districts.

5.7 ADMINISTRATION OF UNION TERRITORIES

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

Delhi	<ul style="list-style-type: none"> • State legislature can make laws on state lists (except public order, police and land) and concurrent lists.
Jammu & Kashmir	<ul style="list-style-type: none"> • Laws on any subject on state list (except public order and police) and concurrent list.
Puducherry	<ul style="list-style-type: none"> • Can make law on any subject on state list and concurrent list.

5.8 POWER OF PARLIAMENT TO MAKE LAWS WITH RESPECT TO UNION TERRITORIES

- **Parliament** can make laws on **any subject of the three lists (including the State List)** for the Union Territories.
- The President can make regulations for the **peace, progress and good government** of the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, and Daman and Diu.

- A **regulation made by the President** has the **same force and effect as an act of Parliament**.
- **Parliament can establish a high court** for a Union Territory.
- **Special Provision for Delhi under Article 239AA.**
- **The 69th Constitutional Amendment Act of 1991** redesignated it as the **National Capital Territory of Delhi**.
- Strength of legislative assembly **fixed at 70 Members** – directly elected by people. Strength of the Council of Ministers fixed at **10%**.
- Elections conducted by **Election commission of India (Art.324)**.
- In case of difference of opinion between Lt. Governor and Chief Minister, the Lt. Governor refers the matter to the president.
- When a situation arises in which the administration of the territory cannot be carried on in accordance with above provision, **the President can suspend the above provisions and make the necessary incidental or consequential provisions for administering the territory** resembling Article 356.
- **Lt. Governor** is empowered to **promulgate ordinances** approved by the assembly **within six weeks from its reassembly**.
- In the **case of difference of opinion** between the Lt. governor and his ministers, the Lt. Governor refers the matter to the president for decision and acts accordingly.

Additional Information

- **7th Constitutional Amendment Act 1956**, led to the creation of **Zonal councils** in India to advise on matters of common interest.

5.9 ADVISORY COMMITTEES OF UNION TERRITORIES

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

5.10 CONSTITUTIONAL PROVISIONS

Articles and their subject matter	
Article-1	<ul style="list-style-type: none"> Name and territory of the Union.
Article-2	<ul style="list-style-type: none"> Admission or establishment of new states.
Article-3	<ul style="list-style-type: none"> Formation of new states and alteration of areas, boundaries or names of existing states. In case of States: Bill contemplating the above changes can be introduced in the Parliament only with the prior recommendation of the President. Before recommending the bill, the President has to refer the same to the state legislature concerned for expressing its views within a specified period. The President (or Parliament) is not bound by the views of the state legislature.

	<ul style="list-style-type: none"> In case of UTs: No reference needs be made to the concerned legislature to ascertain its views and the Parliament can itself take any action as it deems fit.
Article-4	<ul style="list-style-type: none"> Laws made under Articles 2 and 3 to provide for the amendment of the First and the Fourth Schedules and supplemental, incidental and consequential matters. Article 4: declares that laws made under Article 2 and Articles 3 are not to be considered as amendments of the Constitution under Article 368. Such laws can be passed by a simple majority and by the ordinary legislative process

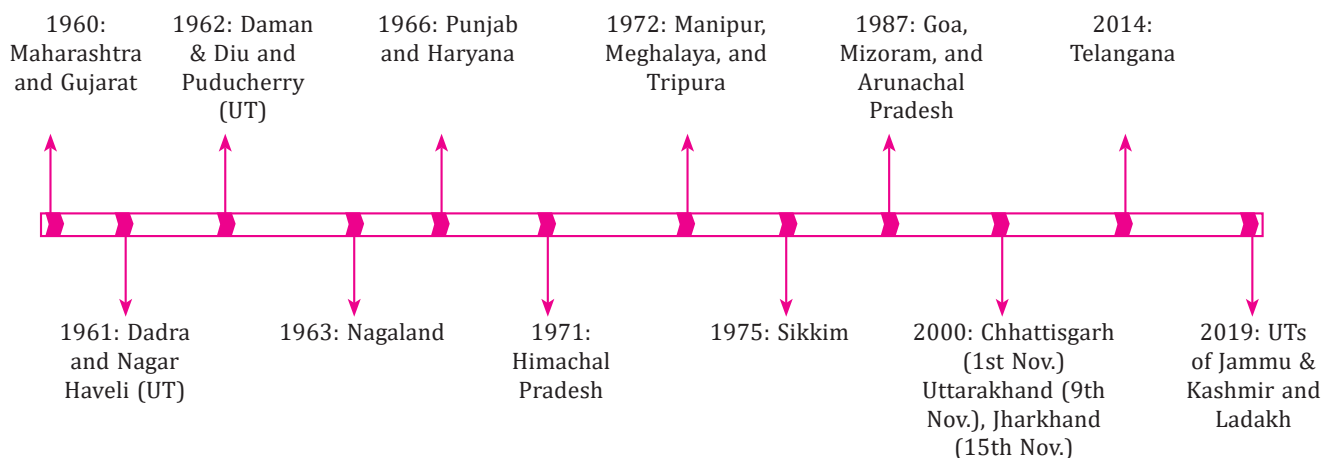


Fig. 5.1: Chronology of States Formation

Reorganization of Bihar State

- The Bihar Reorganization Act, 2000** was a law passed by the Parliament of India in 2000. The Lok Sabha and Rajya Sabha passed the bill on 2 and 11 August respectively, and on **15 November 2000**, it gave birth to the new state, **Jharkhand**. **The Bihar State Reorganization Act 2000 was signed by President KR Narayanan on 25 August 2000.**
- On March 22, 1912, the state of Bihar was carved out of Bengal. At that time Orissa was also included in Bihar.** The provisions of the Government of India Act, 1919 began in Bihar on October 29, 1920, under which **Satyendra Prasad Sinha** assumed office as the **first Governor of Bihar**. On **April 1, 1936, Bihar and Orissa were separated** and both came into existence as separate states. On **July 20, 1937, a cabinet was formed in Bihar under the leadership of Shri Krishna Singh**, in which Anugrah Narayan Singh, Dr. Syed Mahmood, Jaglal Chaudhary etc. were included. **Even at the time of the reorganization of the states in 1956, the independent administrative existence of Bihar remained intact. After the formation of Jharkhand as a separate state on November 15, 2000, there has been a radical change in the administrative structure of Bihar. After partition there were 9 divisions and 37 districts in Bihar, then in 2001 Arwal was made a new district. In this way now the number of districts has increased to 38. Similarly, Lok Sabha seats have also decreased to 40, Rajya Sabha seats to 16, Legislative Assembly seats to 243 and Legislative Council seats to 75. The governance of Bihar is run according to the parliamentary system.**

PREVIOUS YEAR QUESTIONS

1. Delhi is? [42nd BPSC (Pre) 1997-98]

(a) A state

(b) A union territory

(c) An autonomous council

(d) None of these

2. Sikkim was made a state of India?

[38th BPSC (Pre) 1992-93]

(a) under 30th amendment

(b) under 32nd amendment

(c) under 35th amendment

(d) under 42nd amendment

3. Is it possible to create a separate Vananchal state by cutting Bihar? [43rd BPSC (Pre) 1999]

(a) By passing a law in the State Legislative Assembly

(b) by passing an ordinance by the governor

(c) By abolishing the constitutional formalities

(d) None of these



6

Citizenship

6.1 COMPARISON BETWEEN CITIZENS AND ALIENS

- **Citizens:**
 - Full members of the Indian State and owe allegiance to it.
 - Enjoy all civil and political rights.
 - Citizens also owe certain duties towards the Indian State, such as paying taxes, respecting the national flag and national anthem, defending the country and so on.
- **Rights of Citizens:**
 - **Article 15:** Right against discrimination on grounds of religion, race, caste, sex or place of birth
 - **Article 16:** Right to equality of opportunity in the matter of public employment.
 - **Article 19:** Right to freedom of speech and expression, assembly, association, movement, residence and profession
 - **Articles 29 and 30:** Cultural and educational rights.
 - **Right to vote** in elections to the **Lok Sabha** and **State Legislative Assembly**.
 - **Right to contest** for the membership of the Parliament and the state legislature.
 - **Eligibility to hold certain public offices:** President of India, Vice-President of India, Judges of the Supreme Court and the High Court, Governor of states, Attorney General of India, Advocate General of states.
- **Aliens:**
 - The citizens of some other state/country.
 - Do not enjoy all the civil and political rights.
 - They are of two categories:
 - ◆ **Friendly aliens:** the subjects of those countries that have cordial relations with India.
 - ◆ **Enemy aliens:** the subjects of that country that is at war with India. They enjoy lesser rights than the friendly aliens, e.g. they **do not enjoy protection against arrest and detention (Article- 22)**.
- **Rights to Aliens:**
 - **Aliens:** All other rights (except Art. 15, 16, 19, 29, 30) are enjoyed.

- **Enemy aliens:** do not enjoy protection against arrest and detention (Article 22).

6.2 IMPORTANT POINTS TO NOTE

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

6.3 CONSTITUTIONAL PROVISIONS RELATED TO CITIZENSHIP

- Citizenship is listed in the “**Union List**” under the **Constitution**.
- The word “**citizen**” has **not been defined** in the Constitution.
- The Constitution deals with citizenship from **Articles 5 to 11 under Part II**.
- However, it contains **neither any permanent nor any elaborate provisions** in this regard. It **only identifies** the persons who became citizens of India at the time of its commencement (on January 26, 1950).
- **It empowers the Parliament to enact a law** to provide for such matters and any other matter relating to citizenship.
- **Citizenship Act, 1955:** The Citizenship Act (1955) provides for acquisition and loss of citizenship after the commencement of the Constitution.
- Articles related to Citizenship:

Article	Matter
Article- 5	<ul style="list-style-type: none"> ● Citizenship at the time of commencement of Constitution.
Article- 6	<ul style="list-style-type: none"> ● Citizenship of those who migrated from Pakistan to India.
Article- 7	<ul style="list-style-type: none"> ● Citizenship of those who migrated to Pakistan and then came back to India.

Article- 8	<ul style="list-style-type: none"> • Citizenship of a Persons of Indian Origin.
Article- 9	<ul style="list-style-type: none"> • Termination of citizenship (automatic termination of citizenship upon voluntary acceptance of citizenship of any other country)
Article- 10	<ul style="list-style-type: none"> • Continuance of the rights of citizenship (unless parliament has made law).
Article- 11	<ul style="list-style-type: none"> • Parliament to regulate the right of citizenship by law. • Parliament shall have the power to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship.

6.4 ACQUISITION OF CITIZENSHIP

By Birth	<ul style="list-style-type: none"> • A person born in India- <ul style="list-style-type: none"> ○ Between January 26, 1950 - July 1, 1987, irrespective of the nationality of his parents. ○ After July 1, 1987 - either of his parents is a citizen. ○ December 3, 2004, onwards - only if both or one of whose parents is a citizen of India and the other is not an illegal migrant at the time of their birth. • The children of foreign diplomats posted in India and enemy aliens cannot acquire Indian citizenship by birth.
By Descent	<ul style="list-style-type: none"> • A person born outside India- <ul style="list-style-type: none"> ○ Between January 26, 1950 - December 10, 1992 & father was a citizen of India. ○ After December 10, 1992 - either of his parents is a citizen. ○ December 3, 2004 onwards - unless his birth is registered at an Indian consulate within one year of the date of birth or with the permission of the Central Government, after the expiry of the period.

By Registration	<ul style="list-style-type: none"> • The Central Government may, on an application, register as a citizen of India any person (not being an illegal migrant) if he fulfills the certain conditions and such persons must take an oath of allegiance before they are registered as citizens of India.
By Naturalization	<ul style="list-style-type: none"> • The Central Government may, on an application, grant a certificate of naturalization to any person (not being an illegal migrant) if he possesses certain qualifications.
By Incorporation of Territory	<ul style="list-style-type: none"> • If any foreign territory becomes a part of India, the Government of India specifies the persons who among the people of the territory shall be the citizens of India. Such persons become citizens of India from the notified date.

6.5 LOSS OF CITIZENSHIP

- **By Renunciation:**
 - Any citizen of India of full age and capacity can make a declaration renouncing his Indian citizenship.
 - Upon the registration of that declaration, that person ceases to be a citizen of India.
 - Every minor child of that person also loses Indian citizenship. However, when such a child attains the age of 18, he may resume Indian citizenship.
- **By Termination:**
 - When an Indian citizen **voluntarily** (consciously, knowingly and without duress, undue influence or compulsion) **acquires the citizenship of another country**, his Indian citizenship automatically gets terminated.
- **By Deprivation:**
 - It is a compulsory termination of Indian citizenship by the Central government, if-
 - ◆ Obtained the citizenship by fraud;
 - ◆ Shown disloyalty to the Constitution of India;
 - ◆ Unlawfully traded or communicated with the enemy during a war.
 - Within **5 years** after registration or naturalization, been imprisoned in any country for **2 years**; and
 - Ordinarily resident out of India for **7 years** continuously.

6.6. SINGLE CITIZENSHIP

- Though the **Indian Constitution is federal** and envisages a **dual polity** (Centre and states), it provides for **only a single citizenship**, that is, the Indian citizenship owes **allegiance only to the Union**.
- There is **no separate state citizenship** unlike the **USA and Switzerland** where they have a system of **dual citizenship**.
- In India, all citizens **irrespective of the state** in which they are born or reside enjoy the **same political and civil rights of citizenship** all over the country and no discrimination is made between them. However, this general rule of absence of discrimination is **subject to some exceptions**.
- The Constitution of India, like that of Canada, has introduced the system of single citizenship** and provided **uniform rights** (except in few cases) for the people of India to **promote the feeling of fraternity and unity** among them and to build an integrated Indian Nation.

6.7 CITIZENSHIP AMENDMENT ACT, 2019

- Definition of illegal migrants:** The Act prohibits illegal migrants from acquiring Indian citizenship. It defines an illegal migrant as a foreigner:
 - Who enters India without a valid passport or travel documents, or stays beyond the permitted time.
- Hindus, Sikhs, Buddhists, Jains, Parsis and Christians** from **Afghanistan, Bangladesh and**

Pakistan who entered India **on or before December 31, 2014** will **not be treated as illegal migrants** and for these groups of persons, the **11 years' requirement will be reduced to five years**.

- These provisions on citizenship for illegal migrants will **not apply to the tribal areas of Assam, Meghalaya, Mizoram, and Tripura** included in the **Sixth Schedule** of the Constitution.
- Further, it will **not apply to the "Inner Line" areas notified under the Bengal Eastern Frontier Regulation, 1873** applicable to **Arunachal Pradesh, Mizoram, Manipur, and Nagaland**.

Cancellation of registration of OCIs

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

6.8 COMPARISON BETWEEN NRI, PIO, AND OCI CARDHOLDER

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

		<ul style="list-style-type: none"> Parity with NRIs in respect of all facilities available to them in economic, financial, and educational fields except in matters relating to the acquisition of agricultural or plantation properties. Treated at par with NRIs in the matter of intercountry adoption of Indian children. Treated at par with resident Indian nationals in the matter of tariffs in air fares in domestic sectors in India.
<ul style="list-style-type: none"> No Visa required 	<ul style="list-style-type: none"> Visa required 	<ul style="list-style-type: none"> Can visit India without a Visa for life long.
<ul style="list-style-type: none"> All Activities can be undertaken. 	<ul style="list-style-type: none"> Activity as per the type of visa obtained 	<ul style="list-style-type: none"> All activities except research work for which special permission is required from the Indian Mission/Post/FRRO concerned.
<ul style="list-style-type: none"> He/she is an Indian citizen 	<ul style="list-style-type: none"> As per the Citizenship Act, 1955, he/she has to be ordinarily resident in India for a period of 7 years before making an application for registration. 	<ul style="list-style-type: none"> As per the Citizenship Act, 1955, a person registered as an OCI cardholder for 5 years and who is ordinarily resident in India for twelve months before making an application for registration is eligible for grant of Indian citizenship.

Note: PIO and OCI have been merged in 2015.

PREVIOUS YEAR QUESTION

1. Indian Citizenship cannot be achieved by
- By birth
 - By naturalization
 - By incorporation of a new territory into the Indian Union
 - By deposition of Wealth in Indian banks**

[41st BPSC (Pre) Exam - 1996]



INTRODUCTION

- **Article 12-35 of Part III** of constitution.
- **Part III** of the Constitution is described as the “**Magna Carta**” of India.
- “**Magna Carta**”, the **Charter of Rights issued by King John of England in 1215** was the first written document relating to the Fundamental Rights of citizens.
- Inspired by the **Constitution of the USA (Bill of Rights)**.
- **Fundamental for all round development**: Material, intellectual, moral and spiritual.
- **Significance**: Magna carta of india; Justiciable; Guaranteed to all; subjected to reasonable restriction; Ideal of political democracy; Limitations on the tyranny of the executive and arbitrary laws of legislature.
- Harmony between FR and DPSP is part of the basic structure of the constitution.

Additional Information

- The **right to property was deleted from the list of FR by the 44th Amendment Act, 1978.**
- It is made a **legal right under Article 300-A in Part XII** of the Constitution. So, at **present, there are only six Fundamental Rights.**

7.1 FEATURES OF FUNDAMENTAL RIGHTS

- Rights are **claimed by the citizens against the state** and not the vice versa.
- Some of them are available only to the citizens (Art. 15, 16, 19, 29 and 30) while others are available to all persons whether citizens, foreigners or legal persons like corporations or companies.
- **Not absolute but qualified** – Subject to reasonable restrictions.
- FR in India are **more elaborate** than those found in any other country in the world, including the USA.
- **All are available against the arbitrary action** of the state. Some of them are also against the actions of private individuals.
- **Some are negative** in character and **some are positive.**

- **Article- 19** can be suspended only on the grounds of **war or external aggression** (External Emergency) and **not on the ground of armed rebellion** (Internal Emergency).
- **Not sacrosanct or permanent** - can be amended by parliament.
- **Guaranteed by the Constitution to all persons** without any discrimination.
- **Guaranteed and protected by the Constitution**, which is the fundamental law of the land.
- **Prevents the establishment of an authoritarian and despotic rule** in the country.
- **Protects the liberties and freedoms** of the people against the invasion by the State.

Additional Information

- **Except article 20 & 21** all other rights get suspended during **National Emergency** (Art. 352).
- Scope of operation is limited by Article- 31A (saving of laws providing for acquisition of estates), Article- 31B (validation of certain acts and regulations included in the 9th schedule) and Article- 31C (saving of laws giving effect to certain DPSP).

Additional Information

- Application of FR can be **restricted while martial law is in force** in any area.

Martial Law:

- **Martial law is a judicial system declared by the government in any country in which military forces are given the right to rule and control an area.**
- It is not necessary that martial law should be implemented in the whole country, it can be imposed in a small part of any country.
- **It is also called ‘military law’.**
- **Martial law has never been imposed in our country.**
- **Most are self-executory**, while few of them can be enforced on the basis of a law – Such law can be made only by parliament and **not by state legislature.**

7.2 CONSTITUTIONAL PROVISIONS PERTAINING TO FUNDAMENTAL RIGHTS

- **Right to Equality (Article- 14-18):**
 - Equality before Law and equal protection of laws. (Art.14)
 - Prohibition of discrimination based on grounds of religion, race, caste sex or place of birth. (Art 15)
 - Equality of opportunity in matters of public employment. (Art 16)
 - Abolition of Untouchability. (Art 17)
 - Abolition of titles. (Art 18)
- **Right to Freedom (Article- 19-22):**
 - Protection of **six rights** regarding freedom of (Art. 19): **Speech and expression; Assembly; Association; Movement; Residence; Profession.**
 - Protection in respect of conviction for offenses. (Art. 20)
 - Protection of life and personal liberty. (Art. 21)
 - Right to elementary education. (Art. 21A)
 - Protection against arrest and detention in certain cases. (Art. 22)
- **Right Against Exploitation (Article- 23-24):**
 - Prohibition of traffic in human beings and forced labor. (Art.23)
 - Prohibition of employment of children in factories etc. (Art.24)
- **Right to Freedom of Religion (Article- 25-28):**
 - Freedom of conscience & freedom to profess, practice & propagate religion of one's choice. (Art 25)
 - Freedom to manage religious affairs. (Art 26)
 - Freedom from payment of taxes for promotion of any religion. (Art 27)
 - Freedom from attending religious instructions or worship in certain educational institutions. (Art 28)
- **Cultural and Educational Rights (Article- 29-30):**
 - Protection of language, script and culture of minorities. (Art 29)
 - Right of minorities to establish and administer educational institutions. (Art 30)
- **Right to Constitutional Remedies (Article- 32):**
 - Right to move the supreme court for enforcement of fundamental rights including the writs of

Habeas corpus, Mandamus, Prohibition, Certiorari, and Quo Warranto. (under Article- 32: Part of basic structure).

7.3 FUNDAMENTAL RIGHTS OF INDIANS AND FOREIGNERS

A. Fundamental Rights available only to citizens and not to foreigners

- **Article- 15:** Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.
- **Article- 16:** Equality of opportunity in matters of public employment.
- **Article-19:** Protection of six rights regarding freedom of: (i) speech and expression, (ii) assembly, (iii) association, (iv) movement, (v) residence, and (vi) profession.
- **Article- 29:** Protection of language, script and culture of minorities.
- **Article-30:** Right of minorities to establish and administer educational institutions.

B. Fundamental Rights available to both citizens and foreigners (except enemy aliens)

- **Article- 14:** Equality before law and equal protection of laws.
- **Article- 20:** Protection in respect of conviction for offenses.
- **Article- 21:** Protection of life and personal liberty.
- **Article- 21A:** Right to elementary education.
- **Article- 22:** Protection against arrest and detention in certain cases.
- **Article- 23:** Prohibition of traffic in human beings and forced labor.
- **Article- 24:** Prohibition of employment of children in factories etc.
- **Article- 25:** Freedom of conscience and freedom to profess, practice & propagate religion of one's choice.
- **Article- 26:** Freedom to manage religious affairs.
- **Article- 27:** Freedom from payment of taxes for promotion of any religion.
- **Article- 28:** Freedom from attending religious instruction or worship in certain educational institutions.

7.4 DEFINITION OF STATE AND LAWS INCONSISTENT WITH FUNDAMENTAL RIGHTS

Definition of State (Art.12)	Laws Inconsistent with Fundamental Rights (Art.13)
<ul style="list-style-type: none"> ● As per Art.12, the term State includes Government and parliament; Government and legislature of states; All local authorities i.e. municipalities, panchayat, district boards, improvement trust etc.; All other authorities, that is, statutory or non-statutory authorities like LIC, ONGC, SAIL etc. ● According to the Supreme Court: even a private body or an agency working as an instrument of the state falls within the meaning of state under article 12. 	<ul style="list-style-type: none"> ● Art 13: all laws that are inconsistent with or in derogation of any of the fundamental rights shall be void (expressly provides for the doctrine of judicial review). ● Term 'law' in Art 13: Permanent laws enacted by center and state; temporary ordinance by president; Statutory instruments of delegated legislation (executive legislation) like order; custom or usage having the force of law. ● Kesavananda Bharati case (1973): SC held that a Constitutional amendment can be challenged on the ground if it violates a fundamental right that forms a part of the 'basic structure' of the Constitution and hence, can be declared as void.

7.5 RIGHT TO EQUALITY: ARTICLE 14-18

Article	Subject Matter
Article 14	<ul style="list-style-type: none"> ● Article- 14: the state shall not deny to any person "equality before the law" or the "equal protection of the laws" within the territory of India. ● Equality Before Law (British Origin + Negative connotation): <ul style="list-style-type: none"> ○ Absence of any special privileges in favor of any person; ○ Equal subjection of all persons to ordinary law of land administered by ordinary law courts; ○ No person is above the law. ● Equal Protection of Law (American Origin + positive notion): <ul style="list-style-type: none"> ○ Equality of treatment under equal circumstances, both in privileges conferred and liabilities imposed by the laws; ○ Similar application of the same laws to all person who are similarly situated; ○ Like should be treated alike without any discrimination. ● Art.14 forbids class legislation, it permits reasonable classification of persons, objects and transactions by the law. ● Confers right to all persons (citizens and foreigners) and includes Legal Persons. ● Rule of Law (by A V Dicey) (basic feature of constitution): concept of 'Equality before Law' is an element of the Rule of Law. ● Rule of Law has 3 fundamental principles: <ul style="list-style-type: none"> ○ Absence of arbitrary power - Applicable to the Indian System. ○ Equality before law - Applicable to the Indian System ○ Primacy of individual rights – Not applicable, as the constitution is the source of individual rights. ● Exceptions to Equality: <ul style="list-style-type: none"> ○ President of India and Governor, Foreign sovereigns and diplomats, UN and its agencies. ○ Art 31C: SC held that where "Art 31C comes in, Art 14 goes out". ○ Art 361A: No person is liable for any civil or criminal proceedings in any court in respect of publication in news reports of true report of any proceedings of parliament or the state legislature. ○ Art 105: Parliamentary privilege of members of parliament ○ Art 194: privileges of members of the state legislature in the legislature or any committee thereof.

Article 15	<ul style="list-style-type: none"> ● Art 15: State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth. ● Word 'only' connotes that discrimination on other grounds is not prohibited. ● Art 15(2): This provision prohibits discrimination both by the State and private individuals, while the former provision prohibits discrimination only by the State. ● Art 15(3) and 15(4): foundational bricks of reservation system in the country. ● Four exception to this general rule of non-discrimination: <ol style="list-style-type: none"> 1. State is permitted to make any special provision for women and children. 2. For advancement of any socially and educationally backward classes or for SCs and STs. 3. For advancement of any socially and educationally backward classes of citizens or for SCs and STs regarding their admission to educational institutions including private educational institutions whether aided or unaided by state except minority educational institutions. 4. For advancement of any economically weaker section (EWS) of citizens. ● Reservation for OBCs in Educational Institutions: <ul style="list-style-type: none"> ○ Exception in Art.15 (c): 93rd Amendment Act (2005) enacted Central Educational Institutions (reservation in admission) Act, 2006 quota for 27% reservation for OBC in all central higher educational institutions including the IITs and the IIM. ● Reservation for EWS in Educational Institutions: <ul style="list-style-type: none"> ○ Exception in Art.15 (d) was added by the 103rd Amendment Act of 2019. 10% reservation to EWS in admission to educational institutions was introduced.
Article 16	<ul style="list-style-type: none"> ● Art 16: Equality of opportunity for all citizens in matters of employment or appointment to any office under the state. ● No citizen can be discriminated against or be ineligible for any employment or office under the state on grounds of only religion, race, caste, sex, descent, place of birth or residence. ● Four exception to this general rule of Equality of opportunity: <ol style="list-style-type: none"> 1. Parliament can prescribe residence as a condition for certain employment or appointment in a State or UT or local authority or other authority (only in Andhra Pradesh and Telangana). 2. State can provide for reservation of appointments or posts in favor of any backward class that is not adequately represented in state services 3. A law can provide that the incumbent of an office related to a religious or denominational institution or a member of its governing body should belong to the particular religion or denomination. 4. State is permitted to make a provision for the reservation of upto 10% of appointment of post in favor of any citizen belonging to EWS. ● 1953: First Backward Classes Commission under the chairmanship of Kaka Kalelkar. ● 1979: Under Art. 340, Second Backward Classes Commission under chairmanship of B.P. Mandal to investigate the conditions of the SEBCs (Socially and Educationally Backward Classes) and suggest measures for their advancement - <ul style="list-style-type: none"> ○ About 52%: Socially + educationally backward (excluding SCs) and STs ○ Reservation of 27% government jobs for the OBCs – total reservation would be 50%. ● 1990: V.P. Singh Govt. declared reservation of 27% in government jobs for the OBCs. ● 1991: Narasimha Rao Govt introduced two changes: <ul style="list-style-type: none"> ○ Preference to the poorer sections among the OBCs in the 27% quota (economic criteria) ○ Reservation of another 10% in jobs for poorer sections among the higher castes. ● SC in Mandal case (1992), the scope and extent of Article 16(4): <ul style="list-style-type: none"> ○ Upheld the constitutional validity of 27% reservation for the OBCs with certain conditions. ○ Rejected the additional reservation of 10% for poorer sections. ○ Total reserved quota should not exceed 50% except in some extraordinary situations. ○ No reservation in promotions; reservation should be confined to initial appointments only.

	<ul style="list-style-type: none"> ○ Advanced sections among the OBCs should be excluded- creamy layer ○ 'Carry Forward Rule' in case of backlog vacancies is valid - should not violate the 50% rule. ○ Permanent statutory body should be established to examine inclusion-exclusion purposes. ● NCBC was established by an Act (1993). It was accorded constitutional status by the 102nd CAA (2018) (Art.338 B).
Article 17	<ul style="list-style-type: none"> ● Art. 17 abolishes 'untouchability' and forbids its practice in any form. ● Untouchability (offences) Act, 1955 was amended in 1976 and renamed as "Protection of Civil Rights Act 1955". ● Phrase "Untouchability" is not defined either in the Constitution or in the act. ● Mysore high court: subject matter of Art.17 is not untouchability in literal or grammatical sense but the 'practice as it had developed historically in the country'. ● Exception: Does not cover the social boycott of few individuals or their exclusion from religious services etc. ● Supreme Court: Available against private individuals and the constitutional obligation of the state to take necessary action to ensure that this right is not violated.
Article 18	<ul style="list-style-type: none"> ● Art.18 abolished titles and makes four provisions in that regard: <ol style="list-style-type: none"> 1. It prohibits the state from conferring any title (except a military or academic distinction) on anybody, whether a citizen or a foreigner. 2. It prohibits a citizen of India from accepting any title from any foreign state. 3. Foreigners holding any office of profit or trust under the state cannot accept any title from any foreign state without the consent of the president. 4. No citizen or foreigner holding any office of profit or trust under the State is to accept any present, emolument/office from/under any foreign State without the consent of the president. ● Supreme Court (1996): upheld the constitutional validity of the National Awards–Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri. ● SC ruled: these awards do not amount to 'titles' within the meaning of Art. 18 that prohibits only hereditary titles of nobility – Maharaja, Raj/Rai Bahadur, Rai Saheb, Dewan Bahadur. ● They should not be used as suffixes or prefixes to the names of awardees. Otherwise, they should forfeit the awards.

7.6 RIGHT TO FREEDOM: ARTICLE 19-22

- **Article 19**: Guarantees to all citizens the **six rights**. These are:
 - (a) Right to freedom of speech and expression.
 - (b) Right to assemble peaceably and without arms.
 - (c) Right to form associations or unions or cooperatives societies.
 - (d) Right to move freely throughout the territory of India.
 - (e) Right to reside and settle in any part of the territory of India.
 - (f) Right to practice any profession or to carry on any occupation, trade or business.
- **Originally Art.19 had 7 rights**: Right to property was deleted by **44th Amendment Act 1978** and included under Art. 300A.
- These six rights are protected **against only state action and not private individuals**.
- States can impose **reasonable restriction on these 6 rights solely** on the grounds mentioned in **Art.19 itself and not on other grounds**.

Article	Subject Matter
Freedom of Speech and Expression Article- 19 (1)	<ul style="list-style-type: none"> ● Supreme Court (SC) held that freedom of speech contains the following rights: <ul style="list-style-type: none"> ○ Right to propagate one's views as well as views of others ○ Freedom of press ○ Freedom of commercial advertisements ○ Right against tapping of telephonic conversation ○ Right to telecast, that is, government has no monopoly on electronic media

	<ul style="list-style-type: none"> ○ Right against bandh called by a political party or organization ○ Right to know about government activities ○ Freedom of silence ○ Right against imposition of pre-censorship on a newspaper ○ Right to demonstration or picketing but not the right to strike ● Reasonable Restriction: Sovereignty and integrity of India; Security of the state; Friendly relations with foreign states; Public order; Decency or Morality; Contempt of court; Defamation; Incitement to an offense.
Freedom of Assembly Article- 19(2)	<ul style="list-style-type: none"> ● All Citizens have the right to assemble peacefully and without arms. ● Right to hold public meetings, demonstrations and take out processions. ● Permitted only on public land in a peaceful manner and without arms. ● Does not protect: violent, disorderly, riotous assemblies or one that causes breach of public peace or involves arms. ● Right does not include Right to Strike. ● Reasonable Restrictions: <ul style="list-style-type: none"> ○ On two grounds: Sovereignty and integrity of India + Public order ● Section 144 (CrPC): Magistrate can restrain an assembly, meeting or procession involving the risk of obstruction, annoyance or danger to human life, health or safety or disturbance of public tranquility or riot or any affray – invoked on many instances to tackle Covid19. ● Section 141 (IPC): Assembly of five or more persons becomes unlawful if the objective is: <ul style="list-style-type: none"> ○ To resist the execution of any law or legal process ○ To forcibly occupy the property of some person ○ To commit any mischief or criminal trespass ○ To force someone to do an illegal act ○ To threaten govt officials on exercising lawful powers
Freedom of Association Article- 19(3)	<ul style="list-style-type: none"> ● Art 19(3): All citizens have the right to form association or unions or cooperative societies: ● Right to Form: Political Parties + companies + partnership firms + societies + clubs + organizations + trade unions or any body of persons. ● Includes right to continue with the association ● Includes negative right of not to form or join an association or union ● Reasonable restrictions: Sovereignty of India + Integrity of India + Public order + Morality. ● Right to obtain recognition of association is not a fundamental right. ● Supreme Court held that trade union: <ul style="list-style-type: none"> ○ Have no guaranteed right to effective bargaining ○ Have no right to strike ○ Have no right to declare lockout - can be controlled by an appropriate industrial law.
Freedom of Movement Article- 19(4)	<ul style="list-style-type: none"> ● Every citizen has the right to move freely - Inter-state and Intra-state movement. ● Objective: Unity of india + promotes national feeling + no parochialism ● Restrictions: Interest of general public + Protection of interests of any STs. ● SC: movement of prostitutes can be restricted on grounds of - public health and morals. ● Article- 19: Internal freedom of movement - right to move inside the country ● Article- 21: External freedom of movement - right to move out of the country
Freedom of Residence Article- 19(5)	<ul style="list-style-type: none"> ● Every citizen has the right to reside and settle in any part of the territory of India. ● Intended to remove internal barriers within the country. ● Restrictions: Interest of general public + Protection of interests of any ST. ● In many parts of the country, the tribals have been permitted to regulate their property rights in accordance with their customary rules and laws. ● SC: certain areas can be banned for certain kinds of persons like prostitutes and habitual offenders. ● Right to residence and right to movement are complementary to each other.

<p>Freedom of Profession Article- 19(6)</p>	<ul style="list-style-type: none"> • All citizens are given the right to practice any profession or to carry on any occupation, trade and business. • Very wide: covers all means of earning one's livelihood • State is empowered to: <ul style="list-style-type: none"> ○ Prescribe professional/ technical qualifications necessary for practicing any profession or carrying on any occupation, trade or business; ○ Carry on by itself any trade, business, industry or service whether to the exclusion (complete or partial) of citizens or otherwise. ○ State is not required to justify its monopoly. • Does not include: right to carry on a profession or business or trade or occupation that is immoral or dangerous – state can absolutely prohibit these or regulate through licensing.
<p>Article- 20</p>	<ul style="list-style-type: none"> • Article- 20: Protection against arbitrary and excessive punishment to an accused person— Citizen, or foreigner or legal person like a company or a corporation. • No Ex-Post-Facto Law (imposes penalties retrospectively): No person shall be Convicted of any offense except for violation of a law in force at the time of the commission of the act nor subjected to a penalty greater than that prescribed by the law in force at the time of commission of offense; applicable only on criminal law not on civil laws or tax laws; cannot be claimed in case of preventive detention or demanding security from person. • No Double Jeopardy: No one shall be prosecuted and punished for the same offense more than once. Available only on proceedings before a court of law or judicial tribunal i.e. For bodies which are judicial in nature. Inquiry by Dept. or administrative authorities are exceptions. • No Self Incrimination: No person accused of any offense shall be compelled to be a witness against himself. Extends to both oral and documentary evidence. Does not extend to civil proceedings or proceedings which are not of criminal nature.
<p>Article- 21</p>	<ul style="list-style-type: none"> • Article 21: no person shall be deprived of his life or personal liberty except according to the procedure established by law. • Procedure established by law (borrowed from Japanese Constitution): validity of a law that has prescribed a procedure cannot be questioned on the ground that the law is unreasonable, unfair or unjust. • Due Process of Law (American concept): a doctrine that not only checks if there is a law to deprive the life and personal liberty of a person but also ensures that the law is made fair and just. • Landmark Cases on Article 21: <ul style="list-style-type: none"> ○ Gopalan Case (1950) <ul style="list-style-type: none"> ◆ Protection under Art.21 is available against arbitrary executive action and not from arbitrary legislative action – Narrow interpretation ◆ Personal liberty: only liberty relating to the person or body of an individual. ○ Maneka Gandhi Case (1978) <ul style="list-style-type: none"> ◆ Introduced 'due process of law' (American expression): protection under Art.21 should be available not only against arbitrary executive action but also against arbitrary legislative action. ◆ Right to life and personal liberty of a person cannot be deprived by law provided the procedure prescribed by that law is reasonable, fair and just. ◆ Right to life: right to live with human dignity ◆ Personal liberty: widest amplitude and it covers a variety of rights that go to constitute personal liberties of a man. ◆ Note: It is the wider interpretation of Art.21. ○ KS Puttaswamy Case (2017) <ul style="list-style-type: none"> ◆ It held that privacy is a natural right that inheres in all-natural persons, and that right may be restricted only by state action if it passes each of three tests:

	<ul style="list-style-type: none"> Such state action must have a legislative mandate; It must be pursuing a legitimate state purpose; and It must be proportionate. <ul style="list-style-type: none"> ○ Hadiya Case (2017) <ul style="list-style-type: none"> ♦ SC: "The right to marry a person of one's choice is integral to Art.21 (right to life and liberty) of the Constitution".
Article- 21A	<ul style="list-style-type: none"> ● Article 21A: State shall provide free and compulsory education to all children of the age of six to fourteen years – in such manner the state may determine. ● 86th CAA (2002): Education for All – "Dawn of the second revolution in chapter of citizens right" ● Art.45 in part IV: directive principles of state policy – provision for free education ● Change after 86th CAA: state shall endeavor to provide early childhood care and education to children until they complete the age of 6 years. ● Art.51A: it shall be duty of every citizen of India to provide opportunities for education to his child or ward between the age of six and fourteen years ● 1993: Supreme court recognized right to free education under Art.21
Article- 22	<ul style="list-style-type: none"> ● Article 22: grants protection to persons who are arrested or detained ● Preventive detention: without trial and conviction by court ● Punitive detention: punishment after trial and conviction ● Art. 22 (1): Confers the rights on a person who is arrested or detained under an ordinary law: Right to be informed of the grounds of arrest; Right to consult and be defended by a legal practitioner; Right to be produced before a magistrate within 24 hours (excluding the journey time); Right to be released after 24 hours unless the magistrate authorizes further detention. These safeguards are not available to an enemy alien or a person arrested or detained under a preventive detention law. ● Art. 22(2): Grants protection to persons who are arrested or detained under a preventive detention law. ● Available to both citizens as well as aliens. ● The detention of a person cannot exceed three months unless the advisory board reports sufficient cause for extended detention. The board is to consist of judges of a high court. ● Art. 22 also authorizes the Parliament to prescribe: circumstances and classes of cases in which a person can be detained for more than three months under a preventive detention law without obtaining the opinion of an advisory board; maximum period for which a person can be detained under a preventive detention law; procedure to be followed by an advisory board. ● Parliament has exclusive authority: to make a law of preventive detention for reasons connected with defense, foreign affairs and the security of India. ● Both Parliament and state legislatures: can concurrently make a law of preventive detention for security of state, maintenance of public order, supplies & services essential to community. ● No democratic country in the world has made preventive detention as an integral part of the Constitution as has been done in India.

7.7 RIGHT AGAINST EXPLOITATION: ARTICLE- 23-24

Articles	Subject Matter
Article- 23	<ul style="list-style-type: none"> ● Article 23: Prohibition of traffic in human beings and forced labor. ● This right is available to both citizens and non-citizens. ● Protects the individual from both - against the State and private persons. ● Exception: Art.23 permits the State to impose compulsory service for public purposes. E.g. military service or social service, for which it is not bound to pay.

	<ul style="list-style-type: none"> • Expression 'traffic in human beings' include: Selling and buying of men, women and children like goods; Immoral traffic in women and children; prostitution; Devadasis; Slavery. • Note: The 'Age' is not mentioned in Art.23. • Begar: means compulsory work without remuneration • Forced labor: means compelling a person to work against his will.
Article- 24	<ul style="list-style-type: none"> • Article 24 prohibits the employment of children below the age of 14 years in any factory, mine or other hazardous activities like construction work or railway. • It does not prohibit their employment in any harmless or innocent work. • Commissions for Protection of Child Rights Act, 2005: enacted to provide for the establishment of a National and State Commissions for Protection of Child Rights and Children's Courts for providing speedy trial of offenses against children or of violation of child rights. • Supreme Court: directed the establishment of Child Labour Rehabilitation Welfare Fund

7.8 RIGHT TO FREEDOM OF RELIGION: ARTICLE- 25-28

Articles	Subject Matter
Article- 25	<ul style="list-style-type: none"> • Article- 25: All persons are equally entitled to freedom of conscience and the right to freely profess, practice and propagate religion. • Right to propagate does not include a right to convert another person to one's own religion. Forcible conversions impinge on the 'freedom of conscience' guaranteed to all the persons alike. • Art. 25 covers: religious beliefs (doctrines) + religious practices (rituals) • Art.25 also contains two explanations: <ol style="list-style-type: none"> 1. Wearing and carrying of kirpans is to be included in the profession of the Sikh religion; 2. Hindus: include Sikhs, Jains and Buddhists. • Available to all persons: citizens as well as non-citizens. • Exceptions: public order + morality + health + other provisions relating to fundamental rights
Article- 26	<ul style="list-style-type: none"> • Article- 26: every religious denomination or any of its section shall have the following rights: <ul style="list-style-type: none"> ○ Right to establish and maintain institutions for religious and charitable purposes. ○ Right to manage its own affairs in matters of religion. ○ Right to own and acquire movable and immovable property. ○ Right to administer such property in accordance with law.
Article- 27	<ul style="list-style-type: none"> • Article- 27: No person shall be compelled to pay any taxes for promotion or maintenance of any particular religion or religious denomination. • Provision prohibits the state: favoring, patronizing and supporting one religion over the other. • Taxes can be used for promotion or maintenance of all religions and not any particular religion. • Provision prohibits only levy of a tax and not a fee.
Article- 28	<ul style="list-style-type: none"> • Article-28: No religious instruction shall be provided in any educational institution wholly maintained out of state funds. • Not applicable to: educational institutions administered by the state but established under any endowment or trust, requiring imparting of religious instruction in such institutions. • Article- 28 distinguishes four types of educational institutions: <ol style="list-style-type: none"> 1. Institution wholly maintained by the state - completely prohibited 2. Institution administered by the state but established under any endowment or trust - religious instruction is permitted 3. Institution recognised by state - permitted on a voluntary basis 4. Institution receiving aid from the state - permitted on a voluntary basis.
Article-29	<ul style="list-style-type: none"> • Article 29 provides protection to religious minorities and linguistic minorities.
Article-30	<ul style="list-style-type: none"> • Article 30: Right of minorities to establish and administer educational institutions.

Additional Information

- The word 'minority' has not been defined in the Indian Constitution.
- According to the Gazette of India dated 27 January 2014, Muslims, Sikhs, Christians, Buddhists, Parsis and Jains The people have got the status of minority community in India.

Important judicial pronouncements in context of Minority status in India



In TMA Pai Case, 2002, SC held that **linguistic and religious minority are determined** by taking **state as a unit** and not by taking into consideration the population of country.



In Re: Kerala Education Bill case, 1958, SC had rejected the argument that minorities should be identified at block or district level.

7.9 RIGHT TO CONSTITUTIONAL REMEDIES: ARTICLE 32

- **Article -32:** Right to constitutional remedies for the enforcement of the fundamental rights of an aggrieved citizen.
- **Ambedkar:** "an article without which this constitution be a nullity. It's the very soul of the constitution and the very heart of it".

A. Role of Supreme Court and High Courts regarding Constitutional Remedies

Supreme Court (Article 32)	High Court (Article 226)
<ul style="list-style-type: none"> • Article 32: Original jurisdiction, not exclusive • Party should first move to High Court • Only fundamental rights can be enforced. 	<ul style="list-style-type: none"> • Article 226: Concurrent and original jurisdiction • Along with fundamental rights, legal, constitutional rights can be enforced.

B. Writs: Types and Scope

- **The Supreme Court (Art.32) and High court (Art.226) can issue:** Habeas corpus, Mandamus, Prohibition, Certiorari & Quo-warranto.
- Borrowed from English prerogative writs = fountain of justice.
- **Parliament (under Art.32) can empower** any other court to issue these writs.

Types of Writs	Scope
Habeas Corpus	<ul style="list-style-type: none"> • Meaning: "to have the body of" • Order issued by court to the person who has detained another person, to produce the body of the latter before it. • Bulwark of individual liberty against arbitrary detention; Only against illegal detention. • Against both - private and public. • Not issued when: Detention is lawful; Proceedings for contempt of court; Detention is by competent court; Detention is outside the jurisdiction of court.
Mandamus	<ul style="list-style-type: none"> • Meaning: "we command" - Direct activity. • Command is issued by the court to public officials asking him to perform his official duties that he has failed or refused to perform. • Against any public body, corporation, inferior court, tribunal or government for the same purpose. • Cannot be issued: Against private individual or body; To enforce departmental instruction that does not possess statutory force; When duty is discretionary; To enforce contractual obligation; Against president or governor; against Chief Justice of High Court acting in judicial capacity.

Prohibition	<ul style="list-style-type: none"> • Meaning: “to forbid”. • Issued by higher court to lower court; Prohibition directs inactivity; Issued only against judicial and quasi-judicial authorities. • Not available against: Administrative Authorities; Legislative bodies; Private individuals and bodies.
Certiorari	<ul style="list-style-type: none"> • Meaning: ‘To be certified or informed’. • Issued by higher court to lower court or tribunal either to transfer a case pending with the latter to itself or to squash the order of the latter in the case. • Both preventive and curative. • Can be issued against: Judicial and quasi-judicial authority. • 1991 supreme court ruled: can be issued against administrative authority also – when it affects the rights of individuals. • Not against: Legislative bodies and Private individuals or bodies.
Quo Warranto	<ul style="list-style-type: none"> • Meaning: “By what authority or warrant”. • Issued by court to enquire into legality of claim of person to public office. • Prevents illegal usurpation of public office by person. • Issued only in case of substantive public office by person • Cannot be issued: Ministerial office and Private office. • Can be sought by any interested person, not necessarily by an aggrieved person.

C. Comparison between the Writ Jurisdiction of Supreme Court Vs High Court

Supreme Court (SC)	High Court (HC)
<ul style="list-style-type: none"> • Narrower writ jurisdiction of the SC: can issue writs only for the enforcement of Fundamental Rights. 	<ul style="list-style-type: none"> • Wider writ jurisdiction of the HC: can issue writs not only for the enforcement of Fundamental Rights but also for “any other purpose” (Ordinary legal rights).
<ul style="list-style-type: none"> • Wider territorial jurisdiction: SC can issue writs against a person or government throughout the territory of India. 	<ul style="list-style-type: none"> • Narrower territorial jurisdiction: HC can issue writs against a person residing or against a govt or authority located within its territorial jurisdiction only or outside only if, the cause of action arises within its territorial jurisdiction.
<ul style="list-style-type: none"> • Mandatory: Remedy under Art.32 is in itself a Fundamental Rights, SC may not refuse to exercise its writ jurisdiction. 	<ul style="list-style-type: none"> • Discretionary: Remedy under Art.226 is discretionary, HC may refuse to exercise its writ jurisdiction.

7.10 ARMED FORCES AND FUNDAMENTAL RIGHTS: ARTICLE 33-35

A. Constitutional Articles

Article	Subject Matter
Article- 33	<ul style="list-style-type: none"> • Parliament can restrict or abrogate, by law, FRs in the application to: <ul style="list-style-type: none"> ○ Members of Armed forces, Paramilitary Forces, police forces, intelligence agencies. ○ Forces charged with the maintenance of public order. • Parliamentary law enacted under Art.33 can also exclude the Court Martials (tribunals established under the Military law) from writ jurisdiction of SC and HC, so far as enforcement of FR are concerned. • Power to make laws under Art.33 is conferred only on Parliament and not on state legislatures. • Any such law cannot be challenged in any court on the ground of contravention of any of the FR.

Article- 34	<ul style="list-style-type: none"> When the Martial Law is in force in any area within the territory of India, the FRs can be restricted. SC: declaration of martial law does not ipso facto result in the suspension of writ of habeas corpus. It empowers the Parliament to indemnify any government servant or any other person for any act done by him. The Act of Indemnity made by the Parliament cannot be challenged in any court. Concept of martial law: borrowed from the English common law. Expression 'martial law' has not been defined anywhere in the Constitution. No specific or express provision in the Constitution that authorizes the executive to declare martial law, it is implicit in Art.34.
Article- 35	<ul style="list-style-type: none"> Article- 35 lays down that the power to make laws, to give effect to certain specified fundamental rights, shall vest only in the Parliament and not in the state legislatures. Ensures there is uniformity throughout India with regard to the nature of those fundamental rights and punishment. Parliament shall have (and legislature of a state shall not have) power to make laws with respect to: <ul style="list-style-type: none"> Art. 16: Prescribing residence as a condition for certain employments or appointments Art. 32: Empowering courts other than SC and HC to issue directions, orders and writs. Art. 33: Restricting or abrogating the application of FR to members of armed forces, police forces, etc. Art. 34: Indemnifying any government servant or any other person for any act done in martial law. Parliament shall have (and legislature of a state shall not have) powers to make laws for prescribing punishment for those acts that are declared to be offenses under the FR. These include the following: <ul style="list-style-type: none"> Art. 17: Untouchability Art. 23: Traffic in human beings and forced labor Art. 35 extends the competence of the Parliament to make a law on the matters specified above although some of those matters may fall within the sphere of the state legislatures (State List).

B. Difference between Martial Law and National Emergency

Martial Law	National Emergency (Art.352)
<ul style="list-style-type: none"> It affects only Fundamental Rights. 	<ul style="list-style-type: none"> It affects not only Fundamental Rights but also Centre- state relations, distribution of revenues and legislative powers between center and states and may extend the tenure of the Parliament.
<ul style="list-style-type: none"> It suspends the government and ordinary law courts. 	<ul style="list-style-type: none"> It continues the government and ordinary law courts.
<ul style="list-style-type: none"> It is imposed to restore the breakdown of law and order due to any reason. 	<ul style="list-style-type: none"> It can be imposed only on three grounds–war, external aggression or armed rebellion.
<ul style="list-style-type: none"> It is imposed in some specific areas of the country. 	<ul style="list-style-type: none"> It is imposed either in the whole country or in any part of it.
<ul style="list-style-type: none"> It has no specific provision in the Constitution. It is implicit. 	<ul style="list-style-type: none"> It has specific and detailed provisions in the Constitution. It is explicit.

7.11 EXCEPTIONS TO FUNDAMENTAL RIGHTS

- **Article- 31A:** Saves five categories of laws from being challenged and invalidated on the ground of contravention of the fundamental rights conferred by **Art.14 and Art.19**.
- **Article- 31B:** Saves the acts and regulations included in the **Ninth Schedule** (added by **first amendment in 1951**) from being challenged and invalidated on the ground of contravention of any of the fundamental rights.
- **SC in I.R. Coelho case (2007):** There could not be any blanket immunity from judicial review of laws included in the Ninth Schedule. Judicial review is a 'basic structure' of the constitution. Such laws placed after **April 24, 1973** (Kesavananda Bharati judgment), are open to challenge in court if they violated fundamental rights.
- **Article- 31C:** No law that seeks to implement the socialistic DPSP specified in **Art. 39(b) or (c)** shall be void on the ground of contravention of the FR conferred by **Art.14 or Art.19**.

7.12 RIGHT TO VOTE (CONSTITUTIONAL RIGHT)

- While framing the Indian Constitution the framers and makers of our Constitution took the decision

to guarantee every adult Indian citizen the right to franchise i.e. the right to vote.

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

7.13 UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR)

- The General Assembly of the United Nations, on 10 December 1948, announced the **30 rights and freedoms** that belong to everyone, under the **Universal Declaration of Human Rights (UDHR)**.
- It promises to all the **economic, social, political, cultural and civic rights** that underpin a life free from want and fear.

7.14 CRITICISM AND SIGNIFICANCE OF FUNDAMENTAL RIGHTS

Criticism	Significance
<ul style="list-style-type: none"> • Excessive limitations; • No social and economic rights; • No clarity; • No permanency; • Suspension during emergency; • Expensive remedy; • Preventive detention; • No consistent philosophy. 	<ul style="list-style-type: none"> • Bedrock of democratic system in the country; • Formidable bulwark of individual liberty; • Ensure dignity and respect for individual; • Strengthen the secular fabric of Indian state; • Protect the interest of minorities.

7.15 RIGHTS OUTSIDE PART III

Article/Part	Description
Article- 265 Part XII	<ul style="list-style-type: none"> • No tax shall be levied or collected except by authority of law.
Article- 300-A Part XII	<ul style="list-style-type: none"> • No person shall be deprived of his property save by authority of law.
Article- 301 Part XIII	<ul style="list-style-type: none"> • Trade, commerce and intercourse throughout the territory of India shall be free.
Article- 326 Part XV	<ul style="list-style-type: none"> • Adult Suffrage (Right to Vote).

7.16 COMPARISON BETWEEN FUNDAMENTAL RIGHTS, DIRECTIVE PRINCIPLES, AND FUNDAMENTAL DUTIES

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

PREVIOUS YEAR QUESTIONS

1. The fundamental rights of Indian citizens are described
[41st B.P.S.C. (Pre) 1994]

(a) Articles 12 to 35 of the Constitution

(b) Articles 13 to 36 of the Constitution

(c) Articles 15 to 39 of the Constitution

(d) Articles 16 to 40 of the Constitution

2. Which of the following articles of the Indian Constitution guarantees Freedom of Press?
[47th BPSC(Pre) 2005]

(a) Article 16

(b) Article 19

(c) Article 22

(d) Article 31

3. Which of the following is not a Fundamental Right?
[42nd B.P.S.C. (Pre) 1997]

(a) Right to Constitutional remedy

(b) Right to Property

(c) Right to Peaceful Assembly

(d) Right to move freely throughout the territory of India

4. Which article of the Constitution prioritises those rules/law made by parliament /state legislatures under Constitutional procedure?

[45th B.P.S.C. (Pre) 2001]

(a) 13

(b) 32

(c) 245

(d) 326

5. Which of the following is given the power to implement the Fundamental Rights by the Constitution?
[47th B.P.S.C. (Pre) 2005]

(a) All Courts in India

(b) The Parliament

(c) The President

(d) The Supreme Court and High Court



Directive Principles of State Policy

INTRODUCTION

- **Source:** Borrowed from the **Irish Constitution** of 1937, which had copied it from the Spanish Constitution.
- **Mentioned in Part IV, Articles 36 to 51.**
- **Dr. B.R. Ambedkar:** DPSPs as 'novel features' of the Indian Constitution.
- **DPSP + FR=** the philosophy of the Constitution and the soul of the Constitution.
- DPSP lays down the goal of Indian polity as '**Socio-economic democracy**' as distinguished from 'political democracy'.
- **Granville Austin:** DPSP + FR = **Conscience of the Constitution.**
- **Article 37:** These principles are **fundamental in the governance** of the country, and it **shall be the duty of the State to apply these principles** in making laws.
- **Minerva Mills case (1980):** **Harmony and balance between FR and DPSP** are an essential feature of the **basic structure** of the Constitution.
- **Exceptions to DPSP:** Laws giving effect to **Art 39 (b) and (c)** of DPSPs should not be declared as unconstitutional and void on grounds of violation or contravention of **Art 14 and 19.**

8.1 FEATURES OF DIRECTIVE PRINCIPLES OF STATE POLICY

- **Constitutional instructions or recommendations** to the State in legislative, executive and administrative matters.
- **Phrase 'State' Includes:** legislative and executive organs of the central and state governments, all local authorities and all other public authorities in the country.
- Imposes **moral obligation** on the state authorities for their application, but the **real force behind them is political**, that is **public opinion**.

- Enshrines **Socio-economic democracy** (which is positive in nature, unlike FR which are negative in nature).
- They are **supplementary to the fundamental rights** of the citizens. They are **intended to fill in the vacuum in Part III** by providing for social and economic rights.
- **Sir B.N. Rau (Constitutional Advisor):** recommended that the rights of an individual should be divided into two categories– justiciable and non-justiciable, which was accepted by the Drafting Committee (chaired by: Ambedkar)
- DPSPs resemble the '**Instrument of Instructions**' enumerated in GoI Act 1935.
- DPSPs constitute a very **comprehensive economic, social & political programme** for a modern democratic state.
- DPSPs embody '**Welfare State**' and not **Police State**.
- DPSP aims at **realizing justice, liberty, equality & fraternity** as mentioned in the Preamble.
- **Non-justiciable:** Not legally enforceable by the courts for their violation or non-implementation.
- DPSPs **help the courts** in examining and determining the **constitutional validity** of a law.
- **SC:** Any law for implementing DPSPs need to be reasonable in relation to **Article 14 & 19.**

8.2 CLASSIFICATION OF DIRECTIVE PRINCIPLES OF STATE POLICY

The **Constitution does not specify the classification** of principles. But on the basis of content, these are classified into socialist, Gandhian and liberal-intellectual.

A. Socialist Principles

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

Article-38	<ul style="list-style-type: none"> • Promote the welfare of the people by securing a social order permeated by justice-social, economic and political. • To minimize inequalities in income, status, facilities and opportunities (Added by 44th Amendment)
Article-39	<ul style="list-style-type: none"> • State policy must secure adequate means of livelihood. • Equitable distribution of resources among all.

	<ul style="list-style-type: none"> • Prevention of concentration of wealth and means of production. • Equal pay for equal work for men and women. • Preservation of health and strength of workers and children against forcible abuse. • Opportunity for healthy development of children (42nd Amendment)
Article-39A	<ul style="list-style-type: none"> • To promote equal justice & to provide free legal aid to the poor (42nd Amendment).
Article-41	<ul style="list-style-type: none"> • Right to work, education, and public assistance in the event of unemployment, old age, sickness.
Article-42	<ul style="list-style-type: none"> • Provision for just & humane conditions of work & maternity relief.
Article-43	<ul style="list-style-type: none"> • To secure living wage, decent standards of life & social and cultural opportunities for all workers.
Article-43A	<ul style="list-style-type: none"> • Take steps to secure participation of workers in the management of industries (42nd Amendment).
Article-47	<ul style="list-style-type: none"> • To raise the level of nutrition and the standard of living of the people & to improve public health.

B. Gandhian Principles

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

Article-40	<ul style="list-style-type: none"> • To organize village Panchayats (grass root level democracy). • 73rd CAA, 1992: Constitutional recognition to Panchayats (Part IX, Schedule 11)
Article-43	<ul style="list-style-type: none"> • Promote cottage industries on an individual or corporation basis in rural areas.
Article-43B	<ul style="list-style-type: none"> • To promote voluntary formation, autonomous functioning, democratic control & professional management of Co-operative Societies (97th Amendment 2011).
Article-46	<ul style="list-style-type: none"> • To promote educational and economic interests of SCs, STs and other weaker sections of society + To protect them from social injustice and exploitation.
Article-47	<ul style="list-style-type: none"> • Prohibit the consumption of intoxicating drinks and drugs
Article-48	<ul style="list-style-type: none"> • Prohibit the slaughter of cows and improve their breeds

C. Liberal Intellectual Principles

- **Philosophy:** To represent the ideology of **liberalism**.

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

8.3 NEW DIRECTIVE PRINCIPLES

Amendment	Description
42nd Amendment Act of 1976	<ul style="list-style-type: none"> • Art.39: To secure opportunities for healthy development of children. • Art.39A: To promote equal justice and to provide free legal aid to the poor. • Art.43A: To take steps to secure the participation of workers in the management of industries. • Art.48A: To protect and improve the environment and to safeguard forests and wildlife. • Note: 42nd CAA (1976) shifted the five subjects from State list to Concurrent list- Education, Forests, Weights & Measures, Protection of Wild Animals and Birds, Administration of Justice.
44th Amendment Act of 1978	<ul style="list-style-type: none"> • Article 38: The State to minimize inequalities in income, status, facilities and opportunities.
86th Amendment Act of 2002	<ul style="list-style-type: none"> • Article 45: The State to provide early childhood care and education for all children until they complete the age of six years. • Note: amendment changed subject- matter of Art.45 and elementary education made as FR under Art. 21A.
97th Amendment Act of 2011	<ul style="list-style-type: none"> • Article 43B: State to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies.

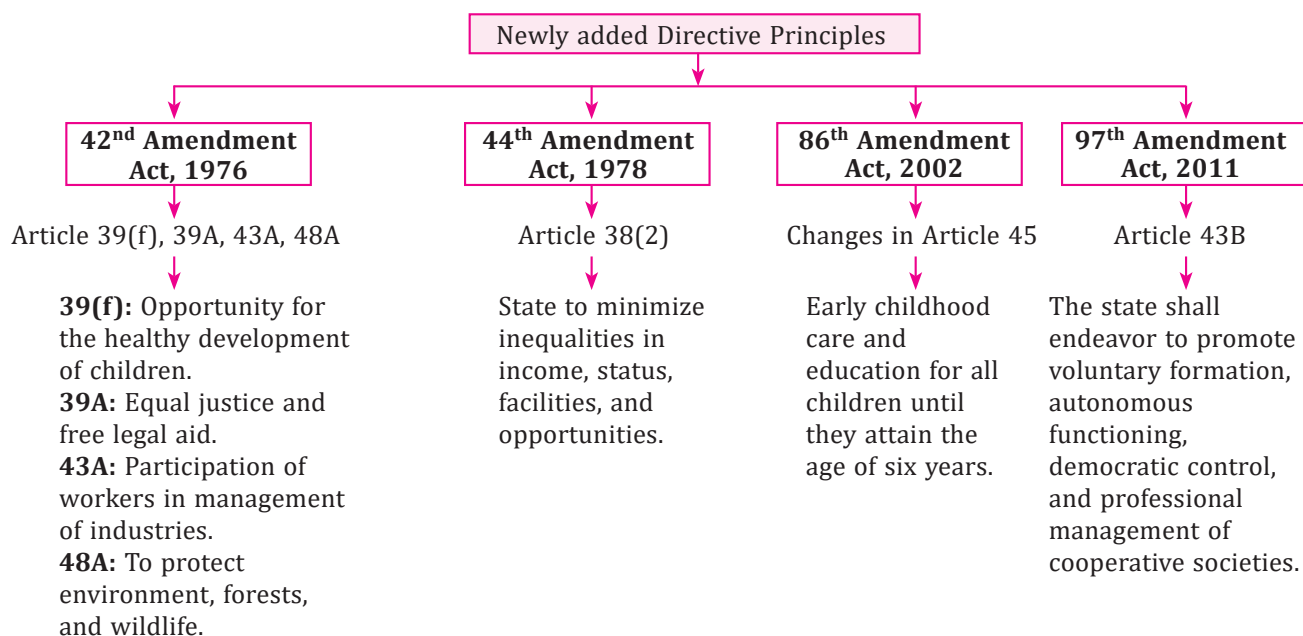


Fig. 8.1: Newly added Directive Principles

8.4 CONFLICT BETWEEN FUNDAMENTAL RIGHTS AND DPSP

Supreme Court Case	Supreme Court View
Champakam Dorairajan Case 1951	<ul style="list-style-type: none"> • If any conflict between FR & DPSPs, FR would prevail over DPSPs. • FRs can be amended by the Parliament by enacting Constitutional amendment.
Golaknath Case 1967	<ul style="list-style-type: none"> • Parliament cannot take away any of the FR which are sacrosanct. • FR cannot be amended for the implementation of DPSPs

24th Amendment 1971	<ul style="list-style-type: none"> Parliament has the power to take away any FR by enacting Constitutional Amendment. Inserted Article 31C - Any law for implementation of Art. 39(b) & 39(c) shall not be void if it violates Art. 14 & 19. Such laws cannot be questioned in courts.
Kesavananda Bharati Case 1973	<ul style="list-style-type: none"> The second provision of Article 31C was declared invalid. Judicial review is a basic structure.
42nd Amendment 1976	<ul style="list-style-type: none"> Any law for implementation of any DPSP shall not be void if it violates Art. 14 & 19. DPSPs accorded primacy over Art. 14 & 19.
Minerva Mills Case 1980	<ul style="list-style-type: none"> The extension of DPSP over FR under 42nd Amendment declared invalid. SC: Indian Constitution is founded on the bedrock of balance between FR & DPSP.
Present position	<ul style="list-style-type: none"> Fundamental Rights enjoy supremacy over the Directive Principles.

Directives outside PART IV

Article 335 (Part XVI)	<ul style="list-style-type: none"> Claims of SCs & STs to services and posts.
Article 350A (Part XVII)	<ul style="list-style-type: none"> Instructions in mother tongue at primary stage.
Article 351 (Part XVII)	<ul style="list-style-type: none"> Development of Hindi Language.

8.5 DIFFERENCE BETWEEN FUNDAMENTAL RIGHTS AND DPSP

Fundamental Rights	Directive Principles
<ul style="list-style-type: none"> Borrowed from the Constitution of the USA. 	<ul style="list-style-type: none"> Borrowed from the Irish Constitution of 1937.
<ul style="list-style-type: none"> They prohibit the State from doing certain things. Hence, Negative in nature. 	<ul style="list-style-type: none"> They require the State to do certain things. Hence, positive in nature.
<ul style="list-style-type: none"> Justiciable 	<ul style="list-style-type: none"> Non-justiciable.
<ul style="list-style-type: none"> Aim: political democracy in the country. 	<ul style="list-style-type: none"> Aim: social and economic democracy in the country.
<ul style="list-style-type: none"> Have legal sanctions. 	<ul style="list-style-type: none"> Have moral and political sanctions.
<ul style="list-style-type: none"> Promote the welfare of the individual - Personal & Individualistic. 	<ul style="list-style-type: none"> Promote the welfare of the community - Societarian & Socialistic.
<ul style="list-style-type: none"> Do not require any legislation for implementation. Automatically enforced. 	<ul style="list-style-type: none"> Require legislation for implementation. Not automatically enforced.
<ul style="list-style-type: none"> Courts can declare a law violative of any of the FR as unconstitutional and invalid. 	<ul style="list-style-type: none"> Courts cannot declare a law violative of any of the DPSP as unconstitutional and invalid. However, they can uphold the validity of a law to give effect to a directive.

8.6 IMPORTANCE/SIGNIFICANCE OF DPSP

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

PREVIOUS YEAR QUESTIONS

1. How directive principles of state-policy different from Fundamental Rights? [41th BPSC(Pre-1996)]
(a) First is for the central government and second for the states
(b) First is not the part of constitution whereas second is
(c) **Directive Principles of State Policy is not executable whereas rights must be executed**
(d) None of the above
2. Principles of DPSP are borrowed from which constitution? [41th BPSC(Pre-1996)]
(a) The USA Constitution (b) Canadian Constitution
(c) UK Constitution (d) **Irish Constitution**
3. Principles of a welfare state are described in? [39th BPSC(Pre-1994)]
(a) **Directive Principles of State Policy**
(b) chapter on fundamental rights
(c) Seventh Schedule of Constitution
(d) Preamble of Constitution
4. Which of the following is/are listed among the Directive Principles in Part-IV of the Constitution of India? [60th-62nd BPSC (Pre) Exam-2017]
I. Equal Pay for Equal Work
II. Uniform Civil Code
III. Small family norm
IV. Education through mother tongue at primary level.
(a) I, II and III
(b) **I and II**
(c) II and III
(d) I, II and IV
(e) None of the above/More than one of the above
5. Under which of the following the Panchayati Raj system has been arranged in India? [45th BPSC(Pre) 2001-02]
(a) Fundamental rights
(b) Fundamental Duties
(c) **Directive Principles of State Policy**
(d) Election Commission Act



INTRODUCTION

- The original constitution of India contained **only the Fundamental Rights and not the Fundamental Duties**.
- In 1976, Fundamental Duties were **added to the Constitution by 42nd CAA, 1976**.
- This is considered the **most important amendment** of the constitution.
- It is known as the **“Mini Constitution”**.
- Under this amendment, three new words like **“Socialist, Secular and Integrity”** were added to the Indian Constitution.
- One more FD was added by **86th CAA 2002**, totaling 11 duties.
- Fundamental Duties are **inspired by the Constitution of the erstwhile USSR**.
- **The Japanese Constitution** is the only democratic constitution in the world with a list of duties of citizens.
- **Supreme Court (1992)**: In determining the constitutional validity of any law, if law in question seeks to give effect to FDs, it may consider such law to be ‘reasonable’ in relation to Art. 14 or Art. 19 and thus saving such law from unconstitutionality.
- **Paying taxes** (Recommended by Swaran Singh) and **voting in elections** are **not included** in Fundamental Duties.
- FDs **help the courts** in examining and determining the constitutional validity of a law.
- Fundamental Duties are confined to **citizens only & not to foreigners**.

Additional Information

Fundamental Duties are classified in two forms:

1. Moral duty
2. Civic duty.
 - **Moral Duty :-** To cherish the great ideals of freedom struggle.
 - **Civic Duties:-** To respect the Constitution, the National Flag and the National Anthem.

9.1 LIST OF FUNDAMENTAL DUTIES (ART. 51A)

- (a) To abide by the Constitution and respect the National Flag and National Anthem (Not including national song).
- (b) To follow the noble ideals that inspired the struggle for freedom.
- (c) To protect the sovereignty, unity and integrity of India.
- (d) To render national service when called upon to do so.
- (e) To promote the common spirit of brotherhood amongst all Indians + to renounce practices derogatory to the dignity of women.
- (f) To preserve the rich heritage of the country’s culture.
- (g) To protect the national environment including forests, lakes, wildlife, etc.
- (h) To develop scientific temper, humanism and spirit of reform and inquiry.
- (i) To safeguard public property and to abjure violence.
- (j) To strive towards excellence in all spheres of individuals.
- (k) To provide an opportunity for education to his child between the age 6 and 14 years.

Additional Information

- The 51A (K) Fundamental Duty was added after the **86th Constitutional Amendment Act, 2002** which made education compulsory for all children between the age 6 and 14 years. (Note: In DPSP, it is upto six years).

9.2 SWARAN SINGH COMMITTEE RECOMMENDATIONS

- In **1976**, the Fundamental Duties were **first recommended by the Swaran Singh Committee**; its need was felt during the internal emergency (1975-77).
- The **42nd CAA, 1976 added a new Part IV-A to the Constitution consisting of single Art.51A**, which contains ten fundamental duties of citizens (Presently 11 duties).

- The committee suggested eight Fundamental Duties, the **42nd CAA, 1976 included ten Fundamental Duties.**
- **Swaran Singh Committee had suggested for:**
 - **Penalty or punishment** for the non-performance of Fundamental Duties.
 - No law imposing such a penalty or punishment **shall be called in question in any court.**
 - **Duty to pay taxes** should also be a Fundamental Duty of the citizens.

Note: However, suggested duties were not incorporated.

9.3 IMPORTANT FEATURES OF THE FUNDAMENTAL DUTIES

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

PREVIOUS YEAR QUESTIONS

1. Fundamental Duties are added by?
[44th BPSC (Pre) 2000 41st BPSC (Pre) 1996]
(a) 40th Amendment Act
(b) 43rd Amendment Act
(c) **42nd Amendment Act**
(d) 39th Amendment Act
2. Which of the following is Fundamental Duties?
[45th BPSC (Pre) 2001-02]
(a) The separation of executive from Judiciary
(b) **To value and preserve the rich heritage of our composite culture**
(c) Free and compulsory education to children
(d) To abolish the practice of untouchability
3. 10-Conduct-commandment added by the 42nd Amendment Act, are known as
[39th BPSC (Pre) 2001-02]
(a) Fundamental Rights
(b) **Fundamental Duties**
(c) Principles of Panchayati Raj
(d) Directive Principles





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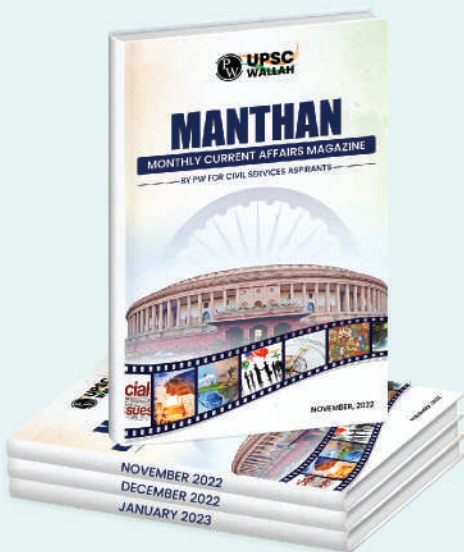
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10

Amendment of the Constitution

INTRODUCTION

- Amending the Constitution of India is the **process of making changes to the nation's fundamental law or supreme law**.
- The procedure of amendment in the constitution is **laid down in Part XX (Article 368)**.
- The procedure for amending the Constitution is **neither flexible (Britain) nor rigid (USA)**. It is the **synthesis of both**.
- It states that Parliament may amend the Constitution but can't amend those provisions which form the basic **structure** of the Constitution (Kesavananda Bharati case, 1973).
- Amendment to the constitution feature borrowed from the constitution of **South Africa**.
- Article 368 has been amended by the **24th and 42nd Amendments in 1971 and 1976** respectively.
- Kesavananda Bharati Case 1973**: Supreme Court ruled that Parliament cannot alter the 'basic structure' of the Constitution.

10.1 PROCEDURE FOR THE AMENDMENT OF CONSTITUTION (ARTICLE 368)

Introduction of bills	<ul style="list-style-type: none"> Amendment bill can be introduced only in either house of Parliament, and not in state legislature.
Who can introduce it?	<ul style="list-style-type: none"> Either by a minister or private member.
President's role in introduction of bill	<ul style="list-style-type: none"> Prior permission of the President is not required to introduce the bill.
Type of Majority needed	<ul style="list-style-type: none"> Special Majority: Majority of the total membership of that house (50%) + by a majority of not less than 2/3 of the members of that house present and voting (2/3 of Present & Voting).
Bill in houses	<ul style="list-style-type: none"> Both the houses need to pass the bill with special majority
Joint seating (Art. 108)	<ul style="list-style-type: none"> There is no provision for a joint sitting in case of disagreement between the two Houses.
Amending federal provisions	<ul style="list-style-type: none"> Special majority + ratification by the legislatures of half of the states by a simple majority.
Role of President in assenting the bill	<ul style="list-style-type: none"> 24th constitutional amendment: It also amended article 368 to provide expressly that Parliament has power to amend any provision of the Constitution. The amendment further made it obligatory for the President to give his assent, when a Constitution Amendment Bill was presented to him.
Role of state legislature in introducing bill	<ul style="list-style-type: none"> State legislature cannot introduce such a bill.

10.2 TYPES OF MAJORITY AND VARIOUS PROVISIONS

A. Types of Majority

Simple Majority	<ul style="list-style-type: none"> Majority of members of each house present and vote. This is similar to the ordinary law- making process. Such amendments are not considered under Art. 368. Example: Recently, the number of SC judges increased from 31 to 34. (Including CJI)
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Special Majority	<ul style="list-style-type: none"> Majority of total (irrespective of the vacancies/ absentees) membership of each house (more than 50%) and majority of two-thirds of the members of each house present and voting. Example: 103rd amendment to provide 10% reservation to EWS.
Special Majority of Parliament & Consent of States	<ul style="list-style-type: none"> Special majority + Ratification of half (50%) of the state legislatures by a simple majority. Most of the Federal provisions amended by this method. Example: 101st amendment related to GST.

Additional Information

Special Majority

- Special majority means** such a majority, which is **not less than 50 percent of the total membership of the House and two-thirds of the voting members**. But sometimes the question arises that when the number of members present and the members participating in the voting are not the same, then who should be considered as **two-thirds majority**. **For example - If 480 members are present in a meeting and only 450 members participate in the voting, in such a situation two-thirds of the members present will be 320 and two-thirds of the members participating in the voting will be 300, then which majority is 320 or 300 would be considered reasonable.** In one such case it was decided by the Speaker of the Lok Sabha that a **two-thirds majority of the members present should be reasonable**.

Total Number of Members

- The constitution amendment bill should be **passed by a majority of the total number of members**. The **total strength of the house does not mean the actual strength of the house, but the number that is given in the constitution or fixed by the constitutional authority**. For example, when the State Reorganization Bill was passed in 1955 by a vote of 246 to 2, the Speaker of the Lok Sabha decided that the bill would not be considered passed because the total strength of the Lok Sabha at that time was 499 and 50% were in favor of the bill. Votes were not cast.

Special Majority Phase

- When the First Constitutional Amendment was introduced in 1951, the question was raised whether a **special majority is required when it is finally voted on or a special majority is required at each stage while passing the bill**. On this question, the then Speaker of the Lok Sabha, after consulting the Attorney General of India, decided that **a special majority is required at each stage to pass the Constitution Amendment Bill**. Thus, since then it is believed that even for introducing the Constitution Amendment Bill, a **two-thirds majority** of the members present and participating in the voting is required, and **this two-thirds majority is 50% of the total number of members of the House, that is, more than half. It should not be less**. For example, the 17th Constitutional Amendment Bill in 1964, the 22nd Constitutional Amendment Bill in 1969, the 46th Constitutional Amendment Bill in 1979 and the 75th Constitutional Amendment Bill related to the extension of President's rule in Punjab in 1989 could not be introduced because 50 minutes were required to introduce it. % members did not support.

B. Various Provisions and the Majority Required

Provisions that require Simple Majority:

- Admission/ establishment of new states. (Art.2)
- Formation of new states & alteration of area, boundaries or names of existing states. (Art.3)
- Second Schedule (emoluments, allowances, privileges).
- Abolition/creation of legislative councils in states. (Art.169)
- Quorum in parliament. (Art.100)
- Salaries & allowances of members of the parliament. (Art.106)
- Rules of procedure in parliament. (Art.118).
- Use of English in parliament.
- Number of puisne judges in SC.
- Privileges of parliament, its members and committees. (Art.105)
- Conferment of more jurisdiction to SC. (Art.138)
- Use of official language. (Art.343)
- Citizenship. (Art. 5 - 11)
- Elections to Parliament and state legislatures.
- Delimitation of constituencies. (Art.82)
- UTs.
- Fifth Schedule. [Art. 244 (1)]
- Six Schedules. (Art. 244)

- **Special Majority:**
 - Fundamental Rights.
 - DPSPs.
 - All other provisions which are not covered by the first and third categories.
- **Special Majority + Ratification of half of the States:**
 - Election of the President and its manner. (Art 54 and 55)
 - Extent of executive power of the Union and the states.
 - Supreme Court and High Courts. (Art.124 & 214)
 - Distribution of legislative powers between the Union & the states.
 - Seventh Schedule (3 lists). (Art. 246)
 - Representation of states in parliament.
 - Article 368

10.3 MAJOR CONSTITUTIONAL AMENDMENTS

Amendments	Description
1st Amendment Act, 1951	<ul style="list-style-type: none"> • Empowered the state to make special provisions for the advancement of socially and economically backward classes. • Provided for the saving of laws providing for acquisition of estates, etc. • The first PM Jawaharlal Nehru added the Ninth Schedule to protect the land reforms and other laws included in it from judicial review. Afterwards, Art.31, 31A and 31B were inserted. • Three more grounds of restrictions on Article 19 (1) were added: <ul style="list-style-type: none"> ○ Public order ○ Friendly relations with foreign states ○ Incitement to an offense • The validity of the state's move to nationalize any business or trade and the same to not be invalid on the grounds of violation of the right to trade and business.
7th Amendment Act, 1952	<ul style="list-style-type: none"> • Extended the jurisdiction of high courts to union territories. • Provided for the appointment of additional and acting judges of the high court. • The provision of having a common High Court for two or more states was introduced. • Abolition of Class A, B, C and D states and reorganized them into 14 States and 6 UTs.
9th Amendment Act, 1960	<ul style="list-style-type: none"> • Adjustments to Indian Territory as a result of Indo-Pak Agreement 1958 with Pakistan. • Cession of Indian territory of Berubari Union (West Bengal) to Pakistan.
14th Amendment Act, 1962	<ul style="list-style-type: none"> • Incorporated Puducherry in the Indian Union. • Provided for the creation of legislatures and council of ministers for the Union Territories of Himachal Pradesh, Manipur, Tripura, Goa, Daman and Diu, and Puducherry.
26th Amendment Act, 1971	<ul style="list-style-type: none"> • Abolished the privy purses and privileges of the former rulers of princely states.
35th Amendment Act, 1974	<ul style="list-style-type: none"> • Terminated the protectorate status of Sikkim and conferred the status of an associate state of the Indian Union. • The Tenth Schedule was added, laying down the terms and conditions of association of Sikkim with the Indian Union
36th Amendment Act, 1975	<ul style="list-style-type: none"> • Made Sikkim a full-fledged State of the Indian Union and omitted the Tenth Schedule.
39th Amendment Act, 1975	<ul style="list-style-type: none"> • Election of the President, Vice President, Prime Minister and the Speaker of the Lok Sabha beyond the scrutiny of the Indian courts. Introduced during the time of Emergency 1975–1977.

42nd Amendment Act, 1976 (Mini Constitution)	<ul style="list-style-type: none"> Added three new words - Socialist, Secular and Integrity - in the Preamble. Added Fundamental Duties by the citizens (new Part IV A). Added four new Directive Principles viz., healthy development of children (Article 39); equal justice and free legal aid (Article 39A); the participation of workers in the management of industries (Article 43A) and protection of the environment, forests, and wildlife (Article 48A).
44th Amendment Act, 1978	<ul style="list-style-type: none"> Replaced the term 'internal disturbance' by 'armed rebellion' in respect of national emergency. Made the President declare a national emergency only on the written recommendation of the cabinet. Deleted the right to property from the list of Fundamental Rights and made it only a legal right. Provided that the fundamental rights guaranteed by Art.20 and 21 cannot be suspended during a national emergency.
52nd Amendment Act, 1985	<ul style="list-style-type: none"> Provided for disqualification of members of Parliament and state legislatures on the ground of defection and added a new Tenth Schedule containing the details in this regard.
61st Amendment Act, 1989	<ul style="list-style-type: none"> Reduced the voting age from 21 years to 18 years for the Lok Sabha and state legislative assembly elections.
69th Amendment Act, 1991	<ul style="list-style-type: none"> Accorded a special status to the Union Territory of Delhi by designating it as the National Capital Territory of Delhi. The amendment also provided for the creation of a 70-member legislative assembly and 7-member council of ministers for Delhi.
73rd Amendment Act, 1992	<ul style="list-style-type: none"> Granted constitutional status and protection to the Panchayati Raj institutions also added a new Part-IX entitled as 'the panchayats' and a new 'Eleventh Schedule' containing 29 functional items of the panchayats.
74th Amendment Act, 1992	<ul style="list-style-type: none"> Granted constitutional status and protection to the urban local bodies and facilitated the addition of a new Part IX-A entitled as 'the municipalities' and a new 'Twelfth Schedule' containing 18 functional items of the municipalities.
84th Amendment Act, 2001	<ul style="list-style-type: none"> Extended the ban on the readjustment of seats in the Lok Sabha and the state legislative assemblies for another 25 years (i.e., up to 2026) with the same objective of encouraging population limiting measures.
86th Amendment Act, 2002	<ul style="list-style-type: none"> Made elementary education a fundamental right under the Article 21A Changed the subject matter of Article 45 in Directive Principles Added a new fundamental duty under Article 51A
89th Amendment Act, 2003	<ul style="list-style-type: none"> Bifurcated the erstwhile combined National Commission for Scheduled Castes and Scheduled Tribes into two separate bodies, namely, National Commission for Scheduled Castes (Art.338) and National Commission for Scheduled Tribes (Art.338A).
97th Amendment Act, 2011	<ul style="list-style-type: none"> Constitutional status and protection to cooperative societies. It made the following three changes in the constitution: <ol style="list-style-type: none"> It made the right to form co-operative societies a fundamental right (Article 19). It included a new Directive Principle of State Policy on the promotion of co-operative societies. It added a new Part IX-B in the constitution which is entitled "The Co-operative Societies".

99th Constitutional Amendment Act, 2014	<ul style="list-style-type: none"> Formation of a National Judicial Appointments Commission. Note: In 2015, a five judge Constitution Bench of SC by 4:1 majority upheld the collegium system and struck down the NJAC as unconstitutional. Justice Kehar opined: The expectation from the judiciary is to safeguard the rights of the citizens of this country, can only be ensured, by keeping it absolutely insulated and independent, from the other organs of government and the proposed NJAC violated the Independence of the Judiciary.
100th Constitutional Amendment Act, 2015	<ul style="list-style-type: none"> Related to the Land Boundary Agreement (LBA) between India and Bangladesh.
101th Constitutional Amendment Act, 2017	<ul style="list-style-type: none"> Introduced the Goods and Services Tax in the country from 1 July 2017.
102th Constitutional Amendment Act, 2018	<ul style="list-style-type: none"> Constitutional status to National Commission for Backward Classes (NCBC).
103th Constitutional Amendment Act, 2019	<ul style="list-style-type: none"> Provided a maximum of 10% Reservation for Economically Weaker Sections (EWSs).
104th Constitutional Amendment Act, 2020	<ul style="list-style-type: none"> Extended the reservation of seats for SCs and STs in the Lok Sabha and states assemblies.

10.4 SUPREME COURT (FINAL INTERPRETER & GUARDIAN OF THE CONSTITUTION)

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

10.5 CRITICISM OF THE AMENDMENT PROCEDURE

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

PREVIOUS YEAR QUESTIONS

- Creation of a new state requires a majority for Constitutional Amendment.
[60th-62nd BPSC (Pre) Exam-2017]
 - Simple
 - Two-third
 - Three-fourth
 - Two-third plus ratification by half of all states
 - None of the above/More than one of the above
- When was the Right to Education added through the amendment in the Constitution of India?
[53rd-55th B.P.S.C. (Pre) 2011]
 - 1st April, 2010
 - 1st August, 2010
 - 1st October, 2010
 - 1st December, 2010
- In General election age of Voting is decreased to 18 year from 21 year by- [41st BPSC (Pre) 1996]
 - 72 Amendment Act
 - 62 Amendment Act
 - 61 Amendment Act**
 - 71 Amendment Act
- 73rd amendment of the constitution is related to- [44th BPSC (Pre) 2001-02]
 - Impeachment of the President
 - By the appointment of the Election Commission
 - Reservation of seats in educational institutions
 - Panchayati Raj system**
- Which of the following Constitutional Amendment Act was said to be a Mini Constitution?
[47th BPSC (Pre) 2005]
 - 42nd**
 - 44th
 - 46th
 - 50th

Evolution of Basic Structure Doctrine

INTRODUCTION

- Basic Structure **encompasses basic and core values which forms bedrock of the Indian Constitution.**
- Basic Structure **cannot be amended by parliament under Art 368.**
- **Basic Structure Doctrine:** Judicially innovated doctrine; Not defined under Constitution; Not defined by Supreme Court or any other court; Various judgments of Supreme Court forms the bedrock of Basic Structure Doctrine.
- **Present position:** Under Article 368, Parliament can amend any part of the Constitution including the Fundamental Rights but without affecting the 'basic structure' of the Constitution. The Supreme Court is yet to define or clarify as to what constitutes the 'basic structure' of the Constitution.

11.1 EVOLUTION OF BASIC STRUCTURE DOCTRINE

Supreme Court Case	Description
Shankari Prasad Case 1951	<ul style="list-style-type: none"> • Whether parliament can curtail Fundamental Right under Article 368 was dealt with in this case. • Constitutional validity of First Amendment Act (1951) which curtailed Right to Property was challenged. • Supreme Court: Under Article 368, Parliament can amend FR. Article 13 includes only ordinary law and not constitutional amendment law. Amendments abridging FR cannot be void under Article 13.
Berubari Union Case (1960)	<ul style="list-style-type: none"> • Main Theme: In this case, the issue was resolved about whether the Preamble is part of the Constitution or not. • The Supreme Court specifically opined that Preamble is not a part of the Constitution. • Therefore, it is not enforceable in a court of law.
Golaknath Case 1967	<ul style="list-style-type: none"> • The Seventeenth Amendment which inserted certain state laws in the Ninth Schedule was challenged. • Supreme Court: FRs are transcendental & immutable. Parliament cannot abridge or take away any FR. Constitutional Amendment Acts are laws under Article 13. So, any amendment violating FR would be void under Article 13.
Parliament's Reaction to Golaknath Case	<ul style="list-style-type: none"> • 24th Amendment (1971): Parliament can take away any FR under Article 368 and such acts are not laws under Article 13.
Kesavananda Bharati Case 1973	<ul style="list-style-type: none"> • Supreme Court: Overruled its judgment in Golaknath Case (1967) and upheld the 24th Amendment (1971). • Basic Structure Doctrine was laid down by SC. • Parliament cannot alter the basic structure of the Constitution. • Parliament cannot take away FR that forms the Basic Structure Doctrine.
39th Amendment 1975	<ul style="list-style-type: none"> • Election disputes between the PM and the Speaker of LS were kept outside the jurisdiction of the court.
Indira Gandhi Case 1975	<ul style="list-style-type: none"> • Supreme Court: Invalidated 39th Amendment. Judicial review is a basic structure.

42nd Amendment 1976	<ul style="list-style-type: none"> Amended Article 368, no limitations on constituent power of parliament and no amendment can be questioned in courts.
Minerva Mills Case 1980	<ul style="list-style-type: none"> Invalidated above changes under 42nd Amendment. Judicial review is a basic structure.
Waman Rao case 1981	<ul style="list-style-type: none"> Again, the Supreme Court adhered to the doctrine of the 'basic structure' and clarified that it would apply to constitutional amendments enacted after Kesavananda Bharati case (24 April, 1973).
IR Coelho vs State of Tamil Nadu, 2007	<ul style="list-style-type: none"> The SC ruled that all laws (including those in the Ninth Schedule) would be open to Judicial Review if they violated the basic structure of the constitution.

Additional Information

- 99th Constitutional Amendment:** Provided National Judicial Appointment Commission (NJAC) in place of Collegium System for appointment of judges. SC said, amendment is invalid as independence of judiciary is basic structure.

11.2 ELEMENTS OF BASIC STRUCTURE

Supremacy of Constitution; Sovereign, democratic & republican nature of Indian Polity; Secularism; Separation of powers; Federal character; Unity & integrity; Welfare State (Socio-economic justice); Judicial review; Freedom & dignity of individual; Parliamentary system; Rule of law; Equality; Harmony & balance between FR & DPSP; Free & fair elections; Independent judiciary; Effective access to justice; Limited power of parliament to amend constitution; Powers of HC under Article 226 & 227; powers of supreme court under Art. 32, 136, 142 and 147.



Parliamentary and Federal System of Government

INTRODUCTION

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

12.1 FEATURES OF PARLIAMENTARY AND PRESIDENTIAL SYSTEM OF GOVERNMENT:

Parliamentary Government	American Presidential Government
<ul style="list-style-type: none"> • Nominal & Real (Dual) Executives. <ul style="list-style-type: none"> ○ President: Nominal executive (de jure), Head of State. ○ PM: Real executive (de facto), Head of Government. ○ Council of Ministers headed by the PM to aid & advise the President. ○ Advice is binding on President (42nd & 44th amendment) 	<ul style="list-style-type: none"> • American President. <ul style="list-style-type: none"> ○ Both Head of State & Head of Government.
<ul style="list-style-type: none"> • Majority Party Rule. <ul style="list-style-type: none"> ○ Political party with majority seats in Lok Sabha forms the government. ○ Leader of that party is appointed as PM by the President and Ministers are appointed by the President on the advice of the PM. ○ If no single party secures a majority, the President invites a coalition of parties. 	<ul style="list-style-type: none"> • The President is elected by the electoral college for a fixed term of four years. • The President cannot be removed by the Congress except by impeachment for a grave unconstitutional act.
<ul style="list-style-type: none"> • Collective Responsibility. <ul style="list-style-type: none"> ○ Bedrock of parliamentary government. ○ Article 75: CoM is collectively responsible to the Lok Sabha. ○ Lok Sabha can remove CoM by passing no confidence motion. 	<ul style="list-style-type: none"> • The President and his secretaries are not responsible to the Congress.
<ul style="list-style-type: none"> • Political Homogeneity: <ul style="list-style-type: none"> ○ Single party majority: members of CoM from same political party - same ideology. ○ Coalition govt: CoM bounded by consensus. 	<ul style="list-style-type: none"> • Cabinet. • Non-elected advisory body. • Selected & appointed by the President. • Responsible only for him. • Removed by him.
<ul style="list-style-type: none"> • Double Membership: <ul style="list-style-type: none"> ○ Ministers are members of both the legislature and executive. ○ Minister who is not a member of the parliament for six consecutive months ceases to be a minister. 	<ul style="list-style-type: none"> • The President and his secretaries are not members of Congress nor do they attend the sessions. • There is complete separation of power between legislature and executive.

<ul style="list-style-type: none"> ● Leadership of PM: <ul style="list-style-type: none"> ○ Leader of CoM. ○ Leader of parliament. ○ Leader of the party in power. 	
<ul style="list-style-type: none"> ● Dissolution of Lower House: <ul style="list-style-type: none"> ○ The President can dissolve Lok Sabha before the expiry of term on the recommendation of the PM. 	<ul style="list-style-type: none"> ● The President cannot dissolve the House of Representatives (Lower House of Congress).
<ul style="list-style-type: none"> ● Secrecy: <ul style="list-style-type: none"> ○ Ministers follow the principle of secrecy about their proceedings, policies & decisions. ○ Ministers take oaths of secrecy administered by the President. 	
<ul style="list-style-type: none"> ● Fusion of powers. 	<ul style="list-style-type: none"> ● Separation of powers.

12.2 MERITS & DEMERITS OF PRESIDENTIAL GOVERNMENT

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

12.3 MERITS & DEMERITS OF PARLIAMENTARY SYSTEM

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

12.4 REASONS FOR ADOPTING PARLIAMENTARY SYSTEM

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

12.5 DISTINCTION BETWEEN INDIAN AND BRITISH MODELS

Indian Model	British Model
<ul style="list-style-type: none"> • Republican system: Head of State (President) is indirectly elected. 	<ul style="list-style-type: none"> • Monarchical system: Head of State (King/Queen) is hereditary.
<ul style="list-style-type: none"> • Constitutional supremacy 	<ul style="list-style-type: none"> • Parliamentary sovereignty
<ul style="list-style-type: none"> • The PM may be a member of any of the houses. 	<ul style="list-style-type: none"> • The PM should be a member of the Lower House.
<ul style="list-style-type: none"> • A person who is not a member of any house can be appointed as minister, but only for six months. 	<ul style="list-style-type: none"> • Usually members of parliament are appointed as ministers.
<ul style="list-style-type: none"> • No system of legal responsibility of ministers. Ministers are not required to countersign the official acts. 	<ul style="list-style-type: none"> • System of legal responsibility of the minister. Ministers are required to countersign the official acts.
<ul style="list-style-type: none"> • No Shadow Cabinet 	<ul style="list-style-type: none"> • Shadow Cabinet by opposition: to balance the ruling cabinet and prepare its members for future ministerial office.

12.6 FEATURES OF FEDERAL AND UNITARY SYSTEM

Federal	Unitary
<ul style="list-style-type: none"> • Dual Government (National government + Regional government) • Written Constitution • Division of powers between national and regional government • Supremacy of the Constitution • Rigid Constitution • Independent judiciary • Bicameral legislature 	<ul style="list-style-type: none"> • Single government (the national government which may create regional governments) • Constitution may be written (France) or unwritten (Britain) • No division of powers. All powers are vested in the national government • Constitution may be supreme (Japan) or may not be supreme (Britain) • Constitution may be rigid (France) or flexible (Britain) • Judiciary may be independent or may not be independent • Legislature may be bicameral (Britain) or unicameral (China)

12.7 INDIAN CONSTITUTION AND FEDERAL SYSTEM

- **The USA is the first and oldest federation** in the world. It was formed in **1787** following the **American Revolution (1775-83)**.
- The Constitution of India **provides for a federal system of government** in the country. Indian Federalism is **not a result of agreements** among states unlike America.
- Term **federation has nowhere been used** in the Constitution.
- **Main reasons for adoption:** large size of the country and its sociocultural diversity.
- **Ideals:** That the federal system not only ensures the efficient governance of the country but also reconciles national unity with regional autonomy.
- **Article 1:** describes India as a Union of States.
- **According to Dr. B.R. Ambedkar**, the phrase **Union of States** has been preferred to **Federation of States** to indicate two things:

- Indian federation is **not the result of an agreement** among the states like the American federation; and
- States have **no right to secede from the federation**. The federation is union because it is indestructible.
- The Indian federal system is **based on the “Canadian model”** and **not on the “American model”**. The Indian federation resembles the Canadian federation:
 - In its formation (i.e., by way of disintegration);
 - In its preference to the term **Union** in its centralizing tendency
- The Supreme Court of India also describes it as a **federal structure with a strong bias towards the Centre**.



PREVIOUS YEAR QUESTIONS

1. What is the nature of Indian constitution?
[63rd B.P.S.C. (Pre)2018]
 - (a) Federal
 - (b) unitary
 - (c) Parliamentary
 - (d) federal in nature but unitary in spirit**
 - (e) None of the above / More than one of the above
2. Which of the following statements is true?
[38th B.P.S.C. (Pre)1992]
 - (a) The United States has a federal system of government.**
 - (b) India has both federal and unitary systems of government.
 - (c) France has a federal system of government.
 - (d) The Prime Minister is appointed by the people of Pakistan.

13.1 LEGISLATIVE RELATIONS- (ARTICLE- 245 TO 255), PART XI

- Distribution of legislative powers between the Centre and the states is **rigid**.

<p>Territorial extent of Central and state legislation</p>	<ul style="list-style-type: none"> • Parliament/State legislature can make laws for the whole or any part of the territory of India/ State. • Extraterritorial legislation (Indian citizens and their property in any part of the world) = By Parliament alone. • Constitutional restrictions on the territorial jurisdiction of the parliament: <ul style="list-style-type: none"> ○ The President can make regulations for the peace, progress and good governance of the four UTs - Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli and Daman and Diu and Ladakh. It has the same force and effect as an act of Parliament. It may also repeal or amend any act of Parliament in relation to these union territories. ○ Governor is empowered to direct that an act of Parliament does not apply to a Scheduled Area in the state or apply with specified modifications and exceptions. ○ Governor of Assam may likewise direct that an act of Parliament does not apply to a Tribal Area (autonomous district) in the state or apply with specified modifications and exceptions. The President enjoys the same power with respect to Meghalaya, Tripura and Mizoram. 										
<p>Distribution of legislative subjects</p>	<ul style="list-style-type: none"> • Union list: 97 (Present - 100) • State list: 66 (Present - 61) • Concurrent list: 47 (Present - 52) <table border="1" data-bbox="561 1276 1036 1514"> <thead> <tr> <th>Country/Act:</th><th>Residuary Powers:</th></tr> </thead> <tbody> <tr> <td>GOI Act, 1935</td><td>Governor General</td></tr> <tr> <td>India at present</td><td>Parliament</td></tr> <tr> <td>Canada</td><td>Centre</td></tr> <tr> <td>USA</td><td>States</td></tr> </tbody> </table> <ul style="list-style-type: none"> • Which laws prevails? <ul style="list-style-type: none"> ○ Union list > Concurrent list > State list. ○ Normally, Central law prevails over the state law. But there is an exception. ○ If the state law has been reserved for the consideration of the president and has received his assent, then the state law prevails in that state. 	Country/Act:	Residuary Powers:	GOI Act, 1935	Governor General	India at present	Parliament	Canada	Centre	USA	States
Country/Act:	Residuary Powers:										
GOI Act, 1935	Governor General										
India at present	Parliament										
Canada	Centre										
USA	States										
<p>Parliamentary legislation in the state field</p>	<ul style="list-style-type: none"> • When Rajya Sabha Passes a Resolution: <ul style="list-style-type: none"> ○ Necessary in the national interest ○ Must be supported by 2/3 of the members present and voting. ○ Resolution remains in force for one year. It can be renewed any number of times but not exceeding one year at a time. 										

Centre's control over state legislation	<ul style="list-style-type: none"> Governors can reserve certain types of bills passed by the State Legislature for consideration of the President. The President enjoys absolute veto over them. Bills on certain matters in the State List can be introduced in the state legislature only with previous sanction of the President. E.g. Bills imposing restrictions on freedom of trade and commerce – Art. 301). Reserve money bills and other financial bills passed by the state legislature for President's consideration during a financial emergency.
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13.2 ADMINISTRATION RELATIONS (ARTICLE 256-263); PART XI

Distribution of executive power	<ul style="list-style-type: none"> Coextensive with legislative power. However, laws on concurrent lists are executed by states. Centre's Directions to the States (Art. 257) Mutual delegation of Functions: Centre $\xrightarrow{\text{Legislative Power}}$ X State Entrustment of Executive Power: <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 1px solid black; padding: 2px 5px;">President</div> <div style="text-align: center;">$\xrightarrow{\text{With consent}}$</div> <div style="border: 1px solid black; padding: 2px 5px;">State Government</div> </div> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 1px solid black; padding: 2px 5px;">Governor</div> <div style="text-align: center;">$\xrightarrow{\text{With consent}}$</div> <div style="border: 1px solid black; padding: 2px 5px;">Central Government</div> </div> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 1px solid black; padding: 2px 5px;">Parliament</div> <div style="text-align: center;">$\xrightarrow{\text{Without consent}}$</div> <div style="border: 1px solid black; padding: 2px 5px;">State Government</div> </div> Cooperation between Center and state: Full Faith and credit to public acts, records, and judicial proceedings of Centre and states (Article 261). <div style="display: flex; justify-content: space-around; align-items: center; margin-top: 10px;"> <div style="border: 1px solid black; padding: 2px 5px;">Parliament</div> <div style="text-align: center;">$\xrightarrow{\text{Adjudication of any dispute}}$</div> <div style="border: 1px solid black; padding: 2px 5px;">Interstate River (Article 262)</div> </div> <div style="display: flex; justify-content: space-around; align-items: center; margin-top: 10px;"> <div style="border: 1px solid black; padding: 2px 5px;">President</div> <div style="text-align: center;">$\xrightarrow{\text{Establish}}$</div> <div style="border: 1px solid black; padding: 2px 5px;">Inter-State Council (Article 263)</div> </div> <ul style="list-style-type: none"> Parliament can appoint an authority for inter-state trade, commerce, and intercourse under Article 301. (No authority appointed yet). Constitutional restrictions on the executive power of the state <ul style="list-style-type: none"> Art.256: Power of state should be exercised to ensure compliance to laws of the Parliament and GOI can also give direction for that. Two restrictions on the executive power of the states: <ul style="list-style-type: none"> to ensure compliance with the laws made by the Parliament not to impede or prejudice the exercise of executive power of the Centre.
All India Services (Art 312)	<ul style="list-style-type: none"> Art 312: Constitution authorizes the Parliament to create new All-India Services (AIS) on the basis of a Rajya Sabha resolution. AIS are controlled jointly by the Centre and the states. The ultimate control lies with the Central government while the immediate control vests with the state governments.
Public Service Commissions	<ul style="list-style-type: none"> Chairman and members of a SPSC: appointed by the governor of the state, can be removed only by the President. Joint State Public Service Commission: Parliament can establish a JSPSC for two or more states on the request of the state legislatures concerned. Chairman and members of the JSPSC are appointed by the President. UPSC can serve the needs of a state on the request of the state governor and with the approval of the President. UPSC assists the states (when requested by two or more states) in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualifications are required.

Integrated Judicial System	<ul style="list-style-type: none"> • Dual polity – Centre and state • No dual system of administration of justice • Parliament can establish a common high court for two or more states. Ex: Maharashtra and Goa or Punjab and Haryana.
Relations During Emergencies	<ul style="list-style-type: none"> • National Emergency (Art.352): the Centre becomes entitled to give executive directions to a state on 'any' matter. Thus, the state governments are brought under the complete control of the Centre, though they are not suspended. • President's Rule (Art. 356): The President can assume to himself the functions of the state government and powers vested in the Governor or any other executive authority in the state. • Financial Emergency (Art. 360): the Centre can direct the states to observe canons of financial propriety and can give other necessary directions including the reduction of salaries of persons serving in the state.
Other provisions	<ul style="list-style-type: none"> • Article 355: To protect states against external aggression and internal disturbance; To ensure state governments should be carried on in accordance with the provisions of the Constitution. • Governor: Appointed by President; Acts as an agent of Center. • State election commissioner: Appointed by Governor; Removed by President.
Extra-Constitutional Devices	<ul style="list-style-type: none"> • NITI Aayog + National Integration Council + Zonal Councils + North-Eastern Council

13.3 FINANCIAL RELATIONS (ARTICLE 268-293); PART XII

- Art. 265: "No tax shall be levied or collected except by authority of law".
- No tax can be imposed by an executive order.

Consolidated Fund (Art. 266)	<ul style="list-style-type: none"> • Art. 266: There will be a Consolidated fund for India and Consolidated fund of State. • Consolidated Fund of India is related to all revenues received by the government and expenses made by it, excluding the exceptional items. • No money can be withdrawn from this fund without the Parliament's approval.
Contingency Fund (Art. 267)	<ul style="list-style-type: none"> • It is in the nature of an imprest (money maintained for a specific purpose). Accordingly, Parliament enacted the Contingency fund of India Act 1950. • The fund is held by the Finance Secretary (Department of Economic Affairs) on behalf of the President of India and it can be operated by executive action.
Allocation of taxation powers	<ul style="list-style-type: none"> • The Constitution divides the taxing powers and also places some restrictions between the Centre and states. • The residuary power is vested in the Parliament. Under this provision, the Parliament has imposed gift tax, wealth tax and expenditure tax. • There are no tax entries in the Concurrent List. In other words, the concurrent jurisdiction is not available with respect to tax legislation. • The 101st Amendment Act of 2016 has made an exception by making a special provision with respect to GST. This Amendment has conferred concurrent power upon Parliament and State Legislatures to make laws governing GST.

Grants in aid to states	Statutory Grants	Discretionary Grants
	<ul style="list-style-type: none"> • Art. 275: Empowers the Parliament to make grants to the states which are in need of financial assistance and not to every state. Charged on the Consolidated Fund of India every year. 	<ul style="list-style-type: none"> • Art 282: Empowers both the Centre and the states to make any grants for any public purpose, even if it is not within their respective legislative competence.
	<ul style="list-style-type: none"> • The Constitution also provides for specific grants for promoting the welfare of the scheduled tribes in a state or for raising the level of administration of the scheduled areas in a state (including the State of Assam) 	<ul style="list-style-type: none"> • These grants are also known as discretionary grants, the reason being that the Centre is under no obligation to give these grants and the matter lies within its discretion.
	<ul style="list-style-type: none"> • The statutory grants under Art. 275 are given to the states on the recommendation of the Finance Commission. 	<ul style="list-style-type: none"> • These grants are to help the state financially to fulfill plan targets and to give some leverage to the Centre to influence and coordinate state action to effectuate the national plan.
Other Grants	<ul style="list-style-type: none"> • The Constitution also provided for a third type of grants-in-aid, but for a temporary period. • A provision was made for grants in lieu of export duties on jute and jute products to the States of Assam, Bihar, Orissa and West Bengal. • These grants were to be given for a period of ten years from the commencement of the Constitution. • These sums were charged on the Consolidated Fund of India and were made to the states on the recommendation of the Finance Commission. • Following bills can be introduced in the Parliament only on the recommendation of the President: <ul style="list-style-type: none"> ○ Bill which imposes or varies any tax or duty in which states are interested; ○ Bill which varies the meaning of the expression “agricultural income”; ○ Bill which affects the principles on which money are or may be distributable to states; ○ Bill which imposes any surcharge on any specified tax or duty for the purpose of the center. 	
Borrowing by the Centre and the States	Center	State
	<ul style="list-style-type: none"> • Can borrow on CFI (Within + Outside India) within limits fixed by parliament. • Can make loans to any state or give guarantees in respect of loans raised by any state. 	<ul style="list-style-type: none"> • Cannot raise any loan without center consent (If there is an outstanding loan to center) • Can borrow on CFS (Within not outside India) within limits fixed by parliament
Exemption of Union property from taxation of state (Art. 285)	<ul style="list-style-type: none"> • Centre’s property is exempted from all taxes imposed by a state or any authority within a state like municipalities, district boards, panchayats and so on. But the Parliament is empowered to remove this ban. • The property may be used for sovereign (like armed forces) or commercial purposes. • The corporations or the companies created by the Central government are not immune (as they are separate legal entities) from state taxation or local taxation. 	

Exemption of State property from central taxation (Art. 289)	<ul style="list-style-type: none"> The property and income of a state is exempted from Central taxation. Such income may be derived from sovereign functions or commercial functions. But the Centre can tax the commercial operations of a state if Parliament provides so. The property and income of local authorities situated within a state are not exempted from the Central taxation. Likewise, the property or income of corporations and companies owned by a state can be taxed by the Centre. The Centre can impose customs duty on goods imported or exported by a state, or an excise duty on goods produced or manufactured by a state - advisory opinion of the Supreme Court, 1963. 	
Effects of Emergency	National Emergency (Art. 352)	Financial Emergency (Art. 360)
	<ul style="list-style-type: none"> The President can modify the constitutional distribution of revenues between the Centre and the states. Can either reduce or cancel the transfer of finances (both tax sharing and grants-in-aid) from the Centre to the states. Such modification continues till the end of the financial year in which the emergency ceases to operate. 	<ul style="list-style-type: none"> Center can give directions to the states: <ul style="list-style-type: none"> To observe the specified canons of financial propriety. To reduce the salaries and allowances of all class of persons serving in the state; and To reserve all money bills and other financial bills for the consideration of the President.

Effect of Emergency on Centre-State Financial Relations

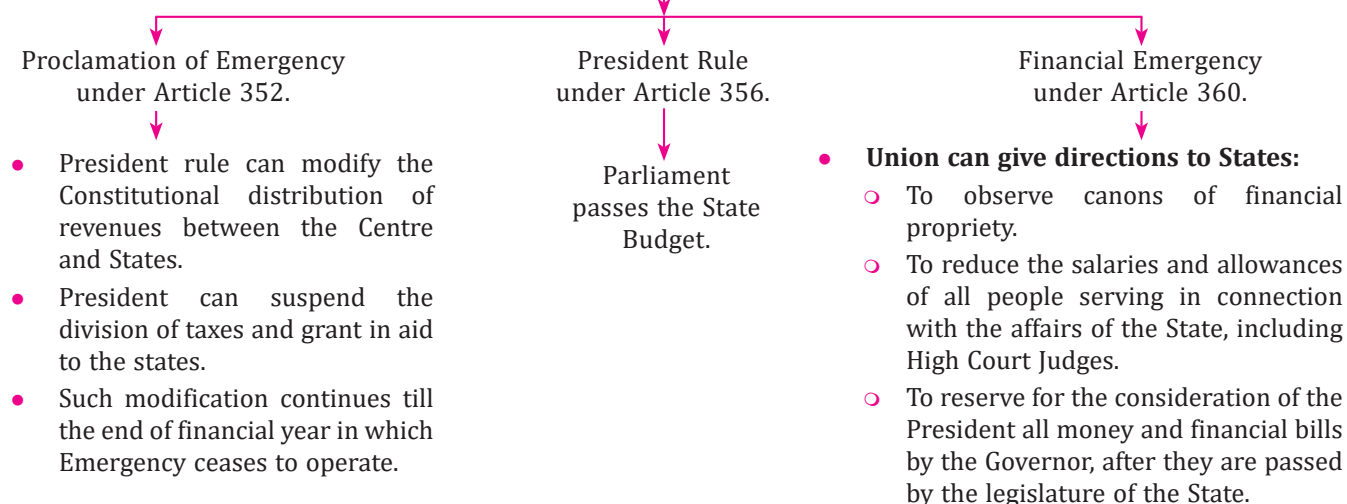


Fig. 13.1: Effect of Emergency on Centre-State Relations

13.4 DISTRIBUTION OF TAX REVENUES

Article	Levy	Collection	Appropriation	Various Taxes
268	Centre	States	States	<ul style="list-style-type: none"> Stamp duties on shares, cheque, promissory notes, insurance etc.
269	Centre	Centre	States	<ul style="list-style-type: none"> Taxes on interstate trade and commerce. Revenues do not form part of the consolidated fund of India.

270	Centre	Centre	Shared between Centre and states	<ul style="list-style-type: none"> All taxes in the union list –income tax (other than agricultural income), corporate tax, etc.
271	Centre	Centre	Centre	<ul style="list-style-type: none"> Surcharge on taxes under Art 268, 269, 270.

13.5 COMMITTEES ON CENTRE-STATE RELATIONS

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

PREVIOUS YEAR QUESTIONS

- In India, the Federal Finance Commission relation related to [43rd BPSC (Pre) 1999]
 - Finance between states
 - (b) Finance between the states and the center**
 - Finance between central and autonomous governments
 - None of these
- In which one of the following years was Sarkaria Commission, which was empowered to recommend changes in Centre-State relations, submitted its report? [64th B.P.S.C. (Pre) 2018]
 - 1983
 - 1984
 - 1985
 - (d) 1987**
 - None of the above/More than one of the above
- Which article of the Constitution prioritises those rules/law made by parliament /state legislatures under Constitutional procedure? [45th BPSC (Pre) 2001-02]
 - (a) 13**
 - 32
 - 245
 - 326
- Which of the following subjects lies in the Concurrent List? [47th BPSC (Pre) 2005]
 - Agriculture
 - (b) Education**
 - Police
 - Defence



14.1 IMPORTANT ARTICLES

- **Article 261:** Public Acts, Records and Judicial Proceedings
- **Article 262:** Inter-State Water Dispute
- **Article 263:** Inter-State Councils
- **Article 301 to 307:** Inter-State Trade and Commerce

14.2 PUBLIC ACTS, RECORDS AND JUDICIAL PROCEEDINGS (ARTICLE 261)

- **“Full faith & credit”** to public acts, records and judicial proceedings of the Centre and States throughout the country.
- Expression **‘public acts’** includes both legislative and executive acts of the government.
- **Parliament by law will determine the manner** in which and the conditions under which such acts, records and proceedings are to be proved and their effect determined.
- Final judgements & orders of civil courts in any part of India are **capable of execution anywhere within India**. This rule **applies to civil judgments and not to criminal judgments**.

14.3 INTER-STATE WATER DISPUTES (ARTICLE- 262)

- **Article 262:** It makes two provisions w.r.t. adjudication of inter- state water disputes -
 1. Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution and control of waters of any inter-state river and river valley.
 2. Parliament may also provide that neither the Supreme Court nor any other court is to exercise jurisdiction in respect of any such dispute or complaint.
- **Parliament enacted two laws under these provisions:**
 1. **River Boards Act 1956:** A river board is **established by the Centre** on the request of the state to advise them.
 2. **Inter-State Water Disputes Act 1956:** Empowers **Centre to set up an ad hoc tribunal** for the adjudication of an inter-state water dispute between two or more states; Decisions of the tribunal are binding; No courts have jurisdiction over such disputes.
- **Major River Water Disputes:**

Name	Year	States Involved
Krishna Water Dispute	1969	Maharashtra, Karnataka, Andhra Pradesh
Godavari Dispute	1969	Madhya Pradesh, Karnataka, Andhra Pradesh, Maharashtra, Odisha
Narmada	1969	Rajasthan, Gujarat, Madhya Pradesh, Maharashtra
Ravi & Beas	1986	Punjab, Haryana, Rajasthan
Cauvery	1990	Karnataka, Kerala, Tamil Nadu, Puducherry
Second Krishna Water Dispute	2004	Maharashtra, Karnataka, Andhra Pradesh
Vansadhara	2010	Odisha, Andhra Pradesh
Mahadayi	2010	Goa, Karnataka, Maharashtra

14.4 INTER-STATE COUNCIL (ARTICLE- 263)

- **Purpose:**
 - To bring coordination between states and between states and Centre.
- **Status:**
 - **Constitutional body** under Art. 263
- **Setup:**
 - It was set up for the first time in 1990 through a Presidential order as per the recommendations of the Sarkaria Commission (on Inter-State Relations) under the Ministry of Home affairs.
- **Role of President:**
 - The President can establish it.

- The President can define the duties, organization and procedure.
- **Functions:**
 - To enquire and advice upon inter-state disputes (Complimentary to SC's jurisdiction under Art.131)
 - Investigating & discussing subjects in which states or the Centre and the states have a common interest
 - Recommending on any matter for better coordination of policy & action.
- **Decisions:**
 - Advisory body, decisions are **not binding**.
- **Composition:**
 - PM as Chairman + CMs of all states + CMs of all UTs having legislative assemblies + Administrators of all UTs not having Legislative Assemblies + Governors of states under President's Rule + Six

Central Cabinet Minister including Home Minister (Nominated by PM) + Five ministers of cabinet rank/ Minister of State (Independent Charge) nominated by PM are permanent invitees.

- **Meetings:**
 - Council may meet at least thrice in a year. All questions are decided by consensus.
- **Standing Committee of the Council:**
 - Set up in **1996** for continuous consultation and processing of matters for the consideration of council.
 - **Members of the Committee:** Union Home Minister as Chairman + Five Union Cabinet Ministers + Nine CMs.
 - **The Council is assisted by Inter-State Council Secretariat:** Set up in 1991 + Headed by Secretary to the Government of India.

14.5 INTER-STATE TRADE & COMMERCE

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

14.6 ZONAL COUNCILS

- **Statutory** (Extra-constitutional) body.
- Established under **Reorganisation of States Act 1956 (7th CAA 1956)**.
- **Aim:** promoting cooperation and coordination between states, union territories and the Centre.
- **The act divided the country into five zones:** Northern, Central, Eastern, Western and Southern and provided a zonal council for each zone.
- They are **only deliberative** and **advisory bodies**; recommendations are not binding.

- Zonal Councils should **meet at least twice a year**.
- **Members of Zonal Councils:** Union Home Minister as Chairman + CMs of all the states in the zone + Two other ministers from each state in the zone + Administrator of each UT in the zone.

14.7 NORTH-EASTERN COUNCIL

- **Statutory body** created by **separate Act - North-Eastern Council Act, 1971**.
- **Members:** all North Eastern states - Assam, Manipur, Mizoram, Arunachal Pradesh, Nagaland, Meghalaya, Tripura and Sikkim.

- **Composition:**
 - **Ex-officio Chairperson** - Union Home Minister
 - **Vice-Chairperson** - Minister of State (Independent Charge), Ministry of District of North Eastern Region (DoNER).
 - **Members** - Governors and Chief Ministers of all the eight States and **3 members** nominated by the President.
- **Sikkim was added in 2002** as the eighth member of the North-Eastern Council.

Additional Information

- **Constitutional Body:**
 - Constitutional bodies are those bodies whose provision has been made in the Indian Constitution to run the democratic system of the country.
 - Thus constitutional bodies are durable and more powerful.
 - Any change in the mechanism of these bodies would require a constitutional amendment.
- **Constitutional Bodies:**
 - Finance Commission, UPSC, Election Commission, CAG, National Commission for SC and ST etc. are constitutional bodies.
- **Statutory (not constitutional):**
 - They are **created by an Act** of Parliament.
 - They are called '**statutory**' because laws are laws made by the parliament or legislature.
 - Since these bodies derive **their power from laws or statutes made by the Parliament**, they are called **statutory bodies**.
- **Statutory bodies in India:**
 - Securities and Exchange Board of India
 - National Human Rights Commission
 - National Women Commission
 - National Commission for Minorities



INTRODUCTION

- Constitutional Provisions: **Part XVIII- Articles 352 to 360.**
- It converts the **federal structure into a unitary one without a formal amendment** of the Constitution.
- Provisions regarding Emergency are borrowed from the **Government of India Act 1935.**
- “Suspension of Fundamental Rights during proclamation of emergency” provision borrowed from **Weimer Constitution (Germany).**
- It is needed to safeguard the sovereignty, unity, integrity and security of the country, the democratic political system and the Constitution.

Important Articles:

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

15.1 NATIONAL EMERGENCY, PRESIDENT’S RULE, AND FINANCIAL EMERGENCY

National Emergency (Article- 352)	
Grounds of declaration	<ul style="list-style-type: none"> • President: On the grounds of war or external aggression or armed rebellion. Also, can declare even before the occurrence if he satisfies that there is imminent danger. • 38th Amendment: Can issue different proclamations on the mentioned grounds, whether or not there is a proclamation already issued by him. • 42nd Amendment: Proclamation of a National Emergency may be applicable to the entire country or part of it. • 44th Amendment: ‘Internal Disturbance’ replaced by ‘Armed Rebellion’.
Role of cabinet	<ul style="list-style-type: none"> • Original constitution: no mention of the role of cabinet. • 44th Amendment: <ul style="list-style-type: none"> ○ The President can proclaim only after a written recommendation from the cabinet.
Parliamentary approval	<ul style="list-style-type: none"> • Originally: 2 months. • 44th Amendment: Approval by both the houses within one month • Once approved, the Proclamation of Emergency will remain in force for 6 months and re-approval by the Parliament is necessary for its continuation.
Type of majority for approval	<ul style="list-style-type: none"> • Originally: Simple majority. • 44th Amendment: Introduced special majority for the approval.
Duration	<ul style="list-style-type: none"> • Originally, once approved, emergency could remain as long as executive desires. • 44th Amendment: can be extended indefinitely but with an approval of parliament for every six months
Judicial review	<ul style="list-style-type: none"> • No explicit mention of judicial review regarding National Emergency. • 38th Amendment: Made national emergency immune from judicial review. • 44th Amendment: Provision under 38th amendment was deleted. • Minerva Mills Case: proclamation of national emergency can be challenged in the court on the grounds of malafide or that the declaration is based on wholly extraneous or irrelevant facts or is absurd or perverse.

Revocation	<ul style="list-style-type: none"> The President can revoke it. Parliamentary approval is not necessary. 44th Amendment: President must revoke the emergency if Lok Sabha passes a resolution disapproving its continuation. (Earlier LS had no role in revocation). 1/10th of LS members need to give written notice to the speaker or president (if LS is not in session). A special session is held within 14 days to consider such a resolution.
Majority for disapproval	<ul style="list-style-type: none"> 44th Amendment: Simple majority in Lok Sabha for disapproval.
Imposition	<ul style="list-style-type: none"> Has been proclaimed three times in 1962, 1971 and 1975. <p>First time:</p> <ul style="list-style-type: none"> National Emergency was first declared by the President on October 24, 1962 at the time of Chinese aggression in NEFA, which remained in force till January 10, 1968. <p>Second time:</p> <ul style="list-style-type: none"> Emergency was imposed for the second time on December 3, 1971 when Pakistan declared war against India. Both these declarations regarding emergency were made on the basis of external aggression. <p>Third time:</p> <ul style="list-style-type: none"> The third and so far the last proclamation of emergency under Article 352 was made on June 25, 1975 on the grounds of internal disturbance. Both the second and third Proclamations of Emergency were in force till March 21, 1977.
President's Rule (Article- 356)	
Grounds of declaration	<ul style="list-style-type: none"> Also known as State Emergency. Art.355: Duty of Centre to ensure that the government of every state is carried on in accordance with the provisions of the Constitution. Article 356: President to proclaim, if satisfied with/without Governor's Report that state government cannot be carried on in accordance with the provisions of the Constitution. Article 365: If a state fails to comply with any direction from the Centre.
Parliamentary approval	<ul style="list-style-type: none"> Must be approved by both the houses within two months of such issues.
Type of majority for approval	<ul style="list-style-type: none"> Simple majority in both the houses.
Duration	<ul style="list-style-type: none"> 6 months, however, it can be extended for a maximum period of 3 years with parliamentary approval every 6 months. However, if the Lok Sabha is dissolved within a period of six months without the approval of the proposal for the continuation of the President's rule, then this declaration will remain in force for thirty days after the first meeting of the Lok Sabha after its reconstitution, but during this period, Rajya Sabha It is necessary to approve it. 44th Amendment: Beyond one year, the president's rule can be extended by 6 months a time only if following conditions are met: <ol style="list-style-type: none"> If a national emergency is in operation in whole India or any part of the state. If the Election Commission certifies that elections cannot be held due to difficulties.
Judicial review	<ul style="list-style-type: none"> 38th Amendment: President's satisfaction under Article 356 made immune from judicial review. 44th Amendment: above provision was deleted.
Revocation	<ul style="list-style-type: none"> May be revoked by the President at any time by a subsequent proclamation. Such a proclamation does not require parliamentary approval.
Imposition	<ul style="list-style-type: none"> First, the President's Rule was imposed in Punjab in 1951. Maximum times (10 times) imposed in UP. <p>President's rule in Bihar:</p> <ul style="list-style-type: none"> President's rule was imposed for the first time in Bihar on 29 June 1968. At that time the Chief Minister of Bihar was Bhola Pawan Shastri. The last President's Rule was imposed in Bihar in 2005 President's rule has been imposed in Bihar 8 times.

Financial Emergency (Article- 360)

Grounds of declaration	<ul style="list-style-type: none"> Article- 360: President to proclaim financial emergency, if he 'satisfied' that situation arises (financial stability or credit of financial stability or credit of India or any part of its territory is threatened).
Parliamentary approval	<ul style="list-style-type: none"> Approval of both the houses within two months from the date of its issue.
Type of majority for approval	<ul style="list-style-type: none"> Simple majority.
Duration	<ul style="list-style-type: none"> Once approved, the emergency continues indefinitely until revoked.
Judicial review	<ul style="list-style-type: none"> 38th Amendment: Satisfaction of president in declaring financial emergency made immune from judicial review. 44th Amendment: Provisions made under 38th Amendment deleted, so subject to Judicial Review
Revocation	<ul style="list-style-type: none"> Revoked by the president. No parliamentary approval required.
Imposition	<ul style="list-style-type: none"> No Financial Emergency has been declared so far.

Additional Information

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

15.2 EFFECT OF IMPOSITION OF NATIONAL EMERGENCY

A. Effect on Centre-State Relations

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

B. Effect on life of Lok Sabha & State Assembly

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

C. Effect on the Fundamental Rights

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

15.3 EFFECT OF IMPOSITION OF PRESIDENT'S RULE

A. President Acquires Following Extraordinary Powers

- President can **take up the functions of the state government and powers vested in the governor** or any other executive authority.
- He can declare that **powers of the state legislature are to be exercised by the parliament.**
- He **can take all necessary steps** including the suspension of constitutional provisions relating to anybody or any authority in the state.
- He **can dismiss the Council of Ministers headed by the Chief Minister** and parliament passes the state bills and budgets. The state administration is carried on by the governor with help of the Chief Secretary on behalf of the President.
- The laws made by the parliament or president or any other authority **continues to operate even after the President's Rule.**

- The Constitutional position, status, powers and functions of the **State High Court remain the same** even during President's Rule.

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

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

C. Cases of proper and improper imposition (based upon Sarkaria Commission recommendations)

Proper Imposition of President's Rule	Improper Imposition of President's Rule
<ul style="list-style-type: none"> Hung assembly (No party has majority) 	<ul style="list-style-type: none"> If ministry resigns or lost majority and governor recommends imposition without assessing possibility of alternative government
<ul style="list-style-type: none"> Party having a majority declines to form a ministry and the governor cannot find a coalition having majority. 	<ul style="list-style-type: none"> If the governor does not allow the ministry to prove its majority and recommends the rule.
<ul style="list-style-type: none"> If ministry resigns after its defeat in assembly and no other party has majority 	<ul style="list-style-type: none"> If the ruling party has lost in general elections to the Lok Sabha.
<ul style="list-style-type: none"> If the state disregards the constitutional direction given by the Centre. 	<ul style="list-style-type: none"> Maladministration in the state.
<ul style="list-style-type: none"> If the government is acting against constitution and the law or is fomenting a violent revolt. 	<ul style="list-style-type: none"> Internal disturbances not amounting to internal subversion or physical breakdown.

15.4 EFFECTS OF FINANCIAL EMERGENCY

- Article- 360** more or less follows the pattern of what is called the **National Recovery Act of the United States** passed in 1933.
- In India, **no Financial Emergency has been declared so far**, though there was a financial crisis in 1991.
- Executive authority of Centre extends to directing any state to observe such canons of financial propriety as are specified by it.
- President Can Direct:**
 - The **reduction of salaries and allowances** of all or any class of persons serving the state or union and the **judges of Supreme Court and high court**.
 - Reservation of all money bills or other financial bills** for the consideration of the President after they are passed by the state legislatures.

15.5 QUICK COMPARISON BETWEEN THE THREE EMERGENCIES

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

PREVIOUS YEAR QUESTIONS

- 'National Emergency' may be declared by the President of India in line with [53rd to 55th BPSC (Pre) 2011]
 - Article 352**
 - Article 370
 - Article 371
 - Article 395
- The President can declare a national emergency. [45th BPSC (Pre) 2002]
 - On the basis of armed rebellion
 - On the basis of external aggression
 - On the basis of war
 - On the basis of all the reasons mentioned above**
- Generally on whose advice 'President's rule' is imposed in the state? [42nd BPSC (Pre) 1997-98]
 - Chief Minister
 - Legislative Assembly
 - Governor**
 - Chief Justice of the High Court



16.1 PRESIDENT

- The British constitution has a wide influence on the Indian constitution.
- Parliamentary rule has been established by the constitution in India, following the constitution of Britain.
- Just as the head of government in Britain is the Monarch, in the same way the head of state in India is the President.
- Like the Monarch of Britain, the President of India is the ceremonial head of state and the real power of the Union is vested in the Prime Minister.
- The fundamental difference between the heads of these two countries is that the office of the Monarch of Britain is hereditary, while the President of India is elected by an electoral college.
- Because of this difference, India is called a democratic republic.
- The office of the President of India is provided by Article 52 of the Constitution.

Articles	<ul style="list-style-type: none"> • Article 52 to 78 in Part V of the Indian constitution. • Union Executive: President, VP, PM, CoM, Attorney General of India. • The President is the head of the Indian State. • He is the first citizen of India and acts as the symbol of unity, integrity and solidarity of the nation. • Fact: No person except Dr. Rajendra Prasad has occupied the office of president for two terms
Election/ Appointment	<ul style="list-style-type: none"> • Elected indirectly by people of India • Reasons for Indirect Election: <ul style="list-style-type: none"> ○ The President is only a nominal executive and the real executive is the PM. ○ The direct election would have been very costly, time and energy consuming. • Method of Election: <ul style="list-style-type: none"> ○ Election by proportional representation by means of single transferable vote and secret ballot voting. • Electoral College: <ul style="list-style-type: none"> ○ Elected members of both houses: LS + RS ○ Elected members of the State legislative Assembly. ○ Elected member of legislative assemblies of UTs: Delhi + Puducherry • Non-Participants in Presidential election: <ul style="list-style-type: none"> ○ Nominated members of LS, RS and SLA; ○ Members (elected +nominated) of SLC; ○ Nominated members of Legislative Assemblies of Delhi & Puducherry. • Present system where members of electoral college are from Union and State both so it makes the President a representative of the Union and the states equally. • To provide uniformity in the scale of representation of different states as well as parity between the states as a whole and the Union at the election of the President. • Value of Vote of an MLA: Value of Vote of each MLA varies from State to state. $\frac{\text{Total Population of State}}{\text{Total No .of elected members in SLA}} \times \frac{1}{1000}$

	<ul style="list-style-type: none"> • Value of Vote of an MP: $\frac{\text{Total Value of votes of all MLAs of all states}}{\text{Total Value of votes of all MLAs of all states}}$ • Election by system of Proportional representation by means of the single transferable vote and the voting is by secret ballot. A candidate, in order to be declared elected to the office of President, must secure a fixed quota of votes. $\text{Electoral Quota} = \frac{\text{Total No. of valid votes polled}}{1 + 1} + 1$ • All doubts and disputes in connection with election are inquired into and decided by the Supreme Court whose decision is final. • If the election is declared void by the Supreme Court, acts done by him before the date of such declaration are not invalidated and continue to remain in force. • If the assembly is dissolved, members cease to be qualified to vote, so the election of a person as President cannot be challenged on the ground that the Electoral College was incomplete.
Qualification	<ul style="list-style-type: none"> • Citizen of India. • Completed 35 years of age. • Qualified for election as a member of the Lok Sabha. • Nomination must be subscribed by at least 50 electors as proposers and 50 as seconders. • A voter cannot propose or second the nomination of more than one candidate. • Security deposit: 15,000 in the RBI, if fails to secure one-sixth votes polled security deposit will be forfeited.
Oath	<ul style="list-style-type: none"> • Oath administered by the Chief Justice of India. • In his absence the senior-most judge of the SC was available.
Condition of Office	<ul style="list-style-type: none"> • Not a member of either house. • He should not hold any office of profit.
Emoluments, Allowances and Privileges	<ul style="list-style-type: none"> • Determined by Parliament. • The salary of the President of India is 5 lakhs/month (tax-free). • Apart from this, the President of India also gets many allowances. • Cannot be diminished during his term of office. • Immune from criminal proceeding (even if personal) • He/She cannot be arrested or imprisoned. • 2 Month's notice in civil proceedings during term. • Enjoys personal immunity from legal liability for his official acts.
Term	<ul style="list-style-type: none"> • Term – 5 years. • Resignation to Vice President. • Eligible for Re-election for any no. of times (In USA - only two times permissible). • Hold office beyond his term until his successor assumes charge to prevent 'Interregnum'.
Impeachment	<ul style="list-style-type: none"> • Impeachment for “violation of constitution” (meaning of phrase not defined in constitution). • Initiated by either House – LS or RS. • Signed by 1/4th member & with 14 day's notice to be given to the President. • Resolution passed by majority of 2/3 of the total membership by both houses (Elected + Nominated Members of LS+RS participates) • Elected members of the legislative assemblies of states and the UT of Delhi and Puducherry do not participate though they participate in his election. • Impeachment is a Quasi-judicial procedure in the Parliament. • Nominated members of both (LS+RS) houses participate though they do not participate in his election. • No President has so far been impeached.

Vacancy (Only in case of President)	<ul style="list-style-type: none"> • Reasons: Expiry of tenure, By Resignation, Removal by Impeachment, Death, otherwise (such as disqualified to hold office or Election is declared void). • In case of vacancy created above, the Vice-President acts as the President until a new President is elected. If not Vice-President, Chief Justice of India. • Elections must be held before the expiration of the presidential term. • Elections should be held within six months from the date of the occurrence of such a vacancy. • Outgoing President continues to hold office (beyond his term of five years) until his successor assumes charge. In such cases, the VP does not get the opportunity to act as President. • Newly-elected President remains in office for a full term of five years from the date he assumes charge of his office. • If President is unable to discharge his functions due to absence, illness or any other cause, VP (if not VP CJI senior most judge of SC) discharges his functions until the President resumes his office.
Executive Powers	<ul style="list-style-type: none"> • All executive actions of the GoI are formally taken in his name. • Make rules for more convenient transactions of the business of the Union government. • Require the Prime Minister to submit for the consideration of the CoM. • Appoint a commission to investigate into the conditions of SCs, STs and OBCs. • Declare any area as Scheduled Area. • Appoints: PM and other Ministers, CoM, Attorney General, CAG, Chief Election Commissioner and other election commissioners, chairman and members of Public Service Commission, Governors, chairman and members of finance commission, Inter-state council, administrators of UTs, etc.
Legislative Powers	<ul style="list-style-type: none"> • The President is an integral part of Parliament. • Summon, prorogue, and dissolves the Lok Sabha. • Summon a joint sitting of both the Houses. • Prior permission is needed to introduce certain types of bills in the Parliament. • Nominates 12 personalities to Rajya Sabha. • Decides on questions as to disqualifications of members of Parliament, in consultation with the Election Commission. • Make regulations for the peace, progress and good government of the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu and Ladakh. • Lays the reports: Finance Commission, UPSC and CAG etc. before the parliament.
Financial Powers	<ul style="list-style-type: none"> • Prior recommendation to Money bill. • Prior recommendation to demand for a grant. • Annual Financial Statement (budget) laid before the parliament. • Constitutes Finance Commission after every five years. • Make advances out of the contingency fund of India
Judicial Powers	<ul style="list-style-type: none"> • Appoints CJI and Judges of SC & HC. • Seek advice from the SC on any question of law or fact – Tendered advise is Non-binding on the President. • Grant pardon, reprieve, respite and remission of punishment, or suspend, remit or commute.
Diplomatic Powers	<ul style="list-style-type: none"> • International treaties and agreements are negotiated and concluded in name of the President - subject to the approval of the Parliament. • He represents India in international forums and affairs and sends and receives diplomats like ambassadors, high commissioners.
Military Powers	<ul style="list-style-type: none"> • He is the supreme commander of the defense forces of India. • He appoints the chiefs of the Army, the Navy and the Air Force. • He can declare war or conclude peace, subject to the approval of the Parliament.

Emergency Powers	<ul style="list-style-type: none"> The Constitution confers extraordinary powers on the President to deal with: National Emergency (Art.352); President's Rule (Art.356 & 365); Financial Emergency (Art.360).
Veto Power	<ul style="list-style-type: none"> For ordinary bills, president has three alternatives for Bills: <ol style="list-style-type: none"> He may give his assent to the bill. He may withhold his assent to the bill, the bill then ends. He may return a bill for reconsideration of the Houses. If the bill is passed by both the Houses again with or without amendments and presented to the President for his assent, the president must give his assent to the bill. The President enjoys only a 'suspensive veto' (Article 111). When a state bill is reserved by governor for consideration of President, President has three alternatives: <ol style="list-style-type: none"> He may give his assent to the bill. He may withhold his assent to the bill, the bill then ends. He may return the bill for reconsideration of the House or Houses of the state legislature. When a bill is returned, the House or Houses have to reconsider it within six months. If the bill is passed by the House or Houses again with or without amendments and presented to the president for his assent, the president is not bound to give his assent to the bill. He may give his assent to such a bill or withhold his assent. <ul style="list-style-type: none"> The Constitution has not prescribed any time limit to take decisions regarding a bill reserved by the governor for his consideration. Hence, the President can exercise pocket veto in respect of state legislation also. Every money bill after it is passed by the Parliament, is presented to the President for his assent. He has two alternatives. <ul style="list-style-type: none"> He may give his assent to the bill. He may withhold his assent to the bill. <ul style="list-style-type: none"> 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, President has two alternatives: <ul style="list-style-type: none"> He may give his assent to the bill; the bill then becomes an Act. He may withhold his assent to the bill, the bill then ends and does not become an act. The President cannot return a money bill for the reconsideration of the state legislature (as in the case of the Parliament).
Ordinance Making Power	<ul style="list-style-type: none"> Art.123: Promulgate an ordinance only when both the Houses of Parliament are not in session or when either of the two Houses of Parliament is not in session. <ul style="list-style-type: none"> Only when the president is satisfied to take action. According to the 44th CAA, satisfaction is under Judicial Review. His ordinance-making power is co-extensive with the legislative power of the Parliament. He can issue ordinances only on those subjects on which the Parliament can make laws. Ordinances have the same force and effect as an act of Parliament, but are in the nature of temporary laws. An ordinance issued by him is subject to the same limitations as an act of Parliament. He can withdraw an ordinance at any time. The President can promulgate or withdraw an ordinance only on the advice of the CoM headed PM - not a discretionary power. An ordinance issued by him should be laid before both the Houses of Parliament when it reassembles. When parliament reassembles, both houses must approve Ordinance to become Act (Expiry-6 weeks; Max. Life- 6 Months 6 Weeks in case of non-approval by parliament)

	<ul style="list-style-type: none"> Ordinance cannot be issued to amend the Constitution. Ordinance can be retrospective. Cooper case (1970): SC held that the President's satisfaction can be questioned in a court on the ground of malafide. D.C. Wadhwa case (1987): SC held that successive re-promulgation of ordinances with the same text without any attempt to get the bills passed by the assembly would amount to violation of the Constitution.
Pardoning Power	<ul style="list-style-type: none"> Art.72: Empowers President to grant pardons to persons who have been tried and convicted of any offense in cases where the: <ul style="list-style-type: none"> Punishment or sentence is for an offense against a Union Law; Punishment or sentence is by a court martial (military court); and Sentence is a sentence of death. Features: An executive Power; Independent of Judiciary; exercised on the advice of the Cabinet; not bound to give reasons; not subject to judicial review except when the decision is arbitrary, irrational, mala fide or discriminatory. Pardon: Completely absolves conviction. Commutation: Substitution to lighter punishment Remission: Reducing Period without changing character of punishment Respite: Lesser sentence than original due to special facts such as pregnancy, disability, etc. Reprieve: Stay on execution for a temporary period.
Discretionary Power	<ul style="list-style-type: none"> No Constitutional Discretion. Situational Discretions: <ul style="list-style-type: none"> Appointment of PM and CoM when there is no majority in Lok Sabha or when PM dies in office and there is no obvious successor. Dismiss CoM if No Confidence Motion Approved. Dissolve Lok Sabha if CoM lost majority.

Additional Information

Single Transferable vote system:

- Cast his vote to each candidate according to the order of preference. For example, if a total of three candidates are contesting for the post of President. **Then the voter will give his vote to all the three candidates according to the order of first, second and third preference.**

Counting

- The same person is declared successful for the post of President who gets at least one vote more than half of the total valid votes i.e. more than 50%. This is called **minimum quota**.
- Let there be** four candidates A, B, C and D in the presidential election. Total valid votes received is 2500. Hence the minimum quota was 1251. Let A, B, C, and D get 950, 700, 500, and 350 votes respectively in the first preference. No candidate has got the minimum quota (1251). Therefore, the second preference votes will be counted out of the 350 ballot papers received by the candidate D, who has got the least votes, out of the contest. Suppose that out of 350 ballot papers, A got 50 votes, B got 100 and C got 200 votes on the second preference. Adding this to the first preference votes, the total votes of A, B and C are 1000, 800 and 700 respectively; But again no candidate got the minimum quota. So now the third cycle will be counted; In which candidate C, who got the least number of votes, will be excluded from the contest and counting the votes of the third preference out of the 700 ballot papers received by him, will be added to the total votes of A and B. Let A get 200 votes and B get 500 votes on third preference out of 700 votes of C. Hence, after the third round of counting, the total votes obtained by A and B are 1200 and 1300 respectively. Here B has got more votes than the minimum quota (1251) so he will be declared successful. Although he got less votes than A in the first round and second round counting.

16.2 GOVERNOR

Articles	<ul style="list-style-type: none"> Article 153 to 167 in Part VI. State Executive: Governor, CM, CoM, Advocate General of State (AGS). Chief executive head of the state. The Governor is a constitutional (nominal) head. The office of governor has a dual role. Agent of the central government. Fact: Sarojini Naidu was the first woman to become the governor of an Indian state. She governed Uttar Pradesh from 1947-49
Election/ Appointment	<ul style="list-style-type: none"> He is neither elected directly by the people nor indirectly elected by a specially constituted electoral college. He is the central nominee, appointed by the President by warrant under his seal. Independent constitutional office, not under the control of or subordinate nor an employment under the Central government. India adopted the Canadian Model of appointment of Governor by the center. The Institution of Governor borrowed from GOI Act 1935. 7th CAA (1956): Facilitated the appointment of the same person as a governor for two or more states. Supreme Court (1979): Office of governor of a state is not an employment under the Central government. Draft Constitution: Provided for the direct election of the governor on the basis of universal adult suffrage. American model: Governor of a state is directly elected. Canadian model: The governor of a province (state) is appointed by the Governor-General (Centre). Governor has no diplomatic, military or emergency powers like the president.
Qualification	<ul style="list-style-type: none"> Citizen of India. Completed 35 years of age. Two other conventions: <ol style="list-style-type: none"> Preferably an 'Outsider' and should not belong to the state where he is appointed. While appointing the governor, the president is required to consult the CM of the state concerned. However, both the conventions have been violated in some of the cases.
Oath	<ul style="list-style-type: none"> Oath administered by Chief Justice of HC of concerned state. In his absence, the senior-most judge of that court.
Condition of Office	<ul style="list-style-type: none"> Not a member of either house. He should not hold any office of profit.
Emoluments, Allowances and Privileges	<ul style="list-style-type: none"> Determined by Parliament. Cannot be diminished during his term of office. Immune from criminal proceeding (even if personal) Cannot be arrested or imprisoned. 2 Month's notice in civil proceedings during term. When appointed as Governor of two or more states, allowances shared by the states in such proportion as determined by the president. Enjoys personal immunity from legal liability for his official acts.

Term	<ul style="list-style-type: none"> Term – 5 years, subject to the pleasure of the President. Pleasure of the President is not justifiable so no security of tenure and no fixed term of Office. Resignation submits to President. Transfer: The President may transfer a Governor appointed to one state to another state for the rest of the term. Reappointed: May be in the same state or any other state. Hold office beyond his term until his successor assumes charge to prevent 'Interregnum'
Impeachment	<ul style="list-style-type: none"> The Constitution does not lay down any grounds upon which a governor may be removed by the President. The Punchhi Commission (2010) recommended that a provision for impeachment of the governor by the state legislature should be included in the constitution. <ul style="list-style-type: none"> The opinion of the Chief Minister of the state should also be taken in the appointment of the Governor.
Executive Powers	<ul style="list-style-type: none"> All executive actions of the state are formally taken in his name. Make rules for more convenient transactions of the business of the State government. Recommends the imposition of constitutional emergency in the state to the president. Acts as chancellor of a university in the state. Appoints tribal welfare minister for Chhattisgarh, Jharkhand, Madhya Pradesh and Odisha. Appoints: CM and other ministers, Advocate General, State Election Commissioner, Chairman and members of the SPSC, Vice- chancellors of universities in the state.
Legislative Powers	<ul style="list-style-type: none"> Governor is an integral part of the State legislature. Summons, prorogues, and dissolves the State Legislative Assembly. Nominates: 1/6 members in the State Council. Decides on the question of disqualification of members of the state legislature in consultation with the Election Commission. Lays the reports of State Finance Commission, SPSC and CAG before the state legislature.
Financial Powers	<ul style="list-style-type: none"> Prior recommendation for Money bill. Prior recommendation for demand for grant. Constitutes State Finance Commission after every five years. Annual Financial Statement (state budget) laid before the state legislature. Make advances out of the Contingency Fund of the state.
Judicial Powers	<ul style="list-style-type: none"> Consulted by president while appointments of judges of HC. Makes appointments, postings and promotions of the district judges in consultation with the state high court. Appoints persons to the judicial service of the state in consultation of HC and SPSC. Pardoning power except Death sentence.
Veto Power	<ul style="list-style-type: none"> For ordinary bills, governor has four alternatives: <ul style="list-style-type: none"> He may give his assent to the bill He may withhold his assent to the bill, the bill then ends. He may return a bill for reconsideration of the Houses. If the bill is passed by both the Houses again with or without amendments and presented to the governor for his assent, the governor must give his assent to the bill. the governor enjoys only a 'suspensive veto'. He may reserve the bill for the consideration of the President.

	<ul style="list-style-type: none"> ● Governor can also reserve bill if it is: <ul style="list-style-type: none"> ○ Against provisions of the Constitution. ○ Opposed to the DPSP ○ Against the larger interest of the country. ○ Of grave national importance. ○ Compulsory acquisition of property. ● When the governor reserves a bill for the consideration of the President: <ul style="list-style-type: none"> ○ He will not have any further role in the enactment of the bill. ○ If the bill is returned by the President for the reconsideration of the House or Houses and is passed again, the bill must be presented again for the presidential assent only. ○ If the President gives his assent to the bill, it becomes an act. This means that the assent of the Governor is no longer required. ● Every money bill, after it is passed by the state legislature, is presented to the governor for his assent. He has three alternatives: <ul style="list-style-type: none"> ○ He may give his assent to the bill ○ He may withhold his assent to the bill ○ He may reserve a bill for the consideration of the president. ○ Governor cannot return a money bill for the reconsideration of the state legislature. 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	<ul style="list-style-type: none"> ● Art.213: Promulgate an ordinance when any one or both houses are not in session in case of Bicameral legislature. ● Only when the governor is satisfied to take action. According to the 44th CAA, his satisfaction is under Judicial Review. ● Ordinances must be approved by the state legislature within six weeks from its reassembly. ● His ordinance-making power is co-extensive with the legislative power of the state legislature. He can issue ordinances only on those subjects on which the state legislature can make laws. ● Ordinances have the same force and effect as an act of the State Legislature, but are in the nature of temporary laws. ● An ordinance issued by him is subject to the same limitations as an act of the state legislature. ● He can withdraw an ordinance at any time. ● The Governor can promulgate or withdraw an ordinance only on the advice of the CoM headed CM – not a discretionary power. ● An ordinance issued by him should be laid before the legislative assembly or both the Houses of the state legislature when it reassembles. ● Ordinance making power of the Governor requires instructions from the President in certain cases.
Pardoning Power	<ul style="list-style-type: none"> ● Art. 161: Empowers the Governor of a state so he can also grant pardons, commutes, respites, reprieves and remissions of punishment and the sentence of any person convicted of any offense against a state law. ● Pardoning power of the governor differs from that of the President in following two respects: <ul style="list-style-type: none"> ○ The President can pardon sentences inflicted by court martial while the governor cannot.

	<ul style="list-style-type: none"> ○ The President can pardon the death sentence while the governor cannot. Even if a state law prescribes a death sentence, the power to grant pardon lies with the President and not the governor. Governors can suspend, remit or commute a death sentence.
Discretionary Power	<ul style="list-style-type: none"> ● Constitutional Discretion: <ul style="list-style-type: none"> ○ Reservation of Bills for president's consideration ○ Recommends for President's Rule ○ Administration of adjoining UT ○ Seeking information from the Chief Minister regarding administrative and legislative policies. ○ Determining the amount payable by the Govt of Assam, Meghalaya, Tripura and Mizoram to an autonomous Tribal District Council (6th scheduled areas) as royalty accruing from licenses for mineral exploration. ● Additional Discretion: Establishment of separate Development Board in Maharashtra, Gujarat, Assam, Nagaland, Manipur, Sikkim, Arunachal Pradesh, Karnataka.

Additional Information

- **Types of Veto:**
 - **Absolute Veto:** Withholding of assent to the bill passed by the legislature.
 - **Qualified veto:** Overridden by the legislature with a higher majority; There is **no qualified veto in the case of an Indian President**; it is possessed by the American President.
 - **Suspensive veto:** Overridden by the legislature with an Ordinary majority; Not for Money bill.
 - **Pocket veto:** Taking no action on the bill passed by the legislature; Not applicable for Constitutional Amendments as 44th CAA, 1978 made it **obligatory for the president to give his assent** to Constitutional Amendment Bills).

Articles Related to Governor

- **Article No. 153** for Governors of states
- **Article No. 154** for Executive power of state
- **Article No. 155** for Appointment of Governor
- **Article No. 156** for Term of office of Governor
- **Article No. 157** for Qualifications for appointment as Governor
- **Article No. 158** for Conditions of Governor's office
- **Article No. 159** for Oath or affirmation by the Governor
- **Article No. 160** for Discharge of the functions of the Governor in certain contingencies
- **Article No. 161** for Power of the Governor to grant pardons and others
- **Article No. 162** for Extent of executive power of state
- **Article No. 163** for Council of Ministers to aid and advice the Governor
- **Article No. 164** for other provisions as to ministers like appointments, term, salaries, and others
- **Article No. 165** for Advocate-General for the State
- **Article No. 166** for Conduct of business of the government of a state
- **Article No. 167** for Duties of the Chief Minister regarding furnishing of information to the Governor, and so on
- **Article No. 174** for Sessions of the state legislature, prorogation and dissolution
- **Article No. 175** for Right of the Governor to address and send messages to the house or houses of state legislature
- **Article No. 176** for Special address by the Governor
- **Article No. 200** for Assent to bills (i.e. assent of the Governor to the bills passed by the state legislature)
- **Article No. 201** for Bills reserved by the Governor for consideration of the President
- **Article No. 213** for Power of Governor to promulgate ordinances
- **Article No. 217** for Governor being consulted by the President in the matter of the appointments of the judges of the High Courts
- **Article No. 233** for Appointment of district judges by the Governor
- **Article No. 234** for Appointments of persons (other than district judges) to the judicial service of the state by the Governor.

PREVIOUS YEAR QUESTIONS

1. The President [64th B.P.S.C. (Pre) 2018]
(a) is not a part of the Parliament
(b) is a part of the Parliament
(c) is a part of the Parliament and sits in the Parliament
(d) can vote in the Parliament
(e) None of the above/More than one of the above
2. If there is any dispute in the election of the President of India, the dispute may be referred to [38th BPSC 1992-93]
(a) Advocate General of India
(b) Parliament
(c) Supreme Court of India
(d) None of these
3. The President of India can be removed from his office by [39th BPSC (Pre) 1994 47th BPSC (Pre) 2005]

- (a) by the Prime Minister of India
(b) by Lok Sabha
(c) by the Chief Justice of India

(d) by the Parliament

4. Who is the supreme executive in India? [44th BPSC (Pre) 2000]

(a) President

- (b) Prime Minister
(c) Leader of the opposition party
(d) Chief Secretary to the Government of India

5. The Indian Constitution does not give power to the President of India [38th BPSC (Pre) 1992-93]

(a) the appointment of the Prime Minister

(b) Appointment of the Chief Minister of the states

(c) To be the Supreme Commander of the Defense Forces

(d) imposition of emergency in any part of the country



17.1 IMPORTANT PROVISIONS

- **Article:**
 - **Article 63:** There shall be a Vice-President of India.
 - Vice-President occupies the **second highest office in the country**;
 - Ranked **second** in the **table of precedence**.
 - Office is modeled on the lines of the **American Vice-President**.
- **Election:**
 - **Elected indirectly.**
 - Electoral College consists of **members of both houses of Parliament**: It consists of **both elected and nominated members** of the Parliament (in the case of the president, only elected members).
 - It does **not include the members of the state legislative assemblies** (in the case of the President, the elected members of the state legislative assemblies are included).
 - **Method:** System of proportional representation by means of the single transferable vote and the voting is by secret ballot.
 - **Doubts and disputes:** Inquired into and final decision by the **Supreme Court**.
 - **Note:** Four Vice Presidents have been elected unopposed so far.
- **Qualification:**
 - Citizen of India. (Naturalized or Registration)
 - Completed 35 years of age.
 - Qualified for election as a member of the **Rajya Sabha**.
 - Should not hold any office of profit.
 - **Note:** A sitting President or Vice-President of the Union, the Governor of any state and a minister for the Union or any state is not deemed to hold any office of profit and hence qualified for being a candidate for Vice-President.
- **Nomination:**
 - At least **20 electors as proposers** and **20 electors as seconders**.
 - A security deposit of **Rs. 15,000** in the **RBI**.
- **Oath:**
 - Oath Administered **by the President** or some person appointed on that behalf by him.
- **Condition of Office:**
 - Not a member of either house.
 - He should not hold any no office of profit.
- **Emoluments, Allowances and Privileges:**
 - The Constitution has **not fixed any emoluments** for the Vice-President in that capacity.
 - He draws his **regular salary in his capacity as the ex-officio Chairman of the Rajya Sabha**.
- **Term of Vice President's Office (Art.67):**
 - Term – **5 years**.
 - Resignation to President.
 - Hold office beyond his term **until his successor assumes charge**.
 - Eligible for **re-election for any no. of times**.
- **Impeachment:**
 - A **formal impeachment is not required**, and can be removed from the office before completion of his term.
 - **Resolution of Rajya Sabha passed by special majority** and agreed by Lok Sabha subject to 14 days' advance notice.
- **Vacancy:**
 - **No ground has been mentioned** in the Constitution for his removal.
 - **Reasons for vacancy:** On the expiry of his tenure of five years; By his resignation; On his removal; By his death.
 - **By the expiration of the term:** An election to fill the vacancy must be held before the expiration of the term.
 - On resignation, removal, death or otherwise, then election to fill the vacancy should be held as soon as possible after the occurrence of the vacancy.
 - The **newly-elected Vice-President remains in office for a full term of five years** from the date he assumes the charge of his office.
- **Powers:**
 - **Ex-Officio Chairman of RS (Art. 64)**
 - ◆ His power is **similar to the speaker**.

- ♦ He **resembles the American Vice President** who also acts as chairman of the upper house of the American legislature called **Senate**.
- Acts as President (Art. 65)
 - ♦ When there is vacancy in the president's office **due to death/removal**.
 - ♦ Only for a **maximum period of six months** within which a new President has to be elected.
 - ♦ When the sitting President is **unable to discharge his functions** due to absence, illness or any other cause, the **Vice-President discharges his functions** until the President resumes his office.
 - ♦ During this time VP **does not perform the duties of the office of the Chairman of Rajya Sabha**. Those duties are performed by the **Deputy Chairman of Rajya Sabha**.

Additional Information

- Dr Zakir Hussain and Fakhruddin Ali Ahmed, died in office, the then respective Vice-Presidents, V V Giri and B D Jatti acted as President.

17.2 COMPARISON BETWEEN THE INDIAN VS. AMERICAN VICE-PRESIDENT

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



Indian	American
<ul style="list-style-type: none"> • The Indian Vice-President, merely serves as an acting President when the office of President falls vacant until the new President assumes charge. 	<ul style="list-style-type: none"> • The American Vice-President succeeds to the presidency when it falls vacant, and remains President for the unexpired term of his predecessor.

PREVIOUS YEAR QUESTIONS

- Who is the chairman of Rajya Sabha?
[45th B.P.S.C. (Pre)2001]
 - (a) President
 - (b) Vice President**
 - (c) Prime Minister
 - (d) Speaker of the Lok Sabha
- Which of the following statement is true?
(38th B.P.S.C. (Pre)1992)
 - (a) United States of America has a federal system of government**
 - (b) Federal and unitary forms of government in India (Unitary) is both type of system.
 - (c) France has a federal system of government
 - (d) The Prime Minister is appointed by the people of Pakistan
- The serial number of Mr. Mohammad Hamid Ansari as Vice-President of India is?
(48th to 52nd B.P.S.C. (Pre) 2008)
 - (a) 10th
 - (c) 12th**
 - (b) 11th
 - (d) 13th



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- लाइव क्लासेस
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- हिंदी और अंग्रेजी दोनों भाषाओं में डीपीपी, टेस्ट सीरीज और क्लास नोट्स
- प्रॉक्स और मेन्स टेस्ट सीरीज
- उत्तर लेखन अभ्यास
- हिंदी और अंग्रेजी दोनों भाषाओं में मासिक कटेड अपडेट्स पत्रिका
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SCHEDULE : 2 LECTURES/DAY

SUBSCRIPTION END DATE : 30TH DECEMBER 2024

SCHEDULE : MON-SAT

TIMINGS

MORNING : 8:00 AM – 10:00 AM

EVENING : 8:00 PM – 10:00 PM

Prime Minister and Chief Minister

INTRODUCTION

- In the scheme of Parliamentary system of government:
 - **President:** Nominal executive authority (de-jure executive).
 - **Prime Minister:** Real executive authority (de-facto executive).
 - **Governor:** Nominal executive authority (de-jure executive) in the State.
 - **Chief Minister:** Real executive authority (de-facto executive) in the State.

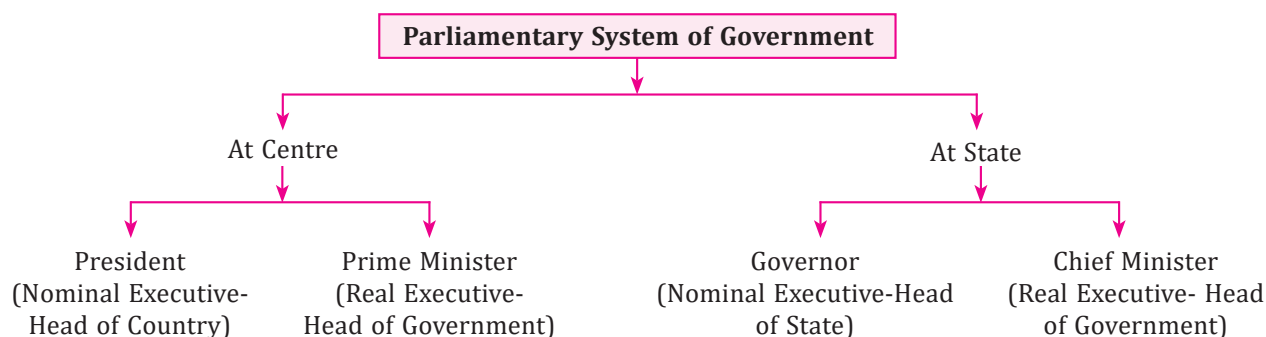


Fig. 18.1: Parliamentary System of Government

18.1 PROVISIONS RELATED TO PRIME MINISTER (PM) AND CHIEF MINISTER (CM)

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

Powers & Functions

- **Article 74/163:** Council of Ministers with the PM/CM as the head to **aid and advise** the President/ Governor on the exercise of his functions.
- **Article 75/164:** Other ministers shall be appointed by the President/Governor on the advice of the PM/ CM, all ministers shall hold office during the pleasure of the President/Governor and shall be collectively responsible to the House of people/legislative assembly of the state.
- Resignation or Death of the PM/CM **automatically dissolves** the council of ministers.

PREVIOUS YEAR QUESTIONS

1. Who is the leader of the Lok Sabha?

[40th BPSC (Pre) 1995]

(a) President

(b) Prime Minister

(c) Speaker

(d) None of the above

2. The Prime Minister of India is responsible to whom?

[63th B.P.S.C. (Pre) 2017]

(a) The Cabinet

(b) The President

(c) The Lok Sabha

(d) The Rajya Sabha

(e) None of the above/More than one of the above

3. The prime minister of India is the chief of?

[47th BPSC (Pre) 2005]

(a) State Government

(b) Central Government

(c) Both the state and the central government

(d) None of the above



Union and State Council of Minister

INTRODUCTION

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

19.1 IMPORTANT PROVISIONS RELATED TO UNION COUNCIL OF MINISTER AND STATE COUNCIL OF MINISTER

Parameter	Union CoM	State CoM
Appointment, Oath & Salary	<ul style="list-style-type: none"> • The PM shall be appointed by the President (Art. 75) • Other ministers: Appointed by the President on the advice of the Prime Minister. • Oath: Administered by the President. • Salary: Determined by Parliament. 	<ul style="list-style-type: none"> • CM shall be appointed by the Governor (Art. 164). • Other ministers: Appointed by the Governor on the advice of the Chief Minister. • Oath: Administered by the Governor of State. • Salary: Determined by the State legislature.
Constitutional Provisions	<ul style="list-style-type: none"> • Article 74 (CoM to aid and advise President) /163 (CoM to aid and advise Governor): • The President/Governor shall act in accordance with the advice of CCoM/SCoM headed by PM/CM. • The President can ask for reconsideration of advice tendered but then reconsidered advice is binding. • Advice tendered by CCoM/SCoM cannot be inquired by any court. • Even after the dissolution of the Lok Sabha/State Legislative Assembly the CCoM/SCoM do not cease to hold office (by SC in 1971). • Wherever the Constitution requires the satisfaction of the President/Governor, the satisfaction is of the CCoM/SCoM (by SC in 1974) not of president/governor alone. • Article 75/164: <ul style="list-style-type: none"> ○ Ministers appointed: By the President/Governor on the advice of the PM/CM and hold office during the pleasure of the President/Governor. • Oaths of office and secrecy: By President/Governor. • Salary: Determined by Parliament/State Legislative Assembly. • 91st CAA, 2003: <ul style="list-style-type: none"> ○ Total no. of CCoM/SCoM including PM/CM should not be more than 15% of total strength of Lok Sabha. ○ The number of ministers in the state legislature, including the CM, in a state shall not be less than 12. ○ A member who is disqualified on the ground of defection shall also be disqualified to be appointed as a minister. • Exact size and classification of CCoM/SCoM not mentioned in the Constitution and determined by the PM/CM as per time and requirements of the situation. • CCoM/SCoM collectively responsible to the Lok Sabha (not Parliament)/State Legislative Assembly respectively. 	

	<ul style="list-style-type: none"> Person, not a member of any house of parliament can become minister maximum for a duration of six months. Article 88/177: <ul style="list-style-type: none"> Every Minister has the right to speak and take part in proceedings of both the houses but can only vote where he is a member. A minister who is a member of one House of the Parliament/state legislature has the right to speak and to take part in the proceedings of the other House. But he can vote only in the House of which he is a member.
Responsibility of Minister (Article 75/164)	<ul style="list-style-type: none"> Collective Responsibility: <ul style="list-style-type: none"> Work as a team, swims & sinks together. No-confidence motion: entire CCoM/SCoM has to resign including ministers from the Rajya Sabha/ State Legislative Council. Cabinet decisions are binding on all cabinet ministers (and other ministers). Failing such results in resignation. Recent E.g. Akali dal MP resigns as minister on Farm Law issue Individual Responsibility: <ul style="list-style-type: none"> Ministers hold office during the pleasure of the president, which means that the President/Governor on the advice of the PM/CM, can remove a minister even at a time when the CoM enjoys the confidence of the Lok Sabha. No Legal Responsibility: <ul style="list-style-type: none"> Unlike Britain, there is no provision in the Constitution for the system of legal responsibility of a Minister.
Others	<ul style="list-style-type: none"> Union Council of Minister: <ul style="list-style-type: none"> Constitutional body, dealt in detail by the Articles 74 and 75 of the Constitution. Wider body with 60 to 70 ministers. Includes all the three categories cabinet ministers, ministers of state, and deputy ministers. Does not meet as a body to transact government business. Implements the decisions taken by the cabinet. Cabinet: <ul style="list-style-type: none"> Inserted through 44th CAA, 1978 in Art.352, which only defines the cabinet and does not describe its powers and functions. Smaller body - 15 to 20 ministers. Includes the cabinet ministers only. Meets, as a body, frequently and takes decisions regarding the transaction of government business. Supervises the implementation of its decisions by the council of ministers. Kitchen Cabinet: <ul style="list-style-type: none"> Informal body consists of the PM and two to four influential colleagues in whom he has faith and with whom he can discuss every problem called the 'Inner Cabinet' has become the real center of power. Composed of not only cabinet ministers but also outsiders like friends and family. Phenomenon of 'kitchen cabinets' is not unique to India; it also exists in the USA and Britain.

PREVIOUS YEAR QUESTIONS

1. The ministers of the Union Council of Ministers are responsible for? [41st BPSC (Pre) 1996]
 (a) to the Prime Minister (b) to the President
 (c) towards the Parliament (d) **only to the Lok Sabha**

2. In the Indian political system, it works under the control of the executive.

[45th BPSC (Pre) 2001-02]

- (a) Judiciary
 (b) **Legislature**
 (c) Election Commission
 (d) Union Public Service Commission



INTRODUCTION

- **Parliament** consists of the **President, The Lok Sabha (Lower House), and the Rajya Sabha (Upper House).**
- **Hindi** names **Rajya Sabha and Lok Sabha** were adopted in **1954**.

20.1 IMPORTANT PROVISIONS

- **President:**
 - **Not a member of either house** but an **integral part of the parliament.**
- **Lok Sabha and the Rajya Sabha:**

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

Rajya Sabha	Lok Sabha
<ul style="list-style-type: none"> • Maximum Strength: 250 = 238 (States & UTs elected indirectly) + 12 (Nominated by President). • Present Strength: 245 = 225 (states) + 8 (UTs) + 12 (art, literature, science and social service are nominated by the president.) • 4th Schedule: Allocation of seats in the Rajya Sabha to the States and UTs. • Note: Only Delhi, Puducherry and J&K have representation in Rajya Sabha (total 8 UTs). 	<ul style="list-style-type: none"> • Maximum Strength: 552 = 530 (States) + 20 (UTs) + 2 (nominated from Anglo-Indian community by president). • Present Strength: 545 = 524 (states) + 19 (UTs) + 2 (Anglo-Indian nominated by President (Art.331) discontinued by 104th CAA, 2019) • 17th Lok Sabha: No member has been nominated from the Anglo- Indian community.
<ul style="list-style-type: none"> • Members: elected by the MLAs based on proportional representation by means of the single transferable vote. • The seats are allotted to the states in the Rajya Sabha on the basis of population. 	<ul style="list-style-type: none"> • Members: Direct election from the territorial constituencies according to the universal adult franchise. • Members of Lok Sabha from the UTs elected through direct election. • 61st CAA, 1988: voting age reduced to 18 from 21 years.
<ul style="list-style-type: none"> • Continuing chamber (permanent body) • Not subject to dissolution. • One-third of its members retire every second year. • The retiring members are eligible for re-election and re-nomination any number of times. 	<ul style="list-style-type: none"> • Not a continuing chamber. • Normal term: 5 years from the date of its first meeting after the general elections, after which it automatically dissolves. • Can be extended one year at time for any length of time during National Emergency (Art. 352).

20.2 MEMBERSHIP OF THE PARLIAMENT

Parameters	Descriptions
Qualifications	<ul style="list-style-type: none"> • Mentioned in Constitution: <ul style="list-style-type: none"> ○ Citizen of India ○ Make and subscribe to oath or affirmation (Schedule-3)

		<ul style="list-style-type: none"> • Minimum Age: 25 yrs (LS) and 30 yrs (RS) • Any other provided by Parliament through Legislation. i.e. RPA 1951 • Qualification as per RPA, 1951: <ul style="list-style-type: none"> ○ Must be registered as an elector for a parliamentary constituency. ○ Must be a member of SC-ST community in any state or UT if contesting on a reserved seat.
Disqualification		<ul style="list-style-type: none"> • Mentioned in Constitution: <ul style="list-style-type: none"> ○ If he holds office of profit ○ If not citizen of India ○ Unsound mind and stand so declared by court. ○ An undischarged insolvent ○ If disqualified by law made by parliament • As per Representation of People Act (RPA), 1951: <ul style="list-style-type: none"> ○ Guilty of election offense/corrupt practice. ○ Imprisoned for 2 or more years. ○ Dismissed from Govt. service. • The President's decision is final on disqualification and the president can consult with the election commission. • On Ground of Defection: <ul style="list-style-type: none"> ○ Schedule: Under 10th schedule ○ Decided by: Chairperson of that house i.e. chairman in RS and speaker in LS; however, their decision is subjected to judicial review (Kihoto Holon Judgement) • Grounds: <ul style="list-style-type: none"> ○ Voluntarily gives up party membership ○ Votes or abstains from voting contrary to given direction ○ Independently elected member joins any party ○ Nominated members join any party after expiry of 6 months. • Note: <ul style="list-style-type: none"> ○ Final decision on disqualification: President on any of the above disqualifications (except 10th schedule). Seek opinion of the election commission and act accordingly. ○ Disqualification under the 10th Schedule: decided by the Presiding officer of the house (Chairman in Rajya Sabha and Speaker in Lok Sabha).
Vacating of Seats	Double Membership	<ul style="list-style-type: none"> • Elected to both houses, then must inform within 10 days else by default, Rajya Sabha seat becomes vacant. • Sitting members elected to another house, seat in the first house becomes vacant. • Elected to two seats, should opt one else both become vacant. • A person cannot be a member of both parliament and state legislature, else his parliament seat becomes vacant if not resign in the state within 14 days.
	Disqualification	<ul style="list-style-type: none"> • Specified in the Constitution • Grounds of defection under 10th Schedule of the Constitution.
	Resignation/ death	<ul style="list-style-type: none"> • To the Presiding officer of the house.
	Absence	<ul style="list-style-type: none"> • More than 60 days without permission.
	Other Cases	<ul style="list-style-type: none"> • If election is declared void by the court; • If he is expelled by the house; • If he is elected to the office of president or vice-president; and • If he is appointed to the office of governor of a state.

Oath/ Affirmation	<ul style="list-style-type: none"> • Administered by the President or some person appointed by him. • Before taking and subscribing to the prescribed oath or affirmation he cannot vote and participate in the proceedings of the House and does not become eligible to parliamentary privileges and immunities and if so liable for penalty.
Salaries and Allowances	<ul style="list-style-type: none"> • Determined by the Parliament, and there is no provision of pension in the Constitution. • Charged upon consolidated funds of India: Speaker, Deputy Speaker of Lok Sabha and Chairperson, Deputy chairperson of Rajya Sabha.

20.3 PRESIDING OFFICERS OF THE PARLIAMENT

A. Speaker of the Lok Sabha (LS) - (Article - 93)

- Institution originated from: **GoI Act of 1919**.
- **First Speaker of the LS**: G.V. Mavalankar
- **Elected by the LS from amongst its members**.
- Date of election: **fixed by the President**.
- Remains in office during the life of the LS.
- Resignation: **Deputy Speaker**.
- Removal: **House can remove the Speaker through a resolution passed by an effective majority (more than 50% of the total strength of the house present and voting) as per Art.94 and 96 of the Indian Constitution**.
- **Only by resolution** passed by a majority of all the members of the LS with **14 days' advance notice**.
- When the **above resolution is under consideration** of the House, he **cannot preside** at the sitting of the house. However, he can vote in the first instance not in case of equality of votes.
- **If the LS is dissolved**, the Speaker does not vacate his office and continues till the newly-elected **Lok Sabha meets**.
- **Powers and Duties**:
 - Maintains **order and decorum** in the House.
 - **Final interpreter of**: the provisions of the Constitution of India, Rules of Procedure and Conduct of Business of Lok Sabha and parliamentary precedents, within the House.
 - Does not vote in the first instance but can exercise a **casting vote in the case of a tie**.
 - He presides over a **joint sitting (Art. 108)** of the two Houses.
 - Allow a '**secret**' sitting of the House at the request of the Leader of the House.
 - Decides whether a bill is a **money bill or not** and his decision on this question is final. Endorses on the bill his certificate that it is a money bill.
 - Decides the questions of disqualification of a member of the Lok Sabha, arising on the grounds of defection.

- Decision is subject to judicial review (Kihoto Hollohan case).
- Appoints the chairman of all the parliamentary committees of the Lok Sabha and supervises their function.
- Ex-officio chairman of: **Business Advisory Committee, the Rules Committee and General-Purpose Committee**.

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

- Vice-President of India **ex-officio** Chairman of the Rajya Sabha.
- **Removal**: Only if he is removed from the office of the Vice-President. When such a resolution is under consideration, he **can take part in proceedings as a normal member without the right to vote**.
- Unlike the Speaker the Chairman is **not a member of the House**.
- Like the Speaker, the chairperson of RS **cannot vote in the first instance** but **can cast vote in case of equality of vote**. i.e. Casting Vote.
- **Salary and allowance**: Fixed by parliament **charged** on consolidated fund of India.
- **Powers and Duties**:
 - Powers and duties **similar to Speaker**, except two special power which are mentioned as:
 - ◆ Speaker **decides whether a bill is a money bill or not** and his decision on this question is **final**.
 - ◆ The **Speaker presides over a joint sitting (Art. 108)** of two Houses of Parliament.

C. Deputy Speaker of Lok Sabha And Others (Art.93)

- **Since the 11th Lok Sabha**: Convention that the Speaker (ruling party or alliance) and Deputy Speaker (main opposition party).
- Elected after the election of the Speaker has taken place.
- **Presides joint sitting (Art. 108)** in case the Speaker is absent.
- If appointed as a member in a parliamentary committee automatically becomes its chairman.

D. Deputy Chairman of Rajya Sabha And Others (Art.89)

- Deputy-Chairman submits his/her resignation to Chairman (VP) of Rajya Sabha.
- Chairman (VP) of Rajya Sabha submits his/her resignation to the **President of India**.
- Presides joint sitting (Art. 108) in case the Deputy Speaker is absent.

• Both the Deputy Speaker of LS and Deputy Chairman of RS:

- **Elected:** By respective house amongst its members and date of election is fixed by Speaker/Chairman.
- **Not subordinate:** To the Speaker/Chairman directly responsible to the House.
- **Salary and allowance:** Fixed by Parliament and charged on the Consolidated Fund of India.
- **Removal procedure:** Similar to speaker/Chairperson.

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

- Nominated by Speaker/Chairperson, Not more than 10 members.
- Presides when speaker/chairman and Deputy speaker/chairman are absent.
- In case both speaker/chairman and deputy speaker/chairman seats are vacant, does not preside rather the president appoints a member from the House.
- **Salaries and Allowances:** fixed by Parliament and are charged on the Consolidated fund of India.

Additional Information

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

- **Independence And Impartiality of the office of speaker:** Provided with security of tenure; Salaries and Allowances are fixed by Parliament and are charged on the Consolidated Fund of India; Work and conduct cannot be discussed and criticized except on a substantive motion; Very high position placed at seventh rank, along with the Chief Justice of India; Ranks higher than all cabinet ministers, except the Prime Minister or Deputy Prime Minister.
- **Speaker Pro-Tem (Art.95):** Speaker of the last Lok Sabha vacates his office immediately before the first meeting of the newly-elected Lok Sabha. Speaker pro-Tem institution (temporary office) facilitates the transition of the institution from old ones to newly elected members. He also enables the House to **elect the new Speaker**. The **President appoints (also administers oath)** a member of the Lok Sabha as the Speaker Pro-Tem. Usually, the **senior most** member is selected for this.
- **Proportional Representation system for the election of:** President + Vice-President + Election to the Rajya Sabha + Election to the Legislative Council.
- **Note:** The Speaker and the Deputy Speaker, while assuming their offices, do not make and subscribe any separate oath or affirmation.

20.4 SECRETARIAT OF PARLIAMENT

- Each House of Parliament has separate secretarial staff of its own.
- Their recruitment and service conditions are **regulated by Parliament**.
- The secretariat of each House is **headed by a secretary-general**.
- He is a **permanent officer** and is **appointed by the presiding officer** of the House.

20.5 LEADERS IN PARLIAMENT AND WHIP

Leader of House	Leader of Opposition	Whip
<ul style="list-style-type: none"> • Under the Rules of House (LS + RS) (not mentioned in the Constitution). • The PM, where he is the member, is the leader of the House. • For other house, a minister who is nominated by the PM to function as the Leader of that House (LS/ RS). 	<ul style="list-style-type: none"> • For the first time Leader of Opposition recognised in 1969. • Statutory recognition in 1977, as it is mentioned in the salary Act. • Not less than 1/10 of total seats required for recognition as opposition • Status of minister: Leader of Opposition is equivalent to a cabinet minister. • Ivor Jennings called it "Alternative Prime Minister". 	<ul style="list-style-type: none"> • Not mentioned in the Constitution, Rules of the House and Parliamentary Statute. • Based on the conventions of the parliamentary government. Every political party has its own whip in the Parliament (assistant floor leader) Ensuring the attendance of his party members; Securing their support in favor of or against a particular issue; Regulates and monitors their behavior in the Parliament.

20.6 IMPORTANT CONCEPTS RELATED TO PARLIAMENT

Summoning (Art. 85)	<ul style="list-style-type: none"> • The President summons each House of Parliament from time to time - Should meet at least twice a year.
Session	<ul style="list-style-type: none"> • Duration between 1st sitting and prorogation of parliament.
Recess	<ul style="list-style-type: none"> • Duration between prorogation and reassembly of parliament.
Adjournment	<ul style="list-style-type: none"> • A sitting of Parliament can be terminated by the Presiding officer through adjournment, which suspends the work in a sitting for a specified time, which may be hours, days or weeks.
Adjournment Sine Die	<ul style="list-style-type: none"> • It means terminating a sitting of Parliament for an indefinite period by the Presiding Officer of the house.
Prorogation	<ul style="list-style-type: none"> • President issues a notification for prorogation of the session whether the house is adjourned, adjourned sine- die or in session. • It terminates the sitting and session of the house.
Dissolution	<ul style="list-style-type: none"> • Only the Lok Sabha is subject to dissolution. Unlike a prorogation, dissolution ends the very life of the existing House. Dissolution is irrevocable. • When the Lok Sabha is dissolved, all business including bills, motions, resolutions and so on pending before it or its committees lapse. • Dissolution of the Lok Sabha may take place in either of two ways: <ul style="list-style-type: none"> ○ Automatic dissolution (expiry of its tenure) ○ Whenever the President decides to dissolve the House, which he is authorized to do.
Lame Duck Session	<ul style="list-style-type: none"> • Last session of the existing Lok Sabha, after a new Lok Sabha has been elected. • Those existing members who could not get re-elected to the new Lok Sabha are called as Lame-ducks.
Quorum	<ul style="list-style-type: none"> • Minimum no. of members (one-tenth of total members of house including presiding officer) required to be present in the House before it can transact any business.
Language in Parliament	<ul style="list-style-type: none"> • Constitution declared: Hindi and English • Mother-tongue with prior permission of the presiding officer.
Rights of Minister and Attorney General	<ul style="list-style-type: none"> • Every minister and the Attorney General of India have the right to speak and take part in the proceedings of both the House + joint sitting + any committee of Parliament of which he is a member, without vote.

Additional Information

- **Position of bills with respect to lapsing of Bills:**
- **Bill Lapses:**
 - Bill pending in Lok Sabha
 - Bill pending in Rajya Sabha but passed by Lok Sabha
- **Bill does not lapse:**
 - Passed by both houses but return/ pending assent by president.
 - Bill pending in Rajya Sabha, not passed by Lok Sabha.
 - Bill not passed by the two Houses and if the President has notified the holding of a joint sitting before the dissolution of Lok Sabha.

20.7 DEVICES OF PARLIAMENTARY PROCEEDINGS

Question Hour	<ul style="list-style-type: none"> • 1st Hour of parliamentary sitting members ask questions and ministers give answers, sometimes questions can be asked to private members too. • Initially given by Indian Council Act 1892. • Mentioned in Rules of Procedure. • They are of three kinds: <ol style="list-style-type: none"> 1. Starred Question: Require oral answer and Supplementary question can be asked. 2. Unstarred Question: Require written answer and Supplementary question cannot be asked. 3. Short Notice Question: Answered orally and asked on short notice of less than 10 days.
Zero Hour	<ul style="list-style-type: none"> • Informal device to raise matters without any prior notice. • Starts immediately after the question hour and lasts until the agenda for the day. • Indian innovation (since 1962) • Not mentioned in the Rules of Procedure.
Motions	<ul style="list-style-type: none"> • Discussions on matters of public importance start with the motion with the consent of the presiding officer. • Sub-Categories: Ancillary Motion, Superseding Motion, Amendment. • Motions are of three categories: <ol style="list-style-type: none"> 1. Substantive Motion: Self-contained, Independent proposal dealing with a very important matter (Substantive means Important) 2. Substitute Motion: Proposes an alternative, if adopted by the House, it supersedes the original motion. (Substitute means Replacement) 3. Subsidiary Motion: By itself has no meaning and needs reference to the original motion or proceedings of the House else it cannot state the decision of the House.
Closure Motion	<ul style="list-style-type: none"> • Moved by a member to cut short the debate If approved, debate is stopped and the matter is put to vote. • The four kinds of Closure motions are: <ol style="list-style-type: none"> 1. Simple Closure: Matter sufficiently discussed is now put to vote. 2. Closure by Compartments: Clauses of a bill/resolution grouped to debate. After debate the entire group is put to vote. 3. Kangaroo Closure: Only important clauses are taken for debate and voted upon, other clauses are skipped and taken as passed. 4. Guillotine Closure: When undiscussed clauses/resolutions are also put to vote along with the discussed ones due to want of time.
Privilege Motion	<ul style="list-style-type: none"> • Moved by a member if he feels that a minister has committed a breach of privilege of the House.
Calling Attention Motion	<ul style="list-style-type: none"> • Moved by a member to call the attention of a minister to a matter of urgent public importance. • Indian Innovation and Mentioned in rules of procedure.
Adjournment Motion	<ul style="list-style-type: none"> • To draw attention of the House to definite matters of urgent public importance. • An Extraordinary device interrupts normal business of the House. • Rajya Sabha is not permitted to use this motion, involving an element of censure against the government. • Criteria: Not more than one matter; not discussed earlier (same session); support of 50 members.
Confidence Motion	<ul style="list-style-type: none"> • Sometimes called upon by the President, then the government of the day needs to prove their majority on the floor of the House. • If the confidence motion is not passed the government falls.

No-Confidence Motion (Art. 75)	<ul style="list-style-type: none"> ● Art. 75: Council of ministers shall be collectively responsible to the Lok Sabha. This principle is the bedrock of parliamentary democracy. ● Not mentioned in the Constitution, is moved under Rule 198 of rules of procedure and can be moved only in Lok Sabha. ● Ministry stays in office till they enjoy confidence of the majority of the members of the Lok Sabha ● Needs support of 50 members, no need to state the reasons for its adoption. ● Moved only against the entire CoM (Not against individual/ group of ministers) and if passed, the CoM must resign from office.
Censure Motion	<ul style="list-style-type: none"> ● Moved to seek the disapproval of certain policies of the government. ● Need to state the reasons for its adoption. ● Can be moved against an individual minister or a group of ministers or the entire council of ministers. ● If it is passed in the Lok Sabha, the CoM need not resign from the office but the government to seek the confidence of the house immediately.
Motion of Thanks	<ul style="list-style-type: none"> ● Address by the president: the first session after each general election and every fiscal year, outlines govt. policies. Discussed in both the Houses of Parliament. ● Put to vote and the motion must be passed otherwise it amounts to defeat of the Government.
No-Day-Yet-Named Motion	<ul style="list-style-type: none"> ● Motion that has been admitted by the Speaker, but no date has been fixed for its discussion.
Dilatory Motion	<ul style="list-style-type: none"> ● It is a motion for the adjournment of the debate on a bill/ motion / Resolution. ● It can be moved by a member at any time after a motion has been made. ● Debate must be restricted to the matter contained in motion. ● This motion is to retard or delay the progress of a business under consideration of the House.
Point of Order	<ul style="list-style-type: none"> ● Members can raise points of order when proceedings of the house do not follow normal rule of procedure; Usually Opposition raises this device. ● An extraordinary device as it suspends the proceedings before the House and debate is not allowed on a point of order.
Half-an-Hour Discussion	<ul style="list-style-type: none"> ● It is meant for discussing a matter of sufficient public importance. ● There is no formal motion or voting before the House.
Special Mention	<ul style="list-style-type: none"> ● A matter which is not under any rule of the House can be raised under the special mention in the Rajya Sabha.
Short Duration Discussion	<ul style="list-style-type: none"> ● Also known as two-hour discussion as the time allotted for such a discussion should not exceed two hours. ● There is neither a formal motion before the house nor voting.
Resolutions	<ul style="list-style-type: none"> ● Members move resolutions to draw the attention of the House or the government to matters of general public interest. ● A member who has moved a resolution or amendment to a resolution cannot withdraw it without the Permission of house. ● All resolutions come in the category of substantive motions whereas all motions need not necessarily be substantive. So, all motions are not necessarily put to vote of the House, whereas all the resolutions are required to be voted upon. ● There are three types of Resolutions: <ol style="list-style-type: none"> 1. Private Member's Resolution: Moved by Private members and discussed on alternate Fridays only in afternoon sitting. 2. Government Resolution: Moved by a minister and discussed on any day from Monday to Thursday. 3. Statutory Resolution: Moved by anyone- private member or a minister.

20.8 LEGISLATIVE PROCEDURE IN PARLIAMENT

A. Types of Bills

Based on Introduction	
Public Bill	Private Bill
<ul style="list-style-type: none"> Introduced by the Minister in Parliament; Introduction requires 7 days' notice; Drafted by concerned department. 	<ul style="list-style-type: none"> Introduced by any member other than a minister; Introduction requires 1-month notice; Drafting is the responsibility of the concerned member.
Based on Subject Matter	
Ordinary Bill	Money Bill (Article 110)
<ul style="list-style-type: none"> It can be introduced either in the Lok Sabha or the Rajya Sabha. It can be introduced either by a minister or by a private member. It is introduced without the recommendation of the president. It can be amended or rejected by the Rajya Sabha. It can be detained by the Rajya Sabha for a maximum period of six months. It does not require the certification of the Speaker when transmitted to the Rajya Sabha (if it has originated in the Lok Sabha). It is sent for the President's assent only after being approved by both the Houses. In case of a deadlock due to disagreement between the two Houses, a joint sitting of both the houses can be summoned by the president to resolve the deadlock. Its defeat in the Lok Sabha may lead to the resignation of the government (if it is introduced by a minister). It can be with hold, approved, or returned for reconsideration by the President. 	<ul style="list-style-type: none"> It can be introduced only in the Lok Sabha and not in the Rajya Sabha. It can be introduced only by a minister. It can be introduced only on the prior recommendation of the President. It cannot be amended or rejected by the Rajya Sabha. The Rajya Sabha should return the bill with or without recommendations, which may be accepted or rejected by the Lok Sabha. It can be detained by the Rajya Sabha for a maximum period of 14 days only. It requires the certification of Speaker when transmitted to the Rajya Sabha. It is sent for the President's assent even if it is approved by only Lok Sabha. There is no chance of any disagreement between the two Houses and hence, there is no provision of joint sitting of both the Houses in this regard. Its defeat in the Lok Sabha leads to the resignation of the government. It can be with hold or approved but cannot be returned for reconsideration by the President.
<ul style="list-style-type: none"> Financial Bill Article 117(1) and 117(3): <ul style="list-style-type: none"> Matter concerned: Financial matters other than the matters of money bills. All Money bills are financial bills, but all financial bills are not money bills. There is no provision for a joint sitting in case of Money Bill. 	<ul style="list-style-type: none"> Constitutional Amendment Bill: <ul style="list-style-type: none"> Matter concerned: The amendment of the provisions of the Constitution (Art. 368). There is no provision for a joint sitting in case of Constitutional Amendment Bill.

B. Public Bill Vs Private Bill

Public Bill	Private Bill
<ul style="list-style-type: none"> It is introduced in the Parliament by a minister. 	<ul style="list-style-type: none"> It is introduced by any member of Parliament other than a minister.
<ul style="list-style-type: none"> It reflects the policies of the government (ruling party). 	<ul style="list-style-type: none"> It reflects the stand of the opposition party on public matters.
<ul style="list-style-type: none"> It has a greater chance to be approved by the Parliament. 	<ul style="list-style-type: none"> It has a lesser chance to be approved by the Parliament.

<ul style="list-style-type: none"> • Its rejection by the House amounts to the expression of want of parliamentary confidence in the government and may lead to its resignation. 	<ul style="list-style-type: none"> • Its rejection by the House has no implication on the parliamentary confidence in the government or its resignation.
<ul style="list-style-type: none"> • Its introduction in the House requires seven days' notice. 	<ul style="list-style-type: none"> • Its introduction in the House requires one month's notice.
<ul style="list-style-type: none"> • It is drafted by the concerned department in consultation with the law department. 	<ul style="list-style-type: none"> • Its drafting is the responsibility of the member concerned.

C. Stages of Enactment

• First Reading:

- Members have to ask for leave of the house for introduction.
- **No discussion** on the bill at this stage.

• Second Reading:

- Three more Sub-Stages:
 1. **Stage of General Discussion:** Principles of bill and its provisions are discussed generally and referred to committee.
 2. Committee Stage
 3. **Consideration Stage:** Consider the provision of bills clause by clause and each clause is discussed and voted separately.

• Third Reading:

- Debate is **confined to acceptance or rejection of the bill** as a whole. **No amendment** is allowed.
- If passed, transmitted to another house for consideration and approval.

• Bill in The Second House:

- If the second House passes the bill without any amendments or the first House accepts the amendments suggested by the second House, the bill is deemed to have been passed by both the Houses and the same is sent to the president for his assent.

• Assent of President:

- If the president gives his assent to the bill, the bill becomes an act and is placed on the Statute Book.

D. Difference between Financial Bill (I) and Financial Bill (II)

Financial Bill (I)	Financial Bill (II)
<ul style="list-style-type: none"> • Bill that not only contains exclusive matters of Article 110, but also contains other matters of general legislation. 	<ul style="list-style-type: none"> • Bill contains provisions involving expenditure from the Consolidated Fund of India, but does not include any of the matters mentioned in Article 110.
<ul style="list-style-type: none"> • Can be introduced only in the Lok Sabha. • Introduced only on the recommendation of the president. 	<ul style="list-style-type: none"> • Can be introduced in both Houses of Parliament. • Recommendation of the President is not necessary for its introduction but is required at the consideration stage.
<ul style="list-style-type: none"> • Governed by the same legislative procedure applicable to an ordinary bill. 	
<ul style="list-style-type: none"> • In case of a disagreement, the president can summon a joint sitting of the two Houses to resolve the deadlock. 	
<ul style="list-style-type: none"> • The President can either give his assent to the bill or withhold his assent to the bill or return the bill for reconsideration of the Houses. 	

20.9 JOINT SITTING (ARTICLE 108) OF TWO HOUSES: LOK SABHA AND RAJYA SABHA

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

- If the **Houses have finally disagreed as to the amendments** to be made in the bill; or
- If **more than six months have elapsed from the date of the receipt of the bill** by the other House without the bill being passed by it.
- **The President can summon** both the Houses to meet in a joint sitting for the purpose of deliberating and voting on the bill.
- If the bill in dispute is passed by a **majority of the total number of members of both the Houses present and voting** in the joint sitting, then the bill is deemed to have been passed by both the houses.

- **The Speaker of Lok Sabha presides** over a **joint sitting** of the two Houses and the **Deputy Speaker**, in his absence; if the Deputy Speaker is also absent from a joint sitting, the **Deputy Chairman of Rajya Sabha** presides.
- **The Chairman of Rajya Sabha does not preside over a joint sitting** as he is not a member of either House of Parliament.
- **Quorum** to constitute a joint sitting is **one-tenth of the total number of members of the two Houses** but governed by the **Rules of Procedure of Lok Sabha and not of Rajya Sabha**.
- The joint sitting **can be held if the Lok Sabha is dissolved after the President has notified his intention to summon** such a sitting (as the bill does not lapse in this case).
- Provision regarding the **joint sitting** of the two Houses has been **invoked only thrice**:
 1. Dowry Prohibition Bill, 1960
 2. Banking Service Commission (Repeal) Bill, 1977
 3. Prevention of Terrorism Bill, 2002
- Provision of joint sitting is **applicable to ordinary bills or financial bills only and not to money bills or Constitutional amendment bills**.
- Constitution has specified that at a joint sitting, new amendments to the bill cannot be proposed except in **two cases**:
 - Those amendments **that have caused final disagreement** between the Houses; and
 - Those amendments that **might have become necessary due to the delay in the passage of the bill**.

20.10 BUDGET (ARTICLE- 112) IN THE PARLIAMENT

- **The Constitution** refers to it as the '**Annual Financial Statement**' (Article 112).
- Statement of the **estimated receipts and expenditure of the GoI** in a financial year.
- Constitution of India contains the following provisions with regard to the enactment of budget:
 - **The President lays before both the Houses of Parliament**, a statement of estimated receipts and expenditure of the Government of India for that year.
 - **No demand for a grant shall be made except on the recommendation of the President**.
 - **No money shall be withdrawn** from Consolidated Fund of India (CFI) **except under appropriation made by law**.
 - **No tax shall be levied or collected except by authority of law** and parliament can reduce or abolish a tax but **cannot increase it**.
 - **Rajya Sabha has no power to vote on the demand for grants**; it is the exclusive privilege of the Lok Sabha.
 - The **expenditure charged on the Consolidated Fund of India (CFI) shall not be voted in Parliament** but it can be discussed by the Parliament.
- The budget consists of two types of expenditure: the expenditure **charged** upon the Consolidated Fund of India and the expenditure **made** from the Consolidated Fund of India.



Fig. 20.1: Stages in the enactment of Budget

20.11 COMPARISON BETWEEN INTERIM BUDGET AND THE VOTE ON ACCOUNT

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

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

<ul style="list-style-type: none"> Until the Parliament discusses the budget and passes it through the interim budget, the government passes a vote-on-account which will allow the government to meet its expenses of administration. 	<ul style="list-style-type: none"> The vote-on-account can be passed through the interim budget.
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20.12 CUT MOTIONS

Policy Cut	<ul style="list-style-type: none"> It represents the disapproval of the policy underlying. The amount of the demand to be reduced to Rs 1.
Economy Cut	<ul style="list-style-type: none"> It states that the amount of the demand be reduced by a specified amount (which may be either a lump sum reduction in the demand or omission or reduction of an item in the demand).
Token Cut	<ul style="list-style-type: none"> It states that the amount of the demand will be reduced by 100 INR.

Additional Information

- Expenditure “Charged upon” the Consolidated Fund of India:**
 - Salaries and allowances of President, Chairman and Deputy Chairman of Rajya Sabha, Speaker and Deputy Speaker of Lok Sabha and Judges of Supreme Court etc.
 - Any sum required to satisfy any judgment, decree or award of any court or arbitral tribunal.
 - Any other expenditure declared by the Parliament to be so charged.

20.13 VARIOUS KINDS OF GRANTS

Supplementary Grant	<ul style="list-style-type: none"> When the amount authorized for service for the current financial year is found to be insufficient for that year.
Additional Grant	<ul style="list-style-type: none"> Additional expenditure upon some new services not contemplated in the budget for that year.
Excess Grant	<ul style="list-style-type: none"> When money has been spent on any service during a financial year more than the amount granted for that service in the budget for that year.
Vote of Credit	<ul style="list-style-type: none"> It is granted for meeting an unexpected demand upon the resources of India, when on account of the magnitude or the indefinite character of the service, the demand cannot be stated with the details ordinarily given in a budget.
Exceptional Grant	<ul style="list-style-type: none"> It is granted for a special purpose and forms no part of the current service of any financial year.
Token Grant	<ul style="list-style-type: none"> It is granted when funds to meet the proposed expenditure on a new service can be made available by reappropriation.
Reappropriation	<ul style="list-style-type: none"> Transfer of funds from one head to another. It does not involve any additional expenditure.

20.14 COMPARISON BETWEEN DIFFERENT TYPES OF FUNDS

Consolidated Fund of India	Public Account of India	Contingency Fund of India
<ul style="list-style-type: none"> Article 266(1) 	<ul style="list-style-type: none"> Article 266(2) 	<ul style="list-style-type: none"> Article 267(1)
<ul style="list-style-type: none"> All receipts are credited and all payments are debited. 	<ul style="list-style-type: none"> All public money other than those which are credited to the CFI shall be credited here. 	<ul style="list-style-type: none"> Amounts determined by parliament by law are paid from time to time into this fund.
<ul style="list-style-type: none"> All legally authorized payments on behalf of the GoI are made out of this fund. 	<ul style="list-style-type: none"> Includes PF deposits, Judicial deposits, S/B deposits, Departmental deposits, Remittances and so on. 	<ul style="list-style-type: none"> Placed at the disposal of the president, and he can make advances out of it to meet unforeseen expenditure.
<ul style="list-style-type: none"> No money out of this fund can be issued except in accordance with a parliamentary law. 	<ul style="list-style-type: none"> Operated by executive action. 	<ul style="list-style-type: none"> Held by the finance secretary on behalf of the president. It is operated by executive action.

20.15 ROLE AND POWERS OF PARLIAMENT

• Role of Parliament:

- Extensive powers and performs a variety of functions towards the fulfillment of its constitutionally expected role.

• Powers and Functions:

- Legislative Powers and Functions; Executive Powers and Functions; Financial Powers and Functions; Constituent Powers and Functions; Judicial Powers and Functions; Electoral Powers and Functions; Other powers and functions

20.16 POSITION OF RAJYA SABHA WITH RESPECT TO LOK SABHA

Equal Status With Lok Sabha	Unequal Status With Lok Sabha	Special Powers to Rajya Sabha
<ul style="list-style-type: none"> • Ordinary bills • Passage of constitutional amendment bills • Financial bill-II • Election and Impeachment of President • Election and removal of Vice President (RS can alone initiate removal) • Approval of ordinance issued by president • Approval for emergencies 	<ul style="list-style-type: none"> • Money bills can be introduced only in LS. • RS has no power to amend/Reject the Money Bill. • Financial Bill-I introduced only in LS. • Speaker presides over joint sitting. • RS can only discuss Budget but cannot vote on demand for grants • Resolution for discontinuance of national emergency passed only by LS • No confidence Motion- can only be initiated in LS. 	<ul style="list-style-type: none"> • Article- 249: RS can authorize parliament to make law on state list subjects. • Article- 312: RS can authorize parliament to create All India Services common to both center and State.

20.17 PARLIAMENTARY PRIVILEGES

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

• Sources Of Privileges:

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

• Collective Privileges:

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

- **Punish members as well as outsiders** for breach of its privileges or its contempt.
- **Right to receive immediate information:** of the arrest, detention, conviction, imprisonment and release of a member
- **Inquiries and orders** the attendance of witnesses and sends for relevant papers and records.
- **Courts are prohibited** to inquire into the proceedings of a House or its committees.
- **No person** (either a member or outsider) can be arrested, and no legal process (civil or criminal) can be served within the precincts of the House without the permission of the **presiding officer**.

• Individual Privileges:

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

• Breach of Privileges:

- When any individual or authority disregards or attacks any of the privileges, rights and immunities, either of the members individually or of the House in its collective capacity, it is punishable by the House.

20.18 SOVEREIGNTY OF PARLIAMENT

- **Sovereignty:** supreme power within the State; **no 'legal' restrictions** on its authority and jurisdiction.
- The doctrine of '**sovereignty of Parliament**' is **associated with the British Parliament** means supreme power in Great Britain lies with the Parliament.
- **Indian Parliament** cannot be regarded as a sovereign body in the similar sense as **there are 'legal' restrictions** on its authority and jurisdiction.
- Factors that limit the sovereignty of Indian Parliament are:
 - Written Nature of the Constitution.
 - Federal System of Government.
 - System of Judicial Review.
 - Fundamental Rights.
- In this regard, the **Indian Parliament is similar to the American Legislature (known as Congress)**.
 - The sovereignty of Congress is legally restricted by the written character of the Constitution, the federal system of government, the system of judicial review and the Bill of Rights.

PREVIOUS YEAR QUESTIONS

1. A bill is Presented in Parliament becomes an Act after.
[48th to 52nd B.P.S.C. (Pre) 2008]
(a) It is Passed by Both the houses.
(b) The President has given his Assent.
(c) The Prime Minister has Signed it
(d) The Supreme Court has declared it to be within the competence of the Union-Parliament
2. As a non-member can take part in the proceedings of either House of the Parliament?
[48th to 52nd B.P.S. C.(Pre)2008]

(a) Vice President

(b) Chief Justice

(c) Attorney General

(d) Chief Election Commissioner

3. There should be maximum gap between two sessions of Parliament. [39th BPSC (Pre) 1994]

(a) four months

(b) six months old

(c) one year old

(d) the time fixed by the President

4. At least how many sessions of the Lok Sabha are called? [42nd BPSC (Pre) 1997-98]

(a) once in a year

(b) twice a year

(c) thrice a year

(d) four times a year

5. What is the minimum age to become a Member of Parliament? [63rd B.P.S.C. (Pre)2017]

(a) 18 years

(b) 21 years

(c) 25 years

(d) 30 years

(e) None of the above / More than one of the above

6. Money Bill can be introduced in [63rd B.P.S.C. (Pre)2017]

(a) only in the Lok Sabha

(b) only in the Rajya Sabha

(c) in both Lok Sabha and Rajya Sabha

(d) In the joint session of both Lok Sabha and Rajya Sabha

(e) None of the above/More than one of the above



Parliamentary and Cabinet Committees

INTRODUCTION

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

21.1 PARLIAMENTARY COMMITTEE

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

Important Parliamentary Committees		
Estimates Committee	Origin	<ul style="list-style-type: none"> • Setup in 1950 on the recommendation of John Mathai.
	Composition	<ul style="list-style-type: none"> • 30 members all from LS (largest committee). • The Minister cannot be a member.
	Function	<ul style="list-style-type: none"> • To examine the budget and also suggest economies of public expenditure.
	Involvement in policy	<ul style="list-style-type: none"> • Suggest alternative policy to ensure economies of public expenditure.
Public Accounts Committee	Origin	<ul style="list-style-type: none"> • Set up first in 1921 under GOI Act 1919
	Composition	<ul style="list-style-type: none"> • 22 = 15(LS) + 7(RS) • Elected for one year on the basis of proportional representation by single transferable vote. • Chairman from Opposition. • The Minister cannot be a member.
	Function	<ul style="list-style-type: none"> • Examines CAG Audit report and discovers the irregularities
	Supportive officer	<ul style="list-style-type: none"> • Available. • CAG - friend philosopher, guide for PAC
Committee on Public Undertakings	Origin	<ul style="list-style-type: none"> • Krishna Menon Committee 1964.
	Composition	<ul style="list-style-type: none"> • 22 = 15(LS) + 7(RS) • The Minister cannot be a member. • Chairman of the committee is appointed by the Speaker from amongst its members who are drawn from the Lok Sabha only.
	Function	<ul style="list-style-type: none"> • To examine reports and accounts of public sector undertakings. • Does not involve in the day to day affairs of PSUs.
Departmental Standing Committee (24 Committees)	Origin	<ul style="list-style-type: none"> • Rules committees of Lok Sabha (1993)
	Composition	<ul style="list-style-type: none"> • 31 = 21(LS) + 10(RS) • Members nominated by respective presiding officers. • Term: each standing committee's term is one year from the date of its constitution. • Minister is not eligible to be nominated as a member of any of the standing committees
	Function	<ul style="list-style-type: none"> • To examine bills, demand of grants and other matters recommended to them. • Out of the 24 standing committees, 8 work under the Rajya Sabha and 16 under the Lok Sabha.

21.2 CABINET COMMITTEE

- **Extra constitutional** in emergence.
- The executive in India works under the **Government of India Transaction of Business Rules, 1961**.
- These **Rules emerge from Article 77(3) of the Constitution, which states:** "The President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministries of the said business."
- **Two types:**
 1. **Standing committee** or Permanent committee
 2. **Ad Hoc committee** or temporary, for a special purpose
- **Set up by the Prime Minister (PM);** aims to reduce the workload of cabinet; varies membership from 3-8; includes minister in charge; includes senior ministers; and takes decisions which are reviewed by cabinet.

A. Important Cabinet Committees and their heads

Chaired by	Committee
Prime Minister	<ul style="list-style-type: none"> • Cabinet committee on political affairs: Called the Super Cabinet, deals with all policy matters pertaining to foreign and domestic affairs. • Cabinet committee on Economic affairs: Directs and coordinates the governmental activities on the economic sphere. • Appointment committee of cabinet: Decides all higher-level appointments in the central secretariat, public enterprises banks and financial institutions • Cabinet committee on investment and growth. • Cabinet committee on employment and skill development.
Home Minister	<ul style="list-style-type: none"> • Cabinet committee on parliamentary affairs: Looks after progress of government business in the Parliament

B. Other Committees

Chaired by	Committee
Presiding officers of Lok Sabha (Speaker) and Rajya Sabha (Chairperson)	<ul style="list-style-type: none"> • Rules Committee: considers the matters of procedure and conduct of business in the House and recommends necessary amendments or additions to the rules of the House. In the Lok

Sabha, the committee consists of **15 members** including the Speaker. In the **Rajya Sabha**, it consists of **16 members** including the Chairman.

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

PREVIOUS YEAR QUESTIONS

1. Who is the head of National Security Committee? [53rd to 55th B.P.S.C. (Pre)2011]
 - (a) Home Minister
 - (b) **Prime Minister**
 - (c) President
 - (d) Vice President
2. The joint sitting of Parliament can be called-
 - I. For election of the President of India
 - II. For election of the Vice President of India
 - III. For passing of the Constitutional Amendment bill
 - IV. For discussion and passing of any such bill on which both houses have different opinions.
 [40th BPSC (Pre) 1995]

Select the correct code:

 - (a) I and IV
 - (b) I and II
 - (c) III and IV
 - (d) **Only IV**
3. The Public Accounts Committee submits its report to [53rd to 55th B.P.S.C. (Pre)2011]
 - (a) The Comptroller and Auditor General
 - (b) **The Speaker of the Lok Sabha**
 - (c) The Minister of Parliamentary Affairs
 - (d) The President of India
4. Vote on Account is meant for? [60 to 62nd B. P.S.C. (Pre) 2016]
 - (a) Vote on the report of CAG
 - (b) To meet unforeseen expenditure
 - (c) **Appropriating funds pending passing of budget**
 - (d) Budget
 - (e) None of the above/More than one of the above

INTRODUCTION

- Part VI; Articles 168 to 212.
- **No uniformity** in state legislatures.
- **6 states with Bicameral Legislature:** Andhra Pradesh, Telangana, Maharashtra, Karnataka, Uttar Pradesh, Bihar.
- **State legislature consists of:** Governor + Legislative Assembly (Vidhan Sabha) + Legislative Council (Vidhan Parishad) (in case of bicameral).
- **Article 169:** Parliament can abolish a Legislative Council or create it, if the legislative assembly of the concerned state passes a resolution by a **Special Majority** to that effect. This Act of Parliament is **not to be deemed as an amendment of the Constitution** for the purposes of Art. 368 and is passed like an **ordinary piece of legislation** (by Simple Majority).

22.1 LEGISLATIVE ASSEMBLY

Strength	<ul style="list-style-type: none"> • Maximum strength: 500 • Minimum strength: 60 • Arunachal Pradesh, Sikkim, Goa: Min strength is 30 • Mizoram- 40, Nagaland- 46
Manner of election	<ul style="list-style-type: none"> • Directly elected on the basis of universal adult franchise. • Some members of Sikkim & Nagaland- indirectly elected.
Nominated members	<ul style="list-style-type: none"> • Article 334: one Anglo-Indian could be nominated by the Governor to the assembly. • 104th CAA (2019): abolished the reservation to Anglo-Indians.
Duration	<ul style="list-style-type: none"> • Normal term: 5 years. • Governors can dissolve at any time. • Terms can be extended by parliament during national emergency.
Territorial Constituencies	<ul style="list-style-type: none"> • Demarcation: Ratio between population of each constituency and the number of seats allotted to it is the same throughout the state.
Readjustment after each census	<ul style="list-style-type: none"> • Total no. of seats in the assembly and division of each state in territorial constituencies. • Parliament is empowered to determine the authority and its manner.
Reservation of seats for SCs & STs	<ul style="list-style-type: none"> • Each state: based on their population ratios. • Originally for 10 years, but extended by 10 years thereafter continuously. • 104th CAA: reservation extended for another 10 years till 2030 • Note: SCs & STs reservation available only in LS and State Assemblies & not in RS and State Legislative Council.

22.2 LEGISLATIVE COUNCIL

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

22.3 OTHER PROVISIONS RELATED TO MEMBERS OF ASSEMBLY AND COUNCIL

Oath or affirmation	<ul style="list-style-type: none"> • Make and subscribe to an oath or affirmation before the Governor or some person appointed by him for this purpose. • Without Oath: He cannot vote & participate in the proceedings of the house and no privileges & immunities are available.
Qualification	<ul style="list-style-type: none"> • Mentioned in Constitution: <ul style="list-style-type: none"> ○ Citizen of India. ○ Make and subscribe to an oath or affirmation before the person authorized by the ECI. ○ Age: Not less than 25 yrs (SLA) & 30 yrs (SLC). ○ Other qualifications prescribed by the Parliament. • RPA 1951 (by parliament): <ul style="list-style-type: none"> ○ SLC: Must be an elector for the assembly constituency in that state & to be nominated by the governor, must be a resident of that state. ○ SLA: Must be an elector for the assembly constituency in that state. ○ Contest from reserved seat: Must be a member of SC/ST. However, SC/ST members can also contest a seat not reserved for them.
Disqualification	<ul style="list-style-type: none"> • Mentioned in Constitution: <ul style="list-style-type: none"> ○ If he holds office of profit (Union/state) ○ Unsound mind and so declared by the court ○ Undischarged insolvent ○ Not citizen of India ○ If disqualified under any law made by the Parliament • Note: Governor's decision is final on above disqualifications and Governor should obtain the opinion of ECI. • Ground of Defection: <ul style="list-style-type: none"> ○ Disqualified under the provisions of the 10th schedule of the Constitution ○ Decided by: Chairman in the case of Legislative Council & Speaker in case of Legislative Assembly. ○ Kihota Hollohan Vs. Zachillhu Case: SC said that decision of Chairman/Speaker is subject to judicial overview.
Vacation of seats	<ul style="list-style-type: none"> • Double Membership: Cannot be a member of both the houses at same time. One seat becomes vacant as per the law made by the State Legislature. • Disqualification: As per Constitution or RPA 1951 or Tenth Schedule. • Resignation: Resignation letter to Chairman of Council or Speaker of Assembly as per the case. • Absence: If he is absent for 60 days without permission of the house. • Other Cases: Election declared void by the court; expelled by the house; elected as President or VP; appointed as Governor.

22.4 PRESIDING OFFICERS OF THE STATE LEGISLATURE

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

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

22.5 SESSIONS OF STATE LEGISLATURE

Summoning	<ul style="list-style-type: none"> • Governor summons from time to time. • Max gaps between two sessions: not more than 6 months
Adjournment	<ul style="list-style-type: none"> • Suspends the work in a sitting for a specified time (hours, days or weeks.) • Adjournment sine die: terminating a sitting for an indefinite time. • Power to adjourn and adjournment sine die lie with the presiding officer of the house.
Prorogation	<ul style="list-style-type: none"> • After adjournment sine die, Governor issues notification for prorogation (completion of the current session.).
Dissolution	<ul style="list-style-type: none"> • Dissolution ends the life of the existing house.

Quorum	<ul style="list-style-type: none"> • 10 members or one tenth of the total number of members of the house (including presiding officer) whichever is greater. • If no quorum, the presiding officer either adjourns or suspends the meeting until there is quorum.
Lapsing of bills on dissolution	<ul style="list-style-type: none"> • Bill Lapses: <ul style="list-style-type: none"> ○ Bill pending in assembly (whether originating in assembly or transmitted to it by the Council) ○ Bill passed by assembly but pending in Council. • Bill Doesn't Lapse: <ul style="list-style-type: none"> ○ Bill pending in Council but not passed by assembly ○ Bill passed by assembly (unicameral) or both the houses (bicameral) but pending assent of governor or president ○ Bill returned by the president for the consideration of the house
Voting in House	<ul style="list-style-type: none"> • Simple majority: for all matters. • Special majority: Resolution for creation or abolition of Legislative Council. • Absolute Majority: Removal of speaker or chairman. • Casting vote: Speaker & chairman does not vote in first instance.
Language in state legislature	<ul style="list-style-type: none"> • As per Constitution: Language for transacting business in legislature to be official languages of the state or Hindi or English. • Presiding officer can permit the member to address the house in his mother tongue. • The State Legislature is authorized to decide whether to continue or discontinue English as a floor language after completion of 15 years from the commencement of the Constitution.
Rights of ministers & Advocate General	<ul style="list-style-type: none"> • Every minister & Advocate General have the right to speak in either house or its committees without being entitled to vote.

22.6 LEGISLATIVE PROCEDURE IN STATE LEGISLATURE

A. Ordinary Bill

- **Bill in the originating house/ Introduction:**
 - Can originate in either house and by minister or private member.
 - **Stages:** first reading, second reading, third reading
 - If the bill passed in the second house without any amendments, then it is sent to the Governor for his assent
- **Bill in second house:**
 - Passes through 3 readings again. Four options available with Council:
 - Pass without amendments.
 - Pass with amendments and return it to assembly for reconsideration.
 - Reject the bill altogether.
 - May not take any action & keep it pending for **3 months**.
 - If passed without any amendments, then sent to the governor for his assent.
 - **In 2nd, 3rd & 4th option:** assembly may pass the bill again and transmit it to Council again. If Council

passes the bill with amendments not acceptable to the assembly or rejects the bill altogether or keeps pending for **1 month**, then the bill is considered as passed by both the houses.

- Ultimate power to pass the bill lies with the assembly and council can keep it pending for **max 4 (3 + 1) months**.
- The Constitution does **not provide for joint sitting** to resolve the disagreement over the bill.
- **Assent of Governor:**
 - **4 alternatives:**
 - ◆ Gives assent to the bill.
 - ◆ Withholds assent.
 - ◆ Returns the bill for the reconsideration of the house.
 - ◆ Reserves the bill for the consideration of the president.
 - **If Governor:**
 - ◆ **Assents:** bill becomes law.
 - ◆ **Withholds assent:** bill ends.
 - ◆ **Returns:** again passed by the house with or without amendments then the governor must give his assent.

- **Assent of president:**
 - **3 alternatives:**
 - ◆ Give assent to the bill.
 - ◆ Withhold assent.
 - ◆ Return bill for the reconsideration of the house. If returned then the house must reconsider it within 6 months.
 - ◆ Whether it is obligatory on the President to give assent or not to such a reconsidered bill is not mentioned in the Constitution.
- Council can only make recommendations and must return the bill **within 14 days**.
- If the Assembly accepts the recommendations of Council, the bill is considered as passed in the modified form.
- If it rejects the recommendations, then the bill is considered as passed in its original form.
- If the Council does not return the bill in 14 days, then the bill is considered as passed by both the houses in the original form.
- **Assent of Governor:**
 - **3 alternatives:**
 - ◆ Gives assent to the bill.
 - ◆ Withholds assent.
 - ◆ Reserves bill for presidential assent.
 - ◆ Governor cannot return the bill for reconsideration of the house.
- **Assent of president:**
 - **President can**
 - ◆ Give assent
 - ◆ Withhold assent
 - ◆ The President can return the bill for the reconsideration of the House.

B. Money Bill

- **Bill in the originating house/ Introduction:**
 - **Cannot be introduced in the Council.**
 - Can only be introduced in the Assembly on the recommendation of the Governor.
 - Can only be introduced by the minister as it is a government bill.
- **Bill in second house:**
 - After LA passes the bill; it is transmitted to the Legislative Council for its consideration.
 - The Legislative Council has **restricted powers** with regards to money bills.
 - **Council cannot reject or amend** a money bill.

22.7 POSITION OF LEGISLATIVE COUNCIL

Equal Status with Assembly	Unequal Status with Assembly
<ul style="list-style-type: none"> ● Introduction & passage of ordinary bills. ● In case of disagreement, the will of assembly prevails over council. ● Approval of ordinances issued by Governor (Art.213). ● Selection of ministers including CM (Ministers are responsible only to assembly) ● Consideration of reports of constitutional bodies like State Finance Commission, CAG. ● Enlargement of the jurisdiction of the State Public Service Commission. 	<ul style="list-style-type: none"> ● Money bills introduced only in LA. ● LC has no power to amend/reject the Money Bill. ● Only the Speaker decides whether the bill is a money bill or not. ● Final power of passing ordinary bills lies with the assembly. Council can delay the bill for maximum 4 (3 + 1) months. ● Council can only discuss the budget but cannot vote on demands. ● Council does not participate in the election of the president & RS. ● Council does not have effective say in the ratification of a constitutional amendment bill. ● No confidence motion can only be initiated in LA. ● Existence of the council depends on the will of the assembly.

22.8 PRIVILEGES OF STATE LEGISLATURE

- **Privileges** = Special rights + Immunities + Exemptions enjoyed by the houses, their committees & members.
- The Constitution has also **extended these privileges to those persons who are entitled to speak & take part in the proceedings** of the House of state legislature or any of its committees. These include the Advocate General of State and ministers.
- The privileges of the state legislature **do not extend to the governor** who is also an **integral part of the state legislature**.
- **Collective Privileges:**
 - Right to publish reports, debates & proceedings; Right to prohibit others from publishing the same.
 - Hold secret sittings to discuss important matters and excluding strangers.
 - Can make rules to regulate its own procedure; conduct of its business & to adjudicate upon such matters.

- Punish members as well as outsiders for breach of its privileges or its contempt by reprimand, admonition or imprisonment.
- Right to receive immediate information of arrest, detention, conviction, imprisonment and release of members.
- Initiate inquiries and order the attendance of witnesses & send for relevant papers and records.
- Courts are prohibited to inquire into the proceedings of the house or its committees.
- No person (either a member or outsider) can be arrested and no legal process (civil/criminal) can be served within the precincts of the house without the permission of the presiding officer.
- **Individual privileges:**
 - Members **cannot be arrested** during the session & 40 days after the end of such session (only in civil cases and not in criminal cases or preventive detention cases.)
 - Members have **freedom of speech** in the state legislature. **No member is liable** to any proceedings in any court for anything said or any vote given by him in the state legislature or its committees.
 - Members are **exempted from jury service**. They **can refuse to give evidence & appear** as witnesses in a case pending in a court when the state legislature is in session.

PREVIOUS YEAR QUESTIONS

1. Which is the Upper House of the State Legislatures in India [44th BPSC (Pre) 2000]
- (a) **Legislative Council**
 (b) Legislative Assembly
 (c) Office of the Governor
 (d) None of these

2. The executive head of the State Government is-? [45th BPSC (Pre) 2001-02]
- (a) Chief Minister (b) **Governor**
 (c) Secretary of CM (d) Chief Secretary
3. According to Constitution of India, Legislatures of states includes? [41st BPSC (Pre) 1996]
- I. Legislative Council and Governor
 II. Legislative Assembly and Legislative Council
 III. Legislative Assembly and Governor IV. Governor, Legislative Assembly and Legislative Council where it exists
- Select the correct code:
- (a) Only III (b) II and III
 (c) III and IV (d) **Only IV**
4. Creation or dissolution of Legislative Council (Vidhan Parishad) of any state can be done by [40th BPSC (Pre) 1995]
- (a) Legislative Assembly of a State
 (b) **Parliament**
 (c) The central Parliament on the recommendation of Governor
 (d) President on the recommendation of Governor
5. If a speaker of any state has to resign then his resignation is submitted to [40th BPSC (Pre) 1995]
- (a) Chief Minister
 (b) Governor
 (c) **Deputy Speaker**
 (d) The President of India
6. Which among the following articles of the Indian Constitution has an election procedure of the Legislative Assembly of a State? [40th BPSC (Pre) 1995]
- (a) **Article 170** (b) Article 176
 (c) Article 178 (d) None of these



INTRODUCTION

- **Integrated judicial system** adopted from the **Government of India Act of 1935**; enforces both central and state laws.
- **In the USA**: the federal laws are enforced by the federal judiciary and the state laws are enforced by the state judiciary.
- **Article 124**: Mandates the establishment and Constitution of the Supreme Court.

23.1 DIFFERENCE BETWEEN INDIAN AND AMERICAN JUDICIARY

Parameter	Indian	American
Judicial System	<ul style="list-style-type: none"> • Single & integrated system of courts: adopted from the GoI Act of 1935. Enforces both Central and State Laws. 	<ul style="list-style-type: none"> • Double system of courts: the federal laws are enforced by the federal judiciary and the state laws are enforced by the state judiciary.
Original Jurisdiction	<ul style="list-style-type: none"> • Confined to federal cases. 	<ul style="list-style-type: none"> • Covers not only federal cases but also cases relating to naval forces, maritime activities, ambassadors, etc.
Appellate Jurisdiction	<ul style="list-style-type: none"> • Constitutional + Civil + Criminal cases. 	<ul style="list-style-type: none"> • Constitutional cases only.
Advisory Jurisdiction	<ul style="list-style-type: none"> • It has advisory jurisdiction. 	<ul style="list-style-type: none"> • It has no advisory jurisdiction.
Discretion	<ul style="list-style-type: none"> • Very wide: grant special leave to appeal in any matter against the judgment of any court or tribunal (except military). 	<ul style="list-style-type: none"> • No such plenary power.
Judicial Review	<ul style="list-style-type: none"> • Scope is limited. 	<ul style="list-style-type: none"> • Scope is very wide.
Jurisdiction and Powers	<ul style="list-style-type: none"> • Can be enlarged by Parliament. 	<ul style="list-style-type: none"> • Limited to that conferred by the Constitution.
Defends Rights of the Citizen	<ul style="list-style-type: none"> • According to the 'procedure established by law'. 	<ul style="list-style-type: none"> • According to the 'due process of law'.

23.2 CONCURRENCE VS CONSULTATION

First Judge's case (1982)	<ul style="list-style-type: none"> • SC opined that consultation does not mean concurrence and it only implies exchange of views.
Second Judge's case (1993)	<ul style="list-style-type: none"> • SC reversed its earlier ruling and changed the interpretation of the word consultation to concurrence. It ruled that the advice tendered by the Chief Justice of India is binding on the President in the matters of appointment of the judges of the SC. CJI will tender his advice after consulting with two senior most colleagues.
Third Judge's case (1998)	<ul style="list-style-type: none"> • SC opined that the consultation process to be adopted by the CJI requires consultation of plurality judges (Not CJI alone). CJI should consult a collegium of 4 senior most judges (even if two gave adverse opinion that recommendation cannot be forwarded).
Fourth Judge's case (2015)	<ul style="list-style-type: none"> • NJAC case: 99th constitutional amendment acts invalidated NJAC on the grounds of interference.

23.3 CONSTITUTIONAL PROVISIONS PERTAINING TO SUPREME COURT

Parameters	Description
Articles	<ul style="list-style-type: none"> Article 124 to 147; Part V
Basic Facts	<ul style="list-style-type: none"> Integrated judicial system borrowed from GoI Act 1935. Enforces central and state laws. Inaugurated January 28, 1950; succeeded the federal court of India but replaced British Privy council as highest court of appeal.
Composition	<ul style="list-style-type: none"> Total 34 judges (CJI + 33 other judges). Note: Supreme court (number of judges) Amendment Act 2019: increased number of judges from 31 to 34. Originally the number of judges in the Supreme Court was fixed at eight (one Chief Justice and seven other judges).
Appointment	<ul style="list-style-type: none"> 1950 to 1973: the practice has been to appoint the senior most judge of the SC as the CJI. For Chief Justice: President after consulting such judges of the SC + HC. For other Judges: President after consulting CJI + judges of SC + HC. Note: Consultation of CJI is Obligatory for appointment of judges other than CJI.
Qualification of Judges	<ul style="list-style-type: none"> Citizen of India. He should have been a HC for 5 years. He should have been an advocate of HC for 10 years. Distinguished jurist in the opinion of the president (Note: no such condition in case of HC). No minimum age prescribed by the constitution.
Oath or Affirmation	<ul style="list-style-type: none"> Subscribe an oath or affirmation before the President, or some person appointed by him for this purpose.
Salaries and Allowances (Article 125)	<ul style="list-style-type: none"> Determined from time to time by the Parliament. Cannot be varied to their disadvantage after their appointment except during a financial emergency (Art.360). The retired chief justice and judges are entitled to 50 per cent of their last drawn salary as monthly pension.
Tenure	<ul style="list-style-type: none"> Constitution: No fixed tenure of judges of SC. Three provisions: <ol style="list-style-type: none"> Holds office until he attains the age of 65 yrs (manner prescribed by parliament). Resign by writing to the President. Removed from office by president on recommendation of parliament.
Removal of Judges	<ul style="list-style-type: none"> Ground of removal: Proved misbehavior or/and Incapacity. Procedure: governed by The Judges Enquiry Act (1968). Removed by order of the President only on Parliament's recommendations. The address must be supported by a special majority of each House of Parliament. No judge of the SC has been impeached so far. An impeachment motion for the removal of a judge does not lapse on the dissolution of the Lok Sabha.
Judges Enquiry Act 1968	<ul style="list-style-type: none"> Removal motion: signed by 100 members (in the case of Lok Sabha) or 50 members (in the case of Rajya Sabha). The Speaker/Chairman may admit the motion or refuse to admit it. If admitted: three-member committee (Committee of Chief justice /judge of SC, chief justice of HC, and distinguished jurist) to enquire into charges. If found guilty, the motion is taken up for consideration by the House. The motion must be supported by a special majority of each House of Parliament. The motion is then addressed to the President who passes the final order.

Acting Chief Justice (Article 126)	<ul style="list-style-type: none"> President can appoint a judge of SC as an acting Chief Justice of India if: <ul style="list-style-type: none"> Office of CJI is vacant. Temporarily absent. Unable to perform the duties of office.
Ad Hoc Judge (SC) (Art. 127)	<ul style="list-style-type: none"> When there is a lack of quorum of permanent judges to hold or continue any session of the supreme court, CJI can appoint a judge of HC as Ad hoc judges (only after consultation with Chief Justice of the concerned High court + previous consent of the president). Ad hoc judge = all jurisdiction, power and privileges of judge of SC. Judge so appointed should be qualified for appointment as a judge of the Supreme Court.
Retired Judge	<ul style="list-style-type: none"> At any time, the CJI can request any retired judge of SC or a retired judge of a HC (qualified to be judge of SC) to act as judge of the SC for a temporary period. Condition: only with the previous consent of the president and also of the person to be so appointed.
Seat of SC (Art.130)	<ul style="list-style-type: none"> By constitution: Delhi Authorizes CJI to appoint another place as seat of supreme court only with approval of the president. Provision is only optional and not compulsory.
Procedure of The Court	<ul style="list-style-type: none"> SC with approval of the president can make rules for regulating generally the practice and procedure of the court. Constitutional cases or references made by the President under Art.143 (Advisory Jurisdiction) are decided by a bench of at least five judges. All other cases: decided by single judges and division benches. All judgments are delivered by majority voting. Dissenting judgments can also be given.
Independence of SC	<ul style="list-style-type: none"> Mode of appointment: Judges appointed by the President after consulting the judiciary itself (Judges of SC + HC). Security of tenure: Judges are removed only on the manner prescribed by the constitution Fixed service conditions: Cannot be changed to their disadvantage after their appointment except during a financial emergency (Art.360). Expenses charged on the Consolidated Fund of India. Conduct of judges cannot be discussed except when impeachment motion is in consideration of the parliament. Ban on practice after retirement: prohibited from pleading or acting in any Court or before any authority within the territory of India. Power to Punish for its Contempt: The Supreme Court can punish any person for its contempt. Freedom to appoint its staff. Jurisdiction cannot be curtailed: But can be extended by parliament. Separation from executive [Art.50 (DPSP)]: separation of judiciary from executive)

23.4 JURISDICTION AND POWERS OF SUPREME COURT

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

Parameters	Description
Original Jurisdiction (Art.131)	<ul style="list-style-type: none"> • Original (power to hear such disputes in the first instance, not by way of appeal) and exclusive (only supreme court has the power to hear such cases) jurisdiction in dispute between: <ul style="list-style-type: none"> ○ State and center ○ State and other states ○ Center and state on one side and other state on other side ○ Questions of political nature are avoided. ○ Dispute must involve a question (whether of law or fact) on which the existence or extent of a legal right depends. • Original jurisdiction does not extend to: <ul style="list-style-type: none"> ○ Pre-Constitutional treaty ○ A dispute arising out of any treaty, agreement, etc. ○ Inter State Water Disputes ○ Adjustment of certain expenses and pensions between Centre and states. ○ Matter referred to the Finance Commission ○ Ordinary dispute of Commercial nature between Centre and States. ○ Recovery of damages by a state against the Centre.
Writ Jurisdiction (Art.32)	<ul style="list-style-type: none"> • Writs: Habeas corpus, mandamus, prohibition, quo warranto and certiorari • Aggrieved person can go directly to the supreme court. • The Supreme Court has original but not exclusive jurisdiction as high courts can also issue writs. • Can issue writs only for enforcement for fundamental rights and not for other rights – Narrower than HC. • Writ jurisdiction of HC is wider than SC. • Parliament can confer power on SC to issue writs for other purposes also.
Appellate Jurisdiction (Art.132, 133, 134)	<ul style="list-style-type: none"> • Constitutional matters: Against the judgment of HC if case involves substantial question of law that requires the interpretation of constitution. • Civil matters: Appeal lies to supreme court if the case involves substantial question of law + that the question needs to be decided by the SC. • Criminal matters: SC hears appeals against judgment in a criminal proceeding of HC if: <ul style="list-style-type: none"> ○ HC on an appeal reversed an order of acquittal of an accused person and sentenced him to death; ○ Takes before itself any case from any subordinate court and convicted the accused person and sentenced him to death; ○ Certifies that the case fits for appeal to the supreme court. • Note: If the court has reversed the order of conviction to acquittal then no right to appeal.
Appeal by Special Leave (Art.136)	<ul style="list-style-type: none"> • Special leave to appeal from any judgment in any matter passed by any court or tribunal in the country. • Exception: Court martial or military tribunal • Four Aspect: <ol style="list-style-type: none"> 1. Discretion and not a right. 2. Granted in final or interlocutory judgment. 3. Related to any matter: constitutional, civil, criminal, income tax, labor revenue, advocates etc. 4. Granted against any tribunal and not necessarily be high court. • It is an exceptional and overriding power, exercised sparingly and only in exceptional times.

<p>Advisory Jurisdiction (Art.143)</p>	<ul style="list-style-type: none"> • The President can seek the opinion of the SC in two categories of matter: <ol style="list-style-type: none"> 1. On any question of law or fact of public importance which has arisen or which is likely to arise. SC may or may not give advice. 2. On any dispute arising out of any pre-constitution treaty, agreement, covenant, engagement, Sanad or other similar instrument SC must give advice. • It is not binding, the President may or may not follow the opinion. • Opinion expressed is only advisory and not a judicial pronouncement. • By 2019: President has made fifteen references to the Supreme Court under its advisory jurisdiction (also known as consultative jurisdiction).
<p>Court of Record (Art.129)</p>	<ul style="list-style-type: none"> • Judgment, proceedings and acts of supreme court are recorded for perpetual memory and testimony. • Evidentiary value. • Cannot be questioned by any court. • Legal precedents and references. • The Supreme Court has been specifically conferred with the power of review by the constitution.
<p>Contempt of Court (Art.142)</p>	<ul style="list-style-type: none"> • Contempt of Court Act, 1971: It outlines the procedure in relation to investigation and punishment for contempt. • Civil Contempt: willful disobedience to any judgment, order, writ or other process of court or willful breach of an undertaking given to a court. • Criminal Contempt: publication of any matter or doing an act which scandalizes or lowers the authority of court. Prejudices or interferes with the due course of judicial proceedings. Interferes or obstructs the administration of justice in any other manner. • Actions that do not Amount to Contempt of Court: Innocent publication and distribution of some matter + fair and accurate report of judicial proceedings + fair and reasonable criticism of judicial acts + comment on administrative side. • Note: Simple imprisonment up to 6 months or fine up to Rs.2000/- or both.
<p>Power of Judicial Review</p>	<ul style="list-style-type: none"> • Phrase judicial review has nowhere been used in the Constitution. • Constitutional validity of legislative or executive enactments can be challenged. • To examine constitutionality of legislation and executive orders of both state and central governments if they: <ul style="list-style-type: none"> ○ Infringe the fundamental rights. ○ Outside the competence of the authority which has framed it. ○ Repugnant to the constitutional provisions. ○ If found to be violative of the Constitution (ultra-vires), they can be declared as illegal, unconstitutional and invalid (null and void) by the Supreme Court. • Articles: 13 provide for judicial review.
<p>Interpretation of Constitution (Art.147)</p>	<ul style="list-style-type: none"> • SC is the ultimate interpreter of the Constitution.
<p>Other Powers of SC</p>	<ul style="list-style-type: none"> • It decides the disputes regarding the election of the president and the vice-president. In this regard, it has the original, exclusive and final authority. • Enquires into the conduct and behavior of the chairman and members of the UPSC on a reference made by the president. Advice by SC is binding on the president. • Power to review its own judgment or order – self-correcting agency. • Law and judgment of SC is binding on all courts in India. • The Supreme Court's jurisdiction and powers with respect to matters in the Union list can be enlarged by the Parliament.

PREVIOUS YEAR QUESTIONS

1. The Supreme Court of India was established by-
[42nd BPSC (Pre) 1997-98]
(a) An Act of Parliament in 1950
(b) Indian Independence Act, 1947
(c) Government of India Act, 1953
(d) Constitution of India
(e) None of the above/More than one of the above
2. Who appoints the Judges of the Supreme Court of India?
[63rd B.P.S.C. (Pre) 2017]
(a) The Prime Minister
(b) The President
(c) The Chief Justice of India
(d) The Ombudsman
(e) None of the above/More than one of the above
3. Which has the power to increase the number of judges in the Supreme Court? [44th BPSC (Pre) 2000]
(a) Prime Minister (b) President
(c) Parliament (d) Ministry of Law
(e) None of the above/More than one of the above
4. What is the retirement age of the Judges of the Supreme Court? [63 B.P.S.C. (Pre) 2017]
(a) 60 years (b) 62 years
(c) 65 years (d) 70 years
(e) None of the above/More than one of the above
5. A Judge of the Supreme Court may resign his office by writing to- [64th B.P.S.C. (Pre) 2018]
(a) The President
(b) The Prime Minister
(c) The Law Minister
(d) The Attorney General of India
(e) None of the above/More than one of the above



INTRODUCTION

- The institution of the High Court originated in India in **1862** when the HC were set up in **Calcutta, Bombay and Madras**.
- Fourth High Court at **Allahabad** in 1866.
- Presently, **25 High Courts in India**. Calcutta High Court, established in 1862, is the oldest High Court in India.
- **Integrated judicial system**: high court operates below the Supreme Court but above the subordinate courts.
- The high court occupies the top position in the judicial administration of a state.
- **State judiciary** includes the **High court + subordinate courts**.
- **Note**: Constitution gives a high court jurisdiction over revenue matters, which it did not enjoy in the pre-constitution era.

24.1 CONSTITUTIONAL PROVISIONS PERTAINING TO HIGH COURT

Parameters	Description
Articles	<ul style="list-style-type: none"> • Article 214 to 231; Part VI
Basic Facts	<ul style="list-style-type: none"> • Constitution: originally provided for one high court for each state. • Seventh Amendment Act of 1956: authorized the Parliament to establish a common high court for two or more states or for two or more states and a union territory. • Territorial jurisdiction of a high court: co-terminus with the territory of a state. • Territorial jurisdiction of a common high court: co-terminus with the territories of the concerned states and union territory. • Parliament can extend the jurisdiction of a high court to include or exclude UT. • Delhi and Jammu & Kashmir: only UTs in India having a High Court of their own. • UT of Jammu & Kashmir and Ladakh have a common high court.
Strength and Composition	<ul style="list-style-type: none"> • The Constitution does not specify the strength of HC. It is at the discretion of the President. • Every High Court (exclusive or common) consists of a Chief Justice and such other judges as the president may from time to time deem necessary to appoint.
Appointment (Article- 217)	<ul style="list-style-type: none"> • For Chief Justice: President after consulting CJI + Governor of the concerned state. • For other Judges: President after consulting CJI + Governor + CJ of State High Court. • Common high court: Governors of all the states concerned are consulted by the president.
Qualification of Judges (Article- 217)	<ul style="list-style-type: none"> • Citizen of India • He should have held judicial office in Indian territory for 10 years or • He should have been an advocate of the High Court for 10 years. • No minimum age prescribed • Unlike in the case of the Supreme Court, the Constitution makes no provision for appointment of a "distinguished jurist" as a judge of a High Court in the opinion of the president.
Oath or Affirmation (Article- 219)	<ul style="list-style-type: none"> • Makes and subscribes to an oath or affirmation before the Governor of the state or some person appointed by him for this purpose.
Salaries and Allowances (Article- 221)	<ul style="list-style-type: none"> • Determined from time to time by the Parliament. • Cannot be varied to their disadvantage after their appointment except during a financial emergency (Art.360). • Note: Salaries of judges of HC are charged upon "Consolidated Fund of State". However, pensions of judges of HC are charged upon "Consolidated Fund of India".

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

	<ul style="list-style-type: none"> • Conduct of judges cannot be discussed: Except when impeachment motion is in consideration of the Parliament. • Ban on practice after retirement: Except the SC and the other high courts. • Power to Punish for its Contempt: A high court can punish any person for its contempt • Freedom to appoint its staff. • Jurisdiction cannot be curtailed but it can be changed both by the parliament and the state legislature. • Separation from executive [(Art.50 (DPSP))]: separation of judiciary from executive)
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24.2 JURISDICTION AND POWERS OF HIGH COURT

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

Parameters	High Court
Original Jurisdiction (Art. 225)	<ul style="list-style-type: none"> • Original refers to the power of a HC to hear disputes in the first instance, not by way of appeal. • It extends to the following: <ul style="list-style-type: none"> ○ Matters of admiralty and contempt of court. ○ Disputes in Elections of members of parliament and state legislature. ○ Revenue matters. ○ Enforcement of Fundamental Rights of citizens. ○ Cases ordered to be transferred from a subordinate court involving the interpretation of the Constitution. ○ Four High Courts (Calcutta, Bombay, Madras and Delhi High Courts): original civil jurisdiction in cases of higher value. • Narrower than SC • Note: Before 1973, the Calcutta, Bombay and Madras High Courts also had original criminal jurisdiction, abolished by CrPC, 1973.
Writ Jurisdiction (Art. 226)	<ul style="list-style-type: none"> • Wider than SC: for both FR + other legal rights. • SC can issue writs only for FR and not “for any other purpose”. This makes the writ jurisdiction of HC wider than SC. • All five writs: habeas corpus, mandamus, certiorari, prohibition and quo warranto. • High courts can issue writs not only within its territorial jurisdiction but also outside its territorial jurisdiction if the cause of action arises within its territorial jurisdiction. • Writ jurisdiction of the HC (Art.226) is not exclusive but concurrent with the writ jurisdiction of the SC (Art.32). • SC in Chandra Kumar case (1997): Writ jurisdiction of both the HC and SC constitute a part of the basic structure.
Appellate Jurisdiction	<ul style="list-style-type: none"> • Both civil + criminal matters. • Appellate jurisdiction of a high court is wider than its original jurisdiction.
Court of Record (Article- 215)	<ul style="list-style-type: none"> • Judgment, proceedings and acts of HC are recorded for: <ul style="list-style-type: none"> ○ Evidentiary value - Perpetual memory and testimony. ○ Cannot be questioned by any court. ○ Legal precedents and references. • As a court of record, the HC has power to review and correct its own judgment. Note that no specific power of review is conferred on it by the Constitution.

Contempt of Court	<ul style="list-style-type: none"> • Expression 'contempt of court' has not been defined by the Constitution. • It is defined in the Contempt of Court Act of 1971. • Civil Contempt: willful disobedience to any judgment, order, writ or other process of court or willful breach of an undertaking given to a court • Criminal Contempt: publication of any matter or doing an act which scandalizes or lowers the authority of court; prejudices or interferes with the due course of judicial proceedings, Interferes or obstructs the administration of justice in any other manner. • Actions that do not amount to contempt of court: Innocent publication and distribution of some matter + fair and accurate report of judicial proceedings + fair and reasonable criticism of judicial acts + comment on administrative side.
Supervisory Jurisdiction (Article- 233)	<ul style="list-style-type: none"> • Superintendence over all other courts, tribunals in state (except military court or tribunal). • Covers: both administrative and judicial superintendence. • It is a Revisional jurisdiction. • It can be suo-motu (on its own) and not necessarily on the application of a party. • Only used in extraordinary cases and limited to: Excess of jurisdiction, gross violation of natural justice, error of law, disregard to law of superior court, perverse findings and manifest injustice.
Control Over Subordinate Courts (Article- 233)	<ul style="list-style-type: none"> • Consulted by the governor: in the matters of appointment, posting and promotion of district judges and in the appointment of persons to the judicial service of the state. • Deals with: Posting, promotion etc. of judicial service of state (other than district judges). • Withdraw case pending in a subordinate court if it involves a substantial question of law that requires interpretation of constitution. • Its law is binding on all subordinate courts in its jurisdiction.
Judicial Review	<ul style="list-style-type: none"> • Phrase "judicial review" has nowhere been mentioned in the Constitution. • Constitutional validity of legislative or executive enactments can be challenged. • To examine constitutionality of legislation and executive orders of both state and central government if it: <ul style="list-style-type: none"> ○ Infringes fundamental rights. ○ Outside the competence of the authority which has framed it. ○ Repugnant to constitutional provisions. • Constitutional provisions: Art.13 provide for Judicial review.

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

High Court	Jurisdiction
Bombay High Court	<ul style="list-style-type: none"> • Maharashtra, Goa, [Dadra and Nagar Haveli, Daman and Diu]
Guwahati High Court	<ul style="list-style-type: none"> • Assam, Nagaland, Mizoram and Arunachal Pradesh
Punjab and Haryana High Court	<ul style="list-style-type: none"> • Punjab, Haryana, Chandigarh
Calcutta High Court	<ul style="list-style-type: none"> • West Bengal, Andaman and Nicobar Islands
Tamil Nadu High Court	<ul style="list-style-type: none"> • Tamil Nadu, Puducherry
Kerala High Court	<ul style="list-style-type: none"> • Kerala, Lakshadweep

24.4 JUDICIAL REVIEW AND JUDICIAL ACTIVISM

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

24.5 PUBLIC INTEREST LITIGATION (PIL)

- Also known as **Social Action Litigation (SAL)**, **Social Interest Litigation (SIL)** and **Class Action Litigation (CAL)**.
- PIL means a **legal action initiated in a court for the enforcement of public interest** in which their legal rights or liabilities are affected.
- The concept of PIL **originated and developed in the USA in the 1960s** to provide legal representation to previously unrepresented groups and interests.
- Introduced in the **early 1980** in India, PIL is a product of the judicial activism of the Supreme Court.
- Justice V.R. Krishna Iyer and Justice P.N. Bhagwati** are pioneers of the concept of PIL.
- A PIL can be **filed in any High Court or directly in the Supreme Court**.
- Objectives:**
 - Vindication of the rule of law,
 - Facilitating effective access to justice to the socially and economically weaker sections of the society, and
 - Meaningful realization of the fundamental rights.
- Scopes of Public Interest Litigation:**
 - Bonded Labour matters; Neglected Children; Non- payment of minimum wages to workers and exploitation of casual workers; Atrocities on women; Environmental pollution and disturbance of ecological balance; Food adulteration; Maintenance of heritage and culture.
- Following subjects will not be entertained as PIL:**
 - Landlord-tenant matters.
 - Service matters and those pertaining to pension and gratuity.
 - Complaints against Central/State Government departments and Local Bodies.
 - Admission to medical and other educational institutions.
 - Petitions for early hearing of cases pending in High Courts and Subordinate Courts.

Patna High Court

- The Patna High Court sits at the pinnacle of the judicial system of Bihar.
- The Patna High Court was **established on February 3, 1916**.
- On 22 March 1912, the Governor-General of India announced the creation of the High Court in Patna.
- **The foundation stone** of the High Court building was laid by the **Governor-General of India, Sir Charles Hardinge, on 1 December 1913**.
- Patna High Court started functioning from 1 March 1916.
- **Justice Edward Maynard des Champs Chamier was the first Chief Justice of this High Court.**
- At the time of establishment of Patna High Court, both Bihar and Orissa were included in the jurisdiction of Patna High Court; Because both Bihar and Orissa were jointly a single province.
- After the separation of Orissa from Bihar in the year 1936, its area of work was limited to Bihar only.
- **Pandit Laxmikant Jha was the first Indian Chief Justice of the Patna High Court after independence.**
- **Justice Rekha Doshit** was the **first woman** to become the **Chief Justice** of the Patna High Court.
- **Gyan Sudha Mishra**, the **second woman judge** of the Patna High Court, **is the first woman judge of the Supreme Court of India from Bihar.**
- **This High Court has given India two Chief Justices, Justice Bhubaneswar Prasad Sinha, the 6th Chief Justice of India and Justice Lalit Mohan Sharma, the 24th Chief Justice of India.**

PREVIOUS YEAR QUESTIONS

1. The Governor of a State is appointed by

[64th B.P.S.C. (Pre) 2018]

- (a) The Prime Minister
- (b) The Chief Justice of India
- (c) The President**
- (d) The Chief Justice of the High Court
- (e) None of the above/More than one of the above

2. A High Court Judge Addresses his letter of resignation to

[48th to 52nd B. P.S.C. (Pre) 2008]

- (a) The President**
- (b) The Chief Justice of India
- (c) The Chief Justice of His High Court
- (d) The governor of the State



INTRODUCTION

- **State judiciary** = High court + Subordinate Courts.
- **Constitutional provisions:** Part VI; Article 233-237.
- A subordinate court is a court subordinate to a higher or High court.
- In the judicial administration of the state, the position of the High Court is at the top.

25.1 PROVISIONS RELATED TO SUBORDINATE COURTS

Appointment of district judges	<ul style="list-style-type: none"> • By Governor in consultation with HC • Qualifications: <ul style="list-style-type: none"> ○ Not already in service of the Centre or state government. ○ Have been an advocate/pleader for seven years. ○ Recommended by HC for appointment.
Appointment of persons (other than district judges)	<ul style="list-style-type: none"> • By Governor in consultation with the State Public Service Commission and HC.
Control over subordinate court	<ul style="list-style-type: none"> • By High court
District judge	<ul style="list-style-type: none"> • Includes any judge of City Civil Court; Additional District Judge; Joint District Judge; Assistant District Judge; Chief Judge (Small cause court); Chief Presidency Magistrate; Additional Chief Presidency Magistrate; Sessions Judge; Additional Sessions Judge; Assistant Sessions Judge
Judicial services	<ul style="list-style-type: none"> • Service consisting exclusively of persons intended to fill the post of district judge.

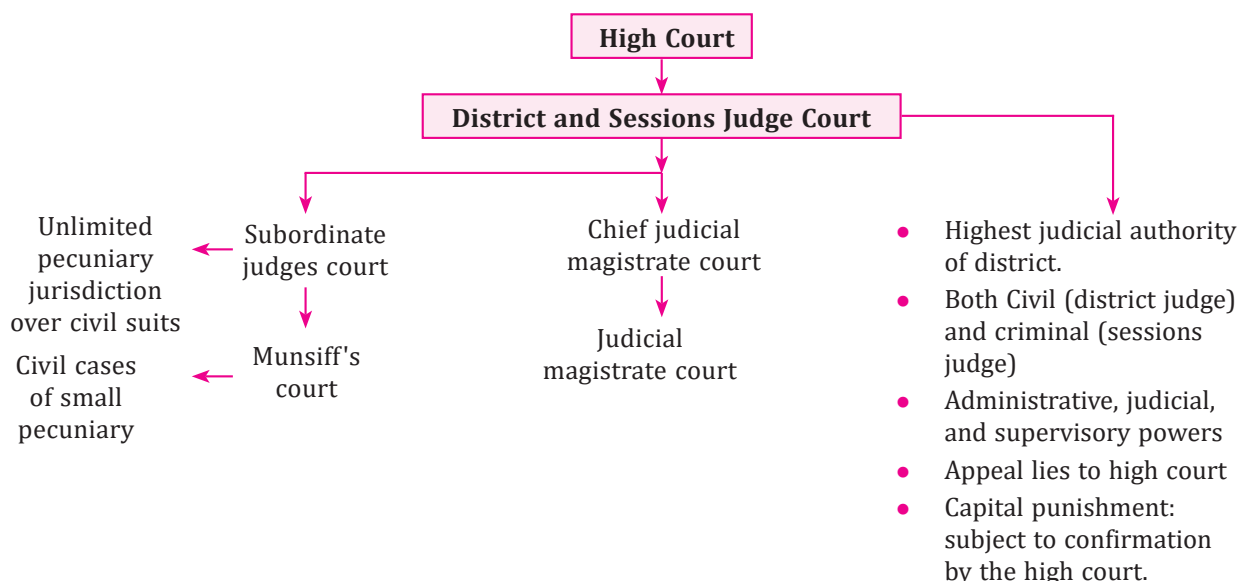


Fig. 25.1: Hierarchy of Courts

25.2 NATIONAL LEGAL SERVICES AUTHORITY

- **Article 39A (DPSP):** free legal aid to the poor and weaker sections of society and ensures justice for all
- **Article 14 and 22(1):** ensure equality before law and legal system which promotes justice on the basis of equality of opportunity to all.
- **1987:** Legal services authority act was enacted by parliament, came into force on 9th November 1995.
- **NALSA:** To **monitor and evaluate implementation** of legal aid programmes; To **lay down policy and principles** for making legal services available under the act throughout the country.
 - **In every State:** State Legal Services Authority
 - **In Districts:** District Legal Services Authorities
 - **In every High Court:** High Court Legal Services Committee
 - **Functions:** Provide free and competent legal services to eligible ones; Organize Lok Adalat; Organize legal awareness camps.

25.3 LOK ADALAT

- **Takes up cases at the pre litigation stage:** based on Gandhian principles; One of components of ADR (Alternative Dispute Redressal); Informal, cheap, expeditious.
- **First Lok Adalat:** Gujarat in 1982.
- Accorded statutory status under the **Legal Services Authority Act, 1987.**
- State Legal Services Authority/District Legal Service Authority/SC Legal Services Committee or HC Legal Services Committee/Taluk Legal Services may organize Lok Adalat at such intervals and places it thinks fit.
- **Composition:**
 - Consists of such number of **serving or retired judicial officers** and **other persons** of the area as may be specified by the agency.
- **Dispute:**
 - Lok Adalat have power to determine and to arrive at compromise or settlement between parties in:
 - ◆ Any case pending before any court
 - ◆ Any matter which is falling within jurisdiction of any court and not brought before such court
- **Jurisdiction:**
 - No jurisdiction for non-compoundable offenses.
- **Power:**
 - Same as Civil + Criminal Court (civil procedure and code of criminal procedure).

- **Award of Lok Adalat:**

- Decree of civil court / order of any court. No appeal lies to the award.

25.4 PERMANENT LOK ADALAT

- Amended **Legal Service Authority Act 1987** in 2002 to provide for establishment of permanent Lok Adalat.
- **Features:**
 - **Chairman:** is/has been district judge or additional district judge or has held judicial office of rank higher than that of district judge.
 - In respect of one or more utility services (transport, telephone services etc.).
 - Pecuniary jurisdiction – upto 10 lakhs.
 - No jurisdiction – Non compoundable cases.
- **Award:** Final and binding.

25.5 FAMILY COURT

- **Family court act 1984:** Conciliation and speedy settlement of disputes related to marriage and family issues.
- **Features:**
 - Establishment of **family court by the state government in consultation with the high court.**
 - Obligatory to constitute a family court – if the population **exceeds 1 million.**
 - Enables state govt to establish family court in other areas if deemed necessary.
 - **Exclusive jurisdiction:** Matrimonial relief; Property of spouses; Declaration of legitimacy of one person; Guardianship of a person or custody of any minor; Maintenance of wife, children and parents.
 - Obligatory for the Family Court to effect a reconciliation first. During this stage, the proceedings will be informal and rigid rules of procedure shall not apply.
 - **No right to be represented** by a legal practitioner.
 - **Only one right to appeal to the High Court.**

25.6 GRAM NYAYALAYAS

- **Gram Nyayalayas Act, 2008** has been enacted to provide for the establishment of the Gram Nyayalayas at the grassroots level.
- **Features of the Gram Nyayalayas Act:**
 - Gram Nyayalaya shall be the court of **Judicial Magistrate of the first class** and its **presiding officer (Nyayadhikari) (strictly judicial officers) shall be appointed by the State Government** in consultation with the High Court.

- **Establishment:** for every Panchayat at intermediate level or a group of contiguous Panchayats at intermediate level in a district.
- **Powers:** mobile court and shall exercise the powers of both Criminal and Civil Courts.
- **Seat:** located at the headquarters of the intermediate Panchayat.
- **Jurisdiction:** shall try criminal cases, civil suits, claims or disputes which are specified in the **1st Schedule** and **2nd Schedule** to the Act.
- **Conciliation:** shall try to settle the disputes as far as possible by bringing about conciliation with the help of conciliators.
- **Principles of natural justice:** shall not be bound by **Indian Evidence Act, 1872** but guided by the principles of natural justice and subject to any rule made by the High Court.
- **Appeal in criminal cases:** to the Sessions Court, which shall be heard and disposed of within a period of **six months**.
- **Appeal in civil cases:** to the District Court, which shall be heard and disposed of within a period of **six months**.



26.1 CONSTITUTIONAL PROVISIONS

- It is a **quasi-judicial institution** established to resolve administrative or tax-related disputes.
- Not a part of the original constitution.
- **Added by 42nd CAA, 1976: Part XIV-A and Article 323A and 323B** to the Constitution on recommendation of the **Swaran Singh Committee** (Committee also recommended Fundamental Duties).
- Enjoy some of the powers of a civil court.
- Tribunals work upon the **principle of natural justice, not abiding by Civil Procedure Code and Evidence Act.**

Article 323A

- Establishment of tribunals for Public Service Matters only.
- Established only by Parliament and not by state legislatures.
- Only one tribunal for the Centre and one for each state or two or more states may be established.
- No question of the hierarchy of tribunals arises.

Article 323B

- Establishment of tribunals for **certain other matters**. E.g. Taxation, Land reforms etc.
- Can be established **both by Parliament and State Legislatures** w.r.t. matters under their legislative competence.
- **Hierarchy of tribunals** may be created.

26.2 CENTRAL AND STATE ADMINISTRATIVE TRIBUNALS

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

Central Administrative Tribunal (CAT)

Appointment	<ul style="list-style-type: none"> • By President based on the recommendation of the high- powered Selection Committee. • Selection Committee Chaired by a sitting Judge of SC nominated by CJI. • After obtaining the concurrence of CJI, appointments are made with the approval of the Appointments Committee of the Cabinet (headed by PM).
Composition	<ul style="list-style-type: none"> • Multi Member Body: 1 Chairperson + 65 members (as of 2019).
Term	<ul style="list-style-type: none"> • Chairperson: 5 years or age of 65 years. • Members: 5 years or age of 62 years.
Miscellaneous	<ul style="list-style-type: none"> • Principal bench at Delhi and additional 17 regular benches (15 at the seats of HC + 2 at Jaipur and Lucknow). • Not bound by the CrPC. It is guided by the Principles of Natural Justice. • Members drawn from the Judicial + Administrative Streams. • Allows applicants to appear either in person or through a lawyer. • Jurisdiction: extends to the All-India services, Central civil services and civil posts under the Centre and Civilian employees of defense services.

State Administrative Tribunal (SAT)

Appointment	<ul style="list-style-type: none"> • By President after consulting the governor of the state concerned. • Provision for: Joint Administrative Tribunal (JAT) for two or more states.
Miscellaneous	<ul style="list-style-type: none"> • SATs have been set up in the 9 states of Andhra Pradesh, Himachal Pradesh, Odisha, Karnataka, Madhya Pradesh, Maharashtra, Tamil Nadu, West Bengal and Kerala. • Jurisdiction: extends to recruitment and all service matters of state government employees.

Additional Information

- **Chandra Kumar Case (1997):**
 - The SC declared those **provisions of these two articles which excluded the jurisdiction of the HC and the SC as unconstitutional**. Hence, judicial **remedies are now available** against the orders of these tribunals.
 - It laid down that appeals against the orders of the CAT shall lie before the division bench of the concerned HC.

26.3 COMPARISON BETWEEN THE COURT OF LAW AND TRIBUNAL

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



INTRODUCTION

- **Constitutional status** by the **73rd and 74th amendment act 1992** (Earlier version: 64th and 65th Constitutional Amendment Bill in 1989 respectively).
- Local Government is a **state subject** under the **seventh schedule**.
- **Article 40 (DPSP)**: The State shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.
- **First state** to establish Panchayati Raj: **Nagaur, Rajasthan** (by PM Jawaharlal Nehru on October 2, 1959)
- **Subject of 'Urban Local Government'**: Ministry of Housing and Urban Affairs + Ministry of Defence + Ministry of Home Affairs.
- **Lord Ripon resolution** (Father of Local Self Government): Magna Carta of local self-government introduced in **1882**.
- **The three-tier Panchayati Raj system** in India consists of the **Gram Panchayat (at the village level)**, **the Panchayat Samiti** (at the intermediate level) and the **Zilla Parishad** (at the district level).
- **Panchayati Raj Day** is celebrated every year on **24 April** in India as the foundation of democracy.
 - **The reason for celebrating Panchayati Raj Day** on 24 April is the **73rd Constitutional Amendment Act, 1992** which came into effect from **24 April 1993**.

27.1 EVOLUTION OF PANCHAYATS IN INDIA

Year	Committee	Recommendations
1957	Balwant Rai Mehta Committee	<ul style="list-style-type: none"> • Examines the working of Community Development Programs and National Extension Services. • Three-tiers. • Planning and development at district level. • District collector should be the chairman of Zila Parishad.
1977	Ashok Mehta committee (committee on Panchayati Raj Institutions)	<ul style="list-style-type: none"> • 2 tiers of panchayat. • District should be the first point for decentralization. • PRIs should have regular social audits by a district level agency. • PRIs should have compulsory powers of taxation to mobilize their own financial resources. • Official participation of political parties at all levels of panchayat elections. • Executive body: zila parishad • Recommended Nyaya Panchayat. • Planning and development at district level. • Developmental function shall be transferred to CEO of zila parishad. • District collector as regulator; revenue functions of state govt. • Minister for Panchayati Raj: to be appointed in the state council of ministers. • Reservation of Seats: for SCs and STs on the basis of their population. • Constitutional recognition (PRIs): to ensure sanctity and stature and an assurance of continuous functioning.
1978	Dantewala Committee	<ul style="list-style-type: none"> • On Block level planning

1984	Hanumantha Rao Committee	<ul style="list-style-type: none"> On District Planning
1985	G V K Rao Committee	<ul style="list-style-type: none"> To examine programs of rural development and poverty alleviation. Zila parishad – pivotal importance. PRI at district and lower levels should be assigned planning and development roles. Creation of the post of District Development Commissioner.
1986	L M Singhvi Committee	<ul style="list-style-type: none"> Revitalization of panchayati raj for democracy and development. 3 tiers system with Zilla parishad Integrated administrative structures for planning and development. District Development Officer must be CEO of Zila Parishad. Constitutional recognition to PRI with addition of a new chapter in the Constitution of India. Planning and development at district level. Concluded: The developmental process was gradually bureaucratized and divorced from the Panchayati Raj and called PRIs as “grass without roots”.
1988	Thungon Committee: District planning	<ul style="list-style-type: none"> Three tiers. Zila Parishad for planning and development. Fixed tenure of 5 years. Reservation for women. District collector – CEO of Zila Parishad.
1988	Gadgil Committee (Committee on policy and programs):	<ul style="list-style-type: none"> 3 tiers Executive body: panchayat committee Recommended constitutionality Planning and development at district level Direct elections for members of the Panchayats at all the three levels. Fixed five year term for Panchayati Raj institutions.

27.2 PANCHAYAT (73RD CONSTITUTIONAL AMENDMENT ACT, 1992)

- Constitutional Provisions:**
 - Schedule 11; 29 functions; Part IX; Article 243-243O.**
 - Important Articles:**
 - 243 G** – Authority
 - 243 D** – Representation
 - 243 I** – Finance commission
- Gram Sabha (Art. 243A):**
 - Article 40:** “The State shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.”
 - Symbol of direct democracy;** All registered voters of the village are its members; Functions are determined by the state legislature.
- Three-Tier Panchayat System:**
 - Uniformity:** in structure of Panchayati raj throughout the country
 - Tiers:** Village, Intermediary, district levels.
 - States with less than **20 lakh population** may not **constitute panchayat** at intermediate level.
 - All members are **directly elected** at all institutes of local self-government.
 - Chairperson** is elected in such a manner the **state legislature may prescribe**.
 - Reservation at all three levels:** Seats are reserved for SC/ ST (based on population) + Women (1/3rd reservation). Reservation for SCs **not applicable to Arunachal Pradesh**.
 - The Act also authorizes the legislature of a state to make any provision for reservation of seats in the panchayat at any level in **favor of backward classes**.

- **Duration:**
 - **Duration:** five years.
 - Panchayat reconstituted after premature dissolution **does not enjoy the full period of five years** but remains in office only for the remainder of the period.
- **Disqualification:**
 - Under any law for the time being in force for the purpose of elections to the legislature of the state concerned.
 - Under any law of the state legislature.
 - No person shall be disqualified on the ground that he is less than 25 years of age if he has attained the **age of 21 years**.
 - All questions of disqualifications **shall be referred to such authority as the state legislature determines**.
- **State Election Commission (Article- 243K):**
 - The State Election Commission **conducts all elections to the panchayat**.
 - Conditions and tenure of office of SEC are determined by the governor.
 - Service conditions of SEC may not be varied to his disadvantage after his appointment.
- **Bar to Interference by Courts in Electoral Matters:**
 - The Act **bars interference by courts in the electoral matters** of panchayats.
 - No election to any panchayat is to be questioned except by an election petition presented to **such authority and in such manner as provided by the state legislature**.
- **Powers, Functions and Finances determined by State Legislature:**
 - **11th schedule: 29 matters** that can be transferred to the panchayat.
 - Preparation of plans and implementation of plans for economic development and social justice.
 - **Finances:** state legislature may authorize panchayat to levy taxes, assign from collected revenue of state, grants in aid by states.
- **State Finance Commission (Art.243I):**
 - Governor constitutes **once in five years**.
 - **Composition + qualification:** determined by state legislature.
 - **The Central Finance Commission** can recommend measures to augment the consolidated fund of the state and supplement the resources of the panchayat in the state.
- **Other Provisions:**
 - **Audit and accounts:** Determined by the state legislature.
 - **Election petitions:** Determined by the state legislature.
 - **Application to UT:** President shall apply the provision of the act to the UTs
 - **Certain areas are exempted:** Nagaland, Mizoram, Meghalaya and others (hill areas of Manipur and Darjeeling).
- **Panchayats Extension to Scheduled Areas (PESA) Act of 1996:**
 - **Part IX provision is not applicable to Fifth schedule areas.**
 - Extension of these provisions with certain modifications in the scheduled area.
 - **Self-rule with administrative framework** consistent with traditional practices.
- **Compulsory Provisions:**
 - Organization of **Gram Sabha** in a village or group of villages.
 - Establishment of **panchayats at the village, intermediate and district levels**.
 - **Direct elections to all seats in panchayats** at the village, intermediate and district levels.
 - **Indirect elections to the post of chairperson** of panchayats at the intermediate and district levels.
 - **21 years to be the minimum age** for contesting elections to panchayats.
 - **Reservation of one-third seats for women** in panchayats at all the three levels. **Reservation of seats for SCs and STs** in panchayats at all the three levels.
 - **Fixing tenure of five years** for panchayats at all levels and holding **fresh elections within six months** in the event of supersession of any panchayat.
 - Establishment of a **State Election Commission** for conducting elections to the panchayats.
 - **State Finance Commission after every five years** to review the financial position of Panchayats.
- **Voluntary Provisions:**
 - **Endowing the Gram Sabha** with powers and functions at the village level.
 - **Determining the manner of election** of the chairperson of the village panchayat.
 - Giving **representation to members of the Parliament** (both the Houses) **and the state legislature** (both the Houses) in the panchayats falling within their constituencies.
 - Providing **reservation of seats for backward classes** in panchayats at any level.
 - **Granting powers and authority to the panchayats** to make them autonomous bodies.

- **Devolution of powers and responsibilities** upon panchayats to prepare plans for economic development and social justice; and to perform some or all of the **29 functions** listed in the **Eleventh Schedule** of the Constitution.
- **Granting financial powers** to the panchayats - taxes, duties, tolls and fees.
- **Grants-in-aid to the panchayats** from the consolidated fund of the state.

Panchayati Raj in Bihar

- The “**Bihar Panchayati Raj Act**” was passed only in the year 1947 after independence for the formation of village panchayats in Bihar. **In the year 1959, the ‘Bihar Panchayati Raj Act’ was amended on the basis of the recommendations of ‘Balwant Rai Mehta Committee’.** This committee had given suggestions to constitute Gram Panchayat at the village level, Panchayat Samiti at the block level and Zilla Parishad at the district level, which the state government immediately accepted and decided to implement the **three-tier Panchayati Raj system**. **In the year 1961, the ‘Bihar Panchayat Samiti and Zilla Parishad Act’ was passed, which came into force from October 2, 1963, the birth anniversary of Mahatma Gandhi.**

Bihar Panchayati Raj Act, 1993:

- **On April 24, 1993, in the context of the 73rd Constitutional Amendment** of the Indian Constitution, the ‘**Bihar Panchayati Raj Act, 1993**’ was passed with the aim of making the structure of Panchayati Raj system more effective in Bihar. According to the **73rd Constitution, the Panchayati Raj system in Bihar is also three-tier** (Village Panchayat, Panchayat Samiti and Zilla Parishad). **The Panchayati Raj Act, enacted in 1993, started functioning from 2001. Later it was replaced by the Bihar Panchayati Raj Act, 2006.** The work of Panchayati Raj institutions in the state is coordinated by the Bihar Panchayati Raj Department. **Bihar is the first state in India where women were first given 50% reservation in Panchayati Raj institutions.** At present there are **8386 Gram Panchayats** in Bihar. Presently the total number of **Panchayat Samitis** in Bihar is **534**. At present there are **38 Zilla Parishads** in Bihar.

PREVIOUS YEAR QUESTIONS

- Who recommended the decentralization system?
[B.P.S.C. 56th to 59th (Pre)2015]
(a) C. Rajagopalachari (b) J. B. Kripalani
(c) Balwant Rai Mehta (d) Ashok Mehta
- The Ashok Mehta Committee recommended the following [53 to 55 B.P.S.C. (Pre) 2011]
(a) Three-tier government of Panchayati Raj
(b) Two-tier government of Panchayati Raj
(c) Single-tier government of Panchayati Raj
(d) Multi-level government of Panchayati Raj
- There is a Panchayat Samiti at the Block level?
[48th to 52nd B.P.S.C. (pre)]
(a) Consultative body
(b) Administrative authority
(c) Consultative Committee
(d) supervisory authority
- A Panchayat Samiti at the block level in India is only a/an. [60th to 62nd B.P.S.C. (Pre) 2016]
(a) Advisory Body
(b) Consultative Committee
(c) Co-ordinating and Supervisory Authority
(d) Administrative Authority





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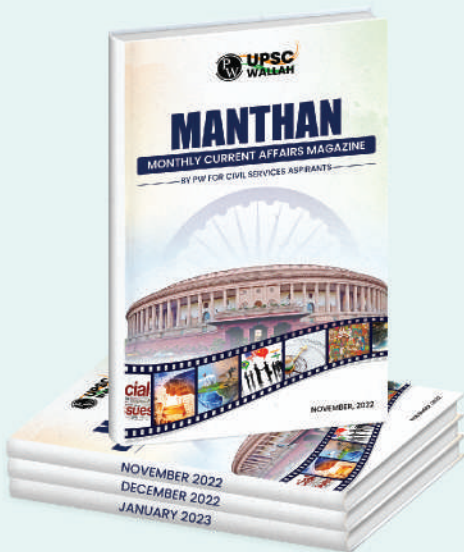
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28.1 EVOLUTION OF MUNICIPALITIES IN INDIA

Year	Event
1687	• Madras- first municipal corporation.
1726	• Municipal corporation of Bombay and Calcutta.
1870	• Lord Mayo's resolution on financial decentralization.
1882	• Lord Ripon resolution (Father of Local Self Govt.) - Magna Carta of Local Self Government.
1907	• Royal commission on Decentralization.
1919	• Govt of India Act 1919, Local Self Govt. become a transferred subject.
1924	• Cantonments Acts.
1935	• Government of India act 1935 - local govt. become a provincial subject.

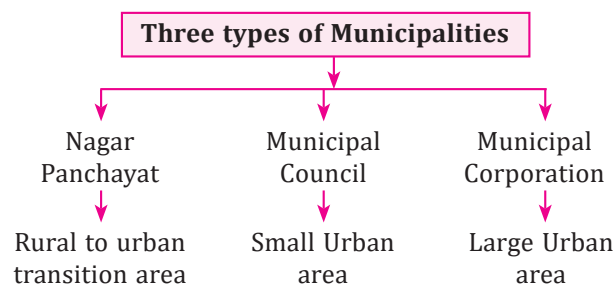


Fig. 28.1: Types of Municipalities

28.2 MUNICIPALITY (74TH AMENDMENT ACT, 1992)

- **Constitutional Provisions:**
 - **Schedule 12; 18 functions; Part IX A; Article 243P-243 ZG**
 - Important articles:
 - ◆ **243 W** : Authority
 - ◆ **243 X** : Representation
 - ◆ **243 Y** : Finance commission
 - ◆ **243 ZD** : District Planning Committee
 - ◆ **243 ZE** : Metropolitan Planning Committee
- **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.**
- **Ward committee:** exists if the population of the municipality is more than 3 lakhs.
- **State Election Commission:**
 - **Article-243 (k) of the Constitution provides for the formation of a State Election Commission for Panchayats**, under which there will be a State Election Commissioner, who will be **appointed by the Governor.**
 - The State Election Commissioner can be **removed on the same grounds and in the same manner as a High Court Judge.**
 - 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.**
 - **State legislature may make provision** with respect to all matters relating to elections to the municipalities.
 - **State legislature** decides upon nominated members in Municipalities.
 - Seats are reserved for SC/ST (based on population).
 - **Women:** 1/3rd reservation
 - Manner of reservation of seats for chairpersons and OBCs are **determined by the state legislature.**
- **Bar to Interference by Courts in Electoral Matters:**
 - The Act **bars the interference by courts in the electoral matters** of municipalities.

- No election to any municipality is to be questioned except by an election petition presented to **such authority and in such manner as provided by the state legislature.**
- **Disqualification:**
 - Under any law for the time being in force for the purpose of elections to the legislature of the state concerned.
 - Under any law of the state legislature.
 - No person shall be disqualified on the ground that he is less than 25 years of age if he has attained the **age of 21 years.**
 - All questions of disqualifications **shall be referred to such authority as the state legislature determines.**
- **Duration:**
 - The act provides for a **five-year term of office** for every municipality. However, it can be dissolved before the completion of its term.
 - 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.**
- **Powers, Functions and Finances Determined by State Legislature:**
 - **12th schedule: 18 matters** that can be transferred to the municipalities.
 - Preparation of plans and implementation of plans for economic development and social justice.
 - **Finances:** state legislature may authorize municipalities to levy taxes, assigned from the collected revenue of states, grants in aid by the states.
- **Other provisions:**
 - **Application to UTs:** President may direct the application of these provisions to UTs.
 - **Exempted Areas:** Act does not apply to the scheduled areas and tribal areas in the states. It shall also not affect the functions and powers of the **Darjeeling Gorkha Hill Council of West Bengal.**
- **Types of Urban Government:**
 - **Municipal Corporation:** Administration of big cities, created by acts of state legislature (by Parliament in case of UTs).
 - **Administrative framework:** council headed by Mayor; standing committee, municipal commissioner.
 - **Municipalities:** administration of towns and smaller cities, created by acts of state legislature.
 - **Administrative framework:** council headed by president, standing committees, CEO.
- **Notified Area Committee:** administration of fast developing towns or which does not fulfill conditions for a municipality created through gazette notification. Entirely a nominated body.
- **Town Area Committee:** small town administration, semi municipal authority with limited functions, created by state legislature. May be wholly elected or wholly nominated or partly elected and partly nominated as provided by the state government.
- **Cantonment Board:** The **Cantonments Act of 2006** is a legislation enacted by the Central government; deals with the civilian administration in cantonment area, works under the defense ministry; partly elected and partly nominated.
- **Township:** Established by the large public enterprises to provide civic amenities to its staff and workers; no elected members.
- **Port Trust:** established by an act of parliament for civil administration in and around ports. Consists of both elected and nominated members.
- **Special Purpose Agency:** Set up by state for specific purpose i.e. function based organization and not area based.
- **District Planning Committee (DPC):**
 - **Article 243ZD:** to consolidate plans of panchayats and municipalities and to prepare a draft development plan.
 - **Every state shall constitute** it at the district level to consolidate the plans prepared by panchayats and municipalities in the district.
 - **State legislature may make provisions** for the mode and manner of election, functions, composition of DPC.
 - **4/5th members of DPC:** should be elected by the elected members of the district panchayat and municipalities in the district from amongst themselves.
 - **1/5th members:** are nominated
 - Elected members are **proportional to the Rural: Urban population.**
- **Metropolitan Planning Committee (243ZE):**
 - **Metropolitan area:** An area in the country where the population is **above 10 Lakhs (Art. 243P)**
 - Prepares **draft development plan.**
 - **State legislature may make provisions** for the mode and manner of election, functions, composition of MPC.
 - **2/3rd members of MPC:** should be elected by the elected members of the municipalities and chairpersons of the panchayats in the metropolitan area from amongst themselves.
 - **1/3rd members:** are nominated.
 - Elected members are in the **proportion to the Rural : Urban population.**

- **Central Council of Local Governments:**
 - Set up in **1954, under Article 263 (Inter-state council)** by an order of the **President**. It is an **advisory** body.
- **Chairperson:** Union minister for **Urban Development**
- **Composition:** It consists of the Minister in the Government of India and the ministers for local self- government in the states.

Bihar Municipal (Amendment) Ordinance, 2022

- **On January 13, 2022, Bihar Governor Fagu Chauhan approved the Bihar Municipality (Amendment) Ordinance, 2022.** By notifying the ordinance, a **new system of election of Mayor-Deputy Mayor or President-Vice President has been implemented in the municipal bodies.**
- The Bihar government has amended the municipal ordinance and made a provision that the head and deputy head of government of each city of Bihar shall be elected by the vote of the voters residing within the limits of the municipal body there.
- This system has been implemented for the election of Mayor-Deputy Mayor of all 19 Municipal Corporations of Bihar and President-Vice President of 89 Councils and 155 Nagar Panchayats.
- With the issuance of the Gazette Notification of the Bihar Municipal (Amendment) Ordinance, 2022, the old system of election of Mayor-Deputy Mayor or President-Vice President in municipal bodies has ended.
- **It is noteworthy that** till now the Mayor-Deputy Mayor was elected from amongst the ward councilors in the municipal bodies.
- **There was a system to remove them by the majority of the ward councilors, but now** in the event of death, resignation or dismissal of the person sitting on these posts, only the elected person from among the public will take these posts for the remaining period.
- **Ward councilors will not be able to remove them from office on the basis of majority by bringing a no-confidence motion against the Mayor-Deputy Mayor or the President-Vice President.**

Local Municipal Body

- As a result of the 74th Constitutional Amendment Act passed in the year 1992, the Government of Bihar implemented the Bihar Municipal Act, 2001 for Municipal Corporation, Municipal Council and Nagar Panchayat.

Municipal Corporation

- Municipal Corporation is a standing committee. Its head is called the mayor.
- **Patna Municipal Corporation was first established in Bihar (August 15, 1952 AD).**

Municipal council

- **The second body in the order of urban administration, the city council is also a permanent committee.**

Nagar Panchayat

- The third body at the **last level of urban administration** is the Nagar Panchayat.
- **Nagar Panchayat is also a permanent committee, which is formed mainly by joining the Nagar Chairman, Nagar Deputy Chairman and five councillors.**
- As its different organs, there are city presidents and city executive officers.



29.1 CONSTITUTIONAL PROVISIONS

- **Article 244; Part X:** special system of administration for 'Scheduled Areas' & 'Tribal Areas'.
- **5th Schedule:** Administration & control of scheduled areas & scheduled tribes in any state except 4 states - Assam, Meghalaya, Tripura & Mizoram (AMTM).
- **6th Schedule:** Administration of tribal areas in 4 North-Eastern states - Assam, Meghalaya, Tripura & Mizoram (Not Manipur)

29.2 5TH SCHEDULE: ADMINISTRATION OF SCHEDULED AREAS

- Pertaining to the different socio-economic profile of scheduled areas these areas need special attention &
- **Features as per 5th Schedule:**

Declaration of Scheduled Areas (SAs)	<ul style="list-style-type: none"> • The President is empowered to declare an area to be a SAs. • The President can make changes in its area & boundary in consultation with the Governor of state.
Executive Power of State & Centre	<ul style="list-style-type: none"> • State Executive power extends to SAs, but the Governor has special responsibility. • The Governor submits a report to the President regarding the administration of such areas. • The Centre can give directions to states for such areas.
Tribes Advisory Council (TAC)	<ul style="list-style-type: none"> • State has to establish TAC to advise on welfare measures. • Consist of 20 members, 3/4th of whom are to be the representatives of STs in SLA. • States having STs but no SAs can have TAC, if the President directs.
Laws applicable to Scheduled Areas	<ul style="list-style-type: none"> • Governor directs if any Central or State Act applies to such areas or applies with any modification. • Governors can make regulations for peace & good governance of SAs after consulting TAC.

29.3 6TH SCHEDULE: ADMINISTRATION OF TRIBAL AREAS

- **6th Schedule:** administration of tribal areas in **4 NE states of Assam, Meghalaya, Tripura & Mizoram (AMTM)**. Does not include Manipur.
- **Rationality behind the arrangement:** to protect the culture, customs & civilizations of people of such areas who still have not assimilated with the majorities in such areas.
- **Features Of Administration As Per 6th Schedule:**
 - **Tribal areas in states of AMTM:** autonomous districts (ADs), fall under state executive authority.

the Central Government has greater responsibility for such areas.

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

- **Governor:** organize & reorganize the autonomous districts (ADs). Governors can even divide the ADs into several autonomous regions.
- **Each Autonomous District:** has a District Council of 30 members (26 elected + 4 nominated by Governor).
- Each autonomous region has a separate regional council.
- **Powers & Functions Of District & Regional Councils:**
 - District & Regional Councils administer the areas under their jurisdiction; **can make laws on certain matters: land, forests, canal water, inter alia**, but such laws **require Governor assent**.

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

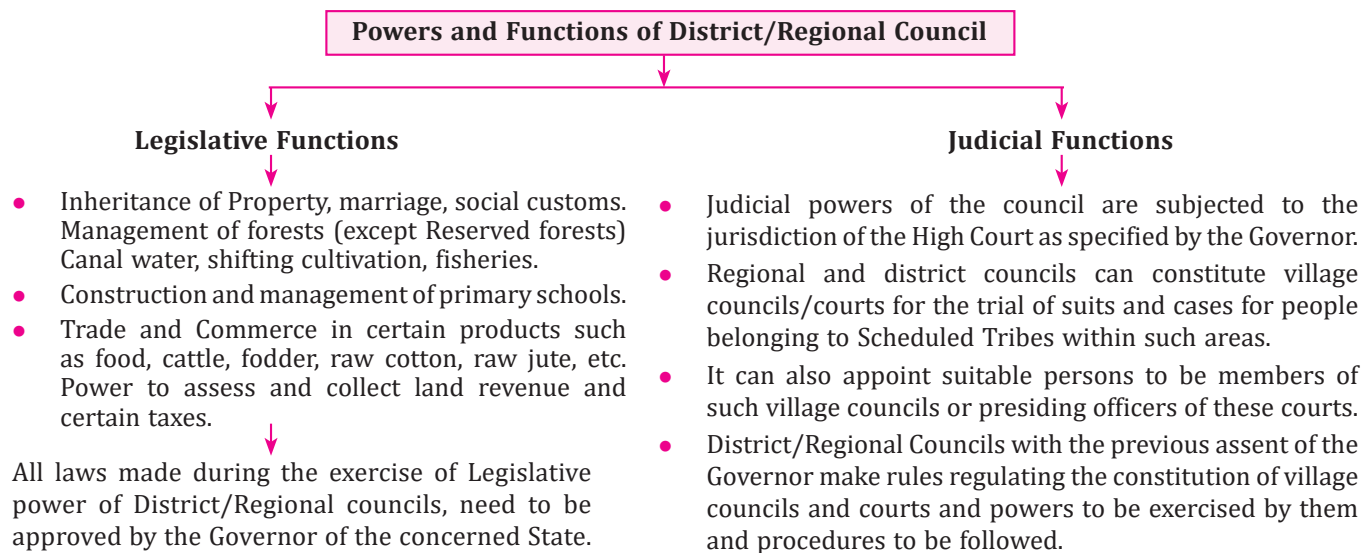


Fig. 29.1: Powers and Functions of District/Regional Councils

Different tribes of Bihar

- **The tribes of Bihar** constitute about **1.3 percent** of the state's population.
- **After the separation of Jharkhand state, most of the tribes have migrated to Jharkhand.**
 - **Scheduled Castes (SC)** – 15.9% of the total population
 - **District with Highest Scheduled Caste Population** – Gaya (13,343,51)
 - **District with highest percentage of SC population** – Gaya (30.39%)
 - **District with minimum scheduled caste population** – Sheohar (96,655)
 - District with Minimum Scheduled Caste Population Percentage – Kishanganj (6.69%)
 - **Scheduled Tribes (ST) of the total population** – 1.3%
 - District with highest ST population – West Champaran (250046)
 - **District with minimum ST population** – Sheohar (318)
 - District with highest percentage of ST population – West Champaran (6.35%)
 - **Districts with minimum percentage of ST population** – Aurangabad, Khagaria and Samastipur.

PREVIOUS YEAR QUESTIONS

1. In which Article of the Constitution of India was the provision for reservation of scheduled castes in the Lok Sabha made? [64th B.P.S.C. (Pre) 2018]

(a) Article 330
(b) Article 331
(c) Article 332
(d) Article 333

(e) None of the above/More than one of the above



Special Provisions for some States

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

30.1 SPECIAL PROVISIONS

Articles	<ul style="list-style-type: none"> Article 371 to 371 J. (Part XXI of the Constitution)
Why Article 371?	<ul style="list-style-type: none"> Non-uniformity, uneven development of some states and equality and inclusive development in their tribal areas. For the preservation of tribal culture in the States. To give recognition to specific social and religious practices. For the control of the ownership and sale of land in certain states.
States	<ul style="list-style-type: none"> Maharashtra, Gujarat, Nagaland, Assam, Manipur, Andhra Pradesh, Telangana, Sikkim, Mizoram, Arunachal Pradesh, Goa, Karnataka. The central government has abolished the special status of Jammu and Kashmir through the constitution.

30.2 STATES AND CONSTITUTIONAL PROVISIONS

State	Constitutional Provisions
Maharashtra and Gujarat (Article- 371)	<ul style="list-style-type: none"> Governor has special responsibility to establish separate development boards for: <ul style="list-style-type: none"> Maharashtra: Vidarbha, Marathwada and rest of Maharashtra. Gujarat: Saurashtra, Kutch and rest of Gujarat. Making provision for presenting a report before the state legislative assembly every year. Equitable allocation of fund: development expenditure over the above-mentioned areas. Equitable arrangement: providing adequate facilities for technical education and vocational training etc.
Nagaland (Article-371A)	<ul style="list-style-type: none"> Acts of parliament relating to the following matter would not apply to Nagaland unless state legislative assembly so decides: <ul style="list-style-type: none"> Religious or social practices Naga customary law and procedure Administration of civil and criminal justice Ownership and transfer of land and its resources. The Governor has special responsibility towards Law and order in the state so long as internal disturbances caused by hostile Nagas continue (Individual judgment and decisions are final.) Governor: to ensure money provided for special purposes is included in Demand for grant.

	<ul style="list-style-type: none"> Regional council consisting of 35 members from the Tuensang district of the state. Administration of Tuensang district by Governor: <ul style="list-style-type: none"> Any act of the Nagaland legislature shall not apply to Tuensang district unless the governor recommends. There shall be a minister for Tuensang affairs in the state council of ministers.
Assam (Article-371B)	<ul style="list-style-type: none"> The President is empowered to provide for the creation of a committee of the Assam Legislative Assembly.
Manipur (Article-371C)	<ul style="list-style-type: none"> The President is authorized for the Creation of a committee of the Manipur legislative assembly consisting of the members elected from hill areas of the state. Direct that governor shall have special responsibility to secure the proper functioning of that committee. Governor should submit an annual report to the president regarding the administration of hill areas. Central government can give directions to the state government for the administration of the hill areas.
Andhra-Pradesh or Telangana (Article-371D)	<ul style="list-style-type: none"> Extended to Telangana by state reorganization act 2014. President is: <ul style="list-style-type: none"> Empowered to provide for the equitable opportunities and facilities for the people belonging to different parts of state. May require the state government to organize civil posts in local cadres for different parts of state, and can also extend reservation. May provide for the establishment of an administrative tribunal in the state to deal with certain disputes and grievances related to appointment, allotment or promotion to civil posts in state. Tribunal is outside the purview of the State High court. Note: Article 371 E: Parliament to provide for the establishment of a central university in the state of Andhra Pradesh.
Sikkim (Article- 371F)	<ul style="list-style-type: none"> 36th constitutional amendment act of 1975 - Article 371 F. Legislative assembly- not less than 30 members. Lok Sabha: One seat is allotted to Sikkim. Purpose: Protect the rights and interest of different sections of Sikkim population. Governor shall have special responsibility for peace and for ensuring the social and economic advancement of the different sections of Sikkim. The president can extend to Sikkim any law which is in force in a state of the Indian union.
Mizoram (Article-371G)	<ul style="list-style-type: none"> Acts of parliament do not apply to Mizoram unless the SLA so decides: <ul style="list-style-type: none"> Religious or social practices Naga customary law and procedure Administration of civil and criminal justice Ownership and transfer of land and its resources. Legislative assembly: not less than 40 members.
Arunachal Pradesh (Article- 371H)	<ul style="list-style-type: none"> The governor of Arunachal Pradesh shall have special responsibility for law and order in the state. Legislative assembly: Not less than 30 members
Goa (Article- 371I)	<ul style="list-style-type: none"> Legislative assembly: Not less than 30 members
Karnataka (Article- 371J)	<ul style="list-style-type: none"> Establishment of a separate development board for Hyderabad–Karnataka region. Reports on working of the board to the state legislative assembly every year. Equitable allocation of funds: developmental expenditure over the region. Reservation of seats: educational and vocational training institutions in the region for persons who belong to the region.



31.1 UNION & STATE PUBLIC SERVICE COMMISSIONS

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

Body	UPSC	SPSC
Article	<ul style="list-style-type: none"> • Article 315 to 323, Part -XIV 	<ul style="list-style-type: none"> • Article 315 to 323, Part -XIV
Appointment	<ul style="list-style-type: none"> • By President 	<ul style="list-style-type: none"> • By Governor • Can only be removed by the President.
Qualification	<ul style="list-style-type: none"> • Not mentioned in constitution except that 50% members hold 10 yrs of experience either in GoI or State. 	<ul style="list-style-type: none"> • Not mentioned in constitution except 50% Member holds 10 yrs of experience either in GoI or State.
Members	<ul style="list-style-type: none"> • Strength not specified in the constitution and left at the discretion of the President. • Usually 9-11 members including Chairman. 	<ul style="list-style-type: none"> • Strength not specified in constitution and left on discretion of the Governor.
Conditions of service	<ul style="list-style-type: none"> • The Constitution authorizes the president to determine the conditions of service of the chairman and other members of the Commission. 	<ul style="list-style-type: none"> • The Constitution authorizes the governor to determine the conditions of service of the chairman and members of the Commission.
Tenure	<ul style="list-style-type: none"> • 6 years or age of 65 years. • Chairman: Not eligible for further appointment in GOI or State. • Members: Not eligible for reappointment (i.e. for 2nd term as member) or any other appointment in GOI or State but eligible to be chairman of UPSC or SPSC. • When a member of UPSC is appointed as its chairman, he holds the new office for six years or until the age of superannuation, whichever is earlier 	<ul style="list-style-type: none"> • 6 years or 62 years. • Chairman: Not eligible for reappointment (i.e. for 2nd term) or any other appointment in GOI or State but eligible to be chairman or member of UPSC. • Members: Not eligible for reappointment (i.e. for 2nd term as member) or any other appointment in GOI or State but eligible to be chairman or member of UPSC and Chairman of the same SPSC or other SPSC.
Independence	<ul style="list-style-type: none"> • Salary and pension charged on Consolidated fund of India. • Conditions of service of the chairman or a member cannot be varied to disadvantage. • Chairman/member of the UPSC can be removed from office by the president only in the manner and on the grounds mentioned in the Constitution. 	<ul style="list-style-type: none"> • Salary and pension charged on Consolidated fund of State. • Conditions of service of the chairman or a member cannot be varied to disadvantage. • Chairman/member of a SPSC can be removed from office by the president only on the manner and grounds mentioned in the Constitution.

Resignation	<ul style="list-style-type: none"> Addressed to the President Addressed to the Governor 		
Removal Procedure	<ul style="list-style-type: none"> By President as manner provided in constitution under the following circumstances: <ul style="list-style-type: none"> Is adjudged an insolvent; or Engages during his term of office in any paid employment outside the duties of his office; or Is, in the opinion of the president, unfit to continue in office by reason of infirmity of mind or body. The President can also remove the chairman or any other member of UPSC/SPSC for misbehavior. However, in this case, the president has to refer the matter to the Supreme Court for an enquiry. If the SC, after the enquiry, upholds the cause of removal and advises so, the president can remove the chairman or a member. Advice tendered by the SC in this regard is binding on the president. During the course of enquiry, the president can suspend the chairman or the member of UPSC and JPSC. Governors can be suspended in case of Chairman or Member of SPSC. 'Misbehavior' as defined in Constitution is, if: <ul style="list-style-type: none"> Concerned or interested in any Government contract or Participates in any way in the profit of such a contract. 		
Functions and other aspects	<table border="0"> <tr> <td style="vertical-align: top;"> <ul style="list-style-type: none"> Watchdog of the 'Merit System' in India. Recommendations made by it are only of advisory nature and not binding on the government. Assist states in joint recruitment if more than two states ask for. The President can exclude posts, services and matters from the purview of the UPSC. UPSC is consulted on the following matters relating to: <ul style="list-style-type: none"> Methods of recruitment to civil service and civil posts. Principles to be followed in making appointments Suitability of candidates for appointments All disciplinary matters Matters of temporary appointments Matters related to grant of extension of service Supreme Court: If the government fails to consult UPSC in the above mentioned matters, the aggrieved public servant has no remedy in a court. Above provisions are not mandatory. 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SPSC performs all those functions in respect of the state services as the UPSC does in relation to the Central services: <ul style="list-style-type: none"> Methods of recruitment to civil service and civil posts. Principles to be followed in making appointments. Suitability of candidates for appointments. All disciplinary matters. Matters of temporary appointments. Matters related to grant of extension of service. Supreme Court: If the government fails to consult SPSC in the above mentioned matters, the aggrieved public servant has no remedy in a court. Above provisions are not mandatory. Court held that a selection by the SPSC does not confer any right (not matter of right) to the post upon the candidate. SPSC presents a report to the Governor annually. Governor places this report before both the Houses of State Legislature. 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	<ul style="list-style-type: none"> Additional functions relating to the services of the Union can be conferred on UPSC by the Parliament. Jurisdiction of UPSC: can be extended by an act made by the Parliament. UPSC: only a central recruiting agency. Department of Personnel and Training: the central personnel agency in India. 	<ul style="list-style-type: none"> SPSC: only a central recruiting agency in the state Department of Personnel: Central personnel agency in the state.
Limitations	<ul style="list-style-type: none"> Matters outside jurisdiction of UPSC: <ul style="list-style-type: none"> Making reservations of appointments or posts in favor of any backward class. Considering claims of SC and ST in making appointments to services and posts. Selections for chairman/member of commissions or tribunals, posts of the highest diplomatic nature and a bulk of group C and group D services. Selection for temporary appointment to a post for not more than a year. 	<ul style="list-style-type: none"> Matters outside jurisdiction of SPSC: <ul style="list-style-type: none"> Making reservations of appointments or posts in favor of any backward class. Considering claims of SC and ST in making appointments to services and posts.
Joint State Public Service Commission (JSPSC)	<ul style="list-style-type: none"> JSPSC can be created by an act of Parliament on the request of the state legislatures concerned. JSPSC is a statutory and not a constitutional body. Chairman & members: Appointed by the president. Term of office: six years or until age of 62 years Suspension or removal: by the president. Resignation: to the president. No. of members & service conditions: determined by the president. Annual performance report: to each of the concerned state governors. Each governor places the report before the state legislature. Role of UPSC: can also serve the needs of a state on the request of the state governor and with the approval of the president. 	

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

Body	Election Commission of India (ECI)	Comptroller & Auditor General (CAG)
Article	<ul style="list-style-type: none"> Article 324, Part – XV ECI conducts elections of: Parliament, State Legislatures, the office of President of India and the office of Vice-President of India. ECI is one of the bulwarks of the constitution. ECI is a unitary feature of the Indian constitution. 	<ul style="list-style-type: none"> Article 148 to 151, Part -V Head of the Indian Audit and Accounts Department. “Guardian of the public purse” and controls the entire financial system of the country at both the levels—the Centre and the state. CAG is one of the bulwarks of the constitution.
Appointment	<ul style="list-style-type: none"> By President 	<ul style="list-style-type: none"> CAG is a unitary feature of the Indian constitution. By President Oath or affirmation: before the president

Qualification	<ul style="list-style-type: none"> Qualification not prescribed by the Constitution. 	
Members	<ul style="list-style-type: none"> Strength not specified in the constitution and left at the discretion of the President. Presently 3-member body 	<ul style="list-style-type: none"> Single member body. CAG is ranked 9th and enjoys the same status as a sitting judge of SC in order of precedence.
Tenure and Salary	<ul style="list-style-type: none"> The Constitution does not specify the term of the members of the Election Commission. Conditions of Service and Tenure of office are determined by the President. Salary equal to judge of SC. CEC and two other election commissioners have equal powers, salary, allowances. Currently 6 years or age of 65 years. The Constitution has not debarred from further appointment. 	<ul style="list-style-type: none"> Salary and Service conditions are determined by the Parliament. Salary equal to judge of the SC. 6 years or age of 65 years. Not eligible for further appointment in GOI or State
Resignation	<ul style="list-style-type: none"> To the President. 	
Removal Procedure	<ul style="list-style-type: none"> Removal in the same manner and on the same grounds as a judge of the Supreme Court i.e. removed by the president on the basis of a resolution passed by both the Houses of Parliament with special majority, only on the ground of proved misbehavior or incapacity. He does not hold office during the pleasure of the President. 	
Independence	<ul style="list-style-type: none"> CEC: provided with the security of tenure. He cannot be removed from his office except in the same manner and on the same grounds as a judge of the Supreme Court. Other election commissioner: cannot be removed from office except on recommendation of the CEC. Service conditions: cannot be varied. 	<ul style="list-style-type: none"> Security of tenure: He can be removed by the president only in accordance with the procedure mentioned in the Constitution. Not eligible: for further office either under the GoI or of any state. Service conditions: of the CAG cannot be varied. Charged upon Consolidated Fund of India: administrative expenses, salaries, allowances and pensions of persons serving.
Other Aspects	<ul style="list-style-type: none"> Members: removed on recommendation of the CEC. Advises President & Governors on matters of disqualification of MP and MLA respectively. All-India body: common to both Central and state governments. Not concerned with elections to panchayats and municipalities in the states. In case of difference of opinion amongst CEC and/or two other election commissioners, the matter is decided by the Commission by majority. 	<ul style="list-style-type: none"> Consultation with the CAG: Conditions of service of persons serving in the Indian Audit and Accounts Department and the administrative powers of the CAG are prescribed by the president. CAG audits: expenditure from Consolidated Fund (Centre, each state and UT with a Legislative Assembly), Contingency Fund (Centre and each state), Public Account of India (Centre and each state). CAG acts as a guide, friend and philosopher of the Public Accounts Committee of the Parliament. CAG submits three audit reports: to the President-audit report on appropriation accounts, audit report on finance accounts, and audit report on public undertakings. The President lays these reports before both the Houses of Parliament. After this, the Public Accounts Committee examines them and reports its findings to the Parliament.

	<ul style="list-style-type: none"> • 61st CAA (1989): Lowering of the voting age from 21 to 18 years. 	<ul style="list-style-type: none"> • CAG is an agent of the Parliament and conducts audits of expenditure on behalf of the Parliament. He is responsible only to the Parliament. • Limitations: <ul style="list-style-type: none"> ○ Secret service expenditure is a limitation on the auditing role of the CAG ○ No control over the issue of money from the consolidated fund, as CAG is limited to audit stage only. • Britain model of CAG: executive can draw money from the public exchequer only with the approval of the CAG.
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31.3 NATIONAL COMMISSION FOR SCHEDULED CASTES, SCHEDULED TRIBES, AND BACKWARD CLASSES

Body	Scheduled Castes	Scheduled Tribes	Backward Classes
Article	<ul style="list-style-type: none"> • Originally: Art.338 provided for Special officers for SC & ST. • 1978: Non-statutory multi-member commission (through resolution) • 1987: Commission renamed as National Commission for SCs & STs. • 65th CAA 1990: multi-member National Commission for SCs & STs with constitutional status. • 89th CAA 2003: Single commission separated into NCSC (Art.338) & NCST (Art.338A). 		<ul style="list-style-type: none"> • Originally: NCBC was set up in 1993 as a Statutory body according to the Mandal case judgment of SC (1992). • 102nd CAA, 2018: accorded Constitutional status with the insertion of new Art.338B.
	• Article 338, Part - XVI	• Article 338A, Part - XVI	• Article 338B, Part - XVI
Appointment	• By President by warrant under his hand and seal.		
Members	• President appoints: Chairperson + Vice Chairperson + 3 others		
Tenure	<ul style="list-style-type: none"> • President determines tenure and conditions of service of office • Under the Rules, they hold office for a term of three years. 		
Reports	<ul style="list-style-type: none"> • Presents an annual report to the President. • President places all such reports before the Parliament • Also forwards any report of the Commission pertaining to a state government to the state Governor. • Governor places it before the state legislature. 		
Other Aspects	<ul style="list-style-type: none"> • Power of civil court in certain matters. • The Commission is vested with the power to regulate its own procedure. • Discharges similar functions regarding the Anglo-Indian Community. 	<ul style="list-style-type: none"> • Power of civil court in certain matters. • The Commission is vested with the power to regulate its own procedure. • Measures for the implementation of the PESA Act, 1996. 	<ul style="list-style-type: none"> • Power of civil court in certain matters. • The Commission is vested with the power to regulate its own procedure. • Participate and advise on the socio-economic development of Socially and Educationally Backward Classes.

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

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

Other Aspects	<ul style="list-style-type: none"> Highest law officer in the country. The Attorney General is not a fulltime counsel and does not fall in the category of government servants so he can do his private legal practice. Right of audience in all courts in the territory of India. Right to speak and to take part in the proceedings of Parliament or their joint sitting and any committee of the Parliament of which he is a member, but without a right to vote. He enjoys all the privileges and immunities that are available to a Member of Parliament. 	<ul style="list-style-type: none"> Highest law officer in the State. Right of audience before any court of law within the state. Right to speak and to take part in the proceedings of the state legislature and any committee of the state legislature of which he is a member, but without a right to vote. He enjoys all the privileges and immunities that are available to a Member of State Legislature.
Solicitor General of India	<ul style="list-style-type: none"> The Solicitor General of India and Additional Solicitor General of India assist the AGI in the fulfillment of his official responsibilities. Only the office of the AG is created by the Constitution. Art.76 does not mention the Solicitor General and Additional Solicitor General. 	

31.5 GST COUNCIL AND SPECIAL OFFICER FOR LINGUISTIC MINORITIES

Body	GST Council	Special Officer for Linguistic Minority
Article	<ul style="list-style-type: none"> Article 279A, Part-XII 	<ul style="list-style-type: none"> Article 350B, Part-XVI
Appointment	<ul style="list-style-type: none"> By Presidential order. 	<ul style="list-style-type: none"> By President.
Composition	<ul style="list-style-type: none"> Finance Minister (chair) + Ministers of state I/C of finance + Ministers of state I/C of finance by each state government. 	<ul style="list-style-type: none"> The Constitution does not specify the Qualification, Tenure, Salaries, allowances, Service condition and procedure for removal.
Other Aspects	<ul style="list-style-type: none"> Quorum: 50% of total members. Every decision by majority of 3/4th of members present & voting. Weightage of votes: <ul style="list-style-type: none"> Center: 1/3rd States: 2/3rd GST: 101st CAA 2016 The Secretariat of Council is located at New Delhi. 	<ul style="list-style-type: none"> The 7th CAA of 1956 inserted a new Art.350B in Part XVII of the Constitution. The Office of the Special Officer for Linguistic Minorities was created in 1957 – designated as Commissioner for Linguistic Minorities. Headquarters at Allahabad The Commissioner falls under the Ministry of Minority Affairs. Submits the annual reports or other reports to the President through the Union Minority Affairs Minister.

31.6 FINANCE COMMISSION

- Under **Article 280, Part-XII**.
- Appointment:** By Presidential order.
- Composition:** Chairman + 4 other members.
- Qualification:** Determined by Parliament.
 - Parliament has specified:
 - Chairman:** should be a person having experience in public affairs.
- Judge of HC or one qualified to be appointed as one.
 - Person having specialized knowledge of finance & accounts of the government.
 - Person who has experience in financial matters & administration.
 - Person who has special knowledge of economics.
- Tenure:**
 - Constituted by the president of India **every fifth year** or at such earlier time as he considers necessary.

- Hold office for **such a period as specified** by the president in his order.
- Eligible for **reappointment**.
- **Other Aspects:**
 - Recommendations of FC are **advisory** in nature.
 - **Balancing wheel** of fiscal federalism.
 - FC is a quasi-judicial body.
 - The Commission submits its report to the **President**. He lays it before both the Houses of Parliament.
 - Chairperson of first finance commission (1951): **K C Neogy**.

PREVIOUS YEAR QUESTIONS

1. Who has the right to give the status of national or regional party to various political parties of India?
[44th BPSC (Pre) 2001-02]
 - (a) Parliament
 - (b) President
 - (c) Election Commission**
 - (d) Supreme Court
2. By whom is the chairman of the State Public Service Commission appointed? [64th B.P.S.C. (Pre)2018]
 - (a) Chairman of the Union Public Service Commission
 - (b) President of India
 - (c) Governor of the State**
 - (d) Chief Minister
 - (e) None of the above / More than one of the above
3. Who was the first Chairman of the Backward Classes Commission? [64th B.P.S.C. (Pre) 2018]
 - (a) Jagjivan Ram
 - (b) Kaka Saheb Kalelkar**
 - (d) B. R. Ambedkar
 - (c) B. D. Sharma
 - (e) None of the above/More than one of the above
4. Under which one of the following Articles is the formation of Finance Commission laid down?
(64th B.P.S.C. (Pre) 2018)
 - (a) Article 280**
 - (b) Article 269
 - (c) Article 268
 - (d) Article 265
 - (e) None of the above/More than one of the above



32.1 NATIONAL AND STATE HUMAN RIGHTS COMMISSION

Body	National Human Rights Commission (NHRC)	State Human Rights Commission (SHRC)
Establishment	<ul style="list-style-type: none"> • Statutory Body established by an Act of Parliament (Protection of Human Rights Act 1993). 	
Composition	<ul style="list-style-type: none"> • Watchdog of human rights in the country. • Multi Member Body. • Chairperson + Five Members. 	<ul style="list-style-type: none"> • Watchdog of human rights in the States. • Multi Member Body. • Chairperson + Two Members.
Qualification	<ul style="list-style-type: none"> • Chairperson: Retired CJI or Judge of the SC. <p>Members:</p> <ul style="list-style-type: none"> • Serving or retired judge of SC; • Serving or retired CJ of a HC and • 3 others (at least one woman) having knowledge or practical experience of human rights. • Ex-Officio members of NHRC: Chairpersons of the NCBCs + NC for Women + NCSC + NCST + NC for Minorities + NC for Protection of Child Rights + Chief Commissioner for PwDs. 	<ul style="list-style-type: none"> • Chairperson: Retired CJ or Judge of HC. <p>Members:</p> <ul style="list-style-type: none"> • Serving or retired judge of HC or District Judge with experience of 7 years; • Person having knowledge or practical experience of human rights.
Appointment	<ul style="list-style-type: none"> • Chairperson and members by the President. • NHRC Selection Committee (6 Members): PM (Chair) + Speaker (LS) + Deputy Chairman (RS) + Leader of opposition (LS & RS both) + Union HM. • Sitting judge of the Supreme Court or a sitting chief justice of a high court can be appointed only after consultation with the chief justice of India. 	<ul style="list-style-type: none"> • Chairperson and members by Governor • SHRC Selection Committee (6 Members): CM (Chair) + Speaker (SLA) + Chairman (SLC) + Leader of opposition (SLA & SLC both) + State HM.
Tenure	<ul style="list-style-type: none"> • 3 years or 70 years. • Eligible for re-appointment but not eligible for further appointment in GOI or State. 	
Salary	<ul style="list-style-type: none"> • Determined by the Central/State Government. • Cannot be varied to his disadvantage after their appointment. 	

Resignation	<ul style="list-style-type: none"> To the President. To the Governor.
Removal Procedure	<ul style="list-style-type: none"> President can remove from the office under the following circumstances: <ul style="list-style-type: none"> Is adjudged an insolvent or; Engages during his term of office in any paid employment outside the duties of his office; or In the opinion of the president, it is unfit to continue in office by reason of infirmity of mind or body. If he is of unsound mind and stand so declared by a competent court; or If he is convicted and sentenced to imprisonment for an offense. The President can also remove the chairman/member on grounds of - proved misbehavior and incapacities. President has to refer the matter to the SC for an enquiry-after enquiry advises the president, then the president can remove the chairperson or a member.
Functions	<ul style="list-style-type: none"> Functions of NHRC and SHRC are same in their respective domains i.e. Union and State level: Inquire into any violation of human rights or negligence in the prevention of such violation - Suo motu or on a petition. To visit jails and detention places. Review the constitutional and other legal safeguards. Study treaties and other international instruments. Spread human rights literacy.
Other Aspects	<ul style="list-style-type: none"> Submits its annual or special reports to the Central government and to the state government concerned. Power to regulate its own procedure. Powers of a civil court and its proceedings have a judicial character. Own investigation staff. Empowered to utilize services of a Govt. Agency. NHRC should be informed about the action taken on its recommendations within one month. Functions relating to human rights in the case of UT of Delhi are to be dealt with by NHRC. Headquarters is in Delhi. Submits its annual or special reports to the state government. Power to regulate its own procedure. Powers of a civil court and its proceedings have a judicial character. SHRC should be informed about the action taken on its recommendations within one month. SHRC can inquire into violation of human rights only in respect of State List (List-II) and Concurrent List (List-III). Central govt. may confer upon the SHRC the functions relating to human rights being discharged by UT, except the UT of Delhi.
Limitation Common to both	<ul style="list-style-type: none"> Not empowered to inquire into any matter after the expiry of one year. Recommendatory in nature. No power to punish violators of human rights. No power to award any relief including monetary relief to the victim. Limited role, w.r.t to violation of human rights by the members of the armed forces.
Human Rights Court	<ul style="list-style-type: none"> Protection of Human Rights Act (1993) also provides for the establishment of a Human Rights Court in every district for the speedy trial of violation of human rights. These courts can be set up by the state government only with the concurrence of the Chief Justice of the High Court of that state.

32.2 CENTRAL BUREAU OF INVESTIGATION

Recommended by	<ul style="list-style-type: none"> • Santhanam Committee (on corruption).
About	<ul style="list-style-type: none"> • Premier investigating agency of the Central Government. • In 1963 by resolution; derives powers from Delhi Special Police Establishment Act, 1946. • Non-statutory body • Under the Ministry of Personnel (now enjoys the status of an attached office).
Composition	<ul style="list-style-type: none"> • Headed by: Director (2 years Tenure security in office by CVC Act, 2003) • Additionally: number of joint directors + deputy inspector generals + superintendents of police + all other usual ranks of police personnel.
Appointment of Director	<ul style="list-style-type: none"> • 3-member committee: PM (Chairperson) + Leader of Opposition (LS) + CJI or Judge of SC (nominated by him). • In case of no recognized leader of opposition in the Lok Sabha, then leader of the single largest opposition party in the Lok Sabha would be a member of that committee.
CBI investigates	<ul style="list-style-type: none"> • Crime of corruption, economic offenses, serious and organized crime. • Not terrorism.
NIA (2008) investigates	<ul style="list-style-type: none"> • Incidents of terrorist attacks, funding of terrorism, Provide assistance to CVC & Lokpal in investigation.
Nodal	<ul style="list-style-type: none"> • “National Central Bureau” of Interpol in India.
General Consent	<ul style="list-style-type: none"> • When a state gives a general consent (DSPE Act) to the CBI for probing a case, the agency is not required to seek fresh permission every time it enters that state in connection with investigation or for every case.

32.3 CENTRAL & STATE INFORMATION COMMISSION AND CENTRAL VIGILANCE COMMISSION

Parameter	Central Information Commissions (CIC)	State Information Commissions (SIC)	Central Vigilance Commissions (CVC)
Basics	<ul style="list-style-type: none"> • Act of Parliament (RTI Act 2005). • Statutory Body. 	<ul style="list-style-type: none"> • Act of Parliament (RTI Act 2005). • Statutory Body. 	<ul style="list-style-type: none"> • Act of Parliament (CVC Act, 2003). • Statutory Body.
Composition	<ul style="list-style-type: none"> • Multi Member body • Central Chief Information Commissioner & Other ICs (Not more than 10). • At Present: CIC+ 6 Others ICs. 	<ul style="list-style-type: none"> • Multi Member body • State Chief Information Commissioners & Other state ICs (Not more than 10). 	<ul style="list-style-type: none"> • Multi Member body • Central Vigilance Commissioners & Other Vigilance Commissioner (Not more than 2).
Appointment	<ul style="list-style-type: none"> • By President. • CIC Selection Committee (3 Members): PM, Leader of Opposition (LS) and Union Minister nominated by PM. 	<ul style="list-style-type: none"> • By Governor • SIC Selection Committee (3 Members): CM, Leader of Opposition (SLA) and State cabinet minister nominated by CM. 	<ul style="list-style-type: none"> • By President. • Selection Committee (3 Members): PM, Leader of Opposition (LS) and Union Home Minister.

Tenure	<ul style="list-style-type: none"> Term as prescribed by the Central Government or age of 65 years. Not eligible for reappointment (Information commissioners are eligible for respective Chief IC but total term not more than 5 years). 	<ul style="list-style-type: none"> Term as prescribed by the Central Government or age of 65 years. Not eligible for reappointment (Information commissioners are eligible for respective Chief IC but total term not more than 5 years). 	<ul style="list-style-type: none"> Term – 4 Years or age of 65 years. Not eligible for further appointment under State or Central Government.
Qualification and Salary	<ul style="list-style-type: none"> Persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance. Not a Member of Parliament or Member of the Legislature of any State or Union Territory. Does not hold any other office of profit or connected with any political party or pursuing any profession. Salary decided by the Central Government and cannot be varied to his disadvantage during service. 	<ul style="list-style-type: none"> Persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance. Not a Member of Parliament or Member of the Legislature of any State or Union Territory. Does not hold any other office of profit or connected with any political party or pursuing any profession. Salary decided by the Central Government and cannot be varied to his disadvantage during service. 	<ul style="list-style-type: none"> Salary and allowances of the Central Vigilance Commissioner are similar to those of the Chairman of UPSC and that of the vigilance commissioner are similar to those of a member of UPSC.
Resignation	<ul style="list-style-type: none"> To the President. 	<ul style="list-style-type: none"> To Governor 	<ul style="list-style-type: none"> To the President.
Removal	<ul style="list-style-type: none"> The President can remove the Chief Information Commissioner or any Information Commissioner on the ground of proven misbehavior or incapacity – need to refer the matter to SC. 	<ul style="list-style-type: none"> Governor can remove the state Chief Information Commissioner/ other Info. Commissioner on the ground of proved misbehavior or incapacity – need to refer the matter to SC. 	<ul style="list-style-type: none"> The President can remove the Central Vigilance Commissioner or any vigilance commissioner from the office. The President can also remove the Central Vigilance Commissioner or any vigilance commissioner on the ground of proven misbehavior or incapacity – need to refer the matter to SC.

Other aspects	<ul style="list-style-type: none"> • CIC submits an annual report to the Central Govt. The Central Government places this report before each House of Parliament. 	<ul style="list-style-type: none"> • SIC submits an annual report to the State Govt. The State Government places this report before the State Legislature. 	<ul style="list-style-type: none"> • CVC has to present annually to the President a report on its performance. • Apex vigilance institution. • Recommended by the Santhanam Committee. • Power to regulate its own procedure. • Powers of a civil court and its proceedings have a judicial character.
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32.4 LOKPAL AND LOKAYUKTA

Establishment	<ul style="list-style-type: none"> • Under an act of Parliament (Lokpal and Lokayukta Act, 2013) - Statutory Body. • Lokpal at Centre and Lokayukta at State.
Composition	<ul style="list-style-type: none"> • Multi Member body • Chairperson with a maximum of 8 members (50% judicial members). • Minimum 50% members shall be from SCs, STs, OBCs, Minorities and Women.
Qualification	<ul style="list-style-type: none"> • Judicial Member: Current or former judges of SC or CJ of HC. • Non-Judicial Member: Eminent person min. 25 years expertise & special knowledge of Anti- Corruption Policy, Public Administration, Vigilance, Finance, Insurance Banking, Law & Management.
Appointment	<ul style="list-style-type: none"> • For Lokpal - By President. • For Lokayukta - by Governor. • Selection Committee (3 Members): PM + Speaker + Leader of the Opposition (LS) + CJI or CJI Nominee from SC + an eminent jurist to be nominated by President on recommendations of first four members of the selection committee. • Search Committee: To assist the Selection Committee (50% of the members shall be from SCs, STs, OBCs, Minorities and women).
Tenure/Salary	<ul style="list-style-type: none"> • Term: 5 Years or age of 70 years. • Salary/ Allowance: Chairperson equivalent to CJI and Member-Judge of SC.
Resignation	<ul style="list-style-type: none"> • To the President.
Other Aspects	<ul style="list-style-type: none"> • The Institution of Ombudsman was first created in Sweden in 1809. • Lokpal's jurisdiction includes all categories of public servants, including the PM except armed forces. • Power of superintendence and direction over any investigating agency, including the CBI, for cases referred to them by the Lokpal. • Institutions which are financed fully or partly by Govt. are under the jurisdiction of Lokpal, but institutions aided by Govt. are excluded. • Incorporates provisions for attachment and confiscation of property of public servants acquired by corrupt means, even while the prosecution is pending. • A CBI officer appointed for the investigation by Lokpal cannot be transferred without the permission of Lokpal. • A High-Powered Committee chaired by the PM will recommend the selection of Director of CBI. • The Institution of Lokayukta was established first in Maharashtra in 1971.

32.5 NITI AAYOG (NATIONAL INSTITUTION FOR TRANSFORMING INDIA)

Origin	<ul style="list-style-type: none"> Government scrapped the Planning commission and, in its place, it introduced NITI Aayog in 2015. Extra constitutional Body formed via a resolution of the Union Cabinet. Premier policy 'Think Tank' of Government of India to foster Cooperative Federalism. Bottom Up approach NITI is the nodal agency for SDG.
Functions	<ul style="list-style-type: none"> Designs policy and programme framework. Foster cooperative federalism. Monitoring and evaluation Think-tank, and Knowledge and Innovation Hub.
Based On 7 Pillar of Governance	<ul style="list-style-type: none"> Pro-people: it fulfills the aspirations of society as well as individuals. Pro-activity: in anticipation of and response to citizen needs. Participation: involvement of citizenry. Empowering: Empowering, especially women in all aspects. Inclusion of all: inclusion of all people irrespective of caste, creed, and gender. Equality: Providing equal opportunity to all especially for youth. Transparency: Making the government visible and responsive.
Aim	<ul style="list-style-type: none"> To achieve SDG and to enhance cooperative federalism by fostering the involvement of State Governments of India in the economic policy-making process using a bottom-up approach.
Composition	<ul style="list-style-type: none"> Chairperson: Prime Minister of India as the Chairperson. Governing Council comprising the CMs of all the States and Lt. Governors of UTs. Regional Councils: formed to address specific issues and contingencies impacting more than one state or a region. <ul style="list-style-type: none"> Chaired by the Chairperson of the NITI Aayog or his nominee. Formed for a specified tenure. Convened by the PM and will comprise CM of States and Lt. Governors of UTs in the region. Special Invitees: Experts, specialists and practitioners with relevant domain knowledge as special invitees nominated by the PM.
NITI Aayog Hubs	<ul style="list-style-type: none"> Team India Hub: acts as an interface between States and Centre. Knowledge and Innovation Hub: builds the think-tank acumen of NITI Aayog.
Initiatives by NITI Aayog	<ul style="list-style-type: none"> 15-year road map. 7-year vision, strategy and action plan. India@75. Digital India and Atal Innovation Mission etc.
Offices attached to the NITI Aayog	<ul style="list-style-type: none"> National Institute of Labour Economics Research and Development. Development Monitoring and Evaluation Office.
Relevance	<ul style="list-style-type: none"> Cooperative federalism; Competitive Federalism; Greater Accountability; Think tank of innovative ideas; Convergence for resolution.
Indexes/ Rep-rts/ Programme	<ul style="list-style-type: none"> SDG India Index. Composite Water Management Index. Atal Innovation Mission. SATH programme. Aspirational District Programme. School Education Quality Index. District Hospital Index. Health Index 2019 - (Healthy states, progressive India).

Guiding Principles of Niti Aayog

Antyodaya	<ul style="list-style-type: none"> • Prioritize service and uplift of the poor, marginalized and downtrodden, as enunciated in Pandit Dindayal Upadhyay's idea of 'Antyodaya'. • Development is incomplete and meaningless, if it does not reach the farthest individual.
Inclusion	<ul style="list-style-type: none"> • Empower vulnerable and marginalized sections, redressing identity-based inequalities of all kinds- gender, region, religion, caste or class.
Village	<ul style="list-style-type: none"> • Integrate our villages into the development process.
Demographic Dividend	<ul style="list-style-type: none"> • Harness our greatest asset, the people of India: by focusing on their development, through education and skilling, and their empowerment, through productive livelihood opportunities.
People's Participation	<ul style="list-style-type: none"> • Transform the developmental process into a people-driven one, making an awakened and participative citizenry (including the NRI community) the driver of good governance.
Governance	<ul style="list-style-type: none"> • Nurture an open, transparent, accountable, pro-active and purposeful style of governance.
Sustainability	<ul style="list-style-type: none"> • Maintain sustainability at the core of the planning and development process, building on our ancient tradition of respect for the environment.

32.6 NITI AAYOG VS THE PLANNING COMMISSION

NITI Aayog	Planning Commission
<ul style="list-style-type: none"> • It serves as an advisory Think Tank. 	<ul style="list-style-type: none"> • It served as an extra-constitutional body.
<ul style="list-style-type: none"> • It draws membership from a wider expertise. 	<ul style="list-style-type: none"> • It had limited expertise.
<ul style="list-style-type: none"> • It serves in the spirit of Cooperative Federalism as states are equal partners. 	<ul style="list-style-type: none"> • States participated as spectators in annual plan meetings.
<ul style="list-style-type: none"> • Secretaries to be known as CEO appointed by the Prime- Minister. 	<ul style="list-style-type: none"> • Secretaries were appointed through the usual process.
<ul style="list-style-type: none"> • It focuses upon the 'Bottom-Up' approach of Planning. 	<ul style="list-style-type: none"> • It followed a 'Top-Down' approach.
<ul style="list-style-type: none"> • It does not possess a mandate to impose policies. 	<ul style="list-style-type: none"> • Imposed policies on states and tied allocation of funds with projects it approved.
<ul style="list-style-type: none"> • It does not have powers to allocate funds, which are vested in the Finance Minister. 	<ul style="list-style-type: none"> • It had powers to allocate funds to ministries and state governments.



- **Subject/List:**
 - Seventh Schedule State list (Entry 32)
- **97th CAA of 2011:**
 - Accorded **Constitutional Status** and gave **protection to co-operative** societies.
- **Three changes:**
 - Right to form co-operative societies is a fundamental right (**Article 19**).
 - Added new DPSP on promotion of cooperative societies (**Article 43B**).
 - Added new **Part IX-B** in the Constitution: “The Cooperative Societies” (Articles 243ZH to 243ZT).
- **Incorporation of Co-operative Societies:**
 - **State legislature:** may make provisions for the incorporation, regulation, winding-up of co-operative societies (Article 243ZI).
- **Number and Term of Members of Board and its Office Bearers:** (Article 243 ZJ)
- **Directors:** Such number of directors may be provided by the state legislature but **not more than 21**.
- **Term of office:** 5 years from the date of election and election of a board shall be conducted before the expiry of the term of the current board (Article 243 ZK) by such body, as may be **provided by the state legislature**.
- **Reservation of seats:**
 - The state legislature shall provide reservation of **1 seat (SC/ST) + 2 seats (women)** on the board of every co-operative society having members from such a category of persons.
- **Co-opted members:**
 - The state legislature shall make provisions for co-option of persons having **experience in banking, management, finance** etc. to the board whose numbers **shall not exceed two** (in addition to twenty-one directors) **without any right to vote**.
- **Supersession and Suspension of Board and Interim Management:**(Article 243 ZL):
 - No board shall be superseded or kept under suspension for a **period exceeding six months**. (In case of cooperative banks, other than multi-state cooperative banks, this period **cannot exceed one year**).
 - However, the board of any such co-operative society shall not be superseded or kept under suspension where there is no Government shareholding or loan or financial assistance or any guarantee by the Government.
- **Audit of Accounts of Co-operative Societies:** (Article 243 ZM)
 - **State legislature may make provisions** for the maintenance and auditing of accounts of the co- operative societies (**within six months** of the close of the financial year) at least once in each financial year.
- **Application to Multi-state Co-operative Societies:**
 - The provisions of this part **shall apply to the multi-state co-operative societies** and these will come **under the ambit of the central government**.
- **Application to Union Territories:**
 - The provisions of this part **shall apply to the UTs**. The **President may direct** that the provisions of this part shall not apply to any Union territory or part thereof as he may specify in a notification (Article 243 ZS).



- **52nd CAA (1985):**
 - Changes in four Articles: **101, 102, 190 and 191.**
 - Added **Tenth Schedule** to the constitution.
 - Disqualification (**MPs + MLAs**): ground of defection from one party to another.
- **91st CAA (2003):**
 - **Union CoM:** total number of ministers, including the PM, in the Central CoM **shall not exceed 15 percent of the total strength of the Lok Sabha.**
 - **State CoM:** Total number of ministers, including the CM, in state CoM **shall not exceed 15 percent of the total strength of the Legislative Assembly** of that state, and **shall not be less than 12 (including CM).**
 - A member of either House of Parliament/ State Legislature (Article 75/164) of any party disqualified on ground of defection is also **disqualified as a minister.**
 - A member of either House of Parliament or House of a State Legislature belonging to any political party who is disqualified on the ground of defection shall also be **disqualified to hold any remunerative political post.**
 - Provision of the Tenth Schedule (anti-defection law) pertaining to exemption from disqualification in case of **split by one-third members** of legislature party has been **deleted.**
- A member votes against the party in the House.
- An elected member refuses to participate in the voting.
- After a period of 6 months, a nominated member joins another party.

Defection law will not apply in the following cases

- When the entire party of Puri joins any other political party.
- When two-thirds of the members of a party break away from the party and form a new party.
- If the elected members of a party form a new party of their own.
- If the members of a party do not accept the merger of two parties and prefer to remain in a separate party during the merger.

Exceptions to the Defection Law

- A person elected as the Speaker or Speaker of the House may resign from the party. That member can also join any other party after leaving his post. In such a situation he will not be disqualified.
- If one-third of the MLAs or MPs of a party have voted in favor of the merger, then that party can be merged with another party. In such a situation, these members will not be disqualified.

34.1 PROVISIONS OF THE ANTI-DEFECTION LAW

The defection law will apply in the following situations

- An elected member voluntarily leaves the membership of a political party.
- An independent elected member joins a political party.

PREVIOUS YEAR QUESTIONS

1. The Tenth Schedule of the Indian Constitution is related to? [41st BPSC (Pre) 1996]
 - (a) National language of India
 - (b) Administration of scheduled and scheduled tribal areas
 - (c) judicial review
 - (d) **Anti-defection law**



- **Constitutional Provisions:**
 - Part XVII – Article 343-351
 - **Article 343:** official language of the Union
 - Provisions are divided into four head:
 - ◆ Languages of the Union
 - ◆ Regional languages
 - ◆ Language of the judiciary
 - ◆ Texts of laws and Special directives.
- **Languages of Union:**
 - **Hindi written in Devanagari script** to be the official language of the Union.
 - For a **period of fifteen years** from commencement of the constitution, English will continue to be used for all purposes of the Union.
 - Even after fifteen years – Parliament may provide for the continued use of English for specific purposes.
 - At the end of five years and again at the end of ten years, from commencement of the constitution, the president should appoint a commission to make progressive use of Hindi language.
 - **Article 344:** A committee of parliament is to be constituted to examine the recommendation of the commission and to report its views on them to the President.
- **Official Languages Act 1963:** continued use of English without time limit (amended in 1967 - use of English in addition to Hindi, compulsory in certain cases).
- **Official Commissions:**
 - **1955:** B. G. Kher commission
 - **1957:** Parliament committee under G. B. Pant
- **Regional languages:**
 - **Article 345:** official languages or languages of state.
 - The Constitution **does not specify** the official language of different states. In this regard, it makes the following provisions:
 - ◆ **Legislature of state may adopt any one or more** of the languages in use in the state or Hindi as official language of the state.
- **Article 346:** Official language of union – English shall be link language for communications between **Union** and **states**.
- **Article 347:** When the president (on a demand being made) is satisfied that a substantial proportion of the population of a state desire the use of any language spoken by them to be recognised by the state, then he may direct to officially recognize the same to protect the linguistic interest of the minority of state.
- **Official Languages Act (1963):** lays down that **English** should be used for purposes of communication between the Union and the non-Hindi states.
- **Language of the judiciary and Text of laws and judiciary:**
 - Until Parliament provide otherwise the following are to be in the **English language only (Article-348):**
 - ◆ All proceedings in the supreme court and in every high court.
 - ◆ The authoritative texts of all bills, acts, ordinances etc. at center and state level.
 - **Governor with previous consent of the president can authorize** the use of Hindi or any other official language of the state, in the proceedings of high court, but not with respect to judgements, decrees and order passed by it.
 - **State legislature can prescribe the use of any language** (other than English) with respect to bills, acts, ordinance, etc. But a translation of the same in the English language is to be published.
 - **Parliament has not made any provision** for the use of Hindi in the Supreme Court. Hence, the **Supreme Court hears only those who petition or appeal in English.**
- **Special Directive:**
 - The Constitution contains certain special directives to protect the interests of linguistic minorities and to promote the development of Hindi language. They are:
 - ◆ **Article 350:** language to be used in representation for redress of grievances.
 - ◆ **Article 350A:** facilities for instruction in mother tongue at primary stage.

- ♦ **Article 350B:** President should appoint a special officer for linguistic minorities to investigate all matters relating to the constitutional safeguards for linguistic minorities and to report to him. The President should place all such reports before the Parliament and send them to the state government concerned.
- ♦ **Article 351:** directive for development of the Hindi language.

35.1 CLASSIC LANGUAGE STATUS

- In **2004**, the Government of India decided to create a new category of languages called “**classical**

languages”. In **2006**, it laid down the criteria for conferring classical language status.

- **Benefits:** Financial assistance; Two major awards for scholars of eminence; University grants commission can be requested to create (at least in central university) a certain number of professional chairs for scholars of eminence in the language.
- **Criteria:**
 - High antiquity of its early texts/recorded history over a period of 1,500– 2,000 years.
 - Body of ancient literature/texts which is considered a valuable heritage by generations of speakers.
 - Literary tradition that is original and not borrowed from another speech community.

A. Languages conferred with Classical Language status

Languages conferred with Classical Language Status					
Tamil (2004)	Sanskrit (2005)	Telugu (2008)	Kannada (2008)	Malayalam (2013)	Odia (2014)

B. Constitutional Provisions dealing with Official Languages

Article	Provision
Article 343	• Official language of the Union.
Article 344	• Commission and Committee of Parliament on official language.
Article 345	• Official language or languages of a State.
Article 346	• Official languages for communication between one state and another or between a State and the Union.
Article 347	• Special provision relating to languages spoken by a section of the population of a State.
Article 348	• Language to be used in Supreme Court and in High Courts and for acts, bills, etc.
Article 349	• Special procedure for enactment of certain laws relating to language.
Article 350	• Language to be used in representations for redressal of grievances.
Article 350A	• Facilities for instruction in mother tongue at primary stage for linguistic minorities.
Article 350B	• Special officer for linguistic minorities.
Article 351	• Directive for development of the Hindi language.

PREVIOUS YEAR QUESTIONS

1. The number of recognized official languages in the Eighth Schedule of the Indian Constitution is?
[48th to 52nd B.P.S.C. (Pre)2008]
- (a) 16 (b) 17 (c) 22 (d) 20



Number	Subject Matter
First	<ul style="list-style-type: none"> Names of the States and their territorial jurisdiction. Names of the Union Territories and their extent.
Second	<ul style="list-style-type: none"> Provisions relating to the emoluments, allowances, privileges and so on of– <ul style="list-style-type: none"> The President of India The Governors of States The Speaker and the Deputy Speaker of the Lok Sabha The Chairman and the Deputy Chairman of the Rajya Sabha The Speaker and the Deputy Speaker of the Legislative Assembly in the states The Chairman and the Deputy Chairman of the Legislative Council in the states The Judges of the Supreme Court The Judges of the High Courts The Comptroller and Auditor-General of India
Third	<ul style="list-style-type: none"> Forms of Oaths or Affirmations for– <ul style="list-style-type: none"> The Union ministers The candidates for election to the Parliament The Members of Parliament The Judges of the Supreme Court The Comptroller and Auditor-General of India The State Ministers The candidates for election to the State Legislature The Members of the State Legislature The Judges of the High Courts
Fourth	<ul style="list-style-type: none"> Allocation of seats in the Rajya Sabha to the states and the union territories.
Fifth	<ul style="list-style-type: none"> Provisions relating to the administration and control of Scheduled Areas and Scheduled Tribes.
Sixth	<ul style="list-style-type: none"> Provisions relating to the administration of tribal areas in the states of Assam, Meghalaya, Tripura and Mizoram.
Seventh	<ul style="list-style-type: none"> Division of powers between the Union and the States in terms of List I (Union List), List II (State List) and List III (Concurrent List). Presently, the Union List contains 100 subjects (originally 97), the state list contains 61 subjects (originally 66) and the concurrent list contains 52 subjects (originally 47).
Eighth	<ul style="list-style-type: none"> Languages recognized by the Constitution. Originally, it had 14 languages but presently there are 22 languages. They are– Assamese, Bengali, Bodo, Dogri (Dongri), Gujarati, Hindi, Kannada, Kashmiri, Konkani, Mathili (Maithili), Malayalam, Manipuri, Marathi, Nepali, Odia, Punjabi, Sanskrit, Santhali, Sindhi, Tamil, Telugu and Urdu. Sindhi was added by the 21st Amendment Act of 1967; Konkani, Manipuri and Nepali were added by the 71 st Amendment Act of 1992; and Bodo, Dongri, Maithili and Santhali were added by the 92nd Amendment Act of 2003.

Ninth	<ul style="list-style-type: none"> Acts and Regulations (originally 13 but presently 282) of the State legislatures dealing with land reforms and abolition of the zamindari system and of the Parliament dealing with other matters. This schedule was added by the 1st Amendment (1951) to protect the laws included in it from judicial 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, are now open to judicial review.
Tenth	<ul style="list-style-type: none"> Provisions relating to disqualification of the members of Parliament and State Legislatures on the ground of defection. This schedule was added by the 52nd Amendment Act of 1985, also known as Anti-defection Law.
Eleventh	<ul style="list-style-type: none"> Specifies the powers, authority and responsibilities of Panchayats. It has 29 matters. This schedule was added by the 73rd Amendment Act of 1992.
Twelfth	<ul style="list-style-type: none"> Specifies the powers, authority and responsibilities of Municipalities. It has 18 matters. This schedule was added by the 74th Amendment Act of 1992.

PREVIOUS YEAR QUESTIONS

1. The Tenth Schedule of the Indian Constitution is related to [41st BPSC (Pre) 1996]
- (a) National language of India
 (b) Administration of scheduled and scheduled tribal areas
 (c) judicial review
 (d) **Anti-defection law**

2. Which of the following is not included in the Eleventh Schedule of the Constitution?

[67th B.P.S.C. (pre) 2022]

- (a) library
 (b) fuel and fodder
 (c) **Rural sports**
 (d) technical training
 (e) None of the above/More than one of the above





PSC WALLAH

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सक्षम 2.0

69th BPSC कॉमन पीटी 2024
फाउंडेशन कोर्स
(Bilingual)

- भारत के सर्वश्रेष्ठ शिक्षक
- लाइव क्लासेस
- मिछले वर्षों के प्रश्न पत्रों का विश्लेषण
- हिंदी और अंग्रेजी दोनों भाषाओं में डीपीपी, टेस्ट सीरीज और क्लास नोट्स
- प्रॉक्स और मेन्स टेस्ट सीरीज
- उत्तर लेखन अभ्यास
- हिंदी और अंग्रेजी दोनों भाषाओं में मासिक कटेड अपडेट्स पत्रिका
- डाउट इंग्लिश

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EXAM : BPSC 2023-24 (PRE+MAINS)

LANGUAGE : HINGLISH

START DATE : 22ND MARCH 2023

SCHEDULE : 2 LECTURES/DAY

SUBSCRIPTION END DATE : 30TH DECEMBER 2024

SCHEDULE : MON-SAT

TIMINGS

MORNING : 8:00 AM – 10:00 AM

EVENING : 8:00 PM – 10:00 PM

Order of Precedence: Republic of India

- Order of Precedence is a protocol list in which the functionaries and authorities are recorded by rank and office in the Government of India.
- It is meant for State and Ceremonial occasions.
- It has no application in the day-to-day business of the Government.
- The order is established by the President of India and is maintained by the Ministry of Home Affairs.

Order of Precedence	
1.	• President
2.	• Vice-President
3.	• Prime Minister
4.	• Governors of States within their respective States
5.	• Former Presidents
5A.	• Deputy Prime Minister
6.	• Chief Justice of India • Speaker of Lok Sabha
7.	• Cabinet Ministers of the Union • Chief Ministers of States within their respective States • Deputy Chairman Planning commission (NITI Aayog) • Former Prime Ministers • Leaders of Opposition in Rajya Sabha and Lok Sabha
7A.	• Holders of Bharat Ratna
8.	• Ambassadors Extraordinary and Plenipotentiary and High Commissioners of Commonwealth countries accredited to India. • Chief Ministers of States (outside their respective States) • Governors of States (outside their respective States).
9.	• Judges of Supreme Court
9A.	• Chairperson of Union Public Service Commission • Chief Election Commissioner • Comptroller and Auditor General of India

10.	• Deputy Chairman of Rajya Sabha • Deputy Chief Ministers of States • Deputy Speaker of Lok Sabha • Members of the Planning Commission • Ministers of State of the Union • National Security Advisor
11.	• Attorney General of India • Cabinet Secretary • Lieutenant Governors within their respective Union Territories • Principal Secretary to the Prime Minister
12.	• Chiefs of Staff holding the rank of full General or equivalent rank • General of the Indian Army • Air Chief Marshal of the Indian Air Force • Admiral of the Indian navy
13.	• Envoys and Ministers Plenipotentiary accredited to India.
14.	• Chairman and Speakers of State Legislatures (within their respective States.) • Chief Justices of High Courts (within their respective jurisdictions)
15.	• Cabinet Ministers in States (within their respective States) • Chief Ministers of Union Territories (within their respective Union Territories) • Chief Executive Councillor, Delhi (within their respective Union Territories) • Deputy Ministers of the Union
16.	• Officiating Chiefs of Staff holding the rank of Lieutenant General or equivalent rank.
17.	• Chairman of Central Administrative Tribunal • Chairman of Minorities Commission • Chairperson of National Commission for Scheduled Castes • Chairperson of National Commission for Scheduled Tribes

	<ul style="list-style-type: none"> Chief Justices of High Courts (outside their respective jurisdictions) Puisne Judges of High Courts (within their respective jurisdictions) Judicial Members, National Green Tribunal (NGT)
18.	<ul style="list-style-type: none"> Cabinet Ministers in States (outside their respective States) Chairmen and Speakers of State Legislatures (outside their respective States) Chairman of the Monopolies and Restrictive Trade Practices Commission Deputy Chairman and Deputy Speakers of State Legislatures (within their respective States) Ministers of State in States (within their respective States) Ministers of Union Territories and Executive Councilors, Delhi (within their respective Union Territories) Speakers of Legislative Assemblies in Union Territories (within their respective Union Territories) Chairman of Delhi Metropolitan Council (within their respective Union Territories)
19.	<ul style="list-style-type: none"> Chief Commissioners of Union Territories not having Councils of Ministers(within their respective Union Territories) Deputy Ministers in States (within their respective States) Deputy Speakers of Legislative Assemblies in Union Territories (within their respective Union Territories) Deputy Chairman of metropolitan Council Delhi (within their respective Union Territories)
20.	<ul style="list-style-type: none"> Deputy Chairman and Deputy Speakers of State Legislatures (outside their respective states) Ministers of State in States(outside their respective States) Puisne Judges of High Courts (outside their respective jurisdictions)
21.	<ul style="list-style-type: none"> Members of Parliament
22.	<ul style="list-style-type: none"> Deputy Ministers in State outside their respective States.

23.	<ul style="list-style-type: none"> Army Commanders/ Vice-Chief of the Army Staff or equivalent in other services Chief Secretaries to State Governments within their respective States Commissioner for Linguistic Minorities Commissioner for Scheduled Castes and Scheduled Tribes Members, Minorities Commission Members, National Commission for Scheduled Castes Members, National Commission for Scheduled Tribes Officers of the rank of full General or equivalent rank Secretaries to the Government of India (including officers holding this office ex-officio) Secretary, Minorities Commission Secretary, Scheduled Castes and Scheduled Tribes Commissions Secretary to the President Secretary to the Prime Minister Secretary, Rajya Sabha and Lok Sabha Solicitor General Vice-Chairman, Central Administrative Tribunal
24.	<ul style="list-style-type: none"> Officers of the rank of Lieutenant General or equivalent rank
25.	<ul style="list-style-type: none"> Additional Secretaries to the Government of India Additional Solicitor General Advocate Generals of States Chairman, Tariff Commission Charged Affairs and Acting High Commissioners Chief Ministers of Union Territories and Chief Executive Councillor, Delhi (outside their respective Union Territories) Chief Secretaries of State Governments (outside their respective States) Deputy Comptroller and Auditor General Deputy Speakers of Legislative Assemblies in Union Territories and Deputy Chairman, Delhi Metropolitan Council,(outside their respective Union Territories)

- Director, Central Bureau of Investigation
- Director General, Border Security Force
- Director General, Central Reserve Police
- Director, Intelligence Bureau
- Lieutenant Governors (outside their respective Union Territories)
- Members, Central Administrative Tribunal
- Members, Monopolies and Restrictive Trade Practices Commission
- Members, Union Public Service Commission
- Ministers of Union Territories and Executive Councillors, Delhi, (outside their respective Union) Territories
- Principal Staff Officers of the Armed Forces of the rank of major General or equivalent rank

- Speakers of Legislative Assemblies in Union Territories
- Chairman of Delhi, Metropolitan Council (outside their respective Union Territories)

- 26.
- Joint Secretaries to the Government of India and officers of equivalent rank.
 - Officers of the rank of Major-General or equivalent rank

PREVIOUS YEAR QUESTIONS

1. Who among the following comes first in the order of preference of India? [65th B.P.S.C. (Pre)2019]
- (a) Chairman of UPSC
 (b) Chief Election Commissioner
 (c) Comptroller and Auditor General
 (d) Chief Justice of the High Court
 (e) **None of the above/More than one of the above**



Organization	Headquarters	Establishment Year
United Nations Organization	New York (USA)	1945
United Nations Children's Fund	New York (USA)	1946
United Nations Conference on Trade and Development	Geneva (Switzerland)	1964
World Health Organization	Geneva (Switzerland)	1948
International Labor Organization	Geneva (Switzerland)	1919
International Committee of the Red Cross	Geneva (Switzerland)	1863
World Trade Organization	Geneva (Switzerland)	1995
United Nations Educational Scientific and Cultural Organization	Paris (France)	1945
World Meteorological Organization	Geneva (Switzerland)	1950
World Intellectual Property Organization	Geneva (Switzerland)	1967
International Organization for Standardization	Geneva (Switzerland)	1947
International Atomic Energy Agency	Vienna (Austria)	1957
Organization of Petroleum Exporting Countries	Vienna (Austria)	1960
International Monetary Fund	Washington DC (USA)	1945
World Bank	Washington DC (USA)	1945
International Maritime Organization	London (UK)	1959
Amnesty International	London (UK)	1961
International Court of Justice	The Hague (Netherlands)	1945
Food and Agricultural Organization	Rome (Italy)	1945
North Atlantic Treaty Organization	Brussels (Belgium)	1949
International Renewable Energy Agency	Abu Dhabi (UAE)	2009
South Asian Association for Regional Cooperation	Kathmandu (Nepal)	1985
Association of SouthEast Asian Nations	Jakarta (Indonesia)	1967
Asia Pacific Economic Cooperation	Singapore	1989
Organization of Islamic Cooperation	Jeddah (Saudi Arabia)	1969
Organization for the Prohibition of Chemical Weapons	The Hague, (Netherlands)	1997
Worldwide Fund for Nature	Gland, Vaud (Switzerland)	1961
World Economic Forum	Cologny, (Switzerland)	1971
International Hydrographic Organization	Monaco	1921
International Union for Conservation of Nature	Gland, (Switzerland)	1948
International Council on Monuments and Sites	Paris, (France)	1965
United Nations World Tourism Organization	Madrid, (Spain)	1974

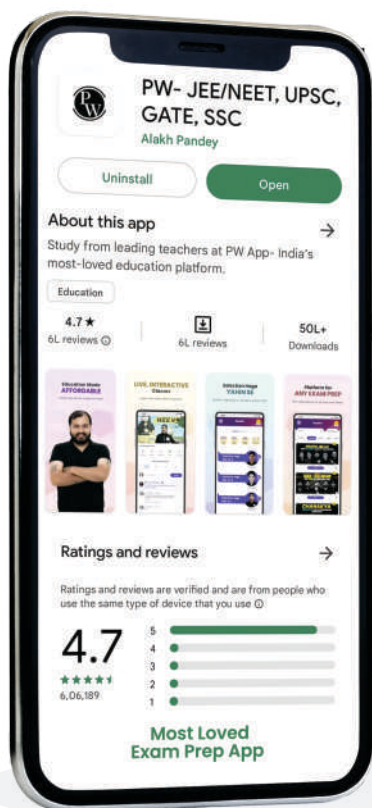
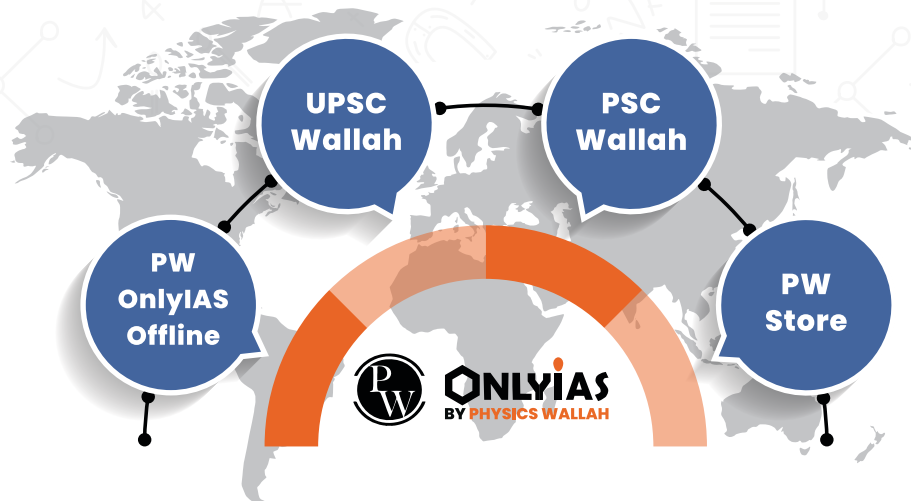
PREVIOUS YEAR QUESTIONS

1. Amnesty International is an organization associated with? [B.P.S.C. 56th to 59th (Pre)2015]
 (a) protection of women's rights
 (b) protection of human rights

- (c) abolition of untouchability
 (d) none of the above

2. Which of the following is not a permanent member of the Security Council of the United Nations? [48th to 52nd B.P.S.C. (Pre)2008]
 (a) Germany (b) France (c) Great Britain (d) China





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